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PROCEEDINGS AND DEBATES OF THE 99th CONGRESS, SECOND SESSION

HOUSE OF REPRESENTATIVES—*Monday, September 8, 1986*

The House met at 12 noon and was called to order by the Speaker pro tempore [Mr. MURTHA].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
August 15, 1986.

I hereby designate the Honorable JOHN P. MURTHA to act as Speaker pro tempore on Monday, September 8, 1986.

THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Gracious God, we pause this moment to offer our prayer, praise, and thanksgiving for Your continued blessing on each of us and on the work we seek to do. We are aware that all our talents and abilities are of little use unless we set our face in the right direction and act in the way of justice and peace. We pray that Your spirit will so lighten our paths and illumine our hearts that we will walk through the difficult days ahead with our eyes on the way of righteousness even as our hands are set to labor on the tasks before us. Guide us, guard us, and give us Your blessing, O God, this day and every day. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 5316. An act to amend title 28 of the United States Code to provide for the appointment of additional bankruptcy judges, to provide for the appointment of U.S. trustees to serve in bankruptcy cases in judicial districts throughout the United States, to make certain changes with respect to the role of U.S. trustees in such cases, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 5316) "An act to amend title 28 of the United States Code to provide for the appointment of additional bankruptcy judges, to provide for the appointment of U.S. trustees to serve in bankruptcy cases in judicial districts throughout the United States, to make certain changes with respect to the role of U.S. trustees in such cases, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. THURMOND, Mr. HATCH, Mr. GRASSLEY, Mr. DECONCINI, and Mr. HEFLIN, to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills and joint resolutions of the following titles, in which the concurrence of the House is requested:

S. 1047. An act to reform the laws relating to former Presidents;

S. 1092. An act to authorize appropriations for the U.S. Mint, and for other purposes;

S. 1421. An act consenting to a modification in the Susquehanna River basin compact relating to the rate of interest on bonds issued by the Susquehanna River Basin Commission;

S. 1917. An act to amend the Foreign Assistance Act of 1961 to provide assistance to promote immunization and oral rehydration, and for other purposes;

S. 2462. An act to provide for the awarding of a special gold medal to Aaron Copland;

S. 2496. An act to authorize the President to award congressional gold medals to Drs. Andrei Sakharov and Yelena Bonner for the great personal sacrifice they have made to further the causes of human rights and world peace;

S. 2585. An act to authorize the President of the United States to award a congressional gold medal to Red Skelton in recognition of his lifetime commitment in service of Americans and to authorize the Secretary of the Treasury to sell bronze duplicates of such medal;

S. 2703. An act to amend the Federal Aviation Act of 1958 to provide that prohibitions of discrimination against handicapped individuals shall apply to air carriers;

S. 2759. An act relating to telephone services for Senators;

S.J. Res. 190. Joint resolution to establish greater productivity in Federal Government operations as a national goal of the United States; and

S.J. Res. 269. Joint resolution to provide for the reappointment of David C. Acheson as a citizen regent of the Board of Regents of the Smithsonian Institution.

The message also announced that pursuant to Public Law 90-206, the Chair on behalf of the Vice President appoints Russell W. Meyer, Jr., of Kansas, as a member from private life to the Commission on Executive, Legislative, and Judicial Salaries.

LEGISLATION TO REVISE GRAIN QUALITY STANDARDS

(Mr. BEREUTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEREUTER. Mr. Speaker, the gentleman from Iowa [Mr. EVANS], this Member, and others have introduced legislation to revise our grain quality standards. Later this week the House Agriculture Committee is expected to examine legislation which would alter U.S. grain quality standards.

Currently, the Agriculture Committee is reviewing legislation that would prohibit the reintroduction of foreign material into grain intended for export. It would also require that sublots of a shipment of grain meet the same grade as the entire lot of grain and it would require dockage recordings to be rounded off in the direction to understate the quality of grain. Finally it would create the tools necessary for markets to establish grain quality improvement incentives. Because it's obvious that these changes, as a minimum, are required, I felt it was appropriate to sponsor the bill.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Our current standards operate in a way that enables grain handlers, individuals, and companies in the production, storage, and export of grain, to raise the amount of foreign material, moisture, and dirt so that they can get additional profits. Present grain quality standards encourage quality problems. Consequently, standards should be changed immediately to accurately reflect the grain quality and provide economic incentives for delivering quality grain.

I urge rapid action and then I urge the leadership of the House to take action to expedite the consideration and passage of this legislation.

This Member believes that our existing grain quality standards are actually encouraging the corruption of our product.

They encourage the addition of foreign material. By blending poor quality and moisture-laden grain and soybeans the reputation of American agricultural products has been badly damaged. It is no wonder that foreign delegations which visit the Grain Belt repeatedly complain about the quality of American grain being exported. They note the quality of grain being harvested and ask why such quality grain doesn't reach their shores.

The National Commission on Agriculture Exports and Trade, of which I was a member, has made important recommendations for revisions and two reports, one from the Office of Technology Assessment, are coming to the Congress before the end of 1986 for action. However, it is obvious that there are some legislative changes that must be made now in the absence of administrative action. I urge the House to pass the pending legislation for improving the grain quality standards for the export of American grain and soybeans.

WHEAT, CORN, AND SOYBEAN PRODUCERS WOULD BENEFIT BY USE OF MARKETING LOAN CONCEPT

(Mr. DAUB asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAUB. Mr. Speaker, today the American farmer continues to face devastating carryover stocks of wheat, feed grains, and soybeans. Although the Agriculture Secretary now has discretion under the 1985 farm bill to approve marketing loans for these commodities, he has not yet done so.

Both cotton and rice producers are using the marketing loan concept with astounding results. Rice exports are up 50 percent. Cotton producers have increased their share of the world cotton market from 10 percent to 29 percent. They will sell 6 to 7 million bales of cotton this year overseas compared with 1.5 million bales last year.

Some cotton experts are saying that there could be a domestic shortage of this commodity next year.

It is time that wheat, corn, and soybean producers are allowed to use this vital marketing tool. Continuing to pile up surpluses on top of each other only depresses prices, increases taxpayer program costs and will aggravate an already critical shortage of storage space in the Midwest.

I ask my colleagues, both rural and urban, to support this bill and give the American farmer the tool he needs to beat foreign competition head on. Only then will he retake what is rightfully his: unchallenged dominance of world markets.

RETROACTIVE TAX REVISION TARGETS PUBLIC SERVANTS UNFAIRLY

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLF. Mr. Speaker, in the conference report on tax reform, only one group of Americans has been singled out for retroactive tax revision; that group consists of nearly 20 million police officers, firemen, teachers, and local, State, and Federal Government workers.

These dedicated public servants, at all levels of government, participate in mandatory contribution pension plans. Money contributed to such systems is taxed as gross income and under current tax laws, contributors are allowed up to a 3-year tax-exempt grace period to recover their contributions.

The conference report on tax simplification, however, would change all that and would subject these public servants to immediate taxation on their annuities—effectively ending the only benefit of such a contributory plan. Even more serious is the fact that this provision has been made retroactive. This effectively traps many public employees in their jobs without having the benefit of opting for the 3-year recovery rule on which they based their retirement plans.

Mr. Speaker, each and every day we depend on teachers, firemen, police officers and government employees to provide us with important services—services we demand. It is unfair to eliminate one of the few benefits public employees have, but, it is even more unfair to do it retroactively. Public employees are the only group to be faced with retroactive tax revision.

I will be holding a special order on this subject at the conclusion of business today. I am committed to working to eliminate the damage the proposed tax reform conference will reap if passed and I encourage my colleagues to join me in this effort. It is a question of fairness and we need your support in this battle.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC,
August 18, 1986.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5, Rule III of the Rules of the U.S. House of Representatives, the Clerk received at 2:36 p.m. on Monday, August 18, 1986, the following message from the Secretary of the Senate: That the Senate recedes from its amendment numbered 2 to the bill, H.R. 5395, and that the Senate passed H.J. Res. 713, H. Con. Res. 288, H. Con. Res. 301, H.R. 1260, H.R. 3554, H.R. 4331, H.R. 4393, H.R. 4843, and H.R. 5371.

With kind regards, I am,

Sincerely,

BENJAMIN J. GUTHRIE,
Clerk, House of Representatives.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker pro tempore signed the following enrolled bill and joint resolutions on Saturday, August 16, 1986:

S. 410. An act to reform the residential conservation service and to repeal the commercial and apartment conservation service;

S.J. Res. 249. Joint resolution to proclaim October 23, 1986, as "A Time of Remembrance" for all victims of terrorism throughout the world; and

S.J. Res. 386. Joint resolution to designate October 6, 1986, as "National Drug Abuse Education Day."

And he signed the following enrolled bills and joint resolution on Tuesday, August 19, 1986:

H.R. 1260. An act for the relief of Joe Herring.

H.R. 1343. An act to authorize the use of funds from rental of floating drydock and other marine equipment to support the National Maritime Museum in San Francisco, CA, and for other purposes.

H.R. 3108. An act to amend title 17, United States Code, to clarify the definition of the local service area of a primary transmitter in the case of a low power television station.

H.R. 3554. An act to to provide for the restoration of the Federal trust relationship with, and Federal services and assistance to, the Klamath Tribe of Indians and the individual members thereof consisting of the Klamath and Modoc Tribes and the Yahooskin Band of Snake Indians, and for other purposes;

H.R. 4331. An act to authorize the Secretary of Agriculture to make grants for the purpose of establishing institutes of rural technology development;

H.R. 5371. An act to extend until September 15, 1986, the emergency acquisition and

net worth guarantee provisions of the Garn-St Germain Depository Institutions Act of 1982;

H.R. 5395. An act to increase the statutory limit on the public debt;

H.J. Res. 713. Joint resolution making a repayable advance to the hazardous substance response trust fund; and

S. 1888. An act to provide for a program of cleanup and maintenance on Federal lands.

And he signed the following enrolled bills on Thursday, August 21, 1986;

H.R. 4393. An act to consolidate and improve provisions of law relating to absentee registration and voting in elections for Federal office by members of the uniformed services and persons who reside overseas; and

H.R. 4843. An act to provide for a minimum price and an alternative production rate for petroleum produced from the naval petroleum reserves, and for other purposes.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC,
September 8, 1986.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5, Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit sealed envelopes received from the White House as follows:

(1) At 4:35 p.m. on Thursday, August 28, 1986 and said to contain a message from the President under the Federal Pay Comparability Act of 1970; and

(2) At 2:50 p.m. on Thursday, September 4, 1986 and said to contain a message from the President whereby he advises the Congress of the continuance of the national emergency with respect to South Africa. He attaches a copy of his Notice, which was earlier filed with the Office of the Federal Register.

With kind regards, I am,

Sincerely,

BENJAMIN J. GUTHRIE,
Clerk, House of Representatives.

PAY ADJUSTMENT FOR FEDERAL EMPLOYEES—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 99-262)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Post Office and Civil Service and ordered to be printed:

(For message, see proceedings of the Senate of today, Monday, September 8, 1986.)

CONTINUATION OF THE SOUTH AFRICA EMERGENCY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 99-263)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Foreign Affairs and ordered to be printed:

(For message see proceedings of the Senate of today, Monday, September 8, 1986.)

TERRORISM

The SPEAKER pro tempore (Mr. MURTHA). Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, the most recent outbreak of international terrorism, an attack on a synagogue in Turkey, is one more tragic example of the stranglehold terrorist groups may have on the free world if we do not respond to their despicable acts of violence.

Following closely behind the Pan Am Airlines hijacking, two Arab gunmen with probable ties to the notorious Abu Nidal, burst into a synagogue in Turkey, hurling grenades and firing submachine guns, killing 21 Jewish worshippers attending a Sabbath prayer service. This cowardly act, like the scores of random dastardly acts against humanity which have preceded it, was conceived and carried out solely to disrupt and derail the Mideast peace initiative.

The United States and the rest of the nations of the world must not be held hostage by these international hoodlums who work to destabilize the international order, and impose their own diabolical objectives on us all. When a particular group has been identified as perpetrating these barbaric terrorist acts against innocent individuals, we must move swiftly and decisively against that group to demonstrate beyond any doubt that the world will not tolerate their crimes against mankind; and when such actions are taken in retaliation, let us not forget who are the victims and who are the criminals.

PROVISIONS AFFECTING GOVERNMENT RETIREES IN TAX REFORM BILL SHOULD BE CORRECTED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia [Mr. WOLF] is recognized for 60 minutes.

Mr. WOLF. Mr. Speaker, I want to discuss one of the more onerous provisions in the tax reform conference agreement.

I know that many of my colleagues have returned from their districts having heard from police, firemen, teachers, local, State, and Federal Government workers, and Capitol Hill employees, who are concerned about the tax reform conference report altering the 3-year-basis recovery rule.

These public servants, at all levels of government, participate in a mandatory—and it is mandatory, Mr. Speaker—contributory pension plan. Money contributed to such systems is taxed as gross income, and under current tax law, contributors are allowed up to a 3-year tax-exempt grace period at retirement for recovering their contributions.

What is even of greater concern, however, is that the tax reform conference report not only eliminates this provision, wiping out one of the only such benefits in the contributory system, but does it—and this is the key—retroactively, thus trapping retirement-eligible employees in their jobs without having the benefit of opting for a 3-year recovery rule on which they have based years of retirement planning.

The effective date for the annuity pension tax is retroactive to July 1, 1986. It is this provision which I must address today.

This provision has surprised, I think quite frankly, the Congress, and may even have surprised the Members that were on the conference committee. It has angered thousands of Government employees—teachers, policemen, firemen, rescue squad members, Federal employees—who either retired after the July 1 effective date, are eligible to retire but had a loyalty and commitment to their project and mission who are waiting until the end of the year, or those who have carefully mapped out their retirement plans throughout their previous 30-, 35-, or 40-year service.

I had the opportunity 2 weeks ago to speak to a Civitan group in my congressional district. There were two teachers who both had worked up through July 3. As a result of their working that 1 extra week to help out the Fairfax County school system, they will pay an unbelievable tax. They never ever had any idea that that would be the case.

Many of these individuals were encouraged to put money into U.S. savings bonds and other investments so that they might cash them immediately upon retirement during this "tax free" period. Now the rules could suddenly change, and those plans could be wiped out.

In the hundreds of letters and phone calls that I have received, constituents have informed me that this retroactive date will cost some of them anywhere

from $5,000 to $30,000 in their retirement plans. If Congress is determined to change the rule, equity and fairness and consistency dictate that such a fundamental change in this recovery rule become effective prospectively—at least 60 days from the enactment of the tax reform legislation, and preferably at the end of the calendar year, when most retirements normally occur.

I am not asking that these employees receive special treatment—just fair treatment, just equal treatment. No other group of individual taxpayers were singled out for this retroactive tax revision. To make the date retroactive is proof to all current and potential government employees that Congress holds their concerns and well-being not in a very high position. The number of people is growing for whom the sense of pride and enthusiasm and dedication with which they entered government service has been replaced by a feeling of discouragement, resentment, and bitterness.

This feeling is now, to quote a constituent, "being compounded by a feeling of unjust exploitation. It is exactly as though your neighbor, having borrowed far beyond his means to obtain an addition to his house and expensive new cars in his garage, while you were carefully saving for your future, then stole your savings to help pay his debts, and had the power to make his theft legal by revising the law."

I would urge my colleagues to consider the teachers, the firefighters, the police, and the public servants at all levels of government who are concerned about this retroactive change, and in all fairness, join me in working to overturn or minimize the damage that the proposed tax reform conference report will reap if passed.

Mr. Speaker, I would like to read a couple of letters that were sent to me. I will not mention the names, and we will leave the parties unidentified.

Here is a letter dated August 21:

I believe that the tentative decision to implement this measure effective July 1, 1986, is discriminatory. I am unaware of any other class of individual which would be affected retroactively and with such a negative impact by the tax reform bill. Conventional wisdom advises prospective retirees to begin planning five years before retirement; and yet this legislation would yank the safety net from under a large group of retirees without affording them even the opportunity to factor it into their planning. This seems to me unreasonable and unfair.

Being a federal employee, I naturally am most concerned with the measure's effect on me and my colleagues, men and women from across the nation who in good faith and trust placed their welfare in the hands of the U.S. Government—not only for the duration of their career, but for their retirement years as well. I am also thinking of several million police, firemen, teachers and other state and municipal government workers who are equally prejudiced by this aspect of tax reform.

Mr. Speaker, there are FBI agents who decided to stay through the end of the year before retiring because they were working on a case. And they wake up one day and find out that their good-will effort to stay and provide that service to solve a law-enforcement problem has been rewarded by, quite frankly, a kick in the teeth.

Mr. Speaker, that is something that we can correct. This is an issue that this Congress felt strongly about. This was the one issue that brought about the defeat of the rule the first time the House considered the tax reform issue, and I think quite frankly that it is an issue, as Members talk to their constituents, that again could do the same thing.

Let me read the next letter. It says:

DEAR CONGRESSMAN:

* * * I could have retired June 30 but the situation in my office was such that if I had retired I would have contributed to an already existing problem. We had an employee recovering from surgery and two in the process of leaving the government because they were disenchanted with the system. So, I chose to remain and get penalized for being sensitive of the needs of the office.

I strongly feel that the effective date for taxing the annuity should be changed or there should be a grandfather clause for those who are already eligible.

Mr. Speaker, here is an individual who stayed simply because he was dedicated to his job, and the office was having a difficult time so he decided to stay, and as a result of staying, he is penalized.

□ 1225

Let me remind my colleagues that the Navy captain who goes out to sea and spends 6 months at a time on a nuclear submarine and has, sometimes, one of the highest rates of family problems because of absence from the family, is a Federal employee.

The polls are showing that the No. 1 concern in the country is drugs. A drug enforcement agent faces a dangerous job and recently we have had one who was killed, and another who almost died. These drug enforcement agents who are working to keep drugs out of our schools are Federal employees.

I think we should understand that. These are the people who are being hurt by this tax change provision.

The FBI agent is another example. For anyone in this Chamber, any Member of Congress whose loved one was kidnaped or had a similar problem, the first agency that you would call would be the FBI. They are Federal employees. These are the people that have been hit by this tax change provision.

Another example is the cancer researchers at the National Institutes of Health working to find a cancer cure. Who does not have a loved one who has been impacted by cancer? Both my mom and dad died of cancer. That Federal employee who is working at NIH who could probably go out and work in private industry, with a drug company or similar business; they are the ones who are being hit by the change in the 3-year basis recovery rule.

Of course, we all remember the day when there was the attempted assassination by John Hinckley on President Reagan. The Secret Service agent, Timothy McCarthy, who stopped the bullet that would have killed the President of the United States, is a Federal employee and will be hindered and hurt by this provision.

Why did the conference agree to do something like this? Why did they not instead say, in the future we will give these people an opportunity to change? But they did not do it. They made this provision retroactive.

Let me read another letter. "Millions of us government workers have served loyally," as I said, these many groups that I have mentioned, "and worked very hard over the years. We planned our retirement based on the rules laid down when we first joined."

Is that not the fair way? You look at the laws, you look at the rules, you see what it is and you abide by them.

It's grossly unfair if Congress goes along with the sneaky way in which the tax reform committee imposed the retroactive tax-free period to July 1, making in impossible for us to have a choice. The only fair way is to make the effective date in the future, so that we can decide for ourselves.

I think that makes all the sense in the world.

Let me read another letter.

Dear Sir: This is to register my personal protest regarding the abrupt change in the tax treatment of retirement annuities for Federal, State and municipal employees throughout the United States.

Let the Congress know, the Senate and the House, we are not just talking about Federal employees. We are talking about policemen. We are talking about every teacher in every State, but I think for two. We are talking about all the rescue squad people with the fire departments. We are talking about State and local government people. We are talking about 20 million people who have been negatively impacted.

To say that this is a betrayal of public trust is understating the case—it seems to me that the people on whom this provision will most severely impact are those who are among the most dedicated, hardworking and relatively lowest paid in our society, i.e., policemen, firemen, teachers, and Federal, State, and municipal employees.

The retroactive nature of this change only compounds the unjust nature of the provision, making it discriminatory as well as unfair. This seems to be the only provision in the new Tax Code which the committee has seen fit to predate. It quite literally pulls the carpet out from under thousands of people who are faced with imminent re-

tirement, and who have laid plans far in advance taking into consideration the recovery period for their annuities.

I want to mention also the number of congressional employees which this tax change hits. One congressional employee made the comment:

You know, I decided to stay with my Member through the end of this year because I felt a commitment. The Member had been good to me, and I was loyal to the Member. I felt that I had an obligation with elections coming up and with the end of the year and the turmoil that we go through with continuing resolutions and things like this, that I would show my loyalty, although I had read in the paper that the House provision went to July 1. I never in all my years of working on Capitol Hill thought that this Congress, and this House, would ever do this. So I stayed. I stayed to be with my Member until the end of the year. As a result of providing that loyalty and staying with the Member of Congress with whom I had served all these years, I then wake up one day and find out that this provision is retroactive and will cost me thousands of dollars.

Let me read the next letter:

DEAR MR. WOLF: As a U.S. Federal employee in the Senior Executive Service, I would like to express my utter chagrin over the congressional proposal to change the rules on retirement annuity taxation retroactively. I was eligible to retire prior to 1 July 1986; however, I elected not to retire based on long-term projects and other important assignments with which I am involved.

Again, another person staying to help the citizens of this country, and as a result of staying, the person is injured.

Although I am aware that the annuity taxation provisions would undoubtedly change under the tax reform, I never envisioned for a moment that they would be made retroactively. This sort of disregard for the welfare of the Federal employee is not only hurtful to me personally, but is further proof to all current and potential employees that Congress holds their concerns and well-being as inconsequential.

I say to the Members, "Let us demonstrate our sense of fairness by changing this provision." I would say to the members of the conference and Mr. PACKWOOD and Mr. ROSTENKOWSKI, two decent and fair individuals, "Let us change this provision. Let us send the message to public employees around the country that we understand. Let us send the message that we care by changing this. We can."

Let me read another letter sent to a member of the tax conference committee:

For Congress to change retirement benefits without allowing one the opportunity to retire under what he thought were his terms of employment is simply dishonest!

Many Federal employees left before July 1 because they said, "I am not going to risk it."

Those who stayed because they were willing to trust their Government are the ones who were hurt the most.

Further, are those who retired on June 30, 1986 (many presumably because they felt Congress was not to be trusted) any more deserving of their full benefits than the others eligible who delayed for various reasons? Surely those eligible to retire should be given the opportunity to do so under the regulations they had planned under during their careers. For us the approximate $15,000 that we will no longer have in a 1987 retirement year in real terms means our daughter's college tuition, which we cannot provide out of a reduced retirement salary.

□ 1235

This tax change will negatively impact on their ability to pay for their daughter's tuition.

Reading the next letter:

My husband and I are long-time government employees who plan to retire on January 2, 1987. We had made our financial plans years ago, including most particularly the first 18 months of retirement. In that time we plan to move to another house, set up our estates (small as they are), and secure our financial future. Suddenly everything has changed with the surprise reconciliation of the Senate-House tax reform bills to include taxing government retirees as of July 1, 1986.

Again, this was a conference report that was agreed to in August; about August 16, and they will be taxed as of July 1.

Please consider this request, as we are typical of so many thousands of people who are ready to retire and have made numerous plans that will surely go awry.

Our Treasury Department has a brochure out, Mr. Speaker, which urges Federal employees to buy savings bonds, telling them they can cash their savings bonds in on those first 18 months to 2 years when they retire, and they will be in a lower tax bracket.

All of the people that purchased those savings bonds over the years have now found out that that was all to no avail.

Reading a portion of the next letter:

If we concede, which I do not, that repealing the 3-year recovery period is fair treatment, how can it be fair to make the repeal retroactive to last July? To the best of my knowledge, this was the only provision involving personal income taxes that was made retroactive. Why? By that action, the Conference Committee clearly reduced my salary over the past 23 years by over $55,000. Many Federal retirees will not live long enough to collect the money they paid taxes on and contributed to their retirement fund. Please tell me how that is fair.

Well, obviously, the answer is it is not fair. This conference agreement on the 3-year basis recovery rule is not fair. This conference agreement, I think, will be haunted if this provision is not changed by the fact that this will do more to destroy faith and confidence in the people's government than probably any other action that has been taken by Government in a long, long time.

Let me read a couple more letters:

DEAR CONGRESSMAN WOLF: The House version would implement the proposed change retroactive to July 1, 1986. That is gross and may well be unconstitutional. The Senate verison is much better by providing a transition period up to January 1, 1988.

Well, we know that the House prevailed and the House Ways and Means Committee position prevailed, and the Senate did not. The Senate provision would have made this date effective in January of next year, so that if it were done, and it is not a good idea to do this; but if it were done, what it would mean is any Federal employee or policeman or fireman, rescue squad person, teacher, would have had the opportunity to say, "OK, I think I will retire in order not to be covered by this provision." But when this was done on a retroactive basis, that opportunity was not available.

Another alternative, which would be fairer, would be to include some sort of grandfather provision, e.g., for those who have or will reach either or both the age or years of service requirements for retirement eligibility prior to the implementation date. This would remove tax considerations from the retirement decisions of the older, qualified employees.

We are talking, too, Mr. Speaker, about older Americans; people that have made these decisions over many years. We talk so much in this body about protecting older Americans and yet on the one hand we giveth and the other fist we taketh.

Reading another letter:

DEAR CONGRESSMAN WOLF: This year I completed 37 years of service as a Federal employee and also reached my 55th birthday.

Many of these people are veterans, too. Some from World War II, and veterans of the Korean war. So these are people who were veterans, who came in because of the opportunity to work for their Government and serve their country, and then at the end of their service, get a raw deal.

I think in debating this issue, we need to be mindful of the people we are talking about. Many, many are veterans who have given their best years. Some at Omaha Beach and Pork Chop Hill, and are ending their careers with the Federal service.

For years now, I have planned on retiring at the end of this year with a tax-free arrangment—

Not tax-free; they already paid taxes, so we do not misunderstand this gentleman's letter. They have paid taxes on this money, and the money that they have paid taxes on, as it comes out, is tax free because they have already paid taxes on it—

until I recover my investment in the retirement fund. What a blow to have the Tax Reform Act provision retroactively applied to my annuity. The idea that we were given an opportunity to retire prior to June 30 to escape the possibility of the bill being made retroactive is absurd.

. . . . . .

I favor a balanced budget and fiscal restraint but not at the expense of the federal employees—

And policemen and firemen and teachers—

who are eligible for retirement and who would now be subject to the only ex post facto provision of the proposed law. The Conference Committee did a commendable job of eliminating many tax loopholes while still providing protection for their pets. The fairness doctrine should prevail to the extent that federal employees would not be subject to a provision effective last June 30th when the legislation is yet not passed and unsigned. All other provisions of the Act are prospective or better yet being phased in over several years. It is simply not fair to try to balance the budget on the backs of the federal, state and local employee.

Mr. Speaker, I will read this last letter:

DEAR CONGRESSMAN WOLF: I have been a loyal, faithful and productive Federal Government worker for 26 years. I have been disappointed and annoyed by the repeated attempts of the administration to chip away at the retirement benefits of Federal workers. I couldn't believe the joint House and Senate conference committee decided to remove, retroactive to 1 July 1986, the tax-free period on retirement income until a retiree recoups the amount of money the retiree paid into retirement and on which he/she has already paid taxes. I feel it is totally unfair and unjust to eliminate this or any other benefit an employee has understood would be part of his retirement program. The Federal Government has a moral and legal obligation to maintain its commitments to its employees. If the Federal Government wants to make the above change, in order to be fair and just, it should be made for any new employees after a stated future date, and thus, not break a commitment it has with actively employed workers who have understood they would have the above tax-free period.

Mr. Speaker, these are all the letters I will read today. I know a lot of Members are still in their districts, so we may do this again to get this point across. I would ask my colleagues that are listening, particularly those members of the distinguished Committee on Ways and Means, Chairman ROSTENKOWSKI and the others, who have worked so hard and clearly they have worked hard to bring about a tax reform bill.

□ 1245

But I would ask them to factor into their deliberations now that they are back, a sense of fairness, a sense of equity, a sense of justice to do the right thing. I would ask them to change this provision. There are several compromises floating around and I would ask the chairman to take one of these and to adopt it whereby this provision will not be retroactive, to protect those people who stayed. Let us remember the individuals who stayed because their office was in dire straits; the people working at the FBI on a top investigation and did not want to leave. Also, the people at NASA who just did not want to leave until the end of the year because with the Rogers Commission they knew that NASA was undergoing great turmoil, and they decided to stay to help ease into this situation before they left. Many of those were the best and the brightest who came on when President Kennedy said that we could put a man on the Moon. They believed that, as all of us believed that. We watched them do the job that they did putting the men on the Moon, and they have stayed because of the *Challenger* shuttle accident, in order to take care of the transition and to keep that place going.

We have an obligation to the Drug Enforcement agents who are just so fed up with seeing drugs coming in from Bolivia, Colombia, Mexico, and other places who are risking their lives in order to stay but just did not want to bail out, did not want history to show that when the going was tough they were going to leave. So they stayed for those extra several months.

Also, for the many employees on Capitol Hill who are loyal—and you know, my colleagues who are listening, having been a former congressional staffer for Congressman "Pete" Biester from Pennsylvania, a Member who was here back in the sixties and early seventies. And I indirectly worked in a different capacity for another Congressman, Congressman John Kyl, from the great State of Iowa, and then was the Deputy Assistant Secretary under Rogers Morton, who was a Member's Member from the Eastern Shore of Maryland; you know how hard many of your employees have worked. You know they have put your best interests in front, many times in front of theirs. You know and the people in this country should know the hours that these staff people work. We have some of the best people in the Government, some of the best people in the country who are working on Capitol Hill that work in this body, and they have stayed on because they have a commitment, a dedication, in a sense. A lot of people do not come to work for the Government for the money; they come because of a sense of involvement, spirit of cooperation, the opportunity to be involved in something bigger and better.

As I made the comment earlier, many of the people in the Space Program could have left the Space Program and gone with private industry; but they decided to stay because the mission was more important. They were involved in something really significant, and they wanted to be part of it. That is what attracts people to the Government. That is what attracts an honors graduate from Georgetown Law School to come into the Government rather than going with one of the big Wall Street companies, those who represent Fortune 500 companies; he would rather be there at the Justice Department stopping organized crime or fighting drugs. So there has been an incentive. We know many of the people who came up here on Capitol Hill to work for us, we know their dedication.

We also know, Mr. Speaker, that many of those people have been hurt.

I would ask that when the Congress has an opportunity, and I plan on doing everything that I can certainly on my side of the aisle with the Republican Members. When we had a chance to vote on a bill, the Republican substitute that we had, we took care of this provision. But I would say that this is not a partisan issue, and I do not want to make it a partisan issue. This should be an American issue, a joint issue, so that we get together on a bipartisan basis, Republicans and Democrats working together to do what is right, to do what is just, to bring equity, to reform and modify and change and make this conference report a conference report the people can be proud of.

Right now there are flaws, and this is one of the major flaws.

So I would ask my colleagues to join us in this effort. I would hope, and I believe it is possible, that the chairman of the Committee on Ways and Means and the chairman of the Senate Finance Committee would do what is right without any prodding, and I think they will. I think there is an opportunity, frankly, that they will take this and look at this now that they have had the opportunity to talk to many people and make the change, make the change to perfect and to change and modify and protect these people.

So I would ask my colleagues to join with us to see what we can do to bring fairness to this issue for the dedicated Federal employees, State employees, county employees, city employees, firemen, teachers, and policemen throughout this country, many of whom did not work for the high salary but worked for the highest purpose and the best cause, and that was to make their country and their community better.

Mr. Speaker, I again thank you for this time.

SAM MUCHNICK

Mr. PRICE. Mr. Speaker, I would like to share with my colleagues an article about an outstanding American and my closest friend, Mr. Sam Muchnick.

Sam, at 80, is the oldest baseball writer in Cardinal Country. He has been actively engaged in writing about and promoting sports for 60 years. He is one of the most respected persons in the sports community. In the later phase of his career he became world renowned as a wrestling promoter. Besides his direct contributions to the enjoyment of so

many sports enthusiasts, he is admired as an outstanding patriot and a loving and devoted father.

Bob Broeg, in the August 15 Redbird Review, wrote an excellent summary of Sam's fascinating career, a labor of love that will hopefully continue for many years to come. I am including this article at the close of my remarks for all of my colleagues to read and enjoy:

MUCHNICK—RETIRED WRESTLING PROMOTER RECALLS BASEBALL DAYS

(By Bob Broeg)

When the ball was taking its worst bounce to the ounce for the Cardinals in late May, a jelly-bellied former sports writer winced as a fly ball fell unmolested in the outfield, an Alphonse-and-Gaston act, that led to a gift two-base hit and served as a springboard for a Cincinnati victory over Danny Cox.

Sam Muchnick, at 80 the oldest living ex-baseball writer in town, shook his head in disappointment, then smiled wryly.

"If," he said, "that had happened in the heyday of Burleigh Grimes, Jesse Haines, Lefty Grove and Wes Ferrell, my, the home clubhouse would look as if a tornado had hit it."

Muchnick was remembering rednecked pitching competitors from his day, which, though he spent only several years in sports writing, left him with an elephantine memory. It left him, also, a heckuva lot richer than sports writers, because when the St. Louis Times folded in 1932 he turned to a more lucrative field.

Sam became, first, press agent for Tom Packs, a local wrestling promoter with national clout.

Ultimately, after serving three years in the militiary with longtime Cardinal captain Terry Moore in the Panama Canal zone, Muchnick became a promoter himself in 1945.

The next 35 years, most of them as president of the National Wrestling Alliance, he gained a name and a most comfortable fortune as St. Louis' No. 1 wrestling and boxing entrepreneur.

"Let's talk baseball," said Sam the Round-Bellied Man, a jovial person whose close friends range from jockeys to giants, hoodlums to judges. "Even though I agree to hype wrestling to survive, it has become an unbelievable hippodrome now."

Muchnick talks like an old newspaperman, which he became at a financial sacrifice, when he evaluated professions.

"I put medicine first," he said, only partly in pride because one of this three children is a doctor," but I list journalism second because the press keeps a close check on politicians and the country's conscience."

Of personal friends, Sam's closest is a political figure who became virtually a statesman, Illinois' Mel Price, elected out of the Army into Congress in 1944. Until the death of Leo Ward, longtime traveling secretary of the Cardinals, some of us liked to lump Muchnick, Ward and Price as the "unholy three."

For no good reason, either, Muchnick liked to tease Ward as the Cardinal's "second-greatest traveling sec," a tribute to the long Redbird road secretary, Clarence Lloyd, who was succeeded in 1938 by ex-left-handed plumber, Ward.

Lloyd helped nursemaid Muchnick when Sam began traveling for the Times with the Cards in 1929. A Central High School (St. Louis) graduate, raised above a tailor's shop in a rough-and-tough neighborhood at 14th and Franklin, now Dr. Martin Luther King Jr. Drive, Muchnick was making $1,800 as a postal clerk. Then in 1925, he finished second in the St. Louis Post-Dispatch annual Babe Ruth contest, a successful national syndicated gimmick.

Failing to win only because he had the New York Giants' Frank Frisch at third base rather than Ruth's darkhorse choice, Ozzie Bluege of Washington, Sam was asked to write a brief bit for the Post-Dispatch about the Cardinals' needs in 1926.

"I wrote that they needed an outfielder and a pitcher and I was right," said a smiling Muchnick, proudly, aware that the mid-season acquisitions of rightfielder Billy Southworth and pitcher Grover Cleveland Alexander helped bring the Redbirds' first pennant and world championship.

Impressed, yet with no job opening, Post sports editor John Edward Wray recommended Muchnick to the Times' sports boss, Sid Keener.

A twinkling-eyed Muchnick recalled, "I went into the newspaper game for only $1,200 a year, but I loved every minute of it."

He loved, for instance, participating with clubowner Sam Breadon, team physician Dr. Robert F. Hyland and St. Louis Zoo director George Vierheller in the "12 o'clock infield," between morning-and-afternoon workouts at camp in Avon Park and then Bradenton, Fla.

Muchnick loved, in addition, the three-year regular traveling beat in which the Cardinals won two pennants and a world championship.

"Maybe only the '42 team, winning 43 of its last 52 games, finished better than Gabby Street's team that won 39 out of 49 in 1930," Muchnick recalled. "We were 10 games out in mid-August and in fourth place, yet still won."

In a high-scoring era, one in which the '30 Redbirds scored a still-existing record of 1,006 runs, Muchnick remembered the pivotal rare pitching battle at Brooklyn in late September.

"Bill Hallahan beat Dazzy Vance in 10 innings, 1-0," he said, his smile widening. "That's when Flint Rhem told the tallest white lie ever. He said he had been kidnapped the night before the game he was scheduled to start and forced to drink cups of raw whiskey."

Muchnick had an inferential hand in the 1930 victory. He needled owner Breadon into getting a fourth starting pitcher, singling out veteran Grimes with the Boston Braves. He repeated the appeal in a Philadelphia hotel room, where Breadon served Prohibition drinks to traveling St. Louis writers. The owner excused himself, walked into another room of his suite, then returned.

"All right, Sammy," he said, "you've got your wish. I've traded Fred Frankhouse and Bill Sherdel to Boston for Grimes."

Grimes' salary of $17,000 was high for those days.

Excitedly, Muchnick bet Breadon $100 to $10 that the Cardinals would win the pennant. Later he collected from the smiling automobile dealer who combined with general manager Branch Rickey for most of the era, 1926-46, that produced nine pennants and six world championships.

"At the time, though," said Muchnick, chuckling, "we left Mr. Breadon staring at empty glasses because all of us in the press—St. Louis had four daily newspapers then—raced to our typewriters or telephones."

More seriously, Muchnick remembered, "Frankhouse was one of my best friends on the ballclub, yet I had to break the bad news to him and my part in it. Now, the club would tell the player first."

Times were different then and travel, too.

"We traveled by sooty trains with no air conditioning," Muchnick said, "and we grabbed taxi cabs at hotels and from the ballpark, harum-scarum, because there were no team buses. First time Pepper Martin jumped into a cab with me, he wanted to get out. We were strangers and he thought he was in the wrong cab."

Muchnick, a widower, had a happy fling before he was married as both the pet of veteran writers and of players, too, even though he could get on his muscle now and then. Like the time, Frisch, a personal favorite of Muchnick's, ribbed in a hotel lobby that sports writers didn't know a thing about baseball.

"Yeah, you blankety-blank, switch-hitting so-and-so," said Sam, using unexpected four-letter vulgarities, "but we know when to cover second base."

This was a jab at Frisch for a mental boo-boo that day—and, suddenly, seeing a woman just beyond the ballplayer, Muchnick amended his statement: "Pardon me, Mrs. Grimes"—an apology to the pitcher's wife.

Thereafter, until recently when longtime clubhouse manager Morris "Butch" Yatkeman retired, we would pick up the expression carried on by writers like J. Roy Stockton, Martin J. Haley and Red Smith, who, with secretary Lloyd, had heard Sam's explosion and redfaced apology.

Whenever someone spewed profanities, one or the other would comment, "Pardon me, Mrs. Grimes," long after Burleigh and his missus were gone from the club. Long after, for that matter, listeners wondered who 'n hell Mrs. Grimes was.

Muchnick, himself a practical joker, can take a rib as well as perform one.

"That's nothing," he said, "compared with the time I dressed up like a cowboy, walked into Breadon's suite in Florida, pulled a toy gun and yelled, 'Stick 'em up, you unmentionables,' unaware that Mrs. Breadon and another lady sat around a corner in the room."

Rachel Breadon, an understanding and attractive woman, put the flustered young reporter at ease.

Some of us, like Leo Ward and me, to name two, liked to josh with Muchnick if only to see his department-store Santa Claus belly jiggle with amused joy. For instance, about the time Muchnick drove to Florida with Ward for spring training. They were lost in a fog when Leo asked Sam to figure out what a barely visible sign said at roadside.

Muchnick squinted, then said triumphantly, "Litter barrel . . . Litter Barrel, Georgia!"

See how it is when you write about a guy who wound up totaling the pitchers' expected victories in 1931 and got almost as many as the old 145-game schedule. Still, Sam was ALMOST right. The Redbirds won 101.

I've always teased the old baseball writer the most, because he turned down a chance to play left field for the Cardinals in a 1929 exhibition game at Baltimore, then a minor-league city, at a time Pennsylvania's archaic blue laws permitted no Sunday games.

"I was flattered," said Muchnick, aware that manager Southworth wanted to rest regulars, "but I didn't want to tell him that

I had a date to drink home brew with Pop Haines and Hal Haid.

"We left home that trip in first place, lost 10 in a row, then won at Philadelphia by the National League's record score, 28-6, so I learned early not to quit on a club. Learned it as far back as 1918 when I saw my first big-league game. So, don't quit on these guys now. I won't."

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. WOLF) to revise and extend his remarks and include extraneous material:)

Mr. WOLF, for 60 minutes, today.

(The following Members (at the request of Mr. MONTGOMERY) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. BONKER, for 60 minutes, on September 10.

Mr. BONKER, for 60 minutes, on September 11.

Mr. STRATTON, for 60 minutes, on September 16.

Mr. HOYER, for 40 minutes, on September 11.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. WOLF) and to include extraneous matter:)

Mrs. ROUKEMA.

Mr. CONTE.

Mr. BEREUTER.

(The following Members (at the request of Mr. MONTGOMERY) and to include extraneous matter:)

Mr. MURTHA.

Mr. ANDERSON in 10 instances.

Mr. GONZALEZ in 10 instances.

Mrs. LLOYD in five instances.

Mr. HAMILTON in 10 instances.

Mr. BROWN of California in 10 instances.

Mr. ANNUNZIO in six instances.

Mr. JONES of Tennessee in 10 instances.

Mr. BONER of Tennessee in five instances.

Mr. DE LA GARZA in 10 instances.

Mr. FLORIO in two instances.

Mr. VENTO.

Mr. KASTENMEIER.

Mr. SOLARZ.

Mr. BENNETT.

SENATE BILLS AND JOINT RESOLUTIONS REFERRED

Bills and joint resolutions of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1047. An act to reform the laws relating to former Presidents; to the Committees on Post Office and Civil Service and the Judiciary.

S. 1917. An act to amend the Foreign Assistance Act of 1961 to provide assistance to promote immunization and oral rehydration, and for other purposes; to the Committee on Foreign Affairs.

S. 2462. An act to provide for the awarding of a special gold medal to Aaron Copland; to the Committee on Banking, Finance and Urban Affairs.

S. 2496. An act to authorize the President to award congressional gold medals to Doctors Andrei Sakharov and Yelena Bonner for the great personal sacrifice they have made to further the causes of human rights and world peace; to the Committee on Banking, Finance and Urban Affairs.

S. 2585. An act to authorize the President of the United States to award a congressional gold medal to Red Skelton in recognition of his lifetime commitment in service of Americans and to authorize the Secretary of the Treasury to sell bronze duplicates of such medal; to the Committee on Banking, Finance and Urban Affairs.

S. 2703. An act to amend the Federal Aviation Act of 1958 to provide that prohibitions of discrimination against handicapped individuals shall apply to air carriers; to the Committee on Public Works and Transportation.

S. 2759. An act relating to telephone services for Senators; to the Committee on House Administration.

S.J. Res. 190. Joint resolution to establish greater productivity in Federal Government operations as a national goal of the United States; to the Committee on Government Operations.

S.J. Res. 269. Joint resolution to provide for the reappointment of David C. Acheson as a citizen regent of the Board of Regents of the Smithsonian Institution; to the Committee on House Administration.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and joint resolution of the House of the following titles, which were thereupon signed by the Speaker pro tempore.

H.R. 1260. An act for the relief of Joe Herring;

H.R. 1343. An act to authorize the use of funds from rental of floating drydock and other marine equipment to support the National Maritime Museum in San Francisco, CA, and for other purposes;

H.R. 3108. An act to amend title 17, United States Code, to clarify the definition of the local service area of a primary transmitter in the case of a low power television station;

H.R. 3554. An act to provide for the restoration of the Federal trust relationship with, and Federal services and assistance to, the Klamath Tribe of Indians and the individual members thereof consisting of the Klamath and Modoc Tribes and the Yahooskin Band of Snake Indians, and for other purposes;

H.R. 4331. An act to authorize the Secretary of Agriculture to make grants for the purpose of establishing institutes of rural technology development;

H.R. 4393. An act to consolidate and improve provisions of law relating to absentee registration and voting in elections for Federal office by members of uniformed services and persons who reside overseas;

H.R. 4843. An act to provide for a minimum price and an alternative production rate for petroleum produced from the naval petroleum reserves, and for other purposes;

H.R. 5371. An act to extend until September 15, 1986, the emergency acquisition and net worth guarantee provisions of the Garn-St Germain Depository Institutions Act of 1982;

H.R. 5395. An act to increase the statutory limit on the public debt; and

H.J. Res. 713. Joint resolution making a repayable advance to the hazardous substance response trust fund.

SENATE ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The SPEAKER pro tempore announced his signature to an enrolled bill of the Senate of the following title:

S. 410. An act to reform the Residential Conservation Service and to repeal the Commercial and Apartment Conservation Service;

S. 1888. An act to provide for a program of cleanup and maintenance on Federal lands;

S.J. Res. 249. Joint resolution to proclaim October 23, 1986, as "A Time of Remembrance" for all victims of terrorism throughout the world; and

S.J. Res. 386. Joint resolution to designate October 6, 1986, as "National Drug Abuse Education Day."

BILLS AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on the following days present to the President, for his approval, bills and joint resolution of the House of the following titles:

On August 20, 1986:

H.R. 1260. An act for the relief of Joe Herring;

H.R. 1343. An act to authorize the use of funds from rental of floating drydock and other marine equipment to support the National Maritime Museum in San Francisco, CA, and for other purposes;

H.R. 3108. An act to amend title 17, United States Code, to clarify the definition of the local service area of a primary transmitter in the case of a low power television station;

H.R. 3132. An act to amend chapter 44, to title 18, United States Code, to regulate the manufacture, importation, and sale of armor piercing ammunition, and for other purposes;

H.R. 3554. An act to provide for the restoration of the Federal trust relationship with, and Federal services and assistance to, the Klamath Tribe of Indians and the individual members thereof consisting of the Klamath and Modoc Tribes and the Hayooskin Band of Snake Indians, and for other purposes;

H.R. 4331. An act to authorize the Secretary of Agriculture to make grants for the purpose of establishing institutes of rural technology development;

H.R. 5371. An act to extend until September 15, 1986, the emergency acquisition and net worth guarantee provisions of the Garn-St Germain Depository Institutions Act of 1983;

H.R. 5395. An act to increase the statutory limit on the public debt; and

H.J. Res. 713. Joint resolution making a repayable advance to the hazardous, substance response trust fund.

On August 21, 1986:

H.R. 4393. An act to consolidate and improve provisions of law relating to absentee registration and voting in elections for Federal office by members of uniformed services and persons who reside overseas, and

H.R. 4843. An act to provide for a minimum price and an alternative production rate for petroleum produced from the naval petroleum reserves, and for other purposes.

ADJOURNMENT

Mr. MONTGOMERY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 53 minutes p.m.), the House adjourned until tomorrow, Tuesday, September 9, 1986, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

[Omitted from the Record of Aug. 15, 1986]

4086. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Army's proposed letter(s) of offer to Turkey for defense articles and services estimated to cost $44 million (transmittal No. 86-50), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

[Submitted Sept. 8, 1986]

4087. A letter the Director, Congressional Budget Office and the Director, Office of Management and Budget, transmitting estimates of budget base levels of total revenes and outlays, pursuant to 2 U.S.C. 922; to the Committee on Deficit Reduction.

4088. A letter from the Acting Secretary of Agriculture, transmitting a draft of proposed legislation to consolidate and expand the statutory authority for the National Agricultural Library in the Department of Agriculture; to the Committee on Agriculture.

4089. A letter from the Assistant Secretary (Financial Management), Department of the Air Force, transmitting a draft of proposed legislation to authorize recoupment of stipends paid to Armed Forces Health Professions Scholarship Program recipients who fail to complete required active duty; to the Committee on Armed Services.

4090. A letter from the Chairman, National Advisory Council on International Monetary and Financial Policies, transmitting the annual report of the National Advisory Council on international monetary and financial policies, pursuant to 22 U.S.C. 284b, 285(b), 286b(b)(5), (6), 286b-1, 290i-3; to the Committee on Banking, Finance and Urban Affairs.

4091. A letter from the general counsel, Department of the Treasury, transmitting a draft of proposed legislation to amend the Federal Deposit Insurance Act; to the Committee on Banking, Finance and Urban Affairs.

4092. A letter from the auditor, District of Columbia, transmitting a report entitled "Review of Overpayments From the Unemployment Compensation Trust Fund," pursuant to D.C. Code section 47-117(d); to the Committee on the District of Columbia.

4093. A letter from the auditor, District of Columbia, transmitting a report entitled "Auditor's Oversight Role Relative to Mayor's Memorandum 76-108," pursuant to D.C. Code section 47-117(d); to the Committee on District of Columbia.

4094. A letter from the Assistant Attorney General, Civil Rights Division, transmitting a report on the activities of the Interagency Coordinating Council, pursuant to Public Law 93-112, section 507 (92 Stat. 2983); to the Committee on Education and Labor.

4095. A letter from the Acting Director, Office of Dependents' Schools, transmitting a report on the annual assessment of the defense dependents' educational system, pursuant to 20 U.S.C. 924; to the Committee on Education and Labor.

4096. A letter from the Secretary of Education, transmitting a copy of the final regulations for the Graduate Academic Facilities Program, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

4097. A letter from the Secretary of Energy, transmitting the annual report on energy conservation and solar energy in Federal buildings, pursuant to 42 U.S.C. 8260; to the Committee on Energy and Commerce.

4098. A letter from the Secretary of Energy, transmitting the quarterly report for the period March 1 through June 30, 1986, on activities undertaken with respect to the strategic petroleum reserve, pursuant to 42 U.S.C. 6245(b); to the Committee on Energy and Commerce.

4099. A letter from the Secretary of Health and Human Services, transmitting a report on prevention activities in the areas of alcoholism and drug abuse, pursuant to 42 U.S.C. 290aa(e)(2); to the Committee on Energy and Commerce.

4100. A letter from the Chairman, Securities and Exchange Commission, transmitting the 15th Annual Report of the Securities Investor Protection Corporation, pursuant to Public Law 91-598, section 7(c)(2); to the Committee on Energy and Commerce.

4101. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Army's intent to issue letter(s) of offer for certain defense articles and services to the Federal Republic of Germany (transmittal No. 86-52), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

4102. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the Department of the Navy's intent to issue letter(s) of offer to Australia to sell certain defense articles or services (transmittal No. 86-57), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

4103. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the Department of the Navy's intent to issue letter(s) of offer to the United Kingdom to sell certain defense articles or services (transmittal No. 86-55), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

4104. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the Department of the Air Force's intent to issue letter(s) of offer to the United Arab Emirates to sell certain defense articles or services (transmittal No. 86-56), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

4105. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the Department of the Navy's intent to issue letter(s) of offer to Japan to sell certain defense articles or services (transmittal No. 86-53), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

4106. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting notice of the intent to issue a commercial export license for the sale of 60 M-113A2 armored personnel carriers to the Government of Norway, pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

4107. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting notice of the intent to issue a commercial export license for the sale of five AN/TPQ-36 Firefinder weapon locating radars to the Government of Greece, pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

4108. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting notice of the intent to issue a commercial export license for the sale of two C-130H aircraft and related spare parts to the Government of Canada, pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

4109. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting notice of the intent to approve a commercial manufacturing licensing agreement for the production in Switzerland of gas-activated gyroscope for the Tow 2 missile, pursuant to 22 U.S.C. 2776(d); to the Committee on Foreign Affairs.

4110. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting notice of the intent to approve a manufacturing licensing agreement for the production in Japan of 155-millimeter M-483A1 and 8-inch M-509A1 high explosive projectiles for the Japanese Army, pursuant to 22 U.S.C. 2776(d); to the Committee on Foreign Affairs.

4111. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting notification of the President's determination and justification for the request for appropriations to meet unexpected urgent refugee and migration; needs, pursuant to 22 U.S.C. 2601(c)(3); to the Committee on Foreign Affairs.

4112. A letter from the Director, Defense Security Assistance Agency, transmitting notification of a proposed memorandum of understanding with the Government of Great Britain for the production of an antisubmarine sea mine, pursuant to 22 U.S.C. 2767(f); to the Committee on Foreign Affairs.

4113. A letter from the Acting Secretary of State, transmitting a report on Soviet and Communist disinformation and press manipulation with respect to the United States, pursuant to Public Law 99-93, section 147 (99 Stat. 426); to the Committee on Foreign Affairs.

4114. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting a report on

the political contribution by James D. Phillips, of Kansas, as Ambassador to the Republic of Peru, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

4115. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the Unted States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

4116. A letter from the Acting Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

4117. A letter from the Assistant Secretary for Legislative and Intergovernmental Affairs, Department of State, transmitting a report on gifts by the U.S. Government to foreign individuals, pursuant to 22 U.S.C. 2694(2); to the Committee on Foreign Affairs.

4118. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

4119. A letter from the Administrator, Veterans' Administration, transmitting notice of a new Federal records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4120. A letter from the Administrator, Veterans' Administration, transmitting notice of a new Federal records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4121. A letter from the Assistant Attorney General for Administration, transmitting notification of a proposed alteration of a Federal records systems, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4122. A letter from the Chairman, U.S. Merit Systems Protection Board, transmitting a report on compliance with the laws relating to open meetings of agencies of the Government (Government in the Sunshine Act), pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

4123. A letter from the Director, Office of Information Resources Management, Department of the Interior, transmitting notification of a proposed new Federal records systems, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4124. A letter from the Director, NOAA Corps, Department of Commerce, transmitting a copy of the 1985 NOAA Corps pension plan, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

4125. A letter from the Director of Administration, National Labor Relations Board, transmitting notice of a proposed new Federal records systems, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4126. A letter from the Assistant Administrator for Administration and Resources Management, U.S. Environmental Protection Agency, transmitting notice of a deletion of a Federal records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4127. A letter from the general counsel and congressional liaison, U.S. Information Agency, transmitting notice of an altered Federal records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4128. A letter from the Deputy Associate Director for Royalty Management, Department of the Interior, transmitting a report on proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

4129. A letter from the Deputy Associate Director for Royalty Management, Department of the Interior, transmitting a report on proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

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4133. A letter from the Deputy Associate Director for Royalty Management, Department of the Interior, transmitting a report on proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

4134. A letter from the Deputy Associate Director for Royalty Management, Department of the Interior, transmitting a report on proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

4135. A letter from the Chief Immigration Judge, Executive Office for Immigration Review, Department of Justice, transmitting a report on suspension of the deportation of certain aliens of good character and with required residency when deportation causes hardship under section 244(a), Immigration and Nationality Act, pursuant to 8 U.S.C. 1254(c); to the Committee on the Judiciary.

4136. A letter from the Commissioner, Immigration and Naturalization Service, transmitting a report on the admission of aliens who were affiliated with certain subversive organizations and who have established opposition to such subversion, pursuant to 8 U.S.C. 1182(a)(28)(i); to the Committee on the Judiciary.

4137. A letter from the national commander, American Ex-Prisoners of War, transmitting the 1985 report and financial audit, pursuant to Public Law 88-504, section 3 (36 U.S.C. 1103; to the Committee on the Judiciary.

4138. A letter from the executive director, Reserve Officers Association, transmitting the association's annual report and financial audit for the period ending March 31, 1986, pursuant to Public Law 88-504, section 3 (36 U.S.C. 1103); to the Committee on the Judiciary.

4139. A letter from the chief judge, U.S. Court of Appeals, Ninth Circuit, transmitting the Third Biennial Report of the Judicial Council and the Court of Appeals of the Ninth Circuit in the implementation of section 6 of the Omnibus Judgeship Act of 1978; to the Committee on the Judiciary.

4140. A letter from the Secretaries of the Interior and Commerce, transmitting emergency striped bass research studies, pursuant to 16 U.S.C. 757g(b); to the Committee on Merchant Marine and Fisheries.

4141. A letter from the Director, Office of Personnel Management, transmitting a draft of proposed legislation to amend title 5, United States Code, to provide consistent treatment for appeals of denials of within-grade increases, and for other purposes; to the Committee on Post Office and Civil Service.

4142. A letter from the acting special counsel, U.S. Merit Systems Protection Board, transmitting a report on the results of the investigation of allegations of mismanagement and gross waste of funds by the U.S. Geological Survey, pursuant to 5 U.S.C. 1206(b)(5)(A); to the Committee on Post Office and Civil Service.

4143. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a letter from the Chief of Engineers, Department of the Army, submitting a report, together with accompanying papers and illustrations, on Cleveland Harbor, OH, pursuant to Public Law 94-587, section 175 (90 Stat. 2937) (H. Doc. No. 99-261); to the Committee on Public Works and Transportation and ordered to be printed.

4144. A letter from the general counsel, Department of the Treasury, transmitting a draft of proposed legislation to amend chapter 3 of title 3, United States Code, to enhance the security of the White House by authorizing the Uniformed Division of the U.S. Secret Service to protect the Treasury Building, annex, and grounds and for other purposes; to the Committee on Public Works and Transportation.

4145. A letter from the Secretary of Energy, transmitting a report on prospects for wind energy applications in foreign countries, pursuant to Public Law 96-345, section 11(5); to the Committee on Science and Technology.

4146. A letter from the Director, National Science Foundation, transmitting a request for an extension of the deadline for the submission of the report on research facility needs of universities, pursuant to 42 U.S.C. 1886; to the Committee on Science and Technology.

4147. A letter from the Executive Secretary of Defense, transmitting a report on Department of Defense procurement from small and other business firms for the period October 1985 through May 1986, pursuant to 15 U.S.C. 639(d); to the Committee on Small Business.

4148. A letter from the Secretary of Health and Human Services, transmitting the 10th annual report on child and spousal support programs, pursuant to 42 U.S.C. 652(a)(10); to the Committee on Ways and Means.

4149. A letter from the Secretary of Health and Human Services, transmitting a report on voluntary foster care placement agreements, pursuant to 42 U.S.C. 672 nt.; to the Committee on Ways and Means.

4150. A letter from the Secretary of Agriculture, transmitting the fourth quarterly global assessment of food production, and the planned programming of food assistance, pursuant to 7 U.S.C. 1736b(a); jointly, to the Committees on Agriculture and Foreign Affairs.

4151. A letter from the Federal Inspector, Alaska Natural Gas Transportation System, transmitting a report on the status of the Alaska Natural Gas Transportation System, pursuant to 15 U.S.C. 719e(a)(5)(E); jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

4152. A letter from the Secretary of Transportation, transmitting notification of the determination that actions had been taken at Manila International Airport to effectively meet or exceed International Civil Organization standards for airport security, and rescinding the August 5, 1986 determination to the contrary, pursuant to 49 U.S.C. app. 1515(e)(3); jointly, to the Committees on Foreign Affairs and Public Works and Transportation.

4153. A letter from the Director, Office of Management and Budget, transmitting his determination and certification that $3,775,692, previously appropriated, is needed to maintain the authorized level of operation of Radio Free Europe/Radio Liberty, Inc. because of fluctuations in foreign currency exchange rates, pursuant to 22 U.S.C. 2877(a)(2); jointly, to the Committees on Foreign Affairs and Appropriations.

4154. A letter from the Comptroller General of the United States, transmitting a report entitled "Telephone Communications: Bypass of the Local Telephone Companies" (GAO/RCED-86-66); jointly, to the Committees on Government Operations and Energy and Commerce.

4155. A letter from the Comptroller General of the United States transmitting an assessment of the Secretary of Commerce's 1986 report on extending foreign policy export controls (GAO/NSIAD-86-172); jointly, to the Committees on Government Operations and Foreign Affairs.

4156. A letter from the Secretary of Health and Human Services, transmitting a report on recruitment and training of Indians for positions subject to Indian preference and including grade levels and occupational classifications of Indian and non-Indian employees in the Indian Health Service, pursuant to 25 U.S.C. 472(d) and 472a(e)(2); jointly, to the Committees on Interior and Insular Affairs and Post Office and Civil Service.

4157. A letter from the Executive Director, the President's Commission of Executive Exchange, transmitting a draft of proposed legislation to establish the maximum period of time for extensions of service at 365 days for certain participants in executive exchange and fellowship programs; jointly, to the Committee on the Judiciary and Post Office and Civil Service.

SUBSEQUENT ACTION ON A REPORTED BILL

[Omitted from the Record of Aug. 15, 1986]

Under clause 5 of rule X the following action was taken by the Speaker:

H.R. 2127. The Committee of the Whole House on the State of the Union discharged and referred to the Committee on Education and Labor for a period ending not later than September 19, 1986, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(g), rule X.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

[Submitted Sept. 8, 1976]

By Mr. DAUB:

H.R. 5483. A bill to require market loans for wheat, feed grains and soybeans, to the Committee on Agriculture.

By Mr. WRIGHT (for himself, Mr. MICHEL, Mr. RANGEL, Mr. GILMAN, Mr. FOLEY, Mr. LOTT, Mr. GEPHARDT, Mr. LEWIS of California, Ms. OAKAR, Mr. KEMP, Mr. FASCELL, Mr. ROSTENKOWSKI, Mr. JONES of Tennessee, Mr. ST GERMAIN, Mr. RODINO, Mr. HOWARD, Mr. HAWKINS, Mr. ASPIN, Mr. DINGELL, Mr. FORD of Michigan, Mr. BROOKS, Mr. JONES of Oklahoma, Mr. HUGHES, Mr. ENGLISH, Mr. AKAKA, Mr. ALEXANDER, Mr. ANDREWS, Mr. ANNUNZIO, Mr. ANTHONY, Mr. ATKINS, Mr. AUCOIN, Mr. BARNARD, Mr. BENNETT, Mr. BEVILL, Mr. BIAGGI, Mr. BLAZ, Mr. BLILEY, Mr. BOEHLERT, Mr. BOLAND, Mr. BONER of Tennessee, Mr. BONKER, Mr. BORSKI, Mr. BOUCHER, Mr. BREAUX, Mr. BROOMFIELD, Mr. BROWN of California, Mr. BRUCE, Mr. BRYANT, Mrs. BURTON of California, Mr. CALLAHAN, Mr. CAMPBELL, Mr. CARR, Mr. CHAPMAN, Mr. CHAPPELL, Mr. CHENEY, Mr. CLINGER, Mr. COELHO, Mr. COLEMAN of Missouri, Mr. COLEMAN of Texas, Mrs. COLLINS, Mr. COMBEST, Mr. COOPER, Mr. COUGHLIN, Mr. COURTER, Mr. COYNE, Mr. DANIEL, Mr. DARDEN, Mr. DASCHLE, Mr. DAUB, Mr. DAVIS, Mr. DELLUMS, Mr. DERRICK, Mr. DEWINE, Mr. DICKINSON, Mr. DIOGUARDI, Mr. DIXON, Mr. DONNELLY, Mr. DORGAN of North Dakota, Mr. DORNAN of California, Mr. DOWNEY of New York, Mr. DUNCAN, Mr. DURBIN, Mr. DWYER of New Jersey, Mr. DYMALLY, Mr. DYSON, Mr. EARLY, Mr. ECKERT of New York, Mr. EDGAR, Mr. EDWARDS of Oklahoma, Mr. ERDREICH, Mr. FAZIO, Mr. FEIGHAN, Ms. FIEDLER, Mr. FISH, Mr. FLIPPO, Mr. FOGLIETTA, Mr. FORD of Tennessee, Mr. FOWLER, Mr. FRANKLIN, Mr. FROST, Mr. FUQUA, Mr. FUSTER, Mr. GALLO, Mr. GARCIA, Mr. GAYDOS, Mr. GEJDENSON, Mr. GEKAS, Mr. GIBBONS, Mr. GLICKMAN, Mr. GORDON, Mr. GRADISON, Mr. GRAY of Illinois, Mr. GRAY of Pennsylvania, Mr. GREEN, Mr. GUARINI, Mr. RALPH M. HALL, Mr. HAMILTON, Mr. HANSEN, Mr. HARTNETT, Mr. HAYES, Mr. HEFNER, Mr. HERTEL of Michigan, Mr. HOPKINS, Mr. HORTON, Mr. HOYER, Mr. HUBBARD, Mr. HUCKABY, Mr. HUTTO, Mr. IRELAND, Mr. JACOBS, Mr. JEFFORDS, Mr. JENKINS, Mr. JONES of North Carolina, Mr. KANJORSKI, Ms. KAPTUR, Mrs. KENNELLY, Mr. KILDEE, Mr. KINDNESS, Mr. KLECZKA, Mr. KOLTER, Mr. KOSTMAYER, Mr. KRAMER, Mr. LAGOMARSINO, Mr. LANTOS, Mr. LEACH of Iowa, Mr. LEATH of Texas, Mr. LEHMAN of California, Mr. LELAND, Mr. LENT, Mr. LEVIN of Michigan, Mr. LEVINE of California, Mr. LIVINGSTON, Mrs. LLOYD, Mr. LOEFFLER, Mr. LUJAN, Mr. LUKEN, Mr. LUNDINE, Mr. MCCLOSKEY, Mr. MCCOLLUM, Mr. MCCURDY, Mr. MCHUGH, Mr. MCKERNAN, Mr. MCKINNEY, Mr. MACK, Mr. MACKAY, Mr. MANTON, Mrs. MARTIN of Illinois, Mr. MARTINEZ, Mr. MATSUI, Mr. MAVROULES, Mr. MAZZOLI, Mrs. MEYERS of Kansas, Mr. MICA, Ms. MIKULSKI, Mr. MILLER of Ohio, Mr. MILLER of California, Mr. MINETA, Mr. MITCHELL, Mr. MOAKLEY, Mr. MOLLOHAN, Mr. MONTGOMERY, Mr. MOODY, Mr. MOORE, Mr. MORRISON of Connecticut, Mr. MRAZEK, Mr. MURPHY, Mr. MURTHA, Mr. NEAL, Mr. NELSON of Florida, Mr. NICHOLS, Mr. NOWAK, Mr. OBERSTAR, Mr. OBEY, Mr. OLIN, Mr. ORTIZ, Mr. OWENS, Mr. PACKARD, Mr. PASHAYAN, Mr. PEASE, Mr. PENNY, Mr. PEPPER, Mr. PERKINS, Mr. PRICE, Mr. REID, Mr. RICHARDSON, Mr. RINALDO, Mr. ROBERTS, Mr. ROBINSON, Mr. ROE, Mr. ROGERS, Mr. ROSE, Mrs. ROUKEMA, Mr. ROWLAND of Connecticut, Mr. ROWLAND of Georgia, Mr. ROYBAL, Mr. RUDD, Mr. RUSSO, Mr. SABO, Mr. SCHEUER, Mrs. SCHROEDER, Mr. SCHULZE, Mr. SEIBERLING, Mr. SHARP, Mr. SHAW, Mr. SHELBY, Mr. SIKORSKI, Mr. SKELTON, Mr. SMITH of New Jersey, Mr. DENNY SMITH, Mr. SMITH of Florida, Mr. SMITH of Iowa, Mrs. SMITH of Nebraska, Mr. SNYDER, Mr. SOLARZ, Mr. SOLOMON, Mr. SPRATT, Mr. STAGGERS, Mr. STALLINGS, Mr. STANGELAND, Mr. STARK, Mr. STOKES, Mr. STRANG, Mr. STRATTON, Mr. STUDDS, Mr. SWEENEY, Mr. SWINDALL, Mr. TALLON, Mr. TAUZIN, Mr. TAYLOR, Mr. TORRES, Mr. TORRICELLI, Mr. TRAFICANT, Mr. TRAXLER, Mr. VALENTINE, Mr. VANDER JAGT, Mr. VENTO, Mr. VISCLOSKY, Mr. VOLKMER, Mr. WALDON, Mr. WALGREN, Mr. WATKINS, Mr. WAXMAN, Mr. WHITTEN, Mr. WILLIAMS, Mr. WILSON, Mr. WISE, Mr. WOLPE, Mr. WORTLEY, Mr. WYDEN, Mr. WYLIE, Mr. YATES, Mr. YATRON, Mr. YOUNG of Florida, Mr. YOUNG of Alaska, Mr. YOUNG of Missouri, Mr. FAUNTROY, Mr. BEDELL, and Mr. UDALL):

H.R. 5484. A bill to strengthen Federal efforts to encourage foreign cooperation in eradicating illicit drug crops and in halting international drug traffic, to improve enforcement of Federal drug laws and enhance interdiction of illicit drug shipments, to provide strong Federal leadership in establishing effective drug abuse prevention and education programs, to expand Federal support for drug abuse treatment and rehabilitation efforts, and for other purposes; jointly, to the Committees on Armed Services, Banking, Finance and Urban Affairs, Education and Labor, Energy and Commerce, Foreign Affairs, Government Operations, Interior and Insular Affairs, the Judiciary, Merchant Marine and Fisheries, Post Office and Civil Service, Public Works and Transportation, and Ways and Means.

By Mr. SWEENEY:

H.R. 5485. A bill to amend the Farm Credit Act of 1971 to provide the opportunity for competitive interest rates for the farmers, ranchers, and cooperative borrowers of the Farm Credit System, and for other purposes; to the Committee on Agriculture.

By Mr. TORRICELLI (for himself, Mr. RINALDO, Mr. STARK, Mr. ACKERMAN, Mr. GUARINI, Mr. MITCHELL, Mr. SCHEUER, Mr. MRAZEK, Mr. RODINO, Mr. SMITH of Florida, Mr. BROWN of California, Mr. TOWNS, Mr. HORTON, Mr. GALLO, Mr. LEVINE of California, Mrs. BURTON of California, Mr. RUSSO, Mr. KOLTER, Mrs. BOXER, Mr. RICHARDSON, Mr. TALLON, Mr. FEIGHAN, and Mr. SMITH of New Hampshire):

H.R. 5486. A bill to promote the dissemination of biomedical information through modern methods of science and technology and to prevent the duplication of experiments on live animals, and for other purposes; to the Committee on Energy and Commerce.

By Mr. BENNETT:

H. Res. 539. Resolution expressing the sense of the Congress that the United States should place greater emphasis on the improvement of the capabilities of U.S. conventional forces, particularly in cooperation with other member nations of North Atlantic Treaty Organization; jointly, to the Committees on Armed Services and Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

454. By the SPEAKER: Memorials of the Assembly of the State of New York, relative to funding for the Air Force trainer aircraft, T-46A; to the Committee on Armed Services.

455. Also, memorial of the Senate of the State of Illinois, relative to the Chernobyl accident; to the Committee on Foreign Affairs.

456. Also, memorial of the Senate of the Commonwealth of Pennsylvania, relative to the LTV Corp.; to the Committee on the Judiciary.

457. Also, memorial of the Legislature of the State of California, relative to the national maximum speed limit; to the Committee on Public Works and Transportation.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 947: Mr. WALDON.

H.R. 1453: Mr. KOSTMAYER, Mr. LEVIN of Michigan, Mr. TAUZIN, and Mr. FORD of Tennessee.

H.R. 1917: Mr. WEAVER, Mr. FRANKLIN, Mr. WALDON, Mr. SPENCE, Mr. MONSON, Mr. MURTHA, Mr. PRICE, Mr. LOTT, Mr. NATCHER, Mr. RODINO, Mr. CAMPBELL, Mr. SAVAGE, and Mr. GORDON.

H.R. 2049: Mrs. COLLINS and Mr. HAYES.

H.R. 3024: Mr. LEVIN of Michigan, Mr. RODINO, and Mrs. BYRON.

H.R. 3040: Mr. FAUNTROY.

H.R. 3088: Mr. MURPHY, Mr. CROCKETT, and Mr. TOWNS.

H.R. 3643: Mr. STRANG.

H.R. 4057: Mr. PACKARD.

H.R. 4633: Mrs. BENTLEY, Mr. COELHO, Mr. TOWNS, Mr. NEAL, Mr. FIELDS, and Mrs. LONG.

H.R. 4820: Mr. SHAW, Mr. AKAKA, and Mr. PICKLE.

H.R. 4877: Mr. MITCHELL.

H.R. 4884: Mrs. BYRON, Mr. MCEWEN, Mr. LEWIS of Florida, and Mr. CAMPBELL.

H.R. 4929: Mr. RODINO.

H.R. 5011: Mr. BARNARD.

H.R. 5157: Mr. COBEY.

H.R. 5213: Mr. FISH, Mr. HAYES, Mr. LEVINE of California, Mr. LOWRY of Washington, Mr. TOWNS, and Mr. VENTO.

H.R. 5322: Mr. RANGEL, Mr. TOWNS, AND Mr. CROCKETT.

H.J. Res. 244: Mr. GALLO, Mr. TORRICELLI, Mr. DENNY SMITH, AND Mr. HOWARD.

H.J. Res. 552: Mr. BONIOR of Michigan, Mr. HAMILTON, Mr. WEISS, Mr. CAMPBELL, Mr. MACKAY, Mr. LUJAN, Mr. MONTGOMERY, Mr. LAFALCE, Mr. HOPKINS, Mr. MAZZOLI, Mr. QUILLEN, Mr. LIVINGSTON, Mr. STAGGERS, Mr. LOTT, Mr. CHANDLER, Mr. SUNDQUIST, Mr. FRANKLIN, Mr. MCCOLLUM, Mrs. JOHNSON, Mr. EDGAR, SMITH of New Hampshire, Mr. LOWERY of California, Mr. KOLBE, Mr. TAUKE, Mr. WALKER, Mr. ECKERT of New York, Mr. HATCHER, Mr. WHITTEN, Mr. CRAIG, Mr. LEWIS of Florida, Mr. DANNEMEYER, Mr. STRATTON, and Mr. ROBINSON.

H.J. Res. 594: Mr. GEKAS, Mr. DANNEMEYER, Mr. RALPH M. HALL, Mr. COELHO, Mr. DIOGUARDI, Mr. YATRON, Mr. ALEXANDER, Mr. BREAUX, Mr. BOLAND, and Mr. BLILEY.

H.J. Res. 655: Mrs. BENTLEY, Mr. BRUCE, Mrs. BYRON, Mr. CLINGER, Mr. COUGHLIN, Mr. DARDEN, Mr. DIOGUARDI, Mr. EVANS of Illinois, Mr. FOLEY, Mr. GALLO, Mr. GUARINI, Mr. HATCHER, Mr. KOLTER, Mr. LEHMAN of California, Mrs. LONG, Mr. LUJAN, Mr. MACK, Mr. MILLER of Ohio, Mr. MILLER of Washington, Mr. MOODY, Mr. MOORHEAD, Mr. MRAZEK, Mr. PASHAYAN, Mr. RICHARDSON, Mr. SUNIA, Mr. TAUKE, and Mr. VANDER JAGT.

H.J. Res. 684: Mr. LEHMAN of Florida, Mr. DURBIN, Mr. SOLOMON, Mr. SAXTON, Mr. TAUKE, Mr. PRICE, Mr. MACK, Mr. ROWLAND of Georgia, Mr. ROBERTS, Mr. ANTHONY, Mr. BLILEY, Mr. BROWN of California, Mr. DYSON, Mr. ERDREICH, Mr. KOLTER, Mr. LEWIS of California, Mr. MCEWEN, Mr. MARTINEZ, Mr. MICA, Mr. MILLER of Ohio, Mr. MONSON, Mr. NATCHER, Mr. NELSON of Florida, Mr. PERKINS, Mr. RICHARDSON, Mr. VALENTINE, Mr. WOLF, Mr. BEVILL, Mr. PURSELL, Mr. AUCOIN, Mr. FASCELL, Mr. DWYER of New Jersey, Mr. NOWAK, Mr. ANDREWS, Mr. LELAND, Mr. ROSE, Mr. KEMP, Mr. COBLE, Mr. GREGG, Mr. MCHUGH, Mr. JONES of North Carolina, Mr. EDGAR, Mr. MOLLOHAN, Mr. SNYDER, Mr. STANGELAND, Mr. COURTER, Mr. ALEXANDER, Mr. BORSKI, Mr. CALLAHAN, Mr. CARNEY, Mr. COELHO, Mr. DOWDY of Mississippi, Mr. HARTNETT, Mr. HEFNER, Mr. LUNGREN, Mr. MAVROULES, Mr. OBERSTAR, Mr. RUDD, Mr. SISISKY, Mr. TOWNS, Mr. WHITLEY, Mr. MOAKLEY, Mr. MCMILLAN, Mr. HUBBARD, Mr. BUSTAMANTE, Mr. DASCHLE, Mr. DICKS, Mr. KOSTMAYER, Mr. LATTA, Mr. MONTGOMERY, Mr. MURPHY, Mr. SKEEN, Mr. TALLON, Mr. BLAZ, Mrs. BYRON, Mr. CHENEY, Mr. DANNEMEYER, Mr. DAVIS, Mr. EVANS of Iowa, Mr. GUNDERSON, Mr. RALPH M. HALL, Mr. LANTOS, Mr. LOEFFLER, Mr. LUNDINE, Mr. ORTIZ, Mr. OXLEY, Mr. PETRI, Mr. PORTER, Mr. SABO, Mr. SCHULZE, Mr. SPRATT, Mr. STOKES, Mr. STRATTON, Mr. DORGAN of North Dakota, and Mr. HATCHER.

H.J. Res. 706: Mr. SUNIA, Mr. PERKINS, Mr. SKELTON, Mr. GARCIA, Mr. ROE, Mr. HAYES, Mr. MANTON, Mr. DIXON, Mr. BRYANT, and Mr. STALLINGS.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

466. By the SPEAKER: Petition of the Council of the City of New York, NY, relative to resident management of public housing; to the Committee on Banking, Finance and Urban Affairs.

467. Also, petition of the City Council of New York, NY, relative to drug dealers; to the Committee on Banking, Finance and Urban Affairs.

468. Also, petition of the City Council of New York, NY, relative to the promotion of a stable economic mix of families residing in public housing; to the Committee on Banking, Finance and Urban Affairs.

469. Also, petition of the City Commission, Hayes, KS relative to Americans missing in Southeast Asia; to the Committee on Foreign Affairs.

470. Also, petition of the general secretary, Reformed Church in America, New York, NY, relative to budget cuts; to the Committee on Government Operations.

471. Also, petition of the Kenai Peninsula Borough Assembly, Soldotna, AK, relative to amendments to ANCSA; to the Committee on Interior and Insular Affairs.

472. Also, petition of the Governor of the State of California, Sacramento, CA, relative to the national maximum speed limit; to the Committee on Public Works and Transportation.

473. Also, petition of the Oakland City Council, Oakland, CA, relative to health care for veterans; to the Committee on Veterans' Affairs.

474. Also, petition of the stated clerk, Office of the General Assembly, Presbyterian Church (U.S.A.), relative to tax reform; to the Committee on Ways and Means.

SENATE—*Monday, September 18, 1986*

The Senate met at 12 noon and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

He that dwelleth in the secret place of the most high shall abide under the shadow of the Almighty. I will say of the Lord, He is my refuge, and my fortress, my God: in Him will I trust.—Psalm 91:1-2.

Father in Heaven, we come to You this morning with heavy hearts, smitten by the tragedies in Karachi and Istanbul. Our minds struggle to understand this mindless violence. We commend to Your grace and loving comfort and care the families of those who suffered and died in these tragedies. May they experience Your peace when it seems peace is impossible.

We mourn the loss of Harley M. Dirks and with profound gratitude remember his many years of dedicated service as clerk of the Subcommittee on Labor, Health and Human Services, and Education. Be near to his family and friends in their loss.

Gracious God, encourage Nicholas Daniloff and his loved ones in this hour of uncertainty and frustration. Guide those who are most closely involved in the efforts for his release and grant, dear God, that he may soon be home safely.

Now, Lord, we pray for Your gracious intervention as the Senate enters these final weeks of the 99th Congress. Give to Your servants wisdom and strength for the difficult days ahead. May Thy will be done in the Senate as it is in heaven for Your glory and honor. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able and distinguished majority leader, Senator ROBERT DOLE, of Kansas, is recognized.

Mr. DOLE. I thank the distinguished Presiding Officer, Senator THURMOND.

SCHEDULE

Mr. DOLE. Mr. President, first, I welcome all my colleagues back after the recess, as well as members of the Senate staff and my own staff.

We do have a rather large number of items to complete, but it is not unprecedented. I hope we can complete our business by October 3.

I will hand to the distinguished minority leader a list of the items I think most Members believe are so-called must items, and I will be discussing that with the minority leader a little later.

So far as today is concerned, under the standing order, the leaders have 10 minutes each. There is a special order in favor of Senator PROXMIRE for not to exceed 5 minutes.

There will be routine morning business, not to extend beyond 1 p.m., with Senators permitted to speak therein for not more than 5 minutes each.

Because a large number of Members have not yet returned but are on their way back, we will not have any rollcall votes today. If any rollcall votes are ordered, they will occur on tomorrow. Notwithstanding that, I hope we can dispose of at least one appropriation bill.

I am advised by the distinguished Senator from Idaho [Mr. MCCLURE] that he will be available between 3 and 4 o'clock to bring up the Interior appropriation bill, if that can be cleared on the other side.

I am also advised by Senator WEICKER that he is prepared on Labor-HHS, and we are in the process of seeing if there will be a lot of amendments to those matters.

We do need to start on appropriations bill today and continue on appropriations bills throughout tomorrow.

We will begin the Rehnquist nomination at an early hour on Wednesday or Thursday and conclude action on it by the end of the week. The distinguished chairman of the Judiciary Committee is here, and I hope we can conclude action on the Rehnquist and Scalia nominations by Friday evening. If that should be the case, that would be all we would do this week.

The must items include at least the Superfund conference report, the debt limit conference report. I do not see the conference report on tax reform on this list, but that is a must item. In any event, I will deliver that list to the distinguished minority leader.

NICK DANILOFF MUST BE FREED

DANILOFF'S INDICTMENT OMINOUS DEVELOPMENT

Mr. DOLE. Mr. President, the distinguished minority leader and I are going to make statements on the indictment of Mr. Daniloff, and we will both submit a resolution expressing the sense of outrage of the U.S. Senate.

The announcement yesterday in Moscow that Nick Daniloff, the U.S. News & World Report correspondent illegally detained by the Russians, has been indicted for espionage raises this matter to a new and much more ominous level, both for Daniloff personally and for United States-Soviet relations.

It is high time that the Kremlin understands that this "cruel game" it is playing with an innocent man's life has outraged the American people and Congress, and is endangering constructive relations between our governments, including the upcoming summit. It is high time that Soviet leader Gorbachev wakes up to the stakes now on the table and puts a little sanity back into the Russians' handling of this matter.

DANILOFF MUST BE FREED

Nick Daniloff is innocent—there is not a shred of credible evidence to the contrary. Nick Daniloff's case has absolutely no connection to the case of the Soviet spy recently caught at the United Nations. To equate them is unjustified as to be ludicrous. Nick Daniloff should be freed—immediately and unconditionally. It is as simple as that.

Immediately after Nick Daniloff was detained, I cabled Mr. Gorbachev, urging his immediate release. As we all know, the President has also sent a personal message to Mr. Gorbachev. I know that many other Members of Congress, on both sides of the aisle, have done so, as have journalists and private Americans by the scores, by the hundreds, and by the thousands.

I also sent a telegram to U.S. News executive editor Mort Zuckerman, promising him that the Senate was not going to ignore this important matter.

I ask unanimous consent that the text of both of my telegrams be printed in the RECORD.

There being no objection, the material was ordered printed in the RECORD, as follows:

[Telegram]

HIS EXCELLENCY MIKHAIL GORBACHEV,
General Secretary of the Central Committee, Communist Party of the Union of Soviet Socialist Republics, the Kremlin, Moscow.

I am deeply disturbed by the wholly unjustified detention of U.S. News & World Report journalist Nicholas Daniloff by Soviet authorities. I know that many Members of Congress share my concern and will be prepared to act further on this matter should it remain unresolved when Congress reconvenes next week.

In the interest of simple justice and continued constructive relations between our countries, I urge your personal intervention

to bring about the immediate and unconditional release of Mr. Daniloff.

BOB DOLE,
Majority Leader, U.S. Senate,
Washington, DC.

U.S. SENATE,
Washington, DC, September 2, 1986.

Mr. MORTIMER ZUCKERMAN,
Chairman and Editor-in-Chief, U.S. News & World Report, Washington, DC.

DEAR MORT: I share your deep concern over the wholly unjustified detention of Nicholas Daniloff by the Soviet Union.

This morning, I sent a personal message to Soviet General Secretary Gorbachev, urging Daniloff's immediate, unconditional release. Should this situation remain unresolved when Congress reconvenes, I will do everything I can to insure that the Senate immediately expresses its concern over this serious incident.

If there is anything further you feel that I can usefully do to speed Daniloff's release, please let me know.

Sincerely yours,

BOB DOLE,
Majority Leader.

DANILOFF RESOLUTION

Mr. DOLE. Mr. President, the Senate cannot ignore this important issue. We are now circulating a resolution—myself and the distinguished minority leader—expressing what I think will be the unanimous feeling of this body, that Nick Daniloff should be released immediately and unconditionally as a matter of justice and in the interests of workable relations between our country and the U.S.S.R.

I certainly urge all Senators to join in cosponsoring this resolution, so the Kremlin gets the message loud and clear.

I hope that when we introduce the resolution—it is undergoing some revision; it is being worked on by staff on both sides of the aisle—that we could introduce the resolution, have it cleared and then perhaps have a rollcall vote on this rather important resolution by 2 o'clock tomorrow.

But I will not make that request at this time.

Mr. President, I reserve the remainder of my time.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER (Mr. MATTINGLY). Under the previous order, the minority leader is recognized.

HOSTAGE-TAKING IN MOSCOW

Mr. BYRD. Mr. President, I join with the distinguished majority leader in protesting and condemning the actions by the Soviet Government and I also join with the majority leader in preparation for the joint cosponsorship of the resolution and in urging all Senators to sign that resolution and to support it at the time the vote is taken, hopefully tomorrow at 2 p.m., as the distinguished majority leader has suggested.

Mr. President, Nicholas Daniloff sits in a prison in Moscow at this moment. As we all know, while the Senate was in recess, the Soviet KGB arrested this respected reporter for U.S. News & World Report. While he was exchanging some novels for newspaper clippings with a Soviet contact, eight—E-I-G-H-T—KGB agents pounced on this unsuspecting Moscow correspondent and arrested him for possession of maps stamped "Top Secret." The Soviet regime just yesterday has compounded its error by indicting Mr. Daniloff.

There is little doubt that this was a crude contrived, heavy-handed frameup. As such, the Soviet leadership is engaged in a dangerous, foolish, and miscalculated ploy that could backfire in their faces. It is a game that has only one side, since the United States is not playing that game.

To Americans, human beings are not pawns to be used and abused in power plays between superpowers. We must not be manipulated into exchanging an accused spy for a journalist. We cannot barter an innocent American citizen for a Soviet espionage suspect.

If Daniloff was indeed framed by the KGB, and if he is being detained only to affect the treatment by the United States of a suspected Soviet spy being detained here—as clearly seems to be the case—then he is nothing more or less than a hostage. We are all too familiar with the recently much-employed game of hostage-taking. It is one of the favorite techniques of terrorists. The United States should not be any more willing to negotiate with the Soviets in a hostage crisis than with terrorists in Lebanon for the return of Americans being held there. We must make it clear to the Soviet leaders that the American Government will not accede to extortionist techniques.

If we were to succumb to such techniques, the world will know that any American journalist, or businessman, or any other American citizen for that matter, is fair game for international blackmail. Mr. Daniloff is just a very good, hard-working journalist, nothing more. Everybody knows that. Mr. Gorbachev knows that. Nobody's fooling anybody here. The only answer to the problem is his immediate and unconditional release. No strings. No conditions. No deals.

In the absence of such a satisfactory solution to this outrageous ploy, Soviet-American relations will be badly damaged at a delicate and critical time. It comes at a time when preparations are underway for what could be a summit meeting of historic proportions between the leaders of our two nations. It comes at a time when our two nations should be pursuing constructive approaches in dealing with each other, instead of introducing such potentially destructive events—events certain to cause a negative chain reaction which will badly sour the international atmosphere.

The opportunity to obtain a satisfactory new arms control and reduction agreement between our two nations has been building for some time and, if the opportunity is lost because of these juvenile and misguided antics, it may not come around again for years. This should be very clear. We all know that there are individuals and factions in both American and Soviet governments and societies, some at official levels, who are opposed to any productive summit meeting. There are those who are opposed to any kind of arms control agreement whatsoever. Although these ideologues only represent a small minority, they are capable of substantial mischief. The negative actions they can precipitate, which can easily cause a dangerous chain reaction, must be guarded against and headed off whenever they appear. If the purpose of this action by the Soviet Union was something other than damaging the overall relationship, and even scuttling the summit, that nevertheless, has been and continues to be such an effect.

Some Senators, including the distinguished chairman of the Senate Foreign Relations Committee, have already said that this episode could jeopardize the prospective summit meeting. That is certainly obvious, and the jeopardy will mount each day that Mr. Daniloff remains in a Moscow prison. The interest of improved relations between our two nations, which Mr. Gorbachev continuously publicly professes that he wants, dictates the immediate release of this innocent American.

Mr. President, the continued incarceration of Mr. Daniloff serves as a constant, vivid reminder of the harshness of the political system we are dealing with. It is a system that has astonished the world with its disregard for basic human rights, a system that continues to trample on the lives and freedoms of the people of Afghanistan, that has stamped out the seeds of liberty in Poland, and is now depriving one of our fellow citizens of his liberties—and at the same time showing its utter disdain and its paranoid fear of a free press.

I remind my colleagues and the Soviet leadership that it was the Soviet invasion of Afghanistan that sealed the fate of the SALT II accords in 1979. Is history repeating itself today?

Recent history shows a pattern of Soviet contempt for a free press, and for the Western press. In 1982, the Soviet Government ousted Newsweek reporter Andrew Nagorshi. In 1977, Associated Press reporter George Krimsky was accused of being an intelligence agent and was ordered to leave.

And in that same year, the KGB detained Los Angeles Times reporter Robert Toth for 5 days on bogus charges of having received official state secrets. So, this is just another reminder of the type of system operated by our chief adversary.

When Mr. Gorbachev took power in the Soviet Union, most of the world hailed the arrival of a new era, as he appeared to promise a new openness in relations with the West. Others, however, warned against such optimism, claiming that Mr. Gorbachev constituted nothing more than new wine in the same old bottle. The snatching of Mr. Daniloff is the style of the era of Joseph Stalin, not the style of a media-conscious, PR razzle-dazzle, "new look" Muscovite leadership. Is this Mr. Gorbachev's way of wooing and dazzling the Western press? Is this the way his honeymoon ends?

Whatever ill-considered machinations drove the Soviet leadership to decide to pick on Nicholas Daniloff, a clear gesture on the part of Mr. Gorbachev is what the world is looking for and is what this Senator is looking for. The unconditional release of Mr. Daniloff will certainly help Mr. Gorbachev to live up to his promise of a new openness, and it would help avoid the further deterioration of Soviet-American relations that is already occurring with his continued imprisonment.

It must be clear to those Soviet leaders with any common sense that this incident is not panning out any gold at all for them. I have personally written to the former Soviet Ambassador to the United States, Mr. Anatoly Dobrynin, on this matter and asked him to exercise his substantial influence to bring this poor chapter in the Soviet-American relationship to a swift and satisfactory ending.

Despite the residue the event surely will leave in the minds of freedom-loving people everywhere, the release of Mr. Daniloff could still avert substantial deterioration of Soviet-American relations that is bound to occur if he continues to be unjustly incarcerated. Such a deterioration, assuredly is in the best interests of neither the United States and its allies nor the people of the Soviet Union. I fervently hope that Mr. Daniloff is released immediately.

Mr. President, I yield the floor.

□ 1220

Mr. DOLE addressed the Chair.

THE PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, I also have a statement and I think the distinguished minority leader may have a statement on the acts of terrorism.

Mr. BYRD. Yes.

Mr. DOLE. Do you intend to do that now?

Mr. BYRD. Yes, I do have a statement. It would be all right with me if the distinguished majority leader wishes to delay pursuing that until the special order has been taken care of. I do have a statement and I am ready when the majority leader wishes to go forward.

Mr. DOLE. Maybe we could do that when they finish.

Mr. BYRD. That will be all right.

RECOGNITION OF SENATOR PROXMIRE

THE PRESIDING OFFICER. Under the previous order, the Senator from Wisconsin [Mr. PROXMIRE] is recognized for not to exceed 5 minutes.

NICHOLAS DANILOFF

Mr. PROXMIRE. Mr. President, I wish to congratulate the majority leader and the minority leader on their excellent, strong statements on the Daniloff case. I certainly support every word they say enthusiastically.

MY DAY AT CRAY

Mr. PROXMIRE. Mr. President, what firm produces the world's fastest computer? Is it Japan? No! Germany? No! America? Yes. Is it located in Silicon Valley, CA? No. The MIT-Harvard technology complex in Massachusetts? No. This company has shot into the high-technology business like a meteor. Where other computer firms are struggling to keep their heads above water, this company is zooming ahead with sales smashing all records. The name is Cray Research. The Japanese have challenged Cray for computer speed supremacy. Cray has consistently won. International Business Machine, the great corporate colossus whose name has become synonomous with high technology has thrown its massive economic power, its great scientific genius into battle with Cray. And who won? Cray!! In Washington, whether it is the mammoth Defense Department, the National Aeronautics and Space Agency, or any other Federal agency that takes pride in its technology, the proudest boast it can make is, "We have a Cray." So where is this remarkable company located? Who are the geniuses behind its success? Where were they educated? Where does the whiz bang work force that produces this magical computer technology come from? Mr. President, this is quite a story. It is an American small town, hard work, take-a-risk, sheer genius story. Cray Research is hundreds of miles removed from the great MIT-Harvard technology complex that has made the State of Massachusetts bloom. It is 2,000 miles away from the famous Silicon Valley technology explosion in California.

So where is Cray Research? It is a little town of 12,270 souls named Chippewa Falls in northwest Wisconsin. It is 87 miles from Minneapolis, 250 miles from Milwaukee. Who are the geniuses that built this remarkable research meteor? One person did it. His name is Seymour Cray. And who is Seymour Cray? Where did he develop this genius? Cray was born in Chippewa Falls. He has lived there most of his life. He was educated in its schools. His father was the Chippewa Falls city engineer. Where did Cray go to hire the brilliant technicians who produce this world's fastest computer? He didn't go anywhere. He hired his neighbors from Chippewa Falls and the towns and villages and farms nearby. Oh, yes he has established an administrative and marketing headquarters in Minneapolis. Cray has sales offices in major American cities, in Japan, and in a number of European countries. But Cray research, Cray engineering, Cray design, Cray fabrication and production is done in that little, remote town in northwestern Wisconsin, Chippewa Falls.

On August 27, this Senator spent the day working as a kind of incompetent apprentice technician at Cray. It was quite an experience. I worked in three different departments. My jobs were simple. They were also repetitive, agonizingly precise and exacting. They involved fabrication and inspection work. The supervisors constantly insisted on a meticulous dedication to making every movement precisely right. They are reminded that every part be exact—meticulously exact. And yet the relation between all the workers was warm, friendly, happy. If something went wrong, everyone seemed to step up to take the blame. Workers made a special effort to help each other. It was astonishing. Here was a company producing one of the most complex pieces of equipment that the marvelous technology of this age can produce in any country, anywhere. Was this work being done by supermen and superwomen? No, it was the accomplishments of ordinary American citizens inspired by a bona fide American genius who grew up among them in a little town that could easily pass for Garrison Keillor's Lake Woebegon. For anyone who has the notion that this country is run by some kind of an exotic elite that hails from one of two or three rare oases of glamour on the east or west coast of the United States or from Japan or the United Kingdom or Germany, consider Cray Research of Chippewa Falls, WI. Glamorous? No. A winner? You betcha!

GOLDEN FLEECE FOR AUGUST

Mr. PROXMIRE. Mr. President, my Golden Fleece Award for August goes to the Food and Nutrition Service [FNS] in the Department of Agriculture for chucking away over $1 million

between 1981 and 1985 by allowing a private company to cover its losses with taxpayers' money intended for children in day-care homes. The FNS fed corporate coffers instead of hungry children. And, adding insult to injury, FNS ignored numerous warnings from departmental auditors that this money was being devoured by the wrong people.

The Federal Government pays the bill when some hungry children are fed. But the FNS contracts with private firms which actually do the work in conformance with Government guidelines which specify how the taxpayers' money should be spent. This fleece proves that this arrangement failed in at least one instance.

Back in 1981, the FNS asked the Agriculture Department's Inspector General to take a look at how this program was working. Auditors found a multitude of problems: The private firm's accounting system was a joke and Federal money was being spent without a paper trail to show who got it and why. These problems were longstanding. An independent CPA firm had found similar problems as far back as 1979. What did the auditors recommend? They thought that FNS should either immediately help the company improve its management or, failing that, terminate the contract. What did the FNS do? They responded in the best bureaucratic fashion by delaying, by temporizing, by passing the buck, and by saying, just watch for improvements in next year's audit.

Meanwhile, the FNS helped the company stay one step ahead of the bailiff by letting the taxpayers' money be used to pay the company's bills. In 1981, auditors found that about $71,000 had been used for this purpose. But by 1985, this sum had grown to a whopping $1.1 million. All this money was to no avail. The company declared bankruptcy in 1985.

Now the taxpayers will be standing in line in bankruptcy court to see if any of their money can be recovered. They stand a slim chance of that ever happening.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business until the hour of 1 p.m., with statements therein limited to 5 minutes each.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, so ordered.

TERRORISM

Mr. BYRD. Mr. President, just a few days ago, the world was reminded that international terrorism remains a principal threat to human life and democratic values, and that all civilized nations must redouble their efforts to eradicate this scourge.

The bloody end to the hijacking of Pan American flight 73 in Karachi, Pakistan, and the murder of 22 Turkish Jews as they worshiped in their Istanbul synagogue, underscore the continuing need for action against international terrorism and the grievances which inspire it.

Our hearts go out to the victims of these latest terrorism crimes, and to their families. They have our deepest sympathies and condolences. They are the innocent victims in the diplomatic, political, and military struggles which comprise the context of international terrorism. We mourn those who have been killed, and we hope that those who have been injured will recover quickly.

Yet as we decry these latest terrorist crimes in Pakistan and Turkey, and offer sustenance to the victims of these outrages, we should deepen our resolve to act in concert with our friends and allies to combat international terrorism.

As the most powerful nation in the free world, the United States should lead these efforts. However, as I have stated before, the United States deserves the support of its allies and friends in this battle—not only of its allies, but the support of all civilized nations.

It was for that reason that I offered an amendment to the Diplomatic Security and Antiterrorism Act to encourage increased cooperation among our NATO allies to combat terrorism. That amendment urged the President to propose to our NATO allies that the alliance should create a permanent political committee to deal with terrorism.

I am pleased that this amendment was included in the final version of this act, because if such a NATO antiterrorism committee is established, it could become an important forum for government-to-government cooperation against terrorism.

The latest terrorism attack in Turkey, a NATO ally, should demonstrate to the alliance the need for such a forum.

The latest terrorism act in Pakistan demonstrates that such government-to-government cooperation among our friends and allies naturally extends beyond the membership of the NATO alliance. The war against international terrorism must be waged on a far wider scale.

Mr. President, the U.S. Government has increased its international efforts against terrorism, but it must give even further consideration to escalating this war through all possible means—diplomatic, political, economic, and, when appropriate, military.

To reinforce our ongoing antiterrorism campaign, I urge the President to make increased antiterrorism cooperation a high-priority subject of discussion in every new communication he has with any of our friends and allies, and even to consider proposing a special "antiterrorism summit meeting" to increase the multilateral efforts against terrorism.

I will join with the distinguished majority leader this afternoon in introducing a resolution condemning these latest terrorist acts. And I hope that the full Senate will consider this measure as early as tomorrow. Also it would be well if the Senate could have a rollcall vote immediately following the vote on the Daniloff matter tomorrow so that again the Senate might register its unanimous support for this resolution and its unanimous condemnation and protest against such horrifying terrorist acts.

No discussion of international terrorism can be complete without mentioning the role that the Soviet Union may play in encouraging such attacks. The Soviets condemn terrorism, and yet there is some evidence that they give both material and political support to it. I noted in the press during the last few days that some of the terrorists may be receiving their training in the Soviet Union.

If the Soviets are genuine in their opposition to international terrorism, they will cooperate with the United States and its friends and allies against it. I urge the President to challenge the Soviet leader at the summit—if, indeed, a summit occurs—to demonstrate this cooperation.

Ultimately, international terrorism affects all nations, so we must do all we can to mobilize as many nations as possible in the campaign to eradicate it.

I join with the majority leader in the effort to get other Senators on both sides of the aisle to join in cosponsorship of the resolution. I hope all Senators will do so. I hope that the vote when it comes on tomorrow will receive the unanimous support of the Senate.

I yield the floor.

Mr. DOLE. Mr. President, I want to thank the distinguished minority leader for his statement, particularly the suggestion that the Soviet Union be a part of any process here if we are ever going to get to the root of terrorism. I think it is another challenge the Soviet Union needs to look at very carefully.

I would guess that over the past week millions of Americans and millions around the world wondered about precisely what was going on—first, the terrorist attack in Karachi,

and, second, the attack in Instanbul. I guess just watching as I watched the news time after time after time it is pretty hard to comprehend or to describe the horror and revulsion that all of us feel over these inhuman acts.

Our hearts go out to the victims and their families, including the many Americans victimized in the Karachi hijack. Our appreciation goes to the Government of Pakistan, which I believe did provide some assistance although there is some doubt whether there was lax security at the airport or an adequate effort made to abort the hijacking. But in any event, we express our appreciation in the effort to contain and end the Karachi incident with minimum bloodshed.

Once again, we are painfully reminded of the fact that there are fanatical elements at loose in the international community, willing to murder and maim defenseless men, women, and children, in pursuit of their warped political beliefs. Once again, we must confront the bitter reality that there are no easy answers; that international terror is not going to go away; that, as sure as today turns into tomorrow, we will face even more attacks in the months ahead.

A TIME OF TESTING FOR THE NATION

This is a time of testing for America and for Americans, no less than we have faced in open war. It is a time for all of us to resolve once again to show quiet courage, not bravado; unity, not diviseness or partisanship; resolute determination, not knee-jerk reaction.

We must remain steadfast to a threefold strategy: We must be vigilant and strong, and be prepared to pay the high cost of that posture. We must never give in to the demands of terrorists, no matter what the circumstances. And, in the long run, we must make terrorists pay for their deeds—with the cooperation of our allies and friends and; as the distinguished minority leader indicated, the Soviet Union if we are ever going to bring an end to terrorism around the world.

If necessary, if all that fails, then we have to go it our own way if that becomes a necessity.

In this context, I might also note that the Israeli Parliament, the Knesset, will be holding a special session this week to express solidarity with the victims of the Istanbul attack. The distinguished minority leader and I, on behalf of the Senate, will be sending a message to the speaker of the Knesset, adding the Senate's voice to those of the Israeli parliamentarians expressing outrage at the Istanbul attack.

I ask unanimous consent that the text of that message be included in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit No. 1.)

Mr. DOLE. As the distinguished minority leader has indicated we will be working together on joint cosponsorship of a resolution urging unanimous Senate support for the resolution, and that will be circulated this afternoon.

Again I think it is a good idea to have the votes back-to-back perhaps after the policy luncheons tomorrow to express the feelings of the Senate on the tragedy of Karachi and Istanbul and reaffirming our determination to stand strong and together against international terrorism.

I want to thank the distinguished minority leader and his staff and the members of my staff who have been working on these matters in the past few days.

Mr. BYRD. Mr. President, I want to thank the distinguished majority leader and his staff.

EXHIBIT No. 1

MESSAGE TO ISRAELI KNESSET FROM DOLE AND BYRD ON TERRORIST ATTACK IN ISTANBUL

To His Excellency SHLOMO HILLEL,
Speaker, the Knesset, Jerusalem, Israel.

DEAR MR. SPEAKER: On the solemn occasion of the Knesset's special session, and on behalf of the Senate of the United States, we would like to join in expressing outrage at the terrorist attack on the Neve Shalom Synagogue in Istanbul and solidarity with the victims of that tragic incident.

Our countries and people have stood together on many occasions and on many issues. But never do we stand more united than in our condemnation of international terror and our sympathy for its innocent victims.

From the tragedy of Istanbul, let us take new resolve to continue to work together to contain and eventually to stamp out the scourge of terrorism.

Sincerely yours,

BOB DOLE,
Majority Leader.
ROBERT C. BYRD,
Minority Leader.

DROPOUT PREVENTION AND REENTRY DEMONSTRATION PROJECTS

The PRESIDING OFFICER. The clerk will now read H.R. 3042.

The assistant legislative clerk read as follows:

A bill (H.R. 3042), to authorize the Secretary of Education to make grants to local educational agencies for dropout prevention and reentry demonstration projects.

Mr. BRYD. Mr. President, I object to any further proceedings on H.R. 3042 at this time.

The PRESIDING OFFICER. The bill will be placed on the calendar.

AMENDMENT OF TRADE EXPANSION ACT 1972

The PRESIDING OFFICER. The clerk will now read S. 2765.

The assistant legislative clerk read as follows:

A bill (S. 2765) to amend section 232(a) of the Trade Expansion Act of 1972 to improve its administration, and for other purposes.

Mr. DOLE. Mr. President, I object to any further proceeding on S. 2765 at this time.

The PRESIDING OFFICER. The bill will be placed on the calendar.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

THE TAX BILL

Mr. LEVIN. Mr. President, at some point within the next month, we are going to consider the conference report on the tax bill. When we do, I believe it is important that we focus on what is in that bill rather than what is being said about it. There is a big difference between the two. For example, we are told that the public is clamoring for the bill. But the polls say that is not the case. And when I talked with my constituents in Michigan over the past few weeks they told me that was not the case.

The lack of public demand for this bill, indeed skepticism and cynicism, will grow as folks find out about some of the other differences between what they want in tax reform and what they would get if this bill passes.

They want a law to give middle-income Americans a break. They would get a law forcing one out of every five middle-income taxpayers to pay more in taxes.

They want a law to make the tax system fair. They would get a law creating and perpetuating a whole host of inequities.

They want a law to help reduce the deficit. They would get a law making deficit reduction harder and more unfair.

They want a law to encourage economic growth. They would get a law threatening to push the economy over the edge and pull a lot of us over along with it.

Those are some of the reasons why this is just the wrong bill at the wrong time.

Notwithstanding what the people want, virtually everyone in Washington says that Congress is poised to approve the conference report on the tax reform bill. They say that everyone supports reforming the Tax Code. Well, I support reforming the Tax Code, too. I support toughening the minimum tax on profitable corporations and on wealthy individuals to make sure that they do not shelter all their income. I agree with the aide to Chairman ROSTENKOWSKI of the Ways and Means Committee who described this as "the fire in the belly behind this issue." But, as was the case with the Senate version, I do not support the conference report.

If the passage of the conference report is a foregone conclusion, some may think that my remarks today and over the next few days, attempting to

demythologize this bill, are just footnotes to a battle already fought. But I believe that there is a chance—admittedly a small chance—that they may not be just footnotes. I believe there is a chance that when people look at this bill closely, they will see that it is like a new house which is fashionable on the outside, but which is supported by too many matchstick beams.

Let me start out today with what is perhaps the most common myth about this bill—the myth that this bill is unambiguously good news for the average taxpayer. The day after the conference committee reported agreement, one of the television economics reporters said simply, "If you make under $50,000, you get a tax cut; if you make over $75,000, you get a tax increase." One of the chief proponents of the conference report has added:

What the Government is saying to middle-income Americans with this bill is: If you work hard, if you earn more money, you'll keep more of the money you earn.

That is a myth. The reality is a lot more clouded. Surely, according to the best information available from the Joint Committee on Taxation, most average Americans would get a small tax cut under this bill. But millions of average Americans would get a tax increase under this bill. In 1988, when fully phased in, this bill would increase taxes on 10 million taxpayers with incomes between $20,000 and $50,000. So much for the myth that this bill is good news for all middle-income people.

Some may respond by saying that although some average Americans would get tax increases under this bill, most of the people who would get tax increases are wealthy individuals who abuse tax shelters. Unfortunately, this is another myth. Based on the material from the joint committee, of the 20 million taxpayers who would get tax increases in 1988, 77 percent are making $50,000 or less. That 20 million includes not only the 10 million I mentioned a moment ago who make between $20,000 and $50,000, but also 5.8 million taxpayers making less than $20,000. Therefore, most of the people who would get tax increases under this bill come from the ranks of middle- and low-income taxpayers.

These are not the taxpayers who are investing in vacant office buildings to shelter their income, but rather taxpayers who have to work hard just to afford shelter for themselves and their families. They do not engage in exotic tax schemes, but rather are among the 35 million taxpayers with incomes under $50,000 who deduct State sales taxes, or the 31 million with incomes under $50,000 who deduct consumer interest. They are also among the 25 million taxpayers making under $50,000 who take the deduction for two-earner couples, which is designed to partially compensate for the fact that married couples with both spouses working would otherwise pay more in taxes than would two single individuals making the same total income—what is known as the marriage penalty tax.

Simply put, most of the taxpayers who would be asked to pay more in taxes under this bill are not among the privileged and powerful but rather are among the average and the struggling.

One particular group that appears likely to have more than its share of people getting tax increases under this bill are two-wage earner couples. There is a tendency among proponents of this bill to say flatly that it is pro-family because of the increase in the size of the dependency exemption for children. What this characterization ignores is that the bill is skewed to a particular definition of "family." It is not a valid generalization if both spouses work, as do over 50 percent of married couples. There are many two-wage earner couples for whom the increase in the dependency exemption and the lower tax rates would not compensate for the loss of the two-earner deduction and for deductions such as the ones for consumer interest and sales taxes. In many of these families, both spouses work because that is what is necessary to make ends meet. How are these families going to feel when, if this bill passes, they find out that they will get a tax increase because their definition of "family" does not match that of the people who supported the bill?

I will have more to say about the conference report over the next few days, based on the information that is available at this point and on additional information which I have requested of the Joint Committee on Taxation and the Finance Committee, and which I hope will be available shortly.

One thing that opponents and supporters of this bill have in common is that they recognize its monumental significance. That is why I trust that this bill will not be rushed to the floor for passage before there has been an adequate time for it to be carefully reviewed—by not only the Members of Congress but also by our constituents.

The supporters of this bill like to present it as a bill reflecting the general interest. It is only proper, then, that there be enough time after the conference report has actually been printed for our constituents to reflect on it and report to us. If it is as popular as its supporters suggest, this will only add to its momentum. If it is, in fact, not so popular among the people, we should certainly want to know that as well.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GORTON). Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I have indicated to the distinguished majority leader that if the Senate is not prepared to transact any business at the present time, I am prepared to proceed with a speech on the subject of the U.S. Senate rather than continue with a prolonged recess. It is my understanding that the managers of the appropriation bill will be prepared later this afternoon to proceed with the action on that bill. But at the present time there is not the possibility that action would go forward. So rather than have the Senate engage in a very long quorum call, I thought it might be well to proceed with another in my series of speeches on the history of the U.S. Senate. I, therefore, ask unanimous consent that I may proceed to speak in morning business until such time as I yield the floor, and I will yield the floor at any time the distinguished majority leader wishes to transact any business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I will also yield the floor if any other Senator should wish to have the floor, but until then I shall proceed.

May I say to those who are watching television that I have, since 1980, the month of March thereof, made a series of speeches on the history of the U.S. Senate, and more than 80 of such speeches have been made. Today, I shall speak on the subject "Mike Mansfield's Senate: The Great Society Years."

THE UNITED STATES SENATE

MIKE MANSFIELD'S SENATE: THE GREAT SOCIETY YEARS

Mr. BYRD. Mr. President, United States senators, like baseball fans, love statistics. From time to time we stop to congratulate colleagues on their years of service, the number of votes they have cast, their tenure in a committee chairmanship. The cloakrooms present a "golden gavel" award to senators who preside for a hundred hours in the chamber. Various interest groups collect our roll call statistics, and rate how liberal or conservative we are, or how often we support or oppose the president's program, or how we voted on their favorite legislation. The American Enterprise Institute regularly publishes a volume of

Vital Statistics on Congress, which accounts for everything from our religious affiliations to the number of staff we hire and the amount of mail we send out, measured in the millions of pieces. In this vast array of statistics, some record-holders stand out from the others. These senatorial Ty Cobbs and Babe Ruths have set standards of longevity and accomplishment that we know will take generations before they are surpassed, if ever.

On August 15, 1974, the Senate paid tribute to one of its champions, Montana's Mike Mansfield, on the 225th day of his 13th year as Senate Democratic Leader. On that occasion he passed the record held by Arkansas' Joseph T. Robinson, who served as Democratic leader from 1924 through 1937. Unlike Robinson, who had spent nine years as minority leader and four as majority leader, Mike Mansfield served only as Majority Leader. Indeed, when he retired in January 1977, he had spent the entire sixteen years of his leadership in the majority. By contrast, the Senate has had three majority leaders in the ten years since Senator Mansfield departed. If this were not a grand enough statistic to make the *Guinness Book of Records*, our former colleague has gone on to set another record as the longest serving American ambassador to Japan, a post he has held in both the Carter and Reagan administrations and which he continues to hold.

Mr. President, these statistics are not oddities to be dealt with lightly. They are the measure of a remarkable man. They reflect his lifelong commitment to public service, his persistence and endurance, and an abiding bipartisan respect for his wisdom and ability. The purpose of these remarks, in my continuing series of addresses on the history of the United States Senate, is to discuss Mike Mansfield's leadership. His service was so long, and covered an era so turbulent, that I plan to divide my discussion into two sections, one on the domestic policy issues and one on the foreign policy issues of the "Mansfield Senate." While some may consider this period more as one of current events than history, let me add one additional, startling statistic: sixty-three of the present one hundred members of the United States Senate came here after Mike Mansfield retired. It is to those sixty-three in particular that I direct my remarks today, as well to those who will read the history of the United States Senate in the years and decades and centuries to come.

Mike Mansfield and Montana are so synonymous that it is hard to believe he was not born on some windswept prairie or in a bustling mining town, but in Greenwich Village, New York, on March 16, 1903. "I was born of immigrants in New York City," he once recalled, "among immigrants, drawn from everywhere in the world. They had one thing in common: it was a belief in the promise of America." When Mike was three years old, his mother died, and his father sent the child to Great Falls, Montana, to live with an aunt and uncle. "From the age of three, my home was a general store in Montana," Mike said. "The people who came and went were miners, farmers and cowpunchers. They were prospectors, railroaders and teachers. They came from the South and from the Middle West. They were free souls who drifted or were driven to seek a new life on the Western frontier."

Before finishing the eighth grade, Mike Mansfield dropped out of school to begin an odyssey that took him around the world, and deep into the mines of Montana. Mike was fourteen when America entered World War I. Being patriotic, although underage, he ran away from home and enlisted in the United States Navy. For a man who likes to set records, it should perhaps not be too surprising that after service in the Navy, from 1918 to 1919, Mike went on to enlist in the Army, where he served from 1919 to 1920, and then in the Marine Corps, from 1920 to 1922. Mike Mansfield has been the only United States Senator to serve in these three branches of the military—and if there had been an Air Force in those days, he probably would have joined it as well! "The Army gave me the rank of private," he said; "the Navy, seaman 2d class; and the Marine Corps, P.F.C. In the training camps in the United States, on the North Atlantic, in barracks in the Philippines and China—I served with enlisted men from everywhere in the nation." [1]

After seeing the world, Mike returned to Montana as a mucker (or a shoveler) in the copper fields of Butte. When he was twenty-four, he enrolled in the Montana School of Mines to become a mining engineer. There he met and fell in love with Maureen Hayes. Maureen was a school teacher, and Mike was an eighth-grade dropout. She recognized his intelligence and wanted him to achieve his full potential. No matter how much he might have learned as the world traveler he was, she refused to marry him until he got a formal education. So Mike set out to win her hand by finishing high school and going to college. They married while he was a student at Montana State University. "It was my wife who really got me started, who pushed me, and thank the Lord she did," Mike said. He added that while his heroes were Montana Senator Tom Walsh and Western artist Charlie Russell, his heroine was his wife.[2]

Mike got his bachelor of arts degree in 1933, and set out to teach high school, but two Montana towns refused to hire him because he was a Roman Catholic—how deep grew the roots of religious intolerance in those days! Maureen, however, cashed in her life insurance policy to help her husband go back to Montana State University. There, in 1934, he earned his masters degree and joined the faculty as a professor of Latin American and Far Eastern history and political science. But the classroom could not hold him. Politics—Democratic politics—was in his blood. The Democratic party, he said, was "woven into all the years of my life," in the military, in the mining towns, and on campus.[3] So, it followed that the young professor, intrigued by politics; motivated by a concern for Montana, the nation and the world; and encouraged by his wife; would run for office as a Democrat. He lost a bid for nomination to Congress in 1940, running third in a three-man race. But in 1942, using his Montana State University students as his political organization, Mike Mansfield won the Democratic nomination and the election for a seat in the United States House of Representatives from the Western Montana district.

Interestingly enough, Mike replaced Representative Jeannette Rankin, whom the state of Montana recently memorialized with a statue in the U.S. Capitol Building. A Republican, Miss Rankin was a pacifist who had won notoriety by casting the sole vote in Congress against American entry into World War II. In this act she was consistent, for during her first term in the House she had opposed entry into the First World War. Her vote against the Second World War—when Pearl Harbor had just been attacked—was so unpopular that Miss Rankin stood no chance of reelection. Although she did not run in 1942, voters showed their disapproval of their Republican isolationist representative by choosing as her successor a Democratic internationalist with a military record in three branches of the armed forces. For all their differences, however, in later years, both Mike Mansfield and Jeannette Rankin found themselves in common opposition to the war in Vietnam—he as Senate Majority Leader, growing steadily disenchanted with the war; she as a peace activist, marching with protest groups in the streets.

The House Democratic leadership, under Speaker Sam Rayburn, was delighted to have the new Western moderate Democrat, elected at a time when Republican and conservative margins were increasing.

I am speaking of the House leadership. They rewarded him with an appropriate committee assignment on the House Foreign Affairs Committee, where he ranked in seniority just below another promising young Democrat elected in 1942, J. William Fulbright of Arkansas. That same class also included future senators J. Glenn

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Footnotes at end of article.

Beall and Frank Barrett, future Secretary of State Christian Herter, and such later influential House members as Brooks Hays, Chet Holifield, Walter Judd, and Ray Madden. Other House members whom Mansfield first met in the 78th Congress, and with whom he would still be working decades later in the Senate, included Democrats Lyndon Johnson, Clinton Anderson, Warren Magnuson, Henry Jackson, Jennings Randolph, John Sparkman, Albert Gore, Sr., Estes Kefauver, Mike Monroney, and Republicans Everett Dirksen, Hugh Scott, and Margaret Chase Smith.

As one of the few members of the House of Representatives with an extensive knowledge of Far Eastern affairs, Congressman Mansfield came to the attention of President Franklin D. Roosevelt. Just after Mike finished his freshman term in the House, President Roosevelt sent him on a confidential mission to China, to inspect conditions there. Mike had first visited China as a Marine Private First Class in the 1920's. When he arrived on the Chinese Mainland in 1944, he found conditions there in turmoil. On one hand, the Chinese were waging war against Japan; on the other, they were engaged in a civil struggle between Nationalists under Chiang Kai-shek and Communists under Mao Tse-tung. Although Mansfield endorsed Chiang as "the one man who can make Chinese unity and independence a reality," he reported widespread disunity and dissatisfaction with the Nationalists. Reflecting the opinions of China specialists at the time, he also described the Communists as "more agrarian reformers than revolutionaries." This assessment may have accurately reflected the situation in the winter of 1944, but events changed much more rapidly than anyone anticipated. By 1949, Chiang's government had collapsed and the Chinese Communists had seized control. In the angry and bewildered debate over "Who Lost China?" Mansfield came in for fire for his report, and his race for the Senate in 1952 led to a smear campaign which labeled him "China Mike."

No political innocent, Mike did not absorb himself in foreign policy to the exclusion of his constituents. He went to the Far East armed with information on the location of every Montana serviceman in the region. John Kamps, later an Associated Press reporter on Capitol Hill, remembered returning one day to his camp in the jungles of Burma to find a note from Congressman Mansfield, who had ridden ten miles in a jeep to visit him. Montana may be a big state in geographic size—the fourth largest in the nation—but it has a small population, among whom word quickly spreads, and such diligent attention to constituents does not go unnoticed.[4]

Congressman Mansfield's support of the Roosevelt and Truman foreign policies, and his increasingly respected voice in the House of Representatives, led President Truman in 1949 to offer him the post of Assistant Secretary of State for Public Affairs. Mansfield declined the offer. He preferred to remain in Congress and had his ambition set on the Senate. In 1952, Republican Senator Zales Ecton was standing for reelection after a not particularly distinguished freshman term. Ecton was the first Republican elected to the Senate from Montana since 1913, and Mansfield considered him vulnerable. But the race was hard and bitter. Eisenhower's presidential campaign provided broad coattails for Republican candidates. Senator Joseph McCarthy also came to Montana to campaign for Ecton. In his typically irresponsible fashion, McCarthy accused Mansfield of being a Communist "dupe." Despite these tactics, Mike Mansfield won the election and entered the 83rd Congress as United States Senator from Montana. (Others in the Class of 1952 included John F. Kennedy, Henry Jackson, Albert Gore, Sr., Stuart Symington, John Sherman Cooper, and Barry Goldwater.)

The Senate Democratic leadership, under the command of the new Democratic leader Lyndon Johnson, recognized Mansfield's talents and appointed the freshman senator to the Foreign Relations Committee. Throughout most of the 1950's, Mansfield devoted himself primarily to foreign policy issues, about which I will have more to say at a later time. During this period, he established a reputation as a quiet, hardworking, thoughtful senator—a man of honor and integrity. After the 1956 election, when Democratic Whip Earle Clements was defeated, Majority Leader Johnson selected Mansfield as his new whip, unlike the way the whips have been selected in recent years when the whips have been selected by vote of the Democratic Conference. But at that time, the majority leader then, Lyndon Johnson, selected the Democratic whip.

Reporters Rowland Evans and Robert Novak have written that Johnson really wanted Florida Senator George Smathers for the post of whip, but that Democratic liberals objected to Smathers. Conservatives would not accept Johnson's next choice, Hubert Humphrey. Mansfield, as a moderate, appealed to both sides.[5]

There were some who said Johnson picked a whip whom he knew would never challenge his leadership, and that could very well be true. Certainly Johnson and Mansfield employed very different styles of Senate leadership, and it would be hard to find two different men. Johnson was loud; Mansfield quiet. Johnson was impatient, Mansfield had infinite patience. Johnson twisted arms, Mansfield took a low-key, conciliatory approach. Johnson wanted it known that he was totally in charge; Mansfield believed he was simply one among equals and treated all other senators as equals. Johnson in fact made little use of either Clements or Mansfield as whips, preferring to use party secretary Bobby Baker to count heads and control the flow of business on the floor. Former Assistant Secretary of the Senate Darrell St. Claire recalled how during Johnson absences "Again and again Mike Mansfield would try austerely to rise and be acting leader . . . and find he had no troops behind him because Bobby was circulating around the back of the Democratic side saying, 'Johnson wants this kept on the burner for a while.' "[6]

In 1960, Lyndon Johnson won election as vice president, and in January 1961, the Democratic conference selected Mike Mansfield to succeed him as Majority Leader, with Hubert Humphrey as Whip. To Bobby Baker's surprise, Mansfield asked him to stay on as Democratic Secretary. Although they had had their differences, and Mansfield had every right to feel resentful towards Baker, he recognized his talents for counting heads and keeping track of every detail, assignments Mansfield was more than happy to delegate. And I can vouch for his penchant for delegating such details myself, having worked as secretary to the Democratic Conference under Mike Mansfield for 4 years and then as majority whip under Mr. Mansfield for 6 years.

"Working for Mike Mansfield, compared to working for Lyndon Johnson, was like lolling on the beach as opposed to picking for cotton," Bobby Baker later recalled. "I truly liked Senator Mansfield. He was a decent, gentle, kind man, and keenly intelligent. Sometimes, however, I missed the fiery performances and gusto provided by Lyndon Johnson." Mansfield, Baker complained, would frequently disappear into his office to meditate. Because the new majority leader seemed to lack aggression in his political pursuits, Baker and Senator Robert Kerr, chairman of the Finance Committee, moved to fill what they saw as a political vacuum. "We wheeled and dealed while Senator Mansfield sat alone in a favorite hideway office, puffing his pipe and reading book after book."[7]

There were many who wondered how the Senate could ever operate without Lyndon Johnson at its helm—including Lyndon Johnson himself. He had been a part of Washington long enough not to expect much influence in his new post, nor did he anticipate much of a role in the executive branch. Instead, Johnson hoped to keep his hand in the Senate's leader-

ship as a lobbyist for the Kennedy administration's legislative program. He even asked to keep the old office which was his as majority leader, which the press had dubbed the "Taj Mahal." Mansfield turned down the room request, but agreed to make a motion that Johnson be permitted to continue presiding over the Democratic Conference after he became vice president. Upon hearing this motion, after a moment of stunned silence, the Conference erupted into furor. Senators Joe Clark, Albert Gore, Sr., Clinton Anderson, Olin Johnston, and A. Willis Robertson, certainly representing a mixed bag of political ideology and influence, expressed outrage over this violation of the separation of powers. Johnson's sometimes heavy-handed tactics as majority leader apparently had built up much steam in the Senate, and Mansfield's motion finally blew off the lid.

Although the conference allowed Johnson to preside on that occasion the vocal opposition from old friends had wounded his pride, and he rarely returned to conference meetings.[8]

Mike Mansfield stepped into the Senate leadership at the start of the administration of his friend and former Senate colleague, John F. Kennedy. From all accounts, Kennedy deeply admired Mansfield. Arthur Schlesinger, Jr., wrote that Kennedy "particularly liked and valued Mike Mansfield, approved of Mansfield's announced principles of 'courtesy, self-restraint, and accommodation' and considered him underrated because he did his job with so little self-advertisement and fanfare." Theodore Sorenson recorded that Kennedy sometimes "was frustrated by what he felt were Mansfield's excessive pessimism, caution and delays. But in view of his consistent string of successes in the Senate, he was deeply appreciative of Mansfield's loyalty and labors, held him in close personal affection, and felt that no Senate leader those years could have done better in the long run."[9]

The Democrats had strong majorities in both houses of the 87th Congress—65 to 35 in the Senate, 262 to 174 in the House. But these numbers hid the ideological coalitions between conservatives from both parties opposed to Kennedy's liberal programs. Elected with an agenda that included civil rights legislation, medical care for the elderly, improvements in housing and education, and a desire to get the country economically moving again, Kennedy found that he could not command automatic majorities in either house, or even count on the support of committee chairmen from his own party. The administration suffered embarrassing defeats in its farm legislation, and on Medicare. Civil rights seemed bottled up in committee, and faced a probable filibuster on the Senate floor. In 1963, the respected political scientist James MacGregor Burns published a book, The Deadlock of Democracy, in which he despaired that any dynamic new programs could emerge from the ideologically divided and conservatively entrenched Congress.[10]

Given these frustrations to the Kennedy program, there were many who thought a majority leader like Lyndon Johnson could muscle recalcitrant senators into line. But this was not Mansfield's style. John G. Stewart, who served as special assistant to Democratic Whip Hubert Humphrey, published a revealing comparison of Johnson and Mansfield's methods of leadership. "Temperamentally unsuited to operate in the style of Lyndon Johnson, Mansfield based his leadership strategy on an appeal to the senatorial interests of institutional pride and personal participation, interests seemingly far removed from Johnson's harsh world of political reality," Stewart wrote. "As one observer remarked, 'Mansfield seemed to believe that belovedness would become the guiding force in the Senate.' " As Mike himself said at the end of his sixteen years as majority leader: "I don't collect any IOU's. I don't do any special favors. I try to treat all senators alike, and I think that's the best way to operate in the long run, because that way you maintain their respect and confidence. And that's what the ball game is all about."[11]

There is no question that the Senate changed dramatically between 1953 when Mike Mansfield arrived and 1977 when he left. And much of that change was attributable to his style of leadership. As political scientist Robert Peabody has written: "From the early 1950's to the mid-1970's, the Senate changed from a largely Southern-dominated, senior-controlled, committee centralized institution . . . to a relatively decentralized, much a more egalitarian institution characterized by democratized leadership and greatly expanded role for its junior members." In some ways, Lyndon Johnson started this ball rolling with his appointment of new senators to prestigious committees. But where Johnson had dominated the Policy and Steering committees and sought to make or influence all committee appointments, Mansfield allowed these committees fairly free reign, and permitted contested committee assignments to be decided by secret ballot. Under Mansfield, the Democratic Conference met more frequently than it had under Johnson, and acted more as a forum for party discussion. Mansfield encouraged committee chairmen and other senators to manage their own bills on the floor and take public credit for their passage. During his leadership, the number of subcommittees expanded, and with it the number of staff, giving freshmen senators more of a chance to be heard and to influence legislation.[12]

Not everyone appreciated Senator Mansfield's passive style. In a debate over President Kennedy's foreign aid bill in 1963, Senator Thomas J. Dodd of Connecticut, argued that the Senate should be working harder and for longer hours. "Mike Mansfield is a gentleman," said Senator Dodd. "But I worry about his leadership . . . . He must say 'No' at times. He must say 'Yes' at times." Such criticism disturbed Senator Mansfield, and one Friday in November 1963, he asked the Senate for unanimous consent that he be recognized the following Monday morning to address the Senate on the subject of leadership, in order to set his critics straight. But that Friday was November 22, the day President Kennedy was shot. The death of the President had a profound affect on Senator Mansfield, who had lost a friend as well as a leader. We still recall his moving eulogy to the President, with its haunting refrain: "And so she took her ring from her finger and placed it in his hands."[13] In the aftermath of those tragic days, Senator Mansfield said he had no heart to read his remarks about Senate leadership and instead inserted them in the record. As a result, the statement did not get the attention it deserved. In many ways it expresses the Mansfield credo of leadership.

"Mr. President, some days ago blunt words were said on the floor of the Senate," he began. "They dealt in critical fashion with the quality of the majority leadership and the minority opposition." Several senators had found the performance of the Senate wanting, and had raised a hue and cry that had been further magnified in the press. "There is reference, to be sure, to time-wasting, to laziness, to absenteeism, to standing still, and so forth. But who are the timewasters in the Senate, Mr. President? Who is lazy? Who is an absentee? Each Member can make his own judgment of his individual performance. I make no apologies for mine. Nor will I sit in judgment on any other Member."

The Senate was not more or less efficient, he maintained because it worked from 9 to 5 or around the clock. "It will be of no avail to install a time-clock at the entrance to the Chamber for Senators to punch when they enter or leave the floor." And he was proud of the Senate's record of productivity under his leadership, despite the many important bills still waiting for consideration. "It is not the record of the majority leader or the minority leader," Mansfield said. "It is the Senate's record and as the Senator from Montana, I, for one, will not make light of these achievements in the first two years of the Kennedy administra-

tion. And the achievement is no less because the 87th Congress did not meet at all hours of the night, because it rarely titillated the galleries or because it failed to impress the visiting newsmen and columnists."

Turning to the criticism of his personal style of leadership, Mansfield said: "Of late, Mr. President, the descriptions of the majority leader . . . have ranged from a benign Mr. Chips, to glamourless, to a tragic mistake . . . It is true, Mr. President, that I have taught school, although I cannot claim either the tenderness, the understanding, or the perception of Mr. Chips for his charges. I confess freely to a lack of glamour. As for being a tragic mistake, if that means, Mr. President, that I am neither a circus ringmaster, the master of ceremonies of a Senate night club, a tamer of Senate lions, or a wheeler and dealer, then I must accept, too, that title . . . But so long as I have this responsibility, it will be discharged to the best of my ability by me as I am. I would not, ever if I could, presume to a toughmindedness which, with all due respects to those who use this cliche, I have always had difficulty in distinguishing from soft-heartedness or simplemindedness. I shall not don any Mandarin's robe or any skin other than that to which I am accustomed in order that I may look like a majority leader or sound like a majority leader—however a majority leader is supposed to look or sound. I am what I am and no title, political facelifter, or imagemaker can alter it."

"Within this body," he concluded, "I believe that every Member ought to be equal in fact, no less than in theory, that they have a primary responsibility to the people whom they represent to face the legislative issues of the Nation. And to the extent that the Senate may be adequate in this connection, the remedy lies not, in the seeking of shortcuts, not in the cracking of nonexistent whips, not in wheeling and dealing, but in an honest facing of the situation and a resolution of it by the Senate itself, by accommodation, by respect for one another, by mutual restraint and, as necessary, adjustments in the procedures of this body." [14]

Whether one agreed or disagreed with Mike Mansfield's theories of leadership, there was no question of his straightforwardness in presenting and defending his position. In the years after inserting these remarks in the RECORD, Senator Mansfield never deviated from them.

One of the cornerstones of Mansfield's leadership strategies was that of developing good relations with the Republican minority leader, Everett McKinley Dirksen. Mansfield courted Dirksen, played straight and fair with him, and as a result won his cooperation at critical times in the legislative process. Without Dirksen's support, it is doubtful that the Senate would have ratified the Nuclear Test Ban Treaty in 1963, one of the most important treaties of the post-World War II era. Similarly, Dirksen played a pivotal role in passage of the Civil Rights bill of 1964. President Kennedy had proposed this legislation in June 1963, but it languished in committee. In his first address to Congress following Kennedy's death, President Johnson made the Civil Rights bill a top priority. As he faced election in his own right in 1964, Johnson knew that passage of the bill would be seen as a major test of his administration. But for all the influence Johnson could exert over legislation, not he but Mike Mansfield was Senate majority leader.

In their book, *The Longest Debate: A Legislative History of the 1964 Civil Rights Act,* former Representative Charles Whalen and his wife Barbara point out that Mansfield decided not to become involved in the day-to-day discussions and manuevering over the bill, as a way of preserving his negotiating status. But, they write, "in his own strong and deliberate way, he made two decisions that vitally affected the fate" of the Civil Rights bill. One was to appoint his Whip, Hubert Humphrey, as floor manager. The second was to reject President Johnson's plan to try to wear out filibustering Southern senators by enforcing Rule XIX, which limited each senator to two speeches during one "legislative day." Johnson wanted to keep the Senate in session day and night to wear down the opposition. But Mansfield decided that the best strategy was to go for cloture, and he began lining up the necessary 67 votes (at that time two-thirds of the Senate was needed to invoke cloture). This was the reason why Everett Dirksen was so vital to this strategy. Mansfield needed enough Republican votes to compensate for the Democrats who opposed the bill—and a few others who opposed cloture under any circumstances.

I was one of those who had never voted for cloture up to that time, and I had also opposed cloture under any circumstances.

Richard Russell, leading the opposition forces, also worked hard to entice Dirksen to his side, but in the end, Mansfield's long courtship of the Republican leader won him over. On June 10, 1964, the Senate voted 71 to 29, four votes more than the necessary two-thirds margin, to invoke cloture on the filibuster against the Civil Rights bill. Those 71 votes included 27 Republicans. A little over a week later, the same coalition passed the historic Civil Rights Act by a vote of 73 of 27.[15]

Mr. President, this capsule summary does not do justice to the long, involved and often passionate struggle over the Civil Rights Act of 1964, but the point I wish to make is that while Dirksen had his face on the cover of Time magazine, and Humphrey received kudos from the liberal community for floor managing the bill, and Johnson earned national praise for enactment of this landmark legislation, Mike Mansfield's quiet, behind-the-scenes strategies and efforts also deserved some of the credit for the victory.

The year 1964 belonged to Lyndon Johnson, and his sweeping victory in the presidential election that year, against our colleague BARRY GOLDWATER, carried along with him vastly expanded Democratic majorities in both houses of Congress. The election gave Democrats the widest margin of control in Congress since the depths of the Great Depression, thirty years earlier. In the House there were 295 Democrats to 140 Republicans—a gain of 38 seats; and in the Senate there were 68 Democrats to 32 Republicans—a gain of two seats. Although the increase in Senate Democrats was not as numerically significant as in the House, it was still a significant victory, for it meant the reelection of the predominantly liberal freshmen of the "Class of '58," who would direct much of the legislative explosion of the "Great Society" years.

Lyndon Johnson gave the title "Great Society" to his program, which represented Democratic aspirations for a fairer, more equitable, and economically secure nation. Reform legislation which had been bottled up in committees, stymied by the conservative House Rules Committee, and seemingly immobile during the Eisenhower and Kennedy years, suddenly burst forth into the floor and was passed with breathtaking speed. Stewart McClure, chief clerk of the Senate Labor and Public Welfare Committee, from which much of the Great Society's legislation originated, in his oral history described the change: "Lyndon . . . came in like a tiger, and everything that had been dormant and stuck in conference or committee went woosh, like a great reverse whirlpool spinning it out. We passed everything within the next year or two." Recalling these events years later, McClure was still amazed: "I had never seen so much activity around here!" he said. "We passed major bills every week. It was unbelievable. Just a great dam broke. Everything but national health insurance, everything that had been piled up since Truman plus of lot of new stuff. It was fun!" [16]

A shining example was the Elementary and Secondary Education Act of 1965. For years education bills had bogged down over the issue of aid to parochial schools, and the issue of separation of church and state. The Johnson administration proposed a new ap-

proach—from an idea developed by the staff of the Senate Labor Committee. As Stewart McClure recalled, the committee had just been dealing with the issue of impacted aid—that is federal aid to school districts to compensate for the children of military personnel stationed there, but who paid no local taxes. Charles Lee of the committee staff commented on what a good idea impacted aid was, and then connected it to federal aid to education in general. As McClure explained it: "A child going to a poor school in a poor district should be considered suffering a national impact caused by the failure of the whole society to upgrade his disadvantaged area." To this they added the entitlement idea behind the GI bill. "We thought that poor children living in disadvantaged areas should be entitled, as were veterans, to special attention and assistance to help them climb out of the hole in which they had been placed by the entire society."

The staff took their plan to Senator Wayne Morse, chairman of the education subcommittee, who immediately recognized its value. Since the aid went to the children in poor areas, rather than to their schools, it avoided the whole church-state controversy. Senator Morse presented the concept to the Johnson administration, which embraced it warmly and then sold it to the education community. As McClure described it: "I think the ground was ready and the populace was prepared / for federal aid to education/, but the Congress was not, until Lyndon, using the Kennedy martyrdom, so to speak, raised the torch and cracked the whip and made the phone calls." The Education bill, stymied for so long, now moved so quickly, as the *Congressional Quarterly* observed, that "the word was passed to approve the bill and worry about perfecting details later." In January the President requested the bill; by March 26, the House had passed it. Two weeks later the Senate committee reported it without amendment, and three days after that the Senate voted 73 to 18 to make it law. Significantly, the majority leader played no appreciable public role in passing this landmark legislation. As McClure recalled: "In terms of the operation of the Senate you didn't even know he was around. . . . I don't recall Mansfield's intervening in anything at any time." But he added: "Nor did he have to, much." [17]

Mr. President, the Congress enacted so many major pieces of legislation during that period that I cannot tell the story of each individually. Let me just list in chronological order the domestic legislative achievements of the Johnson administration and the "Mansfield Senate" in the years from 1964 to 1966. Beginning in February of 1964, there was the Tax Reduction Act, which reduced both personal and corporate income taxes. In April, came the Economic Opportunity Act, which embodied President Johnson's call for a War on Poverty. This Act created the Office of Economic Opportunity, the Job Corps, and VISTA (Volunteers in Service to America), to fight against illiteracy, unemployment, and inadequate public services for the poor. In July the Civil Rights Act was passed. That same month also saw passage of the Urban Mass Transportation Act. In September we enacted the Wilderness Act.[18]

April 1965, saw passage of the Elementary and Secondary Education Act. In July, Medicare was enacted. In August came the Voting Rights Act, and the Omnibus Housing Act. In September we created the Department of Housing and Urban Development. Also in September the National Endowments for the Arts and Humanities were established. In October the Water Quality Act, the Air Quality Act, the Higher Education Act, and the Immigration Act all became law. The year 1966 saw passage of the Veterans' Educational Benefits in March. The National Traffic and Motor Vehicle Safety Act was passed in September. Also in September, Congress raised the minimum wage, extending wage, extending coverage to restaurant and retail workers, and farm workers previously excluded from minimum wage requirements. In October we created the Department of Transportation. In November the Clean Water Restoration Act passed, as did the Model Cities bill.

By any standard, this was the greatest legislative record of any Congress with the exception of the First Hundred Days of the New Deal. Lyndon Johnson, who had begun his political career during the Franklin Roosevelt years, had donned the mantle of his hero. Now, in recent years it has become fashionable for critics to dismiss much of the Great Society as "too much, too soon," to charge that the Great Society programs did not amount to all that Johnson has promised, and to imply that Johnson's programs has been undone. It is true that for a variety of reasons Johnson never again achieved the legislative momemtum he enjoyed in 1965. It is also true that he exagerated and oversold many of his programs, and perhaps raised hopes too high for quick solution of long and entrenched social programs. But from this list of legislation which I have just enumerated—and there is more—I can only conclude that Johnson's Great Society legislation had a lasting impact on American society, from health to environment and equal opportunity. Also in reading through this list, it is striking how much of the Great Society's legislation remains even today.

Despite the efforts of succeeding administrations to dismantle the Great Society, Medicare survives, as do the departments of Transportation and Housing and Urban Development and the many programs they administer. The National Endowments for the Arts and Humanities still do their good work in promoting our cultural resources. The Federal Government still aids education, promotes traffic safety, and protects the environment. We have continued and strengthened the Civil Rights Act and Voting Rights Act. In addition, we have, during the current administration, enacted new tax cuts in the spirit of the tax reduction passed during the Johnson administration. The work of the Johnson administration, and of Congress, in the 1960's was not in vain. Like Social Security and other reforms of the 1930's, its legacy has become entrenched in our way of life.

During all this legislative activity, Mike Mansfield presided, seemingly passive, puffing on his pipe, behaving no differently in the leadership than he had during the previous, frustrating years of inactivity. He still had his critics, but by now many had come to appreciate his purpose, his style and his contributions. As Senator Edmund Muskie reminded us of the majority leader: "We must never forget that the legislative accomplishments of these years were also his accomplishments." [19]

For his own part, Senator Mansfield willingly conceded the spotlight and shared the credit for these accomplishments with his colleagues. When asked by the press about his proudest accomplishments, the bill that he delighted in citing was not one of the monumental Great Society laws, but the Twenty-Sixth Amendment to the Constitution, ratified in 1971, which gave eighteen-year-olds the right to vote. The idea had gained popularity during the Vietnam War, when so many teenage young men were inducted into the armed services. If one was old enough to die for his country, the reasoning went, he was old enough to vote. Several senators had considered the idea, but it seemed to be getting nowhere. The Senator Warren Magnuson raised the issue with Mike Mansfield. Magnuson recalled having proposed the eighteen-year-old voting level while he served in the state legislature in the State of Washington back in 1933, and he still thought it a good idea. "Suppose you introduce the amendment," Magnuson suggested. Mansfield thought it over and agreed. With his prestige behind it, the amendment cleared the Senate and House by wide margins, and was quickly ratified by the States. It was an appropriate act by a man whose first political organization consisted of the students from his university classes.[20]

After listing the eighteen-year-old-vote as his proudest accomplishment,

Mansfield cited three other items: his role in initiating the Watergate investigation, his part in initiating the Senate inquiry into the activities of American intelligence agencies (chaired by Senator Frank Church), and finally, the "evolution, unpublicized, in the conduct of the Senate." He repeated to the reporter his by now familiar refrain: "All senators are equal in my opinion . . . there are no superstar senators, there are no second-rate senators, no senators who should spend months or years saying nothing, while their elders speak out on any and all subjects. There is no club in the Senate any more." [21] This was the way Mike Mansfield ran the Senate. No one ever accused him of twisting a single arm, of going back on his word, of using unfair tactics. He held the Senate up to its full responsibilities, and expected it to behave properly by itself. This philosophy carried over even to the election of other party leaders. Senator Mansfield never intervened in the Democratic Conference elections, never endorsed one candidate over another. During his years as majority leader the Conference elected four Whips: Hubert Humphrey in 1961, Russell Long in 1965, Edward Kennedy in 1969, and Robert C. Byrd in 1971. In none of those elections, even when incumbents were challenged, did Senator Mansfield take sides.

Mr. President, in future addresses I will talk about other aspects of the Senate during the years in which Mike Mansfield served as majority leader, about the wrenching Vietnam war years, about the traumatic Watergate period. For now however, let me conclude my focus on Mike Mansfield's career in the Senate with a mention of his retirement. Among his favorite mementoes was a huge photograph from 1962 showing congressional leaders milling aimlessly around the White House rose garden, while Senator Mansfield can be seen walking resolutely away from the group. On the photograph, President Kennedy inscribed: "To Mike, who knows when to stay and when to go." [22] After ten years in the House and twenty-four in the Senate, he decided it was time to go. "It is not a long time," he said, "but it is time enough." The Mike Mansfield who left was remarkably unchanged from the much younger man who had arrived years before. His administrative assistant, Peggy DeMichele, who had worked for him for many years, testified that he had "stayed the same." She commented that "There are so many little things he has done for the people in his state, things no one has ever heard about and he doesn't want anyone to know about. He has always tried to let others take the credit. Time after time he has worked hard for some project, and when the ribbon cutting time came he let others hold the scissors." [23]

On the last day that the Senate was in session during his term, his colleagues paid him special tribute. I was pleased to introduce Senate Resolution 551, designating room S-207 in the Capitol as the Mike Mansfield Room. I knew Senator Mansfield, out of his typical modesty, would have objected when the resolution was introduced, so I waited until he was off the floor in the cloakroom. So the room was named, and in it a large portrait of Mike, pipe in hand, watches down upon us today, as it will upon Senators in the future.

Mr. President, during that last tribute to Senator Mansfield, in September 1976, I said these words: "Each Member of the Senate, I believe, looks forward to the culmination of his years of service here with the hope that his actions and decisions have advanced the Nation toward the realization of the ideals of our American heritage. Each of us wants to help the American dream to acquire a more evident reality. Mike Mansfield has not been disappointed in these aspirations during his years in the Senate. In an historian's terms, he will deserve more than a footnote in the annals of the Congress; he has already warranted a full chapter in any such account." [24]

Mr. President, I am a man of my word. With this address I have made Senator Mansfield a full chapter in my history of the United States Senate. He deserves no less.

Mr. President, I ask unanimous consent to insert at the close of my remarks Notes for Mike Mansfield's Senate.

There being no objection, the notes were ordered to be printed in the RECORD, as follows:

NOTES FOR MIKE MANSFIELD'S SENATE

[1] "Remarks of Senator Mike Mansfield (D-Montana) at the 1976 Democratic Congressional Dinner, Washington Hilton Hotel, May 11, 1976, Senate Historical Office files.

[2] Louise Sweeney, "Mansfield: A Low-Key Rock of Integrity," reprinted in the *Congressional Record*, 94th Cong., 2nd sess., S11546; *Current Biography, 1978*, 282.

[3] "Remarks of Senator Mansfield, May 11, 1976," *op. cit.*

[4] Richard L. Riedel, *Halls of the Mighty: My 47 Years at the Senate* (Washington, 1969), 153-5.

[5] Rowland Evans and Robert Novak, *Lyndon B. Johnson: The Exercise of Power* (New York, 1966), 98-9.

[6] "Darrell St. Claire, Assistant Secretary of the State," Senate Historical Office Oral History, 134. See also John G. Steward, "Two Strategies of Leadership: Johnson and Mansfield," in Nelson W. Polsby, ed., *Congressional Behavior* (New York, 1971).

[7] Bobby Baker, *Wheeling and Dealing: Confessions of a Capitol Hill Operator* (New York, 1978), 87, 140.

[8] Evans and Novak, *Lyndon B. Johnson*, 305-8.

[9] Arthur M. Schlesinger, Jr. *A Thousand Days: John F. Kennedy in the White House* (Boston, 1965), 711; Theodore C. Sorensen, *Kennedy* (New York, 1965), 357.

[10] James MacGregor Burns, *The Deadlock of Democracy* (Englewood Cliffs, NJ, 1963).

[11] Stewart, "Two Strategies of Leadership," 71; Randall B. Ripley, *Congress: Process and Policy* (New York, 1978), 198.

[12] Robert L. Peabody, "Senate Party Leadership: From the 1950s to the 1980s," in Frank Mackaman, ed., *Understanding Congressional Leadership* (Washington, 1981), 103; Norman J. Ornstein, Robert L. Peabody, and David W. Rhode, "The Changing Senate: From the 1950s to the 1970s," in Lawrence C. Dodd and Bruce I. Oppenheimer, eds., *Congress Reconsidered* (New York, 1977), 9-13; Roger H. Davidson and Walter J. Oleszek, *Congress and Its Members* (Washington, 1985), 183, 281.

[13] The text of this moving eulogy is reprinted in *Tributes to the Honorable Mike Mansfield of Montana in the United States Senate*, S. Doc. 94-270, 94th Cong., 2nd sess., 44.

[14] *Congressional Record*, 88th Cong., 1st sess., 22857-62.

[15] Charles and Barbara Whalen, *The Longest Debate: A Legislative History of the 1964 Civil Rights Act* (Cabin John, MD, 1985), 128-9.

[16] "Stewart E. McClure, Chief Clerk, Senate Committee on Labor, Education and Public Welfare," Senate Historical Office Oral History, 97, 125.

[17] Ibid, 127-9, 205; Congressional Quarterly, *Congress and the Nation, 1965-1968* (Washington, 1969) II:3.

[18] For an account of the impact of this political environment on the passage of the Wilderness Act, see Richard Allan Baker, *Conservation Politics: The Senate Career of Clinton P. Anderson* (Albuquerque, N.M., 1985), chapter 7.

[19] *Tributes to the Honorable Mike Mansfield*, 45.

[20] Samuel Shaffer, *On and Off the Floor, Thirty Years as a Correspondent on Capitol Hill* (New York, 1980), 115-6.

[21] Sweeney, "Mansfield: A Low-Key Rock of Integrity," S11546.

[22] *Washington Star*, 17 September 1976.

[23] *Congressional Record*, 94th Cong., 2nd sess., 34012.

[24] *Tributes to the Honorable Mike Mansfield*, 41-2.

Mr. BYRD. Mr. President, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that further proceedings of the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAMM). Without objection, it is so ordered.

DEATH OF ROLAND BERARDO

Mr. PELL. Mr. President, a very real community leader in Rhode Island who was also an old and dear friend, Roland Berardo, died shortly before the recent congressional recess.

Roland Berardo was a leading citizen of Westerly, RI, whom I knew, worked with and admired for many years. He was a warm and caring person who inspired respect and affection among all who met and worked with him. These qualities were well expressed in a fine tribute to Roland Berardo by Henry Nardone of Westerly. I ask that this tribute as it appeared in the Westerly Sun be printed in the RECORD at the conclusion of my remarks.

I want to take this opportunity also to express my own sense of sadness and loss at the departure of Roland Berardo.

There being no objection, the tribute was ordered to be printed in the RECORD, as follows:

[From the Westerly Sun, Aug. 13, 1986]

A TRIBUTE TO ROLAND A.J. BERARDO

July 30, 1986. Roland Berardo was a good man. This large gathering is a tribute to Roland and an outward demonstration to his family of the high regard in which he is held by his many friends.

Our hearts go out to you, Mariette and Stephen, and to Roland's brothers and sisters. We share your great loss and are saddened—not because Roland has gone on but because we remain without him—and we shall miss him.

But we shall also remember him. We'll remember the kid from Dayton Street who started working as a young boy—not even in his teens—for Charlie Lem. Many Westerly students at R.I. State College got extra portions and indeed even free meals at the dinner in Wakefield—through Roland (and Charlie Lem—although unknown to him many times). I know, because I was one of those students.

Roland had an insatiable desire for education—and despite the adversities of a depression, a large family headed by a widowed mother, Roland resolved to complete high school in spite of interruptions to work. He continued on, encouraged by Emily, to complete college after serving in the Army during World War II.

During his successful and full career in the Foreign Service of his country—Roland never forgot his roots—his family—his friends and his home town. No matter where he went in the Foreign Service—no matter how lofty his position he always carried with him a little bit of Dayton Street—Charlie Lem—Sal Serra and the A&P Store—Westerly High School—the Town of Westerly and his family whom he loved so much.

On his retirement from the Foreign Service in 1971 he returned to Westerly much to the joy of his family and friends. How proud we all were of Roland and his accomplishments! We all felt that we shared in his successes and his family was justifiably proud and of course happy to have Rollie back home. Not many kids from Dayton Street rubbed shoulders and raised elbows with the great and near great people in the embassies of the world and with the powerful and important people of national government. It didn't change Roland—but we're sure that in some way, everyone who came in contact with him was affected.

Upon his retirement Roland embarked on a second and third career—always finding time for friends and family. Always participating in the affairs of his state and local government. Roland was always at the scene of action and leadership, always encouraging and helping others to do more and to do better. He was never at a loss for an opinion on almost any subject—and never at a loss of words to express his opinion. We can be sure that there is one good discussion going on up there right now—and Roland is in the middle of it!

A man's life is not measured by the material things he leaves behind but by the things he give to his fellow human beings while he was here. We are all a little better off for having known Roland. We may even be better people because of it. Roland will be remembered for his love of friends, family and country—for his faith in the goodness of God—and for his belief in the honor and dignity of his fellow man and for his pride and loyalty to his ethnic roots and heritage. We are saddened that we can no longer share his presence, but we are joyous that he no longer suffers and that he has gone on to his eternal reward.

Roland was a good husband—he was a good father and a good friend. Roland Berardo was a good man—Henry J. Nardone, Westerly, R.I.

WILLIAM BENNETT, SECRETARY OF EDUCATION

Mr. PELL. Mr. President, my colleagues have often heard me assert that the real strength and health of our Nation lies not in our weapons of destruction, and not in our machinery of construction, but in the education and character of our people. That is a belief that has consistently guided me in my efforts on behalf of education at the elementary, secondary, and post-secondary levels.

When William Bennett was asked by President Reagan to become Secretary of Education over 18 months ago, I strongly supported his nomination. I had worked with him during his tenure as Chairman of the National Endowment for the Humanities and was impressed with the commendable job he had done in that capacity. I saw in him the kind of person who could articulate the importance of both education and character to the strength and vitality of the American nation.

During his service as Secretary, I have retained my confidence in his abilities, even though I have disagreed with him from time to time. He is without question an intelligent and thoughtful person, and I have always found him to be one who is willing to listen and to consider seriously other points of view. I know him as an individual who cares deeply for this Nation and for the betterment of the education and character of our people.

In a sense, the Secretary of Education is our Nation's top educator. In that capacity, he has the opportunity to grab our attention and to focus it upon issues of critical national importance. Over time, Secretary Bennett has increasingly earned high marks for the issues to which he has drawn our attention, be it the importance of values in education, the need for greater discipline in our schools, the critical role of the family in education, or the dire threat which drug abuse poses to our young people.

Because of the faith I have in his abilities, I was very glad to read the "Bill Bennett Reconsidered" column by David Broder that appeared in the Wednesday, September 3, 1986, edition of the Washington Post. That article provides a very fair and balanced view of the Secretary and the work he is doing. It is an article that I would most certainly place on the recommended list for my colleagues and I ask unanimous consent that the text of that article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BILL BENNETT RECONSIDERED . . .

(By David S. Broder)

Back in February 1985, when William J. Bennett had barely been installed as the new secretary of education, I offered the unflattering judgment that he was a strong contender "for the dubious award as the James Watt of the second Reagan Cabinet."

Bennett earned that distinction by his rhetorical assault on the college student-loan program and his ardent defense of David Stockman's misconceived effort to slash its benefits. Bennett, the new boy trying to prove his credentials, said student aid was a boondoggle benefiting kids who wouldn't give up their cars, stereos and "three weeks at the beach" in order to pay their own tuition fees.

He followed up that opening salvo of demagoguery with a dozen other doozies, delivered to such "education groups" as Phyllis Schlafly's Eagle Forum, the U.S. Chamber of Commerce and the Supreme Council of the Knights of Columbus. His performance conveyed the impression that this fellow was a lot less concerned with improving the quality of the nation's schools than with proving to President Reagan's most conservative followers that despite the misfortune of being a PhD, he shared their fervent faith in school prayer, tuition tax credits and American policy in Nicaragua.

I have seen a lot of Bennett lately—at education meetings, not right-wing rallies—and want to update the report and set the record straight. The man has settled down to talking seriously and sensibly about education issues and is beginning to make a significant contribution to the cause of better schools.

He's dropped the bombast in favor of direct, understandable suggestions. He's quit bashing people and is instead lending his support to worthy local, state and national efforts to upgrade education standards and attract better people into teaching.

A speech he made on Aug. 21 to some 6,000 Duval County, Fla., public-school teachers, assembled for the opening of schools in and around Jacksonville, is a good example of the new Bennett. "Given the job they do," he said, "teachers deseve as much praise and thanks and honor as . . . any . . . in our society."

He went on to define, in compelling language, the three tasks Americans expect their schools to perform, tasks so vital that "there is no one more important than teachers to the way of life and the system of government that Americans have chosen":

First, the nurturing of individual abilities to help each child achieve his or her potential, recognizing that "a fulfilled life" is the real definition of freedom.

Second, the transmission to a new generation of "the common culture," the heritage of ideas and experiences, of literature and history, which "define us as the kind of people we are."

And third, the inculcation by precept and example of the values of honesty, generosity, loyalty and self-discipline, which "ultimately determine the kind of nation we are."

Bennett has not stopped at exhortation and praise. Under his leadership, the Department of Education is applying itself to the only function it can really perform in a system where the financing and administra-

tion of schools and colleges are almost entirely in the hands of state and local authorities and private citizens.

That function is to serve as a clearinghouse for good ideas and a prod to useful actions. A while back, Bennett introduced a book called "What Works," a casebook of successful education efforts. A couple of days ago, he followed up with "First Lessons," a report on elementary education with further suggestions of how to shape up the schools. Soon there will be a handbook on what can be done to rid schools of drugs.

At recent meetings with governors and legislators, Bennett has put his prestige behind the effort, now taking shape, to improve the quality of teacher education, to set higher standards for their certification and to recognize schools to enhance both the professional opportunities and the accountability of those in charge. He is supporting much higher pay for superior performance in the classroom, though the Reagan administration has no plans to underwrite these salary improvements.

He does his part in these discussions with a becoming modesty, never failing to point out to those state and local officials, "You have schools. I don't." In corridor conversations he uses what has always been a quick mind to identify areas of agreement with other key players—superintendents, teachers' union officials, students—not to antagonize them.

There are parts of his prescription for education reform that I still oppose—but that's fine. There is plenty of room for experiment and disagreement. But the new Bennett strikes me as a man who is building bridges and using his rhetorical talents to keep the cause of education at the top of the public agenda, where it belongs.

CONSUMER PRODUCT SAFETY

Mr. THURMOND. Mr. President, recently, I read an article authored by Nancy Harvey Steorts, a former Chairman of the U.S. Consumer Product Safety Commission.

I believe her comments to be well informed and thought provoking. Accordingly, I commend it to the attention of my colleagues.

Mr. President, I ask unanimous consent that the article be included in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

COMBINE FEDERAL REGULATION OF HEALTH AND SAFETY UNDER ONE AUTHORITY

(By Nancy Harvey Steorts)

As chairman of the Consumer Product Safety Commission duing the first term of the Reagan Administration, I feel the agency developed programs that were beneficial to the individual consumer of our nation and resulted in a safer marketplace.

Where does corporate responsibility begin and end? What in fact is the consumer's responsibility? And last buy certainly not least, what is the responsibility of government today?

Deregulation has brought about many pluses, but also some serious minuses. During my tenure as CPSC chairman, we worked closely with industry on the development of standards to protect and benefit the consumer and ultimately the manufacturer as well. Most of the standards improved during my chairmanship were developed with the cooperation of the affected industry and were brought into being on a voluntary basis.

I believe in the "carrot and stick approach" for a regulatory agency. The threat of potential regulation, for most industries, leads to their voluntary development of appropriate standards to ensure a safe product for the customer.

Unsafe products cannot and should not be in the marketplace. Under the Consumer Product Safety Act, any product that is deemed to be unsafe must be reported to the CPSC. The judgment is made after thorough investigation as to whether it will be recalled and/or banned. Some manufacturers fight removal or corrective action programs and spend thousands of dollars in costly legal fees to try to disprove adverse judgment and to avoid penalizing actions. Some are less overt; they deny responsibility and drag their feet. Then there were a few role models from industry who, without a doubt, have the interest and concern of their customers as a No. 1 priority.

Even with the latter, everything is not going to be perfect. There are times in any company's history when the best intentioned manufacturing process has turned out a flawed product. There are times when expected customers' use changes and unexpected problems and crises arise. There are also societal changes that can bring different circumstances and problems to the marketplace.

Over the past few weeks, consumers have once again been threatened and frightened by tampering with consumer products. One headache, one over-the-counter remedy, one death. How sad, how tragic. Tragic for the victim, the family, the manufacturer, the retailer and the free enterprise, over-the-counter system.

Let us examine how this most recent tragic scenario with Tylenol was handled. Johnson & Johnson, under the leadership of chairman James Burke, reacted expeditiously, effectively and wisely. As a management consultant, I find this corporation stands as a leader and the industry role model.

When Burke received the first notification of another potential problem—a possible Tylenol-related death—he did not bury his head, pass the buck, go to the lawyers, close out the press or have a subordinate face the consumer. Let us take a look at what I consider the crucial elements of Johnson & Johnson's responsible corporate behavior:

1. There was no moment of paralysis; there was an immediate take-charge attitude.

2. Concern and attention to detail was at all times apparent. There was gathering of information to see all of the pieces as well the whole.

3. There was two-way communication between the press and the public. The communication has been continuous, welcomed, responded to and appreciated.

4. There was a single spokesman, and one from the top. Burke has been accessible and forthright. (President David Clare was also available and in concert).

As a result Johnson & Johnson appeared united, strong, objective and personally compassionate. This is a corporation on the *offensive* not the *defensive* as they instigated their own investigations and cooperated with others. Their corporate objective was to maintain their company confidence—in their own product and to restore public confidence. Their final decision to recall all of their capsules, to scrap their production and in addition to create new emphasis and direction by promoting the elongated tablets called Caplets will cost Johnson & Johnson as much as $150 million. A small price, however, for credibility and future success.

What was their alternative? Was this the right decision for Johnson & Johnson? They thought so and consumers seem to agree. Should other companies follow suit? This is a tough decision and one that needs to be looked at realistically and individually.

We are not at a stage where, as consumers, we can no longer take our products for granted. We too have a responsibility. We must exert more care when purchasing products to be sure that they have not been tampered with—we need to spend a little longer choosing medication today. We may need to make more choices at the drug counter. If we want a certain brand of medicine, we may not be able to obtain it in the form we have become accustomed to buying; a new consumer attitude may be necessary.

What is the responsibility of government today? Government has the responsibility to serve as a catalyst—to bring about greater awareness of new major consumer issues. Protecting the health and safety of the consumer is an essential function of the federal government. I feel strongly that the time has come for a total review of how the government is addressing these concerns. Is the consumer confused by the various safety agencies and the issues they address? Is the industry confused as to which agency addresses which products?

Just three short years ago, when Johnson & Johnson developed their tamper-resistant packaging through the Food and Drug Administration, it was found (after the new packaging was completed and marketed)—that the tamper resistant packaging affected by $\frac{1}{1000}$ of an inch the child resistant closures that came under the jurisdiction of the CPSC. Confusion! Confusion—both for the manufacturer and for the consumer.

The time has come for a thorough review of the health and safety functions of the United States government. With budget constraints what they are and cutbacks being put into place, the time has come for a coordinated, well-focused health and safety agency that has total regulatory authority, not piecemeal as we have it today.

The time has come to make some changes. A concerned consumer and a concerned industry would be better served if all health and safety functions were put under one agency.

RECESS UNTIL 4:30 P.M.

Mr. DOLE. Mr. President, we are in the process of preparing resolutions with reference to Nick Daniloff, who is being illegally held by the Soviet Government, and also a resolution with reference to the Karachi hijacking incident and the senseless murder in Istanbul that Senators BYRD and myself will introduce but they are not prepared; they have not been cleared with Senators LUGAR and PELL. I guess it would probably take another 30 or 45 minutes to do that. In the meantime, I know the distinguished minority leader is about to meet with 20 mayors and I will be meeting with them following that. So I would ask unanimous consent that we stand in recess until 4:30 p.m.

There being no objection, the Senate, at 3:21 p.m., recessed until 4:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. DURENBERGER].

□ 1630

Mr. MELCHER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MELCHER. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNBALANCED U.S. ECONOMIC FORCES

Mr. MELCHER. The dominant and demanding unbalanced U.S. economic forces are the trade and Treasury deficits. If only one of these were in the red, one might bail out the other but the combination, each swimming in $170 billion of red ink, is the making of a national economic catastrophe with severe reverberations throughout the world.

When Kansans see cyclone funnels in the sky, they head for the cellar. President Reagan, an adopted Californian, where earthquakes are recorded after the fact, must be awaiting the reading of the Richter scale to measure the threatened economic disaster after it occurs.

Looming ominously over the U.S. economy is the failure of this administration and Congress to attend to these twin hazards. There is no Reagan trade policy and there is no Reagan deficit policy.

Consider trade first. Each year, the U.S. trade imbalance worsens. And it worsens even in basic industries where we are dominant and more competitive and efficient than other countries.

American agriculture excels in productivity, yet for the past 3 months the United States has imported more food than we export, which apparently does not alarm the White House. It is not that Americans are eating more imported foods Rather, it is that our food exports are dwindling dismally.

We have piles of surplus wheat on the ground for lack of storage in the Wheat Belt. Those piles will be matched in the Corn Belt when this fall's corn crop is harvested. We have spent over $1 billion this year buying up dairy cows to lessen surplus dairy commodities. The additional cows slaughtered drove down beef prices, aggravating cattle producers' losses, without appreciably reducing surplus milk. Government purchase of that surplus adds to the dried milk, butter, and cheese stored in Federal warehouses and along with the other surplus commodities adds to the Treasury deficit by some $2 billion annually just in storage costs.

With all this, the administration has not yet adopted the congressionally mandated agricultural trade policy signed into law by the President last December when he signed the 1985 farm bill. The bill, while permitting basic target price subsidies for farmers to encourage large U.S. agricultural production, set a series of legislated goals to increase agricultural exports. It recognized that those goals could only be met with various types of export promotion and enhancement programs which vary from country to country.

But the Reagan administration has been bogged down in conflicting interdepartmental failures. The Agriculture and State Department are intertwined with the Office of Management and Budget, and all are bogged down in a morass of redtape, each thwarting the other. The President has yet to appoint his Special Adviser on Agricultural Trade and Food Assistance, as mandated in the farm bill, to unsnarl this bureaucratic redtape. The loss of exports in agricultural products, down 40 percent from 1981, is both from commercial sales and from the Food-for-Peace trade building shipments to developing countries.

The strong dollar has declined dramatically and cannot be blamed for the lack of Food-for-Peace shipments of surplus commodities. What must be blamed is the lack of policy.

The second deficit, that is, the Federal deficit, can only be partially corrected by the mechanisms of Gramm-Rudman. Cutting Federal expenditures is a necessity but these cuts do not sufficiently reduce the deficit because of dwindling tax receipts. And revenues decline in part because of the trade imbalance with its consequent loss of jobs and loss of economic activity in the United States. Both deficits must be reduced simultaneously. Without a unified and strong effort to address both concurrently, the U.S. economic future is very grave. Gramm-Rudman is cumbersome at best and might not even produce deficit reduction unless the underlying U.S. economy improves.

In sum and substance, the Reagan administration has failed to address both of these deficits simultaneously. Likewise, Congress has failed. It is a big failure now and a disastrous one unless soon corrected.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1650

Mr. McCLURE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PAY ADJUSTMENT FOR FEDERAL EMPLOYEES—MESSAGE FROM THE PRESIDENT RECEIVED DURING THE ADJOURNMENT—PM 166

Under the authority of the order of the Senate of January 3, 1985, the Secretary of the Senate, on August 28, 1986, during the adjournment of the Senate, received the following message from the President of the United States; which was referred to the Committee on Governmental Affairs:

To the Congress of the United States:

Under the Federal Pay Comparability Act of 1970, the President is required to make a decision each year on what, if any, pay adjustment should be provided for Federal employees under the General Schedule and the related statutory pay systems.

My pay advisers have reported to me that an increase in pay rates averaging 23.79 percent, to be effective in October 1986, would be required under existing procedures to raise Federal pay rates to comparability with private sector pay rates for the same levels of work. However, the law also empowers me to prepare and transmit to the Congress an alternative plan for the pay adjustment if I consider such an alternative plan appropriate because of "national emergency or economic conditions affecting the general welfare." Furthermore, section 15201(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985, Public Law 99-272, requires that, in adjusting rates of pay under the Comparability Act, I achieve savings of at least $746 million in fiscal year 1987 compared to the "baseline" the Congress has used in its budget process. Section 15201(a) also requires that the effective date of the pay adjustment be delayed until January 1987.

Accordingly, after reviewing the reports of my Pay Agent and the Advisory Committee on Federal Pay, after considering the adverse effect that a 23.79 percent increase in Federal pay rates might have on our national economy, and in order to implement the requirements of the Reconciliation Act, I have determined that economic conditions affecting the general welfare require the following alternative plan for this pay adjustment:

"In accordance with section 5305(c)(1) of title 5, United States Code, the pay rates of the General Schedule and the related statutory pay schedules shall be increased by an overall percentage of 2 percent for each schedule, with such increase to

become effective on the first day of the first applicable pay period beginning on or after January 1, 1987."

Accompanying this report and made a part hereof are the pay schedules that will result from this alternative plan, including, as required by section 5382(c) of title 5, United States Code, the rates of basic pay for the Senior Executive Service.

RONALD REAGAN.

THE WHITE HOUSE, *August 28, 1986.*

EXTENSION OF NATIONAL EMERGENCY WITH RESPECT TO SOUTH AFRICA—MESSAGE FROM THE PRESIDENT RECEIVED DURING THE ADJOURNMENT—PM 167

Under the authority of the order of the Senate of January 3, 1985, the Secretary of the Senate, on September 4, 1986, during the adjournment of the Senate, received the following message from the President of the United States; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice, stating that the South African emergency is to continue in effect beyond September 9, 1986, to the *Federal Register* for publication.

The failure of the South African Government to take adequate step to eliminate apartheid, that Government's security practices, including the recent imposition of another state of emergency, and the persistence of widespread violence continue to endanger prospects for peaceful change in South Africa and threaten stability in the region as a whole. Under these circumstances, I have determined that it is necessary to continue in effect the national emergency with respect to South Africa after September 9, 1986, in order to deal with this unusual and extraordinary threat to the foreign policy and economy of the United States. Additional measures to deal with this threat will be considered upon the completion of consultations with key Allies on joint, effective measures to eliminate apartheid and encourage negotiations for peaceful change in South Africa.

RONALD REAGAN.

THE WHITE HOUSE, *September 4, 1986.*

MESSAGES FROM THE HOUSE RECEIVED DURING ADJOURNMENT

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

Under the authority of the order of the Senate of January 3, 1985, the Secretary of the Senate, on August 19, 1986, during the adjournment of the Senate received a message from the House of Representatives announcing that the Speaker pro tempore (Mr. HOYER) had signed the following enrolled bills and joint resolution:

S. 410. An act to reform the Residential Conservation Service and to repeal the Commercial and Apartment Conservation Service;

S. 1888. An act to provide for a program of cleanup and maintenance on Federal lands;

H.R. 1260. An act for the relief of Joe Herring;

H.R. 1343. An act to authorize the use of funds from rental of floating drydock and other marine equipment to support the National Maritime Museum in San Francisco, CA and for other purposes;

H.R. 3108. An act to amend title 17, United States Code, to clarify the definition of the local service area of a primary transmitter in the case of a low power television station;

H.R. 3554. An act to provide for the restoration of the Federal trust relationship with, and Federal services and assistance to, the Klamath Tribe of Indians and the individual members thereof consisting of the Klamath and Modoc Tribes and the Yahooskin Band of Snake Indians, and for other purposes;

H.R. 4331. An act to authorize the Secretary of Agriculture to make grants for the purpose of establishing institutes of rural technology development;

H.R. 5371. An act to extend until September 15, 1986, the emergency acquisition and net worth guarantee provisions of the Garn-St Germain Depository Institutions Act of 1982;

H.R. 5395. An act to increase the statutory limit on the public debt;

S.J. Res. 249. Joint resolution to proclaim October 23, 1986, as "A Time of Remembrance" for all victims of terrorism throughout the world;

S.J. Res. 386. Joint resolution to designate October 6, 1986, as "National Drug Abuse Education Day"; and

H.J. Res. 713. Joint resolution making a repayable advance to the Hazardous Substance Response Trust Fund.

Under the authority of the order of the Senate of January 3, 1985, the enrolled bills and joint resolutions were signed on August 19, 1986, during the adjournment of the Senate, by the President pro tempore (Mr. THURMOND).

ENROLLED BILLS SIGNED

Under the authority of the order of the Senate of January 3, 1985, the Secretary of the Senate, on August 21, 1986, during the adjournment of the Senate, received a message from the House of Representatives, announcing that the Speaker pro tempore (Mr. HOYER) had signed the following enrolled bills:

H.R. 4393. An act to consolidate and improve provisions of law relating to absentee registration and voting in elections for Federal office by members of uniformed services and persons who reside overseas; and

H.R. 4843. An act to provide for a minimum price and an alternative production rate for petroleum produced from the naval petroleum reserves, and for other purposes.

Under the authority of the order of the Senate of January 3, 1985, the enrolled bills were signed on August 21, 1986, during the adjournment of the Senate, by the President pro tempore (Mr. THURMOND).

MESSAGES FROM THE HOUSE

At 1:45 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 1887. An act to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans and the rates of dependency and indemnity compensation for surviving spouses and children of veterans, to improve veterans' education benefits, and to improve the Veterans' Administration home loan guaranty program; to amend titles 10 and 38, United States Code, to improve national cemetery programs; and for other purposes.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3129. An act to authorize funds for construction of highways, for highway safety programs, and for mass transportation programs, to expand and improve the relocation assistance program, and for other purposes.

ENROLLED BILL SIGNED

At 4:38 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 4329. An act to authorize United States contributions to the International Fund established pursuant to the November 15, 1985 agreement between the United Kingdom and Ireland, as well as other assistance.

The enrolled bill was subsequently signed by the President pro tempore (Mr. THURMOND).

MEASURES REFERRED

The following concurrent resolution, received in the Senate on August 15, 1986, was read, and referred as indicated:

H. Con. Res. 383. A concurrent resolution directing the Clerk of the House of Representatives to make a correction in the enrollment of the bill H.R. 4883; to the Committee on Energy and Natural Resources.

MEASURES PLACED ON THE CALENDAR

The following bills were read the second time and placed on the calendar:

H.R. 3042. An act to authorize the Secretary of Education to make grants to local educational agencies for dropout prevention and reentry demonstration projects; and

S. 2765. A bill to amend section 232 of the Trade Expansion Act of 1962 to improve its administration, and for other purposes.

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 3129. An act to authorize funds for construction of highways, for highway safety programs, and for mass transportation programs, to expand and improve the relocation assistance program, and for other purposes.

ENROLLED BILLS AND JOINT RESOLUTIONS PRESENTED

The Secretary of the Senate reported that she had presented to the President of the United States the following enrolled bills and joint resolutions:

S. 140. An act to amend the Child Abuse Prevention and Treatment Act to establish a program to encourage States to enact child protection reforms which are designed to improve legal and administrative proceedings regarding the investigation and prosecution of child abuse cases, particularly child sexual abuse cases, and to establish demonstration programs of temporary child care for handicapped children and crisis nurseries;

S. 410. An act to reform the Residential Conservation Service and to repeal the Commercial and Apartment Conservation Service;

S. 1888. An act to provide for a program of cleanup and maintenance on Federal lands;

S.J. Res. 249. Joint resolution to proclaim October 23, 1986, as "A Time of Remembrance" for all victims of terrorism throughout the world;

S.J. Res. 298. Joint resolution to designate the week of October 5, 1986, through October 11, 1986, as "Mental Illness Awareness Week";

S.J. Res. 338. Joint resolution to designate November 18, 1986, as "National Community Education Day";

S.J. Res. 358. Joint resolution to designate the month of September 1986 as "Adult Literacy Awareness Month"; and

S.J. Res. 386. Joint resolution to designate October 6, 1986, as "National Drug Abuse Education Day."

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3651. A communication from the Director of the Congressional Budget Office and the Director of the Office of Management and Budget transmitting, pursuant to law, a report estimating budget levels for 1987 and the initial Sequestration Report for fiscal year 1987; to the Joint Committee on Deficit Reduction.

EC-3652. A communication from the President of the United States transmitting, pursuant to law, a report on the survivability, cost-effectiveness, and combat effectiveness of certain ships for which authorization is being requested for fiscal years 1987 and 1988; to the Committee on Armed Services.

EC-3653. A communication from the Comptroller General of the United States transmitting, pursuant to law, a report assessing the Secretary of Commerce's report on extending foreign policy controls; to the Committee on Banking, Housing, and Urban Affairs.

EC-3654. A communication from the Chairman of the Export-Import Bank of the United States transmitting, pursuant to law, a report on a transaction, involving United States exports to Brazil; to the Committee on Banking, Housing, and Urban Affairs.

EC-3655. A communication from the Comptroller General of the United States transmitting, pursuant to law, a report relative to customers bypassing local telephone companies; to the Committee on Commerce, Science, and Transportation.

EC-3656. A communication from the Secretary of Energy transmitting, pursuant to law, the 1985 Annual Report on Federal Government Energy Management; to the Committee on Energy and Natural Resources.

EC-3657. A communication from the Deputy Associate Director for Royalty Management, Minerals Management Service, transmitting, pursuant to law, a report on 21 refunds of excess oil and gas royalty payments; to the Committee on Energy and Natural Resources.

EC-3658. A communication from the Deputy Associate Director for Royalty Management, Minerals Management Service, transmitting, pursuant to law, a report on 24 refunds of excess oil and gas royalty payments; to the Committee on Energy and Natural Resources.

EC-3659. A communication from the Deputy Associate Director for Royalty Management, Minerals Management Service, transmitting, pursuant to law, a report on five refunds of excess oil and gas royalty payments; to the Committee on Energy and Natural Resources.

EC-3660. A communication from the Commissioner of the Bureau of Reclamation transmitting, pursuant to law, a report on the Safety of Dams Program; to the Committee on Energy and Natural Resources.

EC-3661. A communication from the Acting Chairman of the Nuclear Regulatory Commission transmitting, pursuant to law, the quarterly report on the number of full-time permanent employees hired and promoted between April 1 and June 30, 1986; to the Committee on Environment and Public Works.

EC-3662. A communication from the Acting Chairman of the Nuclear Regulatory Commission transmitting, pursuant to law, a report relative to nondisclosure of nuclear safeguards information by the NRC during the quarter ended June 30, 1986; to the Committee on Environment and Public Works.

EC-3663. A communication from the Secretary of Health and Human Services transmitting, pursuant to law, a report on the number of children in foster care pursuant to voluntary placement agreements; to the Committee on Finance.

EC-3664. A communication from the Chairman of the National Advisory Council on International Monetary and Financial Policies, transmitting, pursuant to law, the 1985 annual report of the Council; to the Committee on Foreign Relations.

EC-3665. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, copies of international agreements, other than treaties, entered into by the United States within the 60 days previous to August 18, 1986; to the Committee on Foreign Relations.

EC-3666. A communication from the Director of the Office of Information Resources Management, Department of the Interior, transmitting, pursuant to law, a report on a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-3667. A communication from the Administrator of the Veterans' Administration transmitting, pursuant to law, a report on a computer matching program with certain State records; to the Committee on Governmental Affairs.

EC-3668. A communication from the Assistant Attorney General of the United States transmitting, pursuant to law, a report on a modified Privacy Act system of records; to the Committee on Governmental Affairs.

EC-3669. A communication from the Assistant Secretary of the Interior transmitting, pursuant to law, a proposed plan for the use of funds awarded the Aleut Tribe of Indians; to the Select Committee on Indian Affairs.

EC-3670. A communication from the chief judge of the Ninth U.S. Circuit Court of Appeals transmitting, pursuant to law, the circuit's third biennial report on the implementation of section 6 of the Omnibus Judgeship Act of 1978; to the Committee on the Judiciary.

EC-3671. A communication from the National Commander of American Ex-Prisoners of War transmitting, pursuant to law, organization's 1986 audit report; to the Committee on the Judiciary.

EC-3672. A communication from the Assistant Attorney General of the United States transmitting, pursuant to law, the annual report of the Interagency Coordinating Council; to the Committee on Labor and Human Resources.

EC-3673. A communication from the Secretary of Education transmitting, pursuant to law, Final Regulations for the Graduate Academic Facilities Program; to the Committee on Labor and Human Resources.

EC-3674. A communication from the Executive Secretary of the Office of the Secretary of Defense transmitting, pursuant to law, the report on DOD procurement from Small and Other business firms, October 1985–May 1986; to the Committee on Small Business.

EC-3675. A communication from the Assistant Secretary of Defense transmitting a draft of proposed legislation to authorize recoupment of stipends paid to Armed Forces Health Professions Scholarship Program recipients who fail to complete required active duty; to the Committee on Armed Services.

REPORTS OF COMMITTEES RECEIVED DURING ADJOURNMENT

The following reports of committees were submitted on August 19, 1986, during the adjournment of the Senate:

By Mr. ANDREWS, from the Committee on Appropriations, with amendments:

H.R. 5205. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1987, and for other purposes (with additional views) (Rept. No. 99-423).

Under the authority of the order of the Senate of August 16, 1986, the following reports of committees were submitted on September 3, 1986:

By Mr. HELMS, from the Committee on Agriculture, Nutrition, and Forestry, without amendment:

S. 2792. An original bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act, and for other purposes (Rept. No. 99-424).

By Mr. RUDMAN, from the Committee on Appropriations, with amendments:

H.R. 5161. A bill making appropriations for the Department of Commerce, Justice, State and Judiciary, and related agencies for the fiscal year ending September 30, 1987, and for other purposes (Rept. No. 99-425).

By Mr. D'AMATO, from the Committee on Banking, Housing, and Urban Affairs, with an amendment in the nature of a substitute and an amendment to the title:

S. 1416. A bill entitled the "Government Securities Dealers Act of 1985" (Rept. No. 99-426).

By Mr. STAFFORD, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 2083. A bill to amend the Toxic Substances Control Act to require the Environmental Protection Agency to set standards for identification and abatement of hazardous asbestos in the Nation's schools, to mandate abatement of hazardous asbestos in the Nation's schools in accordance with those standards, to require local educational agencies to prepare asbestos management plans, and for other purposes (Rept. No. 99-427).

By Mr. DANFORTH, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 2794. An original bill to regulate interstate commerce by providing for uniform standards of liability for harm arising out of general aviation accidents (Rept. No. 99-428).

By Mr. DANFORTH, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 2417. A bill to establish the Aviation Safety Commission, and for other purposes (Rept. No. 99-429).

By Mr. DANFORTH, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute and an amendment to the title:

H.R. 2935. A bill to promote the consumption of fish and fish products in the United States through the establishment of seafood marketing councils, and for other purposes (Rept. No. 99-430).

By Mr. THURMOND, from the Committee on the Judiciary, with amendments:

S. 704. A bill to establish an Intercircuit Panel, and for other purposes (Rept. No. 99-431).

S. 2281. A bill to amend title 18, United States Code, to provide additional penalties for fraud and related activities in connection with access devices and computers, and for other purposes (Rept. No. 99-432).

By Mr. THURMOND, from the Committee on the Judiciary, without amendment:

S. 2683. A bill to make unlawful the laundering of money, and for other purposes (Rept. No. 99-433).

By Mr. HATCH, from the Committee on Labor and Human Resources, with amendments and an amendment to the title:

S. 2648. A bill to improve the public health through the prevention of childhood injuries (Rept. No. 99-434).

By Mr. HATCH, from the Committee on Labor and Human Resources, without amendment:

S. 2793. An original bill to amend the Public Health Service Act to make various technical revisions, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary:

Report to accompany the nomination of William H. Rehnquist to be Chief Justice of the United States (with additional, minority, and supplemental views) (Exec. Rept. No. 99-18).

Report to accompany the nomination of Antonin Scalia to be Associate Justice of the U.S. Supreme Court (Exec. Rept. 99-19).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. PRYOR (for Mr. BUMPERS (for himself and Mr. PRYOR)):

S. 2795. A bill to improve agricultural price support for the 1987 through 1990 crops, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. CHILES:

S.J. Res. 407. A joint resolution designating November 12, 1986, as "Salute to School Volunteers Day"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOLE (for himself, Mr. BYRD, Mr. LUGAR, Mr. PELL, Mr. GORTON, Mr. DURENBERGER, Mr. CRANSTON, Mr. BOSCHWITZ, Mr. FORD, Mr. EXON, Mr. BENTSEN, and Mr. DECONCINI):

S. Res. 486. A resolution relating to the arrest of U.S. correspondent Nicholas Daniloff; submitted and read.

By Mr. BYRD (for himself, Mr. DOLE, Mr. PELL, Mr. LUGAR, Mr. CRANSTON, Mr. GORTON, Mr. BENTSEN, Mr. FORD, and Mr. DECONCINI):

S. Res. 487. A resolution condemning the recent acts of terrorism in Pakistan and Turkey; submitted and read.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PRYOR (for Mr. BUMPERS, for himself and Mr. PRYOR):

S. 2795. A bill to improve agricultural price support programs for the 1987 through 1990 crops, and other purposes; to the Committee on Agriculture, Nutrition, and Forestry:

AGRICULTURAL PROGRAMS IMPROVEMENT ACT

● Mr. BUMPERS. Mr. President, the bill I am introducing today along with Senator PRYOR is a bold response to a crisis in agriculture that demands bold and decisive action. Thousands of farmers in Arkansas, and hundreds of thousands of farmers across America, are literally hanging on by their thumbs.

It was imperative that we pass a Farm Act late last year, and I joined the effort to get a bill adopted. I realized that there were serious deficiencies in the bill and I promised my farmers that I would work to correct those deficiencies. A few were corrected this spring, but many problems remain.

Too many features of the 1985 farm bill were discretionary with the Secretary, and he has consistently adopted the option that is the least beneficial to our farmers. The lack of effective action by the Secretary, coupled with the flaws found in the 1985 Farm Act, has caused the condition of American agriculture to deteriorate even more.

During the past 5 years, farm income has fallen to $16 billion a year, 55 percent below the 1977-80 average. Also, over the last 5 years, the market value of farmland and equipment has plummeted $76 billion annually, meaning that the financial condition of our farmers has declined $60 billion a year. Over one-third of all commercial farms still face severe financial distress, a sector that accounts for 90 percent of all production. Total agricultural debt exceeds $215 billion, more than the debt owed by Brazil and Mexico combined, an amount far too large for farmers to cash flow at present prices. The United States now imports more food products than it exports and our agriculture exports have plummeted from $41.3 billion in 1981 to the projected $26.5 billion in 1986.

And I have not even talked about the severe emotional distress this situation is causing our farm families. I wish every Member of this body could come back to Arkansas with me and visit with my farmers, and to see the hollow look in some of their eyes. Many of them are so discouraged because they see no hope in sight and they see a government which they think is willing to hang them out to dry.

Mr. President, we must save our family farmers. We in Congress must take bold and decisive action to save our agriculture economy.

I am inserting a detailed summary of the legislation I have drafted. In a nutshell, it would:

Provide export assistance by implementing a marketing loan program for wheat, soybeans, and feed grains to complement the similar programs already in place for rice and cotton. This will help us expand our export sales, protect net farm income, aid U.S. livestock producers, and reduce our burdensome commodity carryovers.

Reduce the spread between the loan rate and the target price by raising the loan rate. This in turn will:

Ease pressure on producers bumping the $50,000 limit;

Reduce total U.S. income support payments while increasing price support protection; and

Provide more up-front money to producers during the critical months;

Eliminate cross compliance and offsetting compliance;

Revise the base and program yield formulas so that our southern crops will not be discriminated against;

Require the Secretary to provide timely advance CCC recourse loans to prevent at least in part the kind of credit disaster many faced attempting to arrange financing for 1986 crop production.

Provide assistance to soybean producers by maintaining the $5.02 loan rate while requiring the Secretary to implement either a marketing loan or a producer option payment program.

Mr. President, I ask unanimous consent that a more detailed summary of the legislation be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF BUMPERS-PRYOR FARM BILL PROPOSAL

The bill simplifies the Food Security Act of 1985 by implementing a variation of the marketing loan concept for each program crop, including soybeans. The bill will also freeze price support loan levels and target prices through 1990, and it provides for a simpler and more equitable method for determining bases and program yields. Here is a summary of the bill's provisions.

(A) *Soybeans.*—The bill will require the Secretary to freeze the price support loan rate at $5.02 per bushel through 1990. The Secretary is required to choose between two export enhancement programs: Plan A, which calls for a marketing loan, or Plan B, which provides for a producer option payment (POP). The POP is set at 20% of the loan rate or $1 per bushel. A producer who agrees to forgo loan protection or who redeems soybeans under loan will be eligible for this payment. Both options will prevent massive amounts of soybeans from being forfeited to the government.

(B) *Cotton.*—The bill freezes the price support loan rate ($.57 per lb.) and the target price ($.81 per lb.) at the 1985 levels for the 1987 through 1990 crop years. The marketing loan price floor is reduced to 75% of the loan rate to compensate for the higher loan rate.

(C) *Rice.*—As with cotton, the bill makes few changes. The price support loan rate ($8 per cwt.) and the target price ($11.90 per cwt.) are frozen at the 1985 levels for the 1987 through 1990 crop years. The marketing loan price floor is reduced to 45% in 1987, 55% in 1988, and 65% in 1989 and 1990. The Secretary, as in all the program crop sections, is required to offer loan deficiency protection to rice producers who opt to forgo loan and target protection.

(D) *Wheat.*—For 1987 through 1990, the loan rate will be frozen at the 1985 level of $3.30 per bushel, and the target price will be frozen at $4.38 per bushel. For the same years, the Secretary will be required to implement a marketing loan whereby a producer will be allowed to redeem a wheat loan at the world market price level. For producers who wish to forgo loan and target protection, the Secretary is also required to offer a loan deficiency payment, the difference between the world market price and the loan rate, as an incentive.

The bill gives the Secretary the authority to use marketing certificates, guaranteed in value, in the marketing loan program for up to one-half of the loan deficiency that a producer is allowed to retain. The price floor for the marketing loan program is set at 65% of the loan rate. Also, the Secretary is required to implement a marketing certificate program for exporters should the marketing loan repayment rate exceed the prevailing world marketing price for wheat.

(E) *Feed grains.*—This section of the bill closely resembles the wheat section. The price support loan rate (2.55 per bushel) and the target price ($3.03 per bushel) for the years 1987 through 1990 will be frozen at the 1985 levels. The Secretary will be required to implement a marketing loan and to provide loan deficiency payments to producers who wish to forgo loan and target protection.

As with wheat, the Secretary will have the authority to use marketing certificates in conjunction with the marketing loan program. The price floor for the marketing loan is set at 65% of the loan rate. Also, the Secretary must implement a marketing certificate program for exporters if the marketing loan repayment rate exceeds the prevailing world price for feed grains.

(F) *Cross compliance.*—The bill eliminates the Secretary's authority to announce cross compliance, limited cross compliance, or offsetting compliance in any form.

(G) *Advance recourse commodity loans.*—The Secretary is required to make advance recourse CCC loans available to producers of program crops and soybeans beginning with the 1987 crop year.

(H) *Crop acreage bases.*—The acreage base provisions of the 1985 farm bill are simplified. Producers of rice, cotton, wheat, and feed grains will have bases for these crops equal to the average of the acreage planted or considered planted to these crops over the last five years, excluding those years in which no crop was planted or considered planted. However, no more than three crop years can be excluded.

(I) *Farm program payment yield.*—The revisions included in my bill will eliminate the penalty against productive farmers and it will return the 1985 crop years into the yield calculations. For 1987 through 1990, the payment yield will be the average of the actual yield for that crop over the five crop years immediately preceding, throwing out the high and low years. The Secretary is required to allow use of area averages, not just county averages, for farms with new production of program crops, and he may establish a new yield for farms that have been hit by natural disaster. Also, if the use of the above formula does not adequately reflect the productive potential of any farm, the Secretary must establish a more accurate program yield.

Mr. BUMPERS. Mr. President, I want to urge every Member of the Senate, and especially those Senators from farm States, to take a close look at this legislation. It contains provisions which are vitally important to our farmers and must be adopted. Of immediate concern to me is the plight of our soybean farmers. Just last week Secretary Lyng announced that he was dropping the soybean price support from $5.02 per bushel down to $4.77 per bushel. In doing this, he is essentially thumbing his nose at the Senate, which unanimously adopted my amendment to the debt limit extension bill strongly urging him to retain the $5.02 rate. This legislation retains the $5.02 rate through 1990.

I want to urge the Senate Agriculture Committee to schedule immediate hearings on this legislation and to give it thoughtful and serious consideration.●

● Mr. PRYOR. Mr. President, today, Senator BUMPERS and I are introducing a piece of agricultural legislation that mandates the expansion of the marketing loan concept originally set forth in the 1985 Food Security Act to all program crops, including soybeans.

The 1985 farm bill incorporated a mandatory marketing loan program for rice—a concept Senator COCHRAN and I had originally proposed for all program crops. At the same time it gave the Secretary of Agriculture the discretion to implement this program for all other program crops.

Despite the success of the marketing loan program for rice, the Secretary of Agriculture has failed to act in utilizing this authority for other programs.

The bill we are introducing today will mandate a variation of the marketing loan concept for each program crop, including soybeans, while freezing price support loan levels and target prices through 1990. It also provides for a simpler, more equitable method for determining bases and program yields. After spending over a year's time in debating and formulating a new farm program the Congress finally passed a new program in late December of 1985. This new farm bill provided hope for all of agriculture to once again become price competitive while at the same time redefining Government's relationship with the American farmer.

Throughout that bill, we provided the Secretary of Agriculture discretionary authority so that he could have greater flexibility in utilizing the tools needed to allow American agriculture once again to compete and hopefully recover and prosper. However, from the writing of program regulations to program announcements, we have seen a complete ignoring of these discretionary authorities. It has been

frustrating at best to see many parts of our new bill being totally ignored or the intent completely misinterpreted by bureaucratic regulation writers.

American agriculture needs help. It is time to do what has to be done. No longer can we allow the Department of Agriculture to issue program regulations that fit their ideas of how agriculture programs should be written and snub their nose at the Congress and how the laws were actually written and meant to be implemented.

It is put up or shut up time for farm programs. The 1985 farm bill implemented Senator COCHRAN's and my marketing loan concept. This concept defined Government's support to farmers while at the same time allowing his commodity to be market competitive. It encourages sales and not production for Government storage. The rice marketing loan was implemented on April 15 and terminated on June 30. In that short space of time American rice producers recaptured markets and sold the majority of the 1985 crop that was destined for Government forfeiture without a marketing loan option.

I hear all the criticism about cost but I have yet seen figures from anyone that talk about net costs—costs that take into consideration savings from interest, storage, and acquisition costs. By some of my crude calculations the April 15 to June 30 marketing loan period netted savings in excess of $200 million for the rice program while at the same time recapturing lost rice markets. Cotton's similar program is also looking good at allowing cotton producers once again to compete and hopefully regain lost traditional American cotton markets.

Mr. President, I want all our commodities to have the marketing loan. I believe wheat, corn, soybeans, and our other major commodities can also enjoy the benefits a marketing loan presents. Our farmers deserve for our Government to utilize all its available tools to help strengthen American agriculture. We have waited for the Secretary to announce a marketing loan for other major programs—an announcement that can be made within his broad discretionary authority, but it hasn't come. Therefore, I am joining Senator BUMPERS in an effort to mandate a program that I think will allow our American commodities to compete and allow American agriculture to recover.

The freezing of target prices and loan rates provides the needed income to allow farmers to survive and cashflow their loans. By freezing these rates till 1990, we stabilize income to our producers when they need it the most and by implementing the marketing loan, we allow the crops to be price competitive.

Mr. President, we have debated farm programs back and forth, over and over, countless times in the Senate. Let's realize how serious agriculture's future is and let's finally realize it's time to take action. Let's define Government's support of agriculture and at the same time provide a program that is aggressive and profarmer in helping him recapture his lost traditional marketplace.

Mr. President, I am reaffirming my support for American agriculture. I am proud to join my colleague Senator BUMPERS in working for solutions to agriculture's problems.

Mr. President, at this point I would like to ask unanimous consent to print in the RECORD a summary of our legislation.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

The bill we have drafted embodies a simple concept. It simplifies the Food Security Act of 1985 by implementing a variation of the marketing loan concept for each program crop, including soybeans. The bill will also freeze price support loan levels and target prices through 1990, and it provides for a simpler, more equitable method for determining bases and program yields. Here is a summary of the bill's provisions.

(A) *Wheat.*—for 1987 through 1990, the loan rate will be frozen at the 1985 level of $3.30 per bushel, and the target price will be frozen at $4.38 per bushel. For the same years, the Secretary will be required to implement a marketing loan whereby a producer will be allowed to redeem a wheat loan at the world market price level. For producers who wish to forgo loan and target protection, the Secretary is also required to offer a loan deficiency payment, the difference between the world market price and the loan rate, as an incentive.

The bill gives the Secretary the authority to use marketing certificates, guaranteed in value, in the marketing loan program for up to one-half of the loan deficiency that a producer is allowed to retain. The price floor for the marketing loan program is set at 65% of the loan rate. Also, the Secretary is required to implement a marketing certificate program for exporters should the marketing loan repayment rate exceed the prevailing world marketing price for wheat.

(B) *Feed grains.*—This section of the bill closely resembles the wheat section. The price support loan rate ($2.55 per bushel) and the target price ($3.03 per bushel) for the years 1987 through 1990 will be frozen at the 1985 levels listed above. The Secretary will be required to implement a marketing loan and to provide deficiency payments to producers who wish to forgo loan and target protection.

As with wheat, the Secretary will have the authority to use marketing certificates in conjunction with the marketing loan program. The price floor for the marketing loan is set at 65% of the loan rate. Also, the Secretary must implement a marketing certificate program for exporters if the marketing loan repayment rate exceeds the prevailing world price for feed grains.

(C) *Cotton.*—Fewer changes have been suggested for the cotton section. As with all program crops, the price support loan rate ($.57 per lb.) and the target price ($.81 per lb.) are frozen at the 1985 levels for the 1987 through 1990 crop years. The marketing loan price floor is reduced to 75% of the loan rate to compensate for the higher loan rate.

(D) *Rice.*—As with cotton, the bill makes few changes. The price support loan rate ($8 per cwt.) and the target price ($11.90 per cwt.) are frozen at the 1985 levels for the 1987 through 1990 crop years. The marketing loan price floor is reduced to 45% in 1987, 55% in 1988, and 65% in 1989 and 1990. The Secretary, as in all the program crop sections, is required to offer loan deficiency protection to rice producers who opt to forgo loan and target protection.

(E) *Soybeans.*—This bill will require the Secretary to freeze the price support loan rate at $5.02 per bushel through 1990. The Secretary is required to choose between two expert enhancement programs: Plan A, which calls for a marketing loan, or Plan B, which provides for a producer option payment (POP). The POP is set at 20% of the loan rate on $1 per bushel. A producer who agrees to forego loan protection or who redeems soybeans under loan will be eligible for this payment. Both options will prevent massive amounts of soybeans from being forfeited to the government.

(F) *Cross Compliance.*—The bill eliminates the Secretary's authority to announce cross compliance, limited cross compliance, or off-setting compliance in any form.

(G) *Advance recourse commodity loans.*—The Secretary is required to make advance recourse CCC loans available to producers of program crops and soybeans beginning with the 1987 crop year.

(H) *Crop acreage bases.*—The provisions of the 1985 farm bill are simplified. Producers of rice, cotton, wheat, and feed grains will have bases for these crops equal to the average of the acreage planted or considered planted to these crops over the last five years, excluding those years in which no crop was planted or considered planted. However, no more than three crop years can be excluded.

(I) *Farm program payment yield.*—The revisions included in my bill will eliminate the penalty against productive farmers and it will return the 1985 crop years into the yield calculations. For 1987 through 1990, the payment yield will be the average of the actual yield for that crop over the five crop years immediately preceding, throwing out the high and low years. For farms with new production of program crops or that have been hit by natural disasters, the Secretary is required to allow use of area average, not just county average, for the farmers, and he may establish a new yield for the latter. Also, if the use of the above formula does not adequately reflect the productive potential of any farm, the Secretary must establish a more accurate program yield.●

By Mr. CHILES:

S.J. Res. 407. Joint resolution designating November 12, 1986, as "Salute to School Volunteers Day;" to the Committee on the Judicary.

SALUTE TO SCHOOL VOLUNTEERS DAY

● Mr. CHILES. Mr. President, I hope my colleagues will join me supporting this joint resolution which would designate November 12, 1986, as "Salute to School Volunteers Day."

The joint resolution provides national recognition of and support for one of the truly remarkable features of the school reform movement which is now sweeping the country, namely, an

explosion of citizen volunteerism on behalf of better schools for our children. Sparked by the National School Volunteer Program, spontaneous local school-sponsored efforts, and a host of school-business partnerships and adopt-a-school programs in hundreds of communities, volunteers—over 4 million of them—are helping our dedicated professional staffs to reach and teach the children and young people who will determine the quality of America's future.

The joint resolution recognizes and honors "the magnitude, quality, and selflessness" of those who, in a long and honorable American tradition, volunteer to help others. I believe that it will encourage more school districts and States to setup volunteer efforts and, in that way, tap the wisdom and skills of millions of Americans who care about our schools.●

ADDITIONAL COSPONSORS

S. 519

At the request of Mr. EVANS, the name of the Senator from Maine [Mr. MITCHELL] was added as a cosponsor of S. 519, a bill to require a study of the compensation and related systems in executive agencies, and for other purposes.

S. 1060

At the request of Mr. D'AMATO, the name of the Senator from Kentucky [Mr. FORD] was added as a cosponsor of S. 1060, a bill to amend title II of the Social Security Act to protect the benefit levels of individuals becoming eligible for benefits in or after 1979 by eliminating the disparity (resulting from changes made in 1977 in the benefit computation formula) between those levels and the benefit levels of persons who became eligible for benefits before 1979.

S. 1090

At the request of Mr. HELMS, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 1090, a bill to amend section 1464 of title 18, United States Code, relating to broadcasting obscene language, and for other purposes.

S. 1430

At the request of Mr. MOYNIHAN, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 1430, a bill to require the Secretary of Health and Human Services to make grants to eligible State and local governments to support projects for education and information dissemination concerning acquired immune deficiency syndrome, and to make grants to State and local governments for the establishment of programs to test blood to detect the presence of antibodies to the human T-cell lymphotrophic virus.

S. 1563

At the request of Mr. HELMS, the name of the Senator from Idaho [Mr. SYMMS] was added as a cosponsor of S. 1563, a bill to amend the Federal Campaign Act of 1971 to prohibit the use of compulsory union dues for political purposes.

S. 1566

At the request of Mr. DENTON, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 1566, a bill to extend the Family Life Demonstration Program for 3 years.

S. 1880

At the request of Mr. GORTON, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 1880, a bill to amend the Internal Revenue Code of 1954 to clarify the treatment of travel expenses in the case of construction workers.

S. 1903

At the request of Mr. DANFORTH, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 1903, a bill to improve the safe operations of commercial motor vehicles, and for other purposes.

S. 2037

At the request of Mr. DURENBERGER, the name of the Senator from Alabama [Mr. DENTON] was added as a cosponsor of S. 2037, a bill to create a fiscal safety net program for needy communities.

S. 2417

At the request of Mr. BYRD, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 2417, a bill to establish the Aviation Safety Commission, and for other purposes.

S. 2471

At the request of Mr. D'AMATO, the name of the Senator from New Hampshire [Mr. RUDMAN] was added as a cosponsor of S. 2471, a bill to establish an Office of Inspector General in the Nuclear Regulatory Commission, and for other purposes.

S. 2479

At the request of Mr. TRIBLE, the name of the Senator from Hawaii [Mr. MATSUNAGA] was added as a cosponsor of S. 2479, a bill to amend chapter 39 of title 31, United States Code, to require the Federal Government to pay interest on overdue payments, and for other purposes.

S. 2665

At the request of Mr. SYMMS, the name of the Senator from Texas [Mr. GRAMM] was added as a cosponsor of S. 2665, a bill to amend the national maximum speed limit law.

S. 2678

At the request of Mr. BENTSEN, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 2678, a bill to provide a comprehensive national oil security policy.

S. 2699

At the request of Mr. SPECTER, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 2699, a bill to amend the Controlled Substances Act to provide mandatory minimum sentences for distribution of controlled substances to minors, to add enhanced penalties, including mandatory minimum sentences, for employment of minors in the distribution of controlled substances, and to allow States receiving forfeited assets to use such assets for youth drug abuse prevention and rehabilitation.

S. 2715

At the request of Mr. CHILES, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 2715, a bill to provide an emergency Federal response to the crack cocaine epidemic through law enforcement, education and public awareness, and prevention.

S. 2770

At the request of Mr. COCHRAN, the names of the Senator from Oklahoma [Mr. NICKLES], and the Senator from Kentucky [Mr. MCCONNELL] were added as cosponsors of S. 2770, a bill to amend the Farm Credit Act of 1971 to provide the opportunity for competitive interest rates for the farmer, rancher, and cooperative borrowers of the Farm Credit System, and for other purposes.

SENATE JOINT RESOLUTION 299

At the request of Mr. COCHRAN, the names of the Senator from Alabama [Mr. DENTON], the Senator from South Dakota [Mr. ABDNOR], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Washington [Mr. EVANS], the Senator from North Carolina [Mr. HELMS], the Senator from South Dakota [Mr. PRESSLER], the Senator from Maryland [Mr. SARBANES], the Senator from Virginia [Mr. TRIBLE], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from New Jersey [Mr. LAUTENBERG], and the Senator from Nebraska [Mr. EXON] were added as cosponsors of Senate Joint Resolution 299, a joint resolution to designate the week of December 7, 1986, through December 13, 1986, as "National Alopecia Areata Awareness Week."

SENATE JOINT RESOLUTION 339

At the request of Mr. HATCH, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of Senate Joint Resolution 339, a joint resolution to designate the week of November 30, 1986, through December 6, 1986, as "National Home Care Week."

SENATE JOINT RESOLUTION 359

At the request of Mr. NICKLES, the names of the Senator from New

Hampshire [Mr. HUMPHREY], and the Senator from Illinois [Mr. SIMON] were added as cosponsors of Senate Joint Resolution 359, a joint resolution to designate March 17, 1987, as "National China-Burma-India Veterans Association Day."

SENATE JOINT RESOLUTION 373

At the request of Mr. HATCH, the names of the Senator from Oklahoma [Mr. NICKLES], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Idaho [Mr. MCCLURE], the Senator from North Dakota [Mr. BURDICK], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Georgia [Mr. NUNN], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Nevada [Mr. LAXALT], the Senator from Alabama [Mr. DENTON], the Senator from Ohio [Mr. METZENBAUM], the Senator from Michigan [Mr. LEVIN], the Senator from South Carolina [Mr. THURMOND], the Senator from Arkansas [Mr. BUMPERS], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Nebraska [Mr. ZORINSKY], the Senator from South Dakota [Mr. ABDNOR], the Senator from Nebraska [Mr. EXON], the Senator from New Jersey [Mr. BRADLEY], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from North Carolina [Mr. HELMS], the Senator from Michigan [Mr. RIEGLE], the Senator from Florida [Mrs. HAWKINS], the Senator from North Dakota [Mr. ANDREWS], and the Senator from Massachusetts [Mr. KERRY], were added as cosponsors of Senate Joint Resolution 373, a joint resolution designating the week beginning May 10, 1987 as "National Fetal Alcohol Syndrome Awareness Week."

SENATE JOINT RESOLUTION 391

At the request of Mr. LUGAR, the names of the Senator from Pennsylvania [Mr. HEINZ], and the Senator from Rhode Island [Mr. PELL] were added as cosponsors of Senate Joint Resolution 391, a joint resolution to designate August 12, 1986, as "National Civil Rights Day."

SENATE JOINT RESOLUTION 402

At the request of Mr. LUGAR, the name of the Senator from Washington [Mr. EVANS] was added as a cosponsor of Senate Joint Resolution 402, a joint resolution designating July 2 and 3, 1987, as the "United States-Canada Days of Peace and Friendship."

SENATE JOINT RESOLUTION 405

At the request of Mr. GLENN, the names of the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Arizona [Mr. DECONCINI], the Senator from Kansas [Mr. DOLE], the Senator from Florida [Mrs. HAWKINS], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Hawaii [Mr. INOUYE], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Idaho [Mr. MCCLURE], the Senator from Maine [Mr. MITCHELL], the Senator from New York [Mr. MOYNIHAN], the Senator from Georgia [Mr. NUNN], the Senator from Oregon [Mr. PACKWOOD], the Senator from Arkansas [Mr. PRYOR], the Senator from Michigan [Mr. RIEGLE], the Senator from Illinois [Mr. SIMON], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Mississippi [Mr. STENNIS], and the Senator from South Carolina [Mr. THURMOND], were added as cosponsors of Senate Joint Resolution 405, a joint resolution to designate September 11, 1986, as 9-1-1 Emergency Number Day."

SENATE CONCURRENT RESOLUTION 154

At the request of Mr. D'AMATO, the names of the Senator from Michigan [Mr. LEVIN], the Senator from Texas [Mr. BENTSEN], the Senator from Oklahoma [Mr. BOREN], the Senator from Illinois [Mr. DIXON], the Senator from Indiana [Mr. LUGAR], the Senator from Iowa [Mr. GRASSLEY], and the Senator from Florida [Mr. CHILES], were added as cosponsors of Senate Concurrent Resolution 154, a concurrent resolution concerning the Soviet Union's persecution of members of the Urkrainian and other public Helsinki Monitoring Groups.

SENATE RESOLUTION 464

At the request of Mr. ROTH, the name of the Senator from Pennsylvania [Mr. SPECTER], was added as a cosponsor of Senate Resolution 464, a resolution to designate October 1986 as "Crack/Cocaine Awareness Month."

SENATE RESOLUTION 486—RELATING TO THE ARREST OF U.S. CORRESPONDENT NICHOLAS DANILOFF

Mr. DOLE (for himself, Mr. BYRD, Mr. LUGAR, Mr. PELL, Mr. GORTON, Mr. DURENBERGER, Mr. CRANSTON, Mr. BOSCHWITZ, Mr. FORD, Mr. EXON, Mr. BENTSEN, Mr. DECONCINI, and Mr. MATTINGLY) submitted the following resolution; which was laid before the Senate:

S. RES. 486

I. Whereas the arrest and indictment on trumped up charges by the government of the Soviet Union of Nicholas Daniloff, American correspondent for U.S. News & World Report, is in clear contravention of accepted standards of international law and civil liberties;

II. Whereas the treatment of Mr. Daniloff is an inexcusable denial of the rights of a journalist to engage in the legitimate pursuit of his profession and a violation of Soviet obligations as a signatory of the Final Act of the Helsinki Accords guiding relations between participating states, specifically Basket III, Section 2, Article (c), Principles for the Improvement of Working Conditions for Journalists, which state that "• • • the participating states reaffirm that the legitimate pursuit of their professional activity will neither render journalists liable to expulsion nor otherwise penalize them."

III. Whereas the actions of the Soviet government further violate the spirit and letter of the provisions adopted at the review of the Helsinki Accords held in Madrid in March, 1983, specifically Basket III, Cooperation in Humanitarian and other Fields, which affirms that the participaint states ". . . will also consider ways and means to assist journalists from other participating states and thus enable them to resolve practical problems they may encounter . . ." and ". . . further increase the possibilities and, when necessary, improve the conditions for journalists from other participating States to establish and maintain personal contacts and communication with their sources: Now, therefore, be it

Resolved by the Senate of the United States, That the Senate

1. condemns the Soviet Union for the unjustifiable arrest and indictment of Nicholas Daniloff and demands his immediate and unconditional release from custody by the Soviet Union,

2. expresses it deep concern that the failure of the Soviet Union to immediately and justly resolve this matter threatens to undermine constructive relations between the United States and the Union of Soviet Socialist Republics and jeopardizes the hoped for Summit Meeting between President Reagan and General Secretary Gorbachev, and

3. urges that all responsible news gathering and news accrediting organizations that provide support, membership or other privileges to Soviet news organizations should consider appropriate actions to underscore the demand for Daniloff's release.

SENATE RESOLUTION 487—CONDEMNING RECENT ACTS OF TERRORISM IN PAKISTAN AND TURKEY

Mr. BYRD (for himself, Mr. DOLE, Mr. PELL, Mr. LUGAR, Mr. CRANSTON, Mr. GORTON, Mr. BENTSEN, Mr. FORD, and Mr. DECONCINI) submitted the following resolution; which was laid before the Senate:

S. RES. 487

Whereas the recent terrorist attacks in Karachi, Pakistan, and Istanbul, Turkey, demonstrate that international terrorism remains a principal threat to human life and democratic values;

Whereas the hijacking of Pan American Flight 73, which ended in the loss of many lives at Karachi International Airport, and the murder of 22 Turkish Jews as they worshiped in an Istanbul Synagogue, underscore the continued need for action against international terrorism and for all civilized nations to redouble their efforts to eradicate this scourge; and

Whereas the United States should seize the initiative to expand international cooperation and coordination in the campaign against terrorism, and should be supported in that effort by its allies, and all other responsible nations: Now, therefore, be it resolved that, the Senate

(1) condemns vigorously the most recent terrorist acts in Karachi, Pakistan, and Istanbul, Turkey, and offers its deepest sympathies and condolences to the victims of those attacks, and to their families;

(2) declares that international terrorism is a scourge which effects, ultimately, all nations, and that all civilized and responsible nations of the world should expand their efforts to combat this scourge;

(3) urges close international cooperation in the swift prosecution and punishment of those responsible for these crimes; and

(4) urges the President to take the following actions—

(A) place the subject of terrorism and the urgent need for international cooperation, including cooperation between the United States and the Soviet Union, in combatting this scourge on the agenda of any future U.S.-Soviet summit meeting;

(B) make increased antiterrorism cooperation a high priority subject at every appropriate opportunity he has with the leaders of the allies and friends of the United States;

(C) Redouble efforts to establish an international antiterrorism committee as called for in recently enacted legislation (PL 99-399) so that civilized countries may better cooperate in responding to these barbarous acts.

(D) actively utilize existing rewards-for-information authorities to assist in apprehending and bringing to justice all those responsible for these reprehensible crimes.

(E) consider taking appropriate constiutional measures against the individuals responsible for these heinous crimes.

AMENDMENTS SUBMITTED

REHABILIATION ACT AMENDMENTS

EAGLETON (AND DANFORTH) AMENDMENT NO. 2773

Mr. BYRD (for Mr. EAGLETON, for himself and Mr. DANFORTH) proposed an amendment to the bill (S. 2515) to reauthorize the Rehabilitation Act of 1973, and for other purposes; as follows:

At the appropriate place, insert the following:

MAINTENANCE OF EFFORT

SEC. . (a) Notwithstanding any other provision of the Education of the Handicapped Act, the Secretary and the State educational agency, in the case of section 614(a)(2)(B)(ii) of that Act, shall not include expenditures made from an accrued fund reserve surplus after July 1, 1983, which are used for services for handicapped children.

(b) The amendment made by subsection (a) shall take effect with respect to fiscal years beginning after September 30, 1983.

NOTICES OF HEARINGS

SENATE IMPEACHMENT TRIAL COMMITTEE

Mr. MATHIAS. Mr. President, I wish to announce that the Senate Impeachment Trial Committee, appointed upon the adoption of Senate Resolution 481, pursuant to rule XI of the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials, will meet in SR-301, Russell Senate Office Building, on Wednesday, September 10, 1986, at 8:30 a.m. to consider the pretrial motions filed by counsel for Hon. Harry E. Claiborne and by the managers for the House of Representatives, and other matters relating to the impeachment trial.

For further information concerning this meeting, please contact Tony Harvey or Byron Hoover of the Senate Impeachment Trial Committee staff at extension 40291.

Mr. President, I wish to announce that the Senate Impeachment Trial Committee, appointed upon the adoption of Senate Resolution 481, pursuant to rule XI of the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials, will meet in the caucus room of the Russell Senate Office Building (SR-325) from 9 a.m. to 12 p.m. and from 2 p.m. to 5 p.m. on the following days: Monday, September 15, 1986; Tuesday, September 16, 1986; Wednesday, September 17, 1986; Thursday, September 18, 1986; and Friday, September 19, 1986; to receive evidence and take testimony in the impeachment trial of Hon. Harry E. Claiborne.

For further information concerning these meetings, please contact Tony Harvey or Byron Hoover of the Senate Impeachment Trial Committee staff at extension 40291.

SUBCOMMITTEE ON ENERGY REGULATION AND CONSERVATION

Mr. NICKLES. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on Energy Regulation and Conservation of the Committee on Energy and Natural Resources.

The hearing will take place Tuesday, September 16, 1986, 9:30 a.m. in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

The purpose of this hearing is to receive testimony on S. 2781, the National Appliance Energy Conservation Act of 1986.

Those wishing to testify or who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, room SD-358, Dirksen Senate Office Building, Washington, DC 20510. For further information, please contact Mr. Al Stayman at (202) 224-2366.

SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER AND RESOURCE CONSERVATION

Mr. WALLOP. Mr. President, I would like to announce for the information of the Senate and the public that a public hearing has been scheduled before the Subcommittee on Public Lands, Reserved Water and Resource Conservation of the Committee on Energy and Natural Resources on Tuesday, September 23, 1986, at 9:30 a.m. in room SD-366 of the Senate Dirksen Office Building, Washington, DC 20510.

Testimony will be received on the following measures: S. 2029 and H.R. 4090, to establish the Big Cypress National Preserve addition in the State of Florida, and for other purposes; S. 2442 and H.R. 4811, to establish the San Pedro Riparian National Conservation Area in Cochise County, AZ, in order to assure the protection of the riparian, wildlife, archaeological, paleontological, scientific, cultural, educational, and recreational resources of the conservation area, and for other purposes; H.R. 2921, to authorize the Secretary of Agriculture to issue permanent easements for water conveyance systems in order to resolve title claims arising under acts repealed by the Federal Land Policy and Management Act of 1976, and for other purposes; S. 2707 and H.R. 2826, to amend the Wild and Scenic Rivers Act by designating a segment of the Horsepasture River in the State of North Carolina as a component of the Wild and Scenic Rivers System.

Those wishing to testify should contact the Subcommittee on Public Lands, Reserved Water and Resource Conservation of the Committee on Energy and Natural Resources, room SD-308, Dirksen Senate Office Building, Washington, DC 20510. Oral testimony may be limited to 3 minutes per witness. Written statements may be longer. Witnesses may be placed in panels, and are requested to submit 25 copies of their testimony 24 hours in advance of the hearing, and 25 copies on the day of the hearing. For further information, please contact Patty Kennedy or Tony Bevinetto of the subcommittee staff at (202) 224-0613.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. ANDREWS. Mr. President, I would like to announce for the information of the public that the Select Committee on Indian Affairs will hold a hearing on Thursday, September 11, 1986, at 10 a.m., in Senate Dirksen 562 on S. 1177, a bill to establish a special magistrate with jurisdiction over Federal offenses within Indian country and to authorize tribal and local police officers to enforce Federal laws within their respective jurisdictions, and for other purposes.

Those wishing additional information should contact Max I. Richman of the committee at 224-2251.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. HELMS. Mr. President, I wish to announce that the Committee on Agriculture, Nutrition, and Forestry, has scheduled a full committee hearing to consider the nomination of Walter K. Miller, of Wisconsin, to be Administrator of the Federal Grain Inspection, Service, ISDA.

The hearing will begin at 10 a.m., Wednesday, September 10, 1986, in 332 Russell Senate Office Building.

For further information please contact the committee staff at 224-2035.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON MILITARY CONSTRUCTION

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Subcommittee on Military Construction of the Committee on Armed Services be authorized to meet during the session of the Senate on Monday, September 8, to receive testimony on H.R. 1202, a bill to authorize appropriations to carry out fish and wildlife conservation and natural resources management programs on military reservations.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE IMPEACHMENT TRIAL COMMITTEE

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Senate Impeachment Committee be permitted to meet during sessions of the Senate for the remainder of the 99th Congress.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

BUDGET SCOREKEEPING REPORT

● Mr. DOMENICI. Mr. President, I hereby submit to the Senate the budget scorekeeping report for this week, prepared by the Congressional Budget Office in response to section 308(b) of the Congressional Budget Act of 1974, as amended. This report also serves as the scorekeeping report for the purposes of section 311 of the Budget Act.

The report follows:

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, DC, September 8, 1986.

Hon. PETE V. DOMENICI,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the budget for fiscal years 1986 and 1987. The estimated totals of budget authority, outlays, and revenues for each fiscal year are compared to the appropriate or recommended levels contained in the most recent budget resolutions, S. Con. Res. 32 for fiscal years 1986, and S. Con. Res. 120 for fiscal year 1987. This report meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32 and is current through August 15, 1986. The report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended.

Since my last report the President has signed the Financial Assistance for the Northern Marianas Act, Public Law 99-396, the Omnibus Diplomatic Security and Anti-Terrorism Act, Public Law 99-399, the Children's Justice and Assistance Act of 1986, Public Law 99-401, and Public Law 99-384, increasing the limit on the public debt.

With best wishes,
Sincerely,

RUDOLPH G. PENNER.

CBO WEEKLY SCOREKEEPING REPORT FOR THE U.S. SENATE, 99TH CONGRESS, 2D SESSION AS OF AUGUST 15, 1986

[Fiscal year 1986, and in billions of dollars]

	Current level [1]	Budget resolution S. Con. Res. 32	Current level +/− resolution
Budget authority	1,053.0	1,069.7	−16.7
Outlays	980.0	967.6	12.4
Revenues	778.5	795.7	−17.2
Debt subject to limit	2,100.0	[2] 2,078.7	21.3

[1] The current level represents the estimated revenue and direct spending effects (budget authority and outlays) of all legislation that Congress has enacted in this or previous sessions or sent to the President for his approval. In addition, estimates are included of the direct spending effects for all entitlement or other programs requiring annual appropriations under current law even though the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[2] The current statutory debt limit is $2,111.0 billion.

CBO WEEKLY SCOREKEEPING REPORT FOR THE U.S. SENATE, 99TH CONGRESS, 2D SESSION AS OF AUGUST 15, 1986

[Fiscal year 1987, and in billions of dollars]

	Current level [1]	Budget resolution S. Con. Res. 32	Current level +/− resolution
Budget authority	636.2	1,093.4	−457.1
Outlays	737.3	995.0	−257.7
Revenues	845.6	852.4	−6.8
Debt subject to limit	2,100.0	[2] 2,322.8	−222.8
Direct loan obligations	20.4	34.6	−14.1
Guaranteed loan commitments	33.1	100.8	−67.7

[1] The current level represents the estimated revenue and direct spending effects (budget authority and outlays) of all legislation that Congress has enacted in this or previous sessions or sent to the President for his approval. In addition, estimates are included of the direct spending effects for all entitlement or other programs requiring annual appropriations under current law even though the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[2] The current statutory debt limit is $2,111.0 billion.

FISCAL YEAR 1986—SUPPORTING DETAIL FOR CBO WEEKLY SCOREKEEPING REPORT, U.S. SENATE, 99TH CONGRESS, 2D SESSION AS OF AUGUST 15, 1986

[In millions of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous sessions:			
Revenues			777,794
Permanent appropriations and trust funds	723,461	629,772	
Other appropriations	525,778	544,947	
Offsetting receipts	−188,561	−188,561	
Total enacted in previous sessions	1,060,679	986,159	777,794
II. Enacted this session:			
Commodity Credit Corporation Urgent Supplemental Appropriation, 1986 (Public Law 99-243)			
Federal Employees Benefits Improvement Act of 1986 (Public Law 99-251)		4	
VA Home Loan Guarantee Amendments (Public Law 99-255)		−51	
Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272)	−4,259	−6,001	765
Department of Agriculture Urgent Supplemental, 1986 (Public Law 99-263)			
Advance to Hazardous Substance Response Trust Fund (Public Law 99-270)			
FHA and GNMA Credit Commitment Assistance Act (Public Law 99-289)		−380	
Federal Employees Retirement Act of 1986 (Public Law 99-335)			−90
Temporary Extension of Certain Housing Programs (Public Law 99-345)		−304	
Military Retirement Reform Act (Public Law 99-348)	−25		
Urgent Supplemental Appropriations, 1986 (Public Law 99-349)	−3,508	475	
Panama Canal Commission Authorizing Act (Public Law 99-368)	18	16	
Total	−7,773	−6,240	675
III. Continuing resolution authority			
IV. Conference agreements ratified by both Houses			
V. Entitlement authority and other mandatory items requiring further appropriation action:			
Compact of free association	3	3	
Special benefits (Federal employees)	14	14	
Family social services	100	75	
Payment to civil service retirement [1]	(37)	(37)	
Total entitlements	118	93	
Total current level as of Aug. 15, 1986	1,053,024	980,012	778,469
1986 budget resolution (S. Con. Res. 32)	1,069,700	967,600	795,700
Amount remaining:			
Over budget resolution		12,412	
Under budget resolution	16,676		17,231

[1] Interfund transactions do not add to budget totals.

Note.—Numbers may not add due to rounding.

FISCAL YEAR 1987—SUPPORTING DETAIL FOR CBO WEEKLY SCOREKEEPING REPORT, U.S. SENATE, 99TH CONGRESS, 2D SESSION, AS OF AUGUST 15, 1986

[In millions of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous sessions:			
Revenues			843,799
Permanent appropriations and trust funds	733,558	647,692	
Other appropriations		195,861	
Offsetting receipts	−163,823	−163,823	
Total enacted in previous sessions	569,735	679,730	843,799
II. Enacted this session:			
Federal Employees Benefits Improvement Act of 1986 (Public Law 99-251)		2	
Technical Corrections Amendments to Food Security Act (Public Law 99-253)	50	50	
VA Home Loan Guarantee Amendments (Public Law 99-255)		49	
Food Security Improvements Act of 1986 (Public Law 99-260)	−115	−115	
White Earth Reservation Land Settlement Act of 1985 (Public Law 99-264)	10	10	
Consolidated Omnibus Budget Reconciliation Act of 1986 (Public Law 99-272)	155	−3,553	2,503
FHA and GNMA Credit Commitment Assistance Act (Public Law 99-289)		−178	
Federal Employees' Retirement System Act of 1986 (Public Law 99-335)	−150	−1,670	−666
Judicial Improvements Act (Public Law 99-336)	2		
Temporary Extension of Certain Housing Programs (Public Law 99-345)		−85	
Military Retirement Reform Act (Public Law 99-348)	−47	146	
Urgent Supplemental Appropriations, 1986 (Public Law 99-349)	−278	−914	
Panama Canal Commission Authorizing Act (Public Law 99-368)		2	

FISCAL YEAR 1987—SUPPORTING DETAIL FOR CBO WEEKLY SCOREKEEPING REPORT, U.S. SENATE, 99TH CONGRESS, 2D SESSION, AS OF AUGUST 15, 1986—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
Omnibus Diplomatic Security and Anti-Terrorism Attack Act (Public Law 99-399)	1	1	
Children's Justice and Assistance Act (Public Law 99-401)	10		
Total enacted this session	−362	−6,254	1,837
III. Continuing resolution authority			
IV. Conference agreements ratified by both Houses			
V. Entitlement authority and other mandatory items requiring further appropriation action:			
Payment to the CIA retirement fund	126	126	
Claims, defense	156	150	
Payment to the foreign service retirement trust fund [2]	(173)	(173)	
Range improvements	10	7	
BLM: Miscellaneous trust fund	([1])	([1])	
Compact of free association	42	42	
Administration of territories	35	30	
Payments to air carriers, DOT	32	30	
Retired pay—Coast Guard	370	341	
Maritime, operating-differential subsidies		297	
BIA: Miscellaneous trust funds	1	1	
Social services block grant	2,700	2,538	
Family social services	758	584	
Guaranteed student loans	3,219	2,580	
Higher education facilities loans and insurance	19		
Government payment for annuitants	1,459	1,301	
Retirement pay for PHS officers	83	81	
Medicaid	19,595	19,241	
Medical facilities guarantee and loan fund	20	19	
Payments to health care trust funds [2]	(20,826)	(20,826)	
Special milk program	16	11	
Child nutrition programs	4,212	3,791	
Federal unemployment benefits and allowances	103	102	
Advances to unemployment trust fund [2]	(9)	(9)	
Special benefits (general retirement and Federal employee retirement)	257	257	
Black lung disability trust fund	549	549	
Supplemental security income	7,846	7,846	
Special benefits for disabled coal miners	698	638	
Assistance payments	7,350	7,350	
Child support enforcement	599	583	
Payments to social security trust funds [2]	(501)	(501)	
Veterans insurance and indemnities	5	4	
Veterans readjustment benefits	750	723	
Veterans compensation	10,300	9,360	
Veterans pensions	3,684	3,385	
Veterans burial benefits	138	138	
Salaries of judges	104	103	
Fees and expenses of witnesses	46	37	
Compensation of the President	([1])	([1])	
Payment to civil service retirement trust fund [2]	(4,557)	(4,557)	
National wildlife refuge fund	6	6	
Military pay raises and benefits	1,566	1,539	
Total entitlements	66,855	63,793	
Total current level as of August 15, 1986	636,227	737,268	845,636
1987 budget resolution (S. Con. Res. 120)	1,093,350	995,000	852,400
Amount remaining:			
Over budget resolution			
Under budget resolution	457,123	257,732	6,764

[1] Less than $500 thousand.
[2] Interfund transactions do not add to budget totals.
Note.—Numbers may not add due to rounding.

CRIME AND PUNISHMENT IN MODERN AMERICA

● Mrs. HAWKINS. Mr. President, as the Members of this body know, the attention of the country is focused as never before upon the problem of drug abuse. Well before the media spotlight was aimed at the drug abuse problem, First Lady Nancy Reagan led the way in publicizing the dangers of drug use. The South Florida Task Force, which Vice President GEORGE BUSH established, is an example of the fine leadership the administration has shown in this area.

Sadly, drug abuse is but one aspect of an even larger problem: crime in America. The crime problem touches each American—the inner city grade school student, pressured by his peers to try marijuana, crack, and other drugs; the elderly woman who during the heat of August is too afraid of burglars to open her apartment window; the Wall Street broker who is pressured to look the other way while his clients and peers engage in insider trading. Crime in America saps our moral vigor and robs us of our hard-earned savings.

The Institute for Government and Politics will shortly publish a collection of essays entitled, "Crime and Punishment in Modern America," to which I have contributed an article outlining legislation that will contribute to our efforts to stem the rising tide of drug abuse in our Nation.

This essay, "Drugs and Crime: A Legislative Perspective," examines the scope and magnitude of drug-related crime in the United States and gives recommendations for immediate legislative action, designed to:

Stop drugs at the source;

Ensure existence of effective drug abuse education and prevention programs;

Increase interdiction efforts; and

Support local, State, and Federal drug law enforcement efforts.

I hope that my colleagues in both Houses will take the time to read "Crime and Punishment in Modern America," which is being released in just a few weeks. It is a timely work which presents a variety of views on a number of issues which will confront us in this legislative session—and on the campaign trail this fall. Among the contributors to "Crime and Punishment in Modern America," are Attorney General Edwin Meese, Senators STROM THURMOND, WILLIAM L. ARMSTRONG, SAM NUNN, and CHARLES E. GRASSLEY; Congressman JACK KEMP; former Gov. Peter du Pont of Delaware; the Honorable J. Clifford Wallace of the Ninth Circuit Court of Appeals; Patrick B. McGuigan, director of the Judicial Reform project; and Daniel J. Popeo, general counsel for the Washington Legal Foundation.

As this legislative session begins, we find ourselves at a crossroads. The American people are asking if the Congress has the courage to pass comprehensive legislation which will stem the rising tide of drug use. Polls show that Americans are willing to make the sacrifices necessary to rid our country of this plague. They demand action from us now; they will be watching this November. Let us give them this legislation, before the latest swell of drug abuse becomes a tidal wave which engulfs us all. As we confront the myriad issues of crime and punishment, this book will be an invaluable source of useful and innovative solutions.●

THE 1986 WHITE HOUSE CONFERENCE ON SMALL BUSINESS

● Mr. SASSER. Mr. President, during the Labor Day recess, small business leaders from across America gathered in Washington for the 1986 White House Conference on Small Business. From August 17-21, the delegates to the conference debated and voted upon a series of issues important to our small business community.

The delegates approved a list of 60 final recommendations which have been forwarded to each Member of Congress. These recommendations reflect the priority concerns of small firms across the country. I believe my colleagues would do well to pay particular attention to these recommendations in the weeks ahead.

The No. 1 recommendation, receiving 1,419 votes out of some 1,715 cast, is coming to grips with the continuing commercial liability insurance crisis. And I am very pleased to see that the delegates adopted a broad approach to this particular problem. Rather than focus on one or two aspects of this crisis, the delegates have propounded a comprehensive approach to this national problem.

Other priority issues of our small business leaders include a recommendation dealing with employee benefits, a call to protect small business from unfair competition from Government units and nonprofit organizations, a recommendation demanding action to reduce the Federal deficit, and a call for the creation of a new Cabinet-level Office of International Trade.

The entire list of recommendations coming out of the White House conference will help shape our legislative agenda for weeks to come. My colleagues will recall how the 1980 White House conference galvanized action on a wide variety of small business issues. I anticipate a similar course of action on these 60 recommendations. Indeed, as a member of the Small Business Committee, I am already reviewing this list closely.

Mr. President, I would be remiss if I failed to mention the central role

played by Tennessee's delegation to the 1986 White House Conference on Small Business. Under the able leadership of Bill Nourse, the Tennessee delegation played a vocal and active role in the many workshops which helped shape the issues considered by the full conference. The issues of greatest concern to the Tennessee delegation were among the top recommendations voted on by the full conference.

I had the privilege of meeting many members of the Tennessee delegation when they came to Washington several weeks in advance of the White House conference. The fact that these men and women would take time out from their various business ventures to attend a series of briefings in advance of the conference reflected admirably on their commitment to Tennessee's small business community. I was impressed with their ready grasp of issues of concern to them and their desire to learn about the legislative process. I came away from those meetings convinced that the Tennessee delegation would play a key role in the activities of the 1986 White House conference. The results of the conference have only confirmed my earlier belief.

Mr. President, I wish to congratulate not only the members of the Tennessee delegation, but all of those who attended the White House Conference on Small Business for a job well done. Their thoughts and recommendations will help shape the legislative landscape on many issues of national importance. In closing, I again urge my colleagues to carefully review the final recommendations of this important gathering.●

THE DILEMMA OF SOVIET JEWS

● Mr. WARNER. Mr. President, I ask my fellow colleagues to take a moment to contemplate the dilemma of the Soviet Jews.

Our forefathers founded the United States on the ideals of religious freedom and personal liberty.

While we enjoy these privileges, the Soviet Jews face imprisonment and harassment for trying to perpetuate their religion and culture.

Each year thousands of Soviet Jews express their desire to emigrate, yet they cannot rejoin their families outside the U.S.S.R.

Instead, they receive job dismissal, school expulsion, and public denouncement as traitors.

The Soviet Government has agreed to respect religious, cultural, and emigration freedoms in the Helsinki accord of 1975 and other international human rights agreements.

I urge the U.S.S.R. to stop this harsh treatment of Jews and to honor their commitment to human rights.●

KIWANIS CLUB OF ERIE, PA

● Mr. SPECTER. Mr. President, I wish to call the Senate's attention to the Kiwanis Club of Erie, PA, which celebrated its 70th anniversary on September 5, 1986.

The Kiwanis Club of Erie was formed on August 26, 1918. They are the second oldest club in Pennsylvania and the first to form in Erie.

Kiwanis is a service organization whose motto is "We Build." Their goals are to: Give primacy to human and spiritual values alike; provide fellowship; encourage the daily living of the Golden Rule; and promote higher social, business, and professional standards.

The Kiwanis' activities include giving assistance to youth and aged in the Erie community. Their past and current projects include: Involvement with 4-H Club; boys and girls summer camp; purchase of civil defense ambulance; Kiwanis-State Police Camp Cadet Program for boys and girls; Kiwanis Silent Club for hearing impaired children; Kiwanis Boy's Choir; scholarships for Erie high school seniors; and their own youth sponsored clubs, Circle K and Key Club.

I am sure my colleagues join me in commending the Kiwanis Club of Erie, PA, for their long and devoted service to the community.●

REHNQUIST SCHOOL SEGREGATION CONSTITUTIONAL AMENDMENT

● Mr. KENNEDY. Mr. President, this week, the Senate will begin consideration of the nomination of William H. Rehnquist to be the Chief Justice of the United States.

Over the weekend, after the close of the Judiciary Committee's hearings on the nomination, two memos proposing a constitutional amendment to legalize school segregation, written by Mr. Rehnquist while he was the Assistant Attorney General for the Office of Legal Counsel, came to light.

If the Rehnquist amendment had been proposed and adopted, it would effectively have nullified the Supreme Court's landmark decision in Brown versus Board of Education and would have permitted the continuation of deliberate racial segregation of the public schools in both the North and South.

This proposed constitutional amendment is another significant piece of evidence of Mr. Rehnquist's unremitting hostility to racial equality. He is an arch enemy of civil rights and unfit to be the Chief Justice of the United States. I ask that the Rehnquist memoranda, analyses by civil rights experts, and news reports about the memos be inserted in the RECORD at this point. I urge my colleagues to read these materials carefully before deciding how to cast their vote on this nomination.

The material follows:

[March 3, 1970]

MEMORANDUM FOR THE HONORABLE EGIL KROGH, JR., DEPUTY ASSISTANT TO THE PRESIDENT FOR DOMESTIC AFFAIRS

(Re Constitutional Amendment to Validate "Freedom of Choice" and "Neighborhood Schools")

1. *Description of Plans that are to be Validated.*

The words, "freedom of choice" and "neighborhood schools" do not arise in a vacuum but arise instead in the context of more than 15 years of litigation over what the Constitution does and does not permit local school boards to do when those boards deal with racially mixed student populations. *The critical issue in the South now,* which has in the past of course had in its schools a system of enforced segregation by race, *appears to be the "freedom of choice" plan,* whereunder a student is free to choose to attend some school or schools in the district other than the one to which he is initially assigned. *In the North, the critical issue* (though less in public focus at the moment than the issue of "freedom of choice" in the South.) *is that of de facto segregation, or the permissibility of neighborhood schools;* does the Constitution require a school district to take affirmative steps to achieve "racial balance" among its schools, even though the "imbalance" existing stems from residential segregation or other factors for which the school board is not responsible? Each of these two subjects is treated in greater detail below though the treatment is by no means exhaustive or compete.

(a) *"Freedom of Choice."* When the school board in Knoxville, Tennessee, sought to comply with the mandate of the Supreme Court of the United States in *Brown* v. *Board of Education,* it adopted a plan of geographic zoning for school attendance without regard to race, but it added to the plan a provision permitting a student whose race was in the *minority* in the school which he attended to transfer to any school in which his race was in the *majority.* This plan was attached by Negro plaintiffs, and in 1963 was held unconstitutional by the Supreme Court. *Goss* v. *Board of Education of Knoxville,* 373 U.S. (1963). The Court held that no *"official transfer plan or provision of which racial segregation is the inevitable consequence may stand under the Fourteenth Amendment."* 373 U.S. at 689. *The Court* specifically *reserved the question,* however, *of whether or not a transfer plan which was available to every student, regardless of the racial composition of his school, would be constitutional:*

"* * * We note that if the transfer provisions were made available to all students regardless of their race and regardless as well of the racial composition of the school to which he requested transfer they would have an entirely different case. Pupils could then at their option (or that of their parents) choose, entirely free of any imposed racial considerations, to remain in the school of their zone or to transfer to another." *Id.* at 687.

The Supreme Court obviously could have decided *Goss* on the very narrow ground that since race was a factor in determining whether or not a student had a right to transfer, and race as a criterion for classifying students had been invalidated by *Brown,* the transfer plan adopted in Knoxville

could not stand. However, by using the broader language—that no transfer plan "of which racial segregation is the inevitable consequence," the *Goss* opinion perhaps inadvertently led the way to much more sweeping pronouncements by the Court in the following years.

In 1968, the Supreme Court dealt with three transfer or "freedom of choice" plans which were available to *all* students within the district involved. In *Green* v. *County School Board of New Kent County*, 391 U.S. 430 (1968), and *Raney* v. *Board of Education*, 391 U.S. 443 (1968), both involved situations in which the school board had not fundamentally altered the earlier *de jure* structure which had segregated schools by race, but now allowed unlimited transfer by any student to another school in the district.

The Supreme Court in both cases held that the "freedom of choice" plan was unconstitutional in what must be described as a "muddy" opinion. The Court appears to have been impressed by the fact that geographic zoning would have more effectively ended segregation, as would a system of zoning in which one of the schools involved has been made entirely elemantary, and the other, entirely secondary. *The Court appears to be saying that where such methods are available, a heavy burden is on the school board to explain why it chose a system of attendance zoning which would not be likely to produce integration.* The facts of *Green* and *Raney* themselves are rather limited, but the opinion of the Court is sufficiently vague and general as to project the rationale beyond the facts. The problem is increased by the decision handed down at the same time in the case of *Monroe* v. *Board of Commissioners of the City of Jackson*, 391 U.S. 450 (1968). Here the school board had changed from the old *de jure* segregated system of attendance zoning to a genuinely geographical section which divided the city into three zones. Negroes were more heavily concentrated in the central zone than in the east or west zones, but there were some in all zones; there were likewise whites in all zones. A provision of the plan allowed any student to transfer to any other school in the district in which space was available. The result of the combined geographic zoning and transfer provisions was that the west school was almost entirely white, the central school was entirely Negro, and the east school was genuinely mixed.

The Supreme Court, again speaking through Justice Brennan, held this plan unconstitutional. The Court's opinion, relying heavily on the *Goss* case as it did (and remembering that *Goss* had specifically reserved this point) can only be described as disingenuous: The Court objected to the plan because it had the effect of "resegregating" these schools, apparently reasoning that a school board which once had *de jure* segregation must pick the plan *most likely* to achieve integration, even though another school board would be perfectly free to choose a racially neutral plan which resulted in *"de facto"* segregation of some of the schools within a district.

It is apparent from the foregoing discussion that "freedom of choice" plans may vary from one another, *It would be quite possible to provide in a constitutional amendment that freedom of choice available to all students aimiflarly situated (without regard to race) should be valid,* but that a plan depending upon the racial composition of the school to trigger the transfer right (such as was involved in *Goss*) should remain invalid under the Fourteenth Amendment. If the constitutional amendment in question is to be urged on what seem to me to be the very tenable grounds that schools ought to be able to apply racially neutral principles in assigning pupils or otherwise classifying them, it is probably better that it limit itself to validation of the type of freedom of choice plans used in *Monroe, Green,* and *Raney* and not attempt to revive the type of plan used in *Goss.* On the other hand, if one wishes to go all the way with freedom of choice, an amendment of broader scope could be drafted.

(b) Many school districts, south and north, applying geographic attendance zoning, nonetheless end up with large concentrations of Negroes or other racial minorities in one or two schools in the district, and only a small sprinkling of these racial minorities in other schools of the district. Frequently such "racial imbalance" results from various forms of residential segregation, or other factors over which the school board has no control. It has been contended in various cases throughout the United States in the past decade that *"de facto"* segregation, characterized by "racial imbalance", is itself violative of the equal protection clause of the Fourteenth Amendment. The lower federal courts have divided in their answer to this question, and no case involving it has been decided by the Supreme Court of the United States. In the course of litigating this issue, however, subsidiary and related issues have been developed in some of the cases. The United States Court of Appeals for the Seventh Circuit, in *Dell* v. *School Board of Gary, Indiana*, 324 F.2d 209 (7th Cir., 1963), and the United States Court of Appeals for the Tenth Circuit in *Downs* v. *Board of Education*, 336 F.2d 988, have both held that *"de facto"* segregation does not violate the Fourteenth Amendment. In each case, the Supreme Court of the United States denied certiorari: 377 U.S. 924; 380 U.S. 914. On the other hand, the United States District Court for the District of Massachusetts, in *Barksdale* v. *Springfield School Committee*, 237 F.Supp. 543 (1965) held that the neighbor/school policy "must be abandoned or modified when it results in segregation in fact." Other federal district courts, either in holding or in *dicta*, have adopted the same position.

Therefore, while *there is no authoritative final judicial holding from the Supreme Court that neighborhood schools or "de facto" segregation violate the Fourteenth Amendments, there is likewise no solid body of judicial authority from the lower courts holding to the contrary.* In view of what appears to be a large body of public support for the idea of neighborhood schools, free from the supervision by the federal courts, *it would appear to be sound policy to couple with any amendment validating "freedom of choice" plans a related provision validating "neighborhood school" plans.*

2. *Should validation of plans be done by constitutional amendment or by statute?* There are arguments pro and con on this point, but I believe that once the decision is made to validate them, *the arguments in favor of doing it by a constitutional amendment heavily preponderate.*

(a) The subject is a sufficiently detailed and specialized one that it ought not be the subject of a constitutional amendment. This argument certainly must be given some weight, but its import depends largely on how detailed the proposed validation is to be. If one were to go on for several pages describing the exact responsibilities of federal courts, school boards, and the like, it would of course be ridiculous to put in the form of a constitutional amendment. However, if one were to state principles in one or two paragraphs, such a statement would be quite consistent with other constitutional amendments that have been adopted.

Embodiment of the validation in a statute would invite unnecessary detail and would likewise invite frequent reopening of heated debates on the subject. To the extent that the validation or partial validation of these plans turns into a detailed catalogue of what school boards may and may not do in particular situations, it has the collateral effect of inserting federal courts still further into the business of operating schools, rather than at least partially withdrawing them from that business. Likewise, what is validated by statute may likewise be invalidated by repeal or amendment of the statute, and the temptation would be constant, in a subject as controversial as this, to at least argue about reopening the debate or amending the statute in every session of Congress.

(b) Any statute (like most constitutional amendments) will involve compromise and some concession by a wide spectrum of public opinion; some will feel the statute validates less than they would like in the way of local school autonomy, while others will doubtless feel that it grants more than it should in the way of such autonomy. Unfortunately, from a constitutional point of view, as stated by Alex Bickel in our conversation on Sunday, the political "left" cannot deliver its vote in the same manner as the political "right" can, since any member of the political "left" has available to him a court challenge to those parts of the measure which he does not like on the grounds that they violate the Fourteenth Amendment. The basis for a congressional authority over the subject is the power granted under the Fourteenth Amendment to enforce the terms of the amendment by appropriate legislation; however, in *Katzenbach* v. *Morgan*, 384 U.S. 641, the majority noted in a footnote that while Congress could by legislation enlarge rights conferred by the Fourteenth Amendment, it could not circumscribe those rights by legislation. Since any significant validation of "freedom of choice" would clearly impinge on the court's opinion in *Monroe*, it is questionable whether the validation provisions of any statute would withstand constitutional attack.

(c) *Precedents are ample for constitutional amendments which overrule a particular holding of the Supreme Court of the United States—the Twelfth Amendment, overruling the Supreme Court's decision in Chisholm* v. *Georgia, and the Sixteenth Amendment, overruling the Court's decision in Pollack* v. *Farmers Loan and Trust,* are but two examples.

3. *What should be the coverage of the validating provision?*

Several possible limits to the constitutional validation of these plans suggest themselves, from the narrowest to the broadest.

(a) *The validation could be limited to simply removing from the Federal Constitution any prohibition against "freedom of choice"* or *neighborhood school plans of school attendance.* The result of this limitation would be that Congress, to the extent of its constitutional power, would be authorized to prohibit or curtail such plans, and states or local governments would likewise

be free to choose them or reject them as they saw fit.

(b) The *middle ground* would be *to validate them so far as the federal government was concerned—to state that not only the Constitution does not prohibit them, but that Congress should have no power to prohibit or curtail them*—leaving to the states and local governments the option to adopt or reject them as they saw fit.

(c) The broadest reach of the validation provision would be *to in effect guarantee to each local school board the right to adopt a freedom of choice plan or a neighborhood school plan, regardless of any contrary legislation on the part not only of Congress but of state legislatures.*

Since the Republican Party has traditionally favored local control on matters such as schools, it seems to me that the breadth of this last proposal is undesirable. I also have some doubt as to whether one would want to disable Congress from addressing itself to this subject at some future date, although the choice between the first two possibilities appears to be a rather close one compared to the choice between either of them and the third.

WILLIAM H. REHNQUIST,
Assistant Attorney General,
Office of Legal Counsel.

Section 1. No provision of the Constitution shall be construed to prohibit the United States, any State, or any subdivision of either, from *assigning persons to its educational facilities on the basis of geographic boundaries,* provided only that such boundaries are reasonably related to school capacity, availability of transportation, safety or other similar considerations.

Section 2. No provision of the Constitution shall be construed to prohibit the United States, any States, any State, or any subdivision of either, from permitting persons to *transfer voluntarily* among its educational facilities, provided only that such transfers are uniformly available to all persons within its jurisdiction.

[March 5, 1970]

MEMORANDUM FOR THE HONORABLE EGIL KROGH, JR., DEPUTY ASSISTANT TO THE PRESIDENT FOR DOMESTIC AFFAIRS

(Re: Supplemental Comments: Constitutional Amendment, Together with Second Draft of Proposed Article 26)

I enclose a revised draft of the proposed constitutional amendment which you had earlier requested.

The second draft differs from the first draft in that section 2 has been lengthened to make clear that "freedom of choice" plans are to be protected in two different situations—(a) where all persons within a school district have the right to transfer, or (b) where the right of transfer is accorded to less than all persons on a basis related to school capacity, availability of transportation, availability of curriculum, safety, or similar non-racial considerations. The second draft also makes clear that the "freedom of choice" protection extends not only to plans calling for transfers on the basis of freedom of choice, but also to those which call for initial assignment on the basis of freedom of choice.

I wish to supplement my earlier memorandum with an additional observation as to the problem with which we seek to deal, and some of its manifestations. There has been traditionally thought to be a rather sharp line dividing "de jure" segregation from "de facto" segregation, and it is commonly accepted that although most "de jure" segregation is in the South, there are scattered examples of it in the North. If "de jure" segregation is taken to mean that imposed by law, it could conceivably cover any of three different situations, depending on how broadly one wishes to take the definitional language:

(a) statute or school board regulation which by its terms requires all blacks to go to one set of schools, and all whites to another set of schools. This is the type of school system which prevailed in the South prior to the decision of the Supreme Court of the United States in *Brown* v. *Board of Education* in 1954; it is the classical type of "de jure" segregation, and is largely now abandoned throughout the South and really has not been employed in the North (apart from the so-called border states) for a long time.

(b) The "gerrymander" in which the governing school regulation speaks in terms of geography, but in fact the district is carved up in such a way that one can tell merely by the way the lines are drawn that the basis for drawing them was race, or some other consideration external to school administration.

(c) The system which may prevail in some northern communities, whereby a perfectly rational system of geographic attendance zones is established, which are perfectly justifiable in terms of administrative considerations, and yet which were adopted by the local school board at least partly because they would make some schools largely white, and others largely black.

The courts have been by no means clear in distinguishing between these three different types of segregation which might fall under the brand definition of "de jure", but I think that in drafting a constitutional amendment one must consider the broadest possible definition as well as the narrower one. Section 1 of proposed Article 26 is designed to avoid validating types (a) and (b), which are the classical situations referred to by the term "de jure", but to validate type (c). The argument against validating the type of system described in (c) is that if it was adopted with a motive or partial motive of separating the races in the schools, it is "tainted" under the general principle of *Brown* and should be cast out. The arguments contrary, which I believe to be more weighty are basically practical ones; it is simply not feasible to try, as an issue of fact in a law suit, the intent of a multi-member school board in adopting one districting plan as opposed to another. If one were to make intent critical, it is conceivable that a district court could find a zoning plan of one city invalid under the Fourteenth Amendment, whereas a district court in the next state might find an identical zoning plan of an identical city valid on identical facts, giving the usual latitude to the trier of fact in assessing intent. This is simply not the way to "run a railroad"; and the principle decisions dealing with de lure segregation in the North have tended to go on the basis that a particular decision as to zoning could only have resulted from racial considerations.

Section 1 in effect substitutes the classical due process "rational connection" test for a test of actual intent of the various school board members. If the zoning plan adopted bears a reasonable relationship to educational needs—if fair-minded school board members could have selected it for non-racial reasons—it is valid regardless of the intent with which a particular school board may have chosen it. The result is to give some certainty to school boards, and not make every zoning attendance plan in a multi-racial school district depends on how the local federal district judge sizes up the state of mind of the various school board members.

WILLIAM H. REHNQUIST,
Assistant Attorney General,
Office of Legal Counsel.

[Second Draft, March 4, 1970]

PROPOSED ARTICLE 26

Section 1. No provision of the Constitution shall be construed to prohibit the United States, any State, or any subdivision of either, from assigning persons to its educational facilities on the basis of geographic boundaries, provided only that such boundaries are reasonably related to school capacity, availability of transportation, safety or other similar considerations.

Section 2. No provision of the Constitution shall be construed to prohibit the United States, any State, or any subdivision of either, from permitting persons to choose or transfer voluntarily among its educational facilities, provided only that the opportunity to choose or transfer is available either to all persons within its jurisdiction or to any eligible person, when standards of eligibility are reasonably related to school capacity, availability of transportation, availability of curriculum, safety or other similar considerations.

ANALYSIS OF PROPOSED REHNQUIST AMENDMENT

(By William Taylor)

I. INTRODUCTION

In March 1970, William Rehnquist, as Assistant Attorney General in charge of the Office of Legal Counsel, wrote two memoranda to the Nixon White House proposing an amendment to the Constitution which would have sharply curtailed the powers of federal courts to remedy unlawful segregation of the public schools. The Rehnquist memo states that it is submitted in response to a request from Egil (Bud) Krogh, Jr., a White House assistant to John Erlichman.

Rehnquist's proposal, if it had become law, would effectively have nullified the Supreme Court's landmark decision in *Brown v. Board of Education* (347 U.S. 483) and would have permitted the continuation of deliberate racial segregation of the public schools by state and local officials in both the North and the South.

It is important to note that Rehnquist's amendment was not intended as an "anti-busing" proposal, i.e., one which would limit the use of a particular remedy for segregation. The amendment was proposed a year before the Supreme Court in the Swann case validated the use of busing as a tool for desegration and nowhere in his memo does Rehnquist mention "busing" as the issue. Rather, the memo is a straight-out pro-segregation proposal explicitly designed to legitimate deliberate racial segregation.

II. THE REHNQUIST AMENDMENT

Rehnquist's proposal for a 26th Amendment to the Constitution, as contained in a "second draft" on March 5, 1970, consists of two independent sections. Section I deals with "geographic" assignments to public schools and Section 2 deals with "freedom of choice." They will be analyzed in reverse order.

A. Freedom of choice

Section 2 reads as follows:

No provision of the Constitution shall be construed to prohibit the United States, or any State, or any subdivision of either from permitting persons to choose or transfer voluntarily among its education facilities, provided only that the opportunity to choose or transfer is available either to all persons within its jurisdiction or to any eligible person, when standards of eligibility are reasonably related to school capacity, availability of transportation, availability of curriculum, safety or other similar consideration.

To explicit purpose of this amendment was "validation of the type of freedom of choice plans used in Monroe, Green, and Raney," [1] three recent Supreme Court decisions that had determined that the plans were constitutionally inadequate remedies because they did not result in desegregation of the public schools.

In the mid 1960's "freedom of choice" plans were the last weapon left in the arsenal of massive resistance in the South. Under such plans, white and black parents were offered a choice of public schools in which their children could be enrolled. If they did not exercise their option to "transfer," their children would continue to be assigned to their previously racially segregated schools. Few white parents chose to enroll their children in previously all black schools. Many black parents did not exercise the transfer option either. In 1967, after an investigation, the U.S. Commission on Civil Rights found that among the factors which deterred transfer were "a fear (by black citizens) of retaliation and hostility from the white community," "actual violence, threats of violence and economic reprisal by white parents" in some areas of the South during the 1966–67 school year, and improper influence by public officials on black families.[2]

Freedom of choice was a very effective device in limiting school desegregation. In the 1964–65 school year, 10 years after the Brown decision and in the year that the Civil Rights Act of 1964 was enacted, only 2 black children in 100 in the 11 states of the Deep South were attending public school with whites. In 1968–69, after HEW in enforcing Title VI of the Civil Rights Act had declared that freedom of choice was impermissible unless it produced desegregation and right after the Supreme Court's decision to the same effect, 1 black child in 5 in the Deep South was attending school with whites. By 1972–73 when the Green decision had become fully effective almost half (46.3 percent) of black children were in desegregated schools.

Rehnquist's proposed constitutional amendment would have returned the South to the old order with only a handful of courageous black families standing as exceptions to the general regime of segregation. It is true that Rehnquist was ready to place a limit on his effort to legitimate freedom of choice plans. His memo suggests that it might not be prudent to "revive the type of plan used in [the] Goss [case]," a plan under which students were allowed to transfer only if they were in the minority race in the school to which they were assigned.

Rehnquist had no problem, however, in reviving a Green-type freedom of choice plan—a school district with only two schools, one which remained all black after the plan was instituted and the other almost all white, a district where any kind of geographic plan would have resulted in substantial desegregation (in fact, busing was being used to maintain segregation). And despite the explicit racial character of Goss-type plans, Rehnquist was amenable to reviving them as well, stating that "if one wishes to go all the way with freedom of choice, an amendment of broader scope could be drafted." [3]

B. Geographic assignment

Section 1 of the Rehnquist amendment reads as follows:

No provision of the Constitution shall be construed to prohibit the United States, any State, or any subdivision of either from assigning persons to its education facilities on the basis of geographic boundaries, provided only that such boundaries are reasonably related to school capacity, availability of transportation, safety or other similar considerations.

While on first reading, this provision may seem fairly innocuous, Rehnquist makes it plain in his memos that it is drafted to permit school boards to adopt geographic assignment plans that are consciously designed to segregate black and white students.

Rehnquist acknowledges that there is an argument against validating a geographic assignment system that was adopted by a school board "at least partly because they would make some schools largely white and others largely black." The argument, he says, is that such a system "is 'tainted' under the general principle of Brown and should be cast out." But, Rehnquist says, there are "more weighty" arguments on the other side, basically that "the intent of a multi-member school board" is difficult to determine and that an intent test could lead to different results in different jurisdictions.[4]

So, what Rehnquist arrives at is neither an intent test nor an effects test, but a "rational connection" test that would allow school boards very wide latitude to engage in all kinds of racially discriminatory schemes. He puts it this way:

If the zoning plan adopted bears a reasonable relationship to educational needs—if fair-minded school board members *could have selected it for non-racial reasons*—it is valid *regardless of the intent* with which a particular school board may have chosen it.[5]

The impact of the Rehnquist amendment would have been devastating. In the North, the amendment would anticipatorily have prevented the rulings of the Supreme Court in the Denver, Columbus, and Dayton cases that intentionally segregative actions by school boards violated the 14th Amendment even where there was no official policy of segregation. (These were all rulings from which Justice Rehnquist strongly dissented.) The Rehnquist amendment would have allowed a school board to deliberately select sites for schools in the heart of black neighborhoods, draw attandance zones to assure that the schools would be black and then justify its actions on grounds that a "fair-minded" school board "could have" adopted that type of plan for non-racial reasons.

In addition, the Rehnquist amendment would have allowed a school board to add mobile classrooms to overcrowded black schools rather than transfer students to nearly white schools that were under-enrolled. This would occur even if the president of the school board, in proposing the action said, "We must find a way to keep the niggers ' their own schools." Under the Rehnquist .mendment, the school board president's statement would be legally irrelevant because the use of mobile classrooms in geographic attendance zones is in some circumstances a standard technique "reasonably related": to dealing with problems of "school capacity."

If, in the North, the Rehnquist amendment would have barred whites from finding racially discriminatory schemes violative of the Constitution, in the South, it would have sanctioned racially discriminatory remedies for official segregation. A school board that for more than half a century had run a state-sanctioned racially dual school system could simply, with malice aforethought, substitute a racially discriminatory "geographic attendance" or "freedom of choice" plan and continue with very little change.

III. WHY REHNQUIST WANTED A CONSTITUTIONAL AMENDMENT RATHER THAN A STATUTE

Some might say that in recommending that the Nixon Administration might proceed to curtail 14th Amendment rights by constitutional amendment rather than statute, Rehnquist was taking the responsible course, i.e., not tampering with the separation of powers. But the reasons stated by Rehnquist are far less elevated. He was concerned that if his proposals were put in statutory form they could well be ruled unconstitutional by the Supreme Court (". . . (A)ny Member of the political 'left' has available to him a court challenge . . ." "It is questionable whether the validation provisions of any statute would withstand Constitutional attack.")[6]

Moreover, Rehnquist says, passage of a constitutional amendment would insulate his proposals from easy change ("Likewise, what is validated by statute may be invalidated by repeal or amendment of the statute.") [7]

In short, Rehnquist wanted a constitutional amendment because he wanted to work foundamental and permanent change in the 14th Amendment.

IV. CONCLUSION

The implications of the Rehnquist amendment go far beyond the text of the amendment itself, as drastic as that is. Rehnquist clearly wanted to make fundamental changes in 14th Amendment jurisprudence. Even in the years when *Plessy* was still the law, the Supreme Court had set down some basic principles for the protection of black people. It had said that statutes that operate to discriminate violated equal protection even if they were not discriminatory on their face. (Yick Wo v. Hopkins) It had said that the Constitution requires the nullification of discriminatory schemes whether they are "ingenious or ingenuous, sophisticated or simple-minded" (Lane v. Wilson). It had said that racial classifications, explicit or implicit, were suspect and subject to the strictest scrutiny.

Rehnquist's amendment would have violated all those principles. It would have validated laws that operated to discriminate. It

[1] Rehnquist March 3 memo, p. 4.

[2] USCCR report cited in *Green v. County School Board of New Kent County*, 391 U.S. 430, 440 n.5 (1968). The Supreme Court did not adopt or reject the Civil Rights Commission findings. Rather than hinging the validity of freedom of choice plans on the presence or absence of physical or economic threats (which would have set off a new, time consuming round of litigation throughout the South), the Court chose the simpler gauge of whether the plan actually produced desegregation.

[3] Rehnquist March 3 memo, p. 4.

[4] Rehnquist March 5 memo, pp. 2–3.

[5] Rehnquist March 5 memo, p. 3.

[6] Rehnquist March 3 memo, p. 7.

[7] Id. at p. 6.

would have sanctioned discrimination as long as it was "sophisticated" rather than "simple-minded." And it would have used the loosest test of constitutionality—the "rational connection" test, one that had never been used where racial discrimination was at stake.

The great purposes for which the 14th Amendment was adopted to secure equal treatment under law for the newly emancipated slave would have been impaired by Rehnquist's amendment, perhaps forever.

It is not clear from the memo itself whose idea it initially was to attack school desegregation. But it is clear that in William Rehnquist, the Nixon Administration had an architect without peer—one who would tear down the newly built structure of equality and rebuild the old one of racism.

ANALYSIS OF PROPOSED REHNQUIST AMENDMENT

(By Eric Schapper)

"FREEDOM OF CHOICE" PLANS

"Freedom of choice" was in 1970 the primary technique adopted by southern officials to segregate the public schools. In the wake of *Brown* v. *Board of Education* many segregated school districts in the south adopted so-called "freedom of choice" plans. This approach marked a reversal of the normal educational practice of assigning students to specific schools, and was taken by school boards for the purpose of preserving segregation. Freedom of choice plans were overwhelming successful as methods to preserve segregation in the public schools. White parents refused to transfer their children to schools attended by blacks, and black parents were generally afraid to transfer their children to white schools. Harassment of the few black children who sought to attend white schools was widespread. U.S. Commission on Civil Rights, "Survey of School Desegregation in the Southern and Border States 1965-66," pp. 35-41, 51-52. Under freedom of choice plans across the south less than 1% of blacks ever attended schools with any whites. *Id.*, p. 30.

In 1968 the Supreme Court unanimously held in three decisions that the use of freedom-of-choice plans was unconstitutional where they resulted in continued segregation of the public schools. *Green* v. *School Board of New Kent County*, 391 U.S. 430 (1968); *Raney* v. *Board of Education of Gould School District*, 391 U.S. 443 (1968); *Monroe* v. *Board of Commissioners of City of Jackson*, 391 U.S. 450 (1968). The Supreme Court noted that in one of these cases school officials frankly conceded the plan was adopted to assure continued segregation of the races. *Monroe* v. *Board of Commissioners*, 391 U.S. at 459. Under the freedom of choice plans in *Green*, *Raney*, and *Monroe* no white children opted to attend school with blacks, and only a handful of black children dared to attend white schools.

The Rehnquist proposal to constitutionalize freedom of choice was intended to preserve, not limit, the busing of school children. Because blacks and whites in rural southern counties frequently lived in the same neighborhoods, the operation of segregationist freedom of choice plans often resulted in the massive busing of students out of the neighborhoods in which they lived:

"The vehicles traveled long distances to carry Negro children past white schools to Negro schools, and white children past Negro schools to white schools."

U.S. Commission on Civil Rights, "Racial Isolation in the Public Schools," v. 1, p. 68. (1967). *Green*, was just such a case in which massive busing was used to preserve segregation under freedom of choice.

"There is no residential segregation in the country; persons of both races reside throughout. . . . The record indicates that . . . school buses . . . travel overlapping routes throughout the county to transport pupils to and from the . . . schools."

391 U.S. at 432.

"[H]ere the Board, by separately busing Negro children across the entire county to the "Negro" school, and the white children to the "white" school, is deliberately maintaining a segregated system.'

391 U.S. at 442 n. 6. In *Green* it was the civil rights plaintiffs who urged a return to neighborhood schools, and the proponents of freedom-of-choice that favored continued busing.

The Rehnquist Amendment would have overruled *Brown* and its progeny in two critical respects. First, the Amendment would have rendered freedom-of-choice plans constitutional regardless of the purpose for which they were adopted. This proposal to immunize the motives of school officials from judicial scrutiny was of considerable importance, since in many cases, including both *Green* and *Monroe*, those motives were clearly racial. Second, the Amendment would have relieved southern school officials of any obligation to desegregate the public schools once a freedom-of-choice plan was adopted. Had such a constitutional amendment been ratified, the public schools in the south would be virtually as segregated today as they were prior to *Brown*.

GERRYMANDERING OF ATTENDANCE ZONES

As of 1970 racial gerrymandering of school attendance zones was the primary method utilized by northern officials to segregate the public schools in that region. In 1967 the U.S. Commission Civil Rights concluded:

"In determining such discretionary matters as the location and size of schools, and the boundaries of attendance zones, the decisions of school officials may serve . . . to intensify . . . racial concentrations . . . [D]ecisions by school officials in these areas frequently have had the effect of reinforcing racial separation of students."

"Racial Isolation in the Public Schools," v. 1, p. 202. The Commission's report contained a detailed discussion of instances of international racial gerrymandering of attendance zones. *Id.* at 42-51.

As of 1970 it was clear that such intentionally discriminatory conduct was unconstitutional, and the federal courts had repeatedly invalidated such racist schemes *Clemons* v. *Board of Education*, 228 F. 2d 853 (6th Cir.), *cert. denied*, 350 U.S. 1006 (1956); *Taylor* v. *Board of Education*, 191 F. Supp. 181 (S.D.N.Y.), *aff'd* 294 U.S. 940 (1961); *Wheeler* v. *Durham City Board of Education*, 346 F.2d 768 (4th Cir. 1965); *Evans* v. *Buchanan*, 207 F. Supp. 820 (D. Del. 1962); *Northcross* v. *Board of Education*, 333 F.2d 661, 663 (1964); *Monroe* v. *Board of Commissioners*, 244 F. Supp. 353 (W.D. Tenn. 1965); *Webb* v. *Board of Education*, 223 F. Supp. 466, 468-69 (N.D. Ill. 1963).

The Rehnquist Amendment was expressly intended to overturn these decisions, and to overrule *Brown* insofar as that case forbade intentional racial gerrymandering to segregate the public schools. The Amendment forbade racial gerrymandering in some extremely blatant cases, but the existence of a racist motive would itself have been entirely permissible. With that exception, a deliberate return to separate-but-equal school would have been permitted by the Rehnquist plan to the extent that segregation could be achieved by international racial discrimination in the drawing of school attendance zones.

[From the Los Angeles Times, Sept. 7, 1986]

REHNQUIST PLAN SOUGHT HALT OF DESEGREGATION

(By David G. Savage)

WASHINGTON.—Chief Justice-designate William H. Rehnquist, while a top attorney in the Nixon Administration, drafted a proposed constitutional amendment that would have halted the desegregation of the nation's public schools.

Rehnquist's plan, evidently prepared at the request of the White House in 1970 but never publicly proposed, sought to overturn Supreme Court rulings in the late 1960s that brought about desegregation in the South. The amendment also would have halted busing for desegregation in the rest of the nation.

NOT PREVIOUSLY RELEASED

In a memo accompanying the proposal, Rehnquist says his amendment would stop federal courts from interfering even if local officials set up school attendance boundaries "with a motive of partial motive of separating the races in the schools."

The memo and the proposed amendment, made available to The Times on Saturday, were not included in material released to the Senate last month by the Justice Department.

Veteran civil rights attorney William Taylor said Saturday that the proposed amendment, if adopted, would have "effectively nullified" the Supreme Court's landmark desegregation decision in the 1954 case of Brown vs. Board of Education "and preserved segregated schools."

Eric Schnapper, an attorney for the NAACP Legal Defense Fund, called the memo "a smoking gun * * * which confirms everybody's worst fears about his views on racial segregation."

But Justice Department spokesman Terry Eastland downplayed the memo. "I don't see much that's new in this. The civil rights groups are pulling out all the stops, but I don't see any reason why this will change any vote one way or the other," Eastland said.

The Senate begins debate this week on Rehnquist's nomination as chief justice. Although civil rights groups and some Senate Democrats have bitterly opposed President Reagan's choice of Rehnquist to lead the high court, his supporters have been confident that he will win confirmation with a solid majority.

Under the constitutional revision drafted by Rehnquist, then an assistant attorney general in the Justice Department's Office of Legal Counsel, school officials would be immune from federal court suits if they assigned children to schools in their neighborhood or if they permitted them a "freedom of choice" among schools.

In 1968, a unanimous Supreme Court, frustrated by Southern resistance to desegregation, struck down a "freedom of choice" plan in Virginia. Although said to be a remedy for official segregation, the court concluded that "freedom of choice" was actually a dodge for it, because white parents were permitted to bus their children to the

one predominantly white school in the county.

PROVIDES CRITERIA FOR CHOICE

Rehnquist's proposal, dated March 4, 1970, would have revised the Constitution so courts could not prohibit plans from "permitting persons to choose or transfer voluntarily among its educational facilities, provided only that the opportunity . . . is available to all persons within its jurisdiction or to any eligible person" whose numbers could be limited by "school capacity, availability of transportation, safety or other similar considerations."

Another part of the proposed Article 26 of the Constitution would have declared legal any school plans that assign "persons to its educational facilities on the basis of geographic boundaries, provided only that such boundaries are reasonably related to school capacity, availability of transportation safety or other similar considerations."

Rehnquist's memo was sent to Egil Krogh Jr., then a deputy assistant to President Richard M. Nixon for domestic affairs. His proposal did not endorse de jure segregation, "the type of school system which prevailed in the South prior to the decision of the Supreme Court in Brown vs Board of Education in 1954," Rehnquist noted. Before this decision, black students were sent by law to all-black schools, and white students were assigned to all-white schools.

GEOGRAPHIC ATTENDANCE ZONES

Neither would it support a "gerrymander" of school boundaries where a "district is carved up in such a way that one can tell merely by the way the lines are drawn that the basis for drawing them was race," Rehnquist wrote.

However, he wrote, school officials may have set up a "perfectly rational system of geographic attendance zones" that are "perfectly justifiable * * * and yet which were adopted by the local school board at least partly because they would make some schools largely white and others largely black."

Rehnquist continued: "The argument against validating the type of system described (above) is that if it was adopted with a motive or partial motive of separating the races in the schools, it is 'tainted' under the general principle of Brown and should be cast out. The arguments contrary, which I believe to be more weighty, are basically practical ones."

Courts should not be asked to discern the "intent of a multimember school board in adopting one districting plan as opposed to another," he argued.

"If the zoning plan adopted bears a reasonable relationship to educational needs—if fair-minded school board members could have selected it for non-racial reasons—it is valid regardless of the intent which a particular school board may have chosen it," Rehnquist concluded.

SEPARATING BLACKS, WHITES

Schnapper, a civil rights lawyer, said the Rehnquist proposal "makes it crystal clear that intentional segregation by government officials ought to be permitted."

After 1971, federal courts throughout the nation ordered desegregation when school boards were found to have juggled attendance zones or built new schools in a way that tended to separate black and white children.

Rehnquist's proposal was "a well-thought-out plan to overrule the Brown decision," Schnapper said. "He had one part to facilitate segregation in the North through gerrymandering and another part to facilitate it in the South through freedom of choice. This is also absolutely consistent with the view expressed in the memo to Justice (Robert H.) Jackson."

In a controversial memo written in 1952, Rehnquist, then a Supreme Court law clerk for Jackson, said the "separate but equal" doctrine of racial segregation enunciated in 1896 was "right." In his confirmation hearings in 1971 and again this year, Rehnquist has maintained that the views expressed were Jackson's, not his.

JUSTICE REFUSES COMMENT

Rehnquist, contacted Saturday through Supreme Court spokeswoman Toni House, refused to comment on the newly disclosed memo.

In 14 years on the high court, Rehnquist has repeatedly dissented from decisions in favor of desegregation or affirmative action, saying that the Constitution requires "racially neutral" actions. In 1973, in his second year on the court, Rehnquist filed a lone dissent against a desegregation order for Denver, saying that the Constitution does not "require school boards to affirmatively undertake to achieve racial mixing in the schools."

Eastland of the Justice Department defended the 1970 memo, saying: "There were a lot of questions unsettled then. This would not have been an extreme or unusual position. There was also a lot of anti-busing sentiment in the country that helped elect Richard Nixon."

TEXT OF THE PROPOSED AMENDMENT

Following is the text of the second (and apparently final) draft of a proposed constitutional amendment on school desegregation drafted in 1970 when William H. Rehnquist was assistant attorney general in charge of the Office of Legal Counsel.

PROPOSED ARTICLE 26

Section 1. No provision of the Constitution shall be construed to prohibit the United States, any State, or any subdivision of either, from assigning persons to its educational facilities on the basis of geographic boundaries, provided only that such boundaries are reasonably related to school capacity, availability of transportation, safety or other similar considerations.

Section 2. No provision of the Constitution shall be construed to prohibit the United States, any State, or any subdivision of either, from permitting persons to choose or transfer voluntarily among its educational facilities, provided only that the opportunity to choose or transfer is available to all persons within its jurisdiction or to any eligible person, when standards of eligibility are reasonably related to school capacity, availability of transportation, safety or other similar considerations.

[From the Washington Post, Sept. 8, 1986]

REHNQUIST AND JUSTICE

(By Dorothy Gilliam)

In an article in the New York Times in 1985, Supreme Court Justice William Rehnquist said "I don't think that my views have changed much from the time" when he was a law clerk to Justice Robert H. Jackson in the early 1950s. That may be exactly the problem with Justice Rehnquist. He hasn't changed over the years.

The Senate Judiciary Committee voted 13 to 5 last month, after lengthy hearings, to approve Justice Rehnquist's nomination as chief justice of the United States.

Sometime this week the full Senate will take up Justice Rehnquist's nomination to an office that would make him guardian of our traditions of rule of law and equal justice for all.

The Senate should reject Justice Rehnquist, not because of his conservative ideology, but because he has displayed a consistent hostility to equal justice under law in three interrelated areas—commitment to the principles of nondiscrimination, enforcement of the Bill of Rights and enforcement of civil rights statutes.

Setting out his early views regarding discrimination in several memoranda that he wrote for Justice Jackson during his clerkship, Rehnquist argued that the infamous-separate-but-equal doctrine of *Plessy* v. *Ferguson* that gave legal sanction to segregation "was right."

For Rehnquist the principle of majority rule included a right on the part of the majority to rule unpopular minorities in a discriminatory manner.

Therefore, on the eve of the 1954 Supreme Court school desegregation decision that helped open up the society to black Americans, Rehnquist, the young law clerk, was urging that racial segregation not be ruled unconstitutional.

During Rehnquist's 15 years on the bench, the Supreme Court has decided 14 race discrimination cases brought by or on behalf of blacks in which he cast the deciding vote.

In every one of these race discrimination cases, he cast that vote against the black complainant. (Although he has in some instances voted to uphold a claim of racial discrimination against a black, he has done that only in cases in which all other members of the court, or all but one other member, agreed that the black complainant should prevail.)

Moreover, Rehnquist was the only member of the Supreme Court who favored granting tax-exempt status for racially segregated private schools. According to Elaine Jones of the NAACP Legal Defense and Educational Fund Inc. in a recent analysis of the Rehnquist judicial record, "Judge Rehnquist reached the wrong result . . . not because he did not understand the tax code, but because, as was the case when he wrote his memoranda for Justice Jackson, [he] did not understand that racial discrimination is an evil of extraordinary gravity."

But Justice Rehnquist showed a similar blind consistency in sex discrimination cases. The only member of the court who says that the government can deny unemployment benefits to a jobless woman who is seeking work if she is pregnant or has recently given birth, Rehnquist also was the sole dissenter in six cases in which a statute or practice that discriminated on the basis of sex was held unconstitutional.

In 124 Supreme Court cases regarding enforcement of the Bill of Rights, Justice Rehnquist cast the deciding vote against enforcement of the constitutional claim 120 times. The society of professional journalists, Sigma Delta Chi, found that on First Amendment free speech rights alone, Rehnquist cast an unfavorable vote in 69 of 80 cases. And if Rehnquist's views about religion were to prevail, the federal and state governments would be free to champion religious worship aggressively.

His record on enforcing civil rights statutes is equally dismal. Among 83 cases in which members of the court have disagreed about how to interpret or apply a statute, Rehnquist has voted on 80 occasions for the interpretation or application least favorable

to minorities, women, the elderly or the disabled, according to the NAACP/LEDF analysis.

"To put someone like this in a public office so entrusted with responsibility would be tragic and perverse," said Ralph Neas of the Leadership Conference on Civil Rights.

Anyone who has the welfare of our nation at heart must agree. Our country's emergency from the long night of inequality and oppression was too costly and painful, and the gains too fragile, to jeopardize with Rehnquist's elevation.●

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business?

If not, morning business is closed.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS, FISCAL YEAR 1987

Mr. McCLURE. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of Calendar No. 833, H.R. 5234, the Interior appropriations bill.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5234) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1987, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italics.)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of the Interior and related agencies for the fiscal year ending September 30, 1987, and for other purposes, namely:

TITLE I—DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

For expenses necessary for protection, use, improvement, development, disposal, cadastral surveying, classification, and performance of other functions, including maintenance of facilities, as authorized by law, in the management of lands and their resources under the jurisdiction of the Bureau of Land Management, including the general administration of the Bureau of Land Management, **[**$380,370,000**]** *$474,029,000, of which $75,000,000 for firefighting and $5,000,000 for insect and disease control projects, including grasshoppers, shall remain available until expended***[**: *Provided,* That none of the funds appropriated herein may be expended to approve mining operations conducted under the Mining Law of 1872 (30 U.S.C. 22, et seq.) unless operators are required to post a reclamation bond for all operations involving significant surface disturbance, including all disturbances of more than five acres per year, such bond to be for an amount estimated by the Bureau of Land Management to cover the costs of reclamation: *Provided further,* That evidence of an equivalent bond posted with a State agency may be accepted in lieu of a separate bond**]**.

CONSTRUCTION AND ACCESS

For acquisition of lands and interests therein, and construction of buildings, recreation facilities, roads, trails, and appurtenant facilities, **[**$1,200,000**]** *$2,800,000,* to remain available until expended.

PAYMENTS IN LIEU OF TAXES

For expenses necessary to implement the Act of October 20, 1976 (31 U.S.C. 6901-07), $105,000,000, of which not to exceed $400,000 shall be available for administrative expenses.

LAND ACQUISITION

For expenses necessary to carry out the provisions of sections 205, 206, and 318(d) of Public Law 94-579 including administrative expenses and acquisition of lands or waters, or interest therein, **[**$850,000**]** *$300,000,* to be derived from the Land and Water Conservation Fund, to remain available until expended.

OREGON AND CALIFORNIA GRANT LANDS

For expenses necessary for management, protection, and development of resources and for construction, operation, and maintenance of access roads, reforestation, and other improvements on the revested Oregon and California Railroad grant lands, on other Federal lands in the Oregon and California land-grant counties of Oregon, and on adjacent rights-of-way; and acquisition of lands or interests therein including existing connecting roads on or adjacent to such grant lands; **[**$54,260,000**]** *$55,642,000,* to remain available until expended: *Provided,* That the amount appropriated herein for road construction shall be transferred to the Federal Highway Administration, Department of Transportation: *Provided further,* That 25 per centum of the aggregate of all receipts during the current fiscal year from the revested Oregon and California Railroad grant lands is hereby made a charge against the Oregon and California land grant fund and shall be transferred to the General Fund in the Treasury in accordance with the provisions of the second paragraph of subsection (b) of title II of the Act of August 28, 1937 (50 Stat. 876).

RANGE IMPROVEMENTS

For rehabilitation, protection, and acquisition of lands and interests therein, and improvement of Federal rangelands pursuant to section 401 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701), notwithstanding any other Act, sums equal to 50 per centum of all moneys received during the prior fiscal year under sections 3 and 15 of the Taylor Grazing Act (43 U.S.C. 315, et seq.), *but not less than $10,000,000 (43 U.S.C. 1901),* and the amount designated for range improvements from grazing fees and mineral leasing receipts from Bankhead-Jones lands transferred to the Department of the Interior pursuant to law, to remain available until expended: *Provided,* That not to exceed $600,000 shall be available for administrative expenses**[**: *Provided further,* That the dollar equivalent of value, in excess of the grazing fee established under law and paid to the United States Government, received by any permittee or lessee as compensation for an assignment of a grazing permit or lease, or any grazing privileges or rights thereunder, and in excess of the installation and maintenance cost of grazing improvements provided for by the permittee in the allotment management plan or amendments or otherwise approved by the Bureau of Land Management, shall be paid to the Bureau of Land Management and disposed of as provided for by section 401(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701): *Provided further,* That if the dollar value prescribed above is not paid to the Bureau of Land Management, the grazing permit or lease shall be canceled**]**.

SERVICE CHARGES, DEPOSITS, AND FORFEITURES

For administrative expenses and other costs related to processing application documents and other authorizations for use and disposal of public lands and resources, for monitoring construction, operation, and termination of facilities in conjunction with use authorizations, and for rehabilitation of damaged property, such amounts as may be collected under sections 209(b), 304(a), 304(b), 305(a), and 504(g) of the Act approved October 21, 1976 (43 U.S.C. 1701), and sections 101 and 203 of Public Law 93-153, to be immediately available until expended.

MISCELLANEOUS TRUST FUNDS

In addition to amounts authorized to be expended under existing law, there is hereby appropriated such amounts as may be contributed under section 307 of the Act of October 21, 1976 (43 U.S.C. 1701), and such amounts as may be advanced for administrative costs, surveys, appraisals, and costs of making conveyances of omitted lands under section 211(b) of that Act, to remain available until expended.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Land Management shall be available for purchase, erection, and dismantlement of temporary structures, and alteration and maintenance of necessary buildings and appurtenant facilities to which the United States has title; up to $10,000 for payments, at the discretion of the Secretary, for information or evidence concerning violations of laws administered by the Bureau of Land Management; miscellaneous and emergency expenses of enforcement activities authorized or approved by the Secretary and to be accounted for solely on his certificate, not to exceed $10,000: *Provided,* That appropriations herein made for Bureau of Land Management expenditures in connection with the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands (other than expenditures made under the appropriation "Oregon and California grant lands") shall be reimbursed to the General Fund of the Treasury from the 25 per centum referred to in subsection (c), title II, of the Act approved August 28, 1937 (50 Stat. 876), of the special fund designated the "Oregon and California land grant fund" and section 4 of the Act approved May 24, 1939 (53 Stat. 754), of the special fund designated the "Coos Bay Wagon Road grant fund": *Provided further,* That appropriations herein made may be expended for surveys of Federal lands of the United States and on a reimbursable basis for surveys of Federal lands of the United States and for protection of lands for the State of Alaska: *Provided further,* That an appeal of any reductions in grazing allotments on public rangelands must be taken within

thirty days after receipt of a final grazing allotment decision. Reductions of up to 10 per centum in grazing allotments shall become effective when so designated by the Secretary of the Interior. Upon appeal any proposed reduction in excess of 10 per centum shall be suspended pending final action on the appeal, which shall be completed within two years after the appeal is filed: *Provided further,* That appropriations herein made shall be available for paying costs incidental to the utilization of services contributed by individuals who serve without compensation as volunteers in aid of work of the Bureau.

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For expenses necessary for scientific and economic studies, conservation, management, investigations, protection, and utilization of sport fishery and wildlife resources, except whales, seals, and sea lions, and for the performance of other authorized functions related to such resources; for the general administration of the United States Fish and Wildlife Service; and for maintenance of the herd of long-horned cattle on the Wichita Mountains Wildlife Refuge[; and not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93-408, $306,500,000] *$313,352,000,* of which $4,300,000, to carry out the purposes of 16 U.S.C. 1535, shall remain available until expended; and of which $6,411,000 shall be for operation and maintenance of fishery mitigation facilities constructed by the Corps of Engineers under the Lower Snake River Compensation Plan, authorized by the Water Resources Development Act of 1976 (90 Stat. 2921), to compensate for loss of fishery resources from water development projects on the Lower Snake River, and shall remain available until expended[: *Provided,* That none of these funds may be used to compensate a quantity of staff greater than existed as of May 1, 1986, in the Office of Legislative Services of the Fish and Wildlife Service or to compensate individual staff members assigned subsequent to May 1, 1986, at grade levels greater than the staff replaced].

CONSTRUCTION AND ANADROMOUS FISH

For construction and acquisition of buildings and other facilities required in the conservation, management, investigations, protection, and utilization of sport fishery and wildlife resources, and the acquisition of lands and interests therein; [$21,113,000] *$23,603,000,* to remain available until expended, of which $2,000,000 shall be available for expenses to carry out the Anadromous Fish Conservation Act (16 U.S.C. 757a-757g).

MIGRATORY BIRD CONSERVATION ACCOUNT

For an advance to the migratory bird conservation account, as authorized by the Act of October 4, 1971, as amended (16 U.S.C. 715k-3, 5), [$3,000,000] *$10,561,000,* to remain available until expended.

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601-4-11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the United States Fish and Wildlife Service, [$33,225,000] *$36,775,000,* to be derived from the Land and Water Conservation Fund, to remain available until expended.

NATIONAL WILDLIFE REFUGE FUND

For expenses necessary to implement the Act of October 17, 1978 (16 U.S.C. 715s), $5,645,000.

ADMINISTRATIVE PROVISIONS

Appropriations and funds available to the United States Fish and Wildlife Service shall be available for purchase of not to exceed 72 passenger motor vehicles for replacement only (including 72 for police-type use); purchase of 1 new aircraft for replacement only; not to exceed $300,000 for payment, at the discretion of the Secretary, for information, rewards, or evidence concerning violations of laws administered by the United States Fish and Wildlife Service, and miscellaneous and emergency expenses of enforcement activities, authorized or approved by the Secretary and to be accounted for solely on his certificate; repair of damage to public roads within and adjacent to reservation areas caused by operations of the United States Fish and Wildlife Service; options for the purchase of land at not to exceed $1 for each option; facilities incident to such public recreational uses on conservation areas as are consistent with their primary purpose; *construction of permanent improvements for use as a forensics laboratory, and structures apputenant thereto, on a site leased by the Service;* and the maintenance and improvement of aquaria, buildings, and other facilities under the jurisdiction of the United States Fish and Wildlife Service and to which the United States has title, and which are utilized pursuant to law in connection with management and investigation of fish and wildlife resources.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary for the management, operation, and maintenance of areas and facilities administered by the National Park Service (including special road maintenance service to trucking permittees on a reimbursable basis), and for the general administration of the National Park Service, including not to exceed $408,000 for the Roosevelt Campobello International Park Commission [and not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93-408, $628,875,000] *$579,055,000,* without regard to the Act of August 24, 1912, as amended (16 U.S.C. 451) and $15,158,000 to be derived from unappropriated balances in the National Park Service "Planning, development and operation of recreation facilities" account: *Provided,* That the Park Service shall not enter into future concessionaire contracts, including renewals, that do not include a termination for cause clause that provides for possible extinguishment of possessory interests excluding depreciated book value of concessionaire investments without compensation[: *Provided further,* That none of these funds may be used to compensate a quantity of staff greater than existed as of May 1, 1986, in the Office of Legislative and Congressional Affairs of the National Park Service or to compensate individual staff members assigned subsequent to May 1, 1986, at grade levels greater than the staff replaced]*: Provided further, That $85,000 shall be available to assist the town of Harpers Ferry, West Virginia, for police force use: Provided further, That for expenses necessary to carry out the mission of the National Park Service for a period of time not to extend beyond fiscal year 1987, the Secretary of the Interior is authorized to charge park entrance fees for all units of the National Park System of an amount not to exceed $3.00 for a single visit permit as defined in 36 CFR 71.7(b)(2) and of an amount not to exceed $7.50 for a single visit permit as defined in 36 CFR 71.7(b)(1): Provided further, That the cost of a Golden Eagle Passport as defined in 36 CFR 71.5 is increased to a reasonable fee but not to exceed $25.00 until September 30, 1987: Provided further, That for units of the National Park System where entrance fees are charged the Secretary shall establish an annual admission permit for each individual park unit for a reasonable fee but not to exceed $15.00, and that purchase of such annual admission permit for a unit of the National Park System shall relieve the requirement for payment of single visit permits as defined in 36 CFR 71.7(b): Provided further, That funds derived from increasing National Park Service entrance fees pursuant to this Act shall be credited to the Operation of the National Park System appropriation account and shall be available, without further appropriation, for expenditure as determined by the Director of the National Park Service, first, to defray the cost of collection; second for maintenance, interpretation, research, and resources management at the collecting unit; and third, for maintenance, interpretation, research, and resources management at all units of the National Park System during fiscal year 1987.*

NATIONAL RECREATION AND PRESERVATION

For expenses necessary to carry out recreation programs, natural programs, cultural programs, environmental compliance and review, and grant administration, not otherwise provided for, [$10,904,000] *$10,277,000.*

HISTORIC PRESERVATION FUND

For expenses necessary in carrying out the provisions of the Historic Preservation Act of 1966 (80 Stat. 915), as amended (16 U.S.C. 470), [$24,200,000] *$24,300,000* to be derived from the Historic Preservation Fund, established by section 108 of that Act, as amended, to remain available for obligation until September 30, 1988: *Provided,* That the Trust Territory of the Pacific Islands is a State eligible for Historic Preservation Fund matching grant assistance as authorized under 16 U.S.C. 470w(2): *Provided further,* That pursuant to section 105(1) of the Compact of Free Association, Public Law 99-239, the Federated States of Micronesia and the Republic of the Marshall Islands shall also be considered States for purposes of this appropriation.

CONSTRUCTION

For construction, improvements, repair or replacement of physical facilities, without regard to the Act of August 24, 1912, as amended (16 U.S.C. 451), [$75,989,000] *$76,518,000,* to remain available until expended, of which $8,500,000 shall be derived by transfer from the National Park System Visitor Facilities Fund, including $2,700,000 to carry out the provisions of sections 303 and 304 of Public Law 95-290: *Provided,* That for payment of obligations incurred for continued construction of the Cumberland Gap Tunnel, as authorized by section 160 of Public Law 93-87, $10,000,000 to be derived from the Highway Trust Fund and to remain available until expended to liquidate contract authority provided under sec-

tion 104(a)(8) of Public Law 95-599, as amended, such contract authority to remain available until expended[: *Provided further,* That for payments of obligations incurred for improvements to the George Washington Memorial Parkway, $2,500,000 to be derived from the Highway Trust Fund and to remain available until expended to liquidate contract authority provided under section 104(a)(8) of Public Law 95-599, as amended, subject to the availability of funds for an additional lane on the Theodore Roosevelt Bridge].

LAND ACQUISITION AND STATE ASSISTANCE

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l-4-11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the National Park Service, [$101,100,000] *$65,900,000,* to be derived from the Land and Water Conservation Fund, to remain available until expended, including [$2,270,000] *$2,300,000* to administer the State Assistance program: *Provided,* That of the amounts previously appropriated to the Secretary's contingency fund for grants to States, $893,000 shall be available in 1987 for administrative expenses of the State grant program[: *Provided further,* That $300,000 for Apostle Islands National Lakeshore shall be available subject to authorization].

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

For expenses necessary for operating and maintaining the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts, $4,771,000.

[ILLINOIS AND MICHIGAN CANAL NATIONAL HERITAGE CORRIDOR COMMISSION

[For operation of the Illinois and Michigan Canal National Heritage Corridor Commission, $250,000.

[JEFFERSON NATIONAL EXPANSION MEMORIAL COMMISSION

[For operation of the Jefferson National Expansion Memorial Commission, $75,000.]

ADMINISTRATIVE PROVISIONS

Appropriations for the National Park Service shall be available for the purchase of not to exceed 400 passenger motor vehicles, of which 348 shall be for replacement only, including not to exceed 300 for police-type use and 20 buses; to provide, notwithstanding any other provision of law, at a cost not exceeding $100,000, transportation for children in nearby communities to and from any unit of the National Park System used in connection with organized recreation and interpretive programs of the National Park Service; options for the purchase of land at not to exceed $1 for each option; and for the procurement and delivery of medical services within the jurisdiction of units of the National Park System: *Provided,* That any *annual* funds available to the National Park Service may be used, with the approval of the Secretary, to [maintain law and order in emergency and other unforeseen law enforcement situations and] conduct emergency search and rescue operations in the National Park System: *Provided further,* That none of the funds appropriated to the National Park Service may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: *Provided further,* That none of the funds appropriated to the National Park Service may be used to add industrial facilities to the list of National Historic Landmarks without the consent of the owner: *Provided further,* That the National Park Service may use helicopters and motorized equipment at Death Valley National Monument for removal of feral burros and horses: *Provided further,* That notwithstanding any other provision of law, the National Park Service may recover unbudgeted costs of providing necessary services associated with special use permits, such reimbursements to be credited to the appropriation current at that time: *Provided further,* That none of the funds appropriated to the National Park Service may be used to implement an agreement for the redevelopment of the southern end of Ellis Island until such agreement has been submitted to the Congress and shall not be implemented prior to the expiration of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full and comprehensive report on the development of the southern end of Ellis Island, including the facts and circumstances relied upon in support of the proposed project: *Provided further,* That the Secretary of the Interior shall begin processing claims of the licensees of the American Revolution Bicentennial Administration within 30 days of enactment of this Act, and that licensees who filed claims with the Department between July, 1984, and January, 1985, or who filed for relief from the Department under the Federal Tort Claims Act on December 31, 1979, or who were mentioned in the December 30, 1985, Opinion of the Comptroller General shall be eligible claimants: *Provided further,* That the Secretary shall process such claims [in accordance with the facts, methodologies, and criteria employed in the Amerecord, Inc. test case which was settled on August 20, 1983, and other applicable legal principles] *to determine whether any or all of such claimants ought to be awarded equitable compensation by the Congress, and, if so, in what amount: Provided further,* That these claims will be processed to completion in a judicious and expedient manner not to exceed one year from the date of enactment of this Act[: *Provided further,* That none of the funds in this Act may be used to issue a request for proposals to lease any or all of Glen Echo Park]: *Provided further,* That none of the funds made available by this Act may be used to plan or implement the closure of the Pacific Northwest Regional Office in Seattle, Washington.

GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For expenses necessary for the Geological Survey to perform surveys, investigations, and research covering topography, geology, hydrology, and the mineral and water resources of the United States, its Territories and possessions, and other areas as authorized by law (43 U.S.C. 31, 1332 and 1340); classify lands as to their mineral and water resources; give engineering supervision to power permittees and Federal Energy Regulatory Commission licensees; administer the minerals exploration program (30 U.S.C. 641); and publish and disseminate data relative to the foregoing activities; [$423,220,000] *$402,933,000*: *Provided,* That [$52,835,000] *$50,195,000* shall be available only for cooperation with States or municipalities for water resources investigations: *Provided further,* That no part of this appropriation shall be used to pay more than one-half the cost of any topographic mapping or water resources investigations carried on in cooperation with any State or municipality: *Provided further,* That in fiscal year 1987 and thereafter the Geological Survey is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private: *Provided further,* That, heretofore and hereafter, in carrying out work involving cooperation with any State, Territory, possession, or political subdivision thereof, the Geological Survey may, notwithstanding any other provision of law, record obligations against accounts receivable from any such entities and shall credit amounts received from such entities to this appropriation.

ADMINISTRATIVE PROVISIONS

The amount appropriated for the Geological Survey shall be available for purchase of not to exceed 14 passenger motor vehicles, for replacement only; reimbursement to the General Services Administration for security guard services; contracting for the furnishing of topographic maps and for the making of geophysical or other specialized surveys when it is administratively determined that such procedures are in the public interest; construction and maintenance of necessary buildings and appurtenant facilities; acquisition of lands for observation wells; expenses of the United States National Committee on Geology; and payment of compensation and expenses of persons on the rolls of the Geological Survey appointed, as authorized by law, to represent the United States in the negotiation and administration of interstate compacts: *Provided,* That appropriations herein made shall be available for paying costs incidental to the utilization of services contributed by individuals who serve without compensation as volunteers in aid of work of the Geological Survey, and that within appropriations herein provided, Geological Survey officials may authorize either direct procurement of or reimbursement for expenses incidental to the effective use of volunteers such as, but not limited to, training, transportation, lodging, subsistence, equipment, and supplies: *Provided further,* That provision for such expenses or services is in accord with volunteer or cooperative agreements made with such individuals, private organizations, educational institutions, or State or local government: *Provided further,* That activities funded by appropriations herein made may be accomplished through the use of contracts, grants, or cooperative agreements as defined in Public Law 95-224.

MINERALS MANAGEMENT SERVICE

LEASING AND ROYALTY MANAGEMENT

For expenses necessary for minerals leasing and environmental studies, regulation of industry operations, and collection of royalties, as authorized by law; for enforcing laws and regulations applicable to oil, gas, and other minerals leases, permits, licenses and operating contracts; and for matching grants or cooperative agreements; including the purchase of not to exceed eight passenger motor vehicles for replacement only; [$162,893,000] *$153,987,000,* of which not less than [$45,354,000] *$41,617,000* shall be available for royalty management activities including general administration: *Provided,* That notwithstanding any other provision of law, funds appropriated under this Act shall be available for the payment of inter-

est in accordance with 30 U.S.C. 1721 (b) and (d): *Provided further,* That in fiscal year 1987 and thereafter, the Minerals Management Service is authorized to accept land, buildings, equipment and other contributions, from public and private sources, which shall be available for the purposes provided for in this account[: *Provided further,* That notwithstanding any other provision of law, $125,000,000 shall be deducted from Federal onshore mineral leasing receipts prior to the division and distribution of such receipts between the States and the Treasury and shall be credited to miscellaneous receipts of the Treasury].

BUREAU OF MINES

MINES AND MINERALS

For expenses necessary for conducting inquiries, technological investigations, and research concerning the extraction, processing, use, and disposal of mineral substances without objectionable social and environmental costs; to foster and encourage private enterprise in the development of mineral resources and the prevention of waste in the mining, minerals, metal, and mineral reclamation industries; to inquire into the economic conditions affecting those industries; to promote health and safety in mines and the mineral industry through research; and for other related purposes as authorized by law, [$126,429,000] *$130,965,000,* of which [$77,505,000] *$74,680,000* shall remain available until expended.

ADMINISTRATIVE PROVISIONS

The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private: *Provided,* That the Bureau of Mines is authorized, during the current fiscal year, to sell directly or through any Government agency, including corporations, any metal or mineral product that may be manufactured in pilot plants operated by the Bureau of Mines, *or any excess property or land,* and the proceeds of such sales shall be covered into the Treasury as miscellaneous receipts *except that proceeds from the sale of land or property shall be available for the purchase of other land and property.*

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

REGULATION AND TECHNOLOGY

For necessary expenses to carry out the provisions of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, including the purchase of not to exceed 14 passenger motor vehicles, of which 9 shall be for replacement only; and uniform allowances of not to exceed $400 for each uniformed employee of the Office of Surface Mining Reclamation and Enforcement; [$99,078,000] *$96,130,000,* and notwithstanding 31 U.S.C. 3302, an additional amount, to remain available until expended, equal to receipts to the General Fund of the Treasury from performance bond forfeitures in fiscal year 1987.

ABANDONED MINE RECLAMATION FUND

For necessary expenses to carry out the provisions of title IV of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, including the purchase of not more than 21 passenger motor vehicles, of which 15 shall be for replacement only, to remain available until expended, [$232,720,000] *$187,020,000,* to be derived from receipts of the Abandoned Mine Reclamation Fund: *Provided,* That pursuant to Public Law 97-365, the Department of the Interior is authorized to utilize up to 20 per centum from the recovery of the delinquent debt owed to the United States Government to pay for contracts to collect these debts: *Provided further,* That of the funds made available to the States to contract for reclamation projects authorized in section 406(a) of Public Law 95-87, administrative expenses may not exceed 15 per centum[: *Provided further,* That none of these funds shall be used for a reclamation grant to any State if the State has not agreed to participate in a nationwide data system established by the Office of Surface Mining Reclamation and Enforcement through which all permit applications are reviewed and approvals withheld if the applicants (or those who control the applicants) applying for or receiving such permits have outstanding State or Federal air or water quality violations in accordance with section 510(c) of the Act of August 3, 1977 (30 U.S.C. 1260(c)), or failure to abate cessation orders, outstanding civil penalties associated with such failure to abate cessation orders, or uncontested past due Abandoned Mine Land fees]: *Provided further,* That the Secretary of the Interior may deny fifty percent of an Abandoned Mine Reclamation fund grant, available to a State pursuant to title IV of Public Law 95-87, when pursuant to the procedures set forth in section 521 of the Act, the Secretary determines that a State is systematically failing to administer adequately the enforcement provisions of the approved State regulatory program. Funds will be denied until such time as the State and the Office of Surface Mining Reclamation and Enforcement have agreed upon an explicit plan of action for correcting the enforcement deficiency. A State may enter into such agreement without admission of culpability. If a State enters into such agreement, the Secretary shall take no action pursuant to section 521(b) of the Act as long as the State is complying with the terms of the agreement[: *Provided further,* That none of the funds shall be used to implement any proposals for a cost-sharing matching fund in making State reclamation grants: *Provided further,* That the Office of Surface Mining Reclamation and Enforcement is to apportion the funding for the Secretary's discretionary fund, as referenced in section 402(g)(3) of Public Law 95-87, on the basis of the Abandoned Mine Lands Inventory]: *Provided further,* That expenditure of moneys as authorized in section 402(g)(3) of Public Law 95-87 shall be on a priority basis with the first priority being protection of public health, safety, general welfare, and property from extreme danger of adverse effects of coal mining practices, as stated in section 403 of Public Law 95-87.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

For operation of Indian programs by direct expenditure, contracts, cooperative agreements, and grants including expenses necessary to provide education and welfare services for Indians, either directly or in cooperation with States and other organizations, including payment of care, tuition, assistance, and other expenses of Indians in boarding homes, institutions, or schools; grants and other assistance to needy Indians; maintenance of law and order; management, development, improvement, and protection of resources and appurtenant facilities under the jurisdiction of the Bureau of Indian Affairs, including payment of irrigation assessments and charges; acquisition of water rights; advances for Indian industrial and business enterprises; operation of Indian arts and crafts shops and museums; development of Indian arts and crafts, as authorized by law; for the general administration of the Bureau of Indian Affairs, including such expenses in field offices, [$892,328,000] *$887,666,000,* of which not to exceed [$56,418,000] *$54,918,000* for higher education scholarships and assistance to public schools under the Act of April 16, 1934 (48 Stat. 596), as amended (25 U.S.C. 452 et seq.), *and $20,000,000 for firefighting,* shall remain available for obligation until September 30, 1988, and the funds made available to tribes and tribal organizations through contracts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450 et seq.) shall remain available until September 30, 1988: *Provided,* That this carryover authority does not extend to programs directly operated by the Bureau of Indian Affairs unless the tribe(s) and the Bureau of Indian Affairs enter into a cooperative agreement for consolidated services; and for expenses necessary to carry out the provisions of section 19(a) of Public Law 93-531 (25 U.S.C. 640d-18(a)), [$2,931,000] *$2,431,000,* to remain available until expended: *Provided further,* That none of the funds appropriated to the Bureau of Indian Affairs shall be expended as matching funds for programs funded under section 103(b)(2) of the Carl D. Perkins Vocational Education Act: *Provided further,* That no part of any appropriations to the Bureau of Indian Affairs shall be available to provide general assistance payments for Alaska Natives in the State of Alaska unless and until otherwise specifically provided for by Congress[: Provided further, That none of the funds appropriated to the Bureau of Indian Affairs shall be used to move the Northern California agency office from Hoopa, California, unless a reprograming request has been submitted to and approved by the House and Senate Appropriations Committees]: *Provided further, That none of the funds contained in this Act shall be available for any payment to any school to which such school would otherwise be entitled pursuant to section 1128(b) of Public Law 95-561, as amended: Provided further, That the amounts available for assistance to public schools under the Act of April 16, 1934 (48 Stat. 596), as amended (25 U.S.C. 452 et seq.) shall be distributed on the same basis as such funds were distributed in fiscal year 1986: Provided further, That before initiating any action to close the Phoenix Indian School but no later than February 1, 1987, the Secretary shall submit to the Congress a report (1) on the school as required under section 1121(g)(3) of Public Law 95-561, as amended, including any warranted recommendations for the establishment of special programs at existing schools or the establishment of a new school or schools to be operated either by the Bureau of Indian Affairs or by a public school district to meet the needs of students from Arizona who are attending or might otherwise have attended the Phoenix Indian School; (2) on the Secretary's recommendation for the disposition of the property (including real property, supplies, and equipment) used for the school which recommendations may include the donation (with any restrictions on use and subject to a reverter for specified reasons the Secretary deems necessary or desirable) of some or all of the property to the State of Arizona, one or more local or tribal governments, or another Federal agency or the sale or exchange of some or all of the property at fair market value and a recommendation*

for the use of any cash received for a sale or to equalize values in an exchange; and (3) documentation of the Secretary's efforts to consult with the affected tribes and to offer assistance to the tribes in planning for future educational requirements for those currently eligible to attend the Phoenix Indian School, including those students from the Phoenix area attending school in California: Provided further, That the Secretary shall take no action to close the school or dispose of the property of the Phoenix Indian School until action by the Congress affirming or modifying the recommendations of the Secretary.

CONSTRUCTION

For construction, major repair, and improvement of irrigation and power systems, buildings, utilities, and other facilities, including architectural and engineering services by contract; acquisition of lands and interests in lands; preparation of lands for farming; and construction, repair, and improvement of Indian housing, [$86,066,000] *$67,951,000*, to remain available until expended[: *Provided*, That funds appropriated for use by the Secretary to construct homes and related facilities for the Navajo and Hopi Indian Relocation Commission in lieu of construction by the Commission under section 15(d)(3) of the Act of December 22, 1974 (88 Stat. 1719; 25 U.S.C. 640d-14(d)(3)), may also be used for counseling and other activities related to the relocation of Navajo families].

ROAD CONSTRUCTION

[For construction of roads and bridges pursuant to authority contained in 23 U.S.C. 203, the Act of November 2, 1921 (42 Stat. 208; 25 U.S.C. 13), and the Act of May 26, 1928 (45 Stat. 750; 25 U.S.C. 318a), $2,500,000, to remain available until expended: Provided, That these funds shall not become available until the balance of funding needed to complete the project is provided from funds available to the State of Oklahoma: *Provided further*, That not] *Not* to exceed 5 per centum of contract authority available to the Bureau of Indian Affairs from the Federal Highway Trust Fund may be used to cover roads program management costs and construction supervision costs of the Bureau of Indian Affairs.

WHITE EARTH TRUST FUND

For deposit into the White Earth Economic Development and Tribal Government Fund established pursuant to section 12 of Public Law 99-264, to be held in trust for the benefit of the White Earth Band of Chippewa Indians, $6,600,000.

MISCELLANEOUS TRUST FUNDS

TRIBAL TRUST FUNDS

In addition to the tribal funds authorized to be expended by existing law, there is hereby appropriated not to exceed $1,000,000 from tribal funds not otherwise available for expenditure.

REVOLVING FUND FOR LOANS

During fiscal year 1987, and within the resources and authority available, gross obligations for the principal amount of direct loans pursuant to the Indian Financing Act of 1974 (88 Stat. 77; 25 U.S.C. 1451 et seq.), shall not exceed $16,320,000.

INDIAN LOAN GUARANTY AND INSURANCE FUND

For payment of interest subsidies on new and outstanding guaranteed loans and for necessary expenses of management and technical assistance in carrying out the provisions of the Indian Financing Act of 1974, as amended (88 Stat. 77; 25 U.S.C. 1451 et seq.), [$2,652,000] *$2,485,000*, to remain available until expended: *Provided*, That during fiscal year 1987, total commitments to guarantee loans pursuant to the Indian Financing Act of 1974 may be made only to the extent that the total loan principal, any part of which is to be guaranteed, shall not exceed resources and authority available.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Indian Affairs (except the revolving fund for loans and the Indian loan guarantee and insurance fund) shall be available for expenses of exhibits; and purchase of not to exceed 150 passenger carrying motor vehicles, of which 100 shall be for replacement only.

TERRITORIAL AND INTERNATIONAL AFFAIRS

ADMINISTRATION OF TERRITORIES

For expenses necessary for the administration of territories under the jurisdiction of the Department of the Interior, [$78,874,000] *$76,016,000*, of which (1) [$76,401,000] *$73,543,000* shall be available until expended for technical assistance; late charges and payments of the annual interest rate differential required by the Federal Financing Bank, under terms of the second refinancing of an existing loan to the Guam Power Authority, as authorized by law (Public Law 98-454; 98 Stat. 1732); grants to the judiciary in American Samoa for compensation and expenses, as authorized by law (48 U.S.C. 1661(c)); grants to the Government of American Samoa, in addition to current local revenues, for support of governmental functions; construction grants to the Government of the Virgin Islands as authorized by Public Law 97-357 (96 Stat. 1709); construction grants to the Government of Guam, as authorized by law (Public Law 98-454; 98 Stat. 1732); grants to the Government of the Northern Mariana Islands as authorized by law (Public Law 94-241; 90 Stat. 272); and (2) $2,473,000 for salaries and expenses of the Office of Territorial and International Affairs: *Provided*, That the territorial and local governments herein provided for are authorized to make purchases through the General Services Administration: *Provided further*, That all financial transactions of the territorial and local governments herein provided for, including such transactions of all agencies or instrumentalities established or utilized by such governments, shall be audited by the General Accounting Office, in accordance with chapter 35 of title 31, United States Code: *Provided further, That Northern Mariana Islands Covenant grant funding shall be subject to the terms of the agreement of the Special Representatives on Future United States Financial Assistance for the Northern Mariana Islands.*

TRUST TERRITORY OF THE PACIFIC ISLANDS

For expenses necessary for the Department of the Interior in administration of the Trust Territory of the Pacific Islands pursuant to the Trusteeship Agreement approved by joint resolution of July 18, 1947 (61 Stat. 397), and the Act of June 30, 1954 (68 Stat. 330), as amended (90 Stat. 299; 91 Stat. 1159; 92 Stat. 495); grants for the expenses of the High Commissioner of the Trust Territory of the Pacific Islands; grants for the compensation and expenses of the Judiciary of the Trust Territory of the Pacific Islands; grants to the Trust Territory of the Pacific Islands, in addition to local revenues, for support of governmental functions; [$14,340,000] *$66,987,000*, to remain available until expended: *Provided*, That all financial transactions of the Trust Territory, including such transactions of all agencies or instrumentalities established or utilized by such Trust Territory, shall be audited by the General Accounting Office in accordance with chapter 35 of title 31, United States Code: *Provided further*, That the government of the Trust Territory of the Pacific Islands is authorized to make purchases through the General Services Administration[: *Provided further*, That notwithstanding the proviso under "Trust Territory of the Pacific Islands" in Public Law 97-257 making funds available for the relocation and resettlement of the Bikini people in the Marshall Islands, such funds shall be available for relocation and resettlement of the Bikini people to any location].

COMPACT OF FREE ASSOCIATION

For grants and necessary expenses for the Federated States of Micronesia and the Marshall Islands as provided for in sections 177, 122, 221, 223, 103(h)(2), and 103(k) of the Compact of Free Association, [$36,170,000] *$27,920,000*, [including $7,250,000 for the Enjebi Community Trust Fund, as authorized by Public Law 99-239.]

Notwithstanding any other provision of law, the funds made available under this head in Public Law 99-349 shall remain available for obligation until expended.

DEPARTMENTAL OFFICES

OFFICE OF THE SECRETARY

For necessary expenses of the Office of the Secretary of the Interior, [$42,482,000] *$42,822,000*, of which not to exceed $10,000 may be for official reception and representation expenses.

OFFICE OF THE SOLICITOR

SALARIES AND EXPENSES

For necessary expenses of the Office of the Solicitor, [$21,255,000] *$19,385,000* [, of which not less than $4,062,000 shall be in support of Office of Surface Mining Reclamation and Enforcement activities].

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General, [$16,300,000] *$15,424,000*.

CONSTRUCTION MANAGEMENT

For necessary expenses of the Office of Construction Management, $684,000.

ADMINISTRATIVE PROVISIONS

There is hereby authorized for acquisition from available resources within the Working Capital Fund, 12 additional aircraft, 10 of which shall be for replacement only: *Provided*, That no programs funded with appropriated funds in the "Office of the Secretary", "Office of the Solicitor", and "Office of Inspector General" may be augmented through the Working Capital Fund or the Consolidated Working Fund.

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

SEC. 101. [Appropriations made in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities, or other facilities or equipment damaged or destroyed by fire, flood, storm, or other unavoidable causes: *Provided*, That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted.] *Appropriations made in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replace-*

ment, or repair of aircraft, buildings, utilities, or other facilities or equipment damaged or destroyed by fire, flood, storm, or other unavoidable causes: Provided, That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted: Provided further, That all funds used pursuant to this section must be replenished by a supplemental appropriation which must be requested as promptly as possible.

SEC. 102. The Secretary may authorize the expenditure or transfer of any no year appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under jurisdiction of the Department of the Interior; for the emergency rehabilitation of burned-over lands under its jurisdiction; for emergency actions related to potential or actual earthquakes, floods or volcanoes; for emergency reclamation projects under section 410 of Public Law 95-87; and shall transfer, from any no year funds available to the Office of Surface Mining Reclamation and Enforcement, such funds as may be necessary to permit assumption of regulatory authority in the event a primacy State is not carrying out the regulatory provisions of the Surface Mining Act: *Provided,* That appropriations made in this title for fire suppression purposes shall be available for the payment of obligations incurred during the preceding fiscal year, and for reimbursement to other Federal agencies for destruction of vehicles, aircraft, or other equipment in connection with their use for fire suppression purposes, such reimbursement to be credited to appropriations currently available at the time of receipt thereof: *Provided further,* That all funds used pursuant to this section must be replenished by a supplemental appropriation which must be requested as promptly as possible.

SEC. 103. Appropriations made in this title shall be available for operation of warehouses, garages, shops, and similar facilities, wherever consolidation of activities will contribute to efficiency or economy, and said appropriations shall be reimbursed for services rendered to any other activity in the same manner as authorized by sections 1535 and 1536 of title 31, U.S.C.: *Provided,* That reimbursements for costs and supplies, materials, equipment, and for services rendered may be credited to the appropriation current at the time such reimbursements are received.

SEC. 104. Appropriations made to the Department of the Interior in this title shall be available for services as authorized by 5 U.S.C. 3109, when authorized by the Secretary, in total amount not to exceed $300,000; hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchase of reprints; payment for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; and the payment of dues, when authorized by the Secretary, for library membership in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members: *Provided,* That no funds available to the Department of the Interior are available for any expenses of the Great Hall of Commerce.

SEC. 105. Appropriations available to the Department of the Interior for salaries and expenses shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902 and D.C. Code 4-204).

SEC. 106. Appropriations made in this title shall be available for obligation in connection with contracts issued by the General Services Administration for services or rentals for periods not in excess of twelve months beginning at any time during the fiscal year.

[SEC. 107. (a) No funds provided in this title may be expended by the Department of the Interior for the preparation for, or conduct of, pre-leasing and leasing activities (including but not limited to: calls for information, tract selection, notices of sale, receipt of bids and award of leases) of lands within: An area of the Outer Continental Shelf, as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)), located in the Atlantic Ocean, bounded by the following line: from the intersection of the seaward limit of the Commonwealth of Massachusetts territorial sea and the 71 degree west longitude line south along that longitude line to its intersection with the line which passes between blocks 598 and 642 on Outer Continental Shelf protraction diagram NK 19-10; then along that line in an easterly direction to its intersection with the line between blocks 600 and 601 of protraction diagram NK 19-11; then in a northerly direction along that line to the intersection with the 60 meter isobath between blocks 204 and 205 of protraction diagram NK 19-11; then along the 60 meter isobath, starting in a roughly southeasterly direction; then turning northeast and north until such isobath intersects the maritime boundary between Canada and the United States of America, then north northeasterly along this boundary until this line intersects the 60 meter isobath at the northern edge of block 851 of protraction diagram NK 19-6; then along a line that lies between blocks 851 and 807 of protraction diagram NK 19-6 in a westerly direction to the first point of intersection with the seaward limit of the Commonwealth of Massachusetts territorial sea; then southwesterly along the seaward limit of the territorial sea to the point of beginning at the intersection of the seaward limit of the territorial sea and the 71 degree west longitude line.

[(b) The following blocks are excluded from the described area: In protraction diagram NK 19-10, blocks numbered 474 through 478, 516 through 524, 560 through 568, and 604 through 612; in protraction diagram NK 19-6, blocks numbered 969 through 971; in protraction diagram NK 19-5, blocks numbered 1005 through 1008; and in protraction diagram NK 19-8, blocks numbered 37 through 40, 80 through 84, 124 through 127, and 168 through 169.

[(c) The following blocks are included in the described area: In protraction diagram NK 19-11, blocks numbered 633 through 644, 677 through 686, 721 through 724, 765 through 767, 809 through 810, and 853; in protraction diagram NK 19-9, blocks numbered 106, 150, 194, 238, 239, and 283; and in protraction diagram NK 19-6, blocks numbered 854, 899, 929, 943, 944, and 987.

[(d) Blocks in and at the head of submarine canyons: An area of the Outer Continental Shelf, as defined in section 2(a) of the Outer Continental Shelf Lands Act (45 U.S.C. 1331(a)), located in the Atlantic Ocean off the coastline of the Commonwealth of Massachusetts, lying at the head of, or within the submarine canyons known as Atlantis Canyon, Veatch Canyon, Hydrographer Canyon, Welker Canyon, Oceanographer Canyon, Gilbert Canyon, Lydonia Canyon, Alvin Canyon, Powell Canyon, and Munson Canyon, and consisting of the following blocks, respectively:

[(1) On Outer Continental Shelf protraction diagram NJ 19-1; blocks 36, 37, 38, 42-44, 80-82, 86-88, 124, 125, 130-132, 168, 169, 174-176, 212, 213.

[(2) On Outer Continental Shelf protraction diagram NJ 19-2; blocks 8, 9, 17-19, 51-52, 53, 54, 61-63, 95-98, 139, 140.

[(3) On Outer Continental Shelf protraction diagram NK 19-10; blocks 916, 917, 921, 922, 960, 961, 965, 966, 1003-1005, 1009, 1011.

[(4) On Outer Continental Shelf protraction diagram NK 19-11; blocks 521, 522, 565, 566, 609, 610, 653-655, 697-700, 734, 735, 741-744, 769, 778-781, 785-788, 813, 814, 822-826, 829-831, 857, 858, 866-869, 873-875, 901, 902, 910-913, 917, 945-947, 955, 956, 979, 980, 989-991, 999.

[(5) On Outer Continental Shelf protraction diagram NK 19-12; blocks 155, 156, 198, 199, 280-282, 324-326, 369-371, 401, 413-416, 442-446, 450, 451, 489-490, 494, 495, 530, 531, 533-540, 574, 575, 577-583, 618, 619, 621-623, 626, 627, 662, 663, 665-667, 671, 672, 706, 707, 710, 711, 750, 751, 754, 755, 794, 795, 798, 799.

[(e) Nothing in this section shall prohibit the lease of that portion of any blocks described in subsection (d) above which lies outside the geographical boundaries of the submarine canyons and submarine canyon heads described in subsection (d) above: *Provided,* That for purposes of this subsection, the geographical boundaries of the submarine canyons and submarine canyon heads shall be those recognized by the National Oceanographic and Atmospheric Administration, Department of Commerce, on the date of enactment of this Act.

[(f) Nothing in this section shall prohibit the Secretary of the Interior from granting contracts for scientific study, the results of which could be used in making future leasing decisions in the planning area and in preparing environmental impact statements as required by the National Environmental Policy Act.

[(g) References made to blocks, protraction diagrams, and isobaths are to such blocks, protraction diagrams, and isobaths as they appear on the map entitled Outer Continental Shelf of the North Atlantic from 39° to 45° North Latitude (Map No. MMS-10), prepared by the United States Department of the Interior, Minerals Management Service, Atlantic OCS Region.]

SEC. [108.] *107.* None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance changing the name of the mountain located 63 degrees, 04 minutes, 15 seconds west, presently named and referred to as Mount McKinley.

SEC. [109.] *108.* Notwithstanding any other provision of law, appropriations in this title shall be available to provide insurance on official motor vehicles, aircraft, and boats operated by the Department of the Interior in Canada and Mexico.

SEC. [110.] *109.* No funds provided in this title may be used to detail any employee to an organization unless such detail is in accordance with Office of Personnel Management regulations.

[SEC. 111. (a) The Secretary of the Interior may consider and accept, as part of the Outer Continental Shelf oil and gas leasing program for 1987 to 1992, any recommendation included in any proposal submitted to him with respect to lease sales on the California Outer Continental Shelf by the cochairmen of the Congressional panel established pursuant to Public Law 99-190 or by

the Governor of California on May 7, 1986. The major components of those proposals shall be examined in the final environmental impact statement for the program. Consideration or acceptance of any such recommendation shall not require the preparation of a revised or supplemental draft environmental impact statement.

[(b) The Secretary shall submit a copy of the draft proposed final leasing program for offshore California to the cochairmen of the negotiating group referred to in subsection (a) who shall have a period of 30 days in which to review such program and provide their comments and the comments of the negotiating group on it to the Secretary prior to its submission to the President and the Congress. When submitting the proposed final leasing program to the President and the Congress in accordance with section 18(d) (43 U.S.C. section 1344 (d)) of the Outer Continental Shelf Lands Act, such submission shall indicate in detail why any specific portion of the proposals referred to in subsection (a) of this section was not accepted.

[(c) Prior to the approval of the Final Program, referenced in subsection (a), the Secretary may conduct prelease activities for proposed California OCS Lease Sales 95, 91, and 119 and may make changes in those sales on the basis of comments submitted by the Congressional negotiating group or others, except that the Secretary may not issue a: (1) call for information and nominations for Sale 95 prior to March 1, 1987, and no draft environmental impact statement shall be published for Sale 91 sooner than 90 days after the Secretary's submission of the draft of the proposed Final Five Year Program to the members of the Congressional panel, and (2) final notice of lease sale for Lease Sale 91 prior to January 1, 1989.

[(d) The members of Congress designated under Sec. 111 of Public Law 99-190 (99 Stat. 1243) are hereby authorized to continue as the Congressional negotiating group and to negotiate with the Department of the Interior, to provide the Secretary of the Interior with the appropriate range of advice, including proposals, and to review and comment on proposals by the Department of the Interior with respect to future oil and gas leasing and protection of lands on the California Outer Continental Shelf.]

SEC. [112.] *110.* Notwithstanding any other law, the Secretary of the Interior shall convey without reimbursement to the State of Montana no later than December 31, 1986, all of the right, including all water rights, title, and interest of the United States in and to the fish hatchery property located south of Miles City, Montana, and known as the Miles City National Fish Hatchery, consisting of 168.22 acres, more or less, of land, together with any improvements and related personal property thereon.

[SEC. 113. The Secretary of the Interior is directed to designate the Laurel Highlands National Recreational Trail, as designated by the Secretary of the Interior pursuant to section 4 of the National Trails System Act, as part of the Potomac Heritage Trail, as requested by the State of Pennsylvania in its April 1984 application, subject to the provisions of paragraph (11) of section 5(a) of the National Trail System Act, as amended.

[SEC. 114. Section 5 of the Outer Continental Shelf Lands Act (43 U.S.C. 1334) is amended (without regard to the limitation contained in section 102) by adding at the end the following new subsection:

["(j)(1) Any vessel, rig, platform, or other structure used for the purpose of exploration or production of oil and gas on the Outer Continental Shelf south of 49 degrees North latitude shall be built—

["(A) in the United States; and

["(B) from articles, materials, or supplies at least 50 percent of which, by cost, shall have been mined, produced, or manufactured, as the case may be, in the United States.

["(2) The requirements of paragraph (1) shall not apply to any vessel, rig, platform, or other structure which was built, which is being built, or for which a building contract has been executed, on or before October 1, 1986.

["(3) The Secretary may waive—

["(A) the requirement in paragraph (1)(B) whenever the Secretary determines that 50 percent of the articles, materials, or supplies for a vessel, rig, platform, or other structure cannot be mined, produced, or manufactured, as the case may be, in the United States; and

["(B) the requirement in paragraph (1)(A) upon application, with respect to any classification of vessels, rigs, platforms, or other structures on a specific lease, when the Secretary determines that at least 50 percent of such classification, as calculated by number and by weight, which are to be built for exploration or production activities under such lease will be built in the United States in compliance with the requirements of paragraph (1)(A).".

[SEC. 115. None of the funds made available by this Act for fiscal year 1987 to the Office of the Secretary, Department of the Interior, shall be expended to submit to the United States District Court for Eastern California any settlement with respect to Westlands v. the United States, et al. (CV-F-81-245-EDP).

[SEC. 116. The Secretary of the Interior shall designate the visitor center to be associated with the headquarters of the Illinois and Michigan Canal National Heritage Corridor as the "George M. O'Brien Visitor Center" in recognition of the leadership and contributions of Representative George M. O'Brien with respect to the creation and establishment of this national heritage corridor.

[SEC. 117. Notwithstanding any other provisions of the Land and Water Conservation Fund Act of 1965, Public Law 88-578, as amended, or other law, Land and Water Conservation Fund assisted land in Berkeley, Illinois, assisted under project No. 17-00180, may be exchanged for existing public lands if Land and Water Conservation Fund conversion criteria regarding equal fair market value and reasonably equivalent use and location are met.]

SEC. 111. None of the funds provided by this Act shall be expended by the Secretary of the Interior to promulgate final regulations concerning paleontological research on Federal lands until the Secretary has received the National Academy of Sciences' report concerning the permitting and post-permitting regulations concerning paleontological research and until the Secretary has, within 30 days, submitted a report to the appropriate committees of the Congress comparing the National Academy of Sciences' report with the proposed regulations of the Department of the Interior.

TITLE II—RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

FOREST RESEARCH

For necessary expenses of forest research as authorized by law, [$129,183,000] *$123,282,000,* of which [$3,400,000] *$6,500,000* shall remain available until expended for competitive research grants, as authorized by section 5 of Public Law 95-307.

STATE AND PRIVATE FORESTRY

For necessary expenses of cooperating with, and providing technical and financial assistance to States, Territories, possessions, and others; and for forest pest management activities, [$57,671,000] *$61,771,000,* to remain available until expended, to carry out activities authorized in Public Law 95-313: *Provided,* That a grant of [$3,000,000] *$2,800,000* shall be made to the State of Minnesota for the purposes authorized by section 6 of Public Law 95-495.

NATIONAL FOREST SYSTEM

For necessary expenses of the Forest Service, not otherwise provided for, for management, protection, improvement, and utilization of the National Forest System, and for repayment of advances made in the preceding fiscal year pursuant to 16 U.S.C. 556d for forest fire protection and emergency rehabilitation of National Forest System lands, and including administrative expenses associated with the management of funds provided under the heads "Forest Research", "State and Private Forestry", "National Forest System", "Construction", and "Land Acquisition", [$996,687,000] *$1,144,894,000,* of which [$144,767,000] *$245,780,000* for reforestation and timber stand improvement, cooperative law enforcement, *firefighting,* and maintenance of forest development roads and trails shall remain available for obligation until September 30, 1988.

The Forest Service is encouraged to complete as expeditiously as possible development of land and resource management plans to meet the requirements of the National Forest Management Act (NFMA) of 1976. Under the provisions of section 6(c) of the NFMA (16 U.S.C. 1600), and notwithstanding any other provision of law, the Forest Service shall continue the management of units of the National Forest System under existing management plans pending the completion of land and resource management plans developed in accordance with the Act.

CONSTRUCTION

For necessary expenses of the Forest Service, not otherwise provided for, for construction, [$192,409,000] *$276,130,000,* to remain available until expended, of which [$36,736,000] *$15,476,000* is for construction and acquisition of buildings and other facilities; and [$155,673,000] *$260,654,000* is for construction of forest roads and trails by the Forest Service as authorized by 16 U.S.C. 532-538 and 23 U.S.C. 101 and 205: *Provided,* That funds becoming available in fiscal year 1987 under the Act of March 4, 1913 (16 U.S.C. 501), shall be transferred to the General Fund of the Treasury of the United States: *Provided further, That the Forest Service shall achieve a 5 per centum reduction in the average cost per road mile as compared to the adjusted fiscal year 1985 average cost by a combination of the following two actions: (1) the application of road construction standards used to construct or*

reconstruct Forest Service roads, purchaser credit roads, or purchaser elect roads, and (2) reducing the direct personnel cost of designing and constructing roads to these standards: Provided further, That the Forest Service shall take administrative cost saving actions, including reductions in indirect personnel, overhead charges, and productivity improvements, in fiscal year 1987 in a manner so as to achieve a 5 per centum reduction in the average cost per road mile as compared to the adjusted fiscal year 1985 average cost: Provided further, That such actions shall be taken so as to achieve these 5 per centum reductions in each Forest Service region.

Pursuant to section (b)(2), The Act of December 23, 1980, Public Law 96-581 (94 Stat. 3372), not to exceed $300,000 from the sale of 18.13 acres to the Flagstaff Medical Regional Center, Flagstaff, Arizona, are hereby appropriated and made available, until expended, to the Forest Service for the specific purpose of contract administration and overruns resulting from the construction of administrative improvements at the Mt. Elden Work Center, Flagstaff, Arizona: Provided, That the Secretary of Agriculture shall ensure that outlays associated with such action shall not cause the total outlays during fiscal year 1987 from Forest Service land acquisition and construction activities and construction activities in region 3 (including Arizona and New Mexico) to exceed the total that otherwise would have occurred as a result of enactment of this or previous appropriations Acts.

There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account), $9,915,000 to be transferred to the Forest Service for road construction to serve the Mount St. Helens National Volcanic Monument, Washington: Provided, That the funds authorized by this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, except the Federal share of the cost of this project shall be 100 per centum, and such funds shall remain available until expended: Provided further, That the foregoing shall not alter the amount of funds or contract authority that would otherwise be available for road construction to serve any State other than the State of Washington.

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601-4-11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the Forest Service, [$39,936,000] *$31,906,000*, to be derived from the Land and Water Conservation Fund, and $3,000,000 for acquisition of land and interests therein in the Columbia River Gorge, Oregon and Washington, as depicted on a map entitled "Columbia Gorge Acquisitions—1986" on file with the Forest Service, pursuant to the Department of Agriculture Organic Act of 1956 (7 U.S.C. 428(a)), to remain available until expended.

ACQUISITION OF LANDS FOR NATIONAL FORESTS SPECIAL ACTS

For acquisition of land within the exterior boundaries of the Cache and Uinta National Forests, Utah; the Toiyabe National Forest, Nevada; and the Angeles, San Bernardino, and Cleveland National Forests, California, as authorized by law, $966,000, to be derived from forest receipts.

ACQUISITION OF LANDS TO COMPLETE LAND EXCHANGES

For acquisition of lands, to be derived from funds deposited by State, county, or municipal governments, public school districts, or other public school authorities pursuant to the Act of December 4, 1967, as amended (16 U.S.C. 484a), to remain available until expended.

RANGE BETTERMENT FUND

For necessary expenses of range rehabilitation, protection, and improvement, 50 per centum of all moneys received during the prior fiscal year, as fees for grazing domestic livestock on lands in National Forests in the sixteen Western States, pursuant to section 401(b)(1) of Public Law 94-579, as amended, to remain available until expended.

MISCELLANEOUS TRUST FUNDS

For expenses authorized by 16 U.S.C. 1643(b), $90,000 to remain available until expended, to be derived from the fund established pursuant to the above Act.

ADMINISTRATIVE PROVISIONS, FOREST SERVICE

Appropriations to the Forest Service for the current fiscal year shall be available for: (a) purchase of not to exceed 245 passenger motor vehicles of which eight will be used primarily for law enforcement purposes and of which 235 shall be for replacement only, of which acquisition of 148 passenger motor vehicles shall be from excess sources, and hire of such vehicles; operation and maintenance of aircraft, the purchase of not to exceed two for replacement only, and acquisition of 58 aircraft from excess sources; notwithstanding other provisions of law, existing aircraft being replaced may be sold, with proceeds derived or trade-in value used to offset the purchase price for the replacement aircraft; (b) services pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 for employment under 5 U.S.C. 3109; (c) uniform allowances for each uniformed employee of the Forest Service, not in excess of $400 annually; (d) purchase, erection, and alteration of buildings and other public improvements (7 U.S.C. 2250); (e) acquisition of land, waters, and interests therein, pursuant to the Act of August 3, 1956 (7 U.S.C. 428a); (f) for expenses pursuant to the Volunteers in the National Forest Act of 1972 (16 U.S.C. 558a, 558d, 558a note); and (g) for debt collection contracts in accordance with 31 U.S.C. 3718(c).

None of the funds made available under this Act shall be obligated or expended to change the boundaries of any region, to abolish any region, to move or close any regional office for research, State and private forestry, or National Forest System administration of the Forest Service, Department of Agriculture, without the consent of the House and Senate Committees on Appropriations and the Committee on Agriculture, Nutrition, and Forestry in the United States Senate and the Committee on Agriculture in the United States House of Representatives.

Any appropriations or funds available to the Forest Service may be advanced to the National Forest System appropriation for the emergency rehabilitation of burned-over lands under its jurisdiction.

[Appropriations and funds available to the Forest Service shall be available to comply with the requirements of section 313(a) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1323(a)).]

The appropriation structure for the Forest Service may not be altered without advance approval of the House and Senate Committees on Appropriations.

Notwithstanding any other provision of law, any appropriations or funds available to the Forest Service may be used to reimburse employees for the cost of State licenses and certification fees pursuant to their Forest Service position and that are necessary to comply with State laws, regulations, and requirements.

Notwithstanding any other provision of law, the Secretary of Agriculture is hereafter authorized to use from any receipts from the sale of timber a sum equal to the lowest acceptable bid for the construction of roads under the purchaser election program as described and authorized in section 14(i) of the National Forest Management Act of 1976.

Funds appropriated to the Forest Service shall be available for assistance to or through the Agency for International Development and the Office of International Cooperation and Development in connection with forest and rangeland research, and technical information and assistance in foreign countries.

Funds previously appropriated for timber salvage sales may be recovered from receipts deposited for use by the applicable national forest and credited to the Forest Service Permanent Appropriations to be expended for timber salvage sales from any national forest: *Provided,* That no less than [$26,781,000] *$26,000,000* shall be made available to the Forest Service for obligation in fiscal year 1987 from the Timber Salvage Sales Fund appropriation.

None of the funds made available to the Forest Service under this Act shall be subject to transfer under the provisions of section 702(b) of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 2257) or 7 U.S.C. 147b unless the proposed transfer is approved in advance by the House and Senate Committees on Appropriations in compliance with the reprograming procedures contained in House Report 97-942.

No funds appropriated to the Forest Service shall be transferred to the Working Capital Fund of the Department of Agriculture without the approval of the Chief of the Forest Service.

[Funds available to the Forest Service shall be available to conduct a program of not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93-408.

The Forest Service is authorized and directed to negotiate, within 90 days after the enactment of this Act, settlement of claims against the United States resulting from a forest fire in the Black Hills National Forest.]

The Forest Service is hereby authorized and directed to pay certain claims against the United States resulting from a forest fire in the Black Hills National Forest on August 21-25, 1985. The Forest Service is directed to pay the eleven claims filed September 18, 1985, in the amount of $605,538.44, and to negotiate any other claims filed within 60 days of the date of enactment of this Act. The Forest Service is directed to pay these claims from funds available for firefighting purposes and is also directed to submit a budget request to replace firefighting funds expended for this purpose.

In order to provide for more comprehensive and effective management, the exterior boundary of the Gifford Pinchot National Forest in the State of Washington is hereby modified as generally depicted on a map entitled "Boundary Modification, Gifford Pinchot National Forest," dated August 1986. Such map and legal description of the boundary modification of said National Forest shall be on file and available for public inspection in the Office of the Chief, Forest Service, Department of Agriculture and in appropriate field offices of that agency. This boundary modification shall not affect valid existing rights or interests in existing land use authorizations.

No more than $500,000 made available to the Forest Service for obligation in fiscal year 1987 shall be expended to implement the provisions of sections 3 and 4 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (the Act of August 17, 1974; 88 Stat. 476, as amended; 16 U.S.C. 1601 (note), 1600-1614).

DEPARTMENT OF ENERGY

CLEAN COAL TECHNOLOGY

The Secretary of Energy pursuant to the Federal Nonnuclear Energy Research and Development Act of 1974 (Public Law 93-577), shall—

(1) no later than thirty days after the date of the enactment of this Act, publish in the Federal Register a notice soliciting statements of interest in, and informational proposals for, projects meeting the cost-sharing criteria contained under this head in Public Law 99-190 and employing emerging clean coal technologies which are capable of retrofitting, repowering, or modernizing existing facilities, which statements and informational proposals are to be submitted to the Secretary within [sixty] *eighty* days after the publication of such notice; and

(2) no later than [one hundred and twenty days after the receipt of statements of interest and informational proposals] *March 6, 1987*, submit to Congress a report that analyzes the information contained in such statements of interest and informational proposals and assesses the potential usefulness and commercial viability of each emerging clean coal technology for which a statement of interest or informational proposal has been received.

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses in carrying out fossil energy research and development activities, under the authority of the Department of Energy Organization Act (Public Law 95-91), including the acquisition of interest, including defeasible and equitable interests in any real property or any facility or for plant or facility acquisition or expansion, [$314,512,000] *$242,947,000*, to remain available until expended, of which $221,000 is for the functions of the Office of the Federal Inspector for the Alaska Natural Gas Transportation System established pursuant to the authority of Public Law 94-586 (90 Stat. 2908-2909), and $2,074,000 to be derived by transfer from unobligated balances in the "Fossil energy construction" account, and in addition, $437,000 to be derived by transfer from amounts derived from fees for guarantees of obligations collected pursuant to section 19 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended (42 U.S.C. 5919), and deposited in the "Energy security reserve" established by Public Law 96-126: *Provided*, That no part of the sum herein made available shall be used for the field testing of nuclear explosives in the recovery of oil and gas.

Of the funds herein provided, [$30,000,000] *$23,500,000* is for implementation of the June, 1984 multiyear, cost-shared magnetohydrodynamics program targeted on proof-of-concept testing: *Provided further*, That 20 per centum private sector cash or in-kind contributions shall be required for obligations in fiscal year 1987, and for each subsequent fiscal year's obligations private sector contributions shall increase by 5 per centum over the life of the proof-of-concept plan: *Provided further*, That existing facilities, equipment, and supplies, or previously expended research or development funds are not cost-sharing for the purposes of this appropriation, except as amortized, depreciated, or expensed in normal business practice: *Provided further*, That cost-sharing shall not be required for the costs of constructing or operating Government-owned facilities or for the costs of Government organizations, National Laboratories, or universities and such costs shall not be used in calculating the required percentage for private sector contributions: *Provided further*, That private sector contribution percentages need not be met on each contract but must be met in total for each fiscal year.

NAVAL PETROLEUM AND OIL SHALE RESERVES

For necessary expenses in carrying out naval petroleum and oil shale reserves activities, including the purchase of not to exceed 1 passenger motor vehicle, for replacement only, $122,177,000, to remain available until expended.

Notwithstanding any other provision of law, including Public Law 81-152, the Secretary of Energy (hereafter "the Secretary") is directed to sell all of the United States' interest in Naval Petroleum Reserves Numbered 1 and 3 (hereafter "NPR Nos. 1 and 3"), including its interest in any contract for joint, unit, or other cooperative plans covering NPR 1 and 3 or in any corporate, partnership or other business entity to which the United States' interests in NPR Nos. 1 and 3 has been transferred. The provisions of chapter 641 of title 10, United States Code, shall cease to apply with respect to NPR Nos. 1 and 3 from the date the Secretary prescribes in arranging the sale of the United States interest therein.

The Secretary is directed to arrange sale of the United States' interest in Naval Petroleum Reserves Numbered 1 and 3; the Secretary is directed to attempt, insofar as practicable and consistent with the provisions of this section, to consummate such sales by June 30, 1987 with the initial minimum payment of $200,000,000 to the Treasury on or before September 30, 1987. In order to arrange and conduct a sale, the Secretary is authorized to: (1) create new corporations, partnerships or other business entities, and transfer the United States' interest to the new entities, without their being subject to the requirements of the Government Corporation Control Act (31 U.S.C. 919 et seq.); (2) enter into contracts, including contracts for investment banking and other professional services, without regard to any provision of law or regulation prescribing procedures to be followed in the formation of contracts or terms and conditions to be included in contracts, or regulating the performance of contracts; (3) use funds appropriated for any function or program of the Department of Energy, including the Naval Petroleum Reserves; and (4) negotiate, in consultation with the Secretary of the Interior, a settlement of the State of California's claim of entitlement to lands granted under the Act of March 3, 1953 (10 Stat. 244), and settle such claim out of the proceeds of sale, without paying such funds into the U.S. Treasury.

Before any condemnation proceedings are instituted, an effort shall be made to acquire the property by negotiation, unless, in the judgment of the Secretary, the effort to acquire the property by negotiation would be futile or unduly time-consuming, or otherwise not in the public interest.

In arranging the sale of the United States interest in NPR No. 1, the Secretary shall assure through the provisions in any contract of sale of such interest that: (1) the interest of small and independent refiners is protected by affording small refiners the right of first refusal to purchase at least 50 percent of the crude oil produced from NPR No. 1 for a period of five years from the date of sale and at least 25 percent of the crude oil produced from NPR No. 1 for a period of five years thereafter; (2) no subsequent contract for the purchase of crude oil from the United States share of NPR No. 1 would result in any person obtaining control, directly or indirectly, over more than 20 percent of the estimated annual crude oil production produced from NPR No. 1; and (3) any offer to sell crude oil from NPR No. 1 will be preceded by written notification to each of the small or independent refiners in existence which purchased crude oil from NPR No. 1 within the past 24 months.

Following the sale, the Secretary shall report to Congress on the steps that were taken to protect the interests of small refiners.

Sections 160 (a), (b), and (d) of the Energy Policy and Conservation Act (42 U.S.C. 6240 (a), (b), and (d)) shall cease to apply to the Naval Petroleum Reserves Numbered 1 and 3.

ENERGY CONSERVATION

For necessary expenses in carrying out energy conservation activities, [$285,825,000] *$246,413,000*, to remain available until expended[, of which $10,000,000 shall be available for a grant for an energy research facility at Tufts University when specifically authorized by an Act of Congress: *Provided*, That award of such grant may be made only upon approval of an appropriate peer review panel convened by the Department of Energy for the specific purpose of reviewing such grant application and subject to conditions, if any, contained, in legislation specifically authorizing such project: *Provided further*, That $2,500,000 of the amount provided under this heading shall be available for continuing a research and development initiative with the National Laboratories for new technologies up to proof-of-concept testing to increase significantly the energy efficiency of processes that produce steel: *Provided further*, That obligation of funds for these activities shall be contingent on an agreement to provide cash or in-kind contributions to the initiative or to other collaborative research and development activities related to the purpose of the initiative equal to 30 percent of the amount of Federal Government obligations: *Provided further*, That existing facilities, equipment, and supplies, or previously expended research or development funds are not acceptable as contributions for the purposes of this appropriation, except as amortized, depreciated, or expensed in normal business practice: *Provided further*, That the total Federal expenditure under this proviso shall be repaid up to one and one-half times from the proceeds of

the commercial sale, lease, manufacture, or use of technologies developed under this proviso, at a rate of one-fourth of all net proceeds: *Provided further,* That none of the funds included in this appropriation may be used to carry out the requirements of Part E of title III of the Energy Policy and Conservation Act (42 U.S.C. 6341–6346)].

ECONOMIC REGULATION

For necessary expenses in carrying out the activities of the Economic Regulatory Administration and the Office of Hearings and Appeals, $23,400,000.

EMERGENCY PREPAREDNESS

For necessary expenses in carrying out emergency preparedness activities, $6,044,000.

STRATEGIC PETROLEUM RESERVE

For expenses necessary to carry out the provisions of sections 151 through 166 of the Energy Policy and Conservation Act of 1975 (Public Law 94–163), $147,433,000, to remain available until expended.

[SPR PETROLEUM ACCOUNT

[For expenses necessary for the acquisition, transportation, and injection of petroleum into the Strategic Petroleum Reserve, and for other necessary expenses as provided in 42 U.S.C. 6247, $220,000,000, to remain available until expended: *Provided,* That, notwithstanding any other provision of law, the minimum required rate of fill is 75,000 barrels a day until all funds in this account are expended.]

ENERGY INFORMATION ADMINISTRATION

For necessary expenses in carrying out the activities of the Energy Information Administration, [$60,361,000] *$59,651,000*[: *Provided,* That hereafter the information survey entitled "Manufacturing Energy Consumption Survey (EIA–846F)" shall contain a section III entitled "Fuel Switching Capability To and From Oil" in essentially the form submitted to the Office of Management and Budget on March 14, 1986, and shall be issued to survey energy consumption in 1985 and every three years thereafter].

ADMINISTRATIVE PROVISIONS, DEPARTMENT OF ENERGY

Appropriations under this Act for the current fiscal year shall be available for hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; purchase, repair, and cleaning of uniforms; and reimbursement to the General Services Administration for security guard services.

From appropriations under this Act, transfers of sums may be made to other agencies of the Government for the performance of work for which the appropriation is made.

None of the funds made available to the Department of Energy under this Act shall be used to implement or finance authorized price support or loan guarantee programs unless specific provision is made for such programs in an appropriations Act.

The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, private, or foreign: *Provided,* That revenues and other moneys received by or for the account of the Department of Energy or otherwise generated by sale of products in connection with projects of the Department appropriated under this Act may be retained by the Secretary of Energy, to be available until expended, and used only for plant construction, operation, costs, and payments to cost-sharing entities as provided in appropriate cost-sharing contracts or agreements: *Provided further,* That the remainder of revenues after the making of such payments shall be covered into the Treasury as miscellaneous receipts: *Provided further,* That any contract, agreement, or provision thereof entered into by the Secretary pursuant to this authority shall not be executed prior to the expiration of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full and comprehensive report on such project, including the facts and circumstances relied upon in support of the proposed project.

The Secretary of Energy may transfer to the Emergency Preparedness appropriation such funds as are necessary to meet any unforeseen emergency needs from any funds available to the Department of Energy from this Act.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

INDIAN HEALTH SERVICES

For expenses necessary to carry out the Act of August 5, 1954 (68 Stat. 674), the Indian Self-Determination Act, the Indian Health Care Improvement Act, and titles III and XXI and section 338G of the Public Health Service Act with respect to the Indian Health Service, including hire of passenger motor vehicles and aircraft; purchase of reprints; purchase and erection of portable buildings; payments for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; [$836,336,000] *$833,106,000*: *Provided,* That funds made available to tribes and tribal organizations through grants and contracts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450), shall remain available until September 30, 1988*; and $10,000,000 shall remain available until expended, for the establishment of an Indian Catastrophic Health Emergency Fund (hereinafter referred to as the "Fund"). Hereafter, the Fund is to cover the Indian Health Service portion of the medical expenses of catastrophic illness falling within the responsibility of the Service and shall be administered by the Secretary of Health and Human Services, acting through the central office of the Indian Health Service. No part of the Fund or its administration shall be subject to contract or grant under the Indian Self-Determination and Education Assistance Act (Public Law 93-638). There shall be deposited into the Fund all amounts recovered under the authority of the Federal Medical Care Recovery Act (42 U.S.C. 2651, et seq.), which shall become available for obligation upon receipt and which shall remain available for obligation until expended. The Fund shall not be used to pay for health services provided to eligible Indians to the extent that alternate Federal, State, local, or private insurance resources for payment: (1) are available and accessible to the beneficiary; or (2) would be available and accessible if the beneficiary were to apply for them; or (3) would be available and accessible to other citizens similarly situated under Federal, State, or local law or regulation or private insurance program notwithstanding Indian Health Service eligibility or residency on or off a Federal Indian reservation.* Funds provided in this Act may be used for one-year contracts and grants which are to be performed in two fiscal years, so long as the total obligation is recorded in the year for which the funds are appropriated: *Provided further,* That the amounts collected by the Secretary of Health and Human Services under the authority of title IV of the Indian Health Care Improvement Act shall be available until September 30, 1988, for the purpose of achieving compliance with the applicable conditions and requirements of titles XVIII and XIX of the Social Security Act (exclusive of planning, design, construction of new facilities, or major renovation of existing Indian Health Service facilities): *Provided further,* That funding contained herein, and in any earlier appropriations Acts for scholarship programs under section 103 of the Indian Health Care Improvement Act and section 338G of the Public Health Service Act with respect to the Indian Health Service shall remain available for expenditure until September 30, 1988.

INDIAN HEALTH FACILITIES

For construction, major repair, improvement, and equipment of health and related auxiliary facilities, including quarters for personnel; preparation of plans, specifications, and drawings; acquisition of sites, purchase and erection of portable buildings, purchases of trailers and for provision of domestic and community sanitation facilities for Indians, as authorized by section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), the Indian Self-Determination Act and the Indian Health Care Improvement Act, [$54,921,000] *$60,920,000*, to remain available until expended.

ADMINISTRATIVE PROVISIONS, INDIAN HEALTH SERVICE

Appropriations in this Act to the Indian Health Service, available for salaries and expenses, shall be available for services as authorized by 5 U.S.C. 3109 but at rates not to exceed the per diem equivalent to the rate for GS–18, and for uniforms or allowances therefor as authorized by law (35 U.S.C. 5901–5902), and for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities: *Provided,* That none of the funds appropriated under this Act to the Indian Health Service shall be available for the initial lease of permanent structures without advance provision therefor in appropriations Acts: *Provided further,* That non-Indian patients may be extended health care at all Indian Health Service facilities, if such care can be extended without impairing the ability of the Indian Health Service to fulfill its responsibility to provide health care to Indians served by such facilities and subject to such reasonable charges as the Secretary of Health and Human Services shall prescribe, the proceeds of which, together with funds recovered under the Federal Medical Care Recovery Act (42 U.S.C. 2651–53), shall be deposited in the fund established by sections 401 and 402 of the Indian Health Care Improvement Act: *Provided further,* That funds appropriated to the Indian Health Service in this Act, except those used for administrative and program direction purposes, shall not be subject to limitations di-

rected at curtailing Federal travel and transportation: *Provided further,* That with the exception of service units which currently have a billing policy, the Indian Health Service shall not initiate any further action to bill Indians in order to collect from third-party payers nor to charge those Indians who may have the economic means to pay unless and until such time as Congress has agreed upon a specific policy to do so and has directed the Indian Health Service to implement such a policy: *Provided further,* That the Secretary of Health and Human Services may authorize special retention pay under paragraph (4) of 37 U.S.C. 302(a) to any regular or reserve officer for the period during which the officer is obligated under section 338B of the Public Health Service Act and assigned and providing direct health services or serving the officer's obligation as a specialist: *Provided further,* That hereafter the Indian Health Service may seek subrogation of claims including but not limited to auto accident claims, including no-fault claims, personal injury, disease, or disability claims, and worker's compensation claims, the proceeds of which shall be credited to the funds established by sections 401 and 402 of the Indian Health Care Improvement Act[: *Provided further,* That none of the funds made available in this Act to the Indian Health Service shall be used to implement additional changes in resource allocation methodology until the proposed changes in detail for fiscal year 1987 and the long-range plans for such changes have been submitted to and approved by the House and Senate Committees on Appropriations]: *Provided further, That section 103(c) of the Indian Self-Determination Act (88 Stat. 2206) is amended by adding the following sentence at the end thereof: "For purposes of section 224 of the Public Health Service Act of July 1, 1944 (42 U.S.C. 233(a)), as added by section 4 of the Act of December 31, 1970 (84 Stat. 1870) and redesignated by section 301(c) of the Act of November 18, 1971 (85 Stat. 463), and chapter 171 and section 1346 of title 28, United States Code, with respect to claims for personal injury, including death, resulting from the performance of medical, surgical, dental, or related functions, including the conduct of clinical studies or investigations, a tribal organization or Indian contractor carrying out a contract, grant agreement, or cooperative agreement under sections 103 or 104(b) of this Act or the so called Buy-Indian Act in the Act of April 30, 1908 (35 Stat. 71) or section 23 of the Act of June 25, 1910 (36 Stat. 861) (25 U.S.C. 47) is deemed to be part of the Public Health Service in the Department of Health and Human Services while carrying out such contract or agreement and its employees (including those acting on behalf of the organization or contractor as provided in section 2671 of title 28) are deemed employees of the Service while acting within the scope of their employment in carrying out the contract or agreement.": Provided further, That notwithstanding any other provision of law or regulation, for purposes of acquiring sites for new hospital facilities in Anchorage, Alaska and in Kotzebue, Alaska, the Secretary of Health and Human Services may exchange any or all interests in any land administered by the Secretary in Alaska for any or all interests in any land of the State of Alaska, any political subdivision of the State, or any corporation, including the University of Alaska and may receive money if necessary to equalize the exchange: Provided further, That any such receipts shall be credited to the Indian Health facilities appropriation and be used to offset the cost of construction of these two facilities.*

DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

INDIAN EDUCATION

For necessary expenses to carry out, to the extent not otherwise provided, the Indian Education Act, [$67,236,000] *$62,000,000* of which [$50,021,000] *$46,832,000* shall be for part A and [$14,749,000] *$12,900,000* shall be for parts B and C: *Provided,* That the amounts available pursuant to section 423 of the Act shall remain available for obligation until September 30, 1988.

OTHER RELATED AGENCIES

NAVAJO AND HOPI INDIAN RELOCATION COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Navajo and Hopi Indian Relocation Commission as authorized by Public Law 93-531, [$22,289,000] *$22,335,000,* to remain available until expended, for operating expenses of the Commission: *Provided,* That none of the funds contained in this or any other Act may be used to evict any single Navajo or Navajo family who *has not received relocation benefits and who,* as of November 30, 1985, was physically domiciled on the lands partitioned to the Hopi Tribe until such time as a new or replacement home is available for such household: *Provided further,* That of the funds provided under this head, not to exceed [$65,000] *$100,000* shall be used to contract for legal services[: *Provided further,* That of the funds provided under this head, not less than $492,000 shall be used for pre- and post-move counseling: *Provided further,* That none of the funds appropriated may be used to contract for the services of anyone who has been registered as a lobbyist for the Navajo and Hopi Indian Relocation Commission: *Provided further,* That the Commission shall relocate those certified eligible relocatees who have selected and received an approved homesite on the Navajo reservation or selected a replacement residence off the Navajo reservation, and to the maximum extent practicable, shall relocate them in the chronological order in which they became certified: *Provided further,* That of the funds provided under this head, not to exceed $410,000 shall be used for personnel compensation and benefits of the Office of Policy and Direction of the Commission].

The Commission shall review the eligibility of all households certified as eligible who have not received relocation benefits and shall decertify any household which was certified contrary to law or regulation.

SMITHSONIAN INSTITUTION

SALARIES AND EXPENSES

For necessary expenses of the Smithsonian Institution, as authorized by law, including research in the fields of art, science, and history; development, preservation, and documentation of the National Collections; presentation of public exhibits and performances; collection, preparation, dissemination, and exchange of information and publications; conduct of education, training, and museum assistance programs; maintenance, alteration, operation, lease (for terms not to exceed ten years), and protection of buildings, facilities, and approaches; not to exceed $100,000 for services as authorized by 5 U.S.C. 3109; up to 5 replacement passenger vehicles; purchase, rental, repair, and cleaning of uniforms for employees; [$189,318,000] *$180,550,000,* including such funds as may be necessary to support American overseas research centers: *Provided,* That funds appropriated herein are available for advance payments to independent contractors performing research services or participating in official Smithsonian presentations.

CONSTRUCTION AND IMPROVEMENTS, NATIONAL ZOOLOGICAL PARK

For necessary expenses of planning, construction, remodeling, and equipping of buildings and facilities at the National Zoological Park, by contract or otherwise, [$4,851,000] *$2,500,000,* to remain available until expended.

RESTORATION AND RENOVATION OF BUILDINGS

For necessary expenses of restoration and renovation of buildings owned or occupied by the Smithsonian Institution, by contract or otherwise, as authorized by section 2 of the Act of August 22, 1949 (63 Stat. 623), including not to exceed $10,000 for services as authorized by 5 U.S.C. 3109, [$12,113,000] *$12,028,000,* to remain available until expended: *Provided,* That contracts awarded for environmental systems, protection systems, and exterior repair or renovation of buildings of the Smithsonian Institution may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price: *Provided further,* That notwithstanding any other provisions of law, the Secretary of the Smithsonian Institution is authorized to expend and/or transfer to the State of Arizona, the counties of Santa Cruz and/or Pima, a sum not to exceed $100,000 within available funds for the purpose of assisting in the construction or maintenance of an access to the Whipple Observatory.

CONSTRUCTION

For necessary expenses to construct, equip, and furnish the Center for African, Near Eastern, and Asian Cultures in the area south of the original Smithsonian Institution Building, and [a research laboratory and conference facility at] *for* the Smithsonian Tropical Research Institute in Panama, [$6,095,000] *$6,130,000,* to remain available until expended.

NATIONAL GALLERY OF ART

SALARIES AND EXPENSES

For the upkeep and operations of the National Gallery of Art, the protection and care of the works of art therein, and administrative expenses incident thereto, as authorized by the Act of March 24, 1937 (50 Stat. 51), as amended by the public resolution of April 13, 1939 (Public Resolution 9, Seventy-sixth Congress), including services as authorized by 5 U.S.C. 3109; payment in advance when authorized by the treasurer of the Gallery for membership in library, museum, and art associations or societies whose publications or services are available to members only, or to members at a price lower than to the general public; purchase, repair, and cleaning of uniforms for guards, and uniforms, or allowances therefor, for other employees as authorized by law (5 U.S.C. 5901-5902); purchase, or rental of devices and services for protecting buildings and contents thereof, and maintenance, alteration, improvement, and repair of buildings, approaches, and grounds; and purchase of services for restoration and repair of works of art for the National Gallery of Art by contracts made, without advertising, with individuals, firms, or organizations at

such rates or prices and under such terms and conditions as the Gallery may deem proper, $34,607,000, of which not to exceed $2,420,000 for the special exhibition program shall remain available until expended.

REPAIR, RESTORATION AND RENOVATION OF BUILDINGS

For necessary expenses of repair, restoration and renovation of buildings, grounds, and facilities owned or occupied by the National Gallery of Art, by contract or otherwise, as authorized, $2,400,000, to remain available until expended: *Provided*, That contracts awarded for environmental systems, protection systems, and exterior repair or renovation of buildings of the National Gallery of Art may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price: *Provided further*, That unexpended balances of amounts previously appropriated for this purpose under the heading "Salaries and expenses, National Gallery of Art" may be transferred to and merged with this appropriation and accounted for as one appropriation for the same time period as originally enacted.

WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

SALARIES AND EXPENSES

For expenses necessary in carrying out the provisions of the Woodrow Wilson Memorial Act of 1968 (82 Stat. 1356), including hire of passenger vehicles and services as authorized by 5 U.S.C. 3109, [$3,383,000] *$3,138,000.*

ENDOWMENT CHALLENGE FUND

To carry out the provisions of Public Law 99-190 (99 Stat. 1259), $300,000, to remain available until expended.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

NATIONAL ENDOWMENT FOR THE ARTS

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, [$136,661,000] *$132,950,000* shall be available to the National Endowment for the Arts for the support of projects and productions in the arts through assistance to groups and individuals pursuant to section 5(c) of the Act, and for administering the functions of the Act[: *Provided*, That none of these funds may be used to propose a reprograming of funds for an increase in administration unless a sequestration order under the Balanced Budget and Emergency Deficit Control Act of 1985 is implemented for fiscal year 1987].

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, [$29,000,000] *$27,000,000*, to remain available until September 30, 1988, to the National Endowment for the Arts, of which [$20,580,000] *$18,000,000* shall be available for purposes of section 5(1): *Provided*, That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the Chairman or by grantees of the Endowment under the provisions of section 10(a)(2), subsections 11(a)(2)(A) and 11(a)(3)(A) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

NATIONAL ENDOWMENT FOR THE HUMANITIES

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, [$110,141,000] *$107,700,000* shall be available to the National Endowment for the Humanities for support of activities in the humanities, pursuant to section 7(c) of the Act, and for administering the functions of the Act[: *Provided*, That none of these funds may be used to propose a reprograming of funds for an increase in administration unless a sequestration order under the Balanced Budget and Emergency Deficit Control Act of 1985 is implemented for fiscal year 1987].

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, [$28,500,000] *$29,000,000* to remain available until September 30, 1988, of which $16,500,000 shall be available to National Endowment for the Humanities for the purposes of section 7(h): *Provided*, That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the Chairman or by grantees of the Endowment under the provisions of subsections 11(a)(2)(B) and 11(a)(3)(B) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

NATIONAL CAPITAL ARTS AND CULTURAL AFFAIRS

For necessary expenses as authorized by Public Law 99-190 (99 Stat. 1261; 20 U.S.C. 956a), [$3,500,000] *$4,000,000*[, for the following eligible organizations: Shakespeare Theater at the Folger, Corcoran Gallery of Art, Phillips Gallery, Arena Stage, the National Building Museum, the National Symphony Orchestra, the Washington Opera Society, Ford's Theater, and the Washington Ballet: *Provided*, That none of the funds may be used to implement paragraphs three and four contained under this head in Public Law 99-190 (99 Stat. 1261; 20 U.S.C. 956a)].

INSTITUTE OF MUSEUM SERVICES

GRANTS AND ADMINISTRATION

For carrying out title II of the Arts, Humanities, and Cultural Affairs Act of 1976, as amended, [$21,394,000] *$18,888,000*: *Provided*, That none of these funds shall be available for the compensation of Executive Level V or higher positions: *Provided further, That the Museum Services Board shall not meet more than three times during fiscal year 1987.*

ADMINISTRATIVE PROVISIONS

None of the funds appropriated to the National Foundation on the Arts and the Humanities may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: *Provided*, That none of the funds appropriated to the National Foundation on the Arts and the Humanities may be used for official reception and representation expenses.

COMMISSION OF FINE ARTS

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing a Commission of Fine Arts (40 U.S.C. 104), [$420,000] *$450,000.*

ADVISORY COUNCIL ON HISTORIC PRESERVATION

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing an Advisory Council on Historic Preservation, Public Law 89-665, as amended, $1,533,000: *Provided*, That none of these funds shall be available for the compensation of Executive Level V or higher positions.

NATIONAL CAPITAL PLANNING COMMISSION

SALARIES AND EXPENSES

For necessary expenses, as authorized by the National Capital Planning Act of 1952 (40 U.S.C. 71-71i), including services as authorized by 5 U.S.C. 3109, $2,684,000.

FRANKLIN DELANO ROOSEVELT MEMORIAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Franklin Delano Roosevelt Memorial Commission, established by the Act of August 11, 1955 (69 Stat. 694), as amended by Public Law 92-332 (86 Stat. 401), $5,000, to remain available until September 30, 1988.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

SALARIES AND EXPENSES

For necessary expenses, as authorized by section 17(a) of Public Law 92-578, as amended, [$2,342,000] *$2,437,000* for operating and administrative expenses of the Corporation.

PUBLIC DEVELOPMENT

For public development activities and projects in accordance with the development plan as authorized by section 17(b) of Public Law 92-578, as amended, [$3,869,000] *$3,924,000*, to remain available until expended.

UNITED STATES HOLOCAUST MEMORIAL COUNCIL

HOLOCAUST MEMORIAL COUNCIL

For expenses of the Holocaust Memorial Council, as authorized by Public Law 96-388, [$2,040,000] *$2,057,000*: *Provided*, That persons other than members of the United States Holocaust Memorial Council may be designated as members of committees associated with the United States Holocaust Memorial Council subject to appointment by the Chairman of the Council: *Provided further*, That any persons so designated shall serve without cost to the Federal Government: *Provided further*, That none of these funds shall be available for the compensation of Executive Level V or higher positions[: *Provided further*, That reimbursement for travel expenses for Council employees is available only when approved by the Chairman of the Council: *Provided further*, That the Chairman of the Council may waive any Council bylaw when the Chairman determines such waiver will be in the best interest of the Council].

TITLE III—GENERAL PROVISIONS

SEC. 301. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive Order issued pursuant to existing law.

SEC. 302. No part of any appropriation under this Act shall be available to the Secretaries of the Interior and Agriculture for

use for any sale hereafter made of unprocessed timber from Federal lands west of the 100th meridian in the contiguous 48 States which will be exported from the United States, or which will be used as a substitute for timber from private lands which is exported by the purchaser: *Provided,* That this limitation shall not apply to specific quantities of grades and species of timber which said Secretaries determine are surplus to domestic lumber and plywood manufacturing needs[: *Provided further,* That the Secretary of the Interior shall make and publish regulations under this section that are consistent with the existing regulations that have been promulgated by the Secretary of Agriculture].

SEC. 303. No part of any appropriation under this Act shall be available to the Secretary of the Interior or the Secretary of Agriculture for the leasing of oil and natural gas by noncompetitive bidding on publicly owned lands within the boundaries of the Shawnee National Forest, Illinois: *Provided,* That nothing herein is intended to inhibit or otherwise affect the sale, lease, or right to access to minerals owned by private individuals.

SEC. 304. No part of any appropriation contained in this Act shall be available for any activity or the publication or distribution of literature that in any way tends to promote public support or opposition to any legislative proposal on which congressional action is not complete.

SEC. 305. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 306. None of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency.

SEC. 307. Except for lands described by sections 105 and 106 of Public Law 96-560, section 103 of Public Law 96-550, section 5(d)(1) of Public Law 96-312, and except for land in the States of Alaska, and lands in the National Forest system released to management for any use the Secretary of Agriculture deems appropriate through the land management planning process by any statement or other Act of Congress designating components of the National Wilderness Preservation System now in effect or hereinafter enacted, and except to carry out the obligations and responsibilities of the Secretary of the Interior under section 17(k)(1)(A) and (B) of the Mineral Leasing Act of 1920 (30 U.S.C. 226), none of the funds provided in this Act shall be obligated for any aspect of the processing or issuance of permits or leases pertaining to exploration for or development of coal, oil, gas, oil shale, phosphate, potassium, sulphur, gilsonite, or geothermal resources on Federal lands within any component of the National Wilderness Preservation System or within any Forest Service RARE II areas recommended for wilderness designation or allocated to further planning in Executive Communication 1504, Ninety-sixth Congress (House Document numbered 96-119); or within any lands designated by Congress as wilderness study areas or within Bureau of Land Management wilderness study areas: *Provided,* That nothing in this section shall prohibit the expenditure of funds for any aspect of the processing or issuance of permits pertaining to exploration for or development of the mineral resources described in this section, within any component of the National Wilderness Preservation System now in effect or hereinafter enacted, any Forest Service RARE II areas recommended for wilderness designation or allocated to further planning, within any lands designated by Congress as wilderness study areas, or Bureau of Land Management wilderness study areas, under valid existing rights, or leases validly issued in accordance with all applicable Federal, State, and local laws or valid mineral rights in existence prior to October 1, 1982: *Provided further,* That funds provided in this Act may be used by the Secretary of Agriculture in any area of National Forest lands or the Secretary of the Interior to issue under their existing authority in any area of National Forest or public lands withdrawn pursuant to this Act such permits as may be necessary to conduct prospecting, seismic surveys, and core sampling conducted by helicopter or other means not requiring construction of roads or improvement of existing roads or ways, for the purpose of gathering information about and inventorying energy, mineral, and other resource values of such area, if such activity is carried out in a manner compatible with the preservation of the wilderness environment: *Provided further,* That seismic activities involving the use of explosives shall not be permitted in designated wilderness areas: *Provided further,* That funds provided in this Act may be used by the Secretary of the Interior to augment recurring surveys of the mineral values of wilderness areas pursuant to section 4(d)(2) of the Wilderness Act and acquire information on other national forest and public land areas withdrawn pursuant to this Act, by conducting in conjunction with the Secretary of Energy, the National Laboratories, or other Federal agencies, as appropriate, such mineral inventories of areas withdrawn pursuant to this Act as he deems appropriate. These inventories shall be conducted in a manner compatible with the preservation of the wilderness environment through the use of methods including core sampling conducted by helicopter; geophysical techniques such as induced polarization, synthetic aperture radar, magnetic and gravity surveys; geochemical techniques including stream sediment reconnaissance and x-ray diffraction analysis; land satellites; or any other methods he deems appropriate. The Secretary of the Interior is hereby authorized to conduct inventories or segments of inventories, such as data analysis activities, by contract with private entities deemed by him to be qualified to engage in such activities whenever he has determined that such contracts would decrease Federal expenditures and would produce comparable or superior results: *Provided further,* That in carrying out any such inventory or surveys, where National Forest System lands are involved, the Secretary of the Interior shall consult with the Secretary of Agriculture concerning any activities affecting surface resources: *Provided further,* That funds provided in this Act may be used by the Secretary of the Interior to issue oil and gas leases for the subsurface of any lands designated by Congress as wilderness study areas, that are immediately adjacent to producing oil and gas fields or areas that are prospectively valuable. Such leases shall allow no surface occupancy and may be entered only by directional drilling from outside the wilderness study area or other nonsurface disturbing methods.

SEC. 308. None of the funds provided in this Act shall be used to evaluate, consider, process, or award oil, gas, or geothermal leases on Federal lands in the Mount Baker-Snoqualmie National Forest, State of Washington, within the hydrographic boundaries of the Cedar River municipal watershed upstream of river mile 21.6, the Green River municipal watershed upstream of river mile 61.0, the North Fork of the Tolt River proposed municipal watershed upstream of river mile 11.7, and the South Fork Tolt River municipal watershed upstream of river mile 8.4.

SEC. 309. No assessments may be levied against any program, budget activity, subactivity, or project funded by this Act unless such assessments and the basis therefor are presented to the Committees on Appropriations and are approved by such committees.

SEC. 310. Employment funded by this Act shall not be subject to any personnel ceiling or other personnel restriction for permanent or other than permanent employment except as provided by law.

SEC. 311. Notwithstanding any other provisions of law, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Energy, and the Secretary of the Smithsonian Institution are authorized to enter into contracts with State and local governmental entities, including local fire districts, for procurement of services in the presuppression, detection, and suppression of fires on any units within their jurisdiction.

SEC. 312. None of the funds provided by this Act to the United States Fish and Wildlife Service may be obligated or expended to plan for, conduct, or supervise deer hunting on the Loxahatchee National Wildlife Refuge.

SEC. 313. None of the funds made available to the Department of the Interior or the Forest Service during fiscal year 1987 by this or any other Act may be used to implement the proposed jurisdictional interchange program until enactment of legislation which authorizes the jurisdictional interchange.

[SEC. 314. No funds appropriated or made available under this or any other Act shall be used by the executive branch for soliciting proposals, preparing or reviewing studies or drafting proposals designed to aid in or achieve the transfer out of Federal ownership, management or control in whole or in part the facilities and functions of Naval Petroleum Reserve Numbered 1 (Elk Hills), located in Kern County, California, established by Executive order of the President, dated September 2, 1912, and Naval Petroleum Reserve Numbered 3 (Teapot Dome), located in Wyoming, established by Executive order of the President, dated April 30, 1915, until such activities have been specifically authorized by an Act of Congress hereafter enacted and unless specific provision is made for such activities in an appropriations Act: *Provided,* That this provision shall not apply to the authority of the Administrator of the General Services Administration pursuant to the Federal Property and Administrative Service Act of 1949, as amended, and the Surplus Property Act of 1944 to sell or otherwise dispose of surplus property.

[SEC. 315. Section 1013 of the Budget and Impoundment Control Act (2 U.S.C. 684) shall not apply to funds herein appropriated.]

SEC. 314. Notwithstanding any other provision of law, funds appropriated by this or any other Act shall be available to the Trust Territory of the Pacific Islands on the same basis as such funds were available during fiscal year 1986 until alternative funding is available under the terms of the Compact of

Free Association Act of 1985 (Public Law 99-239).

SEC. 315. Notwithstanding any other provision of law, any lease for those Federal lands within the Gallatin and Flathead National Forests which were affected by case CV-82-42-BU of the United States District Court for the District of Montana, Butte Division, for which the Secretary of the Interior or the Secretary of Agriculture has directed or assented to the suspension of operations and production pursuant to section 39 of the Act of February 25, 1920 (30 U.S.C. 184) shall be excepted from the limits on aggregate acreage set out in that Act: Provided, That any person, association or corporation receiving relief under this section shall bring its aggregate acreage into compliance with the provisions of the Act of February 25, 1920 (30 U.S.C. 184) within six months from the date the suspension of operation and production ends.

SEC. 316. No funds appropriated by this Act shall be available for the implementation or enforcement of any rule or regulation of the United States Fish and Wildlife Service, Department of the Interior, requiring the use of steel shot in connection with the hunting of waterfowl in any State of the United States unless the appropriate State regulatory authority approves such implementation.

SEC. 317. Section 221 of the Biomass Energy and Alcohol Fuels Act of 1980 (Public Law 96-294; 42 U.S.C. 8821) is amended by striking out "June 30, 1986" and inserting in lieu thereof "June 30, 1987".

SEC. 318. Section 12(b)(7)(iv) of the Act of January 2, 1976 (Public Law 94-204), as amended, is amended by striking the word "ten" and inserting in lieu thereof the word "seven".

SEC. 319. To assure that National Forest and Bureau of Land Management timber included in sales defaulted by the purchaser, or returned under the Federal Timber Contract Payment Modification Act, is available for resale, the Secretary of Agriculture and the Secretary of Interior are authorized to resell, as part of the sales programs provided for by this Act, all such timber, and to permit necessary roads and other developments, notwithstanding any other provision of law. Sales that are reoffered may be modified without subjecting the decision to reoffer the sale to administrative appeal or judicial review. This section shall not apply to any decision on the determination of damages due to the Government for defaulted or canceled contracts.

Mr. McCLURE. Mr. President, my understanding is that we will defer further business on this bill until tomorrow morning. It will be the pending business at that time and opening statements will consume very little time.

So I might advise those Members who have comments about or interest in that legislation they should expect to be on the floor very promptly on tomorrow.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1700

Mr. WEICKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BOSCHWITZ). Without objection, it is so ordered.

REHABILITATION ACT AMENDMENTS OF 1986

Mr. WEICKER. Mr. President, I ask unanimous consent that the Senate turn to Calendar Order No. 809, the Rehabilitation Act Amendments of 1986.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 2515) to reauthorize the Rehabilitation Act of 1973, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Connecticut?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Labor and Human Resources, with an amendment to strike out all after the enacting clause, and insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Rehabilitation Act Amendments of 1986".

TITLE I—GENERAL PROVISIONS AMENDMENTS

STATEMENT OF PURPOSE

SEC. 101. Section 2 of the Rehabilitation Act of 1973 (hereinafter referred to as the "Act") is amended by inserting immediately before the period at the end thereof a comma and "for individuals with handicaps in order to maximize their employability, independence, and integration into the workplace and the community".

REHABILITATION SERVICES ADMINISTRATION

SEC. 102. Section 3 of the Act is amended by adding at the end thereof the following new subsection:

"(c) The Secretary shall take such action as necessary to ensure that—

"(1) the staffing of the Rehabilitation Services Administration shall be in sufficient numbers to meet program needs and at levels which will attract and maintain the most qualified personnel; and

"(2) such staff includes individuals who have training and experience in the provision of rehabilitation services and that staff competencies meet professional standards.".

DEFINITIONS

SEC. 103. (a) Paragraph (5) of section 7 of the Act is amended—

(1) by inserting "recreational," in subparagraph (B) after "cultural, social,";

(2) by inserting "employability" after "individual's" the second time it appears;

(3) by striking out "and" at the end of subparagraph (F);

(4) by striking out the period at the end of subparagraph (G) and inserting in lieu thereof a semicolon and "and"; and

(5) by adding at the end thereof the following new subparagraph:

"(H) where appropriate, the provision of rehabilitation engineering services to any individual with a handicap to assess and develop the individual's capacities to perform adequately in a work environment.".

(b) Section 7 of the Act is amended by redesignating paragraphs (6) through (10) as paragraphs (7) through (11), respectively, and by inserting after paragraph (5) the following new paragraph:

"(6) The term 'employability', with respect to an individual, means a determination that, with the provision of vocational rehabilitation services, the individual is likely to enter or retain, as a primary objective, full-time employment, and when appropriate, part-time employment, consistent with the capacities or abilities of the individual in the competitive labor market or any other vocational outcome the Secretary may determine.".

(c) Section 7 of the Act is further amended by redesignating paragraphs (11), (12), and (13) as paragraphs (13), (14), and (15), respectively, and by inserting before paragraph (13) (as redesignated) the following new paragraph:

"(12) The term 'rehabilitation engineering' means the systematic application of technologies, engineering methodologies, or scientific principles to meet the needs of and address the barriers confronted by individuals with handicaps in areas which include education, rehabilitation, employment, transportation, independent living, and recreation.".

(d) Paragraph (13) of section 7 of the Act (as redesignated by subsection (c) of this section) is amended—

(1) by striking out "or" in subparagraph (C) and inserting in lieu thereof "and";

(2) by striking out "and" at the end of subparagraph (K);

(3) by striking out the period at the end of subparagraph (L) and inserting in lieu thereof a comma and "and"; and

(4) by adding at the end thereof "(M) psychosocial rehabilitation services for individuals with chronic mental illness.".

(e) Paragraph (15) of section 7 of the Act (as redesignated by subsection (c) of this section) is amended to read as follows:

"(15) The term 'severe handicap' with respect to an individual means an individual with handicaps—

"(i) who has a severe physical or mental disability which seriously limits one or more functional capacities (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of employability;

"(ii) whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and

"(iii) who has one or more physical or mental disabilities resulting from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, mental retardation, mental illness, multiple sclerosis, muscular dystrophy, musculo-skeletal disorders, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia, and other spinal cord conditions, sickle cell anemia, specific learning disability, end-stage renal disease, or other disability or combination of disabilities determined on the basis of an evaluation of rehabilitation potential to cause comparable substantial functional limitation.".

(f) Section 7 of the Act is further amended—

(1) by redesignating paragraphs (14) and (15) as paragraphs (16) and (17), respectively; and

(2) by adding at the end thereof the following new paragraph:

"(18) The term 'supported employment' means competitive work in integrated work settings—

"(A) for individuals with severe handicaps for whom competitive employment has not traditionally occurred, or

"(B) for individuals for whom competitive employment has been interrupted or intermittent as a result of a severe disability, and who, because of their handicap, need ongoing support services to perform such work. Such term includes transitional employment for individuals with chronic mental illness. For the purpose of this Act, supported employment as defined in this paragraph may be considered an acceptable outcome for employability.".

MONITORING EVALUATION AND ADMINISTRATION

SEC. 104. (a) Section 12(a) of the Act is amended by striking out paragraph (5) and inserting in lieu thereof the following new paragraph:

"(5) provide monitoring and conduct evaluations.".

(b) Section 12(b) of the Act is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following new paragraph:

"(2) In carrying out the provisions of this Act, the Commissioner shall appoint such task forces as may be necessary to collect and disseminate information in order to improve the ability of the Commissioner to carry out the provisions of this Act.".

EVALUATION

SEC. 105. (a) The first sentence of section 14(a) of the Act is amended to read as follows: "For the purpose of improving program management and effectiveness, the Commissioner shall evaluate all the programs authorized by this Act, their general effectiveness in relation to their cost, their impact on related programs, and their structure and mechanisms for delivery of services, using appropriate methodology and evaluative research designs.".

(b) Section 14 of the Act is amended by striking out "Secretary" each time it appears and inserting in lieu thereof "Commissioner".

TRANSFER OF FUNDS

SEC. 106. Section 16 of the Act is amended to read as follows:

"TRANSFER OF FUNDS

"SEC. 16. (a) Except as provided in subsection (b) of this section, no funds appropriated under this Act for any research program or activity may be used for any purpose other than that for which the funds were specifically authorized.

"(b) No more than one-half of 1 percent of funds appropriated for discretionary grants, contracts, or cooperative agreements authorized by this Act may be used for the purpose of providing non-Federal panels of experts to review applications for such grants, contracts, or cooperative agreements.".

REVIEW OF APPLICATIONS

SEC. 107. (a) The Act is amended by inserting after section 16 the following new section:

"REVIEW OF APPLICATIONS

"SEC. 17. Applications for grants or contracts in excess of $125,000 authorized to be funded under this Act shall be reviewed by panels of experts which shall include a majority of non-Federal members. Non-Federal members may be provided travel, per diem, and consultant fees not to exceed the rate provided for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code.".

(b) The table of contents of the Act is amended by inserting after the item relating to section 16 the following:

"Sec. 17. Review of applications.".

TITLE II—VOCATIONAL REHABILITATION SERVICES

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. (a)(1) Section 100(b)(1)(A) of the Act is amended—

(A) by striking out "$1,037,800,000" and inserting in lieu thereof "$1,281,000,000";

(B) by striking out "1984" and inserting in lieu thereof "1987"; and

(C) by striking out "1985, 1986, and 1987" and inserting in lieu thereof "1988, 1989, and 1990".

(2) Section 100(b)(1)(B) of the Act is amended by striking out "1985 and 1986" and inserting in lieu thereof "1987, 1988, 1989, and 1990".

(3) Subparagraph (C) of section 100(b)(1) of the Act is repealed.

(b) Section 100(b)(2) of the Act is amended by striking out "1984, 1985, and 1986" and inserting in lieu thereof "1987, 1988, 1989, and 1990".

(c) Section 100(b)(3) of the Act is amended by striking out "1984, 1985, and 1986" and inserting in lieu thereof "1987, 1988, 1989, and 1990".

STATE PLANS

SEC. 202. (a)(1) Section 101(a)(5)(A) of the Act is amended—

(A) by inserting after "severe handicaps" the first time it appears, the following: "including individuals served under part C of title VI of this Act,";

(B) by inserting after "including" the following: "the results of a Statewide assessment of the rehabilitation needs of individuals with severe handicaps residing within the State and the State's response to the assessment,"; and

(C) by inserting after "show" the following: "and provide the justification for".

(2) Section 101(a)(5) of the Act is amended—

(A) by striking out "and" at the end of subclause (A);

(B) by inserting "and" at the end of subclause (B); and

(C) by adding at the end thereof the following new subclause:

"(C) describe how rehabilitation engineering services will be provided to assist an increasing number of individuals with handicaps;".

(b) Section 101(a)(11) of the Act is amended by inserting "mental health community support programs," after "State's public assistance programs,".

(c) Section 101(a)(15) of the Act is amended—

(1) by striking out "(including" and inserting in lieu thereof ", including conducting a full needs assessment for serving individuals with severe handicaps and including"; and

(2) by striking out "agency)" and inserting in lieu thereof "agency".

(d) Section 101(a) of the Act is amended—

(1) by striking out "and" at the end of clause (21);

(2) by striking out the period at the end of clause (22) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new clause:

"(23) provide satisfactory assurances that the State has an acceptable plan for part C of title VI.".

INDIVIDUALIZED REHABILITATION PROGRAM

SEC. 203. (a) Section 102(b) of the Act is amended to read as follows:

"(b)(1) Each individualized written rehabilitation program shall—

"(A) be developed, on the basis of a determination of employability to achieve the vocational objective of the individual;

"(B) include a statement of the long-range rehabilitation goals for the individual;

"(C) include a statement of the intermediate rehabilitation objectives related to the attainment of such goals;

"(D) where appropriate, include a statement of the specific rehabilitation engineering services to be provided to assist in the implementation of intermediate objectives and long-range rehabilitation goals for the individual;

"(E) include an assessment of the expected need for post-employment services;

"(F) include a statement of the specific vocational rehabilitation services to be provided and the projected dates for the initiation and the anticipated duration of each such service;

"(G) include objective criteria and an evaluation procedure and schedule for determining whether such goals and objectives are being achieved;

"(H) provide for a reassessment of the need for post-employment services prior to case closure and, where appropriate, for severely handicapped individuals, the development of a statement detailing how such services shall be provided or arranged through cooperative agreements with other service providers; and

"(I) provide a description of the availability of a client assistance project established in such area pursuant to section 112.

"(2) Each individualized written rehabilitation program shall be reviewed annually at which time such individual (or in appropriate cases, the parents or guardian of the individual) will be afforded an opportunity to review such program and jointly redevelop and agree to its terms. Each individualized written rehabilitation program shall be revised as needed.".

(b) Section 102(d) of the Act is amended to read as follows:

"(d)(1) Any individual with a handicap (and, in appropriate cases, the parent or guardian of the individual) who is not satisfied with any determination or decision by the designated State unit shall have the right to a review of that determination or decision.

"(2) The Director of any designated State unit shall establish procedures for the review of determinations made by the rehabilitation counselor or coordinator with respect to either a determination of ineligibility or the development or implementation of the individualized written rehabilitation program. Such review shall occur upon the request of the individual with a handicap (and, in appropriate cases, the parent or guardian of the individual). Such review shall be held before an impartial hearing officer and shall be based on the provisions of the State plan approved under section 101(a).".

VOCATIONAL REHABILITATION SERVICES

SEC. 204. Section 103(a) of the Act is amended—

(1) by striking out "and" at the end of clause (10);

(2) by striking out the period at the end of clause (11) and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following new clause:

"(12) rehabilitation engineering services.".

CLIENT ASSISTANCE PROGRAM

SEC. 205. (a) Section 112(a) of the Act is amended by adding at the end thereof the following new sentence: "The client assistance program may provide information on the available services under this Act to any handicapped individuals in the State.".

(b)(1) The last sentence of section 112(c)(1) of the Act is amended by inserting after "may" a comma and the following: "in the initial designation,".

(2) Section 112(c)(1) of the Act is amended—

(A) by inserting "(A)" after the paragraph designation; and

(B) by adding at the end thereof the following new paragraph:

"(B) The Governor may not redesignate the agency designated under subparagraph (A) without good cause and only after notice has been given of the intention to make such redesignation to handicapped individuals or their representatives.".

(c)(1) Paragraph (1) of section 112(e) of the Act is amended by inserting at the end thereof the following new subparagraph:

"(D)(i) In any fiscal year that the funds appropriated for such fiscal year exceed $7,500,000, the minimum allotment shall be $75,000 for States and $45,000 for territories.

"(ii) Subject to subsection (c), the Commissioner may increase the minimum allotment under subparagraph (A) for any fiscal year for which funds appropriated under this section for such fiscal year exceed the sums appropriated under this section for the preceding fiscal year by more than the percentage increase in the Consumer Price Index published monthly by the Bureau of Labor Statistics.".

(2) Section 112(e)(3)(A) of the Act is amended to read as follows:

"(3)(A) The Secretary shall pay to the designated agency from the allotment of the State the amount specified in the application approved under subsection (e).".

(d) Paragraph (1) of section 112(g) of the Act is amended by striking out ", or receive benefits of any kind directly or indirectly from".

(e) Section 112(i) of the Act is amended to read as follows:

"(i) There are authorized to be appropriated $7,100,000 for fiscal year 1987, $7,550,000 for fiscal year 1988, $8,000,000 for fiscal year 1989, and $8,450,000 for fiscal year 1990 to carry out the provisions of this section.".

TITLE III—RESEARCH AND TRAINING

REAUTHORIZATION

SEC. 301. Section 201(a) of the Act is amended to read as follows:

"SEC. 201. (a) There are authorized to be appropriated—

"(1) for the purpose of providing for the expenses of the National Institute of Handicapped Research under section 202, other than expenses to carry out section 204, such sums as may be necessary for fiscal year 1987 and for each succeeding fiscal year ending prior to October 1, 1990; and

"(2) $49,000,000 for fiscal year 1987, $52,000,000 for fiscal year 1988, $55,000,000 for fiscal year 1989, and $58,000,000 for fiscal year 1990 for the purpose of carrying out section 204, of which $1,000,000 shall be available for fiscal year 1987, $1,050,000 for fiscal year 1988, $1,102,500 for fiscal year 1989, and $1,160,000 for fiscal year 1990 for the purpose of carrying out the last sentence of section 204(2)(C).".

NATIONAL INSTITUTE OF HANDICAPPED RESEARCH

SEC. 302. Section 202(j)(2) of the Act is amended—

(1) by inserting immediately before the period the following: "in order to improve services to individuals with handicaps through relevant rehabilitation research and training in the Pacific Basin and to assist in the coordination of rehabilitation services provided by a broad range of agencies and entities; and

(2) by adding at the end thereof the following: "Such Center shall (A) develop a sound demographic base, (B) analyze, develop, and utilize appropriate technology, (C) develop a culturally relevant rehabilitation manpower development program, and (D) facilitate interagency communication and cooperation, implementing advanced information technology.".

COMPOSITION OF INTERAGENCY COMMITTEE

SEC. 303. Section 203(a)(1) of the Act is amended by inserting "the Director of the National Institute of Mental Health," after "Institutes of Health,".

RESEARCH

SEC. 304. (a) The second sentence of section 204(a) of the Act is amended—

(1) by inserting "recreational," after "vocational, social,"; and

(2) by inserting "studies, analyses, and other activities related to supported employment;" after "needs of handicapped individuals;".

(b) Section 204(b) of the Act is amended—

(1) by adding at the end of paragraph (1) the following: "The peer review of all applications for the renewal of a Rehabilitation Research and Training Center grant shall take into account the past performance of the applicant in carrying out the grant. The host institution with which the Rehabilitation Research and Training Center is affiliated may not collect in excess of 15 percent in indirect cost charges.";

(2) in paragraph (2)—

(A) by striking out "and to (B)" and inserting in lieu thereof "to (B)"; and

(B) by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "and to (C) demonstrate and disseminate innovative models for the delivery of cost-effective rehabilitation engineering services to assist in meeting the needs of, and addressing the barriers confronted by individuals with handicaps. In fiscal year 1987, at least two such Rehabilitation Engineering Centers shall be established. One grant to provide demonstrations pursuant to clause (C) of this paragraph shall be made to an agency or organization in the State of South Carolina and one such grant shall be made to an agency or organization in the State of Connecticut."; and

(3) in paragraph (7) by inserting "the National Institute of Mental Health," after "Institutes of Health,".

(c) Section 204(b) of the Act is amended by adding at the end thereof the following new paragraph:

"(14) Conduct of a demonstration program under which one or more projects national in scope shall be established to develop procedures to provide incentives for the development, manufacturing, and marketing of orphan technological devices designed to enable individuals with handicaps to achieve independence and accessibility to gainful employment.".

(d) Section 204 of the Act is amended by adding at the end thereof the following new subsection:

"(d) In carrying out evaluations of research demonstration and related projects under this section, the Director is authorized to make arrangements for site visits to obtain information on the accomplishments of the project. The Director shall not make a grant under this section which exceeds $299,999 unless the peer review of the grant application has included a site visit.".

TITLE IV—SUPPLEMENTARY SERVICES AND FACILITIES

GRANTS FOR CONSTRUCTION

SEC. 401. Section 301(a) of the Act is amended—

(1) by striking out "1986" and inserting in lieu thereof "1990"; and

(2) by striking out "1987" and inserting in lieu thereof "1991".

VOCATIONAL TRAINING

SEC. 402. Section 302(a) of the Act is amended by striking out "1986" and inserting in lieu thereof "1990".

TRAINING

SEC. 403. (a) Section 304(a) of the Act is amended by redesignating clauses (2) and (3) as clauses (3) and (4), respectively, and inserting after clause (1) a comma and the following: "(2) personnel specifically trained to identify, assess, and meet the individual rehabilitation needs of individuals with severe handicaps,".

(b) The first sentence of section 304(b) of the Act is amended—

(1) by inserting before "rehabilitation medicine" the following: "rehabilitation engineering,";

(2) by inserting "rehabilitation dentistry," after "rehabilitation psychology,";

(3) by inserting "physical education, therapeutic recreation," after "speech pathology and audiology,"; and

(4) by inserting "specialized personnel in providing employment training for supported employment, other specialized personnel for those individuals who meet the definition of severely handicapped," after "services for handicapped individuals,".

(c) Section 304(e) of the Act is amended by striking out "$22,000,000 for the fiscal year 1984, $27,000,000 for the fiscal year 1985, and $31,000,000 for the fiscal year 1986" and inserting in lieu thereof "$31,000,000 for the fiscal year 1987, $33,000,000 for the fiscal year 1988, $35,000,000 for the fiscal year 1989, and $37,000,000 for the fiscal year 1990".

REHABILITATION CENTERS REAUTHORIZATION

SEC. 404. Section 305(g) of the Act is amended by striking out "1984, 1985, and 1986" and inserting in lieu thereof "1987, 1988, 1989, and 1990".

SPECIAL PROJECTS REAUTHORIZATION

SEC. 405. Section 310(a) of the Act is amended—

(1) by striking out "section 316" and inserting in lieu thereof "sections 311(d), 311(e), and 316"; and

(2) by striking out "$12,900,000 for the fiscal year 1984, $13,600,000 for the fiscal year 1985, and $14,300,000 for the fiscal year 1986" and inserting in lieu thereof the following: "$15,860,000 for fiscal year 1987, $16,790,000 for fiscal year 1988, $17,800,000 for fiscal year 1989, and $18,900,000 for fiscal year 1990".

SPECIAL DEMONSTRATION PROGRAMS

SEC. 406. Section 311 of the Act is amended by inserting at the end thereof the following new subsections:

"(d)(1)(A) The Commissioner may make grants to public and nonprofit rehabilitation facilities, designated State units, and other public and private agencies and organizations for the cost of developing special projects and demonstrations providing supported employment.

"(B) Not less than one such grant shall be nationwide in scope. The grant shall (i) identify community-based models that can be replicated, (ii) identify impediments to the development of supported employment programs (including funding and cost considerations), and (iii) develop a mechanism to explore the use of existing community-based rehabilitation facilities as well as other community-based programs.

"(2)(A) The Commissioner may make grants to public agencies and nonprofit private organizations for the cost of providing technical assistance to States in implementing part C of title VI of this Act.

"(B) Not less than one such grant shall be nationwide in scope. Each eligible applicant must have experience in training and provision of supported employment services.

"(3)(A) On June 1, 1988, and on each subsequent June 1, the Commissioner shall submit a report to the Congress on activities assisted under paragraph (1) for the preceding fiscal year which includes—

"(i) a list of the grants awarded under this subsection;

"(ii) the number of individuals with severe handicaps served by each grant recipient, the average cost to provide support services to each such individual, and the average wage paid to each such individual; and

"(iii) the recommendations of the projects under paragraph (1)(B).

"(B) Each such report shall also include activities assisted under paragraph (2) for the preceding fiscal year, including (i) a list of the grants awarded under subsection (2), (ii) the nature of technical assistance activities undertaken, and (iii) recommended areas where additional technical assistance is necessary.

"(4) There are authorized to be appropriated to carry out the provisions of this subsection $9,000,000 for the fiscal year 1987, $9,520,000 for the fiscal year 1988, $10,080,000 for the fiscal year 1989, and $10,690,000 for the fiscal year 1990.

"(e)(1) The Commissioner, subject to the provisions of section 306, shall make grants in accordance with the provisions of this subsection for the purpose of developing, expanding, and disseminating model statewide transitional planning services for severely handicapped youth. In order to facilitate similar model transitional programs, each grantee under this subsection shall—

"(A) collect data documenting the effectiveness of the project, including data on the outcome of the individuals served; and

"(B) disseminate the information to other States.

"(2) No grant may be made under this subsection unless an application is submitted to the Commissioner at such time, in such form, and in accordance with such procedures as the Commissioner may require.

"(3)(A) One grant under this subsection shall be made to a public agency in a predominantly urban State in New England for an existing model statewide transitional planning services program.

"(B) The application for the grant specified in subparagraph (A) shall—

"(i) provide assurances that a single office or agency of the State has responsibility for managing the referral process assigned under the model program for which assistance is sought;

"(ii) provide assurances that the schools involved, in consultation with families, initiate a referral at least two years prior to the anticipated date on which each such student will finish courses of study at the school;

"(iii) provide assurances that individualized transition plans will be developed by the schools and adult providers working cooperatively;

"(iv) provide assurances that case management responsibilities, together with appropriate tracking of each case designed to report on the progress of the handicapped individual, will be part of the responsibility of the office or agency designed under clause (i); and

"(v) contain such other assurances as the Commissioner may reasonably require.

"(4)(A)(i) A second grant authorized by this subsection shall be made to a public agency in a predominantly rural western State.

"(ii) A third grant authorized by this subsection shall be made to a public agency or nonprofit private organization in a predominantly rural southwestern State.

"(B) Each application for a grant submitted pursuant to subparagraph (A) of this paragraph shall describe model transitional planning services for both severely and mildly handicapped youth designed to develop procedures, strategies, and techniques which may be replicated successfully in other rural States.

"(5) There are authorized to be appropriated $450,000 for fiscal year 1987, $475,830 for fiscal year 1988, $504,427 for fiscal year 1989, and $535,550 for fiscal year 1990 to carry out the provisions of this subsection.".

SPECIAL RECREATIONAL PROGRAMS

SEC. 407. Section 316 of the Act is amended to read as follows:

"SEC. 316. (a)(1) The Commissioner, subject to the provisions of section 306, shall make grants to States, public agencies, and nonprofit private organizations for paying part or all of the cost of initiation of recreation programs to provide handicapped individuals with recreational activities and related experiences to aid in the mobility, socialization, independence, and community integration of such individuals. The programs authorized to be assisted under this section may include, but are not limited to, leisure education, leisure networking, leisure resource development, physical education and sports, scouting and camping, 4-H activities, music, dancing, handicrafts, art, and homemaking. Whenever possible and appropriate, such programs and activities should be provided in settings with nonhandicapped peers. Programs and activities under this section shall be designed to demonstrate ways in which such programs assist in maximizing the independence and integration of individuals with handicaps.

"(2) Each such grant shall be made for a minimum of a three-year period.

"(3) No grant may be made under this section unless the agreement with respect to such grant contains provisions to assure that, to the extent possible, existing resources will be used to carry out the activities for which the grant is to be made, and that with respect to children the activities for which the grant is to be made will be conducted before or after school.

"(b) There are authorized to be appropriated $2,330,000 for fiscal year 1987, $2,470,000 for fiscal year 1988, $2,620,000 for fiscal year 1989, and $2,780,000 for fiscal year 1990, to carry out this section.".

TITLE V—NATIONAL COUNCIL ON THE HANDICAPPED

PURPOSE OF THE COUNCIL

SEC. 501. Section 400(a) of the Act is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following new paragraph:

"(2) The purpose of the National Council is to promote the full integration, independence, and productivity of handicapped individuals in the community, schools, the workplace and all other aspects of American life.".

DUTIES OF THE COUNCIL

SEC. 502. (a)(1) Section 401(a)(4) of the Act is amended to read as follows:

"(4) review and evaluate on a continuing basis—

"(A) all policies, programs, and activities concerning handicapped individuals and persons with disabilities conducted or assisted by Federal departments and agencies, including programs established or assisted under this Act or under the Developmental Disabilities Assistance and Bill of Rights Act; and

"(B) all statutes pertaining to Federal programs which assisted such handicapped individuals and persons with disabilities;

in order to assess the effectiveness of such policies, programs, activities, and statutes in meeting the needs of handicapped individuals and persons with disabilities;".

(2) Section 401(a) of the Act is amended—

(A) by redesignating clauses (5), (6), and (7), as clauses (6), (7), and (8), respectively, and

(B) by inserting after clause (4) the following:

"(5) assess the extent to which such policies, programs, and activities provide incentives or disincentives to the establishment of community-based services for handicapped individuals, promote the full integration of such individuals in the community, in schools, and in the workplace, and contribute to the independence and dignity of such individuals;".

(3) Section 401(a)(8) of the Act as redesignated by paragraph (2) is amended by inserting "legislative proposals" after "recommendations".

(b) Section 401(b) of the Act is amended to read as follows:

"(b) The National Council shall—

"(1) examine existing data regarding circumstances of disabled citizens with respect to employment, income, transportation, housing, community living, education, discrimination, health services, and participation in community activities;

"(2) based on data developed under clause (1), establish goals to be reached by the year 2000 for individuals with handicaps in each of the areas referred to in clause (1), and recommend strategies for meeting such goals;

"(3) issue a report outlining the goals and strategies outlined in clauses (1) and (2) within 6 months after the date of enactment of the Rehabilitation Act Amendments of 1986; and

"(4) submit an annual report, beginning on January 30, 1989, to the President and to the Congress outlining the progress of the Nation in meeting such goals.".

STAFF

SEC. 503. Section 403(b) of the Act is amended by striking out paragraph (4).

REAUTHORIZATION

SEC. 504. Section 405 of the Act is amended by inserting before the period at the end thereof the following: "for each of the fiscal years 1987, 1988, 1989, and 1990".

TITLE VI—ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

REAUTHORIZATION

SEC. 601. Section 502(i) of the Act is amended by striking out "1986" and inserting in lieu thereof "1990".

SPECIAL REPORTS

SEC. 602. Section 502(g) of the Act is amended by adding at the end thereof the following: "The Board shall prepare and submit two additional reports of its activities under subsection (c) of this section, one report on its activities in the field of transportation barriers of handicapped individuals and the other report on its activities in the field of the housing needs of handicapped individuals. The two additional reports required by the previous sentence shall be submitted not later than February 1, 1988.".

ELECTRONIC EQUIPMENT ACCESSIBILITY

SEC. 603. (a) Title V of the Act is amended by inserting after section 507 the following new section:

"ELECTRONIC EQUIPMENT ACCESSIBILITY

"SEC. 508. (a)(1) The Secretary, through the National Institute of Handicapped Research, and in consultation with the electronics industry, shall develop and establish guidelines for electronic equipment accessibility designed to insure that handicapped individuals may use electronic office equipment with or without special peripherals.

"(2) The guidelines established pursuant to paragraph (1) shall be applicable with respect to electronic equipment, whether purchased or leased.

"(3) The initial guidelines shall be established not later than October 1, 1987, and shall be continually revised as technologies advance or change.

"(b) Beginning after September 30, 1988, the Administrator of the General Services Administration shall adopt guidelines for electronic equipment accessibility established under subsection (a) for Federal procurement of electronic equipment. Each agency shall comply with the guidelines adopted under this subsection.

"(c) For the purpose of this section, the term 'special peripherals' means a special needs aid that provides access to electronic equipment that is otherwise inaccessible to a handicapped individual.".

(b) The table of contents of the Act is amended by inserting after item "Sec. 507." the following new item:

"Sec. 508. Electronic equipment accessibility.".

TITLE VII—PROJECTS WITH INDUSTRY AND BUSINESS OPPORTUNITIES FOR HANDICAPPED INDIVIDUALS

COMMUNITY SERVICE EMPLOYMENT

REAUTHORIZATION

SEC. 701. Section 617 of the Act is amended by striking out "fiscal years 1984, 1985, and 1986" and inserting in lieu thereof "fiscal years 1987, 1988, 1989, and 1990".

PROJECTS WITH INDUSTRY

SEC. 702. (a)(1) Section 621(a) of the Act is amended—

(A) by redesignating paragraphs (1), (2), and (3) as paragraphs (2), (3), and (4), respectively; and

(B) by inserting after the subsection designation the following: "(1) The purpose of this title is to promote opportunities for competitive employment of individuals with handicaps, to provide appropriate placement resources, to engage the talent and leadership of private industry as partners in the rehabilitation process, to create practical settings for job readiness and training programs, and to secure the participation of private industry in identifying and providing job opportunities and the necessary skills and training to qualify people with handicaps for competitive employment.".

(2) Clauses (A), (B), and (C) of section 621(a)(2) of the Act (as redesignated by this subsection) are amended to read as follows:

"(A) shall create and expand job opportunities for individuals with handicaps by providing for the establishment of appropriate job placement services;

"(B) shall provide individuals with handicaps with training in a realistic work setting in order to prepare them for employment in the competitive market;

"(C) shall provide handicapped individuals with such supportive services as may be required to permit them to continue to engage in the employment for which they have received training under this section;

"(D) shall, to the extent appropriate, expand job opportunities for handicapped individuals by providing for (i) the development and modification of jobs to accommodate the special needs of such individuals, (ii) the distribution of special aids, appliances, or adapted equipment to such individuals, and (iii) the modification of any facilities or equipment of the employer which are to be used primarily by handicapped individuals; and

"(E) shall provide for business advisory councils comprised of representatives of private industry, business concerns, and organized labor who will identify job availability within the community and the skills necessary to fill jobs identified, and prescribe training and programs tailored to their need.".

(3) The amendment made by paragraph (2), adding clause (E) to section 621(a)(2) of the Act, shall take effect one year after the date of enactment of this Act.

(b) Section 621(b) of the Act is amended—

(1) by striking out "and" at the end of clause (2);

(2) by striking out the period at the end of clause (3) and inserting in lieu thereof a semicolon and "and"; and

(3) by inserting after clause (3) the following new clause:

"(4) provides assurances that an evaluation report containing data specified under subsection (a)(4) shall be submitted to the Commissioner.".

(c) Section 621(d)(1) of the Act is amended by adding at the end thereof the following new sentence: "Such standards shall be revised as necessary, subject to paragraph (4) of this subsection.".

(d) Section 621 of the Act is amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and by inserting after subsection (d) the following new subsection:

"(e) The Commissioner may provide, directly or by way of grant or contract, technical assistance to (1) entities conducting Projects With Industry for the purpose of assisting such entities in the improvement of or in the development of relationships with private industry or labor, and (2) entities planning the development of new Projects With Industry.".

(e) Subsections (f) and (g) of section 621 of the Act (as redesignated by subsection (c)) are amended to read as follows:

"(f)(1) Each grantee receiving assistance under this section in fiscal year 1986 shall continue to receive assistance through September 30, 1987, unless the Commissioner determines that the grantee is not in compliance with the provisions of the approved application of the grantee.

"(2) Grantees continuing to receive assistance on the basis of the review described in paragraph (1) of this subsection shall be evaluated by the Commissioner using standards described in subsection (d)(1) of this section. Each such grantee shall continue to receive assistance for 3 years unless the Commissioner determines that the grantee is not substantially in compliance with such standards and with the provisions of the approved application of the grantee. In determining whether the grantee is in compliance as required by this sentence, the Commissioner shall annually review each evaluation report submitted under subsection (b)(4) and make a determination concerning the termination, modification, or renewal of each agreement for financial assistance under this section.

"(3) Competition for new grant awards under this part shall include consideration of past performance.

"(g) In approving applications under this section, the Commissioner shall give priority to the geographic areas among the States which are currently not served or underserved by projects with industry.".

PROJECTS WITH INDUSTRY REAUTHORIZATION

SEC. 703. Section 623 of the Act is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 623. There are authorized to be appropriated to carry out the provisions of section 621, $16,070,000 for fiscal year 1987, $17,010,000 for fiscal year 1988, $18,030,000 for fiscal year 1989, and $19,140,000 for fiscal year 1990, and for section 622 such sums as may be necessary for each of the fiscal years 1987, 1988, 1989, and 1990.".

SUPPORTED EMPLOYMENT SERVICES FOR SEVERELY HANDICAPPED INDIVIDUALS

SEC. 704. (a)(1) Title VI of the Act is amended by inserting after part B of such title the following new part:

"PART C—SUPPORTED EMPLOYMENT SERVICES FOR SEVERELY HANDICAPPED INDIVIDUALS

"PURPOSE

"SEC. 631. It is the purpose of this part to authorize grants (supplementary to grants for vocational rehabilitation services under title I) to assist States in developing collaborative programs with appropriate public agencies and private nonprofit organizations for training and short-term post-employment services leading to supported employment for severely handicapped individuals.

"ELIGIBILITY

"SEC. 632. Services may be provided under this part to any severely handicapped individuals whose ability or potential to engage in a training program and whose ability to engage in a supported employment setting has been determined by an evaluation of rehabilitation potential as defined in section 7 of this Act.

"ALLOTMENTS

"SEC. 633. (a)(1) The Secretary shall allot the sums appropriated for each fiscal year under this section among the States on the basis of relative population of each State, except that no State shall receive less than $250,000 or one-third of 1 percent of the sums made available for the fiscal year for

which the allotment is made, whichever is greater.

"(2)(A) For the purposes of this subsection, the term 'States' does not include—

"(i) Guam,

"(ii) American Samoa,

"(iii) the Virgin Islands,

"(iv) the Republic of the Marshall Islands,

"(v) the Federated States of Micronesia,

"(vi) the Republic of Palau, and

"(vii) the Commonwealth of the Northern Mariana Islands.

"(B) The jurisdictions described in clauses (i) through (vii) of subparagraph (A) shall be allotted not less than one-eighth of 1 percent of the amounts made available for purposes of this subpart for each such clause for the fiscal year for which the allotment is made.

"(b) Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be expended by such State to carry out the provisions of this part, the Commissioner shall make such amount available for carrying out the provisions of this part to one or more of the States which the Commissioner determines will be able to use additional amounts during such year for carrying out such provisions. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the State's allotment for such year.

"(c)(1) In the first fiscal year in which appropriations are made pursuant to section 638 a State may, in lieu of receiving its allotment under this part, make an application for a planning grant for that fiscal year. The Secretary is authorized to approve the appropriation of States which meet the requirements of this subsection.

"(2)(A) The grant made under this subsection shall be used for planning activities designed to facilitate the State using its allotment under this part.

"(B) No grant under this subsection may exceed a period of 18 months.

"(3) No planning grant made under this subsection may exceed $250,000.

"STATE PLAN

"SEC. 634. (a) In order to be eligible for grants under this part, a State shall submit to the Commissioner as part of the State plan under title I of this Act a State plan supplement for a three-year period for providing training and time-limited post-employment services leading to supported employment for severely handicapped individuals. Each State shall make such annual revisions in the plan supplement as may be necessary.

"(b) Each such plan supplement shall—

"(1) designate each agency of such State designated under section 101(a)(2)(B) of this Act as the agency to administer the program assisted under this part;

"(2)(A) specify results of the needs assessment conducted as required by title I of this Act of severely handicapped individuals, as such assessment identifies the need for supported employment services, including the coordination and use of the information within the State relating to section 618(b)(3) of the Education of the Handicapped Act; and

"(B) describe the quality, scope, and extent of supported employment services to be provided to severely handicapped individuals under this part, and specify the State's goals and plans with respect to the distribution of funds received under section 635 of this part;

"(3) provide assurances that—

"(A) an evaluation for each individual will be performed outlining supported employment training and time-limited post-employment services needed;

"(B) an individualized written rehabilitation program as required by section 102 will be developed outlining the services to be provided;

"(C) such services will be provided in accordance with such program or a program specified under subsection (b)(3)(D) of this part;

"(D) such services will be coordinated with the evaluation, the individual written rehabilitation plan or education plan as required under section 102 of this Act, section 123 of the Developmental Disabilities Act of 1984, and sections 612(4) and 614(5) of the Education of the Handicapped Act, respectively;

"(E) the State will conduct periodic reviews of the progress of individuals assisted under this part to determine whether services provided to such individuals should be continued, modified, or discontinued; and

"(F) the State will make maximum use of services from public agencies, private nonprofit organizations, and other appropriate resources in the community to carry out this part;

"(4) demonstrate evidence of collaboration by and funding from relevant State agencies and private nonprofit organizations to assist in the provision of supported employment services;

"(5) provide assurances that all designated State agencies will expend not more than 5 percent of the State's allotment under this part for administrative costs for carrying out this part; and

"(6) contain such other information and be submitted in such form and in accordance with such procedures as the Commissioner may require.

"SERVICES; AVAILABILITY AND COMPARABILITY

"SEC. 635. (a)(1) Services available under this part may include but are not limited to an evaluation of rehabilitation potential, provision of skilled job trainers who accompany the worker for intensive on-the-job training, systematic training, job development, follow-up services (including regular contact with the employer, trainee, and the parent or guardian), regular observation or supervision of the severely disabled individual at the training site and other services needed to support the individual in employment.

"(2) The evaluation of rehabilitation potential authorized by paragraph (1) of this subsection shall be supplementary to the evaluation of rehabilitation potential provided under title I of this Act.

"(b) Services authorized under this part are limited to supported employment training and time-limited post-employment services. Extended supported employment services shall be provided by the relevant State agencies and private organizations as specified under section 634(b)(4) of this part or any other available source.

"(c) Services provided under this part shall be complementary to services provided under title I of this Act.

"RESTRICTION

"SEC. 636. Each designated State agency shall collect the client information required by section 13 of this Act separately for supported employment clients under this part and for supported employment clients under title I.

"SAVINGS PROVISION

"SEC. 637. Nothing in this part shall be construed to prohibit a State from conducting or from carrying out training and time-limited post-employment services leading to supported employment in accordance with the State plan submitted under section 101 from its State allotment under section 110.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 638. There are authorized to be appropriated to carry out this part $25,000,000 for the fiscal year 1987, $26,470,000 for the fiscal year 1988, $28,060,000 for the fiscal year 1989, and $29,730,000 for the fiscal year 1990.".

(2) The table of contents of the Act is amended by inserting after item "Sec. 623." the following:

"PART C—SUPPORTED EMPLOYMENT SERVICES FOR SEVERELY HANDICAPPED INDIVIDUALS

"Sec. 631. Purpose.
"Sec. 632. Eligibility.
"Sec. 633. Allotments.
"Sec. 634. State plan.
"Sec. 635. Services; availability and comparability.
"Sec. 636. Restriction.
"Sec. 637. Savings provision.
"Sec. 638. Authorization of appropriations.".

(b)(1) The amendment made by subsection (a) of this section shall not apply in any fiscal year in which the appropriation for part C of title VI of the Rehabilitation Act of 1973 do not equal or exceed $5,000,000.

(2) The provisions of paragraph (1) are repealed on September 30, 1990.

TITLE VIII—SERVICES OF INDEPENDENT LIVING

ELIGIBILITY FOR COMPREHENSIVE SERVICES

SEC. 801. Section 702(b) of the Act is amended by striking out "recreational activities" and inserting in lieu thereof "recreational services".

STATE PLAN ASSURANCE

SEC. 802. Section 705(a) of the Act is amended—

(1) by redesignating clauses (5), (6), (7), (8), and (9) as clauses (6), (7), (8), (9), and (10), respectively; and

(2) by inserting after clause (4) the following:

"(5) provide assurances that the State will consider recommendations of the State independent living council in determining how independent living services will be expanded or modified;".

STATE INDEPENDENT LIVING COUNCIL

SEC. 803. (a) Part A of title VII of the Act is amended by adding at the end thereof the following new section:

"STATE INDEPENDENT LIVING COUNCIL

"SEC. 706. (a) There shall be established in each State receiving assistance under this title a State Independent Living Council (hereafter in this section referred to as the 'Council'). The Council shall—

"(1) provide guidance for the development and expansion of independent living programs and concepts on a statewide basis;

"(2) provide guidance to State agencies and to local planning and administrative entities assisted under this title; and

"(3) prepare and submit to the State agency designated under section 705(a)(1) a five-year plan addressing the long-term goals and recommendations for the need for independent living services and programs within the State.

"(b)(1) The Council shall be composed of representatives of the principal State agencies, local agencies, and nongovernmental agencies and groups concerned with services to handicapped individuals under this title;

handicapped individuals and parents or guardians of handicapped individuals; directors of independent living centers; representatives from private business employing or interested in employing handicapped individuals; representatives of other appropriate organizations and other appropriate individuals.

"(2) A majority of the membership of the Council shall be handicapped individuals and parents or guardians of handicapped individuals.

"(3) The members of the Council shall be appointed by the director of the State agency designated under section 705(a)(1).

"(c) The chairperson of the Council shall be selected from among the membership and shall also serve as a member of any State advisory committee primarily concerned with the provision of rehabilitation services and any other appropriate State advisory committee concerned with services to handicapped individuals.

"(d) Any State in which there is a council which substantially meets the requirements of paragraphs (1) and (2) of subsection (b) and has the authority or will, promptly after the date of enactment of the Rehabilitation Act Amendments of 1986, have the authority to carry out the functions prescribed in subsection (a) shall be deemed to meet the requirements of this section.".

(b) The table of contents of the Act is amended by inserting after item "Sec. 705." the following new item:

"Sec. 706. State independent living council.".

GRANTS FOR CENTERS FOR INDEPENDENT LIVING

SEC. 804. (a)(1) Section 711(b) of the Act is amended—

(A) by striking out "and" at the end of clause (1);

(B) by striking out the period at the end of clause (2) and inserting in lieu thereof a semicolon and the word "and"; and

(C) by adding at the end thereof the following new clause:

"(3) contains assurances that each center will have a board which is composed of a majority of handicapped individuals.".

(2) The amendments made by paragraph (1) shall take effect one year after the date of enactment of this Act.

(b) Section 711(c)(2) of the Act is amended—

(1) by inserting after "housing" in clause (E) a comma and the following: "recreation";

(2) by inserting after "housing" in clause (F) a comma and the following: "recreational opportunities"; and

(3) by striking out "activities" in clause (K) and inserting in lieu thereof "services".

(c) Section 711(d) of the Act is amended by striking out "six months" and inserting in lieu thereof "three months".

EVALUATION AND REVIEW OF INDEPENDENT LIVING CENTERS

SEC. 805. (a) Section 711(e)(1) of the Act is amended by adding at the end thereof the following new sentence: "Such standards shall be revised as necessary, subject to paragraph (4) of this subsection.".

(b) Section 711 of the Act is amended by adding at the end thereof the following:

"(g)(1) Each grantee receiving assistance under this section in fiscal year 1986 shall continue to receive assistance through September 30, 1987, unless the Commissioner determines that the grantee is not in compliance with the provisions of the approved application of the grantee.

"(2) Grantees continuing to receive assistance on the basis of the review described in paragraph (1) of this subsection shall be evaluated by the Commissioner using standards described in subsection (e)(1) of this section. Each such grantee shall continue to receive assistance for 3 years unless the Commissioner determines that the grantee is not substantially in compliance with such standards and with the provisions of the approved application of the grantee.

"(3) Competition for new grant awards under this part shall include consideration of past performance.

"(h) In approving applications under this section, the Commissioner shall give priority to geographic areas among the States which are currently not served or underserved by independent living centers.".

REAUTHORIZATION FOR TITLE VII

SEC. 806. Section 741 of the Act is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 741. (a) There are authorized to be appropriated to carry out part A of this title $11,830,000 for fiscal year 1987, $12,310,000 for fiscal year 1988, $13,050,000 for fiscal year 1989, and $13,860,000 for fiscal year 1990.

"(b) There are authorized to be appropriated to carry out part B of this title $24,320,000 for fiscal year 1987, $25,750,000 for fiscal year 1988, $27,300,000 for fiscal year 1989, and $28,980,000 for fiscal year 1990.

"(c) There are authorized to be appropriated to carry out part C of this title $5,290,000 for fiscal year 1987, $5,600,000 for fiscal year 1988, $5,930,000 for fiscal year 1989, and $6,300,000 for fiscal year 1990.

"(d)(1) There are authorized to be appropriated to carry out part D of this title such sums as may be necessary for each of the fiscal years 1987, 1988, 1989, and 1990.

"(2) The provisions of section 1913 of title 18, United States Code, shall be applicable to all moneys authorized under the provisions of this subsection.".

TITLE IX—HELEN KELLER NATIONAL CENTER

REAUTHORIZATION

SEC. 901. Section 205(a) of the Helen Keller National Center Act is amended by striking out the first sentence and inserting in lieu thereof "There are authorized to be appropriated to carry out the provisions of this title such sums as may be necessary for the fiscal year 1987 and for each succeeding fiscal year ending prior to October 1, 1990.".

TITLE X—TECHNICAL AMENDMENTS AND MISCELLANEOUS PROVISIONS

TECHNICAL AMENDMENTS

SEC. 1001. (a)(1) Section 7(3) of the Act is amended by striking out "designated State units" and inserting in lieu thereof "designated State unit".

(2) Section 7(11) of the Act is amended—

(A) by striking out subparagraph (B) and inserting in lieu thereof "(B) testing, fitting, or training in the use of prosthetic and orthotic devices,"; and

(B) in subparagraph (F) by inserting "psychiatric," before "psychological".

(b) Section 101(a)(8) of the Act is amended by inserting after clauses (1) through (3) the following: "and clause (12)".

(c)(1) Section 130(b)(2) of the Act is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Education".

(2) Subsections (d) and (e) of section 130 of the Act are redesignated as subsections (c) and (d), respectively.

(3) Section 131 of the Act is repealed.

(d) Section 202(j)(1) of the Act is amended by striking out "at an institution of higher education".

(e)(1) Section 301(b)(1) of the Act is amended by striking out "Commission" and inserting in lieu thereof "Commissioner".

(2) Section 304(a)(2) of the Act is amended by striking out "program, and" and inserting in lieu thereof "program, and".

(3) Section 306 of the Act is amended by striking out "305(g)" and inserting in lieu thereof "305(f)".

(f)(1) Section 501 of the Act is amended by striking out "Office of Personnel Management" each place it appears and inserting in lieu thereof "Equal Employment Opportunity Commission".

(2)(A) Section 501(d) of the Act is amended by striking out "of the the activities" and inserting in lieu thereof "of the activities".

(B) Section 502(d)(2)(A) of the Act is amended by striking out "any, final order" and inserting in lieu thereof "any final order".

(C)(i) Section 502(d)(3) of the Act is amended by striking out "Department of Health, Education, and Welfare" and inserting in lieu thereof "Department of Education".

(ii) Section 502(d)(3) of the Act is further amended by striking out "with respect overcoming to" and inserting in lieu thereof "with respect to overcoming".

(D) Section 502(e)(2) of the Act is amended by inserting "and" after "noncompliance".

(3) Section 503(a) of the Act is amended by striking out "section 7(7)" and inserting in lieu thereof "section 7(8)".

(4) Section 504 of the Act is amended by striking out "section 7(7)" and inserting in lieu thereof "section 7(8)".

(g) Section 611(a) of the Act is amended by striking out "section 7(7)" and inserting in lieu thereof "section 7(8)".

(h) Section 702 of the Act is amended by inserting "(a)" after the section designation.

PRESIDENT'S COMMITTEE ON EMPLOYMENT OF THE HANDICAPPED

SEC. 1002. The joint resolution entitled "Joint resolution authorizing an appropriation for the work of the President's Committee on National Employ the Physically Handicapped Week", approved July 11, 1949 (63 Stat. 409) is amended by inserting at the end thereof "The President's Committee on Employment of the Handicapped shall be guided by the general policies of the National Council on the Handicapped.".

CIVIL RIGHTS REMEDIES EQUALIZATION

SEC. 1003. (a)(1) A State shall not be immune under the Eleventh Amendment of the Constitution of the United States from suit in Federal court for a violation of section 504 of the Rehabilitation Act of 1973, title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, title VI of the Civil Rights Act of 1964, or the provisions of any other Federal statute prohibiting discrimination by recipients of Federal financial assistance.

(2) In a suit against a State for a violation of a statute referred to in paragraph (1), remedies (including remedies both at law and in equity) are available for such a violation to the same extent as such remedies are available for such a violation in the suit against any public or private entity other than a State.

(b) The provisions of subsection (a) shall take effect with respect to violations that occur in whole or in part after the date of enactment of this Act.

71-059 O-87-3 (Pt. 16)

EFFECTIVE DATE

SEC. 1004. This Act shall take effect October 1, 1986.

Mr. WEICKER. Mr. President, I rise today to urge the passage of S. 2515, the Rehabilitation Act Amendments of 1986. This bill, which currently has 11 cosponsors, was unanimously ordered reported by the Committee on Labor and Human Resources on August 6, 1986. This legislation reauthorizes for 4 years programs under the Rehabilitation Act—programs which are critical to improving the quality of life for our Nation's handicapped citizens. The amendments made by S. 2515 will strengthen the ability of States to provide the breadth of services required by our most severely handicapped Americans.

It is true, as a Nation, we have progressed in our attitudes toward people with handicaps. No longer do we view people with handicaps in terms of what they cannot do, because such an attitude of limited ability has been challenged by the handicapped themselves, and by their parents, friends, and advocates. And they have won. Our attitudes have changed. They have shown us what they can do, what they can learn and accomplish, given a little help from us.

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Handicapped individuals are no different from those of us who measure our self-worth by our ability to be productive, contributing members of society—and they deserve the same opportunities that the nonhandicapped take for granted. Programs authorized by the Rehabilitation Act offer such opportunities, and have proven themselves to be fiscally sound investments for our Nation as well. In fact, programs funded through the Rehabilitation Act return $11 for every $1 expended. Now that is a good investment.

But in humanitarian terms, the return is even greater, because you cannot pin a price tag on human dignity. The dignity of working, of being independent, or becoming part of our towns and communities—that is what the Rehabilitation Act is all about for the people in our country who happen to be handicapped.

So I am proud to bring before the Senate today the Rehabilitation Act Amendments of 1986. Programs authorized under the Rehabilitation Act include grants to States for vocational rehabilitation, through which employment-related services are currently provided to more than 900,000 individuals. The primary purpose of the Rehabilitation Act is getting people employed—and it has been one of the most successful, cost-effective programs funded by the Federal Government.

The bill before you contains several new initiatives to assist handicapped individuals in their desire to become employed. An important new component authorizes grants for States to develop supported employment services for severely handicapped individuals. Supported employment is competitive work in integrated work settings for individuals who, because of the severity of their handicaps, need intensive, on-going support services to perform such work. We now know that even severely handicapped people can be competitively employed, given appropriate supports. Indeed, some State rehabilitation agencies are already successfully providing such supported employment services through their title I State grant program.

The new title VI supported employment program is designed to supplement the supported employment services which a State agency offers, or may decide to offer, through its State grant program. The bill clearly states that supported employment may now be considered an acceptable outcome for employability, on which eligibility for rehabilitation services under title I is based. In combination with the new grant program under title VI, all States will now be able to develop and expand supported employment programs and get even more severely handicapped people into the workforce. Because of the variance in State rehabilitation agencies in providing supported employment services, the bill allows States to elect a planning period to develop and initiate their statewide system of supported employment services under title VI. For those States that elect this option, an 18-month planning period is provided to enable States to meet State plan requirements for implementing a system of supported employment.

The bill also contains some new provisions which relate to rehabilitation engineering, which is the use of technology to reduce barriers faced by the handicapped so that they can become more independent and more fully integrated into the workforce. We know that people with handicaps face multiple barriers, and, with the systematic application of technologies, these barriers can often be overcome. During hearings before the subcommittee on the handicapped we heard testimony on the success of rehabilitation engineering in reducing these barriers and expanding opportunities for the handicapped, and I am pleased that S. 2515 contains provisions that will expand the availability of rehabilitation engineering services.

Another important provision in the bill strengthens the protections for handicapped people seeking to receive services from the rehabilitation system. The bill requires that the administrative appeal process for solving disagreements relating to the provision of services include consideration by an impartial hearing officer. It is my belief that disputes can be resolved more fairly, and less adversarily, when an impartial reviewer evaluates the situation and renders a decision.

S. 2515 also contains important additions to strengthen provisions relating to independent living and projects with industry. These two programs have proven themselves successful in assisting handicapped people to live independently, and in providing them job placement opportunities in the competitive workforce. The bill provides funding continuity for centers and projects which meet national standards.

The bill further provides for an increased role for the National Council on the Handicapped as a policy advisory body on issues of national scope affecting persons with handicaps. Because we must be looking toward the future, we have mandated that the council prepare a report on goals for the year 2000 for the handicapped, and strategies for achieving those goals. The Council will be expected to report to Congress annually on the progress we are making toward realizing those goals.

There have been several modifications to S. 2515 since it was originally introduced. One significant addition clarifies the intent of Congress where violations of section 504 by recipients of Federal financial assistance are concerned. This addition provides that States shall not be immune under the 11th amendment from suit in Federal court for violations of section 504 of the Rehabilitation Act, or other Federal statutes prohibiting discrimination. This provision closes a gap in civil rights protections by allowing individuals to enforce their rights in Federal court when State or State agency actions are at issue. The gap in protection of individual rights was made evident by the Supreme Court decision in Atascadero State Hospital versus Scanlon, which provided immunity to a State from suit in Federal court based on the 11th amendment. S. 2515 will return civil rights protection to individuals where violations by States or State agencies are concerned.

Another modification was the addition of language relating to the accessibility of electronic office equipment purchased or leased by the Federal Government. Congress has recognized in the past the need to make Federal buildings accessible to the handicapped. The bill before you today will allow for the development of Federal guidelines for accessibility of electronic office equipment. The buildings are accessible, and now it is time to look at barriers which exist inside those buildings in terms of equipment that can be easily and readily made accessible to a handicapped person.

I would also like to address a concern that I have regarding the author-

ization levels in S. 2515 for the State Vocational Rehabilitation Grant Program. The authorization level in the bill is $1,281,000,000 for fiscal year 1987, with allowance for cost-of-living increases in the succeeding 3 fiscal years. In addition, the bill provides for additional funds as Congress deems necessary and appropriate, and removes the cap on the amount of dollars Congress may appropriate.

It is my understanding, however, that the administration has interpreted the language of the law to mean that Congress intends to reauthorize only a cost-of-living increase for each year for this very important program, which is not consistent with our intention in developing this bill. It is my hope that the House and Senate conferees will address this issue during the course of the conference.

In conclusion, we know that handicapped people are able to be employed. Even more—we know that they want to be employed. A recent Harris poll, commissioned by the National Council on the Handicapped, indicated that two-thirds of disabled Americans between the ages of 16 and 64 are not working—and that is an unemployment statistic that surpasses all others in this Nation. Further, two-thirds of these individuals want to work. In fact, many of these individuals want to work even at the risk of losing Federal or State benefits.

It is imperative that we respond to this need by reauthorizing the Rehabilitation Act with the improvements included in the Rehabilitation Act Amendments of 1986. This is a solid and progressive piece of legislation which will make a significant impact on the lives of handicapped people in our country.

By adopting S. 2515, we have the opportunity to reaffirm our commitment to the millions of disabled individuals in this country. Let us help them in their effort to help themselves: in their efforts to obtain and maintain employment, achieve independence, and become fully integrated into community life.

Mr. KERRY. Mr. President, I am pleased that the Senate has the opportunity today to pass S. 2515, the Rehabilitation Amendments of 1986.

Historically, the Rehabilitation Act has provided essential comprehensive vocational services to mentally and physically challenged individuals across our Nation. Last year, over 930,000 handicapped persons received services under the Rehabilitation Act, and over 225,000 disabled citizens were successfully rehabilitated. These numbers represent the proven value of the act in assisting disabled Americans in achieving employment and self sufficiency.

I am proud to say that the legislation before us this evening represents a true bipartisan effort resulting from the diligent efforts by my distinguished colleagues on the Labor and Human Resources Committee. The legislation before us builds upon the existing act through both the continuation and enhancement of a program which has come to mean so much to so many. The committee unanimously endorsed S. 2515, thus paving the way for what I expect will be prompt passage this evening.

The legislation that we are about to pass furthers the vital investment into the lives of handicapped adults throughout America. S. 2515 represents an innovative approach to assist more severly handicapped individuals. It establishes a new supportive employment program which will give opportunities to severely handicapped individuals to better their quality of life. Demonstration grants have proven that supported employment works. The new program in our bill will offer States adequate time to plan for this very needed initiative.

The legislation also places a new emphasis on rehabilitation engineering and it greatly strengthens the peer review process for grants and contracts. The amendments offer core funding to both Independent Living Centers and Projects with Industry for the 4-year reauthorizing period contingent on both programs meeting newly revised standards by the National Council on the Handicapped. These programs have successfully worked to assist handicapped persons in leading more independent lives. The Independent Living Centers have become an integral component of our service delivery system for disabled people. As consumer-controlled organizations, the Independent Living Centers make an essential contribution in the lives of disabled Americans and I am particularly pleased that this legislation strengthens these centers.

In addition, the package includes demonstration projects in the area of transition for severely disabled youth exiting the educational system. Experience has shown that severely handicapped students having received state-of-the-art educational services often leave school with significant vocational needs and a confusing array of agencies to contact for appropriate services. To avoid confusion and loss of valuable services, this legislation includes demonstration grants in this essential area of transition. Another area which the legislation focuses on is the need to better serve the chronically mentally ill and it also places a new priority on physical educational services. It is clear that this package strengthens our existing law through a number of innovative initiatives that have culminated months of detailed review and comprehensive study.

The Rehabilitation Act Amendments of 1986 is authorized for 4 years. Funding for the new initiatives in the act meet the targets of the Budget Committee, and funding for the program next year has been included in the fiscal year 1987 Senate Labor HHS appropriations bill which I look forward to passing in the upcoming days.

In closing, I want to note that, according to a recent Harris poll, there are over 20 million unemployed disabled Americans of working age who want to work—a staggering 60 percent. The reauthorization bill before us today is designed to assist these individuals so that they can in fact become employed and active contributing members of our society. I am proud to be a cosponsor of this legislation which, when enacted, will enhance the lives of so many disabled citizens across America. I want to particularly commend the distinguished chairman of the subcommittee for his tireless leadership in this area and for his fine work on this legislation. I urge my colleagues to join with me and unanimously pass the Rehabilitation Amendments of 1986.

Mr. STAFFORD. Mr. President, I am pleased to join my distinguished colleague, Senator WEICKER, in giving my complete support of S. 2515, the Rehabilitation Act Amendments of 1986.

This significant legislation will provide for a continuation of the State grant program for another 4 years, create a new supported employment training program for severely handicapped individuals and will provide for other significant improvements in this law.

The State grant program has been in existence for over 65 years. Millions of handicapped individuals have received the services they needed in order to become part of this Nation's work force. For each person that is rehabilitated, the cost of the services received is paid back to the Federal Government within 4 years from income taxes paid by the disabled person. Therefore, each individual that receives services through this program ends up paying back whatever money was spent on them.

The concept of supported employment training is not a new one. Supported employment training programs, in Vermont, have existed for many years, and Vermont has the distinction of being only one of two States which has a documented 5-year track record in providing these types of services. During this time period, over 180 severely handicapped Vermonters have received training and have been placed in the competitive labor market. I am proud to say that this program enjoys an 85 percent success rate. Vermont utilizes the cooperation of many of the State agencies responsible for programs ranging from vocational rehabilitation, to mental health, special education, and developmental disabil-

ities. This type of cooperation is what has made this program such a success in Vermont.

I feel that this new program will assist—for the first time—those individuals who are believed to be unable to compete in the work force and assist them in becoming more self-sustaining.

The Rehabilitation Act Amendments of 1986 continues the only existing training and placement program especially for the disabled citizens of this Nation. I urge my colleagues to join in giving their support to this important piece of legislation.

Mr. SIMON. Mr. President, I am pleased to support S. 2515, the Rehabilitation Act Amendments of 1986. This is the fourth reauthorization of the Rehabilitation Act in which I have been privileged to play some role. Each time it has been with a sense of great satisfaction. The Congress, always through bipartisan effort, has been the strongest advocate of vocational rehabilitation, and we in Congress can continue to point with pride to this act's demonstrated record of success.

Title I of the act, which is an entitlement program of State grants, remains the Federal Government's primary employment program for Americans with disabilities. It ensures that a wide range of rehabilitation services are available to persons with substantial handicaps to employment, but who have the potential to become gainfully employed. As a whole, the act's programs have become a model of coordinated and comprehensive efforts which interrelate basic services with research, training, independent living and competitive job placement programs. In addition, through its antidiscrimination provisions, this act provides protection of the civil rights of Americans with disabilities. S. 2515, as reported by the Labor and Human Resources Committee, continues the responsible growth of this comprehensive set of programs and increases the ability of those who work in rehabilitation to respond to the needs of individuals with disabilities in a continually changing world.

The gap between the needs of disabled persons and the ability of this program to serve them continues to be much too great. It is disturbing that rehabilitation agencies are able to provide services to fewer clients today than 10 years ago. One of the reasons for this decline is the more costly services they are providing to more severely handicapped clients, a priority that Congress has approved. The other, and primary reason for the decline, is that, in spite of funding increases, thanks to the efforts of Senator WEICKER, States simply do not have the spending power for this program that they had 10 years ago. Inflation, along with the elimination of most of the Social Security trust funds for rehabilitation, has taken a tremendous toll at the very time that new technologies, new methods for training and placing severely handicapped individuals, and new clients—young people coming out of special education—have created many new challenges and new opportunities for rehabilitation.

When the committee began the reauthorization process this year, I asked that we recognize that for every new burden we place upon the program, there is a cost involved; that if we agree upon new initiatives for new types of services, we recognize that we must provide new resources so that we are not being unfair to those who are already dependent upon rehabilitation services as a means of entering competitive employment. This was of particular concern to me as the committee considered ways of encouraging State rehabilitation agencies to increase their involvement in a relatively new method of serving severely handicapped individuals—supported employment. I am pleased that the reported bill does take such a responsible approach. The bill provides a source of funding for States to develop supported employment programs without putting potential supported employment clients into competition with all other State rehabilitation agency clients for limited service dollars. In addition, it permits States to apply for planning grants during the first 18 months in order to set up the systems that will be necessary to the success of supported employment programs. Since all members of the committee agreed that the responsibility of State rehabilitation agencies in regard to supported employment should be time-limited, State agencies will not be able to carry out supported employment programs without the close cooperation of other agencies and providers of services to severely handicapped individuals.

There is much that we do not yet know about supported employment—for example, its long-term cost benefits, its potential impact on the service and administrative funds of rehabilitation agencies, the numbers of appropriate supported employment clients, the most effective models over time and the most workable interagency agreements. The committee bill requires the sort of data and recordkeeping that should help the Congress in making future decisions about supported employment.

The committee bill contains a number of important provisions that respond to concerns over current administration neglect of the Federal responsibilities to the program through the functioning of the Rehabilitation Services Administration. I hope that the Secretary of the Department of Education will not wait for a bill to come out of a conference committee this year to begin to act on implementing his new responsibilities in regard to upgrading the staffing situation at this major Federal agency with such critical importance to the lives of millions of our citizens with disabilities. As the committee report states, the continuing responsibility of the Federal program to its State partners includes having the ability to maintain accountability, develop national goals and provide some uniformity in the program from State to State. It is clear that the RSA is rapidly losing—through drastic reductions in experienced, well-qualified staff and through radical reductions in travel funds for such purposes as onsite monitoring and technical assistance—the ability to carry out its duties as part of this State/Federal partnership. Without immediate steps to improve the situation, I am greatly concerned that the program will not only be unable to respond to new and increased demands from the Congress, but that the basic program itself will become more fragmented and less consistently effective. The situation demands immediate attention.

The committee bill recognizes through a new definition of employability that the purpose of the Title I Program is to help States put individuals with handicaps into competitive jobs. The definition clarifies that the efforts of the State agency must primarily be directed toward placing the client in full-time competitive employment, and that although part-time employment may be an acceptable closure, only when full-time employment is not an option should a case be closed in part-time employment. The committee report also notes that the most recent statistics from the RSA show that the percentage of rehabilitated persons placed in competitive employment reached 79 percent in 1984, the highest level that can be traced in historic records for this program. This achievement, along with simultaneous increases to record levels of services to those with severe handicaps, clearly indicates that a priority to serve severely handicapped individuals can be carried out without decreasing the emphasis on the primary purpose of this program—to put handicapped persons into full-time, gainfully competitive jobs. I look forward to seeing the continuation of effective efforts of State agencies in both of these areas.

There are other significant provisions of S. 2515, and I want to commend two of my colleagues in particular for two of those that are most important. First, Senator CRANSTON, who introduced the legislation last year to overturn the effects of the Supreme Court's decision on Atascadero State Hospital versus Scanlon, continued his leadership on this vital effort during

our reauthorization process. The provisions in section 1003 of the bill clarify congressional intent in regard to the rights of litigants under section 504 and similar civil rights statutes in regard to actions in Federal courts when State or State agency actions are at issue. Senator CRANSTON has been the leader on so many issues affecting the civil rights of disabled persons for so many years, and I am pleased to acknowledge his accomplishment in bringing together a consensus on this section of S. 2515.

In addition, I want to compliment Senator HATCH and his staff for taking the initiative on providing a new section of the act requiring the development and adoption of guidelines for electronic equipment accessibility, and for a provision which would fund grants for the development of orphan technological devices. Our economy has changed greatly over the past decade, becoming an "information society." Today we see that it is as important for disabled persons to be able to use the technology housed within accessible buildings as it is for the buildings themselves to be accessible. The amendments in this bill will build upon the progress that has already been made in this area, and, again, I commend our colleague for his initiative.

And finally, I think it is important that we recognize the commendable motivation of those who choose to work in the field of rehabilitation. I have never met one who was in it for the money, or for the glamour, or because it was an easy job. They are the ones upon whom we place the demands. They are the ones who should also get our help in carrying out the increasingly complex and difficult job they are being asked to do.

I want to thank Senator WEICKER for his continuing leadership, and for allowing all of the members of the Labor and Human Resources Committee the opportunity to be very much involved in the committee bill that we are adopting today. We owe disabled Americans the dignity of having a job and we deprive all of us by not doing more to help disabled Americans to achieve this goal. The reauthorization of the Rehabilitation Act continues to move us closer to the achievement of these purposes, and I ask my colleagues to join me in support of S. 2515.

Mr. THURMOND. Mr. President, I rise today to urge my colleagues to support the Rehabilitation Act Amendments of 1986 which reauthorize many of the Federal programs in the rehabilitation field.

Mr. President, I would like to take this opportunity to commend the leadership of Senator WEICKER in this area. As chairman of the Senate Subcommittee on the Handicapped, he has been most active in reporting legislation which benefits the disabled citizens of our Nation. I would also like to recognize the dedicated and fine work of Senator WEICKER's staff, Terry Muilenburg and Chris Button.

For many years, I have been an ardent supporter of vocational rehabilitation. Citizens who are less fortunate than others should be given the opportunity to overcome obstacles which may confront them during the course of their lives. Throughout the years, vocational rehabilitation programs have consistently demonstrated that properly trained persons with disabilities can function as superior employees. Recent studies show that, through these programs, approximately 226,000 persons are rehabilitated yearly.

In addition, during this period of budgetary restraint, we should not forget the cost effectiveness of programs like vocational rehabilitation. Recent reports show that in the first year after completion of the Rehabilitation Program, persons rehabilitated paid Federal, State, and local governments an estimated $211.5 million more in income, payroll, and sales taxes, than if they had not been rehabilitated. Furthermore, another $68.9 million is saved as a result of decreased dependency on public support payments and institutional care. Therefore, the grand total first year benefit from persons rehabilitation is over $280 million.

Mr. President, I am also pleased that the longstanding primary purpose of the Title I Program—that of placing the disabled into the competitive workforce of this Nation—is continued and emphasized.

Mr. President, with results such as these, I am proud to be an original cosponsor of this legislation. Furthermore I would point out to my colleagues that the Labor and Human Resources Committee voted unanimously to favorably report this bill. Accordingly, I urge the support of my colleagues for this legislation.

Mr. HATCH. Mr. President, I am pleased to rise in support of Senate bill S. 2515, the "Rehabilitation Act Amendments of 1986," sponsored by the Senator from Connecticut. The provisions of this bill were developed as a result of input from hearings held in Washington on March 20 and 25, 1986. Suggestions and testimony were given by the National Council on the Handicapped, the Rehabilitation Services Administration, Americans with disabilities, and other agencies and organizations. The bill was introduced on June 5, 1986, and subsequently referred to the Subcommittee on the Handicapped. This bill, which required many hours of negotiation, was polled out of the subcommittee on June 24, 1986, and reported out of the full committee on August 6, 1986. I commend Senator WEICKER, chairman of the Subcommittee on the Handicapped for his diligence in guiding this bill through the legislative process. I am pleased with the provisions found in this bill.

S. 2515 strengthens the Rehabilitation Act of 1973. This law has done much to assist Americans with disabilities through vocational rehabilitation programs, and is well-known for being the key in unlocking the doors and making America's Federal programs and facilities accessible to all Americans.

This bill contains two special provisions which I recommended. The first gives new authority for the Director of National Institutes of Handicapped Research to conduct projects and demonstrations for providing incentives for the development and marketing of orphan technologies. The term "orphan technological devices" was coined to reflect a perceived lack of concern about devices which can only be utilized by a relatively small number of people. New technologies can often bypass individuals with disabilities if there is a limited interest by the private sector in developing manufacturing and marketing specialized technology to meet the needs of small groups of handicapped individuals with unique needs. This amendment will authorize demonstration projects to implement on a pilot basis appropriate procedures and incentives to facilitate getting orphan devices to the disabled population.

The second provision creates a new section dealing with electronic office equipment accessibility. In response to the special needs of individuals with handicaps, Congress passed laws to require that programs and buildings are accessible. Now that architectural barriers are being eliminated, it is important that the equipment housed within these facilities is also accessible to individuals with handicaps.

Many current standard microcomputer software programs, copy machines, and other automated office equipment cannot be used by disabled people. With appropriate low cost and no cost modification, the number of individuals who could use such equipment would multiply significantly. Other modifications would also greatly facilitate the attachment of special input and output systems and further decrease the cost for such modifications. In addition these changes would benefit mass market users as well by providing them with a wider variety of options. The current direction in which automated systems are evolving will automatically encompass most of the required features and capabilities if they are properly implemented. In discussion with engineers and designers of computers, many of the desired changes could have been included in the original design of the computers

many of the desired changes could have been included in the original design of the computer at minimal cost if the developers had been aware of their importance.

In response to this need, the White House Committee for Equal Access to Standard Computers and Information Systems, the National Institute of Handicapped Research, and representatives from the computer industry have been involved in developing guidelines for the design of computers and information processing systems to increase their access by persons with disabilities. The goal of these guidelines is to provide an awareness of the different types of problems as well as the focal point for listing possible solution strategies. The content of the guidelines document reflect the combined contributions of industry, researchers, and consumers.

In addition, an Interagency Committee on Computer Support for Handicapped Employees had been established by the General Services Administration to help agencies acquire accessible information technology systems. As the Federal Government's main purchasing agent, GSA has recognized the need for language in procurement contracts that would ensure that new office equipment could be used by disabled employees. It is our intent to have the Assistant Secretary for Special Education and Rehabilitative Services work with the Interagency Committee on Computer Support for Handicapped Employees to develop the guidelines.

After September 30, 1988, the Administrator of the General Services Administration shall adopt the guidelines for electronic equipment accessibility and be responsible for assuring that each agency comply with the guidelines. These guidelines shall be applicable to all federally procured electronic equipment, whether purchased or leased.

The bill also contains many other provisions in order to allow a broader range of persons with disabilities to participate within the framework of the Vocational Rehabilitation Program. By authorizing the creation of various supported employment programs, the act will now be able to provide services to more severely handicapped individuals.

I support the provisions contained within S. 2515 and strongly encourage my colleagues to vote for its passage.

Mr. WEICKER. Mr. President, I would like to clarify for the chairman of the Budget Committee, my good friend Senator DOMENICI, the intent of sections 702(e) and 805(b) of the Rehabilitation Act Amendments of 1986. The intent of the bill language is to authorize continued assistance in fiscal year 1987 for grantees receiving assistance in fiscal year 1986 and to authorize continued assistance for 3 years for qualified grantees. Both provisions of sections 702(e) and 805(b) are subject to subsequent appropriation action and are not intended to create new entitlements.

Mr. DOMENICI. I thank my good friend from Connecticut for clarifying the intent of the committee that sections 702(e) and 805(b) of S. 2515 are not intended to create new entitlement authority.

Mr. WEICKER. Mr. President, I also would like to pay a special tribute to the ranking member of my subcommittee, Senator KERRY, who has worked long and hard on this legislation, and to the chairman of the full committee, Senator HATCH.

This matter has not been one that has been entirely smooth, as there have been differing points of view. But when it came out of committee, it came with the support of all and especially the individuals that I have mentioned.

Mr. President, I ask unanimous consent that the committee amendment in the nature of a substitute be adopted, and that the bill as amended be considered original text for the purpose of further amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

□ 1720

AMENDMENT NO. 2773

(Purpose: To provide for a special maintenance of effort rule under the Education of the Handicapped Act)

Mr. BYRD. Mr. President, on behalf of Mr. EAGLETON, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for Mr. EAGLETON and Mr. DANFORTH, proposes an amendment numbered 2773.

Mr. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

MAINTENANCE OF EFFORT

SEC. . (a) Notwithstanding any other provision of the Education of the Handicapped Act, the Secretary and the State educational agency, in the case of section 614(a)(2)(P)(ii) of that Act, shall not include expenditures made from an accrued fund reserve surplus after July 1, 1983, which are used for services for handicapped children.

(b) The amendment made by subsection (a) shall take effect with respect to fiscal years beginning after September 30, 1983.

UNIQUE PROBLEMS OF ST. LOUIS SPECIAL SCHOOL DISTRICT

Mr. EAGLETON. Mr. President, on behalf of myself and my colleague from Missouri, Senator DANFORTH, I send an unprinted amendment to the desk and ask for its immediate consideration. The Special School District of St. Louis County, established in 1957, was specifically established for the sole purpose of providing education and training for handicapped children. In 1965, pursuant to State legislation, the district was authorized to provide free vocational instruction for children under the age of 21. The mission of the special school district remains primarily one of education for the handicapped and severely handicapped with 82 percent of its expenditure going for that purpose.

During fiscal years 1984 and 1985, the special school district increased its budget substantially in order to hire additional personnel to provide better services to its handicapped students and to deal with a backlog of some 3,000 referrals of children for evaluation and placement. To meet those expenses, the district used approximately $11 million of its building fund reserves in fiscal year 1984. In the following year, the district used virtually all its remaining $8 million building fund reserves to upgrade its program.

As a consequence of using its building fund reserves in fiscal years 1984 and 1985 to provide better services to handicapped children, the district is now caught under the nonsupplanting provisions of Public Law 94-142. As the distinguished floor manager knows, the prohibition against supplanting non-Federal funding of education of the handicapped programs with part B Federal funds has been an essential component of Public Law 94-142 since its inception. A major premise of the program is that even with State and local funding of education programs for handicapped children there are still needs that are unmet. While Federal funds are available for these unmet needs, the basic purpose of Public Law 94-142 would be defeated in part B funds simply took the place of State or local funding. The purpose of the nonsupplanting provision in Public Law 94-142, therefore, was to ensure that part B funds did not take the place of State and local funds. I applaud that purpose and in no way seek to change it.

In the specific instance of which we seek a remedy, there is no suggestion that Federal funds were used to take the place of any State or local funds. Rather, due to unusual circumstances, the district significantly increased its services to handicapped students through the use of reserve funds. Once the reserve funds were exhausted, the district could not possibly sustain this funding increase. I would also emphasize, there was never an instance where the eventual reduction in local funding resulted in more funds to programs for the nonhandicapped.

The amendment we seek would not change the underlying nonsupplanting requirements of Public Law 94-142. Rather, it would provide that only during the period of time in which the special school district used the building fund reserves—fiscal year 1984-85—that such funds spent from a reserve account specifically for the purpose of improving educational services for handicapped children would not be counted in the determination of supplanting.

I urge adoption of the amendment.

Mr. DANFORTH. Mr. President, I am pleased to join my able colleague, Mr. EAGLETON, in sponsoring this amendment to the Rehabilitation Act. I also appreciate the cooperation of the distinguished manager of the bill in agreeing to accept this amendment.

This is a simple amendment which will prevent the Special School District of St. Louis from being penalized for improving services to handicapped children.

The Special School District of St. Louis County, MO, is an extraordinary educational agency. It was established back in 1957, preceding the Education for All Handicapped Children Act by many years. The special school district has led the country in providing education programs for handicapped children.

In fiscal years 1984 and 1985, the special school district made extraordinary expenditures from accrued surplus funds to hire additional staff in order to upgrade services and to catch up a backlog in evaluation and placement services for handicapped children. The special district has now depleted these reserves and is unable to continue supporting handicapped services at the 1984 and 1985 levels. Because of the special school district's inability to maintain these unusually high levels of support, it is in technical noncompliance with the nonsupplanting provisions of Public Law 94-142.

The nonsupplanting provisions were intended to prevent educational agencies from using Federal moneys to supplant State and local support for handicapped education. The amendment that my senior colleague from Missouri and I are offering does not change the nonsupplanting requirements but simply clarifies the intent of the law with respect to extraordinary expenditures made from reserves to improve educational services for the handicapped. Such expenditures would not be counted for purposes of determining compliance with the nonsupplanting requirements. The amendment will not, however, allow the special district to use Federal funds for the education of handicapped services to take the place of State and local support for handicapped education.

Unless this amendment is adopted, the special district will be penalized for improving services to handicapped children of St. Louis County. I believe that the amendment is consistent with the intent of the Education for All Handicapped Act and is necessary to correct an unintended application of the law.

Mr. WEICKER. Mr. President, the amendment is acceptable. I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2773) was agreed to.

Mr. BYRD. Mr. President, on behalf of Mr. EAGLETON, I thank the distinguished Senator from Connecticut [Mr. WEICKER].

Mr. WEICKER. I thank my distinguished colleague, the distinguished minority leader, for his assistance.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. WEICKER. Mr. President, I ask unanimous consent that H.R. 4021, the House-passed Rehabilitation Act Amendments of 1986, be discharged from the Committee on Labor and Human Resources and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4021) to extend and improve the Rehabilitation Act of 1973.

Mr. WEICKER. Mr. President, I move to strike all after the enacting clause and insert the text of S. 2515, as amended.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Connecticut.

The motion was agreed to.

Mr. WEICKER. Mr. President, I urge passage of H.R. 4021, as amended.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 4021), as amended, was passed.

Mr. WEICKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay on the table the motion to reconsider.

The motion to lay on the table was agreed to.

Mr. WEICKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WEICKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEICKER. Mr. President, I ask unanimous consent that S. 2515 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, earlier today the distinguished minority leader and this Senator from Kansas discussed a couple of resolutions we would submit. We have now completed drafting which has been cleared by both Senators LUGAR and PELL, and the so-called Daniloff resolution has been cleared. The resolution on terrorists is in the process of being retyped. There has been an agreement on language. I will submit the Daniloff resolution.

SENATE RESOLUTION 486—RELATING TO THE ARREST OF U.S. CORRESPONDENT NICHOLAS DANILOFF

Mr. DOLE. Mr. President, on behalf of Senator BYRD, Senator LUGAR, Senator PELL, Senator GORTON, Senator DURENBERGER, Senator CRANSTON, Senator BOSCHWITZ, Senator FORD, Senator EXON, Senator BENTSEN, Senator DECONCINI, and myself, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

S. RES. 486

(Relating to the arrest of U.S. correspondent Nicholas Daniloff)

I. Whereas the arrest and indictment on trumped up charges by the government of the Soviet Union of Nicholas Daniloff, American correspondent for U.S. News & World Report, is in clear contravention of accepted standards of international law and civil liberties;

II. Whereas the treatment of Mr. Daniloff is an inexcusable denial or the rights of a journalist to engage in the legitimate pursuit of his profession and a violation of Soviet obligations as a signatory of the Final Act of the Helsinki Accords guiding relations between participating states, specifically Basket III, Section 2, Article (c), Principles for the Improvement of Working Conditions for Journalists, which state that ". . . the participating states reaffirm that

the legitimate pursuit of their professional activity will neither render journalists liable to expulsion nor otherwise penalize them."

III. Whereas the actions of the Soviet government further violate the spirit and letter of the provisions adopted at the review of the Helsinki Accords held in Madrid in March, 1983, specifically Basket III, Cooperation in Humanitarian and other Fields, which affirms that the participating states ". . . will also consider ways and means to assist journalists from other participating states and thus enable them to resolve practical problems they may encounter . . ." and ". . . further increase the possibilities and, when necessary, improve the conditions for journalists from other participating States to establish and maintain personal contacts and communication with their sources;

Now therefore be it resolved by the Senate of the United States that the Senate—

1. condemns the Soviet Union for the unjustifiable arrest and indictment of Nicholas Daniloff and demands his immediate and unconditional release from custody by the Soviet Union,

2. expresses it deep concern that the failure of the Soviet Union to immediately and justly resolve this matter threatens to undermine constructive relations between the United States and the Union of Soviet Socialist Republics and jeopardizes the hopes for Summit Meeting between President Reagan and General Secretary Gorbachev, and

3. urges that all responsible news gathering and news accrediting organizations that provide support, membership or other privileges to Soviet news organizations should consider appropriate actions to underscore the demand for Daniloff's release.

Mr. DOLE. Mr. President, I ask unanimous consent that no amendments be in order to the resolution and that a vote occur on the adoption of the resolution at 2:30 p.m. tomorrow, Tuesday.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

SENATE RESOLUTION 487—RELATING TO THE CONDEMNATION OF RECENT ACTS OF TERRORISM IN PAKISTAN AND TURKEY

Mr. BYRD. Mr. President, I send to the desk a resolution for myself, Mr. DOLE, Mr. PELL, Mr. LUGAR, Mr. CRANSTON, Mr. GORTON, Mr. DECONCINI, Mr. FORD, and Mr. BENTSEN, and I ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

S. RES. 487

(Condemnation of Recent Acts of Terrorism in Pakistan and Turkey)

Whereas, the recent terrorist attacks in Karachi, Pakistan, and Istanbul, Turkey, demonstrate that international terrorism remains a principal threat to human life and democratic values;

Whereas the hijacking of Pan American Flight 73, which ended in the loss of many lives at Karachi International Airport, and the murder of 22 Turkish Jews as they worshiped in an Istanbul Synagogue, underscores the continuing need for action against international terrorism and for all civilized nations to redouble their efforts to eradicate this scourge; and

Whereas, the United States should seize the initiative to expand international cooperation and coordination in the campaign against terrorism, and should be supported in that effort by its allies, and by all other responsible nations: Now, therefore, be it resolved that, the Senate

(1) Condemns vigorously the most recent terrorist acts in Karachi, Pakistan, and Istanbul, Turkey, and offers its deepest sympathies and condolences to the victims of those attacks, and to their families;

(2) Declares that international terrorism is a scourge which effects, ultimately, all nations, and that all civilized and responsible nations of the world should expand their efforts to combat this scourge;

(3) Urges close international cooperation in the swift prosecution and punishment of those responsible for these crimes; and

(4) Urges the President to take the following actions—

(A) Place the subject of terrorism and the urgent need for international cooperation, including cooperation between the United States and the Soviet Union, in combatting this scourge on the agenda of any future U.S.-Soviet summit meeting;

(B) Make increased antiterrorism cooperation a high priority subject to every appropriate opportunity he has with the leaders of the allies and friends of the United States;

(C) Redouble efforts to establish an international antiterrorism committee as called for in recently enacted legislation (PL 99-399) so that civilized countries may better cooperate in responding to these barbarous acts;

(D) Actively utilize existing rewards-for-information authorities to assist in apprending and bringing to justice all those responsible for these reprehensible crimes;

(E) Consider taking appropriate constitutional measures against the individuals responsible for these heinous crimes.

Mr. BYRD. Mr. President, I ask for the yeas and nays on the adoption of the resolution.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DOLE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOLE. This vote will follow the vote on the Daniloff resolution? I ask unanimous consent that that be the case.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. I ask unanimous consent that the time between 2 and 2:30 be equally divided between the majority and minority leaders or their designees for statements on these resolutions.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. I ask unanimous consent that no amendments be in order to the second resolution, the terrorism resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENT OF CONFEREES—H.R. 4868

The PRESIDING OFFICER. The Chair, pursuant to the order of August 15, appoints the Senator from Indiana [Mr. LUGAR], the Senator from North Carolina [Mr. HELMS], and the Senator from Rhode Island [Mr. PELL] as conferees on the part of the Senate on H.R. 4868.

ORDERS FOR TUESDAY

RECESS UNTIL 10 A.M.

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 10 a.m. on Tuesday, September 9, 1986.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF SENATORS PROXMIRE AND LEVIN

Mr. DOLE. Following the recognition of the two leaders under the standing order, I ask unanimous consent that there be special orders for not to exceed 5 minutes each in favor of Senators PROXMIRE and LEVIN.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. DOLE. I ask unanimous consent that following the special orders just identified, there be a period for the transaction of routine morning business not to extend beyond the hour of 10:30 a.m., with Senators permitted to speak therein for not more than 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONSIDERATION OF H.R. 5234

Mr. DOLE. Mr. President, at 10:30 a.m., the Senate will resume consideration of Calendar No. 833, H.R. 5234, the Interior appropriations bill.

RECESS BETWEEN 12 NOON AND 2 P.M. TOMORROW

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate stand in recess between the hours of 12 noon and 2 pm., in order for the weekly party caucuses to meet.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DOLE. Mr. President, as previously indicated, at 2 p.m., there will be 30 minutes of debate on the two resolutions, to be followed by the rollcall

votes on adoption of the Daniloff and terrorism resolutions.

I believe there will also be additional votes on the Interior appropriations bill. I am advised by the distinguished chairman of the committee [Mr. McCLURE] that he believes the Interior appropriations bill can be completed by sometime tomorrow afternoon. If that is the case, it is my hope that we could then move to consideration of the Labor-HHS appropriations bill. I am advised that with one exception, that bill could move rather quickly.

I am also advised that the distinguished chairman of the full Appropriations Committee [Mr. HATFIELD] will be meeting with proponents and opponents on some modification of the abortion amendment on that particular legislation.

RECESS UNTIL 10 A.M. TOMORROW

Mr. DOLE. Mr. President, there being no further business to come before the Senate, I move that the Senate stand in recess until the hour of 10 a.m. on Tuesday, September 9, 1986.

The motion was agreed to and, at 5:35 p.m., the Senate recessed until tomorrow, Tuesday, September 9, 1986, at 10 a.m.

EXTENSIONS OF REMARKS

THE SUPREME COURT, RELIGIOUS FREEDOM AND THE YARMULKE

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 8, 1986

Mr. SOLARZ. Mr. Speaker, the Supreme Court's recent decision to uphold the Air Force's restrictions on the wearing of yarmulkes by its personnel is an unjustifiable infringement on religious freedom. The High Court, in a 5-to-4 decision, upheld the contention of the Air Force that wearing a yarmulke while on duty would negatively affect morale and discipline within the Armed Forces.

Because I believe very strongly in the free expression of religion as defined in our Constitution, I have fought this unfair and unsound decision. Members of our Armed Forces must not be forced to choose between their sincere religious beliefs and a desire to serve their country. I am hopeful that legislation I introduced that was recently adopted as an amendment to the Defense authorization bill will end this dilemma by allowing Jewish servicemen to wear yarmulkes while on duty.

A particularly astute examination of the Court's decision and its implication can be found in an article published in America magazine by our former colleague, the Honorable Robert F. Drinan. As a former member of the House Judiciary Committee, former dean of Georgetown Law School and a respected constitutional scholar, Father Drinan is uniquely qualified to address this issue and I commend his article to the attention of my colleagues.

THE SUPREME COURT, RELIGIOUS FREEDOM AND THE YARMULKE

(By Robert F. Drinan)

What seemed an inconsequential decision has actually established a principle new to U.S. jurisprudence: that the military has more leeway to restrict religious freedom than do civilian authorities.

On March 25, 1986, the U.S. Supreme Court ruled 5 to 4 that the U.S. Air Force could require an Orthodox rabbi in its employ to remove his yarmulke when working indoors. At first the decision seemed, to some, to relate to something trivial or inconsequential. Those who were concerned expected that the Congress would quietly enact a law setting aside the decision of the Supreme Court.

But further reflection and the commentaries on this case suggest that the ruling may constitute a bad precedent that is inconsistent with several previous decisions of the Supreme Court, which allowed deviations from regulations that are perceived to be violations of the religious freedom of certain individuals.

Rabbi S. Simcha Goldman, an Orthodox Jew, since childhood observed the Jewish tradition of keeping his head covered at all times. This custom is designed to remind every person of the omnipresence of God. Between 1970 and 1972, Rabbi Goldman served as a chaplain in the U.S. Navy where he wore without incident a yarmulke or skullcap as a head covering while in uniform. In 1973 he was admitted into the Armed Forces Health Professions Scholarship Program, which provided assistance for graduates to study in exchange for a later commitment to serve on active duty in the armed services. In 1977, Rabbi Goldman received his Ph.D. degree in clinical psychology from Loyola University in Chicago. He entered active service as a captain in the U.S. Air Force and was assigned to serve in the mental health clinic of an Air Force base in California. Between September 1, 1977, and May 8, 1981, he wore a yarmulke at all times while on duty. Throughout his years of service he consistently received outstanding evaluations in each of 10 specified areas.

In April 1981, Dr. Goldman testified as a defense witness at a court-martial wearing his yarmulke. Shortly thereafter the prosecutor lodged a complaint with officials that Dr. Goldman's practice of wearing a yarmulke was a violation of an Air Force regulation that "headgear will not be worn . . . while indoors except by armed security police. . . ." On May 8, 1981, Dr. Goldman was ordered not to wear his yarmulke while on duty. He refused to comply. He was warned that failure to comply could subject him to a court-martial. Rabbi Goldman's request to wear civilian clothing pending a legal resolution of the issue was denied. His superiors also withdrew a recommendation that Dr. Goldman be allowed to extend the term of his active service; a negative recommendation was substituted.

Dr. Goldman then brought action in Federal court in Washington, D.C. After a full hearing, the Federal judge permanently enjoined the Air Force from prohibiting Dr. Goldman from wearing a yarmulke while in uniform. The trial judge also ordered the Air Force to withdraw the letter of reprimand and negative performance evaluation that had been given to Dr. Goldman.

It was hoped in 1981 that the Pentagon would accept the resolution of the issue by the trial court. But, for reasons that are not entirely clear, the Defense Department decided to spend an immense amount of energy, time and money in vindicating its decision to prevent any Orthodox Jew in the military from wearing a yarmulke while in uniform.

In the Court of Appeals for the District of Columbia, the Secretary of Defense (Caspar W. Weinberger) prevailed. The three-judge appeals court, reversing the trial judge, ruled that the "Air Force's interest in uniformity renders the strict enforcement of its regulation permissible." That decision was sustained by the narrowest of margins by the U.S. Supreme Court.

Justice William H. Rehnquist, writing for a majority of five, denied the validity of Dr. Goldman's claim, asserting that the Supreme Court's review of military regulations "is far more deferential than constitutional review of similar laws . . . designed for civilian society." It follows, Justice Rehnquist wrote on behalf of Chief Justice Warren E. Burger and Justices Byron R. White, Lewis F. Powell Jr. and John Paul Stevens, that "courts must give great deference to the professional judgment of military authorities. . . ." On this basis Justice Rehnquist rejected Rabbi Goldman's contention that the wearing of an unobtrusive yarmulke could not possibly undermine Air Force discipline. Justice Rehnquist set aside as simply irrelevant the expert testimony asserted by Captain Goldman's lawyers that religious exceptions to the rule against "headgear" are in fact desirable and will increase rather than decrease morale by making the Air Force a more humane place. Justice Rehnquist exalted the authority of a 190-page book of regulations concerning dress put out by the Air Force. He did concede that the regulations forbidding religious apparel such as a yarmulke, which Rabbi Goldman described as a silent devotion akin to prayer, may make military life less attractive to Orthodox Jews and to others.

Justice Stevens, giving the majority of five the deciding vote, expressed some awkwardness in his position in a curious concurring opinion. Justice Stevens conceded that "there is reason to believe" that the action against Captain Goldman had a "retaliatory motive," but he sustained the ban on a yarmulke because of the military's "interest in uniform treatment for the members of all religious faiths." He came to this conclusion even though he asserted that the "modest depature" requested by Captain Goldman "creates almost no danger of impairment of the Air Force's military mission." It seems clear that Justice Stevens, despite his desire to accommodate this "especially attractive case," could not bring himself to overrule the accumulated massive legal power of the Pentagon and the Justice Department.

Justice William J. Brennan Jr.'s dissent, strong and almost explosive, may become at least a minor classic in the legal literature on church-state relations. Justice Brennan expressed his outrage that Rabbi Goldman "was asked to violate the tenets of his faith virtually every minute of every workday." The arguments for the Air Force, Justice Brennan stated, "defy common sense." Citing the regulations of the Air Force, Justice Brennan found in these documents a way by which military officials could have and should have granted the exception to wear the yarmulke. The regulations provide that "each member has the right, within limits, to express individually through his or her appearance." The dress code, moreover, allows men to wear up to three rings, even if the rings contain a religious design. Justice Brennan rejected the standard advanced by the Air Force that the yarmulke is too visible to be accepted; that norm fails to justify any interest the military might have in uniformity of dress.

Justice Brennan's dissent concluded with an ominous warning: "The Court and the military services have presented patriotic Orthodox Jews with a painful dilemma—the choice between fulfilling a religious obligation and serving their country. Should the draft be reinstated, compulsion will replace

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

choice." In a most unusual comment, Justice Brennan expressed the hope that the "Congress will correct this wrong."

Justice Harry A. Blackmun in dissent rejected the idea that different standards of review can be used for the military and the civilian. He cited a series of cases in which the Supreme Court has granted concessions to Seventh Day Adventists and Amish children. He stated that the Air Force "has failed to produce even a minimally credible explanation for its refusal to allow Goldman to keep his head covered indoors." Justice Blackmun expressed the view that the First Amendment must extend to the wearing of the yarmulke since for Dr. Goldman, as for many other Jews, it was "intended to keep the wearer aware of God's presence."

The dissent of Justice Sandra Day O'Connor was the surprise in the Goldman case. Joined by Justice Thurgood Marshall, she castigated the majority for failing to articulate any test whatsoever for free exercise claims in the military context. Justice O'Connor failed to see how the Government has demonstrated any "unusually important interest" or any compelling argument for its denial of a claim based on religious freedom. She was more than skeptical of the military's claim that it must insist on uniformity. She scolded the Pentagon for failing to take into account "the special importance of defending our nation without abandoning completely the freedoms that make it worth defending." She also noted that there was no allegation of any problem in Captain Goldman wearing the yarmulke from September 1977 to May 7, 1981.

It may be that the Congress, following Justice Brennan's urging, will attach an amendment to some military measure that would permit the wearing of a yarmulke for those in uniform. But the Pentagon, after its 5-to-4 victory, will continue to resist the bills that have been filed along this line. But even if the Congress does in fact enact an amendment permitting yarmulkes for those in uniform, it will in all probability not be able to overturn the reasoning of Goldman v. Weinberger. And that reasoning says in essence that the military will be given much more leeway in enacting and enforcing regulations restrictive of religious freedom than will be permitted to civilian authorities. That principle is relatively new, perhaps unprecedented, in American jurisprudence. Justice O'Connor in essence rejects it, as do the other dissenters to some extent.

The case of Rabbi Goldman somehow did not attract the attention it deserved as it was being litigated. Some felt that the issue was insignificant, even trivial or inconsequential. Many observers do not appreciate the importance, indeed the centrality, of the yarmulke to an Orthodox Jew. Perhaps the attorneys for Dr. Goldman did not dramatically or even adequately explain the significance of the yarmulke as a traditionally required reminder of the omnipresent God. In any event, Goldman v. Weinberger is now a precedent for the proposition that there will be no judicial relief for a decree of the military justified by an argument based on the need for uniformity of dress and conduct.

Captain Goldman explained his position in his brief in this moving statement: "Yarmulkes are generally understood to be a form of religious observance. They are commonly seen and accepted in today's society wherever Orthodox Jews are found. University campuses—particularly on the East Coast—have substantial numbers of young men who wear yarmulkes. On the streets of New York City, Los Angeles, Chicago or Miami, yarmulkes are commonplace. They are increasingly visible in centers of commerce, including retail businesses, brokerage houses and stock exchanges. Attorneys wearing yarmulkes can be found in the state and Federal courthouses of New York, and attorneys wearing yarmulkes have been permitted to sit in the bar section of this court and attend oral arguments."

Justice Stevens, after citing that statement in a footnote, goes on to concur in a decision that ruled that the Pentagon, alone among American institutions, can ban the wearing of the yarmulke.

Goldman v. Weinberger was a mistake. It should be rescinded by the Congress and/or reversed by the Court.

SEAN KILLION HONORED

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, September 8, 1986

Mr. FLORIO. Mr. Speaker, I would like to bring to the attention of my colleagues the outstanding accomplishments of Sean Killion of Cherry Hill, who participated in the Goodwill Games in Moscow.

An exceptional athlete, Sean won two gold medals and a bronze medal at the games. He defeated this longtime idol Vladimer Salnikov in the 400-meter freestyle event, a great personal accomplishment for Sean.

Sean's achievements are a reflection of his hard work and dedication and should serve as an example to all young athletes.

His noteworthy performance in Moscow in these highly competitive games brings great honor, not only to himself, but to the entire Nation. Sean is truly worthy of very special recognition.

I am certain that my colleagues would be pleased to join with me and Sean's family and friends in congratulating him on his outstanding performance in the Goodwill Games and in wishing him the very best in all his future endeavors.

SLOW GROWTH REQUIRES CHANGES IN GRAMM-RUDMAN

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 8, 1986

Mr. FRANK. Mr. Speaker, I found a great deal to disagree with in Gramm-Rudman. But the silliest piece of that bill was the assumption that we could in December 1985 make binding assumptions about the rate of growth in the economy as bases on which to mandate specific fiscal policy for the next 5 years. Unfortunately, it has taken even less time than many of us expected for the economy to behave in a way that makes Gramm-Rudman even less sensible than it was when originally proposed.

The indisputable fact is that the economy has grown since last year at a rate significantly below what Gramm-Rudman assumed. This means that the deficit target set by Gramm-Rudman for fiscal 1987 is reachable only at extremely painful economic cost. That is, at a time when the economy is sagging, Gramm-Rudman demands—as originally passed—that we engage in counterproductive fiscal policy. As John Berry noted in the August 17 Business Section of the Washington Post, "A growing number of economists are warning that the Gramm-Rudman-Hollings budget deficit targets for fiscal 1987 will require spending cuts or tax increases so large that they would severely damage the economy."

As I have previously noted on the floor, a wide range of economists, conservative and liberal, Democratic and Republican, agree that in the face of the severe slowdown in growth that has occurred since the passage of Gramm-Rudman, it makes no economic sense to stick with the Gramm-Rudman target for fiscal 1987. John Berry's article documents the economic consensus on this point quite well and I ask that it be printed here.

WILL BUDGET CUTS HURT ECONOMY?

(By John M. Berry)

A growing number of economists are warning that the Gramm-Rudman-Hollings budget deficit targets for fiscal 1987 will require spending cuts or tax increases so large that they would severely damage the economy.

The Gramm-Rudman-Hollings law aims for a 1987 deficit of $144 billion. Reaching that level from this year's deficit of $225 billion or so, these economists believe, will require too much fiscal restraint for a sluggish economy to swallow in one dose. Some suggest that forcing it down could send the economy into recession.

Government spending, like consumer outlays or business investment, is part of the total economy. If it is reduced, there is less demand for goods and services, and the economy slows. If taxes are increased, individuals and businesses have less after-tax income to spend, which has the same depressing effect on the economy. Economists are less certain about these relationships than they used to be, but they generally agree that, in the short run, a very large, rapid reduction in the deficit could slow economic growth.

Instead of trying for an $80 billion cut in one year—which would equal about 2 percent of the gross national product—a number of economists say a reduction of about half that size, to a deficit of around $180 billion, would be more appropriate.

Other analysts say that they also would be worried about the impact of the fiscal restraint if they thought there was any real chance that Congress would take meaningful steps to get close to the $144 billion target. Some changes under consideration, such as selling government assets or moving a military pay day by one day at the end of the fiscal year, would effect the deficit but have virtually no economic impact.

No less an advocate of smaller deficits than Federal Reserve Chairman Paul A. Volcker recently suggested in congressional testimony that the 1987 deficit target is too ambitious.

Volcker has long argued that large budget deficits have contibuted to creation of the nation's enormous trade deficit and helped keep interest rates higher than they otherwise would have been.

But like the other economists expressing concern that an $80 billion or larger reduction in the deficit in one year would squeeze

the economy too hard, Volcker indicated he believes that a cut of that magnitude could prove to be too much of a good thing—though it clearly made him uncomfortable to say so.

At the Congressional Budget Office, Director Rudolph G. Penner shares Volcker's concern, though following the CBO's usual practice, he will not make a specific policy recommendation on the matter.

"It was something we worried about a lot in making our forecast," Penner said.

That forecast showed the economy growing at a 3.5 percent pace during 1987, after adjustment for inflation. And it assumed a deficit of $154 billion, the upper limit of a $10 billion tolerance range allowed by Gramm-Rudman-Hollings, rather than $144 billion.

In its economic and budget update, released earlier this month, CBO put it this way:

"The short-run impacts of such large changes in fiscal policy and the tax structure are a subject of controversy among economists. CBO's forecast assumes that the short-run contractionary impact of changing fiscal policy will be quickly offset by an improved trade balance and by lower interest rates than would otherwise prevail. If these offsetting forces occur more slowly than expected, an increase in economic growth may be delayed."

Penner believes that the growing internationalization of the American economy has weakened the previous link between changes in fiscal policy and changes in economic activity. Since 1982, the large budget deficits have been accompanied by large and rising trade deficits that have offset some of the economic stimulus that the budget deficits provided.

Now CBO is counting on these relationships to be symmetrical, with a falling trade deficit to provide an economic spur for U.S. production and consumption at the same time the declining budget deficit is having a restraining influence.

"Our forecast is highly dependent on that relationship," Penner said, "and some of our economists have voiced concern that they may not work in tandem.

"Interest rates are also related," he explains. "The marketplace has moved some of the good of reducing deficits forward" through lower rates.

And that also causes the CBO director to raise a point about changing the Gramm-Rudman-Hollings targets. "There would be a real question how the marketplace would react to that, especially if we're right that part of the interest rate decision was due to a sense that we have some sense of discipline in the [budget] process."

Alan Greenspan, the former chairman of the Council of Economic Advisers who now heads Townsend-Greenspan & Co., a New York economic consulting firm, is another advocate of smaller deficits who is troubled by the 1987 target and its possible impact.

"It has become increasingly evident in recent weeks that the $144 billion target set for fiscal 1987 followed by a 1988 target of $108 billion is probably unreachable," Greenspan told his clients recently.

"The budget deficit for fiscal 1986 is likely to be $220 billion, or perhaps even larger. With the economic outlook somewhat subdued, the prospect of enough growth in revenues to reduce the deficit sharply, even should spending be constrained significantly, looks remote . . . Certainly, after the November elections when it becomes politically safer to oppose G-R-H, one must assume a plethora of proposals will be forthcoming to alter the path of deficit reduction."

Another former CEA chairman, Martin Feldstein of Harvard University, is questioning the appropriateness of the targets if the economy remains sluggish, and particularly if unemployment starts to go up. During his time at the CEA, Feldstein repeatedly raised White House hackles by urging quick action to reduce the growing budgetary red ink.

Earlier this month, Feldstein and his wife, who also is an economist, wrote in a newspaper column, "In the near term the necessary process of deficit reduction is [an] important contractionary effect to worry about.

"During the past year the prospect of significant deficit reduction by Congress has helped bring down interest rates and contributed to the dollar's decline and thus has boosted economic activity. But the actual deficit reduction that can be expected between 1986 and 1987 is a two-edged sword," the Feldsteins said.

"The resulting confidence in declining deficits will continue to encourage lower interest rates and to maintain a competitive dollar. But at the same time the actual deficit reduction means less demand for goods and services and therefore a temporary decline in economic activity."

The Feldsteins said that it is important not to cause financial market participants to doubt that deficit reduction will occur. "Loss of confidence in Congress could result in rising interest rates and a sinking stock market that would further depress business investment.

"However, it would be wise to redefine deficit reduction goals if the economy does slow down," they continued. "Tax revenue automatically falls and the deficit swells when the economy slows down. It would be just the wrong response for Congress to cut spending even further in that situation. The proper goal of deficit reduction in the next few years should be adjusted for the business cycle. If the economy slows and unemployment rises, the target level for the deficit should raise accordingly."

The Feldsteins suggested this rule of thumb: raise the target level by $4 billion for each one-tenth of percentage point increase in the nation's unemployment rate above current levels of 7 percent.

Roger Brinner of Data Resources Inc., an economic consulting and forecasting firm, last month proposed a similar rule of thumb, with a $5 billion shift of the target instead of $4 billion.

"The targets must be amended only in detail, not in principle," Brinner wrote in the DRI Review. "The economic environment is not as robust as originally hoped, and the budgetary takeoff position is weaker. The original legislation called for steady progress ($36 billion per year) toward budget balance by 1991, assuming the economy would then be characterized by a 6 percent unemployment rate. Furthermore, it was assumed that the fiscal 1986 deficit could be reduced to approximately $180 billion through tough budgetary initiatives early this.

"With the economy unable to break away from 7 percent unemployment and with a projected 1986 deficit of $220 billion, however, a $35 billion to $40 billion increase in next year's target and a new medium-term path for deficit reduction are justified," he said.

Brinner's proposed path would take the deficit down to $50 billion in 1991 instead of zero, as under Gramm-Rudman-Hollings.

Economists are far less sure these days that they know how to measure properly the size of a budget deficit or to calculate its likely economic impact.

For instance, Robert Eisner of Northwestern University argues in his book, "How Real Is the Federal Deficit," that the reported deficit must be reduced by the loss of real value in the outstanding public debt due to inflation. Thus, in 1986, with about a 2 percent inflation rate and roughly $1.5 trillion worth of publicly owned federal debt, there is about a $30 billion offset.

John Paulus, managing director and chief economist of Morgan Stanley & Co., a New York investment banking firm, also says that the holders of federal debt recognize the loss of real value in their holdings each year and respond by reinvesting an amount equal to that loss of real value.

If Paulus is right, the impact of large deficits on financial markets, and therefore on interest rates, could be considerably less than one might suppose. By his accounting, it would take actual deficit reductions considerably smaller than those set by Gramm-Rudman-Hollings to put the deficit by 1991 into what he calls a "neutral" position as far as financial markets are concerned. Gramm-Rudman-Hollings calls for a balanced budget that year.

But whatever adjustments one makes to the calculation of the size of the deficit and its likely economic impact, there remains the worry that reducing it by more than $80 billion in one year alone may be too much.

"For those of us who highly prize economic growth and low unemployment, the risk of insufficient fiscal stimulus must be weighted heavily," Eisner concludes, in his book. "One cannot properly counsel budget balancing in an economy with unemployment still near 7 percent and real economic growth well below its potential.

"The politics of Gramm-Rudman notwithstanding, a budget balanced by current federal rules of accounting is an invitation to economic disaster," Eisner declares.

Politically, no one wants to go before the electorate this fall vulnerable to a charge by an opponent that he or she is in favor of big deficits. Politically and economically, the question is how fast the deficit—which clearly will be a record in fiscal 1986, which ends next month—can be safely reduced.

WHY STAR WARS IS BAD FOR BUSINESS

HON. ROBERT W. KASTENMEIER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, September 8, 1986

Mr. KASTENMEIER. Mr. Speaker, although star wars is a giant pork barrel in the sky for the industrial-military complex, it will drain talent from our civilian industries and hurt business research and development.

I would like to call to the attention of my colleagues an article that appears in the September 1986 issue of Dun's Business Month, written by Fred V. Guterl, which states why star wars is bad for American business.

STAR WARS IS BAD FOR BUSINESS—IT WON'T LEAD TO MAJOR COMMERCIAL SPINOFFS AND IT WILL HURT BUSINESS R&D, MILITARY TECHNOLOGY EXPERTS SAY

(By Fred V. Guterl)

Star wars: Tens of thousands of nuclear warheads climb on plumes of brightly glowing gas, arcing over the northern wastelands of the Soviet Union, barely twenty minutes from the United States. In space, a web of battle stations that covers half the globe looks down and unleashes a fury of weaponry: X-ray lasers powered by nuclear explosions, magnetic rail-guns that hurl football sized bullets, huge lasers on the ground that pick off the few remaining warheads in their descent.

Since March 1983, when President Reagan marshaled the nation's scientists and engineers to research an antimissile shield, debate has raged over its technical and political feasibility. But the widely-held assumption that the dazzling technology of the Star Wars project would boost U.S. industry's competitiveness and generate substantial spinoffs for commercial use has gone largely unquestioned.

Everyone agrees that the Strategic Defense Initiative, as Star Wars is properly called, will advance military technology. But dozens of military research experts from government, business and academia told DUN'S BUSINESS MONTH that they are skeptical about the benefits of Star Wars for commercial industry. Although some believe that business spinoffs may eventually emerge, these are impossible to identify at present and are likely to occur by happenstance if at all.

"Most of the technology in SDI just doesn't have any equivalent application in the commercial sector," says Arvid G. Larson, principal at Booz Allen & Hamilton Inc. and a consultant to SDI. Furthermore, by shifting resources to military projects, they argue, SDI may actually impair business R&D. "Mega-projects like SDI take some of the most sophisticated and best people away from commercial R&D," says consultant Edward E. David, White House science adviser to President Nixon.

Nevertheless, SDI proponents assert that Star Wars will produce a technological renaisance in the U.S. Lieutenant General James Abrahamson, director of the SDI Organization, has insisted that the program "will so stimulate the national economy that it will pay for itself."

Spinoffs would account for much of the civilian benefits, says James Ionson, director of research for SDI. "It would be easy for commercial industry to adapt these technologies," he says, "just a matter of adjusting a few knobs and dials, so to speak." Computer technology for tracking missiles could be used for airport traffic, beam weapons for destroying missiles could lead to better surgical tools, rail guns could be adapted for transportation, and so on. Ionson likens the SDI to the Apollo space venture. "For every $1 spent by NASA, there were $8 returned to commercial industry," he asserts.

After three years of research, SDI advocates claim that Star Wars' potential commercial benefits will rival those of past military ventures; the outgrowth of commercial aviation from Air Force work, the computer industry from research in the National Security Agency, and the semiconductor industry from the Minuteman intercontinental ballistic missile.

But SDI research does not have obvious uses in commercial enterprise. "There have been spinoffs from military technology in the past," says Booz Allen's Larson, "but SDI does not fall into that category." For example, experts doubt that laser weapons could be turned to industrial use. "These lasers are fun to look at and talk about," says Wolfgang H. Demisch, aerospace analyst at First Boston Corp., "but there sure as hell aren't going to be direct spinoffs."

In past programs, contrary to common belief, the military generally has not acted as a progenitor of technology. SDI will be no different, experts argue. When Boeing designed its first 707 wide-body jet for the Air Force in the 1950s, its executives recognized early on the commercial potential of the plane, says Bruce Allesina, the company's SDI engineering manager. Likewise, the integrated circuit was invented at commercial firms. The Minuteman missile program created a market for ICs, helping semiconductor makers to bring costs down.

The lion's share of SDI funds are tagged for the development of highly-specialized weapons. For one thing, only 3% of the SDI budget—less than $100 million this year—goes for basic research into broadly applicable technologies, such as high-speed computers that use light instead of electrical current, an area of much promise. The rest is applied research and development. About three-quarters goes to defense contractors, such as Boeing's $300 million award to develop an airborne system for tracking incoming missiles, and General Dynamic's $40 million rail-gun contract. The remaining 20% goes to Department of Energy laboratories for such R&D projects as high-powered lasers.

Moreover, the requirements for military and civilian industries have diverged sharply in recent years, experts say, reducing the likelihood of spinoffs. The new fighter made by Grumman Corp., for example, has wings that sweep forward to give it an extraordinary agility useful in dogfights but not in commercial industry. The machine-tool industry became overdependent on the DOD's contracts for numerically-controlled machines in the 1970s, leaving it flat-footed against overseas competition, says Jay S. Stowsky, a policy analyst at the University of California at Berkeley.

The goal in military work is reliability regardless of cost, says Warren F. Davis, a research physicist at the Massachusetts Institute of Technology and a ten-year veteran of military research. "That's not the case in the commercial world."

Overreliability also severely limited spinoffs from Apollo, despite the National Aeronautics and Space Administration's efforts to promote them. For example, in one NASA demonstration, a heat-resistent paint was so good it didn't char even when the underlying metal began to melt. But it was impractically expensive. "The program was a dismal failure," says an ex-NASA official who requested anonymity.

Moreover, military R&D has produced commercially-applicable technologies in relatively few instances, and even then the commercial payoff is slow in coming. DOD funded artificial intelligence research for thirty years before it became commercially useful. Similarly, many computer scientists doubt that SDI funds will quicken the pace of innovation in software needed to produce the anti-missile shield.

SDI critics contend that useful technology from SDI may remain bottled up in secrecy for years before the commercial sector gets access to it. "If work is unclassified, people will jump all over it like mice to find a way to use it," says David Williamson, a policy consultant to NASA. "But if it's classified, it will sit behind green doors."

It is difficult to assess how much of the SDI program is classified. But sources say that virtually every SDI program is classified in part. According to Lawrence Longerbeam, director of the technology transfer program at DOE's Lawrence Livermore Laboratories, "close to half of our almost $1 billion budget goes to classified research. That stuff is strictly protected and doesn't go anywhere outside this lab."

Work done by defense contractors, the bulk of the SDI program, involve even more restrictions. Scientists doubt that basic SDI research will be communicated freely in light of the Reagan Administration's touchiness about the dissemination of unclassified research with military potential.

What about the argument that business will benefit from a workforce versed in the state-of-the-art technology of SDI? "It's not widgets, gadgets, or doohickies that are important, but people who change jobs and bring with them the knowledge they've gained." says Gerold Yonas, who recently left his position as chief scientist at SDI to become vice president at Titan Corp., an SDI contractor.

Critics dispute these claims, too. Just as weapons are over-designed for civilian use, researchers often become pigeonholed into military specialties, according to MITs Davis. "The military's need-to-know policies, in which a researcher is told only as much as he's needed to do his job creates a professional myopia."

Workers from large-scale technical projects in the past have had trouble finding jobs, says. Booz Allen's Larson. "In southern Florida, you see a lot of pizza parlors run by ex-Apollo computer programmers," he says, If SDI is deployed, he adds, "it will be a massive military construction project. But when it ends, all these trained people will have nowhere to go."

Meanwhile, SDI, and military R&D in general, is draining talent from civilian research, which is shrinking as a result of government spending cutbacks. A new $350 million fusion energy facility at Lawrence Livermore Laboratories sits idle for lack of funds, says John Holdren, professor of energy and resources at the University of California at Berkeley. "Fusion research is being converted wholesale to weapons research," he asserts. "I see people pick up their files and walk 150 feet away to the beam weapons lab next door."

Heavy SDI recruitment in the glamour fields leaves few warm bodies for mundane civilian pursuits. David. Nixon's science adviser, says "Researchers are being drawn into aerospace and computer-related fields, and in the meantime our manufacturing technology is going to the dogs."

The brain drain pushes up salaries for technical talent—at least for the four-to-six years it takes for universities to produce more graduates. After that, "the market is destabilized, to the detriment of industry," says Professor Frank R. Lichtenberg of Columbia University, who has studied the economic effects of military R&D spending.

It is also feared that high-paying SDI contracts will lure away the best and the brightest from business. Computer software specialists, in particular, have been scarce for several years.

To be sure, as SDI officials hasten to note, the project's goal is not to nurture commercial industry but to protect national security. But it is de facto the nation's technology policy because it is so big: roughly $90 bil-

lion by 1994 and hundreds of billions if the anti-missile shield is ever built. Even budgeted at slightly less than $4 billion for 1987, it already is the single largest government R&D project. "The U.S. has no political consensus for industrial policy or technology development except for issues dealing with national security," says First Boston's Demisch.

As a national security issue, SDI must be decided on its defense merits rather than its business implications. Ironically, SDI's commercial potential is being used as political propaganda for the program. "The whole issue of commercial spinoffs," says military analyst John Pike of the Federation of American Scientists, a private research group, "is to sell the program to the public." But that doesn't make Star Wars good for business.

MINNESOTA GOVERNOR FLOYD B. OLSON 50 YEAR COMMEMORATIVE EVENT

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 8, 1986

Mr. VENTO. Mr. Speaker, my State of Minnesota is a wellspring of important political leaders, but no Governor captured the heart of the common man as did Governor Floyd B. Olson. Indeed, his leadership was felt across our great Nation.

Many of the things that working people take for granted were innovations that were pioneered by Floyd B. Olson, an illustrious Governor of Minnesota in the 1930's. The right to organize, health and pension benefits, laws prohibiting the exploitation of women and children, safety regulations to prevent taxation based on ability to pay, a public education system that does not favor the wealthy and the powerful, et cetera, are a partial listing of the things for which Olson worked during his lifetime.

Farmers found a champion in Floyd B. Olson. He fought for fair prices for their crops, for conservation measures to protect the land, for rural electrification programs, for credit they could afford and for laws to prevent unjust foreclosures.

He fought for the rights of small business against monopolies, trusts, railroads and utilities which tried to stifle competition to their own interest. He knew that Minnesota's future rested, not with economic giants, but with individual initiative and enterpirse.

During Minnesota's centennial in 1958, farmers, workers and small business were the principal sponsors in establishing a permanent tribute to Olson in the form of a statue in front of the State Capitol.

Floyd B. Olson died 50 years ago. In commemoration of his life and times, the Minnesota Historical Society opened an exhibit in the rotunda area of the capitol on Saturday morning, August 23.

The exhibit, which will be a permanent part of the Minnesota Historical Society presentations, should be seen by all who profess a concern for others. Pictures, newreels, newspaper accounts, and radio transcripts are a small part of the display which give us a true sense of our historical and political heritage in Minnesota.

The program and rededication of the Governor Floyd B. Olson statue was led by current Governor Rudy Perpich, Olson's daughter, Mrs. Patricia Krantz, DFL State Chairwoman Ruth Esala, and other political leaders and agricultural organization leaders instrumental in the ascendancy of Floyd B. Olson's Farmer/Labor political party, the predecessor to the Democratic Farm Labor (DFL) Policital Party of Minnesota. The chairman of the event was State Representative James Rice, who assembled a Commemorative Committee to which I was privileged to lend my support, is due special commendation for the significant and successful effort he expended to this moving program. The following is an article written by Russell Fridley about Floyd Olson which points out the special qualities and service that characterize this Minnesota legend.

STATE'S GREATEST GOVERNOR? MANY QUICKLY NAME FLOYD B. OLSON

(By Russell Fridley)

Among the remarkable number of political leaders that Minnesota has produced, Floyd B. Olson, governor between 1931 and 1936, wins my nomination as the most extraordinary of them all. The 50th anniversary of his death (Aug. 22, 1936) will be observed by a commemorative program at the State Capitol Aug. 23.

Olson lore—highlighting his magnetism, oratory, humanity, courage, decency, sex drive, alcoholism, intellect—is still to be found in abundance in all corners of the state. This collection of indelible memories of him illuminates the character, personality and lasting imprint of a public figure possessing rare natural gifts, whose personal flaws were tolerated sympathetically by Minnesotans.

They elected him governor three times on a third-party ticket. A half-century after his death, Olson remains a compelling and captivating leader during a time of the utmost economic and social stress. In 1964, the Minnesota Historical Society asked 32 teachers of Minnesota history and politics to name the state's five outstanding governors. Floyd B. Olson was far and away the first choice. My guess is that a poll today would reach a similar conclusion.

Journalist Eric Sevareid, a student at the University of Minnesota during Olson's governorship, was impressed by Olson's popularity with students and considered him a better speaker than Franklin D. Roosevelt. In the words of Arthur Naftalin, producer of a television series on governors who served since 1931, "The governorship of Floyd Olson remains a golden memory in Minnesota history."

Stafford King, long-time Republican state auditor who was elected to his first term at the same time Olson was elected to his, considered Olson a genius as a leader presiding over a broad coalition that stretched across the spectrum of Minnesota politics. King, in oral history interviews, described Olson as clearly the most outstanding of the 10 governors with whom he served between 1931 and 1967. George A. Selke, university president and official in the Orville L. Freeman administration, praised Olson's first-rate intellect. Theodore S. Slen of Madison, Minn., a Democrat in the state Senate during the 1930s, emphasized Olson's empathy with people. He never forgot who put him in office.

Standing 6 foot 2, blue-eyed handsome, virile, aggressive, Olson had the common touch with persons from all walks of life. Comfortable in meeting a mob of thousands who marched on the State Capitol and able to disarm their anger with uplifting oratory and a message of hope, he was equally at home in addressing a crowd of students on university and college campuses or in the company of wealthy friends and foes with whom he frequently mingled socially—at country clubs and summer resorts.

With most of the newspapers opposed to him, Olson became the first Minnesota governor to make extensive use of radio and the lecture platform. A virtuoso as a speaker, his powerful voice, theatrical delivery, clear analysis of the issues and satirical humor captivated his audiences.

Olson, originally a Democrat, went down to defeat as the Farmer-Labor party's standard bearer for governor in 1924. He made a successful comeback in 1930, agreeing to accept the Farmer-Labor nomination for governor only if he were allowed to write the platform. Olson's rhetoric was usually more radical than his actions; in fact, he largely ignored the radical planks of the 1930 platform. With his re-election in 1932, he effected a political alliance with Franklin D. Roosevelt, and thereafter his policies generally foreshadowed or reflected those of the New Deal.

Despite a hostile legislature, Olson secured large appropriations for the relief of unemployment, a two-year moratorium on farm mortgage foreclosures, and old-age pensions; he implemented measures to conserve the environment and secured the state's first income tax law in 1933. His bold intervention in the 1933 Hormel strike and the violent Minneapolis truckers' strike a year later exhibited his uncommon skill at negotiation and forged a successful settlement between management and labor.

Olson's re-election to a third term in 1934—this time with strong backing from urban labor and reform forces—promised a more radical program. The Farmer-Labor Party's 1934 platform, a startling document, proposed public ownership of all industry, banking, insurance and public utilities, as well as the formation of a "co-operative commonwealth." Toward the end of his governorship, Olson's rural support dwindled but his strength in urban areas increased. His third term was a turbulent one, marred by strikes and intraparty fights, increasing disagreements over patronage, and hampered by a virtual deadlock in the legislature.

Harry H. Peterson, Olson's attorney general, when asked "How much of the success of the Farmer-Labor Party was due to Floyd Olson?" replied, "About 99 percent."

He held together a tenuous coalition: workers, farmers, co-operatives, isolationists, socialists, prohibitionists and progressives. Many of these citizens sought solutions outside of the two major parties for a better way to reform society, others were defectors from the Republican and Democratic parties or opponents of war—principally German and Scandinavian Americans. Olson led the most successful third party in American history to its greatest victories, drawing strength from and enlarging upon Minnesota's sturdy populist tradition.

At his death of cancer at age 44, there was an unparalleled outpouring of grief by the people of Minnesota. An estimated 200,000 filed by his bier at the State Capitol; the Minneapolis auditorium was packed to capacity at his funeral; and thousands more

listened at loudspeakers outside the building to Wisconsin Gov. Philip F. LaFollette's eulogy. As part of the 50th anniversary program on Aug. 23, the Minnesota Historical Society will open an exhibit illuminating Olson's life and times and captivating personality.

The sense of loss and the depth to which it was felt by Minnesotans is poignantly summed up by the daughter of an Albert Lea Farmer-Laborite: "I saw my father weep tears only two times, once when my mother died and once when he returned from Floyd B. Olson's funeral."

In his second inaugural address, delivered during the depths of the Great Depression in 1933, Olson observed, "We are assembled during the most crucial period in the history of any nation and our state. Just beyond the horizon is rampant lawlessness and possible revolution. Only remedial social legislation, national and state, can prevent its appearance." No political leader from this state has so clearly sensed the trend of the times and possessed the eloquence and ability to rally the people to support his program of marked change in the role of state government.

Olson offered hope to the victims of the Great Depression and championed a larger role for government, a political philosophy in retreat today. Many thought he was destined for the White House, and his untimely death invites endless speculation on what his future might have been as the war clouds gathered and the wartime effort replaced the reform crusade of the early years of the Great Depression.

The Farmer-Labor Party he led brought about widespread citizen participation in political affairs and produced courageous leaders who crusaded for social justice. Its legacy—and Olson's—is a strong orientation of Minnesota voters toward social concerns, progressive reforms, high taxation for a high level of public services and, above all, the issue-oriented and independent political tradition for which Minnesota is known.

FLORIO HONORS JACK FRANCIS

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, September 8, 1986

Mr. FLORIO. Mr. Speaker, I rise today to bring to the attention of my colleagues the courage and heroism of Mr. Jack Francis, an outstanding resident of New Jersey's First Congressional District.

On the morning of June 28, Jack was loading his car for a family trip when he saw smoke coming from his neighbor, Mr. Kern's home. Jack quickly forced his way through the back door and rescued Kern's sister Annemarie and her daughters, ages 4 and 7.

Realizing that Mrs. Kern's father, John, was still inside, Jack rushed back into the burning building. Locating him on the second floor, Jack guided John out of the house.

Mr. Speaker such a demonstration of bravery and courage is truly worthy of very special recognition. I am certain that my colleagues would be pleased to join with me and Jack's family and friends in honoring Jack for his life-saving heroism.

AFRICA'S NEW LEADERS: TAKING CHARGE AND MAKING REFORMS

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, September 8, 1986

Mrs. ROUKEMA. Mr. Speaker, a unique look at Africa's new leaders, in terms of their commitment to improving the well-being of their people, occurred recently as Joan Holmes, global executive director of the Hunger Project, undertook a monthlong visit to five eastern and southern African nations.

The subject has been on Ms. Holmes' mind, as well as a focus of concern for the Hunger Project, for some months. In April, she attended the United Nations Economic Commission for Africa conference and was struck by the new spirit among Africa's leadership for taking charge and instituting reforms.

In her position as head of the organization of more than 4.3 million individuals committed to the end of the persistence of hunger by the close of the century, Ms. Holmes wrote the following opinion article, which was published by the Christian Science Monitor.

Although the views expressed are strictly those of Ms. Holmes, I am pleased to share the text of the article with my colleagues and the American people, who will find in Ms. Holmes' observations an interesting and encouraging perspective on hunger in Africa.

[From the Christain Science Monitor, May 28, 1986]

AFRICA'S NEW LEADERS: TAKING CHARGE AND MAKING REFORMS

(By Joan Holmes)

Common wisdom has it that Africa is overwhelmingly burdened with leaders who are corrupt, incompetent, and uncaring dictators. At a time when millions have faced starvation, Africa's leaders are seen to be doing little to benefit their own people.

Yet, last month while in Cameroon for the Silver Jubilee Conference of the UN Economic Commission for Africa (UNECA), I was once again struck by how grossly oversimplified and largely inaccurate this oft-repeated stereotype is.

In recent years a new spirit has taken hold among the leadership of numerous African nations—publicly acknowledged accountability for past errors; a willingness to shed failed policies and adopt pragmatic new approaches; a commitment to resolve the economic and agricultural problems of the continent; and most significantly, an acceptance that the responsibility for economic and social change rests with Africa itself.

Also largely unnoticed has been the emergence of a new generation of leadership which has come of age in the years since independence. Many of those in this generation place the highest political primacy in African self-reliance and self-sufficiency. In the words of Adebayo Adedeji, executive secretary of UNECA, the resulting policy reforms could spell the "revolution of the century" in Africa. They could also ultimately break the back of persistent hunger and underdevelopment on the continent.

In Zimbabwe Prime Minister Robert Mugabe's government has committed itself to providing peasant farmers with low-interest loans, access to extension services, and other support. As a result, Zimbabwe has achieved record harvests and is exporting food to neighboring African nations, even as far away as Ethiopia.

In Zambia, President Kenneth Kaunda, Africa's highly respected senior statesman, has sparked a national "economic crusade" to revitalize the country's economy. His efforts to encourage domestic food production and decrease dependency on imports have necessarily brought with them short-term hardship; the price of the country's basic foodstuff, cornmeal, has risen substantially, and gasoline prices have doubled. Kaunda's political courage in taking these difficult steps is obvious.

In Ghana, 39-year-old Chief of State Jerry Rawlings has risked alienating the middle class by raising farm prices, cutting urban food subsidies, and devaluing the currency. These much-needed reforms have led to four assassination attempts against him. Yet, coupled with increased rainfall, they also helped produce a bumper harvest—enough to feed the country's population, with some surplus left over for export.

This movement for self-sufficiency is a continent-wide phenomenon.

In a landmark document—the "Addis Ababa Declaration"—28 African heads of state declared last year that: "We reaffirm that the development of our continent is the primary responsibility of our governments and peoples. We are, therefore, determined to take concrete actions and measures individually and collectively for the achievement of the economic development of our continent. . . ."

In more concrete terms, the declaration calls upon African governments to earmark 20 to 25 percent of their public spending for agriculture and food production by 1990. Several countries—among them Zimbabwe—have already made substantial progress toward that goal, and in Cameroon last month, senior officials of 50 African countries again endorsed this target.

The African economy is at the crossroads, Dr. Adedeji says, and 1986 is a "fateful year . . . our year with destiny." Keenly aware that Africa cannot go it alone, that international financial and technical support will be required if the new direction in Africa is to be sustained and have a chance of success, Adedeji told the assembled delegates at the Cameroon conference:

"Africa must demonstrate in every practical way its recognition of the need to bear the burden of its development. It must convince the skeptical and increasingly cynical world of its commitment and determination by tightening its belt and putting in place appropriate austerity measures, as well as by accepting the self-discipline required to achieve an economic turnaround."

As Africans shoulder the burden they must bear, the ball moves back in the donor nations' court. An early test is upon us, as the United Nations General Assembly convenes today in a special session on Africa, the first time the UN has focused solely on the needs of one continent. At the session, African nations will present a program of economic recovery which they themselves have devised, and for which they have pledged to provide 70 percent of the funding. How the donor nations of Western Europe and North America respond to this request for long-term partnership and assistance will send a strong signal to Africa's leaders, indicating to them the extent to which they can count on the international community to support them in the difficult course they are charting.

Nearly a year ago, President Abdou Diouf of Senegal, chairman of the Organization of African Unity, addressed a conference of the heads of state of more than half of Africa's countries. "At stake," he said, "is our credibility before our own people, before the entire world, indeed before history." At this critical time for Africa's future, a time that former World Bank president Robert McNamara has called "the opportunity of a decade, if not of a generation," President Diouf's words speak to us all.

COMMEMORATE 20TH ANNIVERSARY OF SIMON'S ROCK OF BARD COLLEGE

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 8, 1986

Mr. CONTE. Mr. Speaker, I rise to commemorate the 20th anniversary of Simon's Rock of Bard College in Great Barrington, MA, the only 4-year, liberal arts college in the Nation exclusively enrolling high-school-age students. I want my colleagues to know about this educational experiment that worked, and continues to work well.

Convinced that the traditional route to a college degree through secondary and higher education was stymieing the educational aspirations of many 15- and 16-year-olds, Elizabeth Blodgett Hall, former headmistress of Concord Academy, founded Simon's Rock 20 years ago. In 1979, Simon's Rock became an integral, but distinct part of Bard College, a 125-year-old liberal arts college in Annandale-on-Hudson, NY.

This wonderful college not only offers a rigorous academic program, but it does so in a social environment appropriate to adolescents. It challenges the students intellectually, but does not imitate the laissez-faire atmosphere of traditional college campuses nor presume premature adulthood. The young men and women who enter Simon's Rock generally have completed the 10th or 11th grade in high school, although some have completed the 9th grade and are admitted for a bridge year before being allowed to enter the college program. This year, the college received nearly 6,000 inquiries from prospective students, 2½ times as many as made such a request last year, but will only be able to enroll 120 new students. Secretary of Education William Bennett recently suggested that we need to loosen "the chronological lockstep by which children ordinarily enter and progress through school * * * to provide for differences in children's abilities." Simon's Rock has been doing that for 20 years.

The college is accredited by the New England Association of Schools and Colleges to award the B.A. degree in seven interdisciplinary areas, the BPS degree in a combined vocational/liberal arts curriculum, and the AA in liberal arts. The academic program is based on a strong core curriculum in general education, which requires foreign language study, and an emphasis on independent learning that culminates in a required senior thesis. Many students take advantage of several programs of study leading toward additional degrees at other institutions. This innovative set of "3-2" programs combines 3 years of undergraduate study at Simon's Rock, with 2 years of graduate work at other institutions, leading to an MSW from Hunter College, an MBA from the University of Rochester, and a MPA from Syracuse University. The college offers several other innovative programs, including a mandatory workshop in language and thinking designed to help students develop the communications skills needed to compete at the college level, and intensive foreign language study programs. Significant support is offered to qualified minority students through the W.E.B. DuBois Scholars Program, named in honor of the distinguished social critic and historian who was born and lived in Great Barrington.

This beautiful campus is located on 275 acres in the southern part of the Berkshires. Its library houses over 50,000 volumes, special collections, and a growing number of recording and periodicals, supplemented by more than 170,000 volumes at Bard's library. Twenty-nine academic, residential, and administrative buildings complete the physical plant, together with a computer center, a 180-seat theater, athletic facilities, and an arts complex.

But the real story of Simon's Rock is the success of its graduates. Young men and women who otherwise might have had their educational aspirations frustrated by traditional educational offerings, are now performing as physicians, teachers, lawyers, businessmen and women, archeologists, artists, ministers, bankers, musicians, graduate students, and in virtually every other walk of life.

Mr. Speaker, President Leon Botstein, Provost U Ba Win, the overseers and trustees, faculty, and administration have given of themselves to build upon the vision of founder and President Emerita Elizabeth Blodgett Hall to sustain and nurture this experiment in education. Together with the student body, they have made Simon's Rock an important and successful part of the community of Great Barrington, western Massachusetts, the Commonwealth, and the Nation's higher education enterprise.

I am proud to represent Simon's Rock of Bard College and I salute them on the occasion of their 20th anniversary, to be celebrated at convocation ceremonies on this coming Saturday, September 13, 1986, Simon's Rock of Bard College Day in the Commonwealth of Massachusetts.

CONGRESS—CULPRIT IN ESCALATING COLLEGE COSTS

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 8, 1986

Mr. BEREUTER. Mr. Speaker, this Member commends to the attention of his colleagues, and particularly those working on the conference agreement for the reauthorization of the Higher Education Act, the following editorial comment from the August 28, 1986, New York Times.

In particular, the editorial points a finger at a Congress whose good intentions allowed many private colleges to make the decision to raise their fees dramatically during the halcyon days of limitless student aid.

Additionally, the crisis in college costs is carried beyond the college years, as borrowing students rack up tens of thousands of dollars in student aid debts "before they even earn a dime."

[From the New York Times, Aug. 28, 1986]

WHY SO COSTLY?

(By Warren T. Brookes)

As the college semester approaches, taxpayers, especially those with college-bound offspring, brace for another annual shakedown by the "Ivy Cartel"—the four-year private colleges and universities.

From 1980 to 1986, these private institutions raised their annual total costs (tuition, fees, board and room) a colossal 90.2 percent, nearly triple the total inflation rate in the same period (33.4 percent). Public four-year colleges are almost as bad, having raised their total costs more than 67 percent—double the inflation rate.

Since 1980, private four-year colleges have upped their total costs from an average of $5,888 a year to last year's average of $11,210; public colleges' costs have jumped from $2,487 to $4,156, with another 8 percent to 10 percent hike set for this fall.

Year after year, parents—and ultimately all taxpayers—have been hit with increases of 9 to 15 percent, even as the annual inflation rate has plummeted to its current level of only 1.8 percent (June 1985 to June 1986).

The chief culprits are not greedy college administrations; they are the much too friendly members of Congress whose maudlin overgenerosity with student aid has created a cartel monster. Throughout the first half of the decade, colleges and universities knew that students and parents had virtually unlimited access to Federally subsidized borrowing. And, precisely as that access to and use of Federal aid rose, the Ivy Cartel grew more arrogant in its demands.

In 1970, when the student loan program was still in its infancy, fewer than 23 percent of all students got Federal aid, and throughout the 1970's colleges and universities held their annual tuition hikes to just about the level of inflation. But by 1980, when student aid—especially low-cost (highly subsidized) loans—was being used by 60 percent of the entire student enrollment, the lid came off the college price index. Private schools inflicted an 11.3 percent average annual increase even as the inflation rate fell to an estimated 2 percent this year.

As a result, in a period when higher-education enrollments were beginning to level off, and when lower inflation should have enabled Congress to cut these aid programs, their total costs continued to soar from $7.5 billion in 1980 to $9.4 billion in 1985-86. The Senate recently approved a program to spend at least $9.8 billion in fiscal 1987.

Not surprisingly, universities have taken advantage of these mounting "entitlements" to push parents and students into ever deeper mires of debt from which many students may never recover, piling up $40,000 to $60,000 in debt before they even earn a dime.

H.R. 5395—TO INCREASE THE STATUTORY LIMIT ON THE PUBLIC DEBT

HON. WILLIAM H. GRAY III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 8, 1986

Mr. GRAY of Pennsylvania. Mr. Speaker, on August 15, CBO and OMB took a snapshot of the fiscal year 1987 budget which is likely to project an average fiscal year 1987 deficit of somewhere in the neighborhood of $163 billion. Absent action by Congress on deficit reduction, $19 billon in cuts will be mandated by sequestration in an arbitrary and disruptive way.

This is a time for action. Has the other body acted? No. There they go again. The House is being asked to act on another gimmick to address the deficit.

The same people who created an unconstitutional scheme in the first place have developed a new scheme. But, the other body missed the message of the Supreme Court—the Constitution affords no substitute for the branches of Government performing their assigned functions.

Indeed, I have serious concerns about the Gramm-Rudman "fixes" that the bill's original sponsors are now proposing in "Gramm-Rudman-Hollings II." They would have the OMB Director replace the Comptroller General as the ultimate arbiter of differences. OMB and CBO would estimate the deficit and compute any required cuts, which would be reviewed by the Comptroller General, as under the original law. The Comptroller General, then, would forward it to OMB for a final determination. One sponsor has said that OMB's function would be "just a green-eyeshade calculation." Another has noted that OMB would inevitably have some discretion in projecting the deficit and allocating cuts.

The role of OMB is critical. If OMB's role is purely ministerial, the constitutionality of the law could be questioned on the same grounds on which it was successfully challenged—the role of GAO in executing the law. If, however, OMB is not just making a "green-eyeshade" calculation, then we need to be concerned about the accuracy of the estimates and, especially, the direction of its policies.

The Senate amendment would grant broad powers to the director of OMB, allowing him to determine the parameters of sequestration giving only "due regard" to the GAO report. There is no safeguard in the amendment to ensure that OMB conforms with the GAO report, as the law envisions. Additionally, to correct an order drafted by OMB, Congress would have to pass a measure and the President would have to sign it.

The new Senate proposal would require Congress to vote on economic assumptions including unemployment, inflation, interest rates, and economic growth. Our responsibility is to set forth congressional priorities in fiscal policy, not to legislate assumptions of this country's economic future.

There are troubling institutional questions here that go to the heart of our system of government, The Wall Street Journal ran an editorial on Monday, July 21, arguing that the logic of an automatic Gramm-Rudmann process is leading us inexorably toward the line-item veto. "The emerging consensus," they write, "Is that Congress is no longer capable of exercising the power of the purse * * * nor does it wish to exercise that power." In their view, when The Gramm-Rudman-Rube Goldberg machine falls apart, the line-item veto "will be the only proposal on the table."

I have no quarrel with the logic of this argument, but I do reject the premise that Congress cannot do what it was elected to do. Congress can and should exercise its constitutional powers with respect to fiscal policy. If we do not, those powers will be exercised by others in the executive branch. As the Journal notes, the logic of an automatic Gramm-Rudman law is the logic of the line-item veto, the logic of a transfer of power from Congress to the President. I do not favor such a transfer, nor, I believe, do most Members of the Congress. But we need to understand the implications of our actions before we rush forward to embrace a fairy godmother whose charms may rapidly wither after November.

I support the existing fallback mechanism—a procedure which works by putting the responsibility on Congress, the representatives of the people elected to lead. As chairman of the House Budget Committee and cochairman of the temporary Joint Committee on Deficit Reduction, I pledge to work with all of you in meeting the deficit targets and rendering these arbitrary across-the-board cuts unnecessary.

I propose that we adopt the following approach in September which, if implemented, can avoid sequestration. First, we get the maximum possible savings already mandated by the budget resolution out of the pending reconciliation bill. Second, we incorporate the budget resolution's unreconciled savings into legislation. Third, any further deficit reduction which might be necessary will be achieved through additional deficit reduction legislation in an equitable manner.

The Senate amendment is no response to the action needed. I urge you to send a message to the other body. We were elected to lead and make the hard choices. We must all be mindful of the deficit problem, but we must not be mindless in our response. Reject the Senate amendment.

RECOGNIZING THE DAUNTLESS FIRE CO'S. 150TH ANNIVERSARY

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 8, 1986

Mr. MURTHA. Mr. Speaker, it's a distinct pleasure for me to recognize the 150th anniversary of the Dauntless Fire Co. of Ebensburg, PA.

The formal organization and title of the fire company took place in 1836, and was incorporated in 1872. Actually, Ebensburg has had firemen since 1825. As part of the their anniversary, the company is hosting the 94th Annual Convention of the Central District Volunteer Fireman's Association on August 14, 15, and 16.

It is difficult, yet instructive, to try and remember back to the very different kind of life the men who started this fire company had. It was a time when news was delivered in terms of weeks rather than minutes, when one relied on a fireplace in the winter and a hand-held fan in the summer, and when most families were self-sufficient in their needs.

But it is important to remember that one of the key elements which organized the communities of this time was the fire departments. It served as an organizer, a social meeting place, a community hub. And it is also instructive in thinking of the qualities enhanced in the fire department, because I know from my work with the citizens and community of Ebensburg that those same qualities of independence, self-reliance, and dedication remain today.

The history of the fire department is an important one to America and its communities. And it is in that spirit of our great Nation, that I am pleased to join in recognizing Ebensburg and its citizens on the occasion of the Dauntless Fire Co.'s 150th anniversary.

H.R. 4151

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 8, 1986

Mr. DELLUMS. Mr. Speaker, I want to offer my sincere congratulations to my colleague, Chairman DANTE FASCELL for his leadership in reaching agreement on the conference report on H.R. 4151, the Omnibus Diplomatic Security and Antiterrorism Act of 1986. As chairman of one of the many committees that was involved in hammering out the rough places in this piece of legislation, I appreciate his work and that of his diligent staff.

In the course of developing this omnibus legislation there was an amendment to repeal a District of Columbia law that establishes the 500-foot perimeter that demonstrators must maintain in front of diplomatic facilities by including the District of Columbia in the 1972 Federal law that sets the perimeter at 100 feet. The Federal law is less restrictive than the District of Columbia law because it requires the law enforcement officers to be able to "prove intent to harm" before the 100-foot perimeter can be imposed on demonstrators thereby removing the spatial restrictions which serve as police staging areas.

The District government, Federal and local law enforcement officials and the U.S. State Department were opposed to this amendment. I joined them in opposition for two reasons: First, the Federal and local law enforcement officials indicated that they could not guarantee adequate crowd control or protection of demonstrators, diplomatic facilities, or police personnel with the 100-foot perimeter; second, the section of the District of Columbia law which was to be amended is within the legislative authority of the District of Columbia government as delegated to it by Congress. As a home rule matter, I found it inappropriate for the Congress to amend this local law without giving the locally elected government an opportunity under the home rule process to

consider the matter and work its will with regard to local legislation.

I commend Chairman FASCELL and the House-Senate conferees for taking seriously the home rule problem created by such an amendment and agreeing to omit the amendment with the understanding expressed in section 1302 of the conference report which suggests that the District of Columbia Council review and if appropriate make revisions in the law concerning demonstrations near foreign missions.

This action by my colleagues in the House and Senate is a further indication of the Federal-local partnership which should and does exist in most instances under the home rule arrangement.

UNITED VETERANS MUTUAL HOUSING CO.

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 8, 1986

Mr. ACKERMAN. Mr. Speaker, I rise today to mark a truly special occasion. On this Sunday, after 34 years of patience and perseverance, the United Veterans Mutual Housing Co. of Queens County, NY, will celebrate a joyous occasion with a mortgage-burning party.

Mr. Speaker, over three decades ago, a new community was born in New York. The community, Bell Park Manor-Terrace, was only the second veterans' middle-income housing cooperative in America. Now, Bell Park Manor Terrace has matured into a vibrant, thriving, neighborhood, and stands as living proof that Government and private citizens can work together effectively.

Formed by men and women who had already shown their courage and patriotism defending their Nation in its time of need, Bell Park Manor-Terrace is no mere collection of houses and people. Led by an active community council, this Queens development hosts an annual blood bank, a newspaper, block watch and auxiliary police programs, and is home to a summer day camp, Federal credit union, and new educational facilities ranging from the nursery school to high school levels.

Mr. Speaker, the achievements of the United Veterans Mutual Housing Co. in Queens County are a testament to the hard work and dedication of people who believed, and still believe in the American values of community and neighborhood. Bell Park Manor-Terrace is also a prime example of how we should reward those who sacrificed for their country. Our Government's small investment in the United Veterans Mutual Housing Co. and similar corporations across America, has been a true success story of the postwar era.

I call now on all of my colleagues in the U.S. House of Representatives to join me in congratulating the United Veterans Mutual Housing Co. on the occasion of their mortgage-burning, and in wishing the men and women of Bell Park Manor-Terrace many more happy years in a strong and healthy community.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, September 9, 1986, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

SEPTEMBER 10

9:00 a.m.
Judiciary
To continue hearings on certain provisions of S. 2760, Product Liability Reform Act.
SD-226

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings on S. 2565, to ensure the orderly and competitive development of the telecommunications industry, and related proposals.
SR-253

Impeachment Trial Committee
To meet, to consider the pretrial motions filed by the Managers for the House of Representatives and counsel for the Honorable Harry E. Claiborne, and other related matters.
SR-301

Select on Intelligence
To hold closed hearings on intelligence matters.
SH-219

10:00 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings on the nomination of W. Kirk Miller, of Wisconsin, to be Administrator of the Federal Grain Inspection Service, Department of Agriculture.
SR-332

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Environment and Public Works
To hold hearings on S. 2340, to provide a system of liability and compensation for oil spill damage and removal costs.
SD-406

Finance
Business meeting, to mark up H.R. 1868, to provide protection against fraud and abuse in the nation's health care programs, and S. 2209, to make permanent provisions of the Social Security Act which allow disabled recipients of benefits under the Supplemental Security Income Program to receive benefits while working.
SD-215

Conferees
Closed, on S. 2638, National Defense Authorization Act of 1986.
S-407, Capitol

10:30 a.m.
Judiciary
Criminal Law Subcommittee
To hold hearings on S. 917, to authorize the payment of death benefits to survivors of public safety officers who die as the result of certain medical conditions sustained in the performance of duty, S. 1479, to include within the provisions of the Public Safety Officers' Death Benefits Act, any person serving as a firefighter, or member of a rescue squad or ambulance crew, and S. 2499, to increase the amount of death benefits paid to the survivors of public safety officers, and to revise beneficiary restrictions.
SD-562

Temporary Joint Committee on Deficit Reduction
Business meeting, to receive and consider the Office of Management and Budget and Congressional Budget Office sequester report.
SD-G50

2:00 p.m.
Judiciary
To hold hearings on pending nominations.
SD-226

Conferees
On S. 1965, to revise certain provisions and to authorize funds for programs for the Higher Education Act.
SD-430

3:00 p.m.
Governmental Affairs
To continue hearings on the nomination of John Agresto, of the District of Columbia, to be Archivist of the United States.
SD-342

4:00 p.m.
Select on Indian Affairs
Business meeting, to mark up S. 1452, to settle Indian land claims in the Town of Gay Head, Massachusetts, S. 2118, to provide for the distribution of funds appropriated to pay a judgment awarded to the Sisseton and Wahpeton Tribes of Sioux Indians, H.R. 1344, to provide for the restoration of Federal recognition to the Ysleta del Sur Pueblo and the Alabama and Coushatta Indian Tribes of Texas, H.R. 1920, to establish Federal standards and regulations for the conduct of gaming activities on Indian reservations and lands, and S. 2504, to authorize certain transfers affecting the Pueblo of Santa Ana in New Mexico.
S-205, Capitol

SEPTEMBER 11

9:00 a.m.
Armed Services
Business meeting, to hear and consider the nomination of Richard P. Godwin, of California, to be Under Secretary of Defense for Acquisition, and other routine military nominations.
SR-222

Banking, Housing, and Urban Affairs
Business meeting, to mark up S. 430, to clarify the intent and modify certain provisions of the Foreign Corrupt Practices Act of 1977, and other pending calendar business.
SD-538

10:00 a.m.
Appropriations
Defense Subcommittee
Business meeting, to mark up provisions of H.R. 5438, appropriating funds for fiscal year 1987 for the Department of Defense (pending on House Calendar).
SD-192
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366
Judiciary
Business meeting, to consider pending calendar business.
SD-226
Select on Indian Affairs
To hold hearings on S. 1177, to establish a special magistrate to preside over Federal criminal offenses on Indian reservations, and to provide tribal and local police officers with authority to enforce Federal laws within their respective jurisdictions.
SD-562

10:30 a.m.
Commerce, Science, and Transportation
To hold hearings on the nominations of John W. Melchner, of Maryland, to be Inspector General, Department of Transportation, and William R. Graham, of California, to be Director, Office of Science and Technology Policy.
SR-253

11:00 a.m.
Labor and Human Resources
To resume hearings on S. 1804, to establish a program to provide development and incentive grants to states for enacting medical malpractice liability reforms.
SD-430

2:00 p.m.
Conferees
On S. 1965, to revise certain provisions and to authorize funds for programs for the Higher Education Act.
2175 Rayburn Building

4:00 p.m.
Select on Intelligence
To hold closed hearings on intelligence matters.
SH-219

SEPTEMBER 12

9:30 a.m.
Joint Economic
To hold hearings on tax reform.
2359 Rayburn Building

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
Business meeting, to mark up provisions of H.R. 5339, appropriating funds for fiscal year 1987 for foreign assistance and related programs (pending on House Calendar).
S-126, Capitol
Energy and Natural Resources
To hold oversight hearings on applicable water law during the Federal Energy Regulatory Commission's hydroelectric licensing proceedings.
SD-366
Environment and Public Works
To resume hearings on S. 2340, to provide a system of liability and compensation for oil spill damage and removal costs.
SD-406

SEPTEMBER 15

9:00 a.m.
Impeachment Trial Committee
To hold hearings on matters relating to the impeachment trial of Honorable Harry E. Claiborne.
SR-325

9:30 a.m.
Joint Economic
To resume hearings on tax reform.
2359 Rayburn Building

2:00 p.m.
Impeachment Trial Committee
To continue hearings on matters relating to the impeachment trial of Honorable Harry E. Claiborne.
SR-325

SEPTEMBER 16

9:00 a.m.
Impeachment Trial Committee
To continue hearings on matters relating to the impeachment trial of Honorable Harry E. Claiborne.
SR-325

9:30 a.m.
Commerce, Science, and Transportation
To resume hearings on S. 2565, to ensure the orderly and competitive development of the telecommunications industry, and related proposals.
SR-253
Energy and Natural Resources
Energy Regulation and Conservation Subcommittee
To hold hearings on S. 2781, to revise certain provisions of the Energy Policy and Conservation Act with respect to energy conservation standards for appliances.
SD-366
Governmental Affairs
Oversight of Government Management Subcommittee
To hold hearings on S. 2756, Computer Matching and Privacy Protection Act of 1986.
SD-342

10:00 a.m.
Labor and Human Resources
To hold hearings on pending nominations.
SD-430

2:00 p.m.
Impeachment Trial Committee
To continue hearings on matters relating to the impeachment trial of Honorable Harry E. Claiborne.
SR-325

SEPTEMBER 17

9:00 a.m.
Impeachment Trial Committee
To continue hearings on matters relating to the impeachment trial of Honorable Harry E. Claiborne.
SR-325

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

2:00 p.m.
Impeachment Trial Committee
To continue hearings on matters relating to the impeachment trial of Honorable Harry E. Claiborne.
SR-325

SEPTEMBER 18

9:00 a.m.
Impeachment Trial Committee
To continue hearings on matters relating to the impeachment trial of Honorable Harry E. Claiborne.
SR-325

9:30 a.m.
Energy and Natural Resources
To resume oversight hearings on the domestic and international petroleum situation.
SD-366

2:00 p.m.
Impeachment Trial Committee
To continue hearings on matters relating to the impeachment trial of Honorable Harry E. Claiborne.
SR-325

SEPTEMBER 19

9:00 a.m.
Impeachment Trial Committee
To continue hearings on matters relating to the impeachment trial of Honorable Harry E. Claiborne.
SR-325

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings to examine the air quality within an airplane.
SR-253
Finance
Health Subcommittee
To hold hearings to examine current Medicaid funding services provided for the long-term care of developmentally disabled persons.
SD-215

2:00 p.m.
Impeachment Trial Committee
To continue hearings on matters relating to the impeachment trial of Honorable Harry E. Claiborne.
SR-325

SEPTEMBER 22

2:00 p.m.
Commerce, Science, and Transportation
Business, Trade, and Tourism Subcommittee
To hold hearings to review travel and tourism statistics.
SR-253

SEPTEMBER 23

9:00 a.m.
Office of Technology Assessment
The Board, to meet to consider pending business.
EF-100, Capitol

9:30 a.m.
Commerce, Science, and Transportation
To hold oversight hearings on activities of the National Highway Traffic Safety Administration, and the implementation of the Motor Carrier Safety Act of 1984.
SR-253
Energy and Natural Resources
Public Lands, Reserved Water and Resource Conservation Subcommittee
To hold hearings on S. 2029 and H.R 4090, bills to establish the Big Cypress National Preserve Addition in Florida,

S. 2442 and H.R. 4811, bills to establish the San Pedro Reparian National Conservation Area in Arizona, H.R. 2921, to authorize the Secretary of Agriculture to issue permanent easements for certain water conveyance systems in order to resolve title claims arising under Acts repealed by the Federal Land Policy and Management Act of 1976, S. 2707 and H.R. 2826, bills to designate a segment of the Horsepasture River in North Carolina as a component of the National Wild and Scenic Rivers System.

SD-366

11:00 a.m.
Veterans' Affairs
To hold hearings to review the legislative priorities of the American Legion.

SD-106

SEPTEMBER 24

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.

SD-366

Labor and Human Resources
Business meeting, to consider pending calendar business.

SD-430

SEPTEMBER 25

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.

SD-366

SEPTEMBER 26

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings on proposed legislation authorizing funds for the Airport and Airway Trust Fund.

SR-253

SEPTEMBER 29

9:30 a.m.
Finance
Taxation and Debt Management Subcommittee
To hold hearings on S. 1974 and S. 1113, bills to prohibit the imposition by States of the worldwide unitary method of taxation.

SD-215

OCTOBER 1

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.

SD-366

OCTOBER 2

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.

SD-366

CANCELLATIONS

SEPTEMBER 9

9:30 a.m.
Labor and Human Resources
Employment and Productivity Subcommittee
To hold hearings to review graduate medical education in ambulatory settings.

SD-430

SEPTEMBER 10

10:00 a.m.
Labor and Human Resources
To hold hearings to review the human resources impact on drug research and space technology.

SD-430

HOUSE OF REPRESENTATIVES—*Tuesday, September 9, 1986*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We come before You, O God, with a heart of thanksgiving for all Your good gifts to us, and also with hearts sensitive to the suffering of those victims of violence. So many people have been threatened or held hostage, have been injured or killed, so often good people innocent in their intent.

We pray, gracious God, that Your blessing will be with those who suffer or who know pain or anguish. May Your purposes, O God, be known to all people, that Your Word of peace and respect and dignity be heard in all the world. This we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mrs. Emery, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that pursuant to Senate Resolution 480, 99th Congress, the Secretary of the Senate communicates to the House of Representatives a copy of the answer of Harry E. Claiborne, judge of the U.S. District Court for the District of Nevada, to the articles of impeachment.

[In the Senate of the United States Sitting as a Court of Impeachment]

IMPEACHMENT OF JUDGE HARRY E. CLAIBORNE

NOTICE OF FILING

To: Jo-Anne L. Coe, Secretary of the United States Senate, S-221 The Capitol, Washington, D.C. 20510

Please take notice that on this 5th day of September, 1986, the Honorable Harry E. Claiborne, has posted to the Secretary of the United States Senate, an original and thirty copies of his Answer to Articles of Impeachment.

Simultaneous with the posting of the Answer to Articles of Impeachment, the same was served upon the United States House of Representatives through its Special Counsel, Nicholas D. Chabraja, by Federal Express delivery.

Respectfully submitted:

HARRY E. CLAIBORNE,
(By) Oscar B. Goodman, Esq., and Honorable Howard W. Cannon,
Attorneys for Respondent.

[In the Senate of the United States Sitting as a Court of Impeachment]

IMPEACHMENT OF JUDGE HARRY E. CLAIBORNE

ANSWER TO ARTICLES OF IMPEACHMENT

Judge Harry E. Claiborne, by and through his counsel, Oscar B. Goodman, Esq. and the Honorable Howard W. Cannon, Answers The Articles of Impeachment preferred by the House of Representatives:

ARTICLE I

Article I alleges that Judge Harry E. Claiborne willfully and knowingly made a false statement on his 1979 tax return in violation of Section 7206(1) of Title 26, United States Code.

Judge Harry E. Claiborne states that he believed the return to be true and correct as to every material matter.

Judge Harry E. Claiborne states that he had no specific intent to violate the law and that errors contained in his 1979 return were the result of accident, mistake or negligence. Judge Harry E. Claiborne subscribed such return in reliance on Joseph Wright, whom he reasonably believed to be a competent public accountant. Judge Harry E. Claiborne made a full disclosure to such accountant.

First Affirmative Defense

Judge Harry E. Claiborne was deprived of fundamental Due Process of Law in litigating such defenses by the judges specially appointed to hear his case.

Second Affirmative Defense

Judge Harry E. Claiborne was deprived of Due Process of Law by outrageous prosecutorial conduct by members of the Executive Branch who wrongfully procured his indictment and conviction through perjured testimony, intimidation of witnesses and unlawful covert surveillance including a mail cover and at least one burglary of Judge Claiborne's residence.

ARTICLE II

Article II alleges that Judge Harry E. Claiborne willfully and knowingly made a false statement on his 1980 tax return in violation of section 7206(1) of Title 26, United States Code.

Judge Harry E. Claiborne states that he believed the return to be true and correct as to every material matter.

Judge Harry E. Claiborne states that he had no specific intent to violate the law and that errors contained in his 1980 return were the result of accident, mistake or negligence. Judge Harry E. Claiborne subscribed such return in reliance on Jerry D. Watson, whom he reasonably believed to be a competent public accountant. Judge Harry E. Claiborne made a full disclosure to such person.

First Affirmative Defense

Judge Harry E. Claiborne was deprived of fundamental Due Process of Law in litigating such defenses by the judges specially appointed to hear his case.

Second Affirmative Defense

Judge Harry E. Claiborne was deprived of Due Process of Law by outrageous prosecutorial conduct by members of the Executive Branch who wrongfully procured his indictment and conviction through perjured testimony, intimidation of witnesses and unlawful covert surveillance including a mail cover and at least one burglary of Judge Claiborne's residence.

ARTICLE III

Article III alleges that Judge Harry E. Claiborne was convicted of two felony offenses.

First Affirmative Defense

Judge Harry E. Claiborne states that such convictions were wrongfully obtained by the failure and refusal of the Judicial Branch, through the judges specially appointed to preside over his case, to provide fundamental Due Process of Law.

1. Of the three judges specially appointed to review Judge Claiborne's convictions, all judges, including the Honorable Wilbur F. Pell, Senior Circuit Judge for the Seventh Circuit, the Honorable J. Edward Lumbard, Senior Circuit Judge for the Second Circuit and the Honorable Robert H. McWilliams, Senior Circuit Judge for the Tenth Circuit, failed and refused to conduct an independent examination of the material on which the trial court based its rulings, such materials having been sealed by the trial judge and not unsealed or read by anyone from that time through at least the entry of the Honorable Warren Ferguson's, Circuit Judge for the Ninth Circuit, dissenting opinion on December 30, 1985, from the Order of the Ninth Circuit denying a hearing en banc.

2. The failure and refusal of said judges to conduct a proper independent review of the materials on which the trial court based its rulings or to read the briefs on appeal prejudiced Judge Harry E. Claiborne and deprived him of fundamental Due Process of Law. The specially appointed judges set forth critical factual errors in their analysis of the case in their decision reported at 765 F.2d 784 (1985).

3. The trial judge, the Honorable Walter E. Hoffman, failed and refused to provide to Judge Harry E. Claiborne, or his counsel at any meaningful time, critical exculpatory evidence necessary to impeach the false testimony of the prosecution's witness, Joseph Wright; and Judge Hoffman also failed to provide critical evidence which would corroborate the exculpatory testimony of Jerry Watson and Judge Claiborne. Two items of such exculpatory evidence, the existence of which is now known to Judge Claiborne, are:

A. An interview by FBI Special Agent Richard T. Jessinger of Charlotte Travaglia, an employee of Jerry Watson, conducted on or about June 17, 1983. Travaglia's statement corroborates Judge Claiborne's contention at trial that he made full disclosure of this 1980 income to Jerry D. Watson. Travaglia's statement confirms and corrobo-

rates that Jerry D. Watson and his office were confused about the proper treatment of that income. Subsequent to such interview, on or about June 17, 1983, Travaglia, who was seriously ill, was frightened or induced by wrongful governmental actions to withhold such exculpatory information from Judge Claiborne and his attorneys.

Travaglia's exculpatory statement was disclosed in May, 1986, after the conclusion of both trials and the direct appeal in this matter.

B. A Memorandum of Interview of government witness Joseph Wright conducted on or about February 16, 1983, was wrongfully withheld from Judge Claiborne and his attorneys by the prosecutors and Judge Walter E. Hoffman until after Judge Claiborne was safely convicted. The Memorandum of Interview disclosed that in August of 1981, Joseph Wright threw away some documents relating to Judge Harry E. Claiborne's file. The Memorandum also disclosed that questions about Judge Claiborne's file were resolved by contacts between Connie Wright, the witness' spouse, and Ginny McElwain, Judge Claiborne's former secretary, in contradiction to the testimony of Joseph Wright at trial. Cross examination of Joseph Wright about the disposal of records in or about August of 1981 would have been crucial in establishing Judge Claiborne's contention that a critical letter of April 11, 1980, to Joseph Wright had most likely been lost, misplaced, misfiled or otherwise erroneously disposed. The prosecutors, who had full knowledge of this Memorandum, argued wrongfully and prejudicially that the absence of the letter in Wright's file could only be explained by a recent fabrication.

Second Affirmative Defense

The convictions upon which Article III of the Articles of Impeachment are based are presently the subject of a Motion to Vacate Judgment and Sentence. The convictions are therefore only technically "final" and may be vacated as the result of evidence of prosecutorial misconduct and judicial misconduct and result of newly discovered and wrongfully withheld exculpatory evidence.

ARTICLE IV

Article IV alleges that Judge Harry E. Claiborne "willfully" and "knowingly" falsified his income on his Federal tax returns for 1979 and 1980.

Judge Harry E. Claiborne has never been afforded an opportunity to fully and fairly litigate those false allegations in a fair and impartial forum. Judge Harry E. Claiborne denies that he willfully and knowingly falsified his income on his Federal tax returns for 1979 and 1980.

Judge Harry E. Claiborne denies that he has betrayed the trust of the people of the United States and reduced confidence in the integrity and impartiality of the judiciary thereby bringing disrepute on the Federal Courts and the Administration of Justice.

First Affirmative Defense

As an affirmative defense, Judge Harry E. Claiborne states that certain present and former individual members of the Executive Branch cooperated and collaborated to produce perjured testimony and suppress exculpatory material and have wrongfully betrayed the trust of the American people.

Second Affirmative Defense

As an affirmative defense, Judge Harry E. Claiborne states that members of the Judicial Branch, by failing and refusing to accord to Judge Harry E. Claiborne fundamental Due Process, and to independently review his indictment, trials and convictions, have wrongfully betrayed the trust of the American people.

Respectfully submitted:

HARRY E. CLAIBORNE,
(By) Oscar B. Goodman,
Esq., and Honorable
Howard W. Cannon,
Attorneys for Respondent.

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 4868. An Act to prohibit loans to, other investments in, and certain other activities with respect to, South Africa, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 4868) "An act to prohibit loans to, other investments in, and certain other activities with respect to, South Africa, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. LUGAR, Mr. HELMS, and Mr. PELL to be the conferees on the part of the Senate.

PARENTAL LEAVE

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, the world has changed drastically in America in the last 10 years. There are very few families anymore where both parents can get away with not having to work outside the home just to pay the bills.

I have been continuing to push for parental leave, as many of the Members of this body have also joined me in doing, and as I come back from the break I must say more and more stories of young people being told, "It's either your child or your job" keep coming to me.

It is incredible that almost every country on the planet has dealt with this, except the United States. We are out there with such countries as Upper Volta, the Sudan, South Africa, and Greenland. Everybody else has had a position on parental leave. I think it is time that this Congress does that; because too many people are finding that their young children do not get off to the right start. Pediatricians tell us they cannot tell which of our children will become juvenile delinquents and which of them will become drug addicts, but they can tell us which ones will not. We had better listen to that and do everything we can to make sure in the next generation that most of the kids are in that category that will not have these problems that we are going to be discussing in these waning days.

So let us get parental leave to the floor. It is every bit as important as such things as the drug package and so forth. Let us start where the children start and make sure that they get off to a good start.

APPALLING RESPONSE TO THE DANILOFF CASE

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, the response of this Nation to the Soviet action of holding hostage of an American citizen, an American newsman, Nicholas Daniloff, has been appalling. And there's plenty of blame to go around.

The administration can be and should be faulted for indecision.

This House can be and should be faulted for bad decisions.

The administration's unwillingness to get really tough with the Soviets must delight the hardliners in the Kremlin. The Soviets again have done the unthinkable and we treat it as business as usual.

The majority of this House spent most of the week prior to our recess voting for amendments that in effect endorsed the Soviet world view. The men in the Kremlin must have been cheered by that display and certainly could feel that there would be legislative resistance to any effort to get tough with Soviet tyranny.

The Daniloff case should spur us to action.

The administration should stop its business as usual attitude and cut all summit and arms control negotiations until Daniloff is released.

And the leadership of this House should prevent any further bills or amendments from coming to the floor that endorse positions of Soviet foreign policy at least until Daniloff is released.

In my opinion, that is the kind of action Soviet tyrants will understand.

WHITE HOUSE CONFERENCE ON SMALL BUSINESS

(Mr. LUKEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUKEN. Mr. Speaker, the liability crisis has become a death sentence for many small businesses in the United States. That was the conclusion reached by the more than 1,700 delegates to this year's White House Conference on Small Business which made tort reform their top priority recommendation. The message—your policy is canceled—got through.

The delegates to the conference reached the decision to put tort reform at the top of their agenda after

reviewing as many as 2,000 possible recommendations in a series of State and regional meetings. They consider this issue so important that it rated above tax reform, the balanced budget, and retention of the Small Business Administration on the list of priorities.

The delegates were sending us a message loud and clear—if you want to show your support for small business, do something about the affordability and availability of liability insurance.

Congressman RICHARDSON and I have introduced H.R. 5471, the Product Liability Reform Act of 1986, and are now seeking cosponsors. We believe this bill meets the needs of our small business owners and will prove acceptable to the majority of Members. We reform joint and several liability so that the "deep pockets" don't end up paying for the entire recovery regardless of fault, return to a fault-based standard of liability, and limit recoveries for punitive damages.

The time to act is now. We'll be writing you in the next week asking for your cosponsorship.

EXPANSION OF TARGETED JOBS TAX CREDIT FOR SENIOR CITIZENS

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, I want to remind my colleagues of our responsibility to senior citizens. We've taken some important steps this year, but we can and must do more.

The Labor/Health and Human Services/Education appropriations bill increased funding for community service jobs for senior citizens. But we can and must do more.

We could get my bill, H.R. 5209, to expand the targeted jobs tax credit for senior citizens, out on the floor for a vote.

We should ensure that cost-of-living allowances are paid to Social Security recipients next January, regardless of the inflation rate.

Will the tax bill—with its changes in the tax treatment of Blue Cross/Blue Shield and repeal of the personal exemption for the elderly—harm senior citizens with medical insurance premium increases and a possible tax increase? And what about Medicare? With the new prospective payment system, there's a great deal of concern that elderly individuals are being discharged from hospitals "quicker but sicker."

Hospital premiums are outrageously high. The reconciliation bill takes care of that problem. Let's get it out on the floor for consideration.

Let's not forget our senior citizens who have given this Nation—and all of us—so very much.

PERMISSION FOR MANAGERS TO BE EXCUSED FROM ATTENDING SESSIONS OF THE HOUSE DURING CLAIBORNE IMPEACHMENT PROCEEDINGS

Mr. RODINO. Mr. Speaker, I ask unanimous consent that the managers on the part of the House be excused from attending sessions of the House during their participation in the Claiborne impeachment proceedings in the other body.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

FREE DANILOFF OR THE SUMMIT IS OFF

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, free Daniloff or the summit is off. That is a distinct possibility and a decision that the President of the United States could make. If he should do that, then the Congress of the United States, representing the American people, should support the President. After all, how can we envision a summit to take place while Daniloff is in prison where an immense cloud would be hanging over the main items to be considered at such a summit conference?

We remember only too well that when Eisenhower met Khrushchev, it was impossible and indeed it ended in a disaster when the only subject that came up at that summit was the international incident of the U–2.

We cannot then sit back and say that no matter what happens to Daniloff, go on with the summit.

Free Daniloff or the summit is off.

I intend to ask that the House present as a unanimous-consent procedure a resolution to grant the support of the Congress of the United States to the President in whatever efforts he should undertake to free Daniloff.

SOUTH AFRICA

(Mr. FORD of Tennessee asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FORD of Tennessee. Mr. Speaker, we in the 99th Congress have the opportunity to bring about the first stages of changes in South Africa. However, both time and election year politics are working against us.

The United States has thus far kept much too quiet on this critical issue of human rights and dignity. We in the House have passed legislation mandating the immediate withdrawal and disinvestment of all American assets currently in South Africa. The measure would prohibit any United States person or corporation from investing in, importing from, or exporting to South Africa. Well meaning but milder legislation passed the Senate as well just before the August recess.

Mr. Speaker, I rise today because I do not want to see this historic opportunity pass us by. The battle against apartheid cannot be allowed to end through a filibuster or pocket veto.

I urge my colleagues in the other body to help prevent further loss of life. Name your conferees, and let's work out our differences on this issue. The 99th Congress will be remembered for the actions it takes in the next few weeks. Let's not have this Congress remembered for its inaction on the most basic moral issue of our time—a people's right to exist with dignity.

□ 1215

AIR FORCE TEST OF SDI-RELATED TECHNOLOGY

(Mr. COUGHLIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COUGHLIN. Mr. Speaker, the Air Force's test Friday of a space vehicle to track and intercept another U.S. satellite is deeply troubling. The Air Force maintains this test did not represent a violation of either the ABM Treaty or the moratorium on the testing of the space defense system—our F–15-launched antisatellite, or Asat weapon. Under the strictest interpretations of these two measures, these claims may be true. However, the test certainly violated the spirit of the current ban on certain antisatellite weapons tests. There is a danger that the Soviets will perceive this United States test as sufficient reason to resume tests of their own antisatellite system—a system that to date must be considered crude and ineffective. If the Soviets are able to perfect their Asat weapon it will have grave consequences for the current United States superiority in deployed satellite technology.

TERRORISM STRIKES AGAIN

(Mr. BIAGGI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BIAGGI. Mr. Speaker, the world was shocked by two savage acts of terrorism in the past week.

The first was the hijacking on Pan American flight 73 by an armed group of five terrorists.

This airplane seizure was especially barbaric in its ultimate outcome. A total of 18 innocent passengers were killed when the terrorists opened fire inside the airplane.

One survivor described the inside of the 747 as a holocaust.

The second act of terrorism occurred on Saturday when Istanbul's largest synagogue was attacked during a Sabbath morning service. A total of 21 worshipers, and 2 gunmen were killed and 4 other worshipers wounded.

Both of these massacres reveal the vulnerability of the world to terrorism.

Both of these massacres demand the most severe penalties against those responsible.

Both of these acts must strengthen the world's resolve to wage war against terrorism and not relent until it is won.

TAX BILL UNFAIR TO PUBLIC SERVANTS

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLF. Mr. Speaker, yesterday I brought to the attention of my colleagues a major and serious flaw in the tax reform conference report which targets public servants who contribute to and pay taxes on their retirement plans.

This group of Americans—20 million local, State, and Federal Government workers, congressional staff, teachers, police, firemen—is the only group of individual taxpayers who have been singled out in the tax bill with a provision that takes effect retroactively. The retroactive provision changes the rule which has allowed in the past those who make taxed contributions to their retirement an open window of up to 3 years to recoup those taxed amounts. Not only would the tax conference report close that window, it closes it as of this past July 1. That is blatant unfairness and certainly not a responsible way to legislate.

Many of my colleagues may have received in yesterday's mail a letter from the national headquarters of the Fraternal Order of Police on this very subject which the police call one significant inequity which threatens all public employees. I'd like to quote from that letter:

> We, as law enforcement officers, are outraged that Congress has effectively eliminated the three-year basis recovery rule. One of the benefits of public employment is a sound retirement program. Tax laws have allowed a public employee to recover their taxed contributions into a retirement system within three years after they retire. Under H.R. 3838, that deduction will be extended over the life of the annuity, eliminating the positive recognition of public service and effectively requiring an individual to live for 20-plus years after retirement, in order to receive the benefit. The Fraternal Order of Police urges that you, as members of Congress, amend H.R. 3838 to * * * continue the three-year basis recovery rule.

My colleagues, this isn't just a Washington problem or a Federal problem. This is a problem that touches taxpayers all across this Nation and I urge you to join with me in the effort to bring fairness to the tax reform effort for the dedicated city employees, State employees, Federal employees, congressional staff, firemen, teachers, and police throughout this country and overturn the only retroactive provision for individual taxpayers.

ANOTHER VICTIM OF TERRORISM—ENOUGH IS ENOUGH

(Mr. COBLE asked and was given permission to address the House for 1 minute.)

Mr. COBLE. Mr. Speaker, I rise today with alarming terrorism news again. Another American reportedly has been taken hostage in Lebanon.

The latest victim of terror, Mr. Frank Reed, is the American director of a Lebanese school in Moslem West Beirut. Gunmen kidnaped Mr. Reed as he was driving from his home this morning.

How many more of our citizens need to disappear before we take action? I am not certain what course we should pursue, but indecision and do-nothing attitudes are not the answers. Ignoring terrorism serves no good purpose and benefits no one. Enough is enough.

RELEASE NICK DANILOFF, NOW

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, Nicholas Daniloff is being held prisoner awaiting a well-known contradiction in terms—an oxymoron, as George Will would call it—"Soviet justice."

It is clear that the charges have been trumped up in order to extract a Soviet spy caught here at home.

The Kremlin waits, counting on public sympathy for Daniloff to pressure the President to trade the KGB's man in New York for an innocent American journalist.

Many of us have spent a part of our congressional careers highlighting the crimes of the Soviet Government against its own citizens. The arrest of Nick Daniloff reminds us that the methods the Soviets use in dealing with dissent at home can easily be turned to threaten our citizens working and traveling in their country.

Mr. Speaker, if Mikhail Gorbachev wishes to give substance to his new slick television image, he must not stoop to the tactics made famous by Iranian fanatics 7 years ago. To be respected and trusted by other members of the world community he must first prove that he respects the rights of individuals and that he is not willing to violate these inaliable rights for political purposes.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker signed the following enrolled bill on Monday, September 8, 1986:

H.R. 4329. An act to authorize United States contributions to the International Fund established pursuant to the November 15, 1985, agreement between the United Kingdom and Ireland, as well as other assistance.

APPOINTMENT AS MEMBERS OF COMMISSION ON EXECUTIVE, LEGISLATIVE, AND JUDICIAL SALARIES

The SPEAKER. Pursuant to the provisions of section 225(b), Public Law 90-206, as amended, the Chair appoints as members of the Commission on Executive, Legislative, and Judicial Salaries the following members from private life:

Mr. John E. Lyle of Houston, TX; and

Mr. John J. Creedon of Larchmont, NY.

APPOINTMENT AS MEMBERS OF BOARD OF TRUSTEES OF GALLAUDET UNIVERSITY

The SPEAKER. Pursuant to the provisions of Public Law 99-371, the Chair appoints as members of the board of trustees of Gallaudet University the following Members on the part of the House:

Mr. BONIOR of Michigan; and

Mr. GUNDERSON of Wisconsin.

IN SUPPORT OF H.R. 5484—THE OMNIBUS DRUG MEASURE

(Mr. GILMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GILMAN. Mr. Speaker, tomorrow the House is scheduled to consider H.R. 5484, the Omnibus Drug Enforcement, Education, and Control Act of 1986, a comprehensive, significant measure that would provide $1.5 billion to help prevent and control narcotics trafficking here in the United States and overseas.

The measure would authorize slightly more than $1 billion for the Customs Service for fiscal year 1987 to maintain current operating levels and to strengthen that agency's drug interdiction efforts; $118 million for the Coast Guard for fiscal year 1987; and $143 million in fiscal year 1988 that would permit the Coast Guard to recruit 1,500 additional military personnel and to acquire six new sea-based aerostat radar balloons, radar equipment, and additional aircraft.

Our international narcotics control program would be increased from $57

million to $65 million. In addition, $350 million annually would be authorized for fiscal years 1987 to 1989 to develop Federal, State, and local drug abuse education programs and $180 million to develop State and local drug abuse treatment and rehabilitation services and to establish a Federal substance abuse prevention agency.

Mr. Speaker, given that the narcotics trafficking and drug abuse have reached epidemic proportions in our country and abroad, given that the narcotics traffickers are conducting an estimated $120 billion tax free drug trafficking activity just in the United States alone, that this trafficking and abuse has infected every city, town, and school district in our Nation and that we are innundated by increasing amounts of heroin, cocaine—and now the newly highly addictive crack cocaine—marijuana, PCP, and other deadly drugs, the $1.5 billion proposed in H.R. 5484 is both modest and reasonable. If we can afford to spend $1.5 billion to construct a Trident submarine, surely our Nation can afford to support H.R. 5484 which is intended to address a national security threat by helping to combat narcotics trafficking and drug abuse and helping defend the citizens of our Nation from this deadly narcotics menace.

Accordingly, Mr. Speaker, I urge my colleagues to support this omnibus drug measure.

□ 1225

PERMISSION FOR COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO SIT DURING 5-MINUTE RULE ON WEDNESDAY, SEPTEMBER 10, 1986

Mr. MINETA. Mr. Speaker, I ask that the Committee on Public Works and Transportation be permitted to sit while the House is reading for amendment under the 5-minute rule on Wednesday, September 10, 1986.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from California?

There was no objection.

HOUR OF MEETING ON THURSDAY, SEPTEMBER 11, 1986

Mr. MINETA. Mr. Speaker, I ask unanimous consent that when the House adjourns on Wednesday, September 10, 1986, it adjourn to meet at 9:30 a.m. on Thursday, September 11, 1986.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

HOUR OF MEETING ON THURSDAY, SEPTEMBER 18, 1986

Mr. MINETA. Mr. Speaker, I ask unanimous consent that when the House adjourns on Wednesday, September 17, 1986, it adjourn to meet at 9:30 a.m. on Thursday, September 18, 1986.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

REQUEST FOR PERMISSION FOR COMMITTEE ON RULES TO FILE PRIVILEGED REPORT ON H.R. 5484, OMNIBUS DRUG BILL

Mr. BONIOR of Michigan. Mr. Speaker, I ask unanimous consent that the Committee on Rules have until midnight tonight to file a privileged report on a resolution providing for the consideration of H.R. 5484, the Omnibus Drug bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

Mr. HILER. Mr. Speaker, reserving the right to object, has this been cleared by the ranking Republican on the Committee on Rules?

Mr. BONIOR of Michigan. Mr. Speaker, if the gentleman will yield, I understand that there has to be some checking on the other side of the aisle.

Mr. Speaker, I withdraw my request at this point.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. BONIOR] withdraws his request.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4, rule XV.

Such rollcall votes, if postponed, will be taken on Wednesday, September 10, 1986.

WETLANDS LOAN ACT EXTENSION

Mr. JONES of North Carolina. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4531) to extend the Wetlands Loan Act, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4531

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF WETLANDS LOAN ACT.

The Act entitled "An Act to promote the conservation of migratory waterfowl by the acquisition of wetlands and other essential waterfowl habitat, and for other purposes", approved October 4, 1961 (16 U.S.C. 715k-3 et seq.), is amended)—

(1) by striking out "September 30, 1986," in the first section and inserting "September 30, 1988,";

(2) by striking out "October 1, 1986," the first place it appears in section 3 and inserting "October 1, 1988,"; and

(3) by striking out ". In the event the full amount authorized by the first section of this Act is appropriated before October 1, 1986, the repayment of such funds pursuant to this section shall begin with the next full fiscal year" in section 3.

SEC. 2. ATCHAFALAYA NATIONAL WILDLIFE REFUGE.

Section 303 of the Act entitled "An Act to extend the Wetlands Loan Act, approved October 26, 1984 (16 U.S.C. 668dd note), is amended—

(1) by striking out "minor" in subsection (a)(2); and

(2) by striking out "Public Law 98-396" in subsection (b) and inserting "appropriations Acts".

SEC. 3. DUCK STAMP ACT.

The first sentence of section 2(b) of the Act of March 16, 1934 (16 U.S.C. 718b), commonly known as the Duck Stamp Act, is amended by inserting "available for obligation and" before "attributable to".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from North Carolina [Mr. JONES] will be recognized for 20 minutes and the gentleman from New York [Mr. CARNEY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. JONES].

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we are considering H.R. 4531, legislation that will extend the authorization of the Wetlands Loan Act through fiscal year 1988, as well as extend the repayment schedule of the debt under that act from October 1, 1986, to October 1, 1988; $200 million were originally authorized under the Wetlands Loan Act, of which approximately $189.5 million have been appropriated. This leaves $10.5 million still available for critical wetland acquisition. In the Department of the Interior appropriations bill, which passed the House for fiscal year 1987, $3 million is appropriated under this authority. By extending this authorization for another 2 years, the Fish and Wildlife Service can continue to buy critical wetland habitat for waterfowl nesting and wintering areas. It is the committee's intent that this amendment should be effective September 30, 1986, retroactively if need be, in order to avoid triggering the repayment schedule during the first week or two of October.

A technical amendment to the legislation also extends the boundaries of the Atchafalaya National Wildlife Refuge to establish a 15,000-acre refuge of bottomland hardwoods. Some of this acreage, which has re-

cently become available for acquisition, is not included within the existing boundaries of the refuge; therefore, it is necessary to amend the original refuge authorization to include those areas. This legislation authorizes an additional $2.4 million to purchase this land. This money has already been appropriated in the Urgent Supplement Appropriations Act of 1986.

Last, this legislation makes a technical amendment to the Migratory Bird Hunting and Conservation Stamp Act, commonly called the Duck Stamp Act. The amendment clarifies that the sequestration of funds under Gramm-Rudman from the migratory bird conservation fund would not automatically trigger a reduction in the price of the duck stamp. Under current law, the price of the duck stamp automatically drops from $7.50 to $5 if the Fish and Wildlife Service fails to obligate 100 percent of the funds generated from the sale of the duck stamp. If moneys were not obligated from the fund due to the enactment of Gramm-Rudman, however, some have argued that the price of the duck stamp would revert back to $5. Given the urgent need to continue to purchase waterfowl habitat, we need to continue to generate as much revenue as possible to insure our Nation's wetlands are protected.

This bill was reported by the Committee on Merchant Marine and Fisheries by unanimous voice vote. The bill has strong bipartisan support. I strongly urge my colleagues to favorably consider this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. CARNEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4531, a bill to extend the Wetlands Loan Act.

In 1961, Congress passed the Wetlands Loan Act to provide a means to accelerate the acquisition of migratory waterfowl habitat. This law, as amended, authorizes $200 million to be appropriated as a loan against future duck stamp revenues, and can be used only for the purchase of migratory waterfowl habitat. The authorization, of which approximately $190 million has been appropriated, expires at the end of fiscal year 1986, and, beginning October 1, 1986, 75 percent of the revenues raised from the sale of the duck stamps must be used to repay the loan, rather than to acquire waterfowl habitat. In other words, not only will the wetlands fund be unavailable, but $10 million of the $14 million to be collected from the sale of the duck stamps will be needed to repay the existing loan, leaving only $4 million per year available for acquisition of wetland areas.

Unless we extend the availability of the wetlands loan fund, and delay the repayment of those moneys already borrowed, the acquisition of waterfowl habitat will, of necessity, be severely curtailed.

The extension of the Wetlands Loan Act is but a small step in our efforts to protect our Nation's wetlands. It is, however, absolutely vital that this step be taken now in order to avoid critical delays in acquiring valuable habitat. H.R. 4531 does not authorize any new wetland loan funds, but merely extends the available time period for funds already authorized.

Section 2 of the bill simply authorizes the Department of the Interior to acquire lands for the Atchafalaya National Wildlife Refuge with any funds provided in appropriation acts. Under present law, this acquisition is limited to only funds provided in a fiscal year 1984 Supplemental Appropriations Act. It is estimated that $2.4 million is necessary to acquire the necessary lands from willing sellers.

I'd like to recognize the fine work of Chairman JONES, Chairman BREAUX, Congressman DAVIS, and Congressman DON YOUNG, the ranking minority member on the Subcommittee on Fisheries and Wildlife Conservation and the Environment, with this legislation.

Mr. Speaker, I support the bill. The administration has no objections to the legislation. Therefore I urge my colleagues to adopt H.R. 4531.

Mr. Speaker, it is my pleasure to yield 5 minutes to my colleague, the gentleman from the great State of Massachusetts [Mr. CONTE].

Mr. CONTE. Mr. Speaker, I want to thank my good friend, the gentleman from New York [Mr. CARNEY], for giving me this time and to say how much we are going to miss him here. The gentleman has been a real valuable Member of the Congress and a good friend of mine, even though the telephone operators are forever, forever, making the mistake of calling me. My name is CONTE, his CARNEY, and they give me his calls and he gets my calls.

Mr. Speaker, I rise in support of H.R. 4531, a vital piece of legislation to extend the wetlands loan fund.

Chairman JONES and my good friend BOB DAVIS, the new ranking member of the committee, have once again demonstrated their concern for the vanishing wetlands of America.

Each year, over 450,000 acres of wetlands are lost to agricultural conversion or development pressures. In fact, less than 46 percent of the original 215 million acres of wetlands in the lower 48 States remain today, and the losses are particularly severe in the most important areas.

For example, the bottomland-hardwood wetlands of the lower Mississippi have been reduced by 80 percent, and 90 percent of the highly productive California wetlands are already gone.

These wetlands and others across the country are among the most productive ecosystems in the world. Besides providing vital habitat for sport fish and roughly two-thirds of the major U.S. commercial fish, wetlands are essential to a healthy migratory bird population—a population protected by U.S. law and international treaty.

As a member of the Migratory Bird Commission for over 20 years, I can say without hesitation that this loan program has been an indispensable part of the wetlands conservation effort. Without these additional funds, thousands of acres of wetlands would have been destroyed forever.

During these critical years of rapid development and agricultural subsidies, the duck stamp revenues just do not provide enough resources to do the job. This loan fund together with duck stamp receipts has enabled the Commission to conserve the most important tracks of land. In fact, since 1962 when the loan fund was established, the Commission has preserved 2.3 million acres of wetlands.

However, the job is still incomplete. Wetlands continue to vanish everyday, and this extension of the loan fund will give us the resources necessary to continue the conservation effort. If we get these funds from the loan advance, the Commission can save vital areas in the California Central Valley, the Prairie Pothole breeding grounds and bottomland-hardwood wintering habitat in the lower Mississippi River Valley.

As my good friends on the Merchant Marine Committee know, the House Appropriations Committee—over my objections—provided just $3 million for this account in the fiscal year 1987 Interior bill. The Senate bill, however, is much more generous. It recommends $10.5 million for the loan advance.

Although I generally support the House position and the good work of Chairman YATES, I'll be looking at the Senate number when we get to conference.

Again, I want to commend the efforts of Chairman JONES and Congressman DAVIS for their leadership on this important issue. I strongly urge my colleagues to support H.R. 4531, the extension of the wetlands loan fund.

□ 1235

I know a lot of Members in this House think I am for the birds, and believe me, I am.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding and want to join him in his remarks in his support of this important measure, and I know that he is not only for the birds,

but for the wildlife habitat, the refuge areas that are so important to all of our sportsmen and our Nation.

Mr. Speaker, I urge my colleagues to support H.R. 4531, legislation reauthorizing the Wetlands Loan Act through 1988, increasing the authorization for the Atchafalaya National Wildlife Refuge, and clarifying language of the Duck Stamp Program regarding the Gramm-Rudman-Hollings Balanced Budget Act. I commend Mr. CONTE for all of the fine work he has done on this important conservation issue and especially for his leadership in the Duck Stamp Program.

In the 1950's the U.S. Fish and Wildlife Service [USFWS], and the International Association of Fish and Wildlife Agencies, set a goal for the protection of 12.5 million acres (8 million acres by the Federal Government, the balance by the States) of waterfowl habitat deemed necessary to maintain the populations as they existed at that time. To date, 1.6 million acres of the Federal share remain to be acquired.

Of the several sources of Federal funding for wetland acquisition, the migratory bird conservation fund is the greatest. The fund receives money from the sale of migratory bird hunting and conservation stamps, commonly known as "duck stamps." Since its inception the Duck Stamp Program has spent more than $300 million to acquire more than 3.6 million acres of waterfowl habitat. Congress enacted the Wetlands Loan Act in 1961 to accelerate migratory waterfowl habitat acquisition and authorized a total of $200 million through fiscal year 1986 as a loan to the migratory bird conservation fund against future duck stamps revenues for the purchase of waterfowl habitat. H.R. 4531 extends through fiscal year 1988, the provisions of the Wetlands Loan Act that authorize land-acquisition loans and delays the repayment until October 1988. H.R. 4531 also makes a technical change in the Duck Stamp Act to prevent sequestration from triggering a reduction in the duck stamp price from $7.50 to $5.

Last Congress, this body adopted and sent to the President for his signature, legislation instructing the Department of the Interior and the State of Louisiana to designate appropriate lands and waters for a national wildlife refuge within the Atchafalaya Basin. H.R. 4531 amends the Atchafalaya National Wildlife Refuge to allow USFWS to alter the proposed boundaries of the refuge to permit the purchase of 15,000 acres of suitable land that has recently been negotiated by the aforementioned parties.

Mr. Speaker, the protection of our wetlands is an important and meritorious undertaking. Wetlands include marshes, swamps, and coastal areas and are primarily known as habitat and breeding grounds for migratory waterfowl, fur-bearing mammals, and fish and shellfish species. Wetlands not only have esthetic, historical, educational, and recreational value, they also perform the necessary tasks of slowing waterflow by storing flood peaks and releasing the stored water into the ground and to streams during low-flow periods. By reauthorizing these acts we will permit the USFWS to continue to purchase these wetlands.

Additionally by allowing our waterfowl to breed in their appropriate habitat, we ensure that these birds are maintained at sufficient population levels, allowing our sportsmen to engage in their activities without endangering the species. Accordingly I urge my colleagues to offer their strong support for H.R. 4531.

Mr. CONTE. I thank my good friend from New York [Mr. GILMAN].

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume. I rise to join in the remarks of the gentleman from Massachusetts [Mr. CONTE] about the services of my good friend, the gentleman from New York [Mr. CARNEY] and at a later date will go into more detail; but at this moment, Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. CARNEY. Mr. Speaker, I would just like to thank both my colleagues, the gentleman from North Carolina [Mr. JONES], the committee chairman, and the gentleman from Massachusetts [Mr. CONTE] for their generous remarks.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. JONES] that the House suspend the rules and pass the bill, H.R. 4531, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4531, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON CONSUMER AFFAIRS AND COINAGE OF COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS TO SIT THURSDAY, SEPTEMBER 11, 1986, DURING THE 5-MINUTE RULE.

Mr. ANNUNZIO. Mr. Speaker, I ask unanimous consent that the Subcommittee on Consumer Affairs and Coinage be allowed to meet on Thursday, September 11, 1986, while the House is meeting under the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

CONGRESSIONAL GOLD MEDAL TO AARON COPLAND

Mr. ANNUNZIO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3041) to provide for the awarding of a special congressional gold medal to Aaron Copland, as amended.

The Clerk read as follows:

H.R. 3041

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS AND STATEMENT OF POLICY.

(a) FINDINGS.—The Congress finds that—

(1) Aaron Copland has contributed to American music as a composer, a pianist, a lecturer, an author, and an organizer of various musical societies;

(2) Aaron Copland has composed patriotic musical works, such as "Lincoln Portrait", which was composed during World War II as a patriotic tribute to the United States and distributed worldwide;

(3) Aaron Copland has enjoyed great popularity and critical acclaim as evidenced by his receiving many awards, including a Guggenheim Fellowship, a Pulitzer Prize, an Academy Award, and the Presidential Medal of Freedom; and

(4) Aaron Copland is referred to as the "dean" of American musical composition as the result of his contributions to American music.

(b) STATEMENT OF POLICY.—The incomparable contributions of Aaron Copland to American musical composition should be recognized by awarding him a special congressional gold medal.

SEC. 2. AUTHORIZATION TO PRESENT GOLD MEDAL.

The President is authorized to present on behalf of the Congress 1 gold medal of appropriate design to Aaron Copland.

SEC. 3. PRODUCTION OF GOLD MEDALS AND PRODUCTION AND SALE OF BRONZE MEDALS.

(a) PRODUCTION OF GOLD MEDAL.—The Secretary of the Treasury shall coin 1 gold medal and shall deliver the medal to the President for presentation under section 2. The gold medal shall contain suitable emblems, devices, and inscriptions to be determined by the Secretary.

(b) PRODUCTION AND SALE OF BRONZE DUPLICATE MEDALS.—The Secretary of the Treasury may coin and sell bronze medals which are duplicates of the gold medal coined pursuant to subsection (a) under such regulations as the Secretary may pre-

scribe, at a price sufficient to cover the cost of the gold medal and such duplicates, including the cost of labor, materials, dies, use of machinery, and overhead.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for any fiscal year beginning on or after October 1, 1986, not to exceed $20,000 to carry out the purposes of this Act.

SEC. 5. EFFECT ON OTHER LAW.

The medals provided for in this Act are national medals for the purpose of section 5111 of title 31, United States Code.

The SPEAKER pro tempore. Is a second demanded?

Mr. HILER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. ANNUNZIO] will be recognized for 20 minutes and the gentleman from Indiana [Mr. HILER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ANNUNZIO].

Mr. ANNUNZIO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3041 authorizes the presentation of a special congressional gold medal to the distinguished and exceptionally gifted composer Aaron Copland. The bill is cosponsored by 219 Members of the House.

For two generations Aaron Copland has been at the center of American music. He was the first and most successful composer to develop a distinctly American style of music. He adopted the rhythms of American jazz to develop unprecedented concert music. This innovation produced a sensation among those who heard his works.

Mr. Copland is one of America's finest and most versatile composers. He did not fear to venture into new areas, and when he did, he invariably succeeded. Over his career, he composed music for theater, film, orchestra, chorus, and chamber music.

No matter what form of music he wrote, he left an indelible mark. He provided a profound influence on American lighter classical music, and succeeded in writing serious music with broad appeal. He collaborated with the great figures of American dance to write some of America's best and most enduring ballets. His work in film led to the production of brilliant scores for notable films.

Mr. Copland has produced music that is uniquely American. His ballet, "Appalachian Spring," was based on an American theme and popularized ballet. His symphony, "Fanfare for the Common Man," is a tribute to average Americans during the Second World War, and is still tremendously popular.

Aaron Copland's talents and achievements have not gone unnoticed by others. When he was 25 he was awarded a Guggenheim Fellowship. He won a Pulitzer Prize and New York Music Critics Circle Award for "Appalachian Spring" in 1945. He won an Oscar for his score for the film "The Heiress" in 1950. He was given a gold medal for music from the American Academy of Arts and Letters in 1956, and a Presidential Medal of Freedom in 1964. This year he was awarded the National Medal of Arts by the President.

Not only is Aaron Copland a great composer, but he took the time as a teacher, critic, and author, to help more than one geneation of new American musicians. Musical festivals, foundations, and organizations he founded or participated in provided training grounds on which new talent could learn, practice, and flower.

His books and lectures have assisted the average listener to better appreciate music, and the advanced student to master the complexities of composition.

As we celebrate the centennial of the Statue of Liberty this year, it is so very appropriate that we honor the son of an immigrant for his outstanding contributions to America's musical heritage. How prototypical it is the child of Lithuanina Jewish immigrants should have produced music so distinctively American.

Mr. Speaker, Aaron Copland has shaped and influenced American music in the 20th century like no other. H.R. 3041 would properly honor this great man for his contributions to America, and I urge its passage.

Mr. HILER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to join Chairman ANNUNZIO and my colleague from California, Mr. FAZIO, in support of H.R. 3041, a bill to award a congressional gold medal to Aaron Copland.

Mr. Copland is certainly deserving of the highest honor this Congress can bestow. He has deeply enriched the life of our Nation with his magnificent musical compositions, including "Lincoln Portrait," "Fanfare for the Common Man," and "Appalachian Spring." These works demonstrate much more than the musical genius of their creator; they also reflect the very soul and experience of our country and its people. As I have heard said of this outstanding composer, conductor, pianist, and teacher, "What Babe Ruth did for baseball, Copland did for American music."

Congress will not be the first body to pay tribute to the musical creativity and accomplishments of Mr. Copland. He already has received the Presidential Medal of Freedom, a Pulitzer Prize, an Academy Award, and a New York Music Critics Circle Award, among other honors. And I daresay there are more accolades in store for this exceptionally gifted musician.

I hope my colleagues will share my enthusiasm for Mr. Copland's outstanding contributions to American culture and join me in supporting H.R. 3041. Mr. Copland is one American who truly deserves to be so honored.

Mr. Speaker, I reserve the balance of my time.

Mr. ANNUNZIO. Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the Legislative Appropriations Subcommittee, the chief sponsor of this legislation, the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Speaker, I would like to express my deep appreciation to the subcommittee chairman, the gentleman from Illinois [Mr. ANNUNZIO] and the ranking member, the gentleman from Indiana [Mr. HILER] for not only hearing this bill in committee but sending it on to the floor unanimously and for their very kind remarks in regard to the subject of this honor, the famous American composer, Aaron Copland.

I would also like to express appreciation to the congressional arts caucus for the support that they have given in bringing this effort to fruition today.

Mr. Speaker, the fact that we can claim an indigenous music, an American musical sound, is largely the result of the insight and work of one special American composer, Aaron Copland.

Aaron Copland began his quest to develop a sound unique to the United States, and the world for that matter, as a young composer and has continued that path throughout his career and lifetime. His dissatisfaction with the rift between the music-loving public and the composer led him to specifically compose music which would have mass appeal. He sought inspiration for his compositions from American folk sources—cowboy songs, New England hymns, and Shaker melodies—in order to achieve a "homespun musical idiom." The result has been an array of compositions with popular and critical support, a major contribution to our American cultural heritage.

One popular theme of a number of Copland's works focuses on our patriotism. "Fanfare for the Common Man," for example, was written as a tribute to the "common men" doing much for the war effort during World War II. "Lincoln Portrait," also written as a partriotic tribute during World War II, utilizes narration with texts arranged by Copland from Abraham Lincoln's speeches and letters and captures the sentiment of a nation affected by war.

Copland's works also celebrate American culture and display keen insight into American life. For example, two ballets, "Billy the Kid" and "Rodeo," are brilliant tributes to

America's cowboys and western frontier. "Appalachian Spring," another ballet, is an accessible and popular price reflecting the diversity of American culture and has been attributed for bringing ballet into the mainstream of American society. Most remarkably, as he approaches his 86th birthday this year, these and other compositions are as popular as when Aaron Copland first introduced them to the American public. I project that in another 86 years, this will still be true.

In addition to his monumental achievements as a composer, Aaron Copland has also attained widespread recognition as a distinguished and exceptionally gifted lecturer, author, pianist, and conductor. He has also served as teacher and mentor for another generation of composers, including Leonard Bernstein.

The congressional gold medal is the highest expression of national appreciation for distinguished personal achievements which the Congress can bestow. Although Aaron Copland has received popular and critical acclaim, including a Pulitzer Prize, a New York Music Critics Circle Award, an Academy Award, a gold medal from the American Academy of Arts and Letters, a Presidential Medal of Freedom, and a National Medal of Arts, he has yet to receive a congressional gold medal. However, we have before us today the opportunity to acknowledge Aaron Copland's great gift to America. Our awarding the congressional gold medal to Aaron Copland would be in a sense, well deserved recognition for all of his contributions to American music. The presentation of this medal would be the pinnacle of a long and glorious career spent promoting America and Americans in a most unique way.

The congressional gold medal recognizes an individual's or group's special contributions in a variety of endeavors. It is the highest expression of national appreciation for distinguished personal achievements which the Congress can bestow. It is a special medal indeed.

Congress has chosen to recognize only four composers since the inception of the congressional gold medal in 1776. George M. Cohan received the first gold medal awarded to a composer in 1936 for his patriotic works. In 1954, Irving Berlin received one as well for his patriotic compositions. And just last year, this subcommittee heard testimony and the Congress approved a medal on behalf of George and Ira Gershwin for their special achievements. Consequently, the congressional gold medal is truly a honor which has been reserved for our Nation's most distinguished composers.

Aaron Copland is most deserving of this great honor. He has fought from the beginning of his career to establish a truly indigenous American music and has tried to appeal to a wide range of American audiences. Copland has been referred to as "the most distinguished American composer of his generation and certainly the most popular." In fact, his compositions have been used on numerous occasions honoring America. Two months ago, for example, some of Copland's works were included in the Independence Day celebration concert on the steps of the Capitol.

In addition to his success and achievements as a great American composer, Aaron Copland is also recognized as a distinguished and exceptionally gifted lecturer, author, pianist, and organizer of musical societies. I would like to take this opportunity to highlight the achievements of his career.

Aaron Copland was born in Brooklyn, NY, on November 14, 1900, to Jewish immigrant parents. His interest in music began early and as a child he studied piano. In 1921, he went to Paris as the first student to enroll in the newly established Conservatoire Americain at Fontainebleau and studied composition and orchestration with Nadia Boulanger, a great organist and teacher at the time.

Returning to the United States with Boulanger in 1924, Copland continued to compose and perform concentrating on a jazz idiom. In the first volume of his autobiograph, "Copland: 1900 Through 1942," Copland relates that upon his return to the United States, at the premier of his "Symphony for Organ and Orchestra," the conductor, Walter Damrosch of the New York Symphony Orchester, addressed the audience by stating that if a gifted young man—Copland—could write a symphony such as he did at age 23, then within 5 years he would be ready to commit murder. The next day, the New York Herald Tribune proclaimed "Young Composer Ready to Commit Murder." Such was Copland's first professional impact on the United States.

In the late 1920's, Copland shifted the focus of his compositions and became active in composing modern music. Later, however, dissatisfied with the relations between the music-loving public and the composer, Copland began another shift by composing music which would readily include the public. Realizing the impact of those who had grown up around the phonographs and radio, Copland began composing works directly for these mediums. The most popular of his compositions for the radio include "Music for the Radio" and "Letter From Home." In short, Copland settled in on a more accessible style.

In redefining his music, Copland relied to a great extent and sought inspiration from American folk sources. As a result of the combination of folk melodies and French-inspired orchestration, a truly "American sound" emerged. In choosing these American themes, Copland explains in his autobiography that:

I never thought about these things at the time, but it must have been partly because I grew up in the Eastern European tradition and there was no novelty to it. Every American boy is fascinated with Cowboys and Indians, and I was no exception. Also, my mother had grown up in the American West. Many artists (writers in particular) have claimed that they work best from their own experiences. But for me it was not necessary to have an experience in order to compose about it. I preferred to imagine being on a horse without actually getting on one.

A number of Copland's most notable works emerged from this "new" style. For example, "Appalachian Spring," a ballet, earned Copland the Pulitzer Prize for Music in 1944 and the New York Music Critics Circle Award as the outstanding theatrical composition of 1944–45.

Copland has also composed scores for theatrical films which have reached millions of Americans. These works include the themes for "Of Mice and Men," "Our Time," and "The Heiress." His score for "The Heiress" earned him an Academy Award in 1949.

In addition to his major accomplishments as a composer, Copland has also lectured and taught musical composition. He has directed programs at Tanglewood and has served as a mentor for a number of younger composers, including Leonard Bernstein. He has also conducted some of the Nation's finest orchestras, including the New York Philharmonic.

Copland's works have also amassed broad support outside of the United States and have been performed by major orchestras in Latin America and Europe. Furthermore, on several occasions, his compositions have been chosen to represent the United States at international festivals.

Despite Aaron Copland's numerous awards and critical and popular support, he has yet to receive a congressional gold medal. I certainly believe him to be deserving of such recognition and hope that a consensus to award Aaron Copland a congressional gold medal is reached here today.

Mr. CONTE. Mr. Speaker, I rise in support of H.R. 3041, as amended, to provide for the awarding of a special congressional gold medal for Aaron Cop-land. As a cosponsor of H.R. 3041, I am pleased that this bill has been brought to the floor for consideration.

Aaron Copland has certainly made one of America's greatest contributions to the world of music. His work has been recognized by many, and his numerous awards include a Pulitizer Prize, a New York Music Critics Circle Award, an Academy Award, a gold medal from the American Academy of Arts and Letters, and a Presidential Medal of Freedom. Now it is the duty of Congress to present Aaron Copland with an award for which he is very deserving. It is especially fitting that we give this award to Mr. Copland, the son of Eastern European immigrants, in the same year that we celebrate the centennial of the Statue of Liberty.

Aaron Copland is a prolific producer of music. It seems that he has always been interested in expanding the scope of music, and as a result, his work has been brought to the screen, to the theater and to the orchestra. Mr. Copland's music is for the enjoyment of everyone. His ballet, "Appalachian Spring," brought ballet into the mainstream of American society, and his symphony, "Fanfare for the Common Man," saluted average Americans during World War Two. Mr. Copland even brought Western American themes to ballet, with his productions, "Billy the Kid" and "Rodeo."

As well as being a composer, Aaron Copland has distinguished himself as a conductor, pianist, lecturer and author. He even contribut-

ed his talents and gifts to Leonard Bernstein and many other composers.

Mr. Speaker, as one who has enjoyed his music at beautiful Tanglewood in Lenox, MA, it is my pleasure to support the award of a special congressional gold medal to Aaron Copland, as a true expression of our Nation's respect, honor and appreciation for him and his work.

□ 1245

Mr. HILER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ANNUNZIO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Illinois [Mr. ANNUNZIO] that the House suspend the rules and pass the bill, H.R. 3041, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ANNUNZIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3041, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ANNUNZIO. Mr. Speaker, I ask unanimous consent that the Committee on Banking, Finance and Urban Affairs be discharged from further consideration of the Senate bill (S. 2462) to provide for the awarding of a special gold medal to Aaron Copland, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The Clerk read the Senate bill as follows:

S. 2462

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS AND STATEMENT OF POLICY.

(a) FINDINGS.—The Congress finds that—

(1) Aaron Copland has contributed to American music as a composer, a pianist, a lecturer, an author, and an organizer of various musical societies;

(2) Aaron Copland has composed patriotic musical works, such as "Lincoln Portrait", which was composed during World War II as a patriotic tribute to the United States and distributed worldwide;

(3) Aaron Copland has enjoyed great popularity and critical acclaim as evidenced by his receiving many awards, including a Guggenheim Fellowship, a Pulitzer Prize, an Academy Award, and the Presidential Medal of Freedom; and

(4) Aaron Copland is referred to as the "dean" of American musical composition as the result of his contributions to American music.

(b) STATEMENT OF POLICY.—The incomparable contributions of Aaron Copland to American musical composition should be recognized by awarding him a special congressional gold metal.

SEC. 2. AUTHORIZATION TO PRESENT GOLD MEDAL.

The President is authorized to present on behalf of the Congress 1 gold medal of appropriate design to Aaron Copland.

SEC. 3. PRODUCTION OF GOLD MEDALS AND PRODUCTION AND SALE OF BRONZE MEDALS.

(a) PRODUCTION OF GOLD MEDAL.—The Secretary of the Treasury shall coin 1 gold medal and shall deliver the medal to the President for presentation under section 2. The gold medal shall contain suitable emblems, devices, and inscriptions to be determined by the Secretary.

(b) PRODUCTION AND SALE OF BRONZE DUPLICATE MEDALS.—The Secretary of the Treasury may coin and sell bronze medals which are duplicates of the gold medal coined pursant to subsection (a) under such regulations as the Secretary may prescribe, at a price sufficient to cover the cost of labor, materials, dies, use of machinery, and overhead.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for any fiscal year beginning on or after October 1, 1986, not to exceed $20,000 to carry out the purposes of this Act.

SEC. 5. EFFECT ON OTHER LAW.

The medals provided for in this Act are national medals for the purpose of section 5111 of title 31, United States Code.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 3041) was laid on the table.

CONGRESSIONAL GOLD MEDAL ACT

Mr. ANNUNZIO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5236) to establish the congressional gold medal, as amended.

The Clerk read as follows:

H.R. 5236

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Congressional Gold Medal Act".

SEC. 2. FINDINGS AND PURPOSE.

The Congress finds that, as the Congressional Gold Medal is the highest award that the Congress presents, standards should be adopted to assure that the award is given only to those who have truly contributed to enriching the history of the Nation, and to assure that only the most important acts or lifetime of achievements are so honored.

SEC. 3. ESTABLISHMENT OF THE MEDAL.

There is hereby established an award that shall be known as the "Congressional Gold Medal" (hereinafter in this Act referred to as the "Medal").

SEC. 4. SPECIFICATIONS AND DESIGN OF THE MEDAL.

(a) IN GENERAL.—The Secretary of the Treasury shall strike any Medal which is authorized to be presented pursuant to section 8. Each Medal shall have a diameter of 1.5 inches and shall contain .999 pure gold. The obverse of the Medal shall be emblematic of the recipient and shall have suitable emblems, devices, and inscriptions as determined by the Secretary after consultation with the recipient.

(b) STANDARD REVERSE.—The Secretary shall design a standard reverse for use on the Medal, which shall contain the inscription "Presented by Act of Congress".

(c) CONSULTATION WITH COMMISSION OF FINE ARTS.—In carrying out the provisions of this section, the Secretary shall solicit and consider the comments of the Commission of Fine Arts during the conceptual stage of design.

SEC. 5. PRESENTATION OF THE MEDAL.

The Speaker of the House of Representatives and the President of the Senate may present, in the name of the Congress, any Medal which is authorized to be presented pursuant to section 8.

SEC. 6. NUMISMATIC ITEMS.

(a) NUMISMATIC ITEMS.—The Medals authorized under this Act are numismatic items for purposes of chapter 51 of title 31, United States Code.

(b) BRONZE DUPLICATES.—The Secretary may strike bronze duplicates of any Medal for sale to the public. Such duplicates are numismatic items for purposes of chapter 51 of title 31, United States Code.

SEC. 7. STANDARDS FOR AWARD.

A Medal may be authorized only to a recipient who meets the following standards:

(1) The recipient shall be a natural person.

(2) The recipient shall have performed an achievement that has an impact on American history and culture that is likely to be recognized as a major achievement in the recipient's field long after the achievement.

(3) The recipient shall not have received a Medal previously for the same, or substantially the same, achievement.

(4) The recipient shall be living or, if deceased, shall have been deceased for not less than 5 years and not more than 10 years.

(5) The achievements were performed in the recipient's field of endeavor, and represent either a lifetime of continuous superior achievements or a single achievement so significant that the recipient is recognized and acclaimed by others in the same field, as evidenced by the recipient having received the highest honors in the field.

SEC. 8. AUTHORIZATION OF THE MEDAL.

The Medal shall be presented to a recipient only after enactment of legislation authorizing such a presentation.

The SPEAKER pro tempore. Is a second demanded?

Mr. HILER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. ANNUNZIO] will be recognized for 20 minutes and the gentleman from Indiana [Mr. HILER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ANNUNZIO].

Mr. ANNUNZIO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5236 establishes standards for the award of the congressional gold medal. This bill, which was developed with the very helpful advice and counsel of the ranking minority member of the Consumer Affairs and Coinage Subcommittee, Mr. HILER, establishes standards to apply when considering congressional gold medals. The bill establishes five criteria that must be met in order for the medal to be awarded.

First, groups and organizations are not eligible for the medal. The medal may only be awarded to individuals. America is a nation founded on the dignity of the individual and the belief that one person can make a difference, and the congressional gold medal should reflect those values.

Second, the awardee must be alive, or if not living, must be dead more than 5 years but not more than 10 years. This criteria assures that the medal is awarded not out of sympathy for someone recently passed away, but out of a genuine appreciation of their deeds and activities.

Third, the person's achievements must have had an impact on American history and culture. The medal is meant to honor those whose activities have advanced America. The recipient's activities should have an integral connection with America.

The achievement must also be recognized as a major achievement in the recipient's chosen field of endeavor. The congressional gold medal is a high honor, and should be a highly selective award. It must be awarded sparingly, and only for outstanding achievements, or it will lose its dignity and honor.

Fourth, the achievements must represent either a lifetime of continued superior achievement or a single significant achievement so significant that the recipient is recognized and acclaimed by the recipient's peers. One type of evidence to consider is whether the recipient has received the highest honors available to someone in the field.

Finally, the recipient should only receive one congressional gold medal for his or her activities. Someone who received a gold medal for a lifetime of achievements should not receive another medal for the same achievements.

The legislation also standardizes the congressional gold medal. The medal will be made of pure gold and will be 1½ inches in diameter. Each congressional gold medal will have the same reverse design, including the words, "Presented by Act of Congress." However, to honor the unequaled achievement of each recipient, the front of the medal will continue to be designed specifically for the recipient.

The mint will have the authority to issue and sell bronze duplicates of the gold medal, but will not be required to do so. Giving the mint discretion to sell duplicates assures that the mint will be able to sell the most popular medals, but will not be required to sell medals that have limited appeal and whose sales are likely to lose money.

Since these medals are congressional medals, they should be presented by the highest ranking officers of the Congress, and so the legislation requires that the medals be presented by the Speaker of the House and the President of the Senate.

No medal may be presented unless Congress has enacted legislation authorizing such a presentation. This assures that each medal is individually considered under the strict medal standards. In addition, as I announced on the floor on July 29, the subcommittee will require that before any gold medal legislation is considered it must be cosponsored by a majority of the House, and at least 40 percent of the Members of both parties. This will assure that the congressional gold medal is awarded only on a bipartisan basis for truly outstanding achievements.

H.R. 5236 will restore the congressional gold medal to its rightful place of high esteem, and I urge its passage.

Mr. HILER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I join Chairman ANNUNZIO in support of H.R. 5236, the Congressional Gold Medal Act.

The congressional gold medal is the highest bestowed by Congress and is intended to recognize outstanding lifetime achievements and extraordinary acts of valor. This medal has a long and—for the most part—prestigious history. Its first recipient was George Washington, whose medal was authorized on March 25, 1776, by the Continental Congress. Among other notable recipients of the award are Thomas Edison, Jonas Salk, Robert Frost, Robert Kennedy, and Winston Churchill.

When Congress instituted the congressional gold medal during the first years of our Nation, it designed the medal to be awarded only sparingly, as it was convinced that the value of reward is enhanced by its rarity. Unfortunately, in recent years Congress has strayed from this original intent. This is reflected in both the relative numbers of such medals awarded over the past decade and the level of achievement of some of the recipients who recently have been so honored. In the first hundred years of our Nation, only 53 congressional gold medals were awarded. In the little more than 100 years that have passed since our Nation's centennial, 68 congressional gold medals have been authorized. Twenty-seven of these have been awarded in the last decade, and 16 have been authorized since 1981. In the 97th, 98th, and 99th Congresses alone, 9 congressional gold medal bills have been enacted into law, authorizing a total of 11 gold medals. Although some of these 11 medals certainly were deserved, others were of questionable merit.

If we are to preserve the value of the congressional gold medal, then we must act now to curb the number of these bills that are enacted into law. Despite the recent efforts of the distinguished chairman of the Consumer Affairs and Coinage Subcommittee to put a lid on the explosion of medal bills, most notably by requiring 218 cosponsors on such a bill before the subcommittee will consider it, these bills continue to proliferate. Under these circumstances, additional constraints on the congressional gold medal are absolutely necessary.

Mr. Speaker, the bill before us today, H.R. 5236, represents a bipartisan effort to set more restrictive parameters on the award of this medal. Specifically, this legislation establishes certain standards which a recipient must satisfy to be eligible for a congressional gold medal. If adopted, these standards should ensure that the medal is awarded only to those who have made a substantial and extraordinary contribution to the culture and history of our Nation. The medal authorized primarily because of sympathy for an individual, or for parochial political considerations, or as a result of a personal affection or affiliation with an individual should be prevented or at least limited by the adoption of the Congressional Gold Medal Act.

As pleased as I am with the content of H.R. 5236, it does not go as far as I would have liked in placing constraints on the award of the congressional gold medal. The inclusion of rules for consideration of medal bills, including cosponsorship rules, would have greatly improved the legislation. However, such rules are omitted in an effort to make the bill more appealing to the other body. I am hopeful that additional constraints will be incorporated into either the House or Banking Committee rules when the 100th Congress convenes next year.

I also support the establishment of a restriction on the number of congressional gold medal bills that could be authorized in any given Congress. Unfortunately, the chairman of the subcommittee has determined this approach to be unfeasible for reasons that I can appreciate.

Mr. Speaker, there are several other provisions of H.R. 5236 which deserve to be mentioned. First, the bill formally establishes the congressional gold medal. While Congress has a long tra-

dition of recognizing outstanding contributions and achievements with this award, the congressional gold medal has never been established by statute.

In addition, H.R. 5236 provides for the presentation of the congressional gold medal by the President of the Senate and the Speaker of the House, on behalf of Congress. Although the medal is bestowed by Congress, the President of the United States generally has made the presentation. This has been customary despite the fact that the President presents his own award for distinguished service, known as the Presidential Medal of Freedom.

Furthermore, the Congressional Gold Medal Act provides for a standard reverse on the medals, which will substantially reduce their cost. Although most medal legislation provides for the sale of bronze duplicates to recoup the cost of the gold medal, the sale of duplicates is not usually sufficient to fully recover costs. Most gold medals authorized over the past 20 years actually have resulted in a net cost to the American taxpayer. The obverse of the medals will continue to be a unique design, emblematic of the recipient.

Mr. Speaker, I strongly urge my colleagues to join Chairman ANNUNZIO and myself in supporting H.R. 5236, the Congressional Gold Medal Act. This is necessary legislation, if we are to maintain the rarity and significance of the congressional gold medal. Let us do what we can to preserve the value of this special medal and keep its reputation untarnished.

□ 1300

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ANNUNZIO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Illinois [Mr. ANNUNZIO] that the House suspend the rules and pass the bill, H.R. 5236, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ANNUNZIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

CANCER-BASED EMPLOYMENT DISCRIMINATION

Mr. BIAGGI. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 321) expressing the sense of Congress in opposition to employment discrimination against persons who have, or have had, cancer based on such individual's cancer history.

The Clerk read as follows:

H. CON. RES. 321

Whereas there are more than five million Americans in our Nation with a cancer history and an estimated one million of these people face the terrible injustice of employment discrimination;

Whereas sixty-six million Americans—one out of every four—will eventually develop cancer in their lifetime;

Whereas one out of every two persons now diagnosed as having cancer is cured, and as a result, the number of survivors will continue to dramatically increase;

Whereas employment discrimination against cancer survivors ranges from job denial to wage reduction, exclusion from and reduction in benefits, promotion denial, and in some cases outright dismissals; and

Whereas we must permit, and encourage, these people to remain fully integrated and productive members of society: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That expressing the sense of the Congress in opposition to employment discrimination against persons who have, or have had, cancer based on such individual's cancer history and urges the Congress that these Americans receive fair and equal treatment in the workplace.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from New York [Mr. BIAGGI] will be recognized for 20 minutes and the gentleman from Michigan [Mr. HENRY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. BIAGGI].

Mr. BIAGGI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as author of House Concurrent Resolution 321, and on behalf of its 87 cosponsors, I rise to urge House passage of this measure today.

I want to thank Mr. MARTINEZ for his support and efforts on behalf of this legislation. He conducted a hearing on this issue just over 1 year ago, and was instrumental in bringing this issue to the floor. I also want to thank Chairman HAWKINS for his work in bringing this resolution before the Committee on Education and Labor and to the floor in such an expeditious manner.

Today, for the first time, we consider legislation on behalf of a new and special constituency, the estimated 5 million Americans with a cancer history, or, more appropriately, cancer survivors.

Yes; this is a special interest group, but they are like few others. They are not here asking for anything but the opportunity to be free from discrimination in the workplace.

The issue addressed in House Concurrent Resolution 321—Employment Discrimination Against Cancer Survivors—is a real and growing problem.

The American Cancer Society estimates that one out of every five cancer survivors are victims of this outrage.

This means that up to 1 million Americans, who, after triumphing over cancer, encounter another battle which far too many lose—the battle to keep their job, to be provided with full benefits, to be free from demotions and even outright dismissal.

House Concurrent Resolution 321 expresses the sense of Congress in opposition to employment discrimination. It is a resolution which expresses the sense of Congress that cancer survivors should receive fair and equal treatment in the workplace.

It is a resolution which underlines the fact that persons with a cancer history are entitled to equal—not special or preferential—treatment in the workplace.

It is a resolution which seeks to increase public awareness and understanding of cancer. This includes removing the misconceptions about cancer and those it strikes. This includes an end to the prejudice they encounter caused by society's ignorance of this disease, and the medical advances made over the last two decades.

This resolution was sponsored on behalf of people like Barbara Serviss, who is a childhood survivor of Hodgkin's disease. Barbara sought employment with the New York City Police Department 6 years after her last treatment for the disease. Doctors say it is not in remission; it is gone. Yet Barbara was denied a job solely on the basis that she was unfortunate enough to have once had cancer, and lucky enough to have conquered it. The police department disqualified her based on "history of Hodgkin's disease."

This resolution was sponsored for people like James Koopman, who was fired from his job as president of the Phoenix Forging Co. after his diagnosis of pancreatic cancer. After 31 years of good work for the company, Jim was fired. He was told, "We don't want a president who is going to die on us." That was over 4 years ago.

This resolution conveys a statement—we must recognize this problem and work toward a solution.

One out of every four persons will get cancer. One out of every two persons are cured.

This large and ever-growing population represents a new group within our society, a group that is entitled to equal rights, opportunities, and privileges in our workplace, and society as

well. After all, such equality is the very foundation upon which this great Nation was founded.

We must view House Concurrent Resolution 321 as a first step, but by no means a last effort, in this battle. We must work toward enactment of a statute to outlaw employment discrimination against cancer survivors.

Mr. HENRY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, cancer is occurring with ever-increasing frequency in our society. The American Cancer Society estimates that if we include all forms of cancer, three out of every five living Americans will be touched by some form of cancer during their lifetimes. Fortunately, increases in the incidence of the disease have been accompanied by advances in treatment. It is estimated that one out of every two cancer victims will now survive more than 5 years.

As these survivors of cancer have sought to return to work, many of them have faced blatant discrimination. In dramatic—and disturbing—testimony before the Subcommittee on Employment Opportunities, we heard of cancer victims who had been dismissed, demoted, denied promotions or benefits, and refused employment because of their cancer histories. This discrimination has occurred in many instances where performance was in no way affected by the disease. And there has been discrimination even in instances where the cancer patients have had good, solid employment histories. Having won the battle against the physical ravages of the disease, cancer victims must often endure a second fight, against the adverse psychological, economic, and social effects resulting from unjustified employment discrimination.

This resolution expresses the sense of the Congress in opposition to employment discrimination against cancer victims. Federal laws offer little protection against such discrimination. Only in instances where the disease results in a disability does Federal antidiscrimination law offer any hope. As we make further strides in the treatment of cancer, more and more victims of the disease will be able to return to the workplace. Employment discrimination against cancer victims relegates them to second-class status; it prohibits them from being productive members of society. Such discrimination is not only senseless, it is cruel. I commend the gentleman from New York, Mr. BIAGGI, in his efforts in shepherding this resolution through committee and the House and urge that it be adopted.

Mr. BIAGGI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank the gentleman from Michigan [Mr. HENRY] for his kind remarks and for his supportive comments.

Mr. Speaker, I think the record should show that the Metropolitan Life Insurance Co., for a period of 24 years, tracked 74 of its employees with a cancer history, or employees who developed cancer while working with the company. They found the following:

The turnover rate among employees with a cancer history was no higher than the rate for people not having cancer; no employee in the cancer group was discharged for absenteeism or poor performance; and only 3 percent of the cancer employees were ever placed on disability status, a considerably lower percentage than those employees who did not have cancer.

Mr. Speaker, this is a cause receiving increased support. At the recent annual meeting of the U.S. Conference of Mayors, they adopted a resolution to prohibit employment discrimination against cancer patients.

The resolution makes it clear that we must permit and encourage cancer survivors to remain fully integrated, active, and productive members of our work force, and society as well.

I would be remiss if I did not say thank you to a few people whose contributions have been instrumental in this legislative undertaking.

First of all, I must recognize CHUMS [Cancer Hopefuls United for Mutual Support]. This cancer support group based in my home district of the Bronx first brought this terrible injustice to my attention.

I thank the American Cancer Society, who have provided me with invaluable assistance since the outset of this legislative undertaking. They have played a significant role in the progress of this legislation.

Barbara Hoffman, an attorney in Philadelphia specializing in disability law, has been of great assistance in both the research and drafting of this legislation. Her efforts to assist cancer survivors are nationally recognized and I thank her for her commitment to this cause.

Finally, I wish to thank the media. They have aided me tremendously in this undertaking by focusing public attention and increasing public awareness on this issue. Their concern about this violation of civil and human rights is to be commended and I thank the media for their efforts.

I urge my colleagues to join me in support of this important resolution. Pass House Concurrent Resolution 321 and this House will recognize that cancer survivors are in fact courageous conquerors who deserve the open arms, not the cold shoulder, of society.

Mr. TRAFICANT. Mr. Speaker, as a cosponsor of House Concurrent Resolution 321, I rise in strong support of this landmark resolution. This measure expresses the sense of Congress in opposition to employment discrimination against persons on the basis of a cancer history and urges that these Americans receive fair and equal treatment in the workplace. I would like to commend my colleague from New York [Mr. BIAGGI], for his hard work in bringing this issue to the forefront here in Congress.

Having examined this issue, it is painfully evident that employment discrimination against cancer survivors is a growing problem. In fact, one out of every five Americans with a cancer history faces employment-based discrimination. Unless positive action is taken, this problem will continue to grow. With the truly remarkable advances that have been made in the past decade in cancer treatment, more and more Americans are surviving cancer. This number will undoubtedly continue to increase as further advances are made in early detection procedures and cancer treatments. A large number of these cancer survivors are able to work and reenter the mainstream of public life. Unfortunately, after winning the traumatic battle against cancer, many cancer survivors must fight a second battle against employment discrimination.

Studies conducted by the American Cancer Society revealed that discrimination against cancer survivors can be a significant problem for many recovered cancer patients as they reenter the work force. Some forms of discrimination are more overt than others. They include: demotion, denial of health benefits, termination, isolation, changes in work assignment, difficulty in adjusting work schedule to accommodate treatment requirements, and changed attitudes of coworkers.

The fact that such discrimination exists and continues in our society underscores the urgent need to address this issue. Perceptions by both employers and the general public about cancer and cancer survivors must be changed. I would like to point out to my colleagues that several studies, most notably a study done by the Metropolitan Life Insurance Co., have shown that the employment record of cancer patients as compared to other noncancer employees was as good or better. The Metropolitan Life study revealed that the absence record was satisfactory and work performance was adequate when compared to noncancer employees. The study concluded that the selective hiring of cancer survivors, in positions for which they are physically qualified, is a sound industrial practice. The findings of this study, published in 1974, are significant, especially in light of the fact that since 1974, cancer treatment and survival rates have progressed dramatically. Yet, employers and the general public are either unaware of these findings or they choose to ignore it, in all too many instances.

The resolution we have before us today is a positive step in fully addressing this problem. It is my hope that passage of this resolution will lead to greater public and employer awareness about cancer and the capabilities of cancer survivors. By altering public perception we can go a long way in ensuring the basic civil rights of cancer survivors. Passage of this resolution will also hopefully pave the way for more positive action in both the public and private sectors to assist the cancer survivor and employers. These include the development of resources to provide counseling that would include vocational guidance and/or rehabilitation, dealing with troubling aspects of

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the work situation, dealing with prospective employers and the job application process, coping with the emotional aspects of cancer, and managing relationships with fellow workers, family members, and friends.

Mr. Speaker, in closing, I would also like to point out that there are success stories out there. Many employers have been quite cooperative and fair to cancer survivors. What we need to do is build upon these positive experiences and expand upon some of the exemplary efforts some employers have made. As I stated earlier, one out of every five cancer survivors face some form of employment discrimination. That translates to over 1 million Americans being unjustly and unfairly discriminated against. So, while there are success stories, much work remains to be done. This resolution represents only the first step in a very long effort. But it is an extremely important first step, a step that indicates that Congress is committed to the elimination of discrimination against cancer survivors and that we will continue to encourage cancer survivors to reenter the work force and be productive members of society.

Mrs. SCHROEDER. Mr. Speaker, I rise today in support of House Concurrent Resolution 321 and urge my colleagues to join with me in expressing our opposition to discrimination against employees who have or have had cancer in the workplace.

These employees suffer a loss in wages, a reduction in benefits, or are denied promotion. In some cases, workers have been dismissed.

This is an outrage. One in every four Americans will develop cancer in their lives; 25 percent of the American work force is currently at risk. Important laws exist to protect workers against sex, race, national origin, or age discrimination, but no law prohibits employers from discriminating against cancer survivors. This is capricious and mean. Congress should stop it.

Mr. BIAGGI's resolution is an important first step in this direction and I applaud his efforts to invite Congress to live up to the high standards it has set for this Nation in other civil rights legislation.

Congressman CLAY and I have legislation ready to come to the floor that will put teeth into this resolution. Our bill, H.R. 4300, the Family and Medical Leave Act of 1986, provides employees with cancer or other serious medical conditions a job-protected leave for up to 26 weeks.

In addition to job security, H.R. 4300 will maintain an employee's current level of benefits, including a continuation of health benefits throughout the duration of the illness. Upon returning to work, a worker will be reinstated to the same or similar position with no loss in status or seniority. This is the kind of dignity all Americans deserve when they become temporarily unable to perform their jobs.

Prohibiting discrimination against cancer patients is a civil rights issue. It is also a vital economic issue. Providing job security and continued health benefits will put an end to discrimination against cancer patients in the workplace; it will give hope to the thousands of cancer patients who have fought their illness and won, their rightful place in American society.

Join me, and 126 Congressmembers like Mr. BIAGGI who have cosponsored H.R. 4300, the Family and Medical Leave Act, when it comes to the floor in the next few weeks. Let's make absolutely sure that all Americans have the protection they deserve.

Mr. GILMAN. Mr. Speaker, I would like to commend the gentleman from New York, my friend and colleague, Mr. BIAGGI, for introducing this legislation and for his leadership in fighting employment discrimination and for ensuring the rights of those individuals who have suffered from cancer and other grave illnesses, to seek and retain employment, regardless of their medical history.

Our most recent statistics show us that over 5 million Americans have a cancer history. Hearings held by the Committee on Education and Labor clearly illustrated that the employment discrimination practices against these individuals is quite real. Indeed, the committee reports that an estimated 1 million cancer survivors are not allowed to resume their careers, begin new ones, or obtain jobs commensurate with their professional abilities. That is 1 million Americans who are denied their right to contribute to our economy and society, a grave injustice to both the individuals in question and society at large.

Let us not forget the most recent passing of our beloved colleague, Congressman George O'Brien who continued to serve in this body throughout his cancer treatment and, might I add, served it well. It would never have occurred to any one of us, nor his constituents, to deny George his seat in Congress. His illness in no way impaired his expertise or interest in his work. George is but one example. There are millions of others who survive their cancer, and are robbed of their chance to continue to work and contribute. Due to improved medical research and techniques for early detection, the survival rate of cancer victims has grown rapidly.

By adopting this legislation, House Concurrent Resoution 321, we will be strongly enunciating our opposition to employment discrimination against persons who have or who have had cancer. I am additionally hopeful that this measure will pave the way for further work in this area, by our Federal and State Departments of Labor and other relevant agencies. Accordingly, I urge my colleagues to join in adopting House Concurrent Resolution 321.

Mr. BIAGGI. Mr. Speaker, I yield back the balance of my time.

Mr. HENRY. Mr. Speaker, I yield back the balance of my time

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The Speaker pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from New York [Mr. BIAGGI] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 321.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BIAGGI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the concurrent resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

FALSE CLAIMS AMENDMENTS ACT OF 1986

Mr. GLICKMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4827) to amend title 31, United States Code, with respect to the fraudulent use of public property or money, as amended.

The Clerk read as follows:

H.R. 4827

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "False Claims Amendments Act of 1986".

SEC. 2. FALSE CLAIMS.

Section 3729 of title 31, United States Code, is amended—

(1) by striking the matter preceding paragraph (1) and inserting the following:

"(a) LIABILITY FOR CERTAIN ACTS.—Any person who—";

(2) in paragraph (1) by striking "Government or a member of an armed force" and inserting "United States Government or a member of the armed forces";

(3) in paragraph (2) by inserting "by the Government" after "approved";

(4) in paragraph (4)—

(A) by striking "public"; and

(B) by striking "in an armed force" and inserting "by the Government";

(5) in paragraph (5)—

(A) by striking "in an armed force" and inserting "by the Government"; and

(B) by striking "or" after the semicolon;

(6) in paragraph (6)—

(A) by striking "a member of an armed force" and inserting "an officer or employee of the Government, or a member of the armed forces,"; and

(B) by striking the period at the end of the paragraph and inserting "; or"; and

(7) by adding at the end of the subsection the following:

"(7) knowingly makes, uses, or causes to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the Government,

is liable to the United States Government for a civil penalty of not less than $5,000 and not more than $10,000, for an amount equal to consequential damages as set forth in subsection (b)(1) plus 2 times the amount of damages (other than such consequential damages) which the Government sustains because of the act of that person, and for the costs of a civil action brought to recover any such penalty or damages.

"(b) CALCULATION OF DAMAGES.—(1) For purposes of this section, consequential damages include damages which the United States would not have sustained but for—

"(A) the commission of any of the acts prohibited by subsection (a); or

"(B) entering into or making any contract or grant as a result, in any material part, of any false statement, record, or claim.

"(2) Any credits to which the defendant establishes entitlement may be deducted from the amount payable under subsection (a) only after the damages sustained by the United States have been doubled as set forth in subsection (a).

"(3) If any portion of the damages sustained by the United States under paragraph (1) is considered reasonably unforeseeable by the court, the court may reduce the total amount of damages payable under paragraph (1).

"(c) KNOWING AND KNOWINGLY DEFINED.—For purposes of this section, the terms 'knowing' and 'knowingly' mean that a person, with respect to information—

"(1) has actual knowledge of the information;

"(2) acts in deliberate ignorance of the truth or falsity of the information; or

"(3) acts in reckless disregard of the truth or falsity of the information.

"(d) CLAIM DEFINED.—For purposes of this section, 'claim' includes any request or demand, whether under a contract or otherwise, for money or property which is made to a contractor, grantee, or other recipient if the United States Government provides any portion of the money or property which is requested or demanded, or if the Government will reimburse such contractor, grantee, or other recipient for any portion of the money or property which is requested or demanded.

"(e) EXCLUSION.—This section does not apply to claims, records, or statements made under the Internal Revenue Code of 1954.".

SEC. 3. CIVIL ACTIONS FOR FALSE CLAIMS.

Section 3730 of title 31, United States Code, is amended to read as follows:

"§ 3730. Civil actions for false claims

"(a) RESPONSIBILITIES OF THE ATTORNEY GENERAL.—The Attorney General diligently shall investigate a violation under section 3729. If the Attorney General finds that a person has violated or is violating section 3729, the Attorney General may bring a civil action under this section against the person.

"(b) ACTIONS BY PRIVATE PERSONS.—(1) A person may bring a civil action for a violation of section 3729 for the person and for the United States Government. The action shall be brought in the name of the Government. Subject to paragraph (5), an action may be dismissed only if the court and the Attorney General give written consent to the dismissal and their reasons for consenting.

"(2) A copy of the complaint and written disclosure of substantially all material evidence and information the person possesses shall be served on the Government pursuant to Rule 4(d)(4) of the Federal Rules of Civil Procedure. The complaint shall be filed in camera, shall remain under seal for at least 60 days, and shall not be served on the defendant until the court so orders. The Government may elect to intervene and proceed with the action within 60 days after it receives both the complaint and the material evidence and information.

"(3) The Government may, for good cause shown, move the court for extensions of the time during which the complaint remains under seal under paragraph (2). Any such motions may be supported by affidavits or other submissions in camera. The defendant shall not be required to respond to any complaint filed under this section until 20 days after the complaint is unsealed and served upon the defendant pursuant to Rule 4 of the Federal Rules of Civil Procedure.

"(4) Subject to paragraph (5), before the expiration of the 60-day period or any extensions obtained under paragraph (3), the Government shall—

"(A) proceed with the action, in which case the action shall be conducted by the Government; or

"(B) notify the court that it declines to take over the action, in which case the person bringing the action shall have the right to conduct the action.

"(5)(A) If the court finds that an action brought by a person under this subsection—

"(i) is based on specific evidence or specific information which the Government disclosed as a basis for allegations made in a prior administrative, civil, or criminal proceeding; or

"(ii) is based on specific information disclosed during the course of a congressional investigation or based on specific public information disseminated by any news media,

the court shall dismiss the action, unless subparagraph (B) applies.

"(B) The court shall not dismiss an action under subparagraph (A)—

"(i) if the Government proceeds with the action before the expiration of the 60-day period described in paragraph (2) or any extensions obtained under paragraph (3); or

"(ii) if the Government was aware of the evidence or information described in clause (i) or (ii) of subparagraph (A) for a period of at least 6 months before the person initiated the action, and the Government did not initiate a civil action on the matter involved within that 6-month period, or within such additional times as the court allows upon a showing of good cause.

"(C) The defendant must prove the facts warranting dismissal of a case to which this paragraph applies.

"(6) When a person brings an action under this subsection, no person other than the Government may intervene or bring a related action based on the facts underlying the pending action.

"(c) RIGHTS OF PARTIES TO QUI TAM ACTIONS.—(1) If the Government proceeds with the action, it shall have the primary responsibility for prosecuting the action. The person bringing the action shall have a right to continue in the action with the same rights as those of a person permitted to intervene in an action under Rule 24(b) of the Federal Rules of Civil Procedure. The Government is not bound by an act of the person bringing the action. A motion by the Government to dismiss the action may not be granted unless the person bringing the action has been notified by the Government of the filing of the motion and unless the court has provided the person with the opportunity for a hearing on the motion.

"(2) The Government may settle the action with the defendant notwithstanding the objections of the person initiating the action if the court determines after a hearing, including the opportunity for presentation of evidence, that the proposed settlement is fair, adequate, and reasonable under all the circumstances.

"(3) Upon a showing of the Government that certain actions of discovery by the person initiating the action would significantly interfere with the Government's investigation or prosecution of a criminal or civil matter arising out of the same facts, the court may stay such discovery for a period of not more than 60 days. Such a showing shall be conducted in camera. The court may extend the 60-day period upon a further showing in camera that the Government has pursued the criminal or civil investigation or proceedings with reasonable diligence and any proposed discovery in the civil action will interfere with the ongoing criminal or civil investigation or proceedings.

"(4) If the Government elects not to proceed with the action, the person who initiated the action shall have the right to conduct the action. If the Government so requests, it shall be served with copies of all pleadings filed in the action and shall be supplied with copies of all deposition transcripts (at the Government's expense). When a person proceeds with the action, the court, without limiting the status and rights of the person initiating the action, may nevertheless permit the Government to intervene at a later date upon a showing of good cause.

"(5) Notwithstanding subsection (b), the Government may elect to pursue its claim through any alternate remedy available to the Government, including any administrative proceeding to determine a civil money penalty. If any such alternate remedy is pursued in another proceeding, the person initiating the action shall have the same rights in such proceeding as such person would have had if the action had continued under this section. Any finding of fact or conclusion of law made in such other proceeding that has become final shall be conclusive on all parties to an action under this section. For purposes of the preceding sentence, a finding or conclusion is final if it has been finally determined on appeal to the appropriate court of the United States, if all time for filing such an appeal with respect to the finding or conclusion has expired, or if the finding or conclusion is not subject to judicial review.

"(d) AWARD TO QUI TAM PLAINTIFF.—(1) If the Government proceeds with an action under this section, and the person bringing the action discloses relevant evidence, or relevant information, which the Government did not have at the time the action was brought, such person shall receive at least 15 percent but not more than 25 percent of the proceeds of the action or settlement of the claim, depending upon the extent to which the person substantially contributed to the prosecution of the action. Where the action is one which the court finds, under subsection (b)(5)(A), to be based solely on evidence or information described in clause (i) or (ii) of that subsection, the court may award such sums as it considers appropriate, but in no case more than 10 percent of the proceeds, taking into account the significance of the evidence or information and the role of a person in advancing the case to litigation. Any payment under this paragraph shall be made from the proceeds. Such person shall also receive an amount for reasonable expenses which the court finds to have been necessarily incurred, plus reasonable attorneys' fees and costs. All such expenses, fees, and costs shall be awarded against the defendant.

"(2) If the Government does not proceed with an action under this section, the person bringing the action or settling the claim shall receive an amount which the court decides is reasonable for collecting the civil penalty and damages. The amount shall be not less than 25 percent and not more than 30 percent of the proceeds of the action or settlement and shall be paid out of such proceeds. Such person shall also receive an amount for reasonable expenses which the court finds to have been necessar-

ily incurred, plus reasonable attorneys' fees and costs. All such expenses, fees, and costs shall be awarded against the defendant.

"(3) If the Government does not proceed with the action and the person bringing the action conducts the action, the court may award to the defendant its reasonable attorneys' fees and expenses if the defendant prevails in the action and the court finds that the claim of the person bringing the action was clearly frivolous, vexatious, or brought solely for purposes of harassment.

"(e) GOVERNMENT NOT LIABLE FOR CERTAIN EXPENSES.—The Government is not liable for expenses which a person incurs in bringing an action under this section.".

SEC. 4. ENTITLEMENT TO RELIEF FOR DISCRIMINATION BY EMPLOYERS AGAINST EMPLOYEES WHO REPORT VIOLATIONS.

Section 3730 of title 31, United States Code, as amended by section 3 of this Act, is further amended by adding at the end the following new subsection:

"(f) Any employee who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment by his or her employer in whole or in part because of lawful acts done by the employee on behalf of the employee or others in furtherance of an action under this section, including investigation for, initiation of, testimony for, or assistance in an action filed or to be filed under this section, shall be entitled to all relief necessary to make the employee whole. Such relief shall include reinstatement with the same seniority status such employee would have had but for the discrimination, 2 times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees. An employee may bring an action in the appropriate district court of the United States for the relief provided in this subsection.".

SEC. 5. FALSE CLAIMS PROCEDURE.

Section 3731 of title 31, United States Code, is amended by striking subsection (b) and inserting the following:

"(b) A civil action under section 3730 may not be brought—

"(1) more than 6 years after the date on which the violation of section 3729 is committed, or

"(2) more than 3 years after the date when facts material to the right of action are known or reasonably should have been known by the official of the United States charged with responsibility to act in the circumstances, but in no event more than 10 years after the date on which the violation is committed,

whichever occurs last.

"(c) In any action brought under section 3730, the United States shall be required to prove all essential elements of the cause of action, including damages, by a preponderance of the evidence.

"(d) Notwithstanding any other provision of law, the Federal Rules of Criminal Procedure, or the Federal Rules of Evidence, a final judgment rendered in favor of the United States in any criminal proceeding charging fraud or false statements, whether upon a verdict after trial or upon a plea of guilty or nolo contendere, shall estop the defendant from denying the essential elements of the offense in any action which involves the same transaction as in the criminal proceeding and which is brought under subsection (a) or (b) of section 3730.".

SEC. 6. FALSE CLAIMS JURISDICTION; CIVIL INVESTIGATIVE DEMANDS.

(a) IN GENERAL.—Subchapter III of chapter 37 of title 31, United States Code, is amended by adding at the end the following new sections:

"§ 3732. False claims jurisdiction

"(a) ACTIONS UNDER SECTION 3730.—Any action under section 3730 may be brought in any judicial district in which the defendant or, in the case of multiple defendants, any one defendant can be found, resides, transacts business, or in which any act proscribed by section 3729 occurred. A summons as required by the Federal Rules of Civil Procedure shall be issued by the appropriate district court and served at any place within or outside the United States.

"(b) CLAIMS UNDER STATE LAW.—The district courts shall have jurisdiction over any action brought under the laws of any State for the recovery of funds paid by a State or local government if the action arises from the same transaction or occurrence as an action brought under section 3730.

"§ 3733. Civil investigative demands

"(a) IN GENERAL.—

"(1) ISSUANCE AND SERVICE.—Whenever the Attorney General has reason to believe that any person may be in possession, custody, or control of any documentary material or information relevant to a false claims law investigation, the Attorney General may, before commencing a civil proceeding under section 3730 or other false claims law, issue in writing and cause to be served upon such person, a civil investigative demand requiring such person—

"(A) to produce such documentary material for inspection and copying,

"(B) to answer in writing written interrogatories with respect to such documentary material or information,

"(C) to give oral testimony concerning such documentary material or information, or

"(D) to furnish any combination of such material, answers, or testimony.

The Attorney General may not delegate the authority to issue civil investigative demands under this subsection. Whenever a civil investigative demand is an express demand for any product of discovery, the Attorney General, the Deputy Attorney General, or an Assistant Attorney General shall cause to be served, in any manner authorized by this section, a copy of such demand upon the person from whom the discovery was obtained and shall notify the person to whom such demand is issued of the date on which such copy was served.

"(2) CONTENTS AND DEADLINES.—

"(A) Each civil investigative demand issued under paragraph (1) shall state the nature of the conduct constituting the alleged violation of a false claims law which is under investigation, and the applicable provision of law alleged to be violated.

"(B) If such demand is for the production of documentary material, the demand shall—

"(i) describe each class of documentary material to be produced with such definiteness and certainty as to permit such material to be fairly identified;

"(ii) prescribe a return date for each such class which will provide a reasonable period of time within which the material so demanded may be assembled and made available for inspection and copying; and

"(iii) identify the false claims law investigator to whom such material shall be made available.

"(C) If such demand is for answers to written interrogatories, the demand shall—

"(i) set forth with specificity the written interrogatories to be answered;

"(ii) prescribe dates at which time answers to written interrogatories shall be submitted; and

"(iii) identify the false claims law investigator to whom such answers shall be submitted.

"(D) If such demand is for the giving of oral testimony, the demand shall—

"(i) prescribe a date, time, and place at which oral testimony shall be commenced; and

"(ii) identify a false claims law investigator who shall conduct the examination and the custodian to whom the transcript of such examination shall be submitted.

Any such demand which is an express demand for any product of discovery shall not be returned or returnable until 20 days after the date on which a copy of such demand has been served upon the person from whom the discovery was obtained.

"(b) PROTECTED MATERIAL OR INFORMATION.—

"(1) IN GENERAL.—A civil investigative demand issued under subsection (a) may not require the production of any documentary material, the submission of any answers to written interrogatories, or the giving of any oral testimony if such material, answers, or testimony would be protected from disclosure under—

"(A) the standards applicable to subpoenas or subpoenas duces tecum issued by a court of the United States to aid in a grand jury investigation; or

"(B) the standards applicable to discovery requests under the Federal Rules of Civil Procedure, to the extent that the application of such standards to any such demand is appropriate and consistent with the provisions and purposes of this section.

"(2) EFFECT ON OTHER ORDERS, RULES, AND LAWS.—Any such demand which is an express demand for any product of discovery supersedes any inconsistent order, rule, or provision of law (other than this section) preventing or restraining disclosure of such product of discovery to any person. Disclosure of any product of discovery pursuant to any such express demand does not constitute a waiver of any right or privilege which the person making such disclosure may be entitled to invoke to resist discovery of trial preparation materials.

"(c) SERVICE; JURISDICTION.—

"(1) BY WHOM SERVED.—Any civil investigative demand issued under subsection (a) may be served by a false claims law investigator, or by a United States marshal or a deputy marshal, at any place within the territorial jurisdiction of any court of the United States.

"(2) SERVICE IN FOREIGN COUNTRIES.—Any such demand or any petition filed under subsection (j) may be served upon any person who is not found within the territorial jurisdiction of any court of the United States in such manner as the Federal Rules of Civil Procedure prescribe for service in a foreign country. To the extent that the courts of the United States can assert jurisdiction over any such person consistent with due process, the United States District Court for the District of Columbia shall have the same jurisdiction to take any action respecting compliance with this section by any such person that such court would have if such person were personally within the jurisdiction of such court.

"(d) SERVICE UPON LEGAL ENTITIES AND NATURAL PERSONS.—

"(1) LEGAL ENTITIES.—Service of any civil investigative demand issued under subsection (a) or of any petition filed under subsection (j) may be made upon a partnership, corporation, association, or other legal entity by—

"(A) delivering an executed copy of such demand or petition to any partner, executive officer, managing agent, or general agent of the partnership, corporation, association, or entity, or to any agent authorized by appointment or by law to receive service of process on behalf of such partnership, corporation, association, or entity;

"(B) delivering an executed copy of such demand or petition to the principal office or place of business of the partnership, corporation, association, or entity; or

"(C) depositing an executed copy of such demand or petition in the United States mails by registered or certified mail, with a return receipt requested, addressed to such partnership, corporation, association, or entity at its principal office or place of business.

"(2) NATURAL PERSONS.—Service of any such demand or petition may be made upon any natural person by—

"(A) delivering an executed copy of such demand or petition to the person; or

"(B) depositing an executed copy of such demand or petition in the United States mails by registered or certified mail, with a return receipt requested, addressed to the person at the person's residence or principal office or place of business.

"(e) PROOF OF SERVICE.—A verified return by the individual serving any civil investigative demand issued under subsection (a) or any petition filed under subsection (j) setting forth the manner of such service shall be proof of such service. In the case of service by registered or certified mail, such return shall be accompanied by the return post office receipt of delivery of such demand.

"(f) DOCUMENTARY MATERIAL.—

"(1) SWORN CERTIFICATES.—The production of documentary material in response to a civil investigative demand served under this section shall be made under a sworn certificate, in such form as the demand designates, by—

"(A) in the case of a natural person, the person to whom the demand is directed, or

"(B) in the case of a person other than a natural person, a person having knowledge of the facts and circumstances relating to such production and authorized to act on behalf of such person.

The certificate shall state that all of the documentary material required by the demand and in the possession, custody, or control of the person to whom the demand is directed has been produced and made available to the false claims law investigator identified in the demand.

"(2) PRODUCTION OF MATERIALS.—Any person upon whom any civil investigative demand for the production of documentary material has been served under this section shall make such material available for inspection and copying to the false claims law investigator identified in such demand at the principal place of business of such person, or at such other place as the false claims law investigator and the person thereafter may agree and prescribe in writing, or as the court may direct under subsection (j)(1). Such material shall be made so available on the return date specified in such demand, or on such later date as the false claims law investigator may prescribe in writing. Such person may, upon written agreement between the person and the false claims law investigator, substitute copies for originals of all or any part of such material.

"(g) INTERROGATORIES.—Each interrogatory in a civil investigative demand served under this section shall be answered separately and fully in writing under oath and shall be submitted under a sworn certificate, in such form as the demand designates, by—

"(1) in the case of a natural person, the person to whom the demand is directed, or

"(2) in the case of a person other than a natural person, the person or persons responsible for answering each interrogatory.

If any interrogatory is objected to, the reasons for the objection shall be stated in the certificate instead of an answer. The certificate shall state that all information required by the demand and in the possession, custody, control, or knowledge of the person to whom the demand is directed has been submitted. To the extent that any information is not furnished, the information shall be identified and reasons set forth with particularity regarding the reasons why the information was not furnished.

"(h) ORAL EXAMINATIONS.—

"(1) PROCEDURES.—The examination of any person pursuant to a civil investigative demand for oral testimony served under this section shall be taken before an officer authorized to administer oaths and affirmations by the laws of the United States or of the place where the examination is held. The officer before whom the testimony is to be taken shall put the witness on oath or affirmation and shall, personally or by someone acting under the direction of the officer and in the officer's presence, record the testimony of the witness. The testimony shall be taken stenographically and shall be transcribed. When the testimony is fully transcribed, the officer before whom the testimony is taken shall promptly transmit a copy of the transcript of the testimony to the custodian. This subsection shall not preclude the taking of testimony by any means authorized by, and in a manner consistent with, the Federal Rules of Civil Procedure.

"(2) PERSONS PRESENT.—The false claims law investigator conducting the examination shall exclude from the place where the examination is held all persons except the person being examined, the person's counsel, the officer before whom the testimony is to be taken, and any other stenographer taking such testimony.

"(3) WHERE TESTIMONY TAKEN.—The oral testimony of any person taken pursuant to a civil investigative demand served under this section shall be taken in the judicial district of the United States within which such person resides, is found, or transacts business, or in such other place as may be agreed upon by the false claims law investigator conducting the examination and such person.

"(4) TRANSCRIPT OF TESTIMONY.—When the testimony is fully transcribed, the false claims law investigator or the officer before whom the testimony is taken shall afford the witness, who may be accompanied by counsel, a reasonable opportunity to examine and read the transcript, unless such examination and reading are waived by the witness. Any changes in form or substance which the witness desires to make shall be entered and identified upon the transcript by the officer or the false claims law investigator, with a statement of the reasons given by the witness for making such changes. The transcript shall then be signed by the witness, unless the witness in writing waives the signing, is ill, cannot be found, or refuses to sign. If the transcript is not signed by the witness within 30 days after being afforded a reasonable opportunity to examine it, the officer or the false claims law investigator shall sign it and state on the record the fact of the waiver, illness, absence of the witness, or the refusal to sign, together with the reason, if any, given therefor.

"(5) CERTIFICATION AND DELIVERY TO CUSTODIAN.—The officer before whom the testimony is taken shall certify on the transcript that the witness was sworn by the officer and that the transcript is a true record of the testimony given by the witness, and the officer or false claims law investigator shall promptly deliver the transcript, or send the transcript by registered or certified mail, to the custodian.

"(6) FURNISHING OR INSPECTION OF TRANSCRIPT BY WITNESS.—Upon payment of reasonable charges therefor, the false claims law investigator shall furnish a copy of the transcript to the witness only, except that the Attorney General, the Deputy Attorney General, or an Assistant Attorney General may, for good cause, limit such witness to inspection of the official transcript of the witness's testimony.

"(7) CONDUCT OF ORAL TESTIMONY.—(A) Any person compelled to appear for oral testimony under a civil investigative demand issued under subsection (a) may be accompanied, represented, and advised by counsel. Counsel may advise such person, in confidence, with respect to any question asked of such person. Such person or counsel may object on the record to any question, in whole or in part, and shall briefly state for the record the reason for the objection. An objection may be made, received, and entered upon the record when it is claimed that such person is entitled to refuse to answer the question on the grounds of any constitutional or other legal right or privilege, including the privilege against self-incrimination. Such person may not otherwise object to or refuse to answer any question, and may not directly or through counsel otherwise interrupt the oral examination. If such person refuses to answer any question, a petition may be filed in the district court of the United States under subsection (j)(1) for an order compelling such person to answer such question.

"(B) If such person refuses to answer any question on the grounds of the privilege against self-incrimination, the testimony of such person may be compelled in accordance with the provisions of part V of title 18.

"(8) WITNESS FEES AND ALLOWANCES.—Any person appearing for oral testimony under a civil investigative demand issued under subsection (a) shall be entitled to the same fees and allowances which are paid to witnesses in the district courts of the United States.

"(i) CUSTODIANS OF DOCUMENTS, ANSWERS, AND TRANSCRIPTS.—

"(1) DESIGNATION.—The Attorney General shall designate a false claims law investigator to serve as custodian of documentary material, answers to interrogatories, and transcripts of oral testimony received under this section, and shall designate such additional false claims law investigators as the Attorney General determines from time to time to be necessary to serve as deputies to the custodian.

"(2) RESPONSIBILITY FOR MATERIALS; DISCLOSURE.—(A) A false claims law investigator who receives any documentary material, answers to interrogatories, or transcripts of

oral testimony under this section shall transmit them to the custodian. The custodian shall take physical possession of such material, answers, or transcripts and shall be responsible for the use made of them and for the return of documentary material under paragraph (4).

"(B) The custodian may cause the preparation of such copies of such documentary material, answers to interrogatories, or transcripts of oral testimony as may be required for official use by any false claims law investigator, or other officer or employee of the Department of Justice, who is authorized for such use under regulations which the Attorney General shall issue. Such material, answers, and transcripts may be used by any such authorized false claims law investigator or other officer or employee in connection with the taking of oral testimony under this section.

"(C) Except as otherwise provided in this subsection, no documentary material, answers to interrogatories, or transcripts of oral testimony, or copies thereof, while in the possession of the custodian, shall be available for examination by any individual other than a false claims law investigator or other officer or employee of the Department of Justice authorized under subparagraph (B). The prohibition in the preceding sentence on the availability of material, answers, or transcripts shall not apply if consent is given by the person who produced such material, answers, or transcripts, or, in the case of any product of discovery produced pursuant to an express demand for such material, consent is given by the person from whom the discovery was obtained. Nothing in this subparagraph is intended to prevent disclosure to the Congress, including any committee or subcommittee of the Congress.

"(D) Notwithstanding subparagraph (C), documentary material, answers to interrogatories, or transcripts of oral testimony obtained under a civil investigative demand issued under this section shall be disclosed to an agency of the United States if—

"(i) that agency files, in a district court of the United States in which petitions under subsection (j) may be filed, and serves upon the person named in the civil investigative demand and, in the case of an express demand for any product of dicovery, the person from whom such discovery was obtained, a petition requesting such disclosure;

"(ii) any person so served has an opportunity to be heard on the petition;

"(iii) the court finds that disclosure of the information involved is relevant to an investigation by the agency which it is authorized by law to conduct; and

"(iv) the court issues an order requiring such disclosure.

The provisions of paragraphs (5) and (6) of subsection (j) (relating to jurisdiction and applicability of the Federal Rules of Civil Procedure) apply to petitions under this subparagraph.

"(E) While in the possession of the custodian and under such reasonable terms and conditions as the Attorney General shall prescribe—

"(i) documentary material and answers to interrogatories shall be available for examination by the person who produced such material or answers, or by a representative of that person authorized by that person to examine such material and answers; and

"(ii) transcripts of oral testimony shall be available for examination by the person who produced such testimony, or by a representative of that person authorized by that person to examine such transcripts.

"(3) USE OF MATERIAL, ANSWERS, OR TRANSCRIPTS IN OTHER PROCEEDINGS.—Whenever any attorney of the Department of Justice has been designated to appear before any court, grand jury, or Federal agency in any case or proceeding, the custodian of any documentary material, answers to interrogatories, or transcripts of oral testimony received under this section may deliver to such attorney such material, answers, or transcripts for official use in connection with any such case or proceeding as such attorney determines to be required. Upon the completion of any such case or proceeding, such attorney shall return to the custodian any such material, answers, or transcripts so delivered which have not passed into the control of such court, grand jury, or agency through introduction into the record of such case or proceeding.

"(4) CONDITIONS FOR RETURN OF MATERIAL.—If any documentary material has been produced by any person in the course of any false claims law investigation pursuant to a civil investigative demand under this section, and—

"(A) any case or proceeding before any court or grand jury arising out of such investigation, or any proceeding before any Federal agency involving such material, has been completed, or

"(B) no case or proceeding in which such material may be used has been commenced within a reasonable time after completion of the examination and analysis of all documentary material and other information assembled in the course of such investigation, the custodian shall, upon written request of the person who produced such material, return to such person any such material (other than copies furnished to the false claims law investigator under subsection (f)(2) or made by the Department of Justice under paragraph (2)(B)) which has not passed into the control of any court, grand jury, or agency through introduction into the record of such case or proceeding.

"(5) APPOINTMENT OF SUCCESSOR CUSTODIANS.—In the event of the death, disability, or separation from service in the Department of Justice of the custodian of any documentary material, answers to interrogatories, or transcripts of oral testimony produced pursuant to a civil investigative demand under this section, or in the event of the official relief of such custodian from responsibility for the custody and control of such material, answers, or transcripts, the Attorney General shall promptly—

"(A) designate another false claims law investigator to serve as custodian of such material, answers, or transcripts, and

"(B) transmit in writing to the person who produced such material, answers, or testimony notice of the identity and address of the successor so designated.

Any person who is designated to be a successor under this paragraph shall have, with regard to such material, answers, or transcripts, the same duties and responsibilities as were imposed by this section upon that person's predecessor in office, except that the successor shall not be held responsible for any default or dereliction which occurred before that designation.

"(j) JUDICIAL PROCEEDINGS.—

"(1) PETITION FOR ENFORCEMENT.—Whenever any person fails to comply with any civil investigative demand issued under subsection (a), or whenever satisfactory copying or reproduction of any material requested in such demand cannot be done and such person refuses to surrender such material, the Attorney General may file, in the district court of the United States for any judicial district in which such person resides, is found, or transacts business, and serve upon such person a petition for an order of such court for the enforcement of the civil investigative demand.

"(2) PETITION TO MODIFY OR SET ASIDE DEMAND.—(A) Any person who has received a civil investigative demand issued under subsection (a) may file, in the district court of the United States for the judicial district within which such person resides, is found, or transacts business, and serve upon the false claims law investigator identified in such demand a petition for an order of the court to modify or set aside such demand. In the case of a petition addressed to an express demand for any product of discovery, a petition to modify or set aside such demand may be brought only in the district court of the United States for the judicial district in which the proceeding in which such discovery was obtained is or was last pending. Any petition under this subparagraph must be filed—

"(i) within 20 days after the date of service of the civil investigative demand, or at any time before the return date specified in the demand, whichever date is earlier, or

"(ii) within such longer period as may be prescribed in writing by any false claims law investigator identified in the demand.

"(B) The petition shall specify each ground upon which the petitioner relies in seeking relief under subparagraph (A), and may be based upon any failure of the demand to comply with the provisions of this section or upon any constitutional or other legal right or privilege of such person. During the pendency of the petition in the court, the court may stay, as it deems proper, the running of the time allowed for compliance with the demand, in whole or in part, except that the person filing the petition shall comply with any portions of the demand not sought to be modified or set aside.

"(3) PETITION TO MODIFY OR SET ASIDE DEMAND FOR PRODUCT OF DISCOVERY.—(A) In the case of any civil investigative demand issued under subsection (a) which is an express demand for any product of discovery, the person from whom such discovery was obtained may file, in the district court of the United States for the judicial district in which the proceeding in which such discovery was obtained is or was last pending, and serve upon any false claims law investigator identified in the demand and upon the recipient of the demand, a petition for an order of such court to modify or set aside those portions of the demand requiring production of any such product of discovery. Any petition under this subparagraph must be filed—

"(i) within 20 days after the date of service of the civil investigative demand, or at any time before the return date specified in the demand, whichever date is earlier, or

"(ii) within such longer period as may be prescribed in writing by any false claims law investigator identified in the demand.

"(B) The petition shall specify each ground upon which the petitioner relies in seeking relief under subparagraph (A), and may be based upon any failure of the portions of the demand from which relief is sought to comply with the provisions of this section, or upon any constitutional or other legal right or privilege of the petitioner. During the pendency of the petition, the court may stay, as it deems proper, compliance with the demand and the running of

the time allowed for compliance with the demand.

"(4) PETITION TO REQUIRE PERFORMANCE BY CUSTODIAN OF DUTIES.—At any time during which any custodian is in custody or control of any documentary material or answers to interrogatories produced, or transcripts of oral testimony given, by any person in compliance with any civil investigative demand issued under subsection (a), such person, and in the case of an express demand for any product of discovery, the person from whom such discovery was obtained, may file, in the district court of the United States for the judicial district within which the office of such custodian is situated, and serve upon such custodian, a petition for an order of such court to require the performance by the custodian of any duty imposed upon the custodian by this section.

"(5) JURISDICTION.—Whenever any petition is filed in any district court of the United States under this subsection, such court shall have jurisdiction to hear and determine the matter so presented, and to enter such order or orders as may be required to carry out the provisions of this section. Any final order so entered shall be subject to appeal under section 1291 of title 28. Any disobedience of any final order entered under this section by any court shall be punished as a contempt of the court.

"(6) APPLICABILITY OF FEDERAL RULES OF CIVIL PROCEDURE.—The Federal Rules of Civil Procedure shall apply to any petition under this subsection, to the extent that such rules are not inconsistent with the provisions of this section.

"(7) DISCLOSURE EXEMPTION.—Any documentary material, answers to written interrogatories, or oral testimony provided under any civil investigative demand issued under subsection (a) shall be exempt from disclosure under section 552 of title 5.

"(k) DEFINITIONS.—For purposes of this section—

"(1) the term 'false claims law' means—

"(A) this section and sections 3729 through 3732; and

"(B) any Act of Congress enacted after the date of the enactment of this section which prohibits, or makes available to the United States in any court of the United States any civil remedy with respect to, any false claim against, bribery of, or corruption of any officer or employee of the United States;

"(2) the term 'false claims law investigation' means any inquiry conducted by any false claims law investigator for the purpose of ascertaining whether any person is or has been engaged in any violation of a false claims law;

"(3) the term 'false claims law investigator' means any attorney or investigator employed by the Department of Justice who is charged with the duty of enforcing or carrying into effect any false claims law, or any officer or employee of the United States acting under the direction and supervision of such attorney or investigator in connection with a false claims law investigation;

"(4) the term 'person' means any natural person, partnership, corporation, association, or other legal entity, including any State or political subdivision of a State;

"(5) the term 'documentary material' includes the original or any copy of any book, record, report, memorandum, paper, communication, tabulation, chart, or other document, or data compilations stored in or accessible through computer or other information retrieval systems, together with instructions and all other materials necessary to use or interpret such data compilations, and any product of discovery;

"(6) the term 'custodian' means the custodian, or any deputy custodian, designated by the Attorney General under subsection (i)(1); and

"(7) the term 'product of discovery' includes—

"(A) the original or duplicate of any deposition, interrogatory, document, thing, result of the inspection of land or other property, examination, or admission, which is obtained by any method of discovery in any judicial or administrative proceeding of an adversarial nature;

"(B) any digest, analysis, selection, compilation, or derivation of any item listed in subparagraph (A); and

"(C) any index or other manner of access to any item listed in subparagraph (A).".

(b) CLERICAL AMENDMENT.—The table of contents for chapter 37 of title 31, United States Code, is amended by adding after the item relating to section 3731 the following:

"3732. False claims jurisdiction.

"3733. Civil investigative demands.".

SEC. 7. CRIMINAL PENALTIES.

Section 287 of title 18, United States Code, is amended by striking "five" and inserting "ten".

The SPEAKER pro tempore. Is a second demanded?

Mr. BROWN of Colorado. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Kansas [Mr. GLICKMAN] will be recognized for 20 minutes and the gentleman from Colorado [Mr. BROWN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a very important bill, the False Claims Amendments Act, because it increases significantly the penalties for filing false claims against the Government of the United States; claims that could involve the Medicare system, claims to the Defense Department, the veterans' system, welfare; you name it. It deals with the issue of civil and criminal penalties for those who try to take advantage of taxpayers in this country by filing false claims against the Government.

This bill increases, rather substantially, the rights of citizens to challenge that and the penalties incurred thereby.

Before I begin my statement, I would like to especially thank those Members that have helped with this piece of legislation. They are Mr. KINDNESS, Mr. FISH, and Mr. BROWN of Colorado from the Republican side, who has been so cooperative in helping with this area, as well as Mr. BROOKS, Mr. FRANK, Mr. BRYANT, Mr. STARK, Mr. BEDELL, and Mr. IRELAND.

I also want to particularly give reference to Mr. BERMAN of California because it was largely through his efforts on the citizens' suit or the qui tam provisions that we were able to work this deal together. Again, to our colleague from Texas, Mr. BROOKS, for his help as well.

Mr. Speaker, in 1863, during the Civil War, the False Claims Act became law. This act, sometimes referred to as the "Abraham Lincoln Law", was enacted amid reports of widespread corruption and fraud in the sale of supplies and provisions to the union government during the war. As orginally enacted, the statute imposed civil and criminal liability for false claims against the Government.

Unfortunately, fraud against the U.S. Government did not end with the conclusion of the Civil War in 1865. However, the act has only been amended twice in 123 years: Amendments to the qui tam provisions were enacted in 1943, and in 1982, technical amendments were made during the recodification of title 31, where the civil false claims provisions are set forth in the United States Code. With this brief background of the False Claims Act, it is easy to understand why the current law is quite outdated. During hearings before the Subcommittee on Administrative Law and Governmental Relations, several witnesses pointed out that a large part of the problem in prosecuting civil fraud cases is because of the ambiguities and lack of clarity in the current statute, and also because the monetary penalties are no longer a serious deterrent to the filing of false claims.

H.R. 4827, the False Claims Amendments Act of 1986, is a very important piece of legislation. The False Claims Act is the primary vehicle by which the Government prosecutes civil fraud. In 1986, with a deficit in the range of $200 billion, I think it is critically important that we modernize this statute so that the Government has a workable law through which to prosecute fraud and recoup the losses suffered by the Government.

One of the major provisions of H.R. 4827 increases the amount of damages recoverable to not less than $5,000 and not more than $10,000. The bill also provides for recovery of consequential damages. Under the current statute, the penalty is $2,000 and makes no provision for the recovery of consequential damages. As an example of how out of date this statute has become, the Congressional Research Service has informed me that the equivalent of $2,000 in 1863 would today be close to $18,000.

Other provisions of the bill include expanding the qui tam, or citizen suit, provisions of the law, as well as providing the Government with the power to issue civil investigative demands.

Civil investigative demands [CID's] are a pre-lawsuit discovery mechanism which allows the Department of Justice to conduct discovery in civil false claims cases, without the expense of first filing a civil fraud case in Federal district court. This CID provision, however, can only be utilized by the Department of Justice if the Attorney General himself approves the issuance of such.

The bill which we are considering today and which is at the desk, is not exactly like the bill which was reported by the full committee on June 10, 1986. Although H.R. 4827, as amended, was reported by the full committee by a unanimous (35-0) rollcall vote, several Members still had reservations about a few provisions contained in the bill. In order to satisfy these reservations, a compromise was reached which includes the following changes to the bill:

First, there is a change to section 3, the qui tam provisions of the bill. In the bill as reported by the committee, the qui tam plaintiffs rights when the Government enters the lawsuit, were based on the rights of mandatory intervention, pursuant to rule 24(a) of the Federal rules of civil procedure. The bill at the desk adopts the standard of intervention to be that of permissive intervention pursuant to rule 24(b) of the Federal rules. The compromise bill also includes language which provides the qui tam plaintiff with the right to notice of any motion to dismiss filed by the Government and a right to a hearing on any such motion.

Second, the administrative remedy (section 7) was deleted in its entirety. The administrative remedy contained in the bill as reported by the committee applied governmentwide and there were numerous concerns with this provision by several Members. Therefore, this provision has been deleted.

Third, in section 3 of the bill, the Contract Disputes Act language is deleted. With the deletion of the administrative remedy, this bill amends only the current False Claims Act. Since the False Claims Act and the Contract Disputes Act of 1978 have coexisted since 1978, it was decided as part of the compromise, to delete this portion of the bill.

As I said earlier, the False Claims Amendments Act of 1986 is a very important piece of legislation. It is important because it is the primary mechanism through which the Government recoups losses suffered through fraud. It is especially important today given the enormous deficit the Government faces today. Perhaps, if the False Claims Act had been clarified and updated 30 years ago, we might not face quite the same deficit we do today. In any event, the modernization of this statute can and should enable the Government to recoup potentially thousands of dollars lost through fraud each year.

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I would note for the record that the administration supports this bill, and, in addition, the Congressional Budget Office indicates that the bill would have a positive impact on our deficit.

Mr. Speaker, I urge my colleagues to support this legislation.

Mr. BROOKS. Mr. Speaker, I support H.R. 4827 as it is presented today and hope that my colleagues will also. This legislation makes important improvements to the False Claims Act of 1863. That act was enacted during the Civil War to stem the massive corruption and abuse occurring in the procurement of union war supplies. Today, it serves as the Government's chief statutory weapon to combat fraud. Except for two relatively minor amendments, however, the False Claims Act has not been revised since its enactment 123 years ago.

Today's bill would make changes to update the False Claims Act in several significant ways. First, it will increase the civil penalties authorized under the current law. The 1863 act provided for a doubling of actual damages, a $2,000 fine and recovery of the cost of the lawsuit. H.R. 4827 will increase these penalties to double actual damages plus consequential damages, a fine from $5,000 to $10,000, and the costs of suit. These increases in the penalties fixed in 1863 are needed to keep the deterrent value of the False Claims Act current and effective in our modern world.

H.R. 4827 also makes changes to the act's original qui tam, or citizen suits, provisions. The False Claims Act contains provisions which allow citizens to bring suits for false claims on behalf of the Government. These "Lincoln" provisions, named after the President, will be strengthened by H.R. 4827. The incentives for citizens to file such suits are increased, the ability of the citizen who brings such a suit to follow through with the litigation is enhanced, and "whistle-blower" protections are provided employees who report fraud and abuse in conjunction with false claims prosecutions.

Further, the Justice Department is given greater investigative powers and tools to ferret out false claims and fraud under provisions of the bill.

Together, these changes will add new force and vigor to the Nation's efforts to stop fraud in Government services and procurements. They are urgently needed in light of the recent indications of massive procurement abuses occurring in the recent military buildup. Along with the changes this bill makes, there are other reforms and ideas pertinent to this problem which merit serious consideration. Today's bill is not a cure-all, but rather an important first step in revising current out-of-date statutory provisions. I hope my colleagues will pass this measure, and I look forward to working with them on further efforts to address the problem of procurement and services fraud which has plagued our Nation to a greater or lesser extent throughout our history.

Mr. BROWN of Colorado. Mr. Speaker, I yield such time as he may consume to the ranking Republican on the Judiciary Committee, the gentleman from New York [Mr. FISH], who is the original sponsor of the administration's initiative in this area.

Mr. FISH. Mr. Speaker, I thank my colleague, the gentleman from Colorado [Mr. BROWN].

Mr. Speaker, I rise in support of the False Claims Amendments Act of 1986. This legislation will greatly enhance the ability of the Federal Government to deal with fraud and waste in Government grant and loan programs and procurement contracts. As the principal sponsor of the administration's original proposals (H.R. 3334; H.R. 3335) on this subject, I believe that we have fashioned a workable, effective compromise and want to express my sincere appreciation to the administration, in particular the Department of Justice, for its expert assistance in this effort.

Mr. Speaker, the False Claims Act is one of the oldest and potentially most effective remedies available to the United States to discourage and respond to the fraudulent misuse of Federal resources. It is the principal statute upon which the Government relies to seek monetary recovery in fraud cases. The statute was first enacted in 1863, at the height of the Civil War. It permits the Federal Government to recover two times the amount of any false or fraudulent claim submitted, plus a $2,000 civil fine. Closely patterned after bills I originally introduced, the amendments contained in H.R. 4827 would make several statutory changes so as to resolve inconsistencies and ambiguities in current case law and strengthen the Government's ability to investigate, litigate, and otherwise resolve fraud cases.

It should be stressed, Mr. Speaker, that we are dealing here with a civil—not a criminal—statute. The False Claims Act is remedial in nature. The reason for my emphasis on this point is that considerable confusion has been prompted by judicial decisions that have treated the False Claims Act as if it were a criminal statute. These decisions have severely hampered the Justice Department and other Federal agencies in their efforts to effectively recover losses incurred as a result of fraud, waste, and abuse. These cases, in part, are the reason why I introduced the administration's package.

Second, while the False Claims Act is not a penal statute, it does have an important deterrent effect. The False Claims Act allows the Government, on behalf of the taxpayer, to recover losses suffered through the submission of fraudulent claims. The double damages remedy has been a part of this law since 1863 and it implicitly contains a significant deterrence element. The double damages recovery, with the accompanying civil fine, is intend-

ed to be a substantial penalty—to forcefully discourage individuals and companies that do business with the United States from engaging in fraudulent practices. Indeed, Mr. Speaker, the dual purpose of any such law should always be to deter as well as punish fraudulent conduct.

Under current law, the Federal Government is limited to actual damages, which are then doubled under the statutory formula. Section 2 of H.R. 4827 would make consequential damages the measurement standard—thus allowing a recovery for indirect losses that are the result of the fraud as well as actual, direct losses. This is a realistic, fair change which ensures the recovery will reflect actual replacement cost in every instance.

Last, but not least, I feel I must stress that I do not view these legislative proposals as anticontractor in nature. Rather, I view these legislative proposals as protaxpayer. There is no question in my mind but that the responsible representatives of the private sector share our common goals. Specifically, those goals are: First, an efficent Federal procurement process that results in the purchase of quality products and services at fair prices; and second, an effective mechanism for the Government to employ in recovering its losses when victimized by fraud.

Mr. Speaker, allow me to turn to those provisions in the bill that are deserving of special note. To my mind, one of the most important amendments contained in H.R. 4827 deals with the intent standard and the burden of proof in the False Claims Act. The language of the False Claims Act currently provides that the Federal Government need only prove that the defendant knowingly submitted a false claim. However, this statutory standard has been misconstrued by some courts so as to require that the Government prove the defendant had actual knowledge of the fraud and, even, establish specific intent to submit a false claim. See *United States* v. *Mead,* 426 F.2d 118 (9th Cir., 1970). A specific intent standard, Mr. Speaker, is inappropriate in a civil statute and H.R. 4827 would remove the ambiguity created by this case law by defining knowingly as: First, actual knowledge of the information; second, deliberate ignorance of the truth or falsity of the information; or third, acts in reckless disregard of the truth or falsity of the information.

The burden of proof in civil false claims cases is another area where legislative clarification is necessary to resolve ambiguities which have developed in the case law. Some courts have required that the United States prove a violation by clear and convincing, even unequivocal, evidence. *United States* v. *Ueber,* 299 F.2d 310 (6th Cir., 1962). Because the False Claims Act is a civil statute, the traditional "preponderance of the evidence" burden of proof is more appropriate. Consequently, H.R. 4827 specifically provides that the Government must prove its case by a preponderance of the evidence, the ordinary standard in civil litigation.

H.R. 4827 also contains numerous other amendments, which are designed to resolve specific problems which have arisen under the act:

Section 2(a) raises the fixed statutory penalty for submitting a false claim from $2,000 to not less than $5,000 and not more than $10,000. The $2,000 figure has remained unchanged since the initial enactment of the False Claims Act in 1863.

Section 2(a) also amends the act to permit the United States to bring an action against a member of the Armed Forces, as well as against civilian employees. When the act was first enacted in 1863, the military was excluded because the Government then had available more severe military remedies.

Also, as I mentioned earlier, section 2(a) would permit the Government to recover consequential damages it suffers from the submission of a false claim.

Section 2(a) also provides that an individual who makes a material misrepresentation to avoid paying money owed the Government would be equally liable under the act as if he had submitted a false claim for money or property. This is better known as a reverse false claim. For instance, the manager of HUD-owned property may falsely understate income and/or overstate expenses in order to reduce the rental receipts which must be paid to HUD at the end of each month. The existing failure to cover these reverse false claims is a serious loophole in the present law. The requirement that there must be a strict demand for money or property before an actual claim can exist under the False Claim Act should be broadened. Instead, the concept of claim should cover all those circumstances where the Government suffers a real financial loss, through a fraudulent misrepresentation or statement.

Section 5 amends the statute of limitations to permit the Government to bring an action within 6 years of when the false claim is submitted, the current standard, or within 3 years after the Government learns of the violations, whichever is later.

Section 6 of the bill modernizes the jurisdiction and venue provisions of the False Claims Act to permit the Government to bring suit, not only in the district where the defendant is found, the current standard, but also where a violation occurred. Currently, when multiple defendants live in different districts, the Government may be required to bring multiple suits, a time-consuming process that is wasteful of judicial and litigation resources.

Another important amendment—contained in section 6—is the grant of civil investigative demand [CID] authority to the Department of Justice to aid in the investigation of False Claims Act cases. The CID provisions are patterned after and analogous to the authority already exercised by the Antitrust Division under the Hart-Scott-Rodino Act. 15 U.S.C. 1311-1314. If the Attorney General of the Civil Division believes that a person has access to information relating to a False Claims Act investigation, he may, prior to filing a complaint, require the production of documents, answers to interrogatories, and oral testimony. The standards governing subpoenas and ordinary civil discovery would apply so as to protect against the disclosure of privileged information. The CID could be enforced in district court, like any other subpoena. The use of CID authority in the antitrust context has been upheld as constitutional. *Hyster Company* v. *United States,* 338 F.2d 183 (9th Cir., 1964); *Petition of Gold Bond Stamp Co.,* 221 F. Supp. 391 (D. Minn. 1963), aff'd., 325 F.2d 1018 (8th Cir., 1964).

In conclusion, Mr. Speaker, I want to commend subcommittee Chairman DAN GLICKMAN, the ranking Republican TOM KINDNESS, and the other subcommittee members for their hard work in bringing this legislation to the floor. There is no question that Congress must seek out appropriate legislative mechanisms to insure that the taxpayers' money is well spent and protected from fraud and waste. This bill, Mr. Speaker, will accomplish just that.

Mr. BROWN of Colorado. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill we have before us today reflects the work of several Members and reflects major improvements in existing Federal law governing false claims submitted to the United States. Indeed, a 1981 report by the General Accounting Office identified over 77,000 fraud cases in 21 Federal agencies during a 2½ year period, with estimated losses of $150 to $220 million.

With this background in mind, the Judiciary Committee voted in favor of reporting H.R. 4827, the False Claims Act Amendments of 1986. The bill before us today is preferable to the earlier versions in several respects, such as providing somewhat more realistic and constitutionally defensible penalties. Nonetheless, there remain some areas in which further improvements are sorely needed to insure that due process rights are fully honored. In supporting this legislation today, it is my hope that some of these concerns will be addressed in conference.

Among the primary areas of concern generated by H.R. 4827, which we hope will be corrected in conference, are the following: First, consequential damages should be limited to those which were reasonably foreseeable and proximately caused by prohibited acts; and second, civil investigative demands, if authorized at all, should certainly not extend to written interrogatories.

CONSEQUENTIAL DAMAGES

H.R. 4827, as reported by the Judiciary Committee, amends the False Claims Act, 31 U.S.C. 3729 et seq., to include civil penalties for persons who submit false claims in an amount equal to the consequential damages sustained. In the committee bill, such damages are defined to include those "which the United States would not have sustained but for (A) the commission of any of the [prohibited] acts . . ., or (B) entering into or making any contract or grant as a result, in any material part, of any false statement, record, or claim." Current law, by contrast, has not authorized the imposition of civil penalties based on consequential damages, such as those attributable to the prohibited act. *United States* v. *Aerodex, Inc.*, 469 F. 2d 1003, 1011 (5th Cir. 1972).

As reported by the committee, the definition of consequential damages is far too sweeping. From a fairness standpoint, assessments of damages should be limited to those which were proximately caused by a prohibited act, and which were reasonable foreseeable. Both of these concepts are well defined in the common law and, consequently, can be readily applied by the courts. In the absence of such limitations, persons may be subject to penalties based on highly speculative, attenuated and subjective considerations.

CIVIL INVESTIGATIVE DEMANDS

H.R. 4827, as reported by the committee, grants to the Justice Department, for the first time, authority to issue civil investigative demands [CID] to persons who may be in possession of information relevant to a false claims law investigation, before any civil proceeding is commenced. Demands could extend to documentary material, written interrogatories, and oral testimony. While the need for such authority has not been demonstrated conclusively, the bill reported by the committee as improved by an amendment confining the issuance of CID's to cases personally approved by the Attorney General. However, the committee's failure to adopt an amendment deleting authority for the issuance of written interrogatories was a serious omission.

Written interrogatories may be subject to great abuse and encourage fishing expeditions. The authority to obtain documents pursuant to a civil investigative demand will give the prosecution access to enough information to determine whether a civil action should be brought. At that point, written interrogatories, oral testimony, and the full array of discovery procedures are already available.

Mr. Speaker, we strongly support the goal of cracking down on fraud against the Government. H.R. 4827 can be further improved in conference in order to preserve due process rights and achieve its ultimate goals. Accordingly, I hope House conferees will support efforts to modify the definition of consequential damages, and restrict the scope of civil investigative demands.

With these changes, Mr. Speaker, we will have a bill that can work fairly and efficiently.

Mr. Speaker, I yield such time as he may consumer to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I, too, join in what seems to be unanimous support for the fast clearance of this legislation and for its final adoption by the Congress of the United States.

I suppose there is nothing more vital to the taxpayer, if we heed the daily conversations of the average American citizen, than the horror stories that they hear on a daily basis—and most of them are justified—as to what goes on in several sectors, in fact, in almost all sectors of the Government at one time or another relating to fraud and waste. If there is anything that galls the taxpayer more, I would like to know what it is, than to learn that their taxpayer dollars are wasted in one form or another.

I do not consider this to be a small thing but, rather, a major thrust, and every little bit that we can do, first of all, to eliminate or reduce fraud and waste, and second, to allay the worries of our taxpayers that indeed there might be an attitude in the Congress that pooh-poohs fraud and waste would be a step in the right direction. So these kinds of bills ought to be adopted on a regular basis.

Mr. Speaker, I support the measure, and I commend all those who made it possible for us to have a quick resolution of this issue.

Mr. BROWN of Colorado. Mr. Speaker, I thank the gentleman from Pennsylvania [Mr. GEKAS] for his leadership in this area.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GLICKMAN. Mr. Speaker, I yield such time as he may consume to the distinguished chairman of our Committee on the Judiciary, the gentleman from New Jersey [Mr. RODINO].

Mr. RODINO. Mr. Speaker, on June 10, 1986, the Judiciary Committee favorably reported H.R. 4827, the False Claims Amendments Act of 1986 to the floor by a unanimous (35-0) rollcall vote. The purpose of this legislation is to amend the existing civil false claims statute in order to strengthen and clarify the Government's ability to detect and prosecute fraud, as well as to recoup damages suffered by the Government as the result of such fraud.

The False Claims Act was originally enacted in 1863 because of reports of widespread corruption and fraud in the sale of supplies and provisions to the Union Government during the Civil War. Unfortunately, fraud is still prevalent today. While fraud has become more sophisticated, the law through which the Government prosecutes fraud and recoups its losses has not followed the same pattern. This law has remained largely unchanged since it was enacted in 1863.

H.R. 4827 updates and clarifies the current law, by defining terms which previously were not defined in the False Claims Act. For example, this statute has never defined the term "claim." Because of this lack of a definition, court interpretations of what constitutes a claim under this statute have varied.

This bill increases the civil penalties for filing a false claim, expands the qui tam or citizen suit provisions of the law and provides the Government with the power to issue civil investigative demands [CID's].

These amendments to the False Claims Act are long overdue. This statute has existed for 123 years but is out of date and no longer an effective tool for prosecution of civil fraud cases. Passage of H.R. 4827, as amended, will make this 123-year-old statute a more effective tool for prosecution of these cases. It will also provide the Government with a more effective tool for the recovery of the dollar losses suffered through fraud.

I particularly wish to commend the gentleman from Kansas and the other members of the Judiciary Committee for accomplishing the task of reaching a compromise acceptable to everyone while maintaining the goal of this legislation.

I urge my colleagues to pass this important legislation.

Mr. GLICKMAN. Mr. Speaker, I thank the chairman of our committee.

Mr. Speaker, before I yield time to the gentleman from California [Mr. BERMAN], I would like to pay a special tribute to the gentleman from Florida [Mr. IRELAND], who has been intimately involved with the qui tam provisions, and that is the part that the gentleman from California [Mr. BERMAN] has been most responsible for. I want to point out that there has been a genuine bipartisan effort in this bill to try to root out and effectively enhance the enforcement of

fraud against the Government, and so I think the record ought to reflect that at least with respect to this particular issue we have had genuine bipartisan support.

So now, Mr. Speaker, I yield such time as he may consume to my colleague, the gentleman from California [Mr. BERMAN], who basically spearheaded the qui tam provisions of this bill.

Mr. BERMAN. Mr. Speaker, I rise in support of H.R. 4827, the False Claims Amendments Act of 1986.

I want in particular to thank the chairman of our subcommittee, the gentleman from Kansas [Mr. GLICKMAN] for his kind words, and, more importantly, for his leadership in bringing before this body the outstanding bill we are considering today. In a few short months, he has established himself as the House leader on this issue, and has brought this important legislation to the point where it now has an excellent chance of enactment.

Mr. Speaker, I also want to second the gentleman's comments with respect to our friend and colleague, the gentleman from Florida [Mr. IRELAND], as well as our colleague, the gentleman from Iowa [Mr. BEDELL]. Long before this speaker had ever heard of this legislation and this issue, these gentlemen were legislating and pushing in this area, and without their help I am sure we would not be where we are today.

I do not know if it is comforting or not to realize that many of our contemporary problems were shared by our forebearers over a century ago. But it is indeed the case that in the 1860's, President Abraham Lincoln felt obliged to call upon Congress to pass the False Claims Act, in order to crack down on defense contractor fraud.

Instances were uncovered of defense contractors who resold the same horses two and three times to the Union cavalry, and who were paid for muskets but provided boxes of sawdust. There is billions of dollars difference between that fraud and the defense contractor fraud found in our headlines today, but the principle is the same: The U.S. taxpayers are being bilked, and we need all the resources we can obtain to address the problem.

Unfortunately, over the years changes were made in the Abraham Lincoln law which undermined its effectiveness. That is why I joined my colleagues BERKLEY BEDELL and ANDY IRELAND in introducing a false claims amendments bill last year, and why I am so pleased to support the bill before the House today.

I am particularly pleased with the qui tam or citizens suit provisions in the bill. These provisions improve the incentives for citizens with knowledge of fraudulent claims against the Federal Government to go public with the information, and afford such whistleblowers protection against retaliation by their employers.

In particular, H.R. 4827:

Protects plaintiffs and witnesses from being fired, harassed, suspended or demoted.

Allows the plaintiff in a qui tam suit to maintain his or her involvement in the suit even if the United States enters the case, to ensure that the case is effectively prosecuted on its merits.

Prevents a suit from being dismissed on the Government's assertion that it already had the information brought forward by the plaintiff, to ensure that the Government is indeed acting on the information; and

Provides guarantees of adequate monetary awards and attorneys fees for plaintiffs.

Except where an action is based completely on information already known to the Government, the qui tam plaintiff is entitled to at least 15 percent, but not more than 25 percent of the proceeds of the action or settlement, depending on his or her contribution to the prosecution of the action. This guaranteed minimum is a critical incentive and reward for persons who come forward with information, putting themselves at risk on behalf of the Federal Treasury and American taxpayers.

Mr. Speaker, I want to point out that under H.R. 4827, liability for false claims attaches to a person who has actual knowledge of the falsity of a claim, acts in deliberate ignorance of its truth or falsity, or acts in reckless disregard of its truth or falsity. Given the sorry record of hundreds of millions of dollars in fraudulent claims by Federal contractors, persons and entities doing business with the Government must be made to understand that they have an affirmative obligation to ascertain the truthfulness of the claims they submit. No longer will Federal contractors be able to bury their heads in the sand to insulate themselves from the knowledge a prudent person should have before submitting a claim to the Government. Contractors who ignore or fail to inquire about red flags that should alert them to the fact that false claims are being submitted will be liable for those false claims.

H.R. 4827 contains provisions strengthening the Government's hand in prosecuting false claims cases. And in light of Gramm-Rudman and a newfound reliance on private citizens to help right wrongs, the qui tam provisions of the bill are a critically needed supplement—and prod—to Government prosecution. Frankly, whether as a result of a lack of resources or worse, the Department of Justice has not done an acceptable job of prosecuting defense contractor fraud. I look to H.R. 4827 as a critical incentive to self-policing by Government contractors and, barring that, to effective prosecution of false claims.

I note the support for this bill of thousands of business executives and entrepreneurs from large and small businesses across America who belong to Business Executives for National Security [BENS].

And I am particularly delighted to cite the substantial contribution of John Phillips, director of the Center for Law in the Public Interest, based in Los Angeles. John is one of the most knowledgeable people in the country about how the present False Claims Act works—or fails to work. His interest in this issue arose when his office received anonymous calls from potential whistleblowers in defense plants who were aware of illegal practices, but were not sure what they should do with the information. They were fearful that if they went to the Government or their employers with the information, at best nothing would be done, and at worst, they would be fired. The center's research has been instrumental in pointing out the weaknesses of present law, and the need for the bill we have before us today.

Mr. Speaker, I am convinced that only those who cheat the U.S. Government have anything to fear from H.R. 4827. As members of BENS have noted, "the size of our deficit warrants all reasonable congressional actions to recoup the billions of dollars leaking out of the system through fraud." H.R. 4827 is sound, urgently needed legislation, and I urge its adoption.

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Mr. GLICKMAN. Mr. Speaker, I would just conclude by saying that the other body has passed a comparable bill under the leadership of the senior Senator from Iowa. It is indeed possible that this could become law this year.

Mr. BEDELL. Mr. Speaker, I rise in support of H.R. 4827, the False Claims Act Amendments of 1986. As an original cosponsor of legislation sponsored by Congressman ANDY IRELAND to restore the qui tam, or informer, provisions of the civil False Claims Act to their original strength, I am pleased that the bill before us today embodies much of our original bill.

Congressman ANDY IRELAND first introduced legislation in 1983 to restore the Lincoln qui tam law to its original strength. In the 99th Congress, Congressman HOWARD BERMAN of the Judiciary Committee assisted in drafting a superior version of the 1983 bill that contained several new elements. Finally, Congressman DAN GLICKMAN provided the leadership as chairman of the House Judiciary Subcommittee on Administrative Law by holding hearings and bringing a compromise version to the attention of the full House today.

The world's second oldest profession, some say, is stealing from the public purse. More than 100 years ago, during the Civil War,

President Abraham Lincoln became so frustrated with Government fraud and the failure of his Justice Department to deal with the problem that he pushed Congress to enact the qui tam, or informer, provisions in the False Claims Act. Lincoln fought fraud against the Government by offering persons who knew of fraud a portion of damages recovered by the Government when those persons provided their evidence to the Government or when they brought suit themselves for the Government.

Lincoln's original qui tam law remained in force until 1943, when defense contractors became concerned that it may be used more frequently, and persuaded the Attorney General to push through Congress a qui tam revision that vested almost all discretion with the Justice Department. The one legitimate objection raised at the time was that the qui tam law might encourage parasitic suits by people who really had no original information to share.

What is wrong with current law as enacted in 1943? First, when a citizen files a suit alleging fraud, the Government can decide to take over the case and then sit on it or seek to have it dismissed. Testimony before the House Judiciary Committee this year demonstrates that the current administration may have done exactly that in the Gravitt case. H.R. 4827 prevents this by establishing that the citizen who originally brought the suit may intervene to ensure diligent prosecution even after the Government has taken over the case.

Another problem with current law is that, if the Government decides not to proceed with an action, the court can still dismiss an action brought by a private citizen if the case is based upon "evidence or information the Government had when the action was brought." Clearly, there may be many cases where evidence is somewhere in the hands of some Government official, even if the Government does not have the evidence in organized form or even knows it has the information. H.R. 4827 allows the court to dismiss a citizen's action brought upon evidence previously disclosed under certain circumstances, but also provides that the court shall permit the suit if the Government was aware of the information for 6 months and took no action. This addresses the legitimate concern about parasitic suits.

Third, under current law a citizen who risks bringing suit cannot be sure of receiving any portion of damages recovered, and has few legal protections against the crudest forms of reprisals through loss of employment, et cetera. H.R. 4827 establishes specific minimum and maximum percentages of damages that citizens shall receive depending on their contribution to a successful case. In addition, the bill provides "whistleblower protections" to qui tam plaintiffs who suffer reprisals.

At a more fundamental level, some people may question whether it is right for the Government to encourage informers and to give them standing to bring suit in court on behalf of the Government. But during my years in Congress, people have told me that they have reported fraud to the proper authorities but that no one seemed interested and nothing was done. Even if the authorities are interested, they are overwhelmed by work already. Also, in many cases, the authorities will not prosecute for political reasons. In my opinion, citizen informer suits will bring more fraud to light, recover more damages for the taxpayers, and ultimately prevent much fraud by creating a far less cavalier attitute toward stealing from the public purse.

I think that my experiences cause me to have a generally balanced approach to this issue. During the last Congress, my Small Business Subcommittee was very involved in the passage of two Federal procurement reform laws, the Procurement Reform Act of 1984 (Public Law 98–525) and the Small Business and Federal Procurement Competition Enhancement Act of the 1984 (Public Law 98–577). I believe that these and more recent laws go a long way toward improving the procurement process. However, my experience tells me that we cannot legislate common sense or integrity, and that, as in Abe Lincoln's time, the Justice Department has neither the political will nor the resources to always enforce the all of the laws. We need some mechanism that uses informer suits.

However, I am also a small businessman, and I understand the dangers involved. We must be careful not to add to the legal burdens of the vast majority of honest business persons who give the Government the best product they can at the best price. I am pleased to note that H.R. 4827 provides that a defendant can receive expenses and lawyers' fees from the plaintiff if the court finds that a suit is clearly vexacious, frivolous or brought solely for purposes for harassment. Second, H.R. 4827 provides that a civil False Claims Act suit may not be brought by the Government in order to intimidate a small business out of filing a good faith action against the Government under the Contract Disputes Act of 1978.

While I believe that the bill is as balanced as possible, it will be important for Congress to oversee its implementation closely to ensure that this balanced congressional intent is respected.

I urge the House to pass this bill today and the Congress to quickly agree on legislation for the President's signature.

Mr. STARK. Mr. Speaker, I am in strong support of the False Claims Amendments Act. My colleague from Kansas and the rest of the Judiciary Committee are to be commended for bringing to the floor a bill that serves notice that the Federal Government will no longer be an easy mark for would-be cheats and frauds.

H.R. 4827 wisely and judiciously reforms the incentives facing Government contractors and employees to discourage strongly the temptation to defraud and to encourage those who see or suspect fraud to report it to the Government. It also improves the procedures under which fraud cases are handled to facilitate prosecution. The deletion of the military exemption will allow the Government to recoup losses suffered from fraud in military contracts; and the improvements in whistleblower protections are among the strongest parts of the bill.

One section that I am particularly happy to support is the qui tam provision, which allows a private citizen to sue on behalf of the Government and to share in the award if the action is successful. This section goes a long way toward restoring teeth to a law that was basically defanged in 1943 and rendered useless. I believe it is good policy to encourage citizens to help ensure that their tax dollars are spent well and to pressure the Government to follow through on cases raised by those citizens. I am very pleased to see something that I have worked on with Mr. BERMAN and other Members for nearly 2 years finally realized.

While the False Claims Amendments Act does accomplish many positive things, I don't believe we should stop here. In the next Congress I would like to see the committee return to this area to develop a framework providing for an administrative remedy to certain small-dollar cases and to further refine and strengthen the qui tam provisions. The citizens of this country do not mind paying taxes if they think that all are paying their fair share and that their money is not being wasted. The tax reform bill which will come to the floor soon brings more fairness to the revenue side; I believe that H.R. 4827 will improve confidence in the expenditure side.

Mr. GLICKMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Kansas [Mr. GLICKMAN] that the House suspend the rules and pass the bill, H.R. 4827, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. GLICKMAN. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the Senate bill (S. 1562) to amend the False Claims Act, and title 18 of the United State Code regarding penalties for false claims, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the requst of the gentleman from Kansas?

Mr. BROWN of Colorado. Reserving the right to object, Mr. Speaker, I would reserve the right to object for the purpose of asking the gentleman from Kansas to explain the measure, and I yield to the gentleman for that purpose.

Mr. GLICKMAN. Mr. Speaker, it is my intention to take up the Senate companion bill and engage in the normal legislative action, which is to strike the language of S. 1562 and insert the House-passed text which we just passed today and send it back to the other body.

Mr. BROWN of Colorado. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kansas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1562

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3729 of title 31, United States Code, is amended by—

(1) inserting "(a)" before "A person";

(2) striking out "$2,000," and inserting in lieu thereof "$10,000, unless the court finds:

"(A) the defendant furnished officials of the United States responsible for investigating false claims violations with all information known to such defendant about such violation within 30 days after the date on which the defendant first obtained the information;

"(B) the defendant fully cooperated with any Government investigation of such violation; and

"(C) at the time the defendant furnished the United States with the information about the violation, no criminal prosecution, civil action, or administrative action had commenced under this title, with respect to such violation, and the defendant did not have actual knowledge of the existence of an investigation into such violation;

in which case the court may assess not less than $5,000, or unless the court finds that the defendant is a partnership, corporation, association, or organization, the annual gross receipts of which did not exceed $1,000,000 at the time the action was brought, and which had not more than 80 employees at the time the action was brought, and the court finds the assessment of $10,000 will result in substantial hardship under the circumstances for the defendant, in which case the court may assess not less than $5,000;

(3) striking out "2 times the amount of damages" and inserting in lieu thereof "3 times the amount of damages unless the court finds the provisions of paragraphs (A) through (C), in which case the court may assess not less than 2 times the amount of damages, in addition to the amount of the consequential damages";

(4) striking out "not a member of the armed forces of the United States" the first place it appears;

(5) striking out "or" at the end of clause (5);

(6) striking out the period in clause (6) and inserting in lieu thereof "; or"; and

(7) adding at the end thereof the following:

"(7) knowingly makes, uses, or causes to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the Government.

"(b) Consequential damages as used in subsection (a) shall include damages which the United States would not have sustained but for—

"(1) the doing or commission of any of the acts prohibited by subsection (a); or

"(2) having entered into or made any contract or grant as a result of any material part of any false statement,

and which were reasonably foreseeable to the defendant at the time the alleged fraud was committed or at the time of the submission of the claim or statement.

"(c) For purposes of this section, the terms 'knowing' and 'knowingly' mean the defendant—

"(1) had actual knowledge;

"(2) acted in deliberate ignorance of the truth or falsity of the information; or

"(3) acted in reckless disregard of the truth or falsity of the information;

and no proof of specific intent to defraud is required.

"(d) For purposes of this section, 'claim' includes any request or demand whether under a contract or otherwise for money or property which is made to a contractor, grantee, or other recipient if the Government provides any portion of the money or property which is requested or demanded or if the Government will reimburse such contractor, grantee, or other recipient for any portion of the money or property which is requested or demanded.

"(e)(1) The Attorney General or his designee may apply for provisional relief to any district court having jurisdiction pursuant to section 3732 whenever he has reasonable cause to believe this section or section 3730, or 3731 may have been violated. If the court finds there is a reasonable likelihood that the United States will prevail after trial on the merits of its claims, the court shall enjoin the defendant from taking any action which the court, in the exercise of its discretion, finds reasonably likely to hinder or delay the United States in the collection of any judgment which may be obtained in such action.

"(2) In addition, the court may from time to time make such other orders as it deems appropriate, including requiring the defendant to post security for judgment, to seek the prior approval of the court before making any transfer without adequate and full consideration, paying an antecedent debt which has matured more than thirty days prior to the date of payment, or otherwise engaging in any transaction not in the usual and regular course of the defendant's business. Except as provided in this section, such application and proceedings by the Attorney General shall be governed by Rule 65 of the Federal Rules of Civil Procedure.

"(f) Any information furnished pursuant to clauses (A) through (C) of subsection (a) shall be exempt from disclosure under section 552 of title 5.".

SEC. 2. Section 3730 of title 31, United States Code, is amended to read as follows:

"§ 3730. Civil actions for false claims

"(a) The Attorney General diligently shall investigate a violation under section 3729 of this title. If the Attorney General finds that a person has violated or is violating section 3729, the Attorney General may bring a civil action under this section against the person.

"(b)(1) Except as provided in subsection (e), a person may bring a civil action for a violation of section 3729 of this title for the person and for the United States Government. The action shall be brought in the name of the Government. An action may be dismissed only if the court and the Attorney General give written consent and their reasons for consenting.

"(2) A copy of the complaint and written disclosure of substantially all material evidence and information the person possesses shall be served on the Government under Rule 4(d)(4) of the Federal Rules of Civil Procedure. The complaint shall be filed in camera, shall remain under seal for at least 60 days, and shall not be served on the defendant until the court so orders. The Government may elect to intervene and proceed with the action within 60 days after it receives both the complaint and the material evidence.

"(3) The Government may, for good cause shown, move the court for stays and for extensions of the time during which the complaint shall remain under seal. Any such motions may be supported by affidavits or other submissions in camera. The defendant shall not be required to respond to any complaint filed under this section until 20 days after the complaint is unsealed and served upon him pursuant to Rule 4 of the Federal Rules of Civil Procedure.

"(4) Before the expiration of the initial 60-day period or any stays obtained, the Government shall—

"(A) proceed with the action, in which case the action shall be conducted only by the Government; or

"(B) notify the court that it declines to take over the action, in which case the action shall be conducted by the person bringing the action.

"(5) Where a person brings an action under this subsection, no person other than the Government may intervene or bring a related action based on the facts underlying the pending action.

"(c)(1) If the Government proceeds with the action, the action is conducted solely by the Government and it shall not be bound by an act of the person who initiated the action. If he so requests, the person bringing the action shall be served with copies of all pleadings filed in the action, shall be supplied with copies of all deposition transcripts (at his expense), and shall be permitted to file objections with the court and petition for an evidentiary hearing to object to any proposed settlement or to any motion to dismiss filed by the Government. The court may grant such an evidentiary hearing only upon a showing of substantial and particularized need. The person bringing the action may move the court for leave to conduct the action in the name of the United States if, after making its election to take over the suit, the Government does not proceed with the action with reasonable diligence within six months or such reasonable additional time as the court may allow after notice.

"(2) If the Government elects not to proceed with the action, the action shall be conducted by the person who initiated the action. If the Government so requests, it shall be served with copies of all pleadings filed in the action and shall be supplied with copies of all deposition transcripts (at its expense). Where a person proceeds with the action in the name of the United States pursuant to subsection (b), the court may nevertheless permit the Government to intervene and proceed with the action by its own attorneys at a later date upon a showing of good cause.

"(3) Notwithstanding subsection (b), the Government may elect to pursue its claim through any alternate remedy available to it, including, but not limited to, any administrative civil money penalty proceeding.

"(d)(1) If the Government proceeds with the action, including any proceeding pursuant to subsection (c)(3), the person bringing the action may receive an amount the court decides is reasonable. The amount may not be less than 10 percent, nor more than 20 percent, of the proceeds of the action or settlement of a claim and shall be paid out of those proceeds.

"(2) If the Government does not proceed with an action, the person bringing the action or settling the claim may receive an amount the court decides is reasonable for

collecting the civil penalty and damages. The amount may not be less than 20 percent, nor more than 30 percent, of the proceeds of the action or settlement and shall be paid out of those proceeds.

"(3) The amount awarded under this section shall be in the discretion of the court, taking into account—

"(A) the significance of the information provided to the Government;

"(B) the contribution of the person bringing the action to the result obtained; and

"(C) whether the information which formed the basis for the suit was known to the Government.

"(4) Where the persons brought an action based primarily on disclosures of specific information relating to allegations or transactions in a criminal, civil, or administrative hearing, a congressional or Government Accounting Office report or hearing, or from the news media, the court may award such sums as it deems appropriate, not to exceed 10 percent of the recovery and taking into account the significance of the information and the role of the person in advancing the case to litigation.

"(5) In addition to any other amounts awarded by the court, the court may also award the person bringing the action reasonable attorney fees and other expenses. The Government shall not be liable for the expenses or legal fees a person incurs in bringing or defending an action under this section.

"(6) If the Government does not proceed with the action and it is litigated by the person bringing the action, the court shall award to the defendant its reasonable attorney fees and expenses if the defendant prevails in such action and the court finds that the claim of the person bringing the action was clearly frivolous, vexatious, or brought for purposes of harassment. In cases where it appears that the person is bringing an action which is frivolous, vexatious, or brought for purposes of harassment, the court shall require such assurances that payment of legal fees and expenses will be made, if such are awarded, as it deems appropriate before allowing the action to proceed.

"(7) After any final judgment is issued in any action brought under this section, or any alternate remedy available to the Government, any person who brought an action under subsection (b) shall have 60 days to petition the court for any award to which he is entitled under this section.

"(e)(1) No court shall have jurisdiction over an action brought by a former or present member of the armed services under subsection (b) of this section against a member of the armed forces arising out of such person's service in the armed forces.

"(2) No court shall have jurisdiction over an action brought against a member of Congress, a member of the judiciary, or a senior executive branch official if the action is based on evidence or information known to the Government when the action was brought.

"(3) For purposes of this subsection, 'senior executive branch official' means those officials listed in section 201(f) of Appendix IV of title 5.

"(4) In no event may a person bring an action under this section based upon allegations or transactions which are the subject of a civil suit or an administrative civil money penalty proceeding in which the Government is already a party.

"(5)(A) No court shall have jurisdiction over an action under this section based upon the public disclosure of allegations or transactions in a criminal, civil, or administrative hearing, a congressional, administrative, or Government Accounting Office report, hearing, audit or investigation, or from the news media, unless the action is brought by the Attorney General or the person bringing the action is an original source of the information.

"(B) For purposes of this paragraph, 'original source' means an individual who has direct and independent knowledge of the information on which the allegations are based and has voluntarily informed the Government or the news media prior to an action filed by the Government.

"(f) The district courts shall have jurisdiction over any action brought under State law for the recovery of funds paid by State or local governments where such action grows out of the same transaction or occurrence as an action brought under this section.

"(g) The Attorney General or his designee is authorized to make payments from Department of Justice appropriations for information or assistance leading to a civil or criminal recovery under this section, section 3729, or sections 3731 through 3734, known as the False Claims Act or under section 286, 287, or 1001 of title 18. Any such payment shall be at the discretion of the Attorney General or his designee.

"(h) In civil actions brought under this section by the United States, the provisions of section 2412(d) of title 28 shall apply.

SEC. 3. Section 3731 of title 31, United States Code, is amended by—

(1) inserting before the period at the end of subsection (b) the following: "or within three years after the date when facts material to the right of action are known or reasonably should have been known by the official of the United States charged with responsibility to act in the circumstances, whichever occurs last"; and

(2) inserting after subsection (b), the following new subsections:

"(c) In any action brought under this section or section 3729, 3730, 3732, or 3733, the United States shall be required to prove all essential elements of the cause of action, including damages, by a preponderance of the evidence.

"(d) Notwithstanding any contrary provision of law, the Federal Rules of Criminal Procedure, or the Federal Rules of Evidence, a final judgment rendered in favor of the United States in any criminal proceeding charging fraud or false statements, whether upon a verdict after trial or upon a plea of guilty or nolo contendere, shall estop the defendant from denying the essential elements of the offense in any action brought by the United States pursuant to this section or section 3729, 3730, 3732, or 3733.".

SEC. 4. Subchapter III of chapter 37 of title 31, United States Code, is amended by adding at the end thereof the following:

"§ 3732. False claims jurisdiction

"(a) The district courts of the United States, including such courts for Puerto Rico, the Virgin Islands, Guam, and any territory or possession of the United States, shall have jurisdiction over any action commenced by the United States under this section, or under section 3729, 3730, 3731, 3733, or 3734. Venue of any such action shall be proper in any district in which any defendant, or in the case of multiple defendants, any one defendant can be found, resides, transacts business, or in which any act prescribed by such sections is alleged by the United States to have occurred. A summons as required by the Federal Rules of Civil Procedure shall be issued by the district court and served at any place within the United States, Puerto Rico, the Virgin Islands, Guam, any territory or possession of the United States, or in any foreign country.

"(b) The United States Claims Court shall also have jurisdiction of any such action if the action is asserted by way of counterclaim by the United States. The United States may join as additional parties in such counterclaim all persons who may be jointly and severally liable with such party against whom a counterclaim is asserted by reason of having violated this section, or section 3729, 3730, 3731, or 3733, except that no cross-claims or third-party claims shall be asserted among such additional parties unless such claims are otherwise within the jurisdiction of the United States Claims Court.".

SEC. 5. Subchapter III of chapter 37 of the title 31, United States Code is further amended by adding at the end thereof the following:

"§ 3733. Civil investigative demands

"(a) For purposes of this section, the term—

"(1) 'False Claims Act law' means—

"(A) this section and sections 3729 through 3731 of this title, commonly known as the False Claims Act; and

"(B) any Act of Congress enacted after this section which prohibits, or makes available to the United States in any court of the United States any civil remedy with respect to any false claim, bribery, or corruption of any officer or employee of the United States;

"(2) 'False Claims Act investigation' means any inquiry conducted by any False Claims Act investigator for the purpose of ascertaining whether any person is or has been engaged in any violation of any provision of the False Claims Act law;

"(3) 'False Claims Act investigator' means any attorney or investigator employed by the Department of Justice who is charged with the duty of enforcing or carrying into effect any False Claims Act law or any officer or employee of the United States acting under direction and supervision of such attorney or investigator in connection with a False Claims Act investigation;

"(4) 'person' means any natural person, partnership, corporation, association, or other legal entity, including any State or political subdivision;

"(5) 'documentary material' includes the original or any copy of any book, record, report, memorandum, paper, communication, tabulation, chart, or other document, or data compilations stored in or accessible through computer or other information retrieval systems, together with instructions and all other materials necessary to use or interpret such data compilations, and any product or discovery;

"(6) 'custodian' means the custodian, or any deputy custodian, designated by the Attorney General; and

"(7) 'product of discovery' includes without limitation the original or duplicate of any deposition, interrogatory, document, thing, result of an inspection of land or other property, examination, or admission obtained by any method of discovery in any judicial or administrative litigation or action of an adversarial nature, any digest, analysis, selection, compilation, or any derivation thereof, and any index or manner of access thereto.

"(b)(1)(A) Whenever the Attorney General has reason to believe that any person may be in possession, custody, or control of any documentary material, or may have any information relevant, and not otherwise reasonably available, to a False Claims Act investigation, he may, prior to the institution of a civil proceeding, issue in writing and cause to be served upon such person, a civil investigative demand requiring such person to produce such documentary material for inspection and copying, to answer in writing written interrogatories, to give oral testimony concerning documentary material or information, or to furnish any combination of such material, answers, or testimony. Whenever a civil investigative demand is an express demand for any product of discovery, the Attorney General shall cause to be served, in any manner authorized by this section, a copy of such demand upon the person from whom the discovery was obtained and notify the person to whom such demand is issued of the date on which such copy was served.

"(B) Notwithstanding the provisions of section 510 of title 28, the Attorney General may not authorize the performance of any function of the Attorney General vested in him pursuant to this paragraph, by any other officer, employee, or agency.

"(2)(A) Each such demand shall state the nature of the conduct constituting the alleged violation of a False Claims Act law which is under investigation, and the applicable provision of law.

"(B) If such demand is for production of documentary material, the demand shall—

"(i) describe each class of documentary material to be produced with such definiteness and certainty as to permit such material to be fairly identified;

"(ii) prescribe a return date for each such class which will provide a reasonable period of time within which the material so demanded may be assembled and made available for inspection, and copying; and

"(iii) identify the False Claims Act investigator to whom such material shall be made available.

"(C) If such demand is for answers to written interrogatories, the demand shall—

"(i) set forth with definiteness and certainty the written interrogatories to be answered;

"(ii) prescribe dates at which time answers to written interrogatories shall be submitted; and

"(iii) identify the False Claims Act investigator to whom such answers shall be submitted.

"(D) If such demand is for the giving of oral testimony, the demand shall—

"(i) prescribe a date, time, and place at which oral testimony shall be commenced;

"(ii) identify a False Claims Act investigator who shall conduct the examination and the custodian to whom the transcript of such examination shall be submitted;

"(iii) specify that such attendance and testimony are necessary to the conduct of the investigation;

"(iv) notify the person receiving the subpoena of the right to be accompanied by an attorney and any other representative; and

"(v) describe the general purpose for which the subpoena is being issued and the general nature of the testimony, including the primary areas of inquiry, which will be taken pursuant to the subpoena.

Any such demand which is an express demand for any product of discovery shall not be returned or returnable until twenty days after a copy of such demand has been served upon the person from whom the discovery was obtained.

"(E) The date prescribed for the commencement of oral testimony pursuant to a civil investigation demand issued under this section shall be a date which is not less than seven days after the date on which demand is received, unless the Attorney General or an Assistant Attorney General designated by the Attorney General determines that exceptional circumstance are present which warrant the commencement of such testimony within a lessor period of time.

"(F) Any official before whom oral testimony under this section is to be taken shall exclude from the place where the testimony is to be taken all persons except the person giving the testimony, the attorney and any other representative for the person giving the testimony, the attorney for the Government, any person who may be agreed upon by the attorney for the Government, and the person giving the testimony, and any stenographer taking such testimony.

"(G) The Attorney General shall not authorize a second demand for oral testimony to a person unless such person requests otherwise or unless the Attorney General, after investigation, notifies that person in writing that an additional demand for oral testimony is necessary. The Attorney General may not authorize the performance of any function vested in him under this subparagraph, by any other officer, employee, or agency, notwithstanding section 510 of title 28.".

"(c)(1) No such demand shall require the production of any documentary material, the submission of any answers to written interrogatories, or the giving of any oral testimony if such material, answers, or testimony would be protected from disclosure under—

"(A) the standards applicable to subpoenas or subpoenas duces tecum issued by a court of the United States to aid in a grand jury investigation; or

"(B) the standards applicable to discovery requests under the Federal Rules of Civil Procedure, to the extent that the application of such standards to any such demand is appropriate and consistent with the provisions and purposes of this section and sections 3729 through 3731.

"(2) Any such demand which is an express demand for any product of discovery supersedes any inconsistent order, rule, or provision of law (other than this section) preventing or restraining disclosure of such product of discovery to any person. Disclosure of any product of discovery pursuant to any such express demand does not constitute a waiver of any right or privilege which may be invoked to resist discovery of trial preparation materials to which the person making such disclosure may be entitled.

"(d)(1) Any such demand may be served by any False Claims Act investigator, or by any United States Marshal or Deputy Marshal, at any place within the United States.

"(2) Any such demand or any petition filed under subsection (k) may be served upon any person who is not found within the United States, in such manner as the Federal Rules of Civil Procedures prescribe for service in a foreign country. To the extent that the courts of the United States can assert jurisdiction over such person consistent with due process, the United States District Court for the District of Columbia shall have the same jurisdiction to take any action respecting compliance with this section by such person that such court would have if such person were personally within the jurisdiction of such court.

"(e)(1) Service of any such demand or of any petition filed under subsection (k) may be made upon a partnership, corporation, association, or other legal entity by—

"(A) delivering an executed copy thereof to any partner, executive officer, managing agent, or general agent thereof, or to any agent thereof authorized by appointment or by law to receive service of process on behalf of such partnership, corporation, association, or entity;

"(B) delivering an executed copy thereof to the principal office or place of business of the partnership, corporation, or entity to be served; or

"(C) depositing such copy in the United States mails, by registered or certified mail, return receipt requested, addressed to such partnership, corporation, association, or entity at its principal office or place of business.

"(2) Service of any such demand or of any petition filed under subsection (k) may be made upon any natural person by—

"(A) delivering an executed copy thereof to the person to be served; or

"(B) depositing such copy in the United States mails by registered or certified mail, return receipt requested, addressed to such person at his residence or principal office or place of business.

"(f) A verified return by the individual serving any such demand or petition setting forth the manner of such service shall be proof of such service. In the case of service by registered or certified mail, such return shall be accompanied by the return post office receipt of delivery of such demand.

"(g) The production of documentary material in response to a demand served pursuant to this section shall be made under a sworn certificate, in such form as the demand designates, by the person, if a natural person, to whom the demand is directed or, if not a natural person, by a person having knowledge of the facts and circumstances relating to such production and authorized to act on behalf of such person. The certificate shall state that all of the documentary material required by the demand and in the possession, custody, or control of the person to whom the demand is directed has been produced and made available to the custodian.

"(h) Each interrogatory in a demand served pursuant to this section shall be answered separately and fully in writing under oath unless it is objected to, in which event the reasons for the objection shall be stated in lieu of any answer, and it shall be submitted under a sworn certificate, in such form as the demand designates, by the person, if a natural person, to whom the demand is directed or, if not a natural person, by a person or persons responsible for answering each interrogatory. The certificate shall state that all information required by the demand and in the possession, custody, control, or knowledge of the person to whom the demand is directed has been submitted. To the extent that any materials are not furnished, they shall be identified and reasons set forth with particularity for each.

"(i)(1) The examination of any person pursuant to a demand for oral testimony served under this section shall be taken before an officer authorized to administer oaths and affirmations by the laws of the United States or of the place where the examination is held. The officer before whom the testimony is to be taken shall put the witness on oath or affirmation and shall personally, or by someone acting under his direction and in his presence, record the tes-

timony of the witness. The testimony shall be taken stenographically and transcribed. When the testimony is fully transcribed, the officer before whom the testimony is taken shall promptly transmit a copy of the transcript of the testimony to the custodian. This subsection shall not preclude the taking of testimony by any means authorized by, and in a manner consistent with, the Federal Rules of Civil Procedure.

"(2) The False Claims Act investigator conducting the examination shall exclude from the place where the examination is held all other persons except the person being examined, his counsel, the officer before whom the testimony is to be taken, and any other stenographer taking such testimony.

"(3) The oral testimony of any person taken pursuant to a demand served under this section shall be taken in the judicial district of the United States within which such person resides, is found, or transacts business, or in such other place as may be agreed upon by the False Claims Act investigator conducting the examination and such person.

"(4) When the testimony is fully transcribed, the False Claims Act investigator or the officer shall afford the witness, who may be accompanied by counsel, a reasonable opportunity to examine the transcript and the transcript shall be read to or by the witness, unless such examination and reading are waived by the witness. Any changes in form or substance which the witness desires to make shall be entered and identified upon the transcript by the officer or the False Claims Act investigator with a statement of the reasons given by the witness for making such changes. The transcript shall then be signed by the witness, unless the witness in writing waives the signing, is ill, cannot be found, or refuses to sign. If the transcript is not signed by the witness within thirty days after his being afforded a reasonable opportunity to examine it, the officer or the False Claims Act investigator shall sign it and state on the record the fact of the waiver, illness, absence of the witness, or the refusal to sign, together with the reason, if any, given therefor. A refusal to sign or an unreasonable absence shall be deemed to be an acknowledgment of its accuracy and an affirmation of its contents.

"(5) The officer shall certify on the transcript that the witness was sworn in by him and that the transcript is a true record of the testimony given by the witness, and the officer or False Claims Act investigator shall promptly deliver it or send it by registered or certified mail to the custodian.

"(6) Upon payment of reasonable charges therefor, the False Claims Act investigator shall furnish a copy of the transcript to the witness only, except that the Attorney General, the Deputy Attorney General, or an Assistant Attorney General may, for good cause, limit such witness to inspection of the official transcript of his testimony.

"(7)(A) Any person compelled to appear under a demand for oral testimony pursuant to this section may be accompanied, represented, and advised by counsel. Counsel may advise such person, in confidence, with respect to any question asked of such person. Such person or counsel may object on the record to any question, in whole or in part, and shall briefly state for the record the reason for the objection. An objection may be properly made, received, and entered upon the record when it is claimed that such person is entitled to refuse to answer the question on grounds of any constitutional or other legal right or privilege, including the privilege against self-incrimination. Such person shall not otherwise object to or refuse to answer any question, and shall not by himself or through counsel otherwise interrupt the oral examination. If such person refuses to answer any question, the False Claims Act investigator conducting the examination may petition the district court of the United States pursuant to subsection (k)(1) for an order compelling such person to answer such question.

"(B) If such person refuses to answer any question on the grounds of the privilege against self-incrimination, the testimony of such person may be compelled in accordance with the provisions of part V of title 18.

"(8) Any person appearing for oral examination pursuant to a demand served under this section shall be entitled to the same fees and mileage which are paid to witnesses in the district courts of the United States.

"(j)(1) The Attorney General, or his authorized designee shall designate a False Claims Act investigator to serve as custodian of documentary material, answers to interrogatories, and transcripts of oral testimony received under this section, and shall designate such additional False Claims Act investigators as he determines from time to time to be necessary to serve as deputies to such officer.

"(2) Any person upon whom any demand under subsection (b)(1) for the production of documentary material has been served shall make such material available for inspection and copying to the False Claims Act investigator designated therein at the principal place of business of such person, or at such other place as such False Claims Act investigator and such person thereafter may agree and prescribe in writing, or as the court may direct pursuant to subsection (k)(1) on the return date specified in such demand, or on such later date as such custodian may prescribe in writing. Such person may, upon written agreement between such person and the custodian, substitute copies for originals of all or any part of such material.

"(3)(A) The False Claims Act investigator to whom any documentary material, answers to interrogatories, or transcripts of oral testimony are delivered shall take physical possession thereof, and shall transmit them to the custodian who shall be responsible for the use made thereof and for the return of documentary material pursuant to this section.

"(B) The custodian may cause the preparation of such copies of such documentary material, answers to interrogatories, or transcripts of oral testimony as may be required for official use by any authorized official or employee of the Department of Justice or any authorized officer or employee of the United States acting under the direction and supervision of an attorney or investigator of the Department of Justice in connection with any False Claims Act investigation, under regulations promulgated by the Attorney General. Notwithstanding subparagraph (C) of this subsection, such material, answers, and transcripts may be used by any such person in connection with the taking of oral testimony pursuant to this section.

"(C) Except as otherwise provided in this section, while in the possession of the custodian, no documentary material, answers to interrogatories, or transcripts of oral testimony, or copies thereof, so produced shall be available for examination, without the consent of the person who produced such material, answers, or transcripts, and, in the case of any product of discovery produced pursuant to an express demand for such material, of the person from whom the discovery was obtained, by any individual other than an authorized official or employee of the Department of Justice, or an authorized officer or employee of the United States acting under the direction and supervision of an attorney or investigator of the Department of Justice in connection with any False Claims Act investigation. Nothing in this section is intended to prevent disclosure to either body of the Congress or to any authorized committee or subcommittee thereof, or to any other agency of the United States for use by such agency in furtherance of its statutory responsibilities. Disclosure to any other agency of the United States shall be allowed only upon application, made by the custodian to a United States district court, showing substantial need for use by such agency in furtherance of its statutory responsibilities.

"(D) While in the possession of the custodian and under such reasonable terms and conditions as the Attorney General shall prescribe—

"(i) documentary material and answers to interrogatories shall be available for examination by the person who produced such material or answers, or by an authorized representative of such person; and

"(ii) transcripts of oral testimony shall be available for examination by the person who produced such testimony, or his counsel.

"(4) Whenever any attorney of the Department of Justice has been designated to appear before any court, grand jury, or Federal administrative or regulatory agency in any case or proceeding, the custodian of any documentary material, answers to interrogatories, or transcripts of oral testimony may deliver to such attorney such material, answers, or transcripts for official use in connection with any such case, grand jury, or proceeding as such attorney determines to be required. Upon the completion of any such case, grand jury, or proceeding, such attorney shall return to the custodian any such material, answers, or transcripts so delivered which have not passed into the control of such court, grand jury, or agency through the introduction thereof into the record of such case or proceeding.

"(5) If any documentary material has been produced in the course of any False Claims Act investigation by any person pursuant to a demand under this section, and—

"(A) any case or proceeding before any court or grand jury arising out of such investigation, or any proceeding before any Federal administrative or regulatory agency involving such material, has been completed, or

"(B) no case or proceeding in which such material may be used has been commenced within a reasonable time after completion of the examination and analysis of all documentary material and other information assembled in the course of such investigation,

the custodian shall, upon written request of the person who produced such material, return to such person any such material (other than copies thereof furnished to the custodian pursuant to paragraph (2) of this subsection or made by the Department of Justice pursuant to paragraph (3)(B) of this subsection) which has not passed into the control of any court, grand jury, or agency

through the introduction thereof into the record of such case or proceedings.

"(6) In the event of the death, disability, or separation from service in the Department of Justice of the custodian of any documentary material, answers to interrogatories, or transcripts of oral testimony produced under any demand issued pursuant to this section, or of the official relief of such custodian from responsibility for the custody and control of such material, answers or transcripts, the Attorney General or his authorized designee shall promptly (A) designate another False Claims Act investigator to serve as custodian of such material, answers, or transcripts, and (B) transmit in writing to the person who produced such material, answers, or testimony notice as to the identity and address of the successor so designated. Any successor designated under this subsection shall have, with regard to such material, answers or transcripts, all duties and responsibilities imposed by this Act upon his predecessor in office with regard thereto, except that he shall not be held responsible for any default or dereliction which occurred prior to his designation.

"(k)(1) Whenever any person fails to comply with any civil investigative demand served upon him under subsection (b) or whenever satisfactory copying or reproduction of any such material cannot be done and such person refuses to surrender such material, the Attorney General, through such officers or attorneys as he may designate, may file in the district court of the United States for any judicial district in which such person resides, is found, or transacts business, and serve upon such person a petition for an order of such court for the enforcement of this section.

"(2)(A) Within twenty days after the service of any such demand upon any person, or at any time before the return date specified in the demand, whichever period is shorter, or within such period exceeding twenty days after service or in excess of such return date as may be prescribed in writing, subsequent to service, by any False Claims Act investigator named in the demand, such person may file, in the district court of the United States for the judicial district within which such person resides, is found, or transacts business, and serve upon such False Claims Act investigator a petition for an order of such court, modifying or setting aside such demand. In the case of a petition addressed to an express demand for any product of discovery, a petition to modify or set aside such demand may be brought only in the district court of the United States for the judicial district in which the proceeding in which such discovery was obtained is or was last pending.

"(B) The time allowed for compliance with the demand, in whole or in part, as deemed proper and ordered by the court shall not run during the pendency of such petition in the court, except that such person shall comply with any portions of the demand not sought to be modified or set aside. Such petition shall specify each ground upon which the petitioner relies in seeking such relief, and may be based upon any failure of such demand to comply with the provisions of this section or upon any constitutional or other legal right or privilege of such person.

"(3) Within twenty days after the service of any express demand for any product of discovery upon, or at any time before, the return date specified in the demand, whichever period is shorter, or within such period exceeding twenty days after service or in excess of such return date as may be prescribed in writing, subsequent to service, by any False Claims Act investigator named in the demand, the person from whom such discovery was obtained may file, in the district court of the United States for the judicial district in which the proceeding in which such discovery was obtained is or was last pending, and serve upon any False Claims Act investigator named in the demand and upon the recipient of the demand, a petition for an order of such court modifying or setting aside those portions of the demand requiring production of any such product of discovery. Such petition shall specify each ground upon which the petitioner relies in seeking such relief and may be based upon any failure of such portions of the demand to comply with the provisions of this section, or upon any constitutional or other legal right or privilege of the petitioner. During the pendency of such petition, the court may stay, as it deems proper, compliance with the demand and the running of the time allowed for compliance with the demand.

"(4) At any time during which any custodian is in custody or control of any documentary material, answers to interrogatories delivered, or transcripts of oral testimony given by any person in compliance with any such demand, such person, and in the case of an express demand for any product of discovery, the person from whom such discovery was obtained, may file, in the district court of the United States for the judicial district within which the office of such custodian is situated, and serve upon such custodian, a petition for an order of such court requiring the performance by such custodian of any duty imposed upon him by this section.

"(5) Whenever any petition is filed in any district court of the United States under this section, such court shall have jurisdiction to hear and determine the matter so presented, and to enter such order or orders as may be required to carry into effect the provisions of this section. Any final order so entered shall be subject to appeal pursuant to section 1291 of title 28. Any disobedience of any final order entered under this section by any court shall be punished as a contempt thereof.

"(6) To the extent that such rules may have application and are not inconsistent with the provisions of this section, the Federal Rules of Civil Procedure shall apply to any petition under this subsection.

"(7) Any documentary material, answers to written interrogatories, or oral testimony provided pursuant to any demand issued under this section and sections 3729 through 3731 shall be exempt from disclosure under section 552 of title 5.".

SEC. 6. (a) Subchapter III of chapter 37 of title 31, United States Code, is further amended by adding at the end thereof the following:

"§ 3734. Whistleblower protection

"Any employee who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms or conditions of such employment by his employer because of the good faith exercise by such employee on behalf of himself or others of any option afforded by this Act, including investigation for, initiation of, testimony for, or assistance in an action filed or to be filed under this Act, shall be entitled to all relief necessary to make him whole. Such relief shall include reinstatement with full seniority rights, backpay with interest, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorney fees. In addition, the employer shall be liable to such employee for twice the amount of backpay and special damages and, if appropriate under the circumstances, the court shall award punitive damages.".

(b) The table of sections for chapter 37 of title 31, United States Code, is amended by adding at the end thereof the following new items:

"3732. False claims jurisdiction.

"3733. Civil investigative demands.

"3734. Whistleblower protection.".

SEC. 7. (a) Section 286 of title 18, United States Code, is amended by striking out "$10,000" and inserting in lieu thereof "$1,000,000 notwithstanding the provisions of section 3623,".

(b) Section 287 of title 18, United States Code, is amended by striking out "$10,000, or imprisoned not more than five years" and inserting in lieu thereof "$1,000,000, or imprisoned for not more than ten years, or both, notwithstanding the provisions of section 3623".

SEC. 8. This Act and the amendments made by this Act shall become effective upon the date of enactment.

MOTION OFFERED BY MR. GLICKMAN

Mr. GLICKMAN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. GLICKMAN. moves to strike out all after the the enacting clause of the Senate bill, S. 1562, and to insert in lieu thereof the text of H.R. 4827, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "An Act to amend title 31, United States Code, with respect to the fraudulent use of public property or money."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 4827) was laid on the table.

GENERAL LEAVE

Mr. GLICKMAN. Mr. Speaker, I ask unanimous-consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just concluded.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kansas?

There was no objection.

PERMISSION FOR COMMITTEE ON RULES TO FILE A RULE ON H.R. 5484, OMNIBUS DRUG BILL OF 1986

Mr. WRIGHT. Mr. Speaker, I have a unanimous-consent request. I have discussed this request with the minority leader.

I ask unanimous consent that the Committee on Rules may have until midnight tonight to file a rule to ac-

company the bill, H.R. 5484, the Omnibus Drug Bill of 1986.

The SPEAKER pro tempore. (Mr. MONTGOMERY). Is there objection to the request of the gentleman from Texas?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 5316, BANKRUPTCY JUDGES AND UNITED STATES TRUSTEES ACT OF 1986

Mr. GLICKMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5316) to amend title 28 of the United States Code to provide for the appointment of additional bankruptcy judges, to provide for the appointment of United States trustees to serve in bankruptcy cases in judicial districts throughout the United States, to make certain changes with respect to the role of United States trustees in such cases, and for other purposes; with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kansas? The Chair hears none and, without objection, appoints the following conferees: Messrs. RODINO, EDWARDS of California, HUGHES, SYNAR, GLICKMAN, FEIGHAN, FISH, SHAW, MOORHEAD, and HYDE.

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 4787

Mr. BERMAN. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of the bill, H.R. 4787.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

REPEAL AND AMENDMENT OF CERTAIN SECTIONS OF THE POWERPLANT AND INDUSTRIAL FUEL USE ACT OF 1978

Mr. SHARP. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4669) to repeal and amend certain sections of the Powerplant and Industrial Fuel Use Act of 1978, as amended.

The Clerk read as follows:

H.R. 4669

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—FUEL USE

SECTION 1. REPEAL OF CERTAIN SECTIONS OF THE POWERPLANT AND INDUSTRIAL FUEL USE ACT OF 1978.

(a) IN GENERAL.—The following provisions of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 et seq.) are repealed:

(1) Title II (42 U.S.C. 8311–8324).

(2) Section 302 (42 U.S.C. 8342).

(3) Section 401 (42 U.S.C. 8371).

(4) Section 402 (42 U.S.C. 8372).

(5) Section 405 (42 U.S.C. 8375).

(6) Title V (42 U.S.C. 8391).

(7) Section 801 (42 U.S.C. 8481).

(b) CLERICAL AMENDMENT.—The table of contents in section 101(b) of the Powerplant and Industrial Fuel Use Act of 1978 is amended by striking the items relating to the provisions repealed by subsection (a) of this section.

(c) CONFORMING AMENDMENTS.—(1) Section 102 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301) is amended—

(A) by striking "and major fuel-burning installations" and "and new" wherever they appear, and

(B) in subsection (b), by striking paragraphs (2), (3), and (6) and redesignating paragraphs (4), (5), (7), (8), (9), (10), (11), and (12) as paragraphs (2), (3), (4), (5), (6), (7), (8), and (9), respectively.

(2) Section 103 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8302) is amended—

(A) in subsection (a)(13)(B)—

(i) by striking clause (ii)(III);

(ii) by striking "; or" at the end of clause (ii)(II) and inserting a period; and

(iii) by inserting "and" at the end of clause (ii)(I);

(B) in subsection (a)(15), by striking "or new electric" and all that follows and inserting "electric powerplant.";

(C) in subsection (a)(16), by striking "or installation" each place it appears;

(D) in subsection (a)(19), by striking "or a major fuel-burning installation";

(E) in subsection (a)(20), by striking "or major fuel-burning installation" and "in the case of powerplants,", and by striking "In the case of an electric powerplant, such" and inserting "Such";

(F) in subsection (b), by striking "or major fuel-burning installation" wherever it appears;

(G) in subsection (b)(1)(D), by striking everything after "synthetic gas involved" and inserting a period; and

(H) by striking subsection (b)(3).

(3) Section 104 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8303) is amended to read as follows:

"SEC. 104. TERRITORIAL APPLICATION.

"The provisions of this Act shall apply in all the States, Puerto Rico, and the territories and possessions of the United States.".

(4) Section 303 of the Powerplant and Industrial Fuel Use Act of 1978 (12 U.S.C. 8343) is amended—

(A) by striking "or installation" and "or installations" wherever they appear;

(B) in subsection (a)(1) by striking "or 302";

(C) by striking subsection (a)(3);

(D) by amending subsection (b)(1) to read as follows:

"(1) The Secretary may prohibit, by rule, the use of natural gas or petroleum under section 301(b) in existing electric powerplants."; and

(E) by amending the last sentence of subsection (b)(3) to read as follows: "Any such rules shall not apply in the case of any existing electric powerplant with respect to which a comparable prohibition was issued by order.".

(5) Subtitle B of title III of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8351–8354) is amended by striking "or installation" each place it appears.

(6) Section 311(a)(3) of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8351(a)(3)) is amended by striking "or 302".

(7) Section 312 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8352) is amended—

(A) by striking subsection (d)(2);

(B) in subsection (d)(3), by striking "In the case of an existing electric powerplant, the" and inserting "The"; and

(C) by striking subsections (j), (k), and (l).

(8) Section 313(a) of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8353(a)) is amended by striking "(i), or (j)" and inserting "or (i)".

(9) Section 403 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8373) is amended—

(A) in subsection (a)(1), by striking ", major fuelburning installation, or other unit" and ", installation, or unit";

(B) in subsection (a)(2), by striking ", installation, or other unit" and ", installation, or unit";

(C) in subsection (a)(2), by striking the last sentence; and

(D) by striking subsections (a)(3) and (c).

(10) Section 404(c) of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8374(c)) is amended by striking "new or".

(11) Section 701 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8411) is amended—

(A) in subsection (b), by striking "(other than under section 402)" and "or installation";

(B) by striking subsection (c);

(C) in the title of subsection (d), by striking "AND EXEMPTIONS";

(D) in the first sentence of subsection (d)(1), by striking "or any petition for any other granting an exemption (or permit)" and "(other than under section 402)";

(E) in subsection (d)(1)(B), by striking "or in the consideration of such petition";

(F) in subsection (f), by striking "402 or" the first place it appears, and by striking "or a petition for an exemption (or permit) under this Act (other than under section 402 or 404),"; and

(G) by striking subsection (g).

(12) Section 702 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8412) is amended—

(A) in the title of subsection (a), by striking "OR EXEMPTION";

(B) in subsection (a), by striking "or granting an exemption (or permit)";

(C) by striking subsection (b);

(D) in the first sentence of subsection (c)(1), by striking ", or by the denial of a petition for an order granting an exemption (or permit) referred to in subsection (b),";

(E) in the first sentence of subsection (c)(1), by striking "such rule, order, or denial is published under subsection (a) or (b)" and inserting "such rule or order is published under subsection (a)";

(F) in the first sentence of subsection (c)(2), by striking "the rule, order, or denial" and inserting "the rule or order";

(G) in the second sentence of subsection (c)(2), by striking "(or denial thereof)"; and

(H) in subsection (c)(3), by striking "any such rule, order, or denial" and inserting "any such rule or order".

(13) Section 711 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8421) is amended by striking in the first sentence of subsection (a), "or major fuel-burning installation".

(14) Section 721 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8431) is amended by striking subsection (c).

(15) Section 722 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8432) is amended by striking "(other than section 402)".

(16) Section 723 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8433) is amended—

(A) in subsection (a), by striking "(other than section 402)"; and

(B) by striking subsections (b) and (c).

(17) Section 731 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8441) is amended—

(A) in subsections (a)(1) and (g)(3), by striking "title II or"; and

(B) in subsection (e)(1), by striking "or major fuel-burning installation" and "or major fuel burning installation".

(18) Section 745 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8455) is amended by striking in the first sentence of subsection (a), "from new and existing electric powerplants and major fuel-burning installations" and inserting "from existing electric powerplants".

(19) Section 761 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8471) is amended—

(A) in subsection (a), by striking "any existing or new electric powerplant or major fuel-burning installation" and inserting "any existing electric powerplant"; and

(B) in subsection (b), by striking "new or" and "section 212(b) or".

(20) Section 763 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8473) is amended by striking "or major fuel-burning installation" each place it appears, and by striking paragraph (2)(B).

SEC. 2. EFFECTIVE DATE.

The amendments made by this title shall take effect on the first day of the first calendar month beginning more than ten days after the date of the enactment of this Act.

TITLE II—INCREMENTAL PRICING

SEC. 201. REPEAL OF INCREMENTAL PRICING REQUIREMENTS.

(a) REPEAL.—Title II of the Natural Gas Policy Act of 1978 (15 U.S.C. 3341-3348) is repealed.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 121(b) of such Act (15 U.S.C. 3331(b)) is amended—

(A) by striking "Effective beginning on the effective date of the incremental pricing rule required under section 201, the" and inserting in lieu thereof "The"; and

(B) by striking "shall cease to apply" and inserting in lieu thereof "shall not apply".

(2) Section 502 of such Act (15 U.S.C. 3412) is amended by striking subsection (d).

(3) Section 504(b) of such Act (15 U.S.C. 3414(b)) is amended—

(A) by striking paragraph (3) and redesignating subsequent paragraphs accordingly;

(B) in paragraph (1), by striking "paragraphs (2) and (3)" and inserting in lieu thereof "paragraph (2)"; and

(C) in paragraph (3) (as redesignated), by striking "paragraph (1), (2), or (3)" and inserting in lieu thereof "paragraph (1) or (2)".

(4) Section 506 of such Act (15 U.S.C. 3416) is amended—

(A) in subsection (a)(1) by striking "section 504(b)(4)" and inserting in lieu thereof "section 504(b)(3)"; and

(B) by striking subsection (d).

(5) Section 507(a) of such Act (15 U.S.C. 3417(a)) is amended by inserting "and" at the end of paragraph (1), by striking "; and" at the end of paragraph (2) and inserting in lieu thereof a period, and by striking paragraph (3).

(6) Section 507(c) of such Act (15 U.S.C. 3417(c)) is amended—

(A) by striking "sections 122, 202, and 206" and inserting in lieu thereof "section 122"; and

(B) by striking paragraph (3).

(7) Section 601(c)(2) of such Act (15 U.S.C. 3431(c)(2)) is amended—

(A) by striking "—(A)" and inserting in lieu thereof a comma;

(B) by striking "and" at the end of former subparagraph (A); and

(C) by striking "(B) such recovery is not inconsistent with any requirement of any rule under section 201 (including any amendment under section 202),".

(8) The table of contents for such Act is amended by striking the items relating to title II.

(c) EFFECTIVE DATE.—The repeal and amendments made by this section shall apply—

(1) with respect to requirements made applicable under section 201 of the Natural Gas Policy Act of 1978, to any costs incurred by interstate pipelines after the date of the enactment of this Act; and

(2) with respect to any requirements which may be construed to be applicable under section 202 of the Natural Gas Policy Act of 1978, to any costs of an interstate pipeline, whenever incurred.

TITLE III—LNG IMPORTATION

SEC. 301. REVOCATION OF IMPORT ORDER.

In the case of facilities to which this title applies, any order issued under section 3 of the Natural Gas Act before the date of the enactment of this Act authorizing the importation of natural gas to be processed or transported by such facilities is hereby revoked.

SEC. 302. PROHIBITION OF RECOVERY OF COSTS RELATED TO LNG VOLUMES AND OCEAN TRANSPORTATION.

With respect to any volume of LNG which has been authorized for importation through facilities to which this title applies but which has not been imported, the Federal Energy Regulatory Commission shall not permit the recovery in rates by any natural-gas company of any payment made or amount awarded with respect to such LNG volumes or the ocean transportation thereof.

SEC. 303. PROHIBITION OF RECOVERY OF COSTS RELATED TO FACILITIES.

With respect to facilities to which this title applies, the Federal Energy Regulatory Commission shall not permit recovery of or on any equity investment.

SEC. 304. NEW IMPORT AUTHORITY.

No order authorizing the importation of LNG through facilities to which this title applies shall be issued pursuant to section 3 of the Natural Gas Act unless the Secretary of Energy determines, after a hearing on the record and in addition to any other criteria such Secretary deems appropriate, that—

(1) the delivered price of the LNG is competitive with the delivered price of alternate supplies of natural gas available to the market involved; and

(2) the contract terms governing the sale of such LNG are responsive to changes in the natural gas market.

SEC. 305. APPLICABILITY.

This title shall apply with respect to—

(1) any facility constructed pursuant to a certificate of public convenience and necessity under section 7(c) of the Natural Gas Act, and

(2) any tankers, owned by United States persons, constructed for the ocean transportation of LNG to any such facility

which commenced deliveries of LNG after April 1, 1980, and before the date of the enactment of this Act.

SEC. 306. DEFINITIONS.

For the purposes of this title—

(1) the term "LNG" has the same meaning given such term in section 2(11) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1671(11)); and

(2) the term "natural-gas company" has the same meaning given such term in section 2(6) of the Natural Gas Act.

TITLE IV—EXEMPTION FROM FEDERAL REGULATION

SEC. 401. EXEMPTION FROM FEDERAL REGULATION.

Any interstate natural gas pipeline—

(1) which on September 3, 1986, is recovering the cost of all its interstate transportation facilities under rates set—

(A) solely by two or more State regulatory commissions; and

(B) as a component of its retail sales rates;

(2) of which the Federal Energy Regulatory Commission certificated portion is less than 30 miles long; and

(3) which was the subject of a Federal Energy Regulatory Commission declaratory order issued July 24, 1986, with Federal Energy Regulatory Commission docket No. CP86-316-000,

shall be subject to such State commission jurisdiction with respect to such transportation, and shall be exempt from regulation of such rates by the Federal Energy Regulatory Commission.

TITLE V—EXPEDITED DECISION

SEC. 501. EXPEDITED DECISION.

The Federal Energy Regulatory Commission shall, not later than January 31, 1987, issue a final order in *Central Illinois Light Company* v. *Panhandle Eastern Pipe Line Company*, Federal Energy Regulatory Commission docket No. RP82-105-000 filed June 10, 1982.

The SPEAKER pro tempore. Is a second demanded?

Mr. FIELDS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Indiana [Mr. SHARP] will be recognized for 20 minutes and the gentleman from Texas [Mr. FIELDS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. SHARP].

Mr. SHARP. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, let me indicate to our colleagues what the bill before us will do.

Title I will repeal the Fuel Use Act of 1978. This act is an anachronistic law that barred large energy consumers from burning oil and gas because oil and gas were going to be high

priced and scarce. Those predictions have proved wrong and now repealing the Fuel Use Act will give distressed U.S. producers new markets and give consumers the right to make their own fuel selections in an increasingly deregulated energy marketplace.

I might also add that we will save between $1 and $2 billion of cost at the Department of Energy for administering this act.

Title II repeals the incremental pricing requirement of the Natural Gas Policy Act of 1978. That provision, too, was anachronistic or is anachronistic today, given changes in the gas markets.

Title III sets tough, market-based tests for any new imports of Algerian liquefied natural gas. It also bans the pass through of most of the costs associated with the now failed Trunkline LNG import project.

Title IV provides a narrow exemption from Federal Energy Regulatory Commission regulation for an Iowa gas utility that has for decades been regulated by the Illinois and Iowa State Commissions and has also fallen under the jurisdiction of the FERC, and there is no one I believe who thinks there is adequate reason for that to be the case today.

Title V orders an expedited Federal Energy Regulatory Commission decision by January 31, 1987, in the so-called CILCO case, which has been pending at the Commission for 4 years. This provision does not tell the Energy Commission what to say or how to rule, but does set a final deadline for their decision.

Mr. Speaker, I want to stress that the provisions in this package have bipartisan support. They are among the various gas issues probably the least controversial. Several are, however, of considerable significance. Most of them have enjoyed a broad base of support as gas legislation has been considered over the last 4 years, but as people know who have observed or participated in the legislative process on natural gas issues, it has been extremely difficult throughout the 40- or 50-year history of gas legislation to achieve consensus on a whole range of very significant issues.

We did attempt to seek a consensus on some broader and very important issues relative to wellhead pricing. Especially we worked hard on trying to receive a consensus on common carriage, open carriage or open access to the pipelines which many of us believe is very important to be accomplished, but I am afraid that on those larger questions the potential for being bogged down is enormous. Therefore we are here to do what is doable with these less controversial issues in hopes that we can make these changes in natural gas regulation and legislation to improve the natural gas markets both from the producer's point of view and the consumer's point of view and hopefully we will be able to see in the next Congress further action on other critical issues relative to natural gas.

Mr. FIELDS. Mr. Speaker, I yield such time as he may use to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Speaker, today the House is considering H.R. 4669, a bill to repeal certain key provisions of the Powerplant and Industrial Fuel Use Act.

The motion to suspend the rules also contains an unrelated amendment to prohibit the pass-through of the settlement costs involving a liquefied natural gas facility stemming from a contract between an interstate natural gas pipeline and the Government of Algeria.

The amendment further prohibits future LNG imports unless the price is competitive and flexible.

The amendments also adds repeal of the incremental pricing provisions of title II of the Natural Gas Policy Act of 1978 and makes it clear that a certain distribution company is not considered an interstate pipeline under the Natural Gas Act by virtue of a supply line that runs into another State.

One thing should be made crystal clear from the outset. There is no disagreement over whether the Fuel Use Act should or should not be repealed. Its repeal is in H.R. 2734, the Comprehensive Natural Gas bill, introduced by Congressman BILL RICHARDSON and myself, along with a bipartisan majority of the Fossil Fuel Subcommittee on June 12, 1985.

Furthermore, fuel use repeal is in H.R. 4604, the natural gas bill introduced on behalf of the Reagan administration this year. In fact, President Reagan has called for its repeal several times.

Furthermore, I am certainly sympathetic to the regional issues addressed by the amendment contained in the motion to suspend the rules and pass H.R. 4669, as so amended.

I have discussed the LNG situation with the affected Members, as well as the technical amendment relating to the definition of an interstate pipeline.

In fact, I have no substantive objection to the provisions and indicated my interest in working with the affected Members to address them in a timely manner; however, it should be noted for the record and vigorously observed that this legislation, even with the addition of the repeal of incremental pricing, fails to adequately address the problems now facing the domestic oil and gas industry.

It is particularly ironic that we are taking up H.R. 4669 with a nongermane amendment containing miscellaneous measures. I do not doubt the intention of those who sought the nongermane provisions. As just noted, I have great sympathy for them.

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Rather, my remarks are inspired by those of my colleagues on the Committee on Energy and Commerce from the other side of the aisle who voted to exclude from consideration in subcommittee and full committee markup my amendments to get to the heart of the matters affecting the domestic industry. Why is it that germaneness precludes us from even taking up gradual removal of price controls and mandatory contract carriage, but germaneness can be discarded to deal with relatively less important local concerns.

The lack of comprehensive natural gas legislation in the 99th Congress due to the actions of the majority party is in stark contrast to the rhetoric coming from my California colleague, the gentleman from California [Mr. COELHO]. I do not see the gentleman on the floor now; perhaps he will find his time to be here shortly. The chairman of the Democratic Congressional Campaign Committee on August 16, 1986, gave the Democrat response to the President's weekly radio address. His theme was a populist revolt based on discontent in such key sectors of the economy as textiles, steel, autos, timber, and yes, even oil and gas.

Mr. Speaker, let the record show that this President and his Secretary of Energy have been diligently seeking that this House act on H.R. 4604 or similar natural gas reform legislation.

As Mr. COELHO stated, the news is indeed bad in energy States. The real issue, though, is, "Who is trying to do something about it, and who is standing in the way?"

No amount of fancy parliamentary footwork can avoid the fact that this bill is an embarrassingly empty response to the problems of the domestic industry. We should be ashamed that this is the most that we can do.

This legislation merely rectifies a mistake in natural gas energy policy that should never have been made in the first place. It is heartwarming to see our Democrat colleagues acknowledge that Jimmy Carter's energy policy was wrongheaded. The Fuel Use Act represents the worst of the philosophy on energy borrowed from Chicken Little that the sky was falling in, that shortages of natural gas were inevitable, and that as a result, the Federal Government should regulate the use of fuel in certain key applications. Its repeal is long overdue, but one must seriously question whether this bill is but a whimper of the response to the cries for comprehensive natural gas reform that we have heard from many quarters.

With a soft gas market characterized by falling prices and ample supplies,

the need for price decontrol and access to transportation is both never more compelling for producers and never more beneficial to consumers, be they residential, commercial, or industrial.

Mr. FIELDS. Mr. Speaker, may I inquire how much time was used?

The SPEAKER pro tempore (Mr. MONTGOMERY). The gentleman from California [Mr. DANNEMEYER] consumed 6 minutes.

Mr. FIELDS. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa [Mr. TAUKE].

Mr. TAUKE. Mr. Speaker, section 401 of this legislation corrects a problem that affects a natural gas distribution company located in my congressional district. This particular distribution company obtains natural gas from an interstate pipeline in Illinois and has built facilities to deliver this gas to its customers in northeast Iowa. Because the transportation of this gas crosses a State line, the local distribution company is considered an "interstate pipeline" and is subject to regulation by the Federal Energy Regulatory Commission. Therein lies the problem, which is corrected by H.R. 4669.

This local distribution company has always operated as a local distribution company and is regulated by two State public utility commissions. It doesn't make sense for this local distribution company to be regulated by the Federal Energy Regulatory Commission [FERC] as an interstate pipeline, and this legislation removes this local distribution company from regulation by the FERC.

The removal of this additional—and unnecessary—regulatory hurdle will facilitate the transportation of natural gas for users in my congressional district. Currently, a fertilizer manufacturer in Clinton, IA, is trying to reduce its cost of natural gas—which is the major raw material associated with the production of fertilizer—by purchasing its gas directly from a producer. Unfortunately, because of current law the local distribution company must jump through FERC's hoops, and this situation is preventing the fertilizer company from purchasing cheaper gas. This language, in H.R. 4669, will correct this regulatory quagmire and may well prevent the loss of 140 jobs in eastern Iowa.

Finally, I wish to express my appreciation to the chairman of the Energy and Commerce Committee, Congressman DINGELL, and of the chairman of the Fossil Fuels Subcommittee, Congressman SHARP, as well as ranking Republicans of the full committee and the subcommittee, Congressmen LENT and DANNEMEYER, for their support and assistance in correcting this problem. I urge my colleagues to support passage of H.R. 4669.

Mr. SHARP. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. BRYANT], the principal sponsor of the repeal of the Fuel Use Act.

Mr. BRYANT. Mr. Speaker, I want to say a special thanks to the chairman of the full committee, the gentleman from Michigan [Mr. DINGELL], and the chairman of the subcommittee, the gentleman from Indiana [Mr. SHARP], as well as the gentleman from Massachusetts [Mr. MARKEY], for their expedited handling of this important matter, and I would like to say that I identify very much with the frustrations expressed by the gentleman from California [Mr. DANNEMEYER] earlier with regard to his desire for even further improvements in the law with regard to energy. He cannot get what he wants today; I cannot get what I want today, either, which is an oil import fee.

I cannot get that because the administration opposes it, and Mr. DANNEMEYER cannot get what he wants because some Members of this Congress oppose it, but what we have before us today is something that we all want, and that is the repeal of the Fuel Use Act.

This measure was introduced by me with 20 bipartisan cosponsors in April. It has moved rapidly because of widespread agreement that it is very necessary to the health of the energy industry and to the health of the consuming public.

The simple fact is that the restrictions imposed by the Fuel Use Act on industrial and utility users are no longer necessary. They were imposed in a time of shortage, but in today's marketplace those restrictions not only contradict the forces of the marketplace, but contradict all logic as well. If there was ever a time to repeal the fuel use restrictions, it would be now, at a time of overabundant supplies.

Under current law, new plants for either industrial or utility purposes are prohibited from burning oil or natural gas as a primary fuel. This legislation would repeal those restrictions. They have inhibited market forces by dictating, often to the disadvantage of both our critical energy industry and to the consuming public, fuel choices for utilities and major industrial users. With a surplus of oil and gas worldwide, surely this is the best time to repeal them.

I would point out that in 1985, the last year for which figures are available, 81 petitions out of 105 filed for waivers from the Fuel Use Act were not acted upon. Those 81 petitions had a value of $500 million. The passage of this act will interject that $500 million into the energy economy. I urge every Member to support this bill today.

Mr. FIELDS. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, as a cosponsor of H.R. 4669, legislation to repeal major portions of the Fuel Use Act, I am pleased that this legislation, along with a committee amendment repealing incremental pricing, is before the House today.

The Powerplant and Industrial Fuel Use Act was one of five elements of the Carter administration's National Energy Act of 1978. The act prohibited the use of oil and gas as primary fuel in new electric powerplants and in new major fuel-burning installations. The act also required that new facilities be capable of using coal or an alternate fuel. Finally, the Fuel Use Act required the conversion of existing electric powerplants to coal or an alternate fuel by 1990. The conversion provision of the Fuel Use Act was repealed only a few years after enactment in 1981.

Not a single Republican signed the conference report on the Fuel Use Act. I am happy to see that many of my Democratic colleagues have recognized the error of their ways and are now supporting repeal of the ill-begotten Powerplant and Industrial Fuel Use Act.

The Natural Gas Policy Act was another segment of the Carter administration's National Energy Act. The committee amendment of H.R. 4669 repeals one portion of the NGPA—incremental pricing. Incremental pricing was intended to protect residential fuel users from rising natural gas prices by forcing industrial users to pay a greater share of new gas costs. Incremental pricing, too, was a dismal failure. Residential gas prices were increased, not decreased, by incremental pricing as industrial users switched to alternative fuels leaving residential customers with even greater fixed gas costs then they would have borne if industrial users had continued to burn natural gas.

So, I strongly support repealing both these provisions of the previous administration's energy policy. However, I am extremely disappointed that H.R. 4669 addresses only the Fuel Use Act and incremental pricing. While repeal of the Fuel Use Act and incremental pricing are first steps in removing burdensome, counterproductive regulations from natural gas producers and consumers, they are only first steps.

When the Energy and Commerce Committee began reviewing possible natural gas legislation earlier this summer, I had high hopes that current low natural gas prices combined with abundant supply would create an atmosphere in which a rational natural gas policy could be crafted.

The distortions caused by the Natural Gas Policy Act are evident for all who want to see. Congress legislatively encouraged producers to explore for high-cost gas while leaving less-costly gas in the ground. Roughly one-half of all natural gas was decontrolled on January 1, 1985. Liberal energy organi-

zations woefully predicted that without Government regulation prices would dramatically "fly up." Instead, prices have plummeted to half their pre-1985 level. We all know now how flawed the theories were of those who predicted dramatic price fly-ups. Fully decontrolling natural gas could unlock trillions of cubic feet of low-cost natural gas which will not otherwise be produced. By unlocking low-cost gas, decontrol would be good for both producers and consumers of natural gas. Yet, full decontrol of natural gas is not contained in this bill.

I am also disappointed that H.R. 4669 does not contain language requiring a natural gas pipeline to transport gas from a producer to an end user on a nondiscriminatory basis. Those seeking to sell gas and those seeking to buy gas need the assurance of access to transportation to open up the marketplace in natural gas. Although the Federal Energy Regulatory Commission's order 436 is a bold step in creating an open access structure, order 436 is not a mandatory program. The FERC needs statutory authority to mandate nondiscriminatory transportation.

I believe Congress still could agree to simple language giving authority to the FERC to mandate gas transportation. Both the producers and consumers of natural gas would benefit.

I stand ready to work with my colleagues in drafting legislation which truly return the natural gas industry to the free marketplace.

Let's not kid ourselves. While repeal of the Fuel Use Act and incremental pricing is a positive step, it is largely symbolic. Exemptions to the Fuel Use Act have been freely granted. In fact, no request for an exemption has been denied since 1981.

So, while I am pleased that we are acting to repeal the Fuel Use Act, I am extremely disappointed that we are not acting to solve the real problems in the natural gas industry. More than a Fuel Use Act and incremental pricing repeal is needed. We need full decontrol of natural gas. We need mandatory contract carriage language.

So, I urge my colleagues to support H.R. 4669. Let's pass repeal of the Fuel Use Act and incremental pricing but now let's get on with legislation which will truly benefit producers and consumers of natural gas.

□ 1355

Mr. SHARP. Mr. Speaker, I yield 2 minutes to the distinguished chairman of the Subcommittee on Energy Conservation and Power, the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, I rise in support of this bill. I would like to particularly compliment the chairman of the subcommittee, the gentleman from Indiana [Mr. SHARP], the gentleman from Texas [Mr. BRYANT], who helped put together this coalition to make it possible for us to have this piece of legislation, and many others who are here at this time and who also should share in the credit for the crafting of this bill.

Mr. Speaker, I support this bill. It was reported unanimously by the Subcommittee on Energy Conservation and Power, which I chair, with an amendment, and reported by the full committee by voice vote. I commend the sponsors of the bill on both sides of the aisle especially Mr. BRYANT and Mr. SHARP for crafting a consensus bill that does not overreach into areas of great controversy.

I recall that the Fuel Use Act, which was a part of the comprehensive National Energy Act, was one of the first bills I encountered when I came to Congress. At that time, our energy use was expanding and our oil imports were rising accordingly. Because of artificial distinctions in the pricing of interstate and intrastate natural gas, shortages had arisen in the interstate markets.

The energy laws adopted at that time have proven to be successful. Our imports of oil have decreased so dramatically that the OPEC cartel has been smashed apart. Natural gas now flows into the interstate market without impediment, and supplies are plentiful.

It is in this new context that we are now reconsidering the Fuel Use Act. Several important facts have changed since 1978 that draw into question the continuation of this law. First, the conversion of oil-fired powerplants to coal has been virtually completed. Oil consumption by electric utilities has fallen by 72 percent, from 1.7 million barrels/day in 1978 to just 475,000 barrels/day in 1965.

Second, the price of natural gas has risen under the phased deregulation of the Natural Gas Policy Act to market clearing levels. The prohibition on natural gas use by utilities and large boilers was based, in part, on the premise that the price of natural gas had been kept below that of alternative fuels, and that natural gas was, therefore, being overused as a boiler fuel.

Third, the Fuel Use Act has been administered in an extremely loose fashion over the years. Exemptions are routinely granted, and virtually none are refused. This process appears to require high administrative costs with little positive benefit.

These changed circumstances permit us to review a policy that was aimed at fuel-switching as a temporary measure to reduce our reliance upon imports and to preserve natural gas for uses such as residential heating. However, we cannot afford to become complacent, or we will be right back enacting the Fuel Use Act again. Our best defense against demand outstripping supplies, is a continuing concerted effort toward energy conservation. Conservation, rather than fuel-switching, is the only long-term policy that will prevent us from returning to rising imports.

In 1981, the Congress repealed a provision in the Fuel Use Act that prohibited utilities from burning natural gas after 1990. The repeal was accompanied by a requirement that utilities implement conservation programs so that their customers would use their electricity more efficiently. From 1978 to 1981, prior to the repeal of the off-gas provision, utility use of gas increased from 3.2 to 3.6 trillion cubic feet. Ironically, after the off-gas provision was repealed, but a conservation provision added, gas use declined to 3 trillion cubic feet last year. This provides further evidence that conservation efforts are the key to our energy future. In fact, the Department of Energy's annual report to Congress states that conservation programs pursuant to the act have saved 1.5 trillion cubic feet of gas over the past 5 years.

Natural gas is a clean-burning fuel and can be used efficiently. The bill will open natural gas markets and will provide welcome relief to producers who find themselves with gas to sell, but no markets for their product.

I am well aware that many of the sponsors of this bill would like to see further changes in natural gas legislation. I am also aware that many members from consuming States, including myself, would oppose those changes. By limiting this legislation to matters on which there is general agreement, the sponsors of this bill have increased the chances that this bill can be enacted in the short time remaining in this session, and have provided real action, and not just rhetoric, in expanding natural gas markets.

Again, I would like to compliment the gentleman from Oklahoma [Mr. SYNAR], the gentleman from Louisiana [Mr. TAUZIN], the gentleman from Kansas [Mr. SLATTERY], and the chairman of the full committee, along with the gentleman from Indiana [Mr. SHARP], the gentleman from Texas [Mr. BRYANT], and the minority Members for working together to craft what I believe is a sound piece of energy legislation.

Mr. SHARP. Mr. Speaker, I yield 2 minutes to a very active member of our subcommittee who has been very strong on this and other issues involving natural gas, the gentleman from Oklahoma [Mr. SYNAR].

Mr. SYNAR. Mr. Speaker, let me thank my chairman, the gentleman from Indiana [Mr. SHARP], for bringing this important legislation to our attention today.

This is an important step that will open additional gas markets. It is a much-needed shot in the arm for the troubled energy industry, not only

here in our country, but particularly in the States of Oklahoma, Louisiana, and Texas.

Repeal of the remaining fuel use restraints will return our fuel choice flexibility of industrial and electric power markets. Currently, coal is the only viable option for large-scale power generation; nuclear is too expensive; and gas and oil are prohibited by the Fuel Use Act.

Removing the fuel use restraints will be a tremendous benefit to consumers and ratepayers because addition of lower cost gas plants to rate base will result in significantly less rate shock as increased power production is needed.

Removing the restraints will also be a tremendous benefit to producers as well. Each additional 500-megawatt gas plant burns 20- to 25-billion cubic feet of gas annually, and that represents between $64 million and $83 million in added gas purchases. The result is that it will benefit the economies of the producing States.

Significant environmental benefits are also gained by this bill because of the burning of natural gas, but perhaps the most important part of the repeal of the Fuel Use Act is that it will restore the stability to the gas markets and encourage exploration and drilling for future gas supplies.

Utility managers can once again rely on the marketplace of prudent business decisions, rather than the Federal Government regulation, to select their fuel of choice and plan their future demand growth.

Even though we did not get all we wanted through the Fuel Use Act and natural gas deregulation, Mr. Speaker, I am confident that Congress will continue to move toward a more competitive, open gas market, thereby benefiting producers and consumers alike.

Mr. FIELDS. Mr. Speaker, I yield 3 minutes to that great Member, the gentleman from Indiana [Mr. COATS].

Mr. COATS. Mr. Speaker, I am pleased that the House of Representatives is moving forward on legislation to repeal the Fuel Use Act's prohibitions on the use of natural gas and petroleum as a primary energy source in new electric powerplants and in major new fuel-burning installations.

There are many reasons to repeal the Fuel Use Act, but the first and foremost reason is the overabundant supply of natural gas. Today, we see that the premise of the Fuel Use Act, while well intentioned, was wrong.

Fuel Use Act repeal cannot help but benefit the economically depressed oil and gas producing States, as well as those States that are home to the many industries that are struggling to stand up to foreign competition. Coming from northeastern Indiana, I am all too familiar with the need for continuing economic growth. The road to many of our energy-intensive smokestack industries is a difficult one, but the road is made rockier still by the Fuel Use Act.

Electricity consumers will especially benefit in two ways from FUA repeal. First, electric utilities will be able to choose natural gas for electric generation, which could reduce utility fuel costs; and second, it will allow electric utilities to develop such promising new technologies as: combined cycle generators and "select use" of natural gas, in conjunction with coal or residual oil, for emission reduction, which are currently precluded by FUA. Furthermore, optimal development of cogeneration technology is hindered by the need to receive a Fuel Use Act exemption.

We have everything to gain and nothing to lose by repealing the Fuel Use Act. In addition, I am pleased that the committee amendment to H.R. 4669 includes a repeal of the incremental pricing provisions of the Natural Gas Policy Act of 1978. The Incremental Pricing Program requires that prices charged for gas used by certain industrial boilers must be set at rough parity with high-sulfur residual oil, even if the price of gas would otherwise be less than the price of residual oil.

Incremental pricing injures our Nation for three reasons: First, it precludes the opportunity to reduce the use of imported oil; second, it distorts market preferences even for consumers that use only natural gas; and third, it has been ineffective, sometimes causing higher residential gas bills as a result of lost industrial gas sales.

My interest in these issues is well known. Congressman SLATTERY and I introduced legislation over 1 year ago that would repeal the Fuel Use Act restrictions and the Incremental Pricing Program. Passage of this legislation is an important step toward a more rational energy policy, and I urge my colleagues to vote to suspend the rules and pass H.R. 4669.

□ 1405

Finally, I want to thank the subcommittee chairman, the ranking member, and the gentleman from Texas for their sincere and dedicated work in bringing this bill to the floor.

Mr. SHARP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the previous speaker, the gentleman from Indiana [Mr. COATS] has been a cosponsor of legislation incorporated in this legislation, and an active member of our committee, and I commend him for his work.

I now want to recognize another very active member of our subcommittee, the gentleman from Louisiana [Mr. TAUZIN], who has been energetically involved on this issue as well as a number of others.

Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Speaker, I want to especially thank the chairman of our subcommittee, the gentleman from Indiana [Mr. SHARP] for the intensive work he did in bringing this bill to the floor.

While it does not do all that we hoped it would do in natural gas, it does complete some of the work begun years ago in repealing this section of the law that has done untold damage to the natural gas markets of this country.

When I first arrived in Congress, Congressman HALL and Congressman SYNAR and I joined in an effort to repeal another section of this same law, section 301, that would have had the effect of forcing current boilers that use natural gas to convert to other forms of energy by the year 1990. A study done that year indicated that that particular section would have tripled utility bills in our region of the country, that kind of a conversion.

There still remains in the law that provision which prohibits the further construction and use of large boilers to burn natural gas in industries and utilities and that section of the law which penalizes industries which now choose to use natural gas where it is permitted.

Those two sections would be repealed by the bill before us today. Those two sections were initiated into law by those with good intent who meant to accomplish a single goal; and that was to forbid natural gas used by industries or to discourage it as much as possible for industries and utilities.

Well, that goal was accomplished. Many industries, many utilities got off of gas. The net result, however, was not all good. To consumers in the residential market who suddenly saw themselves liable for the full cost of pipelines rather than having that cost shared by industries and utilities, those consumers saw large increases in their fuel bills.

For those consumers in America concerned about acid rain, the cleanest fuel available for consumption in utilities and industries was forbidden in this bill. So by repealing the bill, we restore that capability to industries and utilities around the country to indeed burn that clean fuel, natural gas.

Finally, by repealing these two sections, we will restore to the marketplace real and free choice in energy products. The workers in Louisiana who produce natural gas for America's homes, the commercial outlets and industries, are proud of the work they do. They are dignified by that work. They have been insulted for many years by the law which says to some

customers in America that their product is forbidden and cannot be used.

Today, by repealing those sections of the law, we restore that dignity to those workers, and we reinvite investments into the gas fields of the Southwest.

The SPEAKER pro tempore. The gentleman from Indiana [Mr. SHARP] has 9 minutes remaining and the gentleman from Texas [Mr. FIELDS] has 5 minutes remaining.

Mr. SHARP. Mr. Speaker, I yield 2 minutes to one of the cosponsors of this legislation, as well as a cosponsor of two parts of this legislation, repeal of fuel use as well as incremental pricing, the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Speaker, I rise in strong support of H.R. 4669, legislation that will repeal the Fuel Use Act and the incremental pricing provisions of the Natural Gas Policy Act.

Last year, my colleague from Indiana, DAN COATS, and I introduced legislation to do exactly what we will accomplish with approval of the committee amendment to this bill. I would like to express my appreciation to Chairman PHIL SHARP, our colleague from Texas, JOHN BRYANT, and to Chairman JOHN DINGELL for the leadership they have shown in bringing this measure to the floor.

Enactment of this bill will be a needed step toward removal of regulatory barriers, the promotion of domestic energy production, and the protection of gas consumers. Repeal of the Fuel Use Act will allow domestically produced natural gas to compete for a greater share of energy sales to industry and powerplants. Repeal of incremental pricing will allow our country to reduce oil imports by removing the requirement that some domestically-produced natural gas must be artificially elevated to price parity with residual fuel oil. These policies just don't make sense in today's marketplace.

Mr. Speaker, as my colleague from Texas pointed out, none of us have been able to get all of what we want in this area but this bill represents about all we can get this year. Mr. Speaker, I hope the other body follows our lead and that we can send this bill to the President as soon as possible.

Mr. SHARP. Mr. Speaker, I yield 2 minutes to the gentleman from West Virginia [Mr. RAHALL], the chairman of the House Coal Caucus.

Mr. RAHALL. Mr. Speaker, I rise in opposition to the bill.

Mr. Speaker, natural gas is a very valuable natural resource. It is a very clean-burning fuel and is one that makes an important contribution to the energy needs of the Nation. Nonetheless, it is an extremely volatile fuel from the standpont of supply. I remember well the winter of 1977-78 when factories and schools closed throughout the country due to a natural gas shortage.

Yet today we seem to have forgotten that cruel and brutal winter because there currently exists a glut of natural gas on the market. We seem to be unable to look beyond this day—we seem to all come down with a massive case of amnesia when it comes to formulating energy policy.

This legislation is representative of that amnesia, of the inability of this Nation to take lessons from its energy past. We forget all too often the energy situation the United States faced during the decade of the 1970's—a situation that is bound to be repeated under measures such as H.R. 4669.

Why is this bill being considered today? Because today there is a natural gas surplus. Yet, this bill will have an impact long into the future. And when it comes to natural gas supply, that future is murky and uncertain.

I strongly believe we must give priority to home heating, commercial, and industrial uses of natural gas as opposed to allowing this valuable energy resource to be used as an electric utility boiler fuel, as H.R. 4669 would allow.

All of the most recent energy outlooks that I have seen state that the total U.S. supply of natural gas is expected to remain relatively constant through 1995 and beyond. No dramatic increase in domestic gas production is anticipated. I repeat, no dramatic increase in U.S. gas production is to occur.

And it was only in August of this year that the consensus at a meeting of some of the natural gas industry's top executives was that the gas bubble will break like a balloon much sooner than most people would expect. According to one report on the meeting:

> The impending shortfall, likely to show up as early as this winter if it's cold enough, is being stoked by a number of factors that are winding up for what could be a massive blow to unexpecting consumers.

An impending shortfall was the message from that meeting. I would submit that an impending shortfall of natural gas supplies is certainly not grounds for repeal of the Fuel Use Act.

For these reasons, the Fuel Use Act restriction on the construction of new natural gas electric utility boilers is not a demand restraint on gas use, but rather, a sensible and justifiable national policy.

Prudence dictates its retention, not its repeal.

This Nation sooner or later is going to have to wake up to the fact that we must formulate and stick with an energy policy that is premised on the long-term security of the country and which is resilient to the cyclical nature of energy supply and demand. Despite attempts to set in place and maintain such a policy, we are still very much hostage to the prevailing political winds when it comes to energy. Energy complacency is the order of the day, because today, energy prices are low and supplies are abundant.

As such, we are witnessing attempts to systematically dismantle any semblance of a long-term energy policy. The effort to repeal the Fuel Use Act is but part of that effort. It is far easier to react to the current energy situation with shortsighted remedies. It takes courage to consider the long-term ramifications of such so-called remedies.

Mr. Speaker, I urge defeat of this bill.

Mr. FIELDS. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. COMBEST].

Mr. COMBEST. Mr. Speaker, I thank the gentleman from Texas [Mr. FIELDS] for yielding.

Mr. Speaker, I think this bill, as has been eloquently pointed out by everyone basically who has spoken prior to myself, exactly what the bill does. It does not carry it as far as we would like; however, I do rise in full support of this legislation which would repeal the Fuel Use Act.

This is a portion of a comprehensive energy legislative package that a number of us have in, of which we were original cosponsors. It would redirect the energy policy of this country. I think it is unfortunate that many times when we began, those of us who represent heavy energy-producing areas begin to talk about energy problems, that many people look at those as parochial; and certainly we do understand: They are very important to us, the economic conditions that bad energy policies of the past have created.

However, I think equally important, and as many people will understand and many people agree, it is very important in this country that we have energy policy which sets us in a direction of self-sufficiency, of self-supply, and keeps us from being able to be the puppets of Mideastern countries or others in the world that might be able to dictate to us what our energy policy should be, and certainly hold us hostage in terms of supply.

□ 1415

I think it is in the long-term best interests of the consumers of this country and certainly of the national defense and the national security that we have an energy policy that puts us in the direction of self-sufficiency and puts us in the direction to where we can in fact ensure that the producer has that opportunity in this country of making a profit.

"Profit" is not a bad word in the energy industry. Because of the regulations and the overburdens of those regulations and restrictions in this

country, it has led us down this path that today we find ourselves in in this situation.

I do urge passage. I think it is certainly a step in the right direction. I think it is one of the beginnings of the steps, one of the many things that we need to do to correct the energy policy of this country.

Mr. Speaker, I do urge passage of this overwhelmingly.

Mr. SHARP. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Oklahoma [Mr. JONES] who has been an active supporter of repeal of the Fuel Use Act as well as other major changes in the natural gas legislation and has been very persistent in his efforts to get our committee and the House to act.

Mr. JONES of Oklahoma. Mr. Speaker, I would like to first compliment and thank the distinguished chairman of the subcommittee, Mr. SHARP, the chairman of the full committee on Energy and Commerce, Mr. DINGELL, my colleague from Oklahoma, Mr. SYNAR, the gentleman from Texas, Mr. BRYANT, who took the lead, and so many others on both sides of the aisle who brought this legislation to the floor today. This legislation is truly in the national interest. It is in the national interest of consumers because it widens the markets for a very clean and efficient fuel and by bringing more competition into the energy field it is also going to have the effect of lowering prices that the consumers pay for the necessary energy.

It is clearly good national policy for the producers of natural gas. In a State such as mine, an oil- and gas-producing State like Oklahoma, we are in depression times. We are in depression times because the energy industry is flat on its back.

The oil industry is flat on its back because of a policy initiated by some OPEC countries to drive producers out of the market.

It is flat on its back in the natural gas industry because they are producing efficiently, effectively, only to see their markets closed off to them. The legislation that closed off and restricted these markets was legislation that I opposed. It was shortsighted. It did not act on common sense or on fact.

But today we are repealing that, and we are giving a new breath of life to the natural gas producers.

In Oklahoma, where we once had animated drilling rigs and pumping jacks, today they stand like skeletons across the landscape. That hurts our economy, it hurts the national security of the United States. This legislation today is the most important and effective thing we can do to stimulate activity in the natural gas industry.

So I urge my colleagues to support it, to send a signal to the other body to act quickly on this so that before this Congress adjourns, it will be on the desk of the President and will be enacted into law.

Mr. Speaker, I am pleased to rise today in support of H.R. 4669. As an original cosponsor of this legislation to repeal the Fuel Use Act, I would like to say that these restrictions on new gas-fired powerplants and industrial boilers should never have been imposed in the first place, and their repeal is long overdue.

The Fuel Use Act places unnecessary restrictions on the use of natural gas. It was enacted at a time when it was believed that we were running out of natural gas. History has proven that wrong. Our domestic natural gas reserves have remained stable since 1978, increased efficiency and conservation have lowered annual consumption, and there is currently an oversupply of gas on the market.

Because of the depressed oil and gas prices of the past few years and the precipitous drop in prices since the first of the year, many of our domestic energy producers are fighting for their survival. To artifically deny a large potential market for an abundant domestic resource runs the long-term risk of bringing about even greater dependence on foreign oil and gas than we now have.

In addition to being abundant, natural gas is a totally clean fuel. It does not pollute the environment, and it is easy to transport. it is extremely efficient. Electric consumers, both commercial and residential, will benefit in the long run from lower rates because gas-fired plants are less costly to build and maintain than coal-fired plants.

The natural gas industry is undergoing massive changes brought on as a result of deregulation: The Federal Energy Regulatory Commission has proposed pricing reforms and sweeping changes in transportation rules. Natural gas is moving toward a free market. Repeal of the Fuel Use Act will help us move in that direction.

I would like to commend my colleagues Mr. SHARP, chairman of the Subcommittee on Fossil and Synthetic Fuels, Chairman DINGELL of the Energy and Commerce Committee, and Minority Leader MICHEL for the bipartisan spirit with which they approached this legislation. I also want to commend MIKE SYNAR and JOHN BRYANT for their tireless efforts inside the committee of move the bills.

This legislation is truly in the national interest, as well as in the best interests of energy producers, consumers of electric power, and the pipelines which transport natural gas. I urge my colleagues to vote for the motion to suspend the rules and pass this bill.

Mr. FIELDS. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. BARTON].

Mr. BARTON of Texas. Mr. Speaker, I would like to rise in support of the bill before us to repeal the Fuel Use Act.

The Fuel Use Act arose out of a misguided belief in the late 1970's that we were running out of all of our fossil fuels and that we needed to conserve the remaining fuel for certain segments of our society.

The Fuel Use Act never should have been passed in the first place.

Mr. Speaker, I want to commend the chairman of the Committee on Energy and Commerce, Mr. DINGELL, and the chairman of the subcommittee, Mr. SHARP, for working with the members of the minority on those committees and subcommittees to bring this bill to the floor.

I am not a member of that particular committee, but I am the Republican task force chairman of the Committee on Energy and Environment Research. We have done a lot of research on this.

I would like to point out to one of my colleagues who said that this would distract from the use of coal, I do not think it does. I think it recreates a level playing field and it lets the marketplace decide which is the most economical fuel to be used. It allows those areas that have a sufficiency of natural gas, to allow their industry to utilize natural gas. It is a clean-burning fuel. It is environmentally safe. I think it is long past the time that we should repeal the Fuel Use Act.

Mr. Speaker, I rise in strong support of this measure.

The SPEAKER pro tempore. The gentleman from Indiana [Mr. SHARP] has 3 minutes remaining and the gentleman from Texas [Mr. FIELDS] has 1 minute remaining.

Mr. SHARP. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Speaker, I rise in opposition to this act. I understand the problem, and I understand the concerns. What bothers me most is that this is a very short-term response to what I think is going to be a long-term problem, because what this does is to say that coal will no longer get the consideration it requires in developing a concerted and realistic energy policy. What is ignored here, for instance, is that there are known 300-year reserves of coal and that coal has always provided the underpinning for our basic utility power generation. It is sometimes a problem in thinking ahead, particularly when oil prices are dropping, when there is a glut of natural gas. So we forget the events of just a few years ago. But how long will this dropping-price situation continue? For instance, should the outbreak of war continue in the Middle East, should other foreign countries turn their oil spigots off as they have before, once we find ourselves in the same situation. You know, it was just a couple of years ago that we had gotten our oil dependency down to 26 percent of foreign oil supply; now we are somewhere to over one-third. So it is rising.

I am concerned about other areas, too, in repealing this act. What does this do to the advent of clean coal technology, the first real commitment of this country to study how to burn

coal and how to burn it cleanly? Are we going to drain those natural gas reserves and yet not have the ability to respond to our energy needs with coal? You know, coal requires a lot of capital investment. Do you shut a mine up? You just do not turn it back on again. You do not just un-stop the well or unplug the well.

So I would hope that at least as this bill wends its way through the legislative process that language would be added requiring at least new utilities if not existing ones to maintain coal capability and the ability to keep coal as an alternative fuel.

I regret this day and I think we are going to revisit it again.

Mr. Speaker, I rise in opposition to this act.

The SPEAKER pro tempore. The gentleman from Texas [Mr. FIELDS] has 1 minute remaining.

Mr. FIELDS. Mr. Speaker, I yield my last minute to the gentleman from California [Mr. DANNEMEYER].

PARLIAMENTARY INQUIRY

Mr. DANNEMEYER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. DANNEMEYER. Mr. Speaker, would an amendment be in order at this time to this bill to deregulate natural gas prices in this country?

The SPEAKER pro tempore. (Mr. MONTGOMERY). No amendments are in order under suspensions of the rules.

Mr. DANNEMEYER. Mr. Speaker, that lays the foundation for the statement that I want to make to the body.

What the Speaker just stated points up the very problem that the House is now facing about preventing what we should be doing. We should be deregulating the natural gas prices as a policy option, and the reason we are not doing it is because the Democratic leadership that controls this House refuses to let this measure come to the floor of the House under a procedure whereby this Member or some other Member could have offered the amendment that I am talking about.

When we have the courage to take that policy option, we will bring into the energy base of this country an additional 1 to 2 years of natural gas supply that we are otherwise never going to get. That is 20 trillion to 40 trillion cubic feet. It is a sad day when partisan differences, quite frankly, prevent the House from acting upon this measure.

I accept that most of my Democratic colleagues in this body believe we should regulate prices. I think the marketplace should prevail. But what is wrong with having an up or down vote so that the country can determine who favors an energy policy that is truly going to get this Nation on the road to energy independence? I am sad to say that we cannot offer that amendment today.

The SPEAKER pro tempore. The gentleman from Indiana [Mr. SHARP] has 1 minute remaining.

Mr. SHARP. Mr. Speaker, I yield 30 seconds to the distinguished chairman of the Subcommittee on International Economic Policy and Trade, the gentleman from Washington [Mr. BONKER]. I regret that we have run out of time, but the gentleman will have time to ask a few questions.

Mr. BONKER. I thank the gentleman for yielding.

As I understand it, the resolution revokes previous licenses issued by the Department of Energy to a United States-based company for the import of liquefied gas from Algeria. My question is whether or not this action may be precipitous in view of the fact that the Department has not acted upon the settlement.

Mr. SHARP. We do not believe it is precipitous at all. Basically it is necessary because no gas is flowing under the existing license. It does not appear that there is any economic reason for it to flow in the future, but because in that settlement the Algerian Government becomes a major stockholder of a United States company it may for noneconomic reasons, noneconomic to the United States, end up trying to use a license where really there is no basis for using today.

Mr. BONKER, I thank the chairman.

Mr. SHARP. Mr. Speaker, I simply want to urge my colleagues to adopt the legislation before us. The other body will have to act on these matters. These are issues that have been dealt with in many other pieces of legislation around the House and in the other body with respect to natural gas and have broad consensus support for. Regrettably, we cannot solve all of the problems in this regulated market which is increasingly becoming deregulated, but I think we can take useful steps forward that frankly would be useful to the natural gas markets without harming the coal markets.

Mr. MADIGAN. Mr. Speaker, I strongly support the committee amendment to H.R. 4669, to repeal and amend certain sections of the Powerplant and Industrial Fuel Use Act, particularly those provisions barring continued reliance on costly, insecure foreign imports of liquefied natural gas [LNG], and opening the door to price competitive natural gas supplies in central Illinois.

By way of background, Mr. Speaker, in the mid-1970's, energy shortages and oil and gas price controls led several gas pipelines to undertake costly, ambitious long-term LNG import projects.

Almost all of these projects have now collapsed, victims of the decontrol of oil/gas prices, the rise in the domestic gas supply outlook, and the availability of cheaper, more secure domestic fuels.

One project, the Trunkline-Panhandle LNG import project, is however still barely alive. Its LNG imports were stopped in 1983, because they were too costly. The gasification plant and LNG ships have been idle for three years.

But now, the company says it wants to renew these imports soon, only a month after paying Algeria $600 million to escape the old import contract made in 1975.

Title III of the committee amendment sets tough conditions on any new imports, and prevents most of the costs of the LNG project from being passed through to Panhandle ratepayers.

Full passthrough of those costs could mean price increases of $1 to $2 or more, an increase unacceptable to central Illinois where the farm economy is still suffering. Without congressional intervention, our regulatory system will allow consumers to be billed for Panhandle's uneconomic business decision. Today Panhandle may be more interested in keeping its LNG plant and ships in use, than in selling gas at a competitive price. Why? So it holds on to the "no Federal income tax" status it has enjoyed for years now, as a result of its energy and investment tax credits on the costly LNG facilities.

Panhandle may also be trying to placate Algerian shareholders who are now the company's largest single stockholders. The more we pay for foreign gas, the less of it we buy from our own domestic producers.

Finally, Mr. Speaker, I want to stress the bipartisan nature of this LNG provision. This language has been in all natural gas bills considered by the Energy and Commerce Committee in 1983, 1984, and 1986.

Our committee's amendment also includes an important provision requiring the Federal Energy Regulatory Commission to make a decision in a proceeding that has been pending for 4 years. The Central Illinois Light Co. [CILCO] has been seeking abrogation of contract terms with its pipeline supplier that prevent the utility from obtaining price competitive gas supplies. The amendment requires FERC to make an expeditious decision in the CILCO case. A FERC decision allowing CILCO to utilize order 436 promoting voluntary nondiscriminatory transportation of natural gas, will be an important boost to economic development in central Illinois.

Mr. Speaker, I do not believe that contract terms that require a utility to purchase 100 percent of its gas supplies from a single pipeline are consistent with deregulation of natural gas markets and a free marketplace. But the committee amendment does not decide this issue. It does not tell the FERC how to decide this case. It only says that the FERC must issue a final decision by January 31, 1987. Mr. Speaker, this is the least we can require. CILCO filed this complaint, claiming that Panhandle's tariff violates Federal law—the Natural Gas Act—on June 10, 1982. Over the past 4 years the FERC has allowed discovery, held hearings, provided four rounds of legal briefs and has an initial decision by an administrative law judge. Meanwhile, the costs passed on to captive customers have been enormous. The committee amendment would bring an end to the uncertainty. I think everyone can agree that more than 4½ years is an ample time for the FERC to reach a decision on this important matter.

Mr. RICHARDSON. Mr. Speaker, I rise in support of H.R. 4669 with some reservations. In light of current market conditions it is time to repeal the prohibitions on the use of both natural gas and oil. The restrictions in the Fuel Use Act—enacted 8 years ago—are anachronistic and counterproductive. We should be doing all we can to stimulate domestic production and eliminate unnecessary regulations—repeal of the Fuel Use Act will be a small step in the right direction.

I see enactment of H.R. 4669 as a starting point. Back in June of 1985, I introduced H.R. 2734, a bill that would have facilitated the transition of the natural gas industry toward a more competitive market. I included a section that would have repealed the major remaining provisions of the Fuel Use Act. More needs to be done. It is essential that we maintain our domestic production capability for reasons of both national and economic security. The passage of H.R. 4669, while important, certainly does not go far enough. The broader issues of contract carriage and natural gas deregulation should be considered before natural gas production and exploration in this country are virtually wiped out. Recent projections say that we are quickly approaching the 40-percent level for oil and a mere 5-year reserve of natural gas. We are rapidly approaching the point where all of our conservation, exploration, and production incentives of the last 12 years will be wiped out in a flood of foreign oil.

Mr. Speaker, I would also like to share with my colleagues the concerns I have for another fuel—coal—which is basic to our energy independence. I would like to explain why I believe that any changes to the Fuel Use Act should retain the requirement that new electric utility boilers be constructed coal capable.

In 1978, the PIFUA stated that coal would be the preferred future fuel by: First, requiring utility and large industrial boilers to be "off gas" by 1990; and second, that new boilers be constructed "coal capable" as well as prohibited from burning gas. The off gas provision was repealed in 1981 in view of the unrealistic 1990 deadline and today existing boilers are free to use any fuel according to economics.

H.R. 4669, would repeal PIFUA in its entirety in response to the collapse of oil and gas prices. Repeal or modification of PIFUA should, on sound lines, retain the requirement that new existing boilers be coal capable, yet allow actual fuel use be determined by economics.

The rationale for coal capability is sound. It provides for, first, fuel flexibility—technically, boilers designed to burn gas only, cannot later be converted to burn coal: A coal capable boiler can however, burn coal, gas, or oil. Second, it is insurance against obsolescence—a highly uncertain and volatile outlook for world oil prices in near term and depletion of domestic gas in the long term dictates new gas only capacity will become economically and socially obsolete. Third, there is a regulatory bias on the part of the public utility commissions to force utilities into sub-optimal gas plants, rather than capital intensive coal plants that are more economic in the long run.

Mr. Speaker, I believe the coal capability requirement should be retained. I would recommend that new large industrial boilers be excluded, since choices are not dictated by the regulators. Coal capability need only require that the utility boiler be coal capable and that sufficient real estate be available to accommodate that coal handling facilities if they are eventually called for. This reduces substantially the capital penalty of coal capability.

Mr. Speaker, I represent a district in New Mexico that has large deposits of oil, natural gas, and coal. I am concerned about the health of all three industries. I support H.R. 4669. I urge my colleagues to support this effort and reiterate my overall concern that much more needs and deserves to be done to preserve our energy independence. I intend to work diligently with House and Senate conferees in the days ahead to try and fashion a compromise to retain the requirement that new electric utility boilers be constructed coal capable.

Mr. MICHEL. Mr. Speaker, I support H.R. 4669, which would in the main repeal the Fuel Use Act. The Fuel Use Act was an anachronism to begin with, and Republicans, in fact, opposed it at the very outset. So I am glad we are setting about, finally, to correct the error of our ways in this instance. It is only unfortunate that we are not going a step further and opening up the entire natural gas system to the competitive forces of the free marketplace.

I want to comment specifically on two provisions, included in the committee amendment, which will be beneficial to natural gas users in central Illinois and other parts of the Midwest.

The first provision would prohibit Panhandle Eastern Pipeline Co. from passing on to its customers in the Midwest costs of a sweetheart settlement it recently worked out with Algeria. This provision in essence represents the language of a bill ED MADIGAN and I introduced on August 11.

The Members may recall that a few years ago Panhandle was importing Algerian natural gas at a price almost double the going rate for domestic gas. Panhandle was in turn seeking to impose those high prices on its customers. This was at a time when the supply of domestic gas was plentiful and prices were on the decline.

We raised strong objection to this, introduced legislation to prohibit the import of Algerian gas, and called on the Federal regulatory agencies to prohibit the pass through of the high prices to the consumer.

With the Algerian gas included in its rates, Panhandle's prices were uncompetitive and sales fell off 40 percent. A few months after deliveries commenced, Panhandle was negotiating to reduce the volume, and it suspended purchases completely in December 1983, as a result of the market collapse. Since June 1984, Panhandle's Louisiana terminal has been mothballed.

During the period that the Algerian LNG was received, Panhandle increased the cost of gas to Midwestern ratepayers by more than $534 million compared to the cost of Texas and Louisiana production that was shut in to make room for the Algerian LNG.

In July of this year, Panhandle agreed to settle, for approximately $660 million, the arbitration claims that resulted from the 1983 suspension of purchases.

Panhandle has indicated that it expects to pass this additional cost on to Midwestern ratepayers. If recovered over 1 year, my constituents in Peoria would have their natural gas bills increased by upward of 13 percent, which would be an unconscionable increase for an area already suffering economically.

The Natural Gas Policy Act has allowed a measure of deregulation in the natural gas industry. In the deregulated environment, pipelines such as Panhandle must learn to accept responsibility for their management decisions. The committee amendment ensures that Algerian LNG imports cannot be resumed unless they are price competitive, and places the costs of the recent settlement negotiated by Panhandle where they belong, avoiding an additional cost to Midwestern ratepayers that would artifically discourage purchases of domestic gas.

The other key provision in the commit'ee amendment reflects the essence of another bill ED MADIGAN and I introduced. The provision would require the Federal Energy Regulatory Commission to make a final decision on a complaint case filed by the Central Illinois Light Co. way back in 1982.

In this case CILCO is seeking removal of an anticompetitive sole supplier restriction imposed by Panhandle which prevents CILCO from going out into the marketplace and obtaining lower priced natural gas from other producers. During the past few years consumers in central Illinois have not fully received the benefits of lower natural gas prices because of this restrictive tariff. This tariff enables Panhandle to exert a monopoly type stranglehold over CILCO, and represents one reason Panhandle was able to effectively pass on the cost of the high priced Algerian gas to the consumer.

I do not believe that such sole supplier restrictions are consistent with deregulation of natural gas markets and a free marketplace. But the committee amendment does not decide this issue. It does not tell the FERC how to decide this case. It only says that the FERC must issue a final decision by January 31, 1987. This is the least we can require. CILCO filed this complaint, claiming that Panhandle's tariff violates Federal law [the Natural Gas Act], on June 10, 1982. Over the past 4 years the FERC has allowed discovery, held hearings, provided four rounds of legal briefs, and has an initial decision by an administrative law judge.

It is simply ridiculous that the Commission should take this long to decide a case. The costs passed on to captive customers during this period of indecision have been enormous. The committee amendment would bring an end to the uncertainty. I think everyone can agree that more than 4½ years is an ample time for the FERC to reach a decision on this important matter.

In concluding, Mr. Speaker, let me express appreciation to the chairman of the committee, Mr. DINGELL, and the chairman of the subcommittee, Mr. SHARP, as well as ranking members NORM LENT and BILL DANNEMEYER, for their willingness to work with ED MADIGAN and myself in including these provisions in the committee amendment.

The SPEAKER pro tempore. All time has expired.

The question is on the motion offered by the gentleman from Indiana [Mr. SHARP] that the House suspend the rules and pass the bill (H.R. 4669), as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill as amended so as to read: "A bill to repeal and amend certain sections of the Powerplant and Industrial Fuel Use Act of 1978, and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SHARP. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4669, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

MAKING IN ORDER AT ANY TIME CONSIDERATION OF CONFERENCE REPORT ON H.R. 3838, TAX REFORM ACT OF 1985

Mr. PEASE. Mr. Speaker, I ask unanimous consent that it shall be in order at any time to consider the conference report on H.R. 3838, that all points of order against the conference report and against its consideration be waived, and that debate on the conference report continue not to exceed 3 hours, to be divided and controlled as provided by clause 2(a) of rule XXVIII, but that this request shall apply only if the conference report has been available to Members as provided by clause 2(a) of rule XXVIII.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. FRENZEL. Mr. Speaker, reserving the right to object, under my reservation I yield to the distinguished acting chairman of the Committee on Ways and Means to explain the need for the unanimous-consent request.

Mr. PEASE. I thank the gentleman for yielding.

Mr. Speaker, this request allows the House to take up the conference report on the Tax Reform Act at any time, and provides that time for debate on the report be three times that normally accorded conference reports. The time would be evenly divided between the majority and minority, with each side having 1½ hours.

The request also requires that there be 3 days between the filing of the conference report and its consideration by the House. This will insure that Members have time to review the report before House consideration.

Given the magnitude of the tax reform legislation, it will be necessary to waive certain points of order.

This is the most expeditious way to do so.

Mr. FRENZEL. Further reserving the right to object, I thank the gentleman from Ohio for his explanation.

Mr. Speaker, it is my understanding that the reason that the waiver is needed is because the conference exceeded the scope of the conference in a number of rather important respects, such as: Nondeductibility of State and local sales taxes; effective date of ITC carryover reduction; taxability of appreciated portion of gifts to charity by corporations and individuals; including credits against minimum tax; the volume cap on nongovernmental bonds, and many more.

Mr. Speaker, I am not going to vote for the tax bill. Nevertheless, I think it is important, if the House is to have the chance to work its will, that the unanimous-consent request prevail.

The conference did, indeed, exceed the scope. Many of those excesses are points on which I strongly disagree. However, probably the size and comprehensiveness of the bill would lead us to believe that it is a miracle the scope was not exceeded in more places.

If we were not to accede to this request, it would simply slow down the bill. That would cause more decisions to be deferred in the marketplace. People are confused enough about this bill already. It ought to be voted up or down as soon as possible without further adornments.

An objective to this request will only drive the committee into the arms of the rules which will readily grant the waives, but only after extracting its members' pound of flesh from tax reform. Keeping this bill, which is disruptive enough already, out of the hands of one more committee is reason enough to grant the unanimous-consent request.

I believe the bill is not good for the U.S. economy, but I believe it is destined to pass anyway. If it must pass, better it do so sooner rather than later. It should also be voted on in the form determined by the conference committee.

For all these reasons I believe the request of the distinguished gentleman from Ohio [Mr. PEASE] should be granted, and I withdraw my reservation.

Mr. Speaker, I withdraw my reservation of objection.

□ 1430

The SPEAKER pro tempore. (Mr. MONTGOMERY). Is there objection to the request of the gentleman from Ohio?

There was no objection.

MONTEREY BAY NATIONAL MARINE SANCTUARY ACT

(Mr. PANETTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PANETTA. Mr. Speaker, I rise today to introduce legislation designed to provide protection for a marine resource of truly national significance and one of tremendous importance to the people of central California. Because of its unique biological, environmental, and economic significance, Monterey Bay was originally nominated by the State of California for National Marine Sanctuary status in 1977 and added to the National Oceanic Atmospheric Administration's list of active candidates in 1978.

The Monterey Bay sanctuary site is unique in many ways. The site is the only west coast active candidate site including a submarine canyon, the Pacific coast's largest. In addition, the bay within the proposed Monterey sanctuary hosts a number of endangered and threatened species of marine mammals and birds, as well as commercial and recreational fisheries and many tourist activities. The bay is also the focus of extensive national and international marine research efforts. The site was seriously considered as an active candidate by NOAA until November 1983.

Unfortunately, Monterey Bay and its vast array of marine life are threatened unless immediate action is taken to protect them. Findings during the past few years suggest that the bay and its tributaries are slowly being contaminated by toxic chemicals. Record levels of pesticides have been found in Watsonville, Espinosa, and Elkhorn Sloughs as well as the Salinas River; all of which empty into the bay. Residues of pesticides banned over a decade ago are still being found at high levels in the soils that drain into the bay. At the same time, several cities use Monterey Bay as an ocean outfall source for their sewage, and the demand by other cities to do the same is on the rise.

The decision to remove the bay from the list of active candidate sites was at best arbitrary, and at worst misguided. The reasons given by NOAA at the time bore little relationship to the facts involved. It was argued that there were already two sanctuaries offshore California protecting "similar resources." The large size of the bay was cited as placing an unacceptable enforcement burden on NOAA and finally, the argument was made that the bay was already protected by State and local agencies.

It should be noted that nowhere in the Marine Sanctuaries Act is it contemplated that geographical distribution would be decisive in determining protection or that a coastline as exten-

sive and varied as California's would be limited to the number of potential sanctuaries. It should also be noted that a third California sanctuary, Cordell Banks, is now pending final approval. Also, no other marine sanctuary protects resources similar to Monterey because these resources are indeed unique, including the largest submarine canyon on the west coast, which provides the food source and habitat for an extraordinary variety of marine life including the threatened California sea otter.

Second, while the exact size of a Monterey Bay sanctuary has not been determined, it would certainly be smaller than the Channel Islands Sanctuary in southern California—500 square miles versus 1,200. Finally, there is no comprehensive management plan for the bay, and it is currently threatened by the drainage of sewage and toxic pesticides. The bay faces immediate threats from the proposed establishment of new sewage outfalls by the cities of Gilroy and Morgan Hill and by the proposal by the Bureau of Reclamation to use the bay for the disposal of toxic drainage water from the San Joaquin Valley.

Joined by other Members of the California congressional delegation, I have made numerous attempts to have NOAA place the bay back on its list of active candidates. Unfortunately the Agency will not reconsider its position until after the current list of 29 sites has been designated or rejected—a process which will take us well into the 1990's. According to the latest communication from NOAA, "the (Monterey) site will not be further evaluated as a national marine sanctuary."

It is clear that this unique national resource must be preserved, and that the threats posed by potential new industrial sewage outflows and toxic agricultural discharges are too immediate to wait for NOAA to take action it may never take. Because NOAA has closed the door on attempts to designate the bay as a marine sanctuary through the established process, I am today introducing the Monterey Bay National Marine Sanctuary Act. This legislation would designate the bay as a national marine sanctuary and would require the Secretary of Commerce to establish a management plan for the bay in accordance with the goals and purposes of the Marine Sanctuaries Act.

Monterey Bay's unique physical and biological qualities, its economic productivity, and its national cultural and research significance clearly warrant marine sanctuary designation and protection from the growing threat of toxic contamination. It is my hope that this legislation will bring about the protection needed for this unique national resource.

ANNUAL REPORT OF SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION FOR 1985—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore. (Mr. LEVIN of Michigan) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Public Works and Transportation:

(For message, see proceedings of the Senate of today, Tuesday, September 9, 1986.)

NINTH ANNUAL REPORT ON FEDERAL ENERGY CONSERVATION PROGRAMS UNDERTAKEN DURING FISCAL YEAR 1985—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Energy and Commerce:

(For message, see proceedings of the Senate of today, Tuesday, September 9, 1986.)

FIFTH ANNUAL REPORT ON THE STATE OF SMALL BUSINESS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Small Business:

(For message, see proceedings of the Senate of today, Tuesday, September 9, 1986.)

SDI TEST BRUSHES WITH THE LAW

(Mr. BROWN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BROWN of California. Mr. Speaker, last Friday the Pentagon conducted a test in space that came dangerously close to violating both the 1972 Antiballistic Missile [ABM] Treaty and the existing moratorium against testing the U.S. antisatellite [Asat] weapon against objects in space. While the Pentagon's claim that the test was not illegal may be technically correct, there remain reasons for deep concern. In my view, it simply should not be the Pentagon's policy, or practice, to come as close as it possibly can to violating international treaties and the law of the land.

Friday's test involved the launching of two small spacecraft containing sophisticated sensor devices. The two satellites tracked each other while in orbit, and also tracked a ground-launched Aries rocket, before maneuvering and destroying each other in a head on collision. The alleged purpose of the test was to gather information useful for tracking and targeting rising ballistic missiles from space.

The Pentagon states that the test was not a violation of the ABM Treaty, claiming that the devices used were not ABM components, did not have an ABM capability, and were not tested in the ABM mode. Each of these claims is debatable.

If the devices were not ABM components, or not intended to be developed into such components, why were they tested? Clearly, the intention of the test was to determine whether the equipment eventually could serve as a component for an ABM system. Yet such a determination could only be made after the fact, after the test had occurred and the treaty was violated. This "try-and-see" approach to remaining in compliance with an international treaty is reckless and should not be condoned. Yet it is the approach represented in Friday's test.

It may be true that the devices launched on Friday did not have an ABM capability, and thus did not constitute a violation of the treaty. But it is obviously the Pentagon's objective to refine the technology to the stage of possessing an ABM capability as rapidly as possible. The test thus served as an announcement that another test is likely in the coming years that will indeed represent a treaty violation. And given the complete lack of notification to Congress about this test, it seems entirely possible that a future test, one that indisputably did violate the treaty, might occur before Congress or the public could even act to prevent it.

That the devices were not tested in an ABM mode is the Pentagon's third argument that it did not violate the ABM Treaty. Yet the test did seem to simulate a real-life ABM situation. An Aries rocket was launched as if it were an attacking missile, and it was tracked as if the intention was to intercept it. This certainly seems to me to constitute a test in the ABM mode.

There is no doubt that the test was conducted in an Asat mode, and this should be of great concern to those of us in Congress who support Asat arms control. The collision and destruction of the two satellites at the end of Friday's test clearly demonstrated an Asat capability. And as my colleagues well know, existing law prohibits tests in space of the United States Asat

system so long as the Soviet Union continues its Asat moratorium. Because the language of the law specifically refers to the U.S. Asat launched from an F-15 aircraft, the test on Friday was not, strictly speaking, a violation of the law. It was, however, a clear effort to evade the intent of the law. The goal that Congress was seeking when it enacted the Asat moratorium was to prevent any further U.S. Asat tests involving targets in space. Yet the Pentagon went ahead and conducted just such a test.

That the Pentagon has taken this step to evade the law should not surprise any of us; the same tactic was taken in September 1985, when the Pentagon rushed to conduct a test of the F-15-launched Asat against a working scientific satellite. The Pentagon was so eager to complete an Asat test in space that it did so without meeting the requirements of the certification provision called for by the law at the time. The Pentagon also tried to scuttle ongoing congressional negotiations about the Asat moratorium last December by launching two target satellites, worth $20 million, just prior to enactment of the existing test restriction.

Friday's SDI test represented a close brush with the ABM Treaty and with the existing United States-Soviet moratorium on testing Asat's in space. I urge my colleagues to realize the mischief that the Pentagon is up to when it conducts such actions. It is acting in defiance of those who have negotiated arms control agreements in the past, and it is jeopardizing the opportunities for those who seek arms control agreements in the future. Friday's test was a definite setback for those of us seeking to place legal limitations on the arms race. It was a clear indication that we must be even more diligent if we are to create a legal regime that can harness the dangerous technologies that humanity has created over the past four decades.

Two news articles about Friday's test follow:

[From the Washington Post, Sept. 6, 1986]

U.S. LAUNCHES DELTA ROCKET

(By R. Jeffrey Smith)

The United States regained its access to space yesterday with the successful launch in Florida of a Delta rocket carrying a classified experiment for the Strategic Defense Initiative (SDI), or "Star Wars" program.

As part of the experiment, two stages of the rocket deliberately collided with each other in space and were destroyed by explosives, sources said.

The launch, at 11:08 a.m., came on the heels of a spectacular series of six major U.S. launch failures, starting Jan. 28 with the Challenger space shuttle disaster and including the failure of a Delta rocket in May.

Yesterday's launch was normal and the rocket performed "exactly as planned" during the first moments of flight, said Hugh Harris, a National Aeronautics and Space Administration spokesman at the Kennedy Space Center.

The Defense Department also said the $150 million experiment, which lasted 2 hours and 45 minutes, was a success. Independent experts were skeptical, however, that it will significantly advance the Pentagon's long-term effort to develop a comprehensive defense against ballistic missiles, initially ordered by President Reagan in 1983.

Rep. George E. Brown Jr. (D-Calif.), who opposes the SDI, raised questions about the test's legality in the face of congressional and treaty limitations on military experiments in space. "At first glance, it would seem to evade at least the intent of the law," Brown said.

That claim was denied by the Pentagon's Strategic Defense Initiative Office, which described the experiment as basic research that will aid the development of "kinetic kill vehicles," devices capable of striking rockets and satellites at high speed in outer space. "In no manner was the experiment in violation of U.S. treaty obligations," said Lt. Col. Terry Monrad, an SDIO spokesman.

According to various sources, the experiment consisted primarily of two packages of sensors, which separated shortly after liftoff and then orbited near each other roughly 120 miles above Earth. One cluster of sensors was attached to a special device that substituted for the rocket's third stage, and the other was affixed to the rocket's second stage.

On command from the ground, they were maneuvered into orbits so that at times they crossed paths and at times they were farther than 100 miles apart. For a while, the rocket sensors observed each other and then, about an hour later, the sensors tracked a second, smaller rocket that the Defense Department launched from the White Sands Missile Range in New Mexico.

Last week, a similar rocket malfunctioned and was deliberately destroyed shortly after launch from White Sands; the accident was attributed to faulty construction by its manufacturer, Space Vector Corp.

But this time, the White Sands rocket operated flawlessly and reached an altitude greater than 100 miles in a flight that apparently lasted less than 10 minutes. The infrared sensors already in space were able to observe the plume and transmit data to Earth.

Finally, not long after the White Sands rocket burned up after reentering the atmosphere, the second and third stages of the Delta rocket were maneuvered into a collision. Both were blown into bits by a package of explosives that one carried.

The aim of the explosion was to obliterate all of the sensitive equipment on board.

Monrad and others said that military researchers will use the data they collected to evaluate the operation of the sensors and to help construct a library of missile plume pictures, both of which will aid in the design and development of future "Star Wars" weapons.

There is general agreement that the success of the effort will hinge in large measure on the United States' ability to locate intercontinental ballistic missiles and attack them shortly after launch. Missile plumes play an important role in this effort because they are extremely hot and contain many readily identifiable gases, making them much easier to detect than are the missiles.

At present, the military only has pictures of missile plumes taken from the ground, from airplanes and from satellites at high altitudes. Thus, the experiment, which was conducted at relatively low altitudes and with objects that maneuvered extremely close, apparently was able to help fill a gap in the Pentagon's knowledge.

Some critics say that it represents an extremely small advance acquired at a very high price. John Pike, a space expert with the Federation of American Scientists, said that "the problem in 'Star Wars' is to shoot a hole-in-one 10,000 times in a row"—to hit 10,000 missiles from a great distance. "Here we just spent millions of dollars comparing golf balls," he said.

In response to criticism that the experiment violated congressional and treaty limitations on space tests of antisatellite weapons and sophisticated antiballistic missile technologies, Monrad emphasized the limited scale of the experiment.

The equipment "was not capable of substituting for real antiballistic missile components," he said. Tracking was aided by a special reflecting device aboard one of the rocket stages, which would never be carried by a real missile, he said.

The missile stages or "targets" all cooperated with each other, which also was unrealistic, Monrad said. They also moved more slowly through space than a ballistic missile would, and one or both used hot, rather than cold, gases for propulsion into space. Hot gases are unusually easy to track and unlikely to be used in real missiles.

Brown questioned this reasoning. "The claim is that all of this is not yet at such a stage of refinement that it constitutes a banned test. But it is obviously aimed at getting to that stage as soon as possible," he said.

NASA officials declined comment on the military aspects of the experiment. But at a minimum, they said, it indicated that several million dollars worth of modifications made to the Delta rocket since the May accident were well spent. And, they said, it reestablished the nation's ability to conduct a successful space launch.

[From the New York Times, Sept. 6, 1986]

UNMANNED ROCKET ON SECRET MISSION LAUNCHED BY U.S.

(By William J. Broad)

CAPE CANAVERAL, FLA., September 5.—An unmanned Delta rocket carrying a secret payload for an antimissile system was fired into space today, marking a major United States success in a year plagued by catastrophe and mishap.

The secret project was the first major experiment in President Reagan's antimissile plan to be conducted entirely in space.

At 11:08 A.M., amid unusual secrecy and security, the $42 million rocket rose from pad 17B of the Cape Canaveral Air Force Station, arcing due east into a partly cloudy sky.

"WE'RE BACK IN THE GROOVE"

Ground controllers repeatedly cheered as the Delta soared flawlessly into space, ending a string of rocket failures highlighted by the explosion of the space shuttle Challenger on Jan. 28. A year ago a Delta launching would have attracted little notice.

"We're back in the groove," William A. Russell Jr., Delta Project manager at the Goddard Space Flight Center in Greenbelt, Md., said at a news conference here. He added that the rocket had put its payloads into an orbit 255 miles above the earth.

"This success is very significant," Charles D. Gray, director of expendable vehicles at

the Kennedy Space Center here, said at the briefing. "We needed it for morale purposes, and the country needed it, because we've had a string of failures."

For weeks, the day and exact time of this launching had been kept secret by the Department of Defense and the National Aeronautics and Space Administration. A few details of the experiment were released in the course of the day.

Shortly after liftoff, space agency officials released a short statement saying that the Strategic Defense Initiative Organization "will be conducting a classified experiment to obtain rocket signature data" in the mission, adding that it complied with all American treaty obligations, including the Antiballistic Missile Treaty, which restricts research, development and testing of antimissile systems.

The test was meant to refine the ability to track satellites and rockets in space.

In New Mexico, more than an hour after the Delta flew into space, a 26-foot Aries rocket carrying a classified payload lifted off from the White Sands Missile Range. The Pentagon had given no advance warning of the Aries launching, which occurred at 12:40 P.M.

In Washington, Lieut. Col. Terry Monrad, an S.D.I. spokesman, said both launchings were related to the program and that the Delta payload was known as a Significant Technical Milestone Experiment.

In June an S.D.I. report to Congress described this as "a single launch device that puts two vehicles in closely related orbits," and added: "The vehicles will be maneuvered relative to each other to obtain sensor, guidance and navigation data. The experiment is a multifaceted exoatmospheric experiment involving research into the area of vehicle dynamics, guidance and sensor sciences."

A Pentagon spokesman said late today that the Delta had launched two research satellites, one a target and the other an attacker, that maneuvered around each other in space and then had a "head on" collision. The target satellite was equipped with reflectors to make it easier to track, the spokesman said.

John E. Pike, director of space policy at the Federation of American Scientists, a private group in Washington that has been critical of the antimissile plan, said the experiment "was too feeble to violate the ABM treaty." He likened today's test in space to shooting a hole in one. "If 'Star Wars' is going to work," he said of the program, "they're going to have to get 10,000 holes in one in a row," a reference to the large number of warheads and decoys that might be launched by the Soviet Union.

According to an Administration official familiar with the experiment, the attacker satellite from the Delta was also used to observe the "signature" of the Aries rocket, distinguishing between radiations from its cool rocket body and hot engine flame. Measuring the difference is important because, in theory, an antimissile weapon would track the hot flame of an enemy missile but would have to aim at and hit the cool rocket body.

MISSILE 'SIGNATURE' DATA

"They're trying to get data you can't get on the ground," said the Administration official. In the past, the Pentagon has used airplanes to obtain "signature" data from rising missiles.

At 3:45 P.M. today, the S.D.I. office in Washington released a short statement announcing the "successful completion," of the experiment. "The primary objective," it said, "was to obtain scientific data on rocket signatures during the close-in phase of a space intercept."

Today's mission, an unusual mixture of mystery and limited disclosures, was preceded by a secret countdown. Months ago a Delta launching date was publicly released by the space agency. But after a Delta rocket was blown up in May after its malfunction here, the Defense Department decided to classify any new launching date and countdown as secret. In the meantime, engineers struggled to correct the engine problems that doomed the previous Delta flight.

On Wednesday reporters around the country were given a "heads up" advisory by NASA officials to come to the Kennedy Space Center.

Around 7 o'clock this morning, NASA officials called reporters here and told them of the impending launching, although that news, they stressed, was "embargoed." At the launching site at the Cape Canaveral Air Force Station armed guards checked the badges of visitors while low-flying helicopters prowled the nearby coast for intruders or terrorists.

The 116-foot Delta stood poised on pad 17B, surrounded by dense tropical undergrowth, about a mile from the press site. Through binoculars, the S.D.I. insignia could just be made out on the side of the Delta rocket.

At 10 A.M., Hugh Harris, a space center spokesman, made the first public announcement about the secret countdown, saying it was proceeding smoothly. At 11:08, the Delta belched flame and headed for the sky since no official liftoff time had been made public, it was unclear if the launching had occurred on schedule. The possibility of delays, however, was considered great since the Delta was receiving extra close inspections in an attempt to avoid any problems.

Today's successful flight ended a string of failures that had plagued the American space program and grounded all major launching systems.

TRIBUTE TO THE LATE DONALD R. FORTIER, NATIONAL SECURITY COUNCIL

(Mr. BROOMFIELD asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BROOMFIELD. Mr. Speaker, this morning a memorial service was held at the Chevy Chase Presbyterian Church for a good friend and colleague, Donald R. Fortier of the National Security Council, who passed away during the congressional recess. Don had worked in and with the Congress on many issues—the most recent being a plan to aid the freedom fighters in Nicaragua.

Mr. Fortier was appointed Deputy Assistant to the President for national security affairs in December 1983. Prior to assuming that position, he served successively at the National Security Council as director of Western European and NATO affairs and Special Assistant to the President for political-military affairs. Mr. Fortier joined the administration in 1981 as Deputy Director for Policy Planning at the Department of State. In November 1982 he was awarded the Department's superior honor award for his contribution to U.S. foreign policy. Before joining the executive branch, he served as a senior staff consultant for the House Foreign Affairs Committee and had been a national security consultant to the Rand Corp. Mr. Fortier did his graduate work at the University of Chicago from 1971 to 1975, where he also served as the executive administrator of the Ford Foundation's symposium on "the role of the expert in a democracy." He received his undergraduate degree from Miami University in Oxford, OH, and his M.A. in political science and international relations at the University of Chicago, where he held a Ford Foundation scholarship.

I know I speak for every Member when I say to his wife, Alison, and his son, Graham: Don will be missed, but he will not be forgotten.

[From the Wall Street Journal, Aug. 26, 1986]

DONALD R. FORTIER

Even among the politically aware, few Americans will recognize the name Don Fortier. But for anyone who admires the rebirth of American self-confidence in foreign policy during the current administration, it is a name that should be remembered well.

Donald R. Fortier, 39, died Saturday night in Georgetown University Hospital; he had been ill with liver cancer since May. As deputy director of the National Security Council staff, he had been a key player in such initiatives as the administration's policy on Libya, the acceleration of stealth aircraft technology, the bid for Indian-Pakistani rapprochement, a nuclear non-proliferation arrangement with China and the Reagan doctrine in Latin America.

It was Mr. Fortier's talent to accomplish such things and still be known as "no ideologue." He was of course a student of Albert Wohlstetter, the consummate strategic realist; he was an alumnus of Rand Corp., a tireless Republican staff member on Capitol Hill, a drafter of the 1984 Republican platform on foreign policy and briefer for Ronald Reagan in his campaign debates. He was scarcely a man without opinions.

"Self-effacing" is, though, the adjective that springs to mind with everyone who knew him. His careful avoidance of the limelight was instrumental in his success as a consensus-builder, both within the administration and with Congress. In debilitating him, his illness also crippled the NSC machinery.

It is tragic to see such a talent struck down so quickly in the prime of life. But it is inspiring to remember that in an age of publicity and in a town of the self-important, a quiet and thoughtful man could make so large a contribution.

[From the Washington Post, Aug. 26, 1986]

DONALD R. FORTIER

Donald R. Fortier, the number-two man on the White House National Security staff, who died on Saturday at the age of 39, was not well known beyond a relatively small personal and professional circle. There was something modest, spare and tidy about the obituaries that appeared when Mr. Fortier

died, which would no doubt have been just what he wanted and which also, in a way, reflected the style in which he chose to live his life. Mr. Fortier was uncommonly intelligent and discreet. He was the model staff person, and we mean that as a compliment. His involvement in government was the opposite of self-seeking. His commitment was to his work, to policy wisdom and success—not to his own image or reputation or acquisition of power.

That there are such people in Washington would not be immediatley—or, perhaps, ever—apparent to the fabled man from Mars dropping in on us without special knowledge of our ways. For it is very much in vogue these days to disparage staff people as creeps with special agendas or runaway policy makers who subvert their bosses and are unaccountable to the public or hired guns who will do any side's bidding or merely statistical evidence of the burgeoning of the federal payroll, as people gasp and sigh about how big staff has become in all three branches.

From the grousing you would not judge that there are dedicated, invaluable, self-effacing folks like Don Fortier around, but there are. We aren't meaning to suggest that Mr. Fortier, who came to the executive branch from the Hill and before that, the Rand Corporation, achieved some kind of perfection. When we observe that he sought policy wisdom, we don't mean to imply he always found it. Who does? We mean to say merely that he was in a very serious line of work and he brought a suitable degree of seriousness to it.

And he knew what was important: Mr. Fortier was perhaps best known over the years for his interest in nuclear nonproliferation; he was one of the true experts on that subject, and worked tireless to try to limit the spread of nuclear weapons around the world. His death at so young an age was a cruelty, not just to his family and friends and professional colleagues, but also to people who stood to profit from his best efforts in government—people who never knew his name.

LEGISLATION EXPRESSING DISPLEASURE AND CONDEMNATION FOR SOVIETS' TREATMENT OF NICHOLAS DANILOFF

(Mr. WORTLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. WORTLEY. Mr. Speaker, the American people, and we who represent them, are shocked by the arrest and the indictment of journalist Nicholas Daniloff.

The continuing detention of Mr. Daniloff by the KGB is reprehensible.

His indictment on trumped-up spy charges is an inexcusable farce.

Mr. Daniloff's imprisonment inhibits the free exchange of ideas and information between the people of the United States and the Soviet Union at a time when improved communications and understanding between the superpowers are essential. Intimidation of a free pass journalist must not be tolerated without protest.

Despite Mr. Mikhail Gorbachev's public statements that he wishes to improve relations with the United States, it is obvious that the Soviets are still the masters of deception within the world's international community. Mr. Gorbachev must be held directly responsible for the KGB's treacherous and deceitful behavior.

As a newspaper publisher and journalist, and one who is sworn to uphold freedom of the press as guaranteed by the first amendment to the Constitution, I consider the kidnaping of an accredited journalist as an act of terrorism, akin to outrages inflicted upon Americans by the Barbary pirates.

Today, I am introducing a concurrent resolution which expresses displeasure and condemnation upon the part of this Congress for the Soviets' arbitrary act against Mr. Daniloff.

Mr. Speaker, I call upon my colleagues in this body and in the Senate to join me in cosponsoring this concurrent resolution so that it can be enacted expeditiously and conveyed to the Soviet ambassador.

Mr. Speaker, I submit the text of the concurrent resolution for inclusion in the RECORD:

H. CON. RES. 388

Whereas the Soviet Union has arrested and indicted Nicholas Daniloff, an accredited and widely respected journalist, on trumped up charges of espionage;

Whereas the arrest of Nicholas Daniloff inhibits the free exchange of ideas and information which is vital to a better understanding between the United States and the Soviet Union;

Whereas the Soviet action undermines confidence in the good faith of Soviet leaders and their public statements calling for improved relations between the United States and the Soviet Union; and

Whereas this reprehensible action does little to promote trust or understanding between the United States and the Soviet Union at a time when such trust and understanding is vital to the progress of arms control negotiations: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) condemns the arrest by the Soviet Union of Nicholas Daniloff;

(2) urges the Soviet Union to release Nicholas Daniloff immediately;

(3) holds the Soviet Union and its leader, Secretary General Michail Gorbachev, directly responsible for—

(A) all distress suffered by Nicholas Daniloff and his family during his period of imprisonment by the Soviet Union; and

(B) the severe impact such an unprincipled action must inevitably have on relations between the United States and the Soviet Union; and

(4) to demonstrate the outrage of the United States at this action, urges the President to take appropriate diplomatic and economic steps against the Soviet Union for as long as the unjust imprisonment of Nicholas Daniloff continues.

FORTY-SEVENTH ANNIVERSARY OF THE INVASION OF POLAND

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, the month of September marks the 47th anniversary of the invasion of Poland. On September 1, 1939, the forces of nazism invaded Poland from the west, and 16 days later, on September 17, the forces of communism invaded Poland from the east, turning the country into a tyrannized and persecuted nation.

The heroic and patriotic Polish people fought desperately to turn back the Nazi war machine, but the power of Hitler's army was too much for the Poles. When victory became certain, the Soviet Union decided to seize a share of the prize, and sent the Red army across the Polish frontier, annexing huge areas of Poland into the Soviet Union.

Members of the resistance movement and the Polish populace refused to betray their national honor by collaborating with the enemy, and fought bravely against the Nazi invader. The Polish nation lost close to one-quarter of her population, and the beautiful capital city of Warsaw was leveled to the ground. This destruction of Poland led the free nations of Europe to make that final decision to stop Hitler from a conquest of the entire continent.

In one of the ironic tragedies of history, Poland's people, who endured the worst of World War II, found that a new enemy had taken control of their country's destiny. The Communists quickly grabbed power at the end of the war as the Nazi forces were retreating, and ever since, the people of Poland have been subjected to this brutal and all-consuming tyranny.

Today Poles must face the daily oppression of their Communist rulers, and I join hands with the Polish people in their continuing struggle for their personal liberty and national integrity. Because of the numerous attempts of the Soviets to destroy the culture, religion, and spirit of the Poles, I added my name as a cosponsor to House Concurrent Resolution 209, a bill to urge the President of the United States to bring the rights of the Polish people to the attention of the Soviet Government. A copy of the resolution follows:

H. CON. RES. 209

Concurrent resolution asking that the President bring the rights of the Polish people to the attention of the Soviet Government

Whereas the successive governments of the Polish People's Republic have continued their repression of the natural rights of the people of that country, and have done so largely because the police and military powers of the Soviet Union require it;

Whereas the Polish regime, notwithstanding the pledges it made by signing the Helsinki accords of 1975, has done little for "the promotion of human rights", but has instead harassed and arrested citizens whose offense was to make attempts to monitor the Government's fulfillment of its international obligations under the accords;

Whereas few, if any, of the scores of formal agreements the Polish Government signed with the Solidarity free trade union have been honored; and this union which Government spokesmen in February 1981 called a permanent part of the Government structure has been declared illegal; and every kind of legal and illegal pressure is

being applied to workers to join state unions organized by the Communist government;

Whereas some fifteen political and religious activists have died in police custody or under suspicious circumstances since the end of martial law, while many others have been beaten or tortured, and some who were freed in much publicized amnesties have since been reinterned; and

Whereas the Government of Poland has adopted new legal measures that make Polish civil law increasingly difficult to distinguish from martial law, including new police rights to search without a warrant, and the empowerment of courts to arrest, convict, sentence, and jail anyone of political or other crimes all within a forty-eight hour period and without a trial: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that at the November 1985 summit in Geneva, Switzerland, the President should raise with Soviet authorities at the highest level the matter of the continuing and thorough suppression of independent speech and peaceful political activity in Poland, and that by so doing the President raises and defends the principles of human rights as embodied in the Helsinki accords.

Mr. Speaker, I take this opportunity on the 47th anniversary of the invasion of Poland to join with Polish Americans in the 11th Congressional District of Illinois which I am honored to represent and Americans of Polish descent all over this Nation, in their hopes and prayers for the day when the people of Poland can live in personal and economic freedom with the right to choose the course of their own destiny.

NATIONAL HOME CARE WEEK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. PANETTA] is recognized for 5 minutes.

Mr. PANETTA. Mr. Speaker, I am today introducing a resolution to designate beginning November 30, 1986, as "National Home Care Week." I am pleased that Representatives CLAUDE PEPPER and MATTHEW RINALDO have joined me in sponsoring this resolution. Congress has approved similiar resolutions in the past to recognize the services of home care programs and personnel, and I look forward to congressional passage once again.

As you all know, the operation and services provided by the thousands of home care agencies are an integral part of our Nation's health care delivery system. The concept of care made available through these operations recognize the individual needs of each patient and provides a valuable and respected alternative to institutionalization. For many patients in need of health care treatment, institutional care may be warranted. However, for that segment of the patient population which can be properly cared for outside the hospital or nursing home setting, effective alternatives must be offered. Home care agencies have proven very helpful and effective in responding to this need. Mr. Speaker, one of the most critical issues which face our Nation today centers around our health care system. The growth in the size of the elderly population is placing greater demands on the current system and encourages the development of a long term system to care for the elderly. In an effort to ensure adequate care for the elderly population, which is expected to total more than 30 million by the year 2000, home care agencies have helped many of the elderly to remain at home and in their communities. This offers a greater sense of independence for the patient and can be just as beneficial as any medical treatment. For this, home care agencies and the persons employed in this industry are to be commended.

The resolution I am introducing today is a very appropriate way to recognize the benefits of home care and bring greater attention to the value of this type of care. I urge my colleagues to join with me in supporting this resolution.

The resolution follows:

H.J. RES. 718

Joint resolution to designate the week beginning November 30, 1986, as "National Home Health Care Week"

Whereas organized home health care services to the elderly and disabled have existed in this country since the last quarter of the eighteenth century;

Whereas home health care is recognized as an effective and economical alternative to unnecessary institutionalization;

Whereas caring for the ill and disabled in their homes places emphasis on the dignity and independence of the individual receiving these services;

Whereas since the enactment of the medicare program including skilled nursing services, physical therapy, speech therapy, social services, occupational therapy, and home health aide services, the number of home health agencies providing these services has increased from less than five hundred to more than three thousand; and

Whereas many private and charitable organizations provide these and similar services to millions of patients each year preventing, postponing, and limiting the need for institutionalization: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning November 30, 1986, hereby is designated as "National Home Health Care Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

CONSERVATIVE JURISPRUDENCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. FRANK] is recognized for 30 minutes.

Mr. FRANK. Mr. Speaker, I want to discuss today the most recent example we have gotten of the conservative jurisprudence that President Reagan has promised to bring to us.

We have been told that one of the hallmarks of this conservatism represented by the President is respect for the individual and in opposition to undo Government inference with individual freedoms. The President talks a great deal about the importance of restraining government, of putting checks on a government which he believes has grown too far.

It is distressing, therefore, to find that in its judicial mode, the President's brand of conservatism in fact appears to be bent on legitimizing governmental intrusion of the most inappropriate sort. I am referring most recently to an opinion issued by the U.S. Circuit Court of the District of Columbia. It is an opinion which was written by one of those judges appointed by the President of whom he is most proud, a man whom we are told might wind up on the Supreme Court, Judge Robert Bork. Judge Bork we are told, as I say, is one of the exemplars of this new conservatism.

The most recent opinion of Judge Bork tends to reaffirm the view that I have come to have, which is it will be very difficult for even the most inventive and creative of Government interveners, regulators, and interferers to come up with any extension of Government power from which Judge Bork would protect citizens. Judge Bork appears to be devoted to using his energies, and they seem to be considerable, to defending any Government assertion of power over individuals.

The case at hand is one in which several very conservative individuals by their own discription wanted to carry signs in front of the Russian and Nicaraguan Embassies. Judge Bork wrote an opinion which says it is perfectly legitimate for the Government of the United States and the District of Columbia government, which was the enforcer in this case, to prevent American citizens from insulting a foreign government.

Chief Judge Wald, who is one of those who represents what this administration likes to denigrate as a more intrusive Government philosophy, dissented very vigorously and very eloquently. He said, no, the government should not stop some conservative private citizens from carrying signs within 500 feet of the Nicaraguan and Russian Embassies.

As Judge Bork says himself, one of the criminals in this case—I guess you are a criminal if the Circuit Court of Appeals upholds the criminal conviction—I am quoting from Judge Bork:

> Mr. Waller, for example, wishes to carry a sign bearing the words "Stop the Killing" in front of the Nicaraguan Embassy.

So we have an individual who wanted to carry a sign that said "Stop the Killing" in front of the Nicaraguan Embassy.

□ 1440

Other people, according to Judge Bork, were guilty because, "They wished to carry signs critical of the Soviet and Nicaraguan Governments between 500 feet of their Embassies."

What do we get from this exemplar of the new conservative, protect individual rights jurisprudence? A ringing

defense of the right of prosecutors to criminally convict people who want to carry signs within 500 feet of these embassies.

Chief Judge Wald, an appointee of the Carter administration, said, "No, it is not the business of the Federal Government to protect foreign governments from insult. Protect them from bombs, from threats, protect from violence, from the destruction or defacement of their property? Of course." To protect anybody in this society from an insult? Whatever happened to the first amendment, and how is this restraint on government when the Federal Government says, "Let us prosecute these people," and Judge Bork says, "Absolutely right. You cannot insult the Nicaraguan government within 500 feet of the Nicaraguan Embassy without our permission. We will decide."

By the way, if you wanted to carry a sign in front of the Nicaraguan Embassy saying "We love the Nicaraguan Government," if you wanted to carry a sign in front of the Russian Embassy saying, "You are right, Sahkarov is a dangerous lunatic, lock him up," then you can do that. But if you wanted to cary a sign, one individual saying, "Leave Andrei Sahkarov alone, stop persecuting this great man," you can be locked up and Judge Bork would say, "That is right; the Government has a right to do it."

Not just a right, but he says in his opinion he thinks the statute is a sensible one. Let me point out that Judge Bork himself makes the distinction in this particular law, and we are talking here about section 22-1115 of the District of Columbia Code, because we are talking about a legal situation where the law is about 50 years old. It was passed at a time when you did not have the kind of home rule we now have. I should say at this point that I recently came across this opinion. I have not yet fully gotten the results of the research I have asked to be done on it. It appears to be a District of Columbia statute. I think we ought to respect the home rule of the District of Columbia, so I do not intend to file legislation that would repeal what the District of Columbia has. I hope we can urge the District of Columbia to repeal this part of the statute and make it clear that Congress would be supportive of their doing that because section 22-1115 has two distinct parts. Part of it limits the right of people to congregate in front of an Embassy. I think that is legitimate. It can be abused, but it has a security basis. In other words, there is part of the statute that says you cannot have too many people there in front of the embassy because we have got a physical problem defending an embassy.

There is an entirely separate section that says, "and, you cannot have a single individual carrying anything offensive or insulting the dignity within 500 feet." Judge Bork himself makes it very clear they are two separate sections. He says at page 30 of his opinion, "The dissents discussion measures the statute only against the interest in security, having eliminated the interest in peace and dignity from the analysis. Since we have shown that this second interest is valid as well, we need express no judgment on whether the security interest standing alone would be sufficient to justify the constitutionality of section 22-1115."

When he says "peace" here, by the way, he is not talking about peace in the sence of preventing tumult and disorder. He is talking about serenity. He is talking about the right of an embassy not to have some nasty, controversial American who thinks free speech happens to apply all over Washington, DC, saying a rude word about the policies of the Russian or the Nicaraguan or any other government.

He reiterates this point that they are two separate issues, on page 47. "In addition to the need to ensure security, the other requirement imposed by the Vienna Convention, the maintenance of the peace and dignity of the Embassy's premises is clearly contained within section 22-1115's plainly legitimate sweep.

Let me now quote from Judge Bork, one of the exemplars of the new conservatism that we are told is going to protect individuals from being mistreated by the Government. This is a man Ronald Reagan has sent to us as a sworn upholder of the Constitution, presumably partly to keep the Government from transcending bounds and interfering with peoples' rights. Here is what he says:

> Demonstrations, even those by lone protestors, may threaten fulfillment of that obligation without necessarily posing a threat of violence.

In other words, if you are an American citizen and you are appalled by the actions of a foreign government, you may not, under penalty of criminal prosecution, freely express your viewpoint within 500 feet of the Embassy, not because of security, not because you pose any threat; no one can test the right of constituted authorities to take reasonable action to defend against physical threats. But Judge Bork is being honest here, at least.

He is saying, "wholly apart from any physical threat, we have a separate obligation to prevent you from insulting a foreign embassy, and the first amendment will have to take a back seat here to the Law of Nations."

He says, and, "We will prevent you from expressing your viewpoint." You can go and say the Embassy represents a wonderful Government but you cannot go and be critical. I think that is appalling. I think Chief Judge Wald's dissent is an eloquent affirmation of what Judge Bork was supposed to be representing: The right of citizens in this free country to act according to their own sense of what is appropriate and not be impinged upon by the Government. The courts, presumably, have some obligation to prevent, occasionally, errant governments from interfering.

Again, we are not talking about security or safety, we are talking purely about the right of a foreign government to be secure from being insulted. Judge Bork says this is not so bad, because while you cannot speak over here against the Government, you can speak somewhere else. You can go a mile away. You can go 600 feet away. He says that your right to free speech does not mean the right to choose where you are going to speak.

There are some terribly dangerous principles being enunciated by Judge Bork. I think they ought to be analyzed. If this is protection of the individual against Government intervention, God help us all when we get intervention. Because this is as intrusive and oppressive a justification for government power, not to protect anybody's life or property or safety; to prevent a foreign embassy from having its dignity ruffled by someone standing outside with a sign. Judge Bork says you can lock him up, and it is Judge Wald who dissents from that and says, "No, American citizens have first amendment rights, and when you come to this country, you better learn to live with freedom. You better learn to live with the fact that people can call you anything they want, they can engage in political controversy anywhere they want, they cannot interrupt your sleep, they cannot intrude on your property, but you cannot say I do not want to have, within my sight, on the public streets, anybody saying rude things about me."

What are the reasons for this? One, Judge Bork says, is after all, if Americans are allowed to criticize foreign governments near their embassy, that might endanger the security of Americans overseas. I think it is a disastrous mistake to allow the threat of irrational and unjustified violence against American diplomats to be used as a way to impinge on the right of Americans to speak freely.

Judge Bork says, "No, they can still speak freely, but not here and not there and not in this manner and not in that manner." It is none of the Government's business how private citizens express their freedom. It is not the legitimate business of the Government of the United States to say, "Yes, you may be critical of Nicaragua, but not here. You can say those bad things if you want to about Chile, but not in that manner. That is going to insult the Government of South

Africa so please do not do that. If you do not obey us when we say please, then we can lock you up."

That is what Judge Bork is saying. That to avoid offending the sensibilities of foreign governments, we can begin to dictate to Americans how they can exercise free speech rights.

I want to emphasize, because I think people are going to have trouble believing this, we are talking about free speech. We are not talking about throwing an egg at the Embassy. We are not talking about painting something on the Embassy gate. We are not talking about trampling a blade of the Embassy's grass. We are talking about standing across the street from the Embassy with a sign. What you accomplish, of course, is you are making it less likely that the people in the Embassy will see this. Is it the business of the Government of the United States to shield people from criticism?

Judge Bork says, well, that is what the Law of Nations says. I find it a little ironic—and he is talking about this with regard to Nicaragua—he is saying, you know, we have got to obey the Law of Nations, and according to the Law of Nations, we cannot let somebody stand in front of the Nicaraguan Embassy with a sign saying "Stop the killing."

□ 1450

Apparently it is OK for us to send a hundred million dollars down to the Contras to shoot people in Nicaragua. How hypocritical can we be? The American Government is saying, "Oh, please, we must respect the Law of Nations." And according to the Law of Nations, you are not allowed to exercise free speech. You can shoot somebody, you can go down and plant a mine and blow up a civilian bus, and that is OK.

The World Court has said that the policy being followed by this administration, certainly with the support of this body now and the other body, is a violation of international law. So international law is not that much of a problem when you want to send a hundred million dollars a year down to blow people up, but all of a sudden the Law of Nations becomes inviolable if somebody threatens to exercise free speech.

Mr. Speaker, that comes under the category of "who is kidding whom?" It is simply not plausible for this administration to be invoking its sacred duty to the Law of Nations on behalf of the people of Nicaragua or the Government of Nicaragua or the Embassy of Nicaragua or the dignity of the Ambassador. What it is, unfortunately, is an instinct that says the Government is right.

I find this appalling in its implications for free speech. Let us understand what it says: The first amendment does not mean what it says. What ever happened to strict construction? What ever happened to looking at what the words say and applying them? Where is there in the first amendment that says, "We will make no law abridging the freedom of speech?" Where is that clause that says, "except if you are going to insult the Russian ambassador"? Because the Reagan administration found that "except," and they said, "Wait a minute, free speech is one thing, but you can't insult the Russian Ambassador where he can see it. If you want to go somewhere where he can't see it and insult him, you can do that, but we will tell you where and how. We will regulate this."

Understand again, to make the point about security, they are not banning demonstrators in front of the Embassy. You can have people stand in front of the Embassy with signs saying, "Russia is wonderful." You can have people standing there saying, "Daylight savings time is a pot." You can have people standing there saying anything. But as a side bar here from Judge Bork, maybe people will go in front of the Embassy and say bad things and they will get so excited they will rush the Embassy grounds and they will not be so well protected. I think we have an obligation to support law enforcement people. They have a very difficult job.

I think the law enforcement people who protect the embassies do a very good job. I am a little intrigued by their name. They are the Uniformed Branch of the Secret Service. It seems to me that once you are in a uniform you are no longer in a secret service, and by having a secret service it would seem to me that you undercut the principle when you put the members of that secret service in uniform, because they are not very secret. But putting that aside, they do a very good job.

If they said that what we absolutely need is a security zone of x number of feet, I would look at that, and if they were not overarguing it, I would say I would probably vote for that. But they explicitly say that is not what they are claiming.

Judge Bork says, over and above security, with no threat of violence, with one person carrying a sign, you cannot have it. He upholds that. He says that is legitimate.

Is there, then, anything from which he is prepared to protect the citizens? He is very sensitive. It is a very long opinion that he offers here. It is an opinion which debates constantly with Judge Wald's dissent. And he has a right to be sensitive because a lot of people are going to be saddened by the implications of what he says in specifics and in general.

In the specifics, again what he is saying is that with respect to your right to speak in the place and in the manner in which you choose and in which you think you are best able to express your opinion, that can be abridged by the Federal Government, not because you threaten security, not because you are going to disturb the peace, not because you are interrupting traffic, but because you might offend the dignity of some foreign diplomat.

I think the most important thing America can do for the world is to show the importance of freedom, and I think we serve ourselves very well if we say to diplomats, "Look, we are going to give you every absolute protection we can. We are even going to give you diplomatic immunity when you abuse it, which is often a necessity, but we would like you to understand what freedom means. Freedom means that anybody in this country can call you a fool or a murderer, and if you don't like that, you can respond and you can defend yourself. But that is freedom, and we don't abridge our freedom. We don't abridge it for ourselves, and we don't do it for you, and we don't think you have a legitimate interest in asking us to abridge it."

What do we say to the world when we say to them, "Oh, by the way, does it bother you if somebody has a debate outside your window?" Again, not at 3 o'clock in the morning, waking you up. "But are you offended if somebody carries a sign out there saying you do bad things to the Jews in the Soviet Union or to the Catholic Church in Nicaragua or to labor unions in Poland or to almost anybody you can think of in Chile? Are you offended by that? Well, we'll get them out of here. We will lock them up. They can't carry a sign under your window saying rude things about you. That is a violation of the Law of Nations. Of course, we may send a hundred million dollars down there to mine your harbors and blow up your roads. That is a separate subject. The Law of Nations is sometimes good and sometimes not so good."

But what kind of a message is this for a country that believes in freedom? This is what Judge Bork said is OK. Judge Bork is not the author of this. Whoever was the author of it, Senator Pittman apparently defended it. It was a congressional enactment as part of the D.C. law. But it was 50 years ago, and the first amendment has meant a lot more since then.

I guess one of the sad things about this is that Judge Bork, although he says differently, really does not appear to believe that the first amendment means anything more now than it did 50 years ago.

Anybody has a right to believe anything, but I say, "Please, don't come before us and say the Government has got a right to lock you up if you are in-

sulting a foreign embassy because you might offend their dignity and then tell us that you are the defender of the individual against the Government."

Let us cut through this rhetoric. Of course, we have seen this before in this administration and in the viewpoint it represents. Again they like to talk about how they defend individuals against Government interference. But most recently the people who represent this administration's viewpoint on the Supreme Court gave us a majority decision in the case of Hardwick against Bowers in which the Supreme Court said that if a State wants to tell 40-year-old adults exactly what body parts they may apply to each other in the absolute privacy of their own bedroom, that is OK with them. That is another great example apparently of protecting the individual against intrusion by the Government.

What motivates people to want to do this I do not know, but to do it and then call yourself a defender of the individual against the Government just does not make any sense at all. But that is what we are getting from Judge Bork.

I hope that we will take some action on this. As I said, I do not want to interfere with the autonomy of the District of Columbia. I think the hundreds of thousands of people who live in this city have more rights than we recognize to govern themselves. On the other hand, this is not something that was adopted by the D.C. Government when it had autonomy. It is a hangover from the earlier time. At the very least, I hope they can be encouraged to take some action to get rid of it, and we might indicate that we are willing to do that.

I plan shortly to ask Members to join me in some appropriate action to deal with this matter, and I want to make it clear what I am saying. We are going to leave in place, I hope, the right of the law enforcement officials to physically protect embassies from violence, from physical abuse of their property, et cetera. But we have on the books, defended by Judge Bork, the legal exemplar of the new protect-the-citizen conservatism, a doctrine that says the Federal Government and the District of Columbia Government acting in effect as its agent can have you locked up if you insult a foreign government. They say, "If you criticize them in ways that they don't like, we will stop you from doing that in certain circumstances. If you decide that the most effective way to criticize them is to be in a certain place, then we will, at their request and maybe even not waiting for their request, lock you up, not because of the way you behave, not because you are any threat to peace or order, not because you are disorderly or disturbing the peace, but because of what you say. The U.S. Government will have you locked up because of the content of your message, because we interpret the Law of Nations to say you should not be allowed to insult a foreign government."

Mr. Speaker, I am disturbed by this—extremely disturbed. I am disturbed by the consequence. I am disturbed by the message it sends. I think American citizens ought to be free to do what they want and where they want, as long as they are not disturbing the peace or in other ways intruding on other people's right to enjoy themselves. You do not have a right to go into someone's home and interrupt them, you do not have a right to trespass on someone else's property, but in a public place, in a manner that complies with the laws involving disorderly conduct, it is certainly not right for an American citizen to be told that she or he cannot express a viewpoint because they do not like the viewpoint. And that is what they are saying. If a foreign government does not like the specific thing you say and you do it in a place where they can see you too easily, the cops will come and take you away.

That is an interference with the right of American citizens which in itself is terrible. The theory behind it is terrible. By the way, the statute in question says, only within 500 feet, but if you read Judge Bork's opinion, it could mean a 1,000 feet probably, and maybe it could happen in other ways. There is nothing in Judge Bork's opinion that says how limited this is. He says there are some limits to it. The foreign government could not shut you up completely, but nothing suggests that 500 feet is the outer reach of these kinds of limits.

So the notion is that this happens because other people find the content of your message offensive, and we are not talking about libel, we are not talking about misrepresentation, or we are not talking about verbal extortion.

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What we are saying is if somebody finds the political content of your speech offensive, they can call the cops and have you locked up if you insist on continuing to say it in the place and in the manner in which you think it ought to be said. That is a terrible doctrine for a court to be upholding. It has terrible implications and when it comes from a man we are told is an example of the new conservatism that is going to protect citizens against interference, then I am discouraged and I think what it shows is the hypocrisy of that assertion.

The fact is that people like Judge Bork and others whom the President wants to put on the courts and others who are active in political support of this threaten in many, many ways, a new form of Government intrusion. They are people who want to tell you what to say, what to read and what movies to look at and when to pray and how to do a lot of other of the most intimate personal acts. I think that ought to be understood.

This pretense that this is a group of people who stand for individual freedom it seems to me is totally undercut. We have two major judicial figures here, Chief Judge Patricia Wald, appointed in the previous administration, a former official of the Justice Department, eloquently and cogently reaffirming the right of the citizens who speak without being harassed by the Government because some other government does not like the content of the speech.

American citizens being arrested in America to prevent foreign governments from being insulted, from having their dignity ruffled, I did not think most people thought that was possible. I was kind of unpleasantly surprised.

Well, it is the former Carter administration official appointed by Jimmy Carter who says, no, that is not what Government does. We have individual rights. There are limits to Government in this country, and as Judge Bork, a former Nixon administration Justice Department official and appointee of President Reagan, says no, the Government can do that if it wants to. If the Government wants to shut you up in that particular way, it can and they can tell you, well, go do it in some other way in some other fashion, because we are going to protect the dignity of foreign governments.

Mr. Speaker, that is a very dangerous attitude for those of us who believe in individual freedom. I am saddened by it.

I hope, and we are talking about some very conservative individuals who are trying to exercise their rights as Americans to show their distaste for the policies of the Russian and Nicaraguan Governments. I am sure they are going to appeal and I hope that the Supreme Court will show itself far more sensitive to the necessary limits that ought to be observed on government and to the rights of individuals than was Judge Bork in this case.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. BURTON of California (at the request of Mr. WRIGHT), for an indefinite period, on account of medical reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special

orders heretofore entered, was granted to:

(The following Member (at the request of Mr. GEKAS) to revise and extend his remarks and include extraneous material:)

Mr. GINGRICH, for 60 minutes, on September 10.

Mr. GINGRICH, for 60 minutes, on September 11.

(The following Members (at the request of Mr. FRANK) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. PANETTA, for 5 minutes, today.

Mr. FRANK, for 30 minutes, today.

Mr. BENNETT, for 60 minutes, on September 15.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. GEKAS) and to include extraneous matter:)

Mr. COURTER.

Mr. KEMP in two instances.

Mr. OXLEY.

Mr. FAWELL.

Mr. BROOMFIELD in two instances.

Mr. LENT.

Mr. WHITEHURST.

Mr. GRADISON.

Mr. GUNDERSON.

(The following Members (at the request of Mr. FRANK) and to include extraneous matter:)

Mr. BENNETT.

Mr. HERTEL of Michigan.

Mr. COELHO.

Mr. MRAZEK.

Mr. HAMILTON.

Mr. PANETTA.

Mr. HOWARD.

Mr. STARK.

Mr. FASCELL in three instances.

Mr. RODINO.

Mr. CHAPPELL.

Mr. LEHMAN of Florida.

Mr. MICA.

Mr. FAZIO.

Mr. REID.

Mr. BATES.

Mr. GUARINI.

Mr. MURPHY.

ENROLLED BILL SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 4329. An act to authorize United States contributions to the International Fund established pursuant to the November 15, 1985, agreement between the United Kingdom and Ireland, as well as other assistance.

ADJOURNMENT

Mr. FRANK. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 3 minutes p.m.), the House adjourned until tomorrow, Wednesday, September 10, 1986, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4158. A communication from the President of the United States, transmitting amendments to the request for appropriations for fiscal year 1987 in the amount of $272 million for the National Aeronautics and Space Administration, pursuant to 31 U.S.C. 1107 (H. Doc. No. 99-264); to the Committee on Appropriatons and ordered to be printed.

4159. A letter from the Acting Assistant Secretary of Defense (Comptroller), transmitting a report of the value of property, supplies, and commodities provided by the Berlin Magistrate for the quarter April 1, 1986 through June 30, 1986, pursuant to Public Law 99-190, section 8014 (99 Stat. 1205); to the Committee on Appropriations.

4160. A letter from the Assistant Secretary of the Army (Installations and Logistics), transmitting a report of the recent discovery and emergency disposal of suspect chemical munitions at Dugway Proving Ground, UT, pursuant to 50 U.S.C. 1518; to the Committee on Armed Services.

4161. A letter from the Secretary of the Navy, transmitting a draft of proposed legislation to authorize the sale of two naval vessels to Taiwan; to the Committee on Armed Services.

4162. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report on loan guarantee and insurance transactions supported by Eximbank during July 1986 to Communist countries, pursuant to 12 U.S.C. 635(b)(2); to the Committee on Banking, Finance and Urban Affairs.

4163. A letter from the Auditor, District of Columbia, transmitting a copy of his report entitled, "Annual Report on D.C. Depository Activities," pursuant to D.C. Code section 47-117(d); to the Committee on the District of Columbia.

4164. A letter from the Secretary of Education, transmitting a report entitled "The Condition of Education, 1986 Edition," pursuant to 20 U.S.C. 1221e-1(d)(1); to the Committee on Education and Labor.

4165. A letter from the Chairman, Congressional Advisory Board, transmitting a report on the progress of negotiations in the labor dispute between the Maine Central Railroad Co. and Portland Terminal Co., and the Brotherhood of Maintenance of Way Employees, findings of fact regarding financial and other related circumstances and recommendations for a solution, pursuant to Public Law 99-385, section 2 (100 Stat. 819); to the Committee on Energy and Commerce.

4166. A letter from the Chairman, National Mediation Board, transmitting the Board's appointments to the Congressional Advisory Board established pursuant to Public Law 99-385, section 2; to the Committee on Energy and Commerce.

4167. A letter from the Acting Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting the report for the period May 14, 1986 to August 13, 1986 on the case involving the disappearance of Drug Enforcement Administration agent Enrique Camarena Salazar, disappearances of U.S. citizens and general safety of U.S. tourists in Mexico, pursuant to Public Law 99-93, section 134(c) (99 Stat. 421); to the Committee on Foreign Affairs.

4168. A letter from the Assistant Attorney General for Administration, Department of Justice, transmitting notification of a proposed new system of records, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4169. A letter from the Vice President, Corporate Human Resources, Federal Home Loan Mortgage Corporation, transmitting the report and audited financial statements for the Federal Home Loan Mortgage Corporation's employes' pension plan, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

4170. A letter from the Secretary of Labor, transmitting notice of a new Federal records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4171. A letter from the Commissioner, Immigration and Naturalization Service, transmitting a report on waivers granted from certain admissibility requirements for refugees, pursuant to 8 U.S.C. 1157(c)(3); to the Committee on the Judiciary.

4172. A letter from the Executive Director, American Historical Association, transmitting the association's financial audit for the year ended June 30, 1986, pursuant to Public Law 88-504, section 3 (36 U.S.C. 1103); to the Committee on the Judiciary.

4173. A letter from the Acting Special Counsel, U.S. Merit Systems Protection Board, transmitting a report on the Secretary of the Army's investigation into allegations of mismanagement, a gross waste of funds, abuse of authority, and a substantial and specific danger to the public health or safety in operation of the drill and agent transfer system, Pueblo Army Depot, Pueblo, CO, pursuant to 5 U.S.C. 1206(b)(5)(A); to the Committee on Post Office and Civil Service.

4174. A letter from the Executive Secretary, Department of Defense, transmitting a report on Department of Defense procurement from small and other business firms for October 1985 through June 1986, pursuant to 15 U.S.C. 639(d); to the Committee on Small Business.

4175. A letter from the Chairman, Federal Election Commission, transmitting the fiscal year 1988 budget request for the Federal Election Commission, pursuant to 2 U.S.C. 437d(d)(1); jointly, to the Committees on Appropriations and House Administration.

4176. A letter from the General Counsel, Department of Energy, transmitting a draft of proposed legislation to amend the Uranium Mill Tailings Radiation Control Act of 1978; jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

4177. A letter from the Administrator, Environmental Protection Agency, transmitting a draft of proposed legislation to provide for the deposit and retention of certain fees and charges collected by the U.S. Environmental Protection Agency; jointly, to the Committees on Merchant Marine and Fisheries, Agriculture, Energy and Com-

merce, and Public Works and Transportation.

4178. A letter from the Attorney General of the United States, transmitting comments on the legislation to aid in the Nation's war against controlled substances abuse; jointly, to the Committees on Armed Services; Banking, Finance and Urban Affairs; Education and Labor; Energy and Commerce; Foreign Affairs; Government Operations; Interior and Insular Affairs; the Judiciary; Merchant Marine and Fisheries; Post Office and Civil Service; Public Works and Transportation; and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DINGELL: Committee on Energy and Commerce. H.R. 3653. A bill to amend the Price-Anderson provisions of the Atomic Energy Act of 1954 to extend and improve procedures for liability and indemnification for nuclear incidents, with an amendment (Rept. 99-636, Pt. 3). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 4669. A bill to repeal and amend certain sections of the Powerplant and Industrial Fuel Use Act of 1978; with an amendment (Rept. 99-806). Referred to the Committee of the Whole House on the State of the Union.

Mr. KASTENMEIER: Committee on the Judiciary. H.R. 4899. A bill to amend title 35, United States Code, with respect to patented processes and the patent cooperation treaty; with an amendment (Rept. 99-807). Referred to the Committee of the Whole House on the State of the Union.

Mr. HAWKINS: Committee on Education and Labor. H.R. 5378. A bill to establish a program of Federal grants to States for drug abuse education and prevention in elementary and secondary schools, and for other purposes; with an amendment (Rept. 99-808). Referred to the Committee of the Whole House on the State of the Union.

Mr. PEPPER: Committee on Rules. H. Res. 541. Resolution providing for the consideration of H.R. 5484, a bill to strengthen Federal efforts to encourage foreign cooperation in eradicating illicit drug crops and in halting international drug traffic, to improve enforcement of Federal drug laws and enhance interdiction of illicit drug shipments, to provide strong Federal leadership in establishing effective drug abuse prevention and education programs, to expand Federal support for drug abuse treatment and rehabilitation efforts, and for other purposes. (Rept. 99-810). Referred to the House Calendar.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. ST GERMAIN: Committee on Banking, Finance and Urban Affairs. H.R. 4917. a bill to improve the quality of examinations of depository institutions, and for other purposes; with an amendment; Referred to the Committee on Government Operations, for a period ending not later than September 15, 1986, for consideration of such provisions of the bill and amendment as fall within that committee's jurisdiction pursuant to clause 1(j) of the rule X, and referred to the Committee on Post Office and Civil Service, for a period ending not later than September 22, 1986, for consideration of such provisions of the bill and amendment as falls within that committee's jurisdiction pursuant to clause 1(o) of the Rule X (Rept. 99-809, Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BENNETT:

H.R. 5487. A bill to establish a conventional defense advisory board within the Department of Defense; to the Committee on Armed Services.

By Mr. HOWARD (for himself, Mr. SNYDER, Mr. ROE, Mr. STANGELAND, Mr. ANDERSON, Mr. CLINGER, Mr. MINETA, Mr. OBERSTAR, and Mr. RIDGE):

H.R. 5488. A bill to prohibit implementation of certain regulations of the Federal Emergency Management Agency relating to the declaration process, eligibility for assistance, and non-Federal responsibility for major disasters under the Disasters Relief Act of 1974, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. PANETTA:

H.R. 5489. A bill to designate Monterey Bay, CA, as a national marine sanctuary; to the Committee on Merchant Marine and Fisheries.

By Mr. RODINO (for himself, Mr. SEIBERLING, Mr. FEIGHAN, Mr. STOKES, Mr. OBERSTAR, Mr. RAHALL, Mr. FROST, and Mr. VISCLOSKY):

H.R. 5490. A bill to amend title 11 of the United States Code to clarify the current meaning of section 1113 relating to the rejection of collective bargaining agreements by debtors in bankruptcy; to the Committee on the Judiciary.

By Mr. PANETTA (for himself, Mr. PEPPER, and Mr. RINALDO):

H.J. Res. 718. Joint resolution to designate the week beginning November 30, 1986, as "National Home Health Care Week"; to the Committee on Post Office and Civil Service.

By Mr. LAGOMARSINO:

H. Con. Res. 387. Concurrent resolution relating to the arrest of U.S. News & World Report correspondent Nicholas Daniloff; to the Committee on Foreign Affairs.

By Mr. WORTLEY:

H. Con. Res. 388. Concurrent resolution expressing the sense of the Congress with respect to the arrest and indictment of Nicholas Daniloff by the Soviet Union and to its impact on relations between the United States and the Soviet Union; to the Committee on Foreign Affairs.

By Mr. DREIER of California (for himself, Mr. BROOMFIELD, and Mr. HYDE):

H. Res. 540. Resolution expressing the sense of the House of Representatives with respect to the detention by the Soviet Union of U.S. News & World Report correspondent Nicholas Daniloff; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. Wolpe introduced a bill (H.R. 5491) for the relief of Chester G. Theissen; to the Committee on Armed Services.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 669: Mr. WEBER and Mr. BREAU.

H.R. 1326: Mr. MCCAIN.

H.R. 1398: Mr. PRICE.

H.R. 1432: Mr. ROE, Mr. FRANK, Mr. BARNES, Mr. KILDEE, Mr. WHEAT, Mr. MITCHELL, Mr. MORRISON of Connecticut, Mr. FAZIO, Mr. MRAZEK, Mrs. BURTON of California, Mr. FUQUA, Mr. CONYERS, Mr. TOWNS, Mrs. COLLINS, Mr. WILLIAMS, Mr. COELHO, Mr. VENTO, Mr. MURPHY, Mr. MARTINEZ, Mr. SAVAGE, Mr. KOLTER, Mr. WOLPE, Mr. DYMALLY, Mr. DE LUGO, and Mr. WYLIE.

H.R. 1877: Mr. DONNELLY, Mr. FEIGHAN, Mr. KINDNESS, Mr. BOUCHER, Mr. BUSTAMANTE, Mr. PERKINS, Mr. MCKERNAN, Mr. TALLON, Mr. VENTO, Mr. MILLER of Washington, Mr. WILSON, Mr. COYNE, Mr. TRAFICANT, Mr. NEAL, Mr. BARNARD, Mr. HENDON, and Mr. KLECZKA.

H.R. 1917: Mr. ANNUNZIO, Mr. WILSON, Mr. COBLE, and Mr. CHAPMAN.

H.R. 2504: Mr. PASHAYAN.

H.R. 2656: Mr. HUTTO.

H.R. 2761: Mr. MURPHY.

H.R. 3808: Mr. GARCIA, Mr. HUGHES, Mr. HORTON, and Mr. FISH.

H.R. 3894: Mr. TRAFICANT, Mr. BURTON of Indiana, Mr. SUNDQUIST, Mr. MCCOLLUM, and Mr. PETRI.

H.R. 4014: Mr. KOSTMAYER.

H.R. 4179: Mr. ARCHER, Mr. BERMAN, Mr. BOULTER, Mr. COELHO, and Mr. GONZALEZ.

H.R. 4739: Mr. LOWRY of Washington, Mr. KOLTER, Mrs. SCHROEDER, Mr. CLAY, Mr. LUKEN, Mr. KANJORSKI, Mr. WISE, and Mr. LEHMAN of Florida.

H.R. 4755: Mr. BENNETT.

H.R. 4763: Mr. SCHUETTE.

H.R. 4838: Mr. SKELTON, Mr. MARTINEZ, Mr. MATSUI, and Mr. GEJDENSON.

H.R. 4861: Mr. GILMAN.

H.R. 4871: Mr. SMITH of New Hampshire, Mr. LEVINE of California, Mr. ROE, Mr. FEIGHAN, Mr. CROCKETT, Mr. TOWNS, Mr. WOLPE, and Mr. LAFALCE.

H.R. 4935: Mr. NEAL.

H.R. 4990: Ms. MIKULSKI, Mr. BORSKI, Mr. SABO, Mr. HOYER, Mr. WEAVER, Mr. LEHMAN of California, Mr. SIKORSKI, and Mr. MRAZEK.

H.R. 5064: Mr. CROCKETT, Mr. BEVILL, Mr. BARNES, and Mr. ST GERMAIN.

H.R. 5065: Mr. CROCKETT, Mr. BEVILL, Mr. BARNES, and Mr. ST GERMAIN.

H.R. 5066: Mr. PORTER and Mr. MCCOLLUM.

H.R. 5080: Mr. GARCIA, Mr. RANGEL, Mr. SCHEUER, and Mr. SEIBERLING.

H.R. 5105: Mr. COBLE.

H.R. 5116: Mr. DENNY SMITH.

H.R. 5117: Mr. FEIGHAN.

H.R. 5140: Mr. GILMAN, and Mr. BROWN of California.

H.R. 5257: Mr. GLICKMAN.

H.R. 5274: Mr. DONNELLY, Mr. EVANS of Illinois, Mr. IRELAND, Mrs. BURTON of California, Mr. CROCKETT, Mr. STAGGERS, and Mr. MURPHY.

H.R. 5293: Mr. SMITH of Florida.

H.R. 5305: Mr. FEIGHAN.

H.R. 5366: Mr. RALPH M. HALL, Mr. PACKARD, Mr. STALLINGS, and Mr. BARTON of Texas.

H.R. 5378: Mr. JEFFORDS, Mr. PENNY, Mrs. ROUKEMA, Mr. CHANDLER, Mr. MCKERNAN, Mr. BRYANT, Mr. WIRTH, and Mr. TRAFICANT.

H.R. 5425: Mr. ROYBAL, Mr. GORDON, Mrs. BENTLEY, Mr. TOWNS, Mr. VISCLOSKY, Mr. CROCKETT, Mr. MITCHELL, Mr. SMITH of Florida, Mr. ROE, and Mr. HORTON.

H.R. 5427: Mr. BRYANT, Mr. BORSKI, Mr. FEIGHAN, Mr. TRAFICANT, Mr. EVANS of Illinois, Mr. GORDON, Mr. WORTLEY, Mr. BENNETT, Mr. KOSTMAYER, Mr. ROE, Mr. BERMAN, Mr. HORTON, and Mr. BEDELL.

H.R. 5465: Mr. DOWNEY of New York, Mr. MCCAIN, Mr. DINGELL, Mr. MAVROULES, Mr. WORTLEY, Mr. PURSELL, Mr. LEVINE of California, Mr. UDALL, Mr. FRANK, Mr. BEVILL, Mr. BOUCHER, Mr. HAMMERSCHMIDT, Mr. BEILENSON, Mr. SCHUMER, Mr. MRAZEK, Mr. WHITLEY, Mr. MCDADE, Mr. LAGOMARSINO, and Mr. HENRY.

H.J. Res. 90: Mr. ASPIN, Mr. WYDEN, Mr. WALGREN, Mr. FROST, Mr. CROCKETT, Ms. SNOWE, Mr. HAMILTON, and Mr. LUNDINE.

H.J. Res. 127: Mr. DE LUGO, Mr. MACK, Mr. HAWKINS, Mr. ROYBAL, Mr. PETRI, Mr. TORRES, Mr. PEPPER, Mr. FORD of Tennessee, and Mr. BIAGGI.

H.J. Res. 244: Mr. TALLON and Mr. MCHUGH.

H.J. Res. 316: Mr. DARDEN, Mr. DORNAN of California, Mr. KOLTER, Mr. SKELTON, Mr. HCHUGH, and Mr. YOUNG of Alaska.

H.J. Res. 524: Mr. APPLEGATE, Mr. SHELBY, Mr. GUARINI, Mr. TAYLOR, Mr. MONTGOMERY, Mr. LAGOMARSINO, Mr. YOUNG of Alaska. Mr. PASHAYAN, Mr. KASICH, Mr. FUSTER, Mr. DANNEMEYER, Mr. SPENCE, Mr. WEBER, Mr. DIOGUARDI, Mr. PACKARD, Mr. DREIER of California, Mr. BLILEY, Mr. LATTA, Mr. YOUNG of Missouri, Mr. COLEMAN of Missouri, Mr. HUNTER, Mr. DEWINE, Mr. BOSCO, Mr. DICKINSON, Mr. HUTTO, Mr. WORTLEY, Mr. MCGRATH, Mr. CHANDLER, Mr. BRYANT, and Mr. WIRTH.

H.J. Res. 617: Mr. KINDNESS, Mr. COATS, Mr. LAGOMARSINO, Mr. LEACH of Iowa, and Mr. MILLER of Washington.

H.J. Res. 619: Mr. DELLUMS and Mr. WIRTH.

H.J. Res. 631: Mr. JONES of Oklahoma, Mr. ENGLISH, Mr. WIRTH, and Mr. WALDON.

H.J. Res. 677: Mr. MOORE, Mrs. BOXER, Mr. LEWIS of California, Mr. MINETA, Mr. FASCELL, Mr. RALPH M. HALL, Mr. YOUNG of Florida, Mr. BORSKI, Mr. DAUB, Mr. BRUCE, Mr. MACKAY, Mr. SUNIA, Mr. MOAKLEY, Mr. HOYER, Mr. HARTNETT, Mr. FAUNTROY, Mr. MACK, Ms. MIKULSKI, Mr. OWENS, Mr. HUBBARD, Mr. TOWNS, Mr. WEBER, Mr. MAZZOLI, Mr. BROWN of California, Mr. DASCHLE, Mr. DANNEMEYER, Mr. GIBBONS, Mr. ALEXANDER, Mr. TORRES, Mr. MOODY, Mr. MCEWEN, Mr. SWINDALL, Mr. TORRICELLI, Mr. HAYES, Mrs. BYRON, Mr. EVANS of Iowa, Mr. ROEMER, Mr. SMITH of Florida, Mr. LELAND, Mr. NELSON of Florida, Mr. JACOBS, Mr. CAMPBELL, Mr. MCHUGH, Mr. STAGGERS, Mr. LAGOMARSINO, and Mr. ANTHONY.

H.J. Res. 706: Mrs. BYRON, Mr. LAGOMARSINO, Mr. DWYER of New Jersey, and Mr. PASHAYAN.

H.J. Res. 716: Mr. KOSTMAYER, Mr. PERKINS, Mr. FUSTER, Mr. HUTTO, Ms. OAKAR, Mr. WYDEN, Mr. LEHMAN of Florida, Mr. DIXON, Mr. SUNIA, Mr. SKELTON, Mr. FOLEY, Mr. BRYANT, Mr. HORTON, Mr. TALLON, Mr. DASCHLE, Mr. NEAL, Mr. DYMALLY, Mr. MCDADE, Mr. MCMILLAN, and Mr. FUQUA.

H. Con. Res. 291: Mr. ROBERT F. SMITH, Mr. TRAFICANT, Mr. TAUKE, Mr. TORRES, Mr. ANDERSON, Mr. WHEAT, Mr. FAZIO, Mr. STARK, and Mrs. BOXER.

H. Con. Res. 332: Mr. ATKINS, Mr. YOUNG of Florida, Mr. BRYANT, Mr. ARCHER, Mr. FOWLER, Mr. WHITEHURST, Mr. DYSON, Mr. SHARP, Mrs. BYRON, Mr. BLAZ, Mr. MCKINNEY, Mr. MAVROULES, Mr. MCEWEN, Mr. ROE, and Mr. MCKERNAN.

H. Con. Res. 359: Mr. EVANS of Illinois.

H. Con. Res. 381: Mr. LENT, Mr. MRAZEK, Mr. HORTON, Mr. HOWARD, Mr. LAGOMARSINO, Mr. BRYANT, Mr. TORRICELLI, Mr. TOWNS, and Ms. KAPTUR.

H. Res. 40: Mr. MARLENEE.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 4787: Mr. BERMAN.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

475. By the SPEAKER: Petition of the American Bar Association, Chicago, IL, relative to the impeachment of Federal judges convicted of a felony; to the Committee on the Judiciary.

476. Also, petition of the Illinois Association of Chiefs of Police, Winnetka, IL, relative to the funding for Local Law enforcement officers to attend the FBI National Academy in Quantico, VA; to the Committee on the Judiciary.

SENATE—*Tuesday, September 9, 1986*

(Legislative day of Monday, September 8, 1986)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable JAMES T. BROYHILL, a Senator from the State of North Carolina.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Lord of life, we commend to your compassionate care Senator GARN as he enters the hospital for surgery to give his kidney to be transplanted into his daughter. Guide the surgeon and grant a successful process and recovery.

Gracious God and Father, I pray for the leadership of the Senate—Senators DOLE and SIMPSON; Senators BYRD and CRANSTON. These, your servants, are accustomed to pressure and to the exigencies of political stress. Grant to them in these weeks ahead a special dispensation of wisdom and grace, strength and energy to handle what seems like an impossible agenda. I pray for those who chair committees and subcommittees whose legislation is on the docket.

Father in heaven, You know the enormous task of legislation compounded by international incidents which weigh upon the Senate. Sensitize the awareness of the leadership to the availability of godly resources which You in Your love will provide whenever they are sought and received. Prevent the Senate from becoming a jungle filled with conflict. Guide in ways that will transform these final days into a period of extraordinary achievement and sense of accomplishment. In His name, whose love knows no bounds. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. THURMOND].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, September 9, 1986.

To the Senate:

Under the provisions of Rule I, Section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JAMES T. BROYHILL, a Senator from the State of North Carolina, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Mr. BROYHILL thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The acting majority leader is recognized.

SCHEDULE

Mr. HEINZ. Mr. President, as I think my colleagues are aware, there is now a period for the two leaders under the standing order for 10 minutes each. There is a joint congressional leadership meeting taking place at the White House this morning, and that is why neither Senator DOLE nor Senator BYRD are here. Accordingly, Senator PROXMIRE is the deputy minority leader and I am acting for Senator DOLE.

I would like the Senate to be advised that there are two special orders that have been entered into not to exceed 5 minutes each for Senator PROXMIRE, who is here, and for Senator LEVIN, and routine morning business that is not to extend beyond 10:30 a.m. this morning. Senators are, of course, permitted to speak for not to exceed 5 minutes each.

I would like to advise the Senate also on behalf of the majority leader that the Senate at 10:30 a.m. will resume consideration of H.R. 5234, the Interior appropriations bill. The Senate is going to stand in recess between the hours of 12 and 2 p.m. today for the weekly party caucuses, and then at 2 p.m. this afternoon there will be 30 minutes total debate on the Daniloff resolution and the terrorist resolution. At 2:30, by unanimous consent, the Senate will proceed to vote on the Daniloff resolution, to be immediately followed by a vote on the terrorist resolution.

The majority leader would like me to advise that the Senate could turn to the consideration of H.R. 5233, the Labor, Health and Human Services appropriations bill and that rollcall votes will occur during today's session of the Senate.

Mr. President, I have no further announcements.

Mr. PROXMIRE. Mr. President, will the distinguished acting majority leader yield?

Mr. HEINZ. I am pleased to yield to my friend from Wisconsin.

Mr. PROXMIRE. As I understand it, the Senator has indicated that the Labor, Health and Human Services appropriations bill will be up, not the Interior appropriation bill, is that correct?

Mr. HEINZ. Mr. President, if the Senator will permit me to respond, this morning at 10:30 we will take up the Interior appropriations bill. But the majority leader has advised that sometime today we can be expected to turn to the Labor-HHS appropriations bill. I assume that that means the leader hopes to complete action on the Interior bill.

Mr. PROXMIRE. Is it possible that that might be done without completing action? The reason I ask is I think the Interior bill will take considerable debate and discussion. There is at least one amendment I will offer. There are other amendments. There are Senators, I understand, who will not be here today but tomorrow who are very anxious to discuss this Interior appropriations bill. So I wondered if the distinguished acting majority leader has any information on whether or not it might be possible to go to the Health and Human Services bill or whether we will stay with the Interior bill?

Mr. HEINZ. I say to the Senator from Wisconsin that it is certainly possible the Senate could lay aside the Interior appropriations bill and proceed for a period of time or even to the conclusion of the Labor-HHS bill, although that would be unlikely as well; that bill is often very time consuming. So that is entirely possible, but that is a decision the majority leader will obviously have to make later on today.

RECOGNITION OF THE ACTING MINORITY LEADER

The ACTING PRESIDENT pro tempore. The acting minority leader is recognized.

Mr. PROXMIRE. Thank you, Mr. President.

□ 1010

PUBLIC OPINION MAY YET SAVE ARMS CONTROL

Mr. PROXMIRE. Mr. President, there is one simple truism about American government. It is that the President, and the President alone, as the Commander in Chief, must be the sole force in control of this Nation's

military forces. Why did the Founding Fathers make the President the "Commander in Chief?" Possibly, an immediate reason was the presence of the first President as the great commander in chief of our Armed Forces during our successful revolution, in the person of George Washington. Was that all? No, indeed. There was another obvious logical reason. There was no other force that could or should share this power. What other force could serve as Commander in Chief? The Supreme Court? The Congress? An effective military force must have a single commander. It must be one person with total responsibility.

To an only slightly lesser extent, the President must exercise the prime control of the Nation's foreign policy. Why? For the same reason the country needs a single person as commander in chief of the military forces. The Nation must usually speak with a single voice in foreign affairs.

What should be the President's role, then, in negotiating arms control treaties? Obviously, the President must once again be the dominating force. Arms control represents a combination of control and direction of our military forces and negotiations with foreign powers. So it seems both logical and necessary that the President must be in charge.

If all this is true, what happens when public opinion, the dominant force in this democracy, strongly favors arms control and the President does not advance it? This Senator concluded years ago that arms control must fail under these circumstances. This Senator may have been wrong. The President may be losing his grip on arms control. President Reagan is being challenged by the House leadership now as no preceding President ever has been.

After 5½ years, the administration has been strong in its rhetoric, but it has accomplished nothing in advancing arms control. It is worse. The administration has presided over the end of both Strategic Arms Limitation Treaties—SALT I and SALT II. It has taken dead aim—and I mean dead aim—at the Anti-Ballistic Missile Treaty which prohibited both superpowers from building antimissile systems. The administration has even made the construction of a total antimissile system, also known as the Strategic Defense Initiative, or star wars, as its No. 1 military priority. What does this mean? That means the prime objective of the administration's military policy is to end the ABM treaty. So what remains from this arms control debacle? Literally nothing—not one major treaty restraining nuclear arms is left from the series of promising beginnings that emerged from the dawn of the nuclear age.

How can this happen in a democracy where public opinion is supposed to be supreme? How can this happen in this Republic of the people, by the people, and for the people? After all, the American people have overwhelmingly indicated that they want arms control. Don't the people have any recourse if the man they elect as their President brings arms control to a dead halt? Until a few weeks ago, I would have said that, as a practical matter, the American people are helpless in those circumstances. They have to patiently wait until the next Presidential election. Then they can try to elect a President pledged to make arms control as a means of achieving nuclear peace in the world as his top priority.

But now, I am not so sure. On three issues, the House of Representatives has pushed through arms control measures over strong Presidential opposition. The House has insisted on cutting funds for antisatellite development as long as the Soviets refrain from further antisatellite development. The House did this after the President refused to negotiate treaties with the Soviet Union to stop the development of antisatellite weapons. Similarly, the House has pushed ahead with provisions in funding bills that would deny the expenditure of funds to equip bombers with nuclear warheads in violation of the SALT II treaty unless there were proven violations of a similar nature by the Soviet Union of the treaty.

Finally, and most spectacularly, the House has proposed to shut down funding for nuclear weapons explosions for 1 year, as of January 1, 1987, provided the Soviet Union also stops nuclear weapons tests as of January 1, 1987, and provided the Soviet Union agrees to the deployment of seismic monitoring stations throughout the Soviet Union to verify Soviet compliance. The House Armed Services authorization bill that carries these arms control provisions must go to conference with the Senate. The conferees may drop the provisions or sharply reduce their potency. If not, the House and Senate may stalemate. The conferees might proceed without an armed services authorization in 1987. In that event, the House will still have an opportunity to attach restrictions on antisatellite funding or in providing appropriations for procurement or deployment that would violate SALT II or in providing funds for nuclear weapons tests. Do these actions by the House really take the arms control role away from the President? At least by flexing its spending muscles, Congress has put the most effective pressure yet on the President to move toward some significant arms control progress, at long last, with the Soviet Union.

ORDER OF BUSINESS

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the time of the minority leader be reserved for his use later in the day and that my time be taken out of my regular order.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF SENATOR LEVIN

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Michigan is recognized for not to exceed 5 minutes.

Mr. LEVIN. I thank the Chair.

THE MYTH THAT TAX REFORM CANNOT MEAN DEFICIT REDUCTION

Mr. LEVIN. Mr. President, yesterday, in stating my opposition to the conference report on the tax reform legislation, I focused on the myth that this tax bill is unambiguously good news for the average American taxpayer. In fact, more than 15 million average Americans would get tax increases under the proposal.

Today, I would like to view things from a different perspective, that of deficit reduction. Simply put, it is a myth that tax reform cannot help us reduce the deficit. The bill is called revenue neutral, which implies that we would not use the revenues generated by loophole closing, and the revenues generated by a minimum tax on profitable corporations and wealthy individuals who are sheltering all their income—revenue, that is, from tax reform—to reduce the deficit. That view is neither prudent nor popular. And it would mean more than foregoing an opportunity for deficit reduction. It would make deficit reduction more difficult to achieve in the future and more unfair and harsher whenever it is achieved.

Many speeches have been given in this Chamber on the dangers of huge Federal budget deficits continuing year after year. The problem is well known. Suffice it to say now that the deficits present a clear and present danger to our economic growth. They contribute to the trade deficit, the effects of which are seen most strikingly in our agricultural and manufacturing

sectors. The huge budget deficits are also an economic time bomb, because so much of our budget deficits are financed out of foreign borrowing. If the political or economic winds change, we could find ourselves with a continuing huge budget deficit but without the foreign inflow of cash to sustain it. The result would be higher interest rates, as the demand for deficit financing stayed the same while the available supply of borrowable funds shrank. Finally, the continuing huge budget deficits and the interest payments on them use up funds which could be more productively used to protect and improve our quality of life.

With the huge budget deficits at the core of the economic problems facing us, it is more than ironic that the tax reform bill, which the conference committee has now agreed to, does nothing to help with that situation. Knowing this—that so vast an effort as tax reform has as its affirmative goal to do nothing to improve our deficit problem over the next few years—makes the words of the chairman of the Budget Committee, Senator DOMENICI, during the debate on the Senate bill ring in my ears: "What a pity. What a pity," he said.

Mr. President, we can do otherwise and must do otherwise.

We must confront, first of all, an impression that a revenue-neutral tax reform bill does not raise revenues. In fact, this bill raises tens of billions of dollars in revenues from corporations and individuals. For many of them, it will result in a net tax increase. So, again, this bill does include revenue increases, and, for many corporations and individuals, actually includes net tax increases. The fact that it also includes tax cuts for others, and balances out to no net gain in revenue, should not mask the fact that it includes revenue increases for tens of millions of individuals and thousands of corporations. Therefore, an argument that there must be a revenue-neutral tax reform bill because we are against tax increases can only be made by someone who is not familiar with this bill. In a very real sense, the issue in tax reform is not whether to make changes in the Tax Code which would increase revenues. The issue is what to do with the tens of billions of dollars in revenues that tax reform will raise from some. Do we cut taxes for others or reduce the deficit?

Second, there is a contention that by definition tax reform must be revenue neutral. Reality—and history—are to the contrary. In 1982, the House and the Senate passed and the President signed the Tax Equity and Fiscal Responsibility Act. It was a tax reform bill and it was not revenue neutral. Rather, it called for raising net revenues of more that $200 billion over 5 years.

Third, insisting on a revenue-neutral tax reform bill ignores the reality that if we are going to deal with the budget deficit in a meaningful and lasting way, then there will have to be a combination package of further spending cuts and increased revenues. We need increased revenues to reduce the deficit if we are to avoid reducing it by spending cuts alone involving unacceptably large reductions in domestic and defense programs.

The only way to increase revenues without imposing new tax burdens on middle- and low-income people is through a version of tax reform which has as its cornerstone an effective minimum tax on profitable corporations and wealthy individuals who have been sheltering all of their income and paying nothing in taxes. The new revenues from such a minimum tax, affecting not more than 5 percent of the taxpayers, can then be used to reduce the deficit. Put another way, a tax reform bill should have as its goal raising revenues to reduce the deficit in a way that eliminates the need for imposing new tax burdens on average Americans. Unfortunately, the reality of the tax reform bill reported out by the conference committee is that it not only would impose increased taxes on more than 15 million average Americans, it also would set the stage for imposing new taxes on them and on the rest of our people as well. Why is that? Because if all the revenue from tax loophole closing is going to be soaked up by the uneven tax cuts proposed by the bill, then in looking for additional revenue for deficit reduction, we will be forced to turn to regressive ways to generate revenue: Perhaps a national sales tax or increased excise taxes, or possibly increased user fees. Although generating new revenue through excise taxes and the like might make deficit reduction possible, it would impose taxes on many of the very people who are supposed to benefit from this tax reform bill and who are among the least able to shoulder additional revenue burdens.

Fourth, the conference report is represented as being revenue neutral over 5 years. The reality is that from 1988 through 1991 this bill would add to the deficit by $11 billion. This is because the language adopted by the Senate in the Domenici-Gramm amendment was dropped in conference. That amendment basically said that the $11 billion revenue windfall in 1987 could not be used for reducing the deficit in 1987, but rather should be counted against the bill's shortfall of $11 billion from 1988 to 1991. Senator PACKWOOD himself, in speaking in favor of the Domenici-Gramm amendment during the debate on the Senate bill, said:

> We do not want to attempt some phony deficit reduction with phony figures. The fact that this bill raises some money in the early years, drops in the middle years, and comes back in the end years may encourage Congress to use it in an attempt to meet our deficit projections of last year and in essence say that we shall worry about 1988 in 1988—let's just take the money now and worry about the devil next year * * * I very much support this amendment * * * this bill should not be used as an artificial vehicle to attempt to get us over a hurdle next year.

Those are Senator PACKWOOD's words.

> This bill should not be used as an artificial vehicle to attempt to get us over a hurdle next year.

But by dropping the Domenici-Gramm amendment in conference, it is exactly this kind of artificial deficit reduction for which we are setting ourselves up.

Now, some may say that it is inconsistent to argue that we should use tax reform to reduce the deficit generally but not use the $11 billion to reduce the deficit in 1987. However, there is no inconsistency at all. The goal of using tax reform revenues for deficit reduction should be to provide for meaningful and lasting deficit reduction. Using the $11 billion in 1987 would be deficit reduction for year one and a deficit increase in years two through five. It would be using a windfall in a way that would create a shortfall. The goal of using tax reform revenues to reduce the deficit is to help clean up the budgetary mess we are in. Using the first year windfall against the first year deficit reduction target in Gramm-Rudman would dig us into a deeper hole.

Finally, there is an impression that this bill must be revenue neutral because the people want it that way. In reality, however, there is strong evidence to the contrary. Early this year, a nationwide poll indicated that by a 3 to 1 margin the public supported using revenues from loophole closing and a minimum tax for deficit reduction instead of for tax cuts. The public knows that common sense lies in making the Tax Code fairer and reducing the deficit in one stroke.

Mr. President, our economy is living on borrowed time just as much as our deficit is being financed out of borrowed money. Everyone knows that action taken sooner will be less painful than action taken later. Tax reform should be used as a vehicle for meaningful deficit reduction. The conference report foregoes that opportunity and, even worse, would make deficit reduction more difficult. The Senate should not add its stamp of approval to that approach.

Mr. President, I yield the floor.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there

will now be a period for the transaction of routine morning business with statements therein limited to 5 minutes each.

TERRORISM

Mr. SPECTER. Mr. President, I take the floor to comment about the recent acts of terrorism involving the Pan-Am plane in Pakistan and the brutal murders of the worshipers in the synagogue in Istanbul.

I have communicated with the President urging him to take action under legislation which has passed the Congress and which was signed into law by the President on August 27 to move with our allies in the international field and to set up Nuremberg-type criminal prosecutions to deal with the problem of international terrorism. This is a bill which this Senator had introduced, was incorporated into legislation which reached the President and, as I say, was signed into law by the President on August 27.

It is my view that the only way in the long run to deal effectively with the problem of international terrorism is to have joint action by the allies to move in a Nuremberg-type prosecution.

We have the precedent of the Nuremberg trials where the war crimes committed by the Nazis were defined as international crimes against humanity. Those prosecutions were successful. It is this kind of joint and coordinated activity, Mr. President, which I believe would be an effective response to terrorism on the international level.

It strikes this Senator that there may be more than coincidence with the incidents in Pakistan and in Istanbul and there ought to be an investigation to determine if there is any connection between those two incidents.

Mr. President, there is another provision of the legislation which was signed into law on August 27 which I urge be acted on, and that is another aspect of legislation which I have introduced which makes it a violation of U.S. law for an American citizen to be the victim of an attack, maiming, or murder anywhere in the world. I was disturbed that there was no violation of U.S. law when our citizens were brutally murdered last December 27 at the Rome and Vienna airports. And that led to a new press for legislation I had first introduced September 25, 1984, which would make that a violation of U.S. law.

Mr. President, I believe that the Government of the United States ought to act in a very forceful way against terrorism until there is an international mechanism to deal with the problem of terrorists. This is authority under international law to apprehend criminals in the international scene with or without the cooperation of the nation which may harbor criminals.

In the case of *Ker* v. *the United States,* a landmark decision by the Supreme Court of the United States, which established authority for this proposition, Ker was under a criminal charge in the State of Illinois and had fled to Peru. Illinois authorities went to Peru, took him into custody—you might call it an abduction—without any international extradition, without any consent by the Peruvian Government, and brought him to Illinois for trial. The case went to the Supreme Court of the United States, which said those procedures were appropriate. Ker was appropriately brought back to Illinois for trial and conviction, and his conviction was upheld.

That principle has been upheld repeatedly in the Federal courts in the United States and one Supreme Court decision written by Justice Hugo Black, a noted libertarian.

We have the President of Israel going to Argentina bringing Eichman back for trial.

Mr. President, it would be my preference that we proceed through extradition wherever that is possible. But I believe that the Government of the United States must keep a close watch on what is done against international terrorism where other nations have the jurisdiction.

I frankly have been encouraged to see the Pakistan officials promise to prosecute the terrorists vigorously, and to seek the death penalty. I believe that the death penalty is appropriate when you deal with horrendous kinds of criminal violent conduct like hijacking, where hundreds of lives are put at risk, or when many lives are taken which was the incident in Pakistan. I believe it is regrettable that the Congress of the United States has not legislated the death penalty for acts of terrorism and for any hijacking where mass murders are involved.

And it is not easy to get legislation through this body, unfortunately, because of the filibuster incidents.

So, we will await the action by the Pakistani Government. But I believe we should keep a close eye on it, and it is good that we have issued protection warrants out of the U.S. courts to see that the terrorists are brought to trial and are brought to justice in an appropriate way.

I recall the incident in Teheran not too long ago where two U.S. officials were murdered, and no action as yet has been taken against those terrorists. I recall, too, the incident of the *Achille Lauro* where the Egyptian airliner was forced down by United States fighter pilots in our effort to apprehend those individuals with a view to bringing them to the United States for trial, prosecution, conviction, and punishment, and then the Italians gained jurisdiction over Abu Nidal's principal confederate, and four other individuals.

That case was mishandled. Nidal's confederate was let go. And four other terrorists who were brought to trial were not treated as harshly as they ought to have been.

Mr. President, it would be strong action by the United States to apprehend and take into custody terrorists in jurisdictions without proceeding through extradition, but I believe that to be fully warranted by the threat which international terrorism forces pose to the world and the threat which international terrorism poses to the citizens of the United States. Certainly, a surgical action which had a moderate amount of force would be much less interventionist than the action which this country appropriately took against Libya. I believe, Mr. President, that we ought to try first diplomacy, then economic sanctions, and then we ought to try the use of force in the most moderate manner possible to try to identify terrorists, where we have warrants of arrest, where we have indictments, where we have those legal actions supported by competent evidence, and if necessary, to take terrorists by means such as upheld by the Supreme Court of the United States in *Ker* v. *Illinois,* and that is what ought to be done.

The difficulty is that the attention span is limited. We see the terrorist attack in Pakistan, and we see a terrorist attack in Istanbul at the synagogue. We are outraged. But then other events come into fore and crowd out those matters. It is going to take a full court press by the U.S. Government taking the lead on the problem of international terrorism. It has become a way of waging war where only the terrorists are at war. And with these incidents freshly before us I have urged the President to act under the provision of law which calls for Nuremberg-type prosecutions. The Secretary of State and the Attorney General have both said on the records in hearings, first Secretary of State Shultz in the Foreign Operations Subcommittee and later Attorney General Meese before the Judiciary Committee, that they approve of the use of moderate force to take terrorists into custody now that those acts are violative of specific legislative enactments of the Congress of the United States—in 1984 the Omnibus Crime Control Act on hijacking and hostagetaking, and now the broader legislation which was signed into law on August 27.

This afternoon this body will be considering a sense-of-the-Senate-resolution. But I wanted to make these comments since we had a little bit of free time here this morning.

I thank the Chair. I yield the floor.

AID TO THE WEEKLIES

Mr. STEVENS. Mr. President, I have been extremely pleased at the response to the Rural Newspaper Preservation Act, S. 2723, which I introduced on behalf of Senators ABNOR, ANDREWS, BURDICK, GRASSLEY, HAWKINS, and MURKOWSKI. Especially helpful was the September 2 editorial in the Anchorage Times strongly supporting our efforts.

The editorial is, of course, gratifying. But, important too is that it is a positive reflection on the Anchorage Times, its publisher, and editorial board. It is an example of why the Anchorage Times is one of the giants of the Alaska press—the legislation they endorse primarily benefits their competitors, the weekly newspapers throughout the State of Alaska.

Mr. President, I ask unanimous consent to have the entire text of the September 2 editorial printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

AID TO THE WEEKLIES

For most small businesses an increase in postal rates makes little impact on the bottom line of the ledger pages, Not so the many small rural newspapers around the country.

In Alaska, where a weekly newspaper's primary distribution area can cover thousands of square miles, last year's rate increase caused enough concern among publishers to prompt them to appeal to the state's congressional delegation for relief.

In response, Sens. Ted Stevens and Frank Murkowski, along with Rep. Don Young, jointly sponsored and introduced the "Rural Newspaper Preservation Act," which offers relief in the form of reduced postal rates for publications with a circulation of 20,000 or less.

Said Sen. Stevens: "These small newspapers play a crucial role in the rural areas of America, and in many cases they are the sole source of local news and essential information. As such, they are the bedrock upon which our information system rests, and their importance to their communities and the nation is without question."

We concur. And with help from Washington, these voices will continue to be heard.

HARLEY M. DIRKS

Mr. HATFIELD. Mr. President, on August 28, Mr. Harley M. Dirks died.

After nearly 10 years of struggling against cancer, he finally succumbed. That he battled so courageously, for so long, serving others even in the midst of great pain, was and is an inspiration to us all.

As many of my colleagues will recall, Harley Dirks served as a professional staff member of the Committee on Appropriations from January 1965 to December 1976, most notably as the clerk of what was then known as the Labor, Health, Education, and Welfare Subcommittee under the chairmanship of our former colleague, Senator Warren G. Magnuson. Those were the years when the Congress began to place a high priority on the areas of health research and disease prevention and treatment. For the strides we have taken in those areas thus far, and for the seeds of accomplishments yet to come, we can thank men like Harley Dirks.

After he left the committee, Mr. Dirks worked with the American Medical Association for a time, and eventually created his own consulting firm on health issues. Even as he fought his toughest battles with the disease that would eventually kill him, he did not slacken in his contributions to our process.

Mr. President, all of us have our crosses to bear, but few of us bear one so heavy, or with as much courage, as did Harley Dirks.

On behalf of the members and staff of the Appropriations Committee, I want to express my deep gratitude and admiration for the contributions and courage of Harley Dirks, and extend my sympathy to his family .

BUSINESS MUST LEAD THE WAR ON DRUGS

Mr. SPECTER. Mr. President, today I wish to have printed in the CONGRESSIONAL RECORD a short article recently distributed by the Chamber of Commerce of the United States entitled "Business Must Lead the War on Drugs."

I wanted to call attention to this piece in order to applaud the chamber for urging that business "take the lead in the campaign against drug abuse in our society." The chamber recognizes and points out the tremendous toll which is taken each year in hours of lost productivity, increased absenteeism, rising medical costs, workplace accidents and employee theft. Even more importantly, the tremendous influence wielded by business leaders makes it imperative that they become immersed in the effort to banish drugs from our culture today.

I have written to Richard Lesher, president of the chamber, to congratulate him on the chamber's stance, and to urge him to forge ahead with specific programs on behalf of business leaders. I have suggested that he begin by enlisting the aid of the National Association of Manufacturers and the Business Roundtable. Drug education programs must be instituted as soon as possible, in order that an impact may be felt during the upcoming school year.

I have been working with business leaders in Pennsylvania to plan a program of drug education seminars directed to age groups ranging from elementary school through high school. Our children are becoming exposed to drugs at increasingly earlier ages—estimates are that the age at which a child must take a decisive position on drugs is as young as 11. I hope that plans like I am working to develop for Pennsylvania's youth will be replicated nationwide through the efforts of various business groups.

Mr. President, I ask unanimous consent that the article by the chamber of commerce be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BUSINESS MUST LEAD THE WAR ON DRUGS

"Oh God, that men should put an enemy in their mouths to steal away their brains."

Shakespeare was referring to alcohol, but his anguished cry could apply even more aptly to heroin, cocaine and other illegal drugs that are running rampant in our society today.

The recent deaths of two prominent young athletes have underscored the hazards of drug abuse, focusing the nation's attention on what can only be described as an epidemic.

This is a grave crisis that will not yield to government action alone. The Reagan administration is doing all it can to stem the flow of drugs into this country; the first lady devotes practically all of her public life to educating young people about drugs; and government agencies at the state and local level are applying herculean efforts to the problem.

All of which seems to have no more effect than spitting on a forest fire. The grim truth is that the war on drugs is being lost and no turnabout is possible until every sector of society—schools, businesses, churches, social groups, charities, all of us—acknowledge the threat and join hands with government to deal with it.

Business in particular must shoulder a major share of the responsibility. By some estimates, the direct cost of drug abuse to business is over $60 billion a year, measured in lost productivity, increased absenteeism, rising medical costs, more workplace accidents, and stealing by employees desperate to support their expensive addictions.

More importantly, business bears an obligation to society that transcends its economic interests. Business people wield significant power and influence in their communities. They are looked to for leadership in setting standards of personal behavior and participation in public affairs.

This is not a role that all business people seek or enjoy, but it is ours whether we want it or not. It is imperative that business people take the lead in the campaign against drug abuse in our society.

We must begin with a concerted effort to eliminate drugs from the workplace. It will not be easy and our efforts are certain to stir up a hornet's nest of controversy. But our nation, and especially our young people, face a great peril that will not yield to cautious measures.

I am certain that when business gets out front on this issue, other groups and organizations will rally to our cause and work with us. I am certain also that government officials at all levels are eager to work with us in every way they can to help rid our country of this pestilence.

We have no alternative but to commit ourselves to this cause and resolve to see it through.

Mr. LEVIN. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCLURE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

Mr. McCLURE. Mr. President, what is the pending business?

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS, FISCAL YEAR 1987

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 5234) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1987, and for other purposes.

The Senate resumed consideration of the bill.

Mr. McCLURE addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Idaho is recognized.

Mr. McCLURE. Mr. President, the fiscal year 1987 Department of the Interior and Related Agencies Appropriations bill as reported by the Appropriations Committee, and as scored by the Budget Committee, proposes new budget authority totaling $7,732,277,000. This bill represents a decrease in new budget authority of $464.5 million below the House passed level and an increase of $1,059 million above the budget request.

At this level, this bill is just below its allocation in budget authority and outlays as required by Deficit Control Act, which is $600 million below the fiscal year 1986 level. To get to this level, the committee was forced to take action that is very controversial. This bill mandates the sale of the Naval Petroleum Reserves in fiscal year 1987 and requires that the first payment be received before the end of the fiscal year in an amount of at least $200 million.

While the budget resolution assumes sale of the reserves in fiscal year 1988, I question whether such a provision would be approved by the Congress in a free-standing piece of legislation. Quite frankly, it is unlikely that the provisions requiring the sale will be approved by the Conference Committee, but the leeway provided by offsetting appropriations by the amount of receipts from the sale was necessary in order to get the Interior bill to the floor within our allocation.

□ 1050

When the committee voted on allocations, it was made very clear that, to the extent possible, new allocations would be assigned when each subcommittee had a better idea what their funding requirements are. It is my hope that as work continues in the Senate and in conference with the House on appropriations bill, some adjustment in allocations can be made to bring the Senate committee allocations closer to those of the House subcommittees.

Mr. President, Members of the Senate have requested over 400 amendments to the Interior appropriations bill, most of which sought to add money. We have made every effort to fund as many of these as requests as possible within existing budget constraints. I am sure every Senator in this body can think of other projects that are worthy of funding. Since we are right at our allocation, amendments which seek to add funds may require offsetting reductions in other areas.

Mr. President, I would ask that there be included in the RECORD a table detailing the actions of the committee on the Interior appropriations bill.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	New BA Estimates F.Y. 87	New BA House F.Y. 87	New BA Senate F.Y. 87	Senate compared to F.Y. 87	Senate compared to House Bill
TITLE I - DEPARTMENT OF THE INTERIOR					
BUREAU OF LAND MANAGEMENT					
Management of Lands and Resources					
Onshore Energy and Minerals Management					
Energy Resources					
Coal Leasing	13,695	13,695	13,695	---	---
Oil & Gas Leasing	46,519	46,519	45,049	-1,470	-1,470
Geothermal leasing	2,475	2,475	2,475	---	---
Oil Shale and Tar Sands leasing	---	---	---	---	---
Subtotal, Energy Resources	62,689	62,689	61,219	-1,470	-1,470
Non-Energy Minerals					
Mineral Material Sales	2,184	2,184	2,184	---	---
Mining Law Administration	8,210	8,810	8,710	+500	-100
Mineral Leasing	3,868	3,868	3,868	---	---
Uranium operations	621	621	621	---	---
Subtotal, Non-Energy Minerals	14,883	15,483	15,383	+500	-100
Subtotal, Energy and Minerals Management	77,572	78,172	76,602	-970	-1,570
Lands and Realty Management					
Realty Operations					
Energy Realty	8,063	8,063	8,063	---	---
Non-Energy Realty	16,725	16,725	16,725	---	---
Alaska Lands program	10,434	10,434	14,054	+3,620	+3,620
Subtotal, Realty operations	35,222	35,222	38,842	+3,620	+3,620
Withdrawal Processing and Review	3,732	3,732	3,732	---	---
Subtotal, Lands and Realty Management	38,954	38,954	42,574	+3,620	+3,620
Renewable Resources Management					
Forest Management					
Public Domain	5,106	5,106	6,796	+1,690	+1,690
Western Oregon	---	914	914	+914	---
Subtotal, Forest Management	5,106	6,020	7,710	+2,604	+1,690
Range Management					
Wild Horse & Burro Management	15,200	12,777	18,100	+2,900	+5,323
Grazing Management	30,860	30,860	36,360	+5,500	+5,500
Subtotal, Range Management	46,060	43,637	54,460	+8,400	+10,823
Soil, Water, & Air Management	14,469	15,119	14,469	---	-650
Wildlife Habitat Management	13,801	15,961	16,261	+2,460	+300
Recreation Management					
Cultural Resources Management	5,078	6,018	6,618	+1,540	+600
Wilderness Management	7,254	7,254	7,254	---	---
Recreation Resources Management	7,198	8,042	8,898	+1,700	+856
Subtotal, Recreation Management	19,530	21,314	22,770	+3,240	+1,456

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	New BA Estimates F.Y. 87	New BA House F.Y. 87	New BA Senate F.Y. 87	Senate compared to F.Y. 87	Senate compared to House Bill
Fire Management	8,847	8,847	8,847	---	---
Subtotal, Renewable Resources Management	107,813	110,898	124,517	+16,704	+13,619
Planning and Data Management					
Planning	9,525	9,525	9,525	---	---
Data Management	14,888	14,888	14,888	---	---
Subtotal, Planning and Data Management	24,413	24,413	24,413	---	---
Cadastral Survey					
Alaska	11,069	11,069	15,059	+3,990	+3,990
Other States	11,622	11,622	11,622	---	---
Subtotal, Cadastral Survey	22,691	22,691	26,681	+3,990	+3,990
Fire control					
Firefighting & Presuppression	3,492	3,492	78,492	+75,000	+75,000
Rehabilitation	584	584	584	---	---
Subtotal, Fire Control	4,076	4,076	79,076	+75,000	+75,000
Technical Services					
Resource Protection	3,320	3,320	3,320	---	---
Maintenance and engineering services					
Buildings	3,421	3,421	3,421	---	---
Recreation	3,681	3,681	3,681	---	---
Transportation	3,483	3,483	3,483	---	---
Maintenance improvement	---	1,000	---	---	-1,000
Engineering services	1,160	1,160	1,160	---	---
Subtotal, Maintenance and engineering services	11,745	12,745	11,745	---	-1,000
Subtotal, Technical Services	15,065	16,065	15,065	---	-1,000
General Administration					
Executive and managerial direction	5,525	5,525	5,525	---	---
Equal employment opportunity	2,056	2,056	2,056	---	---
Administrative services support	30,680	30,680	30,680	---	---
Bureauwide fixed costs	46,840	46,840	46,840	---	---
Subtotal, General Administration	85,101	85,101	85,101	---	---
BLM/FS interchange	3,400	---	---	-3,400	---
Total, Management of Lands and Resources	379,085	380,370	474,029	+94,944	+93,659
Construction and Access					
Access	1,200	1,200	1,200	---	---
Construction	---	---	1,600	+1,600	+1,600
Total, Construction and Access	1,200	1,200	2,800	+1,600	+1,600

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	New BA Estimates F.Y. 87	New BA House F.Y. 87	New BA Senate F.Y. 87	Senate compared to F.Y. 87	Senate compared to House Bill
Payments in Lieu of Taxes					
Payments to Local Governments	105,000	105,000	105,000	---	---
Land Acquisition					
Bureau of Land Management:					
Acquisitions	---	3,550	---	---	-3,550
Acquisition Management	---	300	300	+300	---
Prior year deferral	---	-3,000	---	---	+3,000
Total, Land Acquisition	---	850	300	+300	-550
Oregon & California Grant Lands					
Construction and Acquisition	528	528	528	---	---
Maintenance	3,620	4,120	4,120	+500	---
Renewable Resource Management	46,617	47,567	50,599	+3,982	+3,032
Planning and Data Management	395	945	395	---	-550
Unobligated balance adjustment	---	1,100	---	---	-1,100
Total, Oregon & California Grant Lands	51,160	54,260	55,642	+4,482	+1,382
Range Improvement Fund					
Improvement to Public Lands	6,956	6,956	8,450	+1,494	+1,494
Farm Tenant Act Lands	950	950	950	---	---
Administrative expenses	600	600	600	---	---
Total, Range Improvements	8,506	8,506	10,000	+1,494	+1,494
Service Charges, Deposits, and Forfeitures					
Rights-of-way Processing	2,695	2,695	2,695	---	---
Adopt-a-horse program	500	500	500	---	---
Repair of Damaged Lands	1,650	1,650	1,650	---	---
Cost recoverable realty cases	350	350	350	---	---
Total, Service Charges, Deposits, and Forfeitures	5,195	5,195	5,195	---	---
Miscellaneous Trust Funds					
Base Program	100	100	100	---	---
Total, Bureau of Land Management	550,246	555,481	653,066	+102,820	+97,585
U.S. FISH AND WILDLIFE SERVICE					
Resource Management					
Habitat Resources					
Field Operations	23,167	23,167	23,167	---	---
National Wetlands Inventory	5,313	5,313	5,313	---	---
Research and Development	16,028	18,028	18,528	+2,500	+500
Cooperative units	4,564	4,564	4,564	---	---
Subtotal, Habitat Resources	49,072	51,072	51,572	+2,500	+500

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	New BA Estimates F.Y. 87	New BA House F.Y. 87	New BA Senate F.Y. 87	Senate compared to F.Y. 87	Senate compared to House Bill
Wildlife Resources					
Refuge operations and maintenance	96,275	107,573	109,217	+12,942	+1,644
Law enforcement and protection	9,708	9,708	9,908	+200	+200
Population management	9,180	9,289	9,389	+209	+100
Research and Development	13,060	13,380	12,410	-650	-970
Alaska subsistance	---	---	974	+974	+974
Subtotal, Wildlife Resources	128,223	139,950	141,898	+13,675	+1,948
Fishery Resources					
Hatcheries operations and maintenance	23,861	25,422	25,197	+1,336	-225
Lower Snake River Compensation Fund	6,411	6,411	6,411	---	---
Refuge operations and maintenance	2,148	2,148	2,148	---	---
Law enforcement and protection	2,075	2,075	2,075	---	---
Population management	2,285	2,285	2,071	-214	-214
Research and Development	11,259	11,409	12,009	+750	+600
Subtotal, Fishery Resources	48,039	49,750	49,911	+1,872	+161
Endangered Species					
Listing	2,937	3,187	3,437	+500	+250
Law enforcment and protection	7,240	7,990	7,590	+350	-400
Consultation	2,588	2,888	2,588	---	-300
Recovery	6,030	6,165	6,605	+575	+440
Research and Development	4,365	4,565	4,565	+200	---
Cooperation with states	---	4,300	4,300	+4,300	---
Subtotal, Endangered Species	23,160	29,095	29,085	+5,925	-10
General Administration					
Executive Direction	7,306	7,306	7,306	---	---
Administrative services	10,217	10,217	12,117	+1,900	+1,900
Related support services	19,110	19,110	20,963	+1,853	+1,853
Unemployment Compensation	---	---	---	---	---
Fish and Wildlife Foundation Matching grants	---	---	500	+500	+500
Subtotal, General Administration	36,633	36,633	40,886	+4,253	+4,253
Total, Resource Management	285,127	306,500	313,352	+28,225	+6,852
Construction and Anadromous Fish					
Construction and rehabilitation					
Refuges	---	3,720	3,600	+3,600	-120
Hatcheries	---	9,300	6,800	+6,800	-2,500
Fishery research facilities	---	953	6,340	+6,340	+5,387
Dam safety	2,790	2,790	2,790	---	---
Wildlife research facility	---	---	1,750	+1,750	+1,750
Endangered species facility	---	1,750	---	---	-1,750
Anadromous fish grants	---	2,000	2,000	+2,000	---
Capital development & maintenance management	323	600	323	---	-277
Total, Construction and Anadromous Fish	3,113	21,113	23,603	+20,490	+2,490
Migratory Bird Conservation Account					
Advance Appropriation	---	3,000	10,561	+10,561	+7,561

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	New BA Estimates F.Y. 87	New BA House F.Y. 87	New BA Senate F.Y. 87	Senate compared to F.Y. 87	Senate compared to House Bill
Land Acquisition					
Fish and Wildlife Service:					
Acquisitions - Federal refuge lands	---	31,475	35,175	+35,175	+3,700
Acquisition Management	1,500	1,750	1,600	+100	-150
Total, Land Acquisition	1,500	33,225	36,775	+35,275	+3,550
National Wildlife Refuge Fund					
Payments in Lieu of Taxes	5,645	5,645	5,645	---	---
Total, Fish and Wildlife Service	295,385	369,483	389,936	+94,551	+20,453
NATIONAL PARK SERVICE					
Operation of the National Park System					
Park Management					
Management of park areas	62,518	62,705	62,518	---	-187
Concessions management	3,548	3,548	3,548	---	---
Interpretation and Visitor Services	57,413	67,717	67,704	+10,291	-13
Visitor protection and safety	76,361	83,222	85,017	+8,656	+1,795
Maintenance	233,826	242,580	243,360	+9,534	+780
Resources management	86,437	100,491	99,053	+12,616	-1,438
Information publications	---	3,400	2,890	+2,890	-510
International Park Affairs	403	771	771	+368	---
Volunteers-in-Parks	---	1,000	500	+500	-500
Subtotal, Park Management	520,506	565,434	565,361	+44,855	-73
Forest Fire Suppression and Presuppression	1,319	1,319	1,319	---	---
Park Recreation and Wilderness Planning					
Water resources	2,909	2,909	2,909	---	---
General management plans	2,332	2,332	2,332	---	---
Subtotal, Park Recreation & Wilderness Planning	5,241	5,241	5,241	---	---
Statutory or Contractual Aid for Other Activities					
Roosevelt Campobello International Park Commission	408	408	408	---	---
Ice Age National Scientific Reserve	573	573	573	---	---
Lowell Historic Preservation Canal Commission	537	537	537	---	---
Folger Theater	---	---	---	---	---
Corcoran Gallery	---	---	---	---	---
Mary McLeod Bethune NHS	99	199	199	+100	---
Martin Luther King, Jr. Center	199	199	199	---	---
Phillips Gallery	---	---	---	---	---
Arena Stage	---	---	---	---	---
National Building Museum	---	---	---	---	---
National Capital Children's Museum	---	---	---	---	---
William McKinley Tomb	---	---	---	---	---
Fisk University, Jubilee Hall	---	168	168	+168	---
James Garfield NHS	---	468	---	---	-468
Johnstown Flood Museum	---	398	---	---	-398
Harding Home and Tomb State Memorial	---	538	538	+538	---
Subtotal, Statutory or Contractual Aid	1,816	3,488	2,622	+806	-866

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	New BA Estimates F.Y. 87	New BA House F.Y. 87	New BA Senate F.Y. 87	Senate compared to F.Y. 87	Senate compared to House Bill
General Administration					
Central office	5,820	5,820	5,820	---	---
Regional offices	14,993	14,993	14,993	---	---
Automatic data processing	4,827	4,827	4,827	---	---
Service wide administrative support	7,161	7,605	8,010	+849	+405
General services	390	390	390	---	---
Employee compensation payment	5,355	5,355	5,381	+26	+26
Unemployment compensation for federal employees	7,892	7,892	7,892	---	---
GSA space rental	12,865	13,500	14,135	+1,270	+635
Executive direction	6,544	6,544	6,544	---	---
Public Affairs	1,753	1,678	1,678	-75	---
Alaska Land Use Council	---	-53	---	---	+53
Subtotal, General Administration	67,600	68,551	69,670	+2,070	+1,119
Recreation fee programs (propsd for later trans)	59,000	---	---	-59,000	---
Temporary Fee Legislation	---	---	-50,000	-50,000	-50,000
Transfer from Planning, Development and Operation of Facilities	---	-15,158	-15,158	-15,158	---
Total, Operation of the National Park System	655,482	628,875	579,055	-76,427	-49,820
National Recreation and Preservation					
Recreation Programs	284	600	284	---	-316
Natural Programs	541	1,582	1,582	+1,041	---
National Register	6,843	6,843	6,549	-294	-294
Environmental and Compliance Review	400	400	383	-17	-17
Grant administration	1,479	1,479	1,479	---	---
Total, National Recreation and Preservation	9,547	10,904	10,277	+730	-627
Historic Preservation Fund					
Grants-in-aid	---	20,000	20,000	+20,000	---
National Trust for Historic Preservation	---	4,200	4,300	+4,300	+100
Total, Historic Preservation Fund	---	24,200	24,300	+24,300	+100
Construction					
Buildings and Utilities					
Emergency and Unscheduled (Lump Sum) Projects	2,000	3,000	3,000	+1,000	---
Advance Planning	2,800	4,600	4,600	+1,800	---
Project Planning	4,996	8,500	8,500	+3,504	---
Line Item Construction Projects	19,318	59,889	60,418	+41,100	+529
Total, Construction	29,114	75,989	76,518	+47,404	+529
Federal Highway Administration					
Federal-aid highways (liquidation of contract authority) (trust fund)	---	(12,500)	(10,000)	(+10,000)	(-2,500)

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	New BA Estimates F.Y. 87	New BA House F.Y. 87	New BA Senate F.Y. 87	Senate compared to F.Y. 87	Senate compared to House Bill
Land Acquisition and State Assistance					
Assistance to States					
Matching grants	---	47,730	32,700	+32,700	-15,030
Administrative expenses	2,270	2,270	2,300	+30	+30
National Park Service					
Acquisitions	8,000	44,900	25,900	+17,900	-19,000
Acquisition management	5,000	6,200	5,000	---	-1,200
Total, Land acquisition and state assistance	15,270	101,100	65,900	+50,630	-35,200
John F. Kennedy Center for the Performing Arts					
Base program	4,771	4,771	4,771	---	---
Illinois and Michigan Canal National Heritage Corridor Commission					
Base program	---	250	---	---	-250
Jefferson National Expansion Memorial Commission					
Base program	---	75	---	---	-75
Total, National Park Service	714,184	846,164	760,821	+46,637	-85,343
GEOLOGICAL SURVEY					
Surveys, Investigations, and Research					
National Mapping, Geography and Surveys					
Primary mapping and revision	33,266	33,266	33,266	---	---
Digital cartography	13,499	13,499	13,499	---	---
Receipts for printing and distribution	---	---	---	---	---
Small intermediate and special mapping	11,948	13,798	11,948	---	-1,850
Advanced cartographic systems	12,206	12,206	12,206	---	---
Earth resources observation system	8,888	8,888	8,888	---	---
Cartographic and geographic Information	3,620	3,620	3,371	-249	-249
Side looking airborne radar	---	1,500	---	---	-1,500
Subtotal, National Mapping, Geography & Surveys	83,427	86,777	83,178	-249	-3,599
Geologic and Mineral Resource Surveys and Mapping					
Earthquake hazards reduction	33,275	35,275	33,275	---	-2,000
Volcano Hazards	10,667	10,667	10,667	---	---
Landslide hazards	2,058	2,958	2,058	---	-900
Geologic framework	18,862	19,362	20,362	+1,500	+1,000
Geomagnetism	1,629	2,129	1,629	---	-500
Climate change	992	992	992	---	---
Mineral resource surveys	42,033	44,033	44,033	+2,000	---
Energy geologic surveys	25,072	26,772	25,072	---	-1,700
Offshore geologic surveys	24,428	24,428	24,428	---	---
Subtotal, Geologic & Mineral Surveys & Mapping	159,016	166,616	162,516	+3,500	-4,100
Water Resources Investigations					
Federal Program	64,015	67,765	64,015	---	-3,750
Water resources research institutes	7,164	9,664	12,150	+4,986	+2,486
Federal-State program	50,499	52,835	50,195	-304	-2,640
National water quality assessment	3,000	10,000	2,500	-500	-7,500
Subtotal, Water Resources Investigations	124,678	140,264	128,860	+4,182	-11,404

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	New BA Estimates F.Y. 87	New BA House F.Y. 87	New BA Senate F.Y. 87	Senate compared to F.Y. 87	Senate compared to House Bill
General Administration	13,356	14,540	13,356	---	-1,184
Facilities	15,023	15,023	15,023	---	---
Map sales receipts	---	---	---	---	---
NPRA payments	---	---	---	---	---
Total, Geological Survey	395,500	423,220	402,933	+7,433	-20,287
MINERALS MANAGEMENT SERVICE					
Leasing and Royalty Management					
OCS Lands					
Leasing Outer Continental Shelf Lands and environmental program	39,132	39,132	37,545	-1,587	-1,587
Resource evaluation	23,459	23,459	22,695	-764	-764
Regulatory program	30,938	30,938	29,748	-1,190	-1,190
Subtotal, OCS Lands	93,529	93,529	89,988	-3,541	-3,541
Royalty Management					
Mineral Revenue Collection (onshore royalty) 2/	14,893	15,238	14,370	-523	-868
Mineral Revenue Compliance (offshore royalty)	10,382	12,882	10,013	-369	-2,869
Systems development and maintenance	17,234	17,234	17,234	---	---
Subtotal, Royalty Management	42,509	45,354	41,617	-892	-3,737
General Administration					
Executive direction	3,223	3,223	3,119	-104	-104
Administration operations 2/	9,392	9,392	9,064	-328	-328
General support services	11,447	11,395	10,199	-1,248	-1,196
Subtotal, General Administration	24,062	24,010	22,382	-1,680	-1,628
Interest on refunds (propsd for later trans)	---	---	---	---	---
Total, Leasing and Royalty Management 1/	160,100	162,893	153,987	-6,113	-8,906
Payments to States from receipts under Mineral Leasing	800	---	---	-800	---
Total, Minerals Management Service	160,900	162,893	153,987	-6,913	-8,906
BUREAU OF MINES					
Mines and Minerals					
Minerals Research					
Health and Safety Technology	26,121	35,371	29,621	+3,500	-5,750
Mining Technology					
Advanced Mining Technology	8,189	9,689	10,689	+2,500	+1,000
Resource Conservation Technology	1,555	5,430	3,955	+2,400	-1,475
Subtotal, Mining Technology	9,744	15,119	14,644	+4,900	-475

1/ Reflects transfer of 15 FTEs, $922,000 to U.S.G.S.
2/ FY86 Adjusted amount is reflection of realignment of an ADP security function ($63,000)

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	New BA Estimates F.Y. 87	New BA House F.Y. 87	New BA Senate F.Y. 87	Senate compared to F.Y. 87	Senate compared to House Bill
Minerals an. Materials Research	25,315	27,015	30,815	+5,500	+3,800
Subtotal, Minerals Research	61,180	77,505	75,080	+13,900	-2,425
Minerals Information and Analysis					
Minerals Information	9,856	9,856	9,856	---	---
Mineral Data Analysis	16,714	16,714	18,214	+1,500	+1,500
Subtotal, Minerals Information and Analysis	26,570	26,570	28,070	+1,500	+1,500
Mineral Institutes	---	3,004	10,000	+10,000	+6,996
General Administration	19,350	19,350	17,815	-1,535	-1,535
Program offset	---	---	---	---	---
Total, Bureau of Mines	107,100	126,429	130,965	+23,865	+4,536
OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT					
Regulation and Technology					
State Regulatory Program Grants	45,110	45,110	42,110	-3,000	-3,000
Federal Regulatory Programs					
Regulatory program operations	17,578	20,171	17,578	---	-2,593
Technical services, training and research	15,931	12,706	14,181	-1,750	+1,475
Assessments and collections	7,929	7,929	7,929	---	---
Subtotal, Federal Regulatory Programs	41,438	40,806	39,688	-1,750	-1,118
General Administration					
Executive direction	1,734	1,614	1,734	---	+120
Administrative support	6,297	6,297	6,297	---	---
General services	6,301	5,251	6,301	---	+1,050
Subtotal, General Administration	14,332	13,162	14,332	---	+1,170
Total, Regulation and Technology 1/	100,880	99,078	96,130	-4,750	-2,948
Abandoned Mine Reclamation Fund					
State Reclamation Program Grants 2/	150,600	186,100	150,600	---	-35,500
Federal Reclamation Programs					
Fee compliance 1/2/	3,482	3,482	3,482	---	---
Reclamation program operations 1/2/	29,992	28,092	26,492	-3,500	-1,600
Rural lands reclamation program	800	9,400	800	---	-8,600
Subtotal, Federal Reclamation Programs	34,274	40,974	30,774	-3,500	-10,200

1/ FY86 Accounts reflect new budget structure

2/ FY86 Accounts reflect reduction of $2,900 in State Reclamation Program Grants and reduction of $50 from fee compliance, $225 from reclamation program grants, $10 executive direction, $15 from administrative support and $37 from general services.

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	New BA Estimates F.Y. 87	New BA House F.Y. 87	New BA Senate F.Y. 87	Senate compared to F.Y. 87	Senate compared to House Bill
General Administration					
Executive direction 2/	825	825	825	---	---
Administrative support 2/	1,992	1,992	1,992	---	---
General services 2/	2,829	2,829	2,829	---	---
Subtotal, General Administration	5,646	5,646	5,646	---	---
Undistributed reduction 2/	---	---	---	---	---
Pay restoration	---	---	---	---	---
Program offset 2/	---	---	---	---	---
Total, Abandoned Mine Reclamation Fund	190,520	232,720	187,020	-3,500	-45,700
Total, Office of Surface Mining Reclamation and Enforcement	291,400	331,798	283,150	-8,250	-48,648
BUREAU OF INDIAN AFFAIRS					
Operation of Indian Programs					
Education					
School Operations	185,596	186,596	181,661	-3,935	-4,935
Johnson O'Malley Educational Assistance	---	23,500	22,000	+22,000	-1,500
Continuing Education	20,212	23,212	57,559	+37,347	+34,347
Transfer from Department of Education	11,500	---	---	-11,500	---
Subtotal, Education	217,308	233,308	261,220	+43,912	+27,912
Indian Services					
Tribal Government Services	5,604	5,554	31,479	+25,875	+25,925
Social Services	93,103	95,713	109,701	+16,598	+13,988
Law Enforcement	3,101	4,016	49,148	+46,047	+45,132
Self-Determination Services	12,262	12,162	16,986	+4,724	+4,824
Navajo-Hopi Settlement Program	2,931	2,931	2,431	-500	-500
Subtotal, Indian Services	117,001	120,376	209,745	+92,744	+89,369
Economic Development and Employment Programs					
Employment Development	2,593	2,593	26,182	+23,589	+23,589
Business Enterprise Development	11,643	10,643	14,296	+2,653	+3,653
Road Maintenance	314	747	22,949	+22,635	+22,202
Subtotal, Economic Development & Employment	14,550	13,983	63,427	+48,877	+49,444
Natural Resources Development					
Natural Resources, General	1,570	1,570	2,630	+1,060	+1,060
Agriculture	2,819	2,819	22,820	+20,001	+20,001
Forestry	6,061	12,211	32,554	+26,493	+20,343
Water Resources	465	9,465	2,012	+1,547	-7,453
Wildlife & Parks	8,797	10,413	27,977	+19,180	+17,564
Fire Suppression	---	415	20,000	+20,000	+19,585
Minerals and Mining	7,741	8,701	9,459	+1,718	+758
Irrigation and Power	7,587	7,587	7,587	---	---
Subtotal, Natural Resources Development	35,040	53,181	125,039	+89,999	+71,858

2/ FY86 Accounts reflect reduction of $2,900 in State Reclamation Program Grants and reduction of $50 from fee compliance, $225 from reclamation program grants, $10 executive direction, $15 from administrative support and $37 from general services.

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	New BA Estimates F.Y. 87	New BA House F.Y. 87	New BA Senate F.Y. 87	Senate compared to F.Y. 87	Senate compared to House Bill
Trust Responsibilities					
Rights Protection	17,408	11,408	24,515	+7,107	+13,107
Real Estate and Financial Trust Services	12,851	12,351	32,312	+19,461	+19,961
Subtotal, Trust Responsibilities	30,259	23,759	56,827	+26,568	+33,068
Facilities Management	88,597	88,786	89,845	+1,248	+1,059
General Administration					
Management and Administration	31,530	31,480	49,726	+18,196	+18,246
ADP Services	17,451	17,551	17,651	---	+100
Program management	6,148	6,148	5,648	-500	-500
Employee compensation payments	7,538	7,538	7,538	---	---
Consolidated training program	1,350	990	1,000	-350	+10
Subtotal, General Administration	64,217	63,707	81,563	+17,346	+17,856
Tribe/Agency operations	295,088	295,228	---	-295,088	-295,228
Emergency haw relief	---	---	---	---	---
Total, Operation of Indian Programs	862,060	892,328	887,646	+25,586	-4,682
Construction					
Buildings and Utilities	28,960	39,760	31,460	+2,500	-8,300
Irrigation Systems	13,900	23,700	13,885	-15	-9,815
Housing	16,295	22,606	22,606	+6,311	---
Land acquisition	---	---	---	---	---
Program offset	---	---	---	---	---
Total, Construction	59,155	86,066	67,951	+8,796	-18,115
Road Construction					
Base Program	---	2,500	---	---	-2,500
Alaska Native Escrow Account	---	---	---	---	---
White Earth Trust Fund	---	---	6,600	+6,600	+6,600
Trust Funds					
Definite	1,000	1,000	1,000	---	---
Revolving Fund for Loans					
Limitation on direct loans	(16,320)	(16,320)	(16,320)	---	---
Indian Loan Guaranty and Insurance Fund					
Base program	2,485	2,652	2,485	---	-167
Limitation on guaranteed loans	(30,000)	---	---	(-30,000)	---
Total, Bureau of Indian Affairs	924,700	984,546	965,702	+41,002	-18,844

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	New BA Estimates F.Y. 87	New BA House F.Y. 87	New BA Senate F.Y. 87	Senate compared to F.Y. 87	Senate compared to House Bill
TERRITORIAL AFFAIRS					
Administration of Territories					
Guam					
Construction grants	3,500	6,400	5,500	+2,000	-900
American Samoa					
Operations grants	20,776	20,776	19,763	-1,013	-1,013
Construction grants	2,730	4,313	3,730	+1,000	-583
Subtotal, American Samoa	23,506	25,089	23,493	-13	-1,596
Northern Marianas					
Covenant grants	35,344	35,344	35,344	---	---
Construction grants, other	---	---	---	---	---
Subtotal, Northern Marianas	35,344	35,344	35,344	---	---
Virgin Islands					
Loan	---	---	---	---	---
Construction grants	2,900	2,900	2,900	---	---
Subtotal, Virgin Islands	2,900	2,900	2,900	---	---
Territorial Administration					
Office of Territorial Affairs	2,473	2,473	2,473	---	---
Technical Assistance	2,200	4,700	4,700	+2,500	---
Guam Power Authority Loan Assistance	1,606	1,968	1,606	---	-362
Subtotal, Territorial Administration	6,279	9,141	8,779	+2,500	-362
Total, Administration of Territories	71,529	78,874	76,016	+4,487	-2,858
Trust Territory of the Pacific Islands					
Trust Territory operations	2,450	2,740	5,200	+2,750	+2,460
Federated States of Micronesia	---	---	38,763	+38,763	+38,763
Republic of the Marshall Islands	---	---	10,940	+10,940	+10,940
Republic of Palau Operations	10,600	10,600	10,084	-516	-516
Subtotal, Operations	13,050	13,340	64,987	+51,937	+51,647
Construction					
Capital Improvements	---	---	2,000	+2,000	+2,000
Capitol Relocations	---	---	---	---	---
Subtotal, Construction	---	---	2,000	+2,000	+2,000
Enewetak support	---	---	---	---	---
Bikini resettlement	---	1,000	---	---	-1,000
Total, Trust Territory of the Pacific Islands	13,050	14,340	66,987	+53,937	+52,647

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	New BA Estimates F.Y. 87	New BA House F.Y. 87	New BA Senate F.Y. 87	Senate compared to F.Y. 87	Senate compared to House Bill
Compact of Free Association					
Compact of Free Association	27,920	27,320	27,920	---	+600
Enewetak support	---	1,100	---	---	-1,100
Enjebi Trust Fund	---	7,250	---	---	-7,250
Bikini	---	500	---	---	-500
Subtotal, Compact of Free Association	27,920	36,170	27,920	---	-8,250
Total, Territorial Affairs	112,499	129,384	170,923	+58,424	+41,539
DEPARTMENTAL OFFICES					
Office of the Secretary					
Departmental Direction					
Secretary's immediate Office	1,426	1,365	1,776	+350	+411
Executive Secretariat	210	201	374	+164	+173
Cong. & Legis. Affairs	1,093	1,046	1,046	-47	---
Equal Opportunity	1,197	1,197	1,267	+70	+70
Public Affairs	696	666	784	+88	+118
Small & Disadvantaged Business Utilization	398	381	381	-17	---
Subtotal, Departmental Direction	5,020	4,856	5,628	+608	+772
Program Direction and Coordination					
A/S Water and Science	691	691	625	-66	-66
A/S Land and Minerals Management	729	729	840	+111	+111
A/S Fish and Wildlife and Parks	711	564	650	-61	+86
A/S Indian Affairs	686	686	575	-111	-111
A/S Territorial and International Affairs	508	508	508	---	---
A/S Policy, Budget & Administration	733	860	825	+92	+165
Subtotal, Program Direction and Coordination	4,058	3,838	4,023	-35	+185
Administration					
Environmental Project Review	1,404	1,404	1,404	---	---
Acquisition & Property Management	1,264	1,264	1,264	---	---
Office of personnel	1,517	1,617	1,517	---	-100
Administrative Services	1,032	982	1,032	---	+50
Information Resources Management	4,397	4,397	4,397	---	---
Policy Analysis	2,151	2,151	1,901	-250	-250
Office of Budget	1,426	1,426	1,404	-22	-22
Financial management	954	954	954	---	---
Subtotal, Administration	14,145	14,195	13,873	-272	-322
Hearings and Appeals	5,339	5,339	5,200	-139	-139
Aircraft Services	1,814	1,814	1,658	-156	-156
Central Services	12,440	12,440	12,440	---	---
Total, Office of the Secretary	42,816	42,482	42,822	+6	+340
Office of the Solicitor					
Legal Services	17,646	18,301	16,470	-1,176	-1,831
General Administration	3,154	2,954	2,915	-239	-39
Total, Office of the Solicitor	20,800	21,255	19,385	-1,415	-1,870

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	New BA Estimates F.Y. 87	New BA House F.Y. 87	New BA Senate F.Y. 87	Senate compared to F.Y. 87	Senate compared to House Bill
Office of the Inspector General					
Audit	10,916	10,916	10,304	-612	-612
Investigations	2,430	2,430	2,296	-134	-134
Administration	2,954	2,954	2,824	-130	-130
Total, Office of the Inspector General	16,300	16,300	15,424	-876	-876
Construction Management					
Salaries and Expenses	684	684	684	---	---
Special Foreign Currency Program					
Salaries and Expenses	---	---	---	---	---
Total, Secretarial Offices	80,600	80,721	78,315	-2,285	-2,406
Grand Total, Department of the Interior	3,632,514	4,010,119	3,989,798	+357,284	-20,321
TITLE II - RELATED AGENCIES					
DEPARTMENT OF AGRICULTURE					
FOREST SERVICE					
Forest Research					
Fire and atmospheric science	7,546	8,246	7,546	---	-700
Forest insect and disease	20,178	22,178	20,178	---	-2,000
Forest inventory and analysis	14,222	17,222	17,316	+3,094	+94
Renewable resource economics	4,456	4,856	4,370	-86	-486
Trees and timber management	21,339	24,289	21,501	+162	-2,788
Forest watershed managment and rehabilitation	14,858	16,110	15,108	+250	-1,002
Wildlife, range and fish habitat	9,291	11,891	10,672	+1,381	-1,219
Forest recreation	2,077	2,377	2,077	---	-300
Forest products and harvesting	17,514	18,614	18,014	+500	-600
Competitive grants	---	3,400	6,500	+6,500	+3,100
Total, Forest Research	111,481	129,183	123,282	+11,801	-5,901
State and Private Forestry					
Forest Pest Management					
Federal lands	17,995	20,695	20,645	+2,650	-50
Cooperative lands	676	8,776	10,376	+9,700	+1,600
Subtotal, Forest pest management	18,671	29,471	31,021	+12,350	+1,550
Fire protection	3,400	13,600	13,600	+10,200	---
Forest Management and Utilization					
Forest resource management	---	5,200	5,200	+5,200	---
Wood utilization	---	1,000	5,950	+5,950	+4,950
Seedlings, nursery and tree improvement	---	1,800	1,800	+1,800	---
Urban forestry	---	2,000	---	---	-2,000
Subtotal, Forest Management and Utilization	---	10,000	12,950	+12,950	+2,950

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	New BA Estimates F.Y. 87	New BA House F.Y. 87	New BA Senate F.Y. 87	Senate compared to F.Y. 87	Senate compared to House Bill
Special Projects					
Boundary Waters Canoe Area	2,800	3,000	2,800	---	-200
Gifford Pinchot Institute	---	200	---	---	-200
Lake Tahoe	---	1,400	1,400	+1,400	---
Subtotal, Special Projects	2,800	4,600	4,200	+1,400	-400
Total, State and Private Forestry	24,871	57,671	61,771	+36,900	+4,100
National Forest System					
Minerals and General Land Activities					
Minerals	26,025	26,025	26,025	---	---
Real estate management	19,845	19,845	19,845	---	---
Land Line Location	23,011	26,411	23,011	---	-3,400
Maintenance of Facilities	14,735	14,735	14,735	---	---
Subtotal, Minerals & General Land Activities	83,616	87,016	83,616	---	-3,400
Resource Protection and Maintenance					
Fire protection	147,225	151,225	155,991	+8,766	+4,766
Fighting forest fires	1,000	1,000	101,000	+100,000	+100,000
Cooperative law enforcement	2,450	2,450	7,000	+4,550	+4,550
Road maintenance	49,270	61,770	64,270	+15,000	+2,500
Trail maintenance	8,365	12,000	8,365	---	-3,635
Subtotal, Resource Protection & Maintenance	208,310	228,445	336,626	+128,316	+108,181
Timber Sales					
Timber resource inventory	13,280	13,280	13,280	---	---
Silvicultural examination	20,870	20,870	20,870	---	---
Sales preparation and harvest administration	136,942	140,319	172,242	+35,300	+31,923
Subtotal, Timber Sales	171,092	174,469	206,392	+35,300	+31,923
Reforestation and Stand Improvement					
Reforestation	28,393	32,511	51,561	+23,168	+19,050
(Reforestation trust fund)	---	---	---	---	---
Stand improvement	15,938	21,833	29,035	+13,097	+7,202
(Reforestation trust fund)	---	---	---	---	---
Nurseries	13,617	14,203	14,549	+932	+346
Subtotal, Reforestation & Stand Improvement	57,948	68,547	95,145	+37,197	+26,598
Recreation Use					
Recreation management	33,742	93,742	82,090	+48,348	-11,652
Wilderness	8,030	10,030	8,030	---	-2,000
Cultural resources	9,368	9,368	9,368	---	---
Subtotal, Recreation Use	51,140	113,140	99,488	+48,348	-13,652
Wildlife and Fish Habitat Management					
Wildlife and fisheries support	23,360	24,360	23,360	---	-1,000
Habitat improvement	10,420	14,765	16,665	+6,245	+1,900
Subtotal, Wildlife & Fish Habitat Management	33,780	39,125	40,025	+6,245	+900

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	New BA Estimates F.Y. 87	New BA House F.Y. 87	New BA Senate F.Y. 87	Senate compared to F.Y. 87	Senate compared to House Bill
Range Management					
Grazing	25,595	24,238	25,375	-220	+1,137
Range improvements	769	769	769	---	---
Wild horse and burro management	275	275	275	---	---
Noxious weed control	1,180	1,180	1,400	+220	+220
Subtotal, Range Management	27,819	26,462	27,819	---	+1,357
Soil, Water and Air Management					
Soil, water and air administration	22,797	22,797	22,797	---	---
Soil and water resource improvements	1,225	3,125	1,225	---	-1,900
Soil and water resource inventories	4,765	6,565	4,765	---	-1,800
Subtotal, Soil, Water and Air Management	28,787	32,487	28,787	---	-3,700
General Administration	256,996	256,996	256,996	---	---
FS/BLM Interchange	5,000	---	---	-5,000	---
Reforestation trust fund transfer	-30,000	-30,000	-30,000	---	---
Total, National Forest System	894,488	996,687	1,144,894	+250,406	+148,207
Construction					
Facilities	11,736	36,736	15,476	+3,740	-21,260
Roads and trails					
Direct road construction	178,485	148,072	253,923	+75,438	+105,851
Trail construction	4,976	7,601	6,731	+1,755	-870
Subtotal, Construction	195,197	192,409	276,130	+80,933	+83,721
Timber Receipts Transfer (transfer to General Fund)	(-86,815)	(-86,815)	(-86,815)	---	---
Timber Purchaser Credits	(154,321)	---	(154,321)	---	(+154,321)
Total, Construction	195,197	192,409	276,130	+80,933	+83,721
Land Acquisition					
Forest Service					
Acquisitions	---	39,730	31,700	+31,700	-8,030
Acquisition Management	3,206	3,206	3,206	---	---
Total, Land Acquisition	3,206	42,936	34,906	+31,700	-8,030
Youth Conservation Corps					
Base program	---	---	---	---	---
Operation and Maintenance of Recreation Facilities					
Base program	52,000	---	---	-52,000	---
Acquisition of Lands for National Forests, Special Acts					
Base Program	966	966	966	---	---

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	New BA Estimates F.Y. 87	New BA House F.Y. 87	New BA Senate F.Y. 87	Senate compared to F.Y. 87	Senate compared to House Bill
Acquisition of Lands to Complete Land Exchanges					
Base Program	895	895	895	---	---
Range Betterment					
Base program	3,800	3,800	3,800	---	---
Miscellaneous Trust Funds					
Miscellaneous trust fund	90	90	90	---	---
Total, Forest Service	1,286,994	1,424,637	1,646,734	+359,740	+222,097
DEPARTMENT OF THE TREASURY					
Energy Security Reserve (rescission) 1/	---	---	---	---	---
DEPARTMENT OF ENERGY					
Clean Coal Technology Reserve					
Base program FY 1986 2/	---	---	---	---	---
Base program FY 1987 2/	---	---	---	---	---
Base program FY 1988 2/	---	---	---	---	---
Total, Clean Coal Technology Reserve 2/	---	---	---	---	---
Fossil Energy Research and Development					
Coal					
Control Technology and Coal Preparation					
Coal preparation and analysis	6,443	11,932	7,443	+1,000	-4,489
Flue gas cleanup	7,541	12,673	11,541	+4,000	-1,132
Gas stream cleanup	3,839	8,916	12,125	+8,286	+3,209
Waste management technology	324	1,200	324	---	-876
Subtotal, Control Technology & Coal Preparation	18,147	34,721	31,433	+13,286	-3,288
Advanced Research & Technology Development	27,224	31,807	29,724	+2,500	-2,083
Coal Liquefaction					
Advanced research	2,620	5,000	2,620	---	-2,380
Direct Liquefaction	2,996	13,790	4,696	+1,700	-9,094
Indirect liquefaction	2,539	8,100	2,539	---	-5,561
Support studies and engineering evaluations	992	1,392	992	---	-400
Subtotal, Coal Liquefaction	9,147	28,282	10,847	+1,700	-17,435
Combustion Systems					
Atmospheric fluidized beds	1,590	4,008	1,590	---	-2,418
Pressurized fluidized beds	3,686	5,662	5,286	+1,600	-376
Advanced combustion technology	1,882	3,059	2,882	+1,000	-177
Alternate fuel utilization	2,011	4,069	2,011	---	-2,058
Subtotal, Combustion Systems	9,169	16,798	11,769	+2,600	-5,029

1/ FY86 amount is an est. of an indefinite rescission.

2/ Proposed in Energy Security Reserve (Synthetic Fuels Corporation).

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	New BA Estimates F.Y. 87	New BA House F.Y. 87	New BA Senate F.Y. 87	Senate compared to F.Y. 87	Senate compared to House Bill
Fuel Cells					
Phosphoric acid systems	---	19,000	11,900	+11,900	-7,100
Molten carbonate systems	3,400	7,700	7,200	+3,800	-500
Advanced concepts	1,600	6,000	4,600	+3,000	-1,400
Subtotal, Fuel Cells	5,000	32,700	23,700	+18,700	-9,000
Heat engines	7,942	13,900	10,000	+2,058	-3,900
Underground coal gasification	---	4,070	---	---	-4,070
Magnetohydrodynamics	---	30,000	23,500	+23,500	-6,500
Surface Coal Gasification					
Advanced research	968	3,000	2,568	+1,600	-432
Advanced Process Development	1,689	4,577	4,689	+3,000	+112
Systems engineering concepts	1,373	13,537	5,173	+3,800	-8,364
Environmental and engineering analyses	1,131	1,683	1,131	---	-552
Great Plains gasification project	437	437	437	---	---
Subtotal, Surface Coal Gasification	5,598	23,234	13,998	+8,400	-9,236
Subtotal, Coal	82,227	215,512	154,971	+72,744	-60,541
Petroleum					
Advanced Process Technology					
Advanced exploratory research	1,576	3,834	1,576	---	-2,258
Arctic and offshore research	235	500	1,235	+1,000	+735
Subtotal, Advanced Process Technology	1,811	4,334	2,811	+1,000	-1,523
Enhanced Oil Recovery					
Heavy oil	608	2,800	1,900	+1,292	-900
Light oil	3,876	7,100	7,000	+3,124	-100
Tar sands	---	1,650	1,100	+1,100	-550
Subtotal, Enhanced Oil Recovery	4,484	11,550	10,000	+5,516	-1,550
Oil shale	3,595	12,000	7,500	+3,905	-4,500
Subtotal, Petroleum	9,890	27,884	20,311	+10,421	-7,573
Gas					
Unconventional gas recovery	5,252	8,932	6,752	+1,500	-2,180
Equipment not related to construction	---	3,000	---	---	-3,000
Fossil Energy Construction					
General plant projects	---	3,500	---	---	-3,500
Cooperative Agreements					
UNDERC	---	---	5,300	+5,300	+5,300
WRI	---	---	5,751	+5,751	+5,751
Headquarters program direction	11,260	12,575	11,960	+700	-615
Energy Technology Center program direction	28,740	38,447	33,740	+5,000	-4,707
Use of prior year deferrals - DE	-64,812	-2,607	-3,107	+61,705	-500
Advance appropriation made in FY 1984	---	---	---	---	---
By transfer	-2,074	-2,074	-2,074	---	---
Transfer from Energy Security Reserve	-437	-437	-437	---	---
Federal Inspector for the Alaska Gas Pipeline	221	221	221	---	---
Cooperative R&D venture pool	12,500	---	---	-12,500	---
Employment floor costs	---	9,559	9,559	+9,559	---
Total, Fossil Energy Research and Development	82,767	314,512	242,947	+160,180	-71,565

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	New BA Estimates F.Y. 87	New BA House F.Y. 87	New BA Senate F.Y. 87	Senate compared to F.Y. 87	Senate compared to House Bill
Naval Petroleum and Oil Shale Reserves					
Oil Reserves					
Naval petroleum reserves Nos. 1 & 2	130,340	130,340	130,340	---	---
Naval petroleum reserve No. 3	22,614	22,614	22,614	---	---
Program direction (headquarters)	5,374	5,374	5,374	---	---
Subtotal, Oil Reserves	158,328	158,328	158,328	---	---
Shale oil development program					
Shale reserves development	5,241	310	310	-4,931	---
Use of prior year balance	-36,461	-36,461	-36,461	---	---
Total, Naval Petroleum and Oil Shale Reserves	127,108	122,177	122,177	-4,931	---
Energy Conservation					
Buildings & Community Systems					
Building systems	3,500	9,350	6,850	+3,350	-2,500
Community systems	---	2,900	900	+900	-2,000
Technology and consumer products	5,000	10,000	5,000	---	-5,000
Analysis & technology transfer	1,000	2,500	1,000	---	-1,500
Appliance standards	1,200	2,000	1,200	---	-800
Federal energy management program	1,050	1,050	950	-100	-100
Residential conservation service	---	---	---	---	---
Capital equipment	---	1,500	---	---	-1,500
Program direction	2,400	3,650	3,500	+1,100	-150
Subtotal, Buildings & Community Systems	14,150	32,950	19,400	+5,250	-13,550
Industrial					
Waste energy reduction	6,300	12,656	9,200	+2,900	-3,456
Process efficiency	5,479	14,979	10,979	+5,500	-4,000
Cogeneration	1,500	5,000	5,000	+3,500	---
Implementation and deployment	500	2,400	1,900	+1,400	-500
Capital equipment	---	---	---	---	---
Program direction	1,844	2,070	2,070	+226	---
Subtotal, Industrial	15,623	37,105	29,149	+13,526	-7,956
Transportation					
Vehicle Propulsion R&D	6,500	24,000	23,500	+17,000	-500
Alternative fuels utilization	1,260	1,750	1,460	+200	-290
Electric/hybrid vehicle program	4,140	12,475	11,815	+7,675	-660
Transportation systems utilization	---	840	700	+700	-140
Advanced materials development	6,500	13,000	6,500	---	-6,500
High temperature materials lab	---	1,000	---	---	-1,000
Capital equipment	---	---	1,000	+1,000	+1,000
Program direction	1,400	2,195	2,195	+795	---
Subtotal, Transportation	19,800	55,260	47,170	+27,370	-8,090
State/Local Programs					
Energy policy and conservation grants (EPCA)	---	---	---	---	---
Energy extension service	---	---	---	---	---
Schools & hospitals	---	2,250	6,000	+6,000	+3,750
Grant monitoring	---	3,000	---	---	-3,000
Weatherization	---	110,200	110,000	+110,000	-200
Territories assistance	---	---	---	---	---
Program Direction	5,000	10,700	13,500	+8,500	+2,800
Subtotal, State/Local Programs	5,000	126,150	129,500	+124,500	+3,350

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	New BA Estimates F.Y. 87	New BA House F.Y. 87	New BA Senate F.Y. 87	Senate compared to F.Y. 87	Senate compared to House Bill
Multi Sector					
Energy Conversion and Utilization Technology	15,200	20,808	18,900	+3,700	-1,908
Inventors program	3,300	5,300	5,000	+1,700	-300
National Appropriate Technology Assistance Service	750	1,400	1,400	+650	---
Capital equipment	100	1,000	1,000	+900	---
Program direction	500	546	550	+50	+4
Subtotal, Multi Sector	19,850	29,054	26,850	+7,000	-2,204
Policy and Management					
Policy analysis	---	---	---	---	---
Program direction	1,792	1,862	1,862	+70	---
Subtotal, Policy and Management	1,792	1,862	1,862	+70	---
Facilities	---	10,000	---	---	-10,000
(Use of prior year deferrals)	-36,782	-6,556	-7,518	+29,264	-962
Total, Energy Conservation	39,433	285,825	246,413	+206,980	-39,412
State/Local Programs					
Energy policy and conservation grants (EPCA)	---	---	---	---	---
Energy extension service	---	---	---	---	---
Schools & hospitals	---	2,250	6,000	+6,000	+3,750
Grant monitoring	---	3,000	---	---	-3,000
Weatherization	---	110,200	110,000	+110,000	-200
Territories assistance	---	---	---	---	---
Program Direction	5,000	10,700	13,500	+8,500	+2,800
Subtotal, State/Local Programs	5,000	126,150	129,500	+124,500	+3,350
Multi Sector					
Energy Conversion and Utilization Technology	15,200	20,808	18,900	+3,700	-1,908
Inventors program	3,300	5,300	5,000	+1,700	-300
National Appropriate Technology Assistance Service	750	1,400	1,400	+650	---
Capital equipment	100	1,000	1,000	+900	---
Program direction	500	546	550	+50	+4
Subtotal, Multi Sector	19,850	29,054	26,850	+7,000	-2,204
Policy and Management					
Policy analysis	---	---	---	---	---
Program direction	1,792	1,862	1,862	+70	---
Subtotal, Policy and Management	1,792	1,862	1,862	+70	---
Facilities	---	10,000	---	---	-10,000
(Use of prior year deferrals)	-36,782	-6,556	-7,518	+29,264	-962
Total, Energy Conservation	39,433	285,825	246,413	+206,980	-39,412
Economic Regulation					
Compliance	13,685	13,685	13,685	---	---
Fuels Conversion	---	2,000	2,000	+2,000	---
Natural gas and electricity operations	2,060	2,060	2,060	---	---
Program administration	1,105	655	655	-450	---
Office of Hearings and Appeals	5,000	5,000	5,000	---	---
Total, Economic Regulation	21,850	23,400	23,400	+1,550	---

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	New BA Estimates F.Y. 87	New BA House F.Y. 87	New BA Senate F.Y. 87	Senate compared to F.Y. 87	Senate compared to House Bill
Emergency Preparedness					
Emergency preparedness	6,044	6,044	6,044	---	---
Strategic Petroleum Reserve					
Planning	---	---	---	---	---
Storage facilities development	136,521	196,996	134,021	-2,500	-62,975
Management	13,423	15,406	13,412	-11	-1,994
Use of prior year funds	-149,944	-64,969	---	+149,944	+64,969
Total, Strategic Petroleum Reserve	---	147,433	147,433	+147,433	---
SPR Petroleum Account					
Petroleum acquisition and transportation	---	220,000	---	---	-220,000
Energy Information Administration					
National Energy Information System	49,128	49,838	49,128	---	-710
Policy and management	10,523	10,523	10,523	---	---
Total, Energy Information Administration	59,651	60,361	59,651	---	-710
Total, Department of Energy	336,853	1,179,752	848,065	+511,212	-331,687
DEPARTMENT OF HEALTH AND HUMAN SERVICES					
HEALTH RESOURCES AND SERVICES ADMINISTRATION					
Indian Health Services					
Clinical services					
IHS and tribal health delivery					
Hospital and health clinic programs	409,614	466,649	459,807	+50,193	-6,842
Dental health program	25,692	26,099	25,756	+64	-343
Mental health program	11,399	11,462	11,307	-92	-155
Alcoholism program	26,263	27,705	26,405	+142	-1,300
Maintenance and repair	9,025	9,025	9,025	---	---
Contract care	138,000	176,531	183,713	+45,713	+7,182
Subtotal, Clinical services	619,993	717,471	716,013	+96,020	-1,458
Preventive health					
Sanitation	21,334	22,260	22,307	+973	+47
Public health nursing	12,851	12,802	12,887	+36	+85
Health education	3,742	3,792	3,883	+141	+91
Community health representative program	---	26,500	24,000	+24,000	-2,500
Immunization	395	395	395	---	---
Subtotal, Preventative health	38,322	65,749	63,472	+25,150	-2,277
Urban health projects	---	10,000	8,800	+8,800	-1,200
Indian health manpower	5,418	7,018	5,418	---	-1,600
Tribal management	---	2,688	2,688	+2,688	---
Direct operations	56,195	33,410	36,715	-19,480	+3,305
Indian health facilities	2,450	---	---	-2,450	---

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	New BA Estimates F.Y. 87	New BA House F.Y. 87	New BA Senate F.Y. 87	Senate compared to F.Y. 87	Senate compared to House Bill
Medicare/Medicaid Reimbursements					
Hospital and clinic accreditation	(43,860)	(43,860)	(43,860)	---	---
Offset to appropriations	(17,240)	---	---	(-17,240)	---
Subtotal	(61,100)	(43,860)	(43,860)	(-17,240)	---
Total, Indian Health Services	722,378	836,336	833,106	+110,728	-3,230
Indian Health Facilities					
Hospitals					
New and Replacement	---	21,383	34,660	+34,660	+13,277
Modernization and repair	---	2,450	3,950	+3,950	+1,500
Subtotal, Hospitals	---	23,833	38,610	+38,610	+14,777
Outpatient Care Facilities	---	828	850	+850	+22
Sanitation Facilities	---	25,000	15,000	+15,000	-10,000
Hospital and health clinic programs					
Personnel Quarters	---	6,760	6,460	+6,460	-300
Program offset	---	-1,500	---	---	+1,500
Total, Indian Health Facilities	---	54,921	60,920	+60,920	+5,999
Total, Health Services Administration	722,378	891,257	894,026	+171,648	+2,769
DEPARTMENT OF EDUCATION					
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION					
Indian Education					
Part A-Payments to School Districts	---	50,021	46,832	+46,832	-3,189
State Grants	70,323	---	---	-70,323	---
Part B-Special Projects for Indian Students	---	11,809	9,900	+9,900	-1,909
Part C-Special Projects for Indian Adults	2,940	2,940	3,000	+60	+60
Administration	2,466	2,466	2,268	-198	-198
Total, Indian Education	75,729	67,236	62,000	-13,729	-5,236
OTHER RELATED AGENCIES					
NAVAJO/HOPI INDIAN RELOCATION COMMISSION					
Salaries and Expenses					
Operation of the Commission	22,335	22,289	22,335	---	+46

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	New BA Estimates F.Y. 87	New BA House F.Y. 87	New BA Senate F.Y. 87	Senate compared to F.Y. 87	Senate compared to House Bill
SMITHSONIAN INSTITUTION					
Salaries and Expenses					
Science					
Assistant Secretary for Science	497	497	494	-3	-3
National Museum of Natural History	21,888	21,868	21,541	-347	-327
Astrophysical Observatory	9,291	9,441	8,980	-311	-461
Tropical Research Institute	4,243	4,235	3,858	-385	-377
Environmental Research Center	3,614	3,614	3,266	-348	-348
National Air and Space Museum	8,712	8,712	8,635	-77	-77
National Zoological Park	11,747	11,897	12,068	+321	+171
Equipment	---	---	---	---	---
Subtotal, Science	59,992	60,264	58,842	-1,150	-1,422
History and Art					
Assistant Secretary for History and Art	370	370	370	---	---
National Museum of American History	12,357	12,357	12,124	-233	-233
National Museum of American Art	4,959	4,959	4,579	-380	-380
National Portrait Gallery	3,770	3,770	3,359	-411	-411
Hirshhorn Museum and Sculpture Garden	3,233	3,233	3,043	-190	-190
Center for Asian Art	4,106	4,031	3,930	-176	-101
Archives of American Art	931	931	924	-7	-7
Cooper-Hewitt Museum	1,011	986	955	-56	-31
Museum of African Art	3,342	3,336	3,165	-177	-171
Anacostia Neighborhood Museum	910	910	898	-12	-12
Automation	---	---	---	---	---
Subtotal, History and Art	34,989	34,883	33,347	-1,642	-1,536
Public Service					
Assistant Secretary for Public Service	1,257	1,247	1,246	-11	-1
Smithsonian Institution Press	1,147	1,147	1,140	-7	-7
Subtotal, Public Service	2,404	2,394	2,386	-18	-8
Museum Programs					
Assistant Secretary for Museum Programs	748	748	743	-5	-5
Office of the Registrar	102	102	100	-2	-2
Conservation-Analytical Laboratory	2,069	2,069	2,041	-28	-28
Smithsonian Institution Libraries	4,836	4,836	4,760	-76	-76
Office of Exhibits Central	1,774	1,759	1,765	-9	+6
Traveling Exhibition Service	601	601	596	-5	-5
Smithsonian Archives	552	552	549	-3	-3
National Museum Act	772	772	---	-772	-772
Subtotal, Museum Programs	11,454	11,439	10,554	-900	-885
Directorate of International Activities	1,027	927	1,020	-7	+93
Special Programs					
American and Folklife Studies	735	735	722	-13	-13
International Environmental Science Program	752	752	732	-20	-20
Academic and Educational Programs	828	828	823	-5	-5
Collections Management Inventory	1,145	1,145	724	-421	-421
Museum Support Center	6,366	6,366	3,490	-2,876	-2,876
JFK Center Trustee Grant	---	---	---	---	---
Subtotal, Special Programs	9,826	9,826	6,491	-3,335	-3,335
Administration	12,504	12,504	12,396	-108	-108

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	New BA Estimates F.Y. 87	New BA House F.Y. 87	New BA Senate F.Y. 87	Senate compared to F.Y. 87	Senate compared to House Bill
Support Activities					
Office of Design and Construction	2,123	2,123	2,105	-18	-18
Office of Protection Services	19,340	19,340,	19,193	-147	-147
Office of Plant Services	36,402	35,908	35,743	-659	-165
Subtotal, Support Activities	57,865	57,371	57,041	-824	-330
Inflation allowance	---	-290	---	---	+290
Quadrangle operations	---	---	-1,527	-1,527	-1,527
Total, Salaries and Expenses	190,061	189,318	180,550	-9,511	-8,768
Museum Programs and Related Research (SFCP)					
Grant Program	---	---	---	---	---
Construction and Improvements National Zoological Park					
Base Program	4,851	4,851	2,500	-2,351	-2,351
Restoration and Renovation of Buildings					
Base Program	12,828	12,113	12,028	-800	-85
Construction					
South Quadrangle Development	4,000	3,315	2,630	-1,370	-685
Smithsonian Tropical Research Institute	3,500	2,780	3,500	---	+720
Total, Construction	7,500	6,095	6,130	-1,370	+35
Total, Smithsonian Institution	215,240	212,377	201,208	-14,032	-11,169
NATIONAL GALLERY OF ART					
Salaries and Expenses					
Care and Utilization of Art Collections	12,173	12,173	12,173	---	---
Operation and Maintenance of Buildings and Grounds	11,451	11,451	11,451	---	---
Protection of Buildings, Grounds, and Contents	6,638	6,638	6,638	---	---
General Administration	4,345	4,345	4,345	---	---
Total, Salaries and expenses	34,607	34,607	34,607	---	---
Repair, Restoration and Renovation of Buildings					
Base program	2,400	2,400	2,400	---	---
Total, National Gallery of Art	37,007	37,007	37,007	---	---

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	New BA Estimates F.Y. 87	New BA House F.Y. 87	New BA Senate F.Y. 87	Senate compared to F.Y. 87	Senate compared to House Bill
WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS					
Salaries and Expenses					
Fellowship Program	1,316	1,316	1,316	---	---
Scholar Support	294	256	274	-20	+18
Public Services	780	780	759	-21	-21
General Administration	801	656	714	-87	+58
Building Requirements	75	75	75	---	---
Conference Planning	---	300	---	---	-300
Total, Salaries and expenses	3,266	3,383	3,138	-128	-245
Endowment Challenge Fund					
Base program	---	---	300	+300	+300
Total, Woodrow Wilson Center	3,266	3,383	3,438	+172	+55
NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES					
National Endowment for the Arts					
Grants and Administration					
Grants					
Program Grants					
Artists-in-Schools	4,800	5,300	5,400	+600	+100
Educational program	---	---	---	---	---
Dance	7,300	8,847	8,700	+1,400	-147
Design Arts	3,800	4,286	4,000	+200	-286
Expansion Arts	5,450	6,675	5,950	+500	-725
Folk Arts	3,000	2,982	3,100	+100	+118
Inter Arts	3,600	3,935	4,000	+400	+65
Literature	4,600	5,100	5,000	+400	-100
Media Arts	9,050	12,000	11,000	+1,950	-1,000
Museums	9,100	11,400	11,000	+1,900	-400
Music	9,600	12,236	11,500	+1,900	-736
Opera / Musical Theatre	3,100	4,200	4,100	+1,000	-100
Locals Test	2,200	2,100	2,200	---	+100
Theatre	9,200	10,800	10,400	+1,200	-400
Visual Arts	5,500	6,200	5,800	+300	-400
Advancement	200	200	200	---	---
Subtotal, Program Grants	80,500	96,261	92,350	+11,850	-3,911
State Programs	21,500	24,500	24,600	+3,100	+100
Subtotal, Grants	102,000	120,761	116,950	+14,950	-3,811
Administrative Areas					
Policy Planning & Research	1,000	1,000	1,000	---	---
Administration	14,900	14,900	15,000	+100	+100
Subtotal, Administrative Areas	15,900	15,900	16,000	+100	+100
Total, Grants and Administration	117,900	136,661	132,950	+15,050	-3,711

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	New BA Estimates F.Y. 87	New BA House F.Y. 87	New BA Senate F.Y. 87	Senate compared to F.Y. 87	Senate compared to House Bill
Matching Grants					
Matching Grants	9,000	9,000	9,000	---	---
Challenge Grants	18,000	20,000	18,000	---	-2,000
Total, Matching Grants	27,000	29,000	27,000	---	-2,000
Total, Arts	144,900	165,661	159,950	+15,050	-5,711
Arts and Artifacts Indemnity Fund					
Base program	---	---	---	---	---
National Endowment for the Humanities					
Grants and Administration					
Grants					
Program Grants					
Public Programs					
Media Grants	7,000	8,900	8,500	+1,500	-400
Museums and Historical Organizations	5,800	8,780	8,000	+2,200	-780
Humanities programs for youth	---	---	---	---	---
Humanities programs for adults	2,000	2,000	2,000	---	---
Humanities projects in libraries	1,400	2,900	2,000	+600	-900
Subtotal, Public Programs	16,200	22,580	20,500	+4,300	-2,080
Education Programs					
Education programs	15,150	16,400	16,200	+1,050	-200
Fellowships					
Fellowships and seminars	15,460	15,460	16,500	+1,040	+1,040
Research Grants	15,700	16,400	16,300	+600	-100
Subtotal, Program Grants	62,510	70,840	69,500	+6,990	-1,340
State Programs	16,630	21,000	20,000	+3,370	-1,000
Office of Preservation	4,000	4,000	4,000	---	---
Subtotal, Grants	83,140	95,840	93,500	+10,360	-2,340
Administrative Areas					
Administration	14,300	14,301	14,200	-100	-101
Total, Grants and administration	97,440	110,141	107,700	+10,260	-2,441
Matching Grants					
Matching Grants	12,500	12,000	12,500	---	+500
Challenge Grants	16,500	16,500	16,500	---	---
Total, Matching Grants	29,000	28,500	29,000	---	+500
Total, Humanities	126,440	138,641	136,700	+10,260	-1,941
National Capital Arts and Cultural Affairs					
Grants	---	3,500	4,000	+4,000	+500

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	New BA Estimates F.Y. 87	New BA House F.Y. 87	New BA Senate F.Y. 87	Senate compared to F.Y. 87	Senate compared to House Bill
Institute of Museum Services					
Grants to Museums					
Operating Support Grants	---	17,120	15,000	+15,000	-2,120
Conservation Grants	---	3,309	3,000	+3,000	-309
Museum Services Board	---	70	58	+58	-12
Subtotal, Grants to Museums	---	20,499	18,058	+18,058	-2,441
Program Administration	330	895	830	+500	-65
Total, Institute of Museum Services	330	21,394	18,888	+18,558	-2,506
Total, National Foundation on the Arts and Humanities	271,670	329,196	319,538	+47,868	-9,658
COMMISSION OF FINE ARTS					
Salaries and Expenses					
Base Programs	420	420	450	+30	+30
ADVISORY COUNCIL ON HISTORIC PRESERVATION					
Salaries and Expenses					
Advisory Services	1,417	1,533	1,533	+116	---
NATIONAL CAPITAL PLANNING COMMISSION					
Salaries and Expenses					
Base Program	2,684	2,684	2,684	---	---
FRANKLIN DELANO ROOSEVELT MEMORIAL COMMISSION					
Salaries and Expenses					
Base Program	---	5	5	+5	---
PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION					
Salaries and Expenses					
Salaries and Expenses	2,437	2,342	2,437	---	+95
Public Development					
Public Improvements	3,774	3,869	3,924	+150	+55
Total, Pennsylvania Avenue Development Corporation	6,211	6,211	6,361	+150	+150
UNITED STATES HOLOCAUST MEMORIAL COUNCIL					
Holocaust Memorial Council	2,057	2,040	2,057	---	+17
Total, Title II, Related Agencies	2,984,261	4,180,027	4,047,441	+1,063,180	-132,586

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	New BA Estimates F.Y. 87	New BA House F.Y. 87	New BA Senate F.Y. 87	Senate compared to F.Y. 87	Senate compared to House Bill
TITLE I - DEPARTMENT OF THE INTERIOR					
Bureau of Land Management	550,246	555,481	653,066	+102,820	+97,585
Fish and Wildlife Service	295,385	369,483	389,936	+94,551	+20,453
National Park Service	714,184	846,164	760,821	+46,637	-85,343
Geological Survey	395,500	423,220	402,933	+7,433	-20,287
Minerals Management Service	160,900	162,893	153,987	-6,913	-8,906
Bureau of Mines	107,100	126,429	130,965	+23,865	+4,536
Office of Surface Mining Reclamation and Enforcement	291,400	331,798	283,150	-8,250	-48,648
Bureau of Indian Affairs	924,700	984,546	965,702	+41,002	-18,844
Territorial Affairs	112,499	129,384	170,923	+58,424	+41,539
Secretarial Offices	80,600	80,721	78,315	-2,285	-2,406
Total, Title I - Department of the Interior	3,632,514	4,010,119	3,989,798	+357,284	-20,321
TITLE II - RELATED AGENCIES					
Forest Service	1,286,994	1,424,637	1,646,734	+359,740	+222,097
Department of the Treasury	---	---	---	---	---
Department of Energy	(336,853)	(1,179,752)	(848,065)	(+511,212)	(-331,687)
Alternative Fuels Production	---	---	---	---	---
Clean Coal Technology	---	---	---	---	---
(By transfer)	---	---	---	---	---
Fossil Energy	82,767	314,512	242,947	+160,180	-71,565
Naval Petroleum and Oil Shale Reserves	127,108	122,177	122,177	-4,931	---
Energy Conservation	39,433	285,825	246,413	+206,980	-39,412
Economic Regulation	21,850	23,400	23,400	+1,550	---
Emergency Preparedness	6,044	6,044	6,044	---	---
Strategic Petroleum Reserve	---	147,433	147,433	+147,433	---
SPR Petroleum Account	---	220,000	---	---	-220,000
Energy Information Administration	59,651	60,361	59,651	---	-710
Indian Health	722,378	891,257	894,026	+171,648	+2,769
Indian Education	75,729	67,236	62,000	-13,729	-5,236
Navajo and Hopi Indian Relocation Commission	22,335	22,289	22,335	---	+46
Smithsonian	215,240	212,377	201,208	-14,032	-11,169
National Gallery of Art	37,007	37,007	37,007	---	---
Woodrow Wilson International Center for Scholars	3,266	3,383	3,438	+172	+55
National Endowment for the Arts	144,900	165,661	159,950	+15,050	-5,711
Arts and Artifacts Indemnity Fund	---	---	---	---	---
National Endowment for the Humanities	126,440	138,641	136,700	+10,260	-1,941
National Capital Arts and Cultural Affairs	---	3,500	4,000	+4,000	+500
Institute of Museum Services	330	21,394	18,888	+18,558	-2,506
Commission of Fine Arts	420	420	450	+30	+30
Advisory Council on Historic Preservation	1,417	1,533	1,533	+116	---
National Capital Planning Commission	2,684	2,684	2,684	---	---
Franklin Delano Roosevelt Memorial Commission	---	5	5	+5	---
Pennsylvania Avenue Development Corporation	6,211	6,211	6,361	+150	+150
Holocaust Memorial Council	2,057	2,040	2,057	---	+17
Total, Title II - Related Agencies	2,984,261	4,180,027	4,047,441	+1,063,180	-132,586
Grand total	6,616,775	8,190,146	8,037,239	+1,420,464	-152,907
Grand total 1/	6,616,775	8,190,146	8,037,239	+1,420,464	-152,907
FY 1986 (by transfer)	---	---	---	---	---
Advance appropriation-FY 1987 (by transfer)	---	---	---	---	---
Advance appropriation-FY 1988 (by transfer)	---	---	---	---	---

1/ FY 1985 enacted amount excludes $459,190,000 appropriated in FY 1984 Supplemental for FY 1985 SPR program.

Mr. McCLURE. I would also like to point out that the agencies and activities funded by this bill will generate nearly $10 billion in receipts to the Federal Government in fiscal year 1987. With the exception of the funds provided to the Internal Revenue Service, this bill raises more revenue than any other appropriations bill.

With those comments, I would turn the floor over to the distinguished ranking minority member for any opening statements he may have.

The ACTING PRESIDENT pro tempore. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I thank my distinguished colleague from Idaho and say once again it has been a pleasure to work on this bill with him.

We are partners in this bill, also on the energy and water bill, and we have worked through the years in great harmony. It is truly a great pleasure to work with him.

Mr. President, as our distinguished chairman pointed out, we are right at our 302(b) limits on both budget authority and outlays. The House, moreover, is some $400 million higher than we are. In order to get to those 302(b) allocations we had to do something which is really very silly, and that is propose the sale of the Elk Hills Oil Reserve. The sale of the Elk Hills Oil Reserve is the wrong thing to do at most any time in my view, and clearly the wrong to do today, because oil is never going to be lower, at least we do not think so, than it is today. It is likely to be much higher in future years.

Moreover, if we sold it under the extreme conditions of today, that is, sold it, in effect, in a fire sale where it was required under the budget to be sold as opposed to having time to negotiate it and having the ability to turn down a reasonable offer, then undoubtedly we would get a much better price for the Elk Hills Oil Reserve.

The point of the matter is, Mr. President, both I and the distinguished chairman strongly believe that that which we have proposed in this bill is the wrong thing to do, that is, to sell the Elk Hills Oil Reserve. If that is so, why in the world did we do it?

Well, because we had to, in effect, Mr. President, because our alternative would have been to go to conference with the House, which is already $400 million higher than we are, and this would have made them $600 million higher than we are. In the meantime, if we got our 302(b) allocation increased, as we think it is absolutely essential and necessary that we do, then we would be dealing only with the House projects and not at all with the Senate projects.

So, in effect, Mr. President, what we have done is used a bit of smoke and mirrors by proposing something that we neither believe nor expect to survive, that is, the sale of the Elk Hills Oil Reserve, in order to give us some ability to put in Senate projects, or should I say to bargain over Senate projects, when we go to the conference committee.

I think most of the Members of the Senate would agree with that.

Let me say, Mr. President, in the final analysis we do not expect to maintain that provision of the sale of the Elk Hills Oil Reserve. We expect to drop that in conference because we do oppose that. I say that in advance so that those Members of the Senate who look at that provision in isolation and who agree that it should not be there would, I hope, be constrained to let us keep it in there until we have reached the conference and take it out there.

If we do not get the ability, Mr. President, to increase our 302(b) allocation, and must, in fact, have to cut an additional $200 million from this budget, it is going to be very difficult. It is going to involve things like closing down some national parks—and I do not mean Yosemite or Yellowstone but perhaps some of our less important ones. It may be, for example, and literally this is true, to perhaps close the Washington Monument a couple of days a week. You say, "That is silly."

Well, look at this budget and look at the extent to which it has already been cut and you will realize why I make such a statement.

In effect, this is a plea, Mr. President, in advance to those who set 302(b) allocations, and, indeed, the whole Senate in that process, to let us have the additional $200 million under 302(b). When that happens, we can at least maintain what we have in the bill right now because surely the Elk Hills sale will be dropped in conference.

With that, I yield the floor, Mr. President.

The ACTING PRESIDENT pro tempore. The Senator from Idaho.

Mr. McCLURE. Mr. President, I thank my distinguished colleague from Louisiana. As is usually the case, he stated with great clarity and great force the dilemma which we face and the way in which we have been able to accommodate the real budget requests and demands and still meet the budget restrictions.

It is also absolutely essential to recognize that the bill passed by the other body and action taken in our subcommittee have very, very large differences.

Under the budgetary procedures, to avoid points of order in both bodies, we have to put some maneuvering room into the bill. Otherwise, it would be subject to points of order here and points of order in the House of Representatives and we would end up with a bill that would be nearly half a billion dollars less than the bill before us now.

To the many people who are looking only at the total budget balances and deficit reductions, they would say, "What is bad about that?"

This bill encompasses literally hundreds and hundreds of separate items, and in order to get down to the allocation without something like the naval petroleum reserve sale, to give us room to get to the conference and come out with a reasonable compromise between points of view on individual issues. Otherwise, we would be doing some very irrational things such as the Senator from Louisiana has suggested. Whether it would be that particular one of closing down the operations of the Washington Monument or something else that would be equally dear to someone else's heart, I think it is certainly very, very obvious that we are at the point after several years of budget restraint where this appropriations measure has gotten to the point where we are no longer talking about cutting fat, but we are cutting into the sinew and down to the bone in some areas that the public would simply not tolerate having cut.

Mr. President, I ask unanimous consent that the committee amendments be considered and agreed to en bloc, except the committee amendment after the colon on line 2, page 12, through line 5, page 13.

The ACTING PRESIDENT pro tempore. Without objection, the committee amendments, except the committee amendment after the colon on line 2, page 12 through line 5, page 13, are considered and agreed to en bloc.

The excepted committee amendment is as follows:

: *Provided further,* That for expenses necessary to carry out the mission of the National Park Service for a period of time not to extend beyond fiscal year 1987, the Secretary of the Interior is authorized to charge park entrance fees for all units of the National Park System of an amount not to exceed $3.00 for a single visit permit as defined in 36 CFR 71.7(b)(2) and of an amount not to exceed $7.50 for a single visit permit as defined in 36 CFR 71.7(b)(1): *Provided further,* That the cost of a Golden Eagle Passport as defined in 36 CFR 71.5 is increased to a reasonable fee but not to exceed $25.00 until September 30, 1987: *Provided further,* That for units of the National Park System where entrance fees are charged the Secretary shall establish an annual admission permit for each individual park unit for a reasonable fee but not to exceed $15.00, and that purchase of such annual admission permit for a unit of the National Park System shall relieve the requirement for payment of single visit permits as defined in 36 CFR 71.7(b): *Provided further,* That funds derived from increasing National Park Service entrance fees pursuant to this Act shall be credited to the Operation of the National Park System appropriation account and shall be available, without further appropriation, for expenditure as determined by the Director of the National Park Service, first, to defray the

cost of collection; second, for maintenance, interpretation, research, and resources management at collecting unit; and third, for maintenance, interpretation, research, and resources management at all units of the National Park System during fiscal year 1987.

Mr. McCLURE. I ask unanimous consent that the bill as thus amended be regarded as original text for the purpose of amendment provided that no points of order shall be considered to have been waived by reason of agreement to this order.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GORTON addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Washington.

Mr. GORTON. Mr. President, having listened to the opening statements of both the distinguished chairman of the subcommittee and the distinguished ranking minority member, I want to express my sincere gratitude to each of them on this difficult time in which so many appropriations for important projects are being cut, for their thoughtfulness and generosity to me and to the junior Senator from Washington in dealing with specific requests which we have made.

□ 1100

Mr. President, I wish to express my strong support for several specific provisions in the 1987 Interior appropriations bill that pertain to the U.S. Forest Service.

I heartily endorse the committee's inclusion of over $13 million for the Mount St. Helens National Volcanic Monument. The bulk of that money, over $8 million, will be used to improve and reconstruct roads 25, 51, and 30 which provide important visitor access to the monument. Already, the Forest Service has experienced a great deal of visitation to the monument from tourists from every State in America, as well as from around the world. The reconstruction will make the roads safer for larger recreational vehicles and make it easier for tourists to visit Mount St. Helens from other attractions in the State such as Mount Rainier. Two million dollars will go toward the operation and maintenance of the monument. This amount will ensure that the Forest Service will be able to operate the new visitor center at Silver Lake when it opens this fall. The remainder of the funds will provide for the construction of a new headquarters facility, and for trails and recreational facilities. All of these projects have been identified in the comprehensive plan for the monument and are critical components of the monument's development as a tourist facility.

In addition, something which we were not able to succeed in doing last year is included in this bill.

I applaud the committee's inclusion of $1.5 million to combat a severe spruce budworm infestation in the Wenatchee National Forest near Yakima, WA. In just 4 years, this infestation has spread from 12,000 acres to over 100,000 acres. There has been particularly severe damage around Rim Rock Lake, a heavily used recreational area. Spruce budworm infestations cause the health of the forest to decline to a stage where a danger develops from secondary infestations of the Douglas-fir bark beetle and the true fir bark beetle. At that point, ususally between the second and fifth year of an infestation, the forest can experience massive defoliation and mortality. It is very important that this money be available to control the insect population in the 2- to 3-week time period in the late spring during which the insect can be sprayed to achieve any success in reducing population levels. An incisive Federal response to this problem is overwhelmingly necessary.

Mr. President, I also strongly support the inclusion of $4.65 million for acquisitions in the Columbia River Gorge. The gorge is an area of outstanding scenic, cultural, historic, and natural resource value. This funding will protect lands that are critically important to preserving and enhancing the scenic and natural resources in these areas. Additionally, I support the committee's inclusion of funds for the Skagit River bald eagle study, spotted owl research, and shake and shingle research, and I support the committee's timber sale program level, which will ensure an adequate timber supply for the timber industries in my State.

I would like to express my strong support for several items in the appropriations for the Department of the Interior in the 1987 Interior appropriations bill. First, I applaud the committee for including $3.3 million for the acquisition of the old growth Western red cedar in the Willapa Bay National Wildlife Refuge by the U.S. Fish and Wildlife Service. These funds will be used to purchase the timber harvesting rights to the remaining portion of the cedar grove, and ensure that these magnificent trees will be forever protected.

This is an important area. There are few like it left anywhere on the Pacific coast, and its acquisition is a great environmental triumph.

This timber was authorized for acquisition as part of a 1983 agreement between the U.S. Fish and Wildlife Service and the Weyerhaeuser Co., the original owners of the land. Weyerhaeuser conveyed all of its land, 1,621 acres, on the island to the U.S. Fish and Wildlife Service. As the Fish and Wildlife Service did not have sufficient assets for an equitable exchange, it was agreed that the Weyerhaeuser Co. would retain the timber harvesting rights to the cedar grove and the Fish and Wildlife Service would have the option to purchase the cutting rights by 1991.

Last year, funding was included to purchase half of the cedar grove. The $3.3 million included in the 1987 bill will be sufficient to conclude the transaction and purchase the remaining portion of the grove. Although the House of Representatives has included $3.9 million in its appropriations bill, the Weyerhaeuser Co. has agreed that the $3.3 million in the Senate bill will be sufficient to complete the purchase. This will result in a savings of $600,000 for the U.S. Government.

The people of the State of Washington have long recognized, as have the Weyerhaeuser Co. and the Fish and Wildlife Service, the importance of this unique stand of old growth cedar to the wildlife refuge. The trees range in age from 950 to 4,000 years old. The grove is the only remnant of the Pacific Northwest maritime old growth red cedar climax forest. Remarkably, this stand has remained free of catastrophic disturbances, such as fire or windstorms, for centuries. This acquisition will culminate 16 years of negotiations to ensure the protection of the cedar grove.

Mr. President, I heartily commend the members of the Appropriations Committee for also recognizing the importance of this old growth cedar by including the funding needed to complete the acquisition of the grove.

I would also like to express my support for the inclusion of the designation of the University of Washington's Cooperative Fisheries Research Unit as a Combined Cooperative Fish and Wildlife Unit. The fisheries research program at the University of Washington has an outstanding reputation as a research institution, and is second in the Nation in terms of total fisheries research dollars. As a combined unit, the University of Washington will focus its research on marine mammals and shorebirds, a relatively unexplored area of wildlife research. Designation as a combined unit will allow the program to expand its excellent program and to make significant contributions to wildlife research.

Mr. President, the appropriations bill also prohibits the National Park Service from spending any money to study or implement any proposal to close the Pacific Northwest regional office in Seattle. This provision is of particular importance to the people of my State. The proposal to close the regional office has very little merit as it is dubious as to whether any real savings could be achieved. The immediate cost of the proposal for the first few years amounts to $4 to $5 million. This includes $270,000 a year that the Park Service would have to pay in penalties

for breaking its recently signed lease for office space into which it has just moved. The real cost of the proposal would be borne by my constituents. The proposal would move the regional office to a distant location, far from the people in the State who care about our magnificent parks. This proposal is not acceptable to the people of Washington, and I support the committee in prohibiting the Park Service from moving forward on the idea.

I know that the chairman of the subcommittee has had great interest in that, as I have. That would be a costly change, which would reduce the value and the immediacy of the services of the National Park Services in the Pacific Northwest.

I also support the committee's inclusion of acquisition funds for the Olympic and the North Cascades National Parks. These funds will purchase properties on a willing seller basis to block up the Park Service's ownership within these parks.

This is very important to a number of people and to the future of the parks.

Part of the funding for the North Cascades National Park will also be used to expand the Field's Point visitor facility on Lake Chelan. This will facilitate the ability of the Park Service to handle the large numbers of tourists who want to explore the North Cascades National Park complex via Lake Chelan.

All in all, Mr. President, the subcommittee, its chairman, and its ranking minority member have been most receptive to our needs in difficult times.

Mr. President, if the manager is ready, I do have a comment to which I would like his answer. One of the subjects of the bill is the budget proposal submitted by the U.S. section of the Pacific Salmon Commission.

I compliment the chairman of the Interior Appropriations Subcommittee for his thoughtful and thorough review of the fiscal year 1987 budget proposal submitted by the U.S. section of the Pacific Salmon Commission. As the chairman knows, the responsibility for completion of specific research programs required by the Salmon Treaty is divided among tribal, State and Federal fishery managers. The programs are integrated and interdependent, and implementation of our international obligations under the treaty requires coordination among tribal, State, and Federal efforts.

It is important that the Senate recommendation of $1.8 million for the Bureau of Indian Affairs' participation in the Pacific Salmon Treaty process be increased in conference to the House level of $2.38 million. This increase reflects the minimum needs of the U.S. section of the Pacific Salmon Commission.

The additional funds will ensure that the Columbia River Inter-Tribal Fish Commission and the Northwest Indian Fisheries Commission carry out their Salmon Treaty obligations. Without the increase in funding important field work vital in determining the productivity of dwindling salmon runs in the Columbia River will be affected. Specifically, studies on the wild summer Chinook salmon runs in Idaho could be severely restricted. Wild salmon stock recovery studies provide information to our salmon resource managers—State, tribal and Federal—regarding the status of our valuable wild runs, and the effectiveness of the conservation efforts implemented under the Salmon Treaty. In addition, the cooperative programs that have been established between the two Indian fishery commissions and the States of Washington, Idaho, and Oregon could potentially be damaged if funding for the Commissions is inadequate.

Furthermore, Mr. President, I would like to urge the chairman to consider increasing funding for the "Boldt Case" hatchery operations and maintenance program. The committee did not include the $347,000 needed to keep all of the Indian salmon and steelhead hatcheries in the Puget Sound area operating at an adequate level. Last year, Congress rejected the administration's attempt to reduce hatchery appropriations by this same amount. This year, the administration's budget request again reflects this funding cut, with the justification that individual hatcheries can absorb the reduction. The tribes in the Pacific Northwest believe that this reduction would be catastrophic. These fishery funds have been clearly identified in the past by Congress and the administration as a defined commitment to meeting trust responsibilities for treaty Indians in Washington State. These funds have been included in the House bill.

Mr. McCLURE. Mr. President, I understand the concerns raised by my colleague from Washington. Before responding to the question on the Salmon Treaty funding, let me comment that the recent action the subcommittee took was in part due to the persuasive nature of the Senator's approach to the committee in asking that these funds be included. We did find room for the several items he has mentioned in a very tight budget because the Senator was persuasive in making the case that these funds were needed.

With respect to the Salmon Treaty, let me state that I certainly understand the concerns raised by my colleague from Washington, but I point out that this does not represent any lack of support for the treaty or any lack of appreciation of the importance of the tribal activities in salmon recovery and in the funding and quality of the salmon runs in the Columbia River system. It represents a 30-percent increase of the funding that was provided for this function last year. While an additional amount is certainly useful, I am not convinced that at this time, it would be catastrophic not to grant the full request of the tribal commissions.

I also point out that not only is it a 30-percent increase over last year's request, it is 30 percent over the budget request. Certainly, it will be in conference with the House. If we are able to accommodate this as we look at all of the priorities that we shall have to try to juggle and balance in the conference, we certainly will do so. I am not, however, in a position to be able to tell the Senator from Washington that I know we can do that. It is going to be a very difficult conference. There will be a great deal of contest over the amount of funding, but we will certainly give it every consideration.

Let me also say just for the record, because perhaps I have not been as clearly convinced in the past, that the activity of the several tribes with the professional management of fish runs has been increasingly helpful in recent years. We have moved away from simple emotional reactions, which are valid but not necessarily helpful, toward a more competent scientific evaluation of the tradeoffs involved in maintaining and enhancing salmon runs of the various varieties and various species in the Columbia River.

I think part of what we have been able to achieve in recent years, comes about from a better understanding of the technical nature of the several problems, and the fact that we have been able to fund the biological studies and the necessary competent personnel for the tribes that are involved. So I am sympathetic to the request. There is nothing that I want to do more than to be able to accommodate them. We will do the very best we can.

Mr. GORTON. I thank the distinguished senior Senator from Idaho for his thoughtfulness and his consideration.

Mr. McCLURE. I thank the Senator.

□ 1110

Mr. FORD. Mr. President, I ask unanimous consent that the pending amendment be set aside.

The ACTING PRESIDENT pro tempore. Is there objection to the request?

Hearing none, the amendment is set aside.

AMENDMENT NO. 2774

(Purpose: To insure State eligibility for all of its Abandoned Mine Reclamation Fund money)

Mr. FORD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD] proposes an amendment numbered 2774.

Mr. FORD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

By deleting on page 24, line 24, beginning with the word *"Provided"* and ending on page 25, line 13, ending with the word "agreement".

Mr. FORD. Mr. President, I have discussed this amendment with both the majority and minority managers of the bill, and it appears to be agreed upon.

What this amendment does is make a conferenceable item out of an unrestricted amendment. The Department of the Interior can withhold abandoned mine reclamation fund money, based on some other items where it relates to the program, where the tax has been collected, the money is there, it is needed by various and sundry States. This is a stick without a carrot.

The House language authorizes the Secretary to withhold 50 percent of the State's AML grant when the Secretary disagrees with a State's implementation of its approved program.

As a member of the Senate's Energy and Natural Resources Committee, which developed the Surface Mining Act in the mid-1970's, I take strong exception to placing conditions, unrelated to the proper utilization of AML funds, on a State's receipt of AML grants. These funds are collected on each ton of coal mined within a State and are intended to be returned to the State to eliminate public health and safety and environmental hazards which exist as a result of mining activity prior to 1977. Title IV of the Surface Mining Act is intended to provide a nationwide mechanism for reclamation abondoned mine lands. It was not intended to be used as a club over the States to infringe upon their primacy or to coerce them to take actions which are not otherwise prescribed in the act. OSM possesses ample authority under the other provisions of the act to accomplish the purposes intended by these provisions.

I am additionally concerned because these House provisos substantively amend the requirements of the act and the conditions under which a State receives its allocation of abandoned mine land funds collected on coal produced within its borders. These provisions, which effectively amend the act, have not been reviewed by the Senate Energy Committee, and, as such, it is inappropriate for them to be contained in the bill. If we are to open the act in this manner, let us open the entire act.

The provision allowing the Secretary to unilaterally deny 50 percent of a State's AML grants whenever the Secretary determines that a State is failing to adequately administer the enforcement provisions of the approved State program is of particular concern. Section 521(b) of the act provides an explicit mechanism to be followed whenever the Secretary has reason to believe the State is not fulfilling its responsibilities under the act. It incorporates public notice provisions and an opportunity for all interested parties to present their views prior to Secretary action. The House language basically permits the Secretary to blackmail the State into doing whatever he directs and effectively forces the State to follow that direction or risk not receiving 50 percent of its AML funds. As a consequence, I would recommend that the subcommittee, as it did in the 98th Congress, delete these provisos from the House approved bill and work to assure that they are not included in the bill approved by the conference committee.

The ACTING PRESIDENT pro tempore. The Senator from Idaho.

Mr. McCLURE. Mr. President, there is a problem involved in this area, and I listened very carefully to the persuasive arguments the Senator from Kentucky has made in our private considerations with respect to this particular language. I do not think there is any question that this surface mining reclamation is a contentious and difficult issue. No matter what the Government does at the Federal level, no matter what the State government may do, there are people who are yelling at them from all sides of that issue saying, You are not doing it right."

This language was requested by various groups that succeeded in persuading the chairman of the subcommittee in the House to include the language. It is contentious and I think the amendment of the Senator striking the language, which was House language, leaving it open in conference, is a good amendment and will allow us to thoroughly explore with our House colleagues the reasons for the wisdom or lack of wisdom in this provision.

I support the amendment.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

Mr. JOHNSTON addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, our distinguished chairman has pointed out that this is a difficult area but that there are problems which this amendment does address by suspending section 521. Under this provision as implemented by regulations and as enforced by the department, it is possible for people to be denied their licenses and money withheld without a public hearing, and so it is a very difficult area, Mr. President. We think it ought to be adjusted, if not by adopting this measure in permanent legislation, at least by bringing this to conference in hopes that we can work it out between here and conference and if not it may be that we will have to adopt this provision as part of the conference report.

So, having said that, Mr. President, we support the adoption of this amendment at this point.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Kentucky.

The amendment (No. 2774) was agreed to.

Mr. FORD. I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FORD. Mr. President, I thank my distinguished colleagues, the Senator from Idaho and the Senator from Louisiana, for accepting my amendment, and I look forward to working with them to see if something more amenable cannot be agreed to in conference.

Mr. McCLURE. Mr. President, I might urge those who are listening, who have amendments and colloquies which require their presence on the floor, to come to the floor and we will take care of that business.

Mr. HEINZ. Mr. President, I would like to ask the distinguished chairman of the subcommittee, Senator McCLURE, if he would be willing to engage in a colloquy with myself, the distinguished Senator from Alabama, Senator DENTON, and my friend and colleague from Pennsylvania, Senator SPECTER, regarding fossil energy research and development.

Mr. McCLURE. I am happy to discuss the matter with my friends.

Mr. DENTON. Mr. President, I am grateful to my friend from Idaho for his long interest in the research program which is underway in coal liquefaction. Our Nation remains all too dependent upon liquid fuels for our energy needs, from transportation to electric power generation. The future need for liquid fuels is all too apparent, and the production of the domestic supply of such fuels continues to decline. In the lower 48 States, production of crude oil has already declined by 27 percent from the peak year of 1970. I would like to add that this statistic is a 1985 figure, and does not reflect the tremendous decline in domestic production which has taken place this year. Our demand for petroleum, however, is not declining. We must examine all options to become less de-

pendent upon foreign sources of petroleum.

One option we have is to build up a capacity to liquify our tremendous coal resources. I know the Senator from Idaho is thoroughly familiar with the work in direct liquefaction now in progress at Wilsonville, AL. Wilsonville is the last remaining large-scale direct liquefaction facility in the country. Several processes at Wilsonville are at the point where they could be scaled up. The House of Representatives put $7 million in the Interior and Related Agencies appropriation to retain the Wilsonville pilot project on a cost-shared basis. I am very concerned to note that Wilsonville is not funded in the Senate's version of the bill. I fully understand the constraints which the Senator from Idaho faces, and I applaud him for his continuing work to reduce our Federal deficit.

My question to him is, given the important work being done at Wilsonville and the fact that it can be retained on a cost-shared basis, would he be willing to give the Senator from Alabama some assurance that the project could be retained in the final conference agreement on the Interior and Related Agencies appropriation?

Mr. McCLURE. Let me say to the Senator from Alabama that he has pointed out a serious problem for our energy future. I have stated to him previously the constraints under which this appropriation must operate, and I would certainly like to accommodate his concern. As my colleagues know, the fiscal year 1987 allocation for this bill is $600 million below the fiscal year enacted level. Since the Interior bill is a relatively small appropriations bill there will be many worthwhile projects that simply cannot be funded at this lower level.

I do agree with the need for continued research in the coal liquefaction area. If we receive an increased allocation this is one area I would support adjusting upward in conference.

Mr. DENTON. I thank my friend from Idaho for his statement and I look forward to continuing to work with him on this matter.

Mr. HEINZ. Mr. President, I would just like to commend both Senators for their work on coal liquefaction. The United States, thanks to the work of the Senator from Idaho, is developing a sound knowledge base in the clean and efficient use of coal as a primary energy source. Coal liquids make a lot of sense in light of our rising dependence on foreign oil. This is a technology we need to improve, as we are all painfully aware of the limits on our domestic sources of liquid fuels. I am very grateful to the Senator from Idaho for his willingness to help Senator DENTON and myself in conference with this matter. I believe that it is vital for Wilsonville to receive the House level of funding.

Also in coal liquefaction there is the matter of direct liquefaction coprocessing. This is a technology, like Wilsonville's pilot project, which is ready for scaleup, and I hope the chairman would be able to accept the House level of funding, $2 million, for this program.

Mr. President, I would like to ask the distinguished chairman of the subcommittee if I might continue our colloquy for a moment on some small but related items in the appropriation?

Mr. McCLURE. Please proceed.

Mr. HEINZ. Mr. President, we are all very concerned about the effect of acid rain on the environment and on public health. In the Lewis-Davis report on acid rain, the result of negotiations between Canada and the United States, our Nation is committed to increasing its research effort in acid rain. The Department of Energy's fossil energy research and development activities are critical to the success of our efforts to stem acid rain, while continuing to utilize coal as a primary energy source, and protecting critical jobs in coal-producing States. Senator McCLURE has once again provided important funding to many critical programs such as flue gas cleanup—which includes some very important work on advanced NO_x control—and advanced industrial combustion concepts. I want the chairman to know that I am very grateful for his support in these areas. I believe this kind of research will lead to a cleaner environment. The Senator from Idaho has ordered his priorities in an equitable fashion, and I do not wish to alter those priorities.

I am concerned, however, that coal preparation received $1 million in the House appropriation for ancillary operations including grinding and dewatering that is not in the Senate appropriation. In addition, the House provided $2 million to continue some very important work on industrial, commercial, and residential alternative fuels systems using highly beneficiated coals. Cleaning coal before their use as an energy source, and improved methods for burning coal, are extremely important to our environment and I would like to ask the chairman if he would be able to assist these very worthwhile programs in conference?

Mr. McCLURE. Again, emphasizing to the Senator from Pennsylvania that this is an appropriation which is very lean, I am aware of his concern and will be happy to try and accommodate him if there were to be an increase in the allocation for this subcommittee.

Mr. SPECTER. Mr. President, my colleagues from Alabama and Pennsylvania have raised important points here. As a member of the Appropriations Committee, I know something of the difficult choices the Senator from Idaho faced, and I want to add my voice to those who support what the Senator has done. We have some specific concerns about small programs in liquefaction, advanced combustion, coal preparation, and also oil heat research and development. In the energy conservation activity, the House allowed $650,000 for advanced oil systems. This is a small but important Federal program aimed at conserving energy through more efficient use of oil as a heating source. The energy saved enhances our national independence. It is my hope that the House numbers can be kept in conference for this small program.

Mr. HEINZ. Mr. President, I would just echo my colleague's concern here. Increased energy efficiency is an intelligent long-term investment in our future.

Mr. SPECTER. There is one other matter my colleague from Pennsylvania and I would like to discuss with the distinguished chairman of the subcommittee, and that has to do with mining technology under the jurisdiction of the U.S. Bureau of Mines. The House has provided $1.5 million for proof-of-concept validation to complete surface and underground evaluations of previously developed prototype mining equipment. The House also provided $500,000 for acid mine drainage research to work on the adaptation of the in line system to more difficult water conditions, and $500,000 for mine subsidence. Reductions in these and related program activities would have a severe impact on effect on the Bureau's research centers, and I strongly urge the chairman to recede to the House in these small but important matters.

Mr. HEINZ. I want to associate myself with my colleague's remarks and note that the distinguished Senator from Idaho very generously cited the fine work of the Bureau in the committee report, and I want to express my own appreciation to him for that recognition. I believe that the programs Senator SPECTER has outlined are a part of the Bureau's excellent work and I hope the House levels can be maintained here.

Mr. McCLURE. I appreciate both Senators' interest in the Bureau's work; their concerns will be addressed.

Mr. SPECTER. I very much appreciate the chairman's comments, and would like to add one additional concern for the cleanup systems development and testing at the Waltz Mills gasifier. These activities are part of the surface coal gasification programs. The House has supported such work, and my colleague Senator HEINZ and I both hope that funding can be retained for this important activity.

Mr. HEINZ. The Senator from Idaho has been extremely patient and cooperative with us and I very much appreciate his courtesy.

Mr. SPECTER. I would agree with Senator HEINZ and mention my own strong appreciation for Senator MCCLURE's efforts on behalf of our energy future.

Mr. WILSON. Mr. President, I note with interest that the bill before us, H.R. 5234, directs the Secretary of Energy to sell the Elk Hills Naval Petroleum Reserve in California. Of special interest to me is the language that is included on page 63 of the bill that addresses the question of California's claim of entitlement to "school lands."

The school lands at issue are two sections of land in the Elk Hills NPR that should have been granted to the State of California upon its admittance into the Union under the Act of March 3, 1853. These lands grants were intended to be made for the purpose of providing property for the establishment of schools and other public services. The fact that these particular sections were mineralized and later became part of the Elk Hills NPR has complicated their title status. Consequently, California has never benefited from the oil-producing character of these lands and all producing revenues have accrued to the United States at the expense of California.

Now that we are proposing to sell the Elk Hills NPR, I think it highly appropriate that California's legitimate claim finally be addressed. It is my understanding that the language in the bill before us authorizes and directs the Secretary of Energy to settle California's claim and thereby lay this issue to rest.

I would like to confirm with the distinguished chairman of the Appropriations Subcommittee on the Interior that my understanding of the committee's intent on the subject of the settlement of California's claims is in fact the correct understanding.

Mr. MCCLURE. I thank my friend from California and would gladly confirm for the record that his understanding of the committee's intent on this matter is correctly stated.

Mr. WILSON. I thank the distinguished chairman and would ask his indulgence on one other point. In the event that the forthcoming House/Senate conference committee on this bill decided to delete the provision of H.R. 5234 that directs the sale of the Elk Hills NPR, would the chairman be agreeable to retaining—at the minimum—the language of the bill that authorizes and directs the Secretary to settle California's Elk Hill school lands claim?

Mr. MCCLURE. Let me assure my colleague from California that I will make every effort to retain the California school lands settlement language in the forthcoming House/Senate conference on H.R. 5234.

Mr. JOHNSTON. Mr. President, the fiscal year 1987 Interior appropriations bill, as marked up by the Senate Appropriations Committee, would increase funding for research and development of contaminants that affect wintering waterfowl. Specifically, the committee has recommended an increase of $1 million to address community level problems and $500,000 to develop new methods and techniques for detecting and identifying new generation contaminants that act either as individual or group toxicants in lethal or sublethal doses. The report that accompanies the bill directs the Department to distribute these funds on an appropriate geographical basis, including adequate attention to important habitat on the gulf coast.

Mr. President, I understand that the Department of the Interior has indicated that it will use approximately one-third of this increased funding on contaminant problems along the gulf coast. Given the large number of waterfowl that winter along the gulf, I want to stress the importance of this decision and I want to urge the Department to direct, if possible, even more money to the gulf coast problems.

Mr. President, I believe that the gulf coast deserves its fair share of this money for the following reasons:

First. Habitat loss in recent years is geometrically increasing along the gulf coast. For example, in Louisiana, the habitat loss rate is greater than 50 square miles per year. Loss rates are also high along the Texas, Alabama, and Florida coasts;

Second. Louisiana coastal marshes provide habitat for more than two-thirds of the Mississippi Flyway waterfowl populations. This population consists of 4 to 6 million ducks that winter there, and 450,000 geese;

Third. Ninety percent of Mississippi Flyway pin tails and lesser scaup winter along the Mississippi coast;

Fourth. Eighty percent of the North American redhead population utilizes the Gulf of Mexico from Florida to the Yucatan Peninsula where they prefer shoalgrass beds in sheltered bays and lagoons. These submerged grass beds are changing rapidly, particularly along the Texas coast and the distribution of these birds is changing as well. Midwinter population declines probably indicate a large movement of birds to Mexico;

Fifth. The gulf coast is the habitat for the mottled duck, and like the black duck along the Atlantic coast, it has severely depressed populations;

Sixth. Large shifts in wintering waterfowl distributions have been noted. Refuge managers suspect more waterfowl are migrating across the Gulf of Mexico;

Seventh. Law enforcement agents report larger concentrations of birds are utilizing the dwindling suitable habitat, and the hunting pressure on birds using these lands is increasing; and

Eighth. Research conducted on the breeding grounds at the Northern Prairie Wildlife Research Center confirms that breeding success is directly linked to the nutritional reserve of waterfowl arriving from the wintering grounds. Birds with low reserves of fats and proteins had significantly lower breeding success.

Mr. President, given the large number of wintering waterfowl that utilizes the gulf coast and the changes that have already been noted in the behavior, I cannot overemphasize the need to assure that a substantial portion of these funds are dedicated to the contaminent problems that exist along the gulf coast. I would like to ask the distinguished chairman of the Interior Subcommittee whether he agrees with my assessment of the gulf coast situation and whether the subcommittee intends that the Department dedicate sufficient funds to meet this problem.

Mr. MCCLURE. The Senator from Louisiana has accurately described the importance of addressing contaminant problems along the gulf coast and it is the intent of the committee to assure that the Department of the Interior adequately address these problems with the funds appropriated for habitat contaminant problems. At this time, I do not know if one-third or one-half, or more, of the funds provided will go to the gulf coast problem. Staff is currently working with the service to discuss the distribution of the fiscal year 1987 contaminant funding and we will see to it that the Department does provide appropriate attention to the gulf coast.

Mr. SIMON. Mr. Chairman, the Coal Research Center at Southern Illinois University at Carbondale, IL, has a strong history of research in clean coal technology and coal chemistry. The House has acted to include $1.25 million, over a period of 10 months, in their fiscal year 1987 Interior and Related Agencies appropriation for continued work at the center. The Senate bill, as reported by the committee, does not specify that support.

In a similar situation in the fiscal year 1986 appropriation, the Senate accepted the house position on this matter in conference. I would ask the subcommittee chairman, the Senator from Idaho, if he would again give full consideration to the House position on this matter when this bill goes to conference.

Mr. MCCLURE. As the Senator from Illinois knows, the allocation for this bill is $600 million below the fiscal year 1986 enacted level. With a reduction that large, many good projects could not be funded.

If the subcommittee receives a larger allocation, or an acceptable offset can

be found, I will give the Southern Illinois University project every consideration.

Mr. SIMON. I thank the chairman for his cooperation.

Mr. SPECTER. When Congress passed the Surface Mining Conservation and Reclamation Act, it recognized the need to solve the Nation's serious abandoned mine problem. The Abandoned Mine Reclamation Fund was established and is supported by a special tax on coal production, so it places no demands on the general revenues of the U.S. Treasury. The unappropriated balance in this fund has grown to nearly $400 million. And, yet, many States, like my own State of Pennsylvania, have large inventories of serious, top-priority abandoned mine hazards that need these funds to be made safe.

The fiscal year 1987 appropriation for the title IV grants-to-States appropriation is $150.6 million in the Senate bill versus the House number of $186.1 million. The Senate number results in my State getting far less than the program they are prepared to carry out and, in fact, had been urged to undertake by administration officials.

Fiscal year 1985 funding had been at $257.7 million while fiscal year 1986 funding was at the $149.4 million level. The fluctuations in funding cause serious difficulties in planning and managing an efficient program.

I am aware that the argument used against increasing the title IV grants to States has been the presence of a large unobligated balance of funds from previous years. However, unobligated funds are not uncommitted funds. Nearly all of the previous years' moneys are committed to projects in design or under construction. Slowing the rate of appropriations will slow the pace of new project starts for projects that are desperately needed.

As the distinguished chairman of the subcommittee knows, these abandoned mines present real dangers to public health and safety. Every year, there are numerous fatalities and injuries in the Nation due to abandoned mine hazards.

I am aware that the chairman has serious problems with available budget authority and outlays for his entire bill. However, the funds expended here come from a dedicated source, the mining industry, and should be expended for the purposes for which they were intended as quickly as practical. Since these funds are from a dedicated source, their use places no demands on the general revenues of the U.S. Treasury.

I request that the distinguished Senator do everything in his power to reach the $186.1 million House figure in conference without obtaining offsets from projects, important to Pennsylvania, that are appropriated in the fiscal year 1987 Interior appropriations bills. The States could use more, but, given his constraints, that figure would be acceptable. The Senator and I have discussed this matter in detail in prior meetings and I appreciate his attention to this issue and his sympathy for the problem.

Mr. McCLURE. What the Senator from Pennsylvania states is a clear definition of the needs of this program, which I support. I greatly appreciate his dedication to this important health and safety issue and will make moving toward and trying to reach the $186.1 million figure a priority in conference if the subcommittee receives an increased allocation or if acceptable offsets in other programs can be found by the conferees since this bill is at its budget authority outlay ceiling.

Mr. SPECTER. I do understand that and am confident that the distinguished chairman will do all that he can to reach the higher number. I thank the Senator.

Mr. HEINZ. I would like to associate myself with the comments of the Senator from Pennsylvania and also urge that Senator McCLURE attempt to reach the House figure in conference. I thank the chairman for his attention to this matter.

Mr. BROYHILL. Mr. President, I rise to engage the chairman in a colloquy for the purpose of clarifying various items of interest and concern.

Mr. McCLURE. I am pleased to oblige the Senator from North Carolina.

Mr. BROYHILL. I appreciate the chairman's indulgence and the opportunity to highlight areas of concern contained in the bill before us. Let me first commend the distinguished chairman and members of the committee on their diligence in delivering this bill in good order.

Mr. McCLURE. I thank the Senator for his kind remarks.

Mr. BROYHILL. Mr. Chairman, I intended to offer an amendment today to restore funding levels for many Federal programs and activities of national importance and of interest to the State of North Carolina. Because funding for many of these items is included in the other body's measure, I have withdrawn my amendment. I will refrain from offering any amendments if the chairman can give me an assurance that the Senate conferees will give serious consideration to acceding to the other body's funding levels for the items I am about to discuss. Is the chairman prepared to offer such an assurance?

Mr. McCLURE. As chairman, I assure the Senator that appropriate consideration will be accorded these items to the extent that budgetary restraints permit and agreement can be reached.

Mr. BROYHILL. Included in the other body's allowance is an appropriation of $55,000 for studies related to the Little Kinnakeet lifesaving station at Cape Hatteras National Seashore. Of that amount, $30,000 would be used to fund a historic furnishing study and $25,000 for a historic grounds study. Among the other body's recommendations, not included in the Senate's bill, is a reprogramming of existing funds totalling $650,000 for the acquisition of an additional 6,000 acre tract at Alligator River National Wildlife Refuge. As such, this would require no new budget authority. This tract would be developed and maintained as a nature conservancy for the protection of the Nation's prime and most extensive remaining stands of mature Atlantic white cedar. The other body's bill also recommended use of Alligator River National Wildlife Refuge as a preferred site for the reintroduction of the Red Wolf and provided an increase of $135,000 to facilitate the recovery of this endangered species. Contained in the other body's report accompanying its bill is language urging the U.S. Fish and Wildlife Service to make available management and technical support to the State of North Carolina and the U.S. Environmental Protection Agency as required to complete the comprehensive research plan for the Albemarle/Pamlico estuary which is of national significance. It is my fervent hope that the Senate conferees will be able to agree to and accept funding levels provided in the other version of the bill when they meet with Members of the other body.

Mr. McCLURE. I will be mindful of these items when the Senate confers with the other body.

Mr. BROYHILL. I thank the chairman. I would also like to express appreciation to the chairman and members of the committee for providing funds necessary to restore the lighthouse district at Cape Hatteras National Seashore Park. In addition, I am grateful to the chairman for the provision of funds necessary to enlarge the Great Dismal Swamp and for recommending funding levels for various items identical to those contained in the other body's bill.

Mr. McCLURE. I thank the Senator. We will endeavor to accommodate the requests he has made.

Mr. DURENBERGER. Mr. President, Minnesota Valley National Wildlife Refuge, situated in the Minneapolis-St. Paul metropolitan area, offers local citizens a wide range of educational and recreational opportunities while providing sanctuary to a large number of migratory waterfowl, fish and other wildlife.

Last year Congress provided $600,000 in planning funds for design of the visitor's center. Preliminary work on utilities, access roads, major landscaping and interstate highway di-

rectional signing is completed. In short the site is ready for construction to begin.

Mr. Chairman, now that the planning is nearly completed, it is vital that construction funds be forthcoming. The House included $3.32 million to begin phase I of the construction. I would appreciate it very much if you would agree to the House language in conference on the fiscal year 1967 Interior appropriations bill.

Mr. McCLURE. I am familiar with this project and appreciate the time the good Senator from Minnesota has devoted to establishing this unique urban wildlife refuge. The educational opportunities the refuge will offer to the citizens of the Twin Cities are outstanding and you can be sure I will give your request every consideration when conferencing with the House.

Mr. DURENBERGER. Mr. Chairman, currently there are 29 States with fish and wildlife or combined cooperative research units. Minnesota, despite their vast fish and wildlife resources, does not have such a unit. While the University of Minnesota and the Minnesota Department of Natural Resources have a solid record of achievement in wildlife research, education or management, the scope of Minnesota's resources makes it difficult to accomplish all that needs to be done.

The University of Minnesota and the Minnesota Department of Natural Resources have put together a program direction statement for a cooperative fish and wildlife research unit in Minnesota. I will ask unanimous consent later that this statement be included in the RECORD.

Mr. Chairman, earlier this year I asked the Subcommittee on Interior Appropriations to review this proposal, and if it had merit to direct the Secretary to fund it out of available funds in fiscal year 1987. Has the Senator had a chance to review this proposal?

Mr. McCLURE. I appreciate the Senator from Minnesota bringing this to my attention. I have reviewed the program direction statement for a cooperative unit in Minnesota and agree to direct the Secretary of Interior to fund the project out of available funds in fiscal year 1987.

Mr. DURENBERGER. I thank the Senator

Mr. President, I ask unanimous consent that the program direction statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

PROGRAM DIRECTION STATEMENT—MINNESOTA COOPERATIVE FISH AND WILDLIFE RESEARCH UNIT

The Cooperative Fishery and Wildlife Units Program was established to facilitate cooperation between the Service, universities, State fish and wildlife agencies and private organizations, and to conduct programs of research and education related to fish and wildlife resource management. The objectives of the Units are to: 1) conduct research directed toward the solution of problems of mutual concern related to fish, wildlife and their habitats; 2) provide academic training toward advanced degrees in the fish and wildlife field; 3) provide technical assistance to federal, state, and other conservation agencies related to fish and wildlife management; 4) provide conservation education through publication, lecture and demonstration. The operations of the Unit are governed by a formal Cooperative Agreement signed by the Service, university, state fish and wildlife agency, and the Wildlife Management Institute.

The Minnesota Unit will emphasize research regarding impacts of human activities on aquatic and terrestrial ecosystems which are of state, regional and national significance. The research program will address not only the biological, but also social and economic aspects of both game and nongame fisheries and wildlife management; hence, the Unit will be in the most advantageous position to provide information for strategic and long-range planning by the Minnesota Department of Natural Resources and U.S. Fish and Wildlife Service.

Minnesota has a vast fishery and wildlife resource and occupies a geographic area that contains aquatic and terrestrial habitats associated with some of the most important regional and national fishery and wildlife research needs. The state is biogeographically unique, with boreal forest, northern coniferous forest, transition zone and prairie, all of which are, in one way or another, under increasing or changing pressures from human activities. Minnesota is an ideal model for research on effects of these activities on fish and wildlife because the vastness of the resource and variation in habitats within regions provide an unusually large selection of research sites for comparative studies.

Biological studies will involve a wide range of applied and basic research projects designed to mitigate or enhance fish and wildlife in habitats with the potential for severe degradation, heavy use, or offering considerable possibilities for enhancement. These habitats include but are not limited to urban fisheries, agricultural lands, peatlands, and the agriculture-forest transition zone where land-use changes are accelerating with human expansion in the area. All of these problem areas in Minnesota are representative of similar concerns regionally and nationally.

The great surge in public interest in nongame species in recent years across the nation consitutes both a challenge and opportunity for resource management agencies and teaching and research institutions. The public now expects agencies to carry out programs specifically for nongame species. As a result, it is opportune and appropriate to have the Unit involved in nongame research.

There is a growing need to incorporate sociological and economic information into fish and wildlife management programs. Public user attitudes, expectations and needs are becoming increasingly important in the formulation of management programs and priorities. Likewise, reliable information on the economic importance of fish and wildlife is becoming an essential ingredient for enlightened planning to help insure that the value of these resources is adequately considered in the formulation of public policy. This is particularly relevant to circumstances in Minnesota where a significant part of the tourist and recreation industry is fish and wildlife oriented. Because public acceptance of fisheries and wildlife management programs is frequently an obstacle to successful implementation, a primary focus of the research will be to examine the economic and social ramifications of proposed management programs and to compare alternatives. This integration of ecological, social and economic research is crucial for decision making regarding fisheries and wildlife policy and planning and yet there are few researchers addressing this issue. The Unit is expected to become a "Center for Excellence" for this integrated research and thereby serve the state and nation as a source of information for public agencies in their development and implementation of fisheries and wildlife management plans.

Mr. McCLURE. Mr. President, I ask unanimous consent that the pending amendment be temporarily set aside.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 2775

Mr. McCLURE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report the amendment

The legislative clerk read as follows:

The Senator from Idaho [Mr. McCURE] proposes an amendment numbered 2775.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 14, lines 7-9, begin linetype with the comma after the word "Fund" and continue the linetype through "290" on line 9.

Mr. McCLURE. Mr. President, the amendment I am proposing will bring the bill into compliance with the committee report adopting H.R. 5234. This language was inadvertently omitted from the bill and would provide a limitation on the amount of purchaser credits that will be available in fiscal year 1987 for timber purchases.

Mr. JOHNSTON. Mr. President, we concur with the amendment.

The PRESIDING OFFICER (Mr. HECHT). The question is on agreeing to the amendment.

The amendment (No. 2775) was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCLURE. Mr. President, it is an appropriate occasion at this particular time to note that the distin-

guished occupant of the Chair, the junior Senator from the State of Nevada, Senator CHIC HECHT, as of 3:30 p.m. on Saturday, August 9, had presided over the Senate for 100 hours. Senator HECHT will join three colleagues, Senators PRESSLER, GORTON, and EVANS, in receiving the golden gavel award for the time he has given the Senate by presiding over the Senate during the 99th Congress. I am very pleased to make this notation for the RECORD.

The PRESIDING OFFICER. The Chair thanks the Senator very much.

Mr. McCLURE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCLURE. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

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Mr. McCLURE. Mr. President, there is a pending committee amendment which deals with Park Service fees, and it was excepted from those that were adopted by unanimous consent.

There is one major amendment and one minor amendment of which I am aware, and there are a variety of colloquies which Members have indicated they wish to undertake with the chairman of the subcommittee. Other than that, we are ready to go to third reading of the bill.

I urge that those who have an interest in these matters or others which they have not yet brought to our attention—I hope there are not such others—will get to the floor and take care of those matters.

Mr. JOHNSTON. Mr. President, I join the distinguished Senator from Idaho in urging Senators to come to the floor at this point and bring up their amendments or their colloquies.

I think we have been contacted personally by only one Senator asking for protection. We have been made aware of others who are interested in amendments, and we will try to protect them.

I know that the distinguished Senator from Idaho is anxious to get the bill over with. So I urge Senators who have amendments to come to the floor right away, because we are ready to deal with them, and we should soon be ready for final passage of the bill. That will not take place until after the caucuses. But I hope that shortly after the caucuses, at 2 o'clock, we will be ready to move to final passage.

Mr. McCLURE. Mr. President, even though the vote may not occur before that time, if we get to third reading of the bill and have only the vote left, we will do that before we recess for the party caucuses.

Mr. JOHNSON. Mr. President, I hope all Senators will take heed of what the distinguished chairman has said, and that is that in the next 40 minutes we want to get this bill wrapped up.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. McCLURE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILSON. Mr. President, I would like to compliment the Appropriations Committee for its expeditious action in bringing the Interior appropriations bill to the floor. This bill is always of critical importance to California and consequently one that I have a vital interest in.

Generally, I support the efforts of the committee to curb spending increases. However, it has long been my position that if funds are to be made available for certain kinds of programs—programs like land acquisition funding for our national parks and forests—California should receive its fair share of funds.

With this in mind, I would like to compliment the committee on its decision to include $5 million for land acquisition in the Channel Islands National Park, $7 million for Forest Service acquisitions at Lake Tahoe, and $1.1 million for the Sequoia-Kings Canyon National Park.

The Sequoia-Kings Canyon acquisition is of special significance because moneys we are appropriating here are to be matched by a private organization, the Save the Redwoods League. This matching fund will be used to purchase Giant Sequoia Redwoods. I strongly believe that the Federal Government should take the lead in supporting cost-sharing programs of this nature whenever practicable.

Although I appreciate the committee's attention to these important acquisitions, I am compelled to note that the committee's recommendation falls short of funding several needed California land acquisition projects. Specifically, I think it highly appropriate that moneys should be made available for land acquisition in the Santa Monica Mountains National Recreation Area, and in the Golden Gate National Recreation Area.

We have embarked on a program of acquiring inholdings in these very popular parks and to renege on our commitment now does an injustice not only to the affected landowners who are effectively precluded from selling and developing their property, but also to the literally millions of visitors who use these parks every year.

The House approved appropriations of $8 million for land acquisition priorities in the Santa Monica Mountains National Recreation Area, and it is my sincere hope that this level will prevail in the forthcoming conference committee.

With regard to the Golden Gate National Recreation Area, there is a particularly urgent need for additional parkland acquisition of a ranch known as the Martinelli property. This property has recently been optioned by a developer and development permits appear to be forthcoming. Once developed, this beautiful ranch will be lost forever to the park. Funds that are presently available to the park have been committed elsewhere and new funding is required to acquire this and other important ranchland property. Therefore, I strongly support conference report language to include the House-passed $3.1 million in appropriations to allow the full acquisition process to continue at GGNRA.

I am also disappointed with the committee's failure to include funding for a U.S. Fish and Wildlife Service acquisition in the Sacramento River National Wildlife Refuge. The House has already approved appropriations of $2.2 million for acquisition of a particularly important 217-acre parcel in this refuge known as the Ward property.

This acquisition is especially important in light of the problem of agricultural drain off which has rendered some of the wetlands in the central valley unsuitable for use as refuge for wildlife. The most glaring example of such contamination is in the Kesterson Wildlife Refuge. This 5,900-acre refuge has been closed down because of selenium contamination. Acquisition of the Ward property would help compensate for the loss of Kesterson.

In this same vein, I would like to register my strong support for the committee's recommendation to appropriate $4.5 million to the Fish and Wildlife Service to study and begin cleanup of contaminated refuges wherever they may be.

Turning to the Forest Service appropriations, I would like to compliment the committee on its endorsement of a National Forest Service Timber Sale Program allowing sales of 11.4 billion board feet for fiscal year 1987. This program is a valuable tool in maintaining a viable domestic timber industry, and is a sound investment that produces increased revenues to the U.S. Treasury. Additionally, I support the committee's recommendations for Forest Service road building appropriations as being highly appropriate in light of the timber sale program envisioned by this committee.

Finally, Mr. President, the committee is well aware of my emphatic endorsement of the House Interior appropriations bill language on the Cali-

fornia OCS leasing program. I would once again like to register my support for this compromise language hammered out over a period of many months and would express my fervent hope and expectation that the House language will be adopted in conference.

Mr. President, I thank the Appropriations Committee for its fine efforts and am hopeful that the deficiencies that I have outlined will be rectified in the conference committee.

Mr. DOMENICI. Mr. President, I have an inquiry with respect to the Appropriations Committee recommendations for the enhanced oil recovery activities of the Department of Energy. Senator NICKLES and I are concerned that a balanced distribution of funding among the various enhanced oil recovery activities is achieved. As you will recall, during the full Appropriations Committee markup of the fiscal year 1987 Interior appropriations bill, I raised the issue of the distribution of funding among the heavy oil, light oil, and tar sands activities. I suggested that an appropriate distribution of the $10 million recommended by the Senate for these enhanced oil recovery activities would be $1.9 million for heavy oil, $7 million for light oil, and $1.1 million for tar sands. I offered an amendment to this effect, and the committee agreed to that distribution.

My concern, Mr. President, is that page 75 of the report accompany H.R. 5234, the fiscal year 1987 Interior appropriations bill, does not reflect the distribution I have just outlined. My distribution is more in line with last year's funding distribution and is proportionate to the budget request and the estimated benefit received in each category of enhanced oil recovery activity. Can the chairman explain his understanding as to the distribution of enhanced oil recovery funding agreed upon during the Appropriations Committee markup?

Mr. McCLURE. I would be happy to respond to the question of my good friend, the Senator from New Mexico. As he correctly states, there was an amendment adopted during the full committee markup on the distribution of the $10 million recommended for enhanced oil recovery activities along the lines he has suggested, and that distribution should have been reflected in the committee report. I assure my distinguished colleague from New Mexico that the Appropriations Committee accepted the funding distribution he has outlined within the enhanced oil recovery account, and is correctly displayed in the detail table I have inserted in the RECORD. I will do everything I can in conference to see that these recommendations are included in the final version of this bill.

Mr. DOMENICI. I thank my good friend and the distinguished chairman of the Appropriations Subcommittee for this clarification and his assurance that he will work for this outcome in conference with the House. I also give my sincere thanks to Senator NICKLES for his assistance on this matter.

RECESS UNTIL 2 P.M.

The PRESIDING OFFICER. In accordance with the previous order, the Senate will now stand in recess until 2 p.m.

Therefore, at 12 noon, the Senate recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. HATFIELD).

□ 1400

SENATE RESOLUTION 486—RELATING TO THE ARREST OF U.S. CORRESPONDENT NICHOLAS DANILOFF

SENATE RESOLUTION 487—RELATING TO THE CONDEMNATION OF RECENT ACTS OF TERRORISM IN PAKISTAN AND TURKEY

The PRESIDING OFFICER. Under the previous order, the hour of 2 o'clock having arrived, there will now be 30 minutes' debate equally divided and controlled by the majority and minority leaders or their designees on Senate Resolution 486 and Senate Resolution 487.

The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 486) relating to the arrest of U.S. correspondent Nicholas Daniloff.

A resolution (S. Res. 487) relating to the condemnation of recent acts of terrorism in Pakistan and Turkey.

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from Oregon, suggests the absence of a quorum. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, let me indicate to my colleagues that the time between now and 2:30 is to be equally divided for debate on the Daniloff resolution and the resolution on terrorism. It is my understanding we may wish to amend the terrorist resolution in view of the events in Beirut since we submitted it yesterday. Each side has 12½ minutes. I understand the distinguished Senator from New York is prepared to use some of the time on that side.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I ask that I may be permitted to use several moments of the minority leader's time. He is not on the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, on the day following the arrest of Nicholas Daniloff, I made a statement, as have other Members of this body, and I spoke as a former Ambassador and as a member for 8 years of the Senate Select Committee on Intelligence.

I made two observations: First, that this is a clumsy effort by the Soviet secret police, the KGB, to provide a counterpart to an arrest by United States authorities of a true agent, Mr. Zakharov, a member of the Secretariat of the United Nations.

I said, second, that it is an absolute and unwavering policy of the U.S. Government not to employ journalists as intelligence agents for any reason whatsoever.

I then went out of my way to say that the Politburo in Moscow had to get control of its secret police and put an end to this.

It did not occur to me then, that this arrest could have happened without the concurrence of the Politburo. However, it seemed appropriate to provide the Soviet authorities with some way of saying, "Well, a mistake has been made. A lower authority has done something clumsy and wrong and it will be rectified."

That is exactly what did not happen. Far from recognizing the gravity of having arrested an American journalist, a completely innocent man carrying out professional work, in response to the arrest of a Soviet spy; far from withdrawing in the face of a letter from the President of the United States, statements by the Secretary of State, statements by Senators; the Soviets chose instead to escalate, to move to the point of announcing that Mr. Daniloff would be prosecuted; and after that, announcing that the prosecution would involve charges more extensive than the immediate investigation of Lenin Hills.

This is inexplicable and under the circumstances, Mr. President, ominous. The Soviets have to understand that they cannot do this and expect our relations to prosper in any way.

They cannot expect a summit meeting.

□ 1410

They cannot expect an arms control agreement.

They cannot expect subsidized wheat and they cannot expect expanded trade.

They cannot expect accommodation of the sort which we do hope for if they persist in this foul, detestable,

and contemptible act of a police state in view of all the world.

And they cannot expect that we will trade one of their spies for Nicholas Daniloff. We do not equate such activities, and we would not in any circumstance submit to the Soviet interpretation which would follow such an exchange: that we had implicitly agreed to Daniloff's guilt. He is guilty of nothing, while the Soviet Union stands at minimum guilty of a profound misunderstanding of the free world and a reckless disregard for the bases of accommodation and peaceful coexistence.

If anything can reach them now, if Mr. Dobrynin is listening, he must surely know that when the Senate unanimously acts, as it will do in 20 minutes' time, the leaders of the Soviet Union are deeply advised to pay attention; and, at what now can only be some cost to themselves, even so reverse their action lest it lead to greater and graver costs by far.

I thank the Chair. Mr. President, I yield the floor.

Mr. PELL. Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. PELL. I ask for 3 minutes, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Rhode Island is recognized for 3 minutes.

Mr. PELL. I thank the Chair.

Mr. President, today I join with the distinguished majority and minority leaders of the Senate, and with the distinguished chairman of the Foreign Relations Committee, in cosponsoring Senate Resolution 487 condemning the latest tragic incidents in what has become a terrorist assault on civilized values and institutions. The hijacking of Pan Am flight 073, and the killing of 18 of its passengers and the wounding of dozens more, underscores yet again the urgent need for improved airport security measures in all of the major international airports. It also serves to remind us of the constant need for vigilance and cooperation at the international level in the fight against the shadowy, cowardly individuals we call terrorists.

The tragic journey of Pan Am 073 reminds us of the vulnerability of innocents to the monsters of international terrorism. The images of flight 073 are haunting—the tiny blooded shoes scattered on the tarmac, the interviews of victims from their hospital beds, the shrouded corpses—and a stark reminder of man's inhumanity to his fellow man.

As if the ordeal of Pan Am flight 073 were not sufficient reminder to us of the ever present threat posed by terrorism, last Saturday an unknown number of unknown gunmen seized the largest synagogue in Istanbul, Turkey, while worshipers were at prayer and opended fire on them, killing 21 men. The utter repugnance one feels at such a moment, the utter contempt one feels for the base cowards who make innocent civilians, at prayer, the targets of their wrath, or vengeance, or elusive political agenda is inexpressible. The deep felt sadness, and sympathy we all feel for the friends and families who mourn their loss is profound. The anger our citizens feel, and the seeming helplessness they experience in the face of this burgeoning threat, is growing.

Terrorism is a hate that does not respect national boundaries. The murderers on Pan Am 073 were Palestinian; they took control of the plane in Pakistan; the aircraft was American; the victims included two Americans but were mostly Indians. In Istanbul the victims were Jewish-Turkish citizens; the nationality of the killer is not known. In Lebanon, another American has been kidnapped.

Because of terrorism's global reach, combatting this evil will require effective international cooperation. Passing resolutions in the U.S. Congress is an important expression of our country's outrage but it is not sufficient.

We must tighten, once again, airport security, including perimeter security. Airports not meeting vigorous international security standards should be blacklisted and international carriers ought not to risk passenger lives by flying there. We need negotiators skilled in the art of handling hostage situations. We need commando forces with the specialized training and skill to free hostages as the situation warrants.

Most important the cowards who plan and implement terrorist acts must be brought to the bar of justice and if convicted severely punished. We owe it to the lastest innocent victims of terrorism—the dead and wounded from Pan Am 073 and the Istanbul synagogue—to take effective measures to stop the repetition of such acts.

As the world community responds to terrorism, we must be sure to target only the terrorists. As civilized people we have the highest obligation to safeguard all innocent human life. If we let our anger get the better of us and strike back at the wrong people then the terrorists will have won. This we must never allow.

Mr. President, the history of the postwar shows that superpower summits can serve two useful purposes. They can contribute to a promising atmosphere in relations, and they can serve to finalize and commemorate agreements on which the preponderance of work has already been accomplished.

Sadly, neither of these conditions now exists. The Soviet seizure of an innocent American journalist threatens to erode all possibility of amicability in United States-Soviet relations. And by all accounts, the two sides are still far apart on the urgent questions of nuclear arms control.

Secretary Gorbachev has spoken repeatedly and at length about his desire for arms control, and has leveled heavy criticism at the Reagan administration's policies in that area. Tragically, his own Government has now moved the spotlight away from arms control and onto its own outrageous action in framing, incarcerating, and threatening to bring to trial a distinguished American journalist.

Only the opponents of arms control can take comfort in the current situation. If Secretary Gorbachev and his Government are truly interested in progress in United States-Soviet relations, they will act to free Mr. Daniloff immediately. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. SIMON. Mr. President, I ask unanimous consent that I may have 3 minutes of our time.

The PRESIDING OFFICER. Is there objection? If not, the Senator from Illinois is recognized for 3 minutes.

Mr. SIMON. I simply join my colleagues in expressing their astonishment and displeasure at Nick Daniloff's seizure. I know Nick Daniloff slightly. I had a chance to meet with him briefly when I was in the Soviet Union. One of the things I have learned is that in the Soviet Union they may know great details about some things—for instance, the Philadelphia police bombings. They knew incredible detail about that. Then there are massive misunderstandings. They simply cannot equate a reporter for Izvestia or Pravda, who is an agent of the state, with a reporter from our country who is a free citizen. This small incident—and it is a small incident—is the kind of thing that could do massive harm to relations between our two countries. Never in all of history has it been so important that two nations understand each other and get along.

For the Soviets to let this happen and stand between our nations is just as shortsighted as it could possibly be. I hope the Soviet leaders get the message that we are serious about this. There are things they can do. They can make speeches. They can have editorials in Pravda and so forth. But seizing a free reporter goes beyond anything we have seen since the days of Josef Stalin. This is going to cause great harm if it is not quickly corrected.

Mr. MOYNIHAN. Will the Senator from Illinois yield for a question?

Mr. SIMON. I am pleased to yield to my colleague.

Mr. MOYNIHAN. My friend observed that what has happened in Moscow during the last 2 weeks goes

beyond anything we have seen since the days of Josef Stalin. Would he be aware, as I am sure he is, that the arrest and continued detention of Mr. Daniloff has a close parallel in the Stalin era? I refer to the case of William N. Oatis, a reporter for Associated Press in Prague, who was arrested and imprisoned on trumped-up charges of espionage in 1951 after Stalin's forces seized power there. Mr. Daniloff testified before our Select Committee on Intelligence in 1978 that during the early 1960's, he was frequently arrested by Soviet citizens and authorities who saw him photographing hospitals and engaging in other innocuous professional activities. But the severity of the current charges now leveled against Mr. Daniloff, and his continuing imprisonment, hearken back to the Stalin era.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. SIMON. I ask unanimous consent for 1 more minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMON. The Senator from New York is absolutely correct. This is the first time that you have had people detained overnight. There have been arrests and you had in the case of one Los Angeles Times reporter someone who was taken but he was permitted to go home evenings and that sort of thing. This kind of overnight detention of a free reporter——

Mr. MOYNIHAN. And charging of such a reporter with espionage——

Mr. SIMON. That is correct—is unparalleled since the times of Josepf Stalin. We do not want to return to those days. The Soviets do not. We do not. We do not want to return to those relations between our two countries.

Mr. GLENN. Mr. President, I rise to add my voice to the growing call for the immediate and unconditional release of Nicholas Daniloff. It goes without saying that any nation has the right to expel or otherwise deal appropriately with foreign spies, as the United States has done with respect to Mr. Zakharov, a Soviet U.N. official. However, to detain a distinguished journalist on trumped-up charges of espionage and cynically suggest that he be exchanged for the Soviet agent caught in this country is simply and completely beyond the pale of tolerable behavoir, even from the Soviets. I applaud the administration's announcement that there will be no trade, and admire the courage and integrity of Nick Daniloff in refusing to be a party to any such deal.

I deeply regret that this incident could threaten the thaw in United States-Soviet relations that was so long in coming in this administration. But if that is the fallout from this incident, the Soviets have no one but themselves to blame. I believe the Soviets made a serious miscalculation in grabbing Nick Daniloff. We Americans are devoted to the principle of freedom of the press and absolutely reject the use of innocent hostages as pawns in an international power play. We will not play the Soviet's despicable game, and will settle for nothing less than freedom for Nick Daniloff. The American people, the administration and the Congress are united in this resolve and the Soviets would do well to reconsider their continued pursuit of this ill-advised attempt at blackmail.

I have every confidence that the Senate will send the Soviet Union a strong and clear message by adopting this resolution unanimously.

Mr. DODD. Mr. President, I rise in support of resolution 486 condemning the Soviet Union's unjustified arrest and indictment of American journalist Nicholas Daniloff and demanding his immediate release.

On August 30, Nicholas Daniloff was handed a packet of materials from a Soviet acquaintance. Immediately after, he was arrested, the packet opened, and inside were found several documents marked secret.

Based on what we know, Nicholas Daniloff is not a spy. His arrest is outrageous and his indictment incendiary. Daniloff is a serious professional with a broad reputation as a careful, knowledgeable, and dedicated newsman. His face is widely recognized in both Soviet and American circles and his profound interest in Russian culture is matched only by his passion for professional reporting.

President Reagan has properly expressed his outrage over this incident, and today this Congress joins with him in that expression. I only lament that in international diplomacy, unlike in gradeschool tomfoolery where this sort of maneuver would be more common, there is no "joke's over"—style ending where the exposed can walk away and normalcy is restored with a sembalance of dignity.

The Soviets have led us and themselves into a difficult morass. Not only is it disturbing that the Soviet leadership, whom most experts credit with at least approving, if not ordering, this scam, would abandon the high standards of international behavior with a blatant disregard for civil liberties and a disturbing contempt for international law.

More than that, it is alarming that they would endanger—and there be no misunderstanding, serious harm has already come to the level of trust between our two nations—the chances for an anticipated summit meeting of our leaders planned for later this year. Progress in identifying mutual interests and a common ground for the start of these talks has been slow without the complications of this affair. The creation of another intractable problem is the last thing the Soviet-American relationship needs.

A great deal is at stake in bringing a successful conclusion to this matter, and the Soviet leadership is mistaken if it believes that the American people, their Congress, and their President will strike a dubious bargain in a situation fabricated through skullduggery and chicanery. This behavior cannot be rewarded; normal relations can only be maintained if there is a commitment to honesty and integrity.

It is unfortunate that the Soviets have engaged in a scheme the undoing of which will produce considerable embarassment for them. But they have brought it upon themselves. I urge that my colleagues approve this resolution and demand the immediate release of Nicholas Daniloff. The future of United States-Soviet relations may well hang in the balance.

● Mr. DURENBERGER. Mr. President, I rise to condemn the actions of the Soviet Government in the arrest, detention, and indictment of Nicholas Daniloff. He should be released immediately and without preconditions of any sort.

Mr. Daniloff is a respected journalist and has never been employed in any espionage activities by any part of the U.S. intelligence community. The charge that Daniloff was engaged in espionage is completely without foundation. Over 8 years ago Mr. Daniloff testified before the Senate Select Committee on Intelligence and stated his unequivocal view that journalists should not be involved in any type of intelligence activity. The Soviet frame-up of Nicholas Daniloff is especially objectionable given his long-standing opposition to journalistic involvement in intelligence activities.

The Daniloff case raises profound questions about the sincerity of General Secretary Gorbachev's professed desire for improved relations with the United States. Arbitrary arrest and imprisonment of United States journalists carrying out their duties is not the type of action one would expect if the Soviet Union is truly interested in constructive relations with the United States.

The much heralded openness of the Gorbachev regime is belied by the Stalinist behavior of his KGB. The Daniloff episode underscores the importance of separating style and substance in Soviet policy.

The carefully cultivated appearance of a new, more modern, Soviet leader should not mislead the West. Beneath a veneer of aggressive public relations and propaganda, the kidnaping of Nicholas Daniloff illustrates that Gorbachev practices business as usual Soviet-style. While Gorbachev proclaims his desire for better relations with the United States, his response to President Reagan's personal appeal for Daniloff's release was to indict Daniloff before a military tribunal.

The harsh reality of an American citizen unjustly held in Lefortovo Prison speaks volumes about the true nature of Gorbachev's Soviet Union. If General Secretary Gorbachev expects to be taken seriously by the United States as a national leader and as a statesman, he must release Nicholas Daniloff without delay.

I urge the rapid and unanimous adoption of Senate Resolution 486.●

● Mrs. HAWKINS. Mr. President, as a cosponsor of the two resolutions upon which we are about to vote, I rise to speak in favor of these two measures. I commend the leadership for moving quickly and forcefully to bring these measures before the Senate so that the views of the Senate will be known on these issues.

Mr. President, the recent Soviet actions in arresting and charging American journalist Nicholas Daniloff only reminds us of the Soviet Government's willingness to violate human and civil rights in the pursuit of the interests of the Soviet state. There is not a shred of credible evidence that Mr. Daniloff is guilty of the espionage charge leveled by the Soviet Government. His arrest represents a Soviet attempt to use an individual American as a pawn in order to gain leverage against the United States in its attempt to obtain the release of a Soviet spy arrested here in the United States. There is no connection between these two cases and Mr. Daniloff's release should not be conditional to any Soviet request for special treatment in the United States. Mr. Daniloff is innocent and his release should be swift and unconditional.

I hope the Soviets will come to their senses and realize that they are doing more to damage Soviet-American relations and their interest in a constructive dialog with the United States by the arrest and charging of Mr. Daniloff than they can ever hope to gain by his continued detention. This resolution will help make it clear to the Soviet Union that the continued holding of Mr. Daniloff is a losing proposition. I urge my colleagues to support this resolution unanimously.

Mr. President, following the vote on the Daniloff resolution there will be a vote on the resolution condemning the recent terrorist incidents in Pakistan and Turkey, of which I am also a cosponsor. I urge my colleagues to support this resolution, as well. The incidents in Pakistan and Turkey, as well as today's report of another kidnapping in Lebanon, indicate that we still have a long way to go in the battle against the scourge of terrorism. The resolution before us urges the President to take strong steps to stop acts of international terrorism, including putting the matter on the table in any future summit with the Soviet Union. If there is one area where civilized nations ought to be able to agree it is in this fight against terrorism.

Terrorism ultimately undermines the security of all nations. The nations of the world ought to work together to make sure that the terrorist has no sanctuary, no base of operations, and no expression of support for his activities. As a friend of Pakistan, I would like to express my hope that the Government of Pakistan, as it has pledged, will bring the terrorists who hijacked the Pan Am jet to justice. I commend the resolution before us to condemn the incidents in Pakistan and Turkey and recommend a program for fighting terrorism and urge my colleagues to support this measure.●

● Mr. ROTH. Mr. President, an innocent American journalist, Mr. Nicholas Daniloff, has been seized by the Soviet Government. The Politburo evidently has decided upon this callous, arbitrary action in an effort to secure the release of Mr. Gennadi Zakharov. According to the Federal Bureau of Investigation, Mr. Zakharov is a spy, a professional KGB operative who has been working to steal vital defense secrets from the United States.

Mr. President, the Soviet action is both crude and transparent. The KGB has always sought to maintain the morale of its operatives by assuring them that, in the event of their capture, Moscow will secure their repatriation at any cost. When the British Government arrested the man and wife Kroger spy team in 1961, the Soviet Government quickly responded by arresting a British schoolteacher, Gerald Brooke, who was on a visit to Moscow. Brooke, a supposed "master spy" was then offered to the British Government in trade for the convicted Kroger spy team.

The parallel between the Brooke-Kroger case and our current situation is all too clear. The Soviet Government will stop at nothing to maintain the effectiveness of its ongoing espionage campaign in the United States, Japan, and Western Europe. Clearly, Moscow is willing, if necessary, to endanger a pending summit meeting, a potential arms control agreement, diplomatic relations, and its perception by the Western media in order to obtain the repatriation of Mr. Zakharov. This should tell us something most revealing about the Soviet sense of priorities.

In the event, the British Government, after 8 years, felt obliged to give way to the Soviets, and an innocent schoolteacher was traded for the convicted KGB spies. I would gravely caution this administration and our media against emulating the British action. To give way to Soviet demands would, in effect, constitute declaring open season on American journalists in the Soviet Union. If the KGB can use its seizure of Mr. Daniloff to secure its desired ends, we should expect to see an American journalist arrested and imprisoned every time we arrest a KGB operative. The Soviet espionage campaign in this country is massive and we have only recently begun to come to grips with it. The arrest of Mr. Daniloff represents the first Soviet effort to frighten us away from a viable counterespionage strategy.

Needless to say, the U.S. Government and, I might add, the governments of its European allies, are morally obliged to make every effort to secure the release of Mr. Daniloff. His arrest is a cause of anguish to his family, his friends, and his country. It also constitutes a gross affront to the integrity of the international press. We can deal with that affront only by standing together in a firm and resolute fashion. Backing down to Soviet demands will lead only to a repetition of this deplorable incident.●

Mr. THURMOND. Mr. President, the American people are watching with shock and a growing sense of anger as an unseemly drama is being played out in Moscow. There, American journalist Nicholas Daniloff—respected Moscow correspondent for U.S. News & World Report—is being held in a KGB prison on obviously fabricated spy charges.

His arrest, the result of a KGB setup, again showed the world that the Soviets will stoop to any tactic—no matter how transparent or vicious—to accomplish their aims. In this case, their objective is clear: Mr. Daniloff is being held in an effort to secure the release of Gennadi Zakharov, a Soviet emissary stationed at the United Nations, who was arrested on legitimate charges of espionage.

However, the two cases are grossly dissimilar. Daniloff is a respected journalist, a seasoned correspondent who has covered the Kremlin and the Soviet people for some time. The Soviet being held in this country is a spy, caught redhanded by Federal authorities. Despite the claims of the Soviet Government, Nicholas Daniloff is simply a reporter doing his job, who was targeted by the KGB for a setup.

President Reagan has called upon Soviet leader Gorbachev to release Mr. Daniloff and has repeatedly warned that his continued detention threatens progress on virtually all fronts of Soviet-American relations.

I rise today to join President Reagan in calling for the immediate release of Nicholas Daniloff and to express my anger and dismay at this blatant act of intimidation. Toward that end, I am pleased to join my colleagues in cosponsoring the Senate resolution condemning this act and calling for Mr. Daniloff's immediate release from prison.

This resolution should say to the Soviet Government that the world is watching this scenario and that decent

people everwhere are appalled and disgusted by what they are seeing.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DOLE. Mr. President, at 2:30 under the agreement reached yesterday, we will vote on both the Daniloff and the terrorism resolutions. I would expect that both these resolutions would pass by unanimous or near unanimous vote. I have asked that a number of Senators be added as cosponsors. I have not made the request for Senators THURMOND, D'AMATO, HAWKINS, ABDNOR, SPECTER, SYMMS, MATTINGLY, and MCCONNELL. I would ask unanimous consent that they be listed as cosponsors on both amendments. There may be similar requests on the other side.

Mr. MOYNIHAN. Might the Senator from New York be listed?

Mr. DOLE. And the Senator from New York, the Senator from Illinois [Mr. SIMON], the Senator from Arkansas [Mr. PRYOR], the Senator from Idaho [Mr. MCCLURE], the Senator from Alabama [Mr. DENTON], the Senator from New York [Mr. MOYNIHAN], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Delaware [Mr. ROTH], the Senator from Illinois [Mr. DIXON], the Senator from Tennessee [Mr. SASSER], the Senator from New Hampshire [Mr. RUDMAN], the Senator from Nevada [Mr. HECHT], the Senator from Texas [Mr. GRAMM], and the Senator from California [Mr. WILSON]. We will continue to add names. I would hope that everyone would cosponsor both resolutions.

The PRESIDING OFFICER. Without objection, it is so ordered.

NEW TERRORIST ATTACKS UNDERSCORE IMPORTANCE OF RESOLUTION

Mr. DOLE. In the case of the terrorism resolution, the events of the past 24 hours underscore again that Americans, as well as other innocent people, are under attack around the world, and that our fight against terrorism is still far from won. Yet another American civilian, Frank Herbert Reed, has apparently been kidnaped in Beirut. And there has been another wave of terrorist bombings in Europe, especially the bloody attack on the Paris City Hall.

Yesterday, we agreed that the terrorism resolution would not be open to amendment, but in light of these events I would ask unanimous consent that one amendment dealing with the Beirut kidnaping be in order. And I will offer that amendment following the vote on the Daniloff resolution when Senator BYRD is present. But I think it has been cleared on both sides and that amendment will be offered.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. I hope that the message is loud and clear. With reference to the Daniloff resolution, I think it does contain a much needed message. I think it is aimed pointblank at the Kremlin leadership. The message can be summed up in one simple word: Enough. Enough of this reckless gamesmanship, which is seriously undermining our bilateral relations at a critical time and threatening the summit; enough playing around with an innocent person's life.

□ 1420

I am certain there are some "Russian Rambos" who think we are bluffing, who tell each other that the Americans are not going to risk the summit or trade or sales of wheat or abiding by the SALT agreement, or whatever it may be, over one American's freedom, but they are mistaken.

So Mr. Gorbachev and his cronies should understand that neither this Senator nor, I think, any other Senator is going to urge the President of the United States to sit down with Mr. Gorbachev while an innocent American is languishing in some Soviet jail.

Mr. President, it seems to me that we have reached the point, and the message is clear—it is bipartisan, and I assume it is nearly unanimous—that we do not take the false imprisonment of one American lightly. If we should, we would set a precedent that would never be overturned.

So I again commend the distinguished minority leader for his assistance, as well as Members on both sides of the aisle. This is a nonpartisan, bipartisan—call it what you will—effort to indicate, in a clear and convincing way, that this does threaten what we hope could be an improving relationship in the coming months and the coming years.

Mr. President, I yield 3 minutes to the Senator from Pennsylvania.

Mr. SPECTER. I thank the distinguished majority leader.

Mr. President, I join in support of this resolution condemning the action of the Soviet Union in the arrest of Mr. Daniloff. The action by the Soviet Union is a direct violation of the Helsinki accords, which provide, in relevant part:

> The participating States reaffirm that the legitimate pursuit of their professional activity will neither render journalists liable to expulsion nor otherwise penalize them.

We talk in the United States about the chilling effect of governmental action on journalists. What the Soviet Union does is to freeze the activities of journalists, and that will be the consequence if the arrest and detention of Mr. Daniloff is permitted to stand.

The journalists of the world perform a very vital function in exposing wrongdoing and bringing to the attention of the public the activities of government. That, of course, is a valued right in the United States, where Jefferson expressed it best of all when he said:

> If I had to choose between newspapers without government or government without newspapers, I would unhesitatingly choose newspapers without government.

We enjoy unparalleled rights in this country, under the first amendment. Journalists like Mr. Nicholas Daniloff, who travel to the Soviet Union, perform a great function for the world. Unless the journalists are to be permitted to gather the news and to report it, we will have no idea as to what goes on in the Soviet Union. That is why it is so important that every ounce of moral suasion be brought to bear on the Soviet Union to release Nicholas Daniloff, and I hope they will hear these very strong words from the United States Senate today.

Mr. DOLE. Mr. President, I yield the remainder of my time to the distinguished Senator from Idaho [Mr. MCCLURE].

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. MCCLURE. I thank the majority leader for yielding this time to me, Mr. President, because I think it is important for us to affirm once again what has been said before—that this is a nonpartisan or bipartisan reaction on the part of the Senate of the United States in both of these resolutions.

Take the issue of Mr. Daniloff, as an example: It is simply an illustration of what many of us know to be true of the Soviet regime, that human life has much less value in their system than in ours. The freedom of a single individual is to be bartered away in tactical gain for themselves, as they view it.

Under our system, individual liberty and individual rights are absolutely protected by the Constitution of the United States; but, beyond that, they are enshrined in the very essence of or society. Individuals have individual rights given to us by our Creator, which again the Soviet Union denies, both in its creation and in the possession of individual rights. There is a total contrast in systems and in values.

With respect to the issue of terrorism, I think that, once again, the terrorism we have seen in the last few days illustrates what is a fact in our world today—a very unpleasant world at times—totally unacceptable means to gain ends which are to them desirable, and to use human life, both its freedom, in the case of the abduction and kidnaping of individuals, and in the extinguishment of life, in the terrorist attacks upon individuals or groups around the world.

Again, there is a contrast in systems, in which we find ourselves in international conflict and in international tensions which are used by other people in ways that are totally unacceptable to the American people. We

must find ways in which to contrast their actions with our own ideals.

It may require us at times to learn to play some of the game by some of their rules in order to deny to them the opportunities to gain advantage, or appear to gain advantage, as a result of the use of terrorism or kidnapping.

I think both of these resolutions are appropriate and absolutely necessary. But I submit, Mr. President, that we still have to learn to take appropriate action—not just talk, but appropriate action—in dealing with international terrorism.

The other question of dealing with the Soviet Union on the imprisonment of a journalist is a much more straightforward issue in the relationship between two nations than is the issue of terrorism, which is an instrument of ideology. It demands a response from the United States, more than simply the passage of a resolution, as much as I support this resolution, as much as I support the necessity of adopting such a resolution.

Mr. President, the United States is being forced to the adoption of affirmative action to deal with the issues of terrorism. We see it cropping up in our own country, as I noticed the attack by tear gas bomb in New York City. If it is acceptable in international terms, then why is not some kind of an attack upon a group of people acceptable in the United States? That inevitably intrudes itself into our civil discourse as well as our international discourse. It is equally unacceptable whether it happens in Istanbul or in New York City. It is equally unacceptable whether it is the taking of human life or the destruction of civil liberties within our own country.

We are going to have to respond to it internationally. We cannot respond to it simply by the passage of resolutions or by dealing with civil disorder in our own country.

Mr. President, I think we have not been challenged with a more difficult task in recent history than the task of knowing how to live up to our own ideals and confronting terrorist tactics.

Mr. President, I urge the adoption of both amendments, and I reserve the remainder of my time.

□ 1430

Mr. BYRD. Mr. President, will the distinguished Senator yield me time?

Mr. MOYNIHAN. I am happy to yield such time as is remaining to my distinguished leader.

Mr. BYRD. I thank the Senator.

The PRESIDING OFFICER. The minority leader is recognized for 1 minute and 21 seconds.

Mr. BYRD. Mr. President, this is an opportunity for the U.S. Senate to send a message not only to the Soviet Union but to the world that we do not stand for, we do not believe in, and we protest most strongly this incarceration of Nicholas Daniloff.

It could have been any other citizen. It could have been a businessman. It could have been any other of many thousands of Americans who from time to time go to the Soviet Union on business or to tour the country—or what parts of the country the Soviets are willing to let them see.

Mr. President, I am ready to go further if need be and support sanctions or whatever. It seems a little bit awkward that we subsidize grain sales to the Soviet Union at the time of the incarceration of Nicholas Daniloff. So we could do something other than offer this resolution.

I would hope that the Senate would unanimously on both sides of the aisle today support this resolution.

I thank the distinguished majority leader for his leadership in offering this resolution and allowing me to be a cosponsor.

I yield whatever time I have remaining to the Senator from California.

Mr. WILSON. Mr. President, I rise to commend all of the speakers.

The PRESIDING OFFICER. The hour of 2:30 having arrived——

Mr. BYRD. Mr. President, I ask unanimous consent that the Senator may have 1 minute.

The PRESIDING OFFICER. The Senator from California is recognized for 1 minute.

Mr. WILSON. I thank the Chair.

I particularly commend the minority leader for the published remarks attributed to him. I think that they and the statements that we have heard on the floor today do not begin really to express the outrage of those speakers and others.

I do not know how we can hope to free innocent millions around the world from the fear of nuclear holocaust if we cannot send individual journalists, or businessmen, or tourists to the Soviet Union without their fearing being framed and becoming innocent pawns in the Soviet game of the big lie. We must not trade an innocent U.S. citizen for a Soviet spy. To do so would be to give credence to that big lie.

We must instead, Mr. President, support the President of the United States, as these speakers on both sides of the aisle have done, refuting that lie and demanding the unconditional release of Nick Daniloff.

Unless and until he is unconditionally released, let all the world be on notice that the much celebrated new openness of the Gorbachev regime is as old and dishonest and seemingly as brutally violative of human rights as the much condemned excesses of the Stalin regime.

The PRESIDING OFFICER. The Senator's time has expired.

Under the previous order, the hour of 2:30 now having arrived, the Senate will vote on Senate Resolution 486.

The question is on agreeing to the resolution. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. DANFORTH], the Senator from Utah [Mr. GARN], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Alaska [Mr. MURKOWSKI], the Senator from New Hampshire [Mr. RUDMAN] and the Senator from Idaho [Mr. SYMMS], are necessarily absent.

I further announce that, if present and voting, the Senator from Alaska [Mr. MURKOWSKI], the Senator from New Hampshire [Mr. RUDMAN] and the Senator from Idaho [Mr. SYMMS] would each vote "Yea."

Mr. CRANSTON. I announce that the Senator from Arkansas [Mr. BUMPERS], is necessarily absent.

I further announce that, if present and voting, the Senator from Arkansas [Mr. BUMPERS], would vote "Yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—93 yeas, 0 nays, as follows:

[Rollcall Vote No. 256 Leg.]

YEAS—93

Abdnor	Goldwater	McConnell
Andrews	Gore	Melcher
Armstrong	Gorton	Metzenbaum
Baucus	Gramm	Mitchell
Bentsen	Grassley	Moynihan
Biden	Harkin	Nickles
Bingaman	Hart	Nunn
Boren	Hatch	Packwood
Boschwitz	Hatfield	Pell
Bradley	Hawkins	Pressler
Broyhill	Hecht	Proxmire
Burdick	Heflin	Pryor
Byrd	Heinz	Quayle
Chafee	Helms	Riegle
Chiles	Hollings	Rockefeller
Cochran	Humphrey	Roth
Cohen	Inouye	Sarbanes
Cranston	Johnston	Sasser
D'Amato	Kasten	Simon
DeConcini	Kennedy	Simpson
Denton	Kerry	Specter
Dixon	Lautenberg	Stafford
Dodd	Laxalt	Stennis
Dole	Leahy	Stevens
Domenici	Levin	Thurmond
Durenberger	Long	Trible
Eagleton	Lugar	Wallop
Evans	Mathias	Warner
Exon	Matsunaga	Weicker
Ford	Mattingly	Wilson
Glenn	McClure	Zorinsky

NAYS—0

NOT VOTING—7

Bumpers	Kassebaum	Symms
Danforth	Murkowski	
Garn	Rudman	

So the resolution (S. Res. 486) was agreed to.

The preamble was agreed to.

The resolution (S. Res. 486), with its preamble, reads as follows:

S. RES. 486

(Relating to the arrest of U.S. correspondent Nicholas Daniloff)

I. Whereas the arrest and indictment on trumped up charges by the government of the Soviet Union of Nicholas Daniloff, American correspondent for U.S. News & World Report, is in clear contravention of accepted standards of international law and civil liberties;

II. Whereas the treatment of Mr. Daniloff is an inexcusable denial or the rights of a journalist to engage in the legitimate pursuit of his profession and a violation of Soviet obligations as a signatory of the Final Act of the Helsinki Accords guiding relations between participating states, specifically Basket III, Section 2, Article (c), Principles for the Improvement of Working Conditions for Journalists, which state that ". . . the participating states reaffirm that the legitimate pursuit of their professional activity will neither render journalists liable to expulsion nor otherwise penalize them."

III. Whereas the actions of the Soviet government further violate the spirit and letter of the provisions adopted at the review of the Helsinki accords held in Madrid in March, 1983, specifically Basket III, Cooperation in Humanitarian and other Fields, which affirms that the participating states ". . . will also consider ways and means to assist journalists from other participating states and thus enable them to resolve practical problems they may encounter . . ." and ". . . further increase the possibilities and, when necessary, improve the conditions for journalists from other participating States to establish and maintain personal contacts and communication with their sources;

Now therefore be it resolved by the Senate of the United States that the Senate—

1. condemns the Soviet Union for the unjustifiable arrest and indictment of Nicholas Daniloff and demands his immediate and unconditional release from custody by the Soviet Union.

2. expresses its deep concern that the failure of the Soviet Union to immediately and justly resolve this matter threatens to undermine constructive relations between the United States and the Union of Soviet Socialist Republics and jeopardizes the hopes for Summit Meeting between President Reagan and General Secretary Gorbachev, and

3. urges that all responsible news gathering and news accrediting organizations that provide support, membership or other privileges to Soviet news organizations should consider appropriate actions to underscore the demand for Daniloff's release.

SENATE RESOLUTION 487—RELATING TO THE CONDEMNATION OF RECENT ACTS OF TERRORISM IN PAKISTAN AND TURKEY

The PRESIDING OFFICER. Under the previous order, the Senate will now vote on Senate Resolution 487.

□ 1450

The Senator from Kansas is recognized.

Mr. DOLE. Mr. President, may we have order?

The PRESIDING OFFICER. Senators will please take their seats. Will Senators vacate the well and take their seats?

The Senator from Kansas.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Will the Senate please be in order? Senators are not in order. The majority leader is seeking recognition. Will Senators please take their seats? Will staff please also take their seats and refrain from discussing matters on the floor?

The majority leader is recognized.

AMENDMENT NO. 2776

Mr. DOLE. Mr. President, I have gotten unanimous consent to make an amendment in order, and I ask unanimous consent that the amendment be made in order.

The PRESIDING OFFICER. Is there objections?

Mr. BYRD. Mr. President, reserving the right to object, there is no objection to this amendment. It has been cleared on this side. I support it also as the chief sponsor of the resolution. It is an amendment to both the title and the body of the resolution.

I have no objection.

Mr. DOLE. Mr. President, let me simply indicate that this incorporates the latest kidnaping in Beirut. It adds the name of Frank Herbert Reed to the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislation clerk read as follows:

The Senator from Kansas [Mr. DOLE], for himself and Mr. BYRD, proposes an amendment numbered 2776.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In the first paragraph of the preamble, after the words "and Istanbul, Turkey," insert the following: "and the kidnapping of an American civilian, Frank Herbert Reed, in Beirut, Lebanon,";

In the second paragraph of the preamble, after the words "in an Istanbul Synagogue," insert the following: "and the kidnapping of Frank Herbert Reed, placing the life and well-being of this innocent American civilian in jeopardy,";

In the first paragraph of the resolution, after the words "and Istanbul, Turkey," insert the following: "and the kidnapping of Frank Herbert Reed in Beirut,"; and

At the conclusion of the resolution add the following: "(F) Continue to make the immediate, unconditional and safe release of Frank Herbert Reed and all other Americans held hostage in Lebanon a high priority national goal."

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Kansas.

The amendment (No. 2776) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table is agreed to.

Mr. DENTON. Mr. President, I rise in support of the resolution. Clearly, the terrorist incidents to which it refers must be condemned in the strongest possible terms. The actions of the perpetrators are an affront to the values of the civilized world. We recoil in horror at the terrorists' savage disregard for the value and dignity of human life, which we hold so dear.

But even as we condemn these abominations, let our condemnation not be a mere reactionary "lashing out" at the depravity of the episodes. Rather, let us see through our anguish and recognize the lessons to be learned from these terrorist incidents, so that our resolve to deal more effectively with international terrorism may be strengthened.

As painful as they are, there are lessons in these incidents; and, although the facts are still being sorted out, certain familiar patterns are clear.

With respect to the hijacking of Pan American flight 073 in Karachi, we have seen once again an American airliner targeted in a foreign land by elements of a well-financed, international terrorist conspiracy. Although people representing 13 different nationalities were aboard the aircraft, the Americans were the first to be threatened by the extortionists, and an American was, indeed, the first person to be singled out and killed.

The Istanbul synagogue massacre bears the marks of the Abu Nidal faction. While probably most Americans recognize that faction as the principal perpetrator of the Rome and Vienna airport massacres in December of 1985, the Abu Nidal group is, in fact, notorious for past vicious attacks on European synagogues, most notably in Brussels, Vienna and Rome. Also, the methods and weapons used—granades and machinegun fire into a group of innocent targets, killing 21 persons—are part of the modus operandi of Abu Nidal's terrorist faction. As we have seen in the past, Abu Nidal's activities and movements from country to country have been well-financed and facilitated by certain radical nation-states, most notably by Libya.

In hearings held over the past 5 years by the Judiciary Subcommittee on Security and Terrorism, which I chair, volumes of evidence have been amassed documenting the existence of an international terrorist network sup-

ported by certain radical nation-States, including Syria, Libya, Iran, Cuba, and North Korea. These terrorists have, with the ultimate support of the Soviet Union and its client States, attempted to coordinate a worldwide strategy designed to expel U.S. presence from key areas of the world. The United States is targeted because of its leadership position in the Western World, the values of which are considered by the terrorists to be inimical to the Marxist and Muslim values which so many of the terrorists and their sponsor States hold dear. The State of Israel and Jews around the world are also consistently targeted by Muslim and Palestinian terrorists.

The Karachi hijacking clearly illustrates several key dimensions of the strategy of this terrorist network. First, the incident was far removed, geographically, from Europe and the Middle East, where the most highly publicized terrorist incidents have occurred in recent years. This demonstrates the terrorists' strategy of attempting to coordinate terrorist incidents in as many different parts of the world as they can in order to stretch thin U.S. and Western ability to respond effectively to them. Clearly, our vigilance must be worldwide and constant.

Furthermore, although the incident directly affected a U.S. airline rather than the Government, the event was designed, at least in part, to cause Americans to question the costliness of maintaining a business or other presence in far-flung regions of the world.

Also, the incident was perpetrated in an Islamic-oriented country, Pakistan, which has been establishing a friendlier relationship with the United States. One key aspect of the strategy of the international terrorist network has been to intimidate and discourage Third World countries from moving to maintain close ties with the United States.

Ultimately, this radical expulsion strategy in all its aspects enures to the benefit of the Soviet Union in its continuing efforts to impede U.S. and Western access to vital world trade, including, most conspicuously, Mideastern oil and southern African minerals. We in the United States must recognize and understand the strategy and the goals of the terrorist movement if we are to develop effective policies for combating it.

While the incidents in Karachi and Istanbul can be seen as yet additional manifestations of the anti-United States and anti-Israel strategy of international terrorism, they also graphically demonstrate that no one in any country of the world is safe as long as these barbaric acts continue. The victims in Istanbul were Turkish, and among the victims of the hijacking were people from 13 different countries, many of whom were brutally killed or wounded. These were attacks on civilization, not just the Western World or Jewish religion. They have shown that terrorism victimizes all nationalities, races, and religions, alike.

If there can be any positive side to these incidents, let it be that all nations, East and West, will join in the fight against international terrorism. The resolution adopted by the United States and its allies at the Tokyo Economic Summit was a start; let that spirit of cooperation now expand to include all the nations of the civilized world.

Finally, we must also resolve to determine exactly who were sponsors of these terrorist incidents, and just how they facilitated the acts. The sponsors must not only be punished for these specific incidents, but the information we obtain may enable us to prevent such acts in the future.

Let us truly learn from these awful experiences and hasten the development of a U.S. policy which will effectively strike at the sources of international terrorism.

Thank you, Mr. President.

● Mr. DURENBERGER. Mr. President, I rise to deplore the reprehensible terrorist attacks in Istanbul, Turkey, Beirut, Lebanon, and Karachi, Pakistan. These savage acts illustrate once again the unrelenting danger that terrorism poses for the civilized world. I condemn the Istanbul and Karachi massacres in the strongest terms and extend my heartfelt condolences to the victims.

The latest terrorist atrocities unfortunately remind the world that terrorism is a form of warfare that continues to plague international politics. There is no lack of groups or individuals willing to engage in wanton violence in pursuit of political ends. The carnage of the past few days emphasizes the need for strong action in the battle against terrorism.

Terrorism is a phenomenon that spans national boundries; terrorist targets include the territory and citizens of dozens of countries. Due to the transnational nature of terrorism, any lasting solution must necessarily involve multilateral action by those States affected. The United States cannot win the war on terrorism by itself but must work vigorously with its friends and allies around the globe to errect a common front against the ravages of the terrorists and their supporters.

I strongly endorse Senate Resolution 487 and urge its immediate and unanimous passage.

Mr. THURMOND. Mr. President, I am pleased today to cosponsor the Senate resolution condemning the recent acts of terrorism in Karachi, Pakistan and Istanbul, Turkey.

With each new incident of terrorism the sensibilities of peace-loving people around the world are shaken anew. The events in Karachi and Istanbul stand as only the latest tragic reminders of terrorism's countless cost in human lives and misery.

The hijacking of the Pan American World Airways flight, an act which claimed the lives of 19 people—including two American citizens—is an act that deserves the outrage and condemnation of the world. Such is also the case in Istanbul, where 22 synagogue worshipers, including 7 rabbis, were killed when terrorists opened fire on the congregation.

However, the solution to terrorism is a painful one. It does not rest with appeasement of terrorists or bowing to their demands. Instead, the only true solution is to adopt a policy, like that of the Reagan administration, of refusing to accede to the demands of these lunatics, and to punish the Nations and individuals who carry out or sponsor these cruel and insane acts.

Mr. President, terrorism carried out against this Nation and its citizens should be regarded as an act of war—perpetrated by enemies of the United States. Our response must be firm and measured, but it must be firm at all times.

Ours must be a clear and indisputable message to those who practice these acts—a message of absolute intolerance of terrorism coupled with an unshakeable resolve to fight back when attacked.

This Nation's response to Libyan sponsored terrorism has been proven effective. It has shown that terrorism can be combatted effectively, and that as a Nation, our citizens are firmly united behind a policy that provides for the use of force when it is necessary to strike back against international terrorists.

I am pleased to join my colleagues today in cosponsoring this resolution.

The PRESIDING OFFICER. Under the previous order, the Senate will now vote on Senate Resolution 487. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. DANFORTH], the Senator from Utah [Mr. GARN], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Alaska [Mr. MURKOWSKI], the Senator from New Hampshire [Mr. RUDMAN], the Senator from Illinois [Mr. SYMMS] are necessarily absent.

I further announce that, if present and voting, the Senator from Alaska [Mr. MURKOWSKI], the Senator from New Hampshire [Mr. RUDMAN], and the Senator from Idaho [Mr. SYMMS] would each vote "yea."

Mr. CRANSTON the Senator from Arkansas [Mr. BUMPERS] is necessarily absent.

I further announce that, if present and voting, the Senator from Arkansas [Mr. BUMPERS] would vote "yea."

The PRESIDING OFFICER [Mr. ARMSTRONG]. Are there any other Senators in the Chamber who desire to vote?

The result was announced—93 yeas, 0 nays, as follows:

[Rollcall Vote No. 257 Leg.]

YEAS—93

Abdnor	Goldwater	McConnell
Andrews	Gore	Melcher
Armstrong	Gorton	Metzenbaum
Baucus	Gramm	Mitchell
Bentsen	Grassley	Moynihan
Biden	Harkin	Nickles
Bingaman	Hart	Nunn
Boren	Hatch	Packwood
Boschwitz	Hatfield	Pell
Bradley	Hawkins	Pressler
Broyhill	Hecht	Proxmire
Burdick	Heflin	Pryor
Byrd	Heinz	Quayle
Chafee	Helms	Riegle
Chiles	Hollings	Rockefeller
Cochran	Humphrey	Roth
Cohen	Inouye	Sarbanes
Cranston	Johnston	Sasser
D'Amato	Kasten	Simon
DeConcini	Kennedy	Simpson
Denton	Kerry	Specter
Dixon	Lautenberg	Stafford
Dodd	Laxalt	Stennis
Dole	Leahy	Stevens
Domenici	Levin	Thurmond
Durenberger	Long	Trible
Eagleton	Lugar	Wallop
Evans	Mathias	Warner
Exon	Matsunaga	Weicker
Ford	Mattingly	Wilson
Glenn	McClure	Zorinsky

NAYS—0

NOT VOTING—7

Bumpers	Kassebaum	Symms
Danforth	Murkowski	
Garn	Rudman	

So the resolution (S. Res. 487) as amended, was agreed to.

The preamble was agreed to.

So the resolution (S. Res. 487), as amended, with its preamble, reads as follows:

S. RES. 487

Whereas, the recent terrorist attacks in Karachi, Pakistan, and Istanbul, Turkey, and the kidnapping of an American civilian, Frank Herbert Reed, in Beirut, Lebanon, demonstrate that international terrorism remains a principal threat to human life and democratic values;

Whereas the hijacking of Pan American Flight 73, which ended in the loss of many lives at Karachi International Airport, and the murder of 22 Turkish Jews as they worshiped in an Instanbul Synagogue, and the kidnapping of Frank Herbert Reed, placing the life and well-being of this innocent American civilian in jeopardy, underscore the continuing need for action against international terrorism and for all civilized nations to redouble their efforts to eradicate this scourge; and

Whereas, the United States should seize the initiative to expand international cooperation and coordination in the campaign against terrorism, and should be supported in that effort by its allies, and by all other responsible nations: Now, therefore, be it

Resolved That, the Senate—

(1) condemns vigorously the most recent terrorist acts in Karachi, Pakistan, and Istanbul, Turkey and the kidnapping of Frank Herbert Reed in Beirut, and offers its deepest sympathies and condolences to the victims of those attacks, and to their families;

(2) declares that international terrorism is a scourge which effects, ultimately, all nations, and that all civilized and responsible nations of the world should expand their efforts to combat this scourge;

(3) urges close international cooperation in the swift prosecution and punishment of those responsible for these crimes; and

(4) urges the President to take the following actions—

(A) place the subject of terrorism and the urgent need for international cooperation, including cooperation between the United States and the Soviet Union, in combatting this scourge on the agenda of any future United States-Soviet summit meeting;

(B) make increased antiterrorism cooperation a high priority subject at every appropriate opportunity he has with the leaders of the allies and friends of the United States;

(C) Redouble efforts to establish an international antiterrorism committee as called for in recently enacted legislation (Public Law 99-399) so that civilized countries may better cooperate in responding to these barbarous acts;

(D) Actively utilize existing rewards-for-information authorities to assist in apprehending and bringing to justice all those responsible for these reprehensible crimes;

(E) Consider taking appropriate constitutional measures against the individual responsible for these heinous crimes;

(F) Continue to make the immediate, unconditional and safe release of Frank Herbert Reed and all other Americans held hostage in Lebanon a high priority national goal.

□ 1510

Mr. DOLE. I move to reconsider the vote by which the resolution was agreed to.

Mr. QUAYLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE DEATH OF DONALD R. FORTIER

Mr. DOLE. Mr. President, during the Labor Day recess there was some bad news from the White House. It was the untimely death of a fine young man whom many of my colleagues had the opportunity to know and to respect. Donald R. Fortier, of the National Security Council, passed away after a courageous battle with cancer. Don worked with the Congress on many issues. He was known particularly for his quiet efficiency, good humor and overall brilliance. Don was a loyal and tireless worker for his country and his President, and will remain a role model for all staffers to follow.

Mr. Fortier was appointed deputy assistant to the President for national security affairs in December 1983. Prior to assuming that position, he served successively at the National Security Council as Director of Western European and NATO Affairs, and special assistant to the President for political-military affairs. Mr. Fortier joined the administration in 1981 as Deputy Director for policy planning at the Department of State.

A memorial service for Don will be held today at 11 a.m., at the Chevy Chase Presbyterian Church.

I know I speak for every Member when I say to his wife, Alison, and his son, Graham: Don will be missed; we will always remember him with fondness and admiration.

GOV. ALF LANDON TURNS NINETY-NINE

Mr. DOLE. Mr. President, today I join my fellow Kansans in wishing one of our greatest Kansans a happy 99th birthday. Today, Alf Landon, the father of our colleague NANCY KASSEBAUM, celebrates another milestone on a long and productive life that continues to be an inspiration to me and countless thousands in our State and throughout America.

He served two terms as Governor of Kansas from 1933 to 1937, and was the Republican nominee for President in 1936.

Governor Landon's political story is well known. He won the Republican nomination in 1936, but ran head-on into a juggernaut named "FDR." However, his influence upon our Republican Party and Government institutions continued. As far as this Senator is concerned, Governor Landon is still a "refreshing voice of common sense" from the heartland of America.

Alf Landon is recognized still as a man who stood fast against Government spending when the revenues did not balance the books. I have no doubt that today he is even questioning who will pay for his birthday cake.

During the Great Depression, while the Federal Government was spending heavily, and piling up huge debts, Governor Landon initiated a "no-frills budget" in Kansas and balanced it. His actions put him ahead of his time, where he remains today.

It was that kind of leadership that not only helped Kansas weather the depression but also endeared Governor Landon and his philosophy to responsible members of both political parties. It is that kind of wisdom and action, frankly, that we could use more of here in Washington.

Next year, I am certain Governor Landon will come to Washington aboard "Air Force One" for his 100th birthday party—taking up an offer made by President Reagan 4 years ago. Perhaps then he would stop by the Capitol, where some of his wisdom could rub off on all of us.

Mr. President, I know the Senate joins Kansas and me in saying "Happy Birthday, Governor" and sending our best wishes to his wonderful wife, Mrs. Theo Landon.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Parlimentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state his inquiry.

Mr. DOMENICI. What is the Senate's business at this point?

The PRESIDING OFFICER. The pending business is H.R. 5234.

Mr. DOMENICI. Mr. President, I ask unanimous consent that I be permitted to speak for 3 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE DEATH OF FOUR JEMEZ PUEBLO FIREFIGHTERS

Mr. DOMENICI. Mr. President, New Mexicans have many things of which we are rightfully proud, yet there is nothing we are more proud of then the devotion and selflessness of our people. I grieve, then, to report on the tragic deaths of four brave Jemez Pueblo firefighters while on assignment in Idaho.

These men, Andrew V. Waquie, Benjamin P. Waquie, Allen M. Baca, Jr., and Anthony Pecos, were doing what so many dedicated men and women call a day's work—what most of us would consider a perilous adventure. To our great sorrow, four members of a Jemez Pueblo crew died and five others were hospitalized when their troop carrier over-turned on their way back from the front lines.

These courageous men were killed while in service to their fellowman. Yet, their service is an example of the bravery that has been handed down from generation to generation in their families. Grandfathers, fathers, and sons have shared the fearless dedication of the firefighter tradition at Jemez Pueblo.

The shock from this terrible accident permeates the entire Jemez community, for they are a very tightly knit group. Even though Jemez Pueblo has been sending volunteers to fight fires for more than 80 years, there was no way to be prepared for a loss of such proportions. The Jemez Eagles are well known for their courageous representatives that travel the Western United States helping to control fires and save lives. I believe that these firefighters are among the bravest and best-trained in the country. Their expertise has played a vital role in fighting fires all over the United States as well as in New Mexico.

In the midst of this tragic report, I am glad to be able to relate to my colleagues that the last two of the injured firefighters will be flown home to the Jemez home. I wish them a speedy full recovery and a glad welcome home.

Finally, I invite my colleagues in the Senate, as well as all citizens of the United States, to join me and all New Mexico as we remember these brave men and the courage and fortitude they displayed in the face of constant danger.

□ 1520

Mr. President, I also indicate that one of the deceased was the brother of the current Governor of the Pueblo Indians called the Jemez Indians. We have talked with him. Clearly, this is one of those situations that is shocking to the entire community, not only the Jemez Indians, but all the Indians of New Mexico and, I dare say, the Indians of the United States.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. DOMENICI. I yield.

Mr. McCLURE. Mr. President, I appreciate the opportunity to add my comments to those of the distinguished senior Senator from New Mexico.

This accident occurred during the recess, while I was home. As a matter of fact, I had been visiting the Boise Interagency Fire Center a few days before this accident, and they were expressing their own pride and their joy in being able to conduct these operations with no injuries, no serious injuries, and certainly no fatalities.

Then, just a few days later, at the Garden Valley fire on Anderson Creek, a portion of a temporary access road, which had been widened to make it possible to get to the fire and out again, failed when this truck was passing. As a result, the truck turned over, and their safety record was tarnished by these unfortunate deaths.

I can attest to the fact that this group of firefighters to whom the Senator refers, from the Pueblo in New Mexico, had enjoyed the reputation, and still do, of being among the best firefighting cadres in the United States. There is a westernwide mobilization for firefighting efforts from Alaska to California, from Maine to California, and there is no group that has a better reputation for skill and professionalism than this group. It is perhaps doubly unfortunate that such a professional group, such a highly trained and competent group, should be the one to suffer this kind of accident.

I assure the Senator from New Mexico that the people of Idaho are very grateful for the effort that was expended in keeping the damage in that forest fire in at least some measure of control at the time these men were there.

Mr. DOMENICI. I thank the senior Senator from Idaho.

It is a coincidence that the Senator from Idaho is on the floor at this time, managing a bill. When I send the Governor a copy of the transcript of this record, I will include Senator McCLURE's remarks.

I am sure they will be pleased to know that the State of Idaho, through you, is fully aware not only of the marvelous efforts of these men, but also, that you extend the sympathies of your State to their families and to the members of the Jemez Indian Pueblo tribe in New Mexico.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS, FISCAL YEAR 1987

The Senate continued with the consideration of H.R. 5234.

Mr. McCLURE. Mr. President, it is my understanding that the pending business is the House bill referred to earlier and the remaining committee amendment thereto.

The PRESIDING OFFICER. The Senator is correct.

Mr. McCLURE. That committee amendment deals with the imposition of fees for the entrance to the national park system, and it was excluded from the unanimous-consent agreement earlier today because of the interest of Senator BRADLEY and perhaps Senator DURENBERGER with reference to that subject matter.

I am happy to yield at this time to the Senator from New Jersey.

Mr. BRADLEY. Mr. President, this amendment came up first a few months ago in the supplemental appropriations bill. At that time, the rationale was given that we needed to increase entrance fees to certain national parks in order to take care of the summer rush. I objected to the amendment being considered at that time because I felt that we needed to have a more thorough evaluation of the need for the entrance fee and how the moneys would be used.

Subsequent to my objection, I had a lengthy meeting with Secretary Hodel and found that on a number of points on which I was concerned, there was a meeting of the minds.

The amendment that is now offered by the distinguished Senator from Idaho, it is my understanding, embodies much of the discussion I had with Secretary Hodel. I should like to ask the Senator specifically a few questions, just to confirm my understanding of the amendment and the intent of the author of the amendment and how it will be interpreted.

The first question I pose to the distinguished chairman is this: Will these entrance fees apply to multiaccess parks or to urban parks?

Mr. McCLURE. Mr. President, it is our intention or expectation that they would apply to multiaccess parks and urban parks of that nature.

The administration had earlier proposed legislation dealing with increases in park entrance fees. In connection with that legislation, we filed with the authorizing committee an application of key development criteria as appendix B to their testimony, and they included with that a list of park units that would be exempted or excluded from entrance fee lists and the reason for that exemption. I make reference to that because it indicates that it would not be their expectation that entrance fees would be attached to such units.

I ask unanimous consent to have that material printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD as follows:

APPENDIX B

APPLICATION OF THE FEE DEVELOPMENT CRITERIA

The entry fee criteria are based upon the six legislative criteria stated in the Land and Water Conservation Fund, Public Law 88-578. And also articulated in the GAO Report To The Congress entitled "Increasing Entrance Fees—National Park Service". These criteria and their accompanying point-scoring values as determined by the study team's entrance fee rating model are as follows:

1. The direct and indirect cost to the government criterion is based upon the projected FY86 operations budget for the parks.

POINTS AND DETERMINING FACTORS

3—Annual operational budget in excess of $1 million.
2—Annual operational budget between $.5 and $1 million.
1—Annual operational budget less than $.5 million.

Based on fiscal year 1986 budget figures.

2. The visitor benefits criterion is based upon two marketing principles:

a. Depth of experience provided: (1) A single focus park indicates that the park has one major theme or activity use, and is typically used by the visitor for a half day or less. (2) A multi-focus park indicates that the park has a variety of different activities available to the visitor. Visitors typically spend the entire day involved in either a variety of activities or a single type of activity that is so broad or far-reaching in scope that it takes a full day or more to experience.

1—Primarily a single focus park.
2—Multi focus park.

b. Cost per visit is the cost to the government to provide the service on a per-person basis.

POINTS AND DETERMINING FACTORS

−1—Cost per visit less than $2.
0—Cost per visit between $2 and $5.
0—Cost per visit not known.
1—Cost per visit between $5 and $10.
2—Cost per visit over $10.

Based on fiscal year 1986 and fiscal year 1984 visitation figures.

3. The comparable fees charged by nonfederal public agencies criterion is based upon the projected cost of what a vehicle with 3.2 persons (standard number of visitors per vehicle) would expend for a similar experience in the surrounding/representative geographic area. This criterion is similar to the current requirements used in determining campground and park housing fees. For historic sites and recreational areas, in most cases, comparable costs are quite easily derived from surrounding similar state and private sites. For natural areas, the uniqueness of the site was the determining factor in the context of the geographical area. For those areas which have been recognized on an international basis—such as World Heritage Sites and Biosphere Reserves, and areas whose uniqueness draws large numbers of international visitors—the geographical area was determined to be the world. For these parks, comparable costs were determined from commensurate costs for similar experiences on a worldwide basis. Areas of lesser significance were rated accordingly:

POINTS AND DETERMINING FACTORS

−2—Comparables less than $2.
0—Comparables between $2 and $5.
0—No comparability possible.
1—Comparables between $5 and $10.
2—Comparables over $10.

4. The public policy or interest served criterion was the most subjective, philosophically complex, and politically sensitive of all the criteria. It should be, and was applied with the widest possible input of various public officials. In the 103 current or proposed entrance fee parks, this criterion was deemed non-appropriate to use. Examples of where highest level management may wish to exercise this criterion are:

a. Negative points: Symbolically sensitive areas such as: The Statue of Liberty; the White House; and, the Lincoln Memorial.

b. Negative points: Urban recreation areas located in and heavily utilized by very low income visitors.

c. Positive points: Areas where the low cost of operation and high use rate results in a total score, and resultant per visit cost which is less than that currently being charged.

d. Positive points: An area where projected revenue would be five or six times the cost to the government to operate the park.

POINTS AND DETERMINING FACTORS

0 to −7—Based upon estalished norms for the relationship of the park to its place in the National cultural and natural heritage of the Nation.

5. The other pertinent factors criterion is another criterion that should be, and was, used in only extremely unique situations. As opposed to the issues of national policy (criterion 4), this criterion is to be used to offset a total score that has been obviously distorted because of very unusual circumstances. Two examples would be:

a. A park where visitation was extremely low (resulting in a high cost per visit ratio) because of being closed for an extended period due to hurricane or fire damage.

b. A new park unit whose operational budget is high and visitation is low because of the costs of extra staff for land acquisition or historical research.

POINTS AND DETERMINING FACTORS

+2 to −2—Extremely unique situations administratively determined to effectively render the overall criteria as invalid and in need of adjustment.

6. The economic and administrative feasibility of fee collection criterion was utilized in a very straight-forward manner: Either it is feasible to collect entrance fees or it is not. Although the criterion is straightforward, its application may not be. Part of the reason for this confusion is that its application in many cases is based upon the traditional concept that entrance fees can only be collected at an entrance gate. This study categorically rejects this motion. There are literally hundreds of examples of non-federal areas where it is common practice to charge entrance fees and to require patrons to come to a visitor center or other central location to purchase their entrance tickets. Some of these examples are ski areas, several Canadian parks, and numerous historic sites. Other non-entrance fee examples which follow this same philosophy are out-of-state daily fishing permits, our own backcountry camping permits, and lock-box parking areas.

POINTS AND DETERMINING FACTORS

x1—Fee collection economically and administratively feasible.
x0—Fee collection not economically or administratively feasible.

The sub-total of the first five criteria are multiplied by 1 if fee collection is feasible or by 0 if fee collection is not feasible.

EXAMPLES

Park	Criteria 1	2	3	4	5	Sub total	Crtr. 6	Total score	Park fee [1]
Yellowstone NP	3	2							
		1	2	0	0	8	×1	8	$10.00
Shenandoah NP	3	2							
		0	1	0	0	6	×1	6	5.00
Colonial NHP	3	1−1	1	0	0	4	×1	4	3.00

[1] Per vehicle.

POINT CONVERSION CHART

Final score for park	Category
Less than 2 points	Non fee area.
2 for 3 points	Standard fee area.
4, 5, or 6 points	Intermediate fee area.
7 or more points	Prime fee area.

A SAMPLE OF PARK ENTRANCE FEE COLLECTION PERCENTAGES AS RELATED TO PARK VISITATION

[Per vehicle parks] [1]

Park	Visitation	Numbers of vehicles	Vehicles [2] collected from	Fee level	Entrance fee revenue	Percentage of collection
Craters/Moon NM	220,800	69,000	13,614	$1.00	$13,614	19
Craters Lake NP	419,800	131,187	71,375	2.00	142,751	54
Bandlier NM	215,500	67,343	30,840	1.00	30,840	45
Fort Davis NHS	69,000	21,562	10,414	1.00	10,414	48
Everglades NP	628,700	196,478	82,766	2.00	165,533	42

A SAMPLE OF PARK ENTRANCE FEE COLLECTION PERCENTAGES AS RELATED TO PARK VISITATION—Continued

[Per vehicle parks] [1]

Park	Visitation	Numbers of vehicles	Vehicles [2] collected from	Fee level	Entrance fee revenue	Percentage of collection
Badlands NP	1,113,700	348,031	111,752	1.00	111,752	32
Yellowstone NP	2,222,000	694,375	289,325	2.00	578,651	41
Shenandoah NP	1,869,300	584,156	334,232	2.00	668,465	57
Yosemite NP	2,738,500	855,781	511,491	3.00	1,534,475	59
Petrified Forest NP	714,800	223,375	122,328	1.00	122,328	55
Total		3,191,288	1,578,137			[3] 49

[1] This chart is a sampling of the revenue collect by per-vehicle entrance fee parks in fiscal year 1984.
[2] To derive the "Vehicles Collected From" figures, it was assumed that: visitation would drop by 20 percent; that a car contains 3.2 persons; and that only 50 percent of all cars are collected from.
[3] Average.

A SAMPLE OF PARK ENTRANCE FEE COLLECTION PERCENTAGES AS RELATED TO PARK VISITATION

[Per person parks] [1]

Park	Visitation	Persons [2] collected from	Fee level	Fee revenue	Percentage of collection
Castillo de SM NHS	692,500	431,886	$0.50	$215,943	62
Pipe Springs NM	28,000	10,272	.50	5,136	37
Edison NHS	40,800	16,698	.50	8,344	41
Adams NHS	23,900	10,574	.50	5,287	44
Sagamore Hill NHS	120,800	48,900	.50	24,450	40
Saint Gaudens NHS	27,100	6,414	.50	3,207	24
Andrew Johnson NHS	84,900	7,000	.50	3,500	8
Thed Roos. BTH NHS	16,400	7,678	.50	3,839	47
Longfellow NHS	15,900	10,168	.50	5,084	64
Statue of Liberty NM	637,200	186,700	.25	46,675	29
Total	1,687,500	736,280			[3] 44

[1] This chart is a sampling of the revenue collect by per-vehicle entrance fee parks in fiscal year 1984.
[2] The same calculation describe on the previous page was performed here. The total was multiplied by 2 as it was assumed that there would be two paying adults in an average car load.
[3] Average.

NPS AREAS EXCLUDED FROM ENTRANCE FEE LIST—BY REASON

EXEMPT BY LAW—42 PARKS

1—Abraham Lincoln Birthplace NHS.
2—All Alaska Areas (23 parks).
25—American Memorial Park.
26—Baltimore-Washington Parkway.
27—Biscayne National Park.
28—Blue Ridge Parkway.
29—Boston African American NHS.
30—Channel Islands NP.
31—Ft. Jefferson NM.
32—Fort Point NHP.
33—George Washington Memorial Pkway.
34—Great Smoky Mountains NP.
35—John D. Rockefeller Parkway.
36—Martin Luther King NHS.
37—Mount Rushmore NMEM.
38—Muir Woods NM.
39—Natchez Trace Parkway.
40—Point Reyes NS.
41—Virgin Islands National Park.
42—War in the Pacific NHP.

UNCONTROLLABLE OR MULTIPLE ACCESS—8 AREAS

1—C & O Canal NHP.
2—Fire Island NS.
3—General Grant NMEM.
4—LBJ Memorial Grove OTP NMEM.
5—National Capital Parks.
6—Redwood NP.
7—Rock Creek Park.
8—Thomas Jefferson Memorial.

AREAS ESTABLISHED FOR URBAN RECREATION—10 AREAS

1—Chamizal NMEM.
2—Chattahoochee River NRA.
3—Chickasaw NRA.
4—Cuyahoga Valley NRA.
5—Gateway NRA.
6—Golden Gate NRA.
7—Greenbelt Park.
8—Indiana Dunes NL.
9—Prince William Forest Park.
10—Santa Monica Mountains NRA.

MORE APPROPRIATE FOR USER FEE—28 AREAS

1—Amistad NRA.
2—Big South Fork N River.
3—Bighorn Canyon NRA.
4—Buffalo NR.
5—Carlsbad Caverns NP.
6—Congaree Swamp NM.
7—Coulee Dam NRA.
8—Curecanti NRA.
9—Delaware Water Gap NRA.
10—Glen Canyon NRA.
11—Jean Lafitte NHP & PRES.
12—Jewel Cave NM.
13—Lake Mead NRA.
14—Lake Meredith NRA.
15—Lehman Caves NM.
16—Mammoth Cave NP.
17—New River Gorge NR.
18—North Cascades NP.
19—Obed Wild and Scenic River.
20—Oregon Caves NM.
21—Ozark NR.
22—Rio Grande NR.
23—Saint Croix NR.
24—San Antonio Missions NHP.
25—Timpanagos Cave NM.
26—Upper Delaware River.
27—Voyageurs NP.
28—Whiskeytown NRA.

LOW VISITATION-LITTLE OR NO DEVELOPMENT—18 AREAS

1—Alibates Flint Quarry NM.
2—Big Cypress NPRES.
3—Big Thicket NPRES.
4—Brices Crossroads NB.
5—Eugene O'Neil NHS.
6—Fort Union Trading Post NHS.
7—Fossil Butte NM.
8—Hovenweep NM.
9—Klondike Gold Rush (Washington).
10—Knive River Indian Village NHS.
11—Maggie L. Walker NHS.
12—Monocacy NB.
13—Ninety-Six NHS.
14—Rainbow Bridge NM.
15—Saint Crois Island NM.
16—Tupelo NB.
17—William Howard Taft NHS.
18—Yucca House NHS.

OTHER (COMPARABILITY, SPECIAL USE, ETC.)—25 PARKS

1—Catoctin Mountain Park.
2—Ellis Island NM.
3—Federal Hall NMEM.
4—Fort Sumter NM.
5—Frederick Douglass Home NHS.
6—Gila Cliff Dwellings NM.
7—Gloria Dei Church NHS.
8—Hamilton Grange NMEM.
9—Historic Camden.
10—Hohokam-Pima NM.
11—Hot Springs NP.
12—Hubbell Trading Post NHS.
13—JFK Center of the Pref. Arts.
14—Johnstown Flood NMEM.
15—Kalaupapa NHS.
16—Kaloko-Honokohau NHP.
17—Navajo NM
18—Oregon NHT.
19—Palo Alto Battlefield.
20—Piscataway Park.
21—Pu'Ukohola Heiau NHS.
22—Thaddeus Kosciuszko NMEM.
23—Theodore Roosevelt Island NMEM.
24—Thomas Stone NHS.
25—Vietnam Veterans Memorial NMEM.
26—White House and President's Park.
27—Wolf Trap Farm Park.
Total excluded 133 areas.

Mr. BRADLEY. It is my understanding that included in those units are Gateway Recreation Area and Delaware Water Gap.

Mr. McCLURE. The Senator is correct.

Mr. BRADLEY. The second question I pose is whether the revenue from the entrance fees is in addition to the appropriated baseline level.

Mr. McCLURE. The Senator is correct.

While the appropriated account is down slightly this year because of budgetary pressure, it is the expecta-

tion of the committee that the fees are in addition to the appropriated accounts and that the increased revenue will be used for the management of these park units. In addition, this is funded by direct appropriation.

Mr. BRADLEY. So that is a slightly different interpretation from that which has been offered by OMB?

□ 1530

Mr. McCLURE. If the Senator will yield, OMB in spread sheets will indicate a decrease in the appropriation as a result of the increase in fees collected. That is not the committee's approach because the committee intends that these fee collections after the costs of administration are deducted are additionally available. They are available in addition to that which is appropriated.

Mr. BRADLEY. One last question. As I understand the entrance fee revenues, they are to be used to argument the services in the park in which the revenues themselves are obtained. However, not all of the entrance fee revenues will be used in the individual park in which they are collected. My concern here is obviously that there are some parks in my own State of New Jersey—for example, Thomas Edison's Home Laboratory is visited by thousands and thousands of students and as to that fee, while it is only 50 cents, most of the people who come there do not pay any fee. I would like to think that some of the revenue that will be derived from the entrance fee will go into the general Park Service account, recognizing that not all of it will, but some of it will.

Mr. McCLURE. If the Senator will yield, it is correct to say that not all of the money generated goes back to the specific park unit in which it is generated. The direction in the language in the bill before us is that the costs of collection are first paid. Then it is applied to the park in which it is collected and the remainder then goes systemwide for those purposes. It does not go into the Park Service funds in the general account, but it does go systemwide so those revenues where they are in excess of the specific park unit would be available for the same kind of services in other park units.

Mr. BRADLEY. It is the understanding from the Senator that there will be excesses from some parks.

Mr. McCLURE. Yes, it is expected that some parks will generate revenues in excess of their needs and it will then be used by the Park Service in other units of the national park system.

Mr. BRADLEY. I thank the Senator, and it is good news for the school students who visit the Thomas Edison Laboratories.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. McCLURE. I am happy to yield to the Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I would simply like to point out to underline what we said earlier this morning about how bad the condition of this budget is, that even after we add some $50 million which is $59 million plus the cost of collecting the fees, that the operations budget of the National Park Service is down from fiscal year 1986 of $610 million to $579 million this year with the fees added. So in effect what we have done is add $50 million of fees and end up with 29 million or 31 million fewer dollars than we had last year. That is not the design of the committee. That is the design of the administration and indeed of the Appropriations Committee in assigning us the 302(b) allocations.

So, I mean it is not anything we are doing in the committee. We need more money for this budget. Indeed, if we do not get additional 302(b) allocation, we are going to do worse things than this to the national parks. We may even have to close some of the national parks literally because we are having to cut so deeply.

Nevertheless, I think it is proper to say that the Park Service, after these fees, is going to have less money than it did last year.

Mr. BRADLEY. If the Senator will yield on that point, this would be further evidence to this fear that indeed without some change in policy there could be closures in some national parks. In Gateway National Recreation Area, which the distinguished chairman and ranking minority member knows is one of the most frequently visited parks in the country, it is in New Jersey and in New York, several times this year had to turn away thousands and thousands of visitors because there was inadequate space, inadequate parking areas.

I would have to say that it would be my hope that the facilities that are needed to accommodate the visitors who want to attend in growing numbers in northeastern part of the United States would be able to be accommodated through recognition that we are part of the Park Service as well.

I know the chairman and the ranking minority member both have the sensitivity, and I thank them very much for their consideration.

Mr. JOHNSTON. Mr. President, will the Senator yield to me to make a correction?

Mr. McCLURE. Yes; I am happy to yield to the Senator from Louisiana.

Mr. JOHNSTON. Mr. President, the figures I just gave of $610 million being the BA enacted figures for fiscal year 1986 are correct and the figure of $579 million being the fiscal year 1987 Senate figures are correct. However, the $579 million is after the $50 million has been backed out. So if you add the $50 million back, in, you will get $629 million, which would be some $19 million more than last year.

So I would like to correct the RECORD to that extent, Mr. President.

It is still very bad news, but it is not as bad as we thought.

Mr. McCLURE. The Senator is correct. The only offset of that statement is it is a net increase; there may be some increased cost of fee collection. That is pretty hard to estimate because if all that is done is an increase in the amount of the fee, it does not necessarily increase the cost of collection of that fee.

So my guess would be that it is nearly all net and therefore the Senator's figures are correct.

Mr. BRADLEY. Mr. President, I would say to the distinguished chairman and ranking minority member under these circumstances I have no objection to the amendment and I appreciate the clarification.

The PRESIDING OFFICER. The question is on the committee amendment.

Mr. McCLURE. Mr. President, there may be an amendment offered to the committee amendment. I am not certain. For that reason I ask unanimous consent that the pending amendment be temporarily laid aside so the Senator from Wisconsin may offer his amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Wisconsin.

AMENDMENT NO. 2777

Mr. PROXMIRE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Wisconsin [Mr. PROXMIRE] for himself and Mr. HUMPHREY proposes an amendment numbered 2777.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so odered.

The amendment is as follows:

On page 50 line 22, delete "$276,130,000," and insert in lieu thereof; "$186,130,000," on page 50, line 25, delete "$260,654,000," and insert in lieu thereof; "$170,654,000."

Mr. PROXMIRE. Mr. President, this is an amendment to the Interior appropriation bill that cuts $90 million from the Forest Service roadbuilding program. The reduction comes from two sources.

First, this amendment deletes $66.7 million of the $75 million provided for forest roads above the President's fiscal year 1987 budget. The balance of these funds, which we would not delete that will stay in the bill, goes for specific work at Mount St. Helen's,

Monongalia, WV, and Hells Canyon, which would not be cut.

Second, the amendment cuts a further $23.3 million in forest roads below the President's budget level and represents about one-half the cut made by the House in its bill. Together, these cuts total $90 million and while it is a reduction it is still $22 million above the House level.

Why cut this account now? The answer is simple. This program is way, way over the President's level and so is the entire Interior bill. We've got to make cuts, and big ones, to bring this bill into line. While the Interior bill is notably stingy with parklands, wildlife preservation and other environmentally desirable items, it is positively overflowing with generosity toward the forest roads program even though many timber sales are big losers and timber market is soft.

Forest roads represent a very large percentage of the entire Forest Service budget. Each year the agency spends hundreds of millions of dollars to build new logging roads through the national forests, adding to and reconstructing its expansive and expensive system which already totals over 340,000 miles. I repeat that—340,000 miles of forest roads we have now. What does that mean? That is 14 times the circumference of the Earth. In fact, during the last 5 fiscal years the agency built 2,654 more miles of appropriated roads than its own projections said were necessary to support its timber harvesting program.

For example, in 1981 the Forest Service exceeded its road building target by 96 percent; in 1982 by 65 percent; in 1983 by 23 percent. It went down, and then wait. In 1984 it exceeded its goal by 40 percent.

As if this were not enough, in the next 10 years the agency would like to build about 40,000 more new miles of permanent roads, about the same mileage as in the entire Interstate Highway System.

I wonder how many people realize that? They are proposing to build over the next 10 years and, of course, this appropriation is part of it, about the same amount of miles as the entire Interstate Highway System.

□ 1540

Even worse, road building is cumulative. As the Forest Service continues exceeding its own road projections, each year it widens the gap between planned and excess roads.

Could this program be cut? You bet. According to House figures, even their considerably larger cut, properly targeted need not have a big impact on employment in the forest products industry. They suggest specific cuts in planning and management, preconstruction engineering, construction and reconstruction, all but one of which actually received increases from the administration for fiscal year 1987 over their originally proposed fiscal year 1986 levels.

Keep that in mind, an increase, an increase now. This is supposed to be a time when we are holding the spending down, reducing the spending. We are trying to reduce the spending without a tax increase. There is only one way you can do that, and that is to cut spending.

As I say, in most of these areas, spending would be increased, not cut, would be increased over the 1986 levels.

The forest roads program financed through direct appropriations is just one of a series of programs building roads which increase industry access to timber. This is not the only way we have access to timber. This is just one of several. According to the Congressional Research Service the Forest Service could reduce the impacts on timber sales and forest products employment by resorting to these other programs.

The Congressional Research Service suggests three options which might be used to reduce employment effects. The agency could concentrate its efforts on purchaser credit construction, where roads are built by the timber industry at their own expense, and paid for in kind by national forest timber. The agency could concentrate on reselling roaded timber from contracts bought back by the Forest Service under the Timber Buyout Act. Finally, the agency could concentrate its new sales on already roaded areas.

While these are all short-term solutions, they detail alternatives which could mitigate employment losses due to road construction cutbacks. Yet the Forest Service declines to follow this sensible path, choosing instead to make cuts in support for purchaser credit roads instead of in their own forest roads program. What is worse, purchaser roads are usually much cheaper for the U.S. Government than Forest Service efforts.

Now, Mr. President, the reason this is opposed by virtually every environmental group in the country that has taken any position at all is because roadbuilding is also environmentally damaging. According to the Congressional Research Service, road construction is the most environmentally damaging aspect of the timber program. In general, roads and road construction cause more erosion and sedimentation than logging or forest fires.

Roads can destroy fish and wildlife habitat, disturb migration routes and degrade water quality while yielding little of the multiple-use benefits claimed by the Forest Service. For example, while 94 percent of roads are constructed for timber access just 1 percent are for recreation purposes according to the agency's own explanatory budget notes.

Mr. President, for this reason my amendment is supported by 10 major environmental groups. Consider who they are: The Defenders of Wildlife, the Environmental Policy Institute, the National Audubon Society, the National Wildlife Federation, the Sierra Club, the Environmental Defense Fund, the Izaak Walton League, the National Parks and Conservation Association, the National Resources Defense Council, and the Wilderness Society.

Finally, Mr. President, the timber sales served by these roads are often big, big, money losers for the taxpayers. A substantial volume of U.S. timber is sold below cost without recovering the expenses of growing and providing access to the trees offered for sale. The Office of Management and Budget reported in its 1987 budget summary that "Forest Service costs for timber and mineral activities exceeded the Federal share of receipts by $621 million in 1985." In other words, the cost of this program is far more than the income. To anybody who says this is a program that brings in money, the answer, of course, is given by the Office of Management and Budget when they said it cost $621 million more. According to the OMB, almost all of the loss was attributable to logging activities.

Does it make sense for the Congress to lavish excessive sums on forest roads which provide access to money-losing sales? Our largess may be driving us deeper and deeper into the hole.

Mr. President, earlier today, my good friend, that outstanding Senator from Louisiana, Senator JOHNSTON, states that without the credit for sale of the Elk Hills Naval Petroleum Reserve this bill would be over budget. Yet the distinguished Senator also stated that the Elk Hills provision would not survive conference. In other words, without budgetary flim-flam, this bill is over the 302(b) allocation and needs cutting. Where better than in an account so munificent, so grand, so over-stuffed that the Forest Service used it to build 2,500 more roads than they said they needed.

According to the committee report by the House Interior Subcommittee, "The Forest Service continues to exceed its planned and funded goals for road construction and reconstruction, despite funding reductions, as it has in each of the past 5 years." If the Forest Service does so well with what we give them, let us give them less. They will make do and handsomely.

Imagine if the Department of Defense ordered twice as many tanks each year as it said it needed. Pretty soon we would be overrun with tanks. I hope someone would notice this overabundance, scale back tank production and save some money. Roads do not disappear each year. They accumulate.

And we have more roads than projected need. So let us scale back this program the same way, save money, and use the roads we have.

After all, my amendment will not affect the amount budgeted under the Forest Road Program in support of the Purchaser Construction Program nor will it affect the fiscal year 1987 Timber Sales Program. It will also allow such ongoing activities as management of existing contracts, forest land planning, provision of rights-of-way, and reconstruction of multipurpose and recreation roads to continue at the budgeted level.

And roadbuilding cuts should not fall unequally on some areas of the country! In past years, the Forest Service used scare tactics to discourage cuts in its roadbuilding budget. Instead of applying cuts across the board, or in areas without road needs, the Forest Service has continually presented a "worst case" scenario claiming irreparable harm from roadbuilding decreases in areas such as the Pacific Northwest, our most profitable timber region. It is highly ironic that the Forest Service can make precise and catastrophic predictions of impacts of budget decreases while steadfastly maintaining that it cannot provide U.S. Senators with a list of the roads it hopes to construct with its hundreds of millions of taxpayer dollars.

That is right, Mr. President, any Member of the Senate could ask the Chief of the Forest Service where his agency will build the 808 miles of new hard-money roads that the President's budget says are necessary to support the Timber Program. The answer would be that: "No such list exists." Or, sorry, that information is "not available."

For 2 years, Mr. President, Representative, SIDNEY YATES, chairman of the House Interior Appropriations Subcommittee, has made that simple request: "Where are you going to build the roads?" And, the answer, Mr. President, is always: "We can't tell you."

Come on, Mr. President, how can the Forest Service determine the number of miles of roads it needs without knowing where the roads are and how much timber the roads access? But the Forest Service, incredibly, maintains that such information does not exist. Under thse circumstances, it is imperative that we view any Forest Service claims of drastic effects in regional timber production stemming from road money reductions with great skepticism. If we can't know what we are buying, how can we know the effect of buying less? The answer is simply, Mr. President, the Forest Service numbers are soft—the agency can simply make up any horror story it deems necessary and there is no standard to judge its claims. The difficulty is complicated by the fact that the agency is very willing to engage in such tactics.

Road construction cutbacks will not have an adverse regional impact. In fact, indications are that excess road construction during the "Age of Excess"—1981 to 1985—occurred throughout the National Forest System. That is, more roads were constructed or reconstructed in excess of planned and funded goals in all regions.

This is right, Mr. President, every region enjoyed part of the surplus in road construction. So, Forest Service claims of undue burdens on any region are gross exaggerations. We designed this amendment to distribute the spending reductions proportionately. We do not intend to single out any region and our amendment will not do so. Rather, we intend to be fair. Our amendment protects the purchaser credit road portion of the Forest Road Program, sparing its productive and more cost-effective elements.

Mr. President, I cannot overstate the importance of one aspect of the Forest Road Program. Just as roads accumulate every year, the transformation of the landscape of our national forests is a cumulative process. Development dominates more and more areas through road construction paid for with taxpayer dollars. Meanwhile, the Forest Service cuts back wildlife programs and closes campgrounds, and the silent shift in personnel within the agency begins to favor still more road construction and less conservation. Over the years, the Forest Service lost more and more wildlife biologists and recreation specialists, but it maintained high personnel levels of engineers and foresters. Mr. President, this cumulative impact has changed the makeup of the Forest Service and contributed materially to its devotion to roadbuilding.

Mr. President, the choice is clear. I hope the Senate will support the Proxmire-Humphrey amendment and fight Government waste, protect the environment, and restore honest budgeting.

I ask unanimous consent that the distinguished Senator from New Hampshire, Senator HUMPHREY, be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, while I see the distinguished Senator from Florida on the floor I would like to call his attention to editorials with which he may be familiar in two distinguished Florida papers. One is by the St. Petersburg Times of August 2, and let me read it. The headline of the editorial in the St. Petersburg Times is "Freeloading in the Federal Forests."

During the past five and a half years, the Reagan administration has spent more than a billion dollars on a road-building binge in our pristine national forests—so that private companies can haul out the timber at cut-rate costs. It's a bargain for the lumber industry, an assault on the environment and a ripoff of U.S. taxpayers.

Now the Tampa Tribune, May 7, of last year. The title of the editorial is "Roads and Green Mansions." And the first sentence reads:

Congress can do taxpayers and the environment a favor by putting a stop sign in front of the U.S. Forest Service's road builders.

I ask unanimous consent that these two editorials be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the St. Petersburg Times, Aug. 2, 1986]

FREELOADING IN THE FEDERAL FORESTS

During the past five and a half years, the Reagan administration has spent more than a billion dollars on a road-building binge in our pristine national forests—so that private companies can haul out the timber at cut-rate costs. It's a bargain for the lumber industry, an assault on the environment and a ripoff of U.S. taxpayers.

The network of logging roads in the national forests already totals 342,000 miles—eight times more than the entire Interstate Highway System. But that has not deterred the administration's program of turning over the public resources on federal lands to private industry's exploitation.

The taxpayers' burden—indeed, subsidy to the timber industry—is that the Forest Service spends more to grow trees and sell them than it gets back in timber receipts. Mr. Reagan's Office of Management and Budget estimates that the Forest Service's discount timber program lost about $600 million for this fiscal year.

The biggest dollar cost in the timber sales program is building the logging roads. The higher and inestimable cost is that slashing roads through the silent forests causes extensive and avoidable environmental damage—disrupting whole ecosystems, driving out wildlife, causing erosion and degrading water quality.

Yet the Reagan administration's mismanagement of the Forest Service continues with a requested $348 million for forest road construction in fiscal year 1987. All that, despite burgeoning deficits and a Forest Service report to Congress that its roadbuilding is ahead of schedule and no new primary access roads will be needed in fiscal 1987.

The Congress' recent budget resolution calls for cuts in the forest roads budget during the next three fiscal years and aims for a $240 million deficit reduction.

On Tuesday, the Senate Appropriations subcommittee on the Interior Department is scheduled to vote on the appropriations bill which contains funds for the Forest Service. Unnecessary forest roadbuilding ought to get the ax by at least the $67.6 million reduction urged by the Wilderness Society, which is calling for a one-year moratorium on new permanent roads in the national forests.

The cutback would not affect maintenance of existing roads or reduce the timber harvest next year because the roads into areas to be logged already have been built.

We hope the subcommittee will cut the road program and give some better balance

to the Forest Service budget. While asking the huge sum for roads to serve private industry, the Reagan administration seeks only $13.3 million for recreational trail construction and maintenance in the majestic forests. A bare $10.4 million is sought for programs to improve fish and wildlife habitat.

That illustrates the administration's lopsided philosophy—enrich industry, soak the taxpayers, bloat the deficit and sacrifice the forests.

Sen. Lawton Chiles, D-Fla., is a member of the Appropriations Committee. When the Forest Service budget reaches the committee and the Senate floors, Chiles should join other responsible members in voting to cut the roads program, protect the forests and reduce the Reagan deficit.

[From the Tampa Tribune, May 7, 1985]

ROADS AND GREEN MANSIONS

Congress can do taxpayers and the environment a favor by putting up a stop sign in front of the U.S. Forest Service's road builders.

Road construction in the nation's 155 national forests is important. Obviously, trees can't be harvested without roads on which to transport them. But it appears roads are becoming a Forest Service obsession. In the past 10 years, the agency has built 91,000 miles of thoroughfares. By comparison, during that same period only 41,000 miles of the Interstate Highway System were constructed.

And many of the national forest roads are not economically justified. Frequently it cost the service more to build roads and oversee timber sales than it cost the timber company to conduct its operations. A Wilderness Society study found that the sale of the nation's trees over the past five years has cost taxpayers nearly $2.5 billion. Forest officials contest those figures, but it is obvious that during a period when the housing industry was volatile and timber demand in decline, the Forest Service push for roads was financially unsound.

Yet that has not diminished the agency's zeal. It is requesting a total of $450 million for roads from this year's Congress, almost a quarter of the Forest Service's proposed budget.

Such a request not only brings into question the Forest Service's economics, but also makes its environmental commitment suspect—and the service is charged with overseeing wildlife and recreational concerns, as well as timbering needs.

Conservationists say that thousands of miles of unneeded roads have been built to disqualify undeveloped woodlands from inclusion in the National Wilderness Preservation System, which permanently bans development in virgin forests. The argument gives a compelling explanation for the service's willingness to undertake road construction costs that will not be offset by timber sales.

It also gives a troubling explanation for the Reagan administration insistence that difficulty of access, rather than wealth of flora and fauna, be used as a restriction for areas to be proposed for the wilderness designation, which must be approved by Congress.

Such a strategy begins to make more sense when one recognizes that eliminating a forest's chances for the wilderness system not only benefits timber companies, but also mining interests.

The Forest Service chief, R. Max Peterson, has estimated that in the next 10 years between 35,000 and 45,000 miles of roads will be built in undeveloped national forests.

That's far too many. The Forest Service's responsibility is not solely to serve timber and mining interests, but also taxpayers, who want a fair return for their dollar and who, polls consistently show, have a high regard for conservation measures.

It would be irresponsible to use the wilderness designation as a ruse to prevent all mining and logging operations. But it is equally irresponsible to bulldoze roadways through virgin timber stands so that the merits of the wilderness designation can never be considered.

Congress should give the Forest Service a forceful jolt of public responsibility by cutting road construction funding to the barest minimum.

Mr. PROXMIRE. Mr. President, I would like to read from three other editorials briefly. One is from the Milwaukee Journal of April 16 of last year which is labeled "A Forest is More than Timber" and the last sentence in that says:

So what's the rush? The federal foresters should keep the bulldozers at bay and pay more attention to preserving the unique beauty of one of Wisconsin's born-again treasures. The value of national forests should not be measured in board feet alone.

The Minneapolis Star and Tribune, in an editorial on July 2, said the following:

Congress should refuse appropriations for roadbuilding in areas that now are roadless. It should stipulate that timber-program funds cannot be used for below-cost timber sales unless the Forest Service can justify the sale on other grounds, such as enhancing an area's recreational potential. And it should press the Forest Service to develop data that allow comparison of timber-program receipts and expenditures. In the national forests, sound free-market economics and sound environmental policies coincide. Congress can embrace both by acting to restrain the administration's timber-cutting zeal.

Mr. President, I have another editorial here from the Harrisburg (PA) Patriot. That editorial reads, August 1 of this year:

Roadbuilding is expensive and, in one way or another, the entire cost is borne by the Forest Service. Consequently, the timber-sales program actually costs the government money and is expected to lose $600 million this fiscal year alone. The administration seems oblivious to this rupture of red ink while haranguing Congress for not doing enough to reduce the federal deficit.

I am almost through. But I would like to read briefly from letters from several conservation organizations. The League of Conservation Voters, one of the most respected environmental organizations in this country, said in a letter dated September 9, and I will read it:

Many of the roads constructed by the Forest Service with taxpayer dollars are built in remote, environmentally fragile areas, where the government's costs of accessing and harvesting the trees are not recovered. Depending on how one interprets the Administration's accounting figures, the Forest Service timber program resulted in a net loss to the Federal Treasury of between $250 and $600 million in 1985 alone.

Now, from the National Wildlife Federation. The letter is dated September 9, which is just today. The letter reads as follows:

The National Wildlife Federation believes that it is high time we rein in this expensive, needless, and environmentally destructive program. Our National Forests already contain over 340,000 miles of roads—more than one mile of road for every square mile of forest.

Think of that. More than one mile of road for every square mile of forest.

Given the Forest Service's current surplus of roads, we simply do not need to continue this wasteful program at the level approved by the Senate Appropriations Committee.

And from the Sierra Club, in a letter also dated today:

Above and beyond the overfunding of Forest Service roadbuilding, the Committee bill also contains non-germane legislative language waiving all federal laws which might conflict with old, outdated national forest plans. (Title II, page 50, lines 12-18). This means that in national forests where new plans are not in place, old plans—which predate the National Forest Management Act, NEPA or RARE II—are immune from compliance with those laws or the Clean Water Act, the Endangered Species Act, even recently passed wilderness laws. This language could actually encourage development interests to attempt to delay or block new plans which may be more sensitive to multiple use values than the outdated plans.

The overfunding of the Forest Service roadbuilding program coupled with the federal laws which would mitigate the environmental damage represent a radical departure from even the current development-oriented policies of the Forest Service.

Mr. President, just one more letter which I would like to read from a group of environmental organizations. I will read one paragraph and then give you the organizations.

When this issue is debated on the Senate floor in September, we hope you will support the timber road budget reduction as passed by the House. Doing so will reduce the budget deficit and reduce environmental damage without adversely affecting planned timber activities.

That is signed by the president of the Defenders of Wildlife, the executive director of the Environmental Defense Fund, the president of the Environmental Policy Institute, the executive director of the Izaak Walton League of America, the president of the National Audubon Society, the president of the National Parks and Conservation Association, the executive vice president of the National Wildlife Federation, the executive director of the Natural Resources Defense Council, the executive director of the Sierra Club, and the president of the Wilderness Society.

Mr. President, I see my distinguished colleague, who is also sponsoring that amendment, with me on the floor.

I yield the floor.

Mr. HUMPHREY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, I am a supporter of the amendment by the Senator from Wisconsin as usual on matters of spending, particularly wasteful spending. The Senator from Wisconsin is right on target. I heard over the intercom that he cited figures of some 343,000 miles of roads within our national forests. I would embellish that only pointing out that the length of mileage is sufficient to encircle the Earth some 14 times. We have enough roads in our national forests such that their total length could circle the circumference of the Earth 14 times.

Every now and then you run into an agency that has its thing. The thing in the U.S. Forest Service is building roads. They love building roads. It is their thing. They go far beyond the legitimate needs when they build excessive lengths of roads through the national forests.

Mr. President, it constitutes a subsidy of the lumber industry. The Senator from Wisconsin has correctly cited, and it is further well known that these lumbering operations are a net loss to the taxpayer.

□ 1600

Therefore, they constitute a subsidy of the lumbering industry, and that is wrong.

It is wrong to build more roads than we need in the sense that it damages the environment unnecessarily.

It is wrong to waste the money of the taxpayers, particularly at a time when there is such a dire need for us to cut spending.

Mr. President, the amendment offered by the Senator from Wisconsin comprise a reasonable compromise between the environmental quality, fiscal responsibility and legitimate needs of forest users. Therefore, Mr. President, I encourage my colleagues to support this very wise and prudent amendment.

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER (Mr. MCCONNELL). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER The Senator from Idaho.

Mr. MCCLURE. Mr. President, I rise in very strong opposition to the pending amendment. I will try to summarize the arguments without going into detail because it is a complex issue which demands an understanding that the proponents of the amendment have not arrived at with respect to the tradeoffs and balances in public land management.

Some of the statements that have been made are partially true. Some of the statements are correct. And some of the statements are, frankly, incorrect, both in technical detail and in substance.

I think some points need to be made in rebuttal of the arguments that have been presented in support of the amendment. That is that the Forest Service is overbuilding.

The Forest Service actual road construction levels as compared to their plan after the enactment of appropriations bills does not show the matter that has been suggested here in the debate on the floor.

As a matter of fact, if you look at the planned or actual construction of forest roads as compared to the total of roads constructed, you will see a consistency of pattern of road construction.

The Department has been asked to make an analysis of the charge that the Forest Service is on a roadbuilding binge. They have been asked to respond to the rather broad and general statement that somehow these roads were costing the taxpayers rather than yielding revenues to the taxpayers.

Just in rather general terms, let me say to my friends and sponsors of this amendment that they say this is wasteful of money to spend on road construction. But road construction yields timber harvest and timber harvest yields revenue, and the net on balance is positive to the taxpayers and the budget.

If this amendment is adopted and we maintain a stable management policy over several years at the reduced levels of sales preparation, engineering appropriated roadbuilding and purchaser creditbuilding, preparation of sales of timber harvest from national forestlands, and we spread that into a program that does not distort it 1 year but has an even flow of timber from those lands over the next several years, this would actually cost the Treasury money because the $90 million would translate into outlays next year of $50 million, which would generate revenues of $85 million next year.

So if you adopt this amendment, on balance you lose $35 million.

I can detail exactly why that is so. I indicated it is a relatively technical question, and I do not want to get into too much of that because you have to understand that forest highway construction is partly the result of direct appropriations of moneys to build roads and, second, the authorization for the construction of roads to be built by the purchaser of timber. Either way, the total dollar account is the same. It does not determine whether it is an appropriated account up front or whether it is a reduction of revenues or an offset against sales at the end. But the aggregate expense is precisely the same, one way or the other.

It was stated a moment ago, erroneously, that purchaser credit roads cost less than appropriated account roads. That is simply not true unless all you are doing is dividing total roads by total dollars, recognizing that some of the more expensive roads are built by appropriated account because they are multipurpose roads, they are arterial, they are more important ones, they are more integral to the overall system than are purchaser credit roads, though not all of the purchaser credit roads. You might get a little less.

A purchaser credit road is built to precisely the same standards as required for an appropriated account role. They are engineered by the Forest Service in both instances. They are built to the same standards. They are contracted out and they cost the same per mile of equivalent road. There is no difference.

I might respond to the question of whether or not the Forest Service is actually overbuilding, on a binge of roadbuilding. Let me refer to last year's report that responded to the same charge.

I refer to page 69 of last year's report:

According to the House Appropriations Committee survey and investigative staff report of April 1985, a review of miles of new roads constructed in the past 6 years from 1979 to 1984 and to be constructed in the next decade, 1986 to 1995, including the number of miles to be constructed into roadless areas, did not support the allegations made. On the contrary, the data from the 1979-84 period show a rather constant level of new road construction. With the average annual miles of roads constructed for 1979-84, which is 3,981 miles, compared to the average annual number of miles planned for the next decade, 3,960, the difference is a decrease of 21 miles per year. The decrease in mileage does not support the allegations of a roadbuilding binge.

The same observation can be made for the new roads planned for roadless areas in the next decade. About 20 percent of the 3,960 average miles of new roads planned for each of the years in the next decade would be built into these areas. These roads would be built into roadless areas released by the Congress for development or recommended for development but for which Congress failed to enact legislation. Considering the opportunities for public participation and input into Forest Service activities, the public nature of the forest plans and RPA documents and congressional oversight, it is difficult to support the implication that the Forest Service has a secret plan to increase road construction into roadless areas. The total miles of roads constructed and reconstructed by the Forest Service has decreased steadily since 1980. In 1980, a total of 10,485 miles of roads were built or rebuilt. In 1986, the Forest Service plans to build or rebuild 7,682 miles of roads, a decrease of 2,803 miles, or 27 percent less than in 1980.

The budgetary data also do not support the allegation that the Forest Service is on a roadbuilding binge.

□ 1610

Again, that is reporting the House staff results rather than anything of our own.

Second, there was a charge made that somehow these roads were costing far too much, and they looked at a rather broad and general statement. Some of the criticism derives from an OBM account that says in effect that "the Forest Service cost for timber and mineral activities exceeded the Federal share of receipts by $621 million in 1985, and some sales did not cover costs."

Mr. President, we have an analysis of that particular question. I ask unanimous consent that that analysis be placed in the RECORD at this point.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

AN ANALYSIS OF REVENUES AND COSTS

A great deal of public attention has been focused on the profitability of the Forest Service timber sales program. In 1984, several cash-flow analyses were released which indicated that a significant portion of the timber sales sold by the National Forests cost more to prepare and administer than they returned to the Treasury. Estimated annual losses from these studies for the 1982 timber sales program ranged from $92 to $900 million. While the validity of the processes and conclusions of each study has been questioned, one thing became abundantly clear—there is no agreed-upon method for accounting for the benefits and costs of the timber sales program. To this end, this Subcommittee appropriated $400,000 to the Forest Service in FY 1985 to develop a better timber sales accounting system.

THE ADMINISTRATION IS CONFUSED ABOUT THE COSTS OF THE TIMBER SALES PROGRAM

That a standardized timber sale accounting system is needed can be seen in the President's Budget for FY 1987. Timber sales costs and revenues are discussed in three places: (1) the Forest Service explanatory notes; (2) the Department of Agriculture Budget Summary; and (3) the President's major policy initiatives. There is wide disagreement about timber sale costs and revenues in these three sources.

A. The Forest Service view

The Forest Service's explanatory notes provide the most detailed breakdown of timber sales costs and revenues. Table 1 uses data from the explanatory notes to compare the costs of the timber sales program (page 150), with timber sales receipts.

TABLE 1.—COSTS AND REVENUES OF THE TIMBER SALES PROGRAM: FOREST SERVICE FISCAL YEAR 1987 BUDGET EXPLANATORY NOTES

[In thousands of dollars]

	1985	1986 estimate	1987 budget
Timber sales receipts:			
Timber sales	498,547	802,548	715,700
K–V deposits	186,107	150,000	160,000
Brush disposal deposits	53,734	64,000	64,000
Salvage sales	15,232	25,000	27,000
Co-op deposits	39,878	38,991	42,600
Total, timber sales receipts	793,498	1,080,539	1,009,300
Total receipts	1,024,789	1,321,553	1,284,964

TABLE 1.—COSTS AND REVENUES OF THE TIMBER SALES PROGRAM: FOREST SERVICE FISCAL YEAR 1987 BUDGET EXPLANATORY NOTES—Continued

[In thousands of dollars]

	1985	1986 estimate	1987 budget
Timber sales costs:			
Timber sales program	184,494	174,988	161,634
Timber sales support	53,784	49,224	39,793
Road construction	234,818	184,096	159,251
Brush disposal	41,822	48,026	47,835
Salvage fund	16,055	24,000	20,713
Other	47,049	47,818	42,254
Total, timber sales costs	578,022	528,152	471,480

This simplistic comparison, of course, incorporates some of the problems found in any cash-flow analysis. For example, joint costs are not allocated between timber and other resources. In addition, some costs, most notably General Administration, are not included. The magnitude of the difference between costs and revenues, however, is evidence that the overall program provides a net positive return to the Treasury and tends to confirm the Forest Service's statements that the timber sales program has returned a net of $1.4 billion to the Treasury over the last six years.

B. The Department of Agriculture view

The Department of Agriculture has a different view concerning the costs and receipts of the timber sale program. Table 2 comes from page 25 of the Department of Agriculture Budget Summary.

Comparing Tables 1 and 2 shows that the Forest Service and the Department paint quite a different picture of the costs of the Forest Service timber program. The Forest Service figures are for timber sales, whereas the Department's figures include costs for other parts of the timber management program. (It is interesting to note that the Department's figures for total receipts are about 10% below the Forest Service figures). The Department does not separate out timber sales receipts from total receipts. If the Forest Service timber sales receipt data are compared to the Department's timber related costs, however, the timber program still looks profitable, although less so than under the Forest Service view.

TABLE 2.—COSTS AND REVENUES USDA FISCAL YEAR 1987 BUDGET SUMMARY

[In thousands of dollars]

	1985	1986 estimate	1987 budget
Timber sales administration and management	194,700	173,700	171,100
Permanent appropriations and trust funds related to timber	192,700	181,000	172,300
Reforestation and stand improvement	299,400	217,200	213,100
Road construction	228,900	180,100	178,500
Road maintenance	65,400	61,900	49,300
Land line location	29,100	27,400	23,000
Total, timber related costs	1,010,200	841,300	807,200
Total receipts	943,000	1,204,000	1,159,400

C. The OMB view

The FY 1987 budget includes a proposal to change the formula for calculating payments to states and counties from gross receipts to net receipts. In support of this proposal, OMB claims "Forest Service costs for timber and mineral activities exceeded the Federal share of receipts by $621 million in 1985, and some timber sales did not cover costs."

OMB's calculations are detailed in Appendix A. OMB makes four critical errors in its calculation of net returns:

(1) Some timber receipts were ignored.

(2) All of the payments to counties and states were subtracted from timber and minerals receipts. Only 25% of timber and mineral receipts should have been subtracted for OMB purposes.

(3) Joint costs were allocated entirely to timber. The fact that past management, fire management, and other management activities are designed to benefit other resources is ignored.

(4) General Administration costs were allocated against the timber account. By definition, these costs cannot be allocated against any programs.

OMB's calculations incorporate the same kind of misconceptions and accounting errors that environmental community critics of the Forest Service timber sales program have made. The Forest Service has often spoken out against this same kind of misconstrued cash-flow accounting. Attached is a more detailed analysis outlining the shortcomings of OMB's approach.

The environmental community's criticisms of the economics of the National Forest timber sale program are clouded by its wilderness agenda. The motivation behind OMB's use of the same kind of erroneous accounting techniques is clearly to make a case for changing the county receipt formula.

Despite specious claims to the contrary, we believe that the cash-flow for the Forest Service timber sales program has been positive for most years. Generating a precise estimate at this time would require the use of accounting techniques which are not yet available. The magnitude of the difference between timber sales costs and revenues in Table 1, however, suggests that the program has a positive net income.

RECENT CONTRACT MODIFICATIONS WILL IMPROVE CASH-FLOW

In 1982, the Forest Service began to implement an aggressive program of new contractual conditions that were designed to ". . . encourage a regular flow into the marketplace of products manufactured from national forest timber, to provide a corresponding flow of timber sale receipts to the United States and local governments, to help insure financial responsibility of bidders, to encourage purchasers of Forest Service timber sales to harvest timber early in the contract term, and to reduce the need for extensions of future timber sale contracts."

The new conditions addressed cash downpayments, mid-point payments for sales over three years in length, bonding requirements, discounts for early harvest, stumpage rate adjustment, and stringent liabilities for defaulting contracts. While most of these provisions are designed to improve cash-flow to the Treasury, the cash downpayment and mid-point payment policies are the most effective in achieving that end. Since the policy was put into effect in 1982, both of these elements have been modified to bring about an even greater flow of early receipts to the Treasury. The cash downpayment rule, for example, has been increased from 5% of total bid price to 10% of total bid price. In addition, the cash deposit can be used to pay for timber only after 25% of the sale volume has been cut, removed, and paid for. Thus, the government has the use of the downpayment for as much as one

year before the purchaser can apply it to his stumpage payments.

In Fiscal Year 1985, the average stumpage price for all national forest timber was $51.59 per MBF. The total harvest for that year was 10.9 billion board feet. Thus, the cash downpayment received by the government was over $56 million—twice the amount that would have been received prior to the implementation of the new contract procedures.

The mid-point payment policy has recently been modified to be included in all sales over one year in length. Furthermore, the Forest Service is now developing a periodic payment rule for all contracts. This rule would likely require that payments for timber be made to the government at periodic intervals regardless of whether timber has been harvested.

In addition to these contractual provisions, the average contract length has been reduced. This change results in a faster return of receipts to the Treasury. For example, on the Westside of Region 6 (Oregon and Washington) the average sale length went from 56 months in 1976 to 36 months in 1985. This change, when coupled with the cash downpayment and periodic payment requirements described above has a marked effect on the cash-flow to the government from national forest timber sales.

CONCLUSION

Despite claims to the contrary, we think that the overall forest timber sales program is a profit-making venture for the government. We agree that the Federal deficit must be reduced. Gus Kuehne spoke about the impacts of the deficit on our industry—those impacts are repeated throughout the economy. The Congress has only two tools for reducing the deficit: (1) cutting spending; and (2) increasing revenues. When someone says increase revenues, we often think of increasing taxes. There are some government programs, however, which generate revenues other than through taxes. The Forest Service timber sales program is such a revenue generating program. We urge you to strengthen and build programs such as the timber sales program. Such action will help meet the Forest Service's land management objectives and bring about positive returns to the Treasury.

APPENDIX A: OMB'S CALCULATION OF THE NET REVENUE FOR THE TIMBER SALES PROGRAM

Among the policy initiatives contained in the President's Budget for 1987 is a proposal to change the formula for payments to counties. Under current law, each county receives 25% of gross receipts generated on National Forests within its boundaries. The Administration proposes to change the basis for calculation from gross receipts to net receipts. In support of this proposal, the document states that:

"Forest Service costs for timber and mineral activities exceeded the Federal share of receipts by $621 million in 1985, and some timber sales did not cover costs."

Our understanding of the figures employed by OMB is as follows:

1985 receipts:	*Thousands*
Timber	$498,546
Minerals	77,522
Land uses	2,869
Other	439
Total receipts	579,376
Payments to counties	236,000
Net receipts	343,376
1985 costs:	
Timber sales	194,702
Tongas	49,970
Salvage	15,232
BD	53,734
Road construction	206,023
Purchaser elect	33,898
Purchaser credit	107,949
Reforestation and TSI	104,664
KV	90,090
Minerals	26,572
Real estate	20,836
Fire	156,591
Pest management	20,079
General administration	181,191
Total	1,261,531
Purchaser credit receipts	−107,949
KV receipts	−186,107
Net costs	967,475
Net return to the Treasury	[1] −624,099

[1] Apparently, OMB came up with −$621,000,000 due to rounding off.

This analysis of the costs and revenues of the timber sale program incorporates all of the problems of the previous cash-flow analyses, as well as some unique and novel inconsistencies and inaccuracies.

A. THE OMB ANALYSIS DOES NOT AVOID THE MISTAKES OF PREVIOUS CASH FLOW ANALYSES

Since early 1984, several groups have undertaken cash-flow analyses of the Forest Service timber sale program. Unfortunately, each of these studies have encountered the problem that, under the Forest Service Multiple-Use Mandate, the timber sale program provides multiple benefits and the costs of the program are influenced by non-timber costs. As a result, cash-flow studies overestimate the timber sale costs and underestimate the benefits. A proper analysis would account for:

(1) Joint costs: Many timber sale activities provide non-timber resource benefits. Allocating all of the joint costs to timber overestimates the true costs.

(2) Mitigation costs: Costs for mitigating the impacts of timber harvest can be properly allocated to either the resource protected or the resource produced. Allocating all the costs to timber paints a picture of certainty where none exists.

(3) Revenues foregone: National Forest timber sales are designed to enhance or protect non-timber benefits, often at a cost to the purchaser. These provisions result in bid rates which are lower than they would have been without the provisions. These foregone revenues should be, but have not been, incorporated into an accounting of the timber sale program.

(4) Road costs: These costs represent investment in a capital improvement. These should be, but usually are not, depreciated over time and shared with adjacent and future harvests.

The OMB analysis did not solve these problems any better than the previous studies. The costs of the timber sales program, therefore, are overestimated.

B. THE OMB ANALYSIS MAKES UNIQUE ACCOUNTING ERRORS

In addition to the more general problems above, the OMB analysis made significant original errors in deciding which costs and revenues to use:

(1) The analysis ignored the following receipts from the timber and mineral programs, while including the corresponding costs:

	Receipts
Brush disposal	$53,734,000
Salvage	15,232,000
Mineral receipts from public domain	82,421,000
O&C receipts	16,056,000
Total	167,443,000

Salvage sale and brush disposal are not receipts associated with the 25% payment, but they are offsetting receipts, nevertheless.

Since costs for minerals on public domain lands and timber from O&C lands managed by the Forest Service were counted, those receipts should have been included as well.

(2) Seventy percent of the National Forest System General Administration costs was allocated to the timber and minerals program. By definition, however, General Administration cannot be assigned to any program.

(3) The entire reforestation program costs were included. While most of the reforestation funds are expended after timber harvest, some expenditures are designed to protect watersheds and other resources.

(4) Forest pest management and fire protection expenditures are often made to protect or provide for non-timber resources. The timber account should not bear the full burden of these costs.

(5) The Forest Service makes payments to counties on almost all of the receipts collected. In 1985, the Forest Service collected a total of $1,024 million and paid approximately $236 million to states and counties. OMB's calculations, however, counted the $236 million in payments against only the timber and mineral receipts. The net effect is a 60% overstatement of payments to counties charged against the timber and minerals accounts.

(6) Even if the correct payment to states figure had been used, we believe that these are transfer payments from the federal to local governments. They are not costs for activities associated with growing or selling timber.

OMB's calculation of the profitability of the timber sales program does not support the notion that the timber sales program loses money. The analysis is clouded by the desire to support a proposal to change the formula for making transfer payments.

Mr. McCLURE. To summarize it, what they had done in arriving at that conclusion was include the costs of such matters as brush disposal, salvage, mineral receipts from public domain, O & C receipts. They had included those as costs but they had not included the receipts as offsets. And when you take the joint costs, mitigation costs, revenues forgone, road costs, and apply that to the statement that was made, it becomes obvious that the OMB statement is not supported by analysis of the figures. OMB had made that statement because they wished to support an argument that the timber receipts should not be divided with the counties as provided by law, 25 percent of the gross revenues. They wished to change it to 25 percent of the net revenues, and they were trying to make the point that indeed

there were no net revenues to share and therefore the Government was losing money when they complied with the current provisions of law. It was in that context that the statement was made, and it is not supported by the facts. Any thoughtful student of the issue will, after analyzing the figures, have to conclude that indeed OMB misstated—not overstated but misstated—their case.

Historic levels of road construction costs are not rising in spite of the rhetoric. If you look at the historic levels of road construction costs, from 1982 through 1986, there is a very consistent pattern that is slightly less than $200 million per year in timber roads if you exclude the other road categories. And the Senator from Wisconsin made reference to a couple of them. For example, you certainly cannot charge the recreation and viewing access to the Mount St. Helens disaster as a timber cost. There is no timber to be harvested. People are going there to look at the holocaust that leveled the forest for miles around as Mount St. Helens exploded. It is quite a sight to behold and thousands of visitors wish to go view that landscape. It is not because of the timber. The road construction and the viewpoints have absolutely nothing to do with the Timber Harvest Program.

It seems to me, Mr. President, if you look at all of the facts that are involved, it is not appropriate to indicate this amendment would save money, and I wish to end where I started. The amendment would cost the Treasury money because the expenditure of money will yield more in gross and net revenues than it will cost. And if you are going to have consistent timber management on the public lands that are set aside for timber harvest among other multiple uses, you must have roads to the appropriate lands upon which timber grows and should be harvested. Without those roads, you cannot maintain a stable housing industry at reasonable costs of lumber for a longer period of time. You cannot maintain stable economic conditions in the counties in which forest timber harvest is so important, and you cannot appropriately manage the multiple uses of the Forest Service lands without appropriate harvest of timber upon areas that are designated for timber harvest.

For those and a multitude of other reasons I will not take the time to belabor tonight, this amendment ought to be defeated. We ought to return to the stable program that this committee has funded over the last several years that yields net revenues, not costing the Government anything.

Mr. PROXMIRE addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. In response to my good friend from Idaho—and I have great admiration for his ability and his knowledge, particularly in this area where he is really an expert—the Senator challenged the figures I used. He said part of what I said was incorrect. He did not say exactly what part. He was very kind about it. But, Mr. President, where do my figures come from? The come from the report of the Forest Service. They did not come out of my head. The overbuilding figures came directly from the earlier reports of the Forest Service. The Forest Service planning process in 1980 estimated the number of roads to support timber harvest and necessary road mileage was based on that number. The roads built above that level are largely our fault. We gave the agency money above the budget request.

Now, what the distinguished Senator from Idaho, who is a real magician, would suggest we can do by spending $70 million more than the administration requested is to save money. We are going to save money. Now, that is unusual. He disagrees with OMB. He disagrees with the administration. He seems to feel that the way to save money is to go far beyond what they request.

Mr. McCLURE. Will the Senator yield at that point?

Mr. PROXMIRE. Yes.

Mr. McCLURE. Because I do not want to mislead anyone. I want the Senator to understand exactly what I said. First of all, the Senator is comparing this appropriation for road building with the budget request of the administration, not with what the Congress has done. In the Senator's second sentence, he agreed that that was the case, because we have consistently added more money to the annual timber harvest than the administration has requested.

We have done that because it is good management in the first place. And second, it also harvests timber and places it upon the market in order to keep lumber prices at reasonable levels for home builders across the country. And third, it is not a question of saving money in order to spend money. You invest the money in a timber sales program that yields revenues. And if the investment of that money yields revenues greater than the cost of that money, it seems to me that is not a savings of money; it is making money.

Mr. PROXMIRE. I think the Senator would have a very, very good case, if we had been sparing and Scrooge-like in providing roads in the past. When we build roads, as I said before, that would circumnavigate the Earth 14 times, when we build roads that in the next 10 years are going to be far bigger than the entire Federal Interstate Highway System, obviously you can overdo anything and we are overdoing it here.

Mr. President, let me point out that the Congressional Research Service, certainly not a biased organization, in a report that they made on June 25 rebutted much of what my good friend said, and I am going to read briefly from what they provided.

The Forest Service impact statement implies that the reduction would be applied directly to the direct construction program representing a 70 percent reduction in direct construction.

Now, here is what they say could be done instead:

It might be possible to substitute purchaser credit for funding many of the roads which would have been built with direct appropriations. Typically, appropriations are used for the more heavily traveled roads (most arterial and some collector roads), while purchaser credits are used for the more localized roads (some collector and most local roads). The Forest Service has been reluctant to require purchasers to build arterial roads, and the 1964 National Forest Roads and Trails Act states that timber purchasers shall not be required to bear the additional costs necessary to meet higher road standards. However, it could be possible for the Forest Service to use purchaser credits, augmented with appropriations, to build many of the roads which would have been built directly with appropriations. It is, however, questionable whether the appropriations are sufficient to augment purchaser credits for the arterial roads. For the longer term, Congress may wish to consider the cost effectiveness and the impact on other resources if purchaser credits, augmented with appropriations, were to replace to direct road construction appropriations.

That is one alternative. The second alternative:

Concentrate on Reselling Returned Contracts: Another possibility for minimizing the impact of short-term reduction in road construction would be to hasten the resale of timber contracts returned under the timber contract buyout programs. The roads built with appropriations for these sales have generally been completed, and thus the returned contracts could probably be resold without road direct construction appropriations. In fact, the volume of returned contracts, estimated by the Forest Service at 10–12 BBF, would nearly offset the 3.8 BBF to be resold in FY86 and the estimated 8 BBF reduction in FY87 and FY88. Concentrating on reselling the returned contracts is also consistent with the act that authorized the buyout program; section 2(a)(5)(A) of the Federal Timber Contract Payment Modification Act states that "Timber from returned or defaulted contracts shall be given preference in the Forest Service timber sales programs."

It also says:

Concentrating on reselling returned contracts is not free from potential problems. The greatest difficulties likely to be encountered are the impacts on Forest Service employees.

The final point:

Concentrate Sales in Roaded Areas: A third possibility is to concentrate timber sales in areas where most of the roads have

already been built. This possibility may be limited by the 4-5 years generally required to prepare timber sales, although this time restriction could be compressed on some sales. In addition, the Forest Service has concentrated timber sales in roaded areas for several years, pending congressional resolution of RARE II and the wilderness controversy. Continued concentration of timber sales in roaded areas could harm the other resources and uses of these roaded areas.

Mr. President, finally, I want to quote from a House report which was made on this bill.

Mr. McCLURE. Mr. President, will the Senator yield on that point, before he refers to the House report?

Mr. PROXMIRE. I yield.

Mr. McCLURE. I want to make a response on the CRS report, because they make two or three very good points.

One is that you shall have the opportunity to make a choice between purchaser credit and appropriated accounts. I referred to that earlier.

The net effect at the end of all of this, whether you appropriate the money up front or subtract it from the receipts from the sale of timber, is the same on the Treasury and over a period of time. You could change it between fiscal years, but you do not change it over time. It is precisely the same.

Mr. PROXMIRE. We are worried about the fiscal year.

Mr. McCLURE. I am worried about 1988, and I am sure the Senator from Wisconsin is, also. We look at what is going to happen in 1987, and that is done.

Mr. PROXMIRE. Another way would be to say we would take it from the enormous amount of overbuilding since 1981, which broke all records.

Mr. McCLURE. That is not correct, because, as I pointed out, there has been a consistent record of road building over a long period of time, and it is projected to remain. There is no big bulge occurring.

The second point the Senator made was that CRS had said that you could save some money in the short term by taking the timber contracts returned under that controversial legislation passed by Congress earlier, and the Senator is correct—CRS is correct. You can do that, and it has largely been done already.

That is not a two-time savings; it is a one-time savings. It is a temporary expedient which, in the main, has already been applied and is not available to us anymore, and that particular suggestion is no longer an appropriate alternative.

The third point was with respect to the sale of roadless areas. The Senator is correct, and CRS is correct, if you do not enter the roadless areas that are now identified for multiple-use management. The wilderness issue has been settled in all States except mine and Montana, and by legislation which I supported and which has been passed by the Congress of the United States and signed into law. But if you cannot enter the areas that were previously roadless, then you must, in order to keep the timber harvest up, overharvest on the areas that are currently roaded and have been harvested intensively for the last 10 years while going through RARE I, II, III, or whatever that number may be.

Mr. PROXMIRE. When you have this enormous number of miles, enough to circumnavigate the Earth 14 times, you have plenty of area where you could forest without depleting the forest excessively.

Finally, Mr. President, I refer to one sentence in the House report which says:

> The committee notes that the Forest Service continues to exceed its planned and funded goals for road construction and reconstruction, despite the funding reductions, as it has in each of the past five years.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. DOMENICI. Mr. President, will the Senator yield? I will not take long. I was here for a while, or I would not impose.

Mr. MELCHER. I yield.

Mr. DOMENICI. Mr. President, I have a table that compares the Interior appropriations bill with the subcommittee's 302(b) allocation of budget authority and outlays as submitted by the Budget Committee and adopted by the Appropriations Committee.

Mr. President, I support the Department of the Interior and related agencies appropriations bill as reported by the Appropriations Committee.

I commend the distinguished chairman of the subcommittee, the Senator from Idaho, and the distinguished chairman of the full committee, the Senator from Oregon, for bringing this bill to the floor in accordance with the budget resolution for both budget authority and outlays.

Mr. President, H.R. 5234 as reported provides $7.9 billion in budget authority and $5.5 billion in outlays for fiscal year 1987 for the Department of the Interior, the Forest Service, selected Department of Energy programs, and other miscellaneous programs.

Taking into account outlays from prior-year budget authority and other adjustments, the bill is $0.1 billion in budget authority and less than $50 million in outlays under the subcommittee's section 302(b) allocation under the fiscal year 1987 budget resolution. The bill's credit activity, comprising a total of less than $50 million in direct loans and loan guarantees, is also consistent with the subcommittee's 302(b) allocation.

Mr. President, I note that this bill mandates the sale of the naval petroleum reserve [NPR]. Let me indicate that the bill assumes receipts of about $200 million from this sale in fiscal year 1987, which would suggest further receipts of possibly $2.0 billion in fiscal year 1988. I want it to be clear that while I do not object to this provision, I do believe that we may have to revisit the matter of this sale as the month proceeds, and we are looking for ways to avoid the Gramm-Rudman-Hollings sequester on October 1.

I urge the adoption of the bill as reported, and I urge my colleagues to oppose any amendments that will significantly increase the outlays associated with this bill.

Mr. President, I ask unanimous consent that tables showing the relationship of the reported bill to the section 302(b) allocation, the House-passed bill, and the President's budget request, and a summary of total appropriations action to date, be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1).

Mr. DOMENICI. Mr. President, this bill is within the allocated amounts—technically called the crosswalk. I admit that they have difficulty getting there, and they provided for some of this allocation through $200 million received from the sale of the naval petroleum reserve.

Mr. President, if there is any indication on the floor that this particular bill and the allocation of that portion of the Federal budget to this subcommittee is one that is fat—somebody used that kind of language—that it is a budget buster, that is nonsense. As a matter of fact, this particular group of appropriated accounts of our National Government has the second largest cut of any of the appropriated accounts that we will consider on the floor (see exhibit 2).

If you would like to know the ones that go up, it is pretty interesting. The 302(b) allocation for the Congress of the United States—is up. As a matter of fact, it is up on the real plus side. It is even over current services level, a level that equals last year's appropriation plus inflation. As you look across many of the appropriated accounts of our country and the bills they are producing in the appropriations process, many programs are funded at the current services level, and a few are over current services. This bill, even in these difficult times, is essentially a freeze.

It is pretty hard to maintain the activities of the Bureau of Land Management, the U.S. Bureau of Mines, and all the Indian programs of our Nation at a freeze level. If there ever were

programs where we have a need for more money, where the people are suffering immensely, it is the programs of the Bureau of Indian Affairs, trying to take care of our Indian people under our trust relationship.

These and many more programs are all in this bill, and we gave them the target of essentially living this year just about the way they lived last year. Everybody ought to know that the last year that I am referring to is the year when we had an across-the-board sequester.

So I commend the Subcommittee on Appropriations and the full committee for living within their totals; they are about $50 million under in outlays, and I think they have done a good job.

Having said that, I really cannot believe that the U.S. House of Representatives in their appropriations bill intends that we live within their number for forest road construction. I believe that it is so low that clearly they intended the U.S. Senate to take care of the forest road problem for the United States.

In 1982 we were spending $200 million on this overall roadway system that we are talking about here today so that we can get into the forests, take care of the timberlands, and harvest them so we can indeed use that resource for the American people, for businessmen and women, and in some way compete with the enormous Canadian competition in terms of trade.

It was $200 million in 1982. It went down to $159 million in 1986, and the House comes along and appropriates $100 million. I really do not think that is serious. I think they clearly intend the good Senator from Idaho and the good Senator from Louisiana to go to conference with them and take care of the minimal forest road needs.

I hope someone will answer the continued use by the distinguished Senator from Wisconisn of the many miles of forest roads. It might be interesting to know how many miles of roads exist in each of the sovereign States. You might pick out 30 or 40 of them and you might be surprised there are more roads in each of those States than his statement about the forest system roads that would circle the world 10 times, roads that are needed for the kind of things we are doing everyday. I do not think it is a terribly relevant number.

Basically, I believe we ought to support the appropriators on this. They have to go to conference on this issue.

In addition, in just plain budget talk, if you take the $90 million out in the manner that they suggest, truly you do not save any money because the receipts to the Federal Government are less than what you saved in outlays. If you want to do it, because maybe someone here on the floor or maybe some groups who do not like what we are doing know how to manage the forest roads, then we ought to manage it right here, and vote for it on that score. But if we are talking about its impact on the budget, to take money out will actually reduce the amount of receipts that will come in, and the net effect will be more of a deficit rather than less.

The Senator from New Mexico is not saying this amendment will not reduce expenditures. Obviously, if you start literally getting rid of the Forest Service Road Program and do not expect us to do anything by way of timber cutting, especially by way of roadways that we have to build with taxpayer dollars, then obviously you can reduce expenditures. However, you will also lose receipts to the Federal Government from timber sales.

For those Senators who are wondering whether the Proxmire-Humphrey amendment contributes to deficit reduction, or whether it adds to the deficit, I am here to tell you that it adds to the deficit, because the receipts will be that much restrained over the amount which will be forthcoming if you go along with the appropriators in their estimate of need.

I ask unanimous consent that a table which I have prepared comparing the various allocations to the subcommittees to the baseline assumptions be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. DOMENICI. Mr. President, this table furnishes evidence that this particular bill has been held down by the Budget Committee and by the Appropriations Committee in their allocation by far more than anything else except foreign aid and perhaps one other bill. I believe they have done a reasonably good job under those circumstances.

They do not have programs that have great appeal. Who cares about the Bureau of Mines, other than those who know it is the premier organization in the world that furnishes a great service to all of those who are concerned with mining and minerals? Who cares much about the Bureau of Indian Affairs unless you are out there where we need hospitals and roads for the Indian people and Indian education. Those are not the kind of issues that compete with the National Institutes of Health, or some of those other programs that are in the other appropriations bills which have been permitted to grow in real terms rather than be anything close to the freeze we have imposed on this bill.

I yield the floor.

[EXHIBIT 1]

SPENDING TOTALS—SENATE-REPORTED

[In billions of dollars]

	Fiscal year 1987	
	Budget authority	Outlay
Outlays from prior-year budget authority and other actions completed	+(1)	3.3
H.R. 5234, as reported by the Senate	7.9	5.5
Adjustment to conform mandatory programs to budget resolution assumptions	−0.1	−(1)
Subcommittee total	7.7	8.8
Senate subcommittee 302(b) allocation	7.8	8.8
President's request	6.7	8.2
House-passed bill	8.2	9.1
Subcommittee total compared to:		
Senate subcommittee 302(b) allocation	−0.1	−(1)
President's request	+1.1	+0.6
House-passed bill	−0.5	−0.3

[1] Less than $50 million.

Note.—Details may not add to totals due to rounding.

STATUS OF APPROPRIATION BILLS IN THE SENATE

[In billions of dollars]

Subcommittee	Appropriations Committee's 302(b) allocation		Adjusted bill totals [2]		Bill compared to allocation		Bill status
	Budget authority	Outlay	Budget authority	Outlay	Budget authority	Outlay	
Agriculture	31.3	24.1					
Commerce-Justice	12.1	12.3	11.7	12.3	−0.4	−(1)	Reported.
Defense	277.1	264.5					
Deficiencies and supplementals	08	0.1					
District of Columbia	0.6	0.6	0.6	0.6	−(*)	−(1)	Reported.
Energy-Water	14.5	14.9					
Foreign Operations	13.0	10.8					
HUD-Independent	54.3	56.4					
Interior	7.8	8.8	7.7	8.8	−0.1	−(1)	Reported.
Labor-HHS	114.0	118.0	113.4	118.0	−0.6	+(1)	Reported.
Legislative branch	1.7	1.7	1.6	1.6	−0.1	−0.1	Conference.
Military construction	8.2	7.9	8.2	7.9	+(*)	+(1)	Passed.
Transportation	10.6	26.9	10.2	26.9	−0.4	−(1)	Reported.
Treasury-Postal Service	13.3	13.4	13.3	13.4	−(*)	+(1)	Reported.

STATUS OF APPROPRIATION BILLS IN THE SENATE—Continued

[In billions of dollars]

Subcommittee	Appropriations Committee's 302(b) allocation		Adjusted bill totals [2]		Bill compared to allocation		Bill status
	Budget authority	Outlay	Budget authority	Outlay	Budget authority	Outlay	
Total, Appropriations Committee	559.3	560.4	166.7	189.5	−1.6	−0.1	

[1] Less than $50 million.
[2] In addition to the bill, includes outlays from budget authority enacted in prior years, possible later requirements, adjustments to conform mandatory items to budget resolution level, and other adjustments.
Note.—Details may not add to totals due to rounding.
Source: Prepared by Senate Budget Committee staff.

[EXHIBIT 2]

BUDGET RESOLUTION FOR FISCAL YEAR 1987: 302(B) ASSUMPTIONS, RESOLUTION LEVEL COMPARED TO SBC BASELINE [1]

[Dollars in millions]

Subcommittee	Resolution 302(B) assumption		SBC baseline 302(B) assumption		Resolution compared to baseline	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
Agriculture	31,268	24,106	31,435	25,668	−167	−1,562
Commerce-Justice	12,089	12,292	12,108	12,471	−19	−179
Defense	277,072	264,477	285,238	268,928	−8,166	−4,451
District of Columbia	565	565	565	565		
Energy and Water	14,531	14,891	15,150	15,255	−619	−364
Foreign Operations	13,030	10,832	15,511	11,934	−2,481	−1,102
HUD-Independent	54,301	56,426	56,633	57,005	−2,332	−579
Interior	7,819	8,769	8,238	9,034	−419	−265
Labor-HHS	114,036	118,045	112,239	118,004	1,797	41
Legislative Branch	1,698	1,698	1,605	1,602	93	96
Military Construction	8,222	7,859	8,359	7,895	−137	−36
Transportation	10,554	26,887	10,455	26,818	99	69
Treasury-Postal	13,304	13,391	12,984	13,089	320	302
Not assigned	811	202	786	822	25	−620
Total, Appropriations Committee	559,299	560,440	571,306	569,090	−12,006	−8,650

[1] Adjusted for Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA).
Note.—Details may not add to totals due to rounding.
Source: Prepared by Senate Budget Committee Staff.

Mr. MELCHER. Mr. President, I ask unanimous consent that I may yield to the distinguished Democratic leader for such time as he needs without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Montana [Mr. MELCHER] for his kindness and his characteristic courtesy.

I have indicated to the distinguished Senator from Louisiana [Mr. JOHNSTON] and to the distinguished chairman, Mr. MCCLURE, that I was going to ask consent that I might proceed as in morning business for the introduction of a bill. So, I have taken the floor for that purpose.

I make that unanimous-consent request.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMPREHENSIVE NARCOTICS CONTROL ACT OF 1986

Mr. BYRD. Mr. President, as I have also indicated to both Mr. MCCLURE and Mr. JOHNSTON that I would seek to trigger rule XIV, which I can do at any time during morning business.

Mr. President, I introduce this bill on behalf of Mr. CHILES, Mr. BIDEN, Mr. MOYNIHAN, Mr. MITCHELL, Mr. ROCKEFELLER, Mr. DODD, Mr. DECONCINI, Mr. SASSER, Mr. CRANSTON, Mr. LEAHY, Mr. NUNN, and myself.

This measure has been drawn by a task force of Democratic Senators whom I recently appointed for the purpose of developing legislation to deal with the drug problem in this country.

The task force has worked very diligently and long and hard over the past several weeks in developing this bill. It is the Comprehensive Narcotics Control Act of 1986. I applaud the members of the task force, under the leadership of Senator CHILES and Senator BIDEN, for the work that has been done. I thank them. I thank the various staffs of these Senators.

The task force brought the matter before the Democratic conference this afternoon. It was unanimously supported there by all 41 Democratic Senators who were present.

I also welcome the support, as I am sure the other task force members will, of our friends on the other side of the aisle. This is a bipartisan problem. It requires a bipartisan solution.

The President and Mrs. Reagan have been very interested, very active, very concerned about the matter, and the House of Representatives has already been working on the measure for some time.

I understand that the House will have its measure up for floor action perhaps tomorrow, and the task force on this side, the Democratic side, in the Senate has to a considerable extent tracked the House bill, but each member of the task force has made a distinct contribution to this bill.

There are provisions on education, rehabilitation, eradication, interdiction, law enforcement—among others—and each member contributed some part to the bill. Several of these provisions have been introduced heretofore, but they have not been able to get much committee attention, but coming together as the task force did, it has been able to weld and merge these various proposals, and has, I think, brought forth a very comprehensive bill to deal in a comprehensive, coordinated way at the Federal level with this terrible problem that afflicts this whole country.

The American people expect the drug pushers who wheel and deal in drugs that bring death to our young people and sorrow to all people who partake to any extent to be arrested, convicted and punished. There are those who may have a question about the costs. I say what will it cost if effective action is not taken quickly? What will then be the costs? We already see the costs in billions of dollars and in ruined lives—lives of our young people snatched away.

Mr. President, I compliment the task force and welcome the support of all Senators on both sides of the aisle and hope that the administration will also be supportive of this legislation. It is a common problem affecting our country and, much like a cancer, must be eradicated.

Mr. President, I introduce the bill and ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill by title.

The assistant legislative clerk reads as follows:

A bill (S. 2798) to establish and implement a comprehensive policy to combat drug abuse in the United States.

Mr. BYRD. Mr. President, I ask for the second reading of the bill. In order that it might, through the process of rule 14, be placed on the calendar, a Member is required to object to the second reading. I can object to my own request if no other Senator wishes to object.

Mr. PROXMIRE. Will it be convenient for the leader if I objected?

Mr. BYRD. I yield the floor for any objection from any Senator.

The PRESIDING OFFICER. Is there objection to the second reading?

Mr. PROXMIRE. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BYRD. I thank the Chair and the senior Senator from Wisconsin and the manager of the bill and ranking manager, and all members of the task force and I again thank the Senator from Montana for yielding.

The PRESIDING OFFICER. The bill will be read the second time on the second legislative day.

● Mr. CHILES. Mr. President, on behalf of myself and Mr. BIDEN, we are pleased to join with our Democratic colleagues today in introducing a comprehensive drug package which creates major new programs to address demand and treatment for drug abuse and substantially expands enforcement efforts across the board.

As cochairman of the Senate Democratic Working Group on Substance and Narcotics Abuse which drafted the legislation, we believe that this package is a positive commitment by the Democrats to fight drugs with substantial dollars and new or expanded programs. We have heard the public outcry and taken heed of the polls which show that they are willing to support such programs.

We have listened to our law enforcement officials nationwide and know that they are overwhelmed by increasing availability of drugs and growing crime rates in urban as well as rural areas.

We have taken heed of reports from our armed services and drug enforcement agencies that drug traffickers outman our efforts and outclass our high-tech communications systems, radar systems and intelligence networks with their sophisticated technologies.

We have received pleas for help from school administrators and teachers who know that "crack" is replacing marijuana as the drug of choice amongst many youth and they are frightened of its potent and addictive nature. They need information and they need tools.

We have requests from State and local officials, from companies, from churches, from parents, and from drug addicts who need treatment for their citizens, their employees, their congregations, their children and themselves. If they are lucky enough to find a bed, many cannot afford the exorbitant cost of drug rehabilitation.

Our package addresses the compounded needs associated with drug trafficking and abuse. The package authorizes $1.65 billion in enforcement, interdiction, eradication, research, treatment and education programs.

With mandatory sentences up to life imprisonment and fines up to $10 million for drug syndicates, the Democratic bill toughens laws against drug traffickers with the most stringent penalties and fines aimed at large volume traffickers and drug syndicates with their huge financial assets. The bill recognizes the dangerous effects of newer street drugs like "crack" and designer drugs by listing them under the Controlled Substances Act and decreasing the amounts necessary for enhanced penalties and fines.

The bill provides for double penalties for those who employ children in illegal drug enterprises and manufacture narcotics within 1,000 feet of schools.

A new criminal offense is authorized for those who launder funds with penalties up to 20 years and fines as high as $250,000 or twice the amount of the transaction.

To strengthen the legal system enforcing these penalties, the bill adds $1.3 billion for additional Federal prisons over the next 3 years and provides for $125 million to State and local law enforcement agencies for drug enforcement activities. In addition, the legislation directs the President to provide for five military sites which can be used to detain felons, especially those who are a Federal resonsibility such as illegal alien felons and major drug traffickers.

The Democrats double the amount of Federal dollars for interdiction programs by the Customs Service, Coast Guard and other armed services. Included in the expanded efforts are a new United States-Bahamian Drug Task Force, an all source intelligence center to provide information to all drug enforcement agencies, support under DOD for two long-range surveillance aircraft in the Caribbean and authority for DOD to loan equipment to drug enforcement agencies.

The State Department's International Narcotics Matter Bureau is provided with additional funds for eradication and a new buffer fund of $35 million for use in narcotics control upon submission of a plan by the President. In addition, the bill tightens immigration processing of suspected drug traffickers and requires a information system for U.S. Embassies to use in denying visas to such persons.

The bill recognizes the inadequacies of the existing $3 million program in drug education and commits $150 million for new education programs with a $125 million grant program for States and local districts which develop a K-12 comprehensive drug program and $25 million for five regional centers to provide necessary training and education of school administrators and teachers. The Secretary of Education is directed to provide all school districts by October 6 withy information on drug abuse with a special emphasis on crack and its lethal nature and potential harm for children whom drug dealers prey on as customers and dealers. October 6 has been designated as National Drug Abuse Education Day based on a resolution authored by the Senate Democratic Drug Task Force and passed by the Congress.

Noting the most obvious gap in current drug policy, the Democratic package provides for $394 million for drug abuse prevention, treatment and rehabilitation grants to States. In addition, the legislation directs more emphasis within the Department of Health and Human Services and the National Institute on Drug Abuse to conduct extended research on drug abuse and treatment methods and provide more information to practitioners as well as the public on specific drugs and their impacts and treatments.

Finally, realizing the need to better coordinate and implement Federal efforts in drug programs, the bill creates a new cabinet level official to be responsible for overseeing all drug programs and developing a long range strategy for both domestic and international drug policy.

Mr. President, we feel that this package is a firm statement of support from the Democratic membership of the Senate to act responsibly and efficiently to effectively address drug trafficking and abuse in this country. We stand ready to work with our Republican colleagues, the House and the President toward a final comprehensive program. We urge our congressional colleagues and the administration to join us in securing passage of a new and expanded drug policy.●

● Mr. BIDEN. Mr. President, I join with Senator CHILES and the other members of the Democratic Working

Group on Narcotics and Substance Abuse in introducing the Comprehensive Narcotics Control Act of 1986. This legislation fulfills the mandate that the working group established which was to develop a comprehensive legislative initiative that addresses the major components that need to be included in any effective response to the issue of drug abuse in America. This bill provides comprehensive strategies in each of these areas, including the necessary resources to accomplish the goals. In addition, this bill includes the necessary framework to coordinate the many diverse agencies and programs that must be included if we are to attack the drug problem on every possible front.

First, this bill addresses the need to stop the cultivation of drugs in source countries; $52 million in additional funds is provided for foreign assistance programs to help countries eradicate drugs within their borders, including funds for countries who request help similar to the assistance we recently provided to Bolivia. For countries that do not cooperate with us in stemming drug production, the bill mandates that the U.S. vote against loans to such countries from the Multilateral Development Banks. In addition, this bill authorizes the President to deny tariff benefits to drug producing countries. This component of the strategy provides both the carrot and the stick necessary to stem the production of drugs in foreign countries.

Second, we must stem the flow of drugs into our borders. This bill approximately doubles the current level of funding for interdiction at the border, including increased funding for Coast Guard and Customs Service personnel. Moreover, this bill assigns Coast Guard law enforcement teams to Navy ships to bring the Department of Defense more actively into the fight against drug trafficking.

Third, we must rigorously enforce domestic drug control laws. This legislation increases penalties for most drug-related offenses, including a mandatory minimum penalty of 10 years imprisonment, and up to life, for the highest level of drug kingpins, which reflects the responsibility of the Federal Government to pursue and prosecute major narcotics syndicates. This bill also creates new offenses and increases penalties for drug offenses involving children, and fines are increased to strike at the financial underpinnings of drug organizations. This bill also recognizes the need for more law enforcement personnel, at both the Federal and State level. Increased funding is provided for more DEA agents, more prosecutors and for prison construction, to insure that drug traffickers are caught, sentenced, and stay in jail for their full sentences. Finally, the bill provided $125 million in grant money to State and local agencies to assist them in their drug law enforcement efforts.

Fourth, we reduce the demand for drugs by educating our youth about the perils of drug use. Though the President has stressed the need to reduce the demand for drugs, the Federal Government spends only $3 million nationwide for drug education. This bill provides $100 million in grant money to State and local school districts for drug abuse education, and creates an Office of Drug and Alcohol Abuse Education and Policy within the Department of Education to commit the Federal Government to a long-term campaign. The purpose of this section is to insure that every child in this Nation, in both public and private schools, receives objective and credible information about the consequences and dangers of drug use.

Fifth, we must treat those persons who have already fallen prey to the lure of drug abuse. While we as a society must begin to realize that drug users, like drug traffickers, are coconspirators in drug crimes, we must also realize that drug addicts prey upon innocent victims to finance their habits. We must find an appropriate mix between condemnation and compassion in our approach. Despite this administration's rhetoric about treating drug abusers, they have actually decreased the funding for drug abuse treatment in the last 4 years. These cuts have resulted in waiting lists of up to 6 months long for drug users who recognize their problem and who seek help in rebuilding their ability to seek employment and lead constructive lives. This bill provides $300 million to State and local treatment programs, both public and private, to help provide essential services to drug abusers who want help.

Though I have outlined the five essential components that must be addressed in any attack on the drug problem, we must also develop a more effective framework from which to pursue our goals. What we need is leadership. Right now, the Attorney General and the Vice President and the White House drug abuse adviser are all leading the Federal effort, of in different directions. The question remains, who is in charge of this Nation's drug control effort? Frankly, there is no clear answer, and that illustrates the problem.

This bill would place the responsibility for coordinating and implementing our drug control effort, both law enforcement and demand reduction, with one Cabinet-level official who would report directly to the President. This person would have the clout needed to end the bureaucratic infighting and petty turf battles that have consistently undermined our national effort. Moreover, Congress and the American people could look to this person as the leader, to tell us of our victories, to tell us still of our failures, and to continue to move this country toward a long-term effort to reduce drug abuse in America.

In conclusion, I would like to thank my colleagues on the working group for their active participation and cooperation in developing what I think is a comprehensive, well considered legislative proposal to address the drug problem in America. As a Senator who has been working on this issue for almost a decade, I am pleased to join in introducing this bill on behalf of the Senate Democrats. Coupled with the House action this week on a similar bill, I am hopeful that with Republican support we can pass this legislation and get it to the President's desk this Congress.●

● Mr. DODD. Mr. President, today we urge our colleagues in the Senate to take a giant step forward in the battle to prevent and treat drug and alcohol abuse in this country. By introducing the Comprehensive Narcotics Control Act of 1986, we are setting out both short- and long-term strategies to strengthen drug abuse prevention, education, treatment, enforcement, and interdiction efforts in this country. I commend the distinguished minority leader for appointing the task force on the problem of drug abuse and applaud my colleagues on this task force for joining me in sponsoring the Comprehensive Narcotics Control Act of 1986.

Due to the death of several well-known athletes, drug abuse has been at the forefront of public concern over the past several months. No one needs to remind the parents, peers, teachers, or neighbors of young people who have died or been crippled by drug abuse of the need for prevention and treatment efforts.

Despite the public outcry, the problem of childhood drug abuse appears to be getting worse. A 5-year decrease in drug use among high school seniors has stalled. The latest survey of 132 high schools across the country sponsored by the National Institute of Drug Abuse, for example, shows that the use of marijuana, tranquilizers, barbiturates, alcohol, and cigarettes has stopped falling. There has been an increase in the use of PCP and opiates other than heroin. And, there has been a big jump in the use of cocaine, the highest in the 11 years that the NIDA survey has been conducted. Although 80 to 85 percent of high school seniors surveyed acknowledged the harmful effects of using cocaine regularly, only one-third saw much danger in experimenting.

Last month, this task force introduced an emergency package to control the spread of such pure forms of cocaine as "crack." Several important measures in that legislation have become public law. To channel public

concern over "crack" and all other forms of substance abuse into action, I had introduced a provision calling on the President to proclaim October 6, 1986, as "National Drug Abuse Education Day" in all schools from Connecticut to California. It will allow every school, from kindergarten through university, to focus the day's curriculum on the dangers of substance abuse. That provision passed the Senate and the House and has been signed into law by the President. So, on October 6, students, parents, teachers, law enforcment officials, and community leaders will be able to collaborate and educate each other as to the deadly risks posed by "crack" and many other drugs, including some that are socially acceptable such as alcohol.

None of us, however, has any illusions that one day of drug awareness education will solve the myriad of problems posed by substance abuse. For alcohol and drug abuse does not occur in a vacuum. And until we tackle some of the underlying problems, we will not make great strides forward. For this reason, I have sponsored a provision in the package being introduced today to target high risk youth for prevention and treatment programs. Under my provision, $50 million will be provided for model, public and private community-based programs which address the underlying causes of drug and alcohol abuse.

We know that during adolescence, a significant number of young people are the victims of physical, sexual, or psychological abuse, drop out of school, become pregnant, fail to get a job, commit violent or delinquent acts, experience mental health problems, and attempt suicide. Such young people are also at great risk of abusing drugs and alchohol.

Model programs are needed to prevent drug and alcohol abuse among high risk youth, including the operation of afterschool care programs, child abuse prevention and intervention programs, and programs designed to prevent students from dropping out of school, becoming teen parents, and remaining unemployed. And multidisciplinary programs which address the underlying causes of drug and alcohol abuse among high risk youth can serve to curb it and are necessary to prevent further abuse. By authorizing HHS to distribute $25 million for innovative prevention models and $25 million for multidisciplinary treatment and intervention models, we will be targeting those youth in most need of services.

In addition to placing a priority on programs for high risk youth, the Comprehensive Narcotics Control Act of 1986 emphasizes a full range of education, prevention, and treatment efforts in communities across the Nation. To encourage all communities to make substance abuse treatment and rehabilitation services a priority, HHS is directed to distribute $300 million by formula grants to all States from Connecticut to California. I commend the distinguished senior Senator from New York for making this contribution to the task force package. Likewise, I commend my distinguished colleage from Arizona, Mr. DECONCINI, for provisions in this package to address the special treatment, intervention and rehabilitation needs of American Indians.

Provisions directing the National Institute of Drug Abuse to develop and disseminate public service announcements on the dangers of drug abuse and to pursue additional research on effective prevention, treatment and rehabilitation programs have been carried over from the Crack Emergency Protection Act introduced last month. In the same manner, we have included the previously introduced measure requiring the Secretary of Health and Human Services, in conjunction with the Centers for Disease Control and the National Institute of Drug Abuse, to prepare an emergency action plan for intervention in the recent epidemic of crack abuse in this country.

The Narcotics Control Act of 1986 also provides for a wide range of educational measures on the dangers of drug abuse designed to reach children from kindergarten through university. In conjunction with my resolution declaring October 6, 1986, as "National Drug Abuse Education Day," the Secretary of Education is required to provide local schools across the Nation with emergency information packs on the dangers of alcohol and drug abuse, with a special emphasis on "crack."

I commend my distinguished colleague from West Virginia, Mr. ROCKEFELLER, for his work on developing a $125 million formula grant program encouraging schools and communities from Connecticut to California to establish statewide drug abuse education strategies. Funds will be available to develop and replicate model curricula and to train teachers, parents, law enforcement officials, and health professionals to work with students. I would also like to applaud the fine efforts of the distinguished senior Senator from Florida, for his work on providing $25 million to expand the Department of Education's existing regional training centers. Such centers will be able to assist States and local communities to establish long range, comprehensive drug abuse education programs.

In addition to making education, prevention, treatment, and rehabilitation efforts a No. 1 priority, the package being introduced today strengthens enforcement by stiffening penalties for major drug traffickers and for any traffickers who use children to distribute drugs. It creates new offenses for money laundering and adds the so-called designer drugs to the list of controlled substances. It provides $125 million on a matching basis to States and local agencies specifically for law enforcement activities.

The Comprehensive Narcotics Control Act of 1986 allocates $35 million for international efforts dependent upon a Presidential plan. It increases funding for the Bureau of International Narcotics matters at the State Department by some $17 million to strengthen their efforts. And it further provides $646 million to stop drug smuggling at the borders, thereby doubling the resources of the Coast Guard, Customs Service, the Justice Department, and the Department of Defense for interdiction activities. I would like to commend the fine work of my distinguished colleagues from Florida, Mr. CHILES; from Delaware, Mr. BIDEN; from Arizona, Mr. DECONCINI; from Georgia, Mr. NUNN; from New York, Mr. MOYNIHAN; and from Tennessee, Mr. SASSER; on the enforcement, interdiction, and international narcotic control sections.

Last but not least, the package being introduced today provides for coordination and leadership at the top levels of Government of all efforts to combat drug abuse. And it provides that all funds seized and forfeited by drug traffickers be used to pay for Federal, and local drug control programs, from enforcement and treatment to prevention and education.

In closing, I urge all our colleagues in the Senate and the President to join with us in taking serious, concerted, and comprehensive steps to combat drug abuse by younger and older Americans. I urge my colleagues to join this task force in sponsoring the Comprehensive Narcotics Control Act of 1986.●

● Mr. MITCHELL. Mr. President, I am pleased to join in introducing the Comprehensive Narcotics Control Act of 1986.

The bill we are introducing today is a major piece of legislation which addresses the issue of drug abuse in our Nation—an issue which has been brought to the attention of nearly every American in recent weeks.

Drug abuse has reached epidemic proportions in this country. No longer is drug abuse an issue of concern only to those living in our inner cities. No longer is drug abuse confined to those who are poor and uneducated.

The use and abuse of controlled substances has reached every corner of our Nation and every level of our society.

In my home State of Maine we are seeing increased numbers of people who have become addicted to cocaine and crack. Young people who live not only in our cities, but in the most remote parts of our rural State have become involved with the use of illegal drugs.

The cost of drug abuse is high. We as a nation cannot afford the loss in economic terms—or in human terms. Every teenager who becomes hooked on drugs and does not complete high school represents not only lost wages and taxes to the Government but a greater loss of human potential to the future of this country.

Every pregnant woman who jeopardizes the health of her unborn child because of drug abuse robs the child of a fair chance of living a healthy, productive life—and increases the likelihood that society will need to provide special support for that child.

Each person who abuses narcotics not only damages his own life but also jeopardizes the lives of those around him and society as a whole.

This Nation must develop programs which will eradicate drug abuse among our citizens.

The Comprehensive Narcotics Control Act of 1986 establishes new and expanded programs which address prevention and treatment of drug abuse, as well as improve the coordination and enforcement of drug laws.

The bill also includes provisions which increase our drug enforcement capabilities and provide assistance to ongoing programs developed by State and local agencies.

The bill is comprehensive and addresses many weaknesses in existing law. I am particularly pleased that this legislation includes a provision to add a new air support branch for the U.S. Customs Service which would be based in the Northeast region of the country.

The bill's treatment and rehabilitation section includes funding for a much needed model program directed specifically for at risk youth. We need to design programs which treat children and adolescents separately, as their problems and involvement with drugs are intimately tied to their physical and emotional development.

This legislation is an important first step in the war on drugs. I urge my colleagues in the Senate to support our efforts to prevent drug abuse, to successfully treat those who are addicted, and to severely punish those who would profit by the sale of illegal narcotics in our Nation.●

● Mr. SASSER. Mr. President, over the past few weeks we've seen a dramatic heating up of the ongoing debate on the drug issue. Every tabloid, periodical, and politician has been speaking out against drugs. Citizens groups are galvanizing for action. Yet we have not seen a coordinated program to attack the various aspects of this critical problem.

We are united in our objectives. We all want drug free schools. We all want a drug free workplace. The plain truth is that desire alone will not achieve these goals. We must buckle down and begin the trench work if we are to win the war on drugs. The bill we introduce today starts us on this path.

Our bill is a coordinated package to meet the drug problem. We have learned from past experience that a piecemeal approach to drugs just won't work. Despite several years of intense effort in the Gulf of Mexico, drugs are still flooding into this country in record amounts.

We can't abandon interdiction efforts, but neither can we kid ourselves that in and of itself it will cure the problem. Our bill recognizes that. Our legislation includes increased penalties for drug offenses—particularly for major traffickers. It included funding for education and treatment. And it includes increased resources to Federal agencies for drug enforcement and interdiction.

Our legislation increases penalties for drug trafficking. It creates a new level of penalties for the most serious offenders—the kingpins of the drug trade.

Under current law, it is no more serious to possess 500 kilos of cocaine than it is to possess 1 kilo. That is ridiculous. Our bill says if you possess a large amount of an illegal drug you are a major dealer and you are going to pay the price: 10 years to life for the first offense, 20 years to life for a repeat offense—no suspended sentences, no probation, no parole.

Drug dealers must know that if they pump this poison into our society, they are going to prison—do drugs and you do time.

Next we take what are now the severest penalties in law and make them more effective. We lower from 1 kilo to one-half kilo the amount needed to charge individuals as serious traffickers. A half a kilo is about a pound. If you have a pound of a dangerous drug—such as cocaine—in your possession you're dealing drugs. Our bill says try it and you're gone: 5 to 25 years for the first offense, 10 to 40 years for a repeat offense. No suspended sentences, no probation, no parole. We also add crack to schedule 1 of the Controlled Substances Act. Schedule 1 drugs are those that have no medical value. That is where crack belongs. It is as dangerous as any drug on the street and more addictive than almost any of them. Then we say that if you possess 50 grams you are a major trafficker—10 years to life for the first offense. If you have even 5 grams in your possession, it's 5 to 25 years.

Next, we take the other enforcement provisions of S. 2715 that 47 of us introduced on August 7—creating a separate crime for employing minors in drug operations and for manufacturing drugs near a school.

I believe we have to come down on drug dealers and come down on them hard for the use of minors in their drug operations. It brings youngsters into the seamy underworld of crime and exposes them to drugs—usually resulting in their own addiction.

Our bill also recognizes that the way to end the drug epidemic is to reduce demand. We simply must convince our people—especially our young people—to avoid drugs.

Statistics show that one of every six teenagers will have experimented with cocaine before they graduate from high school. That is a truly frightening statistic. And the picture is getting worse. Surveys show that 61 percent of all high school seniors have tried an illegal drug at least once. The simple fact is that students are use to the presence of drugs in their lives. That has to change.

We provide $150 million for drug education. The bill authorizes $125 million in grants to State and local education agencies for drug abuse education. Eighty percent of that money would go to local education agencies. The money would be available for training personnel, teaching materials, counseling and referral of at risk youth, and acquiring professional assistance to develop and implement programs.

The States and local districts receiving these funds would be required to ensure broad involvement in developing their programs.

The people I have talked to in Tennessee—those most closely involved with the problem—have constantly stressed the need to have the entire community involved if a drug prevention program is going to have any hope of success. As we've developed this package, I've worked to make community involvement an important part of both the education and treatment sections of the bill.

The bill also provides $394 million for drug treatment. Of that, $300 million goes directly to the States on a formula basis. Funds could be used to expand community involvement, improve coordination among services to ensure treatment of all the factors involved in drug abuse, reduce waiting lists, and generally rehabilitate drug users.

During the August break, I toured drug treatment centers in Nashville. As anyone who has done it knows, it is a moving experience. I talked with patients, parents, and counselors. One thing they impressed upon me is the tremendous unmet need for treatment. For instance, MeHarry Hospital, in Nashville, is virtually the only public drug treatment facility in middle Tennessee. It has 16 available beds for young people. It serves 40 counties. We must do better than that.

Finally, we make important reforms in the Federal Government's Forfeiture Program. That problem is, let's face it, a shambles. Federal agencies don't even know what they have. Valuable properties—ships, planes, and ve-

hicles—are left to rust and rot until they are virtually worthless. We're telling Justice and Customs to straighten that mess out. Liquidate those assets and put the proceeds to work battling drugs.

The forfeiture funds are in such disarray that GAO can't even give us a figure on the potential gain from efficient administration of those funds. What we do know is that it's in the millions of dollars, maybe hundreds of millions. We're directing that the money to be gained from efficient administration of the funds be used to fund the initiatives we are proposing today. Let the drug dealers pay for the havoc they are causing.

So those are the highlights of our bill. Beating the drug problem will not come cheap and it will not come easy. But I believe we have no choice. And I believe the American people think so too.●

● Mr. MOYNIHAN. Mr. President, I rise today to join my colleagues in introducing the Comprehensive Narcotics Control Act of 1986 to provide desperately needed funds and programs to combat the drug abuse crisis in this country.

That the issue of drug abuse is one of great concern to the people in this country is no surprise. A New York Times survey conducted last month revealed that 13 percent of those interviewed named drugs as the Nation's most important problem, more than those cited unemployment, fear of war, or other economic difficulties. To illustrate the degree to which this issue has intensified in the minds of the American public, in an April survey, only 2 percent selected drugs as the country's most important problem.

Irving Kaufman, Chairman of the President's Commission on Organized Crime, has called for "persistent and unyielding assaults on both supply and demand." I agree—we can only make progress by addressing both parts of the drug equation. And we must make such assaults effective by providing adequate assistance to those Federal, State, and local authorities who face the difficult task of stamping out drug use in this country.

That is exactly what the Comprehensive Narcotics Control Act of 1986 seeks to do: Provide additional resources to reduce demand for illegal drugs and to limit their supply.

This $1.65 billion proposal includes $425 million for State and local assistance programs which were provided for in the bill, I introduced on the 1st day of the 99th Congress, S. 15, the State and Local Narcotics Control Assistance Act, which 22 of my colleagues on both sides of this aisle cosponsored.

Of the $425 million, $300 million is provided for the Secretary of Health and Human Services to make grants to States for prevention, treatment, and rehabilitation programs aimed at keeping people off drugs, or rehabilitating drug users for productive employment and drug free lives.

The remaining $125 million is for the U.S. Attorney General to make grants to the States to aid in State and local law enforcement. Grants are to be used for increased apprehension, prosecution, and adjudication of criminal defendants, additional correctional facilities, and illicit crop eradication programs in States.

Our total package offers a multipronged attack against illegal drugs. Specifically, it creates a Cabinet-level office to coordinate the Federal drug effort, increases enforcement funding for Federal agencies, including Customs and the Drug Enforcement Administration, provides funds for the purchase of aircraft for drug interdiction, calls for tariff penalties against uncooperative source countries, and increases international narcotics control, including calling for loans through multilateral development banks for crop eradication and substitution.

We have an obligation to take active measures such as this in the war against drugs, before it is too late. Drug, related deaths, and injuries—particularly from cocaine abuse—have become all too commonplace. Injuries due to cocaine smoking rose from 600 to 1,100 between 1984 and 1985; an 83 percent increase.

The most disturbing statistics deal with our Nation's youth. In 1985, the New York State Division of Substance Abuse Services released the results of a survey on drug use among secondary school students in New York. The survey estimated that an astounding 60 percent of our secondary schoolchildren, more than 900,000 students, reported having tried illegal drugs. Even more disturbing was the estimate that 31 percent of all seventh grade students had tried illegal drugs while in elementary school. Children all, some of whom were only 12 years old. And they are likely to continue to use drugs, with increasing frequency and dependence.

Equally tragic is the phenomenon of "crack babies," children born with an addiction to crack because their mothers were hooked on the drug. During a recent visit to Harlem Hospital, I saw 1 pound babies writhing with horrible withdrawal pains. A civilized society cannot ignore these cries for help. Stopping cocaine and crack addiction must become a priority. Therefore, we must focus on finding narcotic antagonists for cocaine and heroin addiction. This bill directs the National Institute on Drug Abuse to do just that.

Drug problems throughout the country all stem, in part, from the huge supply of illegal drugs into this country. Federal agencies, State officials and local authorities currently do not have the resources to cope with the flood of drugs on their streets.

This is not the first drug epidemic which I have witnessed in my years of public service. I faced a similar crisis in 1969, when I was a Special Assistant for Urban Affairs for President Nixon. While today the crisis involves crack, then it involved heroin, a narcotic derived from the poppy plant just as cocaine is derived from the coca plant. At that time, poppy plants were grown primarily in Turkey, processed into heroin in Marseilles, and then smuggled into New York.

In order to cut off the supply of heroin, I persuaded the President to provide financial assistance to help Turkish farmers make the transition from a poppy-based agriculture to a more general agricultural economy. With our help, the program to eradicate illicit poppy production succeeded and the French Connection collapsed, creating a severe shortage of heroin in every major drug center in the country.

It comes as no surprise to me, then, that our focus has now turned to countries like Bolivia, Peru, and Colombia as they provide the raw materials for some of the world's most powerful drug traffickers. I support the efforts of our Government and the Bolivian authorities in trying to reduce the supply of cocaine from those countries through programs of crop eradication and substitution. The Comprehensive Narcotics Control Act calls for loans to such countries through multilateral development banks for crop eradication and substitution.

But stopping importation is only one area in which we must address drug abuse. Once these drugs are here, there are vast numbers of high, middle, and low level dealers who support themselves through the sale of these drugs. These dealers must be apprehended and to do that, we need more officers on the streets. This act also provides the necessary funds to supplement local authorities in these efforts to catch drug dealers so that no section of their police force would have to be understaffed.

Some might say that we can't afford to allocate more money to the fight against illegal drugs. But I say we can't afford not to. The costs of drug abuse to our society are enormous. According to a study commissioned by the Alcohol, Drug Abuse, and Mental Health Administration, in 1984, drug abuse costs society a total of $60 billion every year. This includes $20 billion spent to prosecute and imprison criminals convicted of drug dealing and related crimes. It also includes the $2 billion we spend each year to treat and rehabilitate drug abusers. Clearly, there is too great a disparity between

the cost of drug abuse and the amount of money we spend to prevent it.

The time has come to provide sufficient ammunition to the Federal, State, and local officials who are on the front lines of the fight against drug abuse. The Comprehensive Narcotics Control Act of 1986 is that ammunition, and I urge each of my colleagues to support this bill when the Senate considers this measure. You can't win a war without beans, bullets, and black oil. Without more money and resources we may never win the war against drugs.●

□ 1640

DEPARTMENT OF INTERIOR AND RELATED AGENCIES APPROPRIATIONS, FISCAL YEAR 1987

The Senate resumed consideration of the bill.

AMENDMENT NO. 2777

Mr. MELCHER. Mr. President, returning to the amendment offered by the Senator from Wisconsin dealing with the funds for roadbuilding in our national forests, the argument that is propounded by the Senator from Wisconsin, and by others who have looked at this matter, is: "Well, let's cut down on roadbuilding in the forest and so let's save some money."

Mr. President, I believe that is a very attractive issue. What can be a more attractive issue facing this Congress than an amendment that would save $70 to $90 million or more?

But that argument about saving money is just a question of what are the procedures of operating in our national forests, and by law require that before any timber sale is offered the Forest Service has to plan for constructing a road and do all that engineering work and all that planning to see what type of road would be built so the timber sales can be offered. Now that is law. That is law that is well founded and whether it is wise or not cannot be or should not be argued on this appropriations bill.

But then, the question really is, Is there any cost savings? That is the real question. And the answer to that is, no, there is no cost savings. These moneys are recovered by the timber sales. Well, you have to wait for the money. It might take a couple of years, 3 or 4 years, before you ever get the money back. So we could save that.

Again, we get right down to the nitty-gritty. Well, what does the law require the Forest Service to do? It does not give them that option to say, "Well, we are going to let you have the timber sale, but we have to go across the road. We have not done all that preliminary work, so you do it."

The law does not permit that. Whether that is wise or not is not the argument. Indeed, I think if we did have the argument, we would find that is wise and the best way to do it. But the money is recovered. That is the bottom line.

I think perhaps sometimes we fall into this other side of the issue. There are two points to this issue when you make this kind of an amendment. You have the cost—that is a plus for the amendment—then you also have the environmental question. And what side of the environmental question would you be on? Well, you would want to be on the positive side. You would want to protect the environment. So the amendment actually has two pluses.

Yet I find it necessary, Mr. President, to ask for the floor and to seek the floor on my own behalf to argue against this amendment. So I am arguing against some pretty strong medicine. Well, let me tell you where I come from and why I must take the position opposing the amendment.

I was reminded just a few days ago while driving across Montana in the western part of the State of how much I object, abhor, feel bad about looking at national forest lands and seeing substantial acres clearcut or seeing on the slopes a criss-cross every few hundred feet of old logging roads to harvest the timber. You cannot enjoy that kind of a setting. And if you fly over it, as I did a few days ago, over parts of it where you can really get a good view from up on high and look down on it, you know it would be a lot prettier if those trees were there.

Then you get beyond that and your mind wonders to what happens on the slope. Does that not create erosion? Does it not mean something to the watershed? Then, finally, the aesthetics of it is all one way. You know that an ordinary person really does not like it, cannot help but dislike it.

And if that were all there was to it, perhaps I would join with my friend from Wisconsin in this amendment. But that really is not all there is to it.

Here are the limiting factors for now. In 1976, we adopted the Forest Management Act, which was a very far-reaching act. It requires forest plans for every segment of the national forest. And that planning process—which is open to the public and public involvement all the way through it, has several stages—takes several years to get a forest plan for any of our national forests. Indeed it does because we passed that law, we passed a bill making the law in 1976 calling for all these forest plans.

And here it is 1986 and right now the first round of those forest plans are being finally scrutinized, I mean the final stages of approval. It takes that long. It sets in motion this 10-year cycle of the new planning, 10 years, always with the same public involvement, the same criticism, the same objectives to make sure that our forests are now more aesthetic, that they are more conservation oriented, that there is less in the way of watershed damage, and there cannot be any question on the conservation side of erosion. Erosion must be controlled.

Are these plans going to work? Well, you know it is pretty difficult for us to be sure, but as far as I can tell now, I can conscientiously tell you that, yes, I think they will work. It is a very laborious process and it is very well locked into law, and it is very well scrutinized, but it takes a long time to get the first set of plans approved. But that is right at the stage we are at.

You can appeal these plans. Many of these various forest plans have been appealed. So the public involvement and the public insistance that all of these conservation-oriented facets of the forest plan be enforced is held right there to keep the Forest Service nose to the grindstone, keep them constantly under review.

□ 1650

What has all of this to do with the amendment? It has an awful lot to do with the amendment.

Anybody who wishes to look at any particular forest plan, or any portion of a forest plan, can check out which roadbuilding is planned in this 10-year cycle, 20 years from now, 30 years from now, and on down the road.

The facts are that as you look at those plans, they are really not going to be too much in roadbuilding. That would seem to say, well, then, the Senator from Wisconsin has made a good point. Those forest plans really do not indicate there is going to be too much roadbuilding during the next 10 years; why appropriate so much money? Well, the fact is no matter what State it is in, or what particular national forest in which State, in any of the individual States, or which area that is involved of a particular national forest, that planning process triggers the beginning of the need for having those funds available. It is that simple. Will it cost more or less? It will probably cost less. But whether it costs less or not does not depend upon how we restrict in this bill the funds that are available because it is not going to be determined. The amount of money that will be spent on the roads will not be triggered by the amount appropriated. It will be triggered by the forest plans themselves. Those forest plans that are approved will set in motion the triggering mechanism for whatever roadbuilding money is necessary.

But it will not be triggered until the forest plan itself is approved.

I find while that may be a cumbersome way, taking 10 years to develop these forest plans and they are still not finalized in most national forests yet, while they may be a cumbersome

way of doing business and may require the Forest Service to do an excessive amount of planning, I find comfort, and I find assurance in the whole mechanism, and in the whole process. And why? It goes back to the environment issue, and to the esthetics. We do not want rapid runoff. We do not want cutting of trees on steep slopes because there will be rapid runoff, which will lead to a cause of environmental degradation, erosion, and loss of quality of the watershed.

We do not want timber harvested close to streambeds for the same reasons. There will be loss of protection for those streambeds and loss of water quality if erosion would result. So we forbid that. We forbid it in the law.

And in order for the public to be sure that the law is followed in these forest plans, by necessity they are long drawn out processes, which it is true is a cumbersome process, but one which I favor and which I believe the public favors.

I want to say this: The amendment, as attractive as it may be, is simply a bad amendment. It should be turned down. It should be automatically defeated because we have the process unfolding now in these forest plans which I believe is the only correct way to manage our national forests, which is the only reassuring way to the public that they are being managed properly and which assures the public the opportunity to envision and examine for themselves whether what we want for prudent management of these forest lands will be followed in the present and in the future.

As a result, we will not have large clearcuts. That is good. Twenty-eight acres, as a matter of fact, is the limitation now required in the law, and nothing larger than that. As a result, we will not have steep slope harvesting, which is good, both from the standpoint of conservation and from the standpoint of esthetics. We will not have streambank erosion, which is good to maintain water quality. It is good for the fish, it is good for the enjoyment of the public, and it is good for the esthetics.

The amendment will not accomplish these things. It is the plans themselves that accomplish these restrictions, these protections, and these fine things we want for environmental protection.

I ask for the defeat of the amendment. But I ask for it in the confidence that we have the process to accomplish what the public of the United States wants, and that is clean, well-managed forests that are attractive, that are good for the people, good for the wildlife, good for the habitat of fish, good for clear water, and good for water protection.

I might point out that the Senator from Idaho, the distinguished chairman of the Subcommittee on Appropriations handling this bill on Interior, and also the chairman of the Energy and Natural Resources Committee, comes from the very State that has contributed very generously and very constructively in the Forest Management Act in the person of the distinguished Senator himself and his colleague, the junior colleague, and also by the late Senator Frank Church, former distinguished colleague of all of us.

All of these distinguished Senators have contributed mightily in fashioning the Forest Act of 1976. Indeed, it is the Church guidelines that protect the environment and the conservation efforts of all of us in our national forests that was made statutory. The Church guidelines were just regulations of the national forests for the Forest Service in operating the national forest. They were just regulations adopted by the Forest Service at the request and at the behest of the distinguished Senator, former Senator from Idaho, the late Frank Church, which were made statutory in 1976 act.

On the question of road standards, there is none that have taken the most forthright and strongest stand on what the road standard should be in our national forests regarding timber harvesting than the distinguished Senator now managing the bill as the subcommittee chairman, Senator McCLURE.

I am pleased that he has been successful. I have tried to be helpful in my own way to get those standards to a level that was environmentally more satisfactory, and also carries with it a lower cost.

I think those efforts have been successful. So from the standpoint of both costs and environmentally acceptable standards, the road standards that are now used by the Forest Service are better, and should be good enough to assure the Senator from Wisconsin that not only the Forest Service but Congress itself has been instrumental in trying to pursue the very two key points of this amendment today; that is, cost reduction, and environmental protection.

□ 1700

One final word.

If we want to be confusing, we could adopt the amendment. But I hope it is not adopted. I think that the cost factor is very much self-limiting because of the planning requirements of the Forest Service under the law, the 1976 act, in managing the national forest itself. I think that is obvious if the forest plan is not approved—and it cannot be approved without the scrutiny of the public and the insistence on the practicality and the necessity and conservation-oriented public on when we can or cannot build a forest logging road. That is good.

On the second point, obviously, if it is self-limiting because of the forest plan itself, the money simply will not be spent unless the projected growth, the planned growth, has climbed all these high walls, jumped over all the hurdles, and made the satisfactory answers to the questions of the cost and the environmental protection.

For those reasons, I hope the amendment is defeated and we get on with the rest of the bill.

Mr. President, I yield the floor.

Mr. McCLURE addressed the chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President, I will take very little time to respond to the arguments.

The Senator from Wisconsin, the primary sponsor of this amendment, several times made reference to the total number of miles of roads on national forest lands.

Let us put that figure into two different kinds of perspective. What are those roads?

Of the 343,300 miles of roads to which he has made reference, 65,227 miles have been closed. That is over one-fourth of the total mileage which has already been closed.

Of the remaining 278,000 miles of roads, 171,000 are maintained only for high clearance vehicles. They are not regular roads. They are not open to general vehicular traffic.

Only 106,000 miles are maintained for passenger cars, and out of that only 51,000 miles are fully maintained and 55,000 miles are partially maintained.

So you do not really have a road system of the kind that people from the flatlands of this country would consider to be roads. There are not 343,000 miles of roads that everybody can go out from town and drive over the weekend on. They are not available for passenger vehicular traffic.

Let us contrast that for a moment, lest we think that that 55,000 miles is still a lot. Let us look at what is maintained in other States. I am not going to read the entire list, but I have obtained from the Bureau of Public Roads a list of Federal aid highway systems and mileage now on Federal-aid systems in the 50 States.

I will start with Alabama which has 87,560 miles of roads; Wyoming, 38,000. And I cannot help but note Wisconsin 108,000, double the mileage of roads available for passenger car traffic on a fully maintained basis in national forest lands. Contrast Wisconsin, 1 State out of 50, with one-third of our Nation's area in public lands, a large portion of which is the national forest lands.

I think from that standpoint neither comparison would indicate excessive roadbuilding.

I thought it necessary to point out that in the 50 States there are 2,891,781 miles of roads as contrasted to the 55,000 miles of fully maintained roads for passenger cars or even the total of 343,000 within the total forest system which is less than one-tenth of the total in the United States.

Mr. President, I ask unanimous consent that a table which has that information fully for all 50 States be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

BUREAU OF PUBLIC ROADS—EXISTING PUBLIC ROAD AND STREET MILEAGE, 1984, CLASSIFIED BY FEDERAL-AID SYSTEM AND JURISDICTION

[Mileage as of Dec. 31, 1984, completed from reports of State authorities]

State	Federal-aid highway systems—rural and urban							Mileage not on Federal-aid systems							Total Federal-aid and non-Federal-aid mileage
	Under local control					Under Federal control [2]	Total	Under local control					Under Federal control [2]	Total	
	Under State control	County roads	Town and township roads	Other local roads [1]	Total			Under State control	County roads	Town and township roads	Other local roads [1]	Total			
Alabama	10,675	8,123		2,479	10,602	32	21,309	1,013	49,763		15,200	64,963	275	66,251	87,560
Alaska [3]	4,141			28	28		4,169	7,382						7,382	11,551
Arizona	5,873	2,234		1,301	3,535		9,408	246	23,482		7,555	31,037	35,446	66,729	76,137
Arkansas [3]	10,403	2,699		706	3,405	42	13,850	5,708	47,155		8,934	56,089	1,398	63,195	77,045
California	15,069	13,065		12,774	25,839	187	41,095	3,145	56,671		41,652	98,323	30,442	131,910	173,005
Colorado	8,852	536	1	1,477	2,014	2	10,868	451	48,874	2	8,314	57,190	7,217	64,858	75,726
Connecticut	3,287		2,161		2,161		5,448	609		13,522		13,522		14,131	19,579
Delaware	1,377					3	1,380	3,329			593	593		3,922	5,302
District of Columbia	419						419	683						683	1,102
Florida	10,956	4,583		4,371	8,954		19,910	580	55,567	1,962	20,965	78,494		79,074	98,984
Georgia	23,797	1,913	3,186	2	5,101		28,898	62,848	3,950	9,837		13,787		76,635	105,533
Hawaii	923	370			370		1,293	140	2,512			2,512	112	2,764	4,057
Idaho	4,915	1,520	426	1,097	3,025	15	7,955	170	11,969	611	12,758	25,338	35,153	60,661	68,616
Illinois [3]	15,002	11,368	1,145	3,486	15,999	10	31,011	2,607	5,112	70,092	25,368	100,572	292	103,471	134,482
Indiana	11,329	5,335	303	3,403	9,041		20,370	15	59,506	3,192	8,484	71,182		71,197	91,567
Iowa	9,817	12,942		2,617	15,559		25,376	343	76,672		9,888	86,560	120	87,023	112,399
Kansas	10,621	20,948		1,456	22,404		33,025	71	90,136		8,975	99,111		99,182	132,207
Kentucky [3]	12,822	161		560	721	38	13,581	12,298	38,217		4,795	43,012	448	55,758	69,339
Louisiana	11,782	395		969	1,364	17	13,163	4,636	30,670		9,018	39,688	636	44,960	58,123
Maine [3]	5,008		3	726	729		5,737	2,995		10,980	2,042	13,022	184	16,201	21,938
Maryland [4]	4,415	1,341		689	2,030	43	6,488	1,055	14,906		4,619	19,525	357	20,937	27,425
Massachusetts	3,047		1,870	5,759	7,629	9	10,685	566		9,498	12,937	22,435	108	23,109	33,794
Michigan	9,480	18,717		2,746	21,463		30,943	18	70,136		16,446	86,582		86,600	117,543
Minnesota	12,071	15,621	135	745	16,501	92	28,664	1,373	29,656	55,436	14,864	99,956	1,562	102,891	131,555
Mississippi	10,070	8,284	1,429		9,713		19,783	253	44,435	6,470		50,905	339	51,497	71,280
Missouri	26,827	343	3	1,351	1,697		28,524	5,490	52,832	16,303	15,029	84,164	709	90,363	118,887
Montana	6,666	4,800		227	5,027		11,693	1,160	48,382	2,306	91	50,779	7,854	59,783	71,486
Nebraska	9,980	9,142		1,026	10,168	23	20,171	429	49,179	15,903	6,172	71,254	110	71,793	91,964
Nevada	4,644	335		201	536	50	5,230	538	23,169		1,722	24,891	13,166	38,595	43,825
New Hampshire	2,817		29	447	476		3,293	1,582		6,170	3,330	9,500	142	11,224	14,517
New Jersey [3]	2,382	4,543	144	1,850	6,537		8,919	786	2,472	5,025	16,637	24,134	40	24,960	33,879
New Mexico [4]	9,029		8	123	131		9,160	3,380	31,797	3,148	316	35,261	6,326	44,967	54,127
New York [3]	14,916	4,380	1,658	3,946	9,984		24,900	1,478	16,081	53,441	13,980	83,502		84,980	109,880
North Carolina	17,901			50	50	22	17,973	59,022			13,060	13,060	2,665	74,747	92,720
North Dakota	7,251	9,202	6	533	9,741		16,992	53		65,361	2,857	68,218	704	68,975	85,967
Ohio	18,143	4,309	347	4,436	9,092		27,235	2,176	25,103	38,956	18,290	82,349	29	84,554	111,789
Oklahoma	11,731	4,851		2,337	7,188		18,919	1,327	80,966		8,999	89,965		91,292	110,211
Oregon	7,575	6,360		1,543	7,903	1	15,479	3,278	27,494		6,127	33,621	82,544	119,443	134,922
Pennsylvania	23,548	284	1,019	1,610	2,913		26,461	89,407			11	11		89,418	115,879
Rhode Island [4]	1,122		463	8	471		1,593	91		4,591		4,591		4,682	6,275
South Carolina	15,845	163	2	20	185		16,030	24,493	20,068	604	1,546	22,218	598	47,309	63,339
South Dakota	7,798	8,907	600	541	10,048	263	18,109	96	17,508	33,009	2,987	53,504	1,688	55,288	73,397
Tennessee [3] [4]	7,823	6,026		1,239	7,265	3	15,091	1,357	54,378		11,899	66,277	1,384	69,018	84,109
Texas [3]	55,306	400		4,058	4,458	6	59,770	16,144	136,150		65,767	201,917	972	219,033	278,803
Utah	5,343	1,052		412	1,464	33	6,840	243	19,926		5,061	24,987	16,294	41,534	48,364
Vermont	2,564		828	262	1,090		3,654	224		8,981	1,067	10,048	82	10,354	14,008
Virginia	18,266	236		1,238	1,474		19,740	36,514	1,159		6,195	7,354	1,727	45,595	65,335
Washington	6,961	7,521	565	1,804	9,890		16,851	11,566	33,833	2,880	5,529	42,242	10,060	63,868	80,719
West Virginia	9,825	3		275	278		10,103	21,533	1		2,136	2,137	1,213	24,883	34,986
Wisconsin	11,877	10,047	387	1,814	12,248		24,125	642	10,122	60,820	12,457	83,399	184	84,225	108,350
Wyoming	5,971	301		289	590	62	6,623	649	13,722		13,548	27,270	3,652	31,571	38,194
Total [3]	528,262	213,360	16,718	79,013	309,091	953	838,306	396,192	1,423,731	499,100	468,220	2,391,051	266,232	3,053,475	3,891,781

[1] Includes mileage not identified by administrative authority.

[2] Mileage in Federal parks, forests, and reservations that are not a part of the State and local highway systems.

[3] Excludes ferry route mileage: Alaska, 773 miles of rural primary: Arkansas, 1 mile of secondary: Illinois, 2 miles of secondary: Kentucky, 1 mile of urban and 1 mile of secondary: Maine, 3 miles of secondary: New Jersey, 1 mile of secondary: New York, 12 miles of rural primary and 1 mile of secondary: Tennessee, 1 mile of secondary: Texas, 2 miles of rural primary, 5 miles of urban and 1 mile of secondary: and Washington, 60 miles of rural primary, 18 miles of urban primary and 6 miles of secondary.

[4] Incomplete 1984 data submitted for these States: 1983 data used. 1982 data used for Tennessee and factored to 1984 levels. Because of factoring procedures used, individual data components for these States may not be compatible among the various mileage tables.

SLOW ROAD BUILDING IN NATIONAL FORESTS

● Mr. KASTEN. Mr. President, I rise in support of the Proxmire amendment to reduce funding for road construction in our national forests.

I will support this amendment for two reasons—economics and environment.

Forest Service road building simply does not produce a return to the Treasury sufficient to cover the costs of building those roads. At a time when the country is facing the threat of across-the-board cuts in Federal programs—good or bad—frivolous or essential—we should not be increasing funding to an economically unproductive program such as this.

The amendment I will support strikes a compromise on how many dollars to spend on road building. This amendment will reduce funding for road building by $90 million from the committee-passed bill. It splits the difference between the administration's request for road building and the amount appropriated by the House of Representatives.

The Nation does not need to expand the road building program in Federal lands at this time. The timber industry today is faced with low prices and a glut of trees that cannot be moved at profitable prices. The last thing that the industry as a whole needs is an increase in the production of subsidized timber that would drive prices down even further.

Private producers must already compete with a tremendous Federal program to produce timber at subsidized rates. I believe that the free market will better serve the Nation's needs than increasing subsidies.

Second, we should not be embarking on a massive new road building program in our national forests for environmental reasons. This road building program will penetrate many of the more remote and fragile potential

timber lands. They will be expensive to open up, expensive to maintain, and carry a high environmental cost as well.

The Forest Service has exceeded its planned and funded goals for road construction in each of the last 5 years, despite periodic funding reductions. If this amendment passes, the Service will be opening up relatively undisturbed land at an unprecedented rate. If a pressing national need for more timber were clearly present, this would be acceptable. But such a national need is not clear to this Senator.

What need does seem to exist is a local need. The money provided through road construction on Federal lands is important to the economies of several States. As a Senator from Wisconsin, a large timber producing State with many timber holdings on Federal lands, I understand this.

But, we have a simple trade-off to make. We can support increased funding for Forest Service road building—which will be concentrated in a few States and will have serious environmental consequences. Or, we can support saving $90 million taxpayer's dollars, and start making the selective spending reductions we will need to avoid an across-the-board cut under Gramm-Rudman.

I believe the responsible choice is clear, and I urge my colleagues to support this amendment.●

Mr. HATFIELD. Mr. President, I want to just take a moment to speak on behalf of the committee's position with regard to Forest Service roads and in opposition to any reductions to the Forest Service's road budget as is currently being proposed.

As many of my colleagues know, I have been intimately involved with the establishment of the 1.2 million acre Oregon wilderness bill enacted in 1984 and have consistently supported environmental causes, many of which are funded in this Interior appropriations bill. But unfortunately, too little credit has been given to the critical land acquisition and fish habitat improvement moneys approved in this bill, and too much attention has been provided to Forest Service roads.

Mr. President, the fact is that the Forest Service has not done a very good job in managing the road program and has in many instances built roads in excess of necessary construction standards and in some instances have built roads into areas where timber was not harvested for some time. But some of these decisions can be explained. For example, many roads were built in the late 1970's when timber sales were at all time records only to go unused during the 1980–81 recession. The change in the economic climate is not anything the Forest Service can respond to in short order because of long lead times necessary to plan a timber sale, but this illustration does give an example of "apparently" wasted taxpayers' dollars. I can assure you that those roads have been used and that because of record timber demands in 1984 and 1985, and with continuing low interest rates, new roads will be necessary to sustain our public supply of Federal timber.

A second point, Mr. President, in support of road funding is that in many areas of the West we are overharvesting on existing lands and in order to relieve overcutting, we must begin to access new areas which require roads. Please be assured that it's not our intent to access wilderness areas, nor lands which are unsuitable for timber harvest. But in Oregon and Washington alone over 1 million acres of wilderness study areas were released for multiple use purposes, a portion of which should be considered for timber harvesting. Again, Mr. President, additional funds for roads is necessary to alleviate overcutting on existing lands.

Third, Mr. President, I would like to point out that despite compelling evidence in support of increasing timber sales; interest rates are at record low levels; Canadian timber imports comprise one-third of the entire United States timber consumption. We are only asking to maintain timber harvest levels at the level approved by Congress last year, about 11.4 billion board feet. We must sustain timber volumes to maintain regional employment and address the trade deficit issues which are killing this country's Federal budget.

As an aside, Mr. President, I would just like to mention that in Oregon, where timber is like oil to the gulf and wheat to the Midwest, our July adjusted unemployment figure was 9.4 percent while the national average was just 6.9 percent. Oregon's unemployment rate continues to be 2.5 percentage points, or 36 percent higher than the national average since the recession of 1981.

Finally, Mr. President, I would just like to point out that OMB figures with regard to timber receipts to the Federal Treasury are not correct. In fact, by adding about $50 million in outlays to the Forest Service budget for fiscal year 1987, to increase roads and timbers sales, the Treasury will receive a net increase in revenues of nearly $85 million in fiscal year 1987 alone, not to mention out year receipts to be received from future sales.

One last point I would like to clarify, Mr. President, is that I have heard the word "timber industry subsidy" used alot in this debate and it reminds me of the "educating" I had to do when this body passed the Timber Contract Relief Act. The fact is that unlike other agricultural crops which do receiving minimum production subsidies and guaranteed payments, timber companies pay the Government full market value for the timber they take off of public lands, the Government does not pay industry for removing the lumber. In almost every instance sealed bids are submitted and the contract is awarded to the highest bidder who often time pays for the construction of the roads necessary to remove the timber. To repeat, there is no subsidy.

Mr. SASSER. Mr. President, I rise today in strong support of the amendment being offered this afternoon by the senior Senator from Wisconsin, Senator PROXIMRE, to strike $90 million from the Forest Service's Forest Road Program in fiscal year 1987.

This amendment makes sound economic sense. It makes sense because we are presently pursing a national forest management policy that loses millions of taxpayer's dollars every year—unnecessarily. It makes sense because we can achieve our Federal timber harvest objectives without spending the $90 million in question here today.

The bill before us today contains $253 million for the Forest Service's road construction account. This figure is $66.7 million above the administration's request for this program, and $110 million above what the House approved. Yet, for each of the past 5 years, the Forest Service has constructed more miles of road than it planned for or requested in its budget. Given this overbuilding—which has outpaced associated timber harvesting—it is difficult to understand why a funding increase of this magnitude is necessary, particularly as our national forests now contain over 340,000 miles of roads—more than 1 mile of road for every square mile of forest.

This quantity of road building would be more acceptable if it was leading us in a desirable direction. But we are only being led down a path of fiscal and environmental irresponsibility.

The Cherokee National Forest represents an excellent case in point. In recent years, the Forest Service has lost 62 cents for every dollar spent on timber management in the Cherokee. This amounts to annual losses from timber sales on the Cherokee National Forest alone of over $2 million. These losses can be traced to the Forest Service's use of subsidized road building into areas that are not economically suitable for timbering.

Yet, the Forest Service will not abandon this fiscally unsound policy. In fact, in the final management plan for the Cherokee Forest, the Forest Service proposes to construct an additional 34 miles of new roads over the next 10 years, and to maintain the current timber harvest levels of 40 million board feet annually. Continuation of this level of road construction and timber harvests can only continue

these annual losses of $2 million on the Cherokee.

The Cherokee is not an unusual case among our national forests. In the Southern region alone, there are 11 national forests that consistently lose money on timber sales. The Forest Service's costs for timber and mineral activities in 1985 exceeded the Federal share of receipts by $621 million in that same year.

Obviously, Mr. President, someone is the loser in this equation. The loser is the American taxpayer. National forest road construction expenditures have averaged $415 million per year during fiscal years 1981 through 1985. This represents approximately one-fifth of all Forest Service appropriations during those years. In comparison, funding for trail construction has averaged less than $5 million annually, or about one-fourth of 1 percent of the national forest budget.

In the bill under consideration here today, funding for Forest Service recreational programs has been reduced $5 million from last year's levels. Funding for soil and water protection has been cut $1 million. And funding for land acquisition has been slashed $8 million. Certainly, Mr. President, when one compares these budget cuts with a $66.7 million increase for road construction, one can argue that our national forest priorities are seriously flawed.

In addition to the economic arguments for this amendment, there are obvious environmental arguments to support this measure. Road construction is one of the biggest causes of environmental damage on the national forests, creating extensive soil erosion and degrading water quality and fish habitat. Moreover, the Forest Service's plans for the construction of over 8,000 miles of new roads in unprotected wildlands, particularly in the northern Rockies and on the west coast, are aimed at accessing RARE II and other roadless areas. Given that States such as Montana and Idaho have not yet acted on their RARE II recommendations, this Forest Service policy preempts congressional decisions in those States on wilderness designation.

Mr. President, last year the house cut $50 million from the Forest Service's road budget, which would have reduced road construction for fiscal year 1986 by 600 miles from the proposed level of 924 miles. Unfortunately, the final version of this bill cut the road budget by only 5 percent. The result: the Forest Service has found "cost savings" in its budget and plans to construct 1,016 to 1,108 miles of roads this fiscal year, instead of the 924 miles originally proposed.

Despite my misgiving about past practices, I believe we can take comfort in this ability of the Forest Service to build more roads with fewer funds. This knack for getting more with less tells me that this amendment will not cripple the Forest Service's road program. I am hopeful that the additional fiscal rein this amendment would place on the Forest Roads Program will encourage the Forest Service to carry out its roads program in a way that is more fiscally, as well as environmentally, sound. I urge my colleagues to support this amendment.

Mr. McCLURE. Mr. President, I am checking on one other request to speak on this amendment.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CHAFEE). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCLURE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, the one inquiry I had made indicated that the Senator involved wished us to go ahead. I know of no other request to speak on this amendment.

Mr. President, I move to table the amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Idaho to lay the pending amendment on the table. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. GARN], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Alaska [Mr. MURKOWSKI], the Senator from New Hampshire [Mr. RUDMAN] and the Senator from Idaho [Mr. SYMMS] are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Arkansas [Mr. BUMPERS] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 43, nays 51, as follows:

[Rollcall Vote No. 258 Leg.]

YEAS—43

Abdnor	Ford	McClure
Andrews	Goldwater	McConnell
Baucus	Gorton	Melcher
Boschwitz	Gramm	Packwood
Broyhill	Grassley	Quayle
Burdick	Hatch	Rockefeller
Byrd	Hatfield	Simpson
Chafee	Hecht	Stennis
Cochran	Heflin	Stevens
D'Amato	Helms	Thurmond
Denton	Johnston	Wallop
Dole	Laxalt	Weicker
Domenici	Long	Wilson
Durenberger	Mathias	
Evans	Matsunaga	

NAYS—51

Armstrong	Harkin	Moynihan
Bentsen	Hart	Nickles
Biden	Hawkins	Nunn
Bingaman	Heinz	Pell
Boren	Hollings	Pressler
Bradley	Humphrey	Proxmire
Chiles	Inouye	Pryor
Cohen	Kasten	Riegle
Cranston	Kennedy	Roth
Danforth	Kerry	Sarbanes
DeConcini	Lautenberg	Sasser
Dixon	Leahy	Simon
Dodd	Levin	Specter
Eagleton	Lugar	Stafford
Exon	Mattingly	Trible
Glenn	Metzenbaum	Warner
Gore	Mitchell	Zorinsky

NOT VOTING—6

Bumpers	Kassebaum	Rudman
Garn	Murkowski	Symms

So the motion to lay on the table amendment No. 2777 was rejected.

□ 1740

Mr. McCLURE. Mr. President, obviously, the issue is close enough that those of us who are managers of the bill would hope to reverse the vote on the motion to adopt the amendment. We could have asked for a motion to reconsider—that is still a possibility—of the motion to table. But I think under the circumstances, Mr. President, it is impossible for us to move further with the legislation today, unless the proponents of the amendment would be willing to allow it to be temporarily set aside so that we could work on three or four other amendments that are not controversial, and that would leave this as the only remaining issue.

The Senator from Wisconsin has been his usual courteous self in allowing us to try to round up votes, with one Member voting believing it were an up or down vote and probably is recorded in a way he would not like to be recorded. We will give him an opportunity one way or another to be recorded on the appropriate side of the issue.

But the amendment is serious enough, in my judgment as manager of the bill and as a Senator from Idaho, that I am not content to allow the result as it sits now to be the final result yielding only this result or one equally bad in the House of Representatives.

For that reason, Mr. President, I would ask the majority leader if it is his desire that we lay this matter temporarily aside and move to something else this evening and resume consideration on tomorrow.

Mr. DOLE. Mr. President, we do have another bill we could bring up, as I understand, within 10 or 15 minutes. We could be on Labor-HHS if that were the will of the Senate. Of course, the distinguished Senator from Wisconsin has a stake in this, too. The amendment was not tabled.

As I understand it, there are three or four more amendments to this bill

that could be disposed of. Does the Senator from Wisconsin have any problem with temporarily setting his amendment aside and working on the other amendments?

Mr. PROXMIRE. Mr. President, may I say to my good friend, the majority leader, of course I am very anxious to go ahead. It seems to me it was a pretty decisive win, 51 to 43. I am sure that it is possible that there may be people who would change their mind under certain circumstances. I would hope we could go ahead.

Obviously, the majority leader can, if he wishes, do all kinds of things. He can recess the Senate. The opponents of the amendment can speak at some length.

I want to be as cooperative with the Senators as possible. We want to do as much business as possible. So I am not going to hold them up on this amendment but I would hope that we can vote on the amendment up or down expeditiously, if possible, today. And, if not, as I say, the majority leader has this within his control. I do not. I wish I did.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

□ 1910

Mr. DOLE. Mr. President, I ask unanimous consent that further proceedings under the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SIMPSON). Without objection, it is so ordered.

THE CANARSIE PIER

● Mr. MOYNIHAN. I rise to call your attention to a problem concerning the Canarsie Pier, in the Gateway National Park in Brooklyn, NY. For 60 years, Canarsie Pier has served as a recreational area for New Yorkers, particularly for fishermen.

The pier, which was originally constructed in 1926, has long-term structural problems, which were identified in a preliminary inspection conducted by the National Park Service in 1979, and another study conducted by the Federal Highway Administration in 1980.

Further analysis is needed to examine the extent of the necessary repair work; to assess the alternatives; and to estimate the cost of repairs or reconstruction. I understand that the National Park Service has funds available in its budget.

Does the distinguished Chairman agree that under the circumstances, and if the Director of the National Park Service determines that a study is necessary, the study should be undertaken forthwith?

● Mr. McCLURE. I do and would expect that the Director would make such a determination within 90 days.

● Mr. MOYNIHAN. I thank the chairman and the minority leader for their consideration, and their efforts to address this problem before the safety of the public is jeopardized by the structural condition of Canarsie Pier.●

DEPARTMENT OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS—1987

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of H.R. 5233, Labor-HHS appropriations.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, reserving the right to object—there is no objection on this side—I take it that the distinguished majority leader intends to leave the Interior appropriations bill in a temporarily laid aside status with a call for the regular order being available to bring it back at any time?

Mr. DOLE. That is correct.

Mr. BYRD. I have no objection.

I should state that the ranking manager of the Labor-HHS bill, Mr. PROXMIRE, whose amendment is also involved in the Interior appropriations matter, has no objection. The matter has been cleared with him.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 5233) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1987, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

ANNUAL REPORT OF THE SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION—MESSAGE FROM THE PRESIDENT—PM 169

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Environment and Public Works:

To the Congress of the United States:

Pursuant to the requirements of Section 10 of the Saint Lawrence Seaway Act of May 13, 1954, I hereby transmit the Saint Lawrence Seaway Development Corporation's Annual Report for 1985.

RONALD REAGAN.

THE WHITE HOUSE, *September 9, 1986.*

REPORT ON THE STATE OF SMALL BUSINESS—MESSAGE FROM THE PRESIDENT—PM 170

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Small Business:

To the Congress of the United States:

I am pleased to submit to the Congress my fifth annual report on the state of small business. The *State of Small Business.* report by the Small Business Administration, which follows this message, reconfirms the contribution that small business makes to our Nation's economy. In 1986 vigorous small business formation and job creation continues, reflecting the strength and perseverance of millions of men and women building better futures for themselves and for our country.

The freedom to choose a way of life and to build upon the strength of an idea is the cornerstone of American small business and the secret of small business success. Our job in Washington is to ensure that our actions do not stand in the way of small business opportunities; only the limits of entrepreneurs' own imaginations can hold them back.

A stable and growing economy is our most important goal to ensure small business opportunity. For business owners to contribute to that growth, our policies must be clear and government tampering with business decisions must be minimized. Consequently, I believe that two current initiatives of this Administration are critical small business issues: the effort to reduce Federal spending and to reform our tax laws.

Other policies are surely important too, but success on these two fronts will be the most beneficial to this Nation's 15 million small businesses.

Uncontrolled Federal spending and the deficits it has produced compete with private spending including small business investment. They also hurt the ability of small firms to meet foreign competition. Similarly, a tax system that is needlessly complex and built around high tax rates hobbles the business owner's ability to grow and operate in response to the demands of markets. We will be better off when tax considerations do not determine whether a certain investment is worthwhile or profits from a firm should be reinvested in job creating opportunities. Action in these areas is a small business priority; it is a critical priority of my Administration.

Our efforts cannot stop here. Continued steps to reduce regulatory burdens are important to a healthier small business climate. I call on all Federal agencies to continue the fight to eliminate burdensome regulations and to look askance at proposals for solving every problem with a Federal regulation. The Regulatory Flexibility Act, an important tool for agencies in this effort, requires economic analysis of small business impacts and the consideration of less burdensome alternatives.

Businesses are handicapped by uncertain or limitless liability for injuries arising from their products or services. It is important that our legal system provide redress for those injured by the negligent acts of others and incentives for safe products. But a runaway liability system prevents many small business owners from obtaining or being able to afford liability insurance. The Administration supports legislation that would reform the legal system to provide adequate safety for American consumers, without unduly burdening American business.

These and other issues have been clear priorities of the preliminary meetings being held across the country and which are leading up to the National White House Conference on Small Business in August of this year. Meetings held in every State are serving as a forum for America's small business leaders to let their voices be heard on public policy issues vital to small business and to the Nation.

Few experiences are more unique to the American character than going into business for oneself. Ever since small business owners opened their doors they have had to cope with the changing marketplace. Using wit, hard work, and initiative, they have successfully demonstrated that American trait of adapting while thriving in the face of adversity.

These basic talents are found in abundance in America's small businesses and now, as in the past, help us to meet world commercial competition. While some nations have chosen controlled solutions to their economic problems, our answers lie in the freedom that allows small businesses to adapt to the world's changing economic climate.

A nation's wealth and commercial know-how is molded by its culture. Our society, made up of risk-takers from other nations and cultures, is by nature willing to change and make sacrifices. This willingness to take risks is essential to our creative energies: it is the foundation of American entrepreneurship. The continuing economic recovery is a vivid reminder of the pivotal role small business has been playing in recent years.

RONALD REAGAN.

THE WHITE HOUSE, *September 9, 1986.*

ANNUAL REPORT ON FEDERAL ENERGY CONSERVATION PROGRAMS—MESSAGE FROM THE PRESIDENT—PM 171

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Energy and Natural Resources:

To the Congress of the United States:

In accordance with the provisions of Section 381(c) of the Energy Policy and Conservation Act (42 U.S.C. 6361(c)) and Subtitle H of the Energy Security Act (42 U.S.C. 8286), I herewith transmit the ninth annual report on Federal Energy Conservation Programs undertaken during Fiscal Year 1985.

RONALD REAGAN.

THE WHITE HOUSE, *September 9, 1986.*

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3676. A communication from the Acting Secretary of Agriculture, transmitting a draft of proposed legislation to consolidate and expand the statutory authority for the National Agricultural Library in the Department of Agriculture; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3677. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the fourth quarterly commodity and country allocation table showing current programming plans for food assistance for fiscal year 1986; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3678. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, notice of the reapportionment of the appropriation for Radio Free Europe/Radio Liberty; to the Committee on Appropriations.

EC-3679. A communication from the Assistant Secretary of the Army (Installations and Logistics), transmitting, pursuant to law, a report on the discovery and emergency disposal of suspect chemical munitions at Dugway Proving Ground, UT; to the Committee on Armed Services.

EC-3680. A communication from the Acting Assistant Secretary of Defense (Comptroller), transmitting, pursuant to law, a report on the value of property, supplies and commodities provided by the Berlin Magistrate for the quarter April 1, 1986, through June 30, 1986; to the Committee on Armed Services.

EC-3681. A communication from the Deputy Assistant Secretary of Defense (Administration), transmitting, pursuant to law, a report stating that the Department of the Navy intends to exercise the provision of law concerning exclusion of the clause relating to examination of records by the Comptroller General; to the Committee on Armed Services.

EC-3682. A communication from the Acting Director of the Office of Dependents Schools, Department of Defense, transmitting, pursuant to law, a report entitled "A Look at DoDDS in School Year 1985-86"; to the Committee on Armed Services.

EC-3683. A communication from the President and Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, a report on loan, guarantee, and insurance transactions supported by the Bank to Communist countries during July 1986; to the Committee on Banking, Housing, and Urban Affairs.

EC-3684. A communication from the General Counsel of the Department of the Treasury, transmitting a draft of proposed legislation to amend the Federal Deposit Insurance Act; to the Committee on Banking, Housing, and Urban Affairs.

EC-3685. A communication from the First Vice President and Vice Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, a report on a transaction involving United States exports to the Republic of Turkey; to the Committee on Banking, Housing, and Urban Affairs.

EC-3686. A communication from the Secretary of Housing and Urban Development, transmitting pursuant to law, a report on Child Care in Public Housing; to the Committee on Banking, Housing, and Urban Affairs.

EC-3687. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report regarding a determination by the Secretary of Transportation of deficient security measures at Manila International Airport; to the Committee on Commerce, Science, and Transportation.

EC-3688. A communication from the Deputy Associate Director for Royalty Management, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain overpayment of offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3689. A communication from the Deputy Associate Director for Royalty Management, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain overpayments of offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3690. A communication from the Deputy Associate Director for Royalty Management, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of overpayments of offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3691. A communication from the Deputy Associate Director for Royalty Management, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain overpayments of offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3692. A communication from the Deputy Associate Director for Royalty Management, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain overpayments of offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3693. A communication from the Deputy Associate Director for Royalty Management, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of Certain overpayment of offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3694. A communication from the Deputy Associate Director for Royalty Management, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of Certain overpayment of offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3695. A communication from the Deputy Associate Director for Royalty Management, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of Certain overpayment of offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3696. A communication from the Deputy Associate Director for Royalty Management, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of Certain overpayment of offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3697. A communication from the Secretary of Energy, transmitting, pursuant to law, the quarterly report of the Strategic Petroleum Reserve; to the Committee on Energy and Natural Resources.

EC-3698. A communication from the General Counsel of the Department of Energy, transmitting, a draft of proposed legislation to amend the Uranium Mill Tailings Radiation Control Act of 1978; to the Committee on Energy and Natural Resources.

EC-3699. A communication from the Administrator of General Services, transmitting, pursuant to law, a report of a building project survey for Gloucester, MA; to the Committee on Environment and Public Works.

EC-3700 A communication from the Administrator of General Services, transmitting, pursuant to law, a copy of a lease prospectus for the Defense Communications Agency; to the Committee on Environment and Public Works.

EC-3701. A communication from the Secretary of Health and Human Services transmitting, pursuant to law, a report on the extension of a hospital prospective payment system to participating hospitals outside the 50 States and D.C.; to the Committee on Finance.

EC-3702. A communication from the Acting Assistant Secretary of State transmitting, pursuant to law, a report on the Camarena investigation, investigations of the disappearance of U.S. citizens in the State of Jalisco, Mexico, and the general safety of U.S. tourists in Mexico; to the Committee on Foreign Relations.

EC-3703. A communication from the Acting Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, copies of international agreements, other than treaties, entered into by the U.S. within the 60 days previous to August 26, 1986; to the Committee on Foreign Relations.

EC-3704. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, copies of international agreements, other than treaties, entered into by the U.S. within the 60 days previous to September 5, 1986; to the Committee on Foreign Relations.

EC-3705. A communication from the Administrator of the Veterans' Administration transmitting, pursuant to law, a report on a computer matching program between Veterans' indebtedness records and the U.S. Postal Service personnel file; to the Committee on Governmental Affairs.

EC-3706. A communication from the Acting Special Counsel, Merit Systems Protection Board, transmitting, pursuant to law, a report on the conclusions of the Secretary of the Army in the matter of allegations of mismanagement, gross waste of funds, and substantial and specific danger to public health and safety in the operation of the Drill and Agent Transfer System, Pueblo Army Depot, CO; to the Committee on Governmental Affairs.

EC-3707. A communication from the Chairman of the Merit Systems Protection Board transmitting, pursuant to law, the Board's 1985 Annual Report; to the Committee on Governmental Affairs.

EC-3708. A communication from the Director of NOAA Corps transmitting, pursuant to law, the 1985 Annual NOAA Corps pension plan; to the Committee on Governmental Affairs.

EC-3709. A communication from the Secretary of the U.S. Postal Rate Commission transmitting, pursuant to law, a report on the Commission's Preferred Rate Study; to the Committee on Governmental Affairs.

EC-3710. A communication from the Director of the Office of Personnel Management transmitting a draft of proposed legislation to provide consistent treatment for appeals of denials of within-grade pay increases; to the Committee on Governmental Affairs.

EC-3711. A communication from the D.C. Auditor transmitting, pursuant to law, a report on the review of maintenance and replacement policy for motor vehicles owned by Public Works; to the Committee on Governmental Affairs.

EC-3712. A communication from the Director of Administration, NLRB, transmitting, pursuant to law, a report on a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-3713. A communication from the Assistant Attorney General of the United States transmitting, pursuant to law, a report on a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-3714. A communication from the D.C. Auditor transmitting, purusant to law, a report on D.C. Depository Activities; to the Committee on Governmental Affairs.

EC-3715. A communication from the Secretary of Labor transmitting, pursuant to law, a report on an altered Privacy Act system of records; to the Committee on Governmental Affairs.

EC-3716. A communication from the Vice President of Freddie Mac transmitting, pursuant to law, the Corporation's 1985 Annual Report and Audited Financial Statements for its Employees' Pension Plan; to the Committee on Governmental Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-839. A resolution adopted by the Southern Association of States Department of Agriculture opposing the use of Federal funds to subsidize agricultural competition; to the Committee on Agriculture, Nutrition, and Forestry.

POM-840. A resolution adopted by the Conference of Western Attorneys General condemning the failure to implement the mandates set forth in the Nuclear Waste Policy Act; to the Committee on Appropriations.

POM-841. A resolution adopted by the General Court of the Commonwealth of Massachusetts; to the Committee on Commerce, Science, and Transportation.

"RESOLUTIONS MEMORIALIZING THE CONGRESS TO ADDRESS THE CONCERNS OF CITIZENS CONCERNED FOR SEACOAST MANAGEMENT PERTAINING TO THE CAPE COD NATIONAL SEASHORE

"Whereas, Numerous concerned fishermen and hunters who are unhappy with Federal management of the Cape Cod National Seashore have banded together as a conservation group named the "citizens concerned for seacoast management"; and

"Whereas, Prominent among the issues that they confront are the rights of fixed-gear fishermen, construction of facilities and destruction of existing structures, arbitrary regulation, and insensitive and calculated interference with the ecological balance of the Cape Cod National Seashore; and

"Whereas, To express their concerns and propose concrete solutions, citizens concerned for seacoast management have compiled an agenda and drafted a proposed legislative program for transmittal to Federal representatives; and

"Whereas, It is most appropriate that Congress address the questions raised by citizens concerned for seacoast management with regard to the Cape Cod National Seashore, as the members thereof strive for "the preservation of seacoast environment and the protection of human rights", therefore be it

"Resolved, That the Massachusetts general court hereby urges the Congress of the United States to exercise its best offices in addressing the concerns of citizens concerned for seacoast management as annunciated in the proposed legislative program of the organization; and be it further

"Resolved, That a copy of these resolutions be forwarded by the Clerk of the House of Representatives to the presiding officer of each branch of the Congress and to the members thereof from this commonwealth."

POM-842. A resolution adopted by the City Council of LaPorte, Texas favoring the retention of the space station project at the Johnson Space Center; to the Committee on Commerce, Science, and Transportation.

POM-843. A joint resolution adopted by the Legislature of the State of California; to the Committee on Commerce, Science, and Transportation.

"ASSEMBLY JOINT RESOLUTION No. 87

"Whereas, The 55 miles-per-hour National Maximum Speed Limit (NMSL), as originally enacted 12 years ago, was a temporary fuel conservation measure which has become permanent law due to the safety benefits derived from reduced speed; and

"Whereas, Federal standards were established in 1979 that mandated minimum state compliance levels with the 55 mph NMSL and imposed sanctions on those states, whose noncompliance levels were above 50 percent for motorists exceeding the 55 mph NMSL, by withholding up to 10 percent of the state's federal aid primary, secondary, and urban highway funds; and

"Whereas, This state's noncompliance level has consistently increased to its 1985 level of 49.7 percent, up from 45.4 percent in 1984; and

"Whereas, This state could be penalized up to $30,000,000 per year if the 55 mph NMSL noncompliance level rises above 50 percent, which is likely for 1986; and

"Whereas, The gathering and reporting of speed data to determine a state's noncompliance level with the 55 mph NMSL, although governed by federal monitoring guidelines, varies sufficiently between states due to (1) variations in what speeds are reported as exceeding 55 mph, and (2) lack of consistency in the calibration of speed measuring equipment, to warrant a revision of the federal 55 mph NMSL compliance testing and reporting process; and

"Whereas, California motorists continue to exceed the 55 mph NMSL in increasing numbers each year despite active law enforcement efforts (over 1,000,000 citations for exceeding the 55 mph NMSL issued per year) and extensive public information on the legal consequences of exceeding, and safety benefits derived from complying with, the 55 mph NMSL; and

"Whereas, A motorist is more likely to comply with speed limits that he or she feels are realistic for the particular type of highway on which the motorist is driving, particularly on major rural freeways, and public opinion surveys show that the public expects a 5 to 10 mph tolerance before the 55 mph NMSL is enforced; and

"Whereas, Law enforcement agencies and the public are in agreement that legislation which reduces fines and penalties for exceeding the 55 mph NMSL should be opposed because it would encourage motorists to consistently exceed the 55 mph NMSL without fear of serious punishment; now, therefore, be it

"Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California hereby respectfully memorializes the President and Congress of the United States to revise the federal 55 miles-per-hour National Maximum Speed Limit compliance testing and reporting process to better reflect safety priorities by assigning greater significance to high-speed violations occurring on less-safe roads and to exempt safety projects from sanctions; and be it further

"Resolved, That California be authorized to selectively increase speed limits on rural freeways in the National System of Interstate and Defense Highways; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Secretary of Transportation."

POM-844. A resolution adopted by the City Council of Friendswood, Texas urging review of the NASA reorganization proposal with regard to the assignment of space station work; to the Committee on Commerce, Science, and Transportation.

POM-845. A resolution adopted by the House of Representatives of the Commonwealth of Massachusetts; to the Committee on Energy and Natural Resources.

"RESOLUTIONS MEMORIALIZING CONGRESS TO ORDER A MORATORIUM ON LAND ACQUISITIONS FOR THE PURPOSE OF RELOCATING THE APPALACHIAN TRAIL AND TO IMPLEMENT A CONGRESSIONAL STUDY INTO THE PRACTICES OF THE NATIONAL PARK SERVICE IN SUCH LAND ACQUISITIONS

"Whereas, The Appalachian Trail is a 2,100 mile footpath extending from Georgia to Maine; and

"Whereas, The National Park Service is the Federal agency charged with the administration of the trail along this corridor; and

"Whereas, The National Trails Act (P.L. 90-543) and subsequent amendments have directed the National Park Service to permanently protect the trail and, where possible, to remove it from the roads; and

"Whereas, The National Park Service is attempting to pursue this mandate along the 2,100 mile corridor; and

"Whereas, The relocation of the trail in certain areas poses serious conflicts with existing and proposed agricultural, recreational and industrial uses; and

"Whereas, Certain landowners have charged that the National Park Service has employed questionable and deceptive practices in negotiations with said landowners; and

"Whereas, The legitimate rights of these landowners must be respected and recognized; and

"Whereas, The National Park Service has interpreted the National Trails Act to mean that the entire trail be removed from all roads, regardless of cost or impact on important local agricultural, and industrial uses; therefore be it

"Resolved, That the Massachusetts House of Representatives urges Congress to order a moratorium on land acquisitions for the purpose of relocating the Appalachian Trail and to implement a congressional study into the practices of the National Park Service in such land acquisitions; and be it further

"Resolved, That a copy of these resolutions be forwarded by the Clerk of the House of Representatives to the presiding officer of each branch of the Congress and the members thereof from the commonwealth.

POM-846. A resolution adopted by the Johnson County, TX, Commissioners Court opposing any reduction of Federal highway funding; to the Committee on Environment and Public Works.

POM-847. A resolution adopted by the General Court of the Commonwealth of Massachusetts; to the Committee on Environment and Public Works.

"RESOLUTIONS MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO ENACT LEGISLATION REDUCING THE EFFECTS OF ACID RAIN ON THE ENVIRONMENT

"Whereas, acid rain is a serious danger to the environment, health and economy of Massachusetts; and

"Whereas, acidity levels in Massachusetts ponds and lakes are fifteen to twenty times what they should be; and

"Whereas, the acidity of the rainfall in Massachusetts is abnormally high; and

"Whereas, a national resolution of the acid rain problem is necessary; therefore be it

"Resolved, That the Massachusetts General Court respectfully urges the Congress of the United States to take such action as may be necessary to solve the acid rain problem including, but not limited to tax incentives to businesses which reduce emissions of sulfur dioxide and nitrogen oxide waste products; and be it further

"Resolved, That copies of these resolutions be transmitted forthwith by the clerk of the House of Representatives to the President of the United States, the presiding officer of each branch of Congress, and to the Members thereof from this Commonwealth."

POM-848. A resolution adopted by the City Commission of Hays, KS, favoring continued efforts to obtain information relating to POW's and MIA's in Southeast Asia; to the Committee on Foreign Relations.

POM-849. A resolution adopted by the State of Illinois; to the Committee on Foreign Relations.

"SENATE RESOLUTION No. 881

"Whereas, The nuclear power accident in the Soviet Union was a devastating tragedy for the residents of Chernobyl in Ukraine, and may be equally harmful to the residents of Kiev; and

"Whereas, It is alleged that the Soviet Union demonstrated total disregard for human life by not installing proper safeguards during the construction of the nuclear power plant; and

"Whereas, This accident serves notice to the rest of the world of the tremendous force of nuclear power; and

"Whereas, The immediate concern of the government of the Soviet Union should be the medical treatment of the victims and the prevention of further danger of nuclear radiation to them and to other people in the world; and

"Whereas, The Soviet Union should be candid with the international media and foreign governments regarding the severity of the accident; and

"Whereas, The Soviet government should recognize the health hazards to nearby countries caused by air currents carrying radiation particles; and

"Whereas, Ukraine is expected to be the area most seriously affected by the nuclear fallout; therefore, be it

"Resolved, by the Senate of the Eighty-Fourth General Assembly of the State of Illinois, that the government of the Soviet Union should make full restitution to the people of Ukraine and of other countries who will suffer direct or indirect health effects from this nuclear accident; and be it further

"Resolved, That the government of the Soviet Union accept the technical assistance necessary to curtail any further nuclear danger to its own and to other countries; and be it further

"Resolved, That the United States demonstrate its compassion for the Ukrainian people, and for the people of Eastern Europe, by offering medical teams and medicine to these governments; and be it further

"Resolved, That an international body examine the practices used in the construction of nuclear power plants and establish international criteria that must be observed in their construction to assure the safety of other countries and their peoples; and be it further

"Resolved, That suitable copies of this preamble and resolution be presented to President Ronald Reagan, to the President of the United States Senate, to the Speaker of the United States House of Representatives, to the Members of the Illinois Congressional Delegation, to the Secretary-General of the United Nations, and to General Secretary Mikhail Gorbachev of the Union of Soviet Socialist Republics."

POM-850. A resolution adopted by the General Assembly of the Presbyterian Church in America reaffirming its prolife, antiabortion position; to the the Committee on the Judiciary.

POM-851. A resolution adopted by the City Council of Oakland, CA, favoring the establishment of a permanent Veterans' Administration health care facility in Oakland; to the Committee on Veterans' Affairs.

POM-852. A resolution adopted by the General Court of the Commonwealth of Massachusetts; to the Committee on Veterans' Affairs.

"RESOLUTIONS MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO ENACT LEGISLATION TO GRANT CITIZENSHIP TO ALIENS OR IMMIGRANTS WHO DIE IN THE ARMED FORCES OF THE UNITED STATES AS A RESULT OF HOSTILE ACTION OR SERVICE-CONNECTED ACCIDENT OR ILLNESS

"Whereas, aliens or immigrants are routinely drafted into the Armed Forces of the United States, and distinguish themselves by their honorable service; and

"Whereas, aliens or immigrants, after completion of their honorable service, can receive their citizenship; and

"Whereas, during the Vietnam war over two hundred aliens or immigrants were killed in action while in service to this country; and

"Whereas, the General Court of Massachusetts requires that due recognition of their sacrifice should be noted and all war death benefits should be extended; now therefore be it

"Resolved, That the Massachusetts General Court respectfully urges the Congress of the United States to enact legislation providing that an alien or immigrant who dies in the service of the United States should automatically be awarded a posthumous citizenship, be rewarded with all rights and privileges of same and receive all war death benefits; and be it further

"Resolved, That copies of these resolutions be transmitted forthwith by the clerk of the House of Representatives to the President of the United States, the presiding officer of each branch of the Congress and to the Members thereof from this commonwealth."

POM-853. A petition from a citizen of Alhambra, CA, relative to the late Senator Jacob K. Javits of New York; ordered to lie on the table.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ROTH, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute:

S. 2250. A bill to strengthen the prohibition of kickbacks relating to subcontracts under Federal Government contracts (Rept. No. 99-435).

By Mr. THURMOND, from the Committee on the Judiciary, without amendment:

H.R. 2224. A bill to amend the Immigration and Nationality Act to permit nonimmigrant alien crewmen on fishing vessels to stop temporarily at ports in Guam.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LUGAR, from the Committee on Foreign Relations:

Clair W. Burgener, of California, to be a Member of the Board for International Broadcasting for a term expiring April 28, 1988;

Milton Frank, of California, to be a Member of the Board of Directors of the African Development Foundation for the remainder of the term expiring February 9, 1990;

Lynn Marvin Hansen, of Idaho, to be an Assistant Director of the U.S. Arms Control and Disarmament Agency;

Richard W. Carlson, of California, to be an Associate Director of the U.S. Information Agency;

Ann Barbara Wrobleski, of Maryland, to be Assistant Secretary of State for International Narcotics Matters;

Brunson McKinley, of New Jersey, a career member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Haiti.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Brunson McKinley.

Post: Ambassador, Haiti.

Contributions, amount, date, donee:

1. Self.

2. Spouse, Nancy P. McKinley, none.

3. Children and spouses names: Harley J. McKinley (son, 8) and Sarah E. McKinley (daughter, 6) none.

4. Parents names: Kenneth W. McKinley and Lois Hiestand McKinley (deceased, 1949) none.

5. Grandparents names: William and Elizabeth Snyder McKinley; Harley and Ethel Hiestand (all deceased) none.

6. Brothers and spouses names: Kenneth and Sheila McKinley; George William McKinley (unmarried) none.

7. Sisters and spouses names: Martin and Elizabeth Duus none.

James Malone Theodore Rentschler, of Pennsylvania, a career member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Guinea.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: James M. Rentschler.

Post: U.S. Ambassador.

Contributions, amount, date, donee:

1. Self: none.

2. Spouse: (nominee is single).

Children and spouses names: James Felix Rentschler, Jeffrey William Rentschler (no spouses) none.

4. Parents names: (both parents deceased)—Jane Melone (mother), Edwin Balthaser Rentschler (father).

5. Grandparents names: (all grandparents deceased) Arthur and Grace Melone (maternal); James and Laura Rentschler (paternal).

6. Brothers and spouses names: (divorced brother deceased)—Larry M. Rentschler.

7. Sisters and spouses names: (nominee has no sisters).

Herbert E. Horowitz, of Florida, a career member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipoteniary of the United States of America to the Republic of The Gambia.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Herbert E. Horowitz.

Post: Ambassador, The Gambia.

Contributions, amount, date, donee:

1. Self: none.

2. Spouse: none.

Children's names: Jason and Richard. none.

4. Parents names: Jean Horowitz (mother), father deceased, none.

5. Grandparents names: all deceased.

6. Brothers and spouses names: Mr. and Mrs. Norman Horowitz, none.

7. Sisters and spouses names: none.

Carol Boyd Hallett, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to The Commonwealth of The Bahamas.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Carol B. Hallett.

Post: Ambassador to Bahamas.

Contributions, amount, date, donee.

1. Self: Carol B., $100 January 18, 1981, Congressman Bob Lagomarsino.

2. Spouse: James T. Hallett, $87 February 5, 1981, California Republican Party; $60 March 15, 1981, William P. Clark, Retirement Dinner; $24 September 10, 1981, California Republican Party; $52 October 2, 1981, California Republican Party; $100 February 27, 1982, San Diego Republican Asso.; $20 April 16, 1982, Ventura County Republicans; $50 April 16, 1982, Frank Ricchazzi for Assembly; $20 April 22, 1982, L.A. County Republican Women; $5 May 1, 1982, Republican Women of Southern California; $25 May 6, 1982, 38th Assembly District Fund; $24 January 12, 1983, Republican State Central Committee; $20 January 29, 1983, Republican State Party; $10 March 24, 1983, San Luis Obispo Republican Women; $50 May 1, 1984, Diefenderfer for Supervisor; $30 September 23, 1984, San Luis Obispo Republican Women; $24 February 7, 1985, California Republican Party; $30 April 9, 1985, Friend of Chris Money; $10 May 24, 1985, San Luis Obispo Republican Women.

3. Children and spouses names: none.

4. Parents: Thomas Hal and Ruth I. Boyd, $29 1981, Carol Hallett; $500 1982, Carol Hallett; $10 1982, Eric Seastrand; $25 1984, Ronald Reagan; $10 1984, Pat Ramsey; $10 1984, Magyar for Assembly; $25 1985, No on Rose Bird Campaign.
5. Grandparents names: none.
6. Brothers and spouses names: none.
7. Sisters and spouses names: none.

Princeton Nathan Lyman, of Maryland, a Career Member of the Senior Foreign Service; Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federal Republic of Nigeria.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Princeton Nathan Lyman.
Post: Ambassador to Nigeria.
Contributions, amount, date, donee.
1. Self: None.
2. Spouse: Helen Lyman, $50 per year 1983–86, $50 each year 1982, 1984; dollars for Democrat Michael Barnes for Congress.
3. Children and spouses names: Cindy, Sheri, and Lori Lyman, none.
4. Parents names: Arthur Lyman, deceased; Gertrude Lyman, deceased.
5. Grandparents names: Mr. and Mrs. Lyman, deceased (did not live in this country); Mr. and Mrs. Kramer, deceased.
6. Brothers and spouses names: Stanford Lyman, Elliott Lyman, none; Yale Lyman, deceased; Harvard Lyman, see attached:

Contributions to national political campaigns and candidates by Harvard Lyman:

Campaign committee or candidate, date, amount.
Democratic Congressional Campaign Committee, 6/2/82, $30.
Democratic Senatorial Campaign Committee, 3/8/83, $10.
Democratic Congressional Campaign Committee, 11/22/83, $20.
Democratic Congressional Campaign Committee, 3/8/84, $25.
Democratic Congressional Campaign Committee, 4/19/84, $20.
Jim Hunt Election Committee, 6/28/84, $30..
Democratic National Committee, 7/19/84, $25.
Democratic Congressional Campaign Committee, 8/3/84, $25.
Democratic Congressional Campaign Committee, 1/19/85, $25.
Democratic Senatorial Campaign Committee, 2/7/85, $25.
Democratic National Committee, 2/7/85, $25.
Democratic National Committee, 4/25/85, $25.
Fund for a Democratic Majority, 8/12/85, $25.
Reelect Robert Packwood Committee, 9/20/85, $35.
Democratic National Committee, 11/13/85, $25.
Democratic Senatorial Campaign Committee, 12/2/85, $25.
Democratic Congressional Campaign Committee, 1/24/86, $40.
Democratic Senatorial Campaign Committee Victory Fund, 2/10/86, $50.
Three Village Democratic Club Dues, 2/10/86, $8.
[Note: The dates correspond to the dates on the checks.]

7. Sisters and spouses names: Sylvia Morrick, $240, July–Oct. 1984, Charlie Davis; David Morrick, $50, March 1984, Charlie Davis for Congress.

Dennis Kux, of New York, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to the Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Ivory Coast.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Dennis Kux.
Post: Ivory Coast.
Contributions, amount, date, donee.
1. Self: Dennis Kux.
2. Ex-spouse: Molly Bower Kux.
3. Children and spouses names: Leslie, Sally, Brian, none.
4. Parents names: Lacy Kux, deceased, 1970; Evelyn Kux, deceased, 1980.
5. Grandparents names: Deceased.
6. Brothers and spouses names: None.
7. Sisters and spouses names: None.

David Lyle Mack, of Oregon, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the United Arab Emirates.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: David L. Mack.
Post: Ambassador to United Arab Emirates.
Contributions, amount, date, donee.
1. Self: None.
2. Spouse: None.
3. Children and spouses names: Catherine S. Mack, none.
4. Parents names: Gilbert A. Mack, deceased; Mildred V. Mack, none.
5. Grandparents names: Chester G. Mack, deceased; Edith Mack, deceased; George and Martha Canzler, deceased.
6. Brothers and spouses names: Herschel L. Mack, none; Rickie J. Mack, none.
7. Sisters and spouses names: None.

Sam H. Zakhem, of Colorado, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the State of Bahrain. Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Sam H. Zakhem.
Post: Ambassador to Bahrain.
Contributions, amount, date, donee.
1. Self: none.
2. Spouse: none.
3. Children and spouses names: none.
4. Parents names: none.
5. Grandparents names: none.
6. Brothers and spouses names: none.
7. Sisters and spouses names: none.

(The above nominations were reported from the Committee on Foreign Relations with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. LUGAR. Mr. President, for the Committee on Foreign Relations, I also report favorably a list of nominations in the Foreign Service which appeared in its entirety in the CONGRESSIONAL RECORD of August 7, 1986, and to save the expense of reprinting them on the executive calendar, ask unanimous consent that they lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. KENNEDY:

S. 2796. A bill to amend the copyright law to secure the rights of artists of pictorial, graphic, or sculptural works to prevent the distortion, mutilation, or other alteration of such works, to provide for resale royalties, and for other purposes; to the Committee on the Judiciary.

By Mr. HATCH (for himself and Mr. GARN):

S. 2797. A bill to correct historical and geographical oversights in the establishment and development of the Utah component of the Confederated Tribes of the Goshute Reservation, to unify the land base of the Goshute Reservation, to simplify the boundaries of the Goshute Reservation, and for other purposes; to the Select Committee on Indian Affairs.

By Mr. BYRD (for Mr. BIDEN (for himself, Mr. CHILES, Mr. BYRD, Mr. CRANSTON, Mr. DECONCINI, Mr. DODD, Mr. LEAHY, Mr. MITCHELL, Mr. MOYNIHAN, Mr. NUNN, Mr. ROCKEFELLER, Mr. SASSER, Mr. KERRY, Mr. BAUCUS, Mr. BENTSEN, Mr. BINGAMAN, Mr. BOREN, Mr. BRADLEY, Mr. BUMPERS, Mr. BURDICK, Mr. DIXON, Mr. EAGLETON, Mr. EXON, Mr. FORD, Mr. GLENN, Mr. GORE, Mr. HARKIN, Mr. HART, Mr. HEFLIN, Mr. HOLLINGS, Mr. INOUYE, Mr. JOHNSTON, Mr. KENNEDY, Mr. LAUTENBERG, Mr. LEVIN, Mr. LONG, Mr. MATSUNAGA, Mr. MELCHER, Mr. METZENBAUM, Mr. PELL, Mr. PROXMIRE, Mr. PRYOR, Mr. RIEGLE, Mr. SARBANES, Mr. SIMON, Mr. STENNIS, and Mr. ZORINSKY)):

S. 2798. A bill to establish and implement a comprehensive policy to combat drug abuse in the United States; read the first time.

By Mr. MITCHELL (for himself, Mr. STAFFORD, Mr. LAUTENBERG, Mr. BAUCUS, Mr. DURENBERGER, Mr. HUMPHREY, and Mr. MOYNIHAN):

S. 2799. A bill to consolidate and improve Federal laws providing compensation and establishing liability for oil spills; to the Committee on Environment and Public Works.

By Mr. DODD (for himself, Mr. CHILES, Mr. BIDEN, Mr. BYRD, Mr. CRANSTON, Mr. DECONCINI, Mr. SASSER, Mr. LEAHY, Mr. NUNN, Mr. MITCHELL, Mr. MOYNIHAN, and Mr. ROCKEFELLER):

S. 2800. A bill to require the Secretary of Health and Human Services to make grants to public and nonprofit private entities for drug abuse and alcohol abuse prevention, treatment, and rehabilitation model

projects for high-risk youth; to the Committee on Labor and Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KENNEDY:

S. 2796. A bill to amend the copyright law to secure the rights of artists of pictorial, graphic, or sculptural works to prevent the distortion, mutilation, or other alteration of such works, to provide for resale royalties, and for other purposes; to the Committee on the Judiciary.

VISUAL ARTISTS RIGHTS AMENDMENT

● Mr. KENNEDY. Mr. President, I am pleased to announce the introduction of legislation to provide increased copyright protection for visual artists. It is the result of cooperative efforts of a number of individuals and organizations in the arts community and it draws on the concepts advanced in many other nations and in a number of the States, especially California, New York, and Massachusetts.

The bill recognizes the intrinsic value of our cultural heritage and the need to sustain an environment in America which nurtures this heritage.

The legislation incorporates the moral rights for artists to complement the basic economic rights already provided by copyright statutes. It is disturbing that artists cannot now prevent the distortion, mutilation, or other alteration of their work.

Under this legislation, artists could be able to seek redress for such alterations to a work of fine art. In addition, they will be given the right to be acknowledged as the artist who created the work whenever it is displayed publicly.

A second issue addressed in this legislation is a longstanding defect in the copyright laws.

For years, artists have declined full copyright protection because of requirements that they publicly display the copyright notice on their work. Such notations diminish the esthetic value of their work and inject an unacceptable commercial element into their art.

This legislation would waive the notice requirement for pictorial, graphic, or sculptural works of fine art.

Artists will still have to register their works with the Copyright Office, but their works will no longer be blemished by the commercial notice.

A third provision in the bill concerns the issue of resale royalty rights. In 1976, California adopted this landmark principle to enable artists to receive some of the financial benefits when their works appreciate in value.

The bill provides a modest royalty to artists of 7 percent of the difference between the original selling price and the current transaction.

This legislation has the strong support of Artists Equity, the American Council for the Arts, the Graphics Artists Guild, the New York Volunteer Lawyers for the Arts, the Visual Artists and Galleries Association, and the Boston Visual Artists Union.

President Kennedy once observed that:

To further the appreciation of culture among all the people, to increase respect for the creative individual, to widen participation by all the processes and fulfillments of art—this is one of the fascinating challenges of these days.

That challenge continues strong today.

One of our most important responsibilities is to provide an environment which will promote the arts and enhance our cultural heritage. The legislation I am proposing today is a significant advance for the arts in America, and I look forward to its expeditious consideration in Congress.

Mr. President, I ask unanimous consent that a synopsis of the bill be printed in the RECORD.

There being no objection, the synopsis was ordered to be printed in the RECORD, as follows:

THE VISUAL ARTISTS AMENDMENTS

I. GOALS

The bill improves copyright protections for visual artists. It recognizes the implicit originality of individual works of fine art, the public benefit of encouraging a creative environment for artists to work, the national responsibility to enrich and enliven our cultural heritage.

II. SYNOPSIS

The bill has three major components:

Notice: For works of fine art, delete the requirement in current copyright law that a copyright notice appear on all works for which copying is claimed.

Artistic Rights: Prohibits intentional distortion, mutilation, or destruction of works of art. Allows artist to claim authorship of his work, or disclaim authorship if the work has been distorted. Remedy is the same as for other infringements of copyright, but there are not criminal sanctions. A work of art which is part of a building is not covered, unless the artist expressly reserves his rights at the time of commission.

Resale Royalties: Requires payment to the artist of 7% of the difference between the purchase price and the selling price of a work of art which is resold. Royalty payments are applicable to sales in excess of $500 and when the value of the work appreciates by at least 120%—during the lifetime of the artist and within 50 years of his death. Artists seeking royalties must register with the U.S. Copyright Office. All sales of works of art must be registered with the Copyright Office. Where an artist cannot be located or is deceased, the royalties are to be paid to the National Endowment for the Arts, Visual Artists program.

III. APPLICATION

The bill applies to:

—original works of fine art, eg. paintings, sculpture, pictorial works, including serigraphs and other work done in limited edition series.

—it applies only to works of "recognized quality"

—works of fine art done under commission would be covered since copyright does not usually transfer with the actual work.

Exclusions from the bill:

—"work-for-hire" pieces are not covered since authors in these cases transfer the copyright along with the work.

—work attached to buildings are not covered unless the artist expressly reserves his right in contract at the time of execution.●

By Mr. HATCH (for himself and Mr. GARN):

S. 2797. A bill to correct historical and geographical oversights in the establishment and development of the Utah component of the Confederated Tribes of the Goshute Reservation, to unify the land base of the Goshute Reservation, to simplify the boundaries of the Goshute Reservation, and for other purposes; to the Select Committee on Indian Affairs.

GOSHUTE RESERVATION AMENDMENTS

● Mr. HATCH. Mr. President, today Senator GARN and I are pleased to introduce legislation which is designed to clarify and correct numerous matters affecting the status of the lands of the Confederated Tribes of the Goshute Reservation, which lies along the west-central border of Utah. Since the creation of its reservation over 80 years ago, the small, 400 member Goshute Tribe has been plagued by problems relating to its reservation boundaries.

Most obvious of all of these problems is a strip of land one-quarter mile wide and 7 miles long which cuts through the middle of the reservation, but does not belong to the tribe. This strip resulted from an error in the Executive order legal descriptions originally establishing the reservation. Technically, the strip is now held by the United States as a part of the Bureau of Land Management inventory. This bill will change the statute of the title so that the United States will hold it in trust as a part of the Goshute Reservation.

Among the other provisions of the bill are sections which will place the tribal cemetery—now owned privately by the tribe—in trust status along with surrounding BLM land. Other sections will combine surface and subsurface interests where such are now split between tribal and Federal ownership.

We have worked closely with Congressman JAMES V. HANSEN who represents this district of Utah to draft a bill which could be supported by both the Goshute tribal members and the non-Indians living next to the reservation. On March 1, 1986, Congressman HANSEN held a town meeting at Ibapah, UT, to allow the local residents to raise their concerns and comments about this legislation. Late that day he met with tribal leaders to assess their need for this land. We then drafted a bill which I believe ad-

dresses the comments which were made during these meetings.

In addition, we have worked closely with representatives of the Department of the Interior and have accepted their suggestions to improve the bill.

I hope that this bill will see prompt action by the Senate and if possible pass before we adjourn this year.●

By Mr. MITCHELL (for himself, Mr. STAFFORD, Mr. LAUTENBERG, Mr. BAUCUS, Mr. DURENBERGER, Mr. HUMPHREY, and Mr. MOYNIHAN):

S. 2799. A bill to consolidate and improve Federal laws providing compensation and establishing liability for oil spills; to the Committee on Environment and Public Works.

OIL POLLUTION LIABILITY AND COMPENSATION ACT

● Mr. MITCHELL. Mr. President, today I am introducing Federal oil spill legislation that addresses the problem of damage caused by oil spills. Many coastal States already have their own laws that are designed to protect their shores from oil spills. The legislation I am introducing today builds on the State experience, but in no way preempts States from continuing to protect their citizens under State law. This legislation has been developed in close consultation with the attorney general of Maine.

Unlike much of what Congress considers, this legislation is not in reaction to a recent disaster. It is, rather, designed to establish an improved Federal system for responding to future oil spills. We are fortunate that our shorelines have not been exposed to an accident as harmful as the 1978 Amoco *Cadiz* accident that occurred off the coast of France, but a country with as much coastline as the United States should be better prepared for such a possibility. This is particularly true for coastal States, such as Maine, that are heavily dependent upon fisheries and tourism.

Currently, there are several Federal statutes that address some aspect of oil spill liability and compensation. This bill consolidates those provisions and provides a comprehensive framework for oil spill compensation and liability. This is necessary to promote more effective Federal responses to oil spills. The bill also provides more compensation to those adversely affected by an oil spill. If it is enacted, we will be better prepared to respond to these risks.

Many coastal States already have enacted oil spill programs. Maine has had an oil spill statute to protect its 3,500 miles of tidal shoreline for almost 15 years. It is the largest coastal State—in terms of length of coastline—to have an oil spill statute. That law has been used to respond effectively to over 110 oil spills, recovering costs without yet having to resort to litigation. The success of this statute, as well as other State statutes, persuades me that the Federal Government should build on, not erase, State laws.

The bill affirmatively permits States to continue to use their oil spill statutes and leaves States free to subsequently enact their own laws. The bill also leaves in place State oil spill funds which many States, including Maine, have set in place. There are those who argue that such duplication is unwarranted. However, in many areas, including protection of the environment, States and the Federal Government have worked cooperatively for decades to protect the public. The Clean Water Act section 311 program, the most comprehensive of current Federal oil spill laws, is based on this principle. A new oil spill liability law should not become the first exception to this cooperative principle.

The bill creates a Federal oil spill compensation fund to pay for costs associated with cleanup of and damages from an oil spill. The fund is supported by a tax on oil receipts.

The bill also provides that States can gain immediate access to the Federal fund for up to $250,000 to respond promptly to a spill. Notification to the Coast Guard within 24 hours is the only requirement. Such direct access authority can be augmented by cooperative agreements between the Federal Government and the States.

The bill holds oil tanker owners or operators liable for $420 per gross ton of capacity. For a tanker with a 200,000 gross ton capacity, this would mean a liability limit of $84 million. There is no overall liability ceiling, as there is in some other proposals. Many vessels have large capacities and therefore pose large risks, that would place their per ton liability far above any arbitrary ceiling proposed to date. More than a dozen such large ships routinely use U.S. waters. Other vessels with smaller capacities would have a lower limit. Inland barges, which can present a great risk to the public health and the environment, are treated as tankers when they haul oil as cargo.

Lessees and permittees of Outer Continental Shelf facilities are liable for cleanup costs plus $75 million. Owners and operators of all other facilities are liable for up to $100 million in damage.

The Federal fund would have a per incident limit of $500 million. Bills being introduced in previous Congresses had no such limit, the bills considered by the House have a $200 million per incident limit. A reasonable per incident limit is one that is likely to cover all costs of a serious oil spill. Lobstermen in Maine should not be left uncompensated because we set a limit on Fund use that is too low. Based on information that is currently available, most major oil spills occurring in the United States today would not cost more than $500 million once the shipowner's liability has been exhausted.

The bill provides for compensation for natural resource damages, including cases in which the natural resource is completely destroyed. Economic losses, such as lost profits, lost taxes, or impairment of earning capacity, are also compensable. These are important provisions to those who earn their living from the sea, since a major oil spill can render miles of shoreline an economic wasteland.

International protocols on oil spill liability are now pending before the Senate Foreign Relations Committee. When I testified before the committee earlier this year, I stated my opposition to protocols that were preemptive of States, just as I oppose preemptive Federal legislation. The legislation I am introducing today implements the protocols to the extent that they are not inconsistent with the Federal regime, which does not preempt State laws.

Other provisions have been included to improve existing law and to accommodate concerns raised by other Members and interested parties. I believe this is effective, reasonable compromise legislation that I hope will be considered by the Environment and Public Works Committee when it marks up oil spill legislation next week. Compromise is an essential ingredient in policymaking. This bill contains such compromises while preserving the rights of States to protect their citizens from oil spills.

I ask unanimous consent that the bill and a section-by-section analysis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2799

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Oil Pollution Liability and Compensation Act of 1986".

TITLE I—OIL POLLUTION LIABILITY AND COMPENSATION

DEFINITIONS

SEC. 101. For the purposes of this Act—

(1) the terms "vessel", "public vessel", "owner or operator", "remove" or "removal", "contiguous zone", "onshore facility", "offshore facility", and "barrel" shall have the meaning provided in section 311(a) of the Clean Water Act;

(2) the terms "person", "navigable waters", and "territorial seas" shall have the meaning provided in section 502 of the Clean Water Act;

(3) the term "act of God" means an unanticipated grave natural disaster or other natural phenomenon of an exceptional, inevitable, and irresistible character the effects of which could not have been prevent-

ed or avoided by the exercise of due care or foresight;

(4) the term "claim" means a request, made in writing for a sum certain, for compensation for damages or removal costs resulting from a discharge of oil;

(5) the term "claimant" means any person who presents a claim for compensation under this Act;

(6) the term "damages" means damages for economic loss or the loss of or injury to natural resources as specified in section 102(a) of this Act;

(7) the term "deepwater port facility" means an offshore facility which is or was licensed under the Deepwater Port Act of 1974;

(8) the term "discharge" means any emission, intentional or unintentional, into the environment, and includes, but is not limited to, spilling, leaking, pumping, pouring, emitting, emptying or dumping;

(9) the term "environment" means the navigable waters, the waters of the contiguous zone, the ocean waters of which the natural resources are under the exclusive management authority of the United States under the Magnuson Fishery Conservation and Management Act, adjoining shorelines, and the ambient air above such waters and shorelines.

(10) the term "foreign offshore unit" means a structure or group of structures which is located, in whole or in part, in the territorial sea or on the continental shelf of a foreign country and is or was used for one or more of the following purposes: exploring for, drilling for, producing, storing, handling, transferring, processing, or transporting oil produced from the seabed beneath the foreign country's territorial sea or from the foreign country's continental shelf;

(11) the term "Fund" means the Oil Spill Compensation Fund, hereby established under this Act;

(12) the term "guarantor" means any person, other than the owner or operator, who provides evidence of financial responsibility for an owner or operator under this Act or section 311(p) of the Clean Water Act;

(13) the term "lessee" means a person holding a leasehold interest in an oil or gas lease on submerged lands of the outer continental shelf, granted or maintained under the Outer Continental Shelf Lands Act;

(14) the term "liable" or "liability" under this Act shall be construed to be the standard of liability which obtains under section 311 of the Clean Water Act;

(15) the term "mobile offshore drilling unit" means a vessel capable of use as an outer continental shelf facility to drill for oil;

(16) the term "natural resources" includes land, fish, wildlife, biota, air, water, ground water, drinking water supplies, and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States (including the resources of the fishery conservation zone established by the Magnuson Fishery Conservation and Management Act), any State or local government, or any foreign government;

(17) the term "oil" means petroleum, including crude oil or any fraction or residue therefrom;

(18) the term "outer continental shelf facility" means an offshore facility which is located, in whole or in part, on the outer continental shelf and is or was used for one or more of the following purposes: exploring for, drilling for, producing, storing, handling, transferring, processing, or transporting oil produced from the outer continental shelf;

(19) the term "owner or operator" means—

(A) with respect to an outer continental shelf facility other than a pipeline or mobile offshore drilling unit, the lessee or permittee of the area in which the facility is located, or the holder of a right of use and easement granted under the Outer Continental Shelf Lands Act for the area in which the facility is located (where the holder is a different person than the lessee or permittee);

(B) with respect to a mobile off shore drilling unit being used as an outer continental shelf facility, from which oil is discharged on or above the surface of the water (or which posed a substantial threat of such a discharge), the owner or operator of the unit, and such unit shall be deemed to be a tanker;

(C) with respect to a mobile offshore drilling unit being used as an outer continental shelf facility—

(i) from which oil is discharged on or above the surface of the water (or which posed a substantial threat of such a discharge), to the extent removal costs or damages exceed the limitation specified in section 102(c)(1)(A), or

(ii) from which oil is discharged below the surface of the water (or which posed a substantial threat of such a discharge),

the permittee of the area in which the unit is located, or the holder of a right of use and easement granted under the Outer Continental Shelf Lands Act for the area in which the unit is located (where the holder is a different person than the lessee or permittee);

(20) the term "permittee" means a person holding an authorization, license, or permit for geological exploration issued under section 11 of the Outer Continental Shelf Lands Act;

(21) the term "removal costs" means the costs of removal taken after a discharge of oil has occurred or where there was a substantial threat of a discharge of oil, to prevent, minimize, or mitigate oil pollution from that incident, including all costs of completing removal as determined under section 106(d);

(22) the term "tanker" means a vessel constructed or adapted for the carriage of oil in bulk or in commercial quantities as cargo;

(23) the terms "United States" and "State" means the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Marianas, and any other territory or possession over which the United States has jurisdiction.

LIABILITY

SEC. 102. (a) Notwithstanding any other provision or rule of law, and subject only to the defenses set forth in subsection (b) of this section, the owner or operator of a vessel or an onshore or offshore facility from which oil is discharged, or which posed the threat of a discharge which causes the incurrence of removal costs, shall be liable for—

(1)(A) all removal costs incurred by the United States Government or a State under subsection (c), (d), (e), (f)(4), or (1) of section 311 of the Clean Water Act or under the Intervention on the High Seas Act or section 18 of the Deepwater Port Act of 1974; and

(B) any removal costs incurred by any person, including, but not limited to, any State; and

(2) all damages or economic loss or loss of natural resources resulting from such a discharge, including:

(A) any injury to, destruction of, or loss of any real or personal property;

(B) any loss of use of real or personal property;

(C) any injury to, destruction of, or loss of natural resources, including the reasonable costs of assessing such injury, destruction, or loss;

(D) any loss of use, including loss of subsistence use, of any natural resources, without regard to the ownership or management of such resources;

(E) any loss of income or profits or impairment of earning capacity resulting from injury to or destruction of real or personal property or natural resources, without regard to the ownership of such property or resources; and

(F) any direct or indirect loss of tax, royalty, rental, or net profits share revenue by the Federal Government or any State or political subdivision thereof, for a period of not to exceed one year.

(b)(1) There shall be no liability under subsection (a) of this section for a person otherwise liable who can establish by a preponderance of the evidence that the discharge or threat of discharge of oil and the damages resulting therefrom were caused solely by—

(A) an act of God;

(B) an act of war;

(C) an act or omission of a third party other than an employee or agent of the defendant, or than one whose act or omission occurs in connection with a contractual relationship, existing directly or indirectly, with the defendant (except where the sole contractual arrangement arises from a published tariff and acceptance for carriage by a common carrier by rail), if the defendant establishes by a preponderance of the evidence that (i) the defendant exercised due care with respect to the oil concerned, taking into consideration the characteristics of such oil, in light of all relevant facts and circumstances, and (ii) the defendant took precaution against foreseeable acts or omissions of any such third party and the consequences that could foreseeably result from such acts or omissions; or

(D) any combination of the foregoing paragraphs.

(2) In any case where the owner or operator of a vessel or an onshore or offshore facility can establish by a preponderance of the evidence that a discharge and the damages resulting therefrom were caused solely by an act or omission of a third party in accordance with paragraph (1)(C) (or solely by such an act or omission in combination with an act of God or an act of war), such third party shall be liable under this section as if such third party were the owner or operator of a vessel or onshore or offshore facility from which the discharge actually occurred. Where the owner or operator of a tanker or an onshore or offshore facility which handles or stores oil in bulk or commercial quantities, from which oil is discharged, alleges that such discharges was caused solely by an act or omission of a third party, such owner or operator shall promptly pay to the United States Government, and any other claimant, the costs of removal or damages claimed and shall be entitled by subrogation to all rights of the United States Government or other claimant to recover such

costs of removal or damages from such third party under this subsection.

(c)(1) The liability of an owner or operator of a vessel or an onshore or offshore facility for damages and removal costs under this section for each discharge or incident shall not exceed—

(A) $420 per gross ton or $10,000,000, whichever is greater, of any tanker carrying oil in bulk or in commercial quantities as cargo, including any such barge operating in the navigable waters;

(B) $300 per gross ton or $500,000, whichever is greater, of any other vessel;

(C) the total of all removal costs under subsection (a)(1) of this section plus $75,000,000 for any outer continental shelf facility;

(D) $100,000,000 for any deepwater port facility (including the liability of the licensee for a discharge from any vessel moored at such port, in any case where $100,000,000 exceeds $420 per gross ton of such vessel); or

(E) $100,000,000 for any other onshore or offshore facility.

(2) Notwithstanding the limitations of paragraph (1) of this subsection, the liability of the owner of operator of a vessel or an onshore or offshore facility under subsection (a) of this section shall be the full and total damages and removal costs not offset by any removal costs incurred on behalf of such owner or operator, if (A) the discharge of oil was the result of willful misconduct or gross negligence within the privity or knowledge of the owner or operator or of a violation (within the privity or knowledge of the owner or operator) of applicable safety, construction, or operating standards or regulations; or (B) the owner or operator fails or refuses to provide all reasonable cooperation and assistance requested by a responsible official in connection with removal activities or to provide removal action upon order of a responsible official.

(3) Notwithstanding the limitations of paragraph (1) of this subsection or the defenses of subsection (b) of this section, all removal costs incurred by the United States Government or any State or local official or agency in connection with a discharge of oil from any outer continental shelf facility or a vessel carrying oil as cargo from such a facility shall be borne by the owner or operator of such facility or vessel.

(4)(A) The President is authorized to establish by regulation, with respect to any class or category of onshore or offshore facility subject to paragraph (1) (D) or (E) of this subsection, a maximum limit of liability under this section of less than $100,000,000, but not less than $8,000,000, taking into account the size, storage capacity, oil throughput, proximity to sensitive areas, type of oil handled, history of discharges, and other factors relevant to risks posed by the class or category of facility.

(B) The President shall, by regulation, not less often than every three years, adjust the limits of liability specified in paragraph (1) of this subsection to reflect significant increases in the Consumer Price Index.

(d)(1) In the case of an injury to, destruction of, or loss of natural resources under subsection (a)(2)(C) of this section, liability shall be (A) to the United States Government for natural resources belonging to, managed by, controlled by, or appertaining to the United States, and (B) to any State for natural resources within the State or belonging to, managed by, controlled by, or appertaining to such State, and (C) where subsection (e) of this section applies, to the government of a foreign country for natural resources belonging to, managed by, controlled by, or appertaining to such government. The President, or the authorized representative of any State or of the foreign government, shall act on behalf of the public as trustee of such natural resources to recover for such damages. Sums recovered by the United States Government as trustee under this subsection shall be retained by the trustee, without further appropriation, for use only to restore, replace, or acquire the equivalent of such natural resources. Sums recovered by a State as trustee under this subsection shall be available for use only to restore, replace, or acquire the equivalent of such natural resources by the State. The measure of damages in any action under subsection (a)(2)(C) shall not be limited by the sums which can be used to restore or replace such resources. There shall be no double recovery under this Act for natural resource damages, including the costs of damage assessment or restoration, rehabilitation, or acquisition for the same discharge and natural resource.

(2)(A) The President shall designate the Federal officials who shall act on behalf of the public as trustees for natural resources under this Act. Such officials shall assess damages for injury to, destruction of, or loss of natural resources for purposes of this Act for those resources under their trusteeship and may, upon request of and reimbursement from a State and at the Federal officials' discretion, assess damages for those natural resources under the State's trusteeship.

(B) The Governor of each State shall designate State officials who may act on behalf of the public as trustee for natural resources under this Act and shall notify the President of such designations. Such State officials shall assess damages to natural resources for the purposes of this Act for those natural resources under their trusteeship.

(C) Any determination or assessment of damages to natural resources for the purposes of this Act made by a Federal or State trustee in accordance with the regulations promulgated under section 301(c) of the Comprehensive Environmental Response, Compensation, and Liability Act shall have the force and effect of a rebuttable presumption on behalf of the trustee in any administrative or judicial proceeding under this Act.

(e)(1) Except where title II of this Act applies, the recovery of removal costs and damages by (A) persons residing in a foreign country, (B) the government of a foreign country, or (C) any agency or political subdivision of a foreign country, under this Act, shall be exclusively in accordance with this subsection.

(2) A claimant under this subsection must demonstrate that the claimant has not been otherwise compensated for incurred removal costs or damages. Except with respect to paragraph (3)(D) of this subsection, a claimant under this subsection must demonstrate (A) that recovery is authorized by a treaty or executive agreement between the United States and the claimant's country, or (B) that the Secretary of State, in consultation with the Attorney General and other appropriate officials, has certified that the claimant's country provides a comparable remedy for United States claimants.

(3) Where a discharge, or substantial threat of a discharge of oil in or on the territorial sea, internal waters, or adjacent shoreline of a foreign country occurs, claims for removal costs and damages may be made under this subsection if the removal costs or damages resulted from a discharge of, or substantial threat of a discharge, of oil from—

(A) an outer continental shelf facility or a deepwater port facility,

(B) a vessel occurring in the navigable waters of the United States,

(C) a vessel carrying oil as cargo between two ports subject to the jurisdiction of the United States; or

(D) a tanker that received oil at the terminal of the pipeline constructed under the Trans-Alaska Pipeline Authorization Act for transportation to a port in the United States, the discharge or threat having occurred prior to delivery to that port.

(4) This subsection shall apply only in the case of discharges of oil occurring after the enactment of this Act.

(f)(1) No indemnification, hold harmless, or similar agreement or conveyance shall be effective to transfer from the owner or operator of any vessel or onshore or offshore facility or from any person who may be liable for a discharge or threat of discharge under this section, to any other person the liability imposed under this section. Nothing in this subsection shall bar any agreement to insure, hold harmless, or indemnify a party to such agreement for any liability under this section.

(2) Nothing in this Act, including the provisions of paragraph (1) of this subsection, shall bar a cause of action that an owner or operator subject to liability under this section, or a guarantor, has or would have, by reason of subrogation or otherwise against any person.

(g) The owner or operator of a vessel shall be liable in accordance with this section, the International Convention on Civil Liability for Oil Pollution Damage, 1984, and section 311 of the Clean Water Act, under maritime tort law, and as provided in section 106 of this Act, notwithstanding any provision of the Act of March 3, 1851 (46 U.S.C. 183) or the absence of any physical damage to the proprietary interest of the claimant.

USES OF FUND

SEC. 103. (a) The President shall use the money in the Fund for the following purposes:

(1) all removal costs or other costs of carrying out the purposes of subsections (c), (d), (l), and (i) of section 311 of the Clean Water Act, sections 5 and 7 of the Intervention on the High Seas Act, and section 18 of the Deepwater Port Act, with respect to discharges, or substantial threats of discharges, or oil (as the term "oil" is defined in each respective Act);

(2) payment of any claim for removal costs or damages—

(A) in excess of the amount for which the owner or operator of the vessel or onshore or offshore facility from which oil is discharged is liable under section 102 of this Act;

(B) where the source of the discharge of oil is not known or cannot be identified;

(C) in any case where the claim has not been satisfied in accordance with subsection (c) of this section; and

(D) subject to, but in excess of the combined compensation available under, the International Convention on Civil Liability for Oil Pollution Damage, 1984, and the International Convention on the Establishment of an International Fund for Compensation of Oil Pollution Damage, 1984;

(3) payment of any claim for removal costs and damages that have resulted from the discharge, or substantial threat of a discharge, of oil from a foreign offshore unit;

(4)(A) payment of costs incurred by any State in responding to a discharge, or substantial threat of a discharge, of oil into the navigable waters or adjoining shorelines from a vessel, an onshore facility, an offshore facility, or a foreign offshore unit, as provided in subsection (d) of this section;

(B) reimbursement to any State for the payment of any claims for removal costs or damages payable under this Act which such State has paid with funds under the control of such State, including payment pursuant to a delegation under subsection (c) of this section;

(5) the costs of assessing both short-term and long-term injury to, destruction of, or loss of any natural resources resulting from a discharge of oil;

(6) the costs of Federal or State efforts in the restoration, rehabilitation, or replacement or acquiring the equivalent of any natural resources injured, destroyed, or lost as a result of any discharge of oil;

(7) payment of contributions to the International Fund as prescribed in section 305 of this Act;

(8) subject to such amounts as are provided in appropriation Acts, the costs of providing equipment and similar overhead, related to the purposes of this Act and section 311 of the Clean Water Act, and of establishing and maintaining damage assessment capability, for any Federal agency involved in strike forces, emergency task forces, or other response teams;

(9) the costs of a program to identify, investigate, and take enforcement and abatement action against discharges of oil, including the provisions of section 311(j) (1) (C) and (D) of the Clean Water Act;

(10) all administrative and personnel costs of administering the Fund and this Act.

(b) The maximum amount which may be paid from the Fund with respect to any single discharge or incident, in combination with payment, if any, under the International Convention on the Establishment of an International Fund for Compensation of Oil Pollution Damage, 1984, shall not exceed $500,000,000.

(c)(1) The President is authorized to promulgate regulations designating one or more Federal officials who may obligate money in the Fund in accordance with subsection (a) of this section or portions thereof. The President is also authorized to delegate authority to obligate money in the Fund or to settle claims to officials of a State with an adequate program operating under a cooperative agreement with the Federal Government.

(2) The President is authorized to delegate the administration of his duties and authorities under this Act to the heads of those Federal departments, agencies, and instrumentalities which the President determines appropriate.

(3)(A) The President shall promulgate, and may from time to time amend, regulations for the presentation, filing, processing, settlement, and adjudication of claims for removal costs or damages resulting from the discharge, or substantial threat of a discharge, of oil under this Act.

(B) Whenever the President receives information from any person alleging that a person has incurred removal costs or damages resulting from the discharge, or substantial threat of a discharge, of oil respecting which the owner or operator of a vessel or onshore or offshore facility is or may be liable under section 102 of this Act, the President shall notify the owner, operator, and guarantor or such vessel or facility of that allegation. Such owner or operator or guarantor may, within five days after receiving the notification or presentation of any claim by a claimant, deny the allegation, or deny liability for removal costs and damages for any of the reasons set forth in subsection (b) of section 102 of this Act.

(C) The owner or operator of any vessel or onshore or offshore facility from which oil has been discharged shall provide notice to all potentially injured parties.

(D) No claims may be asserted against the Fund pursuant to subsection (a) unless such claim is presented in the first instance to the owner or operator or guarantor of the vessel or onshore or offshore facility from which oil has been discharged, if known to the claimant, and to any other person known to the claimant who may be liable under section 102. In any case where the claim has not been satisfied within 60 days of presentation in accordance with this subsection, the claimant may present the claim to the Fund for payment. No claim against the Fund may be approved or certified during the pendency of an action by the claimant in court to recover costs which are the subject of the claim.

(d) The Governor of each State, or any appropriate State official designated by the Governor, is authorized to obligate the Fund for the payment of removal costs in an amount not to exceed $250,000 per discharge or substantial threat of discharge of oil, for the purpose of immediate response, subject only to the requirement that the President be notified within 24 hours of any such obligation under the authority of this sentence. In addition, the President shall enter into an agreement with the Governor of any interested State to provide a procedure by which the Governor or designated State official may undertake additional removal action or obligate the Fund for the additional payment of removal costs for response to a particular discharge or substantial threat of discharge, subject to such terms and conditions as may be agreed upon. Payments under subsection (a)(4)(A) of this section, other than as authorized by the first sentence of this subsection, shall be made in accordance with such agreements.

(e)(1) Payment of any claim by the Fund under this section shall be subject to the United States Government acquiring by subrogation all rights of the claimant to recover the removal costs or damages from the responsible party.

(2) Any person, including the Fund, who pays compensation pursuant to this Act to any claimant for costs or damages shall be subrogated to all rights, claims, and causes of action for those costs and damages that the claimant has under this Act or under any other law.

(3) Upon request of the President, the Attorney General shall commence an action on behalf of the Fund to recover any compensation paid by the Fund to any claimant pursuant to this Act, and, without regard to any limitation of liability with respect to an owner or operator under section 102(c), all costs incurred by the Fund by reason of the claim, including interest (including prejudgment interest), administrative and adjudicative costs, and attorney's fees. Such an action may be commenced against any owner or operator or guarantor, or against any other person who is liable, pursuant to any law, to the compensated claimant or to the Fund, for the cost or damages for which the compensation was paid.

(f) The Fund shall not be available to pay any claim for costs or damages to the extent the discharge or the damages had been caused by the gross negligence or willful misconduct of that particular claimant.

(g) The Comptroller General shall provide an audit review team to audit all payments, obligations, reimbursements, or other uses of the Fund, to assure that the Fund is being properly administered and that claims are being appropriately and expeditiously considered. The Comptroller General shall submit to the Congress as interim report one year after the establishment of the Fund. The Comptroller General shall thereafter provide such auditing of the Fund as is appropriate. Each Federal agency shall cooperate with the Comptroller General in carrying out this subsection.

(h)(1) No claim may be presented under this section for recovery of removal costs after the date 6 years after the date of completion of all removal action.

(2) No claim may be presented under this section for recovery of damages unless the claim is presented within 3 years after the date of the discovery of the loss and its connection with the release in question, or in the case of damages under section 102(a)(2)(C), if later, the date on which final regulations are promulgated under section 301(c) of the Comprehensive Environmental Response, Compensation, and Liability Act.

(3) The time limitations contained herein shall not begin to run—

(A) against a minor until the earlier of the date when such minor reaches 18 years of age or the date on which a legal representative is duly appointed for the minor, or

(B) against an incompetent person until the earlier of the date on which such incompetent's incompetency ends or the date on which a legal representative is duly appointed for such incompetent.

(i) Where the President has paid out of the Fund for any removal costs or any costs specified under subsection (a)(6) or (7), no other claim may be paid out of the Fund for the same costs.

(j) Except in a situation requiring action to avoid an irreversible loss of natural resources or to prevent or reduce any continuing danger to natural resources or similar need for emergency action, funds may not be used under this Act for the restoration, rehabilitation, or replacement or acquisition of the equivalent of any natural resources until a plan for the use of such funds for such purposes has been developed and adopted by affected Federal agencies and the Governor or Governors of any State having sustained damage to natural resources within its borders, belonging to, managed by or appertaining to such State, after adequate public notice and opportunity for hearing and consideration of all public comment.

FINANCIAL RESPONSIBILITY

SEC. 104. (a)(1) The owner or operator of any vessel over three hundred gross tons (except a non-self-propelled barge that does not carry oil as cargo or fuel), using any port or place in the United States or the navigable waters or any outer continental shelf facility or deepwater port facility, shall establish and maintain, in accordance with regulations promulgated by the President, evidence of financial responsibility sufficient to meet the maximum amount of liability to which the owner or operator

could be subjected under section 102 of this Act in a case where the owner or operator would be entitled to limit liability under that section. If the owner or operator owns or operates more than one vessel, evidence of financial responsibility need be established only to meet the maximum liability applicable to the largest of such vessels.

(2) The Secretary of the Treasury shall withhold or revoke the clearance required by section 4197 of the Revised Statutes of the United States of any vessel subject to this subsection that does not have the certification required under this subsection or the regulations issued hereunder.

(3) The Secretary of the department in which the Coast Guard is operating may (A) deny entry to any outer continental shelf facility, any deepwater port facility, or any port or place in the United States, or (B) detain at such a facility or port or place, any vessel that, upon request, does not produce the certification required under this subsection or the regulations issued hereunder.

(4) Any vessel subject to the requirements of this subsection which is found in the navigable waters without the necessary evidence of financial responsibility shall be subject to seizure by the United States of any oil carried as cargo.

(b) Each owner or operator with respect to an outer continental shelf facility, deepwater port facility, or other offshore facility, shall establish and maintain evidence of financial responsibility sufficient to meet the maximum amount of liability to which the owner or operator could be subjected under section 102 of this Act in a case where the owner or operator would be entitled to limit liability under that section. Such evidence of financial responsiblity shall be established according to regulations prescribed by the President.

(c) Financial responsibility under this section may be established by any one, or by any combination, of the following methods, which the President determines to be acceptable: evidence of insurance, surety bond, guarantee, letter of credit, qualification as a self-insurer, or other evidence of financial responsibility. Any bond filed shall be issued by a bonding company authorized to do business in the United States. In promulgating requirements under this section, the President is authorized to specify policy or other contractual terms, conditions, or defenses which are necessary, or which are unacceptable, in establishing such evidence of financial responsiblity in order to effectuate the purposes of this Act.

(d) Any claim for which liability may be established under section 102 of this Act may be asserted directly against any guarantor providing evidence of financial responsibility for an owner or operator liable under that section for costs and damages to which the claim pertains. in defending against such a claim, the guarantor may invoke all rights and defenses which would be available to the responsible party under section 102. The guarantor may also invoke the defense that the discharge was caused by the willful misconduct of the owner or operator, but the guarantor may not invoke any other defense that might be available in proceedings brought by the owner or operator against the guarantor.

(e) The total liability of any guarantor in a direct action suit brought under this section shall be limited to the aggregate amount of the monetary limits of the policy of insurance, guarantee, surety bond, letter of credit, or similar instrument obtained from the guarantor by the person subject to liability under section 102 for the purpose of satisfying the requirement for evidence of financial responsibility. Nothing in this subsection shall be construed to limit any other State or Federal statutory, contractual, or common law liability of a guarantor, including, but not limited to, the liability of such guarantor for bad faith either in negotiation or in failing to negotiate the settlement of any claim. Nothing in this subsection shall be construed, interpreted, or applied to diminish the liability of any person under section 102 of this Act or other applicable law.

(f)(1) Any person who, after notice and an opportunity for a hearing, is found to have failed to comply with the requirements of this section or the regulations issued thereunder, or with a denial or detention order issued under subsection (a)(3) of this section, shall be liable to the United States for a civil penalty, not to exceed $25,000 per day of violation. The amount of the civil penalty shall be assessed by the President by written notice. In determining the amount of the penalty, the President shall take into account the nature, circumstances, extent, and gravity of the violation, the degree of culpability, any history of prior violation, ability to pay, and such other matters as justice may require. The President may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this paragraph. If any person fails to pay an assessed civil penalty after it has become final, the President may refer the matter to the Attorney General for collection.

(2) In addition to, or in lieu of, assessing a penalty under paragraph (1) of this subsection, the President may request the Attorney General to secure such relief as necessary to compel compliance with this section, including, but not limited to, a judicial order terminating operations. The district courts of the United States shall have jurisdiction to grant such relief as the public interest and the equities of the case may require.

(g) Any regulation respecting financial responsibility, which has been issued pursuant to any provision of law repealed or superseded by this Act, and which is in effect on the date immediately preceding the effective date of this Act, shall be deemed and construed to be a regulation issued pursuant to this section. Such a regulation shall remain in full force and effect unless and until superseded by new regulations issued under this section.

LITIGATION, JURISDICTION AND VENUE

SEC. 105. (a) Review of any regulation promulgated under this Act may be had upon application by any interested person only in the Circuit Court of Appeals of the United States for the District of Columbia. Any such application shall be made within ninety days from the date of promulgation of such regulations. Any matter with respect to which review could have been obtained under this subsection shall not be subject to judicial review in any civil or criminal proceeding for enforcement or to obtain damages or recovery of response costs.

(b) Except as provided in subsections (a) and (c) of this section, the United States district courts shall have exclusive original jurisdiction over all controversies arising under this Act (which shall be deemed to include actions under the International Convention on Civil Liability for Oil Pollution Damage, 1984, and the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1984), without regard to the citizenship of the parties or the amount in controversy. Venue shall lie in any district in which the discharge or injury or damages occurred, or in which the defendant resides, may be found, has its principal office, or has appointed an agent for service of process. For the purposes of this section, the Fund and the International Fund, established under Article 2 of the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1984, shall reside in the District of Columbia.

(c) A State trial court of competent jurisdiction over similar claims may consider claims under section 102 or State law and any final judgment of such court (when no longer subject to ordinary forms of review) shall be recognized, valid, and enforceable for all purposes of section 102, section 103, and title III of this Act.

(d) The provisions of subsections (a), (b), and (c) of this section shall not apply to any controversy or other matter resulting from the assessment or collection of any tax, as provided by title IV of this Act, or to the review of any regulation promulgated under the Internal Revenue Code of 1954.

(e) The President may prescribe the necessary regulations to carry out this Act and all obligations of the United States under the International Convention on Civil Liability for Oil Pollution Damage, 1984, and the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1984.

(f) No provision of this Act shall be deemed or held to moot any litigation concerning any discharge of oil, or any damages associated therewith, commenced prior to enactment of this Act.

(g)(1) Except as provided in paragraphs (3) and (4), no action may be commenced for damages (as defined in section 101(6)) under this Act, unless that action is commenced within 3 years after the date of the discovery of the loss and its connection with the release in question, or in the case of damages under section 102(a)(2)(C), if later, the date on which regulations are promulgated under section 301(c) of the Comprehensive Environmental Respone, Compensation, and Liability Act.

(2) An initial action for recovery of removal costs referred to in section 102(a)(1) must be commenced within 3 years after completion of the removal action. In any such action described in this subsection, the court shall enter a declaratory judgment on liability for removal costs or damages that will be binding on any subsequent action or actions to recover further removal costs or damages. A subsequent action or actions under section 102 for further removal costs at the vessel or facility may be maintained at any time during the removal action, but must be commenced no later than 3 years after the date of completion of all removal action. Except as otherwise provided in this paragraph, an action may be commenced under section 102 for recovery of removal costs at any time after such costs have been incurred.

(3) No action for contribution for any removal costs or damages may be commenced more than 3 years after—

(A) the date of judgment in any action under this Act for recovery of such costs or damages, or

(B) the date of entry of a judicially approved settlement with respect to such costs or damages.

(4) No action based on rights subrogated pursuant to this Act by reason of payment of a claim may be commenced under this Act more than 3 years after the date of payment of such claim.

(5) The time limitations contained herein shall not begin to run—

(A) against a minor until the earlier of the date when such minor reaches 18 years of age or the date on which a legal representative is duly appointed for such minor, or

(B) against an incompetent person until the earlier of the date on which such incompetent's incompetency ends or the date on which a legal representative is duly appointed for such incompetent.

STATE LAWS AND PROGRAMS

SEC. 106. (a) Nothing in this Act shall be construed or interpreted as preempting any State from imposing any additional liability or requirements with respect to the discharge of oil or other pollution by oil within such State. Nothing in this Act shall affect or modify in any way the obligations or liabilities of any person under other Federal or State law, including common law, with respect to discharges of oil.

(b) Nothing in this Act or in section 9507 of the Internal Revenue Act of 1954 shall in any way affect, or be construed to affect, the authority of any State—

(1) to establish, or to continue in effect, a fund any purpose of which is to pay for costs or damages arising out of, or directly resulting from, oil pollution or the substantial threat of oil pollution; or

(2) to require any person to contribute to such a fund.

(c) A State may enforce, on the navigable waters of such State, the requirements for evidence of financial responsibility applicable under section 104 of this Act.

(d) The President shall consult with the affected State or States on the appropriate removal action to be taken. Removal with respect to any discharge or incident shall be considered completed when so determined by the President and the Governor or Governors of the affected State or States.

(e) Nothing in this Act, the Act of March 3, 1851, as amended (46 U.S.C. 183 et seq.), or section 9507 of the Internal Revenue Act of 1954, shall in any way affect, or be construed to affect, the authority of the United States or any State or political subdivision thereof—

(1) to impose additional liability or additional requirements, or

(2) to impose, or to determine the amount of, any fine or penalty (whether criminal or civil in nature) for any violation of law,

relating to the discharge, or substantial threat of a discharge, of oil.

TITLE II—CONFORMING AMENDMENTS

TRANS-ALASKA PIPELINE FUND

SEC. 201. (a) Section 204(b) of the Trans-Alaska Pipeline Authorization Act is amended, in the first sentence—

(1) by inserting after the words "any area" the words "in the State of Alaska";

(2) by inserting after the words "any activities" the words "related to the Trans-Alaska Oil Pipeline"; and

(3) by inserting at the end of the subsection the following new sentence: "This subsection shall not apply to removal costs covered by the Oil Spill Liability and Compensation Act of 1986.".

(b) Section 204(c) of the Trans-Alaska Pipeline Authorizations Act is repealed. This repeal shall not affect the applicability of that section to claims arising before the enactment of this Act. The repeal of paragraphs (4), (5), and (8) of that provision shall only become effective upon the payment by the Board of Trustees of the Trans-Alaska Pipeline Liability Fund of all claims certified under subsection (c) of this section and the rebate of all remaining amounts under, and the completion of all actions required to carry out, such subsection.

(c)(1) Not later than 210 days after the date of enactment of this Act, the Board of Trustees of the Trans-Alaska Pipeline Liability Fund shall certify to the President the total amount of claims outstanding against that Fund as of the date of enactment of this Act. The amount in that Fund exceeding the total amount so certified shall be rebated directly, on a *pro rata* basis, to the owners of the oil at the time it was loaded on the vessel.

(2) After the settlement of all claims described in paragraph (1) and the completion of all actions, if any, by the Trans-Alaska Pipeline Liability Fund for recovery of amounts paid on such claims, the remaining amounts in that Fund shall be rebated directly, on a *pro rata* basis, to the owners of the oil at the time it was loaded on the vessel.

(3) Whenever a rebate is made on a *pro rata* basis to the owners of oil under paragraphs (1) or (2) of this subsection, each owner's share of the rebate shall be an amount determined by dividing the amount contributed by that owner to the Trans-Alaska Pipeline Liability Fund by the total amount contributed by all such owners to that Fund.

(d) Trustees and former trustees of the Trans-Alaska Pipeline Liability Fund who were designated by the Secretary of the Interior shall not be subject to any liability incurred by that Fund or by the present and past officers and trustees of that Fund, other than liability for gross negligence or willful misconduct.

INTERVENTION ON THE HIGH SEAS ACT

SEC. 202. Section 17 of the Intervention on the High Seas Act is amended to read as follows:

"SEC. 17. The Fund established under the Oil Spill Liability and Compensation Act of 1986 shall be available to the Secretary for actions taken under sections 5 and 7 of this Act.".

CLEAN WATER ACT

SEC. 203. Section 311 of the Clean Water Act is amended as follows:

(a) Subparagraph (H) of paragraph (2) of subsection (c) amended by striking out "from the fund established under subsection (k) of this section for the reasonable costs incurred in such removal" and inserting in lieu thereof the following: "in the case of any discharges of oil from a vessel or facility, for the reasonable costs incurred in such removal from the Fund established under the Oil Spill Liability and Compensation Act of 1986".

(b) Subsection (d) is amended by striking out the last sentence.

(c)(1) Subsections (f), (g), and (i) of section 311 of the Clean Water Act shall not apply with respect to any discharge of oil resulting in removal costs for which liability is established under section 102 of this Act.

(2) Paragraphs (2) and (3) of subsection (f) are amended by striking out "under subsection (c) for the removal of such oil or substance by the United States Government" each place it appears and inserting in lieu thereof "under subsection (c) for the removal of such oil or substance by the United States Government and for payments made pursuant to section 103(a)(4)(A) of the Oil Pollution Liability and Compensation Act of 1986".

(d) Subsection (i) is amended by striking out "(1)" after "(i)" and striking out paragraphs (2) and (3).

(e) Subsection (k) is repealed. Any amounts remaining in the revolving fund established under that subsection shall be deposited in the Fund established under this Act. The Oil Spill Compensation Fund shall assume all liability incurred by revolving fund established under section 311(k) of the Clean Water Act.

(f) Subsection (1) is amended by striking out the second sentence.

(g) Subsection (p) is repealed.

(h) Section 311 is amended by adding at the end thereof the following new subsection:

"(s) The Oil Spill Compensation Fund, established under the Oil Pollution Liability and Compensation Act of 1986, shall be available to carry out subsections (c), (d), (i) and (1) as those subsections apply to discharges, or substantial threats of discharges, of oil. Any amounts received by the United States under this section shall be deposited in such Oil Spill Compensation Fund.".

DEEPWATER PORT ACT

SEC. 204. The Deepwater Port Act of 1974 is amended as follows:

(a) In section 4(c)(1) strike "section 18(1) of this Act;" and insert in lieu thereof "section 104 of the Oil Spill Liability and Compensation Act of 1986,".

(b) Subsections (b), (d), (e), (f), (g), (h), (i), (j), (l), (n), and paragraph (1) of subsection (m) of section 18 are deleted.

(c) Paragraph (3) of subsection (c) of section 18 is amended by striking "Deepwater Port Liability Fund established pursuant to subsection (f) of this section", and inserting in lieu thereof "fund established under the Oil Spill Liability and Compensation Act of 1986".

(d) Subsections (c), (k), and (m) of section 18 are redesignated (b), (c), and (d) respectively, and paragraphs (2), (3), and (4) of subsection (m) are redesignated (1), (2), and (3), respectively.

(e) Any amounts remaining in the Deepwater Port Liability Fund, established under section 18(f) of the Deepwater Port Act of 1974, shall be deposited in the Fund established under this Act. The Oil Spill Compensation Fund shall assume all liability incurred by the Deepwater Port Liability Fund.

OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS

SEC. 205. Title III of the Outer Continental Shelf Lands Act Amendments of 1978 is hereby repealed. Any amounts remaining in the Offshore Oil Pollution Compensation Fund established under section 302 of that title shall be deposited in the Fund established under this Act. The Oil Spill Compensation Fund shall assume all liability incurred by the Offshore Oil Pollution Compensation Fund.

TITLE III—IMPLEMENTATION OF INTERNATIONAL CONVENTIONS

DEFINITIONS

SEC. 301. For the purposes of this title—

(1) the terms "ship", "owner", "oil", "pollution damage", and "incident" shall have the meaning provided in article I of the Civil Liability Convention;

(2) the term "Civil Liability Convention" means the International Convention on Civil Liability for Oil Pollution Damage, 1984;

(3) the term "financial responsibility" shall have the same meaning as "financial security" under the Civil Liability Convention;

(4) the term "Fund Convention" means the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1984; and

(5) the term "International Fund" means the International Oil Pollution Compensation Fund, established under article 2 of the Fund Convention.

APPLICABILITY OF CONVENTIONS

SEC. 302. If the Civil Liability Convention and the Fund Convention are determined by the President to be consistent with the provisions of sections 102, 103, and 106 of this Act, during any period that the Civil Liability Convention and the Fund Convention are in force with respect to the United States, liability of an owner for pollution damage arising from an incident involving a ship shall be determined in accordance with the Civil Liability Convention and Fund Convention. During such a period, no claim with respect to pollution damage which is compensable under the International Fund may be made against the Oil Spill Compensation Fund under paragraphs (2) (A), (B), or (C), or (4)(B) of section 103(a) of this Act.

RECOGNITION OF INTERNATIONAL FUND

SEC. 303. The International Fund is recognized under the laws of the United States as a legal person, and shall have the capacity to acquire and dispose of real and personal property, and to institute and be party to legal proceedings. The Director of the International Fund is recognized as the legal representative of the International Fund. The Director shall be deemed to have appointed irrevocably the Secretary of State as the International Fund's agent for the service of process in any legal proceedings involving the International Fund within the United States. The International Fund and its assets shall be exempt from all direct taxation in the United States.

ACTION IN U.S. COURTS

SEC. 304. (a) In any action brought in a court in the United States against the owner of a ship or its guarantor under the Civil Liability Convention, the plaintiff or defendant, as the case may be, shall serve a copy of the complaint and any subsequent pleading therein upon the International Fund at the same time the complaint or other pleading is served upon the opposing parties.

(b) The International Fund may intervene as a party as a matter of right in any action brought in a court in the United States against the owner of a ship or its guarantor under the Civil Liability Convention.

CONTRIBUTION TO INTERNATIONAL FUND

SEC. 305. (a) The amount of any contribution to the International Fund which is required to be made under article 10 of the Fund Convention by any person with respect to oil received in any port, terminal installation, or other installation located in the United States shall be paid to the International Fund from the Oil Spill Compensation Fund, established under this Act.

(b) The President may, by regulation, require persons who are required to make contributions with respect to oil received in any port, terminal, installation, or other installations in the United States under article 10 of the Fund Convention to provide all information relating to that oil as may be necessary to carry out subsection (a) of this section and articles 10, 12, 13, 14, and 15 of the Fund Conventions.

RECOGNITION OF FOREIGN JUDGMENTS

SEC. 306. Any final judgment of a court of any country which is a party to the Civil Liability Convention or to the Fund Convention in an action for compensation under either convention shall be recognized by any court of the United States having jurisdiction under this Act, when that judgment has become enforceable in that country and is no longer subject to ordinary form of review, except where—

(1) the judgment was obtained by fraud, or

(2) the defendant was not given reasonable notice and a fair opportunity to present its case.

FINANCIAL RESPONSIBILITY

SEC. 307. (a) The owner of each ship which is documented under the laws of the United States which is subject to the Civil Liability Convention shall establish and maintain, in accordance with regulations promulgated by the President, evidence of financial responsibility as required in Article VII of the Civil Liability Convention.

(b) The owner of each ship (other than a ship to which subsection (a) applies or a ship which is a public vessel), which is subject to the Civil Liability Convention and which enters or leaves a port or terminal in the United States or uses an outer continental shelf facility or deepwater port facility, shall establish and maintain, in accordance with regulations promulgated by the President, evidence of financial responsibility as required in article VII of the Civil Liability Convention. Any ship which has on board a valid certificate issued in accordance with article VII of the Civil Liability Convention shall be considered as having met the requirements of this subsection. Any ship carrying only oil as cargo, fuel, or residue, which has on board a valid certificate issued in accordance with article VII of the Civil Liability Convention shall be considered as having met the requirements of section 104 of this Act.

(c) The President is authorized to issue any certificate of financial responsibility which the United States may issue under the Civil Liability Convention.

(d) The Secretary of the Treasury shall withhold or revoke the clearance required by section 4197 of the Revised Statutes of the United States of any ship which does not have a certificate demonstrating compliance with this section.

(e) The Secretary of the department in which the Coast Guard is operating may (1) deny entry to any facility or to any port or place in the United States, or (2) detain at the facility or port or place in the United States, any ship subject to this section which, upon request, does not produce the certificate demonstrating compliance with this section or regulations issued hereunder.

(f) Any person who, after notice and an opportunity for a hearing, is found to have violated this section, any regulation issued thereunder, or any denial or detention order issued under subsection (e) of this section shall be liable to the United States for a civil penalty, not to exceed $25,000 per day of violation. The amount of the civil penalty shall be assessed by the President in accordance with the procedures set forth in section 104(f) of this Act.

(g) The United States waives all defenses based on its status as a sovereign State with respect to any controversy arising under the Civil Liability Convention or the Fund Convention relating to any ship owned by the United States and used for commercial purposes.

SENATOR MITCHELL OIL SPILL LEGISLATION—SECTION-BY-SECTION ANALYSIS—"OIL POLLUTION LIABILITY AND COMPENSATION ACT OF 1986"

Sec. 101: Definitions

Defines a number of terms for the purposes of this Act, and cross references a number of definitions in the Clean Water Act.

Sec. 102: Liability

Vessel owners or operators are liable for removal costs and economic and natural resource damages. Such damages include injury or destruction of, or loss of real or personal property or natural resources; any loss of use, including loss of subsistence use, of any natural resources; any loss of income or profits or impairment of earning capacity; and any direct or indirect loss of tax, royalty, rental, or net profits share revenue for not more than one year. The liability standard is that set forth in section 311 of the Clean Water Act.

The available defenses include acts of God, acts of war, or acts or omissions of third parties with whom the owner or operator does not have a contractual relationship. Owners or operators of tankers are liable for damages and removal costs for discharges for not more than $420 per gross ton or $10 million, whichever is greater. Other vessels are liable for $300 per gross ton or $500,000, whichever is greater. Inland barges are treated as tankers when carrying oil in bulk as cargo. Lessees or permittees of outer continental shelf facilities are liable for all cleanup costs plus $75 million. Other facility owners or operators are liable for $100 million. Such limits on liability do not apply where the discharge was the result of willful misconduct or gross negligence within the privity of the owner or operator, or where the owner or operator refuses to cooperate with removal upon request of a responsible official.

The President is authorized to establish lower limits on liability for classes of facilities, based on size, storage capacity, oil throughput, proximity to sensitive areas, types of oil handled, history of discharges, and other factors. All limits are to be adjusted for inflation not less often than every three years.

The President or authorized representative of a State or foreign government are authorized trustees for natural resources.

Sec. 103: Uses of the Fund

The Fund shall be used to pay for all removal costs; payment of any claims for removal costs or damages:

In excess of the amount for which the owner or operator is liable under section 102 of this Act,

Where the source of the discharge of the oil is not known or cannot be identified,

In any case where the claim has not been satisfied by the owner or operator under subsection (c),

In excess of the combined compensation available under the International Funds,

From foreign offshore units affecting U.S. claimants,

To States under the direct draw authority or pursuant to other agreements between States and the Federal government (including reimbursement to States where States have delegated authority),

For assessing and restoring natural resources,

For costs of the program, enforcement, and prevention under section 311(j) of the Clean Water Act.

There is a $500 million per incident limit. States are authorized to have direct access to the Fund for a minimum of $250,000. States may enter into agreements with the Federal government to supplement the direct access authority. Subsection (e) provides for subrogation of claims of the Federal government. The statute of limitations for claims is 6 years after the date of completion of all removal action or 3 years from the date of discovery of the loss and its connection with the release in question for claims for damages.

Sec. 104: Financial Responsibility

This section authorizes the President to require financial responsibility for vessels and off-shore facilities. Direct action against guarantors is also authorized.

Sec. 105: Litigation, Jurisdiction, and Venue

Judicial review for regulations and actions under this Act is provided. Subsection (c) provides that State courts of competent jurisdiction have authority to hear cases under State law, this Act, or Title III. The Statute of Limitations for judicial actions is 3 years from the date of discovery of the loss and its connection with the release for damages or 3 years from completion of the removal action.

Sec. 106: State Laws and Programs

Nothing in this Act preempts any State from imposing any additional liability or requirements with respect to the discharge of oil within such State. Similarly, nothing affects the rights of States to establish or continue in effect a fund for payment of costs or damages arising from oil pollution.

States are authorized to enforce the financial responsibility requirements of this Act. The President shall consult with the affected State or States on the appropriate removal action to be taken. Removal with respect to any discharge or incident shall be considered completed when so determined by the President and the Governor or Governors of the affected State or States.

The 1851 Limitation on Liability Act shall not affect the authority or the United States or any State, or political subdivision thereof, to impose additional liability of additional requirements, or to impose, or to determine the amount of, any fine or penalty for any violation of law.

TITLE II: CONFORMING AMENDMENTS

Conforming amendments are made to the Trans-Alaska Pipeline Authorization Act, the Clean Water Act, the Intervention on the High Seas Act, the Outer Continental Shelf Lands Act, and the Deepwater Port Act.

TITLE III: IMPLEMENTATION OF THE INTERNATIONAL PROTOCOLS

The Protocols are implemented to the extent that the President determines they are consistent with sections 102, 103, and 106 of this Act.●

Mr. LAUTENBERG. Mr. President, I rise today to join Senators MITCHELL and STAFFORD in introducing legislation to address the serious threats posed to coastal States by oil spills.

The need for this legislation is clear. Like many pollution problems, oil spills do not respect State boundaries. Last September, a spill of 435,000 gallons of oil in the Delaware River damaged the shores of New Jersey, Pennsylvania, and Delaware. The spill, one of the largest ever on the Delaware, killed thousands of birds and other wildlife, and left a lasting mark on the shoreline following a weeklong cleanup. During the 7-month period following this spill, Coast Guard statistics show that other major mechanical failures on 45 vessels caused groundings, collisions with piers, and leaking storage tanks.

Following the spill last September, another tanker hit a pier and spilled 189,000 gallons of crude oil into the Delaware. Such spills seem to be part of an unacceptable trend toward ships with poorly trained crews or badly maintained equipment. And such spills are a national problem. In the last few years alone we have had major spills affecting such other States as California, Texas, Louisiana, and Oregon.

Clearly we need a Federal oil spill bill; a Federal mechanism for oil spill cleanup and compensation to aid States that are vulnerable to this pervasive problem.

The bill before us today will address this problem. It establishes a comprehensive Federal oil spill system that covers all potential sources of oil spill. The bill establishes both a Federal liability scheme for oil pollution damages and a fund to pay damages when compensation from polluters is not available, or when damages exceed liability limits. The bill provides for compensation of natural resource damages, an ability of States to gain a "direct draw" into the Federal fund for purposes of immediate oil spill response, and stacking of the international and Federal funds to increase total coverage.

Importantly, the bill achieves these objectives without preempting State oil spill programs. It has been my position for some time that any oil spill legislation not undermine positive State efforts, such as New Jersey's to deal with oil spills. This bill clearly states that it does not preempt State laws or funds.

The importance of such a nonpreemption provision is underscored by the Supreme Court's decision in Exxon versus Hunt, which followed 6 years of litigation. That decision concluded that some ambiguous language in the current Superfund statute actually preempted New Jersey's taxing authority for the State spill fund.

The spill fund contested in that litigation is the same fund in New Jersey, which covers oil spills. Just as I expressed my opposition to such preemption by amending the Senate Superfund bill to strike the preemptive language, an amendment adopted by the conference, I support this legislation's clear statement of nonpreemption.

The legislation provides a Federal solution to a serious national problem, and does so without compromising the important efforts States are making. It is an important step forward in protecting and cleaning up the environment from the effects of oil spills.

By Mr. DODD (for himself, Mr. CHILES, Mr. BIDEN, Mr. BYRD, Mr. CRANSTON, Mr. DECONCINI, Mr. SASSER, Mr. LEAHY, Mr. NUNN, Mr. MITCHELL, Mr. MOYNIHAN, and Mr. ROCKEFELLER):

S. 2800. A bill to require the Secretary of Health and Human Resources to make grants to public and nonprofit private entities for drug abuse and alcohol abuse prevention, treatment, and rehabilitation model projects for high risk youth; to the Committee on Labor and Human Resources.

DRUG ABUSE AND ALCOHOL ABUSE PREVENTION, TREATMENT, AND REHABILITATION MODEL PROJECTS FOR HIGH RISK YOUTH ACT OF 1986

● Mr. DODD. Mr. President, the resolution I am introducing today is also part of the Comprehensive Narcotics Control Act of 1986. I am pleased to have Mr. CHILES, Mr. BIDEN, Mr. BYRD, Mr. CRANSTON, Mr. DECONCINI, Mr. SASSER, Mr. LEAHY, Mr. NUNN, Mr. MITCHELL, Mr. MOYNIHAN, and Mr. ROCKEFELLER join me in introducing this measure providing for community based model programs to prevent and treat drug abuse among high-risk youth.

We know that drug and alcohol abuse crosses all economic, racial, age, ethnic, and religious lines. Nevertheless, a certain segment of our young people—we can call them "high-risk" youth—are in much greater danger of drug and alcohol abuse than other children. If you talk to child protection workers who deal with the children who have been victimized by physical or sexual abuse; or to the directors of shelters harboring runaway adolescents; or to staff of the boys and girls clubs and other groups working with unemployed school dropouts, or to those who work with pregnant teens and teenage parents; they will all tell you that the chances that the young people they work with will end up abusing drugs or alcohol go way off the charts.

As a result, any package would be incomplete without a special program targeting drug and alcohol prevention and treatment services for high-risk young people. In the case of these children, drug abuse does not occur in a vacuum. And unless we get at some of the underlying causes of such abuse, we will fail to make a big dent in the battle to combat the drug epidemic now confronting us. We will also

fail to deter some of the serious crimes committed by adolescents in association with drugs unless we target some treatment and rehabilitation services to curb their substance abuse.

The Carnegie Corp. of New York is to be commended for recently establishing a council on adolescence, focusing on high-risk youth. As the Carnegie Council has so aptly stated, during adolescence a significant number of youth abuse drugs and alcohol; are the victims of physical, sexual or psychological abuse; drop out of school; become pregnant; are economically disadvantaged; commit violent or delinquent acts; experience mental health problems; attempt suicide; or are killed or disabled by injuries. The measure I am introducing today is an attempt to explore the connections between these problems and provide concrete help in the form of community-based prevention and treatment programs for high-risk youth.

Mr. President, I urge my colleagues to support this legislation. I ask unanimous consent that the text of the "Drug Abuse and Alcohol Abuse Prevention, Treatment, and Rehabilitation Model Projects for High-Risk Youth Act of 1986" be printed in the RECORD in its entirety.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2800

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Drug Abuse and Alcohol Abuse Prevention, Treatment, and Rehabilitation Model Projects for High Risk Youth Act of 1986".

FINDINGS

SEC. 2. The Congress finds that—

(1) drug abuse and alcohol abuse pose significant threats to the healthy development of our Nation's youth;

(2) some young people are at a great risk of becoming drug abusers or alcohol abusers due to a variety of social, health, and economic factors;

(3) during adolescence, a significant number of youth—

(A) abuse drugs and alcohol;

(B) are victims of physical, sexual, or psychological abuse;

(C) drop out of school;

(D) become pregnant;

(E) are economically disadvantaged;

(F) commit violent or delinquent acts;

(G) experience mental health problems;

(H) attempt suicide; or

(I) are killed or disabled by injuries;

(4) community based model programs are needed to prevent drug abuse and alcohol abuse among high risk youths, including after-school care programs, child abuse prevention programs, and programs designed to prevent students from dropping out of school, becoming adolescent parents, and remaining unemployed; and

(5) community based model treatment programs which address the causes of drug abuse and alcohol abuse among high risk youths can reduce and prevent such abuse.

DEFINITIONS

SEC. 3. For purposes of this Act—

(1) the term "high risk youth" means and individual who has not attained the age of 21 years, who is at high risk of becoming, or who has become, a drug abuser or an alcohol abuser, and who—

(A) is a victim of physical, sexual, or psychological abuse;

(B) has dropped out of school;

(C) has become pregnant;

(D) is economically disadvantaged;

(E) has committed a violent or delinquent act;

(F) has experienced mental health problems;

(G) has attempted suicide; or

(H) is disabled by intentional injuries;

(2) the term "secretary" means the Secretary of Health and Human Services; and

(3) the term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

GRANTS FOR PREVENTION PROJECTS

SEC. 4. (a) The Secretary shall make grants to public and nonprofit private entities for projects to demonstrate effective models of preventing drug abuse and alcohol abuse among high risk youths. In making grants under this section, the Secretary shall give priority to applications for projects directed at latchkey children, children at risk of abuse or neglect, preschool children eligible for services under the Head Start Act, children at risk of dropping out of school, children at risk of becoming adolescent parents, and children who do not attend school and who are at risk of being unemployed.

(b) To carry out his section, there are authorized to be appropriated $25,000,000 for each of the fiscal years 1987, 1988, 1989, 1990, and 1991.

GRANTS FOR TREATMENT AND REHABILITATION PROJECTS

SEC 5. (a) The Secretary shall make grants to public and nonprofit private entities for projects to demonstrate effective models of treatment and rehabilitation of high risk youth who are drug abusers or alcohol abusers. In making grants under this section, the Secretary shall give priority to projects which address the relationship between drug abuse or alcohol abuse and physical abuse, sexual child abuse, emotional child abuse, dropping out of school, unemployment, delinquency, pregnancy, violence, suicide, or mental health problems.

(a) To carry out this section, there are authorized to be appropriated $25,000,000 for each of the fiscal years 1987, 1988, 1989, 1990, and 1991.

APPLICATION PROCEDURES

SEC. 6. (a) In order to receive a grant for a project under section 4 or 5 for a fiscal year, a public or nonprofit private entity shall submit an application to the Governor of the State in which the project will be conducted. Such application shall be in such form, shall contain such information, and shall be submitted at such time as the Secretary may by regulation prescribe.

(b) The Governor of each State shall review each application received under subsection (a) for a fiscal year and shall submit to the Secretary, by a date prescribed by the Secretary for such fiscal year, the recommendations of the Governor concerning the approval or disapproval of each such application and a ranking recommended by the Governor of the priority for approval of such applications. In making recommendations under the preceding sentence, the Governor of a State shall consider the priorities and requirements for grants established by sections 4(a), 5(a), and 7.

(c) In making grants under this Act, the Secretary shall consult with the Director of the National Institute on Alcohol Abuse and Alcoholism and the Director of the National Institute on Drugs, and shall consider the recommendations made by State Governors under subsection (b).

PRIORITIES AND REQUIREMENTS FOR GRANTS

SEC. 7. (a) In making grants under sections 4 and 5, the Secretary shall give priority to applications from community based organizations for projects to develop innovative multidisciplinary models for the prevention (in the case of applications under section 4) or for the treatment and rehabilitation (in the case of applications under section 5) of drug abuse or alcohol abuse by high risk youths.

(b) in making grants under sections 4 and 5, the Secretary shall give priority to applications for projects to demonstrate effective models which may be replicated and which are for the prevention (in the case of applications under section 4) or for the treatment and rehabilitation (in the case of applications under section 5) of drug abuse or alcohol abuse by high risk youths.

(c) The Secretary shall make grants under sections 4 and 5 in all regions of the United States.

(d) In making grants under sections 4 and 5, the Secretary shall give consideration to the specific needs of urban and rural areas for the prevention, treatment, and rehabilitation of drug abuse and alcohol abuse by high risk youths.

EVALUATION

SEC. 8. The Director of the National Institute on Drug Abuse shall evaluate projects conducted with grants under this Act.●

ADDITIONAL COSPONSORS

S. 477

At the request of Mr. ANDREWS, the name of the Senator from Utah [Mr. HATCH] was withdrawn as a cosponsor of S. 477, a bill to enhance rail competition and to ensure reasonable rail rates where there is an absence of effective competition.

S. 945

At the request of Mr. THURMOND, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 945, a bill to recognize the organization known as the National Association of State Directors of Veterans' Affairs, Inc.

S. 1296

At the request of Mr. MATHIAS, the names of the Senator from Michigan [Mr. LEVIN], the Senator from Massachusetts [Mr. KERRY], and the Senator from New York [Mr. MOYNIHAN] were added as cosponsors of S. 1296, a bill to amend the Immigration and Nationality Act to modify the requirement for naturalization of an understanding of the English language.

S. 2115

At the request of Mr. THURMOND, the name of the Senator from Minnesota

[Mr. DURENBERGER] was added as a cosponsor of S. 2115, a bill to recognize the organization known as the 82d Airborne Division Association, Inc.

S. 2331

At the request of Mr. HEINZ, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 2331, a bill to amend title XVIII of the Social Security Act to assure the quality of inpatient hospital services and posthospital services furnished under the Medicare Program, and for other purposes.

S. 2398

At the request of Mr. ROTH, the name of the Senator from Indiana [Mr. QUAYLE] was added as a cosponsor of S. 2398, a bill to amend title 18 of the United States Code to ban the production and use of advertisements for child pornography or solicitations for child pornography, and for other purposes.

S. 2422

At the request of Mr. MURKOWSKI, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 2422, a bill to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans and the rates of dependency and indemnity compensation for surviving spouses and children of veterans; to improve the Veterans' Administration Home Loan Guaranty Program; to authorize certain debt collections; to authorize the Administrator of Veterans' Affairs to require additional information from certain fiduciary agents of veterans; to revise the authority of the Administrator of Veterans' Affairs to construct, alter, acquire, operate, and maintain parking facilities at Veterans' Administration medical facilities; and to authorize an administrative reorganization in the Veterans' Administration.

S. 2454

At the request of Mr. MURKOWSKI, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 2454, a bill to repeal section 1631 of the Department of Defense Authorization Act, 1985, relating to the liability of Government contractors for injuries or losses of property arising out of certain atomic weapons testing programs, and for other purposes.

S. 2569

At the request of Mr. WEICKER, the names of the Senator from Nevada [Mr. HECHT], and the Senator from Hawaii [Mr. MATSUNAGA] were added as cosponsors of S. 2569, a bill to clarify the ownership of certain historic shipwrecks in State waters.

S. 2771

At the request of Mr. HATCH, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 2771, a bill to require the Secretary of Health and Human Services to determine the appropriate regulatory classification of the transitional devices of the Medical Device Amendments of 1976 to the Food, Drug and Cosmetic Act and for other purposes.

S. 2773

At the request of Mr. SIMON, the names of the Senator from Alabama [Mr. HEFLIN], the Senator from Alaska [Mr. MURKOWSKI], the Senator from New York [Mr. MOYNIHAN], the Senator from Massachusetts [Mr. KERRY], the Senator from Hawaii [Mr. INOUYE], the Senator from Utah [Mr. HATCH], the Senator from Missouri [Mr. EAGLETON], the Senator from Illinois [Mr. DIXON], the Senator from Arizona [Mr. DECONCINI], the Senator from Florida [Mr. CHILES], and the Senator from North Dakota [Mr. BURDICK] were added as cosponsors of S. 2773, a bill establishing a commission to coordinate the commemoration of the bicentennial of the Congress.

S. 2781

At the request of Mr. EVANS, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 2781, a bill to amend the Energy Policy and Conservation Act with respect to energy conservation standards for appliances.

S. 2794

At the request of Mr. DANFORTH, the names of the Senator from Alabama [Mr. DENTON], the Senator from Iowa [Mr. HARKIN], the Senator from South Dakota [Mr. PRESSLER], the Senator from Utah [Mr. GARN], the Senator from South Dakota [Mr. ABDNOR], the Senator from Pennsylvania [Mr. HEINZ], the Senator from Wisconsin [Mr. KASTEN], the Senator from Arizona [Mr. GOLDWATER], the Senator from Kansas [Mr. DOLE], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Hawaii [Mr. INOUYE], the Senator from Wyoming [Mr. SIMPSON], the Senator from Nebraska [Mr. EXON], and the Senator from Pennsylvania [Mr. SPECTER] were added as cosponsors of S. 2794, an original bill to regulate interstate commerce by providing for uniform standards of liability for harm arising out of general aviation accidents.

SENATE JOINT RESOLUTION 299

At the request of Mr. COCHRAN, the names of the Senator from Connecticut [Mr. DODD], and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors of Senate Joint Resolution 299, a joint resolution to designate the week of December 7, 1986, through December 13, 1986, as "National Alopecia Areata Awareness Week."

SENATE JOINT RESOLUTION 311

At the request of Mr. CRANSTON, the name of the Senator from New Hampshire [Mr. HUMPHREY] was added as a cosponsor of Senate Joint Resolution 311, a joint resolution designating the week beginning November 9, 1986, as "National Women Veterans Recognition Week."

SENATE JOINT RESOLUTION 368

At the request of Mr. DIXON, the names of the Senator from Ohio [Mr. METZENBAUM], and the Senator from California [Mr. WILSON] were added as cosponsors of Senate Joint Resolution 368, a joint resolution to designate the month of October 1986, as "National Spina Bifida Month."

SENATE JOINT RESOLUTION 392

At the request of Mr. THURMOND, the name of the Senator from Ohio [Mr. METZENBAUM] was added as cosponsor of Senate Joint Resolution 392, a joint resolution to designate the month of December 1986 as "Made in America Month."

SENATE JOINT RESOLUTION 404

At the request of Mr. SIMON, the names of the Senator from Massachusetts [Mr. KERRY], the Senator from Nebraska [Mr. EXON], the Senator from Delaware [Mr. ROTH], the Senator from Rhode Island [Mr. PELL], the Senator from South Carolina [Mr. HOLLINGS], and the Senator from Tennessee [Mr. GORE] were added as cosponsors of Senate Joint Resolution 404, a joint resolution to designate October 1986 as "Polish American Heritage Month."

SENATE CONCURRENT RESOLUTION 136

At the request of Mr. GRASSLEY, the name of the Senator from Washington [Mr. EVANS] was added as a cosponsor of Senate Concurrent Resolution 136, a concurrent resolution entitled "Volunteers are the Importance of Volunteerism."

SENATE CONCURRENT RESOLUTION 156

At the request of Mr. CRANSTON, the names of the Senator from New York [Mr. MOYNIHAN], and the Senator from Arkansas [Mr. BUMPERS] were added as cosponsors of Senate Concurrent Resolution 156, a concurrent resolution expressing the sense of Congress concerning the need for international cooperative efforts to identify the individuals exposed to radiation as a result of the nuclear accident at Chernobyl in the Soviet Union and to monitor the health status of those individuals so as to increase, for their benefit and the benefit of the citizens of the United States and of all the world's peoples, the level of understanding of the effects of exposure to radiation.

SENATE CONCURRENT RESOLUTION 160

At the request of Mr. SIMON, the names of the Senator from North Dakota [Mr. ANDREWS], the Senator from Rhode Island [Mr. PELL], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Alabama [Mr. DENTON], and the Senator from New Hampshire [Mr. HUMPHREY] were added as cosponsors of Senate Concurrent Resolution 160, a concurrent resolution expressing the sense of the Con-

gress that the jamming of radio broadcasting is contrary to the best interests of the people of the world and should be terminated.

SENATE RESOLUTION 486

At the request of Mr. BOREN, his name was added as a cosponsor of Senate Resolution 486, a resolution relating to the arrest of U.S. correspondent Nicholas Daniloff.

At the request of Mr. ABDNOR, his name was added as a cosponsor of Senate Resolution 486, supra.

At the request of Mr. MATTINGLY, his name was added as a cosponsor of Senate Resolution 486, supra.

At the request of Mr. DOLE, the names of the Senator from New York [Mr. MOYNIHAN], the Senator from New Mexico [Mr. DOMENICI], the Senator from Indiana [Mr. QUAYLE], the Senator from Idaho [Mr. SYMMS], the Senator from Idaho [Mr. MCCLURE], the Senator from Kentucky [Mr. MCCONNELL], the Senator from South Carolina [Mr. THURMOND], the Senator from Alabama [Mr. DENTON], the Senator from Delaware [Mr. ROTH], the Senator from Illinois [Mr. DIXON], the Senator from Tennessee [Mr. SASSER], the Senator from New Hampshire [Mr. RUDMAN], the Senator from Nevada [Mr. HECHT], the Senator from New York [Mr. D'AMATO], the Senator from Florida [Mrs. HAWKINS], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Illinois [Mr. SIMON], the Senator from Arkansas [Mr. PRYOR], the Senator from Texas [Mr. GRAMM], and the Senator from California [Mr. WILSON] were added as consponsors of Senate Resolution 486, supra.

SENATE RESOLUTION 487

At the request of Mr. BOREN, his name was added as a cosponsor of Senate Resolution 487, a resolution condemning the recent acts of terrorism in Pakistan and Turkey.

At the request of Mr. ABDNOR, his name was added as a cosponsor of Senate Resolution 487, supra.

At the request of Mr. BYRD, the name of the Senator from Georgia [Mr. MATTINGLY] was added as a cosponsor of Senate Resolution 487, supra.

At the request of Mr. DOLE, the names of the Senator from Alabama [Mr. DENTON], the Senator from New York [Mr. MOYNIHAN], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Delaware [Mr. ROTH], the Senator from Illinois [Mr. DIXON], the Senator from Tennessee [Mr. SASSER], the Senator from New Hampshire [Mr. RUDMAN], the Senator from Nevada [Mr. HECHT], the Senator from South Carolina [Mr. THURMOND], the Senator from New York [Mr. D'AMATO], the Senator from Florida [Mrs. HAWKINS], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Idaho [Mr. SYMMS], the Senator from Kentucky [Mr. MCCONNELL], the Senator from Illinois [Mr. SIMON], the Senator from Arkansas [Mr. PRYOR], the Senator from Idaho [Mr. MCCLURE], the Senator from Texas [Mr. GRAMM], and the Senator from California [Mr. WILSON] were added as cosponsors of Senate Resolution 487, supra.

AMENDMENTS SUBMITTED

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATION ACT, 1987

FORD AMENDMENT NO. 2774

Mr. FORD proposed an amendment to the bill (H.R. 5234) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1987, and for other purposes; as follows:

By deleting on page 24, line 24, beginning with the word *"Provided"* and ending on page 25, line 13, ending with the word "agreement".

McCLURE AMENDMENT NO. 2775

Mr. McCLURE proposed an amendment to the bill H.R. 5234, supra; as follows:

On page 14, lines 7-9, begin linetype with the comma after the word "Fund" and continue the linetype through "290" on line 9.

TERRORIST ACTIVITIES IN PAKISTAN AND TURKEY

DOLE (AND BYRD) AMENDMENT NO. 2776

Mr. DOLE (for himself and Mr. BYRD) proposed an amendment to the resolution (S. Res. 487) condemning the recent acts of terrorism in Pakistan and Turkey; as follows:

In the first paragraph of the preamble, after the words "and Istanbul, Turkey," insert the following: "and the kidnapping of an American civilian, Frank Herbert Reed, in Beirut, Lebanon,";

In the second paragraph of the preamble, after the words "in an Istanbul synagogue," insert the following: "and the kidnapping of Frank Herbert Reed, placing the life and well-being of this innocent American civilian in jeopardy,";

In the first paragraph of the resolution, after the words "and Istanbul, Turkey," insert the following: "and the kidnapping of Frank Herbert Reed in Beirut,"; and

At the conclusion of the resolution add the following: "(F) Continue to make the immediate, unconditional and safe release of Frank Herbert Reed and all other Americans held hostage in Lebanon a high priority national goal."

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATION ACT, 1987

PROXMIRE (AND HUMPHREY) AMENDMENT NO. 2777

Mr. PROXMIRE (for himself and Mr. HUMPHREY) proposed an amendment to the bill H.R. 5234, supra; as follows:

On page 50, line 22, delete "$276,130,000," and insert in lieu thereof "$186,130,000," and on page 50, line 25, delete "$260,654,000," and insert in lieu thereof "$170,654,000."

OIL POLLUTION LIABILITY AND COMPENSATION ACT

MITCHELL AMENDMENT NO. 2778

(Ordered referred to the Committee on Environment and Public Works.)

Mr. MITCHELL (for himself, Mr. STAFFORD, Mr. LAUTENBERG, Mr. BAUCUS, Mr. DURENBERGER, and Mr. HUMPHREY) submitted an amendment intended to be proposed by them to the bill (S. 2799) to consolidate and improve Federal laws providing compensation and establishing liability for oil spills; as follows:

S. 2799, the Oil Pollution Liability and Compensation Act of 1986, is amended by adding at the end thereof the following:

TITLE IV—OIL SPILL COMPENSATION FUND

REVENUE SOURCES

SEC. 401. (a) Subsections (a) and (b) of section 4611 of the Internal Revenue Code of 1954 (relating to environmental tax on petroleum) are each amended by striking out "0.79 cent" and inserting in lieu thereof "at the rate specified in subsection (c)".

(b) Section 4611 of the Internal Revenue Code of 1954 is amended by redesignating subsections (c) and (d) as subsections (d) and (e) respectively, and by inserting after subsection (b) the following new subsection:

"(c) RATE OF TAX.—

"(1) IN GENERAL.—The rate of the tax imposed by this section is the sum of—

"(A) the Hazardous Substance Superfund financing rate, and

"(B) the Oil Spill Compensation Fund financing rate.

"(2) RATES.—For purposes of paragraph (1)—

"(A) the Hazardous Substance Superfund financing rate is [ ] cents a barrel, and

"(B) the Oil Spill Compensation Fund financing rate is 1.3 cents a barrel."

"(c) Section 4612 of the Internal Revenue Code of 1954 (relating to definitions and special rules) is amended by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following subsection:

"(c) CREDIT AGAINST PORTION OF TAX ATTRIBUTABLE TO OIL SPILL RATE.—Any taxpayer who has paid fees to the Deepwater Port Liability Fund or the Offshore Oil Pollution Compensation Fund shall be entitled to a credit against the portion of the tax imposed by section 4611 which is attributable to the Oil Spill Compensation Fund financing rate. The amount of the credit for any

period shall be equal to the total amount paid by the taxpayer to either or both of those funds less the total of all credits allowed under this subsection for all prior periods. The amount of the credit for any period shall not exceed the portion of the tax imposed under section 4611 for that period, which is attributable to the Oil Spill Compensation Fund financing rate."

(d) Subsection (e) of section 4611 of the Internal Revenue Code of 1954 (relating to application of taxes), as redesignated by subsection (b) of this section, is amended to read as follows:

"(e) APPLICATION OF TAXES.—

"(1) SUPERFUND RATE.—The Hazardous Substance Superfund financing rate under subsection (c) shall apply after [ ] and before [ ].

"(2) OIL SPILL RATE.—The Oil Spill Compensation Fund financing rate under subsection (c) shall apply after [ ] and before the date, as determined by the Secretary of Treasury, upon which the assets of the Oil Spill Compensation Fund, less any outstanding obligations of that Fund, are equal to or greater than $350 million.

CREATION OF FUND

SEC. 402. (a) Subchapter A of chapter 98 of the Internal Revenue Code of 1954 (relating to the establishment of trust funds) is amended by adding after section 9506 the following new section:

"SEC. 9507. OIL SPILL COMPENSATION FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as 'the Oil Spill Compensation Fund', consisting of such amounts as may be appropriated or credited to that trust fund as provided in this section or section 9602(b).

"(b) TRANSFER TO TRUST FUND.—There are hereby appropriated to the Oil Spill Compensation Fund amounts equivalent to—

"(1) taxes received in the Treasury under section 4611 (relating to environmental tax on petroleum) to the extent attributable to the Oil Spill Compensation Fund financing rate under section 4611(c),

"(2) amounts recovered, collected, or received under the Oil Pollution Liability and Compensation Act of 1986,

"(3) amounts remaining on the date of the enactment of this section in the Deepwater Port Liability Fund, established under section 18(f) of the Deepwater Port Act of 1974,

"(4) amounts remaining on the date of the enactment of this section in the Offshore Oil Pollution Compensation Fund, established under title III of the Outer Continental Shelf Lands Act Amendments of 1978, and

"(5) amounts credited to the Oil Spill Compensation Fund pursuant to section 311(s) of the Clean Water Act.

"(c) EXPENDITURES.—

"(1) EXPENDITURE PURPOSES.—Amounts in the Oil Spill Compensation Fund shall be available only for the purposes of making expenditures which are described and authorized in section 103(a) of the Oil Pollution Liability and Compensation Act of 1986, as in effect on the effective date of this section.

"(2) MINIMUM BALANCE.—Except in the case of payments described in paragraphs (1), (4)(A), (7), (9), and (10) of section 103(a) of the Oil Pollution Liability and Compensation Act of 1986, a payment may be made from the Oil Spill Compensation Fund only if the amount in the Oil Spill Compensation Fund after that payment will not be less than $30,000,000.

"(d) AUTHORITY TO BORROW.—

"(1) IN GENERAL.—There are authorized to be appropriated to the Oil Spill Compensation Fund, as repayable advances, such sums as may be necessary to carry out the purposes of the Oil Spill Compensation Fund.

"(2) LIMITATION ON AMOUNT OUTSTANDING.—The maximum amount of repayable advances to the Oil Spill Compensation Fund which is outstanding at any one time shall not exceed $500,000,000.

"(3) REPAYMENT OF ADVANCES.—

"(A) IN GENERAL.—Advances made pursuant to this subsection shall be repaid, and interest on those advances shall be paid, to the general fund of the Treasury when the President determines that monies are available for those purposes in the Oil Spill Compensation Fund.

"(B) RATE OF INTEREST.—Interest on advances made pursuant to this subsection (i) shall be at a rate determined by the Secretary of the Treasury (as of the close of the calendar month preceding the month in which the advance is made) to be equal to the current average market yield of outstanding marketable obligations of the United States with remaining periods at maturity comparable to the anticipated period during which the advance will be outstanding, and (ii) shall be compounded annually.

"(e) LIABILITY OF THE UNITED STATES LIMITED TO AMOUNT IN OIL SPILL COMPENSATION FUND.—

"(1) GENERAL RULE.—Any claim filed against the Oil Spill Compensation Fund may be paid only out of the Oil Spill Compensation Fund.

"(2) COORDINATION WITH OTHER PROVISIONS.—Nothing in the Oil Pollution Liability and Compensation Act of 1986 (or in any amendment made by that Act) shall authorize the payment by the United States Government of any amount with respect to any claim filed against the Oil Spill Compensation Fund out of any source other than the Oil Spill Compensation Fund.

"(f) ORDER IN WHICH UNPAID CLAIMS ARE TO BE PAID.—If at any time the Oil Spill Compensation Fund has insufficient funds (or is unable by reason of subsection (c)(2)) to pay all of the claims out of the Oil Spill Compensation Fund at that time, the unpaid claims shall, to the extent permitted under subsection (c)(2), be paid in full in the order in which they were finally determined.".

(b) The table of contents for subchapter A of chapter 98 of the Internal Revenue Code of 1954 is amended by adding after the item relating to section 9506 the following new item:

"Sec. 9507. Oil Spill Compensation Fund".

(c) The amendments made by this section shall take effect upon enactment of this Act.

NOTICES OF HEARINGS

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

Mr. COHEN. Mr. President, I would like to announce that the Subcommittee on Oversight of Government Management will hold a hearing on S. 2756, the Computer Matching and Privacy Protection Act of 1986, on September 16, at 9:30 a.m., in room 342 of the Dirksen Senate Office Building.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. HELMS. Mr. President, I wish to announce that the Subcommittee on Foreign Agricultural Policy, of the Committee on Agriculture, Nutrition, and Forestry, will hold the last in a series of three hearings entitled "Overview of U.S. Food Aid Programs, and World Hunger."

The hearing, to be chaired by Subcommittee Chairman RUDY BOSCHWITZ, will focus on how food aid may be used to promote economic growth in recipient countries and how such aid may be used to develop markets for U.S. farmers.

The hearing will take place at 9:30 a.m. on Tuesday, September 16, 1986, in 332 Russell Senate Office Building.

If further information is needed, please contact Darryl Nirenberg, at 224-2035.

SUBCOMMITTEE ON EMPLOYMENT AND PRODUCTIVITY

Mr. QUAYLE. Mr. President, I would like to announce that the Subcommittee on Employment and Productivity will hold a public hearing on September 25 to examine issues relating to trade between the United States and Japan in automotive parts and accessories. The hearing will be held at 9:30 a.m. in room 430 of the Dirksen Senate Office Building.

In holding this hearing, on "Trade in Automotive Parts and Accessories between the United States and Japan: Implications for U.S. Employment," I intend to highlight the serious inequity that exists in the sale of original equipment and secondary market auto parts for use in the production and service of Japanese-made automobiles in both Japan and the United States. Currently, United States parts manufacturers provide less than 1 percent of the original and aftermarket parts for use in the Japanese market, and no more than 40 percent of any Japanese-made vehicle produced in the United States.

During the hearing, the subcommittee will receive testimony from Under Secretary of Commerce Bruce Smart on the United States-Japan market-oriented, sector specific [MOSS] talks on auto parts, from two auto parts trade associations, and from several United States auto parts manufacturers. The hearing will examine several issues of importance to workers and consumers in my State of Indiana and in other States, including the effect of the dramatic growth of Japanese parts suppliers locating in the United States and the relationship between Japanese automobile assembly companies and their traditional suppliers.

Witnesses have been agreed upon, but those wishing to submit written testimony may do so before October 2. For questions about the September 25 Employment and Productivity Sub-

committee hearing, please contact Sonya Wolsey-Paige of the subcommittee staff at 224-6715.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. McCLURE. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Tuesday, September 9, to hold a hearing to consider the nomination of John Agresto, to be Archivist of the United States.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

CENTENNIAL OF THE BERNE CONVENTION

● Mr. MATHIAS. Mr. President, today marks an important anniversary for the principle of copyright. One hundred years ago today, the International Union for the Protection of Literary and Artistic Works was signed. This premier international copyright agreement is better known as the Berne Convention.

The Berne Convention has been the chief means of promoting improved copyright standards worldwide. Today, 78 nations are Berne members. Signatories include developed and developing countries; market and nonmarket economies; nations in the East and West. Berne's contributions in the past are well documented, and its importance to the future readily apparent.

The question of whether our country should join the Berne Convention is an old one. The circumstances of today's world, and the importance of copyright to our national prosperity, infuse that question with a new urgency. We need innovative solutions as we seek to maintain the rights of authors, combat piracy, and meet the challenges posed by new technologies. The Berne Union, with the century of international copyright experience it embodies, is a resource that we ignore at our peril.

In this Congress, the Subcommittee on Patents, Copyright and Trademarks held two hearings on U.S. adherence to the Berne Convention. These hearings revealed a developing consensus among government, the private sector and academia that joining Berne would be to our advantage. As a result, I will be introducing the necessary implementing legislation later this month.

Today Ralph Oman, the Register of Copyrights and Assistant Librarian of Congress, will earn the distinction of being the first occupant of that post to address the World Intellectual Property Organization, which administers the Berne Convention. His remarks speak eloquently to the importance of the Berne Convention and the need for our adherence to it. On this centennial anniversary of the Berne Convention, I ask that his remarks be printed in the RECORD.

The remarks follow:

REMARKS OF HON. RALPH OMAN, BEFORE WIPO GOVERNING BODIES MEETING, GENEVA, SWITZERLAND

Mr. Chairman: Never before has the Register of Copyrights of the United States sat on our national delegation to these Governing Bodies, and my presence here is occasioned by two facts. First, I want to join in honoring the achievements of our predecessors—the visionary authors and artists who founded the Berne Convention. Although our absence from the Berne Union, has at times, been keenly felt, in many ways we have come under the influence of the Berne Convention's principles in our law. Local preoccupations have all been used to rationalize my country's different treatment of her artists, authors and composers. But as we came to realize the proper role of authors' rights in the development of national culture and industry and as a simple matter of justice to intellectual labor, we have steadily moved closer and closer to the central ideas contained in the Berne Convention. So the United States, too, can celebrate with the members of the Union their century of achievement.

The second reason I am here is to give an account of our consideration toward adherence to the Berne Convention. This movement is stronger now than at any time in our lifetimes. The transmittal of the Convention by President Reagan to the Senate for its advice and consent shows the seriousness of purpose of the Administration. The hearings conducted over the past year in Senator Charles Mathias' Subcommittee on Patents, Copyright and Trademarks have called forth the strongest expressions of support from authors, copyright proprietors, composers and the music industry generally; from academics, distinguished civil servants and important segments of the bar. Old opponents have become warm supporters. The sole question remaining is the adoption of appropriate legislation amending the 1976 Copyright Act to bring our law into compliance with the requirements of the 1971 Paris Act of the Convention. Let me briefly explain to you the status of these efforts.

We have finished the brief, intense, public debate over the utility and justice of adherence to Berne. We are now in the midst of an intense, legislative debate over implementing legislation. Our task is not as hard as it would have been a decade ago. The 1976 Copyright Act in many respects resolved important incompatibilities with the Convention; formalities such as the manufacturing clause have lapsed or remain in such diluted form that their further elimination can be, if even necessary, reasonably considered.

Late this spring the Copyright Office prepared a discussion paper outlining options for the Congress to consider in revising our law for Berne adherence purposes. This paper has evoked sufficient response so that the staff of the Senate copyright subcommittee will be able to draft a bill for introduction before the Senate adjourns next month. This legislation will be short but still too technical to discuss at this meeting. It will deal with the few remaining incompatibilities of our Copyright Act with the Paris Act, those that Dr. Bogsch pointed out in his testimony last year before the Senate. These include, of course, formalities most centrally, creation aspects of public performance rights in musical works, and legal solutions for the issues of retroactivity and moral rights.

Mr. Chairman, this legislation would permit our adherence to the Convention upon terms appropriate to our society without distorting our clear obligations under the treaty.

I know the Chairman of our delegation would much rather have brought our instrument of accession. Instead, I offer this small bit of news to hearten all who seek, with us, to extend the universality of this extraordinary Union which we celebrate today, and which we—and many other countries—may soon have the honor of joining.

Thank you.●

SO GOD MADE A FARMER

● Mr. ABDNOR. Mr. President, recently my good friend and constituent, Grace Matz of Watertown, SD, called to my attention a brief essay attributed to Paula Entelt, "So God Made a Farmer."

It is a unique testimony to a way of life that is precious to rural America—a way of life which must be preserved. I would like to share in with my colleagues.

The essay follows:

SO, GOD MADE A FARMER

(By Paula Entelt)

Surveying the world He had made, God looked down one day and said, "I need somebody down there to be a caretaker of my kingdom."

So God made a farmer.

"I need somebody who will sit up all night with a newborn colt, watch it die and say, "Maybe we'll get an even better one next year."

So God made a farmer.

"I need somebody who can eat dirt, smell manure, listen for thundercaps, taste bugs in his teeth and still feel good all over."

So God made a farmer.

"I need somebody who can get up before dawn, milk cows, work in the field all day, milk cows again, eat supper and then go into town and stay 'til 2 a.m. at a school board meeting."

So God made a farmer.

"I need somebody with arms strong enough to wrestle a big calf to give him shots but a heart gentle enough to cry when his first grandchild is born."

So God made a farmer.

"I need somebody who can call hogs, cuss at ornery, cantankerous old machinery, bark orders to the hired man and then come home and whisper to his wife that she's the same pretty girl he married 15 years ago."

So God made a farmer.

"I need somebody who can wait patiently for his afternoon lunch until his wife is done feeding all the ladies at her cosmetics party, and then tell them all to come back soon."

So God made a farmer.

"I need somebody who waits all year to harvest a crop, but will stop in mid-field and run to help when he sees smoke coming up from the neighbour's place."

So God made a farmer.

"I need somebody who will smile, then laugh and then cry when his son says he wants to spend the rest of his life doing just what Dad does."

So God made a farmer.●

PROFESSIONAL LIABILITY INSURANCE

● Mr. INOUYE. Mr. President, several months ago, I had the opportunity to meet with the leadership of Spectrum Emergency Care, Inc., a contract management corporation which provides emergency department physician staffing for approximately 355 hospitals and clinics around the country.

This particular corporation has been active in emergency medical care for a decade and a half now and is gravely concerned about the adverse impact that the issues surrounding professional liability insurance are having on the overall availability and quality of health care being provided in our Nation.

Mr. President, I request that a statement developed for me by the Spectrum Emergency Care, Inc., on professional liability be printed in the RECORD.

The statement follows:

MEDICAL MALPRACTICE LIABILITY INSURANCE FOR EMERGENCY PHYSICIANS: NEED FOR REFORM

(By Spectrum Emergency Care, Inc.)

During the fifteen years that Spectrum Emergency Care has operated as a contract management corporation in the field of emergency medicine, we have seen many great advances in emergency care, including the growth of emergency medicine as a specialty. We have also seen develop a set of growing major problems: increasing numbers of lawsuits filed and costs per claim, soaring malpractice liability insurance costs, and the lack of adequate insurance available to physicians. These have combined to change deleteriously the practice of emergency care, have unnecessarily increased the cost to patients, and have discouraged physicians from practicing.

Spectrum Emergency Care, Inc., is a St. Louis-based company that provides physicians staffing and management services for over 350 hospital emergency departments across the country. Spectrum has been in operation since 1971 and has offices in San Diego, Boston, Dallas, Chicago, Colorado Springs, Memphis, Tampa, Duluth, Silver Spring, and Columbus, Ohio. Spectrum became a subsidiary of ARA Services, Inc., in 1979. ARA Services is an international, diversified service management company headquartered in Philadelphia which provides basic services for industry, institutions, and consumers, including food and refreshments, health care, child care, uniform rental, maintenance, distribution of publications, and transportation.

We believe there is a liability crisis in all of health care, but over the last three years the impact upon the field of emergency medicine has been particularly severe. Costs per patient visit have skyrocketed, often going from $1 per visit for occurrence insurance to in excess of $6 per visit for claims made insurance (the latter form traditionally being a less expensive and less satisfactory form of malpractice liability insurance). Availability has also become a serious problem, with very few insurance companies remaining in the market. In fact, in some states, such as Illinois and Colorado, there is really only one source from which to purchase insurance.

Joe Gatewood, M.D., F.A.C.E.P., Spectrum's Medical Director, is particularly concerned that the amount of awards for noneconomic damages are not only escalating uncontrollably, but often bear no relation to the injuries involved. Rather, they often have more to do with who has the "deep pocket" and with an attempt to use the tort system to cure social problems. He agrees with President Reagan's concern that the laws have become "twisted and abused" to produce "outcomes that impede our economic life."

We strongly urge the Congress to pass federal tort reform legislation modeled along the lines of the AMA proposal. We are concerned that if tort reform is not successful, the insurance market will dramatically worsen, resulting in fewer physicians willing to practice emergency care and with those remaining forced to practice an increasingly expensive, defensive art.

Tort reform is particularly needed to convince the major reinsurance market in London to continue writing catastrophic coverage policies in the United States. Over the last 18 months, our discussions with London underwriters and brokers have convinced us of their concerns, as have the reactions they have taken: changing to a claims made form of insurance for almost all of their policies and increasing costs at an occurrence based equivalent of approximately 100% annually. They are concerned about the "lottery" atmosphere which has crept into the American tort system and jury awards. We believe that without changes in the law and attitudes in this country, the major London underwriters, Lloyds and Weavers, will gradually withdraw from the U.S. market.

The tort reform legislation we support would include:

1. *Elimination of "joint and several" liability:* Misuse of this principle of law has possibly been the single largest source of injustice in this country's system of tort law. We applaud the results of the California referendum, in which voters (by the astronomical ratio of 62 to 38 percent) put limits on the "deep pockets" theory. The impact of Proposition 51 of California will be to lessen the ability of plaintiffs to collect outrageous damages from one defendant who has a very *low* level of liability but adequate insurance simply because another defendant in the same suit has no insurance to pay for the *high* level of negligence of which he is found guilty. This often results in the twisted outcome President Reagan has noted.

2. *Caps on noneconomic damages:* Kirk Johnson of the AMA is correct when he says this will substantially decrease the cost of professional liability insurance. This is supported by Patricia Danzon, Ph.D., of the Wharton School, who believes that malpractice claims could be reduced by as much as 20-25% with damage caps.

3. *Better defined boundaries for compensation for economic damages:* These should be tied to factors such as a person's age, life expectancy, severity of injury, and a realistic assessment of loss of earnings. Also, damages should be discounted for collateral sources of payment.

4. *Discourage frivolous lawsuits and limit fees earned by lawyers on a contingency basis:* We believe that the current system of contingency fees had helped fuel the "lottery mentality" and has resulted in suits which should never have been filed. Not only has this helped clog the legal system, but has dramatically increased defense costs. In our company alone, cost of defending claims has tripled from 1979 to 1983 in spite of the fact that 62 percent of our claims are closed with no indemnity payment.

In summary, we are pleased to note that already lawmakers in 32 states have enacted bills in an effort to lessen this crisis. However, local judicial interpretation of these laws may override the expressed will of the people and their elected legislators. Therefore, federal legislation is required to speed tort reform and to ensure consistency among states. Solving this crisis in short order is essential because its impact worsens daily.

To those, such as the Association of Trial Lawyers, who say there is no medical malpractice crisis in America, we suggest they:

Ask the emergency department physician in Cook County who will pay $22,012 for a first year's claims made premium (and the tail, to cover future years' exposure, will be an additional $31,180). This physician averages approximately $90,000 in gross income.

Ask the expectant mother in New York who finds that her trusted obstetrician no longer delivers babies because he cannot get insurance.

Ask the emergency department physician who now must report on hospital staff applications the one, two, or more settlements made on his behalf, based on cases in which there was no negligence but in which the insurance companies were forced to settle to avoid the cost of expensive legal defense.

Ask the patient who no longer finds his family physician (or the emergency department physician) as trusting and sympathetic because his doctor is forced to view each patient as a potential lawsuit.

We strongly urge this Congress to pass a much needed tort reform bill, resulting in a health care system which operates more fairly, more efficiently, and more humanely for everyone.●

AID TO CONTRAS

● Mr. SIMON. Mr. President, someone handed me a copy of an editorial from the Bloomington Pantagraph criticizing our aid to the Contras.

The Bloomington Pantagraph is a reasonably conservative publication that more frequently endorses Republicans than Democrats. They are a highly regarded voice in that region of Illinois, and what they have to say about the Contras makes great good sense.

The editorial calls our policy a mistake, and that is exactly what it is.

I urge my colleagues to read the editorial from the Bloomington Pantagraph, and I ask that it be inserted in the RECORD.

The editorial follows:

AID TO CONTRAS WORSENS SITUATION

The United States is not at war with Nicaragua. It has not severed diplomatic relations.

Soon, however, it will be sending military aid to Contra rebels fighting against the Nicaraguan government.

After intensive lobbying by President Reagan, the House voted 221-209 to send $70 million in military aid and $30 million in non-lethal aid to the Contras. The Republican-controlled Senate has approved a similar measure.

Such action in support of "a virtually unprecedented . . . proxy war," as described by Rep. Thomas Foley, D-Wash., is a mistake.

Previous aid has been put to questionable use. Its primary effect has been to stifle diplomatic actions and encourage a more active Soviet role.

Resuming military aid will worsen the situation.

This would be the first time the United States has openly given military aid to the Contras. Secret aid funneled through the CIA caused embarrassment when it was revealed that the money was used to mine Nicaraguan waters and to produce and distribute a guerrilla handbook that seemed to condone political assassinations.

Switching from secret military aid to open "non-lethal" aid has not ended U.S. problems.

The General Accounting Office, an independent investigative arm of Congress, reported that millions of dollars of the "non-lethal" aid wound up going to off-shore banks, the Honduran military or obscure individuals and corporations in the United States.

There have also been allegations of drug-trafficking, gun-running and corruption within the Contras. The charges were considered sufficiently serious for the Senate Foreign Relations Committee to launch a preliminary investigation—the same day the House was voting to send more aid to the subjects of the investigation.

Meanwhile, the World Court is expected to rule today that U.S. aid to the Contras is a violation of international law. The Reagan administration previously announced it would not be bound by the World Court's ruling.

Including $300 million as economic development assistance for four Central American countries may have made the Contra aid package more palatable to moderates who switched their "no" votes.

However, it does not change the fact that the United States is financing a rebellion against a recognized government that has at least tacit support of its people.●

CALIFORNIA'S UNITARY TAX REFORM

● Mr. MATHIAS. Mr. President, during the Senate's recess the State of California took a giant step in the direction of an enlightened goal: reform of the unitary tax system. On September 5, Governor Deukmejian signed new legislation to allow multinational corporations to elect the arm's length approach rather than the worldwide unitary method, of calculating their tax base in the State. By enacting this measure, California has recognized the inequity of the worldwide unitary method and taken the first step toward dismantling it. The State deserves commendation for this bold move.

Under the unitary approach, a State takes into account the entire revenues of a corporation in all parts of the world, and then applies a formula to determine the corporation's tax liability in the State. The arm's length method, favored by our Federal Government and by all other industrial countries of the world, treats foreign affiliates and subsidiaries as separate business entities and taxes income earned abroad only when it is repatriated, allowing a credit for taxes already paid in the source country.

I have been advocating unitary tax reform throughout my career in Congress. The extra-territorial taxation involved in the unitary method has impeded both foreign and domestic business investment in the States that have practiced it and has caused painful tensions in our trade relations with Great Britain and other countries that refrain from using this method. The solution I have championed over the years is Federal legislation to prohibit State use of the unitary tax. Late last year, the administration finally became persuaded of the importance of resolving the issue and its version of the legislation, S. 1974, was introduced in December by Senator WILSON.

California's action has for the most part superseded the Federal legislative effort. Three States continue to practice the unitary tax, but I hope they will follow California's example in the months ahead.

The new California law does not accomplish everything aimed for in my earlier bills and in the administration's measure. In the first place, the California statute does not take effect until January 1, 1988. That leaves considerable time for backsliding, a danger that Federal legislation would help to curb. In addition, the California bill imposes a special fee on corporations electing to be taxed under the arm's length approach, to go into a general economic development fund for the State. Also, the tax base for companies that conduct 80 percent or more of their business abroad will still be calculated on the combined basis of all the worldwide revenues, not only those generated in or repatriated into California.

But these shortcomings do not weigh so heavily in the balance as the monumental step forward that California has taken with its progressive new law. Its enactment closes a chapter in the unitary tax debate, at least for the next few years, and I am happy that we have at last been able to achieve some movement in this area. From the viewpoint of U.S. jobs, investment, and the free flow of international commerce, I am convinced that the results will be significant, positive, and visible.●

WORLD SCOFFLAW

● Mr. SIMON. Mr. President, some weeks ago, the Los Angeles Times ran an editorial titled "World Scofflaw."

It calls into question our defiance of international law and political common sense in our activities in Nicaragua.

It is a well-written, to-the-point editorial that I urge my colleagues to read, and I ask that it be inserted in the RECORD at this point:

The editorial follows:

WORLD SCOFFLAW

The veto by the United States of the U.N. Security Council's resolution on the Nicaraguan crisis is yet another act of defiance by a Reagan Administration bent on pursuing a military course in Central America.

No other nation on the 15-member council voted in support of the United States. Great Britain, France and Thailand abstained on the final vote. Eleven nations supported the resolution. Their support of the resolution was appropriate, for the resolution did nothing more than uphold the rule of law.

At the heart of the matter was the finding of the International Court of Justice on June 27 that U.S. efforts to overthrow the Sandinista government of Nicaragua are in violation of the U.N. Charter. So they are. The court called on the United States to terminate the arming and financing of the contras, who are fighting the government of Nicaragua. The court decision, based on existing international agreements, was persuasive in its arguments and presented a carefully determined effort to encourage the settlement of disputes by peaceful means.

But the United States, catching wind of the impending action, had rejected the jurisdiction of the court just days before Nicaragua, on April 9, 1984, brought the charges. And the United States had rejected the authority of the court again when the verdict was reached 26 months later. Deliberately the United States placed itself outside the law, and eroded the fragile structure of international law that the court represents, to protect its policy of military intervention in Central America.

That same defiance has now been directed within the most important peace-enforcement body of the United Nations, the Security Council, against a resolution supporting the court decision. The resolution bore no condemnation of the United States. It did not even mention the United States by name. In reaffirming the authority of the court, the Security Council called on all nations to comply with the decision of the court and to refrain from any political, economic or military action that might impede the peace efforts of the Contadora nations—the four Latin nations seeking a peaceful settlement for Central America.

Vernon A. Walters, the chief U.S. representative to the world organization, said that the United States had vetoed the resolution because it "could not, and would not, contribute to the achievement of a peaceful and just settlement of the situation in Central America." That is absurd and ludicrous. The resolution embraced the absolute essentials of a peaceful and just settlement as that settlement is understood by virtually every nation in the hemisphere save one—the United States.

The isolation of the United States, as it pursues stubbornly its policy to destroy the Sandinistas, grows apace. The determina-

tion of President Reagan to shoot his way to peace in Nicaragua has diverted world attention from the abuses of the Nicaraguan government itself as it breaches the promises of democracy and diversity that it had made for its revolution. And it is Washington that comes increasingly to be seen as the outlaw.●

HONORING DR. WILLIAM N. HUNTER, A LEGIS FELLOW

● Mr. QUAYLE. Mr. President, I rise today to pay tribute to Dr. William N. Hunter and a highly successful program, operated by the Office of Personnel Management. The LEGIS Fellow Program, in existence since 1980, provided me with the opportunity of selecting an employee for the executive branch.

Since January 1985, I have had the good fortune of having Dr. William N. Hunter from the Office of Management and Budget be assigned to my personal staff.

Dr. Hunter has had more than 25 years experience in acquisition with the private sector, the Pentagon and OMB. Prior to coming to my personal staff he was appointed by OMB to establish the "OFPP Chair" at the Defense Systems Management College. He also served as the Director of the Federal Acquisition Institute and Assistant Administrator with the Office of Federal Procurement Policy.

Dr. Hunter was able to provide valuable insight in providing me with timely and relevant suggestions supporting the many procurement issues faced by my subcommittee. In return, we enabled him to obtain a broad spectrum of practical experience in the day-to-day operation of an office of a U.S. Senator and the Senate Armed Services Committee.

Dr. Hunter was instrumental in support of my efforts on procurement legislation, including the "Defense Procurement Improvement Act of 1985" and "Defense Acquisition Reorganization and Improvements Act of 1986."

Dr. Hunter was constantly willing to learn and take on new problems and applied his considerable abilities toward their resolution. I have no doubt that this arrangement was very profitable to him as it has been to me.

I would like to express my sincere appreciation, and the appreciation of my entire staff to Dr. Hunter. He has made a significant contribution to my office and performed at an outstanding level. In short, Bill will be sorely missed when he departs my family. I am certain that we will continue to keep in touch with him.●

DENIAL OF LEGAL RIGHTS TO VETERANS

● Mr. KERRY. Mr. President, one of the most fundamental principles of American democracy is the right of all citizens to have equal access to our judicial system. The greatness of our system of Government lies in the fact that all citizens are equal under law—that no citizen, no matter how powerful, is above the law, and no citizen, no matter what his station in life, is denied the equal protection of the law. The guarantee of access to our judicial system, and the protection of our legal rights provided by the Constitution, is what makes our system of Government unique, and differentiates us from totalitarian societies such as the Soviet Union.

Unfortunately, there is still one group of Americans for whom the guarantee of access to our legal system does not apply. I am referring to our Nation's veterans.

Veterans, unlike all other Americans, are denied by law the fundamental right of access to the American judicial system. Illegal aliens, prisoners, the mentally ill and disabled, and Social Security pensioners all enjoy the right to appeal to the Federal courts. Veterans do not.

The fact that veterans are denied this basic right is an archaic, anachronistic result left over from a paternalistic era in American history. These limitations, along with a limit of $10 on attorneys' fees in veterans' cases, were imposed during the Civil War era, for the purpose of protecting veterans from legal exploitation. Such protections are no longer needed, or indeed desired, by the vast majority of veterans today.

The U.S. Senate has five times voted unanimously in favor of judicial review for veterans. Last year, the Senate again passed S. 367, which I cosponsored, to provide judicial review for veterans. But the House of Representatives has consistently failed to act.

Last month, the House Veterans Affairs Committee defeated, by a vote of 20 to 12, a bill to provide judicial review of claims for veterans benefits. The bill was opposed by the Veterans' Administration, which threatened to withdraw free office space, telephone service, and other benefits for veterans' organizations which supported this legislation.

It is ironic that this administration, which claims to revere our military men and women, in fact has waged an all-out effort to deny basic legal rights to America's veterans. Unfortunately, they have been all too successful. Under the Carter administration, the VA came out in favor of judicial review for veterans. But under the Reagan administration, the VA has changed its tune, and has issued threats to veterans' organizations which do not support its position on this issue.

It is still possible, however, for the House of Representatives to act on this legislation in this Congress. Under the House rules, it is possible that H.R. 585, the bill to provide judicial review for veterans, could be brought to the floor for a vote of the full House before the end of this session. And the fact is that 231 Members of the House, 13 more than a majority, are already cosponsors of this legislation. Clearly, the will of the majority is being thwarted by a minority who do not want to see full legal rights granted to America's veterans.

Mr. President, I hope that the House of Representatives will choose to act, and to pass this legislation before the end of this year. Judicial review for veterans is supported by the Vietnam Veterans of America, a federally chartered veterans' organization, and by most other major veterans' groups.

It is indeed ironic that, in the past year, the Veterans' Administration sued over 40,000 veterans in Federal court to recover money which it claimed that the veterans owed to the VA. But when a veteran believes that he or she is owed money because the VA has made an error in denying a claim for benefits, the current law prohibits the veteran from filing a lawsuit. In other words, justice is a one-way street for veterans. There is one set of rules for the VA, and another for America's veterans. This unfair system must be changed.

Mr. President, for those of us who are veterans, the denial of basic legal rights to all veterans is a continuing outrage. There is a wall in Washington, at the Vietnam Memorial, which contains the names of 58,000 Americans who made the ultimate sacrifice for this country, so that all of us could live in liberty. Surely those fundamental liberties should not be denied to those who have fought to protect them. Veterans are entitled to the same legal rights as all other Americans. The time to provide those rights is now.●

HELPING MEXICO

● Mr. SIMON. Mr. President, over the August recess I caught up on some of my reading, and it included an editorial from USA Today titled "Let's help Mexico get back on its feet."

The common sense of working much more with Mexico should be so apparent that it should be a major thrust of American foreign policy.

But the reality is that we have only two neighbors on our borders, one which we do not really regard as a foreign country [Canada] and one which we have ignored far too often. Ignoring Mexico is a habit that we have to rid ourselves of.

I urge my colleagues to read the USA Today editorial. It is good, rare, common sense.

I ask that it be inserted in the RECORD here.

The editorial follows:

LET'S HELP MEXICO GET BACK ON ITS FEET

Suppose your neighbor lost his job, faced foreclosure, and talked of suicide. Would you worry about him?

Of course you would.

Suppose a neighboring country faced a similar situation, teetering on the brink of economic collapse.

Suppose it had millions of people living in basest poverty, hordes fleeing its borders, charges of corruption at every level of government, and a $1 billion cocaine trade. Then add demonstrations, political unrest, and charges of election fraud.

Would that worry you? It should. We have a neighbor like that. Mexico.

Mexico's economy is in shambles. It was tottering toward a comeback from 1982's near default on its massive foreign debt—now nearly $100 billion—when it took a one-two punch. The devastating earthquake last fall, which killed thousands and left tens of thousands homeless, will require billions for rebuilding. At the same time, the price plunge has cut its oil revenues in half.

Last week's agreement with the International Monetary Fund, which will bring Mexico as much as $12 billion in new loans, gives the country a breather. Bankers hope the stringent economic house-cleaning required by the IMF will help rejuvenate the economy and allow Mexico to eventually pay back its loans.

Illegal immigrants and drugs—Mexico's two biggest exports to the USA—are souring relations between neighbors. Mexico now supplies most of the marijuana and heroin and one-third of the cocaine consumed in the USA.

In Senate hearings earlier this year, Mexico was criticized for alleged drug-related government corruption and failing to stem the flow of narcotics across the border.

Some people in the USA would like to draw a curtain along the Rio Grande and shut out Mexico's problems. They argue that our loans and assistance just prop up a failed, corrupt system of government. They say we should let Mexico sink or swim on its own.

But we can't turn our backs. Cultural and social ties are too strong. The humanitarian urge that prompts us to give food, medicine, and clothing to Mexico's poor is too strong. And it is clearly in our national interest to help Mexico.

Political instability and a weak economy encourage the illegal immigrants to seek scarce jobs in the USA. The 1,900-mile border, now largely undefended, would be nearly impossible to protect if Mexico became a hostile nation.

Rather than insulting Mexico, we should cooperate to improve the lot of both our nations. Drug eradication programs must be revived and intensified.

U.S. businesses should welcome Mexico's new, relaxed attitude toward foreign investment. We must not try to impose our own system of government, but we should encourage and support healthy change.

Of course we should worry about Mexico. We must provide assistance, without interference. It's as simple as this: Helping Mexico helps the USA.●

EDUCATION: THE EARLY YEARS AND THE NATION'S FUTURE

● Mr. SIMON. Mr. President, last week Ernest Boyer, president of the Carnegie Foundation for the Advancement of Teaching, spoke at the National Press Club on excellence in education. Long a leading spokesman on education, author of "High School," a probing examination of secondary education in the United States, and author of a new work on early education, Dr. Boyer has contributed to shaping Federal education policy with his thoughtful analyses of both what is right and what is wrong in American education.

Dr. Boyer's research on elementary education finds a variety of problems which must be addressed including the changing demographics of grade school children, the learning of language skills, the effectiveness of early education and school structures which reflect work and family patterns.

At this time I would like to include Dr. Boyer's September 4 speech in the RECORD. Elementary and secondary education policies will be an early issue in the next Congress, and I commend Dr. Boyer's remarks to my colleagues as critical commentary which precedes our debate on the Federal role in education.

The material follows:

THE EARLY YEARS AND THE NATION'S FUTURE

(Ernest L. Boyer, President, The Carnegie Foundation for the Advancement of Teaching)

INTRODUCTION

Forty months ago the National Commission on Excellence in Education declared, "our Nation is at risk," and said that, "If an unfriendly foreign power had attempted to impose on America the mediocre educational performance that exists today, we might well have viewed it as an act of war. As it stands, we have allowed this to happen to ourselves."

Since that hyperbole hit the headlines education has been a high priority in the nation.

Thirty governors have named school reform commissions.

Legislators have enacted programs.

The corporate sector has adopted schools.

College presidents have been outspoken for public education.

Graduation requirements have been raised.

Teacher salaries have increased at twice the inflation rate. And there has been a dramatic turnaround in the public attitude toward teachers.

For decades, teachers in this country have been portrayed as ill-prepared, self-serving people who care less about students than about salary increments and summers off.

Today, they are increasingly being viewed as part of the solution, not the problem.

In sum, we've had, during the past three years, more constructive action on behalf of public education than during any comparable period in recent memory.

And I propose two cheers for the current push for school renewal.

I

Still, I see a dark lining to the silver cloud.

While "advantaged" schools are getting better, many others—especially those in our major cities—remain deeply troubled institutions.

These schools differ not just in degree, but in kind. The social pathologies that surround them are so great and the problems so complex that current efforts are just not adequate to the task.

Twenty years ago, there was a crusade in this nation to improve urban education. The centerpiece of the plan was desegregation. Elaborate "remedies" were drawn and agonizing battles were fought out in the courts—and sometimes in the streets.

Today, the crusade of the 1960s, which is but a faded memory, has been followed—not with new ideas—but with disillusionment and neglect.

In some city high schools, at least four out of ten students are absent on any given day. How are we to achieve excellence when students aren't even in the building?

Almost half of the Mexican-American and Puerto Rican students who enroll in public schools drop out before they are awarded a diploma.

In Philadelphia the drop out rate is 38 percent. And in Boston it's 43 percent.

In Chicago, in 1984, over half of the students failed to graduate, and of those that did only a third were reading at the 12th grade level.

Last year—in the Cleveland Public Schools—there was not a single semi-finalist in the National Merit Scholarship competition. Boston and Detroit each had only one high school with semi-finalists.

What's disturbing is that the school reform movement is not confronting adequately the core of our educational dilemma. And there is still an enormous gap between our rhetoric and results.

The breakup of the home, the community wrenched by crime, lack of money, loss of good teachers—all of these threaten to overwhelm our most troubled schools.

To require a failing student in an urban ghetto to take another unit in math or foreign language without a better climate or better teaching is like raising a hurdle without giving more coaching to someone who has already stumbled.

And all this is occurring at the very time the problems are expanding.

By the year 2000, America will be a nation in which one of every three pupils in the public schools will be non-white. What is coming toward the education system is a group of children who will be poorer, more ethnically and linguistically diverse, children who will have more handicaps that surely will affect their schooling.

Unless we deepen our commitment, the crisis in urban education will increase. An aging white population will reduce support, and the gap will widen between the haves and the have nots in education.

What we could be left with in our major cities is a kind of educational Third World. And it is here, in these schools, that the battle of American education will be won or lost. If urban schools do not become a national priority, the promise of excellence will remain sadly unfulfilled.

II

There are no panaceas. If there were obvious answers to the problems of urban education—we would have found them long ago. What is clear, however, is that our efforts must begin before failure has become a way of life.

Without taking educators off the hook, our first obligation is to recognize that poverty and schooling are connected. And that we see as poor performance may be connected to events that precede schooling—and even birth itself.

The growing fetus requires a diet rich in protein, vitamins, and minerals. And yet

most poor mothers do not have adequate nutrition.

Further, the human brain grows most rapidly during the first year of life. And yet today 40 percent of all the people in America classified as poor—are children. And malnutrition affects almost a half-million children in this nation.

The implications for schooling are dramatic.

A major report by the Physicians Task Force on Hunger in America revealed that the child, deprived of adequate nutrition during critical years of brain growth, risks "cognitive deficits," to quote the panel—which obviously restrict learning later on.

And in a recent Louisiana study, poor children who had been provided food supplements during pregnancy and the first year of life were compared to those who had been nutritionally denied. The children, who had received good nutrition early, showed higher IQ, higher attention span, and higher grades in school.

And yet, it's ironic that at the very time when better schools are being pushed, funds for the federal child nutrition programs are restricted.

I realize that to talk about babies and poor health may appear to be far off the school reform agenda. And yet the evidence is overwhelming. Our educational problems cannot be divorced from the problems of the poor. All mothers and young children must have good nutrition if good schooling is our goal.

III

Coming directly to troubled schools, I'm also convinced that we must give top priority to early education—and especially to language—a commitment strongly reaffirmed by Secretary Bennett just this week.

I propose that every school district—certainly those with a high drop out rate—organize what might be called The Basic School—a unit that would include kindergarten through grade three.

The Basic School would focus on the certrality of language. And in our society, English must come first. The sending and receiving of messages makes us truly human. Language is imprinted in the genes and by the time the child marches off to school, he or she is already linguistically empowered with a vocabulary of several thousand words. Any child who can speak and listen, I believe, can also be taught to read and write.

The goal of the Basic School would be to build on this foundation; to assure that every child reads with understanding, writes with clarity and effectively speaks and listens. If children do not gain a fundamental graps of language in the early years it is almost impossible for them fully to compensate for the failure later on. It's like playing tennis with a broken racquet.

Further, in these early years, rigid grade levels should be blurred. It's foolish for teachers to fret over the curious question of whether to "fail" a student in grades one or two. Some children develop more slowly than others, and whether a student is in first grade or second grade is inconsequential. What is important is not the age, but the linquistic progress of each child.

The goal is to make sure that students will be reading and writing with confidence and handling math accurately before they move to the next level—where the focus will be on the core of common learning. This is the only way to assure that students in the upper grades will academically succeed.

In the Basic School, class size is also crucial. Today primary school teachers sometimes have 30 or more students in a single class. Even under the best of conditions these teachers can give only a minute or two to each child in any given hour. This is simply not enough.

The State of Indiana recently compared with achievements of first graders in large classes with those in classes with less than 20 students. The evidence was overwhelming. Small classes bring more academic gains.

This nation should move quickly to implement the recent Governors' Report, Time for Results, that recommended one teacher for every 15 students in kindergarten through grade three. The Governors got it right.

Smaller classes mean more money.

And yet, recent polls show that Americans are willing to spend more for education if they feel the investment will pay off. Further, it's my faith that a good Basic School would reduce the high cost of special and remedial education in high school—which is expanding at an alarming rate.

The recent High Scope study of the long term impact of quality early education concluded that for every dollar invested, the payoff is more than four to one.

I'm talking about reordering the educational priorities of the nation by giving more support to early education and more backing to primary school teachers.

Indeed, I'm convinced that if we would give as much status to first grade teachers as we give to full professors, that one act alone would go a long way to bring excellence to the nation's schools.

But teachers cannot do the job alone. Schools need outstanding principals. And parents also must be partners in the process.

Children are not likely to become good readers if no one reads at home, if "bookshelves" are filled only with knickknacks and plastic flowers, and if TV watching is the preoccupation of parents every night.

To reaffirm this partnership I'd like to see parents turn off the TV—even pass up Dynasty and Dallas now and then—to read aloud to children, and rediscover the beauty of the written and the spoken word.

IV

This leads to priority number three.

To strengthen education we also must adjust the school schedule to the changing family and work patterns in the nation—a challenge that goes far beyond the crisis of the poor.

Grandfather Boyer was born in 1872. He died one month short of his 100th year, and during the century of his life the world became a wholly different place—from his horse drawn plow to John Glenn's liftoff into space.

Grandpa had grown up on a southwest Ohio farm. One day when he was 96 I asked him about the schooling he had had. Grandpa said he went to school three years—long enough to learn to read and write. He walked six miles to school, and went only in the winter when he was not needed on the farm.

When today's school calendar was set almost a century ago—with nine months of study and three months off—over 90 percent of all school age children were, like Grandpa Boyer, living on a farm with mother and father, working hard, and staying home in the summer to "tend the crops." The school calendar mirrored the work and family patterns of the nation.

Today, the world has turned upside down. Less than 3 percent of today's families are on farms. In most households both parents work—away from home;

Further, nearly one in five families is now headed by a woman. And two-thirds of these mothers work. About half the children now in first grade will have lived in one-parent homes by the time they graduate from high school.

I'm convinced that, once again, the school schedule and the family schedule should be merged. It's essential that school arrangements match the realities of both family life and work patterns, as they did 100 years ago.

Already, because of working parents, over 40 percent of the nation's children are in prekindergarten programs.

And I predict that increasingly schools will be called upon to provide prekindergarten sessions to serve young children who need care outside the home.

In fact, the Governors, in their new report, urged states to provide quality early education for "at risk" four year olds and "where possible" for three year olds as well. This recommendation touches the realities of life.

Another issue. Today, one out of ten children now comes home to an empty house or apartment. And as this "latch key" problem grows, schools will operate on a longer day, offering after-hour programs such as special studies in science, computers, music or athletics, for example.

Looking down the road, I'm also convinced that the school calendar will be lengthened. A three month summer recess made sense when there were crops to be tended and extra hands were needed in the fields. But it's an anachronism now, especially at a time when most parents work outside the home, year round.

We need an optional summer term for children, not for babysitting but for learning. Their needs cannot be magically turned off when school is out.

Here, then, is the pattern I see emerging—pre-kindergarten programs, afterhour workshops, and summer sessions—all to fit the realities of family life and the needs of the children.

The danger is that affluent families will find their own services—summer camps, private lessons, youth clubs, for example—while poor children are allowed to drift.

In 1983, 53 percent of upper and middle income families had their preschool children in special programs, only 29 percent of at-risk three and four year olds were so enrolled.

If this gap is to be narrowed, new enrichment programs—which I wish to call an Extended School—should be optionally available to serve all students, not just the privileged few.

Families who can pay for these extra services should pay for them—at fees that will make the activities self-supporting.

For those who cannot afford the cost, I urge a state-financed plan that would give poor families a certificate of eligibility—linked to the Federal Chapter 1 guidelines—to be redeemed at the preschool, afterschool, or summer program of their choice.

There is, in fact, precedent for this procedure. Today several states—New Jersey, Pennsylvania, and South Carolina—have state financed enrichment programs where the eligibility is based on Chapter 1. While the focus of these projects is on remediation, the procedure could be applied for the Extended School as well.

Further, by financing this enrichment program—through parent payment—and through the state, local budgets would be relieved and more equity in public school financing would be assured. For the core school program, however, current funding patterns would be kept in place.

Incidentally, a school district could contract for these enrichment seminars—with a college or a youth club or local artists or computer centers, for example.

Further, there would be an advantage, I believe, in having children from all social and economic backgrounds—and perhaps from both public and private schools—participating together in the new enrichment programs.

v

This brings me to priority number four. In the days ahead it is urgently important that we learn more about how children learn.

Today, with all the talk about education, we know far too little about learning and we are far too ignorant about how to measure the results. We have good schools and good teachers, but my optimism about the future of schooling is based on the conviction that, in the days ahead, we will become much more knowledgeable about learning and about how the potential of all children can be assessed.

The most exciting work, in my opinion, is being done by Howard Gardner at Harvard. Gardner in his provocative and insightful book, "Frames of Mind," reminds us that children have not only verbal intelligence—they also have logical intelligence, mathematical intelligence, spatial intelligence, bodily and personal intelligence. And I suspect intuitive and social intelligence as well.

Gardner suggests that we should find ways to understand the many dimensions of intelligence in our children.

And yet today's paper and pencil tests focus on a limited range of verbal skills and on computation—on a merger sampling of selected words and numbers. We need yardsticks to assure that our 140 billion dollar annual investment in public schools is paying off. And today tests are useful in providing a barometer of how well schools are doing.

But our tests do not come close enough to individual children or provide sufficient information to the teachers. And by reducing students to a number we may tell children they are failures before they've discovered what they might become.

If our goal is to educate all children we must broaden our definition of potential and honor the full range of talent that contributes to our civility and perhaps to our survival, too.

James Agee, wrote on one occasion that with every child who is born, under no matter what circumstances, the potentiality of the human race is born again.

Here then is my conclusion. To achieve excellence in education we must

Confront the problems of poor children.

Give priority to early education.

Affirm the centrality of language.

Provide enrichment programs that reflect the changing work and family patterns of the nation.

And learn more about how children learn.

As we move toward the year 2000, the most urgent issue we confront is this: Will America continue to believe in education for all children or will it sort out schooling between the winners and the losers—and in so doing become a separated and more divided nation?●

VIOLENCE ON TELEVISION

● Mr. SIMON. Mr. President, we in the Senate will shortly be faced with the question of how to handle an increasing problem in our culture, and that is violence on television. We do not want censorship. We do want to protect the civil liberties of our country, but we cannot remain powerless in the face of overwhelming evidence that violence on television is causing harm in our society. The Christain Century published an article by Dr. William F. Fore, head of communications for the National Council of Churches of Christ. The article appeared late last year.

Its message on media violence is clear and solid.

I urge my colleagues and their staffs to read this article, and I ask that it be printed in the RECORD.

MEDIA VIOLENCE: HAZARDOUS TO OUR HEALTH

(William F. Fore)

Of all the people in industrialized nations, Americans are the most prone to violence. Between 1963 and 1973, when the war in Vietnam took 46,212 lives, firearms in America killed 84,644 civilians. In the past 50 years the per capita rape rate in the United States has increased by 700 per cent. During the past 30 years our per capita homicide rate has almost doubled. In 1980 there were eight reported handgun murders in England and 10,012 in the United States (Jervis Anderson, "An Extraordinary People," New Yorker, November 12, 1984], p. 128). And the U.S. Bureau of the Census reported that between 1974 and 1983, the number of aggravated assaults has increased by 6 per cent, forcible rape by 26 per cent, robbery by 2 per cent and child abuse by 48 per cent (Statistical Abstract of the United States 1985, pp. 166, 172, 183).

For years people have wondered whether the amount of violence portrayed on American movie and TV screens has any correlation with the growing violence in our streets and homes. For 20 years, the evidence has been slowly accumulating. Now the verdict is as clear as the evidence that links smoking to cancer: Violence in media is causing violence in the society.

As early as the 1950s Congress held hearings on the effects of television. When Senators expressed concern over television's role in increasing juvenile delinqency and crime, industry representatives immedicately promised to reduce violence (while denying any evidence of harmful effects). Yet during that same period—in the mid-50s to mid-60s—television programming shifted noticeably toward action-adventure formats, and TV violence increased markedly.

As programming became more violent, research became more decisive. The National Commission on the Causes and Prevention of Violence, headed by Milton S. Eisenhower, focused on the relationship between violence and television in 1969 and concluded that "violence on television encourages violent forms of behavior and fosters moral and social values about violence in daily life which are unacceptable in a civilized society."

Noting that advertisers were spending $2 billion each year in the belief that television does influence human behavior, the commission declared "Television entertainment based on violence may be effective merchandizing but it is an appalling way to serve the 'public interest, convenience and necessity.'"

Three years later, U.S. Surgeon General Jesse Steinfeld testified at a Senate hearing that a study, ordered by Congress, had unearthed "sufficient data" to establish a causal relationship between watching television violence and aggressive behavior. "Broadcasters should be put on notice," he said, "that television violence, indeed, does have an adverse effect on certain members of our society" (*Broadcasting*, March 27, 1972, p. 25).

The broadcasting industry, however, resisted the conclusions of both studies, and research by George Gerbner, dean of the University of Pennsylvania's Annenberg School of Communication, shows that the level of violence on television during the '70s did not change significantly.

The broadcasting industry challenged Gerbner's violence profile. Writing in the *Journal of Broadcasting*, David M. Blank contended that Gerbner's study defined violence too broadly by including cartoons and slapstick violence and that it counted some single acts of violence as multiple (Summer 1977, pp. 273-79). The Annenberg School countered in the same issue of the journal that comic content (such as cartoons) is a highly effective form of conveying serious lessons, and that when a new person or agent enters a scene, a "single" violent episode becomes "multiple" (pp. 280-86).

Broadcasters continued to insist in the face of such evidence that the research was still inconclusive. Gene Mater, a CBS spokesperson, told a congressional hearing that "our figures, our studies, and lots of other studies [show] that there is no unanimity." Mr. Mater cautioned against making television a scapegoat when seeking solutions to the problem of violence. He argued that "with this single focus we ignore many of the root causes of societal ills," thus neglecting elements other than media that influence our lives: the home, school, church and peer groups.

In a memorandum "Research on Television Violence: The Fact of Dissent," prepared for the hearings, CBS quoted Eli Ribenstein, who had been vice-chairman of the original surgeon general's report, as saying that "opinions are more sharply divided than they were [in 1969]. Paradoxically, the hundreds of studies done in the past decade have apparently served to support diametrically opposing conclusions" (p. 50).

But research continued, and in May 1982 the National Institute for Mental Health released the findings of a ten-year followup on the surgeon general's study, "Television and Behavior," conducted by David Pearl. "After ten more years of research," the report said, "the consensus among most of the research community is that violence on television does lead to aggressive behavior by children and teenagers who watch the programs."

The report noted that "not all children become aggressive, of course," but that "the correlations between violence and aggression are positive," indeed as strong as "any other variable behavior that has been measured." Conversely, the study found that "children can learn to be altruistic, friendly and self-controlled by looking at television programs depicting such behavior patterns."

Earlier this year Pearl released another report in which he maintained that the NIMH report demonstrated that television has four effects on violent behavior: direct imitation of observed violence; "triggering" of violence that otherwise might be inhibit-

ed; desensitation to the occurrence of violence; and viewer fearfulness. "Consider the situation if even only one out of a thousand viewing children or youth were effected (there may well be a higher rate)," Dr. Pearl wrote, "Consider also the cumulative effects for viewers who watch such programs thorughout the year. Even if only a small number of antisocial incidents were precipatated in any community, these often may be sufficient to be disruptive and to impair the quality of life for citizens of that community" (p. 6).

After completing the most thorough and most conclusive overview of research on television violence to date, George Comstock—who, only four years earlier, was quoted by the broadcasting industry as saying that the evidence was not yet conclusive—declared that "a very large majority of studies report a postive association between exposure to media violence and aggressiveness" ("Media Influences on Aggression," in A. Goldstein (editor), Prevention and Control of Aggression [Pergamon, 1983]).

Despite these decisive conclusions, the level of violence does not appear to be diminishing. Dean Gerbner's Violence Profile, which has traced television's performance annually since 1966, indicated that in the 1982-83 season, violence on television had not diminished but was approximately at its 17-year average. However, violence in children's weekend programs reach a record high, with a rate of 30.3 violent incidents per hour against a 17-year average of 20. In a paper prepared for the National Council of Churches of Christ, Gerbner said: "For the past 17 years, at least, our children grew up and we all lived with a steady diet of about 16 entertaining acts of violence (2 of them lethal) in prime time alone every night, and probably dozens if not nhundreds more for our children every weekend. We have been immersed in a tide of violent representations that is historically unprecedented and shows no real sign of receding ["Gratuitous Violence and Exploitative Sex: What are the Lessons?," pp. 2-3].

Dr. Gerbner went on to explain television's role in creating a "mean and violent world" in the minds of many viewers, particularly heavy viewers:

Symbolic violence . . . is a show of force and demonstration of power. It is the quickest and most dramatic demonstration of who can get away with what against whom. . . .

Violence as a scenario of social relationships reflects the structure of power in society and tends to cultivate acceptance of that structure. . . . It is clear that women, young and old people, and some minorities rank as the most vulnerable to victimization on television. . . .

Most heavy viewers in every education, age, income, sex, newspaper reading and neighborhood category express a greater sense of insecurity and apprehension than do light viewers. . . . Fearful people are most dependent, more easily manipulated and controlled. . . . They may accept and even welcome repression if it promises to relieve their insecurities. That is the deeper problem of violence-laden television [pp. 5-6].

Violence on television—as well as on cable, in movies and on videocassettes—is lowering our quality of life. Whether or not we personally watch the excessive amounts of TV violence, enough people *do* see the violence, which, in the end, causes more crime, more abuse, more injuries and more deaths in our society.

Of course, television can—and never should—be "sanitized" to the point that it contains no violence at all. Such a depiction of life would be dishonest in a different way. The problem is gratuitous and excessive violence—an identifiable phenomenon that we created and that, if we wish, we can correct.

Some observers have said that we are faced with pollution of our mental environment that is just as dangerous as pollution of our physical environment. But how does a free society combat mental pollution? The First Amendment guarantees each of us the freedom to speak whatever we wish, since one person's truth is another person's heresy. The media industries hide behind this freedom, to the injury of us all. On the other end of the spectrum lurk those True Believers who, knowing the truth, are anxious to impose it on us by censoring all other perspectives. Somewhere between these two poles there must be a middle way which enables society to curb harmful violence without curbing freedom of speech.

Before we can do anything to confront the problem of violence in the media, I suspect that we must first decide what kind of society we really want. At that point the solution will become more apparent. In the meantime, at least we now know the facts about the effects of violence in the media, and our ignorance can no longer be blissful—or even a valid excuse for inaction. ●

AIR SAFETY

● Mr. SIMON. Mr. President, the Chicago Sun-Times had a story with the heading: "Air controllers' inexperience hit in O'Hare errors."

The article, written by Tim Padgett and Phillip J. O'Connor, points to the need for more experienced people working on air traffic control.

Some months ago, I dropped in at the Aurora, IL air traffic control center and visited with perhaps 15 or 20 different people. From the person in charge of the center to those who are working as controllers, the overwhelming sentiment was that after careful screening—to make sure people who are either not physically or emotionally able to handle it would be kept out—some of those who were controllers before should be brought back in.

If our number one concern is air safety, that clearly ought to happen.

There is no question that President Reagan did the right thing by firing the air controllers, even though it should have been handed differently. You cannot strike against the Federal Government. We cannot compromise on that.

But that was 4 years ago. A substantial penalty has been invoked, and now the question ought to be air safety.

I ask that the article from the Chicago Sun-Times be inserted in the RECORD, and I urge my colleagues to read it.

The article follows:

AIR CONTROLLERS' INEXPERIENCE HIT IN O'HARE ERRORS

(By Tim Padgett and Phillip J. O'Connor)

Almost half the air traffic controllers responsible for the 15 errors at O'Hare this year—13 of them near mid-air collisions—had less than two years' experience at the airport, according to the Federal Aviation Administration.

The study of errors at O'Hare showed that six of the 14 controllers involved in them had less than 20 months' experience at O'Hare and five of those had been on the job less than a year and a half or were in training.

The O'Hare errors—more than double the number during the first seven months of 1984—has prompted a National Transportation Safety Board investigation. It comes five years after striking controllers nationwide were fired by President Reagan and the FAA began replacing them with trainees.

Meanwhile, the FAA said a major computer failed for an hour Tuesday at the Aurora Air Traffic Control Center, causing the delay of many flights.

The same computer failed for 3 minutes and 40 seconds on Monday, the FAA said. An identical spare computer had previously failed on Sunday for 34 minutes and was being repaired because the regular computer element failed on Monday and Tuesday, the FAA said.

Chicago FAA spokesman Mort Edelstein, discussing the computer failures, said that the Aurora center handled the normal number of landings and takeoffs, but that traffic was "stretched out" so controllers could safely manage it.

Dave Kelley, who heads the NTSB investigation of O'Hare errors, said that controller experience is "one of the significant issues we'll be looking at" before making recommendations to the FAA.

FAA spokesmen said the number of years each of the 14 controllers had worked before coming to O'Hare—and whether they'd had any prior experience—was not available yesterday.

John Galipault, president of the Aviation Safety Institute in Worthington, Ohio, said yesterday he had received calls from "experienced" controllers complaining of controller inexperience and insufficient controller training at O'Hare.

"The reports I get from them tell me there are enough inexperienced controllers to make it difficult to do the job there," Galipault said.

But Edelstein has labeled warnings of inexperience at O'Hare as "absurd."

Though Edelstein said it was possible for a controller just out of the academy to reach full performance level—qualified to fill every post in the tower—at O'Hare within two to three years, Galipault said at least three to four years should be required.

"Two to three years is pushing it at an airport like O'Hare," Galipault said.●

REMARKS BY POLICE OFFICER CICERO B. BOOKER, JR.

● Mr. DODD. Mr. President, several months ago I was honored to be a guest at a dinner of the Connecticut Civil Liberties Union and to say a few words of tribute to U.S. District Court Judge M. Joseph Blumenfeld. At this dinner, citations of merit were also presented to several individuals who, through their words and deeds, have contributed to securing the civil liberties of our citizens, to making justice and equality more than nice words or lofty ideals. I was particularly im-

pressed and moved by the remarks of one of these individuals, Mr. Cicero B. Booker, Jr., a member of the Waterbury Police Department. Mr. Booker eloquently reminds us that our constitutional democracy works only if and when we actively assert and exercise our civil rights. I commend his remarks—and the vital theme underlying them—to my colleagues and ask that they be printed in the RECORD.

The remarks follow:

REMARKS BY CICERO B. BOOKER, JR.—THE CONNECTICUT CIVIL LIBERTIES UNION, AN EVENING OF TRIBUTE

I have the honor to speak on the behalf of my fellow police officers, who could not be here with us tonight.

We would like to, first, say thank you to the Connecticut Civil Liberties Union and the staff attorneys for their devoted efforts, which brought to an end a 40-year-old discriminatory practice in the Waterbury Police Department that limited the training, assignments, and promotional opportunities for black and Hispanic police officers.

I can remember when I became a member of the police department, my father—Cicero B. Booker, Sr.—who was the first black officer in Waterbury, said, "Son, I was able to open the door for black people to become police officers in this city. It is now up to you and the other young black officers to open those doors now closed to you."

I was talking with my son, Cicero B. Booker III, on the need for education when he asked, "Well, Dad, tell me where education has gotten you?" I, with regret, had to tell my son not to "judge your life by mine" because I allowed other people to control my opportunities.

My son's remarks provided me with the great awakening, reminding me of the closed doors my father had spoken about and I had done nothing to open those doors.

In conclusion, my fellow officers and I, as well as others on the police department, have learned: to have a healthy Constitution of the United States one must exercise their rights.●

NAUM AND INNA MEIMAN: THE VIGIL GOES ON

● Mr. SIMON. Mr. President: it pains me to say that it has been more than 6 months since I have begun a daily plea for the release of my close friends Professor Naum Meiman and his wife, Inna. They are not just Soviet citizens, but prisoners of the state.

Professor Meiman, a physics scholar trained in the Soviet Union, has not held a meaningful job in his field since his first plea for emigration. Just recently, their phone was removed and they can no longer receive phone calls. Their only request has been to live a free life in Israel. Without reason, they have been rejected several times a year for more than 10 years.

What is most inhumane is that Inna is dying of cancer and is being refused further treatment. Western physicians believe she can be cured, but this treatment is only available to Inna outside the Soviet Union. Time is running out.

I implore the officials of the Soviet Union to allow the Meimans to emigrate to Israel.●

ORDERS FOR WEDNESDAY

RECESS UNTIL 9 A.M.

Mr. DOLE. Mr. President, I ask unanimous consent that once the Senate completes its business today, it stand in recess until 9 a.m. on Wednesday, September 10, 1986.

The PRESIDING OFFICER. Is there objection?

Hearing none, it is so ordered.

RECOGNITION OF CERTAIN SENATORS

Mr. DOLE. Following the recognition of the two leaders under the standing order, I ask unanimous consent there be special orders in favor of the following Senators for not to exceed 5 minutes each: Senators HAWKINS, PROXMIRE, WILSON, TRIBLE, LEVIN, BIDEN, CHILES, CRANSTON, DECONCINI, DODD, NUNN, ROCKEFELLER, and BENTSEN.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. DOLE. Following the special orders just identified, I ask unanimous consent there be a period for the transaction of routine morning business not to extend beyond 10:30 a.m. with Senators permitted to speak therein for not more than 5 minutes each.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

RECOGNITION OF SENATOR CHAFEE

Mr. DOLE. Mr. President, I also ask unanimous consent to add Senator CHAFEE as the 14th special order tomorrow.

The PRESIDING OFFICER. Without objecton, it is so ordered.

PROGRAM

Mr. DOLE. Following the morning business, the Senate will resume consideration of the pending measure, Labor/HHS appropriations. I understand votes can be expected on that measure and I also hope that we can work out whatever the problem may be with the Interior appropriations bill and complete both of those tomorrow, and then possibly one other appropriations bill, District of Columbia perhaps, and then on Thursday morning we will begin consideration of the Rehnquist nomination.

RECESS UNTIL 9 A.M. TOMORROW

Mr. DOLE. Mr. President, there being no further business to come before the Senate, I move we stand in recess until 9 a.m. on Wednesday, September 10, 1986.

The motion was agreed to; and, at 7:19 p.m., the Senate recessed until Wednesday, September 10, 1986, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate September 9, 1986:

THE JUDICIARY

James R. Spencer, of Virginia, to be U.S. district judge for the Eastern District of Virginia vice John A. MacKenzie, retired.

IN THE AIR FORCE

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Edward J. Heinz, [redacted]FR, U.S. Air Force.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Bradley C. Hosmer, [redacted]FR, U.S. Air Force.

The following-named officer under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. Forrest S. McCartney, [redacted]FR, U.S. Air Force.

In the Army

The following-named Army Reserve Officer for appointment as chief, Army Reserve, under the provisions of title 10, United States Code, section 3019:

To be chief, Army Reserve

Maj. Gen. William Francis Ward, [redacted]

The following officers for appointment as Reserve commissioned officers in the Adjutant General's Corps, Army National Guard of the United States, Reserve of the Army, under the provisions of title 10, United States Code, sections 593(a) and 3392:

To be major general

Brig. Gen James A. Ryan, [redacted]
Brig. Gen. Carl G. Farrell, [redacted]
Brig. Gen. Charles E. Scott, [redacted]

The following-named Army Dental Corps competitive category officer for appointment in the U.S. Army to the grade indicated under the provisions of title 10, United States Code, sections 611(a) and 624:

To be permanent brigadier general

Col. Thomas R. Temple [redacted], Dental Corps competitive category, U.S. Army.

IN THE AIR FORCE

The following officers for appointment in the Regular Air Force under the provisions of section 531, title 10, United States Code, with grade and date of rank to be determined by the Secretary of the Air Force provided that in no case shall the officer be appointed in a grade higher than that indicated.

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To be captain

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The following officer for appointment in the Regular Air Force under the provisions of section 531, title 10, United States Code, with a view to designation under the provisions of section 8076, title 10, United States Code, to perform duties indicated with grades and dates of rank to be determined by the Secretary of the Air Force provided that in no case shall the officers be appointed in a grade higher than captain.

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Winfield, Willie C., Jr., xxx-xx-xxxx
Worthy, Dori L., xxx-xx-xxxx
Yohe, Lazette V., xxx-xx-xxxx
Yore, Douglas A., xxx-xx-xxxx
Zamarripa, Victoria G., xxx-xx-xxxx
Zion, Catherine Y., xxx-xx-xxxx
Zygowicz, Kathleen L., xxx-xx-xxxx

MEDICAL SERVICE CORPS

Armstrong, Robert N., xxx-xx-xxxx
Beckwith, Terence W., xxx-xx-xxxx
Bentley, Steven D., xxx-xx-xxxx
Bledsoe, Albert L., Sr., xxx-xx-xxxx
Bonds, Robert C., xxx-xx-xxxx
Bradway, Karen A., xxx-xx-xxxx
Charlip, Ralph B., xxx-xx-xxxx
Costa, David A., xxx-xx-xxxx
Cowles, Stuart R., xxx-xx-xxxx

Cumberland, Francis D., Jr., xxx-xx-xxxx
Dansro, Roy P., xxx-xx-xxxx
Davis, George B., xxx-xx-xxxx
Deal, Gregory A., xxx-xx-xxxx
Fleming, Harry, xxx-xx-xxxx
Forthman, Gary S., xxx-xx-xxxx
Graham, Scott R., xxx-xx-xxxx
Graser, David S., xxx-xx-xxxx
Griggs, Frank E., xxx-xx-xxxx
Groom, Raymond A., xxx-xx-xxxx
Hall, Jon F., xxx-xx-xxxx
Hall, Kathi B., xxx-xx-xxxx
Hammill, James B., xxx-xx-xxxx
Hill, Wilfrid J., xxx-xx-xxxx
Hufsmith, Susan L., xxx-xx-xxxx
Inkmann, Thomas A., xxx-xx-xxxx
Kanwischer, Lynn J., xxx-xx-xxxx
Kerr, Bernard J., Jr., xxx-xx-xxxx
Krauss, Mark L., xxx-xx-xxxx
Lee, Lai W., xxx-xx-xxxx
Lee Lawra A., xxx-xx-xxxx
Leisey, Barbara L., xxx-xx-xxxx
Martin, Roger L., xxx-xx-xxxx
Meyers, James F, II, xxx-xx-xxxx
Murphy, Ronald S., xxx-xx-xxxx
Myszkowski, Krzysztof M., xxx-xx-xxxx
Neyland, Alton D., xxx-xx-xxxx
Norris, Patricia, xxx-xx-xxxx
Novovesky, Susan M., xxx-xx-xxxx
Olsen, David A., xxx-xx-xxxx
Overton, Earle W. III, xxx-xx-xxxx
Paterson, Hugh J., Jr., xxx-xx-xxxx
Patruno, Pasquale, Jr., xxx-xx-xxxx
Perry, Michael L., xxx-xx-xxxx
Peters, Fred W., Jr., xxx-xx-xxxx
Peters, Gary A., xxx-xx-xxxx
Peterson, Thomas E., xxx-xx-xxxx
Quinn, Kevin M., xxx-xx-xxxx
Rapp, Floyd A., Jr., xxx-xx-xxxx
Reece, Miguel, xxx-xx-xxxx
Rennie, Robert J., xxx-xx-xxxx
Robins, Jesse B., xxx-xx-xxxx
Rognehaugh, Richard D., xxx-xx-xxxx
Ruff, Roy J., Jr., xxx-xx-xxxx
Sauvageau, Francis, xxx-xx-xxxx
Seybold, Robert C., II, xxx-xx-xxxx
Shelton, Patricia L., xxx-xx-xxxx
Simpson, Jack R., xxx-xx-xxxx
Spinks, Gary J., xxx-xx-xxxx
Steelman, Richard R., xxx-xx-xxxx
Teeple, Elizabeth P., xxx-xx-xxxx
Theis, Larry D., xxx-xx-xxxx
Villani, Arthur D., xxx-xx-xxxx
Wagner, Dean M., xxx-xx-xxxx
Walker, Edward Y. III, xxx-xx-xxxx
Ware, James H., xxx-xx-xxxx
Weinstein, Mark S., xxx-xx-xxxx
Wilmot, David M., xxx-xx-xxxx
Wolfe, Stephen, M., xxx-xx-xxxx
Womack, David E., xxx-xx-xxxx

BIOMEDICAL SCIENCES CORPS

Adkins, Wanda P. C., xxx-xx-xxxx
Allen, Mark L., xxx-xx-xxxx
Andersen, Timothy xxx-xx-xxxx
Astley, William S., xxx-xx-xxxx
Bachman, John C., xxx-xx-xxxx
Badeau, Albert F., III, xxx-xx-xxxx
Barbone, Martha B. xxx-xx-xxxx
Barfield, Coy L., xxx-xx-xxxx
Barlow, Paul V., xxx-xx-xxxx
Barnicott, Paul T., xxx-xx-xxxx
Bell, John S., xxx-xx-xxxx
Bennett, Harvey S., xxx-xx-xxxx
Bohne, James E., Jr., xxx-xx-xxxx
Bousum, Roger E., xxx-xx-xxxx
Bradley, Donald V., Jr., xxx-xx-xxxx
Brewer, John E., xxx-xx-xxxx
Brewster, Albert L. Jr., xxx-xx-xxxx
Bujarski, Joel C., xxx-xx-xxxx
Burr, Pamela L., xxx-xx-xxxx
Bush, Mark J., xxx-xx-xxxx
Callahan, Daniel E., xxx-xx-xxxx
Camfield, Michael R., xxx-xx-xxxx
Canestrari, Joseph J., xxx-xx-xxxx
Cardona, Charles E., xxx-xx-xxxx
Carlton, Gary N., xxx-xx-xxxx
Casey, Theresa M., xxx-xx-xxxx
Clarke, Howard F. Jr., xxx-xx-xxxx
Cobb, Douglas S., xxx-xx-xxxx
Courtney, Cynthia H., xxx-xx-xxxx
Criswell, Darrell W., xxx-xx-xxxx
Crockson, Loretta D., xxx-xx-xxxx
Cudd, Bruce M., xxx-xx-xxxx
Curran, James P., xxx-xx-xxxx
Dalton, Patrick J., xxx-xx-xxxx
Dillon, Ruth, xxx-xx-xxxx
Dobbins, Jackson R., xxx-xx-xxxx
Dobson, Debbie L., xxx-xx-xxxx
Dreyer, Cheryl E., xxx-xx-xxxx
Drown, Paul G., xxx-xx-xxxx
Dunham, Gary L., xxx-xx-xxxx
Ebert, Bruce W., xxx-xx-xxxx
Edris, Robert W., xxx-xx-xxxx
Emerson, Jesse W., xxx-xx-xxxx
Engel, Douglas A., xxx-xx-xxxx
Fajerson, Troy G., xxx-xx-xxxx
Falk, Peter M., xxx-xx-xxxx
Field, Ronald E., xxx-xx-xxxx
Fortinberry, Christine G., xxx-xx-xxxx
Foster, Dana M., xxx-xx-xxxx
Frost, Charles D., xxx-xx-xxxx
Gaska, Janice F., xxx-xx-xxxx
Gauvin, Michael G., xxx-xx-xxxx
Geiger, Wendell G., xxx-xx-xxxx
Gibson, David P., Jr., xxx-xx-xxxx
Goldman, Linda L., xxx-xx-xxxx
Graybeal, John O., xxx-xx-xxxx
Greenlee, Richard W., xxx-xx-xxxx
Gregory, Lynn W., xxx-xx-xxxx
Hamann, Arlis H., xxx-xx-xxxx
Harmon, Willie C., xxx-xx-xxxx
Hedrick, Stephen P., xxx-xx-xxxx
Henry, Edwin J., xxx-xx-xxxx
Howe, Randall L., xxx-xx-xxxx
Hoyt, Harry L., xxx-xx-xxxx
Isom, Larry L., xxx-xx-xxxx
Johnson, Larry W., xxx-xx-xxxx
Jones, Christopher E., xxx-xx-xxxx
Kaminski, Arthur S., xxx-xx-xxxx
Kline, Edward H., Jr., xxx-xx-xxxx
Klunder, Charles S., xxx-xx-xxxx
Knuth, Mark D., xxx-xx-xxxx
Ko, Leonard B., xxx-xx-xxxx
Kraft, Thomas A., xxx-xx-xxxx
Kreis, Michael D., xxx-xx-xxxx
Kuhl, Rodney C., xxx-xx-xxxx
Laliberte, Robert G., xxx-xx-xxxx
Lemley, Edward W., xxx-xx-xxxx
Liddle, Ernest J., Jr., xxx-xx-xxxx
Lofts, Richard S., Jr., xxx-xx-xxxx
Long, James E., xxx-xx-xxxx
Lotton, Rayner B., xxx-xx-xxxx
Lovell, Charles D., xxx-xx-xxxx
Lucania, Robert M., xxx-xx-xxxx
Maha, George C., xxx-xx-xxxx
Marchesseault, Michael J., xxx-xx-xxxx
Masterson, Joanne M., xxx-xx-xxxx
May, Larry L., xxx-xx-xxxx
McGowan, Lawrence A., xxx-xx-xxxx
Merrill, Philemon R., Jr., xxx-xx-xxxx
Miller, Christopher S., xxx-xx-xxxx
Mills, Arthur G., xxx-xx-xxxx
Moss, Dale C., xxx-xx-xxxx
Neese, John A., xxx-xx-xxxx
Newhouse, Alberta E., xxx-xx-xxxx
Nored, Michael L., xxx-xx-xxxx
Parvin, Benjamin J., xxx-xx-xxxx
Perry, William C., xxx-xx-xxxx
Person, Danny R., xxx-xx-xxxx
Pheils, Christopher L., xxx-xx-xxxx
Pletsch, Daniel L., xxx-xx-xxxx
Plumley, Kenneth M., xxx-xx-xxxx
Polanco, Eufemio C., xxx-xx-xxxx
Potter, Susan J., xxx-xx-xxxx
Ramirez, Jose L., xxx-xx-xxxx
Ready, Lawrence J., xxx-xx-xxxx
Reimer, Victoria L., xxx-xx-xxxx
Rice, Thomas M., xxx-xx-xxxx
Rogers, James C., xxx-xx-xxxx
Roose, George W., II, xxx-xx-xxxx
Rosete, Paul E., xxx-xx-xxxx
Santostefano, Richard, xxx-xx-xxxx
Schlachter, Perry E., xxx-xx-xxxx
Simon, William C., xxx-xx-xxxx
Simpson, Michael K., xxx-xx-xxxx
Smith Evelyn M., xxx-xx-xxxx
Smith, Gregory D., xxx-xx-xxxx
Smith, Henry L., xxx-xx-xxxx
Smith, Kathleen A., xxx-xx-xxxx
Sollie, Tamre L., xxx-xx-xxxx
Steffey, Cynthia A., xxx-xx-xxxx
Stockus, Anthony V., xxx-xx-xxxx
Talcott, Gerald W., xxx-xx-xxxx
Tanner, Vicki S., xxx-xx-xxxx
Thompson, Sarah E., xxx-xx-xxxx
Tiedemann, Mark G., xxx-xx-xxxx
Trujillo, Leonard G., xxx-xx-xxxx
Vaughn, Mirian C., xxx-xx-xxxx
Wall, William G., xxx-xx-xxxx
Ward, Timothy J., xxx-xx-xxxx
Warren, Steven C., xxx-xx-xxxx
Weisman, Dulcie A., xxx-xx-xxxx
Welch, Daniel L., xxx-xx-xxxx
Welter, Mark J., xxx-xx-xxxx
West, John M., xxx-xx-xxxx
Wilson, Steven A., xxx-xx-xxxx
Wong, Doris, xxx-xx-xxxx
Wood, Shelley D., xxx-xx-xxxx
Yerkes, Daryl A., xxx-xx-xxxx

IN THE MARINE CORPS

The following named Naval Reserve Officers Training Corps graduates for permanent appointment to the grade of second lieutenant in the U.S. Marine Corps, pursuant to title 10, United States Code, sections 531 and 2107:

Steven Barnett, xxx-...
Norman Brice, xxx-...
Guido O. Gavars, xxx-...
Patrick C. Hollis, xxx-...
Patrick L. Horvath, xxx-...
Antonio P. Peterson, xxx-...
Todd J. Schverman, xxx-...
Mark A. Werth, xxx-...

IN THE NAVY

The following Air Force cadet to be permanent ensign in the line of the U.S. Navy, pursuant to title 10, United States Code, section 531:

Susan D. Harvey

The following-named Naval Reserve officers to be appointed permanent ensign in the line or staff corps of the U.S. Navy, pursuant to title 10, United States Code, section 531:

John B. Ashton
William G. Baker
Edward M. Barr
Clayton H. Cha
Tadd R. Coates
Ronald E. Cook
Randall D. Corbell
Thomas P. Coyne, Jr.
Katrina A. Crellin
James B. Daub
Jeffrey D. Davisson
James P. Dimatteo
Thomas A. Dopp
Ronald A. Farmer
Michele A. Fitzgerald
James M. Hale
Sherry L. Haskins
Paul A. Hess
Robert P. Holt
Bradley C. Jefferies
Kurt W. King
Michael K. King
Bradley J. Litterell
Michael J. Loranger
Jerome J. Maas
Bruce W. Major
Scott T. Matthews
Ford P. Menefee
Michael W. Middleton
Randolph L. Miller
Robert E. Morris
Richard A. Murray
William D. Nelson
Ronald E. Newell
Peter Pagano
Michael E. Parrish
James K. Patton
Francis E. Pennisi
Keller G. Penrod
Bryan D. Pommer
Paul A. Stone
Erik Thompson
Andrew L. Traver
Pedro T. H. Tsai
John M. Uhl
Paul M. Votruba

EXTENSIONS OF REMARKS

NEW SPIRIT OF AGRICULTURAL ACCOUNTABILITY DISPLAYED BY AFRICAN LEADERS

HON. STEVE GUNDERSON
OF WISCONSIN
IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 9, 1986

Mr. GUNDERSON. Mr. Speaker, several weeks ago, Joan Holmes, global executive director of the Hunger Project, completed a month-long visit to five eastern and southern African nations. Purpose of the trip was to examine the perspective of national and regional leadership of the continent with respect to their commitments and policies toward the well-being of their people.

On August 7, 1986, Ms. Holmes reported on the findings of her trip before the African Affairs Subcommittee of the House Foreign Affairs Committee.

As one who followed and in fact supported the work of the Hunger Project, which has organized more than 4.3 million individuals committed to ending hunger by the year 2000, I am pleased to submit excerpts from Ms. Holmes' testimony for the benefit of my colleagues and the American people.

STATEMENT OF JOAN HOLMES, EXECUTIVE DIRECTOR, THE HUNGER PROJECT

Several weeks ago, I completed a month-long visit to five eastern and southern African nations. The purpose of this trip was to better come to know Africa from the perspective of the national and regional leadership of the continent, and to ascertain the commitments and policies of Africa's leaders toward the well-being of their people.

I was accompanied by Mr. Wayne Fredericks (formerly U.S. deputy assistant secretary of state for African affairs and currently a consultant in international affairs for the Ford Motor Company). Our itinerary included the nations of Kenya, Zimbabwe, Zambia, Botswana and Mozambique, a group of countries that demonstrate widely differing records of accomplishment with regard to agricultural and other issues bearing upon the eradication of hunger within their borders.

During the course of our four weeks in Africa, we had the opportunity to meet with more than 200 people in all sectors of leadership—including government, business and banking, NGOs, religious institutions, academia, women's organizations and agriculture and farming. In four countries, we also had the opportunity to make field trips to observe first hand the situation in the agricultural sector and to meet with both peasant and commercial farmers.

Were I to make one fundamental observation about the situation I found in the countries visited, it would be that a remarkable and historic "sea change" is taking place among leaders with regard to the resolution of the problems facing their societies. As President Quett Masire of Botswana told us, "We have graduated from the stage of blaming our condition on colonialists to taking positive initiatives on our own behalf. Agriculture needs to be the first priority. This is something that, until recently, had been forgotten."

In each country, I encountered a new spirit of accountability and responsibility concerning agricultural and economic matters, and a willingness by national leadership to make difficult and, at times, politically unpopular decisions in order to correct failed policies or meet new economic and geopolitical realities. It is impossible to tell, at this early date, whether the new policies of Africa's leaders will bring about the agricultural resurgence of the continent that all are agreed is needed. There can be little question, however, of the authenticity of their commitments and their intention in this regard.

Nowhere did we find this to be more true than in Zambia, where, as you know, President Kenneth Kaunda has initiated a sweeping economic austerity program that is designed to stimulate agricultural production and substantially reduce national dependence on copper revenues. While many observers agree that the president's austerity measures will have a positive long-term impact, in the short term the result is a dramatic increase in prices for the urban consumer, particularly the lower and middle classes, which constitute a substantial percentage of Zambian society.

In a working breakfast, President Kaunda summed up the situation in this way: "For years, we subsidized consumption [in urban areas] because we thought it would distribute the copper revenues. One of our errors was that we did not pay food producers enough, and so agricultural production lagged. The difficulty we are now in is changing from a subsidy for consumption to a subsidy for production . . ."

Another theme we encountered wherever we traveled was the sense of African leaders that the way they and their countries are portrayed outside of Africa misrepresents them and their commitments. From their perspective, the information available in the West is skewed toward portraying Africa as a continent of crisis, drought, corruption and absence of leadership. Certainly, the more one travels to the continent, the more clear it is how woefully inaccurate is this picture of Africa, and how absent is the experience of the people of Africa as courageous, determined, committed and exhibiting strong leadership in the face of difficult circumstances.

Mr. Elijah Mwangale, minister of foreign affairs of Kenya, perhaps put it most succinctly when he told us, "The Western media reporting gives the impression that the African crisis is solely the result of African stupidity." Dr. G.T.K. Chiepe, Botswana's minister of foreign affairs, noted that "all the goodwill in the world is not enough if you lack information. There is a lack of appropriate information about Africa in the Western world."

In a similar vein, Dr. Bernard Chidzero, Zimbabwe's internationally regarded minister of finance, commented that "the world community needs to be disabused of the notion that all African countries do not have agriculture as a priority. You can transform the world's relationship to Africa by creating a consciousness that it is not a god-given irreversible situation in Africa. What has succeeded in Zimbabwe can happen elsewhere."

With regard to hunger, what was immediately striking was that the issue of ending hunger generally does not yet appear as a distinction for policy makers, but rather is seen to be something that will be handled as part of the overall process of economic development. Of the government representatives we met, officials of the national health ministries were those most likely to suggest that were a greater focus given to nutritional matters, and were the issue of hunger to be viewed as a distinction among the range of other pressing concerns, then greater national resources could be mobilized in support of the resolution of this problem.

In several of the health ministries, we encountered stories of the difficulties the health professionals face in having other ministries integrate nutrition into their plans and perspectives. As one health official stated, "I don't want our hospitals full of hungry people. I'm trying to make the other ministers understand that hungry people can't carry out development projects. We need to keep a focus on hunger in our national development . . ."

On a country-by-country basis, we found distinctive issues and opportunities facing the leadership of each nation . . .

Dominating every discussion in Kenya was the population question. With the population growth rate the highest in the world (4.2 percent), Kenyan leadership is acutely aware of the importance of family planning. President Moi has included the issue in his personal range of concerns and is speaking out on a difficult subject in Kenya with considerable skill . . .

While we met many remarkable individuals in Kenya, certainly one of the most outstanding was Dr. Thomas Odhiambo, the director of the International Centre of Insect Physiology and Ecology (ICIPE). During our visit, Dr. Odhiambo was chairing the first meeting of the African Academy of Sciences, an organization he founded in December of 1985. Consisting at this time of 45 member scientists from throughout Africa, the AAS, as conceptualized by Dr. Odhiambo, is an opportunity for African scientists to take the initiative to cause a breakthrough in generating solutions to Africa's problems from within Africa. This first meeting of the AAS focused on drought, desertification and food production efforts. Ultimately, what is envisioned is nothing less than a continental opportunity, with no inhibiting national barriers.

Zimbabwe is the agricultural success story of Africa. Since the formation of the majority-ruled state in 1980, the communal farmer (peasant) sector has increased its percentage of production of two of the country's major crops—maize and cotton—from roughly 5 percent of the national total to around 50 percent. Today, agricultural production among Zimbabwe's small farmers is among the highest for all peasant farmers in Africa.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

There is a strong sense in Zimbabwe that a powerful and authentic partnership exists between the government and the communal farmers. As one farmer told us, "Rural people here decide their own destiny. We are free to criticize the government and we do. We feel we are in direct communication with the government . . ."

One is overwhelmingly left with the impression of a country on the move, a country with purpose . . .

Zambia finds itself at an historic turning point as it works to redirect its economy and establish the basis for future self-sufficiency. The great challenge facing President Kaunda is to enlist the continued support of the Zambian people for policies that, in the immediate future, will result in considerable personal hardship . . .

As a result of the economic situation, there are growing pressures on the social fabric of the country, pressures that in other countries have resulted in volatile political developments. In Zambia, however, we generally found that people expressed a willingness to sacrifice and continue to support the government's actions. Although people grumble about the economic situation, those who could form the opposition to the government seem, in fact, to desire to empower the government rather than to agitate against it. President Kaunda's personal courage in facing the current economic realities is widely and sincerely praised . . .

Botswana has been as severely hit by drought as any country in the region, yet, as the leadership of Botswana is proud to point out, not a single death during this period is attributed to the drought. Thanks to the government's commitment to prevent drought from leading to a famine situation, as well as the widely acknowledged integrity with which Botswana administers the aid it receives, the country has achieved tremendous success in meeting the emergency needs of its people.

Several people with whom we spoke, both officials in the government and representatives of multilateral and bilateral donor agencies, voiced some concern that foreign assistance programs could become an institutionalized and permanent feature of the culture of Botswana . . .

It is worth noting that this concern for the potential negative impact of foreign aid programs is not confined to Botswana. While a great deal of gratitude is expressed for the international support Africa receives, there also exists a more cautious evaluation of foreign assistance than one generally encounters in the donor nations . . .

Unique among the countries we visited, Mozambique is a country in crisis and emergency. Historically, the Portugese colonial experience left the people of Mozambique much less prepared to assume nationhood than the surrounding countries, which had been governed by the British . . .

Agriculture has particularly suffered in the post-independence era, and Mozambique is listed by the Food and Agriculture Organization of the UN as one of the four worst food deficit countries in Africa. In an effort to meet the food needs of Maputo, a highly organized and successful "Green Zones" movement has been established and is now made up of more than 10,000 members, more than 90 percent of whom are women . . .

Mozambique is a difficult and complex case to assess. Certainly, the national leadership is highly dedicated and committed, and at the most senior levels is widely regarded as extremely competent and honest. Policy reforms of the past several years indicate that, while remaining committed to a socialist vision of an egalitarian society, the leadership is willing to acknowledge and correct mistaken economic policies . . .

During this visit to Africa, several people quoted the words of the late Kwame Nkrumah: "When we get liberation, all else will follow." One minister who did so went on to add, "Unfortunately, it didn't. We have had our political liberation. Now we need leadership in the economic realm. We need good policies in support of agriculture. We need the political will of the farmers."

All would agree that the countries of Africa have only just embarked on the road of building their economic viability upon the foundation of their political liberation. What is encouraging is that, at least in the countries I recently visited, this economic necessity was given central importance in public policy discussions. In several instances, the leadership of these countries has already begun taking the concrete steps necessary to create a self-sufficient future . . .

NEWARK'S MAYOR SHARPE JAMES DISCUSSES THE AMERICAN DREAM

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 9, 1986

Mr. KEMP. Mr. Speaker, I recently had the opportunity to read the inaugural address made by Mr. Sharpe James, the newly elected mayor of Newark, NJ. Mayor James, a Democrat and former city council member and college professor who happens to be black, speaks eloquently about the American dream, about the need to extend opportunity and hope for the future to all individuals, and about the values and virtues like hard work, honesty, thrift, patriotism, and responsibility that we share as Americans and which for the bedrock of our common culture. I commend Mayor James and his speech to my colleagues in the spirit of bipartisanship.

MAYOR SHARPE JAMES INAUGURAL ADDRESS, JULY 1, 1986

To my loving wife, Mary, who has stood by my side during good and bad times; my three sons, John, who with the grace of God escaped from near death, graduated with honors from high school and will enter college in September, Elliott, a musician, dancer and politican, and Kevin, the quiet one; to my mother who labored to give us a home and stressed the importance of an education; to my brother, Joseph, a graduate of Newark College of Engineering now NJIT and his lovely family; to all of my relatives and friends who gave me inspiration and hope along the highway of life; to the Honorable Members of the Newark Municipal Council and their families, many of whom I have shared the best years of my life with; to Mr. Frank D'Ascensio, our esteemed City Clerk; Reverend Clergy; honored guests; citizens of Newark; my dedicated campaign workers; ladies and gentlemen, good afternoon. It's time for a Sharpe change!

Firstly, I sincerely and humbly wish to thank you for your vote of confidence in selecting me the 37th Mayor of Newark. It is an honor and challenge to lead the largest city in New Jersey and the third oldest city in America.

Secondly, and most importantly, let me personally extend my sincere and heartfelt gratitude and appreciation to a great American, our friend, our former Mayor, the Honorable Kenneth A. Gibson. We thank him for sixteen years of leadership. We wish him every success and happiness in his future endeavors.

Thirdly, let me personally and wholeheartedly congratulate the duly elected Members of the Newark Municipal Council. I pledge my full cooperation in working with you to improve the quality of life for all citizens. Together, we go forward. Together, we can build bridges of opportunities and achievement. Together, we can make Newark a city of hope and prosperity. Together we stand, divided we fall.

I will miss my eighteen years at Essex County College. I will miss its outstanding staff, faculty and administration. And, most of all, I will miss standing in front of a classroom watching students challenging the unknown and experiencing the thrill of discovery. Thank you, Dr. A. Zachary Yamba, President, and to the entire Essex County College Family.

Today, there is a mood of celebration and security in beautiful Symphony Hall, which grows out of our being together. We feel that joy and security in new relationships, new life, new energy and new hope.

My election is testimony to the validity of the American dream. Where else can a poor boy with holes in his sneakers and no suit, living on Howard Street, move from Robert Treat to Miller Street School and on to South Side High; attend college on a work/athletic scholarship, graduate with honors, serve two years in the United States Army in Germany, return to the State of Massachusetts for graduate study, become a Newark school teacher, a community activist, former President of UCC Area Board 9 and President of the Weequahic Community Council, a college professor, a district leader, a ward councilman, twice a delegate to the National Democratic Convention, a councilman at-large and now Mayor? Only in America. Only with the grace of God and only with your trust and support.

My victory in this election is not a personal one. Many citizens of all colors, languages and ages labored in my behalf. We learned that signs do not vote. And, we learned that truth crushed to the ground will rise again. Our victory provides hope for all who share a belief in better tomorrows. A belief that our children, their children and children yet unborn, can live, grow and prosper. A belief that they can shape the American dream. A belief that every child should be able to dream that one day he or she can be president of the United States of America.

No generation can choose the age or circumstances in which it is born, but through leadership it can choose to make the age in which it is born, an age of enlightenment.

Our society generally seems more violent, more drunk, more suicidal and more threatening of one another than generations past. Too many individuals are experiencing an ethical collapse, a spiritual withdrawal, and escaping reality through drugs, alcohol, sex-without-love, making unwanted babies, and turning on each other with violence.

Drugs, especially crack, have reached epidemic proportions among our youth. We must crack down on crack. We must feel the challenge of raising the price and value of

life everywhere. What difference does it make if the doors of opportunity swing wide open when you are too drunk or too high to go through?

What difference does it make if you have an old school book or a new book, if you open neither. In our homes and churches we must teach by word and by example, that drugs are morally wrong, physically destructive and will kill you. Will power must replace pill power if we are to face the future and its difficulties head-on and overcome all obstacles. During these hours of crisis. We must reject premature death and reaffirm life. We must turn to each other and not on each other. The Bible says that "without vision the people perish."

There are no quick and easy solutions to the problems before us. Problems of public safety, a need for more housing and jobs for the unemployed; a need to better educate our children and recognize the importance of job training programs; expanded economic development, more cultural and recreational opportunities for the young and old, and the need to recognize the importance of the family, religion, justice and peace. A major part of the solution to these problems rests with a public administration that is thorough, honest, meticulous and responsible. A government that will form a meaningful partnership with the private sector. A government serving the people and not a government serving the people in government.

Government can and must work. It must work for those who have entrusted their faith in us. It must work for the poor and disadvantaged. Government must prove fiscally and programmatically sound for struggling taxpayers. In this administration, we will have the courage to change those governmental functions requiring change and the courage to accept those governmental functions not requiring change. The job of moving Newark forward to take its rightful place among the great cities of this nation will not be achieved overnight, or in one year. Progress may at first be slow,

There will be pain and gains, setbacks and cutbacks, regress and progress. But, I assure you that as Mayor, there will be a change. I call upon every citizen, every block leader, district leader, ward councilman, councilperson at-large, elected official, clergy and business people to join me in a partnership for a new Newark. One that will offer new vision, new hope, and a better way of life for all citizens.

The philosophy of the James administration will be to come to work early and leave late; to demonstrate self-discipline and the disposition to make some sacrifice for the common good. We are dedicated to the principle that one man, one woman can make a difference.

We stand on the shoulders of great men and women whose dreams and struggles have brought us this far. Men and women such as Dr. Martin Luther King, Jr., Rosa Parks, John Kennedy, Paul Robeson, Eleanor Roosevelt, Adam Clayton Powell and Harry Truman, who stated, "The buck stops here!" One man, one woman can make a difference.

In this administration we will select men and women to serve in government who are qualified to do their job. They will remain on the job and be promoted based on the quality of their performance. No employee will be required to participate in political activity. City Hall will function as a business, and *not* as a social or political club. We will encourage proper dress codes, good telephone manners and will insist on sound and courteous relations with the public. Our function is to provide services not excuses. Performance not promises. We will establish a code of ethics to govern the conduct of all key officials in this administration.

We will ask large and small businesses to share in the responsibility of keeping their property free of litter. We will ask the young and old not to use our streets and sidewalks as a waste paper basket. Pride in Newark begins with pride in self.

Pride in throwing grass seeds, and in growing grass. Pride in not littering and not loitering. Pride in taking care of our family . . . our personal family . . . our extended family . . . our community family.

Last week, I presented to the distinguished members of the Newark Municipal Council a plan for reorganization. This plan will save valuable tax dollars, consolidate responsibilities, establish clear lines of communication and improve our delivery of services. A plan for a better administration, a better city.

For too long we have looked for financial help from Washington, D.C. or the Office of the President. For too long we have looked to Trenton for miracles. In this administration we will accept the challenge of doing more for ourselves.

Without one additional federal dollar, we can sweep in front of our homes. Without one additional federal dollar, we can clean our vacant lots. Without one additional federal dollar, we can paint, repair and improve our homes and apartments. Without one additional federal dollar we can declare war against graffiti, and respect the rights and property of others. We can fight drug abuse.

With the possibility of the Gramm-Rudman bill becoming a reality and no "big brother" watching over us in Washington, we must accept the challenge of doing more for ourselves—the challenge of doing more with less.

We in government must never forget from whence we came. When we are right we want to hear from you. When we are wrong we want to hear from you also.

I can hear the words of Lord Chesterfield in Letters to My Son, written in 1853: "The galleries are full of critics. They play no games. They fight no fights. They make no mistakes because they attempt nothing. Down in the arena are the doers. They make mistakes because they attempt many things. The man who makes no mistakes lacks boldness and the spirit of adventure. He is the one who never tries anything. He is the brake on the wheel of progress."

We will make mistakes, because we are doers. We have entered the arena for a Sharpe change.

Both sweat and tears are wet and salty, but progress comes through sweat in ways that it will never come through tears. Tears will gain you sympathy, but sweat will allow you to make progress. We must pursue academic and moral excellence. For, if we stress a moral force and a passion for excellence, we can overcome all odds. We can lift ourselves with our minds and morals.

We need social, economic and political change. But, let the change begin today, and let it begin with you and me! Let us vow together that we will excel . . . We will push for moral, academic, social and political excellence—even against the odds.

If we do, we can win. If we do, we can make a difference! In looking back, I decided to forfeit a council at-large seat to run for the Office of Mayor. I decided to risk what I had based on my belief in a better Newark. For the only way to protect a true democracy is to continue to challenge those in office. For there is always room at the top for those who dream great dreams and have the courage of their convictions.

We won because of you. We won against all odds. We won because of the need for a Sharpe change.

Together we have dreamed great dreams.

Together we must march much to solution.

Together we stand, divided we fall.

I need your help. Without you there can be no me . . . no city . . . no hope. With you as my partner in progress, there will be visible, viable and meaningful change . . . a better city for all citizens!

As I close, I am reminded of the words of the great American poet, Robert Frost, who wrote so eloquently:

"The road is lovely, dark and deep,
and I have many promises to keep,
and miles to go before I sleep,
and miles to go before I sleep,"

Thank you and may God bless you all.

TRIBUTE TO ARTURO LOPEZ

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 9, 1986

Mr. RODINO. Mr. Speaker, I rise to pay tribute to Newark's new director of general services, Mr. Arturo Lopez. Mr. Lopez is the city's first Hispanic department head, and his great accomplishment is a testament to his lifetime devotion to hard work and unwavering ambition.

Like many Americans before him, Mr. Lopez came to this country with high hopes, but few practical skills necessary to adapt to life in a foreign land. Despite initial setbacks and frustrations, Mr. Lopez studied English, economics and education at Essex County College and at Rutgers University while working long hours at Newark Seaport. He graduated from Rutgers in 1975.

As general services director, Mr. Lopez will be in charge of public buildings, motor vehicles, and parks throughout the city.

Mr. Lopez has said:

I believe that education is the greatest means of achieving upward mobility. I'm a perfect example of that and I'm very proud of it.

Mr. Speaker, I, too, am proud of Mr. Lopez and his great achievements. The greatest strength or our Nation is its diversity—the many immigrants who have made America their home, and who have generously enriched it with their talents and hard work. Mr. Lopez, his lovely wife, Elisa, and their daughter, Estrella, will carry on this great tradition as they work for their community and the Nation.

Mr. Speaker, I am proud to count Mr. Lopez and his family among my constituents, and I commend to you the following article about Mr. Lopez, published in the Newark Star Ledger on August 18, 1986:

THE MAN MOST LIKELY TO SUCCEED * * * DOES

(By Caryl Lucas)

When Arturo Lopez, the city's first Hispanic department head, was growing up in

Spain, he was always thought of as most likely to succeed.

His potential was clearly evident, for he was the first resident of a small village to graduate from high school and college.

Today, Lopez is the city's new manager of general services, an appointment which he believes was made possible as a result of the many "strong" values instilled in him as a young boy.

"I come from a family of hard workers—workaholics," said Lopez, 37. "My parents were farmers, like most of the other families in Galencia which is in the northern province of Orsene," said Lopez. "My two brothers and I all worked together with my father, who divided his time as a farmer, baker and businessman.

"As the middle child, I worked less than any of my brothers because of my school responsibilities. But we all chipped in with the chores around the house."

After completing grammar school, Lopez said, "I won a national academic scholarship to a prestigious boarding school 30 miles away from our village. Later, I attended the University of Madrid where I majored in Electrical Technology.

"Because of the lack of jobs, we were directed to short and practical majors which could be applied to a variety of jobs," he explained, noting that it was his parents and grammar school teacher, Don Mannuel, who inspired him to further his academic career.

"Don Mannuel is the reason why I was able to excel in my academics," he reminisced. "He saw something special in me. I learned more from him in our one-classroom grammar school with one headmaster than I ever did.

"Don Mannuel was the greatest teacher I ever had," said Lopez of his mentor. "He is now 86 years old, and I visit him every year."

Shortly after graduating college, Lopez emigrated to the United States with his parents and younger brother. My oldest brother, Benito, and one of my aunts were already in Newark," he explained, describing the transition as one of the "roughest" periods in his life.

"I was 20 years old and couldn't speak a word of English. I was sort of confined to my house and neighborhood, because I couldn't communicate.

"All of my intellectual friends were in Madrid," he added. "I was the only immigrant in our neighborhood with a college degree, but I wasn't able to use my degree or work at my fullest potential because I couldn't speak English."

Lopez's first job was in a repair shop.

"I used to take the train to Morristown at 5 a.m. every morning and work until 8 p.m.," he said. "I was very discouraged. I use to work with solvents that would peel my skin, and I used to dispose of my clothing so my family wouldn't be embarrassed."

From there, he went to work in a chemical factory, which he described as "a tough job, too, working with torches at 1,000-degree temperatures." Although he had been relegated to work beneath his education level and found it discouraging at times, he stressed he "never gave up" his hope of doing better.

"That's because I come from parents who knew what difficult times really were by growing up between World War I and World War II," he said.

"That's why I was able to endure the long hours, plus going back to college when I started working at Westinghouse in Hillside. It was my first encounter with a major corporation. After I was promoted three times, my duties changed and I was assigned to write a report in English.

"But I didn't know how to write," he lamented. "When I went to ask some of the people I use to work with for help, I found out many of them resented the fact that I had been promoted and couldn't speak English.

"One man," he remembered, "said to me, 'How can you be promoted when you're illiterate?' "

Astonished by the remark, Lopez said he made up his mind at that point to go back to school to learn English.

"I enrolled at the American Language at New York University. After I realized I couldn't afford the expensive tuition, I transferred to Essex County College and from there I enrolled at Rutgers-Newark," he noted. "I didn't even know there was a college in Newark at the time."

Yet, he managed to juggle three majors at once while working as a security officer at the Newark seaport.

"Sometimes I would have to ask myself, 'How did you do it?'" he laughed.

"I was majoring in economics, foreign language and education," said Lopez, who speaks Spanish, Portuguese, Italian and Galethian. "It was like burning a candle from two ends—going to school full-time and working nights up to 50 hours a week."

Nevertheless, he was able to endure and survive, graduating from Rutgers in 1975. Soon after, he obtained his teaching certification.

"I guess hard work and dedication to strive for the best has paid off for my brothers and I," he added. "While I was pursuing my goals, so were they. My youngest brother, Carmen, ventured into the restaurant business. He owns Don Pepe's along with my oldest brother, Benito, who went into construction and real estate. Today, they're both very successful businessmen and they work together."

"Having a close family is still important to us all," said Lopez, who sees himself as a family man and perfectionist.

"My wife, Elisa, and daughter, Estrella, are my greatest sources of joy. Although I don't have much time, I enjoy spending what spare time I do have with family. I guess it stems from growing up in a small village of about 100 people. It was like an extension of my family."

Over the years, he has taught at East Side High School and Roberto Clemente School, in addition to working in admissions at Rutgers for the past 10 years.

"Rutgers will always be my second home," Lopez said, noting that he was instrumental in developing the International Foreign Exchange Program into a major division.

"Working in city government is an entirely different environment, but one common denominator is that I'm used to dealing with people," said the general services director. "I'm a people's person and I'm used to helping people no matter what the problem." Living in the Ironbound over the years, an area he describes as Newark's "melting pot," has exposed him to the city's many multi-ethnic groups, he said, noting:

"Newark is a unique city and it's fantastic to live with people from different social and ethnic backgrounds."

As general services director he has charge of three major city operations: Public buildings, motor vehicles and parks and grounds.

While his new job is his first encounter with city government, the former educator credited his "diversified" educational background and job experience as the qualifications needed to run his department.

"I believe that education is the greatest means of achieving upward mobility. I'm a perfect example of that and I'm very proud of it," he said. "This is the first time in the history of the city that an Hispanic has been appointed as a department head."

Calling his appointment a "significant" accomplishment for Newark's Hispanic community, he added:

"I feel it is an important event. I'm going to work hard to make Mayor James and the community feel that the responsibility given to me is worth their while. I would like to prove that I'm capable of getting the job done.

"It's going to be a big challenge," he added. "Although I realize that I may not have specific experience in city government, I do have a good education behind me and the ability to deal with people. My combined educational background and experience will be very important in running the department efficiently.

"Mayor James fulfilled his promise to Newark's Hispanic population by selecting an Hispanic administrator," said Lopez, "and now it's my chance to fulfill my commitment to him and our community."

THE LOCKHEED-GEORGIA CO.

HON. GEORGE (BUDDY) DARDEN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 9, 1986

Mr. DARDEN. Mr. Speaker, our Nation's ability to safeguard freedom anywhere in the world depends on our capability to deliver our military forces, their support equipment and their supplies quickly and efficiently—anywhere in the world.

For 35 years now, the Lockheed-Georgia Co. in Marietta, GA, has been the major provider of aircraft to maintain that vital capability. Through its operation of Air Force plant No. 6, it has produced a military airlift fleet unmatched by any other nation.

Today, the Lockheed-Georgia Co. truly deserves the title, "The Airlift Center of the World."

Lockheed-Georgia assumed control of the old Bell bomber plant in January 1951. That facility—from which 665 of the famous B-29 bombers went forth to combat the Axis powers—had been mothballed since the end of World War II.

Since 1951, Lockheed-Georgia has produced or modified more than 7,500 jet and propjet aircraft.

The plant's first role under Lockheed management was to modify B-29's for the Korean conflict, and to build B-47 bombers as a second production source. But it soon established a worldwide reputation with new, innovative designs to meet the rapidly evolving challenges of modern warfare.

First, there was the C-130 Hercules. It introduced a new kind of engine—the propjet—and remains in production today as the most popular air cargo hauler ever built. More than 1,800 copies have been produced since 1955, meeting civilian and military needs not just for our Nation, but all over the world.

The C–130 has been instrumental in the development of many nations. Its nonmilitary missions have included food drops in famine-ravaged areas and delivery of first-aid supplies to the victims of earthquakes and other disasters.

In 1963, the first C–141 Starlifter was delivered to the Military Airlift Command by Lockheed-Georgia. The 285 jet airlifters in that line later were modified at Marietta, lengthening their fuselages by 23⅓ feet and adding in-flight refueling capabilities.

Lockheed-Georgia's crowning achievement has been the C–5 Galaxy. Eighty-one copies of the massive C–5A transport were produced early in the last decade, and today the Marietta plant is nearing completion of an order for 50 C–5B's—the latest version of this pacesetter heavy strategic airlifter.

During its 35-year history, Lockheed-Georgia has produced other outstanding aircraft for both military and civilian use—including the Jetstar, the world's first jet-powered business plane.

Today, Lockheed-Georgia employs more than 18,000 people in Marietta. Employees live in 78 Georgia counties and in all of the 10 congressional districts of our State. The plant's weekly payroll of $11½ million is a major factor in the economy of Metropolitan Atlanta and the surrounding region.

Lockheed-Georgia seeks to do business with as many Georgia and Southeastern firms as possible. Throughout Georgia last year, more than $148 million in subcontracts was awarded to more than 1,600 small businesses and more than 650 large concerns.

Lockheed-Georgia plays a valuable role in the life of the community outside its purely business contribution. Those 18,000 employees are leaders in our churches and civic groups, helping build a better life for both themselves and their neighbors.

Mr. Speaker, I am proud that the Lockheed-Georgia Co. calls the Seventh District of Georgia its home. I invite my colleagues to join me in congratulating Lockheed-Georgia President Ken Cannestra and the other men and women of this outstanding company on their contributions to the preservation of our freedoms.

PROTECTING PENSIONS FROM BANKRUPTCY

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 9, 1986

Mr. FEIGHAN. Mr. Speaker, On July 17, LTV Corp., the second largest steel manufacturer in the United States, filed for bankruptcy under chapter 11 of the Federal Bankruptcy Code. This was the largest bankruptcy in U.S. history. On the same day LTV made another historic move—the most heartless corporate stunt of the 20th century. It unilaterally terminated the health and pension benefits of its 78,500 retirees. More than half of these retirees are under age 65 and ineligible for Medicare. For them to buy individual policies would be very expensive—too expensive for most. LTV's bankruptcy was due in part to wider economic and trade circumstances, but there's no excuse for their decision to cancel the negotiated, hard-earned benefits of their retirees. Not only was it wrong, it was illegal.

LTV claims that the bankruptcy code obligated them to halt payment of these benefits. That's plain wrong. Congress passed a clear and specific law in 1984 to prevent this very claim. The law states that companies filing for bankruptcy cannot "terminate or alter any provision of a collective bargaining agreement" without negotiating such changes or petitioning the court for permission.

Now LTV claims that the law does not apply in this case. LTV argues that this section of the law, section 1113, was not meant to cover retirees' health and life insurance benefits, but "any provision of a collective bargaining agreement" means any provision. It couldn't be any clearer. I am hopeful that the courts will eventually rule against LTV's action. But, in the meantime, to ensure that nothing like this ever happens again—to protect retirees from corporate lawyers who cannot read—I am introducing along with Chairman RODINO of the Judiciary Committee a bill to clarify Congress' intent by stating specifically that retirees benefits are protected under the original section 1113.

This bill should be unnecessary, but there are 30,000 retirees in the Cleveland area fearful for their well-being who convince me that it isn't. We must remove all doubt for those men and women who worked in good faith. We must remove all doubt for the courts.

Let me commend Chairman RODINO for the speed with which he is moving to address this crisis, and urge the support of the rest of my colleagues to prevent anything like this from ever happening again.

OUR HOSTAGE IN MOSCOW

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 9, 1986

Mr. COURTER. Mr. Speaker, as the following New Brunswick Home News editorial on the Daniloff hostage situation points out, Gorbachev is the key to this entire incident. Whether Mr. Daniloff is released is totally in the power of the Soviet dictator.

It was unwise for President Reagan to assure the man who is responsible for framing the journalist that Mr. Daniloff is not a spy. That assurance told the whole world the administration believes Gorbachev doesn't know Daniloff is innocent. President Reagan has fallen into the trap set by Gorbachev, unwittingly demonstrating that Gorbachev's faked charge has standing and is a legitimate subject for debate and negotiation.

The proper course is for the President to demand that Daniloff be released immediately, unconditionally, period. Potentially this incident can be Gorbachev's diplomatic Chernobyl: quite simply he needs American reporters in Moscow more than we need to send them there, but his frameup threatens their continued presence.

If President Reagan refuses State Department advice to cringe before the throne in the Kremlin, United States correspondents in Moscow will recognize that their security within the Soviet capital depends not on American protection but on their willingness to swallow—what Mr. Daniloff would not—the Soviet propaganda line. They might then ask themselves something they have not asked in many years: Is my presence here of more use to Soviet propagandizing than it is to the principles of journalistic integrity and the truth which I have pledged above all to follow? The right answer to this question would be immensely valuable to the global expansion of the idea of freedom of the press.

[From the New Brunswick Home News, Sept. 5, 1986]

OUR HOSTAGE IN MOSCOW

Will the jailing in Moscow of American journalist Nicholas Daniloff affect U.S.-Soviet relations?

It ought to. It ought to remind Americans and freedom-loving people everywhere that the Soviet government—for all its "charismatic" new leadership and its widely remarked new "openness"—remains a brutal, totalitarian regime that does not scruple at taking an innocent American hostage in retaliation for the arrest of an accused Soviet spy in New York.

There doesn't seem to be much doubt that U.S. News & World Report correspondent Daniloff was set up by the KGB arrested by a swarm of KGB agents in a Moscow park immediately after a Russian acquaintance handed him a package that the KGB later claimed contained "top secret" documents. Daniloff, says his editor-in-chief and U.S. News owner Mortimer Zuckerman, "is no more a spy than John Wayne, no more involved in espionage that Gidget or any of us and it's outrageous he's kept in prison."

Unfortunately, however outrageous Daniloff's imprisonment is, it would not be the first time an American had been framed and used as "trade-bait" for the release of Soviets held on criminal charges in the United States. In this case, a Soviet employee of the United Nations, arrested on spy charges in New York two weeks ago, apparently is the other half of the equation that put Daniloff in a Moscow cell—the first American since the Stalinist era actually to be thrown in prison by the Soviets.

But just because the Kremlin once again has trotted out the brutal tactic of setting up a tit-for-tat situation when one of its own is nabbed for spying does not mean that the United States should roll over and give in.

A swap of Daniloff for the accused Soviet spy would be another outrage—a knuckling under to Soviet thuggery that also would taint the American journalist. Not surprisingly, according to Zuckerman, Daniloff doesn't think it would be "appropriate for him to be swapped for someone clearly involved in espionage." Even the deal the United States reportedly has offered Moscow—pretrial release of the accused Soviet spy to the custody of the Soviet ambassador in exchange for Daniloff's freedom—seems an overly generous gesture under the circumstances. For the circumstances, let us not forget, are that the Soviet Union has blotted its copybook—grabbed a vulnerable American citizen as a hostage in a tough, damn-the-consequences effort to secure the release of a Soviet government employee charged with espionage against the United States.

Instead of worrying about finding a way for the Soviets to "save face" in order to

preserve the prospects for a Soviet-American summit later this year, our government should be doing everything it can to keep the onus for this frightening incident where it belongs—on the Soviet government. Mikhail Gorbachev can order Nicholas Daniloff's release whenever he wishes. And if he wishes not to be the cause of a rupture in U.S.-Soviet relations, he'll do so immediately.

DESIGNATING OCTOBER 1986 AS "LEARNING DISABILITY AWARENESS MONTH"

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 9, 1986

Mr. BROWN of California. Mr. Speaker, before Congress recessed on August 15, 1986, my colleague from New York, Representative JACK KEMP, and I introduced House Joint Resolution 716, a bill to designate October 1986 as "Learning Disabilities Awareness Month." Last year, Mr. KEMP and I sponsored this resolution which was passed by Congress. On October 16, 1985, the President proclaimed October as "Learning Disabilities Awareness Month." Throughout the country, State and local governments, civic organizations and parent groups sponsored awareness events. Mr. KEMP and I believe that these activities significantly increased public knowledge about learning disabilities, the invisible handicap. We hope to broaden that knowledge through this resolution.

Learning disabilities are among the least understood handicaps, and yet, millions of Americans—10 million children alone—suffer from them. October has been recognized as the unofficial "Learning Disability Awareness Month" for many years. This legislation will again give the learning disabled the national attention they deserve. Although Representative KEMP and I have differing opinions on many issues, on this issue we are in total agreement. I encourage my colleagues to join us in bringing about the speedy passage of this measure.

It is important for all of us to be more aware of the nature of learning disabilities. Some estimates suggest that as many as 5 percent of school-aged children are learning disabled. The learning disabled are as handicapped as a person in a wheelchair—but theirs is an invisible handicap. It is a condition which is not immediately apparent and whose causes are not clearly defined—but to the person who must cope with the frustration of overcoming it, this handicap is very real. If parents, educators, professionals, and the learning disabled themselves are to become better able to deal with learning disabilities, increased awareness of the problem is essential.

The "dark ages" of learning disabilities were only a decade ago. It was the rare parent or educator who understood learning disabilities or could recognize a learning disabled child. If a parent or teacher believed that a child was learning disabled, it was a struggle to find the proper diagnostic testing and then to set up a program to deal with the problem on a daily basis. Children with learning disabilities were often not identified as such, or were mislabled as minimally brain damaged, slow, emotionally disturbed, or even retarded.

Actually, the learning disabled are of normal or above average intelligence, but are not able to learn many things in the conventional manner. Learning disabilities encompass a broad range of neurological problems which are distinct from retardation or emotional disturbances. This includes such conditions as perceptual handicaps, dyslexia, and developmental aphasia. The learning disabled are likely to have difficulty with reading, writing, spelling, distinguishing letters of the alphabet, and performing other simple tasks involving language. They may also have difficulties with mathematics, concentration, memory, coordination, understanding time and planning, and distinguishing right from left. With early diagnosis and proper remediation, the learning disabled can overcome their disabilities. Few people realize that Albert Einstein, Thomas Edison, Nelson Rockefeller, Gen. George Patton, and Auguste Rodin, to name just a few, all had some kind of learning disability.

It is hard for us to imagine the frustration of the learning disabled and of those who come in regular contact with them. Typically, the learning disabled excell in one area, yet are incapable of functioning on a level commensurate with their age and intelligence in another. An apparently bright and talkative child might not be able to memorize the alphabet or the months of the year. An otherwise intelligent person might find it difficult to distinguish between written words like "girl" and "grill," to spell correctly and consistently, to work with columns of numbers, to remember names easily, to write neatly, and/or speak clearly.

The learning disabled need differing degrees of individual attention and a school program that offsets their difficulties. It may be just a matter of allowing them extra time on a test or having them attend a special education program once a day. Or they may need some time at a school specially geared to them and special training from an optometrist, speech therapist, or other specialist. Whether they are adults or children, they need patience and understanding. If the learning disabled are not given the proper support, they often find themselves confronted with questions like "What is wrong with me? Why can't I function as well as my peers in class or at work? Am I stupid?" The frustration due to misunderstanding the cause of their problems can often lead them down a path of social isolation, behavioral problems, delinquency, and to feelings of inadequacy and self doubt.

With the passage of the Education for All Handicapped Children Act of 1975—Public Law 94-142—and similar legislation, and with the formation of hundreds of national and local support groups, awareness of learning disabilities has increased. Now parents and teachers who need to know about learning disabilities can turn to many organizations for help. They can contact the National Information Center for Handicapped Children and Youth [NICHCY] set up by Congress—Public Law 98-199—to provide them with free information. They can also contact private organizations such as the Association for Children and Adults with Learning Disabilities, a national organization whose membership includes more that 60,000 parents of learning disabled children and adults. Public schools are now required to provide special education for the learning disabled. Also, some colleges and many private schools offer programs tailored for the learning disabled. Talking book records and tapes are among the national and local programs which currently help the learning disabled gain access to books.

We are fortunate to be out of the "dark ages" of learning disabilities, but we have much further to go to bring about a real renaissance. There are millions of children and adults who are not receiving special education or are not even aware that the cause of their troubles is a learning disability. There are parents who are confused about what to do with their children who have learning disabilities. There are children who are still being mislabeled and are not receiving the proper attention. The only way to solve these problems is to increase awareness. We applaud the courageous efforts of parents and children to lead productive and happy lives despite their handicaps. We must continue to stress the need to detect learning disabilities in children as early as possible and to give them the proper treatment. We are encouraged that Congress is now considering amendments to Public Law 94-142 which will extend the protections of the law to children 3 years of age and older and to provide incentives for State programs of early intervention for handicapped infants and children.

These are some of the reasons we are proposing to again designate October as "Learning Disabilities Awareness Month." I strongly urge my colleagues to pass this bill. Below is the text of this commemorative bill:

H.J. RES. 716

Joint Resolution to Designate October 1986, as "Learning Disabilities Awareness Month"

Whereas millions of Americans suffer from one or more learning disabilities;

Whereas it is estimated that ten million American children have been diagnosed as suffering from learning disabilities;

Whereas most learning-disabled persons are of normal or above normal intelligence but cannot learn to read and write in the conventional manner;

Whereas it is important for parents, educators, physicians, and learning-disabled persons to be aware of the nature of learning disabilities and the resources available to help learning-disabled persons;

Whereas early diagnosis and treatment of learning-disabled children gives such children a better chance for a happy and productive adult life;

Whereas the courage necessary for learning-disabled persons to meet their special challenges should be recognized;

Whereas hundreds of national and local support groups for learning-disabled persons, parents of learning-disabled children, and professionals who work with learning-disabled persons have made important contributions to the treatment of learning disabilities;

Whereas research and study have contributed to public knowledge about learning disabilities, but much remains to be learned; and

Whereas public awareness of and concern about learning disabilities may encourage the establishment of the programs necessary to promote early diagnosis and treat-

ment of learning disabilities and to help learning-disabled persons and their families cope with their learning disabilities: Now, therefore,

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1986 hereby is designated "Learning Disabilities Awareness Month", and the President of the United States is authorized and requested to issue a proclamation calling upon all public officials and the people of the United States to observe such month with appropriate programs, ceremonies, and activities.

NAVY OMBUDSMEN: A SHIP-TO-SHORE LIFELINE

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 9, 1986

Mr. WHITEHURST. Mr. Speaker, the Sunday, September 7, 1986, edition of the Virginian-Pilot and the Ledger-Star carried an article by Jack Dorsey describing the invaluable work done by the Navy ombudsmen. These ladies, and other volunteers who work in and through Navy family services centers and family services centers of the other branches of the armed services as well, are a major factor in ensuring the well-being of military families, and they work long hours with no compensation other than the knowledge of a job well done.

As Adm. Jackson Parker points out, the Navy ombudsmen alone save the Navy over $100 million annually, and certainly if we were to figure in the savings brought about by the efforts of all the other family service volunteers, the total could reach $150 million or more per year.

I am proud to have initiated the legislation authorizing the Department of Defense to utilize the services of these volunteers in such programs, and I am delighted that this year the House-passed Defense Authorization bill was amended on the floor to contain language which I had offered to provide reimbursement for these volunteers for out-of-pocket expenses at the discretion of commanding officers, using available funds; the total for all the services for this reimbursement is expected to be about $2 million annually—a modest sum, indeed, in light of their value to the armed services, and a small, but tangible further expression of our deep appreciation of all they do.

Thank you, Mr. Speaker.

The article follows:

NAVY OMBUDSMEN: A SHIP-TO-SHORE LIFELINE

(By Jack Dorsey)

NORFOLK.—For a Navy wife, the rumors are the worst.

There were stories during the spring that the carrier Coral Sea, plying the waters off Libya, was on fire. Injuries were said to have occurred.

About the same time, the amphibious transport dock Ponce was said to be unloading its landing boats and sending Marines ashore in the Middle East. The word reaching wives back home was that their men had entered harm's way.

To compound matters, a cruel hoax was being played in Norfolk by someone posing as a casualty assistance officer. He was calling Navy wives and saying their husbands had been killed or injured as a result of the Libyan crisis. For a while, some wives thought they were receiving official word.

In Hampton Roads—home to 125 ships, 50 aircraft squadrons, more than 100,000 sailors and Marines, and 300,000 dependents—rumors can mean widespread havoc.

While the Navy's bureaucratic machinery eventually straightens out the false reports, the minutes or hours it takes to sort out conflicting reports are miserable ones for the families back home.

But when the rumors get rolling, so do the Navy's ombudsmen. Three thousand strong worldwide—473 of them representing 250 commands in Norfolk—they are an army of sailors' wives who can cut through red tape, activate their telephone message machines at home and quash the poppycock that seems to arise almost daily.

They are able to put out the correct word because the commanding officers of their ships, or the squadron commanders back home, see to it that the ombudsmen are among the first to know when a problem exists.

If nothing else, weekly messages sent from a ship to the ombudsmen update them on the ship's schedule, tell of a canceled port visit or reassure the families that their men are well.

Although they are called ombudsmen—which originally were public officials appointed to investigate citizens' complaints against the government—these volunteers, nearly all of them women, have become quite a bit more in the 16 years they have been used by the Navy.

They are the Florence Nightingales of the '80s as well. They handle emergency calls, suicide threats, alcohol and drug abuse matters. They direct those in need of financial or legal help to the proper channels. They contact the Red Cross. They are social workers. They are confidantes. They are trained. They are organized.

"But we're not a taxi service. We're not a bank, and we're not baby sitters," said Sue Laguana, ombudsman for the Ponce, where her husband, Joseph, is a first-class boiler technician.

Laguana, who served in the Navy for four years and remains a member of the Naval Reserve as a first class hospital corpsman, has been the Ponce's ombudsman for a year.

She has handled the rumors, especially during the Libyan crisis. She has summoned the Red Cross for a crewman who was needed at home because of an illness in his family. She has fielded the emotional telephone calls from a distraught wife whose automobile had broken down in North Carolina. She has done battle with the Navy's finance center in Cleveland to straighten out tardy allotments to five crewmen's wives. She has soothed the fears of a young wife alone for the first time while her husband is at sea.

"I didn't know what an ombudsman was," said Laguana of the days when she followed her husband from port to port. "Every time we went to a new place, I was at the point of not knowing anyone off the ship. My husband would deploy right away, and I would suddenly be alone.

"So I got interested in it and thought, if possible, I would become one."

Despite the midnight phone calls, the emergencies and the gloom that frequently come to her, Laguana says the inspirations and thrills of resolving problems make up for the bad days.

As liaison for the ship, ombudsmen work to bridge gaps between commands and families. They can be the feather in a ship commander's hat—and infrequently a thorn in his side when the crew and its families become upset.

There is normally at least one ombudsman per ship, though a 5,000-man carrier may have 10 or more. They are appointed by the commanding officer. In Norfolk, they are drawn together by the Tidewater Ombudsman Assembly. One Washington bureaucrat, computing the worth of ombudsmen, estimated that they save the Navy $107 million annually, said Rear Adm. Jackson K. Parker, commander of the Navy's facilities in and around Norfolk.

The estimate was based on the mandatory training given at an ombudsman training academy operated by the Navy Family Services Center. Ombudsmen work approximately 600 man-years annually, he said.

In return, they may receive a reserved parking space on the pier, a monthly lunch with the ship's captain and a hearty nod from every sailor aboard. On Friday, in tribute to their long hours of work, the ombudsmen in the area are to be honored with Navy Ombudsman Day in Norfolk.

Rear Adm. David M. Bennett, deputy commander of the Atlantic Fleet Naval Surface Force, has been associated with ombudsmen as a ship's commanding officer, squadron commander and now force deputy commander.

"I'm not so sure you could hire anyone to do what they do," Bennett said. "What they have got, in addition to their special training, is 15 to 20 years of experience in the field."

Bennett said he has always held the ombudsmen in high esteem. "They take a lot of heat off and alleviate a lot of potential problems," he said. "They are really command advisers to us on dependent matters."

The ombudsman program began in 1970 with one of the famous "Z-Grams" from Adm. Elmo Zumwalt, who was then chief of naval operations. He wanted better communications between the ships and the families at home.

Before then, said Nancy Woodall, the wife of Cmdr. Stephen Woodall, skipper of the destroyer King, there was no such program for families to fall back on.

"From what I remember in the late '60s, it was traditionally a job held by a senior chief's wife on the ship," Woodall said. "She sort of was the focal point and the one with the most experience. She was the natural one to go to, and she took all the problems and got no recognition for it."

Woodall, although not an ombudsman, has taken some of the training and courses the ombudsman academy offers. As the wife of the commanding officer of a ship, she also has certain obligations. But dealing day after day with problems, such as those the ombudsmen face, is a tremendous challenge, she said.

"For me, in the unearned position of a captain's wife, it takes a lot of burden off because people problems bother me, and I would take them home. But these girls are really professionals," she said. "They know what they are doing."

They have also become a safety valve for the sailor at sea, said Lt. Lyman Smith, the chaplain of the Ponce. Just knowing that the ombudsman program is working and in place saves the sailors grief when they know

the nightly news is carrying information about a crisis they may be in, he said.

"There is a great concern on the part of sailors in the Mediterranean that what they may be experiencing will be blown out of proportion back home," Smith said. "There is that concern of 'How do we get the word back that things aren't so bad?' "

A simple message from the ship's captain to the ombudsmen, relayed by a squadron commander at home, usually does the trick, he said.

OBJECTIONS TO PROPOSED FEMA RULE CHANGES

HON. JAMES J. HOWARD

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 9, 1986

Mr. HOWARD. Mr. Speaker, I am joining with members of the Committee on Public Works and Transportation today to introduce legislation that will prohibit the Federal Emergency Management Agency [FEMA] from finalizing its proposed rules to revise the Federal Disaster Relief Program.

This legislation was developed as a result of the hearing held by the Subcommittee on Investigations and Oversight, and the nearly unanimous opposition from both Republicans and Democrats to this FEMA proposal. The hearing made clear that congressional action is necessary to prevent these misguided regulations from taking effect.

The underlying problem with the regulations proposed on April 18, 1986, is that they are not based on any program-related needs. Instead, they were developed because of an Office of Management and Budget directive to FEMA to find budget savings for fiscal year 1987. When ordered to reduce the budget, FEMA officials developed the present proposal that takes several steps backward in the development of an effective Disaster Relief Program.

There are two major objections to the proposed FEMA rules. First, the proposal would reduce the Federal share of disaster relief from 75 to 50 percent. That reduction would place an intolerable burden on local governments faced with the numerous problems associated with disasters. It is when disasters strike that the assistance of the Federal Government is needed. It is a primary function of Government to help its citizens at the times of severe need.

Second, the proposal uses an arbitrary population-based formula to establish thresholds for the distribution of assistance. These thresholds bear no relation to the needs of a particular community but simply to the population of the State in which it is located and the State taxing capacity.

Using these thresholds, New Jersey would receive no disaster relief unless the damage exceeded $9.1 million. California would receive no assistance unless there was more than $29 million in damage—an extraordinary amount.

Under this proposal, 61 of the last 111 national disaster areas would have been ineligible for assistance. The proposal is arbitrary in its thresholds and unfair to the recipients.

The illogical proposal produces illogical results. It would produce the strange situation, in a coastal storm in the Northeast, of communities in Delaware qualifying for assistance if the damage exceeded $669,000, in New Jersey if the damage exceeded $9.1 million, in New York if the damage exceeded $19 million and in Rhode Island if there is more than $970,000 in damage.

The unfairness of the proposal demands that Congress take action to prevent the rule from taking effect. The legislation that I am introducing today will bar these rules from taking effect. If they are adopted before the legislation is enacted, they will be nullified.

The bill also would bar FEMA for 18 months from issuing or implementing any rules concerning the policy relating to the declaration of disasters, or the non-Federal responsibility under the Disaster Relief Act of 1974.

Finally, the bill would direct the Comptroller General to study the effect the proposal would have on the ability of State and local governments to respond to major disasters. The Comptroller General would be required to submit the report to Congress within 6 months.

It is not our intention to limit the ability of FEMA to respond to disasters or to make changes where necessary in the administration of the Disaster Relief Program. However, it is necessary to ensure that those changes are made fairly and with an improved program as the goal. Congress must not allow the Federal Government's Disaster Relief Program to be distorted in a way that could be harmful to citizens facing the effects of disasters.

GOV. TOM KEAN'S MESSAGE OF OPPORTUNITY FOR ALL AMERICANS

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 9, 1986

Mr. KEMP. Mr. Speaker, New Jersey's Gov. Tom Kean is, in my view, one of the most effective and progressive leaders in our country. Under his administration, New Jersey has become a center of job creation, entrepreneurship, equal opportunity, and economic growth for all its citizens. Governor Kean's recent remarks before the annual conference of the National Urban League outline his ideas and initiatives for making the ladder of opportunity accessible to all Americans, particularly through education. I commend Governor Kean for his vision and leadership, and I hope my colleagues will take the time to read his remarks.

REMARKS OF GOV. THOMAS H. KEAN

When the history books are written a century from now, the civil rights movement will be viewed as one of the most profound periods of social change in human history—and the Urban League as one of its greatest champions.

To be here with so many leaders of that movement is a little awe inspiring.

Like many white children growing up in the 30's and the 40's, I was insulated from much of the prejudice and oppression that black Americans had to endure.

But even as a child, I knew something was wrong.

My father was a Congressman, so I was brought up in Washington, D.C. Schools were separate. We couldn't even go to the movies with a black friend. As it was explained to me in class by a white teacher, the "coloreds" has their own theaters.

I remember my father's anger when he was turned away from a resturant near the Capital because he was with a black constituent. I was angry too.

From that anger grew a sense of purpose. I marched with Dr. King, and, as a student at Columbia, helped open the first northern chapter of the Southern Christian Leadership Conference, on 125th Street in Harlem.

I thought of those days a few weeks ago as I sat next to Coretta Scott King at the unveiling of the Statue of Liberty.

I thought of the irony of this country offering freedom, hope and opportunity to Europe's poor while denying it to our own of African descent.

The civil rights movement forced all Americans, of every color and nationality to face that contradiction.

The civil rights movement fought for power—power at the voting booth, power in the schoolyard, power in the American economy.

Twenty years later, as we meet here in San Francisco to discuss the problems facing urban America, much has changed.

Yet still today, if you walk the streets and alleys of our major cities, you hear that same call—the call for empowerment.

For a large number of black Americans, the picture of a prosperous and comfortable America is no more real than the image of the Bill Cosby Show flickering from old TV sets.

These poor black Americans belong to a distinct community—a community of poverty, despair and deprivation.

A community in which over 60 percent of the children live in single parent households headed by women.

A community in which unemployment is two and sometimes three times the national average.

A community in which every single day, over 40 teenagers give birth to not their first, not their second, but their third child.

This is the community of poverty in America. Sadly, it seems more permanent today that it did twenty or thirty years ago.

What went wrong? Why has the dream been deferred for so many? Why when civil rights were gained for all did not economic rights for all follow?

The answers to that question are complex. But no matter how we look at it, we have to admit that part of the blame must lay at the doorstep of government.

The same government that gave civil rights to black Americans too often inadvertently asked for dependency in return.

Our welfare system encourages people to stop working and provides no rewards to those who get a job.

And it creates financial incentives for our children to have children.

Our housing policy blocks urban residents from owning their home or living in a clean apartment.

Our criminal justice system tells the drug pusher and gang leader that yes the risks are worth it. There are few incentives for obeying the law.

Remember the war on poverty? Well, poverty won.

As Hosea Williams put it, "the war on poverty lost because by the time it trickled

down to the poor, all we got was scraps from the table."

There are some in my party who look at all this and say government's hurting urban America. Government ought to just get out of the anti-poverty business. And there are others who still blame the victim. After all, the urban poor are poor because of their own weaknesses.

Let me tell you something. Those people are wrong.

Just because poverty still exists doesn't mean that government should throw up its hands and go home. Nor does it mean that the poor will always be with us.

I believe that government can make a difference. Government can create a climate so that urban Americans can help themselves.

This can happen. This must happen. And it must start with education.

Historically, education has been the catalyst for the liberation of black Americans.

The most enduring work of the Freedman's Bureau was the development of a common education system for former slaves. The NAACP and the National Urban League itself were born in the service of education to meet black needs.

Most of the landmark civil rights cases dealt with constitutional issues around the use or misuse of public education—especially *Brown* v. *Board of Education* in 1954.

It was the struggle in the schools which gave Dr. King commitment for the Montgomery movement in 1955. It was from the schools that the strategy of economic boycott was born in 1959. It was in the schools that the Federal Government finally stood for justice at Little Rock, Alabama and Ole Miss and it was in the schools that the SNCC was born and black voter registration launched.

John Jacob put it simply and directly. "Black survival is directly linked to education."

But today, urban schools are no longer the seedbeds of social change. Instead they are mere warehouses of unfulfilled human potential.

In our urban schools—particularly schools in which the majority of students are black—we see a pattern of rules and regulations, dogma and doctrine that perpetuate powerlessness.

Consider for a moment the problem of disruptive students.

Perhaps no other criteria separates good schools from bad schools than the treatment of unruly students.

In good schools, students know what is expected and what will happen if their behavior deviates.

In bad schools, no clear or explicit signals exist.

If the teacher doesn't want profanity, fights or sarcasm, the teacher says to the student, "if you won't disrupt, then I won't demand too much of you. You'll be able to get by with minimum effort."

By making these truces, we set the wrong tone. We lose the incentives for good behavior and hard work.

Consider the issue of academic standards.

The urban schools in my State are filled with children who perform substantially below their grade level. That's what the academics says—what they mean is that they simply cannot even read or write.

Yet for years our response has been to simply pass these children from grade to grade, regardless of performance. Until the child drops out, and that child—that young adult—soon finds himself or herself condemned to low paying, dead end jobs for the rest of their life.

A black friend of mine in the city runs a string of grocery stores. He desperately needs people to work the cash registers. The neighborhood kids want the jobs—very badly. Sometimes they wait in line for hours to be interviewed.

My friend asks these kids a simple question: If a product is three for $1, how much does one item cost? The kids look at the floor. They can't answer.

It breaks my friend's heart. These are kids he wants to help, but he can't. Instead, they are back on the street, with drugs and crime their only alternatives.

What kind of message do we send when we promote and even graduate our children, regardless of whether they have even mastered the minimum skills required of their grade?

The message is simple: We say to our youngsters, you can't succeed. You are powerless. No matter if you study or not—you graduate. Your actions have no consequences. Is it any wonder that years later these human beings are on the street?

Is it any wonder they cannot get a job?

Finally, consider our treatment of urban schools as institutions.

In my State, as in so many others, we give extra money to schools for compensatory education. Yet the system is biased so that the more children in remedial classes, the more money a school gets. We reward failure and penalize success.

Under that system, schools will never let students out of special classes, because they lose money.

As budgets get larger and student performance declines, support for education deteriorates. People forget that when you spend money on the education of a child, it is so much cheaper than spending money on prisons or spending money on welfare programs.

What we must do is really very simple. We must restructure incentives to reward achievement for both schools and students.

Take the problem of disruptive students. Urban schools must have clear-cut codes of conduct. And they must create alternate education programs for students who consistently violate those codes.

The rules must be clear: If students misbehave, they will be removed from the classroom. And if the disruptive behavior continues, the student will be suspended.

With a good alternate education program—one that usually costs no more than regular education—we can meet the needs of the disruptive student and maintain classroom discipline.

But the message must be clear, if you interrupt the learning of other students, you leave the classroom and perhaps the school.

And we can no longer pass our students from grade to grade, with scant concern for their ability to even read or write.

We must put in place rigorous tests in basic skills. All high school students must pass these tests before they are given a diploma.

No longer can we pass our problems on to employers and colleges. No longer can we let our children suffer for our mistakes.

Basic skills tests will be controversial. In my State, some educators have warned of failure rates as high as seventy percent. These people say that urban children simply cannot learn to read and write and do arithmetic.

Nonsense. I know our children have the ability to learn. The question is—do our schools have the capacity to teach? And if they do not, that is our failure, not our children's.

Convincing students that their behavior does have consequences is so vitally important. What's equally important is changing the incentives facing our schools themselves.

Federal and State governments should restructure their formulas for compensatory education. No longer should schools with the largest classes receive the most money. Instead, let's give the extra money to schools that get kids out of special classes, and back with their classmates.

We've done that in my home State. And just recently, I took the boldest step of all.

I believe that all children have a right in this democracy to a good education.

A handful of school districts in New Jersey—mostly urban schools with black majorities—have repeatedly failed to meet minimum State standards. Students in those schools are being denied what is a constitutional right in my State to a thorough and efficient education.

Last month, I announced a change of policy regarding those schools. If those schools continue to fail and if by every piece of evidence are not educating children, then the State of New Jersey will take over—we will replace the school boards, superintendents and other key administrators.

We are telling our urban school districts that no longer will we turn our backs and tolerate mediocrity. We are no longer going to blame our children. We are going to fix the schools.

By doing so, we prove that the development of the poorest black or Hispanic student is just as important as the education of the middle class in the suburbs.

We will provide that institutional actions, just like individual actions, do indeed have consequences.

That's what we need to do. We need nothing less than a national assault on the problems plaguing our urban schools.

We can no longer tolerate a situation where an entire community of children are deprived of the basic skills needed to hold a job.

We must recognize that when we fail in education—our failure is our children.

It's not going to be easy. It will take the cooperation of everyone—the Federal Government, States, and the cities.

I hope my party will take the lead—but today I call on the leadership of both great political parties to make education a priority. If we fail here, we fail everywhere.

We must do it.

The fact is that we will never break the back of poverty unless we provide a decent education to every child in our cities.

Don't let government off the hook. Don't let government play big daddy. And don't let government tell you that it simply can't do anything about the poverty in America.

James Baldwin once wrote, "Not everything that is faced can be changed, but nothing can be changed until it is faced."

Government and the entire urban community together must face the fundamental issue of the 1980's: How to empower urban Americans—not paralyze them.

I am an historian, and to me the history of black Americans is a story of human possibility.

You have produced some of the great leaders in history. People like W.E. DuBois, Booker T. Washington, Benjamin Banneker, Jackie Robinson, Dr. Martin Luther King and, of course your own Whitney Young.

What is amazing about each of these people is that they came out of an atmosphere of hardship and oppression. From poor schools and sometime broken families came some of the people richest in intelligence, integrity and ideas in human history.

That tells me something. Because if these black Americans can contribute so very much, think of what all black Americans can contribute with an equal chance as the rest of us—with good schools and a solid family.

It hasn't happened yet. This is a country that has put a man on the moon, found a cure for polio and forged technology that boggles the mind. Yet still, we have yet to find a way to empower urban Americans to become a competitive force in American life.

We have yet to fulfill Whitney Young's dream of a "society in which each human being is free to flourish and develop to the maximum of their God-given potential."

When that day arrives, and it must, I can guarantee you that lady in the New Jersey harbor will smile a little wider.

Whenever I think of the potential in Americans, I think of the gifted scholar, singer and actor from my home State—Paul Robeson.

I remember a song he used to sing called, "The House I Live In."

In the song, Robeson asked, "what is America to me?"

He spoke of many things—of a certain special word: "Democracy."

He reminded us of the words of old Abe Lincoln, of Jefferson and Payne—of Washington and Douglas, and the task that still remains:

To Robeson, America was, "the right to speak my mind out, and the air of feeling free."

He concluded, "The town I live in, the street, the house, the room, the pavement of the city or a garden all in bloom: the church, the school, the clubhouse, the million lights I see, but especially the people, that's America to me."

America is all those things. But today, America still is all those things to only some people.

The promise of America will never be fulfilled, until we throw open our doors and let urban Americans share in the power and opportunity we all enjoy.

Until those who are strong demand inclusion of the weak.

Until those who have power demand inclusion of the powerless.

Until those who are rich feel an obligation to the poor.

That time is coming.

I believe it. I feel it.

On his deathbed, W.E. DuBois wrote: "The only possible death is to lose belief in life simply because the great end comes slowly, because the time is long."

Black power in this country has been a long-time coming. But this is one American who believes that great end is within our grasp.

Thank you.

LEGISLATION TO CLARIFY THE SCOPE OF BANKRUPTCY PROVISIONS RELATING TO COLLECTIVE-BARGAINING AGREEMENTS

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 9, 1986

Mr. RODINO. Mr. Speaker, today I am introducing legislation to clarify congressional intent with respect to the scope of section 1113 of the Bankruptcy Code. This bill makes clear that section 1113 protests all provisions of a collective-bargaining agreement, including provisions covering benefits for retired workers, from unilateral rejection by an employer filing under chapter 11 of the Bankruptcy Code.

In recent months, there has been a debate over the scope of section 1113 and its relationship to other sections of the Bankruptcy Code. Some have claimed that section 1113 applies only to those provisions of a collective-bargaining agreement dealing with active workers who will continue in the employ of the company after the bankruptcy filing and not to provisions dealing with retired workers. They contend that since retired workers will not supply services to the company after the bankruptcy filing, any payment of benefits to retired workers—even when such benefits are clearly set forth in a collective-bargaining agreement—is barred by the Bankruptcy Code as a prepetition claim.

There is absolutely no basis for such an interpretation. In 1984, when I introduced H.R. 4908, which led to section 1113, I intended to protect every provision of a collective-bargaining agreement, including provisions relating to retiree benefits; from unilateral rejection. The purpose was to require employers in chapter 11 to honor labor contracts in their entirety—and to prevent them from picking and choosing among provisions. To reflect this intent, subsection (h) of H.R. 4908 was drafted to state unequivocally that all provisions of a collective-bargaining agreement were protected and that no other section of the Bankruptcy Code would permit the unilateral alteration or termination of any such provision. The provision that was enacted into law also reflects this intent. Subsection (f) of section 1113 states clearly that—

[N]o provision of the [Bankruptcy Code] shall be construed to permit a trustee to unilaterally terminate or alter any provision of a collective bargaining agreement prior to compliance with the provision of this section.

The legislation I am introducing today will put an end to the debate on whether section 1113 covers retiree benefits. It will leave no doubt that subsection (f) of section 1113 means what it says: A company filing for bankruptcy under chapter 11 must first comply with the procedures set forth in section 1113 before it terminates or alters any provision of a collective-bargaining agreement dealing with retiree benefits, just like any other provision of a collective bargaining agreement.

In the case of retired workers, it is particularly critical that companies should not be permitted to cut off benefits precipitously. Retirees depend on these benefits, particularly health insurance benefits, on a day-to-day basis. Unlike other creditors of the company, retirees are likely to have no other resources to fall back on. They cannot wait while a company reorganizes to find out what remains of their benefits. This bill will make clear that companies in chapter 11 must continue to provide retired workers with any benefits provided for in a collective-bargaining agreement until it follows the procedures in section 1113 and obtains court permission to modify any such benefits.

TRIBUTE TO DR. ROBERT L. JOHNSON

HON. GEORGE (BUDDY) DARDEN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 9, 1986

Mr. DARDEN. Mr. Speaker, I would like to call the attention of my colleagues to the outstanding contributions made to his community by Dr. Robert L. Johnson, the long-time pastor of Zion Baptist Church in my hometown of Marietta, GA.

Dr. Johnson has been a consistently positive moral force in our community. He has played a key role in nurturing a spirit of brotherhood and cooperation between our white and black citizens.

Dr. Johnson's devotion to public service does not end with local interests; he has served with distinction on the Georgia State Board of Pharmacy. The Georgia Coalition of Black Women named Dr. Johnson the most influential black man of the year.

To further acquaint my colleagues with the achievements of Dr. Johnson, I submit a recent article from the Marietta Daily Journal. The article follows:

[From the Marietta Daily Journal, Aug. 5, 1986]

VOICES FROM PAST HONOR ZION'S DR. R.L. JOHNSON

(By Lorri Preston)

Fulton County Commissioner A. Reginald Eaves, Marietta Mayor Vicki Chastain, Marietta City Councilman John Hammond and Don Jackson of Georgia Secretary of State Max Cleland's office went to church together Saturday night.

They went to Zion Baptist Church in Marietta to recognize their friend Dr. Robert L. Johnson for his 26 years of pastoring during a special "This Is Your Life" tribute. And they weren't alone.

While he sat under a flowered arbor with long-time Zion member Annie Mae Solomon at his side, Johnson guessed correctly each in a long string of old friends who stood behind, bringing to life memories.

As each guest spoke, another stage of Johnson's fruitful career was recounted.

Before Dr. George McFarland, president of the the Georgia State Pharmacy Board, spoke, Johnson was reminded by emcee Joe Washington of 11-Alive News of the time he tripped and fell when shaking the governor's hand at the swearing in of the board.

"The Lord moves in mysterious ways," Washington said.

McFarland said the board has become more professional because of Johnson's presence.

Johnson was also reminded of the time he took his choir and some members of Zion to preach at a small town church. After finding the church's doors locked upon arrival, Johnson found some of the church's deacons, had them unlock the building and round up some local members for the sermon. Five years later Johnson learned he had gone to the wrong church.

Sentimentally, Ella Mae Brayboy of the Martin Luther King Jr. Center for Social Change and the Georgia Coalition of Black Women recalled how Johnson helped register black voters more than 20 years ago.

"Remember the year 1964, that important leadership role you played in political development?" Mrs. Brayboy said. "Remember, we registered 500 (blacks) that night at Turner High School and 10,000 across the city? That led to the first eight black representatives (being elected) to the state legislature. I'm here to say thank you again."

The coalition named Johnson the Most Influential Black Man of the Year.

Eaves recited the "Whom would go for us, whom shall I send" biblical passage, and said lightheartedly that Johnson has been pressuring him to go into preaching.

The Fulton County Board of Commissioners gave Johnson the Community Service Award.

Ms. Chastain recalled how she asked Johnson to give the invocation at a Marietta City Council meeting, adding he was the first black man to do so.

"You have always been a friend," she said.

Jackson read a certificate of appreciation from the secretary of state's office recognizing Johnson for outstanding service to the State Board of Pharmacy.

"He's our consumer member half the time, the other half we need to call on him in prayer," Jackson said.

Johnson had little trouble guessing Hammond's voice as he told of how Johnson worked some near miracles in securing a marriage license during a haphazard wedding ceremony. Hammond has worked with Johnson on listing the old Zion church building on the National Historic Register.

Oscar Freeman, president of Cobb's chapter of NAACP, remembered sitting on some steps in a housing complex when Johnson approached him and said, "Young man, do you belong to Zion Church?" Though he wasn't a member then, Freeman said Johnson's encouragement led to his intense involvement with Cobb NAACP. Johnson is past president and a board member of the chapter.

Charles Harrison of Alpha Phi Alpha commended Johnson on his help in organizing local celebrations of Dr. Martin Luther King Jr.'s birthday. And the Rev. J.F. Ham of the Cobb Ministerial Alliance commended Johnson for the renewing of the Cobb organization.

Educator Dr. Joseph "Pete" Silvers said, "You and I have long realized the children are our future." Hiram Little recited lines from Johnson's first trail sermon and Dr. Harris T. Travis, Zion's associate pastor, commented on Johnson's preachings.

"I really don't know a gentleman, a preacher, a pastor I could make comments about as I could with Rev. Johnson," Travis said. "The Reverend is such a sensitive person. He tries to meet the needs of everyone. He was one of the greatest diplomats I've ever seen. And he doesn't use boxing gloves."

The ceremony, interspersed with prayers and chronological accounts by Washington, was highlighted by the singing of two most appropriate hymns: "Stand By Me," and "How Great Thou Art."

"It really did catch me by surprise," Johnson said. "This is the first time they've done this kind of thing. It's unusual for me and exciting and glorious and every other adjective you can think of."

Mr. and Mrs. K. Charles Burris coordinated the Aug. 2 program. On Sunday, Aug. 3, a special Sunday morning service, dinner and anniversary services took place in Johnson's honor.

TRIBUTE TO A WOUNDERFUL CHURCH AND PARISH

HON. GERRY SIKORSKI

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 9, 1986

Mr. SIKORSKI. Mr. Speaker, this Sunday in northeast Minneapolis, the Chuch of the Holy Cross is celebrating its centennial. The Reverend Frank Decowski will preside over the festivities, and it is right that he should be there. Father Decowski was born just a few blocks away from the Holy Cross. Maybe that is why he is so good at serving his parishioners. They grew up together and share the same Polish heritage. They share the same commitment to traditional American values: God, family, and country.

For 100 years, the Holy Cross has been a shining example of all that is great about America. The church is made up of descendants of early Polish immigrants to Minnesota. Many of these settlers—my grandparents among them—came to this country with no material wealth, no knowledge of the language or system of government. But they used their skills and their faith to forge a new life in a foreign land.

These immigrants came seeking freedom and a better life, and learned to love America and to fight for her. They gave their physical strength to building a new life in this democracy, and they gave their spiritual strength to the Holy Cross. Their faith came from God, from within themselves, and from their church.

As a tribute to this wonderful church and parish, I would like to submit the following article from the Minneapolis Star and Tribune. May the Holy Cross stand another 100 years and more.

[From the Minneapolis Star and Tribune, Sept. 6, 1986]

PASTOR, FLOCK TO OBSERVE CENTENNIAL OF POLISH PARISH CHURCH

(By Neal Gendler)

From the window of his study at Church of the Holy Cross in northeast Minneapolis, the Rev. Frank Decowski can look down the alley at the house in which he grew up.

At 53, Decowski is a little more than half the age of the church in which he grew up, and he has a lot in common with the folks in his flock.

"I've known 90 percent of these people all my life." Decowski said Thursday. "A lot of people still call me Frankie."

Decowski and most of the 1,300 households in Holy Cross share a Polish heritage, and many members have grown up near the church, 1621 University Ave. NE., in a neighborhood with about a dozen churches on as many blocks. Many families have belonged to Holy Cross since they arrived in Minneapolis sometime in the last century.

Decowski and the families that comprise the largest Polish parish between Chicago and the West Coast will celebrate the church's centennial a week from Sunday, with a mass of thanksgiving and a dinner featuring the nation's ranking Polish-American priest, Cardinal John Krol of Philadelphia.

Krol is to preside over the noon mass and speak at the dinner that afternoon at the Prom Center in St. Paul. Decowski believes that Krol's public appearance will be the first by a cardinal in the Twin Cities since the late Eugenio Pacelli, who later become Pope Pius XII celebrated mass at the St. Paul Cathedral in 1936.

Decowski first invited the pope, although he didn't really expect John Paul to attend. The pope—who Decowski met in 1979, when both were guests of Vice President Mondale—sent a photo of himself inscribed in Polish with good wishes to Holy Cross on its centennial. Decowski wanted Krol to attend "to honor the people of our parish," a number of whom had arrived under difficult circumstances since 1945. "I wanted to honor our community."

The genial Decowski had thought of driving Krol from the church to the Prom in a horse-drawn carriage, but dropped fancy ideas when he learned that the cardinal was returning from a trip to Poland and would be tired. Still, plans call for a lively day.

The mass, which Archbishop John Roach will celebrate, will be held in a church bedecked in the Polish national colors, with red-and-white banners with the white Polish eagle and white keys for the pope. Two pieces include the opening words of the Polish anthem that translate loosely as "Poland has not died."

If he can get the city to close the street, Decowski will have traditional Polish dancing in front of the church before the service.

It is such traditions, coupled with family ties, that have helped people maintain connections to Holy Cross even if they have moved to suburbs, Decowski said. His own parents met and married there, and two of his brothers still belong.

Their father died five weeks before he was born, Decowski said, and his mother supported her five children by scrubbing floors during the week and cooking for church weddings on weekends.

The church in which Decowski grew up was built in 1927 and is the congregation's third. The first was the original building of nearby St. Anthony parish, a structure 28 by 46 feet, built in 1851 as the city's first Catholic church. The people who started Holy Cross bought it for $25 and moved it to what now is a church-school playground across the street from Holy Cross.

The second church was built for about 500 people and began use in 1892. It was a period of great immigration from Eastern Europe to America, and, for many, work in the flour mills of Minneapolis.

The present church was built in 1927 and, the church history says, "has parishioners who have lived in the parish and sometimes on the same block or even in the same house all their lives." Decowski said that the sense of continuity is one of the church's great attractions.

"People stick together here," he said. "They're related to everybody around here

. . . they just like what we do, I suppose. We carry on a lot of the traditions that their parents and grandparents brought from Poland.'"

For example, families take home opiatki, or holy bread, that is eaten at Christmas Eve dinner as a symbol of unity, peace and love. At Easter, people bring their food to church for a special blessing.

"Easter Sunday morning, we have what is called the resurrection mass," he said. "We have a procession around the church several times singing the traditional Polish hymns of the resurrection. After mass they go home—again as a family—to eat the blessed food." The dinner includes sharing an egg as a sign of unity and resurrection. Other churches also bless the food, he said, but Holy Cross does it five times, at masses scheduled so all can attend.

Two of each Sunday's five masses are in Polish. One of Decowski's two assistants, the Rev. Antoni Bury, came from Poland 14 years ago. The other, the Rev. Gerald Dvorak, grew up in the community. The congregation includes a number of young immigrants who have arrived since martial law was declared in Poland in 1981, he said, and Holy Cross has the only Polish masses in Minneapolis. St. Adalbert's Church in St. Paul has Polish masses, too.

Decowski said that in his neighborhood, about 90 percent of the people are in church over a weekend. Although about 40 percent of his congregation is over 60, with the rest divided rather evenly by age group, a number of young families are moving back into the area. The school serves a number of parishes, but about 150 of its 450 students are from Holy Cross.

Decowski is the first "native son" to be pastor, according to church history.

"Everybody would love to come back to his own parish," Decowski said, but when the archbishop asked him to Holy Cross, Decowski had some mixed emotions, wondering if people would open up to him in time of need.

But it's been just the opposite, he said. "Especially in time of illness, time of death," he said, "it's somebody they've known all their life who is there."

ILLINOIS COLLEGE INFORMS STUDENTS OF "NO DRUG" POLICY

HON. HARRIS W. FAWELL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 9, 1986

Mr. FAWELL. Mr. Speaker, last month, Secretary of Education William Bennett offered a most challenging suggestion to our Nation's colleges. In a speech before the Heritage Foundation, the Secretary recommended:

Every college president should write his students this summer and tell them this: Welcome back for your studies in September; but no drugs on campus. None. Period. This policy will be enforced—by deans and administrators and advisors and faculty—strictly and fairly.

In response to the Secretary's challenge, I wrote to the presidents of seven private and community colleges in or serving the 13th Congressional District of Illinois. I learned that some of these schools already have an effective "no drug" policy which they strictly enforce. Another school, Elmhurst College, sent an open letter to its students informing them that intelligent students should know about the dangers of drug abuse.

The text of the open letter to students follows:

ELMHURST COLLEGE,
Elmhurst, IL, September 5, 1986.

An Open Letter to the Students of Elmhurst College:

Drug abuse, including alcohol abuse, has reached new and alarming proportions in the United States. The costs of all forms of drug abuse are staggering, costs counted in the wear and tear on the human spirit, the family, society, increased medical costs, lost human productivity and death. The costs and the problems of drug abuse, all well documented and beyond dispute, are being addressed this fall by many concerned persons. The bottom line of drug abuse is that such abuse robs men and women of all ages, and especially children, of a quality life.

Sometimes we fail to recognize how diametrically opposed are the life style of being a student on the one hand, and the drug user, on the other. The student seeks the greatest development of the human mind and spirit. The user of drugs is seeking an escape from life itself. These life styles are so contrary to one another that a college community just naturally shares the nation's deep concern about the growing problem.

Elmhurst College joins with all the forces at work in our society to reduce and eliminate drug abuse and it does so especially through the means naturally available to it: education, programs to heighten personal awareness of drug abuse, and the establishing of personal and institutional goals to address the ills stemming from such abuse. We want you to be aware of how we have and will continue to address illegal use of drug abuse.

First, you should know that we will continue to cooperate with the civil authorities in apprehending those who traffic in and use illegal drugs.

Secondly, as an educational institution, we will continue to do what we do best—educate and assist students in dealing with issues of drug abuse. This year, the Dean of Students staff has developed a new and exciting program entitled "Becoming a Master Student." It is a program which deals with the full life of a student including a discussion of how to do these things: study; use campus resources, such as the library; manage resources and time; create a productive living environment; and understand the decisions one makes. Obviously, decision-making involves decisions regarding alcohol and other drugs.

We are glad you are a student at Elmhurst College, and we hope you will participate in the program "Becoming a Model Student." We know that you share with us the desire to reduce and eliminate the tragic toll of alcohol and drug abuse. Even more, we believe that you share with us the sense of the deep worth of developing the full power of the human mind and spirit—the goals of becoming a master student. The education of a person is so precious a process and so great a treasure that to have it seriously damaged by drug abuse is deeply tragic. In current jargon, "it is just plain dumb."

I hope you have a great year as you pursue your educational goals at Elmhurst College and we all work to achieve the objectives of learning.

Sincerely,

IVAN E. FRICK,
President.

H.R. 5409—A CHOICE IN EDUCATION FOR LOW INCOME CHILDREN

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 9, 1986

Mr. GRADISON. Mr. Speaker, for over 20 years, the Federal Government has supported a program designed to address the educational needs of students from low income families. Congress made some revisions in the program in 1981. Currently, the Federal effort to assist disadvantaged children is administered under the aegis of chapter 1 of the Education Consolidation and Improvement Act of 1981. In 1987, the Congress will be faced with the reauthorization of this program.

Since chapter 1 needs to be reauthorized for the program to continue, the administration and many in Congress see this as an opportunity to press for reform of the program in order to ensure that it serves those children most in need. Some reform proposals have already been put forward. At the same time, questions have been raised about the necessity of reforming the chapter 1 program at all. Many maintain that it is a highly effective program and should be continued without additional Congressional interference.

Mr. Speaker, although I am strongly supportive of the goals of the chapter 1 program, I am convinced that some reform is necessary to ensure that its original purpose is better carried out. In spite of claims to the contrary, numerous studies have questioned the effectiveness of chapter 1. Recent evidence indicates that only 40 percent of the program's participants are considered poor. The evidence also indicates that many children participating in chapter 1 programs are not underachievers, one of the additional criteria for eligibility.

In an effort to target better Federal assistance to those most in need, I encourage my colleagues to join me in cosponsoring legislation that would significantly improve the Federal Government's role in education for disadvantaged children. H.R. 5409, the Children's Opportunity for Intensive Compensatory Education Act, also known as CHOICE, is designed to make the Federal effort in this area more responsive to the needs of educationally disadvantaged, low income children.

In addition to targeting more accurately the $3.6 billion chapter 1 program, CHOICE would significantly increase parental involvement in the planning of their children's supplementary education. Under current law, parents play a limited role in the design of the compensatory education their children receive. Under CHOICE, parents would select, after consulting with local school officials, the education agency or agencies, public or private, which can provide the special instructional and other services for their child.

H.R. 5409 would establish a program of payments for special instructional and support services either directly to the schools or through vouchers. The State education agency, through local school districts, would set up a 3-year program of special services to meet the needs of educationally deprived children. The services which may be provided include the acquisition of equipment and instructional materials, employment of special training or teacher aides, tutors, and the transportation of the children participating in the program.

This initiative gives low income parents a real choice about where to send their children for compensatory education. But including special instructional services provided by other public schools, private elementary and secondary schools, as well as institutions of higher education, CHOICE gives parents options readily available to higher income families.

Mr. Speaker, H.R. 5409 holds the promise of fully realizing the intention of Congress in facilitating the education of those children in our society most in need. I encourage my colleagues to consider this proposal and lend it their support.

A CHANGE OF HOBBIT

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 9, 1986

Mr. LEVINE of California. Mr. Speaker, California has acquired a reputation for being one step ahead of the rest of the Nation in recognizing and adopting future trends in business, politics, and fashion.

It seems appropriate then that California should also be the home of the oldest and largest bookstore in the world catering to the reading habits of science fiction readers. I am particularly pleased that this bookstore, A Change of Hobbit (named in honor of J.R.R. Tolkien's creatures), is located in my district.

There is much more to this story, however, than the fantastic reading habits of Californians. The real story is how Sherry Gottlieb, owner of A Change of Hobbit, built her business from a one room store, with no telephone and only one copy of each book, into what has become a nationally known institution among science fiction fans.

Although her business, and many of her customers, are unusual, the success of A Change of Hobbit demonstrates that it is still possible for individuals to compete successfully with the mass merchandisers who now dominate the book retail business. Ms. Gottliebs' knowledge of her customers, her love for the product she sells, and her innovative marketing ideas have allowed her to succeed where many have failed.

A recent article in the Los Angeles Times profiled Ms. Gottlieb and her amazing bookstore. I would like to include it in the RECORD and urge my colleagues to take the time to read it and ask them to join with me in congratulating Ms. Gottlieb for her success.

SHE GOT THE HOBBIT OF READING, AND FICTION BECAME HER SCIENCE

(By John Barbour)

When Sherry Gottlieb started reading the Oz books as a child, she was a goner. Her father saw no harm in it. He had a complete set of the L. Frank Baum classics from his own childhood. One by one, he put them on her bed and she devoured them.

When the supply ran out, she went to the public library and consumed all of the fairy tales. All of them.

Today, next to a gasoline station on Lincoln Boulevard in Santa Monica, Gottlieb runs what may be the largest science fiction shop in the world. A Change of Hobbit, after J.R.R. Tolkien's creatures. She keeps a Colombian boa constrictor named Wrinklesnakeskin (after Rumplestiltskin) as a pet, dyes her forelocks purple and generally lives as she pleases.

Consider the snake, for example.

"I'm allergic to cats. I live in a second-floor apartment, which isn't fair to a dog. Birds are noisy, fish are boring and I hadn't had a pet in six years when somebody introduced me to a snake. And I said, 'This is wonderful. I'm not allergic to it. I can leave it for three weeks at a time without having to feed him. He feels nice and he's wonderful to take to parties. I never have to worry about talking to strangers. They all come up and talk to me."

Besides, he minds his own business, "except he doesn't have a mind."

Consider the purple hair.

"I dyed it about a year ago on my 30-mumble birthday. Why? Because I can. Since I don't have a boss or a husband to tell me I can't, I have the freedom to have a tattoo or have my hair dyed purple."

In her one-floor establishment, she has 75,000 books and 4,800 square feet of floor space, which she fills when the likes of an Arthur C. Clarke come to autograph books. She hosts important science fiction writers about 15 times a year.

How did she get from Oz to here?

Not by the whirlwind that more often than not lands one in Kansas. She attended the University of California, Berkeley, between the Free Speech movement and People's Park. "My olfactory memories of the '60s were the smell of tear gas."

When she graduated with a bachelor's degree in theater arts-playwrighting, the only jobs she could get were as a secretary or a waitress. She gave in to the secretarial side in a film rental library. Women's liberation was just blooming and "after two years my mind began to rot from disuse."

I quit my job and my then-husband said, 'Well, what are you going to do now?' And there was some worry in his voice because he was at the University of Southern California in film school.

"I said, 'I'm going to read science fiction until I run out of money and then I'm going to worry about it.' "

She said she wished there was a science fiction bookstore in Los Angeles like the one she had visited in London. It was called "Dark They Were And Golden-Eyed," after a line from writer Ray Bradbury.

"And my husband said, looking out the window and thinking of something else, 'Why don't you open one up?'

"And I said: 'Oh, that's a good idea. I could call it a Change of Hobbit.' "

People who read a lot of novels tend to talk in dialogue.

She copied all the names of publishers from her own collection of paperbacks, wrote to them to order books, found a 12-by-15-foot room over a coin laundry in Westwood Village hard by UCLA, and invested $1,500 in savings.

The owner wouldn't let her put a sign out front, so it was all word-of-mouth. A local seller of general books put a sign on his science fiction section directing buffs to Gottlieb. She had no telephone for the first five months because she couldn't afford one.

When she went to get her business license, they asked her how much she expected to make a month. She figured a buck a book and maybe one or two a day, and answered "Fifty dollars?" They asked what her rent was. She said, "Eighty-five." The clerk shrieked, "How are you going to cover it?" Gottlieb shrugged wide-eyed and said, "I dunno. I'll type term papers."

Every time she sold a book, she would reorder. She had only one copy of everything.

She knows now that even as proprietor of the world's largest and oldest, she'll never get rich, maybe never even be able to buy a home. But she enjoys.

As for her lawyer-father, the childhood Oz buff who created Sherry, he had wanted a lawyer in his family. It wasn't Sherry. Another daughter rose to the occasion. From a liberal second-generation California family of conservative life style, Sherry goes her own way.

She sits in an indoor gazebo in a corner in front of a replica of Flash Gordon's radio where she chats with friends. She has six employees, aided and abetted by volunteer science fiction buffs. Her customers are varied—scientists, mothers with children browsing through the fantasy section, and a few eccentrics. The children are sometimes given Wrinklesnakeskin to cuddle. One customer and named Bongo Wolf came in for years wearing a bow tie, a four-in-hand and a noose.

Gottlieb finds time to talk to most. In her spare time, she is putting together an oral history on Vietnam draft evaders. She thinks their story should be told.

In the meantime, business purrs along smoothly at A Change of Hobbit, which she says inherited its ranking of largest and oldest (established 1972) when the London bookstore folded a couple of years back. Science fiction bookstores are locked in grim competition with the chains, and Publisher's Weekly says there are only 20 or so in business in the United States, almost all in large cities.

She has fashioned a notion of the speculative fiction genre from her own ideas and those of others.

"Science fiction—never SciFi—is the thing that could happen, but hasn't. Fantasy is the thing that couldn't happen but you wish it would. And horror is the thing you are afraid will happen, but thank God it won't."

CRUSADE AGAINST DRUG ABUSE

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 9, 1986

Mr. OXLEY. Mr. Speaker, as we begin debate on the "Omnibus Drug Bill of 1986," I would like to draw to my colleagues' attention the results in the Fourth Ohio Congressional District I represent of a worthwhile project recently conducted by the Select Committee on

Narcotics Abuse and Control on which I serve. The project, entitled "Crusade Against Drug Abuse," offered sixth-grade students the opportunity to write 50-word essays on what they would do if offered drugs and how they could help their communities.

I am pleased to report that more than 40 schools in my congressional district participated in this project, and I was very impressed by the entries I received. In these days of increasing drug abuse among young people nationwide, it was encouraging to learn from reading the essays submitted by young people in my congressional district that they understand the dangers of drug abuse. I hope their participation in this project helped achieve this understanding. In addition, I commend their parents and teachers for contributing to their education against drugs.

All of the entries I received were outstanding, and it was difficult to narrow the selection down to the accepted limit of only one finalist and four semifinalists. The finalist will compete with entries from other congressional districts for a trip to Washington, DC, during next spring's Cherry Blossom Festival.

I am proud to share with you now the finalist and semifinalist essays from the Fourth Ohio Congresssional District.

FINALIST: Miss Kim DeShano, Sidney, Ohio; Holy Angels Elementary School; Principal: Sister Patricia Ward; Supervising Teacher, Mrs. Barbara Heitkamp.

"What I Would Do If Offered Drugs"

If offered drugs, I'd say no. Can drugs replace the "'high" you get from working hard at something and succeeding? Is a drug "high" better than the feeling of accomplishment?

"As A Good Citizen, How I Can Help My Community"

I can be a good citizen by becoming aware of drugs and reporting drug deals to a trustworthy adult.

SEMIFINALIST: Miss Holly Snyder, Carey, Ohio; Colonel Crawford Elementary School; Principal: Vernon E. Hull; Supervising Teacher: Mrs. Ann Johnson.

"What I Would Do If Offered Drugs"

If I were offered drugs, I would say no. I don't want them. Drugs can do such terrible things to your body and mind. They can do damage that a doctor cannot repair.

"As A Good Citizen, How I Can Help My Community"

I'd offer my friendship, interest, and good example to show my peers that I care.

SEMIFINALIST: Miss Ann Tavernier, Findlay, Ohio. Wilson Vance Elementary School; Principal: John H. Richter; Supervising Teacher: Mrs. Jo Binger.

"What I Would Do If Offered Drugs"

If offered drugs, I would sternly say no and immediately alert my friends and a responsible adult.

"As A Good Citizen, How I Can Help My Community"

To help my community, I would talk with young children, give them a thorough knowledge about drugs, and encourage them to make a commitment not to endanger their bodies with drugs.

SEMIFINALIST: Miss Carrie Siegfried, Mansfield, Ohio. St. Peter's Elementary School; Principal: Robert E. Kelly; Supervising Teacher: Peggy Harris.

"What I Would Do If Offered Drugs"

If I were offered drugs, I would say "no" and get help for that person. Being cool to me is not important when it comes to drugs. You can have new friends, but not a new life.

"As A Good Citizen, How I Can Help My Community"

I would set a good example for others.

SEMIFINALIST: Miss Monica Miller, Upper Sandusky, Ohio. St. Peter's Elementary School; Principal: Sister Cecile Sakaley; Supervising Teacher: Mrs. Mary Alice Harbour.

"What I Would Do If Offered Drugs"

I would refuse them and explain that you don't need drugs to make you feel good. There are plenty of other things in life to make you happy. Besides, you only live once, don't blow it.

"As A Good Citizen, How I Can Help My Community"

I could make "Just Say No" signs and put them up around my community.

I know my colleagues join me in extending hearty congratulations to the Fourth District's winners of the "Crusade Against Drug Abuse" project.

DARE'S 10TH ANNIVERSARY

HON. DENNIS M. HERTEL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 9, 1986

Mr. HERTEL of Michigan. Mr. Speaker, there are several qualities that enable a neighborhood atmosphere to prevail in a city environment. Chief among these are a special concern for the needs of the individuals and the welfare of the community as a whole. During its 10 years of service, Detroit Area Residents East, or DARE, has been dedicated to upholding these neighborhood values and has successfully created a cohesive, cooperative community in the city of Detroit. I rise today to ask my colleagues to join me in paying tribute to this outstanding organization on the occasion of its 10th anniversary.

In 1976, DARE was formed by a group of concerned citizens who recognized the need for a community project that would promote safety and crime prevention, provide for the needy, protect the environment, and educate residents on a variety of other key issues. Today, DARE's regularly published newsletter currently reaches approximately 3,600 homes on Detroit's East Side and outlying areas.

Since its inception, DARE has organized a wide range of community services. Every year, volunteers collect and raise funds at a special holiday bazaar to finance Christmas baskets for the needy. Complete with a Christmas ham or turkey, as well as a supply of canned goods for the future, these baskets make the holidays a brighter time for those less fortunate. Another regular project has been the CB patrol, which, along with a strong neighborhood watch program, has reduced the crime rate in the area. In the last 2 months, there have been only two crime incidents reported in DARE patrolled zones. DARE also sponsors a monthly lecture series that provides information on a variety of timely issues, from human rights to real estate, from crime prevention to garden and lawn care.

Through its new projects, DARE has effectively recognized and responded to the changing needs of the community. DARE's most recent undertaking, the Adopt-A-Tree Program, is a prime example of the success of a concerted community effort to resolve a problem. When approximately 160 trees on the boulevard between Kelly and I-94 died of dutch elm disease, DARE decided to privately raise the funds to reforest the area. Interested patrons can donate between $10–$35 to "adopt" a tree and receive a certificate of thanks, which includes Joyce Kilmer's poem "Trees." The project has already raised half the necessary amount and has been named as a pilot program for the county, both indications of the strong support and recognition DARE receives.

It is such support and leadership that has kept DARE active. Its projects are financed solely through annual fundraisers, donations, and advertising space in its newsletter. DARE is run by a dedicated 13-member elected board, whose current president, Frank Porta, and past two presidents, Larry Hanlin and Joe Hamel, have provided the fine leadership and guidance that have been the cornerstone of DARE's success. As Frank Porta recently pointed out, there has been no shortage of willing volunteers to hand deliver the newsletter or donate time at fundraisers. DARE has brought the residents of Detroit's East Side together, creating a cohesive neighborhood that can more effectively define and solve problems in the community.

I ask my colleagues to join me in extending hearty congratulations on DARE's 10th anniversary of exceptional civic service. I am sure that the neighborhood spirit will continue to flourish on Detroit's East Side and that DARE will serve as a fine example to other communities.

WHITE HOUSE CONFERENCE ON SMALL BUSINESS

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 9, 1986

Mr. BENNETT. Mr. Speaker, currently there are 14 million small businesses in the United States. Women run 3 million of these businesses. In fact, the fastest growing part of the small business community is with women business owners.

Small business employs 48 percent of the private work force and accounts for 38 percent of the gross national product. Nearly 5 million of the 7 million new jobs created during the recent economic recovery were in small businesses.

The 1980 While House Conference on Small Business set in motion a new awareness on the part of elected officials and the general public of the contributions made by the small business sector of our economy. In fact, 38 of the 60 recommendations made after the 1980 conference have been acted

om, producing landmark legislation such as the Equal Access to Justice Act, the Regulatory Flexibility Act, and the Small Business Innovation Development Act.

In addition, delegates to the White House Conference have emerged as leaders in their home cities and States. Currently, three former delegates are Members of Congress and one is a State Lieutenant Governor.

Two delegates to the recently completed 1986 White House Conference were from my congressional district in Jacksonville, FL. I would like to thank Mr. Douglas J. Milne, Jr., and Mr. Henry Crews for donating their time and expertise to this important undertaking. Mr. Jim Koivisto, also of Jacksonville, FL, attended the conference as an alternate delegate, and I thank him.

The 1986 White House Conference and the State meetings which preceded it provided this country's entrepreneurs with a unique opportunity to effect Government policy and to voice their concerns directly to public officials. I look forward to the conference's final report and am confident that small business will remain a vital and productive part of our Nation's economy.

A TRIBUTE TO THE LIA'S 60TH ANNIVERSARY

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 9, 1986

Mr. LENT. Mr. Speaker, the Long Island Association [LIA] has done more than perhaps any single organization to improve Long Island, NY, as a place to live, work, and do business. The LIA is celebrating its 60th anniversary this year, and on behalf of the members of the Long Island Congressional Delegation, I'd like to take this opportunity to recognize the LIA's outstanding commitment and many years of service to our communities.

The LIA is the region's largest business and civic organization, bringing together business, labor, government, and academia. It represents over 2,000 small businesses, local chambers of commerce, colleges and universities, and trade associations. It was first established in 1922 by a group of businessmen from Kings, Queens, Nassau, and Suffolk Counties who formed a regional chamber of commerce with offices in Manhattan. The group was incorporated as the Long Island Chamber of Commerce on July 1, 1926, and over the years, evolved into the LIA as we know it today.

I'm proud to be able to say that Long Island is in the midst of unprecedented economic growth and prosperity. Disposable household income is among the highest in the Nation, and our unemployment is the lowest. That is quite an accomplishment, and all Long Islanders can share in the benefits.

The LIA has worked to help create an atmosphere where business can thrive and prosper. More important, this organization has strived to balance this booming economy and at the same time enhance the quality of life Long Islanders cherish.

In addition, the LIA has been an advocacy organization at local, State, and Federal levels of government. It worked directly with Long Island Members of Congress to protect the deductibility of State and local taxes while improving Federal tax reform legislation for individuals and business.

The LIA has successfully worked to involve all segments of business and the community, bringing the many interests of the region together in a common voice. Those of us who live there appreciate what a unique and special place Long Island is, and we are grateful to the LIA for its dedicated efforts to preserve those qualities and values that make Long Island so desirable.

On behalf of my distinguished colleagues, U.S. Senators ALFONSE D'AMATO, DANIEL PATRICK MOYNIHAN, Congressmen WILLIAM CARNEY, THOMAS DOWNEY, RAYMOND MCGRATH, ROBERT MRAZEK, and JAMES SCHEUER, I'd like to personally thank the LIA and all its members for their many years of dedicated service to our communities and wish them another 60 years of continued success. Thank you.

RECENT SOVIET ACTIONS: DO THEY REALLY WANT A SUMMIT?

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 9, 1986

Mr. BROOMFIELD. Mr. Speaker, I am deeply concerned about the detention of Nicholas Daniloff. In light of the Soviet treatment of that innocent journalist, do they really want a summit? What has happened to their claims about a new and open society?

The Soviets have formally charged Mr. Daniloff with espionage. He may be put on trial. He has clearly been taken hostage. There is no similarity at all between the actions of the accused United Nations Soviet spy and Mr. Daniloff.

Such action on the part of the Soviets at this time makes no sense. A great opportunity is clearly at hand to ease relations between our two countries.

The treatment of Mr. Daniloff undermines the progress that has been made in creating better relations between our two countries. Bringing Mr. Daniloff to trial could derail the summit and set back the progress which has been made in many areas. Is that what the Soviets want?

Given recent events, should our President consider going to a summit? Have the Soviets really turned over a new leaf? Do they really want better relations?

Recent events would lead me to question their sincerity. It is time to free Nick Daniloff and get on with important business between our two countries.

C. THOMAS BURKE AND THE PORT OF CLEVELAND

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 9, 1986

Mr. FEIGHAN. Mr. Speaker, in October, C. Thomas Burke, who has served as executive director of the Port of Cleveland, will take over new responsibilities as executive director of Port Everglades in Broward County, FL. Tom Burke became executive director of the Port of Cleveland in 1982, at a time when the entire Great Lakes region was suffering severely. The Port of Cleveland was floating at an economic low tide, with too few foreign vessels dropping anchor and with diminished import and export tonnage.

As the port's executive director, Tom was instrumental in revitalizing the economic fortunes of the port. Upon assuming command, he analyzed the port's problems, and like a seasoned navigator setting a ship's new course, he determined the Port of Cleveland's new direction.

These new financial and business directions have drastically changed the economic fortunes of the port. Now, growing numbers of foreign vessels drop anchor and import and export cargo tonnage have reached record levels.

This turnabout at the Port of Cleveland has meant increased revenues for countless shippers, stevedore companies, longshoremen, and truckers. All of them, and Greater Cleveland's economy in general, have benefited from Tom Burke's management and marketing skills.

Tom's leadership has been recognized in articles in the New York Times, the Journal of Commerce, and maritime publications in the United States and throughout the world.

Now as he departs Cleveland to take up new responsibilities in Florida, Tom will be missed in Cleveland. His abundant and outstanding achievements have benefited countless businesses and individuals in our communities and throughout the industrial heartland of America.

I know that the House will join me in extending our best wishes for continued success to Tom Burke.

ACTION BY CPSC OVERDUE AGAINST CRIB HAZARDS

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 9, 1986

Mr. MILLER of California. Mr. Speaker, this morning the Consumer Product Safety Commission held a press conference to announce the start of "Baby Safety Week."

But more than commemorative weeks is needed to prevent needless deaths and severe injuries of infants.

Six years ago, the Commission began investigating the strangulation hazard associated with decorative cornerposts on baby cribs. For

the decade from 1973 to 1983, the Commission reported 32 fatalities. Over the last 2 years alone, at least eight babies have hanged themselves.

Each year, the Commission methodically registers each death in its lengthening list of fatalities due to accidental hangings. It has issued alerts and shopping guides, which reach only a fraction of Americans.

But despite the growing list of infant victims, the Commission has failed to exercise its authority to prohibit the cornerposts which are the culprits in these tragic deaths.

Responsible action by the Commission can prevent these needless deaths and injuries—like that of my own constituent whose son became permanently disabled through such an accident.

As the Commission announces "Baby Safety Week," I would hope that its members would exercise real leadership and issue a mandatory standard banning crib cornerposts.

RECOGNIZING THE EFFORTS OF FEDERAL EMPLOYEES AT FmHA

HON. BILL CHAPPELL, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 9, 1986

Mr. CHAPPELL. Mr. Speaker, all too often these days we hear critical statements about our Federal employees. The recipients of not only harsh rhetoric but often the victims of budget restraint, the abilities and conscientiousness of most of our Civil Service work force go unnoticed.

With this in mind, I would like to share with my colleagues the significant contributions of two Farmers Home Administration employees, Greg Caruthers and Charles Nichols.

Several months ago, Nichols, who is a Farmers Home Administration District Director, and Caruthers, a FmHA District Loan Specialist, advised me of a problem concerning the FmHA's Home Loan Program. Specifically, these individuals pointed out that, due to program income guidelines, families who realized even a marginal increase in income could lose their entire mortgage interest subsidy and be required to pay much higher rates. This was resulting in a troubling number of delinquencies and subsequent foreclosures. Unfortunately, in addition to the human suffering involved, the Government was losing money on the homes since the houses once taken back by the FmHA needed to be refurbished and placed back on the market for sale. In the long run, this procedure was costing the taxpayer much more than the original mortgage subsidy.

Given the counterproductive effects of the present home loan guidelines, I offered an amendment to H.R. 1, the Housing Act, which provides FmHA the flexibility to work with families on a case-by-case basis to determine if elimination of the mortgage subsidy would result in loss of the home. The Banking, Finance and Urban Affairs Committee graciously accepted my amendment which is part of H.R. 1 now pending before the Senate.

This illustration of Government responsiveness to changing circumstances was the direct result of two Federal employees who took the time and effort to try to solve a problem. I applaud Charles Nichols and Greg Caruthers for their initiative and good work.

APTOS HIGH CHAMPS

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 9, 1986

Mr. PANETTA. Mr. Speaker, I am proud to bring to the attention of my colleagues the fact that the Mariners of Aptos High School, in the 16th Congressional District, now reign as the Division II boys' basketball champions of northern California. Their championship season, during which they won 33 games and lost only 1, was climaxed by a thrilling 75–71 victory over Mt. Eden High School of Hayward at the Oakland Coliseum Arena.

Unfortunately, the team lost a hard-fought game for the State championship. But this did not diminish in the least their remarkably successful season.

The coach of the Aptos team is Bill Warmerdam, who has coached the Aptos senior varsity since its inception in 1969. Earlier this year, Bill scored his 300th victory with the Aptos team. He has an enviable record as a coach at Aptos, winning two out of every three games. Bill's assistant coaches are Steve Miles and Ray Tanimoto. The school principal is Mark Adams.

Of course, as any coach will tell you, it is players who win and lose games, and the Aptos Mariners are all winners. Following, in alphabetical order, are the names of members of the Aptos High School Mariners: Bob Bugalski, John Castillo, Derrick Fisher, Craig Holt, Warren Holt, Jeff Jones, Eric Knudsen, Kirk Knudsen, Larry Rogers, David Schofield, Andy Sloane, Bryan Smith, Craig Sugimoto, and Cris Warmerdam.

Congratulations from the Congress of the United States to the Aptos team. They deserve it.

TRIBUTE TO GEORGE F. COREY

HON. DAN MICA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 9, 1986

Mr. MICA. Mr. Speaker, I would like to take a few moments to pay tribute to Mr. George F. Corey, the former president of the Americanization League.

Mr. Corey was born on May 5, 1900, in Zahle, Lebanon. He immigrated to the United States in 1909, and settled in Syracuse, NY. There he opened a grocery store.

Mr. Corey was one of the original founders of the Americanization League. This organization was formed in 1916 to assist new immigrants and aliens by acting as a liaison between them and the U.S. Immigration and Naturalization Service. The league provides information to their clients on laws and regulations affecting citizenship, referral to educational programs, including English as a second language, and will help prepare prospective citizens when they are to appear before the Naturalization Term Court.

The Americanization League provides services without regard to age, sex, race, color, creed, or national origin. They are funded by the Onandaga County government and the Syracuse City School District.

George Corey's commitment to the league was based on his keen awareness of the problems that new Americans face upon immigration to these shores. His knowledge that new immigrants often had no one to turn to obtain help with understanding immigration laws and the new language, or the paperwork associated with the Immigration and Naturalization process led George Corey to found the Americanization League, along with T. Aaron Levy.

Mr. Corey has held the office of treasurer, vice president, and president. He also has served on every league committee and acted as the representative for the Mideast nationalities. He has served the league for over 65 years. He has also been an active member of the Lions Club, and various other public service organizations.

In this year when we have celebrated the symbol of liberty for millions of immigrants, and also for millions of Americans, let us take this opportunity to honor a special man who has worked tirelessly to assist new immigrants in their efforts to become citizens of the United States.

THE 50TH ANNIVERSARY OF CORNING GLASS WORKS

HON. AUSTIN J. MURPHY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 9, 1986

Mr. MURPHY. Mr. Speaker, I rise to congratulate Corning Glass Works on the celebration of their 50th anniversary of operating a plant in Charleroi, PA.

The legacy of Corning Glass Works in Charleroi began on August 18, 1983, when George A. MacBeth purchased land along the Monongahela River and started construction of a plant. The MacBeth Glass Co. quickly became the largest producer of lamp chimneys in the world.

In the ensuring years, MacBeth merged with the Thomas Evans Co. and became MacBeth-Evans Glass Co. The company later purchased the American Lamp Chimney Co. and the Hamilton Bottle Works, which was located adjacent to the plant. In 1936, MacBeth-Evans merged with Corning Glass Works.

In addition to making glassware and tableware, the company developed the first glass blocks. During World War II, the Corning Charleroi Plant made messware, gauge glasses, and gunsights, and the plant was awarded three Army-Navy E awards.

Over the years, the Charleroi Plant has made such products as television picture tubes, Pyrex baking ware, Pyroceran, Centura dinnerware, Corelle and most recently, the Supreme line.

But beyond the role the Charleroi Plant has played in the glass industry, it has always enjoyed a unique relationship with the communi-

ty as well. It was the glass industry, in part, that first brought a large number of Belgian immigrants to settle in what was to become Charleroi. And as the plant grew, so did the community. When the borough of Charleroi has needed help, it has often found an unselfish friend in Corning Glass which has always recognized its responsibility to the local community goes beyond merely providing employment. Through the Corning Foundation, donations have been made to such community projects as the Charleroi Library, the YMCA, the fire department, the ambulance service and the bus service, just to name a few.

And so we pause to recognize a 50-year milestone of achievement and progress and join in wishing Corning Glass Works continued success.

CONGRATULATIONS TO THE VIDEO PRODUCTS GROUP

HON. JIM BATES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 9, 1986

Mr. BATES. Mr. Speaker, I rise to congratulate the Video Products Group for its receiving an Emmy Award. This award for outstanding achievement in the science of television engineering, presented by the National Academy of Television Arts and Sciences, honors the company and its employees for the development of Videocipher Satellite Encryption and Scrambling Technology. Over the past 4 years, over 300 employees from manufacturing assemblers to senior engineers have participated in the development of this significant and useful technology. As a "homegrown firm" San Diego and its citizens are rightfully proud of this high achievement and we applaud you today. Congratulations.

GRANDPARENTS DAY

HON. HARRY REID

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 9, 1986

Mr. REID. Mr. Speaker, Sunday marked the ninth annual tribute to one of our Nation's most precious natural resources, grandparents. "Grandparents Day" was first observed in 1978 after years of work to establish the special observance day by retired advertising executive and real estate developer, Mike Goldgar.

One of the many triumphs of growing old in America is becoming a grandparent, and the unique and important relationships between grandparents and grandchildren is invaluable to both generations. Approximately 75 percent of all persons over the age of 65 are grandparents, and each one provides family and friends with a special opportunity to share the experience of the past.

"Grandparents Day" is a perfect way to acknowledge the contributions made by our Nation's grandparents every day, and I hope everyone remembered Sunday, September 7, with an expression of love and appreciation for the gift of grandparents.

TRIBUTE TO BEN LEAL

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 9, 1986

Mr. COELHO. Mr. Speaker, I would like to take this opportunity to extend my congratulations to Ben Leal for being presented the Memorah Award by the Israel Histadrut, which is the General Federation of Labor in Israel, and the International Brotherhood of Teamsters, on September 24.

Ben has been an outstanding labor leader as well as an example to us all of an individual who has dedicated his life to the advancement and betterment of the laborer. He first became associated with the local Teamsters chapter in Washington State in the late 1940's serving as the recording secretary. Since that time, he has served in a number of capacities on the boards of Teamsters groups. He presently serves as trustee on the executive board of the International Brotherhood of Teamsters and as executive officer of local 856, San Francisco Bay area.

For over 10 years, he has served as trustee on the Western Conference of Teamsters pension trust plan, as president of the Northern California United Food and Drug Council and as chairman of Teamsters Local 856 health and welfare trust.

Ben is clearly deserving of the Memorah Award for his dedication to the laborer and to the International Brotherhood of Teamsters. I hope that you will join me in extending my best to him on this accomplishment.

OUTSTANDING YOUNG MEN

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 9, 1986

Mr. CLINGER. Mr. Speaker, the DuBois, PA, Senior Little League All-Stars, who were this year's Pennsylvania State Champions and Eastern Regional Senior League Champions, recently captured fourth place in the 1986 World Series in Florida.

These outstanding young men are to be congratulated on their athletic abilities and their sportsmanship. They are a credit to themselves, their families, friends and classmates, their community, and to the Commonwealth of Pennsylvania.

I know that my colleagues in the U.S. House of Representatives join me in congratulating the DuBois Senior Little League All-Stars on their great accomplishment and in wishing them continued success. I would like to insert into the CONGRESSIONAL RECORD, the names of the players and officials of the 1986 DuBois Senior Little League All-Stars.

They are, Manager Tom Frank, Coach Jerry Pyne, and players, Sean Hogan, Mike Radaker, Jude Lander, Scott Frano, Bill Nesbitt, Todd Hamilton, Mike Misiewicz, Lou Luffy, Lou Russell, Bub Maietta, Joel Volansky, Brian Shaffer, Ed Seduski, and Matt Cook.

ALAMEDA'S WORLD BASEBALL CHAMPS

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 9, 1986

Mr. STARK. Mr. Speaker, I would like to draw my colleagues attention to the victory achieved by the Babe Ruth All-Stars of Alameda, CA. They are world champions bringing home the gold in the World's International Boy's Baseball Tournament.

Traveling to Japan, the team beat opponents from China, Brazil, Japan, and the United States. After winning the title, the team toured Japan playing friendship games. They kept up their winning record with six wins and four losses.

The winning squad, coached by Larry Rodriguez, includes Brian Cavilli, Johan Kaccem, Matt Lafollete, Eric Marshal, Marcus Martinez, John Mason, Lamont Rider, Joe Sachtleben, and David Stebbins.

I would like to congratulate the whole team on a fine victory. The Babe Ruth All-Stars of Alameda are truly in the big leagues.

TRIBUTE TO COL. JIM DOWLING

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 9, 1986

Mr. MRAZEK. Mr. Speaker, I rise today to honor the retirement of Col. Jim Dowling from the West Point Liaison Program where he has served for the past 14 years.

After graduating from Niagara University, Colonel Dowling spent 2 years on active duty at Fort Bragg and West Point, among other posts. Following his term of active duty, Colonel Dowling attended Fordham University, where he received a law degree. While pursuing his career as a lawyer, Colonel Dowling held various command positions with the Army's 77th Division.

In 1972, Colonel Dowling joined the Liaison Program at West Point, and in 1976 rose to the position of regional coordinator.

In addition to his distinguished service with the military, Colonel Dowling has been an outstanding member of his community. He has served as chairman of the Nassau County chapter of the American Heart Association, and is currently a member of the Heart Association board and executive committee. For the past 8 years, Colonel Dowling has also been chairman of a local Boy Scout troop. In addition, he has served as president of the Fordham Law School Alumni Association.

Because of his 14 years of fine service at the Liaison Program and his role as a distinguished member of his community, it is with a great deal of pleasure that I salute Colonel Dowling on his retirement. I personally wish Colonel Dowling the best of luck for the future.

A TRIBUTE TO JOSEPH C. ANGELLO: COMMUNITY LEADER

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 9, 1986

Mr. HAWKINS. Mr. Speaker, I would like to take this opportunity to recognize a gentleman who is very involved in the State of California, particularly in the growing community of southern California, Mr. Joseph C. Angello.

Mr. Angello is vice president and bankwide head of Bank of America's Community Development Department. In this capacity he supervises the bank's community relations and corporate volunteer efforts with numerous civic and educational organizations, with special interest in California's ethnic and minority communities.

Mr. Angello joined the bank in 1946. His dedication and service to the bank and to the community is reflected by his many achievements. He is a member of the Los Angeles Chamber of Commerce and was Los Angeles Host Committee Chairman for the National Urban League's 1978 conference. He served as first vice president of the Greater Los Angeles Urban League Board and as first chairman of its Head Start Committee, and was a member of the San Francisco Bay Area Urban League Board of Directors.

Mr. Angello is a former chairman of the southern California Job Creation Corporation, the Interracial Council for Business Opportunity, and as president of the Association of California and Nevada Volunteer Centers. He served as chairman of the Banking and Finance Committee for the U.S. Small Business Administration's Los Angeles District Advisory Council, and as a member of the California Bankers Association Committee on Urban and Community Relations. He is also a former regent of California Lutheran College. He was Bank of America's first urban affairs officer and directed that activity for a number of years.

On the occasion of Mr. Angellos' retirement from Bank of America, and in celebration of 40 years of dedicated service to the bank and to the communities he has served, Mr. Speaker, I would ask my fellow colleagues to extend their best wishes to Mr. Angello's outstanding contribution to a better future for the people of California.

CONGRATULATIONS TO ROSE AND AL POSTAL ON THEIR 55TH WEDDING ANNIVERSARY

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 9, 1986

Mr. LEHMAN of Florida. Mr. Speaker, I am honored to have this opportunity to congratulate two outstanding and well-loved constituents, Rose and Al Postal, on their 55th wedding anniversary.

For the past 8 years, Rose and Al have lived in Mar-Len Gardens where they have been active participants in condominium activities. In addition, they have generously given both their time and energy to community service.

It gives me great pleasure to know that during a time when marriage and commitment are often viewed as temporary, that Rose and Al have spent 55 sharing years together. This is a truly remarkable achievement.

Rose and Al exemplify the very best in caring and commitment and I hope that they will have at least 55 more happy years together.

MICHIANA COMMUNITY HOSPITAL

HON. JOHN HILER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 9, 1986

Mr. HILER. Mr. Speaker, it is with special pride that I bring to my colleagues' attention Michiana Community Hospital and note the hospital's participation in "National Osteopathic Medicine Week," which is being observed September 14 to 20, 1986.

The Michiana Community Hospital area is presently served by 52 doctors of osteopathy. These physicians are responsible for providing care to over 21,000 patients each year. On a national basis the osteopathic profession includes some 24,000 practicing physicians and osteopathic hospitals employ over 85,000 people, including 350 individuals at Michiana Community Hospital.

Osteopathic medicine has been practiced in the United States since 1874 and is based on the philosophy that every patient should receive complete personal health care. In this regard, Michiana Community Hospital has long maintained a firm commitment to providing comprehensive health service to entire families, while stressing the uniqueness of each individual.

Michiana Community Hospital employees are dedicated, caring professionals, and the Hospital has made tremendous advances in combining state-of-the-art technology with personal, hands on care. In addition, Michiana Community Hospital has been active in attempting to contain rising medical costs.

I commend Michiana Community Hospital on the excellent services they provide the community, and I am honored to join in their celebration.

SENATE—*Wednesday, September 10, 1986*

(Legislative day of Monday, September 8, 1986)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

For promotion cometh neither from the east, nor from the west, nor from the south. But God is the judge; he putteth down one and setteth up another.—Psalms 75: 6 and 7.

Almighty God, Eternal Father, Your servants take up their critical, demanding legislation resolved to close the books on the 99th Congress, October 3. But simple political reality threatens their finest resolve. The stakes are high November 4—a fact which will not go away and will insinuate itself into every hour of these next 4 weeks—challenging harmony, unity, and the best of intentions. Determined as Your servants are to conduct business with dignity and decorum, political competition will be stirring relentlessly beneath the surface. These next 4 weeks will be like sitting on a volcano with the potential of unpredictable eruptions at any moment.

God of peace and love, pervade this place with Your supernatural presence. Overrule fragile human emotions. Bank the fires of controversy and prove beyond any doubt that You are alive and real and relevant. Enable Your servants to exceed their most optimistic hopes for these next 18 days and grant that they may enter the intense campaign period after October 3 with a sense of satisfaction, achievement, cool heads, warm hearts, and high purpose, remembering that, "Man proposes but God disposes." In the name of Him Who is incarnate truth, peace, and love. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The distinguished acting majority leader, Senator WILSON, of California, is recognized.

Mr. WILSON. Thank you, Mr. President.

SCHEDULE

Mr. WILSON. Mr. President, just to repeat, under the standing order, there will be 10 minutes ordered to the leaders. Following that, special orders exist in favor of the following Senators for not to exceed 5 minutes each: Senators HAWKINS, PROXMIRE, WILSON, TRIBLE, LEVIN, BIDEN, CHILES, CRANSTON, DECONCINI, DODD, NUNN, ROCKEFELLER, and BENTSEN.

Following that, routine morning business not to extend beyond the hour of 10:30 a.m. will take place with Senators permitted to speak therein for not more than 5 minutes each.

Following morning business the Senate will resume consideration of H.R. 5233, the Labor-HHS appropriations bill. The Senate will thereafter resume consideration of the Interior appropriations bill, H.R. 5234, following conclusion of the Labor-HHS appropriations bill. Votes can be expected throughout the day today.

Mr. President, has the minority leader anything he wishes to contribute now?

Mr. BYRD. Yes, I do.

Does the Senator want to reserve the leader's time?

Mr. WILSON. I reserve the leader's time.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The distinguished Democratic leader, Senator BYRD, of West Virginia is recognized.

Mr. BYRD. Mr. President, I thank the Chair.

DRUGS

Mr. BYRD. Mr. President, yesterday Senate Democrats introduced a comprehensive drug control package. The package is the product of the Democratic Working Group on Drug Abuse I appointed earlier this summer. Yesterday, it was unanimously endorsed by the Democratic conference.

We have heard the American people on this subject. The lastest polls tell us that our citizens view the drug problem as the most important problem facing the country. The statistics on the extent of the problem may vary, depending upon the source, but one thing is clear: One American child lured into the destructive nether world of drug abuse is one child too many. One employee who uses drugs on a job dealing with the health and safety of others is one employee too many. One shipment of heroin or cocaine into our country is one shipment too many. Tragically, we are seeing tens of thousands of Americans lured into this dead end alley. We must stop this scourge and stop it quickly.

Senate Democrats, Mr. President, are ready to act quickly and to act decisively.

Our bill, introduced yesterday, is the toughest, most comprehensive drug control bill to be introduced in the U.S. Senate. It is comprehensive:

It provides for coordinated leadership at the Federal level in our fight to control drug abuse;

It includes, for the first time, a meaningful Federal Drug Abuse Education Program;

It more than doubles the present Federal funding available for treatment and rehabilitation;

It doubles the amount of Federal funds for interdiction programs;

It includes funding for international cooperative efforts in drug control;

It includes funds for correctional institutions housing convicted drug law offenders;

It tightens antismuggling laws; and

It includes a grant program to State and local agencies for law enforcement.

All of these components are important, Mr. President. But I am particularly interested in strengthening the penalties for sale or possession of controlled substances, and consequently I am the principal sponsor of the title of the bill which does that.

For too long, Mr. President, we have seen a revolving door in our criminal justice system. We have seen occasions when major criminals are arrested, prosecuted, and convicted, and then put back on the street where they commit the same crime again and again. And then the same process is repeated, only to end up the same way. Judges look at the law, look at the penalty provisions which give them total and absolute discretion, and decide all too often to put a convicted individual on probation, and the defendant is, of course, then free to commit the same crime all over again. Or even when a jail term is imposed, parole is too often given to the convicted criminal and he serves only a small part of his sentence and is back on the streets committing a crime all over again.

Our proposals would put a stop to all that. The revolving door process is wrong. There are drug offenses for which convicted defendants should be required to serve years—years—in the penitentiary. Big time dealers should know with certainty that if they are

caught and convicted, they will be headed for the penitentiary and they will stay there for years. There will be no parole. They will have to serve out their sentences. In other words, for a number of years the key will be thrown away. That is the penalty. These people have to be made to pay for their crimes.

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I know we are going to hear from those quarters that are usually soft on criminals. But the American people are not asking that we be soft on criminals. The American people want drug dealers, drug pushers to be treated in the same way that hijackers should be treated. Hijackers take innocent lives. And the American people are rightly upset and indignant when hijackers take innocent lives. Well, drug pushers are taking innocent lives and drug pushers are making money, billions of dollars, out of taking innocent lives in this country—young lives, kids going to school.

We hear about crack. It is available, it is cheap, it is addictive, and it is deadly.

Why shouldn't these people be put in the penitentiary? Why should they not have to stay there? As far as I am concerned, they could rot there. And as far as I am concerned, they could be executed. We would have no hesitancy about executing hijackers. What about the drug pushers? They are making billions of dollars out of the commission of this crime, killing our young people, destroying lives. And we ought not be softheaded when it comes to dealing with these people.

So I have insisted that our antidrug proposals include a mandatory prison term for major drug dealers, and an even stiffer mandatory prison term for the "kingpins" of the trade.

This bill includes my proposals for a mandatory minimum sentence of 10 years without parole—that is a minimum sentence—and the judge can give the individual up to life, which suits me fine. But it is mandatory—10 years, no less; you go to the penitentiary, you stay, no parole, period—and a mandatory minimum sentence of 20 years the second time he is convicted. In both situations, the convicted criminal cannot get a parole. And for the kingpins we are increasing the top maximum sentence which a judge can choose to impose. As I have said, these bigtime dealers in both instances can be sentenced to life imprisonment without parole, if the judge believes that such a penalty is warranted.

Other dealers, not as big as the kingpins, but still considered major dealers, would also be subject to mandatory minimum penalties—5 years for the first offense; 10 years for a second offense. That is not too much penalty to slap on these individuals.

Ten years, for a second offense, again a mandatory minimum and without parole. And these dealers too could be sentenced to life—life. And why shed a tear if they are sentenced to life?

Finally, no matter how small an amount of drugs any particular person sells to another, if that sale results in a death, our proposal requires that a minimum jail term of 20 years, without parole, would have to be imposed. And a judge again would have the discretion to impose a life sentence.

I believe these mandatory minimum penalties combined with the elimination of parole, will go a long way toward furthering our effort to rid our streets of the drug menace.

I also wholeheartedly endorse the other increased penalty provisions which my colleagues have decided to include in our proposal. I am referring especially to the doubling of the penalties when a dealer uses children—think of that, uses children—to distribute his poison, and also when the drugs are distributed near a school.

Enactment of these tough new penalties will constitute a statement by our society—and I think our society has been looking for that kind of statement—through its elected representatives, that this country will no longer tolerate this illegal drug epidemic.

Mr. President, I commend the excellent job the members of the democratic working group did in drafting this legislation. The group, consisting of Senators DECONCINI, DODD, LEAHY, NUNN, SASSER, CRANSTON, ROCKEFELLER, MITCHELL, MOYNIHAN, and cochaired by Senators CHILES and BIDEN, deserves thanks for working so swiftly and thoroughly to craft this excellent package.

Our bill is comparable in many respects to the legislation which will be before the House today. It is our hope that the Senate can move swiftly to the comprehensive drug abuse control legislation so that we may settle any differences with the House and get a bill on the President's desk this year.

I urge the majority leader to schedule debate on drug legislation as soon as possible.

This is a nonpartisan problem. It cries out for a nonpartisan solution. And I am sure that working groups on both sides of the aisle are acting swiftly to deal with this serious problem. We are well into the final 20 scheduled days of the 99th Congress, and there is no time to lose.

Mr. President, I yield the floor.

RECOGNITION OF SENATOR WILSON

The PRESIDENT pro tempore. The distinguished Senator from California, Mr. WILSON, is recognized.

Mr. WILSON. Thank you very much, Mr. President.

(Mr. TRIBLE assumed the chair.)

THE DRUG PROBLEM

Mr. WILSON. Mr. President, shortly before the last recess, a bipartisan coalition of Senators introduced a more sweeping effort than had been undertaken in history to provide for the interdiction of the supply of dangerous drugs into this Nation.

Senator DECONCINI, Senator HAWKINS, Senator D'AMATO, Senator MURKOWSKI, myself, and others joined in an effort to provide the muscle necessary to provide to the valiant few who are at the borders and in the streets of this city and cities all across the land the necessary resources.

Mr. President, suddenly, there is a public awareness reflected in this Chamber and in the other one of the urgency to which the people of America as parents now attach to dealing with this problem. And I can only say, better late than never.

It is ironic that both as parents and as Members of Congress we have spent such time as we have in virtually every regard trying to create a climate of opportunity for America's youth, for our children, for our grandchildren. As parents, we save for their education. We look to the day when they can fulfill our hopes for them, as did the parents of Lenny Bias and others who have fallen tragically victims to this mysterious malady that has struck terror into the hearts of all of us as parents and as Members of Congress.

Mr. President, how do you measure the cost of the drug problem in the United States? Well, I would suggest there are many ways. We can look at the increase in the number of street police officers who are required just to deal with the incredible rising problem of dealing, at retail, with the drug traffic when we have failed to interdict the supply into the United States. Or we could measure it by looking at the increase in the number of victims of burglaries and armed robberies, the dangerous crimes performed in many instances, perhaps most, to support a drug habit that is both ruinous and ruinously expensive.

We can look at the increased number over the past 20 years of new programs created especially to deal with this rising volume of crime, not just drug offenses themselves, but the crimes of violence performed to support the habit.

We can look at the creation of the new judgeships, the addition of new probation officers, new correctional facilities, and those who are required to staff them to operate and maintain them.

And obviously when we look at all of those increases, one way to measure

this terrible tragedy is to look at the increase in the tax bill of state and local taxpayers, to look at the incredible increase in cost that they are bearing because of it.

□ 0920

Businessmen will tell you that they must look to an increase in insurance premiums both as businessmen and as householders when they seek to guard against theft, burglary, and violence. Or we could, through the first efforts made under money laundering statues, try in some way to quantify the the illicit profits, but those frankly at the present moment are beyond measurement. Speculation is that America spends $100 billion a year on drugs, more than we spend for food, for clothing, or for shelter. Most important, most tragic is the incalculable costs, impossible to measure of the increase in the number of deaths of young people from drug overdose.

Mr. President, I do not know how you measure the anguish in the parent who discovers that his child is a user. I do not know how you measure the despair in the child user who makes the wrong and the tragic choice to support his habit by becoming a robber or a prostitute. I do not know how you measure the heartbreak on the part of the parents of a Len Bias or of the hundreds, the thousands, the tens of thousands more young Americans who, without his celebrity, have met the same tragic early death as Len Bias.

The worst thing, Mr. President, is that many of the complaints that I am reciting this morning were recited 20 years ago when as a relatively young candidate for State legislative office I said that we must educate our youth, that we must spend money to avoid spending more, and to avoid uncalculable costs. That was long, long before I came to the Senate. Unhappily, America has failed in the interval to deal with the growth and the magnitude of this incredible problem—almost unquantifiable as measured by all the indices of misery that I have referred to this morning. It is not that valiant efforts have not been made, Mr. President. There have been many especially courageous efforts by law enforcement agents, and by those who have dealt with the almost heartbreakingly difficult task of rehabilitation and treatment.

But, Mr. President, we as a Nation and as a society come to focus on the problem very late. We have not yet made an adequate response. There is blame aplenty to go around. The victims are not Republicans and Democrats and Independents. They are Americans. They are not just young, but mostly the young. They are not just the rich or the poor. Mr. President, we must interdict supply. We must curb demand. We must enact harsher penalities. We must decide how we are going to deal with the user. Critical questions that relate to testing and to the civil rights of those tested confront us. But I think we will find they are not intractable. The services have had to deal with this. The armed services have done a very good job of challenging the problem of drug abuse that threatened to cripple their effectiveness, to undermine morale. They have used testing to find and to deal with the problem to help those who want to be helped and to separate from the services those who apparently are incapable of being helped.

Education is a phrase that we have used rather loosely. It could include any number of efforts, 30-second TV spots, and efforts in the schools. The most successful have been the one-on-one intensive treatments. But, Mr. President, we must before we leave undertake in this body to supply the resources necessary to match the expressed concern, to interdict supply, to eradicate it at its source, to interdict aerial smuggling of the most sophisticated kind, and we need resources. That is why before we left for the recess Senator DECONCINI, Senator HAWKINS, and others introduced this legislation to spend a lot of money, but that money was a small fraction of what we spend for our national security, and it seeks to deal with the menace perhaps even greater to our national security from the conventional threat.

Mr. President, today I, together with other Senators, am going to introduce legislation that will seek to add money from the source from which it should come, from the illicit profits made by those drug traffickers whom we so condemn.

We should remove the caps that now exist in the law, those caps that prohibit the use of more of those laundered funds, more of those captured assets if we are to beef up the effort at interdiction by the Customs Service, and by the Drug Enforcement Agency in foreign lands. We are going to find it necessary, Mr. President, to exert ourselves in a way that we have not. If we are going to talk about a war on crime, the time has come to wage it. Thus far, we have engaged in a brief skirmish.

RECOGNITION OF SENATOR PROXMIRE

The PRESIDING OFFICER. The Senator from Wisconsin, [Mr. PROXMIRE] is now recognized for a period not to exceed 5 minutes. I will insist on that time, I will tell Members of the body, in the future.

A NEW LIFE FOR ARMS CONTROL

Mr. PROXMIRE. Mr. President, an encouraging development for arms control may offer a resurrection of arms control from the dead. It is a joint compromise proposal by six of the most highly respected military experts who have served our Government over the past 20 years. The group is bipartisan. Four served Republican administrations. Two were in Democratic administrations. Three of the six served as Secretary of Defense. Two were national security advisers to the President. One was Secretary of State. These six experts have been rightly referred to by the New York Times as "the six wise men." They are former Defense Secretaries Laird, Schlesinger, and Brown; former National Security Advisers Scowcroft and McFarland; and former Secretary of Defense Vance. Their recommendations would go a long way to advance a military policy that would: First, improve this country's national security; second, advance the cause of peace; third, greatly improve the likelihood of superpower arms control agreements that would slow and perhaps enentually stop the nuclear arms race.

The group recommends a reduction in the rate of increase for spending on the strategic defense initiative or star wars from the administration's 80 percent requested increase down to 10 percent. They would confine star wars spending to research for 10 years. They favor full compliance with the Anti-Ballistic Missile Treaty. They call on our Government to honor the limits set by the second Strategic Arms Limitation Treaty [SALT II]. This expert group would restrain further production of the MX missile. In doing so, they would tie in the rate of MX production with the willingness of the Soviets to reduce their land-based ICBM missiles. They would keep the MX production line open to provide a viable incentive for Soviet agreement to restrain their offensive missile buildup. They would continue to rely on the U.S. nuclear deterrent—that is our country's nuclear retaliatory capability—to make it clear to the U.S.S.R. that any attack on the United States would provoke a retaliation that would exact an unacceptable price from the U.S.S.R. in nuclear devastation.

Now let us face it, Mr. President. This package might be viewed by some in the arms control community as an attempt to kill the remarkable series of arms control initiatives put together in the House Armed Services authorization bill that passed the House last month by a smashing 60-vote margin. That measure was the stuff that all-out arms control advocates dream of. It would cut off funds for 1 year for nuclear weapons testing above 1 kiloton.

The House bill also cut appropriations for SDI to a bare 3-percent increase. It stopped funding of weapons deployment that would violate the SALT II treaty. The House also deleted funding for antisatellite tests and for the buildup of new chemical warfare supplies. The Senate Armed Services authorization bill carries none of these limitations.

The proposals by the six wise men could constitute a reasonable basis for compromise. Many in the arms control community would be disappointed. Many in the administration would be disappointed. But arms control would still be alive. And the national security would be advanced.

Mr. President, I ask unanimous consent that an article by Frank Aukofer in the August 31 edition of the Milwaukee Journal on the subject be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Milwaukee Journal, Aug. 31, 1986]

EX-OFFICIALS DEVISE A NUCLEAR STRATEGY

(By Frank A. Aukofer)

WASHINGTON, D.C.—In a rare display of bipartisan harmony, five former high ranking defense and foreign policy officials, including Wisconsin's Melvin R. Laird, have proposed a comprehensive new nuclear arms-control strategy for the United States.

Among other things, it advocates continued research and technological development of President Reagan's space-based defense system, popularly known as "Star Wars," but also says the US should seek an agreement with the Soviet Union that would bar testing of space-based weapons for up to 10 years.

In addition, the group's proposal calls for preservation of the 1972 anti-ballistic missile treaty between the US and the Soviet Union, and says the US should continue to honor the limits on long-range nuclear weapons in SALT II, the 1979 strategic arms limitation treaty. Salt II was never ratified by the Senate but both the US and the Soviets have honored its provisions. However, Reagan has announced that the US will stop complying later this year.

Because it represents a consensus from a disparate group, the proposal by the former policymakers has the potential to win the support of both Reagan and Congress, who have been at odds on some of the issues, according to Laird.

Laird, a former Republican member of Congress from Wisconsin and defense secretary under President Richard Nixon, said in an interview that the participants had not planned to make their proposals public. He said they had hoped to win support quietly from congressional leaders and administration officials. The group already has briefed leading members of Congress, arms control officials and Secretary of State George Shultz.

Besides Laird, the group included Cyrus R. Vance, secretary of state under President Jimmy Carter; Brent Scowcroft, national security adviser to President Gerald Ford; Harold Brown, Carter's defense secretary; Robert C. McFarlane, former national security adviser to President Reagan, and James R. Schlesinger, who served as defense secretary under Nixon and Ford, and energy secretary under Carter.

Although McFarlane participated in the discussions and supported the group's positions, Laird said he did not sign the final 3,500-word document because he had only recently left the Reagan administration.

Laird described the group's work as a remarkable exercise in compromise, with each member giving a little. For example, he said that Vance had never before supported Star Wars, Reagan's Strategic Defense Initiative (SDI).

"Reagan is talking about an increase of 75% in SDI spending in the next few years," Laird said. "When we started out, Vance wanted no SDI at all. I wanted a 25% increase, but only in research and development. When we finally worked it out, Vance had gone for an increase, but not as big as I wanted. We all agreed 10% would be adequate to fund essential research and development."

Laird said the impetus for the group's work came from members of Congress, particularly Senators Sam Nunn (D-Ga.) and John Warner (R-Va.), who were concerned about the current lack of a bipartisan approach toward arms production and control. Nunn is the ranking Democrat on the Senate Armed Services Committee and Warner, a former secretary of the Navy, is chairman of the Senate Subcommittee on Strategic and Theater Nuclear Forces. Rep. Les Aspin (D-Wis.), chairman of the House Armed Service Committee, also was involved, according to Laird.

Laird said there was concern over the rift between the Defense Department and Congress. He did not directly criticize Defense Secretary Caspar Weinberger, but a House Armed Services Committee staff member said Weinberger had annoyed even Republican members by "asking for the world" and refusing to compromise on the Pentagon's budget requests.

"We've come to the point in national security where we have to return to some types of leadership that are more bipartisan or this whole defense thing will go down the drain," Laird said.

"When I was over there [as defense secretary], I worked very closely with Congress and never lost a vote. But you have to be in a position where you're willing to accommodate some of their positions. They're just as important as the executive branch."

Besides their compromise positions on the arms treaties and the SDI, Laird and the other former policymakers supported a low rate of production of the MX missile, with the numbers determined by how much the Soviet Union was willing to reduce its arsenal of land-based missiles. At a mimimum, they said, "US leverage should be maintained by keeping open a [MX] production line."

Despite their support for continued "Star Wars" research, the former policymakers advocated continued reliance on the threat of retaliation as a deterrent to nuclear attack.

"The overall purpose," they said, "is to convince the Soviets that, whatever the situation, they would be worse off if they initiated a strategic nuclear exchange than if they did not, because US forces would not be greatly degraded by a pre-emptive attack . . . The US retaliation would cost the Soviet Union much more than it could possibly gain."

The policy proposals could have an impact on the coming debate over the Pentagon's 1987 budget. The House has passed an authorization bill that contains a number of arms-control amendments, including a one-year ban on underground tests of nuclear weapons over one kiloton; an extension of a moratorium on tests of antisatellite weapons in space; a one-year delay in the production of new chemical weapons; and a provision requiring adherence to the SALT II treaty.

None of those provisions is in the bill passed by the Senate. As a result, Laird predicted that there would be no compromise between Senate and House negotiators, and that Congress would have to pass a continuing resolution to keep the Pentagon operating.

However, advocates of the arms-control amendments are expected to try to attach the amendments to any and all legislation involving defense spending.

□ 0930

DEFENSE INFLATION—THE $50 BILLION MISTAKE

Mr. PROXMIRE. Mr. President, the way the Defense Department budgets for inflation has become a $50-billion mistake.

In response to my request, GAO has revised its estimate of "inflation dividends" within the Department of Defense Budget. The revised estimates show the Pentagon received $46.8 billion since 1982 to cover expected inflation that never occurred. This does not include an amount for excess inflation in the fuel account which was estimated by GAO at $5 billion in May 1986.

This is GAO's third and largest estimate of the "inflation dividend" in the past year, and it is a whopper.

The figure is based on the difference between the amount appropriated by Congress to the Pentagon for inflation and the inflation rate that actually occurred.

I intend to present this report at the Defense Appropriations Subcommittee markup and press for action that will put a stop to these excesses.

The inflation dividend estimated by GAO includes procurement, operations and maintenance, and R&D, but excludes fuel.

If fuel is included, the excess defense appropriations would be as much as $10 billion greater, or approximately $56 billion.

Included in GAO's estimate is $3.5 billion for fiscal year 1987; an amount that differs from the $900 million estimated by the Congressional Budget Office. GAO says CBO's estimate is low because that office assumed inflation will be higher in the next few years than the rates projected by the administration.

The fact that the Pentagon and the administration overestimates the amount it needs for inflation year after year demonstrates that the procedures being followed are fundamentally flawed.

In candor, it should be acknowledged that Congress is as much at fault for this problem as the Pentagon and the administration. We have known since at least 1985, when the problem first surfaced, that we were appropriating billions of dollars for defense inflation that does not exist. We have failed since that time to take any remedial actions to prevent the problem from recurring.

Congress needs to take two steps. It should require the Pentagon to make it clear how much is being requested for inflation in its budget, account by account. This will make it possible to examine the budget proposal and determine whether inflation assumptions are reasonable.

Congress should also require that any excess inflation funds at the end of the year be returned to the Treasury.

In the seventies, when inflation was underestimated, the Congress promptly passed a supplemental appropriations to make up the difference.

At present, GAO, the Pentagon, and several committees of Congress cannot agree on how much excess inflation funds were appropriated or what happened to the money.

This is bizarre. The way to stop it is to set up a system where money is earmarked for inflation and if it is not spent it automatically lapses.

I request unanimous consent that the report from the General Accounting Office dated September 5, 1986, be inserted in the RECORD following my remarks.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

GENERAL ACCOUNTING OFFICE,
Washington, DC, September 5, 1986.

Hon. WILLIAM PROXMIRE,
Joint Economic Committee, Congress of the United States.

DEAR SENATOR PROXMIRE: On August 7, 1986, your office requested that we provide you with our latest estimates of inflation dividends within the Department of Defense (DOD) budget. We have reestimated the total of the inflation dividend, excluding fuel, which DOD has received since 1982, and we have identified possible reductions in DOD funding related to inflation adjustments.

Our latest estimate shows $46.8 billion in inflation dividends between 1982 and 1987. This estimate uses the projections of inflation used by the Office of Management and Budget (OMB) for the August 1986 Mid-Session Review of the 1987 budget. The amount is $7.4 billion greater than the amount reported in Potential for Excess Funds in DOD-March 1986 Update (GAO/NSIAD-86-76). Changes in inflation funding for the DOD fiscal year 1987 budget have occurred since the budget was submitted in February 1986. The fiscal year 1987 budget includes $3.5 billion which may be considered for potential reduction. Enclosure I provides additional information regarding our estimates of DOD's inflation dividend.

Of the remaining $3.9 billion of the updated inflation dividend, some of this amount is in prior year funds and has already been obligated. We have calculated the new dividend on the unobligated balances of prior year funds as of October 1, 1986. The potential reductions are $0.5 billion for fiscal year 1985 and $1.1 billion for fiscal year 1986. We have reviewed DOD's projected unobligated balances as of October 1, 1986 and believe they are underestimated. Therefore, the potential non-fuel inflation savings on unobligated balances may be higher.

Enclosure II shows inflation dividends by account for the 1987 budget request and for unobligated balances for fiscal years 1985 and 1986. We have not calculated an inflation dividend for fuel because we were not able to determine for fiscal years 1986 or 1987 the extent of short-term repricing flexibility for these procurements. We also have not included an adjustment for pay because escalation amounts for pay increases are not included in the budget request.

In recent testimony, CBO reported that it estimated a $900 million inflation dividend in DOD's 1987 budget. This contrasts to the $3.5 billion estimate based on inflation projections used in OMB's August 1986 Mid-Session Review. CBO used significantly higher inflation indices than OMB projects for fiscal years 1988 through 1992. The higher estimates for outyears affect the estimation of the fiscal year 1987 inflation adjustment because the funds appropriated in fiscal year 1987 may not actually be spent until some future year. In addition, CBO did not use the same deflator or outlay rates which DOD used in preparing the fiscal year 1987 budget which also reduced its estimate of the inflation dividend.

We discussed our inflation calculations with the Deputy Director, Plans and Systems, Office of the Deputy Assistant Secretary of Defense, Program/Budget, who is responsible for inflation adjustments. He agreed with the procedures we used to derive the amounts.

We hope that the enclosed information will be of use to you in your deliberations on the fiscal year 1987 budget. If we can be of further assistance, please call Bill McNaught on 275-4206 or Joan Hawkins on 557-1480.

Sincerely yours,

FRANK C. CONAHAN,
Assistant Comptroller General.

DOD'S INFLATION DIVIDENDS

We have issued three previous reports on the topic of inflation dividends in the defense budget.[1] In these reports, we defined the inflation dividend as the amount of excess funds received by DOD due to overestimation of future inflation in developing defense budget requests. A full description of our methodology for estimating the inflation dividend can be found in Appendix VI of our September 1985 report and in Appendix I of our March 1986 report.

In this report, we update our estimate of the inflation dividend to include the Auguest 1986 OMB forecast of inflation. Our latest estimate shows the total amount of this inflation dividend to be $46.84 billion. This does not include any inflation dividend received in the purchases of fuel. It does include an inflation dividend received in the purchase of nonfuel, nonpay items (purchase dividend) and an inflation dividend received because a special multiplier was used to calculate weapons system inflation in the fiscal year 1983 through 1986 budgets (multiplier dividend). The table below shows the inflation dividend by fiscal year.

[1] *Potential for Excess Funds in DOD* (GAO/NSIAD-85-145) September 1985, *Potential for Excess Funds in DOD—March 1986 Update* (GAO/NSIAD-86-76) March 1986, and *Budgeting for Inflation in DOD Purchases of Petroleum Products* (GAO/NSIAD-86-125) May 1986.

ESTIMATED INFLATION DIVIDEND BY FISCAL YEAR AND SOURCE OF DIVIDEND

[In billions of dollars]

	Purchases dividend	Multiplier dividend	Total dividend
Fiscal year:			
1982	5.657	0	5.657
1983	7.330	4.117	111.447
1984	6.035	3.457	9.552
1985	5.772	3.336	9.108
1986	4.400	3.117	7.517
1987	3.513	0	3.513
Total	32.657	14.117	46.894

Our estimate of the size of the inflation dividend has increased by nearly $15 billion since our first estimate in September 1985. Of this amount, $11 billion occurs because we have added inflation dividends for fiscal year 1986 and 1987 to the original September 1985 estimate. The remainder of the increase occurs because of continued declines in anticipated inflation. The table below shows the growth in the inflation dividend over the past year. There is no change in our estimate of the amount of the dividend accruing due to the use of a special multiplier for weapons system inflation because no special multiplier was included in the fiscal year 1987 budget request.

COMPARISON OF ESTIMATES OF THE INFLATION DIVIDEND: SEPTEMBER 1985, MARCH 1986, AND SEPTEMBER 1986

[In billions of dollars]

Date of estimate	Purchases dividend (excluding fuel)	Multiplier dividend	Total
September 1985	22.79	9.17	31.96
March 1986	25.31	14.17	39.48
September 1986	32.67	14.17	46.84

ESTIMATED INFLATION DIVIDENDS BY MAJOR ACCOUNTS

[In millions of dollars]

	Fiscal year—		
	1985 [1]	1986 [1]	1987 [2]
DESCRIPTION			
Operations and maintenance	0	0	701.5
Military construction	29.4	54.3	92.3
Major commodities	363.8	721.6	1,590.4
Nonmajor commodities	63.9	191.5	403.9
Family housing	5.8	8.8	47.2
Military personnel	0	0	121.5
RDT&E	0	91.2	577.7
Total	462.9	1,067.4	3,534.5
ACCOUNTS			
Operations and Maintenance (nonpay, nonfuel):			
Army	0	0	183.3
Navy	0	0	201.0
Marine Corps	0	0	18.5
Air Force	0	0	178.7
Defense Agencies	0	0	69.0
Army Reserve	0	0	6.1
Navy Reserve	0	0	11.2
Marine Corps Reserve	0	0	.8
Air Force Reserve	0	0	7.0
Army National Guard	0	0	14.2
Air National Guard	0	0	11.7
Subtotal	0	0	701.5

[1] Based on DOD's projected unobligated balances for Oct. 1, 1986, made in the President's fiscal year 1987 budget submission.
[2] Based on DOD's fiscal year 1987 budget request.

ESTIMATED INFLATION DIVIDEND AMOUNTS

[In millions of dollars]

Accounts	Fiscal year—		
	1985	1986	1987
Military construction (nonpay, nonfuel):			
Army	9.6	16.7	21.2
Navy	8.7	14.5	25.7
Air Force	7.6	16.2	27.0
Defense agencies	2.0	2.7	11.7
Air National Guard	.6	.3	1.8
Army Reserve	.1	1.8	2.1
Navy Reserve	.2	.2	1.2
Air Force Reserve	.4	.6	.7
DEF FAC replacement		1.1	
Subtotal	29.4	54.3	92.3
Major commodities:			
Army:			
Aircraft	7.2	19.5	76.4
Missiles	6.8	20.5	57.4
W&CTV	12.0	42.1	105.0
Navy:			
Aircraft	26.9	74.6	266.6
Weapons	23.0	53.4	119.3
Shipbuilding	147.4	180.5	266.9
Marine Corps	9.1	13.4	26.8
Air Force:			
Aircraft	108.8	231.3	451.2
Missiles	22.6	86.3	210.8
Subtotal	363.8	721.6	1,590.4
Nonmajor commodities:			
Army:			
Ammunitions	0	8.7	33.0
Other	11.2	51.2	92.4
Navy: Other	21.4	57.8	97.6
Air Force: Other	28.0	62.9	159.0
Defense agencies	3.3	10.9	21.9
Subtotal	63.9	191.5	403.9
Family housing (nonpay, nonfuel):			
Army: Construction	1.3	2.4	7.1
Navy: Construction	.5	.9	3.5
Air Force: Construction	3.5	3.8	1.7
Defense agencies	.5	1.7	0
Army: Debt	0	0	16.8
Navy: Debt	0	0	7.8
Air Force: Debt	0	0	10.1
Defense agencies debt	0	0	.2
Subtotal	5.8	8.8	47.2
Military personnel (nonpay):			
Army	0	0	28.1
Navy	0	0	35.3
Marines	0	0	8.3
Air Force	0	0	24.3
Army: Reserve	0	0	6.3
Navy: Reserve	0	0	5.8
Marine: Reserve	0	0	1.1
Air Force: Reserve	0	0	1.8
Army Guard	0	0	8.7
Air Guard	0	0	1.9
Subtotal	0	0	121.5
RDT&E:			
Army	0	15.2	67.5
Navy	0	12.2	150.7
Air Force	0	46.8	240.1
Defense agencies	0	17.0	119.4
Subtotal	0	91.2	577.7

Mr. PROXMIRE. I yield the floor.

I thank my good friend, the Presiding Officer.

RECOGNITION OF SENATOR HAWKINS

The PRESIDING OFFICER. Under the previous order, the Senator from Florida [Mrs. HAWKINS] is recognized for not to exceed 5 minutes.

DRUG TESTING: AN IDEA WHOSE TIME HAS COME

Mrs. HAWKINS. Mr. President, thus far, I have delivered over 230 different speeches on a daily basis on the subject of drugs. I would like to state for the public record that there is no magic bullet in the war on drugs. There is a combination of many items we are talking about today—education, eradication, enforcement, and interdiction.

Mr. President, drug testing is an idea whose time has come, in Government and in the private workplace. President Reagan in August called for mandatory drug testing for Federal employees in sensitive positions. Attorney General Edwin Meese proposed that drug tests be made compulsory for half of the Nation's Federal workers.

The Chief of the Federal Aviation Agency, Donald Engen, said he thinks all air traffic controllers, and any FAA employee who flies in an airplane, who works on aircraft or inspects them for air worthiness should be tested for drugs.

In the private sector, many companies already test their employees and many other firms are planning to begin testing new employees. General Electric Co., has announced it will start testing job applicants on October 1. Eastman Kodak plans to test successful job applicants, beginning in mid-October. Kodak will continue the practice of testing current employees when they have reason to believe it would be prudent to do so.

Some of the corporate giants that now have testing programs are IBM, Alcoa, Boise-Cascade, Ford Motor Co., American Airlines and the New York Times. In fact, 26 percent of the Fortune 500 companies have some kind of drug testing procedure in place and 20 percent plan to start drug testing programs within 2 years. This is a far cry from the 5 percent of the leading business organizations who bothered with drug testing in 1982.

What business is doing is simply facing up to the fact that our Nation is awash in drugs and that drugs are bad for business. According to the National Institute for Drug Abuse, drug users are 28 percent less productive than nonusers, and they are three times as likely as nonusers to injure themselves or their coworkers on the job.

Blue collar workers and white collar workers alike are involved. The office boy, the secretary, the computer operator, the assembly line worker and the corporate executive are all threatened by the drug temptation. Stock exchanges and brokerage houses have found that an alarming number of their employees are drug users.

Workers at financial institutions operate under great stress and must make on-the-spot decisions involving thousands, and sometimes millions, of dollars. But accuracy and honesty are demanded of this kind of specialized worker as well as speed and sound judgment. Employees have concluded there is no room in their business for drug abusers.

Many hospitals have begun testing their new employees to insure a drug free environment. Some hospitals test doctors starting their internships. Two of the Nation's largest pharmaceutical companies—Merck and Hoffman-Laroche—test new employees for drugs.

Peter Bensinger—who headed the Federal Drug Administration in its early days—predicts a sharp increase in the number of companies that test employees for drugs. Mr. Bensinger says this will be particularly true in financial, transportation, manufacturing, service and construction firms. He says further that many of the companies that require tests for only new employees now will expand their testing program to include regular workers.

There are those who still raise a hue and cry about compromising individual rights and personal liberties. They are mistaken. Rights are not compromised by highway speed limits or age limitations on drinking alcohol. Neither are fundamental liberties sacrifices by drug testing. We are not finding to fire but finding to help. I applaud those companies, organizations and governmental bodies which are employing drug testing to help fight the insidious drug menace that threatens to engulf us all.

RECOGNITION OF SENATOR TRIBLE

The PRESIDING OFFICER (Mrs. HAWKINS). Under the previous order, the Senator from Virginia [Mr. TRIBLE] is recognized for not to exceed 5 minutes.

MAJOR DRUG DEALER PENALTIES ENHANCEMENT ACT OF 1986

Mr. TRIBLE. Madam President, on this day I offer two bills that I commend to the attention of my colleagues as part of our comprehensive response to the menace of drugs in our society.

As a former State and Federal prosecutor, I believe strongly in the value of punishment and deterrence. I believe it is time to make harsher penalties available for a growing and deadly crime—the large-scale distribution of illicit drugs. To that end, I am offering legislation to provide for life imprisonment without possibility of parole for major drug traffickers. This bill will also raise the fines applicable to such crimes so that they more accurately reflect the huge amounts of money involved in the drug trade.

Simply put, the benefits of drug trafficking appear to far exceed the risk imposed by society. One transaction will produce millions of dollars in profit, yet the likelihood of arrest, conviction, and punishment is slight.

It is time for more vigorous law enforcement and it is time for tough penalties that will put major traffickers out of business forever.

Madam President, I ask unanimous consent that a copy of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the the RECORD, as follows:

S. 2801

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE

This Act may be cited as the "Major Drug Dealer Penalties Enhancement Act of 1986".

SEC. 2. ENHANCEMENT OF CRIMINAL FINES

Section 408(a) of the Controlled Substances Act (21 U.S.C. 848(a)) is amended as follows—

(a) by striking out the phrase "to a fine of not more than $100,000," and inserting in lieu thereof "to a fine of not more than $1,000,000 if the defendant is an individual or not more than $4,000,000 if the defendant is other than an individual," and

(b) by striking out the phrase "to a fine of not more than $200,000," and inserting in lieu thereof "to a fine of not more than $2,000,000 if the defendant is an individual or not more than $8,000,000 if the defendant is other than an individual,".

SEC. 3. ELEMENTS OF OFFENSE

Section 408 of the Controlled Substances Act is amended as follows:

(a) by inserting the following new subsection after subsection (a):

"(b) Any person who engages in a continuing criminal enterprise shall be sentenced to life imprisonment without possibility of parole if such person is the principal director, organizer, manager, or sponsor of the enterprise, and—

(1) the enterprise results in the death of any individual other than a participant in the enterprise; or

(2) the enterprise earned $1 million in gross revenues during any twelve-month period from the manufacture, importation, or distribution of a substance described in section 401(b)(1)(A) of this Act; or

(3) the offense referred to in subsection (c) involved at least 100 times the amount of a substance described in section 401(b)(1)(A) of this Act.

Such person shall not be granted a suspended or probationary sentence and shall not be eligible for parole with respect to such violation; provided that no person who was less than eighteen years of age at the time of the offense may be sentenced under this section to life imprisonment without possibility of parole."

(b) by redesignating the present subsection (b) as subsection (c); and

(c) by redesignating the present subsection (c) as subsection (d).

DRUG MONEY LAUNDERING PREVENTION ACT OF 1986

Mr. TRIBLE. Madam President, I am also introducing legislation today aimed at breaking the vital economic link in the international drug chain—the laundering of profits from the production and sale of illicit drugs.

This legislation will prohibit foreign assistance to those nations that refuse to prevent and punish the laundering of drug related profits. It also requires that the international narcotics control strategy report identify those nations that are significant centers of drug money laundering, and report on the efforts those nations are making to eliminate laundering activities within their territory. I am pleased that the distinguished chairman of the Senate Foreign Relations Committee, Senator LUGAR, has joined me as a cosponsor of this legislation.

Today, Federal law has prohibited foreign assistance to nations that fail to prevent drug cultivation and trafficking in their territory. This lever over foreign nations has proved tremendously effective. I believe we must adopt the same approach with respect to drug money laundering activities.

The methods by which drug runners conceal their illicit profits and reinvest them in the drug trade are a vital part of the overall drug problem. The Senate recognized this reality when it voted 98–0 recently for a bill making willful laundering of profits from criminal enterprises a Federal offense.

Surely we must also attack this problem on an international scale. It is no secret that many countries are havens for drug money launderers. Nations with strict bank secrecy laws attract laundering operations because there is little or no risk of their being caught. Panama, Columbia, Mexico, and Hong Kong are among the world's principle laundering centers. Earlier this year, for example, the State Department testified that Panama is "virtually made to order" for laundering U.S. currency. The Treasury Department estimates that up to $600 million may be laundered every year through Panama alone.

Madam President, America's war on drugs can and must be won. However, as long as larger amounts of cash abound in the drug trade, our efforts to wipe out crops or stop the distribution of deadly drugs to our children will not succeed.

That is why this legislation is essential to our success. Madam President, I ask unanimous consent that a copy of this legislation be printed in the RECORD at this time and urge my colleagues to support those initiatives.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2802

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 481 of the Foreign Assistance Act of 1961 is amended—

(1) in the text of subsection (h)(1) above clause (A), by inserting after "United States" where it appears at the end of that text the following: ", or if the President determines that a country has failed to take adequate steps to prevent and punish the laundering in that country of drug-related profits or drug-related monies";

(2) in subsection (h)(2)—

(A) by redesignating paragraph (2) as paragraph (2)(A); and

(B) by adding at the end thereof the following new subparagraph:

"(B) The President shall also consider whether such government has taken the legal and law enforcement steps necessary to eliminate, to the maximum extent possible, the laundering in the country of drug-related profits or drug-related monies, as evidenced by the anactment and enforcement of laws prohibiting such conduct, the willingness of such government to enter into mutual legal assistance agreements with the United States governing money laundering, and the degree to which such government otherwise cooperates with United States law enforcement authorities on anti-money laundering efforts.".

(3) in clause (B) of subsection (h)(3), by inserting after "controlled substances" the following: ", or to enforce prohibitions on the laundering in that country of drug-related profits or drug-related monies"; and

(4) by adding at the end of subsection (e) following new paragraph:

"(6) Each report pursuant to this subsection shall identify those countries which are significant centers of drug-money laundering and shall contain a description of the plans, programs, and timetables adopted by such country for the deterrence, prevention, and punishment of acts involving the laundering of drug-related profits and drug-related monies in that country and a discussion of the adequacy of the legal and law enforcement measures taken and the accomplishments achieved in accordance with these plans.".

RECOGNITION OF SENATOR LEVIN

The PRESIDING OFFICER. Under the previous order, the Senator from Michigan [Mr. LEVIN] is recognized for not to exceed 5 minutes.

TAX REFORM

Mr. LEVIN. Madam President, the American people have learned a lot about economics in the past decade. They have, for example, watched in wonder as the administration muttered the incantation of "altered expectations" in an effort to get a combination of tax cuts and huge defense spending increases to add up to a balanced budget. People were moved by the ritual, but they saw that the magic did not work.

And so, when people were shown tax reform, the latest magic offering, they were willing to see through the illusion. They recognize that all the talk about revenue neutrality and tax cuts for middle-income Americans and true equity is a sidewalk spiel designed to lure them into thinking that there is a free lunch out there. And they know better.

According to the polls, only 25 percent of the people think their taxes will go down if the conference report is adopted; a full 36 percent think their taxes will go up.

The American people are clearly skeptical—and they are right. Twenty percent of all middle-income Americans get a tax increase in this bill. And the rest of us will pay more because of this bill. It is that concept of paying more—of the hidden costs of the tax bill—which I want to explore today. Specifically I want to look at those hidden costs which we will have to pay as individuals and those hidden costs which we will have to pay as a society.

The winners and losers calculations which have been issued by the joint committee are an attempt to create an on-balance, net assessment of the impact of tax reform on individuals. That is the calculation which indicates that 20 percent of all middle-income taxpayers are net losers. And that is just the initial loss: in reality, even more people will pay more.

In computing the net tax cut, we must subtract more than the cost to individuals of eliminating specific tax breaks; we must also subtract any cost increases which will be passed on to us as a direct result of the tax plan. And there are a lot of them. Let us look at some.

First, we should remember that the individual tax cuts are financed largely by business tax increases—roughly $124 billion worth. Now it was just a few years ago that the President confessed that he was tempted to try to eliminate business taxes altogether because, as he explained, businesses don't pay taxes, people do. The President overstated the case, but it is clear that businesses do not automatically swallow the increased costs created by increased taxes; they try to pass those costs through to consumers in the form of higher prices. Of course, not all the costs can be passed through—competitive pressures, among other factors, prevent that. But a substantial percentage can be. And that percentage should be subtracted from any individual after-tax savings created by this tax bill.

That subtraction, however, will not be equally distributed throughout the economy. For those lower- and middle-income Americans who get tax cuts in the $200 to $400 range, the increased consumer costs will take a larger bit out of their newfound wealth than they will for the richest among us—those making over $200,000—half of whom will get a tax cut averaging $25,000 or so.

Second, if someone wants to send their children to college, their costs may increase because of this bill. Tuition costs may go up as a result of the way this bill treats charitable contributions. Gifts of appreciated property—which help many colleges and universities keep tuition down—will only be partially deductible. As a result, colleges expect a decrease in those contributions. Nonitemizers—and remember, this new simplified code is supposed to increase the number of nonitemizers—are also expected to decrease their level of giving since their contributions are no longer deductible. The net result: higher tuition as higher education scrambles to cover its costs.

Third, consider the plight of the renter. We have all heard about how the bill hits the real estate industry, and to the degree that is true, it also gets to renters. Construction of rental units is expected to decline, rents are expected to increase. That increase will have to be subtracted from the tax cut some get in this bill.

Finally, State and local taxes may increase. To begin with, if State income taxes are linked to the Federal tax base—as most are—this bill has the effect of increasing the amount of money States collect unless State income tax rates are reduced to avoid a windfall. Beyond that, a revenue-neutral tax bill does nothing to reduce the Federal deficit. Since we are legally obligated by Gramm-Rudman to reduce the deficit, we may end up slashing programs—including programs which provide assistance to State and local governments. Those governments will either reduce their service levels or try to raise more revenue. Either way, individual taxpayes will suffer, and ultimately, they will pay.

In those and a number of other ways, this bill has hidden costs for us as individuals. But it also affects us as a society. Let me give you an example.

We have spent a lot of time bemoaning the trade deficit that we face. One of the reasons we face it is that other countries give direct subsidies to their industries. In the face of a growing trade deficit, it does not make sense to take away the limited support we do give to our companies through the Tax Code.

Why cut back on the investment tax credit when we so desperately need new investment? Why reduce the research and development credit when we are starting to lag behind our competitors in innovative technology? We are placing American industry at a competitive disadvantage. Ultimately, that may place American workers in unemployment lines.

Consider a final brief illustration of the social costs involved in the bill. I have already mentioned the expected reduction in charitable giving in connection with college costs. But, obviously, the same problem impacts on other nonprofit charitable institutions ranging from hospitals to art museums. The expectation is that the charitable contributions which all of them depend on will decline. As one observer indicated, "I don't think people give because of tax breaks, [but] I think they give more because of tax breaks." If those tax breaks are reduced and the giving declines, then those institutions will either cut back on their operations or increase their fees. When that happens, society suffers—we become less healthy, less culturally enriched, less able to care for each other, and less capable of taking care of our heritage as human beings. That is not a cost I can quantify in economic terms, but it is a social cost we should not be asked to pay.

Those are just some of the hidden costs of this bill. Taxpayers—our constituents—will find them in the months and years ahead. When they do, they are going to ask just why we did it. Why did we engage—why are we engaging—in this elaborate charade of giving with one hand while creating a situation in which someone else will take with the other? The time is short and the pressure may seem great, but we still have a chance to prove that we have learned as much as the people have over the past few years. We can decline this latest invitation to try to secure the financial future of our constituents and our country with magic and myth.

We know there are no free lunches; now we have to determine if we are willing to pay the real price for the fast-food meal we are being served in this bill.

Madam President, I thank the Chair. I yield the floor.

RECOGNITION OF SENATOR CHILES

The PRESIDING OFFICER. Under the previous order, the Senator from Florida [Mr. CHILES] is recognized for not to exceed 5 minutes.

Mr. CHILES. I thank the Chair.

THE COMPREHENSIVE NARCOTICS CONTROL ACT OF 1986

Mr. CHILES. Madam President, the American people have acknowledged that drugs have become one of our major problems. Drugs are associated with growing health and treatment problems and they are certainly linked with terrorist and insurgent groups. As the Chair knows so well, drugs are a major problem in our schools. Certainly, they are destroying our neighborhoods.

As the police commissioner, Benjamin Ward, of New York City, describes it, the crime problem in this country is the drug problem.

In an effort to speak to this problem, yesterday, the Democratic task force, in connection with all of the Democratic Members of the Senate, introduced the Comprehensive Narcotics Control Act of 1986.

Basically, we were trying to address the entire drug problem that we now see confronting us. Much of that problem has been magnified and come to our attention because of the deluge we have seen of crack-cocaine in this

country. It has hit us like a tidal wave. I think it has made us look at the programs we have been perpetuating and assess whether they are working or not.

We are attempting in this package to provide for effective programs. As you know, today, we are spending considerable money in enforcement; yet somehow, we have more cocaine in this country than we have ever had before. The price is lower than it has been, approximately 50 percent lower than it was in January of this year. So we have not been able to claim success in interdiction but we wonder what the availability would be if our borders were entirely defenseless.

Our package addresses the compound needs associated with drug trafficking and abuse. The package authorizes $1.65 billion in enforcement, interdiction, eradication, research, treatment, and education programs.

With mandatory sentences up to life imprisonment and fines up to $10 million for drug syndicates, the Democratic bill toughens laws against drug traffickers with the most stringent penalties and fines aimed at large volume traffickers and drug syndicates with their huge financial assets. The bill recognizes the dangerous effects of newer street drugs like "crack" and designer drugs by listing them under the Controlled Substances Act and decreasing the amounts necessary for enhanced penalties and fines.

The bill provides for double penalties for those who employ children in illegal drug enterprises and manufacture narcotics within 1,000 feet of schools.

A new criminal offense is authorized for those who launder funds with penalties up to 20 years and fines as high as $250,000 or twice the amount of the transaction.

□ 0950

We are trying to provide some funds for State and local assistance. Specifically now, we are finding that our local police and our State agencies are simply overwhelmed with what is happening because of the crack invasion. Many of them have put on additional officers, spending additional resources, but still they find they are in a plight. It is not a local crime. It is an invasion. In my State, for example, much of it is perpetrated by illegal aliens. They may be from Colombia, they may be Marielitos, they may be Haitians. They are in this country illegally to start with, and then they are perpetrating these crimes. As we arrest these people, they give false names, they jump and go to the next city where again they are carrying out the same activities, so we are trying to provide assistance to local and State enforcement agencies against such felons who have made crime rates increase dramatically. Again, we are only talking about matching new dollars that State and locals will be putting up. This is not a new revenue-sharing program for local police to help them with their budgets. This is directed at helping them with this drug invasion.

To strengthen the legal system enforcing these penalties, the bill adds $1.3 billion for additional Federal prisons over the next 3 years and provides for $125 million to State and local law enforcement agencies for drug enforcement activities. In addition, the legislation directs the President to provide for military sites which can be used to detain felons, especially those who are a Federal responsibility such as illegal alien felons and major drug traffickers.

The Democrats double the amount of Federal dollars for interdiction programs by the Customs Service, Coast Guard, and other armed services. Included in the expanded efforts are a new United States-Bahamian Drug Task Force, an all-source intelligence center to provide information to all drug enforcement agencies, support under DOD for two long-range surveillance aircraft in the Caribbean and authority for DOD to loan equipment to drug enforcement agencies.

The State Department's International Narcotics Matter Bureau is provided with additional funds for eradication and a new "buffer fund" of $35 million for use in narcotics control upon submission of a plan by the President. In addition, the bill tightens immigration processing of suspected drug traffickers and requires an information system for U.S. Embassies to use in denying visas to such persons.

The bill recognizes the inadequacies of the existing $3 million program in drug education and commits $150 million for new education programs with a $125 million grant program for States and local districts which develop a K–12 comprehensive drug program and $25 million for five regional centers to provide necessary training and education of school administrators and teachers. The Secretary of Education is directed to provide all school districts by October 6 with information on drug abuse with a special emphasis on crack and its lethal nature and potential harm for children whom drug dealers prey on as customers and dealers. October 6 has been designated as National Drug Abuse Education Day based on a resolution authorized by the Senate Democratic Drug Task Force and passed by the Congress.

Noting the most obvious gap in current drug policy, the Democratic package provides for $394 million for drug abuse prevention, treatment, and rehabilitation grants to States. In addition, the legislation directs more emphasis within the Department of Health and Human Services and the National Institute on Drug Abuse to conduct extended research on drug abuse and treatment methods and provide more information to practitioners as well as the public on specific drugs and their impacts and treatments.

Finally, realizing the need to better coordinate and implement Federal efforts in drug programs, the bill creates a new Cabinet-level official to be responsible for overseeing all drug programs and developing a long-range strategy for both domestic and international drug policy. We have the right hand not knowing what the left hand is doing. So we are calling for an Office of National and International Drug Operations Policy. As such, we are trying to create a Cabinet-level Director to coordinate the Federal drug control policy. That Director's authority and responsibility would be analogous to that exercise by the Director of Central Intelligence over U.S. intelligence policy. The Director would be responsible for developing comprehensive and long-range strategy on drug control, both domestically and abroad.

In effect, Madam President, we are talking about creating a drug czar who would operate directly under the President, who would have the authority to coordinate and bring into a close working group all of the different areas and agencies that are responsible for drug programs.

Also, we would ask that the President convene a White House Conference on Narcotics Abuse and Control within 6 months of the enactment of the bill. We know the power of the Presidency. We know certainly the power of this President. We know his concern and that of Mrs. Reagan with regard to this scourge due to drugs. We are asking the President to use that power to call this White House conference.

Mr. CHILES. Madam President, I notice my time has expired. I urge my colleagues on the other side of the aisle to join the sponsors of this comprehensive bill in seeking a new and better drug policy. There are other Senators here who are looking forward to speaking on this provision. I yield the floor.

RECOGNITION OF SENATOR CRANSTON

The PRESIDING OFFICER. The Senator from California [Mr. CRANSTON] is recognized for not to exceed 5 minutes.

COMPREHENSIVE NARCOTICS CONTROL ACT OF 1986

Mr. CRANSTON. Madam President, I join with my colleagues from the Democratic Task Force on Narcotics in making a steadfast commitment toward a drug-free America. The bill we have introduced, S. 2798, is a com-

prehensive approach to the menace of drugs. The drug problem can no longer be characterized as an urban one. Drug abuse and the consequent need for increased drug enforcement is a problem in small towns and rural areas as well as cities.

Our goal must be drug-free families, drug-free schools, drug-free communities, and a drug-free nation.

California's drug problems are more severe, and probably more complex, than those anywhere else in the United States. With its homemade drug laboratories and secluded hills and valleys, California has unfortunately become the industrial capital of America's illegal narcotics manufacturers; and California's ports and border make the State one of the largest entry points for foreign drugs.

We must attack the drug menace through eradication, interdiction, law enforcement, and education. Specifically, we must work with other nations and within our own country to eradicate drugs where they are produced. We must interdict drugs at the border before they penetrate our country. We must arrest the sellers through effective law enforcement, incarcerating the suppliers, and we must educate to lessen the demand, to destroy the market.

This bill provides the resources for increased manpower and equipment to halt the menace of drug trafficking. It also takes the first major step toward quelling America's growing lust for illegal narcotics. Last year, the head of the Federal Drug Enforcement Agency [DEA], John Lawn, said in an interview that—

> The problem is greater than law enforcement is able to cope with * * * we've got to put more emphasis on the demand side on education.

We need to address the demand for drugs effectively.

Customs agents all have made literally hundreds of thousands of drug arrests in the last several years, hundreds of thousands in California alone.

Attorney General John Van De Kamp, of California, has reported that State and local law enforcement officials make over 50,000 drug arrests each year.

Congress has even provided military helicopters and boats to help DEA agents capture smugglers who carry cocaine, heroin, and marijuana from South America and the Far East.

But despite many heroic efforts, and hundreds of millions of dollars, they are fighting a losing battle. Coca production in Peru, Colombia, Brazil, and Ecuador has increased, and the number of cocaine labs in the United States has tripled in the last 4 years. In the last 2 years alone, at least 75 tons of cocaine have been sold in America.

Drugs are flooding our neighborhoods and our schools faster than law enforcement people can confiscate them. The reason is demand.

Demand for drugs in this country is so high that it's worth whatever the risks for drug smugglers and illegal drug makers to sell their poisons.

The illegal drug business is a seller's market. Yet, less than one-tenth of 1 percent of the DEA's budget is spent for drug education and prevention, just $100,000 out of a $363 million budget. Less than 1 percent of the Education Department's $18 billion budget is spent for teaching kids how to say no to drugs. In fact, the Federal Government is now spending less on drug education and prevention than we did 6 years ago—even though the Nation's drug problems are worse.

This bill not only clamps down on suppliers, it begins to halt the insatiable demand for drugs. This bill will help States establish and expand their school-based drug abuse prevention programs.

It will provide vital assistance to communities that want to become actively involved in educating young people about the dangers of cocaine.

This bill is the beginning of a national initiative—because cocaine and other illicit drugs constitute a national disaster. But the programs the bill creates will be local. It provides the opportunity for communities and individuals—parents, teachers, coaches, local celebrities, business leaders—to join hands in the effort to help stop the drug epidemic.

Because the security of our families, our neighborhoods, and our Nation are all at stake, action on this legislation cannot come soon enough. I urge all my colleagues to recognize the urgent need for adoption of this legislation and lend it their full support so it can be enacted before next month's sine die adjournment.

RECOGNITION OF SENATOR ROCKEFELLER

THE PRESIDING OFFICER (Mr. LAXALT). Under the previous order, the Senator from West Virginia [Mr. ROCKEFELLER] is recognized for not to exceed 5 minutes.

COMPREHENSIVE NARCOTICS CONTROL ACT OF 1986

Mr. ROCKEFELLER. Mr. President, yesterday I joined a number of my colleagues in introducing the Comprehensive Narcotics Control Act of 1986, which proposes to wage a major battle against America's drug problem. I sincerely hope that the rest of the Senate, and the President, will help to secure the passage of this bill in the next several weeks.

A recent poll by the New York Times and CBS reported that the American people regard drugs as the country's No. 1 problem, and that they believe education must be a significant part of the effort to fight drug abuse. I have just spent a week meeting with constituents througout my State of West Virginia, and heard this over and over again. Everyone I talked to—parents, grandparents, school principals, police officers—said the same thing: "We need help and resources to carry out effective drug education and prevention programs in our schools and communities." The public wants Congress to take immediate steps to combat drug abuse, especially through education aimed at young people.

Mr. President, a key provision of our legislation is the Student Drug Abuse Education and Prevention Act. We propose to set up a nationwide program to distribute $125 million annually to States for drug education and prevention in the schools. States would use 20 percent of the funds to develop model curriculum, to train teachers and other school personnel, and to provide additional services to communities and schools needed to carry out effective drug abuse programs. The remaining 80 percent of the funds would be allocated to school districts in need of financial assistance to incorporate drug education into their curriculum. Our legislation requires schools to involve parents, and to work closely with health agencies, law enforcement officials, and other professionals experienced in drug abuse.

The school year has begun. Once again, children and teenagers are facing peer pressure to experiment with drugs. Countless young people are getting hooked on alcohol, on marijuana, on cocaine, and other dangerous drugs. The Federal Government has to help. Many schools cannot afford to attack the problem—they need expert advice, training, and financial assistance to persuade their students to say no to drugs.

I urge my colleagues to join us in supporting the Comprehensive Narcotics Control Act of 1986. The American people have every right to expect Congress to put the drug problem at the top of our agenda. Before going back to our home States, we must act on the drug crisis. A battle on all fronts—education, law enforcement, eradication, interdiction, and treatment—must be fought and it must be won.

Mr. President, I particularly commend Senator CHILES from Florida and Senator BIDEN from Delaware for their outstanding leadership on this task force which ended up yesterday in the introduction of the Comprehensive Narcotics Control Act of 1986. I very sincerely hope the Senate as a whole and the President will work toward securing passage of this bill during the course of the next several weeks.

During this past recess, I was back in West Virginia and I cannot tell you, Mr. President, how many people came up to me—parents, law enforcement officers, teachers—and simply said that they understood how bad the problem was in the New York Cities and Los Angeleses and Chicagos and other places but they hoped that we understand how difficult the problem also is in the rural parts of the United States of America. And that includes my home State of West Virginia. Crack is not as common in West Virginia as it is in some other places but we do have it in a number of our cities and that is a drug which is almost instantaneously addictive.

Another thing parents told me was that they understood they had a responsibility as parents and school systems and States had a fundamental responsibility, but that frankly they could not do it all by themselves; they needed to have the support and the help of the Federal Government. Mr. President, we are not really giving them that support up to this point. And that I think is what some of us want to see happen.

Part of the bill which we have introduced, Mr. President, has to do with education. I feel very strongly about that. Law enforcement people will tell you that whereas they hope that there will come a day when there is enough interdiction capacity and border capacity to stop the source of drugs, they know that fundamentally it has to be an American child's, American teenager's, American young person's willingness to say "no" to drugs, and that is going to come from two sources, from the home, from home and home values, and it is going to come from education.

Education has to take place in the schools, Mr. President, and that is one reason that part of this package is the Student Drug Abuse Education and Prevention Act. That is the education aspect of it.

In that part, we put $125 million into the distribution of money to our school system.

Mr. President, 20 percent of that would go to trying to find out what the best programs are in this country that work on drug education to train teachers and other personnel.

Let me give you an example. Massachusetts has first-rate education programs in its schools. Do those apply to a rural State like West Virginia? Where are the best rural programs in education that could be helpful to West Virginia? We do not really have any central collection body where this information becomes available to our people.

I want our school administrators from West Virginia to be able to know by going to a Federal source what are the best programs that are available to help us in West Virginia in terms of our drug problems.

Incidentally, it has to be something which works all the time. We are not talking about an occasional athlete coming in and talking to a high school assembly. We are talking about drug curriculum, in other words K through 12, every week of every month of every year of 12 years, all through high school, young people involved in drug curriculum education, so they know what the pharmacology of drugs are, what the drugs are, what the drugs do to their bodies and what drugs do to their minds, really, incremental long-term commitment to curriculum in high schools and public school systems so young people really know why it is they have to say "no" and they are educated as well as inspired to do that.

Twenty percent of the money would go to get what are the best programs, to develop the best programs if they do not exist. The rest of the money could go directly to the school districts so they could then take those best programs and put them to work on a continuing basis, kindergarten through 12th grade, week in and week out in the school system.

The problem is, Mr. President, the school systems do not have the money to do all of that now. For example, in West Virginia there is only 1 of our 55 counties which has a full-time drug coordinator, much less drug program or drug curriculum in our school system. So the school districts do need financial help, and 80 percent of the $125 million would go into that direct financial help to schools, but we would not give it to them continually for free.

Yes, in fiscal 1987 States would get 100 percent, but starting in fiscal 1988 States would have to pay more and by fiscal 1991 States would have to pay 25 percent of the cost.

In our legislation, Mr. President, we also require that schools involve parents, that they involve health agencies, that they involve law enforcement officials in this process.

Mr. President, the school year has begun. Once again children and teenagers are facing peer pressures with respect to drugs. It is a fact, Mr. President, that 50 percent of seventh graders, and seventh graders, mind you, say that they receive peer pressure to take drugs. So, therefore, a lot of people are now in the process of getting hooked on alcohol, on marijuana and on cocaine, and other dangerous drugs. The Federal Government, Mr. President, has to help in all of this.

Many schools cannot afford to attack the problem all by themselves. They need our help. We need to battle on all fronts: education, law enforcement, eradication, interdiction, and treatment, a battle which must be fought on all fronts and which must be won on all fronts.

I thank the Chair.

RECOGNITION OF SENATOR DECONCINI

The PRESIDING OFFICER. Under the previous order the Senator from Arizona [Mr. DECONCINI] is recognized for not to exceed 5 minutes.

Mr. DECONCINI. Mr. President, I thank the Chair.

I compliment the distinguished Senator from West Virginia, Senator ROCKEFELLER, for his participation in moving us in the direction that has been neglected for a long time, and that is education. Having been a prosecutor and involved in drug enforcement for a while, I think it is important that we not forget the fundamentals. I compliment the Senator for bringing this to the attention of all of us in this body and for his input in this effort that we introduced yesterday.

DEMOCRATIC NARCOTICS CONTROL ACT OF 1986

Mr. DECONCINI. Mr. President, 47 Democrats, colleagues of mine, yesterday joined in the introduction of perhaps the most comprehensive omnibus drug enforcement bill in recent history. The Democratic bill calls for $1.65 billion in new spending for a series of important antidrug initiative, including $645.3 million for increased drug interdiction and the increased use of the military in our war on drugs. It is the interdiction and military components of the bill that I want to address today.

Mr. President, for many years I have said that in order to launch a comprehensive war against drugs we need to attack the problem on multiple fronts. We need to increase interdiction. We need to accelerate drug education and treatment. We need to attack the drug problem in source drug countries. We need to beef up penalties for major traffickers. We need to improve our drug intelligence and investigative capabilities. And we need central, independent coordination of our drug enforcement agencies. If we fail in one, the other elements suffer. But I firmly believe that interdiction must play the major role in any drug enforcement effort by this Nation.

Mr. President, the bill that we introduced yesterday contains a total of $645.3 million for increased drug interdiction, including an additional $317 million for the Department of Defense to turn over badly needed air interdiction resources to the U.S. Customs Service. The military must play a larger role in providing equipment, intelligence, and support for our civilian drug enforcement agencies and par-

ticularly to the primary air interdiction agency, the U.S. Customs Service. This bill expands the military role in our drug war in a responsible, cost-effective manner.

Our interdiction portion of the omnibus drug bill also provides increased funding for the Coast Guard and the Customs Service directly. It adds 969 new drug enforcement officers to the Customs Service and 1,520 additional positions for the U.S. Coast Guard—our primary drug interdiction agency on the high seas. The interdiction title of the bill also provides both agencies with additional drug interdiction equipment; radars; voice privacy capabilities; aircraft; interdiction vessels; and training that will finally give these two key agencies the weapons to compete head on with a well-financed drug menace. By providing an additional $162.3 million for Customs and $104 million for the Coast Guard, we are finally giving these two agencies a fighting chance against the narcotics trafficker.

Finally, this bill contains two major innovations that are important planks in our comprehensive drug interdiction platform. First, we establish a United States-Bahamas Drug Interdiction Task Force that will, for the first time in history, allow the Government of the Bahamas and our Government to fight side-by-side against the drug smuggler who uses the Bahamas as a major drug transshipment point for trafficking cocaine, marijuana, and other drugs. Unlike the situation with Mexico, the Government of the Bahamas has agreed to allow "hot pursuit" by U.S. Customs drug aircraft into Bahamian territory to participate in the arrest of airborne smugglers. They have agreed to joint drug interdiction operations. They have agreed to a tough new extradition treaty with our country. For these reasons, we must provide the resources to make this task force successful. The Democratic drug bill does exactly that.

The bill provides $25 million to begin to establish, for the first time, a broad network of command, control, communications, and intelligence [C-3I] center around the country that will serve to coordinate our national drug interdiction missions and operations.

These tactical intelligence centers will finally provide us with the technology necessary to truly launch all available interdiction assets against the drug smuggler from California to New York.

□ 1010

Mr. President, not everything that we need for a comprehensive interdiction program is contained in the Democratic bill. But when combined with what myself, and others, have already provided in the Department of Defense authorization bill, 1987 (S. 2638) and in appropriations bills that have been reported from our committee, we will have established the solid underpinnings of a real drug interdiction "army" that will serve this Nation well for the next decade. I am proud to have authored the interdiction portion of the Democratic Narcotics Control Act of 1986.

But I want to urge that this is not Democrat or Republican. This is a step forward. I understand and anticipate with great expectation that the Republican leadership will introduce a similar program either this week or next week. Senator D'AMATO and myself, along with Senator CHILES, Senator HAWKINS, Senator DIXON, Senator MURKOWSKI, and Senator WILSON introduced a massive drug proposal on August 15. The time is right.

Some might say, "Well, is it election time that has brought all of this about?" I do not care what has brought it all about. Some of us have stood here for years and years, as the Senator from Nevada [Mr. LAXALT], who occupying the chair right now, has. And we know we have talked a lot and tried to get a lot of attention to various administrations and different agencies, and now it appears we have that attention.

We have an opportunity between now and the time of adjournment to do the first step toward the war.

I love quoting the chief of police of Los Angeles, Mr. Gates. When he was asked the question by Senator WILSON and myself in the hearings in Los Angeles, "Do we have a real war on drugs?" he said, "We have never had a war on drugs in this country."

He said:

> You politicians and perhaps some of us in law enforcement continuously talk about it, but we have never had a war on drugs because when you have a war you mobilize your country. You mobilize your military assets. You mobilize the civilian belief in the cause. You mobilize your civil resources in law enforcement and you have an objective and you go after it. We have yet to do that in this country.

So this may not really be a declaration of war, but at least it is putting together the pieces and the logistics that we can declare war. I am hopeful that the President will come forward with his program, which is badly needed, and will help. He can do so well to promote the education and enforcement and the public support for these antidrug programs.

I thank the Chair.

RECOGNITION OF SENATOR DODD

The PRESIDING OFFICER. Under the previous order, the Senator from Connecticut [Mr. DODD] is recognized for not to exceed 5 minutes.

Mr. DODD. Thank you, Mr. President.

THE COMPREHENSIVE NARCOTICS CONTROL ACT OF 1986

Mr. DODD. Mr. President, before proceeding with my own comments, let me join with my colleagues in commending Senator CHILES and Senator BIDEN; the leader, Senator BYRD, and others who have been so instrumental in trying to put together the package that has been alluded to by several of my colleagues, including, of course, the distinguished Senator from Arizona, Senator DECONCINI. I would point out to the Chair, that my colleague from Arizona has been involved in this issue for virtually his entire public career. Many people get involved in some of these issues, as they should, when they become important national questions. But others became involved in the days when you could not get two people from the press corps to listen to ideas of how to grapple with the drug problem. My colleague from Arizona is one of those leaders, so I want to commend him before he leaves the floor for his work in this area.

Mr. President, we have heard, of course, about all the various aspects of the legislation that was introduced yesterday. I am hopeful, as are all of us in this Chamber and in the other body, that we will have a Comprehensive Narcotics Control Act before we leave here at the end of September or early October. I think the iron is hot. The President certainly is deeply committed to this issue. And there is a bipartisan effort in this Chamber to come up with a sound and intelligent program that will marshal our resources well and not overpromise results to the American public.

I think we run a great risk, however, if we suggest we are going to solve this problem with just one bill. We make a mistake if we suggest we will take care of the drug abuse problem in this country by attaching x millions or billions to one bill. Because it is a long-term problem. And it is more properly termed a substance abuse problem.

We emphasize drugs or narcotics abuse, but we must not forget that alcohol abuse is also a major problem among younger people.

At any rate, the legislation proposed yesterday constitutes a good effort. It may be long overdue, but, nonetheless, I think it is only appropriate that we try to come to terms with this issue now.

Mr. President, I just want to focus, if I may on one aspect of the Comprehensive Nacrotics Control Act. My colleagues have spoken about education, interdiction, treatment, incarceration, several different penalties, and I support all those provisions in this legislation.

However, there is a group of young people in this country that are at far greater risk of substance abuse than

others. I call these the high-risk youth, because the chances that they will abuse drugs or alcohol is so high it goes right off the charts. That is not to say, obviously, that you can point to a map of the country and say "there is the drug problem." You find a drug abuse problem in rural America and in our ghettos; on the farm and on Wall Street: it is right across the country.

But there is a particular group of younger people in this country that are at tremendous risk. Those are the children who have been the victims of physical, sexual, or psychological abuse. They are the runaways, the teenagers who drop out of school before getting a diploma, the unemployed youth, the teen parents or children who are the parents of children, the so-called juvenile delinquents, and the adolescents who attempt suicide. There are some 10 million children in this country who fall into those categories.

The likelihood that a child who has been physically or sexually abused, who drops out of school, who is unemployed, or who is the teenage parent of a child will become a drug or alcohol abuser is just so much greater than it is for other children without such problems. So it seems to me, in a time of limited resources, we ought to try and target some of our dollars on those groups we know are at the highest risk. And the children at greatest risk are those I have just described.

We have heard a great deal in the news lately about the victims of terrorists. Yesterday, properly so, the Senate passed a resolution condemning the terrorist attacks around the globe. These tragedies occur almost by the hour, it seems, on a daily basis. Certainly it is appropriate and proper that we condemn resoundingly such attacks.

But there is another form of terrorism and it is going on right here at home. Because high risk children are hundreds of times more likely to die or be disabled by drugs and alcohol than injured at the hands of terrorists.

High-risk youth are not abusing drugs in a vacuum. Until we solve some of the underlying problems behind their predicament, I think we are condemning thousands of them to a lifetime of drug or alcohol addiction. In a sense, such children at risk will be the victims of an insidious form of internal terrorism unless we start dealing with underlying problems. Tragically, some of these victims will victimize others. This is not a victimless crime; just the abuser.

When a teen parent abuses drugs and gives birth to a child who is an addict at the moment of birth, that infant is also a victim, an innocent victim.

The elderly person walking down the street who is mugged by a child who is a narcotic addict of one form or another and is seeking money to pay for that habit—that elderly person is a victim. This is the price we are paying. The victims of drug abuse are getting younger and they are victimizing others.

I went undercover in the State of Connecticut last year with local drug enforcement officers one evening just to watch the drug sales and transactions.

You can buy cocaine in my State of Connecticut, in nice Connecticut communities, faster on a street corner than you can get a hamburger at McDonalds. The drug problem is not just in the ghettos. It is in some of the most affluent suburbs and communities of my own home State.

I spoke to a 14-year-old boy who had started drinking at the age of 8. I listened to a young girl who had abused cocaine, angel dust, alcohol, marijuana, uppers, downers, and LSD, all by the time she was 14 years old.

I saw a 12-year-old earning more money by hawking drugs on street corners in my home State than he could ever hope to earn at a part-time job—money that he and others like him took home, I would add, to try to help make ends meet in some of their own family situations.

□ 1034

So the time to do something about "high risk youth" is now. Chances are, in my view, that we will never have a better chance to get something done in the Congress on this issue. I hope we will be able to focus some of the dollars we will be speaking about in the coming weeks on the children at risk.

Experts in my State have testified that if a child who abuses drugs stays in school, there is an 85 percent chance of curing that child. If such young people stay in school, we have an 85 percent chance of helping them get off drugs and stay off them. The minute a child drops out of school, those statistics drop to 15 percent. In other words, there is only a 15 percent chance that school dropouts will ever get off drugs. So it is very important that we have a good sound educational program.

I would add as an aside, Mr. President, that I am delighted the President signed the other day a resolution I authored that will declare this October 6th as National Drug Abuse Education Day. On October 6th, from 8 or 9 in the morning until the end of the day, the entire curriculum of every school in this country from Maine to California—from public and private elementary schools right through the university, will be focused on drug and alcohol abuse prevention. It is not much. But it will hopefully start to focus attention on what needs to be done—And, we need to get concrete help to high-risk youth by funding solid prevention and treatment programs in the communities where they live. I think we could accomplish a great deal by helping set up after-school programs in the inner cities, so we can keep 8- and 10-year-olds from having to make their alleyways where drug pushers stay their playgrounds.

We also need to help the victims of child abuse so that they do not have to turn to drugs as a way of shutting off painful memories.

Mr. President, this proposal to target high-risk youth spends $50 million on prevention and treatment programs.

Even by conservative estimates some 10 million people, as I said at the outset, will fall into the high-risk category—so we would be spending $5 a child. That is hardly enough. But it is a targeted effort.

Again, the high-risk youth provisions are only one piece of the larger bill. I am confident as I stand here this morning that before this Congress adjourns sine die in 1986 the American public can count on the Congress and the President signing into law a comprehensive, first-step effort.

We talk about wars on drugs. All wars in the minds of many people have beginnings and endings. Some are longer than others. I think it is important that we stop using the language of war when we refer to the problem of drug and alcohol abuse, although it is appealing and has a certain amount of clarity to it.

But the drug problem is not a problem that we are going to solve in a year, 2, 5 or 10. It is going to be with us as far as I can tell for the foreseeable future. If we think about it in terms of a long-term, persistent problem we are going to have to address year in and year out, then I am more confident that we will put in place appropriate programs. We will have to deal with this issue over the long term, and not at least create in the minds of many people that one piece of legislation years for a 5-year period is going to solve the problem. I do not believe that is the case. I do not think we will help our cause if we try to create that impression. In my own mind, this is going to be a problem for as far as the eye can see, well into the next century. My hope is, again of course, that we will adopt the legislation that was introduced yesterday or something very much like it in the coming weeks.

Mr. President, I thank the Chair. I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF SENATOR BENTSEN

The PRESIDING OFFICER. Under the previous order, the Senator from Texas, Mr. BENTSEN, is recognized for not to exceed 5 minutes.

NATIONAL SECURITY AND FOREIGN OIL

Mr. BENTSEN. Mr. President, our Nation is the largest economy in the world. And we are the leader of the free world. That position carriers with it responsibility. And that responsibility imposes a burden I am not sure all of us are willing to face.

Twice in the last 13 years, our Nation and the free market economies allied with us have been successfully embargoed by the Organization of Petroleum Exporting Countries, or OPEC. It was not wood shingles or textiles or steel that our citizens lined up for miles to buy. It was oil.

The decision by OPEC to unsheath the oil weapon was a direct challenge at U.S. foreign policy. By depriving us of oil and lubricants, OPEC sought to sway our foreign policy. That did not work. But their embargo brought home to at least this Senator the fact that our Nation is vitally dependent on oil.

During the embargo, the Defense Department was frantically scrambling for alternative sources of oil and lubricants. Oil-sharing agreements with our allies were discussed. We began a major reorientation of our foreign policy to secure friends in the Middle East. We even began painting our armored vehicles desert brown. And we are taking millions of barrels of oil out of one hole in the ground and pumping it back in another hole just to ensure that our national security will not be jeopardized the next time we are threatened with the oil weapon.

The first OPEC embargo shocked our Nation. Yet, our total dependency on foreign oil in 1973 was 37 percent—and OPEC was providing 18 percent of this Nation's total oil consumption. Let me give you those numbers again. In 1973, when OPEC tied up this Nation and threatened our national security, oil imports comprised 37 percent of consumption. And OPEC supplied only 18 percent of that consumption.

Right now, today, our oil dependence is higher. That's right; higher. It was 40 percent last month. Even more alarming, our reliance on OPEC is rising once again to the levels we endured in the seventies.

After the first embargo, the air was filled with oil diversification schemes. But all that talk of diversification of supply notwithstanding, we have found that the only place to buy foreign oil in the quantities we need is OPEC. We talked bravely back in the seventies of new oil from Brazil or China, or oil from India and Malaysia. Well, I looked this morning at the Department of Energy's latest Monthly Energy Review. And I did not see those nations listed among our major oil suppliers up there with Saudi Arabia. In fact, I did not see them listed at all. They are asterisks in the world oil market. And that is why U.S. oil imports from OPEC are up 40 percent this year over last. And that is why OPEC oil comprises 14 percent of total U.S. consumption now, with the share rising monthly.

Our dependence on OPEC and the risks that is poses to national security are rising because we have not taken OPEC seriously. OPEC told us last winter they intended to drive world prices down in order to drive competitors out of business and expand OPEC's market power. That is exactly what they have done. They talked about limiting North Sea production. Why, I do not know. Production there will start declining on its own next year anyway. As a result, the major casualty of OPEC's market dominance strategy has been the U.S. oil industry—the world's largest free oil industry.

And that industry has been hit hard by the collapse in prices. According to Salomon Brothers, exploration and production spending is off 39 percent for the majors and 48 percent for the independents. Wildcatting is down so much that we will be lucky to bring in 1 new wildcat this year for every 10 brought in just 2 years ago. Drilling activity has fallen to the lowest levels recorded since early 1942 when every resource at hand was diverted to the war effort. And the only reason it has not fallen even further is that oil firms are tied into contracts which require them to drill or forfeit oil leases. Even so, drilling is barely one-sixth the peak level recorded in 1981. And my good friend George Mitchell, chairman of Mitchell Energy and Development Corp., now expects total energy exploration and development spending to only hit $17 or $18 billion this year, Compared to nearly $56 billion as recently as 1981.

OPEC price cutting burned like a firestorm through our vital oil patch. In my State of Texas, unemployment rose over 50 percent to 10.5 percent in June from 6.4 percent in January. The rate has eased somewhat since, but there are nearly 200,000 more Texans out of work now than in January as a direct result of OPEC's strategy. National data shows that 140,000 jobs have been lost since last year in oil and gas extraction alone. And many were in Texas. These lost jobs created ripples which continue to roll through Texas. Unemployment is 19.6 percent in Odessa in the heart of the oil patch. The vacancy rate for apartments and businesses in Houston is the highest in the United States. Real estate foreclosures in Dallas County surged 33 percent in August to record levels. Home sales in Texas during the second quarter fell 8.4 percent. And home values in the hardest hit areas of Texas are off as much as 20 percent this year. Over the last year, 24,500 new apartments were built in Dallas, but only 14,000 new units were rented. Moreover, declining receipts have pushed State and local budgets deep into the red all across the Oil Belt.

A large share of U.S. production comes from stripper wells producing less than 10 barrels daily. Dr. William Fisher from the University of Texas has studied our vulnerable stripper well production outlook. He found that tens of thousands of these small-volume wells will be shut down if prices remain below $15 per barrel. By 1990, U.S. production will be down one-third as a consequence. Other forecasters are showing the same thing. Put simply, the domestic oil industry is closing uneconomical wells as soon as they require the slightest additional maintenance outlay. They are not finding new reservoirs. Prudhoe Bay will begin to decline next year. And our oil industry is unable to bear the tremendous expense of finding new reserves to even keep pace with declining reservoir production.

That means falling U.S. production. Production here is already down 230,000 barrels per day this year. Yet, at today's low prices, demand is up a sharp 800,000 barrels per day. Imports are filling the gap. Those imports are coming from OPEC. And experts in the oil industry, at CBO, at the Library of Congress, and in the White House agree that foreign oil—and that means predominantly OPEC oil—will be the source of half of all U.S. consumption as soon as 1990. In the next year or two, we will become even more vulnerable to an OPEC embargo than we were in 1973—an open invitation for OPEC to once again unsheath the oil weapon.

We need not let our national security deteriorate in that fashion.

The administration is aware that rising imports from OPEC pose a national security threat. Admiral Poindexter, the President's National Security Adviser, acknowledged in a recent letter that there is "an emerging national security concern related to oil production in the Persian Gulf," and that by the early 1990's, "the Persian Gulf will once again become the major supplier to the free world." He noted that low prices are likely to boost oil imports from an average of 4.3 million barrels a day in 1985 to 7 to 10 million barrels a day in the early 1990's. He

also asked that the present tax treatment of domestic energy firms be continued. He went on to conclude that raising oil industry taxes could cost the United States up to 700,000 barrels daily in lost production and higher oil imports.

Mr. President, I ask unanimous consent that Admiral Poindexter's letter appear following this statement in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit No. 1)

Mr. BENTSEN. Now is the time for us to come up with some solutions.

That is the purpose of the resolution I am introducing today. And I also ask unanimous consent, Mr. President, that the resolution appear in the RECORD following this statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit No. 2)

Mr. BENTSEN. My resolution requires the administration to prepare a national petroleum security plan by year's end to prevent further erosion in our oil independence and our national security caused by rising oil imports. The resolution does not tell the administration how to ease our rising dependence on oil imports. I have my own ideas on that. But I want to leave the door wide open if a better idea exists.

All my resolution really does is put the administration on alert that Congress expects results from them; it expects administration deeds to match administration rhetoric. Congress wants the administration to propose solutions to the national security problems it acknowledges to exist with rising oil imports.

To my mind, for example, any solution should attack both the demand side and supply sides of the oil equation.

And I refer the administration to the excellent testimony presented to the Finance Committee on August 13 by former Defense Secretary Harold Brown who urged that an oil import fee be imposed for national security considerations. That is my preferred option, as well. But as I say, there are a number of solutions the administration can propose.

Let me close by noting that the administration seems to be more alert and sensitive to the realities of the present day security threat posed by a weak domestic oil industry. That is a good first step. My resolution is designed to encourage them to take the second step—to join the national debate at a serious and constructive level on how best to prevent further erosion in our energy independence. They have a key role to play in that debate.

We cannot wait until 1988 or 1989 to worry about OPEC. We need to deal with OPEC now. My resolution can be the first step.

EXHIBIT NO. 1

THE WHITE HOUSE,
Washington, August 5, 1986.

Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I want to take this opportunity to raise with you an emerging national security concern related to oil production in the Persian Gulf. The low oil prices we are now experiencing have and will continue to benefit the U.S. economy through more rapid growth and lower inflation. In turn, lower prices stimulate oil imports and hence a resurgence in oil production from the Persian Gulf. Sometime in the early 1990's we are likely to see our oil imports rise to 7 to 10 million barrels per day and the Persian Gulf will once again become the major supplier to the free world.

The Persian Gulf is likely to remain an unstable region as we enter the 1990's. We cannot ensure against this instability merely by purchasing oil from non-Gulf sources. We live in a single, highly integrated world oil market. Any disruption of supplies is quickly realized by all oil-importing countries through higher prices and large GNP losses which are exacerbated by higher oil imports. In addition, a major oil disruption will place severe strains on our entire range of political-military resources.

The President has stressed over the last few months the importance of a viable domestic oil and gas industry to our national well being and energy security. As you are well aware, the dramatic oil price collapse of the past six months has severely hurt the oil and gas sector. Drilling activity is at a 46-year low with the latest rig count of about 700 in use, compared to a 1981 peak of 3970.

These trends underscore the critical importance, in my view, of retaining existing incentives for oil and gas exploration and development for the oil industry. To reduce the current depletion allowance of expensing of drilling costs would place an additional burden on an industry which is an important contributor to our security. Analysis by the Department of Energy indicates that retention of these incentives could avoid the loss of as much as 700,000 barrels per day of domestic oil production.

I ask that you keep these national security concerns in mind as you proceed with tax reform legislation.

Sincerely,

JOHN M. POINDEXTER.

EXHIBIT NO. 2

S. RES. 488

Whereas, the national security of the United States is directly related to the maintenance of secure and reliable supplies of petroleum and lubricants needed for national defense and economic growth;

Whereas, the only strategic commodity which has been embargoed and supplies withheld from the United States in recent years is petroleum;

Whereas, the collapse of domestic petroleum prices is reducing exploration and production, and increasing demand, causing foreign petroleum imports to rise dangerously to 40 percent of consumption in July from 27 percent in 1985;

Whereas, the surge in imports has occurred primarily from OPEC nations which are supplying 43 percent of all United States imports;

Whereas, the President's National Security advisor has acknowledged that such rising American and free world dependence on OPEC oil supplies threatens United States national security; Now therefore be it,

Resolved, That the President shall prepare and submit a National Petroleum Security Plan to Congress by December 31, 1986, designed to prevent further erosion in United States oil independence and national security caused by a growing reliance on unsecure foreign sources of petroleum.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business, not to extend beyond the hour of 10:30 a.m., with statements limited therein to 5 minutes each.

Mr. BENTSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WEICKER. Mr. President, I ask unanimous consent that the call for the quorum be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE COMPREHENSIVE NARCOTICS CONTROL ACT

● Mr. BIDEN. Mr. President, I rise with several of my colleagues to speak in support of S. 2798, the Comprehensive Narcotics Control Act of 1986, which was introduced by the Democratic Working Group on Narcotics, and which has received the unanimous support of all 47 Senate Democrats.

This bill represents what the Senate Democrats believe is the necessary legislation to commit the Federal Government to a long-term strategy to reduce drug abuse in America. Both Houses of Congress, both political parties, and the administration are working on major legislative proposals relating to drugs. S. 2798 is the contribution from the Senate Democrats, and I think it is a well considered and tight piece of legislation.

Rather than speak to the specifics of this bill, which each of my colleagues have addressed and I complement them for their contribution to this bill, I would like to address some of the attitudes and perceptions that have taken hold in this city in our recent efforts to reduce drug abuse. Their is a great deal of skepticism surrounding the congressional response to the drug issue, fueled by the belief that the issue will fade after the November elections. In response, I'd like to make two points. First, the American people have clearly spoken as to their concerns about drugs. Recent

polls have shown that Americans are more concerned about solving drug abuse than they are about tax reform. For too many Americans, drugs have touched their lives in miserable ways, either directly, or through their families and friends. This, coupled with the tragic deaths of two major sports figures, has brought home the real dangers of drugs. It is time for Congress to respond decisively to what all Americans are saying; help us solve this scorching problem. We must take advantage of this mood. As one who has been working on the crime and drug issues for nearly a decade, I think that there is now a unique opportunity to move drug legislation, and we must not let it pass. The merits of this legislation provide a point from which to begin.

The second point I'd like to make is about the need for both parties to work constructively on this issue. The American people are understandably skeptical about "political" solutions to the drug problem. The rhetoric and hyperbole in the past in which we have declared war on drugs, that have failed or left hollow promises, have lead to this skepticism. Further, some are trying to paint the drug issue as a political issue, a point that is difficult to refute given the coming elections in November.

We cannot let this happen. We need to work together in passing a meritorious Senate drug bill. Not long ago, colleagues from both sides of the aisle worked together—negotiating, compromising—but above all, cooperating, in moving the most significant Criminal Code reform in this Nation's history. As one who was involved in that process in 1984, which was also an election year, I know that we can go beyond politics and pass meaningful legislation of this kind. In 1984, we did it. This year, we must do the same.●

TRADE AGREEMENT ON PASTA WAR

Mr. KASTEN. Mr. President, I rise today to comment on a tentative trade agreement that was reached between the United States and the European Economic Community recently. The agreement is supposed to settle the so-called "pasta war" that developed over the EEC's subsidization of pasta exports to the United States and a related dispute over our exports of citrus products to Europe.

I object to the fact that America's dairy farmers will pay the price for settling a dispute that they have nothing to do with. Under the terms of the proposed settlement, European concessions on pasta and citrus will be paid for by an increase in imports of Portuguese and Italian-type cheeses.

The agreement calls for an increase in the quota for Italian-type cheeses of 1,572 metric tons per year. The quota for Portuguese cheeses would be raised by 353 metric tons per year. Together, this represents an increase of almost 4.5 million pounds, with a milk equivalency of about 45 million pounds.

I have nothing against the idea of reaching a solution to the pasta and citrus disputes with the EEC. But I must point out that increasing dairy imports inevitably means the displacement of cheese produced from domestic sources. This, in turn, leads to increased outlays under the dairy price support program.

Mr. President, our dairy farmers are doing their best to bring supply in line with demand. Over the last few years, they have endured more cuts in Government price supports than producers of any other program commodity. They have paid assessments to reduce the cost to the Government of the price support program. They have paid assessments to fund a promotion and research program—all of this as part of a continuing effort to cut the cost of the price support program.

In this context—and in the context of the budget deficit—increasing cheese imports makes no sense. It undermines everything our dairy farmers have done to reduce the cost of the dairy program. The fact that Europe's dairy industry produces cheeses with the aid of heavy Government subsidies only adds insult to injury.

We ought to be able to do better than this. It should be possible to combat unfair European trade practices without increasing the cost of our own agricultural programs and doing injury to our own dairy farmers.

SENATOR DOLE: THE OUTSTANDING LEGISLATOR OF THE 99TH CONGRESS

Mr. SIMPSON. Mr. President, the U.S. Senate and our colleagues in the other body of Congress have, over the last 33 years, benefited considerably by those selected to be interns in a program called the Congressional Fellowship Program, run by the highly respected American Political Science Association.

Many of us in this Chamber today either currently have or have had the good fortune to be assisted by a Congressional fellow for up to 5 months or more. Congressional fellows have given us some new and crisp insights into the broadest possible range of legislation, they have brought fresh problem-solving approaches to our personal staffs and our committee staffs, and many of them have remained in contact and have kept us right up to speed after their year on the Hill.

This wonderful program began in 1953, and since then there have been a total of 1,167 fellows, including 209 political scientists, 165 journalists, 561 Federal executives (from grades 13 to 16), and 232 medical faculty and others.

Recently these former congressional fellows received a ballot in the mail to select one of our Members to be awarded the coveted title "Outstanding Legislator, 99th Congress." And out of the 100 Senators and 435 Representatives, the alumni of this outstanding professional level internship program selected our fine friend, able majority leader, and colleague, Senator ROBERT DOLE of Kansas.

If we were to have a similar vote today on the floor of the U.S. Senate, I hunch our result would exactly echo that of the former Congressional fellows. These alumni formally presented this honor to Senator DOLE on the evening of August 28, during the annual convention of the American Political Science Association here in Washington, DC. A superb honor for a superb gentleman.

I would like to offer my congratulations and the congratulations of the Congress to Senator DOLE on his receipt of his splendid honor.

THE DEATH OF HARLEY M. DIRKS

Mr. HATCH. Mr. President, sadly, I rise today to inform my distinguished colleagues of the loss of a good friend to us all.

On August 28, Harley Dirks, a man whom we had come to recognize as a persuasive voice for the sick and the needy, passed away after a long and valiant struggle with cancer—a struggle, I might add, he faced with the same faith and courage he had shown throughout his life.

Mr. President, Harley's life and his legacy is rooted firmly in the belief that the highest work of any man is to protect and help those less fortunate. And to Harley was given the almost unique gift of enriching and enlarging that credo. Armed with an uncanny ability to get to the heart of any issue, he brought compassion and an understanding to some of the most difficult problems of his time.

Harley Dirks first came to the Senate some two decades ago. As he told the story, Harley left his home in Othello, WA, to take a short-term job working for that State's senior Senator and our former colleague, Warren G. Magnuson. But as so often happens, that short-term assignment was soon transformed into a permanent position of the Senate Appropriations Committee, where Harley served as staff to the HUD and Independent Offices Subcommittee. Soon afterward, he assumed the role of staff director of what was then the Labor-HEW Subcommittee.

While most of my colleagues had come to think of Harley as a spokesperson on health issues, the fact is

that his sphere of concern and involvement went far beyond medicine and health. From his vantage point on the Labor-HEW Subcommittee, Harley's counsel to its members helped to launch and sustain most of what he called people programs. As the record shows, during his tenure Harley Dirks played a major role in the funding of the Head Start Program for preschoolchildren, compensatory education for disadvantaged elementary and secondary students, the college student grant and loan programs, rehabilition programs for the disabled, and employment and training activities.

Now it may seem odd for a good conservative like me to hail this fellow who championed so many new or expanded Federal programs. A few years ago at a hearing, Harley asked if he could have his picture taken with me, but he warned me he was an old liberal. I told him I would be pleased to have my picture taken with him, but that he should carefully consider what it might do to his reputation. He persisted, and I'm glad to have this remembrance of such a fine man. He was a man of compassion and judgment and there were many more points, I believe, on which we agreed than on which we differed.

Mr. President, it is impossible to put anyone's life into words. Perhaps the best I can do is to say that Harley's life was guided by one important principle—that the divine spark which unites us will always prove more enduring than the forces which divide.

I know that I am speaking for all of my colleagues in expressing our deep sense of loss. Harley's dedication, his untiring labors on behalf of the needy, and, most of all, his courage stand in his tribute. His wisdom, compassion, and kindly strength have bequeathed to us all a strong legacy of purpose and courage.

I want to extend my deepest sympathies to Harley's wife, Ruth Sanchez Dirks, who currently serves the administration as Deputy Director of the Office of Adolescent Pregnancy Programs at the Department of Health and Human Services, and to his children. He will be greatly missed.

VIEWS OF FORMER SECRETARIES OF TRANSPORTATION ON AN EXEMPTION FROM FEDERAL LAWS FOR HAWAII INTERSTATE H-3

Mr. STAFFORD. Mr. President, the Senate will be considering S. 2405, the Federal-Aid Highway Act of 1986 shortly. An amendment may be offered to provide an exemption from section 4(f) for the H-3 interstate project in Hawaii.

I have strongly opposed such an exemption from this major Federal law for this highway for a number of reasons.

I have received letters from two past Secretaries of Transportation, Mr. Alan S. Boyd, who served as Secretary during President Johnson's administration, and Mr. John Volpe, who served during President Nixon's administration. I believe they describe very well some of the reasons to vote against this far-reaching exemption. I ask unanimous consent that the two letters be printed in the RECORD at this point and urge my distinguished colleagues to carefully consider the points made by former Secretaries Volpe and Boyd.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NATIONAL TRUST FOR HISTORIC PRESERVATION,
Washington, DC, July 7, 1986.

Hon. ROBERT T. STAFFORD,
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC

DEAR MR. CHAIRMAN: As the nations's first Secretary of Transportation, I honored and all my successors have continued to honor, a Congressional directive to preserve our natural and cultural environment. This directive comes in Section 4(f) of the Department of Transportation Act of 1966. This Section directs each Secretary to deny approval to any transportation project that would involve the destruction of parks, historic sites and other heritage resources unless there are no feasible or prudent alternatives.

Following twenty years of successes, it is my understanding that your Committee will be asked to approve an amendment to exempt an Hawaiian highway link known as H-3 from Section 4(f) during your upcoming mark up of S. 2405. If approved, I believe that this would be the first ever exemption made to Section 4(f). On behalf of the National Trust for Historic Preservation, I urge you to reject this unwise precedent.

Were the Committee to agree to this exemption, the Committee would be inviting future exemption requests. Inevitably, the Committee would become embroiled in dozens of controversial transportation projects where, as here, arguments of transportation necessity are placed against evidence of direct and severe destruction of environmental and historic resources.

Congress acted wisely in creating Section 4(f) to set a clear and unequivocal standard and to place enforcement of that standard in the hands of the Secretary of Transportation. For twenty years every state, country and municipality has had to meet the strict test of Section 4(f). In that time it has protected hundreds of sensitive environmental areas and thousands of historic resources. No one project is more important than the continuing integrity of Section 4(f) and the places it protects. An exemption amendments, if offered, should be rejected.

Sincerely,

ALAN S. BOYD,
Chairman.

JULY 14, 1986.

Hon. ROBERT T. STAFFORD,
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: It is my understanding that your committee will be asked to exempt Interstate H-3, a 10.7-mile interstate highway project through the Koolau Mountains on the Island of Oahu, from coverage under Section 4(f) of the Department of Transportation Act, 49 U.S.C. § 309. As a former Secretary of Transportation, I urge you to oppose this proposed exemption.

In the twenty years since Section 4(f) was enacted in 1986, no exemption have been granted. As Secretary of Transportation, I supported the uniform application of Section 4(f) to all federally-assisted transportation projects and both my successors and predecessors have done likewise. Now is not the time to establish a precedent of selective application. Moreover, an exemption for H-3 would be overturning a court decision upheld by the United States Supreme Court. Apart from the adverse precedential effect such an exemption would have on future 4(f) projects, respect for our judicial process argues against this proposed amendment.

Every Secretary of Transportation has struggled to implement Section 4(f) in a fair and uniform manner, often in the face of strong political pressure to provide exceptions. The ability of a project proponent to circumvent this law through a legislative exemption would seriously undermine the ability of any Secretary of Transportation to enforce our federal transportation laws in a consistent manner. I urge you, and your committee, to reject any proposed 4(f) exemption for Interstate H-3.

Sincerely,

JOHN A. VOLPE.

COMPREHENSIVE ANTIDRUG LEGISLATION

Mr. KERRY. Mr. President, I join my colleagues today in highlighting the importance of the comprehensive antidrug package which was introduced yesterday, ending a long period of discouragement and lack of decisiveness on the part of the Federal Government. The Comprehensive Narcotics Control Act of 1986—S. 2798—is the product of the Democratic working group on drugs, whose diligent efforts has provided us with a broad offensive toward the war on drugs.

Despite the pressing legislative agenda that confronts us during the final weeks of this session, a constructive and comprehensive policy to combat drugs could not be delayed any further. The levels of use and abuse of drugs in our society are equal to or higher than those found in any other industrialized country and within our country every community has felt its impact. As we have tried to respond in the past to select aspects of the drug problem, the use and abuse of narcotics has continued to spread and change with remarkable speed. This legislation recognizes that organizing prevention programs and curtailing trafficking will not be achieved through any single effort, but through an initiative that responds to the complexity of the problem.

S. 2798 responds to the desparate need for coordination and leadership on the Federal level by establishing a coordinator of antidrug programs. It

enhances our enforcement network by making needed changes: at the intelligence level through information sharing with the State and local enforcement agencies; at the personnel level by providing additional funds and equipment; and at the judicial level by strengthening criminal penalties for trafficking, money laundering, and designer drugs.

The bill authorizes long overdue changes allowing for greater use of the Department of Defense and Coast Guard personnel for interdiction and doubles the Custom's Service air interdiction fleet. Title V of S. 2798 begins to tackle the subtle complexities of international narcotics control through the use of tools like tariffs, visas, and extradition treaties, as well as strengthening our antidrug activities in international organizations.

And finally, no serious narcotics control package would be complete without stepping up our assistance to drug education programs, while expanding treatment and rehabilitation services. The very human side of this problem reminds us of the tremendous impact drug abuse has on individual lives and functioning of families. The education and rehabilitation program serve to alleviate this impact and they are especially crucial. The education programs must begin with our very young if demand is to be reduced, while the rehabilitation programs continue to help individuals seek a better future.

In this regard, I am especially pleased that S. 2798 includes a proposal I introduced early last month to make Federal forfeiture funds available for drug abuse education and prevention programs. Our law enforcement authorities seize over $1 billion in drug trafficker's assets each year—cash, stocks, bonds, and real estate—but the money is not going to help reduce demand for drugs. I believe it makes a great deal of sense to use drug pusher profits in our attempt to meet the challenges before us and consider this proposal to be a integral part of the comprehensive package.

In closing, I would like to point out that it is not just a coincidence that the bill includes many of the recommendations by Massachusetts Gov. Michael Dukakis made recently in his testimony before the Congress. The Governor's Alliance Against Drugs has successfully enlisted more than 200 communities in the Commonwealth in a unified and comprehensive effort to combat substance abuse by young people, but without changes on the Federal level many hurdles remained.

S. 2798 tackles these hurdles and I am confident that with its prompt passage we will finally have the Federal, State, and local alliance that has been so sorely needed. As the many speakers today outline the challenges this grave problem has placed before us, I hope all Members of this body will become convinced of the necessity of this bill. I urge its adoption.

NEW LEGISLATION TO COMBAT DRUGS

Mr. LEAHY, Mr. President, I rise to express my strongest support for a major new legislative initiative to fight drugs—the Comprehensive Narcotics Act of 1986. I am especially proud to have been appointed to the task force that drafted this package. If adopted in full, it would dramatically change the stakes in a war we are losing.

I believe this is the most comprehensive, hard-hitting antidrug bill ever written. Its 200 plus pages and $1.65 billion price tag reflect the magnitude of the problem we face. The task force, and particularly our staff who worked so hard to put this together during the past 4 weeks, deserves praise for writing a bill that takes a full swing at the drug problem from every angle—source eradication, interdiction, enforcement, education, treatment, and rehabilitation. It's all here.

And not just in the form of new reports to Congress and token funding to solve problems we all know require a major commitment in resources. The money is in this bill, as it must be.

Drugs have infested this country like a plague. They are in our schools and in the workplace. They are killing our children, destroying families, and ruining careers.

Drug abuse among young people has spread to all parts of the country and entered every segment of society. More and more children from families of all income levels, from rural as well as urban communities, are smoking marijuana, using cocaine, and experimenting with other dangerous drugs.

My own State of Vermont is not immune from this plague.

Last year, the Vermont State Police investigated over 400 cases involving the sale or manufacture of drugs. There were another 838 investigations involving the possession of regulated drugs.

From 1983 to 1984, cocaine related deaths increased 77 percent nationwide, while requests for treatment for cocaine use have risen 600 percent in the past 3 years. Thousands of individuals were arrested for selling drugs in the close vicinity of elementary schools.

Drug merchants are now pushing a new craze that is sweeping the Nation. It's called crack. Crack is available to the young, and it will be in the schools this fall. I have heard horror story after horror story involving children as young as 9 who are already crack users. The sellers also use these young children as lookouts and as workers in houses that manufacture crack. One hit costs just $10. Users say addiction can begin after only the second use of crack.

As a member of the Judiciary Committee I have supported bills to address specific aspects of the drug problem. Some have been incorporated into this package, to combat money laundering and designer drugs. But we need a comprehensive strategy that attacks drugs from their source to their youngest victims.

I won't take the time to describe the many provisions of this bill. My colleagues on the task force have already done a fine job of that. I will limit myself to mentioning three sections I am particularly pleased about.

The first is the new section on forfeiture. Fighting drugs is expensive. In interdiction alone, Customs and Drug Enforcement Administration officials say they only have the equipment and manpower to intercept a tiny fraction of the drugs that are crossing our borders. Two years ago we enacted the drug forfeiture laws which provide for the seizure and forfeiture of the profits of drug traffickers and property used in connection with selling drugs—businesses, airplanes, and so forth. But under those laws, no more than $10 million of forfeited assets can be used to fund antidrug programs. This bill removes that cap, and provides that all money remaining in the Department of Justice and Customs Forfeiture Funds after paying administrative expenses, shall be used to fund Federal and State drug programs—for law enforcement, education, treatment, and rehabilitation. This program is expected to net $150 million in 1986, to help pay the cost of this bill.

The other parts of this bill I want to make special mention of are those that deal with education and drug abuse treatment and rehabilitation. We need to deal with the demand for drugs as well as the supply.

The Administrator of DEA has called prevention the long-term solution to the Nation's drug problem. I agree. I support longer jail sentences for traffickers and better equipment to catch them, but for too long we have neglected what I believe should be the cornerstone of our fight against drug abuses—education of our children about the dangers of drugs, and treatment for drug abusers.

This bill attacks these monumental tasks head on. It commits the Federal Government, for the first time, to a long term drug abuse education effort, by creating an office of Drug and Alcohol Abuse Education and Policy in the Department of Education.

Education is vital—parents, teachers, and school administrators have to intervene betwen children and drugs. We need to act before the drug problem begins. The "do drugs" message school children receive from their peers, and the easy access to drugs in our society, must be stopped. Instead,

we need to send a stronger message to our children—"drugs kill."

This bill authorizes $150 million for education—that's 50 times what is being spent today. Every school age child will be made aware of the dangers of crack in this school year.

It authorizes $394 million for treatment and rehabilitation, which today can cost tens of thousands of dollars per individual per year. Everywhere I go I hear stories of children waiting to get into treatment programs. There are very few families this plague has not touched. The public wants treatment to save the lives of the tens of thousands of their relatives and friends who suffer from drug abuse. It is no longer enough to raise criminal penalties and hire more DEA agents.

That's what makes this such a strong bill. It was written with the view that no part of the drug problem can be treated lightly. If we are going to win this war, we have to fight it on every front.

A lot has been said about how to fight drugs since the sixties when they became a fixture in American society. The problem has only gotten worse. Today cocaine is in our elementary schools. The coming of crack was the last staw for those of us in Congress who for years have urged stronger action.

The administration has not matched its rhetoric with action. This is not a problem Nancy Reagan can solve on her own, as much as I wish it were. It is not enough for her to tell kids to "just say no." It's time she had the full backing of the Congress and the administration.

Today the Congress has taken the initiative. This bill inaugurates a long range strategy. It will take a massive effort. Not just by government, but also by the private sector, the medical community, religious institutions, by teachers and school administrators, and most importantly, by parents. I am proud to have been part of the task force that produced this package, and I urge the Senate to make this a priority in the remaining weeks of this session.

TRIBUTE TO W.B. CAMP

Mr. THURMOND. Mr. President, I was deeply saddened to learn of the recent passing of my dear friend and fellow Clemson College alumnus, Wofford B. "Bill" Camp, of Bakersfield, CA.

Bill became known as the cotton man for his development of modern-day cotton farming. He often was heard to say, "I was born in a cotton patch," referring to the fact that cotton was the crop that supported his family of four brothers and three sisters. Ironically, Bill was born on March 14, 1984, the 100th anniversary of Eli Whitney's cotton gin. He financed his college education at Clemson College by saving the money he had earned plowing cotton and cornfields for 40 cents a day in wages.

Upon graduating from Clemson in 1916, he was chosen by the U.S. Department of Agriculture during World War I to head a pioneering experiment in cotton farming in California. The war effort needed long-staple cotton for fabric used around the frame of fighter planes, and the boll weevil was destroying the Sea Island cotton of South Carolina and Georgia. Bill got in his model A Ford with 32 bags of cottonseed and headed west to grow cotton in the weevil-free West.

He settled in the then-isolated San Joaquin Valley in southern California and persuaded farmers to set aside a few acres to experiment with long-staple cotton, proving it could be grown with success. After the war ended, his agricultural pioneering continued, and cotton became the biggest cash crop in California.

In addition, Bill was one of the earliest advocates of irrigation farming and was among the first to urge water conservation for supplemental irrigation purposes. He founded the Camp Irrigation Fund for South Carolina, which carried out demonstrations in the State.

Although he built his fortune in California, Bill never forgot his native State. He mentioned the farm in Cherokee County where he was born and was a generous contributor to Limestone College, Clemson University, and the University of South Carolina.

On a national scale, Bill was a past member of the board of directors of the U.S. Chamber of Commerce and served as chairman of its committee on agriculture. He was also a member of the National Industrial Conference Board, the board of directors of the Bureau of Water Resources of the National Rivers and Harbors Congress, and the board of the Agricultural Hall of Fame.

The National Right to Work Committee building here in Washington is named for him and his lovely wife, Louise.

I extend my deepest sympathy to Louise; to Bill's sons, W.B., Jr., and Donald; his stepdaughters, Sarah Camp Cory and Louise Wise Segars, who, incidentally, is a resident of Sumter, SC; his stepson, George Wise; his brother J.D.; his grandchildren, two of whom, Georgia Camp Bell, also of Sumter, and Carolyn Camp, of Bakersfield, CA, are former members of my Senate staff; and his great-grandchildren.

Bill Camp was not only a successful farmer and businessman, he was an ideological inspiration for the practical, hard-working American farmer. In his 92 years, he changed the face of agriculture and championed the farmer like no other single man has done.

W.B. Camp left a legacy in the soil from coast to coast. Those of us who knew him remember his involvement in every aspect of farming and agree that the man was every bit as great as the legend. He was a loyal friend and a great American, and I ask unanimous consent that two articles be printed in the RECORD following my remarks.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Gaffney (SC) Ledger, Aug. 6, 1986]

WOFFORD B. CAMP

It would be difficult, it seems, for two people who live 3,000 miles from Cherokee County to have a significant impact on this county year after year, but in the case of Mr. and Mrs. Wofford B. Camp, that has been the case exactly.

W.B. and Louise Camp have been great benefactors to Cherokee County in general and to Limestone College in particular for many years since they left these red hills to transplant cotton on the Pacific shore.

The Camps have maintained a rolling farm here—with the able assistance of Ed Small—have preserved a true part of this county's heritage by renovating and maintaining the only one-room schoolhouse left here, Possum Trot, and have given generously to scores of other causes whenever called upon.

Wofford Camp died Sunday night at his Bakersfield, California home. His legend is well documented throughout the textile industry and in several notable publications, so there's no need telling the story of "The Cotton Man" once again.

But there is need to note his death here in Cherokee County. He was a generous Christian man who shared his success in more ways than most of us will ever know. *The Ledger* joins his wife, family and many friends in mourning the loss.

Wofford B. Camp never forgot Cherokee County. Cherokee County, just as assuredly, will never forget Wofford B. Camp.

[From the Bakersfield (CA) Californian, Aug. 3, 1986]

CAMP LEAVES RICH LEGACY

Few men have contributed more to agriculture and the prosperity of Kern County than W.B. Camp, the "Father of Cotton" in California. His death Friday at age 92 closed an illustrious career of achievement.

"Bill" Camp arrived in Bakersfield early in 1917 with orders from the Army and the U.S. Department of Agriculture to develop a strain of cotton with a long staple that could be used to produce fiber for airplane wings and ambulance tires. That was the beginning of the modern California cotton industry.

He later introduced Alcala cotton at the USDA experiment station at Shafter, an achievement that raised this state's cotton crop to international importance.

Pressed by Camp's leadership, California enacted in 1925 the one-variety cotton law which limited growers to planting only USDA-developed and approved Alcala strains. It remained in force until two years ago when a privately developed cotton variety was approved.

During the Roosevelt administration, he was asked to be assistant secretary of agri-

culture, heading its cotton programs. He left the USDA for good in 1936, and returned to Bakersfield to establish himself as a cotton grower.

During the ensuring years he received numerous national recognitions in agriculture, public service and humanitarianism. A strong patriot, he and his wife, Louise, were the only husband-wife members of the national board of the Freedoms Foundation.

Bakersfield, and indeed the nation, has lost one of its most distinguished citizens. The legacy of his contributions will rightfully assure his niche in history.

CONCLUSION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Morning business is concluded.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION, AND RELATED AGENCIES APPROPRIATIONS, 1987

The PRESIDING OFFICER. The clerk will report the pending business.

The bill clerk read as follows:

A bill (H.R. 5233) making appropriations for the Departments of Labor, Health and Human Services, Education, and related agencies, for the fiscal year ending September 30, 1987, and for other purposes.

The Senate resumed consideration of the bill, which had been reported from the Committee on Appropriations, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italics.)

H.R. 5233

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1987, and for other purposes, namely:

TITLE I—DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

PROGRAM ADMINISTRATION

For expenses of administering employment and training programs, **[**$67,363,000**]** *$66,017,000* together with not to exceed **[**$44,763,000**]** *$51,882,000* which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

TRAINING AND EMPLOYMENT SERVICES

For expenses necessary to carry into effect the Job Training Partnership Act, including the purchase and hire of passenger motor vehicles, the construction, alteration, and repair of buildings and other facilities, and the purchase of real property for training centers as authorized by the Job Training Partnership Act, **[**$3,517,121,000**]** *$3,748,314,000* plus reimbursements, to be available for obligation for the period July 1, 1987, through June 30, 1988, including $2,000,000 for the National Commission for Employment Policy, **[**including $3,000,000**]** *and including $5,000,000* for all activities conducted by and through the National Occupational Information Coordinating Committee under the Job Training Partnership Act**[**, and including $10,000,000 for service delivery areas under section 101(a)(4)(A)(iii) of the Job Training Partnership Act in addition to amounts otherwise provided under sections 202 and 251(b) of the Act**]**: *Provided,* That no funds from any other appropriation shall be used to provide meal services at or for Job Corps centers: *Provided further,* That of the funds made available for obligation for the Summer Youth Employment and Training Program for the program years 1986 and 1987 the Secretary of Labor may reserve an amount, which, when combined with excess unexpended funds, shall not exceed fifteen percent of the total provided for the program, and allot such funds to the States so that each service delivery area receives, as nearly as possible, an amount equal to its prior year allocation for this program. For the purposes of this provision, "excess unexpended funds" shall mean for program year 1986, any amount unexpended as of September 30, 1986, in excess of 10 percent of the prior year State allotment, and for program year 1987, any amount unexpended as of September 30, 1987, in excess of 10 percent of the prior year State allotment. Reallocations of excess unexpended funds pursuant to this provision shall be accomplished by reducing, by an amount equivalent to the amount of excess unexpended funds, allotments made to the States.

For activities authorized by sections 236, 237, and 238 of the Trade Act of 1974, **[**as amended, $26,000,000**]** *as amended, including necessary related administrative expenses, $29,900,000.*

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

To carry out the activities for national grants or contracts with public agencies and public or private nonprofit organizations under paragraph (1)(A) of section 506(a) of title V of the Older Americans Act of 1965, as amended, $254,280,000.

To carry out the activities for grants to States under paragraph (3) of section 506(a) of title V of the Older Americans Act of 1965, as amended, $71,720,000.

FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES

For payments during the current fiscal year of benefits and payments as authorized by title II of Public Law 95-250, as amended, and of trade adjustment benefit payments and allowances, as provided by law (part I, subchapter B, chapter 2, title II of the Trade Act of 1974, as amended) $118,000,000, together with such amounts as may be necessary to be charged to the subsequent appropriation for payments for any period subsequent to September 15 of the current year: *Provided,* That amounts received or recovered pursuant to section 208(e) of Public Law 95-250 shall be available for payments.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

For activities authorized by the Act of June 6, 1933, as amended (29 U.S.C. 49-49l-1; 39 U.S.C. 3202(a)(1)(E)); title III of the Social Security Act, as amended (42 U.S.C. 502-504); necessary administrative expenses for carrying out 5 U.S.C. 8501-8523, and **[**sections 231-238**]** *sections 231-235* and 243-244, title II of the Trade Act of 1974, as amended; and as authorized by section 7c of the Act of June 6, 1933, as amended, necessary administrative expenses under sections 101(a)(15)(H)(ii) and 212(a)(14) of the Immigration and Nationality Act, as amended (8 U.S.C. 1101 et seq.), **[**$27,300,000**]** *$23,400,000,* together with not to exceed **[**$2,485,933,000**]** *$2,341,901,000* which may be expended from the Employment Security Administration account in the Unemployment Trust Fund, and of which the sums available **[**for activities authorized by title III of the Social Security Act, as amended (42 U.S.C. 502-504), and the sums available for necessary administrative expenses for carrying out 5 U.S.C. 8501-8523, and sections 231-235 and 243-244, title II of the Trade Act of 1974, as amended, shall be available for such purposes**]** *in the basic allocation for activities authorized by title III of the Social Security Act, as amended (42 U.S.C. 502-504), and the sums available in the basic allocation for necessary administrative expenses for carrying out 5 U.S.C. 8501-8523, shall be available for obligation by the States* through December 31, 1987, and of which $22,700,000 together with not to exceed $732,500,000 of the amount which may be expended from said trust fund shall be available for obligation for the period July 1, 1987, through June 30, 1988, to fund activities under section 6 of the Act of June 6, 1933, as amended, including the cost of penalty mail made available to States in lieu of allotments for such purpose, and of which **[**$261,942,000**]** *$117,910,000* (including not to exceed $4,800,000 which may be used for amortization payments to States which had independent retirement plans in their State employment service agencies prior to 1980) shall be available only to the extent necessary to administer unemployment compensation laws to meet increased costs of administration resulting from changes in a State law or increases in the number of unemployment insurance claims filed and claims paid or increased salary costs resulting from changes in State salary compensation plans embracing employees of the State generally over those upon which the State's basic allocation was based, which cannot be provided for by normal budgetary adjustments based on State obligations as of December 31, 1987.

LABOR-MANAGEMENT SERVICES

SALARIES AND EXPENSES

For necessary expenses for Labor-Management Services, $62,275,000, of which $1,100,000 shall remain available until expended for a pension plan data base.

PENSION BENEFIT GUARANTY CORPORATION

PENSION BENEFIT GUARANTY CORPORATION FUND

The Pension Benefit Guaranty Corporation is authorized to make such expenditures, including financial assistance authorized by section 104 of Public Law 96-364, within limits of funds and borrowing authority available to such Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program through September 30, 1987, for such Corporation: *Provided,* That not to exceed $36,874,000 shall be available for administrative expenses of the Corporation.

EMPLOYMENT STANDARDS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Employment Standards Administration, including reimbursement to State, Federal, and local

agencies and their employees for inspection services rendered, [$193,709,000] *$192,709,000*, together with $441,000, which may be expended from the Special Fund in accordance with sections 39(c) and 44(j) of the Longshore and Harbor Workers' Compensation Act.

SPECIAL BENEFITS

(INCLUDING TRANSFER OF FUNDS)

For the payment of compensation, benefits, and expenses (except administrative expenses) accruing during the current or any prior fiscal year authorized by title V, chapter 81 of the United States Code; continuation of benefits as provided for under the head "Civilian War Benefits" in the Federal Security Agency Appropriation Act, 1947; the Employees' Compensation Commission Appropriation Act, 1944; and sections 4(c) and 5(f) of the War Claims Act of 1948 (50 U.S.C. App. 2012); and 50 per centum of the additional compensation and benefits required by section 10(h) of the Longshore and Harbor Workers' Compensation Act, as amended, $263,600,000, together with such amounts as may be necessary to be charged to the subsequent year appropriation for the payment of compensation and other benefits for any period subsequent to September 15 of the current year: *Provided*, That in addition there shall be transferred from the Postal Service fund to this appropriation such sums as the Secretary of Labor determines to be the cost of administration for Postal Service employees through September 30, 1987.

BLACK LUNG DISABILITY TRUST FUND

(INCLUDING TRANSFER OF FUNDS)

For payments from the Black Lung Disability Trust Fund, $234,538,000 of which $186,687,000 shall be available until September 30, 1988, for payment of all benefits as authorized by section 9501(d) (1), (2), and (7) of the Internal Revenue Code of 1954, as amended, and of which $25,826,000 shall be available for transfer to Employment Standards Administration, Salaries and Expenses, and $21,413,000 for transfer to Departmental Management, Salaries and Expenses, and $612,000 for transfer to Departmental Management, Office of Inspector General, for expenses of operation and administration of the Black Lung Benefits program as authorized by section 9501(d)(5)(A) of that Act: *Provided*, That in addition, such amounts as may be necessary may be charged to the subsequent year appropriation for the payment of compensation or other benefits for any period subsequent to June 15 of the current year: *Provided further, That in addition, there are hereby appropriated such amounts as may be necessary to repay advances from the Treasury that are not needed to make disbursements during the current fiscal year, as authorized by section 9501(d)(4) of that Act: Provided further*, That in addition, such amounts shall be paid from this fund into miscellaneous receipts as the Secretary of the Treasury determines to be the administrative expenses of the Department of the Treasury for administering the fund during the current fiscal year, as authorized by section 9501(d)(5)(B) of that Act.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Occupational Safety and Health Administration, $225,811,000, including not to exceed $54,921,000, which shall be the maximum amount available for grants to States under section 23(g) of the Occupational Safety and Health Act, which grants shall be no less than fifty percent of the costs of State occupational safety and health programs required to be incurred under plans approved by the Secretary under section 18 of the Occupational Safety and Health Act of 1970: *Provided*, That none of the funds appropriated under this paragraph shall be obligated or expended for the assessment of civil penalties issued for first instance violations of any standard, rule, or regulation promulgated under the Occupational Safety and Health Act of 1970 (other than serious, willful, or repeated violations under section 17 of the Act) resulting from the inspection of any establishment or workplace subject to the Act, unless such establishment or workplace is cited, on the basis of such inspection, for ten or more violations: *Provided further*, That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 which is applicable to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees: *Provided further*, That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, order or administrative action under the Occupational Safety and Health Act of 1970 affecting any work activity by reason of recreational hunting, shooting, or fishing: *Provided further*, That no funds appropriated under this paragraph shall be obligated or expended to administer or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 with respect to any employer of ten or fewer employees who is included within a category having an occupational injury lost work day case rate, at the most precise Standard Industrial Classification Code for which such data are published, less than the national average rate as such rates are most recently published by the Secretary, acting through the Bureau of Labor Statistics, in accordance with section 24 of that Act (29 U.S.C. 673), except—

(1) to provide, as authorized by such Act, consultation, technical assistance, educational and training services, and to conduct surveys and studies;

(2) to conduct an inspection or investigation in response to an employee complaint, to issue a citation for violations found during such inspection, and to assess a penalty for violations which are not corrected within a reasonable abatement period and for any willful violations found;

(3) to take any action authorized by such Act with respect to imminent dangers;

(4) to take any action authorized by such Act with respect to health hazards;

(5) to take any action authorized by such Act with respect to a report of an employment accident which is fatal to one or more employees or which results in hospitalization of five or more employees, and to take any action pursuant to such investigation authorized by such Act; and

(6) to take any action authorized by such Act with respect to complaints of discrimination against employees for exercising rights under such Act:

Provided further, That the foregoing proviso shall not apply to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees: *Provided further*, That none of the funds appropriated under this paragraph shall be obligated or expended for the proposal or assessment of any civil penalties for the violation or alleged violation by an employer of ten or fewer employees of any standard, rule, regulation, or order promulgated under the Occupational Safety and Health Act of 1970 (other than serious, willful or repeated violations and violations which pose imminent danger under section 13 of the Act) if, prior to the inspection which gives rise to the alleged violation, the employer cited has (1) voluntarily requested consultation under a program operated pursuant to section 7(c)(1) or section 18 of the Occupational Safety and Health Act of 1970 or from a private consultative source approved by the Administration and (2) had the consultant examine the condition cited and (3) made or is in the process of making a reasonable good faith effort to eliminate the hazard created by the condition cited as such, which was identified by the aforementioned consultant, unless changing circumstances or workplace conditions render inapplicable the advice obtained from such consultants: *Provided further*, That none of the funds appropriated under this paragraph may be obligated or expended for any State plan monitoring visit by the Secretary of Labor under section 18 of the Occupational Safety and Health Act of 1970, of any factory, plant, establishment, construction site, or other area, workplace or environment where such a workplace or environment has been inspected by an employee of a State acting pursuant to section 18 of such Act within the six months preceding such inspection: *Provided further*, That this limitation does not prohibit the Secretary of Labor from conducting such monitoring visit at the time and place of an inspection by an employee of a State acting pursuant to section 18 of such Act, or in order to investigate a complaint about State program administration including a failure to respond to a worker complaint regarding a violation of such Act, or in order to investigate a discrimination complaint under section 11(c) of such Act, or as part of a special study monitoring program, or to investigate a fatality or catastrophe: *Provided further*, That none of the funds appropriated under this paragraph may be obligated or expended for the inspection, investigation, or enforcement of any activity occurring on the Outer Continental Shelf which exceeds the authority granted to the Occupational Safety and Health Administration by any provision of the Outer Continental Shelf Lands Act, or the Outer Continental Shelf Lands Act Amendments of 1978.

MINE SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Mine Safety and Health Administration, [$156,480,000] *$160,180,000*, including purchase and bestowal of certificates and trophies in connection with mine rescue and first-aid work, and the purchase of not to exceed eight passenger motor vehicles for replacement only; the Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private; the Mine Safety and Health Administration is authorized to promote health and safety education and training in the mining community through cooperative programs with States, industry, and

safety associations; and any funds available to the Department may be used, with the approval of the Secretary, to provide for the costs of mine rescue and survival operations in the event of major disaster: *Provided*, That none of the funds appropriated under this paragraph shall be obligated or expended to carry out section 115 of the Federal Mine Safety and Health Act of 1977 or to carry out that portion of section 104(g)(1) of such Act relating to the enforcement of any training requirements, with respect to shell dredging, or with respect to any sand, gravel, surface stone, surface clay, colloidal phosphate, or surface limestone mine.

BUREAU OF LABOR STATISTICS

SALARIES AND EXPENSES

For necessary expenses for the Bureau of Labor Statistics, including advances or reimbursements to State, Federal, and local agencies and their employees for services rendered, [$166,589,000] *$168,330,000*, of which $11,435,000 shall be for expenses of revising the Consumer Price Index, together with not to exceed $37,872,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund: *Provided*, That [$7,206,000] *$8,286,000* shall remain available until September 30, 1988.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For necessary expenses for Departmental Management, including [$2,408,000] *$2,044,000* for the President's Committee on Employment of the Handicapped, [$103,852,000] *$103,488,000*, together with not to exceed $263,000 which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

ASSISTANT SECRETARY FOR VETERANS EMPLOYMENT AND TRAINING

Not to exceed [$139,510,000] *$137,655,000* may be derived from the Employment Security Administration account in the Unemployment Trust Fund to carry out the provisions of 38 U.S.C. 2001-08 and 2021-26.

OFFICE OF THE INSPECTOR GENERAL

For salaries and expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, $34,833,000, together with not to exceed $6,040,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

SPECIAL FOREIGN CURRENCY PROGRAM

For payments in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States, for necessary expenses of the Department of Labor, as authorized by law, [$67,000] *$47,000*, to remain available until expended. This appropriation shall be available in addition to other appropriations to such agency for payments in foreign currencies.

GENERAL PROVISIONS

SEC. 101. Appropriations in this Act available for salaries and expenses shall be available for supplies, services, and rental of conference space within the District of Columbia, as the Secretary of Labor shall deem necessary for settlement of labor-management disputes.

SEC. 102. None of the funds appropriated under this Act shall be used to grant variances, interim orders or letters of clarification to employers which will allow exposure of workers to chemicals or other workplace hazards in excess of existing Occupational Safety and Health Administration standards for the purpose of conducting experiments on workers' health or safety.

[SEC. 103. None of the funds appropriated in this Act shall be obligated or expended for the purpose of closing any Job Corps Center operating under part B of title IV of the Job Training Partnership Act prior to July 1, 1988.]

SEC. [104] *103*. Notwithstanding any other provision of this Act, no funds appropriated by this Act may be used to execute or carry out any contract with a non-governmental entity to administer or manage a Civilian Conservation Center of the Job Corps which was not under such a contract as of September 1, 1984.

DISAPPROVAL OF DEFERRALS

NEGATIVE SUPPLEMENTALS

The Congress disapproves the proposed deferral of $3,911,000 pertaining to the State Unemployment Insurance and Employment Service Operations appropriation as set forth in the 1987 Budget Appendix, page II-17, which was transmitted to the Congress by the President. This disapproval shall be effective upon enactment into law of this Act and the amount of the proposed deferral disapproved herein shall be made available for obligation.

This title may be cited as the "Department of Labor Appropriations Act, 1987".

TITLE II—DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH RESOURCES AND SERVICES

For carrying out titles III, IV, VII, [VIII, XIII] *VIII, X, XIII, XIX*, and XXI of the Public Health Service Act, section 427(a) of the Federal Coal Mine Health and Safety Act, and title V of the Social Security Act, [$1,267,068,000] *$1,499,753,000 of which $8,000,000 shall be available for grants under title III, part H of the Public Health Service Act; of which $10,000,000 shall be available to establish geriatric educational units under section 788(b) of the Public Health Service Act; of which $15,000,000 shall be made available until expended to make grants under section 1610(b) of the Public Health Service Act to private nonprofit entities which are receiving support under section 329 or 330 of that Act; of which $3,300,000 shall be available only for payments to the State of Hawaii for care and treatment of persons afflicted with Hansen's disease; of which $2,500,000 shall be available until expended for grants and contracts under section 301 of the Public Health Service Act for projects to provide health services in the Commonwealth of the Northern Mariana Islands and the territories and possessions of the United States located in the Pacific Basin, and to provide technical assistance relating to such projects; of which $5,000,000 shall be available until expended for grants to the Kamehameha Schools/Bishop Estate to pay 50 percent of the cost of projects and to establish centers to provide maternal and child health care services for Native Hawaiians; of which $250,000 shall be available for the CARES project; of which $1,900,000 shall be available to develop and implement AIDS education and training centers;* of which not to exceed $750,000 to remain available until expended, shall be available for renovating the Gillis W. Long Hansen's Disease Center, 42 U.S.C. 247e, as amended by Public Law 99-117: *Provided*, That this appropriation shall be available for payment of the costs of medical care, related expenses, and burial expenses hereafter incurred by or on behalf of any person who has participated in the study of untreated syphilis initiated in Tuskegee, Alabama, in 1932, in such amounts and subject to such terms and conditions as prescribed by the Secretary of Health and Human Services and for payment, in such amounts and subject to such terms and conditions, of such costs and expenses hereafter incurred by or on behalf of such person's wife or offspring determined by the Secretary to have suffered injury or disease from syphilis contracted from such person: *Provided further*, That when the Department of Health and Human Services administers or operates an employee health program for any Federal department or agency, payment for the full estimated cost shall be made by way of reimbursement or in advances to this appropriation: *Provided further, That during the fiscal year, and within the resources and authority available under section 338 of the Public Health Service Act, gross obligations for the principal amount of direct loans under sections 335(c), 338C(e)(1), and 338E of that Act shall not exceed $1,000,000: Provided further, That funds remaining unobligated in the National Health Service Corps program shall be transferred to the Community Health Centers program to support the costs associated with the private placement assignment of corps personnel: Provided further, That the total principal amount of Federal loan insurance available under section 728 of the Public Health Service Act during fiscal year 1987 shall be granted by the Secretary of Health and Human Services without regard to any apportionment or other similar limitation.*

MEDICAL FACILITIES GUARANTEE AND LOAN FUND

FEDERAL INTEREST SUBSIDIES FOR MEDICAL FACILITIES

For carrying out subsections (d) and (e) of section 1602 of the Public Health Service Act, $20,000,000, together with any amounts received by the Secretary in connection with loans and loan guarantees under title VI of the Public Health Service Act, to be available without fiscal year limitation for the payment of interest subsidies. During the fiscal year no commitments for direct loans or loan guarantees shall be made.

CENTERS FOR DISEASE CONTROL

DISEASE CONTROL, RESEARCH, AND TRAINING

To carry out titles III, XVII, and XIX and section 1102 of the Public Health Service Act, sections 101, 102, 103, 201, 202, and 203 of the Federal Mine Safety and Health Act of 1977, and sections 20, 21, and 22 of the Occupational Safety and Health Act of 1970; including insurance of official motor vehicles in foreign countries; and hire, maintenance, and operation of aircraft, [$518,254,000] *$541,862,000*, of which [$3,810,000] *$11,800,000* shall remain available until expended for equipment and construction and renovation of facilities: *Provided*, That training of employees of private agencies shall be made subject to reimbursement or advances to this appropriation for the full cost of such training: *Provided further*, That collections from user fees, including collections from training and reimbursements and advances for the full cost of proficiency testing of private clinical laboratories, may be credited to this appropriation: *Provided further*, That any unobligated balance of the $6,900,000 appropriated in fiscal year 1986, to remain available until September 30, 1987 for the purchase and distribu-

tion of drugs, shall remain available until expended: *Provided further, That notwithstanding any other provision of law, amounts appropriated by this Act for the Centers for Disease Control shall be used to maintain not less than 4,290 Federal full-time equivalent positions.*

NATIONAL INSTITUTES OF HEALTH

NATIONAL CANCER INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to cancer, [$1,346,751,000] *$1,397,250,000.*

NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

For carrying out section 301, title IV, and section 1105 of the Public Health Service Act with respect to cardiovascular, lung, and blood diseases, and blood and blood products, [$921,410,000] *$921,502,000.*

NATIONAL INSTITUTE OF DENTAL RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to dental diseases, [$116,275,000] *$116,553,000.*

NATIONAL INSTITUTE OF DIABETES AND DIGESTIVE AND KIDNEY DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to diabetes and digestive and kidney diseases, [$515,455,000] *$502,628,000.*

NATIONAL INSTITUTE OF NEUROLOGICAL AND COMMUNICATIVE DISORDERS AND STROKE

For carrying out section 301 and title IV of the Public Health Service Act with respect to neurological and communicative disorders and stroke, [$491,085,000] *$487,218,000.*

NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to allergy and infectious diseases, [$403,853,000] *$494,343,000.*

NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to general medical sciences, [$576,562,000] *$565,271,000.*

NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

For carrying out section 301 and title IV of the Public Health Service Act with respect to child health and human development, [$368,509,000] *$362,866,000.*

NATIONAL EYE INSTITUTE

For carrying out section 301 and part F of title IV of the Public Health Service Act with respect to eye diseases and visual disorders, [$219,091,000] *$214,080,000.*

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

For carrying out sections 301 and 311, and title IV, of the Public Health Service Act with respect to environmental health sciences, [$209,872,000] *$208,067,000.*

NATIONAL INSTITUTE ON AGING

For carrying out section 301 and title IV of the Public Health Service Act with respect to aging, [$174,279,000] *$179,582,000.*

NATIONAL INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to arthritis, and musculoskeletal and skin diseases, [$140,225,000] *$129,475,000.*

RESEARCH RESOURCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to research resources and general research support grants, [$317,826,000] *$319,924,000*: *Provided*, That none of these funds, with the exception of funds for the Minority Biomedical Research Support program, shall be used to pay recipients of the general research support grants program any amount for indirect expenses in connection with such grants.

NATIONAL CENTER FOR NURSING RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act, with respect to nursing research, $20,000,000.

JOHN E. FOGARTY INTERNATIONAL CENTER

For carrying out the activities at the John E. Fogarty International Center, [$11,443,000] *$11,420,000*, of which $1,934,000 shall be available for payment to the Gorgas Memorial Institute for maintenance and operation of the Gorgas Memorial Laboratory.

NATIONAL LIBRARY OF MEDICINE

For carrying out section 301 and title IV of the Public Health Service Act with respect to health information communications, [$61,588,000] *$62,088,000.*

OFFICE OF THE DIRECTOR

For carrying out the responsibilities of the Office of the Director, National Institutes of Health, [$246,651,000] *$56,708,000*, including purchase of not to exceed six passenger motor vehicles for replacement only.

BUILDINGS AND FACILITIES

For construction of, and acquisition of sites and equipment for, facilities of or used by the National Institutes of Health, $31,900,000, to remain available until expended.

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH

For carrying out the Public Health Service Act with respect to mental health, drug abuse, alcohol abuse, and alcoholism and the Protection and Advocacy for Mentally Ill Individuals Act of 1986, [$893,434,000] *$1,099,113,000*, of which $600,000 for renovation of government owned or leased intramural research facilities shall remain available until expended.

FEDERAL SUBSIDY FOR SAINT ELIZABETHS HOSPITAL

For a portion of the cost of the maintenance and operation of Saint Elizabeths Hospital in the District of Columbia, $36,353,000: *Provided*, That in fiscal year 1987 and thereafter the maximum amount available to Saint Elizabeths Hospital from Federal sources shall not exceed the total of the following amounts: the appropriations made under this heading, amounts billed to Federal agencies and entities by the Secretary of Health and Human Services for services provided at Saint Elizabeths Hospital, and amounts authorized by titles XVIII and XIX of the Social Security Act: *Provided further*, That this amount shall not include Federal funds appropriated to the District of Columbia under "Federal Payment to the District of Columbia" and payments made pursuant to section 9(c) of Public Law 98-621: *Provided further*, That the Secretary of Health and Human Services may set rates which in the aggregate do not exceed the estimated total cost of inpatient and outpatient services provided through Saint Elizabeths Hospital as authorized by title 16, sections 2315 and 2320, title 21, sections 511, 513, 522, 545, 902, and 1116, and title 24, sections 301 and 302 of the District of Columbia Code, and may bill and collect from (prospectively or otherwise) individuals, the District of Columbia and other entities for any services so provided: *Provided further*, That the Secretary of Health and Human Services may set rates which in the aggregate do not exceed the estimated total cost of inpatient and outpatient services provided through Saint Elizabeths Hospital as authorized by title 24, sections 191, 196, 211, 212, 222, 253, and 324, title 31, section 1535, and title 42, sections 249 and 251 of the United States Code, and may bill and collect (prospectively or otherwise) from individuals, and Federal agencies, and other entities for any services so provided. Amounts so collected shall be credited to the appropriation for Saint Elizabeths Hospital and shall remain available until expended.

OFFICE OF ASSISTANT SECRETARY FOR HEALTH

PUBLIC HEALTH SERVICE MANAGEMENT

For the expenses necessary for the Office of Assistant Secretary for Health and for carrying out titles [III and XVII of the Public Health Service Act, $99,271,000] *III, XVII, and XX of the Public Health Service Act, and for a Federal contribution to endow the Lister Hill Center for Health Policy, $117,456,000*, together with not to exceed $1,050,000 to be transferred and expended as authorized by section 201(g) of the Social Security Act, from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds referred to therein and, in addition, amounts received by the National Center for Health Statistics from reimbursable and interagency agreements and the sale of data tapes shall be credited to this appropriation and shall remain available until expended: *Provided, That in addition to amounts provided herein, up to $16,000,000 shall be available from amounts available under section 2113 of the Public Health Service Act, to carry out the National Medical Expenditure Survey.*

RETIREMENT PAY AND MEDICAL BENEFITS FOR COMMISSIONED OFFICERS

For retirement pay and medical benefits of Public Health Service Commissioned Officers as authorized by law, and for payments under the Retired Serviceman's Family Protection Plan and Survivor Benefit Plan and for medical care of dependents and retired personnel under the Dependents' Medical Care Act (10 U.S.C., ch. 55), such amounts as may be required during the current fiscal year.

HEALTH CARE FINANCING ADMINISTRATION

GRANTS TO STATES FOR MEDICAID

For carrying out, except as otherwise provided, title XIX of the Social Security Act, [$19,380,359,000] *$19,770,000,000*, to remain available until expended.

For making, after May 31, 1987, payments to States under title XIX of the Social Security Act, for the last quarter of fiscal year 1987 for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

Payment under title XIX may be made for any quarter beginning after June 30, 1986, and before October 1, 1987, with respect to any State plan or plan amendment in effect during any such quarter, if submitted in, or prior to such quarter and approved in that or any such subsequent quarter.

For making payments to States under title XIX of the Social Security Act for the first quarter of fiscal year 1988, $7,100,000,000, to remain available until expended.

PAYMENTS TO HEALTH CARE TRUST FUNDS

For payment to the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as provided under sections 217(g), 229(b) and 1844 of the Social Security Act, sections 103(c) and 111(d) of the Social Security Amendments of 1965, and section 278(d) of Public Law 97-248, $20,826,000,000.

PROGRAM MANAGEMENT

For carrying out, except as otherwise provided, titles XI, XVIII, and XIX of the Social Security Act, [$84,533,000] *$85,396,000*, together with not to exceed [$1,201,494,000] *$1,171,170,000* to be transferred to this appropriation as authorized by section 201(g) of the Social Security Act, from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds referred to therein: *Provided*, That in addition, [$15,000,000] *$50,000,000* shall similarly be derived by transfer from said trust funds and shall be expended only to the extent necessary to process workloads not anticipated in the budget estimates and to meet unanticipated costs of agencies or organizations with which agreements have been made to participate in the administration of title XVIII and after maximum absorption of such costs within the remainder of the existing limitation has been achieved.

SOCIAL SECURITY ADMINISTRATION

PAYMENTS TO SOCIAL SECURITY TRUST FUNDS

For payment to the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance Trust Funds, as provided under sections 201(m), 217(g), 228(g), 229(b), and 1131(b)(2) of the Social Security Act and section 152 of Public Law 98-21, $500,555,000.

SPECIAL BENEFITS FOR DISABLED COAL MINERS

For carrying out title IV of the Federal Mine Safety and Health Act of 1977, including the payment of travel expenses on an actual cost or commuted basis, to an individual, for travel incident to medical examinations, and when travel of more than 75 miles is required, to parties, their representatives, and all reasonably necessary witnesses for travel within the United States, Puerto Rico, and the Virgin Islands, to reconsideration interviews and to proceedings before administrative law judges, $693,437,000, to remain available until expended: *Provided*, That monthly benefits when changed shall be paid consistent with section 215(g) of the Social Security Act.

For making, after July 31, of the current fiscal year, benefit payments to individuals under title IV of the Federal Mine Safety and Health Act of 1977, for costs incurred in the current fiscal year, such amounts as may be necessary.

For making benefit payments under title IV of the Federal Mine Safety and Health Act of 1977 for the first quarter of fiscal year 1988, $252,450,000, to remain available until expended.

SUPPLEMENTAL SECURITY INCOME PROGRAM

For carrying out the Supplemental Security Income Program, section 401 of Public Law 92-603, section 212 of Public Law 93-66, as amended, and section 405 of Public Law 95-216, including payment to the social security trust funds for administrative expenses incurred pursuant to section 201(g)(1) of the Social Security Act, $8,230,068,000, to remain available until expended: *Provided*, That any portion of the funds provided to a State in the current fiscal year and not obligated by the State during that year shall be returned to the Treasury.

For making, after July 31 of the current fiscal year, benefit payments to individuals under title XVI of the Social Security Act, for unanticipated costs incurred for the current fiscal year, such sums as may be necessary.

For carrying out the Supplemental Security Income Program for the first quarter of fiscal year 1988, $2,765,000,000, to remain available until expended.

ASSISTANCE PAYMENTS PROGRAM

For carrying out, except as otherwise provided, titles I, IV-A and -D, X, XI, XIV, and XVI of the Social Security Act and the Act of July 5, 1960 (24 U.S.C., ch. 9), [$7,023,420,000] *$7,025,376,000*, to remain available until expended.

For making, after May 31 of the current fiscal year, payments to States under titles I, IV-A and -D, X, XIV, and XVI of the Social Security Act, for the last three months of the current fiscal year, for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

For making payments to States under titles I, IV-A and -D, X, XIV, and XVI of the Social Security Act for the first quarter of fiscal year 1988, $2,293,615,000, to remain available until expended.

LOW INCOME HOME ENERGY ASSISTANCE

For carrying out title XXVI of the Omnibus Budget Reconciliation Act of 1981, $1,875,000,000.

CHILD SUPPORT ENFORCEMENT

For carrying out, except as otherwise provided, titles IV-D and XI of the Social Security Act, $599,633,000, to remain available until expended.

For making, after May 31 of the current fiscal year, payments to States under title IV-D of the Social Security Act, for the last three months of the current fiscal year, for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

For making payments to States under title IV-D of the Social Security Act for the first quarter of fiscal year 1988, $187,000,000, to remain available until expended.

LIMITATION ON ADMINISTRATIVE EXPENSES

For necessary expenses, not more than [$4,000,373,000] *$4,011,373,000* may be expended, as authorized by section 201(g)(1) of the Social Security Act, from any one or all of the trust funds referred to therein: *Provided*, That travel expense payments under section 1631(h) of such Act for travel to hearings may be made only when travel of more than seventy-five miles is required: *Provided further*, That $160,000,000 of the foregoing amount shall be apportioned for use only to the extent necessary to process workloads not anticipated in the budget estimates, for automation projects and their impact on the work force, and to meet mandatory increases in costs of agencies or organizations with which agreements have been made to participate in the administration of titles XVI and XVIII and section 221 of the Social Security Act, and after maximum absorption of such costs within the remainder of the existing limitation has been achieved: *Provided further*, That $225,398,000 for automatic data processing and telecommunications activities shall remain available until expended: *Provided further*, That none of the funds appropriated by this Act may be used for the manufacture, printing, or procuring of social security cards, as provided in section 205(c)(2)(D) of the Social Security Act, where paper and other materials used in the manufacture of such cards are produced, manufactured, or assembled outside of the United States.

HUMAN DEVELOPMENT SERVICES

SOCIAL SERVICES BLOCK GRANT

For carrying out the Social Services Block Grant Act, $2,700,000,000.

HUMAN DEVELOPMENT SERVICES

For carrying out, except as otherwise provided, the Older Americans Act of 1965, the Runaway and Homeless Youth Act, the Developmental Disabilities Assistance and Bill of Rights Act, the Child Abuse Prevention and Treatment Act, section 404 of Public Law 98-473, the Family Violence Prevention and Services Act (title III of Public [Law 98-457), $925,017,000] *Law 98-457), the Native Americans Programs Act, chapter 8-D of title IV-A of the Omnibus Budget Reconciliation Act of 1981 (pertaining to grants to States for planning and development of dependent care programs), and the Head Start Act, $2,090,018,000.*

FAMILY SOCIAL SERVICES

For carrying out parts B and E of title IV and section 1110 of the Social Security Act, and title II of Public Law 95-266 (adoption opportunities), [$1,005,223,000] *$889,717,000.*

[WORK INCENTIVES

[For carrying out a work incentive program, as authorized by part C of title IV of the Social Security Act, including registration of individuals for such programs, and for related child care and other supportive services, as authorized by section 402(a)(19)(G) of the Act, including transfer to the Secretary of Labor, as authorized by section 431 of the Act, $200,000,000 which shall be the maximum amount available for transfer to the Secretary of Labor and to which the States may become entitled pursuant to section 403(d) of such Act, for these purposes.]

OFFICE OF COMMUNITY SERVICES

COMMUNITY SERVICES BLOCK GRANT

For carrying out the Community Services Block Grant Act, $378,900,000, of which $17,614,000 shall be for carrying out section 681(a)(2)(A), $3,570,000 shall be for carrying out section 681(a)(2)(D), $2,686,000 shall be for carrying out section 681(a)(2)(E), $3,630,000 shall be for carrying out section 681(a)(2)(F), and $1,000,000 shall be for Demonstration Partnership Grants.

COMMUNITY FOOD AND NUTRITION

For carrying out the community food and nutrition programs authorized under section 681A of the Community Services Block Grant Act, $2,500,000.

DEPARTMENTAL MANAGEMENT

GENERAL DEPARTMENTAL MANAGEMENT

For necessary expenses, not otherwise provided, for general departmental management, including hire of six medium sedans, [$108,319,000] *$128,819,000* together with not to exceed $27,500,000 to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein, *of which $16,000,000 shall be for grants, under the authority of section 301 of the Public Health Service Act, to continue the four projects authorized in the Department of Health and Human Services Appropriation Act, 1986, to demonstrate the delivery of health care services to victims of acquired immune deficiency syndrome, as well as for so many projects for the same purpose as the Secretary of Health and Human Serv-*

ices finds appropriate, and of which $4,500,000 shall be for an additional construction grant for the Mary Babb Randolph Cancer Center in West Virginia.

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General, [$30,016,000] *$29,716,000* together with not to exceed $40,000,000 to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, $15,285,000 together with not to exceed $4,000,000 to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

POLICY RESEARCH

For carrying out, to the extent not otherwise provided, research studies under section 1110 of the Social Security Act, [$8,200,000] *$7,200,000*: *Provided*, That not less than $2,200,000 shall be obligated to continue research on poverty conducted by the Institute for Research on Poverty.

GENERAL PROVISIONS

SEC. 201. None of the funds appropriated by this title for grants-in-aid of State agencies to cover, in whole or in part, the cost of operation of said agencies, including the salaries and expenses of officers and employees of said agencies, shall be withheld from the said agencies of any State which have established by legislative enactment and have in operation a merit system and classification and compensation plan covering the selection, tenure in office, and compensation of their employees, because of any disapproval of their personnel or the manner of their selection by the agencies of the said States, or the rates of pay of said officers or employees.

[SEC. 202. Funds appropriated in this Act for the National Institutes of Health shall be used to support no fewer than 6,200 new and competing research project grants.]

SEC. [203] *202.* Appropriations in this Act for the Health Resources and Services Administration, the National Institutes of Health, the Centers for Disease Control, the Alcohol, Drug Abuse, and Mental Health Administration, the Office of the Assistant Secretary for Health, the Health Care Financing Administration, and Departmental Management shall be available for expenses for active commissioned officers in the Public Health Service Reserve Corps and for not to exceed two thousand four hundred commissioned officers in the Regular Corps; expenses incident to the dissemination of health information in foreign countries through exhibits and other appropriate means; advances of funds for compensation, travel, and subsistence expenses (or per diem in lieu thereof) for persons coming from abroad to participate in health or scientific activities of the Department pursuant to law; expenses of primary and secondary schooling of dependents in foreign countries, of Public Health Service commissioned officers stationed in foreign countries, at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools available in the locality are unable to provide adequately for the education of such dependents, and for the transportation of such dependents, between such schools and their places of residence when the schools are not accessible to such dependents by regular means of transportation; expenses for medical care for civilian and commissioned employees of the Public Health Service and their dependents, assigned abroad on a permanent basis in accordance with such regulations as the Secretary may provide; rental or lease of living quarters (for periods not exceeding five years), and provision of heat, fuel, and light and maintenance, improvement, and repair of such quarters, and advance payments therefor, for civilian officers, and employees of the Public Health Service who are United States citizens and who have a permanent station in a foreign country; purchase, erection, and maintenance of temporary or portable structures; and for the payment of compensation to consultants or individual scientists appointed for limited periods of time pursuant to section 207(f) or section 207(g) of the Public Health Service Act, at rates established by the Assistant Secretary for Health, or the Secretary where such action is required by statute, not to exceed the per diem rate equivalent to the rate for GS–18; not to exceed $9,500 for official reception and representation expenses related to any health agency of the Department when specifically approved by the Assistant Secretary for Health.

SEC. [204] *203.* None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term, *or except for such medical procedures necessary for the victims of rape or incest.*

SEC. [205] *204.* Funds advanced to the National Institutes of Health Management Fund from appropriations in this Act shall be available for the expenses of sharing medical care facilities and resources pursuant to section 327A of the Public Health Service Act.

SEC. [206] *205.* Funds appropriated in this title for the Social Security Administration and the Office of Child Support Enforcement shall be available for not to exceed $10,000 for official reception and representation expenses related to income maintenance or child support enforcement activities of the Department when specifically approved by the Commissioner of Social Security.

SEC. [207] *206.* Funds appropriated in this title for the Health Care Financing Administration shall be available for not to exceed $2,000 for official reception and representation expenses when specifically approved by the Administrator of the Health Care Financing Administration.

SEC. [208] *207.* No funds appropriated for the fiscal year ending September 30, 1987, by this or any other Act, may be used to pay basic pay, special pays, basic allowance for subsistence and basic allowances for quarters of the commissioned corps of the Public Health Service described in section 204 of title 42, United States Code, at a level that exceeds 110 percent of the Executive Level I annual rate of basic pay: *Provided*, That amounts received from employees of the Department in payment for room and board may be credited to the appropriation accounts "Health Resources and Services", National Institutes of Health "Office of the Director", "Disease Control", and "Federal Subsidy for Saint Elizabeths Hospital".

SEC. [209] *208.* None of the funds appropriated in this title shall be used to transfer the general administration of programs authorized under the Native American Programs Act from the Department of Health and Human Services to the Department of the Interior.

SEC. [210] *209.* Funds provided in this Act may be used for one-year contracts which are to be performed in two fiscal years, so long as the total amount for such contracts is obligated in the year for which the funds are appropriated.

SEC. [211] *210.* The Secretary shall make available through assignment not more than 50 employees of the Public Health Service, who shall be exempt from all FTE limitations in the Department, to assist in child survival activities through and with funds provided by the Agency for International Development, the United Nations International Children's Emergency Fund or the World Health Organization. In addition, commissioned officers assigned under this section shall be exempt from all limitations on the number and grade of officers in the Public Health Service Commissioned Corps.

SEC. 211. Nowithstanding any other provision of law, amounts appropriated by this Act for the National Institutes of Health shall be used to maintain not less than 13,507 Federal full-time equivalent positions, as counted against ceiling in fiscal year 1986.

This title may be cited as the "Department of Health and Human Services Appropriations Act, 1987".

TITLE III—DEPARTMENT OF EDUCATION

COMPENSATORY EDUCATION FOR THE DISADVANTAGED

For carrying out chapter 1 of the Education Consolidation and Improvement Act of 1981, as amended, [$3,999,163,000] *$3,889,163,000*, of which $6,246,000 shall be used for purposes of section 555(d) of said Act to provide technical assistance and evaluate programs, and the remaining [$3,992,917,000] *$3,882,917,000* shall become available on July 1, 1987, and remain available until September 30, 1988: *Provided*, That of these remaining funds, no funds shall be used for purposes of section 554(a)(1)(B), $264,524,000 shall be available for purposes of section 554(a)(2)(A), $150,170,000 shall be available for purposes of section 554(a)(2)(B), $32,616,000 shall be available for purposes of section 554(a)(2)(C) and [$38,607,000] *$35,607,000* shall be available for purposes of section 554(b)(1)(D)*: Provided further, That notwithstanding the provisions of section 111(c) of the Elementary and Secondary Education Act, as amended, the criteria of poverty utilized by the Bureau of the Census in the 1980 decennial Census shall be used as the basis for allocating funds under chapter 1 where applicable: Provided further, That notwithstanding the provisions of section 111(a) of the Elementary and Secondary Education Act, as amended, no funds appropriated under chapter 1 shall be allocated on the basis of data taken from the 1975 survey of income and education conducted by the Bureau of the Census.*

For carrying out section 418A of the Higher Education Act, $7,500,000.

IMPACT AID

For carrying out title I of the Act of September 30, 1950, as amended (20 U.S.C. ch. 13), [$675,000,000] *$630,000,000*, of which $22,000,000 shall be for entitlements under section 2 of said Act, $10,000,000, which shall remain available until expended, shall be for payments under section 7 of said Act and [$643,000,000] *$598,000,000* shall be for entitlements under section 3 of said Act of which [$513,000,000] *$533,000,000* shall be

for entitlements under section 3(a) of said Act: *Provided*, That payment with respect to entitlements under section 3(b) of said Act to any local educational agency in which 20 per centum or more of the total average daily attendance is made up of children determined eligible under section 3(b) shall be at 60 per centum of entitlement and payment with respect to entitlements under section 3(b) of said Act to any local educational agency in which less than 20 per centum of the total average daily attendance is made up of children determined eligible under section 3(b) shall be ratably reduced from 100 per centum of entitlement: [*Provided further*, That payment with respect to entitlements under section 3(a) to any local educational agency whose children determined eligible under section 3(a) amount to at least 48 per centum of such agency's total average daily attendance shall be at 100 per centum of entitlement:] *Provided further*, That payment with respect to entitlements under section 3(a) to any local educational agency *described in section 3(d)(1)(A) of said Act shall be at 100 per centum of entitlement, except that payments on behalf of children who reside on property which is described in section 403(1)(C) shall be at 75 per centum of entitlement, so long as the fiscal year 1987 per pupil payment does not exceed 105 per centum of the fiscal year 1986 per pupil payment:* [whose children determined eligible under section 3(a) amount to at least 35 per centum but less than 48 per centum of such agency's total average daily attendance shall be at 95 per centum of entitlement:] *Provided further*, That payment with respect to entitlements under section 3(a) to any local educational agency whose children determined eligible under section 3(a) amount to [at least 20 per centum but less than 35 per centum] *less than 20 per centum* of such agency's total average daily attendance shall be [at 90 per centum of entitlement: *Provided further*, That payment with respect to entitlements under section 3(a) to any local educational agency whose children determined eligible under section 3(a) amount to at least 15 per centum but less than 20 per centum of such agency's total average daily attendance shall be at 75 per centum of entitlement: *Provided further*, That payment with respect to entitlements under section 3(a) to any local educational agency whose children determined eligible under section 3(a) amount to at least 10 per centum but less than 15 per centum of such agency's total average daily attendance shall be at 60 per centum of entitlement: *Provided further*, That payment with respect to entitlements under section 3(a) to any local educational agency whose children determined eligible under section 3(a) amount to less than 10 per centum of such agency's total average daily attendance shall be] ratably reduced from 100 per centum of entitlement: *Provided further*, That payments on behalf of children who reside on property which is described in section 403(1)(C) of said Act shall be [at 15 per centum of the respective payment level specified in each of the preceding six provisions] *ratably reduced from 15 per centum of entitlement*: *Provided further*, That the provisions of section 5(c) of said Act shall not apply to funds provided herein: *Provided further*, That no payments shall be made under section 7 of said Act to any local educational agency whose need for assistance under that section fails to exceed the lesser of $10,000 or 5 per centum of the district's current operating expenditures during the fiscal year preceding the one in which the disaster occurred.

For carrying out the Act of September 23, 1950, as amended (20 U.S.C. ch. 19), [$25,000,000] *$20,000,000*, which shall remain available until expended, shall be for providing school facilities as authorized by said Act, of which [$10,000,000] *$8,500,000* shall be for awards under section 10 of said Act, [$10,000,000] *$8,500,000* shall be for awards under sections 14(a) and 14(b) of said Act, and [$5,000,000] *$3,000,000* shall be for awards under sections 5 and 14(c) of said Act.

SPECIAL PROGRAMS

For carrying out the consolidated programs and projects authorized under chapter 2 of the Education Consolidation and Improvement Act of 1981, as amended, [$544,909,000] *$526,837,000*, of which [$44,909,000] *$26,837,000* shall be for programs and projects authorized under subchapter D of said Act, including $10,700,000 for programs and projects authorized under subsection 583(a)(1) of said Act; [$4,000,000 for carrying out a rural education program by the nine regional educational laboratories; $3,052,000 shall be used for awards, which, except for educational television programming, are not to exceed a cumulative amount of $1,000,000 to any recipient for national impact demonstration or research projects; $7,000,000] *$7,800,000* for activities authorized under subsection 583(b)(1) of said Act; [$3,157,000] *$3,337,000* for programs authorized under subsection 583(b)(2) of said Act; [$14,000,000] *$3,000,000* for programs authorized under subsection 583(b)(3) of said Act; and [$3,000,000] *$2,000,000* for activities authorized under subsection 583(b)(4) of said Act: *Provided*, That $500,000,000 to carry out the State block grant program authorized under chapter 2 of said Act shall become available for obligation on July 1, 1987, and shall remain available until September 30, 1988.

For grants to State educational agencies and desegregation assistance centers authorized under section 403 of the Civil Rights Act of 1964, [$24,000,000] *$25,000,000*.

[For carrying out activities authorized under title IX, part C of the Elementary and Secondary Education Act, $6,000,000.]

For grants or contracts to carry out dissemination activities in accordance with title IX, part C, section 937(b) of the Elementary and Secondary Education Act, $1,000,000.

For carrying out activities authorized under section 1524 of the Education Amendments of 1978, [$4,785,000] *$5,000,000*.

For carrying out activities authorized under section 1525 of the Education Amendments of 1978, [$1,914,000] *$2,000,000*.

For carrying out activities authorized under Public Law 92-506, as amended, $1,700,000: *Provided*, That said sum shall become available on July 1, 1987, and shall remain available until September 30, 1988.

For carrying out the provisions of title VII of the Education for Economic Security Act, relating to magnet schools assistance, $75,000,000: *Provided*, That not more than $4,000,000 in the fiscal year may be paid to any single eligible local educational agency.

[For carrying out the provisions of title VI of the Education for Economic Security Act, $2,392,000 to remain available until expended.]

For carrying out the provisions of title II of the Education for Economic Security Act, $43,066,000 [to] *of which $39,190,060 for State grants under section 204 shall* become available on July 1, 1987, and [to] *shall* remain available until September 30, 1988.

[For carrying out the provisions of title IX of Public Law 98-558, $7,177,000, to become available July 1, 1987, and to remain available until September 30, 1988.]

BILINGUAL EDUCATION

For carrying out, to the extent not otherwise provided, title VII of the Elementary and Secondary Education Act, title VI of the Education Amendments of 1984, [and title IV, part E of the Carl D. Perkins Vocational Education Act, $179,637,000] *$138,955,000*, of which [$99,161,000] *$94,951,000* shall be for part A, [$10,300,000] *$10,440,000* shall be for part B, and [$36,490,000] *$33,564,000* shall be for part C of title VII of the Elementary and Secondary Education Act [and $30,000,000 shall be for the Emergency Immigrant Education Program authorized by title VI of the Education Amendments of 1984].

EDUCATION FOR THE HANDICAPPED

For carrying out the Education of the Handicapped Act, [$1,494,420,000, of which $1,300,000,000 for section 611 and $31,000,000 for section 619 shall become available for obligation on July 1, 1987, and shall remain available until September 30, 1988] *as amended by S. 2294, as passed by the Senate on June 6, 1986, $1,741,900,000, from which there are allocated $1,408,000,000 for section 611, $60,000,000 for section 619, $100,000,000 for section 621(b)(1), and such amounts shall become available for obligation on July 1, 1987, and shall remain available until September 30, 1988, and $6,870,000 for section 621(b)(2) which shall become available on October 1, 1986.*

REHABILITATION SERVICES AND HANDICAPPED RESEARCH

[For carrying out, to the extent not otherwise provided, the Rehabilitation Act of 1973 and the Helen Keller National Center Act, $1,152,656,000, of which $1,147,356,000 shall be for allotments under section 100(b)(1) of the Rehabilitation Act, $1,000,000 shall be for activities under section 110(b)(3) of the Rehabilitation Act, and $4,300,000 shall be for continued operation of the Helen Keller National Center for Deaf-Blind Youths and Adults.]

For carrying out the Rehabilitation Act of 1973 and the Helen Keller National Center Act, as amended by S. 2515 as reported by the Senate Committee on Labor and Human Resources on August 6, 1986, $1,484,758,000, of which $1,281,000,000 shall be for allotments under sections 100(b)(1) and 110(b)(3) of the Rehabilitation Act, and $4,600,000 shall be for the Helen Keller National Center.

VOCATIONAL AND ADULT EDUCATION

For carrying out, to the extent not otherwise provided, the Carl D. Perkins Vocational Education Act, and the Adult Education Act, [$1,016,433,000] *$943,163,000* which shall become available for obligation on July 1, 1987, and shall remain available until September 30, 1988: *Provided*, That [$12,000,000] *$10,000,000* shall be available for title IV of the Carl D. Perkins Vocational Education Act including $6,000,000 for section 404 of said title: *Provided further*, That [$7,300,000] *$7,500,000* shall be available for State councils under section 112 of the Carl D. Perkins Vocational Education Act: *Provided further*, That [$7,500,000] *$6,000,000* shall be made available to carry out title III-A and $31,633,000 shall be made

available for title III-B of said Vocational Education Act: *Provided further, That $3,686,000 shall be available for part E of title IV of the Carl D. Perkins Vocational Education Act.*

STUDENT FINANCIAL ASSISTANCE

For carrying out subparts 1, 2, and 3 of part A, and parts C and E of title IV of the Higher Education Act, as amended, $5,196,000,000 which shall remain available until September 30, 1988: Provided, That amounts appropriated for Pell grants shall be available first to pay Pell grants under the July 1986 payment schedule established by the Secretary of Education for the 1986-87 academic year under section 411(b)(3)(B)(ii) of the Higher Education Act: Provided further, That no funds appropriated for Pell grants and used to pay Pell grants for the 1986-87 academic year shall be available to pay any awards in excess of those provided under such July 1986 Pell grants payment schedule: Provided further, That other amounts for this appropriations Act shall be available under the terms and conditions included in the Department of Labor, Health and Human Services, and Education and Related Agencies Appropriations Act of 1986, Public Law 99-178.

GUARANTEED STUDENT LOANS

For necessary expenses under title IV, part B of the Higher Education Act, [$3,394,000,000] *$3,004,000,000* to remain available until expended.

HIGHER EDUCATION

[For carrying out section 406 C of the General Education Provisions Act, and parts E and F of title V and part E of title IX of the Higher Education Act, $29,500,000.]

For carrying out title III of the Higher Education Act of 1965, as amended, $141,208,000, of which $50,000,000 for the endowment grant program under section 333 of title III of said Act shall remain available until September 30, 1988: Provided, That not less than $45,741,000 of funds appropriated for title III of said Act shall be available only to historically black colleges and universities.

For carrying out subpart 4 of part A of title IV; title VI, VIII, and X, parts B, C, D, and E of title IX; and sections 420A and 1204(c) of the Higher Education Act of 1965, as amended; Section 406C of the General Education Provisions Act; title XIII, part H, subpart 1 of the Education Amendments of 1980; and section 102(b)(6) of the Mutual Educational and Cultural Exchange Act of 1961; $290,220,000: Provided, That section 922(b)(2) and 922(e)(2) and the funding limitations set forth in section 922(e) of the Higher Education Act shall not apply to funds in this Act.

For carrying out subpart 6 of Part A of title IV, part E of title V, and section 734 of the Higher Education Act of 1965, as amended, $41,000,000 to remain available until expended.

For carrying out title II of H.R. 2787 as passed the Senate on June 25, 1986, relating to the Technology Transfer Institute, $5,000,000 to remain available until expended.

HIGHER EDUCATION FACILITIES LOANS AND INSURANCE

For the payment of principal and interest, including interest insufficiencies, as authorized by the Department of Health, Education, and Welfare Appropriation Act, 1968, on account of outstanding beneficial interests or participations held by the Government National Mortgage Association, as trustee, on behalf of the Department of Education, and issued pursuant to the Participation Sales Act of 1966 (section 302(c) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(c))), and for the payment of interest to the Treasury as required by title VII, part C, section 733(b)(2) of the Higher Education Act, as amended (20 U.S.C. 1132d-2(b)(2)), and for the payment of other operating costs of the fund established pursuant to title VII, section 733 of the Higher Education Act, as amended (20 U.S.C. 1132d-2), $19,205,000, to remain available until expended. The Secretary is hereby authorized to make such expenditures, within the limits of funds available under this heading and in accord with law, and to make such contracts and commitments without regard to fiscal year limitation, as provided by section 104 of the Government Corporation Control Act (31 U.S.C. 9104), as may be necessary in carrying out the program set forth in the budget for the current fiscal year. For the fiscal year 1986, no new commitments for loans may be made from the fund established pursuant to title VII, section 733 of the Higher Education Act, as amended (20 U.S.C. 1132d-2).

COLLEGE HOUSING LOANS

The aggregate amount of commitments for loans made from the fund established pursuant to title IV of the Housing Act of 1950, as amended (12 U.S.C. 1749), for the fiscal year 1987 shall not exceed the total of loan repayments and other income available during such period, less operating costs. Payments of interest insufficiencies for the fiscal year 1987 as may be required by the Government National Mortgage Association, as trustee, on account of outstanding beneficial interests or participations issued pursuant to the Participation Sales Act of 1966 (section 302(c) of the Federal National Mortgage Association Charter Act, as amended (12 U.S.C. 1717(c))) shall be made from the fund established pursuant to title IV of the Housing Act of 1950, as amended (12 U.S.C. 1749-1749c) using loan repayments and other income available during such fiscal year. During the fiscal year 1987 and within the resources and authority available, gross commitments for the principal amount of direct loans shall be [$60,000,000] *$40,000,000.*

EDUCATIONAL RESEARCH AND STATISTICS

For necessary expenses to carry out [section 406 of the General Education Provisions Act, as amended, $8,747,000] *sections 405 and 406 of the General Education Provisions Act, as amended, $63,578,000: Provided, That $4,000,000 of the sums appropriated shall be used for carrying out a rural education program by the nine regional laboratories.*

LIBRARIES

For carrying out, to the extent not otherwise provided, titles I, II, III, [and VI of the Library Services and Construction Act (20 U.S.C., ch. 16), $130,000,000: *Provided,* That $25,000,000] *IV, and VI of the Library Services and Construction Act (20 U.S.C., ch. 16), and title II, part B except section 224, and part C of the Higher Education Act, notwithstanding the provisions of section 221, $132,500,000: Provided, That $22,500,000* of the sums appropriated shall be used to carry out the provisions of title II of the Library Services and Construction Act and shall remain available until expended.

SPECIAL INSTITUTIONS

AMERICAN PRINTING HOUSE FOR THE BLIND

For carrying out the Act of March 3, 1879, as amended (20 U.S.C. 101-106), including provision of materials to adults undergoing rehabilitation on the same basis as provided in 1985, [$5,510,000] *$5,500,000.*

NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

For carrying out the National Technical Institute for the Deaf Act (20 U.S.C. 681 et seq.), $32,000,000.

GALLAUDET COLLEGE

For carrying out the Model Secondary School for the Deaf Act (80 Stat. 1027) and for the partial support of Gallaudet College authorized by the Act of June 18, 1954 (68 Stat. 265), including continuing education activities, existing extension centers and the National Center for Law and the Deaf, [$60,737,000] *$62,000,000.*

HOWARD UNIVERSITY

For partial support of Howard University (20 U.S.C. 121 et seq.), [$170,230,000] *$162,170,000,* of which $2,000,000 shall be for an endowment matching grant in accordance with the Howard University Endowment Act (Public Law 98-480) and shall remain available until expended *and of which $27,106,000 shall be for partial support of the Howard University Hospital.*

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For carrying out, to the extent not otherwise provided, the Department of Education Organization Act, including rental of conference rooms in the District of Columbia and hire of three passenger motor vehicles, [$241,692,000] *$234,692,000: Provided,* That $500,000 shall be available for carrying out the National Summit Conference on Education Act of 1984: *Provided, That not more than $90,000 shall be available for travel by the Secretary of Education.*

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, as authorized by section 203 of the Department of Education Organization Act, [$38,185,000] *$44,000,000.*

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General, as authorized by section 212 of the Department of Education Organization Act, $16,378,000.

GENERAL PROVISIONS

SEC. 301. None of the funds appropriated by this title for grants-in-aid of State agencies to cover, in whole or in part, the cost of operation of said agencies, including the salaries and expenses of officers and employees of said agencies, shall be withheld from the said agencies of any State which have established by legislative enactment and have in operation a merit system and classification and compensation plan covering the selection, tenure in office, and compensation of their employees, because of any disapproval of their personnel or the manner of their selection by the agencies of the said States, or the rates of pay of said officers or employees.

SEC. 302. Funds appropriated in this Act to the American Printing House for the Blind, Howard University, the National Technical Institute for the Deaf, and Gallaudet College shall be subject to audit by the Secretary of Education.

[SEC. 303. No part of the funds contained in this title may be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to force on account of race, creed or color the abolishment of any school so de-

segregated; or to force the transfer or assignment of any student attending any elementary or secondary school so desegregated to or from a particular school over the protest of his or her parents or parent.

[SEC. 304. (a) No part of the funds contained in this title shall be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to require the abolishment of any school so desegregated; or to force on account of race, creed or color the transfer of students to or from a particular school so desegregated as a condition precedent to obtaining Federal funds otherwise available to any State, school district or school.

[(b) No funds appropriated in this Act may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system.

[SEC. 305. None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education, to the school offering such special education, in order to comply with title VI of the Civil Rights Act of 1964. For the purpose of this section an indirect requirement of transportation of students includes the transportation of students to carry out a plan involving the reorganization of the grade structure of schools, the pairing of schools, or the clustering of schools, or any combination of grade restructuring, pairing or clustering. The prohibition described in this section does not include the establishment of magnet schools.

[SEC. 306. No funds appropriated under this Act may be used to prevent the implementation of programs of voluntary prayer and meditation in the public schools.]

SEC. [307] *303.* Section 402(c) of the Housing Act of 1950 is amended by striking out in clause (9) "October 1, 1986" and inserting in its place "October 1, 1987".

[SEC. 308. None of the funds appropriated by this Act may be used by the Department of Education for the purpose of attempting to collect a refund from the State of Illinois of funds provided to such State under the Library Services and Construction Act pursuant to final audit determinations for the period July 1, 1977 through December 31, 1980 (audit control numbers 05-30009 and 05-30006).]

This title may be cited as the "Department of Education Appropriations Act, 1987".

TITLE IV—RELATED AGENCIES

ACTION

OPERATING EXPENSES

For expenses necessary for ACTION to carry out the provisions of the Domestic Volunteer Service Act of 1973, as amended, $153,287,000, of which $19,000,000 shall be available to carry out title I, part A of said Act, and of which $2,000,000 shall be available for the VISTA Literacy Corps.

COMMISSION ON EDUCATION OF THE DEAF

SALARIES AND EXPENSES

For expenses necessary for the Commission on Education of the Deaf as authorized by section 301 of the Education of the Deaf Act of 1985, $1,000,000, to remain available until expended.

CORPORATION FOR PUBLIC BROADCASTING

PUBLIC BROADCASTING FUND

For payment to the Corporation for Public Broadcasting, as authorized by the Communications Act of 1934, an amount which shall be available within limitations specified by that Act, for the fiscal year 1989, [$214,000,000] *$238,000,000*: *Provided*, That no funds made available to the Corporation for Public Broadcasting by this Act shall be used to pay for receptions, parties, or similar forms of entertainment for government officials or employees: *Provided further*, That none of the funds contained in this paragraph shall be available or used to aid or support any program or activity from which any person is excluded, or is denied benefits, or is discriminated against, on the basis of race, color, national origin, religion, or sex.

FEDERAL MEDIATION AND CONCILIATION SERVICE

SALARIES AND EXPENSES

For expenses necessary for the Federal Mediation and Conciliation Service to carry out the functions vested in it by the Labor-Management Relations Act, 1947 (29 U.S.C. 171-180, 182), including expenses of the Labor-Management Panel and boards of inquiry appointed by the President, hire of passenger motor vehicles, and rental of conference rooms in the District of Columbia; and for expenses necessary pursuant to Public Law 93-360 for mandatory mediation in health care industry negotiation disputes and for convening factfinding boards of inquiry appointed by the Director in the health care industry; and for expenses necessary for the Labor-Management Cooperation Act of 1978 (29 U.S.C. 125a); and for expenses necessary for the Service to carry out the functions vested in it by the Civil Service Reform Act, Public Law 95-454 (5 U.S.C. chapter 71), [$22,656,000] *$24,390,000.*

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the Federal Mine Safety and Health Review Commission (30 U.S.C. 801 et seq.), [$3,651,000] *$3,919,000.*

NATIONAL AFRO-AMERICAN HISTORY AND CULTURE COMMISSION

NATIONAL CENTER FOR THE STUDY OF AFRO-AMERICAN HISTORY AND CULTURE

Funds appropriated for the "National Center for the Study of Afro-American History and Culture" in the Departments of Labor, Health and Human Services and Education, and related agencies Appropriations Act, 1986 shall remain available until expended.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

SALARIES AND EXPENSES

For necessary expenses for the National Commission on Libraries and Information Science, established by the Act of July 20, 1970 (Public Law 91-345), [$660,000] *$690,000.*

NATIONAL COUNCIL ON THE HANDICAPPED

SALARIES AND EXPENSES

For expenses necessary for the National Council on the Handicapped as authorized by section 405 of the Rehabilitation Act of 1973, as amended, [$732,000] *$850,000.*

NATIONAL LABOR RELATIONS BOARD

SALARIES AND EXPENSES

For expenses necessary for the National Labor Relations Board to carry out the functions vested in it by the Labor-Management Relations Act, 1947, as amended (29 U.S.C. 141-167), and other laws, [$129,055,000] *$130,865,000*: *Provided*, That no part of this appropriation shall be available to organize or assist in organizing agricultural laborers or used in connection with investigations, hearings, directives, or orders concerning bargaining units composed of agricultural laborers as referred to in section 2(3) of the Act of July 5, 1935 (29 U.S.C. 152), and as amended by the Labor-Management Relations Act, 1947, as amended, and as defined in section 3(f) of the Act of June 25, 1938 (29 U.S.C. 203), and including in said definition employees engaged in the maintenance and operation of ditches, canals, reservoirs, and waterways when maintained or operated on a mutual, nonprofit basis and at least 95 per centum of the water stored or supplied thereby is used for farming purposes.

NATIONAL MEDIATION BOARD

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Railway Labor Act, as amended (45 U.S.C. 151-188), including emergency boards appointed by the President, [$6,401,000] *$6,540,000.*

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For the expenses necessary for the Occupational Safety and Health Review Commission, [$5,647,000] *$5,750,000.*

PHYSICIAN PAYMENT REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out section 1845(a) of the Social Security Act, $1,000,000 to remain available until September 30, 1988, to be transferred to this appropriation from the Federal Supplementary Medical Insurance Trust Fund.

PROSPECTIVE PAYMENT ASSESSMENT COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out section 601 of Public Law 98-21, $3,421,000 to be transferred to this appropriation from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds.

RAILROAD RETIREMENT BOARD

DUAL BENEFITS PAYMENTS ACCOUNT

For payment to the Dual Benefits Payments Account, authorized under section 15(d) of the Railroad Retirement Act of 1974, $380,000,000, all of which shall be credited to the account in 12 approximately equal amounts on the first day of each month in the fiscal year.

FEDERAL PAYMENTS TO THE RAILROAD RETIREMENT ACCOUNTS

For payment to the accounts established in the Treasury for the payment of benefits under the Railroad Retirement Act for unnegotiated checks, $3,100,000 which shall be the maximum amount available for payments pursuant to section 417 of Public Law 98-76: *Provided*, That these funds shall remain available through September 30, 1988.

LIMITATION ON ADMINISTRATION

For expenses necessary for the Railroad Retirement Board, [$56,634,000] *$58,877,000* to be derived from the railroad retirement accounts: *Provided,* That such portion of the foregoing amount as may be necessary shall be available for the payment of personnel compensation and benefits for not less than 1,217 full-time equivalent employees: *Provided further,* That $500,000 of the foregoing amount shall be available only to the extent necessary to process workloads not anticipated in the budget estimates and after maximum absorption of the costs of such workloads within the remainder of the existing limitation has been achieved: *Provided further,* That notwithstanding any other provision of law, no portion of this limitation shall be available for payments of standard level user charges pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(j); 45 U.S.C. 228a-r).

LIMITATION ON RAILROAD UNEMPLOYMENT INSURANCE ADMINISTRATION FUND

For further expenses necessary for the Railroad Retirement Board, for administration of the Railroad Unemployment Insurance Act, not less than [$14,694,000] *$15,190,000* shall be apportioned for fiscal year 1987 from moneys credited to the railroad unemployment insurance administration fund, and of this amount $2,106,000 shall be derived from contributions credited to the railroad unemployment insurance account and shall be credited to the railroad unemployment insurance administration fund as authorized by section 11(a)(iv) of the Railroad Unemployment Insurance Act: *Provided,* That such portion of the foregoing amount as may be necessary shall be available for the payment of personnel compensation and benefits for not less than 336 full-time equivalent employees.

LIMITATION ON REVIEW ACTIVITY

For expenses necessary for the Railroad Retirement Board for audit, investigatory, and review activities, as authorized by section 418 of Public Law 98-76 not more than [$1,167,000] *$1,367,000,* to be derived from the railroad retirement accounts and rail unemployment insurance administration fund.

SOLDIERS' AND AIRMEN'S HOME

OPERATION AND MAINTENANCE

For maintenance and operation of the United States Soldiers' and Airmen's Home, to be paid from the Soldiers' and Airmen's Home permanent fund, $34,022,000: *Provided,* That this appropriation shall not be available for the payment of hospitalization of members of the Home in United States Army hospitals at rates in excess of those prescribed by the Secretary of the Army upon recommendation of the Board of Commissioners and the Surgeon General of the Army.

CAPITAL OUTLAY

For construction and renovation of the physical plant, to be paid from the Soldiers' and Airmen's Home permanent fund, [$15,000,000] *$16,241,000,* to remain available until expended.

UNITED STATES INSTITUTE OF PEACE

For necessary expenses of the United States Institute of Peace as authorized in the United States Institute of Peace Act, $1,250,000.

TITLE V—GENERAL PROVISIONS

SEC. 501. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 502. No part of any appropriation contained in this Act shall be expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), pursuant to any obligation for services by contract, unless such executive agency has awarded and entered into such contract in full compliance with such Act and regulations promulgated thereunder.

SEC. 503. Appropriations contained in this Act, available for salaries and expenses, shall be available for services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18.

SEC. 504. Appropriations contained in this Act, available for salaries and expenses, shall be available for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901-5902).

SEC. 505. Appropriations contained in this Act, available for salaries and expenses, shall be available for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities.

SEC. 506. No part of the funds appropriated under this Act shall be used to provide a loan, guarantee of a loan, a grant, the salary of or any remuneration whatever to any individual applying for admission, attending, employed by, teaching at, or doing research at an institution of higher education who has engaged in conduct on or after August 1, 1969, which involves the use of (or the assistance to others in the use of) force or the threat of force or the seizure of property under the control of an institution of higher education, to require or prevent the availability of certain curricula, or to prevent the faculty, administrative officials, or students in such institution from engaging in their duties or pursuing their studies at such institution.

SEC. 507. The Secretaries of Labor, Health and Human Services, and Education are authorized to transfer unexpended balances of prior appropriations to accounts corresponding to current appropriations provided in this Act: *Provided,* That such transferred balances are used for the same purpose, and for the same periods of time, for which they were originally appropriated.

SEC. 508. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 509. No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or film presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress itself.

No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress.

SEC. 510. The Secretaries of Labor, Health and Human Services, and Education are each authorized to make available not to exceed $7,500 from funds available for salaries and expenses under titles I, II, and III, respectively, for official reception and representation expenses; the Director of the Federal Mediation and Conciliation Service is authorized to make available for official reception and representation expenses not to exceed $2,500 from the funds available for "Salaries and expenses, Federal Mediation and Conciliation Service"; and the Chairman of the National Mediation Board is authorized to make available for official reception and representation expenses not to exceed $2,500 from funds available for "Salaries and expenses, National Mediation Board".

SEC. 511. None of the funds appropriated by this Act shall be used to pay for any research program or project or any program, project, or course which is of an experimental nature, or any other activity involving human participants, which is determined by the Secretary or a court of competent jurisdiction to present a danger to the physical, mental, or emotional well-being of a participant or subject of such program, project, or course, without the written, informed consent of each participant or subject, or a participant's parents or legal guardian, if such participant or subject is under eighteen years of age. The Secretary shall adopt appropriate regulations respecting this section.

SEC. 512. None of the funds provided in this Act to any department or agency may be expended for the transportation of any officer or employee of such department or agency between his domicile and his place of employment, with the exception of the Secretaries of Labor, Health and Human Services, and Education, and medical officers and other health personnel on out-patient medical service who are exempted from such limitations under 31 U.S.C. 1344.

[SEC. 513. No funds under title III of this Act shall be used by any educational institution which does not have a program for the prevention of drug abuse.]

This Act may be cited as the "Departments of Labor, Health and Human Services, and Education and related agencies Appropriations Act, 1987".

Mr. WEICKER. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 5233, an act making appropriations for the Departments of Labor, Health and Human Services, Education, and related agencies for the fiscal year ending September 30, 1987, and for other purposes.

I further ask unanimous consent that the committee amendments to H.R. 5233 be considered and agreed to en bloc, provided that no points of order under rule XVI are waived thereon, and that the measure as amended be considered as original text for the purpose of further amendments with the following exceptions: page 41, lines 6 and 7; page 59, line 11 through page 61, line 3.

The PRESIDING OFFICER. Is there any objection? Without objection, it is so ordered.

Mr. WEICKER. Mr. President, I also ask unanimous consent that during the debate on H.R. 5233, I might be permitted to make remarks from my seat as need be.

The PRESIDING OFFICER (Mr. KASTEN). Is there objection? Without objection, it is so ordered.

Mr. WEICKER. Mr. President, as chairman of the Senate Appropriations Subcommittee on Labor, Health and Human Services, Education, and Related Agencies, I rise to recommend the fiscal year 1987 appropriations bill which ensures that our most basic human programs are maintained and developed to meet the needs of 1987.

At this juncture I should like to thank my distinguished colleague, the ranking member, Senator PROXMIRE of Wisconsin, for the day-to-day assistance which he has rendered in arriving at this particular work product.

These matters, which will be under discussion on the Senate floor, relate to the positive aspects of life in this country, the education of our children, the health care of all of our citizens, the retarded, the disabled, indeed all those who need our special and loving care. Hearings on the bill before us encompassed some 35 to 40 days and the distinguished Senator from Wisconsin was there daily to lend his expertise and his advice in the formulation of the matters which now will come to the attention of the full Senate.

Mr. President, I am now going to digress from what I normally do, which is to cite the dollar figures contained in my bill, to discuss a matter which has been weighing on my mind for several months now and which I think needs a little airing insofar as it relates to what our national policies are to be.

I want to talk about money. I realize nobody wants to talk about money. So I am going to tell you what has precipitated my urge to broach the untouchable subject.

During the past several weeks during the recess, thanks to a bout with sciatica, I had occasion to lie in bed for a couple of weeks and read the newspapers and watch the television.

I noticed that the big subject for everybody's attention in the United States today is drugs. I read about the House initiative relating to drugs and the war on drugs.

Watching New York television from my home in Connecticut, I noted that the mayor of New York City, Mayor Koch, hosted a conference consisting of the mayors of the large cities in this country. Representative RANGEL was there. The minority leader of the House of Representatives was there. The focus was on drugs and the war on drugs. There is hardly a politician in the United States during this election year that does not want to talk about drugs and the war on drugs.

I do not know any other way, Mr. President, to conduct a war on drugs except to spend money on the war on drugs. We can talk ourselves blue in the face but the fact is that the money has to be appropriated to the Drug Enforcement Agency [DEA], it has to go to our local law enforcement agencies, it has to go to the Federal Bureau of Investigation, it has to go to the Justice Department, if we are to have a war on drugs.

I have heard everyone talking about the war on drugs, but I have not heard anyone say what it is going to cost.

I pick up the newspapers daily now and I read how the Secretary of Education wants excellence in education, and at the same time he is asking for excellence in education he presents a budget to the Appropriations Committee that cuts the funding for education.

Later on we are going to debate prayer in school. I know that everyone has his own opinion on prayer in school, but I tell you one thing: That is not the key to better education in the United States. It takes teachers and it takes effective programs and it takes money.

As far as I know, the demands of our education-seeking public, and by that I include not only the young, but the elderly who now like adult education, have been going up while the money has been going down, and yet we increasingly talk about excellence in education and about educational opportunities for our young people.

It is identical to the "war on drugs." Hooray for the war on drugs, and hooray for excellence in education, but it is time that we came forward and face the fact that these programs cost money and, yes, I think it is money well spent.

Because of the spate of air crashes that we have had over the past several months, I read about how something has to be done about safety in the skies. Let me tell you that as long as I have been on the Appropriations Committee, I know one thing that has happened, thanks to deregulation of the airlines: Air traffic has increased and new airlines are flying all over the Nation. Air traffic is soaring and the budget for air traffic safety control has been going down. Yet we were horrified when we hear of near misses and other things taking place.

I say these things because I have been blessed with a position on the Appropriations Committee, and after all is said and done, all the political talk is over with, and all the rhetoric is done, if you want the most impartial, bipartisan, unphilosophical judgment as to what the national priorities are and what we are actually doing, take a look at the appropriations. That is where it is at.

I do not care how eloquent my Democratic friends in the House are or what the President says in his Saturday morning speeches or what the candidates for office are going to promise. If they tell you that they want to have a war on drugs, or that they want better education for your children, or that they want safety in the skies, or that they want health care for the elderly, you better ask them if they are willing to make these issues a matter of national priority as to the spending of our national moneys. That is it. And unless they are willing to say we are going to spend the money on it, then they do not give a damn about any one or all of those subjects.

I have chaired this committee which is charged with the health care of this Nation for the past several years, and I have seen the hopes of this Nation, of those that cry out for hope, dashed time and time again by the budgets presented to us by the administration and by the subsequent actions of Congress.

I am not talking about welfare here today. I am not talking about handouts. I am talking about people who are dying that should not be dying. I am talking about people who are ignorant who should not be ignorant or illiterate. Recently, there have been several programs about illiteracy in the United States. They make damn good viewing. What are you going to do about it?

I am talking about those who are hooked on drugs and who have nothing to look forward to but death, period, sooner or later, and licking that problem.

All we do is speculate on what it is the Soviet Union is going to do in the year 2000 or the year 2010. How about the year 1986?

I can assure you what you are seeing throughout the neighborhoods of this Nation is not the figment of some screaming liberal's imagination. That is the fact of life in America today. People sleeping on the grates; that is the fact of life in America today. And the illiteracy that we have heard about; that is the fact of life in America today.

I am going to bring something very real to your attention here this morning, for the first time. Let us talk for a moment about another problem that afflicts this Nation, the matter of AIDS. There is neither a vaccine nor a cure of AIDS. Indeed up to this point there has not been anything that effectively halts the inexorable march of fatalities associated with that disease.

At the present time we have clinical trials going on under auspices of the National Institutes of Health. Hopefully something will come of all of that.

□ 1110

I believe my figures are correct that at the present time there are some 10,000 worst cases, if you will, people that are known to be dying of AIDS, never mind all those that are already dead, and those that will die. They look to the National Institutes of Health and to the Centers for Disease Control with a hope that maybe, maybe, if they can live a little longer, something could come along to buy a little more time until the scientists do their work either in terms of a drug which can halt the furtherance of the disease, put it on a status quo, or, which is much further away, a vaccine to cure the disease.

At the present time, 1,000 of those 10,000 are involved in clinical trials—1,000. In other words, 1,000 have at least the hope that they might live; 9,000 will not. Will not, period. How would you like to be in a position to make those kinds of choices?

Now during the course of the development of this budget, we have, not only this year but over the course of the last several years, the ranking member and myself and all the members of the committee, given every penny that has been asked for in terms of research in conquering this affliction.

Yesterday, I met with members of the Human Rights Campaign Fund. And they made the following request: They said, "Would it be possible to supply additional moneys to make available to those suffering from AIDS, some ten thousand persons, with a new drug, AZT?" For apparently there is the possibility that this drug has some delaying effect as far as those suffering from AIDS are concerned.

My good friend, Senator CRANSTON, from California, and Congressman WAXMAN, from California, indicated in a letter to me several weeks ago that they also would like to see some additional funds appropriated to make AZT available to AIDS sufferers.

It will not cure the sufferers. There is no guarantee as to how long it will put their affliction on hold. But if you had AIDS and at least there was a possibility that a month or 2 or 3 months might be given to you in terms of life while further discoveries with respect to the disease, would you not want to avail yourself of the substance?

The fact remains that there are now only funds to make it available to 1,000. And so, by virtue of the lack of money, we condemn 9,000 others, maybe even more, to certain death.

This matter is of such recent vintage that it was not in time for either the chairman's markup, the subcommittee markup or the full committee markup. I have done the best I can in the last 48 hours to see whether or not such an appropriation of funds—and we are talking somewhere between $40 million and $50 million in additional funds—as to whether or not this indeed was a valid request demanding of a legitimate response by the Senate of the United States.

I am convinced, as I address this body this morning, that this particular substance, AZT, does have the capacity to extend for a period of time—and I am not prepared as a layman to say exactly what that period of time is—the lives of many suffering from AIDS.

It is my intention during the course of the proceedings to consult with the ranking member and somehow try and find money in this budget to make a shift of funds to that purpose. But please understand that a shift of funds is going to be just that. It is going to have to come from some other endeavor in the area of education or health or science or moneys for the disabled, et cetera.

Now, I do not relish that kind of choosing, but, in the final analysis, this is not Reagan's budget we are dealing with. And it is not the budget of the U.S. Senate and it is not the budget or the appropriations of the House of Representatives. This is the budget of the American people. And the American people have been sitting around, snapping up with relish and with feel-goodism the rhetoric of the politicians all the while saying this is going to be great, we are going to do the job and we are not going to have to spend a nickel.

What I am saying to the American public here today is you are going to have to spend a lot of nickels, not on welfare, not on handing money away, but on our own health; on the fact that 10,000 people can live.

Let me give you another indication as to the lack of funding and what it entails for the future, so that nobody feels they are out from underneath what has been done to human services in this Nation. We know by the year—let me get my actual facts here so that we do not in any way generalize. I am turning my attention to the aging, the elderly.

By the year 2030, 20 percent of our population is going to be over 65. By the year 2000, our elderly population over 85 will double. Now that is not, again, some liberal philosphical poppycock. Those are just cold, hard statistics. Over age 85, doubling by the year 2000; and, by the year 2030, 20 percent of the population will be over 65.

So you say, "Well, what are we doing about it?" I will tell you what we are doing about it. We are cutting the budgets for the Institute on Aging. We are cutting the budgets on Alzheimer's disease. We are not providing the funds for the medical schools to have our doctors and our nurses specialize in geriatric care. That is what we are doing about it.

If you think it is expensive to spend money in the year 1986 for the problems coming up in the year 2000 and 2030, it is peanuts compared to what you will pay in the way of catchup ball in the year 2000 and the year 2030, and even when you play catchup ball financially, you will not have the people or the programs or the scientific knowledge to handle the problem.

□ 1120

Why do you think Alzheimer's disease has come to the attention of the American public? It has been there all along. But it has not been there in terms of numbers to make us all realize what this horrible affliction is. Now there are enough of us that have mothers, fathers, grandparents, and relatives that have it and we are beginning to get worried that we do not have the knowledge to match our worry.

We see a sterling performance by somebody like Joanne Woodward that brings it vividly into our homes on television. I suppose what makes me so darned mad is we sit there, we cry and we weep over our loved ones on an individual basis but we are not willing to commit ourselves on a matter of national policy to doing away with ignorance, doing away with disease, and doing away with homelessness. Unfortunately, in this business of taking care of our fellow man, it is more than a quarter and a tin cup on a street corner. But we equate, thanks to the rhetoric of certain individuals in this Nation, anything in terms of financial help for our neighbor as being some form of welfare and never being able to make it on their own.

I am not coming off this floor—and I want it to be known that there may be amendments on abortion, school prayer, and other social issues. Fine, we will go ahead and fight those battles here. It is a big waste of time as far as I am concerned. If that is what people want, that is what people are going to get. I know one thing. I do not know whether a prayer in school is going to save any souls or not. But I have had brought home forcefully to me that at least 10,000 people can live 6 extra months, and I am not coming off the floor of the U.S. Senate until I have the money to see that this happens.

We can have all the Gramm-Rudman laws, budget allocations and whatever have you. Our business is to see the health needs go where nobody else gives it. The job of this particular subcommittee is to ascertain that when matters of tragedy affect each American, his government is there, that it no longer is an individual effort by some lonely, lonely person, but rather that we exhibit the strength of the United States through the compassion of the United States. And no

more talk as to who wants to do what about drugs, who wants to do what about education, who wants to do what about safety, and who wants to do what about the elderly. No more talk, especially in this political year. Put up or shut up. It is as simple as that as far as the nation is concerned just as it is insofar as our individuals are concerned.

How many times a week do we hear, and as I get older I hear it more and more as we pay attention to the afflictions of family and friends, there but for the grace of God go I. If you have your health you have everything. It is a great individual sentiment, but it has yet to be evidenced in the budgets of the Nation.

Mr. President, again I want to pay a special tribute to my good friend, BILL PROXMIRE. I look forward to his remarks. At the conclusion of his remarks, I will ask for a quorum call in the hopes that might encourage any of those who care to come to the floor to offer amendments to do so. But during that quorum call I will ask to meet with the distinguished ranking member, Mr. PROXMIRE, so that we might go further into detail on the matter relating to the AZT treatment for AIDS, and so that we discuss an amendment to be offered by the distinguished Senator from Wisconsin, and the Senator from Connecticut or any others that care to participate on that subject.

I yield the floor.

Mr. PROXMIRE addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, first I want to congratulate my friend, the chairman of the Labor, Health and Human Services Subcommittee, for a superb statement. I regret all Members of the Senate were not present when this excellent statement was delivered, one of the most moving statements I have heard, and I have been here a long, long time—29 years. It was right in the tradition of Lister Hill, Warren Magnuson, John Fogarty, David Flood, and I might say without any exaggeration, in the tradition of Franklin Roosevelt, John Kennedy, and Lyndon Johnson, it was a superb statement. I do not know anybody in the many years I have served here, Democratic or Republican, who has a more sincere, deep conviction that we must do more to meet our obligation to the poor, to the disabled, to the ill, to the addicted, to the illiterate. You know the causes that the distinguished Senator from Connecticut spoke for are not popular causes. In fact, some of them are unpopular causes. People do not have much sympathy for people who are addicted to drugs, too little sympathy. They do not have much sympathy for people who have AIDS because very often they are people who have been drug addicts or homosexuals. But it really is something, it is really moving to have a man of the stature of LOWELL WEICKER stand up on the floor and speak with such eloquence and such feeling. And I might say with such power because he has been able to do something about it and he wants to do more, and I want to do all I can to help him.

Mr. President, the Labor-HHS-Education appropriation bill for fiscal year 1987 as reported represents an honest and painful compromise between competing pressures. It funds a number of programs the President wanted to terminate and increases appropriations for many other programs far above the amounts requested in the President's budget. In fact, the bill as a whole exceeds the administration's budget request by a whopping $8.5 billion and in the area of discretionary spending, the only spending the Appropriations Committee truly can control, the bill busts the President's budget by $5.7 billion.

On the other hand, many members of the Senate Appropriations Committee felt that we did not adequately fund some programs. For example, in full committee, a number of members expressed concern over our decision to freeze funding for State unemployment insurance offices in accordance with the assumptions made in the budget resolution. Others felt we should have provided more support for math-science education. These decisions were necessary if we were to come within our budget resolution ceiling.

In any event, the bill before us today provides a grand total of $113.6 billion for all programs with $34.6 billion—about 30 percent of the total—being for discretionary programs. The committee has recommended sizable increases over the President's budget estimates for student financial assistance, $1.4 billion, and for the National Institutes of Health [NIH], $1 billion. Of course, several of the administration's estimates for student financial assistance assumed significant changes in the underlying authorizations for the various student aid programs—changes that were never enacted. The President's budget would have cut NIH funding by about 3.5 percent while the committee's recommendation would increase NIH spending by approximately 15 percent.

Among the programs proposed for termination that the committee has continued to fund are health professions education activities, community services block grants, two student financial assistance programs, graduate and international education, mental health clinical training, and community support programs.

As my colleagues know, we are faced with the prospect of a 7.6-percent across-the-board sequestration under the Gramm-Rudman-Hollings Balanced Budget Act if we are unable to make significant cuts in individual bills as they come to the floor. This means we have to take an uncompromising look at all appropriations legislation, including the Labor-HHS-Education bill. Frankly, this is a very tough bill to cut because it deals with programs that touch so many people in need. Furthermore, it has taken some sharp whacks in committee. However, I am prepared to support efforts here on the floor today to make further cuts in the bill because this is the only way we are going to come to grips with our horrendous deficit problem.

In closing, Mr. President, I want to again congratulate Chairman WEICKER. Chairman WEICKER has done his usual masterful job of walking a very tough line between need and cost. The bill before us today is only a partial reflection of the many, many hours he and his fine staff have spent in an effort to produce a document that is fiscally and socially responsible.

Mr. President, I yield the floor.

Mr. WEICKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. WEICKER. I thank my good friend, Senator PROXMIRE, for his overly gracious remarks.

□ 1130

Mr. WEICKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1140

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I ask unanimous consent that I be allowed to proceed as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE DANILOFF ARREST

Mr. LEAHY. Mr. President, all Senators, Republican and Democrat, are outraged at the totally unjustified arrest of the American journalist, Nicholas Daniloff, by the Soviet Union on trumped-up charges of espionage. Whether this was in retaliation for the United States arrest of Gennadi Zakharov, who was a Soviet spy employed at the United Nations, or whether it is a Soviet maneuver by the KGB in some kind of geopolitical war of nerves, the fact is that this unwarranted detention endangers United

States-Soviet relations and must be terminated at once before further damage is done.

We are going to hear calls from some who say we should exchange Zakharov for Nicholas Daniloff. I would be totally opposed to that. If we set a precedent where we exchange a spy caught by the United States for Mr. Daniloff, then every time we catch a Soviet spy, some American journalist or American business person or American tourist is at risk in the Soviet Union because they may be picked up for a spy swap.

There are others who feel that because of the Daniloff arrest, progress toward real arms control negotiations—the Reagan-Gorbachev summit and the discussions between the foreign ministers—should also be derailed. This, I think, would also be a colossal mistake. We must go forward in the nuclear arms control talks in our own security interests as well as the interests of the rest of the world. The Daniloff arrest should not be the cause to torpedo these talks. But there is a way the United States can bring pressure on the Soviet Union. In fact, the United States must bring pressure. We cannot let this matter continue.

I have written, along with the distinguished Senator from Maine [Mr. COHEN] to Secretary Shultz, first saying that we strongly support his efforts and the efforts of the President to secure the immediate release of Nicholas Daniloff from Soviet custody.

We also say that the President and the Secretary of State could bring pressure on the Soviet Union by a rapid implementation of the Leahy-Cohen law. Let me describe that legislation. That is an amendment that the distinguished Senator from Maine and I offered on the State Department authorization last year. It was accepted by the Senate and the House and signed into law by the President of the United States. Senator COHEN and I did this for a very specific reason: The Soviet Union has always had a 3-to-2 ratio over us in diplomats. The Soviets have far more people with diplomatic immunity in the United States than we have Americans with diplomatic immunity in the Soviet Union. Senator COHEN, because of his long experience on the Armed Services Committee and the Intelligence Committee, I because of my role on the Intelligence Committee, know that when the FBI publicly states that 35 percent or more of Soviet diplomats here are KGB agents, that is factual.

We have something of a good news-bad news situation here. The good news is that the FBI can identify most of the KGB agents; the bad news is that there are so many of them there is precious little the FBI can do about it.

We intended in our legislation to bring down the number of Soviets with diplomatic immunity in this country to parity with the U.S. diplomats in the U.S.S.R. At least let us be on a level playing field.

As I said, the Leahy-Cohen amendment passed and became law. However, the State Department plans to reach this equivalence over 3 years by increasing the number of American diplomats in the Soviet Union, without any reductions in Soviet diplomats here. I much prefer, and I daresay the distinguished Senator from Maine agrees, that we also lower the number of Soviets with diplomatic immunity in the United States.

So we are urging President Reagan and Secretary Shultz to begin implementing Leahy-Cohen at once if Daniloff is not released, and let's not take 3 years to do it.

□ 1150

This action would give useful leverage to the administration in seeking Mr. Daniloff's release without disrupting overall United States-Soviet relations, especially the talks now underway on arms control and on preparations for a summit.

Senator COHEN and I suggest that the pace and manner of implementation of Leahy-Cohen, including the proportion between reductions in Soviet personnel here compared to increases in American officials in the Soviet Union, be directly affected by the Soviet treatment of Mr. Daniloff—let's put the pressure on the Soviets, make them understand the way we carry out Leahy-Cohen and the speed with which we do it will be directly related to how rapidly Mr. Daniloff is released. The Secretary of State could begin expelling Soviet diplomats at an escalating rate until Mr. Daniloff is freed. This would also move us more rapidly toward the overall goal of numerical equivalence.

I ask unanimous consent, Mr. President, that a copy of the letter Senator COHEN and I sent to Secretary Shultz on this matter be included in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
SELECT COMMITTEE ON INTELLIGENCE,
Washington, DC, September 9, 1986.

Hon. GEORGE SHULTZ,
Secretary of State, Department of State, Washington, DC.

DEAR MR. SECRETARY: We want first to emphasize our strong support for your efforts to secure the immediate release of Nicholas Daniloff from Soviet custody. His arrest on trumped-up charges of spying is an outrage and must be urgently resolved before it irretrievably damages U.S.-Soviet relations and disrupts the arms control talks now underway. If it continues to escalate, the Daniloff matter could jeopardize the chances for a Summit which could lead to a breakthrough toward a new arms reductions agreement.

As you know, last year Congress enacted and the President signed into law an amendment requiring the implementation of numerical equivalence between the sizes of the U.S. and Soviet diplomatic and consular presences in each other's country. We believe this requirement could be used to exert pressure on the Soviet Union to secure the release of Mr. Daniloff, and we urge your serious consideration of this approach.

At present, the executive branch plans to implement the numerical equivalence requirement over an extended period of time, three years or more. We suggest you consider informing Soviet authorities that the implementation will commence immediately, and the pace and manner of implementation, including the proportion between reductions in Soviet diplomats here and increases of American diplomats in the Soviet Union, will be directly affected by Soviet actions regarding Mr. Daniloff. In other words, how quickly we reach equivalence and how many Soviet diplomats will be reduced will not be determined by how quickly the Soviet Union frees Mr. Daniloff.

Mr. Secretary, as after the KAL 007 tragedy, there will be strong demands in Congress for immediate, and perhaps extreme, measures against the Soviet Union. Such demands may even include disruption of the current talks in preparation for a Summit and for a new strategic arms reductions agreement. The suggestion we offer, if acted upon immediately, could defuse such pressures and prevent more serious damage to U.S.-Soviet relations, while increasing pressure on the Soviet Union to release Mr. Daniloff.

Be assured, Mr. Secretary, that we stand ready to do anything we can to be of assistance.

Sincerely,

WILLIAM S. COHEN.
PATRICK LEAHY.

Mr. LEAHY. Mr. President, the case of the Soviet spy, Gennadi Zakharov, also leads me to suggest to the distinguished majority leader that despite the enormous agenda we have for this month, there is another pending measure whose quick adoption would enable the Senate to take strong action against Soviet spying in the United States, while at the same time sending a powerful signal to the Soviet Union that we will not be intimidated or deterred by gross and illegal reprisals such as the seizure of Mr. Daniloff. That, of course, is the bill S. 1773 which Senator COHEN and I introduced last October, a bill to extend the principle of numerical equivalence to the sizes of the Soviet and United States missions to the United Nations in New York. In floor statements on October 18, 1985, explaining the bill in detail, we pointed out that the Soviet U.N. mission in New York has over 300 officials while the next largest, the United States has only 130. The FBI publicly estimates that at least 30 to 40 percent of these Soviet U.N. officials are intelligence officers.

Mr. President, S. 1773 was adopted by the Intelligence Committee as part of the fiscal year 1987 intelligence authorization bill, with certain changes. It was reviewed on sequestial referral by the Judiciary and Foreign Rela-

tions Committees, without objection or further change.

I ask unanimous consent to reintroduce S. 1773 with the changes incorporated by the Intelligence Committee to it.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be star printed.

Mr. LEAHY. I also ask unanimous consent that the analysis of this legislation in the committee report on S. 2477, the fiscal year 1987 intelligence authorization bill, be included in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. LEAHY. Mr. President, I also ask unanimous consent to add Senator ANDREWS as a cosponsor of S. 1773.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, in conclusion, the distinguished Senator from Maine and I initially looked at these imbalances in diplomatic representation from the point of view of controlling Soviet espionage in this country. Now we have an added dimension, the totally unacceptable behavior of the Soviets toward Mr. Daniloff. There is not one shred of truth in their claim that Nicholas Daniloff is an American spy, an American agent. Perhaps they were prompted by the arrest of Gennadi Zakharov. Perhaps they were prompted by some who wanted to derail arms talks. I have no idea. But I do know that no American journalist, no American business person, no American tourist is safe from similar treatment unless the United States is willing to act in a very strong, forthright fashion. I believe President Reagan in his statements and in his actions has handled this matter perfectly correctly and I applaud him for it. Senator COHEN and I had tried to express a nonpartisan message of our concern. I think now we demonstrate the seriousness of the Leahy-Cohen amendment and at the same time bring pressure to bear to free this American citizen being held in a Soviet jail without any justification.

Mr. President, I see my distinguished colleague from Maine on the floor, Senator COHEN. I want to yield to him in a moment. Before I do, I applaud him for the kind of work he has done in this area. His counsel on the Intelligence Committee has been extremely important. The knowledge that he has gained on the Armed Service Committee has also been so important to us. One of the things I will regret when my term on the Intelligence Committee runs out is that I will not be serving on that committee with the Senator from Maine, but I have benefited by his service there, as have all of us. I yield to the Senator from Maine.

EXHIBIT 1

SOVIET MISSION AT THE UNITED NATIONS

Section 602 expresses the policy of Congress that the number of Soviet nationals admitted to the United States to serve as members of the Soviet Missions at the United Nations (SMUN) shall not substantially exceed the number of U.S. personnel who serve as members of the U.S. Mission at the United Nations. The U.S. government can, of course, easily increase the U.S. staff available for work in connection with activities at U.N. Headquarters by assigning personnel from Washington on temporary duty, and therefore it is not practicable to seek absolute equivalence between the size of the U.S. and Soviet missions. For purposes of this section, the number of Soviet personnel at the SMUN would substantially exceed the number of American personnel at the USUN if it were one-third or more greater than the annual average number of U.S. personnel permanently assigned to the U.S. Mission to the U.N. or its specialized agencies in New York City.

The President could continue to admit a greater number of Soviets than allowed under this policy, but only if he determined that such admission of Soviet nationals would be in the interests of the United States. In the event a greater number continued to be admitted, the Secretary of State would be obliged to transmit to the intelligence and foreign relations committees of the Senate and House of Representatives six months after enactment and every six months thereafter a report setting forth the number of Soviet nationals admitted during the previous six-month period and a description of their duties with the SMUN. Furthermore, the Secretary of State and Attorney General are requested to prepare a report within six months of enactment of this section setting forth a plan to ensure compliance with the policy that the number of members of the SMUN not substantially exceed the number of members of the U.S. Mission.

The staff of the SMUN for purposes of this section include all members of the mission included in the definition of the term "members of the mission" in Article 1(b) of the Vienna Convention on Diplomatic Relations, done April 18, 1961—i.e., the head of the mission and the members of the staff of the mission, including the members of the diplomatic staff, of the administrative and technical staff and of the service staff. This is to make clear that, in implementing this section, the State Department in the computation of the number of members of the SMUN must include all its personnel.

A mission of a country to the United Nations includes all the missions of such country to the U.N. in New York City and includes missions in New York City to specialized agencies of the U.N. In the case of the Soviet Union, the SMUN specifically includes the missions to the United Nations of the Union of Soviet Socialist Republics, the Byelorussian Socialist Republic and the Ukrainian Socialist Republic.

A key part of the Soviet official presence in the United States is the large staff of the Soviet mission to the United Nations (SMUN) in New York City. The SMUN currently has a staff of some 295, about 260 of which are assigned to the primary Soviet mission and the others to the missions of the so-called Ukrainian and Byelorussian Soviet Socialist Republics. This is in addition to the more than 300 Soviet citizens who work for the U.N. Secretariat in New York. Combined with other categories of Soviet representatives—press correspondents, commercial representatives, exchange scholars and the like—this adds up to well over 600 Soviets currently assigned to the New York area, in addition to their families.

Counterintelligence specialists, especially in the FBI, say that the SMUN in New York City is one of the chief havens for Soviet spies in the United States. With its large staff, the SMUN provides a major operational center for the KGB and GRU in their activities throughout the United States.

The Soviet mission greatly exceeds the size of other delegations to the United Nations. The next largest is the U.S. mission with a staff of about 130. China is third with a total of 125. All other missions to the United Nations—including many countries with extensive activities there—are well below this.

Not only does the size of the Soviet mission greatly exceed the others, but its structure differs as well. The SMUN has a bloated "support" staff of 120, many of whom do not have duties directly related to the United Nations. In fact, the United States Government has little official information on the nature of the activities pursued by the Soviets at their mission to the United Nations. The Soviets provide only the sketchiest information about the identities of personnel being sent to the SMUN, their positions in the mission, and their duties with respect to the United Nations.

The FBI believes that as with other Soviet organizations in the United States, more than one-third of the Soviet personnel at their U.N. mission—at least 100 people—are professional intelligence officers.

The chief damage of this large intelligence component is espionage and other clandestine collection by the Soviets of defense, science and technology, and national security information within the United States. Their large presence at the United Nations also provides the Soviets a great opportunity to attempt to recruit foreign officials at the United Nations as their agents.

It is extremely difficult for the FBI to cope with the large number of Soviet officials and their family members in New York City—over 800 people. Operational conditions for the FBI in New York are poor. The FBI has difficulty getting its best agents to work in New York due to the high cost of living in the area. As a result, the FBI cannot effectively monitor the activities of all the Soviet officials stationed in New York in one capacity or another. If Soviet espionage is to be controlled, there must be substantial reduction in the size of the Soviet U.N. mission.

Chairman Durenberger and Vice Chairman Leahy, in a statement to the Permanent Subcommittee on Investigations on October 22, 1985, indicated that the Committee's ongoing review of counter-intelligence and security problems had revealed that a key element in reducing the occurrence of espionage in the U.S. is reduction and restriction of the hostile intelligence presence in the U.S. For the most part, foreign intelligence officers in the U.S. operate under the cover of foreign diplomatic establishments and other official or quasi-autonomous entities controlled by foreign governments.

Members of the Intelligence Committee have been active in recent years in limiting the hostile intelligence presence in the U.S.

The Huddleston-Leahy Amendment to the Fiscal Year 1984 Intelligence Authorization bill declared the policy of Congress to be that the numbers and treatment of diplomatic officials from countries engaged in intelligence activities against the U.S. should not exceed the equivalent numbers and conditions of American officials assigned to those countries. The Leahy-Cohen Amendment to the Fiscal Years 1986 and 1987 Foreign Relations Authorization Act further established in statute that with respect particularly to the Soviet Union, the number of Soviet diplomatic and consular personnel admitted to the U.S. shall not substantially exceed the equivalent number of U.S. personnel in the Soviet Union. The Roth Amendment to the same Act authorized the Office of Foreign Missions of the State Department to regulate the travel of all U.N. employees outside the U.N. Headquarters District and in general directed the State Department to apply the same restrictions to U.N. employees as are applied to the foreign missions of their home countries.

Section 602 derives from S. 1773, a bill to limit the size of the SMUN. This bill was originally introduced by Senators Leahy and Cohen, and has nineteen additional Senate co-sponsors. The bill to limit the size of the SMUN was a logical successor to the earlier Leahy-Cohen bill on diplomatic equivalence and reciprocity with the Soviet Union. This is because by far the largest Soviet official establishments in the U.S. are the Soviet embassy and consulate, currently at 320 persons, and the Soviet mission to the United Nations.

The combination of these two measures will greatly impair the ability of the Soviet Union to conduct human intelligence operations in the U.S. As Stanislav Levchenko, a former high level officer in the KGB who defected several years ago, stated recently (Washington Times, Oct. 1, 1985):

"The most practical means of disrupting KGB operations in America is to require parity in the number of Soviet diplomats in the United States and American diplomats in the Soviet Union, and to limit drastically the size and operations of the huge Soviet mission to the United Nations.

"If such steps lead to reduction of 100 or more Soviet officials, KGB activities in the United States would be seriously damaged. The KGB would lose many officers who otherwise would be handling active cases. But Moscow still would need to maintain contact with various offices of the U.S. government. So more of the remaining officials would be occupied with legitimate diplomatic activities, rather than with espionage."

On March 7, 1986, the State Department announced that it would require the Soviet Union to reduce the number of personnel at the SMUN from 275 to 170 by April 1, 1988. The Department has indicated that if the Soviets do not comply voluntarily with the order, then the Department will proceed to implement it through denials of new requests for admission to the United States of members of the SMUN. In taking this action, the State Department was acting on a mandate developed by the Administration through the National Security Council.

Enactment of Section 602 remains necessary even after the recent action of the State Department. As an administrative measure the State Department decision is subject to modification in the future. Over the years, a large number of Soviets have been permitted to enter the U.S. as diplomats and consular officers, members of the SMUN, representatives assigned to quasi-nongovernmental entities such as trade associations and press bureaus, and visiting officials. It is therefore, desirable to apply definite statutory limitations on such admissions whenever possible. In the case of the SMUN, there is no difficulty in establishing reasonable limits on its size, vis-a-vis and U.S. Mission, by requiring that the size of the SMUN be substantially equivalent to that of the U.S. Mission, taking into account that as a result of the special circumstances, the size of the SMUN may be considered substantially equivalent to that of the U.S. Mission provided it does not exceed it by more than one-third.

The clear authority of the U.S. to take such an action on national security grounds rest largely on previous Congressional attention to this matter. Specifically (as explained in greater length below), Congress adopted legally binding reservations to both of the principal international agreements governing the status of the U.N. and national missions to it in the United States. These reservations were designed to preserve the U.S. right to protect its national security through reasonable limitations on the privileges of the U.N. organization and national missions to the U.N.

The basic principles governing the obligations of the United States toward the United Nations and national missions to the organization are the general Convention on the Privileges and Immunities of the United Nations—the general convention—adopted in 1946 but not ratified by the United States until 1970, and the agreement between the United Nations and the United States of America Regarding the Headquarters of the United Nations—the headquarters agreement—adopted by joint resolution of the Senate and the House of Representatives in 1947.

Neither of these agreements, as submitted to the Congress, contained explicit provisions permitting the United States to restrict the activities of the U.N. organization or the national missions to the United Nations based on national security grounds. But Congress, in approving the agreements, adopted legally binding reservations to both the general convention and the headquarters agreement preserving U.S. rights to protect its security. Section 6 of Public Law 80-357 which adopted the headquarters agreement, states: "Nothing in this agreement shall be construed as in any way diminishing, abridging, or weakening the right of the United States to safeguard its own security."

The U.S. Government has specifically maintained, both in principle and through its actions, that section 6 permits the U.S. Government to control the entry of foreign nationals into the United States in connection with the United Nations, including not only national missions to the United Nations but also employees and invitees of the United Nations itself. A valuable collection of materials on the development of U.S. policy in this regard is contained on pages 195-312 of the State Department publication, "Foreign Relations of the United States 1952-1954," volume III, United Nations affairs (1979).

The claim has been advanced from time to time that the U.S. may act against the admission of particular persons to the U.N. or national missions to the U.N., but not with respect to the overall size of missions. As host country for U.N. Headquarters, however, the U.S. retains the inherent power (as well as the legal authority arising from Congressionally-mandated reservations to the pertinent international agreements) to regulate such missions when their size and the conduct of their personnel raise legitimate national security concerns. The State Department has now agreed to this proposition through its recent action.

The key issue is the principle of reasonableness in interpreting the responsibilities of the U.S. Government under the general convention and the headquarters agreement. The agreements simply cannot be read to prevent the United Sates from taking reasonable measures to protect its national security by refusing to tolerate an abnormally large mission serving as a base for highly damaging espionage. There are an extraordinary number of Soviet officials assigned to the SMUN, many of whom appear too highly qualified for their official work as janitors, groundkeepers, and the like. The United States clearly has the right under our agreements concerning the United Nations to take an overall look at this situation and put restraints on the size of the SMUN that would ensure that it remains reasonable in light of its structure and legitimate activities at the United Nations.

Further information concerning the legal situation on limiting the size of the SMUN can be found among the materials printed in the Congressional Record at the time the original bill S. 1773 was introduced. (See Cong. Rec., October 18, 1985, pp. 28074-28085.)

Registration of Agents of Certain Foreign Governments

Section 603 amends 18 U.S.C. 951, which makes it a criminal offense for an agent of a foreign government to fail to register with the Attorney General. Current law exempts diplomats and other officials as well as one engaged in a "legal commercial transaction." Section 603 would narrow the exemptions by adding new subsection (e), which would require registration by those engaged in commercial transactions who are agents of the Eastern bloc nations, specifically, the Soviet Union, East Germany, Hungary, Czechoslovakia, Poland, Bulgaria, Romania, or Cuba, or those who have been convicted of espionage or export law violations.

The section derives from S. 1900, which was introduced by Senator Roth (for himself and Senators Nunn and Cohen) on December 2, 1985. S. 1900 would have amended the Foreign Agents Registration Act (FARA), which, like 18 U.S.C. Section 951, requires that agents of foreign nationals register with the Attorney General. (FARA likewise exempts diplomatic and other officials and those engaged in commercial transactions.) Senator Roth, as Chairman of the Permanent Subcommittee on Investigations, held hearings and heard testimony that commercial entities are regularly used as fronts by Soviets and their bloc allies. Current reporting statutes are intended to provide the Government with information about the activities of foreign agents. But they impose no such requirement on Soviet and Soviet-bloc businesses or even persons convicted of espionage violations. While those businesses are ostensibly engaged in non-political activity, it is common knowledge that the businesses are used as cover for espionage operations. S. 1900 was intended to provide information to the Government to enable it to protect itself and its citizens from the activities of agents of hostile foreign powers.

Following discussions with the Department of Justice, Senator Roth agreed that

because there are a number of reporting statutes, a better approach would be to amend the Code section directed at those engaged in espionage.[1] Accordingly, Senator ROTH developed an alternative proposal, now included as Section 603. The section accomplishes the two goals of S. 1900—requiring the registration of those engaged in business but working for Soviet bloc nations and also those previously convicted of espionage violations—but preserves the distinction between registration requirements for political representatives and spies.

Section 951 of title 18, U.S.C. currently requires prior notification to the Attorney General by any person who acts in the United States as an agent of a foreign government, with four exemptions spelled out in subsection (d), which defines "agent of a foreign government" to mean: "an individual who agrees to operate within the United States subject to the direction or control of a foreign government of official, except that such term does not include—

"(1) a duly accredited diplomatic or consular officer of a foreign government, who is so recognized by the Department of State;

"(2) any officially and publicly acknowledged and sponsored official or representative of a foreign government;

"(3) any officially and publicly acknowledged and sponsored member of the staff of, or employee of, an officer, official, or representative described in paragraph (1) or (2), who is not a United States citizen; or

"(4) any person engaged in a legal commercial transaction."

Under current law, the Attorney General is authorized to promulgate rules and regulations establishing requirements for notification. In addition, the Attorney General is required, upon receipt, promptly to transmit one copy of each notification statement filed under section 951 to the Secretary of State for such comment and use as the Secretary of State may determine to be appropriate from the point of view of the foreign relations of the United States. Failure of the Attorney General to do so is not a bar to prosecution under section 951. Violations are punishable by a fine or not more than $75,000 or imprisonment for not more than ten years, or both.

Section 603 of this bill amends section 951 of title 18 by adding a new subsection (e) which provides that, notwithstanding the exemption in paragraph (d)(4) for persons engaged in legal commercial transactions, a person engaged in such a transaction shall be considered an agent of a foreign government if such person agrees to operate within the United States subject to the direction or control of a foreign government or official and such person meets one of two criteria.

Mr. COHEN. I thank the Senator from Vermont for yielding. If he continues to make such overly generous remarks about me, I will push for an amendment to allow him to continue on the Intelligence Committee.

Mr. President, I join with the Senator from Vermont in his statement concerning the outrageous conduct of the Soviet Union. The Soviets have clearly engaged in an act of thuggery. They have demonstrated their contempt, not only for the rule of law but for the acceptable standards of international behavior.

One might have expected, for example, that had the United States apprehended one of their professional spies, they might seek to retaliate in some way by apprehending a comparable agent operating in their country. They chose not to do so but, rather, sought to send a message of some sort to the members of the Western press by way of example not to ask questions, not to seek information, not to print the truth, not to question too aggressively at press conferences. They certainly have accomplished the chilling effect that they sought to instill. I recall Mr. Gromyko made the statement about Mr. Gorbachev. He said, "He has a nice smile, but he has teeth of iron." Well, those teeth of iron, unfortunately, have turned into iron bars for Mr. Daniloff as he remains imprisoned in a KGB jail, the victim of a state-sponsored kidnaping. Now, I do not know that we can ever prevent this from taking place; that whatever we do in this Chamber, in this country will have much of an impact upon Soviet behavior. Normally, they react by simply stonewalling it or becoming even more repressive than we have witnessed to date. We certainly cannot prevent them from spying in this country. We cannot prevent them from arresting innocent citizens, kidnaping them and holding them hostage for their own cynical political purposes, but we can make it more difficult for them to operate in this country. That was the very purpose of the Leahy-Cohen proposal that was passed by the Senate and the House and has become law. The purpose was to make it more difficult for them to operate in this country.

□ 1200

I became concerned about it when, as a member of the Intelligence Committee, I learned that we had more Soviet citizens working in our Embassy in Moscow than we had Americans working in the American Embassy in Moscow. That was on the heels of the major disclosure that they were able to bug our typewriters, so that they were having access to information before we had access to our own information from our own diplomats.

I will not take the time to explain other methods they have used to compromise information we have acquired, information which they obtained by bugging, wiretapping, and engaging in other types of activities in their country against our diplomats. We cannot prevent them from doing that.

We sought a rough equivalence, something like with arms control, a rough equivalence of diplomatic representation. It should be considered an outrage that they should have more Soviets working in their Embassy here than we have in our Embassy in Moscow. We should reduce the number of people they have here or substantially increase the number of personnel we have working in the Soviet Union.

The agreement was made, as Senator LEAHY mentioned, to implement this rough equivalence within 3 years. We should implement it now, with no further delay. That may cause hardship to our own personnel. That may cause hardships to our own operations. Nonetheless, I think we have to establish the principle that we want rough equivalence. We want fewer of them or more of us, in order to have essential equivalence.

The same is true with respect to the United States and Soviet missions to the United Nations. As Senator LEAHY pointed out, the Soviets have a better than 2 to 1 advantage in representation in New York alone—situated right in the heart of a major city of this country.

I had the opportunity to appear on a major network program with a representative of the Soviet Union. He said the reason they needed so many Soviets working at the United Nations was that they were actively promoting peaceful initiatives in that body. He apparently suffered a momentary case of amnesia. I did not hear the word "Afghanistan" come up as a part of the peaceful mission being promoted in the United Nations.

Nonetheless, if you follow that line of reasoning, the more peaceful missions they promote and propagate at the United Nations, the more personnel they are entitled to; so they could have 400, 500, or 600, as long as they continue to generate that kind of paperwork.

We understand that a good portion of those people assigned to work at the United Nations are in fact engaged in active espionage. Our FBI is certainly understaffed, with inadequate resources to contain and follow up on those activities.

Senator LEAHY and I have insisted that we have a numerical equivalence in the size of the Soviet and United States missions in New York. This is important because the activities have become clear and patent to every one of us who serves in this body. We have to take action and take it now.

This may not change the situation for Mr. Daniloff. I am not sure that anything we do will change that situation, until the Soviets realize that it is against their interests to pursue this kind of conduct.

I hope, notwithstanding my concern about Mr. Daniloff's safety and the security and well-being of his family, that this flagrant violation of the indi-

[1] FARA was originally aimed at subversives and propagandists, and required that all representatives of foreign governments register. Over time, it has been limited to those who attempt to influence public opinion or government action. Other laws, including 18 U.S.C. 951 and 50 U.S.C. 85-1, have focused on subversives and those engaged in espionage.

vidual rights in that country of one of our citizens will not set a precedent for arranging for a swap. Mr. Daniloff is not a spy.

In fact, one of the ironies is that he has presented testimony to the Senate Intelligence Committee about his insistence that under no circumstances should the press be used for espionage activities.

Nonetheless, I think we have to at least set the record straight. We should insist upon this numerical equivalence, and we should implement the law that is on the books now, and not 3 years from now. I join the Senator from Vermont in urging the State Department to act now.

Mr. President, the kidnaping of American journalist Nicholas Daniloff by the Soviet Government is a chilling reminder of the dangers faced by innocent newsmen trying to do their job in a repressive nation. Further, it is a dramatic demonstration of the power of a state to hold hostage an individual who has committed no crime, but who has the misfortune of having been chosen to serve as a pawn in a political game being played by that State's leaders.

The reprehensible action on the part of the Soviet state shows clearly how important it was that we passed the resolution we considered yesterday. Moreover, it reinforces my belief that we must, at the earliest possible point, implement the two pieces of legislation Senator LEAHY and I have introduced calling for a reduction in the Soviet presence in the United States.

Nicholas Daniloff is imprisoned in the Soviet Union today simply because Soviet leaders were looking for a hostage they could trade for their accused spy, Gennadi Zakharov, who had been posing as a U.N. official in New York City at the time of his arrest on espionage charges. There is, unfortunately, precedent for the Soviet action. Other innocent Americans, both journalists and businessmen, have been taken prisoner by the Soviets in the past and held until Soviet spies were swapped for them.

It is not within our power to stop the Soviet Union or any other nation from using such cynical means of achieving their ends. We can, however, make it more difficult for them.

That is the purpose of the two pieces of legislation Senator LEAHY and I have sponsored. The first measure, which was passed by the Senate in the last session, calls for essential equivalence in the consular and embassy staffs of our two countries. At present, the Soviets hold a wide edge in diplomatic presence, and the FBI has estimated that at least a quarter of all so-called Soviet diplomats are, in fact, engaged in espionage activities.

At present, the executive branch plans to implement the numerical equivalence requirement over an extended period of time, 3 years or more. Senator LEAHY and I have urged Secretary of State Shultz, in a letter we sent yesterday, to consider informing Soviet authorities that the implementation will commence immediately, and that the pace and manner of implementation, including the proportion between reductions in Soviet diplomats here and increases of American diplomats in the Soviet Union, will be directly affected by Soviet actions regarding Mr. Daniloff. In other words, the timeliness with which the Soviet Union frees Mr. Daniloff will have a direct impact on how quickly we reach equivalence and how many Soviet diplomats will be reduced.

Our other initiative, S. 1773, would apply the principle of numerical equivalence in the sizes of the Soviet and United States missions to the United Nations in New York. The measure has been approved unanimously by the Senate Select Committee on Intelligence as a part of the Intelligence Authorization bill and has been reviewed on sequential referral by the Foreign Relations and Judiciary Committees without change or objection.

This measure is ready for consideration by the full Senate and will, I hope, receive early action. Senate adoption of S. 1773 could, we believe, send a strong message to the Soviet Union that the Senate is determined to act vigorously in support of the President in controlling and reducing the huge number of Soviet intelligence officers operating in the United States out of the bloated Soviet U.N. mission. It would provide a statutory basis for the action taken recently by the President to reduce the size of the Soviet U.N. mission by some 100 personnel.

Passage of the Dole-Byrd resolution yesterday, early approval of the U.N. mission equivalence legislation, and accelerated implementation of the diplomatic equivalence law will provide valuable tools to the FBI as it attempts to control Soviet espionage in the United States. More important, these actions can have a salutary effect as we seek to gain freedom for Nicholas Daniloff and to allow this innocent man to rejoin his wife and family. They can also demonstrate forcefully to the Soviets that we will not countenance inexcusable and cynical actions of the sort represented by the kidnaping of Nicholas Daniloff.

Mr. President, I ask unanimous consent that the name of the Senator from California [Mr. WILSON] be added as a cosponsor of S. 1773.

The PRESIDING OFFICER (Mr. HATFIELD). Without objection, it is so ordered.

ANTI-DRUG CAMPAIGN CHECK-OFF

Mr. DOLE. Mr. President, the anti-drug campaign obviously has, and will continue to have, overwhelming support of the American people. There are differences of opinion on some of the specifics, but the support for the basic goals is very clear.

TAX RETURN CHECK-OFF CAN PROVIDE A WAY FOR AMERICANS TO SHOW ACTIVE SUPPORT

But even when you have a program that has great bipartisan support, there always is the problem of where you get the funds to implement the program.

A lot of us have great ideas but when it comes to paying for it we seem to be lacking in any ideas of how that might be done.

It seems to me that this is a program that deserves the active support of the public, and we need to have the active participation of the American people to assure that the campaign against illegal drugs will succeed. One way that we can enlist this participation, and at least partially fund the program is to institute a tax return check-off system.

CHECK-OFF CAN PROVIDE SIGNIFICANT FUNDS

In 1985, the latest year for which the IRS has complete data, over 80 million individual taxpayers were owed a refund on their Federal income tax. The total amount of the refunds owed to these individuals was $83 billion. That is $83 billion. If we had in effect a mechanism to allow these individuals to contribute part of their refund to help finance the antidrug campaign, and if each of these individuals contributed just $5, we would have over $400 million to fund the so-called program.

What I would anticipate is not to have a limit of $5 but have a minimum of $5. Some people may want to contribute $100, and some even more. But the $5 annual contribution by those who have refunds would raise $200 million from the American people. I think the parents, the grandparents, and the American work force would be willing to participate in this program.

The IRS expects that the number of individuals who were owed a refund for 1986 and the total amounts owed to them will be slightly higher in 1986 than in 1985. So there are even bigger opportunities. Of course, we cannot expect that all individuals who are owed a refund on their taxes will be willing to contribute to the antidrug campaign, but we can realistically expect that a significant percentage would be willing to contribute.

I think a very high percentage with a lot of education about tax time can get to the media and others to indicate that we can do this, and we can help the drug effort.

As we all know, there is a checkoff system on tax returns today—the cam-

paign fund checkoff. This is not precisely the same as what I am proposing now since it does not involve allocation of any portion of an individual's refund. Instead, it allocates a portion of taxes already due. But it is interesting that 22 million returns were filed with the campaign fund box checked off. I am confident that at least as many individuals would be willing to allocate a small part of their refunds to fight illegal drugs in this country.

There will be all kinds of proposals. I understand the Democrats have introduced their proposal. There will be Republican proposals. There will be the administration proposal. In the final analysis, there will be a bipartisan proposal.

It seems to me one way to pay for it and one way to encourage the American people to participate is to ask them to give us $5 or $10 or $100 of the refund they might have coming. And that would do a lot to fund the program without adding to the tax burden and without adding to the Federal deficit.

It seems to me that the effort deserves such a proposal. We hope to include it in a package. I hope it will have the overwhelming support of not only the Senate and the House but also the administration.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1987

The Senate continued with the consideration of H.R. 5233.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. WEICKER. Mr. President, I yield to the distinguished Senator from California.

AMENDMENT NO. 2779

(Purpose: To appropriate $30,000,000 for the Emergency Immigrant Education Program)

Mr. WILSON. I thank the distinguished manager of the bill.

Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The committee amendments would have to be set aside before the Chair could entertain another amendment.

Mr. WILSON. Mr. President, I ask unanimous consent that the pending amendments be temporarily laid aside for that purpose.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair recognizes the Senator from California for the purpose of offering an amendment, which the clerk will report.

The bill clerk read as follows:

The Senator from California [Mr. WILSON] proposes an amendment numbered 2779.

Mr. WILSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 50, line 14, strike out "$138,955,000" and insert in lieu thereof "$168,955,000".

On page 50, line 18, after the word "Act" insert the following: "and $30,000,000 shall be for the Emergency Immigrant Education Program authorized by title VI of the Education Amendments of 1984".

Mr. WILSON. Mr. President, I am offering an amendment to the pending legislation that would restore funding for the Emergency Immigrant Education Assistance Act [EIEA] to the fiscal year 1986 funding levels.

Enacted in 1984, this program has provided valuable assistance to help school districts in 31 States across the Nation to purchase special textbooks, conduct teacher training programs, construct or restore school facilities, offer guidance and counseling services, and undertake other activities to help meet the special needs of immigrant children.

In California, where about 30 to 40 percent of the immigrants entering the United States reside, there has been an influx of immigrants hailing from rural areas with subsistence economies, especially Southeast Asia.

For example, a Laotian tribe called the Hmong has relocated virtually in its entirety in the central San Joaquin Valley in my State. The Hmong's skills are limited to those they used in the subsistence farming they performed for centuries in their native country. An extremely high percentage of the Hmong are on county welfare rolls.

The task of educating the immigrant children—particularly those that have lived a near feudal existence prior to coming to America—has placed a heavy burden on many States, including California. If Federal funding for immigrant education was eliminated, over 420,000 children would be adversely affected and the valuable supplementary education services provided by State and local education agencies would be jeopardized. Indeed, absent this funding, many immigrant education programs which have already been established would face termination.

Mr. President, to teach immigrant children the English language and provide them with the necessary education to adjust to American life is both essential and practical. Well-educated children, be they immigrant or native-born, grow up to become integral members of our society and become productive.

Ours has always been a nation of immigrants. It is the source of our strength, the source of our greatest resource. The humanity we display toward newcomers to our shores is a measure of the greatness of this Nation. It has always been a matter of enlightened self-interest. This country has always opened its door to those who were willing to work, and we must not slam it on those who would seek to find, through our educational system, a means of becoming productive citizens of this Nation when we have admitted them honoring that time-honored obligation.

So, Mr. President, at this point I seek to restore that funding, because without it we are in danger of having admitted to our shores and to our communities those who will be unable to cope because of their special problems.

Mr. WEICKER. Mr. President, I commend the distinguished Senator from California for eloquently stating the case. However, due to the scoring difficulties which we face on this bill, I have asked that we be permitted to take the matter to conference, since there is money in the House bill. If that is acceptable to the distinguished Senator from California, he has my assurance that I will do everything I can to see that moneys are provided and they are existent in the House bill.

Mr. WILSON. Mr. President, as I listened to the eloquent and moving opening statement of the distinguished chairman and manager of the bill, I was struck by the difficulty he is facing and the sincerity of his desire to achieve the goals that he recited. I do not think it could have been lost upon anyone, so I am by no means unsympathetic.

His assurance that he will seek to find the funding will satisfy me. I am pleased that the moneys are in the House bill. I hope the conference will find its way to a conference report that does provide this vital funding, because I think it is essential. Otherwise, we are creating an enormous problem for ourselves and for those to whom we are offering an otherwise uncertain welcome to our shores.

At this time, I withdraw the amendment.

The PRESIDING OFFICER. The Senator from California withdraws his amendment.

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Mr. WEICKER. Mr. President, I ask unanimous consent that the pending amendments be set aside in order that I might send an amendment to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2780

Purpose; To expand drug intervention studies for AIDS and reduce funding of the Low-Income Home Energy Assistant Program)

Mr. WEICKER. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Connecticut [Mr. WEICKER] for himself, Mr. PROXMIRE, and Mr. WILSON proposes and amendment numbered 2780.

Mr. WEICKER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 33, line 21, delete "$1,875,000,000" and insert in lieu thereof "$1,825,000,000".

On page 33, line 24, delete "$494,343,000" and insert in lieu thereof "$541,343,000".

Mr. WEICKER. Mr. President, I am recommending a one time transfer of low-income/low-energy funds due to the availability of funds to the States in the Exxon overcharge case.

The transfer is to be to the National Institutes of Health for experimental drug therapy programs.

I urge adoption of the amendment.

Mr. PROXMIRE. Mr. President, I concur in the Weicker amendment. What we are doing is making a small reduction in a program. We received a windfall from oil refunds and using savings to provide life-prolonging therapy.

I wish we did not cut any specific program to help those with AIDS. However, under the Budget Act we have no choice, as the distinguished Presiding Officer knows better than anyone else in the Senate.

The funds shift proposed by Chairman WEICKER is the best and least painful way to get the job done.

Mr. CRANSTON. Mr. President, I would like to voice my strong support for the amendment offered by the chairman of the Appropriations Subcommittee on Labor/HHS/Education, Mr. WEICKER, and the ranking minority member, Mr. PROXMIRE, which would provide $47 million in additional funding for NIH to enable all AIDS patients to obtain treatment with experimental drugs. I would also like to express my deep appreciation to the subcommittee chairman who spoke so eloquently and passionately about what this funding could mean to thousands of Americans with AIDS—life itself. Research on AIDS is progressing at such a rapid pace that every year, ever month we move closer to finding an effective treatment and, maybe, a cure.

I strongly support providing these additional funds to give each AIDS patient the opportunity to obtain an experimental drug—which may give them that extra month or year of life until an effective treatment is ultimately discovered. As the Senator from Connecticut [Mr. WEICKER] has noted I have been in close contact with him urging that a way be found to meet these needs.

Of the $47 million to be added, $7 million would be provided for five remaining approved but unfunded treatment and evaluation units [TEC's] to conduct clinical trials of experimental drugs that have some demonstrated value in combatting the AIDS virus—HTLV-III—or that enhance the immune response.

The National Institute on Allergy and Infectious diseases [NIAID] received 29 applications from medical centers and hospitals seeking to become TEU's; 19 were approved as being scientifically meritorious but on July 1, 1986, NIAID awarded contracts to only 14 medical centers.

The majority of the 14 currently funded centers serve areas with high populations of AIDS patients—for example, Los Angeles, San Francisco, New York, and Miami. It is also important, however, that people with AIDS in medium-density population areas have access to clinical trials. Three of the five unfunded centers are located in just such areas—North Carolina, Louisiana, and Minnesota.

Because I was concerned that it was extremely important to the hundreds of AIDS patients that could be served by the TEU's as well as to the scientific effort on AIDS, I contacted the subcommittee chairman in August and expressed my strong support for funding the remaining centers. Thus, I am pleased that funding for this purpose will now be included in this amendment.

Mr. President, I have also been exploring with the subcommittee chairman and my good friend and colleague from California [Mr. WAXMAN] the chairman of the Subcommittee on Health and the Environment in the other body the need to establish a program of so-called satellite clinical trials that would enable all AIDS patients to receive experimental drug treatment. The majority of the additional money, $40 million, would go toward that purpose.

I have heard, as I'm sure many Senators have, about persons who have AIDS or AIDS related complex [ARC] and would want to participate in clinical trials but are unable to gain access to them. There are no AIDS treatments available except through clinical trials. Experimental drugs offer the only hope for an AIDS patient until some treatment is shown to be effective in combating AIDS. Scientists believe that one or two of the drugs now being tested, AZT or ribavirin, might be available next year. However, for many thousands of Americans, that may be too late.

The $40 million we are adding would allow satellite unit trials to be established next fiscal year. These units would work in close coordination with TEU's in administering the trials and in providing a controlled environment for patients to receive experimental drugs.

I want again to thank the subcommittee chairman and ranking minority member. Year in and year out since this terrible epidemic began, they have been steadfast supporters of efforts to combat AIDS. With this amendment, they have again shown great compassion for those suffering with AIDS.

Mr. President, I urge all of my colleagues to support this amendment and ask unanimous consent that the text of my August 13 letter be placed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD as follows:

U.S. SENATE,
Washington, DC, August 13, 1986.

Hon. LOWELL P. WEICKER, Jr.,
Chairman, Subcommittee on Labor, Health and Human Services, Education, and Related Agencies, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR LOWELL: I am writing to you in your capacity as Chairman of the Appropriations Subcommittee on Labor, HHS, Education, and Related Agencies and as a steadfast supporter of research and other public health efforts to combat AIDS. I congratulate the Subcommittee on agreeing to include in the FY 1987 Labor/HHS/Education appropriations bill $355 million—$131 million more than in FY 1986—for AIDS research and public health activities. This funding would provide for increased research efforts at the National Institutes of Health and the Alcohol, Drug Abuse, and Mental Health Administration and for more education and epidemiology at the Centers for Disease Control.

However, I would like to draw your attention to one area of funding which I believe warrants your further consideration in connection with the full Committee markup of the bill. As you know, on July 1, the National Institute on Allergy and Infectious Diseases (NIAID) awarded contracts to 14 medical centers to conduct clinical trials of experimental drugs for persons with AIDS. Carrying out these contracts will require $100 million over the next five years for these Treatment Evaluation Units (TEUs); the total first year cost is $20 million. NIAID estimates that as many as 1000 patients will be enrolled in the first 6 months.

These TEUs will test agents that have some demonstrated value in combatting the HTLV-III virus or that enhance the immune response. Agents to counter so-called opportunistic infections which afflict persons with AIDS may also be tested.

The NIAID received 29 applications from medical centers and hospitals to become TEUs. Of those, 19 were approved as being scientifically meritorious but only 14 were funded. Thus, 5 centers remain approved but will not be able to participate because of a lack of funding. The average TEU costs between $1.2 and $1.8 million per year. Thus, these 5 centers could be funded in FY 1987 for a total of approximately $6 or $7 million.

TEUs serve two purposes. First, well-designed, controlled clinical trails are critically important to the effort to defeat AIDS. The TEUs form a network to coordinate research efforts and rapidly disseminate information and results. Second, the TEUs

enable greater numbers of patients with AIDS and AIDS-Related Complex (ARC) throughout the country to participate in clinical trials.

The majority of the 14 currently funded centers serve areas with high populations of AIDS patients—Los Angeles, San Francisco, New York, and Miami. It is also important, however, that people with AIDS in medium-density population areas have access to clinical trials. I understand that 3 of the 5 unfunded centers are located in just such areas—North Carolina, Louisiana, and Minnesota.

I have heard, as I'm sure you have, from many persons who have AIDS or ARC and want to participate in clinical trials but are unable to gain access to them. Of course, I am gratified that a number of TEUs were established in California so that many AIDS patients there will be able to participate in clinical trials. However, people with AIDS who do not live in states like California have more difficulty finding state-of-the-art treatments. These additional TEUs would help to ease the frustration experienced by hundreds of AIDS patients who desire to participate in clinical trials but are unable to gain access to them—as well as help to speed the search for effective treatments.

Thus, I would urge that the Committee provide the $6 to $7 million needed to fund the 5 additional TEUs.

Lowell, I am hopeful that we can work together on this important matter and I look forward to your response.

With warm regards,

Cordially,

ALAN CRANSTON.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Connecticut.

The amendment (No. 2780) was agreed to.

Mr. WEICKER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WEICKER. Mr. President, I yield the floor.

I believe the distinguished Senator from New Jersey has an amendment.

The PRESIDING OFFICER. It will be necessary to set aside the committee amendments temporarily.

Mr. BRADLEY. Mr. President, I ask unanimous consent that the committee amendments be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Jersey is recognized for the purpose of offering an amendment.

AMENDMENT NO. 2781

(Purpose: To appropriate $1,000,000 for special law related programs in elementary and secondary schools related to the bicentennial celebration)

Mr. BRADLEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from New Jersey [Mr. BRADLEY] proposes and amendment numbered 2781.

Mr. BRADLEY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 48, line 1, strike out "$26,837,000" and insert in lieu thereof "$27,837,000".

On page 48, line 15, strike out "$2,000,000" and insert in lieu thereof "$3,000,000".

On page 48, line 20, before the period insert a colon and the following: "*Provided further,* That of the amounts appropriated and available for activities authorized under subsection 583(b)(4) of said Act $1,000,000 shall be available for law related programs in elementary and secondary schools related to the bicentennial celebration of the Construction".

Mr. BRADLEY. Mr. President, I rise to offer an amendment to provide $1 million to the U.S. Department of Education to conduct educational programs in elementary and secondary schools related to the bicentennial celebration of the Constitution and Bill of Rights. I want to assure my colleagues that this amendment is budget neutral, since it reduces the appropriation for the chapter II block grant by a like amount.

Mr. President, when the word "Bicentennial" is mentioned, most Americans conjur up very fond memories of tall ships, fireworks, celebrations and festivities. In 1976, we held such a celebration of national scale on the 200th anniversary of the signing of the Declaration of Independence, and Americans showed their pride in our 200 years of freedom.

Why do we as a people like to celebrate the signing of the Declaration of Independence? One hundred and twenty-seven years ago, Abraham Lincoln said,

". . . we hold this annual celebration to remind ourselves of all the good done in this process of time, of how it was done and who did it, and how we are historically connected with it; and we go from these meetings in better humor with ourselves—we feel more attached the one to the other, and more firmly bound to the country we inhabit . . ."

The Bicentennial of the Declaration of Independence gave Americans a chance to pause for a moment and reflect on the importance of the actions in 1776 and the shared values on which this Nation is based.

Mr. President, a new bicentennial will soon be upon us—the 200th anniversary of our Constitution and Bill of Rights. The bicentennial of the Constitution will give Americans another opportunity to celebrate that which binds us together as a people.

The deepest origins of our Constitution date back to the traditions of Greece and Rome. But our particular constitutional concerns for individual liberty, for the rule of law, for equal justice and for the limits to the use of government power through our system of federalism and checks and balances are, in many respects, uniquely American. Our Constitution reflects the values on which our American system of governance was based. It is my hope that this bicentennial will give all Americans an opportunity to do more than celebrate. I hope we can reflect on the values that serve to bind us together as a people.

Mr. President, I strongly believe that the forum for much of this discussion should be in our Nation's schools. Both Washington and Jefferson argued that one of the most important roles of the schools, given our pluralistic society, was to educate youth on the values that bind us together as a people. Thomas Jefferson said that "if you expect a nation to be ignorant and free, you expect what never was and never will be." He argued that a knowledgeable citizenry that accepts its civic responsibilities—responsibilities such as participation in our democratic institutions and an acceptance of the policies which promote the common good—is central to the preservation of our Nation.

One way to help achieve these lofty goals is by promoting civic education. When I use the term civic—or citizenship—education, I am referring to a number of activities that are aimed at educating students about what it means to be an American, what the rights and responsibilities of citizenship are, and how students can take greater responsibility in the actual activities of government. Civic education tries to answer the following questions: What are the legitimate forms of authority? How, in a pluralistic society, can we establish fair and uniform laws? How can we ensure due process? How can we ensure that citizens play their parts as informed and responsible members of our democratic system?

There are many other democracies in the world, but Americans believe that we are unique in our special freedoms. But as D.H. Lawrence once noted, "it is never really freedom until you positively decide what you want to be." Civic education programs in our schools should help students decide positively what they want to be—as individual citizens and collectively as a people.

Mr. President, there are a number of schools across the country that have established programs to try to meet this end. For example, in my home State of New Jersey, the Parsippany School District has established a program to help second and third graders examine the importance of the rule of law. Students discuss why laws are needed, how they are changed and why laws must be fair. The students learn, not only by discussion, but by participating in the rulemaking of the school itself. These very young stu-

dents are learning about the responsibilities of being a citizen who must live by the law with some very positive results. Parsippany has witnessed a significant decline in discipline problems since the program was instituted. Why? Because students have developed a commitment to responsible behavior. They have learned to understand the importance of the rule of law—for themselves and for their community. Who benefits? Both the individual and the community at large.

Another exemplary program is going on in the Sacramento School District in California. Over 200 local attorneys and judges have volunteered for various activities, such as holding mock trials and moot courts in the schools, to show students how our judicial system tries to arrive at justice. In addition, over 1,000 high school students are working as tutors to elementary school students on citizenship education projects. The elementary school students are not the only people benefiting from these activities; the high school students, in providing this service, are helping to discharge their responsibilities to the community at large.

A third example is Long Beach, where, with the help of the Center for Civic Education, the schools are helping their young people explore the values established in our Constitution by reenacting the debates of 200 years ago between the Federalists and anti-Federalists. In addition, the Long Beach Lawyers Auxiliary is working with classes to act out real Supreme Court cases to show how conflicts are resolved at the Federal level.

Sadly, Mr. President, these exceptional programs are just that—more the exception than the rule. In some respects, I think many of our schools have lost some of their sense of mission to instill their students with a sense of values and mutual purpose that Jefferson spoke so eloquently about 200 years ago. But I believe that the bicentennial of the Constitution offers us the opportunity to remind young Americans about the rights as well as the responsibilities of citizenship. And what better vehicle for sending this message than our school system—the institution charged by Jefferson with part of the responsibility for instilling youth with this sense of mutual purpose?

And that is why today I am proposing that the U.S. Department of Education get involved in the activities of the bicentennial celebration of the Constitution and the Bill of Rights.

Mr. President, we know that many schools are already deeply involved in a variety of activities to promote the civic competence and civic responsibilities of their students. But it is important to publicize these local efforts so that other schools can learn from them. One way to accomplish that is to search out these outstanding schools and showcase them to the rest of the Nation.

It is my hope and anticipation that the Secretary of the Department of Education will utilize these funds to complement the ongoing law related to education programs and seek out the schools in the United States that have developed outstanding programs designed to develop both civic competence and civic responsibilities among their students and help these schools showcase their programs to other schools in their geographic area. It is also my intent that the increase available in 1987 be used to enable schools to take advantage of the activities of the Bicentennial Commission so as to better utilize the additional talent which will be available, to create a greater interaction between youth and law professionals, to enable them to have a better understanding of legal processes and the importance of the Constitution.

What will this accomplish? A relatively small commitment of Federal funds—$1 million—will help disseminate information about the very best programs that our schools have developed. And the success of this entire effort can, I believe, reinforce the values that have made our particular form of democracy so vibrant and resilient.

Mr. President, I urge adoption of the amendment.

Mr. President, the amendment I have offered provides $1 million to the U.S. Department of Education to conduct educational programs in elementary and secondary schools related to the bicentennial celebration of the Constitution and Bill of Rights.

I want to assure my colleagues and distinguished chairman of the committee that this amendment is budget neutral since it reduces the appropriation for a chapter 2 block grant by a like amount.

Mr. WEICKER. Mr. President, I have no problem with this amendment. It is a shift of funds within chapter 2.

I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Jersey.

The amendment (No. 2781) was agreed to.

Mr. BRADLEY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WEICKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WEICKER. Mr. President, I ask unanimous consent that the pending amendments be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2782

(Purpose: To make certain technical corrections to H.R. 5233)

Mr. WEICKER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Connecticut [Mr. WEICKER] proposes an amendment numbered 2782.

Mr. WEICKER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 45, line 24, strike out "75" and insert in lieu thereof "15".

On page 50, line 12, strike out "title VI of the Education Amendments of 1984,".

On page 51, line 19, strike out "as amended by S. 2515 as reported by the Senate Committee on Labor and Human Resources on August 6, 1986," and insert in lieu thereof "as amended by H.R. 4021, as passed by the Senate on September 8, 1986,".

Mr. WEICKER. Mr. President, the amendment makes technical corrections in the bill.

I ask that it be adopted.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Connecticut.

The amendment (No. 2782) was agreed to.

Mr. WEICKER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1350

Mr. WEICKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Connecticut is recognized.

Mr. WEICKER. Mr. President, during the recent quorum call, the distinguished Senator from North Carolina [Mr. HELMS], the distinguished chairman of the Committee on Appropriations, Mr. HATFIELD, and I met to discuss the committee amendments to which the Senator from North Carolina took exception. Those committee amendments relate to abortion, busing, and prayer in public schools. The dialog related to how best to handle those matters and the dialog between those Senators and any other

Senators who wish to participate is ongoing.

It is the hope of this chairman that we proceed with all other amendments to the bill at this point, with the exception of those that either directly reflect the matters referred to—busing, prayer, and abortion—or indirectly accomplish the same purpose; and that we, in effect, arrive at a resolution of those matters.

It might be that we go to a great number of votes on all of those issues. It may be that we only have one or two votes on these matters. There is no question that they will be addressed. But it was felt that the time of the Senate could be put to a better use by proceeding to all other amendments that might be pertinent to the bill at this time.

Therefore, I alert my colleagues that if they have an amendment, please bring it to the floor at this time. If their interest is reflected in the committee amendments, then I suggest that they contact either Senator HELMS or Senator HATFIELD in that regard.

I again urge my colleagues that there is no reason we should not be able to complete action on the Labor-HHS appropriations bill within the next several hours and I hope that Members who have amendments will come to the floor and offer them.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1300

Mr. WEICKER. Mr. President, I ask unanimous consent that the call for the quorum be dispensed with.

The PRESIDING OFFICER (Mr. DENTON). Without objection, it is so ordered.

Mr. WEICKER. Mr. President, I referred earlier to the fact that the only business before us at this time, indeed the pending business before us at this time, are the committee amendments. Senator HELMS, the distinguished Senator from North Carolina, was kind enough to wait in order that his colleagues might present their amendments prior to debating the committee amendments. I wish to put the Senate on notice that I intend to start debating the committee amendments within the next 15 minutes, and that if no one is on the floor with a regular amendment it is going to be too late. So those who have amendments to the bill, it would be appreciated if they would come to the floor at this time in order that they would have a chance to go ahead and present their case. Many of them seem to be very worthy amendments; others might require a colloquy. Otherwise, the managers of the bill, Senator PROXMIRE and myself, intend to move to third reading. That could very easily take place shortly. So unless there are amendments to be presented before the body, it would be my intention to start debating the first committee amendment in a matter of the next 10 minutes and I would appreciate it if staff would alert their Senators to that effect.

Mr. HATFIELD. Will the chairman yield?

Mr. WEICKER. I yield to the distinguished Senator from Oregon.

Mr. HATFIELD. Mr. President, I would like to underscore and affirm the comments made by the managers of the bill in terms of getting this bill completed as quickly as possible and for those who do have amendments to appear on the floor and present them.

Mr. President, let me just briefly outline the circumstances we are now in vis-a-vis the appropriations process. The Appropriations Committee has reported all bills to the floor. We now have them pending on the agenda with the exception of one, and that will be acted upon this week. We are facing October 1 as the deadline for the end of the fiscal year, which means in effect we will in all probability have one giant CR "continuing resolution" is what those initials stand for, to our viewing public. That is a very, very unsatisfactory way of doing the Nation's business. And yet we are forced into that by a series of circumstances which I shall not go into at this time. But let me just point out to the Senate as a whole that the continuing resolution will have to incorporate certain levels, and if the Senate is to have a voice in the development of that continuing resolution, it will have to take action on a number of these bills because they are all over here from the House of Representatives and the House of Representatives benchmark, as we call it, will prevail in the continuing resolution unless the Senate has taken some action to establish a Senate benchmark.

Now, this is fundamental for the preservation of a two-chamber legislative branch government while we are in this appropriations process. I would only point out one example of the vital importance that the Senate establish a benchmark on this particular appropriation bill. The House-passed Labor-HHS bill did not fund a number of the higher education programs, just absolutely ignored the funding of those vital higher education programs. The Senate Appropriations Committee funded them at a given level.

Now, that means simply that if we cannot get the leaders of the appropriations subcommittee on Labor-HHS into a conference with the House, or complete action on the floor, we will find ourselves entering into the development and the configuration of the continuing resolution with a severe handicap because the House has acted. The House has acted, established a very valid benchmark. Now, we have a benchmark vis-a-vis the committee, but it would strengthen our hand in the continuing resolution process to have the benchmark of full Senate action on this bill.

Let me point out again—and I do not know of anyone in this Chamber who does not like to go home and say I am a friend of education. Everyone wants to be a friend of education—you can demonstrate whether you are a true friend of education today by coming to the floor and helping us complete this bill because again let me point out the benchmark developed within the continuing resolution process does not have the funding for a number of the vital programs in education. So let us rally the friends of education to complete action on this bill.

I also want to say that it is not going to be a very easy time ahead, and we better conserve our energies on the fundamental issues that are going to confront this country in financing the Government after October 1. Now, we are going to have the opportunity to raise a lot of our very strong emotional feelings on certain issues on the continuing resolution. This is not the last train out of the station. I urge Senators who are considering amendments that may not be directly relevant to the programs within this bill to wait and handle some of those issues on the CR. Let us not encumber this bill with a lot of issues that may not necessarily be resolved here today or even in conference but only will hold up the process that is so important to develop for the continued funding of this Government.

So I commend the Senator from Connecticut and the Senator from Wisconsin for their diligence in pursuing this bill, but let me say that it is far beyond committee responsibility. We are really dealing here with fundamental programs that will mean the difference in the future for education amongst others as we relate to the next step of this whole appropriations process, development of the continuing resolution.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1320

Mr. STAFFORD. Mr. President, I ask unanimous consent that the order for a quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2783

(Purpose: To provide $5,000,000 of the amount available for direct student loans for the Income Contingent Pilot Demonstration projects)

Mr. STAFFORD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The committee amendment will have to be laid aside by unanimous consent.

Mr. STAFFORD. In that event, Mr. President, I ask unanimous consent that the committee amendment may be temporarily laid aside so that this amendment may be considered.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. STAFFORD], for himself and Mr. PELL, proposes an amendment numbered 2783.

Mr. STAFFORD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 53, line 9, before the period insert a colon and the following: "*Provided further,* That of the amounts appropriated under this heading and made available for part E of title IV of the Higher Education Act of 1965, $5,000,000 shall be available for carrying out the Income Contingent Pilot Demonstration projects in S. 1965, as passed by the Senate on June 4, 1986, and shall remain available until September 30, 1988".

Mr. STAFFORD. Mr. President, this amendment is offered to set aside $5 million out of the funds already allocated for the National Direct Student Loan Program to carry out the income contingent pilot demonstration project, which has recently been adopted by the conferees on the Higher Education Act reauthorization. This amendment would allow the Secretary to set up pilot projects at a number of schools to test the concept of income contingent loan repayment which has been discussed by the Senate since this Senator joined the Education Subcommittee.

This new income-contingent repayment option will enable students to borrow greater amounts, while making the loan repayment burden more manageable, flexible, and as long-term as needed to accommodate individual postschool income circumstances, yet at no net cost to the Federal Government providing loan capital.

To pay for this new program, this amendment assumes that $3 million would be taken from the account for teacher cancellations. This reduction in teacher cancellation funds can be absorbed due to a recent Department of Education reestimate of funds required for this program in 1987.

The additional $2 million would come from the $8 million increase over fiscal year 1986 funding for NDSL that the Appropriations Committee included in this bill.

At this time, I would like to commend my good friend, LOWELL WEICKER, for his strong commitment to education programs on the Appropriations Committee. Over the years, his leadership in the area of education has been vital in sustaining the necessary Federal commitment to quality in education, and the bill before us today is no exception to his good work.

Mr. President, I believe this may be accepted and I yield the floor.

Mr. WEICKER. Mr. President, I support the efforts of my good friend from Vermont who is the chairman of the education authorizing committee.

I am aware that the amendment would not add to the total but redirect existing funds within the same program to the soon-to-be-authorized income contingent loan program.

I commend him for his help and indeed for all his work on the education subcommittee.

I urge adoption of the amendment.

Mr. PROXMIRE. Mr. President, this is an excellent amendment.

It is an idea originally conceived by Milton Friedman, who was a conservative economist.

It eliminates the debt factor, as I understand it, as a career choice because loan payments are based on a student's income after graduation.

If someone goes into a line such as minister or social worker, or banker, on the other hand, the repayments would vary depending upon their ability to pay.

Students in low-paying professions, such as teaching, would carry a lighter burden then their classmates entering more lucrative fields.

The idea should appear both to conservatives, who believe the beneficiaries of the Federal programs should pay for them, and liberals, who believe that no one should be denied access to college for finanical reasons.

It is a good amendment and I support it.

Mr. STAFFORD. I thank the Senator and move adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Vermont.

The amendment (No. 2783) was agreed to.

Mr. STAFFORD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WEICKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WEICKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1330

Mr. MATHIAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2784

(Purpose: To earmark $1,000,000 for the Bologna Center of the School of Advanced International Studies of the Johns Hopkins University)

Mr. MATHIAS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. It will require unanimous consent to set aside the committee amendment.

Mr. MATHIAS. Mr. President, I ask unanimous consent to set aside the committee amendment for the purpose of considering the amendment I have just sent to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Maryland [Mr. MATHIAS] proposes an amendment numbered 2784.

Mr. MATHIAS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

On page 54, line 9, before the period insert a colon and the following: "*Provided further,* That $1,000,000 of the amount appropriated under this paragraph and available for part B of title VI of the Higher Education Act of 1965 shall be available for a grant to the Bologna Center of the School of Advanced International Studies of the Johns Hopkins University.".

Mr. MATHIAS. Mr. President, this amendment does not add any money to the bill; rather, it targets some higher education funds toward the International Education Program.

The amendment addresses the Higher Education Act's Business and International Education Program, which promotes linkages between universities and American businesses engaged in international economic activity. Under this program the Federal funds must be matched, so the amendment will leverage additional money.

I am especially interested in a unique institution that would benefit from this amendment. The Bologna Center of the School of Advanced International Studies is the only full-time resident American graduate school of international relations in Europe. Especially noteworthy is the international composition of the faculty and student body, which together represent as many as 25 countries.

Mr. President, I believe this amendment has been cleared on both sides, and I understand that the managers are prepared to accept it.

Mr. WEICKER. Mr. President, it is my understanding the amendment does not add to the amount of the bill but designates funds within the amount we provide in this important area of international education, something that has long been a matter of concern and interest to the distinguished Senator from Maryland, Senator MATHIAS. I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2784) was agreed to.

Mr. MATHIAS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WEICKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WEICKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SIMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE ILLINOIS LIBRARY SYSTEM

Mr. SIMON. Mr. President, I am not offering an amendment, but I would like to have a brief dialog with my colleague from Connecticut. I would be happy to have my colleague from Wisconsin join in it, too.

We have a special problem in Illinois in connection with the Illinois library system. They submitted an application for money, for $11 million. It was approved by the Department of Education. Then, after they spent the money, the Department of Education came back and said, "We don't think that is the right way to spend it in conformity with the act," even though the Department had approved it.

There is no one who charges that there is any misuse of funds in the sense of any corruption or anything like that. The House has an amendment that takes care of our specific problem put on by Congressman JOHN PORTER over there.

I just want to mention this. I do not have an amendment here at this point. I want to mention it to my two colleagues so that when you get into conference you can be somewhat sympathetic to the special problem that we have in Illinois. It was a problem that was created by the Department of Education by approving expenditures at one point and then later coming back and saying, "Sorry, we made a mistake. You shouldn't have spent the money this way."

Mr. WEICKER. Mr. President, it is my understanding that there is language in the House bill that addresses the issue. It will be a matter in conference. It will give us the time to go ahead and fully be appraised of the facts that attend to the case and we will be more than glad to discuss it with our House colleagues when the time comes.

Mr. SIMON. I thank my colleagues.

Mr. PROXMIRE. Mr. President, let me say to my good friend from Illinois, anything he favors I will certainly give the most careful consideration to. I am sure it has substantial merit.

There is the matter, as the Senator well knows, of the money involved. Is this a matter that would increase the appropriations level?

Mr. SIMON. It would not increase the appropriations.

Mr. PROXMIRE. Would not affect the appropriations?

Mr. SIMON. It does not. Obviously, if Illinois had to pay back the $11 million at some point, it would affect Federal revenue in some way. But my understanding is there is no immediate appropriation impact at all.

Mr. PROXMIRE. It sounds highly meritorious. I thank the Senator for giving us the chance to understand it on the floor.

Mr. SIMON. I thank my colleague from Wisconsin.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1350

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2785

(Purpose: To increase the amount which may be used to administer unemployment compensation laws to meet increased costs of administration resulting from certain factors, and for other purposes)

Mr. METZENBAUM. Mr. President, I am about to send an amendment to the desk aimed at preventing the reduction of 5,820 staff from unemployment offices in every State in the Union.

It is endorsed by the National Governors' Association and the Interstate Conference of Employment Agencies.

Mr. President, the State unemployment insurance operations account provides administrative funds to State agencies which pay unemployment benefits, distribute trade adjustment allowances, and collect State unemployment taxes from employers. In fiscal year 1986, over 8 million workers received benefits from State unemployment offices.

The administrative cost of the Unemployment Benefit Program is financed by Federal unemployment tax revenues. At the end of this fiscal year the unemployment trust fund account is projected to contain a $1 billion surplus. And $2.9 billion will be collected in fiscal year 1987, more than enough to provide adquate funds for this program.

The President's budget request for fiscal year 1987 included $1.732 billion for unemployment office operations—sufficient funding to maintain current service levels. However, the Appropriations Committee cut this request by $144 million.

What is the impact of this cut?

According to the Secretary of Labor:

This reduced level of funding would have serious consequences for the operation of the UI [Unemployment Insurance] program. States would be forced to lay off about 4,500 staff, representing 10 percent of the total, and close local unemployment offices. This would curtail services to claimants, forcing claimants to travel longer distances to file for benefits, and would significantly affect the States' ability to pay benefits promptly. In addition, there would be substantial losses to the unemployment trust fund (and to the Federal budget) because of the adverse effect on the accuracy of benefit payments and on the enforcement and oversight of tax collections.

According to the interstate Conference of Employment Security Agencies, the cut of $144 million could impair the ability of States to monitor claims, increasing fraud and abuse by as much as $720 million.

It does not make sense to save $144 million only to lose $720 million.

My amendment would suspend for 1 year the administration's quality control program, thus saving $33 million, and increase the funds for administrative services by that same amount.

□ 1400

The quality control program is designed to measure the accuracy of unemployment insurance payments. It was not specifically authorized by statute, but rather is an initiative of the Labor Department. It is an addition to the long standing benefit payment control program that is designed to combat fraud and abuse. In fact, it is so new that the proposed regulations implementing it were published on July 25, 1986, just over 6 weeks ago.

Mr. President, it doesn't make any sense to spend resources on quality measurement when we are shutting down local offices and laying off personnel who are directly involved in serving unemployed workers.

I think we can all agree that the purpose of quality control is to see that the workers be able to receive the unemployment insurance to which they are entitled. It does not make sense to cut almost 6,000 staff members, then talk about spending the same dollars for quality control. In my opinion, it is far more important, far more significant, to see to it that those staffers continue to have an opportu-

nity to provide the services to the unemployed workers.

I ask unanimous consent that a chart showing the number of staff that will be laid off in each State under the committee's $144 million cut be printed in the RECORD. It shows my own State of Ohio would lose 300 people, 299 to be exact; Texas, 257; Connecticut, 66; Louisiana, 122; Oregon, 84; Kansas, 41.

Every State loses under the committee bill.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

STATE UNEMPLOYMENT INSURANCE: PROPOSED SENATE REDUCTION IN CONTINGENCY ESTIMATED DISTRIBUTION BY STATE, FISCAL YEAR 1987

[Reductions by State]

	Staff	Dollars
Alabama	95	1,429,906
Alaska	35	1,499,595
Arizona	46	1,191,285
Arkansas	61	1,016,393
California	737	21,742,421
Colorado	71	1,230,302
Connecticut	66	2,024,668
Delaware	9	179,300
District of Columbia	16	264,764
Florida	163	1,952,431
Georgia	118	1,536,970
Hawaii	32	919,609
Idaho	67	1,339,470
Illinois	222	5,953,704
Indiana	106	1,896,423
Iowa	62	962,430
Kansas	41	819,572
Kentucky	80	1,382,721
Louisiana	122	1,859,949
Maine	27	651,040
Maryland	100	1,335,794
Massachusetts	109	2,195,483
Michigan	240	7,560,689
Minnesota	78	2,283,850
Mississippi	59	874,521
Missouri	112	2,111,626
Montana	17	368,379
Nebraska	126	2,213,607
Nevada	26	742,472
New Hampshire	16	293,186
New Jersey	162	2,958,911
New Mexico	24	526,501
New York	386	12,845,054
North Carolina	120	2,136,839
North Dakota	32	818,069
Ohio	299	5,128,043
Oklahoma	135	1,894,449
Oregon	84	1,841,504
Pennsylvania	280	7,142,310
Puerto Rico	102	1,052,112
Rhode Island	52	1,184,824
South Carolina	97	1,548,637
South Dakota	16	297,015
Tennessee	83	1,455,409
Texas	257	5,558,626
Utah	141	2,506,020
Vermont	42	792,471
Virgin Islands	4	69,465
Virginia	102	1,535,063
Washington	123	2,857,641
West Virginia	54	610,570
Wisconsin	151	4,348,578
Wyoming	17	404,137
Total	5,820	129,344,803
Law change		3,640,000
Postage and other		11,047,197
Grand total		144,032,000

Source: U.S. Department of Labor.

Mr. METZENBAUM. My amendment would restore $33 million of the funds that are proposed to be cut. While it is not a perfect amendment, it is the best that can be done on the Senate floor under the restrictions of Gramm-Rudman.

Mr. President, I send the amendment to the desk at this moment on behalf of myself, Senator COCHRAN and Senator NICKLES.

The PRESIDING OFFICER (Mr. WARNER). Does the Senator ask unanimous consent to set aside the pending committee amendments?

Mr. METZENBAUM. I ask unanimous consent that the pending committee amendments be temporarily set aside without losing their place on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM] for himself, Mr. COCHRAN and Mr. NICKLES proposes an amendment numbered 2785.

Mr. METZENBAUM. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 6, beginning with "$117,910,000" on line 9, strike out all through "December 31, 1987." on line 22 and insert in lieu thereof the following: "$150,910,000 (including not to exceed $4,800,000 which may be used for amortization payments to States which had independent retirement plans in their State employment service agencies prior to 1980) shall be available only to the extent necessary to administer unemployment compensation laws to meet increased costs of administration resulting from changes in a State law or increases in the number of unemployment insurance claims filed and claims paid or increased salary costs resulting from changes in State salary compensation plans embracing employees of the State generally over those upon which the State's basic allocation was based, which cannot be provided for by normal budgetary adjustments based on State obligations as of December 31, 1987. None of the funds appropriated or otherwise made available by the Act may be expended for the implementation of the mandatory unemployment insurance quality control program proposed at 54 Fed. Reg. 26845-26853.

Mr. WEICKER. Mr. President, this is a matter that is going to be in conference. This is a special concern of the Senator from Ohio. The Senator from Ohio makes a good point in the concern he exhibits over the rather draconian cut initially proposed by the Senate committee. The moneys which he requests are offset by others in the quality control program.

I have to say that the Secretary of Labor, Mr. Brock, has my admiration for instituting those procedures. I think it is probably a fair compromise between the ends desired by all parties. I recommend the adoption of the amendment.

Mr. METZENBAUM. Mr. President, I send a letter to the desk, from the Interstate Conference of Employment Security Agencies, Inc., in support of this amendment and ask that it be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WASHINGTON, DC, *September 9, 1986.*

Hon. HOWARD M. METZENBAUM,
Russell Senate Office Building,
Washington, DC

DEAR SENATOR METZENBAUM: We understand that you plan to offer an amendment today on the Senate floor to the FY 1987 Labor, Health and Human Services and Education Appropriations bill that would partially restore the $144M reduction in (contingency) funds for unemployment insurance (UI) claims processing by transferring $40.3M which is currently designated for UI quality control (QC) to the contingency category. You have our support in this effort.

We support the UI quality control initiative, however, the impact of the reduction in funds for claims processing now proposed by the Senate bill would be so severe that we believe implementation of quality control should be suspended in FY 1987 and those resources used to ameliorate the impact of the cut on UI claims processing and related activities. Spending resources on quality measurement when we are shutting down local offices and laying off personnel who are directly involved in serving unemployed workers is not justified in our view.

Thank you for your efforts to restore these badly needed funds.

Sincerely,

WILLIAM L. HEARTWELL, JR.
Executive Vice President, ICESA.
RAYMOND C. SCHEPPACH,
Executive Director,
National Governors' Association.

The PRESIDING OFFICER. Is there further debate?

Mr. METZENBAUM. Mr. President, before acting on this amendment, I suggest the absence of a quorum just to be certain it is technically correct.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. I modify my amendment at the desk by deleting the last sentence of the amendment.

The PRESIDING OFFICER. The Senator has the right to modify his amendment.

The amendment (No. 2785), as modified, is as follows:

On page 6, beginning with "$117,910,000" on line 9, strike out all through "December 31, 1987." on line 22 and insert in lieu thereof the following: "$150,910,000 (including not to exceed $4,800,000 which may be used for amortization payments to States which had independent retirement plans in their State employment service agencies prior to 1980) shall be available only to the extent necessary to administer unemployment compensation laws to meet increased costs of administration resulting from changes in a State law or increases in the number of unemployment insurance claims filed and

claims paid or increased salary costs resulting from changes in State salary compensation plans embracing employees of the State generally over those upon which the State's basic allocation was based, which cannot be provided for by normal budgetary adjustments based on State obligations as of December 31, 1987.".

UNEMPLOYMENT INSURANCE PROGRAM

Mr. COCHRAN. Mr. President, I am pleased to join with my colleague Mr. METZENBAUM, in offering this amendment. It deals with an issue of extreme importance to my State and, I know, to many other States.

The committee bill recommendation for the Unemployment Insurance Program represents a $144 million shortfall in the level of funding required for this program in order to provide adequate services to all of those who are entitled to unemployment benefits.

As you know, Mr. President, this program is financed by State and Federal taxes which are deposited in a trust fund. Currently, the balance in the trust fund is more than sufficient to fund this program. Unfortunately, the committee has decided to use these funds for other purposes. We may soon have to put restrictions on the use of funds in this trust fund similar to those which have been put in place to protect the Social Security trust fund.

However, in an effort to minimize the impact of the $144 million shortage, we are offering this amendment to restore $33 million to this account. While it will not circumvent the necessity to reduce essential staff positions, the additional $33 million may allow some States to maintain current services.

We are transferring these funds from the quality control activities within the Unemployment Insurance Program. Not to make light of an important matter, it is clear that if we have to substantially reduce staff, quality control is going to suffer. One of the essential aspects of quality control is efficiency on the front line, and that requires adequate staff to process claims.

I hope my colleagues appreciate the nature of this problem. In my State of Mississippi, where one county has an unemployment rate of 29 percent, it is a matter of utmost importance.

I urge the Senate to adopt this amendment.

Mr. NICKLES. Mr. President, I rise today in support of the amendment of the Senator from Ohio [Mr. METZENBAUM] and am happy to cosponsor his amendment. This amendment rectifies a portion of the bill which would adversely affect States such as Oklahoma which are experiencing dramatic increases in the number of people filing for unemployment benefits.

Oklahoma is currently suffering from extreme economic hardship. Unemployment has increased to over 9 percent recently, and projections indicate that the worst is yet to come. It is imperative that the funds in the unemployment insurance service category be maintained so that Oklahoma can continue to provide the necessary benefits to those who have fallen on hard times.

Under the bill, the unemployment insurance service spending is to be reduced by approximately $144 million from the administration request and the House-approved level. The entire amount of this reduction is to come from the contingency fund which was set up to aid States that experienced dramatic increases in demand for benefits.

The fund provides money to help State agencies defray the cost of employing personnel. These personnel are needed to maintain the efficiency of the State agency in distributing benefits. Without the aid of these part-time helpers, many unemployed people would experience delays or other hardships in receiving their vital benefits.

In Oklahoma, the State Employment Security Commission, which administers the Unemployment Program, is already operating at a minimum staff level. They have barely enough people to run the program efficiently. Without this additional money, they would be unable to provide the services which the unemployed depend upon for sustenance.

In a related matter, I support the committee's recommendation that benefits authorized by the Trade Act be increased by $7 million over last year's appropriation. These benefits provide essential assistance for retraining, job searchers, and relocation for workers who have been unfairly impacted by overseas competition.

I understand and support all our efforts to keep spending down, however, it is important that States which are suffering high unemployment be able to continue administering their unemployment programs efficiently. To do so, they must be able to draw on contingency money during these times of high and increasing demand.

Mr. METZENBAUM. Mr. President, I understand that both the majority and minority managers are prepared to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment as modified.

The amendment (No. 2785), as modified, was agreed to.

Mr. METZENBAUM. I move to reconsider the vote by which the amendment was agreed to.

Mr. WEICKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WEICKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1420

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, shortly, I will send to the desk an amendment on behalf of myself and the distinguished senior Senator from Florida [Mr. CHILES]. I believe we have some additional cosponsors, and I will be prepared to send the amendment to the desk shortly.

The senior Senator from Florida is going to discuss for a moment a request that there be one additional amendment to the Domenici-Chiles amendment, with reference to the health institutes. While he is doing that with his staff, I will start discussing what we propose to do.

Let me first say to the Senate that the Subcommittee on Labor, Health and Human Services, chaired by Senator WEICKER, has done a good job. I will be prepared later in the afternoon to submit—not in my capacity as a Senator from New Mexico but as chairman of the Budget Committee—a summary of the bill in terms of complying with the very difficult and onerous job of meeting the budget resolution's requirements, and the bill before us does that.

But today I am going to offer an amendment on behalf of myself and Senator CHILES which I feel will improve America's ability to maintain its predominance in this technological age. The amendment that we are going to offer will provide an additional $57 million for math and science activities of the Department of Education.

Mr. President, I am offering this amendment because I firmly believe that our country's future depends upon math and science education. The future of this country depends upon our children, and the fact is that they are inadequately prepared for this fast moving and highly technological world because of a lack of a strong knowledge of basic math and science concepts.

We are all aware of the fact that reports several years ago warned that American's math and science education was inadequate. There are not enough certified teachers, say the reports and studies. Our standards are outmoded and our students are outperformed by students from other countries. Congress has moved to act and in fact adopted a very significant piece of legislation, the very title of which states how serious and important the issues are. The law which we passed in 1984 was called the Educa-

tion for Economic Security Act of 1984.

I am here to tell you that the program is still needed and that congressional support for it is still needed. Physics and computer science continue to be among the fields with the largest proportional teacher shortages in this country.

Further, we all need to be aware of our Nation's very, very serious problem in this area. According to projections, we will soon be moving into a time of teacher shortages. By conservative estimates, between 1986 and 1992, 1.3 million new teachers will need to be hired. Thus, the problems in science and math education will get worse, not better.

Recognizing these needs, the U.S. Senate, when it adopted a budget resolution, voted here on the floor on certain assumptions and, as a matter of fact, added substantial amounts of money to a budget resolution to fund those assumptions. One of those assumptions was for an additional large amount of funding, an increase of $400 million, for the math and science efforts of this Nation through the Department of Education, $400 million.

The 1987 budget resolution, which was adopted here, went to conference, came back, and was readopted, included the assumption that we would add $400 million to the current level of American effort for math and science education programs. That was done here by this Senate, not once but twice, and retained in conference with the House in spite of significant budget restraint.

I regret to tell you that, even though that was done, the appropriations bill before us does not reflect that commitment. The level of funding in the bill before us for math and science programs is not $443 million but rather $43 million, the same amount that was funded in the previous year. The $400 million that we assumed would be in this bill has been used by the committee and reported to the Senate to fund other programs of the national Government. We did not save the $400 million. We spent it elsewhere in this bill.

I am not here to say that the committee did not do good work, but it appears to the Senator from New Mexico that, if the U.S. Congress by overwhelming votes in 1984 adopted an Education for Economic Security Act, and the President of the United States signed it, clearly within a budget of this size we ought to be able to increase the level of funding for education for economic security programs over this year's funding level of $43 million.

I believe there is a real case for an add-on of $400 million. I believe that is what the Senate had in mind when it adopted an alternative to the budget proposals that were reported and added over $1.8 billion for the general education programs and, yes, an additional $400 million for math and science education. I believe it was called America's future, if I am not correct. I believe it was called maintaining America's competitive edge.

When we voted on math and science education here in the Senate, not only when we adopted the law, but when we voted for it in concept here on the floor, I believe it was categorized somewhat in the following manner: We are spending too much money on the past and not enough money on the future; we ought to start being worried about the future and spend money to enhance our capability as a nation, through our local school boards and local superintendents of schools, in math and science proficiency; we ought to increase our capability to educate in this fast-changing and dynamic field. Obviously we were talking about the future. I believe we discussed it on the floor when we added $400 million for math and science as an assumption for the education portion of the budget. I believe it was also discussed in another way. Some said it is time we invest in our young people, as I recall.

The children of this Nation need the best math and science education we can provide, and we asked, why do we not invest in it? And we voted for it. And as I indicated, we voted twice on the budget resolution on that assumption. In 1984, we overwhelmingly passed a far-reaching act, the title of which indicated the fear that the reports of 1983 and 1984 sent through all of us. That act stresses economic security through education, and I regret that after all of that effort, we have a bill before us that funds education for this particular endeavor of our Nation at exactly the same amount as this year, $43 million, not the $443 million that I believe most people voting for the budget resolution assumed.

Now I say to my colleagues, it is not for the Budget Committee to decide how we spend. It is for the appropriators and for the U.S. Senate to set the priorities. If we decide that we do not want to spend money in promoting economic security through the enhancement of math and science education, that is our prerogative and that is the appropriators' prerogative.

Let me remind the Senate that we are going to spend the money that was assumed for math and science education elsewhere. And far be it the goal of the Senator from New Mexico to break the budget or to exceed the mandated goals of expenditures for this particular bill. I would not come here and ask anyone to do that, because I have asked the Senate to cut bills when they were over by $150 million out of a giant multibillion dollar bill such as this one. So some may ask why are you asking for more money? I am not.

The bill before us has some additional budget authority that was provided by the U.S. Congress in the budget resolution which has not been allocated. I am going to use a little piece of that, along with going into this bill that has literally billions of dollars and finding one place that I believe we can justifiably take a small amount of money and still leave that function of Government in excellent shape.

(Mr. GORTON assumed the chair.)

□ 1440

Mr. DOMENICI. Let me say very clearly to my fellow Senators, you are going to hear that Senators DOMENICI and CHILES in this amendment want to cut the National Institutes of Health. You are going to hear that we want to cut money from Alzheimer's research, the National Cancer Institute, and all the other marvelous institutes and activities within this $6-plus billion activity called the National Institutes of Health.

Nothing is further from the truth. I hope those who are going to listen to that and be worried about voting for our young people in math and science enhancement will listen carefully to what I am saying.

The National Institutes of Health in this bill that is before us have been increased in budget authority over the year we are in by $810 million. If my arithmetic is correct, in a tight fiscal year, the National Institutes of Health, phenomenal institutions, will be increased 15.4 percent. Not decreased, not frozen like the national effort in math and science, but increased by 15.4 percent.

What the distinguished Senator from Florida and the Senator from New Mexico are asking the U.S. Senate to do is to make $57 million available for math and science education, and we are only asking that $11 million—$11 million—of that $57 million come from the National Institutes of Health, which I have just told you were increased $810 million in this bill.

Again, if my arithmetic is correct, and I believe it is, that means that if you adopt our amendment, the National Institutes of Health will be reduced by $11 million and, basically, they will be growing not at a 15.4-percent increase, but a 15.2-percent increase; just two-tenths of 1 percent out of a 15.4-percent growth rate in the National Institutes of Health will be needed in order to fund a $57 million add-on to the current $43 million effort in science and math enhancement under the highly touted Education for Economic Security Act of 1984.

I submit that what we are asking for is not enough. I submit that the U.S. Senate really believed that this bill

before us today would have contained $400 million for this kind of effort and related efforts. I cannot do that to the National Institutes of Health, and I do not believe the Senate would want to do that. But I think they will indeed find interesting the fact that we have not increased math and science education, nor have we adequately funded our efforts in education for economic security since 1984, and they will be asking, "Why can't we do something?"

We believe it is a fair and equitable approach to make $57 million in budget authority available for math and science education and that it be partially funded to the tune of $11 million from the National Institutes of Health. The transfer is required to keep this amendment deficit neutral in outlays. The $11 million transfer from NIH will result in $5 million outlays, which would be required under the math and science education account. The remaining $46 million in budget authority can be accommodated within the subcommittee's 302(b) allocation; that is, the money in toto that the subcommittee has received accommodates the remaining amount of budget authority without in any way violating the mandate of the Budget Act as specifically directed to these activities of Government.

Now, let me repeat for those who say, "Are you cutting the National Institutes of Health?" No, the National Institutes of Health will grow, but only by $799 million instead of $810 million. This is still an increase of 15.2 percent over the year we are now in for fiscal year 1987.

I repeat, I support the National Institutes of Health. I think they are among the finest researchers in the world and the institutes are truly phenomenal and perhaps, within the panorama of research activities and institutions in the United States and the world, they may indeed be the very pearls of our research effort. But, my friends in the Senate, how are we going to keep up that kind of activity when we read over and over that math and science are suffering in our public schools, and we do not have the wherewithal to promote enhancement by taking only two-tenths of 1 percent out of one of the largest increases for appropriated programs in this whole bill, the National Institutes of Health?

I do not believe in their wildest dream those who manage the National Institutes of Health believed in this tight budget year that they would be on the floor of this Senate with a 15.4-percent increase. I believe they thought we were in for austerity. And quite to the contrary, math and science education is truly in austerity. We cannot even find enough money to provide for an increase in that activity when we are being told that it is the most critical of educational needs; it is the most significant thing we can do for the future of our young people.

Now, will this do any good? Let me repeat: According to the last survey on this subject, 7,000, or 30 percent, of the 24,000 high schools in America offer no physics classes; out of these 24,000 high schools, 4,000, or 17 percent, offer no chemistry classes; 2,000, or 8 percent, offer no biology classes; and 12,000, or half, offer no Earth or space science classes.

Many of the science teachers in our Nation are spread thin—covering more than one subject area. This means they have a great need for in-service training. One of the activities funded by the Education for Economic Security Act is just that.

Of the 19,000 individuals teaching physics, fewer than 2,000 are full-time physics teachers. Now, what will this money do? If we can succeed in convincing the Members of the U.S. Senate or one more than one-half of them voting, if we can convince them to take two-tenths of 1 percent, $11 million—just $11 million—from an NIH increase of 15.4 percent and put it in this amendment, we will have $100 million to spend on math and science education enhancements. And what will it do?

□ 1450

I think it is fair to tell the Senate that with it we will provide benefits of improved education to over 10 million students and teachers. This is accomplished through in-service training, curriculum development, and the linking of professionals in the business field with the education of our young people. I believe it is worth every penny we are going to vote for here today.

And I urge my fellow Senators to understand that the Senator from New Mexico is not standing on the assumptions made in the budget resolution because if I was, I would be asking for $400 million. I understand the prerogatives of the Appropriations Committee to allocate funding as it sees fit in the appropriations process. But I do not believe because we have allocations and because they have the right to spend it, that we ought to assume that in all respects they are absolutely right, and there ought to be no different priorities than those established in the committee.

I do not ask that we change very much. I am not here arguing about the 15-percent increase in NIH—clearly to the contrary. I believe we should spend more in education even if it means somewhat less at NIH. But that is not in the cards because obviously we want to work with the committee. We respect their detailed information, and their commitment to meeting the budget marks that are given to them and the budget totals that are assumed. But I frankly believe that if the Senators will just listen—$5 million in outlays out of NIH, and $11 million in budget authority out of an increase of $310 million for a base that exceeds $6 billion in order to provide a total of $100 million for the enhancement of math and science education—and I believe if everybody understands that, this amendment will prevail.

Perhaps someone will get up and say what does this do to the budget even, though I think I have explained it. It absolutely in no way violates the 1987 budget. There is more than $57 million in budget authority in excess of the subcommittee's 302(b) allocation. We use that and a little bit of money from NIH, because we have to provide a few million dollars in outlays for the program. You add it up, and this bill will still be exactly on the mark with the budget mandates that were given to this committee first by the Budget Committee, and then ratified and confirmed by the full Appropriations Committee as the amount of money to be spent on the Government activities funded within this bill.

I believe my principal cosponsor and good friend, Senator CHILES, is here. I assume he desires to speak. When he starts, I will take a few moments, I say, Mr. President, to get the amendment totally in order and then with his concurrence, I will send it to the desk shortly as an unprinted amendment.

I yield the floor.

Mr. CHILES addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. CHILES. Mr. President, I want to express my support for the amendment that my friend and colleague from New Mexico is preparing to offer. I think these are times when an investment in the future must be made. We have to make a modest investment in education of our children in mathematics and science today if we are going to have those resources for tomorrow.

Mr. President, I remember, and I think most of the Senators remember, the great fanfare we made when we passed math and science legislation back in 1984. We realized then how far behind as a country we were falling from the rest of the industrialized world. We realized that in percentages we had had much fewer of our students that were taking any kind of degrees in math and science percentagewise. Then we found out even in absolute numbers a country as small as Japan was sending many more engineers to school, and there were many more degrees in math and science, as well as West Germany and other countries.

Mr. President, we know that the world is changing so quickly in technology, in new information that is out there, that if we do not keep up in this

area we can only find ourselves falling farther and farther behind.

The math-science program is very well targeted to the training of teachers and the upgrading of curriculum. It involves the State and local education agencies and higher education institutions in a joint effort for educational excellence.

The program is working. The State and local governments that have participated are excited about the ripple effect that the competition is creating. There is a special emphasis on encouraging minorities, women, and handicapped to pursue math and science study. In short, we are getting a lot of leverage here for change with a modest amount of money. The Senate overwhelmingly adopted a bipartisan budget package to increase math, science, and excellence by $400 million. The least we can do today is to restore this program to its 1985 level—1985 level, we are talking about. Does that put us really on the road to catching up? No. I am disappointed with that. I wish I could say we were doing more. But it is the least that we can do and what we should do.

My good friend and the chairman of the Budget Committee has expressed the belief that we do not own any special prerogative by the fact that the budget contained this figure—this additional $400 million, and that the Appropriations Committee had the right to take that money, place it where they wanted to, and put it in some area. They did. I remind the Senate that it was not entirely the Budget Committee that came up with this figure to start with. This was an amendment and part of this money was an amendment that the Senate on the floor when we were adopting it, and the Budget Committee, said, "We want to add this money." So it was not the special prerogative of the Senator from New Mexico or the Senator from Florida of saying out of the Budget Committee we are going to bring this. The Senate on this floor said, "We want to put more money in for excellence. We want to put more money in for math and science, and we are going to put that figure into the budget." So they did.

Now as the Senate has a right to change any budget resolution the Senate has a right to change any appropriations bill. So there is not absolute wisdom on the part of the Budget Committee nor is there absolute wisdom on the part of the Appropriations Committee or subcommittee to say where the dollars must go.

It would be much easier if we could say we are going to add this amount of money. I am sure it would pass very quickly except to do that would be to make this budget go above its targeted figure. That would not be right. That is not something that the Senator from New Mexico or the Senator from Florida not only feel comfortable in doing, but it is something we could not do. We do not think the body should do that. Certainly we cannot.

So we have to look to see where this money can come from. Well, as we look over the budget that is before us in this field, where is the area that has been increased the most? Well, it happens to be the National Institutes of Health. When we see, as the Senator from New Mexico has said, an increase in that particular area of 15.4 percent, $810,000,000 over last year at a time when almost every other program is either cut, held at the absolute level or perhaps some we allowed to have some kind of an inflation increase but to find a 15.4-percent increase, my goodness, in the heaviest days of defense we increased them about 8 or 9 percent or so. But a 15.4-percent increase?

Could we spend more money at the National Institutes of Health? Yes, we could. Could we spend it for good purposes? Absolutely we could. Is there any particular harmful disease that I want to cut or see us not spending money? No. There is not. But given the fact that we are seeing this 15.4 percent increase certainly we are now talking about whether we can have $11,000,000 in budget authority to come from this, Mr. President, we just think the answer to that has to be yes. What we are about in appropriation bills is weighing priorities. What we are about in the Budget Act is weighing priorities, and deciding what percentage of the budget will be spent where.

□ 1500

Can we afford, as a country, to abandon our quest for trying to increase the number of students who will be able to pursue degrees in science? I submit that would be a very, very foolhardy direction for us to take. I agree with the Senator from New Mexico, what we are talking about here at $100 million is not enough. There is no way, as to setting real priorities for this country, that we should say that is enough. We should be doing more.

But it was funded in that amount in 1985, and we are saying, for goodness sakes, let us raise it up. Our cut to below $45 million in 1986 would be eased a great deal if we could make this restoration for 1987.

I do not claim that there is any fat left in this bill. We are down to the bone in our funds to invest in human resources, in human potential. The point that we make is that at times like these the choices are hard and at the subcommittee, at full committee, and again today we face hard decisions about balancing priorities and making investments.

But these funds are targeted to the education of tomorrow's research scientists, our doctors, our health professionals. If we only look at today's needs and not tomorrow's, we are going to be eating our seed corn.

Let us look at medical research that we are talking about. If we do not have the money in math-science, are we going to be able to produce the kind of competent scientists that we will need in order to try to find the cures for Alzheimer's, cancer research, and everything else? Of course we will not. Much of that depends on higher mathematics, certainly in the field of science, and we are saying this is a basic tool. If you are interested in NIH research, certainly you ought to go back and fund a basic tool of that research. That would be to have the competent professionals who would be able to make those kind of discoveries and breakthroughs that we need.

NIH has, again, a 15.4-percent increase in this bill, $810 million. The House has $100 million more than that. So this $11 million will not jeopardize the conference outcome that is higher than where the Senate bill is right now.

Next year we will be reauthorizing chapter II. The administration has recommended general aid for teacher training to replace math-science. Congress has shown no enthusiasm for the proposal. But next year's reauthorization offers us a great opportunity to examine teacher training and the personnel development needs and how we can target more adequate funds for math-science instruction through the block grant. In the meantime, we are not finding that funding through the present block grant. We would be very pennywise and pound-foolish to shortchange a program that has been funded for only 2 years, which shows such great promise to be of help to this country.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. COHEN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WEICKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEICKER. Mr. President, I have before me the ideas of the amendment of the distinguished Senators from New Mexico and Florida.

Let me say that under normal circumstances, I would be glad to support any education program or additional moneys to any educational program in this country. Nobody is going to denigrate the importance of math-science. But neither is anybody going to denigrate the importance of education across the board.

To give you an idea as to how much the shortfall is in education, let me go back to one of the older programs on the books. Public Law 94-142 was en-

acted 10 years ago; 94-142 not only is landmark education legislation, but how it has changed the lives of retarded children across the breadth of this country is something to behold. Whereas in the past, handicapped children used to sit in dark corners in institutions, they now join their classmates in school, many of them mainstreamed to regular schools, not special education classes. But most importantly, the upshot of all that is that they are mainstreamed into life in America and not left in a corner of an institution.

That was 10 years ago that we passed 94-142. I wonder how many of my colleagues realize what it is that we committed ourselves to when we passed the law 10 years ago, 94-142. The Federal share was to be 40-percent. And here it is on the 10th anniversary of 94-142, which has been declared an unparalleled success as to educating the handicapped retarded children of this Nation, and the Federal share is a struggling 8 percent. Eight percent, and we have had 10 years to get to that 40 percent level.

I warned a long time ago as we started to misread our priorities in this Nation that we would find in the area of science and health, the blind fighting with the deaf, fighting with those with heart disease, fighting with those with cancer for the Federal dollar. Indeed, the penuriousness of this Nation over the past several years when it comes to spending on education and health, social needs, is such that that is exactly what is happening in the area of health.

All come before our hearings, each pleading for the few pennies that are left over after we get through with the defense budget and there is not enough to go ahead and do the right job.

So it is with education. No, we do not do the right job in the sense of what either needs to be done or what can be done. So nobody is going to stand on this platform and decry the worthy effort insofar as math-science is concerned. But I think it also has to be stated that in these famous allocations and in the determination of the priorities by Congress and by the President, and by the body politic, in the determination of those priorities, not much is left out there, either in the sense of education or in the sense of health or the retarded or the disabled or any such worthy causes.

So we had to make choices in the way of education. Very frankly, the choice that was followed by the subcommittee and by the full committee was in favor of those with the greatest needs.

That is why the increases went in Pell grants—in other words, to those who could not afford a college education and would not get a college education unless the money was there. Yes, we did not cut there.

We did not cut back in programs for those who needed a special education, the retarded. And we did not cut back in the sense of those who needed the money to be able to go to medical school.

I do not have the luxury to do what I would like to do. I happen to belong to the school which feels that nothing is more important to this Nation than the education of its people, young and old. But I do not have that choice. So, when something like this comes before us and we say, well, we would like to go ahead and add the money to math-science, I do not think I will get caught in the catch-22 of saying I do not think that is important.

I think it is important but it has already been determined by virtue of allocation and priority not to be as important as defense—not as important as defense. In terms of the health needs and the education needs, they run pretty much neck and neck. In terms of educational needs, they take second place to the need programs insofar as the education of certain people in this country is concerned.

Earlier today, to show again how the crunch is on, the Senator from Wisconsin and I had to shuffle around $40 million worth of funds in order to assure that 10,000 persons dying of AIDS would be able to get AZT, a drug which is not a cure, a drug which, indeed, may not prolong life endlessly, but we think it will prolong life for 6 months—6 more months—in the hope that within 6 months, additional cures might be found. That is the kind of budget game which I have to play with this budget. I have to twist and bend to get money for 6 more months of life in the sense of hope for 10,000 people.

I cannot get another few percentage points toward the Federal commitment of 40 percent in special education and that is 10 years old and I am sitting at 8 percent.

So, Mr. President, I hope that the amendment is defeated, not because of its substance or the importance of math-science but in the sense of the dollars that have been allocated by the American people. That is not a Reagan budget or a Budget Committee budget or a Senate budget or a House budget. The American people decide what the priorities of this Nation are to be. It should be stated loud and clear on this floor that they do not deem education and science and health as important as military hardware. They are more concerned with the speculations of what might happen with superpowers in the years after the year 2000 than they are with life in the year 1986. And that is their privilege. I abide by the majority choice.

Someday we will wake up as to what national security is all about. National security, quite correctly, as stated by the Senator from Florida and the Senator from New Mexico, is math-science. That is national security. But that is not the way it comes across in terms of our budget.

And let us not make any mistake, because I am going to say it again out here: After all the speechmaking is done by Republicans and Democrats, by Presidents and Senators, by our friends and neighbors, after all the speechmaking is done, there is one unerring mark as to what is important in the United States. That is the budget.

It is not philosophical, it is not partisan, it does not hide anything. It is right there is dollars and cents. I do not have the dollars and cents for math-science and I do not have the dollars and cents for the retarded and disabled and I do not have the dollars and cents for Alzheimer's disease and cancer and heart disease. I simply do not have the dollars.

When I say "I," I am talking about the committee, the U.S. Senate, and the Government. So the quarrel is not with the chairman or the ranking member or the actions of the committee. The quarrel really is as to what we as a Nation deem important.

No, I am not going to use the argument as was alluded to by the distinguished Senator from New Mexico, that this is taking the money from the National Institutes of Health and then et cetera, et cetera. It is taking the money from the National Institutes of Health. But I do not want to get into that. These things all have to stand on their own two feet.

You tell me about the pearl that is the National Institutes of Health. I will tell you, Mr. President, if it were not for the Appropriations Committees of the U.S. Congress, it would be a piece of coal as a result of the budgets that were sent to us over the past 6 years. Budget after budget, slash after slash. It was the Appropriation Committees that went ahead and made the National Institutes of Health what it is today because we would not accept the cuts.

Sure, now we are receiving the benefit of biomedical research. Now we understand how crucial basic research is when we are confronted with a sweeping disease such as Alzheimer's, which could afflict the entire globe. And very frankly, we are well on our way to doing something about it because of the basic research of the past 10 years. And, oh, we would like to see how we might be making some progress in Alzheimer's because sooner or later, it is going to affect us.

NIH was not the darling of the American people in the recent past when all the work was being done but little result to show for it because scientific research takes such a long time.

Yes, it is a pearl. But so are our children a pearl and so is their education a pearl. These are all matters that should be a treasure to us. But in reality, in terms of everyday living, none of them is a treasure to us in terms of the money spent by us.

What is being asked for here in effect gives a 100-percent increase to math-science. I would take a 100-percent increase in all the areas under the jurisidction of this particular subcommittee and believe me, we would be a better Nation for it. If we are going to have 100-percent increases, we are going to have it for everybody. I am not going to play God and sit and decide who is going to live and who is going to die and who is going to be smart and who is going to be dumb and who is going to be housed or who is going to be homeless.

It is time we came to our senses in this country of what is important. Hooray for all the fireworks and hooray for all the celebrations, celebrating what the United States did do. Our job, it seems to me, around here is to celebrate what it is we are doing. And we are not doing a very good job of it.

So, hooray for the amendment of the Senator from New Mexico and the Senator from Florida and the ends they seek to achieve. But in order to do what they want to do, we need more money and we need more money allocated to this aspect of the budget. We do not need more money allocated to us at the expense of NIH. We do not need more money allocated to us at the expense of the retarded. We do not need more money allocated to us at the expense of the elderly. We need more money allocated to us coming from those aspects of our national life which have all the money and more than anybody can use and, indeed, so much, that it is wasted by the barrelful. I have a tin cup for the budget that I represent. I hope the amendment is defeated.

Mr. DOMENICI and Mr. PROXMIRE addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

□ 1520

Mr. DOMENICI. I wonder if the Senator will yield while I send the amendment to the desk?

Mr. PROXMIRE. Certainly.

Mr. DOMENICI. I have been waiting to see if other Senators had wanted to do something on the bill.

The PRESIDING OFFICER. The Chair advises the Senator there are two pending amendments.

Mr. DOMENICI. Mr. President, I assume that we have been laying them aside temporarily while a new amendment is being considered, and I ask unanimous consent that the pending amendments be temporarily set aside while the amendment of the Senator from New Mexico is the pending business.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2786

Mr. DOMENICI. I send the amendment to the desk and ask that additional cosponsors, Senators BINGAMAN, HART, and LAUTENBERG, be added to the original cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. I thank the distinguished ranking member from Wisconsin for yielding to the Senator from New Mexico.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for himself, Mr. CHILES, Mr. BINGAMAN, Mr. HART, and Mr. LAUTENBERG, proposes an amendment numbered 2786.

Mr. DOMENICI. Mr. President, I ask unanimous consent the clerk dispense with further reading of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new section:

Amounts available under this Act for carrying out the provisions of title II of the Education for Economic Security Act are hereby increased by $56,934,000, provided that amounts available under this Act for the various activities of the National Institutes of Health are reduced by a total of $11,000,000.

Mr. PROXMIRE. Mr. President, anything I could say after the speech of the Senator from Connecticut, the chairman of the committee, would be certainly anticlimatic and I will be very brief.

I support the Senator from Connecticut. I oppose the amendment. I think it is a mistake and in the long run it could be a serious mistake. I would like to make one modest point. Consider the long-term effect of this amendment. The ultimate impact of the amendment is to increase Federal spending by adding to the total budget authority provided in the bill. Now, my good friend—and nobody is better with figures and nobody knows more about the budget than the chairman of the committee unless it be the ranking member. They are both the Senate's experts in this area—said this is something that would provide $57 million, as I understand it, for math and science but it would only take $11 million out of the NIH. How do you do that? That is magic. That is great. If we can do that, we will have no budget problems in the future. He said it is deficit neutral. Now, Mr. President, it is not deficit neutral, not in the long run. Of course, what happens is that in 1987 it is neutral and that is all that has to be done in order to comply with the Budget Act. In 1987 it is neutral. But it adds to the deficit in subsequent years. And where is it going to come from in subsequent years? We set the precedent today. It will come out of NIH. This is where it comes from this time. It is where it will come from in the future.

My good friend from New Mexico and the Senator from Florida made very, very impressive speeches. They pointed out this can help greatly to advance math and science. Will it? Come on. What does it amount to? Five dollars a pupil. Five bucks a pupil. We know how much education is costing these days and every little bit helps. Five dollars is nothing to sneeze at. Of course it is something. But it is not something that is going to make any real impact. The Senator from Connecticut was right when he pointed out that rightly or wrongly—I think it is right, he thinks it is wrong—the Federal Government provides only about 8 percent of the support for elementary and secondary education in the country. That is a fact. That is a fact. If we are going to do anything to improve math and science, we have to change that fact. I certainly do not think we are going to change it today, and I would certainly hope and pray we do not change it at the expense of the National Institutes of Health. The amount we spend on public education is around $15 billion a year. High school, which is where this would hit, is $5 billion a year. Obviously, if we are going to try to take money from the National Institutes of Health to help math and science or any other important part of education in this country, we are going to have to take a whale of a lot. So I support my good friend from Connecticut. I think he is right.

Once again I commend him on his superlative speech in opposition to the amendment.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. WEICKER. Mr. President, I would like to just embellish for 1 minute, only because it highlights the difficulties we have been running into. I mentioned the special education bill a moment ago and that the Federal contribution is 8 percent whereas the law passed 10 years ago looked to 40 percent, which we have never reached. Two weeks ago we passed on the Senate floor the reauthorization of 94-142, and we made one significant change come to pass by virtue of our learning curve, experience with the legislation. And that is that instead of

from 3 years of age to 21, education of retarded children would start at birth to 21. That bill is mired in the House right now and it probably is not going to be passed in the present form because all the legislators are objecting to the additional cost associated with educating a child for the first 2 years of its life, when indeed for a retarded child education the first several years of life may be all the education they are really going to register. We cannot afford that and we are going to double math and science?

Look, I wish we could do all that the Senator from New Mexico and the Senator from Florida want and more. But for all the reasons, none of which we are going into here—we are not going to have a big debate on defense spending and nondefense spending—the answer is that the money is not there to do it and a lot of the people who are being shortchanged are in darned sight worse shape than those who want to put extra emphasis on math-science. For that reason I oppose the amendment.

Mr. DOMENICI. Mr. President, I hope the distinguished Senator from Connecticut, who chairs the subcommittee, when he alluded on the floor to budgets over the last 5 years, which in his opinion would have caused irreparable harm to the National Institutes of Health, will permit me as chairman of the Budget Committee to conclude, and I hope he will agree with me, that it is not our budgets, not the budget resolution that he and I and others have produced, that would have caused harm to NIH. We have collaborated to significantly increase the funding for the National Institutes of Health, and for budget functions under this appropriations bill, for the kind of programs and for the purposes that he has described on the floor. I believe that is the case. I do not want to make this a long debate. I think I could prove it. I believe that is true. And I think he is given credit, along with the U.S. Senate and a few of us, because we have insisted that those budgets increase, not go down. Am I not correct, I say to my friend?

Mr. WEICKER. The Senator from New Mexico is correct. The Senate budgets have been higher. We will do it on a bipartisan basis. The Senate budgets, those contrived by our colleagues, Democrat and Republican, in the U.S. Senate have been higher than the administration budgets sent to us in this area and the budgets of the House of Representatives, Democrat controlled. So there is no question about the fact that the Senate, the Senate, has led against the opposition, both congressional and Presidential.

Now, Mr. President, I want to conclude all arguments. Again, I thank the distinguished chairman from Connecticut and ranking member from Wisconsin for all that time and effort they put into this bill. It is a serious, serious American effort, in many cases on behalf of those who truly need help, and for the most part, its motivation and its goals are exemplary. We are trying to make people healthier, trying to cure people with terrible diseases, and we are obviously trying to help many who are handicapped and disabled.

Let me suggest, however, the issue is not that there is not enough money in this bill to take care of a modest effort—a sum total of $100 million in math and science education enhancement, which is what our amendment will do. We are not shortchanging anyone with what we ask.

As I looked through the marvelous presentation by the distinguished chairman of the subcommittee, he stated the case. He said handicapped education was underfunded over the years, and we need money and ought to do more. He did more and, indeed, the Senate, when it approves this bill today, will have done more. It will go up 28 percent. I laud him for it. I am glad there is a 28-percent increase in this bill for education of the handicapped. There is some indication that there is not enough money in this bill for the dread diseases, be it Alzheimer's, AIDS, either on a temporary basis or for long-term research needs. They are funded in this bill.

□ 1530

The distinguished chairman has seen to it that they are in here because they are needed. But we are not asking for an increase. Somebody has said a 100-percent increase. We want a freeze at the 1985 level. How does that sound, since we are throwing numbers around? We do not want 1 penny over what this program had in 1985, because we believe it was an auspicious start for the Education for Economic Security Act when we got the $100 million in 1985. We started down the trail of helping teachers who are struggling to teach proficiency in math and science. Now it is down to $43 million. One might suggest that that is a 50-percent decrease. We are asking to put back the $57 million, to get the program up to the $100 million level that it was the year before last.

We do not think we are hurting anyone. We do not think we are having one bit of negative effect.

Can anybody tell me that two-tenths of 1 percent out of a 15.4-percent increase for the National Institutes of Health is going to harm our efforts? I do not believe so. I believe that $100 million to our sovereign States for educational enhancement will help a great deal.

I do not agree with the Senator from Wisconsin. He says, "Will it help? It is $5 a head for a student."

Yes, it will help. Our public schools can establish inhouse training centers and promote diversity of math and science education among our teachers. If it will not help, why do we not take out the $43 million we have in this year's funding, the level at which it is frozen? It seems to me that it will bring about some benefit out there.

One last argument. I know that the distinguished ranking minority member did not say that the promoters of this bill are big spenders. I believe that by the time we are finished with the appropriating process, the budget authority we have left over in this bill—because the outlays went out so fast that you could not spend the budget authority, but there is over $600 million available—will be spent somewhere in the budget process this year. I take a tiny little piece of it and put it in this program and a tiny little piece of the 15.4 increase in the NIH and put it in this program, because I do not think there is anything more important than math and science education from the standpoint of the future of our young people and the future of the National Institutes of Health, and even the programs we are speaking of that aid the handicapped. If we do not continue to excite the young people of this country in math, science, physics, and those kinds of things that keep us on the cutting edge of solving nature's problems, all the things in this bill will suffer.

I congratulate the Senator from Connecticut. I now have some reference numbers, and I think I have been sort of a partner—I hope not silent.

In austere budget times from fiscal year 1983 to fiscal year 1987, funding for the National Institutes of Health has gone up 50 percent. NIH was at $4 billion, and it is at $6.1 billion in this bill. That is a good effort. We could always spend more, but I believe we can be proud of it. I do not think $11 million in budget authority does one thing to detract from that kind of effort.

I hope the Senate will adopt the amendment.

Mr. CHILES. Mr. President, I have listened to the remarks of my colleague from New Mexico, and I think he has covered most of the points I wanted to touch.

I do say to the distinguished Senator from Wisconsin that this is the kind of program he should be supporting, because we are not talking about giving $5 a pupil or anything like that. We are talking about trying to encourage the teachers who will be able to encourage people.

One of the biggest problems is that math and science teachers are gobbled up quickly by industry. We do not have the teachers out there; we do not have the personnel out there to teach the kids.

We are not talking about distributing money to pupils. We are talking

about seeing that we train teachers so that they can excite these people to go into this area. This is usually the kind of thing in which the Senator from Wisconsin wants to put money. That is what we are talking about.

The Senator has said that this is funded at the 1985 level. Show me another program—in the program for the handicapped, in the Pell grants, in the educational areas, or in the health areas—that we cut over 50 percent and allowed that to happen in a meaningful program. This ranks with the health programs, and that is simply what we are saying.

We are saying a simple thing: Rather than increasing National Institutes of Health 15.4 percent, can that not be a 15.2-percent increase, so that we can also have a math-science program that allows us to have some hope for the future of our kids?

Yes, it is too bad they have to compete against each other. We hope it does not have to be that way. But the American people have spoken, through their representative bodies, when they said they wanted to see an increase in funding in this area; and we are saying we think the body that did that should also look at this action.

Mr. WEICKER. Mr. President, unless anybody else is prepared to speak on this subject—I think eloquent points have been made on each side—I move to table the amendment of Senators DOMENICI and CHILES, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The question is on agreeing to the Domenici-Chiles amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. GARN] and the Senator from Idaho [Mr. SYMMS], are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Ohio [Mr. GLENN] and the Senator from Rhode Island [Mr. PELL] are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island [Mr. PELL] would vote nay.

The PRESIDING OFFICER (Mr. EVANS). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 30, nays 66, as follows:

[Rollcall Vote No. 259 Leg.]

YEAS—30

Abdnor	Gore	Hollings
Andrews	Grassley	Inouye
Burdick	Harkin	Kennedy
D'Amato	Hatfield	Mathias
Dodd	Hawkins	McClure
Dole	Heflin	Melcher
Durenberger	Heinz	Packwood
Proxmire	Sasser	Thurmond
Rudman	Specter	Weicker
Sarbanes	Stevens	Wilson

NAYS—66

Armstrong	Evans	Mattingly
Baucus	Exon	McConnell
Bentsen	Ford	Metzenbaum
Biden	Goldwater	Mitchell
Bingaman	Gorton	Moynihan
Boren	Gramm	Murkowski
Boschwitz	Hart	Nickles
Bradley	Hatch	Nunn
Broyhill	Hecht	Pressler
Bumpers	Helms	Pryor
Byrd	Humphrey	Quayle
Chafee	Johnston	Riegle
Chiles	Kassebaum	Rockefeller
Cochran	Kasten	Roth
Cohen	Kerry	Simon
Cranston	Lautenberg	Simpson
Danforth	Laxalt	Stafford
DeConcini	Leahy	Stennis
Denton	Levin	Trible
Dixon	Long	Wallop
Domenici	Lugar	Warner
Eagleton	Matsunaga	Zorinsky

NOT VOTING—4

Garn	Pell
Glenn	Symms

So the motion to lay on the table amendment No. 2786 was rejected.

□ 1600

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the motion to table was rejected.

Mr. WEICKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senate is not in order. Will those who are in the aisles and conversing please retire to the Cloakrooms or to their chairs? The Senate is not in order: those who are conversing, staff with each other, will please retire to the Cloakroom or to your seats.

Mr. WEICKER. Mr. President, I ask a parliamentary inquiry. Have the yeas and nays been ordered on the Domenici-Chiles amendment?

The PRESIDING OFFICER. They have been.

Mr. WEICKER. I ask unanimous consent that the yeas and nays have been vitiated.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from New Mexico.

The amendment (No. 2786) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHILES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HEINZ and Mr. WEICKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. Mr. President, I yield to the Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I thank the Senator from Connecticut for yielding. I would like to ask the distinguished chairman of the subcommittee if he would engage with me in a colloquy regarding a special program in the education appropriation?

Mr. WEICKER. I am delighted to discuss the matter with the distinguished Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I thank the Senator for yielding and for this discussion.

There is a small grant program in this appropriation if it is authorized. It is the Excellence in Education Program. It has been on the books for roughly 2½ years, and recently the Department of Education awarded the first round of grants under the program. The awards have had a significant, indeed quite a positive impact on students, the faculty and the surrounding community of the school districts which receive these excellence-in-education awards.

Mr. President, could we have order?

The PRESIDING OFFICER. Those who are conversing will please retire to the Cloakrooms or to their seats.

The Senator may continue.

Mr. HEINZ. Mr. President, further the House of Representatives has appropriated some $2,392,000 in their version of this appropriation for this program. The Senate version, the one that is before us now, does not contain any funding for the Excellence in Education Program in order to continue it.

Obviously, I think it is a mistake for us not to continue it. This program is working. It is working well. But I would note that in the report which accompanies the appropriation bill we now have under discussion, language is included which states that the committee will attempt to reconcile this problem, the lack of funding for this program in conference with the House. I want to say to my friends and most particularly my friend and colleague, the chairman of the subcommittee, Senator WEICKER, and also Senator PROXMIRE, the ranking minority member, that I recognize the very hard choices they have had to make and their subcommittees have had to make in fashioning this appropriation. Overall, I want to particularly point out I am supportive of their accomplishments. But I also want to emphasize that this is an issue and a matter of great concern to me. I want to ask the chairman if he would be willing to consider accepting the House numbers, the same $2,392,000 in conference if there is any possible way to do so.

Mr. WEICKER. I say to the distinguished Senator I would be willing to accommodate his concerns if there

were to be an increase in the allocation for this subcommittee. We are at the limit. This is an activity we would like to support if there were room.

I would like to say I know this is not in the prepared colloquy, but the House of Representatives, in arriving at its figures, has left out billions of dollars because certain programs which they know are going to be reauthorized have not been reauthorized as of the date of making up their appropriations. But I would say that all of us in this room on a conservative principle certainly have included that money in devising our appropriation. They just left them out. I would like to know what is going to happen when those bills are authorized.

So I want to say this. It has been an exercise in the fiscal irresponsibility as devising budgets that are realistic. It makes it doubly hard for me to stand here with the Senator from Pennsylvania, who has a legitimate request. In fact, the bottom line, raw question he is asking me is how come they have it and we do not? All right. I am giving the answer. We have tried to be responsible in devising this budget. On the other hand, if there are moneys there as we arrive at the conference so we can accommodate the Senator from Pennsylvania, believe me, I will be happy to do so.

Mr. HEINZ. Mr. President, I want to thank the Senator from Connecticut for his comments. I appreciate his position, and I look forward to working with him.

Although I voted with the Senator from Connecticut to table the motion of the Senator from New Mexico, which has just basically shifted more money toward education and away from NIH, which vote I cast, I might say, with some mixed emotions, mixed because that money could be, if it is or was enough of it, very helpful to funding this program. I say I had discussions with the Senator from New Mexico and his staff on this point. I just was unwilling to cut money from NIH to fund the amendment of the Senator from New Mexico.

But it does strike me, Mr. President, that the fact more money has been allocated toward the education functions here may make it easier for the Senator from Connecticut to find the money for this particular program. I certainly hope so.

Mr. President, may I just add, with the forbearance of my colleagues for 1 further minute, I have a summary of two of the most vital and active programs being undertaken by and thanks to the excellence in education funds.

I ask unanimous consent that the summary of these two programs, one involving the Widener Memorial School in Philadelphia, the other the Samuel Gompers Memorial School, be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE EFFECTS OF THE EXCELLENCE IN EDUCATION PROGRAM ON TWO PHILADELPHIA PUBLIC SCHOOLS

In the recent grant competition for Excellence in Education Funds, Philadelphia was awarded grants for two of the proposals submitted for funding. One for the Widener Memorial School, and one for Samuel Gompers Elementary School. In each case, the awards will have a significant positive impact on the students, faculty and the surrounding community.

THE WIDENER MEMORIAL SCHOOL

The Widener Memorial School is the only special education center in Philadelphia specifically for physically handicapped children. The grounds and facilities themselves have been specifically designed to meet the needs of the students.

The program at Widener, The Parent-Helper Project, impacts directly on 360 students and 44 faculty members. The primary goal of the project is to recruit and train a number of parent-aides who will work directly in the classroom along with the teachers. The parents receive training that enables them to function as an integral part of the classroom becoming fully involved with their children's educational program on a day to day basis both in the classroom and, more importantly, at home. The presence of additional aides in the classroom enables teachers to spend more time directing and assisting individual students who, with a variety of physical handicaps will benefit greatly from the closer attention. The lower instructor-pupil ratio that comes as a result of the project allows students to spend more time on task which leads to increased student mastery of basic skills. Overall, Widener Memorial School has created a program that will serve to bring the school community closer together and combine their efforts to a common goal in the education of their children.

SAMUEL GOMPERS ELEMENTARY SCHOOL

The Samuel Gompers Elementary School, a racially isolated inner-city school, is using its award to expand and enlarge a successful project that has been in operation since 1983. The project, Communication Art Network (CAN), is an innovative program designed to meet the needs of children with a wide variety of intellectual, physical and creative talents. CAN has had a tremendous effect on the School community at Gompers. A highlight of the project has been the production of a children's video magazine that showcased creative writing, theatre, art and music. One version of the magazine, "The Living Literary Magazine," won first prize in the Pennsylvania Learning Resources Association Media Showcase. The project features instruction in such areas as animation, illustration and dramatization of stories and poems. Students involved in the project have developed more positive attitude towards learning which have resulted in increased academic achievement. Absenteeism at Gompers has decreased drastically to the point where the school's average daily attendance is seldom less than 91%, better than most public schools. Through the efforts of the teachers involved in the project, CAN is striving to bring the community and the school closer together and to encourage area businesses, museums and Institutes of Higher Education to take an active role in the education of young children.

In both cases it is quite obvious that the Excellence in Education grants have had a far-reaching and beneficial effect on school-community relationships. It gives both schools (as at Widener), and individual teachers (at Gompers), the opportunity to realize that their hard work and creativity are truly appreciated and perhaps can be replicated nationwide.

□ 1610

Mr. HEINZ. Mr. President, I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I rise in support of the Labor-HHS appropriations bill as reported by the Appropriations Committee, and as amended on the floor.

This bill provides $100.8 billion in budget authority and $83.5 billion in outlays for fiscal year 1987 for the Department of Labor, Health and Human Services, and Education, as well as several independent agencies.

With advance appropriations, outlays from prior-year obligations, and other adjustments taken into account, the bill as reported is under the Senate subcommittee's 302(b) allocation for budget authority by $0.6 billion and over in outlays by less than $50 million.

I want to commend Senator WIECKER for presenting a bill which is generally consistent with the subcommittee's 302(b) allocation for outlays and is lower than its allocation for budget authority. I am a member of this subcommittee, and I know how difficult it was to meet the budget resolution targets adopted by the Appropriations Committee.

This bill also includes new direct loan authority of $41 million and prior obligations of $1.26 billion to fund defaults of previous loans—primarily guaranteed student loans. The total of $1.3 billion is $0.1 billion under the subcommittee's 302(b) credit allocation.

It is clear, however, that Congress must do all it can to avoid a sequester under the Balanced Budget Act. I will therefore oppose any amendments which increase the outlays associated with this bill without appropriate offsetting savings. If we fail to avoid a sequester, it is the programs in this bill that will bear the brunt of the domestic reductions.

The House-passed bill includes $2.5 billion in budget authority and $2.2 billion in outlays more than the bill before us. It will be difficult to hold the line in conference, but we must make every effort to do so.

Mr. President, I ask unanimous consent that tables showing the relationship of the reported bill to the subcommittee's section 302(b) spending and credit allocations, the President's

budget request, and the House-passed level, and a summary of total appropriations action to date, be printed in the RECORD at the conclusion of my remarks.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

LABOR, HHS, EDUCATION SUBCOMMITTEE SPENDING TOTALS—SENATE-REPORTED

[Dollars in billions]

	Fiscal year 1987	
	Budget authority	Outlays
Outlays from prior-year budget authority and other actions completed	11.7	33.7
H.R. 5233, as reported by the Senate	100.8	83.5
Possible later requirements:		
Refugee assistance	+0.4	+0.3
Adjustment to conform mandatory programs to budget resolution assumptions	+0.5	+0.6
Subcommittee total	113.4	118.0

LABOR, HHS, EDUCATION SUBCOMMITTEE SPENDING TOTALS—SENATE-REPORTED—Continued

[Dollars in billions]

	Fiscal year 1987	
	Budget authority	Outlays
Senate subcommittee 302(b) allocation	114.0	118.0
House-passed level	115.8	120.3
President's request	107.5	116.5
Subcommittee total compared to:		
Senate subcommitee 302(b) allocation	−0.6	+(1)
House-passed level	−2.5	−2.2
President's request	+5.9	+1.5

[1] Less than $50 million.

Note.—Details may not add to totals due to rounding.

LABOR, HHS, EDUCATION SUBCOMMITTEE CREDIT TOTALS—SENATE-REPORTED

[Dollars in billions]

	Fiscal year 1987	
	Direct loans	Loan guarantees
Obligations from prior-year commitments	1.3	
H.R. 5233, as reported in the Senate	(1)	
Possible later requirements		
Adjustment to conform mandatory programs to budget resolution assumptions		
Subcommittee total	1.3	
Senate Subcommittee 302(b) allocation	1.4	
House-passed level	1.3	
President's request	1.3	
Subcommittee total compared to:		
Senate subcommittee 302(b) allocation	−0.1	
House-passed level	−(1)	
President's request	+(1)	

[1] Less than $50 million.

Note.—Details may not add to totals due to rounding.

STATUS OF APPROPRIATION BILLS IN THE SENATE

[Dollars in billions]

Subcommittee	Appropriations Committee's 302(b) allocation		Adjusted bill totals [2]		Bill compared to allocation		Bill status
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	
Agriculture	31.3	24.1					
Commerce-Justice	12.1	12.3	11.7	12.3	−0.4	−(1)	Reported.
Defense	277.1	264.5					
Deficiencies and Supplementals	0.8	0.1					
District of Columbia	0.6	0.6	0.6	0.6	−(1)	−(1)	Reported.
Energy-Water	14.5	14.9					
Foreign Operations	13.0	10.8					
HUD-Independent	54.3	56.4					
Interior	7.8	8.8	7.7	8.8	−0.1	−(1)	Reported.
Labor-HHS	114.0	118.0	113.4	118.0	−0.6	+(1)	Reported.
Legislative Branch	1.7	1.7	1.6	1.6	−0.1	−0.1	Conference.
Military Construction	8.2	7.9	8.2	7.9	+(1)	+(1)	Passed.
Transportation	10.6	26.9	10.2	26.9	−0.4	−(1)	Reported.
Treasury-Postal Service	13.3	13.4	13.3	13.4	−(1)	+(1)	Reported.
Total, Appropriations Committee	559.3	560.4	166.7	189.5	−1.6	−0.1	

[1] Less than $50 million.

[2] In addition to the bill, includes outlays from budget authority enacted in prior years, possible later requirements, adjustments to conform mandatory items to budget resolution level, and other adjustments.

Note.—Details may not add to totals due to rounding.

Source: Prepared by Senate Budget Committee staff.

Mr. DOMENICI. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

AMENDMENT NO. 2787

(Purpose: To appropriate $1,000,000 for the Child Development Associate Scholarship Assistance Act of 1985 and to provide an off setting reduction)

Mr. DODD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Senator is advised that there are underlying committee amendments pending.

Mr. DODD. Mr. President, I ask unanimous consent that the underlying amendments be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Connecticut [Mr. DODD] proposes an amendment numbered 2787.

Mr. DODD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 35, line 25, strike out "and".

On page 35, line 25, strike out "$2,090,018,000" and insert in lieu thereof "and the Child Development Associate Scholarship Assistance Act of 1985, $2,091,018,000".

On page 37, line 9, strike out "$128,819,000" and insert in lieu thereof "$127,819,000".

Mr. DODD. Mr. President, I would like to offer an amendment to provide $1 million in funding for the Child Development Associate Scholarship Program by decreasing the funding for general departmental management by $1 million. That is the offset.

Mr. President, I offer this amendment on behalf of myself and the distinguished Senator from Florida, Senator HAWKINS. I ask unanimous consent that Senator HAWKINS be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Mr. President, the Senator from Florida is the chairman of our Subcommittee on Children, Families, Drugs and Alcoholism of the Labor and Human Resources Committee. We had a number of hearings in which we listened to numerous witnesses talk about the problems of child care, and there are many.

One of the problems associated with child care is getting adequate training for the professional staffs working in our child care facilities and family day care homes. Many of these providers are the most underpaid people in the work force. When you consider the

charge that they have of caring for young infants in many cases, it seems only appropriate that we try and provide some proper training for these people. Because of their low wages child care workers do not have the personal resources to actually pay for training and credentialing.

This $1 million I am requesting is the kind of amount that normally is rounded off in budgets. I am not suggesting this is a monumental amount. It is certainly an important amount. Nonetheless, we think it will make a significant difference in providing adequate training for those people who will be giving working parents much needed child care services.

One sure way to improve the quality of child care in this country is to improve the skills and performance of child care workers. By providing child-care workers with training and a credential, the Child Development Associate Scholarship Act will do just that.

The overwhelming majority of child care workers are women who work exceedingly long hours for very little pay. Close to 90 percent of all family day care providers, for example, earn less than the minimum wage. Yet such work provides an income for many women who would otherwise be dependent on the Aid for Dependent Children [AFDC] Program. Just as importantly, child care workers make it possible for other mothers to enter the work force and gain self sufficiency.

Obviously, with many families needing two incomes to make ends meet these days, this issue is extremely important.

The CDA credential is the only national credential formally certifying professional child care skills. The first CDA credential was awarded on July 24, 1975. To date, more than 15,000 child care workers have received the CDA credential. And some 31 States and the District of Columbia have made the CDA credential a part of their child care licensing requirements. We are very much indebted to Prof. Ed Zigler of Yale University in my State of Connecticut who established the CDA Credentialing Program over a decade ago during his tenure as Director of the Office of Child Development in the then Department of Health, Education, and Welfare.

The CDA credential allows child care workers to gain professional status and often to improve their salaries and benefits. Yet CDA candidates are now faced with over a 100-percent increase in the fee they must pay to be certified, from $35 to $325 to $600. Given the extremely low salaries of most child care workers, such high fees could force many of them to forego training and subsequent CDA certification. At present, some 3,000 child care workers a year receive CDA certificates. With the scholarship program I am requesting funding for, an additional 1,000 to 2,000 low-income providers could be trained and certified.

The cost of my proposal is modest, totaling only $1 million. Yet the benefits will be enormous for the workers who receive training and formal recognition of their skills as well as for the children in their care. I know that it is always popular to take funds from the bureaucracy. But I have not decreased the funding of the departmental management fund without a great deal of thought. I feel that there is still room to take $1 million from that item and move it to a very worthy cause indeed: namely, the quality care of our Nation's children.

Mr. President, I hope that my colleagues will see this amendment as a proper and appropriate amendment. It is in the interest of families. We hear a great deal about family issues. Here is a program that will raise the standard of people directly responsible for rearing the children of this country.

Mr. WEICKER. Mr. President, I commend my distinguished colleague and friend from Connecticut for his amendment.

Mr. President, I might add that this is an area of increasing opportunity, requiring increasing professionalism. I support the amendment.

The PRESIDING OFFICER. Is there further debate?

Mrs. HAWKINS. Mr. President, I would like to add at this time that we have just finished the conference report on this subject with the House today. Hopefully that will be enacted by next week, which will be of assistance when this comes up. I commend both Senators from Connecticut for their vision in assisting children.

The PRESIDING OFFICER. Is there further debate? if not, the question is on agreeing to the amendment.

The amendment (No. 2787) was agreed to.

Mr. DODD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WEICKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2788

(Purpose: To earmark $100,000 for the President's Council on Health Promotion and Disease Prevention)

Mrs. HAWKINS. Mr. President, I ask unanimous consent that the underlying committee amendments be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HAWKINS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Florida [Mrs. HAWKINS] proposes an amendment numbered 2788.

Mrs. HAWKINS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 29, line 5, insert before the period a colon and *"Provided further,* That of the amounts appropriated under this heading, "$100,000 shall be available for the President's Council on Health Promotion and Disease Prevention".

Mrs. HAWKINS. Mr. President, the amendment I am offering to the Senate Labor, HHS, Education appropriations bill would provide transfer funding from one Public Health prevention effort to another. I am a cosponsor and supporter of legislation, S. 2057, which would establish a President's Council on Health Promotion and Disease Prevention. This legislation passed the authorizing committee, the Senate Labor and Human Resources Committee and the full Senate without opposition. The legislation is presently awaiting action by the House of Representatives. I hope that the House will recognize the importance of creating this council to inform people about what they can do to improve the length and quality of their lives. Even if the House does not act before adjournment, I am encouraged that the administration also recognizes the advisability of creating a Presidential Council on Health Promotion and Disease Prevention and may create such a council through Executive order.

This amendment would earmark $100,000 from the Public Health Service management category, specifically, the funding for disease prevention and health promotion. The Congressional Budget Office estimates that S. 2057 would cost $500,000 but I feel that appointing a director and detailing staff for the Council from the Office of Disease Prevention and Health Promotion would significantly lower the actual costs of the program. Therefore, my amendment is limited to a $100,000 earmark of funds.

Mr. President, this amendment is budget neutral. I have modified my amendment to make it more acceptable and I hope that the floor managers will accept the amendment.

Mr. WEICKER. Mr. President, I congratulate the distinguished Senator from Florida on her amendment. I might add, I would recommend that the Senate accept it. It is my understanding that this $100,000 would be available pending authorization that we are looking for. With that in mind, I urge adoption of the amendment of

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the Senator from Florida, who has certainly been in the forefront on matters such as this.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 2788) was agreed to.

Mr. WEICKER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mrs. HAWKINS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WEICKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

□ 1620

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I ask unanimous consent that I may proceed as if in morning business for 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

JAKE GARN'S GENEROUS AND COURAGEOUS ACT

Mr. DOLE. Mr. President, today, one of our colleagues and friends, JAKE GARN, underwent surgery. I am happy to say initial reports indicate that the operation, in which doctors transplanted one of his kidneys to his daughter, Susan Rhae Garn Horne, went smoothly.

Needless to say, all of our thoughts and prayers are with the Garn family. We hope that the surgery will prove to be totally successful and that both JAKE and his daughter recover quickly.

JAKE GARN is not one of those men who parades his personal triumphs or tragedies in public, and he has been very reluctant to talk about this operation.

But those of us who know him can say, with no hesitancy, that this is a more generous and courageous act. Two of JAKE's sons were suitable donors. He is up for reelection this November. Yet, as a father, he felt it was his responsibility, and it was his desire, to be the one to donate a kidney.

This is typical of JAKE. His commitment, his sense of duty to his family and country, are quiet but total.

Mr. President, I know every one in the Senate today joins me in expressing our hopes and prayers for the Garn family, and our heartfelt wish that JAKE and his daughter, Susan Rhae, will return to their normal, productive lives very, very soon.

Mr. PROXMIRE. Mr. President, will the majority leader yield?

Mr. DOLE. I am happy to yield.

Mr. PROXMIRE. I am delighted that the majority leader has brought up Senator GARN's action. I have great admiration and respect for JAKE GARN. JAKE and I have served on the Banking Committee ever since he came to the Senate. He succeeded me as chairman of that committee so we worked very, very closely together.

He is a remarkable man, a man of courage, a man of absolute integrity. He and I disagree on a few issues, but we agree on a lot more. I think what he has done with respect to his daughter is typical of JAKE GARN. As the majority leader pointed out, he does want to avoid publicity on this but it is an act of courage and an act to demonstrate how deeply he feels about his family.

He has a marvelous family. He had seven children at last count and he is still moving.

Mr. DOLE. I thank the distinguished Senator from Wisconsin.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1630

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2789

(Purpose: To provide an additional $1,900,000 to the Employment Standards Administration for 8 additional Administrative Law Judges and support staffing)

Mr. BYRD. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. There are underlying committee amendments now pending.

Mr. BYRD. Mr. President, I ask unanimous consent that the underlying committee amendments—did the Chair say there are amendments in place?

The PRESIDING OFFICER. Yes.

Mr. BYRD. I ask unanimous consent that they be temporarily set aside so I may call up this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for himself, Mr. METZENBAUM, Mr. FORD, and Mr. ROCKEFELLER, proposes an amendment numbered 2789.

Mr. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On Page 7, line 25, delete $192,709,000 and insert in lieu thereof $194,209,000;

On page 14, line 21, delete $160,180,000 and insert in lieu thereof, $158,680,000.

Mr. BYRD. Mr. President, this amendment will add $1.5 million to the Employment Standards Administration to hire eight additional administrative law judges and support staffing to decrease the backlog of black lung claims by 1988. This funding should increase the number of black lung dispositions at the administrative law judge level to 10,500 annually. I have discussed this amendment with the manager and I hope that it will be acceptable.

Mr. WEICKER. Mr. President, this amendment by the distinguished Senator from West Virginia [Mr. BYRD] and as cosponsored as I understand it by Senator METZENBAUM, would shift $1.5 million to help reduce the backlog of black lung claims but not add to total outlays of the bill. It would provide for eight additional law judges and support staff. Last year, the committee agreed to add funds to reduce the backlog of black lung claims to less than 3 years. It now appears this objective may not be achieved unless we agree to this amendment. I recommend we accept this amendment. I recommend we take it to conference. I commend the distinguished Senator from West Virginia, who has never once in all his important duties as minority or majority leader forgotten the people who sent him to the Senate in terms of their needs.

Mr. BYRD. Mr. President, I thank the distinguished chairman of the subcommittee, the manager of the bill, for his very charitable remarks with respect to me personally. I thank him for accepting the amendment.

Mr. PROXMIRE. Mr. President, I enthusiastically support this amendment. What it does is to speed up the payments to black lung sufferers and victims. I think it is exactly the kind of thing we should do, and I commend the distinguished minority leader on offering the amendment. It is a very good amendment.

Mr. BYRD. Mr. President, I thank the distinguished ranking member of the subcommittee, the ranking manager of the bill, for his support of this amendment. I thank him for his remarks. I do want to make it clear that Mr. METZENBAUM is, indeed, a cosponsor of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 2789) was agreed to.

Mr. BYRD. Mr. President, I thank the Chair. I thank both managers of the bill.

Mr. President, I move to reconsider the vote by which the amendment was adopted.

I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2790

(Purpose: To appropriate funds for the Kansas Educational Satellite Video Communications Center and to provide an offsetting reduction)

Mr. DOLE. Mr. President, are there committee amendments pending?

The PRESIDING OFFICER. The committee amendments are pending.

Mr. DOLE. I ask unanimous consent that they be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes an amendment numbered 2790.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

On page 54, line 12, strike out "$41,000,000" and insert in lieu thereof "$36,500,000".

On page 54, between lines 16 and 17, insert the following:

For making a grant to the Kansas State University located in Manhattan, Kansas, to enable the Kansas State University to establish the Kansas Educational Satellite Video Communications Center in order to produce and disseminate television programming in subject areas of local, regional, national, and international importance, $4,500,000 to remain available until expended.

Mr. DOLE. Mr. President, the Senator from Kansas is offering an amendment to provide $4.5 million for an educational satellite video communications center at Kansas State University, in Manhattan, KS. The total cost of this project is $9 million, but the university is setting a good cost-sharing example by coming up with 50 percent from private sources. In order to accommodate the distinguished chairman of the Labor-HHS Appropriations Subcommittee, there is an offset provided for—$4.5 million would come from the Carl Perkins scholarship fund, leaving a total of $5 million in that fund. Since the House bill contains $21 million for this purpose, I believe this leaves plenty of room for negotiation in conference.

COMMUNICATIONS CENTER TO BE A NATIONAL RESOURCE

Mr. President, university instructional programs must keep pace with the explosion of knowledge confronting us today by incorporating new technologies in this teaching method. Television and video technology offer special educational opportunities because of the growing popularity of video recorders, the proliferation of satellite receiving dishes, and the availability of television receivers in virtually every household in this country.

Kansas State University is uniquely qualified to produce and disseminate television programming in several subject areas of local, regional, national, and international importance. At a time when there is tremendous hardship in the farm belt, this type of center would provide easy access to job retraining for farmers who must seek a livelihood off the farm. I think the value of this type of program speaks for itself. We must do everything we possibly can to help the dislocated farmer readjust to a new working world. K-State has developed a unique program in this area, which would benefit many States and the university is more than willing to share its programs with other States and universities in a major cooperative effort.

SPECIAL KSU EXPERTISE

KSU possesses special expertise for which the satellite video communications facility will be well utilized. I might mention just a few of these important areas. Many of their programs have been established to enhance our trade capabilities, especially with regard to argicultural exports.

INTERNATIONAL FOOD MARKETING

K-State conducts world-renowned training courses in grain handling, milling, and bakery science through its department of grain science and industry—the only such department in the Western World. In the last 3 years, KSU trained more than 3,800 persons from more than 70 countries—all current or potential customers of American food products—helping to open and maintain markets throughout the world. Video transmission of these training courses will vastly increase their impact.

VETERINARY MEDICINE

The Kansas/Nebraska Regional Veterinary College serves a tremendous concentration of veterinarians working with food and companion animals. Kansas and Nebraska rank second and third in production of cattle. The need for veterinary continuing education is great. Low population density makes video transmission an important tool in presenting new veterinary technologies to practitioners—speeding implementation by years. The results can be dramatic. For example, a 1-percent decrease in cattle mortality adds $80 to $90 million annually to the combined economies of Texas, Kansas, and Nebraska.

FOOD TECHNOLOGY DEGREE/CREDIT PROGRAM

KSU has a unique food technology program, and 27 States have requested affiliation with this program. In addition, the Defense Department would like to be able to train its personnel around the world. Satellite video communication can make this resource available to all those who need it.

INTERNATIONAL MARKETING RESEARCH CENTER

This center, which is affiliated with KSU's College of Business Administration, conducts research on issues critical to the development and evaluation of strategic trade alternatives by decisionmakers in business and government. One goal is to increase interaction among business executives, academic researchers, and government officials. Video conferencing can be an important tool in accomplishing this objective, and in facilitating the ongoing research programs of the center.

COOPERATIVE EXTENSION

Video communications can greatly enhance the ability of the Kansas Cooperative Extension Service to provide cost-effective services to residents of the State—especially in rural areas. In this area, Kansas can serve as a national model for the delivery of these critical information services through video transmission.

CONCLUDING REMARKS

Mr. President, there is a good chance that this satellite video communications center may be authorized by the time the 99th Congress adjourns, and I therefore ask my colleagues to support this amendment. Such a program will benefit States other than Kansas, and provide a valuable national, as well as international, resource.

Mr. PROXMIRE. Mr. President, will the distinguished majority leader yield? As the majority leader knows, I have great admiration and respect for him. I am concerned about this amendment, however. It is an amendment for Kansas. It is an amendment that takes $4.5 million as I understand it, from the Carl Perkins Research Program, and it would provide instead for a facility in Manhattan, KS, to establish a Kansas educational satellite video.

What concerns this Senator is that it seems to be for one State but taking money from a fund which, as I understand it, provides scholarships for students all over the country. If the distinguished majority leader were providing for a ROBERT DOLE scholarship program, I would be enthusiastically in favor of that, and I hesitate to do this because I think he is a wonderful majority leader. He has done a great job. He would be even better as President of the United States, and if I were a Republican I would vote for him. This seems to this Senator to be something that is within the purview and power of a majority leader but

something that just seems to me is not the way we ought to allocate funds.

Mr. WEICKER. Mr. President, I know that the distinguished Senator from Wisconsin has been a watchdog of everything that goes on in the committee and properly so, and indeed I have tried to contribute toward that end myself. We have had requests from Senators on both sides as to various educational institutions and/or their facilities. More often than not, they do not make it the whole way down the road. We have a conference yet to go. We have the matter of the House's opinion on this. But I have always tried to encourage my colleagues wherever possible at least to have these projects laid out before the entire constitutional process. And for that reason I support it.

Senator PROXMIRE, the distinguished Senator from Wisconsin, knows full well that there are others who have reservations such as he has on matters that deal with these educational institutions, but I really do not know any way of getting the mule's attention, if you will, except to get the project on the road. I think this amendment does that. For that reason, I support it, and I would be willing to take it to conference.

Mr. PROXMIRE. Mr. President, my problem with this is that in the first place I understand there has not been an authorization. I understand they will not push it in conference unless there is an authorization in the meanwhile but this paves the way. They can say, "After all, the full Senate met on this, they acted on it, they approved it." There have been no hearings on this, as far as I know—maybe there have been—no hearings in the subcommittee I am told by the staff.

□ 1640

So this $4.5 million would be used to establish a radio facility in Kansas out of funds that would be provided for scholarships to train teachers throughout the country.

This Senator is very reluctant to make this objection, not only because I know the kind of power the majority leader has, which he wields with great fairness and justice, but also because I have such great admiration for him. I wish there were some other way we could do this and provide for the scholarships to continue, which I think are very good things, rather than provide this for a single State.

Mr. DOLE Mr. President, I do not disagree with the Senator from Wisconsin. He has made the statement before. I wanted to call up the amendment and make a record here.

I am perfectly willing to withdraw the amendment. I want to pursue this. There may be a way we can broaden it. The last thing I would want to do is take anything away from the Carl Perkins scholarship fund. There is still $21 million on the House side, and this would reduce it to $5 million, which is about what the President requested.

I do not disagree with the Senator from Wisconsin. I think we have to be very careful. We have had that debate on this floor less than 2 or 3 months ago. But I believe there is a need, and I believe that need can be served. It extends beyond the boundaries of Kansas. We are in a farm crisis. We must have jobs for farmers when they lose their farms. We believe there are a lot of possibilities with the video system.

Mr. WEICKER. Mr. President, will the Senator from Kansas withhold?

Would it meet the objections of the Senator from Wisconsin, while at the same time preserving the ideals expressed in the proposal of the distinguished Senator from Kansas, to so modify the amendment as to make it subject to authorization?

Mr. PROXMIRE. The problem I have with that is that the authorization process should come first. We have seen again and again that we put these programs on appropriations bills, and then, having done that, the authorization committee is in a difficult position. It seems to me that we should proceed in an orderly way.

There is no question in my mind that if it is pushed hard, the authorizing committee will act. We should let the authorizing committee act and proceed, not out of order.

As I understand it, this would be subject to a continuing resolution if it is authorized. In the meanwhile, it can be put on the continuing resolution, having been authorized, and I would not object under those circumstances.

Mr. DOLE. Mr. President, I indicate to my colleagues here, and those who may be listening, that we will pursue it. I do think there is a way we can broaden the amendment so that it would not be limited to the boundaries of Kansas. Kansas State University and universities in Wisconsin and other States have an outstanding record. In fact, we conduct world-renowned training courses in milling and baking, dealing in about 70 countries, and over the years trained more than 3,800 persons.

I am not trying to be parochial about it. I think there is almost unlimited potential in this effort.

I do not disagree with the Senator from Wisconsin, and I appreciate his remarks. He may be a delegate down the line at our convention.

Mr. PROXMIRE. If the Senator runs as a Democrat, I hope I am.

Mr. DOLE. Mr. President, I withdraw the amendment at this time and I will be back, working with both Senators. I thank the distinguished Senator.

The PRESIDING OFFICER. The Senator has a right to withdraw his amendment.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1700

Mr. DANFORTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. NICKLES). Without objection, it is so ordered.

Mr. DANFORTH. Mr. President, I ask unanimous consent that I may be allowed to proceed as though in morning business.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

THE TAX BILL

Mr. DANFORTH. Mr. President, I would like to take a few minutes to discuss the recent tax bill approved by the joint House-Senate conference on August 16. It is no great secret that I have grave and serious reservations about this bill. In fact, I intend to vote against the conference report and to oppose the bill on the floor of the Senate.

I do not intend to discuss at this time the economic consequences of the tax bill. Rather, I would like to place in the record a series of articles that have been written during the past 4 weeks since the bill was approved by the conference committee. I believe that these articles will be helpful to those Senators who have not yet decided how they intend to vote. The articles focus on a range of issues and express a variety of legitimate concerns relative to the tax bill. I hope each Senator and his/her staff will take the time to review these articles. In an effort to facilitate review of these materials, I have included here a brief summary of the articles.

Article 1. The first two articles highlight what I believe should be one of the principal issues discussed during the upcoming debate on the Senate floor over the tax bill. This issue is whether the bill will create an environment of tax certainty. We have all been asked time and again to leave the tax laws alone once we are done with this tax revision effort. I believe that an acid test of the worth of this tax bill should be its life expectancy—its viability for more than 2 or 3 years. However, the chairman of the House Ways and Means Committee is already advocating increasing the income tax rates in a tax bill that is not yet even written. If lower rates are the fuel for this tax bill, it appears that the gas tank is almost empty and we haven't even left the driveway. I also wonder how many of us do not believe that

this bill is flawed in one or more substantial ways? Do we really think that we will not be rewritting the income tax laws of this country as soon as next year, or the year after? The chairman of the Ways and Means Committee doesn't think so, so why should we?

Article 2. The next article does not bear directly on the tax bill, but rather focuses on the budget deficit. We still have a lot of work to do if we expect to meet the Gramm-Rudman-Hollings budget objective for 1987. We have a lot to do just to come within $10 billion of the 1987 objective and thereby avoid the sequestration process. The proposed tax bill is allegedly revenue neutral over the 5-year period from 1987 to 1991. It is not, however, revenue neutral on a year-by-year basis. This, in 1987 the tax bill, if enacted, will cause revenues to increase by $11 billion—more than enough to avoid sequestration. If we use the $11 billion for this purpose, we will be singing the swan song for Gramm-Rudman-Hollings because in 1988 and 1989 the tax bill will have revenue shortfalls of $17 billion and $15 billion, respectively. We are only fooling ourselves if we think we can overcome an additional $32 billion budget shortage in 1988 and 1989. This the laudable goals of Gramm-Rudman-Hollings, which we passed less than 1 year ago, will become an anachronism and be left to gather dust on the shelf.

Article 3. The next article focuses on the so-called "revenue neutrality" of the bill. It points out that the only common thread among revenue analysts of the bill is their agreement that the bill's "uncertainties are vast."

Article 4. Next is an article asserting that the tax reform bill will unravel in only a few years' time. Remember the cry of individuals and businesses alike for "certainty." "Just tell us what the rules are and then leave us alone for a few years." How many of us believe the so-called "Tax Reform Act of 1986" won't be substantially altered and rewritten several times during the next 5 years?

Article 5. Next is a series of articles addressing the general impact the bill will have on growth, productivity, capital investment and job creation. These articles are followed by articles outlining the negative impact the tax bill will have on small businesses (other than accountants and tax lawyers), transportation companies, banks, savings and loans, real estate, and venture capital. I have also included two articles on the impact the bill will have on higher education, including one in which Sheldon Steinbach of the American Council of Education states, "The bill is the greatest catastrophe for higher education in 25 years."

Article 6. The next article illustrates how the tax bill will exacerbate our trade balance rather than improve it. How can we convince taxpayers that the trade problem is of major concern to us when we pass tax legislation that makes the problem worse?

Article 7. The final article covers statements made by the President's Chief of Staff, Donald T. Regan, shortly after the conference committee finished its work on the tax bill. Regan indicated that the President will sign the bill even though the President did not yet know either what was in the bill or the economic consequences thereof.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the various articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

ARTICLE 1

[From the Wall Street Journal, Sept. 5, 1986]

ROSTENKOWSKI URGES INCOME TAX RISE TO CUT DEFICIT RATHER THAN NEW LEVIES

(By Jeffrey H. Birnbaum)

WASHINGTON.—Chairman Dan Rostenkowski of the House Ways and Means Committee said the budget deficit should be trimmed by raising income-tax rates and not by instituting new kinds of taxes.

In a speech to an economic symposium here, the Illinois Democrat specifically rejected new taxes on consumption, such as a sales tax or a value-added tax. Such taxes, he said, are most burdensome on those least able to pay them and are deceitful, because they are largely invisible to those paying them.

But, in a surprise that could affect the debate on the pending tax-overhaul bill, he also suggested that after that measure is approved there should be an increase in the individual tax rates that he and others have labored for two years to bring down.

The pending bill would lower tax rates by curtailing a wide range of deductions and credits. The measure's stated top individual tax rate is 28%, although the actual top rate is higher for many upper-middle and upper-income taxpayers because of a surtax. The current top tax rate is 50%.

HIGHER, PROGRESSIVE RATES

"Everyone knows we will eventually need a tax increase to reduce the deficit," he said. "But the increase in revenue should come through higher, progressive rates on income, not by a low, regressive tax on need."

Separately, U.S. businesses establishing offshore insurance companies would find it costlier under the proposed tax-law revision (see story on page 40).

After the speech, Rep. Rostenkowski told reporters that he wouldn't push for a tax-rate rise until President Reagan asked for one first—a request the president has firmly said he won't make. But, during the speech, in a departure from his prepared remarks, the chairman made a plea for Mr. Reagan to reconsider his opposition to a tax increase.

He said that he hoped "sincerely" that the administration "will awaken" to the deficit problem. He called on the president to show "leadership" in solving it before the problem becomes insurmountable.," He added that without leadership from the president and from other lawmakers "we're going to have difficulties passing any (deficit-reduction) legislation in this Congress."

AMMUNITION FOR OPPONENTS

While the statement probably doesn't jeopardize the bill, which is expected to pass when Congress returns from recess next week, it could give opponents of the measure something on which to seize. Members of Congress who gave up the tax breaks reluctantly may view the remarks as evidence that the Democrats are going to renege on the rate end of the trade-off.

Rep. Rostenkowski made his remarks as part of a symposium entitled "The Consumption Tax: A Better Alternative?" He said he addressed the group to bring some political perspective to the fast-growing idea. He said Congress would reject a consumption tax as an "unfair," despite the increased talk among lawmakers and academics about using the device to reduce deficits.

He repeated his earlier statements that there is an increasing need to raise revenue to stanch the budgetary red ink. But he hinted that his preference would be, eventually, to raise the top individual tax rate that would be set by the pending bill or to add another, higher bracket.

He argued that the tax-overhaul bill was heading to final approval because it was "fair"—placing a bigger tax burden on higher-income individuals and making individuals with equal income pay approximately equal taxes. The low rate wasn't as important, he contended.

"President Reagan's opposition notwithstanding, this country isn't willing to pay higher taxes—as long as they are fair," he said.

Republicans didn't welcome the chairman's remark. "How disappointing to have the possibility of higher rates raised when we've just won such a major battle to lower the rates," said Rep. Jack Kemp (R., N.Y.), a GOP leader on the tax-overhaul issue. "This kind of talk is counterproductive to final passage of this historic bill."

The Ways and Means chairman said he was discussing higher rates now because he didn't want to see the well-attended symposium end without injecting a politician's perspective into the growing clamor for a consumption tax.

Rep. Rostenkowski said a consumption tax would be opposed by state governments that believe sales taxes are under their province. Also, he suggested that any such tax would be so full of exceptions it would be widely criticized. But most of all, he said, a consumption tax wouldn't be equitable and fair.

Rep. Rostenkowski said he expects the House to take up the tax bill the week of Sept. 15, if, as expected, he and Senate Finance Committee Chairman Bob Packwood (R., Ore.) are done dispensing billions of dollars of transition-rule relief to other members. The House would vote first, Rep. Rostenkowski said, and at this point, only scattered opposition, possibly from Republicans, is expected there. "I'm very optimistic," he said.

In the Senate, more vocal opposition is possible. Sen John Danforth (R., Mo.), a leading tax-overhaul opponent, has raised the possibility of filibustering the bill, but isn't expected to do so. Opposition in the Senate includes members who are angered by the repeal of the sales-tax deduction, by a retroactive tax increase on government pensioners and by tax increases on business. Also, liberal lawmakers who dislike lowering

the top tax rate so drastically could continue to oppose the bill.

Members of Congress increasingly are discussing using a revenue windfall from the tax bill to help reach fiscal 1987 deficit-cutting targets under the Gramm-Rudman law. Though the tax-overhaul legislation raises neither more nor less revenue than current law over the next five years, it does both raise and lose revenue from year to year over the period.

In fiscal 1987 the pending bill would raise $11 billion compared with current law. Members who deal with the federal budget are now debating whether that gain will be used to prevent the mandatory cuts necessary to meet Gramm-Rudman targets.

[From the Washington Post, Sept. 5, 1986]

EVENTUAL RISE IN TAX RATES ADVOCATED

(By Anne Swardson)

House Ways and Means Chairman Dan Rostenkowski (D-Ill.), having helped shape a tax-revision bill that would cut individual tax rates dramatically, said yesterday those rates eventually should be raised to reduce the federal budget deficit.

Rostenkowski's suggestion came as Congress is preparing to take up the final version of the legislation, which would limit or abolish many deductions along with cutting rates.

Rostenkowski has consistently favored raising taxes to shrink the deficit, but until yesterday had not specified how.

Revenues, he said, should be raised by increasing tax rates above the levels in the pending bill, rather than by some other mechanism, such as a tax on consumption.

"Everyone knows we will eventually need a tax increase to reduce the deficit," Rostenkowski told a conference on consumption taxes. "There I would agree with proponents of consumption taxes. But the increase in revenue should come through higher progressive rates on income, not by a low regressive tax on need."

Rostenkowski added that President Reagan would have to end his long-standing opposition to tax increases before Democrats would openly support them. A spokesman said Rostenkowski believes that higher rates are the best alternative because no one would be unduly harmed by higher rates under the pending bill's more evenly shared tax burden.

The tax bill that Rostenkowski and Senate Finance Committee Chairman Bob Packwood (R-Ore.) wrestled through a congressional conference committee just before Congress departed for its summer recess last month would replace the current 15 rates, ranging from 11 percent to 50 percent, with three rates—15 percent, 28 percent and, on higher-income taxpayers, 33 percent.

The conference agreement is expected to be considered by the House and Senate as early as the week of Sept. 15. Congressional aides said the House probably will vote first, because less opposition is expected there and House rules make it harder to delay consideration.

Meanwhile, the leading Senate opponent of the bill said yesterday that he does not currently plan to filibuster the legislation, but that the intensity of his opposition will depend on how many allies he can find.

Sen. John C. Danforth (R-Mo.), a member of the small group that wrote most of the Senate version, said he will speak against the compromise measure on grounds that it would harm the economy and reduce many tax benefits he supports. But he said the Senate probably will approve the package.

His strategy "depends a lot on how much company I have," Danforth said. "If I'm just one voice, I'll make my speech and try to do it clearly and take enough time to spell it out, hopefully persuasively, and then we'll vote. . . . My intention is to win it or lose it on the merits."

Danforth said many Senators are withholding decisions until they see all the elements of the final package being drafted by committee staffers.

Many legislators in both Houses are especially interested in whether they obtained the "transition rules" they wanted and may be reluctant to speak out against the bill lest they lose their influence over those breaks,

"Once you jump ship, all your bags are thrown out after you," Danforth said.

ARTICLE 2

[From the Washington Post, Sept. 5, 1986]

GAO WARNS OF MORE GROWTH IN '87 DEFICIT

(By Helen Dewar)

The General Accounting Office warned yesterday that there is a "strong possibility" the fiscal 1987 deficit will be substantially higher than was projected last month by the government's budget experts.

Directors of the President's Office of Management and Budget and the Congressional Budget Office estimated Aug. 20, after averaging their separate projections, that the Federal deficit for next year would be $163.4 billion, $19.4 billion more than the target set by the Gramm-Rudman-Hollings budget-control law.

But the GAO, in a report released yesterday by House Government Operations Committee Chairman Jack Brooks (D-Tex.), estimated that the deficit will be $167.6 billion, or $4.2 billion higher, even with what it regards as optimistic economic growth projections.

With what GAO regards as a more reasonable growth-rate projection, the deficit would be still higher. Other factors, such as continued economic sluggishness, uncertainties over Federal revenue from the pending tax-overhaul bill and unplanned expenditures for unavoidable needs, could lead to "significant increases" in the deficit above current predictions, GAO warned.

"Considering these factors, a strong possibility exists that fiscal year 1987 will see significant increases in the deficit beyond the current estimates under the act," said Charles A. Bowsher, comptroller general and head of GAO, in his report to Brooks. "Therefore, further budget reductions or revenue increases will likely be required to achieve the act's target deficit level of $144 billion in fiscal 1987, even if the sequesters [spending cutbacks] estimated in the OMB/CBO report are implemented."

Under Gramm-Rudman-Hollings, across-the-board spending cuts, called a sequester, are required to reach the $144 billion target if it appears that the target will be exceeded by $10 billion or more.

Thus, under the preliminary $163.4 billion estimate from the OMB and CBO, Congress faces the choice of reducing the deficit by about $9 billion or imposing a "sequester" of $19 billion.

Or, as many lawmakers believe is likely, it could simply rely on the tax-overhaul bill to provide a revenue windfall sufficient to fill the deficit gap, even though congressional leaders say they oppose such a course.

The findings from GAO, the auditing arm of Congress, are advisory only, but they may prove helpful to those in Congress who are arguing for additional budget cuts to assure that deficit targets are met for this year and for future years, when even larger deficit reductions are required by the budget-control law.

Congress is expected to begin dealing with the problem when it returns from its Labor Day recess Monday.

Congress had originally made GAO responsible for enforcing Gramm-Rudman-Hollings, but the Supreme Court ruled last July that it violates the constitutional separation-of-powers doctrine to give executive powers to a legislative agency. Efforts are under way in Congress to reinstate GAO as the enforcement agency for future years by eliminating constitutional objections to its role.

The OMB/CBO deficit estimate of $163.4 billion was the result, as required by law, of averaging forecasts from the two agencies.

OMB calculated a deficit of $156.2 billion for next fiscal year, while CBO estimated it would be $170.6 billion. The GAO estimate fell in between, but closer to CBO's.

In its deficit projection for next year, the GAO contended that the OMB underestimated costs of military programs, the Federal pay increase and costs of defaults on ship construction mortgages. It found that the CBO underestimated U.S. Postal Service savings.

While not using the lower figure in its calculations, the GAO also said that economic growth in fiscal 1987 was likely to be 2.8 percent, as opposed to CBO's figure of 3.2 percent and OMB's 3.7 percent. If the CBO's estimate were recalculated by using a 2.8 percent growth rate, the deficit projection would be $173.9 billion, which Brooks said "may well be the most realistic figure available."

ARTICLE 3

[From the Wall Street Journal, Aug. 18, 1986]

VAST UNCERTAINTY IS THE ONLY CONSENSUS ABOUT THE MEASURE'S REVENUE NEUTRALITY

(By Paul Blustein)

WASHINGTON.—Two years ago, when President Reagan proposed overhauling the Tax Code, he insisted that the new tax system must generate the same amount of revenue as the current one. The President said he didn't want a tax increase, and he didn't want tax revision to exacerbate the budget deficit either.

Congressional tax-writers promised to abide by Mr. Reagan's rule. Indeed, they took it so seriously that House-Senate negotiations nearly fell apart late last week when a compromise tax plan turned out to have a $17 billion revenue shortfall. Although the amount constituted a tiny fraction of the $5 trillion the Government expects to receive over the next five years, lawmakers worked over the weekend to patch up the problem.

So, on paper, the tax bill moving toward final passage is "revenue neutral." But there are reasons to doubt that the paper projections would prove accurate.

Some economists fear that the tax plan would widen the already huge deficit. They argue that the bill would weaken the economy and that certain provisions, such as the one eliminating preferential treatment for capital gains, would raise less money than expected.

A smaller group of analysts insists that the plan would engender a bonanza of unexpected revenue by spurring economic

growth. Everyone agrees on only one thing: The uncertainties are vast.

"In the best of times, it's difficult to work up an estimate of the revenue effect of just a modest change in the tax law," says Murray Weidenbaum, the President's former chief economist. "When you have such a conglomeration of interacting changes as this, it's a real challenge."

Sen. Bob Packwood, chairman of the Senate Finance Committee, goes even further. In a press conference Friday, he blasted as "untrustworthy information" the official revenue estimates prepared by the staff economists of the congressional Joint Tax Committee.

The Oregon Republican recounted disgustedly how the estimates had changed several times for the worse in recent weeks, with the cruelest blow coming Thursday night, just as he was wrapping up a hard-fought deal with House Ways and Means Committee Chairman Dan Rostenkowski. Sen. Packwood said he and the Illinois Democrat "almost cried" over the latest shortfall estimate. Senate Majority Leader Robert Dole said his recommendation was: "Shoot the estimator."

Other lawmakers decried such talk as unfair scapegoating. In the end, the tax-writers overcame their frustration and fixed the plan because nobody really questions the professional integrity of the revenue-estimating staffs at the Joint Tax Committee and the Treasury.

But the estimators themselves say that much of their job involves educated guesswork. Even though they use computer models based on extensive tax-return data, their numbers can prove wildly off the mark. A classic example is the 1981 tax change allowing all taxpayers to deduct contributions to an Individual Retirement Account. The official estimate projected a $5.5 billion revenue loss from IRA's over the fiscal 1983-85 period. The loss turned out to be a whopping $32 billion.

Thomas Vasquez, who headed the Treasury's revenue-estimating staff at the time, acknowledges that he "blew" the estimate by assuming that taxpayer response to IRA's would be restrained, as had been the case with the limited number of individuals who were eligible for the retirement accounts prior to 1981. But once the tax break became available to all, "banks started advertising all over the place, offering things like toasters to people who started IRAs," Mr. Vasquez says. The result was a far bigger flood of money into the tax-sheltered investments than the Treasury estimators had imagined.

Are there any IRA-like time bombs amid the revenue estimates for the current tax bill? Some economists, including former White House economist Martin Feldstein, think that one case is the provision eliminating the preferential treatment for capital gains.

The Joint Tax Committee staff projects a revenue gain of about $25 billion to $30 billion over five years from eliminating the capital-gains preference. Mr. Feldstein, contends that the change actually will lose revenue. Lifting tax rates on capital gains above a certain point, he says, induces taxpayers to sell substantially fewer assets, resulting in fewer taxable gains.

The estimators most vociferous critics are supply-siders, who anticipate a surge in economic growth and revenue from lower tax rates. They accuse the estimators of failing to take account of the fact that taxpayers will alter their behavior in response to changes in the tax law.

The estimators say that this accusation is simply wrong and that their figures factor in changes in taxpayer behavior in response to specific tax changes such as the elimination of a deduction or credit. They acknowledge that their estimates don't assume a burst in economic growth. But they point out that both the Treasury and Congress prohibited the use of any such assumption—partly on the grounds that economists disagree sharply about whether the "macro" economic effects of tax revision will be positive or negative.

Mr. Weidenbaum, for one, believes that the bill's repeal of business and investment tax breaks will stunt growth, leading to a worsening of the budget deficit. "You can quarrel about how much, but I think the directional changes, at least in the short run, are pretty clear," he says.

J. Gregory Ballentine, a former Treasury official, sees another reason for wondering whether the revenue estimates are overly rosy. The estimators, he says, don't account for the fact that dividend income to individuals likely would drop as a result of the bill's stiff tax boost on corporate profits. Lower dividend income translates into lower individual tax payments—perhaps $10 billion worth over five years, says Mr. Ballentine, who is now national director of tax analysis for the accounting firm of Peat, Marwick Mitchell & Co.

But Mr. Ballentine adds that he doesn't see any overall bias in the numbers one way or the other. The estimators, he says, have made complex calculations about how taxpayers will respond to—and circumvent—new tax rules. Some look a bit high, others a bit low. "It's so blessed uncertain," he says, "and it cuts both ways."

James Wetzler, the former deputy chief of staff at the Joint Tax Committee, recalls that when he left Capitol Hill at the end of 1984 he admonished the revenue estimators to err on the side of caution. Now an associate director at Bear, Stearns & Co., Mr. Wetzler remembers telling the economists that if federal revenue rolls in at higher-than-anticipated rates, the only thing that will happen is that "President Reagan will be saying this proves what a great idea tax reform is, and what a great success supply-side economics is." But "if revenues turn out lower than expected," he continued, "then they (the estimators) will have aggravated a serious fiscal problem in this country."

Even a revenue-neutral plan, after all, would still leave a budget deficit in the $165 billion to $200 billion range for the next fiscal year. Yesterday, Rep. Rostenkowski said that Congress should turn its attention to narrowing that gap with a tax increase—despite the administration's strong objections.

ARTICLE 4

[From the Washington Post, Aug. 24, 1986]

WHY TAX REFORM WILL UNRAVEL

(By Mervyn King)

The euphoria of the House-Senate tax conferees is understandable, but it reflects a misplaced optimism. For although the bill isn't even law yet, it's already easy to see reasons why this tax revolution is likely to unravel in a few years time.

The prospective problems with the tax bill stem mainly from the harmful effects it is likely to have on business. The reduction in personal tax rates (to the two eventual rates of 15 percent and 28 percent, with an effective top rate of 33 percent) is to be paid for with increased taxes from companies. The corporate rate will be cut from 46 percent to 34 percent. But the major source of new revenue in the bill will be an increase in business taxes of about $100 billion over five years.

Legislators and taxpayers alike seem convinced by the argument that companies—like individuals—should pay their "fair share" of taxes. But this approach is totally fallacious. Taxes levied on companies are paid ultimately by individuals. They affect the welfare of those who work for or own the company, or buy its products.

I see three basic reasons why the new tax bill is likely to unravel over the next several years:

INVESTMENT WILL DECLINE

The abolition of the investment tax credit and the smaller depreciation allowances for companies will reduce the incentive for companies to invest. Lower investment in the future will inevitably lead to pressure either to bring back the investment tax credit or to introduce equivalent new incentives. These could be financed by raising the corporate income tax rate from its new level of 34 percent to a higher rate. This apparently costless way of stimulating new investment might be irresistible to politicians.

The problem is that businessmen will anticipate this scenario, making it a self-fulfilling prophecy. They will be skeptical of how long the new 34 percent rate will last. Fears of a higher tax rate in the future, and the incentive to delay investment in order to benefit from any restored credits, would depress investment even further.

TAX REVENUES WILL FALL

The proposals mean that companies will pay more taxes in the early years and lower taxes in the later years of an investment project than at present. That's because of changes in depreciation rules that will require companies to pay more money "up front." Numbers have been produced to justify the claim of revenue neutrality over the next five years. But will the plan raise as much revenue after that period as the current system? Isn't it possible that revenues will decline?

These revenue worries, coupled with fears about the size of the federal deficit, raise the possibility that tax rates will have to be raised in the future. If tax rates were to rise in the future—either to reduce the federal deficit or to put more of the tax burden on the better-off—then many of the tax simplifications in the bill would come under great pressure. A special rate for capital gains might be necessary once again, for example, if the top tax rate was increased much beyond 28 percent.

INFLATION WILL ERODE THE BILL'S EFFECTS

When the current cycle of tax reform started, the Treasury plan contained proposals for comprehensive indexation of the tax base, covering individual capital gains, interest and corporate depreciation. All of these have been scrapped.

The lack of indexation in the bill leaves individuals and companies exposed to the effects of inflation. For example, the bill treats capital gains that result from inflation as income, rather than an erosion of real capital. The bill is also likely to tie depreciation allowances to the historic cost of purchasing an asset, which means they won't be adequate to finance replacement of the asset when there is inflation. It is true that inflation is lower than in the recent past. But even with an inflation rate of 5 percent, the lack of indexing will double the

effective tax rate on a security yielding a return of 10 percent.

Despite these criticisms, the tax bill has some obvious benefits. It has shown that Congress can prevail over the many lobbying groups, so long as it comes up with a tax package sufficiently comprehensive that the number of gainers exceeds the number of losers. A simpler tax system with lower marginal tax rates has indeed emerged. But nobody should assume that it will propel America into a economy with growth rates that (until recently) we associated with competitors such as Japan. Remember that in Britain over 95 percent of taxpayers face a marginal income tax rate of only 29 percent.

But a successful tax reform should create a solid tax base that can withstand the vagaries of the fiscal climate. And in this respect, the current bill isn't adequate. The need for an extraordinarily complicated minimum tax, on both individuals and corporations, illustrates how far the plan is from a satisfactory overhaul of the tax base.

Is there an alternative way to attain a tax system that is simple, fair and encourages growth? Many distinguished economists and lawyers agree that the solution would be a gradual move towards a system that taxes cash flows.

At the personal level this would imply taxing consumption, and for companies, a cashflow corporate income tax. What would this mean in practice? All forms of saving would be treated as IRAs are now. New saving would be tax free and spending out of dissaving (proceeds of stock sales that were not reinvested, for example) would be taxed. Capital gains would be taxed at ordinary income tax rates if spent and would be tax-free if reinvested. The opportunities for tax avoidance—and the resulting diversion of valuable resources into activities with a very high private and very low social payoff, which stems from our present distinction between captial and income—would be largely eliminated.

The most important feature of the new tax bill may be that it is the last gasp of income taxation, and a prelude to just such a consumption-tax approach. During the post-war period there has been a steady shift in this direction, towards the taxation of cash flows and consumption, in most advanced economies. The logic of both experience and economic analysis—for once happily united—points to consumption taxation as the basis for successful and lasting reform. The cashflow tax may be an idea whose time has not yet come. But it is waiting in the wings. If the reformed income tax is at the plate, the cashflow tax is on deck—anticipating a strikeout.

ARTICLE 5

[From the New York Times, Aug. 21, 1986]

DEALING A ONE-TWO PUNCH TO GROWTH

(By Murray L. Weidenbaum)

The euphoria on Capitol Hill about the benefits of tax reform is a rare bipartisan phenomenon that should make an economist reluctant to play the traditional role of wet blanket. But, alas, that is the destiny of our profession. Stepping back from the details of the 1986 tax reform bill and focusing on the big picture, it is evident that the impending changes in the Internal Revenue Code will depress the economy.

True, most individual and family taxpayers will pay less in Federal taxes. But, simultaneously, the "revenue neutral" tax bill will shift $120 billion of Federal taxes to business over the next five years. Politically, that is a neat switch. Our political representatives can first crow about cutting our taxes and then sympathize when prices rise more rapidly or when wages rise more slowly as companies adjust to the higher tax burden. The economic problem is that taxes are being raised on savings and investment, key ingredients for economic growth and job creation.

Many elements of the tax bill hurt capital formation. The investment tax credit is repealed. Depreciation allowances are tightened. The capital gains differential is eliminated. The dividend exclusion is dropped. The rate of the minimum tax is expanded (offsetting many of the remaining investment incentives). The tax credit for research and development is cut. The cap on annual contributions to contractual (401k) employee retirement plans is lowered. Fewer taxpayers are allowed to make tax-exempt payments to I.R.A.'s.

Although we can debate the precise economic effects of these changes, the direction of impact is clear: less investment, lower economic growth, fewer new jobs. As a partial offset, an added rise in consumer disposable incomes and hence in consumer outlays should be anticipated. On balance, I expect the tax bill to lower growth in gross national product in 1987 by about one percentage point and to raise the unemployment rate almost five-tenths of one percentage point.

The changes, while not overwhelming, come at a time when the economy is vulnerable to a shift in direction. Just last week, the Commerce Department revised downward its estimate of economic growth for the second quarter of 1986 to a marginal six-tenths of 1 percent. It will not take much to tip the economy into recession.

In an unhappy coincidence, 1987 also may be the year that Gramm-Rudman-Hollings has its initial substantial effect on the budget deficit. It is ironic that in 1986, the first year of operation of that ambitious deficit-reduction law, we are witnessing the largest total of budgetary red ink in American history, about $230 billion. It is likely that next year the deficit will decline substantially, but not down to the Gramm-Rudman target of $144 billion. Yet a drop from $230 billion, to say, $175 billion would be a significant loss of fiscal stimulus.

And the timing is unfortunate. Advocates of the economy in government have long been urging reductions in expenditures and in the deficits. But now that Congress is getting around to doing so, the economy is softening. The combination of the negative effects of tax reform and Gramm-Rudman could push the United States into a recession.

My pessimistic conclusion varies from the upbeat assessments by the supporters of the tax bill. They count heavily on large gains in output after resources begin to be allocated more according to economic considerations than the tax code. In this view, the sharp decline in marginal tax rates will unleash a surge of work effort, saving and investment. This dismal scientist must recall, however, that these are the same predictions made for the 1981 tax cuts that yielded such modest initial results.

To be sure, many other changes in the tax code will, over time, produce more investments in economically productive activities. A shift away from tax-sheltered office buildings and to capital formation in industry would be welcomed. With lower tax rates, people also should be less likely to incur expenses merely because they are tax deductible. No longer will taxpayers seek out "deep shelter" investments that yield no economic return.

While these desirable changes will lead in the long run to a more efficient economy, they are not likely to occur with the speed and magnitude needed to offset the early negative effects of reducing or eliminating direct investment incentives.

There is one major reason why we may avoid recession, despite the tax bill. The Federal Reserve system often serves as a balance wheel in the economy, although not without errors in direction, magnitude and timing. The challenge to the Fed in 1987 will be tough: to make up for lack of concern about the economy on the part of Congress.

Of course, the Fed already is following a policy of stimulus, allowing rapid growth in the money supply. In fact, policymakers must wonder about the long-term inflationary potential of still faster monetary growth. Nevertheless, the present challenge to monetary policy is clear—to offset the bad timing of the current round of change in fiscal policy and the new tax revision. That is not a very happy view of the early impact of the tax reform bill that Congress seems determined to pass, but it is a realistic one.

[From the Washington Post, Aug. 19, 1986]

TAX BILL'S ECONOMIC IMPACT WEIGHED

(By Jane Seaberry)

Last-minute maneuvers to keep tax overhaul legislation on track Saturday night would result in lower economic growth next year and not much improvement after that, economists said yesterday.

Interest rates would decline slightly in the next two years as a result of the tax bill, but that wouldn't help increase business investment or consumer spending until 1988 at the earliest, economists said.

Many economists originally had forecast that tax revision would have no impact on growth, or that it would produce a slight improvement next year because they expected a surge in consumer spending resulting from tax rate cuts.

However, at the last minute, Senate and House conferees agreed to a tax increase for some middle and high-income taxpayers. On top of that, business investment and construction are expected to plunge next year if the bill becomes law because many industries would lose lucrative tax breaks.

Even in the long run, economists are now saying, economic growth wouldn't be much better with tax reform than without it.

"It will be in 1989, 1990" before the benefits of tax reform show up, and even then it will be very modest," said Lawrence Chimerine of Chase Econometrics. "What you're going to get from tax reform is a shift in the components in the economy rather than more overall growth.

"Over the next 10 years, [economic growth] will not be much different."

Chimerine said growth next year would be shaved by about four-tenths of a percentage point because of the negative effects of the tax proposal on business investment and construction and the tax increase for some taxpayers.

He also said there would be no significant effect on interest rates or inflation.

"Essentially, you have a tax increase for 1987," said Martin Mauro, senior economist for Merrill Lynch Economics. The tax bill "raises revenue by about $11 billion next

year. That's exactly the wrong thing to do for an economy in the shape that it's in."

Mauro said there was no danger that the tax bill could plunge the economy into a recession, "but this is something that will detract from growth."

In an effort to raise more revenue, tax rates for higher-income filers were not reduced as sharply as expected for next year. Many families earning more than $75,000 annually would face a tax increase in 1987.

The increase in the personal exemption from $1,080 to $2,000 would not go into effect all at once on Jan. 1, but would be phased in between 1987 and 1989. Both changes would mean consumers would have less money to spend than if rates had been cut immediately.

Business investment would be expected to decline as a result of changes in two major incentives for business spending: accelerated depreciation schedules would be lengthened and the investment tax credit repealed. These two items were the centerpiece of President Reagan's 1981 tax-cut program.

Accelerated depreciation allows businesses to write off the cost of new facilities during a very short period; investment tax credits allow businesses to directly deduct part of the cost of some investments from their tax bills.

Mauro said the benefits to the economy might start showing up in 1988, the first full year of the tax-rate cuts. Economic growth would occur when consumers began spending the money from their tax cuts and companies, then decided they needed to rev up production to produce more goods, Mauro said.

"Overall, I think it's a good bill in that it does make tax considerations less of a factor in business decisionmaking," Mauro said. "It should improve economic efficiency and improve economic growth. But it will take a while for these good effects to show up."

According to Wharton Econometrics, economic growth next year would increase 4 percent with tax reform, compared with 4.3 percent without it. In 1988, the growth rates would be the same at 2.9 percent, a Wharton analysis said.

Interest rates would decline slightly, economists said, because borrowing would not be as attractive under tax reform since much of that interest no longer would be deductible. What interest could be deducted, moreover, would be worth less because of the reduction in tax rates.

Wharton said it expects mortgage rates would average 10.1 percent next year because of tax reform, rather than 10.3 percent in 1988, rates would be 10.4 percent, rather than 10.7 percent, Wharton said.

Data Resources Inc. said it also is forecasting that mortgage rates would be 10.1 percent next year with tax reform, compared with 10.78 percent without it.

[From the Washington Post, Aug. 22, 1986]

THE FAR SIDE OF TAX REFORM

The tax code heavily subsidizes many areas of American life. One effect of tax reform will be to reduce these studies, which mask true costs. It is not quite accurate to say that costs will rise, but some perceived costs will.

State and local government provides one example. In the short run many states expect a windfall from tax reform. Because they use the federal definition of taxable income, which reform will broaden, they will have more to tax. But the longer-term effect of reform on the states will be in the opposite direction. Now all state and local taxes are deductible on the federal return. Under the bill, sales taxes will not be deductible, and the remaining deduction will be less valuable because it will come at a lower rate. The federal government will be defraying a smaller share of state and local costs. It will become that much harder for state and local governments to raise their taxes.

The impact is likely to be even greater in housing, particularly on rents. Real estate is now heavily tax-favored. Its financing actually depends on the high rates that under the bill will decline. The range of deductions will also be narrowed. Because they will be able to deduct less, landlords will want to charge more. There will be upward pressure on rents.

No one knows quite how severe this will be. One recent estimate by William Apgar of Harvard and Arthur Doud, a Philadelphia economist, is that rents may eventually rise 20 percent to 25 percent after inflation. Much has been made of the tax cuts the forthcoming bill will give to the poor. But the poor tend more than the rich to live in rental housing, and Messrs. Apgar and Doud estimate that many poor people will see their rents go up much more than their already small taxes come down. In the short run, they say, there will also be less incentive to build rental housing, which will put more pressure on the market.

In the tax committees, this prospect was invoked as an argument for retaining those elements of the code that benefit low-income housing, and in weakened form some were retained. But creating tax shelters for the rich so that they will invest in housing for the poor is a distasteful and some would say inefficient solution to this problem. And the tax programs have never been more than a partial solution in any case.

In the budget, the Reagan administration has already stopped the growth of direct housing subsidies for the poor. Now tax reform will reduce the indirect. In an area of urgent need for most poor people, the government will have no program. There was already a need to reexamine how the country planned to house the poor. But the tax bill has made this more acute.

[From the U.S. News & World Report, Sept. 1, 1986]

IT'S A NEW ECONOMIC LANDSCAPE NOW

(By Monroe W. Karmin)

Even Donald Regan is baffled by tax reform. And so are his friends on Wall Street. "They are as confused as I am," says the White House chief of staff. "They don't know the effect."

Regan and his friends aren't the only ones who are perplexed. The historic rewrite of the tax code that Congress is poised to enact this autumn is sending off all sorts of contradictory signals. It promises economic efficiency but penalizes investment. It advertises tax cuts for everyone but will increase the govenment's tax take by $11 bilion next year. It will help many newer, growing industries such as high tech but will hurt many older, declining ones such as steel.

Though most experts see a better working economy down the road, they aren't sure whether that journey will begin when the new tax law goes into effect next year, or whether a recession is in store first.

That uncertainty is being made worse by tax reform's awkward timing. The economy, in its 45th month of expansion, suffers from severe fatigue. The April-to-June quarter was even weaker than had been thought, the government reported, and there is little evidence of a pickup in the current quarter. "We simply do not know whether the economy is going up or down," says Delos Smith of the Conference Board, a New York economic-research group.

Initially at least, tax reform is looked upon as a downer because of the harm it poses for sagging business investment. The bill repeals the investment tax credit retroactively to last January 1, fully 18 months before corporate tax rates are cut on July 1, 1987. Over six years, tax reform would take $120 billion more in taxes from companies to pay for cuts in personal-income-tax rates. The measure stiffens depreciation rules and abolishes the special treatment given capital gains as an incentive for risk takers to invest in start-up companies.

Because of these blows to business, many forecasters are upping the odds of a recession by next summer. Allen Sinai of Shearson Lehman Brothers in New York put the chances of a downturn at 1 in 10 last winter but now rates them at 1 in 5. A recession is "a close call," agrees Alan Greenspan, an economist who advises the White House.

The Federal Reserve Board is concerned. On August 20, it moved to lower interest rates by cutting the discount rate it charges on loans to member banks to 5½ percent from 6. It was the fourth cut this year, but many analysts doubt it will be enough. "The question is how many more reductions will be needed," says Brian Fabbri, chief economist at Thomson McKinnon Securities in New York. Tax reform, by making borrowing less attractive, is expected to help nudge rates down over time. Nariman Behravesh of Wharton Econometrics in Philadelphia think rates will be half a percentage point lower due to tax reform.

FROM BAD TO WORSE

Even if a slump is avoided, reform offers little help for the Midwest's rust bowl and the Southwest's oil patch. Steel and other smokestack industries that support those regions will suffer most from the loss of the investment tax credit. "Those industries and regions that are hurting now will be hurt even more," says Ira Shapiro, a senior tax analyst at Coopers & Lybrand in Washington.

Throughout the U.S., construction of apartment and office buildings will be clobbered as write-offs are stretched out and tax shelters are eliminated. Home building, however, should remain healthy because mortgage interest still will be deductible.

But the strong service sector will get a lift. Retailers and firms that sell information, recreation, entertainment and other serivces for the most part pay high tax rates and don't make heavy capital outlays. Thus, they stand to gain from the coming cut in corporate tax rates.

Tax reform's potential impact on employment is unclear. Higher taxes may give some multinational corporations more reason to expand abroad. Robert Perlman, tax director at Intel, the big California semiconductor company, says he'll recommend that "all the R&D that can be done offshore should be." But Roger Brinner, chief economist for Data Resources of Lexington, Mass., thinks the damper that reform is expected to put on business outlays for machinery will increase the labor demand in this country and shave unemployment. In particular, he says, more "spouses will be encouraged to come out of the home."

Much of the economic growth that tax reform promises will come from more spending by consumers after they receive tax cuts. Some 6 million poor families will be knocked off the tax rolls, and taxpayers on average will get a cut of 6.1 percent.

But that will take time. Tax rates don't start falling until January and won't drop fully until January, 1988. Even then, the effect on consumer spending remains to be seen. Many of the tax cuts will not be large percentages, particularly for those in the $50,000-to-$100,000 bracket. Credit buying may be stunted by new limits on interest deductibility.

The auto industry for one, is not worried. "People buy cars because they need them, not because of the deduction of interest," says Baron Bates, a Chrysler spokesman. Chairman Roger Smith of General Motors thinks "the nation will be well served" by tax reform's positive effect on growth.

Congress seems sure to approve tax reform this fall, though not without hot debate. The bill voted out by a Senate-House conference in mid-August now must be accepted or rejected in its entirety by both chambers. Neither is likely to deny the President his top domestic priority. Most lobbyists are giving up the fight. "The die is cast," sighs Wayne Thevenot, president of the National Realty Committee. "The deed is done." But business groups plan to try to recoup their losses next year.

By that time, tax reform will have begun to take effect, with its alluring promise of a more efficient economy over the long pull—if only the nation can ride out the increasing dangers of recession in the year ahead.

[From Newsweek, Aug. 25, 1986]

FOR CORPORATE AMERICA, ANOTHER "RIVERBOAT" GAMBLE?

(*I keep thinking to myself, "We ain't in Kansas anymore, Toto."*—The chief executive of a Fortune 500 company on the new tax law.)

Very little looks the same anymore. For American business, the tax-reform bill is the most radical overhaul of the economic landscape in decades. It will affect the decisions of virtually every company in the country. And for precisely that reason, it raises economic forecasting—a dubious business at best under the old tax code—to the level of mysticism. What *are* the economic consequences of tax reform? The truth is, no one really knows. "We can make estimates," says Gregory Ballentine, an economist at Peat, Marwick, Mitchell & Co., "but really we're off the charts, in unknown country."

In 1981 it was a mere "riverboat" gamble: Congress, despite many misgivings, ratified Ronald Reagan's "supply side" tax cuts. In 1986 the game may even be riskier. The U.S. economy is stagnant and the government is still running huge annual budget deficits. Congress chose not to deal with the deficit in the context of the tax bill, deciding it should be "revenue neutral." "The last thing we need is to rewrite the tax code from top to bottom," says Edward Yardeni, chief economist at Prudential-Bache Securities. Yardeni, among others, argues that by taking investment incentives away from corporations, tax reform will be "a deflationary bill at a time when the risk is deflation and recession."

Not so, says the Reagan administration. Reagan officials believe the 1981 tax cuts paid off handsomely, putting money in consumers' pockets and propelling the country into a long recovery. "This new reform," says Treasury Secretary James A. Baker III, "is going to have the same consequences." Few are as optimistic as Baker—but he may not be wrong. There are powerful arguments in favor of tax reform. With tax rates lower and many shelters eliminated, individuals and companies alike will make investments based on their potential to generate profits, not phony tax losses. Millions of dollars used to construct monuments to inefficiency—such as Houston's empty office towers—should go instead to more economically productive ventures. "We're taking the hip fakes and swindles out of our economic lives," says reform proponent Robert McIntyre.

Some reformers also expect the bill to lower interest rates—swiftly and perhaps substantially. The supply-side catechism, for example, holds that lowering tax rates will increase savings, which in time should prompt rates to fall. And lower interest rates, in turn, should spur economic growth. The administration's chief economist, Beryl Sprinkel, believes tax reform will add one-quarter of 1 percent to growth every quarter for the next six years.

A segment of corporate America, however, is bewildered by the general euphoria surrounding the tax bill. At best, many executives argue, the economic future is now uncertain. At worst, they contend, the economy has been wounded unnecessarily. Even though the top tax rate for corporations falls to 34 percent from 46 percent, the overall tax burden on business will rise by $120 billion. Some companies will now have to pay a "minimum tax" that amounts to 20 percent of taxable income. The biggest tax increase will come at the expense of basic industries. Highly capital-intensive businesses such as steel and autos have benefited over the years from lucrative tax breaks on investment in plant and equipment. To some executives in those industries, effective subsidies such as the Investment Tax Credit came to be seen as a birthright. Now the ITC and other lucrative tax preferences have been stripped away. The bill, for instance, reduces the value of deductions companies can take for depreciation on some capital structures. That can hurt. Next year Chrysler Corp. may pay around 14 percent more in taxes than it did in 1986.

Competitive damage: The administration portrayed such complaints as the selfish whinning of greedy "special interests." But criticism that the bill promotes consumption at the expense of investment and thus damages America's industrial competitiveness is hardly limited to the rust bowl. "The repeal of the ITC is a big mistake," says Harvard economist Lawrence H. Summers. "The effect is to lower taxes on old investment and increase them on new investment. That's exactly backward." Even some high-technology companies that supported tax reform are concerned. "I'd have to line up with the side that says this is an anticompetitive bill," says Ralph Thomson of the American Electronics Association.

The tax-bill bears could be in for a surprise, though: the economy may have already absorbed the worst of the bill's negative impact. Many companies postponed investment decisions as Congress debated tax reform. That's contributed to the current economic sluggishness. But now, says Deborah Olivier, an economist at the Claremont Institute, the flight of funds out of tax shelters will send stock prices higher and interest rates lower. Olivier predicts a "pretty good capital-spending surge in six to nine months." If she's right, the economy next year could be much healthier than it is today. Then, seemingly, only the budget deficit would remain as a major economic problem—albeit one that in time may force Congress to fiddle again with a tax system it just got through reforming.

[From the Washington Post, Aug. 25, 1986]

GOOD NEWS FOR ACCOUNTANTS, BAD FOR MOST OTHER SMALL FIRMS

(By Paul Thiel)

For small businesses, the tax-overhaul bill is bad news—unless the business is an accounting firm.

The tax revision would raise accounting and other administrative costs substantially because of the complexity of the package, said local small-business owners who gathered in Washington last week for the national White House Conference on Small Business.

The substantive parts of the package, delegates to the conference said, have negative and positive aspects that are likely to hurt companies that use a lot of equipment and help those who don't.

"The administrative costs will be a real burden," said Harvey Goldstein, a Los Angeles accountant who led the discussion of taxation at the conference. "Tax returns will be significantly more complex to prepare. If you are in business, you will no longer be able to prepare your own return without assistance of an accountant."

"As it's presently written, the tax bill is a serious blow to small business," said Gregory K. Washington, who runs his own accounting firm in the District.

The tax bill would make certain firms switch to the calendar year for their fiscal year while others would have to restructure their employe pension plans, either of which would require large, one-time accounting costs for most companies, the entrepreneurs said. Firms also would have to spend more time with accountants every year because of complicated rules for keeping track of inventories, anticipating bad debts, depreciating buildings and equipment, and preparing financial statements, including tax returns.

Accounting fees also are expected to increase because of the complexity of the new code. "Somebody has to pay for all our studying," Goldstein said.

While administrative costs would increase for everyone, other implications of the tax bill depend almost entirely on the nature of a business. For capital-intensive companies—firms that use a lot of machinery and equipment—the bill could be a big hindrance to expansion.

"It [the tax program] takes a lot of the investment incentive away because of the changes in capital gains," Washington said. "Small business tends to be high risk, so unless the investor has the chance to defer his taxes in the event the company is successful, there's little incentive for him to invest."

Businesses that need to buy new machinery to grow may face new obstacles. Under current law, businesses receive tax credits when they buy new machinery. "It's not that they buy machines just to avoid taxes," said Sara Ross, spokeswoman for the National Association of Manufacturers. "A lot of small businesses want to grow into big businesses, so they reinvest their profits and pay a lower tax rate." Service companies, however, probably would pay less tax under the new code "because they're not capital-intensive," Washington said.

Service companies usually don't need much money to get started, so there isn't much need for incentives to invest, Washington said. He added that they would benefit from the lower corporate tax rates.

Corporate tax rates would be cut to a maximum of 34 percent for businesses with income of more than $75,000, 25 percent for incomes between $50,000 and $75,000, and 15 percent for less than $50,000.

A common practice in which a person owns a building and leases it to the business would be less attractive under the plan. The bill would eliminate the writing off of "paper losses," produced by depreciation of the building.

A benefit for all small companies with inventories would be the simplified rules for using an accounting procedure that allows sales to be recorded in a way that assumes the last products purchased by a company also are the first to be sold.

Despite all the hoopla about the tax revision, many owners of small businesses said that they are too caught up in running their businesses to examine a tax code that hasn't passed Congress yet. Besides, they said, their accountants handle the taxes.

[From the Wall Street Journal, Aug. 19, 1986]

SMALL-BUSINESS CONFEREES VOICE WORRIES ABOUT IMPACT OF OVERHAUL

(By Sanford L. Jacobs)

WASHINGTON.—The tax-overhaul bill isn't popular with small-business people assembled in the capital this week for the White House Conference on Small Business.

The bill would eliminate a number of business tax benefits and would add some accounting requirements that many small-company owners believe will be a heavier burden for them than for big corporations. "The increases are going to hit small business harder," said Steve Sellers, a delegate to the conference and owner of Sellers Advertising Co., Dallas.

"There's no way we can pass on the added tax because our business is so competitive," said Stuart Grossman, owner of Spot Distributing Co., a candy and tobacco wholesaler in Louisville, Ky., and a conference delegate.

TAX RELIEF

Despite the generally negative remarks heard about the bill at the conference here, tax specialists note that it contains some relief for some small companies.

Those that don't invest much in depreciable assets won't be hurt by the loss of the investment tax credit or the less-generous depreciation schedules, and will gain from the rate reduction, said Abe Schneier, tax counsel at the National Federation of Independent Business. "The rate cut is a big plus," Mr. Schneier said. About 65% of NFIB's more than 500,000 members report earnings of less than $25,000 a year.

Along with cutting the top corporate rate to 34%, the tax bill would continue to allow even lower rates for small businesses. Income of as much as $50,000 would be taxed at 15%, and income between $50,000 and $75,000 would be taxed at a 25% rate. The top corporate rate would apply to incomes above $75,000.

Small companies with relatively higher revenues would get hit by several provisions in the bill. New inventory-accounting rules, applied to companies with more than $10 million of annual receipts, would require keeping track of inventory-related costs such as payroll expenses for employees who order, stock and maintain inventoried items, and other expenses that businesses have been deducting as they were paid.

Under the proposed law, such costs would have to be capitalized and written off as inventory is sold. "It's a whole new ball game if you are a retailer or wholesaler," said Stephen R. Corrick, a partner in the Washington office of the accounting firm of Arthur Anderson & Co. But the new rules would apply only to businesses with annual gross receipts exceeding $10 million a year.

That won't exempt Mr. Grossman's distribution firm. "It will mean a lot more paperwork and expense," said his wife, Phyllis.

SIMPLIFIED RULES

A benefit for small companies with inventories will come from simplified rules for using last-in, first-out inventory reporting. LIFO tends to keep taxes lower in inflationary periods than the first-in, first-out, or FIFO, method. Many small companies, however, use FIFO because the accounting methods that the tax code required for LIFO were too costly. "We think this will help small retailers and wholesalers," Mr. Schneier said.

The bill ends the tax benefits a business owner could gain by also owning the firm's buildings and then leasing the property to the company. The new restrictions on so-called "passive losses" will bar writing off the paper losses from such an arrangement against the owner's salary. The new bill would allow losses from passive investments such as real estate to be written off only against passive income, which doesn't include income from portfolio investments such as stocks and bonds.

Still there would be financial reasons and some tax benefits for the business owner and his family to own the company's real estate, said Robert Milburn, a tax partner at the accounting firm of Laventhol & Horwath. He said one advantage "is that you can dispose of it without having to pay corporate tax."

BENEFIT FOR FAMILY MEMBERS

A common practice in closely held retail chains is for family members to own real estate partnerships that own stores and lease them to the corporation. C. Clinton Stretch, tax director of Washington office of Deloitte, Haskins & Sells, accountants, said it is a way to provide benefits for family members who aren't employed in the business. The partners will lose the tax advantages—mainly deducting paper losses from depreciating the properties—in the new law.

Tougher rules on sharing pension benefits more quickly and with more employees will force many small companies to rewrite retirement plans to qualify under the new rules. Mr. Grossman said he recently paid $5,000 to have his company's retirement plan rewritten. "In a small firm, $5,000 here and $5,000 there can be the difference between profit and loss," he said. Mr. Stretch noted there is concern that "the way some small companies will handle the required modification is to junk the plan."

Partnerships, proprietorships and Subchapter S corporations, whose profits and losses are taxed to the owners as partners are taxed, would be forced onto calendar-year accounting for tax purposes under the new law. Often, businesses use a fiscal year while the owners report income on a calendar year, and thus have the use of the profits for a time before they are taxed.

CAPITAL GAINS

Next year, capital gains would be taxed at 28%, making it advantageous to take gains this year while the rate is 20%. And in some states there will be significantly greater state tax due on capital gains next year because of the interplay between state tax schedules and the change in the federal rules, Mr. Milburn said. "You can end up owning state tax on 100% of the profit," he said. Under current law, as much as 60% of a captial gain is free of tax in a number of states.

Cashing out of a small business with a minimal tax bite has been possible if the liquidation complied with rules following the so-called General Utilities doctrine. The proposed law would phase out this advantageous procedure.

Overall, the tax bill "is no great news for small business," said Gerald G. Portney, a partner in the Washington tax office of Peat, Marwick, Mitchell & Co.

[From the St. Louis Post-Dispatch, Aug. 24, 1986]

TRANSPORTATION COMPANIES SEE NOTHING GOOD IN TAX PLAN

(By John Curley)

Tax reform is going to be a rocky road for most transportation companies.

"Everybody is going to wind up paying more taxes," says an Air Transport Association official. Comments an Association of American Railroads spokesman: "I can't see anything but negative impacts coming out of this."

Details of the tax-reform package remain to be hammered out, but key provisions are likely to remain intact. The bill would drop the maximum corporate tax rate to 34 percent from 46 percent and would establish a minimum corporate tax of 20 percent.

The result: The total corporate tax bill is expected to jump by $120 billion over five years. The bill is expected to be signed in September.

Trucking is the only major transportation industry that favors tax reform. Truckers, who currently pay one of the highest average taxes of any industry, expect to see their tax bills drop when the maximum rate falls.

That could jack up profits nicely. Publicly traded Arkansas Best Corp.'s profit, for example, would jump to $5 a share in 1987 from a previously projected $3.95 because of lower taxes, estimates Wheat, First Securities Inc. Says American Trucking Association spokesman Robert S. Reese: "We are going to be supporting tax reform full bore. We give Congress an A."

Railroads aren't nearly as enthusiastic. With an effective average tax rate of only 4 percent in recent years, railroads won't benefit from the lower maximum rate. What's more, the elimination of investment credits and accelerated depreciation will crimp carriers' cash flow and will hurt their biggest customers—coal companies, steel and auto producers, and utilities.

"We could suffer a double whammy," says American Railroad Association spokesman Frank N. Wilner.

The tax changes also could discourage investment in the railroad industry and could dry up funds for track improvements, Wilner said. And they would increase pressure to control costs, particularly labor costs, which account for more than half of the industry's overhead.

Will that mean more management-labor showdowns in an industry already attacked by disputes? Absolutely," Wilner says. "The whole survival of our industry depends on our controlling these labor costs."

The railroad industry is lobbying heavily for the same kind of "transition rules" that will allow the steel industry to receive refunds for half its unused investment tax credits. That would boost carriers' bottom lines by hundreds of millions of dollars.

Unlike trucking stocks, railroad stocks will be depressed by the proposed tax-law changes, analysts say. Standard & Poor's analyst Stephen Klein recommends buying only one railroad, Norfolk & Western, because of its relatively low debt and high cash reserves. "I see only negatives coming out of (tax reform)," Klein says.

Airlines don't like it any better. They spend about $5 billion a year on new equipment, expenditures that used to generate hundreds of millions of dollars in tax credits. Under current law, a profitable carrier that makes maximum use of investment tax credits and depreciation allowances can reduce its 46 percent tax liability to 7 percent.

"There's no doubt we will be paying higher taxes," says William M. Hawkins, vice president of finance and taxation at the Air Transport Association. "In some cases it will be substantially higher."

It isn't certain what will happen to the roughly $750 million in investment tax credits that airlines accumulated but didn't use. Under current proposals, the carriers would be able to use part of those credits to offset future tax bills.

The tax changes come as steep fare discounts are undermining airline profits. In the 1986 first quarter, the industry's net loss widened to about $600 million from $100 million a year earlier.

In better times, the barge industry might howl about tax reform, but after five years of recession, few barge operators are making money. Thus the question of how much taxes they pay is moot.

Nobody is building new barges because of an enormous glut of vessels. That means the changes in investment credits and depreciation probably won't come into play.

Joseph Farrell, president of the American Waterways Association, a barge industry trade group, sees a silver lining in the tax legislation: "It means a withdrawal of the government from the marketplace. That means that companies can make decisions based on real economic factors, not tax consideration. That's good."

But the industry has such serious problems that it may be years before barge companies will benefit from the lower maximum tax rate. Says Farrell: "Things aren't getting any worse, but I still don't see the time when we can say it will get better. The barge and towing industry won't find the relief it needs in the new tax code."

[From the Washington Post, Aug. 20, 1986]

TAX BILL'S EFFECT ON BANKING ALARMS FDIC

(By James L. Rowe, Jr.)

The head of the Federal Deposit Insurance Corp. said yesterday the tax bill approved last weekend by the House and Senate conference committee undercuts efforts of federal bank regulators to strengthen the badly weakened banking system.

"It doesn't help us," FDIC chairman L. William Seidman said in an interview. He complained that the tax bill discourages big banks from building up reserves against bad loans, at a time when federal regulators are pushing them to do so.

In recent years, regulators have pressured banks to increase their reserves to bolster the safety and soundness of the banking system. Banks were weakened by back-to-back recessions early in the decade and recently have suffered severe problems with foreign loans, energy loans and farm loans.

The tax plan would prohibit big banks from deducting contributions to their loan loss reserves from their income. Advocates of the change have argued that setting aside loan loss reserves is merely a paper transaction and banks should not be allowed to deduct the money until they actually pay for losses.

The proposed changes apply only to banks with assets of more than $500 million. Smaller banks still can deduct from their taxes money put in their loan loss reserves.

Seidman said banks will still set aside loan loss reserves, but, because the after tax cost of reserve additions will be higher, bigger banks will be reluctant to put in as much money. Banks will be allowed to deduct loan losses when they occur, but will not get a tax break for setting aside reserves for possible future problems.

Not only does the proposed bill eliminate tax deductions for loan loss reserve contributions by big banks, it also requires those banks to pay taxes on reserves they have already accumulated.

The tax writers exempted problem banks from paying back taxes, but Seidman said it will be difficult to devise a formula for determining if a bank qualifies for that break.

The tax writers define problem banks as those whose problem loans—loans that are in danger of going bad—are equivalent to 75 percent or more of a bank's equity capital. Seidman said this rule would not cover all the banks his agency considers troubled.

He also said the tax bill would make it more difficult for banks to participate in the U.S. government's plan to help heavily indebted developing countries resume economic growth.

Seidman said that because the tax bill makes it costlier for big banks to build reserves, and removes the credits they can take for foreign taxes they pay on income earned abroad, it will discourage banks from participating in the debtor nation initiative proposed last fall by Treasury Secretary James A. Baker III.

[From the Wall Street Journal, Aug. 22, 1986]

TAX BILL HITS RENTAL-REALTY OWNERS HARD

(By Alan Murray)

Washington—Some taxpayers with rental real estate may find that their marginal tax rate remains as high as 49.5% under the new tax bill, virtually unchanged from the 50% top rate under current law.

The 49.5% marginal rate would apply even to these taxpayers' long-term capital gains, a sharp boost from the current top capital-gains rate of 20%.

The marginal rate is the rate that applies to each additional dollar of income a taxpayer earns. Economist pay close attention to the rate, because they say it affects a taxpayer's willingness to work harder or invest more.

The new tax bill specifies a top rate of only 28%. But in a sense, that's deceptive advertising. The bill includes a number of provisions under which certain tax benefits would be phased out for people with high incomes, and these provisions have the effect of pushing the marginal rate above 28%.

A family that earns $100,000 to $150,000 a year and that owns rental real estate could be subject to two separate phase-out provisions. For such a family, the marginal rate may drop scarcely at all from current law.

While only a small percentage of the population falls into that high rate category, it's still "a lot more common than you would expect," says Peter Davis, vice president in the Washington office of Prudential Bache Securities Inc. "A lot of people I've talked to are upset about this," he says.

The marginal rate for families earning between $71,900 and about $200,000 would in effect be 33%. That's because of a phaseout of the bill's 15% lower tax rate and of the personal exemption.

Under current law, even the wealthiest taxpayers get the advantage of lower tax rates on the first dollars of income they earn, and even the wealthiest may take the personal exemptions for themselves and their dependents. But under the new law, that 15% rate benefit would be phased out, in effect, by placing a 5% surcharge on income in the $71,900-$149,250 range.

Personal exemptions would be phased out by placing a 5% surcharge on family income above $149,250 until the exemptions were all offset.

That means families earning between $71,900 and about $200,000—the exact figure depends on the number of exemptions—would face a marginal rate of 33%. The marginal rate for taxpayers with higher incomes would again drop to 28%.

Then, many families that use tax losses from rental real estate to offset other income would face another surcharge. The bill would allow families with incomes of less than $100,000 to take rental real estate losses of as much as $25,000. Once their income exceeded $100,000, however, that special allowance would begin phasing out—with 50 cents of the loss being denied for every extra dollar earned.

The effect of that provision is to impose another surtax of about 16.5% on income between $100,000 and $150,000. That means the marginal tax rate for those taxpayers would be 49.5%, just a shade under the 50% rate in current law.

Mr. Davis points out that many investors with incomes in excess of $100,000 own rental real estate. And many may also have capital-gains income as well. So the 49.5% rate would hit a large number of rate in current law.

[From the Wall Street Journal, Aug. 19, 1986]

NEW VENTURES WOULD BE HARDER TO BUILD, FINANCING MAY CHANGE

(By Udayan Gupta)

The proposed tax bill would make it more difficult to build new companies and would change the manner in which new ventures are financed.

For venture capitalists, the most significant aspect of the tax bill is the elimination of the preferential treatment of long-term capital gains. The lower taxation of capital gains, long one of the major incentives driving the industry, has encouraged investors to tie up funds in risky start-ups. In addition, the low capital gains rate has been a major factor in attracting talented entrepreneurs to new companies.

"We will have to pay more to get the people to staff new companies," says Burton McMurtry of Technology Venture Investors, a Menlo Park, Calif., venture capital firm. With the top rate on earned income at 50% and capital gains taxed at a maximum 20% under current law, it was easy to attract senior managers from established com-

panies, Mr. McMurtry says. That's because executives at established companies tend to receive most of their compensation in salary while managers of new ventures get a big chunk of their pay in the form of stock.

Increasing salaries will certainly raise new companies' costs, and it will also reduce the rate of return earned by investors. That could make it harder to attract new investments.

Eliminating the preferential treatment of long-term capital gains could also reduce the flow of new money in a more direct way. The National Venture Capital Association estimates that while tax-exempt sources such as pension funds play a large part in financing, taxable sources contributed more than 80% of the money received by venture-backed companies in 1985. Many of those taxable sources are individual investors sometimes referred to in the business as "angels." Almost 90% of the money for start-ups came from that pool, the trade group says.

"Individuals are the ones who get these companies started, not venture capital firms. By increasing capital gains, you'll surely drive them away," argues James Swartz, a venture capitalist with Accel Partners in Princeton, N.J.

In contrast to existing law, the new legislation provides greater rewards for short-term trading than long-term investing, adds Norton Garfinkle, a New York venture investor. "Given the choice, I'll do more trading than investing in venture capital," he says.

Venture capitalists also expect to see a change in the way new deals are structured. Investors, who now usually take an equity stake in a venture, will look for more immediate income, says venture capitalist Robert Pavey of Cleveland's Morgenthaler Ventures. "We'll be more inclined to invest in interest-producing, income-producing ventures," he says.

Others see venture capitalists shifting from risky, start-up investments to more predictable and more mature companies as well as financing leveraged buyouts, as they did in the early 1970s. Then, capital gains were taxed at an even higher rate than under the proposed bill. Mr. Swartz says. "It's quite possible we could return to a 1974 environment, where there was one start-up done during the entire year."

[From the Washington Post, Aug. 21, 1986]

TAX BILL PROVISIONS CRITICIZED AS HARMFUL TO HIGHER EDUCATION

(By Lisa Leff)

The tax-overhaul package approved by conferees last week drew cries of outrage from an army of special interest groups, but few have been as vocal as academic officials, who say the new tax provisions could be a "catastrophe" for higher education.

The bill, headed for a final vote in Congress this fall, would drastically impair the ability of colleges and universities to raise money to repair and expand facilities, to retain outstanding faculty members and to subsidize the educations of needy students, academic officials said yesterday.

Although large private schools that rely heavily on donations and investments to meet their costs would be particularly hard-hit, educators at public and private institutions from California to Connecticut predicted serious financial problems if the bill is passed in its current form.

"This bill is the greatest catastrophe for higher education in 25 years," said Sheldon Steinbach, counsel for the American Council on Education, which represents 1,500 institutions of higher learning. "As a matter of public policy it might seem like a good idea, but as a matter of social policy it's just terrible."

Educators cite three provisions they say would affect the quality of their institutions; a cap of $150 million on the amount of tax-exempt bonds that any private college or university could have outstanding at any time; a plan that would make sizable gifts of stock or real estate subject to a minimum tax; and a tax on portions of student fellowships and scholarships that are not used for tuition or course-related equipment.

The tax on scholarships would particularly hurt graduate students, who are more likely to receive aid packages that exceed the costs of their tuitions and equipment and who have fewer sources of outside support than undergraduates, the officials said. Graduate students also are more likely to have spouses whose income they would have to declare for tax purposes.

For example, a married graduate student who receives a $10,000 stipend for living expenses and whose spouse earns $15,000 a year would be taxed for an income of $25,000 under the provision. Under current law, only the spouse's income is taxable.

"That could double the taxation to a family without doubling that family's income," said James Sankovitz, vice president of government relations for Marquette University in Wisconsin. "to me, that seems like a pretty cruel way of ensuring that the tax system is fair, especially when we're talking about people who live pretty frugally in the first place."

Another provision that has alarmed educators would make donors of large gifts of appreciated property subject to a minimum tax rate of 21 percent on the increase in value of the donations, making that form of charity less advantageous to the donor. Currently, the full market value of such gifts, usually real estate or stocks, can be deducted fully from a donor's gross income.

Under the bill, however, the appreciated value of these gifts would be added to the value of other items with special tax preferences—investments in mining operations or low-income housing, for example—and made subject to a minimum tax if the total exceeded 25 percent of an individual's income.

Because taxpayers wouldn't know until the end of the year whether their investments alone would put then into the alternative minimum tax category, they might view making a large gift to their alma maters as a risky enterprise.

"Whether or not someone decides to give doesn't live or die with a tax incentive," said Robert Smucker, who heads Independent Sector, an umbrella group of non-profit organizations. "But once they've made the decision to give, the amount is very much influenced by tax policy."

While gifts of appreciated property represent a small number of donations to a school, the American Council on Education estimates that such gifts, which usually start in value at $250,000, account for about 40 percent of all dollars donated. At Princeton University, 80 percent of the gifts over $250,000 were in appreciated property.

Large gifts, however, are not the only contributions at risk, educators said. The bill also would eliminate the deduction of charitable contributions for taxpayers who do not itemize on their returns, making it less likely, officials said, that young alumni would get into the "giving habit."

Private institutions face an additional stumbling block in the cap on tax-free bonds. Patricia Hayes, president of St. Edwards University in Austin, Tex., criticized the bond cap as a "punitive and arbitrary" measure that gives public schools, not subject to a cap, an unfair advantage.

"We're the free-enterprise system of higher education. It doesn't make sense for the government to favor public institutions," Hayes said.

At least 24 private research universities, including Harvard, Yale, George Washington and the University of Chicago, either are approaching or have exceeded the ceiling on tax-free bonds, which generally are used to build or renovate structures. The University of Pennsylvania, for example, used $100 million in bonds last year to build a clinical services center and renovate and remove asbestos from a dormitory complex housing 1,000 students.

The scholarship tax, bond cap and minimum tax on appreciated property provisions were part of the tax plan approved by the House but were not included in the Senate bill. Stienbach, who coordinated a lobbying effort on behalf of higher education, said he and other educators were surprised when the conference committee agreed to all three.

"After you work on something for 18 months, you don't expect to do worse than you expected when you come out of conference," Steinbach said. "But we did. A lot worse."

[From the New York Times, Aug. 21, 1986]

EDUCATORS SEE GREAT HARM

(By Leslie Maitland Werner)

WASHINGTON, August 20.—The tax legislation would cause serious economic problems for colleges and universities as well as for their faculty and students, according to school officials, who said the bill attacks higher education from numerous directions.

At Stanford University, Larry Horton, the director of government relations, said: "We took a bath on the tax bill which was even dirtier and uglier than we had feared. We lost on every major issue. It may be that no other institutions are as adversely affected by the change in the tax bill as are universities, especially private universities."

Michael I. Sovern, the president of Columbia University, said: "I don't think they fully understand the damage that they've done. The dollars from the point of view of the Federal budget are not enormous numbers, but they are from our point of view. It's very damaging."

RATHER SEVERE EFFECTS

And a Princeton University official, Robert Durkee, said universities would suffer "rather severe effects" in return for "very modest gains" to the nation's coffers. Aid to graduate students is already "minimal," he said, and will now be cut still further, while private schools will also have greater trouble raising funds to maintain and modernize facilities.

Some educators also said that the measure would discriminate between public and private institutions in the area of financing.

The Secretary of Education, William J. Bennett, criticized universities for not looking at the broader picture, saying, "Colleges and universities should look beyond their narrow, immediate self-interest and look to the common prosperity in which they will share."

Mr. Bennett said: "In dollars and cents the Ronald Reagan years have been great

for colleges and universities. They have profited from economic recovery, and they will profit from the continued economic growth that the tax bill promises."

Mr. Sovern said that universities, like other philanthropic institutions that depend on donations, had "anticipated damage simply by virtue of a rate reduction and were resigned to that."

"We recognized that to the extent rate reduction might be economically productive, we thought that as good citizens, we should not oppose it," he said. "But the bill does a number of other things that go beyond that damage."

The tax measure's changes include the following:

The bill would reduce the incentive for taxpayers to make donations to colleges and universities by increasing the ranks of nonitemizers and barring them from claiming deductions for gifts to charity.

It would no longer permit taxpayers who make charitable donations of appreciated property like stocks or bonds to claim the current market value of the gifts as a tax deduction.

It would set a cap of $150 million on the authority of private institutions to issue tax-exempt bonds, thereby limiting their access to lower-cost financing for capital improvements.

It would for the first time make scholarships and fellowships taxable if they are used to help defray students' living costs and would also eliminate the deduction for interest on student loans.

It would affect the ability of universities to attract professors by offering them special tax-deferred retirement plans unless they extend those plans to all other workers.

It would no longer permit parents to transfer income to their young children, to be taxed at the children's rate, as a means of reducing taxable income while saving for future tuition money.

In a joint statement issued today, the presidents of three major higher education groups said the bill would discriminate between public and private institutions. It would prevent more than 20 of the nation's top research universities from obtaining funding through new tax-exempt bond issues because they are already near the $150 million limit, although public institutions would face no such cap because their financing is raised under state authority.

Robert H. Atwell of the American Council on Education, which represents 1,500 colleges, universities and organizations; Robert M. Rosenzweig of the Association of American Universities, which represent 54 major research universities, and John D. Phillips of the National Association of Independent Colleges and Universities, which represents 800 private colleges and universities, also said the change affecting gifts of appreciated property would have a large impact.

Such gifts, which are now fully deductible, account for 40 percent of all private giving to colleges and universities, they said.

DAMAGE TO NEEDY SEEN

The provision that calls for taxing scholarships and fellowships that exceed the amount of tuition and required equipment, they said, creates a situation that hurts the needy.

ARTICLE 6

[From the Washington Post, Aug. 18, 1986]

MORE IMPORTS, LESS INVESTMENT PREDICTED AT END OF TAX TRAIL

(BY JANE SEABERRY)

The historic shift in the tax burden from individuals to corporations not only may create confusion among consumers and corporations, but, in the next few months, also could lead to more imports, reduced business investment and lower output in an already weak economy.

In the long run, many economists expect the economy to benefit from the tax proposals.

Consumers eventually would spend their higher after-tax incomes.

With investment decisions no longer driven by tax incentives and shelters, business spending would be allocated more efficiently, resulting in higher economic growth.

Data Resources Inc., an economic consulting firm, predicted that, by 1988, the nation's economy will grow at a much faster rate than without tax overhaul.

But these benefits won't occur until the economy settles down from the near-term dislocations, economists said.

Starting next year, most consumers would have more money to spend as the result of lower taxes. Interest rates probably would fall. But economists generally predict that the economic benefits of these developments will be offset during the first year by other provisions of the tax bill and the last-minute change raising taxes next year for many high-income taxpayers.

Economists earlier had counted on the tax cut for individuals to help propel the economy through the adverse short-term effects of tax overhaul. Based on the Saturday night compromise, however, they said yesterday that if there is any boost in consumer spending, it would be slight next year, but more significant after that.

In an effort to raise more revenues, tax rates for higher-income filers were not reduced as sharply as expected for 1987. Many families earning more than $75,000 a year would face a tax increase next year. The increase in the personal exemption from $1,080 to $2,000 would not go into effect all at once on Jan. 1 as expected, but would be phased in between 1987 and 1989. Both changes would mean consumers would have less to spend next year than if rates had been cut immediately.

Economists also caution that the overall economic impact of the tax bill would depend on how tax revision affects the Federal budget deficit and the general direction of the economy during the next few months. If the economy is weak, the tax measure probably would make it weaker; but if it is strong, the tax revisions probably would have little effect.

"It depends entirely on how that impacts on the budget deficit," said Harvey Galper, an economist with the Brookings Institution. "The biggest determinant is going to be what's going on with the economy in any event. If the economy turns around it's not likely to have a significant effect the first year."

Business investment is expected to be reduced as a result of changes in two major incentives for business spending: accelerated depreciation schedules would be lengthened and the investment tax credit would be repealed. These two items were the centerpiece of President Reagan's 1981 tax-cut program.

Accelerated depreciation allows businesses to write off the cost of new facilities during a very short period; investment tax credits allow businesses to directly deduct part of the cost of some investments from their tax bills.

Reagan administration officials acknowledge that business investment has fallen this year because corporate executives were uncertain of the effects of the tax proposals.

In the near term, "the implications for manufacturing are more adverse, since the effective tax burden of manufacturing and its user cost of capital will increase at a time when heavy industry is already battered by import competition," said Jerry Jasinowski, chief economist for the National Association of Manufacturers. "As a result, the forecast for industrial production is significantly worse than for the economy as a whole."

"What we're doing is delaying and weakening the investment recovery," said Roger Brinner of Data Resources Inc. "Tax reform extends the decline in investment.

"This is a bill which is not revenue-neutral between consumers and business," Brinner said. "We're getting rid of the high-powered business incentives . . . and replacing them partially with the weak stimulus of lower rates."

"For the short term, I think there are a lot of adjustment costs" making the economy "somewhat worse off," said Stephen Zeller of Wharton Econometrics. The impact on business spending of removing the investment tax credit "may turn out to be more significant in the near term" than the expected increase in consumer spending.

One of the main short-term benefits of the tax proposal is expected to be slightly lower interest rates. Business and consumers are expected to borrow less because the after-tax cost of borrowing will go up. Consumers won't be able to deduct many consumer credit costs. The interest businesses and consumers do deduct will save them less due to the lower tax rates.

But the economic impact of lower interest rates may be somewhat offset by the decision not to permit consumers to deduct most interest on credit cards and other consumer loans.

Only the interest on home mortgages would be fully deductible, and there are provisions to make it more difficult for consumers to borrow against their home and use the tax-deductible loan for other purposes. Creative lenders may be able to get around that with some new kinds of loans that would allow consumers to keep buying and deducting interest, economists said. "What we've seen over the years, people in financial institutions have been very inventive," Zeller said.

Economists cite two reasons why the tax proposal could make the trade deficit worse. Generally, when consumers spend more, they tend to buy more imported products. Additionally, shifting the tax burden to business would raise the costs of U.S. firms' goods, making them more costly overseas.

"Increased consumption will be effectively offset by two negative factors," manufacturers' association spokesman Jasinowski said, "the contraction in investment and the increase in the trade deficit caused by the higher demand for imports."

Jasinowski also said tax revision would tend to deindustrialize the Nation, "at least with respect to capital-intensive sectors," which will tend to lose many tax breaks, such as accelerated depreciation and the investment tax credit.

"Over the long term, the economy will undergo a shift in the mix of output away from capital-intensive manufacturing toward more labor-intensive industries and services, which the mix of inputs will shift away from capital and toward labor," Jasinowski said.

On the bright side, however, a switch to more labor-intensive industries and services means more employment. DRI said lower tax brackets would encourage more people to join the labor force. Families would no longer have to worry that if a non-employed spouse goes to work, the added income would push them into a higher tax bracket.

"This is quite a boon for the service sector and their costs will be reduced," as more people would be willing to work, Brinner said. Unemployment rates may rise slightly with the influx of more workers, "but the stimulus provided by spending" would make that a wash.

Also, the influx of more workers would help keep down wages, Brinner said.

Because of intense competition—both domestic and foreign—businesses may find it difficult to pass along any tax increases to consumers, some economists predict. Many of the companies expected to get the biggest tax increases already are holding down price hikes because of international competition, they note.

ARTICLE 7

[From the New York Times, Aug. 20, 1986]

SMOOTH TRANSITION SOUGHT ON TAX BILL

(By Gerald M. Boyd)

SANTA BARBARA, CA.—Donald T. Regan, the White House chief of staff, said today that the Administration will seek to assure the tax revision legislation is phased in without disruption to the economy.

Meeting with a small group of reporters here, Mr. Regan acknowledged confusion about how the historic legislation would be phased in under the so-called "transition rules," which govern how the current tax codes will shift to the new provisions that Congress is likely to enact.

Mr. Regan, a former Wall Street executive, said that many officials in the financial community were unclear about how the provisions would be phased in and how it would affect the economy.

THEY'RE AS CONFUSED AS I AM

"They're as confused as I am," he said. "I don't know what the effect will be on me, because I don't know what the transition rules are.

"At this point the economists are, for the most part, doing what I'm doing—trying to figure out what will be the effect on the economy."

The remarks, which came in an interview, suggested some White House concern about the proposal, which moved a step closer to enactment Saturday, when it was approved by a House-Senate conference.

Mr. Regan said that, at this point, the President had no plans to seek changes in the legislation after it is enacted, remarking, "We think, on balance, it's good."

IMPACT STUDIES REQUESTED

But in underscoring his concern, the chief of staff, who is also the former Treasury Secretary, said that he had requested both the Treasury Department and the President's Council of Economic Advisers to conduct studies of the economic impact of the legislation once the transition rules are finalized.

They are expected to be submitted with the conference report to Congress when it returns in September.

"We don't know what the transition rules are, Mr. Regan said. "If the transition rules for real estate are five years, that's one thing; if the transition rules are only one year, that's something else again."

These transition rules remain unwritten; the staff of the conference committee still has to work out myriad such details.

Mr. Regan's comments suggested that the White House plans to be actively involved in shaping the final details of the historic bill, which has been shepherded through Congress by top Treasury officials. But the White House would be limited by the general guidelines set by the conferees.

The transition rules are important in determining the final shape of the new Tax Code and could be written in a manner that makes some provisions more favorable than they might appear at this point.

"There'll be any number of things that'll reduce the impact, some favorable, and some unfavorable," Mr. Regan said.

Under the conference version of the legislation, capital gains would be taxed at the same rate as salary income next year, a maximum of 28 percent. Currently, capital gains is taxed a maximum of 20 percent.

Mr. Regan said that he had decided to request the studies at a planning meeting Monday and that it was "premature" to predict, before the review is completed, how the legislation will affect the economy.

IMPACT A GUESS AT BEST

"How do you know the economic effects of the tax bill if it's not written yet by the Congress? It's got to be a guess at best," he said. "I don't see it's going to have a negative effect, and I don't see it having a positive effect."

Discussing the political impact of the bill, Mr. Regan said that he believed that it would be seen a plus for Republicans and Democrats in that people from both parties had been active in the attempt to secure passage.

Mr. Regan used the interview to hint that the administration could be agreeable to using additional revenue that is expected to be generated from the tax revision to meet deficit targets that Mr. Reagan has committed himself to in a desire to balance the Federal budget.

While saying that he remains philosophically opposed to that approach, he said that the Administration could support holding the additional funds in reserve until next year, when they might be applied to the deficit. Congress has projected about a $10 billion to $11 billion revenue "windfall" from the tax legislation.

Mr. DANFORTH. Mr. President, I take the floor at this time because there is a pause in the proceedings of the Senate, and it seems a good time to address, at least for the first time by me since the agreement to the conference report by the tax conferees, it seems to me to be a good time to address some of the questions that have been raised by the tax bill that we agreed to.

Some Senators have asked me since our return from the recess if there is a single place that they can turn to find out some analysis of the bill. There have been a number of articles written, a number of columns written, over the past few weeks on the question of the tax bill. But we have been in recess, Members of the Senate have scattered to the four points of the compass, and it would be only natural if Members did not have the opportunity to see gathered in one place the analysis that has been put together on the tax bill.

So what I have done in this statement is to put together a variety of newspaper articles and columns raising questions about the tax bill with the hope that Members of the Senate or staff representatives of Senators will be able to examine this material and to find out some of the concerns about the tax bill.

As a lot of people know, what occurred on the 16th of August was that the conferees, both House and Senate conferees, agreed to a conference report which will be several thousand pages in length without seeing the conference report.

It struck me at the time a little bit unusual. The week before we recessed, we spent 2 or 3 days on the floor of the Senate fine-tuning in meticulous detail the terms of a $100 million grant to Contras in Nicaragua. At the same time that we were finetuning in meticulous detail a $100 million grant, we, the conferees on the tax bill, were approving a conference report which we had never seen, the details of which had yet to be drafted and which are not yet drafted.

□ 1710

A lot of Members of the Senate that I have talked to, I have said, "How do you plan to vote on the tax conference report?" And they said, "Well, we do not know. We will have to look at it. We want to find out what is in the transition rules before we make up our minds. We want to analyze it further."

When the conference report was adopted by the House and Senate conferees, we had not analyzed what was in it. I thought that was unusual and that was too bad, especially since we had the whole recess ahead of us. The drafting could have gone on, and then the conferees could have acted. But we did not do it.

Mr. President, the basic reasons for my concern about the tax bill go far beyond questions of process with respect to the doings of the conference committee. I believe, and the various analyses that are incorporated with my prepared statement also suggest that the fundamental difficulty of the tax bill is something that is much more long term than the process adopted by the conferees when we put the bill together.

The basic problem has to do with the long-term future of the United States. We tend so often in the Congress to think day to day or even minute to minute. How are we going to get through the next day, the next

week? How are we going to get through the next election?

How are we going to put together some legislation which we believe responds to the demand which we hear from our constituents, and for this thing in our mind to take the long view of anything? The tax bill which was being put together this year is a short-term-view tax bill. It is a bill which essentially promotes immediate consumption at the expense of savings and investment.

The theory of the bill is to say to the people of the United States, you get a rate cut. You get a rate cut of maybe $4 or $5 a week. And in exchange for the rate cut, well, we will pay for it by taking the money out of business, by taking the money out of particularly a capital investment business. We will increase the tax on capital. We will make the United States less competitive in the world markets. We will reduce the tax credit for research and development. We will repeal the investment tax credit. We will take about $13 billion out of the depreciation. We will hit very hard our universities, and in a number of different ways. As a matter of fact, in every conceivable way the conferees agree to hit our universities, which are perhaps the greatest way to invest in the future of the United States.

So basically what we have done is to say we are so anxious to provide this $4 or $5 a week rate reduction that we are willing to pay for that immediate consumption, oriented rate reduction by penalizing and retarding the future economic growth of the United States by making us less efficient as a country, less modern, less research oriented, less able to maintain the cutting edge of new technology which heretofore had been the great pride of the United States. That was the nature of the bill.

Then we look at the budget consequences. You know, our idea was to produce a revenue, neutral tax bill. If anybody wanted to bet his or her life-savings on whether or not this bill is revenue neutral, he should have his head examined. Yet, we are betting the economic future of the United States on the revenue neutrality of this tax bill.

During the 4 weeks before the conference committee completed its work, revenue projections for the tax bill fluctuated by $20 billion. Revenue projections were a constantly moving target created by the latest estimates, and the latest economic projections that were handed out. Frantically the conferees were scrambling to throw more and more revenue into the pot in order to meet the changing projections.

We cannot predict revenue consequences 5 years down the road. Yet, we say this is a revenue-neutral tax bill. I do not think it is revenue neutral. Just as an example of why I do not think it is revenue neutral, back in 1981 the capital gains rate was 28 percent. We reduced the capital gains rate from 28 percent to 20 percent, and we argued that the reduction in the capital gains rate would produce revenue from the Treasury. We argued at that time in 1981 that when you reduce capital gains rates you produce revenue because the number of transactions increase. Now we are writing a tax bill which moves the capital gains rate back from 20 percent to 28 percent again. We are arguing—and I am told the economic projections will show this when the Joint Committee on Taxation completes its work—that when you increase the capital gains tax, you increase revenue by $25 billion to $30 billion.

Mr. President, we cannot have it both ways. We cannot say that you pick up revenue when you reduce capital gains taxes and you pick up revenue when you increase capital gains taxes.

In 1981 we were proved correct. It turned out that as a consequence of 1981, it was true that Treasury revenues were increased when capital gains taxes were reduced. If that was true in 1981, we are not going to gain revenues by increasing capital gains. That is just one of the problems in the revenue estimates of this bill.

Talk about smoke and mirrors. This is it. Then there is the even more serious question as to the timing of the revenue changes which we guess are going to occur because of this bill. We believe that there will be a front-end load of $11 billion of revenue that will be picked up in 1987. Then we believe that in 1988 there will be a loss of $17 billion in revenue. So what we are doing now, my understanding of what we are contemplating doing right now, is to try to rush to pass the tax bill prior to October 1. And if we pass the tax bill prior to October 1, then the front-end load of $11 billion is available to count against the deficit for 1987.

So we start with a target of $144 billion deficit which we promised to the American people, and then we say we do not really have to hit the bull's eye. We just have to hit the perimeter of the bull's-eye which is $154 billion because that avoids sequestration if you come within $10 billion.

Then we say we can make that money up between $154 billion and $173 billion or whatever. We can make that money up by the front-end load of the tax bill.

□ 1720

So we do not have to do anything. We tell the American people, "We are handling the problem of the deficit. We passed Gramm-Rudman. It does not mean anything. It does not mean that we actually have to do anything or act. All we do is pass it and then miss the bull's-eye. Come within $10 billion and use this phony front-end load of revenue to come close enough for 1987."

Then what happens in 1988? Well, in 1988, we are supposed to get down to $108 billion as the deficit, now being at $144 billion. Instead of having $11 billion in front-end load from the tax bill, we have, by our estimates, $17 billion in revenue shortfall. So we have to get down to $108 billion plus come up with $17 billion plus not have available the $11 billion from the front-end load.

How are we going to do that? How are we going to find that money? What is going to come of Gramm-Rudman in 1988?

Then if we factor in the widely held view of economists that the effect of the tax bill, at least initially, is going to be a reduction in the gross national product, we are not even close to Gramm-Rudman in 1988.

I suppose that it could be said, "Well, we are banking on the fact that we are going to have a recession and that the recession will vitiate the requirements of Gramm-Rudman for the following fiscal year."

I would hope that that is not the way we do business around here, to hope for a recession to get us out of our responsibility.

But, Mr. President, the fact of the matter is that this tax bill is going to guarantee the failure of Gramm-Rudman-Hollings, guarantee it. We make no changes for 1987. We create a $17 billion problem for 1988. We follow tax policies which economists tell us will lead to a decline of the gross national product by 1 percentage point, according to Murry Weidenbaum, who was President Reagan's chairman of the Council of Economic Advisers.

We convince ourselves that by increasing capital gains taxes we are going to raise revenue. And we are blissfully unaware today of the consequences for next year of passing this tax bill.

Mr. President, there is going to be ample opportunity in the weeks ahead to discuss the problems with the tax bill. I know that the great advocates of the bill would just as soon have us just take it up and pass it under a half-hour time limit some night. "Please do not look at it." That was the concept when we finished the conference committee. "Do not look at the draft. The lobbyists will look at it. People will turn against it if they have a chance to examine it." You are darn right they will turn against it if they have a chance to examine it.

I saw in the paper a couple of days ago that the chairman of the House Ways and Means Committee, Congressman ROSTENKOWSKI, made a

speech last week and said, "Well, next year we are going to have to increase rates."

That is a ridiculous state of events. We say we are going to broaden the base, remove incentives for investment, remove incentives for the future of this country in order to provide a fund of money with which to reduce tax rates, and then the next year we are going to increase rates again.

That is the position of the chairman of the Ways and Means Committee. Our leader, Senator DOLE, said, at least according to the newspaper, "Congressman ROSTENKOWSKI should not say that."

Let us just be blissfully ignorant of future tax increases as we pass the bill. That, I guess, is the way to pass the tax bill. "Please do not pay attention to what we are doing. Mum is the word. do not pay any attention to it. Somebody might catch on."

I think what we are doing is penalizing the future of the United States of America and causing great, great havoc for the future of our country.

The President said a year or so ago that tax reform for him was of equal priority with deficit reduction. To me it was not of equal priority with deficit reduction. Deficit reduction always came first. I think that is the feeling of most Members of the Senate, that deficit reduction comes first. If we pass this bill, deficit reduction is just shoved aside, pushed into the closet somewhere. Gramm-Rudman is shoved aside, pushed into the closet somewhere. Rate reductions come first.

A lot of Members of the Senate were home talking to their constituents over the past few weeks, and I think it is a widely held view that our constituents are a little more skeptical about the tax bill than we thought they might be. We are not getting too much comment on it.

I have to credit the people of the United States with a lot of wisdom. We have been telling them of the danger of a $2 trillion national debt. We have been telling them of the danger of the $200 billion deficit in the Federal budget. Then we say to them, "And by the way, now that we have finished talking to you about the national debt and the deficit in the budget, guess what: You get a tax cut of $4 a week."

Is it any wonder that the American people think something is goofy around here? Is it any wonder that people are skeptical about politicians talking always about deficits and then saying, "You got a tax cut?"

Well, there is a lot to be said about this bill, a lot to be said, and it will be said in the weeks ahead. The whole question of fairness should be discussed. Is it really a fair bill? I would hope to address that question at some future time.

Is it really fair, for example, if a well-to-do parent who owns a home in suburbia, which has appreciated in value, borrows against that home to provide an education for the parent's child and is able to deduct the interest paid on the student's loan, whereas the poor kid who lives in the inner city, whose family does not own a home, takes out a loan, pays the loan over the working years of his life, is not able to deduct the interest? Is that fair?

Is it fair to have a higher tax rate, marginal rate, for people in the middle-income levels than people in the upper-income levels?

□ 1730

These are all questions which will have to be discussed and debated, and they will be. But for the time being, Mr. President, suffice it to say that some very comprehensive and excellent analyses have been put together and they can be found in one place in the CONGRESSIONAL RECORD. They have just been inserted in the RECORD. If anybody is wondering what is wrong with the tax bill, if anybody is wondering what went wrong in the conference, there is a ready resource to find out what went wrong. That is in the CONGRESSIONAL RECORD and that material has just been submitted.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DIXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DIXON. Mr. President, I ask unanimous consent that I may proceed for a short few minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ILLINOIS AND MICHIGAN CANAL O'BRIEN VISITOR CENTER

Mr. DIXON. Mr. President, today I am proposing an amendment to reverse a very regrettable omission in the Interior appropriation bill by the Senate Appropriations Committee.

The House bill included language in the general provisions for the Department of the Interior which would designate a visitor center for the Illinois and Michigan Canal National Heritage Corridor as the "George M. O'Brien Visitor Center," in memory of this great man and in recognition of his outstanding leadership in the effort to gain national recognition of this historic canal and corridor.

As my colleagues know, George O'Brien was a dear friend of mine and of many others here. He was as dedicated a public servant as I have ever known, and he made a difference to his country and his State.

This amendment does not add one penny to this bill. It merely names an already existing visitor center in Lockport, IL, in Representative George M. O'Brien's district, after a man who was deeply involved in the establishment of the National Heritage Corridor. In fact, $1 million has been spent on the renovation of the Gaylord Building, the oldest industrial building in Lockport, into a visitor center, museum, and restaurant.

The Interior appropriation does not include funds which my colleague, Mr. SIMON, and I requested for the operation of the Heritage Corridor Commission in the amount of $250,000. We regret that the committee failed to appropriate this modest sum, but hope that it will be given favorable consideration in conference.

The Illinois and Michigan Canal has exceeded our expectations in its first 2 years of existence. It has been the impetus for many economic development projects in addition to recreation and historic projects. It has generated much more in State, local, and private funds than the modest Federal contribution.

At the end of my remarks I would like to include a list of projects which are directly attributable to the I and M Canal National Heritage Corridor.

Mr. President, I hope the committee's action was an oversight, and that there will be no objection to restoring the language honoring our friend, former Representative George O'Brien, with a most appropriate tribute, making him a permanent part of the project he worked so hard to see realized.

Mr. President, I ask unanimous consent that a list of progress reports on the canal and how it has helped this area of Illinois be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

I AND M CANAL—PROGRESS REPORT

Several new projects are underway which are directly attributable to the National Heritage Corridor designation which was granted to the I and M in 1984.

(1) New funds from the State of Illinois of over $1 million for use on new trail development along the canal. Also, renovation of the lodge at Starved Rock State Park, and work on locks.

(2) The U.S. Steel/Heritage Business Park.—This project would not have happened without the National Heritage Corridor designation. It will eventually create 1,500 new jobs in Joliet. Requests for proposals are already distributed for the first phase of this project. It is the first time that a grant from the National Trust for Historic Preservation was made to a corporation for the purpose of developing a plan for utilizing this site. The company matched the $45,000 grant, and the result was a plan

for this new redevelopment project. It is precisely what we all hoped to achieve with the National Heritage Corridor.

(3) The Gaylord Building renovation in Lockport, Illinois.—This is the oldest industrial building in Lockport. $1 million is being spent to develop it into a restaurant, banquet facility, visitors center and museum. 55 new jobs are anticipated to be created by this project.

(4) Joliet downtown redevelopment.—The National Trust named 8 urban development demonstration projects. Joliet was one of them.

(5) Waterfront Park in Bridgeport is being developed at the site where the canal begins. It will be a community park and gateway to the corridor.

(6) Cook, DuPage and Will County Forest Preserves are developing a 25-mile canoe trail on the Des Plaines River.

(7) Cache Island in the Will County Forest Preserve District is being developed as a major visitors' center with interpretation of the French and Indian periods.

(8) The State of Illinois purchased Fitzpatrick House as the headquarters for the National Heritage Corridor Commission.

In Lamont, Illinois, a $20 million project, a private psychiatric hospital, Four Winds, will be located on the Brown Family estate. It will be a teaching institution affiliated with the University of Chicago. The private company listed the corridor as one of the factors it considered in locating in Lamont.

(10) Buffalo Rock Effigy Tumuli is a mine reclamation project in Ottawa, Illinois. There are 1.5 miles of abandoned strip mines owned by the Ottawa Silica Co. The Abandoned Mined Lands Reclamation Council included the site on its list of priorities and $1 million was going to be spent to reclaim it as a flat field. Edmund Thornton, President of Ottawa Silica, decided to make it something special, and hired Michael Heizer, an earth sculptor. He was inspired by Indian mounds, and has created five sculptures of animals out of the land. They are the largest earth sculptures in the world. Additional costs were assumed by Thornton and the National Endowment for the Arts. It has received world-wide attention and is the subject of an extensive article in the April edition of Smithsonian Magazine. It will be a major tourist attraction within the National Heritage Corridor.

There are many other projects in various stages of development. But it is fair to say that much has been accomplished in the short life of the National Heritage Corridor. The expenditure of millions of dollars in private, state and local funds and the promise of thousands of jobs.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1987

The Senate continued with the consideration of the bill.

□ 1740

Mr. DIXON. At this point, Mr. President, I would like to submit an amendment to H.R. 5233 now pending in the Senate which I understand is not subject to call at this time, Mr. President, but will be subject to call on another occasion.

I simply want to file the amendment at this time, Mr. President.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WEICKER. Mr. President, I ask unanimous consent that the call of the quorum be suspended.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUPPORT FOR WIN FUNDING

Mr. MOYNIHAN. Mr. President, I rise to discuss with my distinguished colleagues from Connecticut and Oregon a matter of deep concern to us: the elimination of funding in fiscal year 1987 for the Work Incentive [WIN] Program.

As my colleagues will recall, this program was established in 1967 with the goal of assisting recipients of aid to families with dependent children [AFDC] to become self-sufficient. In 1981, under the Omnibus Budget Reconciliation Act [OBRA], WIN was expanded. Congress granted States the flexibility to create WIN demonstration programs, administered solely by State welfare agencies. Since then, 26 State "demo" programs have arisen, each of which receives Federal WIN matching funds to help run vital education and training, skills assessment, job search, community work experience, and other programs to encourage self-sufficiency for welfare recipients.

The Subcommittee on Labor-HHS-Education of the Appropriations Committee agreed that WIN warranted enough funding to continue current services. Therefore, the subcommittee included $220 million for WIN in its fiscal year 1987 appropriation measure, slightly more than the House bill which included $200 million for WIN in its version of the fiscal year 1987 Labor-HHS appropriations bill.

Shortly thereafter, the full Appropriations Committee adopted an amendment to eliminate all funding for the program next year. It is my understanding funding for WIN was eliminated because of procedural obstacles by the Gramm-Rudman-Hollings legislation.

Is this a correct understanding of the situation?

Mr. WEICKER. The Senator from New York is correct, and I am sure that Senator HATFIELD will agree.

Mr. HATFIELD. I do.

Mr. MOYNIHAN. To elaborate a bit, I understand that under the Gramm-Rudman-Hollings law, each committee and subcommittee is required to meet a section 302(b) allocation for both budget authority and outlays. Is it not correct that the WIN Program was eliminated because the Labor-HHS appropriations bill would otherwise have faced a section 302(f) point of order, requiring a supermajority of three-fifths to overturn?

Mr. WEICKER. The Senator's summary of the budget problem that confronted the committee is accurate. Funding was not eliminated because of a judgment that the program was ineffective and ought to be eliminated. And may I say to the Senator, more generally, I voted against Gramm-Rudman-Hollings because I knew we would have to arbitrarily cut worthy programs such as WIN, and I have joined the Senator in voting to repeal that act for the same reason.

Mr. HATFIELD. So have I.

Mr. MOYNIHAN. Not 5 months ago, I offered an amendment with several of our colleagues to provide $211 million for the WIN Program in the fiscal year 1987 budget resolution. A month earlier, the Senate Budget Committee had passed a budget which assumed the elimination of WIN.

During the floor debate, I argued that WIN funds have allowed States to successfully educate and train welfare recipients for productive, private-sector jobs. Senators KENNEDY and KERRY spoke of the documented success of the Massachusetts E.T. Program. And Senators MITCHELL, GORE, and CHAFEE shared the accomplishments of the WIN-funded training programs in their home States.

Each of these States, like my own State of New York, has used WIN funds to move welfare recipients off the public assistance roll. In New York, for example, the WIN demonstration program helped 20,000 welfare recipients last year find employment. The State's network of on-the-job training, grant diversion, and other training programs, which also rely on WIN funding, has helped over 80,000 persons find jobs in the last 2 years. One of the most successful programs, the Training and Employment Assistance Program [TEAP], involves private sector employees who are willing to help public assistance recipients attain job opportunities—and ultimate self-sufficiency.

The Members of this body voted in a strong, bipartisan show of support to restore funding for WIN to the budget resolution. The 55-to-40 vote was notable because it cut across party, geographic, and ideological lines.

Indeed, a majority of the members of the Senate Appropriations Committee, including the senior Senator from Connecticut and Chairman HATFIELD, supported restoration of funding for WIN in the April 30 budget vote.

Would not my distinguished colleagues agree that there is strong support for the WIN Program among our colleagues?

Mr. WEICKER. I most certainly would.

Mr. HATFIELD. Definitely.

Mr. MOYNIHAN. In a recent letter to our colleagues, 24 Governors of both parties urged the restoration of WIN funding to the Labor-HHS appropriations bill. The Governors made an important argument.

[t]he success of WIN and WIN Demonstration programs has inspired many members from both Houses and both sides of the aisle to introduce legislation modeled on successful state initiatives. Eliminating WIN funding would not only hinder the development and continuation of these initiatives, it would remove the catalyst for comprehensive employment and training legislation that will certainly be an integral part of the upcoming welfare reform debate.

In short, this is a particularly inopportune moment to withdraw support for the WIN Program. Though its annual appropriation is modest, the program has proven in recent years to be the only real impetus for reform of our welfare system.

Moreover, the WIN Program, after several years of refinement and exploration, is working. It is my view that this is no time to give up on America's dependent poor; no time to say, "There is no work for the likes of you, stay on welfare, do not find an independent and self-respecting job for yourself, and for your children."

Mr. WEICKER. I could not agree more.

Mr. MOYNIHAN. When the Senator from Connecticut goes to conference on this measure with the House, it is my strongest hope that he, Chairman HATFIELD, and the other Senate conferees will make their greatest effort to secure the maximum possible level of funding for the WIN Program. While I understand that my colleagues face very real and difficult fiscal constraints, I am confident that we share a common concern for the WIN Program, and a desire to resolve this matter to the advantage of the program. The beneficiaries of the program have so much to gain from its continuation, and so very much more to lose from its abrupt termination.

Mr. WEICKER. May I say to my colleague from New York that I have always sought to maintain at least the current level of services for the program and will do my utmost to ensure that Congress provides the maximum possible funding level for WIN. I will work with our colleagues, and Members of the House of Representatives, to that end.

Mr. HATFIELD. Mr. President, I want to associate myself with the comments of the subcommittee chairman, Senator WEICKER, regarding the Work Incentive Program. We have an excellent program in the State of Oregon. Our program—funded by the Federal WIN Program and State funds—puts people on welfare to work. It gives them real job skills and an opportunity to join the work force and end their dependence on welfare. What happened to the WIN account in the full Appropriations Committee markup had much to do with our fiscal year 1987 outlay problems and little or nothing to do with the merits of the WIN Program. I want to assure my colleagues that I will do what I can, working with Senator WEICKER, to restore funding for the WIN Program in conference.

Mr. MOYNIHAN. I thank my distinguished colleagues for their commitment to the program and their attention to this important matter. I am aware of a number of other Senators who would like to make statements at this time.

Mr. DODD. Let me concur with what has just been discussed with respect to funding for the WIN Program. As my distinguished colleague from Connecticut knows, that program has played a critical role in our State of Connecticut in helping families climb out of poverty. Just about 5,000 women a year leave the AFDC rolls in Connecticut, after having been placed in permanent, nonsubsidized jobs through WIN.

Given the importance of the WIN Program to our State and every other, I would hope the Senate would be able to secure level for WIN when it goes to conference with the House on this measure.

Mr. WEICKER. As I just indicated to my colleagues from New York and Oregon, I will do my utmost to ensure that Congress provides the maximum possible funding level for WIN.

Mr. CHAFEE. I share Senator MOYNIHAN's deep concern about the deletion of funds for the Work Incentive Program from the Labor, Health and Human Services, Education and Related Agencies appropriation bill. It is my hope that the conferees will consider restoring funds to this very important program.

The WIN Program is essential to States' efforts to promote self-sufficiency and reduce welfare dependence among AFDC recipients. In Rhode Island there are approximately 16,000 AFDC recipients, 90 percent of whom are women and single parents, and the age of this population is growing younger each year. Under fiscal year 1986 funding, the WIN Program in Rhode Island provided day care assistance, education, job training, and job search services to 2,000 of the eligible AFDC population. It would be a mistake to weaken our commitment to assist these young families in their quest for independence. It is my hope that Senate conferees will work to restore funding for the WIN Program when the conference takes place for the Labor, Health and Human Services, Education and Related Agencies appropriation bill.

Mr. KENNEDY. Mr. President, I welcome the opportunity to join my colleagues in addressing the success of the WIN Program. I commend the managers of the bill for agreeing to work out a satisfactory solution, and I hope we can save what has been a remarkably successful program.

During my 23 years of service on the Labor and Human Resources Committee, we have fashioned various program to help those who are on assistance programs to find some way to become constructive and productive members of their community. Some programs have succeeded and other have not.

By any fair evaluation of the WIN Program, it has had remarkable success. In Massachusetts, $6 million of the WIN Program is combined with $24 million from the State for the development of the ET Program. The results has been dramatic. Eighty-six percent of the individuals who have gone through the ET Program are not on welfare 1 year later.

The program has also resulted in substantial savings for the taxpayers of Massachusetts and for the Federal taxpayer as well. This program stands on its own merits as a successful training and education program for getting people onto the job rolls and off welfare rolls. When you cost it out in dollars and cents, which so often guides the judgment of the Members of this body, it saves millions of dollars at both the Federal and State level.

It is irresponsible to zero this program out, as has been recommended in the committee bill. It is successful. The lessons that we are learning from this program are helping us deal with millions of people across the country who are on welfare.

Single heads of household are predominantly women. Ninety percent of those who get jobs through the ET Program are women. In Massachusetts this has had an enormous impact for those individuals and for their children.

This program impacting has a positive impact on families. We hear a great deal in this body about support for families, and how we ought to be doing more for them. This program does something for families in our country. It is a lifeline, a hand up rather than a handout for millions of Americans.

No principle is more fundamental to the long-term success and continued vitality of this Nation than the idea that there must be opportunity for all citizens to lead productive and rewarding lives. Yet, every day, millions of citizens wake to a morning that brings no hope or opportunity because there are no jobs for them. We should never underestimate the destructive effect of this dead end psychology on those who face the implicit judgment that they are useless and of no account. The dark shadow of that judgment has fallen on millions more Americans in the last few years; they join mil-

lions of other Americans for whom economic recovery has always been other people's news.

I sincerely hope that the managers and conferees will do everything within their power to save this successful and cost effective program from the chopping block. I thank my colleagues for their pledges of support today, and for the votes of confidence they have given this program in the past.

Mr. MITCHELL. Mr. President, I again rise in support of the Work Incentive Program (WIN).

As I, and many others have stated in the past, the WIN Program is the only source of Federal money specifically dedicated to helping recipients of Aid to Families with Dependent Children [AFDC] achieve self-sufficiency.

The WIN Program is cost effective. The Win Program emphasizes placing the maximum number of participants in self-supporting employment to reduce the Nation's welfare assistance costs. The program benefits the welfare recipients and the Federal Government. The program saves State and Federal Governments millions of dollars in welfare payments.

In my home State of Maine, 4,500 welfare recipients have found jobs since the start of the WIN demonstration in 1982, for welfare savings of $11.5 million. In Maine, the program emphasizes education and training for recipients to enable them to be placed in long term employment. It is not a "make work" program.

The elimination of the WIN program is a shortsighted savings. In a 1985 GAO report, the General Accounting Office concluded that State AFDC employment and training programs financed by WIN were exhibiting encouraging progress in reducing welfare dependency.

We cannot afford to eliminate this important program. The cost of such action will be high—both in economic costs to the Federal Government and in human terms in the loss of self-sufficiency by many now trapped in poverty.

During Senate debate on the budget reconciliation bill in April, a majority of the Senate voted to continue to support this modest, but important program. I urge the House and Senate conferees on this bill to support continued funding for the WIN Program in the fiscal year 1987 budget.

Mr. KERRY. Mr. President, my colleagues have just done a very good job of laying out the reasons for keeping the WIN Program alive and healthy. It has been mentioned before, but I believe it bears noting again—the Senate, some 4 months ago affirmed its overwhelming bipartisan support by voting 55 to 40 to keep WIN in the budget.

Those of us who are familiar with the program's success greatly appreciate both the chairman of the subcommittee and the chairman of the full committee's continuing support for WIN as well as their commitment to try and continue its unique and important work for the next fiscal year.

My own experience with WIN stems from my work as Lieutenant Governor with Massachusetts' tremendously successful "ET" Program which is partially funded by Federal WIN dollars. Since 1983, ET has placed some 30,000 welfare recipients into unsubsidized mostly private sector jobs provided by 8,000 employers throughout Massachusetts. In 1986 alone the ET Program will save Federal and State taxpayers over $100 million in reduced welfare payments and increased tax revenues. At a time when we are looking to find every available means to reduce deficits, we need to be careful to avoid cutting those programs that are already saving Federal and State tax dollars.

The average full-time ET graduate earns wages 2½ times greater than what they received in basic welfare payments, and they keep these well-paying jobs. Over 86 percent of those who leave welfare due to ET are still off the rolls 1 year later. These statistics are impressive, but the human side of ET is perhaps more telling.

ET also measures its success by the accomplishments of graduates like Dawn Lawson who is a word processor at a fortune 500 company in Worchester, MA. She not only has moved off of welfare, but he has also moved out of public housing and into her own apartment. She now contemplates something that would have been inconceivable not long ago—the chance that she might one day go into business for herself.

The success Massachusetts has been able to achieve through the WIN Program is happening all across the country—placing people in real jobs at real wages. In fiscal year 1985 alone over 330,000 welfare recipients found jobs thanks to WIN, achieving reductions in welfare payments at least twice the Federal investment in the WIN Program.

I once again commend my colleagues for their concern in this issue and I am convinced that they will bring a strong desire to work this problem out in conference with their House counterparts.

I also ask unanimous consent to include at this time a letter signed by 24 of the Nation's Governors stating their strong support for the WIN Program.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL GOVERNOR'S ASSOCIATION,
August 26, 1986.

To Members of the U.S. Senate:

The National Governors' Association is deeply concerned by the Senate Appropriations Committee voice vote to eliminate funding for the Work Incentive Program (WIN), the only program specifically designed to provide employment and training opportunities for welfare recipients. This action is especially disturbing given the bipartisan Senate vote last April in support of the WIN program during deliberations on the fiscal year 1987 budget resolution.

The WIN program and the WIN Demonstration authority, created in 1981, have enabled Governors to design employment and training programs which have proven effective in placing welfare recipients into private sector jobs and giving them an opportunity to achieve economic self-sufficiency.

Moreover, Governors have demonstrated that the WIN program, rather than contributing to the federal deficit, can result in substantial savings to both federal and state governments. Ironically, the federal government has been the primary beneficiary of savings generated by successful state programs since, as you know, it contributes over 50 percent of the costs of the Aid to Families with Dependent Children (AFDC) and the Medicaid programs, and 100 percent of Food Stamp benefits. The Department of Labor's own data indicate that the savings in AFDC dollars alone more than pay for the costs of the WIN and WIN Demo programs.

In addition, the success of WIN and WIN Demonstration programs has inspired Members from both Houses and both sides of the aisle to introduce legislation modeled on successful state initiatives. Eliminating WIN funding would not only hinder the development and continuation of these initiatives, it would remove the catalyst for comprehensive employment and training legislation that will certainly be an integral part of the upcoming welfare reform debate. The extent of recent Congressional activity on work and welfare legislation indicates a strong commitment to a continued federal role in financing employment and training programs for welfare recipients.

Therefore, we strongly urge you to overturn what we feel is the misguided and short-sighted decision of the Senate Appropriations Committee to eliminate federal funding for the WIN program. As state experience illustrates, WIN represents a cost-effective investment in people, helping welfare recipients to move off of the welfare rolls while at the same time resulting in substantial savings to federal and state governments.

Sincerely,

Gov. Bill Clinton, Chairman, NGA; Gov. Michael S. Dukakis, Chairman, Committee on Economic Development; Gov. John Carlin, State of Kansas; Gov. William A. O'Neill, State of Connecticut; Gov. Martha Layne Collins, Commonwealth of Kentucky; Gov. Madeleine M. Kunin, State of Vermont; Gov. Victor G. Atiyeh, State of Oregon; Gov. Richard F. Celeste, State of Ohio; Gov. Michael N. Castle, Chairman, Committee on Human Resources; Gov. Thomas H. Kean, State of New Jersey; Gov. Richard W. Riley, State of South Carolina; Gov. Rudy Perpich, State of Minnesota; Gov. Harry R. Hughes, State of Maryland; Gov. James J. Blanchard, State of Michigan; Gov. Mario M. Cuomo, State of New York; Gov. James R. Thompson, State of Illinois; Gov. Bill Allain, State of Mississippi; Gov. Norman H. Bangerter, State of Utah; Gov. Anthony S. Earl, State of Wis-

consin; Gov. Mark White, State of Texas; Gov. Ted Schwinden, State of Montana; Gov. Joseph E. Brennan, State of Maine; Gov. Terry E. Branstad, State of Iowa; Gov. George Nigh, State of Oklahoma.

THE WORK INCENTIVE (WIN) PROGRAM

Mr. COHEN. Mr. President, I am pleased that, during consideration of appropriations for the coming fiscal year, Senators have seen fit to note the importance of the Work Incentive [WIN] Program and to express their hopes that the Congress will provide appropriations for the program to continue. I rise to join in their expression of support for the continuation of the WIN Program. Given our supposed commitment to the goal of breaking the cycle of welfare dependency by encouraging self-sufficiency, continued Federal support for this program is not just appropriate—it is essential.

Earlier this year, I joined the senior Senator from New York, my colleague from Maine, and others as a cosponsor of an amendment to the budget resolution for the coming fiscal year which provided for $211 million to maintain the WIN Program at current levels. The Senate approved that amendment by a vote of 55 to 40. I am confident that a clear majority in this body still support the continuation of the WIN Program.

I am disappointed that the measure now before the Senate provides no funding for the WIN Program. Fortunately, the upcoming conference between the Senate and the House of Representatives on appropriations for next fiscal year will provide an opportunity to rectify this omission.

WIN is the only Federal program targeting employment training and placement assistance directly to Aid to Families With Dependent Children [AFDC] recipients. The program offers tremendous flexibility to States to design their own programs of training, work and employment with an emphasis on direct placement of participants in private employment and labor market exposure. While I cannot necessarily speak for the success of the WIN Program in other States, I can attest to its accomplishments in Maine.

Currently, 6 percent of Maine's families—90 percent of which are headed by single mothers—are on AFDC. The WIN demonstration project in Maine, known as the Welfare Employment, Education and Training Program [WEET] provides job counseling, training, placement, child care, and transportation to program participants. Participation is mandatory for AFDC recipients living near any of Maine's 14 program sites—about half the recipients in the State. Mothers with children under 6 are exempt as are recipients who are disabled or caring for someone who is disabled.

Approximately 1,200 AFDC recipients enter employment through the WEET Program each year. Since its inception in 1982, 4,500 AFDC recipients have gotten jobs through the program. If these same 4,500 WEET participants had not gone to work—if they had stayed on welfare—they would have cost the taxpayers $11.5 million in welfare payments. The cost of the WEET Program over the same time was $6 million. Therefore, the taxpayer has saved almost $2 for every $1 spent. Clearly, at least in Maine, the charges that the WIN Program is not cost-effective, are simply not true. In recognition of the program's success, the Maine State Legislature has increased its share of funding for the program from the federally required 10 to 32 percent.

Cost-benefit ratios are, of course, extremely important in evaluating the success or failure of any program. While not so easily measured, the gains in human potential for those individuals for whom the cycle of welfare dependency has been broken, must also be taken into account in evaluating the effectiveness of the program. Maine's WEET Program has not just provided 4,500 jobs, it has changed the lives of 4,500 welfare recipients and their families.

Helping people on welfare to find and to keep useful jobs is surely the best way to cut both welfare costs and poverty in the long run. Therefore, the Federal Government should not abandon a program that gives welfare recipients the opportunity to realize their full potential and to lead to more independent and meaningful lives. Accordingly, I hope that, during the upcoming appropriations conference, the Senate will agree with the House of Representatives on the continuation of the WIN Program.

Mr. WEICKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask that further proceedings under the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2792

(Purpose: To extend the eligibility for trade adjustment assistance to certain workers whose employment was terminated a short time before the time limit).

Mr. DOLE. I send an amendment to the desk and ask for its immediate consideration.

I ask unanimous consent the committee amendments be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes an amendment numbered 2792.

Mr. DOLE. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:

SEC. . Notwithstanding section 223(b) of the Trade Act of 1974 (19 U.S.C. 2273(b)), the certification made under section 223(a) of such Act on August 29, 1986, in response to a petition for trade adjustment assistance filed on April 23, 1986, by a group of workers of a firm that produces cardiopulmonary surgical devices and plastic administration sets shall apply to any worker of such firm whose last total or partial separation from such firm occurred on or after March 15, 1985.

Mr. DOLE. Mr. President, I am offering an amendment to extend Trade Adjustment Assistance [TAA] benefits to a large group of workers in my State who only just missed the time limit on benefits due to a late application.

In March 1985, 100 workers were laid off by a manufacturing plant in Kansas that had announced its decision to completely close down the facility over a period of some months. This plant is located in a small town that lies in the midst of a struggling agriculture and oil economy. There were few jobs to go around for these workers and many were forced to accept unemployment checks as a replacement income for themselves and their families.

About 1 month after those 100 workers lost their jobs, 75 more were laid off on April 19. The layoffs continued in a phasedown of plant operations until the last person walked out the door in December 1985, leaving more than 600 jobless. The State responded with a Dislocated Workers Program in which a majority of former employees participated, seeking new skills and a chance at other employment.

Given the depressed economy that prevailed in this farming community, the Dislocated Workers Program came and went and, still, many were without hope of future employment. A local group of former employees became active in seeking out other means of assistance and seized upon the Trade Adjustment Assistance Program as one more hope for hanging on. They filed a petition with the Department of Labor on April 23, 1986. After 6 months of anxious waiting, that application was approved only days ago.

Unfortunately, those first two groups of employees have been excluded from receiving these benefits—and many of them still need help. The law restricts the reach of TAA to exclude those employees whose employment was terminated more than 1 year before the filing of a petition. The petition was filed on April 23, 1986, so

those employees who were laid off only 39 days before—and some who were laid off only 4 days before—the April 23, 1985 cutoff date are out of luck.

I certainly support the concept of limiting TAA eligibility. We cannot offer assistance to employees going back indefinitely. But, in this case, I think it is important that an exception be made. The cause of the plant closing—import competition from producers in Singapore—resulted in a series of layoffs, beginning March 15, 1985. The cutoff date we are dealing with is April 23.

We are not reaching back very far to encompass all affected employees and I would not advocate doing that if it were some distant date that unduly extended the benefit period. We are talking about 39 days to help a good number of people.

This body should be able to make exceptions in such cases as these. We have the authority and, I think, the responsibility, to see that the programs we have established are responsive and fair.

One note of irony that I might mention in this case: One woman who was instrumental from the beginning in seeing this successful petition for TAA to its fruition happened to be in one of these first groups of employees to be laid off. Therefore, she is not eligible.

I hope the Senate can support this amendment.

I understand there is no objection to this amendment.

Mr. METZENBAUM. Will the Senator yield for a question?

Mr. DOLE. Yes.

Mr. METZENBAUM. I have generally supported trade adjustment assistance being extended wherever possible. I am concerned about the cost of this amendment. Can the Senator tell me how the costs will be covered?

Mr. DOLE. As I understand, there is no additional cost.

Mr. METZENBAUM. If there is not any cost, where will the money come from? You pay out money to unemployed workers.

Mr. DOLE. It comes from the Kansas allocation, I am advised.

Mr. METZENBAUM. For what group of employees is this trade adjustment assistance being extended, what classification?

Mr. DOLE. Travenol Laboratories had a plant in a small town called Hays, KS, which employed about 600 or 700 people. They closed it with very little notice, I might add, and it resulted in 600 or 700 people losing their jobs. In March 1985, 100 workers were laid off by this plant after announcing they were going to close down over a period of time and then they started laying off 100 and 75 and they were all finally gone, but as I understand—I can double-check—there is no additional cost.

What happened, they filed a petition with the Department of Labor on April 23, 1986. After 6 months of anxiously waiting, the application was approved only days ago. Unfortunately, the first two groups that were laid off, the 100 and then the 75, were excluded from receiving benefits and many of them still need help.

The law restricts the reach of trade adjustment assistance to exclude those employees whose employment was terminated more than 1 year before the filing of the petition. The petition was filed on April 23, 1986, so those employees laid off only 39 days before—and some were laid off only 4 days before the April 23, 1985 cutoff date were just out of luck.

Mr. METZENBAUM. I would say to my colleague from Kansas I think it is fraught with some danger to start making trade adjustment assistance retroactive. I do not intend to stand in the way of his going forward with the amendment, but I think that once we start down that road I am not sure where we will finish. I hope that the matter is not precedent setting.

Mr. WEICKER. Mr. President, the amendment has been cleared both with the majority and minority sides and I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2792) was agreed to.

Mr. WEICKER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay the motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. I thank the Senator from Ohio.

□ 1750

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GRAMM). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1830

Mr. WEICKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAMM). Without objection, it is so ordered.

Mr. WEICKER. Mr. President, on behalf of the committee, I withdraw the committee amendment on page 41, lines 6 and 7.

The PRESIDING OFFICER. The Senator has the right to withdraw the amendment on behalf of the committee on page 41.

Mr. WEICKER. Mr. President, I ask unanimous consent that the committee amendments on page 59, lines 11 through 25; page 60, lines 1 through 25, and page 61, lines 1 through 3 be agreed to.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. Mr. President, I commend the chairman and the ranking member of the Senate Appropriations Subcommittee on Labor, Health and Human Services, Education, and Related Agencies, for their work in committee and on the floor.

Mr. President, I remain concerned over the backlog of black lung claims. The delays experienced by coal miners in getting a decision on their claims for black lung benefits are intolerable. This is not a new problem, it is a problem that I have addressed time and again in meetings in my office with the Department of Labor, in the Appropriations Committee, and on the Senate floor.

In fiscal year 1985, I added $1.6 million to expand the Benefits Review Board from three to nine members and to provide support staffing in order to reduce the backlog at the appeals level of the process. In 1984, a three-member board disposed of 1,862 black lung appeals and had a backlog of 5,234 black lung claims. In fiscal year 1986, the expanded nine-member board is expected to dispose of 2,920 black lung cases and carry over 5,413 cases. In fiscal year 1987, the Board is expected to increase the number of black lung dispositions at the appeals level to 3,360 and carry over 4,693 cases. This bill provides $7,412,000 and 168 full-time equivalents [FTE's] for the Benefits Review Board in fiscal year 1987.

In fiscal year 1986, I added $3.5 million to provide 16 additional administrative law judges and support staffing to the Office of Administrative Law Judges to reduce the backlog at the hearing level. At the end of fiscal year 1984, 5,790 black lung claims had been disposed of at the hearing level, with a backlog of 20,442 claims. By the end of fiscal year 1986, 8,050 black lung decisions at the hearing level will be issued with a backlog of 18,745 cases pending. This bill now provides $19,246,000—my amendment adding $1.5 million having been adopted earlier today—for the Office of Administrative Law Judges. Given these resources, the Office of Administrative Law Judges should be able to increase productivity to reach well over 10,500 black lung dispositions in fiscal year 1987.

The Black Lung Program is of tremendous importance to coal mining States like West Virginia. Some progress is being made in reducing the backlogs at both the administrative law judge and Benefits Review Board levels. However, more needs to be done. The backlogs will not be reduced as long as there remains a particular "mind set" at the Department that

says this cannot be done. I am not interested in excuses. Those suffering from black lung are not interested in excuses. Excuses do not put food on the table. What I am interested in is seeing that substantial progress is made in reducing the backlogs.

I want to thank the distinguished chairman Mr. WEICKER, and the ranking member, Mr. PROXMIRE, of the Senate Labor, Health and Human Services, Education, and Related Agencies Appropriation Subcommittee. As always, they have exhibited understanding and compassion for the plight of those afflicted with this disease.

IN SUPPORT OF THE LISTER HILL CENTER FOR HEALTH POLICY

Mr. HEFLIN. Mr. President, I rise in support of the provision in the Department of Labor, Health and Human Services, and Education, and Related Agencies appropriations bill pertaining to the Lister Hill Center for Health Policy.

The amount recommended for the Office of Assistant Secretary for Health includes $5 million to provide for the permanent operations of the Lister Hill Center for Health Policy to be located at the University of Alabama in Birmingham. The funds will be used to establish an endowment fund for the center. No part of the $5 million provided will be used for construction or other capital purposes; instead, the funds will be handled by professional investment managers who will invest these funds with a view toward growth of the endowment over the long term. In this way, the income from the fund will grow with inflation so that a consistent level of operations may be maintained. Investments will be in low-risk securities consistent with the protection of the principal amount.

The establishment of the Lister Hill Center for Health Policy honors in his own State the memory of a great senator whose legislative achievements in public health, biomedical research and hospital care earned him the title of the Nation's "statesman for health." The center would be dedicated, as was Senator Hill, to improving the quality of our health care system. The center would function as a national center for the advancement of disease prevention and health promotion, and would work specifically to refocus national health policy upon such goals as the development of a proactive health care system, the integration of treatment and prevention strategies, and the reduction of societally imposed threats to health. The Lister Hill Center would support research and scholarship on prevention topics, and its activities would include the establishment of a program of Lister Hill health care fellows, who would receive support to serve as congressional staff knowledgeable in the area of prevention.

Mr. President, certainly the establishment of the Lister Hill Center for Health Policy is an appropriate method to honor one of America's greatest statesmen. Here in the Senate, Lister Hill stood tall—a giant among giants. His record of accomplishments is awesome. They are massive in number and impressive in scope and substance.

Motivated by an inherent sense of noblesse oblige, Senator Hill recognized and embraced the responsibilities of public service from the first day he went to Congress in 1923 at age 27, until his retirement in 1969. For more than 4½ decades, Lister Hill's single goal was a better life for all people, and throughout his entire career he worked so that the blessings of America might be shared by all the people.

Senator Hill's particular charge was his work in the fields of health and medical research. He devoted his entire service in the Congress to helping fashion the tools and lay the foundations for the medical research, hospitals, and training and educational facilities which have led to the great strides that science, medicine, and public health have taken.

Of the many outstanding health programs which bear Lister Hill's name, perhaps the one with the most importance is the Hospital and Health Center Construction Act, popularly known as the Hill-Burton Act. More than 10,000 general hospitals, tuberculosis sanitariums, crippled children's clinics, diagnostic and training centers, and other medical facilities have been built throughout our Nation under the program.

The Hill-Burton Act is, of course, only one of the many programs that Senator Hill initiated or gave powerful impetus to in the fields of health and medicine. It would be difficult, if not impossible, to find anyone in our history who has done so much for the health of his fellowman as Lister Hill. Millions of Americans live better and longer because of Lister Hill, because of his total commitment to their well-being.

Upon America's horizon of greatness, there is no brighter luminary than Lister Hill, the pure personification of a public servant. The betterment of his fellowman was his platform, his creed, and his record.

In the State of Alabama, the people have good cause to remember Senator Hill's accomplishments. Daily we may see how the medical center at the University of Alabama in Birmingham took shape and prospered because of Senator Hill's pervasive interest in the health and well-being of mankind. The UAB Medical Center is a tangible expression of the fruits of his work and, indeed, are representative of what it was possible to accomplish as a result of one man's interest in the humanistic problems of society.

Senator Hill's legislation was responsible for the construction of hospitals and other health related buildings, for aid to medical and dental schools, for organization of an international health research program, erection of centers for treatment of mental illness and mental retardation, training programs for nurses and paramedical personnel, regional centers for treatment of heart disease, cancer and stroke, as well as other important health measures.

Mr. President, let me mention again some of Senator Hill's handiwork through the Hill-Burton Act. This important legislation initiated the concept of local, State, and Federal cost sharing of hospital facilities transformed the character of health care of the United States. It began a spectacular renaissance of health facilities in Alabama and throughout the United States.

The legislation had an immeasurable impact upon the University of Alabama in Birmingham where the Lister Hill Center for Health Policy will be located. Not only were a number of our buildings at UAB constructed through Hill-Burton funds, but many of our health and education programs were initiated or aided by subsequent Hill-inspired legislation. These programs, along with our internationally respected research activities, have enabled UAB to recruit superbly qualified faculty members.

The establishment of the National Institutes of Health began a long and successful sponsorship of legislation that supported investigations not only in the NIH laboratories but in medical centers throughout the land. It is impossible to estimate the number of lives that have been saved, prolonged, and made more comfortable because of the diagnostic and therapeutic technology developed with this support. As a result of Senator Hill's efforts, on behalf of NIH and its programs, millions of Americans—young and old, wealthy and impoverished—have benefited.

It is altogether fitting and proper that the Congress adopt legislation to endow the Lister Hill Center for Health Policy as a tribute to this great American. Among the extensive library holdings at UAB are much of Lister Hill's memorabilia and an original sculpture and painting of him. In view of his consuming interest in the transfer of biomedical information as well as all matters relating to health, this tribute is particulary fitting; a dynamic monument to be situated in the midst of an important medical center, in the Senator's own home State.

I urge the entire Congress to join me in adopting this legislation which will

pay tribute to this unique individual of special quality.

Mrs. HAWKINS. Mr. President, I want to take this opportunity to praise the efforts of the Senators and staffs that have labored so long on this bill. I compliment the Senators on the Subcommittee on Labor, HHS, Education Appropriations especially the distinguished chairman of that subcommittee, Senator WEICKER, for their hard work and diligence in getting this legislation to the Senate floor and enhancing the chances of having a separate appropriations bill for these agencies instead of being forced to provide the funding for these programs through a continuing resolution.

There are many important provisions in this legislation. Senator WEICKER and I share a concern over the adverse reactions associated with the pertussis childhood vaccine. We both feel that a compensation system for those injured children is needed to address the liability issues that have driven up the costs of vaccines, but we are also in agreement that Congress should concentrate its efforts on improving the Immunization Program while we try to resolve the compensation issue. I am very pleased that the committee bill has increased the funding for State grants for immunization to cover the rapidly escalating costs of vaccines. In addition, the Senate bill gives the National Institute of Allergy and Infectious Diseases an increase in its intramural research budget and directed that a portion of those funds be used to intensify the research efforts in development of a highly purified pertussis vaccine using recombinant DNA technology.

As chairman of the Senate Subcommittee on Children, Family, Drugs and Alcoholism, I have jurisdiction over several programs which need to be reauthorized this year. Head Start, Follow Through, the Low-Income Home Energy Assistance Program, the community service block grant and the Dependent Care Program are contained in H.R. 4422 whose conference is completed and should be considered by Congress next week. The Domestic Service Volunteer Act is also in a House-Senate conference and I am hopeful that we will complete action on that measure before the House-Senate conference on this appropriations bill is completed. I am grateful to Senator WEICKER and the committee for having faith in the authorizing committee that we will complete action on these reauthorization bills before adjournment.

I am also pleased with the appropriation levels for drug and alcohol abuse research, training and direct operations.

Mr. COHEN. Mr. President, I am pleased that the appropriations bill for the Department of Labor that we are considering today includes increased funding for the Pension and Welfare Benefit Administration. The bill provides additional funds to be used for new positions in ERISA field activities and for employee training. It would also provide $1.1 million for the development of an automated ERISA data base system.

The Pension and Welfare Benefit Administration is responsible for carrying out the Department of Labor's duties under the Employee Retirement Income Security Act of 1974, better known as ERISA. Among the PWBA's tasks are the implementation of the reporting and disclosure requirements placed on pension and welfare benefit plans under ERISA and assuring compliance with the fiduciary duty and prohibited transaction provisions of the law.

Last year, the Subcommittee on Oversight of Government Management, which I chair, investigated and held hearings on how well the Department of Labor has performed its responsibilities under ERISA. The subcommittee's investigation found that the PWBA, for much of its history, has been overwhelmed by its responsibilities under ERISA, and has been plagued by inadequate resources, conflicting priorities, and rapid turnover in leadership.

The subcommittee concluded that the inadequate resources and low priority assigned to the ERISA Program have hampered the ability of the Department of Labor to enforce this complex law. With less than 1 percent of pension plans being audited each year by the Department, for example, the chances of detecting violations of ERISA are minuscule at best. There has been growing concern that the lack of meaningful oversight of pension plans and their fiduciaries may jeopardize the important pension protections established by ERISA for millions of workers and retirees.

Over the past year, the Department of Labor has taken several important steps to address the problems of ERISA enforcement. It has, for example, elevated the Administrator of the PWBA to the rank of Assistant Secretary. The Pension Office has made substantial progress toward improving its operations, especially in the areas of training, information handling, and auditing of pension plans.

The moneys included in this appropriations bill will allow the pension office to continue its efforts to improve ERISA enforcement and oversight. Particularly important are the funds allocated for development of an automated ERISA data base. This project will go far in improving the accuracy, timeliness and completeness of information provided by private pension plans to the Department. Improvements in the quality and processing of this crucial data will, in turn, aid the pension office's overall enforcement capabilities.

I am pleased that the Department of Labor and the Office of Management and Budget are working together to develop a coordinated ERISA data base and hope that the OMB will continue to support this project as it moves toward implementation over the next 2 years.

Mr. President, I recognize that fiscal restraints necessarily require us to limit the resources of many worthwhile Government programs. The Congress should, however, endorse expenditures, such as those for the PWBA contained in this bill, that will help the Government perform its functions more efficiently. The millions of workers and retirees dependent on the protections established by ERISA deserve full and efficient enforcement of that law, and I urge my colleagues to support efforts to attain that goal.

DEPENDENT CARE BLOCK GRANT PROGRAM

Mr. RIEGLE. Mr. President, I want to briefly discuss with the chairman of the subcommittee, and manager of this bill, the funding level for the Dependent Care Block Grant Program, which provides critical funding for setting up before and after school child care programs. As the chairman knows, the Dependent Care, or Latchkey Program, received a $5 million appropriation for fiscal year 1986, which was reduced by approximately $300,000 as a result of the Gramm-Rudman sequester which went into effect on March 1, 1986. The current bill, before us today, restores the full $5 million for this important new program which is just now getting under way.

As the Senator from Connecticut knows, $5 million was appropriated after the fiscal year had started, and was intended to provide partial year funding to get the program off the ground. The authorizing legislation, for which conference action has been completed, but which is not yet ratified by the House and Senate, provides for $20 million for the Dependent Care Program. It would be my hope that the chairman of the subcommittee, in his negotiations with the House in conference on this appropriations bill, will do his utmost to provide as much funding up to the full authorization level of $20 million as possible. Because the authorizing legislation was not adopted, the House differed action on this item.

In addition to providing the opportunity for schools and other community-based organizations to set up before and after school child care programs, these funds are also available to provide information and referral services for all dependent individuals including children, senior citizens and disabled persons.

Mr. WEICKER. The Senator from Michigan has my assurance that I will work with the House conferees to provide as much funding as possible, under the authorizing ceiling and within the constraints of the budget. As the Senator knows, this is a program I support. I appreciate his interest in this matter.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS FUNDING INCLUDED IN H.R. 5233

Mr. GORTON. Mr. President, I am deeply concerned over the level of funding for unemployment service operations in the Labor, HHS, Education and Related Agencies Appropriations bill. As approved by the committee, unemployment trust fund expenditures for the unemployment insurance service would be limited to approximately $1.6 billion in fiscal year 1987. This is over $144 million less than the administration's request. While the committee's recommendation will provide for approximately 39,200 State staff-years of work, this is 2,980 staff-years below 1986 levels and approximately 4,500 less than the administration request and House allowance.

In my home State of Washington, significant reductions in funding for State unemployment insurance services have led to dramatic cutbacks in staff and services. Last year, Washington lost $6 million in Federal support for this program. The Washington Employment Security Department recently announced that due in part to these reductions, it was closing an unemployment office in downtown Seattle. The loss of this office will complicate the job search of unemployed citizens in the Seattle area. Without the additional funding requested by the administration, Washington's Employment Security Department may have to close up to 3 other local unemployment offices around the State and could lose between 130 and 240 staff positions.

Mr. President, I would ask the chairman of the Appropriations Subcommittee on Labor, HHS, Education and Related Agencies, Senator WEICKER, whether the committee considered the effects the recommended level of funding would have on unemployment services.

Mr. WEICKER. Mr. President, I appreciate the comments of the senior Senator from Washington. I can assure him that the committee has, and will continue, to examine carefully the way funding for unemployment services affects Americans looking for work. The committee has taken action to limit the impact that the recommended level of funding will have on State programs.

We have acted to restore part of the funding in this program by accepting the Metzenbaum amendment. This amendment will transfer an additional $33 million into the claims processing activity.

I can assure the Senator from Washington that I will carefully consider the higher level of funding approved by the House of Representatives when H.R. 5233 goes to conference. Obviously, the funding level for this program is an issue we will have to resolve in conference, and I appreciate my colleague's bringing his concerns to my attention.

Mr. GORTON. I thank my colleague from Connecticut, and I appreciate his attention to this important issue.

Mr. METZENBAUM. Mr. President, the Appropriations Committee added $3.7 million to the administration's budget request for the Department of Labor, and directed that the money be used to hire 90 additional full-time mine inspectors within the Mine Safety and Health Administration [MSHA]. This increase represents a responsible effort to address a serious problem that threatens the health and safety of our Nation's miners.

Since the Reagan administration took office in 1981, MSHA has cut the number of field inspectors by 25 percent. As a result of this drastic reduction, MSHA has violated applicable provisions of Federal law by failing to complete thousands of mandatory mine inspections every year since 1983. In addition, many of our Nation's smaller coal mines are uninspected or underinspected disasters waiting to happen.

I know that the Senator has repeatedly expressed concern about the mine inspector issue. During the fiscal year 1986 appropriations process, you agreed to my floor amendment adding money for the hiring of 90 new inspectors. When MSHA defied the express intent of Congress by using that additional money to absorb Gramm-Rudman-Hollings cuts, I indicated a desire to address the issue as part of the supplemental appropriations bill. At your request, I did not act at that time, and we agreed to work together to see that the problem was resolved in the fiscal year 1987 appropriation.

The committee report is explicit about the need to use the additional $3.7 million to hire mine inspectors. The report directs that most of the hiring be done on or before January 31, 1987, and indicates the committee's expectation that the new inspectors will be assigned to mines or classes of mines that have a higher probability of fatality or serious injury.

In recent weeks, the Secretary of Labor has expressed his belief that the 90 new mine inspectors can be hired without expending the additional $3.7 million. In light of our past experience in this area, I was skeptical as to how this could be accomplished. At my request, the Secretary has spelled out this proposal in detail. He plans to hire 90 inspectors, in addition to the administration's projected levels for fiscal year 1987, while meeting the related concerns set forth in the committee report.

The Secretary's proposal is contained in a letter dated September 9, 1986, which I submit for the RECORD. In summary, the Secretary intends to reinstate former inspectors who voluntarily left the agency, and to pursue an aggressive and expedited new hire plan. This new hire plan will take advantage of existing vacancies in other areas of MSHA. Secretary Brock has stated that he anticipates the majority of the 90 inspectors will be on board by January 31, 1987—as the committee directed they should be—and that this will be a top priority for MSHA. The Secretary further assures me that if there are any mandated budget cuts during fiscal year 1987, they will not have a disproportionate effect on the mine inspector effort. Finally, the Secretary makes clear that the inspectors will be assigned to those mines or classes of mines that have a higher probability of fatality or serious injury.

I believe this proposal by the Secretary meets the goals set forth by the committee with respect to mine inspectors. I share those goals; my intention is to restore the number of mine inspectors to a reasonable level. If we can achieve that end without the expenditure of additional Federal funds, I for one would be satisfied.

Mr. WEICKER. I thank the Senator. I appreciate the Senator's leadership on this issue over the past year, and willingness at this time to seek a resolution that saves money as well as preserving the health and safety of miners. The Secretary's proposed solution in my view may be an appropriate way for us to resolve this issue in conference with the House of Representatives. However, for the time being, I believe most of the funding for new inspectors should be kept in the bill, and the report language approved by the Appropriations Committee should be retained.

Mr. METZENBAUM. Once again, I appreciate the tremendous assistance you have provided in this area. I am more than willing to continue our efforts to satisfactorily resolve this issue. I concur in the response you have set forth, and I share your belief that the Secretary's letter may well form the appropriate basis for a resolution in conference.

The letter follows:

U.S. DEPARTMENT OF LABOR,
SECRETARY OF LABOR,
Washington, DC, September 9, 1986.

Hon. HOWARD METZENBAUM,
U.S. Senate
Washington, DC.

DEAR HOWARD: As you know, the Senate Appropriations Committee has included in its report an increase of $3.7 million to provide for 90 additional mine inspectors over

the President's request. I believe that the Committee's goal of increasing the Mine Safety and Health Administration's (MSHA's) enforcement staff can be accomplished within the President's fiscal year 1987 budget request.

The fiscal year 1987 budget request includes an increase of 81 full time equivalent positions over the fiscal year 1986 sequestration level. With MSHA currently under the proposed ceiling by 173, there will be 84 vacant inspector positions and 89 vacant other positions for fiscal year 1987 within the President's request. These positions allow MSHA the flexibility to immediately begin to increase the inspector force to meet the Committee's goal, while allowing hiring as needed to fill key openings in other areas. I propose to accomplish the Committee's goal of an increased inspector force as follows.

First, we intend to reinstate former mine inspectors who voluntarily left their positions. Our preliminary analysis indicates that there could be as many as 55 former coal and 10 former metal-non-metal inspectors interested in returning to the MSHA inspectorate ranks. These applicants must pass the required physical and, of course, location requirements must be considered. However, the inspectors reinstated will be fully productive after only minimal retraining.

Second, MSHA is beginning an aggressive and expedited new hire plan. The register for applicants will be open during the month of September, with a significant number of applicants expected. The majority of new inspectors will be hired through this process. These newly hired inspectors will become fully productive after about two years of training and apprenticeship.

Third, a reorganization plan for the Metal and Non-Metal organization has been initiated which could create between 23 and 48 new inspector positions in a short time period. These positions will be created by two methods. In most cases, certain administrative positions will be reclassified as inspector positions as they become vacant. In some limited cases, existing personnel who were formerly inspectors will be reassigned to inspector positions. A similar reorganization is planned for the Coal Mine Safety and Health organization. The reorganization is a longer-term process due to complex personnel issues involved. In order to minimize any impact on existing employees, the reorganizations will be accomplished largely through attrition, the rate of which is uncertain. Therefore it is difficult to predict exactly how many new inspector positions will be open under these plans in fiscal year 1987. MSHA expects to continue those functions such as dust measurement and roof control plan approval with no adverse impact attributable to the conversions and transfers mentioned herein.

The net result accomplished through the three methods outlined above will be to fill approximately 84 inspector positions to reach fiscal year 1987 planned levels plus 90 additional inspectors to achieve the goal of the Committee. As stated in the Committee's fiscal year 1987 appropriation report, the Department of Labor anticipates that these additional 90 inspectors will be assigned to those mines or classes of mines that have a higher probability of fatality or serious injury. I anticipate that about 130 of the new inspectors will be hired by January 31, 1987 and MSHA will make that target a top priority. Although I know you are aware of the possibility of mandated budget cuts for fiscal year 1987, such cuts will not have a disproportionate effect on mine inspector positions.

I know that you share my concern over the budget deficits faced by this country. For that reason, I am pleased that this proposal accomplishes the Committee's goal of increasing MSHA's inspector force, but does so without increased funding.

Thank you for your continuing interest in the safety and health of the nation's miners.

Very truly yours,

WILLIAM E. BROCK.

AIDS EDUCATION FOR HEALTH PROFESSIONALS

Mr. LAUTENBERG. The committee has provided $355.4 million for research and other activities relating to treatment and prevention of acquired immune deficiency syndrome [AIDS]. The rapid spread of this deadly disease can be truly called an epidemic. Much valuable work in the fight against AIDS will go forward with the funding provided in this bill.

One such activity is the education of health professionals. Because they are in the frontlines, dealing every day with AIDS patients and people who are concerned about the disease, it is essential that health workers have the best possible information.

This appropriation bill includes funds for the dissemination of information on AIDS to professional, technical and support personnel in the health field. The Centers for Disease Control generally takes the lead in information dissemination, with other agencies such as the Health Resources and Services Administration, the Alcohol, Drug Abuse, and Mental Health Administration [ADAMHA], and the National Institute of Allergies and Infectious Diseases [NIAID] taking a secondary role. I understand that CDC has performed its AIDS education function by disseminating information to State health agencies which are expected to take the responsibility for timely communication with health professionals.

I would like to ask the chairman if he thinks that the effort to educate health professionals should be strengthened.

Mr. WEICKER. I would like to thank the Senator from New Jersey for his interest in this question. Research on the causes, prevention, and treatment of AIDS is essential. But, we must not forget the importance of getting new and updated information to health workers as quickly as possible. I believe that a timely flow of current information on AIDS research and developments in the field is vital to the success of the effort against this disease and more should be done.

Mr. LAUTENBERG. One of the best ways to improve this effort would be to make use of the most up-to-date communications technology. I believe the chairman is familiar with the Model Information Dissemination Program begun by the NIAID. I would like to know if the chairman would agree that this NIAID Program should be expanded in fiscal year 1987.

Mr. WEICKER. I agree that the NIAID effort should be continued. The funds provided in this bill are adequate for this purpose and the agency should proceed with an expanded program.

THE IMPACT AID PROGRAM

Mr. ABDNOR. Mr. President, there has been some confusion concerning the action taken by the full Senate Appropriations Committee with respect to fiscal year 1987 funding for the Impact Aid Program. The Subcommittee on Labor-HHS, Education and Related Agencies, chaired by the distinguished senior Senator from Connecticut, approved an increase in funds for both category "A" payments and construction assistance, agreeing to continue to fund category "B" payments at the fiscal year 1986 presequestration level. The subcommittee recommendation exceeded the House-passed total for impact aid by $15 million.

The chairman and ranking minority member of the subcommittee subsequently asked the full committee to approve a reduction in category "B" of $65 million, along with reductions in a couple of other programs, in order to meet the lower outlay numbers developed by the Budget Committee the evening prior to the full committee markup. Since impact aid is current-year funded, unlike most other education programs, the outlay savings are immediate.

This action does not signify in any way a lack of commitment to our Nation's federally impacted schools. Rather, it is my understanding that the chairman will work with the House conferees, as he has so diligently in the past, to bring about the best possible result.

Mr. WEICKER. The Senator from South Dakota is correct in his characterization of the reduction in funds for category "B" children. I expect the House conferees to make a strong argument for the higher figure for "B" payments just as I intend to insist upon the $20 million increase—over the fiscal year 1986 presequestration level—we have recommended in category "A" payments.

Mr. ABDNOR. I thank the able chairman for his clarification and commend him for the tremendous effort he has put forth each and every year he has chaired this subcommittee. It is no small task to come up with a bill that strikes the appropriate balance in all the vital programs under his jurisdiction; yet, the chairman demonstrates time and again his ability to do so.

IMPACT AID—PART B

Mr. GORTON. Mr. President, I join with my good friend from South

Dakota in calling for a careful look at the appropriation for impact aid part B. Impact aid is not a supplemental program that merely provides nice-to-have services. This program, instead, provides school systems with reimbursement for the loss of tax revenue associated with servicing federally connected children. In my home State of Washington, school districts have been able to provide the children of the men and women in the armed services with a quality education through the Impact Aid Program. Similarly, school districts educating Indian children have relied on Impact Aid reimbursement in providing quality services to these children.

I hope the conference committee closely examines the Impact Aid issue. I urge the committee to adopt the House position on the part B program, and I thank Senator WEICKER for his comments.

FINANCIAL AID VERIFICATION REGULATIONS

Mr. EVANS. I would like to raise an issue of concern that has been brought to my attention by a number of my constituents regarding the delays they have experienced this year in the processing and disbursement of student aid dollars to their children who are enrolled in postsecondary education. In an effort to determine the cause of these delays, I have discussed the matter with financial aid administrators and others in our State who are directly involved in the actual administration and delivery of these funds to students. I am told the delays are the result of new regulations adopted by the Education Department and imposed on postsecondary schools on March 14 of this year.

These regulations deal with required institutional verification of the accuracy of data submitted on the student aid application. While I recognize the importance of verifying the accuracy of information, it is clear that the timing and the complexity of the regulations have created difficulties for schools, students, and their parents. The regulations were issued on March 14 for the 1986 award year, but most institutions begin to process financial aid applications in January. Guidelines and training sessions were first available in mid-April, before many of the critical pieces had been worked out. Updates and modifications have continued to arrive throughout the summer. These new regulations have required institutions to retroactively collect a substantial amount of supporting documentation and reconfirm eligibility.

Mr. GORTON. Mr. President, I share the sentiments of my colleague from Washington. Small colleges throughout Washington State have told me of the terrible hardships associated with complying with these new verification requirements. These hardships have touched not only the institutions trying to comply with these new rules, but also the current and prospective students and their families who must provide verification data.

Those struggling to meet the requirements set down by the Department of Education have no quarrel over the verification of data items. The concern lies with the burdensome verification process chosen by the Department of Education, and the timing involved in promulgating the new rules. The regulation was published in March 1986, and was to become effective July 1, 1986. This is inadequate time to absorb the new rules, much less implement effective policies and procedures to begin the verification process.

Mr. EVANS. Mr. President, the institutions' greatest fear at this time is that they may be held responsible for unintended errors resulting from the confusion surrounding the new verification requirements. I note that the House labor appropriations bill includes report language directing the Department to delay implementation and enforcement of the March 14 regulations. The House asks that the March 14 regulations not be considered in effect during the 1986 award year, and that institutions not be held responsible for errors made in the verification process in 1986. I would ask the chairman of the Labor Appropriations Subcommittee whether the conference report might include language directing the Department to not hold institutions financially liable for verification errors during the 1986 award year, except, of course, where there was blatant disregard of the verification regulations?

Mr. WEICKER. Mr. President, while we have chosen not to adopt legislative language in our fiscal year 1987 appropriations bill to address this issue, believing that it should be addressed in the Higher Education Act conference, we are aware there is concern over the confusion surrounding the Department's verification regulations.

We expect that the Department will continue to evaluate the verification requirements, and will indicate how they intend to treat unintentional errors by institutions. When we go to conference on this appropriations bill, we will consider the need to develop conference report language that ensures that institutions are not held liable for unintended errors in the verification process during 1986.

Mr. EVANS. I thank my colleague from Connecticut and appreciate his concern in this matter.

Mr. METZENBAUM. Mr. President, I am aware of the strong support which the distinguished chairman of the Appropriations Subcommittee, Senator WEICKER, has given to the Maternal and Child Health Program. For this reason, I would ask my friend from Connecticut about the prospects for increasing this program's appropriation by $75 million—the amount necessary to bring it to the level agreed in the budget resolution.

When the Senate considered the budget resolution, I proposed a $200 million child health initiative, including the increase for Maternal and Child Health Block Grant Program. The initiative was included in the budget, and I am eager to see that these funds are appropriated.

I am aware that the current authorization for this program is $478 million—$75 million below the budget resolution level. However, the Senate Finance Committee today increased that authorization to $553 million. The House has made it clear that it also supports an increased authorization level.

I had intended to offer an amendment to this bill, appropriating the $75 million for maternal and child health. However, I have been informed by the chairman that the continuing resolution may provide a more appropriate vehicle for this action. I certainly value the Senator's advice, particularly given his long history of support for Federal efforts to provide health care for children and mothers in need.

Mr. President, it is a scandal that today there are over 13 million American children living below the poverty line; that one-third of this Nation's children lack adequate health insurance; that over half of all black preschool children are not immunized against childhood diseases; that 1 in 10 poor children under the age of 2 do not see a physician even once during an entire year.

Ours is a nation where technological genius abounds, yet ours is also a nation where infant mortality rates for black infants in Cleveland, Chicago, and Detroit exceed those in Cuba, Jamaica, and Puerto Rico.

The gap between black and white infant mortality has increased to the worst point in over 40 years. Obviously, Mr. President, we have a problem providing for the basic health needs of millions of poor children. Yet we have a program with a proven track record of success in promoting the health of these children and their mothers. The problem is this program's funding level has fallen in real terms—over 20 percent since 1981.

I refer to the Maternal and Child Health Program which provides critical maternal and child health services ranging from basic prenatal care, checkups, and immunizations to the most sophisticated types of medical care for high-risk newborns and children suffering from handicapping conditions and crippling diseases.

The Maternal and Child Health Program saves anywhere from $3 to $11 million in the costs of medical care after birth and of institutional care for some of the babies who would have been born handicapped.

Clearly, an investment in the health of pregnant women and their children is an investment in the future. It's extremely cost effective. Mr. President, it just makes sense.

I am hopeful that the chairman will be able to give us some assurances regarding an increased funding level for this critical program.

Mr. WEICKER. I want to commend my colleague for his concern regarding this invaluable program, and want to assure him that only the authorization ceiling—now set at $478 million—precluded the committee from including additional funds provided in the budget resolution for this program. Also, I want to assure my colleague that I will most certainly do everything possible to increase the appropriation, which is now set at the authorized ceiling of $478 million, should the authorization ceiling be increased.

Mr. CHAFEE. Mr. President, I rise to draw the attention of my colleagues to a program which falls under the Labor, Health and Human Services, and Education appropriations bill, but which unfortunately has received no funding in the Senate version.

The Leadership in Educational Administration Development Act [LEAD], title IX of Public Law 98-558, was created to meet the Nation's urgent need for better administrative leadership in elementary and secondary schools. While teachers from the core of a school's education team, it is the principal who gives overall direction and purpose to the school. In order for the current wave of educational reform to be successful, we need school administrators who have both educational vision and the practical managerial skills necessary to effectively pursue that vision.

The LEAD Program will establish in every State an institute where current and potential school administrators would work to acquire the leadership and managerial skills that their jobs demand. LEAD centers would draw on expertise in business, academia, the schools, and Government agencies to prepare programs that will develop administrative excellence.

This exciting program has been enthusiastically anticipated in the States, and received in fiscal year 1986 its first appropriation of $7.5 million. Although authorized at $20 million, this year's appropriation was enough to get the program rolling. Indeed, proposed regulations prepared by the Department of Education are expected to be published any day, and State and local education agencies are already working on program proposals.

In light of the great momentum of the LEAD effort, I was disappointed to see that the Labor-HHS/Education appropriations bill contains no LEAD funding for fiscal year 1987. In speaking with the distinguished Senator from Connecticut [Mr. WEICKER] however, I have learned that the money was simply unavailable at markup time, due to budget constraints. As the committee report points out, the House appropriation maintains the program at this year's post-Gramm-Rudman level of $7.177 million. The report language further indicates that the Senate supports this modest but worthwhile idea and will work to resolve the matter in conference with the House.

I am hopeful that Senator WEICKER and the other conferees will work in behalf of this important initiative in education reform by restoring funds for the LEAD Program. I thank the Senator for his efforts.

Mr. WEICKER. I thank the distinguished Senator from Rhode Island for his comments, and appreciate his understanding of the fiscal constraints within which we are operating. The Senator and I have discussed this matter in the past several weeks, and I think I have made clear my support for the innovative approach of activities such as the LEAD Program. I assure Senator CHAFEE that we will do everything we can in conference to keep the program on track.

Mr. GRASSLEY. Mr. President, I rise to express my appreciation to the distinguished chairman of the Subcommittee on Labor, Health and Human Services, Education, and Related Agencies, the senior Senator from Connecticut, Mr. WEICKER. Senator WEICKER and his staff have been sensitive to a number of concerns I have raised, and these concerns are reflected in report language adopted by the committee.

For some time I have been concerned about what might be called the human resources side of the farm crisis. The report accompanying H.R. 5233 contains language encouraging the Secretary of Health and Human Services to equally distribute the community services block grant program's community economic development discretionary funds equally between urban and rural areas. The report also encourages the Secretary of HHS to coordinate activities of the Office of Community Services with other Federal departments in order to develop a comprehensive Federal-State rural intervention strategy.

The Appropriations Committee provided $1.2 million in the research account of the National Institute of Mental Health for the purpose of establishing four State demonstration projects with the goal of promoting the development of comprehensive community mental health, health, job training, employment, and related services and opportunities appropriate to rural Americans experiencing serious emotional problems as a result of the farm crisis.

The last item having to do with the human resources dimension of the farm crisis is language recommending that the Secretary of Labor use a portion of his discretionary Job Training Partnership Act funds to assist States to develop rural-based pilot programs and demonstration activities. The report also encourages the Secretary of Labor to work with the Departments of Health and Human Services, Education, ACTION, Agriculture, and Commerce to develop a comprehensive State-Federal approach for a rural intervention strategy. I might add that this language is consistent with language contained in the report that accompanied S. 2069, amending the Job Training Partnership Act.

Our Nation's policies and programs affecting the elderly are another longstanding concern of mine. Again, I would like to express my appreciation to the distinguished Senator from Connecticut for his sensitivity to my concerns on a number of issues in this area. The committee has required the Health Care Financing Administration to spend $1.2 million for respite care demonstration projects to develop innovative service programs for victims of Alzheimer's disease.

The committee has also provided $500,000 to the National Institute on Aging for the purpose of coordinating statistical policy on aging.

Earlier this year, I was successful in persuading the Budget Committee to put enough money into the function 500 account to fund Older Americans' Act programs at their fiscal 1986 levels. In response to requests from myself and Senators HEINZ, PRESSLER, GLENN, METZENBAUM, MATSUNAGA, D'AMATO, and HAWKINS, the Appropriations Committee has restored the funding levels of most of the Older American's Act programs to their presequestration 1986 funding levels. The Appropriations Committee has also provided increases over the presequestration 1986 levels for the congregate and home-delivered meals programs.

Mr. HATCH. Mr. President, I would like to clarify one point about the Labor/HHS appropriations bill. It is my understanding that this bill contains an increase of $8 million over last year's title X funding level for family planning programs. I also understand that $600,000 of that is to be used for the Utah demonstration project that is included in the title X reauthorization bill, S. 881. I wonder if the distinguished chairman of the subcommittee would comment.

Mr. WEICKER. Yes, the Senator from Utah is correct; $600,000 of the $8 million is intended for the Utah

demonstration project when it is authorized. Of course, without the authorization that money would not go to the Utah demonstration project. While I have the Senator from Utah's attention I wonder if he will agree to work with me in an effort to have the title X reauthorization bill scheduled for floor action. I would like to mention that as chairman of the Committee on Labor and Human Resources, the Senator from Utah successfully marked up the reauthorization bill in December of 1985. The committee report on the bill has been filed for 4 months now and I am eager to have the full Senate consider this bill. I might also point out that the Labor and Human Resources Committee unanimously endorsed S. 881, the 4-year reauthorization bill.

Mr. HATCH. I will indeed work with the Senator from Connecticut to encourage the majority leader to schedule S. 881 for floor action as soon as possible.

Mr. BUMPERS. Mr. President, I rise to express my support for H.R. 5233, the Labor, Health and Human Services, and Education and related agencies appropriation bill for fiscal year 1987. Budget constraints were so pressing that very painful decisions had to be made, and the chairman, Senator WEICKER, and the ranking member, Senator PROXMIRE, are to be commended for their leadership on this bill. They have reported a compromise measure in which they have tried to meet the needs of our neediest and most vulnerable citizens and at the same time provide for education, health, and training programs at a minimal level and in the most cost-effective way.

They were called on to address the huge public health crises of AIDS and drug abuse, and still provide funds for education of the disadvantaged and handicapped, prenatal care for poor mothers, immunizations for preschoolers, and biomedical research on cancer and Alzheimer's disease, to name a few things. There is not as much money in this bill as many of these problems deserve, but they have done an excellent job considering the severe budget constraints.

This bill provides funding for dozens of programs that offer great hope and promise to Americans. The Childhood Immunization Program provides hope for our Nation's children that they may thrive and be protected from infectious diseases that killed thousands of children in previous decades. It is easily the soundest investment, in terms of future dollars saved, that we could make in the health care area. The community health centers provide comprehensive primary and preventive care to millions of poor and medically underserved individuals, oftentimes elderly people, who otherwise might have no health care. The maternal and child health block grant guarantees prenatal care for indigent mothers so that their babies can at least get a healthy start in life.

This bill also offers the promise of education for the economically disadvantaged, for migrant students, and for the handicapped. It also provides job training through the Job Corps for thousands of young people who would otherwise be dismissed as untrainable and unemployable. This bill provides for programs that help Americans develop their abilities to the fullest.

I am pleased that the bill reported by the committee increases funding for several crucial children's health programs which have been of longstanding interest to both Betty and me. The funding recommended by the committee will help us prevent erosion in the delivery of basic health care services to infants and children and aid in the fight to ensure a healthy beginning for all our children.

I am particularly pleased by the committee recommendation that the Childhood Immunization Program be funded at $88.746 million, an increase of almost $32 million over the fiscal year 1986 funding level. The committee has responded to the rapid increase in vaccine prices with a big increase in grants for the purchase of vaccines. We also approved funding to implement the recommendation of the Centers for Disease Control Immunization Practices Advisory Committee that the haemophilus influenza type B vaccine be available to all 2-year-olds. H-flu is the leading cause of bacterial meningitis in the United States, and it will be a real step forward if we can immunize all our children against H-flu.

The committee also increased the preventive health block grant funding by almost $5 million over fiscal year 1986 levels, to $92.5 million. These grants give States funds for a wide range of preventive health activities. In my home State of Arkansas, the preventive health block grant funds activities include hypertension screening, health education, and immunizations. The Federal funds are vital to preventive health efforts and are an important supplement to funds appropriated by the State.

The committee also brought the Maternal and Child Health Block Grant Program to its authorized funding ceiling of $478 million. The fiscal year 1986 budget resolution provided an additional $75 million for the MCH block grant, and I hope that the Appropriations Committee will act on the budget recommendation after the authorizing committees raise the MCH spending levels.

As it has done in each of the last several years, the committee has wisely rejected the administration request that the Community Services Block Grant Program be eliminated. The committee recommended a modest increase for the block grant, which is used by community action agencies in my home State for weatherization, alcohol and drug abuse counseling, distribution of Federal surplus food, day care, Head Start, and a number of other activities. In Arkansas, the Federal funds that are made available through CSBG are matched many times over by local funds, volunteer services, and private funds.

I believe this bill is a solid one, especially in light of extreme budget constraints. There are differences between the House and Senate bills in several areas, including the Work Incentives Program and Impact Aid. I hope the conference committee can resolve these differences and provide for the continuation of WIN and Part B Impact Aid.

The programs funded by this measure are investments. They offer assurance to mothers that they will have healthy babies and hope for future generations that they may never suffer diseases whose cures today elude the scientists. The education programs will keep countless Americans off the unemployment or welfare rolls and help thousands realize their full potential in the workplace. The programs this measure funds will bring returns that will exceed our investment. We may not be able to measure all these returns in dollars and cents. But the satisfaction and contribution of men and women with job skills and the joy of families with healthy children are as real as the long-term monetary savings the measure guarantees. Healthy and well-educated citizens are the very basis of any Nation's defense. This measure says to the world that the greatest Nation on Earth cares about all its people and plans wisely for its future.

Mr. WEICKER. Mr. President, I have no further amendments at this time.

The PRESIDING OFFICER. If there be no further amendments——

Mr. PROXMIRE. Mr. President, on the minority side, so far as I know there are no further amendments.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays on passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this

question, the yeas and nays have been ordered, and the clerk will call the roll.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll to ascertain the presence of a quorum.

The assistant legislative clerk proceeded to call the roll.

□ 1840

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so oredered.

The question is, Shall the bill (H.R. 5233), as amended, pass?

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. GARN] and the Senator from Idaho [Mr. SYMMS] are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Ohio [Mr. GLENN], the Senator from Louisiana [Mr. LONG], and the Senator from New York [Mr. MOYNIHAN] are necessarily absent.

I further announce that, if present and voting, the Senator from Louisiana [Mr. LONG] would vote "yea."

The PRESIDING OFFICER (Mrs. KASSEBAUM). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 83, nays 12—as follows:

[Rollcall Vote No. 260 Leg.]

YEAS—83

Abdnor	Evans	Melcher
Andrews	Ford	Metzenbaum
Baucus	Gore	Mitchell
Bentsen	Gorton	Murkowski
Biden	Grassley	Nickles
Bingaman	Harkin	Nunn
Boren	Hart	Packwood
Boschwitz	Hatch	Pell
Bradley	Hatfield	Pressler
Broyhill	Hawkins	Pryor
Bumpers	Heflin	Quayle
Burdick	Heinz	Riegle
Byrd	Hollings	Rockefeller
Chafee	Inouye	Rudman
Chiles	Johnston	Sarbanes
Cochran	Kassebaum	Sasser
Cohen	Kasten	Simon
Cranston	Kennedy	Simpson
D'Amato	Kerry	Specter
Danforth	Lautenberg	Stafford
DeConcini	Leahy	Stennis
Denton	Levin	Stevens
Dixon	Lugar	Thurmond
Dodd	Mathias	Trible
Dole	Matsunaga	Warner
Domenici	Mattingly	Weicker
Durenberger	McClure	Wilson
Eagleton	McConnell	

NAYS—12

Armstrong	Hecht	Proxmire
Exon	Helms	Roth
Goldwater	Humphrey	Wallop
Gramm	Laxalt	Zorinsky

NOT VOTING—5

Garn	Long	Symms
Glenn	Moynihan	

So the bill (H.R. 5233), as amended, was passed.

□ 1900

Mr. WEICKER. Madam President, I move to reconsider the vote by which the bill was passed.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WEICKER. Madam President, I ask unanimous consent that the Senate insist on its amendments to request a conference with the House of Representatives on the disagreeing votes of the two Houses and the Chair be authorized to appoint the conferees on the part of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEICKER. The conferees will be named at a later date.

Mr. SIMPSON. Madam President, I thank Senator WEICKER for his splendid work on that measure and also Senator PROXMIRE, the comanager of that bill and another item off the agenda. I am most appreciative of their good offices in doing that.

MESSAGE FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mrs. Emery, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 9:53 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House disagrees to the amendment of the Senate to the bill (H.R. 5316) to amend title 28 of the United States Code to provide for the appointment of U.S. trustees to serve in bankruptcy cases in judicial districts throughout the United States, to make certain changes with respect to the role of U.S. trustees in such cases, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. RODINO, Mr. EDWARDS of California, Mr. HUGHES, Mr. SYNAR, Mr. GLICKMAN, Mr. FEIGHAN, Mr. FISH, Mr. SHAW, Mr. MOORHEAD, and Mr. HYDE as managers of the conference on the part of the House.

The message also announced that the House has passed the following bill, without amendment:

S. 2462. An act to provide for the awarding of a special gold medal to Aaron Copland.

The message further announced that pursuant to the provisions of Public Law 99-371, the Speaker appoints as members of the board of trustees of Gallaudet University the following Members on the part of the House: Mr. BONIOR and Mr. GUNDERSON.

The message also announced that pursuant to the provisions of section 225(b) of Public Law 90-206, as amended, the Speaker appoints as members of the Commission on Executive, Legislative, and Judicial Salaries the following from private life: Mr. John E. Lyle, of Houston, TX; and Mr. John J. Creedon, of Larchmont, NY.

At 1:09 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 4531. An act to extend the Wetlands Loan Act, and for other purposes;

H.R. 4669. An act to repeal and amend certain sections of the Powerplant and Industrial Fuel Use Act of 1978, and for other purposes; and

H.R. 5236. An act to establish the Congressional Gold Medal.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 321. A concurrent resolution expressing the sense of the Congress in opposition to employment discrimination against persons who have, or have had, cancer based on such individual's cancer history.

At 4:03 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 1562. A act to amend the False Claims Act, and title 18 of the United States Code regarding penalties for false claims, and for other purposes.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 4531. An act to extend the Wetlands Loan Act, and for other purposes; to the Committee on Environment and Public Works.

H.R. 4669. An act to repeal and amend certain sections of the Powerplant and Industrial Fuel Use Act of 1978, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 5236. An act to establish the Congressional Gold Medal; to the Committee on Banking, Housing, and Urban Affairs.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 321. A concurrent resolution expressing the sense of the Congress in opposition to employment discrimination against persons who have, or have had, cancer based on such individual's cancer history; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. McCLURE, from the Committee on Energy and Natural Resources, with amendments:

S. 2427: A bill to amend the Mineral Leasing Act of 1920 to improve the administration of the Federal coal leasing program, and for other purposes (Rept. No. 99-436).

By Mr. DANFORTH, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 2807: An original bill to amend the Independent Safety Board Act of 1974 to authorize appropriations for fiscal years 1987, 1988, and 1989, and for other purposes (Rept. No. 99-437).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. TRIBLE (for himself and Mr. DENTON):

S. 2801. A bill to provide the penalty of life imprisonment without possibility of parole and to increase the criminal fines for major drug trafficking offenses; to the Committee on the Judiciary.

By Mr. TRIBLE (for himself, Mr. LUGAR and Mrs. HAWKINS):

S. 2802. A bill to prohibit foreign assistance to countries which fail to take steps to prevent and punish the laundering of drug-related profits in their territory, and for other purposes; to the Committee on Foreign Relations.

By Mr. THURMOND (by request):

S. 2803. A bill to implement the International Convention on the Prevention and Punishment of the Crime of Genocide; to the Committee on the Judiciary.

By Mr. KASTEN:

S. 2804. A bill to amend the provisions of title 49, United States Code, to provide for a more competitive interstate household goods transport sector; to the Committee on Commerce, Science, and Transportation.

By Mr. MATTINGLY:

S. 2805. A bill to provide for the imposition of the death penalty for certain continuing criminal enterprise drug offenses; to the Committee on the Judiciary.

By Mr. METZENBAUM (for himself, Mr. HEINZ, Mr. GLENN, Mr. SPECTER, Mr. DURENBERGER, Mr. ROCKEFELLER, Mr. LEVIN, Mr. RIEGLE, Mr. BOSCHWITZ, Mr. DENTON and Mr. LUGAR):

S. 2806. A bill to amend title II, United States Code, to clarify the current meaning of section 1113, relating to the rejection of collective bargaining agreements by debtors in bankruptcy; to the Committee on the Judiciary.

By Mr. DANFORTH, from the Committee on Commerce, Science, and Transportation:

S. 2807. An original bill to amend the Independent Safety Board Act of 1974 to authorize appropriations for fiscal years 1987, 1988, and 1989, and for other purposes; placed on the calendar.

By Mr. GORE (for himself, Mr. KENNEDY, Mr. HEINZ, and Mr. MITCHELL):

S. 2808. A bill to amend title XI of the Social Security Act to require hospitals participating in the medicare and medicaid programs to establish protocols for organ procurement, to establish standards for organ procurement agencies, and for other purposes; to the Committee on Finance.

By Mrs. HAWKINS (for herself and Mr. HELMS):

S. 2809. A bill to authorize the Secretary of Agriculture to expand drug and other law enforcement programs on the National Forest System, to clarify certain law enforcement authorities of the Forest Service, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DOLE:

S.J. Res. 408. A joint resolution designating "American Physiologists Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BENTSEN:

S. Res. 488. A resolution calling for a National Energy Security Plan; to the Committee on Energy and Natural Resources.

By Mr. THURMOND:

S. Res. 489. A resolution proposing a Senate rule for impeachment of convicted felons; to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. TRIBLE (for himself and Mr. DENTON):

S. 2801. A bill to provide the penalty of life imprisonment without possibility of parole and to increase the criminal fines for major drug trafficking offenses; to the Committee on the Judiciary.

By Mr. TRIBLE (for himself, Mr. LUGAR, and Mrs. HAWKINS):

S. 2802. A bill to prohibit foreign assistance to countries which fail to take steps to prevent and punish the laundering of drug-related profits in their territory, and for other purposes; to the Committee on Foreign Relations.

(Statements on this legislation and the text of the legislation appear earlier in today's RECORD.)

By Mr. THURMOND (by request):

S. 2803. A bill to implement the International Convention on the Prevention and Punishment of the Crime of Genocide; to the Committee on the Judiciary.

IMPLEMENTATION OF THE INTERNATIONAL CONVENTION ON THE PREVENTION AND PUNISHMENT OF THE CRIME OF GENOCIDE

Mr. THURMOND. Mr. President, I am introducing, at the request of the Department of Justice, a legislative proposal implementing the International Convention on the Prevention and Punishment of the Crime of Genocide.

Earlier this year the Senate gave its advice and consent to the ratification of the Genocide Convention, subject to eight provisos in the form of two reservations, five understandings, and one declaration. Article V of the convention requires the parties to the convention to undertake the enactment of legislation to give effect to its provisions and to provide penalties for persons guilty of the crimes enumerated.

Under the declaration added by the Senate, the President will not deposit the instrument of ratification until after the implementing legislation referred to in article V has been enacted.

Mr. President, the administration believes that this legislation will appropriately implement the Genocide Convention and urges expeditious enactment.

I ask unanimous consent that the bill and the Department of Justice letter of transmittal be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2803

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) Part I of title 18, United States Code, is amended by adding after Chapter 50 the following new chapter:

"CHAPTER 50A—GENOCIDE

"Sec.
"1091. Definitions.
"1092. Genocide.
"1093. Exclusive Remedies.

"§ 1091. Definitions

"As used in this chapter—

"(1) 'children' means individuals who have not attained the age of eighteen;

"(2) 'ethnic group' means a set of persons whose identity as such is distinctive in terms of its common cultural traditions or heritage;

"(3) 'incite' means to urge another person to engage imminently in conduct in circumstances under which there is a substantial likelihood of imminently causing such conduct;

"(4) 'national group' means a set of persons whose identity as such is distinctive in terms of nationality or national origins;

"(5) 'racial group' means a set of persons whose identity as such is distinctive in terms of physical charcteristics or biological descent;

"(6) 'religious group' means a set of persons whose identity as such is distinctive in terms of its common religious creed, beliefs, doctrines, practices, or rituals;

"(7) 'substantial part' means a part of a group of such numerical significance that

the destruction or loss of that part would cause the destruction of the group as a viable entity within the nation of which it is a part.

"§ 1092. Genocide

"(a) Whoever commits or attempts to commit any of the following acts with the specific intent to destroy, in whole or in substantial part, a national, ethnic, racial, or religious group shall be punished as provided in subsection (b) of this section:

"(1) killing members of the group;

"(2) causing serious bodily injury to members of the group;

"(3) causing the permanent impairment of the mental faculties of members of the group through drugs, torture, or similar techniques;

"(4) subjecting the group to conditions of life that are intended to cause its physical destruction;

"(5) imposing measures intended to prevent births within the group; or

"(6) transferring, by force, children of the group to another group.

"(b) Whoever violates—

"(1) subsection (a)(1) of this section, if such offense results in the death of any person, shall be imprisoned for life or sentenced to death, or fined not more than $1,000,000, or both;

"(2) subsection (a) of this section in any other respect shall be fined not more than $1,000,000, or imprisoned for not more than twenty years, or both.

"(c) Whoever directly and publicly incites another to commit a violation of subsection (a) of this section shall be fined not more than $500,000 or imprisoned not more than five years, or both.

"(d) The United States may exercise jurisdiction over an offense committed under this section if—

"(1) the offense is committed within the United States; or

"(2) the alleged offender is a national of the United States.

"(e) Acts in the course of armed conflicts committed without the specific intent required by subsection (a) of this section are not sufficient to constitute genocide under this section.

"§ 1093. Exclusive remedies

"Nothing in this chapter shall be construed as precluding the application of State or local laws on the same subject, nor shall anything in this chapter be construed as creating any substantive or procedural right enforceable by law by any party in any civil proceeding.".

(b) The analysis of part I of title 18, United States Code, is amended by adding after the item for chapter 50 the following new item:

"50A. Genocide ..... 1091".

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AND INTERGOVERNMENTAL AFFAIRS,
Washington, DC, June 6, 1986.

The VICE PRESIDENT,
U.S. Senate, Washington, DC.

DEAR MR. VICE PRESIDENT: Enclosed for your consideration and appropriate reference is a legislative proposal implementing the International Convention on the Prevention and Punishment of the Crime of Genocide. The convention makes genocide a crime under international law. Article V of the Convention requires the contracting parties to undertake the enactment of legislation to give effect to the provisions of the Convention and to provide effective penalties for persons guilty of the crimes enumerated. We urge the Congress to take prompt action on this legislative proposal since the enactment of implementing legislation is a prerequisite to deposit by the United States of its instrument of ratification. Only with that act can the United States finally become a party to this important convention which symbolizes a commitment to human rights.

The Senate recently gave its advice and consent to the ratification of the genocide convention, subject to eight provisos in the form of two reservations, five understandings, and one declaration. 132 Cong. Rec. S1377-8 (daily ed. Feb. 19, 1986). The draft legislation implements the treaty as construed by the relevant provisos by making genocide a federal offense. Specifically, the treaty prohibits the commission of certain acts "with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such. . . ." Art. II. The acts specified are: killing members of the group, causing serious bodily or mental harm to members of the group, deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part, imposing measures intended to prevent births within the group, and forcibly transferring children of the group to another group. Art. II. The convention expressly applies not only to the crime of genocide, but also to conspiracy, direct and public incitement, and attempt to commit genocide, as well as complicity in the crime. Art. III.

The eight provisos adopted by the Senate are as follows:

RESERVATIONS

1. That with reference to Article IX of the Convention, before any dispute to which the United States is a party may be submitted to the jurisdiction of the International Court of Justice under this article, the specific consent of the United States is required in each case.

2. That nothing in the Convention requires or authorizes legislation or other action by the United States of America prohibited by the Constitution of the United States as interpreted by the United States.

UNDERSTANDINGS

1. That the term "intent to destroy, in whole or in part, a national, ethnical, racial, or religious group, as such" appearing in Article II means the specific intent to destroy, in whole or in substantial part, a national, ethnical, racial or religious group as such by the acts specified in Article II.

2. That the term "mental harm" in Article II(b) means permanent impairment of mental faculties through drugs, torture or similar techniques.

3. That the pledge to grant extradition in accordance with a state's laws and treaties in force found in Article VII extends only to acts which are criminal under the laws of both the requesting and the requested state and nothing in Article VI affects the right of any state to bring to trial before its own tribunals any of its nationals for acts committed outside a state.

4. That acts in the course of armed conflicts committed without the specific intent required by Article II are not sufficient to constitute genocide as defined by this Convention.

5. That with regard to the reference to an international penal tribunal in Article VI of the Convention, the United States declares that it reserves the right to effect its participation in any such tribunal only by a treaty entered into specifically for that purpose with the advice and consent of the Senate.

DECLARATION

That the President will not deposit the instrument of ratification until after the implementing legislation referred to in Article V has been enacted.

The draft legislation adds a new chapter 50A to title 18, United States Code, and restates the offenses proscribed by the Convention as modified by the above provisos to the extent relevant. It also defines the terms "ethnic," "national," "racial," and "religious groups," as well as "children," "incite," and "substantial part." In addition, the proposal establishes United States jurisdiction over an offense if it is committed within the United States or if the alleged offender is a national of the United States. The proposal also provides that nothing in new chapter 50A shall be construed as precluding the application of State or local laws on the same subject or as creating any substantive or procedural right enforceable in a civil proceeding.

The draft legislation makes genocide or attempted genocide an offense punishable by a fine of $1,000,000 and imprisonment for not more than twenty years, and if death results, by either mandatory life imprisonment or a sentence of death, as well as a fine of $1,000,000. The Administration-supported death penalty bills, H.R. 343 and S. 239, would establish constitutionally required procedures for the implementation of the death penalty and would apply to genocide where death results, among other crimes. We recognize that without the enactment of such legislation the death penalty provided in the draft genocide legislation cannot be enforced. The draft genocide legislation also makes directly and publicly inciting another to commit genocide a crime punishable by a fine of $500,000 and imprisonment for five years.

Expeditious action on this proposal will enable the United States to join the many other nations which have become parties to the genocide convention.

The Office of Management and Budget has advised that the enactment of this proposal would be in accord with the program of the President.

Sincerely,

JOHN R. BOLTON,
Assistant Attorney General.

By Mr. MATTINGLY:

S. 2805. A bill to provide for the imposition of the death penalty for certain continuing criminal enterprise drug offenses; to the Committee on the Judiciary.

STRICTER PENALTIES UNDER THE CONTROLLED SUBSTANCES ACT

● Mr. MATTINGLY. Mr. President, today I am introducing legislation which would provide for stricter and more effective penalties under the Controlled Substances Act. Specifically, the measure would allow for the death penalty when an individual is convicted of a continuing criminal enterprise offense where intentional death results.

Congress has recognized that the continuing criminal enterprise offense is probably the most serious narcotics offense and has responded by enacting

a mandatory minimum sentence of 10 years for the first offense. Those subject to conviction under this offense are most often the leaders of major narcotics organizations who derive substantial income for their narcotics enterprise and who act in a supervisory capacity and in concert with five or more other persons. Their activities put the public at grave risk. And let us make no mistake about it. They are fully aware of the consequences of actions. They act deliberately, destroying the lives of our citizens, preying upon innocent children, and undermining our national security. With wanton disregard for their fellow man, these reprehensible criminals place their own selfish profit motives above the fundamental rights of others. I believe it is fitting to target those kingpins who kill during the course of their activities for even stricter penalties.

Mr. President, as my colleagues know, I have supported the Federal death penalty as appropriate for the most heinous and serious Federal crimes, and I voted in favor of comprehensive Federal death penalty legislation when it was considered by the Senate in the previous Congress. As I said a moment ago, without question, the cases which this legislation targets are appropriate for such a penalty. They are heinous crimes. And I would hope that the majority of this body, who supported death penalty measures in the past, will support this legislation as well.

This measure is similar to legislation pending in the House of Representatives and follows constitutional requirements carefully. Again, let me stress that this measure is intended to single out the most serious offenders. Cases in which the death penalty might result would be the murder of an undercover drug officer or a law enforcement agent during a drug transaction. Law enforcement officials daily put their lives on the line in order to protect the public. Tragically, some pay the ultimate price. As a society we cannot tolerate this and we in Congress have a responsibility to do all in our power to prevent it. The enactment of tough criminal sanctions such as this, in my view, are an appropriate exercise of that responsibility. Serious criminal violations require serious penalties. The serious nature of the drug problem facing our Nation calls for serious actions.

The American people recognize the gravity of the drug problem in this country and the real threat it lays at their doorstep. Many have come to this knowledge through tragic and grievous experiences like the loss of a loved one. The American people are relying upon us to act to put an end to such tragedy. In the past few weeks, numerous of my fellow Georgians have discussed the drug scourge with me, appealing to us in Congress to give priority to the issue. When I have asked what measures they believe would be effective and what initiatives they would support, they have responded that we need to get tough with drug peddlers through stricter criminal statutes and penalties.

In other words, Mr. President, as the American people understand, those who destroy lives and undermine the safety of the citizenry must be punished. These criminals must know beforehand that it is their very lives which will be in jeopardy should they intentionally cause the death of others. I believe this measure will accomplish these goals, and I again urge the support of my colleagues.●

By Mr. METZENBAUM (for himself, Mr. HEINZ, Mr. GLENN, Mr. SPECTER, Mr. DURENBERGER, Mr. ROCKEFELLER, Mr. LEVIN, Mr. RIEGLE, Mr. BOSCHWITZ, Mr. DENTON, and Mr. LUGAR):

S. 2806. A bill to amend title 11, United States Code, to clarify the current meaning of section 1113 relating to the rejection of collective bargaining agreements by debtors in bankruptcy; to the Committee on the Judiciary.

REJECTION OF COLLECTIVE-BARGAINING AGREEMENTS

● Mr. METZENBAUM. Mr. President, today I am introducing a measure that will clarify the current meaning of existing bankruptcy laws regarding the modification or rejection of collective-bargaining agreements.

On July 30 the Senate passed a measure that I authored to prevent the LTV Corp., from terminating retiree health benefits. That evening LTV requested the bankruptcy court to reinstate health benefits, and the court issued an order permitting benefits to be paid for a period of 6 months. The bank creditors have appealed that decision.

Mr. President, while I commend the court's action, I believe that current law prohibits the unilateral termination of health benefits to retirees.

In 1984, we enacted the bankruptcy reform amentments to protect the collective bargaining process. The termination of health insurance benefit coverage for LTV retirees was a clear violation of that 1984 law.

The measure that I am introducing today clarifies the meaning of current law. I hope that it will prevent companies in bankruptcy and their creditors from attempting to unilaterally terminate retiree health, life, and welfare benefits.

I ask unanimous consent that a copy of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2806

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1113(f) of title 11, United States Code, is amended by inserting "(including any provision relating to benefits for retired former employees)" after "provisions" the first place it appears.

(b) The amendment made by subsection (a) shall be effective as of the effective date of section 1113 of title 11, United States Code, added by the Bankruptcy Amendments and Federal Judgeship Act of 1984, and shall be effective as if enacted in such Act.●

By Mr. GORE (for himself, Mr. KENNEDY, Mr. HEINZ, and Mr. MITCHELL):

S. 2808. A bill to amend title XI of the Social Security Act to require hospitals participating in the Medicare and Medicaid programs to establish protocols for organ procurement, to establish standards for organ procurement agencies, and for other purposes; to the Committee on Finance.

HOSPITAL PROTOCOLS FOR ORGAN PROCUREMENT

● Mr. GORE. Mr. President, I rise today to introduce with Senator HEINZ, Senator KENNEDY, and Senator MITCHELL important new organ transplant legislation. The bill will further strengthen the ability of the Nation's health care system to provide organ transplants.

It has been 4 years since Charles Fiske was forced to take to the Nation's airways to plead for a liver to save his daughter Jamie. It has been 2 years since Congress passed the National Organ Transplant Act of 1984 to save the lives of thousands of patients like Jamie.

We have seen much progress in that time. Transplant technology has blossomed, and the number of successful transplants has increased dramatically. In 2 years, we have managed to raise the number of kidney transplants from 6,112 to around 8,000, the number of heart transplants from 172 to 719, and the number of liver transplants from 164 to 602.

But as anyone who has seen the faces of Christina Wilson, Baby Jesse, Baby Calvin, or Alex Girard, on TV in recent months can tell, the problem has not been solved—in large part because the administration has refused to carry out the law. As the administration dragged its feet over key parts of the transplant law designed to increase organ donation and coordinate distribution, the list of people waiting for an organ to become available for transplant grew faster than ever. Many lives and many dollars have been lost while the administration waits to make up its mind.

We are introducing legislation today to meet the long neglected needs of transplant patients in this country. The bill builds on the foundation we laid down when we passed the Nation-

al Organ Transplant Act. It follows the recommendations of two recent reports from the Department of Health and Human Services—the final report of the Task Force on Organ Transplantation required by the transplant act, and a report from the Office of the Inspector General on foreign nationals who come to this country to receive a transplant.

The bill does three things. First, it will carry out the task force's recommendation that organ procurement agencies be certified. The bill will require the agencies to meet Federal standards, and force them to work under the national network. Not only will the legislation bring the vast array of 110 procurement agencies under control, but in the long run, it will help the agencies to make more organs available to the patients who most need them.

Second, it will require that all hospitals performing transplants abide by the rules of the national network. This is especially important when it comes to how organs are shared. Our bill will make certain that when an organ is retrieved it will be allocated by a priority system based on medical need and not on who has the cutest face or the most money.

Finally, the bill requires every hospital that receives Medicare or Medicaid dollars to have a written protocol insuring that families are informed of the option of organ donation and that a certified organ procurement agency is notified. This is similar to the so-called required request laws that many States have passed.

Less than a quarter of the 20,000 potential organ donors each year actually become donors. Surveys have shown repeatedly that while most families would be willing to give permission for a donation to take place, many don't get the opportunity because doctors don't ask. It is equally tragic to see a donated organ go to waste because of the hospital and the organ procurement agency get their signals crossed. Our bill will avert those problems.

For the most part, transplants are living up to their promise. But if we have come a long way, we still have far to go. This bill will extend the miracle of transplants to thousands of Americans who cannot live without it.

Mr. President, I urge support for this bill.●

● Mr. KENNEDY. Mr. President, I am pleased to join my colleagues, Senator GORE and Senator HEINZ, in introducing this legislation. The measures we are proposing today will bring hope to thousands of Americans who must have organ transplants in order to live.

This legislation continues the process begun with the passage of the National Organ Transplant Act, which was signed into law on October 19, 1984. The National Organ Transplant Act mandated Federal funding for a national organ transplant and procurement network to assure that people needing an organ transplant in any area of the country would have full access to the national organ supply. It established a system of grants to organ procurement agencies to help them increase the supply of organs available for donation. And it established a national task force on organ procurement which was charged with examining all aspects of our national organ procurement system and recommending modifications.

The problems addressed by the task force were multifaceted. Most important was the lack of an adequate supply of organs for those needing transplants in order to live. All Americans are familiar with the heart-rending cases of parents desperately appealing for a donated organ to save the life of a dying son or daughter. Indeed, it was the case of Massachusetts child, Jamie Fiske, which first brought the organ transplant problem to national attention.

The statistics on the mismatch between the need for transplanted organs, the potential supply of organs, and the number of organs actually donated, are sobering. There are an estimated 26,000 potential organ donors every year, but only about 5,000 actually donate organs. At any one time there are approximately 10,000 people waiting for organ donations, and in excess of 40,000 people could benefit from kidney transplants alone if an adequate supply of organs were available.

Just as there is an inadequate supply of organs available, there are wide variations in the quality of organ procurement organizations, inadequate links between hospitals and organ procurement organizations, failure of some transplant programs to meet acceptable standards of quality, and no clear, generally accepted standards for prioritizing potential transplant recipients.

The task force has completed its work and has done a commendable job of recommending steps that should be taken to address each of these problems. The legislation we are proposing today implements many of the task force's most important recommendations.

Our legislation will increase the supply of organs by establishing required hospital protocols for organ procurement. These protocols will assure that all families of potential organ donors are made aware of the options of organ donation and that organ procurement agencies be notified of potential donors. The American people, I believe, understand the importance of organ donations and are willing to give this precious gift of life. Too often, however, they are denied the opportunity to give this gift because they are not made aware of the opportunity for donation at the right time. This requirement will assure that no life-giving organ is wasted because a potential donor or his family is not asked whether or not they want to make a donation.

This legislation will address the issue of the quality of organ transplant centers, ensure cooperation between centers, and assure access to organs on a priority basis by requiring all hospitals performing transplants to conform to guidelines and meet standards established by the national organ transplant network as a condition for receiving Medicare funding.

The quality of organ procurement organizations and their full participation in the national organ procurement and distribution system will be assured by requiring periodic certification and recertification every 2 years by the Secretary of HHS as a condition of Medicare participation.

Enactment of these measures will go a long way toward bringing us closer to the day when no child will die, no parent wil grieve, and no adult will be denied the opportunity for a full and productive life because a medically safe and effective organ transplant was not performed.

There are some other important legislative steps which are not included in this legislation. Legislation has been reported out by the Senate Labor and Human Resources Committee and the House Energy and Commerce Committee which will fund the expensive immunosuppressive drugs necessary to prevent organ rejection once a transplant has been performed. Prompt enactment of this legislation is essential. In addition, I believe it is essential that a permanent Organ Transplant Advisory Board be established to monitor and assist in the implementation of the task force report. We also need to establish a national public education campaign to encourage organ donation. I intend to introduce legislation shortly that will accomplish this objective.

Just as important as passage of new legislation is implementation of the laws already on the books. Today, nearly 2 years after the signing of the National Organ Transplantation Act of 1984, there is no national organ matching network in existence. The administration has proposed, unsuccessfully, to rescind the moneys appropriated for grants to organ procurement agencies to increase the supply of organs and has indicated that it will not request money for this program in future budgets.

Mr. President, I urge prompt passage of the legislation we are proposing today and I call on the administration to show compassion and concern for individuals who need organ transplants in order to live by support and

implementation of the legislation already on the books.●

By Mrs. HAWKINS (for herself and Mr. HELMS):

S. 2809. A bill to authorize the Secretary of Agriculture to expand drug and other law enforcement programs on the National Forest System, to clarify certain law enforcement authorities of the Forest Service, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

FOREST SERVICE DRUG LEGISLATION

● Mrs. HAWKINS. Mr. President, today I am introducing legislation to enable the U.S. Forest Service to reclaim our national forests from the marijuana traffickers.

The Forest Service estimates that almost 1 million acres of our national forests have been abandoned as unmanageable because of the danger posed by criminal marijuana cultivation. The Forest Service at present has neither the resources nor the authority to extend its sway of management in these areas. This is another flagrant example of our Government being outgunned, outspent, and outmanned by the drug traffickers.

My bill will establish the necessary foundation for opening another front in the war on drugs in our national forests and should complement the President's call to get tough on the criminal element involved in supplying illegal drugs to our society.

This legislation is vital and necessary to combat the problem of marijuana cultivation in U.S. forests. I ask my colleagues to consider the following information supplied by the Forest Service. In excess of 20 percent of the cannabis cultivated within the United States is estimated to be grown on National Forest System land. Apparently, domestic growers of marijuana are moving their illegal activities into the national forests at an increasing rate. Although this can be attributed to the success of the Federal interdiction program and asset seizure enforcement, it is clearly an intolerable situation. Further evidence that the war on drugs is forcing marijuana growers to more extreme measures is the proliferation of often life-threatening boobytraps that the growers use to protect their hidden plants. These boobytraps include hand grenades detonated by trip wires, shotguns rigged to fire at chest level, and pipe bombs set to explode should an intruder approach an illegal garden in the forest. This bill will give the Forest Service appropriate authority to address this situation.

This legislation has been developed by my office, working in conjunction with the Senate Agriculture Committee staff. We have also relied closely on advice supplied at my request from the U.S. Forest Service.

My bill would empower the Forest Service, through the Secretary of Agriculture, to do the following:

Grant the Secretary of Agriculture authority to investigate, make arrests, and take other actions as necessary to locate, control, or eradicate the planting, cultivating, harvesting, manufacturing, transporting, purchasing, or selling of marijuana or any other controlled substance on National Forest System lands. In order to accomplish these activities, the Secretary would be given:

Authority to designate employees to carry firearms;

Authority to purchase necessary firearms and equipment;

Authority to designate employees to execute warrants, subpoenas, and other processes for arrest, search, and seizure, or production of evidence;

Authority to pursue suspects beyond National Forest System boundaries.

Permit the Secretary to allow the use of the resources, facilities, and equipment of the Secretary in supporting and cooperating in other law enforcement activities on other Federal and non-Federal lands, in cooperation with the appropriate Federal, State, and local authorities.

Permits the Secretary to coordinate activities under these provisions with Federal land management agencies and Federal, State, and local law enforcement agencies.

Authorize appropriations of $20 million to carry out these activities.

Permit the transfer of receipts from National Forest System activities to fund activities under these provisions.

This legislation also amends the Controlled Substances Act in two ways. It provides for a maximum penalty of 5 years and a fine of $5,000 for any person found to be in possession of a firearm while manufacturing a controlled substance on Federal lands. Further, the bill provides for a maximum penalty of 10 years and a fine of $10,000 for any person who assembles, maintains, places, or causes a booby trap to be placed on Federal property.

It is time to protect our rights, as well as our assets, in the national forests from the marijuana growers. And reclaim some of our children in the process. I hope my colleagues will join me enthusiastically in this worthy cause.●

● Mr. HELMS. Mr. President, I am pleased to cosponsor the legislation introduced today by the distinguished Senator from Florida [Mrs. HAWKINS]. This legislation directly addresses the serious problem of marijuana production on our national forest lands.

Mr. President, the cultivation of marijuana in the National Forest System has mushroomed into a problem of tremendous proportions. The U.S. Forest Service estimates that our national forests account for 20 to 30 percent of all domestic marijuana production, a substantial jump from 5 percent in 1980.

Obviously, the U.S. Government cannot continue to be the unwitting accomplice to this burgeoning marijuana cultivation. These marijuana operations not only threaten the health and moral fiber of our society by making this dangerous drug available to our children, but more directly they often seriously imperil the safety of legitimate users of our public lands, who unknowingly stumble across marijuana plantations.

These illicit growing operations adversely affect the management of 785,000 acres of our national forests. More revealing, is the fact that during 1984–85 shootings, assaults, and injuries from booby traps were reported in all Southeastern States. During 1985, 21 States reported violent incidents affecting the general public or law enforcement officials.

The criminals who tend these marijuana plantations are vicious characters, who will deploy a variety of extremely dangerous booby traps to protect their crops. These dangerous devices include pipe bombs, punji pits, shotgun shell booby traps, guard dogs, and fishing hooks dangling at eye level from monofiliment lines.

People are not the only ones to suffer from these marijuana plantations. Deer are particularly vulnerable to the marijuana grower, as they like to eat the young plants. It is estimated that the illegal killing of deer in northern California equals or exceeds the total legal take by hunters. These criminals also use large amounts of herbicides and rodenticides which have a severe impact on all wildlife in the surrounding area.

Mr. President, it is obvious we must make our public lands less attractive to the marijuana grower and this bill will certainly meet that goal. Furthermore, this legislation specifically addresses the disturbing problem of the low ratio between the detection and confiscation of marijuana plants, and the apprehension of the growers. Last year, despite a record level of marijuana confiscated from our national forests in North Carolina, only two arrests were made. I look forward to correcting this problem, as this legislation intends.●

By Mr. DOLE:

S.J. Res. 408. Joint resolution designating "American Physiologists Week"; to the Committee on the Judiciary.

AMERICAN PHYSIOLOGISTS WEEK

Mr. DOLE. Mr. President, I introduce today a joint resolution to designate the week of March 29, 1987, as "American Physiologists Week" in recognition of the 100th anniversary of the founding of the American Physiological Society.

Physiology, the study of the process of life and all living matter, is the taproot from which the basic knowledge is drawn for all biomedical and behavioral research. Both modern day as well as early day advances in science can be traced directly to this single source of knowledge.

The pathways leading to the treatment, cure, and prevention of disease begin with physiology and American physiologists have contributed greatly to the scientific advances that have enriched the health and longevity of both humans and animals.

American physiologists and the American Physiological Society will be saluted by renowned physiologists and Nobel Laureates from every continent at a scientific and educational assembly in Washington, DC, the week of March 29, 1987. I hope that you will join with me in sponsoring this resolution to give proper recognition and encouragement to those who have contributed so much to our well-being.

Mr. President, I ask unanimous consent that the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 408

Whereas 1987 marks the one-hundredth anniversary of the founding of the American Physiology Society;

Whereas physiology is the taproot for all of the life sciences;

Whereas early findings by physiologists resulted in the development of blood transfusions and modern anesthesia, eradication of many diseases, and the discovery of antibiotics;

Whereas physiology continues to be the fountainhead from which life science research enriches the health and longevity of humans and animals;

Whereas internationally renowned physiologists from every continent are coming to the District of Columbia to engage in scientific and educational dialogue with the American Physiological Society during its Centennial Week celebration of a century of progress in physiology: Now, therefore, be it

Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled, That the week beginning March 29, 1987, is designated as "American Physiologists Week." The President is requested to issue a proclamation calling on the people of the United States to observe such week with appropriate ceremonies and activities.

ADDITIONAL COSPONSORS

S. 945

At the request of Mr. THURMOND, the names of the Senator from Maine [Mr. COHEN] and the Senator from Minnesota [Mr. DURENBERGER] were added as cosponsors of S. 945, a bill to recognize the organization known as the National Association of State Directors of Veterans' Affairs, Incorporated.

S. 1773

At the request of Mr. LEAHY, the name of the Senator from North Dakota [Mr. ANDREWS] was added as a cosponsor of S. 1773, a bill to express the policy of the Congress on the number of members of the Soviet mission at the United Nations headquarters.

At the request of Mr. COHEN, the name of the Senator from California [Mr. WILSON] was added as a cosponsor of S. 1773, supra.

S. 1903

At the request of Mr. DANFORTH, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 1903, a bill to improve the safe operations of commercial motor vehicles, and for other purposes.

S. 2030

At the request of Mr. PRYOR, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 2030, a bill to establish an alternative procedure for the review of bid protests under the Competition in Contracting Act, and for other purposes.

S. 2083

At the request of Mr. STAFFORD, the name of the Senator from South Dakota [Mr. ABDNOR] was added as a cosponsor of S. 2083, a bill to amend the Toxic Substances Control Act to require the Environmental Protection Agency to set standards for identification and abatement of hazardous asbestos in the Nation's schools, to mandate abatement of hazardous asbestos in the Nation's schools in accordance with those standards, to require local educational agencies to prepare asbestos management plans, and for other purposes.

S. 2115

At the request of Mr. THURMOND, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 2115, a bill to recognize the organization known as the 82d Airborne Division Association, Inc.

S. 2533

At the request of Mr. DIXON, the name of the Senator from Pennsylvania [Mr. HEINZ] was added as a cosponsor of S. 2533, a bill to amend the Food Stamp Act of 1977 and the Temporary Emergency Food Assistance Act of 1983 to alleviate hunger among the homeless by improving certain nutrition programs, and for other purposes.

S. 2637

At the request of Mr. LONG, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 2637, a bill relating to the application of the drawback provisions of section 313 of the Tariff Act of 1930 to certain imports of cane sugar

S. 2678

At the request of Mr. BENTSEN, the names of the Senator from Illinois [Mr. SIMON], and the Senator from North Dakota [Mr. ANDREWS] were added as cosponsors of S. 2678, a bill to provide a comprehensive national oil security policy.

S. 2770

At the request of Mr. COCHRAN, the names of the Senator from California [Mr. WILSON], and the Senator from Georgia [Mr. NUNN] were added as cosponsors of S. 2770, a bill to amend the Farm Credit Act of 1971 to provide the opportunity for competitive interest rates for the farmer, rancher, and cooperative borrowers of the farm credit system, and for other purposes.

S. 2781

At the request of Mr. D'AMATO, his name was added as a cosponsor of S. 2781, a bill to amend the Energy Policy and Conservation Act with respect to energy conservation standards for appliances.

SENATE JOINT RESOLUTION 143

At the request of Mr. GORE, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of Senate Joint Resolution 143, a joint resolution to authorize the Black Revolutionary War Patriots Foundation to establish a memorial in the District of Columbia at an appropriate site in Constitution Gardens.

SENATE JOINT RESOLUTION 299

At the request of Mr. COCHRAN, the name of the Senator from Maryland [Mr. MATHIAS] was added as a cosponsor of Senate Joint Resolution 299, a joint resolution to designate the week the week of December 7, 1986, through December 13, 1986, as "National Alopecia Areata Awareness Week."

SENATE JOINT RESOLUTION 352

At the request of Mr. METZENBAUM, the names of the Senator from Missouri [Mr. DANFORTH], The Senator from Arizona [Mr. DECONCINI], and the Senator from Michigan [Mr. RIEGLE] were added as cosponsors of Senate Joint Resolution 352, a joint resolution to designate the week beginning September 7, 1986, as "Gaucher's Disease Awareness Week."

SENATE JOINT RESOLUTION 390

At the request of Mr. CRANSTON, the names of the Senator from Rhode Island [Mr. CHAFEE], the Senator from Oregon [Mr. PACKWOOD], the Senator from South Dakota [Mr. PRESSLER], the Senator from Massachusetts [Mr. KERRY], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Hawaii [Mr. MATSUNAGA], and the Senator from Connecticut [Mr. WEICKER] were added as cosponsors of Senate Joint Resolution 390, a joint resolution to authorize and request the President to proclaim the week of November 23, 1986, to November 30, 1986, as "American Indian Week."

SENATE JOINT RESOLUTION 395

At the request of Mr. HATCH, the names of the Senator from Kansas [Mr. DOLE], the Senator from North Dakota [Mr. BURDICK], the Senator

from Illinois [Mr. SIMON], the Senator from Florida [Mrs. HAWKINS], the Senator from Tennessee [Mr. GORE], the Senator from Georgia [Mr. NUNN], the Senator from Massachusetts [Mr. KERRY], the Senator from South Carolina [Mr. THURMOND], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Nebraska [Mr. ZORINSKY], the Senator from Michigan [Mr. RIEGLE], and the Senator from South Carolina [Mr. HOLLINGS] were added as cosponsors of Senate Joint Resolution 395, a joint resolution to designate the period October 1, 1986, through September 30, 1987, as "National Institutes of Health Centennial Year."

SENATE JOINT RESOLUTION 396

At the request of Mr. HATCH, the names of the Senator from New Jersey [Mr. BRADLEY], the Senator from Nebraska [Mr. ZORINSKY], the Senator from Nevada [Mr. LAXALT], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Kansas [Mr. DOLE], the Senator from Florida [Mrs. HAWKINS], the Senator from Massachusetts [Mr. KERRY], the Senator from South Carolina [Mr. THURMOND], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from North Dakota [Mr. ANDREWS], the Senator from Arkansas [Mr. PRYOR], the Senator from Oklahoma [Mr. NICKLES], the Senator from Illinois [Mr. SIMON], and the Senator from Georgia [Mr. NUNN] were added as cosponsors of Senate Joint Resolution 396, a joint resolution to designate the week of October 26, 1986, through November 1, 1986, as "National Adult Immunization Awareness Week."

SENATE JOINT RESOLUTION 406

At the request of Mr. TRIBLE, the names of the Senator from Kansas [Mr. DOLE], the Senator from Virginia [Mr. WARNER], the Senator from Florida [Mrs. HAWKINS], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Oklahoma [Mr. NICKLES], the Senator from South Carolina [Mr. THURMOND], the Senator from Idaho [Mr. MCCLURE], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Utah [Mr. HATCH], the Senator from Mississippi [Mr. COCHRAN], the Senator from Vermont [Mr. LEAHY], the Senator from Michigan [Mr. LEVIN], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Arizona [Mr. DECONCINI], the Senator from Arkansas [Mr. PRYOR], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Michigan [Mr. RIEGLE], the Senator from Illinois [Mr. SIMON], the Senator from Mississippi [Mr. STENNIS], the Senator from Arkansas [Mr. BUMPERS], the Senator from North Dakota [Mr. ANDREWS], the Senator from South Dakota [Mr. ABDNOR], the Senator from Vermont [Mr. STAFFORD], the Senator from Nebraska [Mr. ZORINSKY], and the Senator from Nevada [Mr. HECHT], were added as cosponsors of Senate Joint Resolution 406, a joint resolution to designate October 4, 1986 as "National Outreach to the Rural Disabled Day."

SENATE CONCURRENT RESOLUTION 145

At the request of Mr. STEVENS, the name of the Senator from Illinois [Mr. SIMON], was added as a cosponsor of Senate Concurrent Resolution 145, a concurrent resolution to encourage State and local governments and local educational agencies to require quality daily physical education programs for all children from kindergarten through grade 12.

SENATE CONCURRENT RESOLUTION 154

At the request of Mr. D'AMATO, the names of the Senator from Maine [Mr. COHEN], and the Senator from New Hampshire [Mr. HUMPHREY] were added as cosponsors of Senate Concurrent Resolution 154, a concurrent resolution concerning the Soviet Union's persecution of members of the Ukrainian and other public Helsinki monitoring groups.

SENATE CONCURRENT RESOLUTION 157

At the request of Mr. QUAYLE, the names of the Senator from Arizona [Mr. DECONCINI], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Nevada [Mr. HECHT], and the Senator from Nevada [Mr. LAXALT] were added as cosponsors of Senate Concurrent Resolution 157, a concurrent resolution to express the sense of the Congress that colleges and universities should enforce strict but fair antidrug use policies.

SENATE RESOLUTION 455

At the request of Mr. DIXON, the names of the Senator from Arkansas [Mr. BUMPERS], the Senator from North Dakota [Mr. BURDICK], the Senator from Tennessee [Mr. GORE], the Senator from Idaho [Mr. MCCLURE], and the Senator from Arkansas [Mr. PRYOR] were added as cosponsors of Senate Resolution 455, a resolution to call for the creation of an early notification system for nuclear accidents.

SENATE RESOLUTION 488—CALLING FOR A NATIONAL ENERGY SECURITY PLAN

Mr. BENTSEN submitted the following resolution; which was referred to the Committee on Energy and Natural Resources:

SENATE RESOLUTION 488

Whereas, the national security of the United States is directly related to the maintenance of secure and reliable supplies of petroleum and lubricants needed for national defense and economic growth;

Whereas, the only strategic commodity which has been embargoed and supplies withheld from the United States in recent years is petroleum;

Whereas, the collapse of domestic petroleum prices is reducing exploration and production, and increasing demand, causing foreign petroleum imports to rise dangerously to 40 percent of consumption in July from 27 percent in 1985;

Whereas, the surge in imports has occurred primarily from OPEC nations which are supplying 43 percent of all United States imports;

Whereas, the President's National Security adviser has acknowledged that such rising American and free world dependence on OPEC oil supplies threatens United States national security;

Now therefore be it *Resolved*, that the President shall prepare and submit a National Petroleum Security Plan to Congress by December 31, 1986, designed to prevent further erosion in United States oil independence and national security caused by a growing reliance on unsecure foreign sources of petroleum.

SENATE RESOLUTION 489—PROPOSING A SENATE RULE FOR IMPEACHMENT OF CONVICTED FELONS

Mr. THURMOND submitted the following resolution; which was referred to the Committee on Rules and Administration:

SENATE RESOLUTION 489

Resolved, at the end of the Rules of Procedure and Practice In The Senate When Sitting On Impeachment Trials add the following new rule:

XXVII. Whenever articles of impeachment are exhibited in the Senate against any person who has been convicted of a felony in the State or Federal courts of the United States, the Presiding Officer shall designate, with the approval of the Senate, a time for the yeas and nays to be taken on the articles of impeachment against such person. *Provided, however*, That prior to such vote, there shall be six hours of consideration of the articles; two hours of which shall be reserved for the managers of the impeachment, two hours of which shall be reserved for the accused or the representative of the accused, and two hours of which shall be reserved for deliberation and debate by members. If the impeachment is not sustained by the votes of two-thirds of the members present, a judgment of acquittal shall be entered; but if the person accused of such a felony conviction should be convicted by two-thirds of the members present, the Senate shall proceed to pronounce judgment, and a certified copy of such judgment shall be deposited in the office of the Secretary of the Senate.

Mr. THURMOND. Mr. President, as we, in the Senate, are all too painfully aware at this time, under current constitutional law, it is possible for certain officers of the United States who are appointed by the President, with the advice and consent of the Senate, to continue to receive a salary after being convicted of a felony. In order to remove these officers from the Federal payroll, if they are unwilling to resign, it is necessary that they be impeached—a process which can occupy valuable time and resources of the Congress.

The Congress now has the power to impeach officers of the Government who have committed treason, bribery, or other high crimes and misdemeanors. However, when the courts of the Nation have found an official guilty of a serious crime, it should not be necessary for Congress to retry the official prior to his removal from the Federal payroll.

Mr. President, already this year, I have introduced a constitutional amendment which, I believe, would address this intolerable situation. At a recent hearing on my proposal, however, several distinguished witnesses expressed the view that a satisfactory remedy to this problem might exist short of amendment of the Constitution. Primarily, their suggestion was that Congress, through the impeachment process, provide for an expedited impeachment procedure in the case of an accused who has been convicted of a felony. I believe this may be an appropriate alternative means of addressing this dilemma. It was, in fact, an approach which I proposed to several of my colleagues with regard to the Claiborne impeachment.

Today, therefore, I am introducing a resolution which would add a new Senate rule to provide for expedited impeachment proceedings when the accused has been convicted of a felony. I am hopeful that it will receive the careful consideration of my colleagues.

Mr. President, I sent the resolution to the desk and ask that it appear in the RECORD at the conclusion of my remarks.

AMENDMENTS SUBMITTED

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES APPROPRIATION ACT, 1987

WILSON AMENDMENT NO. 2779

Mr. WILSON proposed an amendment to the bill (H.R. 5233) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1987, and for other purposes; as follows:

On page 50, line 14, strike out "$138,955,000" and insert in lieu thereof "$168,955,000".

On page 50, line 18, after the word "Act" insert the following: "and $30,000,000 shall be for the Emergency Immigrant Education Program authorized by title VI of the Education Amendments of 1984".

WEICKER (AND OTHERS) AMENDMENT NO. 2780

Mr. WEICKER (for himself, Mr. PROXMIRE, and Mr. WILSON) proposed an amendment to the bill (H.R. 5233), supra; as follows:

On page 33, line 21, delete "$1,875,000,000" and insert in lieu thereof "$1,825,000,000".

On page 23, line 24, delete "$494,343,000" and insert in lieu thereof "$541,343,000".

BRADLEY AMENDMENT NO. 2781

Mr. BRADLEY proposed an amendment to the bill (H.R. 5233) supra; as follows:

One page 48, line 1, strike out "$26,837,000" and insert in lieu thereof "$27,837,000".

On page 48, line 15, strike out "$2,000,000" and insert in lieu thereof "$3,000,000".

On page 48, line 20, before the period insert a colon and the following: *"Provided further,* That of the amounts appropriated and available for activities authorized under subsection 583(b)(4) of said Act $1,000,000 shall be available for law related programs in elementary and secondary schools related to the bicentennial celebration of the Constitution".

WEICKER AMENDMENT NO. 2782

Mr. WEICKER proposed an amendment to the bill (H.R. 5233) supra; as follows:

On page 45, line 24, strike out "75" and insert in lieu thereof "15".

On page 50, line 12, strike out "title VI of the Education Amendments of 1984,".

On page 51, line 19, strike out "as amended by S. 2515 as reported by the Senate Committee on Labor and Human Resources on August 6, 1986," and insert in lieu thereof "as amended by H.R. 4021, as passed by the Senate on September 8, 1986,".

STAFFORD (AND PELL) AMENDMENT NO. 2783

Mr. STAFFORD (for himself and Mr. PELL) proposed an amendment to the bill (H.R. 5233), supra; as follows:

On page 53, line 9, before the period insert a colon and the following: *"Provided further,* That of the amounts appropriated under this heading and made available for part E of title IV of the Higher Education Act of 1965, $5,000,000 shall be available for carrying out the Income Contingent Pilot Demonstration projects in S. 1965, as passed by the Senate on June 4, 1986, and shall remain available until September 30, 1988".

MATHIAS AMENDMENT NO. 2784

Mr. MATHIAS proposed an amendment to the bill (H.R. 5233), supra; as follows:

On page 54, line 9, before the period insert a colon and the following: *"Provided further,* That $1,000,000 of the amount appropriated under this paragraph and available for part B of title VI of the Higher Eduation Act of 1965 shall be available for a grant to the Bologna Center of the School of Advanced International Studies of the Johns Hopkins University.".

METZENBAUM (AND COCHRAN) AMENDMENT NO. 2786

Mr. METZENBAUM (for himself and Mr. COCHRAN) proposed an amendment, which was subsequently modified, to the bill (H.R. 5233) supra; as follows:

On page 6, beginning with "$117,910,000" on line 9, strike out all through "December 31, 1987." on line 22 and insert in lieu thereof the following: "$150,910,000 (including not to exceed $4,800,000 which may be used for amortization payments to States which had independent retirement plans in their States employment service agencies prior to 1980) shall be available only to the extent necessary to administer unemployment compensation laws to meet increased costs of administration resulting from changes in a State law or increases in the number of unemployment insurance claims filed and claims paid or increased salary costs resulting from changes in State salary compensation plans embracing employees of the State generally over those upon which the State's basic allocation was based, which cannot be provided for by normal budgetary adjustments based on State obligations as of December 31, 1987.

DOMENICI (AND OTHERS) AMENDMENT NO. 2786

Mr. DOMENICI (for himself, Mr. CHILES, Mr. BINGAMAN, Mr. HART, Mr. LAUTENBERG, and Mr. HATCH) proposed an amendment to the bill (H.R. 5233), supra; as follows:

At the end of the bill, add the following new section: Amounts available under this Act for carrying out the provisions of title II of the Education for Economic Security Act are hereby increased by $56,934,000, provided that amounts available under this Act for the various activities of the National Institutes of Health are reduced by a total of $11,000,000.

DODD (AND HAWKINS) AMENDMENT NO. 2787

Mr. DODD (for himself and Mrs. HAWKINS) proposed an amendment to the bill (H.R. 5233), supra; as follows:

On page 35, line 25, strike out "and".

On page 35, line 25, strike out "$2,090,018,000" and insert in lieu thereof "and the Child Development Associate Scholarship Assistance Act of 1985, $2,091,018,000".

On page 37, line 9, strike out "$128,819,000" and insert in lieu thereof "$127,819,000".

HAWKINS AMENDMENT NO. 2788

Mrs. HAWKINS proposed an amendment to the bill (H.R. 5233), supra; as follows:

On page 29, line 5, insert before the period a colon and *"Provided further,* That of the amounts appropriated under this heading, $100,000 shall be available for the President's Council on Health Promotion and Disease Prevention".

BYRD (AND OTHERS) AMENDMENT NO. 2789

Mr. BYRD (for himself, Mr. METZENBAUM, Mr. FORD, and Mr. ROCKEFELLER) proposed an amendment to the bill (H.R. 5233), supra; as follows:

On page 7, line 25, delete $192,709,000 and insert in lieu thereof $194,209,000;

On page 14, line 21, delete $160,180,000 and insert in lieu thereof, $158,680,000.

DOLE AMENDMENT NO. 2790

Mr. DOLE proposed an amendment to the bill (H.R. 5233), supra; as follows:

On page 54, line 12, strike out "$41,000,000" and insert in lieu thereof "$36,500,000".

On page 54, between lines 16 and 17, insert the following:

For making a grant to the Kansas State University located in Manhattan, Kansas, to enable the Kansas State University to establish the Kansas Educational Satellite Video Communications Center in order to produce and disseminate television programming in subject areas of local, regional, national, and international importance, $4,500,000 to remain available until expended.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATION ACT, 1987

DIXON AMENDMENT NO. 2791

(Ordered to lie on the table.)

Mr. DIXON submitted an amendment intended to be proposed by him to the bill (H.R. 5234) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1987, and for other purposes; as follows:

Beginning on page 47, line 20, delete the linetype through page 48 line 2.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION, AND RELATED AGENCIES APPROPRIATION, 1987

DOLE AMENDMENT NO. 2792

Mr. DOLE proposed an amendment to the bill (H.R. 5233), supra; as follows:

At the end of the bill, add the following:

SEC. . Notwithstanding section 223(b) of the Trade Act of 1974 (19 U.S.C. 2273(b)), the certification made under section 223(a) of such Act on August 29, 1986, in response to a petition for trade adjustment assistance filed on April 23, 1986, by a group of workers of a firm that produces cardiopulmonary surgical devices and plastic administration sets shall apply to any worker of such firm whose last total or partial separation from such firm occurred on or after March 15, 1985.

PLACEMENT OF COMMEMORATIVE WORKS IN THE DISTRICT OF COLUMBIA

McCLURE AMENDMENT No. 2793

Mr. SIMPSON (for Mr. McCLURE) proposed an amendment to the bill (H.R. 4378) to provide standards for placement of commemorative works on lands administered by the National Park Service in the District of Columbia; as follows:

On page 16, line 8, strike "Natural elements" and insert in lieu thereof "Landscape features of commemorative works".

On page 17, line 6, strike "paid" and insert in lieu thereof "donated".

On page 18, line 3, strike "such moneys shall not be subject to deferral or rescission under the Budget Impoundment and Control Act of 1974, and".

On page 18, line 6, strike "Further, the funds shall not be subject to sequestration under the requirements of Public Law 99-177."

NOTICES OF HEARINGS

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. ROTH. Mr. President, the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, will hold a hearing on emerging criminal groups—Nigerian.

The hearing will be held on Wednesday, September 17, 1986, at 9:30 a.m. in Senate Dirksen 342. For further information please contact Daniel F. Rinzel or Howard L. Shapiro of the subcommittee staff at 224-3721.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. HELMS. Mr. President, I wish to announce that the Committee on Agriculture, Nutrition, and Forestry, will hold a hearing to discuss the current financial condition of the Farm Credit System.

The hearing will begin at 10:30 a.m. on Wednesday, September 17, 1986, in SR 332.

For further information, please contact Ron Phillips of the committee staff at 224-6901.

AUTHORITY FOR COMMITTEES TO MEET

SELECT COMMITTEE ON INTELLIGENCE

Mr. WEICKER. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, September 10, in closed session, to hold a hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. WEICKER. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on Wednesday, September 10, to hold a hearing to consider S. 2340, the Oil Pollution Liability and Compensation Act of 1986.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. WEICKER. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Wednesday, September 10, to hold a hearing to consider the nomination of John Agresto, to be Archivist of the United States.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. WEICKER. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on Wednesday, September 10, to conduct a hearing on S. 2565, the Federal Telecommunications Policy Act of 1986.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

COST ESTIMATE OF HENRY'S FORK OF THE SNAKE RIVER

● Mr. McCLURE. Mr. President, with regard to S. 2635, a bill to protect the integrity and quality of certain reaches of the Henry's Fork of the Snake River, ID, and for other purposes, I request that the Congressional Budget Office's estimate of the costs of this measure be printed in the RECORD at this point. The cost estimate was not available at the time the report was filed.

The cost estimate follows:

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, DC, August 15, 1986.

Hon. JAMES A. McCLURE,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 2635, a bill to protect the integrity and quality of certain reaches of the Henry's Fork of the Snake River, Idaho, and for other purposes, as ordered reported by the Senate Committee on Energy and Natural Resources, August 14, 1986. CBO expects that this bill would result in no cost to the federal government, or to state or local governments.

The bill would prohibit the Federal Energy Regulatory Commission (FERC) from taking any further steps toward authorizing hydropower projects on a specific portion of Henry's Fork of the Snake River, Idaho. The prohibition established in the bill does not apply to the application for a FERC license for the Island Park Dam Hydropower project, or to the relicensing of the Island Park project. The prohibition also does not apply to relicensing of the Ponds Lodge hydropower project.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,

Sincerely,

RUDOLPH G. PENNER.●

THE NOMINATION OF JUSTICE WILLIAM H. REHNQUIST TO BE CHIEF JUSTICE OF THE UNITED STATES

● Mr. METZENBAUM. Mr. President, the Senate will begin debate on the

nomination of Justice William H. Rehnquist to be Chief Justice of the United States very soon. In order to provide information for each Senator to consider in connection with this nomination, I ask that the following documents be printed in the RECORD:

LAIRD VERSUS TATUM

First. Letter from Prof. Stephen Gillers, New York University School of Law.

Second. Letter from Prof. Christopher H. Pyle, Mount Holyoke University.

Third. Letter from Prof. Floyd Feeney, University of California, Davis, and Barry Mahoney, attorney, and accompanying analysis.

Fourth. Letter from law professors from around the country.

RESTRICTIVE COVENANT

First. Legal Times article of August 4, 1986.

Second. Letter from Justice Rehnquist, dated August 4, 1986, with attached letter of July 2, 1984, from David Willis.

ETHICAL ISSUES REGARDING TRUST

First. New York Times article of August 15, 1986.

Second. Los Angeles Times article of August 2, 1986.

Third. National Public Radio interview with Harold Dickerson Cornell of August 27, 1986.

Fourth. Letter from Prof. Stephen Gillers, New York University School of Law.

The material follows:

NEW YORK UNIVERSITY
SCHOOL OF LAW,
New York, NY, September 4, 1986.

Hon. HOWARD M. METZENBAUM,
U.S. Senate, Washington, DC.

DEAR SENATOR METZENBAUM: Your office has requested my opinion regarding the ethical propriety of certain conduct of William Rehnquist, currently a Justice of the United States Supreme Court whom President Reagan has nominated to be Chief Justice of the United States.

I am a professor of law at New York University, where I have been teaching since 1978. Prior to that, I was in the private practice of law for nine years and a law clerk to a United States District judge for one year. I teach professional and judicial ethics. I have written scholarly articles on the subject and articles for the popular press as well. I am also co-author of a casebook in professional responsibility entitled *Regulation of Lawyers: Problems of Law and Ethics.* I have served as an expert witness in several tribunals on issues of professional legal ethics. From 1980–83, I was a member of the lawyer disciplinary committee in Manhattan. In 1979–82, I was a member of the Committee on Professional and Judicial Ethics of the Association of the Bar of the City of New York.

The conduct about which you inquire is the decision of Justice Rehnquist to participate in the case of *Laird v. Tatum*, 408 U.S. 1 (1972), a decision he defended in a memorandum opinion reported at 409 U.S. 824 (1972).

In *Laird*, the Supreme Court held that the plaintiffs lacked standing to challenge what they alleged to be unconstitutional army surveillance of the legal activities of American citizens. The Court did not address the merits of the claim, nor was a trial necessary to determine whether the plaintiffs' alleged facts were true. The plaintiffs were not entitled to have the facts determined because they lacked the injury necessary to give them the right to invoke federal jurisdiction under Article III of the Constitution. The Court held that their claim of a subjective "chill" of their exercise of constitutionality protected rights could not "substitute for a claim of specific present objective harm or a threat of specific future harm." 408 U.S. at 13–14.

Although Chief Justice Burger did recount "facts" in his majority opinion, and although these "facts" were contested by plaintiffs and had not been determined at a trial, nevertheless, the asserted facts were analytically unnecessary to the majority's conclusion that the plaintiffs lacked standing.

Justice Rehnquist and three other justices joined the Chief Justice's opinion. The case was decided five to four. Had Justice Rehnquist recused himself, the lower court's decision would have been affirmed by an equally divided Court and discovery would have proceeded in the district court. The affirmation would have had no precedential value.

Laird was decided June 26, 1972. Justice Rehnquist's decision not to recuse himself was published October 10, 1972.

Three reasons appear why Justice Rehnquist ought not to have participated in the *Laird* case. Two have been raised at his confirmation hearings. A third reason, in my opinion, is most compelling of all and makes Justice Rehnquist's participation especially inappropriate.

Some have suggested that Justice Rehnquist should not have participated in *Laird* because in March 1971, as Assistant Attorney General, Justice Rehnquist testified before the Senate Constitutional Rights Subcommittee (the Ervin Committee) and expressed as facts some of the "facts" later recounted by the Chief Justice in his majority opinion in *Laird* and the accuracy of which the plaintiffs were attempting to challenge. While I do not applaud this action, I discount its seriousness because, as stated above, the facts did not play an analytically important role in the resolution of the case.

Some have also pointed to the fact that at the Ervin Committee hearings Justice Rehnquist had specifically addressed the legal issue in *Laird* (which was then pending in the District of Columbia Court of Appeals.) Mr. Rehnquist gave the Ervin Committee his view that the plaintiffs lacked standing. Later, in his opinion refusing to recuse himself from ruling on the very same standing issue with the same case came before the Supreme Court, Justice Rehnquist chose not to quote the statement to the Ervin Committee in which he had provided his view on the standing issue. Instead, he mischaracterized his colloquy with the Chairman of the Committee as "a discussion of the applicable law."

It was not such a discussion. Mr. Rehnquist gave the Ervin Committee his opinion on the way the law of standing should apply to the facts of the case that later came before him as a Justice. Justice Rehnquist told the Ervin Committee that his "point of disagreement with you is to say whether as in the case of *Tatum* v. *Laird* that has been pending in the Court of Appeals here in the District of Columbia that an action will lie by private citizens to enjoin the gathering of information by the executive branch where there has been no threat of compulsory process and no pending action against any of those individuals on the part of the Government."

In my view, any person who has given his opinion of what a particular rule of law requires in a particular context—here the law of standing in the context of the *Laird* pleadings—cannot properly sit as a judge or justice charged with applying that rule of law in that context. This is fundamental and Justice Rehnquist's decision to sit was fundamentally wrong.

I reach this conclusion based on Section 455 of the Judicial Code, as it read at the time Justice Rehnquist joined in the majority opinion in *Laird* v. *Tatum;* on the basis of the Canons of Judicial Ethics, which were in existence when *Laird* was decided; and on the basis of the Code of Judicial Conduct, the final form of which was available to Justice Rehnquist at the time of the *Laird* decision and which the A.B.A. had formally adopted as of the time of Justice Rehnquist's denial of the motion to recuse himself.

Let me emphasize that I believe that a person who, before appointment to the bench, ventures a view on the meaning of a legal rule in general may therefore properly sit in judgment in a case where that rule must be applied to specific facts. But this is not what Justice Rehnquist did. Justice Rehnquist, as a witness before the Ervin Committee, did not simply express his general view of the standing principle. Rather, he applied his view of that principle to a particular case and reached a conclusion that there was a lack of standing in that case. Later, as a Justice, he participated in a decision dismissing the same case because of the same conclusion.

Third, and most egregious, Justice Rehnquist should have recused himself in *Laird* because he was personally at risk if the Court, without his participation, were to affirm the lower court decision by an equally divided vote. In other words, by voting in *Laird v. Tatum*, Justice Rehnquist violated the first principle of disinterested judging—he became a judge of his own cause. However—and this compounds the misconduct—the litigants and the public were unaware of Justice Rehnquist's personal stake in the outcome of the *Laird* case, and Justice Rehnquist did not reveal this stake when he denied the recusal motion.

It was apparently not until 1974 that the nation learned that as Assistant Attorney General Mr. Rehnquist had participated in defining the scope of the army's domestic surveillance of civilians. Among the documents published by the Ervin Committee at that time was a memorandum by Robert E. Jordan, III, General Counsel of the Army, and a copy of a draft memorandum to the President, dated March 25, 1969, prepared by William Rehnquist. These documents and others published by the Ervin Committee reveal Justice Rehnquist's critical role in fashioning the plan for the very military conduct challenged in *Laird.*

To see why Justice Rehnquist had a personal stake in avoiding an affirmation of the lower court's opinion in *Laird*, consider what would have happened if *Laird* had been affirmed. The case would have proceeded to discovery. The documents that did not come to light until 1974, and perhaps other documents, would have been obtained by the plaintiffs. Justice Rehnquist's involvement in the army surveillance plan would have been ascertained. Plaintiffs'

counsel would likely have sought to depose Justice Rehnquist. Depending on what the facts revealed, Justice Rehnquist could have been named as a defendant and sued for money damages. The Supreme Court's earlier decision in *Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics*, 403 U.S. 388 (1971), would have permitted just such a lawsuit.

By assuring with his swing vote that the case would go no further, Justice Rehnquist also assured that his participation in the creation of the challenged plan would go undiscovered and that he would avoid exposure to civil liability.

Justice Rehnquist's conduct is a clear violation (i) of the prohibition in Section 455 of the Judicial Code (as it read in 1972) against a justice or judge participating in "any case in which he has a substantial interest;" (ii) of the prohibition in Canon 29 of the Canons of Justicial Ethics against "performing any judicial act when his personal interests are involved;" and (iii) of the prohibition in the Code of Judicial Conduct against participating in a proceeding where the judge's "interest . . . could be substantially affected by the outcome of the proceeding." The Court has very recently and unanimously reaffirmed these established principles. *Aetna Life Insurance Co. v. Lavoie*, 106 S.Ct. 1580 (1986).

The fact that Justice Rehnquist chose not to reveal his role in developing the program challenged in *Laird*, thereby denying the plaintiffs a chance to argue that this participation required disqualification, compounds his impropriety.

In conclusion, because Justice Rehnquist had previously expressed an opinion on how the legal requirement of standing should operate in the case of *Laird v. Tatum*, it was improper for him to participate in an opinion that applied the standing rule in that very case. Because Justice Rehnquist was a potential defendant in the event of an affirmation of *Laird v. Tatum*, and had financial and professional exposure, it was improper for him to participate in a decision to reverse the case.

Sincerely yours,

STEPHEN GILLERS,
Professor of Law.

MOUNT HOLYOKE COLLEGE,
DEPARTMENT OF POLITICS,
South Hadley, MA, August 31, 1986.

Hon. HOWARD M. METZENBAUM,
Judiciary Committee, U.S. Senate, Washington, DC.

DEAR SENATOR METZENBAUM: From what I can gather from news reports of the Rehnquist hearings, you have been concerned with the ethics of his vote in the case of *Laird v. Tatum*. Accordingly, I am writing to add some information to your understanding of that vote.

First, I should explain the source of my knowledge. I helped to organize that case, which was based on information I had learned while a captain in Army intelligence. I testified about the surveillance before Senator Ervin's Subcommittee on Constitutional Rights in February 1971, and was hired by that subcommittee between 1971 and 1974 to write its two book-length reports on the Army's surveillance. I also wrote my doctoral dissertation on the subject. It is scheduled for publication this year by Garland Press.

According to the New York Times of August 25, the chief unanswered question regarding Justice Rehnquist's 1972 vote in *Laird* is whether he prejudged the case while testifying at the Ervin hearings in March 1971 as a Justice Department lawyer.

In my opinion, the ethical violation was much worse than that. Mr. Rehnquist not only prejudged the legal merits of *Laird;* he served as a custodian of evidence in that case. That evidence, computer printouts from the Army's files on civil rights and anti-war activists, were sent to the Justice Department by the Army in March 1970 so that a "pending litigation" excuse could be involved to prevent them from being subpoenaed by Senator Sam J. Ervin's Judiciary Subcommittee on Constitutional Rights.

At Justice Rehnquist's confirmation hearing last July 30, Senator Leahy asked him: "Did you have personal knowledge of the disputed evidentiary facts in *Laird*?" He replied "No." The Senator asked the question again, and again Justice Rehnquist said "No." I find this denial difficult to believe, for, while writing the Ervin committee's reports in the spring of 1971, I went to Mr. Rehnquist's office to inspect the computer printouts. They filed a large shopping cart.

The files were at the Justice Department in March 1971 when he prepared to defend the legality of the surveillance before Senator Ervin's subcommittee. Is it reasonable to believe that Mr. Rehnquist did not look at them before assuring the subcommittee that the surveillance that produced them was not unconstitutional? Even if he did not look at those files, his possession of them made him a potential witness (or deponent) in *Laird*, as the files turned out to be incomplete.

But the most unethical part of Justice Rehnquist's vote in *Laird* is not that he prejudged the case or that he had custody of the evidence as a lawyer in the "firm" which represented the defendants in both Congress and the courts. Much worse is the fact that he had a substantial personal and political interest in preventing the lawsuit from going forward.

As Assistant Attorney General, Mr. Rehnquist was part of the leadership group which decided, in the spring of 1969, to keep the Army's 1,500 plainclothes agents monitoring civilian politics. In March of that year, the Army's civilian leadership had tried to get their agents out of the surveillance business by transferring all responsibility for it to the FBI. Their reason: they had learned that the Army agents were not just passive recipients of FBI reports, but were conducting their own covert operations. They knew the "flap potential" of such activity, and wanted to get the Army out of it before it embarassed them personnally.

The Army's request went to Deputy Attorney General Richard G. Kleindienst and his protege William H. Rehnquist. However, their administration was determined to intensify, not curb, domestic political surveillance. Mr. Rehnquist's draft memorandum of March 25, 1969, "clarifying" the surveillance policy would have expressly retained the military's surveillance, although under the Attorney General's direction. The final memorandum prepared for Attorney General Mitchell was more circumspect. By authorizing surveillance by unspecified intelligence agencies, it left the Army's operation intact until I disclosed its existence in an article in the January 1970 issue of the Washington Monthly.

I find it difficult to reconcile Justice Rehnquist's participation in that decision with his statement, in writing, to Senator Mathias, in which he said: "I have no recollection of any participation in the formulation of the policy on the use of the military to conduct surveillance or collect intelligence concerning domestic civilian activities." That is precisely what he did with his draft memorandum of March 25, 1969. It would also seem probable that he helped to write the final memorandum signed by Attorney General Mitchell in April of that year, since that was the function of his office.

Intensifying the government's surveillance of civil rights and anti-war activists was a top priority of the Justice Department and the White House throughout 1969 and 1970. It is inconceivable that Mr. Rehnquist, as head of the Office of Legal Counsel, was not involved in its development. It was his task to prepare a legal rationale for these covert activities, which he did by inventing a doctrine of "partial martial law." The Assistant Attorney General with whom he worked on these matters was Robert Mardian, who was later convicted for his role in the Watergate affair.

Yet when Senator Leahy asked Justice Rehnquist "did you have knowledge about the military's domestic surveillance policy?," he replied: "I had—if you would consider information obtained in the course of preparing for the May Day demonstrations, which did involve some activity, I suppose you could say yes."

This is a curious answer. The May Day demonstrations occurred in 1971 and had nothing to do with *Laird v. Tatum* or the surveillance activity it challenged. Indeed, they occurred after Mr. Rehnquist and Mr. Mardian had assured the Ervin subcommittee (in March 1971) that the Army's surveillance had ended. By the time the May Day protest occurred, the Army's surveillance policy had been front page news, off and on, for 14 months. (One NBC-TV documentary about it was seen by 9.5 million people.) If Justice Rehnquist is to be believed, he has forgotten all that public controversy and all of the strategy sessions it generated within the Justice Department. He has also forgotten the Army's request and his own memorandum, one of the first he wrote as a new assistant in Washington.

If the plaintiffs in *Laird* had been permitted to go forward with pre-trial discovery, it is very possible that they would have discovered the role played by Mitchell, Kleindienst, and Rehnquist, in continuing the surveillance in 1969. If they had, he might have been called as a witness (or to give a deposition) in the case about those decisions, as well as the missing computer printouts. They might also have discovered the 1970 Huston Plan, whereby the Nixon administration sought to commit the FBI, the CIA and military intelligence, in writing, to conducting admittedly illegal surveillance operations. Had that plan been disclosed during the summer of 1972, while the initial investigations of the Watergate burglary were underway in Congress, the administration's responsibility for those (and related) illegal activities might have been more fully disclosed before, rather than after, the 1972 elections.

But Justice Rehnquist blocked this inquiry in a court decision that was rendered in June 1972, just nine days after the Watergate burglary.

I hope this information is of use to you. If I can be of further assistance, I can be reached at (413) 532-3627.

Sincerely,

CHRISTOPHER H. PYLE,
Professor.

SEPTEMBER 5, 1986.

Hon. STROM THURMOND,
The Judiciary Committee,
U.S. Senate,
Washington, DC.

DEAR SENATOR THURMOND: Enclosed is a memorandum concerning Justice Rehnquist's participation in *Laird* v. *Tatum*, a copy of which is being sent to each member of the Judiciary Committee. This submission has been prompted by two recent developments: (1) the release of information indicating that Mr. Rehnquist transmitted a memorandum to the Attorney General in March 1969 dealing with the Army's role in collection of intelligence data on civilians; and (2) Justice Rehnquist's responses to questions from Senator Mathias indicating that he had no recollection of the March 1969 memorandum and could not recall any participation in the formulaton of policy concerning military surveillance of civilian activities.

Under the agreement between the Judiciary Committee and the Justice Department following the close of the hearings last month, the contents of Mr. Rehnquist's March 1969 memo were to be treated as confidential. However, that memorandum and other relevant documents are included in the record of public hearings before Senator Ervin's Subcommittee on Constitutional Rights in 1974.

A detailed review of these and other publicly available records raises serious questions about the accuracy and candor of Justice Rehnquist's public statements and about the legality and propriety of his participation in the case. This review, based on public records and in large part on information not publicly available at the time of *Laird* v. *Tatum*, indicates the following:

1. Mr. Rehnquist was involved in issues relating to military surveillance of domestic political groups throughout his career in the Justice Department. Although acknowledged neither in his 1972 recusal memorandum nor his 1986 confirmation hearing testimony, his office played a critical role in drafting the 1969 Presidential order that established the basic division of responsibility between the military and the Justice Department for the gathering of intelligence concerning civil disturbances.

2. Both Attorney General Mitchell and Deputy Attorney General Kleindienst, the person most responsible for bringing Mr. Rehnquist into the Justice Department, attached critical importance to development of the 1969 Presidential order, as demonstrated by comments to the Department of Defense at the time. Given this importance, the small number of attorneys under Mr. Rehnquist's supervision in the Office of Legal Counsel and the knowledge that the draft plan was to be submitted to the President by the Attorney General and the Secretary of Defense, it seems difficult to believe that Mr. Rehnquist would not have personally become deeply involved in development of the plan.

3. Justice Rehnquist's testimony to the Senate Judiciary Committee in response to a question from Senator Leahy that he had no knowledge about the military's domestic surveillance policy prior to the spring of 1971 is directly contradicted by documents in the public record, including his own 1971 testimony to the Subcommittee on Constitutional Rights and his March 25, 1969, memorandum to Attorney General Mitchell.

4. In his March 1971 testimony before the Senate Subcommittee on Constitutional Rights, and on other occasions while the *Tatum* case was pending in the United States Court of Appeals, Mr. Rehnquist made statements about the disputed evidentiary facts and the legal theories involved in the case. Although Mr. Rehnquist was not formally designated as counsel of record in the court proceedings in *Laird* v. *Tatum*, his statements about the case were made in his role as head of the Office of Legal Counsel and as a public spokeman for the Government's position.

5. Justice Rehnquist's vote prevented the *Tatum* case from being sent back to the United States District Court with an extremely broad mandate from the United States Court of Appeals to determine the nature and extent of military surveillance of civilian groups. Pretrial discovery under this broad mandate would likely have uncovered Justice Rehnquist's involvement in the issue of military surveillance. Justice Rehnquist's vote thus prevented pre-trial discovery of both his own prior role and that of his Justice Department colleagues in the development of military surveillance policy.

6. Pre-trial discovery, if the Court of Appeals decision had been upheld, would have begun in the summer of 1972 and might have uncovered—months before the Watergate investigations—other controversial matters relating to domestic intelligence such as the then-secret Huston plan for relaxing restraints on the use of covert mail coverage, surreptitous entry and electronic surveillance. This plan had been temporarily approved by President Nixon in June 1970 and was known in the Justice Department at least to Attorney General Mitchell.

7. Upon remand of the *Tatum* case, Mr. Rehnquist would very likely have been a material witness for two reasons: (a) he had arranged for the transfer of custody of important evidence (an Army computer printout containing data on the political activities of civilians); and (b) he had been directly involved in development of the plan approved by the President that provided for continued use of Army personnel to collect data on civilian activities.

8. Under the terms of the disqualification statute (28 U.S.C. Sec. 455), as it read in 1972, we believe that Justice Rehnquist was subject to mandatory disqualification on at least two grounds: because it was likely that he would have been a material witness had the case been remanded to the District Court and because he had a substantial interest in the outcome of the case. There is also a strong argument that his role in formulating the challenged policy and publicly expressing his views on the factual contentions and legal merits of the *Tatum* case, while serving as head of the Office of Legal Counsel and spokesman for the Justice Department, constituted acting as counsel within the meaning of the disqualification statute.

9. Whether he was technically required as a legal matter to disqualify himself or not, it seems apparent that there are serious questions about the basic fairness of Justice Rehnquist's participation in the case and his sensitivity to the need to appear to be fair as well as to be fair. Do his actions meet the standards of propriety that the Senate requires for the highest judicial office in the land?

We recognize the seriousness of the matters discussed and do not lightly raise these issues. We are also aware that the public record from which we have worked is incomplete on many points. It is possible that the concerns about Justice Rehnquist's candor and judicial fairness could be resolved in his favor through a more searching scrutiny of the facts than has thus far been made. We believe that in fairness to him and to the nation that such a scrutiny should be undertaken.

Respectfully yours,

FLOYD TEENEY,
Professor of Law,
University of California, Davis.

BARRY MAHONEY,
Attorney, Denver, CO.

AN ANALYSIS OF THE PUBLIC RECORDS CONCERNING JUSTICE REHNQUIST'S PARTICIPATION IN LAIRD V. TATUM

I. INTRODUCTION: OVERVIEW AND CENTRAL QUESTIONS

In 1972, as a new member of the Supreme Court, Justice Rehnquist cast the crucial fifth vote in *Laird v. Tatum*, a 5–4 Supreme Court decision holding that a group of civil rights activists and anti-war protesters had failed to show that Army surveillance of civilian political activities created an immediate danger of direct injury to their First Amendment rights.[1] The effect of Justice Rehnquist's participation was to reverse a U.S. Court of Appeals decision in favor of the plaintiffs, and thereby preclude pretrial discovery concerning the Nixon Administration's domestic surveillance policies and practices during the summer of 1972.

A detailed review of Justice Rehnquist's participation in this case, in light of records that have become publicly available since the decision, raises serious questions about Justice Rehnquist's candor and integrity—issues which are central to the question of whether he should be confirmed as Chief Justice of the United States.

The questions involved turn on Justice Rehnquist's conduct over a consdierable period of time, beginning in 1969 when he became head of the Justice Department's Office of Legal Counsel, and continuing through August 1986. They relate particularly to Justice Rehnquist's testimony at the July-August 1986 hearings before the Senate Judiciary Committee on his nomination as Chief Justice and his subsequent correspondence with Senator Mathias:

At the Senate confirmation hearings, Justice Rehnquist testified that he had no personal knowledge of the disputed evidentiary facts in *Larid* v. *Tatum* and no knowledge about the military's domestic surveillance policy until the spring of 1971.

Following the close of the nomination hearings, Justice Rehnquist, in response to questions from Senator Mathias, stated in writing that he had "no recollection" of his personal role in the preparation of a March 1969 draft memo from the Secretary of Defense and the Attorney General to the President on a plan for response to civil disturbances and no recollection of "any participation" in the formulation of policy on use of the military to conduct surveillance or collect intelligence concerning domestic civilian activities."

This memorandum begins with a detailed statement of the publicly available facts about these issues and Justice Rehnquist's participation in *Larid* v. *Tatum*. It then discusses the legal and ethical issues involved, focusing on five central questions:

1. Did Assistant Attorney General Rehnquist participate significantly in the draft-

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Footnotes at end of article.

ing and development of a Presidential order concerning military surveillance of civilian military activities?

2. What role, if any, did Assistant Attorney General Rehnquist have in the formulation of Nixon Administration policy concerning military surveillance of civilian political activities?

3. Was Justice Rehnquist legally required to disqualify himself from participation in the Supreme Court's consideration of *Larid* v. *Tatum*?

4. Did fairness require Justice Rehnquist to disqualify himself from participation in *Larid* v. *Tatum*?

5. Has Justice Rehnquist been honest and candid with the Senate and the American people?

II. THE PUBLIC RECORD

A. 1969: Development of plans concerning domestic intelligence

William H. Rehnquist was nominated by President Nixon to be Assistant Attorney General in charge of the Office of Legal Counsel on January 21, 1969, and confirmed on February 1. On March 17, Deputy Attorney General Kleindienst, the person most responsible for Mr. Rehnquist's appointment,[2] met with the General Counsel of the Army, Mr. Robert E. Jordan III, to discuss the handling of intelligence in connection with civil disturbances. At that meeting Mr. Kleindienst urged the need for "a comprehensive memorandum of understanding between the Attorney General and the Secretary of Defense," and it was agreed that the Army's General Counsel and Mr. Rehnquist's Office of Legal Counsel would prepare such a document.[3]

The Army developed the first draft, transmitting it to the Office of Legal Counsel around March 22.[4] The Office of Legal Counsel redrafted the plan and on March 25 Mr. Rehnquist sent a copy of the redrafted plan to the Attorney General.[5] He indicated that it "had been formulated in conferences between my staff and the staff of the General Counsel of the Army" and that "as soon as we have your comments and those of the Pentagon, we shall prepare a definitive revision for signature and transmission to the White House."[6] Around this time also the Secretary of the Army was informed by his General Counsel that "there is apparently considerable pressure from the Attorney General to accelerate submission of the paper to the President."[7]

During the next several days the Army gave the Office of Legal Counsel further comments by telephone and in writing.[8] On March 31 the Secretary of the Army informed the Secretary of Defense that the Office of Legal Counsel had accepted the Army's suggested revisions with two exceptions, one of which concerned "civil disturbance intelligence collection and analysis."[9]

A day later the Secretary of the Army transmitted the final Justice Department document to the Secretary of Defense indicating that "we have yielded to the strong views of the Attorney General" and accepted "a quite general statement of intelligence responsibilities."[10] The more general statement was "in lieu of" Army-developed language that would have reduced the military involvement and made it clearer that the FBI was "the primary intelligence collection agency."[11] The urgency of the need to finalize the document was indicated by a statement that the Attorney General had already signed the memorandum and "expressed his strong wish to put this paper in the hands of the President" by the next day.[12]

On May 19 President Nixon signed the Interdepartmental Action Plan for Civil Disturbances, noting that it involved "good planning."[13] In its final form the action plan took up six pages of print and involved drafts of two Presidential proclamations and two Executive Orders. The plan was not made a public document.[14]

B. 1970-71: Controversy in the courts and Congress about the legality of military surveillance

In January 1970, the Washington Monthly published an article by Christopher Pyle, a former Army intelligence officer, indicating that the Army had been conducting widespread surveillance of civilian political activities.[15] The following month, Arlo Tatum, one of the persons named in the article as a target, and twelve other individuals and groups sued Secretary of Defense Melvin Laird and other departmental officers, seeking to halt the Army's surveillance of their activities. The complaint, filed in the U.S. District Court for the District of Columbia, alleged that the Army's domestic monitoring activities were unauthorized and overbroad, that they deterred political expression and dissent, and that they inhibited other persons from associating with the plaintiffs. They asked the court for a declaration that the surveillance was unconstitutional and illegal, for an injunction forbidding such activity in the future, and for an order requiring destruction of all information acquired as a result of the monitoring.

The complaint specifically alleged that the plaintiffs had been the subjects of Army intelligence reports. One such report was attached to the complaint as an exhibit; it described the political activities of some of the plaintiffs as well as a number of other individuals and organizations.[16] Captain Pyle's *Washington Monthly* article, which was also attached to the complaint as an exhibit, described the Army's system for monitoring and keeping files on "virtually every activist political group in the country."[17]

While much of the information in the Army's data files had come from newspaper articles and other published sources, some of it was obtained through covert means. At the District Court level, the plaintiffs offered to introduce testimony about one such incident where a military intelligence agent was instucted to infiltrate a coalition of youth groups in Colorado.[18] The District Judge declined to hear the testimony, however, and in April 1970, he dismissed the case on the merits without holding an evidentiary hearing.

The plaintiffs appealed the dismissal order and ten months later, in January 1971, the case was argued before the U.S. Court of Appeals for the District of Columbia. Secretary Laird was represented on the appeal (as in the District Court) by attorneys from the Justice Department, not including Mr. Rehnquist.

In February and March of 1971, while the *Tatum* case was still pending in the Court of Appeals, the Senate Judiciary Committee's Subcommittee on Constitutional Rights, chaired by Senator Sam Ervin, held eleven days of hearings on federal data banks and information programs, focusing on the operation of these systems and their impact on citizens' privacy and other constitutional rights.[19] One of the areas addressed at the hearings was the Army's monitoring of civilian political activities.

Testimony at the 1971 Ervin Subcommittee hearings indicated that the breadth of the Army's domestic surveillance during the 1968-70 period was considerably greater than had been publicly known at the time the complaint in *Tatum* was first filed. It became clear that a great number of widely disparate groups, covering the full range of the political spectrum, had been subject to monitoring by the Army. These included the American Civil Liberties Union, the John Birch Society, Americans for Democratic Action, the Southern Christian Leadership Conference, the NAACP, and the League of Women Voters.[20] Files were also maintained on thousands of individuals not connected with the armed forces. Although much of the data consisted of matters of public record, information was also obtained through a variety of covert means. Robert Froehlke, then an Assistant Secretary of Defense, testified before the Subcommittee that it was "highly improbable" that many of the requirements for information contained in the Army's 1968 civil disturbance information collection plan could have been met in any way other than through covert collection means.[21]

Former members of Army intelligence testified at the Ervin Subcommittee hearings that the Army's domestic intelligence activities had included covert actions such as:

Infiltration of undercover agents into Resurrection City during the Poor People's Campaign in 1968.[22]

Having agents pose as newspaper reporters, press photographers, and TV newsmen (sometimes with fake press credentials) during the 1968 Democratic National Convention in Chicago.[23]

Sending agents, enrolled as students, to monitor classes in a Black Studies program at New York University.[24]

Infiltrating a coalition of church youth groups in Colorado Springs, Colorado.[25]

Keeping card files and dossiers on a wide range of public figures who had expressed opposition to the war in Vietnam, including then Senator Adlai Stevenson III, Rep. Abner V. Mikva (now a Federal Court of Appeals Judge), and the Rev. Jesse Jackson, as well as a number of faculty members and students at universities.[26]

The files that were kept on public officials and private citizens often included data on their private and personal affairs as well as on their political activities. Computer printouts and other publications generated by the Army during the 1968-70 period contained comments about the financial affairs, sex lives, and psychiatric histories of many individuals wholly unaffiliated with the armed foces.[27] Much of the information appears to have been unverified rumor or gossip.[28]

Following publication of the Pyle article and the filing of the *Tatum* lawsuit early in 1970, there had been a cutback in scope of the Army's monitoring activities. At the 1971 Ervin Subcommittee hearings, senior officials from the Defense Department testified about the development of the intelligence gathering effort and the subsequent scaling-back. However, the extent to which the monitoring activities had been "stopped" and the files destroyed remained unclear.[29]

In advance of the hearings, Senator Ervin had written to Attorney General Mitchell, asking him to testify concerning the Executive Branch's authority to conduct surveillance "on lawful political activities, personal beliefs and private lives."[30] Senator Ervin indicated a specific concern about the Army's "collection, analysis and maintenance of information on civilians" in connection with civil disturbances and asked for information concering "the degree to which

the Justice Department has indeed assumed responsibility for this program." Senator Ervin also asked for "a description of the interdepartmental Delimitations Agreements governing the respective roles of the Armed Services and the Justice Department in investigation of civilians and in retention of dossiers in non-criminal cases . . . the basis for these agreements and the reason for them."

Mr. Rehnquist appeared for the Justice Department at the Ervin Subcommittee hearings on March 9 instead of the Attorney General. In a prepared statement he acknowledged that there could be "isolated examples of abuse of [the Government's] investigative function."[31] He maintained, however, that "I think it quite likely that self-discipline on the part of the executive branch will provide an answer to virtually all of the legitimate complaints against excesses of information-gathering."[32] In the same statement he made a number of assertions about the status of the Army's monitoring system that was the subject of the complaint in *Laird* v. *Tatum*:

"The function of gathering intelligence relating to civil disturbances, which was previously performed by the Army as well as the Department of Justice, has since been transferred to the Internal Security Division of the Justice Department. No information contained in the data base of the Department of the Army's now defunct computer system has been transferred to the Internal Security Division's data base. However, in connection with the case of *Tatum* v. *Laird*, now pending in the U.S. Court of Appeals for the District of Columbia, one printout from the Army computer has been retained for the inspection of the court. It will thereafter be destroyed."[33]

In a later colloquy with Senator Ervin, Mr. Rehnquist commented further on the allegations in *Laird* v. *Tatum*. He indicated that he felt the plaintiffs had sustained no injury and that their claims of First Amendment violations were without merit:

"Senator ERVIN. Do you feel that there are any serious constitutional problems with respect to collecting data on or keeping under surveillance persons who are merely exercising their right to peaceful assembly or petition to redress a grievance?

Mr. REHNQUIST. My answer to your question is no, Mr. Chairman. And by saying 'no,' I do not think it involves constitutional violations. I would not want to be thought as disparaging the importance of it or the undesirability of it. But I do not believe it raises a constitutional question. . . .

Senator ERVIN. Don't you think most people are sort of afraid of governmental surveillance, Aren't they?

Mr. REHNQUIST. I do not doubt a number are, Mr. Chairman. I have noticed that certainly there have always been people willing to come forward and sue the government, as was done in the northern district of Illinois, and was done here in the District of Columbia, claiming that others were intimidated but really admitting that they were not intimidated at all."[34]

The question of the existence of a possible chilling effect on the exercise of First Amendment rights was subsequently pursued further, in another colloquy between Senator Ervin and Mr. Rehnquist. Mr. Rehnquist again took the position, with reference to specific surveillance activities of the Army, that no First Amendment violations were involved:

"Senator ERVIN. Do you not concede that government could very effectively stifle the exercise of first amendment freedoms by placing people who exercise those freedoms under surveillance?

Mr. REHNQUIST. No, I don't think so, Senator. It may have a collateral effect such as that but certainly during the time when the Army was doing things of this nature, and apparently it was fairly well known that it was doing things of this nature, those activities didn't deter 200,000 or 250,000 people from coming to Washington on at least one or two occasions to exercise their first amendment rights by protesting the war policies of the President.

Senator ERVIN. Well, we have evidence here that on one occasion in Colorado, there were 119 people present at a rally to protest the war in Vietnam, and that of those 119 persons 52 of them were military intelligence agents. Not only that but a militray intelligence agent was sent there with orders to tape the speeches that were made at the rally and he couldn't tape them because the military forces had five helicopters flying right over the heads of the rally and making so much noise that the speeches that were made could not be taped. Do you think that was a legitimate exercise of governmental power in view of the fact that the testimony shows that the speeches were not inflammatory in nature, that they consisted of rather mild protests against the policies of the government and no violence occurred?

Mr. REHNQUIST. No, I do not and, as I have said before, I think that is an illegitimate use of government power. I do not think it amounts to a constitutional violation of the first amendment.

Senator ERVIN. Well there is also evidence here of photographers having been present at many rallies. Army intelligence agents, pretending to be photographers, were present at many rallies, took pictures of people, and then made inquiries to identify these people and made dossiers of them. Do you not think that is an interference of constitutional rights?

Mr. REHNQUIST. I do not, Senator.[35] In response to questions, Mr. Rehnquist indicated that the Justice Department's guidelines for its Internal Security computer were more restrictive than those which the Army had been using. When asked about the "civil disturbance file," Mr. Rehnquist indicated that he "did not have personal knowledge" in every field but that he understood that file to be "limited to situations involving either a violation of law or a potential violation of the law, not simply peaceful demonstrations or cataloguing people who go to meetings." Mr. Rehnquist agreed to make available to the Subcommittee the Army computer printout being held for the *Tatum* case.

Mr. Rehnquist discussed the 1949 Delimitation Agreement allocating responsibilty between the FBI and the Department of Defense for investigating espionage, counterespionage, subversion and sabotage. In discussing this allocation, however, he did not mention the 1969 Presidential order dealing with responsibility for collection of raw intelligence data that had been drafted by his Office of Legal Counsel.

At the March 17 hearings, the Subcommittee questioned both Mr. Rehnquist and Assistant Attorney General Mardian extensively as to whether the Justice Department had guidelines for conducting investigations of civilian political activities. Ultimately Mr. Mardian mentioned the 1969 memorandum drafted by Mr. Rehnquist's office, characterizing this as "the delimitations agreement." Mr. Rehnquist corrected Mr. Mardian, indicating that the delimitations agreement was an older agreement. Mr. Mardian was then asked whether this new agreement was issued by President Nixon in 1969. Mr. Mardian said that it was not, that it was "a memorandum of understanding between the two Departments." Mr. Rehnquist did not correct this misstatement.[36]

Two days later, while the *Tatum* case was still pending in the U.S. Court of Appeals, Mr. Rehnquist delivered an address to the National Conference of Law Reviews, in which he presented a wide-ranging defense of the Government's surveillance activities. In the course of his remarks, he stated:

"I believe that no legitimate interest of any segment of our population would be served by permitting individuals or groups of individuals to prevent by judicial action, the government's gathering information . . . ."[37]

On April 27, 1971, the U.S. Court of Appeals for the District of Columbia handed down its decision in the *Tatum* v. *Laird* case, holding 2-1 that the plaintiffs had standing to sue and that their allegations presented a justiciable case under established law regarding the exercise of First Amendment rights.[38] Judge Wilkey's opinion for the majority in the Court of Appeals noted particularly the combination of factors alleged in the complaint to have a chilling effect on First Amendment rights, including the conduct of activities beyond the Army's statutory authority, the intrusive and inhibiting effect of the activities, and the fact that the Army—an immensely powerful institution—was the governmental agency involved in the activities.

In remanding the case to the District Court, the Court of Appeals ordered that a thorough inquiry be made into the plaintiffs' allegations. It directed the District Court to determine "the nature of the Army domestic intelligence system made the subject of appellants' complaint, specifically the extent of the system, the methods of gathering the information, its content and substance, the methods of retention and distribution, and the recipients of the information."[39] The Government filed a petition for certiorari with the Supreme Court on September 20.

While the certiorari petition was pending, Mr. Rehnquist sent the Subcommittee a memorandum in response to questions posed by Senator Hruska at the March 9 hearings. The memorandum discussed several Supreme Court cases dealing with the Government's power to collect information, and also commented on the ending of the Army's data-gathering functions. It stated: "If anything, the now-terminated data-gathering functions of the Army seem to have stimulated rather than curtailed debate."[40]

C. 1972: Laird v. Tatum in the Supreme Court

During the months following the Ervin Subcommittee hearings and the Court of Appeals decision, Mr. Rehnquist was nominated and confirmed as a justice of the Supreme Court. In October 1971, prior to his confirmation, the Supreme Court granted the Government's petition for certiorari to review the Court of Appeals' decision in *Laird* v. *Tatum*.

The case was argued in March and decided by a 5-4 vote on June 26, 1972. The majority was made up of Chief Justice Burger and Justices White, Powell, Blackmun, and Rehnquist. Chief Justice Burger's opinion for the majority accepted the Government's

contention that the plaintiffs' claims of First Amendment violations did not present a justiciable controversy because they had failed to allege specific present objective injury or threat of specific future injury to themselves.[41] The opinion did not review the allegations of the complaint in any detail, nor did it address the plaintiffs' contention that they would prove the injuries they alleged—including invasion of their right of privacy, damage to their reputations and employment prospects, and infringement of their rights of free speech and association—if given an opportunity to do so at an evidentiary hearing. The majority opinion noted (as had then Assistant Attorney General Rehnquist at the Ervin Subcommittee hearings) that the plaintiffs themselves were apparently not chilled in the exercise of their First Amendment rights by the challenged system.[42] The opinion of Chief Justice Burger apparently accepted at face value the Government's contention that the Army's domestic intelligence activities had been significantly reduced,[43] although the extent of the cutback had never been established at an evidentiary hearing and was strenuously disputed by the plaintiffs.

Justice Douglas, joined by Justice Marshall, filed a vigorous dissent. Drawing on the public record developed in the Ervin Subcommittee hearings as well as the allegations in the complaint, Justice Douglas stressed the sweep and intrusiveness of the Army's monitoring activities, and noted the covert nature of the surveillance activities. Acknowledging that the Army might have cut back its surveillance activities since the start of the litigation, he emphasized that whether there had been an actual cutback could only be determined after a hearing in the District Court.[44]

Justices Brennan and Stewart also dissented, basically adopting the position taken by Judge Wilkey in his opinion for the Court of Appeals. That opinion stressed the plaintiffs' contention that the present existence of the Army's system of gathering and distributing information on civilian political activity—information not reasonable relevant to the Army's mission to surpress civil disorder when called upon—had an inhibiting effect on their exercise of First Amendment rights. In their view, the case was justiciable. Although the plaintiffs might not be able to prove their allegations of injury, they were entitled to try and should have an opportunity to do so in the District Court.[45]

D. 1986: Testimony at nomination hearings and subsequent developments

On June 17, 1986, President Reagan nominated William Rehnquist to succeed Warren Burger as Chief Justice of the United States. At his nomination hearings (July 29-August 1), Justice Rehnquist's participation in *Laird* v. *Tatum* was a focus of inquiry by several senators.

Senator Leahy asked Justice Rehnquist:

"Senator LEAHY. Did you have personal knowledge of the disputed evidentiary facts in *Laird*?

Justice REHNQUIST. No.

Senator LEAHY. When you were in the Justice Department, did you have knowledge about the military's domestic surveillance policy?

Justice REHNQUIST. I had—if you would consider information obtained in the course of preparing for the May Day demonstrations, which did involve some activity, I suppose you would say yes.

Senator LEAHY. But you deny, you were not aware of the evidentiary, or the disputed evidentiary facts?

Justice REHNQUIST. No.[46]

Subsequent to his confirmation hearings Mr. Rehnquist was asked a series of written questions by Senator Mathias.[47] Mr. Rehnquist indicated that he had "no recollection" of "my personal role in the preparation" of the April 1969 draft memo to the President, but that he assumed "from the text of the transmittal memo that the plan was primarily drafted by staff members in my office and in the Office of the General Counsel of the Army, and was reviewed by me." Mr. Rehnquist also indicated that he had "no recollection" as to his personal role in the preparation of the portion of the document concerning intelligence operations, "no recollection" of his personal role in arriving at the recommendations contained in the plan concerning the role of the FBI and the Army and "no recollection" as to how the language in the draft authorizing a domestic role for military intelligence first appeared.

In response to a question asking what consideration, if any, he had given to his role in preparing the Interdepartmental Action Plan in deciding whether to participate in *Laird* v. *Tatum* and as to why he had omitted any reference to the plan in his recusal memorandum, Mr. Rehnquist stated that his memorandum opinion "explaining my reasons for declining to recuse myself . . . describes my reasoning at that time regarding all considerations that in my judgment bore on the issue of recusal."

In response to a question concerning his knowledge of and participation in the formulation of policy on military surveillance of civilians. Mr. Rehnquist stated that:

I have no recollection of any participation in the formulation of policy on use of the military to conduct military surveillance or collect intelligence concerning domestic civilian activities. I do not think I had any first hand knowledge as to the use of the military to conduct such surveillance or collect intelligence, though I may have been briefed with such information as was necessary to enable me to testify before congressional committees or to publicly discuss legal questions.

III. ASSISTANT ATTORNEY GENERAL REHNQUIST'S ROLE IN THE DEVELOPMENT OF DOMESTIC SURVEILLANCE POLICY

Mr. Rehnquist headed the Justice Department's Office of Legal Counsel in March and April 1969 when that Office was responsible, along with the Office of the General Counsel of the Army, for drafting a Presidential order concerning civil disturbances and providing for the continuation of the Army's domestic surveillance activities. According to Mr. Robert E. Jordan III, who was then the Army's General Counsel, these negotiations were initiated by the Army, after senior Pentagon officials had concluded that "military intelligence ought to get out of the civil disturbance intelligence business."[48]

Following an initial meeting between Mr. Jordan and Deputy Attorney General Kleindienst on March 17, the Office of Legal Counsel was designated to handle the negotiations on behalf of the Justice Department.[49] A draft memorandum setting forth proposed allocations of responsibility in this field was prepared by the Army's Office of General Counsel and sent to the Justice Department around March 22. The Army's draft memorandum, which was intended to be sent jointly to the President by the Secretary of Defense and the Attorney General, provided for the Attorney General to have coordinating authority in the civil disturbance field and for the FBI to have primary operational responsibility for collection of raw intelligence data.[50] With respect to intelligence gathering during what was characterized as "Phase One" (i.e., planning and preparation before any disturbances occurred), the Army's March 22nd draft contained the following language:

"Of particular importance is the intelligence effort, which while it presently does not permit us to monitor civil disturbances, nevertheless enables us to monitor emerging disorders, note civil disturbance trends and identify dissident elements which may foment violence and disorder.

"The previous Administration never clarified responsibilities for the important intelligence collection effort which is an essential part of federal activities in Phase One. Currently, the Federal Bureau of Investigation collects and makes available a large amount of information on actual disorders and on persons engaged in disturbance-related conduct which might constitute a federal crime. Information from the FBI and from other Justice Department sources, such as United States Attorneys, is available to the Inter-Divisional Information Unit (IDIU) in the Justice Department. At the same time, the Army has been utilizing the U.S. Army Intelligence Command, which is principally a counter-intelligence field organization, to relay civil disturbance information for use by Department of Defense officials. This information is also made available to the Justice Department.

"Intelligence operations involve the collection, analysis, and dissemination of information. Collection activities involve principally contacts with state and local law enforcement officials and other local leaders. As you know, the FBI has a large network of offices throughout the United States which is daily involved in liaison activities with the kinds of officials who are in a position to furnish information relating to civil disturbances. We believe that the Federal Bureau of Investigation should be formally assigned primary responsibility for collecting and furnishing on a timely basis to other concerned agencies, raw intelligence. Although the Army Intelligence Command could perform this function, the salutary tradition of avoiding military intelligence collection activities in predominantly civilian matters reinforces our view that this responsibility belongs with the FBI."[51]

Two aspects of the Army's March 22nd draft are especially relevant. First, it states flatly that the U.S. Army Intelligence Command, "principally a counter-intelligence field organization," had been providing information to Defense Department officials and to the Justice Department. Second, it sets forth the Army's view that because of "the salutary tradition of avoiding military intelligence collection activities in predominantly civilian matters,' the FBI should have the responsibility for collection of raw intelligence data. This language indicates that, as Mr. Jordan later testified, the Army had been involved in intelligence gathering, that the Justice Department was a "consumer" of this information, and that the Army wanted to get out of the business and turn it over to the FBI.

Within three days after receiving the Army's draft, the Justice Department's Office of Legal Counsel prepared a counter draft of the proposed interdepartmental memorandum. The Office of Legal Coun-

sel's draft was sent to Attorney General John Mitchell, by Mr. Rehnquist, on March 25, 1969.[52] Mr. Rehnquist's memorandum to Attorney General Mitchell states that the draft "has been formulated in conferences between members of my staff and the staff of the General Counsel of the Army." [53] A copy of this draft, which adopted most of the language of the Army's March 22nd draft but made important changes in the language regarding responsibility for collecting raw intelligence, was also sent to Mr. Jordan.[54] With respect to the intelligence-gathering function, the draft prepared by the Office of Legal Counsel provided that the FBI should have primary responsibility but inserted language providing that the Army should be available to assist:

"The Federal Bureau of Investigation will be charged with the task of collecting raw intelligence data and transmitting it on a timely basis to the Department of Defense. At the request of the Attorney General, the Department of the Army, through the U.S. Army Intelligence Command, may assist in this effort. However, in order to preserve the salutary tradition of avoiding military intelligence activities in predominantly civilian matters, the U.S. Army Intelligence Command should not ordinarily be used to collect the intelligence of this sort." [55]

Following preparation of the March 25th draft by the Office of Legal Counsel, there was apparently a considerable amount of further discussion concerning the division of intelligence responsibilities between the Army and the Department of Justice. As part of the on-going negotiations during this period, at least one additional draft containing proposed revisions in the language concerning responsibility for intelligence collection was prepared by the Army and sent to the Justice Department on March 29th.[56] The final version of the "Interdepartmental Plan for Civil Disturbances," as submitted to President Nixon in April 1969 and approved by him in May, was ambiguous with respect to intelligence collection responsibilities. It provided simply that:

"Under the supervision of the Attorney General, raw intelligence data pertaining to civil disturbances will be acquired from such sources of the government as may be available. Such data will be transmitted to the Intelligence Unit of the Department of Justice, and it will be evaluated on a continuing basis by representatives from various departments of the government."[57]

The effect of the watering down of the language in the original draft was to leave the Army's domestic intelligence mission and activities essentially unchanged. They remained unchanged until the publication of the Pyle article and the initiation of the *Tatum* lawsuit in 1970. Mr. Jordan's view, expressed in two 1971 memoranda that reviewed the history of the Army's involvement in domestic surveillance and in his 1974 testimony before the Ervin Subcommittee, was that the Army had tried to shift responsibility for the collection activities to the Justice Department but had been unsuccessful in doing so.[58]

On the basis of these documents, it is not possible to know the extent of Mr. Rehnquist's involvement in the negotiations concerning the allocation of intelligence collection responsibilities between the Army and the Justice Department, or to assess the extent of his knowledge about the nature of the Army's monitoring activities. It is clear, however, from the phrasing of his March 25, 1969 memorandum to Attorney General John Mitchell, that he was at least aware of the negotiations on this subject and of the fact that the Army was engaged in some kinds of collection of raw intelligence data. Since Mr. Rehnquist's office was responsible for drafting a memorandum intended for review by the Attorney General and ultimately for approval by the President, it would be very surprising if he did not know a great deal more about details of the intelligence collection and distribution practices. The full extent of his knowledge and involvement cannot be gauged on the basis of the current public record.

IV. THE LEGALITY AND FAIRNESS OF JUSTICE REHNQUIST'S PARTICIPATION IN LAIRD V. TATUM

The lawyers for the plaintiffs had considered making a motion for recusal of Justice Rehnquist prior to the oral argument of *Tatum* v. *Laird* before the Supreme Court, because he had previously expressed views on the case in his testimony before the Ervin Subcommittee. According to Frank Askin, who argued the case for the plaintiffs, Senator Ervin (who was also a counsel in the case) advised against such a motion on the ground that it was unnecessary—he felt that Justice Rehnquist was "an honorable man" and would not participate in the case.[59]

After the decision was handed down, the plaintiffs—surprised that Justice Rehnquist had participated in it—filed a motion asking the Justice to disqualify himself. They argued that Justice Rehnquist should not have participated because "he had served as an expert witness" in the Senate hearings, had "intimate knowledge of the evidence underlying" the allegations and had made "public statements" about the issues. They also sought withdrawal of the opinion of the Court and filed a petition for rehearing. All of these applications were denied on October 10, 1972.[60]

Justice Rehnquist, in denying the motion for disqualification (which, in accordance with long-established practice, was referred to him for decision), wrote a 16-page memorandum opinion stating his reasons for not disqualifying himself.

The memorandum identifies the governing statute concerning disqualification as 28 U.S.C. Sec. 455, which as of 1972, provided as follows:

"Any justice or judge of the United States shall disqualify himself in any case in which he has a substantial interest, has been of counsel, is or has been a material witness, or is so related to or connected with any party or his attorney as to render it improper, in his opinion, for him to sit on the trial, appeal, or other proceeding therein."

The statute has since been amended to provide for mandatory disqualification in a broader range of situations,[61] but for purposes of assessing Justice Rehnquist's actions in *Laird* v. *Tatum* the relevant statutory language is that set out above.

The disqualification statute has both mandatory and discretionary provisions. As it read is 1972, the statute required a justice to disqualify himself in three situations: (1) if he was a "material witness," (2) had a "substantial interest," or (3) had served "of counsel" in the case. Disqualification was discretionary when the ground asserted for it was the justice's relationship or connection with a party or the party's attorney.

A. The material witness issue

In his 1972 recusal memorandum Justice Rehnquist made two statements bearing on whether he was required to disqualify himself as a "material witness." [62] The clearest reference was his statement that since he had not "been a material witness in *Laird* v. *Tatum*," this disqualifying factor did not apply to him.

It is certainly true that Justice Rehnquist had not been called as a witness in the trial of *Laird* v. *Tatum*. The statute, however, requires disqualification not only for a person who "has been" a material witness but also for a person who "is" a material witness.

Justice Rehnquist did not refer to this part of the statute. It is particularly pertinent to the *Tatum* case, however, because the whole issue of the appeal was whether a trial was to be allowed. The District Court had dismissed the suit before witnesses could be called.

There is no definitive interpretation as to whether this part of the disqualification statute applied (as it was written in 1972) to the possibility that a judge might be a future witness. The relatively few appellate cases interpreting this section generally concerns judges who were challenged because of their prior involvement as a judge in an earlier phase of the proceeding.[63] The purpose of the statute seems clear, however. It is to disqualify judges who have personal knowledge about the facts involved in the lawsuit.

This purpose is made clearer by amendments to the disqualification statute adopted in 1974. These amendments were intended to bring the statute more into line with the American Bar Association's newly developed Code of Judicial Conduct adopted by the American Bar Association on August 16, 1972, while the disqualification motion in *Laird* v. *Tatum* was pending before the Court.[64] Justice Rehnquist referred to this newly adopted Code in his recusal memorandum indicating that he did not read the Code "provisions as being materially different from the standards enunciated in the statute" and that for this reason there was "no occasion for me to give them separate consideration."[65] Both the new statute and the ABA Code contain language indicating that a judge should disqualify himself in a proceeding in which he has "personal knowledge of disputed evidentiary facts concerning the proceeding." [66] The new statute also makes it clear that the judge must disqualify himself if he is to his knowledge "likely to be a material witness." [67]

Did Justice Rehnquist have personal knowledge of disputed evidentiary facts? Justice Rehnquist did not specifically address this issue in his recusal memorandum in *Laird* v. *Tatum*. He did, however, respond to the plaintiff's claim that he had "intimate knowledge of the evidence underlying the respondent's allegations." This claim, he said, "seems to me to make a great deal of very little." He said that Government spokesmen in legislative hearings are frequently persons who do "not have personal knowledge in every field." [68] He went on to say that he had very little knowledge about *Laird* v. *Tatum*. He indicated that he had made one reference to the case in his prepared statement and another at his subsequent appearance before the Senate Subcommittee. He also indicated that he had prepared a memo, supervised the preparation of a memorandum of law which had been sent to the Senate Subcommittee on September 20, 1971, and that he "would expect such a memorandum to have commented on" the *Tatum* case.[69]

One reference was to a printout from the Army computer containing the names of civilians that the Army had collected information about and that were contained in

the Army's computer. This printout was being held as evidence in *Laird* v. *Tatum* and was being held in custody of the Justice Department. Justice Rehnquist indicated that he "had then and have now no personal knowledge of the arrangement" and that "nor so far as I know have I ever seen or been apprised of the contents of this particular print-out." [70] He also stated, however, that he "later authorized its transmittal to the staff of the [Senate] Subcommittee at the request of the latter."

Justice Rehnquist's recusal memorandum thus deals primarily with his knowledge of the *Tatum* lawsuit itself. The subject of the lawsuit, however, was the existence of a system of military surveillance of civilian political activities. As Assistant Attorney General, Mr. Rehnquist had extensive knowledge of this subject. Although not mentioned in his recusal memorandum, his office had been responsible for drafting the Interdepartmental Act Plan on Civil Disturbances that had been adopted by the President and that served as the basic document for allocation of responsibility for domestic intelligence between the military and the Justice Department.

Had Justice Rehnquist not participated in the *Tatum* case, it would have gone back to the District Court with a mandate to determine, among other things, "the nature of the Army's domestic intelligence system made the subject of appellants' complaint, specifically the extent of the system, the methods of gathering the information, its content and substance, the methods of retention and distribution and the recipients of the information."

In attempting to make some assessment of what persons and what materials would be subject to discovery under this very broad mandate, it should be borne in mind that the relevance criterion used in measuring discoverability in a civil case is much broader than that used in determining admissibility at the subsequent trial of the case. Federal Rule 26(b) expresses this sweeping standard in the following words:

"Parties may obtain discovery regarding *any matter,* not privileged, which is *relevant* to the *subject matter involved in the pending action,* whether it relates to the claim or defense of any other party, *including* the *existence,* description, nature, *custody* and location of *any* books, *documents,* or other tangible things and *the identity* and locations of *persons having knowledge of any discoverable matter.* It is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence." (Emphasis supplied.)

Prior to the adoption of this liberal standard, discovery efforts frequently encountered the objection that the party seeking disclosure was simply embarked on a "fishing expedition." Under Rule 26, however, this is no longer a valid objection. As the Supreme Court expressed it in *Hickman* v. *Taylor:*

"No longer can the time-honored cry of "fishing expedition" serve to preclude a party from inquiring into the facts underlying his opponent's case. Mutual knowledge of all the relevant facts gathered by both parties is essential to proper litigation. To that end, either party may compel the other to disgorge whatever facts he has in his possession."[71]

Under the broad and liberal "relevance-to-the-subject matter" criterion, any Government official who had prepared, reviewed, or approved an interagency agreement sanctioning and delineating the scope of military surveillance activities with respect to civilian protest movements would be the natural and inevitable target of the discovery efforts that the plaintiffs were authorized to carry out under the Court of Appeals mandate. If that same Government official had been involved in the custody of a computer printout containing the fruits of that surveillance policy, it would be essential for the plaintiffs to depose this official in order to gain access to the printout and to verify its contents and completeness.

More importantly, Mr. Rehnquist made a number of statements, both in 1971 and in 1986, about disputed evidentiary facts. In his prepared statement at the 1971 Ervin Subcommittee hearings, he made at least four factual assertions—that the intelligence-gathering function was no longer being performed by the Army, that the Army's computer system was now "defunct",[72] that no information that had been contained in the Army's data base had been transferred to the Internal Security Division of the Justice Department, and that there was only one remaining computer printout. All of these factual contentions were disputed by the plaintiffs. Mr. Rehnquist's testimony clearly implies that he either had personal knowledge of these facts or could indicate the sources of information he obtained from others.

In his 1986 testimony before the Judiciary Committee, he stated that he had "obtained" information about the military domestic surveillance policy "in the course of preparing for the May Day demonstrations which did involve some activity." [73] As these demonstrations occurred in May 1971, this knowledge would presumably have been acquired after March 9, 1971. That is the date on which Mr. Rehnquist told the Ervin Subcommittee that "the function of gathering intelligence related to civil disburbances" had "been transferred to the Internal Security Division of the Justice Department." [74] Since one of the key issues in *Laird* v. *Tatum* was whether the military surveillance was continuing, such knowledge standing alone was sufficient to make Justice Rehnquist a material witness.

B. Substantial interest

The statute also requires that a justice disqualify himself if he has a "substantial interest" in the outcome of the case. Justice Rehnquist did not specifically address this provision in his recusal memorandum.

The major target of this part of the statute is the pecuniary interests of the justice.[75] The statute is written broadly, however, and clearly covers other kinds of interests as well.[76] The Constitution itself would appear to require no less. As the Supreme Court said in *In Re Murchison,* a case not involving a pecuniary interest: "[N]o man can be a judge in his own case and no man is permitted to try cases where he has an interest in the outcome." [77]

Had the *Tatum* case been remanded for trial in the District Court, as would have happened if Justice Rehnquist had not participated in the case, there would have been extensive pretrial discovery. This discovery would likely have uncovered Justice Rehnquist's involvement—and that of his Justice Department colleagues—in the development of the Interdepartmental Action Plan for Civil Disorders and in the development of military surveillance policy in connection with it. Justice Rehnquist thus had a "substantial interest" in the outcome of the case. His vote in effect prevented discovery of his own prior role shaping the surveillance policy under challenge.

Pretrial discovery might also have uncovered other controversial matters such as the Huston Plan for relaxing restraints on the use of covert mail coverage, surreptitious entry and electronic surveillance for domestic intelligence purposes by the Defense Intelligence Agency, the FBI, the CIA and the National Security Agency.[78] Attorney General Mitchell apparently became aware of this plan on July 27, 1970.[79] If Justice Rehnquist had knowledge of this plan either before or after the Attorney General learned of it or of similar matters, this knowledge could also constitute a substantial interest requiring disqualification.

C. Acting as "counsel"

The statute also requires disqualification when a justice has previously been "of counsel" in a case. As to this ground Justice Rehnquist in his recusal memorandum said that he had not been of counsel in the case. He also said that he had not "actively participated" in the case even in "an advisory role." [80] Justice Rehnquist acknowledged that he had spoken publicly about the legal issues in the case, but concluded that neither the statute nor the practice of prior justices required that he disqualify himself for this reason.

If "of counsel" is construed in a sufficiently narrow and technical way, Justice Rehnquist's position is undoubtedly correct. If, however, the term includes acting as a lawyer for the same client on the same issue, the statute would seem to apply. Mr. Rehnquist, as head of the Office of Legal Counsel, did more than simply speak out on the underlying issues. He served as the principal spokesperson for the Justice Department before the Ervin Subcommittee on both the legal and factual matters at issue in the *Tatum* case.

While he recognized that surveillance might be unwise or undesirable, Mr. Rehnquist told the Ervin Subcommittee that it was not unconstitutional—even when it involved such intrusive activities as spying on church meetings, posing as press photographers, taking pictures of people at political rallies, and making inquiries to identify the people in the photographs and preparing dossiers on them.[81] He stated that he did not personally advocate such activities, but disagreed with the contention, "as in the case of *Tatum* v. *Laird,*" that an action by private citizens would lie to enjoin the gathering of information by the Executive Branch "where there has been no threat of compulsory process and no pending action against any of those individuals on the part of the Government." [82]

This position was developed more fully in a March 1971 address to Law Review editors, where Mr. Rehnquist stated categorically that "I believe that no legitimate interest of any segment of our population would be served by permitting individuals or groups of individuals to prevent, by judicial action, the government's gathering information." [83] Several months later he filed a legal memorandum with the Subcommittee which argued that the Supreme Court had never held that unauthorized information gathering violated an individual's constitutional rights except where the information was used as a basis of a proceeding against the individual. In closing, that memorandum referred specifically to allegations about Army surveillance, arguing that:

"Recent experience seems to establish that even if the strongest allegations con-

cerning Army data-gathering are assumed to be true, there has been no interruption in 'uninhibited, robust, and wide open debate on major controversial issues.' (*New York Times Company* v. *Sullivan*, 376 U.S. 254, 270 (1964)). Both the Veterans' demonstration and the later May Day demonstrations seem to substantiate that. If anything, the now-terminated data gathering functions of the Army seem to have stimulated rather than curtailed debate." [84]

In essence, Mr. Rehnquist was acting as a lobbyist in the legal community, seeking acceptance of the legal position being taken by the Justice Department in *Laird* v. *Tatum*. His statements advocate legal positions formulated at least in part by the Office of Legal Counsel; they seek to defend the legality of practices provided for in the 1969 Interdepartmental Action Plan that the Office of Legal Counsel was instrumental in negotiating,[85] and they obviously address the critical issue in the Supreme Court's *Tatum* decision—the justiciability of the plaintiffs' allegations—very directly.

D. Discretionary disqualification

The "discretionary" portion of 28 U.S.C. Sec. 455, as it read in 1972, provided that a judge should disqualify himself where he "is so related to or connected with any party as to render it improper, in his opinion, for him to sit on trial, appeal, or other proceeding therein." The words "in his opinion" are crucial—in essence, they make the exercise of discretion unreviewable as a matter of law.

In discussing the discretionary provision in his memorandum opinion denying the disqualification motion, Justice Rehnquist focused on two aspects of his work at the Justice Department: (1) the question of his possible connections with the defense of the case of *Laird* v. *Tatum*; and (2) his public expressions of his understanding of the law regarding the constitutionality of governmental surveillance. As to the first, he was emphatic that what he referred to as "my total lack of connection while in the Department of Justice with the defense of the case of *Laird* v. *Tatum*" meant that his previous relationship with the Justice Department should not suggest discretionary disqualification.[86] with respect to previous expressions of his views on law regarding particular issues, he reviewed at some length the practices of other justices and concluded that such expressions did not require disqualification.[87]

Justice Rehnquist's discussion of the discretionary disqualification provision, like his discussion of the provision regarding mandatory disqualification, made no mention whatsoever of many relevent aspects of his work at the Department of Justice. These actions and statements, while they did not constitute formally acting as counsel of record in the court proceedings in the *Tatum* case, went well beyond general expressions of opinion on points of law. Those directly related to the allegations and potential evidence in *Laird* v. *Tatum* included:

Development of the Interdepartmental Action Plan on Civil Disturbances.

Testimony before the Ervin Subcommittee that the Army had ceased its domestic intelligence gathering, that this function had been transferred to the Justice Department Internal Security Division, that the Army's computer system was now "defunct," and that no information contained in the Army's computer system had been transferred to the Internal Security Division [88]—the same factual contentions the Government later made to the Supreme Court.[89]

Testimony before the Ervin Subcommittee questioning the plaintiffs' allegations of harm, maintaining that those who sued the Government in the District of Columbia (i.e., the plaintiffs in the *Tatum* case) had been willing to come forward "really admitting that they were not intimidated at all." [90]

Testimony before the Ervin Subcommittee that there was no justiciable controversy where private citizens "as in the case of *Tatum* v. *Laird*," sought to enjoin executive branch information gathering but there had been no threat of compulsory process and was no pending action by the Government against them.[91]

Testimony before the Ervin Subcommittee that the specific types of military surveillance activities complained of by the plaintiffs in the *Tatum* case—e.g., surveillance of political rallies, taking of photographs of participants, development of dossiers on their political activities and beliefs—did not constitute violations of constitutional rights.[92]

Involvement in the custody of the Army computer printout—a key item of evidence containing information on the political activities of individuals and groups that would have been introduced at trial in the District of Columbia if the remand from the Court of Appeals to the District Court had been sustained in the Supreme Court.[93]

Any of these factors, taken separately, could be ground for discretionary qualification. Taken together, they present a picture of an extraordinarily close relationship between Justice Rehnquist and one of the parties to the case—i.e., the Government, represented by Justice Department lawyers who were arguing, in court and in their briefs, the same legal position that Mr. Rehnquist had developed and publicly articulated as head of the Justice Department's Office of Legal Counsel. Even assuming that recusal was not mandatory in these circumstances, and exercise of discretion that resulted in his participation in the *Laird* v. *Tatum* decision suggects a gross insensitivity to the appearance of fairness and justice.

V. THE ULTIMATE ISSUES: CANDOR, INTEGRITY, AND THE POSITION OF CHIEF JUSTICE OF THE UNITED STATES

In a 1973 speech to the Association of the Bar of the City of New York, Justice Rehnquist discussed the subject of judicial disqualification as an aspect of judicial ethics.[94] Without specifically mentioning his own actions in *Laird* v. *Tatum*, he developed a set of arguments similar to that made in his memorandum justifying his decision not to disqualify himself in that case. The closing paragraph of his address contained the following observation:

"Far more important than unanimity as to particular standards of disqualification is the recognition that outside of the area of corruption or reasonable suspicion of improper motives, disqualification is an issue to be decided by rational application of the governing standards to the facts of the case in a lawyer-like way." [95]

Rational application of the governing standards to the facts of the case requires, of course, that relevant facts affecting the disqualification issue be set forth for analysis "in a lawyer-like way." In the case of *Laird* v. *Tatum*, only some of the facts were already in the public record and known to the plaintiffs at the time they made their motion for recusal. The facts that were probably most significant—those relating to Mr. Rehnquist's role, as head of the Justice Department's Office of Legal Counsel, in negotiations with the Army and in development of Justice Department policy concerning allocation of responsibility for collection of raw intelligence data on civilian activities—were totally unknown to the plaintiffs when the case was pending in the Supreme Court and when they made their motion for recusal. Indeed, the fact that Mr. Rehnquist had been involved in the policy development process with respect to military surveillance activities did not become a matter of public record until 1974,[96] and has only come to public attention as a result of the hearings on his nomination to become Chief Justice.

In his 1972 memorandum denying the recusal motion, Justice Rehnquist made no mention of his role in the policy development process during 1969. His discussion in that memorandum of his public statements concerning the *Tatum* case before joining the Supreme Court did not set forth any of the specific references to the case he had made before the Ervin Subcommittee. When asked about his participation in the *Tatum* case at the 1986 Senate Judiciary Committee hearings, he explicitly denied having any knowledge of disputed evidentiary facts and indicated that he had no knowledge of disputed evidentiary facts and indicated that he had no knowledge about the military's domestic surveillance policies prior to the spring of 1971.[97]

What is to be made of the apparent contradictions between Justice Rehnquist's statements on these subjects and the facts as they appear in the public record? A number of different inferences can be drawn, but one thing seems clear: before a Senate vote is taken on his nomination to become Chief Justice, the serious questions raised by these inconsistencies need to be fully explored.

Among the many questions that should be addressed with respect to this issue are the following:

What was the nature and extent of Mr. Rehnquist's role in the Justice Department's negotiations with the Army's Office of General Counsel in March and April of 1969, concerning the allocation of domestic intelligence collection responsibilities between the departments?

How did the Justice Department's Office of Legal Counsel become involved in these negotiations? What were Mr. Rehnquist's instructions in this area from Attorney General Mitchell and Deputy Attorney General Kleindienst?

What instructions did Mr. Rehnquist give to members of his staff in the Office of Legal Counsel regarding issues in the negotiations? What (if any) discussions did he personally have with Mr. Jordan or others in the Army's Office of General Counsel?

What review, editing, or other functions did Mr. Rehnquist perform with respect to the March 25, 1969 draft memorandum prepared by members of his staff in the Office of Legal Counsel? What role, if any, did he have with respect to subsequent revisions of this draft before it was sent to the President for approval?

These questions are now relevant not because of what they may reveal about Mr. Rehnquist's past views about surveillance policy but, more importantly, because answering them will help reveal information about the full extent of his knowledge about and participation in the process of formulating (or continuing) Justice Department policy regarding Army involvement in domestic surveillance of civilian activities.

As matters now stand, it appears that Mr. Rehnquist has failed to disclose material facts about his involvement in that process, both in his 1972 memorandum on the disqualification issue and in his 1986 testimony before the Senate Judiciary Committee.

The position of Chief Justice of the United States is both the highest judicial office in the land and a symbol of this nation's commitment to justice under law. Regardless of what a Chief Justice's legal views and ideological predilections may be, the American people—including members of the bar and the judiciary—have the right to expect that the Chief Justice is a person of candor and integrity. It is possible that the doubts on this score that are raised by the inconsistencies between Justice Rehnquist's statements and the public record can be resolved in his favor through a more searching examination of the facts than has thus far been made. Clearly, however, the Senate and the American public need to learn the full facts about his role in military surveillance policy and his participation in this *Laird* v. *Tatum* decision.

FOOTNOTES

[1] 408 U.S. 1 (1972).

[2] See, e.g., Richard Kleindienst, *Justice* (1985), pp. 121-122.

[3] U.S. Congress, Senate, "Military Surveillance," Hearings Before the Subcommittee on Constitutional Rights of the Committee on the Judiciary, 93rd Congress, Second Session (April 9 and 10, 1974) (hereafter cited as "1974 Ervin Subcommittee Hearings on Military Surveillance"), pp. 20 (testimony of Robert E. Jordan III), 324-360. (Memorandum prepared by Robert E. Jordan III, dated March 22, 1971, on "The Background of the Interdepartmental Action Plan for Civil Disturbances of 1 April 1969") at pages 324-325. See also Memorandum for Record prepared by Milton Hyman, Office of the Army General Counsel, 1974 Ervin Subcommittee Hearings on Military Surveillance, pp. 299-324, and 318-319.

[4] *Ibid.*, at 325.

[5] *Ibid.*, at 325. The draft memo sent by Mr. Rehnquist to Attorney General Mitchell is one of a number of attachments to the Jordan memorandum, and appears at pages 335-341 of the 1974 Ervin Subcommittee Hearings on Military Surveillance. It is one of the documents requested by the Judiciary Committee at the conclusion of the hearings on Justice Rehnquist's nomination as Chief Justice.

[6] *Ibid.*, at 335.

[7] *Ibid.*, at 325, 342.

[8] *Ibid.*, at 325.

[9] *Ibid.*, at 325, 345.

[10] *Ibid.*, at 325, 346.

[11] *Ibid.*

[12] *Ibid.*

[13] *Ibid.*, at 325, 353.

[14] The Office of Legal Counsel continued to be involved in the plan after it was transmitted to the President. In May the Army discovered that the Justice Department in its final retyping had omitted a paragraph. The Army called this omission to the attention of the Office of Legal Counsel, which checked and determined that the omission was purely inadvertent. On June 2, the Army wrote to Deputy Attorney General Kleindienst suggesting that the Presidential order be treated as if it included the omitted paragraph. On June 6, Mr. Kliendienst wrote to the Army concurring in this recommendation. 1974 Ervin Subcommittee Hearings on Military Surveillance, pp. 325, 354-355.

[15] Christopher M. Pyle, "CONUS Intelligence: The Army Watches Civilian Politics," *Washington Monthly*, January 1970, pp. 4-16.

[16] For example, the Rev. Albert Cleague, a black clergyman who was one of the plaintiffs, was said to have spoken "to an estimated 100 persons at the Emmanuel Methodist Church . . . on the topic of black unity and the problems of the ghetto." Complaint in *Tatum* v. *Laird*, U.S. District Court District of Columbia, Civil Action Docket No. 459-70, Appendix A.

[17] *Ibid.*, Appendix B; see also Pyle's article, supra note 15. The article noted, as one of several illustrations of the monitoring, that an IBM card prepared for the files of Arlo Tatum contained the notation that "Mr. Tatum delivered a speech at the University of Oklahoma on the legal rights of conscientious objectors."

[18] "Mr. ASKIN [counsel for the plaintiffs]: Your honor, he will testify that he was instructed to infiltrate a group known as the Young Adults Project, an organization composed of a number of church groups in the Colorado Springs area which also included the participation of the Young Democratic organization. . . . ." Transcript of the Proceedings, *Tatum* v. *Laird*, Civil Action 459-70, D.C. D.C., April 22, 1970, at 29.

[19] U.S. Congress, Senate, "Federal Data Banks, Computers, and the Bill of Rights," Hearings Before the Subcommittee on Constitutional Rights of the Committee on the Judiciary, 92d Congress, 1st Session (hereafter cited as "1971 Ervin Subcommittee Hearings on Federal Data Banks").

[20] 1971 Ervin Subcommittee Hearings on Federal Data Banks, pp. 100-130 (Testimony of John O'Brien); 184-188 (statement of Christopher H. Pyle); 264-265 (statement of Ralph M. Stein). See also "Army Surveillance of Civilians: A Documentary Analysis by the Staff of the Subcommittee on Constitutional Rights," Committee Print, 92d Congress, 2d Session (Washington, D.C.: U.S. Government Printing Office, 1972) (hereafter referred to as "*Subcommittee Staff Report*"), pp. 12-14, 39-40.

[21] 1971 Ervin Subcommittee Hearings on Federal Data Banks, p. 384.

[22] *Ibid.*, pp. 197-198 (Pyle testimony); 272 (Stein testimony).

[23] *Ibid.*, pp. 200-201 (Pyle testimony).

[24] *Ibid.*, pp. 290-296 (testimony of Joseph J. Levin, Jr.).

[25] *Ibid.*, pp. 305-309 (testimony of Oliver A. Peirce).

[26] *Ibid.*, pp. 106-130 (O'Brien testimony); 218-219 (Pyle testimony).

[27] Overall, the amount of information collected and stored during the 1968-70 period was enormous. The Army apparently had over 350 separate records centers containing files on civilian political activities. In one such center, at Fort Sam Houston, in Texas, there was the equivalent of over 120,000 file cards on "personalities of interest." While considerable duplication of files undoubtedly existed, the staff of the Senate Subcommittee on Constitutional Rights was probably conservative in estimating that in 1970 Army intelligence had reasonably current files on the political activities of at least 100,000 individuals not affiliated with the armed forces. At least two of the Army's data banks had the capacity for cross-reference among "organizational," "incident," and "personality" files, thus providing the technical capacity to produce correlations of persons, organizations, political activities, and addresses—virtually instantaneously, *Subcommittee Staff Report*, pp. 96-97, 196.

[28] *Ibid.*, *passim*.

[29] 1971 Ervin Subcommittee Hearings on Federal Data Banks, pp. 224-225 (Pyle testimony); 394ff (testimony of Robert Froehlke).

[30] *Ibid.*, Part II, pp. 1368-1369.

[31] 1971 Ervin Subcommittee Hearings on Federal Data Banks, p. 602.

[32] *Ibid.*, p. 603.

[33] *Ibid.*, p. 601.

[34] 1971 Ervin Subcommittee Hearings on Federal Data Banks, pp. 620-621.

[35] *Ibid.*, pp. 861-862.

[36] Five days later Mr. Mardian transmitted a copy of the Interdepartmental Action Plan for Civil Disturbances to Senator Ervin, indicating that although the document was not classified, it was "an internal working memorandum" and was furnished as confidential. He did not correct his prior statement denying President Nixon's role in the plan. (In December Senator Ervin wrote to the Attorney General indicating that the Interdepartmental Action Plan did not appear to contain any sensitive material and that he planned to include it in the record of the hearings.) 1971 Ervin Subcommittee Hearings on Federal Data Banks, Part I, pp. 908-909; Part II, p. 1410.

[37] William H. Rehnquist, "Privacy, Surveillance, and the Law," Remarks before the National Conference of Law Reviews, Williamsburg, Va., March 19, 1971; reproduced in 1971 Ervin Subcommittee Hearings on Federal Data Banks, pp. 1590-1596. The quoted passage is at page 1593. Assistant Attorney General Rehnquist apparently also spoke with other groups concerning surveillance around this time. See, e.g., "Curbs on Investigators Called Serious Mistake," Arizona Republic, March 16, 1971; remarks of William H. Rehnquist, Assistant Attorney General, Office of Legal Counsel, at the American Bar Association Convention, Sonesta Tower Hotel, London, England, July 15, 1971, at pp. 12-13, cited in Note, "Justice Rehnquist's Decision to Participate in *Laird* v. *Tatun*," 73 Columbia Law Review, 106, 117

[38] *Tatum* v. *Laird*, 444 F.2d 947 (D.C. Cir., 1971).

[39] *Ibid.*, p. 958.

[40] 1971 Ervin Subcommittee Hearings on Federal Data Banks, pp. 1407-1409.

[41] *Laird* v. *Tatum*, 408 U.S. 1, 10.

[42] 408 U.S. 1 at 13-14.

[43] 408 U.S. 1 at 8.

[44] *Ibid.*, at 27.

[45] 408 U.S. 1, 38-40. Justice Marshall also joined in this dissent.

[46] Typed transcript of Rehnquist nomination hearings, July 30, 1986, pp. 196-197.

[47] U.S. Senate Committee on the Judiciary, Excerpts of Correspondence between Senator Mathias and Justice Rehnquist, August 1986.

[48] 1974 Ervin Subcommittee Hearings on Military Surveillance, pp. 287, 296. (Undated memorandum by Robert E. Jordan III, for the Secretary of the Army, apparently prepared in preparation for the 1971 Ervin Subcommittee hearings). See also Jordan's testimony at the 1974 hearings, pp. 14-32, and his "Memorandum for Record," with attachments including successive drafts of what ultimately became the "Interdepartmental Action Plan for Civil Disturbances," in the 1974 Ervin Subcommittee Hearings on Military Surveillance, pp. 324-360.

[49] *Ibid.*, pp. 324-325.

[50] Tab B to Jordan's "Memorandum for Record," 1974 Ervin Subcommittee Hearings on Military Surveillance, pp. 330-335.

[51] *Ibid.*, pp. 332-333.

[52] Tab C to Jordan's "Memorandum for Record," 1974 Ervin Subcommittee Hearings on Military Surveillance, pp. 335-341.

[53] *Ibid.*, pp. 335.

[54] *Ibid.*, pp. 335, 336-337. This draft kept the Army language referring to the "the salutary tradition of avoiding military intelligence activities in predominantly civilian matters," but nevertheless provided explicitly for Army involvement in the collection of intelligence. Mr. Jordan noted that "I find in the files a March 25, 1969 memorandum from Bill Rehnquist, Assistant Attorney General (Office of Legal Counsel) to the Attorney General and the Deputy Attorney General. This represents the first formal Justice draft of the Civil Disturbance Plan intented for the President's approval." He goes on to comment that "the FBI was not at all happy" with the additional responsibilities that would be thrust upon them by the proposed memorandum. See Memorandum for the Secretary of the Army—the Under Secretary of the Army," 1974 Ervin Subcommittee Hearings, pp. 287, 296.

[55] Tab C to Jordan's "Memorandum for Record," 1974 Ervin Subcommittee Hearings on Military Surveillance, p. 337.

[56] 1974 Ervin Subcommittee Hearings on Military Surveillance, pp. 20, 29-31 (Jordan testimony); 296-297 (undated Jordan memorandum for the Secretary of the Army); 325 (Jordan "Memorandum for Record"); 343 (Army's suggested changes in draft memorandum sent to Justice Department on March 29, 1971).

[57] Tab H to Jordan's Memorandum for Record," 1974 Ervin Subcommittee Hearings on Military Surveillance, pp. 346, 348. The final version of the memorandum was approved by President Nixon in May 1969. A copy of a one-page cover memo to President Nixon from John D. Ehrlichman who was then the White House advisor for domestic affairs, dated May 19, 1968 is included as Tab I of the Jordan "Memorandum for Record," at page 353 of the 1974 Ervin Subcommittee Hearings on Military Surveillance. It shows President Nixon's approval of the plan and his handwritten comment "Good planning."

[58] 1974 Ervin Subcommittee Hearings on Military Surveillance, pp. 20, 296, 325.

[59] Testimony of Frank Askin, typed transcript of the Rehnquist nomination hearings, July 31, 1986, pp. 380-381. Senator Ervin argued the case on behalf of the Unitarian Universalist Association as amicus curiae. Senator Ervin's views on Justice Rehnquist's participation in *Laird* v. *Tatum* are set forth in strong terms in the 1974 hearings: ". . . the only reason that you have the decision in that case is because the attorney who had represented the Department of Justice and defended the Army spying before this committee and who had voluntarily stated before this committee that the *Tatum*

case had no merits, insisted on sitting on the case in violation of a canon of ethics which said no judge should sit on a case in which he has been a lawyer." (p. 114).

[60] 409 U.S. 824, 901.

[61] Public Law 93-512 (1974); further amended by Public Law 95-598 (1978). As amended, the statute requires disqualification of a justice "in any proceeding in which his impartiality might reasonably be questioned" and "where he has served in governmental employment and in such capacity participated as counsel, adviser or material witness concerning the proceedings or expressed an opinion concerning the merits of the particular case in controversy."

[62] 409 U.S. 824, 828. Justice Rehnquist acknowledged that plaintiffs were "substantially correct" in characterizing him as having been an "expert witness" but apparently did not regard this as relevant to whether he had been a material witness.

[63] See, e.g., *United States* v. *Smith*, 337 F.2d 49 (4th Cir. 1964). In this situation the lower federal courts have held that a judge is not a material witness within the meaning of the statute because of his or her prior judicial involvement at an earlier stage of the case. *Ibid.* Even here, however, the courts have indicated that disqualification is often "a rule of good practice." *United States* v. *Hughes*, 325 F.2d 789 (2d Cir.) cert. denied, 377 U.S. 907 (1964). The language in the *Hughes* case indicating that section 455 does not apply to situations in which the judge "might be" a witness but only to cases in which a judge "is a witness" may be relevant to prior involvement in the case as a judge but clearly would not be correct if applied to nonjudicial involvement. A judge who was one of 20 witnesses to a murder would clearly seem disqualified by the statute whether he was actually called as a witness or not.

[64] U.S. Congress, House Report No. 93-1453, Judiciary Committee, Oct. 9, 1974; Senate Report (Judiciary Committee) No. 93-419, Oct. 3, 1973.

[65] 409 U.S. 824, 825.

[66] 28 U.S.C. sec. 455 (1986 Cum. Supp.); ABA Code of Judicial Conduct Canon 3C(1)(a).

[67] 28 U.S.C. 455(b)(5)(iv). S. 1886, 92d Cong., 1st Session, was introduced on May 17, 1971, prior to the time of the disqualification motion in *Laird* v. *Tatum*.

[68] *Ibid.*, at 826.

[69] *Ibid.*, at 828. Justice Rehnquist's memorandum opinion denying the recusal motion incorrectly states that the hearing records do not contain a copy. It can be found at pages 1407-1408 of the 1971 Subcommittee Hearings on Federal Data Banks.

[70] *Ibid.*, at 827. It is not clear what Justice Rehnquist meant when he said that he had never been apprised of the contents of this printout. At the March, 1971 hearings before the Ervin Subcommittee, Senator Ervin said: "We are anxious to get copies of the Army's Compendium . . . . I take it you will give the committee access to that document and allow us to copy the names of persons that were under surveillance by the Army." Mr. Rehnquist replied that his assistant had been working with the Subcommittee staff "and I know we had it examined down at the Department." 1971 Ervin Subcommittee Hearings on Federal Data Banks, p. 866.

[71] U.S. 495 (1947).

[72] 1971 Ervin Subcommittee Hearings on Federal Data Banks, p. 601.

[73] Typed transcript of Rehnquist nomination hearings, pp. 196-197.

[74] 1971 Ervin Subcommittee Hearings on Federal Data Banks, p. 601.

[75] The common law standard for disqualification was apparently limited to pecuniary interests. See Frank, "Disqualification of Judges," 56 Yale Law Journal 605, 609-611 (1747).

[76] "Although it is doubtless true that the term 'substantial interest' normally refers to a pecuniary or beneficial interest of some kind, we construe the language broadly enough to comprehend the interest that any lawyer has in pushing his case to a successful conclusion." *Adams* v. *United States*, 302 F.2d 307, 310 (5th Cir. 1962).

[77] 349 U.S. 133, 136 (1955). See also *Tumey* v. *Ohio*, 273 U.S. 510, 532 ("every procedure which would offer a possible temptation to the average man as a judge . . . not to hold the balance nice, clear, and true . . . denies the . . . due process of law.").

[78] Commission on CIA Activities Within the United States, Report to the President (June 1975), pp. 124-125.

[79] *Ibid.*

[80] 409 U.S. 824, 829.

[81] 1971 Ervin Subcommittee Hearings on Federal Data Banks, pp. 861-862.

[82] *Ibid.*, pp. 864-865.

[83] William H. Rehnquist, "Privacy, Surveillance, and the Law," Remarks before the National Conference of Law Reviews, Williamsburg, Va., March 19, 1971; reproduced in 1971 Ervin Subcommittee Hearings on Federal Data Banks, pp. 1590-1596. The quoted passage is at page 1593.

[84] 1971 Ervin Subcommittee Hearings on Federal Data Banks, pp. 1407, 1408.

[85] Frank, "Disqualification of Judges," 56 Yale Law Journal 605, 625 (1947) takes the position that participation in the formulation of the policy that the case involves is ground for disqualification. See also Note, "Justice Rehnquist's decision to Participate in *Laird* v. *Tatum*," 73 Columbia Law Review 106, 110, 117-121 (1973).

[86] 409 U.S. 824 at 830.

[87] 409 U.S. 824, 830-840.

[88] 1971 Ervin Subcommittee Hearings on Federal Data Banks, p. 601.

[89] Brief for Respondents in *Tatum* v. *Laird*, U.S. Supreme Court, October Term, 1971, No. 71-288.

[90] 1971 Ervin Subcommittee Hearings on Federal Data Banks, p. 621.

[91] *Ibid.*, pp. 864-865.

[92] *Ibid.*, pp. 861-862, 864-865.

[93] *Ibid.*, p. 901.

[94] William H. Rehnquist, "Sense and Nonsense About Judicial Ethics," 29 *Record of the Association of the Bar of the City of New York*, pp. 694-713 (November, 1973).

[95] *Ibid.*, p. 713.

[96] The materials filed with the Senate Subcommittee on Constitutional Rights by Robert E. Jordan III in 1974, which appear at pages 287-360 of the 1974 Ervin Subcommittee Hearings on Military Surveillance, appear to be the first public record of Mr. Rehnquist's involvement in this process.

[97] See note 46, supra, and accompanying text.

[A letter to the U.S. Senate From American Law Professors on the Confirmation of Justice Rehnquist]

We the undersigned members of the law teaching profession ask that the Senate of the United States weigh with especially solemn deliberation the nomination of Justice William Rehnquist as Chief Justice. We ask this for two reasons.

First, it will take a conscious effort to resist the tendency to accept as determinative the 13-5 vote of the Judiciary Committee. The unanimous vote of the same Committee in favor of Judge Scalia proves that the opposition to Justice Rehnquist was not, as has been asserted, based solely on politically or ideologically motivated grounds. Five votes against a sitting Justice is really reason for pause. The conscience-searching questions that Senator Leahy wrestled with are matters that every Senator must, in fidelity, decide upon alone in a quiet place and time, away from the political arena. We ask therefore that each of you resist the political push and decide this most important appointment of all as a matter of individual conscience.

The second reason that we ask for this extraordinary personal effort from every single Senator, even those who voted favorably in Committee, is related to the first. As teachers we are troubled by a growing cynicism among our students, particularly with respect to ethics in government. Paradoxically, in the post-Watergate period, proof of statutory crime is becoming the standard by which we measure the highest officials of the land. This perception must be changed. If history and tradition are guides, the Senate and the Judiciary are the institutions that can best signal that change. In many respects then this very significant confirmation hearing has become a testing ground for the ethical standards of this nation.

The questions that have been raised about Chief Justice designate William Rehnquist are varied. Nevertheless there is a common and disturbing thread that runs through all of the matters that have been raised at the hearings. That common thread pertains to the integrity and ethical standards of the nominee. And taking the character measure of judicial candidates is the primary duty of the Senate under the Advice and Consent clause.

The doubts that have been expressed about Justice Rehnquist's fitness arise not only from the particular charges of improper behavior but also from the responses in each instance the nominee has made to the charges. These charges and the responses are summarized below.

(1) First there is the response to the charges of voter harassment in the Arizona elections. In his testimony at the recent hearings and after the first confirmation hearing Mr. Rehnquist claimed that he had not personally challenged a voter on literacy grounds and that in any event literacy challenges were then legal under Arizona law. But the testimony against him and his own admissions establish that he at least knew what was going on and participated in some manner in the strategy of challenging voters at the polling places. Such strategy was bound to and indeed did involve intimidation and delay, as witnesses testified. Nevertheless, to this day Justice Rehnquist sees little wrong with what took place there because no technical violation of the law had been proven. There is a question of moral obtuseness in this response that we ask our Senators to reflect upon as they consider the other charges that have been raised.

(2) With respect to the restrictive convenants it is not a matter of what he did or failed to do, but likewise a question of his response to the existence of such obnoxious clauses. One response he made was that the clauses were unenforcible, again revealing a lack of appreciation for the ethical and symbolic dimensions of law. But he also said that he did not know of the existence of these clauses, an explanation that was only plausible if he had left the reading of his deeds to his lawyers. After the hearings however, he turned over a letter from one of his lawyers in which the restrictive covenant language was explicitly drawn to Justice Rehnquist's attention. This seemed to refute the Justice's testimony that he had no prior knowledge of the offensive language, or worse, it suggested that he felt compelled to correct his testimony because one of his lawyers was unwilling to accept the implied blame for failing to address the question of the restrictive convenants. We ask our Senators to consider what this initial willingness to implicitly shift blame to his lawyers for failing to do anything about such covenants in the deeds says about the integrity of the nominee.

(3) This same willingness to shift blame for an embarassment or a misdeed is also possibly revealed in the manner in which Justice Rehnquist responded to the questions about the memorandum opinion he drafted while clerking for Justice Robert Jackson. Notwithstanding the fact that there is no historic evidence that Justice Jackson ever supported the separate but equal doctrine, Mr. Rehnquist intimated that Jackson was considering a dissent in the *Brown* case. Holding the views expressed in that memorandum opinion in the fifties is not nearly as bad as disowning them and implied assigning them to someone of whose reputation the nominee, as a

former clerk, should be solicitous. We ask once more that our Senators consult their collective experience about human behavior and apply this to the pattern of responses the candidate has made to the various charges brought against him.

(4) There have been charges by Justice Rehnquist's brother-in-law of a breach of ethics in connection with a trust fund. Such charges would be the basis of a bar committee investigation if lodged against an ordinary attorney. So far there has been no response from Justice Rehnquist and to the best of our knowledge no investigation by an official body.

(5) Lastly, in the light of the foregoing, we ask our Senators to review in close detail the explicit charge of the failure of judicial ethics arising from the refusal of Justice Rehnquist to disqualify himself in the case of *Laird* v. *Tatum*. Perhaps this is the most significant matter because in this instance the response to an ethical demand is largely set forth in the words of Justice Rehnquist for all to read and fairly judge.

In a memorandum submitted to the Judiciary Committee Professor Askin of Rutgers Law School has emphasized one basis for questioning the judicial ethics of the nominee. That basis was that testimony before the Ervin Committee by then Assistant Attorney General Rehnquist revealed that he had knowledge of *or had formed an opinion about facts* that were in dispute in *Laird* v. *Tatum* and were depositive of one of the questions before the Court. This point is clearly made by Professor Askin and we simply ask every Senator to study Professor Askin's submission with care. But there are two other points that require less careful study and these points raise serious questions of intellectual honesty.

When the subject of the Army surveillance of civilians came up at Mr. Rehnquist's first confirmation hearings he said that it would be improper for him to comment on issues involving the surveillance investigation because of his "lawyer-client relationship" with the President and Attorney General. *Laird* v. *Tatum* dealt specifically with the subject of the Army surveillance of civilians yet Justice Rehnquist stated his relationship to the subject under review very differently in his recusal opinion. There he said "that my total lack of connection with . . . the case of *Laird* v. Tatum does not suggest discretionary disqualification here because of my previous relationship with the Justice Department." Although Mr. Rehnquist declined to testify before the Senate Committee, once on the Court he had no difficulty deciding a case that dealt with the very subject for which he had claimed an attorney-client privilege.

The same issue of intellectual honesty appeared even more plainly perhaps in another portion of his recusal opinion. Justice Rehnquist dismissed the applicability of the Canons for "Standards of Judicial Conduct" by describing them as "not materially different from the standards enunciated in the [federal disqualification] statute." The statute, in pertinent part, required disqualification in any case where a justice "has a substantial interest, [or] has been of counsel or has been a material witness." The Canons, which were not set forth in the opinion, in pertinent part state: "A judge should disqualify himself in a proceeding in which *his impartiality might reasonably be questioned* including but not limited to instances where: (a) he has . . . personal knowledge of disputed evidentiary facts concerning the proceeding; (b) he served as a lawyer in the matter in controversy . . . ." We ask the Senators whether under any interpretation of language these two standards honestly can be described as "not materially different."

The matters that appear on the face of the *Laird v. Tatum* disqualification case as well as the responses to all the other matters previously summarized are not political attacks nor are they trivial. Each of them relate directly to the central issues of integrity, honesty and character. Whatever the outcome of the confirmation vote, Mr. Justice Rehnquist will sit on the Supreme Court. The ultimate question that each Senator must answer is whether Justice William Rehnquist, in the words of Canon 2 of the Code of Judicial Conduct of the American Bar Association, has conducted *"himself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary."* If a Senator entertains the slightest doubt on that question with respect to the nominee for the highest judicial post in the land we humbly ask that consent be withheld and the President be advised to submit the name of a candidate who unequivocally meets the demanding standards the people have the right to expect.

Arthur Berney, Boston College.

David Chambers, University of Michigan.

David Cobin, Marie Falinger, Howard Vogel, Mary Jane Morrison, Hamline University.

Michael Kindred, Ohio State University.

Grayford B. Gray, University of Tennessee.

Patrick Charles McGinley, West Virginia University.

William L. Andreen, Timothy Hoff, Jerome Hoffman, Wythe Holt, Gene Marsh, Norman Stein, Manning Warren, University of Alabama.

Mark Brodin, Kenneth Ernstoff, Zygmund Plater, Alexis Anderson, Paul Tremblay, Peter Donovan Mark Spiegel, Robert Cottrol, Robert Berry, Ruth Arlene Howe, Robert Smith, Boston College.

Rhonda Rivera, Ohio State University.

Mark Tushnet, Georgetown University.

Kurt Strasser, University of Connecticut.

Otis Cochran, University of Tennessee.

Peter Shane, University of Iowa.

Jerry Phillips, University of Tennessee.

Carrie Menkel-Meadow, Leon Letwin, University of California at Los Angeles.

Robert Steinfeld, Isabel Marcus, Errol Meidinger, State University of New York at Buffalo.

Debra Evenson, DePaul University.

Paul Chevigny, Chester L. Mirsky, Stephen Gillers, Sylvia Law, Peggy Davis, New York University.

Peter Bayer, University of Baltimore.

Elizabeth M. Schneider, Brooklyn Law School.

Paul Brietzke, Valparaiso University.

Charles E. Wilson, Ohio State University.

Richard Ottinger, Pace University.

Arthur Pinto, Mary Jo Exster, Neil Cohen, Brooklyn Law School.

Herman Schwartz, American University.

Peter Aron, George Washington University.

Alan Freeman, State University of New York at Buffalo.

Burt Wechsler, American University.

Nadine Taub, Barbara Stark, Robert Westreich, Edward Lloyd, Carlos Garcia, Jack Feinstein, Rutgers University.

William J. Quirk, University of South Carolina.

Stephen Dycus, Vermont Law School.

Bernadette Hartfield, Paul Milch, Nicholas Richter, Jodi English, Norman Townsend, Charles Marvin, Roy Sobelson, Kathryn Urbonya, Georgia State University.

Laura Macklin, Georgetown Law School.

Egon Guttman, American University.

Bailey Kuklin, Brooklyn Law School.

Ndiva Kofele-Kale, Tennessee.

Neil Gotanda, Western State University.

Liz Ryan Cole, Pamela Ryan, Ben Aliza, Vermont Law School.

David Hill, University of Chicago.

Harvey M. Johnson, Prakash Sinha, James J. Fishman, Gayle Westerman, Ralph Stein, Frank Bress, Stuart Madden, Merrill Sobie, Donald Dorenberg, Norman B. Lichtenstein, Pace Law School.

Susan Kovac, University of Tennessee.

Richard L. Abel, University of California at Los Angeles.

Lawrence Schlam, Joel H. Swift, Northern Illinois University.

Jules Lobel, University of Pittsburgh.

Stefan Krieger, University of Chicago.

Nancy Rogan, Vermont Law School.

Barlow Burke, Edwin Hazen, Elliott Milstein, Ann Shattuck, American University.

Naira Soifer, University of Maine.

Ronald Collins, University of Puget Sound, in Tacoma, Washington.

John Strait, University of Puget Sound.

Barbara Salken, Barbara Atwell, Carol Olson, Pace Law School.

Charles Carr, University of Buffalo.

Irene Scharf, Pierre Schlag, University of Puget Sound.

Ken Kreiling, Vermont Law School.

Leonard Sharon, University of Maine.

[From the New York Times, Aug. 15, 1986]

REHNQUIST QUIET OVER TRUST, ILL BROTHER-IN-LAW CONTENDS

(By Marcia Chambers)

LOS ANGELES, August 14.—The disabled brother-in-law of William H. Rehnquist maintains the Supreme Court Justice acted unethically by failing for more than 20 years to tell him about a trust fund set up to help him through his illness.

The brother-in-law, Harold Dickerson (Dick) Cornell, who lives in San Diego and was a prosecutor there, said in an interview that Justice Rehnquist and other family members concealed the trust fund, from which they could benefit if Mr. Cornell did not collect. The fund was set up by Mr. Cornell's father.

The 73-year-old lawyer said he decided to tell his story because he wanted to prevent Justice Rehnquist from becoming Chief Justice of the United States. "I think he is too radically conservative, and from my experience in the trust case, I think he committed a serious breach of ethics," he said.

Some Cornell family members said Mr. Rehnquist and other family members followed their father's wishes when they concealed the trust from Dick Cornell because he spent money carelessly. After Mr. Rehnquist had left Pepperdine University in Malibu, where he had been teaching for two weeks, a spokesman there, Larry Bumgardner, vice president for university communications, said the Justice would have no comments until after the confirmation proceedings had finished.

Lawyers are bound by standards of professional conduct, that if violated, may result in disciplinary charges. Several legal scholars said Justice Rehnquist as a lawyer was obligated to disclose the existence of the trust, particularly if it was not being administered properly. Others were not so sure.

A DUTY TO ACT

Stephen Gillers, professor of legal ethics at New York University law school and the author of a book on legal ethics, said Mr. Rehnquist had a duty to act "because he had a surviving duty of loyalty to his client," his father-in-law, "and because fraud could have occurred given the length of time the trust went unreported," he said.

"His failure to act when he personally stands to gain by the failure is especially wrong," Professor Gillers said.

According to the trust, drawn up by Mr. Rehnquist in 1961, when he was a lawyer practicing in Phoenix, Mr. Cornell, who has multiple sclerosis, was to receive funds from the $25,000 trust whenever he "was unable to provide for himself in the manner to which he was accustomed."

Mr. Rehnquist, who is married to Mr. Cornell's youngest sister, Natalie, drew up the trust fund at the request of his dying father-in-law, Dr. Harold Davis Cornell, a San Diego physician. Dick Cornell said that a year later, when he was 49 years old and earning about $50,000 a year, he as forced to retire because of his debilitating illness.

FUNDS BASED ON LIVING STANDARD

The trust says funds were to be paid to Mr. Cornell whenever his standard of living fell below the level he maintained when the trust was written. His brother, George, was named trustee.

Dick Cornell said he was poverty stricken soon after retiring.

"I was in serious circumstances," he said. "It reached the point where I was making stew out of dog bones. At that time I was able to walk with crutches, and I didn't expect to live very long. I rented a small place. The rent was $68 a month and I used the remainder of my $96 in social security benefits to eat."

Mr. Cornell said he learned about the existence of the trust only in 1982, when his brother, George, died and one of his sisters was supposed to take his place as trustee. Her lawyer told her to inform him, he said.

Over its 21 years the $25,000 trust grew by $10,000, a fact that Mr. Cornell said astounded him. He said the documents he had received so far did not explain why the funds did not appreciate more. Professor Gillers said the trustee or his estate was answerable for that. "If Rehnquist was aware of this fact he had a duty to investigate and to blow the whistle if he found malfeasance," Professor Gillers said. "It is quite remarkable."

Mr. Cornell said at one point that his financial condition was so precarious that he asked his family at a yearly reunion if he could get funds from another family trust fund set up by his parents for emergency use and for education.

"Bill was at that meeting," Mr. Cornell said. "He certainly knew about my trust and he knew I was disabled and in serious financial straits. Bill and the others decided I didn't have the right to the emergency trust fund even though I was 100 percent disabled. And they never said, 'Hey, you have your own trust.'"

"How could I squander trust money?" Mr. Cornell asked, "It's ridiculous."

[From the Los Angeles Times, Aug. 2, 1986]

REHNQUIST RELATIVE SAYS JUSTICE KEPT TRUST FUND SECRET

(By Jim Schachter)

SAN DIEGO.—A disgruntled relative says that Supreme Court Justice William H. Rehnquist joined other family members in concealing from him for two decades the existence of a trust fund from which the justice stood to gain financially if the bedridden brother-in-law did not collect its proceeds.

Experts in legal ethics say that Rehnquist's role in the family financial matter placed him in a murky area of professional responsibility and constituted at least a technical conflict of interest, although they disagreed about the seriousness of the ethical dilemma. Some experts said that Rehnquist was obliged as a lawyer to have disclosed the existence of the trust.

The relative, Harold Dickerson (Dick) Cornell, 73, a former San Diego prosecutor who is disabled by multiple sclerosis, said he was telling his story about Rehnquist's involvement with the $25,000 trust because he does not want the conservative Rehnquist to become chief justice. Cornell says he is a liberal.

REFUSES TO COMMENT

Rehnquist refused to comment on the allegations. "It would be inappropriate for Justice Rehnquist to comment on the matter in the midst of his confirmation hearings," a spokesman said.

However, other family members said that they and Rehnquist simply were following the wishes of Cornell's late father in concealing the trust fund from Cornell, who they feared would not spend the money wisely. One of Cornell's sisters discounted his claims of ethical wrongdoing, saying that the disabled former lawyer nursed a long-standing grudge against Rehnquist and others in the family.

But the trust document itself, drawn up by Rehnquist in 1961 for his dying father-in-law, states explicitly that funds were to be paid to Cornell whenever his standard of living fell below the level he maintained when the trust was written—a time when Cornell had a successful private legal practice. The document says nothing about keeping the trust a secret from him.

In an interview at his small home in the Ocean Beach section of San Diego, Cornell said: "I'm not looking for sympathy or condolence at all. But I think Bill (Rehnquist) is a threat. He's a threat to our nation. I know how reactionary he is."

CRANSTON INVESTIGATING

The office of Sen. Alan Cranston (D-Calif.) is investigating the allegations, according to Harold Gross, an aide to the senator.

Rehnquist has been married for nearly 33 years to Cornell's sister Natalie. In 1961 when Rehnquist was in private practice in Phoenix, his father-in-law, Dr. Harold Davis Cornell, asked him to draw up a trust benefiting his disabled son, according to Cornell.

Probate documents filed in San Diego County Superior Court state that the income from the $25,000 trust was to be paid to Dick Cornell if he was "unable to provide for himself in the manner to which he (was) accustomed."

The trustee, Cornell's brother George, was authorized by the document to begin liquidating the $25,000 principal of the trust if the income alone was not enough to meet the disabled man's needs.

Cornell's debilitating illness forced him to retire in 1962. And though family members knew, he says, that he was living much of the time on a meager income from disability insurance and Social Security payments, he was not made aware of the existence of the trust until January, 1982, shortly after the death of his brother George. When his sister Ruth Sawday was to succeed her brother as trustee, her lawyer advised her to inform Cornell of the trust's existence, according to another of the sisters, Mary Cornell.

GIVES MOST MONEY AWAY

Cornell ultimately received $35,000, the amount that has accumulated in the trust, in March, 1982. He purchased a hospital bed and motorized scooter for use at home, Cornell said, and gave most of the money away to his children and other people.

His brother George, the longtime trustee, was responsible for distributing the money, Dick Cornell said, But Rehnquist discussed Dick Cornell's condition with other family members, according to Mary Cornell. He was the only attorney in the family who knew about the trust.

Dick Cornell contends that Rehnquist had a special ethical duty as a lawyer to alert him to the existence of the trust. He also contends that Rehnquist had a conflict of interest in connection with the trust.

If Cornell had died, the trust directed that the money be divided among his children, his brother and his five sisters, including Rehnquist's wife. Cornell therefore contends that Rehnquist and his wife had a financial interest in concealing the existence of the trust.

EXPERTS SEE DILEMMAS

Experts in legal ethics agreed that the circumstances pose ethical dilemmas, but they disagree about whether Rehnquist had breached any of the legal profession's standards of professional conduct. The experts were asked to react to the facts of the case initially without knowing that Rehnquist was involved in the transactions.

Geoffrey Hazard, a professor at Yale Law School, said precedents in California law have established a duty for attorneys to heed the interests of the intended beneficiary of a will.

Those rulings set up a standard for the handling of trusts such as the one drafted by Rehnquist for Cornell's benefit, according to Hazard, who compiled the current edition of the American Bar Assn.'s model rules of professional conduct.

"There would be a pretty good case in saying the lawyer in question had an obligation, if he knew the person was destitute . . . to do something other than just keep quiet," Hazard said. "There would be a real problem about his duty if he knew about this trust condition and knew about the state of that brother. It's not a very pleasant matter."

A legal ethics expert and professor at a California law school who asked not to be named said that an attorney in Rehnquist's position would be obligated either to tell Cornell about the existence of the trust or to tell his brother George, the trustee, that he might have been flouting the trust's intentions by withholding payments.

Other ethics experts said that the obligation to expose the existence of the trust falls to the trustee, not the lawyer who drew up the document. Frank Sander, a professor at Harvard Law School, said a lawyer who contradicts his client's wishes for secrecy by disclosing the existence of a trust could be held to have breached the attorney-client relationship. This would be the case even if the request was not included in the document.

The law professors all said that there is a clear conflict of interest for a lawyer in drawing up a trust from which he could benefit, indirectly, through his wife. But

they disagreed about whether the conflict constituted any sort of ethical shortfall.

Stephen Gillers, a professor at New York University Law School, said there is always a conflict when an attorney has a self-interest in a document he is drafting. But the conflict could be overcome if the lawyer fully disclosed to his client—in this case Rehnquist's dying father-in-law—that there was a potential conflict and that it might be advisable to contact a disinterested attorney, said Gillers, co-author of a text on legal ethics.

Thomas D. Morgan, former dean of the Emory University Law School in Atlanta, noted that lawyers often draw up legal documents for family members and that the only way to avoid the attendant conflicts is not to draft family legal papers in the first place.

Other experts, though, dismissed the conflict for a lawyer in Rehnquist's position as a niggling concern. Charles Wolfram, a professor at Cornell University Law School, said: "Technically, it's a conflict of interest. Whether it's an impermissible one—I find that highly unlikely, because it's so obvious to everyone."

Other family members rejected Cornell's contentions of wrongdoing, saying he was emotionally unstable because of his long illness and motivated to lash out at Rehnquist by anger.

Mary Cornell, of San Diego, said Rehnquist and other family members were following her father's wishes by concealing the existence of the trust from her brother. "Dick has been unable to hold money all his life," she said Wednesday. "Father felt if Dick knew about it, he'd just spend it and it was intended for his terminal illness."

Rehnquist's contact with her brother had been minimal during the years the trust was hidden. "I don't imagine he thought much about it," she said.

But family members knew Dick Cornell "was in bad straits," she added. "I would go over to have dinner at his house," she recalled. "He'd tell me how thrifty he was, how he'd make a stew and it would last a whole week. I thought that was fine. I was recently divorced and I couldn't help him much."

TRANSCRIPT OF AUGUST 27, 1986

This is morning edition, I'm Bob Edwards. Four Senate Democrats are asking for a further FBI investigation of charges that Chief Justice designate William Rehnquist acted unethically while he was a lawyer in private practice. The charges concern the trust fund that had been set up to benefit Rehnquist's brother-in-law. NPR legal affairs correspondent Nina Totenberg reports.

TOTENBERG. Justice Rehnquist has been married for nearly 33 years to the former Natalie Cornell. When Rehnquist was a private lawyer in 1961 his father-in-law asked him to draw up a trust to benefit one of Natalie's brothers, Dick Cornell, who was disabled with multiple sclerosis. The trust was to be paid to Dick Cornell, "If he was unable to provide for himself in the manner to which he was accustomed." Shortly after the trust was drawn up the senior Mr. Cornell died, and some months later Dick Cornell was forced by his illness to retire from his practice as a trial lawyer. Now, Dick Cornell is charging that Rehnquist conspired with other family members to keep the trust a secret from him for 20 years while he, Cornell, lived at times in severe poverty.

Senators Howard Metzenbaum, Edward Kennedy, Alan Cranston, and Paul Simon, have asked for an FBI investigation of the matter. Dick Cornell is now 73 and bedridden. He says when he retired at age 49 he was earning about $50,000 a year, but a divorce and his illness soon wiped him out. And while he says he lived often with little to eat, he did not know that his father had set up a trust fund for him.

CORNELL. For a large stretch of that time I lived on $96 a month from Social Security. I wasn't eating regularly for at least a year. I was in financial straits and the whole family knew, that included Bill and Nan who were there. My sister and Rehnquist.

TOTENBERG. You had a family meeting over this?

CORNELL. We had a number of them, yeah. I told them what my circumstances were, and how I was living on stew and ate out of dog bowls and so forth and they thought that was funny.

TOTENBERG. How did you finally find out about the trust?

CORNELL. My brother who was the trustee, died in '81 and they had to get an appointment of a new trustee and since I was the main beneficiary I had to receive a notice of the motion of the court to reappoint a trustee. That's the only way I found out.

TOTENBERG. Cornell says he hired a lawyer, threatened to sue his family, and the money was turned over. The Los Angeles Times first reported the Cornell story and quoted another sister, Mary Cornell, as saying that Rehnquist and other family members were simply following their father's wishes in keeping the trust a secret. "Dick has been unable to hold onto money all his life," she is quoted as saying. "Father felt if Dick knew about it he would just spend it and it was intended for his terminal illness." Dick Cornell responds this way.

CORNELL. You can't be a spendthrift of the trust if the only money you get is what the trustee gives you. I've never been a spendthrift, but the story my sisters have brewed up—uh, uh—and the story of his wanting it to be a secret, is a story they brewed up to protect their position.

TOTENBERG. The trust was originally $25,000, by the time you finally got it some 20 or more years later it was $35,000.

CORNELL. Very interesting, don't you think? Depend(ing) on the bank it would have been $100,000.

TOTENBERG. That's what the accrued interest would have added up to?

CORNELL. Sure. Run in T bills it'd been—I'd figure—$115 thousand, something like that.

TOTENBERG. Now you know, everybody listening to us, as they eventually will hear part of this, anyway, will say to themselves, oh these family situations are just excruciating. You can just never know what the truth is. There's always somebody in the family who is just terribly difficult. How can we know what the truth really is? And should we really rest a case against a nominee for Chief Justice on a family feud?

CORNELL. Of course, that's the great—and I think that he is so conservative reactionary that it is a danger to the Supreme Court, but in addition to that the fact that, uh, that Bill knew that he drew the trust, he knew it, that he knew my circumstances, that he was in false relation with the family who were committing a serious breach of trust, now that is a serious violation to breach a trust. He knew it and he did nothing to, uh, break it, and of course the fact that he was a party at interest, it gives it an awful bad omen.

TOTENBERG. If Dick Cornell had not received the trust funds they would have gone upon his death to his siblings including Rehnquist's wife. For this reason a number of legal ethics experts have said Rehnquist had a conflict of interest. But the experts do not agree on whether the conflict is a major breach of ethical conduct. Some specialists in legal ethics also have said that in circumstances such as these with Dick Cornell proverty stricken and ill, Rehnquist had an obligation to reveal the existence of the trust. Other experts say the obligation belonged to the trustee. The FBI conducted a limited investigation of the Cornell charges before the Senate Judiciary Committee voted earlier this month to approve the Rehnquist nomination by a vote of 13 to 5. Now, with the full Senate preparing for a vote on the Rehnquist nomination next month, four Democratic Senators have asked for a more thorough investigation to resolve what they say are unanswered questions about whether Rehnquist actually knew about Dick Cornell's desperate economic condition and whether Rehnquist knew of the decision to keep the trust a secret from Cornell. Rehnquist has had no comment on the Cornell matter. I'm Nina Totenberg in Washington.

NEW YORK UNIVERSITY,
SCHOOL OF LAW,
New York, NY, September 4, 1986.

Hon. HOWARD M. METZENBAUM,
U.S. Senate,
Washington, DC.

DEAR SENATOR METZENBAUM: Your office has requested my opinion regarding the ethical propriety of certain conduct of William Rehnquist, currently a Justice of the United States Supreme Court whom President Reagan has nominated to be Chief Justice of the United States.

I am a professor of law at New York University, where I have been teaching since 1978. Prior to that, I was in the private practice of law for nine years and a law clerk to a United States District judge for one year. I teach professional and judicial ethics. I have written scholarly articles on the subject and articles for the popular press as well. I am also co-author of a casebook in professional responsibility entitled *Regulation of Lawyers: Problems of Law and Ethics.* I have served as an expert witness in several tribunals on issues of professional legal ethics. From 1980–83, I was a member of the lawyer disciplinary committee in Manhattan. In 1979–82, I was a member of the Committee on Professional and Judicial Ethics of the Association of the Bar of the City of New York.

The incident about which you inquire concerns Justice Rehnquist's creation of a trust document for his father-in law, Howard Cornell, while Justice Rehnquist was a lawyer in private practice. The trust is dated November 28, 1961. Apparently, the trust was created in California, where Howard Cornell lived. I do not know if Justice Rehnquist was then a member of the California Bar or whether, for some other reason, he was authorized to prepare this document for a California citizen. If a lawyer practices law where he or she is not admitted to do so, the lawyer may violate state laws against unauthorized law practice and, as well, Canon 47 of the Canons of Professional Ethics, which was the American Bar Association document governing a lawyer's conduct in 1961.

Mr. Cornell wished to make the trust in order to provide for a disabled son, Harold Cornell. I have read the trust instrument. Essentially, it requires the trustee to pay Harold and his children from the income of

the trust in the event that they are unable to support themselves in the manner to which they were accustomed as of the date of the trust instrument. The trustee of the trust is George Cornell, another son of Mr. Cornell.

The instrument also gives fairly broad authority to George to invade principal in the event of the same contingency and on behalf of the same beneficiaries.

The trust was funded with $25,000. Money not distributed to Harold or his children was to go to Mr. Cornell's seven children, including Justice Rehnquist's wife Natalie.

Mr. Cornell died September 7, 1962. George died in October 1981. Harold was not told of the existence of the trust for the twenty years between its creation and the death of George. After George's death, another daughter of Mr. Cornell, Ruth Sawday, petitioned to be substituted as trustee. Harold was served with the petition. Only then (in early 1982) did Harold learn of the trust.

Harold has asserted that the condition for the distribution of the income and principal—his inability to support himself in the manner to which he had been accustomed—had occurred. Indeed, he has alleged that his financial condition became desparate and that Justice Rehnquist was aware of it.

Assuming Harold is telling the truth, what if anything were Justice Rehnquist's responsibilities?

Justice Rehniquist had a potential conflict of interest when he drew the trust. The less money that went to Harold, or the less likely Harold was to get the money, the more that would be left for the other children, including Justice Rehnquist's wife Natalie. Justice Rehnquist had a duty to inform his father-in-law, who was his client, about this conflict and to explore with him the possibility of retaining disinterested counsel. If Justice Rehnquist fulfilled this responsibility and his father-in-law nevertheless wished Justice Rehnquist to prepare the document, then assuming it was not the unauthorized practice of law, Justice Rehnquist could ethically have done so. In other words, Justice Rehnquist's conflict is one Mr. Cornell, if fully informed, could have waived.

If after the death of Mr. Cornell, Justice Rehnquist became aware that the trust's condition for distribution of income or principal had occurred and that, nevertheless, George (the trustee) had distributed no money to Harold, Justice Rehnquist had a duty at least to investigate and, if he discovered that George was violating his fiduciary duty under the document Justice Rehnquist drew, to take steps to rectify the situation.

Justice Rehnquist owed this duty to his father-in-law and to Harold, the object of his client's concern. Justice Rehnquist could not ethically remain silent once he had reason to know that his client's fiduciary was ignoring his obligations to the detriment of his client's beneficiary.

Although two successive documents have governed the conduct of lawyers between 1961, when the trust was drawn, and 1982, when it was revealed to Harold, and although these documents vary in their exact language from state to state, both share the principle that a lawyer must not fail to seek the lawful objectives of his client or fail to carry out a contract of employment entered into with a client. See, e.g., Code of Professional Responsibility DR 7-101(A)(1), (2). Both also forbid a lawyer to favor his own interests over those of his client. See, e.g., A.B.A. Code, Canon V.

California has long recognized that an attorney for the maker of a will owes certain duties to the beneficiary of the will as well. See, e.g., *Lucas* v. *Hamm*, 364 P.2d 685, 689 (Sup. Ct. 1961). (Mr. Cornell's trust, though *inter vivos*, had a testamentary purpose.) The California rule is one example of the general proposition that a lawyer for a client may owe duties to nonclients, despite the absence of a direct relationship between himself and the nonclients. This rule varies from state to state but courts often invoke it, including in California, when the lawyer's client retains the lawyer for the very purpose of benefiting the nonclient. Mr. Cornell intended to benefit his son Harold. Justice Rehnquist owed certain duties to Harold and among them, in my opinion, the duty to take action on learning that the trustee under Mr. Cornell's trust may have been violating his fiduciary duties to Harold's detriment.

This duty to Harold is simply a continuation of Justice Rehnquist's duty to his client, Mr. Cornell. If Mr. Cornell were still alive, and Justice Rehnquist became aware that the trustee was violating his trust, he could not remain silent. After Mr. Cornell's death, Justice Rehnquist had the same responsibility to his client's beneficiary, Harold. He either had to alert Harold to the possible breach of trust or to investigate and take steps to rectify the breach if it existed.

Inaction under these circumstances is further aggravated by the fact that Justice Rehnquist's wife stood to gain if the trust funds were not distributed to Harold or his children. Justice Rehnquist's wife would ultimately receive one-seventh of undistributed funds. Especially when a lawyer is in a conflict situation, as Justice Rehnquist was here, he must take special care to assure that the interests of his client (or his client's beneficiary), not his own or those of others, are protected.

I therefore conclude that if Justice Rehnquist was on notice that the trustee was violating his fiduciary duty, he was required to investigate and to take remedial measures if the investigation confirmed the violation.

Sincerely yours,

STEPHEN GILLERS,
Professor of Law.

[From the Legal Times, Aug. 4, 1986]

REHNQUIST'S LAWYER URGED HIM TO NOTE DEED RESTRICTION

(By James Lyons)

Associate Justice William Rehnquist's lawyer in the 1974 purchase of a Vermont home said in an interview with Legal Times Friday that he had sent a letter to Rehnquist before the purchase advising him to read the property deed, including "the conditions set forth in the deed." One of those conditions was a covenant prohibiting sale or lease of the property "to any member of the Hebrew race."

According to the lawyer, David Willis of St. Johnsbury, Vt.'s three-lawyer Zuccaro, Willis & Bent, he sent Rehnquist a letter dated June 24, 1974, asking the associate justice to read the deed and its conditions. Willis, who said that Rehnquist gave him permission to discuss the matter publicly, read the letter to Legal Times.

The one-page letter, as read by Willis, includes the following language: "I would recommend that you examine closely the attached abstract copy of the deed of the main cottage property. . . . I would direct your attention particularly to the width of the right of way which would appear to be 20 feet and the conditions set forth in the deed."

Willis said a copy of the deed was attached to his letter, and added, "I wasn't calling particular attention to the covenant [restricting sale or lease of the property to members of the "Hebrew race"], but [the letter] was referring to all of the covenants—such as beach rights, mailboxes and so forth."

Willis said that he could not remember whether he discussed the restrictive covenant with Rehnquist. "I don't recall discussing [the covenant] with him," Willis said.

In confirmation hearings before the Senate Judiciary Committee on his nomination to become chief justice, Rehnquist said Wednesday that he was not aware of the restrictive covenant until it was brought to his attention by the Federal Bureau of Investigation, and could not recall reading the deed on his Vermont home.

A spokeman in Rehnquist's Supreme Court office said Friday that the associate justice will not make any statements to the press until the confirmation process is completed.

Rehnquist purchased the Vermont property from John and Joan Castellvi. Counsel for the Castellvis was St. Johnsbury lawyer John Downs of Downs Rachlin & Martin. Downs said that both he and Willis were aware of the restrictive covenant at the time of the sale. Downs read to Legal Times an excerpt from a letter dated July 2, 1974, from Willis in which Rehnquist's lawyer said he had examined the deed.

According to Downs, the July 1974 letter states, "The property is also subject to restrictions relative to use, with the rights of way, construction on the various parcels, and ownership by members of the Hebrew race."

John Castellvi, one of the former owners of the Vermont property, is now living in Venezuela and was unavailable for comment at press time, according to Carlos Rabassa, executive vice president of New York's M. Castellvi, Inc., a company founded by John Castellvi's father.

SUPREME COURT OF THE UNITED STATES,
Washington, DC., August 4, 1986.

Hon. STROM THURMOND,
Chairman, Senate Judiciary Committee, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: After the conclusion of my testimony before the Senate Judiciary Committee last week, review of my file on the purchase of my Vermont property disclosed the attached letter of July 2, 1974. As you can see, the letter is from my attorney, Mr. David Willis, to the seller's attorney, Mr. John Downs, and describes the condition of title, including a reference to the restrictive covenant about which I was asked at the hearing. While I do not doubt that I read the letter when I received it, I did not recall the letter or its contents before I testified last week.

By letter of July 31, 1986, I requested Mr. Willis to undertake the legal measures necessary to remove the restrictive covenant from the title of my Vermont property.

I would appreciate your providing a copy of this letter, with the attached correspondence, to all members of the Committee.

Sincerely,

WILLIAM H. REHNQUIST,
Justice.

WITTERS, ZUCCARO, WILLIS & LIUM,
ATTORNEYS AT LAW,
St. Johnsbury, VT, July 2, 1974.

JOHN H. DOWNS, Esq.
Downs, Rachlin & Martin, St. Johnsbury, VT.

DEAR JOHN: I have examined the title to the Castellvi property in Greensboro.

I, of course, found that the property was subject to the mortgage to the Hardwick Trust and the usual lien for taxes. The property is also subject to restrictions relative to use, width of rights-of-way, construction on the various parcels, and ownership by members of the Hebrew Race. There is an more or less ancient mortgage given by Frank J. and Mira D. Chase to George N. Soule which mortgage was dated January 7, 1893 and recorded in Book I, Page 447 of the Greensboro Land Records in the original amount of $350.00. The mortgage was assigned from George N. Soule to Carrie Soule by an assignment dated April 23, 1893 and recorded in Book J. Page 392 of the Greensboro Land Records. The mortgage subsequently was discharged by the Hardwick Savings Bank. There is no evidence of any assignment from Carrie Soule to Hardwick Savings Bank. Although, this lack of assignment creates a gap in the title, I have advised Justice Rehnquist in view of the age and size of the mortgage that the gap can most probably be safely disregarded.

There is, however, one mortgage of somewhat more substantial size which is not discharged on the record. Vermont Summer Estate, Inc. which was a predecessor in title to the Castellvi's and Highland Lodge, Inc. gave a mortgage to J. E. Appolt, Melvin G. Morse, Elmer J. Mathews, Archie Cuthbertson, and John H. Barrington Dated March 23, 1933 and recorded in Book Q, Pages 52-53 of the Greensboro Land Records. The mortgage in question was to provide security for the five individuals in exchange for their co-signing notes for the Corporation totaling $17,500.00. The mortgage was attempted to be discharged by the signing on the margin thereof of J. E. Appolt, J. H. Barrington, and A. B. Cuthberston. The discharge as signed on the margin does not follow the statutory form in that it is completely unwitnessed. Furhermore, two of the five original mortgagees apparently did not sign. This incomplete and technically defective discharge of such a substantial mortgage was somewhat disturbing to my client. The mortgage in question was recorded in the Bound Volume and therefore I was unable to photocopy the pages. I will hopefully by the time you receive this have secured a copy from the Town Clerk's Office however. If at all possible the Justice would either like this cleared up or some adjustment made so that the financial burden of clearing it up in the future would not be his.

I have the signed contract which I am enclosing herein. The Justice was in Greensboro on the 26th and apparently inspected the property and found the condition satisfactory. I have arranged for financing at the Merchants Bank and pending the resolution of this matter set forth above relative to the Vermont Summer Estate's mortgage, the closing papers could be prepared.

Cordially yours,

DAVID L. WILLIS.●

ARKANSAS GOVERNOR CLINTON NAMED CHAIRMAN OF NATIONAL GOVERNORS' ASSOCIATION

● Mr. PRYOR. Mr. President, the Governor of Arkansas, Bill Clinton, recently accepted the chairmanship of the National Governors' Association during its meeting at Hilton Head, SC.

The people of my State are proud of Governor Clinton and the leadership he has given Arkansas during his tenure. And we are proud that he has taken on this national responsibility at a crucial time in the development of our State and region.

In his acceptance speech, Governor Clinton spelled out several areas of importance to him and to the Governors' Association in the months and years ahead. To deal with these issues, he named five task forces that range from welfare reform to education, alcohol and drug abuse, and adult illiteracy. He emphasized that what we need is not reports but action.

Mr. President, I think the Members of this body would profit from Governor Clinton's emphasis on action and his insistence that all of us do more in these and other areas of concentration. It is an eloquent call to arms, and I ask that it be printed in the RECORD. It is my hope that colleagues on both sides of the aisle will read Governor Clinton's speech.

The speech follows:

BILL CLINTON, GOVERNOR OF ARKANSAS, CHAIRMAN, NATIONAL GOVERNORS' ASSOCIATION

I accept the chairmanship of the National Governors' Association with gratitude and enthusiasm. Of all the pleasures which have been mine since I first became a governor in 1979, few match the opportunity to get to know, learn from and become friends with you and your predecessors who have been my colleagues. This year at least 19 governors will leave our ranks, a great loss to the rest of us individually and as an Association. We will miss you and we wish you well.

I want to thank Governor Alexander for his outstanding work in education this year and for his more general commitment to giving us the chance to work together in ways that will help us do our jobs better.

I pledge to continue the emphasis on working together to do better for our people.

If you have seen my fellow Arkansans in their T-shirts proclaiming "Bill Clinton is 40," you know I just had a birthday. This is a milestone or millstone year for the first of the baby boomers, the generation which was born and reared in the economically charmed if socially turbulent years after World War II, the generation which grew up taking the American dream for granted.

Today we know better. Today I come as the first of the "over the hill" baby boomers to ask: Can we make America work again for all her people? I believe we can, but only if we can find ways for Americans to be able to work and to have work.

After World War II, for the first time in our history, America stood alone as the dominant economic power in the world. Our adversaries and our allies were largely in ruins. They could not compete. Other nations which are today our competitors had primitive economies then. Some, like Taiwan and South Korea, did not even exist as nations in 1945.

Thus, we enjoyed three decades of unparalled and virtually unbroken growth and prosperity. In 1964 in the middle of this period, when I graduated from high school, we had low unemployment, low inflation, and high growth. The nuclear family was alive and well. Poverty was under attack and receding. And I did not know a person old or young, rich or poor, black or white, with or without an education who wanted to work but was out of a job. My grandfather who raised me until I was 4 had barely more than a grade school education but he was never out of work. My stepfather did not have a high school diploma but he was never out of work.

In my part of the country, the South, which had always been America's poorest region, we were living proof of John F. Kennedy's adage: "A rising tide lifts all boats." Between 1945 and 1978, our per capita income rose from 65 percent to 85 percent of the national average.

But all that has changed now.

Over the last decade, we have been pulled into a world ecomomy which we no longer dominate and for which we are still largely unprepared. While the percentage of our GNP directly tied to trade has grown to 13 percent, the reconstructed economies of Japan and Europe have had higher productivity growth than ours. Newly emerging economies have captured many of our former markets by providing quality products at labor costs we can't hope to match.

The long term consequences are alarming. From 1981 to 1986, 40 percent of the American people actually suffered a decline in their incomes. Productivity growth rates are still too low. The trade deficits remain astronomical in spite of the dollar drop against the yen and some other major currencies. In May and June, for the first time, in 27 years we actually had an agricultural trade deficit. About twenty states are suffering from severe deflation in farm and other primary products.

Parelleling these economic disruptions have been deep and troubling changes in the fabric of American society: a dramatic rise in the number of single parent households; latch key children; huge numbers of young women and children in poverty; millions of adults so illiterate they are unemployable; high rates of welfare dependency; teen pregnancy; school dropouts; and alcohol and drug abuse.

Of course the news is not all bad. The bicoastal economy is doing well. The urban heartland is doing well. Some of our most prosperous states like Massachusetts are even worried about impending labor shortages. We seem to be more serious than ever before in dealing with the social ills that cripple so many of our people, undermining the quality of life for all of us.

But the hard fact remains that unless we can do more with these economic and social problems which limit the ability of our people to work, we cannot preserve the American dream as we know it.

For the past few years we have focused on education as the key with which governors could unlock a brighter economic future for our people. Under Governor Alexander's leadership we have produced the 1991 Report and with it a commitment to continued education reform. I am pleased that Governor Kean has agreed to serve again as the lead Governor on Education and to

work with us through both NGA and the Education Commission of the States to keep the flame burning.

But this year the Governors must do more. We must face squarely our responsibility to make Americans more competitive from the ground up and to reverse the tide of lost human potential in those who have fallen through the cracks in America's "leaky bucket".

I have asked Governors Dukakis, Baliles and Branstad of the Committees on Economic Development, Trade, and Agriculture to co-chair an effort to develop solid strategies for local and regional economic reforms, to recognize the very real differences among our regions and to take special account of the terrible crises in the rural heartland. Let me be clear: we do not need further studies. We have a wealth of excellent material outlining the dimensions of the problem. What I want are action plans and programs, like the Jobs for the Future program which Connecticut pioneered and Arkansas has followed or the Buy American program in Arkansas which we are implementing with the cooperation of all employers—foreign and domestic—who put our people to work. Most governors spend lots of time on economic development. We are all more sophisticated than we used to be in our job generating efforts. But we still have much to do to develop local and regional strategies which are really adequate for the competitive challenge we face. Of course there must be debate about what national policies we need to make every state and region competitive, but we should emphasize policies that will help us to help ourselves.

Finally and perhaps most importantly we need to come up with action plans that involve all states in bringing down the barriers to productive lives. We all say we want to promote work, not welfare; independence not dependence. Most of us have done some things toward that end. Now is the time for all of us to do more.

I will set up five forces to deal with major barriers to work. The strategic plan for welfare prevention developed by the Welfare Prevention Task Force which Governor Castle and I co-chaired, outlines these barriers for the welfare population. Governor Castle will head the welfare reform effort which is off to a great start thanks to the work of the Task Force and the Human Resources Committee hearing yesterday featuring Ken Auletta and four fine women who worked their way off welfare.

I will also have four other task forces concentrating on barriers which were outlined in the welfare prevention plan, but which affect a larger population. Governor Ashcroft will lead the Adult Illiteracy Task Force with a special emphasis on getting all of us to vigorously participate in the PSB/ABC attack on adult illiteracy.

Governor Thompson will lead the Task Force on Teen Pregnancy, building on the fine work he has done in Illinois and the excellent guidance provided by the Children's Defense Fund documents published a few months ago.

Governor Earl will head the Task Force on School Dropouts. It is unconscionable that dropout rates in this Nation cover a range from around 5 percent to 35 percent. Governor Earl will work with our lead governor on education, Tom Kean, and ECS on this project.

Finally, Governor Collins, the Vice-Chair of the Human Resources Committee, will head the Task Force on Alcohol and Drug Abuse Prevention as the Governors formally take up the challenge issued by the President and the demand of citizens back home to move aggressively to reduce the demand for deadly drugs. I think she will be an especially effective national spokesperson for us as we all face up to the problem we have sidestepped for too long.

Again I want to be clear. We don't want studies, we want action. These Task Forces will be charged with outlining action plans for the states to follow. Next August we'll publish a report on what we've already done as well as what we still need to do.

I really believe the American people are coming together on the issues of welfare prevention and economic competitiveness as we did on education a few years ago. Like education, they are issues of human renewal as well as economic necessity. Like education, they are matters of common sense. Like education they bring us together as a community, not a swarm of isolated individuals. America won't work if Americans can't work. There can be no American dream without the dreamers.

The governors have always believed we could make America work. Once again it is up to us to do our part.●

FARM MORTGAGE MARKETING RESTORATION ACT

● Mr. D'AMATO. Mr. President, I rise today in support of S. 2725, introduced by my distinguished colleague from California, which would establish a secondary market to help make long-term financing more affordable to farmers. This bill would allow secondary market entities to purchase mortgage loans from qualified agricultural lenders, repackage them as securities, and sell them in the capital market to institutional investors. This financing mechanism would shift the emphasis from costly direct lending to the Farmers Home Administration to lending through the guaranteed loan process via commerical banks. Many more commerical banks would be interested in long-term agricultural lending if there was a viable secondary market for those loans.

One of the major benefits of a secondary market for farm loans is liquidity for commerical banks that may want to make local loans, but do not have adequate funding to hold onto the loans. A secondary market will benefit farmers by bringing new money into the agricultural land lending business, increasing competition, and driving down interest rates. By being able to sell farm loans immediately into the secondary market, an agricultural bank can improve its capital, roll its funds over for new farm lending, and increase the aggregate fees it earns from origination and servicing of the loans.

S. 2725 makes it possible for there to be in depth discussions on how to make this concept viable in the Farm Credit System. We have already seen how the the creation of a secondary market has been successful in expanding the flow of credit in the U.S. mortgage market. It is my hope that this idea can be duplicated successfully for farm mortgage loans.

I urge my Senate colleagues to study this legislation carefully and to give it their full support. I am pleased to be a cosponsor of this worthy legislation.●

THE NATIONAL APPLIANCE ENERGY CONSERVATION ACT OF 1986

● Mr. D'AMATO. Mr. President, I rise today to join as a cosponsor of S. 2781, the National Appliance Energy Conservation Act of 1986. I commend my distinguished colleague from Washington for his leadership on this issue.

During these times of low energy prices, it is easy to forget the crisis situations which afflicted this Nation in the recent past—and which may, unfortunately, beset us again in the future. But it is now, when times are good, that conservation measures should be implemented so that future shortages may be averted.

For many years, attempts to regulate appliance efficiency standards have been effective as a result of sometimes contradictory and, at the very least, uncoordinated efforts by State governments, appliance manufacturers, and energy conservationists. This lack of coordination has led to a squandering of valuable resources—a situation acceptable to none: States enacting differing standards; manufacturers forced to produce multiple versions to account for these individual standards; and conservationists frustrated by the preventable waste of our limited resources. But in the end it is the average consumer, both in the home and at work, who loses the most by having to pay for these unnecessarily high energy bills.

Today we have the opportunity to change this wasteful consumption. The National Appliance Energy Conservation Act is a proposal which marks the beginning of a new era of cooperation between manufacturers, conservationists, and the States.

For the appliance manufacturer, the establishment of national standards provides adequate time to develop new energy efficient products and reduces disruption of interstate commerce, hence eliminating expensive production costs of multistandard appliances.

While the National Appliance Energy Conservation Act will set nationwide standards, much care has been taken to respect the right of the individual State to regulate its own energy resources. I feel that this bill will create an element of predictability of energy consumption for State agencies and utilities. Furthermore, the bill contains exemptions for States faced with unforeseen special circumstances. I know that some States who support the intent and purpose of the bill

would like to see specific modifications or clarifications, and I look forward to working with the chairman on the specific issues of concern to New York and other States.

For the conservation-minded citizen, this proposal establishes timetables for the Department of Energy to regulate nationwide energy consumption and to constantly revise these standards. It is clear that the resulting energy savings will enable us to avoid some of the costs, pollution, and hazards posed by having to construct new powerplants.

Most importantly, it is the consumer who will benefit most from this agreement. Lower energy bills will result in billions of dollars in savings for households and businesses alike.

Mr. President, I support this legislation because it is reasonable and mutually advantageous to all—manufacturers, conservationists, States, consumers, and the national economy. It is one of those measures which has for so long been necessary and is finally on its way to becoming a reality. I commend the participants in this accord for their wisdom and ability to compromise. The National Appliance Energy Conservation Act of 1986 is a proposal which will enable the Nation to prevent the repetition of past energy crises while ensuring consumption of our valuable resources for the future.●

YESHIVA UNIVERSITY'S CENTENNIAL CELEBRATION

● Mr. D'AMATO. Mr. President, it is with great pride that I rise today to call the attention of the Senate and, indeed, the Nation to America's oldest and largest university under Jewish auspices: Yeshiva University. This year Yeshiva University celebrates its centennial as a multifaceted center of learning respected throughout the world for educational excellence, innovative research, and community service.

Yeshiva University's founding on the lower east side of New York City took place during the great waves of immigration which brought so many outstanding Americans to our shores. These immigrants found the best our country has to offer—a safe haven from persecution and an environment where hard work and dedication could lead to the fulfillment of seemingly impossible dreams.

It was such a vision, harbored by a small group of Eastern European Jewish immigrants, which brought forth Yeshiva University. The university's 100-year-old dream—the ideal of holding on to a cultural identity while preparing to serve in a pluralistic society—lives on in the hearts of new students who are preparing, with the aid of the most modern technology, to face the challenges of the 21st century.

Yeshiva University has evolved from one small school for boys to a network of 15 undergraduate, graduate, and affiliated schools at six centers in New York City, Los Angeles, and Jerusalem. Against a backdrop of two world wars, economic upheavals at home and abroad, and the changing face of American society, Yeshiva University stands as a living testament to the durability of a heritage thousands of years old and its place in our contemporary world.

The undergraduate colleges and graduate and professional schools of Yeshiva University offer programs leading to bachelor's, master's, and professional and doctoral degrees. In addition to extensive teaching programs, the university maintains a network of affiliates and conducts widespread research and community outreach programs and issues publications. It is also the home of Yeshiva University Museum, which has become one of the Nation's major showcases of Jewish art, architecture, and history, and seven libraries housing more than 850,000 volumes.

Roughly 7,000 students—of which 41 percent are women—attend the university and are taught by a full-time faculty of some 1,300. Nearly 30,000 degrees and diplomas have been awarded in the 100-year history of the institution. Distinguished alumni have lent their talents to all fields of endeavor, reflecting honor on the university for its role in their educational and personal development.

The story of Yeshiva University's first 100 years is the story of America itself: the dedication and the vision of immigrants to our shores, leaving a legacy of achievement and excellence for generations to come. Yeshiva University stands as testimony to the fulfillment of the American dream, while serving as a paradigm of 100 years of American Jewish history.

Mr. President, we salute Yeshiva University on the occasion of its 100th anniversary, and we congratulate an institution which is an inspiration to all Americans.●

THE JAPANESE CIGARETTE MARKET

● Mr. HELMS. Mr. President, on August 15, I discussed in remarks in the Senate an important trade issue—the continuing denial of free and fair access for United States cigarette manufacturers in the Japanese cigarette market.

Since that time, the United States and Japan have been conducting bilateral negotiations on market access for United States cigarettes pursuant to the pending section 301 investigation. Unfortunately, these negotiations have shown scant progress, primarily due to the failure of the Japanese Government to recognize the serious obstacles that continue to deny our cigarette manufacturers the opportunity to compete in the Japanese market. The Japanese simply refuse to make any effort to remove the barriers once and for all.

Mr. President, the Japanese are now in Washington for additional discussions, which I hope will bring the many issues closer to resolution. In order to do so, however, the Japanese will have to move well beyond the purely token proposals they have put on the table to date.

For example, the Government of Japan is considering a reduction in the tariff on imported cigarettes. Clearly, a mere reduction in the tariff instead of its elimination would be unacceptable. As long as Japanese law perpetuates a monopoly on the manufacturing of cigarettes, any level of tariff is unacceptable because, first, it cannot be avoided; and second, it is magnified by the ad valorem nature of the tobacco excise tax in Japan.

Mr. President, Japan is unique among highly industrialized countries in its protection of the tobacco sector. While it is true that tariffs, excise taxes, and even monopolies on manufacturing exist in one form or another in various countries, no country of comparable stature to Japan maintains all three concurrently.

I must stress that as important as it is to resolve the tariff and tax inequities, there is a wide range of other issues that must be addressed before we can successfully resolve the 301 case. Most importantly, the resolution of these issues must be genuine. We will accomplish nothing if the Japanese are allowed to negate any benefit to our industry by increasing other barriers to market access.

In the past year, Congress has taken steps through the stabilization program to lower the price and increase sales of U.S. tobacco leaf, thereby making U.S. leaf more competitive on the world market and benefiting our growers. However, at the same time, Japan continues to buy United States leaf, which it needs to produce its own cigarettes, and import it on a tariff-free basis while refusing to permit the higher-value United States-manufactured products from competing in its market. In this case both U.S. leaf growers as well as our cigarette manufacturers are losing out.

Mr. President, many of us are running out of patience, and I am beginning to wonder just what it will take to get the Japanese Government to respond substantively on this issue. I am about to conclude that retaliation may indeed be the only avenue left to compel the Japanese to respond.

It is time for the Japanese to put an end to this unfair and discriminatory

treatment. They must understand that they are playing a risky game by refusing to address the issues raised in the section 301 action, and they are grossly underestimating the severe consequences that will result if the unfair trade practices are not eliminated.●

SOVIET JEWRY

● Mr. ARMSTRONG. Mr. President, Anatoly Shcharansky, the great humanitarian who recently emigrated to Israel after years of imprisonment in the Soviet Union, has written an outstanding piece on linking Israeli concessions to the Soviet Union with freedom of emigration for Soviet Jews.

It is an excellent article that provides a blueprint for the entire free world to follow—if concessions are made to the Soviets, human rights must be part of the equation. In addition, the article gives us a test to allow us to self-judge whether we, as a nation, are truly committed to human rights for all the world's people or if our professed support of human rights is nothing more than a public posture.

We will be watching the negotiations between Israel and the Soviet Union carefully, but in the meantime, we should review our own beliefs and recommit ourselves to work for basic human rights for all.

I urge all of my colleagues to read the article by Mr. Shcharansky which I submit for the RECORD.

The article follows:

[From the Washington Post, Aug. 15, 1986]

SOVIET JEWRY: THE WORLD MUST NOT BE FOOLED BY "MENU 9A"

(By Anatoly Shcharansky)

JERUSALEM.—Israel's reaction to the Soviet call for negotiations on establishing bilateral consular relations will determine the fate of the worldwide effort to free Soviet Jewry. The success of that struggle is dependent on an uncompromising public Israeli position linking any progress on other issues—indeed, any willingness to negotiate on other issues—to the release of the 400,000 Soviet Jews who have indicated their desire to emigrate to Israel.

The wide-scale aliya—immigration to Israel—of Soviet Jews began after 1967, during a period when no diplomatic relations existed between Israel and the Soviet Union. The severing of diplomatic relations between Jerusalem and Moscow did not set the process in motion; both mass emigration and the break in relations did result, however, from a single source; the expression of Jewish national identity embodied in Israel's victory in the Six-Day War.

Pressure was exerted on the Soviet Union by Western governments, especially by the government of the United States. This pressure was not limited to a single trade operation; it became a conerstone of American policy in negotiating with the Soviet leadership.

Repression of the individual is a fundamental principle of a political system that sees the value of man as nothing more than an insignificant cog in a huge machine. This principle is protected by Soviet law—a law that was designed to guard "the system" that decides what the individual must read, what he must do, what his national and political feelings should be.

This fundamental principle on which the political culture of the Soviet dictatorship is founded was seriously challenged by the demand of Soviet Jews, whom official Soviet policy does not even recognize as a separate nation, to decide for themselves whether to live in the Soviet Union or to leave.

The fact that for a short time the Soviet government was willing to allow Soviet Jewish emigration, in spite of the threat it posed to the principles on which the regime is based, was not the result of a decision of the Soviet leadership to improve its public image. The sacrifice on the part of the Soviets was too great to be perceived as part of a gesture of good will.

Today, as then, the Soviets will not tolerate free *aliya* unless forced to do so. The Soviet Union will move significantly on the question of *aliya* only if it perceives the status quo to be more dangerous than a mass release of Russian Jewry. The free world has the potential to bring the Soviet leadership to this realization.

The Russian economy is stagnating, and the current Russian leadership is more conscious of the dangers of economic stagnation than any of its predecessors. Mikhail Gorbachev's public warning that the Soviet Union will lose its economic and strategic race with the United States if progress is not made is unparalleled in Soviet history. We who were brought up in the Soviet Union were taught that the victory of socialism was inevitable.

The Soviet Union must reach out to the West to expand its technology and trade. The West has made it clear that it is willing to cooperate with the Soviet Union in this endeavor. The only question left outstanding is the price the Soviets will have to pay. In the West, two approaches compete with each other in regard to dealing with Soviet repression of Jews.

The first approach is to strengthen cultural and economic ties with the Soviet Union in the hope that such ties will lead to greater Soviet flexibility on human rights issues. This hope is based on a naiveté that ignores the real danger the Soviet system sees in freedom of emigration and the efforts it is willing to make to avoid the granting of such freedom.

The second approach demands that any concessions to the Soviet Union be linked to progress on human rights.

The Jackson Amendment led to the signing of the Helsinki Accords, which established the principle of linkage in an international agreement. Testimony to the importance of linkage as a weapon against Soviet repression is provided by the constant Soviet machinations to undermine that linkage.

Each of these two approaches—the approach of granting concessions unconditionally in the hope of engendering reciprocity and the approach of linkage, making concessions conditional on real changes in Soviet policy—has its champions in the West. In Bern, a few months ago, Western European countries proposed a resolution that would have excluded Soviet Jews wishing to reunite with their families in Israel from the human rights clause of the Helsinki Accords. Only American opposition defeated this proposal.

Many holders of high political office in the West remain convinced that the principle of linkage must be maintained. This feeling is reinforced by the conviction that trust must be based on the fulfilment of previous obligations, obligations that include Soviet undertakings to improve Soviet policy on human rights. This autumn, a new conference of the 35 signatories of the Helsinki Accords will be convened in Vienna. Later this year an American-Soviet summit will probably take place in Washington. Which approach will prevail?

To a large extent, the answer to that question lies with Israel. At this decisive moment in East-West relations, the leadership of the Soviet Union has suddenly recalled that it has church property in the Holy Land and has proposed an exchange of consular delegations. Preliminary talks on this subject are to begin Monday, in Helsinki.

What will be Israel's reaction? Will Israel link relations to free emigration of all Soviet Jews, or will it adopt the other approach—moving first toward normal relations in the naive hope that this will create conditions for a solution to the problem of Soviet Jewry?

Western governments, even the most friendly, look to Israel for guidance on policy vis-à-vis the issue of Russian Jewry. None will be more adamant than Israel is in defense of Jewish rights.

At the Helsinki meeting, Israel must insist on Russian recognition of the right to emigrate as a precondition to further negotiations on improved relations.

If the negotiations on other issues proceed despite Soviet refusal to agree to this right of free Jewish emigration, the U.S.S.R. will have succeeded (or, more correctly, Israel will have allowed it to succeed) in establishing itself as the party less interested in the renewed ties. It will have relegated Israel's talk of Jewish emigration to the status of mere lip-service. This is the tradition of Soviet diplomacy: Listen. Ignore. Proceed to issues of Soviet interest.

Israel's position on Soviet Jewish freedom must be unrelenting and public. No room can be left for the claim that Israeli representatives adopted a more compromising tone in private discussions than in public forums.

The prison camp is a simple, yet surprisingly apt model of the Soviet system. A prisoner who presents a moral example of defiance and self-respect that other prisoners may choose to emulate is a threat to the prison system. One method used to counter this threat is for the KGB to call him in for hours of private talks on trifling matters. Agents then spread rumors that in these private sessions the prisoner made concessions to the KGB in order to gain personal benefits. The rumors, of course, may have no basis in fact, but the credibility of the moral individual is broken.

Soviet prison "culture" provides another example of what Israel must avoid in its contacts with the Soviet Union. This is what may be called the "menu 9A syndrome."

The Soviet prison system uses the curtailment of calorie intake in the prisoner's diet as a punishment for disobedience, and supplements the prisoner's diet as a reward. There are 18 levels of diet in Soviet prisons, ranging from 1A to 9B. Even the "best" diet in Soviet prisons is far worse than what the prisoner has eaten before he was incarcerated. Yet, after weeks and months of grueling starvation, a disobedient prisoner is frequently tempted to cave in to the demands of his jailers on the promise that his menu will be improved from the lowest, near-starvation standard—9B—to a menu only slightly better—9A. Lowered expectations make it

seem that a slight easing of pressure or a milder form of torture are a major Soviet concession.

Let us not allow prolonged Soviet intransigence and barbarity to convince us that release of a few prominent activists is a major concession. I am certain that my colleagues in the Soviet Union agree with me. "Menu 9A" is not a recipe for real dialogue and understanding. It is a tactic of torture. We must not be fooled.

In response to Moscow's "generous proposals," we are tempted to lower our demands and limit them to an insistence on "symmetry and mutuality." This demand is an affront to our moral sense, unless the symmetry begins at an equal and acceptable status and not from "menu 9B."

Israeli jails hold no Soviet prisoners of conscience who have been imprisoned for expressing Soviet ideology; Israel must therefore insist that the Soviets release all Prisoners of Zion, those who are detained in Soviet jails or in the U.S.S.R. itself, merely for wanting to go to Israel.

Israel has not prevented thousands of Soviet families from being united with their kinsmen in the Soviet Union; it must insist, therefore, that Soviet Jewish families, some of whom have been separated for more than 15 years, be reunited in Israel.

Israel does not hold even one person who wishes to emigrate to the U.S.S.R. hostage in discussions with the Russians; it must therefore insist that any of the 3 million Jews in the Soviet Union who wish to come to Israel be allowed to do so. This is the only symmetry that holds any meaning.

This symmetry must be a condition of any future talks. Insistence on it is a moral imperative.●

CONGRESSIONAL PROHIBITIONS HINDER, NOT HELP, ARMS CONTROL TALKS

● Mr. GOLDWATER. Mr. President, peace in the world will not be ordained by congressional skirmishes with the President over the conduct of foreign policy. That this lesson is not evident from recent history, especially the aftermath of legislative restrictions written in the 1970's, reveals a failing of our democratic system.

For the same forces which contributed to the collapse of the peace agreement in South Vietnam and ushered in a period of Soviet offensives around the world are about to repeat themselves. Before the recent congressional recess, each House of Congress took steps toward imposing a formidable series of prohibitions on Executive authority which can only serve to defeat the national goals of obtaining international stability and a sound defense of our freedoms.

Three weeks ago the House of Representatives voted to impose a 1-year moratorium on nuclear testing of all but the smallest underground nuclear explosions. Also, the House took similar action to ban for 1 year space tests of antisatellite weapons. Moreover, the House passed a measure which would prohibit funding for the deployment of nuclear systems which exceed the expired SALT II limits, even though the Soviets have already breached these limits and the treaty itself was never ratified. Finally, both the Senate and House have agreed in differing versions to slash the administration's request of funds for the strategic defense initiative, a concept designed to protect the lives of free peoples against nuclear offensive ballistic missiles.

Mr. President, this web of constraints is being woven in Congress at the same time as U.S. officials are engaged in arms negotiations and preparing for a summit meeting between President Reagan and Soviet General Secretary Gorbachev this year. With the next round of Geneva strategic nuclear talks scheduled to resume on September 18, with presummit meeting between Secretary of State George Shultz and Soviet Foreign Minister Eduard Shevardnadze set to commence this month, and with high level meetings among United States and Soviet delegations having just been completed in Washington, we witness the spectacle of congressional meddling in what should be a united governmental purpose behind at least some minimum negotiating position.

Congress is not helping the path to peace; it is hindering it. An effective diplomacy depends on another country's assessment of the incentives and penalties, not on eloquent expressions of our peaceful intentions burdened by congressional shackles on American defense capabilities and a negotiating position shorn of all room for flexibility.

The latest congressional assault on our national defense effort, coupled with legislative concessions to the Soviet while arms talks are proceeding, can only tempt a crisis, not prevent one.

By stalemating defense policy, Congress deprives the Commander in Chief and his diplomatic corps the means of managing even the foreseeable challenges to our freedom. By offering major concessions during ongoing negotiations, Congress will only whet the Kremlin's appetite for further gratuitous gifts.

From the Soviet standpoint what could be better than to see an imcomplete negotiating process in which the United States abandons its strategic programs unilaterally with no cost to them? The Russians must be sorely drawn to wait us out, to allow the domestic debate to continue and see what benefits they can reap without any need for reciprocity.

Unfortunately, Congress is once again attempting to control, if not prescribe, the day-to-day tactical decisions of foreign policy. But the legislative branch is not equipped to dictate or manage foreign policy because the Congress is subject to transitory emotions of the moment, while foreign policy requires a sense of continuity of purpose and design.

Congressional constraints on actions of our Government which are directly linked to the current negotiating process deny the administration the opportunity of pursuing a coherent strategy balancing military preparedness with a search for positive agreements.

A successful foreign policy requires a degree of flexibility, room for constant adjustment to changing conditions. Reliance solely or primarily on unproven Soviet good will and American conciliations, as seen in recent congressional actions, is not a mark of responsible political conduct. It is the path to Soviet blackmail and pressures for unending American concessions.

Mr. President, I regret to say this, but it appears to me that some in Congress have made conciliation an end in itself. In fact, current legislative behavior is shifting the arms control process from a focus on how to make the negotiations succeed to an elaboration of restraints on American conduct exclusively.

Not only is Congress threatening to deprive our negotiators of any leverage with which to negotiate, but it is sending the Soviets exactly the wrong message. As Henry Kissinger wrote in Years of Upheaval:

> [P]eace may well depend on the ability of the Politburo to form a correct judgment of the likely reaction of our leaders when challenged.

If the Soviets conclude that the American Government is irresolute or seriously weakened by domestic division, this misconception may cause or tempt confrontation, exactly the opposite of the restraint which the advocates of self-imposed restrictions desire. The Soviets may again, as they have in the past, move aggressively to exploit our domestic differences, when they are presented with a favorable opportunity for strategic gain, an opportunity which congressionally mandated arms concessions may offer.

The Soviet arrest and indictment of Nicholas Daniloff may have thrown an obstacle across the negotiations and jeopardize hope for a summit meeting, but this incident is not self-imposed by our own actions. What the Daniloff outrage indicates is that our negotiators have enough difficulty with Soviet behavior and intransigence without being confronted with major hindrances erected by a branch of our own Government.

Mr. President, I hope that my colleagues in the legislative branch will recognize, before it is too late, that the dangers of war can be repelled not by unilateral concessions, but by a country's strength, the will of its leaders and a determined diplomacy. We must always be prepared for real cooperation should the opportunity appear. But we must also possess the capability and will of resisting Soviet adventurism where it threatens our vital in-

terests. Whether or not we are ready to meet this test may determine the outcome of our experiment in a self-governing free Republic.●

OUR NATION'S DRUG POLICY

● Mr. QUAYLE. Mr. President, numerous efforts to prevent drug abuse in our society have been undertaken in one form or another since the first antiopium law was enacted in 1887. Public interest in "doing something" about the drug problem has escalated in recent months with the growing recognition that this country has a drug problem that involves all segments of our population—from elementary school children to white-collar workers—and supports a multi-billion dollar industry.

The drug industry in this country no longer caters to only poor junkies and teenage experimenters. During the past decade, drug use has become increasingly fashionable among the "yuppie generation." the "drug crisis" now includes affluent lawyers, doctors, and investment bankers who do not regard their new pastime as anything more or less than trendy and fashionable.

In the past few weeks, numerous bills to combat drug abuse have been introduced. The President has made it clear that he regards drug abuse to be a top priority on both the domestic and international fronts. Legislation will probably be enacted that is directed at both the demand and supply aspects of the drug problem by expanding prevention, treatment, and education programs and by toughening law enforcement and our foreign and military policies against drug-producing nations.

I have little hope, however, that all these programs and additional moneys will really assist in solving our drug problem until a fundamental change in our society's attitude toward drug use takes place. In our society, criminal behavior is not tolerated, much less considered socially acceptable; drug use is the major exception to this rule. This Nation has a drug problem because our society tolerates the behavior of the many people who violate the law to sustain their drug habits and to support the drug industry. As a commentary in Newsweek recently stated, "We have met the enemy, and he is us."

As a member of the Senate Labor and Human Resources Subcommittee on Children, Family, Drugs and Alcoholism, I recommend that, instead of simply enhancing current programs, we try a new approach—that we engage in a comprehensive effort to change society's code of conduct on drug use. In my view, nothing will wean this country from its drug habit until this happens.

Such an effort should include the following elements and should be implemented by those institutions most able to influence such a change in our social mores. I would suggest the following:

First. That leaders in the media, entertainment, sports, public relations, and advertising communities convene together to map out a campaign against the acceptability of drugs. This would go beyond current efforts to provide public education on the dangers of drug abuse and would involve a decision not to depict drug use in either an acceptable or a favorable light.

While drug education efforts are certainly important, they are clearly not the whole solution. Much of our society knows about the harmful effects of drugs and has seen its devastating effects firsthand. It seems evident that peer pressure and the deplorable social tolerance of drug use is more important than any lack of drug education in determining whether an individual uses drugs.

Second. A challenge to leaders in industry and in the professions to develop antidrug codes of conduct, coupled with programs of assistance for employees who need help dealing with drug problems. While a number of companies have taken the lead in this area, a firm and forceful antidrug policy is not evident throughout our country's businesses and professions. I think that a survey of the vast majority of banks, law firms, trade associations, brokerage houses, and businesses in this city would demonstrate that virtually no emphasis has been placed on having such an explicit policy and, in many cases, that such a policy does not exist.

Third. Establish a policy conditioning Federal support to colleges and universities on significant progress in implementing an antidrug policy on our Nation's campuses by both students and faculty. Students, faculties, and colleges and universities receive billions of dollars a year in Federal Government support, ranging from the Guaranteed Student Loan Program to biomedical and behavioral research grants supported by the National Institutes of Health. The Federal Government refuses to provide support for those educational institutions that discriminate on the basis of age, sex, and religion. Isn't eliminating drug abuse, which destroys thousands of lives every year, an equally worthy goal? Should taxpayer dollars be used to support academic institutions that are not willing to go beyond paying lip-service to the need to eliminate drug use on American campuses? I think not.

Fourth. The publication by both Government and industry of a listing of those positions which must be filled by drug-free employees by virtue of public safety and national security considerations. After such a list is compiled, labor and management should join together to reach agreement on how best to ensure that these posts are indeed held by individuals who do not use drugs.

Once such a list is developed, I believe it will surprise many people to see how many jobs can affect our public safety and national security. A good example was cited by the former medical director of Rockwell's space shuttle division, Dr. Howard Frankel, who estimated that 20 to 25 percent of the workers at the plant, which was the final assembly point for the four space shuttles, were using drugs, alcohol, or both. Dr. Frankel stated: "In this kind of ultra-high-tech work, the guy who makes the little adjustments, the screwer-on of parts, the bolter of nuts, is just as important as the project's chief engineer." I think that we may find that Dr. Frankel's logic holds true for a large number of jobs in our society.

Societal tolerance of the drug culture is the hurdle we must overcome if we are going to do anything meaningful about our drug problem. As long as the demand for drugs exists on a large scale and from an apparently reputable segment of the population, it is hard to have much confidence that education, treatment, and enforcement programs will make a significant difference. This is one problem that the Federal Government cannot solve alone. While the Federal Government is a powerful force in our society, it is a force that is controlled by a consensus of the public. While the Federal Government can contribute to the solution of the drug problem, it cannot solve a problem that society itself is unwilling to address.●

HONORING HISPANIC AMERICANS

● Mr. RIEGLE. Mr. President, on September 16, Mexico will celebrate the 176th anniversary of its independence. That date will also mark the beginning of National Hispanic Heritage Week.

As the Senator from the State of Michigan which has a strong Hispanic community, I rise to pay tribute to the people of Mexico on the anniversary of their independence, as well as to the Hispanic Americans in this country. The spirit of freedom and the pursuit of human rights, equality, and justice which are identified with the Mexican independence movement continue to inspire the Hispanic community today.

For the past 18 years, National Hispanic Heritage Week has provided an important opportunity for Americans of all ethnic backgrounds to focus attention on the special contributions which Hispanic Americans have made

to the growth of our Nation, on their special strengths, and on the ways in which we can help Hispanic Americans overcome the difficulties which they continue to face in our society.

As the most decorated group of ethnic Americans in World War II, Hispanic Americans can be proud of their record of service to this country. In addition to their bravery in battle, Hispanic Americans have added diversity and creativity to our Nation in the fields of music, the arts, architecture, literature, business, and politics.

Through their steadily increasing participation in the political arena, Hispanic Americans are playing a critical role in shaping the future of our country. Today, Hispanic Americans have been elected as mayors, Governors, Members of Congress, and council members.

In acknowledging the important contributions and achievements of Hispanic Americans, we must not ignore the many problems which threaten to prevent Hispanic Americans from participating fully in our society. Hispanics continue to suffer from inadequate opportunities in employment, housing, and education. As the fastest growing minority group in our country today, we must pay particular attention to the challenges they face.

All Americans recognize that the vitality of our Nation is dependent upon the strength of each individual and community. In honoring National Hispanic Heritage Week this year, we must work with a renewed commitment to building a Nation which can offer greater opportunity to all of our citizens.●

JUDGE CHARLES E. WYZANSKI, JR.

● Mr. KERRY. Mr. President, I would like to pay tribute to the memory of one of this Nation's great jurists, Judge Charles E. Wyzanski, Jr. Judge Wyzanski passed away on Sunday in Boston, at the age of 80. My sincere condolences go to his wife, Gisela, and to his children and grandchildren.

Judge Wyzanski had a remarkable legal career, serving for 45 years as a U.S. district judge for the District of Massachusetts. He served in the Roosevelt administration from 1933 to 1937, winning several important cases before the Supreme Court, and aiding in the drafting of the Social Security Act, the Railway Retirement Act, and numerous taxation laws. He became known as the infant prodigy of the New Deal brain trust.

Judge Wyzanski was appointed a Federal district judge in Boston by President Franklin D. Roosevelt in 1941, at the age of 35. He was chief judge from 1965 to 1971, and then served as a senior judge from 1971 until his death. He remained active as a senior judge, and sat regularly on U.S. courts of appeal in Chicago, New York, Richmond, and Washington, as well as the U.S. district courts in San Francisco and Boston.

Judge Wyzanski was esteemed for his extensive knowledge of the law, and for his courageous rulings in controversial cases. In 1969, Judge Wyzanski, in his famous Sisson decision, recognized the right of nonreligious conscientious objection to the Selective Service. He stated in his opinion that the 1967 Selective Service Act was unconstitutional because it discriminated against those with "profound moral beliefs." Judge Wyzanski wrote: "When the law treats a reasonable, conscientious act as a crime it subverts its own power. It invites civil disobedience."

Judge Wyzanski also stated in Washington early in 1973 that the Vietnam war was being conducted illegally, after repeal of the Gulf of Tonkin resolution on January 12, 1971. This action caused the Massachusetts House to vote 111-65 in favor of a resolution which would have had him step down from the bench, although the House had no authority to act. But with his characteristic independence, Judge Wyzanski refused to do so.

Judge Wyzanski also wrote major decisions banning corporal punishment in the Boston public schools, and creating fairer procedures for jury selection in Massachusetts. Throughout his career, he was a champion of civil liberties and individual rights.

Judge Wyzanski's many admirers knew him as a fighter for causes he believed in, and as a true intellectual with a brilliant capacity for and love of the law, tempered by a deep sense of justice. Although not everyone agreed with Judge Wyzanski, all who knew him had great respect for him. He will be greatly missed by all of us in Massachusetts.●

CALIFORNIA NEVADA INTERSTATE COMPACT

● Mr. CRANSTON. Mr. President, when the Senate takes up the fiscal year 1987 appropriation bill for Commerce, Justice, State, and the Judiciary, Senators will address the important issue of whether to ratify the California Nevada interstate compact.

As a Senator from one of the two States involved, I want to advise my colleagues that the California Nevada interstate compact should not be ratified by the U.S. Congress in the form in which it will be presented. More specifically and most emphatically, the U.S. Congress should not agree to bind the United States and the affected Indian tribes to the terms and conditions dictated by the two States. Those terms and conditions are not limited to matters of legitimate State concern. Rather they directly impair and encroach upon Federal and Indian interests. Ratifying this compact would constitute an unprecedented departure from our constitutional tradition and Federal system, fundamentally at odds with basic Federal Indian policy and undercutting our environmental laws.

Fifteen years ago, California and Nevada's Governors negotiated a deal between themselves, contingent on ratification by the United States for itself and affected Indian tribes. The Federal Government and the tribes rejected their deal for good reason. Now the proponents of the compact are asking Congress for ratification, making the Federal Government and tribes involuntary parties to an agreement reached by State governments with adverse interests, raising serious questions of fundamental justice.

The compact is long and confusing. It is 50 pages of water rights legalese, all but impossible for anyone to understand who is not thoroughly familiar with the river systems involved, how they currently operate, and the extraordinary complex legal rights, claims and interests of the Federal Government, the States, the Indian tribes, the municipalities, the private parties, the environmentalists and others.

So let me summarize. There is a major dispute involving multiple parties over a limited supply of water. Some of the parties got together and divided the water among themselves in a manner that met their needs at the expense of the absent parties. Now those who crafted the agreement seek to impose it on the others. It's just like two litigants in a multiparty lawsuit agreeing between themselves that a third, unrepresented party is liable, then getting the judge to impose their deal on the absent third party. That's not the way our system is supposed to function.

The California Nevada compact has been opposed by the Interior and Justice Departments of every administration from President Johnson to and including President Reagan. It is unlike every other interstate Western water compact.

Every other interstate water compact has included a provision specifically stating that it will not adversely affect Indian rights and interests. Some interstate compacts state that they will not adversely affect the rights and interests of the United States. No other compact purports to be binding on the United States or affected Indian tribes. That is proper and appropriate, because Indian and Federal water rights are derived from and protected by Federal, not State, law. They are not subject to State jurisdiction and almost always conflict with rights claimed by States and other parties asserting State water rights.

The California Nevada compact is not self-executing. Article XXII spells out that it shall not be effective between the two States unless and until Congress makes its principle provisions binding on both the United States and the affected tribes. But by ratifying the compact, Congress would abrogate Indian rights, subject the United States to a very substantial monetary claim for just compensation for the water rights taken from the Indians and given to the States, make the affected tribes in Nevada involuntary parties to an agreement negotiated by adversaries, and allow the States to dictate to the United States on matters of national interest traditionally reserved to the Federal Government such as relations with Indian tribes and protection of endangered species.

The proponents of the compact argue it should be ratified out of deference to States rights. But that is very misleading. The States don't need congressional approval to contract between themselves. This is definitely not an instance in which the Federal Government is interfering with the sovereignty of two States. Rather it is an effort to subordinate Federal sovereignty to the States. The effect of the compact would be to exempt these river systems from the laws that apply throughout our Nation.

Article V(D) of the compact allocates 23,000 acre feet of the waters of the Lake Tahoe Basin, which is part of the Truckee River system which runs through both States. Of that, approximately 6,500 acre feet have not been used or appropriated. The Pyramid Lake Tribe has a lawsuit pending in Federal court claiming that water for its fishery under Federal law. The tribe's claim has been upheld preliminarily by the Federal district court in Sacramento in two 1985 rulings.

If the Congress ratifies the compact, the tribe's claim to that 6,500 acre feet would be extinguished without justification. Pyramid Lake's endangered fish, already on the brink of extinction owing to inadequate inflows into Pyramid Lake, would have that much less water. The tribe would get no compensation in return. Its only recourse would be to sue the United States for an uncompensated taking. So there would be more litigation, the burden and expense of which would be borne solely by the United States and the tribe. One estimate of Federal liability for this taking is in excess of $30 million.

It is important to recognize that article V(D) operates specifically and exclusively against the Pyramid Lake Paiute Tribe. No one else is claiming that water. And that is precisely why the States and the compact's proponents insist that it be made binding on the United States and the Pyramid Lake Tribe.

Another example of the one-sidedness of the agreement is article VI(B)(3), which poses even greater dangers for Pyramid Lake's endangered fish. Article VI(B)(3) allocates 6,000 acre feet of water per year from the conservation yield of Stampede Reservoir, subject to the execution of contracts with the United States. Article VI(B)(3) would also be binding on the United States and Indian tribes if the compact is ratified.

Stampede Reservoir was completed in 1970. Since then, all of Stampede's usable storage has been devoted to saving Pyramid Lake's endangered and threatened species. The Interior Department's operation of Stampede Reservoir was challenged in a Federal court by the State of Nevada and others. Both the Federal district court and the Ninth Circuit Court of Appeals held that under the Endangered Species Act the use of Stampede water for Pyramid Lake takes precedence over all other competing uses. In 1985, the Supreme Court declined to review those decisions.

If this compact is ratified by the Congress and article VI(B)(3) is made binding on the United States and the Pyramid Lake Tribe, proponents of the compact could argue that Congress, having approved allocation of 6,000 acre feet of water from Stampede Reservior, has made it illegal to use all of Stampede's yield for the benefit of Pyramid Lake's endangered and threatened species. I'm not sure whether that argument would prevail. No one has yet addressed that issue.

That would create yet another lawsuit. The last suit over Stampede water lasted 9 years. Instead of resolving existing disputes, it is clear that ratifying the compact would create new ones.

The compact's proponents argue that 6,000 acre feet is not much water in the overall scheme of things. But they are wrong; 6,000 acre feet is a deceivingly small number. Providing 6,000 acre feet annually from the conservation yield would require the use of about 25 percent of Stampede's storage capacity, approximately 50,000 acre feet, to insure availability of that water during a severe drought cycle. The loss of that storage capacity would be devastating to Pyramid Lake's endangered cui-ui fish.

By far the worst provision of the compact is article VI(B)(4). It allocates an additional 10,000 acre feet of Truckee River water annually, but expressly states that this allocation shall not impair any present or future beneficial uses of water in Nevada—"as determined by Nevada Law"—for domestic, municipal, industrial, and agricultural purposes. Deliberately excluded from the list of protected beneficial uses are fish, wildlife, and recreation—the very purposes for which the waters of the Truckee River are used at Pyramid Lake.

These uses are excluded even though they are recognized as "beneficial" and "an inseparable part of the public interest" in article XIII. In other words, article XII pays lip service to protecting fish, wildlife, and recreation uses of water, but those uses are subordinated and sacrificed to all other uses. There is no justification for subordination of the interests of the Pyramid Lake Paiute Indian Tribe and Pyramid Lake's endangered and threatened species.

Two other aspects of article VI(B)(4) should be noted. Nevada is granted the right to share in the allocation to the extent that it contributes toward financing the cost of developing the water. Hence, the agreement does more than merely allocate water between the two States. It also reallocates intrastate Truckee River water within Nevada. Water is taken away from one existing use, the Pyramid Lake fishery, and given to the State to reallocate to future uses for other purposes in Nevada.

This is unique. I know of no other interstate compact that takes water away from existing beneficial uses within one State for the benefit of future uses in that same State. Simply put, proponents are asking Congress to sanctify an intrastate reallocation that takes the Indians' water and gives it to other Nevada users. It also gives rise to a claim against the United States for a taking and for just compensation. As I said before, the value of the claim against the United States for this unjustified and uncompensated taking is approximately $30 million.

Another noteworthy aspect article VI(B)(4) concerns its quantitative impact on the Pyramid Lake fishery. The allocation is limited to no more than 10,000 acre feet annually. That is another misleading number. The water is not currently available. It must be developed by constructing a new reservoir. To provide 10,000 acre feet per year, the new reservoir would need a storage capacity of at least 100,000 acre feet. The water to fill that new reservoir could come from only one source: The spring runoff from the snow melt in the Sierra Nevada Mountains. That is the very water now being used and vitally needed for spawning by Pyramid Lake's endangered cui-ui. If it is seized and impounded in upstream storage facilities, the cui-ui are doomed. Article VI(B)(4) is the ultimate death sentence for Pyramid Lake's endangered cui-ui.

All three of these provisions, article V(D), VI(B)(3) and VI(B)(4) have one thing in common. They all operate specifically and exclusively to the detriment of the Pyramid Lake fishery. They are targeted precisely to take

away currently used Truckee River water from Pyramid Lake for the benefit of future water uses in both States.

This compact has other problems and defects. The water rights of the Walker River Indian Tribe are infringed by article VIII; the Carson River water rights decree—which took 60 years to litigate—is undermined and undone by article VII; and as the Justice Department pointed out in 1985, the compact unconstitutionally delegates authority to a commission established by article IV over Federal rights and obligations in apparent violation of the appointments clause. Moreover, the United States and Indian tribes are excluded from any meaningful participation in the compact commission. They are not given a vote and the compact vests control of the Nevada Compact Commission in the Pyramid Lake Tribe's historic and current adversaries. Nearly every provision of the compact operates in the same way against the interests of both the Federal Government and the Indian tribes whose natural resources the Federal Government is charged with protecting.

Ratification of this compact would be an unprecedented departure from our constitutional heritage, because for the first time, States, with the approval of Congress, would dictate to the Federal Government with respect to Federal and Indian interests. Congress would approve abdication of Federal constitutional and fiduciary obligations to Indian tribes and to the environment in one of the most sensitive ecological areas of the country. It would provide a new method for an old practice of abrogating Indian treaties, and for creating exemptions from Indian and environmental laws supposed to be applied uniformly throughout our Nation.

Ratifying the compact would represent the single most anti-Indian legislation since the 1950's. Congress has enacted many laws promoting tribal sovereignty and economic self-sufficiency. The compact violates the letter or the spirit of all of these laws by taking Indian property without the tribes' consent, by subjecting Indian water rights to State jurisdiction and control, and by depriving tribes of the resources that are desperately needed to achieve economic self-sufficiency. It is hard to imagine a worse law from the Indians' perspective.

The compact is just as bad from the environmental standpoint. No analysis has been prepared under the National Environmental Policy Act. No consideration has been given to achieving the goals of the Clean Water Act or to addressing the pollution problems resulting from agricultural drainage at the Stillwater Wildlife Refuge which the Department of the Interior considers the second most serious in the country next to the Kesterson Wildlife Refuge in California. The compact ignores all the environmental lessons we have learned over the past two decades.

Worse yet, the compact stands the Endangered Species Act on its head. Following full national debate on several separate occasions, the Congress in its wisdom has accorded the highest priority to the protection and enhancement of endangered and threatened species. Congress has also established an Endangered Species Committee and enacted detailed standards and procedures to providing for case-by-case consideration of applications for exemptions from the Endangered Species Act in exceptional circumstances. The compact violates the Endangered Species Act by discriminating against the use of water for Pyramid Lake's endangered and threatened species. While endangered species have the highest priority under Federal law, they would be subordinated and sacrificed to everything else under the compact. The overall effect would be to grant an exemption for Pyramid Lake and the Truckee River from the Endangered Species Act without complying with any of the standards or procedures governing such exemptions.

For all the reasons I've mentioned, the Reagan administration does not support the compact unless it is amended. The administration's amendment would qualify Congress' consent to the compact by protecting the rights and obligations of the United States and the Indian tribes against any impairment or interference by the terms of the compact. The effect of the administration's amendment would be to subject the California Nevada compact to the same standard condition included in all other Western water compacts. But proponents of this compact argue against that amendment, because the very purpose of the agreement they made is to impair the tribe's rights and take away the tribe's water.

The compact is not and should not become a partisan issue. It is simply bad public policy and constitutional policy. It has been consistently opposed by every administration since it was first proposed in 1968. It was ratified by the two States in 1970 and 1971, but has never before been considered seriously by Congress. Numerous former high-ranking officials of the Interior and Justice Departments, Republicans and Democrats, testified against the compact, stating that its ratification would be a great disservice and manifest injustice to the Pyramid Lake Paiute Tribe. Most recently, James C. Miller III, Director of the Office of Management and Budget, commented in his August 14, 1986, letter to the Senate majority leader:

> The administration cannot accept general provisions 609 of the Senate version of H.R. 5161 that would ratify the California Nevada compact for the apportionment of the Carson, Truckee, Walker Rivers and provide that the Federal Government agrees to be bound by its terms. The compact unilaterally abrogates Federal rights and responsibilities to Indian tribes and other entities. Ratification is acceptable only if it includes language proposed by the administration specifically protecting the Federal obligations and responsibilities.

When Senator LAXALT introduced the compact, he stated that the compact was based on the principle that existing water rights and beneficial uses are protected and that only waters not needed to satisfy those existing rights and uses are allocated between the two States. I agree with that principle. If the compact recognized and protected the water rights and beneficial uses of the United States and the Indian tribes, I would enthusiastically support it. Unfortunately, the compact applies that principle to the water rights and beneficial uses of everyone except the United States and affected tribes.

I find myself in full agreement with the administration's position. I urge my colleagues, on both sides of the aisle, to join me in supporting the administration's amendment to the California Nevada compact to protect the Federal and Indian interests.●

9-1-1 EMERGENCY NUMBER DAY

Mr. SIMPSON. Madam President, after conferring with the acting Democratic leader, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of Senate Joint Resolution 405, designating September 11, 1986 as "9-1-1 Emergency Number Day" and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A resolution (S.J. Res. 405) to designate September 11, 1986 as "9-1-1 Emergency Number Day."

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. SIMPSON. Madam President, I move adoption of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S.J. RES. 405

Whereas protecting life and insuring safety are important responsibilities of local governments;

Whereas the ability of all persons to quickly summon help in an emergency is essential to a community's well-being;

Whereas thousands of municipalities throughout the United States have established 911 emergency telephone systems;

Whereas 911 emergency telephone systems have made it possible to save many lives, thereby enhancing the quality of life in communities throughout the Nation; and

Whereas 911 emergency telephone systems increase public confidence and provide efficient emergency services with greater response capabilities and cost savings to the public: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That September 11, 1986, is designated as "9-1-1 Emergency Number Day". The President of the United States is requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

Mr. SIMPSON. Madam President, I move to reconsider the vote by which the joint resolution was passed.

Mr. PROXMIRE. Madam President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL FREEDOM OF INFORMATION ACT AWARENESS WEEK

Mr. SIMPSON. Madam President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of House Joint Resolution 580 to designate "National Freedom of Information Act Awareness Week" and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 580) to designate the week beginning September 7, 1986, as "National Freedom of Information Act Awareness Week."

There being no objection, the Senate proceeded to consider the joint resolution.

The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. SIMPSON. Madam President, I move to reconsider the vote by which the joint resolution was passed.

Mr. PROXMIRE. Madam President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMMEMORATIVE WORKS IN THE DISTRICT OF COLUMBIA

Mr. SIMPSON. Madam President, I then ask unanimous consent that the Senate now turn to calendar item No. 869, H.R. 4378, the Commemorative Works in the District of Columbia.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4378) to provide standards for placement of commemorative works on lands administered by the National Park Service in the District of Columbia.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike out all after the enacting clause, and insert the following:

H.R. 4378

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

PURPOSES

SECTION 1. The purposes of this Act are as follows:

(a) to preserve the integrity of the comprehensive design of the L'Enfant and McMillan plans for the Nation's Capital;

(b) to ensure the continued public use and enjoyment of open space in the District of Columbia;

(c) to preserve, protect and maintain the limited amount of open space available to residents of, and visitors to, the Nation's Capital; and

(d) to ensure that future commemorative works in areas administered by the National Park Service and the General Services Administration in the District of Columbia and its environs (1) are appropriately designed, constructed, and located and (2) reflect a consensus of the lasting national significance of the subjects involved.

DEFINITIONS

SEC. 2. As used in this Act—

(a) the term "Secretary" means the Secretary of the Interior;

(b) the term "Administrator" means the Administrator of the General Services Administration;

(c) the term "commemorative work" means any statue, monument, sculpture, memorial, or other structure or landscape feature, including a garden or memorial grove, designed to perpetuate in a permanent manner the memory of a person, group, event or other significant element of history. The term does not include any such item which is located within the interior of a structure or a structure which is primarily used for other purposes;

(d) the term "person" means an individual, group or organization authorized by Congress to establish a commemorative work in the District of Columbia and its environs;

(e) notwithstanding any other provision of law, the term "the District of Columbia and its environs" means those lands and properties administered by the National Park Service and the General Services Administration located in Areas I and II as depicted on the map numbered 869/86501, and dated May 1, 1986.

CONGRESSIONAL AUTHORIZATION OF COMMEMORATIVE WORKS IN THE DISTRICT OF COLUMBIA AND ITS ENVIRONS

SEC. 3. (a) No commemorative work may be established in the District of Columbia and its environs unless specifically authorized by Act of Congress. All such authorized commemorative works shall be subject to applicable provisions of this Act.

(b) In considering legislation authorizing commemorative works within the District of Columbia and its environs, the appropriate congressional authorizing Committees shall solicit the views of the National Capital Memorial Commission.

NATIONAL CAPITAL MEMORIAL COMMISSION

SEC. 4. (a) The National Capital Memorial Advisory Committee as established by the Secretary is redesignated as the National Capital Memorial Commission. The membership of the Commission shall be expanded to include:

Director, National Park Service (Chairman)

Architect of the Capitol

Chairman, American Battle Monuments Commission

Chairman, Commission of Fine Arts

Chairman, National Capital Planning Commission

Mayor, District of Columbia

Commissioner, Public Building Service, General Services Administration

Secretary, Department of Defense

(b) The National Capital Memorial Commission shall advise the Secretary and the Administrator on policy and procedures for establishment of (and proposals to establish) commemorative works in the District of Columbia and its environs, as well as such other matters concerning commemorative works in the Nation's Capital as it may deem appropriate. The Commission shall meet at least twice annually.

AVAILABILITY OF MAP DEPICTING AREA I AND AREA II

SEC. 5. The Secretary and the Administrator shall make available, for public inspection at appropriate offices of the National Park Service and the General Services Administration, the map numbered 869/86501, and dated May 1, 1986.

SPECIFIC CONDITIONS APPLICABLE TO AREA I AND AREA II

SEC. 6. (a) AREA I.—In addition to conditions set forth in subsection (b) of this section, no commemorative work may be located in Area I unless the Secretary or Administrator (as appropriate), after consultation with the National Capital Memorial Commission, finds that the subject of the commemorative work is of preeminent historical and lasting significance to the Nation. The Secretary or Administrator (as appropriate) shall notify the Congress of his determination that a commemorative work should be located within Area I. Unless the Congress enacts a joint resolution approving such determination within ninety days of such notification, the determination shall be deemed disapproved.

(b) AREA II.—Commemorative works of subjects of lasting historical significance may be located in Area II, subject to the following conditions:

(1) A military commemorative work may be established in Area II only to commemorate a war or similar major military conflict or to commemorate any branch of the Armed Forces. No commemorative work commemorating a lesser conflict or a unit of an Armed Force shall be permitted in Area II.

(2) A commemorative work commemorating an individual or group of individuals, other than a military commemorative work as described in subsection (b)(1) of this section, shall not be permitted in Area II until at least twenty-five years after the death of the individual or the last surviving member of the group.

(3) A commemorative work other than a work referred to in paragraph (1) or (2) may be constructed in Area II only to commemorate a subject of lasting historical significance.

SITE AND DESIGN APPROVAL

SEC. 7. (a) Any person authorized by law to establish a commemorative work in the District of Columbia and its environs shall

comply with each of the following requirements before commencing construction of the commemorative work:

(1) Such person shall consult with the National Capital Memorial Commission regarding the commemorative work. Such consultation shall include consideration of potential sites in the District of Columbia and its environs.

(2) Following consultation in accordance with paragraph (1) of this section, such person shall submit site and design proposals to the Commission of Fine Arts and the National Capital Planning Commission and the Secretary or Administrator (as appropriate) for their approval.

(b) In considering site and design proposals, the Commission of Fine Arts, the National Capital Planning Commission and the Secretary and Administrator shall be guided by the following criteria:

(1) to the maximum extent possible, a commemorative work shall be located in surroundings that are relevant to the subject of the commemorative work;

(2) a commemorative work shall be so located as to prevent interference with, or encroachment upon, any existing commemorative work and to protect, to the maximum extent practicable, open space and existing public use; and

(3) a commemorative work shall be constructed of durable material suitable to the outdoor environment. Natural elements shall be compatible with the climate.

CRITERIA FOR ISSUANCE OF CONSTRUCTION PERMIT

SEC. 8. (a) Prior to issuing a permit for the construction of a commemorative work in the District of Columbia and its environs, the Secretary or Administrator (as appropriate) shall determine that:

(1) the site and design have been approved by the Secretary or Administrator (as appropriate), the National Capital Planning Commission and the Commission of Fine Arts;

(2) knowledgeable persons qualified in the field of preservation and maintenance have been consulted to determine structural soundness and durability of the commemorative work, and to assure that the commemorative work meets high professional standards;

(3) the person authorized to construct the commemorative work has submitted contracts for construction and drawings of the commemorative work to the Secretary or Administrator (as appropriate); and

(4) the person authorized to construct the commemorative work has available sufficient funds to complete construction of the project.

(b) In addition to the foregoing criteria, no construction permit shall be issued unless the person authorized to construct the commemorative work has paid an amount equal to 10 per centum of the total estimated cost of construction to offset the costs of perpetual maintenance and preservation of the commemorative work: *Provided*, That the provisions of this subsection shall not apply in instances when the commemorative work is constructed by a Department or agency of the Federal Government and less than 50 per centum of the funding for such work is provided by private sources.

(1) Notwithstanding any other provision of law, all moneys provided by persons for maintenance pursuant to this subsection shall be credited to a separate account in the Treasury.

(2) Congress authorizes and directs that the Secretary of the Treasury shall make all or a portion of such moneys available to the Secretary or the Administrator at his request for maintenance of commemorative works. Under no circumstances may the Secretary or Administrator request funds from the separate account exceeding the total moneys deposited by persons establishing commemorative work in areas he administers. The Secretary and the Administrator shall maintain an inventory of funds available for such purposes: *Provided*, That such moneys shall not be subject to deferral or rescission under the Budget Impoundment and Control Act of 1974, and such moneys shall not be subject to annual appropriations. Further, the funds shall not be subject to sequestration under the requirements of Public Law 99-177.

TEMPORARY SITE STUDY

SEC. 9. (a) Within one year after the date of enactment, the Secretary and the Administrator shall, in consultation with the National Capital Memorial Commission, prepare and transmit to the Congress a study assessing the need for establishing an area within the District of Columbia and its environs where commemorative works may be sited on a temporary basis.

(b) Such a study shall include but not be limited to recommendations regarding the need for such an area; the location; the criteria for placement of commemorative works; management and administration of the area; and other factors as the Secretary and the Administrator deem appropriate.

MISCELLANEOUS PROVISIONS

SEC. 10. (a) Complete documentation of design and construction of each commemorative work located in the District of Columbia and its environs shall be provided to and permanently maintained by the Secretary or the Administrator (as appropriate).

(b) Any legislative authority for a commemorative work shall expire at the end of the five-year period beginning on the date of the enactment of such authority, unless the Secretary or Administrator (as appropriate) has issued a construction permit for the commemorative work during that period.

(c) Upon completion of any commemorative work within the District of Columbia and its environs, the Secretary or Administrator (as appropriate) shall assume responsibility for the maintenance of such work.

(d) The Secretary and the Administrator shall promulgate appropriate regulations to carry out this Act. The regulations shall be published in the Federal Register within one hundred and twenty days after the enactment of this Act.

(e) This Act shall not apply to commemorative works authorized by a law enacted before the commencement of the Ninety-ninth Congress.

AMENDMENT NO. 2793

Mr. SIMPSON. Madam President, I send an amendment to the desk on behalf of Senator MCCLURE to the committee substitute.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON], for Mr. MCCLURE, proposes an amendment numbered 2793.

Mr. SIMPSON. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

1. On page 16, line 8, strike "Natural elements" and insert in lieu therof "Landscape features of commemorative works".

2. On page 17, line 6, strike "paid" and insert in lieu thereof "donated".

3. On page 18, line 3, strike "such moneys shall not be subject to deferral or rescission under the Budget Impoundment and Control Act of 1974, and".

4. On page 18, line 6, strike "Further, the funds shall not be subject to sequestration under the requirements of Public Law 99-177."

Mr. MCCLURE. Madam President, the amendments I am offering to H.R. 4378, as reported by the Committee on Energy and Natural Resources, are clarifying in nature. The first amendment substitutes "Landscape features of commemorative works" for the term "Natural elements" in order to clarify the act's guidance to those persons charged with approving site and design proposals for commemorative works. The other amendments are intended to clarify that the funds contributed into the commemorative work maintenance fund established by this legislation shall be used solely for the purpose for which they were donated.

Madam President, section 255(g)(1) of Public Law 99-177 states that "activities resulting from private donations, bequests, or voluntary contributions to the Government" are exempt from sequestration under Gramm-Rudman-Hollings. The amendments I am offering today clarify that the funds contributed for maintenance of commemorative works under H.R. 4378 are to be considered donated funds and therefore ineligible for sequestration. I understand that this assessment has been cleared with the Budget Committee. This is only proper since these funds will be raised privately to provide resources for the care and maintenance of memorials and monuments in the Nation's Capital and its environs. We must provide assurance to those who will be raising these funds that the moneys will be used only for the purpose for which they were donated.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2793) was agreed to.

Mr. SIMPSON. Madam President, I move adoption of the committee substitute as amended.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment, as amended, in the nature of a substitute.

The committee amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the

committee amendment, as amended, and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 4378) was passed.

The title was amended so as to read: "An Act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia, and its environs, and for other purposes".

Mr. SIMPSON. Madam President, I move to reconsider the vote by which the bill was passed.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ASBESTOS HAZARD EMERGENCY RESPONSE ACT

Mr. SIMPSON. Madam President, I ask unanimous consent that the Senate now turn to the consideration of Calendar item No. 877, S. 2083, the asbestos bill.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 2083) to amend the Toxic Substances Control Act to require the Environmental Protection Agency to set standards for identification and abatement of hazardous asbestos in the Nation's schools, to mandate abatement of hazardous asbestos in the Nation's schools in accordance with those standards, to require local educational agencies to prepare asbestos management plans, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Wyoming?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Environment and Public Works with an amendment to strike out all after the enacting clause, and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Asbestos Hazard Emergency Response Act of 1986".

SEC. 2. AMENDMENT TO TOXIC SUBSTANCES CONTROL ACT.

The Toxic Substances Control Act is amended by adding at the end the following:

"TITLE II—ASBESTOS HAZARD EMERGENCY RESPONSE

"SEC. 201. CONGRESSIONAL FINDINGS AND PURPOSE.

"(a) FINDINGS.—The Congress finds the following:

"(1) The Environmental Protection Agency's rule on inspection and notification of asbestos hazards has neither standards for the proper identification of asbestos and abatement of friable asbestos-containing material, nor a requirement that friable asbestos-containing material be abated in a safe and complete manner once it is discovered.

"(2) There is no uniform program for accrediting persons involved in asbestos identification and abatement, nor are local education agencies required to use accredited contractors for asbestos work.

"(3) As a result, some schools have taken no action at all to abate hazardous asbestos while others have undertaken expensive abatement projects with no regulatory guidance from the Environmental Protection Agency as to whether the actions are necessary, adequate, or safe. Thus, the danger of exposure to asbestos continues to exist in many schools, and some exposure actually may have increased due to the lack of Federal standards for asbestos abatement and the lack of requirements that competent contractors be used to perform asbestos abatement.

"(b) PURPOSES.—The purposes of this title are—

"(1) to provide for the establishment of Federal regulations which require inspection for asbestos and the abatement of hazardous asbestos-containing material in the Nation's schools in a safe and complete manner;

"(2) to establish standards for the development of operation and maintenance plans to prevent exposure to asbestos remaining in a school building after abatement; and

"(3) to mandate safe and complete periodic reinspection of school buildings following abatement.

"SEC. 202. DEFINITION OF ASBESTOS; ABATEMENT; AND GUIDANCE DOCUMENT.

"(a) IN GENERAL.—For purposes of this title, the term—

"(1) 'asbestos' means asbestiform varieties of—

"(A) chrysotile (serpentine),

"(B) crocidolite (riebeckite),

"(C) amosite (cummingtonite-grunerite),

"(D) anthophyllite,

"(E) tremolite, or

"(F) actinolite;

"(2) 'asbestos-containing material' means any material which contains more than 1 percent asbestos by weight;

"(3) 'friable asbestos-containing material' means any asbestos-containing material applied on ceilings, walls, structural members, piping, duct work, or any other part of a building which when dry may be crumbled, pulverized, or reduced to powder by hand pressure;

"(4) 'abatement' means enclosure, encapsulation, repair or removal of asbestos-containing material; and

"(5) 'accredited asbestos contractor' means a person, accredited pursuant to the provisions of section 203, who inspects for asbestos-containing material, develops asbestos management plans, or performs asbestos abatement activities.

"(b) EPA REGULATIONS ON IDENTIFICATION AND ABATEMENT OF ASBESTOS.—Within 12 calendar months after the date of the enactment of this title, the Administrator shall promulgate the following:

"(1) Regulations which prescribe procedures, including the use of trained personnel, for determining whether asbestos-containing materials are present in a school building.

"(2) Regulations which prescribe standards for the circumstances under which the presence of asbestos-containing material in a school building shall be considered hazardous, describing different types of abatement, and defining the circumstances under which different types of abatement are required, including the extent of abatement necessary. In any standard under this paragraph, asbestos-containing material shall be considered hazardous if, at a minimum, it is friable and is—

"(A) damaged, deteriorated or delaminated; or

"(B) readily accessible to building occupants including service and maintenance personnel, in the course of their normal activities;

in circumstances that present a reasonable likelihood of exposure to asbestos fibers.

"(3) Regulations which mandate abatement, in accordance with standards prescribed under paragraph (4), of hazardous asbestos-containing material found in any school building, as determined in accordance with standards prescribed under paragraphs (1) and (2).

"(4) Regulations which prescribe standards for performance of asbestos abatement activities in school buildings and for determination of when the hazard has been abated. Such regulations shall include standards for protection for both workers and building occupants, for the following phases of abatement activity:

"(A) Inspection.

"(B) Abatement.

"(C) Post-abatement, including any long term operation and maintenance activity.

"(5) Regulations which prescribe standards for the development and execution of an operation and maintenance plan with respect to asbestos-containing material which is not removed from a school building. Such plan shall include—

"(A) an identification of the location of asbestos-containing material in the school building;

"(B) provisions for surveillance and periodic reinspection of such asbestos-containing material;

"(C) provisions for education of school employees, including school service and maintenance personnel, about the location of and safety procedures with respect to such asbestos-containing material; and

"(D) provisions for identifying with a warning label any friable asbestos-containing material that is located in areas not normally frequented by students and which might be damaged by the activities of persons in such areas. The warning label shall read, in print which is readily visible because of large size or bright color, as follows: 'CAUTION: ASBESTOS-CONTAINING MATERIAL. BREATHING ASBESTOS DUST MAY CAUSE CANCER. DO NOT DISTURB WITHOUT PROPER TRAINING AND EQUIPMENT' (or words to that effect).

"(6) Regulations which prescribe such standards for transportation and disposal of waste asbestos-containing material as may be necessary to protect human health and the environment. Such regulations shall include such provisions related to the manner in which transportation vehicles are loaded and unloaded as will assure the physical integrity of containers of asbestos-containing waste materials.

"(c) HAZARDOUS ASBESTOS STANDARD IF EPA FAILS TO PROMULGATE REGULATIONS.—If the Administrator fails to promulgate regulations under subsections (b) (1) and (2) within the prescribed period, any asbestos-containing material which exists in the school building shall be considered hazardous if the asbestos-containing material is visibly damaged, with portions of the material dislodged, missing, cracked, deteriorated, showing evidence of water damage, or flaking, in any area in the school building where there is a potential for human exposure, including an air plenum. Such standards shall be effective until such time as the Administrator promulgates different stand-

ards under regulations under subsections (b) (1) and (2).

"(d) ABATEMENT IF EPA FAILS TO PROMULGATE REGULATIONS.—If the Administrator fails to promulgate regulations under subsections (b) (3) and (4) within the prescribed period, and asbestos-containing material which is hazardous under the standard described in subsection (c) exists in a school building, the local educational agency with jurisdiction over the school building shall abate such asbestos-containing material in accordance with the most recent version of the Environmental Protection Agency's 'Guidance for Controlling Asbestos-Containing Materials in Buildings' (or any successor to such document). The ambient interior concentration of asbestos fibers after the completion of abatement shall not exceed the ambient exterior concentration, discounting any contribution from any local stationary source. In the absence of reliable measurements, the exterior ambient concentration shall be deemed to be less than 0.003 fibers per cubic centimeter if a scanning electron microscope is used to determine whether the standard has been met, and less than .005 fibers per cubic centimeter if a transmission electron microscope is used to determine whether the standard has been met.

"(e) TRANSPORTATION AND DISPOSAL STANDARDS IF EPA FAILS TO PROMULGATE REGULATIONS.—If the Administrator fails to promulgate regulations under subsection (b)(6) within the prescribed period, any asbestos which is abated within a local educational agency shall be transported and disposed of in accordance with the most recent version of the Environmental Protection Agency's 'Asbestos Waste Management Guidance' (or any successor to such document).

"SEC. 203. MODEL CONTRACTOR ACCREDITATION PLAN.

"(a) MODEL PLAN.—

"(1) PERSONS TO BE ACCREDITED.—Within 12 calendar months after the date of the enactment of this title, the Administrator shall develop a model accreditation plan for States to give accreditation to persons in the following 3 categories:

"(A) Persons who inspect for asbestos in schools within a covered local educational agency.

"(B) Persons who prepare management plans for such schools.

"(C) Persons who carry out abatement of asbestos in such schools.

"(2) PLAN REQUIREMENTS.—The plan shall include a requirement that any person in the categories listed in the preceding sentence achieve a passing grade on an examination and participate in continuing education to stay informed about current asbestos inspection and abatement technology. The examination shall demonstrate the knowledge of the person in areas that the Administrator prescribes in regulations as necessary and appropriate in each of the categories. Such regulations may include requirements for knowledge in the following areas:

"(A) Recognition of asbestos and its physical characteristics.

"(B) Health hazards of asbestos and the relationship between asbestos exposure and disease.

"(C) Assessing the risk of asbestos exposure through a knowledge of percentage weight of asbestos, friability, age, deterioration, location and accessibility of materials, and advantages and disadvantages of dry and wet methods of abatement.

"(D) Respirators and their use, care, selection, degree of protection afforded, fitting, testing, and maintenance and cleaning procedures.

"(E) Appropriate work practices and control methods, including the use of high efficiency particle absolute vacuums, use of amended water and removal encapsulants, and principles of negative air pressure equipment use and procedures.

"(F) Preparing a work area for asbestos work, including isolating work areas to prevent bystander or public exposure, decontamination procedures, and procedures for dismantling work areas after completion of work.

"(G) Establishing emergency procedures to respond to sudden releases.

"(H) Air monitoring requirements and procedures.

"(I) Medical surveillance program requirements.

"(J) Proper job-specific work practices, including work area preparation, decontamination, emergency procedures, and waste disposal procedures.

"(K) Housekeeping and personal hygiene practices, including the necessity of showers, and procedures to prevent asbestos exposure to an employee's family.

"(b) STATE ADOPTION OF PLAN.—Following the development by the Administrator of a model contractor accreditation plan under subsection (a), each State shall adopt a contractor accreditation plan at least as stringent as that model. In the case of schools operated, pursuant to section 6 of the Act of September 30, 1950 (Public Law 874, 81st Congress) relating to impact aid for children of members of the Armed Forces, the Secretary of Defense shall adopt a contractor accreditation plan at least as stringent as that model.

"(c) CONTRACTOR IN STATE WHICH HAS NOT ADOPTED A PLAN.—Any person described in subsection (a)(1)—

"(1) who plans to carry out any activities described in subsection (a)(1),

"(2) more than 180 days after the Administrator has developed a model contractor accreditation plan under subsection (a),

"(3) in a State which has not adopted a plan under subsection (b),

must be accredited by another State which has adopted such a plan under subsection (b) before carrying out any of the activities described in subsection (a)(1).

"(d) TRAINING COURSES.—The Administrator may designate training courses in asbestos inspection and abatement and the development of asbestos management plans that the Administrator determines are equivalent to the contractor accreditation program under subsection (a). A person who has completed and achieved a passing grade from one of such training courses shall be considered accredited for the purposes of this title until a date that is one year after the date on which the State in which such person is employed establishes an accreditation program pursuant to subsection (b).

"(e) FINANCIAL ASSISTANCE CONTINGENT ON USE OF ACCREDITED PERSONS.—A school which is an applicant for financial assistance under section 505 of the Asbestos School Hazard Abatement Act of 1984 is not eligible for such assistance if the school uses any person described in subsection (a)(1) who has not been accredited under a plan based on the model plan developed under subsection (a). This subsection shall apply to any financial assistance provided under the Asbestos School Hazard Abatement Act of 1984 more than 12 calendar months after the date of the enactment of this title.

"SEC. 204. STATE GOVERNOR ASBESTOS REVIEW.

"Within 180 days after the date of the enactment of this title, the Governor of each State shall establish administrative procedures for carrying out certain provisions described in sections 205 and 206. In establishing such procedures, the Governor shall designate, to carry out the provisions, those State officials who are responsible for implementing environmental protection or other public health programs in the State.

"SEC. 205. CERTIFICATION OF SCHOOL INSPECTION AND ABATEMENT.

"(a) CERTIFICATION REQUIREMENT.—Within 12 calendar months after the date of the enactment of this title, each local educational agency shall conduct a certification to determine the status of asbestos inspection and abatement carried out prior to the date of the enactment of this title in each school under its authority. A certification shall consist of submitting to the State Governor a written statement, signed by the highest ranking responsible official of the local educational agency, which contains each of the following items:

"(1) For each school building, a statement on whether an inspection was conducted to ascertain the presence of any asbestos-containing material in the building, including a specific reference to whether an inspection was conducted in the boiler room of the building. If such an inspection was conducted, the following items of information shall be included in the statement:

"(A) The dates of inspection.

"(B) The name, address, and qualifications of each inspector.

"(C) A description of the specific areas inspected.

"(D) The name, address, and qualifications of each laboratory used for analyzing bulk samples or air samples of asbestos.

"(E) The results of the inspection.

"(2) For each school building, a statement on whether any actions to abate any hazardous asbestos-containing material found to be present were taken, including a specific reference to whether any actions were taken in the boiler room of the building. If any such abatement action was taken, the following items of information shall be included in the statement:

"(A) The location or locations at which the abatement action was taken.

"(B) Whether the method of abatement was repair, removal, enclosure, or encapsulation.

"(C) The name, address, and qualifications of the persons who conducted the abatement action.

"(b) PUBLIC AVAILABILITY OF CERTIFICATION.—A copy of the certification required under subsection (a) shall be available in the administrative offices of the local educational agency for inspection by the public, including teachers, other school personnel, and parents.

"SEC. 206. INSPECTION; ASBESTOS MANAGEMENT PLANS.

"(a) INSPECTION.—Within 180 days after the Administrator promulgates regulations under section 202, or, if the Administrator fails to promulgate the regulations within the prescribed period under section 202, within 180 days after the end of such prescribed period, each covered local educational agency shall conduct an inspection for asbestos-containing material in all areas of each school under its authority that were not certified under section 205 to have been inspected previously and found to contain no asbestos-containing material. Each in-

spection shall comply with the regulations promulgated under section 202(b)(1).

"(b) MANAGEMENT PLAN.—

"(1) GENERAL REQUIREMENT.—Within 12 calendar months after the Administrator promulgates regulations under section 202, or, if the Administrator fails to promulgate the regulations within the prescribed period under section 202, within 12 calendar months after the end of such prescribed period, each covered local educational agency shall prepare and submit to the State Governor a management plan for abating hazardous asbestos-containing material in school buildings under its authority. Each plan shall provide for timely notification to the appropriate parents of children and employees affected by such plan of the existence of such plan, and of their right to comment to the Governor with respect to such plan. Such plan shall further provide for compliance with the regulations prescribed by the Administrator under sections 202(b) (2), (3), (4), (5), and (6) (or if there are no regulations, the standards in subsections (c), (d), and (e) of section 202) and shall include the following:

"(A) A description of the results of the inspection conducted under subsection (a), including the dates of inspection; the names, addresses, and qualifications of inspectors; and a description of the specific areas inspected.

"(B) A detailed description of measures to be taken to abate any hazardous asbestos-containing material, including the location or locations at which an abatement action will be taken and the method or methods of abatement to be used.

"(C) An evaluation of resources needed to successfully complete abatement and carry out operation and maintenance.

"(D)(i) A detailed description of criteria and procedures which were followed in selecting the persons who inspected for asbestos-containing material and who analyzed the asbestos-containing material in laboratories, and which will be followed in selecting persons to abate the hazardous asbestos-containing material, or

"(ii) if the State has adopted a contractor accreditation plan similar to the model contractor accreditation plan developed under section 203, a statement that the local educational agency followed (or will follow) its plan in selecting such persons.

"(E) The names of the consultants who contributed to the plan, along with a description of their credentials.

"(F) A detailed description of any asbestos-containing material found in the school building which was found not to be hazardous under the regulations prescribed under subsection 202(b) (or the standard in subsection 202(c)).

"(G) An operation and maintenance plan developed in accordance with standards prescribed under section 202(b)(5).

"(2) EXCEPTION FOR CERTAIN SCHOOLS.—If a covered local educational agency determines that a school under its authority—

"(A) conducted an inspection for asbestos which complied with the regulations promulgated under section 202(b)(1),

"(B) found asbestos-containing material, and

"(C) removed all the asbestos-containing material existing in that school,

the local educational agency may omit that school from the management plan but must include a statement in the plan explaining how that school identified the asbestos-containing material and removed all the asbestos-containing material from the school.

"(3) PLAN MAY BE SUBMITTED IN STAGES.—A covered local educational agency may submit a management plan in stages, with each submission of the agency covering only a portion of the school buildings under the agency's authority, if the agency determines that such action would expedite the identification and abatement of hazardous asbestos-containing material in the school buildings under the authority of the agency.

"(4) MANAGEMENT PLAN ACCREDITATION.—Each such management plan shall contain a statement signed by an accredited asbestos contractor that such contractor has prepared or assisted in the preparation of such plan, or has reviewed such plan, and that such plan is in compliance with the applicable regulations and standards promulgated or adopted pursuant to section 202(b) of this title, and other applicable provisions of law.

"(c) STATE ACTION.—The State Governor may disapprove a management plan submitted under this section within 60 days after the date of receipt of the plan. Disapproval shall be based on—

"(1) a determination that the plan is not suited to the problem identified;

"(2) its failure to assure that contractors accredited pursuant to this title will be used to carry out such plan;

"(3) its failure to conform to regulations under section 202(a) on asbestos inspection and abatement (or with the standards in sections 202 (b) and (c) if there are no regulations); and

"(4) the unreasonableness and untimeliness of the abatement schedule, taking into account circumstances relevant to the speed at which the hazardous asbestos-containing material should be abated, including public exposure to the hazard while the asbestos-containing material remains unabated.

If the State Governor disapproves a plan, the State Governor shall explain in writing to the covered local educational agency the reasons why the plan was rejected and the changes that need to be made in the plan. Within 30 days after the date on which notice is received of rejection of its plan, a covered local educational agency shall revise the plan to conform with the State Governor's required changes.

"(d) LOCAL EDUCATIONAL AGENCY IMPLEMENTATION OF MANAGEMENT PLANS; CERTIFICATION.—If a management plan submitted under this section is not disapproved by the State Governor within such 60-day period, a covered local educational agency shall implement the plan. Within 12 calendar months after submission of its plan, each covered local educational agency—

"(1) shall implement the plan, and

"(2) shall certify to the State Governor that the plan has been implemented, by submitting a statement in writing detailing the implementation.

"(e) PUBLIC AVAILABILITY OF MANAGEMENT PLAN.—A copy of the management plan required under subsection (b) shall be available in the administrative offices of the local educational agency for inspection by the public, including teachers, other school personnel, and parents.

"(f) The Administrator, upon request by a Governor and after notice and comment and opportunity for a public hearing in the affected State, may waive some or all of the requirements of this section and section 204 with respect to such State if it has established and is implementing a program of asbestos inspection and management that contains requirements that are substantially equivalent to the requirements of this section and section 204.

"SEC. 207. ENVIRONMENTAL PROTECTION AGENCY RESPONSE AUTHORITY.

"(a) IN GENERAL.—Whenever—

"(1) the presence of asbestos-containing material in a school building may present an imminent and substantial endangerment to human health, and

"(2) the local educational agency is not taking sufficient action consistent with standards prescribed under this title (as determined by the Administrator or Governor) to abate or arrange for the abatement of the asbestos,

the Administrator or the Governor of a State is authorized to act, consistent with standards prescribed under this title, to abate or arrange for the abatement of the hazard, or to take any other response measure which the Administrator or the Governor deems necessary to protect human health.

"(b) COST RECOVERY.—The Administrator may seek reimbursement from a local educational agency or any other potentially responsible party in a court of the United States for all costs of abatement action under this section incurred by the United States Government. Nothing in this section creates a cause of action or in any other way increases or diminishes the liability of any person under any other law.

"(c) VENUE.—In any case in which the Administrator seeks reimbursement from a local educational agency pursuant to subsection (b), such action shall be filed in the judicial district in which the abatement action occurred.

"SEC. 208. ABATEMENT ACTION.

"When the Administrator or the Governor of a State determines that there may be an imminent and substantial endangerment to the public health or welfare or the environment because of the presence of asbestos in a school building, the Administrator may request the Attorney General of the United States, or the Governor may act, to secure such relief as may be necessary to abate such danger. The district court of the United States in the district in which the threat occurs shall have jurisdiction to grant such relief, including injunctive relief, as the public interest and the equities of the case may require.

"SEC. 209. PUBLIC PROTECTION.

"(a) PUBLIC PROTECTION.—No State or local educational agency may discriminate against a person in any way, including firing a person who is an employee, because the person provided information relating to a potential violation of this title to any other person, including a State or to the Federal Government.

"(b) LABOR DEPARTMENT REVIEW.—Any public or private employee or representative of employees who believes he or she has been fired or otherwise discriminated against in violation of subsection (a) may within 90 days after the alleged violation occurs apply to the Secretary of Labor for a review of the firing or alleged discrimination. The review shall be conducted in accordance with section 11(c) of the Occupational Safety and Health Act.

"SEC. 210. POLLUTION INSURANCE.

"(a) DEFINITIONS.—As used in this section—

"(1) INSURANCE.—The term 'insurance' means primary insurance, excess insurance, reinsurance, surplus lines insurance, and any other arrangement for shifting and distributing risk which is determined to be insurance under applicable State or Federal law.

"(2) POLLUTION LIABILITY.—The term 'pollution liability' means liability for injuries arising from the release of asbestos.

"(3) RISK RETENTION GROUP.—The term 'risk retention group' means any corporation or other limited liability association taxable as a corporation, or as an insurance company, formed under the laws of any State—

"(A) whose primary activity consists of assuming and spreading all, or any portion, of the pollution liability of its group members;

"(B) which is organized for the primary purpose of conducting the activity described under subparagraph (A);

"(C) which is chartered or licensed as an insurance company and authorized to engage in the business of insurance under the laws of any State; and

"(D) which does not exclude any person from membership in the group solely to provide for members of such a group a competitive advantage over such a person.

"(4) PURCHASING GROUP.—The term 'purchasing group' means any group of persons which has as one of its purposes the purchase of pollution liability insurance on a group basis.

"(b) STATE LAWS.—Nothing in this section shall be construed to affect either the tort law or the law governing the interpretation of insurance contracts of any State. The definitions of pollution liability and pollution liability insurance under any State law shall not be applied for the purposes of this section, including recognition or qualification of risk retention groups of purchasing groups.

"(c) RISK RETENTION GROUPS.—

"(1) EXEMPTION.—Except as provided in this subsection, a risk retention group shall be exempt from the following:

"(A) A State law, rule, or order which makes unlawful, or regulates, directly or indirectly, the operation of a risk retention group.

"(B) A State law, rule, or order which requires or permits a risk retention group to participate in any insurance insolvency guaranty association to which an insurer licensed in the State is required to belong.

"(C) A State law, rule, or order which requires any insurance policy issued to a risk retention group or any member of the group to be countersigned by an insurance agent or broker residing in the State.

"(D) A State law, rule, or order which otherwise discriminates against a risk retention group or any of its members.

"(2) EXCEPTIONS.—

"(A) STATE LAWS GENERALLY APPLICABLE.—Nothing in paragraph (1) shall be construed to affect the applicability of State laws generally applicable to persons or corporations. The State in which a risk retention group is chartered may regulate the formation and operation of the group.

"(B) STATE REGULATIONS NOT SUBJECT TO EXEMPTION.—Paragraph (1) shall not apply to any State law which requires a risk retention group to do any of the following:

"(i) Comply with the unfair claim settlement practices law of the State.

"(ii) Pay, on a nondiscriminatory basis, applicable premium and other taxes which are levied on admitted insurers and surplus line insurers, brokers, or policyholders under the laws of the State.

"(iii) Participate, on a nondiscriminatory basis, in any mechanism established or authorized under the law of the State for the equitable apportionment among insurers of pollution liability insurance losses and expenses incurred on policies written through such mechanism.

"(iv) Submit to the appropriate authority reports and other information required of licensed insurers under the laws of a State relating solely to pollution liability insurance losses and expenses.

"(v) Register with and designate the State insurance commissioner as its agent solely for the purpose of receiving service of legal documents or process.

"(vi) Furnish, upon request, such commissioner a copy of any financial report submitted by the risk retention group to the commissioner of the chartering or licensing jurisdiction.

"(vii) Submit to an examination by the State insurance commissioner in any State in which the group is doing business to determine the group's financial condition, if—

"(I) the commissioner has reason to believe the risk retention group is in a financially impaired condition; and

"(II) the commissioner of the jurisdiction in which the group is chartered has not begun or has refused to initiate an examination of the group.

"(viii) Comply with a lawful order issued in a delinquency proceeding commenced by the State insurance commissioner if the commissioner of the jurisdiction in which the group is chartered has failed to initiate such a proceeding after notice of a finding of financial impairment under clause (vii).

"(3) APPLICATION OF EXEMPTIONS.—The exemptions specified in paragraph (1) apply to—

"(A) pollution liability insurance coverage provided by a risk retention group for—

"(i) such group; or

"(ii) any person who is a member of such group;

"(B) the sale of pollution liability insurance coverage for a risk retention group; and

"(C) the provision of insurance related services or management services for a risk retention group or any member of such a group.

"(4) AGENTS OR BROKERS.—A State may require that a person acting, or offering to act, as an agent or broker for a risk retention group obtain a license from that State, except that a State may not impose any qualification or requirement which discriminates against a nonresident agent or broker.

"(d) PURCHASING GROUPS.—

"(1) EXEMPTION.—Except as provided in this section, a purchasing group is exempt from the following:

"(A) A State law, rule, or order which prohibits the establishment of a purchasing group.

"(B) A State law, rule, or order which makes it unlawful for an insurer to provide or offer to provide insurance on a basis providing, to a purchasing group or its member, advantages, based on their loss and expense experience, not afforded to other persons with respect to rates, policy forms, coverages, or other matters.

"(C) A State law, rule, or order which prohibits a purchasing group or its members from purchasing insurance on the group described in subparagraph (B) of this paragraph.

"(D) A State law, rule, or order which prohibits a purchasing group from obtaining insurance on a group basis because the group has not been in existence for a minimum period of time or because any member has not belonged to the group for a minimum period of time.

"(E) A State law, rule, or order which requires that a purchasing group must have a minimum number of members, common ownership or affiliation, or a certain legal form.

"(F) A State law, rule, or order which requires that a certain percentage of a purchasing group must obtain insurance on a group basis.

"(G) A State law, rule, or order which requires that any insurance policy issued to a purchasing group or any members of the group be countersigned by an insurance agent or broker residing in that State.

"(H) A State law, rule, or order which otherwise discriminates against a purchasing group or any of its members.

"(2) APPLICATION OF EXEMPTIONS.—The exemptions specified in paragraph (1) apply to the following:

"(A) Pollution liability insurance, and comprehensive general liability insurance which includes this coverage, provided to—

"(i) a purchasing group; or

"(ii) any person who is a member of a purchasing group.

"(B) The sale of any one of the following to a purchasing group or a member of the group:

"(i) Pollution liability insurance and comprehensive general liability coverage.

"(ii) Insurance related services.

"(iii) Management services.

"(3) AGENTS OR BROKERS.—A State may require that a person acting, or offering to act, as an agent or broker for a purchasing group obtain a license from that State, except that a State may not impose any qualification or requirement which discriminates against a nonresident agent or broker.

"(e) APPLICABILITY OF SECURITIES LAWS.—

"(1) OWNERSHIP INTERESTS.—The ownership interests of members of a risk retention group shall be considered to be—

"(A) exempted securities for purposes of section 5 of the Securities Act of 1933 and for purposes of section 12 of the Securities Exchange Act of 1934; and

"(B) securities for purposes of the provisions of section 17 of the Securities Act of 1933 and the provisions of section 10 of the Securities Exchange Act of 1934.

"(2) INVESTMENT COMPANY ACT.—A risk retention group shall not be considered to be an investment company for purposes of the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.).

"(3) BLUE SKY LAW.—The ownership interests of members in a risk retention group shall not be considered securities for purposes of any State blue sky law.

"SEC. 211. ENFORCEMENT CONSIDERATIONS.

"In determining the amount of a civil penalty to be assessed under section 16 of this Act against a local education agency for failure to comply with a requirement of this title or a rule or regulation issued under this title, the Administrator shall consider—

"(1) the significance of the violation;

"(2) the culpability of the violator, including any history of previous violations under this Act;

"(3) the ability of the violator to pay the penalty; and

"(4) the ability of the violator to continue to provide educational services to the community.

"SEC. 212. PREEMPTION.

"(a) Nothing in this title shall be construed or interpreted as preempting any State from imposing any additional liability or requirements with respect to asbestos or asbestos-containing material, including

the abatement thereof, in school buildings within such State.

"(b) Nothing in this title or any standard, regulation or requirement promulgated pursuant to this title shall be construed or interpreted to preclude any court from awarding costs and damages associated with the abatement, including the removal, of asbestos-containing material, or a portion of such costs, at any time prior to the actual date on which such material is removed.

"SEC. 213. DEFINITIONS.

"For purposes of this title—

"(1) the term 'Administrator' means the Administrator of the Environmental Protection Agency;

"(2) the term 'local educational agency' means—

"(A) any local educational agency as defined in section 198 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3381);

"(B) the owner of any non-profit elementary or secondary school building; and

"(C) the governing authority of any school operated, pursuant to section 6 of the Act of September 30, 1950 (Public Law 874, 81st Congress) relating to impact aid for children of members of the Armed Forces.

"(3) the term 'covered local educational agency' means any local educational agency which has under its authority, after conducting certification under section 205—

"(A) any school in which there was no inspection for asbestos-containing material or in which the local education agency is not able to certify, pursuant to section 205(a)(1), that all areas of each school building, including boiler rooms, were inspected for asbestos containing material;

"(B) any school which conducted an inspection for asbestos-containing material, found asbestos-containing material, and did not abate the asbestos-containing material; or

"(C) any school which conducted an inspection for asbestos-containing material, found asbestos-containing material, and abated the asbestos-containing material by a method other than removal.

"(4) the term 'non-profit elementary or secondary school' means any elementary or secondary school (as defined in section 198 of the Elementary and Secondary Education Act of 1965) owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual;

"(5) the term 'school building' means—

"(A) structures suitable for use as classrooms, including school facilities such as laboratories, libraries, school eating facilities, or facilities used for the preparation of food;

"(B) any gymnasium or other facility which is specially designed for athletic or recreational activities for an academic course in physical education;

"(C) other facilities used for the instruction of students or for the administration of educational or research programs; and

"(D) maintenance, storage, or utility facilities essential to the operation of the facilities described in subparagraphs (A), (B), and (C); and

"(6) the term 'State' means a State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Northern Marianas, the Trust Territory of the Pacific Islands, and the Virgin Islands.

"SEC. 214. SECRETARY OF DEFENSE TO ACT IN LIEU OF STATE GOVERNOR.

"In the administration of this title, including sections 204, 205, 206, 207, and 208, any function, duty, or other responsibility imposed on a Governor of a State shall, in the case of a school operated pursuant to section 6 of the Act of September 30, 1950 (Public Law 874, 81st Congress), for children of members of the Armed Forces, be construed as having been imposed on the Secretary of Defense.

"SEC. 215. OVERSEAS SCHOOLS OF DEPARTMENT OF DEFENSE.

"(a) REGULATIONS.—The Secretary of Defense, in cooperation with the Administrator, shall, to the extent feasible and consistent with the national security, take such action as may be necessary to provide for the identification, inspection, and management (including abatement) of asbestos in any building used by the Department of Defense as an overseas school for dependents of the Department of Defense. Such identification, inspection, and management (including abatement) shall, subject to the preceding sentence, be carried out in a manner comparable to that provided for a local educational agency and a school building under this title.

"(b) The Secretary of Defense and the Administrator shall issue such regulations as may be necessary to carry out the provisions of this section.".

SEC. 3. TECHNICAL AND CONFORMING AMENDMENTS.

(a) CONFORMING AMENDMENTS TO ASBESTOS SCHOOL HAZARD ABATEMENT ACT.—(1) Section 505(g) of the Asbestos School Hazard Abatement Act of 1984 is amended by adding at the end the following new paragraph:

"(4) No financial assistance may be provided under this section to any school which uses any person described in section 203(a)(1) (to carry out any activities described in such section) of the Toxic Substances Control Act who has not been accredited under a plan based on the model plan developed under section 203(a) of that Act. This paragraph shall apply to any financial assistance provided under this section more than 240 days after the date of the enactment of the Asbestos Hazard Emergency Response Act of 1986.".

(b) CONFORMING AMENDMENT TO TOXIC SUBSTANCES CONTROL ACT.—Section 15 of the Toxic Substances Control Act is amended in paragraph (1)—

(1) by striking out "or" before "(C)",

(2) by striking out the semicolon and inserting in lieu thereof a comma, and

(3) by adding at the end thereof the following "or (D) any requirement established by title II or any rule promulgated or order issued under title II;".

(c) TECHNICAL AMENDMENTS.—The Toxic Substances Control Act is amended—

(1) by inserting immediately before section 1 the following:

"TITLE I—CONTROL OF TOXIC SUBSTANCES";

(2) by inserting in the table of contents in section 1, immediately before the item relating to section 1, the following:

"TITLE I—CONTROL OF TOXIC SUBSTANCES";

and

(3) by adding at the end of the table of contents in section 1 the following:

"TITLE II—ASBESTOS HAZARD EMERGENCY RESPONSE

"Sec. 201. Congressional findings and purpose.
"Sec. 202. Definition of asbestos, abatement, and guidance.
"Sec. 203. Model contractor accreditation plan.
"Sec. 204. State Governor asbestos review.
"Sec. 205. Certification of school inspection and abatement.
"Sec. 206. Inspection; asbestos management plans.
"Sec. 207. Environmental Protection Agency response authority.
"Sec. 208. Abatement action.
"Sec. 209. Public protection.
"Sec. 210. Pollution insurance.
"Sec. 211. Enforcement considerations.
"Sec. 212. Preemption.
"Sec. 213. Definitions.".

SEC. 4. AUTHORIZATION.

Section 512 of the Asbestos School Hazard Abatement Act of 1984 is amended by adding at the end the following: "In addition, for such purposes there are authorized to be appropriated out of the Asbestos Trust Fund established by section 5 of the Asbestos Hazard Emergency Response Act of 1986 $25,000,000 for each of fiscal years 1987, 1988, 1989, and 1990.".

SEC. 5. ASBESTOS TRUST FUND.

(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the "Asbestos Trust Fund", consisting of such amounts as may be transferred or credited to such Trust Fund as provided in this section.

(b) TRANSFERS TO TRUST FUND.—

(1) TRANSFER.—There are hereby transferred to the Asbestos Trust Fund amounts equivalent to (A) amounts received in the Treasury on or after January 1, 1987, as repayments of loans made under section 505 of the Asbestos School Hazard Abatement Act of 1984 as in effect on the date of the enactment of this Act and (B) amounts recovered pursuant to section 207(b) of this title.

(2) MONTHLY TRANSFERS.—The amounts transferred by paragraph (1) shall be transferred at least monthly from the general fund of the Treasury to the Asbestos Trust Fund on the basis of estimates made by the Secretary of the Treasury of the amounts referred to in such paragraph. Adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were more or less than the amounts required to be transferred.

(c) MANAGEMENT OF TRUST FUND.—

(1) INVESTMENT.—

(A) IN GENERAL.—The Secretary of the Treasury shall invest such portion of the Asbestos Trust Fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States and may be acquired—

(i) on original issue at the issue price, or

(ii) by purchase of outstanding obligations at the market price.

(B) SALE OF OBLIGATIONS.—Any obligation acquired by the Asbestos Trust Fund may be sold by the Secretary of the Treasury at the market price.

(C) INTEREST ON CERTAIN PROCEEDS.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Asbestos Trust Fund shall be credited to and form a part of the Trust Fund.

(2) REPORT.—It shall be the duty of the Secretary of the Treasury to hold the Asbestos Trust Fund and (after consultation with any other trustees of the Trust Fund) to report to the Congress each year on the financial condition and the results of the operations of the Trust Fund during the preceding fiscal year and on its expected condition and operations during the next 5 fiscal years. Such report shall be printed as a

House document of the session of the Congress to which the report is made.

(d) EXPENDITURES FROM ASBESTOS TRUST FUND.—Amounts in the Trust Fund shall be available, as provided by appropriation Acts, only for purposes of carrying out the Asbestos Hazards Abatement Assistance Program under section 505 of the Asbestos School Hazard Abatement Act of 1984 as in effect on the date of the enactment of this Act.

(e) AUTHORITY TO BORROW.—

(1) IN GENERAL.—There are authorized to be appropriated to the Asbestos Trust Fund, as repayable advances, $25,000,000 for each of fiscal years 1987, 1988, 1989, and 1990.

(2) REPAYMENT OF ADVANCES.—

(A) IN GENERAL.—Advances made under this subsection shall be repaid, and interest on such advances shall be paid, to the general fund of the Treasury when the Secretary determines that moneys are available for such purposes in the Asbestos Trust Fund.

(B) RATE OF INTEREST.—Interest on advances made under this subsection shall be at a rate determined by the Secretary (as of the close of the calendar month preceding the month in which the advance is made) to be equal to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the anticipated period during which the advance will be outstanding and shall be compounded annually.

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1987.

SEC. 6. RESERVATION OF LOAN FUNDS.

Section 512 of the Asbestos School Hazardous Abatement Act of 1984 is amended by adding at the end thereof the following subsection:

"(c) Of the sums appropriated for the implementation of this title ten (10) percent or $10,000,000, whichever is less, shall be reserved during each of the fiscal years ending September 30, 1987 and 1988 for grants to States or local educational agencies to carry out the provisions of sections 205 and 206 of the Asbestos Hazard Emergency Response Act of 1986. Appropriated funds used to carry out this subsection shall be taken from funds that would otherwise be used to provide loans under this Act.".

Mr. STAFFORD. Madam President, S. 2083 is designed to deal with a very serious problem, the contamination of our schools by deadly asbestos fibers. Asbestos has been used in the construction of some 31,000 schools. As a result, an estimated 15 million students and 1.4 million teachers and other employees are potentially exposed to its fibers. When inhaled, asbestos can cause lung cancer and several other deadly diseases. Fortunately, the asbestos in most school buildings is not yet in a hazardous condition. However, through damage or normal wear and tear the danger exists that fibers will be released. And in some schools serious contamination already has occurred.

The Federal Environmental Protection Agency has been concerned with this problem for several years and has begun to take steps to solve it. Unfortunately, the present program is not adequate. Although EPA requires schools to inspect for asbestos many of the inspections have been slipshod. The Administrator has informed the committee of noncompliance rates that exceed 60 percent at the present time. Even worse, when hazardous asbestos is found the present program does not require that the hazard be abated or provide enforceable regulations governing how to abate different kinds of asbestos problems.

This bill contains three key elements designed to remedy deficiencies in the present element program.

The first is a requirement that the Environmental Protection Agency establish standards for inspection for hazardous asbestos and for making decisions about how to abate hazardous asbestos when it is found. When asbestos is located in a building but the condition of the material is such that it is not yet hazardous, the bill would require an operation and maintenance plan in order to monitor the condition of the asbestos and to avoid unnecessary disturbance of it.

The second key element is a requirement that these standards actually be followed. Schools that have not previously inspected for asbestos—or who did so incompletely—will be required to inspect these areas of school buildings that were missed or inspected incorrectly. And schools that do find hazardous asbestos will be required to take appropriate abatement action, as defined by the EPA standards.

The third key component of the bill is a contractor accreditation program to assure that person who inspect for asbestos, develop management plans or perform abatement activities are properly qualified to do so.

This bill enjoys the strong support of the Parent Teachers Association, the National Education Association, the American Federation of Teachers, The Service Employees International Union of the AFL-CIO, the American Cancer Society, the National Governors Association, the National Association of Counties and many other organizations and individuals who have written to me about it or who have submitted testimony for the RECORD.

In that regard I want to mention especially one letter that I received not long ago. A mother in Florida wrote that her 31 year old son, a medical doctor who recently finished his residency in internal medicine, has developed a rare form of cancer that appears to be caused only by asbestos. This young man never worked around asbestos. His only exposure was to damaged asbestos ceiling material in his elementary school 20 years ago. She concluded her letter by saying:

I urge you for the sake of all children that you pass measures to have all schools reinspected with the EPA. I understand that many schools have not complied or have done so in a sloppy manner. Also, when asbestos has been removed, those who were exposed should be warned so that they can look for early signs of cancer 10 or 15 years down the road.

Richard has no warning. In 1983 he went through chemotherapy, surgery and radiation. He then had a year and a half of remission but new tumors have formed so that once more he is receiving chemotherapy. There is no cure—PLEASE TAKE ACTION.

Since a similar bill already has passed the House of Representatives, it is my expectation that we will be able to resolve differences between the bills and enact this important legislation this year.

Madam President, I ask unanimous consent to have printed in the RECORD at this point a summary description of this bill.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY

Section 1 provides a short title for the Act.

Section 2 amends the Toxic Substances Control Act to establish a new Title II, as follows:

Sec. 201 contains Congressional Findings and Purpose.

Sec. 202 contains definitions and requires EPA to publish regulations defining standards for asbestos inspection, identification and abatement of asbestos-containing material which is determined under the standards to be hazardous, as well as for development of an operation and maintenance plan with respect to asbestos that remains in a building.

This section also contains a hazardous asbestos standard which would be in effect should EPA fail to publish the required standards, and requires that decisions regarding abatement or other response conform with already published EPA technical guidance if EPA fails to publish the required regulations.

Sec. 203 requires EPA to develop a model contractor accreditation program and requires States to develop a consistent accreditation program. Contractors trained under EPA-approved asbestos courses are considered accredited until State accreditation programs are in place. This section also requires that local education agencies receiving funds under the Asbestos School Hazard Abatement Act use accredited contractors.

Sec. 204 requires Governor of a State to establish procedures for reviewing asbestos management plans developed by local education agencies.

Sec. 205 requires local agencies that have performed asbestos inspection and abatement projects before enactment to certify that these projects were performed. The certification is publicly available.

Sec. 206 requires local education agencies that have not already removed all asbestos to inspect for asbestos and to develop an asbestos management plan that is consistent with the EPA standards if asbestos is found. The plan must be submitted to the Governor, who may disapprove it and require changes. A plan must be implemented within a year.

This section also authorizes the Administrator of EPA to waive the requirements of section 204 and section 206 if the State is implementing a program that contains requirements that are substantially equivalent to those of sections 204 and 206. This amendment does not authorize the Adminis-

trator to waive the substantive standards of section 202.

Sec. 207 authorizes the Administrator of EPA or the Governor of a State to act, consistent with the EPA standards, to abate an imminent and substantial endangerment created by hazardous asbestos in a school when the local education agency is not taking sufficient action. The Administrator may seek reimbursement of the costs of the abatement action from the local agency or any other potentially responsible party.

Sec. 208 authorizes the Administrator to request the Attorney General of the United States to seek in district court injunctive or other appropriate relief to abate an imminent and substantial endangerment arising from hazardous asbestos in a school. The Governor of a State is similarly authorized.

Sec. 209 prohibits discrimination against any person for providing information related to a potential violation of this title.

Sec. 210 authorizes the formation of insurance pools to insure against injuries arising from the release of asbestos. This provision is identical to the provision in the conference approved Superfund bill regarding hazardous wastes.

Sec. 211 requires the Administrator to consider a number of factors related to the specific circumstances of local education agencies when determining the appropriate amount of an administrative civil penalty under TSCA for violations of this title.

Sec. 212 states that this title does not preempt any State from imposing additional liability or requirements with respect to asbestos in school buildings.

Sec. 213 contains definitions applicable to this title.

Sec. 214 states that the various duties assigned to Governors of States shall be construed as having been imposed on the Secretary of Defense with respect to impact aid schools.

Sec. 215 applies to buildings used by the Department of Defense as overseas schools for dependents of employees of the Department of Defense. It requires the Secretary of Defense, to the extent feasible and consistent with the national security, to perform the various inspection and abatement functions required by this title in a manner comparable to that required of local education agencies. The Secretary of Defense and the Administrator shall issue such regulations as are necessary to carry out the provisions of this section.

Sec. 3 contains technical and conforming amendments to the Asbestos School Hazard Abatement Act and the Toxic Substances Control Act.

Sec. 4 amends the Asbestos School Hazard Abatement Act to refer to the Asbestos Trust Fund created by Sec. 5.

Sec. 5 establishes an Asbestos Trust Fund into which repaid loans from the Asbestos School Hazard Abatement Act will be deposited. Authorizes borrowing $25 million per year for Fiscal Years 1987, 1988, 1989, and 1990 from the general fund of the Treasury, to be repaid with interest as determined by the Secretary of the Treasury.

Sec. 6 of the bill amends The Asbestos School Hazard Abatement Act (ASHAA) to provide that, for fiscal years 1987 and 1988, ten percent of funds appropriated under ASHAA of $10 million, whichever is less, will be reserved for financial assistance grants to States or local education agencies. These grants, which are available to both public and private school districts, are to defray the expenses associated with carrying out the provisions of sections 205 and 206 of this title. The funds are to be reserved from funds otherwise used to provide loans under ASHAA. EPA distributes 50 percent of the ASHAA funds for loans to local education agencies and 50 percent for grants. The amendment ensures that the set aside will not reduce the amount of funds available for ASHAA grants to financially needy school districts.

Mr. MITCHELL. Madam President, I am very pleased that we have before us today legislation to encourage the identification and abatement of asbestos containing materials in our Nation's schools.

I would like to commend Senator STAFFORD, Senator DURENBERGER, and Senator BAUCUS for their dedication to the development of this important legislation.

It is difficult to overestimate the seriousness of the health threat exposure to asbestos poses to schoolchildren around the country. The EPA estimates that 31,000 schools contain friable asbestos. Some 15 million students and 1.4 million school employees occupy these buildings.

Exposure to even small amounts of asbestos can result in serious, life threatening diseases, including lung cancer, asbestosis, and mesothelioma. Other forms of cancer are also correlated with asbestos exposures.

While anyone exposed to asbestos runs a substantial health risk, children are at an even greater risk. Children are generally more sensitive to asbestos exposures because of higher respiration rates and a longer remaining lifetime in which disease may develop.

I am confident that the bill before us today will improve substantially the level and quality of asbestos abatement actions in schools around the country.

Much of the discussion of the bill has involved the new roles and responsibilities of the EPA. While EPA clearly will play a lead role in implementation of the legislation, success in abatement of asbestos hazards in our schools will require the full commitment of a number of other parties.

We will be relying on a large number of private contractors who inspect for asbestos and conduct the actual repair and removal of asbestos containing materials. The bill provides for development of contractor accreditation programs in the States to assure that contractors are fully qualified to conduct these tasks. While these accreditation programs are important, the quality of asbestos removal work will depend largely on the professionalism and dedication of these private contractors.

We will be relying on States to develop several key aspects of the overall program, including certification of school inspections and accreditation of contractors.

And, we are relying on individual schools to successfully come to grips with a task that is technically and financially challenging. School officials will also have to resolve these questions to the satisfaction of interested citizens.

I believe we have provided school officials, States, private contractors, and the EPA with a sound legislative framework for the abatement of asbestos in our schools. I am confident that each of these parties will do their part to make the process work.

Mr. BAUCUS. Madam President, I am pleased to be here today to speak out again in favor of S. 2083, the Asbestos Hazard Emergency Response Act of 1986.

I want to thank the chairman, Mr. STAFFORD for his leadership on this issue. I am an original cosponsor of the bill, and I have worked with the chairman to insure serious consideration of this legislation by the Senate.

In the Environment and Public Works Committee, we made several changes to the bill based on recommendations of labor unions, school organizations and officials, health officials, and the EPA. These changes have gained widespread support for S. 2083 from organizations like the American Cancer Society, the National Education Association, the National PTA, the National School Boards Association, the Service Employees International Union, and others.

Asbestos is a known cause of cancer and serious lung disease. Unfortunately prior to 1970, asbestos was used extensively in thousands of schools across the United States.

It is well documented that when released into the air, asbestos fibers can cause lung cancer, asbestosis, pleural mesothelioma, and other debilitating lung diseases.

Children are particularly vulnerable to developing these diseases due to greater sensitivity, higher respiration rates, and a longer remaining lifetime during which the diseases may develop.

Scientists have not demonstrated a threshold level below which exposure to asbestos can be considered safe. Many scientists believe there is no safe level of exposure to asbestos. The increase in the number of cancers linked to long-term asbestos exposure is the result of inadequate control of asbestos in previous decades. Enactment of this legislation will insure that additional avoidable deaths do not occur.

Those who oppose these bills have expressed concern that the cost would be too great. I too am concerned about the cost. But I refuse to accept the argument that the United States cannot afford to provide its most valuable asset, schoolchildren, with a safe environment for learning.

These bills would save money by putting a stop to the unnecessary asbestos removal projects that have taken place. These projects have cost

millions of dollars and created life threatening conditions for millions of schoolchildren, Federal employees, and building occupants.

In addition the cost to society of litigation from asbestos-related disease cases is immense and likely to grow. Arguably, avoiding future litigation by appropriate abatement today "saves" society by preventing or discontinuing public exposure to hazards that may result in disease in 15 to 40 years' time.

Dr. John Moore, EPA's Assistant Administrator of Pesticides and Toxic Substances testified in the House Subcommittee on HUD and Independent Agencies that in some cases the quality of asbestos abatement work being conducted created a problem bigger than the one school officials were trying to solve.

Up to now, the EPA has required schools to inspect for asbestos and publicize the results. However, EPA has not required schools to remove or cover the asbestos. EPA has also been very reluctant to provide schools with financial assistance to get the cleanup job done.

As a result, we still have a lot of schools with asbestos and we have the health of a lot of children at risk.

These bills will turn EPA from a passive to an active player in the effort to solve the Nation's asbestos problem.

I urge my colleagues to support this critical legislation.

Mr. LAUTENBERG. Madam President, I rise to support final passage of S. 2083, the Asbestos Hazard Emergency Response Act of 1986. As an original cosponsor of this legislation, I am pleased that it has received such strong support in the Environment and Public Works Committee and from education and labor groups, and that it is likely to become law before the end of this Congress. This progress would not have been possible without the valuable leadership of the chairman of the Environment and Public Works Committee. I compliment the chairman and his staff for their good work.

Asbestos is a health hazard. It is a potent carcinogen when damaged and releasing fibers into the air. The Environmental Protection Agency estimates that 15 million children and 1.4 million employees may be exposed to dangerous asbestos in the 31,000 schools which contain asbestos in their building materials.

The bill before the Senate today will put EPA firmly on the path to ensuring that schools seek out and clean up hazardous asbestos. It will require EPA to set standards for the identification and abatement of hazardous asbestos and for the safe conduct of that abatement. These new requirements will greatly strengthen EPA's asbestos in schools program and will enhance the ability of school districts to provide a safe and healthy environment for their students, teachers, and other employees.

Current EPA regulations require all schools to inspect and test building materials to determine the presence of friable, or crumbling and dangerous, asbestos. If the material is found, parents and school employees must be notified. EPA also provides some technical assistance to schools.

Although EPA does not require any action other than notification after asbestos is identified, many schools have decided on their own that they need to remove or otherwise abate this material. This action has not always been appropriate, but in the absence of EPA regulations, the schools have done the best they could.

The current program, while an important first step, needs strengthening. Discovering the problem is only half the battle. EPA will enter into a partnership with schools to see that hazards are dealt with appropriately. This bill will require EPA to promulgate regulations dealing with identification and abatement of asbestos. The regulations will deal with procedures for determining the presence of hazardous asbestos; standards for determining if asbestos is hazardous; mandatory abatement of hazardous asbestos; standards for performance of abatement activity; standards for operation and maintenance for non-hazardous asbestos; and standards for disposal. The bill includes provisions for setting standards if EPA fails to act in the time period set in the bill.

Another important feature of the bill is a requirement for EPA to develop a model contractor accreditation plan for the States to adopt. This plan will cover asbestos inspectors, people who develop asbestos management plans, abatement workers, and laboratory workers who analyze asbestos samples. This will help to assure that all work involving asbestos is done properly and in accordance with the best and highest standards.

All schools will be required to inspect for asbestos and maintain records on what was done. They will be required to prepare a management plan for abating hazardous asbestos and maintaining nonhazardous asbestos.

Pollution insurance and a revolving fund using the repayment of loans from ASHAA are also addressed in the bill.

Madam President, Congress and EPA have demonstrated in various ways that they recognize the dangers of loose asbestos fibers. This bill, S. 2083, will help to make certain that young schoolchildren and school workers are properly protected from this danger. No longer will cleanup activities be optional, nor will it be possible for untrained workers to conduct the cleanup. It is wrong to leave asbestos in the schools which the Nation's children must attend everyday, and which teachers and other workers must also attend. I urge passage of this legislation and look forward to its implementation.

The PRESIDING OFFICER. The question is on agreeing to the reported committee amendment in the nature of a substitute.

The committee amendment was agreed to.

The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. SIMPSON. Madam President, I ask unanimous consent that the Senate now turn to the consideration of calendar item No. 849, H.R. 5073, the House companion bill.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 5073) to amend the Toxic Substance Control Act to require the Environmental Protection Agency to promulgate regulations requiring inspection for asbestos-containing material in the Nation's schools, development of asbestos management plans for such schools, response actions with respect to friable asbestos-containing material in such schools, and for other purposes.

S. 2083, THE ASBESTOS HAZARD EMERGENCY RESPONSE ACT OF 1986

Mr. ABDNOR. Madam President, I am pleased to join with the distinguished chairman of the Committee on Environment and Public Works, Senator STAFFORD, as a cosponsor of S. 2083, the Asbestos Hazard Emergency Response Act of 1986.

The bill before us today received the unanimous support of the committee members. It is a good bill, and a very necessary one. Enactment of this measure, together with continued funding for the asbestos loan and grant program authorized under the Asbestos School Hazard Abatement Act of 1984 [ASHAA], will serve to protect our Nation's schoolchildren and employees from asbestos hazards.

This initiative calls for the identification of asbestos problems which, heretofore, have not been identified or adequately addressed. The bill includes a 10-percent set-aside of the funds appropriated for ASHAA in 1987 and 1988 to assist LEA's—local educational agencies—both public and private—in complying with the bill's requirements for inspection and identification of asbestos-containing materials in their buildings and development of O&M—operations and maintenance—plans.

The mere mention of asbestos provokes panic among parents. Asbestos, after all, is a known cause of serious lung disease: including asbestosis and mesothelioma. Children are believed to be at greater risk of contracting as-

bestos-related diseases due, in part, to the earlier period of life at which they are exposed. Prior to enactment of ASHAA, EPA did little to assist schools in coping with the presence of potentially hazardous asbestos.

Since the enactment of the loan and grant program, the Environmental Protection Agency [EPA] has made two rounds of asbestos abatement awards to school districts which have demonstrated financial need. The Agency has established within Dr. Moore's office the Asbestos Action Program. Drawing from the State of Maryland's asbestos abatement contractor specifications and Georgia Tech's contractor training program, the Agency has developed a model contractor training and certification program. Regional training centers have been established at Georgia Tech, Tufts University, Kansas University, University of California-Berkeley, and the University of Illinois. I am advised that more than 20 States now have in place contractor programs.

EPA has revised its asbestos abatement guidance document, the so-called blue book. Information detailing the extent and location of friable, or damaged, asbestos-containing materials—on a building-by-building basis—has been collected from school districts in all 50 States. States have become more involved perhaps, in part, because they play a role in determining which school districts have the most serious asbestos problems and are most deserving of financial assistance. And, EPA has been given the opportunity to provide real help to school districts in mitigating a potentially serious threat to the health of school children and school employees. I believe these efforts have proven far more helpful to school districts—and far more effective in protecting our children—than has the Agency's school inspection and notification rule.

The issue of further funding for the loan and grant program is a crucial one—particularly in light of the increased demand for asbestos abatement funds which will result under this new legislation. Today Senator STAFFORD and I had the opportunity to view firsthand the asbestos mobile training center from Kansas University—one of the fine efforts made possible through ASHAA. If we wish to make certain our schools have the assistance they need to deal with asbestos hazards safely and effectively we must continue to provide Federal financial support through ASHAA.

Thus, it is disturbing to note that the House Appropriations Committee has zeroed out funding for the asbestos loan and grant program in its fiscal year 1987 HUD-Independent Agencies appropriations bill. One must ask whether the House Committee on Appropriations is aware of what this new legislation requires. The answer must certainly be "No" as it is outrageous to think the House would pass this new mandate for our schools without at least maintaining the current Federal effort for assisting them in financing the cost of abatement—particularly when the House-passed bill—unlike the Senate Environment bill before us today—contains a section which pulls the rug out from under schools seeking compensation through the courts for the cost of abating asbestos hazards.

Section 209 of the House bill (H.R. 5073), which renders inadmissible in a court of law the language of the bill and any standards and regulations developed pursuant to it, is highly offensive to the National School Boards Association, the American Association of School Administrators, the Service Employees International Union [SEIU], and many of the other interest groups that speak on behalf of our Nation's school children and employees. If enacted, section 209 of the House bill would make it difficult, if not impossible, for schools to successfully seek compensation from the asbestos industry for the cost of abating asbestos hazards.

Madam President, I wish to congratulate my friend from Vermont on a job well done. He has done a masterful job in moving this bill through the Senate. Once again, Senator STAFFORD has demonstrated his strong commitment to protecting the children of this Nation. I am proud to serve on his committee and I thank both he and his fine staff for working so diligently to accommodate the concerns I expressed as we worked to develop the best possible asbestos-in-schools bill. I also wish to thank the distinguished chairman of the Subcommittee on Toxic Substances and Environmental Oversight, Senator DURENBERGER, for his assistance and that of his able staff. I look forward to working with them to expedite enactment of S. 2083.

Madam President, as the author of ASHAA, I also look forward to continuing to work to ensure adequate funds to assist our schools in mitigating asbestos hazards as we move forward with the consideration of appropriations for the coming fiscal year.

Mr. SIMPSON. Madam President, I move to strike all after the enacting clause and insert the text of S. 2083, as amended.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

The question is on the engrossment of the amendment and third reading of the bill.

The bill was read a third time.

The bill having been read the third time, the question is, shall it pass?

So the bill (H.R. 5073), as amended, was passed.

Mr. SIMPSON. Madam President, I move to reconsider the vote by which the bill was passed.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SIMPSON. Madam President, I ask unanimous consent that S. 2083 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

REMOVAL OF INJUNCTION OF SECRECY

Mr. SIMPSON. Madam President, as in executive session I ask unanimous consent that the injunction of secrecy be removed from a tax convention with the United Kingdom on behalf of the Government of Bermuda, Treaty Document No. 99-30, which was transmitted to the Senate yesterday by the President of the United States.

I further ask that the treaty be considered as having been read the first time, that it be referred with accompanying papers to the Committee on Foreign Relations in order to be printed, and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection it is so ordered.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

To the Senate of the United States:

I transmit herewith, for Senate advice and consent to ratification, the Convention between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland (on behalf of the Government of Bermuda) Relating to the Taxation of Insurance Enterprises and Mutual Assistance in Tax Matters, together with a related exchange of notes, signed at Washington on July 11, 1986. I also transmit the report of the Department of State on the Convention.

The Convention is the first tax treaty applicable to Bermuda to be negotiated between the United States and the United Kingdom. It is not a comprehensive income tax treaty; rather it is limited to two issues: the taxation of insurance enterprises and mutual assistance in tax matters. Nevertheless, the Convention should have a beneficial impact on our overall relationship with Bermuda.

I recommend that the Senate give early and favorable consideration to the Convention, together with the related exchange of notes, and give its advice and consent to ratification.

RONALD REAGAN.

THE WHITE HOUSE, *September 9, 1986.*

JOINT MEETING OF THE TWO HOUSES—APPOINTMENT OF ESCORT COMMITTEE

Mr. SIMPSON. Madam President, I ask unanimous consent that it be in order to appoint a committee on the part of the Senate to join with a like committee on the part of the House of Representatives to escort President Jose Sarney of the Federative Republic of Brazil into the House Chamber for the joint meeting to be held at 10 a.m. on September 11, 1986.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CALENDAR

Mr. SIMPSON. Madam President, I would like to inquire of the acting Democratic leader if he is in a position to pass any or all of the following calendar items: Calendar No. 508, Calendar No. 785, Calendar No. 814, Calendar No. 815, Calendar No. 816, Calendar No. 817, and Calendar No. 866.

Mr. PROXMIRE. Madam President, all of these measures have been cleared on the minority side, and we would be willing to have them passed en bloc.

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Mr. SIMPSON. Madam President, I would then ask unanimous consent that the calendar items just identified be considered en bloc, and passed en bloc, and that all committee-reported amendments and preambles will be considered agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

FRANKLIN EDDY CANAL

The bill (H.R. 3443) to designate the closed basin conveyance channel of the closed basin division, San Luis Valley project, Colorado, as the "Franklin Eddy Canal," was considered, ordered to a third reading, read the third time, and passed.

RELIEF OF JENS-PETER BERNDT

The Senate proceeded to consider the bill (S. 2271) for the relief of Jens-Peter Berndt.

Mr. DENTON. Mr. President, I rise in support of S. 2271, a bill which I introduced to assist Jens-Peter Berndt in becoming a citizen of the United States. I have been joined in sponsoring the bill by my distinguished colleagues, Senators HEFLIN, STEVENS, MURKOWSKI, KASSEBAUM, and NICKLES.

Jens-Peter Berndt, or Peter, is 22 years old and a native of the German Democratic Republic, better known as East Germany, a Communist-bloc state. On January 7, 1985, while in Oklahoma City as a member of the East German swim team, Peter requested and was granted political asylum in the United States. He made that courageous decision, at great personal risk, because he wanted to become an American and live in freedom.

Peter was fortunate to be legally adopted in September of 1985, by Mr. and Mrs. Thomas L. Patterson of Birmingham, AL. The Pattersons have provided him with the love, family life and guidance that have been so immeasurably important in assisting Peter in making the transition to American life.

Peter is currently enrolled at the University of Alabama in Tuscaloosa, where he is a member of the swim team and is a dean's list student. He is an amateur swimmer of Olympic caliber, and is a former world record holder in the 400 meter individual medley. Unfortunately, Peter was prevented from competing in the 1984 summer Olympic games in Los Angeles due to the Soviet-sponsored boycott of the games which was joined by East Germany.

It is Peter's desire, and that of the U.S. Olympic Swimming Team, that he compete for the United States in the 1988 Olympic games. However, in order to do so, the rules of the U.S. Olympic Committee require that he be a U.S. citizen. Furthermore, he must be a citizen in order to compete in a number of key international swimming meets which are important preliminary steps to qualifying for the 1988 Olympic team. Already, Peter has been prevented from participating this summer in the Goodwill games in Moscow and the World Championships in Spain because he is not a U.S. citizen.

Without private relief legislation, Peter would not satisfy the residency and physical presence requirements for naturalization under section 316 of the Immigration and Nationality Act until 1990. This would result in extreme hardship in Peter's case, because by 1990 he will be far beyond his prime as a competitive swimmer. Thus, 1988 is probably Peter's last chance to compete for the United States in the Olympics.

S. 2271 provides that Peter be deemed to have satisfied the residency and physical presence requirements so that he may be naturalized at the earliest possible date. This will permit Peter to represent the United States in upcoming international competition and the 1988 Olympics.

The bill also provides that Peter be admitted for permanent residence in the United States, as that is a prerequisite for naturalization. Although he is lawfully present in the United States by reason of his asylum status, he has not yet been granted permanent resident status.

Finally, the bill provides that Peter will not be ineligible for U.S. citizenship because of his former life in a Communist country. Peter was raised in a country in which, tragically, Communist repression permeates every segment of public and private life, and in which athletes, in particular, are exploited for the government's purposes. Peter did not choose to be born into such a system; but, when the time came to make a choice, he bravely chose to be free and to be an American.

I believe that Peter Berndt's situation presents a compelling and appropriate case for private relief legislation to expedite his naturalization as a U.S. citizen. Here is a young man who, at the age of 21, risked everything to defect from Communist East Germany to the United States.

It should be noted that if Peter's only interest was to compete in international competition and the 1988 Olympics, he could become a West German citizen automatically and swim for West Germany. But that is not his sole motivation. As Peter says, "I want to become an American, not a West German."

I am proud to sponsor legislation to assist this fine young man in his quest for American citizenship. His story is an inspiration to us all and an embodiment of the "American Dream" in its finest sense. He has demonstrated his devotion to American ideals and his desire and willingness to work hard to succeed in this country. I believe Peter will make an outstanding citizen, and I urge my colleagues to vote for passage of S. 2271.

Thank, you, Mr. President.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 2271) was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 2271

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) notwithstanding paragraphs (14) and (28) of section 212(a) of the Immigration and Nationality Act, for purposes of such Act, Jens-Peter Berndt shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act. Upon the granting of permanent residence to such alien as provided for in this Act, the number of refugee admissions available for adjustment of status of aliens under section 209(b) of such Act shall be reduced by one number.

(b)(1) Jens-Peter Berndt shall be held and considered to have satisfied the provisions of section 316 of the Immigration and Nationality Act which relate to required periods of residence and physical presence within the United States and shall not be held or considered to be within any of the classes of persons described in section 313 of such Act.

(2) Notwithstanding the provisions of section 310(d) of such Act, Jens-Peter Berndt may be naturalized at any time after the

date of enactment of this Act if otherwise eligible for naturalization under this Act and the Immigration and Nationality Act.

REFERRAL OF S. 273 TO THE COURT OF CLAIMS

The resolution (S. Res. 48) to refer S. 273, entitled "A bill for the relief of Mildred C. Eide of Leavenworth, Kansas" to the chief judge of the United States Claims Court for a report thereon, was considered, and agreed to, as follows:

S. RES. 48

Resolved, That S. 273 entitled "A bill for the relief of Mildred C. Eide of Leavenworth, Kansas" now pending in the Senate, together with all accompanying papers, is referred to the chief judge of the United States Claims Court. The chief judge shall proceed according to the provisions of sections 1492 and 2509 of title 28, United States Code, and report back to the Senate, at the earliest practicable date, giving such findings of fact and conclusions that are sufficient to inform the Congress of the nature and character of the demand as a legal or equitable claim against the United States or a gratuity, and the amount, if any, legally or equitably due from the United States to the claimant.

RELIEF OF GERALD M. HENDLEY

The Senate proceeded to consider the bill (H.R. 1529) for the relief of Gerald M. Hendley.

Mr. COCHRAN. Mr. President, I want to commend the chairman and members of the Subcommittee on Administrative Practice and Procedure, and the full Judiciary Committee, for reporting H.R. 1529, a bill for the relief of Gerald M. Hendley.

This legislation is identical to S. 299, a bill I introduced on behalf of Mr. Hendley. It would remove obstacles that have prevented Mr. Hendley from seeking legal redress for permanent, disabling injuries he suffered as a child. Mr. Hendley has been persistent in pursuing his rights for many years, and I commend him for his perseverance.

Mr. President, the relief provided by H.R. 1529 is clearly justified. I hope the Senate will approve this legislation.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 1529) was ordered to a third reading, was read the third time, and passed.

RELIEF OF MARY E. STOKES

The bill (H.R. 1783) for the relief of Mary E. Stokes, was considered, ordered to a third reading, read the third time, and passed.

RELIEF OF PAULETTE MENDES-SILVA

The bill (H.R. 2316) for the relief of Paulette Mendes-Silva, was considered, ordered to a third reading, read the third time, and passed.

ADDITION OF CERTAIN LANDS TO THE HAWAII VOLCANOES NATIONAL PARK

The Senate proceeded to consider the bill (S. 2320) to amend an act to add certain lands on the Island of Hawaii to Hawaii Volcanoes National Park, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italic.)

S. 2320

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADDITION TO HAWAII VOLCANOES NATIONAL PARK

The Act entitled "An Act to add certain lands on the island of Hawaii to the Hawaii National Park, and for other purposes" (52 Stat. 781; 16 U.S.C. 391b) is amended by adding at the end the following new section:

"SEC. 5. (a) Notwithstanding any other provision of this Act, the Secretary of the Interior (hereinafter referred to as the 'Secretary') is authorized to acquire by **[**purchase with donated or appropriated funds, donation,**]** *donation* or exchange the land and interests therein comprising approximately 5,650 acres and identified as tract number 118/22 on the map entitled 'Recommended Land Acquisition', in the Hawaii Volcanoes National Park Land Protection Plan as recommended May 17, 1985, which plan shall be on file and available for public inspection in the office of the Director, National Park Service, Department of the Interior, Washington, D.C. and the Office of the Superintendent, Hawaii Volcanoes National Park, Hawaii.

"(b) In exercising his authority to acquire the real property referred to in subsection (a) by exchange, the Secretary may accept title thereto and in exchange therefor he may convey to the grantor of such real property title to any United States Government real property under his administrative jurisdiction, other than real property within or administered as a part of the National Park System, in the State of Hawaii which he determines is suitable for such exchange. The values of the properties exchanged shall be approximately equal, or if they are not approximately equal, the values shall be equalized by the payment of money to the grantor or to the Secretary as the circumstances require. In no circumstance shall an equalization payment exceed one fourth (25 percent) the appraised value of the real property referred to in subsection (a). Any money paid on the Secretary shall be deposited as miscellaneous receipts in the Treasury of the United States.

"(c) Real property owned by the State of Hawaii or any political subdivision thereof may be acquired only by donation or exchange.

"(d)(1) In order to facilitate the acquisition of the real property referred to in subsection (a) by exchange, notwithstanding any other provision of law, upon request of the Secretary, the Administrator of General Services shall transfer to the Secretary, without reimbursement, administrative jurisdiction over any excess or surplus United States Government real property in the State of Hawaii for purposes of such an exchange.

"(2) For the purposes of a land exchange with the State of Hawaii, the Secretary shall consult with the State of Hawaii in the process of identifying suitable exchange lands belonging to the United States Government.

"(3) For the purposes of a land exchange with the State of Hawaii, real property owned by the United States Government and selected for use in a land exchange shall not be from among those lands ceded to the United States Government.

"(e) The real property acquired by the Secretary pursuant to this section shall be administered by the Secretary as part of Hawaii Volcanoes National Park, subject to the laws and regulations applicable to the Park

["(f) There is hereby authorized to be appropriated such sums as may be necessary to carry out the acquisition of real property under this section.".**]**

"(f) There is hereby authorized to be appropriated up to $700,000 to carry out the purpose of this section.".

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. SIMPSON. Madam President, I move to reconsider the vote by which the various items were passed or agreed to.

Mr. PROXMIRE. Madam President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDERS FOR THURSDAY

RECESS UNTIL 10:30 A.M.

Mr. SIMPSON. Madam President, I ask unanimous consent that once the Senate completes its business today, it stand in recess until the hour of 10:30 a.m. on Thursday, September 11, 1985.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE RECOGNITION OF CERTAIN SENATORS

Mr. SIMPSON. Madam President, following the recognition of the two leaders under the standing order, I ask unanimous consent that the following Senators be recognized for not to exceed 5 minutes each: Senators HAWKINS, PROXMIRE, MURKOWSKI, LEVIN, TRIBLE, BINGAMAN, and HARKIN.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. SIMPSON. Madam President, following the execution of the special orders just identified, I ask unanimous consent that there be a period for the transaction of routine morning business, not to extend beyond the hour of 11 a.m., with Senators permitted to

speak therein for not more than 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF WILLIAM REHNQUIST

Mr. SIMPSON. Madam President, at 11 a.m., it is the intention of the majority leader to go into executive session to begin consideration of the nomination of William Rehnquist to be Chief Justice of the Supreme Court.

Votes could occur during Thursday's session and the Senate could be asked to remain in session rather late into the evening.

I think it is important for all of us to know that the agenda is heavy. The adjournment date is October 3, and the majority leader and the minority leader are desirous of obtaining that goal.

The way we will do that is to have a little bit of distruption in our ordinary activities, with Monday activity and voting, Friday activity and voting, and undoubtedly we will see some Saturday activity.

Senators should be prepared for a session into the evening tomorrow.

VISIT BY THE PRESIDENT OF BRAZIL

Mr. SIMPSON. Madam President, I remind all Senators that at 10 a.m. tomorrow there is a joint session to hear an address by the President of Brazil. Senators are asked to assemble in the Senate Chamber at 9:30 a.m. in order to proceed as a body to the Hall of the House of Representatives to hear that address.

I will inquire of my friend from Wisconsin, the acting Democratic leader, if he has further business.

Mr. PROXMIRE. I thank my good friend. No, I have no further observations, except that the acting majority leader is a fine fellow.

Mr. SIMPSON. I thank my friend from Wisconsin.

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RECESS UNTIL 10:30 A.M. TOMORROW

Mr. SIMPSON. Mr. President, I move, in accordance with the previous order, that the Senate stand in recess until the hour of 10:30 a.m. on Thursday, September 11, 1986.

The motion was agreed to and, at 7:26 p.m., the Senate recessed until Thursday, September 11, 1986, at 10:30 a.m.

NOMINATIONS

Executive nominations received by the Senate September 10, 1986:

DEPARTMENT OF STATE

James Roderick Lilley, of Maryland, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Korea.

Ronald DeWayne Palmer, of the District of Columbia, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Mauritius.

David A. Korn, of the District of Columbia, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Togo.

DEPARTMENT OF JUSTICE

George MacKenzie Rast, of Florida, to be a Commissioner of the U.S. Parole Commission for a term of 6 years, vice Paula A. Tennant, resigned.

EXECUTIVE OFFICE OF THE PRESIDENT

Robert P. Bedell, of Virginia, to be Administrator for Federal Procurement Policy, vice Donald E. Sowle, resigned.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Robert B. Stevens, of Pennsylvania, to be a member of the National Council on the Humanities for a term expiring January 26, 1992, vice Philip Aaron Schaefer, term expired.

IN THE AIR FORCE

The following Air National Guard of the United States officers for promotion in the Reserve of the Air Force under the provisions of sections 593 and 8379, title 10 of the United States Code. Promotions made under section 8379 and confirmed by the Senate under section 593 shall bear an effective date established in accordance with section 8374, title 10 of the United States Code (effective dates in parenthesis):

LINE OF THE AIR FORCE

To be lieutenant colonel

Maj. Michael G. Beadle, [redacted] (5/1/86).
Maj. Grant E. Bollen, [redacted] (6/9/86).
Maj. Thomas J. Bunting, [redacted] (6/16/86).
Maj. Richard H. Clevenger, [redacted], (5/29/86).
Maj. Douglas M. Devlaming, [redacted], (5/30/86).
Maj. Jerald A. Dorethy, [redacted] (6/7/86).
Maj. Gordon G. Heiniger, [redacted] (6/8/86).
Maj. Walter F. Huebner, Jr. [redacted], (6/7/86).
Maj. Ted E. Innes, [redacted] (6/7/86).
Maj. Peter W. Kelly, [redacted] (6/6/86).
Maj. Robert W. Lewis, [redacted] (6/8/86).
Maj. James F. Mathias, Jr. [redacted], (3/2/86).
Maj. Wallace F. Pickard, Jr. [redacted], (6/4/86).
Maj. Dwight E. Sisk, [redacted] (5/28/86).
Maj. Richard O. Tsuchiya, [redacted], (5/30/86).
Maj. Richard G. Tucker, [redacted] (5/6/86).
Maj. Mark T. Ward, [redacted] (5/21/86).
Maj. Benny E. White, [redacted] (6/8/86).

LEGAL

To be lieutenant colonel

Maj. Michael J. Princi, [redacted] (6/17/86).

MEDICAL CORPS

To be lieutenant colonel

Maj. Nelson G. Escobar, [redacted] (4/19/86).

DENTAL CORPS

To be lieutenant colonel

Maj. Lloyd Y. Uto, [redacted] (5/15/86).

IN THE AIR FORCE

The following officers for promotion as a Reserve of the Air Force, under the provisions of sections 593, 8366 and 8372, title 10, United States Code. Promotions made under section 8372 and confirmed by the Senate under section 593 shall bear an effective date of September 30, 1986. All other officers shall be promoted upon completion of 7 years of promotion service and 21 years of total service:

LINE OF THE AIR FORCE

Major to lieutenant colonel

Adams, John L., [redacted]
Adams, Walter W., [redacted]
Adee, Eugene C., [redacted]
Adinolfi, Frank J., Jr., [redacted]
Alexander, William P., [redacted]
Alford, James A., [redacted]
Anderson, Lester M., [redacted]
Angelisanti, Dennis L., [redacted]
Anthony, Ronald R., [redacted]
App, Frank J., [redacted]
Armistead, Jack R., [redacted]
Arndt, Richard A., [redacted]
Arnold, James F., II, [redacted]
Arnold, Richard W., [redacted]
Arrington, Ronald L., [redacted]
Attkisson, Bobbie W., [redacted]
Aylard, John E., [redacted]
Baker, Larry E., [redacted]
Baldone, James C., Jr., [redacted]
Baldwin, Kenneth D., [redacted]
Balsier, Manuel, Jr., [redacted]
Barbieri, Frank F., Jr. [redacted]
Barbieri, Richard E., [redacted]
Barnard, David W., [redacted]
Barnes, Michael W., [redacted]
Barr, Charles M., [redacted]
Barras, Ralph J., [redacted]
Barry, Edward G., [redacted]
Bartley, John F., [redacted]
Bartoski, Thomas D., [redacted]
Bashore, Richard L., [redacted]
Bellizzi, John J., Jr., [redacted]
Below, Donald N., [redacted]
Benton, James N., [redacted]
Berry, Kevin J., [redacted]
Berry, Ralph C., Jr., [redacted]
Berry, Robert W., [redacted]
Bertrand, James V., [redacted]
Bielo, Edward J., [redacted]
Billison, Thomas J., [redacted]
Bily, David J., [redacted]
Birosak, John J., [redacted]
Black, Gerald A., [redacted]
Black, Raymond C., [redacted]
Blackwell, Joseph E., Jr., [redacted]
Blakley, Gene A., Sr., [redacted]
Blaylock, Arden L., [redacted]
Blum, Edward F., Jr., [redacted]
Blumer, Charles J., [redacted]
Bobrowski, Lawrence M., [redacted]
Bochicchio, Leonard P., [redacted]
Bongberg, Jack W., Jr., [redacted]
Boshears, Willis M., Jr., [redacted]
Bost, James L., [redacted]
Boughton, Grant S., [redacted]
Bouslough, Denis A., [redacted]
Bowen, Vernon W., Jr., [redacted]
Bowen, William W., [redacted]
Bowmar, Edward A., [redacted]
Boyle, Matthew A., [redacted]
Bradley, Richard D., [redacted]

Bradshaw, Duard D., xxx-xx-xxxx
Brandsberg, Steven R., xxx-xx-xxxx
Brassington, Lester M., Jr., xxx-xx-xxxx
Break, Edward M., xxx-xx-xxxx
Brewster, James H., III., xxx-xx-xxxx
Bridewell, Duncan L., xxx-xx-xxxx
Brines, Robert O., Jr., xxx-xx-xxxx
Brockhurst, Gerald E., xxx-xx-xxxx
Brockmann, Stephen S., xxx-xx-xxxx
Brooks, Patrick R., xxx-xx-xxxx
Brooks, Philip M., xxx-xx-xxxx
Brown, Gerald S., xxx-xx-xxxx
Brown, Stanley L., xxx-xx-xxxx
Brown, William E., II., xxx-xx-xxxx
Burbage, Thomas M., Jr., xxx-xx-xxxx
Burdick, Howard M., xxx-xx-xxxx
Burke, Michael A., xxx-xx-xxxx
Burkhalter, Michael D., xxx-xx-xxxx
Burkhard, Bruce J., xxx-xx-xxxx
Butler, Charles E., xxx-xx-xxxx
Butler, William E., Jr., xxx-xx-xxxx
Butz, Thomas W., xxx-xx-xxxx
Caffey, Joseph G., xxx-xx-xxxx
Campbell, Warren A., xxx-xx-xxxx
Carlson, James F., xxx-xx-xxxx
Carlson, Rodney L., xxx-xx-xxxx
Carpenter, Allen W., xxx-xx-xxxx
Carter, James W., xxx-xx-xxxx
Carver, Gordon W., xxx-xx-xxxx
Casey, Harold F., Jr., xxx-xx-xxxx
Casper, Gerald D., xxx-xx-xxxx
Cassorla, Peris, xxx-xx-xxxx
Cattolica, Vincent J., xxx-xx-xxxx
Cauthen, Thomas L., xxx-xx-xxxx
Cecil, Richard L., xxx-xx-xxxx
Chapman, Jerry K., xxx-xx-xxxx
Chapman, John W., xxx-xx-xxxx
Chenoweth, John L., xxx-xx-xxxx
Chidester, James R., Jr., xxx-xx-xxxx
Christensen, Eric W., xxx-xx-xxxx
Cienaski, Walter J., Jr., xxx-xx-xxxx
Clark, Howard M., Jr., xxx-xx-xxxx
Clarke, Gary, xxx-xx-xxxx
Cloer, Warren C., xxx-xx-xxxx
Clune, Alan B., xxx-xx-xxxx
Cobb, Howell D., III., xxx-xx-xxxx
Cobern, James M., xxx-xx-xxxx
Cochran, Donald R., xxx-xx-xxxx
Cochran, Mary A., xxx-xx-xxxx
Cogger, William L., Jr., xxx-xx-xxxx
Colley, Francis D., xxx-xx-xxxx
Commander, John B., Jr., xxx-xx-xxxx
Conforti, Peter, xxx-xx-xxxx
Conklin, Benjamin H., Jr., xxx-xx-xxxx
Cooney, Edward J., xxx-xx-xxxx
Cooper, William D., xxx-xx-xxxx
Corens, Theodore P., xxx-xx-xxxx
Corley, Thomas L., xxx-xx-xxxx
Corson, William E., xxx-xx-xxxx
Cotton, Hiawatha, xxx-xx-xxxx
Craig, George H., Jr., xxx-xx-xxxx
Crane, William B., Jr., xxx-xx-xxxx
Cranston, George D., xxx-xx-xxxx
Crawford, Donald E., xxx-xx-xxxx
Crawford, Louis M., Jr., xxx-xx-xxxx
Crompton, Louis W., Jr., xxx-xx-xxxx
Crosher, Frederick K., xxx-xx-xxxx
Cummings, James W., xxx-xx-xxxx
Cunningham, Thomas L., xxx-xx-xxxx
Cureton, Roy W., Jr., xxx-xx-xxxx
Curtin, James P., xxx-xx-xxxx
Custer, Gregory E., xxx-xx-xxxx
Cutrell, Charles R., xxx-xx-xxxx
Cutright, Robert C., xxx-xx-xxxx
Dais, William F., xxx-xx-xxxx
Daley, Robert A., xxx-xx-xxxx
Damico, Leonard B., xxx-xx-xxxx
Danahy, John M., xxx-xx-xxxx
Dannheiser, Charles C., xxx-xx-xxxx
Daqui, Paul J., xxx-xx-xxxx
Darnell, Donald R., xxx-xx-xxxx
David, Louis C., Jr., xxx-xx-xxxx
Davidson, William F., xxx-xx-xxxx
Davis, Charles W., xxx-xx-xxxx
Davis, Herbert G., Jr., xxx-xx-xxxx
Davis, Marin O., Jr., xxx-xx-xxxx
Davis, Richard G., xxx-xx-xxxx
Davis, Robert J., xxx-xx-xxxx
Davis, Rodney S., xxx-xx-xxxx
Davis, Thomas E., xxx-xx-xxxx
Dean, Ronald J., xxx-xx-xxxx
Decker, Daniel E., xxx-xx-xxxx
Dejulius, Daniel W., xxx-xx-xxxx
Detenley, Donald R., xxx-xx-xxxx
Devoss Richard A., xxx-xx-xxxx
Dewees, Ronald H., xxx-xx-xxxx
Dobson, Gordon W., xxx-xx-xxxx
Dodson, Dennis N., xxx-xx-xxxx
Dodson, Geraldine B., xxx-xx-xxxx
Doetzer, William E., xxx-xx-xxxx
Donovan, Steven R., xxx-xx-xxxx
Dooley, Gary W., xxx-xx-xxxx
Downing, Glenn R., xxx-xx-xxxx
Dreesmann, John R., xxx-xx-xxxx
Druist, George F., xxx-xx-xxxx
Duelfer, Rudolph F., III, xxx-xx-xxxx
Duerksen, Jarol F., xxx-xx-xxxx
Dulaney, Arthur A., III, xxx-xx-xxxx
Dull, Richard F., xxx-xx-xxxx
Eads, Harvey C., Jr., xxx-xx-xxxx
Eames, Andrew V., Jr., xxx-xx-xxxx
Earls, Allen R., xxx-xx-xxxx
East, Spurgeon L., xxx-xx-xxxx
Eastler, Thomas E., xxx-xx-xxxx
Easty, Kent M., xxx-xx-xxxx
Egan, Daniel J., Jr., xxx-xx-xxxx
Eigenrauch, David W., xxx-xx-xxxx
Ellis, James M., xxx-xx-xxxx
Ernst, Ronald R., xxx-xx-xxxx
Etherington, Burton H., III, xxx-xx-xxxx
Evans, Donald L., xxx-xx-xxxx
Evans, Philip B., xxx-xx-xxxx
Evans, Winston C., xxx-xx-xxxx
Falkenberg, Neil R., xxx-xx-xxxx
Falsetti, Patrick A., xxx-xx-xxxx
Farris, James R., xxx-xx-xxxx
Fenner, James H., xxx-xx-xxxx
Fennerty, Augustus M., xxx-xx-xxxx
Findlay, William R., xxx-xx-xxxx
Fisher, John L., xxx-xx-xxxx
Floyd, Kenneth W., xxx-xx-xxxx
Fogal, Donald A., xxx-xx-xxxx
Ford, Charleigh D., Jr., xxx-xx-xxxx
Fosnot, Robert G., xxx-xx-xxxx
Foster, Jan B., xxx-xx-xxxx
Foster, Kevin J., xxx-xx-xxxx
Fox, Douglas V., xxx-xx-xxxx
Frank, Paul S., Jr., xxx-xx-xxxx
French, Philip L., xxx-xx-xxxx
Fricke, Garfield J., xxx-xx-xxxx
Fried, L. Richard, Jr., xxx-xx-xxxx
Fritzsch, Ralph B., xxx-xx-xxxx
Fuhs, Henry G., Jr., xxx-xx-xxxx
Fuller, Jay D., xxx-xx-xxxx
Funck, William R., xxx-xx-xxxx
Futch, Henry C., III, xxx-xx-xxxx
Gallagher, Francis P., xxx-xx-xxxx
Gallagher, John J., xxx-xx-xxxx
Gallin, James P., xxx-xx-xxxx
Gardner, Kenon J., xxx-xx-xxxx
Garvey, Robert E., xxx-xx-xxxx
Gatz, James R., xxx-xx-xxxx
George, Richard D., xxx-xx-xxxx
Geuss, Adam R., xxx-xx-xxxx
Gieleghem, Ronald A., xxx-xx-xxxx
Glenn, Russell D., xxx-xx-xxxx
Goodman, Geoffrey H., xxx-xx-xxxx
Goodrich, Ralph E., xxx-xx-xxxx
Goodwin, Marshal Jr., xxx-xx-xxxx
Goolik, George M., xxx-xx-xxxx
Gordon, James E., II, xxx-xx-xxxx
Gose, Lon D., xxx-xx-xxxx
Gould, Bruce A., xxx-xx-xxxx
Grabowski, Conrad J., xxx-xx-xxxx
Graham, Janice L., xxx-xx-xxxx
Grams, Jack J., xxx-xx-xxxx
Graves, Michael W., xxx-xx-xxxx
Gray, David L., xxx-xx-xxxx
Green, Glen D., xxx-xx-xxxx
Green, John D., xxx-xx-xxxx
Greene, Edward H., II, xxx-xx-xxxx
Greene, William D., xxx-xx-xxxx
Gutierrez, Hector, Jr., xxx-xx-xxxx
Gwin, John T., xxx-xx-xxxx
Haddon, John R., xxx-xx-xxxx
Hadlow, Gordon E., xxx-xx-xxxx
Hadzima, Alfred J., xxx-xx-xxxx
Hall, Richard L., xxx-xx-xxxx
Halliday, John T., II, xxx-xx-xxxx
Haney, Donald L., xxx-xx-xxxx
Hanna, William T., xxx-xx-xxxx
Harala, Harvey W., Jr., xxx-xx-xxxx
Harbour, Aubert O., xxx-xx-xxxx
Hari, Louis, xxx-xx-xxxx
Harnsberger, Royce J., xxx-xx-xxxx
Harris, Michael R., xxx-xx-xxxx
Harris, Richard H., Jr., xxx-xx-xxxx
Hart, Calvin R., xxx-xx-xxxx
Hart, Roger T., xxx-xx-xxxx
Harvey, James A., Jr., xxx-xx-xxxx
Harvey, Ronald R., xxx-xx-xxxx
Hastings, James R., xxx-xx-xxxx
Hawes, Gerry W., III, xxx-xx-xxxx
Hayes, Thomas P., xxx-xx-xxxx
Heim, Richard J., xxx-xx-xxxx
Heimbigner, Joel G., xxx-xx-xxxx
Henderson, Ervey J., xxx-xx-xxxx
Henderson, Joe L., xxx-xx-xxxx
Herche, Lynn R., xxx-xx-xxxx
Herzig, Thomas L., xxx-xx-xxxx
Hesseltine, John C., xxx-xx-xxxx
Hester, John C., xxx-xx-xxxx
Hewett, Kenneth G., xxx-xx-xxxx
Hinst, Raymond V., Jr., xxx-xx-xxxx
Hisey, John M., xxx-xx-xxxx
Hoagland, Earnest P., Jr., xxx-xx-xxxx
Holbert, Stephen E., xxx-xx-xxxx
Hollingsworth, Harry D., Jr., xxx-xx-xxxx
Hollobaugh, Mark R., xxx-xx-xxxx
Holman, Colin M., xxx-xx-xxxx
Holt, Robert D., xxx-xx-xxxx
Hornby, Richard D., xxx-xx-xxxx
Horton, John W., xxx-xx-xxxx
Howard, Elias M., xxx-xx-xxxx
Howard, James W., xxx-xx-xxxx
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Hrubes, James W., xxx-xx-xxxx
Hughes, Christian B., xxx-xx-xxxx
Hull, Daniel D., xxx-xx-xxxx
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Hunt, Thomas V., xxx-xx-xxxx
Huntoon, Gene F., xxx-xx-xxxx
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Irion, William M., III, xxx-xx-xxxx
Isaacs, Paul R., xxx-xx-xxxx
Jackameit, William P., xxx-xx-xxxx
Jackson, Gary W., xxx-xx-xxxx
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Johnson, Darrell T., xxx-xx-xxxx
Jones, Barry E., xxx-xx-xxxx
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Joniec, Christopher M., xxx-xx-xxxx
Kaeppel, Paul H., xxx-xx-xxxx
Kahane, Richard A., xxx-xx-xxxx
Kapsaroff, John C., xxx-xx-xxxx
Karrmann, Edward R., xxx-xx-xxxx
Kasparian, A. Frank, xxx-xx-xxxx
Kasperek, Brian K., xxx-xx-xxxx
Kaul, Mahendra, xxx-xx-xxxx
Kaupert, Andrew W., xxx-xx-xxxx
Keefe, Donald J., xxx-xx-xxxx
Keller, Arthur B., xxx-xx-xxxx
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Kelley, Jack L., xxx-xx-xxxx
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Kinley, Robert W., xxx-xx-xxxx
Kirchner, Robert D., xxx-xx-xxxx
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Kisgen, Michael J., xxx-xx-xxxx
Kjeldsen, John P., xxx-xx-xxxx
Klass, Ronald G., xxx-xx-xxxx
Klauk, William H., xxx-xx-xxxx
Klaus, Harold F., Jr., xxx-xx-xxxx
Klumpp, Jon B., xxx-xx-xxxx
Knecht, John C., xxx-xx-xxxx
Knighton, William M., xxx-xx-xxxx
Komich, John N., xxx-xx-xxxx
Konduris, Theodore N., xxx-xx-xxxx
Kopp, Gary L., xxx-xx-xxxx
Kosinski, Richard J., xxx-xx-xxxx
Kostival, Francis, xxx-xx-xxxx
Kovsky, Mark Y., xxx-xx-xxxx
Krecic, Ronald J., xxx-xx-xxxx
Kriss, Robert S., xxx-xx-xxxx
Kuhlmeyer, William J., xxx-xx-xxxx
Kunz, Calvin C., xxx-xx-xxxx
Lajzer, Sidney J., xxx-xx-xxxx
Lambert, Gene F., xxx-xx-xxxx
Lamont, Frederick C., xxx-xx-xxxx
Lancaster, James W., Jr., xxx-xx-xxxx
Lanier, Kenneth E., xxx-xx-xxxx
Lantz, Carl E., Jr., xxx-xx-xxxx
Laronge, Lawrence S., xxx-xx-xxxx
Larson, Carl E., xxx-xx-xxxx
Larson, Larry D., xxx-xx-xxxx
Lasater, Norman E., xxx-xx-xxxx
Lavender, Paul W., Jr., xxx-xx-xxxx
Lavin, Paul M., xxx-xx-xxxx
Ledbetter, Raymond A., xxx-xx-xxxx
Lee, Richard D., xxx-xx-xxxx
Leffers, John G., Jr., xxx-xx-xxxx
Lewis, John W., xxx-xx-xxxx
Libby, Waldo F., Jr., xxx-xx-xxxx
Liguori, Anthony L., xxx-xx-xxxx
Lindberg, Craig A., xxx-xx-xxxx
Lindenhall, Lars S., xxx-xx-xxxx
Link, Ronald D., xxx-xx-xxxx
Linz, Ernest K., xxx-xx-xxxx
Littell, Thomas G., xxx-xx-xxxx
Lobb, Michael L., xxx-xx-xxxx
Lock, Eugene R., xxx-xx-xxxx
Loeffler, Murray W., xxx-xx-xxxx
Loftus, Gerald I., xxx-xx-xxxx
Long, Charles B., xxx-xx-xxxx
Long, Lewis R., xxx-xx-xxxx
Lopes, Don M., xxx-xx-xxxx
Lopez, Jose M., xxx-xx-xxxx
Love, Thomas R., xxx-xx-xxxx
Lyle, Joe E., xxx-xx-xxxx
Mabry, Vern D., xxx-xx-xxxx
Macedo, Manuel C., Jr., xxx-xx-xxxx
Mack, John L., Jr., xxx-xx-xxxx
MacKay, David J., xxx-xx-xxxx
Madigan, Michael J., xxx-xx-xxxx
Mages, Alfonso A., Jr., xxx-xx-xxxx
Maguire, James K., xxx-xx-xxxx
Mahon, John J., xxx-xx-xxxx
Mammone, Carleen A., xxx-xx-xxxx
Manor, Donald W., xxx-xx-xxxx
Marcucci, Michael G., xxx-xx-xxxx
Marsh, James L., xxx-xx-xxxx
Marshall, Alan C., xxx-xx-xxxx
Marshall, Phillips, II, xxx-xx-xxxx
Martin, David P., xxx-xx-xxxx
Martin, James R., xxx-xx-xxxx
Martin, Richard M., xxx-xx-xxxx
Martinez, Miguel A., Jr., xxx-xx-xxxx
Martinezoferrall, Rafael, xxx-xx-xxxx
Massey, Allen E., xxx-xx-xxxx
Mastin, Ronald L., xxx-xx-xxxx
Mathiasmeier, Kenneth J., xxx-xx-xxxx
Maunder, Ronald L., xxx-xx-xxxx
McCafee, Leonard C., Jr., xxx-xx-xxxx
McCall, Arthur C., Jr., xxx-xx-xxxx
McCombs, William, R., xxx-xx-xxxx
McConn, Richard, D., xxx-xx-xxxx
McCorkle, Roy, J., xxx-xx-xxxx
McDonald, Virginia L., xxx-xx-xxxx
McErlean, Donald P., xxx-xx-xxxx
McGuirk, James R., xxx-xx-xxxx
McIlvoy, Michael W., xxx-xx-xxxx
McIntyre, Donald Y., xxx-xx-xxxx
Mckee, Seth J., Jr., xxx-xx-xxxx
Mckenna, Philip E., xxx-xx-xxxx
McKenzie, Dan K., xxx-xx-xxxx
McKenzie, Gary M., xxx-xx-xxxx
McKibban, Kenneth L., xxx-xx-xxxx
McKinzie, William C., xxx-xx-xxxx
McLoughlin, William A., xxx-xx-xxxx
McMarrell, Curtis E., xxx-xx-xxxx
Meinders, Larry L., xxx-xx-xxxx
Menuchi, Richard J., xxx-xx-xxxx
Mersiowsky, Ralph P., xxx-xx-xxxx
Mestemacher, Donald R., xxx-xx-xxxx
Metzger, Philip A., xxx-xx-xxxx
Meyer, Gerald, xxx-xx-xxxx
Milbrandt, Gordon K., xxx-xx-xxxx
Miles, Ross E., III, xxx-xx-xxxx
Miller, Donald L., xxx-xx-xxxx
Miller, John E., xxx-xx-xxxx
Miller, Kent E., xxx-xx-xxxx
Miller, Laurance M., xxx-xx-xxxx
Miller, Merlin R., xxx-xx-xxxx
Minning, Charles P., xxx-xx-xxxx
Mitchell, Zerbulon V., Jr., xxx-xx-xxxx
Moore, Donald R., xxx-xx-xxxx
Moore, Terry L., xxx-xx-xxxx
Morgan, Geraldine S., xxx-xx-xxxx
Morgan, John W., xxx-xx-xxxx
Morgan, Michael, xxx-xx-xxxx
Morhouse, Thomas J., xxx-xx-xxxx
Moss, Michael W., xxx-xx-xxxx
Moulton, Neil B., xxx-xx-xxxx
Muccino, Thomas E., xxx-xx-xxxx
Munson, Richard M., xxx-xx-xxxx
Murphy, Michael W., xxx-xx-xxxx
Mynatt, Frederick J., Jr., xxx-xx-xxxx
Neiss, George C., xxx-xx-xxxx
Nelson, Matthew R., xxx-xx-xxxx
Nesbitt, John D., xxx-xx-xxxx
Newcomb, Douglas E., xxx-xx-xxxx
Nicewarner, Enoch F., xxx-xx-xxxx
Nichols, Daniel D., xxx-xx-xxxx
Niemotka, Raymond J., xxx-xx-xxxx
Novak, Kurt C., xxx-xx-xxxx
Nuby, Jerry L., xxx-xx-xxxx
O'Connor, Ian A., xxx-xx-xxxx
Ogden, Jackie D., xxx-xx-xxxx
Ohlde, Douglas A., xxx-xx-xxxx
Olander, Dean M., xxx-xx-xxxx
Olsen, Roger W., xxx-xx-xxxx
Onnen, York E., xxx-xx-xxxx
Orwat, Joseph C., xxx-xx-xxxx
Owen, Albert K., xxx-xx-xxxx
Owen, William D., xxx-xx-xxxx
Owens, Robert M., xxx-xx-xxxx
Ozyck, Paul M., xxx-xx-xxxx
Page, Edward C., xxx-xx-xxxx
Pals, Vernon J., xxx-xx-xxxx
Parrott, William L., xxx-xx-xxxx
Paul, Robert M., xxx-xx-xxxx
Payne, Warren T., xxx-xx-xxxx
Pchelkin, Nicholas R., xxx-xx-xxxx
Pecon, Bruce E., xxx-xx-xxxx
Penn, Robert M., xxx-xx-xxxx
Perkins, Stephen D., xxx-xx-xxxx
Perkowski, Peter J., xxx-xx-xxxx
Phillips, Paul E., xxx-xx-xxxx
Phipps, Charles S., xxx-xx-xxxx
Piggee, Howard, Jr., xxx-xx-xxxx
Pliml, Frank V., Jr., xxx-xx-xxxx
Plitt, Allen R., xxx-xx-xxxx
Podworny, William T., xxx-xx-xxxx
Polk, Dwight W., xxx-xx-xxxx
Polk, Richard A., xxx-xx-xxxx
Porter, Jerry R., xxx-xx-xxxx
Post, Joseph C., xxx-xx-xxxx
Potter, Lawrence A., Jr., xxx-xx-xxxx
Powell, Kevin S., xxx-xx-xxxx
Powell, Nelson D., Jr., xxx-xx-xxxx
Pratt, John R., Jr., xxx-xx-xxxx
Prawius, Vernor F., xxx-xx-xxxx
Prechtel, Anton S., xxx-xx-xxxx
Price, Alan W., xxx-xx-xxxx
Price, David O., xxx-xx-xxxx
Price, Joseph W., xxx-xx-xxxx
Pritchard, Paul C., xxx-xx-xxxx
Przybelski, Richard T., xxx-xx-xxxx
Pugh, Richard G., xxx-xx-xxxx
Putzke, David A., xxx-xx-xxxx
Ragsdale, Ronald B., xxx-xx-xxxx
Ramseur, Vardry D. III, xxx-xx-xxxx
Randall, Laurance C., xxx-xx-xxxx
Raney, Larry E., xxx-xx-xxxx
Ratner, Timothy V. I., xxx-xx-xxxx
Ream, Samuel R., xxx-xx-xxxx
Reaves, Dan W., xxx-xx-xxxx
Reavey, William A. III., xxx-xx-xxxx
Redman, Charles E., xxx-xx-xxxx
Reeg, Audrey J., xxx-xx-xxxx
Reichstetter, Fred G., Jr., xxx-xx-xxxx
Rettig, Charles L., xxx-xx-xxxx
Rhodes, Jefferson H., xxx-xx-xxxx
Richardson, George W., II, xxx-xx-xxxx
Rider, Richard W., xxx-xx-xxxx
Riemer, William D., xxx-xx-xxxx
Riley, William P., xxx-xx-xxxx
Rissen, Rex A., xxx-xx-xxxx
Roberts, James M., xxx-xx-xxxx
Robinson, Frederick M., xxx-xx-xxxx
Rooks, Edward H. Jr., xxx-xx-xxxx
Rose, Richard L., xxx-xx-xxxx
Ross, Alfred D., xxx-xx-xxxx
Roth, Paul W. Jr., xxx-xx-xxxx
Rothbart, David, xxx-xx-xxxx
Rothschild, David J., xxx-xx-xxxx
Rowe, Stephen D., xxx-xx-xxxx
Ruppar, Allan W., xxx-xx-xxxx
Russ, Robert W., xxx-xx-xxxx
Ruzzier, Renato A., xxx-xx-xxxx
Ryan, Michael S., xxx-xx-xxxx
Sadecki, Roger W., xxx-xx-xxxx
Salerno, Louis M. Jr., xxx-xx-xxxx
Sample, Jon P., xxx-xx-xxxx
Sampson, James D., xxx-xx-xxxx
Sams, Frank D., xxx-xx-xxxx
Sasman, Edward D., xxx-xx-xxxx
Scheer, Christopher, xxx-xx-xxxx
Schell, Donald E., xxx-xx-xxxx
Schiff, Alvin T., xxx-xx-xxxx
Schillig, William C., xxx-xx-xxxx
Schofield, Richard S., xxx-xx-xxxx
Schott, John T., xxx-xx-xxxx
Schueneman, Thomas J., xxx-xx-xxxx
Schulstad, Dennis W., xxx-xx-xxxx
Schultz, Donald M., xxx-xx-xxxx
Scott, Charles D. III, xxx-xx-xxxx
Sebastian, Paul, xxx-xx-xxxx
Seitz, Robert A., xxx-xx-xxxx
Self, Michael M., xxx-xx-xxxx
Sember, Michael G., xxx-xx-xxxx
Senko, John N., xxx-xx-xxxx
Shapiro, Robert O., xxx-xx-xxxx
Shepard, Donald F., xxx-xx-xxxx
Sherman, Nahida C., xxx-xx-xxxx
Shields, Henry S., xxx-xx-xxxx
Sickels, Charles M., xxx-xx-xxxx
Singleton, Floyd N., xxx-xx-xxxx
Sink, Vanita E., xxx-xx-xxxx
Sipp, Richard L., xxx-xx-xxxx
Sites, Carroll F., xxx-xx-xxxx
Sizemore, John W., xxx-xx-xxxx
Smallwood, Robert D., xxx-xx-xxxx
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IN THE AIR FORCE

The following officers for appointment in the Regular Air Force under the provisions of section 531, title 10, United States Code, with the grade and date of rank to be determined by the Secretary of the Air Force provided that in no case shall the officer be appointed in a grade higher than captain:

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Stickney, Noyes C., III, xxx-xx-xxxx
Stokes, Jane E., xxx-xx-xxxx
Stone, Mark E., xxx-xx-xxxx
Stonier, Scott F., xxx-xx-xxxx
Strager, Christopher S., xxx-xx-xxxx
Streets, Solomon, Jr., xxx-xx-xxxx
Strucely, Timothy D., xxx-xx-xxxx
Stsauveur, Guy C., xxx-xx-xxxx
Stubbs, Sidney Joshua xxx-xx-xxxx
Sturgis, Jeffery K., xxx-xx-xxxx
Sullivan, Michael E., xxx-xx-xxxx
Sullivan, Virginia L., xxx-xx-xxxx
Summer, Scott L., xxx-xx-xxxx
Summer, Steven K., xxx-xx-xxxx
Sutton, David A., xxx-xx-xxxx
Suzuki, Laura R.C., xxx-xx-xxxx
Swift, Michael W., xxx-xx-xxxx
Sylvesterjose, Curtis R., xxx-xx-xxxx
Taniguchi, James H., xxx-xx-xxxx
Taylor, Kenneth A., Jr., xxx-xx-xxxx
Taylor, Michael D., xxx-xx-xxxx
Taylor, Richard A., xxx-xx-xxxx
Telega, Timothy J., xxx-xx-xxxx
Terry, Michael E., xxx-xx-xxxx
Thacker, Charles E., xxx-xx-xxxx
Tharp, Deborah K., xxx-xx-xxxx
Tharp, Donald D., xxx-xx-xxxx
Thibodeau, Susan E., xxx-xx-xxxx
Thomas, Michael L., xxx-xx-xxxx
Thomasson, Mary C., xxx-xx-xxxx
Thompson, Glen M., Jr., xxx-xx-xxxx
Thompson, Mark P., xxx-xx-xxxx
Thomson, Thomas A., xxx-xx-xxxx
Thornburg, Boyd L., xxx-xx-xxxx
Thul, Jeffry J., xxx-xx-xxxx
Thurman, F.B., xxx-xx-xxxx
Timidaiski, Daniel M., xxx-xx-xxxx
Tisdale, William H., xxx-xx-xxxx
Tissi, Mark S., xxx-xx-xxxx
Todd, Daniel R., xxx-xx-xxxx
Tollerson, Henry, Jr., xxx-xx-xxxx
Tomlinson, John O., xxx-xx-xxxx
Torrent, Susan S., xxx-xx-xxxx
Toussaint, Henry, xxx-xx-xxxx
Tower, Karl F., xxx-xx-xxxx
Townsend, Steven W., xxx-xx-xxxx
Tracy, Kenneth R., xxx-xx-xxxx
Tran, Hau T., xxx-xx-xxxx
Trelfordthompson, Linda, xxx-xx-xxxx
Tritico, Frank M., xxx-xx-xxxx
Troutman, Ronald C., xxx-xx-xxxx
Trujillo, Andres, xxx-xx-xxxx
Tubo, Brian W., xxx-xx-xxxx
Tucker, Jerry W., xxx-xx-xxxx
Tullio, Daniel P., xxx-xx-xxxx
Turcotte, Frederick N., xxx-xx-xxxx
Turek, Robert S., xxx-xx-xxxx
Tuttle, Steven A., xxx-xx-xxxx
Ujcik, Gaylene B., xxx-xx-xxxx
Ulm, Charles L., xxx-xx-xxxx
Unander, Stanley A., xxx-xx-xxxx
Vallera, Anthony D., xxx-xx-xxxx
Vandusen, Thomas W., xxx-xx-xxxx
Vanessen, Douglas H., xxx-xx-xxxx
Vangorder, Robert W., xxx-xx-xxxx
Vansant, Dana A., xxx-xx-xxxx
Vanvleck, Peter L., xxx-xx-xxxx
Varcarcel, Emilio, xxx-xx-xxxx
Varhola, Dennis W., xxx-xx-xxxx
Vaughn, Richard P., xxx-xx-xxxx
Vetrone, Paul A., xxx-xx-xxxx
Vickers, Darrell W., xxx-xx-xxxx
Viets, Ralph M., II, xxx-xx-xxxx

Vosburgh, Jeffrey E., xxx-xx-xxxx
Waldrop, William B., Jr., xxx-xx-xxxx
Walizer, Daryl L., xxx-xx-xxxx
Walker, Larry M., xxx-xx-xxxx
Walker, Stephen D., xxx-xx-xxxx
Walker, Thomas C., xxx-xx-xxxx
Walters, Barry D., xxx-xx-xxxx
Walton, Ross E., xxx-xx-xxxx
Ward, S. Lisa, xxx-xx-xxxx
Warden, Daniel R., xxx-xx-xxxx
Warren, James D., xxx-xx-xxxx
Warren, Linda R., xxx-xx-xxxx
Warrenthomas, Matthew M., xxx-xx-xxxx
Wash, Clifton W., xxx-xx-xxxx
Weaver, Reginald L., xxx-xx-xxxx
Weaver, Scott R., xxx-xx-xxxx
Weber, Edward V., xxx-xx-xxxx
Weber, James M., xxx-xx-xxxx
Webster, Bradley N., xxx-xx-xxxx
Weil, George E., xxx-xx-xxxx
Weisman, Lawrence C., xxx-xx-xxxx
Weller, David R., Jr., xxx-xx-xxxx
Wells, Steven L., xxx-xx-xxxx
Wente, David E., xxx-xx-xxxx
Wertman, Barbara H., xxx-xx-xxxx
Wertman, Christopher C., xxx-xx-xxxx
West, Kyle C., xxx-xx-xxxx
Westberry, William B., xxx-xx-xxxx
Wheeler, Richard J., xxx-xx-xxxx
Whelan, Michael F., xxx-xx-xxxx
Wheless, Thomas K., xxx-xx-xxxx
White, Donald C., xxx-xx-xxxx
White, Jack J., xxx-xx-xxxx
White, Jeffrey D., xxx-xx-xxxx
White, Michael T., xxx-xx-xxxx
Wicknick, Michael A., xxx-xx-xxxx
Wilbur, Eric J., xxx-xx-xxxx
Wilcox, Gregg E., xxx-xx-xxxx
Wilder, Brendan L., xxx-xx-xxxx
Wilder, Paul D., xxx-xx-xxxx
Wilder, Paul G., xxx-xx-xxxx
Wilhelm, Douglas J., xxx-xx-xxxx
Wilhelm, Jeffrey M., xxx-xx-xxxx
Wilkerson, James E., Jr., xxx-xx-xxxx
Wilkerson, Kurt E., xxx-xx-xxxx
Willats, Steven B., xxx-xx-xxxx
Williams, Dale E., xxx-xx-xxxx
Williams, Ellen J., xxx-xx-xxxx
Williams, Frederick L., xxx-xx-xxxx
Wiliams, Walter J., xxx-xx-xxxx
Williamson, Delbert R., xxx-xx-xxxx
Willis, Michael E., xxx-xx-xxxx
Wilson, Brian D., xxx-xx-xxxx
Wilson, Jon I., xxx-xx-xxxx
Wilson, Kelly W., xxx-xx-xxxx
Wilson, Linda A., xxx-xx-xxxx
Wilson, Robert B., xxx-xx-xxxx
Wilson, Scott A., xxx-xx-xxxx
Windom, David B., xxx-xx-xxxx
Winfree, Gregory A., xxx-xx-xxxx
Witty, Willis J., xxx-xx-xxxx
Wolcott, James S., xxx-xx-xxxx
Wong, Michael F., xxx-xx-xxxx
Wood, Emmett G., xxx-xx-xxxx
Woodson, Penny D., xxx-xx-xxxx
Woolley, Michael S., xxx-xx-xxxx
Wooten, Richard S., xxx-xx-xxxx
Work, Robert W., xxx-xx-xxxx
Worley, DAvid J., xxx-xx-xxxx
Wright, Danny C., xxx-xx-xxxx
Wright, Kathleen E., xxx-xx-xxxx
Wright, Michael G., xxx-xx-xxxx
Wright, Paul R., xxx-xx-xxxx
Wyatt, James R., Jr., xxx-xx-xxxx
Yacabucci, Barry L., xxx-xx-xxxx
Yakes, Paul R., Jr., xxx-xx-xxxx
Yardley, Larry M., xxx-xx-xxxx
Yarish, Edward P., xxx-xx-xxxx
Yates, Dennis D., xxx-xx-xxxx
York, Gregory B., xxx-xx-xxxx
Young, Bradford P., xxx-xx-xxxx
Young, Brian C., xxx-xx-xxxx
Young, Michael H., xxx-xx-xxxx
Young, Michael K., xxx-xx-xxxx
Zachary, Priscilla A., xxx-xx-xxxx
Zamora, Ernesto R., xxx-xx-xxxx
Zamorasoon, Deborah L., xxx-xx-xxxx
Zarzour, Francis D., Jr., xxx-xx-xxxx
Zettlemoyer, Mark D., xxx-xx-xxxx
Zuzolo, Phillip A., xxx-xx-xxxx

IN THE ARMY

The following-named Army National Guard of the United States officers for promotion in the Reserve of the Army of the United States, under the provisions of title 10, United States Code, section 3385.

ARMY PROMOTION LIST

To be colonel

Abercrombie, Wylie A., xxx-xx-xxxx
Allen, John W., Jr., xxx-xx-xxxx
Beesley, Fred W., Jr., xxx-xx-xxxx
Brown, Richard H., xxx-xx-xxxx
Clark, Glen D., xxx-xx-xxxx
Elliott, Dennis L., xxx-xx-xxxx
Hybertson, Paul A., xxx-xx-xxxx
Langston, Alf, xxx-xx-xxxx
Musk, Gautrey J., xxx-xx-xxxx
Nappi, Patrick, xxx-xx-xxxx
Nichols, William C., xxx-xx-xxxx
Patterson, William N., xxx-xx-xxxx
Perot, Richard G., xxx-xx-xxxx
Pippin, Morris L., xxx-xx-xxxx
Powers, Richard T., xxx-xx-xxxx
Rees, Harold R., Jr., xxx-xx-xxxx
Santo, Alan E., xxx-xx-xxxx
Sproul, Hugh B., III, xxx-xx-xxxx
Taylor, Harrison D., xxx-xx-xxxx
Terry, Tom B., xxx-xx-xxxx
Walker, Lynn O., xxx-xx-xxxx
Watson, George B., xxx-xx-xxxx

CHAPLAIN

To be colonel

Hutchens, James M., xxx-xx-xxxx

MEDICAL CORPS

To be colonel

Harned, Lewis B., xxx-xx-xxxx
Muckala, Kenneth A., xxx-xx-xxxx
Reynolds, Norman C., Jr., xxx-xx-xxxx

ARMY PROMOTION LIST

To be lieutenant colonel

Abbott, Charles G., xxx-xx-xxxx
Abendroth, William H., Jr., xxx-xx-xxxx
Barron, James T., xxx-xx-xxxx
Bayer, Michael J., xxx-xx-xxxx
Becker, Douglas S., xxx-xx-xxxx
Blake, Richard E., xxx-xx-xxxx
Brown, Clayton F., xxx-xx-xxxx
Burr, Albert B., xxx-xx-xxxx
Caie, James P., Jr., xxx-xx-xxxx
Celio, Miles L., xxx-xx-xxxx
Chaffee, Frank D., xxx-xx-xxxx
Crowder, Ronald G., xxx-xx-xxxx
Cuneo, William J., xxx-xx-xxxx
Denson, Kerry G., xxx-xx-xxxx
DiTullio, Benjamin J., xxx-xx-xxxx
Ewing, John E., xxx-xx-xxxx
Farber, Charles B., xxx-xx-xxxx
Goff, Stephen L., xxx-xx-xxxx
Hargrove, George L., xxx-xx-xxxx
Harrison, Randolph R., xxx-xx-xxxx
Jacobs, Richard C., Jr., xxx-xx-xxxx
Johnson, Jon B., xxx-xx-xxxx
Johnson, Rodney C., xxx-xx-xxxx
Johnson, Thomas C., xxx-xx-xxxx
Murray, Gregory T., xxx-xx-xxxx
Nesbitt, William T., xxx-xx-xxxx
Qualls, Ben D., xxx-xx-xxxx
Rawlings, Rodney L., xxx-xx-xxxx
Reimer, Charles A., xxx-xx-xxxx
Shay, Howell L., III, xxx-xx-xxxx
Shores, Carl D., xxx-xx-xxxx
Sipe, Nicholas P., xxx-xx-xxxx
Smay, Ronald L., xxx-xx-xxxx
Smith, Stanley L., xxx-xx-xxxx
Stewart, Lawrence M., xxx-xx-xxxx
Stiffler, William R., Jr., xxx-xx-xxxx
Sullivan, Woodrow A., xxx-xx-xxxx
Waller, Donald A., II, xxx-xx-xxxx
Warrem, Calvin B., xxx-xx-xxxx
Weber, James L., xxx-xx-xxxx
Wheeler, Richard K., xxx-xx-xxxx
Wildhalm, Robert E., xxx-xx-xxxx
Winter, Brian D., xxx-xx-xxxx
Wolf, William D., xxx-xx-xxxx

MEDICAL CORPS

To be lieutenant colonel

Charles, Clarel, xxx-xx-xxxx

MEDICAL SERVICE CORPS

To be lieutenant colonel

Casey, Michael G., xxx-xx-xxxx

The following-named Army National Guard of the United States officers for appointment in the Reserve of the Army of the United States, under the provisions of title 10, United States Code, sections 593 and 3353:

MEDICAL CORPS

To be colonel

Posnikoff, Jack, xxx-xx-xxxx

IN THE NAVY

The following-named lieutenant commander in the line, lieutenant commander in the staff corps, lieutenants in the line, and lieutenants in the staff corps of the Navy for promotion to the permanent grades of commander and lieutenant commander as indicated, pursuant to title 10, United States Code, section 628, subject to qualifications therefor as provided by law:

UNRESTRICTED LINE OFFICER (11XX)

To be commander

Adams, Robin L.

DENTAL CORPS (220X)

To be commander

Dermody, Larry J.

UNRESTRICTED LINE OFFICER (11XX)

To be lieutenant commander

Cruze, Gregory S.
Venohr, William R.

MEDICAL CORPS (210X)

To be lieutenant commander

McGill, Thomas W. Sterba, John A.
Robinson, Douglas B.

DENTAL CORPS (220X)

To be lieutenant commander

Mazzeo, Frank, Jr.
Serkies, Stephen F.

IN THE NAVY

The following-named permanent limited duty officers, to be reappointed permanent lieutenant junior grade as limited duty officers in the line of the U.S. Navy, pursuant to title 10, United States Code, section 5589(A):

Barratt, Leland Sinclair, III
Bartow, Frank Vincent
Bishop, Donald Cleveland
Bolla, John Carlton
Boneta, Ralph
Botine, John Lester
Bryfogle, David Thomas
Buss, Larry Claude
Calloway, Layton Meldrin, Jr.
Carey, Ralph Welsey
Chmelarsky, Joseph Edward
Clark, John Thomas
Conolly, Joseph Eugene
Cooper, Frederick John
Corpuz, Danilo Velez
Dawson, Kenneth William
Devine, Bart Arthur

Dewinter, Paul Frederick
Doyle, Russell Hayse
Duchesne, Ariel
Eastwood, Raymon Douglas
Eaton, James Franklin
Eckelberger, Shirley Ann
Epperson, Donald Martin
Ferrell, James Edward
Frampton, Thomas Lester, Jr.
Gamble, Gary Lynn
Gay, Bobby Dean
Gillen, Michael Jospeh
Harper, Randolph A.
Harrington, Chester John
Heersema, Robert Lee
Holland, Daniel Edward
Hollis, William David
Hudson, George Elery, Jr.
Hundley, John David
Ingram, James Roger
Jardon, Gary Lee
Johnson, Edward, Jr.
Kermon, Robert Henry, Jr.
Kiser, James Phillip, Jr.
Lowke, John Charles
Ludlam, Stephen
Lyall, Ronnie Lynn
Macedo, Manuel Augustus
Majusiak, Bernard Peter
McLaughlin, Francis Joseph, I
McLaughlin, Michael R.
Michanowicz, Anthony Michael
Mills, John P.
Mucheck, Frank Donald
Mullins, Elmoe Marvin
Murray, John Phillip
Neal, Ronald Jerome
Newhouse, Dion Allan
Nye, Robert Joseph
O'Carroll, Patrick Joseph, Jr.
Ogle, Bobby Eugene
Oleary, Thomas Bernard
Otis, Thomas Joseph
Pittman, John Stephen
Ray, Oran C. Jr.
Reiterman, Philip Earl
Rey, Rafael George
Roe, Ronald Raymond
Sage, Robert Sidney
Sandor, George, Jr.
Saunders, Maryus, O. Jr.
Schaefer, Randall Allen
Schilke, Clifford Herman
Sirmans, Robert D.
Sprague, Jack Lauren
Steacy, Donald Peter
Swientek, Joseph Daniel
Swiggs, Daryl Douglas John
Thomas, Thurman Jerome
Thomas, Winston Cecil, Jr.
Thornburg, Michael Terry
Totterer, Stephen Lee
Tyus, Edward, Jr.
Vault, Frank Lawrence, IV
Warden, Allan, P.
Whaley, Wiliam Burdelle, Jr.
Wilhite, David Michael
William, Roy Harold, Jr.

The following-named temporary limited duty officers, to be appointed permanent lieutenant junior grade as limited duty officers in the line of the U.S. Navy, pursuant to title 10, United States Code, section 5589(A):

Abel, Jay K.
Adams, Roy Edward
Adkins, Andrew Lewis
Alfonso, Jimmy Alfonso
Allen, Timothy Tay
Alverson, John Michael
Amado, Michael Dennis
Anderson, Charles Lloyd
Annunziata, Albert Anthony
Arnold, Edgar Lloyd, Jr.
Artherton, John William
Asher, Terry Evan
Atkins, Edwin Lawrence
Bachmeier, Ralph J.
Bair, Gregory Paul
Baker, Jonathan Andrew
Baldwin, Richard Kyle
Barkdull, Ronald Lee
Barnes, John Douglas
Battle, Johnny Cornelious
Bauer, Walter Roy, III
Beale, Gary Carlton
Beddingfield, Roger Neal
Beeler, James Robert, Sr.
Bellando, Michael Peter
Benoit, Richard Omer
Beveridge, Terrance Lee
Blanchard, Ned Eugene
Bogle, Leonard Leroy
Braley, Gary Lee
Brewster, Larry William
Brink, Sanford Allan
Britt, Earl J
Brown, Albert Michael
Brown, Philip Elroy
Brown, Steven Carl
Brown, Wayne Alan
Broxton, Bobby Joe
Buchanan, David Wayne
Bundy, Daniel Arthur
Burr, James Clay
Burris, John Richard, Jr.
Bush, Eric William
Bush, Robert Ward, Jr.
Bybee, Rodney G
Byrd, Carlton Lloyd
Byrd, Robert Lee
Cacho, David Arvin
Cantrell, James William
Cardinale, Joseph Jr.
Carey, Albert Gregory
Carlberg, Jon Alan
Carlsward, Carl Ronald
Cauthon, Melvan Lavan, III
Chaffee, Michael Paul
Chambers, Criag James
Clark, Richard Dwayne
Clasen, Kenneth Stewart, Jr.
Clay, David Geoffrey
Clement, Thomas Wayne
Clifton, Charles Randell
Cobb, Stephen Alfred
Coleman, David George
Collins, Alfred
Collins, Ronald Douglas
Conoscenti, William Frank
Conrad, Jack Edwin
Cooper, Kent Murray
Craig, Melvin Louis, Jr.
Crisostomo, Michael Mariano
Cronin, Charles Thomas
Culp, Weldon Herbert
Curran, Thomas Lee
Cutler, Dennis Keith
Davis, Robert Timothy
Davis, Roger Neal
Davison, Claude Allan
Denham, Richard Michael
Detera, Dexter Diesta
Deussen, Ruth Barbara
Dixon, Dennis Michael
Donovan, James Michael
Dunbar, Kenneth Ray
Easterling, Jay Donald
Endress, David Charles
England, Loren Ray
Ezell, Jeri Diane
Farias, Edward John
Ferguson, Harry Alexander, Jr.
Finnessey, Michael Arthur
Fischer, Kevin Martin
Fitzpatrick, William Paul
Forrest, Randall Herman
Fouts, Larry Michael
Franzel, Charles Robin
Friedman, Gerald
Fulcher, Sherman Louis
Garbiel, Frank
Garcia, Ramona Karen
Gawlik, Edward John, Jr.
Getman, Randall Lynn
Gibson, Marshall Kent
Gilbert, Gregory Lee
Gillis, John Harold
Goff, Benjamin Webster
Goff, Garry Lee
Gomez, Gary Steven
Grimes, Robert Anthony
Gunter, Stanley Luther
Gyure, Kenneth Alexander
Hagman, Randall Everett
Hammond, Gerald James, Jr.
Harris, Joseph Robert
Harrison, Kim Oneal
Harvey, Patrick Dale
Haviird, Elbert Hilton
Hawker, William Anthony
Hayes, Michael F.
Haynes, Jeffrey Charles
Hehr, Larry Edward
Heimbach, Peter James
Henderson, Emmett Alvin, Jr.
Herr, Don William
Hill, Daniel Lee
Hobbs, John William
Holder, Lonnie William
Holdridge, Donald Dewaine, Jr.
Holliday, Michael Alan
Holtz, William Raymond
Homschek, Michael Arthur
Honeck, Mark Clair
Hood, Stephen John
Hughes, Stephen Anthony
Hulver, Leslie Eugene
Humphrey, Edward Earl
Hunter, Charles Jeffries
Hunter, Patrick Arthur
Huotari, Brad Matthew
Hussey, James Wesley
Hude, Earl Jackson
James, Allan Burton
Jarrell, Paul Christian
Jenkins, James Lee
Jewett, Christopher Flint
Johnson, Cecil Caldwell
Johnson, Donald Charles, Jr.
Johnson, Donald Gene
Johnson, Robert Wilson
Jones, Christopher Michael
Jones, Howard Kevin
Jones, William Lafayette, Jr.
Justice, Gifford Dean
Keenan, Joseph Leo
Kennamer, Larry James
Kerns, Terrill Daniel
Kidd, Richard Gene
Kidd, Robert David
King, Donald Ernest
Kirsner, Howard Edward
Koellermeier, Kenneth Vance
Koffel, Kenneth William
Krause, Edward Anthony, Jr.
Krug, William Charles, III
Leadford, Jewell Landon
Levesque, David Bruce
Lezon, Gary D
Lhotka, Erven Robert
Lile, Steven Michael
Losares, David Gerald
Luttrell, William Max, Jr.
Macaras, William
Mackay, James Lee
Madia, Frank Ottorino
Malogorski, Steven Douglas
March, James Wesley
Martin, Stevan Dale
Masse, Paul Edmond, Jr.
Matthews, Wilhimenia Theresa

May, Thomas Roger
McCain, Stanley James
McCombs, Jerry Leland
McCoy, Calvin Inmon
McDonald, Joseph Daniel
McDonough, Charles Mark
McEwen, Stuart Peter
McFarland, Timothy Allen
McPeters, Jesse Dale
McPherson, James Allen
Meadows, Dayton Thomas
Meredith, Denzil Ray, Jr.
Metzger, Richard Thomas, Jr.
Middleton, Dennis Erroll
Milliner, Bennett Wise
Milner, Marlin Wayne
Miner, Norbert Ludwig
Moore, James Tattersall
Mosier, Joseph Charles
Murphy, Richard Clarence
Murphy, Thomas Terrance
Myrick, Chester Robert
Neely, Michael Wayne
Neider, Robert Lee, Jr.
Norris, Paul Darrell
Northrup, Bruce Lloyd
Norwood, Thomas Carthie, Jr.
Oakley, George Lanning, Jr.
Odell, David Earl
Olson, William Lawrence
Ott, James Houston
Ottery, John Peter
Palasz, Zygmunt John
Panuco, Phillip Bernie
Paraszkay, Joseph Gabor
Parker, Edward Stephen
Parrish, Stephen Russ
Paulsen, Calvin Lewis
Perkins, Steven Wayne
Peterson, David William
Phipps, Carl Claiborne
Pipes, David George
Pizza, Lawrence Anthony, Jr.
Poe, John Francis
Porter, Kenneth Edwin
Potts, Ray Alfred
Price, Stanley Richard
Price, Walter James
Prieur, Gregory Eugene
Pritchard, Robert Edward
Putman, Clayton Franklin, Jr.
Ranno, Gary Peter
Rao, James Randolph
Rapp, John W., III
Rathbun, Malcolm William
Redmond, William Robert
Reeb, Randal Dale
Reed, Frank Earl, III
Reed, Victor Leslie
Rice, Charles Jeffrey
Richards, Stephen Paul
Richardson, Eugene Felton, Jr.
Roan, Terry Duane
Roberts, Jeffrey Lyn
Robertson, Michael Jerome
Robinson, Andrew William
Robinson, Charles Ricky
Robinson, Steven Lewis
Robles, Ernest Rivera
Rodriguez, Lorenzo Mario
Rossi, Walter Alan
Rothwell, Robert Randolph
Rule, Robert Ellis
Ryder, Robert Theodore
Schneble, Keith Alan
Schneider, William John
Scott, Robert Patrick
Sepkowski, Steven Joseph
Shirley, Charles Edgar
Shultz, William Hendren, Jr.
Siler, Joel Edward
Sims, Gregory Alan
Sipple, Bernard Francis
Smith, David Hamilton, III
Smith, Lawrence Thomas
Soley, Edward Thomas
Spatz, Stuart Leonard
Spear, Mark Steven
Speas, Keith Jay
Stacks, Edward Michael
Stanford, Larry Edwin
Stapleton, John Thomas, Jr.
Stellfox, William Edward
Steppe, Ronald Clay
Steppling, James David
Strickland, Cary James
Sutherland, Daniel Morgan
Tack, Richard Warren
Tackett, Benny Kay
Taggart, John Clark Jr.
Tallent, Charles Alexander J.
Tate, Steven Lee
Taylorbrown, Norah Hidemi
Thackeray, Alan Thomas
Thompson, Carl, III
Thompson, William Lonnie
Thorness, Marvin Alan
Thornton, Michael Edwin
Toole, Joel Kregg
Trautmann, William Russell
Trotter, Joseph Wendell
Trump, Donald David, Jr.
Vanrysdam, Andrew
Wallace, Larry Elbert
Walsh, Leo John, Jr.
Waters, David Emerich
Watras, Gregory David
Wayman, Paul Dean
Weaver, David Wesley
Weber, Willis Henry, Jr.
Weibley, John Allen
Wellbaum, Steven Eugene
Wetzel, David Ronald
Whalen, William James
Whelan, James Francis
White, James Randell
Whitehill, John Michael
Wiley, John Wesley
Willett, John William
Williams, Lonnie Darwin
Williams, Mark Stephen
Woods, Robert Lee
Wynn, James Dale
Yacovoni, James Albert
Yengst, Charles Thomas
York, David Bruce
Young, James Kenneth, III
Zarbock, John Edward
Zelesnikar, Daniel Paul

The following-named permanent limited duty officer, to be reappointed permanent lieutenant junior grade in the supply corps as a limited duty officer of the U.S. Navy, pursuant to title 10, United States Code, section 5589(a):

Keller, Wayne Marion

The following-named temporary limited duty officers, to be appointed permanent lieutenant junior grade in the supply corps as limited duty officers of the U.S. Navy, pursuant to title 10, United States Code, section 5589(a):

Anastacio, George Garcia
Antoine Bruno Vincent
Botello, Raul NMN, Jr.
Flora, Raymond Augustine, Jr.
French, James Andre
Gaboury, John Keiji
Gartner, David Allen
Gates, John Thomas
Johnston, Harry Robert
Lastrella, Amando Llorin
Nodes, Shirley Reece
Petrichko, John Joseph
Ramey, George Phillip
Reid, Richard Roy
Root, Gary Donald
Samples, John Edward
Shumaker, Ruth Ann
Sibley, Ricky Lee
Smith Everette Jennings, Jr.
Tarpley, Franklin Jerry
Villaruz Tiburcio Bulseco J.
Zagrocki, William Dennis

The following-named permanent limited duty officer, to be reappointed permanent lieutenant junior grade in the civil engineer corps as a limited duty officer of the U.S. Navy, pursuant to title 10, United States Code, section 5589(A):

Hart, James Abner

The following-named temporary limited duty officers, to be appointed permanent lieutenant junior grade in the civil engineer corps as limited duty officers of the U.S. Navy, pursuant to title 10, United States Code, section 5589(A):

Lester, Gary Lee
Turnwall, Dick Dean

HOUSE OF REPRESENTATIVES—*Wednesday, September 10, 1986*

The House met at 10 a.m.

The SPEAKER. Today we have the great honor and pleasure of having as our visiting chaplain a person who is known to all Americans, a hero to all of us, the Reverend Lawrence Martin Jenco, a Servite priest from Joliet, IL.

Rev. Lawrence Martin Jenco, Joliet, IL, offered the following prayer:

Let us pray:

Father, do not turn from us, and do not avoid us now that we are looking for words to pray to You.

If we call You God and speak Your name it is because You first pierced the silence and called us sons and daughters.

You have given us Your word that You will not be far from us whenever we turn to You in faith.

And so we cast aside our doubts and our fears and place our trust in Your promise to us.

Long ago You breathed upon the waters and stirred them to life.

We ask You now to breath Your spirit once more upon our world which so desperately seeks a new heart and a new spirit which only Your touch can bring.

But You have promised us that good will be triumphant, that all will be restored to You, that death and pain will be no more.

God of love, I stand and pray with and for these men and women who govern this Nation of ours.

Lead us from death to life, from falsehood to truth.

Lead us from despair to hope, from fear to trust.

Lead us from hate to love, from war to peace.

Let peace fill our hearts, our world, our universe.

I thank You for the precious gift of my freedom. Please, dear God, grant freedom to all of Your sons and daughters our brothers and sisters who are held captive, by whatever means around the world. We ask especially that You grant freedom to Tom Sutherland, David Jacobsen, Terry Anderson, and Frank Herbert Reed.

Father, keep in Your eternal love and embrace George O'Brien. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 4021. An act to extend and improve the Rehabilitation Act of 1973.

THE REVEREND LAWRENCE MARTIN JENCO

(Mr. ROWLAND of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROWLAND of Georgia. Mr. Speaker, shortly after Father Lawrence Martin Jenco was released after being held hostage for more than a year and a half, we learned from newspaper reports that for the first 6 months he had been kept in solitary confinement with his ankle chained to a wall.

It was also reported that whenever his captors asked Father Jenco if he wanted anything, he always had the same reply—a taxicab.

I don't know what his captors thought about that remark, but to me it was awe inspiring. Anybody who can keep a sense of humor under those circumstances is a remarkable person. The way Father Jenco and other hostages have withstood their ordeal says a lot about the potential of the human spirit to not only survive, but to maintain their dignity as human beings.

When Father Jenco was released, one of his sisters, Mrs. Mae Mihelich, told a reporter that "We waited, we prayed, and we never gave up hope."

She, and other family members and friends of the hostages, also did something else—they worked very hard and very effectively for the release of these Americans, who, after all, were being held because of their nationality. Her daughter, Ms. Kay Mihelich, who resides in my hometown of Dublin, GA, is among those who have been very active in these efforts and she inspired me to become more involved in keeping the issue before the public.

Our dear colleague, Representative George O'Brien, who passed away earlier this year, represented the district in which Father Jenco lives. He was deeply involved and his leadership in this effort is certainly missed.

Every time Father Jenco has been publicly welcomed home, he has emphasized that we should not forget those Americans who are still held captive. His presence here today will inspire us once more to continue praying, to keep our hopes alive, and to work as hard as we can to bring our fellow countrymen back home to freedom.

Mr. Speaker, it is an honor to welcome Father Lawrence Martin Jenco to the House of Representatives.

The SPEAKER. Will the gentleman from Georgia kindly stay at the microphone. There are some Members who are going to ask to be yielded to.

Does the gentleman from California desire the gentleman from Georgia to yield?

Mr. DORNAN of California. Mr. Speaker, will the gentleman yield?

Mr. ROWLAND of Georgia. I yield to the gentleman from California.

Mr. DORNAN of California. Mr. Speaker, I just want to thank the gentleman for those kind words about Father Jenco and ask to put in the RECORD at this point a capsule of the circumstances of Frank Reed's kidnaping.

On Tuesday, four gunmen driving a blue Volvo abducted Frank Herbert Reed, 53, of Malden, Mass., director of the private Lebanese International School in Moslem west Beirut.

Islamic Jihad, a group of Shiite Moslem fundamentalists, claimed responsibility for the kidnapping. The group has said it holds at least three other Americans.

Police said today they had no indication where Reed was being held.

His kidnapping was the first of an American in Lebanon in 15 months. It also was the first abduction of a foreigner since July 4, when Syrian troops moved into west Beirut to take control from warring militia factions.

A spate of politically motivated abductions in 1985 prompted most Americans and other Westerners to leave the city.

The U.S. State Department has refused to divulge the number of Americans still in Lebanon, but a spokesman for the U.S. Embassy in Christian east Beirut said 454 remained in the capital.

The spokesman, Christopher P. English, said most of those remaining held dual Lebanese and American passports.

An anonymous caller claiming to speak for Islamic Jihad charged in a call to a Western news agency that Reed was a spy for the CIA and that "documents convicting him" were found on him.

"We found out that his educational mission was a mere disguise for his espionage efforts," the caller said Tuesday. "The real Moslems have uncovered the game and they will punish whoever is involved in it."

An editor at the news agency said the caller spoke Lebanese-accented Arabic and hung up after reading a statement. The Christian-run Voice of Lebanon radio said the man promised to distribute Reed's photograph soon.

Islamic Jihad, which espouses the teachings of Iran's Ayatollah Ruhollah Khomeini, has cautioned repeatedly that any statement purporting to come from it without a hostage photograph would be false.

Police said the assailants, toting silencer-equipped pistols and driving in dark blue Volvo, rammed Reed's chauffer-driven car onto the sidewalk near the ruins of a supermarket in west Beirut's Bir Hassan district.

Reed was driving from his home in west Beirut's Manara neighborhood to play golf at the war-scarred course on the city's southern edge. Two men climbed out of the Volvo, forced Reed and his Lebanese driver at gunpoint to get into the kidnapper's car and sped off, police said.

The driver was freed minutes later a few hundred yards from the headquarters of Syrian intelligence officers in charge of enforcing a security plan to restore law and order in west Beirut.

The driver, whose name was not given, went to Reed's home and informed Reed's Syrian wife, Fahima Dalati, of the abduction, police said.

A school associate said Reed has lived in Lebanon about eight years and converted to Islam before his marriage. The associate, who insisted on anonymity, said the couple have a 5-year-old son, Tareq.

In Washington, White House spokesman Larry Speakes said, "We call on those who may be holding Mr. Reed, as well as the other foreign hostages in Lebanon, to release their captives immediately."

Other American hostages held by Islamic Jihad are Terry A. Anderson, 38, chief Middle East correspondent for The Associated Press; David Jacobsen, 55, of Huntington Beach, Calif., director of the American University Hospital; and Thomas Sutherland, 55, of Fort Collins, Colo., acting dean of the university's agriculture faculty.

Sutherland, kidnapped on June 10, 1985, was the last American reported abducted in west Beirut before Tuesday.

Islamic Jihad said last fall it had killed another American hostage, U.S. Embassy political officer William Buckley, 58, but no body was ever found. Buckley was kidnapped March 16, 1984.

The group also claims it holds three French hostages.

In all, 17 foreigners are now missing in Lebanon, including Reed. They include five Americans, seven Frenchmen, two Britons, one Italian, one Irishman and one South Korean.

I want to tell Father Jenco what an inspiration he is to all of us. It is just stunning with all the times we have mentioned your name in this Chamber over the last 2 years to have you finally here speaking to us.

I have this letter, Mr. Speaker, to President Assad of Syria. There are currently 30 signatures on it, added to the 251 I delivered on June 30, and I would ask that the Speaker and all the leadership, as I have and as the gentleman from Texas [Mr. WRIGHT], sign this letter and get this over to Mr. Assad as soon as possible so that he continues to use his offices, which Father Jenco agrees with, to try to get these four remaining—five if Bill Buckley is still alive, Americans out.

The SPEAKER. Do any other Members desire the gentleman from Georgia to yield?

Mr. MINETA. Mr. Speaker, will the gentleman yield?

Mr. ROWLAND of Georgia. I yield to the gentleman from California.

Mr. MINETA. Mr. Speaker, on behalf of our late friend and colleague George M. O'Brien, I wish to welcome our guest chaplain today, Father Lawrence Martin Jenco.

Father Jenco has an unusual claim on our attention today. He was held captive in Lebanon from January 8, 1985, until July 26 of this year. During that time, his family worked tirelessly for his release.

Also recently released by the captors in Lebanon was Rev. Benjamin Weir, a constituent of mine.

Father Jenco is a native of Joliet, IL. He was serving as head of the Beirut office of the Catholic Relief Services when he was kidnaped. He was held for just over a year and a half.

So our joy is in having Father Jenco with us today but it is tempered by the news that another American has been taken hostage in Beirut in the last few days.

We warmly welcome Father Jenco, but we must continue to work toward the release of the other five Americans now being held in captivity, and insure that no other Americans face this terrible ordeal in the future.

CONGRESS JOINS FORCES IN WAR ON ILLEGAL DRUGS

(Mr. LEWIS of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Florida. Mr. Speaker, today Congress is finally coming together to address a problem of great urgency, narcotics abuse, and trafficking.

I am pleased by the sudden national attention to the drug crisis.

It's high time the Federal Government took the lead in this crisis which touches Americans of all walks of life.

Although this legislation is a symbol of hope, I would like to offer one word of caution. An enthusiastic burst of reform energy can start a war, but it cannot win it.

Too often the celebrated cause of today is the forgotten cause of tomorrow.

We must not let the drug war be a passing fancy.

American citizens and public officials must make a true and lasting commitment to education, rehabilitation, and enforcement.

The ultimate triumph over the drug epidemic will require more than a declaration of intent. It must be accomplished through thoughtful persistence.

This legislation will pave the way for a more drug-free America, yet we must work to see that the reform path is traveled and not simply laid and forgotten.

SUPPORT RESOLUTION CONDEMNING SOVIET UNION FOR ARRESTING NICHOLAS DANILOFF

(Mr. LEVINE of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVINE of California. Mr. Speaker, it is fitting that Father Jenco delivered our prayer this morning. Later today the House will consider a resolution which I have sponsored condemning the Soviet Union for arresting Nicholas Daniloff and demanding his immediate and unconditional release.

I urge my colleagues on both sides of the aisle to take part in the discussion of this issue. The Soviets must understand that there will be no business as usual with the United States until Nick Daniloff is a free man. They must understand that the American people and the American Congress, on a bipartisan basis, are outraged by Mr. Daniloff's arrest.

Yesterday, a Soviet spokesman made the incredible statement that the Daniloff case was not important and would not affect United States-Soviet relations.

I have news for the Russians. Nick Daniloff's case is damned important. No country arrests an innocent American, throws him in jail, and threatens to put him on trial for his life and then expects to conduct business as usual with the United States.

Mr. Speaker, I urge my colleagues to join with me so that we can impress upon the Soviet Union just how important Nick Daniloff's case is to the Congress and to the American people.

A SALUTE TO ST. RITA'S CATHOLIC SCHOOL OF DUNDALK, MD

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, I salute St. Rita's Catholic School of Dundalk, MD, which is celebrating its 60th anniversary this month.

St. Rita's was built by the parishioners of a church bearing the same name. These people selflessly contributed their time and effort in a fantastic example of mutual cooperation and dedication. They worked from the early mornings to the late evenings to achieve this task.

Three of the original five nuns who charted the course in 1926 attended the 60th anniversary celebration last Sunday.

Today, St. Rita's is one of the finest parochial schools in Maryland. It con-

sists of over 200 students, the majority of which perform at or above grade level. In fact, the Dundalk school was among 270 public and private elementary schools in the Nation cited for excellence by Secretary of Education William Bennett last June and was described as the outstanding school in the entire State of Maryland.

Mr. Speaker, I applaud the legacy of success established by St. Rita's School, and I wish it all the best for its next 60 years.

NATIONAL LEADERSHIP ON DRUG ABUSE

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALEXANDER. Mr. Speaker, today the House will consider legislation to lay a foundation upon which a badly needed national policy on drug abuse can be built. The tragedy of the drug menace in America is well-documented. What is needed is national leadership, and while the bill will provide legal authority for action, we must understand the drug crisis is more than a legislative problem. It is a crisis of the American spirit.

□ 1015

It is a cancer that robs America of its human vitality and eats away at the human resources that have made our Nation great.

Mr. Speaker, this long-overdue legislation, which will pass with overwhelming support in this House, is a declaration of war against the enemy within. As we vote today, let our actions send a message to every American community that today we stand together, united against the single greatest threat to the American way of life—drug abuse.

TAX CONFERENCE REPORT UNFAIR TO PUBLIC SERVANTS

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLF. Mr. Speaker, I would like to again bring to the attention of the House a provision which is in the tax reform bill which severely hurts Federal employees, teachers, policemen, and firemen.

There is a retroactive provision in the bill that says if they do not retire by July 1, they have to pay extra benefits to the Federal Government. I would ask that the Ways and Means Committee and the leadership of both the House and Senate and the conference committee come together in a spirit of bipartisanship and do what is right. A retroactive provision in this bill is unfair.

Mr. Speaker, we have an opportunity. The bill will come up next week, and I would hope that we can get together and do what is right to protect these people that have given so many valuable years of service to our Government.

THE PROBLEM

There is a serious and major flaw in the tax reform bill conference report which targets public servants who contribute to and pay taxes on their retirement plans. Under current tax law, a 3-year basis recovery rule allows persons who have made contributions to their retirement plans and paid taxes on those contributions up to a 3-year period to recoup those amounts.

CONFERENCE COMMITTEE TAX REFORM BILL

The tax reform package would repeal the 3-year basis recovery rule and provide that immediately upon retirement, annuities would be subject to taxation. The contributed amounts, while exempt from taxation, would be spread out actuarially over the life of the pension.

While that provision itself is cause for alarm among public servants, what is even more onerous is that the tax conference report repeals the rule retroactively. The effective date is made retroactive to July 1, 1986.

WHO IS AFFECTED?

Twenty million police, firemen, teachers, local, State, and Federal Government workers and congressional staff who are trapped because they stayed past the July 1 deadline out of loyalty and commitment to the projects they were working on, to see to completion the term of their congressional Member, or because they never for a moment thought that the provision would be made retroactive.

WHAT THE CONSTITUENTS SAY

* * * Who would expect Congress to change the rule without any advance warning for thousands like me? If not unprecedented [this provision] is unfair, unforgivable and undeserved. Please, as a gesture of fairness to government employees, give us a chance to retire without a new retroactive penalty, alone among the U.S. taxpayers.

For us the approximate $15,000 that we will no longer have in a 1987 retirement year in real terms means our daughter's college tuition, which we cannot provide out of a reduced retirement salary * * *.

By that action, the Conference Committee clearly reduced my salary over the past 23 years by over $55,000. Many retirees will not live long enough to collect the money they paid taxes on and contributed to their retirement fund. Please tell me how that is fair.

Let's do what is just, equitable, and right. Let's work to change the retroactive and unfair provision in the tax bill.

PERMISSION FOR COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO SIT ON TODAY DURING THE 5-MINUTE RULE

Mr. GRAY of Illinois. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation be permitted to sit today during the 5-minute rule.

Mr. Speaker, this matter has been cleared by the minority.

The SPEAKER pro tempore (Mr. TORRES). Is there objection to the request of the gentlman from Illinois?

Mr. BARTON of Texas. Mr. Speaker, reserving the right to object, there is no notification at the desk that it has been cleared with the minority.

Mr. GRAY of Illinois. Mr. Speaker, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from Illinois.

Mr. GRAY of Illinois. Mr. Speaker, it has been cleared with the gentleman from Kentucky [Mr. SNYDER], the ranking minority member, and it relates to aviation bills.

Mr. BARTON of Texas. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

REHNQUIST MAKES THE DARK AGES LOOK GOOD

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, William Rehnquist might have been qualified to be Chief Justice somewhere, sometime, but certainly not of the Supreme Court of the United States in 1986.

His views are so dim they make the Dark Ages look like the Enlightment.

His ERA memorandum reveals a man on the wrong side of every principle, impulse, and idea that makes America the great country it is—a man opposed to equality, democracy, individualism, progress, and capitalism.

Opposed to capitalism? The free market is not gender specific. Indeed, clearly Mr. Rehnquist is qualified to run the Supreme Court in a rural, traditional, ecclesiastic country where the state is god and god is the state, a country where nothing changes because progress is prohibited.

Mr. Rehnquist's conclusion that the ERA would lead to "the eventual elimination of the [family] unit" is patently idiotic. Eight of the 10 States with the highest divorce rate have no equal rights amendment. The two States with the lowest divorce rate (Pennsylvania and Massachusetts) have strong State ERA's.

MASS MURDER IN A HOUSE OF GOD

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, last week's murder of 21 Turkish Jews in

Istanbul's main synagogue was a totally barbaric act, similar to the Nazi atrocities of 50 years ago.

The Jewish community has lived peacefully in Turkey for many years, but with the importation of well-financed and heavily armed psychopathic killers, 21 innocent people were killed during their worship in a house of God.

Those who organize and finance these acts are the lowest form of vermin that crawl on this Earth. Like the Nazis who inspired their methods, the West should relentlessly hunt them down one by one to meet the justice they deserve.

In the 1930's we learned of the futility of negotiating with people who are capable of such crimes. Let us remember that lesson as we move to strike back against terrorism wherever it may hide.

REFERENDUM ON CREDIT CARD INTEREST RATES

(Mr. ANNUNZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANNUNZIO. Mr. Speaker, four times during 1986 the Federal Reserve Board has lowered the discount rate, and four times this year the prime rate has been dropped. Despite the overall drop in interest rates, holders of the 700 million credit cards in this country have seen little if any drop in the interest rate they pay on their credit cards.

I have watched while credit cardholders have paid usurious interest rates of more than 18 percent on an average across this country, and I have been told not to worry, that the marketplace will set the interest rates. Well, I am worried, because the marketplace is not helping credit cardholders, it is gouging them.

The American people are sick and tired of being forced to pay these high rates. Tomorrow the Consumer Affairs and Coinage Subcommittee, which I am privileged to chair, will hold a referendum on high interest rates. It will be the first of what I hope will be a series of votes in the subcommittee, the full committee, and on the floor of this House that will give Members a chance to tell their constituents whether they are for or against high interest rates.

Tomorrow's vote will come on a measure that will set a floating ceiling on credit card interest rates, and the credit card industry is working hard to defeat such a bill. Tomorrow morning at 11 a.m. the American people will have an opportunity to be heard through their elected representatives.

We do a lot of talking about the evils of high interest rates in this body; tomorrow we have a chance to vote against high interest rates. I hope I will be able to bring legislation to this floor shortly so that every Member of this body will have an opportunity to cast a record vote against high interest rates.

SUPPORT PASSAGE OF DRUG ABUSE LEGISLATION

(Mr. ROWLAND of Connecticut asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROWLAND of Connecticut. Mr. Speaker, over these past few weeks and past few years we have heard a lot about the drug abuse problem that we are facing in this country. It is unfortunate that it has taken the death of a few prominent athletes for the public attention finally to rise, but in these next 2 days we have the opportunity to vote for the omnibus drug bill, a provision that has been worked on for the past couple of weeks by those on the select committee and those on the task force.

What we have seen, Mr. Speaker, over the last 10 years has been a tremendous change in the drug abuse scene. Ten years ago the perception of drug abuse was of a heroin addict in the alleys of our urban areas. Then over the past 5 years we have seen more and more acceptance of marijuana use among our young people and others in other age groups, and unfortunately now what we have seen in the past 2 to 3 years has been an acceptance of cocaine use crisscrossing all age and social and economic barriers, and now in 1986 we see the faddist acceptance of the abuse of crack. The young people, old people, people involved in cocaine, and people involved in marijuana now feel that the use of crack is not going to have a bad impact on their health.

Mr. Speaker, we have a tremendous opportunity in the next 2 days to work together in a bipartisan fashion to come together to bring a strong drug abuse plan to the American people, and I hope that we can act in a bipartisan fashion to see passage of this legislation. I urge all of my colleagues to support its passage.

SOLUTION TO DRUG PROBLEM DEPENDS ON CHANGING BEHAVIOR

(Mr. SCHEUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHEUER. Mr. Speaker, I have worked hard on the problem of drugs as a member of the Select Committee on Narcotics for a decade and a half, and I am absolutely delighted and pleased that the House is now addressing the problem of drug addiction in a major way on a totally bipartisan, nonpolitical basis. Nothing could be healthier for the future of the American people, because this is truly a question of life or death.

I am pleased that we are putting in money for law enforcement, but law enforcement will never do the job. As long as the demand is as intense as it is now, the real challenge for us is not only to try to interdict the flow of drugs into our country and eradicate the drugs on the fields abroad where they are growing, the challenge to us is to change the behavior of our youth.

□ 1025

It is a tough job, but we know it can be done. We have changed behavior in America on diet. We have changed behavior in America on exercise. We have changed behavior on the ingestion of tobacco. We have changed behavior on the ingestion of alcohol, the reduction of drunk driving, for example.

We can change behavior with drugs, but it is going to take a massive effort through the entire spectrum of American society, through all of our institutions: the schools, the churches, parents, the media, the workplace, all working together to teach kids that life is a high, and that they do not have to retreat into the netherworld of drugs which spells death to their careers, to their education prospects, to their job prospects and their very lives themselves.

DANILOFF ARREST IS STATE-SPONSORED TERRORISM

(Mr. McEWEN asked and was given permission to address the House for 1 minute.)

Mr. McEWEN. Mr. Speaker, the news is filled today with the taking of yet another American hostage, this time by a major world power, the Soviet Union. I speak of the arrest and incarceration of U.S. News & World Report correspondent, Nicholas Daniloff.

Mr. Speaker, some of us had intended to visit the Soviet Union during the month of August and discovered that our invitation was abruptly canceled just hours before our departure.

We found that distressing at the time, but now can see a correlation between the international diplomatic actions that the Soviet Union took during the period that we were to visit that country. Now we understand that Mr. Daniloff is being threatened with death and interrogated a minimum of 4 hours a day.

I call upon the international community to speak out in opposition to this act of state-sponsored terrorism.

CONSUMERS DESERVE CREDIT CARD RATE CAP

(Mr. BIAGGI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BIAGGI. Mr. Speaker, for 2 years now, I have been pushing for a national cap on credit card interest rates.

Why? Because the credit card industry is milking every last cent they can get out of the American consumer.

While the cost of money to banks and other credit card issuers has dropped 60 percent over the last 5 years, those same institutions have actually raised the interest on their credit cards.

Consider that it costs banks a mere 5.5 percent to borrow money from the Federal Reserve. Yet, the average interest rate on bank-issued credit cards is around 19 percent. That's nearly a 400 percent profit markup, and that's a national disgrace.

I'm not the only one concerned. More than 40 of my colleagues have joined as a cosponsor of my bill, H.R. 1197, to cap credit card rates.

Tomorrow, the Banking Subcommittee on Consumer Affairs and Coinage, chaired by our distinguished colleague, FRANK ANNUNZIO, will be marking up that bill.

There is other good news for the 100 million Americans who use credit cards, as well. Just last week, the Key Bank of Western New York issued a credit card at a 9.9-percent interest rate—with no gimmicks. They expect to do quite well and if they can do well by charging less, so can all the others.

BIPARTISAN DRUG PACKAGE

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, later today, we will be considering the bipartisan drug package that has been brought to the floor by the Republican and Democratic leadership. I want to congratulate both the people on my side of the aisle, the gentleman from Illinois [Mr. MICHEL] and the gentleman from California [Mr. LEWIS], who led our part of the bipartisan drug task force, on which I was privileged to serve, and the leaders on the other side; namely, the gentleman from Texas [Mr. WRIGHT], who have helped produce this package.

It is, however, my understanding that there may be an attempt to fight the rule on the floor with regard to this drug package.

That rule was crafted in a way to make certain that the issues that need to be addressed in this bipartisan drug package get addressed on the floor.

Those who fight this rule today will be trying their best to kill off a process that has brought the bill. I would hope that the House is going to approve the rule and keep the process moving.

This drug bill is extremely important at this time. The American people will be very disappointed if it is killed off by a few Members who do not want to vote on key issues on the House floor.

THREE-YEAR TAX RULE

(Mr. HOYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOYER. Mr. Speaker, I rise today to bring to the House's attention the outrage which State, local, and Federal employees are feeling. They are justifiably upset of the tax conferees' retroactive elimination of the 3-year recovery rule.

The 3-year recovery rule allows people who contribute to their retirement systems to recover those contributions tax free during the first 3 years after retirement. This is because those contributions have already been taxed when the money is withdrawn from their paychecks.

Mr. Speaker, these employees have planned their retirement on the premise that they would have low tax exposure during the early years of retirement. Now they are faced with the retroactive withdrawal of this provision. This will mean a substantial loss for thousands of our Nation's hardest-working citizens—the people who defend our country, who risk their lives enforcing our laws and extinguishing our fires, who teach our children and care for our sick and elderly.

Mr. Speaker, I would urge the conferees and this House to reject this retroactive provision. At the very least, these people deserve warning, so that they can adjust their retirement plans accordingly. They have served us and the Nation well. Let's treat them with fairness and with the respect that they deserve as they begin their hard-earned retirement.

ENOUGH IS ENOUGH FOR RURAL AMERICA

(Mr. ANTHONY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANTHONY. Mr. Speaker, during the district work week, I went back and held a farm credit forum for 1987. I invited members from the Farm Credit System, Farmers' Home Administration, to come in.

Almost while we were doing that forum with the Farmers' Home Administration official from the State saying that there would be less direct loan money for 1987, only guaranteed loan money, with no indication as to how the scarcity of funds would be properly allocated out among our farmers, we saw that the national office, USDA, dropped for the full loan rate the money for soybeans. Then, if that was not enough, we find that USDA is so callous that they have gone out and hired a private collection agency from New Jersey to come to Arkansas to tell our farmers that enough is enough and we are going to jerk your loans and take your farms away from you; not sit down face to face and try to work out some agenda.

I say to the administration, enough is enough. You have got to sit down and work with our farmers. You are ruining rural America; you are runing our farmers out of their rural areas. There are no jobs in the cities. Enough is enough.

CONDEMNATION OF THE SOVIET UNION FOR ITS ARREST, IMPRISONMENT, AND INDICTMENT OF NICHOLAS DANILOFF

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that the Committee on Foreign Affairs be discharged from further consideration of the resolution (H. Res. 542) concerning the arrest, imprisonment, and indictment of Nicholas Daniloff by the Soviet Union, and ask for its immediate consideration in the House.

The SPEAKER pro tempore (Mr. TORRES). The Clerk will report the resolution.

The Clerk read the resolution, as follows:

H. RES. 542

Whereas the Government of the Soviet Union has without justification arrested, imprisoned, and indicted Nicholas Daniloff, a United States citizen and a correspondent for U.S. News & World Report; and

Whereas this mistreatment of Nicholas Daniloff is the most recent and outrageous violation by the Soviet Union of its international obligations, including its obligations under the Helsinki Final Act which states, with respect to the Improvement of Working Conditions for Journalists, that "the participating states reaffirm that the legitimate pursuit of their professional activity will neither render journalists liable to expulsion nor otherwise penalize them": Now, therefore, be it

Resolved, That the House of Representatives—

(1) condemns the Soviet Union for its unjustified and unprecedented arrest, imprisonment, and indictment of Nicholas Daniloff;

(2) demands that the Soviet authorities immediately and unconditionally release Nicholas Daniloff;

(3) urges the Soviet Union to abide by its international obligations to allow journalists to pursue their profession without harassment or coercion; and

(4) expresses its deep concern that the continued detention of Nicholas Daniloff can have only the most serious and adverse affect on negotiations and other relations between the United States and the Soviet Union, particularly at a time when prepara-

tions are underway for a second summit meeting between President Reagan and General Secretary Gorbachev.

Mr. FASCELL (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The SPEAKER pro tempore. Is there objection to the present consideration of the resolution?

Mr. BROOMFIELD. Mr. Speaker, reserving the right to object, I do so to afford the chairman of our committee, the gentleman from Florida [Mr. FASCELL], an opportunity to explain this resolution.

Mr. FASCELL. Mr. Speaker, will the gentleman yield?

Mr. BROOMFIELD. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Speaker, I rise in support of this resolution.

The arrest and imprisonment of U.S. News & World Report Moscow correspondent Nicholas Daniloff on fabricated charges of espionage is an obvious provocation which can only have negative consequences for United States-Soviet relations. It is clear that Daniloff's arrest was part of a frame-up by the Soviet KGB which has historically and consistently monitored and harassed U.S. citizens, diplomats, journalists, and businessmen while in the Soviet Union.

The treatment of Western journalists by the Soviet authorities has fallen far short of the requirements established in the Helsinki Final Act for the treatment of foreign journalists. The case of Nicholas Daniloff is the most recent and outrageous of many Soviet violations of the Helsinki commitment to improve the working conditions for journalists in the legitimate pursuit of their activities.

In light of my discussions with General Secretary Gorbachev a few months ago and his expressed willingness and desire to improve United States-Soviet relations, I am shocked and disappointed by this latest example of Soviet disregard for international standards of conduct and decency. I am particularly disappointed in view of recent reports that the Gorbachev era would bring more openness and frankness into Soviet society.

During my recent visit to the Soviet Union, I was appalled to see and hear first hand the treatment accorded our journalists and diplomats stationed in that country. They are constantly watched, are required to live in compounds guarded by officers of the KGB, and are restricted in every way, particularly in the ability to deal directly with the Soviet people and with members of the party's Central Committee and the Central Government. This sorry state of affairs stands in stark contrast to the way Soviet diplomats and journalists are treated in the United States.

I am considering introducing legislation restricting the access of Soviet diplomats and journalists to the grounds and buildings of the U.S. Congress. Such an action would put the Soviet authorities on notice that they cannot continue this policy of harassment and interference with Western journalists and diplomats and simultaneously expect free and unhindered access by their representatives here.

I strongly urge support of this resolution.

□ 1035

Mr. Speaker, if the gentleman will permit, at some appropriate time, if he would be kind enough to yield to the gentleman from California [Mr. LEVINE] who is the original sponsor of this resolution.

Mr. BROOMFIELD. I certainly will, Mr. Speaker.

Under my reservation, Mr. Speaker, I offer my support for this resolution concerning the illegal arrest and indictment of Nicholas Daniloff by the Soviet Union.

I am angry and confused by the actions of Soviet authorities. The arrest of Mr. Daniloff is clearly an outrage that violates the standards of civilized behavior. Do the Soviets care about what impact their actions will have on a future summit meeting? Who's in charge there, anyway?

Shortly after a Soviet employee of the United Nations was arrested and accused of espionage, the Soviets brazenly arrested Mr. Daniloff. His detention is clearly an outrage. He was clearly framed by the KGB who had a friend of Mr. Daniloff pass him an envelope. The Soviets had cleverly put classified material in the envelope.

The Kremlin ignored a personal letter from President Reagan to General Secretary Gorbachev concerning the Daniloff case and the need to resolve it.

Mr. Gorbachev rejected the President's appeal. A few days later, Mr. Daniloff was formally charged with spying. The KGB has also fabricated new details about Mr. Daniloff's alleged activities. This unwise indictment of an innocent man raises the issue to a new and more serious level.

The Soviets then proceeded to link the arrest of the Soviet spy in New York with the detention of Mr. Daniloff. Our Government must not be manipulated into exchanging an accused spy for an innocent journalist. There must be no trade.

Who is calling the shots in the Soviet Union? Is it Mr. Gorbachev, the KGB, or the Soviet military? I clearly recall Mr. Gorbachev's promises to make the Soviet Union a more open society in which candid self-criticism would occur. Is that the country that complains that its peaceful purposes in this world often go unrecognized by the United States? Is the kidnaping of Mr. Daniloff the decision of Mr. Gorbachev, a media-conscious leader who prides himself in being a modern Soviet man? How will this intimidating action affect the image of Russia in the free world?

Do the Soviets really want a summit? The Kremlin has said much about the summit and the important issues that can be discussed there to include arms control and regional and bilateral issues. U.S. arms control talks have reached a sensitive stage. A productive summit could bring progress on a whole range of issues.

Soviet authorities should act responsibly so that our two countries can make progress on the many critical issues on our agenda. Let us work together to solve the existing problems. Let us avoid creating new problems.

The Soviets must be told that serious consequences will follow if Mr. Daniloff is not set free. Our Government will not have business as usual with a country that kidnaps innocent journalists from the streets of Moscow.

This Congress must take a strong stand against this illegal action against an innocent American citizen.

In the interest of justice and the improvement of relations between our two countries, I urge my colleagues to join me in support of this important resolution.

Mr. Speaker, I would like to yield to the principal sponsor of this resolution, the gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. Mr. Speaker, I thank the gentleman for yielding, and I would like to thank very much the chairman of the Committee on Foreign Affairs and commend the chairman of the Committee on Foreign Affairs, Mr. FASCELL, for his expeditious consideration of this resolution.

I would also like to commend the leadership of the House for their expeditious consideration of this resolution, and to thank them as well.

I would also like to commend the gentleman from Pennsylvania [Mr. GEKAS] for his leadership on this issue. He yesterday indicated his willingness to sponsor a resolution on this subject as soon as Congress reconvened from the district work period, and has shown great leadership on this issue.

Frankly, Mr. Speaker, the importance of this resolution coming at this time, and in the fashion that it is coming, with the strong support of the ranking minority member of the committee, the chairman of the committee, the leadership, and Members across the philosophical spectrum, is to demonstrate as clearly and forceful-

ly and directly as possible to the Soviet Union that on a strong bipartisan basis, this Congress and the American people are outraged by the actions of the Soviet Union.

These are actions that have no justification. These are actions that are absolutely reprehensible from the point of view of international law and morality; and yet these are actions which are not entirely out of character with regard to the traditional leadership of the Soviet Union.

Several years ago, a distinguished journalist from the newspaper from the city that I represent, the Los Angeles Times, was apprehended in a fashion similar to that of Mr. Daniloff. Fortunately, both for United States-Soviet relations and for that journalist, Mr. Robert Toth, one of the more distinguished journalists in this country, the Soviets decided that they would release Mr. Toth expeditiously. As a result of that, the potential damage to United States-Soviet relations in that context was minimized.

We have seen historically that when the United States appropriately apprehends a legitimate Soviet spy, the reaction of the Soviet Union is to turn around and grab an American citizen, an innocent American citizen, who has performed totally appropriately within his responsibilities as a journalist; and then to try to keep that American journalist hostage to our releasing the legitimate Soviet spy.

I share with the gentleman from Michigan [Mr. BROOMFIELD] his recollection of the new Soviet leader, Mr. Gorbachev, indicating that this would be a new era.

Is this the manner in which Mr. Gorbachev is going to demonstrate that new openness in the Soviet Union?

Mr. Speaker, it is very important that the Soviets unmistakably understand that on a strong bipartisan basis, the Congress of the United States of America, speaking for the people of the United States of America, joins with the administration of this country in demanding the immediate release of Mr. Daniloff and in condemning this outrageous action.

Mr. Speaker, today Americans are being held hostage in two regions of the world. In Lebanon they are being held by terrorists. In the Soviet Union an American reporter is being held hostage by the Russian Government.

Nicholas Daniloff has been the Moscow correspondent for U.S. News and World Report since April 1981. During that time he has become recognized as a top notch reporter and an expert on Soviet affairs.

On August 30, a Russian acquaintance of Mr. Daniloff met with him and handed him a sealed envelope. Eight KGB agents immediately descended on the reporter and arrested him, claiming he had been given photos and maps marked top secret.

The Soviet Government has since indicted Daniloff as a spy, and threatens to put him on trial for his life.

Nick Daniloff is no spy. Instead he has become caught up in a high powered poker game designed by the KGB to free one of their own agents who was arrested on espionage charges by the FBI.

The resolution I have introduced condemns this outrageous Soviet action, urges the immediate and unconditional release of Nick Daniloff, and expresses our concern that this incident may have a negative impact on relations between the United States and the Soviet Union and frustrate efforts to facilitate a second summit meeting between the President and Soviet General Secretary Gorbachev.

Mr. Speaker, this is a very serious incident which will have significant ramifications if it is not quickly resolved. It would be wrong to allow relations between our two nations to remain unaffected by the Soviet's outrageous conduct.

The Soviets must understand that Congress and the administration take this matter very seriously. This is not a matter which will be resolved by hand wringing and speeches. Unless the Soviets release Nick Daniloff we will have no alternative but to take meaningful actions to demonstrate our commitment to winning his freedom.

I urge my colleagues to support this resolution and add their voices to those around the world demanding that Nicholas Daniloff be freed.

Mr. Speaker, I very much appreciate the gentleman's yielding. I very much appreciate the leadership and the work of the chairman of the committee.

I thank the gentleman from Michigan [Mr. BROOMFIELD] for giving me the opportunity to explain initially my reasons for introducing this resolution, and for pursuing it at this particular time.

Mr. BROOMFIELD. Mr. Speaker, under my reservation of objection, I yield to the gentleman from Pennsylvania [Mr. GEKAS], who is also a sponsor of a similar resolution on this subject.

Mr. GEKAS. Mr. Speaker, I want to thank the gentleman from California [Mr. LEVINE] for alluding to the fact that I was intent on introducing a resolution that would have been the precursor of the instant resolution.

Mr. Speaker, the most important feature, in my judgment, of the wording of this resolution is the one that in effect gives notice to the American people that its expectations and its hopes for a continued bettering of the relationship between us and the Soviet Union is in jeopardy; that a summit conference between the two leaders is in jeopardy.

Why? Because of the cloud of the present hostage taking by the Soviet Union. How in the world can our President go to a summit meeting while there is still a 4-hour-per-day grueling going on of our American citizen, while death is being threatened to him, and then to have the spectacle of the hype that is going to accompany the convening of a summit meeting in the midst of all that?

Mr. Speaker, the resolution is excellent in its wording. It brings to the core of the matter our intentions in this very serious issue.

One other thing has to be said, and that is, implicit in this resolution is the willingness of the Congress of the United States to support the President of the United States in whatever efforts he may undertake to free our American citizen held hostage by the Soviet Union.

Mr. BROOMFIELD. Mr. Speaker, under my reservation, I would like to yield to the gentleman from New York, TED WEISS, a member of the Committee on Foreign Affairs.

Mr. WEISS. Mr. Speaker, I thank the gentleman for yielding to me, and commend the distinguished chairman of the Foreign Affairs Committee for his quick dispatch in having this resolution considered by the House.

The distinguished gentleman from California [Mr. LEVINE] and I last week, in the immediate aftermath of the outrageous action by the Soviet Government and its agents in regard to Mr. Daniloff, sent a letter cosigned by 53 Members of this body to General Secretary Mikhail Gorbachev, urging him to take immediate action to effect the release of Nicholas Daniloff. I will submit a copy of that letter with the list of signatories and the covering letter to Soviet Ambassador Yuriy Dubinin at the close of my statement.

It is unthinkable that the Soviet Union could believe that it could frame an American citizen fulfilling his responsibilities as a journalist and get away with it. Those of us who have been the most intent on seeing the United States and the Soviet Union move forward in regard to arms control agreements can only advise the leadership of the Soviet Union that this kind of action makes progress toward that all-important goal almost impossible. It poisons the atmosphere and strengthens the hand of those who argue that the Soviet Union cannot be trusted to conduct itself in a fashion acceptable as decent and civilized behavior.

□ 1045

If in fact Mr. Gorbachev is serious, as he has indicated by his previous statements, proposals, and actions in his effort to move toward improved relations and improved agreements with regard to the nuclear arms race, he

must for the good image of his own country and for the sake of humanity reverse the action of his overzealous agents and release Mr. Daniloff immediately.

Mr. Speaker, I thank the gentleman for yielding.

Following is the correspondence which I referred to earlier:

HOUSE OF REPRESENTATIVES,
Washington, DC, September 4, 1986.

His Excellency YURIY VLADIMIROVICH DUBININ,
Ambassador of the Union of Soviet Socialist Republics, 1125 16th Street NW, Washington, DC.

DEAR MR. AMBASSADOR: Attached please find a letter from us and many of our colleagues in Congress to General Secretary Mikhail Gorbachev.

We would appreciate it if you would arrange to have this letter forwarded to General Secretary Gorbachev with all possible dispatch.

Thank you for your attention to this matter.

Sincerely,

TED WEISS,
MEL LEVINE,
Members of Congress.

HOUSE OF REPRESENTATIVES,
Washington, DC, September 3, 1986.

His Excellency MIKHAIL GORBACHEV,
General Secretary of the Central Committee of the Communist Party of the Soviet Union, The Kremlin, Moscow, U.S.S.R.

DEAR MR. GENERAL SECRETARY: We write to express our deep concern over the recent detention in Moscow of the journalist Nicholas Daniloff. Mr. Daniloff is one of the most respected American reporters writing from the Soviet Union. At the time of his arrest, Mr. Daniloff was preparing to return to the United States after years of distinguished work as Moscow correspondent for U.S. News & World Report.

Contrary to suggestions that Mr. Daniloff was a knowing participant in an espionage plot, the reported circumstances strongly indicate that he was framed by agents of your government. If Mr. Daniloff is not swiftly released, this gross infringement of journalistic freedom could seriously affect relations between our two governments.

We therefore urge, in the strongest terms, that you secure the immediate and unconditional release of Mr. Daniloff and that you permit him to conclude his journalistic work in the Soviet Union in an orderly manner.

Sincerely yours,

Ted Weiss, Joe Moakley, David E. Bonior, Mel Levine, Bill Alexander, Claude Pepper, Charles E. Schumer, Barney Frank, Sam Gejdenson, Gary L. Ackerman, Ron Wyden, Barbara Boxer, Sidney R. Yates, Matthew F. McHugh, Sander M. Levin, Howard L. Berman, Howard Wolpe, Tom Lantos, Martin Frost, Ben Erdreich, Thomas J. Downey, Gus Yatron, Peter J. Kostmayer, Mark Siljander, Robert Torricelli, Robert J. Mrazek, Chris Smith, John Porter, Mike DeWine, Gerry Studds, Dan Burton, Robert Garcia, Jerry Lewis, Ed Zschau, Buddy MacKay, John McCain, Mervyn M. Dymally, Morris K. Udall, Robert J. Lagomarsino, William Lehman, James H. Scheuer, Silvio O. Conte, Ben Gilman, Stephen Solarz, John Miller, Henry J. Hyde, Edward F. Feighan, Ed Markey, Jack Kemp, Julian C. Dixon, Henry A. Waxman, Dan Lungren, John Conyers,

Mr. BROOMFIELD. Mr. Speaker, under my reservation I yield to the gentleman from New York [Mr. GILMAN], a member of the committee.

Mr. GILMAN. I thank the gentleman for yielding.

Mr. Speaker, I want to commend the distinguished chairman of our committee on Foreign Affairs the gentleman from Florida, Mr. FASCELL and the ranking minority member, the gentleman from Michigan, Mr. BROOMFIELD for bringing this measure to the floor, along with the gentleman from California [Mr. LEVINE] and the gentleman from New York [Mr. WEISS] for proposing this measure at this very timely point in our discussions with the Soviet Union regarding the Soviets detention of Nick Daniloff an event appalling to all Americans, and especially to those of us who have been concerned about human rights.

Human rights are an important component of our American foreign policy. For more than a decade this has been realized through our commitment to the Helsinki Final Act, a landmark document to which the Soviet Union is signatory. This particular act, in basket 3, stipulates the actions that signatory nations must abide by. The act also outlines the rights of all journalists, a group of individuals who, throughout the world, occupy an important and unique part of society.

Most of our efforts as Members of Congress center on promoting and protecting the human rights accorded private individuals, writers, and artists on a wide range of political, social, and religious issues. It is not often that the rights of journalists are violated to such an extent that they too become part and parcel of our fight for human rights. However, without the commitment of journalists to their job, the cry for freedom would be even more severely muffled than it is. Yet, to blatantly arrest a widely respected American journalist on such clearly false charges of espionage strikes me as surreal, at the very least.

It is apparent that the Daniloff incarceration is yet another cruel chapter in the long history of how the Soviets respond to all of our appeals for human rights and is yet another example of the true manner in which they conduct themselves. The manner in which Nick Daniloff is being held is indicative that the Soviet Union is determined to drive another nail into the coffin in which they are burying the Helsinki accords.

It smacks of the Shcharansky case of years ago, when Anatoly Shcharansky was imprisoned by the Soviets for the false allegation of being an agent of the United States and wrongly accused of being involved in espionage on our behalf. At that time, Shcharansky's only contacts were Western journalists.

President Reagan, in a very strong letter to the Soviet Union, has denied any connection between Mr. Daniloff and any of our intelligence agencies just as did President Carter in the Shcharansky case.

I would think that the Soviets who contend they are attempting to promote better relations between our two nations, would take a serious look at the abysmal environment that they are creating by these continued violations of the Helsinki Final Act. The Final Act and other international agreements to which the Soviet Union is signatory clearly state that freedom of the press is to be protected.

I would hope that any of those in the Soviet Union who hold policy positions on human rights—and it is very difficult to find out just who those policymakers are—would recognize the damage that they are inflicting not only on the Helsinki Final Act, not only on our general bilateral relationship, but on any discussions at the arms and summit meetings that are ongoing or anticipated during the next few months.

Mr. Speaker, I urge the Soviet Union to take a very close look at the symbol that our adoption of this measure represents, and I hope that we will have a unanimous approval of this measure.

Accordingly, Mr. Speaker, I urge my colleagues to strongly support this resolution. I thank the gentleman for yielding.

Mr. BROOMFIELD. Mr. Speaker, under my reservation I yield to the gentleman from New York [Mr. SCHEUER].

Mr. SCHEUER. Mr. Speaker, this whole episode of the taking of the newspaperman, Mr. Daniloff, as a hostage is utterly depressing in its implications. Fourteen years ago, I was taken into custody by the KGB in the Soviet Union on equally trumped-up charges. I was held for a matter of 4 or 5 hours. It was a totally trivial and insignificant episode compared to what we are seeing now.

The charge against me was that I was consorting with refuseniks, which I was, and of course it was entirely legal in those days. The charge against Mr. Daniloff is absurd, it is cooked up, it is hoked up, it is patent nonsense, it is a clear frameup. But its implications are appalling.

The Soviet Union and the United States are truly two scorpions in a bottle. We have to live with each other. The only way we can live with each other is if we establish some kind of moral, legal ethical norms to guide our contracts and our negotiations and our relationships.

Does the Soviet Union really want to portray to the world through this outrageous, immoral, illegal, transparent-

ly uncivilized act, do they want to portray the image of an outlaw state, the image of a rogue elephant crashing through the thickets of the jungle of international law, mutual respect, some kind of moral standards that guide nations?

Do they really want to act in defiance of world public opinion and world moral and ethical and legal norms as would a Khomeini and Assad? Do they want to repeat the awful conduct of the Idi Amin's, the Bokassa's who defy world opinion, who defy any moral standard in the conduct of their business? I have been to the Soviet Union twice, and I have met on many occasions with the Soviets. The Soviet people are a great people who have made exquisite and enormous contributions to world culture, literature, art, music.

Cannot the Soviet leadership look into their past, look into the affection and regard in which the world holds the Soviet people and somehow bring themselves to conform to internationally established norms of decent civilized conduct?

Without this these two scorpions are going to have a rough time surviving in that bottle.

Mr. Speaker, I thank the gentleman for yielding.

Mr. BROOMFIELD. Mr. Speaker, under my reservation I yield to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding and basically what I want to do was associate myself with his remarks. I think he hit the nail on the head with what he said in his remarks earlier in this discussion.

I do remember a few months back that the President was fairly roundly criticized for suggesting that the Soviet Union was in fact the evil empire.

Well, it seems to me with this resolution there is at last some recognition that we are dealing with an evil empire that cannot be trusted, even with the basic protection of fundamental human rights.

I thank the gentleman for yielding.

Mr. BROOMFIELD. Mr. Speaker, under my reservation I yield to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. I thank the gentleman for yieiding.

Mr. Speaker, I rise in strong support of House Resolution 542.

Mr. Speaker, House Resolution 542 deplores the arrest and continuing detention of U.S. News & World Report correspondent Nicolas Daniloff and urges Soviet leader Gorbachev to correct this action immediately by freeing Daniloff "unconditionally and without further delay." Daniloff's arrest on fabricated espionage charges is utterly contrary to Soviet commitments under the Helsinki Final Act regarding working conditions for journalists.

In 1975, Helsinki signatories pledged that the legitimate pursuit by journalists of their professional activity will not penalize them. Despite Gorbachev's slick advertisements of a more open Soviet society, it is telling that a foreign correspondent widely respected for his extensive and objective reporting on Soviet life should be so cynically and cruelly targeted by the KGB. The Soviets, contrary to their Helsinki promises, continue to see the free flow of people, ideas and information as something to be controlled and manipulated rather than encouraged.

Mr. Speaker, the U.S. Helsinki Commission's research shows that Soviet progress in the information field has been very limited, both in general and as compared to other areas of the Helsinki accords. After some initial progress in 1975, when the Soviet Government reached a reciprocal agreement with the United States on the issuance to journalists of multiple entry and exit visas, the pattern has been one of the Soviet Union's efforts to impede or directly prevent, rather than to facilitate the flow of information and ideas across its borders.

Although the Soviet Union has utilized advances in satellite broadcasting as an important vehicle by which to improve its image and advance its peace campaign in the West, in the Soviet Union, the dissemination of information remains under strict state control. Imported printed, filmed and broadcast information is subject to censorship and foreign newspapers, books and periodicals are made inaccessible to the public. The U.S.S.R. continues to jam Western radio broadcasts, has passed laws designed to restrict foreigners' access to unofficial sources within the country, and continues to restrict, harass and penalize foreign journalists who are simply performing their jobs. Daniloff is only the last in a series of correspondents who have been targetted on politically motivated grounds.

Mr. Speaker, in closing, I want to commend my colleague Mr. MEL LEVINE who is responsible for bringing up this resolution and Mr. DANTE FASCELL whose eloquence on the subject of human rights is only equalled by his life-long concern and commitment. I strongly support House Resolution 542.

Mr. GILMAN of New York and others have talked about the fact that this is an outrageous violation of the Helsinki Final Act provisions as it relates to journalists, as it relates to the coverage of one another's countries by journalists who report back, on the premise that more information and better information will lead to a better understanding between two nations which have to come to some resolution between one another in a peaceful way. This is an outrageous violation of the Helsinki Final Act. It is a total undermining of the objectives of the act.

I believe this resolution speaks strongly, as strongly as we ought in this instance.

I thank the gentleman for yielding.

Mr. COUGHLIN. Mr. Speaker, the ongoing detention of American journalist Nicholas Daniloff has cast a huge pall over United States-Soviet relations and has demonstrated once again the Soviet Union's lack of respect for human rights.

It is clear that Mr. Daniloff is the unfortunate and innocent victim of a Soviet frameup. Three days after a Soviet KGB agent—ostensibly a U.N. employee—was arrested buying secrets in New York, the KGB contrived a case against Mr. Daniloff. He was jumped by eight KGB agents immediately after being handed a sealed envelope, the contents of which were unknown to him.

Moscow has sought to kill two birds with one stone in this affair. First, they have sought leverage in negotiations to win the release of the Soviet agent captured in New York, by taking an innocent American hostage. Second, they have sought to destroy the credibility and effectiveness of the American press by selecting one of its most outstanding and respected professionals to be the victim.

The Soviets must appreciate the seriousness with which all Americans view this sordid affair. The Soviet decision to formally indict Mr. Daniloff on the basis of this totally fabricated evidence represents an unprincipled violation of the international norms of behavior. The President has rightly condemned this utterly cynical and corrupt use of police power by the U.S.S.R. and has made it clear that such misdeeds cannot go unanswered. I know that all Members of this body, and all Americans, share in this outrage and in the view that the Soviets must move forthwith to release Nicholas Daniloff and resolve this matter favorably.

Mr. DREIER of California. Mr. Speaker, I rise in strong support of House Resolution 542, having introduced a similar resolution with the ranking minority member of the Foreign Affairs Committee condemning the kidnaping of Nicholas Daniloff.

By arresting Mr. Daniloff on the very weakest of nonexistent charges, the Soviets are testing once again just how far they can push accepted international standards and sensibilities. The transparency of the charges against Mr. Daniloff has gone beyond the Kremlin's usual carelessness in preparation. However, given the Soviets' past success in taking advantage of world opinion, Secretary Gorbachev is probably calculating that he has an "even" chance of pulling off the Daniloff kidnaping. In addition to supporting the current resolution, I would further urge the President not to engage in any "deal-making" for the release of Mr. Daniloff in exchange for the Soviet agent, Gennadi Zakharov.

I believe the passage of this resolution will send a clear message to the Soviets concerning the precedent they are attempting to set and the strain they are putting on our mutual relationship.

Mr. LIPINSKI. Mr. Speaker, the arbitrary arrest of reporter Nicholas Daniloff provides conclusive evidence that under the "enlightened" and "progressive" leadership of Mikhail Gorbachev, nothing has changed. The supposed openness and accessibility that cloaked the Gorbachev regime in attractive wrapping has fallen away to reveal the totalitarian police state that is the foundation of the Soviet system. Indeed, Daniloff is the most recent victim of the same old Stalin-era tactics that still motivate Soviet policy and action.

To swap the reporter for Gennadi Zakharov, a Soviet spy caught redhanded with classified documents, would only make the Soviets think these brutish methods produce the desired effect and encourage them to do the same thing again and again. This is not the first time an American has been randomly arrested in order to force a swap. Giving in to Soviet pressure to exchange the two would equate Daniloff with Zakharov, something even the reporter himself refuses to discuss as a possibility, and give the Soviets further precedent upon which to take future criminal acts. It is unfortunate that the average Russian citizen must bear the hardships and deceit of such a system, but it is totally unacceptable for an American to have to suffer its indignities. Clearly, the unconditional release of Nicholas Daniloff is the only possible solution to the incident.

If the Soviets are intent on improving the prospects for the summit meeting and arms control talks with the United States, then they must realize their recent action has harmed relations between the two countries. Shrugging off the Daniloff case as "not important" and not worthy of holding Soviet-American relations "hostage," as the Soviet Foreign Ministry has maintained, does very little to improve the summit picture and general relations. The only hostage that is being held is in Lefortovo Prison in Moscow.

Mr. BIAGGI. Mr. Speaker, once again the Soviet Union has displayed its open contempt for the principles of due process and justice. This time the victim is a respected American journalist, Nicholas Daniloff. For the past 11 days, Daniloff has been imprisoned in the Soviet Union after his arrest on trumped up spy charges.

The Soviet Union has repudiated all efforts to gain Daniloff's release. This includes an extraordinary personal appeal by President Reagan to Soviet leader Gorbachev where the President staked his prestige to proclaim Daniloff's innocence.

Daniloff is, in fact, being held hostage by the Kremlin in a desparate effort to secure the release of a Soviet diplomat arrested in New York on spy charges. Nowhere do we see Gorbachev appealing for his release—or proclaiming his innocence. The President, in a strong speech earlier this week, indicated the Daniloff matter could jeopardize plans for a superpower summit.

It is high time that the Soviets realized that we will never consider blackmailers to be partners in any agreements, especially those involving arms control. The Soviets have picked the wrong time to pull a stunt of this type. The American public and this Congress is unified in its outrage over this travesty. Our national resolve is strong—and the Soviets must respect it the only way they can—by releasing Nick Daniloff.

Ms. MIKULSKI. Mr. Speaker, the arrest and imprisonment of U.S. News & World Report journalist Nicholas Daniloff is an outrage, pure and simple. I wholeheartedly support House Resolution 542, which condemns the Soviet Union for these actions, and demands that Soviet authorities immediately and unconditionally release Mr. Daniloff.

Mr. Daniloff was framed by the Soviet KGB. He is not nor ever has been a spy. Two weeks ago, he was invited to take a stroll through Lenin Hills in Moscow with an old acquaintance. It was not unusual for the acquaintance to offer a packet of newspaper clippings in exchange for a gift of some novels. But as soon as Mr. Daniloff accepted the packet, he was seized by eight KGB agents and told that the packet contained "top secret" information. He has been in jail now for almost 2 weeks, pending a "trial" on charges of espionage.

The mistreatment of Nick Daniloff imperils the possibility of a United States-Soviet summit this year and brings into question their willingness to live up to treaty obligations. Under the Helsinki Final Act, the Soviet Union is bound to "reaffirm that the legitimate pursuit of their professional activity will never render journalist liable to expulsion nor otherwise penalize them." Soviet disregard of this obligation can only have a chilling affect on hopes for better superpower relations.

House Resolution 542 sends a strong message to the Soviet Union: the American people will not tolerate the arrest and imprisonment of American journalist on such contrived circumstances. Although I was unable to be present for the vote this morning, I stand to add my voice to those of my colleagues demanding Nicholas Daniloff's immediate release.

Mr. BROOMFIELD. Mr. Speaker, I withdraw my reservation of objection and urge the House to support this resolution.

The SPEAKER pro tempore. Is there objection to the present consideration of the resolution?

There was no objection.

Mr. FASCELL. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. TORRES). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BROOMFIELD. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 394, nays 0, not voting 37, as follows:

[Roll No. 365]

YEAS—394

Ackerman	Bentley	Bruce	Conte	Howard	Myers
Akaka	Bereuter	Bryant	Cooper	Hoyer	Natcher
Alexander	Berman	Burton (IN)	Coughlin	Hubbard	Neal
Anderson	Bevill	Bustamante	Coyne	Huckaby	Nelson
Andrews	Biaggi	Callahan	Craig	Hughes	Nichols
Annunzio	Bilirakis	Carney	Crane	Hunter	Nielson
Anthony	Bliley	Carper	Daniel	Hutto	Nowak
Applegate	Boehlert	Carr	Dannemeyer	Hyde	Oakar
Archer	Boggs	Chandler	Darden	Ireland	Oberstar
Armey	Boland	Chapman	Daschle	Jacobs	Obey
Aspin	Boner (TN)	Chappell	Daub	Jenkins	Olin
Atkins	Bonior (MI)	Cheney	Davis	Johnson	Ortiz
AuCoin	Bonker	Clay	DeLay	Jones (NC)	Oxley
Badham	Borski	Clinger	Dellums	Jones (OK)	Packard
Barnard	Bosco	Coats	Derrick	Jones (TN)	Panetta
Bartlett	Boucher	Cobey	DeWine	Kanjorski	Parris
Barton	Boulter	Coble	Dickinson	Kaptur	Pashayan
Bateman	Boxer	Coelho	Dicks	Kasich	Pease
Bates	Brooks	Coleman (MO)	Dingell	Kastenmeier	Penny
Bedell	Broomfield	Coleman (TX)	DioGuardi	Kemp	Pepper
Beilenson	Brown (CA)	Collins	Donnelly	Kennelly	Perkins
Bennett	Brown (CO)	Combest	Dorgan (ND)	Kildee	Petri
			Dowdy	Kindness	Pickle
			Downey	Kolbe	Price
			Dreier	Kolter	Pursell
			Duncan	Kostmayer	Quillen
			Durbin	Kramer	Rahall
			Dwyer	LaFalce	Rangel
			Dymally	Lagomarsino	Ray
			Dyson	Lantos	Regula
			Early	Latta	Reid
			Eckart (OH)	Leach (IA)	Richardson
			Eckert (NY)	Leath (TX)	Ridge
			Edgar	Lehman (CA)	Rinaldo
			Edwards (CA)	Lehman (FL)	Ritter
			Edwards (OK)	Leland	Roberts
			Emerson	Lent	Robinson
			English	Levin (MI)	Rodino
			Erdreich	Levine (CA)	Roe
			Evans (IA)	Lewis (CA)	Roemer
			Evans (IL)	Lewis (FL)	Rogers
			Fascell	Lightfoot	Rose
			Fawell	Lipinski	Roukema
			Fazio	Livingston	Rowland (CT)
			Feighan	Lloyd	Rowland (GA)
			Fiedler	Loeffler	Roybal
			Fields	Long	Russo
			Fish	Lott	Sabo
			Flippo	Lowery (CA)	Saxton
			Florio	Lowry (WA)	Schaefer
			Foglietta	Lujan	Scheuer
			Foley	Luken	Schneider
			Ford (MI)	Lundine	Schroeder
			Ford (TN)	Lungren	Schuette
			Frank	Mack	Schulze
			Franklin	MacKay	Schumer
			Frenzel	Madigan	Sharp
			Frost	Manton	Shaw
			Fuqua	Markey	Shuster
			Gallo	Marlenee	Sikorski
			Garcia	Martin (IL)	Siljander
			Gaydos	Martin (NY)	Sisisky
			Gejdenson	Martinez	Skeen
			Gekas	Matsui	Skelton
			Gephardt	Mavroules	Slattery
			Gibbons	Mazzoli	Slaughter
			Gilman	McCain	Smith (FL)
			Gingrich	McCandless	Smith (IA)
			Glickman	McCloskey	Smith (NE)
			Gonzalez	McCollum	Smith (NJ)
			Goodling	McCurdy	Smith, Denny (OR)
			Gordon	McDade	
			Gradison	McEwen	Smith, Robert (NH)
			Gray (IL)	McGrath	
			Gray (PA)	McHugh	Smith, Robert (OR)
			Green	McKernan	
			Gregg	McKinney	Snowe
			Guarini	McMillan	Snyder
			Gunderson	Meyers	Solarz
			Hall (OH)	Mica	Solomon
			Hall, Ralph	Michel	Spence
			Hamilton	Miller (OH)	Spratt
			Hammerschmidt	Miller (WA)	St Germain
			Hansen	Mineta	Staggers
			Hatcher	Moakley	Stallings
			Hawkins	Molinari	Stark
			Hayes	Mollohan	Stenholm
			Hefner	Monson	Stokes
			Hendon	Montgomery	Strang
			Henry	Moody	Studds
			Hertel	Moorhead	Stump
			Hiler	Morrison (CT)	Sundquist
			Hillis	Morrison (WA)	Sweeney
			Holt	Mrazek	Swift
			Hopkins	Murphy	Swindall
			Horton	Murtha	Synar

Tallon	Volkmer	Wirth
Tauke	Vucanovich	Wise
Tauzin	Walgren	Wolf
Taylor	Walker	Wolpe
Thomas (CA)	Watkins	Wortley
Thomas (GA)	Waxman	Wright
Torres	Weber	Wyden
Torricelli	Weiss	Wylie
Towns	Wheat	Yates
Traficant	Whitehurst	Yatron
Traxler	Whitley	Young (FL)
Valentine	Whittaker	Young (MO)
Vander Jagt	Whitten	Zschau
Vento	Williams	
Visclosky	Wilson	

NOT VOTING—37

Barnes	Grotberg	Savage
Breaux	Hartnett	Seiberling
Burton (CA)	Jeffords	Sensenbrenner
Byron	Kleczka	Shelby
Campbell	Mikulski	Shumway
Chappie	Miller (CA)	Stangeland
Conyers	Mitchell	Stratton
Courter	Moore	Udall
Crockett	Owens	Waldon
de la Garza	Porter	Weaver
Dixon	Rostenkowski	Young (AK)
Dornan (CA)	Roth	
Fowler	Rudd	

□ 1110

Mr. DICKINSON and Mr. SILJANDER changed their votes from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. DORNAN of California. Mr. Speaker, on the prior vote on House Resolution 542, of which I am an original cosponsor, and which passed unanimously, I did not hold down the button long enough to record my vote. I was on the floor. I would have vigorously voted in the affirmative with the whole rest of my colleagues in the House.

PERSONAL EXPLANATION

Mr. ROTH. Mr. Speaker, this morning I was unavoidably detained with some constituents, and I missed the vote on House Resolution 542 concerning the arrest and imprisonment and indictment of Nicholas Daniloff.

Mr. Speaker, had I been present for the vote, I would have voted "aye."

The Soviet Union's decision to in effect kidnap an American journalist and hold him in prison on a trumped-up charge is reprehensible, even by Soviet standards. We, and the rest of the civilized world, must condemn such violations of international order in the strongest possible terms.

OMNIBUS DRUG ENFORCEMENT EDUCATION, AND CONTROL ACT OF 1986

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 541 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 541

Resolution providing for the consideration of the bill (H.R. 5484) to strengthen Federal efforts to encourage foreign cooperation in eradicating illicit drug crops and in halting international drug traffic, to improve enforcement of Federal drug laws and enhance interdiction of illicit drug shipments, to provide strong Federal leadership in establishing effective drug abuse prevention and education programs, to expand Federal support for drug abuse treatment and rehabilitation efforts, and for other purposes.

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5484) to strengthen Federal efforts to encourage foreign cooperation in eradicating illicit drug crops and in halting international drug traffic, to improve enforcement of Federal drug laws and enhance interdiction of illicit drug shipments, to provide strong Federal leadership in establishing effective drug abuse prevention and education programs, to expand Federal support for drug abuse treatment and rehabilitation efforts and for other purposes, and the first reading of the bill shall be dispensed with. All points of order against the consideration of the bill are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed five hours, to be equally divided and controlled by Representative Wright of Texas and Representative Michel of Illinois or their designees, the bill shall be considered as having been read for amendment under the five-minute rule. The amendments contained in section two of this resolution shall be considered to have been adopted in the House and in the Committee of the Whole. No other amendment to the bill shall be in order except the amendments contained in the report of the Committee on Rules on this resolution, said amendments shall be considered only in the order listed, and if offered by the Member indicated, in said report, said amendments shall not be subject to amendment or to a demand for a division of the question in the House or in the Committee of the Whole unless otherwise specified in this resolution, and each of said amendments shall be debatable for not to exceed the time indicated in the report of the Committee on Rules on this resolution, to be equally divided and controlled by the proponent of the amendment and a Member opposed thereto. With respect to the amendment by Representative Wright containing the text of amendments originally submitted by other Members as indicated in the report of the Committee on Rules on this resolution, those original sponsors as so indicated in the report may insert statements for inclusion in debate in the Committee of the Whole on said amendment, and those statements shall be printed in the CONGRESSIONAL RECORD as if they had been actually delivered in debate, any rule or regulation to the contrary notwithstanding. The amendment by Representative HUNTER of California or by Representative ROBINSON of Arkansas may only be offered as a perfecting amendment to the amendment by Representative BENNETT of Florida relating to the authority of members of the armed forces in drug interdiction activities, and all points of order against said perfecting amendment for failure to comply with the provisions of clause 7 of rule XVI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit, which may not contain instructions.

SEC. 2. Page 5, in the table of contents insert after the item relating to section 352 the following:

"Sec. 353. Recreational vessel licenses."

Page 51, line 18, strike out "Individuals" and insert in lieu thereof "Except as otherwise authorized by the Secretary, individuals".

Page 52, line 2, strike out "Any" and insert in lieu thereof "Except as otherwise authorized by the Secretary, any".

Page 69, line 19, strike out "OATH" and insert in lieu thereof "OATHS".

Page 81, line 12, strike out "to have" and insert in lieu thereof "has".

Page 82, insert after line 9 the following:

"SEC. 353. RECREATIONAL VESSEL LICENSES.

"Section 12109(b) of title 46, United States Code, is amended by adding at the end the following: 'Such vessel must, however, comply with all customs requirements for reporting arrival under section 433 of the Tariff Act of 1930 (19 U.S.C. 1433) and all persons aboard such a pleasure vessel shall be subject to all applicable customs regulations.'".

Page 87, line 22, strike out "(4)" and insert in lieu thereof "(3)".

Page 94, line 15, strike out "Act" and insert in lieu thereof "title".

Page 115, line 2, strike out "section 2(a)" and insert in lieu thereof "section 502(a)".

Page 119, line 7, strike out "section 2(b)" and insert in lieu thereof "section 502(b)".

Page 125, line 17, strike out "section 11" and insert in lieu thereof "section 511".

Page 163, beginning in line 16, strike out "the Controlled Substances Act and the Controlled Substances Import and Export Act" and insert in lieu thereof "this title and title III".

Page 188, line 17, insert "CONSIDERATIONS.—" after "(b)".

Page 222, strike out the heading for Part N after line 7, and insert in lieu thereof the following:

"PART N—TRANSITION; EFFECTIVE DATE; REPEALER"

Page 238, line 11, strike out "(E)" and insert in lieu thereof "(G)".

Page 240, line 4, strike out "(c)" and insert in lieu thereof "(b)".

Page 268, line 7, strike out "title" and insert in lieu thereof "subtitle".

Page 274, insert before the period in line 25 the following: "unless the alkyl nitrites or their isomers are not manufactured, processed, distributed, or sold for use by individuals".

Page 297, line 12, strike out "(2)" and insert in lieu thereof "(B), line 16, strike out "(3)" and insert in lieu thereof "(C)", and line 18, strike out "(4)" and insert in lieu thereof "(D)".

Page 302, line 16, strike out "(d)" and insert in lieu thereof "(c)".

Page 326, line 10, strike out the comma.

Page 327, line 17, insert "and use" before the period.

Page 331, line 14, strike out "territorial" and insert in lieu thereof "commonwealth".

□ 1120

The SPEAKER pro tempore. (Mr. TORRES). The Chair recognizes the gentleman from Florida [Mr. PEPPER].

Mr. PEPPER. Mr. Speaker, I ask unanimous consent that the amendments to H.R. 5484 printed in the report of the Committee on Rules on House Resolution 541 may be offered with corrected page and line numbers, directed to the page and line numbers of that bill rather than to the preliminary committee print by the Committee on Rules, and that Representative LEVINE be permitted to offer his amendment printed in the report of the Committee on Rules with the following modification:

Delete the word "any" in the first sentence and insert the word "all"; delete the word "is" in the first sentence and insert the word "are"; delete the word "primarily" in the first and second sentence and insert the word "used" and a comma; and insert after the word "intended" in the first and second sentences the words "for use" and a comma.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. PEPPER. Mr. Speaker, under the unanimous-consent request just agreed to, the modified amendments will be contained in the report of the Committee on Rules and will be available at the desk at the time they are to be called up.

The SPEAKER pro tempore. The gentleman from Florida [Mr. PEPPER] is recognized for 1 hour.

Mr. PEPPER. Mr. Speaker, for purposes of debate only, I yield 30 minutes to my able friend, the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume.

Mr. Speaker, this rule provides for consideration of H.R. 5484, the Omnibus Drug Enforcement, Education, and Control Act of 1986. It is a modified open rule, providing 5 hours of general debate to be equally divided and controlled by Representative WRIGHT and Representative MICHEL.

The time will be allocated among the 12 committees involved in the legislation and equally divided and controlled by the chairman and ranking minority member of each committee.

The rule makes in order several amendments printed in the Rules Committee report, No. 99-810, accompanying the resolution. No other amendments may be offered. Debate time for each amendment is specified in the Rules Committee report. The amendments are not subject to a demand for a division of the question and are not subject to amendment except where specified.

The first amendment will be offered by Representative WRIGHT. It consists of the text of 14 amendments recommended to the Rules Committee by other Members. The original sponsors of the amendments may insert their statements in the CONGRESSIONAL RECORD as if delivered in debate.

Mr. Speaker, the rule also makes in order 30 other amendments printed in the committee report, to be offered only by the Members designated in the report, and only in the order specified in the report. The amendment to be offered by Representative HUNTER or Representative ROBINSON may only be offered as a perfecting amendment to the amendment offered by Representative BENNETT concerning the authority of members of the Armed Forces in drug interdiction activities. All points of order against the perfecting amendment for failure to comply with clause 7 of rule XVI are waived.

Section 2 of the rule consists of a self-executing amendment correcting a few technical drafting errors. Upon adoption of the rule, the amendment will be considered as having been adopted in the House and in the Committee of the Whole. Finally, Mr. Speaker, the rule makes in order one motion to recommit without instructions.

Many Members deserve our appreciation for their special efforts in drafting this important legislation. I want to take this opportunity to especially commend the majority leader. He has distinguished himself, once again, by his efforts to bring together the work of 12 committees on this measure. I wish to praise the minority leader as well for his efforts, in true bipartisan spirit, to produce this bill and to expedite its consideration. The collaborative efforts of the majority leader, the minority leader, and the 12 committees has led to an all-American bill. The measure provides for total mobilization in the fight against the most serious problem our Nation faces today: The evil of drugs.

Mr. Speaker, thousands of lives each year are lost to the insidious drug epidemic. Many of our citizens are living in a nightmare, barricaded in self-erected fortresses. They will not venture out of their homes for fear of being mugged, murdered, or raped by half-crazed drug addicts in need of money to get a fix. This omnibus drug legislation will go a long way toward making America a better place to live. This legislation also provides for significant increases in drug prevention, education, and treatment programs. The improved programs will enable America to recapture the $2 billion our economy loses each year from reduced productivity due to drug abuse.

Mr. Speaker, we, as a nation, must seize this opportunity to bring the monster drug problem under control. This is landmark legislation designed to fight the effect of drugs, an evil that threatens our way of life. The rule bfore us is a fair rule. It expedites consideration of the bill and provides for full and orderly debate of the issues. I urge adoption of the rule.

□ 1130

Mr. QUILLEN. Mr. Speaker, I yield myself as much time as I may use.

Mr. Speaker, this rule should be adopted. Although it does not accommodate every Member's desire to amend the drug bill, it was fashioned with the agreement of the majority leader, Mr. WRIGHT, and the Republican leader, Mr. MICHEL, and it is a fair rule.

The rule permits most of the major and many of the less controversial amendments filed with the Rules Committee to be offered. At the same time, it does restrict our ordinary procedures somewhat in the interest of moving this important bill forward expeditiously toward final passage.

The bill this rule makes in order, H.R. 5484, the Omnibus Drug Enforcement, Education, and Control Act of 1986, is a comprehensive bipartisan response to the severe substance and drug abuse problem which afflicts our country. The bill has been put together from the work product of 12 House committees and is presented to the House as a single package containing 12 titles.

The bill provides new funds and new weapons for the war on substance and drug abuse and drug-related crime. It is a major step forward in our national effort to turn the tide against the drug-pushers and drug traffickers who have for years flooded the country with dangerous drugs and sold them at great profit to corrupt, injure, and kill our people.

This is a tough bill. I believe it signals the beginning of a forceful counteroffensive against the drug underworld, and this is a counteroffensive we must win.

Mr. Speaker, this rule does many things. Most of all, it brings to the floor of this House one of the most important measures coming before this Congress in many years. Drug dealers, drug traffickers, drug users, beware. This Congress means business and the passage of this measure and this rule will bring all the efforts of this Federal Government into play to do what must be done to save lives and to eradicate this cancer which is growing and growing upon us.

Here are a few highlights of what the bill does:

It provides additional aircraft and new incentive programs for other nations to reduce the export of drugs into the country;

It provides money for increased use of the Armed Forces and the Coast Guard to stop the drug smugglers before they can unload and distribute their cargoes in this country;

It strengthens the U.S. Customs drug enforcement capability, increases criminal and civil penalties for drug trafficking, and denies trade benefits to those countries who fail to cooperate fully with us in the war against drugs and drug smuggling;

It promotes drug eradication programs overseas through the multilateral development banks, and strengthens our money laundering laws;

It increases criminal penalties for narcotics violations and provides block grants to the States to step up the enforcement effort against the drug traffickers;

It provides grants for new Federal drug education programs focusing on drug abuse education and prevention programs, and also provides grants to the States and localities to establish and improve their own drug education programs;

It increases penalties for the use of aircraft in drug smuggling operations, and creates new penalties for the transportation of drugs;

It provides increased Federal assistance to the States and localities for drug treatment and prevention programs, and includes so-called designer drugs in the list of the Controlled Substances Act;

It makes legal changes to coordinate our efforts with our Indian citizens to improve law enforcement and to organize new alcohol and drug abuse treatment and prevention programs for native Americans;

So, this bill does provide new money, new programs, new and stiffer penalties, and a new commitment on the part of the Federal Government to fight this national war on substance and drug abuse and the drug traffickers.

I believe this bill is worthy of our support. Of course, it is not perfect, and I think it can be improved by the adoption of some of the amendments that will be offered on the floor. This bill will prove helpful in giving our people some new weapons to fight against the drug pushers and narcotics gangs that are preying on all of us.

Mr. Speaker, I ask for a "yes" vote on the rule so that we may begin on this important bill, which I hope will pass by a big bipartisan vote demonstrating the depth of our commitment to win the war against drugs.

Mr. Speaker, I yield 3 minutes to our minority leader, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Speaker, I thank the gentleman for yielding this time.

I will be speaking more specifically on the omnibus drug bill during general debate on the bill itself, but I did want to make a few comments on the rule before us at this time.

Obviously, a rule that seeks to limit amendments to a bill as wide sweeping as this one is not going to be totally satisfactory to a vast number of Members in this body. I guess if I had my druthers, I would have made in order all 88 amendments that were printed in the RECORD by individual Members. I believe in free and open debate and in the integrity of the amendment process. I believe we ought to opt in the direction of inclusion, rather than exclusion, as far as the right to offer amendments is concerned, particularly to a piece of legislation as broad sweeping and with as wide a scope as this one has.

The rule does make in order in one fashion or another about half of the amendments that were submitted. For the Members on our side, it is important to note that 18 Republican sponsored amendments will be permitted on the floor and another 6 of those will be included in the Wright en bloc amendment that will be offered during the course of our deliberations.

Among these amendments to be considered on the floor are the Gekas death penalty amendment, the Lungren amendment on the exclusionary rule. These are obviously two of the more controversial amendments.

Altogether of the 11 amendments that we indicated were of top priority, 10 were actually made in order on our side of the aisle.

My feeling was in these whole deliberations that in a bipartisan effort, admittedly with majorities in each one of the 12 committees that were putting together this package, obviously with a majority of Democrats they had a little more input there at the committee stage than we would have as a minority party; then when we get to the floor we felt that we were entitled to have at least this number of amendments made in order so that there could be free and open debate.

I applaud the majority leader for his efforts in our behalf to really truly come to the floor in a bipartisan fashion.

I regret that the gentleman from Florida [Mr. SHAW] will not have an opportunity to offer his amendment on drug testing. There was some misunderstanding, I guess, about specific language there as to whether or not it was mandatory or voluntary in nature.

I would just simply make the point that the President does, however, have the authority to require Federal agencies to implement drug testing programs if he so chooses. He does not need congressional authorization to do so.

All in all, I believe this is a good rule from our standpoint. I urge Members to support it. If the rule goes down, there are no guarantees that any subsequent rule will be better. In fact, it would most likely move in the opposite direction of being even more restrictive.

So let us vote for the rule and move on to consideration of the bill itself.

I thank the gentleman for yielding.

Mr. PEPPER. Mr. Speaker, I yield such time as he may consume, to the able gentleman from New York [Mr. RANGEL], who has done such a magnificent job as chairman of the Select Committee on Narcotics in the fight against the terrible drug abuse problem in America.

Mr. RANGEL. Mr. Speaker, I thank the distinguished gentleman from Florida.

Mr. Speaker, I rise in support of this rule. I think the House was indeed fortunate that we have as chairman of the Rules Committee a gentleman that spent so many years, indeed decades, fighting against this surge of drug abuse that has hit our Nation as well as other countries in this world, who has a full understanding of how difficult it was to bring together Republicans and Democrats, but even more importantly, the chairmen and the members of 12 standing committees that all had the same common cause and that is to have an omnibus bill, but certainly all wanting to maintain the legislative prerogative of maintaining their own committee jurisdiction.

I certainly believe that with some of the issues, and indeed the controversial issues, that all Members of Congress would want to debate them to such an extent that we could share with each other our concerns and go home believing that we had given the proper consideration to those issues.

Certainly the gentleman from Florida [Mr. SHAW] has one that he has vigorously fought for in committee. We had hoped that everyone would have an opportunity to do this, but when the majority leader and the minority leader got together and started reviewing the numbers of amendments, and serious amendments that people had, it became abundantly clear that if this was to occur that we would not be able to maintain and keep together the package.

One of the greatest things that I think this House has going for it now, and I hope it is contagious to the other body, is that nobody throughout this process has tried to impress the other side as to who is more serious about bringing some solutions to this dangerous problem and this crisis our Nation is facing.

I know that this being an election year, there are those who would challenge the integrity of the House, or indeed the Congress, as to why we are doing it at this time, as though responding to the demand of the American people that we do something would not be sufficient.

But I do hope that in the course of debate as we try to support this rule and get it passed that we are not tempting, by questions like the exclusionary rule, just how far the military can go, and indeed the death penalty,

to try to impress each other to the lack of sincerity of those who may oppose some of the amendments that are coming on.

I just would like to close by saying that the minority leader of this House and our majority leader, the gentleman from Texas, JIM WRIGHT, has proven to the American people just the height of cooperation that we can reach in this country and in this House when we find that our Nation is under attack. If we can only try to maintain this, no matter how strong our feelings, until we conclude this legislation, I think we will be sending a message to the other body that the American people are not interested in who is the best Democrat or Republican, their only concern is are we prepared to respond to this problem.

As the gentleman from Texas, JIM WRIGHT, says, not to say that we have a solution, but at least to say that we have developed a national strategy for all of us from the White House to the House of Representatives and to the other body so that we can work together toward a common solution.

So I hope that you can see your way clear to support this rule and eventually to support this bill.

I thank the gentleman for the time.

Mr. QUILLEN. Mr. Speaker, I yield 4 minutes to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I rise in support of this extremely fair rule, providing for the consideration of H.R. 5484, the Omnibus Narcotics Act of 1986. It has been some 15 years since the House of Representatives last considered comprehensive narcotics legislation, yet in the period which ensued since that last enactment, we have seen our Nation's sons and daughters lured into ever more narcotics as they virtually drown in a tidal wave of deadly drugs. Today's landmark bipartisan legislation is an opportunity for America to stem the rising tide that already finds us up to our necks in illicit drugs. I commend our House leadership Speaker O'NEILL, Majority Leader WRIGHT, and Minority Leader MICHEL for mobilizing Congress into bringing about this major antidrug initiative and expediting its consideration.

The rule before us is a magnanimous one. It provides for 5 hours of general debate, and makes in order more than 40 amendments. This is a modified open rule, providing us with the opportunity to discuss and amend the many titles that make up this comprehensive, coordinated attack on narcotics.

As ranking minority member of the Select Committee on Narcotics Abuse and Control, I have worked with Chairman RANGEL and so many other Members of this body in conducting hearings across this Nation on the drug menace. What we uncovered were tales of tragedy, human suffering, and untold physical and emotional scars.

This legislation is a modest, $1.5 billion attempt at fighting the narcotraffickers and their deadly product. Eradication, interdiction and law enforcement efforts, as well as treatment and prevention programs will all benefit from H.R. 5484, which although not a perfect measure, is certainly an excellent base from which to begin the legislative process. I commend the distinguished chairman of the Rules Committee, Mr. PEPPER, and the ranking minority member, the chairperson from Tennessee [Mr. QUILLEN] for having reported out this resolution in this manner, which also makes in order an amendment which Chairman RANGEL and I will introduce to beef up the local law enforcement funds in the section of this omnibus measure that was considered by the Judiciary Committee.

Mr. Speaker, today's consideration of H.R. 5484 is a landmark event. We must fight this scourge on our society as never before. The proposed rule is a good one and a fair one. Accordingly, I urge our colleagues to fully support the rule.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. WYLIE].

Mr. WYLIE. Mr. Speaker, I support the rule, and I agree that this is landmark legislation that we have before us today. It is becoming increasingly important for this Nation to take strong measures to overcome the epidemic of drug addiction sweeping this country.

In testimony it was shown that an estimated 500,000 Americans use heroin, 5 to 10 million use cocaine, and 20 million use marijuana. Between one-third and one-half of all crimes in this country are drug-related, costing us billions of dollars each year.

These statistics are overwhelming, and simply put, they show that illegal drug trafficking is running rampant in the United States, and will continue to do so unless strong and concerted action is taken on several fronts.

Mrs. Nancy Reagan, the First Lady, has made drug abuse prevention her prime task as First Lady, as has the President of the United States. The Congress needs to have a battle plan for a war against drugs. This bill does that. Congressman ST GERMAIN and I introduced legislation back in July to stop the money-laundering schemes and smurfing that help make drug trafficking the large and growing business that it is.

By making money-laundering subject to these penalties, we will discourage dope dealers from using unknowing financial institutions to deposit large amounts of money derived from drug trafficking without a permanent record of the transactions being created. Billions of dollars are thought to be moving through the banking system without leaving the trace necessary for successful prosecution of drug criminals.

This legislation will by no means resolve drug problems, but it will make it easier to trace the progress of these moneys through the banking system and help us trace drug trafficking to the source. Title V is a good title of the bill, this is a good bill, and I urge adoption of this legislation.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana [Mr. COATS].

Mr. COATS. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of the rule, but the point that I want to make during this time is less about the legislation that we are going to consider, and more about the drug problem that we are facing.

We can win this war against drugs, and I think that the time now is very ripe for us to take some very serious action.

There is an appropriate Federal role, and we are bringing forth a bill that I think has many meritorious things in its favor. There are some problems, and I hope that we can correct those in the amendment process.

It is important that we make as serious and all-out an effort from the Federal level as we possibly can. I strongly support involving our military in interdiction of drugs. I strongly support using our foreign aid and favorednation trade status with countries as a level to enforce their cooperation in terms of getting at the source of drugs. I strongly support beefing up the FBI, the DEA, the U.S. Customs Service, and what other branches are appropriate to fight in this war against drugs.

However, the point that I want to make is that we will not be successful if we simply have a Federal initiative alone. Unless we involve all of our communities and every resource at the State level, at the local level, and at the community level, we will not be successful. Only interdicting the supply, which we know cannot be 100-percent effective, will not bring about a solution. We must work on the demand side of this equation. We must reduce the demand for drugs on the streets if we are going to be successful.

How do we do that? We do that by, No. 1, involving the entire community in the effort. Schools must say, "No drugs in these schools, period." Business and labor must get together and say, "We will create and work for a drug-free workplace." Our social institutions, our cultural institutions, our religious institutions, must say, "What can we do to work on this war against drugs?"

Let us work together, let us cooperate together, let us involve the family,

let us involve the communities, let us involve all of us in this process. Only then will we be successful.

I commend the House and those who have been involved in this process for bringing this forward in an expedited manner, and I look forward to starting the Federal initiative, remembering that it is an entire community, entire Nation program, and that unless we all get involved, we will not be successful.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. GREEN].

Mr. GREEN. Mr. Speaker, I rise in support of the rule.

Mr. Speaker, I am a cosponsor of the bill to which the rule relates, providing more Federal funding for drug abuse prevention and control, but I want to make it clear that the bill is a help—the bill is not a cure.

Consider the $350 million in additional fiscal year 1987 education funds in the bill. That represents only a little more than one-tenth of 1 percent of the $278 billion spent nationally each year on education. The approximately $850 million in the bill for fiscal year 1987 law enforcement is only a 12-percent increase over the $7 billion which the Federal Government alone spends in that sector, and it is only a drop in the bucket compared with the total national spending for law enforcement.

In short, this is not a problem that can be solved by Federal fiat; the war on drugs must be fought from the grassroots up. For example, we have to get certain "image makers," the producers of movies and singers of songs, to stop glamorizing and trivializing drug abuse. There are some in the entertainment industry who are trying to discourage drug abuse, but kids will not be impressed by public-service messages as much as by popular movies, videos, and songs.

□ 1155

Hollywood and Tin Pan Alley have to clean up their acts.

Moreover, there are individuals, middle- and upper-income educated, socially active and socially influential, who for years have demonstrated a two-faced attitude toward drugs. "Terrible," they say, that kids get hooked, but "terrific," they smile, when bragging about the pills they pop, the marijuana they smoke, the cocaine they snort.

For more than two decades, we have had an American experiment with drugs, on the one hand, decrying their abuse, but on the other hand, accepting their use; scolding out of one side of our mouths while laughing out of the other.

It has not worked very well. Lives are still falling apart. People are still dying. Drug-related crime still victimizes innocents.

We cannot have it both ways any longer. Dangerous drugs are either good or bad, and if the majority of Americans agree they are bad, then it is time for society to do what we can to solve the problem.

The point is that Federal money can help, but it is going to take a cooperative effort by every segment of this society to solve the drug problem.

If every segment of society will not pull together on this, we are going to continue to have sick kids, burned-out kids, dead kids.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Speaker, what we have today is not the best rule that I think could possibly be structured. I have a sense of disappointment out of one item that was excluded from this particular rule, but I think all things being even, and in light of what some of the rules do to some of the issues that some of us feel very strongly about at one time or another, I think this is a rule that all of us should support.

I would urge my colleagues on both sides of the aisle to support it.

Two or three months ago, none of us believed that we would be considering a death penalty provision. Here today, we are going to be able to start talking about this.

Few of us believed that we would be able to do anything with the exclusionary rule as far as it applies to the admissability of evidence in a criminal trial. But today we are going to be able to do something about it.

There is some strong feeling out there with regard to other items. One which I have felt very strongly about and wanted included in this bill is one that would have provided for a drug-testing program to be put into place for Federal employees who have access to sensitive information or whose derelection of duty could cause property damage or loss of life.

This evidently is a provision that has become quite controversial and one that many of the Members did not want to vote on, so at the last minute, late last night, this was taken out of consideration.

But I am willing to go along with this rule, even though I have a sense of personal disappointment for the exclusion of that particular provision because of what is in this bill.

This is a good bill. The amendment that will be offered by myself and the gentleman from Florida [Mr. BENNETT] is one that will allow the military to become more involved. This is something the House has considered on many occasions, and it is something that at last perhaps we can finally get the other body to agree with our philosophy on this particular matter and come to grips with the problem for a greater use of the military in this particular battle.

I think most of all, the important thing that we have before us today is the bipartisan approach that the gentleman Texas and the gentleman from Illinois, leaders of their respective parties, have been able to put together in a bipartisan way.

I applaud them both for their efforts.

Mr. QUILLEN. Mr. Speaker, I yield 2 minute to the gentleman from Georgia [Mr. GINGRICH].

Mr. GINGRICH. Mr. Speaker, I just want to rise and commend the leadership of both parties for what has been a truly bipartisan effort to bring together a very effective drug package as a first step in this war on drugs, and also a rule that I think is very fair and very bipartisan.

A number of us who have on occasion engaged in confrontational tactics have done so precisely to make the case that we can cooperate when we get cooperative rules. I commend the Democratic leadership for having put together a rule which is very fair to both sides and which is effectively bipartisan.

I wish it would have been slightly broader and offered one more amendment, but I think it is a tremendous step from the bipartisanship we all too often see.

Let me also say to the House, though, that I think this bill is only a first step. For the war on drugs to be successful, for us to stop cocaine and heroin, is going to take a continuing series of efforts, of which this is only the beginning.

We have come a long way from the days in 1978 when Peter Bourne, the President's Drug Adviser under President Carter, was apparently sniffing some coke, according to Time magazine and, in fact, using drugs rather than trying to stop them. We have a long way to go, but this is a significant milestone on that road.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. PARRIS].

Mr. PARRIS. Mr. Speaker, I rise as a member of the Select Committee on Narcotics and Drug Abuse and as a member of the Republican Task Force on Drug Abuse in strong support of this rule.

I do so to commend my colleagues for title V of the bill, which is the money-laundering provision. In that provision is a program that would address the problem of smurfing. Many of us believe that smurfs are funny-looking little people that wear strange costumes. Others of us believe that smurfs are small-stature receivers for the Redskins. But smurfs, in the drug jargon of this Nation, are ordinary citizens who, for a fee, convert illicit drug proceeds in the nature of $100

bills generally into legitimate bank deposits.

They do this every day. We have heard testimony from a Government witness that in Miami, one gentleman converted $10,000 per day every day of the week for years, which was, in fact, illicit drug money.

The suggestion has been made that what we ought to do is simply increase the penalties against the financial institutions, but that is not the answer ladies and gentleman, because if the reporting requirements were reduced to $1, it would be unworkable and there would be another way.

What they do now is convert the amount of money less than that in the reporting requirements. What we have to do is create a crime, which we do in this title of this bill, to stop this onerous practice. We think we have made real progress in this bill.

I would urge my colleagues to support at least title V as it has been reported out of the Committee on Banking, Finance and Urban Affairs.

Mr. PEPPER. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Oklahoma [Mr. ENGLISH], who has already, as the chairman of a subcommittee, done a magnificent job in this great fight.

Mr. ENGLISH. Mr. Speaker, I want to say that this is a very exciting day. It is an exciting day, I think, for this country.

For the first time in the history of this Nation, we are seeing a real war on drugs put together. I think that that is something that the whole country can enthusiastically applaud.

I certainly want to commend the majority leader and the minority leader. I want to commend all the committee chairmen and the ranking minority members because each of those members have played a very important role in bringing this package together.

I think it is very unusual and unique, as we get close to the election itself, to find this type of bipartisan joining together for this kind of an effort. It is an effort that is long overdue.

I think that many of the people of this Nation have been frustrated by the fact that they did not think that we could really do anything about the drug problem. They have heard over the years various Presidents from various political parties, from either of the two political parties, describing how they were going to launch a war on drugs. But year after year, we saw more and more drugs coming into this country, more and more usage and more and more of a problem for all of our citizens.

The subcommittee that I have been privileged to chair over the past 5 years, the Subcommittee on Government, Information, Justice and Agriculture, has held 39 hearings, we had our last one yesterday, in looking at this problem.

I am here to tell the people of this country that this piece of legislation certainly responds to the needs that we found in each of those 39 hearings.

For instance, we have great holes in our border system, a system that has been wide open. In fact, I think that it could best be described that there is a very small fig leaf over that portion of southern Florida and the rest of the country is completely bare, completely bare, even today.

We find, for instance, that there are only four aircraft for the entire Nation that are properly equipped to detect drug smugglers coming into this country.

□ 1205

We have to be able to detect drug smugglers before we can catch them. The estimates have ranged, according to the Stanford Research Institute, that as many as 18,000 flights a year are coming into this country; and this Nation has only four properly equipped aircraft to meet any kind of challenge. Even with those four aircraft, they are not up in the air most of the time; we find that they only have enough in the way of gas and oil and people to be able to fly those aircraft for 8 hours a day, 5 days a week.

That means two-thirds of the time, even during those 5 days that they are supposed to be flying, there is no one there. There is no challenge whatsoever to the drug smuggler as he comes into this country.

This legislation deals with that. It responds to that. It increases that amount so we will be able to go 16 hours a day, 7 days a week. It puts us in a position that we will be able to challenge the drug smugglers at night.

Would you believe that the detection system of this country has been the fact that we have sent some men up in small, two-engine aircraft with a pair of binoculars, looking around to see if they can see anyone suspicious?

That is what the war on drugs in this Nation has consisted of up until this date, up until the point that we are finally beginning to provide the resources so that we can actually challenge the smugglers at night when, according to the drug smugglers themselves, over 90 percent of the smuggling activity takes place at night, not during the daytime.

With interception, those people who are able to pick up these smugglers as they come in to this country and follow them to their destination. We have only had seven aircraft for the entire country to act as interceptors. Properly equipped interceptors that can work at night, that can follow those smugglers to their destination, and make sure that those smugglers do not get away.

Is it any wonder, then, that out of those 18,000 flights that we have had coming into this country that this Nation has only been successful last year in catching 210? Let me correct that. We did not catch 210; we intercepted 210. We only caught 64. Only 64 out of nearly 18,000 flights.

That, I think, underscores the weakness that this Nation has had in its war on drugs.

In order to bring our law enforcement officials to the scene, to the scene so that they can make the arrests and apprehend the drugs, catch those drugs when they are in bulk, before they are scattered out to thousands of people who are selling drugs to our children throughout this country and on the street corners of this Nation; catch them at that particular point.

We have only had eight helicopters to be able to ferry those law enforcement officials to those locations. All of those subjects are addressed in this piece of legislation, and plenty more. Not only does it address interdiction, which has certainly been a stepchild as far as law enforcement is concerned, but also education and treatment, which are vitally important to be able to assist the people of this Nation and underscoring to those people the harm that drugs do to them.

Mr. Speaker, I urge the adoption of this rule.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, to vote in favor of this rule, in my judgment, is to do two things simultaneously: One, to signal to the American people that we are ready to get on with it, to begin the waging of the war on drugs.

Second, to endorse by voting in favor of this rule, to endorse the excellent efforts on both sides of the aisle to fashion a bipartisan approach to the entire series of issues that confront us in the war on drugs.

I, personally have yearned for a day in which we can come to the floor on a major piece of legislation with all the pieces in place for a true, bipartisan approach, open for debate in appropriate issues and to allow the will of the American people to be fashioned in the legislative Hall of the House of Representatives.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge adoption of the rule. This legislation will stimulate enforcement, by all of the agencies of Government, and help to eliminate the users, the traffickers and the dealers in drugs throughout this country.

It is a cancer upon us; and the cancer must be cured. This is the beginning and not the end; and I urge adoption of the rule.

To close debate, I yield 2 minutes to the gentleman from California [Mr. LUNGREN].

Mr. LUNGREN. Mr. Speaker, I would like to say that I appreciate the indulgence granted to me by the Committee on Rules in that several of the amendments that I wish to offer are made in order.

Having said that, let me just say that as I support this rule, there are a couple of concerns I have. I wish things had been done a little bit differently; and let me just voice that concern.

One of them has to do with the Morrison amendment, which is an amendment to create a fifth exemption or exception to the designer drug violation. This amendment, as I understand it, will be rolled into the Wright bloc amendment.

The concern I have is this: We tried to structure very, very carefully a bill out of our Judiciary subcommittee that dealt with this new problem of designer drugs. I have had a designer drug bill in the hopper for over 13 months.

As we move to it, there was some question brought up as to whether a specific exception ought to be granted for people who happen to have Ph.D's and M.D.'s behind their names; that is, that they would be granted a different status than everybody else in terms of designer drugs.

Some say that is necessary for their own personal research. I object to that very, very strongly. I think one of the real problems we have had in this country is we have had a double standard. There has been a double standard created that we look down on the druggie who happens to be in the street, but if that person happens to be a high finance druggie or a professional druggie, we call it recreational use. Somehow, if you have a diploma hanging on your wall, if you have some degree behind your name that therefore you are going to be treated differently than the rest of us. I happen to think that's the effect of the Morrison amendment; I am sorry that that is going to be considered en bloc rather than considered by itself.

The second thing I have to say has to do with an amendment I wished to offer which would have made any person convicted of violating a Federal, State, or foreign government law dealing with drugs ineligible for postsecondary Federal financial assistance during a 5-year period following the conviction.

What I am saying here is, we only have a limited amount of resources, as we know, to give grants and to give loans to students going to college. It seems to me if we are trying to send a clear message one of the things we ought to say is, "If you are convicted of drug use, you will be ineligible to receive that kind of financial assistance for 5 years."

Another double standard I think we have had in our society is that we have said, "It is wrong to use drugs, it is illegal to use drugs," but then we carved out an exception in most of the colleges and universities in this country.

We have got to take down the white flag of surrender that has been on our college campuses for a long time; we have got to say what we mean and put our money where our mouth is, and I would hope that at some point in time, we ought to follow this type of approach in the future.

Mr. QUILLEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. PEPPER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in the past there have been certain dictators who learned to their subsequent sorrow that a democracy could function when it was challenged. This is a magnificent example of leadership rising to an emergency of national character.

I want the record to show that last summer our great Speaker summoned the chairmen of all the committees of this House to his office for a luncheon conference. In that meeting, he said he wanted to mobilize the might of our Nation to fight the curse of drugs in America. He wanted every committee that had jurisdiction over any aspect of this problem to be prepared to present its respective recommendations as to legislation that should be adopted.

Then he wanted all of that legislation to be put together in one conglomerate bill, and he designated our great Democratic leader, the gentleman from Texas [Mr. WRIGHT] to handle and to mobilize and to maneuver and manage all of this mighty effort.

So today we see the realization of that great effort; the President, both Houses of Congress, both parties in the Congress, all working together. The leader leading with such brilliance and such trepidity; and with the able cooperation of the minority leader, are presenting this bill today.

Mr. Speaker, I yield such time as he may consume to the distinguished majority leader, the gentleman from Texas [Mr. WRIGHT].

□ 1215

Mr. WRIGHT. Mr. Speaker, I rise in support of the rule. I just want to say a few things about the truly unusual character of this situation. The rule and the bill are unusual in two respects. First, because in the truest and best sense of the term, this bill is bipartisan. We have turned aside from any petty temptations on either side of the aisle to cast aspersions at one another or to question one another's sincerity or depth of devotion to the national cause of creating a crime-free and drug-free country.

This bill will not solve all of the problems. This basic drug problem will be with us for a long while. At least this new bipartisan approach may permit us to begin to make progress and start gaining ground rather than continuing to lose ground in the war against drugs.

Permit me to express publicly at this time my genuine appreciation to Minority Leader BOB MICHEL of Illinois. He is a man of his word. He is a man of honor. He is a person of great leadership capability. I want to thank not only him but the chairman and ranking minority members and all members of the 12 committees which have struggled together to perfect this legislation.

This bill is precedent shattering in the second sense that it combines in one omnibus package the constructive work of 12 different House committees. That is the second point I would make.

On behalf of the Speaker and the other members of the leadership on both sides of the aisle who have contributed their best efforts to the preparation of this historic legislation, I would like to make a statement on committee jurisdiction over this and subsequent drug legislation.

The extraordinary cooperation and diligence of the 12 committees which share jurisdiction over the bill presented to the House have produced omnibus legislation of a comprehensive and unprecedented nature. In most cases, separate elements of the bill have been formally reported to the House by the committees with jurisdiction. Upon formal introduction as a complete package, the bill was referred concurrently to the 12 committees with jurisdiction over its contents.

In consultation with the authorizing committees, the bill has been organized into 12 titles, each bearing the name of the committee which developed that portion of the legislation. As with any type of omnibus legislation which is truly ambitious, some cross-jurisdictional approaches to enhancing Federal efforts with respect to the drug problem have been incorporated. In those areas, the leadership has worked actively with the committees in question to avoid and to resolve jurisdictional and legislative conflicts, and appreciates their cooperative spirit.

The bill has been organized to reflect primary committee jurisdiction over each title and to consolidate within each title, to the maximum extent possible, matters solely within the jurisdiction of the designated committee. Since the omnibus bill has not technically been reported by the various committees or divided for reference, and since its separate elements

have not all been introduced or reported, the organization and consideration of the bill should not be considered to prejudge or dictate committee jurisdiction and referral over every single portion or section thereof if introduced as separate legislation.

Pursuant to clause 5 of rule X of the rules of the House, the Speaker will continue to refer separate legislation dealing with the drug problem or with any other issue under existing precedents, and with the appropriate exercise of his authority under that clause, in order to assure that each committee which has jurisdiction under rule X over any subject matter will have responsibility for considering that subject matter and reporting to the House with respect thereto.

The unique way in which this legislation was developed was intended to produce, in the quickest way possible, a comprehensive and sound Federal approach to a crisis facing America and the world at large, but is not intended to change the jurisdiction of any committee of the House as it now exists. I will further assure the Members, on behalf of the leadership, that every effort will be made to ensure the active involvement and representation of every committee with responsibility over a portion of this legislation as it is developed into a law of the United States. It is also the intention that this bill is subject to the appropriations process.

Mr. Speaker, this is simply an assurance that we intend in the future as we have in this instance to respect and fully to protect the jurisdictional rights of the committees of the House.

I am delighted with the legislation.

On balance I think it is extremely positive. For many years we have been engaged with the minions of the drug culture and the underground in an undeclared war. The difficulty is that we on our side, the side of Government, the side of society, the side of civilization have not really been fighting that war; we have simply been counting casualties.

Now we join the forces of evil in combat. We mobilize our entire capacities, and we will make progress.

Mr. COLEMAN of Texas. Mr. Speaker, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from Texas [Mr. COLEMAN], who has had a great part in this effort.

Mr. COLEMAN of Texas. I thank the distinguished leader for yielding.

Mr. Speaker, as you and certainly Members of the House leadership task force charged with the drafting of this legislation already know, a very critical component of our interdiction effort along the border is known as EPIC, the El Paso Intelligence Center. Its role has been expanded over the last several years as our Federal efforts have really become more coordinated and attention to importation problems along the Southwest border became more focused.

I wanted to ask some questions relative to the El Paso Intelligence Center if I might.

Mr. WRIGHT. Let me just take this opportunity to acknowledge the significant contribution which the gentleman from Texas has made, as a former member of the Government Operations Committee and now on the Committee in Appropriations as well as his role as chairman of the Congressional Border Caucus, in helping to streamline the Federal response to the drug problem and to bring Congress' attention to the unique concerns regarding the illicit narcotics that are currently afflicting our border communities. I think the gentleman has been an outstanding leader in that endeavor.

I am delighted to yield to the gentleman from Texas.

Mr. COLEMAN of Texas. I thank the leader for the compliment, I very much appreciate it.

Mr. Speaker, as you know, the burgeoning problem of the influx of illegal drugs across our border areas in this Nation have really served to, I think, elevate the interdiction role played by the El Paso Intelligence Center. There has been certainly some concern about its role in the omnibus package. We want all involved, Federal, State, and local enforcement agencies wherever they are in the United States, to have the ability to utilize EPIC and make sure that it operates effectively. I know that that intent has never been changed and would not be changed by this bill.

Mr. WRIGHT. Well, those of us who have put this bill together and have worked with it certainly are very well aware of the activities undertaken by the El Paso Intelligence Center. The role was certainly expanded and better defined after the efforts of the chairman, GLENN ENGLISH, and the gentleman from Texas, Mr. COLEMAN, in exposing the confusing and overlapping maze which formerly characterized the Federal drug interdiction efforts. During the course of congressional hearings on the issue, the need to overcome the bureaucratic turf battles between competing Federal agencies and to establish one central intelligence source to oversee interdiction initiatives in fact led to the creation of the El Paso Intelligence Center.

Mr. COLEMAN of Texas. If the gentleman would continue to yield, it is my understanding that nothing in this legislation would in any way alter the continued critical role now played by EPIC by any action taken here today or on this legislation; that the intention is to maintain that center in El Paso.

Mr. WRIGHT. Absolutely our intention is to maintain and to strengthen its efforts. Those charged with drafting this bill are quite familiar with the Federal drug interdiction undertakings and are currently enthusiastic and supportive of the El Paso Intelligence Center's continued ability to function as an integral component and that your operations at the El Paso Intelligence Center must remain in a setting which places it in a geographically sensitive location, along the southwest border, just makes eminently good sense.

Mr. COLEMAN of Texas. I want to take this opportunity to thank the majority leader and all of those who have worked with the minority leader and all the others in this bipartisan fashion to at long last bring the attention of this Nation where it belongs, and that is on this problem that will consume us if we do not act.

I thank the gentleman for yielding.

Mr. WRIGHT. Mr. Speaker, I ask for an "aye" vote on the bill and an "aye" vote on the rule.

Mr. PEPPER. Mr. Speaker, I understand that my distinguished friend on the other side, the gentleman from Tennessee [Mr. QUILLEN] has used up all of his time, and that one Member from his side, the gentleman from New York [Mr. DIOGUARDI] has asked for some time. I gladly yield 2 minutes to the gentleman from New York [Mr. DIOGUARDI].

Mr. DIOGUARDI. I thank the gentleman for yielding time to me.

Mr. Speaker, as a member of the Select Committee on Narcotics Abuse and Control, I rise in strong support of this rule.

Mr. Speaker, let there be no mistake about it. this Nation has a serious drug problem. And, with the emergence of crack, an inexpensive deadly derivative of cocaine that our kids can easily afford, this problem will threaten our Nation's future unless we act now.

If you do not believe that this issue is a serious one, I suggest that you speak to my constituents. Recently, I sent a questionnaire to the people of my district in Westchester County on the problem of drugs and crack. The people's response has been overwhelming and no other issue has sparked as much concern and call for Federal action.

The people of Westchester are not alone. All across America, honest and hardworking people have seen the ravages of drug abuse around them. Their voice has been heard in my district, and I hope it will be heard by this House. I urge a "yes" vote on this rule.

Mr. WEISS. Mr. Speaker, it is with some reluctance that I rise today in opposition to the rulemaking in order consideration of the omnibus narcotics bill, H.R. 5484.

I am in broad agreement with the substantive provisions of this legislation as it was introduced. The narcotics plague which afflicts our society must be addressed forcefully and comprehensively. The bill before us does this.

Its provisions for drug education are seriously needed and long overdue. The bill also provides needed support for drug interdiction and enforcement. I would like to commend the distinguished committee chairman and Members of the House who have helped to shape this bill. I want especially to commend my dear friend and collegue from New York, CHARLES RANGEL, who in his capacity as chairman of the Select Committee on Narcotics has provided outstanding leadership on this issue for many, many years. I would also like to compliment distinguished Speaker and majority leader for their indispensable work on this bill.

It is unfortunate that the rule before us today provides for the consideration of no less than 44 amendments, many of which are ill-considered, pernicious, and at best marginally germane to the subject of this important legislation.

I refer in particular to the amendment to be offered by Mr. LUNGREN, the gentleman from California, which would drastically modify the exclusionary rule in criminal trials. The Lungren amendment has no place in the bill under consideration today.

The Lungren proposal has implications which go far beyond narcotics control. By undercutting the primary tool for protecting Americans against unreasonable searches and seizures, this proposal would strike at the very foundations of the fourth amendment. It is a measure of at best doubtful constitutionality. It is most inappropriate that the House should take up such a far-reaching proposal as one of many amendments to an omnibus narcotics bill, with debate on the amendment limited to 15 minutes for each side. Proposed modifications of the protections in our Bill of Rights should be taken more seriously than this—and they should be deliberated in other and more appropriate contexts.

I also draw my colleagues' attention to another amendment made in order by the rule, a proposal by Mr. GEKAS which would permit imposition of the death penalty in new categories of cases. I am unaware of any hearings which have been held, or other evidence which woud indicate that this expansion of society's ultimate sanction would have a significant impact on the narcotics problems our Nation faces. This bill is not an appropriate vehicle for consideration of speculative and destruction proposals of this character.

The rule also makes in order amendments which would fundamentally alter and expand the role of the U.S. Armed Forces in law enforcement. I refer specifically to the Bennett and Hunter amendment Nos. 16 and 17. Our country owes its long and deep tradition of liberty in no small part to the historically clear separation between our police and our Armed Forces. We should not consider blurring this distinction on the basis of a few minutes' debate on amendments which have not been given full consideration in committee or elsewhere.

For these reasons, I cannot vote in favor of the rule which is offered here today. As I emphasized at the beginning of my remarks, I remain strongly in favor of the many constructive provisions in the bill as introduced.

Mr. LOTT. Mr. Speaker, I want to commend the majority and minority leaders, and the task forces and committee members of both parties who have toiled so diligently on putting together this bipartisan drug package. I think the fact they were able to bring forward a bipartisan product in such short time is evidence of the widespread alarm about this national drug epidemic and the nonpartisan commitment to eradicating it.

Having said that, Mr. Speaker, I would like to spend a few minutes discussing the process and procedure involved here. Our colleague on the Rules Committee from California [Mr. BEILENSON], expressed his dismay yesterday over the fact that we are dealing with a major bill in the waning days of the session and devoting far too little time to debating the bill or important amendments being made in order.

He went on to reiterate his belief that if our committees did their work earlier in the session each year, we would not be faced with this last minute crunch toward the end of a session that takes its toll when it comes to sound policy.

Mr. Speaker, I couldn't agree more with my colleague. The drug problem is not some emergency that has just sprung up. It has been with us for some years now. We've had a select committee of the House looking at this problem for several congresses now. There's no excuse for waiting until the last 2 months of a Congress to try to patch together a comprehensive drug bill. It does a disservice to the Members, the legislative process, or to the American people. This is no way to legislate. We don't even have a committee report on this omnibus, 334-page bill.

I would hasten to add that I have no problem with the leadership involvement and initiative in this issue. I think it's commendable and often necessary. But, it should come much earlier to give committees sufficient time to hold hearings and develop sound legislation.

In our haste to patch together a drug bill—any drug bill—before we adjourn, we have run the risk of ending up with a patch-work quilt—a grab-bag of diverse proposals—that may or may not fit together into a comprehensible whole.

Second, I am uncomfortable with the way the amendment process has been handled. In the first place, Members were notified by letters that arrived at their offices the day after they left for the August recess that they would have to file their amendments with the Rules Committee the Friday before they got back. That was hardly fair. Nevertheless, some 88 amendments were filed.

But even then, not all of those have been made in order under this rule. Only 55 of the 88 have, by my count. Some 33 amendments did not make the cut, for whatever reason.

Granted, there is a need to limit the time we can spend on this. But I think we could do so without arbitrarily picking and choosing between amendments.

Third, there is a provision in this rule that says that those Members whose amendments have been rolled into the noncontroversial, en bloc Wright amendments—some 13 amendments in all—may insert their statements in the RECORD in support of their amendments, and I quote from the rule, "as if they had been actually delivered in debate." What that means is that we are repealing, for the purposes of this bill, the new CONGRESSIONAL RECORD reform rule we made permanent just last August 12. That rule requires that the RECORD be a verbatim account of words actually spoken, and that inserted remarks appear in different typeface. I was proud to consponsor that reform with our distinguished Majority Whip (Mr. FOLEY), and I am saddened to see it set aside so soon and so easily. This is a bad precedent!

Finally, I take exception once again to the majority denying the minority its right to offer a motion to recommit with instructions. The option should belong to the minority; this is our historic and traditional prerogative. I resent the majority attempting to dictate what we can and can't do.

Mr. PEPPER. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. TORRES). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WYLIE. Mr. Speaker, I object to the vote on the ground a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 382, nays 19, not voting 30, as follows:

[Roll No. 366]

YEAS—382

Ackerman	Bruce	Dingell
Akaka	Bryant	DioGuardi
Alexander	Burton (IN)	Dixon
Anderson	Bustamante	Donnelly
Andrews	Byron	Dorgan (ND)
Annunzio	Callahan	Dornan (CA)
Anthony	Carper	Dowdy
Applegate	Carr	Downey
Archer	Chandler	Dreier
Armey	Chapman	Duncan
Aspin	Chappell	Durbin
Atkins	Cheney	Dwyer
AuCoin	Clinger	Dymally
Badham	Coats	Dyson
Barnard	Cobey	Early
Barnes	Coble	Eckart (OH)
Bartlett	Coelho	Eckert (NY)
Barton	Coleman (MO)	Edgar
Bateman	Coleman (TX)	Edwards (OK)
Bates	Collins	Emerson
Bedell	Combest	English
Bennett	Conte	Erdreich
Bentley	Cooper	Evans (IA)
Bereuter	Coughlin	Evans (IL)
Bevill	Courter	Fascell
Bilirakis	Coyne	Fawell
Bliley	Craig	Fazio
Boehlert	Crockett	Feighan
Boggs	Daniel	Fiedler
Boland	Darden	Fields
Boner (TN)	Daschle	Fish
Bonior (MI)	Daub	Flippo
Borski	Davis	Florio
Boucher	DeLay	Foglietta
Boulter	Derrick	Foley
Brooks	DeWine	Ford (MI)
Broomfield	Dickinson	Ford (TN)
Brown (CA)	Dicks	Frank

Franklin	MacKay	Russo
Frenzel	Madigan	Saxton
Frost	Manton	Scheuer
Fuqua	Markey	Schneider
Gallo	Marlenee	Schuette
Garcia	Martin (IL)	Schulze
Gaydos	Martin (NY)	Schumer
Gejdenson	Martinez	Selberling
Gekas	Matsui	Sensenbrenner
Gephardt	Mavroules	Sharp
Gibbons	Mazzoli	Shaw
Gilman	McCain	Shelby
Gingrich	McCandless	Shumway
Glickman	McCloskey	Shuster
Gonzalez	McCollum	Sikorski
Gordon	McCurdy	Siljander
Gradison	McDade	Sisisky
Gray (IL)	McEwen	Skeen
Gray (PA)	McHugh	Skelton
Green	McKernan	Slattery
Gregg	McKinney	Slaughter
Guarini	McMillan	Smith (FL)
Gunderson	Meyers	Smith (IA)
Hall (OH)	Mica	Smith (NE)
Hall, Ralph	Michel	Smith (NJ)
Hamilton	Mikulski	Smith, Denny (OR)
Hammerschmidt	Miller (CA)	
Hansen	Miller (OH)	Smith, Robert (NH)
Hatcher	Miller (WA)	
Hawkins	Mineta	Smith, Robert (OR)
Hayes	Mitchell	
Hefner	Moakley	Snowe
Henry	Molinari	Snyder
Hertel	Mollohan	Solarz
Hiler	Monson	Solomon
Hillis	Montgomery	Spence
Holt	Moody	Spratt
Hopkins	Moore	St Germain
Horton	Moorhead	Staggers
Howard	Morrison (CT)	Stallings
Hoyer	Morrison (WA)	Stark
Hubbard	Mrazek	Stenholm
Huckaby	Murphy	Strang
Hunter	Murtha	Studds
Hutto	Myers	Stump
Hyde	Natcher	Sundquist
Ireland	Neal	Sweeney
Jacobs	Nelson	Swift
Jenkins	Nichols	Swindall
Johnson	Nielson	Synar
Jones (NC)	Nowak	Tallon
Jones (OK)	Oakar	Tauke
Jones (TN)	Oberstar	Tauzin
Kanjorski	Obey	Taylor
Kaptur	Olin	Thomas (CA)
Kasich	Ortiz	Thomas (GA)
Kemp	Oxley	Torres
Kennelly	Packard	Torricelli
Kildee	Panetta	Towns
Kindness	Parris	Traficant
Kleczka	Pashayan	Traxler
Kolbe	Pease	Valentine
Kolter	Penny	Vander Jagt
Kostmayer	Pepper	Vento
Kramer	Perkins	Volkmer
LaFalce	Petri	Vucanovich
Lagomarsino	Pickle	Walgren
Lantos	Porter	Walker
Latta	Price	Watkins
Leach (IA)	Pursell	Waxman
Lehman (CA)	Quillen	Weber
Lehman (FL)	Rahall	Whitehurst
Leland	Rangel	Whitley
Lent	Ray	Whittaker
Levin (MI)	Regula	Whitten
Lewis (CA)	Reid	Wilson
Lewis (FL)	Richardson	Wirth
Lightfoot	Ridge	Wise
Lipinski	Rinaldo	Wolf
Livingston	Ritter	Wolpe
Lloyd	Roberts	Wortley
Loeffler	Robinson	Wright
Long	Rodino	Wyden
Lott	Roe	Wylie
Lowery (CA)	Roemer	Yates
Lowry (WA)	Rogers	Yatron
Lujan	Rose	Young (FL)
Luken	Roth	Young (MO)
Lundine	Roukema	Zschau
Lungren	Rowland (CT)	
Mack	Rowland (GA)	

NAYS—19

Bellenson	Boxer	Clay
Berman	Brown (CO)	Crane
Dannemeyer	Levine (CA)	Visclosky
Dellums	Sabo	Weiss
Edwards (CA)	Schaefer	Wheat
Hughes	Schroeder	
Kastenmeier	Stokes	

NOT VOTING—30

Biaggi	Fowler	Roybal
Bonker	Goodling	Rudd
Bosco	Grotberg	Savage
Breaux	Hartnett	Stangeland
Burton (CA)	Hendon	Stratton
Campbell	Jeffords	Udall
Carney	Leath (TX)	Waldon
Chappie	McGrath	Weaver
Conyers	Owens	Williams
de la Garza	Rostenkowski	Young (AK)

□ 1240

Mr. VISCLOSKY changed his vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to House Resolution 541 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5484.

□ 1245

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5484) to strengthen Federal efforts to encourage foreign cooperation in eradicating illicit drug crops and in halting international drug traffic, to improve enforcement of Federal drug laws and enhance interdiction of illicit drug shipments, to provide strong Federal leadership in establishing effective drug abuse prevention and education programs, to expand Federal support for drug abuse treatment and rehabilitation efforts, and for other purposes, with Mr. CARR in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Texas [Mr. WRIGHT] will be recognized for 2½ hours and the gentleman from Illinois [Mr. MICHEL] will be recognized for 2½ hours.

The Chair recognizes the gentleman from Texas [Mr. WRIGHT].

Mr. WRIGHT. Mr. Chairman, I yield myself 15 minutes.

Mr. Chairman, this is a landmark piece of legislation. It is, in the truest and best sense, bipartisan in character. It is an omnibus contribution from 12 different committees of our House.

During the general debate I shall yield to the chairmen or the spokesmen for those various committees to explain their precise portions of the bill. Let me say at the outset that I think this is a day long in coming and long overdue. This represents the first truly comprehensive approach that Congress will have made toward an all-out war on this menace of illegal drugs which probably constitutes the biggest, single social problem confronting our country.

That problem has grown. We have been losing ground in our effort to control the flow of illegal drugs.

□ 1250

This bill will approach it in a coordinated way on six fronts simultaneously. The bill helps us to eradicate sources where drugs are grown abroad or at home or where they are manufactured in backlot facilities.

Further, it will assist to interdict and interrupt the flow of supplies coming into this country by providing equipment and materiel to those agencies charged with that responsibility.

Third, it will provide numerous better and much needed tools for law enforcement in this country, including a tool to use against the prevalence of laundering of money and large supplies of cash by dealers in narcotics.

Fourth, and perhaps most important of all, we will make a major assault in our effort to reach the young of our country in an educational program designed to utilize that powerful tool of peer pressure by which we can encourage the young before they are ever tempted to experiment in drugs to recognize the menace that lies out there lurking to ensnare them.

And finally, we will provide tools and sympathetic help to those unfortunate victims of drugs who have become ensnared and harmed along the way to rehabilitate themselves to useful lives.

We all know why we are here. America is being invaded. The borders of our countries and the streets of our cities are being overrun by a rising tide of dangerous drugs that sap the economic vitality of our country and leave in their wake a trail of broken lives, corruption, crime, and death. More than one-half of the crimes committed against property and about two-thirds of all the crimes of a violent character are related in one way or another to the sale and addictive use narcotics.

It is time to declare an all-out war, to mobilize our forces, public and private, national and local, in a total coordinated assault upon this menace which is draining our economy of some $230 billion this year, slowly rotting away the fabric of our society and seducing and killing our young.

That it will take money is hardly debatable. We cannot fight artillery with spitballs. But what it will cost to wage a truly serious war against illegal drugs is a pittance compared to what it is costing society not to do so.

This drug menace is not a partisan problem. Quarreling about whether one political party or another hates drugs more would be petty and pointless. Our minority leader, Representa-

tive BOB MICHEL of Illinois, and I have worked with a bipartisan group of our colleagues from these 12 committees to produce this comprehensive omnibus assault on this deadly menace. It will help us to have a battle plan wherein we can fight this menace of illegal drugs in the fields where drugs are grown, in the channels of illegal commerce where they are shipped, in the streets and in the alleys where they are sold, and in the minds of people young and old.

This is a war that we can win with persistence and one that we dare not lose.

Mr. Chairman, I reserve what remains of the 15 minutes allotted to me. I reserve that time for the use of the distinguished gentleman from New York [Mr. RANGEL], the chairman of the Select Committee on Narcotics, after the gentleman from Illinois [Mr. MICHEL] has had an opportunity to utilize such portions of his time as he may desire.

The CHAIRMAN. The gentleman from Texas [Mr. WRIGHT] has consumed 5 minutes and reserves 10 minutes.

The Chair recognizes the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, let me state to my colleagues that, like my distinguished colleague, the majority leader, I, too, will allocate time after the original remarks that we make, along with the gentleman from California [Mr. LEWIS], who heads up our task force on our side, and the gentleman from New York, Mr. BEN GILMAN, our ranking member on the Select Committee on Narcotics. As the distinguished majority leader indicated, we have 12 committees of the Congress involved here, and it would be my intention to allocate time to the ranking members of each one of those committees as we go forward to discuss this legislation and its amendments.

Mr. Chairman, the comprehensive legislation before us is bipartisan in origin, multifaceted in approach, and unified in purpose.

By this legislation we seek to eradicate drug production in the fields and factories where it begins. To intercept shipments bound for the United States; to enforce more vigorously the existing drug laws and draft new ones. To educate Americans, especially children, of the danger of drugs; and to strengthen rehabilitation centers and programs.

Twelve committees have contributed to this effort. And, as we know there are a host of amendments.

It is an unprecedented effort by the House. All of the members of the various committees and all the staff members have performed a major task. They deserve our congratulations and our thanks.

It might be asked if all this taxpayer's money is going to put a dent in the problem. After all, in the final analysis, doesn't it come down to the individual decision to take or not to take illegal drugs? How much can Congress really do?

I am remined of two lines of poetry which sum up our dilemma:

How small of all that human hearts endure
That part which law . . . can cause or cure.

The ultimate cure for the drug epidemic must come from within the heart of each individual faced with the temptation of taking drugs. It is ultimately a problem of character, of willpower, of family and community concern and personal pride.

The home is the first line of defense. The fight against drugs will be won in discussions in our living rooms, not in judgments in our court rooms. The Government, for all its power, is but one small part of this fight.

But our legislation can set a standard dealing with problems of enforcement, international cooperation, medication and detoxification, education, prevention, and treatment.

Last week I sat with local officials from drug and alcohol treatment centers in my district.

They are on the front line. We in Congress see the statistics, the drug-treatment officials see the victims. We talk about national problems: those officials deal with personal and family tragedies.

One of those officials said something that struck me as getting to the heart of the problem.

Speaking of the declaration of war on drugs, this officials said:

. . . We should first find out if substance abuse is the real problem or merely a symptom of another, deeper problem. We should know just what it is, we are declaring war on.

And I hope that message is heard by the administration and by the Congress.

What has happened within our society over the past generation to have brought us to this tragic state?

We appear to have lost the connection between rights and responsibilities that alone can make freedom work.

We have neglected formation of character in educating our children, at home and in schools.

The death of basketball star Len Bias shocked us into action.

What should shock us even more is that we had to be aroused out of our pathy by such a disaster.

There are thousands of young Americans whose names will never be known to anyone outside the circle of their own family and friends whose death from drugs was just as tragic.

The forgotten, unknown children who have died from drugs or who have has their lives ruined deserve our dedication to their memory.

This means that we do something more than pass this legislation and then go on to other things. We do that so often in the Congress.

This time we have to make an effort to be patient, to hang in there, to fight this battle not just on the day we pass the legislation, but beyond.

We have only just begun. If the House isn't willing, through oversight, to see to it that the legislation we pass is really working, we shouldn't pass a law in this area.

Let's do what we can in the hope our actions may inspire others to do what they must in the fight against this monstrous evil.

□ 1200

Mr. RANGEL. Mr. Chairman, I yield such time as he may consume to the gentleman from New Jersey [Mr. RODINO].

Mr. RODINO. Mr. Chairman, I think the gentleman from New York for yielding me this time.

Mr. Chairman, I rise in general support of the proposal that is before us. I have some serious reservations concerning some of the amendments which may be offered.

The Judiciary Committee labored long, hard, and strenuously in a bipartisan effort to fashion a bill so that we could meet this crisis that is a plague on our Nation. While the committees of the Congress have brought forth legislation designed to effectively deal with this crisis, it seems to me that we now have the possibility of certain amendments being offered which in my considered judgment would not in any way effectively deal with this crisis against drugs.

I would have hoped that we would have had a completely noncontroversial bill which all of us could support and support strongly; however, that is not the case.

Because of my responsibility as chairman of the Judiciary Committee and acting as manager of the House of Representatives in the impeachment trial of Judge Harry Claiborne which is taking place right now, there are arguments being made in the other body in the Clairborne impeachment proceedings and I must return to that body in order to continue my participation. Therefore, I am not going to be here at the time that the Committee on the Judiciary will have debate on its title of the bill, but the gentleman from New Jersey, the subcommittee chairman, Mr. HUGHES is going to be assigned to manage that portion of the bill.

Mr. Chairman, as we consider the omnibus drug legislation before us today, we should all pause to recognize one highly unusual feature of this issue.

Rarely do we see our Nation so united behind the need for action.

Rarely do we see Democrats and Republicans come together in such a bipartisan manner. And rarely do we all agree on the threat posed to our society.

In a pluralistic democracy, this unity of purpose comes infrequently. But it comes without fail when the health, safety, and security of our people are put in jeopardy.

With the drug epidemic wrecking our cities, dividing our families, generating crime, and killing our children—that is the situation we face today. We are in a crisis—a drug-induced state of emergency—and the response has been as one country united.

Mr. Chairman, I want to applaud the way you and Majority Leader WRIGHT have provided leadership on this issue, as well as the efforts of Members on both sides of the aisle. As one who has spoken out for years on the need to curb drug abuse and trafficking—and as one who has authored previous laws to combat drugs—I am gratified that we in Congress are about to launch this full-scale attack on the problem.

Before us is a legislative package that includes seven bills reported by the Judiciary Committee which strengthen our drug laws and give more weapons to those on the front line fighting drugs. These bills—in connection with other international, prevention, and educational measures contained in the omnibus bill—will constitute a strong line of defense against drugs.

Our goal, in short, is to reduce both the supply and demand at the same time.

Among the bills passed by the Judiciary Committee is the Drug Enforcement Enhancement Act, which provides one of the tools we need most: money.

We all know that State and local law enforcement agencies bear a disproportionate share of our Nation's drug efforts. Yet their resources are limited. This bill shows that the Federal Government is behind them by providing the first of what should be many more grants to help them do their jobs. It also targets well-needed funds to maintain and rebuild our overcrowded prisons—over $1 billion for prison construction, and $34 million for prison operation. Money for drug prosecution and Federal enforcement is also included.

Another of the Judiciary Committee bills also involves money, but in a very different way: by cutting off the drug trafficker's access to "clean" money. This bill, the Money Laundering Control Act, creates a crime called "money laundering" that allows us to prosecute and punish those who enable drug traffickers to reap their profits.

Other bills passed by the Judiciary Committee stiffen penalties for drug trafficking and drug-related crimes. One cracks down on those who manufacture and distribute deadly designer drugs. And another bill tries to keep drug-dependent offenders from returning to crime by providing treatment and rehabilitation services that are long overdue.

Now all of these bills will provide needed tools as our Nation confronts the drug problem. But none, no matter how effective, can serve as a substitute for the most essential component in the war on drugs—and that is, a comprehensive national strategy to fight drugs.

Mr. Speaker, we have a consensus in this country about drugs which cut across political and geographical lines. But we lack direction for our efforts—we lack a national strategy. And without a strategy to combat drugs, we will be left with little more than a band-aid approach to a crisis that really demands coordination and long-range planning at the Federal level. We need to look beyond the short term.

That is why the omnibus legislation now before us includes another bill passed by the Judiciary Committee, calling on the President to convene a White House Conference on Drug Abuse and Control. Congressmen RANGEL, HUGHES, GUARINI, and GILMAN all joined me as original sponsors of this bill.

The purpose of the White House Conference is simple and straightforward: to pool the best minds and resources of our Nation so we can develop a comprehensive, coordinated, and effective strategy to fight drugs.

The conference will give force and direction to our national consensus to fight drugs by drawing on the collective wisdom of all levels of our society—experts and educators, law enforcement and drug counselors, government officials, and grassroots activists.

Now why call a White House conference? Because only the President can bring all these people together—in a nonpartisan and cooperative manner—to address this problem that affects us all. And as a conference held at the highest level of Government, it will be in the position to ask tough questions about past policy—and help set priorities for the future allocation of resources.

Mr. Chairman, scattered shots in the dark are not going to win the war on drugs. Nor will rhetoric, no matter how well intended. Right now we are losing this war. But it is not too late. This legislation before us will help us develop a successful strategy to defeat drugs—before they defeat us.

I urge the adoption of the omnibus bill.

Mr. RANGEL. Mr. Chairman, this is a great and a historic period I think that this House, this body is going through, and certainly the members of the Select Committee on Narcotics Abuse and Control would like to thank the Speaker of the House of Representatives, the majority and the minority leaders, for the active role which they allowed the members of the select committee to play in the formation of this legislation and especially to the gentleman from New York BEN GILMAN who made certain that no matter how great the temptation to be partisan on this issue that our commitments have to be to follow that line at least as it related to the select committee to make certain that we meet our contribution to the House and not to the party.

I suspect that everyone would know in their own home towns just how bad the problem is, but this is the first time I think that we in the House and in the Nation as a whole will be able to work within the framework of some national strategy. It is impossible for us to even hope that we will have anything less than a bumper crop from the countries that are growing, processing, and distributing drugs, into the United States.

Just this weekend our President had indicated that if a foreign country was held responsible for the lack of quality in our school system, that in his opinion it could be considered an act of war.

I say to the President that certainly foreign countries are responsible for the growing of drugs that we do not grow in the United States and that I think we should consider it a threat to our national security.

Certainly recently the former Chief Justice of the Supreme Court, Warren Burger, indicated to me that in his opinion he thought the narcotics problem was a greater threat to our national security than communism.

This bill addresses itself to the problem, that we will let countries, friend and foe alike, know that they cannot continuously expect to receive economic, military, and technical assistance, if indeed they do not cooperate in their international agreements or bilateral agreements with this country, and the Foreign Affairs Committee deals with it by giving tools to the State Department and to the President to assist the cooperating countries in dealing with the problem and also to provide the sanctions, some of which were provided by the Ways and Means Committee in removing most-favored-nation treatment to those countries that just ignore their international commitment.

When it comes to our borders, Commissioner von Raab indicated that it is a sin, not only for aliens, but certainly for drugs, 30 percent of the cocaine, not grown in Mexico, is pouring across that border as tonnage of that type of drugs.

Certainly if the President can say that the drug epidemic is a threat to

our national security, we should hear from the Department of Defense to at least as they protect our heavens, to protect our borders against the intrusion of these poisons.

I suppose when we talk about law enforcement, if we really want to find out where the troops are coming from, we have to look to local and State law enforcement officials, because if we look to the Drug Enforcement Agency we can only find some 2,000 dedicated men and women, but certainly not enough to take care of the international and national problems that we face.

This bill addresses itself to that problem. Representative GILMAN and I will be increasing the amounts of money, and we hope we can be persuasive to this body, to make certain that we give our local law enforcement and criminal justice system the tools that are necessary if indeed we are going to wage a battle.

And of course, as everyone has pointed out, we cannot expect to have too much success as it relates to the epidemic that we are witnessing if we just concentrate on law enforcement and supply. We have to have some type of a national obligation in this country to reduce the demand. We cannot do it if we have a $200 billion education budget and yet in reviewing each part of our responsibilities we walk away, as we have in the past, and say that only $3 million will be allocated to local and State efforts in order to educate our children and to rehabilitate those who certainly have already abused drugs.

I think the First Lady has done a remarkable job in focusing attention, especially as it relates to attracting the private sector in doing something about this problem; but it just seems to me if the legacy which we are going to leave to our children is a healthier world and to be able to say to our kids not only that we hope you graduate, but we hope that you live to be able to have a healthy life, that we have to do more than give out comic books and hand out books, but to be partners in a comprehensive program with local and State authorities to make certain that we do have an education and prevention program.

Of course, as this explosion of drug addiction and drug abuse takes place, it seems to me that when we have a hot line or when we tell people that they should call for assistance, that it is really wrong to do this and to find out there is no place to go for assistance.

We have a national hot line and yet in the city and State of New York, if you call that number, more than likely you are going to be placed on hold because we do not even have the centers or the counselors that are necessary to treat those people who are seeking help.

I think at the very minimum we should be able to say that in this war against drugs that anyone who seeks help, seeks treatment, seeks advice, that this country is prepared to make certain that it is available.

Certainly when we talk about drug treatment and rehabilitation, this bill attempts to address those problems.

Now, I would like to say, Mr. Chairman, and to my friends and colleagues that we are fully aware that a lot has to be done by the private sector, by our churches, by our leaders in the synagogues, and more importantly, by the American families to recognize that we have an obligation to our children, our families, and our friends to have some moral standard that makes you proud that you are not abusing drugs, rather than jsut to frighten people about the dangers of using drugs.

But in all of this, we have to say as human beings, as politicians and as legislators, that we have tried to make a contribution in making certain that toward our national defense, toward protecting ourselves against this threat to our national security, that we at least attempted to develop a plan. That is what we will be doing today and tomorrow and I am confident then when we finish with that product, and I hope that we get the type of vote that can send a message to the Senate that the American people have talked with the House of Representatives, where indeed the people govern, and they will act accordingly in the other body and present to the President for the first time in recent years a comprehensive national strategy to deal with this problem.

I am certain that when we do this, that in the near future there will be no need for a select committee to deal with narcotics abuse and control because we can once again get a handle on this and provide the type of direction and send a message to other countries that have ignored this problem that we as the leader in the free world have done more than just fight a rhetorical war, but we have done something that can make our Nation and humankind proud.

So the gentleman from New York BEN GILMAN, and I and all of the members of the select committee would like to thank you for the support that you have given us over the years and we think that this package that is going to be passed pays tribute to each and every one of us.

I sincerely hope that the atmosphere of bipartisanship in which this package has been created will be the one that we will truly enjoy when the President signs it into law.

Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. SCHEUER].

Mr. SCHEUER. Mr. Chairman, I thank my colleague for yielding and I want to congratulate him and Congressman GILMAN for the superb leadership that they have given the Select Committee on Narcotics for the more than decade I have worked on it.

The thing that really excites me about this bill is not only that it provides money for eradication, cleaning up the poppy fields of Laos, Burma, Thailand, Turkey, and the like—not only that it provides money for interdiction at our borders, not only that it provides money for law enforcement in our communities, but that it provides for the first time a significant statement in the form of $350 million that the prime challenge, the major target of opportunity is educating American youth that drugs lead down the path to destruction of careers, destruction of education prospects, destruction of health, destruction of job prospects, destruction of families, and ultimately destruction of lives.

We have to change behavior in this country and this is the way to do it.

Mr. LEWIS of California. Mr. Chairman, I yield myself such, time as I may consume.

Mr. Chairman and my colleagues, I would like to take just a moment to express for this side of the aisle our deep appreciation to the leadership of this House for their sensitive response to the reality, if we are to effectively wage war on drugs, that that effort must be bipartisan.

The speaker, Mr. O'NEILL, the majority leader, Mr. WRIGHT, have been more than cooperative with the Republican side of the House. They have been willing to allow a variety of input that truly will assure that upon final passage this bill will make a significant contribution to our effort to win this war against drugs in our society.

If, indeed, Mr. Chairman, the legislative process is like making sausage, the work of the committees of the House has produced sausage here that is of very high quality.

Under very difficult time constraints, those committees have come forth with sections of this bill that touch every base that is fundamental to a meaningful and significant effort.

The issue in many ways was brought home crystal clear to me just yesterday morning, when I was on my way to a committee meeting with one of our liaison officers. This fellow, in talking about the bill as before us, told me of an incident that recently had occurred in his own family.

He and his wife have one child, and they have just had to transfer that child from a public school in a nearby State to a private school in hopes that their child will receive the sort of effective supervision and control that they feel he needs at this moment.

The reason for their concern is because it seems that in that school district, high school students are arriving on his child's campus in an attempt to entice young students to use drugs. The son that my friend was concerned about is in the second grade.

Indeed, this problem bubbling under the surface in our country is at the point of explosion. The House has been attempting, piece by piece, to work with that problem for some time.

The President has expressed his concern about the impact of narcotics upon our society since he arrived at the White House.

Recent events have allowed us to finally crystallize a major effort that has here produced the most important drug package in the history of the Congress.

In the area of criminal law enforcement, often our committees feel limited in terms of what they can do. They are hesitant to be as tough as many of us feel necessary. Because of that established bias of the committee system, the rule allows through the amendment process the potential for bipartisan improvement of the committee work.

There are approximately 18 amendments that will be carried by Republicans that are given individual time and approximately 11 Democrat amendments. Those amendments will not carry partisan labels as such. They are an effort to meld that bipartisan voice that is broader than the committees.

Among those amendments there will be some controversy. My colleague, the gentleman from New Jersey [Mr. RODINO], expressed some concern about that earlier. I must repond to those comments by saying this: The committees are concerned about their bailiwick; but also, the American public is very seriously concerned about making sure that this total package reflects the kind of movement that will allow us to be successful.

Most concern centers around two subject areas. First is that of making law enforcement more effective in dealing with those people who profit through the illicit traffic and sale of drugs. Beyond that, it is clear that we are going to spend a good deal more new money in the process of carrying out this war. Some of the amendments will alter the priority for expenditure of those funds.

Let me mention a few of the amendments that will be before us tomorrow.

In title II, the armed services portion of the bill, we would like to see meaningful reform of outdated posse comitatus laws. These laws, which date from the Civil War era, have prevented our military from fulfilling the needed role that they could play in assisting civilian law enforcement efforts. The Hunter amendment will allow Presidential deployment of sufficient military personnel to make real progress against the ever-increasing supply of drugs penetrating our borders. Existing laws which prevent our military from assisting in the hot pursuit of suspected narcotics traffickers are an anachronism in an age where the supply of drugs constitutes a very real threat to the American way of life.

In title III, the Way and Means portion of this bill, Mr. CRANE will strike a blow for financial responsibility. His amendment will reduce the new authorization of moneys to the Customs Service to a level that Customs officials feel they can really absorb. The Crane amendment will not destroy the bipartisan effort to increase Customs funding but rather will restore fiscal sense to an otherwise self-defeating effort to throw money at an agency which plays a lead role in reducing the supply of illegal drugs.

The Judiciary Committee crafted title VI of the bill and Republicans will be offering at least a half dozen amendments which should receive the support of a majority in this House. The most controversial will be the Gekas proposal to allow for the death penalty in a continuing criminal enterprise where a murder results. The Gekas proposal is aimed at major drug traffickers who intentionally murder people during ongoing criminal conspiracies.

Mr. LUNGREN should be supported in his efforts to revise existing law so that a good-faith exception can be made to the exclusionary rule and so that prosecutors can really get at the hidden profits of drug dealers by seizing substitute assets.

Title VI also creates a 50–50 match block grant program for Federal aid to State law enforcement efforts. Mr. LUNGREN will offer an amendment to eliminate the law enforcement block grant program. Many of us wonder if it is wise to send such a small amount of money to units of government that spend less than 3 percent of their law enforcement budgets for drug enforcement. The amounts provided for this purpose and the priority which State and local law enforcement budgets have given to the drug problem in the past would seem to indicate that this money would not make an effective contribution.

If such a program should not be eliminated, then, at the very least, an effort should be made to make grant recipients meet a minimum standard in order to qualify for the funding. I urge your support for Mr. MCCOLLUM's amendment to require that a State have adequate possession statutes in place before it becomes eligible for this funding. Continuing the trend toward decriminalization for possession of certain drugs is, in my view, totally inconsistent with the fundamental and guiding principle of this new drug policy effort, which is to reduce the demand for narcotics by enhancing enforcement of existing laws and improving ongoing drug education and counseling programs.

Republicans believe that a concerted effort should be made to place more drug dealers in prison. They also recognize that many State prisons are already overcrowded and that additional funding will be needed to solve that problem. I urge bipartisan support for Mr. MCCOLLUM's amendment to eliminate the existing cap on Federal contracts for which State prison industries may bid. This will allow the States to earn more money, enhance job training for inmates, and, plausibly, to channel savings achieved by increased sales into new prison construction.

Title VIII, the Education and Labor title, provides for a new federally funded series of drug education programs at an estimated cost of $350 million for each of the next 3 fiscal years. House Republicans recognize that it will take a substantial Federal effort to get the ball rolling but they also believe that the ultimate responsibility for funding such programs should be shared on a more equal basis with the private sector and units of State and local government.

To that end, I again urge bipartisan support for Mr. COLEMAN's amendments. One of the Coleman amendments creates the national trust for a drug-free youth which would be funded largely through private sector gifts and contributions. The other Coleman title VIII amendment alters the bill's grant formula for drug education. Instead of a 75-percent Federal contribution after the first year, the formula would provide 60 percent Federal support in the second year and 20 percent in any subsequent year.

In title IX, the Energy and Commerce section of the bill, Mr. MADIGAN will be offering an amendment to reduce the authorization for emergency substance abuse treatment by $80 million and to eliminate set-asides for the agency created by the bill and community-based local programs. Never let it be said that House Republicans oppose any effort to speed relief to the victims of either drug or alcohol abuse. The Madigan amendment, like the Lungren, Coleman, and Roukema amendments which came before it, are an indication of the approach that we believe all Members should take toward spending and the role of the Federal Government. We do not oppose any and all new spending across the board. Rather, we recognize the need to address the drug epidemic in a fiscally responsible manner by assuring that new expenditures can be absorbed by the agencies involved and that they will have the intended impact on the trafficking of drugs

with its Pandora's box or related problems.

Finally, in title X, the Post Office and Civil Service Committee title, Mr. SHAW will offer an amendment to authorize Federal agencies to implement drug testing programs. The Shaw amendment would authorize such tests only for Federal employees with access to classified information.

The bipartisan drug effort has been just that. It is my greatest hope that our efforts here on the floor will ultimately result in the passage of meaningful reforms. The phrase, "War on Drugs" has been bandied about a good bit. I honestly believe that this House has done a marvelous job on moving forward to deal with a major issue while acting under tremendous time constraints. If it is the wisdom of this body that the bill be amended to reflect the concerns I have just outlined, then I believe we will transform our current efforts to a status where the phrase "War on Drugs" takes on new meaning. This is a battle with few pretensions. It is a battle that America cannot afford to lose.

Mr. GILMAN. Mr. Chairman, I rise in strong support of the historic bipartisan legislative initiative we are considering today, H.R. 5484, the Omnibus Drug Enforcement, Education, and Control Act of 1986. Not only is the legislation historic in scope and depth, but it represents a rather unique bipartisan effort to cope with a problem of immense proportions. In addition, it should be noted that this is the most comprehensive drug measure considered by Congress since the enactment of the Comprehensive Drug Abuse Prevention and Control Act of 1970, which established a foundation for Federal efforts to combat narcotics trafficking and drug abuse and, among other provisions, created a system of penalties for incarcerating drug traffickers.

Under the strong leadership of our distinguished Speaker, Mr. O'NEILL, a bipartisan team composed of the distinguished Majority Leader JIM WRIGHT, and the distinguished Minority Leader BOB MICHEL, along with the chairman and ranking minority members of the standing committees as well as the distinguished chairman of our Narcotics Select Committee, Mr. RANGEL, with whom I have had the pleasure serving as the ranking minority member along with many Members from both sides of the aisle, Republicans and Democrats, liberals, and conservatives, have formulated H.R. 5484. In short, this measure reflects the work of the leadership and numerous Members who have worked so intensely under severe time constraints to bring this bill to the House floor.

Drug trafficking and drug abuse have reached epidemic proportions not only in the United States, but on a global scale. Both the production of, and the demand for drugs of all types have increased dramatically in recent years despite record seizures by our law enforcement agencies. The most disconcerting fact is that the more enforcement and interdiction activities we have undertaken, the more drugs have been available on our streets and in our schools. Failure to take dramatic action at this time could be disastrous.

Since 1981, numerous enforcement mechanisms have been created by the administration to deal with the problem of drug trafficking. The South Florida Task Force, and the National Narcotics Border Interdiction System [NNBIS] are two prime examples where coordination and cooperation have been increased among Federal, State, and local drug law enforcement officials resulting in large seizures of all types of drugs.

Mr. Chairman, despite these efforts, the Narcotics Select Committee estimates that more drugs will be smuggled into this country during the current year than ever before in our history. Specifically, we estimate that 150 tons of cocaine, 12 tons of heroin, between 30,000 and 60,000 tons of marijuana, and 200 tons of hashish will enter the United States during the current year. Obviously this dreadful situation cannot and must not be allowed to continue. Either we are wasting scarce resources against an insurmountable supply of drugs and extravagantly wealthy drug traffickers, or we are not placing sufficient resources on programs designed to reduce the demand for drugs in the United States.

We are indeed engaged in a tough, up-hill battle, but one which can be won only if increased resources, equipment, and manpower, including our military resources, are utilized in the fight. In addition, we must do much more to make certain that drug producing countries intensify their eradication efforts. Our military forces can also be used in that regard as the recent example of Bolivia clearly indicates.

Of primary importance, however, is the need to increase the Federal role in, and the financial support for demand reduction through drug education and prevention programs. It is estimated that there are 25 million Americans who have tried cocaine. There are also an estimated 550,000 active heroin addicts, and the new and more potent form of "black tar" heroin from Mexico creates a new and even more deadly threat to our citizens.

The need for increased drug education is further underscored by a 1985 high school senior survey which revealed that almost two-thirds of those seniors surveyed have used illicit drugs. It further revealed that cocaine use had risen to a new high of 17 percent, and more than 34 percent of the students felt that trying cocaine was not dangerous.

The simple truth is that no one segment of our society is unaffected by drug trafficking and drug abuse. We all pay a price, be it in terms of the more than $100 billion annually in increased health care cost, lost productivity and related crime and violence; or more directly through the human suffering of addicted loved ones or friends.

The Federal response to demand reduction to date has concentrated primarily on the intense and dedicated efforts of First Lady Nancy Reagan and various private grass-roots organizations and private sector corporations. These actions, especially those of Mrs. Reagan, are highly commendable, but they are not enough.

Unfortunately, the sad fact is that Federal support for drug abuse services has been reduced by over 40 percent since 1980. While budgetary constraint is a hard fact of life, such excessive reductions in this crucial area must be reversed. In addition, States visited by the select committee in our numerous hearings around the country have failed to establish their own drug education programs, and the Federal Government has failed to take the lead in mandating that this be done.

For some time many of my colleagues have viewed a comprehensive, multipronged approach, as the only viable solution to the enormous problems of drug trafficking and abuse that we face. The omnibus antidrug bill before us today adopts that approach.

First, this bill seeks to intensify eradication and enforcement activities at the source through the creation of incentives for foreign nations to intensify their efforts to cooperate with the United States in eradicating. Specifically, the bill increases the authorization of funds for international narcotics control; and requires the President to deny most-favored-nation trade treatment on other preferential tariff treatment to drug producing countries which refuse to cooperate in halting the flood of drugs to our shores or in the apprehension of drug traffickers. In addition, it requires the United States, in its participation in international lending institutions, be required to use its financial resources, its votes and its influence to promote the reduction and elimination of narcotic crop production. We simply must let drug producing nations know that we are serious about ending drug production.

Second, the bill dramatically increases our interdiction capability by providing for additional narcotics control aircraft and aerostat radar balloons to be deployed on both land and

sea. In addition it requires the purchase of other types of highly sophisticated detection equipment. Interdiction is also enhanced by authorizing additional personnel and equipment for the Coast Guard and the Customs Service.

Third, the bill responds to the need for increased drug law enforcement by further increasing penalties and by providing mandatory minimum sentences for "serious" and "major" drug offense categories. The sentences range from 5 to 20 years depending on the type of offense category and whether it is the first or a subsequent offense. Other key provisions in the legislative package place strong restrictions on "designer drugs," provide increased funding support for Federal, State, and local drug law enforcement and creates a new Federal criminal offense for money laundering with penalties of up to $1 million and 20 years in prison.

Fourth, the legislation authorizes an additional $350 million annually for fiscal years 1987, 1988, and 1989 for Federal and federally supported drug abuse education and prevention programs.

Fifth, the bill authorizes $150 million in grants to States for drug abuse treatment and prevention services and an additional $20 million for the creation of a new agency for substance abuse prevention.

Finally, in terms of all the problem areas mentioned, the legislation requests the President to convene a White House Conference on Narcotics Abuse and Control. Such a conference will bring together the best minds in our country to develop workable programs and policies to deal with drug trafficking and abuse.

In closing, Mr. Chairman, I would only add that the time for action is now. An indepth, comprehensive, coordinated antidrug policy is the only way we will ever have a chance of victory in the "war" on drugs. I am convinced that enactment of this omnibus package will make it possible to turn the corner and allow us to reclaim our streets and neighborhoods, our schools and parks, and even more important, our children. The $1.5 billion authorized in the package is a small price to pay for the very future of our society.

Mr. BIAGGI. Mr. Chairman, I rise as an original cosponsor and strong supporter of H.R. 5484, the Omnibus Drug Enforcement, Education, and Control Act. Simply put, drug abuse is the single greatest threat facing our great Nation, and this legislation has been crafted accordingly. It is a bold and ambitious legislative product—one that I am proud to associate myself with.

"Give us back our city!" That's the cry that has gone out from New York City, and so many other communities throughout our Nation. It sums up our frustration and our total disgust about the drugs that have overtaken our streets, our workplaces and our schools. It is a national crisis that demands a national response.

It's a nightmare best told by numbers. The House Select Committee on Narcotics estimates that 12 tons of heroin will enter the United States in 1986, along with 150 tons of cocaine and 30,000 tons of marijuana.

But, it is cocaine that has become the drug of choice. Twenty-five million Americans have used cocaine; about 5,000 try it for the first time every day; and Americans spend over $50 billion annually on cocaine. Cocaine deaths have nearly tripled since 1978 and one out of every four cocaine users commits a crime to support his or her habit.

For young people, the numbers are even more startling. Consider that nearly two-thirds of all high school seniors report using illicit drugs; nearly a third of all seventh graders say they've already tried them; and, certainly the most alarming statistic of all, 25 percent of our Nation's fourth graders say they feel peer pressure to use drugs.

Drugs in the workplace have also had devastating effects. According to a study conducted by the Research Triangle Institute of North Carolina, drug abuse in the workplace resulted in an estimated $33 billion in reduced productivity in 1983.

During the last year, our Nation's already severe drug problem has scaled new and even more frightening heights, and the reason is crack, the cocaine-based drug that is killing our kids, and sending violent crime statistics sky high.

Just recently, I met with a group of remarkable teenagers from Co-op City, a community in my home district of New York. They call themselves "Kids Against Crack." Some of these young people are former crack users, but mostly they're kids who are tired of seeing their friends being destroyed by crack. These young people have told me that crack is a problem engulfing their entire neighborhood. They live with this problem, so when they say crack is "the dealer's dream and the user's nightmare," we should listen.

The omnibus drug bill before us today shows that we have been listening and we are responding in a comprehensive and dramatic way. More than anything else, this legislation, which contains all or part of 20 drug-related bills crafted by 12 House committees, reflects a clear and accurate belief that there is no easy, single solution to our drug crisis. Only through a comprehensive sustained attack on illicit drugs can we expect to make any headway at all.

This bill authorizes a total of $1.5 billion in fiscal year 1987 to strengthen the enforcement of drug laws; to stem the flow of illegal drugs into and throughout our country; to increase drug penalties; to expand Federal prison facilities; to educate our citizens—particularly our young people—about the dangers of drug abuse; and to treat and rehabilitate those individuals who have become dependent upon drugs. Specific highlights of the bill include: up to life imprisonment for drug dealing which results in serious injury or death; drug enforcement grants to local law enforcement agencies; increased Coast Guard funds to give them more manpower and equipment to help interdict drugs; making it easier to detect and prosecute money laundering; requiring drug producing countries to establish eradication programs in order to be eligible for U.S. aid; grant programs for local drug education and treatment programs; and a Federal drug education program.

I would also like to focus special attention on provisions in the bill establishing tougher penalties for the manufacture or trafficking of small amounts of drugs, as well as for using children to distribute or manufacture drugs. Both of these key provisions were included in my bill, H.R. 5103, to toughen the Federal response to the crack crisis.

In addition, I want to stress the special importance of title VIII of the bill, which is the Education and Labor Committee component. Specifically, this title authorizes $350 million during the next 3 fiscal years for drug abuse education efforts in our schools. As far as I am concerned, nothing in the bill is more important than the new emphasis it places on drug abuse education—and I say that with 23 years of law enforcement experience and a full appreciation of the vital role law enforcement plays in the war on drugs. In fact, it is safe to say that only law enforcement plays a major role in each phase of the drug abuse prevention process.

However, the fact is, while we have vigorously been working to reduce the supply of illicit drugs—with mixed results—we have done precious little to cut down on the demand for drugs. Consider, for example, that only 1 percent of all Federal antidrug funds—$1.7 billion this year—are being spent on drug abuse education. That is intolerable and it is a fatal flaw in our society's approach to combating drug abuse. Title VIII of the bill says we must do much more in the area of drug abuse education, and we must start that educational process as soon as the child enters school—and not let up.

Finally, Mr. Chairman, I would like to raise two concerns I have about the bill. First, I am concerned that an important amendment I had attached to the education and labor component—an amendment which received unanimous committee approval—was deleted from the omnibus bill. That amendment would have ensured that at least part of the funding for drug abuse education came from the forfeited assets of drug traffickers. The amendment would have allowed up to $10 million a year from both the Department of Justice assets forfeiture fund, and the Customs forfeiture fund to be used for drug abuse education. While these funds have traditionally been reserved for law enforcement purposes, there is a substantial surplus that is not being spent and is returned to the general treasury fund at the end of each fiscal year. That surplus amount, which is expected to be more than $40 million at the end of fiscal year 1986. I would strongly urge the appropriate committees to seriously consider acting on this proposal during the early part of the upcoming Congress.

Second, I am concerned that an amendment I had planned to offer on the floor was ruled out of order. That amendment would have allowed funds authorized under title VIII to be used "to improve security measures in elementary and secondary schools." I viewed this as an important clarifying amendment. It

has been stated that the bill would not prohibit such expenditures in its present form, but I agreed with the U.S. Department of Education that some schools might be reluctant to use funds for enhanced security measures unless it was specifically stated in the bill.

Schools have been very reluctant until recent times to take tough security measures, including reporting to and bringing in the local police when there is a drug problem in the schools. Based upon the testimony our committee has received, I am pleased to note that this ivory tower mentality is beginning to change. Now, there is a growing realization by school officials that working more closely with law enforcement, and taking other types of security precautions are absolutely essential components of any effective drug abuse education and prevention program. I am hopeful that schools will not be discouraged from using funds under the omnibus bill for this important purpose.

Notwithstanding these concerns, Mr. Speaker, I would strongly urge the overwhelming passage of this vital piece of legislation. It sends the right message at the right time, and I am confident much good will result.

Mr. LEWIS of Florida. Mr. Chairman, I am pleased that Congress is finally taking the lead in the fight against narcotics abuse and trafficking. I am particularly pleased that the Omnibus Drug Enforcement, Education, and Control Act recognizes that the drug epidemic transcends our country's borders.

Certainly, we must address the problems of abuse within the United States. The need for education and treatment cannot be overemphasized. Equally important, however, is remembering that the responsibility for drug production and trafficking goes far beyond our own backyards.

The foreign assistance and trade provisions of the bill hold other countries accountable for their actions. I wholeheartedly support the suspension of U.S. financial assistance to countries which do not cooperate with international drug fighting efforts. Moreover, I will urge the President to make active use of his power to impose trade sanctions against these uncooperative nations.

The time has come for us to toughen our stance against countries which do not cooperate in our drug interdiction efforts. I earnestly hope that the Drug Enforcement, Education, and Control Act will prove true to its name.

Mr. SMITH of New Jersey. Mr. Chairman, I rise today in strong support for this bipartisan effort to launch an all-out assault on the drug problem in our country. The statistics compiled from several diverse sources indicate alarming increases in drug use among our youth as well as a sharp increase in the shear amount of drugs flooding our borders. The omnibus antidrug bill before us, of which I am a cosponsor, would attack both the supply and the demand side of this most distressing national problem. Consider the following statistics from the drug abuse warning network of the U.S. Department of Health and Human Services regarding the use of cocaine:

From 1981 to 1985, the number of hospital emergencies associated with the use of cocaine increased threefold from 3,196 to 9,946 cases and the trend continues.

From 1981 to 1985, the number of cocaine related deaths increased almost threefold form 195 to 580 and the trend continues.

From 1982 to 1985, the number of hospital emergencies associated with the use of cocaine in our Nation's Capital increased from 116 to 360 and the trend continues.

From 1982 to 1985, the number of cocaine-related deaths in our Nation's Capital increased from 2 to 32 and the trend continues.

Mr. Chairman, the supply side of the drug problem also has its share of alarming statistics. Consider some of the following:

In 1985, Bolivia produced 34,250 metric tons of coca. During the same period, it provided 15 percent of U.S. cocaine supply.

In 1985, Colombia produced 11,000 metric tons of coca and 2,500 metric tons of marijuana. During the same period, it provided 75 percent of U.S. cocaine supply and 49 percent marijuana supply.

In 1985, Mexico produced 21 to 45 metric tons of opium and 2,500 to 3,000 metric tons of marijuana. During the same period, it provided 38 percent of U.S. heroin supply and roughly 32 percent marijuana supply.

In 1985, Peru produced 95,000 metric tons of coca. During the same period, it provided 5 percent of the U.S. cocaine supply.

The omnibus antidrug legislation now before us attacks this drug problem in five ways: First, eradication of drug production in the fields and factories; second, interception and interdiction of shipments inbound to the United States; third, enforcement of present drug laws; fourth, education, especially of young people, on the dangers of drug abuse; and fifth, rehabilitation of victims of drug abuse.

Before the August recess, the House Committee on Foreign Affairs, of which I am a member, reported out a number of strong measures to be included in the omnibus antidrug package which are aimed at stemming the tide of illicit drugs flooding the United States. Some of the provisions authored by the committee are:

First, an increase of $7.9 million above the current authorization level for the fiscal year 1987 international narcotics control budget, making the total authorization $65.4 million.

Second, development of a safe and effective herbicide for aerial eradication of coca.

Third, new authorization of $2 million for U.S. Information Agency and $3 million for U.S. Agency for International Development to be used for drug education programs overseas.

Fourth, partial repeal of the present law which would allow U.S. officials to be present at drug busts once the Secretary of State has determined it is in the national interest.

Fifth, withholding of $1 million from Mexico pending the full investigation and prosecution of DEA agent Enrique Camarena's murderers.

Sixth, instruction to the General Accounting Office to conduct a study of the effectiveness of international narcotics control programs.

Narcotics production is out of control in many parts of South America. National leaders in South America have repeatedly stressed to U.S. officials that if the United States does not act quickly to help these nations, it will be too late to stop the spread of illicit narcotics cultivation and traffic. Law and order, and the viability of fledgling democratic governments are at stake.

We need a tough, bipartisan action to gain control of the international scourge of drug trafficking and I am hopeful that the legislation we are considering today will help stem the tide of illicit narcotics pouring into the United States. The well-being of our Nation and the future prospects of our younger generation depend upon it.

Mr. FRENZEL. Mr. Chairman, it is clear to me that drug abuse in the United States has reached the crisis point. Drug abuse results in a staggering and tragic loss of human potential. Illicit drug trafficking has become a huge and deadly business. Despite the best efforts of our existing law enforcement, health, and education programs, the drug problem rages out of control.

For these reasons, I believe that Congress must attempt to stem the tide of drugs. I applaud this legislation as an effort in the right direction. The bill is the product of work by a dozen committees, and is tremendously complex, as is the drug industry. I wish the bill were better coordinated.

I am not pleased with several aspects of the bill, but I support it as a necessary attempt to cope with the drug problem. Specifically, we are overfunding these programs. Each member and each committee and each party tried to outdo the other in its enthusiasm to wage war on drugs. We should have been more careful.

There are several portions of the bill which I wholeheartedly endorse, and which have won my support of the entire bill. The bill contains strong antimoney-laundering provisions, which will make the drug economy's workings more difficult. The bill addresses the "designer drug" problem effectively. It strengthens existing antidrug laws and penalties. And it places an increased emphasis on education as a means to combat drug use.

My objections center on the bill's cost, roughly $2 billion. The exact cost is unknowable because much of it will be contained in the budgets of other agencies, like the Department of Defense. The bill tends to provide large increases in funding for each agency and program that addresses the drug problem, but money can't guarantee coordinated efforts, or results.

For example, the bill provides $350 million in funding for antidrug educational programs. I believe that educating people about the dangers of drug use is perhaps the most effective means of combatting the drug problem. However, I am concerned that we are throwing a large sum of money at the problem through an untested grant program, without necessarily knowing how that money should be, much less will be, spent.

Similarly, we are providing large increases in funding for various drug interdiction activities. Those activities are essential. However, I am not wholly convinced that providing an additional $300 million for Coast Guard and Navy interdiction activities will yield substantial results. Given the hasty manner in which this bill was drafted, it seems quite possible that funding was assigned without a clear perception of anticipated benefits.

The ways and means section is the title on which I have had the greatest involvement and interest. Despite some initial concerns, I believe it has been refined so it is not unnecessarily disruptive of normal commercial Customs procedures.

Members of the Ways and Means Committee had little time to review the first draft of their bill. The private sector had less time. Business interests who were concerned that the bill was overwritten, and conferred authorities not needed, did not even see the draft before hearings were held. They barely had an opportunity to present their list of concerns before the markup. Their complaints were responded to, and changes were made which eliminated most of the business community's concerns. The procedure was unsatisfactory, but the result was satisfactory.

The ways and means secton does contain some needed revisions in Customs law that will help us strengthen the drug enforcement and interdiction services of the U.S. Customs Service. Even though some of them may appear to infringe too severely on individual rights, I believe the problem is of such urgency that it demands special attention from the Congress.

An unprecedented section of the ways and means title is the denial of trade benefits to those countries which do not cooperate with our efforts to eliminate illegal drugs. The President must take one or more actions against such a country which could significantly affect its access to our market. Actions include removal of GSP, CBI, MFN benefits, or an increase in tariffs up to an additional 50 percent beyond the column II—or non-MFN—rates. While I normally object to using trade as a weapon to achieve foreign policy or any other objectives, I did not object to the inclusion of this language as a tough measure to deal with uncooperative countries, as long as the President is given some flexibility.

I remain concerned with the high increase in authorization for the air interdiction program because there is no guarantee that the funds will be used effectively, or that they will not duplicate funds authorized in other titles of this bill.

While the drug problem is serious and should command additional resources, I'm not sure it is in our best interests to simply throw large sums of money at each agency that has a role in our drug enforcement efforts and hope that we come out with an effective, coordinated attempt to combat illegal drugs. In the Customs Service authorization we are obviously throwing money, too much, in my judgment.

In this aspect of the war on drugs, as in many others, the Congress will have to monitor expenses and performance closely. If, as in many Federal programs, the performance does not justify costs, Congress must be quick to reorganize the activity, or to stop the flow of money.

With the above caveats, Mr. Chairman, I do support this legislation. The problem is a grave one. Congress today is acting in a comprehensive, timely manner to attack that problem.

With legislation so sweeping, there are bound to be flaws. We need to remain vigilant to correct those flaws, but I believe the overall bill is a positive step, and one worthy of support. Because the problem is of such urgency, we must accept the risks. We have waited too long already.

Mr. TRAFICANT. Mr. Chairman, I rise in strong support of H.R. 5484, the Omnibus Drug Enforcement, Education, and Control Act of 1986. Having introduced and pushed hard for legislation in this area since coming to Congress, I am especially gratified to see the House consider this landmark measure.

As a coauthor of two key components of this bill, H.R. 5393, the Drug Enforcement Enhancement Act, and H.R. 5394, the Narcotics Penalties and Enforcement Act, I want to point out to my colleagues that this bill represents a truly bipartisan measure that has some teeth in it to strike out against the drug traffickers. Title VI of H.R. 5458 represents a get-tough approach that embodies many of the provisions I proposed in legislation I introduced this Congress. It will not only impose greater penalties on major drug traffickers, but will also give our law enforcement officers in the field a much needed psychological edge in their uphill struggle against the drug traffickers. It also provides additional funds for our law enforcement officers in the field—at the local, State, and Federal levels. Clearly, this is where our resources need to go if we are to effectively combat the drug traffickers and drug smugglers at every level of enforcement.

As a former drug counselor and a former sheriff, I have a unique understanding of the serious nature of the drug problem we face in this country. I have been exposed to the problem from both a treatment and enforcement perspective. As a drug counselor I recognize the urgent need to expand local outreach and treatment centers. Most importantly, I have long advocated substance abuse education as a mandatory part of the curriculum in our schools. I have also advocated adult substance abuse education. We must begin to make a concerted effort to fully educate all sectors of our society—young and old—about the dangers of substance abuse. Last year I introduced legislation, H.R. 3769, to set Federal guidelines for a mandatory substance abuse education course to be taught to fourth through twelfth graders, as well as parents. I am pleased to see that title VIII of the bill before us today embodies many of the principles I set forth in H.R. 3769.

This omnibus bill represents a holistic approach to what is perhaps America's number one problem and threat. The drug problem in this country did not happen overnight. It's been around for a long time. As the director of the Mahoning County Drug Program in Ohio from 1971 to 1981, I can tell you that the drug problem in this country has been ruining lifes and devastating families for two decades. The tragic deaths of basketball star Lenny Bias and football player Don Rogers has precipitated a media blitz on the problem of drugs in America. But thousands of youngsters—ordinary kids—have died in the past 20 years at the hands of drugs. The problem has been expanding and escalating in recent years, and has pervaded into every avenue of American life. No one is immune.

The drug problem threatens every sector of our society. Cocaine is no longer a drug of the affluent. A new form of freebase cocaine called crack is now becoming a major problem in many cities. Crack can be obtained for as little as $10 which makes it accessible to anyone. Crack is reported by many medical experts to be the most addictive narcotic drug known to man. The widespread use of crack in New York City is said by many law enforcement officials in that city to have caused a rise in violent crimes last year. Most disturbingly, crack is being used by a growing number of school children. I am relieved that provisions I coauthored in H.R. 5394 to create new stiff penalties for dealing crack as well as stiffer penalties for those who deal drugs to schoolchildren and teens have been included in title VI of H.R. 5484.

Having seen the devastating effects of drug abuse on individuals and their families there is no doubt in my mind that more resources need to be allocated for treatment and outreach programs, in addition to the type of comprehensive educational efforts I discussed earlier. As a drug counselor I have seen, firsthand, the tragic consequences of the drug traffickers activities. Those vile individuals who continue to poison our society must be stopped. As a former sheriff, I was also exposed to the violent nature of the drug trade and the increasing brazeness of the drug traffickers. In many instances, the drug traffickers are better armed than our law enforcement officers in the field. Law enforcement is fighting an uphill battle. We here in Congress have an obligation to give them the tools they need to win the war against the drug traffickers. This bill is an important first step in giving law enforcement the type of help they need. Most importantly, it will begin to shift the psychological edge back to law enforcement. The key is to make the risks of trafficking drugs far outweigh the benefits.

I would like commend the House leadership on both sides of the aisle for working together to bring this package to the floor so expeditiously. I would also like to commend the stalwart job done by my colleague from New Jersey, Mr. HUGHES, who chairs the Judiciary Subcommittee on crime. Chairman HUGHES has been a great help to me in my efforts before his subcommittee to stiffen penalties for drug traffickers. He has been a cooperative chairman and I thank him for allowing me to work with him and the other members of the subcommittee in crafting part of this bill—even though I do not sit on the Judiciary Committee. Title VI of this bill bears the indelible stamp of Chairman HUGHES and I again commend the gentleman from New Jersey for his commitment and dedication in this area.

This is an historic moment as it marks the day when the House took a major step toward combatting the terrible drug problem facing America on all fronts. This bill represents an ambitious undertaking. But if action such as this is not taken now, I fear that our Nation will be overwhelmed by the drug problem. This is indeed a national security issue and this bill treats it as such. The resources must be found to combat the drug problem. Many have talked about winning the war on drugs. This bill is where the talking stops and the action begins. It's time to put up or shut up and I'm glad to that the House is taking posi-

tive action that will have an impact. I urge all Members to vote for H.R. 5484.

Mr. BROWN of California. Mr. Chairman, I rise in support of the Omnibus Drug Enforcement, Education, and Control Act, and want to compliment the leadership on both sides of the aisle for bringing this much-needed piece of legislation to the House floor. As a cosponsor of the bill, and of previously introduced bills which were incorporated into this legislation, I feel that this comprehensive effort is long overdue.

The comprehensive approach outlined in the bill is an attempt to put in place a national response to the drug problems that this country is experiencing. With drug use at record levels, it is imperative that we respond promptly to curb the flow of drugs into this country.

It has been estimated that Americans spend about $120 billion each year on illicit drugs. Drug abuse costs the economy between $100 and $250 billion each year in losses due to health care costs, drug-related crimes and violence, and lost productivity. And unfortunately, drug abuse is now on the rise, reversing a recent downward trend. Drug-related deaths are at an all-time high, claiming over 3,000 lives a year. The most dramatic increase has been in the use of cocaine, shown by a 48-percent increase in drug treatment admissions between 1984 and 1985.

Nowhere is the drug problem more serious than among our young people. The use of illicit drugs among our youth is on the rise, especially cocaine use. Almost 40 percent of our high school graduates will have tried cocaine by the time they are 27 years old. There is also a low level of understanding of the dangers of drug use. In a recent national survey, 34 percent of high school seniors saw no danger in trying cocaine.

The problem has overwhelmed law enforcement officials. Federal support for drug abuse services has been cut more than 40 percent since 1980. And in spite of a "War on Drugs" declared in 1981, our drug interception programs only catch 10 percent of the drugs entering this country.

The shocking deaths of athletes Len Bias and Don Rogers due to cocaine overdoses have publicized the lethal effects of cocaine abuse while also galvanizing community, local, State, and Federal leaders. First Lady Nancy Reagan has long led a tireless campaign to educate you young people on the dangers of drug abuse. The "Just Say No" promotion has given our youth across the Nation the courage and pride to, as the slogan states, "Just say no to drugs, and yes to a whole lot more."

But the Federal Government must also say yes to a whole lot more. Yes to stiffer penalties for drug-related crimes; yes to increased drug enforcement and confiscation assistance; yes to stricter prohibitions on money laundering; yes to international cooperation; yes to drug education, treatment, and prevention; yes to a whole lot more Federal cooperation and commitment to eradicating this national crisis.

One of the strengths of this legislation is that it confronts the complex issue of drug abuse on a variety of levels—from drug manufacturing and distribution to drug-related crime. Since this is not solely a U.S. problem, the bill considers trade sanctions against foreign countries which are sources of illicit drugs. If we are to use a stick against those countries which are raising drug-producing crops, then we should be prepared to offer a carrot for those countries which cooperate.

For example, I will be looking forward to the study by the U.S. Department of Agriculture, authorized in this bill, on alternative crops to replace drug crops in other countries. This approach may offer an out for those countries which are deriving tremendous income from the drug trade. Combined with aid and trade sanctions, the growing of alternative crops may allow these countries to break their economic addiction to drugs.

In Bolivia, the cocaine trade provides a livelihood for over 400,000 peasants who have little other means of support. Cocoa acreage is increasing and farmers are getting a cash return per acre which is not possible with many other crops. But with a little effort, we can recommend crop alternatives to Bolivia which may substitute for the cocoa income.

We have tried this approach in the past, with mixed results. There was a similar program in Turkey in the 1970's to divert acreage from opium poppy production and there were good results. Our efforts to accomplish the same goal in Southeast Asia, however, were not successful. We need to look closely at those experiences in order to perfect our current work.

This Omnibus Drug Enforcement, Education, and Control Act will not be cheap. But neither is the prevalence of drugs in our society. The bill's costs are both modest and highly justified, given the threat that drugs pose to our society. It is estimated that the costs of prevention, treatment, law enforcement, crime and lost productivity total over $100 billion each year, at a minimum. Medical experts have estimated that it would cost between $8 and $10 billion annually to treat just heroin and cocaine addicts. The vast majority of the expenditures included in this bill are for prison construction, necessitated by longer and mandatory jail sentences established under the bill. The total authorized by this bill, $1.5 billion, is less than the cost of one Trident submarine. This is a cost the Nation not only can afford, but must afford.

The drug problem in this country is truly a national problem which demands national action. Although State, local, and private agencies must, among others, share the burden of addressing drug abuse, it is beyond the physical or financial capability of these sectors to effectively address the problem. It would be pennywise and pound foolish to cut Federal spending to a level which reduces effectiveness. This measure represents the minimum that the Federal Government should be doing to rid this society of the scourge of drugs.

In the end, however, the final battle against drugs will not be fought at our borders, in our schools, or on the streets. The final battle will be conducted in the living rooms of our homes. Not ony must we wipe out the supply of drugs, but we must also eradicate the demand. We must reweave the moral and spiritual fiber of our Nation, reinstilling ethical values, commitment and hope among our young.

The deterioration of fundamental American values has led many of our citizens astray. Examples abound in every segment of our society: The Wall Street investment banker who appears to have it all, including an expensive cocaine habit; the college student who gets high at every party; and the poor innercity youth, bereft of hope, and strung out on PCP. These examples only begin to penetrate the extensiveness of the problem, yet each represents a loss—a loss of belonging to family, to community, to our society.

This loss of direction cannot be cured solely by an outpouring of money for local, State, and Federal programs. Instead, it must begin at home with an understanding that as spiritual beings and members of the human family we each have a responsibility to each other. The vast array of personal and societal problems can be immense, but they need not overwhelm us. We can reeducate our youth, as well as ourselves, in the fundamental American values of justice, peace, and progress. To give up and resort to drugs before the battle has commenced is to condemn our society to deterioration and corruption.

This omnibus drug bill represents the Federal participation in the renewal of the war on drugs. Majority Leader JIM WRIGHT and Minority Leader BOB MICHEL are to be commended for forging the most sweeping drug control measure ever considered by Congress. This bill takes a no-nonsense approach to terminating the pain and suffering caused by drug abuse in our communities. It is designed to strengthen the enforcement of drug laws, stem the flow of illegal drugs into the country, increase penalties for illegal drug activities, expand Federal prison facilities, and assist drug education and treatment to prevent drug abuse.

Passage of such a measure is much needed and long overdue. I encourage my colleagues to set aside any political differences, for this is by no means a partisan issue, and support the work of our House leadership by voting in favor of this bill.

Ms. SNOWE. Mr. Chairman, I rise in support of the Omnibus Drug Enforcement, Education and Control Act. There is probably no problem facing this Nation that has as many different facets and requires to many different approaches to its solution. This is shown by the fact that 12 major committees of the House contributed to their landmark legislation.

This legislation includes important measures to increase efforts to stop drug trafficking, to discourage the use of drugs through national, State and local educational programs, and to provide effective treatment for those addicted to drugs. The increase in Coast Guard personnel and equipment, the creation of State and local grant programs for drug abuse education and prevention, and the increase in funds for addict treatment programs are all measures that will contribute to the elimination of our Nation's drug problem.

The Foreign Affairs Committee, on which I serve, has been working on the problems of international narcotics control intensively for several years. Thus, title I of this bill, the International Narcotics Control Act of 1986, largely builds upon past legislative initiatives taken by

the Foreign Affairs Committee. Title I provides increased funding for international narcotics control, as requested by the President, and refines the tools available to the administration for narcotics control.

The primary thrust of title I of this bill is to increase the pressure on drug-producing countries to cut off at the source the poisons which continue to flood into this country. In the past, a great many drug-producing countries have rationalized their inaction, claiming that without demand in the United States supply would not exist. They turned a blind eye to the problem, thinking that drug trafficking was something that only hurt distant Americans.

Recently, however, the distinctions betweeen drug-producing and drug-consuming countries has blurred. Many of these same countries are finding their own nations infected with a drug epidemic supported by an entrenched and powerful drug underworld. In countries such as Colombia, the drug kingpins maintain their own private armies and are conducting war against the central government. This situation provides the United States with an opportunity to work forcefully with foreign governments against this international scourge.

No longer should we ignore the cavalier attitude of other nations such as Mexico, which has become the major source of drugs entering the United States. In the past 18 months, one DEA agent has been murdered and another nearly tortured to death by Mexican police. The bill deplores Mexico's poor record of cooperation, and withholds $1 million in United States aid until Mexico has effectively prosecuted those responsible for the murder of DEA agent Camarena and the torture of DEA agent Cortez. Frankly, I think that the provisions dealing with Mexico could be stronger. The Subcommittee on International Operations, where I serve as ranking Republican, will began work early next year on the State Department authorization bill. At that time I will look very closely at the actions Mexico had taken to protect United States personnel and to bring drug trafficking under control, and consider what further actions by Congress may be necessary.

Certainly, we must combat the problem of drug use in our country in every possible manner. This legislation moves in many ways against this problem and I believe it is a major step toward eradicating the "hold" of drugs on this Nation. I urge my colleagues to join with me in supporting this landmark effort.

Mr. DINGELL. Mr. Chairman, we are here today to consider legislation to address the drug epidemic which is raging across our Nation. It is an epidemic which reaches everywhere, to everyone. None of us can sit here today complacently, saying this is not my problem—it is. No one, anywhere in America, is immune.

The Committee on Energy and Commerce shares jurisdiction with other committees in a number of important areas in this bill. However, we have all been able to work together effectively on this legislation, under the guidance and leadership of the Speaker and the majority leader.

This is a first step in our war on drugs and I can assure you that it will not be our last. We will return again and again to this issue as we begin to fight the war on drugs.

Yes, there is a price tag attached to this package, but it is minimal compared with the far heavier price tag attached to not acting at all, or acting ineffectively.

I look forward to working with you today in a spirit of cooperation that will ultimately benefit all of America.

Mr. WOLF. Mr. Chairman, I rise today in support of H.R. 5484, the Omnibus Drug Act of 1986. Drug abuse has become one of the most serious problems facing our Nation today. No segment of society can escape the toll that drug abuse imposes. Our schools and workplaces are daily faced with this problem and with trying to find a solution.

The American people are beginning to stand up and work together to defeat the scourge of drug abuse. I am pleased that we have been able to work in a bipartisan effort to bring this bill to the House floor for passage. Only by working together throughout the country can we hope to solve the drug problem.

It is important to reduce the demand for drugs and our efforts must begin by educating our youth at an early age about the dangers associated with drugs. I am particularly pleased that this legislation includes provisions for drug-abuse education, treatment and prevention programs at the national, State, and local levels. Programs to combat drug abuse should begin as soon as a child enters school, so he or she will realize the effects and risks involved with drugs.

We must also let drug traffickers know that their illegal actions will be severely punished and the bill's provisions to stiffen penalties for drug offenders, including establishing minimum mandatory 5- and 10-year prison terms for major drug trafficking, are critical.

Combating drugs at the source is also an important part of the war on drugs and the legislation includes provisions to enhance international narcotics-control and increase drug-interdiction efforts. An essential element in drug-interdiction efforts is the bill's provisions on money laundering, which attack the drug kingpins who are profiting from the flow of drugs into our country.

Our efforts to win the war on drugs must not end with this legislation. We must continue an all-out assault and it is good to see the bill's provisions for a White House Conference on Drug Abuse and Control to develop recommendations for further action to control the illicit production, trafficking, and distribution of controlled substances internationally and domestically and to prevent and treat drug abuse.

I urge my colleagues to join in supporting this comprehensive package to combat our Nation's drug problem.

Ms. KAPTUR. Mr. Chairman, today, the House takes a giant step in the war against illegal narcotics as we begin debate on the Omnibus Drug Act of 1986. I commend all the committees and the bipartisan leadership of the House which has brought this to fruition.

One of the most appealing aspects of the Omnibus Drug Act is the attention it devotes to the development and promotion of State and local drug abuse prevention and treatment programs. Prevention can be a key weapon in cutting off the drug traffickers' market at its very source. I am particularly proud of one such drug prevention program that was instituted in my district in 1982 and continues to grow and prosper today. I am proud of it because it involves young people taking responsibility for counseling their fellow students. we can pass many laws in Washington, but unless the young people of America join together for mutual support, our attempts to meet this grave threat will be largely unsuccessful.

The Youth to Youth Program is part of the Toledo/Lucas County Chemical Abuse Reduced through Education and Services Program, or Toledo/Lucas Co. CARES. It provides a positive, peer organization for young people who have made a commitment to pursue a drug-free lifestyle and want to encourage their fellow students to join them.

Begun in 1982 by the Toledo Junior League and a local juvenile court judge, CARES was a response to local concern over statistics which showed that 70 percent of juvenile delinquency could be linked to drug and alcohol use. The Youth to Youth Program was initiated about a year later. And today, thanks to the continued support of the Junior League and that of the Old Newsboys Association and all local boards of education, Youth to Youth operates in each school district in Lucas County, sponsors an annual summer conference for high school students, and counts between 6,000 and 7,000 people among its membership. Efforts are now underway to expand the program into local junior high schools and a conference for these students will soon occur.

A young participant in the Youth to Youth Program recently told one of its organizers, "Not too long ago, it was hard for high school students to turn down offers of drugs or alcohol from other kids. Now, saying 'No thanks, I'm in Youth to Youth' is an accepted reason for refusing those things." Members of Youth to Youth organize drug and alcohol-free tailgate parties at athletic events and dances, perform skits at elementary schools to show young children there is more to life than pills and liquor, take part in school prom and graduation safety programs and provide a support group for students and their families. The summer retreats involve educational seminars and rap sessions on the dangers of alcohol and drug abuse; leadership training for those involved in school Youth to Youth Programs; and enable the students to develop action plans to promote a substance-abuse free environment for their own schools.

But, the Youth to Youth Program is not just for kids. One of its founders, Juvenile Court Judge Andy Devine, insists that a fundamental factor in its success is the involvement of not only young people but their parents. Parents are encouraged to take part in orientation programs, retreats, activities, and conferences. Youth to Youth and CARES aim to foster a sense of community among children, their parents and the school system and prevent the type of isolation that can lead to dependence on drugs and alcohol. This aspect of Youth to Youth earned it the Outstanding Student Assistance Program of 1986 from the National Association of Student Assistance Programs.

Mr. Chairman, I am sure that there are other successful programs like Youth to Youth and CARES throughout the country. I hope that the Omnibus Drug Act will enable more people—especially young people who are our future—to share in their benefits.

Mr. RINALDO. Mr. Chairman, I rise in support of this bill, and I would strongly urge my colleagues on both sides of the aisle to give it their support as well.

Drug abuse and trafficking in illegal drugs is one of the most serious problems facing our country. Public tolerance of drug use has given way to increasing concern about deaths from drug overdoses, the sale of drugs to schoolchildren, drug use on the job, the involvement of organized crime in illegal drug trafficking, and the connection between drug addiction and crimes such as theft, burglary, and murder.

There is a clear role for the Federal Government in the interdiction of drugs being imported into this country and the suppression of interstate drug trafficking. This bill addresses these problems by strengthening Federal law enforcement's authority and ability to intercept drug shipments. Penalties would be increased in order to deter pushers, and new Federal offenses in the areas of money laundering and designer drugs will facilitate prosecutions. Assistance would also be provided to State and local law enforcement authorities which must deal with narcotics violations as street crimes. Funding would be provided for increased prison capacity and for prosecution to ensure that drug pushers actually are punished upon conviction.

These provisions are necessary in order to interfere with access to illegal drugs and cut back on the available supply. Ultimately, however, drug trafficking will continue as long as pushers have a ready market and can realize huge profits. We therefore must do everything possible to discourage illegal drug use and help current users to recover from their habit. This bill includes funds for antidrug education and for drug treatment programs that will help to reduce the demand for drugs.

We can no longer afford to be complacent or tolerant of widespread drug use in our society. Drug abuse is economically costly in terms of the need for increased health care, the law enforcement resources devoted to the suppression of the drug trade, and lost job productivity among drug users. A more intangible cost is the drug dependence fostered among our young people, the generation of the future, which saps their initiative and creativity. I don't think it is too farfetched to say that the survival of our society depends on our making it very clear both to our children and to the international drug trade that drug abuse is dangerous and unacceptable. While this bill does not contain all of the provisions I would favor, it is an effective opening shot in the war on illegal drugs. I therefore urge my colleagues to give it their support.

Mr. DOWNEY of New York. Mr. Chairman, for years we heard the faint but constant drumbeat from some of our colleagues, from parts of our home districts, and in the news about the curse of drug abuse and drug trafficking. Suddenly, a crisis is discovered.

The proliferation of drug use has been occurring right under our noses. The task at hand is dealing strongly and effectively with both the supply of drugs created outside our borders and the consumer demand for drugs in our country. That is what H.R. 5484, the Drug Enforcement, Education, and Control Act of 1986 does.

Traditionally, our efforts to stem the supply of drugs into the United States have been focused on our borders. But this strategy has not been very effective. We need to expand our fight and attack the problem at its source by taking aim at those responsible for creating the supply of drugs that find their way into our country.

I worked hard with my colleagues on the Committee on Ways and Means to develop measures that will help governments, like Bolivia, with their drug eradication programs and their war against the drug processing factories. Frankly, the soldiers and police of these countries are poorly paid and poorly equipped. They are no match for the merchants of death in the jungle. H.R. 5484 will provide needed funds to help countries like Bolivia and Colombia in their drug wars. However, we must also use our diplomatic channels to support the efforts of these countries to eliminate the means by which the supply is created.

H.R. 5484 provides powerful mechanisms to deal with those countries that are unwilling to help us eliminate the supply of drugs. It requires drug-producing countries to establish eradication programs as a condition of our support for multilateral development bank aid and will impose tough sanctions on those countries that refuse to cooperate with our antidrug efforts.

We must also beef up our traditional efforts to interdict drugs at the borders. H.R. 5484 beefs up the Customs Service and Coast Guard authorizations to provide the equipment and manpower that is required to close our borders to drugs.

The other half of the equation is to break the demand for drugs in this country. We have got to realize and deal with the fact that millions of people in this country have created an overwhelming consumer demand for drugs. The drug business is more profitable than many legitimate businesses. This is absurd. As long as there is a market, we will continue to have a drug problem.

Local, State, and private organizations, exemplified by the Linkage and Apple Programs in my district, have done an outstanding job in providing essential services to deal with the demand problem. But the magnitude of the demand problem is overwhelming. H.R. 5484 will help, but, frankly we need to commit even more resources to treatment and prevention programs.

H.R. 5484 is only the beginning. Vigilant and effective followup to this legislation is necessary if this country is to break itself from its habit.

Mr. ROYBAL. Mr. Chairman, I rise in support of H.R. 5484. It seems that drug abuse has become the hot issue of 1986. After all these years, it seems that all the factors involved have finally come to a head, with the result being a President who has made drugs a top item on his agenda, and a bipartisan omnibus drug bill on a fast track through Congress. The cause is certainly being helped by the fact that this is an election year, and drugs are a safe, though inspiring, issue to pursue.

Although I don't like the political opportunism surrounding this issue, I do believe in this case that the end more than justifies the means. This is our first organized and comprehensive attack against illegal drugs, and I believe we could see some dramatic results. We are finally admitting that drug abuse is a serious national concern, and we are finally demonstrating our willingness to put our money where our mouths are and commit adequate resources to combat the problem.

I'm sure all my colleagues who have worked behind the scenes for so many years to combat drug abuse are as pleased as I am. Speaking as chairman of the Appropriations Subcommittee on Treasury/Postal Service/General Government, I am glad that the Customs Service should no longer have to go begging for enough resources and personnel to do their job properly. Customs agents have told me that it seems that every day drug smugglers come up with more inventive ways to get their products into this country, and Customs has had to combat this veritable army while inadequately funded and staffed. I believe they do an admirable job under the circumstances, and I know it will be a boost to them not to have to struggle next year to justify an adequate funding level. I'm sure that those agents were as shocked as I was last month when the President threatened to veto the Treasury appropriations bill because he believed the level we had approved for Customs—a barely adequate $100 million and the addition of 850 new positions—was too high. I'm very glad he has seen the light, and has realized that an effective fight against drug abuse must be conducted on many fronts, and with the proper resources, to be successful.

It is also encouraging to note that State and local authorities are prepared to join in this all-out war against drug abuse. Our communities have been the front line in this battle for years, and rightfully believe it is about time the Federal Government gave them some substantive help in combating what is, after all, a national problem. Community organizations in my district are so concerned about the drug problems they are facing that they have asked me to hold a hearing in Los Angeles to give them the opportunity to voice their own particular concerns. In cooperation with my esteemed colleague and good friend, Mr. RANGEL, chairman of the Select Narcotics Committee, I am planning to hold a hearing there this fall. I know these organizations will be very pleased if we can go back and tell them that in the spirit of cooperation, all parties concerned—the administration and Congress, Democrats and Republicans, local and Federal officials, law enforcement personnel, and civil libertarians—we have all gotten together and come up with a substantive, comprehensive approach to combating drug abuse.

This same spirit of cooperation can, if we allow it, carry us through to our first real successes in a national war against a vicious enemy. I urge passage of H.R. 5484.

Mr. LAFALCE. Mr. Chairman, I rise today in wholehearted support of H.R. 5484, the Omni-

bus Drug Act of 1986, and particularly its provisions to address the serious and widespread problem of money laundering. Money laundering is the process by which criminals—and, most notably, drug dealers—disguise the origin of money obtained illegally from activities such as drug dealing, prostitution, investment fraud, gambling, or racketeering. Through various money-laundering techniques, criminals make their ill-gotten gains appear to come from legitimate sources.

One of the most common ways criminals launder money is simply to deposit the cash in a bank account where the money can be used for checks, money orders, or wire transfers to other financial institutions—often to foreign banks that do not share financial information with the United States. In some cases, organized crime figures have even tried to buy their own banks. In typical international money-laundering schemes, drug dealers, loan sharks, and gamblers ship large quantities of small denomination bills—$5, $10, and $20 bills—derived from their unlawful pursuits to foreign banks and withdraw the money later in a "clean" form, such as through money orders or cashier's checks. The foreign banks than ship the original currency to a U.S. bank, which replaces it with larger bills. Many foreign bank secrecy laws make it extremely difficult to trace the overseas money-laundering efforts of criminals.

The real problem with money laundering is that it is the single most important way for big-time criminals to gain access to their illegal income. By laundering the proceeds of their ill-gotten gains, organized and petty criminals alike get access to the cash they need to buy the fancy cars, furs, and jewels they desire. And, most insidiously, they can use the laundered cash to purchase additional drugs to sell to innocent schoolchildren and desperate drug addicts.

According to the President's Commission on Organized Crime, tens of billions of dollars in illegal funds are laundered through U.S. banks and other companies each year. Significantly, most of that money comes from drug dealing, a crime that claims untold numbers of victims each year, both through drug addiction itself and through the crimes that drug addicts commit on innocent citizens to feed their expensive habits.

The principal tools that Federal law enforcement authorities use to detect money laundering and inhibit the ability of criminals to get at their illegal gains are the Currency and Foreign Transactions Reporting Act and its companion measure, the Bank Secrecy Act. These acts require financial institutions to keep certain records and file reports with the Treasury Department on domestic and foreign currency transactions. In addition, the acts mandate that individuals arriving in and leaving the United States file reports with the U.S. Customs Service on currency they are transporting into and out of the country. If a financial institution or an individual violates any of these reporting requirements, civil and criminal penalties can be imposed on the violator.

The existing currency reporting laws have done a great deal to combat the problem of money laundering. Approximately 37 financial institutions have been convicted and fined for money-laundering violations since 1977. And, money laundering has received growing publicity over the past year as an increasing number of banks have been accused of violating existing laws. Currently, about 65 banks or bank holding companies are under investigation by the U.S. Government for possible civil penalties due to money-laundering violations. While these statistics show some success in fighting money laundering, it is clear that much more needs to be done to stop money laundering and its evil companion, drug dealing.

As a member of the House Banking Committee, I heard lengthy testimony this year from U.S. drug enforcement officials, Federal bank regulators, and from "smurfs"—individuals used by criminals to launder large sums of money by deliberately evading the currency transaction reporting requirements. Typically, smurfs will avoid the reporting requirements by breaking the illegal money into smaller amounts and depositing it in numerous bank branches, where the money is likely to remain unreported and, therefore, undetected. These Banking Committee witnesses pointed out a number of areas where the currency reporting laws could be improved to address gaps in the money-laundering laws.

The legislation we are considering today contains many of the changes recommended by the committee witnesses, and I am proud to have been an original cosponsor of the House Banking Committee's money-laundering bill. One of the most important changes made by the bill is that it creates a new crime of money laundering. Whereas, under existing law, the crime of money laundering is limited to the failure to file required currency transaction reports, H.R. 5484 would make it a crime to knowingly engage in a financial transaction with criminally derived profits or property, to engage in a commercial transaction to conceal criminally derived profits, or to transport money or monetary instruments into or out of the country in order to conceal criminally derived funds. Such crimes would be subject to up to a $1 million fine and 20 years in jail for individuals, and up to $5 million for institutions.

H.R. 5484 also would impose civil and criminal penalties on individuals who cause a financial institution to fail to file a required currency transaction report or to file inaccurate or incomplete reports. Similarly, the bill authorizes the imposition of civil penalties on individuals who structure transactions to evade reporting requirements. These important changes in existing law will enable law enforcement officials to get at the real criminals in money laundering—those who are making illegal money through drugs and other heinous crimes and using money laundering as a tool to gain access to that money.

H.R. 5484 also makes a number of other crucial changes to existing law to tighten up the currency transaction reporting requirements. It authorizes the Treasury Department to require financial institutions to submit currency reports on any transaction of more than $3,000; existing law requires such reports on transactions of more than $10,000. Thus, H.R. 5484 would require many more reports to be filed and would, consequently, make it much more difficult for money launderers to avoid suspicion by avoiding the reporting requirements.

The bill also tightens up the procedures for individuals and businesses to obtain exemptions from the currency reporting requirements. Under existing law, exemptions to the requirements typically are granted for businesses that routinely handle large amounts of cash; these are mainly retail businesses that deal with consumers. In the crackdown on money laundering and currency reporting requirements over the past 2 years, it has come to light that numerous businesses have been given unlawful exemptions from the currency reporting requirements. To address this serious problem, H.R. 5484 would require that financial institutions certify to the Federal Government that customers seeking exemptions from the reporting requirements are, in fact, eligible for such exemptions. In addition to these significant changes, the bill contains a number of further improvements to existing law.

Mr. Chairman, my involvement with the issue of money laundering goes back many, many years. Beginning in 1979, I introduced a series of bills which authorized payment of rewards to those who informed on money launderers, addressed the uncertainty of when the offense of failing to file a currency report was actually completed, and granted U.S. Customs agents authority to conduct broader searches of outgoing and incoming travelers if they had a reasonable cause to suspect a violation of the currency reporting laws. This last bill was enacted into law in 1984 and has proven to be a valuable tool to the U.S. Customs Service in its efforts to stop the flow of illegal money outside the United States to foreign banks. In the 98th Congress, I sponsored similar legislation, as well as measures to address the currency report filing threshold and to substantially increase the penalties for money laundering. This year, I worked with the House Banking Committee to craft the money-laundering provisions contained in the omnibus drug bill.

It is gratifying indeed to see one's efforts come to fruition in the form of positive, well-drafted legislation. This important bill, which addresses the problem of drug enforcement generally, and money laundering specifically, goes a long way toward providing our law enforcement officials with the tools they need to combat the crime of money laundering and to teach drug smugglers and other criminals the lesson that, "Crime does not pay."

LEGISLATIVE PROGRAM

(By unanimous consent, Mr. LEWIS of California was allowed to speak out of order.)

Mr. LEWIS of California. Mr. Chairman, I wonder if the gentleman from New York [Mr. RANGEL] could help us with questions that are being asked on this side regarding what we anticipate the schedule will be this Friday.

Mr. RANGEL. Mr. Chairman, will the gentleman yield?

Mr. LEWIS of California. I yield to the gentleman from New York.

Mr. RANGEL. Mr. Chairman, the majority leader has authorized me to inform the House, if the question was

raised, that we will be in session and votes are expected this Friday.

Mr. LEWIS of California. Can the gentleman give us some idea what that Friday schedule would include in terms of floor debate?

Mr. RANGEL. I have not been so informed, but I will check, and at the appropriate time ask for unanimous consent to respond to the gentleman's request.

I have been advised by the staff of the majority leader that the legislative business will be HUD appropriations on the floor Friday.

Mr. LEWIS of California. HUD appropriations will be on the floor Friday. I thank the gentleman.

Mr. RANGEL. Mr. Chairman, I yield 10 minutes to the gentleman from Florida [Mr. FASCELL], the chairman of the Committee on Foreign Affairs.

Mr. FASCELL. Mr. Chairman, title I of the omnibus bill represents a careful, bipartisan agreement among the members of the Committee on Foreign Affairs, on what additional steps we can take to battle the tide of illicit narcotics invading our shores. The committee reported a bill (H.R. 5352) on August 6 with 40 original cosponsors, from the committee. The bill was developed under the guidance of our able chairman of the international narcotics task force, the gentleman from Florida, Mr. LARRY SMITH, together with his cochairman, the gentleman from New York, Mr. BEN GILMAN, and with the active participation of the gentleman from Florida, Mr. DAN MICA, and the gentlewoman from Maine, Ms. OLYMPIA SNOWE, chairman and ranking member, respectively, of the Subcommittee on International Operations.

The foreign affairs title of the omnibus bill authorizes an additional $48 million above current levels for our antinarcotics efforts overseas. All but $5 million of these funds, however, are authorized subject to an existing or expected Presidential budget request; the additional $5 million will go toward enhancing our drug education efforts overseas through the United States Information Agency and the Agency for International Development.

The foreign affairs title also urges that our overseas narcotics control efforts, where possible, should emphasize regional solutions to the drug problem, especially in Latin America. By providing the wherewithal and training for the major drug-producing countries to address the problem themselves, we will lessen the necessity of committing United States personnel—especially the military, as in the current Bolivian operation. These efforts are in the producing countries' interest every bit as much as in our own, and we owe it to them to help them where we can.

There are several management improvements we make in order to better administer our program, such as retaining title to all narcotics control aircraft we provide overseas, and we urge the executive branch to work more diligently to coordinate its efforts so as to use the visa application process to identify and track drug traffickers. We also instruct the Secretary of State to work hard to upgrade our existing extradition treaties with drug-producing countries to cover narcotics-related offenses, and urge the adoption of common boarding practices for vessels suspected of drug-trafficking on the high seas.

All these provisions were developed by the Committee on Foreign Affairs building on its lengthy past involvement with U.S. international narcotics control efforts. As we are all aware, the problem is insidious, complex, and tough to combat. No one solution can be effective; crop substitution efforts cannot succeed without an equivalent commitment to enforcement, since farmers simply will not grow soybeans or corn in favor of lucrative, though illicit, narcotic drugs. What we are talking about is a very, very difficult effort to address a problem which touches all aspects of modern society, both in the United States and in the drug-producing countries. If we are to succeed, we must be diligent, creative, and dedicated to addressing all sides of the problem. This bill contains all of these elements and deserves our strong support.

I would only add that I support the amendments of the distinguished gentleman from Florida, my good friend, Mr. LARRY SMITH, and ask that you support their adoption on the floor. The committee is happy to accept the amendments as filed.

Finally, we have included in title I new language urging the Secretary of State, with the assistance of the Secretary of Agriculture, to enter into consultations with the Mexican Government with the goal of developing crop substitution programs there to encourage Mexican farmers not to grow illegal narcotics. This provision was suggested by my good friend the gentleman from Texas Chairman DE LA GARZA of the Agriculture Committee, and we were happy to include it in the Foreign Affairs title.

The CHAIRMAN. The gentleman from Florida [Mr. FASCELL] has consumed 5 minutes, and he has 5 minutes remaining.

Mr. FASCELL. Mr. Chairman, I yield 2½ minutes to the gentleman from Florida [Mr. SMITH].

The CHAIRMAN. Without objection, the gentleman from Florida [Mr. SMITH] is recognized for 2½ minutes.

There was no objection.

Mr. SMITH of Florida. Mr. Chairman, I thank the gentleman for yielding time to me. It is a pleasure to stand here and be involved in something as important as this with Members like the gentleman from Florida [Mr. FASCELL] and the gentleman from New York [Mr. RANGEL], who have been working on this for so many years.

Mr. Chairman, as chairman of the Foreign Affairs Committee's Task Force on International Narcotics Control, I rise in support of title I of H.R. 5484.

In 1985, the committee made several major improvements in our international narcotics control laws, including the linking of foreign aid to Bolivia and Peru—the two major coca leaf growers—to eradication efforts and it has worked. We cut off some of their aid this year, and they have been, like Colombia, more cooperative than ever before.

We increase the funds for international narcotics control by nearly $43 million. The existing authorization level is inadequate if we are to make a concerted effort to control drugs at their source.

We earmark $10 million for narcotics control aircraft, one-half of which is to be used in Latin America regional activities. We earmark $2 million for pilot and maintenance training. Regional activities, especially among the Andean nations, show great promise if they are properly supported. They also avoid the political problem of American troops conducting drug eradication programs overseas.

We earmark $1 million for the development of a safe and effective herbicide for aerial eradication of coca leaves. Manual eradication of coca just will not work. We must look to aerial eradication if we are to put an end to coca production.

We provide $2 million for USIA and $3 million for AID in new authorization for drug education programs overseas. This represents a doubling of current efforts. Producing countries now are feeling the devastating impact of internal drug abuse and need assistance to develop effective prevention and treatment programs.

We require that the United States retain title to and maintain detailed flight records for all future aircraft provided for narcotics control overseas. The task force learned that the 88-plane air fleet that we have given to Mexico spends most of its time on the ground. By retaining title over these planes, we will be able to ensure that they are used for their intended purpose.

We require a GAO study of the effectiveness of international narcotics control programs. It has been 12 years since the last major study of these programs, and such a review is overdue.

We ask the Secretary of State to upgrade extradition treaties and common

procedures for boarding vessels suspected of engaging in drug trafficking.

We further modify the Mansfield amendment to permit DEA agents to be present at drug arrests, provided that the Secretary of State determines that it is in our interest.

We include directions for improved information sharing on visas and improved capability for combatting narcoterrorism, earmarking $2 million to help protect judges and others in Latin America who may be targets of narcoterrorist attacks.

We amend the posse comitatus law requiring concurrence of the Secretary of State in authorizing the use of U.S. military in narcotics enforcement activities overseas.

We withhold $1 million from funds for Mexico pending full investigation and prosecution of DEA agent Enrique Camarena Salazar's murderers. We are no closer to the prosecution of Camarena's murderers than we were 18 months ago. We must impress upon Mexico the importance of bringing these murderers to justice. Later in the debate, I will be offering an amendment to further condition this aid on action against the kidnapers of DEA agent Victor Cortez.

We establish a United States-Mexico commission on drugs.

Mr. Chairman, I assure you that each of these provisions is justified. Every dollar that can be spent effectively for drug eradication overseas saves us many times as much money in interdiction, prosecution, rehabilitation, and prevention expenses. Cutting the roots of the drug tree is more important than pruning a few branches.

Mr. LEWIS of California. Mr. Chairman, I yield 10 minutes to the gentleman from Michigan [Mr. BROOMFIELD].

Mr. BROOMFIELD. Mr. Chairman, as you are well aware, this omnibus drug bill embraces the jurisdictions of numerous House committees, including the Foreign Affairs Committee. As the ranking minority member of that committee, I would like to offer some observations on title I of this bill which incorporates provisions of H.R. 5352 that was reported out of the Foreign Affairs Committee early last month.

H.R. 5352 is the end product of an overwhelming bipartisan effort as 40 of the 42 members of the Foreign Affairs Committee cosponsored this measure. My colleague, Chairman FASCELL, is to be commended for his leadership in expediting the consideration and swift passage of this timely legislation. Special credit also is due BEN GILMAN and LARRY SMITH who, through their work on the Foreign Affairs Committee Task Force on Narcotics, provided many of the legislative recommendations embodied in H.R. 5352.

At the moment, the whole Nation's attention is focused on the drug problem which has destroyed so many lives, particularly of our youth. To a large degree, this can be attributed to the drug related deaths of two well-known athletes, Len Bias and Don Rogers. As sports loving people, we tend to identify with athletes more than with any other group in our society. As a result, the deaths of those stars because of cocaine overdoses have hit home with dramatic and vivid impact. In the aftermath of these tragedies, the President, the First Lady, the Attorney General, and Congress have all become involved in high profile campaigns against this rapidly spreading plague.

Corruption is one of the major reasons why this has proved to be such a difficult problem to lick. The drug traffickers have earned so much money through their illicit activities that they can buy government officials, policemen, and even our youth. In some areas of New York City, for example, drug pushers have been paying youngsters up to $1,000 a week to work as runners and surveillance teams.

Given this deplorable situation, no one can deny that this Nation faces a drug problem of massive proportions. All too often, however, our answer to a problem of this magnitude has been to throw money at it and hope for the best.

Indeed, in this instance, some relatively small amounts of money have been authorized, but I am pleased to report that of the amounts authorized by our committee bill, only $5 million was not requested by the administration. That $5 million, I might add, will go to the Agency for International Development [AID] and the U.S. Information Agency [USIA] to augment existing overseas drug education programs in nations that are developing serious drug problems of their own.

In recognition of the importance of gaining the cooperation of drug producing nations, our committee also approved provisions calling upon the Secretary of State to negotiate extradition treaties that will facilitate the prosecution of international drug kingpins. Furthermore, $1 million is withheld from Mexico pending the full investigation and prosecution of DEA agent Camarena's murderer in Mexico.

The Foreign Affairs Committee has been tackling the narcotics control issue for years and has come to the conclusion that turning the U.S. Treasury faucets wide open on international antinarcotics programs often yields marginal dividends.

Consequently, our committee bill reflects a strong emphasis on improving the management of current programs while allowing for modest increases in spending, including an extra $35 million if the President asks for it and certifies to Congress that he has a genuine need for it.

An additional $7.9 million is provided by raising the fiscal year 1987 authorization level for international narcotics control from $57,529,000 to $65,445,000 which happens to be the amount the President originally asked for last year when we passed the foreign aid authorization bill for fiscal year 1986 and 1987.

The fiscal bottom line, therefore, on this Foreign Affairs Committee package with respect to new money is as follows: $3 million for USIA drug education programs; $2 million for AID drug education programs; and $7.9 million for international narcotics control efforts.

Altogether, this rounds out to $13 million which could be added to the previously mentioned $35 million, if the President sees the need for such funding. Thus, the most we are potentially talking about here is approximately $48 million.

In summary, Mr. Chairman, title I of this omnibus bill represents a balanced and responsible approach to a difficult problem, and I unreservedly endorse its approval.

□ 1325

Mr. Chairman, I yield 4 minutes to the gentleman from New York, Mr. BEN GILMAN.

The CHAIRMAN. Without objection, the gentleman from New York [Mr. GILMAN] is recognized for 4 minutes.

There was no objection.

Mr. GILMAN. Mr. Chairman, I, too, want to commend our distinguished chairman, the gentleman from Florida [Mr. FASCELL] and our ranking minority member, the gentleman from Michigan (Mr. BROOMFIELD], for their strong support and initiatives in bringing a foreign affairs measure of this bill to the floor at this time.

I also want to commend our distinguished chairman of our international drug task force, the gentleman from Florida [Mr. SMITH], for his leadership in our committee.

Mr. Chairman, I rise in support of the Foreign Affairs provisions of the omnibus antinarcotics legislation, H.R. 5484.

Dating back at least to 1971, the Committee on Foreign Affairs has been active in the struggle to control narcotics trafficking and abuse. Given our jurisdictional responsibilities within the House, our Foreign Affairs Committee has been at the very center of the effort to attack the supply side of the nefarious narcotics equation. Since most of the illegal drugs consumed in this Nation originate abroad, the need to constrict the cultivation of narcotics abroad is a crucial part of any realistic drug control strategy. Moreover, narcotics must flow within

foreign countries, and frequently over the high seas or international airspace, before they can enter this country. Accordingly, the committee has authorized numerous programs to assist foreign countries eradicate narcotics production and interdict the flow of narcotics across their borders. In addition, we have provided incentives to foreign countries to beef up their antinarcotics cooperation by conditioning certain forms of cooperation with the United States on reasonable performance in this most important arena.

The omnibus drive legislation now before the House contains the committee's recommendations for strengthening and improving the following programs:

The bill increases the authorization level for international narcotics control by about $8 million, to the administration's request level, and authorizes an additional $35 million subject to a new budget request; $10 million in Military Assistance Program funds are earmarked for narcotics control aircraft, and $2 million is earmarked for pilot or maintenance training so that our aircraft could be used more effectively. We also have increased funding levels for USIA and AID drug education programs overseas. Throwing money at this problem is obviously not the way to go. We could have reported higher authorization levels for these programs, but we were trying to be prudent and not overwhelm the bureaucracy with funds which it could not spend effic'ently.

Other important provisions of the legislation require reporting on foreign cooperation with U.S. extradition requests, modify the Mansfield amendment to allow the presence of American drug enforcement personnel at foreign drug busts, and require a General Accounting Office report on the overall effectiveness of our international drug control programs.

Mr. Chairman, this might be a good time to point to the success of several international narcotics control efforts. In the highland country of Thailand, a combination of eradition and crop substitution appears to be achieving good results. In Turkey, illicit opium production has been practically eliminated. Mexico has drastically reduced opium production, although there remain problems in the production of other substances and in trafficking. Bolivia was encouraged to address the need for reform of its narcotics laws by the threat of a cutoff of assistance.

I am proud of the bipartisan fashion in which this title of the bill was drafted and considered. Under the leadership of the chairman, the gentleman from Florida, Mr. FASCELL, and our ranking member, Mr. BROOMFIELD, the chairman of the International Narcotics Task Force, the gentleman from Florida, Mr. SMITH, and the chairman and ranking member of the International Operations Subcommittee, the gentleman from Florida, Mr. MICA, and the gentlewoman from Maine, Mrs. SNOWE, and with able help from the staff, we worked out the details of this complex legislation in record time. We had a markup session in which provisions were reexamined and in some cases altered, again in a bipartisan fashion, and the resulting bill was cosponsored by 39 of the 42 members of the committee.

There will be only two noncontroversial amendments offered by the gentleman from Florida [Mr. SMITH], relating to events that have taken place since the adoption of our committee bill, and I will support those amendments.

Mr. Chairman, we are fortunate to have neither a very complex nor a very expensive portion of this monumental bill. Nevertheless, the Foreign Affairs portions of the bill are important and needed. I urge my colleagues to adopt the bill by an overwhelming vote.

Mr. BROOMFIELD. Mr. Chairman, I yield the balance of my time to the distinguished gentleman from California [Mr. LAGOMARSINO], a member of the Committee on Foreign Affairs.

The CHAIRMAN. Without objection, the gentleman from California is recognized for 3 minutes.

There was no objection.

Mr. LAGOMARSINO. Mr. Chairman, the first thing I would like to do is express my strong support of H.R. 5484 and congratulate the Members of the House leadership, particularly my friend and California colleague JERRY LEWIS, Chairman FASCELL, ranking member BILL BROOMFIELD, LARRY SMITH, BEN GILMAN, and CHARLES RANGEL, for their efforts in developing this badly need antidrug legislative package. The time has come for more coordinated comprehensive, action to stop drug abuse—especially among our children.

Included in this bill is legislation passed by the Committee on Foreign Affairs which I cosponsored along with 39 of my colleagues. The committee-passed bill reflects the difficulty of dealing with sovereign nations who do not always share our total commitment to stopping the flow of drugs around the world. We have sought in this legislation means to attack the problem which take into account that cutting off foreign aid and greatly increased funding for international narcotics activities will not by themselves solve the problem.

The committee passed legislation reflects the historical experience the United States has recognized in its attempts to deal with narcotics trafficking. Our effort in the committee was to emphasize improved management of existing programs, and provide for increased funding if the President requests and justifies the need for such steps. We provided for continued strong congressional oversight, including sanctions where appropriate, and particularly, we encouraged a regional response to the problem of narcotics production and trafficking in Latin America.

I also wish to call to the attention of my colleagues the kind of international cooperation envisioned by this legislation. You will recall the United States support operations for antinarcotics raids in Bolivia begun in July 1986. The Bolivian support operation was the first commitment of military personnel to a narcotics control mission on foreign soil since President Reagan signed a national security directive in April. This possibility was anticipated in last year's foreign aid bill and is further clarified in this legislation. It is the type of constructive, cooperative initiative we must encourage with our Latin allies to combat the narcotics problem. Bolivia deserves great credit for undertaking this initiative and for its courage in seeking U.S. military assistance to stop international drug trafficking.

A recent editorial in the Oxnard Press-Courier, a prominent newpaper in my district, emphasized the importance of the joint Bolivian-United States operation. It states that, along with an earlier effort in the Bahamas, "these joint operations represent a dramatic step in the Reagan administration's campaign to staunch the flood of drugs that menace the United States." I commend the editors of the Press-Courier for their thoughtful analysis, and I urge my colleagues to support the legislation before us today and send a clear message that the United States will do what it must to stop the scourge of narcotics trafficking.

Special commendation must go, of course, to President Reagan and to First Lady Nancy Reagan for their efforts in this war on narcotics.

□ 1335

Mr. FASCELL. Mr. Chairman, I yield 30 seconds to the victorious gentlewomen from Maryland [Ms. MIKULSKI].

The CHAIRMAN. Without objection, the gentlewoman from Maryland [Ms. MIKULSKI] is recognized for 30 seconds.

There was no objection.

Ms. MIKULSKI. Mr. Chairman, I support this portion of the bill and its entire contents. When we seek to deal with curbing the trafficking in cocaine we cannot leave it to only local enforcement officers to do it one pusher at a time.

When we fought yellow fever, we did not go at it one mosquito at a time; we went right to the swamp. That is what the Foreign Affairs section of this leg-

islation will do; it will go to the swamps where cocaine is either grown, refined, or manufactured, and that is why I support this section of the bill.

Mr. Chairman, I rise in strong support of H.R. 5484, the Omnibus Drug Enforcement, Education, and Control Act of 1986.

Twenty years ago I helped establish one of the first narcotics anonymous programs in Baltimore. Back then drug abuse was confined to heroin in a young adult population. Today, drug abuse is found in every neighborhood. It effects every age group and touches far too many American families. We read almost weekly of the tragic cocaine deaths of young athletes and of the crack epidemic that is spreading throughout the country.

Drug use is pervasive in American society. We cannot deny this any longer. Five thousand Americans try cocaine for the first time every day. One million Americans are already addicted to cocaine. Eleven million are thought to be active users. At the same time, Federal support for drug abuse services has been cut by 40 percent in the last 6 years. It's time to reverse this trend.

Drug abuse is an insidious disease that's destroying our young people. Like all insidious diseases, you don't get rid of the symptoms until you get rid of the source. When we went after yellow fever we didn't just go after it one mosquito at a time. We went after the swamps that bred it.

I believe that we must fight the war against drugs as we would fight any other foreign invader who sought to bring death and destruction to our children and our families. We must wage war against drugs on every available front. That includes: eradication, enforcement and interdiction, and education and rehabilitation.

The Omnibus Drug bill, of which I am proud to be an original cosponsor, will enable us to do just that. The most powerful aspect of the bill will help wipe out drugs at their source. We must recognize that the ultimate battle against drugs will be won through crop eradication. We must fight the drug war before it reaches our borders and streets. We must go to the root of the problem, where drugs are grown, manufactured, and refined.

Virtually all of the cocaine, heroin, and marijuana consumed in the United States is grown and processed in foreign countries. Stemming the flow of illegal drugs into the United States, therefore, must become a major foreign policy objective.

H.R. 5484 would treat the drug problem as an crucial aspect of foreign policy. The bill earmarks two initiatives the President would be required to take to enhance drug eradication efforts. First, the President must deny 50 percent of authorized foreign aid to drug-source countries that do not fully cooperate in drug eradication programs. Second, the President must deny most-favored nation trading status for the same uncooperative drug-source nations.

This antidrug bill will also improve our enforcement and interdiction efforts against the dealers and pushers who buy and sell this death out on the streets.

In the past I have contributed to legislation that improves Federal drug enforcement ability. Federal laws now in affect, that I supported, include bail reform that keeps drug pushers off the streets while waiting for trial. I also supported the forfeiture provision in current law that allows the Government to seize proceeds from illicit drug deals that helps destroy drug-dealing profitability.

The bill before us today would add, 1,500 Coast Guard personnel to drug enforcement efforts. It would also provide the equipment they need to carry out effective programs such as air surveillance and air and sea interdiction. If we want to stop the huge influx of drugs into the United States, we need to close our borders to drugs before they get to our streets.

The bill also earmarks $10 million in military aid for drug interdiction and eradication efforts in countries were drug production is not effectively controlled.

And finally, this bill would upgrade existing antidrug education efforts. It authorizes grants to schools that develop drug abuse education and prevention programs. It also establishes an antidrug media campaign on local and national levels. Our children must be taught that drugs are not glamorous or sexy; drugs are death and disability.

Mr. Chairman, the United States is struggling with a drug epidemic. We must realize, however, that the issue is not confined to the domestic arena. We must reduce both sides of the drug problem—demand and supply. That means going to the source to stop drugs, and that means putting pressure on drug producing nations. Without that pressure and cooperation no amount of education and enforcement will ever be enough.

We must, act now, and we must act decisively. In fact, we already have waited too long. What used to be a trickle has truned into a torrent, and is threatening our future. Let us today strike a blow against the terrorism of drugs.

Mr. FASCELL. Mr. Chairman, I yield 2 minutes, for the purpose of concluding debate, to the distinguished chairman of the Subcommittee on International Operations, the gentleman from Florida [Mr. MICA].

The CHAIRMAN. Without objection, the gentleman from Florida [Mr. MICA] is recognized for 2 minutes.

There was no objection.

Mr. MICA. Mr. Chairman, obviously I support this legislation; and it does exactly what this Congress intended it to do.

It provides funding and action for eradication, for education, for mandatory sentencing, for additional prisons and for rehabilitation. It covers the board with our approach to fight this problem that is facing America.

Let me just say this: Of course, I support title I and the entire bill. Congress can provide the lead. The administration, the Government, can provide the lead. We can give more money and we can coordinate; and that will be done in the State houses also; but the battle will be fought in the streets at home with citizen-soldiers, and that is what it is going to take.

We have the money now, we have the initiative and we have the action, but we are going to have to stand up at home and say, "No more plea bargaining, no more revolving doors." We are going to have to tell our judges that we want strong and long sentences. We are going to say to the pushers: We are going to put you away and we are going to keep you away. We are going to provide the prisons and the funding that it takes to do that.

The time has come; there is a crisis in America; we need action. The Congress and the Federal Government are responding. This is the first step. It is a major battle, and it is one we intend to win.

Mr. Chairman, the issue of illicit narcotics is one that has long been a central issue in my own State of Florida. Now it has seized the Nation and the body politic with a new emphasis. The United States has been infected with a plague of drugs which has known no boundaries of society, education, or economics. It has infected our schools, our homes, and our places of work. It has fostered a continuous wave of domestic and international criminal activity which affects all Americans. Unfortunately, this activity is supported by America's 20 million drug users, many of whom are otherwise exemplary citizens. They may be victims of a vicious cycle of addiction, or casual users. We have the responsibility to help break this cycle and to combat drugs at their source, at our borders, and in the minds of Americans.

Mr. Chairman, this Congress has in the past devised legislation to help alleviate the problems posed by illicit drugs. State and local governments, too, have attempted to exact controls. The Committee on Foreign Affairs has seen enacted a number of its own initiatives that have helped to stem the flow of drugs into this country. But never before have we pulled together such a comprehensive package to stress international cooperation, to fund educational and rehabilitation efforts, and to tighten the laws against traffickers and dealers. Mr. Chairman, I commend your efforts which have produced such broad-based legislation.

Narcotics is a problem which must be addressed at all levels of politics, diplomacy, and professional and family life. It concerns law enforcement officers, doctors, educators, social workers, and parents. It is also a problem for the international community which is finding that its drug-producing citizens are becoming drug-consuming citizens. Many small nations are looking with dismay at the drug czars with their vast monetary and personnel resources as threats to their national security. Indeed, the trafficking of illicit narcotics is a menace that must be attacked abroad as well as at home. I believe that this legislation

will give us some of the tools and resources needed to battle this problem.

Mr. Chairman, I am happy to be associated with this legislation, and especially commend to your attention title I of the bill. No effort to curb the use of drugs in our country can be successful without international controls and cooperation. Title I provides incentives to aid this cooperative approach. Let me highlight some of the recommendations of the Committee on Foreign Affairs.

Title I:

Bolsters already existing foreign assistance law—section 481(h) of the Foreign Assistance Act of 1961—that if the President determines that any country has not taken adequate steps to stem illicit narcotics production and trafficking, he must then suspend U.S. assistance to that country.

Increases the current authorization for international narcotics control for fiscal year 1987 by $8 million and authorizes an additional $35 million for that fiscal year if the President requests it, and presents a plan on how the funds will be used.

Earmarks $10 million for fiscal year 1987 to provide helicopters or other aircraft to countries receiving narcotics control assistance to be used for narcotics eradication and interdiction. At least half of these funds shall be used in Latin America.

Earmarks $2 million in fiscal year 1987—IMET funds—for education and training for the operation and maintenance of narcotics control aircraft.

Earmarks $1 million in international narcotics control funds for the development of a safe herbicide for use in the aerial eradication of coca.

Requires the Department of State to report to the Congress on the extent to which nations have cooperated with the U.S. narcotics control efforts through the extradition or prosecution of drug traffickers.

Amends the so-called Mansfield amendment to allow U.S. officials to be present at narcotics raids overseas, if the Secretary determines that it is in the U.S. national interest.

Requires the executive branch to act quickly to establish a comprehensive information system on all drug arrests of foreign nationals in the United States so that the information may be available to embassies processing visa requests. The bill also requires the President to take steps to better collect information concerning links between narcotics traffickers and acts of terrorism.

Authorizes $2 million to be used to provide Colombia or other countries in Latin America assistance for the protection of judicial or other officials who are targets of narcoterrorist attacks.

Urges the Secretary of State, in conjunction with the Secretary of Transportation, to increase efforts to negotiate with relevant countries procedures to facilitate the interdiction of seagoing vessels. It also directs the President to take appropriate actions against any country which refuses to engage in such negotiations.

Clarifies that, under certain conditions, U.S. military personnel may provide assistance to foreign law enforcement officials, and requires that the Secretary of State sign any emergency declaration—together with the Secretary of Defense and the Attorney General—authorizing the use of the U.S. military overseas for narcotics control.

Provides an additional $2 million for the United States Information Agency and $3 million for the Agency for International Development to be used to increase drug education programs abroad.

Supports the planned United Nations' International Conference on Drug Abuse and Illicit Trafficking and asks that a high priority be given to U.S. participation in that Conference.

Calls for a study of the effectiveness of U.N. entities which deal with narcotics prevention and control.

Urges the speedy completion of the proposed new narcotics control convention and calls for more effective implementation of existing conventions in the United Nations.

Withholds $1 million of funds authorized for Mexico in fiscal year 1987 until the President certifies that the Government of Mexico has fully investigated the murders of DEA agent Camarena and his pilot, and has brought to trial and is effectively prosecuting those responsible.

□ 1345

Mr. RANGEL. Mr. Chairman, I yield 10 minutes to the gentleman from Virginia [Mr. DANIEL], a member of the Committee on Armed Services.

Mr. DANIEL. Mr. Chairman, I thank the gentleman for yielding, and I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of title II and urge my colleagues to support its provisions.

In the interest of time, I will limit my comments to a brief description of the contents of title II.

Let me say at the outset, Mr. Chairman, that because we on the Armed Services Committee were forced to consider our input to the omnibus drug bill at the same time we brought the defense authorization bill to the floor, we did not have an opportunity to reach a final committee position on this very important matter. We did, however, consider a number of significant policy options reflecting division within the committee on the appropriate role of the military in the war against illegal drugs. Specifically, the committee debated, but reached no resolution, on whether the posse comitatus law—the statute that prohibits military personnel from enforcing civil law unless specifically authorized by Congress—should be repealed, significantly modified, or left unchanged. While some argued for significantly increased military participation in the war on drugs, including the power to arrest, search and seize in or outside the land area of the United States, others cautioned that we could not advocate such a profound policy change. It was decided that in good conscience, that a more modest approach was in order without extensive hearings. In the end, we submitted all options to the bipartisan leadership for their consideration. Title II, before us today, represents the leadership's approved package, designed to increase the involvement of the military in the war on drugs, but to retain civilians as the primary drug law enforcement officials.

In a nutshell, Mr. Chairman, title II expresses the sense of Congress that the President should apply the full measure of his executive power against the introduction of narcotics into the United States—including expanding the role of the Armed Forces in the war on illegal drugs—and then sets out an affordable plan to work toward this goal. It follows on 4 years of committee activity in military support to drug interdiction.

The centerpiece of the proposal is twofold. First, the plan proposes a $213 million equipment package for loan to the appropriate civilian agencies to enhance drug enforcement assistance activities of the Department of Defense. This package includes $40 million for 8 Blackhawk helicopters, $83 million for 4 AN/APS-138 radar-equipped aircraft and $90 million for 7 radar aerostats. Taken together, this equipment will allow United States personnel to effectively surveil and detect drug smuggling aircraft and vessels along the entire Mexican border and most of the Carribean area. Even more important, this equipment will provide a much-improved capability to stop such aircraft and vessels before their cargo of illicit drugs hit our town and city streets.

Second, the plan would provide $15 million of Department of Defense funds to the Coast Guard for 500 additional Coast Guard personnel to be used in drug interdiction activities, principally aboard naval ships while they were passing through the major drug smuggling corridors. This, as well as the procurement package, would be provided out of existing Department of Defense resources.

In addition to these dollar items, title II proposes increasing the end strength of the Coast Guard Reserve by 1,500 and directing that such additional personnel be utilized for drug interdiction missions.

The plan also includes a health education promotion program for mem-

bers of the Armed Forces, civilian employees of the Department of Defense and their families. It also makes drugged driving an offense equivalent to drunk driving under the Uniform Code of Military Justice.

Finally, Mr. Chairman, title II contains a provision that requires the President to report to the Congress, by March 1, 1987, on the appropriate role of the Armed Forces in interdicting illegal drugs as well as other potential participation in the national effort to control and reduce drug abuse. While at first glance this provision may not appear significant, it strikes me as a much more reasoned and prudent approach to defining military roles and missions than some of the amendments we will consider today. It gives the President, as the Commander in Chief, 90 days to define such roles, and this provision will give all of us time to consider whether or to what extent the posse comitatus law should be changed. The direct use of military personnel in arrests, searches and seizures is a major change in policy which should receive intense scrutiny and consideration, both in Congress and within the executive branch.

In sum, title II is a fair package, Mr. Chairman—one that addresses drug interdiction, education, and methods of deterrence from the military's point of view. I urge my colleagues to support title II.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from Virginia [Mr. DANIEL] has consumed 3 minutes.

Mr. LEWIS of California. Mr. Chairman, I yield 10 minutes to the gentleman from Alabama [Mr. DICKINSON], the ranking minority member of the Committee on Armed Services.

Mr. DICKINSON. Mr. Chairman, let me say it is unfortunate that we were called upon to come up with our portion of the solution to the drug problem at the very same time that we were busily engaged on the floor deliberating and handling the authorization bill for the Department of Defense just before the recess at the end of August.

For that reason we did not have an opportunity to fully focus on the best ways to approach the problem. We did the best we could. What is contained in the bill is the product that we have recommended.

For that reason under title II, which deals with the Department of Defense portion of drug enforcement, I support it and I think most of the members of the committee do also.

We recognize the fact that we have a monumental problem here. We recognize the fact that it is of epidemic proportions. We recognize that whatever we do now will be coming late. For this reason we have agreed and participated and are already participating under legislation enacted last year, as has been pointed out by our colleague, the distinguished gentleman from Virginia, some 213 million dollars' worth of equipment in the bill as proposed now will be bought by the Department of Defense out of funds that are allocated to DOD, and equipment will be purchased and loaned to other agencies.

I think, though, I would like to raise a flag of caution at this point. We are supportive of the concept. We want to do what we can to eradicate the manace of the drug problem. We realize that the Department of Defense has tremendous assets and resources, but what we want to caution against and be very careful about is that in our pell-mell race to alleviate the problem and to come up with solutions, that we do not inadvertently create problems that down the road will be insurmountable or will be unpleasant, more unpleasant than we could possibly anticipate at this point.

I refer particularly to a proposed amendment that will be offered dealing with what is called posse comitatus; that is, to allow the military to exercise civilian functions in law enforcement.

Now, there has been a prohibition on our statute books for over 100 years now saying that the military would not be into the civilian law enforcement business. It has worked well. It grew out of the period following the Civil War during Reconstruction when it was found that this was necessary. And it has worked very well.

What we want to guard against here is that the military not be put in the position of the sheriff, now, to go out and make arrests, to go through court procedures, to testify and to become embroiled then in the total civilian criminal process that has nothing to do with the military mission.

Let me point out a practical example of the problem that we face. If we just unrestrictedly say that the military from now on can have civilian right of arrest, seizure, arrest, to capture criminals, people who are suspected of criminal acts, to seize them, to make arrests, bring them to court, interrogate them, and to testify, then what happens during the court process?

Let me give a personal example: We had a civilian who was charged with murder in my district. He was out of prison on a work-release program, and he killed a young lady, raped and killed her, killed her by hitting her over the head repeatedly with an iron bar. There was an eye witness to it. The eye witness happened to be a soldier who was stationed in my district. He was there for the initial trial, he testified. Then, as often happens, the case was appealed and then sustained and an objection was sustained later on in the appeals process, and it was sent back to retry. When it was retried, the soldier was in Korea. There was a question, well, how does the civilian agency go to Korea and get this soldier to bring back, who was an eye witness, essential in this case?

Well, it was a cumbersome thing, but we finally, in that instance, got it worked out.

But now, magnify this by thousands of cases, and not where it is just an individual but perhaps a captain of a Navy ship can be subpoenaed about the interdiction and seizure of a vessel on the high seas. And 1 year later or 2 years later or maybe repeatedly the civilian authorities can force him back by virtue of a subpoena by the defendant to have the captain of that ship come back repeatedly to testify if the case is tried more than one time.

So we have to be very careful not to get the military involved and embroiled in the domestic trying of cases so that they are on call, as witnesses can be, and be compelled to attend from around the world. What we would like to see is that the system remain intact, that the civilians and, in this case, the Coast Guard, which has the authority now, be given the right to actually make the arrest, to testify in trial and that be the authority that would be subject to subpoena and testimony later and not embroil or entangle the military ad infinitum into the future on being on call for everything, to be subpoenaed to testify in civilian cases.

So I would raise this as a cautionary flag. I would hope we would not in our zeal to do good here, set up the machinery whereby the military would be thrust into a position to do something that they, first, do not want, second, should not do and, third, probably would be counterproductive. It certainly is not in the best interests of the readiness posture for the military in this country.

□ 1400

So I would hope that in our support for this bill, which I do support, and support for title II, which I do support, we do not encroach over into an area that is tended to say the least, which I think would be unwise, and that we in our enthusiasm here do not in effect throw out the baby with the bathwater.

Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. HUNTER].

The CHAIRMAN. Without objection, the gentleman from California [Mr. HUNTER] is recognized for 3 minutes.

There was no objection.

Mr. HUNTER. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, the particular provision on posse comitatus that was just spoken to by the ranking member, the gentleman from Alabama [Mr. DICK-

INSON], and the chairman, the gentleman from Virginia [Mr. DANIEL], is my particular amendment that I will offer.

Let me say that I also think that posse comitatus had a good justification at one time and that it does prevent military forces from making civilian arrests.

But let me hasten to say that this amendment only relates to a very limited area in which it allows military aircraft and resources and personnel to interdict aircraft that are flying across the international border and ships that are coming into America's waters. It does not allow military people to kick in doors in Alabama or to make arrests on the streets of New York or anything else. It gives only a hot pursuit permission to our military people.

Let me just say that my friend for whom I have great regard, the gentleman from Alabama, was right when the gentleman said that we are going to have military people who are probably going to have to show up on the witness stand and testify. That is true. I think the question is a matter of prioritization.

Let me just tell you that in the entire State of California, and we met with our defense people this morning who are really dragging their feet and do not want to be involved, as Mr. DICKINSON said, they admitted that they, working with Customs, with them handing off radar spotting of illicit aircraft entering the United States from San Diego to Yuma, a 150-mile stretch, have not had a single success. They have not seen Customs take down a single aircraft from aerial pursuit as far back as they can remember, in the last 8 or 10 years. That means that the domestic agency has not captured a single marijuana cigarette as a result of aerial pursuit. This is a job that Customs is supposed to be able to do.

I have sat with my chairman, Mr. RANGEL, and listened to members of the Defense Department explain how they have solved drug problems in the Navy, how they are going to work on drug problems in other services, but how they do not want to get involved in this particular job.

Let me just tell you that the last question that I asked Colonel Pothier, who is the acting head of the military operation with regard to drug interdiction, was, "Could you do it if the President told you to do it? Could you interdict the planes that are illegally penetrating our borders?"

His answer was, "Yes; we can do it if the President orders us to do it."

So this is a very moderate amendment I think. The only erosion in posse comitatus and the limitation to military right to arrest are limited to the crews of these aircraft and ships that are bringing drugs to our children and coming across the international border. It does not give them a police power throughout the State.

Mr. DANIEL. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. ANNUNZIO].

The CHAIRMAN. Without objection, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for such time as he may consume.

There was no objection.

Mr. ANNUNZIO. Mr. Chairman, as a cosponsor of H.R. 5484, the omnibus drug bill of 1986, I wholeheartedly support the majority leader in his efforts to bring this legislation to the floor of the House.

This is not a new problem. Over the past century the ebb and flow of public concern about drug abuse is a matter of record, clearly documented. When an entertainment personality, a sports figure or a Supreme Court Justice becomes involved with narcotics it stirs a great deal of public interest. All of us have witnessed the rise and fall of LSD, PCP, amphetamines, barbiturates, and numerous others. Cocaine, too, has had its heyday and its decline. Today we are seeing a new impetus to cocaine generated by the so-called "crack," which is smoked rather than snorted. It is relatively inexpensive and highly dangerous.

International tensions have surfaced because of the illegal transport of drugs over national borders. The abduction and murder of American drug enforcement agents, particularly when it is inferred that foreign police personnel may be involved, can no longer be tolerated. There are rumors that American aid, military and humanitarian, is implicated in the procurement of narcotics by the recipients of such aid. The drugs are then returned to our shores and sold to our citizens.

The leadership of both parties—the membership of this House from both sides of the aisle—are deeply concerned about the extent of this problem that has permeated every community in America. We have, for years now, had a special committee, a select committee of the House, working with the legislative committees that have jurisdiction on this narcotics problem. Millions and millions of dollars have been spent for research and investigation to combat the cost and spread of drug abuse.

The Congress has not been idly standing by. In 1906 the Congress enacted the Food and Drug Act, and in 1914 we enacted the Harrison Narcotics Act. Thereafter, numerous statutes and amendments relating to narcotics were passed into law. In addition to this, the several States of the Union have adopted their own statutes to address the problem at a local level.

I join with all of you in a fervent desire to rescue the poor, the young, the ill-advised from the scourge of drug dependence. We all know that we are faced with fiscal belt tightening and that in order to achieve our goal of the eradication of this vicious drug problem, it is going to require enormous amounts of tax dollars. Huge deficits and a huge debt are upon us. Nevertheless, we must tighten our belts wherever possible and we must support this legislation which, hopefully, will not only address the problem, but reduce it to the point where we can bring our self-respect as a nation. Our responsibilities are to our young people and if we don't eradicate this problem, we will not be carrying out our responsibilities to them and the future generations who will be subject to more devastating consequences.

We have all read recently of the outstanding Americans, one a Member of the other body, whose parents came here from overseas, penniless, looking for freedom and opportunity. And they found it. This is how America is viewed throughout the world. A country where, no matter what your background may be, you will be treated fairly and where you can advance to any frontier you set for yourself. Our young people must be similarly dedicated. To that end I urge the adoption of this legislation designed to root out the cancer of drug addiction and to restore the vision of America as a wellspring of hope for those who yearn to come here.

Vote aye and reaffirm the faith of those peoples in the rest of the world who look to our land as the land of opportunity. Vote aye to maintain our pride, our dignity, and the world's trust in our Nation.

Mr. DANIEL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to commend the gentleman from Alabama who gave us some very sound reasons why we should await the President's decision on the proper role of the military. I would dislike to see us undertake to lay out here on the floor of the House as to what role the armed services should play.

In addition to the reasons which the gentleman gave, there is also that of training. I suspect it would take 6 months to train soldiers to make civilian arrests in a manner which would be upheld in court.

Mr. Chairman, I yield 4½ minutes to the gentleman from Oklahoma [Mr. ENGLISH], who has worked very closely with me on the Armed Services Committee and on the gentleman's Subcommittee on Government Operations.

The CHAIRMAN. Without objection, the gentleman from Oklahoma [Mr. ENGLISH] is recognized for 4½ minutes.

There was no objection.

Mr. ENGLISH. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, first of all, let me say that I want to commend the Committee on Armed Services for their section of the bill. I think it is a very good section. I would also thank them for the inclusion of most of the proposal that I offered, H.R. 5270, in that bill.

Very quickly, I will run through this so the Members will understand what it is that is being done with the various features.

One of the big shortages that we have had in the war on drugs has been detection capability. You have to be able to detect a drug smuggler before you can intercept him, before you can arrest him. This is one area in which the military can be of great benefit and of great assistance. Obviously, it is of importance to the military from our overall NORAD defense.

What you see listed in these different colored circles are actually radar coverages that are either presently being offered or are contemplated for the future.

These three brown circles, for instance, on the southern tip of Florida presently exist. None of the other coverages that are shown presently do exist. What is being provided by the Committee on Armed Services and through this legislation are tethered aerostats which would have the coverage of, roughly, a 150-mile radius that would be scattered all along the Southwest border. I think most people recognize that there has been a tremendous increase on the Southwest border recently, and these would provide protection coverage where, for the most part, none exist. We do have two radar aircraft that are there, but for most of the time, they have not been flying.

Down in the Bahamas, this is a choke point, the so-called Windward Passage, where a good deal of the cocaine flows into the Bahamas and on into south Florida. This is the route that they take. We presently do not have any detection coverage. That would cover those areas.

Also contained in this bill are four detection aircraft, the AFT-138, the type that is involved on the Navy's E2-C. It has very good radar. It has a range of around 200 miles. These would operate in the gulf coast areas and cover the distance over water.

So as you can see, we begin to link together coverage of various military assets that would provide the Customs Services with that much needed detection.

Up here, we have the so-called New York Freeway in which drug smugglers come through the Windward Passage and simply head north into the New York area. At the present time, this training area is not being utilized by the military. They told us in the past that they would do this, but, unfortunately, they have not provided any information. In fact, we have not been able to find a single report that has been made from aircraft that are training in that area to the Customs Service.

The gentleman from California [Mr. HUNTER] mentioned the area out off the California coast, which is another E2-C training areas, 500 miles west and 500 miles south of San Diego.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. ENGLISH. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Chairman, I just wanted to express my appreciation on behalf of my constituents and the people in Florida for the gentleman's determination and hard work, the hearings the gentleman has held in our State, and the tremendous contribution the gentleman has made in trying to help solve this problem.

□ 1410

Mr. ENGLISH. I thank the gentleman. Thank you very much. I appreciate that.

Mr. Chairman, let us set the record straight. No a single call has come from the Navy from this training areas to the Customs Service. One reason that we may find that that kind of call has never been made is because there is not a single interceptor in San Diego. Even if they got the call, they do not have any properly equipped aircraft that can make that response. That is the reason I would suggest to the Members that there has not been a single aircraft apprehended crossing the southern California border, because basically there are no interceptors there that are properly equipped to make that response.

I will say very quickly that in tests that were made we found that over 30 aircraft a month were crossing this particular border, and the only way in which we have been able to catch them out there, since we do not have any equipment, is if they crash.

I would suggest that one important feature of this particular piece of legislation is not over in the detection coverage, but later in the bill under the Ways and Means Committee section is providing the interceptors so that we have someone who can challenge those smugglers once we detect them. Then, perhaps, we can bring the pressure to bear on the Department of Defense to finally provide the detection coverage that the Navy has promised us long ago. That, I think, will give this country some real hope and an opportunity to detect drug smugglers throughout our southern border and even as they come north, as they move toward the east coast, further up the east coast to the New York City area.

Mr. DANIEL. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. ANDERSON].

The CHAIRMAN. Without objecton, the gentleman from California [Mr. ANDERSON] is recognized for such time as he may consume.

There is no objection.

Mr. ANDERSON. I thank the gentleman for yielding time to me.

Mr. Chairman, I rise today to express my support for H.R. 5484, the Omnibus Drug Enforcement, Education and Control Act of 1986. I congratulate the President and the First Lady, who have worked tirelessly on the problem of drug abuse, and the House leadership for their achievement in shepherding this important bipartisan legislation onto the floor. This legislation represents a serious effort by Congress to address the twin problems of drug abuse and drug trafficking. Our Nation will benefit greatly from the substantial effort this legislation makes to bring these problems under control.

In attempting to deal with the enormous problem of drugs in our society, H.R. 5484 takes a particularly effective approach. It addresses both the demand side and the supply side of the illicit production, distribution, and consumption of narcotics. It attempts to reduce our Nation's consistently high level of demand for narcotics through both the establishment of substantially higher penalties for drug users, increased funding and coordination of Federal and State drug rehabilitation programs, and, perhaps most importantly, mandating the implementation of drug education and prevention programs so that our Nation's youth might begin to fully grasp the enormous dangers drugs pose to their futures. In addition, the bill dramatically increases penalties for most drug-related offenses, especially those involving the selling of drugs to schoolage children.

On the supply side, the bill increases penalties across the board for crimes relating to drug trafficking and smuggling of narcotics across our borders. It requires a prison term of between 20 years and life for the commission of drug distribution or production offenses which result in serious injury or death. I especially laud the changes H.R. 5484 seeks to make to stem the flow of illegal narcotics into our country from abroad through the drug interdiction efforts of the Drug Enforcement Administration [DEA], Customs Service, and Coast Guard. Along with increased funding for these agencies, for which I have been a longtime advocate, the bill allows the Justice Department to use assets seized in drug cases for increased drug interception efforts. I cosponsored such a bill before its inclusion into this omnibus

drug legislation. While these provisions would counter drug smuggling by land and sea, those sections dealing with aviation smuggling, submitted by the Public Works and Transportation Committee, of which I am a ranking member, significantly increase penalties for this illicit activity.

Consistent with my views deploring the preponderance of whitecollar crime in our Nation, I support the Judiciary Committee's efforts to sap the lifeblood of drug traffickers, the so-called money laundering. Drug smugglers would have a difficult time going about their business if we didn't have unscrupulous individuals assisting traffickers in concealing their illicitly gained assets. The new regulations will assist law enforcement authorities in gaining evidence against narcotics traffickers. Disguising large cash movements, the stock and trade of the drug lord, will be made substantially more difficult under H.R. 5484.

Though falling just short of having military personnel assist the border patrol along our southern border in containing illegal alien-related narcotics smuggling, the bill does assist in such efforts by amending the Mansfield amendment to permit the participation of U.S. agents in foreign police actions related to narcotics, contingent upon State Department approval. Additionally, U.S. military personnel will now be permitted to assist in drug eradication efforts in foreign countries.

To further expedite drug eradication efforts at the source, H.R. 5484 would make American economic assistance through multilateral development banks such as the World Bank and the International Monetary Fund conditional upon progress in drug eradication efforts and control over drug trafficking in those countries. The bill also permits the President to take punitive trade actions against countries deemed unresponsive to U.S. concerns toward drug eradication and smuggling. Taken together, these provisions may allow us to be successful in encouraging foreign cooperation in destroying illegal drug crops, halting international narcotics trafficking, and enhancing our ability to intercept illicit drug shipments.

H.R. 5484 represents a sincere, responsible attempt to bring drug trafficking and drug abuse under control. As such, I strongly urge my colleagues to lend their full support to this legislation. Passage of this bill provides an invaluable opportunity to begin to prevail over these problems which continue to plague our Nation.

Mr. DANIEL. Mr. Chairman, I yield the balance of my time to the gentleman from Alabama [Mr. BEVILL].

The CHAIRMAN. Without objection, the gentleman from Alabama [Mr. BEVILL] is recognized.

There was no objection.

Mr. BEVILL. I thank the gentleman for yielding time to me.

Mr. Chairman, I have just returned from meeting with constituents in all 14 counties of my district. People came up to me at all those meetings and said, "Tom, what are we going to do about this drug problem?"

Frankly, it surprised me that there was such a high level of concern about drug abuse in Alabama, especially in the rural areas. We tend to think that this is more of a problem in big cities elsewhere. Sadly, it is not. Drug abuse is a growing problem everywhere, including Alabama. It's not just a problem for young people, it's a problem for their parents as well. We've talked about it, now we've got to do something about it.

That's why I am strongly supporting the this omnibus drug bill of 1986. This is the first time we have tried to coordinate a nationwide antidrug effort. This is going to be an uphill battle, especially when you consider that between $100–$200 billion will be spent on illegal drugs in our country this year. The demand is obviously there. We must try to stop the demand as well as the supply. I believe this legislation does that.

We will step up our efforts to wipe out drug crops at the source. And, we will help other nations in wiping out their drug crops. We will increase pressure on Mexico to cooperate in stopping drug trafficking.

We will beef up the U.S. Customs Service and increase drug trafficking penalties in an attempt to keep illegal drugs out of this country. For the first time, it will be a Federal crime to involve children in the manufacture and distribution of illegal drugs.

These are important steps, but I believe the best feature of this legislation is an antidrug education program aimed at schoolchildren. We must get the attention of our young people that drugs are dangerous, that they ruin lives.

Drugs are already a major problem in our schools and on our college campuses. I heard stories while I was home about drugs being sold at junior high schools and even at elementary schools. Surely, there is something we can do about this. Knowledge is a great weapon. That's why I believe this antidrug education program is so important.

I am also glad that this bill assures adequate resources to States for providing rehabilitation and treatment services for drug abuses. By helping abusers get off drugs, we are helping to stop the demand for drugs and eventualy, the supply.

I hope my colleagues will join me in supporting this legislation. We need to send a message to these drug traffickers that we are on their trail and we won't let up until they are stopped in their tracks.

I hope that this all-out effort is going to make a difference. There are lives that depend on it.

Mr. RANGEL. Mr. Chairman, I yield 15 minutes to the gentleman from Florida [Mr. GIBBONS] to present title III for the Ways and Means Committee.

Mr. GIBBONS. I thank the gentleman for yielding me this time.

Mr. Chairman, I would like to say what a distinguished job the gentleman from New York [Mr. RANGEL] has done on this legislation, the chairman of the Antidrug Task Force in the Congress. I would like to say to my friend from New York that there may not be a chair for you in the White House, but there is one for you in heaven for leading this fight.

I appreciate the spirit and the intelligence and the drive with which the gentleman from New York has led this fight against drugs.

Mr. Chairman, I also want to pay appropriate attention to the gentleman from Oklahoma [Mr. ENGLISH] for the fine job that he has done in informing us, in fighting the battle, in keeping the facts and figures honest and straight, and in laying out an appropriate program here.

Mr. Chairman, this title that the Ways and Means Committee is presenting is presented nearly unanimously from the Ways and Means Committee; 35 of the 36 members of the Ways and Means Committee cosponsored this in a separate bill, H.R. 5410.

Mr. Chairman, the Ways and Means Committee essentially is modernizing a lot of our trade and customs laws to strengthen the hand of law enforcement and to also increase the resources that are available at the border and beyond the border for the interdiction and containment of this very serious problem.

On the law enforcement side, we are making it much more difficult to bring contraband into this country, whether it be by common carrier, personal carrier or by private vessel; aircraft or seaborne.

We make it much more difficult for people to avoid customs as they have in the past, and to avoid this network. We make it easier, not unconstitutionally so, but we make it easier for people to enforce these laws by requiring the reporting of all movements across the border.

We expect to have many more people and a great deal more equipment available for this war. As I said, the gentleman from Oklahoma did a masterful job in explaining this to us; what we have now and what we need. The gentleman's recommendations were taken almost entirely by the Ways and Means Committee and incorporated in our section of this title.

Mr. Chairman, title III of H.R. 5484 contains major revisions to the customs laws in order to strengthen the drug enforcement and interdiction activities of the U.S. Customs Service. These amendments would add new penalties and reporting requirements to the Tariff Act, enable customs to engage in undercover activities more freely, place new controls on vehicles or vessels arriving in the United States in order to deter smuggling, and expand the customs forfeiture fund which is used to finance drug interdiction efforts.

Title III would also create greater incentives for countries to cooperate with the United States in eradicating drug crops and apprehending drug smugglers. The President would be required to take trade actions such as the denial of most-favored-nation [MFN] treatment and other preferential tariff treatment to countries that are the source of illegal drugs if they refuse to cooperate in arresting illegal drug traffic.

Sections 304 and 307 of the proposed bill amend customs laws to clarify and strengthen reporting requirements for those arriving in the United States. A concern has been expressed by some Members about the applicability of these requirements—in particular those contained in section 307—amending 19 U.S.C. 1459—to the operators of recreational vessels.

Further, a technical amendment to section 12109 of title 46, United States Code, is to be adopted. This addition to the shipping laws is merely to give notice that, although documented recreational vessels are exempt from formal entry or clearance procedures with the Customs Service, all other applicable customs regulations must be met. In particular, the requirement to report an arrival as contemplated under sections 304 and 307 of this bill applies. The paperwork of entering and clearing with customs is designed primarily for commercial vessels and is therefore unnecessary and inconvenient for recreational boaters. The exemption in section 12109 in no way detracts from the law enforcement capability of the Customs Service.

The authors of this language note that the reporting requirements of the bill—including all of those applicable to recreational boaters—are to be determined through regulations issued by the Secretary of the Treasury and that the Secretary has sufficient discretion in developing these regulations. Accordingly, we expect these regulations to produce a reporting system that will be enforceable and that will be applied appropriately and sensibly to those subject to its requirements. We do not expect, for example, that recreational boaters returning from a day-trip or other brief excursion to a foreign port will ordinarily be required to report in person to a customs facility, or that obtaining authorization for these boaters to depart their vessel will prove to be a complicated or burdensome endeavor.

The overall purpose of these amendments is to strengthen the hand of the Customs Service in carrying out its drug law enforcement program. Any additional reporting requirements or enforcement measures should be developed and implemented for that purpose, keeping in mind the convenience and the need for continued cooperation and good will on the part of the innocent majority.

Mr. Chairman, the drug problem has reached crisis proportions and we must move quickly to give the administration the necessary tools to address the problem. H.R. 5484 does this in a comprehensive manner and I urge all of my colleagues to support it.

Mr. GUARINI. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from New Jersey.

Mr. GUARINI. I thank the gentleman for yielding to me.

Mr. Chairman, I rise to offer my strongest support for the Omnibus Drug Enforcement, Education, and Control Act. I commend the leadership of the House for developing this comprehensive bipartisan legislation. For the first time in our Nation's history, it will enable us to launch an attack on drugs on every conceivable front.

As a longtime member of the Select Committee on Narcotics Abuse and Control, I have worked for years to draw attention to the growing scourge of drug abuse and to offer proposals for its eradication. I am gratified that the Congress will act promptly on this unprecedented antidrug initiative. I am proud to be an original sponsor of the measure before us today.

Over the years I have had the opportunity to examine the growing threat of narcotics abuse from a variety of perspectives. I have seen narcotics crops in full bloom in South American and Asian countries. I have seen how easily drugs can be smuggled across our 2,000 mile unguarded border to the south. And I have seen the effects of this massive influx of illegal drugs in the pathetic stories of drug addicts and in the overcrowded rehabilitation facilities in my own State of New Jersey.

We can say unequivocally that drug abuse has grown to be the single largest problem facing our Nation today. Like a cancer from within, this $110 billion illegal business jeopardizes the very future of America. It takes a mounting toll in broken lives, ruined careers, devastated families, rising health care costs, loss of productivity, and increased crime and violence in our neighborhoods.

The bill before us today will put in place a national strategy to help us win the war on drugs. It is a comprehensive policy that expands authority to respond to the problem and targets resources and personnel in order to get the job done.

As a member of the Ways and Means Committee, I have pushed for legislative action that will close our borders to drug traffic and impose sanctions on drug-producing countries. Title III of the bill will enhance our ability to fight illegal drugs in two ways. It will increase the Customs Service's capacity to secure our borders against drug smugglers, and it will deny favorable trading status to foreign countries that fail to cooperate in eradicating drug crops at the source.

Our border with Mexico represents the most extensive and uncontrollable part of our narcotics law enforcement effort. The drugs that cross that border spread death and destruction throughout the Nation. Ultimately, the influx of narcotics and the unguarded entrance of illegal immigrants pose a threat to our national security.

This bill provides for increases in Customs Service personnel and for the acquisition of high-technology equipment. It updates our customs laws and closes loopholes that allow drug traffickers to smuggle narcotics into the country. Together, these changes will allow us to beef up our law enforcement efforts along our borders and make dramatic progress in stopping the flow of illicit drugs into our country.

While other sections of this bill focus resources on domestic prevention, education, and treatment efforts, title III complements those plans with proposals to halt drug crop production in source countries. To be successful, we must obtain the commitment of drug-producing nations to prevent the production, processing and trafficking of illicit drugs. The bill authorizes the President to use economic as well as diplomatic pressure in reaching this goal by denying trade benefits to our neighbors who remain uncooperative.

The American people have sent a signal that they will no longer tolerate the insidious effects of narcotics on our society. The bill before us today provides the ammunition for a concentrated attack on the most deadly evil our Nation has ever faced. I urge my colleagues to give it their strongest support.

□ 1420

Mr. RANGEL. Mr. Chairman, will the gentleman yield?

Mr. GUARINI. I yield to the gentleman from New York.

Mr. RANGEL. Mr. Chairman, I would like to take this opportunity to thank the gentleman from New Jersey [Mr. GUARINI] for the contribution he has made certainly to the House of Representatives but, more specifically,

as it has related to the work of the Select Committee on Narcotics.

As the gentleman has pointed out, our missions have taken us throughout the United States and indeed throughout the world. They have taken up a lot of time, and this has eaten into the time that most of us would want to spend in our districts. However, I cannot recall a time when the committee was asked to perform one of these tasks or attend one of these hearings in someone's district when the gentleman did not respond.

For the leadership that the gentleman has given to the committee, I for one, and certainly the gentleman from New York, Mr. BEN GILMAN, would like to take this opportunity to thank him. I suspect that the passage of this bill will be just one small way of showing the gentleman that his time has not been wasted.

Mr. GUARINI. Mr. Chairman, I thank the gentleman from New York for his splendid remarks.

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. GUARINI. I yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, since I do not see our ranking member here I just want to say on his behalf, since I know he is a great friend of the gentleman that those of us on our side in this bipartisan effort wish to commend the gentleman from New Jersey [Mr. GUARINI] and thank him for his great work on our select committee.

Mr. ROSTENKOWSKI. Mr. Chairman, I rise today in strong support of H.R. 5484, a bill which establishes the national strategy we desperately need to attack the insidious drug problem our country faces today.

While we have referred to a war on drugs in the past, our previous efforts have been piecemeal and grossly inadequate. Drug use in the United States is disintegrating the very foundations of our society. The drug menace is a major threat to our health system, our educational system, our economic system, and our criminal justice system. Our very future is threatened when our young people are enslaved and even killed by the epidemic use of illicit drugs.

For once, we are dealing with a problem which is neither partisan nor geographic in nature. Nor does it discriminate according to race, religion, or financial means. We all agree that our best efforts must be directed toward extermination of this 20th century plague. H.R. 5484 is the omnibus and bipartisan counterattack we need to combat this national crisis.

Title III of this bill is substantially identical to H.R. 5410, which was sponsored by 35 members of the Committee on Ways and Means and which was favorably reported by the committee. This title contains provisions to stem the tide of imported drugs and close our borders, which have become open sieves through which the drug trade flows virtually unimpeded. It accomplishes this task by revising many of our outdated customs laws and closing loopholes that now make it easier for drug traffickers to smuggle drugs into our country, by increasing penalties for violations of customs drug laws, by providing funding for drug interdiction programs through the Customs Forfeiture Fund, by significantly increasing the manpower and equipment with which customs will wage a more effective campaign against drugs, and by creating a tool for the President to use by requiring denial of preferential trade status to nations which are the source of illegal drugs if they refuse to cooperate in arresting illegal drug traffic.

The Committee on Ways and Means drafted title III only after receiving the benefit of testimony from experts who have spent years studying the problem, including the Select Committee on Narcotics Abuse and Control, the Committee on Government Operations, and the U.S. Customs Service. The solutions proposed in title III of H.R. 5484 are well thought out legislative answers to a serious problem.

Mr. Chairman, I am shocked and amazed by the charges that we are moving too quickly or that we are providing too many resources in H.R. 5484. There is no dispute that our borders have been invaded. So why the hesitancy to fight back with the intent to win this war? To those who say we are moving too quickly, I reply that we must act expeditiously because the problem has already escalated to epidemic proportions. For example, it is estimated that the amount of cocaine smuggled into the United States this year will be 150 tons, an amount double the figure for just 1 year ago.

To the unfounded claim that we are spending too much to combat this problem, let me say it is estimated that, at best, our drug enforcement agencies intercept only an estimated 10 to 15 percent of the illicit drug traffic destined for our shores. How can they do better when resources allow operation of interdiction aircraft only during normal business hours? When there is no radar detection under 14,000 feet for vast sections of our border? When agencies charged with interdiction cannot communicate with each other by radio? When officers within the same agency can only talk to each other if they are within 5 miles of each other?

I am aware of and fully support our need to reduce overall spending in order to decrease levels. I do not, however, advocate gambling with the future of this country by standing aside while our borders are invaded. The expenditures authorized in title III provide only the basic necessities for an effective drug interdiction program. And we cannot wait any longer. The enemy has invaded. We must fight now.

I urge all my colleagues to join me in active support of H.R. 5484 to finally win the war against this 20th century scourge.

Mr. GIBBONS. Mr. Chairman, may I inquire of the Chair as to how much time I have remaining?

The CHAIRMAN (Mr. CARR). The gentleman from Florida [Mr. GIBBONS] has 4 minutes remaining.

Mr. GIBBONS. Mr. Chairman, I reserve the balance of my time.

Mr. LEWIS of California. Mr. Chairman, I yield 15 minutes to the ranking member of the Committee on Ways and Means, the gentleman from Tennessee [Mr. DUNCAN].

Mr. DUNCAN. Mr. Chairman, I thank the gentleman from California for yielding this time to me.

Mr. Chairman, I yield myself such time as I may consume.

I rise in support of H.R. 5484, the Omnibus Drug Act of 1986. Although various deficiencies remain to be resolved—and budget considerations are an important concern—the bill is a positive and comprehensive response to our Nation's drug problem. President Reagan has made the solving of America's drug problem a top priority of this administration. I am pleased that the Congress has responded in a bipartisan way with H.R. 5484, and I will join the President in this effort.

We all have had a part to play in this legislation, and the Ways and Means Committee has recommended extensive improvements in the Customs Service's drug interdiction and enforcement authorities. With these changes, the Customs Service will be able to expand its air surveillance and detection program and improve its border enforcement efforts.

Among the improvements in customs procedures, the bill requires additional reporting requirements for small boats and planes returning to the United States, increased penalties for smuggling or attempting to enter prohibited substances illegally, improved compensation for informers who assist the Customs Service, more simplified procedures for seizures, forfeitures of vessels and planes, and more effective prosecution, under customs laws, of drug traffickers.

All these somewhat technical changes should improve the Customs Service's efforts at home and allow more coordination with foreign governments to stop the drug trade across our borders. However, one of the most important improvements in existing law, offered here by the Ways and Means Committee, is language to deny market access to those countries that do not cooperate with the United States in our drug enforcement efforts.

These particular provisions of the bill require the President to make annual determinations and reports to Congress on drug source nations and their efforts to cooperate with the U.S. Government to prevent illicit drugs from significantly affecting this country. If these drug source nations do not cooperate in stopping drug traffic, the President must take action against the country's imports into the United States by denying preferential tariff treatment and applying additional tariffs up to 50 percent ad valorem above column 2 rates. The President also may cancel special benefits under the generalized system of preferences [GSP] and the Caribbean Basin Initiative [CBI].

The action can be a combination of responses, but it must restrict a drug source country's imports significantly enough to elicit cooperation or to cause serious trade consequences. These new provisions will provide an important weapon for the President to use as he coordinates his efforts with developing countries that have open access to our markets but also permit drug trafficking that needs to be brought under control.

Mr. Chairman, I want to express some reservation about the total amount of money this bill authorizes for the Customs Service. It represents a 45-percent increase over fiscal year 1986 and I question whether any agency can effectively absorb such a massive influx of money and provide at the same time efficient and tough new drug programs.

I think it is much more realistic to expand customs' new drug programs in stages over a 3-year period so the money can be most effectively utilized. I plan to support amendments that will achieve this goal.

Mr. Chairman, again I am pleased at the bipartisan effort that has been achieved today. I hope we will continue to support the President in this national effort and I urge my colleagues to vote "yes" on H.R. 5484.

Mr. Chairman, I yield 2½ minutes of my time to my colleague, the gentleman from Nebraska [Mr. DAUB].

The CHAIRMAN. Without objection, the gentleman from Nebraska [Mr. DAUB] is recognized for 2½ minutes.

There was no objection.

Mr. DAUB. Mr. Chairman, I thank the ranking member for yielding this time to me.

Mr. Chairman, the menace that illegal drugs poses to our Nation and to our families has become acutely highlighted. The deaths of prominent athletes due to drug use, the destruction of lives by new and more dangerous drugs such as crack and the ever-growing threat to our children from drug abuse, have all raised this issue to the national spotlight.

The omnibus drug package, H.R. 5484, that the House is considering today is a bipartisan effort to deal with the grave drug problem confronting this Nation. I am pleased to have contributed to this effort by authoring three provisions of H.R. 5484 during consideration of the drug package in the Ways and Means Committee. These provisions will prohibit the importation of drug paraphernalia; authorize a low-altitude detection system to combat the problem of low-flying aircraft at our borders; and increase fines and penalties associated with the importation of heroin, cocaine, PCP and LSD.

In a further effort to strengthen the war on drugs, I will offer an amendment today to ensure that an aviation pilot who participates in the transportation by aircraft of controlled substances will never legally fly again. Current law mandates that a pilot violating a State or Federal narcotic law can have his license revoked by the Federal Aviation Administration for a maximum of 5 years. My amendment would amend the Aviation Drug Trafficking Control Act of 1984 to require that the FAA Administrator shall not issue an airman certificate to any pilots who have violated a State or Federal narcotic law associated with aviation.

A large portion of the illegal drugs entering this country do so by air, and this amendment can assist in reducing this problem by sending a strong signal to pilots participating in aviation-related drug trafficking.

Mr. Chairman, as the Members are aware, I offered an amendment to the Ways and Means portion of the omnibus drug bill that would increase fines and penalties associated with importation of certain prohibited substances and expand definitions of several drugs. My amendment amended title III of the Comprehensive Drug Abuse Prevention and Control Act of 1970.

Although the jurisdiction over such an amendment to title III would seem to be under the juridiction of the Judiciary Committee, the jurisdiction of the Ways and Means Committee over the imposition of penalties for illegal import and export drug activity in title III is clearly documented in the report material from the 1970 act. I would like to insert for the RECORD at this time material from the report of the 1970 act; I also would like to insert a letter from the Ways and Means Committee to the Judiciary Committee on September 10, 1986, regarding this matter. I think the Members will agree that this material clearly states the jurisdiction of the Ways and Means Committee over all aspects of title III of the act.

Although the Judiciary Committee rightfully exercises the majority of jurisdiction over criminal penalties under the current committee system, the maintenance of Ways and Means jurisdiction over penalties and definitions in title III is prudent if only for the reason that revenues are involved.

I have worked with the Judiciary Committee to ensure that my amendment to the Controlled Substances Import and Export Act coincides with that committee's diligent efforts in crafting legislation to expand definitions of several drugs and to increase fines and penalties associated with illegal narcotics activities.

I do not wish to create an intercommittee dispute on this issue, but I do want the Members to recognize the jurisdiction of Ways and Means over the Controlled Substances Import and Export Act. The Parliamentarian has agreed with this assertion, and I think the Judiciary Committee and the Ways and Means Committee should be aware of this point during the consideration of this legislation and future measures.

COMPREHENSIVE DRUG ABUSE PREVENTION AND CONTROL ACT OF 1970

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H.R. 18583) to amend the Public Health Service Act and other laws to provide increased research into, and prevention of, drug abuse and drug dependence; to provide for treatment and rehabilitation of drug abusers and drug dependent persons; and to strengthen existing law enforcement authority in the field of drug abuse, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment strikes out all after the enacting clause and inserts a new text, which is set forth in italic in the reported bill.

PRINCIPAL PURPOSE OF THE BILL

This legislation is designed to deal in a comprehensive fashion with the growing menace of drug abuse in the United States (1) through providing authority for increased efforts in drug abuse prevention and rehabilitation of users, (2) through providing more effective means for law enforcement aspects of drug abuse prevention and control, and (3) by providing for an overall balanced scheme of criminal penalties for offenses involving drugs.

BACKGROUND

Titles I and II of the reported bill were the subject of hearings before the Subcommittee on Public Health and Welfare on February 3, 4, 17, 18, 19, 20 25, 26, and 27, and on March 2 and 3, 1970. Following the hearings, the subcommittee considered the legislative proposals before it during a total of 37 executive sessions, as a result of which a clean bill (H.R. 18583) was introduced incorporating revisions in the legislation before the subcommittee.

The legislation was further considered in executive sessions before the full Interstate and Foreign Commerce Committee on 8 occasions, and titles I and II were ordered reported to the House unanimously on August 14, 1970, together with title III incorporated in the bill pursuant to action of the Ways and Means Committee (as indicated below).

Legislation providing increased law enforcement authority in the field of drug abuse was transmitted to the Congress by the President on July 14, 1969. Because the proposed legislation repeals the tax laws and other laws under the jurisdiction of the Committee on Ways and Means used to control narcotic drugs, the President's message was at first referred to the Committee on Ways and Means. However, because the proposed legislation also deals with drugs regulated under the Federal Food, Drug, and Cosmetic Act, the proposed legislation was divided into two bills, H.R. 13742 (referred to the Committee on Ways and Means) and H.R. 13743 (referred to the Committee on Interstate and Foreign Commerce). The two bills were, in general, identical, except with respect to the drugs covered by their provisions, with H.R. 13742 being limited to narcotic drugs and marihuana (regulated today under the Internal Revenue Code of 1954 and other Acts), and H.R. 13743 being limited to drugs today regulated under the Federal Food, Drug, and Cosmetic Act.

Hearings were held on H.R. 13742 and H.R. 17463 (a bill combining the provisions of H.R. 13742 and H.R. 13743) on July 20, 21, 22, 23, and 27. Thereafter the Committee on Ways and Means decided to consider only the provisions relating to imports and exports of narcotic drugs, marihuana, and depressant and stimulant drugs and recommended to the Interstate and Foreign Commerce Committee an amendment to H.R. 18583 which is incorporated in the bill as title III thereof. The reported bill is based upon the provisions of the legislation heretofore discussed, with the form in which the bill is reported being designed to preserve the jurisdiction of the Ways and Means Committee over future amendments to this legislation relating to imports and exports of drugs covered by the bill.

By agreement between the Interstate and Foreign Commerce Committee and the Ways and Means Committee, the former committee will handle and have jurisdiction over titles I and II of the reported bill, and the latter will handle and have jurisdiction over title III of the bill, as set forth in the following letter from Chairman Mills to Chairman Staggers:

COMMITTEE ON WAYS AND MEANS,
HOUSE OF REPRESENTATIVES,
Washington, D.C., August 12, 1970.

Hon. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce, House of Representatives.

DEAR MR. CHAIRMAN: In accordance with our prior understanding relative to committee jurisdiction over the subject of narcotic and dangerous drug legislation, this letter is to advise you that the Committee on Ways and Means has completed action on its portion of the legislation to be reported to the House by the Committee on Interstate and Foreign Commerce.

I am authorized and directed by the Committee on Ways and Means to formally forward to you under cover of this cover of this letter the legislative language which is to be contained in title III of the comprehensive drug bill which will be reported by the Committee on Interstate and Foreign Commerce. This title III contains the matters over which the Committee on Ways and Means will have jurisdiction and is related to the subject of importation and exportation, and amendments and repeals of revenue laws. The short title for title III is the "Controlled Substances Import and Export Act."

There will also be forwarded to you appropriate report language relating to title III for you to include in the committee report which your committee will file on this legislation, in accordance with our understanding.[1]

Further, the Committee on Ways and Means will handle matters related to title III of the legislation before the Committee on Rules, and on the floor of the House of Representatives when the bill is considered by the House.

Sincerely yours,
WILBUR D. MILLS,
Chairman.

SUMMARY OF THE BILL

H.R. 18583, as reported, consists of three titles. Title I establishes rehabilitation programs relating to drug abuse; title II provides anthority for the Justice Department with respect to law enforcement aspects of control of drug abuse; and title III, as recommended by the Committee on Ways and Means, covers provisions relating to importation and exportation of drugs subject to abuse.

Title I: Rehabilitation.—The bill provides authority for the Department of Health, Education, and Welfare to increase its efforts in the rehabilitation, treatment, and prevention of drug abuse, through community mental health centers and through public health service hospitals and facilities. Over a 3-year period $75 million in increased authorizations are provided for community mental health center facilities to deal with narcotic addicts and drug dependent persons, $29 million is authorized for drug abuse education activities, and $60 million is authorized for special facilities in areas having percentages of narcotic addicts and drug dependent persons.

Increased research and training activities are authorized through the National Institute of Mental Health out of appropriations otherwise authorized for that institute. Section 4 of the bill would encourage treatment of narcotic addicts by individual physicians.

Title II: Control and Enforcement.—The bill provides for control by the Justice Department of problems related to drug abuse through registration of manufacturers, wholesalers, retailers, and all others in the legitimate distribution chain, and makes transactions outside the legitimate distribution chain illegal.

COMMITTEE ON WAYS AND MEANS,
Washington, DC, September 10, 1986.

Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to clarify the position of this Committee with respect to various amendments to the Controlled Substances Import and Export Act which are included in H.R. 5484, the Omnibus Drug Act of 1986. In an effort to expedite consideration of this important legislation, the Committee on Ways and Means has agreed to delete from its title of the bill certain provisions which are also included in the title reported by the Committee on the Judiciary. This decision does not necessarily preclude future Committee action or jurisdictional claims on these provisions. Amendments to this Act have been recognized in the past as matters within the jurisdiction of the Committee on Ways and Means. Any future decisions regarding appropriate referrals of these matters must be made by the Speaker according to applicable rules of the House.

The amendments in question would alter provisions of the Controlled Substances Import and Export Act to tighten certain prohibitions on the possession, manufacture, or distribution of narcotics for the purpose of unlawful importation. They also increase the minimum prison terms and fines for violations of such prohibitions. Because this Committee has jurisdiction over import regulations, it is clear that the prohibitions of this Act, which are enforced by the Customs Service, are properly within our jurisdiction. Naturally, the penalties imposed for violations of the Act are also within the jurisdiction of the Committee on Ways and Means.

I would like to reemphasize that our willingness to delete these amendments from our title of H.R. 5484 does not confer any exclusive jurisdiction in another Committee, and should not be considered a precedent. In fact, the Committee on Ways and Means reported a predecessor bill to Title III, H.R. 5410, which contained the penalty provisions. However, in the interests of promoting cooperation between our respective Committees and expediting this crucial legislation, we have agreed to resolve any jurisdictional conflicts on this particular bill.

I appreciate your cooperation and courtesy in this matter.

With warm regards, I am,
Sincerely yours,
DAN ROSTENKOWSKI,
Chairman.

□ 1430

Mr. DUNCAN. Mr. Chairman, I yield 2 minutes to the gentleman from Louisiana [Mr. MOORE], a valuable member of the Ways and Means Committee.

Mr. CHAIRMAN. Without objection, the gentleman from Louisiana [Mr. MOORE] is recognized for 2 minutes.

There was no objection.

Mr. MOORE. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, trade is a problem in this country right now, particularly unfair trade. What this section of the bill deals with is absolutely an intolerable situation that exists in trade. What we have right now are countries that are dealing legally, trading items, sending them to this country or selling them to us, and at the same time perhaps dealing illegally in selling drugs to the United States and getting away with it. That is an absolutely intolerable situation. We should not tolerate that 1 minute longer.

I want to compliment my colleagues on the Ways and Means Committee. We have brought to you a bill now that begins to shut that off. What it says is that if the President finds such a situation and that country is not cooperating with us in stopping the drug trafficking, we can take away from them their most-favored-nation status. We can take away from them their generalized system of preferences, both of which give them a favorable trade relation with the United States.

What that boils down to is that the President of the Untied States can double or even triple the tariffs on their goods coming into this country to get their attention.

I would have gone further. I would have absolutely gone for an embargo and shut them off completely, not let them trade in this country at all; but the practical effect of what the Ways and Means Committee has done is to make those goods coming into this country noncompetitive. They will not be able to sell them here if we double or triple the tariffs upon them. That is a good move, Mr. Chairman. We are moving to stop something that is absolutely idiotic and needs to be stopped. This situation where a country can sell legally to us on the one hand and illegally to us under the table, selling

[1] Report language referred to in this paragraph may be found on pages 71 through 80 of this report.

drugs in this country, poisoning our young people and our population, this bill will stop that. It is about time.

Mr. DUNCAN. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. HUTTO].

The CHAIRMAN. Without objection, the gentleman from Florida [Mr. HUTTO] is recognized for 2 minutes.

There was no objection.

Mr. HUTTO. Mr. Chairman, I rise in support of the Omnibus Drug Enforcement, Education, and Control Act.

This antidrug bill is the first comprehensive approach the Congress has ever taken to coordinate a nationwide war against drugs. Illicit drugs do indeed constitute the Nation's biggest social problem. The drug war is clearly a national security priority and, as some have said, our Nation's first line of defense.

As a member of the Armed Services Committee and Merchant Marine and Fisheries Committee, and as one of a handful of House and Senate Members who wrote to the Secretary of Defense a couple of years ago asking that a special wing be created for drug interdiction, I strongly support the provisions that authorize funding for the Defense Department to procure antidrug equipment to help in the interception and interdiction of illegal drug shipments inbound to the United States. The bill will also increase Coast Guard authorization for more personnel and equipment to stop the flow of illegal drugs into this country and assigns Coast Guard personnel to Navy ships to make arrests in drug smuggling areas.

The magnitude of the drug problem is frightening, and it is escalating at totally unacceptable levels. It is so massive that we can only grossly estimate what the total sales of illegal drugs is. Even with our recent stepped-up efforts to interdict and intercept illegal drugs, it is likely that less than 10 percent entering the country are ultimately confiscated. Then, we have the costs of this illegal trade in social and economic terms, which are devastating.

This bill, with its sweeping approach involving 12 separate House committees and the drug enforcement efforts by Federal, State, and local authorities, provides the best news for all Americans concerned with the inherent dangers of illegal drugs in our homes, our schools, in our workplaces, and on the street corners.

I strongly urge the passage of this bill.

Mr. DUNCAN. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from Tennessee has 4½ minutes remaining.

Mr. DUNCAN. Mr. Chairman, I reserve my 4½ minutes.

Mr. LEWIS of California. Mr. Chairman, I will reclaim the balance of the time.

Mr. GIBBONS. Mr. Chairman, I yield 2 minutes to the gentleman from Oklahoma [Mr. ENGLISH].

The CHAIRMAN. Without objection, the gentleman from Oklahoma [Mr. ENGLISH] is recognized for 2 minutes.

There was no objection.

Mr. ENGLISH. Mr. Chairman, I want to commend the Ways and Means Committee and also to thank them. They included most of the provisions in an earlier measure that I had, H.R. 5267.

This particular measure, I think, really addresses three problems that we have as far as the war on drugs is concerned. First of all, it has to do with flying time. I think most people are not aware of the fact that we only provide enough gas and oil and personnel to fly these aircraft for 8 hours a day, 5 days a week. That means that two-thirds of the time, even on the days they are flying, there is nothing up there, a complete void, nobody there, nobody at home, and on 2 days of the week there is absolutely no one there 24 hours a day, nothing at all.

Is it any wonder then that the overwhelming majority of these 18,000 flights a year that are coming into this country get through? I think not. The Ways and Means Committee has plugged that gap. They have provided them so that they can go 16 hours a day, 7 days a week. There will not be a day left in which a smuggler can come through and feel safe that there will not be someone up there checking.

Second, it has to do with the issue of interceptors. We heard from the gentleman from California earlier about the west coast, and he has had 30 airplanes a month coming through there and not caught a single one. The reason is because he does not have a single interceptor out in the San Diego region.

In fact, we look at the eight air support branches across the Southern part of the United States and we find that three out of those eight do not have a single interceptor, and most only have one. When those interceptors go in for maintenance, obviously there is no one there at all.

Third, it has to do with command and control. We find that much of the effort taking place across the United States is cowboy style. Everybody gets in an airplane and they go up to see if they can see anybody that looks suspicious, and you are on your own, you are out chasing. There is no command and control of the assets and resources across the entire United States as we try to shift and pick up the trends as the smugglers move from one region to the other seeking the most vulnerable parts of this protection and coverage that we have.

This particular legislation provides for command and control. For once, we are going to be able to pull together and utilize the resources and assets not just of the Customs Service or the Coast Guard, but also State and local law enforcement agencies, the military, as well as the FAA. We are going to be able to bring the resources of the United States to bear on these smugglers as they move across these regions.

That is what I find so hopeful and promising about this piece of legislation. It knits together the entire war on drugs. It is for the first time in the history of this Nation an honest to goodness war on drugs.

Mr. DUNCAN. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. SCHULZE].

The CHAIRMAN. Without objection, the gentleman from Pennsylvania [Mr. SCHULZE] is recognized for 2 minutes.

There was no objection.

Mr. SCHULZE. Mr. Chairman, I thank the gentleman from Tennessee.

Mr. Chairman, today we have before us omnibus legislation designed to help America start winning a war which we have been losing for some time, the war against drugs.

I support this measure, but not without some concern. My concern is based on the basic fact that this body has put together a $2 billion package in just a few weeks expecting it to cure a disease which has been eating away at our Nation for decades.

We are probably fooling ourselves in thinking that this bill will wipe out illicit drug trafficking and drug abuse in this country. Whether it be $2 billion or $50 billion our society will have great difficulty in stopping the supply of drugs. It takes no education, no skills and is highly rewarding to those who distribute drugs. There will always be those willing to risk losing their liberty by smuggling several pounds of cocaine for several millions of dollars.

I am not without hope, however. While the provisions of this omnibus legislation may make a dent in the overall problem, my main hope rests in educating the very young. Amazingly, the decision on whether to use or not use drugs begins at the very early age of 11½ years. What this Nation must do is to inculcate those from kindergarten through sixth grade on the absolute devastation using drugs causes. We need to demonstrate the evils of drugs by setting role models for these kids during the formative stages of their lives, before their peers tell them otherwise.

Of course, other steps need to be taken as well. Tougher enforcement, increased penalties, proper treatment and cooperation among nations. But unless we teach our children and our

children's children of the evils of drugs, the battle will forever be lost.

Mr. DUNCAN. Mr. Chairman, I yield the balance of my time, 2½ minutes, to the gentleman from Illinois [Mr. CRANE].

The CHAIRMAN. Without objection, the gentleman from Illinois [Mr. CRANE] is recognized for 2½ minutes.

There was no objection.

Mr. CRANE. Mr. Chairman, on the face of it, the omnibus drug legislation we have before us, H.R. 5484, has a noble purpose: "* * * to respond to the serious problem of illegal drug smuggling and the growing threat to this country from foreign-sourced drug production." There is no question that I, like the majority of American citizens, believe that we must do more as a country to address this most pressing issue. But while I wholeheartedly support the intent of the legislation, I have serious concern that the budgetary, policy, and resource implications have not been adequately taken into account. In my view, it is fiscally irresponsible to increase spending, as the bill would do in many ways, without a complete evaluation of how those tax dollars will be used.

Specifically, early in calendar year 1985, the Customs Service was operating under a hiring freeze. For fiscal 1986, the Customs Service presented a budget to the Ways and Means Committee that represented a very slight increase over fiscal year 1985. Although the Customs Service testified that they could fulfill their responsibilities based on this budget, the Congress has appropriated $717 million thus far in fiscal 1986 for the Customs Service. To put this in perspective, it represents an 11-percent increase from fiscal 1985.

H.R. 5484 also contains an authorization for the Customs Service of $1.3 billion in fiscal year 1987 to maintain existing programs and significantly expand drug interdiction efforts. This is an increase in their budget of 45 percent in 1 year. It is totally unrealistic to think additional programs of that magnitude can be brought on line so rapidly. If we are serious about effective drug enforcement we should spread this money over 3 years and see that new equipment and procedures are effectively implemented.

Once again Congress is pouncing on a severe problem with the politically popular but fiscally irresponsible approach of authorizing huge increases in expenditures before reviewing resources that are already available. We have devoted very little time to thoughtful consideration of this legislation.

Coordination and cooperation among the various agencies responsible for drug interdiction is essential for mounting a credible threat against the problem. Right now responsibility for drug interdiction is divided up among the Coast Guard, the Drug Enforcement Agency, the Customs Service, and the various services of the Department of Defense.

I think it is clear that these agencies fail to gather and share information collectively. The Committee on Government Operations reports that almost all coordination of communication between the Department of Defense and the civilian law enforcement agencies mentioned above takes place on a "case-by-case request basis" with little or no orchestration of efforts. As is often the case among agencies with similar responsibilities, more energy seems to be devoted to trying to claim credit for successful interdictions, than to coordinate the use of scarce Government resources.

In my view, many issues should be addressed ahead of funding increases. For example, how much of the air interdiction program could be handled by the military? Could not aircraft in simulated training missions be utilized more often for air interdiction in conjunction with their training? The military controls many assets that could be of great help in the war on drugs if there was a way to mesh its efforts together with those of the service and integrate missions into a coordinated system.

In another instance, we have not adequately reviewed where the customs marine interdiction program fits into the border law enforcement picture. Obviously, the Coast Guard also has important responsibility in this area. We should try to avoid competing independent efforts, and instead, promote cooperative use of resources that can effectively combat the drug problem. In my view, it is the Congress' duty to resolve these conflicts before approving such a hearty increase in the expenditure of tax dollars.

Later in the debate, I will offer two amendments to the Customs Service portion of the bill that I believe will improve the bill's chances for effective implementation. I urge my colleagues to support my amendments to spread new customs authorizations over a 3-year period, and to maintain the Customs Forfeiture Fund criteria as they exist in the recently enacted statute. These amendments will help to ensure effective drug control under a reasonable budget.

□ 1445

I think with the title III provisions which the Committee on Ways and Means had some jurisdiction over that amendment, coupled with another one that I have dealing with the Customs Forfeiture Fund, will greatly strengthen and enhance the quality of the bill.

Mr. GIBBONS. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. BENNETT].

The CHAIRMAN. Without objection, the gentleman from Florida [Mr. BENNETT] is recognized for 2 minutes.

There was no objection.

Mr. BENNETT. Mr. Chairman, I congratulate the gentleman from New York [Mr. RANGEL], the Speaker, the majority leader, the minority leader, and all the others who have made such a wonderful contribution in this legislation.

Mr. Chairman, a few years back I lost my eldest born son to drugs, so I am a person who speaks from the heart and with great enthusiasm about doing something constructive in answering the problems of this terrible situation in our country today.

The real reason that I asked to speak at this particular moment is that earlier on there were some things said about the amendment which I expect to offer that were I think a little out of context.

The amendment which I expect to offer is one which passed the House of Representatives by a vote of 364 to 51. It is a very strong amendment, but it does protect against the military taking over civilian activities.

First of all, it says that the Attorney General shall certify that there are insufficient law-enforcement resources to have the military get into it at all, and second, it says that assistance has to be approved by the Secretary of Defense, and with the concurrence of the Secretary of State. Then it says that Federal drug enforcement officials maintain control over the activities and direction of any drug enforcement operation.

Finally, it says nothing in this subsection shall transfer the responsibility for enforcement of this to the Department of Defense.

So this is not a question of the military taking over a civilian activity, it is a question of the military being used by the civilian activity to enforce the law.

There is nothing new about this. President George Washington in 1794 used the military to put down the Whiskey Rebellion in Pennsylvania. President Eisenhower used it to integrate the schools of Little Rock. President Kennedy and Lyndon Johnson and others did the same sort of thing.

My amendment merely releases the heavy hand of the comitatus law so that the defense assets can be used by the civilians, and that is a proper thing. That is not the banana republic aspect. This is not the military taking over the civilian activities; it is the civilians using military assets.

Mr. RANGEL. Mr. Chairman, I yield 10 minutes to the gentleman from Massachusetts [Mr. STUDDS], who is representing the Committee on Merchant Marine and Fisheries on title IV.

Mr. STUDDS. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I am a cosponsor and strong supporter of the Omnibus Drug Enforcement, Education and Control Act of 1986.

No one can claim that passage of this legislation will eliminate the drug problem, but it does reflect a strong and serious response to a crisis that intimately and harmfully affects the lives of millions of American families, and that saves its greatest damage for the young.

The fight against illegal drugs is a marathon, not a sprint. The key to success will be persistence in educating the American people about the hazards of drug abuse, in reversing the peer pressure that encourages drug experimentation, in providing incentives for those now involved with drugs to go drug-free, and in making it more difficult to profit from trafficking in drugs.

The proposal before us today will make a difference, but only if—after approval by the House—it is also approved by the Senate, and signed by the President, and implemented through the appropriations process, and if the appropriations process is not then subverted by the Gramm-Rudman-Hollings law. In this sense, the bill constitutes a litmus test for the White House and for others who have talked and talked and talked about the drug crisis, but who have also cut and cut and cut the budgets of the agencies charged with bringing this problem under control.

Because people care deeply about the drug problem, and because of the publicity surrounding recent tragedies stemming from drug abuse, this issue has become fertile ground for political folderol and hype.

But to those seriously concerned, neither drug abuse nor law enforcement are or ought to be considered partisan issues. As chairman of the Subcommittee on Coast Guard, I have worked closely with Members from both parties, and from all regions of the country, to make certain that the Coast Guard would have the tools it must have if it is to serve our country effectively. There is, after all, nothing partisan about a Coast Guard helicopter or patrol boat, or about the courage of the men and women who risk their lives daily in that service.

In developing its recommendations for this bill, the goal of the Committee on Merchant Marine and Fisheries has been to bolster maritime drug interdiction efforts without requiring cutbacks in other Coast Guard missions. The Coast Guard should never have to choose between busting a drug smuggler and saving a fisherman or a family in danger at sea. The Coast Guard is expected to perform both missions, and it should have the resources required to do so.

The recommendations developed by our committee are incorporated in the bill as title IV, and would authorize $118 million in 1987 and $143 million in 1988 to:

Increase the military strength of the Coast Guard by 1,500, thereby restoring cuts made since the Reagan administration took office in 1981; and to authorize the purchase of secure communications and radar equipment required to improve the effectiveness of drug law enforcement operations.

Permit the operation by the Coast Guard of long-range air surveillance planes, if made available by the Navy, for the purpose of maritime air surveillance over the high seas;

Provide air-to-air search radar, night-vision equipment and other spare parts for eight Coast Guard falcon jets to enable them to assist in maritime air surveillance and interdiction operations; and

Procure, upgrade, and operate a system of sea-based aerostats capable of both surface and air surveillance in support of the drug interdiction mission.

Given the scope of the problem and the level of concern that exists with respect to the use of illegal drugs in this country, the proposal put forward by our committee is extremely modest. It states simply that if you are serious about waging a war on drugs, you do not cut 1,500 military personnel from the Coast Guard—which the administration has done; you do not continue to permit Coast Guard communications to be open to whomever happens to feel like listening in; and you make an effort to stop those bringing in drugs by air, as well as those coming by sea.

Title IV of the bill states that—given adequate resources—the Coast Guard is the agency of the Federal Government that is best qualified to carry out drug interdiction and law enforcement operations upon the high seas and waters over which the United States has jurisdiction, and to carry out maritime air surveillance operations over the high seas to the extent required to support drug law enforcement operations in the United States. That sounds like simple common sense, except that some have taken it into their heads that the Air Force, or the Navy, or the Customs Service are somehow better qualified to carry out high seas maritime surveillance and interdiction operations than is the Coast Guard. That is not true, and this legislation says that it is not true.

Unlike the other armed services, the Coast Guard has a domestic law enforcement function that traces back to the founding of the Revenue Cutter Service, during the first years of our Nation's history. Those calling for the Navy or Army or Air Force to move beyond a support role to direct frontline involvement in the battle against drug abuse seem to forget, first of all, the importance of the other missions performed by those services, and second, the difficulties involved in carrying out law enforcement operations in a professional manner. Law enforcement is not a job for amateurs; without specialized training, mistakes will be made, innocent people will get hurt, and—due to procedural errors—convictions in court will be rare.

Those seeking to vastly expand mili tary involvement in drug law enforcement need look no further than the Coast Guard, the only institution that is already both a law enforcement agency and a uniformed military service.

Title IV of the bill also states that:

> Nothing in the Omnibus Drug Enforcement, Education and Control Act of 1986 shall require the Coast Guard to recruit, compensate, train, purchase or deploy any personnel or equipment except to the extent that additional appropriations are made available, in appropriations acts, for that purpose.

This provision is necessary to make certain that requirements imposed by other titles of the bill will not cause the Coast Guard to divert existing resources from current missions. Title XI, for example, seeks to require the Coast Guard to assign and maintain a certain number of patrol boats in the Virgin Islands, Guam, and the Northern Mariana Islands. Title IV makes it clear that this requirement must only be fulfilled if additional funds are made available, through appropriations acts, for this specific purpose.

I am pleased by the contribution that our committee has made to this legislation, and I salute, in particular, the chairman of the full committee, Mr. JONES of North Carolina, and the ranking minority member, Mr. DAVIS of Michigan.

I urge Members to support the omnibus antidrug bill as it has been brought to the floor, to reject divisive or mischievous amendments, and to encourage prompt and favorable action in the other body.

Mr. LEWIS of California. Mr. Chairman, I yield 10 minutes to the gentleman from Michigan [Mr. DAVIS], the ranking minority member of the Committee on Merchant Marine and Fisheries.

Mr. DAVIS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of the Omnibus Drug Enforcement, Education, and Control Act of 1986.

We have maintained a national effort to control drug abuse in this country for some time. However, it has become clear that these efforts have not been able to reverse the increasing use of drugs in this country. It seems that it is only the popularity of different drugs that has changed.

Where drug use was considered a problem of the poor or maladjusted among our citizens, today it is a fact of life throughout our society. Our children are using drugs with frightening regularity. For many it is considered recreation. But there is nothing playful about the tragic consequences of drug abuse.

What we have before us today is an extraordinary effort, to have an effect on this disastrous turn of events in our Nation's history. We cannot pretend that this legislation, or any legislation in itself, will solve the problem. But we have to try. We know that we need better education. We know that we need better interdiction. We know that we need better enforcement. These are things we have to do just to begin.

Title IV of this bill contains the work of our committee in an effort to see that the Coast Guard has the equipment, manpower, and funding to do its part in this effort. It is important that the Coast Guard maintain the ability to fight the war on drugs, but not at the expense of its other missions—search and rescue, fisheries enforcement, or military readiness, for example.

Title IV would provide the Coast Guard with $118 million in fiscal year 1987 and $143 million in fiscal year 1988 for:

One thousand five hundred additional military personnel it desperately needs.

Secure communications equipment. Unbelievably, one of the Coast Guard's major interdiction problems is that smugglers are listening to Coast Guard radio communications.

Air-to-air search radar, night vision equipment, and spare parts for eight Coast Guard falcon jets.

Procurement and operation of sea-based aerostats for both air and surface surveillance.

As reported by our committee, the legislation included funding for the operation of Navy aircraft if made available to the Coast Guard. That funding does not appear in this package. Whether the Coast Guard will get this aircraft is, I believe, still under consideration. I feel very strongly that the Coast Guard should be allowed to take the lead in air interdiction over the high seas and waters under the jurisdiction of the United States. This is a policy decision that as yet has not been made by this administration. It is a decision which needs to be made and, as I understand it, this legislation directs the National Drug Enforcement Policy Board to make that determination. I hope the decision will be made in a rational manner, after careful consideration of the resources and capabilities of the Coast Guard, and its unique position as a military force with domestic law enforcement missions.

Sections 304 and 307 of the proposed bill amend customs law to clarify and strengthen reporting requirements for those arriving in the United States. A concern has been expressed by some Members about the applicability of these requirements—in particular, those contained in section 307 (amending 19 U.S.C 1459)—to the operators of recreational vessels.

Further, a technical amendment to section 12109 of title 46, United States Code, is to be adopted. This addition to the shipping laws is merely to give notice that, although documented recreational vessels are exempt from entering or clearing with the Customs Service, all other applicable customs regulations must be met. In particular, the requirement to report an arrival as contemplated under sections 304 and 307 of this bill applies. The paperwork of entering and clearing with customs is designed primarily for commercial vessels and is therefore unnecessary and inconvenient for recreational boaters. The exemption in section 12109 in no way detracts from the law enforcement capability of the Customs Service.

The authors of this language note that the reporting requirements of the bill—including all of those applicable to recreational boaters—are to be determined through regulations issued by the Secretary of the Treasury and that the Secretary has sufficient discretion in developing these regulations. Accordingly, we expect these regulations to produce a reporting system that will be enforceable and that will be applied appropriately and sensibly to those subject to its requirements. We do not expect, for example, that recreational boaters returning from a day trip or other brief excursion to a foreign port will ordinarily be required to report in person to a customs facility, or that obtaining authorization for these boaters to depart their vessel will prove to be a complicated or burdensome endeavor.

The overall purpose of these amendments is to strengthen the hand of the Customs Service in carrying out its drug law enforcement program. Any additional reporting requirements or enforcement measures should be developed and implemented for that purpose, keeping in mind the convenience and the need for continued cooperation and good will on the part of the innocent majority.

Finally, Mr. Chairman, I would like to commend our chairman, Mr. JONES, and the chairman of the Coast Guard Subcommittee, Mr. STUDDS, for their extraordinary efforts to bring to this package the unanimous recommendations of our committee.

□ 1455

Mr. Chairman, I yield 2 minutes to my good friend, the gentleman from Texas, Mr. JACK FIELDS.

The CHAIRMAN. Without objection, the gentleman from Texas [Mr. FIELDS] is recognized for 2 minutes.

There was no objection.

Mr. FIELDS. Mr. Chairman, I rise in strong support of the spirit and intent of H.R. 5484, the Omnibus Drug Act of 1986.

I agree that an all-out war on drug trafficking and drug abuse is the only way that the United States will be able to gain at least a modicum of control over the situation that threatens national security. I am an advocate of strengthened law enforcement and drug interdiction measures. I am pleased to see in this package before us that we will provide the necessary tools to the various law enforcement agencies to be more effective, such as those contained in the provisions of the Merchant Marine and Fisheries Committee, of which I am a member.

I also agree that critical to the success of a comprehensive drug control program is the realization that the demand for drugs must be diminished and, hopefully—finally, eradicated. Toward that end, I support the intent of the provisions of the Committee on Energy and Commerce, also of which I am a member. It is incumbent upon us in Congress, the President, State, and local officials, teachers, health professionals, parents, and friends, to use our influence—to spread the word that drug use is not acceptable.

Employers must tell employees that drug use will not be tolerated because it interferes with productivity. The United States' economy cannot afford to have its productivity crippled. Our inaction is tantamount to tacit approval of drug use. We must acknowledge our responsibility to say no to drugs. If an employee refuses to say no, the employer must say no for him or her.

Parents and teachers must educate our children that drug use is dangerous and wrong. Drug use by our young people only serves to guarantee a life of mediocrity. Drug use diminishes mental capacity and functioning and physical stamina. Furthermore, drug use arrests emotional development and sentences our youth to a life characterized by the inability to cope with life's situations. Instead, let's arrest and sentence drug pushers before they have the chance to peddle their poison.

Perhaps most important and most effective, friends should tell friends that they do not accept their drug use. Peer pressure and positive example often prove to be more effective in stifling drug use than negative example, horror stories, and preaching. Friends need to tell friends that they do not like to be around them when under the influence of drugs. Friends need to be told that they must seek help with their problem or they will find themselves without friends, without family,

without employment, without a prayer.

Although I generally support a very limited role for the Federal Government in education, I believe the drug abuse crisis is a national problem which necessitates a national response. The realization that intensified efforts in interdiction, traditionally a Federal responsibility, is not enough to eradicate the drug abuse crisis, leads me to support increased Federal activity in drug abuse education and prevention.

I am pleased to be able to say that I serve on two committees which address the drug abuse crisis from the supply and demand perspectives. The Merchant Marine and Fisheries Committee provisions of H.R. 5484 will serve to improve air surveillance and drug interdiction on the high seas. The provisions enable the Coast Guard to draw on the expertise and sophisticated equipment of the U.S. Armed Forces.

Although I and my Republican colleagues voiced reservations about the Energy and Commerce Committee provisions during committee consideration, I support the intent of those provisions. Prevention, treatment and rehabilitation are critical to a successful comprehensive drug control program. However, I have some concern that the provisions as reported by the Energy and Commerce Committee somewhat overlap other provisions or duplicate current efforts by other responsible bodies.

I am not opposed to an infusion of new funds where needed for this cause, and they definitely are needed for the end purposes as stated by the committee. But, I am opposed to spending that money inefficiently. The creation of more bureaucracy, which Energy and Commerce proposes to do, is, in my estimation, spending money inefficiently.

Given the extent of this drug abuse crisis and the severe limitations on Federal resources, we cannot afford inefficiency and ineffectiveness. Therefore, I will support amendments that will be offered to the Energy and Commerce provisions to ensure the more effective expenditure of Federal funds.

Mr. Chairman, again I support this legislation in principle, although I am not happy with all of the provisions. The foreboding situation our Nation faces forces us to act now, and that I am confident we will do concertedly.

Mr. STUDDS. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. WOLPE].

The CHAIRMAN. Without objection, the gentleman from Michigan [Mr. WOLPE] is recognized for 1 minute.

There was no objection.

Mr. WOLPE. Mr. Chairman, I rise today in strong support of the omnibus antidrug legislation that is before us.

What we want and what we need is a tough and comprehensive drug policy that will protect all of us from the insidious threats of drug use and drug addiction. We want a policy that will get the pushers out of our schoolyards and drugs off of our streets.

Headline grabbing gimmicks like drug tests for the President's Cabinet members are, frankly, a tragic hoax. What we need today are drug education and treatment programs, increased penalties for drug traffickers, more aggressive enforcement of antidrug laws and improved interdiction activities at our Nation's borders.

This bill provides all of these important reforms and more and its passage is essential to removing the blight of drug use and drug addiction from our homes, our schools, and our neighborhoods.

Mr. EDWARDS of California. Mr. Chairman, will the gentleman yield?

Mr. STUDDS. I yield 1 minute to the gentleman from California [Mr. EDWARDS].

The CHAIRMAN. Without objection, the gentleman from California [Mr. EDWARDS] is recognized for 1 minute.

There was no objection.

Mr. EDWARDS of California. Mr. Chairman, I rise to ask the gentleman from Massachusetts [Mr. STUDDS] a question and to clarify one point with the gentleman.

Mr. Chairman, section 403 of title 4 amends section 89 of title 14, United States Code, to provide that Coast Guard officers shall arrest any individual when it is indicated that a violation of the laws has been committed. Am I correct that arrests under this section must be based on the constitutional predicate of probable cause?

Mr. STUDDS. Mr. Chairman, if the gentleman will yield, the gentleman is correct. Probable cause is required for an arrest of an individual, just as it is required for seizure of a vessel or aircraft under subsection (b)(2) of section 89.

Mr. EDWARDS of California. I thank the gentleman.

Mr. DAVIS. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. OXLEY], who is a member of the Select Committee on Narcotics.

The CHAIRMAN. Without objection, the gentleman from Ohio [Mr. OXLEY] is recognized for 2 minutes.

There was no objection.

Mr. OXLEY. Mr. Chairman, as a member of the committee, many of us, myself included, had an opportunity to go to south Florida not too long ago to witness the efforts by the Coast Guard and the Navy in the drug effort by the Vice President's task force down there.

One of the things that struck me when we had a chance to visit was the apparent inability to control some of the flow of illegal drugs by those two components, the Coast Guard and the Navy. We saw it with our own eyes. We did see an opportunity for the Coast Guard to christen two new cutters that were used in the drug trade and that have been very effective, but from a manpower standpoint, it was very difficult.

I am pleased to know and discover that in this legislation, we have increased the amount of money available to the Coast Guard and in allowing our military to be more involved, not only in south Florida, but throughout the areas where the drugs are the most prevalent.

This will give them, in my estimation, the tools that we have to have. The Coast Guard kept emphasizing to our committee and to the Members down there that this is what they needed. They did not want necessarily to be pleading for more money, but it was very clear when we interviewed those people down there and saw what they were up against on a day-to-day basis what they needed.

In one example we saw down there, a truck that was parked along the coast was used to fill up illegal drugs. When the truck box was filled up, it was ultimately taken to Miami.

We asked them how often they filled that truck up to be taken to Miami to be incinerated and they said once a week. That was just from one area down in the Keys as to how much drugs were taken out of there and taken up to Miami to be incinerated.

That gave us some idea about the vastness of the drug problem in the south Florida task force. I do want to speak in strong support of this legislation.

Mr. STUDDS. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. WEISS].

The CHAIRMAN. Without objection, the gentleman from New York [Mr. WEISS] is recognized for 1 minute.

There was no objection.

Mr. WEISS. Mr. Chairman, I thank my distinguished friend, the gentleman from Massachusetts [Mr. STUDDS], for his courtesy in yielding this time to me, and I want to compliment the leadership of the House for moving forward so expeditiously with this omnibus antidrug legislation.

I have been involved in efforts to fight drug abuse and illegal trafficking of drugs for over 30 years, starting as a young prosecutor in New York. I have never, in all that time, seen as much concern on the part of the people of the city of New York, and especially in my district, which is being made up of a large number of small communities in many ways equivalent to small towns, regarding the devastation that is being wreaked upon the people, and

especially the younger people, because of the abuse of illicit drugs.

So it seems to me that this effort is not only well-intended, but it is absolutely essential. We simply cannot allow the continued destruction of so many lives.

What is important to note about this bill is the comprehensive approach it takes. Education and rehabilitation are as important components as the various aspect of law enforcement.

Narcotics abuse is a complex problem and this legislation attempts to deal with its complexities.

□ 1505

I fervently hope that in the course of the amending process that we do not see the adoption of mischievous amendments which in fact will negate our efforts and which may make it impossible to support the amended version of the bill.

Members should not be forced to choose between fighting the drug menace, upholding the Constitution or violating basic moral principles.

Mr. STUDDS. Mr. Chairman, I yield myself the balance of the time on this side.

Mr. Chairman, no one can claim that passage of this legislation will eliminate the drug problem, but it does reflect a strong and serious response to a crisis that intimately and harmfully affects the lives of millions of American families, and that saves its greatest damage for the young.

The fight against illegal drugs is a marathon, not a sprint. The key to success will be persistence and educating the American people about the hazards of drug abuse, in reversing the peer pressure that encourages drug experimentation, in providing incentive for those now involved with drugs to go drug free, and in making it more difficult to profit from trafficking in drugs.

The proposal before us today will make a difference, but only if after approval by the House it is also approved by the Senate and signed by the President and implemented through the appropriations process and if the appropriations process is not then subverted by the Gramm-Rudman-Hollings law.

In this sense, this effort constitutes a litmus test for the White House and for others who have talked and talked about the drug crisis, but who have also cuts and cut the budgets of the agencies charged with bringing this problem under control.

Because people care deeply about the drug problem and because of the publicity surrounding recent tragedy stemming from drug abuse, this issue has become fertile ground for political and Federal hype.

To those seriously concerned, neither drug abuse nor law enforcement are or ought to be considered partisan issues.

As chairman of the Subcommittee on the Coast Guard, I have worked closely with Members from both parties, and from all regions of the country, to make certain that the Coast Guard would have the tools it must have if it is to serve our country effectively.

There is, after all, nothing partisan about a Coast Guard helicopter or patrol boat, or about the courage of the men and women who risk their lives daily in that service.

Mr. Chairman, let me just finally say that I doubt that there is dissent, at least in the absence of controversial amendments; I doubt that there is dissent about the thrust, the contents, and certainly not about the intent of this bill.

I should also like to reiterate that passage of this bill will not solve the problem. This is an authorizing bill. There are real dollars that are needed, and those dollars I frankly do not know where they are going to come from given the budget process under which we are operating at the moment.

If in the remaining time there are Members who would care to enlighten this Member, how, given the constraints of Gramm-Rudman and other things under which we have operated here for the past few months we are going to find this money, I would be interested to hear it. I hope that we can.

Mr. Chairman, I yield back the balance of my time.

Mr. JONES of North Carolina. Mr. Chairman, in response to a request by the Speaker and Minority Leader MICHEL, the Committee on Merchant Marine and Fisheries has reported H.R. 5406, to be used as its portion of the omnibus antidrug bill. Our portion of the bill was developed in a true bipartisan fashion and is included as title IV of the omnibus bill, H.R. 5484 which we debate today. Title IV focuses on areas within the jurisdiction of our committee, most specifically on the responsibilities of the U.S. Coast Guard.

Currently, the imbalanced between the responsibilities placed upon the Coast Guard and the resources which it has been given to perform those duties has hindered the Coast Guard in the performance of its missions. To counter this situation, title IV enables the Coast Guard to enhance its drug interdiction efforts without compromising its ability to perform its more traditional and equally important responsibilities such as vessel safety and fisheries enforcement.

To that end, the legislation authorizes $118 million in additional funding for the Coast Guard in fiscal year 1987 and $143 million in fiscal year 1988. These funds will be used for the following purposes:

Provide for the recruitment of 1,500 additional military personnel, restoring personnel levels to what they were in 1981. Most of the additional personnel will be assigned to patrol boats thereby allowing for two-man boarding parties while leaving two personnel on board to operate the patrol boat. Additional remaining personnel would be used for the cooperative effort between the Coast Guard and the Navy to place Coast Guard boarding teams [TACLETS] on appropriate Navy vessels.

Purchase secure communications equipment to eliminate unauthorized monitoring of Coast Guard communications.

Install improved radar equipment in existing Coast Guard aircraft.

Procure six sea-based aerostats for long range surface radar surveillance, as well as the upgrading of existing aerostats, and

Provide for necessary funding to operate and maintain surveillance aircraft in the event that the Coast Guard is properly deemed responsible for maritime air surveillance.

Central to our title is a provision which states that:

Nothing in the Omnibus Drug Enforcement, Education, and Control Act of 1986 shall require the Coast Guard to recruit, compensate, train, purchase, or deploy any personnel or equipment except to the extent that additional appropriations are made available, in appropriations acts, for that purpose.

This language is included to insure that the Coast Guard will never be placed in the position of having to choose between its important role of saving lives at sea and that of halting the flow of illegal drugs onto our Nation's shores.

The committee believes that its contribution to H.R. 5484 will properly man and equip the Coast Guard in order to fight and to win its battles in this all too deadly war.

Mr. DAVIS. Mr. Chairman, I yield back whatever time I have left to the manager of the bill on our side, the gentleman from California [Mr. LEWIS].

Mr. RANGEL. Mr. Chairman, I yield 15 minutes to the gentleman from Rhode Island [Mr. ST GERMAIN], the chairman of the Committee on Banking, Finance and Urban Affairs.

Mr. ST GERMAIN. Mr. Chairman, drug trafficking—from the street corner to the international crime syndicates—depends on access to this Nation's legitimate financial institutions.

H.R. 5176, as reported by the Banking, Finance and Urban Affairs Committee and incorporated in this omnibus package, slams the door shut on the use of banks and other financial institutions to launder funds derived from drug trafficking.

No longer would we allow banks to be laundromats for organized crime.

Mr. Chairman, we're not talking about your 75-cent laundromat. We're talking about a $50 to $60 billion a year habit—the amount of illegal money laundered through financial institutions annually.

Organized crime and drug dealers must be able to wash their dirty money and slip it into other channels of commerce undetected. Without this access to the American financial system, organized crime is crippled and its activities laid open to law enforcement agencies.

The legislation reported by the Banking Committee puts the full force of the financial regulatory agencies, the Treasury Department, the Justice Department, and, yes, the banking industry against these criminal elements.

Mr. Chairman, 16 years ago, I participated in the successful passage of the Bank Secrecy Act which has provided a paper trail to assist law enforcement agencies in tracking drug operations and other criminal activity.

Unfortunately, this act has been poorly enforced and that is why the legislation reported by our committee overhauls, expands, and strengthens the compliance and enforcement procedures.

The bill would send the money launderers to jail and fine them as much as $1 million. It would also provide for seizure of cash or property of any person who participated in a scheme to willfully evade the reporting requirements.

The legislation would require financial institutions to establish and maintain specific procedures for compliance with the currency reporting law and would authorize the regulatory agencies to use cease and desist powers and civil money penalties to require institutions to comply.

We also strengthen change in bank control statutes to assure there is a full investigation of the background of persons seeking to acquire financial institutions.

In addition to preventing organized crime from laundering funds in the front lobby, we must make certain we don't let this element come in through the back door as owners of these institutions.

The legislation also authorizes the Secretary of the Treasury to issue summons for documents and testimony to obtain evidence of money laundering. The current law requires all transactions of $10,000 or more to be reported, but our bill would authorize the Secretary of Treasury to lower that amount if required to prevent money laundering in any area of the Nation.

Mr. Chairman, the Banking Committee's section of this legislation is the product of long years of oversight of the Bank Secrecy Act, investigative hearings involving such celebrated cases as the criminal charges against the Bank of Boston, staff studies and consultations with Members of Congress, regulatory and law enforcement agencies across the Nation. I feel very good about the legislative product that we have brought to the House and I am confident that it provides significant new tools and sharpened weapons in the war against drug trafficking—a war that must be won unconditionally.

Mr. Chairman, the Committee on Banking, Finance and Urban Affairs passed and ordered reported, with amendments, on July 22, 1986, H.R. 5176, the Comprehensive Money Laundering Prevention Act, by a vote of 47-0. Title V of the omnibus drug bill embodies the provisions of H.R. 5176 as passed by the Banking Committee. Prior to passing H.R. 5176, the Subcommittee on Financial Institutions Supervision, Regulation and Insurance (which I also have the honor and privilege of chairing) held 4 days of comprehensive legislative hearings, and heard 15 witnesses, including those who represented the administration's position on money laundering. Indeed, it is gratifying that the Departments of Justice and Treasury, which represented the administration's views, expressed their support for H.R. 5176 as follows:

DEAR MR. CHAIRMAN: This is in reference to H.R. 5176, the Comprehensive Money Laundering Prevention Act, which your Subcommittee on Financial Institutions Supervision, Regulation and Insurance reported to the Committee on July 17, 1986. You are to be congratulated for your leadership in drafting this important piece of legislation. The Department of Justice believes it can make an important difference in our efforts to combat money laundering and we support its thrust and we greatly appreciate your extensive work in this area. . . . . (Portion of letter from John R. Bolton, Assistant Attorney General, Department of Justice, to Chairman St Germain, dated July 20, 1986.)

DEAR MR. CHAIRMAN: I am gratified to see that the Committee on Banking, Finance and Urban Affairs, which you chair, has reported out H.R. 5176. This bill, if passed by Congress, would provide the Department of the Treasury with a number of powers that would significantly endance its capabilities to deal with the problem of money laundering. . . . . (Portion of letter from Francis A. Keating, II Assistant Secretary of the Treasury for Enforcement, to Chairman St Germain, dated August 15, 1986.)

H.R. 5176 (now title V), introduced by me with 31 members of the Banking Committee as cosponsors, is a consensus bill which was drafted to take into consideration the provisions contained in money laundering bills introduced by a number of members of the Banking Committee, as well as some who were not. Thus, H.R. 5176 not only received the full support of the members of the Banking Committee (and in that regard, I wish to especially thank the ranking minority member of the committee, Mr. WYLIE), but also the cooperation of the members of the Judiciary and Ways and Means Committees, as well.

Also, at this time, Mr. Chairman, I would like to thank Messrs. RODINO and ROSTENKOWSKI, chairmen of the Committees on the Judiciary and Ways and Means, respectively, and Mr. HUGHES, chairman of the Judiciary's Subcommittee on Crime, for their cooperation; and a very special thank you should go to my dear friend and colleague, Mr. PICKLE, whose bill, H.R. 4573, is incorporated into the committee's reported legislation and which constitutes a key element in title V of the Omnibus drug bill.

In addition, the Government Operations Committee, particularly its Subcommittee on Commerce, Consumer and Monetary Affairs, chaired by our very able colleague, DOUG BARNARD (who also is a member of the Banking Committee) provided incisive and comprehensive oversight hearings and a committee report on criminal misconduct and insider abuse in the Nation's financial institutions, which have been of great assistance to our committee. Certain legislative recommendations of the Government Operations Committee have been adopted in H.R. 5176, and I am deeply grateful to Mr. BARNARD and the Chairman of the full Committee, Mr. BROOKS, for that committee's contribution.

Mr. Chairman, it is important to note that the Banking Committee's interest in combating money laundering, especially as it involves drug trafficking and other organized crime activities, did not begin with the 4 days of legislative hearings referred to earlier. As a matter of fact, the Banking Committee has always played a vital role in efforts to wipe out all kinds of criminal activities which use financial institutions to accomplish illegal ends.

As early as 1970, the House Banking Committee displayed its interest and involvement in the war on organized criminals, drug traffickers, tax evaders, and various other white-collar criminals by reporting out what is known as the Bank Secrecy Act. The act, among other things, established dollar amount reporting thresholds for large cash transactions which were designed to track down the illicit cash proceeds derived from criminal activity. The Bank Secrecy Act is the cornerstone of all anti-money laundering initiatives that have followed since its initial passage, and amendments to that act comprise an extremely important part of title V which we are considering today.

Furthermore, the House Banking Committee has held numerous oversight hearings on the Bank Secrecy Act, including several that have given impetus to reports by the General Accounting Office [GAO] or enforcement by the Treasury Department of the act itself. These oversight activities culminated in the committee's hearings in the early spring of 1985 on the First National Bank of Boston and the Shawmut Bank of Boston, which highlighted both industry and regulatory agency deficiencies with regard to the Bank Secrecy Act.

The committee's investigative hearings on money laundering, beginning with the Bank of Boston hearing in April 1985, along with that bank's guilty plea to violating the Bank Secrecy Act, have caused other banks to flood the Office of Enforcement and

Operations of the Treasury Department to negotiate civil money penalties for violations of that act. This sudden repentance, dubbed by some as "Dial-A-Confession," has resulted in civil penalties against 19 banks since June of last year. The penalties imposed against those banks exceeded $13 million. Many of the 19 are among the largest banks in the country, with penalties assessed going as high as $4.75 million against the Bank of America in January 1986.

Further, according to the Department of the Treasury, as of July 2, 1986, there were 177 investigations that the IRS Criminal Investigation Division had authorized for possible criminal violations of the currency transaction reporting requirements. All but 25 involve financial institutions that are regulated by a bank supervisory agency. As appalling as this is, it should come as no surprise that drug dealers have to have access to financial institutions in order to carry out the illicit sales of drugs in the United States which are estimated to be between $50 and $75 billion each year. And that is a conservative figure.

Without access to the U.S. financial system, drug dealers are crippled and their activities are exposed to law enforcement authorities. Title V of the omnibus drug bill, in a very substantial way, closes drug dealers' access to financial institutions for their illegal profit. Following is a general summary of what title V, subtitle A, does:

First. Section 502 strikes a crushing blow to the criminal elements in our society (especially the drug traffickers) who abuse our Nation's financial institutions to further their illegal gains. Extensive testimony received by the committee establishes the fact that billions of dollars are laundered annually by drug dealers and other criminals by using banks and other financial institutions.

To remedy this abhorrent situation, section 502 expressly subjects to potential criminal and civil liability any person who causes a financial institution to fail to file a required report under the Bank Secrecy Act, or who structures a transaction in order to evade the reporting requirements of that act. Under existing law, a financial institution is required to file a CTR [Currency Transaction Report] for any transaction of currency over $10,000.

These money laundering schemes are called "smurfing," and one who does the smurfing is called a "smurf." In a typical situation, the smurf goes to several financial institutions to convert drug cash into negotiable instruments (such as cashier's checks) for amounts of under $10,000, to avoid the currency reporting requirements of the Bank Secrecy Act.

Section 502 of the bill is meant to resolve a number of conflicting U.S. appellate court decisions as to whether smurfing schemes are a crime, and specifically whether the reporting responsibilities for such transactions are placed solely upon the financial institution. By expressly subjecting to potential liability a person who causes or attempts to cause a financial institution to fail to file a required report or who causes a financial institution to file a required report containing misstatements or material omissions of fact, section 502 resolves the legal issues raised by the circuit courts. Also it creates an offense of structuring a transaction to evade the reporting requirements, without regard for whether an individual transaction is itself, reportable under the Bank Secrecy Act.

Second. Section 503 authorizes, for the first time, the seizure and forfeiture of cash, or property related to such cash, of any individual who knowingly has caused a financial institution to fail to file a CTR. It expands IRS's authority to provide for such seizure and forfeiture of currency and other monetary instruments, under title 26 of the Tax Code, and section 504 imposes a civil money penalty on anyone who knowingly or with reckless disregard violates the structuring transaction prohibition. I would note, Mr. Chairman, that sections 502, 503, and 504 are the result of the major work contributed by Mr. PICKLE, to whom I referred earlier. In that regard, the Banking and Ways and Means Committees have worked harmoniously in this area, and it is further evidence of the cooperation that our committee has received from that committee.

Third. Section 505 enhances detection and prevention of money laundering schemes. It is also designed to prevent further abuse and improve detection by enhancing regulatory agency supervision over financial institutions in Bank Secrecy Act compliance. Institutions are required to establish and to maintain procedures to assure compliance, and the regulatory agencies are required to review these procedures in each examination and to fully describe problems in examination reports. The agencies are given both cease-and-desist powers and the authority to impose civil money penalties.

The Banking Committee regards banking examiners as "cops on the beat." They are the first line of defense in combating drug money laundering schemes using financial institutions. These provisions of the act are designed to help the "cops on the beat" by providing them with the tools to monitor compliance and to enforce it, where necessary, to compel the establishment of proper procedures. Not only will these requirements serve to motivate banks to adhere to the adage of "know thy customer," they also lay the foundation for constructive improvements in both the prevention and detection of money laundering cases.

Such abuses cannot be tolerated, and the survival of drug traffickers will be severely curtailed if their ill-gotten gains from drugs are detected and cut off.

Fourth. Sections 507, 515, 516, and 517 amend the Change in Bank Control Act to increase the time banking regulators are given to investigate individuals who are attempting to acquire banks and savings and loans. They also require the banking agencies to conduct their investigations of such individuals to closely scrutinize the notice applications and, if need be, to subpoena witnesses and documents of those persons or entities proposing to acquire such control. Recently, there was a case in Florida in which the FDIC removed the directors and officers of a certain bank. These individuals and their associates, who had acquired control of that bank, were drug dealers. As important as prosecution and conviction are, it is equally, if not more, important to provide for the detection and prevention of these illegal acts through vigorous regulatory bank examinations. This provision goes a long way to strengthen the banking regulators' ability to crack down on drug trafficking, such as the Florida case to which I have just referred. A major contribution in this area was made by Mr. WORTLEY of our committee, and Mr. BARNARD.

Fifth. Section 508 directs that the Secretary of the Treasury take certain corrective actions. It allows the Secretary of the Treasury to order financial institutions individually, or as a group located in certain geographic regions, to obtain and retain information involving cash transactions of over $3,000. Similar authority is given the Secretary for the cash sale of bank checks, cashier's checks, traveler's checks, or money orders of over $3,000 as well.

Our hearings revealed that Miami and Los Angeles were favorite localities for money launderers. The targeted recordkeeping and reporting requirements are necessary to ensure that the Secretary has all the necessary authority to monitor suspected activity at an individual institution, or in a specific geographic location. While such broad authority to target may already exist, the need to prod Treasury's vigilance in this area, given its past performance, is apparent in order to compel its commitment of sufficient resources and to stress the importance of such targeting, where appropriate. I wish to thank our colleague, Mr. TORRES, for his valuable contribution to this section of the bill.

Sixth. Section 510 amends the Right to Financial Privacy Act of 1978 to

clarify the type and amount of information the financial institution can voluntarily give to law enforcement authorities without notifying the customer. Under the act, customers, in most instances, must be notified that a demand for his or her records has been made, and afforded an opportunity to challenge such access in a court of law. There are, however, several important exceptions to the notice and challenge requirements, not the least of which is the exception for a grand jury subpoena. The Right to Financial Privacy Act seeks to strike a balance between the privacy rights of bank customers and the need of law enforcement agencies to obtain financial records in legitimate investigations. Section 510(a) continues to strike that balance. Section 510(a) clarifies the type of information a financial institution (or its officers and employees) may voluntarily give to law enforcement officials under 12 U.S.C. 3403(c). Specifically, section 510(a) would permit an institution to provide such officials the names, addresses, account numbers, the nature of and a description of the possible violation. No information provided under this subsection may include the financial records of a customer. It clarifies existing law by expressly defining the extent or type of information includable in a notification to proper law enforcement authorities, and responds to doubt and misgivings raised by financial institutions and their bank counsel on this matter. It also preempts State or local law which would otherwise prohibit disclosure.

Section 510(b) exempts financial institutions from the notification requirements to insiders of financial institutions under RFPA. It permits a financial institution or a supervisory agency to provide to Federal or State law enforcement agencies the financial records of any officer, director, employee, or controlling shareholder of such institution whenever there is reason to believe that such records are relevant to possible criminal activity against financial institutions.

RFPA was never meant to protect those insiders who violate their position of trust and who may also have an account at the institution in which they serve, and the Congress will not tolerate such conduct.

Seventh. Section 511 provides the Secretary of the Treasury with civil summons authority to assist in carrying out Bank Secrecy Act responsibilities. It gives the Treasury Department civil summons authority to examine a financial institution's records and to obtain testimony of its employees for investigating civil violations of the Bank Secrecy Act. It is designed to enhance Treasury's authority over miscellaneous nonbank financial institutions such as foreign currency brokers, whose examination responsibility has been delegated to the Internal Revenue Service. Treasury could also use this authority if a bank was noncooperative in civil penalty cases, or to follow up on noncompliance in bank examinations.

Eighth. Section 512 makes more stringent the qualification for exemptions. It also improves the Bank Secrecy Act by requiring more scrutiny of an institution's so-called "exempt list" of enterprises that need not make reports of currency transactions. It also improves procedures for maintaining such lists, and getting them on such exempt lists. As our hearings on the Bank of Boston showed, where firms controlled by reputed organized crime figures appeared on the exempt list, much more care and scrutiny is needed in this area. Therefore, Treasury, under section 512, will be required to review all exemptions when an institution undergoes a change in control or management.

Furthermore, institutions would be required to provide a detailed description of why a person is qualified for an exemption, the signature of the person receiving the exemption, and a certification to Treasury that the person is qualified for it. It is expected that past abuses of the use of these "exempt lists" will be eliminated.

Ninth. Section 518 requires the Secretary of the Treasury, in consultation with the Federal Reserve Board, to initiate discussions with central bank government officials of other countries to establish an exchange system of information geared to eliminate the international flow of money derived from illicit drug operations and other illegal activities.

Realistically, Mr. Chairman, it is virtually impossible to control the international flow of illicit narcotics from foreign countries without their cooperation. Our recent hearings demonstrate that the use of offshore banks for money laundering purposes has increased substantially. Of the $50-$75 billion that is estimated to be earned annually by drug trafficking in this country, $5-$15 billion of that sum is attributed to offshore operations from countries that have so-called bank secrecy laws.

Banks in this country, as well as banks in bank secrecy countries, are essential components in the entire offshore money laundering scheme. Banks have what the money launderer needs to be successful. They have the physical facilities to accept large amounts of cash, issue checks, make loans, and receive or send funds by wire.

By requiring the Secretary of the Treasury, in consultation with the Federal Reserve Board, to initiate discussions with foreign government officials and central bankers, section 518 provides an essential step in eliminating drug trafficking from the shores of this country.

Tenth. Section 519 provides substantial criminal penalties by increasing the maximum $500,000 under current law to up to $1 million for an individual and up to $5 million for a financial institution when there is willful violation of the act which involves a violation of another law or which constitutes a pattern of illegal activity.

Mr. Chairman, in summary, title V of the omnibus drug bill is primarily designed to deter, detect, and prevent the drug trafficker from abusing financial institutions for their ill-gotten profits. The abuse of our Nation's financial institutions for these dastardly deeds will not be tolerated. In the final analysis, drug trafficking cannot survive without its intricate web of financial dealings and use of financial institutions to secure its profits. Title V of this bill, if fully implemented, will strike a severe and crippling blow to drug dealing and other organized crime.

Mr. Chairman, in our Nation's Capital at the present time, there are, unfortunately, certain politicians who think that taking "pot shots" at Federal employees will somehow secure those politicians' return to Washington. And all too often, the Federal employee is used as the scapegoat for all the ills that befall the executive branch of this Government. It occurs to me, Mr. Chairman, as we debate the omnibus drug bill, that there are two outstanding civil servants who deserve special praise for their work in combating, among other crimes, drug trafficking and money laundering, and who stand as the highest examples of dedication to the public interest.

One is Robert Stankey, now retired after many, many years as a Treasury employee, who dedicated a good deal of these years to combating drug trafficking in the Office of Financial Enforcement at Treasury. Bob was with Treasury at the time of the inception of the Bank Secrecy Act, and he, at Treasury, more than any other person, was responsible for the development of that act into an effective law enforcement tool and the cornerstone in Treasury's financial law enforcement program. The Banking Committee relied heavily on Mr. Stankey's expertise over the many years, and he is an outstanding example of what a dedicated public servant can do despite the lack of resources and commitment of his superiors over these years.

The second individual I would like to give recognition to today, is Richard Wassenaar, Assistant Commissioner (Criminal Investigation), Internal Revenue Service. Mr. Wassenaar, who began his Government career as a special agent with IRS in Chicago in 1963, rose through the ranks to become the first Assistant Commissioner for

Criminal Investigation, IRS, in May 1982. In 1983, he was a recipient of the President's Meritorious Service Award. I can tell you, Mr. Chairman, that Mr. Wassenaar's recent testimony before the Banking Committee and his tireless efforts in working with the members and committee staff on drug trafficking and money laundering, have made a lasting and invaluable contribution to the Comprehensive Money Laundering Prevention Act, now title V of the omnibus drug bill.

Mr. Stankey is now retired and Mr. Wassenaar is presently afflicted with a serious illness. Their dedication to public service, and especially their particular contributions in combating drug trafficking and money laundering, will never be forgotten by this member, and I am sure I speak for all members of the Banking Committee, as well.

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Mr. Chairman, I am proud of the fact that our committee once again acted in a truly bipartisan manner in this legislation. I commend the Members on my side of the aisle, Mr. LAFALCE, Mr. LUNDINE, Mr. TORRES, and Mr. BARNARD, in fact each and every Member, for their total dedication toward achieving an excellent bill. On the other side of the aisle CHALMERS WYLIE, our ranking minority member, extended throughout the legislative process his total cooperation. GEORGE WORTLEY, in the area of international central bank cooperation with his hearing attendance and extensive investigative activity, contributed significantly to the final result. BILL MCCOLLUM, by his service on both Judiciary and Banking, is entitled to great credit and that is why we have come up with a great title V. What a team we have had.

It is my hope that this legislation will be adopted unanimously, expeditiously, and signed into law at an early date.

The CHAIRMAN. The gentleman from Rhode Island [Mr. ST GERMAIN] has consumed 8 minutes.

Mr. LEWIS of California. Mr. Chairman, I yield 15 minutes to the ranking member of the Committee on Banking, Finance and Urban Affairs, the gentleman from Ohio [Mr. WYLIE].

Mr. WYLIE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of this bill to strengthen the efforts of our Government to overcome the epidemic of drug addiction sweeping our country. I will speak to title V, which is the Banking Committee title, but I want to recognize first, the importance of the leadership contribution to this omnibus bill which we have before us and to other committee members who have contributed to the process of this landmark legislation which is before us today.

I, too, want to compliment the chairman of the full Banking Committee, Mr. ST GERMAIN, for his diligent efforts in bringing us here today. He and I introduced legislation back in July to stop money laundering schemes and smurfing and to help make drug trafficking a business which is going out of business, we hope.

Subtitle A of title V—the comprehensive Money Laundering Prevention Act amends the Bank Secrecy Act, the Right to Financial Privacy Act, and the Change in Bank and Savings and Loan Control Acts to establish new requirements and procedures in order to combat money laundering.

In hearings before the Subcommittee on Financial Institutions, we received testimony that the drug trade generates an estimated $80 billion a year—all in cash. The drug traffickers are desperate to launder their illegal money into legitimate-looking funds. According to Business Week, IRS officials have seized currency being shipped in or out of the United States in vacuum cleaners, Monopoly games, cereal boxes, and boxes of disposable diapers.

How will title V of this omnibus antidrug bill help in the fight against drugs? By stopping the practice of money laundering through our Nation's financial institutions, we will hurt the drug traffickers where they care the most—in their pocketbooks.

First, the legislation amends the Bank Secrecy Act to make "smurfing" illegal. Smurfing is the act of structuring transactions in order to avoid the $10,000 reporting requirement threshold. The Banking Committee's legislation strikes another blow at money launderers by allowing property related to money laundering to be seized and forfeited to the Federal Government.

A second area of law that the Banking Committee's legislation amends to help law enforcement in cracking down on money laundering is the Right to Financial Privacy Act. The committee in this title attempts to strike a balance between the privacy rights of financial institution customers and the need of law enforcement agencies to obtain financial records in legitimate investigations. The Privacy Act amendments contained in title V of this omnibus antidrug bill clarify the type of information a financial institution may voluntarily give to law enforcement officials, hopefully laying to rest the doubts raised by financial institutions on this matter.

A third area of law which this title addresses is the Change in Bank Control and Change in Savings and Loan Control Acts. This title would require the appropriate regulatory agencies to conduct even more thorough investigations of person(s) applying to acquire control of a financial institution. The regulators are also given additional time to review applications for change in control.

Finally, the committee recognized that the drug problem—and related problems such as money laundering—are not just confined to our Nation. This proposed legislation requires the Secretary of the Treasury, in consultation with the Federal Reserve Board, to initiate international discussions to establish an information exchange system with respect to eliminating the international flow of money derived from illicit drug operations and other criminal activities.

The Banking Committee reported this legislation title V last July by a vote of 47 to 0. The Banking Committee's provisions deserve our full and strong support. H.R. 5484 deserves our full and strong support.

The CHAIRMAN. The gentleman from Ohio [Mr. WYLIE] has consumed 5 minutes.

Mr. ST GERMAIN. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. LUNDINE] a member of the committee.

The CHAIRMAN. Without objection, the gentleman from New York [Mr. LUNDINE] is recognized for 2 minutes.

There was no objection.

Mr. LUNDINE. Mr. Chairman, I rise in strong support of the narcotics omnibus bill of 1986—the product of many hours of hard work by almost all of the House committees. I commend the leadership for putting together this legislation which will make a significant contribution to this country's war on illegal drugs.

The bill attacks this problem in many different ways. As I see it, the most important of these are interdiction, education, treatment, and law enforcement.

Interdiction is the key to ending the flow of illegal drugs into this country. Toward this end, I am very pleased that this bill authorizes additional funds for more Coast Guard and Defense Department personnel and equipment for drug interdiction activities, and mandates a study on the appropriate role of military personnel in the national effort to control and reduce drug abuse.

Last year, Congress agreed to an amendment to the Department of Defense authorization bill to provide for the hiring and deployment of 500 tactical law enforcement team members [Taclet's] for the Coast Guard. These Taclet's were to be deployed aboard naval vessels to assist drug enforcement officials in their efforts to stop drug trafficking. Fifteen million dollars was appropriated last year to fill these positions, but to this date, very few Taclet's have been hired.

I planned to offer an amendment to this bill which was not ruled in order, which would have required that these

Taclet positions be filled within 90 days of the passage of this act. I am sensitive to the fact that it takes time for money to move through the Federal pipeline and for positions to be filled. However, given the enormity of this problem, and the potentially beneficial effect that the Coast Guard's interdiction efforts could have on this problem, I feel it is necessary to fill these positions without further delay.

Another way in which we can make a dent in the international drug trade is to condition our foreign aid to countries with drug-dependent economies, on that country's drug eradication efforts. To help reach this goal, I am very pleased that the Drug Eradication Act of 1986, which I introduced earlier this year, has been included, in its entirety, in this omnibus drug bill. The inclusion of this language will allow the use of U.S. economic leverage through international lending institutions to achieve the eradication of drug crops in developing countries. It requires that drug eradication plans be developed within 1 year, and implemented by the drug producing countries as a prerequisite for U.S. support for assistance from the multilateral development banks [MDB's].

I am also pleased that the omnibus drug bill authorizes $350 million in each of the next 3 fiscal years for programs to educate our Nation's young people about the horrors of drug dependency. By including this funding in the bill, I feel Congress is sending a message to the Nation that primary and secondary schools need to teach drug education classes to prevent innocent children from falling victim to drugs.

In an effort to educate the general populace about drug abuse, and especially our children, I had considered offering an amendment to this bill to require the Federal Communications Commission to include in its licensing requirements, that radio and television stations devote free air time to drug education programs. In the case of drunk driving and cigarette smoking, radio and television public service announcements have proven themselves to be a very effective way to educate a great number of people. If the television and radio networks and stations respond to a call for voluntary program of drug education, then a requirement will not be necessary. However, if voluntary efforts are insufficient, Congress should enact such a requirement.

In addition to our educational efforts aimed at preventing drug abuse, we must provide treatment facilities for those individuals who desire it, or are susceptible to addiction. The omnibus drug bill authorizes grants to the States for drug treatment and rehabilitation services with the stipulation that priority be given to treat individuals between the ages of 15 and 24.

Currently, the Federal Government spends almost eight times as much on law enforcement as on drug treatment and education. I feel this bill takes an important step toward adjusting our spending priorities, and increases our commitment to drug treatment and education.

Under the broad heading of law enforcement, I feel that the Federal Government can do several things to fight a war on drugs. First, I am pleased that money laundering provisions have been included in this bill.

"Money laundering" is the term which is used to describe the practices through which criminals disguise the origin of money obtained through illegal activities such as drug dealing, prostitution, gambling, racketeering, or investment fraud. According to the President's Commission on Organized Crime, literally tens of billions of dollars in illegal funds are laundered through U.S. financial institutions every year. The largest portion of this money comes from drug dealing.

The inclusion of this provision in the drug bill will make it very difficult for those who deal and traffic in drugs to funnel their profits from these illegal activities into the payments system.

To assist our law enforcement efforts further, the majority leader, Congressman WRIGHT, will offer an amendment which I authored to encourage the judiciary to assign Federal judges to courts in districts with large backlogs of pending criminal cases arising out of drug enforcement efforts. I urge my colleagues to support this amendment.

There are several Federal districts including the southern and eastern districts of New York, the southern district of Florida, the southern district of Texas, and southern and central districts of California where there are over 1,000 backlogged criminal cases. It was my intention in drafting this amendment to inform the judiciary that Congress places a high priority on alloting judicial resources to areas where narcotics cases are backlogged.

Finally, I want to express my support for Representative RANGEL's amendment to the omnibus drug bill. I was a cosponsor of H.R. 526, the State and Local Narcotics Control Assistance Act of 1985, and I share his desire to see it included in full in the omnibus drug bill. I feel that it is very important to provide State and local governments with the means to increase their drug enforcement activities, and to develop more effective drug abuse prevention, treatment, and rehabilitation programs. The bill currently provides the desired amount for treatment and rehabilitation programs, but falls far short of what is needed for State and local law enforcement. Mr. RANGEL's amendment will correct this situation, and I urge my colleagues to support it.

Lastly, I want to praise my colleagues once again for developing this comprehensive legislation, the passage of which I feel will direct the Federal Government to use its resources to fight drugs in the most effective ways it can—through interdiction, education, treatment, and law enforcement.

Mr. WYLIE. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. WORTLEY], who has worked hard and diligently on this bill. I know he has something we all want to hear.

The CHAIRMAN. Without objection, the gentleman from New York [Mr. WORTLEY] is recognized for 3 minutes.

There was no objection.

Mr. WORTLEY. I thank the gentleman for yielding time to me.

Mr. Chairman, we are on the brink of enacting legislation that I believe, and pray, will help stop the terror and sickness of drugs in our country.

There really is no need to speak of the destruction and human misery that are brought on by drug trafficking and use. We are all well aware of the problem. It is brought home to our living rooms each night by television news broadcasts. Or, in some very unhappy cases, it is brought home to us because a beloved friend or family member is a drug user or is involved in the drug trade. The seduction of being "high" or of quick riches is powerful indeed, and many learn to late that this path only leads to despair, misery, and grief.

The bill we are considering is an intelligent and aggressive approach to solving the drug crisis. It balances compassion with the need for strict enforcement of our laws: Federal funds are provided to build new prisons and to increase interdiction efforts as well as to assist drug education and treatment programs.

Mr. Chairman, as a member of the Banking Committee and a longtime advocate of stricter money laundering laws, I am particularly pleased by title V of the bill. This title originated in the Banking Committee and was the product of a number of bills introduced earlier this year to tighten and improve Federal laws against money laundering. I was pleased that provisions from my own bill, H.R. 3892, are included in the bill before us.

When I speak of money laundering, I am also speaking of its close companion drug abuse. The lifeblood of organized drug crime is the profits it reaps. This legislation strengthens our attack on the jugular of organized drug crime.

The Banking Committee heard hours of testimony revealing the great lengths to which drug traffickers will go to conceal the source of their profits. It became readily apparent that

new Federal legislation is needed to combat money laundering because of its intimate relation to the illegal narcotics economy. Law enforcement officials say it is vital to be able to uncover a "money trail" that connects the criminals with drug crimes. A money trail is as important in crime solving as footprints or tire tracks left behind at the scene of a crime.

Our current drug laws are primarily effective against persons who actually handle illegal drugs. Unfortunately, the drug czars and the kingpins of drug distribution often avoid these laws by hiring others to do the "dirty work." However, there is one sure-fire way to identify the drug czars: They have large amounts of money available to them and they spend it. After all, the point of crime is to live a life of ease at the expense of others. These drug czars launder their money by making it appear that it comes from a legitimate business or investment. That is why tough money laundering laws are essential to prevent powerful criminal leaders from concealing the source of their ill-gotten gains.

Our banks, savings and loans and credit unions are routinely used to launder this drug money. I know my constituents would be outraged to know that their neighborhood financial institutions are being used to facilitate heinous drug crimes. We must take steps to guarantee that our financial institutions are only dealing with law-abiding customers who wish to invest and protect their hard-earned dollars. The drug czars need to be served notice that these institutions are off limits for their purposes of laundering money.

The legislation addresses this issue by updating and expanding our current money laundering laws. Stiff civil and criminal penalties will result for actions that cause a bank to not file, or to file inaccurate, currency transaction reports. These currency reports are currently required for cash transactions of $10,000 or more, and they are essential to law enforcement officials who can use them to identify drug traffickers.

In addition, structuring a transaction to avoid the currency reports is punishable by a new civil penalty. The bill also permits the seizure of assets if they are clearly traceable to monetary instruments which are transported in violation of report requirements. The maximum fine for currency reporting violations is increased from $500,000 to $1 million for individuals and up to $5 million in other cases.

The bill requires the Treasury Department to review a bank's exemption list for cash reporting when a change in management occurs, and it directs bank regulatory agencies to investigate persons proposing to acquire control of financial institutions.

Under the bill, a bank is allowed to provide law enforcement officials with information of a customer if there is good reason to believe such records are relevant to a criminal activity. The Treasury Department would also be required, in consultation with the Federal Reserve Board, to initiate discussions with foreign countries regarding the development of international currency information systems that reduce the flow of illicit drug money.

I am also pleased that we will require foreign countries to implement more drug eradication programs before they are eligible for multilateral development bank assistance. Stopping drugs must focus on the supply as well as the demand side, and there is no acceptable reason for the United States to share our resources with other countries unless they are serious about stopping drugs.

Our Nation is currently engaged in a very real battle with the insidious disease of drugs. The symptoms are painfully apparent: Broken families, ruined lives, and high crime rates. Furthermore, widespread drug abuse means a decline in our Nation's overall productivity because of absenteeism and wasted talents. And tax revenues are lost because of the billions of dollars that make up the underground economy. As a result, law-abiding citizens shoulder a greater share of the cost of government than they should.

There is a need for solutions—now, not later—and I have no doubt that the legislation before this House will prove to be a vital component in the overall antidrug campaign.

Mr. WYLIE. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. MCCOLLUM].

The CHAIRMAN. Without objection, the gentleman from Florida [MCCOLLUM] is recognized for 2 minutes.

There was no objection.

Mr. MCCOLLUM. I thank the gentleman very much for yielding this time to me.

Mr. Chairman, I do not know of anything more important to the American public today than what we are doing in this legislation. No one thing is going to solve the problem of drugs in this country, no piece of legislaiton, no one item in this bill.

But we hope that, combined together, the things that are in here will do it. As I see it, there are five ways to fight the war on drugs.

One is to attack the demand side, the usage which is running rampant in this country. The bill gets at that partially, but it takes a lot more public and private effort than we can do as legislators if we are going to solve that problem.

No. 2, we get at eradication. We have to do that. We have to eradicate the plants that are grown in foreign countries in many cases in order to stop the drug flow into the country.

Three, we have to have a strong interdiction program. That is where we fought most of the law enforcement battles, and there is a lot of effort in this legislation to enhance that.

Fourth, we have to have stronger deterrents, that is were higher sentencing and tougher criminal laws come into play. We are trying to do that in the bill.

But the areas that we are dealing with here at this moment that I think has been so overlooked, we have to get at the profits that these big drug racketeers are making. We have to stop the flow of drug money in and out of our banks and financial institutions in this country and abroad to refinance more drug operations. The Colombian drug kingpins are worth much more today than any American Mafia families have ever been worth. We have to get at that profit, and we have to get at it through the kind of legislation we have here and the money laundering bill today that the Committee on Banking and the Committee on the Judiciary have crafted. A new crime of money laundering and an enhanced provision or two in areas like the Bank Secrecy Act and the right-to-privacy laws, to make sure that those who are working in our financial institutions are on their toes, do not let moneys come through those institutions that they know are moneys that come from the illegal drug activities of the drug kingpins; to stop that flow, to stop the concealment of money that they know is from these illegal activities. It is only if we have these kinds of enhanced provisions in our law, encouraging banks to come forward and cooperate with Federal authorities while still protecting the confidentiality of the consumer, we can have the kind of drug enforcement necessary to win the war on drugs.

□ 1530

Mr. ST GERMAIN. Mr. Chairman, I yield 1 minute to a member of the committee, the gentleman from Alabama [Mr. ERDREICH].

The CHAIRMAN. Without objection, the gentleman from Alabama [Mr. ERDREICH] is recognized for 1 minute.

There was no objection.

Mr. ERDREICH. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in strong support of the bill, and especially in support of this provision. It is very important that we have interdiction and elevate interdiction against the flow of drugs into our Nation. But it is as important that we interdict the flow of money. Money is what makes this system get inside of our Nation and do

the terrible activity it is doing across our country, in my State and every community across America.

Interdiction is elevated by the tough provisions of this bill. I rise in strong support of this bill and urge its passage.

Mr. WYLIE. Mr. Chairman, I yield 1 minute to the gentlewoman from New Jersey [Mrs. ROUKEMA].

The CHAIRMAN. Without objection, the gentlewoman from New Jersey [Mrs. ROUKEMA] is recognized for 1 minute.

There was no objection.

Mrs. ROUKEMA. Mr. Chairman, I rise today as a cosponsor of H.R. 5484, the omnibus drug bill. Today Congress will emphatically say "no" to drugs. And what's more important, we will be giving State and local governments and schools the added ability to say "no" to drugs.

Not a day goes by that we do not learn of a new tragedy or alarming revelation connected with the drug culture: star athletes dying; prominent figures arrested for "dealing"; lurid stories of "crack houses" which are no longer confined to the cities but expanding into suspecting neighborhoods; law enforcement officers expressing frustration and anger at the revolving door of justice that puts pushers back on the streets. As the drug culture grows, so does violent crime as more addicts become more desperate.

It is unusual when we can have such a bipartisan approach to a national epidemic. I am pleased that the bill agreed to by the leadership of both parties beefs up our enforcement and interdiction capabilities. It allows us to get some leverage out of our considerable foreign aid program to encourage major drug-producing nations to crack down on the drugs at their source. It provides stiff mandatory penalties for large-scale drug trafficking and harsher fines for certain categories of drug possession offenses. It also provides money for drug education and treatment as new "high-tech" drugs threaten even the first-time casual user with life-threatening addiction or instant death.

In the Banking Committee on which I serve, we have included tough new money-laundering provisions which give the Government more power to investigate individuals trying to buy banks, tighten bank transaction reporting procedures, and increase penalties. This section, together with the companion section reported from the Judiciary Committee, makes money laundering a crime for the first time and provides for a maximum of 20 years in jail and/or a $1 million fine. These sections also provide for civil and criminal forfeiture of the proceeds of certain money laundering crimes. The additional information law enforcement officials receive will help them track down drug kingpins and hopefully convict them and cut off their criminal trafficking in drugs. In addition, the forfeiture provisions mean that criminals caught money laundering their illicit profits will no longer be able to enjoy the rotten fruits of their labor.

I am pleased to join with colleagues from both sides of the aisle in supporting legislation to spell out clearly the Federal Government's interest and role in stemming the tide of illegal drugs. As a parent and as a former educator, I have to demand that the Federal Government do all in its power to help our young people, our Nation's most precious natural resource, resist the drug epidemic.

It is imperative that those of us in a position and with the ability to do so, those of us who can have some impact on the development of the mind and spirit of the young, be firm in both conviction and action against drug use. We can no longer tolerate the scourge of drug use and abuse through casual and ineffective drug policies.

Mr. ST GERMAIN. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. LEVIN] a member of the committee.

The CHAIRMAN. Without objection, the gentleman from Michigan [Mr. LEVIN] is recognized for 1 minute.

There was no objection.

Mr. LEVIN of Michigan. Mr. Chairman, it is not clear what has sparked this prairie fire of interest and concern about drugs. Perhaps the latest spark that set this off was Len Bias' tragic death. What is clear is that the tinder was very, very dry. In a real sense, there have been may Len Biases.

I was recently reading an article in the Detroit Free Press, and it talked about how the number of people in the tricounty Detroit area dying from cocaine use has increased eightfold between 1982 and 1985.

It goes on to quote the State office of substance abuse as saying:

> There are more people out there using more dangerous forms of drugs and the likelihood of dying is increasing. I'm glad this Congress and the administration are facing up to this. I'm glad the Banking Committee has joined many other committees, including the Select Committee, in attacking this critical, critical problem.

Mr. WYLIE. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. DREIER].

The CHAIRMAN. Without objection, the gentleman from California [Mr. DREIER] is recognized for 1 minute.

There was no objection.

Mr. DREIER of California. Mr. Chairman, I thank the distinguished ranking member of the full committee for yielding this time to me.

Mr. Chairman, I simply would like to rise as a member of the committee to say that it is very good to have the Banking Committee play a role in trying to turn the corner on this horrible drug trafficking problem.

I just came down from the Rules Committee, and we are talking about immigration reform up there, and one of the prime items of concern, of course, is coming right across this border is the flow of drugs along with illegal aliens.

Money laundering is a problem which I hope will be cured in this. I should say that in the committee I voted for this provision but have a little concern. My slight concern has been the juxtaposition of individual rights versus those of the institutions.

Nevertheless, I believe that, as an overall package in trying to address the drug problem, this is a good piece of legislation and I am pleased that our committee has played a major role in it.

Mr. ST GERMAIN. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. TORRES].

The CHAIRMAN. Without objection, the gentleman from California [Mr. TORRES] is recognized for 2 minutes.

There was no objection.

Mr. TORRES. Mr. Chairman, I rise today to urge my colleagues to pass H.R. 5484, the Omnibus Drug Enforcement, Education, and Control Act. Title V of this bill is the Comprehensive Money Laundering Act approved earlier this summer by the House Banking Committee. That bill was designed to impose strict new criminal and civil penalties on money laundering activity in this country.

Currently money laundering, the practice by which criminals disguise their illegally obtained funds to hide them from the law, is neither a criminal nor a civil offense. According to the President's Commission on Organized Crime, tens of billions of dollars are laundered through financial institutions each year. Most of this comes from drug trafficking. The U.S. Government loses about $50 billion a year through drug money laundering schemes.

Current law requires banks to report to the Government cash transactions of $10,000 or more. Through the structuring of transactions just below this minimum level, money launderers or smurfs as they are called, are able to evade the banks' reporting requirements.

This spring, the Banking Committee heard some incredible testimony from one of these " smurfs." Earlier today my colleague from Virgina, Mr. Parris, talked about such a smurf operating in my own city of Los Angeles. He went to numerous banks up and down Wilshire Boulevard in Los Angeles with piles of cash and asked for cashier's checks. He was "laundering" money.

He was taking the cash profits from drug sales and changing it into bank notes to send out of the country. This particular smurf said he was able to launder $100,000 a day without any questions asked.

In this way, the illicit profits from numerous drug sales are transformed into a manageable and transportable form. This, of course, eases their entry into the nation where the drugs are grown or manufactured, and allows them to pay those involved in the initial phases of drug production. Thus, drug money has become an unofficial form of American foreign aid. As the law stands now, however, this is all legitimate activity; money launderers are not criminals. Clearly, this is a grey area in the law that needs to be addressed.

Title V of the bill before us today makes it a crime for a person to structure a transaction in order to evade the banks' reporting requirements. It also gives the Treasury Secretary the authority to lower the $10,000 bank reporting requirement to $3,000 in a specific geographic area or at a specific financial institution. Furthermore, the legislation says that when someone walks in a bank and wants to exchange more than $3,000 for a bank check, cashier's check, money order, or traveler's check, that person must positively identify themselves and sign a form which will be kept on record at the bank. These provisions will make it more difficult for smurfs to evade the bank reporting requirements. They will also provide investigators with a record of who is making these illicit transactions. This will certainly curtail much of the money laundering activity that is occurring each and every day.

It is our duty as lawmakers to fight the war against drugs on every front. This money laundering legislation will make it more difficult for the profits reaped through illicit drug sales to be processed in the financial institutions of the United States. This legislation is a necessary weapon to fight the war on drugs. It is badly needed. I strongly urge my colleagues to support the Comprehensive Money Laundering Act by supporting passage of the Omnibus Drug Enforcement, Education and Control Act.

Mr. WYLIE. Mr. Chairman, I yield myself the remainder of my time.

Mr. Chairman, I think title V of the bill has been adequately explained. By making money laundering subject to very severe criminal penalties we will discourage drug dealers from using unknowing financial institutions to launder large sums of money derived from drug trafficing without a permanent record of the transaction being created.

Again, I want to compliment the chairman of the full committee for his diligent work over the last several years investigating this problem of money laundering and in producing this legislation.

But billions of dollars are moving through the banking system without leaving the trace necessary for successful presecution of drug criminals. We hope that this legislation will help us to trace the proceeds from illegal drug trafficking to the pushers, to the streets, on the planes and into the jungles to those who produce those addictive drugs which have destroyed the lives of so many of our young Americans and are threatening our very society.

Title V of this bill is a good title, the bill is a good bill, and I know that we will support it unanimously here today.

Mr. Chairman, I yield back the balance of my time.

Mr. ST GERMAIN. Mr. Chairman, I yield 1 minute to conclude the Banking Committee section to a former educator and a lady who has a great interest in this problem, the gentlewoman from Ohio [Ms. OAKAR].

The CHAIRMAN. Without objection, the gentlewoman from Ohio [Ms. OAKAR] is recognized for 1 minute.

There was no objection.

Ms. OAKAR. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I want to first of all compliment the chairman of the committee and the ranking member. Our chairman and his very able staff have been involved in studying this problem for many, many months and, in fact, years. The gentleman has been way ahead of the game.

We understand that drug abuse in this country is really prevalent and is so abominable. But one reason that it is so prevalent and that we have so much drug abuse is that there is heavy-duty money involved, billions and billions of dollars.

□ 1540

The average individual in this country has no way of tracking how much money is really being used for this whole area of drug trafficking. As a result, this legislation says that they can no longer launder money illicitly; that they will have to comply with bank requirements of reporting. If they do not, there will be very, very stiff penalties.

I personally think that in terms of the entire piece of legislation, this is one of the most important pieces because it targets the very, very central issue that so many greedy people are involved in this. They could not care less about ruining peoples' lives. They care about the profit and the money involved.

This is the one area that will address that problem.

Mr. LEWIS of California. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. MOORHEAD].

Mr. MOORHEAD. I thank the gentleman for yielding time to me.

Mr. Chairman, I strongly support this legislation.

Drugs are a terrible plague on our society, and society has finally reached a breaking point. It is demanding that Congress take swift and effective action to eradicate this terrible plague. While this legislation before us today is not perfect, the war on drugs is too important for partisanship.

There are several amendments that I would have liked to have been made in order under the rule, but were not. Perhaps in conference we will have the opportunity to make the necessary changes to tighten up the bill as far as tougher enforcement and funding is concerned. Nonetheless I am glad that we have brought this comprehensive measure to the floor. It is a bipartisan package which does include a number of very good provisions that we desperately need to improve our counter offensive against the drug underworld.

Among those are provisions to: improve international narcotics enforcement, increase the Coast Guard's search, seizure, arrest and surveillance authority, expand the U.S. Customs Service's authority, authorize loans to civilian drug enforcement agencies for military equipment, create 5- and 10-year mandatory penalties for trafficking, increase fines throughout the Controlled Substances Act and authorize additional funds for DEA, U.S. marshals, and U.S. attorneys. The legislation also creates a new crime of money laundering and makes important changes to the Bank Secrecy Act and right to financial privacy laws to improve the ability to conduct investigations.

This legislation also authorizes substantial funding for new prison construction over the next 3 fiscal years. Specifically, $147 million for fiscal year 1987; $450 million for fiscal year 1988 and $500 million for fiscal year 1989. The compelling need for this sizeable investment in the Federal prison system is based in large part on the fact that since 1981 we have seen the Federal prison population increase 50 percent to the point that it is now 49 percent overcrowded. This increase in the Federal prison population is the result of an improved criminal justice system, combined with criminal justice legislation adopted by Congress. As we enact new criminal justice legislation that often results in an increased number of convictions and incarcerations, we must act responsibly to ensure that adequate funding is available to house those who are incarcerated as a result of our efforts and those of the Department of Justice. If we fail to authorize adequate funding for new prison facilities in this legislation, as part of a long-term commitment to improving the Federal corrections system, we will be compounding the problem of overcrowding, which in my opinion, has already reached crisis proportions within the Federal Bureau of Prisons.

Mr. Chairman, the drug problem in this country demands the best we have to offer. If we are really willing to take the necessary and truly effective steps to combat this terrible scourge, we must also be willing to toughen up our enforcement standards, reorder our

overall domestic spending priorities and find responsible sources of funding for many of the initiatives included in this bill.

Mr. RANGEL. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. ORTIZ].

Mr. ORTIZ. I thank the gentleman for yielding time to me.

Mr. Chairman, I rise today in support of H.R. 5484, the Omnibus Drug Enforcement, Education, and Control Act.

Many today will commend this House for the rapid movement of such a comprehensive and important bill. It is an example of the strong leadership of our distinguished majority leader who has worked so well with the minority leader. Today the American public will see just how effective our legislative process can be when both sides of the aisle work together.

Mr. Chairman, no Member in this Chamber will deny that the drug problem in this country is a national epidemic. I can testify to the crisis that exists along the border. In my district, which lies along the Mexican border, the seizures of illegal narcotics has drastically increased. The enforcement efforts in Florida have forced the smugglers to use other routes. Today, the Mexican border routes are as bad, if not worse, than the historical Florida routes.

H.R. 5484 is a good bill because it is a comprehensive bill. We cannot only intercept smugglers. The flow of drugs will merely come through another route. We cannot only enforce our laws, for our prisons are overcrowded now. And we cannot only tell our children drugs are bad. We must help to eradicate those drugs in the source country as well as educate our young people about the dangers of drugs. That will help eliminate this country's demand for drugs.

This bill addresses the supply of, as well as the demand for drugs. We educate as well as rehabilitate in this legislation. H.R. 5484 is legislation which is badly needed now. I support this bill, and urge my colleagues to vote for it.

Mr. RANGEL. Mr. Chairman, I yield such time as he may consume to the gentleman from North Carolina [Mr. VALENTINE].

Mr. VALENTINE. I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of this legislation. I believe that our society is at the threshold of a devastating crisis. Drug abuse is poisoning the minds and lives of people of all races, ages, and income levels across the Nation. It is time for us to face this problem through a wide-ranging program of quick, forceful, and effective action.

The Omnibus Drug Enforcement and Control Act provides many of the tools we need to deal with drug abuse on a national basis. This bipartisan antidrug bill is the Nation's first comprehensive and coordinated attack on one of the biggest threats facing our society.

It attacks drug trafficking on a broad front. It deters crime by mandating minimum 20-year sentences for certain serious drug-related offenses. It helps to keep drugs from entering the country by giving the Coast Guard and Customs Service new authority. The bill also penalizes drug-producing countries that do not cooperate with U.S. antidrug efforts.

This legislation authorizes funding that would bring drug awareness programs into the schools, from kindergarten through the 12th grade. Children will no longer be ignorant of the dangers of drugs and the impact they can have on lives.

It also provides money to help treat and rehabilitate those who want to quit, but cannot.

This bill is a positive and practical approach to a problem that we can no longer ignore. We must fight the war on drugs, and we must win. Our future depends on it.

I am proud to be an original cosponsor of this legislation and urge my colleagues to pass it by the greatest possible margin.

Mr. RANGEL. Mr. Chairman, I yield 15 minutes to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. I thank the gentleman for yielding me this time.

Mr. Chairman, for several decades, as a nation, we have been floundering as we try to swim out of what seems to be an ocean of drugs. At times it seems that we are drowning in drugs. This summer it has been as though a tidal wave of cocaine abuse has crashed down upon us. With the terrible sudden deaths of star athletes like Len Bias and Don Rogers, we have come to know that no one, no matter how strong, no matter how fit, how gifted, how successful, as those fine athletes were, no one can escape the dangers of cocaine and other narcotics.

At the other end of the spectrum we are seeing hundreds, perhaps thousands, of those who are most fragile—newborn babies—are being born suffering neurological disorders due to the cocaine addiction of their mothers.

This summer we have seen neighborhoods transformed, as though by arson, into combat zones of drug abuse and crime.

It was, indeed, prophetic that a century ago following the naive promotion of the wonders of the newly isolated drug, cocaine, by Sigmund Freud, the father of psychiatry, that he was severely attacked by his professional colleagues for having unleashed the third scourge upon mankind.

Mr. Chairman, today we are at a milestone in our Nation's long effort to combat the scourge of narcotic drugs. With the leadership of the speaker, the majority leader, and the minority leader, the House of Representatives has developed the most comprehensive assault upon the problem of drug abuse.

Seven bills make up title VI of this package. Those bills were carefully developed since the beginning of this Congress by the Subcommittee on Crime, which I chair, and have been ordered reported by the Judiciary Committee. The provisions of this title have not been hastily developed for this bill but reflect careful consideration by the Crime Subcommittee.

This title, building upon the Comprehensive Drug Penalty Act which we wrote in the last Congress, provides appropriately stiff penalties that will immobilze the organizers of drug trafficking syndicates.

The Designer Drug Enforcement Act builds upon the emergency scheduling authority to control designer drugs which the Crime Subcommittee developed in the last Congress. This title will close the loopholes that have permitted criminal chemists to manufacture and distribute deadly designer drugs.

We have created, for the first time, a crime of money laundering, that will enable us to prosecute those who assist drug traffickers in reaping their profits. This is a profoundly important new law enforcement tool that will enable us to target those who are bankrolling major drug deals. We have drafted this offense so that it is readily enforceable by the law enforcement authorities, and yet respects the rights to financial privacy that Americans are entitled to and that are essential to the operation of our private enterprise system.

In title VI, we have provided new mandatory 15-year prison sentences for career drug traffickers and other career criminals.

We have authorized calling a White House Conference on Drug Abuse and Control to develop an effective national strategy to combat drug abuse in the 1980's. This type of conference is in a long tradition of important conferences such as the Shanghai Opium Conference in 1909, and the Hague International Opium Conference in 1912, which established the framework for the International Control of Narcotics. This White House Conference is intended to play the crucial role of bringing together the best American experts to work out a strategy that will be effective.

We have provided vitally needed assistance to State and local drug enforcement activities. Title VI has a 50-50 matching grant program that requires the recipient State and local units of government, and a 100-percent grant program in the discretion of the Administrator of the Drug Enforcement Administration in order that this money is most accurately targeted. We have provided for $100 million in fiscal year 1987 and $200 million in fiscal year 1988.

We have provided authorization for almost 400 more drug enforcement agents to investigate drug traffickers. We are increasing the DEA-State-and-

Local Drug Task Forces by 50 percent from 34 cities to 49 cities. We are providing 362 new positions for the Diversion Control Program which addresses the traffic in drugs which cause two-thirds of the deaths and injuries due to drug abuse, legitimate prescription drugs.

We are authorizing 200 additional assistant U.S. attorneys to take traffickers to trial, and we have provided for $1 billion for the construction of new prisons so that judges will have a place to sentence over 2,200 drug traffickers to long terms of imprisonment.

Mr. Chairman, there often is a lot of discussion about sending signals to drug traffickers. This bill doesn't just send signals, this bill provides major new tools for prosecuting these felons. Tackling this problem requires a balanced approach. We must have adequate resources for crop eradication, for interdiction, for domestic enforcement and investigation, for financial investigations, for the U.S. attorneys for prosecution, and for the Bureau of Prisons. at the same time, we must devote commensurate resources to reducing demand. We must have effective prevention and treatment programs, and we must not lose sight of the fact that a lot of people are hurting, they are in misery and they need help.

This bill will go a long way in fact doing just that.

Mr. RANGEL. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from New York.

Mr. RANGEL. I thank the gentleman.

Mr. Chairman, I just want to take this opportunity to thank the gentleman on the floor, as I have often done privately, not only for the fine work that you have done for the Judiciary Committee but it has made it so easy for me to serve as chairman of the select committee knowing that in the work of the Judiciary that we never really get involved in it because you have made more than your share of the contribution.

Mr. HUGHES. I thank the gentleman for his very kind remarks.

Mr. LEWIS of California. Mr. Chairman, I yield 15 minutes to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. I thank the gentleman for yielding me this time.

Mr. Chairman, a few minutes ago, while wearing the hat that I wear on the Banking Committee, I got up and spoke for a very brief moment about the key elements that are necessary to fight the war on drugs. I think this bill addresses every one of them.

Not to belabor those points, I am going to go over them briefly again because we have got to deal with them in some fashion. We have got to get control of demand; we have got to get control of eradication and get foreign countries more cooperative to destroy the crops that raised and produce these drugs.

We have to beef up interdiction, which a lot of this bill addresses. We have to get at the whole process in this country of deterrence and getting law enforcement tough to really get at that aspect of it, and we have to do something about what I think has been long overlooked, in the section of the bill the Judiciary produces we do get at, and that is getting at the profit motive that is involved in all of this where we have these drug kingpins from Colombia who are making more money are are far wealthier than anybody ever dreamed of in the American Mafia.

I think that the key provision, if there is one, and there are lot of good things, great things, necessary things in this omnibus drug package, but I think the key provision in this bill is the new money laundering crime that I am very happy to work so hard with the gentleman from New Jersey, my distinguished chairman, to produce. With the cooperation of all the members of the Judiciary Committee, I think we have produced a product that we can all be proud of and we should be proud of voting out tomorrow when we get to the final passage of this bill.

The fact is that we have had a gaping hole in the law for a long time in this area. There is no Federal crime against money laundering, although a lot of people seem to think there is. There are Bank Secrecy Acts that catch the amount of money that you have to report to the Treasury Department and others, but there is no crime.

□ 1550

Now under this legislation there will be a crime for knowingly concealing money from an illegal source, and that illegal source is primarily drug trafficking in this case. We need to stop financial institutions inadvertently or intentionally from passing money through their institutions, helping these criminals conceal the source and passing that money in most cases out of the country back to some other point where it will be used for the financing of further production of drugs to be shipped over to feed our young people and satisfy the demand that is here. This bill does that, and I am very proud of it.

We have in the judiciary section designer drugs. My colleague, the gentleman from California [Mr. LUNGREN], has worked very hard on that, and he will speak in a few minutes to that subject.

We have in it also provisions to enhance sentences. That is the deterrence aspect I spoke of a minute ago. We finally put minimum mandatory sentences in the law at the Federal level, and not only do we do that for hard drug traffickers at the 5- and 10- and 20-year level and life imprisonment, but we have an opportunity by amendment that will be offered here in a little while, tomorrow, to put the death sentence in an appropriate case onto this bill. And on Federal reservations we get tough on the users of drugs by giving minimum mandatory sentences for possession. I think we have to say that to those people out there who are using it. We have to get it to the demand side any way we can.

On the possession side we are not nearly as tough, and we should not be. But we are trying to deter it with those minimum mandatory sentences, with a thousand-dollar minimum fine for the first offense, with 15 days in jail for the second offense, and with 90 days in jail for the third possession offense. We need to enhance sentences.

We also have 17 new prisons which can be built. These are major prisons, Federal prisons, to house those people who are committing these offenses. Our prisons are already enormously overcrowded on the Federal level and on the State level. We need desperately to do something about the shortage of Federal prison space, and that is especially true with minimum mandatory sentences in this legislation.

While we are about it, I will offer an amendment tomorrow on the floor of the House to help the States in their effort to get more prisons and to save costs in the areas of housing the inmates who are predominantly drug-related in their offenses and who are overcrowding our State prisons today. That amendment will go to the question of whether they can find new markets for their prison industry goods so that they can sell those goods and so that they can have productive employment for prisoners as well as some degree of cost savings for those prisons. I hope that my colleagues will support that amendment as well.

I will also offer an amendment tomorrow dealing with one of our problems in the law with respect to destroying a lot of the goods, the narcotics, that are there today in storage. We need to clean that up under the law. We need to be able to get the cocaine and the marijuana out and not have it sitting around in warehouses and having it in a position that it would be certainly available for somebody to come in and make a big scene over it.

Last, but not least, in this legislation we are attempting to beef up our law enforcement agencies, the Drug Enforcement Administration, the Customs, and the Coast Guard. In our judiciary area we are working very hard to do that with DEA. I do not totally agree with the grant program that is in our bill, but it is not a large amount of money compared to that in other sections, and if we are going to get re-

sources anywhere, the Drug Enforcement Administration ought to have those resources.

Mr. Chairman, at this point I reserve the balance of my time.

The CHAIRMAN. The gentleman from Florida [Mr. McCOLLUM] has consumed 5 minutes, and he reserves 10 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Chairman, I yield 2½ minutes to the gentleman from California [Mr. EDWARDS].

The CHAIRMAN. Without objection, the gentleman from California [Mr. EDWARDS] is recognized for 2½ minutes.

There was no objection.

Mr. EDWARDS of California. Mr. Chairman, I thank the gentleman for yielding me this time, and I congratulate all of the chairmen and the chairwomen who have been involved in this enterprise. This is really a first-class piece of work, and most especially I congratulate the gentleman from New Jersey [Mr. HUGHES], who has just done a marvelous job, and I commend the gentleman from Florida [Mr. McCOLLUM] also.

This is a real good bill, and I hope it stays a good bill. There are some problems that are coming up, and I want to alert the Members to them. There are some serious problems, and I would point out that these amendments that are going to be offered tomorrow, at least three of them, would be devastating, and I hope we can defeat them.

The exclusionary rule exception would be a grave mistake. Let me point to my colleagues that both the American Bar Association and the Judicial Conference of the United States are opposed to this amendment. It would allow the use in trials of evidence that has been illegally seized. That is a violation of one of the bulwarks of our freedom, the fourth amendment of the Constitution, the right to be free of unreasonable searches and seizures. We do not want the police or FBI agents or drug agents using illegally seized information.

I think it is going to be a great mistake if we approve the amendment referred to by the gentleman from Florida [Mr. McCOLLUM] to allow the death penalty in certain cases. Even the President of the United States has stated emphatically that it would be a mistake. To quote the President, "We think the drug issue is too important and we want to approach it with the consensus of the American people so that it does not get involved in a side issue such as the death penalty." So the President is against it.

I would like to point out also that I believe the Senate could start a filibuster if the death penalty is inserted in the House bill.

Lastly, although it is not a Judiciary Committee matter, the amendments that would authorize the expanded use of the military in drug cases present a real problem. The part of the bill already expanding modestly the use of the military in drug cases is crafted very well, and it should not be tampered with. We really do not want to authorize the military in the United States to enforce civilian law. That is a very bad road to travel.

The CHAIRMAN. The time of the gentleman from California [Mr. EDWARDS] has expired.

Mr. HUGHES. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. BYRANT].

The CHAIRMAN. Without objection, the gentleman from Texas [Mr. BRYANT] is recognized for 2 minutes.

There was no objection.

Mr. BRYANT. Mr. Chairman, I thank the distinguished chairman of the Subcommittee on Crime for yielding this time to me.

I want to say that many Members, particularly from my side of the aisle, have spoken out about the concern they have with regard to the use of the military in the interdiction of drugs. I want to make this observation. The biggest cause of crime in the neighborhoods of the United States today is drugs. Any policeman will tell us that. Statistical evidence is available to tell us that.

In my own city last year, crime increased by 18 percent. In the same year drug-related deaths doubled, and in the same year the tonnage of drugs confiscated doubled as well. The connection is clear. The greatest threat to civil liberties in this country is a public that has given up on believing that our system is going to solve the crime problem, and unless we deal dramatically with this drug situation, we are not going to solve the crime problem.

The use of the military to interdict drugs at our borders is a natural and commonsense response to a problem that cannot be handled by local police forces and has not been handled by the FBI, the Drug Enforcement Administration, or the Customs agencies, even though they have tried as hard as they possibly could.

I strongly urge the Members of the House to consider my amendment, the amendment to be offered by the gentleman from Florida [Mr. BENNETT], the amendment of the gentleman from California [Mr. HUNTER], and the amendment of the gentleman from Arkansas [Mr. ROBINSON], and to recognize that we are going to have to take dramatic action if we are going to interdict the drugs that are coming across our borders today.

Eighteen thousand flights a year cross our borders without authorization because of our radar ceilings. It is impossible for us to solve the problem unless we are to follow the logic and the commonsense response of using our military to protect our borders.

Mr. Chairman, I urge the Members to consider those amendments favorably.

Mr. HUGHES. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. LEWIS].

The CHAIRMAN. Without objection, the gentleman from California [Mr. LEWIS] is recognized for 1 minute.

There was no objection.

Mr. LEWIS of California. Mr. Chairman, I might mention for the record that a number of my colleagues on the Judiciary Committee are in the Rules Committee at this very moment, and I know they want to speak at least briefly to amendments that they are holding for consideration when the House considers amendments tomorrow.

I think it is very important to point out the bipartisan interest that we have in expanding the impact of this bill upon the war on drugs by way of these amendments.

The gentleman from California [Mr. LUNGREN], for example, will present an amendment dealing with the exclusionary rule, which will broaden the authority we have to deal with criminal violations of the law.

□ 1600

It is critical for us to recognize that in the area of military involvement in drug trafficking and drug control we have both Democrats and Republicans providing amendments which will broaden the intent of the House in terms of military support for those efforts.

Mr. McCOLLUM. Mr. Chairman, I yield myself 1½ minutes.

There are going to be two key amendments offered in this section of the bill. There are several, including a couple I am going to offer that I would like to think are critical, but there are going to be two that we really have to address and address with intent when this comes up tomorrow. One of them is going to be the death penalty that we have heard discussed today.

I disagree with the other gentleman, not my good friend here from California, Mr. EDWARDS, though, who said this was a problem in constitutional law. I do not agree with that. I think we have to get at this problem. We have to put the death penalty back in where it belongs. It was taken out of Federal law by the Supreme Court some time ago on a technicality. We have only put it back in a couple times. We have had very few opportunities to vote on the death penalty and certainly for hard drug dealers we need the death penalty.

Second, we have a chance to change the law with regard to the exclusionary rule. The gentleman from Califor-

nia [Mr. LUNGREN] will offer an amendment that will give us a chance.

So let those pieces of evidence come on in, even though they were seized in situations where there was an illegal search and seizure.

All too often we have had situations where the evidence has been denied by the courts because of some technicality.

There is entirely too often the situation where we have lost cases and lost convictions of really bad criminals out there, particularly in the drug world, because the evidence was denied simply due to a technicality. I think we need to pass both of those amendments very, very strongly, when they come up tomorrow and that will be a vast improvement on our judiciary section of this bill.

Mr. HUGHES. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon [Mr. WYDEN].

The CHAIRMAN. Without objection, the gentleman from Oregon [Mr. WYDEN] is recognized for 2 minutes.

There was no objection.

Mr. WYDEN. Mr. Chairman, I want to begin by thanking my colleague from New Jersey, Mr. HUGHES for his excellent leadership in this area. He has put together a most constructive package from the Judiciary Committee to reduce drug trafficking in this country. I appreciate his work on this vital subject and I thank him for yielding me the time.

The fact is all the statistical evidence shows that the vast majority of serious, violent crime in this country is committed by a small percentage of offenders known as career criminals. As the head of the Justice Department's National Institute of Justice, James K. Stewart told the Wall Street Journal, September 5, 1986, "to arrest an offender who may be committing five or six serious crimes a week is obviously more productive than apprehending the occasional thief or burglar."

Many of these career criminals are dealing in cocaine, crack, and hard drugs. I think it's high time for the criminal justice system to make it a top priority to go after these career drug criminals.

That's exactly what H.R. 4639 that I introduced earlier this year would do. That legislation, which is similar to provisions in this package, would allow the Federal and local prosecutors to team up and prosecute the worst drug traffickers in Federal court. This would be done by expanding the existing Career Criminal law to include "violent felonies or a serious drug offense, or both." Drug offenders convicted under this section would face a mandatory, minimum sentence.

Mr. Chairman, in 1984, I sponsored the House legislation that began a major Federal effort to prosecute career criminals. The major reason I now support extending the bill to drug offenders is that law enforcement professionals believe the current career criminal bill has been a significant help.

Yesterday, the Director of the Bureau of Alcohol, Tobacco, and Firearms told me his Bureau has indicated 103 additional cases under the 1984 statute and obtained 48 convictions under it. To date, 24 armed career criminals have actually received the 15-year enhanced sentence.

Moreover, I've seen the benefit of this legislation in my home State of Oregon. Our local prosecutor, Mr. Michael Schrunk and our U.S. attorney, Mr. Charles Turner, have done a tremendous job in teaming up to target and prosecute career criminals. They, like other law enforcement officials, support extending the 1984 legislation to career drug.

In the Pacific Northwest, our law enforcement officials need all the help they can get in fighting the drug scourge.

The Pacific Northwest is awash in drugs. An enormous amount of black tar heroin is coming in from Mexico. According to the Governor's Council on Alcohol and Drug Abuse Programs, drugs and alcohol cost the State of Oregon $1.5 billion in treatment, lost income, corrections, and drug enforcement last year.

Drugs and alcohol abuse are connected with 50 percent of all police arrests, 30 percent of all suicides, and 68 percent of all emergency room trauma cases. The emergency room death rate has skyrocketed—this year 19 people have already died of cocaine-related deaths in Oregon hospitals, compared to 5 such deaths in all of last year. As of June 17, the medical examiner in Multnomah County blamed 45 deaths on the deadly tar heroin, almost half again as many as there were last year.

And, as elsewhere, drug offenders in Oregon often get off the hook. Drug dealers in Oregon and elsewhere know the overworked criminal courts, crowded jails, and police aren't likely to catch up with them.

This legislation increases the odds that these career criminals will be kept off the streets.

Mr. Chairman, by using a teamwork approach to target the worst career drug criminals, I believe we can make a significant dent in the drug problem in this country.

I want to again thank Mr. HUGHES and his great staff for working closely with me for two Congresses on career criminal legislation. I hope my colleagues will support these provisions and the entire package.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. WYDEN. I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Chairman, I just want to say that the gentleman from Oregon, RON WYDEN, has worked very hard in two Congresses on the career criminal bill. The gentleman has worked with our colleague in the other body, Senator ARLEN SPECTER. They have done yeoman work.

I want to congratulate the gentleman from Oregon on his excellent work in this area. I am very happy that we could develop this legislative initiative. Really, this just builds on that effort in the 98th Congress.

Mr. WYDEN. Mr. Chairman, thank you so much for those kind words. It is a pleasure to work with you.

Mr. McCOLLUM. Mr. Chairman, I yield 6 minutes to the gentleman from California [Mr. LUNGREN].

The CHAIRMAN. Without objection, the gentleman from California [Mr. LUNGREN] is recognized for 6 minutes.

There was no objection.

Mr. LUNGREN. Mr. Chairman, I thank the gentleman from Florida for yielding me this time.

I want to say that it feels awfully good to be down here dealing with this issue at this time.

This last week in my home State of California I had the opportunity to speak to the National Association of Police Organizations and in discussing what the Congress was about ready to do, they were very, very pleased that we were acting on it; but believe me, they have not just discovered the drug problem. They have been dealing with it on a daily, weekly, monthly, yearly basis, for years and years and years. They are happy to receive the efforts of the Federal Government to assist them in what it is they have been trying to do.

I would suggest that this is a top to bottom problem that needs a top to bottom solution.

We need to change the attitude of the American people, or at least the attitude of the American people as expressed by their elected officials at all levels of Government.

I said on this floor before, and I feel very, very strongly about it, that we have over the last 15 to 20 years lost a good portion of a generation of Americans to drugs. When my generation came up and went through the school process, people were not quite ready to confront the awesome power of drugs and what it could do to us. A lot of people used it as a recreational thing. There was the idea that as long as someone uses it and it just hurts him or hurts her, it does not hurt the rest of society. Thank God we are over that point.

I think we really have to confront the fact that we have not been as serious as we have to be at all levels. I would defy anybody who has been on a college or university campus over the last decade to tell me that we have been serious about the problem of drug abuse at those institutions. I

would defy a college president or university president to tell us that his institution or her institution has done everything they have to do in order to take care of the problem of drugs on their campuses. That does not just mean treatment, treatment which is important, but it also means cooperation with local law enforcement.

We have to change the attitude in America. Some weeks ago William Raspberry was writing a column about an appearance that Jessie Jackson made to a high school audience in which he basically asked how many of them knew that cocaine could kill, and most of them indicated that. Then he asked how many used cocaine, and a good portion of them indicated they had.

William Raspberry asked the question, "If ignorance isn't the problem, how is education the solution?"

I am not saying we ought not to have some education element in this package, that is important; but what I am saying is that if you do not have an essential ingredient of tough law enforcement to back it up, it is going to be meaningless.

Many of our children know far more about drugs than we will ever know.

The message we have to send clearly, loudly, and unequivocally, is that drug use is not tolerated on a college campus or anywhere else. This bill goes some way in doing that. I hope that we will support those elements of the bill that do that.

There is one area that is of some concern to me. I hope it can be worked out before we have a final vote on it. It has to do with an amendment to something I have been dealing with for well over a year, the designer drug. It has to do with an amendment that at last I was told was going to be wrapped up in the en bloc amendment, unless there is a change made. This amendment, unfortunately, I am convinced after talking with the FDA and after talking with the National Association of State Controlled Substances authorities, will create a huge loophole for people to abuse designer drugs as long as they have got a M.D. or Ph.D. after their names. It will basically say that even if a doctor is so bad that his or her authority to handle substances covered under schedules 2 through 5 have been rescinded, and 5 is something as meaningless as cough syrup, he will be allowed to work on designer drugs in schedule 5.

In other words, we would enable such individuals to handle analogs 5,000 times as potent as morphine, even though they would be prohibited from handling many less dangerous substances. That does not make sense to me. I think it is inadvertent, but a change is necessary in that amendment before it will be allowed.

One other message I think we have to give loud and clear is that we are not going to have a double standard. For a long time we have looked down at drug addicts in the streets. We said those are the guys who do the burglaries. Those are the guys to put in jail; but if you happen to be a professional football player or baseball player and you use it for recreational purposes, we slap your wrist and you get a standing ovation when you return to the arena the next year.

We have got to say that doctors—I do not care if you have an M.D. after your name—have got to follow the same thing that everbody else does, and unfortunately unless we work out the language in this one amendment, we are going to say that there will be a double standard, that someone who happens to have an M.D. after his name will be allowed to do this. Unless we make that change, that individual will be allowed to use controlled substances, designer drugs, on himself or others without first going through the regular protocol of the FDA and having animal studies.

Mr. Chairman, I just do not think we can allow that to happen. I hope we will be able to work that out before the Wright amendment is voted on.

We need tough law enforcement. We need a death penalty to be voted on and to be allowed for someone who has committed murder in furtherance of his drug trafficking. That is an absolute essential that we need out there on the street.

I want to commend the chairman of my subcommittee and the ranking member of the subcommittee for the enhancement of penalties that we have in this bill, it is absolutely necessary, and for the money laundering provision in this bill and for what I have been working on for well over a year, designer drugs. It is a plague in our country. It is particularly troublesome in California, but it is spreading all over the country.

Congress has awakened to this problem. We are now going to act on it. I hope we will get support for this with some of the changes I have mentioned.

Mr. HUGHES. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. BIAGGI].

The CHAIRMAN. Without objection, the gentleman from New York [Mr. BIAGGI] is recognized for 1 minute.

There was no objection.

Mr. BIAGGI. Mr. Chairman, I thank the gentleman for yielding and say that at long last, I have spent 23 years in law enforcement in the city of New York Police Department, and I wondered about the piecemeal approach in dealing with drugs. I knew it was futile. it was an effort, valiant men gave their lives, valiant men gave their efforts to it, but it was a losing fight.

At long last, simply because there is acknowledgement that America is being invaded in a most prolific fashion, that the Federal Government has responded, the administration and the Congress and the Congress is responding with this bill.

This bill from my perspective is enormous. The DEA, those tremendous individuals in the new task force, have been out there fighting the fight with bandaids really.

And laundering, a new aspect of it, everyone participating in a laundering process will be subject to criminal sanctions, not just the individuals who initiate it, but everyone associated with it. That clearly should have an inhibiting factor.

With relation to career criminals, that is a focus that has been established in the Bronx very successfully by the district attorney there, focusing on the career criminals. That is exactly what they are. They are criminals everyday of their lives. With the ability to focus in on them, we will be able to extract them from society at large and be able to really take the heart out of the entire operation.

And at long last, moneys for prison construction, we do not turn these people out into the streets anymore. We do not place inhibitions on judges. We provide prisons in order to arrest them, prosecute them, and put them away. It is where they belong. Take them off the streets of America.

Mr. Chairman, I commend the gentleman from New Jersey [Mr. HUGHES] for his leadership in this undertaking.

Mr. McCOLLUM. Mr. Chairman, I yield myself such time as I have remaining.

The CHAIRMAN. The gentleman from Florida [Mr. MCCOLLUM] is recognized for 1½ minutes.

Mr. McCOLLUM. Mr. Chairman, I think the bottom line of this whole debate is that we all want and all America wants to get at this nemesis of drugs. We have been at it on one level or another for a long time and it is extremely frustrating, but we cannot lose sight of the fact that it is a war. It is a war that we have to put in every bit as much effort in winning as we do a war against some seen and known enemy where the military goes out and fights those battles. We have to have a strategy. We have to have tactics. We have to carry out the action. We have to have the resources. We have to have the command and control centers, some of which are in this legislation.

Most of all we have to have the following faith and dedication of the American people.

Not one provision alone, not one bill, no matter how big or omnibus it is, is going to solve the drug problem in this country. We have to have all of it working together. This bill helps a little bit. Hopefully, we will pass it with overwhelming colors when it comes up for the final vote with some

amendments to it, but it is not the last word. We have got to get with it and support our law enforcement people and support the public in stopping the demand and every other aspect of the drug problem in this country. It is a war, but it is a war we can win.

Mr. HUGHES. Mr. Chairman, I yield 1 minute to the gentleman from Oklahoma [Mr. ENGLISH].

The CHAIRMAN. Without objection, the gentleman from Oklahoma [Mr. ENGLISH] is recognized for 1 minute.

There was no objection.

Mr. ENGLISH. Mr. Chairman, I want to commend the Judiciary Committee, the chairman and the ranking minority member for their fine work. They have made a great contribution here today. They have included most of the provisions, and I want to thank them for that, of H.R. 5269.

Let me also say that there are some very important provisions in this section of the bill. A lot of people do not recognize that half of the hard drugs that are consumed in this Nation today are produced in the United States through drug laboratories, but we find that only 13 percent of the time of the DEA is focused upon those because of shortages of personnel. This particular measure provides additional personnel and allows the DEA to target these clandestine drug laboratories that are producing drugs here in this country. That is one area, one choke point in which we can make a dramatic impact in a very short period of time once these agents are on line.

□ 1615

And let us not forget the fact that intelligence plays a very key role in the war on drugs. This particular provision provides for 100 new intelligence agents, intelligence agents that will not only serve the DEA and the Justice Department, but also fulfill their responsibilities to other law enforcement agencies throughout this country. One thing that we are in deep need of is tactical intelligence, timely intelligence. This measure will give us the opportunity to provide that, and I thank the Committee on the Judiciary for that.

Mr. FISH. Mr. Chairman, not long ago I participated in a joint hearing of the Select Committees on Narcotics and Children, Youth and Families. The subject of this hearing was crack, and the information we obtained made me very frightened indeed, not only for our children, but for our entire country. The testimony reinforced my longstanding view that we must increase our ongoing efforts to reduce drug supply and demand.

As the ranking Republican of the Judiciary Committee, I have had the opportunity to directly participate in the creation of drug enforcement legislation for many years. Only 2 years ago, we adopted the Comprehensive Crime Control Act, which strengthened drug penalties, bail and sentencing laws, and provided for forfeiture of drug assets. Now we have before us an omnubus drug bill, H.R. 5484, that, among many other things, further increases drug trafficking penalties, improves drug asset forfeiture law, and outlaws designer drugs and money laundering. $1.5 billion in funding for many new drug supply and demand reduction programs is included.

The value and effectiveness of the omnibus drug bill, however, is directly dependent on the strength of our continuing commitment. For this bill to have a lasting impact, Congress must see this effort as the cornerstone of a long term consistent and dedicated effort to eliminate drug abuse in this country. This bill, to really work, must signal more than a one time effort.

A long-term solution to this problem depends in large part on an effective, coordinated, and cooperative enforcement effort enhanced by all Federal enforcement agencies and our military. H.R. 5484 strengthens our efforts in this direction with resources and new tools for many of these agencies. We inadvertently create a problem, however, when we expand agency jurisdiction into so many areas in such a short time; this bill creates overlapping jurisdictions that may confuse responsibility, hinder cooperation, and perhaps, create waste through duplication.

Fortunately, in one instance we have avoided this problem through a thoughtful multicommittee response. Both Customs and Coast Guard have jurisdiction for some maritime air interdiction. We cannot, however, afford to fund the equipment twice so that both agencies could do this duty in the area of overlapping jurisdiction. We have solved this dilemma by authorizing four E2C surveillance aircraft in the Defense Department portion of this bill. We then give customs and Coast Guard the authority to use and maintain these planes subject to a determination by the cabinet level Drug Enforcement Policy Board as to whether customs or Coast Guard will have the lead agency status for maritime air interdiction.

This is one example of organizational planning in this bill. It is important, and if congressional efforts against drug trafficking are going to be successful, we will need to do much more of this type of multicommittee planning.

One area where I believe an expansion of power will not help our effort is the attempt to give the military power to make searches, seizures, and arrests. I plan to oppose an amendment to this effect. Although military involvement assistance in the antidrug effort should be expanded, the principal reliance should be upon civilian law enforcement personnel when it comes to the actual search, seizure, and arrest. This distinction goes back to the Civil War, was based on good reason then, and should be maintained for good reasons now.

In one other section of the omnibus drug bill, I fear that we may upset ongoing interdiction efforts. This bill establishes a White House Conference on Drug Abuse and Control. I question whether the convening of yet another conference is really necessary. We are well aware of the scope of the problem—that is what H.R. 5484 is all about. But what really concerns me about this proposal is the knowledge that the people actually coordinating, planning, and executing the interdiction effort are the ones who will be diverted from doing something about drug interdiction to organize and run this conference.

Title VI of H.R. 5484, which was the responsibility of the Judiciary Committee, makes great contributions to the drug enforcement effort by creating new law enforcement tools. The money laundering provisions of this bill for the first time make the laundering of drug money a crime in this country. By preventing traffickers from concealing or legitimizing their ill-gotten gains, we hope to take the profit out of the crime. This is one of the most effective parts of the bill because it goes to the heart of the drug trafficker's motivation.

H.R. 5484 also outlaws any manufacture of designer drugs outside the carefully controlled research environment of the food and drug laws. This will help prevent the creation of mystery drugs that are now manufactured legally under loopholes in the law. These drugs kill people or leave them with permanent disablements, like Parkinson's disease. Career criminals involved in drug trafficking will face mandatory prison sentences. Mandatory penalties are also established for drug trafficking, with a mandatory life sentence if death results from this despicable crime. No probation or parole is permitted in these sentences.

The Judiciary Committee also recommended the significant increase in authorization in H.R. 5484 for the construction of 17 new Federal prison facilities. Additional moneys for U.S. attorney and U.S. marshal resources are also included. This funding is yet another example of needed planning for our overall effort. It makes little sense to increase our interdiction commitment or to create mandatory drug trafficking sentences if we do not also provide extra prosecutors to try these cases or prisons in which to put the convicted traffickers. The prisons are 42 percent overcrowded today and the situation will worsen. This bill ensures that the system is healthy from beginning to end, which is essential if we hope to do a competent job against drug trafficking.

Mr. Chairman, although I have serious reservations about certain provisions in H.R. 5484, on balance, I believe it provides many needed improvements in our criminal laws. H.R. 5484 also recognizes the need for a more concentrated effort toward reducing drug demand. The omnibus drug bill hopefully reflects a genuine commitment on the part of this House to a long term commitment to the war on drugs. I will be supporting many amendments offered by my colleagues to improve H.R. 5484, and I urge its adoption.

Mr. RANGEL. Mr. Chairman, I yield 10 minutes to the gentleman from California [Mr. MINETA], representing the Committee on Public Works and Transportation.

Mr. MINETA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of the omnibus drug bill of 1986. As has been stated throughout the day by our colleagues, the drug abuse problem in this country has reached the point where we no longer can tol-

erate its terrible impact on the people of our Nation. Drugs are crippling the lives of millions of our children, and killing thousands of them.

We must address the drug abuse problem firmly and concretely, pursuing every conceivable avenue to halt this growing tragedy. We must increase our education programs. We must tighten enforcement of antismuggling laws. We must stiffen the penalties for those who trade in drugs.

The omnibus drug bill of 1986 represents such a comprehensive approach to the drug problem, and the leadership of the House is to be commended for their efforts in developing this legislation and bringing it to the floor in a timely manner.

I would like to discuss the tit'e developed by the Committee on Public Works and Transportation. Title VII proposes further changes in the Federal aviation laws to make them more responsive to the fact that airplanes and pilots are a crucial feature of drug smuggling. The Congress enacted the Aviation Drug Smuggling Act in 1984 which increased penalties on aviation drug smuggling activities. Title VII builds upon that earlier law.

Title VII would authorize the States to establish criminal penalties, including forfeiture of aircraft for certain violations of Federal regulations on aircraft registration and markings and pilot certification, particularly when fraud, forgery, or misrepresentation were willfully and knowingly involved. Improperly and fraudulently registered and marked aircraft are a common characteristic of the aircraft used in drug smuggling, and this provision would be a major tool to the authorities on the frontlines of the war against drugs.

The Public Works and Transportation Committee title would also establish new criminal penalties for violations of certain aviation regulations when the illegal transportation was of a controlled substance. Particularly, violators would be subjected to a fine of up to $25,000 or imprisonment of up to 5 years, if they operated an unregistered aircraft, served as an airman without an airman's certificate, violated regulations on display of navigation or anticollision lights, and operated an aircraft with a modified fuel system not approved by the Federal Aviation Administration.

Again, with these new penalties we hope to deter the ease of using aircraft in drug smuggling.

Mr. Chairman, I urge the House to pass this bill so that a comprehensive approach to this problem can be begun.

Mr. Chairman, I would like to again commend the ranking Republican on the Aviation Subcommittee, the gentleman from Arkansas [Mr. HAMMERSCHMIDT], as well as our fine colleague, the gentleman from Florida [Mr. SHAW], for their efforts in this title of the legislation.

Mr. Chairman, I reserve the balance of my time.

Mr. MICHEL. Mr. Chairman, I yield 10 minutes to the gentleman from Arkansas [Mr. HAMMERSCHMIDT].

Mr. HAMMERSCHMIDT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to add my voice to those of my colleagues who condemn the spread of illegal drugs in this country. Unfortunately, private and commercial aircraft are often the methods used to smuggle those drugs.

Two years ago, the Public Works and Transportation Committee recognized this and took the initiative by helping to enact the Aviation Drug-Trafficking Control Act. That act strengthened the hand of the Federal Aviation Administration [FAA] in dealing with drug smuggling. For example, it increased the period that an airman's certificate could be revoked for drug-related violations from 1 to 5 years. It also imposed criminal penalties for operating without an airman's certificate or using a fraudulent one in connection with drug smuggling activity.

But it is clear that more needs to be done. Therefore, we are pleased to join with other Members of this body in the omnibus antidrug legislation.

As the chairman said, title VII of this bill would give States the authority to establish criminal penalties for certain improper activities in connection with aircraft registrations. Drug smugglers have been known to forge aircraft registration certificates or obtain legitimate certificates by fraudulent means. The FAA apparently lacks the resources to uncover and respond to these illegal actions in many cases. This bill would therefore let States take up some of the slack. For instance, one who uses an aircraft with fraudulent registration could now have his aircraft seized either by a State or the Federal Government. The gentleman from Florida [Mr. SHAW], is to be commended for his initiative.

Title VII would also establish new criminal penalties for certain violations of existing FAA regulations when these violations occur in connection with drug smuggling. For instance, smugglers are often aided in their illegal activities by flying with their lights off or by modifying their fuel tanks. These can be violations of FAA regulations in any event but they would now be criminal acts as well when done in connection with the illegal transportation of a controlled substance.

Finally, title VII directs the Secretary of Transportation to study the relationship between drug usage and highway safety.

Mr. Chairman, it is apparent that existing laws are not sufficient to stamp out the drug problem or stop drug smuggling by air. I seriously doubt that passage of this bill will totally change that. But I do believe that this legislation will provide important assistance to President Reagan and law enforcement authorities in their war against illegal drug trafficking. Hopefully, it will convince airmen that they risk not only their flying careers, but substantial fines and jail terms as well, if they engage in the prohibited activities.

Mr. Chairman, I yield 3 minutes to the gentleman from Florida [Mr. SHAW], a member of the committee.

The CHAIRMAN pro tempore (Mr. BROWN of California). Without objection, the gentleman from Florida [Mr. SHAW] is recognized for 3 minutes.

There was no objection.

Mr. SHAW. Mr. Chairman, I thank the gentleman from Arkansas for yielding time to me.

Mr. Chairman, section A of title VII of this omnibus drug bill is the product of several years of study and research of a problem that is prevalent in my district in Fort Lauderdale, FL, as well as in other border and coastal States hit hard by the drug smuggler.

I and my staff have worked on a legislative answer to the blatant abuse of our aircraft registration laws, and with cooperation from the Federal Aviation Administration I introduced a bill earlier this year, H.R. 5281, the language of which has been incorporated verbatim into this title of the bill.

The issue is fairly simple. Drug runners use private aircraft extensively to smuggle drugs into this country. In order to avoid any connection with their use of aircraft and the risks of their trade, they use false registration numbers on their planes, they file false registration forms with the Federal Government, and they make up false names and addresses of corporations that supposedly own these aircraft.

State and local law enforcement agencies that have jurisdiction over their local airports are aware of this practice and have the means to arrest and seize these aircraft that they believe are involved in the drug trade. The problem arises when local law enforcement acts to seize these aircraft, they are immediately thrown out of court because of Federal preemption. Technically, the courts are correct in applying the preemption doctrine in such cases, because Congress, through out creation of the Federal Aviation Administration, has preempted the area of aircraft registration.

This title of the bill cures that dilemma by delegating from the Federal Government to the States the right to enforce FAA regulations regarding aircraft registration.

This language does not give the several States the right to create their own different aircraft registration laws or regulations. What it does is give the States the right to create their own criminal procedure laws for enforcing the FAA regulations already in place.

Mr. Chairman, this is an excellent legislative cure to a blatant loophole that exists in our war on drugs and represents a compromise that we have worked our between State enforcement authorities and the interests of the Federal Aviation Administration.

I would like to take this opportunity to recognize two gentlemen from my home district of Fort Lauderdale who helped identify this problem and worked hard to see a law passed that would allow them to do their job better. They are Sgt. Michael White, of the Fort Lauderdale Police Department, and Geoffrey Hochman, the legal counsel of the Fort Lauderdale Police Department legal unit. Without their persistence and help, this language would not have been drafted into bill form.

Mr. Chairman, I urge my colleagues to vote in favor of this bill, and I am very pleased to have contributed this provision to the bill.

□ 1625

Mr. MINETA. Mr. Chairman, I yield such time as he may consume to the gentleman from Oklahoma [Mr. JONES].

The CHAIRMAN pro tempore (Mr. BROWN of California). Without objection, the gentleman from Oklahoma [Mr. JONES] is recognized for such time as he may consume.

There was not objection.

Mr. JONES of Oklahoma. Mr. Chairman, this legislation is the first serious salvo in what must be an aggressive, all-out, sustained war on drugs.

As a member of the majority leader's Drug Task Force, and an original cosponsor of the bills introduced by my colleague from Oklahoma [Mr. ENGLISH], I speak in strong support for this Omnibus Drug Enforcement, Education and Control Act.

This is truly comprehensive legislation. The area in which I concentrated concerned swift and sure punishment for those drug peddlers who prey on society, especially young people.

This bill gets tough with drug dealers. Recently, I read about a drug dealer in California who was given a lavish funeral with several Rolls Royces and an antique hearse. He has amassed huge sums of money by destroying people's lives. And he was proud of it even in death.

We must send a message across the country, that the war on drugs is on, and it will be won. We must let dealers know they will not make profits from drugs, they will not be free, and they will not be respected by their community.

By increasing penalties for drug-related offenses, this bill gets to the heart of the problem. I support the stiff, mandatory jail sentences established in the bill. Now we must ensure that our courts enforce these laws. This bill also authorizes additional funds for prison construction and maintenance, so there can be no excuse for allowing convicted drug offenders to run free.

This bill is omnibus in the best sense of the word. For too long we have talked about the drug problem, but we have been reluctant to commit the resources needed to really solve the problem. This bill correctly attacks both the supply and demand aspects of the situation.

We can not simply promote educational awareness and other demand side programs without also controlling the flow of drugs into the country and taking the profit out of dealing. By giving our agents the tools they need to interdict drugs, and by penalizing uncooperative drug source nations we will finally reduce the amount of drugs crossing our borders.

I would like to commend the leaders on both side of the aisle for their work in forging this truly bipartisan bill, and I would especially like to recognize the efforts of Mr. ENGLISH. If it were not for his perseverance and dedication to the drug problem over the years, we would not be debating this legislation today.

Mr. Chairman, I am proud to have been part of this bill which gets to the root of our drug problem by attacking both the supply and demand, and I urge my colleagues to vote in favor of it.

Mr. MINETA. Mr. Chairman, I yield 3 minutes to our fine colleague, the gentleman from New York [Mr. SCHEUER].

The CHAIRMAN. Without objection, the gentleman from New York [Mr. SCHEUER] is recognized for 3 minutes.

There was no objection.

Mr. SCHEUER. Mr. Chairman, this problem of drug addiction is basic to the future of our country. Not only is it wreaking untold tragedy on contemporary America, on the hopes of families of kids for happy, successful lives, on the hopes of all of us for bringing our cities back to some kind of serenity, we know that drug-related crime is responsible for perhaps 60 percent of all the violent crime in our cities. It threatens the viability of cities. It threatens the viability of families.

It also threatens the viability of America's productive future. The surveys tell us that in 10 years, three-quarters of all jobs, all new jobs in this country, will require some degree of postsecondary education. That means anybody who is interested in a serious job will have to have completed high school and had some kind of additional training.

Place alongside that stark requirement the fact that one-third of all seventh graders have gotten involved in the drug scene and two-thirds of all high school seniors have been involved in the drug scene. Take very clear note of the fact that there is a clear statistical correlation between the intensity and length of alcohol or drug use and education success or education failure.

In a country that wishes desperately to be productive; in a country that wishes desperately to have an effective labor force so that we can be global competitors, successful global competitors in exporting America's goods and services, as we have always been, to maintain our wonderful standard of living, we are going to have to have an educated, skilled, productive work force that has at least a high school education, and for most of the new jobs, three-quarters of them, it is going to require more than that.

We know that prolonged in-depth use of alcohol or drugs spells education disaster for our kids. We must get to the point of teaching our kids that drugs are a no-no; that drugs lead down the road to failure, to family failure, to education failure, to job failure, and to very possibly death and the destruction of everything they hoped for.

Mr. HAMMERSCHMIDT. Mr. Chairman, I yield 1 minute to the gentleman from Mississippi [Mr. MONTGOMERY].

The CHAIRMAN. Without objection, the gentleman from Mississippi [Mr. MONTGOMERY] is recognized for 1 minute.

There was no objection.

Mr. MONTGOMERY. Mr. Chairman, I rise in support of this legislation.

I am supportive of the paragraphs that cover the military as far as being used for drug interdiction in the fight on drugs. I think what is in the bill should stay there and I think we should give the military time and the President time to come back and tell us what the actually wants the military to do, to tell us in no uncertain terms how he wants the military to be used and then let the military, which includes the National Guard and Reserve, come back with plans how they can best fit into this program and do the best job.

Mr. HOWARD. Mr. Chairman, I rise in support of the omnibus drug legislation and particularly title VII, the Committee on Public Works and Transportation's contribution to this important effort.

The first section of this title authorizes the States to establish criminal penalties, including the forfeiture of aircraft for violations of Federal aircraft registration laws. The States would be authorized to impose penalties

against persons who forge aircraft registration certificates, sell or use fraudulent aircraft registration certificates, display false registration markings, or obtain an aircraft registration through false or fraudulent representations.

Presently, the States are preempted from dealing with these abuses. Although there a Federal laws against these types of actions, it is frequently States authorities who are on the frontline in the war on drugs. This section will provide them with another set of arrows in their quiver to stem the flow of illegal drugs in this country. As we all know, the use of improperly and illegally registered aircraft in drug smuggling is all to common and with this provision we hope to go a long way in making the use of these aircraft more difficult for the drug smuggler.

The second section establishes new Federal criminal penalties for violations of Federal Aviation Regulations in connection with drug smuggling. The illegal actions covered by this section include operating an unregistered aircraft, serving as an airman (pilot) without an airman's certificate, flying without lights, or operating an aircraft with a modified fuel system that has not been approved by the FAA. The penalties for these violations would be up to 5 years in prison or a fine of up to $25,000 on top of any penalties for violation of drug laws.

Again, with this section we are seeking to interrupt the ease of using aircraft to smuggle drugs.

The final section provides for a study by the Secretary of Transportation to determine the relationship between the usage of controlled substances and highway safety.

Mr. Chairman, we have an opportunity to do something to address the drug problem in this country. We no longer need just wring our hands over our inability to address the drug problem. This legislation before us is a comprehensive approach that I believe will provide very tangible benefits in the war on drugs.

Finally, I want to specifically commend my colleagues on the Public Works and Transportation Committee for their strong bipartisan efforts and contributions to this effort.

Again, Mr. Chairman, I rise in support of this legislation and urge the Members to vote "yes" on the omnibus drug legislation.

Mr. HAMMERSCHMIDT. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. MINETA. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. RANGEL. Mr. Chairman, I yield 10 minutes to the gentleman from California [Mr. HAWKINS], chairman of the Committee on Education and Labor.

Mr. HAWKINS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today in support of the Omnibus Drug Act of 1986 and especially in support of title VIII of that bill which was reported by the Education and Labor Committee by voice vote.

Experts believe that from 65 to 70 percent of all children have experimented with drugs. A recent survey of high school seniors revealed that more than half had used drugs. According to the National Institute on Drug Abuse, the Nation's high school students and other young adults still show a level of involvement with illicit drugs greater than can be found in any other industrialized nation in the world.

And more often, serious drug problems start with the abuse of gateway drugs like marijuana in the fourth or fifth grade.

Title VIII reflects the consensus that enhanced interdiction and law enforcement—however desirable—must be accompanied by drug abuse education and prevention. We need to turn the heavy pressure to experiment with drugs around into an attitude that says the cool thing to do is not do drugs.

Title VIII provides for grants to the States which, in turn, will make grants to local education agencies [LEA's] and for funds to be used to provide drug abuse education programs to dropouts. The Federal Government provides full funding in the first year. A 25-percent non-Federal match would be required in the second and third years.

The bill authorizes $350 million a year for 3 years to support drug abuse education and prevention. Frankly, it is not possible to operate a national program for less. Also, remember that this money is insignificant compared to the costs of drug abuse.

Experts estimate that Americans spend more than $100 billion a year on illicit drugs—the equivalent of half the Federal deficit. Drug sales are thought to be larger than the total net sales of General Motors Corp. and drug dealers earn more money than America's farmers.

Drug abuse costs are more than $100 billion in higher health costs, crime and violence, and lost productivity. For example, about 80 percent of all those behind bars—twice the rate in the general population—have taken drugs, and one-third of all inmates in Federal prisons are serving time for drug-related violations.

This bill emphasizes the crucial role of school-based drug abuse education and prevention programs to reduce demand for drugs. The committee recognized that there are many approaches to drug abuse education. States and localities should consider a broad array of approaches.

The bill provides incentives to develop effective drug abuse education approaches and facilitates the dissemination of knowledge about the best of them. For young children who have never used a drug, the emphasis should be on prevention. Data suggest that by the intermediate years, after kids have begun to experiment with drugs, early intervention programs are needed. Addicted youth should be referred to appropriate professionals for treatment.

In addition, the Secretary of Education is authorized to make grants to institutions of higher education. Funds would be available for preservice and inservice teacher training, summer institutes and workshops, and programs for law enforcement officials, community leaders, parents, and government officials. Not less than half the funds available to institutions of higher education must be used for programs of drug abuse education and prevention for students.

The committee bill reflects the priority we place on drug abuse education by creating a National Advisory Council on Drug Abuse Education. The council members—including representatives from entertainment and athletics—will act as spokesmen against drug abuse.

The fight against drug abuse must take place in the schools. We should also remember, however, that there is an extensive infrastructure of law enforcement, social service providers, health professionals, and others who deal competenty with drug abuse problems on a daily basis. The committee strongly encourages the establishment of linkages with existing programs and coordinating education programs with other programs.

□ 1635

Government alone is not going to solve this problem. Drug abuse affects all parts of our society, and the solution can only come through a joint effort like the kind this omnibus bill represents.

I want to commend the members of the Education and Labor Committee for working, to produce a bill that helps to balance our fight against drugs. This is a good bill and all members can be proud of it.

Drug abuse is not a partisan issue in any way. There is no Republican or Democratic way to fight drug abuse. The only way is to do it together.

The CHAIRMAN. The gentleman from California has consumed 3 minutes.

Mr. MICHEL. Mr. Chairman, I am happy to yield the 10 minutes allocated for this section of the bill to the gentleman from Missouri [Mr. COLEMAN] for allocation as he sees fit.

Mr. COLEMAN of Missouri. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we may be losing the most important battle in the war against drug abuse in this country. That is the battle for the future of our Nation's youngest school-age children.

The high drama of jungle warfare and border skirmishes with drug smugglers may seize the headlines, but our war on drugs will be won here at

home, in our classrooms, and in the hearts and minds of our children.

In this war on drugs, we must fight on all fronts: against the street and schoolyard pushers; against the producers in faraway jungles; and against all the criminals who are getting rich ruining the lives of millions of Americans.

But the war will not be won until we have destroyed the market for illicit drugs right here in America. We will destroy that market when America's children learn and understand the awful devastation that results from drug abuse. We must equip our youngsters with this knowledge and with the training to combat the pressures that have lead them to experiment with drugs.

We cannot start too early in our children's lives with the education necessary to face and reject the lure of illicit drugs. None of us would stand idly by as an unwary child experiments with fire; just as the toddler learns that fire burns and its pain is agonizing, our children must learn early the dreadful results of drug abuse.

To this end, I rise in support of title VIII of the omnibus drug bill which implements a national program of antidrug education initiatives by providing grants to States for local education agencies and consortia to fund drug prevention, education, intervention, and referral services. From the individual family to the Federal Government, every sector of our society has a critical role to play in the war to protect our children's future. But no entity has a more critical role than our schools and the dedicated teachers who are frequently the most influential factors in children's lives.

The Committee on Education and Labor has crafted a comprehensive program to facilitate antidrug education programs for kindergarten through high school and postsecondary institutions. The need for these education programs is clear when we consider that the National Institute on Drug Abuse has reported that "this Nation's high school students and other young adults still show a level of involvement with illicit drugs greater than can be found in any other industrialized nation in the world." A recent survey of high schools seniors, sponsored by the National Institute on Drug Abuse, revealed that 54 percent reported using marijuana or hashish, 26 percent, stimulants, 18 percent, inhalants, and 12 percent, tranquilizers. Most disturbing was that cocaine use had risen to a new high of 17 percent and that more than one-third of the students did not feel that trying cocaine was dangerous.

U.S. News & World Report magazine estimated recently that Americans spend the equivalent of half the annual Federal deficit, upward of $100 billion, on drugs. Drug sales are larger than the total net sales of General Motors and drug dealers take in more money than all of America's farmers.

Title VIII of the omnibus drug package includes an amendment of mine which creates a National Advisory Council, made up of 15 to 25 Presidential appointees from the fields of entertainment, professional and amateur athletics, education, and the private sector who will focus national attention on drug abuse, its prevention. This effort will provide antidrug messages from role models for children in a variety of public forums, from television to personal appearances. We must deliver the same effective and credible message of America's intolerance of drug abuse as we have done with alcohol abuse. The National Advisory Council on Drug Abuse Education and Prevention will serve as the catalyst for the antidrug movement among our youth.

The focus on preventing drug use by our youngest school-age children must be accompanied by an intervention program for our intermediate and high school students who may have already started to experiment with drugs. These children and their families need the support that the school and community mental health professionals can provide. Title VIII supports a broad range of appropriate school-based initiatives aimed at preventing drug abuse.

During the committee hearing on this issue, we heard from several expert witnesses who represented some of America's most successful local and State programs. One common thread shared by all of the programs, from the Kansas City Project STAR [Student Taught Awareness and Resistance] Program to Governor Dukakis' initiative in Massachusetts, is the staunch belief that our children must be taught resistance techniques through intensive role playing and coaching to avoid peer pressure to try and use drugs. We know how to give our children the basic tools they need to resist drugs without the fear and stigma of not fitting in to the social setting of the school, this information needs to be disseminated throughout the Nation. Title VIII provides for this type of information sharing between successful programs, like Project STAR in my hometown, and communities that are looking for answers to the drug problems that they are experiencing.

One problem mentioned repeatedly during expert testimony on the Education and Labor title was the lack of technical information available to local education agencies on drug abuse prevention and education curriculum. Title VIII of this legislation requires the Secretary to provide technical assistance to State, local and intermediate educational agencies in the selection and implementation of drug abuse education and prevention curricula, approaches and programs.

Title VIII also requires the Secretary of Education and the Secretary of Health and Human Services to conduct a thorough 1-year study of the effectiveness of existing Federal, State and local programs of drug abuse education and prevention. This study will provide Congress and the administration with a comprehensive overview of what works in terms of drug education and prevention programs.

During committee markup, I added a local matching provision that will require a local 25-percent contribution, after the first year of a grant award, to antidrug education programs of cash or in-kind services, such as personnel or equipment. This local match provision was added in direct response to expert testimony during hearings which indicated that local community support is essential to successful drug education programs. Expert witnesses stated that the narcotic problem is a societal problem, and that it is crucial to mobilize the entire community in the effort to successfully combat drug abuse. The local match provision contained in title VIII will necessitate the interaction of schools, local businesses, civic and parental organizations in the fight to save our children from drugs. There is a waiver, however, so that the Secretary of Education can exempt a locality that cannot meet the match requirement for Federal funding due to economic adversity.

Mr. Chairman, regardless if we have more interdiction, stiffer prison sentences, additional law enforcement efforts and more prison construction, there will be some who will take the risk to sell drugs to America's youth. So long as there is a demand for drugs and a willing market for illicit drug products, America will be at the mercy of greedy drug dealers. We must start while our children are very young to teach them of the nightmare of drug abuse. These lessons must be taught at home and they must be taught in school, through our media and by our national role models. I urge my colleagues to join in supporting title VIII of the omnibus drug bill which will start all of America on the path of teaching our children to just say "no" to drugs.

The CHAIRMAN. The gentleman from Missouri [Mr. COLEMAN] has consumed 8 minutes. The gentleman from California [Mr. HAWKINS] has 7 minutes remaining.

Mr. HAWKINS. Mr. Chairman, I yield 5 minutes to the gentleman from New York [Mr. BIAGGI].

The CHAIRMAN. Without objection, the gentleman from New York [Mr. BIAGGI] is recognized for 5 minutes.

There was no objection.

Mr. BIAGGI. Mr. Chairman, finally, the straw that broke the camel's back. Crack. That is what did it. For years, for decades, the drug problem proliferated our Nation; and yet, despite the valiant efforts of every level of Government, many arrests, many hazards, many more fatalities, we have pursued the normal, inefficient or inadequate course.

Those of us who have been in law enforcement met with frustration the realities of the day. When will people ever realize the enormity of this traffic? When will they understand that no one is immune? Slowly, ever so slowly, people realized it was not confined to the urban areas, to the ghettos and barrios of our Nation. They found it went to the suburbs: Yes, it went into the most affluential parts of our society.

There was some additional tension and additional response to it.

□ 1645

But with the advent of crack that just about swept our Nation, it presented a new dimension to the whole problem. There was a universal response from the administration and from the Congress, from the media, from society at large: "How can we meet this difficulty, this scourge?" Little did they think about the years that had transpired. But be that as it may, yesterday was yesterday. We are here talking about an omnibus drug bill that I am confident will be passed, will reflect the national commitment and I mean a national commitment on a persistent basis. It should not be a sometime effort. If this effort is to be successful at all, it requires constancy of purpose, determination to wipe out the problems and all of the evils that are attendant to this drug-trafficking business of ours.

Yes, I have been in law enforcement, and I have great admiration for law enforcement. But I am also realistic enough to know that law enforcement has not met the issue in a successful fashion. They have used all of their efforts and all of their energies and whatever other resources they had to the best of their ability, but they were not sufficient. This omnibus bill will provide some additional resources. Yet notwithstanding these additional resources, they will not alone be successful in vanquishing this foe. Education, education is critical. We cannot even estimate how much drugs come through our country. You give me a figure, I will give you a figure, and before we know it it is established as an authoritative figure. Some people say we are interdicting 10 percent, some say 6 percent; if you say 20 percent, no one really knows. Reality of the matter, no one really knows.

There is a market out there. There is a demand. And it is being met in very abundant fashion. Let us deal with the demand aspect. Tightening it helps considerably, not as much as I would like but certainly substantially more than we have done in the past; $350 million in the next 3 fiscal years, here we are talking about education, letting our teachers know, letting our school administrators know, letting our students know, our parents. All of them should be made aware and trained, trained.

I remember about 10 years ago serving on the Committee on Education and Labor, I made some suggestions about bringing law enforcement into the educational community. There was a hue and cry, "the ivory tower mentality made manifest. How can you trespass upon the sacrosanct community of education?" Well, my belief at the time was that the schools are extensions of the streets. Well, the educators have come to learn; they have been raped, they have been robbed, they have been pillaged. Now they learn, bring the policemen in. They have security forces within. Now they have a better understanding and it is helpful to some degree but still not adequate.

What is necessary is to get these children, yes, as soon as we can, as soon as we can. The facts are clear, once a child reaches junior high school, the decision to use drugs has already been made. Nearly two-thirds of all high school seniors report using drugs. Nearly one-third of all seventh graders say they have already tried them.

Twenty-five percent of our fourth graders say they feel peer pressure to try drugs. Twenty-five percent of fourth graders.

You cannot start early enough. Kindergarten is where you start. You start that education there, you start that with all the other educational situations and bring this in; education, reduce the demand, reduce the market, make them know the agonies of drug addiction.

Mr. COLEMAN of Missouri. Mr. Chairman, I yield 1 minute to the gentleman from Vermont [Mr. JEFFORDS].

The CHAIRMAN. Without objection, the gentleman from Vermont [Mr. JEFFORDS] is recognized for 1 minute.

There was no objection.

Mr. JEFFORDS. Mr. Chairman, this is an extremely important and frustrating subject. I served as attorney general in Vermont back in the late 1960's and early 1970's. Even then we had a serious drug problem, but the predominant problem then was marijuana. Here we are again, many years later, faced with a drug crisis, but the problem now is cocaine, a much more serious problem.

Further, I also spent 2 weeks this year on duty with the Navy apprehending people transporting the drugs into the country, a very frustrating job and one which is doing very little to stem the tide, with only about 6 percent being interdicted.

To me the only answer is to destroy the demand. We are going to have very little luck in trying to destroy the supply.

The way we do that in my estimation primarily is through education.

That is why I support the education provisions of this bill as being probably the only real legitimate answer to the problems that we are facing.

A national consensus has formed concerning the use of drugs in America. There is a sense that things are getting out of hand. Young children smoking crack. Teenagers on PCP. Athletes, businessmen, and soldiers dependent on cocaine. These are all drugs that can ruin a life and endanger the safety of others. It is absurd to say that interest in this problem is only a creature of the media and politicians. The individual and societal damage caused by drug abuse is all too real.

Of course, drug abuse is nothing new to the United States or any other country for that matter. Likewise, there have been previous efforts to reduce the flow of drugs into the country and reduce their use in the population. While most of these efforts have met with only limited success, we cannot use that as an excuse to surrender in the face of a growing problem.

I support the general provisions of the omnibus drug bill being considered today. If we are to make any headway in this area certainly international diplomacy, law enforcement, treatment, and prevention must all be involved. However, it appears that some of these efforts will continue to have only limited success. For example, it is estimated that law enforcement intercepts only 10 to 15 percent of the narcotics entering the country. I believe that it is in the areas of education and prevention where we will have our greatest impact.

I am a cosponsor of H.R. 5378, the bill reported out of the Education and Labor Committee, which forms the basis of the education and prevention provisions in the omnibus drug bill. This legislation would provide national leadership in the area of drug abuse prevention. H.R. 5484 recognizes the fact that it is best to start young in making children aware of the dangers of drug use and that schools should be one of the places that this education takes place. This is highlighted by a new Gallup Poll which found that drug use in the schools is viewed as the No. 1 problem in the Nation's schools.

The education portions of this bill would: Establish a national program to provide technical assistance to schools, create a clearinghouse and identify re-

search priorities; fund State level programs for training, demonstrations, and drug abuse prevention among school dropouts; and provide local education agencies with funds to implement a coordinated drug abuse prevention and education program.

America has been called a nation of consumers. Unfortunately this is as true for drugs as for many other luxury items. We consume 60 percent of the world's production of illegal drugs. There is no doubt in my mind that turning off the demand is our best hope for making progress in this fight. I hope that other Members of Congress will agree with me and join me in supporting this legislation.

Mr. HAWKINS. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from California reserves 2 minutes.

Mr. MICHEL. Mr. Chairman, I yield 30 seconds to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mr. HAWKINS. Mr. Chairman, I will yield our 2 minutes to the minority leader [Mr. MICHEL] the gentleman from Illinois.

Mr. MICHEL. And Mr. Chairman, I will yield the additional 2 minutes to the gentlewoman from New Jersey [Mrs. ROUKEMA].

The CHAIRMAN. The gentlewoman from New Jersey [Mrs. ROUKEMA] is recognized for 2½ minutes.

Mrs. ROUKEMA. I thank the gentleman for yielding time to me.

Mr. Chairman, I am in strong support of educational programs designed to inform children about the dangers of drugs. It is also essential to show them how to resist the social pressure of others who encourage them to try drugs. But this is not enough. Schools must discipline those children who take and distribute drugs if we ever expect to successfully combat this serious problem in our schools. It is totally counterproductive to hold classes and assemblies to educate students on the hazards of drugs if they can take or distribute drugs on school grounds without fear of suffering any consequences by school authorities.

Thus, it is absolutely essential that we discipline those who abuse drugs or who deal in drugs on school grounds. At my suggestion, this bill was amended by the Education and Labor Committee to require the enforcement of rules and regulations of student conduct relating to drugs. Educational agencies cannot receive grants unless they have in effect and enforce student disciplinary codes prohibiting drug related conduct.

I believe school administrators should accept responsibility for keeping both drugs and students under the influence of drugs off the grounds of their schools. The only way to do this is to firmly and effectively discipline guilty students. Unfortunately, in recent years administrators have become increasingly reluctant to discipline students who seriously misbehave. Some say this reluctance is due to a fear of being sued by parents. But whatever the many reasons may be, the prevalence of drugs in our schools demands that administrators regain their authority for enforcing standards of conduct and receive the support of the community for doing so. I believe, and I think the great majority of parents would agree, that teachers and principles should return to their previous roles serving in loco parentis during that time period when children are entrusted to their supervision and care, especially when it comes to the issue of drug related behavior.

Therefore, in this legislation, the enforcement of a disciplinary code is established as a condition of receiving a grant. For the first time, the Federal Government is making a statement that it backs up local administrators who discipline students for serious misconduct—namely, misconduct related to drugs.

I wish to emphasize that due process must be provided in the enforcement of these disciplinary codes by school administrators. When a student has been accused of drug related misconduct, that student, must, at a minimum, be given a chance to be heard to present his or her side of the story before any disciplinary action is taken. Furthermore, the student conduct codes must be implemented and enforced on a nondiscriminatory basis.

My second amendment approved in committee requires educational agencies to coordinate with Federal, State, and local law enforcement officials. If schools do not cooperate with law enforcement officials, they cannot receive a grant. School administrators must bring in law enforcement officials when necessary, particularly in those serious cases where students are distributing drugs on school grounds.

The State of Massachusetts has provided an excellent model of school-police cooperation which I would strongly urge local school districts to emulate. This cooperation is centered around a memorandum of understanding. Communities in Massachusetts are encouraged to formulate a written memorandum of understanding between the school superintendent and the local police chief outlining the procedures each will follow for dealing with students caught using or selling drugs and setting out a process for school-police cooperation.

Cooperation with law enforcement is essential is we are to have effective programs. Students will not take seriously classroom instruction if we are indifferent to drug abuse in the school.

Let me briefly outline some of the recommended contents of a memorandum of understanding.

The school should have a specific administration official designated for referral of all drug related incidents.

A teacher who suspects a student of engaging in drug related conduct should escort him or her to the designated official.

The official should give the student a chance to respond. If the student denies the charge but the official has a reasonable suspicion that the charge has merit, the official may search the student and his or her immediate possessions or locker.

Any illegal substances found should be turned over to the police. The student's parents should be notified immediately.

The school should agree to report to the police all incidents of possession of alcohol or drugs by students. Names of students could be withheld in certain instances.

The school should report to the police any person reasonably suspected of selling or distributing drugs or alcohol on or near school property.

The local police should designate a specific person to work closely with the school.

If the police are called by the school because a student has been discovered in possession of or selling drugs, the police should come to the school and take custody of the student. Parents must be notified immediately.

At the same time, precautions must be taken by both school and police officials to ensure that the educational process is not disrupted.

These are strong measures. But strong measures are needed to fight the serious problem of drug use in our schools.

Before closing, I would like to express a concern. As you know, the Education and Labor title of the bill has a limited authorization of 3 years. In the 1970's, Congress changed its practice of enacting continuously authorized programs and began to enact new programs for limited authorization periods. This, of course, requires Congress to reauthorize each program at the end of the specified authorization period if the program is to continue. The purpose of this reauthorization requirement is to provide periodic reevaluation of the need for and the effectiveness of existing Federal programs. I am afraid, however, that all too often Congress reauthorizes programs without meaningful oversight and evaluation, and, as a result, fails to weed out those which are not effective or which have outlived their usefulness. I would like to emphasize the importance of not making that same mistake when we are confronted with the question of reauthorizing this legislation. We must conduct a careful and meaningful oversight and if necessary, change or eliminate this program

if it is not accomplishing its intended purposes.

Mr. COLEMAN of Missouri. Mr. Chairman, I yield such time as he may consume to the gentleman from Maine [Mr. MCKERNAN].

The CHAIRMAN. Without objection, the gentleman from Maine [Mr. MCKERNAN] is recognized for such time as he may consume.

There was no objection.

Mr. MCKERNAN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I appreciate this opportunity to comment on the drug bill before us today, and the drug problem which confronts this Nation. Every American citizen is adversely affected—either directly or indirectly—by drug abuse in the United States, and I applaud the leadership on both sides of the aisle for bringing this measure to the floor in such a timely manner.

For a number of years, the Federal Government has recognized the growing drug problem in the United States, but the approach that has been taken has lacked central coordination. Although Federal expenditures for drug-related activities have increased by a factor of 25 over the last 15 years, both Congress and the administration have failed to truly recognize the extent of this problem, the persistence of this problem, and how difficult it will be to eradicate drug abuse in this Nation. The bill before us today represents congressional awareness of the magnitude of American drug abuse, and is at least a step in the right direction to providing this Nation with an effective, coordinated drug policy that attacks this destructive element of our society.

One needs only to look at a few figures to realize what we are facing. We're facing an epidemic in which over one-tenth of the total U.S. population has tried cocaine, while one in five Americans have used illicit drugs of one form or another. This figure comes as no surprise: it is estimated that over 4,500 tons of illicit drugs are available to the American public—4,500 tons which can be sold easily on our streets, in the office and workplace, in our playgrounds and in our schools. It is particularly alarming to look not only at the number of people who regularly use some form of illicit drug, but at who the new groups of people are that are using them.

Tragically, drug use is spreading to lower and lower age groups. Ten years ago, or even 5 years ago, the thought of drugs being prevalent in the upper elementary or middle schools seemed beyond the realm of possibility. We know now that it is not. If left unchecked, the drug problem could and probably will spread at an alarming rate to the fifth, the fourth, and even lower grades, increasing by exponential proportions the drug crisis we have at hand. It is clear to us now that in many areas of drug abuse, we have waited too long—perhaps even the provisions of this bill will not adequately address drug interdiction, enforcement, and education issues sufficiently to stem the tide. But we can try to contain the problem. With the added influence and pressure that elder siblings and schoolmates provide, we need to eliminate the potential threat that this downward spread in drug use presents to all elementary school children, and we must take effective action now.

This bill does just that. The education component of this bill provides sound measures for eradicating drugs from our schools, and the areas around our schools. Funds are tied to effective objectives, but are provided in such a way as to allow local control over how best to deal with the problem. And, to prevent the spread of drug abuse not only in numbers, but in the age group for whom drug use is prevelent, I was very pleased that my colleagues on the Education and Labor Committee adopted my amendment, which directs the Secretary of Education to concentrate research efforts on grades K-4.

With an emphasis on curriculum and teacher training at the early years, I believe we can seriously curtail future substance abuse and dependence, and better prepare students for the pressures with which they may be faced to try drugs. We need to know what will work with this age group, and we need to let teachers know how to deal with this issue before drug abuse in elementary schools is completely out of control. My amendment helps to ensure that our schools have the tools and the talent to combat substance abuse at the early elementary level, giving us the opportunity to stay one step ahead of the drug epidemic.

There is no question in my mind that we need to beef up our attack on the demand side of the drug abuse problem—the users who keep the drug dealers, growers, and manufacturers in business. But we also need to strengthen our ability to deal with the supply side of this issue. I support the provisions of this bill which recognize the need for greater interdiction capabilities, and stronger measures to send a clear message to the illicit drug industry that we mean to get tough—and are willing to give our police, our customs agents, the Coast Guard, and our courts the means to implement a tough drug policy. This "get tough" policy doesn't just mean providing additional funds for law enforcement agencies and prison construction, although both of these are essential to an effective drug prevention campaign. It also means coordination at the Federal, State, and local levels to ensure that we are attacking drug trafficking in the most efficient, effective manner. It is for this reason that I am pleased that my colleagues of the Merchant Marine and Fisheries Committee adopted my amendment to title IV of this bill, which states that the Coast Guard should coordinate their activities with other law enforcement efforts. Cooperation between different government agencies, such as the Coast Guard, local law enforcers, and the individual States, is essential if we are to accomplish our goals of beating back the drug epidemic that draws an estimated $120 million out of American pockets to support the demand for drugs, and which costs the rest of society more than $100 billion annually in increased health care costs, lost productivity, crime, and violence; and the total in human suffering is even greater.

In recent years, the Federal response to the mounting drug crisis has been stepped up law enforcement and interdiction. But the problems continue to escalate and the trends have become frighteningly similar in every community in this country. We need a two-pronged attack to combat drug abuse—we need to confront both supply and demand to win the war on drugs, and I believe that the enforcement and education aspects of this bill provide us the vehicle to begin this endeavor. Mr. Chairman, I heartily endorse the bill before us, and recommend its adoption by the House.

The CHAIRMAN. The gentleman from Missouri [Mr. COLEMAN] has 1½ minutes remaining.

Mr. COLEMAN of Missouri. Mr. Chairman, I yield 1½ minutes to the gentleman from Texas [Mr. BARTLETT].

The CHAIRMAN. Without objection, the gentleman from Texas [Mr. BARTLETT] is recognized for 1½ minutes.

There was no objection.

Mr. BARTLETT. Mr. Chairman, I would like to thank both the majority leader as well as the minority leader for having my two amendments included in the package to be offered en bloc. I also appreciate the efforts of both gentlemen for their excellent work on the drug package.

Mr. Chairman, I would also like to thank Mr. Rick Salwen, a Dallas attorney and good friend of mine, for bringing to my attention a particular problem which is the subject of one amendment.

My first amendment concerns the curricula used in elementary and secondary schools. Specifically, it states that drug programs containing curricula for elementary and secondary schools specifically use only those which present a clear and consistent message that drugs are wrong and harmful.

There are a great number of materials available to teachers and school officials which are excellent and proper-

ly present the dangers of drug use and abuse. However, there are also some materials which are either neutral or somehow condone limited use of drugs. For example, there is a book entitled "Chocolate to Morphine" published by Houghton Mifflin in 1983 which is currently in use as a text in schools across the country. I would like to cite some passages which indicate the problems inherent in such a text which fail to present the clear and consistent message I referred to earlier.

One passage states:

> We will follow a middle course by presenting neutral information and by asking both sides to change some basic conceptions about drugs as a result of reading this material * * *. Preventing drug abuse is a realistic goal. Two approaches are possible. One is to teach people, especially young people, how to satisfy their needs and desires without recourse to drugs. The second is to teach people how to form good relationships with drugs so that if they choose to use drugs, they will continue to be users and never become abusers.

Mr. Chairman, I do not believe we should be presenting a neutral course regarding drug use nor do I believe we should even give children the suggestion that they may "use drugs intelligently".

Let me cite another passage. It says that "young people are going to decide for themselves whether to use drugs. The most that responsible adults can hope to do is give children the information that will enable them to use drug intelligently if they choose to use them at all."

In another passage, the book says "we have seen parents in good relationships with marijuana let their children take occasional puffs of joints in much the same way that some Jewish parents allow their children ceremonial sips of wine."

Let me also point out that some books are less overt and more neutral, yet I believe, equally objectionable. In another book—"The Encyclopedia of Psychoactive Drugs," published in 1985, the book is handsomely illustrated and "geared for teenagers." It is informative and presents facts about drug use and some of its harms but fails to directly and consistently say that drugs are harmful. For example, it contains cartoons picturing drugs as humorous. It contains pictures of picketers with placards saying that "Marijuana Is Wholesome."

My friend Rick Salwen from Dallas has informed me about a program currently being offered in Texas called CASPAR—an acronym for the Cambridge and Somerville Program for Alcoholism Rehabilitation. This program not only trains teachers but provides materials for use in an alcohol education program. According to CASPAR's own materials, their "Decisions About Drinking" book has been purchased by over 1,500 schools and agencies in 49 States and 7 countries.

These materials which I suspect were compiled with the best of intentions are simply unacceptable in their philosophy. Quoting from their materials: "CASPAR's approach has maintained that is is inappropriate for a public school to adopt a position either for or against drinking. The adoption of such a position by school personnel would entail the teaching of values that are bound to conflict with those held by parental and religious groups in the community. Schools must therefore formulate an alternative: to teach responsible decisionmaking in relation to alcohol use (for some children this might mean abstinence and for others nondisruptive social drinking, both of which the curriculum views as responsible choices that teenagers should be permitted to make), and by that means establish a goal which can be supported by abstainers and social drinkers alike."

Surely, Mr. Chairman, this program and others like it fail to send the proper message. My point is that it is not enough to let the children decide; we must tell them to "just say no." Drugs and alcohol are harmful and curriculum materials must indicate exactly that.

CASPAR's program contains some interesting materials which I believe are simply wrong. For example, in a cartoon, the reader is given the suggestion that it is okay to drink and drive, so long as the teenager is "careful" about his drinking. In a suggested discussion exercise, designed for children in the third grade, that a teacher "should emphasize positive, healthy uses of alcohol if students equate drinking alcohol with drunkenness." Finally, we find a sheet entitled "Ethnic Groups and Alcoholism." This sheet divides groups into categories of "low rates of alcoholism—including Italians, Jews, Chinese, and Greeks in the United States—and those with "high rates of alcoholism (WASP, Irish, Native Americans)."

Mr. Chairman, these materials are clearly unacceptable. But I do want to emphasize and do so emphatically—my point is not to unduly criticize any particular drug program. There are many good drug programs out there which do an admirable job, we should applaud them for it. Others are questionable. We should clearly send a message to those applying for this money to use their own good judgment in determining which materials to use and which not to use. Those materials used should only be those which clearly and consistently state that drug use is harmful and dangerous.

My other amendment, Mr. Chairman, places special emphasis on parental involvement in drug prevention and education programs, especially education on the symptoms and effects of drug use. It's not enough that parents take part in programs to help children who become victims of drug abuse. Parents and families need to have information available about how to recognize the symptoms of drug abuse and correct the problem early.

Mr. Chairman, I urge the adoption of these amendments. Before I conclude, I would like to thank Mr. COLEMAN of Missouri for his fine efforts in putting together this drug package.

Mr. WILLIAMS. Mr. Chairman, I rise today in support of the bill H.R. 5484, the Omnibus Drug Act of 1986. I would like to commend Speaker O'NEILL, Mr. WRIGHT, and Mr. MICHEL for their timely efforts in assembling this bipartisan proposal to address the problem of substance abuse in this country.

Throughout our work here in the Congress, we are asked to set priorities. I can think of no greater priority than our children. Our children are our future and it is up to us to take on the responsibility to provide our young people not only with basic skills, but also afford them the opportunity to develop their minds and bodies to meet and overcome the challenges they will face today and in the future.

Yet, it is becoming more and more apparent that we are not fulfilling our responsibilities as well as we should. The statistics of substance abuse are alarming. We must also keep in mind that substance abuse is much more than statistics. Behind all of the numbers and the percentages are people, in many cases young people, who are in great need of assistance.

As chairman of the Subcommittee on Select Education, which has jurisdiction over alcohol and drug abuse education programs, I was pleased to work with the my colleagues on the Education and Labor Committee to develop title V of this bill to enhance the Federal role in addressing the problem of substance abuse among our young people. Title V establishes a program of Federal grants to States for the development of comprehensive drug abuse prevention and education programs in elementary and secondary schools.

The committee heard from a number of persons who are concerned with the problem of substance abuse. Most of the witnesses spoke of the great impact of peer pressure on the use and abuse of alcohol and drugs among teenagers. M.L. Carr, former Boston Celtic, told us of a program which uses well-known personalities to stress to the young people that positive actions will create bright opportunities, but they, the young people, must be willing to test themselves. They must be willing to resist peer pressure and say "No" to drugs and alcohol and concentrate their time and talent to say "Yes" to opportunity. I am pleased that this legislation encourages development of such programs across the country.

Recently, the House passed H.R. 4650, the Youth Suicide Prevention Act. That legislation included my amendment which would require coordination of a school's suicide prevention efforts with school-based and community-based alcohol and substance abuse programs. I am pleased that H.R. 5484 also re-

quires the coordination of efforts in these areas. Although we don't know exactly how the relationship between substance abuse and suicide is played out, whether it is causal or not, we do know it is important. I would hope that these efforts will help us discover this important link.

We have an excellent opportunity to not only address the needs of the abuser, but by supporting this measure, the House of Representatives will send a signal to our colleagues in the other body, the administration, and the American people that we are serious in our commitment to battle this problem. My colleagues, I ask you to join me in making this commitment.

Mr. DYMALLY. Mr. Chairman, I was honored to participate in preparing the portion of this bill under the jurisdiction of the Education and Labor Committee. During that work, I was anxious to see that school-based antidrug abuse programs would be closely integrated with communitywide efforts to stop drug abuse. I am pleased that school-based programs will be created and guided by advisory committees. Membership will include not just school personnel, but also parents, mental, social, and health service professionals and law enforcement officials. Through this mechanism, the school programs will be a key component of an integrated, communitywide effort to stop drug abuse.

I also commend the committee for recognizing the need to provide flexibility in funding so that the full range of effective approaches may be used in their most appropriate settings. Prevention, early intervention, education, and rehabilitation referral are all allowable activities under this act. Moreover, the funds may be used for year-round programs and funds unexpended in 1 year may be carried forward to the next.

When people in my district learned that we were working on this legislation, it let loose a floodgate of emotion. Everyone with whom I talked had some personal experience to relate about the sad effects of drug abuse. A brother, a nephew, a friend—everybody seemed to have a loved one whose life had been damaged by drug abuse. And all of those people who came to relate their stories left no doubt that they dearly want something done about this problem. They see their communities being destroyed by drugs. Our citizens want neighborhoods that are healthy, secure places in which to live. They want this legislation. This is a bill the American people place first on their own legislative agenda. It is an effort for which they want their tax dollars spent because they know the potential return on their investment. The people are right. We should pass this measure without a single dissenting vote.

Mr. MURTHA. Mr. Chairman, I yield 10 minutes to the gentleman from New Jersey [Mr. FLORIO] representing the Committee on Energy and Commerce.

Mr. FLORIO. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I rise in support of H.R. 5484, the Omnibus Drug Enforcement, Education and Control Act of 1986. As a cosponsor, I urge the passage of this bipartisan effort to combat drug abuse and illegal drug trafficking in our Nation.

Our Nation finds itself in the midst of a drug epidemic while drug abuse and increased drug trafficking threatens the very foundations of our society. Drug abuse cuts across socioeconomic lines and does not discern between race, age, gender, and financial worth. The drug problem, which is reaching massive proportions, challenges the future of our Nation by attacking our youth and impeding progress. I challenge my colleagues to walk through any public housing project, as I recently did in Camden, NJ, and get a sense of the continuous drug deals, the pervasive use of drugs, and the feeding of further crimes such as theft, murder, and prostitution to finance drug habits.

But let us do away with the common perception that drug abuse is a problem of the inner city, the ghetto, the public housing projects. It can be found in our more affluent schools and we have fast become aware of the damage it causes as promising young athletes, such as Len Bias, fall victim to the horrors of drug abuse. The tragedy of drug abuse has ruined lives, families, careers, and futures and it is fast threatening our Nation.

Drug abuse is clearly a national problem that pleads for a national solution. The Omnibus Drug Act seeks to combat drug abuse on a variety of fronts. It strikes at the core of our drug problem by boosting eradication efforts, by bolstering enforcement against drug smuggling and drug use. By reinforcing the Coast Guard and Customs Service, the bill makes more difficult the smuggling of drugs into the country.

Importantly, this $1.5 billion effort reinforces efforts to educate our youth about the evils of narcotics and seeks to rehabilitate drug abusers. By focusing efforts on rehabilitation and education, we are not throwing money at the problem but seeking to eliminate the demand for more drugs. I find the $350 million authorization for grants to States to support drug abuse education and prevention programs an important first step in educating the public on the evils of drugs. As a member of the Energy and Commerce Committee, I am pleased with the provisions approved by my committee to grant $150 million to the States for drug abuse treatment and prevention. My own State of New Jersey will be allotted $2.6 million for treatment and $1.5 million for prevention to combat a very evident problem.

Having focused on the pervasiveness of drug abuse in sports as chairman of the House Subcommittee on Commerce, Transportation and Tourism, I urge my colleagues to support the provision that creates an Advisory Commission on the Comprehensive Education of Intercollegiate Athletics. The Commission would have 18 months to report back to Congress with recommendations for addressing the drug abuse problem among intercollegiate athletes. Drug abuse among athletes, which was manifested in the death of Len Bias, threatens the very role models for our Nation's youth. By ending drug abuse among college and university athletes we will be able to show many of other young people that drugs are a dead-end street.

Drug abuse is costing our Nation over $170 billion annually. Its cost in lives and our future is immeasurable. I urge passage of this vital and momentous legislation.

Mr. Chairman, I reserve the balance of my time.

Mr. MICHEL. Mr. Chairman, for the Commerce section, title IX, I yield 10 minutes to the gentleman from Florida [Mr. BILIRAKIS] for allocation as he sees fit.

The CHAIRMAN. The gentleman from Florida [Mr. BILIRAKIS] is recognized for 10 minutes.

Mr. BILIRAKIS. Mr. Chairman, I yield myself such time as I might consume.

Mr. Chairman, at the onset, let me say that I am supportive of this legislation. We have for some time needed a formal commitment from the Federal Government—a commitment of policy and money—a bipartisan, unified commitment and that's what this bill does. It also reflects a feeling on the part of the Congress to tell those dealing in illicit drugs that we mean business—that we're not going to take it any more—and that we're prepared to take sterner measures and will get thougher and so, I support and shall vote for H.R. 5484. I believe that passage will indicate to the American people that the Nation's leaders are committed to stamping out drugs and that we are going to get tough with those who seek to destroy the youth of our country. The drug problem continues to worsen and the moral fabric of our society is threatened. However, even though the bill before us today is basically good, there are some areas which need fine tuning. Mr. Chairman, later, when we get to the amendment stage, I, along with the gentleman from Ohio, Mr. OXLEY, will be offering an amendment to seek to fine tune the Energy and Commerce Committee section of the bill.

We will seek to strike the provision which would establish the Advisory Commission on the Comprehensive Education of Intercollegiate Athletes. In a bill with a total price tag of close to $2 billion, an amendment seeking to strike a commission which will cost the taxpayers $650,000 may not seem important. However, there is a principle involved here and I am not alone in my opposition. In a Washington Post editorial this morning the ques-

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tion is posed whether we really need the Athletic Commission. I don't think so. Opposition to the creation of this commission was also voiced to me today by the program director for alcohol and drug abuse in the State of Florida.

Her feeling was the same as mine—wouldn't these funds be better used for treatment facility expansion and increases in salaries for underpaid drug counselors. Should we be using this drug bill as a vehicle to study recruiting practices of college athletes and the impact of television on college athletes. I don't think so. The White House conference which would be authorized under H.R. 5484 does have the authority to look into drug use among college athletes. If we don't use our finite resources to address the needs of young children who are waiting for admission to a drug treatment program, they will never have the opportunity to get to college.

I commend my colleague from Ohio, Mr. LUKEN, for his concern about college athletes. I know he is sincere and I don't like standing up here today criticizing his efforts. However, the fact is that this bill is not the appropriate vehicle to mandate a study of college athletes. The items which are specified for investigation by the federally funded commission are already being addressed by the National Collegiate Athletic Association, at no cost to the taxpayers. We have a finite amount of dollars in the Federal coffers and a deficit that is an embarrassment. We are all here today in a bipartisan manner embracing an all-out war on drugs. We're not sure how we will pay for the programs yet; however, let's don't lose sight of the need to practice responsible fiscal policy. I urge my colleagues to support passage of my amendment and passage of the bill. It's a step in the right direction.

□ 1700

Mr. FLORIO. Mr. Chairman, I yield 2 minutes to the chairman of our Health Subcommittee, the Member who has played the greatest role in the area of drug abuse programs, the gentleman from California [Mr. WAXMAN].

The CHAIRMAN. Without objection, the gentleman from California [Mr. WAXMAN] is recognized for 2 minutes.

There was no objection.

Mr. WAXMAN. Mr. Chairman, I rise in support of H.R. 5484, the Omnibus Drug Enforcement, Education, and Control Act of 1986. It is the strongest and most comprehensive attempt by any Congress in history to tackle the problem of drug abuse.

Legislative action is urgently needed. Drug abuse and drug addiction in this country have reached unprecedented levels. Americans are using illicit drugs and abusing alcohol and prescription medicines in greater numbers than ever before. We know this from the mortality statistics. We know this from admissions to hospital emergency rooms. We know this from reports of drug treatment centers forced to turn patients away for lack of space.

Mr. Chairman, in 1986 we have reached a point at which children are coming into contact with drugs and alcohol at frighteningly young ages. To parents the age of 13 signals the beginning of a young person's teenage years. It also signals an age at which our children will be exposed to and in too many cases, pressured—to use drugs. The results of this use can be catastrophic.

In his August 4 address to the Nation, President Reagan called for "a national crusade against drugs." In the address the President said:

All the confiscation and law enforcement in the world will not cure this plague as long as it is kept alive by public acquiescence * * *. We must now go beyond efforts aimed only at affecting the supply of drugs; we must affect not not only supply, but demand.

Mr. Chairman, it is increasingly clear that law enforcement alone cannot effectively deal with a public health crisis as complex and intractable as drug abuse.

The legislation before us carries forward on the President's call for a fundamental change in public attitudes toward drugs. If we are to have any chance of fundamentally affecting the incidence of drug abuse in this country, we must affect demand. The legislation before us will place increased priority upon the prevention of drug and alcohol abuse. It will provide additional funds to open up treatment programs and end the waiting lists.

The American public will no longer tolerate complacency on this issue. Since 1980, Federal support for alcohol and drug abuse treatment and prevention services has declined by 45 percent. We currently spend $230 million for support of State drug and alcohol abuse prevention and treatment programs. At the Federal level, less than $7 million is spent on drug and alcohol abuse prevention and education programs.

Prevention of substance abuse is addressed by three initiatives. First, existing drug and alcohol prevention programs within the Department of Health and Human Services are consolidated into a new agency for substance abuse prevention. These activities are currently underfunded, lacking direction and suffer from administrative neglect. Second, a clinical training program is initiated to train health professionals in better understanding the symptoms and proper treatment of drug and alcohol abuse as well as assure the availability of qualified drug and alcohol abuse treatment counselors. Third, $50 million is authorized for a block grant program to assist States in developing and implementing substance abuse prevention programs at the State and local level.

Title IX of the legislation was the product of deliberations by the Energy and Commerce Committee as reflected in H.R. 5334 which was reported on August 14, 1986.

The principal feature of that bill, and title IX of H.R. 5484, is the authorization of $180 million for activities to reduce the demand for drugs.

The $180 million would be allocated among three priority areas:

First, $100 million is assistance to States through a block grant for drug abuse treatment. These additional funds will permit States to expand their drug abuse treatment systems and eliminate the waiting lists of drug abusers seeking treatment.

Second, $50 million in assistance to States through a block grant for drug abuse prevention. This is the first time the Federal Government has ever committed large resources to develop a national drug and alcohol abuse prevention policy.

Third, $30 million for better administration and coordination of substance abuse prevention programs at the national level. These would include development of public service announcements, prevention literature, providing technical assistance to States and localities, and supporting clinical training of health professionals including drug and alcohol abuse counselors.

In addition, title IX of H.R. 5484 establishes a Congressional Advisory Commission on the Comprehensive Education of Intercollegiate Athletes.

The major focus of the Advisory Commission will be the use of drugs by college athletes, the role of colleges in discouraging the illegal use of drugs by athletes, and the need for mandatory testing of athletes for illegal drug use.

Finally, the legislation closes a loophole in Federal drug abuse law and will stop the sale of "poppers," a widely abused drug known by chemists as butyl nitrite. The substance is sold as room odorizer although it is widely used as an inhalant for its euphoric effect. It is viewed by many drug abuse experts as an important drug of initiation for children.

Mr. Chairman, I urge support for the legislation and am submitting the following detailed explanation of the provisions of title IX to be printed in the RECORD at this point:

ANALYSIS—H.R. 5484, TITLE IX—DRUG ABUSE PREVENTION AND TREATMENT ACT OF 1986

SECTION 901. SHORT TITLE

The first section cites the Act as the "Drug Abuse Prevention and Treatment Act of 1986."

Subtitle A—Financial assistance to States and communities

Section 902 adds a Part D—"Emergency Substance Abuse Treatment and Prevention" to Title XIX of the Public Health Service Act. The new Part D contains four new sections 1935-1939.

Section 1935 (Authorization of Appropriations) authorizes $180 million in Fiscal Year 1987 for the allotments authorized by Part D and the activities of the Agency for Substance Abuse Prevention.

Section 1936 (Agency for Substance Abuse Prevention) provides that of funds appropriated for the purposes specified in Section 1935, $30 million shall be made available for the Agency for Substance Abuse Prevention (ASAP). The ASAP is established by Section 507 of the Public Health Service Act as amended by Section 905 of this legislation. The legislation requires that the Secretary allocate the first $30 million appropriated under Section 1935 for support of national activities sponsored by the ASAP. All funds appropriated in excess of $30 million must be allocated pursuant to sections 1937 and 1938.

Section 1937 (Allotments for Treatment Services for Drug Abuse).

Subsection (a) provides that two-thirds of funds appropriated under Section 1935 and available for allotment shall be allotted to each state for the purpose of providing drug abuse treatment and rehabilitation services for persons suffering from drug abuse. Funds will be alloted to each state pursuant to a formula prescribed by the Secretary of Health and Human Services. The formula will be based equally on the population of each state (ages 15-65) and on the population of each state (ages 15-65) weighted by its relative per capita income.

The General Accounting Office (GAO) worked closely with the Congress in devising the formula which the Secretary should use to allocate funds under this section.

The formula allocates available funds to states based on two factors: (1) the population at risk, and (2) a relative income factor which provides relatively more aid to low income states. The population at risk for a state is defined as the number of state residents ages 15 through 64 as reported by the Bureau of the Census for the most recent year in their Current Population Reports, Series P-25. The relative income factor for a state is defined as the ratio of its total personal income per person at risk to the corresponding income per person at risk for all states. The data for total personal income is defined as the most recent three year average of state personal income as reported by the Department of Commerce in the Survey of Current Business.

Table 1 shows each state's trial allotment calculated using the formula described below:

State Allotment = [POP (1.0-0.5 RIF/Sum of Numerator]AMT

POP=State Resident's Ages 15 through 64

RIF=Relative Income Factor

AMT=$100 million appropriation

The population data is as reported for July 1, 1984 by the Bureau of the Census, and total personal income is as reported by the Department of Commerce for 1982 through 1984. The 0.5 weight attached to the relative income factor determines the extent to which funds are targeted to low income states. A weight of zero would result in a formula based exclusively on the population at-risk factor.

TABLE 1.—STATE ALLOTMENTS FOR SUBSTANCE ABUSE TREATMENT GRANTS

[Appropriation = $100,000,000]

State names	Trial allotment	Share of total
Alabama	$1,994,840.69	1.99
Alaska	148,247.01	.15
Arizona	1,347,342.92	1.35
Arkansas	1,123,247.32	1.12
California	10,014,851.55	10.01
Colorado	1,327,994.20	1.33
Connecticut	1,037,034.30	1.04
Delaware	258,412.52	.26
District of Columbia	204,056.18	.20
Florida	4,387,373.67	4.39
Georgia	2,829,256.12	2.83
Hawaii	450,217.66	.45
Idaho	451,755.51	.45
Illinois	4,455,096.46	4.46
Indiana	2,494,849.95	2.49
Iowa	1,199,078.82	1.20
Kansas	913,606.69	.91
Kentucky	1,830,397.47	1.83
Louisiana	2,053,464.20	2.05
Maine	552,956.49	.55
Maryland	1,814,003.32	1.81
Massachusetts	2,231,627.18	2.23
Michigan	3,914,247.65	3.91
Minnesota	1,658,567.85	1.66
Mississippi	1,323,474.85	1.32
Missouri	2,141,440.73	2.14
Montana	383,588.90	.38
Nebraska	637,876.46	.64
Nevada	402,887.22	.40
New Hampshire	419,354.77	.42
New Jersey	2,663,369.95	2.66
New Mexico	690,629.40	.69
New York	6,879,454.87	6.88
North Carolina	3,152,142.11	3.15
North Dakota	269,436.93	.27
Ohio	4,662,045.27	4.66
Oklahoma	1,388,821.41	1.39
Oregon	1,182,529.41	1.18
Pennsylvania	5,107,224.44	5.11
Rhode Island	414,770.43	.41
South Carolina	1,724,101.65	1.72
South Dakota	304,581.30	.30
Tennessee	2,369,114.47	2.37
Texas	6,723,752.04	6.72
Utah	719,187.60	.72
Vermont	257,605.28	.26
Virginia	2,530,147.05	2.53
Washington	1,801,630.90	1.80
West Virginia	956,485.66	.96
Wisconsin	2,000,734.78	2.00
Wyoming	201,086.40	.20
Total	100,000,000.00	100.00

Due to inadequacies in reporting annual population and relative income data for the territories and Puerto Rico, it is intended that the Secretary reserve ½ of 1 percent of appropriations under this section for allocation to Puerto Rico and ¼ of 1 percent for allocation to the territories based on their relative population.

Funds paid to a state under this Section would be available only for Fiscal Year 1987. The purpose of funds allotted under this section are intended to deal with an emerging drug abuse crisis which requires the training of treatment counselors and expansion of treatment services in response to increased demand. Allotments under this authority are intended to supplement, rather than supplant existing federal, state or local funding of drug treatment programs. In the event a state is unable to effectively use the funds available through this allotment during fiscal year 1987, unexpended funds will be returned to the Treasury or allocated proportionately to other states for use in Fiscal Year 1987.

Subsection (b) provides that funds allotted to a state shall be used to provide treatment and rehabilitation services for persons suffering from drug abuse. States should place priority on expansion or development of treatment programs suitable to the needs of young people who are most at risk of drug abuse and addiction. In contrast to other age groups, young people—particularly college students—are vulnerable to peer pressure and are often without the support of parents, spouses and community.

Many states provide alcohol and drug abuse treatment support through organizations with combined alcohol/drug treatment programs. In fact, of 5,901 alcohol and/or drug treatment units receiving funds from State Alcohol and Drug Abuse Agencies in FY 1985, 2,115 were combined units. In the context of a comprehensive, national public health policy, it is not possible or appropriate to arbitrarily distinguish between addiction to, or abuse of alcohol, versus illicit drugs or licit drugs.

Drug addiction is a complex medical and psychosocial phenomenon. Drug addiction does not differentiate between the social or legal status of the abused substance. In this regard, states should use funds available under this allotment to provide drug treatment services in regions of the state and to individuals most in need. The restriction in the statute, limiting use of allotments to drug abuse treatment, should not be construed to prevent a state from supporting the treatment and rehabilitation of an individual suffering from polydrug addiction or from providing financial assistance to a public or nonprofit private entity which treats alcohol or drug abusers. Assistance available to individuals under this section is not intended to distinguish between addiction or abuse of heroin, cocaine, prescription tranquilizers or alcohol.

Section 1938 provides that one-third of funds appropriated under Section 1935 and available for allotment shall be allotted to each state for the purpose of developing and administering a community-based substance abuse prevention program. Appropriations are allotted to states pursuant to a formula prescribed by the Secretary of Health and Human Services which is based upon the relative population of each state in the age group of 5 through 24. In developing a formula for allocation of funds under this section, the Congress worked closely with the General Accounting Office in selecting the formula most indicative of a state's need for substance abuse prevention services.

The formula for making allocations to states for substance abuse prevention programs is based on a state's relative share of the population at risk. The at-risk population is defined as the number of state residents between the ages of 5 and 24 as reported by the Bureau of the Census for the most recent year in their Current Population Reports, Series P-25. The following Table shows each state's trial allotment, calculated by multiplying its percentage share of the U.S. population aged 5 through 24 by a $50 million appropriation level. The population data is as reported for July 1, 1984 by the Bureau of the Census. Due to inadequacies in reporting annual population and relative income data for the territories and Puerto Rico, it is intended that the Secretary reserve ½ of 1 percent of appropriations under this section for allocation to Puerto Rico and ¼ of 1 percent for allocation to the territories based on their relative population.

Table 2 shows each state's trial allotment calculated using the formula described below:

State allotment=[POP/POPTOT]*AMT

POP=State Population ages 5 through 24.

POPTOT=U.S. Population ages 5 through 24.

AMT=$50 million appropriation.

TABLE 2.—STATE ALLOTMENTS FOR SUBSTANCE ABUSE PREVENTION GRANTS

[Appropriation—$50,000,000]

State names	Trial allotment	Share of total
Alabama	$881,164.43	1.76
Alaska	120,281.65	.24
Arizona	647,358.53	1.29
Arkansas	501,398.78	1.00
California	5,277,526.25	10.56
Colorado	679,118.29	1.36
Connecticut	637,222.44	1.27
Delaware	133,120.70	.27
District of Columbia	121,633.13	.24
Florida	2,025,191.57	4.05
Georgia	1,322,422.39	2.64
Hawaii	228,399.98	.46
Idaho	225,697.03	.45
Illinois	2,450,907.52	4.90
Indiana	1,208,222.40	2.42
Iowa	609,517.12	1.22
Kansas	508,156.18	1.02
Kentucky	822,375.09	1.64
Louisiana	1,033,881.58	2.07
Maine	245,293.47	.49
Maryland	919,005.85	1.84
Massachusetts	1,189,977.43	2.38
Michigan	2,007,622.34	4.02
Minnesota	890,624.79	1.78
Mississippi	608,841.38	1.22
Missouri	1,048,072.11	2.10
Montana	175,016.56	.35
Nebraska	341,924.24	.68
Nevada	184,476.91	.37
New Hampshire	206,776.32	.41
New Jersey	1,519,062.61	3.04
New Mexico	326,382.23	.65
New York	3,623,991.46	7.25
North Carolina	1,339,991.62	2.68
North Dakota	149,338.45	.30
Ohio	2,295,487.41	4.59
Oklahoma	700,066.22	1.40
Oregon	534,510.02	1.07
Pennsylvania	2,377,251.90	4.75
Rhode Island	195,964.48	.39
South Carolina	757,098.17	1.50
South Dakota	152,717.15	.31
Tennessee	1,004,824.78	2.01
Texas	3,581,419.86	7.16
Utah	420,985.77	.84
Vermont	112,848.51	.23
Virginia	1,216,331.27	2.43
Washington	897,282.10	1.79
West Virginia	408,146.72	.82
Wisconsin	1,028,475.67	2.06
Wyoming	111,497.03	.22
Total	50,000,000.00	100.00

The term "substance abuse prevention", is intended to include prevention of alcohol as well as other drugs of abuse. In this regard, states should place special emphasis upon the circumstances contributing to the onset of drug use by youth and a young person's later initiation into illicit drug usage.

To receive an allotment under this section, a State must submit an application to the Secretary which contains a plan for using the allotment in accordance with the requirements of subsection (b). Subsection (b) provides that states must utilize allotments for four activities.

1. Developing a state substance abuse prevention education program.

2. Developing community-based substance abuse prevention activities among school-aged children which will make the use of drugs unattractive to such children.

3. Developing of educational programs relating to the risks presented by alcohol and drug abuse to pregnant women and children.

4. Development of an education program relating to the risks of acquired immune deficiency syndrome among individuals who use drugs intravenously and relating to the transmittal of acquired immune deficiency syndrome from pregnant women to unborn children.

There is a critical need for public information and education programs by state governments to warn intravenous drug abusers of the dangers of Acquired Immune Deficiency Syndrome (AIDS). Recent reports from the Public Health Service have said that more than a quarter of a million Americans will die of AIDS within the next five years. Other recent reports from the Centers for Disease Control have shown that an increasing number of those cases are among IV drug abusers. Many Americans—both drug abusers and people who are sexual partners of drug abusers—are unaware of the dangers of spread of the disease and will expose themselves to it, resulting in fatal illness, extended treatment costs, and lost productivity. States should use this authority to develop direct and accessible information programs about the nature of the disease's transmissiblity and about prevention of drug abuse and needle-sharing. There is also concern over the growing number of pediatric AIDS cases, cases which are principally infants born to mothers who are IV drug abusers. These children are born terminally ill, are difficult to find care for, and are very expensive to treat. It is intended that materials be developed by the states regarding the special AIDS risks that IV drugs pose to pregnant women and their children.

Funds allotted under this section are intended to support programs that will supplement school-based substance abuse prevention/education activities. Title Eight of this legislation authorizes funds for specific drug and alcohol abuse education programs directed at the nation's secondary schools. Prevention programs supported by the state through this section should be compatible with activities within the secondary school system, and give priority for non-school based prevention programs. These programs can include but are not limited to literature distribution, media campaigns, clearinghouse activities, speaker's bureau, scouting organizations, YMCA-YWCA, or other afterschool, community-based alternatives.

Section 1939 provides that funds allotted to states under Part D may not be used to (1) provide inpatient hospital services; (2) make cash payments to intended recipients of health services; (3) purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment; (4) satisfy any requirement for the expenditure of non-federal funds as a condition for receipt of federal funds: (5) pay administrative costs; or (6) provide financial assistance to any entity, other than a public or nonprofit private entity.

Provisions of Title XIX, Part B, which are not inconsistent with subsection 1939(a) or sections 1937 or 1938, shall apply with respect to allotments made under sections 1937 and 1938. For example, Part B requires that states allocate a percentage of their allotments to mental health services. This restriction would not apply as it is in direct conflict with the provisions of section 1937 and 1938 which specify the purposes for which allotments are to be used. Section 1917 of Part B requires that states prepare and submit an annual report to the Secretary on its use of funds. Although an annual report is not specifically mentioned in Part D, subsection 1939(b) is intended to extend the requirements of section 1917 to funds appropriated under Part D.

Subtitle B—Agency for Substance Abuse Prevention

Section 905 adds a new Section 507 to Part A of title V of the Public Health Service Act. Subsection (a) provides for the establishment of an Agency for Substance Abuse Prevention (ASAP) within the Alcohol, Drug Abuse, and Mental Health Administration. The ASAP shall be headed by a Director appointed by the Secretary from individuals with extensive experience or academic qualifications in the prevention of drug and alcohol abuse. Subsection (b) specifies the responsibilities and jurisdiction of the ASAP. These responsibilities include:

1. sponsorship of regional workshops on drug and alcohol abuse prevention;

2. coordination of the findings of research sponsored by agencies of the U.S. Public Health Service on the prevention of drug and alcohol abuse;

3. development of effective drug and alcohol abuse prevention literature (including literature on the adverse effects of cocaine free base);

4. creation of public service announcements for radio and television broadcasting on the prevention of drug and alcohol abuse;

5. dissemination of prevention materials among states, political subdivisions, and school systems in cooperation with the Secretary of Education;

6. support of clinical training programs for substance abuse counselors and other health professionals;

7. development of educational materials to reduce the risk of acquired immune deficiency syndrome among intravenous drug abusers;

8. administer the state allotment program established by Title I of this legislation.

The Director of ASAP will be responsible for administering the Department's drug and alcohol abuse prevention and education programs and coordinating these activities with those of other federal agencies such as the Department of Education.

A special provision has been made in the legislation for the development of education materials to reduced the spread of the AIDS epidemic among intravenous drug abusers and their sexual partners. The Centers for Disease Control (CDC) has begun efforts to develop innovative education projects for AIDS information, and the ASAP should work cooperatively with CDC to develop similar projects and materials for specific use with IV drug abusers and potential drug abusers and their sexual partners.

Subsection (c) directs the Secretary to establish a clearinghouse for alcohol and drug abuse information to assure the widespread dissemination of such information to the general public.

Subsection (d) directs the Secretary of Health and Human Services to establish an advisory board to advise the Director of ASAP. A major component of a comprehensive plan to fight substance abuse is a public education campaign which makes effective use of the media. Consequently, a media advisory board is established to assist the ASAP in developing an effective educational effort that warns of the dangers of drug and alcohol abuse.

The advisory board is made up of 15 members, including representatives from the broadcasting, cable, newspaper, program production, and advertising industries as well as professional sport associations such as the National Football League, National Basketball Association and Major League Baseball. The principal purpose behind the board's composition is for the ASAP to have access to technical experts who can be of assistance in the implementation of campaigns aimed at educating the public about the problems of drug abuse. It is intended that the advisory board will be able to encourage the media to increase their ongoing efforts to raise public awareness of the need

to prevent illegal drug use—particularly by adolescents and teenagers.

While the fight against drug abuse must be accelerated, significant contributions have already been made by many major media organizations. For example, the new long range alcohol and drug abuse campaign initiated by the National Association of Broadcasters is a commendable undertaking. Voluntary actions such as these can be an effective method of developing joint government and private sector initiatives. A coordinated effort, aided by the advisory board established in this subsection, will assist ASAP in developing an effective, long term public education campaign.

Section 906 (Coverage Study) directs the Secretary of Health and Human Services to contract with the Institute of Medicine of the National Academy of Sciences to conduct a study of:

1. The extent to which coverage of drug abuse treatment is provided by private insurance, public programs and other sources of payment; and

2. The adequacy of existing coverage in treating and rehabilitating drug abusers.

The report should include recommendations for improving coverage of drug abuse treatment to address unmet needs. At present, there is little comprehensive or systematically-collected information on coverage for drug abuse treatment. A study is needed to identify gaps in policies, and to determine how those gaps might be addressed. Treatment has proven to be effective in many instances but inadequate coverage by private insurance and public programs is a deterrent to seeking cures. Drug abuse will remain an intractable threat to public health as long as people are unable to obtain effective treatment. A comprehensive study can be a start towards improving coverage and the quality of treatment services.

Subtitle C—Advisory Commission on the Comprehensive Education of Intercollegiate Athletes

Sections 910-918 of the legislation establishes an Advisory Commission on the Comprehensive Education of Intercollegiate Athletes. The primary reason for establishing an independent commission is to study the reasons for drug abuse among college and university student-athletes which has recently come to the nation's attention. These events have revealed that many participants in intercollegiate sports are not attending classes and are failing to receive a well-rounded education. A collegiate sports career, at the expense of an adequate education, does not prepare the student athlete for life and makes them vulnerable to drug abuse. Because student-athletes often serve as role-models for our youth and fellow students, it is important to focus attention on the problem of drug use among this group of young people.

The National Collegiate Athletic Association (NCAA) has conducted some in-house reviews of its own programs from time to time. This important issue had not, however, been examined by an objective, independent body in recent years. The Commission will provide a forum for a careful and dispassionate appraisal of the drug abuse problem among college athletes.

Subtitle D—Alkyl nitrites

Section 920 of the legislation provides that alkyl nitrites and their isomers shall be regulated under the Federal Food, Drug and Cosmetic Act and treated as a drug when sold directly to the public.

The purpose of this section is to prevent the continued abuse of alkyl nitrite inhalants known to drug abuse experts as "Poppers." These substances are sold over-the-counter in many States and municipalities. They are commonly used as drugs of abuse by children, teenagers and adults. The National Institute on Drug Abuse's 1985 High School Survey of Drug Use Among American High School Students reports that 8% of High School Seniors reported use of amyl and butyl nitrites. Although a number of States have taken action to ban or restrict the sale of these products, regulation is uneven and difficult to enforce.

The scientific literature documents that alkyl nitrite inhalants can cause severe health effects including headaches, delirium, confusion and in some cases death.

Alkyl nitrites are principally sold to consumers as so-called "room odorizers". Despite their sale under the pretense of a room odorizer, there is ample evidence that these products are marketed and purchased solely for their euphoric effect.

In light of the risk of injury presented to the public from the use of these products, they should be subject to Federal regulation by the Food and Drug Administration. Amyl nitrite is already classified by the Food and Drug Administration as a drug and its sale is restricted by prescription. By classifying alkyl nitrate inhalants and their isomers as drugs, section 920 requires that manufacturers of poppers demonstrate to the FDA that butyl nitrite is safe and effective for use as an inhalant. It is anticipated that the FDA will apply the provisions of Section 505 of the Food, Drug and Cosmetic Act to applications from manufacturers seeking approval to sell products containing alkyl nitrites or their isomers to the public. Section 920 is not intended to regulate the industrial use of alkyl nitrites for purposes such as the processing of film.

Mr. BILIRAKIS. Mr. Chairman, I yield 1½ minutes to the gentleman from Connecticut [Mr. ROWLAND].

The CHAIRMAN. Without objection, the gentleman from Connecticut [Mr. ROWLAND] is recognized for 1½ minutes.

There was no objection.

Mr. ROWLAND of Connecticut. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, as members of the Select Committee on Narcotics and Drug Abuse, we have spent the past 2 years listening to testimony from so many former drug abusers who talk about the ill effects, not only on their health and their livelihood, but certainly on their families. And it is unfortunate that it has taken a number of sports figures' deaths to finally bring this issue to the heart of the American people.

As the youngest Member of the U.S. Congress, I have had considerable opportunities to talk to many high-schoolers, junior high and grammar school about the problems of drug abuse. What we have seen happen over the last 20 years is staggering. Twenty years ago the perception of drug abuse was the thought of a heroin addict in an alley in a back area somewhere in the urban areas. Now we have found over the past 10 to 15 years considerable changes in the drug abuse world. We see more and more people, regardless of social or economic background, getting involved in expensive cocaine uses.

But we have also seen, and I find this day and day again with many young people, that there is a social acceptance of use of marijuana. We have passed a deadly time when the use of cocaine and the use of marijuana are being combined. Fortunately, the young people I talked to told me no, they are never going to get involved in cocaine, that it is too addictive and too hazardous. But it is OK, it is socially acceptable, to get involved in marijuana. Now the deadly line has been crossed that with the use of the cocaine as crack and you take the perception of smoking marijuana and combine those two, we are now lulling our young people into a sense of false security. We are finding that young people are easily taking up the fad of crack, and we are finding that more and more people are getting addicted, especially after the first or second use.

This particular bill gives us the opportunity to educate. It gives us the opportunity to rehabilitate. It gives us a chance to punish, deter, and effect a drug-free society, something that we all look forward to.

Mr. FLORIO. Mr. Chairman, I yield 2 minutes to the gentlewoman from Illinois [Mrs. COLLINS], a member of the Health Subcommittee, who has played a great leadership role in the area of rehabilitation.

The CHAIRMAN. Without objection, the gentlewoman from Illinois [Mrs. COLLINS] is recognized for 2 minutes.

There was no objection.

Mrs. COLLINS. Mr. Chairman, an epidemic is sweeping our Nation; a blight which robs our country of its productivity, the elderly of their safety, and our children of their lives. It is the curse of illicit drugs.

Just yesterday I was on my way to see a doctor and, near the corner of H and 8, Northwest, I happened to see a young person laying out in the middle of the street. I thought he had been struck by a car, so I pulled over to assist. I questioned those who were standing around, and they said that this young man was a known addict and that he was suffering from an overdose. Perhaps, if we had already had the Substance Abuse Protection Agency, this man would not have been in this position.

Mr. HAYES. Mr. Chairman, will the gentlewoman yield?

Mrs. COLLINS. I yield to the gentleman from Illinois.

Mr. HAYES. Mr. Chairman and Members of the House, I want to take this opportunity to thank you for letting me explain my very firm belief of the need of this bill, H.R. 5484 to contain a provision that reduces unemploy-

ment and increases decent job opportunities for people captured in the drug abuse subculture, specifically and the vast millions of able Americans caught in the webb of unemployment, underemployment, and hopelessness.

I am, Mr. Chairman, one of the new comers to the U.S. Congress. On September 12, 1986, I will begin my fourth year as a U.S. Congressman. I am the first International Trade Unionist, elected to the U.S. Congress. I have spent more than 35 years of my life in the trade union movement. On the whole I believe that this bill is well drafted and comprehensive in its' approach, and comes to the floor of the House with 277 cosponsors and strong bipartisan support. But, I strongly believe that one very important element is missing from the bill, which would round out the comprehensive intent of the bill.

I am looking beyond partisan politics. I am looking to the future of our country. What hope is there for those that our society has counted outside of the mainstream of American life? What hope are we as Members of Congress creating for our young people, who have dropped out of school, who have been left out of the decent jobs, or any jobs and subsequently they have dropped out of our society. I am concerned about what kind of America we are creating for our children and grandchildren, when for the last year more that 8 million Americans have been counted among the unemployed.

Anyone who thinks that the young people involved in the drug abuse are employed in good jobs at decent wages is uninformed.

The sad truth is that a very large proportion of young drug abusers are people who feel cast off from society and because of that they see no opportunities for decent legal employment ahead of them.

Our future is being destroyed by the impact of drug abuse on our society. Large dollars can be made in the sale and distribution of illegal drugs in our country. In my district, the First District of Illinois, Chicago's south side. It is common knowledge that, people in all age groups selling drugs in the street. I have even heard that grade school kids selling drugs, not because of addiction but, as a means of getting money because their parents cannot give them money. This behavior must be stopped. Kids today are left without hope and do not see that staying in school creates a real future where decent jobs at good wages are available. We must reach these people who have lost hope due to drugs and give a real opportunity. Good jobs at decent wages create real opportunities for all Americans.

My suggestion would reaffirm the legal commitment that the President has the fundamental constitutional obligation under the Employment Act of 1946 and the Full Employment and Balanced Growth Act of 1978 for presenting to Congress an overall unemployment program under the law.

This suggestion also reaffirms that the Congress has the responsibility of making its own decisions. And that Congress should be informed of measures that can be implemented without any need for legislation.

I feel that my suggestion is a subject which should have been included in the bill and I am sorry that it was not. I strongly believe that the Members of the House should have the opportunity to consider my amendment as a fundamental part of the comprehensive approach of the bill. There can be no more important and realistic part of a drug abuse program, than one that results in having a good job at decent wages.

My suggestion deals with the missing elements in the drug abuse problem, employment.

My suggestion merely plugs this loophole.

Mr. Chairman, and members of the committee thank you for giving me the opportunity to explain my amendment.

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Mrs. COLLINS. Mr. Chairman, the Energy and Commerce Committee has incorporated language into the bill creating just such a new Agency for Substance Abuse Prevention, which will institute and coordinate treatment, rehabilitation, and education services. The new Agency, to be established within the Alcohol, Drug Abuse, and Mental Health Administration, will be responsible for allocating funds for State programs, sponsoring regional workshops, and coordinating research findings.

Two-thirds of the funds for State drug treatment and prevention programs will be allocated on the basis of population. The remaining one-third will be awarded solely on the basis of the population between the ages of 5 and 24. This formula insures that the funds will be directed to the States in the most need and targeted toward the age group most at risk. Also, funding will be conditioned in a manner designed to insure that it benefits those in need and will not be used for general hospital services or administrative costs.

During committee deliberations, my colleagues and I found that one of the major tools required to reverse our youth's headlong flight down the dead end road of drugs is education and H.R. 5484 will support these efforts at the State level. I have worked hard to insure that the Agency for Substance Abuse Prevention will be responsible for allocating funds for State educational programs, developing regional workshops, coordinating research, developing effective prevention literature, and inaugurating public announcements for radio and TV.

Each and every member of the Energy and Commerce Committee worked hard on this important legislation and all of us can take pride in the final form of the H.R. 5484. The treatment and prevention aspects of the bill will enable those entrapped by illicit drugs to again reenter society as productive citizens. Through education, those who are threatened, but who have not yet fallen into the pusher's snare, will be saved.

Mr. Chairman, it's time for America to end the scourge of drugs.

Drugs are flooding this Nation, sowing death and destruction wherever they go. Americans now consume an unbelievable 60 percent of the world's drug production. Twenty million Americans are regular marijuana users, 4 to 8 million more are on cocaine, and 500,000 are heroin addicts. Thirty percent of all college students will use cocaine at least once before graduation and 80 percent of all Americans will try some type of illicit drug before their midtwenties. Deaths from cocaine alone more than doubled between 1981 and 1985.

The drug epidemic is underming the very fabric of our society. The entire gamut of drugs can be found at every level—from the very rich to the very poor, among the old and the young, and in rural as well as urban environments. The devastation has also spread throughout every workplace. It is found among lawyers, construction workers, truckdrivers, police, firemen, and in every other occupation group; drug abuse raises its hideous head. Doped-up workers endanger the health and safety of those who depend on them. The cost to employers from lost productivity, absenteeism, and higher accident rates has reached $33 billion.

Drug dealers—dealers of death and suffering, who rake in profits totaling $100 billion annually—are stretching their vile tentacles into the hearts of our youth. The deadliest drugs have worked their way into high schools, seducing innocent children. Marijuana, cocaine, and PCP can be found even in elementary schools. Infants, born to addicted mothers, are forced to begin their new lives hooked on drugs.

In Chicago, drugs have threatened my constituents for years. Addicts, caught by the web of drug dependence, live from one fix to the next. Many, unable to hold a job, have turned to crime to support their habit. They rob and kill to scrape together enough money for the fix that gets them through the day.

The situation is out of control. The police have been overpowered. Honest citizens, children, and especially the elderly are afraid to walk the streets! Even in broad daylight. This horror simply must end!

H.R. 5484 will help curb this crisis. By authorizing $1.5 billion, the bill gives us the tools to begin our war on drugs. These funds will support the efforts of law enforcement officials to interdict and eradicate drugs at their source. Stiffer penalties will be imposed for drug-related offenses, with particular emphasis on targeting the pushers. The legislation provides for additional drug enforcement activities and coordinates these efforts.

H.R. 5484 also authorizes the President to impose trade sanctions against those nations which, as sources of illicit drugs, refuse to cooperate to reduce drug trafficking. This will insure that

governments which tolerate the drug trade will find themselves shortchanged in the end.

Mr. Chairman, H.R. 5484 represents a major weapon in the fight to save our Nation from this scourge and I urge my colleagues to support it. It is for the safety of our streets, the health of our Nation, and the lives of our children that we must support this long-overdue legislation.

Mr. BILIRAKIS. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. DANNEMEYER].

The CHAIRMAN. Without objection, the gentlemen from California [Mr. DANNEMEYER] is recognized for 2 minutes.

There was no objection

Mr. DANNEMEYER. I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in support of the bill. Unfortunately, an amendment that I asked the Rules Committee to make in order was not approved. The reason that I offered the amendment was contained in a book published this year written by a man named James Mills entitled "The Underground Empire," where crime and governments embrace. The most unstabling aspect of the book was the first page which said—

Everything in this book is true. No names have been changed. There are no complete characters; no invented scenes or dialog.

Then he goes on to describe the real problem with interdicting the international drug conspiracy in the world.

We have persons in high positions of governments around the world, in Central America, in South America and in Mexico and in countries in Southeast Asia that are officials of their governments that are up to their eyeballs in the drug traffic.

When it comes to charging these people with the crimes they are committing in their own country, or as a part of a conspiracy that takes place in another country that ends up in this country because the product of the conspiracy, the drugs, are sold here, we can indict them here and charge them and arrest them when sometime they show up in the United States of America.

To really get this kind of attention we need a reorganization of the executive branch whereby we would have the Secretary of Health and Human Services, the Attorney General, the Secretary of State, the Secretary of the Treasury and the Secretary of Defense in an advisory committee as advising an appointee of the President who could give direction. It is at the point where the Secretary of State of this country must be told that notwithstanding the need for good relations with other nations around the world, when an official of that government is involved in drug sales that end up in the United States we should be arresting that person and bringing them to trial in the United States. That amendment belongs in this bill.

Mr. FLORIO. Mr. Chairman, I yield 2 minutes to the gentleman from Colorado [Mr. WIRTH].

The CHAIRMAN. Without objection the gentleman from Colorado [Mr. WIRTH] is recognized for 2 minutes.

There was no objection.

Mr. WIRTH. I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in support of this legislation that is so critically important to the future of us all—particularly our young people, our Nation's most valuable resource. Specifically, I want to stress the importance of provisions in this legislation that I authored in committee which establish a media advisory board to assist in developing an effective media and education campaign aimed at preventing drug use.

Drug abuse is a growing cancer in our society today. Thousands of families across Colorado and America have suffered the pain of the addiction of a brother, sister or even parent. The use of cocaine and its derivative, crack, as well as heroin, and other illegal drugs is tearing away at the fabric of the American family. Drug abuse is decreasing productivity in the workplace, increasing criminal activity, and creating problems in our schools.

Our Nation has a $110 billion-a-year drug habit. Added to this is the total cost to society, which is just as staggering. In 1985, it was estimated that the money spent on illegal drug activities resulted in a decline in total business output of $18.2 billion and a loss of 414,000 jobs. Total use of illegal drugs has risen by 15 percent in recent years. Five million Americans are regular cocaine users, ignoring the fact that 563 people died cocaine-related deaths last year. Within the next 2 years, more than 20 percent of American high school seniors may have tried cocaine.

Drugs are clearly the No. 1 enemy of our Nation's young people. And our young people are the key to our future. To safeguard that future, we must directly attack the drug problem wherever and however we can.

Six-and-a-half tons of heroin come into the United States every year, and cocaine imports are expected to double this year from 130,000 pounds to 275,000 pounds. Yet, the Drug Enforcement Agency has only 2,300 agents worldwide, fewer than the number of police on Capitol Hill in Washington. Drug production has increased so much in foreign countries that there currently is a glut of cocaine on the market, prompting a dramatic price decline and helping fuel the spreading use of crack, or "rock" cocaine. However, the Department of State requested less than $40 million a year, or about 15 cents per U.S. citizen, for international drug control assistance. The Department of Defense spent only $15 million last year on drug-interdiction efforts, the cost of spare parts for one cruise missile.

We are spending less on treatment and prevention, two areas where we can be most effective in permanently controlling drug abuse. Direct Federal funding of drug treatment and prevention programs has decreased from $370 million in 1981 to $40 million this year. Agents have seized more than $1 billion of drug traffickers' assets, but the Office of Management and Budget directed that only $8 million of this revenue can be used for enforcement or prevention. This is senseless. All of the funds seized from illegal drug activity should be used where it can be most effective—in ridding our society of this problem.

We need to act immediately to control this crisis. Drug abuse must be attacked at all levels of Government and throughout our communities. This effort will not be successful unless we include parents and community PTA's, schools, police organizations, local, State and Federal Government, religious organizations and others in our communities who can be helpful. And such an effort cannot concentrate only on enforcement. It must also include an aggressive education program aimed at prevention and effective treatment efforts with special targeting to those who need the help the most.

Only through an all-out assault on this problem will we begin to make progress. This legislation before us fights drug abuse on five fronts: prevention through education, treatment, increased law enforcement, vigorous international narcotic control programs, and greater cooperation among local, State, and Federal governments and police organizations.

Moreover, when it comes to making the public aware of a problem, there is no greater resource than the Nation's mass media. The purpose of a media advisory board is to focus those resources on this problem in the best way possible.

Specifically, the proposed advisory board—made up of 15 media members including representatives from the broadcasting, cable, newspaper, program production, and advertising industries, as well as professional sports associations—would assist in the implementation of campaigns aimed at educating the public about the problem of drug abuse. The advisory board would also encourage the media to devote ongoing efforts toward raising public awareness of the need to prevent illegal drug use.

I am pleased to say that the representatives of media industries are themselves very enthusiastic about this proposal. In fact, I have received letters supporting the establishment

of an advisory board from a number of organizations representing the media industries, including the National Association of Broadcasters [NAB], the National Cable Television Association [NCTA], and the Motion Picture Association of America [MPAA]. I am hopeful this undertaking can be truly a consensus effort.

It is by now clear that the media is an extremely powerful force in our lives that can play a very positive role in confronting many problems that plague communities throughout the country. For instance, the Subcommittee on Telecommunications, which I chair, has been very involved with the issue of encouraging the media to provide information to the public about alcohol abuse—a tremendous societal problem. Broadcasters heard our concerns and launched voluntary efforts to inform the public through public service announcements of the dangers of drinking and driving. Indeed, the NAB and the broadcasting industry in general deserve praise for their voluntary efforts related to alcohol abuse.

Moreover, while we clearly must accelerate the fight against drug abuse, it should be noted that significant contributions have already been made by many major media organizations. For example, NBC has dedicated hours of air time and other resources to the issue of substance abuse, and NBC public affairs campaigns have included an award-winning documentary and a series of public service announcements on the subject. Likewise, in the cable area, Turner Broadcasting has produced a number of special programs highlighting the dangers of drug abuse, and has developed an outreach program involving the distribution of lesson plans to schools to accompany the special programs.

While the media has made a good start, we must encourage even greater initiatives in the area of drug abuse—and that is the purpose of the drug abuse advisory board. The board would have the unique ability to make coordinated, intermedia recommendations on how to put the media's influence to work in positive ways to protect all Americans from the dangers of illegal drug use.

I urge my colleagues to join me in supporting this important legislation that will help in the drug prevention effort by, among other means, informing the Nation's schools, businesses, and most importantly, parents and children, about the serious consequences of drug use.

Mr. BILIRAKIS. Mr. Chairman, I yield 30 seconds to the gentleman from Ohio [Mr. MILLER].

The CHAIRMAN. Without objection, the gentleman from Ohio [Mr. MILLER] is recognized for 30 seconds.

There was no objection.

Mr. MILLER of Ohio. I thank the gentleman for yielding time to me.

Mr. Chairman, I am proud that the Congress is taking the lead in this bipartisan attack against the wide array of drug problems we currently face, with such comprehensive legislation as the Omnibus Drug Enforcement, Education and Control Act of 1986. Recently polls have indicated that the majority of Americans feel deeply that the most serious crisis which threatens our way of life is the sale and abuse of illegal drugs. I think that by offering legislation of this magnitude, which addresses so many aspects of our illegal drug problem, we have a better chance of defeating this arch enemy of the very survival of the United States as the world leader we now know it to be.

As I have observed the escalating problems caused by narcotics in our society, I have sponsored legislation that would remedy various facets of the situation resulting from the prevalence of illegal drugs, including:

The Repeat Drug Offender Penalty Enhancement Act, which calls for life imprisonment without parole for adults who distribute a dangerous drug to a child or teenager, after having already been convicted of the same crime;

The Narcotics Importation Manufacture and Control Act, which makes mandatory prison sentences of 20 years for convicted large scale manufacturing offenders, and 15 years for small-scale offenders, and disallowing probation and parole;

The Money Laundering Control Act, which establishes a maximum penalty of $1 million and/or 20 years in prison for offending individuals and a maximum fine of $5 million for offending corporations;

The Designer Drug Enforcement Act, which provides that a controlled substance analog intended for human consumption should be treated as a controlled substance, with the same penalties against its distribution and use;

A bill to require the use of the Armed Forces for interdiction of narcotics at our Nation's borders; and

A resolution to request that the entertainment industry take steps to assist in the national war against illegal drugs.

In addition to sponsoring bills aimed at correcting specific areas of the drug crisis, I am also pleased to sponsor the omnibus drug bill because I firmly believe it has the potential for much wider success. If we are to be effective in this effort, we must mobilize all our forces and abilities. This legislation has provisions calling for funding for state-of-the-art detection equipment for drug interdiction, and it calls for employing market access and foreign aid as levers for international cooperation on the war on drugs. The omnibus drug bill strengthens existing interdiction programs by providing additional personnel for the Coast Guard, Customs Service, U.S. Marshal's Service and the Drug Enforcement Administration. It also calls for education programs, including a reappraisal of existing drug education, in the belief that this is a logical approach to reducing the demand for illegal narcotics. Although some programs under the omnibus drug bill are not in the precise form I would have preferred, I support its passage. But I would emphasize that we must not lose sight that passage of the omnibus drug bill is only a beginning. We all must work together—in the same bipartisan spirit as this legislation was brought to the House floor—to spend the money in as effective a manner as possible. We in the Congress must not abrogate our responsibilities for oversight of the way these measures are administered and coordinated, if we are to attain the ambitious goals we have set for stamping out the scourge of illegal drugs and narcotics in the United States during the 20th century.

Mr. FLORIO. Mr. Chairman, I yield the balance of my time to the gentleman from Ohio [Mr. LUKEN].

The CHAIRMAN. Without objection, the gentleman from Ohio [Mr. LUKEN] is recognized.

There was no objection.

Mr. LUKEN. I thank the gentleman for yielding me this time.

Mr. Chairman, during the past week we have heard from about 40 college presidents. We have not gone to the institutional NCAA but we have gone to the academicians, the people who are trying to run the colleges of our Nation and who have been impeded by the overcommercialization of the sports scene by the athletic directors.

We have heard from these presidents who have said that they are having trouble eliminating drug abuse on campus and that their effort depends largely on teaching our youth to say "no" to drugs. So education is as important as enforcement. They have told us that students respond to pressure, especially to peer pressure. They feel that one of the strongest peer pressures toward acceptance of so-called recreational drugs is given by their student athlete peers, the notorious drug-using, college sports idol.

Len Bias' death should teach us all to do a lot of thinking. Thinking about values, goals, and missions. When players are bought, rented, and hired not as students but as commodities, there is little or no intent to see that they use their intellectual skills, that they become well-rounded citizens, and there is something there to fill that void and that is drugs.

Many college presidents have lamented the existence of not only the athletic subculture on the campuses but also the corresponding drug subculture, and the two are entwined.

In a recent letter from the president of Kent State University, the president said:

Athletes use cocaine—American culture heroes use drugs—and the children know it.

The president of the University of Rochester wrote:

If athletic virtues are separated from the real world of career or study, then their application becomes wayward and uncertain and athletes gain the courage not to perform noble deeds but merely the guts to get a fix.

□ 1720

Mr. BILIRAKIS. Mr. Chairman, I yield the balance of my time to my colleague, the gentleman from Ohio [Mr. OXLEY].

The CHAIRMAN. Without objection, the gentleman from Ohio [Mr. OXLEY] is recognized for 2 minutes.

There was no objection.

Mr. OXLEY. Mr. Chairman, somewhat reluctantly I rise to oppose a couple of parts of the bill and talk about them briefly.

First of all, I think that any time we put together an omnibus bill like this there are going to be clinkers and there are going to be some problems in the bill. That was the case, I remember, back in 1968 when Congress ultimately passed the safe streets and crime legislation. There was a lot of money thrown at that problem at the time, and in my estimation there was a lot of wasted money. In some cases, because of our zeal to try to solve a problem perhaps too quickly, we tend to get in a situation where we try to outdo each other or in fact outbid each other in trying to solve the problem, all with the best of intentions.

Clearly in this case—and I speak directly to the section offered by my friend, the gentleman from Ohio, in regard to the NCAA—no one argues that there is a problem in the NCAA with student athletes and with drug abuse. But that gainsays the problem with the rest of the campus. Anyone who thinks that the rest of the campus is not involved in drug abuse, that it is only the athletes, simply does not understand the problem.

So my friend, the gentleman from Florida, and I will be offering an amendment to delete that particular section of the bill because I think it unfairly singles out a group like the NCAA. I think that they can speak for themselves and act for themselves, and in fact they have on many occasions, in this very area.

The second area is an amendment that is going to be offered by our friend, the gentleman from Illinois [Mr. MADIGAN], and that will reduce from $180 million to $100 million the amount offered in our section of the bill, Energy and Commerce, for the Agency for Substance Abuse Prevention and elimination of the authorization for community-based drug and alcohol abuse prevention programs. Again I think the money can be better spent in other areas, in interdiction and in law enforcement. We do not want to get accused of throwing money at the problem. I think, other than that, that this is a strong section of the bill.

The CHAIRMAN. The time of the gentleman from Ohio [Mr. OXLEY] has expired.

Mr. MURTHA. Mr. Chairman, I yield 10 minutes to the gentlewoman from Ohio [Ms. OAKAR], of the Committee on Post Office and Civil Service.

Ms. OAKAR. Mr. Chairman, I rise in support of this very important piece of legislation to fight our Nation's drug problem.

The omnibus legislation before us takes a comprehensive look at the problem of drug abuse which faces our Nation and offers solutions to deal with all facets of the problem. I am very, very proud of the leadership that has been provided by Speaker TIP O'NEILL, majority leader JIM WRIGHT, the minority leader, BOB MICHEL, and others, and I am proud of my chairman of this committee, the gentleman from Michigan [Mr. FORD], and the subcommittee chairs, all of whom participated in aspects of the bill.

At this time, Mr. Chairman, I would like to call on the gentleman from Massachusetts [Mr. MOAKLEY] for a colloquy with reference to our portion of the bill, the Post Office and Civil Service Committee portion. I would like to say very briefly, before calling on him, that we believe the example of how we treat our Government workers will hopefully spread across the Nation.

Mr. Chairman, I yield to the gentleman from Massachusetts [Mr. MOAKLEY].

Mr. Chairman, the gentlewoman from Ohio [Ms. OAKAR] chairs the Subcommittee on Compensation and Employee Benefits of the Committee on Post Office and Civil Service. That subcommittee has legislative responsibility for matter contained in section 1004 of the pending bill.

The section establishes a demonstration program which will allow the Office of Personnel Management to contract with five plans, which the committee has selected. These projects will provide additional coverage for alcohol and drug abuse treatment.

The additional benefits will be available only to a limited portion of the enrollees in these five plans, and the benefits will be assigned in a random fashion to assure the statistical viability of the study.

The demonstration project will be funded completely outside of the Government and employee contribution computations.

Subsection (c)(1)(B) requires that the demonstration projects will cover only the number of people needed to constitute a statistically valid model for making the determinations required by the section.

Mr. Chairman, I have two questions for the committee. I do not wish to establish a legislative history that would lock OPM into a specific number. But, I would like the agency to have some guidance from Congress on the scale of the project contemplated. Am I correct, that the committee contemplates a sample population, under the five plans, that would probably not exceed a few hundred enrollees? And second, am I also correct that the statistical chance for any individual enrollee to be selected for the extra coverage is so small that the committee would expect OPM to disapprove any open season literature that used the existence of the demonstration program to market that plan?

Ms. OAKAR. Mr. Chairman, I thank the gentleman for his questions and I appreciate his interest in the quality and success of this demonstration.

To respond to the gentleman's first question, I would just like to say that I am not interested, either, in establishing a legislative history that would lock the Office of Personnel Management into a specific number of enrollees who would be involved in the sample population served by the demonstration. The legislation specifically states that the OPM shall, in conjunction with the health insurance plans, the Federal agencies, and the Federal employee organizations, select a population to participate in the demonstration of sufficient size to assure that the necessary statistical information can be properly secured.

I, personally, do not know what that number is; and I think it is entirely appropriate to leave that decision to the experts who will design and conduct the demonstration. I would expect that the number of participants would be quite small, as are most demonstration projects, relative to the entire number of FEHBP participants, which is approximately 10 million.

In response to the gentleman's second question concerning the use of this demonstration as a "marketing device" which the big six plans could use to attract enrollees, I would simply like to point out that this legislation constitutes a good faith effort to test the efficacy of insurance coverage for substance abuse rehabilitation. The intent of Congress here is quite clear. We hope to have an opportunity to test a number of drug abuse and alcoholism treatment and rehabilitation options, offered in different settings. We intend that the value of such coverage will be measured, not only in terms of insurance costs and health costs, but in terms of benefits to job productivity, reduced absenteeism, and the general well-being of Federal em-

ployees, retirees, and their families. We intend that this information will be used to help improve the FEHBP—all plans in the FEHBP—so that the program is more responsive to the needs of its enrollees and more affordable for enrollees and the Government.

Clearly, a demonstration project is, by nature, limited in scope. The demonstrations authorized by this bill shall be established in not less than one and not more than four sites. I do not think that any carrier could or would use such a demonstration to attract Federal enrollees nationwide. The misuse of this demonstration as a marketing device is even more unlikely when one considers that the demonstration projects are not only limited to geographic sites, but may be targetted to sepecific agencies or specific groups of Federal enrollees.

The OPM and the involved agencies, plans, and Federal employee organization will determine how best to solicit and select a group of participants for the demonstration. I would just point out, however, that OPM prohibits any FEHBP plan from including anything in their open season brochures or advertisements that does not specifically relate to benefits which are available to all of their enrollees. And in this, of course, we are only talking about a few.

In short, I would not be concerned that this process would be misused as a marketing device, and I would expect that the OPM and the other involved groups would act in accordance with the intent of Congress in this regard.

So, Mr. Chairman, in response to the gentleman's concerns, let me say that I am glad he raised them, but I really do think that everything will work out very well.

Mr. MOAKLEY. Mr. Chairman, I thank the gentlewoman very much for her response.

The CHAIRMAN. The gentlewoman from Ohio [Ms. OAKAR] has consumed 7 minutes.

Ms. OAKAR. Mr. Chairman, I reserve the balance of my time.

□ 1730

Mr. MICHEL. Mr. Chairman, for this section, I yield the 10 minutes on our side to the gentleman from New York [Mr. GILMAN] for allocation as he sees fit.

Mr. GILMAN. Mr. Chairman, I thank our distinguished minority leader for yielding this time, and I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of title X, the Committee on Post Office and Civil Service portion of H.R. 5484, the Omnibus Drug Act of 1986 and I want to commend the distinguished chairman of the Subcommittee on Compensation and Employee Benefits, the gentlewoman from Ohio [Ms. OAKAR], for her leadership and initiatives with regard to this section of the bill.

As the Nation's largest employer, the Federal Government must take a leading role in the fight against drug abuse in the workplace. We know that no segment of our society is immune to the effects of drug and alcohol abuse. Rich or poor, suburban or inner city, black or white—all have been touched by the effects of drug abuse in one way or another. Because of the important job which the Federal Government is required to perform, it is the responsibility of this body to develop appropriate policy to facilitate and ensure a drug-free work environment for our Federal employees.

In a strong bipartisan effort, the Committee on Post Office and Civil Service has developed recommendations to address any narcotic or alcohol abuse problems among Federal employees. Specifically, the bill directs the Office of Personnel Management to provide drug and alcohol prevention, treatment and rehabilitation services to Federal employees and their families. In addition OPM must conduct education programs to inform Federal employees of the health hazards associated with alcohol and drug abuse, its symptoms and the availability of assistance. On the postal side, the bill makes the mailing of controlled substances a separate criminal offense. In addition, the bill directs OPM to establish a 3-year demonstration project to determine the feasibility and desirability of including certain benefits relating to treatment of drug and alcohol abuse among the benefits available under the Federal Employees Health Benefits Program.

Mr. Chairman, these recommendations will address any drug or alcohol problems among Federal employees in an equitable and nonpunitive manner. Drug and alcohol abuse is prevalent throughout our society and strong measures are necessary to fight this debilitating problem. We must, however, be cognizant of the rights of the individual and refrain from imposing any experimental measures on the Federal work force which could jeopardize the morale of our employees.

In commending the leadership of this body for its vigorous bipartisan approach to this legislation, we should also recognize the tireless efforts of the President and First Lady in directing public attention toward this very important issue. This omnibus drug bill, together with the initiatives the White House has undertaken, we can begin a major assault in the battle against drug and alcohol abuse in our society.

Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. DORNAN].

The CHAIRMAN. Without objection, the gentleman from California [Mr. DORNAN] is recognized for 3 minutes.

There was no objection.

Mr. DORNAN of California. Mr. Chairman, I do not think I have ever physically felt so satisfied watching my colleagues on both sides of the aisle address an issue as I have seen looking at this unbelievable solidarity here today on this issue. Under the Post Office Committee part of this bill, the post office is asking and willing to accept and will use the new authority we are going to give it to go after these vicious substances that are ripping our society apart. I wish we had the same sort of unanimity of purpose and feeling of solidarity on pornography, because the post office is the lead authority in Government to go after what they even have a new acronym for, CP, child pornography. Maybe that is another day to come.

I have not participated in this debate much and I do not have any strong statement, because there is a little bit of burnout in me on this issue, because I was talking just as every liberal Member of this House has been speaking today 21 years ago on television. In 1968 when I had a television show 4 hours a day, live everyday, everyday this issue would come up, 18 years ago. It was almost as though it was cleanly a conservative versus liberal issue. If you worked against the war in Vietnam, you were supposed on the flip side of that to get high, turn on, tune in, drop out, defy authority, ridicule your parents, call cops pigs and make light of drugs, and then when this Narcotics Committee, this select committee in the House was founded with the gentleman from New York [Mr. GILMAN] as a charter member, I was campaigning for my first term here in 1976, September I believe, I was just told the committee was formed. When I got here, there were no openings on the committee, so I asked if I could serve ex-officio and I served as a regular member for 4 years following those first 2 years.

The gentleman from New York [Mr. GILMAN] and I went to the opium fields, the cocaine fields of South America, to the Shan Province of Burma in 1979, with the gentleman from Illinois, HENRY HYDE where one of those Chinese warlord armies tried to murder former Congressman Lester Wolff and you and I and whoever else was with him.

Over and over we would look at one another in committee hearings rights up until this summer when the CIA report was secretly given to us that it was tearing apart the fabric of our country and now we actually have competition between our parties. Good. Go for it. Between our ideologies, I knew that never until my liberal colleagues got involved in this issue would we ever make a dent in it.

I truly say at you, God bless you for making this no longer a cockamamie conservative issue, but an American issue.

The day we adjourned in August, my fifth grandchild arrived. Of my five, the third has just gotten married. Only my first two married have given me five already, and from my children and my five that are still all in their twenties, one just turned 30, you are going to give them a safer country.

When we went out to Hollywood in March of 1981, that is 5½ years ago, when the gentleman from New York and I and former Member Tom Railsback and former Member Jerry DeNardis, who is now an Assistant Secretary at Health and Human Services, when we went out to Hollywood with all of the best intentions, with a focus on one issue, cocaine, in March of April of 1981, we were ridiculed and pilloried. I remember Mr. DeNardis coined an expression something like, "McCarthyism in advance" or "judgment in advance."

Grant Tinker, who went on to become head of NBC, said that we were a witch hunting committee, that there was no cocaine in Hollywood, that it was a controllable problem.

Ed Asner, who was playing an undercover narcotics agent in some Universal film gets photographed in his undercover mufti garments, saying that we were fools and it was Congress coming out to make light of a problem that did not even exist.

Well, we were kicked in the face 5½ years ago, but until Nancy Reagan and Members of both ideologies in both parties decided our country was being shredded, finally we have unanimity of purpose and solidarity.

I ask the gentleman, does he think we are ever going to turn back and sweep this under the rug again?

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. DORNAN of California. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Chairman, I say to the gentleman, we certainly are not going to turn back. I think we are on the proper track now. I hope that we are going to go forward with even greater momentum.

I thank the gentleman for his supportive remarks. He has been a longtime fighter in this battle and we welcome his supporting remarks today.

Mr. DORNAN of California. Well, I want to thank the gentleman from New York and all the long-term Members since 1976 on the Select Committee on Narcotics who have fought a tireless, unflagging fight, without any thanks or with seemingly no rewards, until this nice beautiful September day in Washington, DC.

For my children and my grandchildren, I say, God bless you again. I thank everybody and I wish we could approach all issues that rip our country apart, like pornography, in the same way we are approaching this all unified with one purpose, to not only protect our youth, but to protect all economic levels, all people and even those yuppies who are losing their Porsches snorting cocaine.

I thank the gentleman from New York [Mr. GILMAN] from the bottom of my heart.

Mr. GILMAN. Mr. Chairman, I thank the gentleman for his supporting remarks, and I yield back the balance of my time.

Ms. OAKAR. Mr. Chairman, I yield such time as he may consume to the gentleman from Massachusetts [Mr. BOLAND].

The CHAIRMAN. Without objection, the gentleman from Massachusetts [Mr. BOLAND] is recognized for such time as he may consume.

There was no objection.

Mr. BOLAND. Mr. Chairman, there is no threat to our society more severe, nor more immediate, than the threat posed by illegal narcotics.

The American people expect government on all levels to respond to this threat, with all the resources at their command.

With the passage of H.R. 5484, the House of Representatives can take the first step toward the establishment of a meaningful coordinated policy to deal with the drug menace.

As one of the cosponsors of the Omnibus Drug Enforcement, Education, and Control Act of 1986, I want to commend the majority leader, Mr. WRIGHT, and the Republican leader, Mr. MICHEL, for the work they have done to ensure that this legislation would be truly bipartisan.

The drug problem transcends all boundaries—income, race, and geography—and the national response to it must transcend the boundaries of political philosophy.

I congratulate President Reagan, and Speaker O'NEILL for their leadership on this issue, and I believe that H.R. 5484 is fully consistent with that spirit.

We have declared war on other seemingly intractable social problems from this Chamber in years past.

That the results of those efforts have not always matched the rhetoric with which they were launched has led some critics to imply that it would have been better not to have tried at all.

I do not subscribe to that theory.

Yes; we have spent billions of dollars trying to eradicate hunger, disease, and illiteracy, and yes; those conditions still afflict our society.

But gains have been made, and positive changes have resulted, in the lives of millions of Americans as a result of our efforts in those areas.

Today, we begin a similar effort on the problem of drugs.

It may not result in a drug-free society, but I believe it will make a measurable difference in the ability or our country to deal with this problem.

Let's not kid ourselves.

The traffic in illegal drugs is a $200 billion a year business in this country.

That business, and those who profit from it, are not going to disappear because of some tough talk from Washington or a few public service media ads.

We are going to have to commit national resources on a level that recognizes the scope of the drug problem, and we are going to have to be prepared for a long-term effort.

We can declare no victory with the passage of H.R. 5484. It is only a beginning in what must be a constant national commitment to effectively deal with drug abuse.

H.R. 5484 provides a framework for the development of the only kind of policy that stands a chance of success in this area; a policy that seeks to reduce both the supply of and demand for illegal drugs.

We shrink demand when we educate our young people to the dangers of even casual use of drugs, and when we treat abusers, in an effort, to wean them from their drug dependency.

We reduce supply when we make it harder to import drugs, and when we come down—and come down hard—on those who seek financial gain from the chemical enslavement of our citizens.

That is the approach of this bill, a tandem approach of vigorous drug education and strict enforcement of drug laws that will produce results.

It is an approach that will demonstrate to the American people that their Federal Government has heard their demand for action, and that it is serious about doing battle with the drug menace. H.R. 5484 deserves an overwhelming vote of confidence in the House and quick action in the other body.

I urge its adoption by my colleagues.

Ms. OAKAR. Mr. Chairman, I yield such time as he may consume to the gentleman from Oregon [Mr. AUCOIN].

The CHAIRMAN. Without objection, the gentleman from Oregon [Mr. AUCOIN] is recognized for such time as he may consume.

There was no objection.

Mr. AUCOIN. Mr. Chairman, a few days ago the people of Oregon were introduced to Tina Jo Sutton. Unfortunately, by the time we got to know her, it was too late to do anything about her life. Tina was a victim of drug abuse and addiction. But there's still time to make sure her death was not in vain.

We all know someone like Tina Jo Sutton. She visited Disneyland at age 5. By age 10, divorce has split her family. By age 12, she was experimenting with drugs. And by age 16, she was dead, a victim of drugs, dead in a cheap motel room.

Yes, we all know a Tina Jo Sutton and the lives of these young Americans fill volumes of statistics. These statistics show that the drug pushers are winning the fight, and are poisoning an entire generation of Americans. It's not really so much a battle against drugs as it is a rout, with the drug pushers so far ahead that only a major effort can even begin to close the gap.

In Oregon, heroin overdoses in the first 7 months of this year have already topped 1985. Burglaries, robberies, and assaults—so many of them drug related—terrorize our com-

munities. Oregon ranks eighth in the Nation in serious crimes per capita, while Portland alone ranks No. 1 among cities in burglaries—and has for 3 straight years.

Sure it's going to take a lot of money to turn this tide. But it's really a matter of national priorities. It's too late for Tina Jo Sutton, but it's not too late to help the millions of young Americans like her.

For that reason, Mr. Chairman, I am proud to add my support to this omnibus antidrug legislation before us today. As a cosponsor of many of the individual bills which were used to form the core of this larger bill, I can attest to its tremendous scope, diversity, and vision.

I applaud Speaker O'NEILL in making the national fight against drug abuse and crime a high priority in these last weeks of the 99th Congress, and Majority Leader WRIGHT for spearheading this legislation through the numerous committees which had jurisdiction over sections of the bill. I think the various House committees which came up with this vigorous plan of attack to rid our communities, schools, and workplaces of the blight of drug abuse also deserve our thanks and appreciation.

Mr. Chairman, my Colleagues in the House of Representatives and my constitutents in Oregon know me as a Congressman who is hesitant to throw money at a problem in an effort to make it go away. This is true whether the problem involves national defense, education, housing, or agriculture. But I have never thought that the Federal Government could solve problems just by spending billions of additional dollars.

This bill will cost a lot of money. But it's money that we must invest now. At a time when Americans are spending $120 billion each year on illicit drugs, and the effects of drug abuse are costing our Nation an additional $100 billion annually in increased health costs, lost productivity, and related crime and violence, it is high time that we stop the rhetoric and begin taking some concrete action.

The reason this bill has a high price tag is very simple: drug interdiction, reducing illicit drug crops in foreign countries, and setting stiffer sentences for Federal criminals are solely the responsibility of the Federal Government, while educating our youth to the dangers of drug abuse and assisting those who have already fallen into the clutches of drug addiction are responsibilities which the Federal Government must share with State and local officials. This bill tackles all of these areas in the aggressive manner which this problem requires. And quite frankly it has become obvious that this difficult job cannot be accomplished without additional Federal funding.

As I mentioned earlier, statistics show how badly we are being beaten in this battle against illegal drugs: Our antismuggling air bases only have enough funds to operate 40 hours per week; only 5 to 15 percent of the tons of narcotics entering our country is intercepted; there are fewer Coast Guard personnel fighting to keep drugs out of our country today than there were in 1980; 80 percent of all Americans have tried an illicit drug by their mid-twenties; and younger and younger children are being caught up in drug abuse every year.

In Oregon the story is just as bleak. Black tar heroin, a cheap, yet exceptionally pure form of heroin, is finding its way to every corner of the State, and as I mentioned earlier heroin overdose deaths in Oregon in the first 7 months of 1986 have already surpassed the totals for 1985. We are also familiar with the strong connection between drug abuse and crime in Oregon. As black tar heroin and crack become wider spread, we see the incidence of burglaries, assaults, and robberies increase.

We know the statistics, but even more terrifying are the real stories which are heard from law enforcement officials, teachers, parents, and youngsters throughout this country. Stories like the one about Tina Jo Sutton. Mr. Chairman, the story of Tina Jo Sutton is being played out in every town and city in this country today. We must pass this tough bill today and work together as a nation to stop the waste of young, energetic lives like Tina's.

Mr. Chairman, we are at a critical time in the life of our country. We must use the vitality, strength, independence, and resources of our land and people to slow the use of illicit drugs. Anything less than an all out effort, which I believe this bill gives, would be a tragic, perhaps fatal mistake for our Nation.

In closing, Mr. Chairman, I want to air a warning of caution to my colleagues and to the American people. Together we can make a temendous dent in drug abuse, addiction, and the crime which they breed. However, as soon as we take our eyes off of the problem, or lose focus of the goals contained in this legislation, we will turn around and find the problem staring us in the face again. Let's not forget about drug abuse once the elections are over, or about the devastating effects crack, black tar heroin, and PCP are having on our Nation once they are no longer in the headlines. We must pass this legislation today, but we must also make a commitment to continue fighting drug abuse and crime in the months and years ahead.

Ms. OAKAR. Mr. Chairman, I yield such time as he may consume to the gentleman from Virginia [Mr. OLIN].

The CHAIRMAN. Without objection, the gentleman from Virginia [Mr. OLIN] is recognized for such time as he may consume.

There was no objection.

Mr. OLIN. Mr. Chairman, I rise in support of final passage of H.R. 5484, the Omnibus Drug Enforcement, Education, and Control Act, which was brought to the floor with broad bipartisan support.

This is the time for a comprehensive approach to drug enforcement. Recent tragic events, from drug-related deaths to the surprising development of young children turning in their parents for drug abuse, have kept the issue in the news and at the top of the public agenda.

H.R. 5484 provides the money the Coast Guard and U.S. Customs Service need to fight this major threat to American society—money that has been cut in recent years at the President's instigation.

It will define the appropriate role of the military in drug enforcement, assuring that we have full coverage without overlapping coverage. It will focus on the source of drugs, on the flow of drugs into this country, on the important role of drug abuse education in our schools, on the coordination of efforts at every level of law enforcement.

We all know that drug abuse has emerged as a serious health problem. Drug use, particularly among young people, is at an unacceptably high level. Drug trafficking is a multibillion-dollar-a-year industry which generates violence and corruption and creates a serious drain on the national economy.

And this bill itself is not cost free. A comprehensive approach to drug control will be costly. But that does not mean that we are abandoning Gramm-Rudman or surrendering in the battle to balance the budget. We still will have to conform our spending to the Gramm-Rudman target; through this bill, we are establishing a priority for drug enforcement. The tough decisions on how we balance the appropriation must yet be made. We will have to make them.

Clearly, a balanced strategy of prevention and education, detoxification and treatment, law enforcement, and international narcotics control is needed to eliminate the drug problem in this country.

The threat to our Nation requires an immediate, strong response. I urge my colleagues to join me in supporting this critically needed legislation.

Ms. OAKAR. Mr. Chairman, I yield 1 minute to the gentlewoman from Colorado [Mrs. SCHROEDER].

The CHAIRMAN. Without objection, the gentlewoman from Colorado [Mrs. SCHROEDER] is recognized for 1 minute.

There was no objection.

Mrs. SCHROEDER. Mr. Chairman, I rise in support of this major antidrug legislation. It is incumbent on us to do something about the drug epidemic. Stronger law enforcement and interdiction are the most effective means available and this legislation provides substantially increased funding for these efforts.

Title X of this omnibus antidrug bill contains the recommendations of the Committee on Post Office and Civil Service. Our emphasis is on helping Federal workers learn about drug and alcohol abuse through education programs, and on helping those employees with drug or alcohol abuse problems to recover. The bill contains no authority for agencies to conduct drug testing of employees.

During debate on the rule for this bill, the minority leader said that the President has the authority to order drug testing without any specific legislation. I am not sure he is correct. Two constraints may limit the President's authority to issue such an order.

First, drug testing involves expenditures of Federal funds. And, as we all know, expenditures can only be made if they are authorized. Nothing in this bill or in current law authorizes the expenditure of funds for widescale testing of Federal employees.

Second, while the President has general authority under section 3301 of title 5, United States Code, to set standards for Federal employment, those standards must have some relation to the positions for which they are set. It is not clear that drug testing of all categories of employees meets this requirement.

The title from the Committee on Post Office and Civil Service addresses the issue of drug abuse not by requiring Federal employees to prove themselves innocent of drug use, but rather by offering education and treatment for drug and alcohol addiction.

Title X directs the Office of Personnel Management to develop and maintain prevention, treatment, and rehabilitation programs and services for alcohol and drug abuse among Federal employees. In order to encourage employees with alcohol or drug abuse problems to seek treatment, confidentiality of records in any program under these sections is assured.

The Office of Personnel Management is also directed to establish a Governmentwide education program for employees and supervisors. Through this program, Federal employees can learn about the health hazards of alcohol and drug abuse, the symptoms of alcohol and drug abuse, the availability of prevention, treatment, and rehabilitation services, the confidentiality protections for participants in drug and alcohol abuse programs, and the penalties for use of alcohol or drugs.

Title X requires executive agencies to develop employee assistance programs which offer treatment and rehabilitation to employees with drug and alcohol abuse problems. Title X also authorizes a demonstration project for the treatment of drug and alcohol abuse under the Federal Employee Health Benefits Program.

As I mentioned earlier, the bill does not authorize drug testing of Federal employees. Mandatory testing of randomly selected employees simply will not work. Urinalysis tests only indicate recent drug use, not current intoxication, not level of use, not addiction. They place the burden on individual employes to prove their innocence. At the same time, each dollar spent on drug testing is one less dollar spent on drug interdiction. Allocating money to testing employees rather than to law enforcement would delight drug dealers.

But while proponents of drug testing have a simple goal—to require Federal employees to prove they don't use drugs—they don't offer a simple way to achieve that goal. They don't offer any specifics at all. For example, who will pay for the test? Will the urinalysis be performed by the Government lab which analyzed the President's specimen, or by contractors? Which contractors have the capability to analyze so many specimens? What type of testing procedure will be used, and what is its accuracy? Who will pay litigation costs when an employee challenges test results and sues the Government? And so on.

In June, the Subcommittee on Civil Service released a staff report on drug testing in the Federal Government. I submit a copy of a summary of the staff study to be included with my statement, as follows:

DRUG TESTING IN THE FEDERAL GOVERNMENT—SUMMARY OF STAFF REPORT BY THE SUBCOMMITTEE ON CIVIL SERVICE

Purpose: Two reasons are given for conducting drug testing: (1) worksite safety, and (2) to deter off-the-job drug use. But urinalysis, unlike breathalyzer tests for alcohol, cannot determine present drug intoxication, so drug testing will not insure worksite safety. Routine, scheduled tests will not deter off-the-job drug use since employees can test negative by avoiding drug use for a few days or weeks prior to the test. Random testing is intended to work as a deterrent but it violates constitutional protections.

Cost: A drug testing program can be either accurate or inexpensive, but not both. Urinalysis by state of the art technology costs about $100 per sample. For the same amount of money required to test all federal employees once a year, the government could hire over 12,000 FBI, Customs Service, and Drug Enforcement Administration agents at annual salaries of $25,000.

Authority: Nothing in the civil service laws authorizes mandatory drug testing of federal employees, any more than it authorizes mandatory testing of employees for veneral disease, pregnancy, cancer, or contagious diseases like hepatitis.

Technology: Urinalysis can determine recent use of such drugs as marijuana, cocaine, amphetamines, barbiturates, and heroin. Marijuana residues stay in the body for up to 30 days; residues of other drugs stay in the body only 2 to 5 days. If the urine sample is not taken within 48 hours after drug use, all traces of the drug may have been excreted and subsequent urinalysis will not reveal drug use. Thus, to thwart a scheduled urinalysis test, a drug user would simply refrain from using drugs for a short time prior to the test. Further, since most drugs take from six to eight hours to go from ingestion to excretion, a urine sample taken an hour after an individual had taken drugs is likely to test negative.

Errors: The initial drug screening tests have error rates ranging from 5 to 20 percent. Test results can be affected by many factors, including an individual's body weight, liquids ingested prior to the test, over-the-counter medications, and foods such as the poppy seed buns on Burger King hamburgers. Quality control and chain of custody problems produce false positives (samples incorrectly identified as containing drugs). False positive error rates of up to 66% were identified in a study by the Centers for Disease Control. The Defense Department had to drop disciplinary proceedings against thousands of military personnel after sloppy quality control and chain of custody errors led a blue-ribbon panel to conclude that 97% of urinalysis tests at Ft. Meade were "not scientifically or legally supportable." DOD has since instituted strict controls.

Current Programs: Twenty percent of federal agencies currently test certain applicants or employees. Testing may be required of employees in defined critical jobs; during a pre-employment physical examination; as part of an accident investigation; or when an employee appears to be intoxicated on the job.

Legal Issues: (1) The Fourth Amendment to the U.S. Constitution protects individuals against unreasonable searches and seizures. The government's taking of a urine sample is a seizure within the meaning of the Fourth Amendment. Some reasonable suspicion of drug use is required before an individual government employee can be required to undergo urinalysis testing.

(2) The merit principles of the civil service provide that federal employees can only be disciplined for off-duty conduct if it adversely affects on-duty job performance, and demonstration of a clear "nexus" or connection is required.

(3) Under the Rehabilitation Act of 1973, federal agencies cannot discriminate against an individual with a handicapping condition, and alcohol and drug addiction qualify as handicapping conditions. Yet, agencies are not required to keep employees whose alcoholism or drug abuse prevents the employee from performing his or her job. Before taking any disciplinary action for performance problems, an agency must offer rehabilitative assistance (including sick leave to participate in a rehabilitation program) to accommodate an employee with a drug or alcohol problem. Thus, if a drug user were identifed through a urinalysis program, an agency would have to offer rehabilitative assistance and an immediate removal action would be precluded.

Ms. OAKAR. Mr. Chairman, let me summarize what the committee has proposed in this bill. It directs the Office of Personnel Management to report to the Congress within 6 months whether agencies have employee assistance programs, what they cost, how they are funded, the utilization rates, how they disseminate their information and services, how they train the staff dealing with individuals who have this difficulty, the training of the supervisors, the safeguards which would guarantee confidentiality.

Frankly, a lot of employees across the country would like to do something about their alcoholic or drug problems, but they are worried about confidentiality and recommend to us legislative changes.

It would also institute a comprehensive educational program for employees and supervisors. It would develop safeguards with regard to referrals and it would involve employment protection. We have to assure that if a person enrolls in such a program that their job is protected. We ought not to penalize them for taking their health into consideration trying to do something about the problem.

Finally, the legislation would require annual reports by agencies to OPM on these kinds of activities so that we have a record so we can evaluate and even do a better job and authorize the substance abuse treatment and reha-

bilitation project involving OPM and some of the agencies and Federal employment health benefit plan providers.

I think the way that we treat Government workers is probably a good role model for the way other corporations and the private sector, and indeed States and local governments, ought to take a look at how their programs are functioning. If we do not really provide the means for someone to be treated and the education for someone to be treated, we will never really solve the problem. I do believe that people who have the difficulty ought to be given a chance to correct their problem.

Mr. FORD of Michigan. Mr. Chairman, I rise to support H.R. 5484, the Omnibus Drug Enforcement, Education and Control Act. At the same time I want to commend the Speaker for his leadership in the development of this piece of legislation and getting it to the floor.

This bill represents a comprehensive approach to a pernicious national problem that has defied all efforts—at both the national and local level—to find a solution.

This bill authorizes a total of $1.5 billion for a number of highly integrated programs. The funds would be used for drug enforcement, interdiction, eradication as well as education and treatment.

What we have here is a bipartisan effort—and one that speaks eloquently for the need to act.

We can no longer allow the serious drug problems of our Nation to proliferate. The cost has become far too high both in human and economic terms.

Every day we read in the newspapers and see on television stories about young lives being tragically snuffed out. The lives of others are turned into helplessness and hopelessness while thousands of pushers and dealers get rich from the misery of others.

Certainly this bill will not overnight solve all of our drug problems. It is, however, the beginning of a comprehensive Federal effort to deal with what has become perhaps our most critical national problem.

I am especially pleased with the contribution of the Committee on Post Office and Civil Service that would require the Office of Personnel Management to develop prevention, treatment and rehabilitation programs for all Federal employees, and to establish a Government-wide education program on the health hazards of alcohol and drug abuse, symptoms of abuse and availability of services.

I can see in this bill the opportunity for the Federal Government becoming the model employer in the Nation with respect to drug treatment and prevention programs.

I am especially pleased that a demonstration project proposed by the Committee on Post Office and Civil Service was included in the omnibus bill. Under the project several methods of providing health insurance benefits for the treatment of drug and alcohol abuse will be tested under the Federal Employees Health Benefits Program.

At the same time the bill authorizes $350 million every year in grants to schools to develop drug abuse education and prevention programs.

It is important for this body, indeed the whole Federal Government, to get out in front in efforts to solve this horrendous problem. It is a national problem—one that State and local governments cannot deal with on their own.

What we have here is a clear opportunity. We have both practical and compelling moral obligations to seize it.

Mr. MURTHA. Mr. Chairman, I yield 10 minutes to the gentleman from Ohio [Mr. SEIBERLING] to handle the Interior and Insular Affairs portion of the bill.

Mr. SEIBERLING. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am pleased to bring before the House for its consideration title XI of H.R. 5484 containing the Interior Committee provisions for this drug initiative. Chairman UDALL will not be able to be here because of his primary election yesterday and has asked me to manage that title on behalf of the committee. I am delighted to do so.

The Interior title is divided into three subtitles dealing with three aspects of our committee's jurisdiction. Indian Affairs, National Parks, and the Territories and Commonwealths.

A major part of our committee's jurisdiction relates to Indian affairs and Indian tribes. Subtitle A of title XI deals with the alcohol and drug problem on Indian reservations. There are over 260 Indian tribes and numerous Alaska Native villages in our jurisdiction with a membership population of nearly 1,000,000 people.

The alcohol and drug problem on Indian reservations and in Alaska Native villages, both in terms of the traffic in illegal substances and the devastating impact of alcohol and drug abuse, is the No. 1 social and health problem in Indian country. In recognition of that fact, our committee extensively considered and reported legislation, H.R. 1156, dealing with that problem among Indian youth.

When our committee was requested by the leadership to provide our initiatives for this omnibus bill, we used H.R. 1156, as reported by our committee, as the framework for our efforts.

As reported by the committee, H.R. 1156 is focused on the problems of Indian youth. While subtitle A retains this focus, it also expands and enlarges upon the purpose of that bill. Subtitle A provides for the development and funding of a comprehensive program to deal with the problem of alcohol and drug abuse on Indian reservations.

Since tribes are special units of local government with a wide range of responsibilities for their members, subtitle A contains provisions which span the spectrum of governmental efforts. Provisions and programs are included which deal with the suppression and control of illegal drug traffic through increased and enhanced law enforcement efforts. In addition, it establishes a variety of efforts in the area of education, prevention, and treatment.

While the subtitle does authorize new efforts and funding for Indian programs, I want to emphasize to the House that its major thrust is to coordinate existing Federal and non-Federal programs and resources with respect to this critical problem. In particular, private efforts, such as Alcoholics Anonymous, Narcotics Anonymous, and Al-Anon, will be most helpful and will not cost the Federal Government a cent.

Mr. Chairman, the Federal Government has a special responsibility for Indian tribes and their problems. Indian tribes receive little assistance from other Federal programs and almost none from State and local efforts. Subtitle A may represent the last best hope of effectively dealing with their most serious problem, that of alcohol and drug abuse.

Our committee, including both Democrats and Republicans, strongly support these Indian provisions. I urge the House to do likewise.

Another jurisdiction of our committee which has been impacted by the drug problem is that of national parks. Subtitle B of title XI provides supplemental funding for the national park police to increase their activity in drug investigations on exclusive jurisdiction lands administered by the National Park Service. Growing problems with the use and distribution of controlled substances occurring on Park Service lands, especially around the Nation's Capitol, make it imperative that the park police be provided additional funding for manpower, training, and equipment to combat the problem. Section 1131 authorizes $1 million for fiscal year 1987 and each year thereafter for that purpose.

Subtitle C is the U.S. Insular Areas Drug Abuse Act of 1986. This legislation would authorize Federal action, as well as the assistance for local action, needed to deal with the individual drug problems of the insular areas.

The subtitle was developed on a bipartisan basis by the leadership of the committee and in close coordination with our colleagues representing the insular areas—RON DE LUGO of the Virgin Islands, the senior insular representative; FOFO SUNIA of American Samoa; JAIME FUSTER of Puerto Rico; and BEN BLAZ of Guam—as well as the Northern Mariana Islands representative, Froilan Tenorio.

The U.S. insular areas are in a very real sense, the Nation's insular borders in the Caribbean and the Pacific. Puerto Rico is actually within the United States for customs purposes and the other insular areas are United States territory.

Drug traffickers know this. There has been intelligence for several years now on the large-scale use of Puerto Rico and the nearby Virgin Islands for transshipment of the most deadly narcotics to the United States mainland.

In these Caribbean islands the fall out from this activity has been high rates of drug abuse and violent crime rates that are two and three times the national average.

The Pacific insular areas are farther from the States but on-island drug abuse problems are worsening.

U.S. Caribbean and Pacific insular governments have initiated campaigns to fight the flow of narcotics but are limited by a lack of resources. Further, Federal law enforcement agencies are not doing as much as they must to stop smuggling into and through these islands.

Mr. Chairman, before concluding, I do want to recognize the efforts of Mr. WAXMAN and the Energy and Commerce Committee regarding the Indian provisions of this bill. Subtitle A includes provisions relating to the programs of the Indian Health Service. We share jurisdiction with that committee on those programs and I want to thank Mr. WAXMAN for his cooperation and understanding in the development of that part of the Interior title.

Mr. Chairman, section 1142 would require the President to report to the Congress each year on the drug trafficking and other abuse problems of our territories and commonwealths. Information on drug smuggling into United States Customs territory from and through American Samoa, Guam, the Northern Mariana Islands, and the Virgin Islands and from the Federated States of Micronesia, the Marshall Islands, and Palau would have to be submitted. Information on both drug smuggling into and use in American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands would also have to be submitted.

With respect to the entry of narcotics into Hawaii, Guam, and the Northern Mariana Islands, entry from Palau and other islands groups proposed for free association with the United States is a particular concern. This concern has been highlighted by the regional commissioner of the Customs Service, among others.

Section 1143(a) would authorize the Department of Justice to enable American Samoa to enforce Federal narcotics laws. It also authorizes the Department to provide equipment and technical assistance to the territory needed to enforce Federal and territorial drug abuse laws.

Gov. A.P. Lutali has made the eradication of illegal narcotics a priority. However, the fiscally strapped territory lacks the resources and expertise to combat drug abuse crimes.

The Drug Enforcement Administration office in Hawaii has attempted to provide some assistance to local officials but does not have the resources budgeted even to deploy an agent in the territory. Resources for local customs enforcement and police undercover activities are inadequate.

Local law enforcement agencies should be assisted in carrying out drug abuse operations. Training, on-island and at the DEA office in Los Angeles, should be provided. Case development should be augmented.

Equipment should also be provided by the Justice Department. This could include pistols and rifles; protective clothing; training equipment; speed boats and an aircraft to be used to detect cultivation as well as apprehend traffickers, and other needs identified by local law enforcement officials. At least $700,000 is intended to be made available through this authorization over the next couple of years.

Section 1143(b) is intended to establish minimum level of effort standards for Federal narcotics law enforcement efforts in Guam. It would also authorize the Department of Justice to provide equipment and technical assistance to the territory needed to enforce Federal and territorial drug abuse laws.

Through resources authorized by this omnibus drug control legislation or other laws, the Drug Enforcement Administration and the Federal Bureau of Investigation would each be expected to increase their full time presence in the territory to at least two agents and the Coast Guard to at least four patrol vessels. Additionally, the Customs and Postal Services would be expected to assign agents to work with other Federal and local law enforcement officers in narcotics control efforts.

The authorization for assistance to the territory is intended to enable the Justice Department to provide both equipment and personnel. Over $1 million may be required for this purpose over the next couple of years.

Section 1143(c) authorizes assistance and authority for the Northern Mariana Islands similar to that provided in subsection 1143(a) regarding American Samoa. Interisland trafficking is of particular concern in the case of the commonwealth. Thus, it authorizes Federal personnel and equipment assigned to Guam, the southernmost Mariana island, to operate in the Northern Mariana Islands.

Section 1143(d) would authorize grants to Puerto Rico of $3.3 million to acquire two helicopters, $3.5 million to acquire an airplane, and $1 million to acquire high-speed boats. This equipment would be primarily used by local law enforcement officers but would also be available to Federal agencies when needed.

Through resources authorized by this omnibus drug control legislation or other laws, the Drug Enforcement Administration would be expected to increase its full-time presence in the Commonwealth to at least 26 agents, the Federal Bureau of Investigation to at least 96 agents, and the Customs Service to no less than 25 law enforcement agents. The Department of Justice would also be authorized to provide technical assistance to the Commonwealth needed to enforce Federal and Commonwealth drug laws.

There has been substantial intelligence on the use of the island as a major entry point for illicit drugs from abroad for several years now. The proximity of the island to the mainland as well as other nations and its inclusion within the United States for customs purposes makes it a particularly attractive spot for smuggling.

The Drug Enforcement Administration estimates that 80 percent of the drugs brought into Puerto Rico are bound for the United States mainland. Since the 20 percent of the drugs brought into Puerto Rico that stay on the island supply a drug user population estimated in the hundreds of thousands, perhaps more than 1 million American lives in the States and the Commonwealth may be hurt by the Puerto Rico drug trafficking problem.

Just a few weeks ago, 55 people were arrested and 6 others who were abroad at the time were charged with being part of a ring that smuggled large quantities of heroin, cocaine, and other drugs to the States. A dozen air, land, and sea vehicles were also seized.

A recent study in Puerto Rico attributes over 70 percent of the overall crime rate to drug-related crimes. Federal Bureau of Investigation 1985 crime reports indicate that the murder rate on the island is over twice the national average and the robbery rate is almost double the national average.

Gov. Rafael Hernandez Colon has made crime control a centerpiece of his administration's program and the crackdown on drug-related crimes a priority. A comprehensive plan has earned the praise of Vice President Bush.

The assistance being authorized would help the Commonwealth implement this plan. It would contribute to resources dedicated to the effort by the Commonwealth itself from its own tight budget.

An important resource that would not be provided by this subtitle is a radar-equipped lighter-than-aircraft—aerostat—that the Federal Government should operate over the island to protect the United States border in Puerto Rico.

The bipartisan leadership of the committee believes that a means of providing such equipment should be

found. It is our hope that one of the aerostats to be made available by another title of this omnibus legislation could be located over Puerto Rico. I would expect any such craft to be manufactured in the United States.

The aerostat is needed because current radar surveillance does not cover the entire island, particularly during portions of the day. Again, this means that the United States border is not watched and that the controlled substances which enter Puerto Rico through these gaps are then relatively easily transported to the States.

The inadequacies of radar surveillance of our border in Puerto Rico could also be overcome if personnel of the Puerto Rico Air National Guard, who are also commonwealth law enforcement officers, were authorized to operate on a round-the-clock basis.

Section 1143(e) would authorize grants to the Virgin Islands totaling $3 million to acquire two patrol boats; radar tracking equipment; protective clothing, ammunition, and other supplies, and for law enforcement personnel. It would also authorize grants totaling $1 million for programs to prevent narcotics abuse.

Through resources authorized by this omnibus drug control legislation or other laws, the Drug Enforcement Administration and the Federal Bureau of Investigation would each be expected to increase their full-time presence in the territory to two agents and the Coast Guard would be expected to station at least one vessel in St. Croix. Additionally, the Customs and Postal Services would be expected to assign agents to work with other Federal and local law enforcement officers in narcotics control efforts. The Department of Justice would also be authorized to provide technical assistance to the territory needed to enforce Federal and territorial drug laws.

The use of the Virgin Islands as a transshipment point for cocaine, heroin, and other illicit drugs from abroad is a serious problem. The fallout from this transshipment activity has contributed to a local drug abuse problem that the territory does not have the resources to effectively handle.

Federal Bureau of Investigation 1985 crime reports indicate that the rates of violent crimes in the islands are more than two or three times the national averages.

The islands have attempted to combat these problems through a local narcotics strike force. Only five of the eight slated agent positions have been filled because of fiscal constraints, however.

The local effort is also handicapped by an inadequate level of Federal personnel and equipment. The assistance being authorized would augment territorial resources and enhance Federal efforts.

Included within this increased Federal effort should be a Coast Guard vessel stationed at St. Croix. Given the situation, we do not believe that the stationing of vessels in St. Thomas alone is adequate.

Like the assistance granted to the territory for narcotics law enforcement, the assistance granted for drug abuse programs is expected to be used over the next few years. It should be provided to local organizations with demonstrated expertise in responding to juvenile problems and/or drug and alcohol dependency.

□ 1745

Mr. LEWIS of California. Mr. Chairman, I yield 10 minutes to the gentleman from Arizona [Mr. MCCAIN], who will handle the Committee on the Interior and Insular Affairs portion of the bill.

Mr. MCCAIN. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, I rise in support of H.R. 5484, the Omnibus Drug Enforcement, Education, and Control Act of 1986, and particularly in support of subtitle A of title XI, the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986. This portion of the bill is an expanded version of legislation before the Interior Committee addressing substance and alcohol abuse among Indian youth. I am honored to have worked with Chairman UDALL on this legislation since the middle of the 98th Congress. As usual, this title demonstrates his deep and enduring commitment to our native Americans. It contains elements of legislation I introduced last year as well as elements of Congressman BEREUTER's bill on the same subject.

Some may ask why we need to deal with Indian substance abuse in a separate title of the bill. I would like to make the following points to my colleagues:

Alcohol and substance abuse is the most severe health and social problem facing Indian tribes and Indian people today. Nothing is more costly to Indian people than the consequences of these actions, measured in physical, mental, social, and economic terms;

Alcohol and substance abuse is the leading generic risk factor among Indians, and Indians die from alcoholism at over four times the age-adjusted rates for the U.S. population. Alcohol and substance misuse results in a rate of years of potential life loss nearly five times that of the United States as a whole;

Four of the top ten causes of death among Indians are alcohol and drug-related injuries, chronic liver disease and cirrhosis, suicide, and homicide;

The Indian Health Service, which is charged with treatment and rehabilitation efforts, has directed less than 1 percent of its budget for alcohol and substance abuse problems;

The Bureau of Indian Affairs, which has the responsibility for programs in the fields of education, social services, law enforcement, and other programs, has assumed little responsibility for coordinating its various efforts to focus on the epidemic of alcohol and substance abuse among Indian people; and

This lack of emphasis and priority continues despite the fact that Bureau of Indian Affairs and Indian Health Service officials publicly acknowledge that alcohol and substance among Indian youth is the most serious health and social problem facing the Indian people.

The Federal Government has an historical relationship, and a unique legal and moral responsbility to Indian tribes and their members. However, Indian tribes have the primary responsibility to their members, and this act recognizes this fact through the establishment by tribes of tribal action plans, which will be the driving force behind the coordination of tribal/Federal efforts. Without this tribal leadership, I believe that any program would be doomed to failure.

Pursuant to the tribal lead the Secretaries of the Interior and of Health and Human Services would be required to enter into a memorandum of agreement to coordinate their resources, at the local level, with the tribal plan. From our hearings it is clear that many resources do exist, but the left hand is unaware of the right hand's existence.

There are infrastructure authorizations such as new programs in training, law enforcement, treatment centers, and detention centers. This is necessary because we in Congress have done poorly in the past at providing basic infrastructure to many tribes. In fact, many tribes out of necessity are in violation of the law concerning detention of juveniles, simply because they do not have facilities.

The administration has recently come to the realization that this is a problem that requires immediate action. Secretary Bowen, within his general authorities, has instituted a new substance and alcohol abuse program at Indian Health Service facilities. This bill will complement this newly begun program and greatly benefit Indian tribes and their members.

From my personal experiences, I am committed to bettering the welfare of our native Americans. In closing, Mr. Chairman, I would like to read from a letter I received concerning the future of an Indian tribe in Arizona. The tribal chairman writes, in our Indian community,

Sixty-five percent of our juveniles are abusing alcohol or other drugs. Our young people are an important human resource to us, since half of the reservation population is made up of people under 25 years of age.

Mr. Chairman, we are passing this legislation not just to address the problems identified today, but to assure a future for our Indian tribes and their people. I strongly urge my colleagues to support title XI, the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986.

Mr. SEIBERLING. Mr. Chairman, I yield 2 minutes to the gentleman from the Virgin Islands [Mr. DE LUGO].

The CHAIRMAN. Without objection, the gentleman from the Virgin Islands [Mr. DE LUGO] is recognized for 2 minutes.

There was no objection.

Mr. DE LUGO. Mr. Chairman, I want to commend both the Speaker of the House and the leadership on both sides of the aisle for this legislation, and I want to commend the leadership of the Committee on Interior and Insular Affairs for title XI and particularly for subtitle C, which addresses the problems of the insular areas.

Mr. Chairman, I rise in support of H.R. 5484, the Omnibus Drug Enforcement, Education, and Control Act of 1986.

The U.S. Virgin Islands is a microreflection of the mainland. Drugs, including crack, and alcohol are undercutting the fabric of our community.

The U.S. Virgin Islands is a known transshipment and refuelling point for cocaine, marijuana and, to a lesser extent, heroin. Weapons are also transshipped in and shipped through the territory. These items enter territorial waters by air, yacht, and even cruiseship, and their destination is the U.S. mainland. The fallout from their transshipment feeds a growing local market.

The lead enforcement agency in the Virgin Islands for this activity is the local government's Narcotics Strike Force [NSF]. Eight agent positions are slated for the agency, but currently only five are filled. This situation will be difficult to change under the local government's hiring freeze and fiscal problems. All five agents are currently located on the island of St. Thomas. They are transferred to St. Croix when needed for a specific operation, but surveillance is spotty and there is no real enforcement on St. John.] The extra force relies on help from three Federal agencies: DEA, FBI, and Customs. There are no DEA agents in the Virgin Islands, so help from that agency is through Puerto Rico. There is one FBI agent for the whole territory. Customs has agents in the territory, but none were assigned to enforcement until June, when two collections agents were transferred to enforcement duties. In short, manpower is our biggest problem.

There are no vessels regularly policing the territorial seas. The Coast Guard, a resource that enforcement agents have relied upon heavily in the past, has cut back its operation. It has removed its only boat on the island of St. Croix. This means that there is only one boat, located in St. Thomas, to police all three islands. St. Croix, the largest in size of the three main islands, is 40 miles away from St. Thomas.

Also, there is no radar tracking equipment for enforcement in the territory.

As a result of these limitations, air and sea vessels use the Virgin Islands and surrounding seas with impunity. Enforcement agents can only skim the top of the drug and weapons market operating through the area, and are frustrated that so much of the activity is beyond their reach.

In addition to the general authorizations for the States and U.S. insular areas, H.R. 5484 would authorize specific funding to bring the Virgin Islands more in line with standards of enforcement and prevention in this country. The proposal authorizes specific funding for enforcement equipment for the Virgin Islands Narcotic Strike Force, including patrol boats and manpower. Additionally, the bill underscores the expectation that government will increase the Coast Guard, DEA, FBI, Customs, and Postal Service presence and commitment to assisting the territory in its enforcement efforts.

The bill would also target another aspect of the drug crisis facing the territory: the consumer. One million dollars would be authorized for programs to prevent narcotics abuse. These funds would be available over a 3- to 4-year period to local organizations with a demonstrated expertise in responding to juvenile problems generally or to drug and alcohol dependency specifically. The intention is to allow independent organizations with high success rates, such as the Youth Multiservice Center in St. Thomas, to increase their capabilities and broaden their reach. Right now the need in the community for help is overwhelming these organizations. Enforcement alone cannot do the job. Public education and treatment of those who are addicted is a must. There is no other way to break the supply and demand cycle in the vicious marketplace of illegal drugs.

We cannot end this Congress without passing this legislation. Drug abuse is a major threat to the future of this country. I commend the Speaker and the majority leader for their leadership in introducing this legislation, and in developing the strong consensus of bipartisan support. The breadth and depth of the support is a credit to the House. I am also grateful to the gentleman from Arizona, Chairman UDALL, for soliciting my input, and for his appreciation of the critical situation in the U.S. Virgin Islands. I urge my colleagues vote in favor of passage.

□ 1755

Mr. McCAIN. Mr. Chairman, I yield 2 minutes to the gentleman from Colorado [Mr. STRANG].

The CHAIRMAN. Without objection, the gentleman from Colorado [Mr. STRANG] is recognized for 2 minutes.

There was no objection.

Mr. STRANG. Mr. Chairman, I rise in support of this measure, H.R. 5484, and extend my praise and compliments to the leadership of this House, to the leadership of the Committee on Interior and Insular Affairs, and particularly to the leadership of the gentleman from New York [Mr. RANGEL], chairman of the Select Committee on Narcotics, and the gentleman from New York [Mr. GILMAN].

Mr. Chairman, I rise in support of H.R. 5484, the Omnibus Drug Enforcement Education and Control Act of 1986, and more importantly in strong support of title XI, the Indian Alcohol and Substance Abuse, Prevention and Treatment Act of 1986.

Mr. Chairman, substance and alcohol abuse is the No. 1 problem in the Indian community today. Its causes are many, stemming from massive unemployment, poor living conditions, inadequate health care, substandard education, and from general remoteness. All these factors have contributed to a sense of hopelessness and a desire to escape reality.

While illicit drugs and alcohol are becoming more and more prevalent today; Indian problems are much deeper. Substance abuse includes the use of paint thinner, snorting correcting fluid, huffing gasoline, drinking lysol, sterno, and other wood alcohol products. Substance abuse of this variety has a high degree of brain damage, genetic problems, and in many cases death.

The prevention and treatment section of the Indian subtitle are aimed at addressing this "demand" for substances, drugs, and alcohol. I strongly believe that if a massive effort, coordinating Federal and tribal resources, as well as State and private, is not implemented, the future of Indian tribes is a bleak one.

There is a chance to convince the youth of Indian tribes that there really is a future of more and promises fulfilled, and that the escape from reality through substance abuse is not the answer. I urge my colleagues to support title XI, and support the future of Indian people.

Mr. SEIBERLING. Mr. Chairman, I yield 3 minutes to the gentleman from Puerto Rico [Mr. FUSTER].

The CHAIRMAN. Without objection, the gentleman from Puerto Rico

[Mr. FUSTER] is recognized for 3 minutes.

There was no objection.

Mr. FUSTER. Mr. Chairman, I would like to thank the gentleman from Ohio [Mr. SEIBERLING] for recognizing the need for increased radar coverage in Puerto Rico. I also want to thank him as well as the other members of the Interior Committee, of the Select Committee on Narcotics, and of the leadership of the House for the attention they have given to the serious crime and drug problems in Puerto Rico and for the help they have provided me in drafting the parts of this bill that deal with Puerto Rico.

I am particularly grateful for their help in my efforts to assure that the Commonwealth of Puerto Rico is given additional resources to continue the strong battle against drugs that we have been waging in the island for several years now.

The Omnibus Drug Act contains several measures important to Puerto Rico in fighting drug traffic through our borders. However, as the gentleman from Ohio has clearly recognized, there is an additional urgent need for increased radar coverage of the island. Top DEA and Customs officials in Puerto Rico have personally expressed to me that the Federal agencies in the island do not have the technical capacity to detect low flying aircraft, particularly at the southwest coast of the island, which is the one closest to Central and South American drug sources.

We cannot solve this problem unless one of the aerostats made available under other provisions of this bill is placed in Puerto Rico. I believe you and the other Members present will agree with me that this should be done. Puerto Rico has been recognized by the U.S. DEA as one of the three major entry points for illicit drugs from abroad. The U.S. district attorney in Puerto Rico has estimated that drugs worth billions of dollars are coming to Puerto Rico and the mainland through the island's border. Without adequate equipment, such as the aerostat, this huge gap will persist. It behooves us to do all we can to close this gap, by assuring that one of the seven radars is placed in Puerto Rico.

Mr. RANGEL. Mr. Chairman, will the gentleman yield?

Mr. FUSTER. I yield to the gentleman from New York.

Mr. RANGEL. Mr. Chairman, I thank the gentleman for his statement. So often, our citizens in Puerto Rico have their safety overlooked. Certainly they are vulnerable as it relates to the international trafficking of drugs. That evidence has certainly been brought to the attention of the Select Committee on Narcotics, which the gentleman has been so supportive of, and I certainly support your recommendation.

Mr. FUSTER. Mr. Chairman, I thank the gentleman.

Mr. WRIGHT. Mr. Chairman, will the gentleman yield?

Mr. FUSTER. I yield to the gentleman from Texas.

Mr. WRIGHT. Mr. Chairman, I want to join in supporting the request for aerostat and for other surveillance equipment necessary to provide this kind of protection in Puerto Rico.

It is certainly one of our important borders and is deserving of this kind of consideration in the protection it would provide for all of our borders.

Mr. FUSTER. Mr. Chairman, I appreciate the gentleman's remarks.

Mr. ENGLISH. Mr. Chairman, will the gentleman yield?

Mr. FUSTER. I yield to the gentleman from Oklahoma.

Mr. ENGLISH. Mr. Chairman, I, too, would like to join in supporting the gentleman's request. I think the gentleman makes an excellent point.

I know our subcommittee has reviewed many times in Puerto Rico the situation down there. There is no coverage. In fact, the radar points in the other direction.

Mr. FUSTER. Mr. Chairman, I thank the gentleman.

Mr. McCAIN. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Nebraska [Mr. BEREUTER].

The CHAIRMAN. Without objection, the gentleman from Nebraska [Mr. BEREUTER] is recognized for 3 minutes.

There was no objection.

Mr. BEREUTER. Mr. Chairman, today's omnibus legislation has many important features and represents a comprehensive counterassault on the alcohol and drug epidemic that threatens American society. To speak to its many provisions is not possible in the short time available, but there is one title in which this Member has taken a special interest and legislative role.

I am pleased to have had some role in the titles of this bill from both the Foreign Affairs Committee and the Banking, Finance, and Urban Affairs Committee, where I serve. The money-laundering provisions, are, this Member believes, particularly important and overdue. I commend the leadership of these two committees. However, today I want to address the title submitted by the Interior and Insular Affairs Committee are the provisions of H.R. 1156, the Indian Youth Alcohol and Drug Abuse Prevention Act, which was introduced and developed by this Member and the gentleman from South Dakota [Mr. DASCHLE]. In that effort, we have enjoyed the assistance and cooperation of the Committees on Interior and Insular Affairs, Education and Labor, and Energy and Commerce. Special assistance has also been provided by the gentleman from Arizona [Mr. McCAIN], the gentleman from Montana [Mr. WILLIAMS], and the gentleman from Michigan [Mr. KILDEE]. Of course the leadership of the chairman and ranking minority member of the Interior Committee, Mr. UDALL, and Mr. YOUNG of Alaska, was critical.

While it is clear to all of us that alcohol and drug abuse is a widespread scourge, there is perhaps no group more devastated by it than Indian youth. Their testimony clearly demonstrates that the American Indian community recognizes this problem and supports the provisions in this title.

Indian people die from alcohol and drug abuse at over four times the age-adjusted rates for non-Indian people. In a high school on one of the reservations in my home State of Nebraska, a young Indian woman told me that 98 percent of the student body surveyed admitted to the use of illegal drugs, 80 percent admitted to drinking, and 52 percent of the 80 who drank did so to pass out.

On some reservations, over 70 percent of the contract health care money went to alcohol-related illnesses and injuries. Indian young people between the ages of 15 and 24 are more than twice as likely as non-Indians to commit suicide, and approximately 80 percent of those suicides are alcohol related. These grim statistics go on and on. Yet nothing has effectively been done about these intolerable conditions. The gentleman from South Dakota [Mr. DASCHLE] and this Member decided 3 years ago that we would no longer stand by and allow the Federal Government to ignore its trust responsibilities in assisting tribes in their fight against alcohol and drug abuse. The provisions in this bill today are the result of years of work and negotiation which culminated in the markup by two House committees of the legislation that my colleague from South Dakota and I have sponsored through two Congresses.

Our legislation rests upon a simple strategy—that prevention education is the best approach to alcohol and drug abuse. The omnibus bill we are considering here today recognizes and builds upon that concept. And while we must certainly attack producers and distributors, and increase criminal penalties in our determination to rid our communities of substance abuse, substantial progress on eradication will come only with comprehensive prevention programs. These are the programs that will help young people to develop the internal resources to say no to the temptation—using, producing, and selling drugs—and using and abusing alcohol.

Mr. Chairman, like most Members, this Member believes that the provisions in this bill provide the means and reduce drug and alcohol abuse among native Americans, expecially the youth. This legislation will be en-

acted into law only after important compromising by both sides and some soul searching about our priorities.

I urge this body to maintain the bipartisan spirit in which the omnibus bill was conceived. The implications for all Americans are far too important to allow our political differences to undermine the passage of this critical legislation.

Mr. SEIBERLING. Mr. Chairman, I yield such time as he may consume to the gentleman from New Mexico [Mr. RICHARDSON].

The CHAIRMAN. Without objection, the gentleman from New Mexico [Mr. RICHARDSON] is recognized for such time as he may consume.

There was no objection.

Mr. RICHARDSON. Mr. Chairman, I rise today in support of H.R. 5484. I believe that it takes great strides in forcefully and successfully addressing the drug crisis which is having such an adverse affect on this society. I commend my colleagues who have worked so diligently on this legislation—they have done a fine job.

I am pleased to see title XI included in this bill, and I strongly support it. Title XI, among other things, requires the Departments of the Interior and Health and Human Services to investigate the problem of alcohol and drug abuse among Indians, and to identify and assess resources and program which could help reduce alcohol and drug abuse among Indian people. H.R. 5484 is, indeed, a comprehensive bill. By addressing the problems of alcohol and drug abuse among Indians, it will be tackling some of the toughest substance abuse problems faced by any individual or group in this country.

Alcohol abuse is an extremely serious problem for American Indians—it has adverse physical, psychological, and societal consequences for American Indians both on and off reservations. It also has adverse consequences on communities near reservations.

Indian Health Service statistics indicate that the age-adjusted alcoholism death rate per 100,000 population for Indians in 1982 was 35.8—this statistic compares to a national rate of 6.4. This statistic alone does not adequately convey the far-reaching impact of alcohol use and abuse on Indian people.

As the bulk of the Indian population is young, the burdens of alcohol use fall most severely on Indian youth. Deaths attributable to motor vehicle accidents, homicide, suicide, and alcoholism are reliable and disturbing measures of the incidence of alcohol and drug abuse among Indian youth. The two agencies which oversee the Federal trust responsibility toward Indians—the Indian Health Service and the Bureau of Indian Affairs—have made little significant progress toward curbing alcohol abuse among Indians. H.R. 5484 authorizes a total of $94.9 million in fiscal year 1987 for numerous education, prevention, law enforcement, treatment, and other drug-related programs for Indians. We may soon see real progress in reducing the alcohol abuse rates for Indians, with its consequent social and economic costs.

Also included in this title is a project which is very important to the people of New Mexico—the Navajo Alcohol Rehabilitation Demonstration Program. This program, to be based in Gallup, NM, for 3 years, will be a demonstration program for the rehabilitation of Navajo Indians who are suffering from alcoholism or alcohol abuse. The Navajo tribe is the largest tribe in this country—I have personally witnessed the problems created by alcohol abuse among Navajos—as well as its adverse impact on towns surrounding the Navajo reservation. I believe that this project will have a positive effect on the lives of a great number of people. Successful results in the Navajo Alcohol Rehabilitation Demonstration Program can be replicated by tribes across the country.

I cannot overemphasize the significance of title XI. It is a clear national statement that Indian alcoholism is a serious problem with severe costs. I believe that this section will enable agencies to tackle head on Indian alcohol problems. I urge my colleagues' support for this title, and for final passage of H.R. 5484.

Mr. SEIBERLING. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. LEHMAN].

The CHAIRMAN. Without objection, the gentleman from California [Mr. LEHMAN] is recognized for such time as he may consume.

There was no objection.

Mr. LEHMAN of California. Mr. Chairman, I rise in strong support of today's Omnibus Drug Enforcement Education, and Control Act. I am proud to be an original cosponsor of this legislation which moves to strike down illegal drug activity in this country and hopefully put a dent in the illegal flow of drugs from abroad. With this bill we are trying to bolster U.S. narcotics control programs to stop the drug traffic at its source as well as establish Federal nationwide programs on drug abuse education, treatment, and prevention.

By enacting the legislation before us today, we hope to see the lucrative business of drug trafficking smothered before the drugs reach our coasts. The U.S. Coast Guard and the Navy will begin working as a team in the interdiction of maritime drug smugglers. The Department of Defense will start an operation of loaning highly sensitive radar equipment to Federal drug enforcement agencies to enhance drug surveillance and interdiction, particularly along the southern coast.

The omnibus drug control bill attacks the drug problem at its roots as well as take aim against the demand. The war on drugs cannot be won unless action is taken at home to stifle the availability of illegal substances once they have made their way into the country. H.R. 5484 revises the current Federal penalty structure for certain drug offenses by establishing mandatory minimum sentences for certain drug offenses. We are hoping to deter the would-be drug trafficker from getting involved in drug trafficking and penalize those who are continuing to make drugs available on the streets.

Another target in the drug war are the investors who make their living from the lucrative drug trade. I am extremely pleased to see that a bill which I originally cosponsored has become a part of this overall Drug Enforcement Act. The Money Laundering Control Act has been incorporated into the bill in an effort to crack down on those individuals moving or "laundering" illegally obtained funds. Those facing money laundering violations would not only face criminal penalties of up to $1 million and 20 years in prison, but also forfeiture of criminal and civil procedures.

Some of my constituents have contacted me concerned about the drug problem in their community and, more importantly, concerned about the impact the drug problem could have on their children. I share their deep concern and feel that more needs to be made to establish drug abuse education curriculums in the schools. This bill mounts a Federal campaign against drug abuse and focuses on education, prevention, and treatment. Teachers, counselors, and other public service personnel in communities around the Nation will be participating in a campaign against drugs through Federal grant programs. A nationwide agency for the prevention of drug abuse will work in coordination with State grant recipients to ensure a high visibility of education and prevention programs.

Realistically, the battle on drugs will not be won overnight. This bill will not completely end the demand or supply of drugs. However, what we intend to accomplish here today is to reduce the amount of drugs which make their way into the United States by strengthening the Coast Guard, the Customs Services, and the Armed Services so they can contribute their resources to the fight. We also intend to deter those who engage in drug trafficking or money laundering from continuing to sell and make profit from the illegal activity. Finally, we hope to educate children about the hazards of drugs, and create an environment to help those who may have already fallen victim to drug abuse find a way home, to their friends and their families.

□ 1805

Mr. SEIBERLING. Mr. Chairman, I yield myself such time as I may consume.

I would like to recognize the work of the Interior Committee staff for their work on title XI, and in particular Miss Debbie Broken Rope of the Indian Affairs staff, as well as our chief staffer in the Indian Affairs Office, Mr. Frank Ducheneaux, and also Mr. Jeff Farrow, of our staff dealing with insular and territorial affairs.

Mr. Chairman, I yield back the balance of my time.

Mr. McCAIN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I also would like to express my appreciation to members of the staff, particularly Mr. Ducheneaux and Mr. Houtz, and I would like to in closing, Mr. Chairman, point out there is $94 million in this section of the bill for Indian alcohol substance and drug abuse. That sounds like a great deal of money; indeed it is.

The amount of money that this country is expending on an annual basis on trying to salvage the human wreckage as a result of drug, alcohol

and substance abuse on our Indian reservations is staggering.

We owe, as a Judeo-Christian society, a commitment to the native Americans of this country that we will assist them in order to regain their dignity.

Mr. WRIGHT. Mr. Chairman, I yield 10 minutes to the gentleman from Texas [Mr. BROOKS], the chairman of the Committee on Government Operations.

Mr. BROOKS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, title XII of H.R. 5484 addresses the problem of divided responsibilities and lack of coordination in the Federal antidrug effort. Title 12 embodies the text of H.R. 5266, which was introduced by me along with Congressmen GLENN ENGLISH and TOM KINDNESS, the chairman and ranking minority members of the Government Operations Subcommittee on Government Information, Justice and Agriculture. The full committee approved the bill by unanimous vote on July 19, 1986.

The Government Information Subcommittee has conducted a number of investigations over the past few years on the Federal Government's drug interdiction efforts. Those investigations have pointed to a lack of coordination among Federal agencies as a key source of the failure to stop the flow of drugs. The same problem exists with regard to drug education and treatment efforts. Responsibility for these functions is divided among numerous Federal agencies, leading to turf wars, bureaucratic infighting, and competition for budget dollars.

Title XII of H.R. 5484 requires the President to submit within 6 months recommendations for legislation to reorganize executive branch agencies to more effectively combat drug trafficking and abuse. In preparing these recommendations, the President is to consult with the Comptroller General, along with State and local law enforcement authorities, appropriate congressional committees, and the heads of Cabinet agencies with responsibility in this area.

Mr. Chairman, it is appropriate that this requirement for a fresh look at the organization of the Federal Government's anti-drug efforts be included as title XII of this bill. All that we have done in the remainder of this legislation to combat drug abuse at the Federal level will fall short unless we improve the organization and coordination of these efforts. That is the purpose of title XII.

Mr. Chairman, the test of title XII of the omnibus bill, H.R. 5484, inadvertently neglected to pick up a minor amendment to H.R. 5266 which was adopted by the full Government Operations Committee. That amendment deleted the word "international" from the provision requiring the President to submit recommendations for legislation. The purpose of the amendment is to eliminate any confusion over the scope of the recommendations that the President shall submit pursuant to this bill. At the appropriate time, Mr. ENGLISH, who suggested this change, may ask unanimous consent that this amendment be adopted to section 1203 of this bill.

Mr. Chairman, I yield 2 minutes to the distinguished chairman of the subcommittee, the gentleman from Oklahoma [Mr. ENGLISH].

The CHAIRMAN. Without objection, the gentleman from Oklahoma [Mr. ENGLISH] is recognized for 2 minutes.

There was no objection.

Mr. ENGLISH. Mr. Chairman, I want to commend the chairman of the Committee on Government Operations, as well as the ranking minority members, and other members of the committee for the fine efforts that they have put forth in this particular area.

We have seen, I think, Mr. Chairman, a number of new assets that have been presented over the past 5 or 6 hours as we have gone from committee to committee, and various sections of the bill, showing what additions can be made to make this a real war on drugs.

We have covered the entire border, talking about military assets, law enforcement assets, education, treatment, we have covered everything. The real issue is, how can it all mesh together? Will it all mesh together? Can we really make this system work so that we do have a solid front in dealing with the war on drugs?

Mr. Chairman, unfortunately if we look at the experience of the past, we find that there are some very discouraging experience indeed. We find that different agencies and different departments compete against each other; competing with each other; with regard to the amount of substance that may be captured; who gets credit for capturing a particular violator; who is going to receive the resources; who is going to receive the credit; these struggles have gone on for years and years and have thwarted our law enforcement efforts.

It has in effect meant that we have had a piecemeal approach. Not only has it meant that each department and agency has had its own concepts, its own ideas of how to deal with this problem, it is even meant within these departments and agencies. We have had it divided down into regions so each region has their own approach, their own ideas, with no one really able to pull it altogether.

What this legislation requires, Mr. Chairman, it requires the President to make recommendations to the Congress in 6 months as to how we can pull it altogether; how we can make this system work; how we can make certain that this system accomplishes the goals that this Congress has for it.

Mr. Chairman, I have got to say that this may be one of the most important, perhaps some would say even the most important feature of that legislation. Let us make certain that the system we are putting in place today really works.

Mr. BROOKS. Mr. Chairman, I reserve the balance of my time.

Mr. LEWIS of California. Mr. Chairman, I yield 10 minutes to the gentleman from New York [Mr. HORTON], the ranking member of the Committee on Government Operations.

The CHAIRMAN. Without objection, the gentleman from New York [Mr. HORTON] is recognized for 10 minutes.

Mr. HORTON. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, title XII was introduced as H.R. 5266 and was ordered reported by the Committee on Government Operations by unanimous voice vote on August 5, 1986.

This title requires the President to submit to Congress recommendations for legislation to reorganize the executive branch of the Government to more effectively combat drug traffic and drug abuse. Those recommendations are required to be submitted to each House of Congress within 6 months after the date of enactment.

In the preparation of such recommendations, the President shall consult with the Comptroller General, State and local law enforcement authorities, relevant committees of the Congress, the Attorney General and the Secretaries of State, the Treasury, Transportation, Health and Human Services, Defense, and Education.

The large number of agencies involved is a symptom of the problem we hope will be addressed. Many different agencies have particular responsibilities for one aspect or another of our Nation's overall efforts against drug trafficking and drug abuse: eradication at the source, law enforcement, interdiction of smugglers, treatment of abusers, and education and prevention. As our concern over drug trafficking and drug abuse has increased over the past few years, umbrella and coordination offices have been created. They include the National Narcotics Border Interdiction System, the White House Office on Drug Abuse, the Organized Crime Drug Enforcement Task Forces, and the National Drug Enforcement Policy Board. We have found, unfortunately, that those umbrella or coordinative offices don't always have the authority to cut across jurisdictional lines or to demonstrate exactly what their responsibilities are.

Furthermore, we have learned that some of the agencies to which we have

provided resources to deal with drug trafficking and drug abuse have not done the best job of managing those resources or working cooperatively with other agencies.

In the past we have reorganized the executive branch in the hope of improving the Federal Government's response to drug trafficking and drug abuse. For example, in 1973, we approved a reorganization plan which created the Drug Enforcement Administration. DEA could be the focal point of Federal antidrug efforts. The problems of drug trafficking and drug abuse are many and varied, they require the expertise of specialists in many fields. Accordingly, we find the wide naumber of agencies which have one responsibility or another.

For example, in the area of interdiction, we depend upon the Customs Service, the Coast Guard, and, for intelligence, the Drug Enforcement Administration. We also have contributions from the Defense Department. It is not at all clear that we are making the most efficient use of all the resources that these agencies now have or that they will have when this legislation is enacted.

Title XII does not dictate any particular reorganization. It simply tells the President that there is a need for some reorganization which will make overall efforts in this area more effective and efficient. I expect that early in the next Congress, the President will, in compliance with this title, send us reorganization proposals for our consideration.

Mr. Chairman, I reserve the balance of my time.

□ 1815

The CHAIRMAN. The gentleman reserves 6 minutes.

Mr. BROOKS. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from California [Mr. PANETTA].

The CHAIRMAN. Without objection, the gentleman from California [Mr. PANETTA] is recognized for 3 minutes.

There was no objection.

Mr. PANETTA. Mr. Chairman, first the committees which contributed to this bill and Majority Leader Jim Wright are to be commended for the hard work they have done in drafting this legislation.

Obviously the drug problem in the United States is becoming more critical every year. It has destroyed lives in every area of this country, it has been the cause of countless crimes, it has exacted an enormous economic cost and it threatens the basic quality of life in the United States.

Recent numbers related to drug abuse are extremely disturbing. Cocaine importation has increased from 85 tons in 1984 to an estimated 150 tons in 1986. Coca production in certain South American countries has tripled in recent years. More potent forms of heroin are being found in possession of the addict population and crack—a freebase form of cocaine that can be smoked—is infiltrating our cities and suburbs. Almost two-thirds of our high school seniors have used illicit drugs.

The economic and social costs of drug trafficking and addiction to this country are high. Americans spend an estimated $120 billion each year on illicit drugs. The price of narcotics abuse to the United States amounts to more than $100 billion annually in increased health care costs, lost productivity, and related crime and violence. Drug related deaths and emergencies have reached all time highs in the past few years.

In recent years many have questioned what the role of the Federal Government should be in our society. It is clear that this is one area where a strong Federal presence is necessary, and where extra resources are needed. Today Federal law enforcement agencies only intercept 5 to 15 percent of narcotics being smuggled into this country. Unfortunately, due to the deficit crisis and the need to restrain spending funding for drug enforcement and drug education efforts has not increased in proportion to the problem.

H.R. 5484 represents a bold step forward in the battle against narcotics abuse in this country. It calls for a doubling of the current spending for Federal antidrug efforts, it strengthens criminal penalties for drug violations and improves drug education.

Specificaly, the measure:

Increases penalties for most drug-related offenses and establishes a minimum 20-year jail sentence—up to life imprisonment—for drug trafficking and manufacturing which results in serious injury and death;

Calls for a mandatory 15-year prison term for possession of a firearm by a person with three convictions for drug trafficking;

Increases funding for the Drug Enforcement Agency;

Provides greater assistance to State and local drug enforcement;

Increases funding for prison construction and operation;

Increases penalties for manufacture and distribution of designer drugs;

Increases funding for additional Coast Guard personnel and equipment;

Increases funding for Customs Service personnel and operations;

Toughens bank reporting requirements to prevent money laundering; and

Provides $350 million a year for drug abuse education programs run by State governments, local education agencies, and colleges and universities.

In summary, the bill we are considering here today contains important improvements in our criminal laws, it gives more resources to those agencies which enforce those laws and it serves to focus the Nation on the importance of drug education efforts. It is a critical and much needed step in the war against drugs.

But while this bill deserves our approval, it disturbs me that we are treating the drug issue as we do so many issues: an event triggers nationwide concern about a problem, 3 weeks of media coverage and magazine covers follow, quick drafting of legislation occurs followed by passage by the Congress and signature by the President, and then we forget the issue as we move on to another crisis.

Someone once said that everyone is famous for 15 seconds. Well these days national issues can be characterized the same way. The attention span of the American people and Congress for national problems is growing shorter and shorter. We talk about issues, throw ideas around, maybe change the law in a few areas and spend some money, get bored and then go on to other problems. All too often we run hot and cold on issues that need a long-term, consistently applied policy. Remember the energy crisis, the farm crisis and the crisis in education? We are cheating this country if we dispose of the drug crisis in the same way.

In fact this quick fix approach actually works against solving the problem. People see extensive coverage in the media, frenzied action by Congress, then assume that everything has been taken care of and the problem cured. The drug problem has been with us for decades, and is obviosuly not something we can solve in 3 weeks or even 3 years. It will take years of consistent hard work to educate Americans on the evils of drug abuse, to improve our enforcement capabilities and to develop with foreign nations strategies for curbing production of killer drugs.

It would be a tragedy if we just pass this bill here today and then turn our backs on the problem. It is going to be with us a long time and it is going to require a lot of hard work at all levels: from the family to the highest level of Government.

Finally, I would like to remind the House of the other drugs we are not dealing with in this bill. These arguably cause even more destruction, but have been left out of the legislation we are dealing with today. While illegal narcotics caused 3,562 deaths in 1985, tobacco causes an estimated 350,000 deaths yearly. And alcohol related deaths are estimated at 100,000 a year. Certainly we should not let the fight against the abuse of these drugs be eclipsed by our efforts against illegal

drugs. Our attack on drugs must be on a broader front.

My hope is that we will pass H.R. 5484. Then we must commit ourselves to keeping the focus on the drug issue in the coming years. H.R. 5484 must not be seen as a knee-jerk reaction to a media circus but as a serious commitment to a drug-free America.

Mr. HORTON. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. MCCANDLESS].

The CHAIRMAN. Without objection, the gentleman from California [Mr. MCCANDLESS] is recognized for such time as he may consume.

There was no objection.

Mr. MCCANDLESS. I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of this particular bill in hopes that it will provide a rifle direction rather than a shotgun approach that the Federal Government has been using in the past to solve this major problem.

As Chief Justice Burger has said, he feels this is the biggest crisis which the United States faces, even greater than the threat of communism.

Mr. Chairman, we as a nation are faced today with a crisis of epidemic proportions. The cancer of illegal drug use has continued to spread almost unabated for close to 20 years, and is eating its way through the heart of our society.

It has been estimated that in 1985 alone, Americans spent close to $120 billion on illicit drugs, more than 13 million people suffered some form of addiction, and that almost two-thirds of our Nation's high school children had experimented with illegal substances. The facts are scary but true, and now is the time to reverse them.

H.R. 5484, the Omnibus Drug Act of 1986, which we have before us today proposes to do just that. This long-overdue legislation takes a multipronged approach to the problem of substance abuse. In addition to providing increased equipment and personnel along U.S. borders to stop the import of illegal drugs, H.R. 5484 legislates dramatically stiffer sentences for those convicted of drug trafficking, and provides far greater funding to the States for educating our communities to the dangers and wrongness of drug abuse.

Mr. Chairman, H.R. 5484 promises to be the first step on the long road to a drug-free society. It won't be quick and it won't be easy, but I'm proud to be a part of it and relieved that we're on our way.

Mr. BROOKS. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Austin, TX, Mr. JAKE PICKLE.

The CHAIRMAN. Without objection, the gentleman from Texas [Mr. PICKLE] is recognized for 3 minutes.

There was no objection.

Mr. PICKLE. Mr. Chairman, I want to join my colleagues in praising the work of the many committees that have contributed to the Omnibus Drug Act of 1986. I specifically want to note the effort of the House Banking, Finance and Urban Affairs Committee. Their work can be found in title V of the Omnibus Drug Act and is titled the Comprehensive Money Laundering Prevention Act. Title V makes significant improvements in the Bank Secrecy Act. These new provisions are designed to convict not only small-time money launderers, the so-called smurfs, but also those who mastermind money laundering operations. In addition, it will allow the seizure and forfeiture of their laundered cash or property traceable to that cash. In other words, this title is designed to convict money launderers and take the laundered cash from them.

I specifically want to compliment the chairman of the Banking Committee, Mr. ST GERMAIN, and the ranking member, Mr. WYLIE, for their leadership in this area. I appreciate their cooperation in refining the recommendations I proposed in my bill, H.R. 4573, to strengthen the Bank Secrecy Act.

Mr. Chairman, the Oversight Subcommittee of the House Committee on Ways and Means, played a constructive role in formulating these sections of the Omnibus Drug Act of 1986. The subcommittee, which I chair, investigated the area of money laundering as a part of its responsibility in overseeing the operations of the Internal Revenue Service [IRS] and the U.S. Customs Service. As Members may be aware, the IRS, acting under authority delegated by the Secretary of the Treasury, is responsible for monitoring the currency transaction reports [CTR's] required by the Bank Secrecy Act. Under this reporting law, domestic financial institutions must report cash transactions of $10,000 or more to the IRS.

Members of the oversight subcommittee were surprised to learn of the vast amount of money that was being laundered. Although no precise figures were presented to the subcommittee, estimates of the extent of money laundering reportedly exceeds $50 billion, annually.

The magnitude of the money laundering problem directly relates to our battle against drugs. Money laundering is the life blood of drug trafficking. Money laundering schemes essentially convert drug money into legitimate currency or property, which goes undetected through our economy. Until we successfully interdict drugs, take the profit from drug trafficking by stopping money laundering, and educate people about the dangers of drugs, we will continue to lose this vital battle.

In addition, I should point out that money laundering is not confined to illegal drug traffic. Information presented to my subcommittee indicates that many businesses and individuals are laundering income from both legal and illegal sources. As a result, I am concerned about the impact of money laundering on the collection of U.S. Federal income taxes.

Title V is a reasonable and necessary response to several problems we have uncovered in our own investigation. First, there are loopholes in the Bank Secrecy Act. The current definitions were insufficient to convict those acting as money launderers. As a result, the U.S. Government has been unable to secure convictions of known money launderers in several Federal courts. I, together with the administration, drafted language to close these loopholes. It was included in my bill, H.R. 4573. These new comprehensive definitions are now in section 502 of the Omnibus Drug Act of 1986.

This new section exposes money launderers to criminal and civil penalties if they "cause" or "attempt to cause" a financial institution not to file or to file an inaccurate CTR. In addition, it creates an offense of "structuring a transaction" to evade reporting requirements under the Bank Secrecy Act. These changes will enable successful prosecution of not only small-time money launderers, so-called smurfs, but also those who mastermind money-laundering schemes.

Second, the oversight subcommittee found that the IRS was unable to seize or require administrative forfeiture of money or property traceable to a money laundering scheme. This result was that even if the money launderers were apprehended, the cash disappeared. Accordingly, expanded authority for the IRS to seize and forfeit laundered cash was included in my bill, H.R. 4573. These changes to title XXVI are under the exclusive jurisdiction of the Committee on Ways and Means. The chairman of the Committee on Ways and Means and the chairman of the Banking Committee have exchanged letters on this point.

Section 503 of the act addresses the seizure and forfeiture issue. The legislation makes money or property traceable to a violation of the Bank Secrecy Act subject to seizure and forfeiture. An additional Banking Committee provision specifically mandates that there must be a court order to seize assets used to violate title XXXI. In order to ensure that the assets are not withdrawn from the financial institution while the court order is secured, the Secretary of the Treasury is granted authority to freeze assets for a period of up to 10 days.

Third, a final provision from my bill is included in section 504. This is a new civil penalty in money laundering cases. The new civil penalty allows for the assessment of the difference between the amount seized and forfeited, and the amount laundered. Where the actual laundered funds cannot be found, the Government may wish to assess this new penalty against the individual involved. In other words, the

new penalty is designed to take all the profit out of money laundering.

There are additional provisions that provide additional tools to strengthen title XXXI. These have been ably explained by Chairman St Germain.

In conclusion, Mr. Chairman, I urge a favorable vote of Omnibus Drug Act of 1986. It is constructive legislation that will aid in combatting money laundering and our national drug crisis.

Mr. HORTON. Mr. Chairman, I yield back the balance of my time.

Mr. LEWIS of California. Mr. Chairman, I yield back the balance of my time.

Mr. WRIGHT. Mr. Chairman, we have no further requests for time, and this would conclude general debate. I yield back the balance of our time.

Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore [Mr. ENGLISH] having assumed the chair, Mr. CARR, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill, H.R. 5484, to strengthen Federal efforts to encourage foreign cooperation in eradicating illicit drug crops and in halting international drug traffic, to improve enforcement of Federal drug laws and enhance interdiction of illicit drug shipments, to provide strong Federal leadership in establishing effective drug abuse prevention and education programs, to expand Federal support for drug abuse treatment and rehabilitation efforts, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. RANGEL. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days within which to revise and extend their remarks on H.R. 5484, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

PERMISSION TO OFFER AN AMENDMENT TO H.R. 5484 ON TOMORROW OUT OF NUMERICAL SEQUENCE

Mr. SMITH of Florida. Mr. Speaker, I ask unanimous consent that tomorrow, during consideration of amendments to H.R. 5484, I be permitted to offer amendment No. 22 immediately after amendment No. 15. Through a technical glitch they were listed separately. They are both to the same title, and both are noncontroversial.

Mr. Speaker, this has been cleared with the minority.

The SPEAKER pro tempore (Mr. ENGLISH). Is there objection to the request of the gentleman from Florida?

There was no objection.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST THE CONFERENCE REPORT ON H.R. 4421, COMMUNITY SERVICE PROGRAMS AMENDMENTS OF 1986

Mr. BEILENSON, from the Committee on Rules, submitted a privileged report (Rept. No. 99-811) on the resolution (H. Res. 543) waiving certain points of order against the consideration of the conference report on the bill (H.R. 4421) to authorize appropriations for fiscal years 1987, 1988, 1989, and 1990 to carry out the Head Start, Follow Through, Dependent Care, Community Service Block Grant, and Community Food and Nutrition Programs, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4154, AGE DISCRIMINATION IN EMPLOYMENT AMENDMENTS OF 1986

Mr. BEILENSON, from the Committee on Rules, submitted a privileged report (Rept. No. 99-812) on the resolution (H. Res. 544) providing for the consideration of the bill (H.R. 4154) to amend the Age Discrimination in Employment Act of 1967 to remove the maximum age limitation applicable to employees who are protected under such act, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4759, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1987

Mr. BEILENSON, from the Committee on Rules, submitted a privileged report (Rept. No. 99-813) on the resolution (H. Res. 545) providing for the consideration of the bill (H.R. 4759) to authorize appropriations for fiscal year 1987 for intelligence and intelligence-related activities of the U.S. Government, the intelligence community staff, and the Central Intelligence Agency retirement and disability system, and for other purposes, which was referred to the House Calendar and ordered to be printed.

GENERAL LEAVE

Mr. BARTON of Texas. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on House Resolution 541, the rule for the Omnibus Drug Act.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

□ 1830

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kentucky [Mr. MAZZOLI] is recognized for 5 minutes.

Mr. MAZZOLI. Mr. Speaker, I was unavoidably absent for votes on August 8 and August 15.

Had I been present on August 8, I would have voted "aye" on roll No. 314, the Aspin amendment to H.R. 4428, the fiscal year 1987 Defense Department authorization bill, which would impose a 1-year moratorium on all nuclear testing by the United States in excess of 1 kiloton, provided that the Soviets also observe such a moratorium and meet other conditions of enhanced verification.

Had I been present on August 15, I would have voted:

"Aye" on roll No. 362, agreeing to Senate amendment No. 1 and disagreeing to Senate amendment No. 2 to H.R. 5395, legislation to increase the statutory limit on the public debt;

"Aye" on roll No. 363, to table the motion to reconsider the previous vote on Senate amendments to H.R. 5395, legislation to increase the statutory limit on the public debt; and

"Yea" on roll No. 364, the motion to adjourn pursuant to the provisions of House Concurrent Resolution 380.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. SIKORSKI] is recognized for 5 minutes.

Mr. SIKORSKI. Mr. Speaker, my 5-year-old daughter Anne is having surgery in Minnesota on Thursday, September 11. I am flying out to be with her at that time, and therefore would miss any votes taken on that day. Barring any complications, I will return to Washington Friday morning.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. RUDD (at the request of Mr. MICHEL), for today and the balance of the week, on account of medical reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. BARTON of Texas) to revise and extend his remarks and include extraneous material:)

Mr. SHUSTER, for 60 minutes, on September 17.

(The following Members (at the request of Mr. WEISS) to revise and extend their remarks and include extraneous material:)

Mr. FORD of Michigan, for 5 minutes, today.

Mr. MAZZOLI, for 5 minutes, today.

Mr. PEPPER, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. SIKORSKI, for 5 minutes, today.

Mr. GAYDOS, for 60 minutes, today.

Mr. GAYDOS, for 60 minutes, on September 11.

Mr. BENNETT, for 60 minutes, on September 22.

Mr. BENNETT, for 60 minutes, on September 29.

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. LEWIS of California, on H.R. 5484, in the Committee of the Whole, today.

Mr. GILMAN, on H.R. 5484, in the Committee of the Whole, today.

Mr. WEISS, prior to the vote on House Resolution 541.

(The following Members (at the request of Mr. BARTON of Texas) and to include extraneous matter:)

Mr. LEWIS of Florida in two instances.

Mr. PARRIS.

Mr. LAGOMARSINO in two instances.

Mr. COURTER in three instances.

Mr. CLINGER.

Mr. WORTLEY.

Mr. CONTE.

Mr. GILMAN in two instances.

Mr. DORNAN of California in two instances.

Mr. BROOMFIELD.

Mr. MCGRATH.

Mr. GALLO.

Mr. MCCANDLESS.

Mr. MCCAIN.

Mr. YOUNG of Florida.

Mr. VANDER JAGT.

(The following Members (at the request of Mr. WEISS) and to include extraneous matter:)

Mr. ERDREICH.

Mr. FASCELL in three instances.

Mr. GUARINI.

Mr. FAUNTROY.

Mr. MAZZOLI.

Mr. DWYER of New Jersey.

Mr. RICHARDSON.

Mr. MRAZEK.

Mr. DORGAN of North Dakota.

Mr. BEDELL.

Mrs. BOXER.

Mr. DARDEN.

Mr. WILLIAMS.

Mr. HOYER.

Mr. FLORIO.

Mr. DOWNEY of New York.

Mr. ATKINS.

Mr. TALLON.

Mr. HAYES.

Mr. JENKINS.

BILL PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, a bill of the House of the following title:

H.R. 4329. An act to authorize U.S. contributions to the International Fund established pursuant to the November 15, 1985, agreement between the United Kingdom and Ireland, as well as other assistance.

ADJOURNMENT

Mr. WEISS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 31 minutes p.m.) under its previous order, the House adjourned until Thursday, September 11, 1986, at 9:30 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4179. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Army's proposed letter(s) of offer to the Netherlands for defense articles estimated to cost $50 million or more, pursuant to 10 U.S.C. 133b (96 Stat. 1288); to the Committee on Armed Services.

4180. A letter from the Chief, Program Liaison Division, Office of Legislative Liaison, Department of the Air Force, transmitting notification of the Department of the Air Force's intent to publish a programmatic environmental impact statement on the proposed deployment of the ground wave emergency network [GWEN] at its final operational capability [FOC]; to the Committee on Armed Services.

4181. A letter from the Auditor, District of Columbia, transmitting a copy of his report entitled "Follow-up Review of the Department of Public Works Maintenance and Replacement Policy For Motor Vehicles Owned By Public Works", pursuant to D.C. Code section 47-117(d); to the Committee on the District of Columbia.

4182. A letter from the Secretary of Health and Human Services, the Attorney General of the United States, and the Secretary of Labor, transmitting the opposition of their agencies to H.R. 1309; to the Committee on Education and Labor.

4183. A letter from the Secretary of Health and Human Services, transmitting the annual report for fiscal year 1985 of activities under the administration on development disabilities, Office of Human Development Services, pursuant to 42 U.S.C. 6006(c); to the Committee on Energy and Commerce.

4184. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Army's proposed letter(s) of offer to the Netherlands for defense articles and services estimated to cost $192 million (Transmittal No. 86-54), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

4185. A communication from the President of the United States, transmitting a bimonthly report on progress toward a negotiated solution of the Cyprus problem, pursuant to 22 U.S.C. 2373(c); to the Committee on Foreign Affairs.

4186. A letter from the Under Secretary of State for Security Assistance, Science and Technology, transmitting a report on information that a violation of use, safeguard, or transfer restrictions may have occurred involving the Government of Saudi Arabia, pursuant to 22 U.S.C. 2753(c)(2); to the Committee on Foreign Affairs.

4187. A letter from the Deputy Assistant Secretary of Defense (Administration), transmitting notification of a proposed new Federal records system submitted by the U.S. Marine Corps, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4188. A letter from the Deputy Associate Director for Royalty Management, Departmen of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

4189. A letter from the Deputy Associate Director for Royalty Management, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

4190. A letter from the Deputy Associate Director for Royalty Management, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

4191. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a report from the Chief of Engineers, Department of the Army, on the San Pedro Bay ports transportation study and the 2020 master plan for the future development of the Los Angeles and Long Beach Harbors within the San Pedro Bay; to the Committee on Public Works and Transportation.

4192. A letter from the Administrator, Agency for International Development, transmitting a report on the origin, contents, destination and disposition of all humanitarian goods and supplies transported by the United States, pursuant to Public Law 98-525, section 1540(e) (98 Stat. 2638); Public Law 99-145, section 306(a) (99 Stat. 617); jointly, to the Committees on Armed Services and Foreign Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BONIOR: Committee on Rules. H. Res. 543. Resolution waiving certain points of order against the conference report on H.R. 4421, a bill to authorize appropriations for fiscal years 1987, 1988, 1989, and 1990 to carry out the Head Start, Follow Through, dependent care, community services block grant, and community food and nutrition programs, and for other purposes (Rep. 99-811). Referred to the House Calendar.

Mr. PEPPER: Committee on Rules. H. Res. 544. Resolution providing for the consideration of H.R. 4154, a bill to amend the Age Discrimination in Employment Act of 1967 to remove the maximum age limitation applicable to employees who are protected under such Act, and for other purposes. (Rep. 99-812). Referred to the House Calendar.

Mr. BEILENSON: Committee on Rules. H. Res. 545. Resolution providing for the consideration of H.R. 4759, a bill to authorize appropriations for fiscal year 1987 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes. (Rept. 99-813). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CHAPPELL:

H.R. 5492. A bill to direct the Secretary of Agriculture to release a reversionary interest of the United States in certain land located in Putnam County, FL, and to direct the Secretary of the Interior to convey certain mineral interests of the United States in such land to the State of Florida; to the Committee on Agriculture.

By Mr. CONYERS:

H.R. 5493. A bill to amend title 18, United States Code, to carry forward certain provisions that improve collection and administration of criminal fines; to the Committee on the Judiciary.

By Mr. FASCELL:

H.R. 5494. A bill to require the Secretary of the Treasury to mint gold and silver coins in commemoration of the 100th Congress; to the Committee on Banking, Finance and Urban Affairs.

By Mr. FUQUA (for himself, Mr. LUJAN, Mr. NELSON of Florida, Mr. WALKER, Mr. VOLKMER, Mr. BOEHLERT, Mr. RALPH M. HALL, Mr. PACKARD, Mr. MINETA, Mrs. MEYERS of Kansas, Mr. ANDREWS, Mr. REID, Mr. SMITH of New Hampshire, Mr. GORDON, Mr. BARTON of Texas, Mr. SLAUGHTER, Mr. MONSON, Mr. CHAPMAN, Mr. BROWN of California, and Mr. LEWIS of Florida):

H.R. 5495. A bill to authorize appropriations to the National Aeronautics and Space Administration, and for other purposes; to the Committee on Science and Technology.

By Mr. JENKINS (for himself, Mr. FOWLER, Mr. BARNARD, Mr. DARDEN, Mr. THOMAS of Georgia, Mr. ROWLAND of Georgia, Mr. HATCHER, and Mr. GINGRICH):

H.R. 5496. A bill to designate certain National Forest System lands in the State of Georgia to the National Wilderness Preservation System, and for other purposes; jointly, to the Committees on Interior and Insular Affairs, and Agriculture.

By Mr. JONES of Tennessee (for himself, Mr. AKAKA, Mr. ALEXANDER, Mr. ANTHONY, Mr. BARNARD, Mr. BATEMAN, Mr. BEDELL, Mr. BEVILL, Mr. BOEHLERT, Mr. BONER of Tennessee, Mr. BREAUX, Mr. BROWN of California, Mr. BRUCE, Mr. BURTON of Indiana, Mrs. BYRON, Mr. COELHO, Mr. COMBEST, Mr. COOPER, Mr. DARDEN, Mr. DASCHLE, Mr. DERRICK, Mr. DOWDY of Mississippi, Mr. DURBIN, Mr. DYSON, Mr. EDGAR, Mr. ENGLISH, Mr. ERDREICH, Mr. EVANS of Illinois, Mr. FLIPPO, Mr. FOLEY, Mr. FORD of Tennessee, Mr. FOWLER, Mr. FRANKLIN, Mr. GAYDOS, Mr. GILMAN, Mr. GLICKMAN, Mr. GORDON, Mr. HATCHER, Mr. HUBBARD, Mr. HUCKABY, Mr. JEFFORDS, Mrs. JOHNSON, Mr. JONES of North Carolina, Mr. JONES of Oklahoma, Ms. KAPTUR, Mr. KEMP, Mr. KINDNESS, Mr. KOLTER, Mr. LATTA, Mr. LEATH of Texas, Mr. LEHMAN of California, Mr. LEWIS of Florida, Mr. LIGHTFOOT, Mrs. LLOYD, Mr. LOEFFLER, Mr. MCCLOSKEY, Mr. MCDADE, Mr. MCHUGH, Mr. MACKAY, Mr. MARLENEE, Mr. MARTIN of New York, Ms. MIKULSKI, Mr. MOAKLEY, Mr. MOLLOHAN, Mr. MONSON, Mr. MONTGOMERY, Mr. MORRISON of Washington, Mr. NATCHER, Mr. NICHOLS, Mr. OBERSTAR, Mr. OLIN, Mr. PANETTA, Mr. PASHAYAN, Mr. PENNY, Mr. PERKINS, Mr. RAHALL, Mr. RAY, Mr. REID, Mr. ROBINSON, Mr. ROSE, Mr. ROWLAND of Georgia, Mr. SCHUETTE, Mr. SHARP, Mr. SHELBY, Mr. SOLOMON, Mr. SPRATT, Mr. STAGGERS, Mr. STALLINGS, Mr. STANGELAND, Mr. STENHOLM, Mr. SUNDQUIST, Mr. SYNAR, Mr. TALLON, Mr. TAUKE, Mr. TAUZIN, Mr. THOMAS of Georgia, Mr. TRAXLER, Mr. VALENTINE, Mr. VOLKMER, Mr. WATKINS, Mr. WEBER, Mr. WHITLEY, Mr. WHITTEN, Mr. WIRTH, and Mr. WORTLEY):

H.R. 5497. A bill to amend the Farm Credit Act of 1971 to provide the opportunity for competitive interest rates for farmers, ranchers, and cooperative borrowers of the Farm Credit System, and for other purposes; to the Committee on Agriculture.

By Mr. CONTE:

H.J. Res. 719. Joint resolution to provide for the designation of the week of October 12, 1986, through October 18, 1986, as "Myasthenia Gravis Awareness Week"; to the Committee on Post Office and Civil Service.

By Mr. PARRIS:

H.J. Res. 720. Joint resolution to designate the week of October 19 through 25, 1986, as "National CPR Awareness Week"; to the Committee on Post Office and Civil Service.

By Mr. LEVINE of California (for himself, Mr. FASCELL, Mr. HAMILTON, Mr. YATRON, Mr. SOLARZ, Mr. STUDDS, Mr. MICA, Mr. BARNES, Mr. WOLPE, Mr. GEJDENSON, Mr. DYMALLY, Mr. LANTOS, Mr. KOSTMAYER, Mr. TORRICELLI, Mr. SMITH of Florida, Mr. BERMAN, Mr. REID, Mr. FEIGHAN, Mr. WEISS, Mr. ACKERMAN, Mr. MACKAY, Mr. UDALL, Mr. GARCIA, Mr. BROOMFIELD, Mr. GILMAN, Mr. LAGOMARSINO, Mr. LEACH of Iowa, Ms. SNOWE, Mr. SOLOMON, Mr. BEREUTER, Mr. SILJANDER, Mr. ZSCHAU, Mr. DORNAN of California, Mr. SMITH of New Jersey, Mr. MACK, Mr. DEWINE, Mr. MCCAIN, Mr. GEKAS, Mr. DREIER of California, and Mr. HOYER).

H. Res. 542. Resolution concerning the arrest, imprisonment, and indictment of Nicholas Daniloff by the Soviet Union; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. LAGOMARSINO introduced a bill (H.R. 5498) for the relief of Brenda Pring Garcia; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1375: Mr. SABO.

H.R. 1395: Mr. MCKINNEY.

H.R. 1902: Mr. DELLUMS, Mr. SUNIA, Mr. RODINO, Mr. FOGLIETTA, Mr. GARCIA, Mr. OWENS, Mr. HAWKINS, Mr. FRANK, Mr. ACKERMAN, Mr. OBERSTAR, Mr. WILSON, Mr. DYSON, Mrs. BENTLEY, and Mr. SOLARZ.

H.R. 1985: Mr. COURTER.

H.R. 2897: Mr. SOLOMON, Mr. KEMP, Mr. PACKARD, Mr. LUKEN, Mr. ARMEY, Mr. RINALDO, and Mr. MONSON.

H.R. 3110: Mr. MINETA and Mr. FAZIO.

H.R. 3415: Mr. BEREUTER, Mr. CHAPPELL, Mr. COBEY, Mr. DANNEMEYER, Mr. DERRICK, Mr. HORTON, Mr. KASICH, Mr. KINDNESS, Mr. LANTOS, Mr. LIVINGSTON, Mr. LOWRY of Washington, Mr. MCMILLAN, Mr. MANTON, Ms. MIKULSKI, Mr. MONTGOMERY, Mr. NIELSON of Utah, Mr. PANETTA, Mr. PURSELL, Mr. SAXTON, Mr. SEIBERLING, Mr. STRANG, Mr. TOWNS, Mr. WHITTAKER, Mr. WHITTEN, Mr. WILSON, and Mr. WOLPE.

H.R. 3767: Mr. CRAIG.

H.R. 4299: Mr. PORTER and Mrs. MARTIN of Illinois.

H.R. 4638: Mr. KOLTER.

H.R. 4838: Mr. MANTON.

H.R. 4999: Mr. BUSTAMANTE.

H.R. 5000: Mr. MOORE, Mr. BATEMAN, Mr. MACK, Mr. MCCOLLUM, Mr. LIGHTFOOT, and Mr. STALLINGS.

H.R. 5039: Mr. DOWDY of Mississippi, Mrs. HOLT, and Mr. BARNES.

H.R. 5100: Mr. BURTON of Indiana, Mr. NIELSON of Utah, Mr. KINDNESS, Mr. SUNIA, Mr. RALPH M. HALL, Mr DENNY SMITH, Mr. BEVILL, Mr. MOORHEAD, Mr. HARTNETT, Mr. SWINDALL, Mr. LAGOMARSINO, Mr. HUTTO, Mr. HYDE, Mr. RUDD, Mrs. BENTLEY, Mr. IRELAND, and Mr. BOULTER.

H.R. 5132: Mr. MARTINEZ and Mr. TAUKE.

H.R. 5184: Mr. KOSTMAYER, Mr. MCCAIN, Mr. MITCHELL, Mr. YATRON, Mr. PANETTA, Mr. MACKAY, Mr. HOWARD, Mr. DORGAN of North Dakota, Mr. YOUNG of Alaska, and Mr. LEHMAN of Florida.

H.R. 5196: Mr. MONSON, Mr. HYDE, Mrs. BENTLEY, Mr. MRAZEK, Mrs. HOLT, and Mr. KOLBE.

H.R. 5202: Mr. REID.

H.R. 5214: Mr. JENKINS.

H.R. 5298: Mr. ACKERMAN, Mr. LEVIN of Michigan, Mr. LIPINSKI, Mr. ECKART of Ohio, Mrs. BENTLEY, Ms. KAPTUR, Mr. RALPH M. HALL, Mr. TOWNS, Mr. HUTTO, Mr. MITCHELL, and Mr. NOWAK.

H.R. 5327: Mr. CROCKETT, Ms. MIKULSKI, Mr. HOYER, and Mr. LEVIN of Michigan.

H.R. 5350: Mr. WEBER, Mr. FLIPPO, Mr. MOLLOHAN, Mr. BEVILL, Mr. SHELBY, and Mr. DASCHLE.

H.R. 5376: Mr. NOWAK, Mr. MITCHELL, Mr. HUTTO, Mrs. BENTLEY, Mr. FAUNTROY, Mr. OWENS, Mr. TOWNS, Mr. LEVIN of Michigan,

Mr. ACKERMAN, Mr. RALPH M. HALL, Mr. BEVILL, Mr. FROST, Mr. KINDNESS, and Mr. KLECZKA.

H.R. 5385: Mr. LOWERY of California.

H.R. 5397: Mr. LANTOS, Mr. DANNEMEYER, Mr. LEVIN of Michigan, Mr. HUNTER, Mr. ROE, Mr. LAGOMARSINO, Mr. MRAZEK, and Mr. FROST.

H.R. 5402: Mr. WEBER, Mr. DANIEL, Mr. WILSON, Mr. MRAZEK, Mr. HUTTO, Mr. MCKINNEY, and Mr. ACKERMAN.

H.R. 5407: Mr. ALEXANDER, Mr. STANGELAND, Mr. WHITTAKER, and Mr. TAUKE.

H.R. 5435: Mr. FASCELL.

H.R. 5484: Mr. LOWERY of California, Mr. LIGHTFOOT, Mr. BATEMAN, Mr. CHANDLER, Mr. SENSENBRENNER, Mr. WALKER, Mr. MCCAIN, Mr. WHITEHURST, Mr. MOORHEAD, Mr. HENDON, Mr. ROBERT F. SMITH, Mrs. JOHNSON, Mr. SPENCE, Mr. MCDADE, Mr. PARRIS, Mr. CLAY, Mr. FLORIO, Mr. SCHUMER, Mr. PICKLE, Mr. ANDERSON, Mr. WIRTH, Mr. TOWNS, Mr. EDWARDS of California, and Mr. MARTIN of New York.

H.R. 5488: Mr. PERKINS.

H.J. Res. 167: Mr. DYSON, Mr. ENGLISH, Mr. FOGLIETTA, Mr. MORRISON of Connecticut, Mr. OBERSTAR, Mr. RINALDO, Mr. SISISKY, Mr. TRAFICANT, Mr. FUQUA, Mr. MILLER of Ohio, Mr. FRANK, Mr. SEIBERLING, Mr. CARNEY, Mr. DYMALLY, Mr. AKAKA, Mr. HERTEL of Michigan, and Mr. COYNE.

H.J. Res. 244: Mr. BONER of Tennessee and Mr. CALLAHAN.

H.J. Res. 379: Mr. CALLAHAN, Mr. TRAXLER, Mr. TAUKE, Mr. WIRTH, Mr. MOORE, Mr. LUKEN, Mr. LELAND, Mr. CRAIG, Mr. COBLE, Mr. PORTER, Mr. TAYLOR, and Mr. FIELDS.

H.J. Res. 381: Mr. WISE.

H.J. Res. 438: Mr. KOLBE, Mr. WIRTH, Mr. WEBER, Mr. RUSSO, Mr. FAUNTROY, Mr. PICKLE, Mr. ROBERTS, Mr. BILIRAKIS, and Mr. IRELAND.

H.J. Res. 511: Mr. MADIGAN, Mr. MACKAY, Mr. TAUKE, Mr. FOWLER, Mrs. ROUKEMA, and Mr. COURTER.

H.J. Res. 617: Mr. ENGLISH, Mr. VOLKMER, and Mr. EVANS of Iowa.

H.J. Res. 619: Mr. FIELDS.

H.J. Res. 620: Mr. PORTER, Mr. REGULA, Ms. OAKAR, Mr. FRENZEL, Mr. LOWRY of Washington, Mr. WALGREN, Mr. HUBBARD, Mr. ORTIZ, Mr. KLECZKA, Mr. LOTT, Mr. MADIGAN, Mr. HANSEN, Mr. MOLLOHAN, Mr. EVANS of Illinois, Mr. STALLINGS, Mr. DANNEMEYER, Mr. ALEXANDER, Mr. LUKEN, Mr. MCCLOSKEY, Mr. SWINDALL, and Mr. BURTON of Indiana.

H.J. Res. 653: Mr. JENKINS, Mr. LATTA, Mr. ENGLISH, Mr. GREGG, Mr. QUILLEN, Mr. WEBER, Mr. LOWERY of California, Mr. FOGLIETTA, Mr. HYDE, Mr. SAVAGE, Mr. THOMAS of Georgia, Mr. TORRICELLI, Ms. SNOWE, Mr. DUNCAN, Mr. BERMAN, Mr. SCHEUER, Mr. GINGRICH, Mr. MCKERNAN, Mr. FORD of Tennessee, Mr. FRANKLIN, Mr. FOWLER, Mr. FRENZEL, Mr. FROST, Mr. FUQUA, Mr. FUSTER, Mr. GEKAS, Mr. GILMAN, Mr. GORDON, Mr. GRAY of Illinois, Mr. GREEN, Mr. RALPH M. HALL, Mr. HAMMERSCHMIDT, Mr. HANSEN, Mr. HARTNETT, Mr. HATCHER, Mr. HAYES, Mr. HEFNER, Mr. HENDON, Mr. HENRY, Mrs. HOLT, Mr. HOPKINS, Mr. HORTON, Mr. HOWARD, Mr. HOYER, Mr. HUCKABY, Mr. HUGHES, Mr. HUNTER, Mrs. JOHNSON, Mr. JONES of North Carolina, Mr. KASICH, Mr. KEMP, Mrs. KENNELLY, Mr. KINDNESS, Mr. KOLTER, Mr. KOSTMAYER, Mr. LAGOMARSINO, Mr. LANTOS, Mr. LEACH of Iowa, Mr. LELAND, Mr. LEVIN of Michigan, Mr. LEWIS of California, Mrs. LLOYD, Mrs. LONG, Mr. LOWRY of Washington, Mr. LUKEN, Mr. LUNDINE, Mr. MCCLOSKEY, Mr. MCDADE, Mr. MCHUGH, Mr. MCMILLAN, Mr. MARTIN of New York, Mr. MARTINEZ, Mr. MATSUI, Mr. MICHEL, Ms. MIKULSKI, Mr. MINETA, Mr. MITCHELL, Mr. MOAKLEY, Mr. MONSON, Mr. MOORE, Mr. MOORHEAD, Mr. MRAZEK, Mr. MURPHY, Mr. NEAL, Mr. NICHOLS, Mr. NIELSON of Utah, Ms. OAKAR, Mr. OWENS, Mr. PERKINS, Mr. PORTER, Mr. PRICE, Mr. RAHALL, Mr. RANGEL, Mr. RAY, Mr. REGULA, Mr. REID, Mr. RICHARDSON, Mr. RINALDO, Mr. CARPER, Mr. BENNETT, Mr. SAXTON, Mr. CHAPPELL, Mr. MONTGOMERY, Mr. PICKLE, Mr. CHAPMAN, Mr. PASHAYAN, Mr. WAXMAN, Mr. SCHUETTE, Mr. GRADISON, Mr. MORRISON of Washington, Mr. FASCELL, Mr. GALLO, Mr. DICKINSON, Mr. ANDERSON, Mr. DE LUGO, Mr. MADIGAN, Mr. ALEXANDER, Mr. BROOMFIELD, Mr. COELHO, Mrs. VUCANOVICH, Mr. EMERSON, Ms. KAPTUR, Mr. EVANS of Iowa, Mr. PEPPER, Mr. MILLER of Washington, Mr. WYLIE, Mr. MAZZOLI, Mr. CHAPPIE, Mr. BARTLETT, Mr. GONZALEZ, Mr. FORD of Michigan, Mr. MCCAIN, Mr. MCCOLLUM, Mr. STRANG, Mr. MACK, Mr. KASTENMEIER, Mr. BOLAND, Mr. RODINO, Mr. ROE, Mr. ROEMER, Mr. ROSE, Mr. SHELBY, Mr. SKELTON, Mr. SMITH of Florida, Mr. SOLARZ, Mr. SPENCE, Mr. SPRATT, Mr. STOKES, Mr. SUNIA, Mr. SWEENEY, Mr. SWINDALL, Mr. TALLON, Mr. TAUZIN, Mr. THOMAS of California, Mr. TOWNS, Mr. TRAFICANT, Mr. VALENTINE, Mr. VISCLOSKY, Mr. WALDON, Mr. WALGREN, Mr. WALKER, Mr. WEISS, Mr. WILSON, Mr. WIRTH, Mr. WISE, Mr. WOLF, Mr. WOLPE, Mr. WORTLEY, Mr. YATES, Mr. YOUNG of Florida, Mr. HALL of Ohio, Mr. CLAY, Mr. LUNGREN, Mr. WHITTEN, Mr. ERDREICH, Mr. JONES of Tennessee, Mr. FAUNTROY, Mr. ANTHONY, Mr. ARCHER, Mr. BARNARD, Mr. BARNES, Mr. BATEMAN, Mrs. BENTLEY, Mr. BLAZ, Mr. BLILEY, Mr. BONER of Tennessee, Mr. BORSKI, Mr. BROOKS, Mr. BROWN of California, Mr. BRYANT, Mr. BUSTAMANTE, Mr. CALLAHAN, Mr. CARNEY, Mrs. COLLINS, Mr. CONTE, Mr. CONYERS, Mr. COURTER, Mr. COYNE, Mr. CROCKETT, Mr. DAUB, Mr. DE LA GARZA, Mr. DELLUMS, Mr. DERRICK, Mr. DEWINE, Mr. DIOGUARDI, Mr. DORNAN of California, Mr. DOWDY of Mississippi, Mr. DWYER of New Jersey, Mr. DYSON, Mr. EDGAR, Mr. EDWARDS of Oklahoma, Mr. EVANS of Illinois, Mr. FAZIO, Mr. FEIGHAN, Mr. FISH, Mr. FLIPPO, and Mr. FOLEY.

H.J. Res. 670: Mr. JENKINS, Mr. SCHEUER, Mr. SCHUMER, Mr. HAYES, Mr. RANGEL, Mrs. HOLT, Mr. FUQUA, Mr. HANSEN, Mr. HENRY, Mr. SCHUETTE, Mr. KOLTER, Mr. LEVIN of Michigan, Mr. LANTOS, Mr. HATCHER, Mr. JONES of North Carolina, Mr. MORRISON of Connecticut, Mr. COELHO, and Mr. HYDE.

H.J. Res. 671: Mr. STOKES, Mr. HEFNER, Mrs. BENTLEY, Mr. HAYES, Mr. HOYER, Mr. FAZIO, Mr. OWENS, Mr. TRAFICANT, Mr. FAUNTROY, Mr. DYMALLY, Mr. PERKINS, Mr. SUNIA, Mr. FUSTER, Mr. SKELTON, Mr. GARCIA, Mr. REID, Mr. MINETA, Mr. CROCKETT, Mr. MARTINEZ, Mr. LEHMAN of Florida, Mr. FOLEY, Mr. WORTLEY, Mr. CARNEY, Mr. MANTON, Mr. LEVIN of Michigan, Mr. BRYANT, Mrs. BOXER, Mr. DAUB, Mr. REGULA, and Mr. SMITH of Florida.

H.J. Res. 687: Mr. SHUMWAY, Mr. BATEMAN, and Mrs. MARTIN of Illinois.

H.J. Res. 688: Mr. HUGHES, Mr. BOLAND, Mr. JONES of Tennessee, Mr. SCHUETTE, Mr. BONIOR of Michigan, Mr. FAZIO, Mr. FROST, Mr. GILMAN, Mr. RALPH M. HALL, Mr. HORTON, Mr. MARTINEZ, Mr. MURTHA, Mr. REGULA, Mr. RINALDO, Mr. ROE, Mr. ROGERS, Mr. SMITH of New Hampshire, Mr. SUNIA, Mr. VENTO, Mr. YATRON, Mr. QUILLEN, Mr. KANJORSKI, and Mr. DWYER of New Jersey.

H.J. Res. 706: Mr. BROWN of Colorado, Ms. KAPTUR, Mr. DAUB, Mr. MRAZEK, Mr. CLAY, Mr. FAZIO, Mr. TOWNS, Mr. HENRY, Mr. BILIRAKIS, Mr. REID, and Mr. BOLAND.

H. Res. 413: Mr. SUNIA.

H. Res. 466: Mr. SWINDALL and Mr. MCCOLLUMS.

H. Res. 469: Mr. CROCKETT and Mr. MCCLOSKEY.

H. Res. 471: Mr. MCCOLLUM.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1400

By Mr. KINDNESS:

—Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. EXTENSION OF AUTHORITY.

Section 6701(a)(1) of title 31, United States Code, is amended by striking out "October 1 of 1982, 1983, 1984, and 1985" and inserting in lieu thereof "October 1 of 1985, 1986, 1987, 1988, and 1989".

SEC. 2. LEVEL OF AUTHORIZATION OF APPROPRIATIONS.

Section 6703(b)(2) of title 31, United States Code, is amended to read as follows:

"(2) to pay entitlement amounts allocated to units of general local government under section 6708-6710 of this title—

"(A) $4,185,000,000 for the entitlement period beginning on October 1, 1985;

"(B) $4,185,000,000 for the entitlement period beginning on October 1, 1986;

"(C) $3,138,750,000 for the entitlement period beginning on October 1, 1987;

"(D) $2,092,500,000 for the entitlement period beginning on October 1, 1988; and

"(E) $1,046,250,000 for the entitlement period beginning on Ocotober 1, 1989.".

Amend the title so as to read: "A bill to extend the authorization of appropriations for general revenue sharing for four years, and for other purposes.".

—Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. EXTENSION OF AUTHORITY.

Section 6701(a)(1) of title 31, United States Code, is amended by striking out "October 1 of 1982, 1983, 1984, and 1985" and inserting in lieu thereof "October 1 of 1985, 1986, 1987, 1988, and 1989".

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"(C) $2,092,500,000 for the entitlement period beginning on October 1, 1987;

"(D) $1,046,250,000 for the entitlement period beginning on October 1, 1988;

Amend the title so as the read: "A bill to extend the authorization of appropriations for general revenue sharing for three years, and for other purposes.".

EXTENSIONS OF REMARKS

IT'S TIME TO END IRRIGATION SUBSIDIES FOR SURPLUS CROPS

HON. BERKLEY BEDELL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 10, 1986

Mr. BEDELL. Mr. Speaker, I invite my colleagues to join me as original cosponsors of a bill I plan to introduce shortly to stop the Government from granting massive irrigation subsidies to grow more surplus crops when we are already paying farmers not to grow the very same crops. I include the full text of the bill and a summary at the end of this statement.

The concept at the heart of the bill has previously received broad support in the House. Earlier this year, I offered an amendment to apply this concept to the Garrison Diversion project bill—H.R. 1116, April 23. Although the amendment did not pass, the surprisingly narrow margin of that vote—203-199—showed that there is broad feeling in the House that the time has come to stop this wasteful conflict between agricultural and irrigation policies. The House adopted a similar amendment of mine in 1982 during debate on the Reclamation Reform Act. Although that amendment was weakened in conference to a study of the problem, the study confirmed the problem and supported the solution in my bill.

The bill I will introduce shortly simply provides that, if an irrigator choose to use the water he receives from a federally subsidized irrigation project to grow more of crops that are already in surplus, then he must pay the full cost to the taxpayers of providing him that water.

BUDGET DEFICITS AND AG SURPLUSES

Mr. Speaker, the old saying that, "If you're not part of the solution, you're part of the problem," seems especially appropriate on this issue. Two of the biggest problems facing Congress this month are the budget deficit and the surplus of agricultural commodities. The deficit is such a big problem that are cutting funding for needed programs.

Second, we are awash in a world of surplus agricultural commodities. As a member of the Agriculture Committee who has wrestled with the farm problem, I can assure you that no serious agricultural analyst believes that the surpluses will disappear soon. Any action based on that notion is pure speculation. World agricultural production is increasing so rapidly that it is extremely difficult for the United States to sell its commodities on the glutted world markets. The United States spends millions just to store surplus commodities, and we pay our farmers more and more not to grow these crops in the first place. In fact, under the farm bill's long-term conservation reserve, we will pay farmers to take 40 million acres out of production over the next 5 years, in addition to millions of acres of annual set-asides that will take additional land out of production.

IRRIGATION SUBSIDIES

Irrigation subsidies have outlived their original purpose. The Reclamation Act of 1902 set the policy of making irrigated water available to provide opportunities to settle and develop arid western lands. One goal of this 1902 legislation was that water rates be set so that Federal costs to construct projects could be recovered in payments from the farmers who received the water. Over the years, water rates were adjusted to permit small subsidies to the smallest farmers. Successive changes in the original law resulted finally in big western railroads and multinational oil companies receiving millions of dollars in water subsidies on giant farms. In 1981, the U.S. General Accounting Office concluded that the original goals of the 1902 Reclamation Act had been achieved, and recommended that our irrigation policies should now be reevaluated in the light of current economic and social conditions.

Almost half of lands irrigated with federally subsidized water have been planted with surplus crops.

In 1985, the highly respected Natural Resources Defense Council [NRDC] published an authoritative study documenting the enormous subsidies involved, including many subsidies not authorized by Congress, and the deep environmental problems caused by continued irrigation development. The NRDC concluded that the solution was to let the market work:

The most critical need is to force water users to recognize the true costs of water. This can only be done by removing a major portion of the subsidy. If costs rise, water users will be forced to consider better ways of using water, and will have few incentives to exert political pressures for additional projects.

If this sounds like the Reagan administration talking, it should. In March of this year, the U.S. Department of the Interior wrote Congress in regard to reauthorization of the small irrigation projects loan program that:

We believe that the time has arrived to remove the Small Reclamation Projects Act program from Federal interest subsidies. In these times of Federal budget exigencies and large surpluses of agricultural production, we can no longer afford to grant interest-free Small Reclamation Projects Act loans for irrigation-related purposes.

The economics of irrigation subsidies are indefensible. For example, the Garrison project will invest an average of $5,000 in order to irrigate 1 acre in the project, but this will increase the market value of an acre of land by an average of only $400. None of us would invest our own money so poorly, why should we ask the taxpayers to do so?

THE RECLAMATION REFORM ACT OF 1982

In recent decades, recognizing that our reclamation policies must be brought into line with today's budget and agricultural realities, Congress has sought to modify reclamation policy in order to end the conflict between reclamation and agricultural policies. Many authorizations for particular irrigation projects have contained prohibitions against using the projects' water on surplus crops. Unfortunately, flat prohibitions such as this did not work as intended because of loopholes and a lack of will on the part of the Bureau of Reclamation to enforce them.

Congress again tried to address the issue during debate on the comprehensive Reclamation Reform Act of 1982. The House adopted a tough amendment of mine which would have flatly prohibited the delivery of irrigation water to grow surplus crops. This amendment was watered down in conference to a study. But this study, "Production of Surplus Crops on Irrigated Land Served by the U.S. Bureau of Reclamation," USDA Economic Research Service, February 1984—found that a full 45 percent of lands throughout the West that were irrigated with subsidized Bureau water were planted with surplus crops—59 percent of subsidized irrigated acres in California. The study agreed with the advantages of the solution embodied in the bill I will introduce shortly:

Reclamation and commodity program goals conflict * * *. Requiring farmers who use U.S. Bureau of Reclamation water to pay full cost for water used on program crops as long as the crop is declared in surplus represents a policy strategy to eliminate one of the subsidies—the subsidy provided through the U.S. Bureau of Reclamation program. Under this plan, Bureau-served farmers would be placed on a comparable basis with other program crop producers in the Nation. National production efficiency would be expected to improve as production would move towards areas of comparative advantage. Program costs would be reduced due to lower production and higher prices; administrative costs would increase somewhat to assure compliance. The use of full-cost pricing for project water on farms in excess of 960 acres already is a feature of Public Law 97-293—Reclamation Reform Act of 1982.

As the study notes, the 1982 Reclamation Reform Act made some reforms. First, it clearly defined the term "full cost" to conclude all of a project's capital construction costs, its operation/maintenance costs and the interest cost of the Government's borrowing to build the project. My new bill references this definition of "full cost."

Second, the 1982 law required beneficiaries to repay the full costs of new irrigation projects, except for categories of beneficiaries deemed more deserving of continued subsidies, such as small family farmers. My bill simply says that any farmers who choose to work against the goals of our farm programs should not qualify as a group deserving subsidies. This is a consistent application of the full

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

cost repayment standard that exists in current law.

Requiring full cost repayment for water used to grow surplus crops is a better way to approach the problem than past proposals to absolutely prohibit delivery of water for surplus crops. The absolute prohibition was unenforceable and punitive because it stated that "no water . . . shall be delivered" to grow surplus crops on newly irrigated lands. In order to enforce this provision, the Secretary of the Interior would have to actually turn off the water. As has been pointed out in hearings before the House interior Subcommittee on Water and Power, the pressures against turning off the water are so strong that the concept doesn't work.

The concept of charging full cost for water used on surplus crops is fair. It is fair to the irrigator who can decide whether he is willing to pay full cost for the water if he chooses to use it for no productive purpose. Second, it is fair to other farmers who do not receive irrigation subsidies. Currently, those farmers suffer the consequences of a glutted market and must compete against farmers who receive subsidized water. Third, it is fair to the taxpayers, because they shouldn't have to pay for both farm programs and irrigation subsidies.

SUMMARY

First. Generally, the bill requires irrigators signing new or amended irrigation contracts to agree to pay full cost for any water they use on surplus crops. The bill would only apply to those seeking new or expanded irrigation benefits.

Second. The bill requires repayment to the government of the full cost of providing the water. Full cost is defined in the Reclamation Reform Act of 1982, the most recent comprehensive congressional revision of Federal irrigation policy. Large farmers and others who do not qualify for subsidies must currently pay this same full cost rate.

Third. A crop is defined as "surplus" if there is in effect a Federal program to pay farmers to reduce production of that crop. Currently, such programs exist for feed grains—including corn—rice, tobacco, wheat, cotton, and peanuts. A similar soybean program may be started within a few years. The agricultural marketing order crops are not covered by this bill.

Fourth. For purposes of the bill, it is irrelevant whether an individual farmer participates in farm programs. He is still required to pay full cost for water he uses to worsen the problem of surplus crops.

Fifth. Payment is calculated annually. When the Bureau of Reclamation is making its annual calculation of repayment obligations and water rates, the bill would simply require that the Bureau charge full cost for whatever percentage of water is obtained each year for irrigating surplus crops. Currently, complex Bureau calculations already take into account full cost charges for certain farmers.

Sixth. The Secretary of the Interior would announce the amount of next year's full cost charges on a project by July 1 of each year so that irrigators would have time to plan what crops to plant next spring.

The full text of the bill follows:

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 9 of the Reclamation Projects Act of 1939 (43 U.S.C. 485h) is amended by inserting at the end thereof the following new subsection:

"(g)(1) Any contract entered into under authority of this section or any other provision of Federal reclamation law shall require that the organization agree by contract with the Secretary to pay full cost for the delivery of water used in the production of any agricultural commodity if there is in effect for any marketing year for such commodity a program to limit production of such commodity, as announced by the Secretary of Agriculture.

"(2) The Secretary shall announce the amount of the full cost payment for the succeeding year on or before July 1 of each year.

"(3) As used in this subsection—

"(A) the term 'agricultural commodity' means feed grains, cotton, peanuts, rice, tobacco, or wheat or any other agricultural commodity for which there is in effect a similar crop reduction program; and

"(B) the term 'full cost' shall have the meaning given in paragraph (3) of section 202 of the Reclamation Reform Act of 1982 (43 U.S.C. 390bb(3)).

"(4) Paragraph (1) shall apply to any contract entered into or amended after the date of enactment of this subsection.".

NARCOTICS EPIDEMIC

HON. TOM LEWIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 10, 1986

Mr. LEWIS of Florida. Mr. Speaker, the narcotics epidemic assumes many frightening faces in south Florida. Nationally, the problems of enforcement, education, and rehabilitation are enormous. In Florida, they are compounded by the involvement of illegal immigrants in the drug network.

On July 30, 1986, the Florida Sheriffs Association adopted a resolution which illuminates the connection between illegal immigrants and illicit drugs. In light of the sheriffs' intimate involvement in the narcotics war, their words merit thorough consideration.

FLORIDA SHERIFFS ASSOCIATION RESOLUTION 86-1—JULY 30, 1986

Whereas, the State of Florida is overburdened with illegal immigrants, often in a refugee status; and

Whereas, these foreign nationals are all too often engaged in the manufacture, distribution and sale of illicit drugs; and

Whereas, these foreign nationals all too often are able to bond out of jail after arrest on these drug activities, assume new identities, and go forth to commit new crimes, thus evading conviction in our courts; and

Whereas, the current policy of the Immigration & Naturalization Service [INS] is to require a felony conviction as a condition precedent to deportation, it is readily apparent that the citizens of this state are being victimized again and again by the same noncitizen criminals—especially through the ever-increasing sale of "crack" cocaine;

Now therefore be it unanimously Resolved, by the members of the Florida Sheriffs Association that in order to protect our law-abiding citizens, especially our youth, from this recurrent criminal behavior, the INS adopt a policy of no bond immigration holds in secure facilities for all such criminals until prosecution and/or deportation is accomplished.

Whether or not the sheriff's resolution meets with universal agreement, I believe we should heed the old adage: where there's smoke there's fire.

My investigations into the communication and cooperation between sheriffs and the INS are by no means complete. To date, the information I have received is often confusing, conflicting, and complex. The variety of answers, alone, indicates to me an enormous need for improved communication.

The drug bill comes before the House this week. Most likely, the immigration bill will soon follow. New drug laws and new immigration laws are not a cure-all. They will be effective only if they are enforced.

One of the fundamental aids to enforcement must be communication. If a far-reaching effort among sheriffs and INS officials is made, I feel confident that we will have won a early victory in the war on drugs. Above all, public officials must operate behind a unified front.

REPRESENTATIVE HAMILTON'S PRESCRIPTION FOR HANDCUFFING THE PRESIDENT

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 10, 1986

Mr. COURTER. Mr. Speaker, the amendment which Representative HAMILTON offered to the Intelligence Authorization Act for 1987 is a case of the Congress improperly meddling in a realm of government best left to the executive. The notion that Congress should debate in the open all that the President desires to do covertly is nothing less than a prescription for handcuffing the Executive. Whatever political party the Executive might represent, he is the Nation's highest elected official, and there are and will be things he is required to do covertly to defend the national security and to advance the national purpose.

While on this matter I cannot agree with the gentleman from Indiana, I have learned a lesson from Alexander Hamilton, the founder who wrote of the treaty-making something which applies to intelligence matters generally. The italics are Hamilton's own, and the political body he is discussing is this very House of Representatives: "* * * *secrecy,* and dispatch are incompatible with the genius of a body so variable and so numerous."

I wish to add for the consideration of my colleagues the text of an excellent essay which Hon. HENRY HYDE published in the Washington Times on August 13 of this year. Titled "Distaste for Covert Actions," it sets forth Mr. HYDE's reasons, which resemble my own, for disagreeing with the Hamilton amendment.

DISTASTE FOR COVERT ACTIONS

(By Henry Hyde)

It has been said that Queen Victoria, in rejecting the idea of submarine warfare, called it a decidedly un-British way of fight-

ing. True or not, there are those in positions of power in Congress who express the same fastidiousness about U.S. covert actions. Among those appearing to hold such a view is Democratic Rep. Lee Hamilton of Indiana, the respected chairman of the House Permanent Select Committee on Intelligence.

Earlier this year, what amounts to a new anti-covert action doctrine was enunciated by Mr. Hamilton. Specifically, the Hamilton Doctrine says that any "hotly debated" aspect of U.S. foreign policy with sensitive, covert intelligence ramifications must be openly acknowledged, publicly debated, and approved by Congress before any money can be provided in support of that policy.

More recently, Mr. Hamilton has translated his doctrine into legislation that is designed to sabotage the Reagan Doctrine of aiding anti-Communist resistance forces around the world. This latest Hamilton proposal, which has very damaging foreign-policy implications, is incorporated in the Intelligence Authorization Act for Fiscal Year 1987 (H.R. 4759), slated to be considered by the full House soon.

The first test case of the Hamilton Doctrine will be Angola. In essence, the Hamilton legislation stipulates that no U.S. covert military or paramilitary assistance to Jonas Savimbi's National Union for the Total Independence of Angola (UNITA) can be furnished unless such aid is *publicly* acknowledged and *publicly* approved by Congress. In other words, this is a clear attempt to reverse Congress's decision last year to repeal the 10-year-old Clark Amendment, which prohibited U.S. covert paramilitary activities in Angola.

What particularly disturbs me, as one who shares membership with Mr. Hamilton on the House intelligence committee, is that his doctrine represents a threat, ultimately, to all covert action, not just to what might be undertaken in Angola.

Debating an issue of this nature in open session empties the congressional intelligence oversight process of any real meaning.

And who makes the determination as to what is "hotly debated"—the media, certain senators and representatives, or the American public, which may have an entirely different point of view?

Questions concerning U.S. support of paramilitary operations in any part of the world should be discussed secretly within the confines of Congress's two intelligence committees. That is why those panels were established.

Members of Congress should realize there are instances when our foreign policy must be circumspect, and indeed, even appear ambiguous, to be fruitful. Angola is a case in point. As State Department officials have indicated, a public debate on whether we should have a military support relationship with UNITA might reveal specific, sensitive information to our adversaries.

The Libyan bombing episode of last April demonstrated that the president must have a covert foreign policy option that lies somewhere between no action and sending the Marines or American bombers. The Hamilton Doctrine would preclude that. Moreover, it jeopardize clandestine cooperation from other countries who feel that they cannot afford to be identified publicly as backing U.S. foreign-policy objectives and activities.

Some argue that once the general nature of a covert operation is disclosed, there is no sense in trying to protect it further. They fail to recognize, however, that as long as certain aspects of that operation are secret, the other side is kept guessing as to appropriate countermeasures. Dispelling uncertainties by congressional corroboration of information available elsewhere upgrades its probable accuracy, and thus aids our foes.

In addition, the nature of diplomacy is such that a government may diplomatically ignore rumors or even public non-official discussion of the existence of a covert action, but official acknowledgment requires a strong diplomatic response or more.

Furthermore, justifying, as Mr. Hamilton does, open congressional debate of a particular covert action, because of what he views as ostensible administration confirmation of that activity, is really a ruse for torpedoing any such operation. We should bear in mind that the president does not hold a press conference each time he notifies the House and Senate intelligence committees of a new covert plan or activity.

Admittedly, there have been some unfortunate public discussions by administration and congressional officials regarding some covert operations, but frequently these slips have occurred after someone privy to that action has apparently leaked the details. That's how, for example, the past U.S. program for aiding Nicaraguan resistance forces ultimately became the most *overt* covert program in American history. Although no excuse for these unauthorized revelations, such disclosures make it virtually impossible for the president plausibly to ignore or deny U.S. involvement.

In short, we must protect all covert activities. Congress cannot selectively pick and choose those we want to keep secret. Terminating those we don't like by leaks, or by public congressional debate—as envisioned by Mr. Hamilton—will eventually destroy this nation's covert-action capability. Removing a foreign-policy card from the president's hand that has been played by chief executives since the days of George Washington seriously imperils this nation's security.

As we have painfully learned in our war against terrorism, we cannot go it alone in this increasingly interdependent world. We cannot expect allies to engage in joint covert operations that may be disclosed. If we cannot guarantee confidentiality to otherwise cooperative third countries, we end up perilously isolated.

Mr. Hamilton's initiative is dangerous for *everyone* concerned. The Hamilton Doctrine sends a signal to the Soviet Union and to our friends alike that eventually all United States covert actions worldwide could be exposed because the U.S. Congress is an unpredictable and undependable "wild card" in the intelligence process.

Such a turn of events would irreparably damage our ability to confront Soviet expansionism, not only in Africa, but in Asia, the Middle East and Latin America, with all that ominously portends for the future of the Free World.

STATUS OF THE GENEVA ARMS CONTROL TALKS: OPENING OF ROUND VI SET TO BEGIN SEPTEMBER 18

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 10, 1986

Mr. FASCELL. Mr. Speaker, the United States-Soviet arms control negotiations are scheduled to resume in Geneva on September 18.

After the close of Round V on June 27, President Reagan responded to the Soviet proposal in a letter to General Secretary Gorbachev. The contents of this letter have not been officially disclosed.

Following my statement is a chart containing the United States and Soviet positions on arms control issues. This update, current as of August 1986, is based on the best available information from unclassified sources.

My last statement on the "Status of the Geneva Arms Control Talks: Round V" appeared in the CONGRESSIONAL RECORD of July 14 and 17, 1986. Since that time developments have occurred in the United States and Soviet positions which are highlighted as follows:

First, in the strategic area, the Soviets have suggested procedures for verification of mobile missiles, including designating deployment areas, monitoring missiles as they leave the factory, and marking rail-mobile ICBM's to distinguish them from other rail cars.

Second, in the space and defense area, the United States has proposed to forego SDI deployment for 7½ years while continuing to research, develop and test SDI technologies as permitted by the ABM Treaty. Interpretation of the ABM Treaty is not specified. If after 5 years, defenses prove feasible, the United States and the Soviet Union will undertake negotiations on managing the transition to a defense-dominated deterrent. Absent agreement 2 years after discussions begin, each side will be free to deploy defenses unilaterally on 6 months' notice. The United States declares its willingness to share the benefits of the SDI system with the Soviet Union.

The Soviet Union also proposes to stop work on the Krasnoyarsk radar if the United States stops work on two radars in England and Greenland.

Also, in the space and defense area, the Soviet Union maintains its pledge not to withdraw from the ABM Treaty for at least 15 years and limits work on SDI-type strategic defenses to laboratory research.

At the close of the last round, both sides had proposed zero long range INF systems in Europe. The Soviets proposed that SS-20's in Asia would not be increased and would be reduced contingent upon reduction of U.S. nuclear weapon systems on ships and aircraft in Asia. The United States further proposed no contraints on British and French systems while the Soviet Union proposed that Great Britain and France pledge not to build up their nuclear arsenals.

The main provisions of the United States and Soviet proposals in the strategic area in-

clude the United States proposed ceiling of 1,250–1,450 on ICBM and SLBM launchers (with freedom to mix) and a ceiling of 350 on strategic bombers. The Soviets have proposed a ceiling of 1,600 on ICBM's, SLBM's, and heavy bombers.

The U.S. position on warhead limits calls for a ceiling of 4,500 with no more than 3,000 warheads on ICBM's. The Soviets call for a ceiling of 8,000 nuclear charges, that is, warheads, gravity bombs, and long-range cruise missiles on strategic nuclear delivery vehicles, with no more than 4,800 nuclear charges on any one type of system (ICBM's, SLBM's, or bombers).

The Committee on Foreign Affairs and the Subcommittee on Arms Control will continue to monitor the progress of the Geneva arms control talks and will provide to our colleagues up-to-date analyses and comparisons of the United States and Soviet arms control proposals tabled at Geneva and related developments.

STATUS OF GENEVA NEGOTIATIONS, AUGUST 1986

Category	United States proposal	Soviet proposal
I. STRATEGIC [1] [2]		
Linkage	Agreement on strategic arms should not be dependent on a resolution on space and strategic defense issues.	Strategic arms reductions are linked to agreement on space and defensive weapons.
Delivery vehicles:		
Strategic ballistic missile launchers	1250–1450—ICBM and SLBM launchers, with freedom to mix	1,600—ICBM, SLBM's, and heavy bombers. The June 1986 proposal drops the earlier Soviet insistence that U.S. INF missiles and aircraft be included in the ceiling on strategic arms. The proposal reportedly does, however, call for a freeze on these systems.
Strategic bombers	350—B–52, B–1, Stealth. Bison, Bear, Blackjack, Backfire	Do.
Weapons:		
Strategic missile RV's	4,500—with no more than 3,000 on ICBM's	8,000—"nuclear charges"—i.e., warheads, gravity bombs, SRAMs, long range cruise missiles (those with a range > 600km)—on strategic nuclear delivery vehicles. No more than 4,800 nuclear charges on any one type of system (ICBM's, SLBM's, or bombers).
Weapons other than ALCM's on strategic bombers	Not limited	Do.
Long-range ALCM's	1,500—Ceiling contingent on Soviet acceptance of RV and throwweight limits	Do.
Long-range SLCM's	Not limited	Ban on long-range SLCM's on surface ships.
Throwweight	6 million lbs	No direct limitation.
New systems	This is a ban on mobile missiles and new or modernized heavy missiles. Ban on Midgetman. Ban on: SS–24, SS–25, and SS–18 followon.	Ban on new types of strategic delivery systems, with "new type" reportedly intended to apply to systems not flight tested as of an unspecified date.
Verification		Procedures suggested for verification of mobile missiles, including designating deployment areas, monitoring missiles as they leave the factory, marking rail-mobile ICBM's to distinguish them from other rail cars.
II. INF [3] [4]		
Europe:		
United States and Soviet long-range INF (LRINF) missiles	0 P–2's, 0 GLCM's, 0 SS–20's—Global ban on all LRINF missiles. Elimination phased over 3 years, with reduction of 140 launchers in the first year, to 70 in the second, and 0 in the third. Missiles and launchers withdrawn would be destroyed. During the reduction period, the United States would reserve the right to possess a number of LRINF systems equal to the Soviet LRINF total in Europe and Asia. The excess over allowed deployments in Europe would be retained in the continental United States.	0 P–2's, 0 GLCM's, 0 SS–20's to the west of the 80° longitude—U.S. undertakes not to transfer medium-range strategic missiles to other countries. Missiles withdrawn would be destroyed.
British and French INF systems	No constraints	Great Britain and France pledge not to build up their nuclear arsenals. Whether modernization would be permitted remains unclear.
Shorter range INF missiles	Ceiling on SRINF, either at current Soviet levels, or at levels both sides had on January 1, 1982.	No limit formally proposed, but stated willingness to withdraw SRINF if U.S. P–2's and GLCM's are eliminated.
Asia: LRINF missile launchers	0 SS–20's—Reductions phased over 3 years, in proportions to SS–20 reductions in Europe.	SS–20's in Asia would not be increased. Reductions said to be contingent on reduction of the threat posed by U.S. nuclear weapon systems on ships and aircraft in Asia.
Verification	Count each side's missiles to set totals from which reductions would be made; designate deployment areas; establish procedures for monitoring production and destruction, possibly involving some on-site inspection.	Expressed willingness to agree to appropriate verification measures, including on-site inspection.
III. Space and Defense [5] [6]		
Strategic defenses	Foreswear SDI deployment for 7½ years while continuing research, development, and testing as permitted by the ABM Treaty. Interpretation of the ABM Treaty left unspecified. If after 5 years, defenses prove feasible, the U.S. and U.S.S.R. will undertake negotiations on managing the transition to a defense-dominated deterrent. Absent agreement 2 years after discussions begin, each side will be free to deploy defenses unilaterally on 6 months' notice. The U.S. declares its willingness to "share the benefits of the [SDI] system" with the U.S.S.R.	Neutral pledge not to withdraw from the ABM Treaty for at least 15 years; limit work on SDI-type strategic defenses to laboratory research, "that is, the thresh-which the United States has already approached." Stop work on Krasnoyarsk radar if United States stops work on two radars in England and Greenland.
Antisatellite weapons (ASAT's)	An ASAT agreement is not in U.S. national security at this time	United States should join the ASAT testing moratorium that the Soviet Union is currently observing.
Verification	"Open laboratories" arrangement for exchanged briefings on each other's strategic defense programs, and for reciprocal visits to laboratories where the research is being conducted.	Expressed willingness to agree to necessary verification measures.

[1] The U.S. proposal is discussed in Nitze, Paul H. Negotiations on Nuclear and Space Arms. Remarks Before a symposium at the Department of State's Foreign Service Institute on March 13, 1986. Department of State Bulletin, v. 86 May 1986, p. 50–53.

[2] The latest Soviet offer was reportedly put on the table on June 11, 1986. See, Gordon, Michael, U.S. Arms Officials Finding Problems in Offer by Soviet, New York Times, June 17, 1986, p. A1, A6; and Oberdorfer, Don, and Walter Pincus, Response to New Soviet Arms Offer Unlikely During Geneva Session, Washington Post, June 18, 1986, p. A30. In a speech before the CPSU Central Committee on June 16, General Secretary Gorbachev acknowledged the new proposal and provided sketchy information that confirmed some of the reports that had appeared in the Western press. The proposal was subsequently discussed in the Soviet press. See, for example, New Times, July 21, 1986, in FBIS Soviet Union Daily Report, July 22, 1986, p. AA3–AA6. On verification see Gordon, Michael, Moscow Said to Signal Willingness to Work on Arms Pack Verification. New York Times, June 22, 1986, sec. 1, p. 14.

[3] The U.S. proposal described here was advanced in February 1986, in response to the Soviet proposal of January 15. Ambassador Paul Nitze presented an outline of the U.S. proposal in Negotiations on Nuclear and Space Arms, Remarks Before a Symposium at the Department of State's Foreign Service Institute on March 13, 1986, Department of State Bulletin, v. 86, May 1986, p. 50–53. In addition to the proposals to eliminate LRINF missiles, an earlier U.S. offer to freeze INF launchers at 140 reportedly remains on the table in Geneva. See, Gordon, Michael, Arms Talks Adjourn With No Gains, New York Times, March 6, 1986, p. A3. The U.S. proposal on INF verification is reported in Oberdorfer, Don and Walter Pincus, U.S. Offers Nuclear Inspection Plan, Washington Post, March 15, 1986, p. A1; A18.

[4] The Soviet proposal to eliminate LRINF in Europe, first presented to Gorbachev on January 15, 1986, was formalized in a draft treaty introduced in Geneva on May 15. Source for the Soviet proposal include: Gorbachev statement in Pravda, January 16, 1986; FBIS Soviet Union Daily Report, January 16, 1986, p. AA1–AA9; press conference in Moscow, FBIS Soviet Union Daily Report, January 21, 1986, p. AA1–AA13. On SS–20's in Asia, see General Secretary Gorbachev's speech before the SPSU Central Committee, June 16, 1986; and Foreign Minister Shevardnadze's comments in Tass, January 16, 1986, FBIS Soviet Union Daily Report, January 17, 1986, p. C2. On SRINF, see Shevardnadze's speech before the CPSU Party Congress, FBIS Soviet Union Daily Report National Affairs Supplement, March 3, 1986, p. 017. On British and French systems, see DeYoung, Karen, Soviets Modify Stance on British, French Arms. Washington Post, July 17, 1986, p. A27.

[5] U.S. Position on space defensive systems was advanced in a letter from President Reagan to General Secretary Gorbachev. The letter remains confidential, but the press has outlined its contents as described by unnamed Administration sources. See, Oberdorfer, Don. Reagan Called Ready to Make Deal on Defensive Arms. Washington Post, August 3, 1986, p. A1–A20. The U.S. position on ASAT's is expressed in U.S. Policy on ASAT Arms Control. Communication from the President of the United States. House Doc. 98–197. Washington, U.S. Govt. Print. Off., 1984.

[6] Speech by General Gorbachev before the CPSU Central Committee, June 16, 1986. Gorbachev discussed verification in his statement on January 15, 1986, published in Pravda, January 16, 1986; FBIS Soviet Union Daily Report January 16, 1986, p. AA1–AA9.

FOR A DEFENSE THAT WORKS, NOT WASTE

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 10, 1986

Mr. DORGAN of North Dakota. Mr. Speaker, the Pentagon has darted out of the blocks to dismiss many critics of its current policies as arm-chair intellectuals who know a lot about military reform and little about combat.

But it's a bit tougher to dismiss the critique of our military policy by a former Marine colonel with combat experience. Col. David Evans, USMC retired, recently levelled his sights on seven deadly flaws of our military system. These were detailed in an article reprinted in the Grand Forks Herald of August 17, 1986.

I include the entire article for my colleagues enrichment, but I do want to highlight Colonel Evans summary argument:

A freeze on defense spending would be an appropriate first step to sort things out. Mindless buying is producing a military described by one former Army general as a "force without power" and at a cost the country cannot afford.

The article follows:

ARE WE DESIGNING FORCES THAT CAN'T WIN?—OUR OWN COMPLEX GEAR COULD BE ENEMY IN WAR

(By David Evans)

When I joined the 3rd Marine Division on Okinawa last year, I was issued brand new equipment. Helmet, pack, canteens, the works. It was the first time in two decades the Marines had ever issued me anything new. Evidence, I thought, that the huge spending increases for defense were finally having an effect. Hard goods were trickling all the way to the tip of the national security spear.

Then I tried to install the leather sweatband in the new German-style helmet made of Kevlar. The simple spring clips on the sweatband of yore had been replaced by fasteners with little metal loops. It took a good half-hour, armed with pliers and jeweler's screwdriver, to work the sweatband into the helmet.

It was obvious the designers of the new headgear were sublimely ignorant of the infantryman's rustic lot in the field, where vise-grip pliers and miniature screwdrivers are as rare as Faberge eggs.

The helmet is symptomatic of the kind of military the United States is producing. It is one rather like the British sports cars of the 1950s. Beautiful to look at, they were nevertheless cantankerous and touchy to operate. Under less than optimum conditions—like rain—their electrical systems were maddening. They stand as an apt paradigm for today's combat systems.

War remains very simple, direct, and brutal. In contrast, our latest combat systems offer baroque complexity. They require the skills of highly trained technicians to understand and maintain. As we have pushed technology, the operating tolerances of our systems have narrowed. The military is now so complex it cannot go to war without air conditioners. Not for the comfort of the troops, mind, but to keep its delicate computers from overheating. The question is whether we are overdesigning forces that cannot win wars.

Indeed, the American military system suffers from seven deadly flaws:

1. The system is not self-correcting. Instead, the American military is stuck in the rut of ingrained and comfortable habit. Too many of the lessons learned painfully years ago remain uncorrected.

When the Marines staggered out of the Chosin Reservoir 35 years ago, they said the standard five-gallon water can was too heavy for troops weakened by fatigue and cold. They suggested a three-gallon, insulated model.

In that engagement, only the simple M-1 rifle, with its loose tolerances and robust operating mechanism, could be kept working in the extreme cold. The temperamental carbine, with its shorter bolt movement, jammed frequently. The complicated Browning Automatic Rifle (BAR) tended to clog with ice, and the Marines urged "simplification of the weapon."

Few of the men who fought that bitter campaign received actual experience in cold-weather operations beforehand. Those who survived commented enviously on the white cloaks worn by the Chinese, which made them all but impossible to spot.

The situation today: White parkas are in the system. Genuine progress there. But the standard water can remains the five-gallon model, uninsulated. "How we're going to get water to the troops remains a basic, unanswered problem," one colonel told me. The M-16A2 rifle, with its close tolerances and short bolt movement, experienced significant failures in cold weather tests in 1984.

The Marines have prepositioned a brigade's worth of equipment in Norway, but they have not designated or trained a specific unit for cold-weather operations.

Whether campaigning in the snow or desert, American troops are likely to encounter Soviet tanks. Their ability to kill them remains dismal. Recall the Army's experience with Task Force Smith, the Rapid Deployment Force of its day, fighting North Korean tanks at Osan in July 1950. The forward companies were overrun because the Army's 2.36-inch bazooka lacked the punch to kill a tank from the front. Today, the infantryman's last-ditch weapon is still essentially a disposable bazooka—the M-72—which fires a warhead that remains too small to inflict a kill.

The Army seems to have forgotten that fighting is largely psychological, and that battles are oftentimes won or lost on the strength of perceptions. If an attacking tank is hit from the front and explodes, an entire armored attack may be halted. Nobody wants to burn to death. On the other hand, if the tank is hit and keeps coming, What incentive does the defending infantryman have to stand and fight?

2. We're easy targets. Three rules for battlefield survival remain unchanged since World War I: keep a low profile, stay off the skyline and spread out. The U.S. military is distinguished by its billboard profile. The standard M-923 cargo truck is a good 10 percent bigger than the M-54 truck of 1960s vintage. Yet the new truck carries the same five-ton load.

The Army's M-2 Bradley troop carrier is fully 10-feet high. Crashing through the woods at Fort Benning, it looks as big as a house.

Standing out against a neutral background is worse—troops moving along the crest of a ridge, for example. There is an electronic skyline, too. Anything that sends out electromagnetic radiation—radars and radios specifically—can reveal one's position. The need to transmit has to be balanced against the risk of detection. Instead, radios have become a convenient crutch. There are about 1,100 of them in a Marine division now, filling the air with mostly routine administrative messages, advertising our position like so many searchlights on a dark night.

Omnidirectional antennas aggravate the situation by broadcasting in every direction. Directional antennas would greatly enhance communications security. One of the more powerful tactical radios, the AN-TSC-95, does not come so equipped, and pours its 1,000 watts of power out in all directions, like one of those faceted mirrored balls that hang from discotheque ceilings. Yet a good high-gain, directional antenna can be had for a fraction of the radio's cost. Claims one signals officer, "You can buy a better antenna for the TSC-95 from Radio Shack than the one that comes with it."

Contrary to the need for dispersion, the massive and more powerful electronics tend to aggregate into large headquarters complexes. A division command post looks like an antenna farm, pumping out electromagnetic radiation, as well as heat and noise from ranks of diesel generators, fairly shouting its location.

3. We're too complicated. The virtue of simplicity runs counter to the reigning devotion to complex weapons. Although more can go wrong with complicated systems, the U.S. military is now freighted with unnecessary complexities.

The Pentagon's approach to weapons design is a major contributor. "Cost-effectiveness analysis," says one former Army officer, "tends to drive one to single-purpose weapons because of the one-on-one simulations and the fact that special-interest communities conduct the analyses." The end effect was captured in one recent report, revealing for its frankness on the matter, "All combat-vehicle programs have designed their own unique weapons stations, resulting in a significant number of single-purpose stations with unique logistics . . . heavy demands on training, and little or no interoperability or commonality . . . between different vehicles."

The Air Force and Navy have incompatible aerial-refueling systems. The Air Force flies "female" fighters; its pilots fly next to the tanker and are plugged in by the boom on the mother ship. The Navy flies "male" fighters, mounting a probe the pilot flies into the tanker's fuel receptacle. Unless both systems are mounted on the tanker, as in the case of the new hermaphroditic KC-10, or the modification kit is handy for the older KC-135, the two systems are not interchangeable.

At a more fundamental level, all the players on the battlefield are not dealing in the same units of measure. Infantry units use kilometers and meters for horizontal and vertical measure, using grid coordinates to mark locations. Pilots flying close air support for them deal in nautical miles, feet above sea level, and latitude-longitude locations.

Some aviators claim the difference is trivial, as it is easy to convert from one to the other. But why convert at all? The conversion process injects an unnecessary source of error. The military adopted 24-hour time to eliminate potential confusion. The same argument applies for problems of location.

4. There is not enough slack in the system. We are building systems where anything less than perfect execution can upset the game plan. Loose tolerances are more

forgiving, especially under the terrific and often unpredictable strains of combat. The Navy's latest air-cushioned amphibious landing craft, the LCAC, is a good example of the kind of unforgiving systems now entering service. Since the LCAC is more like a helicopter with the roof off than a boat, the latest employment manual cautions that the "spotting of cargo is critical" to stay within center-of gravity limits. Three inches is the allowed tolerance. Now imagine doing this with a 60-ton tank from a heaving loading ramp at sea.

Laser-guided bombs are the current rage in high-fashion weaponry. Accurate yes, but they present unique problems. Laser spotters held by troops on the ground generate pulsed codes. These are meant to be read by a seeking device in the nose of the bomb hung under the wing of an aircraft. Yet the ground-based spotter pulses in a three-digit code while the bomb only "recognizes" a four-digit code. So, rather than having both components use the same three- or four-digit code, the bomb's coding has to be carefully translated beforehand into a three-digit equivalent.

There is absolutely no room for error here. Not only must the laser on the ground and the seeker in the air work perfectly, the pilot must be in constant radio contact with the infantryman to ensure that the ground laser is turned on at precisely the right time. If it is turned on too early, the bomb will lock on too early and fall short of the target. Moreover, since the pilot has to ride right down the laser beam, he must come in directly over the soldier's back. Thus, a bomb that falls short is likely to fall on friendly troops.

5. We are not ready for close-in fighting. The Army and Marine Corps have adopted a three-layer approach to anti-tank combat: TOW heavy anti-tank missiles for kills beyond two miles, the DRAGON medium anti-tank missile for kills at about a mile, and shoulder-launched rockets at belt-buckle range.

For these weapons, they have not invested in enough ammunition to do the job. The military does not buy munitions according to war-time need, but on the basis of what share of its peace-time budget it chooses to spend on ammunition. The planned consumption rates that result are absurdly low—in intense combat, one shot every two days for the TOW, and one shot every four days for each DRAGON, for example. "I'll shoot up my allowance in the first five minutes," said one astonished battalion commander when he was informed of these planned firing rates.

Even with adequate stocks of missiles, there are problems. The TOW can be spoofed by smoke and heat. The DRAGON is notoriously unreliable. After a decade of neglect the Army is finally moving to replace the near-useless DRAGON with an effective weapon of European design, but only for select units such as Rangers.

However, few battles are won or lost at long range. Opening fire early at long range can betray one's positions, and Rommel, a master at setting anti-tank ambushes, repeatedly inveighed against opening fire too soon for this very reason.

The nature of the battleground probably will not allow for the distant shots, anyway. Germany, for example, is heavily wooded and urbanized, and the Bundeswehr estimates 55 percent of all targets will be sighted at less than a quarter-mile. The Soviets, too, figure roughly 60 percent of all anti-tank engagements will take place within a half-mile range.

Army Gen. Frederick J. Kroesen, former commander of NATO's Central Army Group, is even more conservative. "Fog . . . and smokegenerating devices in abundance lead me to believe the next war will be won or lost at the 300-meter (fifth of a mile) range, just as in the past."

It is at this vital range that American troops are most vulnerable to the unnerving psychological impact of massed armored attacks, and where they stand virtually naked. The Army and Marines are buying the AT-4 shoulder-fired rocket to replace the M-72. It is not much of an improvement and is known among cynics as "The Paint-Scratcher" because it will not penetrate the frontal armor of modern Soviet tanks.

Effective alternatives are available. Yet the situation now is that Soviet tanks will be able to break through at close range, and then there is almost no limit to what they can do. They will create havoc in the rear, overrunning artillery units with impunity. The standard U.S. 155-mm artillery piece, although an excellent weapon for long-range fire, cannot kill tanks at close range, as it does not come supplied with anti-tank shells.

6. We are over-centralized. The swirling nature of a mechanized war of movement, slugged out at the small-unit level, calls for on-the-spot decisions. Leaders at the head of their troops will see more and react more quickly than commanders in the rear.

"There is no inspiration in the squeaking voice made dim and quavering by a mile of (telephone) wire," said Patton. But state of the art has come to mean centralized command, and a growing family of esoteric command-and-control systems are intended to push the flow of information to the rear.

This definition from a Marine Corps handbook is instructive: "Command-and-control is an active system for decision-making where decision-makers *are some distance from events* (emphasis added) on which their decision is based," and (significantly) "from the people who must carry it out"!

Note the shift away from officers as commanders and leaders to pallid "decision-makers" who, like wingless queen bees, are absolutely dependent on a rich flow of information from engaged troops who have more pressing matters than sending detailed reports to the rear. The big difference from the bunker generalship of the First World War is that what was once done with telephone lines now take place via radio.

The on-site, personal presence of the commander remains the greatest "force multiplier" of all. Instead, he has been pushed to the rear, snuggled up to a dozen or more radios, all broadcasting like beacons telling the enemy exactly where he is.

There are signs of change. Col. Creighton Abrams Jr., commander of the Army's 3rd Infantry Division artillery in Germany and son of the late Army chief of staff, suggests committing each artillery unit in a sector to support a designated front-line maneuver battalion. "This violates the time-honored principle of maximum feasible centralized control of artillery," Abrams admits, "but it frees up the bottleneck" of trying to control all the artillery firing from a central location. Abrams' argument for decentralization recognizes the fast-paced nature of modern maneuver combat, where there isn't time for elaborate coordination through centralized facilities far to the rear.

7. We do not push ourselves in training. The prospect of our complex systems working in battle is not likely to be discovered in peacetime, because our units and systems are rarely stressed under less than ideal conditions. Most large-scale exercises lack operational realism. Intended to orchestrate and rehearse the complicated command relationships stemming from over-centralization, the basic systems are not challenged.

"We should start field problems with a quarter instead of a full tank of gas," says one logistician, in order to pressure the supply systems from the first hours.

Despite all the Pentagon hype about Soviet numerical superiority, we do not train to deal with it. Maneuvers are typically carried out against token and hopelessly outnumbered enemy forces. Although battalion commanders are admonished they must be prepared to fight outnumbered, they practice against company-size foes. Local air superiority is taken for granted. Frequent time-out's are provided to refresh and supply units.

The ingrained and comfortable habits of peacetime exercises are not easily shed; recall that 6,500 troops were hurled against a few hundred haphazardly armed Cubans at Grenada.

Occasionally the defense establishment admits to itself things are badly amiss. Last spring the RAND Corp., a Pentagon-funded think tank, offered this confessional to its board of trustees. "The Army is currently deploying increasing numbers of technically sophisticated weapons that are hard to maintain, extremely expensive, and whose wartime demand rates are difficult to forecast." This assessment applies with equal, if not greater force, to the other armed services.

Appearances can lead to a false perception of power, and the U.S. military stands like a fine porcelain figure, good for display but best not dropped onto the hard surface of the battlefield. How did we get here? By not looking at the reality of war. "Touchy, sensitive, delicate technology has no place at the front line," asserts one Marine reserve colonel. He's right, of course, but that is what the troops have got.

Faddish jargon has become a substitute for clear and serious thinking about the underlying foundations of combat effectiveness. Poetry devoid of philosophy is merely verse, and spending absent a sound concept of national defense is simply procurement. A freeze on defense spending would be an appropriate first step to sort things out. Mindless buying is producing a military described by one former Army general as a "force without power," and at a cost the country cannot afford.

CONVERT SEES THE LIGHT ON NICARAGUA

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 10, 1986

Mr. DORNAN of California. Mr. Speaker, I urge all of my liberal colleagues to carefully read the enclosed article by a repentant radical who has seen the light on Nicaragua.

Mr. David Horowitz, founder of the New Left and a leader of the first anti-Vietnam demonstrations in the Untied States, apparently has taken the time to investigate his own liberal double standards, which characteristically are soft on communism and excoriate America's

allies. For Horowitz, the convoluted perception of reality which liberals embrace is most apparent in the debate on Nicaragua. As Horowitz states, "If my former comrades who support the . . . Sandinistas were to pause for a moment and then plunge their busy political minds into the human legacies of their activist pasts, they would instantly drown in an ocean of blood."

Sadly, his statement is true. Communists have left a legacy of blood, destruction, and oppression. Are we going to let this happen in Nicaragua? It is high time that others like Mr. Horowitz realize that the Soviet Union and other Communist regimes are not to be coddled or treated as moral equivalents but must be vigorously opposed before their terrible legacy can expand unchecked.

I again urge my liberal colleagues to read this article. If someone like David Horowitz can see the light, perhaps some of you will too.

A NEW LEFT RADICAL RECANTS

(By David Horowitz)

(Following are excerpts from a speech given at the University of California in Berkeley. David Horowitz was a founder of the Vietnam Solidarity Campaign and editor of the radical Ramparts magazine. His recent book (co-authored with Peter Collier) entitled "The Kennedys: An American Drama," was on the New York Times and other best-seller lists for months. We thank Mr. Horowitz for his permission to publish these observations.)

Twenty-five years ago I was one of the founders of the New Left. I was one of the organizers of the first political demonstration on the Berkeley campus—and indeed on any campus—to protest our government's anti-Communist policies in Cuba and Vietnam. Tonight I come before you as the kind of man I used to tell myself I would never be.

I offer no apologies for my present position. It was what I thought was the humanity of the Marxist idea that made me what I was then; it is the inhumanity of what I have seen to be the Marxist reality that has made me what I am now. If my former comrades who support the (Nicaraguan) Sandinistas were to pause for a moment and then plunge their busy political minds into the human legacies of their activist pasts, they would instantly drown in an ocean of blood.

The issue before us is not whether it is morally right for the United States to arm the contras, or whether there are unpleasant men among them. Nor is it whether the United States should defer to the wisdom of the Contadora powers—more than thirty years ago the United States tried to overthrow Somoza, and it was the Contadora powers of the time who bailed him out.

The issue before us and before all people who cherish freedom is how to oppose a Soviet imperialism so vicious and so vast as to dwarf any previously known. An "ocean of blood" is no metaphor. As we speak here to-night, this empire—whose axis runs through Havana and now Managua—is killing hundreds of thousands of Ethiopians to consolidate a dictatorship whose policies against its black citizens make the South African government look civilized and humane.

A second issue, especially important to me, is the credibility and commitment of the American Left.

Today the Left dimisses . . . warnings about Soviet expansion as anti-Communist paranoia, a threat to the peace, and a mask for American imperialism. We said the same things about Truman when he warned us then. Russia's control of Eastern Europe, we said, was only a defensive buffer, a temporary response to American power—first, because Russia had no nuclear weapons; and then, because it lacked the missiles to deliver them.

Today, the Soviet Union is a nuclear super-power, missiles and all, but it has not given up an inch of the empire which it gained during World War II—not Eastern Europe, not the Baltic states which Hitler delivered to Stalin and whose nationhood Stalin erased and which are not all but forgotten, not even the Kurile Islands which were once part of Japan.

Not only have the Soviets failed to relinquish their conquests in all these years—years of dramatic, total decolonization in the West—but their growing strength and the wounds of Vietnam have encouraged them to reach for more. South Vietnam, Cambodia, Laos, Ethiopia, Yemen, Mozambique, and Angola are among the dominoes which have recently fallen into the Soviet orbit.

To expand its territorial core—which apologists still refer to as a "defensive perimeter"—Moscow has already slaughtered a million peasants in Afghanistan, an atrocity warmly endorsed by the Sandinista government.

Minister of Defense Humberto Ortega describes the army of the conquerors—whose scorched-earth policy has driven half the Afghan population from its homes—as the "pillar of peace" in the world today. To any self-respecting socialist, praise for such barbarism would be an inconceivable outrage—as it was to the former Sandinista, now contra, Eden Pastora. But praise for the barbarians is sincere tribute coming from the Sandinista rulers, because they see themselves as an integral part of the Soviet empire itself.

"The struggle of man against power is the struggle of memory against forgetting." So writes the Czech novelist Milan Kundera, whose name and work no longer exist in his homeland.

In all the Americas, Fidel Castro was the only head of state to cheer the Soviet tanks as they rolled over the brave people of Prague. And cheering right along with Fidel were Carlos Fonseca, Tomas Borge, Humberto Ortega, and the other creators of the present Nicaraguan regime.

One way to assess what has happened in Nicaragua is to realize that wherever Soviet tanks crush freedom from now on, there will be two governments in the Americas supporting them all the way.

About its own crimes and for its own criminals, the Left has no memory at all.

To the Left I grew up in, along with the Sandinista founders, Stalin's Russia was a socialist paradise, the model of the liberated future. Literacy to the uneducated, power to the weak, justice to the forgotten—we praised the Soviet Union then, just as the Left praises the Sandinistas now.

In the society we hailed as a new human dawn, 100 million people were put in slave-labor camps, in conditions rivaling Auschwitz and Buchenwald. Between 30 and 40 million people were killed—in peacetime, in the daily routine of socialist rule. While leftists applauded their progressive policies and guarded their frontiers, Soviet Marxists killed more peasants, more workers, and even more Communists than all the capitalist governments together since the beginning of time.

The Left would still be denying the Soviet atrocities if the perpetrators themselves had not finally acknowledged their crimes. In 1956, in a secret speech to the party elite, Khrushchev made the crimes a Communist fact; but it was only the CIA that actually made the fact public, allowing radicals to come to terms with what they had done.

Khrushchev and his cohorts could not have cared less about the misplaced faith and misspent lives of their naive supporters on the Left. The Soviet rulers were concerned about themselves: Stalin's mania had spread the slaughter into his henchmen's ranks; they wanted to make totalitarianism safe for its rulers. In place of a dictator whose paranoia could not be controlled, they instituted a dictatorship by directorate—which (not coincidentally) is the form of rule in Nicaragua today. Repression would work one way only: from the privileged top of society to the powerless bottom.

The year of Khrushchev's speech—which is also the year Soviet tanks flattened the freedom fighters of Budapest—is the year that tells us who the Sandinistas really are.

Because the truth had to be admitted at last, the Left all over the world was forced to redefine itself in relation to the Soviet facts. China's Communist leader Mao liked Stalin's way better. Twenty-five million people died in the "great leaps" and "cultural revolutions" he then launched. In Europe and America, however, a new anti-Stalinist Left was born. This New Left, of which I was one of the founders, was repelled by the evils it was now forced to see, and embarrassed by the tarnish the Soviet totalitarians had brought to the socialist cause. It turned its back on the Soviet model of Stalin and his heirs.

But the Sandinista vanguard was neither embarrassed nor repelled. In 1957, Carlos Fonseca, the founding father of the Sandinista Front, visited the Soviet Union with its newly efficient totalitarian state. To Fonseca, as to Borge and his other comrades, the Soviet monstrosity was their revolutionary dream come true. In his pamphlet, A Nicaraguan in Moscow, Fonseca proclaimed Soviet Communism his model for Latin America's revolutionary future.

This vision of a Soviet America is now being realized in Nicaragua. The commandante directorate, the army, and the secret police are already mirrors of the Soviet state—not only structurally but in their personnel, trained and often manned by agents of the Soviet axis.

But the most important figure in this transformation is not a Nicaraguan at all. For twenty years, from the time the Sandinistas first arrived in Havana, they were disciples of Fidel Castro. With his blessings they went on to Moscow, where Stalin's henchman completed their revolutionary course. Fidel is the image in which the Sandinista leadership has created itself and the author of its strategy. Its politburo, the comandante directorate, was personally created by Fidel in Havana on the eve of the final struggle, sealed with a pledge of millions in military aid. It was Fidel who supplied the arms with which the Sandinistas waged their battles, just as he supplied the Cuban general—Zenen Casals—who directed their victorious campaign (just as the Soviets supplied the general who directed Fidel's own victory at the Bay of Pigs). Without Castro's intervention, Arturo Cruz and the other anti-Somoza and pro-democratic contras would be the government of Nicaragua today.

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And it was Fidel who showed the Sandinistas how to steal the revolution after the victory, and how to secure their theft by manipulating their most important allies: the American Left and its liberal sympathizers.

To believe in the revolutionary dream is the tragedy of its supporters; to exploit the dream is the talent of its dictators. Revolutionary cynicism, the source of this talent, is Fidel's most important teaching to his Sandinista disciples. This is the faculty that allows the comandantes to emulate Fidel himself: to be poets and hangmen at the same time. To promise democracy or organize repression, to attack imperialism and join an empire, to talk peace and plan war, to champion justice and deliver Nicaragua to a fraternity of inhumane, repressive, militarized, and economically crippled states.

"We used to have one main prison, now we have many," begins the lament of Carlos Franqui, a former Fidelista, for the paradise that Nicaragua has now gained. "We used to have a few barracks; now we have many. We used to have many plantations; now we have only one, and it belongs to Fidel. Who enjoys the fruits of the revolution, the houses of the rich, the luxuries of the rich? The comandante and his court."

The idea that Marxist revolution will mean economic benefit for the poor has proved to be the most deadly illusion of all. It is because Marxist economies cannot satisfy economic needs—not even at the levels of the miserably corrupt capitalism of Batista and Somoza—that Marxist states require permanent repression to stifle unrest and permanent enemies to saddle with the blame. This is also why Castro has found a new national product to supply to the Soviet market (a product his Sandinista disciples are in the process of developing in their turn). The product is the Cuban nation itself, as a military base for Soviet expansion.

The event that sealed the contract for this development was the moment of America's defeat in Vietnam in April 1975. This defeat resulted in America's effective withdrawal from the crucial role it had played since 1945, as the guardian of the international status quo and the keeper of its peace.

To the Soviet imperialists, America's loss was an opportunity gained. In 1975 the Kremlin began what would soon be a tenfold increase in the aid it has been providing to Cuba. Most of the aid was of military intent. Toward the end of the year, 36,000 Cuban troops surfaced in Africa, as an interventionary force in Angola's civil war. Soviet aid to Cuba tripled and then quintupled as Castro sent another 12,000 Cuban troops to provide a palace guard for Ethiopia's new dicator. Mengistu Haile Mariam, who had thrown himself into the Soviet embrace with a campaign which he officially called his "Red Terror." A year after his henchmen had murdered virtually the entire graduating class of the high schools of Addis Ababa—just the most poignant of Mengistu's 100,000 victims—Fidel presented him with a Bay of Pigs medal. Cuban socialism's highest award.

Ethiopia's dictator is only one of the international heroes who regularly pass through the Cuban base to be celebrated trained, and integrated into a network of subversion and terror that has come to span every continent of the globe. And in the Sandinista revolution Fidel's colonial plantation has produced its most profitable return: an opportunity for Moscow to expand its investment to the American land mass itself.

Nicaragua is now in the grip of utterly cynical and utterly ruthless men, exceeding even their sponsors in aggressive hostility to the United States. The Soviets may be the covert patrons of the world's terrorist plague, but not even they have had the temerity to embrace publicly the assassin Qaddafi as a "brother" the way the Sandinistas have. The aim of the Sandinista resolution is to crush its society from top to bottom, to institute totalitarian rule, and to use the country as a base to spread Communist terror and Communist regimes throughout the hemispheres.

The Sandinista anthem which proclaims the Yankee to be the "enemy of mankind" expresses precisely the revolutionaries sentiment and goal. That goal is hardly to create a more just society—the sordid record would dissuade any reformer from choosing the Communist path—but to destroy the societies still outside the totalitarian perimeter, and their chief protector, the United States.

I would like to say this to my former commrades and successors on the Left: you are self-righteous and blind in your belief that you are part of a movement to advance human progress and liberate mankind. You are in fact in a league with the darkest and most reactionary forces of the modern world, whose legacies—as the record attests—are atrocities and oppressions on a scale unknown in the human past. It is no accident that radicals in power have slaughtered so many of their own people. Hatred of self, and by extension one's country is the root of the radical cause.

As American radicals, the most egregious sin you commit is to betray the privileges and freedoms ordinary people from all over the world have created in this country—privileges and freedoms that ordinary people all over the world would feel blessed to have themselves. But the worst of it is this: you betray all this tangible good that you can see around you for a socialist pie-in-the-sky that has meant horrible deaths and miserable lives for the hundreds of millions who have so far fallen under its sway.

TROUBLE IN PARADISE: THE SOVIETS MAKE INROADS IN THE SOUTH PACIFIC

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 10, 1986

Mr. BROOMFIELD. Mr. Speaker, the Soviet Union sees the South Pacific as a vital area into which they are projecting economic, diplomatic, and military influence. Our country must do more to protect U.S. interests in that strategic region. We must act forcefully and decisively in formulating a stronger policy for the South Pacific.

Recent events have shown that now is the time for the United States Government to do more to buttress our South Pacific foreign policy in order to keep the Russian bear out of the South Pacific. Already, a number of island nations in that area are responding to Soviet overtures. Believe it or not, the Russians have succeeded in opening the door to the South Pacific.

Using the former United States military base at Cam Rahn Bay in Vietnam, the Soviet Pacific Fleet is growing and extending its area of operations. The Soviet Union is attempting to sign fishing and port access agreements, and establish diplomatic relations with a number of South Pacific nations. Soviet influence will inevitably grow and United States will suffer in the final analysis.

Now is the time to strengthen our relations with the nations in the South Pacific. It is time for us to act quickly and firmly. That region is too important for us to ignore.

With these thoughts in mind, I commend the following speech at the Heritage Foundation by Representative BEN BLAZ of the Territory of Guam to my colleagues in the Congress.

The text of the speech follows:

RETURNING TO PARADISE: COMBATING THE SOVIET THREAT TO THE SOUTH PACIFIC

(By Representative BEN BLAZ)

The Southwest Pacific is no longer a peaceful, palm fringed preserve of American goodwill. The region, long a staunch U.S. ally, has been thrust into the global struggle by a new Soviet strategy. The South Pacific has become the newest area of superpower rivalry.

The U.S. faces a three-pronged Soviet strategy in the region. Soviet naval expansion has made their Pacific fleet their largest and gained them their long-sought goal of a warm water port at Vietnam's Cam Rahn Bay—ironically a U.S.-built port.

Politically, they are attempting to inject themselves into the region through expanded diplomatic contacts and efforts at spreading nuclear free fallacies. Those efforts are complemented by economic ploys such as so-called fishing and economic development agreements aimed at securing port access and eventualy naval and air facilities.

The Soviets are capitalizing on several trends in the region: (1) the rise in nationalistic/anti-colonial sentiment; (2) the spread of nuclear free Pacific fervor; (3) resentment over disputes with U.S. commercial fishermen; and (4) resentment with French nuclear and colonial policies. These developments threaten a major pillar of our Pacific Basin policy—strategic denial of the area to hostile outside forces.

The stakes are substantial: (1) the U.S. alliance structure in the Pacific and Southeast Asia; (2) vital sea lines of communication to U.S. allies and trading partners; (3) the right of passage and port entry for our nuclear Navy; (4) access to the natural resources of Oceania and the Indian Ocean; and (5) American prestige in the all-important Asia-Pacific era.

TWOFOLD NATURE OF THE PROBLEM

There are really two problems confronting the United States in the South Pacific: the long-term Soviet challenge in the region and the current trend of the area's nations to flirt back.

The Soviet half of the equation is easiest to understand. Soviet leaders have decided to become players in Asia and the Pacific because of the phenomenal increase in trade and development in the region and the Pacific Basin's enormous potential for future growth.

The expansion over the past decade of the Soviet Pacific Fleet—which is now the largest fleet in their navy—and the development of Soviet naval and air bases at Cam Rahn Bay are the most visible signs of this new Soviet thrust in the region.

The Soviets want to gain access and bases for their fleet and aircraft through fishing

and other economic development and diplomatic agreements; and they seek to deny U.S. ships and aircraft access and bases and encouraging nuclear paranoia and underwriting extremist elements of the nuclear free Pacific movement.

The problem of South Pacific nations flirting back at the Soviets is less clearly understood. Previous Soviet attempts in the 1970s were ignored or rebuffed by South Pacific nations. But now some of these nations are responding, accepting Soviet aid and diplomatic relations, and providing port access and on-shore facilities for Soviet commercial vessels.

New Zealand has refused U.S. nuclear Navy port visits because the Labor Party there has swallowed the fatal fallacy, actively promoted by Soviet propaganda, that unilaterally banning our nuclear Navy will protect them. The United States has responded by ending New Zealand's role in the ANZUS Mutual Defense Pact.

The Republic of Kiribati is renewing its $1.5 million fishing agreement with the Soviets and may add port access to the benefits granted Soviet vessels. This agreement allows Soviet trawlers and spy ships access to the largest exclusive economic zone in the Pacific—several million square miles—and positions their spy ships to observe testing at our Kwajalein Missile Test Range in the Marshalls.

Kiribati leaders have said they entered this Russian gambit out of disgust and resentment with the U.S. failure to enter a tuna fishing rights agreement that would allow the island to collect fishing fees from U.S. tuna boats.

Vanuatu has decided to establish diplomatic ties with Cuba, Libya, and the Soviet Union as well as provide the Soviets port and on-shore facilities at Espiritu Santo (a U.S. base in World War II) in a soon-to-be-announcing fishing treaty. Vanuatu's proximity to the racially troubled French colony of New Caledonia and potential for influencing developments there are very disturbing.

Traditional friends such as Fiji also are entertaining Soviet offers of fishing treaties.

Anger with French nuclear and colonial policies has led to heightened anti-nuclear sentiment and the development of South Pacific nuclear free zones. French policies in Tahiti and New Coledonia also create resentment in the region and these anti-French feelings wash onto the United States because of the mistaken belief that we can force the French to change their policies.

The South Pacific, our World War II ally, is allowing Soviet inroads because of disillusionment with the United States and resentment with what the region's leaders see as our lack of interest in their welfare as well as disagreement over fishing policies.

In a sense, we are the victims of the passing of the Coral Sea generation. Those South Pacific leaders who remember the American servicemen, American democracy and equality, and the enormous productive power of the American economy are passing. This generation is being replaced by a younger generation which has no memory of the war-years partnership. They are more critical of our commitment to the region and want to see positive action from us to demonstrate our interest. Our reservoir of goodwill has not run out completely but we can see the end to it unless we act soon and act forcefully.

The most pressing issue is resentment with what the leaders see as years of "Jolly Roger" tactics by American tuna boat operators who refused to recognize the islands' fishery rights and would not pay fishing fees for tuna caught in the nation's exclusive economic zones—their major sources of wealth.

It would be difficult to overemphasize the deep resentment these "tuna wars" have created in the region. It is not an exaggeration to say that the current U.S. image in the South Pacific is dominated by the vision of rapacious and arrogant tuna boat operators.

Kiribati's Russian gambit is seen in the area as a direct result of the U.S. government's unwillingness to negotiate a new fishing pact recognizing these rights and fee payments.

The absence of adequate and clearly targeted U.S. financial aid to the region and the possible cut in AID funding for the next fiscal year are also a large part of the problem.

COMBATING THE SOVIET THREAT TO THE SOUTH PACIFIC

There is not much that can be done in the short term about Soviet adventurism in the region, but there is much we can do about the sudden receptivity of the region to Soviet allurements.

A complete denial of a Soviet presence in the region is not feasible or probably even desirable. We have political and economic relations with the Soviet Union, as do our closest allies. Why shouldn't the South Pacific?

Most important, we must recognize the roots of the problem in the South Pacific lie in changing leadership and the perceptions of the new regional leaders with short-term economic and political problems with the United States.

Who are these new generation leaders and what is it they seek for their nations? What do they want from the Soviets and us?

"The Pacific Way" is anti-colonial, yet conservative; traditionalist yet Christian; issues are openly debated but resolved through quiet compromise and consensus decision making.

The region is politically and culturally conservative with a strong commitment to democratic institutions and pluralistic societies. Interpersonal relationships are extremely important. Face-to-face dealings can solve problems thought unsolvable.

There is no grinding poverty, no clashing class conflicts. Families and Kin groups provide basic necessities and bind all levels of society.

The ideal leader in the Pacific Way is the person who distributes the food, goods, resources as widely and fairly as possible.

So in international perceptions and relations, South Pacific leaders tend to view issues in terms of which countries can best approach the ideal of the Pacific Way—which country will be seen as giving—or thought likely to give—the fairest payments for services or the fairest amount of aid.

In short, the Pacific Way is diametrically opposed to everything communist doctrine and practice stand for. Despite our disagreements with regional leaders, the South Pacific retains a strong affinity for Americans and American ideals. Island leaders welcome U.S. interests, involvement, and concern, especially if it is followed up with aid and trade over the long term.

Few regional leaders savor the prospects of superpower competition, but they have discovered the best way to get our attention is to flirt back at the communists.

The leaders and people of the South Pacific want to be our friends. Can we be theirs?

LESSONS FROM FREE ASSOCIATION NEGOTIATIONS

The long, complex negotiations between the U.S. and Micronesia grappled with the same basic issues we face in the South Pacific today: How to meet the conflicting needs and wants of small Pacific island nations while protecting our preeminent strategic interests in the region.

The island mini-states want independence, sovereignty, dignity as members of the world community, political stability and, most important, assured long-term economic growth so they can gain a better life for their people. The United States wants assurance of political stability and strategic denial of the area to hostile outside forces.

The outcome of 17 years of difficult negotiations with Micronesia was the U.S. recognition that there is not necessarily an inherent conflict between self-determination/economic development and strategic denial.

By our recognizing that we had a responsibility and self-interest in accepting and respecting Micronesia's sovereignty and underwriting its development, the Micronesians, persuaded by our willingness to negotiate a long-term commitment, were willing to endorse and support our strategic interests.

The South Pacific is not in the same situation as Micronesia but what I believe they are saying to us is, if we are not interested in their long-term economic well-being (beyond lip service and about $8 to $10 million a year in development aid), then they will go elsewhere for underwriters.

The essence of the free association agreement with Micronesia—a long-term, comprehensive commitment to the region's political and economic development in return for strategic denial of the area—is the solution we are seeking with the South Pacific.

I am not suggesting we enter an auction with the Soviets for the favor of the South Pacific. That leads us into a game of manipulation we should not play and does not address the real long-term needs of the region.

Nor am I suggesting we shoulder the burden alone. Whatever we do in the region, we must do it as a community effort with regional organizations like the South Pacific Forum and our major allies, especially Japan, Australia and New Zealand. This does not mean the aid cannot be bilateral and clearly marked USA.

I am not talking about huge expenditures even over the long run. There is a fundamental reality of scale here that places clear limits on the amount of aid the islands can absorb. There are about 5 million people on islands scattered over several million miles of ocean.

THOUGHTS ON AN ECONOMIC/POLITICAL STRATEGY FOR THE PACIFIC BASIN

In conclusion, I offer the following thoughts for a plan to combat the Soviet threat to the South Pacific:

(1) In conjunction with our allies, negotiate with the region a comprehensive, long-term development plan, properly scaled to the size and needs of the island nations—a South Pacific initiative that addresses immediate solutions to major stress points in our relationship with the region; conclude at the earliest possible time a fisheries treaty recognizing the EEZs and fishing fee rights of the region.

This plan should also address long range plans to better integrate, economically and

strategically, the South Pacific, Micronesia, and our Southeast Asian allies.

(2) Upgrade our presence. Our physical presence in the region is minimal and that lack of constant personal contact on leadership as well as academic and people-to-people levels feeds an impression of the U.S. as unconcerned, uncaring, and uninterested in the welfare of South Pacific people.

We need to return to paradise, to rediscover the South Pacific on all levels—diplomatically and politically, with expanded cultural ties, tourism, business investment—a broad spectrum presence.

(3) Strengthen the moderate center. Expand the moderate center of the political spectrum in the region through regional approach and support. Allow moderates to bring extremist nations around through Pacific Way consensus.

(4) Clarify our nuclear position and disengage from the French connection through an expanded public displomacy effort in the region. The U.S. does not now and does not intend to dump nuclear waste, conduct nuclear tests, or store nuclear weapons in the South Pacific.

This policy conforms with the basic needs of the island states for nuclear weapons free societies.

We have little control over French actions, and if we cannot make them see their nuclear testing policy is creating strategic problems in the region, we should reevaluate our position on French nuclear testing and, if needed, clearly disassociate from their policy.

We must also seriously examine and, if necessary, clearly disassociate ourselves from French colonial policy in Tahiti and New Caledonia. The volatile situation in New Caledonia and the specter of racial war there between the indigenous Melanesians and white settlers requires us to speak out on behalf of democratic self-determination. We have an excellent, progressive record of fostering self-determination in the Philippines and Micronesia. We should not allow ourselves to be associated with French Policies that regional leaders view as colonial and regressive. We must continue to stress that any unilateral barring of U.S. nuclear forces is dangerous and destabilizing because it can generate in nations a perception of superior Soviet strength and the attendant political influence that might be gained by that perception.

HOLY CROSS CHURCH TO MARK CENTENNIAL CELEBRATION

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 10, 1986

Mr. GUARINI. Mr. Speaker, Archbishop Theodore E. McCarrick, of the archdiocese of Newark, will preside and will be principal concelebrant at a mass with more than 25 priests on the altar of Holy Cross Church, Harrison, NJ, at 12 noon on Sunday, September 14, 1986, to celebrate the 100th anniversary of the dedication of Holy Cross Church building. Holy Cross is the oldest Catholic parish in the West Hudson area.

Among the cocelebrants will be the pastor, Rev. Msgr. Hugh A. O'Donnell, who will be joined by the present and former curates of the church and by 25 of the more than 40 priests who grew up in the parish. They will be coming from many different cities to participate in the celebration. Most Rev. Theodore E. McCarrick, archbishop of Newark, will deliver the homily.

Over the past century, the parish has grown in population but decreased in area. In 1868, when it was founded as a mission parish, it numbered approximately 400 families and stretched as far north as Lyndhurst. Now covering only Harrison, it serves about 1,200 families. Holy Cross is the mother church of St. Cecilia's, Kearny.

The name has also been changed. When the Mission Church of St. Pius at Third and Jersey Streets was replaced by the present imposing edifice, it was consecrated as the Church of the Holy Cross. Parish records do not reveal any reason for this name change. Served in early years by priests from St. Patrick's Pro-Cathedral, Newark, the first resident pastor was Rev. James J. McGahan, who was assigned in 1871.

He was succeeded in 1974 by Rev. Thaddeus Hogan. In 1878, Rev. Pierce McCarthy became pastor, and in 1883, Rev. Maurice P. O'Connor assumed the pastoral duties. It was during his pastorate that the present church was built, with the cornerstone being laid on the Feast of the Assumption, August 15, 1886. Father O'Connor was very active in the community affairs until his death on December 13, 1913.

In April 1914, Msgr. George J. Fitzpatrick became pastor. It was he, who, in 1928, erected the twin towers of the church which house one of the finest sets of chimes in the country, an 11-bell carillon. The present Holy Cross School was erected at Fourth and Jersey Streets in 1915 during the tenure of Msgr. G.L. Fitzpatrick.

In June 1942, Msgr. William A. Costelloe, who had been a curate at Holy Cross, became pastor. Under his administration, the extensive library was established in the school and the children's playground property was acquired.

Following the death of Monsignor Costelloe, Msgr. Harold V. Fitzpatrick became pastor in 1964. Unused for many years because of worn out parts, the chimes were restored and started ringing again on Easter Sunday of 1968. During Monsignor Fitzpatrick's pastorage, he modernized the church auditorium which included the addition of another entrance, serving both the church proper and the auditorium.

In 1972, Rev. Edwin J. Paulmann was appointed pastor of Holy Cross. All the stained glass windows, which had been originally crafted in Germany, were repaired or replaced as necessary. Father Paulmann conscientiously maintained the church building until his retirement.

Rev. Msgr. Hugh A. O'Donnell was appointed pastor in 1981. Monsignor O'Donnell has continued to make improvements on the entire physical property of Holy Cross, including the convent, the school, and the church. Recognizing the desire of the newly arriving Portuguese-speaking people to worship God in their own language, Monsignor O'Donnell was instrumental in providing a Portuguese language mass every Sunday in Holy Cross Church with the services of a Portuguese-speaking priest to meet their spiritual needs.

Holy Cross Church has helped people in their worship of God for 100 years and, God willing, will continue to do so for many years more.

I am sure my colleagues here in the House of Representatives and those former parishioners of Holy Cross Church wish to join me in paying tribute to a grand and illustrious parish.

I will close with a fervent wish on behalf of all the good people of many nationalities, supporters, and friends that the Holy Cross Church prospers and continues its good works in its second century.

FLORIDA GRAPEFRUIT HELPS "PEEL-IT-OFF"

HON. TOM LEWIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 10, 1986

Mr. LEWIS of Florida. Mr. Speaker, more and more physicians are agreeing that a proper diet and weight control are prime ways to reduce the overall risk of disease. Cancer, hypertension, diabetes, osteoporosis, and coronary heart disease, the Nation's No. 1 killer, are just a few of the diseases where diet appears to play an important role in prevention and control.

As health care costs, now some $400 million per year, continue to rise, nutrition is becoming of increasing concern to consumers, businesses, and legislators. Lost productivity, unfit workers, and limitations to mobility from poor health and shortened lifespans are just a few of the conditions which could respond to national nutritional diligence.

Despite increased media coverage of nutrition in recent years, Americans still struggle with achieving a healthful diet and fit lifestyle. Almost 90 percent of Americans think they weigh too much, according to Better Homes and Gardens magazine. Some 115 million are trying to diet each year. Weight problems are increasing in children, with some 10 to 15 percent of youngsters and 20 percent of teens judged to be overweight.

A telephone poll conducted by the Hearst Corp. revealed that more than half of the respondents did not know how many calories women ages 20–45 need daily. More than half of those surveyed did not know that the human body gets energy from carbohydrates, protein, and fat, or what percentage of excess pounds was necessary to be considered obese.

Americans are, by and large, nutritionally ignorant, and they are looking for more information to help them develop the healthy lifestyles they would like. A recent Food Marketing Institute study revealed that more than one-third of Americans feel supermarkets should supply nutrition information.

The Florida Department of Citrus has been a leader in providing the American public with helpful nutrition information. For more than 50 years, American shoppers have been able to learn basic nutrition principles through programs and materials sponsored by the Florida Department of Citrus.

This year, the FDOC is spearheading a new campaign to continue to encourage consum-

ers to pay attention to their diet. It is called Peel-It-Off. This diet and fitness program is designed to motivate consumers to consider January 1987 as National Diet Month, a time to start the new year with better health habits and to undo any excesses and negligence of health indulged in during the holidays.

Florida citrus growers are proud of the nutritional quality of their fruit. Their grapefruit is an excellent source of vitamin C, potassium, B vitamins and fiber, and has only 80 calories per grapefruit.

The Peel-It-Off educational effort will promote safe and healthful eating, whatever an individual's diet and exercise plan may be. Backed by nationwide print publicity, and using a celebrity dieter to motivate consumers to take charge of their health, this intensive 1-month effort will provide much needed encouragement to the thousands of Americans who seek healthier, more productive lives.

Mr. Speaker, through my capacity as Florida's only Representative on the House Agriculture Committee, and given the importance of sound nutrition and the serious consequences to our Nation if it is neglected, I hereby submit for this RECORD this outline of the Peel-It-Off Program and urge my colleagues to support the Florida Department of Citrus' efforts to promote January as National Diet Month.

DEPUTY SECRETARY WHITEHEAD ON FOREIGN AID

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 10, 1986

Mr. COURTER. Mr. Speaker, congressional budget cutting has been such that even the most traditional and essential expenditures are being called into question, and some Americans believe that foreign assistance is a good place to begin with the scissors. But as Deputy Secretary John C. Whitehead explains in the following letter, much of our foreign assistance serves more than one purpose, one of which is American national security. In many cases to cut foreign aid is to diminish the American foreign presence and endanger the bases for the American forces which are posted abroad to guarantee American security. I hope my colleagues will consider closely the arguments which Deputy Secretary Whitehead advances in this letter to the Wall Street Journal of September 3, 1986.

A SAVING THE U.S. CAN'T AFFORD

Harry Shaw (editorial page, July 15) argues that the administration has overstated the seriousness of the $5 billion cut in its request of $22.6 billion for the international-affairs functions of the fiscal 1987 budget. Mr. Shaw contends that the administration can muddle through without dire consequences if we shave "big-ticket items" such as aid to Israel, Egypt, NATO and other allies who provide military facilities to us, and assistance to Central America; and if Congress gives the administration more flexibility in allocating foreign aid.

Mr. Shaw's analysis is a strategy of retreat. By concentrating only on 1987, he neglects the broader context and trends of our diminishing resources for foreign assistance. FY 1987 is the second straight year of major budget cuts in foreign aid funds, and there is every indication that the same restrictive budgetary environment will be with us in 1988 and beyond. The question is not whether we can adjust to a single year's budget problem—we could—but whether we can afford continuing erosion of the vital U.S. security interests that sustained lower foreign assistance levels will bring about.

Mr. Shaw mistakenly assumes that countries providing us military facilities will accept without question the deep reductions he contemplates. Our friends see their interests clearly—and they must now measure them in an environment of declining benefits of cooperating with the U.S. and rising costs in terms of threats to their security.

Our development and security assistance requests for $16.2 billion in 1987 serve interrelated and crucial objectives:

—34% would go to Israel and Egypt, reinforcing our search for Mideast peace.

—26% would go to base-rights countries such as the Philippines, Greece and Turkey, and military-access states such as Kenya, Korea and Pakistan.

—11% would go to Central America and the Caribbean.

—17% would go to countries who share our democratic values such as Colombia and India; where new democracies have emerged such as Bolivia and Uruguay; and where basic economic reforms are occurring such as Ecuador and Senegal.

The funding cuts that Congress would have us absorb would require us to turn our backs on critical countries in Africa and the Middle East when their need for U.S. support has never been greater. The resulting void in strategic areas encourages our adversaries to fill in behind us.

It would cost the U.S. many times the $800 million Mr. Shaw claims we would save to replace the bases we could lose by "shaving" our security assistance. The political costs are equally daunting. Standing with the U.S. and supporting Western security interests can be risky. How do we explain to Egypt and Morocco that budget cuts are "inevitable" in light of the dangers they face because they are working with the U.S. toward peace in the Middle East? If countries support publicly U.S. interests and in return see they must stand alone as we work out our sums in the budget game Mr. Shaw would have us play, how can we advance our foreign-policy interests?

JOHN C. WHITEHEAD,
Deputy Secretary, State Department.

COMMEMORATIVE GOLD AND SILVER COINS IN CELEBRATION OF THE 100TH CONGRESS

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 10, 1986

Mr. FASCELL. Mr. Speaker, in January 1987, the 100th Congress of the United States will convene. This occasion will be a milestone not only for this institution, but for American constitutional and representative Government. Our two-century experiment in democracy has revealed that the legislative branch, especially the House of Representatives, is what one Member called "a mirror in which the American people can see themselves."

Like the U.S. population, Congress has exhibited tremendous historical growth in its size and workload. The Senate's size is, of course, fixed by the number of States regardless of population; in fact, this is the only provision of the Constitution which cannot be altered without the express consent of all the States. Through the 19th century, the House expanded somewhat erratically, with its greatest periods of growth occurring in the first two decades of the Republic and again immediately following the Civil War. Both Houses have apparently attained their ultimate size: since 1910, only Alaska and Hawaii have been added, and the House has remained constant at 435 Members—with a brief interval at 437 immediately following the admission of Alaska and Hawaii.

Looking at the first Congress through modern eyes, one is struck by the relatively small circles of people involved. The House of Representatives, that "impetuous council," was in 1789 composed of 65 Members—when all of them showed up. The aristocratic Senate boasted only 26 Members, two from each of the original 13 States.

Growth has profoundly affected the work of Congress. It compelled the House to develop strong leaders, to rely heavily on its committees, to impose strict limits on floor debate, and to devise elaborate ways of channeling the flow of floor business. It is no accident that strong leaders emerged during the House's rapid growth periods. After the initial growth spurt of the first two decades of the Republic, vigorous leadership appeared in the person of Henry Clay, whose speakership—1811–14, 1815–20, 1823–25—demonstrated the potential of that office. Similarly, post-Civil War growth was accompanied by an era of strong speakers lasting from the 1870's until 1910. Size is not the only impetus for strong leadership, but it tends to centralize procedural control.

In the smaller and more intimate Senate, the evolution has been more gradual. The relative informality of Senate procedures, not to mention the long-cherished right of unlimited debate, testify to the loose reins of leadership. Compared with the House's elaborate system of rules and precedents, the Senate's rules are relatively brief and simple. Informal negotiations among Senators interested in a given measure prevail, and debate is typically regulated by unanimous-consent agreements engineered by the parties' floor leaders.

This spectacular growth—in number of people and in bricks and mortar—has profoundly altered the operation of Congress as a representative assembly. Whereas once Members dealt with each other directly on a daily basis when Congress was in session, they often interact today through staff aides and complicated organizational arrangements. Informal relationships have been replaced by rules, procedures, and precedents. In short, Congress has shifted perceptibly from a small, unified, corporate body to one that has a bureaucratic character—with all of the trappings of size, complexity, specialization, and routinization.

During the Republic's early days, the Government at Washington was, as the authors of Federalist 22 put it, "at a distance and out of

sight." Lawmaking was a part-time occupation. As President John F. Kennedy was fond of remarking, the Clays, Calhouns, and Websters of the 19th century could afford to devote a whole generation or more to debating and refining the great controversies at hand. During the 1920's, as recalled by Representative Joseph W. Martin, of Massachusetts, the most pressing issue considered by the Foreign Affairs Committee during one session was a $20,000 authorization for an international poultry show in Tulsa, OK.

Even in the 1950's, the legislative schedule was quite manageable, as indicated in Speaker Samuel Rayburn's description of a Representative's ideal day's activities:

The average Member will come down to the office around 8 or 8:30. He spends his time with visitors until around 10 o'clock, then he goes to a committee meeting, and when the committee adjourns he comes to the House of Representatives, or should, and stays around the House Chamber and listens.

Needless to say, the days of a single morning committee hearing and time to witness the entire floor proceedings in the afternoon are long gone. Conflicting committee sessions and snatches of floor deliberations are now the order of the day.

Congress' workload—once limited in scope, small in volume, and simple in content—has grown to staggering proportions. In general, the number of measures introduced and passed has risen, as has the number of committee and subcommittee meetings and the number of hours Congress is in session. By every measure—hours in session, committee meetings, floor votes—the congressional workload just about doubled in the 20 years between 1957 and 1977, though it has since declined.

In the face of a workload expanding both in quantity and breadth of subject matter, Congress responded by restricting the depth of its involvement—mainly by concentrating on fewer but more complex issues; it delegated more decisions to executive-branch agents, and shifted its own role to that of monitor, vetoer, and overseer. The proliferation of reporting requirements, legislative approval and veto provisions, and oversight activities testified to this strategic shift. Congress eventually countered this heightened dependence upon the Executive in the wake of the Vietnam and Watergate crises by striving to regain control it had delegated away. This legislative resurgence, marked by the 1973 war powers resolution and the 1974 Congressional Budget and Impoundment Control Act, has substantially restrained the tendency toward Presidential excess.

Embracing John Locke's doctrine that "the legislative is not only the supreme power, but is sacred and unalterable in the hands where the community have placed it," the Constitution vests all legislative powers in Congress, the first branch of Government. The breathtaking array of powers granted to the legislative branch reflects the framers' view of the legislature as the chief repository of governmental powers. Article I, section 8, of the Constitution, which enumerates Congress' powers, expresses the framers' vision of a vigorous legislature as a keystone of energetic government.

Raising and spending money for governmental purposes lies at the heart of Congress' prerogatives. The "power of the purse" was the lever by which parliaments historically gained bargaining advantages over kings. The Constitution's authors, well aware of this, gave Congress full power of the purse. There are two components of this power: taxing and spending.

Financing the Government is carried out under a broad mandate in article I, section 8: "The Congress shall have power to lay and collect taxes, duties, impost and excises, to pay the debts and provide for the common defense and general welfare of the United States." Although this wording covered all known forms of taxing, there were limitations: taxes had to be uniform throughout the country; duties were prohibited on goods traveling between States; and "capitation * * * or other direct" taxes were prohibited, unless levied according to population, article I, section 9. This last provision proved controversial, especially when the Supreme Court held in 1895—Pollock versus Farmers' Loan and Trust Co. that it applied to taxes on incomes. To overcome this confusion, the 16th amendment, ratified 18 years later, explicitly conferred the power to levy income taxes.

Congressional power over Government spending is no less sweeping than revenue power. According to article I, section 9, "No money shall be drawn from the Treasury, but in consequence of appropriations made by law." This is one of the legislature's most potent weapons in overseeing the executive branch.

Congress possesses potentially broad powers over the Nation's economic and political well-being. It may coin money, incur debts, and regulate commerce. It may establish post offices, build post roads, and issue patents and copyrights. It has the duty of specifying the size of the Supreme Court and of establishing lower Federal courts. It has the power to provide for a militia and call it forth to repeal invasions or suppress rebellions.

Congress plays a key role in foreign relations with its sole powers of declaring war, ratifying treaties, raising and supporting armies, providing and maintaining a navy, and making rules governing the military forces. Finally, Congress is vested with the power "to make laws which shall be necessary and proper for carrying into execution the foregoing powers," article I, section 8.

Article I established two legislative bodies: the House of Representatives, section 2, whose powers were to be derived from the American people; and the Senate, section 3, whose powers were to be derived from the States. In this sense, as explained in Federalist 39, the House of Representatives would be a national body, the Senate a Federal body. Article I of the Constitution assigned Congress a mix of attributes, some national in character, some of a Federal character. The multiple character of congressional powers contributed to a ratification consensus, as well as to the elaborate system of checks and balances woven throughout the Constitution.

This constitutionally endowed dual character, national and Federal, shapes Congress' central challenge or dilemma. Congress is charged with two great functions, representation and legislation, which are not always neatly compatible. There are times, for both individual Members of Congress and the institution as a whole, when tension ensues from our efforts to serve as both a representative assembly and a law-making body. Inevitably there are occasions when the short-term attitudes or priorities of our individual constituencies are in conflict with long-range national interests. The difficulty in objectively assessing long-range interests further complicates the dilemma of formulating responsible public policy while expressing the concerns of our geographic constituencies.

In our 200 years of constitutional democracy, the United States has matured from a largely homogeneous agrarian Nation of seemingly endless natural frontiers to an increasingly heterogeneous industrial, technological and cultural international leader. Congressional actions more often have paved the way for individual and national progress and recognized the need for concerted action in response to constituent, Federal, national, and international problems.

In the House of Representatives, planning and direction for the coming bicentennial commemoration is in the hands of the Commission on the U.S. House of Representatives Bicentenary, created in 1985 and chaired by our colleague, LINDY BOGGS. Implementing these plans will be the responsibility of the Office for the Bicentennial of the House of Representatives, under the direction of Dr. Raymond W. Smock. These are being aided by experts from the Congressional Research Service, the Senate Historical Office, and other agencies.

The coming bicentennial celebration is not only an occasion for praising the Founders' wisdom and taking comfort from the success of our achievement. It is also an opportunity to reflect seriously on the continuing challenges that face our legislative institutions. It is sobering to remember that our Congress, based on 18th century principles of representation, was created for a world very different from the one we live in today. Far older than most of the world's present governments, our constitutional structure was invented before the industrial revolution, before mass production and space flight, before computers and television, before penicillin and genetic engineering and before Hiroshima and Auschwitz.

The survival of this representative system shows its resilience in the face of such changes. Yet people have always questioned whether representative assemblies, composed of generalists elected from separate geographic areas, can cope with the vexing challenge of finding and expressing the common good. In many respects, today's challenges are more awesome, and the margin of error more narrow, than at any time in our history.

In the coming weeks I will present a series of statements reflecting on the 100th Congress. These statements will recall the first Congress, will highlight some of the most memorable achievements during the first 99 Congresses, and will address Congress' present state and future role. The 100th Congress provides a particularly appropriate occasion for us to reflect and contemplate this in-

stitution's past and future efforts to fulfill its constitutional charge.

As we in Congress and citizens throughout the Nation begin our celebration of this historic event, it is particularly appropriate that the Congress authorize the Secretary of the Treasury to mint a gold coin in commemoration of the 100th Congress. This legislation, which I am introducing today, will authorize the minting and issuing of both $5 gold coins and $1 silver coins in commemoration of the 100th Congress. These coins are to be used as legal tender, and the design on the coins will be selected in consultation with the Commission of the Fine Arts. I hope that you will join me in cosponsoring this historic commemorative legislation honoring this great legislative body.

CRUSADE AGAINST DRUG ABUSE

HON. MELVIN PRICE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 10, 1986

Mr. PRICE. Mr. Speaker, I am proud to submit, for the RECORD, the best five essays on drug abuse written by sixth grade students from the 21st Congressional District of Illinois. I would also like to commend the teachers for their devotion and patience in educating and developing our youth of today for their future of tomorrow.

Monte Cope, East Middle School, Alton, IL.

What I would do if offered drugs:

If someone offered me drugs, I would say "no!" I don't want to ruin in my life what a lot of people have ruined in theirs. I want to keep my life as healthy as possible. I don't want to destroy what I've got. If I'm lonely, I play with my puppies. If I'm upset or unhappy I talk to my mom. If someone should offer you drugs, say "No" to drugs and "Yes" to your life!

As a good citizen, how I can help my community:

I would like to help my community by telling children and parents about how dangerous drugs can be. I'd set up a drug abuser plan. If a person needs help, they can call a number and make an appointment. I'd try to give them help. We should make drug detectors and search forests, abandoned houses, club houses and old hangouts for drugs and make more shows like Miami Vice.

Leslie Stavely, Parkview Elementary School, Granite City, IL.

What I would do if offered drugs:

If I was offered drugs, I would say NO! If you take drugs, you're just wasting your life away. You're killing your self everytime you take that one little puff, or that one little pill. So if anybody tries to push me into taking drugs, I would say NO!

As a good citizen, how I can help my community:

As a good citizen, I can help my community by not taking drugs. If I knew anyone who took drugs, I would encourage them to try to quit. I would help them in their hard times. I would also encourage my friends to say NO!

Rebecca Thompson, Webster Elementary School, Collinsville, IL.

What I would do if offered drugs:

If I were offered drugs as many of my peers have, I would say NO. That's all. Sometimes people take NO for an answer without any questions. I've never been offered drugs before but people who take them think they've escaped their problems. I think drugs stink!

As a good citizen, how I can help my community:

As a good citizen of Collinsville I'd look around to see if anyone is using drugs. If they are, I turn them in immediately. I wouldn't want a high teen-ager behind the wheel of a car, killing some innocent person. It happens much too often.

Dawn Renee Pattison, St. Boniface School, Edwardsville, IL.

What I would do if offered drugs:

If offered drugs, I'm probably one person who could honestly say "no." I like my life the way it is. I don't need it messed up by something artificial. Love is all we need, and if more people knew that, then who knows how much better the world would be.

As a good citizen, how I can help my community:

I could help my community by passing flyers out at the carnivals and public places. I could also put up a display at the library with my friends. Another thing I could do is to keep my friends from doing drugs

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Noël Howard, Rosewood School, E. Alton, IL.

What I would do if offered drugs:

If someone told me drugs were neat,
And they'd give me a feeling nothing could beat,
I'd tell them "No!" and go away,
Then I'd leave, that's all I'd say.
I don't think it's "cool" to take coke or pot. . . .
You'd just be the dope you are taking or got!

As a good citizen, how I can help my community:

To be a good citizen, I'd try to help out
By obeying laws and going about
Helping my community stay clean.
I won't vandalize and won't be mean,
I want my community to be nice and fit.
Since it helps me, I'll help it.

SOME BANKS SUPPORT CREDIT CARD RATE DISCLOSURE

HON. GEORGE C. WORTLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 10, 1986

Mr. WORTLEY. Mr. Speaker, the Financial Institutions Subcommittee of the Banking Committee recently approved legislation that requires detailed disclosure of interest rates and fees in all bank credit card solicitations.

This legislation will provide long overdue protection to the consumer, and it is interesting to note that a number of financial institutions are supporting this approach.

I recently came across an op-ed column by John R. Underwood, president of the First Wisconsin Bank of Green Bay, supporting credit card disclosure legislation introduced by Representative TOBY ROTH, one of the principal authors of the legislation accepted in the Banking Committee.

The text of the article follows:

[From the Green Bay (WI) Press-Gazette, July 26, 1986]

DISCLOSURE LAW NEEDED FOR CREDIT CARD SOLICITORS

(By John R. Underwood)

Last year, the average Wisconsin family received 18 solicitations for MasterCard or Visa bank credit cards from out-of-state credit card issuers.

To date, about 15 percent of the state's households have accepted those offers. But how many knew the costs they were incurring when they signed up for an out-of-state credit card?

These solicitations typically opened with the exciting pronouncement, "A new credit card with a $5,000 credit line has been reserved in your name."

Very few of these solicitations included information on the annual fee charged for the card, its interest rate or any other charges involved. These consumers were not informed of the cost of the cards until they had agreed to accept one. Does that sound like a good business practice to you?

We at First Wisconsin, along with many other Wisconsin financial institutions, think that's putting the cart before the horse. People should be informed of how much a credit card is going to cost them before they decide whether to take it.

That's why we support a bill proposed by Rep. Toby Roth, R-Wis., that would require earlier disclosure of credit card costs.

The current disclosure law, the Truth in Lending Act, in effect enables credit card issuers to "close the sale" before stating the terms of the agreement, which typically include higher interest rates and annual fees than can be obtained locally.

Roth has introduced a bill that would require the creditor to clearly disclose the costs involved in all applications or solicitations for a credit card plan.

Consumers deserve to be given all pertinent information regarding open-end credit card plans up front, and the information should be stated in easily understandable terms. This information should include annual interest rates, annual fees and any other charges the card may carry.

As it stands, Wisconsin is the only state in the nation to have a law (Act 244) requiring the formal disclosure of credit information on every application or solicitation for an open-end credit plan. This also includes applications in an advertisement.

Wisconsin's law will require the disclosure of annual interest rates, annual fees and any other costs of the card. The requirements of Act 244, which goes into effect Jan. 1, 1987, will apply to all credit card issuers doing business in the state.

But the state faces an uphill battle in trying to get out-of-state credit card issuers to comply with its requirements when soliciting in Wisconsin.

As it is, they have managed to get around the disclosure requirements outlined in the federal Truth in Lending law by keeping their solicitations—usually direct mail offers—very vague. By not stating any credit terms at all, they are not subject to disclosure requirements.

By not stating the costs involved up front, these issuers make their cards sound appealing, persuading customers to sign up for them even though they may already carry a bank credit card and may be ill-advised to apply for additional credit.

Roth's bill currently is being reviewed by the House Consumer Affairs and Coinage subcommittee, which is expected to pass on the bill, or a variation, for further consideration by the House.

Congress is said to be inclined to pass a bill requiring more stringent disclosure laws. Such a bill is expected to be passed by Oct. 1.

We hope consumers will be more aware of the dangers of overextending their credit if they are informed of all the costs a credit card imposes before they sign up for the card. We urge Congress to follow the lead of Wisconsin in requiring early and easily understood disclosure of credit card costs.

A TRIBUTE TO THE INFORMATION CENTER FOR HANDICAPPED INDIVIDUALS

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 10, 1986

Mr. FAUNTROY. Mr. Speaker, I rise today to bring to the attention of my colleagues the work of the Information Center for Handicapped Individuals, Inc. [ICHI] a public interest, community-based, nonprofit agency designed as the protection and advocacy system for both developmentally disabled individuals and individuals with mental illness, who reside in the District of Columbia, as mandated by Public Law 98-527 and Public Law 99-319, respectively.

The information center has had, as its primary purpose since its inception in 1969, the representation of, and advocacy for, the interests, needs, and rights of handicapped individuals.

On September 12, 1986, the Information Center for Handicapped Individuals will hold its annual conference at the Washington Convention Center. This year's theme is "Expanding the Commitment to Advocacy."

Dr. Jean Elder, Acting Assistant Secretary, Office of Human Development Services, U.S. Department of Health and Human Services, is the keynote speaker, and will set the tone for the conference. Morning panelists also include Ms. Audrey Rowe, commissioner, commission on social services, and Dr. Reed Tuckson, acting commissioner, commission on public health, DC Department of Human Services.

The morning workshops will address issues in special education; the AIDS crisis; and client assistance in vocational rehabilitation. Afternoon workshops will focus on special education, employment discrimination, and Social Security disability. The luncheon speakers include Ms. Cathy Hughes, president and general manager of WOL-AM; and Mr. Steven Schwartz, Esq., director for the Center of Public Representation.

The first annual Roland J. Queen, Sr. Memorial Award will be presented to Mr. Vincent Gray, executive director of the District of Columbia Association for Retarded Citizens. Ms. Angela Owens, editorial director of WRC-TV4 News, is to be mistress of ceremonies. Ms. Eva Britt, Ms. Wheelchair D.C. 1986, will also be in attendance.

The executive director of the Information Center for Handicapped Individuals, Inc. is Mrs. Yetta W. Galiber. Under her direction, the center produces the following publications: the Directory of Services for Handicapped Conditions, a contemporary and exhaustive directory of services for handicapped conditions; Access Washington, a guide to metropolitan Washington for physically disabled individuals containing information on accessibility of recreation facilities, restaurants, sites of interest, and theaters; and Here Comes the Sun, a directory of summer programs for handicapped children and adults.

In 1971, Mrs. Galiber initiated the Christmas Store for needy handicapped children. Last year, more than 8,000 children came to the store and purchased toys with play money. The center also sponsors the Ms. Wheelchair D.C. Pageant, which recognizes the accomplishments of disabled women in the District of Columbia, despite the attitudinal and architectural barriers which confront them.

The information center is planning a fundraising campaign next spring. I urge all my colleagues and the residents of the District of Columbia, its business and industries, to join me by helping to raise the consciousness of this Capitol City, by supporting the information center's efforts, so the center can expand and continue its fine work.

BIRMINGHAM SOUTHERN'S NEAL BERTE NAMED "DISTINGUISHED LEADER"

HON. BEN ERDREICH

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 10, 1986

Mr. ERDREICH. Mr. Speaker, the president of Birmingham-Southern College, Dr. Neal Berte, is well known across the State of Alabama, as well as nationally, for his selfless dedication to the education of our young people. He has taken a leadership role in improving even further an already highly regarded liberal arts school. During his tenure, Birmingham-Southern has doubled its enrollment, doubled its endowment to some $22.5 million, raised more than $30 million in new moneys to fund capital improvements and general college needs, and been cited in several national publications for the excellent educational opportunities it offers.

Dr. Berte has been the recipient of many academic honors and awards, including a Ford Foundation Scholar, Rockefeller Foundation Fellow, and Omicron Delta Kappa National Scholarship winner. He was selected from literally thousands who were nominated for consideration as one of this Nation's top 100 emerging leaders in higher education in a national survey by the American Council on Education and Change Magazine, and named college "Administrator of the Year" in Alabama by the American Association of University Administrators in 1981.

But while Neal Berte is noted for his impressive academic and professional background, the educational community is not alone in reaping the benefits that are offered by his zeal for learning and zest for life. Dr. Berte somehow manages to make time in an all-too-busy schedule to serve on a number of civic and community-oriented organizations, including chairing the Steering Committee for Leadership Birmingham, serving as board member for the Boy Scouts, Alabama Symphony, Chamber of Commerce, Operation New Birmingham, the Jefferson-Shelby Counties Lung Association, the National Conference of Christians and Jews, and the American Heart Association, to mention only a few.

In recognition of his commitment to community involvement, Dr. Berte was selected to receive yet another award, the "Distinguished Leader's Award," which was presented to him by the National Association of Community Leadership Organization (NACLO) at its annual conference in Indianapolis on September 7-9.

Our fate as a Nation may well depend on how prepared our young people will be to face the challenges that will surely lie before them in the years to come. Dr. Neal Berte has been, and remains, totally committed to making certain that our youth receive the best education possible. And the priority he places on community involvement is a shining example to our young people of the importance of volunteerism and community service.

All of our lives have been made better as a result of Dr. Neal Berte's educational and community involvement. I am certain my colleagues in the House join me in congratulating him for his selection to receive the "Distinguished Leader's Award," and commending him for his good work.

BOROUGH OF SPOTSWOOD, NJ, ENDORSES PRESIDENT'S COUNTERTERROR ACTION

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 10, 1986

Mr. COURTER. Mr. Speaker, the bloody crimes of several days ago in Pakistan and Turkey should remind us just how long Europe has been quiet. That period of calm began on April 14 when, after years of provocation, President Reagan ordered retaliation for Libyan-assisted international terrorist attacks. The subsequent respite we won was well deserved.

But the air raid on Libya was somewhat controversial. Many American opinionmakers reiterated the view that it would only bring bloodier counterattacks, and the Arab opinion would rally to the side of Colonel Qadhafi. Some of us argued then—and we can certainly tell now—that none of that is true. The air raid was a sweeping success, and if Libya or other states perpetuate their politics of murdering innocent civilians to make "political statements" then another like it might become necessary.

Among those who saw events clearly after April 14 were the county officers of the Borough of Spotswood in Middlesex County, NJ. I wish to record their view—and their vision—by submitting for today's RECORD the text of the resolution they approved in a meeting of May 1986, and forwarded to me under the signature of Reggie Pasterczyk, clerk of the borough.

RESOLUTION

Whereas, acts of terrorism around the globe present a continuing threat to all innocent world residents, and

Whereas, acts of the Libyan government have not only condoned, but have actually fostered global terrorism; and

Whereas, our President, Ronald Reagan, has taken necessary and warranted action to express our Country's complete opposition to terrorist acts; and

Whereas the citizens of Spotswood, as part of the world community strongly support the actions of our President: Now, therefore, be it

Resolved, by the Borough Council of the Borough of Spotswood, County of Middlesex, New Jersey, That:

1. We fully support the actions of our President in dealing with Libya; and

2. Copies of this resolution be sent to President Reagan, Senator Bradley, Senator Lautenberg and Congressman Courter.

SOUTH FLORIDA-NEVADA LAND EXCHANGE

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 10, 1986

Mr. FASCELL. Mr. Speaker, I have asked our colleague from Nevada, BARBARA VUCANOVICH, to add my name as a cosponsor of H.R. 5435, legislation to authorize an exchange of lands owned by the Aerojet Corp. in south Dade County, FL, for federally owned lands in Nevada. The Florida lands would then be sold to the South Florida Water Management District, with the proceeds to be used for land acquisition in U.S. wildlife refuges in Florida.

This land exchange would appear to be good for all concerned. Aerojet would gain land it needs to proceed with rocket development for our Nation's defense; the Department of the Interior will obtain revenue for the purchase of lands necessary for the preservation of endangered wildlife; and the State of Florida will become owner of property immediately east of Everglades National Park which could otherwise have been subject to development. It is my understanding that the water management district, which administers the central and southern Florida flood control project for the Army Corps of Engineers, plans to flood this area as a means of relieving excess water in the park.

Mr. Speaker, all of these uses are laudable and for the public good and it is for this reason that I am cosponsoring the legislation. However, I do want to go on record as expressing my sincere hope that nothing in this legislation should be interpreted as an intent to reduce or eliminate flood protection for agricultural or residential properties in the area. Forty percent of the Nation's winter tomatoes are grown by four companies on land north of that being exchanged. These companies were formerly located in the area known as the Hole-in-the-Doughnut of Everglades National Park and were asked to leave by the Department of the Interior following a determination, with which I agreed, that farming was not a compatible activity in the park. However, having relocated some 10 to 15 years ago, there remains nowhere else for these growers to go should their land become unarable as a result of increased water levels caused by flooding to the south.

Not only would this be an infringement of private property rights—an issue on which the growers have already sought judicial relief—but a substantial amount of our Nation's winter tomato supply would be gravely affected. Those administering the lands to be acquired must work in a spirit of cooperation to ensure that an action that has great benefit for one natural resource does not cancel itself out by adversely impacting on another.

RETIREMENT OF MAJ. GEN. JACK WATKINS

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 10, 1986

Mr. LAGOMARSINO. Mr. Speaker, few functions of the Federal Government are as important as our national defense, and few organizations have contributed as significantly to our national defense as the U.S. Air Force Strategic Air Command. For the past 6 years, the 1st Strategic Aerospace Division of SAC, headquartered at Vandenberg Air Force Base, CA, has been commanded by Maj. Gen. Jack L. Watkins. This year, General Watkins will step down after 35 years of service in the U.S. Armed Forces.

During his years of command at Vandenberg, General Watkins has led the base to numerous awards from the Department of Defense and the Air Force. In addition, he and his wife, Mary Ann, have been heavily involved in local community support and activities. Under his direction, the Central Coast United Way raised a record amount of contributions for public service agencies in Santa Barbara County, and relations between the base and the local communities of Lompoc and Santa Maria, as well as the County of Santa Barbara, reached even higher levels of cooperation and mutual support. Indeed, Vandenberg under General Watkins and his predecessors has been more than a neighbor, it is an integral part of the community and the 19th District of California.

As commander of "I STRAD," as it is known, General Watkins is responsible for directing all SAC missile combat crew training; controlling and conducting SAC ballistic missile operational testing; and providing host base support for all tenants at Vandenberg, including Air Force Systems Command, Military Airlift Command, and Air Force Communications Command.

General Watkins, a native of Pittsburgh, PA, entered the army in 1946, qualifying as a parachutist and gliderist before separating in 1948 to attend college. He was recalled to active duty during the Korean conflict and served with antiaircraft units as a battery executive officer and commander in the United States and Germany before returning to the University of Pittsburgh and receiving his bachelor's degree in 1954. In 1955, he received a direct commission as a lieutenant in the U.S. Air Force, graduated from pilot training and served until 1961 with the Tactical Air Command and Military Air Transport Service. Subsequent assignments included headquarters U.S. Air Force in Washington, DC; Bolling Air Force Base; U.S. Army Command and General Staff College; Joint Task Force Two in Albuquerque, NM; Industrial College of the Armed Forces; professor of aerospace studies at the University of Pittsburgh; and vice commandant, Air Force Reserve Officer Training Corps.

In 1973, he was named vice commander and acting commander of the 416th Bombardment Wing, K.I. Sawyer AFB, MI, and in 1974 commanded the 416th Bombardment Wing at Griffiss AFB, NY. In 1975, he assumed command of the 45th Air Division at Pease Air Force Base, NH, before being assigned to SAC headquarters at Offutt AFB, NE, where he served as deputy chief of staff, operations. In 1979, General Watkins became vice commander, 15th Air Force, with headquarters at March AFB CA, assuming command at Vandenberg in November 1970.

General Watkins is a command pilot with more than 10,000 flying hours in 26 different types of aircraft. He wears the master missile, gliderist, parachutist, and space badges. His military decorations and awards include the Legion of Merit with two oaks leaf clusters, Meritorious Service Medal, Joint Service Commendation Medal, and Air Force Commendation Medal.

Mr. Speaker, the residents of the 19th District are proud of the record of Vandenberg AFB under General Watkins, and grateful for the role he has played both as base commander and active citizen in the local community. We wish Jack and Mary Ann well in their future endeavors, and know that they will continue to have many valued friends and associations in the community they have served so well. In conclusion, I would like to add my own thanks and that of my wife Norma in appreciation to our friends Jack and Mary Ann for their many years of service to our country in both their public and private roles. I know my colleagues in the Congress join me.

NATIONAL CPR AWARENESS WEEK

HON. STAN PARRIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 10, 1986

Mr. PARRIS. Mr. Speaker, today I am introducing a joint resolution to designate the week of October 19 through 25, 1986, as "National CPR Awareness Week." By focusing public awareness on this simple first aid procedure, we could reduce the number of heart attack deaths by promoting the CPR training program in the United States.

Heart attacks are the leading cause of death in the United States, and as many as 1.5 million people will suffer a heart attack in 1986. I am sorry to say that nearly half of these people will die. Cardiopulmonary resuscitation is a life-saving procedure and it could prevent many of these deaths, if only more people knew how to perform it. With the success that fire and rescue departments and

many trained individuals have had in saving lives that would otherwise have been lost due to heart attacks, it is vital that we maximize public participation in CPR training.

National CPR Awareness Week is an ideal way to encourage more people to sign up for CPR training classes. I urge my colleagues to join me by supporting this resolution which will help State and local heart associations work with the public to reduce the number of heart attack deaths in our country.

A TRIBUTE TO GEORGE AND GLADYS BROOKS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 10, 1986

Mr. GILMAN. Mr. Speaker, this coming weekend, the National Commission on Human Rights for our Prisoners of War and Missing in Action in Southeast Asia are going to honor two outstanding Americans who have devoted their lives to assuring that our missing heroes in Southeast Asia are not forgotten.

In fact, it is no exaggeration to state that no one has done more for this cause than have George and Gladys Brooks of New Windsor, NY.

George and Gladys became involved in the cause of our POW/MIA's during the early 1970's; in fact, while the Vietnamese conflict was still in progress. They kept the issue alive before the Nixon administration, and at that time cofounded the National League of Families. It was through their efforts that the majority of American prisoners were freed in Janaury 1973.

Throughout the Ford and Carter administrations, the Brooks' continued their commitment, traveling to and from Washington at their own expense to remind our Nation of the need for a full accounting. They even travelled to Southeast Asia to follow any and every lead. Those were frustrating times for all of us involved with this issue, but the hopes and determination of George and Gladys Brooks have kept their faith alive in all our hearts.

Although George and Glady's own son, Nicholas, was missing in action in 1970 in Southeast Asia, it was not his capture that initially prompted their involvement in this issue. A full year prior to the disappearance of his own son, the Brooks' became involved in the quest for Joseph Mobley, a friend and classmate of their son. As it turned out, Joe Mobley came marching home, but for 12 long years the Brooks' did not know the fate of their own son, Nick, who was shot down over Laos.

It was March 1982 when the long wait ended for George and Gladys Brooks. The remains of their son were finally returned to them. But their commitment did not end. George remained as chairman of the board of the National League of Families, and they both continued to devote themselves to the cause of our POW's and MIA's since.

In great part, the calm, reasoned yet determined leadership of the Brooks' have led our current administration to give top priority to a full accounting of our missing American heroes.

At the time their son's remains were returned home, a local newspaper quoted a neighbor of the Brooks; marveling at their total commitment. "It wasn't something they went around and said anything about. They were on a hectic schedule. You'd invite them over and they'd get a phone call and have to leave. That's how they lived their lives."

In the intervening years, the Brooks' commitment only increased.

Mr. Speaker, I urge all of our colleagues to join with us in paying tribute to a truly fine couple, outstanding Americans, George and Gladys Brooks of New Windsor, NY.

JEMEZ PUEBLO FIREFIGHTERS

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 10, 1986

Mr. RICHARDSON. Mr. Speaker, it is with great sadness that I bring to your attention an article from Indian News Notes, a publication of the Bureau of Indian Affairs.

Four members of a fire fighting crew from the Jemez Pueblo in New Mexico were killed August 24 when a National Guard truck carrying the exhausted crew back to base camp went off the road and overturned. Two other members of the crew suffered major injuries, and seven were moderately injured with fractures. The Indian crew had been fighting an 18,000-acre fire in the Boise National Forest. The newspaper USA Today said of the four that they "died upholding the long tradition of Native Americans serving as the elite of the USA's wildfire fighters." The 2,000-population Jemez Pueblo was in mourning August 25 and outsiders were barred from entering. Fire fighter Al Waque commented, "If one family grieves, we all grieve because we're all related to each other. We are all brothers and sisters." More than 2,000 of the 16,000 fire fighters battling blazes in six northern western states in August are Indians. George Leech, an Arizona fire-training officer said, "I think the Indian crews are among the better ones. They seem to have a better level of endurance." He added, "They are a lot more tied to the earth. The resources still mean something to them." Paul Tosa, a Jemez tribal leader, told USA Today that among the fire fighters "there is very much pride. They are very special people."

Mr. Speaker, I call upon all of my colleagues in the House to join me in saluting the heroic efforts of the Jemez Pueblo firefighters, and expressing our grief for their tragic loss. My condolences go to the families and friends of these heroes.

INTRODUCTION OF MYASTENIA GRAVIS WEEK RESOLUTION

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 10, 1986

Mr. CONTE. Mr. Speaker, I am pleased once again to introduce a resolution that designates the week of October 12 as "Myastenia Gravis Week." This resolution is for the recognition of a most serious health threat that as yet has not been conquered. Many of the Members of this most honored body supported this resolution last year and I would urge them to do so again.

Myastenia Gravis, also known as Erb-Goldfam disease, is a neuromuscular disease which has affected up to 300,000 Americans of both sexes, all ages and all races. MG affects neither the muscle nor the nerve, but the synapse—the gap between the nerve and the muscle which conducts the electrical current from the nerve to the muscle.

Myastenia Gravis can strike any area of the body at any time. Because Mr. Speaker, it is such an unpredictable disease, it is often misdiagnosed as chronic fatigue, which allows the disease to progress until the victim is in severe danger. Until recently, MG has been fatal for 85 percent of its victims. There is still no prevention or cure, but significant progress has been made.

The establishment of Myastenia Gravis Week, from October 12 to 18, will call attention to the serious problems MG victims face each day. This increased awareness will not only make potential victims more sensitive to the symptoms and the dangers of this serious disease but will also lead to increased research in the quest for a cure. The successes that we have been experiencing in solving the problems attendant with other such diseases should give us all heart that resolutions such as this, do make a difference in the fight against these diseases.

I hope that all of my colleagues will join me in approving this resolution.

PERSONAL EXPLANATION

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 10, 1986

Mr. LEHMAN of Florida. Mr. Speaker, on August 15, I intended to vote in favor of final passage of H.R. 3129, but I am recorded as having voted against passage. I would like the record to show that I did, in fact, support passage.

SOCIAL SECURITY NOTCH RALLY

HON. TOM BEVILL

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 10, 1986

Mr. BEVILL. Mr. Speaker, today thousands of senior citizens from all over the country have come to our Nation's Capital to rally against the Social Security notch provision. I would like take a moment to commend all of them for their unwavering commitment to this most worthy cause. These and thousands of other senior citizens are sending a clear message to Congress that the present inequity in Social Security benefits will not be tolerated.

The "Notch Babies" continue to have my full support on this issue. Because of the notch provision, workers born between 1917 and 1921 receive significantly lower benefits

than those born before those years. In some cases, the differences in benefits can add up to more than $1,000 a year. For American retirees on fixed incomes, this situation is flatly unfair.

That is why I have consistently supported legislation which would correct this injustice. The notch provision is a result of changes made in 1977 to the Social Security benefit formula. The 1972 benefit formula overcompensated for inflation. However, the 1977 amendments underestimated inflation and ignored the post-age 61 earnings of the "Notch Babies." Those affected by the notch provision have been unfairly penalized as a result of the 1977 amendments.

I am very pleased to be a cosponsor of H.R. 1917, which would eliminate the notch problem and insure that all our senior citizens will be fairly compensated for their lifetime contribution to our great Nation. I realize how important these benefits are to millions of Americans. Our senior citizens deserve our utmost respect and support. They are calling on all of us here in Congress to take action to correct this unfair situation. Let's join together to repeal the Social Security notch provision.

TRIBUTE TO COL. RICHARD SAVOIR

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 10, 1986

Mr. MRAZEK. Mr. Speaker, I rise today to salute the retirement of Col. Richard Savoir from the West Point Liaison Program where he has served for the past 14 years.

Colonel Savoir graduated from Southern University and was commissioned as second lieutenant on active duty with the 8th Army ordinance inspection team in Korea. Following his term of active duty, Colonel Savoir attended Columbia Teachers College and State University of New York at Stony Brook, where he received master's degrees in teaching. While pursuing his career as a teacher, Colonel Savoir was active in the Army Reserves. In 1972, Colonel Savoir joined the Liaison Program at West Point where he has served for the past 14 years.

Because of his outstanding service both in and out of the military, it is with a great deal of pleasure that I salute Colonel Savoir on his retirement. I personally wish Colonel Savoir the best of luck for the future.

SALUTE TO LINDEN, NJ, INDUSTRIAL ASSOCIATION

HON. BERNARD J. DWYER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 10, 1986

Mr. DWYER of New Jersey. Mr. Speaker, it is an honor to bring to the attention of the Congress the fine work and many contributions of the Linden Industrial Association which was incorporated in 1935 to promote the mutual interests of industries in Linden and surrounding areas.

Over the past 50 years, the member companies, through their concern and enthusiasm, have fulfilled the goals set forth by the association's founders. The Linden Industrial Association has established itself as a vital part of the community, working to enhance local commerce and improve the quality of life for all citizens.

The organization symbolizes what can be achieved when small businesses and large companies combine their talents and energies in the pursuit of common goals. Our towns, the State of New Jersey, and the entire Nation benefit from this high level of dedication and effort. The association's members, both past and present, are to be commended for their excellent work and genuine sense of civic awareness.

The Linden Industrial Association has provided invaluable input on local issues, always striving to keep our communities safe and strong, and area businesses thriving. This spirit of cooperation and commitment has yielded benefits manifold and a private and public sector partnership that has been enormously successful. As the Linden Industrial Association enters the 21st century, it will continue to provide crucial leadership in the sustained development of local commerce and keeping our communities vibrant. I salute the association for its fine work.

H.M.S. RICHARDS MEMORIAL BANQUET

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 10, 1986

Mr. MOORHEAD. Mr. Speaker, on September 21, 1986, the Greater Glendale Chapter of the Committee of 500 of the Voice of Prophecy will host a memorial banquet in honor of Elder H.M.S. Richards, a pioneer radio evangelist.

The event is a fundraiser for the Voice of Prophecy, which was started by Elder Richards in 1930. For more than five decades, Elder Richards labored and loved. He then turned "the Voice" over to his son, Elder H.M.S. Richards, Jr.

Today, the Voice of Prophecy broadcasts Christian programs to 80 countries around the world. In North America, programs are aired daily over hundreds of radio stations.

The central message of the organization is that man must care for man if his community, his country, his kindred are to be successful. This Christian theme was placed at the core of the Voice of Prophecy by its founder who died a short while ago. In his absence, his son carries the cause and the theme onward. The memorial banquet is an effort of caring friends who want to support and nurture the organization and the idea. Mr. Speaker, I am pleased to announce this kind of event to my friends in the House of Representatives.

BROOKVILLE—NO. 1 COMMUNITY OF THE YEAR IN PENNSYLVANIA

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 10, 1986

Mr. CLINGER. Mr. Speaker, the Borough of Brookville, PA, will be recognized on September 29 as the 1986 "Pennsylvania Community of the Year" by the State chamber of commerce. Because Brookville is located in my congressional district and because I travel there frequently, I can see why the borough was selected for this outstanding honor.

In selecting the outstanding community in Pennsylvania, the State chamber considers a number of factors, such as a community's contributions to business and commerce in the State, its ability to generate new jobs, stimulate public and private investment and develop working partnerships between business and government.

Brookville, with a population of 4,500, impressed the selection committee for a number of reasons.

It has a nationally recognized Main Street project which generated $3 million in private investment and created 30 new jobs.

It successfully completed a $1.19 million drive to build a new hospital.

It raised over $600,000 of private money to refurbish the local YMCA, making Brookville the smallest community in the Nation with a full service YMCA.

Chamber officials said they were impressed with Brookville's ability to use small amounts of public capital and larger amounts of private investment to "stimulate new projects and revitalize the downtown, preparing their community for the future," according to an editorial in the DuBois Courier-Express.

The editorial went on to applaud the "Brookville spirit," adding that "other depressed communities in the area undergoing similar renaissance efforts should maintain the same spirit that brought Brookville success."

I know that my colleagues in the U.S. House of Representatives join me is congratulating Brookville for being selected as the 1986 "Pennsylvania Community of the Year" and wish the borough's residents continued success in making Brookville a great place to live.

DAVID TRACHTENBERG EXPLORES THE "REAGAN DEFENSE BUILDUP"

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 10, 1986

Mr. COURTER. Mr. Speaker, the term "Reagan defense buildup" has been repeated so many times that it has become an article of faith. In fact, the term is more rightly viewed as an oxymoron. Due to a variety of factors, not the least of which is congressional opposition, the Reagan defense modernization pro-

gram has become a mere shadow of its former self.

The evidence for this claim is conveniently assembled and convincingly presented in the following article by David Trachtenberg of the Committee on the Present Danger. As Mr. Trachtenberg demonstrates, the Strategic Modernization Program has been virtually checkmated by continued Soviet strategic modernization, while the Soviet/Warsaw Pact conventional forces continue to expand at an alarming rate.

In response to this grim prognosis, the Congress returned the defense budget to a negative growth rate for 1986 and appears poised to compound the error in 1987. If "unilateral attrition" is to be our national defense policy, let the proponents of this policy state it openly, as they attempt to refute Mr. Trachtenberg's arguments.

WHAT REAGAN BUILDUP?

During the 1984 presidential campaign, the Reagan Administration naturally chose to emphasize the successes rather than the shortcomings of its defense program. It was only after the election that the Administration's rhetoric on defense shifted toward a more sober assessment of the U.S. Soviet military balance. Nevertheless, the damage has been done and the myth of a massive Reagan defense buildup has proved difficult to dislodge.

For starters, consider the area of defense spending, which is the only part of the federal budget determined by external factors: the nation's domestic priorities can be set and changed by Americans; the Soviet threat can not. Contrary to common belief, during the Reagan years there's been an overall decline in the growth of U.S. defense budget authority (the amount appropriated for immediate and future disbursement). The largest annual rate of real growth over the past ten years (more than 12 percent) was in fiscal year 1981—the final year of the Carter Administration! Thereafter, with one exception, the rate of real growth in defense budget authority declined—from 11.8 percent in 1982 to 7.6 percent in 1983 and to 4.4 percent in 1984. After an increase to 5.9 percent growth in 1985, fiscal year 1986 budget authority actually declined by 6.2 percent. This is the first time in fifteen years that defense budget authority is lower in absolute terms than in the previous year.

In part, these cuts have come about because of Congress's concern with the size of the federal budget deficit and with reports of Pentagon "waste." The relationship of defense to the deficit, however, is widely misunderstood. As a percentage of the federal budget, defense spending accounts for only one quarter of expenditures—down from one-third in the early 1970s—yet it has absorbed a disproportionate share of spending cuts.

And while tales of Pentagon procurement "horror stories" have fostered a belief that much of the money spent on defense is wasted, of greater importance to U.S. security is the less publicized fact that more efficient production rates have reduced the unit costs of weapons systems. Some of these systems actually cost less today in real terms then they did four or five years ago. The annual growth rate in the cost of major weapons systems fell from 14 percent in 1980 to less than 1 percent in 1984. Nevertheless, Americans seem to be more familiar with stories of over-priced hammers then with the fact that the B-1B bomber is being delivered on schedule and *under budget.*

A sound defense cannot be obtained "on the cheap," yet just over 6 percent of the nation's economic output goes for defense, hardly a disproportionate share. (An estimated 15-17 percent of Soviet GNP goes to military purposes.) While the Reagan Administration has been accused of favoring strategic over conventional forces, the percentage of defense resources allocated to strategic forces has changed little since the Carter Administration—less than 15 percent of the defense budget, another fact that is not widely known.

Moreover, most Americans erroneously think that the United States spends several times as much on nuclear forces as on nonnuclear forces, and they are unaware that in the past ten years the Soviets have outspent the United States on strategic forces by a margin greater than three to one. Significantly, the Soviets spend only about 10 percent of their military budget on personnel costs. The rest goes for weapons, equipment, and facilities. The United States, by contrast, spends almost half of its defense budget on personnel. This is one reason why Soviet military production levels far exceed U.S. levels.

In the critical area of military investments (spending on research and development, procurement, and military construction), the Soviets have outspent the United States by some $500 billion since 1970. It is the cumulative effect of this gap in investment which has led to the major military imbalances that grow more critical every year.

The most striking deficiency of the Administration's defense program has been its inability to restore the strategic nuclear balance. This is the fulcrum on which all other military power rests—a fact the Soviets have consistently recognized.

To its credit, the Administration is seeking to modernize all components of U.S. strategic nuclear forces. The problem is that most of these improvements are years—and in critical cases, many years—from fruition. In the meantime, little emphasis has been placed on reducing existing U.S. strategic force vulnerabilities—particularly ICBM vulnerability.

Today, the increasing accuracy of Soviet ICBM's has left U.S. ICBMs dangerously open to a Soviet strike. The Air Force has repeatedly told Congress that "using a small portion of their ICBM force, the Soviets could destroy most of our current ICBMs in a first-strike." Secretary Weinberger has said that at least 95 percent of U.S. ICBMs are vulnerable to Soviet attack. Such an attack would leave the United States with an inaccurate sea-based force incapable of retaliating against Soviet missile forces held in reserve, and a greatly diminished bomber force unable to retaliate promptly and unlikely to penetrate the extensive Soviet air defense network.

How ironic that an administration which entered office proclaiming that a remedy to the ICBM vulnerability problem was its most urgent strategic priority has now ruled out the only near-term options for accomplishing that task—more survivable basing and a vigorous strategic defense program. The MX ICBM, originally designed to be mobile and therefore more survivable than current U.S. Minuteman ICBMs, is now being deployed in the same fixed Minuteman silos the Administration admits are already vulnerable to Soviet attack. Although the technology for hardening silos to protect them against nuclear blast effects appears promising, there are no plans to harden any of the silos that will house the fifty MX missiles whose deployment has recently begun. This will leave the MX missile force just as vulnerable to attack as the current Minuteman missiles the MX is designed to replace, while presenting the Soviets with a greater incentive to strike first in a crisis.

Existing technology makes it possible to deploy a timely and effective ballistic missile defense of U.S. ICBMs—unlike the current Strategic Defense Initiative (SDI) which focuses on exotic technologies that are many years, if not decades, from realization. Such a deployment, however, would violate the ABM treaty, something the Administration has not yet decided to do (even though it protests that the Soviets have already done so).

Eventual deployment of a more survivable Midgetman missile is uncertain because of the Administration's lukewarm support of the program. Some argue that the Midgetman will be too costly to build and too difficult to deploy, or that it will be too difficult to verify under an arms control agreement. Others believe it will undercut the Administration's push for another fifty MX missiles, even though Congress is unlikely to appropriate funds for additional MX deployment. The latest U.S. arms control proposal, which calls for a ban on all mobile ICBMs, inspires little confidence that mobile missiles will ever be deployed by the United States. By offering to give up the Midgetman, the Administration has clearly indicated it would rather not spend limited resources on this program. Congress may agree.

But the problem again is that in strategic systems, as elsewhere, the United States has not kept pace with Soviet efforts. While the United States debates the merits of fifty MX missiles, the Soviets complement their already huge ICBM force by deploying modern SS-24 and SS-25 missiles. The CIA has reportedly concluded that Soviet ICBM production over the next five years will "increase substantially," compared with the last five years.

To date, the United States has deployed only seven Trident submarines. Although the Tridents carry more missiles than the older Poseidon submarines, they do not offset the greater number of U.S. launch platforms removed from service in recent years. To make way for the newest Trident last year, the United States dismantled a Poseidon submarine in order to comply with the unratified SALT II treaty, which the Soviets are violating. And in May the President ordered two more Poseidons dismantled (although he declared his intention to add to U.S. strategic forces later this year "without dismantling additional U.S. systems as compensation under the terms of the SALT II Treaty").

In intercontinental bombers a once-heralded U.S. advantage has now disappeared. The Soviets today possess some 450 bombers compared with 327 for the United States. The planned procurement of U.S. air-launched cruise missiles has been cut by more than half, while work continues on an advanced cruise missile for future deployment. The limited deployment of cruise missiles on B-52 bombers, begun in 1982, does not reduce the vulnerability of those bombers to Soviet attack since most are deployed too close to U.S. coasts and only a small fraction are on stand-by alert.

Recent figures indicate that the Soviets continue to outproduce the United States in every major category of strategic systems. For example, last year alone the Soviets

produced 100 ICBMs, compared with none for the U.S.; 100 SLBMs, compared with our 75; and 50 bombers, compared with only two for the United States. In addition, the latest intelligence estimate jointly presented to Congress by the CIA and the Defense Intelligence Agency notes that over the past ten years, "Soviet strategic forces received roughy 3,500 ICBMs and SLBMs, three times as much as the United States procured." These trends can be expected to continue, even if the Administration's defense request had been approved by Congress.

The balance in European-based nuclear forces has also continued to shift in the Soviets' favor. The eventual deployment of 108 U.S. Pershing II ballistic missiles and 464 ground-launched cruise missiles (GLCMs) is more than offset by already deployed Soviet SS-20 missiles, carrying more than 2,000 warheads, and the reduction in other U.S. European-based systems. The United States continues to phase out older tactical nuclear weapons from the NATO stockpile. Approximately 1,400 U.S. nuclear weapons are to be withdrawn from Europe by 1989, bringing the NATO stockpile of warheads down to its lowest level in twenty years. The United States is withdrawing five warheads for every Pershing II and GLCM warhead deployed in Europe.

Against these reductions, Soviet shorter-range nuclear weapons targeted against Western Europe have grown in number and accuracy. A fraction of Soviet SS-21, SS-22, and SS-23 ballistic missiles are capable of destroying almost every one of NATO's critical military installations. Estimates show the Soviets now enjoy at least a six-to-one advantage in shorter-range tactical ballistic missile launchers deployed in Europe.

The greatest gains in U.S. deterrent strength over the past five years have come in the area of conventional forces. Force readiness has improved, the quality of enlistees is up, and the replacement of older equipment with newer, more sophisticated systems is continuing. By most assessments, the conventional war-fighting capability of the U.S. armed forces is better today than five years ago. In any conflict, however, the U.S. forces of today will not be fighting the U.S. forces of five years ago. They will be fighting Soviet forces, which have also modernized extensively. From 1980 to 1984, the Soviets deployed about 80 new weapons systems—twice the number deployed by the United States. In the face of a determined Soviet effort, U.S. improvements remain inadequate to make up for almost two decades of neglect.

Given the unexpected qualitative improvements to Soviet conventional forces, the U.S. deterrent capability in Europe is declining. According to recent Army testimony, the U.S. modernization program has been matched by a Soviet program that has "moved more aggressively than any of our estimates predicted. They have increased their numerical advantage more than expected, and, more alarming, have reduced and, in some cases, reversed, the qualitative advantage we held. . . . By many of the measures which we have used to compare our forces, we have indeed lost ground."

In conventional forces, the United States continues to be outproduced in many critical areas. A comparison of weapons systems produced in 1985 shows the following:

	U.S.	U.S.S.R.
Fixed-wing combat aircraft	320	700
Rotary-wing aircraft	235	550
Attack helicopters	50	250
Other military helicopters	185	300
Tanks	1,375	2,700
Other armored vehicles	1,700	3,500
Infantry combat vehicles	655	2,500
Artillery, mortars, rocket launchers	330	4,100
Antiaircraft artillery	25	100
Major surface combatants	8	8
Amphibious ships	2	2
Attack submarines	3	6

U.S. budgetary constraints threaten not only to halt progress in improving our military capability but also to overturn some of the gains made in the last few years. Cuts in the defense budget will in all probability affect the readiness and capability of U.S. conventional forces first.

Other nations look to the United States to counterbalance the growth of Soviet military power. If the United States fails to exercise this responsibility, there is no other nation, or coalition of nations, that is capable of filling the void. A defense program that will not halt the unfavorable trends in the U.S.-Soviet military balance, let alone reverse them, is not a defense program.

TRIBUTE TO JUDGE EDWIN BEACH

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 10, 1986

Mr. LAGOMARSINO. Mr. Speaker, I would like to take this opportunity to pay tribute to California Appellate Court Judge Edwin Beach of Santa Paula, CA, who is retiring after faithfully and skillfully serving within the State of California as a member of the judiciary. For 27 years, Edwin Beach has served at every level of court in California, excluding the Supreme Court, to which he was assigned temporary duty by then-Gov. Ronald Reagan.

A self-proclaimed conservative justice, Mr. Beach believes, "judges should not make the law nor stretch it to fit their own views of what law should be. Judges should take the point of view that all branches of government should leave the private citizen alone, just so long as he or she doesn't interfere with the freedom of others." In defense of the private citizen, Mr. Beach has commented that the American style of attempting to evaluate the potential bias of jurors is ridiculous. Moreover Mr. Beach believes that the courts should not ask people questions concerning their particular philosophy because, "it is really none of the court's business."

In sum, the citizens of California will miss the service of Edwin Beach who has defended the rights of private citizens and the laws of his state. I would like to congratulate Justice Beach and wish him success in his future endeavors.

CYPRUS AMBASSADOR ADDRESSES AHEPA CONVENTION ON CYPRUS

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 10, 1986

Mr. FLORIO. Mr. Speaker, the Republic of Cyprus has entered its 12th year of brutal occupation and division by Turkish armies and hope for a solution has become dimmer as time progresses. While Greek Cypriots continue to live in fear of further invasion from the north, while the island continues to be partitioned barring communication and access to either side, while the people of Cyprus continue to hope for a solution to this unacceptable state of affairs, we in the Congress must continue to work toward a solution and continue to encourage commitment to resolving this situation.

In recent years, various proposals have been offered only to be rejected because they did not address the fundamental question that is being posed by the forced occupation of Cyprus. The centerpiece of any solution must call for the removal of foreign occupying forces from Cyprus. Any solution that does not include the removal of troops does not address the fundamental concern of the Greek Cypriots and the international community. Recently, the Cyprus Ambassador to the United States, the Honorable A.J. Jacovides, addressed the 64th Annual Convention of the Order of AHEPA in Miami, FL. He stressed to this distinguished group of Greek-Americans the importance of continuous concern and involvement in seeking solutions. I wanted to share with my colleagues the text of the Ambassador's insightful speech:

REMARKS BY AMBASSADOR A.J. JACOVIDES

I am honored and delighted to be with you once again. This is the sixth time that I have the privilege of addressing your Annual Convention and I feel that I am among good and trusted friends. I know, and very much appreciate, that these feelings are genuinely reciprocated by you.

I also feel privileged to be sharing this dais with many distinguished Hellenes, including Helen Boosalis and Nick Veliotis whose achievements and contribution to public service make us all feel proud of our heritage.

I bring you the warm greeting and best wishes of President Spyros Kyprianou for the success of this Convention and for the progress and prosperity of the great Greek American community. He asked me to convey to all of you—and especially the Supreme President and Lodge, the Chairman and members of the Committee on Cyprus and Hellenic Affairs as well as the Executive Director and his staff—the deep gratitude of the Government and people of Cyprus for all you have been doing to promote our just cause.

As I look around this great room, I see that this is a magnificent setting. It is of course right and proper that the Convention has many social, entertainment and sporting events. It is natural that here in Miami, in August, in these opulent surroundings, with many friends and relatives around, it is not easy to focus on pressing realities several thousand miles away. I wish

I were able to make a joke or two, to say something pleasant and amusing and join in the relaxed atmosphere of the balmy Florida summer evening.

Unfortunately, I cannot. As the Ambassador of Cyprus in this great country, I am allowed no such luxury. Instead, I must remind you of certain gruesome realities and ask for your continued and intensified efforts to help us in our struggle so that justice will prevail.

For twelve long years now—twelve years too long—the Turkish Attila illegally occupies much of our homeland; the refugees are still denied the inalienable right to return to their ancestral homes; the missing persons are yet to be found; colonists from Anatolia are still settled in the homes and lands of the forcibly uprooted Greek Cypriots. And the systematic effort to obliterate our national and religious heritage from the occupied areas and to legitimize the results of the invasion is being relentlessly pursued by Turkey, with the help or tolerance of those who misguidedly try to accommodate her designs for the sale of ephemeral and questionable expediency.

Justice, freedom, the respect of human rights and the rule of law, these are the very principles at stake in the extremely difficult situation we are currently confronted with.

The Cyprus problem, in its true dimensions of Turkish aggression, occupation, massive violation of human rights and attempted secession, is at a critical phase.

Recently, on the occasion of the 100th anniversary of the Statue of Liberty, where AHEPA so creditably participated, many beautiful words were spoken of freedom as an American ideal—and rightly so. But, the torch of liberty should be shining bright not only in New York's harbour but for all people who love freedom everywhere in the world, including our martyred island.

Actions speak louder than words. What we need to see is effective action to curb and remove the Turkish Attila from Cyprus and thus cure the problem, not only expressions of interest and concern and occasional measures of containment and damage limitation. The so-called "strategic importance" of Turkey can be no excuse for inaction since it is beyond dispute that, in the final analysis, Turkey needs the United States more than the United States needs Turkey. Moreover, a just, fair and lasting compromise solution which we can accept, would be in the best interests of all the parties concerned, including the United States and even Turkey itself. For moral, legal and geopolitical reasons, we count upon the support of the United States, your adopted country, for effective help towards such a solution. The long suffering people of Cyprus fervently hope and trust that, with your help, they will not continue to be disappointed. By taking a determined stand in support of the cause of Cyprus, you would not only be doing your duty to your fellow Hellenes in Cyprus; you would also be acting as loyal American citizens in the best interests of the United States as a nation justly proud to be regarded as a nation of laws and a champion of freedom.

It was encouraging to hear Vice President Bush, at the recent Clergy-Laity Congress give the assurance in the presence of His Eminence Archbishop Iakovos, of renewed efforts by the United States to help find a solution to the Cyprus problem. It is our hope that these efforts will be directed primarily towards Ankara where they are most needed, thus providing the necessary leverage towards the implementation of the U.N. resolutions on Cyprus—resolutions which the U.S. supported—as we have been urging all along.

It is only through the combination of U.N. good offices and mediation with effective and meaningful leverage on Ankara by the United States and other countries in a position to exercise such leverage, that the Cyprus problem can find a fair and lasting solution. The right framework for such a solution is clearly provided by the unanimous United Nations resolutions which are legally binding on all.

More recently—on 28 July 1986—Congressman William Broomfield, the ranking Republican on the House Foreign Affairs Committee, in an important policy statement, urged U.N. Secretary General Perez de Cuellar "to restudy his recent peace plan with the idea in mind of focusing on the Turkish troop issue." "The United Nations," he stressed, "must make the overall draft framework agreement more sensitive to the legitimate concerns and point of view of the Greek Cypriots." "Our Government," declared Congressman Broomfield, "must actively work with the United Nations in making future peace plans more realistic vis-a-vis the perspective of the Greek community on Cyprus. Our Government must make it perfectly clear, both to Secretary General de Cuellar and to the Turkish Government, that the first step in the peace process must involve the removal of the Turkish occupation troops."

Meanwhile, humanitarian aid to Cyprus is still necessary for refugee housing, schools and hospitals but also as a way of sending a political message of continuing caring and support by the American people. Very recently, we received an unpleasant surprise through the Administration's declared intention to reprogram, that is to say take away 12.35 million dollars from aid for the current year or 85% of the total amount which Congress earmarked for Cyprus refugee aid, in order to fund a different program.

This was unfair and unwarranted. If reprogramming was needed to meet other legitimate needs—and, of course, we are aware of the current fiscal constraints—the obvious candidate for it would be the enormous amount of aid given annually to Turkey. Remember that Cyprus would not have needed any aid if it were not for the Turkish brutal invasion that uprooted the refugees from their ancestral homes through the illegal use of American supplied weapons.

Remember also that massive U.S. aid—your tax dollars—in effect subsidizes the illegal Turkish occupation of Cyprus. Recently, it was admitted in official Turkish Central Bank figures that Turkey spends 800 dollars annually to subsidize each Turkish Cypriot; and this is in addition to the hundreds of millions of dollars which is the annual cost to Turkey for maintaining its illegal occupation army in Cyprus. No wonder this attempt to take away the bulk of the humanitarian aid voted and earmarked for Cyprus by Congress, has created a storm of protests in both the Senate and the House of Representatives and strongly worded letters objecting to it were written by the key members of the Senate and House Foreign Relations and Appropriations Committees and by many other friends of Cyprus on Capitol Hill. The outcome is still uncertain and this is a matter which you, as American citizens and taxpayers, should know about. More than dollars and cents, it raises an issue of principle, as was rightly pointed out in main editorials of the Greek American press and by several Greek American Organizations.

Our message to you is loud and clear: The omens are not good and we need all the political support we can get in our struggle to restore justice for Cyprus. The recent illegal visit of Prime Minister Ozal to the part of Cyprus occupied by the Attila troops, an act which has been rightly called "unwise" by the State Department and was unreservedly condemned both in Cyprus and abroad, his provocative statements while in Cyprus, the open threats uttered by Turkish generals against the Republic of Cyprus, the ominous recent increase of the Turkish occupation troops in number and American-supplied equipment and Denktash's latest arbitrary measures are all clear messages that what Turkey seeks is to impose her unacceptable terms and to bring about a solution to the Cyprus problem that will serve her ultimate expansionist objectives in the whole region.

Let me categorically state that we in Cyprus are determined neither to capitulate nor to surrender. Our firm stand, with the support of democratic Greece and Hellenism as a whole, is to pursue our course, with faith, dedication, and a sense of responsibility, in order to overcome the obstacles and to achieve a just and viable solution based on the unanimous and legally binding UN resolutions. If such a solution is reached, Cyprus has the human and economic resources and can indeed become, instead of a bone of contention, a bridge of peace and understanding in the Eastern Mediterranean region, for the benefit of all Cypriots and for peace in the area.

I thank you for your attention and for allowing me to take some of your time on matters which are not only of the utmost concern to your fellow Hellenese in Cyprus but dear to the hearts and minds of all right-thinking people everywhere. I trust you will agree that these are matters which you should be aware of and that you feel about them as strongly as I do.

Let me conclude by reminding you that when united and determined, Greeks, through the ages have performed miracles. Our pledge is not to rest until justice is restored to Cyprus. With your help, this can and will be done.

Thank you for your attention.

TRIBUTE TO THOMAS UZZALINO

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 10, 1986

Mr. TORRICELLI. Mr. Speaker, I rise in honor of Thomas Uzzalino upon his elevation to the executive vice-presidency of the International Union of Bricklayers and Allied Craftsman.

Thomas Uzzalino has long been a dedicated leader of the labor union movement in New Jersey. From 1963 to 1975 he rose steadily in the ranks to assume even more important posts in the Bricklayers Local 23, the Bergen County Building Trades, and the Bergen County District Council of Bricklayers.

In 1975, Mr. Uzzalino left his post as president of the Bergen County Building Trades to assume the duties of the vice president of the

New Jersey State Building and Construction Trades Council, AFL-CIO.

In 1981, Mr. Uzzalino became the secretary-treasurer of the New Jersey State Building and Construction Trades Council.

During his tenure as president of the New Jersey State Conference of Bricklayers, Mr. Uzzalino exerted strong and effective leadership. He quickly became recognized as an outstanding leader and assumed the post of the international union special deputy, Bricklayers and Allied Crafts, in 1983.

Thomas Uzzalino married the former Patricia Hishon of Dumont, NJ, in 1957. They are the parents of four fine children: Joseph, Marie, Peter, and Patricia Ann.

I, therefore, take this opportunity to publicly recognize Mr. Uzzalino's many years of active concern and skillful leadership. I am confident that he will brilliantly fill the post of vice president of the International Union of Bricklayers and Allied Craftsmen.

A CONGRESSIONAL SALUTE TO CHARLES P. SLOCOMBE

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 10, 1986

Mr. ANDERSON. Mr. Speaker, today I rise to pay tribute to Charles P. "Chuck" Slocombe on the occasion of a dinner to be held in his honor on October 3.

Chuck was born in 1907 and is a native of the San Francisco Bay area. He came to the Long Beach Harbor area in 1928 as an oilwell worker and teacher of Sunday school at Emmanuel Presbyterian Church. Soon afterward he became involved in organizing harbor cruises, which ultimately led to his many decades of important contributions to the southern California maritime community. During his early years on the harbor he was known as a seismologist searching for oil deposits off the coast, and as a skipper of sportfishing boats, pilot boats, and water taxis. During World War II, Chuck's knowledge of the harbor area proved valuable to U.S. Navy intelligence.

After the war, Chuck spent some 20 years in a variety of duties with Pacific Towboat. During this time he also worked to develop and operate Pierpoint Landing, one of the biggest waterfront tourist attractions in Long Beach. After leaving Pacific at age 65, Chuck helped Crowley Maritime Corp. to inaugurate their Catalina Island passenger service.

When Chuck took his second retirement 12 years later, he became cochairman of the Tall Ship Olympic Parade of Sail for the Los Angeles Olympics, which was witnessed by some 1.4 million people.

Chuck is also a Cetacean Society expert on whales and has given presentations on the subject to over 400,000 persons, including students and professionals. He is also an avid amateur radio operator. Most recently Chuck has been engaged in raising funds for an International Seafarer's Center for Long Beach, which has already been a huge success.

Chuck is a valuable asset to the Long Beach community and an inspiration to us all. My wife, Lee, joins me in honoring Chuck on this very special occasion. We would like to take this opportunity to congratulate him on his achievements and express our wishes for continued happiness for Chuck, his wife Ann, their daughters Sharon and Betty, their grandsons Dan and William, and their great-grandchildren Brett, Brian, Beverly, and Kelli.

ONE MAN'S WAR ON DRUGS

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 10, 1986

Mr. MAZZOLI. Mr. Speaker, I would like to bring to the attention of my colleagues the personal contribution one young man is making in the continuing war against drugs.

A native Louisvillian, Gary Baker has embarked on a cross-country, marathon-style journey to carry a simple message to America's youth about the dangers of alcohol and drugs.

While we in Congress prepare to consider comprehensive legislation in the fight against illicit drugs, we should be mindful of the outstanding individual efforts that are helping to increase public awareness and the call for an all-out attack on this national scourge.

I commend to my colleagues the following newspaper article from the Courier-Journal about Gary Baker's remarkable quest. His dedication and sacrifice to this cause is deserving of our highest respect and admiration:

COAST-TO-COAST RUNNER TAKES STEPS TO FIGHT DRUG AND ALCOHOL ABUSE

(By Tom Stone)

Twenty-eight days after he began his coast-to-coast marathon, Gary Baker ran across the Jefferson County line yesterday ahead of schedule, carrying a statement to youth that they should "Just Say No" to drugs and alcohol.

"This marathon is the culmination of a 10-year dream of mine to run across the United States," Baker said last night, resting at his parents' home in southern Louisville.

Baker, 40 started his transcontinental marathon in Virginia Beach, Va., on July 16. After walking and running 700 miles, he still has three months and 2,300 miles left before he reaches Los Angeles.

"It had always been a selfish idea, an ego trip," said Baker, a Louisville native. "but a few months ago, I began looking for a way to do it for a worthy cause."

Through all the places he travels—large cities and rural towns—he carries with him the message of the "Just Say No" Foundation, a national organization that tries to help youngsters resist peer pressure to use drugs and alcohol.

"The primary goal of the marathon is to encourage people to organize "Just Say No" clubs," Baker said. These clubs are groups of youngsters, 7 to 14 years old, united in their commitment not to drink or use drugs.

The trip is costing Baker about $6,000. He is also taking an expensive leave of absence from his job as a salesman at Standard Coffee Service Co. in Tennessee.

About $2,000 was collected from small businesses in Nashville, Tenn., to help offset some of the expense, Baker said. Also, New Balance shoe company has donated running equipment to him, and Days Inn is providing free lodging at its motels along his route.

Baker's wife, Debbie, and their two children are staying at their home in the small town of Edgewood, Tenn., during most of the four-month marathon. But they're coming to Louisville tomorrow night to spend the weekend with him.

"I told her when we got married that I was going to do this," Baker said. The Bakers will celebrate their eighth anniversary two weeks after Baker expects to complete his marathon.

Baker said his encounters with drugs and alcohol and his observations of the damage they can do prompted him to support the "Just Say No" campaign.

He worked as a bartender while studying at the University of Hawaii, where he earned a bachelor's degree in health and physical education.

And he taught alternative courses in a Virginia high school, where he worked with potential dropouts, many of whom had problems with drugs and alcohol.

Baker plans to resume walking and running on Shelbyville Road near the Watterson Expressway at 10 a.m. today. He will travel west to Frankfort Avenue, then jog down Main Street to the Riverfront Plaza/Belvedere, where he will have a press conference at 11:30 a.m.

Until now the only mission of the marathon was to carry the message of the "Just Say No" Foundation and get new clubs started.

Beginning today, however, the marathon will also be part of a national fund-raising project to help finance "Just Say No" clubs in schools, Baker said.

The "Just Say No" foundation received a license Monday to operate as a non-profit organization and solicit donations, said Tom Adams, the foundation's director.

"We're asking people to match each mile he runs with a penny," Adams said. At a penny a mile, Baker's marathon would cost a contributor $30.

For more information about starting a "Just Say No" club, call (800) 258-2766. Donations can be mailed to the foundation at 1777 North California Blvd., Suite 200, Walnut Creek, Calif. 94596.

Baker is also challenging people to show their commitment against drugs by running with him at the track at Fairdale High School from 6 to 7 p.m. Sunday.

He is a 1964 graduate of Fairdale, where he played football as a senior.

The toughest part of the marathon so far, Baker said, were the first five days. But after blisters on his feet turned into calluses, the running became easier.

Now his biggest challenge is not getting run over on winding two-lane highways, Baker said.

But despite 90-degree temperatures, occasional downpours and rough terrain, Baker said the marathon has been worth everything he's put into it.

"It's a dream come true," Baker said. "I'll never get a chance to do anything like this again."

APARTHEID

HON. CHARLES A. HAYES

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 10, 1986

Mr. HAYES. Mr. Speaker, an historic event recently took place in the Republic of South Africa with the installation of Desmond Tutu as Anglican Archbishop of Capetown.

Archbishop Tutu, a steadfast advocate of peace and harmony, has been at the forefront in the struggle against the hideous system of apartheid. Unfortunately, the official policy of our Government toward apartheid has given the archbishop no assistance in his efforts to dismantle it.

There is a growing groundswell of American support for distancing the United States from the apartheid regime of the Republic of South Africa. This Chamber has already gone on record to impose stiff economic and trade sanctions against South Africa and the U.S. Senate has done likewise. Unfortunately, the Reagan administration has failed to see the writing on the wall and has steadfastly followed its policy of constructive engagement.

Mr. Speaker, the time is at hand that the U.S. Government disassociate itself, clearly and without reservation, from the system of apartheid. With that thought in mind, I would like to share with our colleagues a recent editorial published in the USA Today newspaper entitled, "It's futile, immoral to cling to apartheid."

The editorial follows:

IT'S FUTILE, IMMORAL TO CLING TO APARTHEID

Is Washington deaf to South Africa's drumbeat of death?

Twenty-one states hear it.

They are selling off their South African investments. Why? They hope to pressure Pretoria to abandon apartheid—the immoral law that allows 5 million whites to subjugate 24 million blacks. Two weeks ago, California voted to sell $11.4 billion in investments tied to South Africa.

Cities and colleges hear it, too. More than 70 U.S. cities and more than 100 colleges have voted to divest. Last week, Harvard had to cancel a fancy alumni dinner because of protests about its $400 million in South African investment.

The states, cities, and campuses hope to undercut South Africa's economy. They don't want Pretoria to have one U.S. penny to spend on an obscene policy that has made blacks aliens in their own land.

The drumbeat of death has been pounding for two years. Since September 1984, 2,300 people have died protesting apartheid. Day after day—death after death. Listen:

Four blacks killed Sunday by police in Durban. Two killed Saturday in Port Elizabeth. Twenty killed in Soweto and their funeral desecrated by police hurling tear gas.

But in Washington, the official response to that drumbeat has been a minuet of missed opportunities.

Last Thursday, President Reagan refused to order tough sanctions. Instead, he extended for a year modest measures that even his aides admit were ineffective in pressuring white South Africa to share power with blacks.

Congress, meanwhile, is dancing around the issue and may run out of time. The House wants a tough bill calling for all U.S. businesses to pull out within six months. The Senate has a milder bill to restrict new U.S. investments in South Africa. If a compromise is adopted, President Reagan may veto it. And Members of Congress will go home in October to campaign, whether it's enacted or not.

It would be outrageous if Congress failed to act on this great moral issue. It is not enough for just cities, states, and colleges to strike out at apartheid. Congress must pass the toughest sanctions possible. Congress must let the world know that it does not share the weak moral position of the White House.

It is time for the USA to make it crystal clear that we oppose apartheid, we oppose the government that invented it, and we will take strong steps to stop it.

Those who claim that South Africa should be left alone are deaf and blind to the inevitable: Unless apartheid is ended, South Africa will sink into a racial blood bath.

On Sunday, whites and blacks together sang Anglican hymns and African chants as Desmond Tutu was enthroned as Archbishop of Cape Town. This rare drumbeat of joy rang out for a man who says economic sanctions could save South Africa. We must listen to him.

Black South Africa is crying out for help. Oppressed blacks give their lives daily to fight apartheid, but all they ask of us is to close our pockets to their tormenters.

We must hear their pleas and end death's drumbeat.

STANLEY M. FISHER IS INDUCTED AS NEW PRESIDENT OF THE FEDERAL BAR ASSOCIATION

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 10, 1986

Mr. STOKES. Mr. Speaker, it is my honor and privilege to bring to the attention of my colleagues the installation of Stanley M. Fisher of Cleveland as president of the Federal Bar Association, headquartered here in Washington, DC. He will assume the presidency of that 15,000 member organization on October 1, 1986.

Stanley Fisher has been a leading member of the Cleveland legal community for more than three decades and is the first Ohio lawyer elected as president of the FBA. Currently of counsel to the Cleveland law firm of Arter & Hadden, Fisher was the first recipient of the Superior Service Award of the FBA Cleveland Chapter, and has twice received Distinguished Service Awards and Commendation Awards. A 1953 graduate of Oberlin College, Fisher earned his law degree at the University of Michigan Law School in 1950, and was a law clerk to Chief Judge Charles Simon of the U.S. Court of Appeals for the Sixth Circuit, which sits in Cincinnati, OH. Since 1971, he has served as special counsel to the attorney general of Ohio, and has been an adjunct lecturer of law for the Cleveland Marshall School of Law.

Mr. Speaker, Stanley Fisher also serves as a national uniform law commissioner. He is a life member of the Judicial Conference of the Sixth Circuit and has been admitted to the bar in Ohio, Michigan, and Florida. He has been an active member of the Federal Bar Association for more than 30 years and served as president of the Cleveland Chapter of the FBA in 1971–72 in addition to holding a number of national offices within the organization.

Mr. Fisher is also a member of the Bar Association of Greater Cleveland and the Cuyahoga County Bar Association and has served the Cleveland Bar as a trustee, and chairman of the professional ethics committee and Federal court committee and has served the Cuyahoga Bar as chairman of the American Bar Association, the American Association of Trial Lawyers, and the American Judicature Society. Stanley and wife, Elaine are the parents of four children, including Ohio State Senator Lee I. Fisher, an outstanding legislator and a personal friend.

Mr. Speaker, I would like to take this opportunity to offer my most sincere congratulations to Stanley M. Fisher on his election as president of the Federal Bar Association. I am confident that he will lead that organization capably and admirably and will work diligently to continue the fine tradition of that 65-year-old association.

SOCIAL SECURITY NOTCH RALLY

HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 10, 1986

Mr. YOUNG of Florida. Mr. Speaker, older Americans from throughout our Nation gathered on the Capitol steps this afternoon to voice their concern about the Social Security notch situation.

As the representative of the highest concentration of Americans age 65 and over in our Nation, I certainly understand their concern about this inequity and have discussed this matter with thousands of my constituents. During the rally, I had an opportunity to meet with retirees from Florida to discuss the notch situation and its effect on all Social Security recipients born since 1917.

The notch is the result of the 1977 amendment to the Social Security Act which sought to correct an unintended flaw in the formula used to calculate Social Security benefits. This formula, enacted in1972, seriously overcompensated for inflation, creating a situation where some beneficiaries, if the formula had not been changed, could, over time, have received Social Security benefits greater than their annual earnings before retirement. Actuaries projected that without a change in this formula, the Social Security trust funds quickly would have become insolvent.

Congress acted in 1977 to correct the flawed formula, but in doing so, established a new set of formulas which resulted in beneficiaries born in 1916 receiving proportionately larger Social Security checks then born in 1917 and after, even if the workers had almost similar lifetime earnings records. This discrepency in benefits was dubbed the notch.

Before Congress can rectify the notch situation, we must fully understand the alternatives available to us and the cost associated with

each alternative. Legislation I have cosponsored would require the Secretary of Health and Human Services and the Commissioner of Social Security to immediately prepare such a report to Congress.

As a member of the House Appropriations Subcommittee which oversees funding of the Social Security Administration, I have discussed this matter with Social Security officials, and in answer to my questions during our hearings was told that the estimated cost of providing increased benefits to those affected by the notch would be $82 billion through 1990.

Mr. Speaker, any solution to the notch problem should be one that is fair to Americans born in 1917 and after, but will not jeopardize the stability of the trust funds for all current and future retirees. Congress acted in a strong, bipartisan manner in 1983 to ensure the financial solvency of the Social Security system well into the next century. We must work together in a similar fashion to provide fairness to all beneficiaries, in a financially responsible manner.

IMPRESSIONS OF A VISIT TO THE SOVIET UNION

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 10, 1986

Mr. FLORIO. Mr. Speaker, this past July, I had the opportunity to visit the Soviet Union with several members of my community. The visit left such a vivid impression on me and confirmed my views that we must continue to stress the importance of human rights and emigration in our dealings with the Soviets, that I issued a newsletter to my constituents to highlight for them my impressions of the visit. I wanted to share with my colleagues the text of my newsletter:

A VISIT TO THE SOVIET UNION

I recently visited the Soviet Union to explore bilateral issues of interest relating to trade, tourism, arms control and human rights accompanied by Michael Varbalow and Dr. Eugene Bass, President and Vice President of the Jewish Federation, Marcy Sanders, President of the Federation's Women's Division, Morton Jacobs, Past President of the Jewish Community Relations Council (JCRC), and his wife Claire, and Alan Respler, Executive Director of the JCRC. The mission to the Soviet Union included meetings with Soviet trade and tourism officials, U.S. Ambassador Arthur Hartman and Consul General Charles Magee, and numerous Soviet refuseniks.

HUMAN RIGHTS

The most poignant part of this mission included meetings with individuals that have expressed the wish to emigrate but have been repeatedly refused and subjected to harassment for their desire to leave. These "refuseniks" are those who seek to exercise the human rights guaranteed to them by international accord including the freedom of speech, the freedom of religion, the freedom of political thought and expression, and the freedom of movement and emigration. An application to emigrate immediately triggers the loss of the jobs, pervasive surveillance, harassment which becomes commonplace, false criminal charges, trials of a sort and imprisonment.

I was able to meet with three of the 20 Divided Spouses, Svetlana Braun, Sonia Melnikova-Eichenvald, and Dimitri Vlasenkov. They come from different backgrounds—Ukrainian, Lithuanian and Armenian—and have married American spouses but are not permitted to join their spouses in the West. Their mail is oten intercepted, they are harassed, followed, and beaten. The majority of the Jewish refuseniks I met with were highly educated professionals ranging from mathematicians to engineers that had undergone harassment and loss of status once they applied to emigrate. In Leningrad, refuseniks such as Aba Taratuta, a mathematician now working as a night watchman and elevator operator, Lev Shapiro, an electronics engineer now an electrician in an apartment building, and Mark Reznick, painted a disheartening picture of life as a refusenik. Despite this loss of status and the danger they face, they continue to practice their religious beliefs, teaching Hebrew to their children, organizing Jewish cultural events and festivals and stoically withstanding harassment by Soviet authorities. Harassment begins at an early age as 8 year-old Naomi Shapiro experienced when she was refused admission to the school her brother attests because her father, Lev, has applied to emigrate. Alexi Bronstein, the step-son of long-time refusenik Lev Bronstein who died in May, lives a life of constant obstacles as a medical student. Last year, his mame appeared in an article associating him with an anti-Soviet underground movement and immediately, his grades dropped and he is in danger of being expelled. Eugene Gilbo, whose two academic degrees were stripped as he applied to emigrate, worked as an entrance examiner in the Leningrad Polytechnic Institute where he was told to give failing grades to exams submitted by Jewish applicants.

Harassment extends to inhumane treatment of refuseniks who need to leave to seek treatment of disease. I met with Inna Kitrosskaya-Meiman, Tatjana Kheifetz-Bogolmonaya, and Benjamin Charny, who were repeatedly denied exit visas. Their tragedy was further compounded when they were stricken by serious forms of cancer and underwent numerous operations and painful treatments that were not effective. They cannot leave the Soviet Union to seek further treatment.

Many of the refuseniks face imprisonment on false charges for requesting to leave. Anna Lifshitz awaits her husband, Vladimir's release from his three-year sentence to a labor camp 5,000 kilometers away. He was tried for writing to the West to protest the loss of his job and his son's loss of an educational opportunity because of his parents' status. His wife was barred from the courtroom and asked to testify against her husband. Valdamir Slepak and his wife, whose son now lives in Philadelphia, were sentenced to Siberia for having protested the denial of their emigration application. They served their sentences but have been waiting to leave since 1970.

One of the key threads that ran through all of the meetings with refuseniks was their feeling that the issue of emigration and family reunification is a matter that must be given high visibility and international attention. There was an acknowledgment that the Soviet government recognizes the existence of concern about human rights issues and this is a view that I share after having met with Soviet officials. It is important that our government stress the importance of this issue with the Soviets and underscore the position that human rights concerns must be addressed in order for the two nations to have an economic relationship.

TRADE

As Chairman of the House Subcommittee on Commerce, Transportation and Tourism, I met with Soviet officials from the Soviet Ministry of Foreign Trade and the Moscow and Leningrad Chambers of Commerce and Industry. The Soviet Union could benefit from Western technology and trade as their inefficient economy has been devoted to a military build-up to the detriment of their primitive domestic economy. The Soviets have needs that can form a market for U.S. manufacturers in the areas of food processing—40% of their tomato crop rots before it gets to market—hotel management, energy development, communications, and construction. However, it is crucial to note that before the U.S. can have such meaningful exchanges, the Soviet authorities must address the many human rights and emigration concerns that are raised through the treatment of Soviet Jews, Ukrainians, Pentecostals and many groups that seek to retain their identity and their fundamental freedoms. The Jackson-Vanik trade mechanism which ties trade with the Soviet Union to progress in emigration and permits trade as emigration levels rise continues to play an important and necessary role in U.S.-Soviet relations.

TOURISM

U.S. tourism from the U.S. to the Soviet Union remains low at 55,000 visitors per year. A meeting with the Chairman of Intourist in Leningrad dealt with areas for improvement including better hotel construction and management, increased tours and facilities and the need to further exchanges and opportunities for discussion. Soviet officials were receptive but emphasized concern that the Soviet Union retain control over products of any joint ventures. Officials expressed awareness of obstacles to better trade and tourism including human rights concerns as well as a willingness to address these concerns while furthering an economic relationship.

ARMS CONTROL

The escalating arms race and the increasing slices of the budget that are devoted towards building a sophisticated arms arsenal in both countries was a topic of concern. Sophisticated advances in the defense area are paralleled with the primitiveness of the day-to-day life in the Soviet Union. The promise of a second summit meeting between the leaders of the two nations has sparked hope that an agreement can be reached and a strong desire in the U.S. Congress for not only a verifiable arms control agreement but a commitment to the previously negotiated agreements. This was evident in the August approval by the House of Representatives of a Defense Department Authorization bill, which contained provisions which avocated a mutual moratorium on nuclear tests, reduced funding for the Administration's Star Wars program, prohibited the use of funds for weapons that would violate U.S. compliance with the SALT II treaty, and continued the moratorium on chemical weapons.

TRIBUTE TO WILLIAM PALKO

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 10, 1986

Mr. TORRICELLI. Mr. Speaker, I rise in honor of William P. Palko, president of the Palko Engineering and Supply Co. of Garfield, NJ. Mr. Palko has an outstanding record of public service. He has contributed to the well being of his fellow citizens on the community, county, and State levels.

As president and trustee of the Garfield Boys Club, Mr. Palko was the driving force behind the swimming pool drive which has provided Garfield with one of the finest facilities in the United States.

From the directorship of the local YMCA to the chairmanship of the Passiac Valley United Way, Mr. Palko has served his community well. His interests have encompassed affirmative action compliance and the construction of day nursery facilities.

A graduate of Rutgers, the State university, Mr. Palko has found the time to remember his alma mater. As president of the Alumni Association of his fraternity, Mr. Palko spearheaded a drive for a substantial addition to his chapter house.

I honor Mr. Palko as the epitome of the concerned citizen. In every area which has touched his life, Mr. Palko has contributed his time, his resources, and his talent.

A CONGRESSIONAL SALUTE TO DON G. GILL

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 10, 1986

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to a civic leader in my district, Don G. Gill. Don is being honored on October 23 aboard the *Queen Mary* by the Long Beach Community Services Development Corp. for his dedicated service to the community. This auspicious occasion gives me an opportunity to express my appreciation for his work in behalf of Long Beach and its environs.

A lifelong resident of Long Beach, Don began what would prove to be a long career of school and community service at an early age. Seizing opportunities for education and personal growth, he participated extensively in athletic, academic, and extracurricular endeavors. This was to be a pattern Don would continue throughout his life, continuing after his college graduation whereupon he plunged headlong into numerous community improvement projects and other civic-minded pursuits.

Don has undertaken, and succeeded in meeting, numerous challenges in the community arena for more than 40 years. He has held major leadership posts in the All-Western Band Review, the Kiwanis Club of Long Beach, the Economic Opportunities Commission, the Mayor's Commission on Human Affairs, the Congress for Community Progress, the Community Welfare Council, the Heart Fund, March of Dimes, California International Sea Festival, and the United Way. He has also made significant contributions of time and energy to the Public Social Services Commission of Los Angeles County, to the new main library committee, the police and fire memorial trust, LBUSD elementary and secondary education committee, and the SAE Alumni Association. Moreover, Don has the distinction of being the only individual in Long Beach history to be president of both the junior chamber of commerce and the chamber of commerce. Clearly, Don's long list of accomplishments highlights the truly remarkable contribution he has made toward the betterment of our community.

My wife, Lee, joins me in extending our warmest congratulations to Don G. Gill on this special occasion. His many years of community service and civic duty are an inspiration to us all. We wish Don, his wife, Sandy, and their children, Kim, Alison, and Tony, all the best in the years ahead.

FARM CREDIT SYSTEM BORROWER INTEREST RATE RELIEF ACT OF 1986

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 10, 1986

Mr. JONES of Tennessee. Mr. Speaker, today I am introducing legislation aimed at permitting the institutions of the Farm Credit System to establish competitive interest rates for their farmer, rancher, and cooperative borrowers. I am pleased to note that a bipartisan group of over 100 of my colleagues is joining me as sponsors of the Farm Credit System Borrower Interest Rate Relief Act of 1986.

For more than 50 years the Farm Credit System has been the largest and one of the most important and stable suppliers of credit to American agriculture. As our Nation's farmers and ranchers continue to suffer under the worst economic depression since the 1930's, the Farm Credit System today finds itself in serious financial difficulties as well. The reasons are simple and obvious: When agriculture producers don't make a profit, they are unable to service their debts.

Production credit associations [PCA's] and Federal land banks [FLB's] today are carrying more than $7.5 billion in nonaccrual farm loans that are not considered fully collectible, and they hold another $5 billion in other high risk loans. Even though repayments are not currently being made on most of these troubled loans, the Farm Credit System is continuing to bear the cost of servicing its obligations to investors who have purchased bonds to finance the System's past lending activities. In other words, while the System tries to practice forbearance with its borrowers, it nevertheless must meet its bills when they come due to the investing public.

The growing volume of troubled loans and continued deterioration of farmland values has finally caught up with the Farm Credit System. Last year, the System posted the largest annual loss of any financial institution in history, nearly $2.7 billion. For the first 6 months of 1986, the System lost another $968 million, and there is little reason to believe this trend has yet to run its course.

To add to the System's problems, it is also experiencing a serious flight of its best borrowers away from its PCA's and FLB's to other lenders whose terms and conditions are more attractive and quicker to respond to the recent overall downward trend in interest rates. From a peak of over $85 billion in total outstanding loans at the end of 1983, the System's loan volume has fallen to $61.5 billion as of June 30, 1986, and it continues to decline day by day.

The System is losing too many of its profitable loans, but because of current Federal regulatory requirements it is prohibited from reducing its interest rates to more reasonable levels so it can compete for new loans and hold on to the customers it now has.

The facts are clear about what has happened to the wholesale cost of money over the past year. Five-year Treasury bills have dropped from 9.81 percent to 6.8 percent. Since August 1985, the prime rate has dropped from 9.5 percent to 7.5 percent. Home mortgage rates have fallen from an average of 12.41 percent to 10.5 percent. However, during this same period, the Farm Credit System's interest rates have only dropped an average of less than 1 percent.

Many System institutions have been seeking to lower their rates—but the System's regulator, the Farm Credit Administration [FCA], has consistently rejected, delayed, and limited any interest rate reductions. This needs to stop. My bill would simply allow the Farm Credit System to determine its own interest rates without the prior approval of Government regulators. Commercial banks are not required to seek prior approvals for their interest rates from the Federal Reserve, the Federal Deposit Insurance Corporation, or the Comptroller of the Currency. System institutions should not have to submit to prior approval either.

Therefore, the legislation I am introducing addresses this problem head on:

First, it removes the System's regulator—the Farm Credit Administration—the routine authority to set interest rates charged by the institutions of the Farm Credit System.

Second, it prohibits the Farm Credit Administration from specifically requiring System institutions to charge rates which are higher than the rates available from other lenders in their geographic area in order to meet required capital levels.

Third, it prohibits the Farm Credit Administration from charging System banks with an "unsafe and unsound" business practice if they follow the good, sound business practice of establishing interest rates to their farmer, rancher, and cooperative customers based upon their marginal cost of funds, the creditworthiness of their borrowers and the cost of servicing loans.

Last year, when the Congress acted to assist the Farm Credit System, our primary concern was to ensure that agriculture producers have access to adequate sources of credit at competitve rates. It is an irrefutable conclusion that the rates charged farmers today by commercial banks, savings and loan associations and insurance companies are

lower than rates which the System is being forced to maintain by its regulator. The System's rates are neither competitive nor reasonable, and we have an obligation to provide expeditious, constructive and corrective action.

Mr. Speaker, as I introduce this bipartisan legislation today, I am concerned that we not lost sight of the fact that the Farm Credit System is a group of institutions which Congress created more than a half century ago to ensure necessary credit for agriculture at reasonable rates in good as well as bad economic times.

My point, Mr. Speaker, is that no financial regulator tries to save an ailing institution by requiring that it charge rates which are noncompetitive. No regulator seeks to make an institution nonviable by running off its good borrowers.

Certainly the System has significant financial problems. Some might say that what I am proposing might even make those problems worse. However, I firmly believe that the System's financial problems are only compounded when farmer after farmer is driven away from the System by unreasonably high interest rates. If the System should ever need direct Federal financial assistance, the cost of that assistance will be significantly higher if the System loses a valuable portion of its present paying customers.

The FCA has already begun its attack on this bill, insisting that it removes the regulatory tools necessary to ensure safe and sound operation of the System.

However, there is a major difference between permitting a commercial lending institution the right to set its interest rates to be competitive and the implication that this action is irresponsible and questionable under safety and soundness principles. There is only one provision of this legislation which addresses safety and soundness and that is only with respect to setting interest rates.

In fact, there are numerous other enforcement authorities which already exist in the Farm Credit Act and are readily available to the Farm Credit Administration.

This legislation does nothing to prevent the FCA from exercising its enforcement authorities to cure bad lending or management practices, inadequate loan documentation or the providing of credit without sufficient resources.

If the FCA believes that Farm Credit System institutions are poorly managed, they have sufficient regulatory authorities at this time to demand corrective action and/or remove management and boards of directors.

The Farm Credit Administration implies that the removal of their authority to regulate interest rates means that their powers to set capital requirements are eliminated. That's simply not true. The Farm Credit Administration continues to have the authority to establish minimum capital requirements for each institution. However, it does not give the FCA the power to require minimum capital by maintaining uncompetitive, excessively high interest rates.

At this point in the RECORD, I insert a letter from the president and chief executive officer of the Farm Credit Corporation of America addressing the criticisms already raised by the Farm Credit Administration.

FARM CREDIT CORPORATION OF AMERICA,
September 10, 1986.

Hon. ED JONES,
Chairman, Agriculture Subcommittee on Conservation, Credit and Rural Development, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I have studied the arguments being made by Farm Credit Administration (FCA) in opposition to your legislative initiative to allow the Farm Credit System to charge competitive rates. FCA appears to base its concerns on the "safety and soundness" issue and the "dissipation of capital" issue.

Unfortunately, there are hundreds of banks and savings and loans in this country which are also currently facing serious financial problems. I am not aware of a single case where a federal regulator, other than FCA, has required a weak institution to charge rates above competitive levels under the guise of "safety and soundness" or as a means of "preserving capital".

As director of the Federal Savings and Loan Insurance Corporation (FSLIC) during the turbulent period of 1981-1983, I participated in the merger or liquidation of hundreds of weak financial institutions. It was never seriously considered to compel those institutions to raise their mortgage rates above competitive levels. Such a strategy would have been folly.

The Farm Credit System is making every effort to avoid the need for federal financial assistance. However, without the ability to charge competitive rates, the System has virtually no chance of recovery.

As the enclosed Press Release dated April 9, 1986, indicates, "The Farm Credit System must have the flexibility to change its prices in response to daily changes in the marketplace in order to serve its borrowers and manage its business as a successful institution."

On behalf of the Farm Credit System, I urge you and your colleagues to pass legislation which removes FCA from the business of approving interest rates. This will help the American farmer and improve the ability of the Farm Credit System to maintain its market share and to manage its assets and liabilities.

Sincerely,

H. BRENT BEESLEY,
President and Chief Executive Officer.

Mr. Speaker, I am the first person to insist that Farm Credit System institutions have made management mistakes and public relations blunders in the past and they probably will make others in the future. I've probably had more blunt, heart-to-heart discussions with the System's leadership about the mistakes they have made than anyone else in this country, including the regulatory officials of the Farm Credit Administration. However, punishing the farmers and ranchers of the country by forcing PCA's and FLB's to charge unreasonable interest rates is not an appropriate solution.

We have a clear choice. If we choose to take the positive action to give the System the opportunity to set rates competitively, there is good reason to believe that farmers and ranchers who have supported the Farm Credit System in the past will return and support it again. If we choose to turn our backs on this opportunity to be constructive, borrower flight will continue and it is reasonable to believe that the Farm Credit System's financial base will continue to be weakened.

The result of such a weakening of the System will be that any future financial assistance necessary to aid the System will only be greater if we allow good customers to be driven away by excessive interest rates.

TRIBUTE TO BEN LEAL

HON. BARBARA BOXER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 10, 1986

Mrs. BOXER. Mr. Speaker, I would like to call attention to the impressive contributions to the American labor movement of a San Francisco Bay Area labor leader, Ben Leal.

Mr. Leal, who has been a Teamster for more than 40 years, will be recognized later this month at a dinner in his honor where he will receive the prestigious Menorah Award, presented by Histradrut, the State of Israel's General Federation of Labor. This honor is well deserved.

Ben Leal, a Navy veteran of World War II, began his union service in 1946 in Seattle, WA. While on the executive board of Seattle local 117 he earned a degree in industrial relations from Seattle University. He moved to the San Francisco area in 1950 and became president of Teamsters Local 241 4 years later. In 1956 he joined Teamsters Local 856 of San Francisco where he now serves as the chief executive officer.

This dedicated man today serves in a variety of capacities in the Western Conference of Teamsters, as an international trustee, and as president of the Northern California United Food and Drug Council which is comprised of 70 unions involved in the food industry. Ben Leal is a model citizen and deserves our warm congratulations on the significant occasion of his receiving this major award. His contributions to labor and his brothers and sisters in the labor movement are indeed immense.

TRIBUTE TO JOEL SCOTT

HON. GEORGE (BUDDY) DARDEN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 10, 1986

Mr. DARDEN. Mr. Speaker, earlier this summer, the veterans of Georgia and our Nation lost a man who had worked tirelessly to secure their well-deserved benefits. I would like to call the attention of my colleagues to the accomplishments of Joel E. Scott of Cartersville, GA.

Joel Scott, who died July 14, was manager of the Cartersville office of the Georgia Department of Veterans Services. He also was extensively involved in the activities of the American Legion and the Veterans of Foreign Wars.

Mr. Scott was a World War II Navy veteran. He had served on the Veterans' Administration Rehab Committee since 1970, and at one time was vice president of that committee. He was the veterans representative on the deans

committee at Emory University Hospital in Atlanta.

In the American Legion, Mr. Scott was adjutant and service officer of Cartersville Post 42. He had served as service officer and past commander of the seventh district American Legion.

Mr. Scott served the National American Legion, including work on the Economic Commission of the Veterans Preference Committee.

In addition, Mr. Scott was an active Mason and Shriner, and served in many capacities at Cartersville Tabernacle Baptist Church.

Joel Scott will be long remembered for his contributions to the well-being of our veterans. I ask that my colleagues join me in expressing our sympathy to Mr. Scott's wife, Eulin, to his son, Ricky, and his grandchildren, Brian and Jo El, and to his mother, Mrs. Lois Scott.

SUPPORTING FEDERAL EMPLOYEES AND THE 3-YEAR RECOVERY RULE

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 10, 1986

Ms. MIKULSKI. Mr. Speaker, this House will soon be considering the conference committee's tax reform bill. I strongly support fair and equitable tax reform. And the conference committee's tax bill will be a step in that direction. But Mr. Speaker, as presently proposed the conference agreement has at least one very serious flaw.

This conference committee bill repeals the 3-year recovery rule. That rule provided that Federal employees who contributed to their retirement plans could, within the first 3 years after they retire, recover up front their contribution to that plan. Since they had paid tax on the money for that contribution when it first was earned, they would not be taxed again on their recovered contribution.

Many, many Federal employees planned their retirement believing that for the first 3 years, they could live on their recovered contribution without once again paying taxes on that money.

Time after time, this Government has attacked our hard working Federal employees. These employees are the government. They are the people who have helped to make America the great country it is today. This Government has asked them to make great sacrifices, and they have. In return, this administration has RIF'd them, cut their benefits, wreaked havoc with their retirement plans, replaced them with more expensive contract workers, and kept their salaries and their pay increases well below the salaries of workers in the private sector. Mr. Speaker, this Government has done just about everything possible to tarnish the prestige and honor that once went with dedicating one's life to public service, working for our Federal Government. And yet these dedicated and skilled Americans have persisted in their civic-minded commitment to America and its Government.

Mr. Speaker, here we go again.

When the repeal of the 3-year recovery first was proposed in the House, I opposed it. I spoke to the members of the Ways and Means Committee and told them how unfair I felt repeal would be. I worked with other Members of the House to try to protect the Federal employee and to keep the 3-year recovery rule.

When that effort failed in the House, I wrote to Senator PACKWOOD. I said,

It is not fair to penalize—through new tax rules—the pension plans of police officers, teachers, FBI agents, Social Security workers and others who are already making tremendous contributions to our society through the work they do every day.

Mr. Speaker, fairness and equity must be the guiding principles behind our tax reform efforts. But in Congress' rush to pass tax reform legislation, it has lost its way, it has failed to follow its guiding principles.

It is unfair for Congress to make retroactive changes in the tax law. Mr. Speaker, when we pass tax laws, the rules of the game, the American people rely on the laws to plan their retirement. It is unfair for us to tell the American people that they can rely on these rules and to now change the rules of the game after the American people have begun to play.

And it is inequitable for us to ask, in the name of revenue neutrality, that loyal Federal employees shoulder an unfair tax burden so that other groups can keep their special tax breaks.

Again, Mr. Speaker, I come before the House today not to oppose fair and equitable tax reform, but to oppose the unfair and inequitable repeal of the 3-year recovery rule.

STOP TRADE PREFERENCES FOR CHILE

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 10, 1986

Mr. STARK. Mr. Speaker, as the 13th anniversary of General Pinochet's takeover of the Government of Chile approaches tomorrow, the level of repression and violence is once again escalating.

A member of the political opposition, José Carrasco, was dragged from his home in the middle of Sunday night. When his body was found, there were so many bullet holes in his head that he was almost unrecognizable. Two other similar killings were reported and the state security forces are the prime suspects in all three brutal murders.

A state of siege has been imposed by General Pinochet. Nationwide, people are being detained. Opposition press is being shut down.

We need to protest these actions by the Chilean Government. We need to take action against the continued outrages of General Pinochet.

At a minimum, Mr. Speaker, we need to enact legislation I have introduced to deny Chile preferential trade tariff treatment under the generalized system of preferences. There must be no reward for the murder, torture, and political repression of the totalitarian rule of the Pinochet regime in Chile.

THE NATIONAL ASSOCIATION OF PURCHASING MANAGEMENT

HON. JOHN McCAIN

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 10, 1986

Mr. McCAIN. Mr. Speaker, it is my privilege to recognize and congratulate the National Association of Purchasing Management, and its 28,000 members located across the United States, for their foresight and effort in establishing the Center for Advanced Purchasing Studies [CAPS]. This center is the first privately funded purchasing/materials management research center in the country. It has two major goals: to improve purchasing effectiveness, and to improve the overall state of purchasing readiness.

These goals will be met by completing research in specific areas deemed having the greatest research payoff by purchasing executives across the country. The research results will help private industry become more effective, efficient, and competitive in the U.S. world marketplaces; as well as pointing the way to improved governmental purchasing practices, thus saving the taxpayer money.

The Center for Advanced Purchasing Studies is managed by the College of Business at Arizona State University, and is located at the Arizona State University Research Park in the 1985 all-American city of Tempe, about 5 miles south of the main Arizona State University campus.

The location of the Center for Advanced Purchasing Studies within the research park reflects the close cooperation that is emerging between industry, the university, and the professional purchasing association. This union serves as a bridge between the academic and business communities, to the long-term benefit of both.

SOCIAL SECURITY "NOTCH"

HON. RAYMOND J. McGRATH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 10, 1986

Mr. McGRATH. Mr. Speaker, I would like to bring the very important remarks of my good friend and constituent, Dr. Albert De Vito, on the subject of the inequities of the Social Security "notch" to the attention of my colleagues.

As the local leader of a grassroots movement, I believe Dr. De Vito's reasoning on this subject is germane to us all:

We of the Notch Generation, born 1917-21, have been hurt deeply by those of the past whom we elected to public office; hurt by those whom we recently elected and trusted to take care of our needs, which they negated. But yet, when it comes to handing out our money, taxpayers' money, it is given freely to other countries without a question of doubt. Need I go further on this subject? Those responsible only have to go into the depths of their conscious minds to understand this statement.

Let us look further. Our Nation today is No. 1 because of those who lived throughout

the Great Depression, lived at the birth of our Social Security law founded by the late and great Franklin Delano Roosevelt, and those who served on land, across all corners of the world, air and sea during World War II.

As we meet in D.C. today to state our case for H.R. 1917, let us look at the future positive results throughout the Nation. First of all, it will not rob the Social Security Trust Fund. It will appease the Notch Generation and those who come after.

Whenever a person receives money or assets, it always goes back into the Nation's economy. Industry will sell more products, build more structures to manufacture and house these products, and hire more people. More money will be paid into our tax structure. In fact, the money that will be taken out of the Social Security Trust Fund to pay us will be going back into that fund through FICA taxes. However in this, I would like to see the notch group receive credits beyond the age of 61.

It simply means that our Nation will be better off financially and the Notch Babies will be in a better state of mind being able to cope better with the High-Rise-Standard of living today.

Above all, my love, devotion and admiration go out to Mr. Roybal, all the congressmen who cosponsored his H.R. 1917 Bill, Mr. James Roosevelt and his "National Committee to Preserve Social Security and Medicare," and the devoted Notch Leaders throughout the country I have had the honor of working with.

I say unto you, Blessed be with universal love.—Albert De Vito, GrassRoot Notch Leader, Westbury, NY.

TRIBUTE TO MARY JANE POWELL

HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 10, 1986

Mr. ATKINS. Mr. Speaker, today I rise to recognize the achievements of a constituent of mine, Mary Jane Powell. At their Dahlia Ball on Friday, September 12, the Merrimac Valley Democrats will honor Mary Jane by naming her "Democrat of the Year."

Mary Jane lives in Andover, MA, with her four children, Maren, Jenna, Jason, and Andrew, and her husband, Hank, with whom she cofounded and directs the Powell Corp., a small manufacturing company. The town of Andover and the surrounding community have benefited greatly from the activities of this diligent and selfless citizen.

A graduate of Merrimack College, Mary Jane has displayed a strong commitment to education. She expresses this commitment in a variety of ways: she holds a position on the board of trustees at the University of Lowell, and works as a learning disabilities tutor for the Reading Department of the Andover Public Schools. Mary Jane incorporates her dedication to education with that to womens' issues by arranging speeches by career women for the students at St. Mary's High School in Lawrence. A former member of the Governor's Advisory Committee on Womens' Issues, Mary Jane is particularly interested in womens' economic issues.

Active in party politics, Mary Jane is an elected member of the Democratic State Committee in the Second Essex and Middlesex District. She has also done valuable work for several State officials.

Mary Jane has distinguished herself as a leader in her community through her work for a great number of public service organizations and programs. She is currently a member of the Andover Housing Authority and formerly served on the board of directors of the Bay State Skills Corp. Mary Jane Powell has made a substantial mark on her community through her tireless dedication to these and other such worthy organizations.

Through her selfless dedication to her party and her community, Mary Jane Powell has earned the respect and admiration of those fortunate enough to know her. It is my distinct pleasure to join my colleagues and the Merrimac Valley Democrats in honoring this active and productive citizen.

HONORING JOHN C. CHAVEZ

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 10, 1986

Mr. TORRES. Mr. Speaker, I rise today to ask my colleagues in the House of Representatives to honor a beloved citizen, a devoted father, a hard worker, and a leader in his community: John C. Chavez of Pico Rivera, CA.

John is retiring from the City of Los Angeles Fire Department after 30 years of dedicated service. A dinner in his honor is planned for Friday, September 12, 1986.

John may be retiring from the fire department, I know from personal experience he will not be retiring from much else. He will continue to serve admirably on the Pico Rivera City Council, where he has been a member since 1978. He will continue to help with the Pico Boys' Baseball League. He will continue his extensive envolvement in social services delivery, cities planning and State government affairs.

I have known John for many years now, and I have never known him to turn down someone who needed help. In Pico Rivera he is everywhere, making sure city services are delivered effectively and efficiently. He has served two terms as mayor. He understands that elected officials hold unique positions in the community: getting elected is a special honor that must be earned everyday through dedicated and responsible service.

John and I were students together at Stevenson Junior High School. I remember him during those times, which seems not so long ago, as a studious young man. Looking back I can see that John developed then the strong moral character that has been an inspiration to all of us who have lived and worked with John Chavez throughout these many years.

For John and Belen and their children, I know I have the support of my colleagues in the House of Representatives when I wish them all the very best in the coming years.

POLISH FALCONS OF AMERICA, GROUP 276, POLISH FALCONETTES AUXILIARY GROUP 883

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 10, 1986

Mr. VANDER JAGT. Mr. Speaker, it is my pleasure to bring to your attention and that of our colleagues in the U.S. Congress, the 75th anniversary of the Polish Falcons of America, Group 276 and the 55th anniversary of the Women's Polish Falconettes Auxiliary Group 883 from Muskegon in our Ninth Congressional District of Michigan.

These organizations were originally established to promote the Polish culture, retain the Polish heritage and ease the transition of new immigrants to this country. Nest No. 276 was organized on March 13, 1911 in Muskegon. On June 11, 1911, the organization was admitted to the Polish Falcon Alliance. During World War I and II, many of the members of Group 276 joined the ranks of the Polish and American Armies in the United States, Canada and Europe.

The group has sponsored athletic teams, expanded greatly over the years, and throughout its history has been the leading organization in Muskegon's Polish community. The aim of Nest 276 continues to be a dedication to the physical, cultural, patriotic and moral advancement of its members.

The Falconettes Nest 883 of Muskegon was organized on April 17, 1931. Throughout its history, Nest No. 883 has participated in substantial fund raisings for the St. Michael's School, Catholic Central High School, and the Falcon Building. They continue to uphold the Falcon tradition and the high ideals of their organization.

This is just a brief look at the remarkable history of these outstanding organizations. There are many other achievements worthy of mention, but they all result in the same conclusion: these two nests continue to cherish their past culture while looking forward to the future of their country, America. They represent the best in what truly characterizes our Nation—hardworking, intelligent, God fearing and patriotic citizens.

DULUTH MIDDLE SCHOOL, A SCHOOL OF EXCELLENCE

HON. ED JENKINS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 10, 1986

Mr. JENKINS. Mr. Speaker, Friday, representatives from 272 schools from across the Nation will participate in a White House Schools of Excellence ceremony. One of those Schools of Excellence awards will go to Duluth Middle School in Gwinnett County, GA, located in my congressional district.

In a time when critics are looking for some particular group to blame for failures of the education system, I enjoy this privilege of pointing to a success. Since the criteria for

judging a school of excellence are the same for all, I am assuming you will find similarities among the schools. The selections are based on how well the schools used available resources; how well students' needs were met; school organization and goals; instructional programs; student achievement; school-community relations; and efforts at improvement.

Those who want to single out teachers or one other single group or factor to blame for failure of an education system should look at that selection criteria again and look specifically at those singled out as schools of excellence.

Let's look at Duluth Middle School. Let's start with the principal, Valerie Clark. That's where the parents and teachers were pointing when the award was announced. But Principal Clark quickly pointed her fingers back to the teachers, parents, students and other administrators in her school system.

She describes the teachers as "very dedicated and very enthusiastic," the students "as very special young people. They like the teachers. They're willing to do that little bit extra." She praises the community for its general support, pointing to a very active PTA. "The community just goes above and beyond to give us what we need."

She also spreads the credit to the school system's administration and her predecessor who planted the seeds for success. The fact that another Gwinnett County School was on last year's list of schools of excellence backs up her claim of the entire system being of good stock. Parkview High School in Lilburn was selected last year as one of the 260 Schools of Excellence.

I suspect you will find the cooperation evident at Duluth Middle School at all of the 272 educational institutions receiving this year's School of Excellence award. Let's all point our fingers of praise at them.

Duluth Middle School, I salute you. I salute your principal, your teachers, your students, your parents, and your community.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, September 11, 1986, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

SEPTEMBER 12

9:30 a.m.
Joint Economic
To hold hearings on tax reform.
2359 Rayburn Building

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
Business meeting, to mark up provisions of H.R. 5339, appropriating funds for fiscal year 1987 for foreign assistance and related programs (pending on House Calendar).
S-126, Capitol

Energy and Natural Resources
To hold oversight hearings on applicable water law during the Federal Energy Regulatory Commission's hydroelectric licensing proceedings.
SD-366

Environment and Public Works
To resume hearings on S. 2340, to provide a system of liability and compensation for oil spill damage and removal costs.
SD-406

Select on Intelligence
Closed briefing on intelligence matters.
SH-219

SEPTEMBER 15

9:00 a.m.
Impeachment Trial Committee
To hold hearings on matters relating to the impeachment trial of the Honorable Harry E. Claiborne.
SR-325

9:30 a.m.
Joint Economic
To resume hearings on tax reform.
2359 Rayburn Building

2:00 p.m.
Armed Services
Military Construction Subcommittee
Closed business meeting, to mark up H.R. 1202, authorizing funds for fiscal years 1986, 1987, and 1988 for carrying out wildlife, fish, game, and migratory game bird conservation programs on military reservations.
SR-222

Impeachment Trial Committee
To continue hearings on matters relating to the impeachment trial of the Honorable Harry E. Claiborne.
SR-325

SEPTEMBER 16

9:00 a.m.
Impeachment Trial Committee
To continue hearings on matters relating to the impeachment trial of the Honorable Harry E. Claiborne.
SR-325

9:30 a.m.
Agriculture, Nutrition, and Forestry
Foreign Agricultural Policy Subcommittee
To resume hearings to review United States food aid programs and efforts to help meet world food assistance requirements.
SR-332

Commerce, Science, and Transportation
To resume hearings on S. 2565, to ensure the orderly and competitive development of the telecommunications industry, and related proposals.
SR-253

Energy and Natural Resources
Energy Regulation and Conservation Subcommittee
To hold hearings on S. 2781, to revise certain provisions of the Energy Policy and Conservation Act with respect to energy conservation standards for appliances.
SD-366

Governmental Affairs
Oversight of Government Management Subcommittee
To hold hearings on S. 2756, Computer Matching and Privacy Protection Act of 1986.
SD-342

Judiciary
To hold hearings on the Administration's proposed regional refugee admissions level for fiscal year 1987.
SD-226

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1987 for the National Aeronautics and Space Administration.
SD-192

Environment and Public Works
Business meeting, to mark up S. 2340, to provide a system of liability and compensation for oil spill damage and removal costs.
SD-406

Labor and Human Resources
To hold hearings on pending nominations.
SD-430

2:00 p.m.
Impeachment Trial Committee
To continue hearings on matters relating to the impeachment trial of the Honorable Harry E. Claiborne.
SR-325

SEPTEMBER 17

9:00 a.m.
Impeachment Trial Committee
To continue hearings on matters relating to the impeachment trial of the Honorable Harry E. Claiborne.
SR-325

9:30 a.m.
Governmental Affairs
Permanent Subcommittee on Investigations
To hold hearings on emerging criminal activity in Nigeria.
SD-342

Judiciary
Criminal Law Subcommittee
Business meeting, to mark up S. 1203, to grant railroad police and private college or university police departments access to Federal criminal identification records.
SD-226

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

10:30 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings on the financial condition of the farm credit system.
SR-332

Commerce, Science, and Transportation
To hold hearings on the nominations of Sonia Landau, of New York, and R. Kenneth Towery, of Texas, each to be a Member of the Board of Directors of the Corporation for Public Broadcasting.
SR-253

2:00 p.m.
Impeachment Trial Committee
To continue hearings on matters relating to the impeachment trial of the Honorable Harry E. Claiborne.
SR-325

SEPTEMBER 18

9:00 a.m.
Impeachment Trial Committee
To continue hearings on matters relating to the impeachment trial of the Honorable Harry E. Claiborne.
SR-325

9:30 a.m.
Energy and Natural Resources
To resume oversight hearings on the domestic and international petroleum situation.
SD-366

10:00 a.m.
Environment and Public Works
Business meeting, to resume markup of S. 2340, to provide a system of liability and compensation for oil spill damage and removal costs.
SD-406

2:00 p.m.
Impeachment Trial Committee
To continue hearings on matters relating to the impeachment trial of the Honorable Harry E. Claiborne.
SR-325

2:30 p.m.
Environment and Public Works
Environmental Pollution Subcommittee
To hold hearings on certain provisions of S. 1352 (pending on Senate calendar), and H.R. 1202, bills authorizing funds for fiscal years 1986, 1987, and 1988 for conservation programs on military reservations and public lands, and S. 2741, to establish the Bayou Sauvage Urban National Refuge in Louisiana.
SD-406

SEPTEMBER 19

9:00 a.m.
Impeachment Trial Committee
To continue hearings on matters relating to the impeachment trial of the Honorable Harry E. Claiborne.
SR-325

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings to examine the air quality within an airplane.
SR-253

Finance
Health Subcommittee
To hold hearings to examine current Medicaid funding services provided for the long-term care of developmentally disabled persons.
SD-215

2:00 p.m.
Impeachment Trial Committee
To continue hearings on matters relating to the impeachment trial of the Honorable Harry E. Claiborne.
SR-325

SEPTEMBER 22

2:30 p.m.
Commerce, Science, and Transportation
Business, Trade, and Tourism Subcommittee
To hold hearings to review travel and tourism statistics.
SR-253

SEPTEMBER 23

9:00 a.m.
Office of Technology Assessment
The Board, to meet to consider pending business.
EF-100, Capitol

9:30 a.m.
Commerce, Science, and Transportation
To hold oversight hearings on activities of the National Highway Traffic Safety Administration, and the implementation of the Motor Carrier Safety Act of 1984.
SR-253

Energy and Natural Resources
Public Lands, Reserved Water and Resource Conservation Subcommittee
To hold hearings on S. 2029 and H.R. 4090, bills to establish the Big Cypress National Preserve Addition in Florida, S. 2442 and H.R. 4811, bills to establish the San Pedro Reparian National Conservation Area in Arizona, H.R. 2921, to authorize the Secretary of Agriculture to issue permanent easements for certain water conveyance systems in order to resolve title claims arising under acts repealed by the Federal Land Policy and Management Act of 1976, S. 2707 and H.R. 2826, bills to designate a segment of the Horsepasture River in North Carolina as a component of the National Wild and Scenic Rivers System.
SD-366

11:00 a.m.
Veterans' Affairs
To hold hearings to review the legislative priorities of the American Legion.
SD-106

SEPTEMBER 24

9:30 a.m.
Environment and Public Works
Nuclear Regulation Subcommittee
To hold hearings to review nuclear power safety measures in the aftermath of the Chernobyl nuclear powerplant accident.
SD-406

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

SEPTEMBER 25

9:30 a.m.
Labor and Human Resources
Employment and Productivity Subcommittee
To hold hearings on the employment impact of United States/Japan autoparts trade relations.
SD-430

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

SEPTEMBER 26

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings on proposed legislation authorizing funds for the Airport and Airway Trust Fund.
SR-253

SEPTEMBER 29

9:30 a.m.
Finance
Taxation and Debt Management Subcommittee
To hold hearings on S. 1974 and S. 1113, bills to prohibit the imposition by States of the worldwide unitary method of taxation.
SD-215

OCTOBER 1

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

OCTOBER 2

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

SENATE—*Thursday, September 11, 1986*

(Legislative day of Monday, September 8, 1986)

The Senate met at 10:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Our prayer will be offered by the Reverend Father Lawrence Martin Jenco, Middle East director of Catholic Relief Services. Father Jenco is sponsored by Senator PAUL SIMON.

PRAYER

The Reverend Father Lawrence Martin Jenco, Middle East director of Catholic Relief Services, Joliet, IL, offered the following prayer:

Let us pray:

We thank You God, our Father for Your loving trust in man, woman, child.

In creation You first clothed us with dignity—called us not things, but sons and daughters and saw that we were very good.

You did not hesitate, even then, to offer what was most intimate to Yourself, a share in Your creative power.

Thus, from the beginning, it has ever been our calling to fashion this world and ourselves in the image of Your love.

Creation still groans in sorrow and anguish. We are aware of being bearers of those forces which free creation from the slavery of corruption and brings it into the freedom of the sons and daughters of God.

In our commitment of servanthood to our Nation and to the world—we shall have only relationships of peace, mercy, justice, and constructive love toward all men, women, and children.

Give us the courage to be what we truly are—the work of Your loving hand, God touched and frail—yet possessing a dignity beautiful beyond belief.

Give us the courage to speak when we must speak. To act when we must act that we may be true stewards—giving life to the word You have spoken to humankind.

I thank You for the precious gift of my freedom. Please, dear God grant freedom to all of Your sons and daughters, our brothers and sisters who are held captive, by whatever bondage around the world. We ask especially that You grant freedom to Tom Sutherland, David Jacobsen, Terry Anderson, and Frank Herbert Reed. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The distinguished acting majority leader is recognized.

FATHER JENCO'S RETURN

Mr. BOSCHWITZ. Mr. President, I want to comment for a moment on Father Jenco's prayer this morning when he spoke about his own freedom. It was particularly meaningful, having been incarcerated over such a long period of time in Lebanon. Father Jenco is from Jackson, MN, originally, so we have a little bit of a claim on him. We are very proud that he has been the author and deliverer of this morning's prayer.

IMPEACHMENT OF JUDGE HARRY E. CLAIBORNE

The PRESIDENT pro tempore. Pursuant to Senate Resolution 480, 99th Congress, the Chair submits to the Senate for printing in the Senate Journal and in the CONGRESSIONAL RECORD the answer of Harry E. Claiborne, judge of the U.S. District Court for the District of Nevada, to the articles of impeachment, as received by the Secretary of the Senate on September 8, 1986.

[In the Senate of the United States Sitting as a Court of Impeachment]

IMPEACHMENT OF JUDGE HARRY E. CLAIBORNE

NOTICE OF FILING

To: Jo-Anne L. Coe, Secretary of the United States Senate, S-221 The Capitol, Washington, D.C. 20510

Please take notice that on this 5th day of September, 1986, the Honorable Harry E. Claiborne, has posted to the Secretary of the United States Senate, an original and thirty copies of his Answer to Articles of Impeachment.

Simultaneous with the posting of the Answer to Articles of Impeachment, the same was served upon the United States House of Representatives through its Special Counsel, Nicholas D. Chabraja, by Federal Express delivery.

Respectfully submitted:

HARRY E. CLAIBORNE,
(By) Oscar B. Goodman, Esq., and Honorable Howard W. Cannon,
Attorneys for Respondent.

[In the Senate of the United States Sitting as a Court of Impeachment]

IMPEACHMENT OF JUDGE HARRY E. CLAIBORNE

ANSWER TO ARTICLES OF IMPEACHMENT

Judge Harry E. Claiborne, by and through his counsel, Oscar B. Goodman, Esq. and the Honorable Howard W. Cannon, Answers The Articles of Impeachment preferred by the House of Representatives:

ARTICLE I

Article I alleges that Judge Harry E. Claiborne willfully and knowingly made a false statement on his 1979 tax return in violation of Section 7206(1) of Title 26, United States Code.

Judge Harry E. Claiborne states that he believed the return to be true and correct as to every material matter.

Judge Harry E. Claiborne states that he had no specific intent to violate the law and that errors contained in his 1979 return were the result of accident, mistake or negligence. Judge Harry E. Claiborne subscribed such return in reliance on Joseph Wright, whom he reasonably believed to be a competent public accountant. Judge Harry E. Claiborne made a full disclosure to such accountant.

First Affirmative Defense

Judge Harry E. Claiborne was deprived of fundamental Due Process of Law in litigating such defenses by the judges specially appointed to hear his case.

Second Affirmative Defense

Judge Harry E. Claiborne was deprived of Due Process of Law by outrageous prosecutorial conduct by members of the Executive Branch who wrongfully procured his indictment and conviction through perjured testimony, intimidation of witnesses and unlawful covert surveillance including a mail cover and at least one burglary of Judge Claiborne's residence.

ARTICLE II

Article II alleges that Judge Harry E. Claiborne willfully and knowingly made a false statement on his 1980 tax return in violation of section 7206(1) of Title 26, United States Code.

Judge Harry E. Claiborne states that he believed the return to be true and correct as to every material matter.

Judge Harry E. Claiborne states that he had no specific intent to violate the law and that errors contained in his 1980 return were the result of accident, mistake or negligence. Judge Harry E. Claiborne subscribed such return in reliance on Jerry D. Watson, whom he reasonably believed to be a competent public accountant. Judge Harry E. Claiborne made a full disclosure to such person.

First Affirmative Defense

Judge Harry E. Claiborne was deprived of fundamental Due Process of Law in litigating such defenses by the judges specially appointed to hear his case.

Second Affirmative Defense

Judge Harry E. Claiborne was deprived of Due Process of Law by outrageous prosecutorial conduct by members of the Executive Branch who wrongfully procured his indictment and conviction through perjured testimony, intimidation of witnesses and unlawful covert surveillance including a mail cover and at least one burglary of Judge Claiborne's residence.

ARTICLE III

Article III alleges that Judge Harry E. Claiborne was convicted of two felony offenses.

First Affirmative Defense

Judge Harry E. Claiborne states that such convictions were wrongfully obtained by the failure and refusal of the Judicial Branch, through the judges specially appointed to preside over his case, to provide fundamental Due Process of Law.

1. Of the three judges specially appointed to review Judge Claiborne's convictions, all judges, including the Honorable Wilbur F. Pell, Senior Circuit Judge for the Seventh Circuit, the Honorable J. Edward Lumbard, Senior Circuit Judge for the Second Circuit and the Honorable Robert H. McWilliams, Senior Circuit Judge for the Tenth Circuit, failed and refused to conduct an independent examination of the material on which the trial court based its rulings, such materials having been sealed by the trial judge and not unsealed or read by anyone from that time through at least the entry of the Honorable Warren Ferguson's, Circuit Judge for the Ninth Circuit, dissenting opinion on December 30, 1985, from the Order of the Ninth Circuit denying a hearing en banc.

2. The failure and refusal of said judges to conduct a proper independent review of the materials on which the trial court based its rulings or to read the briefs on appeal prejudiced Judge Harry E. Claiborne and deprived him of fundamental Due Process of Law. The specially appointed judges set forth critical factual errors in their analysis of the case in their decision reported at 765 F.2d 784 (1985).

3. The trial judge, the Honorable Walter E. Hoffman, failed and refused to provide to Judge Harry E. Claiborne, or his counsel at any meaningful time, critical exculpatory evidence necessary to impeach the false testimony of the prosecution's witness, Joseph Wright; and Judge Hoffman also failed to provide critical evidence which would corroborate the exculpatory testimony of Jerry Watson and Judge Claiborne. Two items of such exculpatory evidence, the existence of which is now known to Judge Claiborne, are:

A. An interview by FBI Special Agent Richard T. Jessinger of Charlotte Travaglia, an employee of Jerry Watson, conducted on or about June 17, 1983. Travaglia's statement corroborates Judge Claiborne's contention at trial that he made full disclosure of this 1980 income to Jerry D. Watson. Travaglia's statement confirms and corroborates that Jerry D. Watson and his office were confused about the proper treatment of that income. Subsequent to such interview, on or about June 17, 1983, Travaglia, who was seriously ill, was frightened or induced by wrongful governmental actions to withhold such exculpatory information from Judge Claiborne and his attorneys.

Travaglia's exculpatory statement was disclosed in May, 1986, after the conclusion of both trials and the direct appeal in this matter.

B. A Memorandum of Interview of government witness Joseph Wright conducted on or about February 16, 1983, was wrongfully withheld from Judge Claiborne and his attorneys by the prosecutors and Judge Walter E. Hoffman until after Judge Claiborne was safely convicted. The Memorandum of Interview disclosed that in August of 1981, Joseph Wright threw away some documents relating to Judge Harry E. Claiborne's file. The Memorandum also disclosed that questions about Judge Claiborne's file were resolved by contacts between Connie Wright, the witness' spouse, and Ginny McElwain, Judge Claiborne's former secretary, in contradiction to the testimony of Joseph Wright at trial. Cross examination of Joseph Wright about the disposal of records in or about August of 1981 would have been crucial in establishing Judge Claiborne's contention that a critical letter of April 11, 1980, to Joseph Wright had most likely been lost, misplaced, misfiled or otherwise erroneously disposed. The prosecutors, who had full knowledge of this Memorandum, argued wrongfully and prejudicially that the absence of the letter in Wright's file could only be explained by a recent fabrication.

Second Affirmative Defense

The convictions upon which Article III of the Articles of Impeachment are based are presently the subject of a Motion to Vacate Judgment and Sentence. The convictions are therefore only technically "final" and may be vacated as the result of evidence of prosecutorial misconduct and judicial misconduct and result of newly discovered and wrongfully withheld exculpatory evidence.

ARTICLE IV

Article IV alleges that Judge Harry E. Claiborne "willfully" and "knowingly" falsified his income on his Federal tax returns for 1979 and 1980.

Judge Harry E. Claiborne has never been afforded an opportunity to fully and fairly litigate those false allegations in a fair and impartial forum. Judge Harry E. Claiborne denies that he willfully and knowingly falsified his income on his Federal tax returns for 1979 and 1980.

Judge Harry E. Claiborne denies that he has betrayed the trust of the people of the United States and reduced confidence in the integrity and impartiality of the judiciary thereby bringing disrepute on the Federal Courts and the Administration of Justice.

First Affirmative Defense

As an affirmative defense, Judge Harry E. Claiborne states that certain present and former individual members of the Executive Branch cooperated and collaborated to produce perjured testimony and suppress exculpatory material and have wrongfully betrayed the trust of the American people.

Second Affirmative Defense

As an affirmative defense, Judge Harry E. Claiborne states that members of the Judicial Branch, by failing and refusing to accord to Judge Harry E. Claiborne fundamental Due Process, and to independently review his indictment, trials and convictions, have wrongfully betrayed the trust of the American people.

Respectfully submitted:

HARRY E. CLAIBORNE,
(By) Oscar B. Goodman,
Esq., and Honorable
Howard W. Cannon,
Attorneys for Respondent.

SCHEDULE

Mr. BOSCHWITZ. Mr. President, following a number of special orders, it is the intention of the majority leader to go into executive session at 11 o'clock to begin consideration of the nomination of William Rehnquist to be Chief Justice of the Supreme Court, and votes could occur during today's session. The Senate, the majority leader notes, could be asked to remain in session late into the evening.

Mr. President, I reserve the remainder of the majority leader's time.

Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. I ask unamimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The distinguished and able Democratic leader, Senator BYRD of West Virginia.

Mr. BYRD. I thank the Chair.

TRADE DEFICIT SETS NEW RECORD

Mr. BYRD. Mr. President, American workers had a record Labor Day. The record was an $18 billion trade deficit announced for the month of July. This is the largest 1-month trade deficit in history, exceeding the previous record of $16.4 billion set in January of this year, and $4 billion higher than the average monthly total so far this year.

Putting that number in perspective, the entire trade deficit for 1980 was $36.4 billion. So far this year, the trade deficit is $102 billion.

These totals are stunning. When we break them down, we get a closer look at the trade crisis and that is precisely what it is—a trade crisis. For the third month in a row, agricultural trade was in a deficit. This is no longer a fluke. We cannot tell American farmers that this is just an accident of statistics. For 3 months now we have been a net food importer. The breadbasket of the world is losing out as a great food exporter and, in a shocking reversal, is buying more food than it sells.

In fact, overall imports in July were twice the level of exports. The United States—the world's largest exporter—is buying twice as much from abroad as it is selling. This is devastating news. It gives additional weight to Federal Reserve Chairman Paul Volcker's warning about the destructive impact of the trade deficit. If the American economy is to be strong and vital, we must have growth in exports. No great commercial nation can for very long import twice as much as it exports and survive without serious damage to its standard of living and its economic wellbeing, as well as damage to its national security.

The July imports hit hard at several sectors of the American economy—sev-

eral groups of workers—already suffering from the indifference of this administration. Textile and show workers—still smarting from the President's veto of legislation to restrict imports of those products—saw imports in July jump to $2.7 billion.

In addition, steel workers saw steel imports increase in July to a level that gives foreign producers control of over 27 percent of the American market. The President had promised—after refusing to accept the International Trade Commission's recommendation for steel quotas—that he would hold imports to 20.2 percent of the U.S. market. Trade Representative Yeutter said on Thursday, September 4, 1 week ago today, that the administration will respond to this increase with a call for consultations with Canada, Sweden, and Taiwan to limit their steel shipments to the United States. That is all very laudable. That news would have been more welcome if action had been taken before the imports had risen.

All of this news is hard on the people of West Virginia and workers and industries throughout the country. Exports are a vital part of my State's economy. Chemicals, coal, manufactured goods, and a host of other products from the State have an important place in the international market. Likewise, steel and other sectors are sensitive to import increases that threaten jobs in the State. The record July trade shortfall is the worst kind of news for exporters and for import-sensitive industries.

The administration had said that its efforts to achieve cooperation on currency values—efforts last September that were undertaken after congressional urgings—would result in improvement in our trade balance. If this is the administration's idea of improvement, American workers and industries cannot stand much more of it. The dollar has been rising—not falling—against the currencies of some of our largest trading partners, including Canada and several Pacific rim nations. Morever, 6 years of neglect and indifference toward America's competitive posture are now taking their toll.

We now face a crisis—a genuine crisis—in America's international economic health. The administration must respond with a new realism, and a new activism. It must develop a serious trade policy—not just a press release.

Senate Democrats are serious about contributing to this debate, and you had better believe that we are serious about taking strong and effective action—action that will address the long-term problems that created this crisis.

Yesterday, Senator JEFF BINGAMAN announced the report of his working group on competitiveness. This is an important document that looks beyond the immediate problems and examines what America must do to address the challenge of a changing world economy. I appointed this working group of Senate Democrats at Senator BINGAMAN's suggestion last fall, and I made him chairman of the group. I am very pleased at the thoughtful, scholarly results of their investigation. Their report is an important step toward responding to the basic causes behind the competitiveness and trade problems.

I commend Senator BINGAMAN and the members of the group for an excellent report. I urge all my colleagues on both sides of the aisle to read it.

Mr. President, I ask unanimous consent that a summary of the report, entitled "Promoting America's Living Standard," be printed in the RECORD at the close of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ECONOMIC COMPETITIVENESS—PROMOTING AMERICA'S LIVING STANDARD

(The Senate Democratic Working Group on Economic Competitiveness)

EXECUTIVE SUMMARY

The Challenge of Competitiveness

Being competitive for a nation in today's world means being able to earn—not borrow—a rising standard of living for its citizens. It means maintaining the productive ability to assure sustained economic growth and security into the future. New technologies and successful economic development strategies abroad have created a fundamentally new and highly competitive challenge for the U.S. The President's Commission on Industrial Competitiveness found that "our ability to compete is eroding," threatening our world leadership and our standard of living. It said that this "New Reality" requires that competitiveness become the economic agenda for America for the next decade. Unfortunately, this and many other calls for urgent action have been ignored. Therefore, U.S. living standards continue to decline. We continue to accumulate massive debt and our productive capacity continues to erode.

Ten Major Aspects of U.S. Competitive Decline:

1. Weekly Earnings: On average, in real terms, are now below 1963 levels;

2. Unemployment Rates: Are trending upward;

3. GNP Growth: Is decelerating from 4 percent in 1950-1960s, to 2.8 percent in 1970s and only 2 percent in 1980s;

4. Federal Debt: Is growing six times faster than GNP and now equals more than 50% of GNP;

5. Total Debt: Business, consumer and government debt are at post 1920s highs—the total now equals almost twice GNP;

6. International Debt: The U.S. became a debtor nation in 1985, is now the world's largest debtor, could owe more than all of Latin America combined by 1988;

7. Merchandise Trade Deficit: Is larger than the GNP of 169 of the 179 countries with which we trade;

8. Service Trade Deficit: Traded services deficits will soon be joined by enormous outflows to service U.S. foreign debt;

9. Investment and Productivity: Are decelerating and are only a fraction of foreign growth rates;

10. Educational Excellence: In competition with students from other developed nations, Americans score near the bottom.

AN ACTION AGENDA

Making Competitiveness the National Priority

By far, the action most urgently needed is for the U.S. to acknowledge the competitiveness challenge and to make competitiveness the national priority. While most Americans are uneasy about their jobs, the economy and their children's future, they have been confused by the constant barrage of confident, complacement rhetoric by the Republican Administration. Firms are being forced to export jobs abroad, the middle class standard of living is declining, and Americans are not learning the new skills they need to compete. Opportunities are being lost; debts are accumulating. But the Republican message is more of the same, business as usual.

Democrats have always been the party of economic growth. And the key to economic growth and prosperity in today's international economy is to be competitive. As long as the nation remains confused about whether or not a competitiveness challenge exists, Democrats must keep the nation's attention focused on that challenge. We must also present a vision of what is required to meet the challenge.

Trade and Exchange Rates

For too long competitiveness has been discussed strictly in terms of trade and exchange rates. Certainly it is important that the U.S. and our trading partners play by the same rules. American workers and firms cannot be expected to suffer indefinitely at the hands of a naive Republican policy that pretends foreign governments and firms are always free traders or will become so if we ask them politely. In fact very little world trade is free, and foreign interests are reluctant to change their self-serving behavior unless we are willing to act to bring about change.

Senate Democrats have long sought a comprehensive trade policy to avoid the ad-hoc protectionism of the Administration. We have introduced numerous such bills, and a year ago several Democrats and Republicans drafted bi-partisan omnibus legislation. The House of Representatives has recently passed such a bill. Yet the Republican majority in the Senate refuses to act. We urge Senate Republicans to join us to send a comprehensive, fair trade reform bill to the President this year.

Our declining ability to compete has also been blamed on the strong dollar. Certainly, at some extremely weak exchange rate, the U.S. trade deficit would be eliminated. Three years of Democratic initiative to persuade the Administration to act on the exchange rate was finally rewarded this past year by the efforts of Treasury Secretary Jim Baker. We urge continued such efforts from the Administration. Unfortunately, a weak dollar drastically undercuts the U.S. living standard and our ability to exercise economic leadership. A more realistic and stable exchange rate, while necessary, will not make us more competitive—in many ways it will only make the challenge more immediate.

Productivity Growth: The Central Challenge of Competitiveness

Our central competitive challenge is to strengthen our economy to the point where we can sustain a strong dollar and raise living standards. This calls for a renewed national focus and a commitment to productivity growth.

Much of the innovation America needs will come from the unmatched, diverse ingenuity, talents and muscle of each individual citizen and firm. Public policy's role is to support private initiatives. The federal government can provide information about technological developments of foreign competitors. It can support excellence in U.S. technology and education. And it can encourage a more mobile workforce. We must also create a single independent body that can cut through the governmental bureaucracy and can help bring those traditional adversaries—management and labor—together to address the competitiveness challenge.

Democrats believe that valuable time and opportunities have been wasted in fruitless searches for a single, sweeping solution to the competitiveness challenge. The time has come for do-able action. Most of the legislation we are introducing has been recommended time and again by panels of leaders from business, labor, academia and government. But it has been ignored.

There is much to be done. The legislation we recommend will help cast the competitiveness challenge in the proper perspective. It will take us through the first essential steps toward meeting that challenge and assuring our future economic growth.

ESSENTIAL FIRST STEPS

I. Information on Foreign Technologies

We must provide better and much more broadly disseminated information on the rapid changes in technologies occuring abroad:

A. Establish within the Department of Commerce a new on-site function for monitoring developments in foreign science and technology.

B. Establish within the U.S. Patent Office a new Office of Technology Assessment, Forecast and Outreach.

II. Technological Excellence

We must support excellence in the development of U.S. technology:

A. Expand and diversify the engineering research centers of the National Science Foundation.

B. Establish an economic competitiveness program to grant 500 graduate fellowships in science and engineering.

C. Establish a fund to assist America's colleges and universities rebuild their R&D infrastructures.

III. Educational improvement

We must strive for excellence in education and training:

A. Establish a graduate fellowship program for teacher training.

B. Expand Federal funding to develop and disseminate quality instructional software and video technologies, and train teachers to use them.

IV. Work Force Mobility

We must encourage participation and mobility of the workforce:

A. Provide the States with additional resources to help the unemployed to become fully productive members of society.

B. Provide the Department of Labor with sufficient funding to fully implement a nationwide computerized job bank.

C. Examine the merits and the costs of initiating a personal portable pension for all Americans.

V. Forum for National Consensus Building

We must create a single independent body to provide an on-going forum for national leadership and cooperation to address the competitiveness challenge:

Establish a National Council on Industrial Competitiveness to:

A. Collect and analyze data about current and future economic trends and market opportunities.

B. Monitor the changing nature of the United States economy and its international competitive capacity.

C. Create a forum where national leaders in business, labor, academia, public interest groups, and government will identify national economic problems, develop recommendations to address such problems, and create a broad public consensus to support the recommendations.

D. Develop and promote a national vision and specific polices which enhance U.S. productivity.

E. Assess private sector requests for governmental assistance or relief and to recommend any reciprocal actions or conditions of such assistance or relief.

F. Establish industry subcouncils of public and private leaders to develop similar long-term forecasts and visions for sectors of the economy.

G. Review legislative and executive policies which affect national economic competitiveness.

H. Report annually to the President and Congress on ways to increase American competitiveness in world markets.

I. Examine all international agreements on foreign trade agreed to by the U.S. monitoring the effect of imports on U.S. industries.

These initiatives will arm Americans with the tools they need to keep the country competitive. But they do have a cost—about $450 million per year. The return on the investment, however, will pay for itself many times over. It will increase economic growth, save jobs and help to maintain and improve American living standards.

Our economic future is at risk. We cannot afford the continuing decline in our living standard, the massive accumulation of debt, and the further erosion of our competitive vitality. Americans must unite to meet the new realities of international competitiveness. Our future economic well-being demands it.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, do I have any time remaining under the order?

The PRESIDING OFFICER (Mr. MATHIAS). The Senator from West Virginia, the distinguished minority leader, has 2 minutes and 50 seconds.

Mr. BYRD. I yield that time to Mr. BINGAMAN, who is the chairman of the working group.

Mr. BINGAMAN. I thank the Senator.

□ 1040

RECOGNITION OF SENATOR BINGAMAN

The PRESIDING OFFICER. The Senator from New Mexico [Mr. BINGAMAN] is recognized.

AMERICA'S LIVING STANDARD ACT OF 1986

Mr. BINGAMAN. Mr. President, I appreciate very much the kind words of the minority leader, and I appreciate his appointing the working group on economic competitiveness, which has just issued its report, and which I was pleased to chair.

At this point, I send to the desk a bill entitled America's Living Standard Act of 1986, on behalf of myself, Mr. BYRD, Mr. BAUCUS, Mr. KERRY, Mr. LEVIN, Mr. MATSUNAGA, Mr. MOYNIHAN, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. BIDEN, Mr. BURDICK, Mr. CHILES, Mr. DECONCINI, Mr. EAGLETON, Mr. GORE, Mr. HARKIN, Mr. KENNEDY, Mr. LAUTENBERG, Mr. MITCHELL, Mr. SARBANES, Mr. SASSER, and Mr. STENNIS.

Mr. President, I ask that the bill be referred to the appropriate committee.

The PRESIDING OFFICER. Without objection, the bill will be received and appropriately referred.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the name of Senator METZENBAUM be added as a cosponsor of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. Mr. President, first, I wish to comment on some of the points that were made in this report. I understand that the comments will have to be interrupted, as we go on to other activities, and then we can come back to this matter later in the day.

Mr. President, what we first did was try to examine the breadth and the depth of the competitiveness challenge being faced by this country, and we looked at various economic indicators over a long period of time.

We looked at the real average weekly earnings which American workers have enjoyed during the period from 1960 to 1985. During that period we showed that the real average weekly earnings of the American worker have declined from 1962 to 1985—a problem and a concern for all of us in this body.

We looked at the problem of productivity growth and the fact that the U.S. rate of growth of productivity has been less than that of any of the other major industrialized nations in the world during the last 30 to 35 years.

We looked at the U.S. merchandise trade balance and saw, of course, that that trade balance has become a major problem and is expected to approach $180 billion this year.

We looked at the U.S. net international investment position, and again saw that just in the last 2 or 3 years, the United States has fallen into a deficit position with regard to investment, and that situation is worsening every month.

We looked at the amount invested in plants and equipment by American businesses, and again saw a decline in the 1980's from the level of investment in plant and equipment that we have enjoyed in either the 1960's or the 1970's.

Those were some of the economic indicators we looked at.

Mr. President, based on these trends—I believe they are irrefutable trends—we then went on to try to fashion a list of concrete recommendations that we could make to try to come to grips with some of the underlying problems causing these adverse economic trends. We came up with 11 specific, concrete legislative recommendations which are contained in the measure I introduced a few moments ago.

Those proposals include efforts to improve our ability to monitor information on foreign technological developments. We suggest that an office be established in the U.S. Patent Office which would do technology assessment forecast and outreach.

We also suggest that in the Department of Commerce, a new onsite function be established in foreign embassies—five foreign embassies, in particular—for the establishment of an Office of Technology Assessment, for the new technological developments occurring in foreign nations.

The PRESIDING OFFICER. The time yielded to the Senator from New Mexico has expired.

Mr. BINGAMAN. I thank the Chair. We will return to this subject later.

□ 1050

Mr. DOLE. Mr. President, I apologize to my colleagues. We were attending the joint meeting with the Brazilian President. I would just take a couple minutes of the leader's time and reserve the remainder of my time.

REHNQUIST AND SCALIA

Mr. DOLE. Mr. President, this morning the Senate begins final deliberations on the President's Supreme Court nominations. He has chosen two men of unimpeachable character and credentials to shoulder the tremendous responsibilities of our Nation's highest court.

They have endured microscopic inspection in the Judiciary Committee. And they have seen and heard more than their fair share of political rhetoric. But as far as this Senator is concerned, William Rehnquist and Antonin Scalia have passed inspection with flying colors.

So, in case there is any doubt at all—or if the critics harbor any hopes at all—let me indicate again that Justice Rehnquist and Judge Scalia in my opinion will be confirmed by the Senate and they will be confirmed by overwhelming numbers.

GRAFFITI SMEAR

I am aware of the last ditch attempt by some to derail William Rehnquist's confirmation to be the new Chief Justice.

In truth, however, it is just another attempt to deface a brilliant career, and I do not believe it will succeed.

Ever since the President nominated these two dedicated jurists, the newspapers, the radio and TV and the Halls of Congress have been filled with all kinds of technical legal talk. It can be confusing and arcane for any of us; and certainly, it may not be clear to many Americans who are following this story. But if you cut through all the legalese, the case boils down to one simple fact: Those who would torpedo these nominations are liberal, and the President's nominees are conservative.

CARRYING OUT THE REAGAN MANDATE

But it just seems to me that the people voted for Ronald Reagan by landslide proportions in 1980 and 1984. And they expect the President to carry their mandate all the way to the Supreme Court. That means the Court will be a people's court, not a court for special interests.

SALUTE TO THE CHAIRMAN

Mr. President, I salute the chairman of the Judiciary Committee, the distinguished senior Senator from South Carolina, Senator THURMOND, for his superb handling of the President's Supreme Court nominations. His work in the committee was exemplary: The deliberations moved quickly, but not so fast as to deny any Member—or any point of view—their fair chance and their fair hearing, and that is important in the process in the Senate.

We do have a tremendous amount of work to do before we adjourn. These are important nominations. They deserve full and complete debate.

And having said that, I would hope that we could move as quickly as possible on both these nominations.

The issue has been more than explored by the committee. It is time to wrap up the Supreme Court nominations and move on to the business that awaits us.

I am reminded again by the Attorney General that we are getting into the fall term and it is very important that these two justices, Judge Scalia be confirmed as a Justice and Justice Rehnquist be confirmed as the Chief Justice, so they will be prepared to participate in the fall term.

CONTRA AID

Mr. DOLE. Mr. President, let me also just indicate very quickly that I have received a letter from the President this morning. The President, recognizes our heavy work schedule prior to sine die adjournment which I still believe should come on October 3. It is going to require working on Mondays and Fridays in both the House and Senate and there may be a Saturday session or two, but I believe we can complete our work.

But the President is very concerned as he has a right to be about our failure to act on the $100 million for Nicaraguan freedom fighters. The President indicates:

> The Nicaraguan freedom fighters cling to our promise of assistance. The affirmative votes of the House and Senate have confirmed congressional commitment to that goal. However, months have passed since House action and weeks have passed since the Senate reaffirmed its position. In the intervening time, supplies of food and medicine have been drained and the ability of the democratic resistance to defend itself has been significantly reduced. There has been no lack of resolve on the part of the Soviets or their proxies in arming and sustaining a regime that clearly seeks to destroy the hope of freedom for millions in Central America.

The President is right. We have been starving the freedom fighters around here for the past several months. It is by design. It is deliberate. We understand there will now be an effort by the Democratic leadership in the House to further delay coming to grips with this issue by somehow attaching the Contra aid provision to the so-called continuing resolution.

Now, in my view, that is not what the majority of Americans and I think the majority of Congress had in mind.

This is a very sensitive issue. It is a very controversial issue, but it has been decided. It has been decided twice in the U.S. Senate with a bipartisan vote. If we want the Russians, the Cubans, and the Communists to strengthen their beachhead in that part of the world while we sit back and do nothing, in fact, do less than nothing, refusing to help those who want freedom and liberty, then I believe we have made a grave mistake.

I would also suggest that this is a concern of the distinguished subcommittee chairman, Senator MATTINGLY. On his behalf I submit the following statement.

MILITARY CONSTRUCTION CONFERENCE STALLED

Mr. President, on behalf of Mr. MATTINGLY, I wish to state that 1 month ago today, on August 11, the Senate began consideration of H.R. 5052, the fiscal year 1987 military construction appropriation bill. Three days later, after much debate, the Senate passed that legislation. That bill contained the funding for critically needed improvements to the airfields, the ports,

and the training grounds used by the United States and its allies. It contained funding for family housing units that are in such short supply, and that are so important to our service men and women and their families. In addition, Mr. President, the legislation contained funding for the Nicaraguan freedom fighters. This provision, Mr. President, had been included by the House in the military construction bill. It was not the Senate's idea to incorporate aid to the freedom fighters with the military construction bill. In fact, the Senate had earlier this year approved freestanding legislation providing such assistance. But the House leadership did not see fit to act on that freestanding resolution.

HOUSE REFUSES TO ACT

And now, Mr. President, 1 month after the Senate approved the military construction bill, and the assistance to the Nicaraguan democratic resistance forces, there has been no action taken to begin the conference negotiations that would enable the legislation to be sent to the President for his signature. This is particularly disturbing, Mr. President, because there are no differences in the packages of assistance that were approved by both bodies. Most of the items in dispute are the usual differences that occur in funding particular military construction projects. These differences should be resolved in short order once the conference begins. But Mr. President, the House continues to hold this legislation, and the important military construction funds that it contains, hostage because of the Central American assistance package. A package, Mr. President, that the House itself decided to include in the legislation and which has now been approved in the same form by both bodies.

ACTION IS NEEDED NOW

The President has called upon the Congress to expedite action on the military construction conference and send him a bill. I endorse his request and stand ready to assist in whatever manner I can. The issue is too important, and the stakes in Central America are too great, to allow our policy to become one of delay and obstruction. I urge our House colleagues to agree immediately to a conference on this bill, resolve those issues that are in dispute, and send the measure to the President for his signature.

Mr. President, I remind my colleagues, regardless of their views on that issue, we have settled it. We have had two votes in the Senate. They have had a couple or three votes in the House. There has been bipartisan support. I ask unanimous consent that the President's letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
September 10, 1986, Washington, DC.

Hon. BOB DOLE,
Majority Leader,
U.S. Senate,
Washington, DC.

DEAR BOB: As the Congress returns to an exceedingly heavy work schedule prior to sine die adjournment, I wanted to once again convey to you my grave concern about the situation in Central America and the urgency of completing final action on a compromise plan to provide assistance to the Nicaraguan freedom fighters. This bipartisan proposition has passed the House and Senate and now awaits final conference action on the Military Construction Appropriations bill.

The Nicaraguan freedom fighters cling to our promise of assistance. The affirmative votes of the House and Senate have confirmed congressional commitment to that goal. However, months have passed since House action and weeks have passed since the Senate reaffirmed its position. In the intervening time, supplies of food and medicine have been drained and the ability of the democratic resistance to defend itself has been significantly reduced. There has been no lack of resolve on the part of the Soviets or their proxies in arming and sustaining a regime that clearly seeks to destroy the hope of freedom for millions in Central America.

Bob, it is my hope that you will assist in expediting conference action on the Military Construction Appropriations bill in order that it might reach my desk for signature as quickly as possible. Time is short, and we must avoid further delay in order to sustain those in Central America who have committed themselves to democracy and freedom.

Sincerely,

RONALD REAGAN.

Mr. DOLE. Mr. President, I indicate to the President on the floor of the Senate that we are going to do the best we can to sustain his view and that is to act expeditiously on this aid.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, will the majority leader yield?

Mr. DOLE. I yield.

Mr. BYRD. Mr. President, Mr. ROCKEFELLER is in need of some time to speak on the subject matter of competitiveness. It is my understanding that Mr. TRIBLE is not going to need his time. Will the majority leader enter an order transferring that time?

Mr. DOLE. Mr. President, I ask unanimous consent that the time of Mr. TRIBLE be given to the distinguished Senator from West Virginia, Senator ROCKEFELLER.

Mr. BYRD. I thank the distinguished Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. Mr. President, will the distinguished minority leader yield?

Mr. BYRD. I am pleased to yield.

Mr. KERRY. Mr. President, I ask the distinguished majority leader if there is any other time. I also expected to speak as did the Senator from West Virginia. On the other hand, if there is not I can wait until tomorrow.

Mr. DOLE. I will be happy to yield the Senator the remainder of my time. I have 4 or 5 minutes remaining.

Mr. MURKOWSKI. Mr. President, will the majority leader yield for a question on procedure of special orders this morning?

Mr. DOLE. I yield.

Mr. MURKOWSKI. Does this circumvent the procedure that has been established. Or, is this in lieu of additional time given from the leadership?

Mr. DOLE. I understand it will still be in the order given of Senators HAWKINS, PROXMIRE, MURKOWSKI, and I will be happy to yield the time to the Senator from Massachusetts any time I have remaining.

Mr. KERRY. I appreciate that.

I do not want to disrupt the process. Will that time come immediately?

Mr. DOLE. I think it will follow the Senator from Alaska, Senator MURKOWSKI.

Mr. BYRD. So it does not interrupt the sequence of the orders already presented.

I ask unanimous consent that the time for this interruption not come out of the distinguished majority leader's order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I ask unanimous consent that up to 5 minutes of my time or if additional time is needed be yielded to the distinguished Senator from Massachusetts following the Senator from Alaska.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF SENATOR PROXMIRE

The PRESIDING OFFICER. Under the previous order, the Senator from Wisconsin is recognized for not to exceed 5 minutes.

□ 1100

THE CONGRESS MAKES THE BIG MOVE FOR ARMS CONTROL

Mr. PROXMIRE. Mr. President, what, if any, limits should the Congress impose on itself in setting that most critical modern element of foreign policy—arms control? Throughout most of American history the President—not the Congress—has served as the prime force for our country in the conduit of foreign policy. Only the President or people acting on the authority of the President and at the direction of the President can negotiate with foreign countries. Throughout American history the President has been firmly in command of foreign policy negotiations, particularly with respect to treaty negotiations. Now the country is undergoing a

formidable challenge to the President's rarely questioned foreign policy domination.

The House of Representatives has moved into arms control with a roar. There has been no occasion since the establishment of the Constitution in 1789 when the Congress has so boldly and emphatically threatened the President's foreign policy domination as it is at this moment. If the arms control initiative taken by the House in the Defense authorizations bill is sustained in any significant way in conference and by the Congress as a whole it will constitute a radical shift in Federal power. It will also dramatically change U.S. arms control policy. It will do so by establishing the basis for far and away the most significant slow down in the nuclear arms race since the dawn of the nuclear age.

Until this moment arms control has been strictly the President's property. Congress has been irrelevant. Oh, sure sometimes Members of Congress have been critical. Sometimes they have been supportive. And the Senate has a specific constitutional power in its responsibility to ratify or refuse to ratify arms control agreements. With the conspicuous exception of the Senate's denial of U.S. membership in the League of Nations some 65 years ago the ratification power has been virtually meaningless.

If a President disapproved a treaty, he would simply refuse to send it up to the Senate for ratification. The President would prevail. The treaty would die. If the President approved of a treaty and the Senate refused to ratify it, the President would put it into effect and keep it in effect by Executive order. Again the President would prevail. The treaty would continue in effect in spite of Senatorial disapproval even if the disapproval were overwhelming.

But now the action of the House changes all that dramatically. By a decisive 60-vote margin the House has voted to withhold funding for nuclear weapons tests that exceed 1 kiloton for 1 year beginning January 1, 1987, provided the Soviet Union does the same. The Soviets must also agree to station seismic monitoring stations throughout the U.S.S.R. to assure verification of compliance. If the Congress sustains this House action even in part it would mark heartening progress in bringing the nuclear weapons arms race under control. It would also mark an astonishing successful entry into foreign policy by the Congress.

Could a Presidential veto kill this congressional coup? No way. The President cannot secure the funds for testing unless the Congress affirms the funding: Presidential vetoes can stop funding. They cannot create it. So if the Congress persists it can win at least some significant limit on nuclear weapons testing.

That is not all. In the same Defense authorization bill the House withheld funding for 1 year on tests of anti-satellite weapons in space. It stopped funding of chemical weapons for a year. It reduced the funding proposed by the President for star wars by $2.2 billion. It denied funds the President announced he intended to spend to deliberately violate limitations imposed by the SALT II treaty.

Sure, the House bill goes further than the Congress as a whole will eventually enact into law. But the Congress will go a significant way down the path blazed by the House. So it is now clear that the Congress of the United States will very likely take the most profound foreign policy step it has taken, at least since the Senate killed American participation in the League of Nations. In doing so, the Congress will significantly advance arms control.

RECOGNITION OF SENATOR HAWKINS

The PRESIDING OFFICER. (Mr. PRESSLER). Under the previous order, the Senator from Florida [Mrs. HAWKINS] is recognized for not to exceed 5 minutes.

DRUG EDUCATION

Mrs. HAWKINS. Mr. President, we all seem to be running over each other lately to appear to be tough on drugs. As the election nears, and as poll after poll tells us that drugs are on the people's minds, we race off in a hundred different directions trying to cope with this problem.

Included in that "hundred different" areas is drug education. We now hear that "we must fight drugs on the high seas. We must blockade our borders and when we get around to it, we must educate our children about drugs."

All I can say is, it is about time!

I will not spell out for you the horrifying statistics. We all know that drugs have invaded our schools. That an entire generation of future leaders is at risk. That millions of American children are so strung out they cannot even see, let alone do their homework.

How have we allowed this to happen? A drug educator said it best when she testified before my Drug Abuse Subcommittee I chaired last month. She said:

> We all know what drug education is. It's what the kids get when there's no gym class because its raining out. Drug education, ranks somewhere behind drivers ed, as far as priorities of education.

So now we are saying we want to do something to end this situation. Bills have been introduced to do something about drug education. But it is not enough to just do something. You must be specific. Have you seen the House bill? I have. It is completely nonspecific. It says they are going to spend $350 million to do something about drug education. What are we going to do? It does not say.

Are we going to specifically demand that all drug education curricula teach children to say "no" to drugs? Or are we going to teach that it is OK to use drugs as long as you do not drive while you are doing it? It does not say.

Are we going to followup? Are we going to evaluate drug education curricula to find out if they are working? It does not say.

Are we going to insist that drug education materials be up to date—that they tell children what medical science knows now about the harmful effects of drugs? Or are we simply going to let schools brush the dust off the same old drug books and movies they have been using since 1974? It does not say.

The House says, "We will blindly spend money to do something about drugs in our schools." I would suggest, Mr. President, that this is an invitation to disaster.

There is a saying that is 19 centuries old, but it still applies, and it apples to this argument—nothing can be done hastily and prudently.

We are considering legislation which would provide hundreds of millions of Federal dollars for drug education. Yet we have no firm agreement about the proper way to teach children on this subject.

We continue to hear horror stories about classes in "responsible use" of illegal drugs. This will continue if we are not careful. If we do not realize that there is a right way to teach about drugs and that there is a wrong way. We must promote positive, value-laden drug education. Children must be taught to avoid peer pressure. To say "no" to drugs and when they are approached to be able to come out with their heads held high.

Proper and appropriate drug education is essential to our future. It is too important to be promoted blindly and without thought. Before we write a blank check, we should closely examine what we will be getting for our money.

RECOGNITION OF SENATOR MURKOWSKI

The PRESIDING OFFICER. Under the previous order, the Senator from Alaska [Mr. MURKOWSKI] is recognized for not to exceed 5 minutes.

DESIGNATING APRIL 9, 1987, AS "NATIONAL FORMER PRISONER OF WAR DAY"

Mr. MURKOWSKI. Mr. President, I rise to introduce a joint resolution

which would designate April 9, 1987, as "National Former Prisoner of War Recognition Day."

For several years now the Congress has recognized the importance of setting aside a special day to honor those Americans, who, in the course of the various conflicts in which this Nation has been called to participate, were interned as prisoners of war. At the same time the Congress has also recognized the plight of the families of servicemen listed as missing in action and the possibility that some of those men may still be alive.

Though there are similarities which exist between the concerns of those who have returned home from a POW status and those who are still missing, the POW/MIA recognition day has become primarily a reminder to all Americans that we have not forogtten our missing servicemen, the possibility that some of them may be held captive today, and that we are dedicated to the fullest possible accounting of those who have failed to return home.

Mr. President, I have a very strong interest in and commitment to working for a full accounting of those still missing in action. I have traveled to Southeast Asia to meet with Vietnamese and Lao officials, have chaired seven hearings recently on the issue of live sighting reports of American servicemen missing in Southeast Asia, and will continue to actively work toward a more acceptable resolution of these issues.

Today, I am introducing a resolution at the request of the national commander of the American Ex-POW's to recognize those who were fortunate enough to be returned home. I agree with him that both organizations are worthy of special recognition. At the request of the American Ex-POW's I am introducing this special day for former POW's because it is important to recognize those veterans who have returned after experiencing untold suffering. They were tortured, starved, and forced to witness or even participate in the execution of their buddies, and suffered many other forms of inhumane and brutal treatment. Upon repatriation, medical examinations were often inadequate and the former POW—so glad to be home—did not wish to complain, or remain in a hospital after the months or years of being in captivity. Unfortunately, this procedure resulted in inadequate medical records which have made it very difficult in many cases for these partriotic veterans to prove service connection.

The Veterans' Affairs Committee, which I chair, has been and continues to be very responsive to these concerns expressed by former prisoners of war. This year the committee has approved legislation that would add residuals of frostbite to the list of presumptive diseases for which an ex-POW can be service connected if the veteran had been held in circumstances in which frostbite could have occurred.

This proposed day of recognition would be the anniversary of the day in 1942 on which 10,000 Americans became prisoners of war, April 9—the day Bataan fell to the Japanese.

The American Ex-POW's serve as fine representatives of those Americans who suffered and sacrificed greatly as POW's in the cause of freedom. I ask my colleagues' support and favorable consideration of this resolution which would recognize the contributions and sacrifices of every American prisoner of war who has returned home, and to their families who waited, and prayed, so faithfully for their return.

Mr. President, I ask unanimous consent that the letter of request from W. Curtis Musten, the national commander of the American Ex-POW's and the text of the joint resolution be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMERICAN EX-PRISONERS OF WAR,
Arlington, TX, July 29, 1986.

Hon. FRANK H. MURKOWSKI,
Chairman, Committee on Veterans' Affairs, U.S. Senate, Washington, DC.

DEAR CHAIRMAN MURKOWSKI: The American Ex-Prisoners of War would appreciate Committee consideration of es; blishing POW Recognition Day on April 9 of each year, separate from MIA day.

We have attempted with partial success to have one day serve both purposes. In fact, it was the American Ex-Prisoners of War who suggested that MIA's be included. But there has been constant confusion over the exact date to be used, the League of Families often preferring a date in conflict with our National Convention. The two groups have slightly overlapping but separate interests. Ex-POWs were definitely in the hands of an enemy, remained loyal to the U.S., and were glad to get back home. There is a question about how many MIA's have remained in Southeast Asia of their own free will, and indeed how many MIA's still remain in Southeast Asia at all.

The merger of the two groups in a joint Recognition Day leads to a degree of confusion in the minds of the Congress and the public. Ex-POWs are all home, and interested in national defense and a strong economy as well as some measure of health and related benefits for ex-POWs. Families of MIA's have entirely different interests, related to accounting for the dead and missing Americans in Southeast Asia.

Like all Americans, we share compassionate feelings toward families of MIA's. But a joint Recognition Day does not seem to contribute toward the interests of either group.

May I respectfully request that this issue be reviewed by the Committee. We will, of course, be amenable to whatever decision is finally made.

Sincerely yours,

W. CURTIS MUSTEN,
National Commander.

S.J. RES. 411

Whereas the United States has fought in many wars;

Whereas thousands of Americans who served in such wars were captured by the enemy;

Whereas many Americans, while held captive as prisoners of war, were subjected to brutal and inhuman treatment by their enemy captors in violation of international codes and customs for the treatment of prisoners of war, and many of such Americans died from such treatment;

Whereas the sacrifices of Americans who were prisoners of war are deserving of national recognition: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 9, 1987, shall be designated as "National Former Prisoner of War Recognition Day" and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to commemorate such day with appropriate programs, ceremonies, and activities.

KANSAI AIRPORT

Mr. MURKOWSKI. Mr. President, I bring to the floor today a very important matter involving trade and market accessibility. Over the next decade, over $61 billion worth of major public works projects will be built in our friendly neigboring country of Japan. The first project, the new Kansai International Airport, an $8 billion project to be constructed on a manmade island in Osaka Bay, is already in the preliminary stages.

United States firms have expressed considerable interest in participating in the construction of Kansai Airport and future projects, and rightly so, they are among the most competitive in the world. For the past 2 years, the administration has been knocking at Japan's door to gain meaningful access for United States firms to participate in these projects. However, despite these efforts, the Japanese Government and private sector have continued to follow a practice of closed designated bidding which has effectively precluded foreign participation in this lucrative market. At the same time, in 1985 alone, Japanese construction firms won contracts in the United States worth over $1.8 billion.

On June 24, the Senate Republican Conference Task Force on International Trade Policy, which I chair, sent an inquiry to the U.S. Trade Representative under section 305 of the Trade Act of 1974 to request that an investigation be launched into Japan's unwillingness to allow United States firms to compete for equipment and service sales on the Kansai project.

The response which we received from USTR confirmed our belief that the practices surrounding construction of Kansai Airport constitute unfair trade practices as outlined in section 301 of the Trade Act of 1974.

Our inquiry was followed by letters from USTR Clayton Yeutter and Secretary of Commerce Malcolm Baldrige to the Japanese Government, stating

that only immediate introduction of an open, transparent and nondiscriminatory procurement system would forstall formal trade action on our part.

In mid-August, Prime Minister Nakasone gave his assurance to Secretary Baldrige that foreign firms would be allowed to participate in the Kansai project on a fair and equal basis. At the end of the month, a trade delegation led by Under Secretary Smart of Commerce went to Tokyo to press Japan to translate Prime Minister Nakasone's commitment into a written understanding spelling out the principles of a nondiscriminatory system to be immediately applied to Kansai and other major public works contracting. The result was a very weak letter from the Minister of Transportation covering only the Kansai Airport project, and in essence only the second and third phases of the project, not the initial phases of design and engineering in which United States firms are extremely competitive.

Mr. President, we are approaching a crossroad and the question is whether the United States Government will deal with the Japanese construction firms in the same manner as the Government of Japan has dealt with United States construction firms.

We await the results of talks to occur within the next few weeks. However, what we must expect out of the Government of Japan is the guarantee that United States firms will have a defined responsibility for Kansai and other major projects coming out of Japan.

While there has been much public discussion about providing the opportunity to compete, we must understand that in Japan, the opportunity to compete is different from the actual engagement of competition itself.

This is particularly true in the area of construction where ancient procedures and relations currently preclude foreign firms from participation in these projects.

Given the clearly established strength of the U.S. industry in this particular area, there is no question as to our competitive strength and capability.

The Japanese Government must demonstrate that there is the political will in Japan to deliver with specific contractual opportunities in that growing market and allow United States firms to participate just as we have allowed Japan to participate in our country.

□ 1110

The Reagan administration must be prepared to take all legal action should these ancient traditions prevail again in building Kansai and other major projects.

If we don't get results, then the Congress must be prepared to legislate a remedy. If necessary, I will offer an amendment granting Japanese construction firms access to the United States construction market only if Japan grants meaningful access to United States firms.

RECOGNITION OF SENATOR KERRY

The PRESIDING OFFICER. Under the previous order, the Senator from Massachusetts [Mr. KERRY] is recognized for not to exceed 5 minutes.

Mr. KERRY. Thank you, Mr. President.

REPORT OF THE ECONOMIC COMPETITIVENESS WORKING GROUP

Mr. KERRY. Mr. President, I would like to begin by commending my colleague, the distinguished Senator from New Mexico, for his leadership on the Economic Competitiveness Working Group of the Democratic Caucus.

Over the past year our working group has closely examined the health of the economy in this country, particularly the manufacturing sector. Like so many others who approach this issue, Mr. President—and unfortunately there have been too many others who have approached it in recent years whose findings have been ignored—we have concluded that the ability of this country to remain No. 1 is quickly slipping away. The preeminent position which we have held in the world economy cannot be taken for granted any longer. America's trade deficit, as we know, is huge. It is a matter of record. Savings and investment are also in decline. Unfortunately, each of these aggregate figures seem to slide off the consciousness of most decisionmakers like water off a duck's back. Unfortunately, we cannot afford that luxury anymore.

Productivity of this country is lower than that of our trading partners. Between 1950 and 1985, annual productivity growth was 5.93 percent in Japan, 4.23 percent in West Germany, and only 1.15 percent in the United States.

For the last 3 years during which other countries have had anywhere from 3.05 percent in Japan, to 2.1 percent in West Germany, we have been outdistanced by Great Britain, with productivity growth of 2.8, which traditionally has had significant problems. During that period of time, the United States of America, the so-called engine or locomotive of the world, had an increase of only 0.86 percent.

We have seen the doubling of our Government's debt from $1 trillion to $2 trillion. We have seen a trade balance continuing to grow where now the United States is the greatest debtor nation in the world. And in the next few years, if we continue at this rate, our own debt will far exceed that of Latin American countries combined.

So, Mr. President, we are in a state where we have to make a new set of decisions. In the course of our deliberations, our group surveyed the findings and recommendations of more than 21 blue ribbon panels and commissions. We looked at the Young Commission, and others, and we found the remarkable degree of consensus on the need for a national strategy for recapturing our lead and for ensuring a prosperous and competitive American future.

The consistent theme throughout all of these reports was that we need effective leadership at the national level to provide us with a national strategy. And we heard this from the public sector, from labor unions, from the private sector, from universities, from business schools, corporations, and consultants.

Unfortunately, there seems to be a dominant theme within the current administration that says, no, we are bouncing back; no, we do not have to pay attention to these economic aggregate indexes; and somehow things will take care of themselves.

The only problem is, Mr. President, they are not taking care of themselves. These indicators are growing worse and it is clear that other nations are out-competing us in the marketplace, and are taking our jobs away. Everyone knows that every $1 billion of shift in the international trade deficit represents the loss of some 25,000 American jobs. The greatest export of the United States today are the jobs of American citizens.

So we are proposing a whole set of efforts that we must undertake from improved training and work force improvements to strengthening our math and science education. How many times have we heard that, Mr. President? I can remember hearings the President of the United States, in his State of the Union Message a few years ago, signaling to America the need for improvements in math and science education, and yet every year, the same President and that administration come up here and cut our efforts to do so. In so doing, I think they are cutting away at the very future of the United States.

This is not partisan politics. It is not just rhetoric anymore. These figures are real. We are losing our competitive edge. Our companies cannot make up for wage differentials, unless we have a new generation that is prepared to become the entrepreneurs and technicians of the future with the scientific and technological know-how, with the ability to have a marketplace and compete in that marketplace, our standard of living will continue to go down.

Mr. President, Americans today are earning real wages that are at the

equivalent of 1963 real wages, and the only thing that is hiding that fact is a large number of American families now depend on two wage earners instead of one. But Americans have undergone a pay cut involuntarily over the course of the last 15 years. Unless we harness our energy, our creatitivity, our resources, and increase the ability of our universities and our laboratories to function, to teach state of the art, unless we have the kind of venture capital incentives that are targeted toward the growth opportunities of the future, we are simply not going to remain preeminent. We will not be No. 1.

I am confident that this country has that ability, obviously. It is a matter of making up our minds to do it, and tragically, here in Washington, we have the tendency to push off important issues for immediate crises decisions. Though much of this is just nitty-gritty problem-solving which will not capture the headlines on a day-to-day basis, the fact is that nothing could be more important or more real to the American people.

I hope that the competitiveness working group's recommendations will not be taken and shunted off in a partisan fashion, but that they will be examined, and that with the leadership of Senator BINGAMAN and others who care about this issue, we will build a consensus that will permit us to indeed remain No. 1.

I yield whatever remaining time I have.

RECOGNITION OF SENATOR LEVIN

The PRESIDING OFFICER. Under the previous order, the Senator from Michigan, Mr. LEVIN, is recognized for not to exceed 5 minutes.

Mr. LEVIN of Michigan. I thank the Chair.

THE MYTH OF FAIRNESS FOR ALL

Mr. LEVIN. Mr. President, today I would like to continue my discussion of the conference report on the tax reform bill. I have already looked at how this bill will increase taxes on over 15 million middle-and low-income taxpayers; how it will make it harder to deal with the budget deficit; and how it contains many hidden costs. Today, I would like to focus on some of the new unfairness which it creates. Shortly after the conference concluded, one of the bill's supporters said, "I go away not completely happy, but I believe the results are good. Most of all we sought improved fairness." Mr. President, if that was the goal, then there are too many instances in which the conference report falls far short of the mark. Let me give a few examples.

First, and possibly foremost, are the repeated instances of retroactivity in this bill where changes in the tax law are applied to actions which people have already taken in reliance on the current law. This was also a problem with the Senate version of the bill, and many, many Senators made speeches on how it should be remedied—at least in part—in the conference. Unfortunately, after the conference was finished, the problem of retroactivity remained.

The investment tax credit is still repealed, retroactive to January 1986. The deductions of the losses on certain investments which were made years ago are still eliminated. The deduction of the interest on education and car loans which have already been taken out is still ended. This tax reform bill, which its sponsors hope will form a new bond of trust between the public and the Government is thus, instead, rooted in a fundamental breach of faith. It may claim to seek fairness, but for millions of taxpayers it will be seen as an arbitrary changing of the rules in the middle of the game by a distant government in Washington.

□ 1120

The retroactivity of certain provisions of this bill has given rise to another unfairness. Tens of millions of Americans will be affected by these retroactive changes. But hundreds of them will not be because they had access to the conference committee which enabled them to obtain a transition rule so that their activity could continue to be taxed under the old law. Now, let me make clear that as a matter of substance I am willing to acknowledge that many—maybe most—of these transition rules are justified on equity grounds in that they prevent the rules being changed in the middle of the game for certain specific businesses and individuals. The problem is that for every one of these businesses and individuals for whom there is a special rule, there could be thousands similarly situated for whom there is only the cold glare of retroactivity. It is the highly selective process behind this remedy and not the remedy itself which is unfair—and make no mistake about it, it is unfair.

Second, this bill is unfair because it gives huge tax cuts to some very wealthy individuals and tax increases to others of very modest means. How is it fair to be giving a $30,000 tax cut to a taxpayer—who happens to be President of the United States—making almost $400,000 a year at the same time we are increasing taxes on an elderly couple with high medical expenses making $15,000 a year? How does it improve the confidence that people have in the fairness of their Government if that Government passes a tax bill which increases taxes on 5.8 million taxpayers making less than $20,000 a year at the same time that it is giving tens of thousands of dollars in tax cuts to more than half of the taxpayers making over $200,000 a year? It does not. It simply does not.

Third, this bill makes an unfair and illogical distinction between those taxpayers with significant equity in their homes and those taxpayers who have little or no equity in their homes or who are renters. This bill would allow homeowners seeking a way around the repeal of the consumer interest deduction to take out a second mortgage on the equity in their home. Those with enough equity in their home could use that money to pay for consumer items and deduct the interest on the second mortgage. But renters and those with little or no equity would not be in a position to take out a second mortgage and to deduct that interest even if they were trying to meet major expenses such as medical bills and tuition costs. So, under this bill you could have a taxpayer making $30,000 a year with a home in which he has built up a lot of equity and a taxpayer with the same income who rents. The first taxpayer can, in effect, deduct some consumer interest; the second cannot. So much for achieving the goal of fairness by taxing equal incomes equally.

It is unfortunate, truly unfortunate, that a bill like this one which in some respects does a lot to improve the fairness in the Tax Code—such as with the toughened minimum tax on profitable corporations and wealthy individuals—is marked and marred by these examples of unfairness.

This new unfairness cannot be solved through a minor fine-tuning of this bill, either now or later. It can only be solved by defeating this conference report and reorienting tax reform so that it "most of all" will seek improved fairness and not take two steps backward as it takes one step forward in the process.

Mr. LONG. Mr. President, will the Senator yield for a question?

Mr. LEVIN. I am happy to yield.

Mr. LONG. The Senator from Michigan is making some good points, Mr. President, but I am sure he realizes that there are counter arguments that can be made for the other side on some of these points.

Is not quite a bit of the argument he is making directed against the things that he would say were wrong to begin with when we passed the bill? In other words, the Senator from Louisiana was one of the conferees. While the Senator would like to accommodate the Senator's views with regard to the difference between the House and the Senate, as one who spoke for the Senate at the conference it seemed to this Senator that it was my duty to support the Senate language even though in some cases I did not neces-

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sarily agree with that language, that that was the best way. There are several things that I did not agree with. Is it not true that quite a few of the things the Senator is criticizing here are things that he found wrong with the bill as it passed the Senate?

Mr. LEVIN. Some of the things are, and some are new unfairnesses added in conference.

It is true that some of the things I mentioned were in the Senate bill and not recommended in conference. Let me also add for my friend that when this bill came through the Senate, Senator after Senator said, "This retroactivity is bad. We expect the conferees to correct it."

Well, what I am pointing out is that the retroactivity which is so unfair in our bill was not corrected in conference. I am also pointing out that there were some additional unfairnesses which we believe were added by the conference.

Mr. LONG. But is it not true that everything that was in the House bill as it passed the House, which did not find its way into the Senate bill, was presumably something we Senators did not think very much of because we knew about it and if we thought it was good legislation we would probably have included it? We needed the revenue to help pay for the things we are doing. If we had thought it important, that the part not in the Senate bill was good, we would have put it in. The Senator is criticizing things in the House bill which found their way back into the conference. I hope he lets the listening audience know that there were things that we did not like to begin with, never did like and do not like now. But when you go to conference, in order to get the part that you think is good, you have to accept some things that you do not think are very good and some that you think are lousy. Your cannot have it all your way in conference. You have to give something in order to get something.

The Senator has been a very faithful conferee and he knows that.

Mr. LEVIN. Absolutely. We are looking at this bill as it comes back from the conference and we are asking, "Now, on these retroactive features that so many of us spoke against, were they corrected in conference as the hope was expressed they would be?"

The answer is no, they were not. The retroactivity is still in this bill. My point is there are some added features which are also in the bill.

The PRESIDING OFFICER. The time of the Senator has expired.

RECOGNITION OF SENATOR ROCKEFELLER

The PRESIDING OFFICER. Under the previous order, the Senator from West Virginia [Mr. ROCKEFELLER] is recognized for not to exceed 5 minutes.

AMERICA'S LIVING STANDARD ACT OF 1986

Mr. ROCKEFELLER. Mr. President, I am pleased to join Senator BINGAMAN and 20 of my colleagues in introducing this important legislation. The legislation, like the task force which recommended it, addresses the central economic issue facing our country: meeting the competitive challenge and building our economic future in a rapidly changing world economy.

President Reagan points with pride to the economic recovery, 9 million new jobs, and the low inflation rates. The administration speaks of our massive trade deficit as if it were a minor cloud in an otherwise sunny sky.

It doesn't work that way. In a world economy, a nation's trade picture is probably the fairest and most fundamental measure of its economic condition—not some peripheral concern. Our trade deficit reached $148 billion last year, and it is still rising. A nation that buys $3 billion more from abroad every week than it sells is draining its economic strength.

The Reagan administration has given us a hollow recovery, in which the foundation of our economic strength has been crumbling—not fortified. For the last 2 years, the recovery has limped along, fueled by massive debt at all levels: consumer borrowing; corporate debt; the Federal budget deficit. The sickness affecting our basic industries has also infected our high-technology sectors, all of which have lost ground to imports. We sometimes talk of our trade problems as if they were limited to Japan, or Japan and the other Asian nations. But, in fact, we are running an enormous trade deficit with Canada, our leading trading partner, and with the European Community, where our trade has been in surplus until very recently. Too often, the economic recovery seems to come down to this: we buy imported products, and we borrow the money abroad to pay for it. That is not the formula for economic prosperity; it is the formula for an economic disaster.

What is important about the work of the task force, it seems to this Senator, is that we have tried to consider the full scope of the country's competitive challenge. There is no question that arguments could be made about the fallacy of certain economic policies or the fallacy of certain trade policies. And we must correct those policies. But we are not going to restore America's competitive position fully even if we address both of those areas completely.

There is another missing part to this question of competitiveness and that is the range of things that we have to do to make this Nation more productive.

We need a first-class education system. We need a commitment to technology, research, and development which is not now present in our country.

We need a flexible and well-trained work force, and we need a sense, Mr. President, of urgency about the problem which we simply do not have.

The legislation we offer today addresses these issues with a series of proposals that are simultaneously farsighted, yet practical and cost effective.

Let me give a few examples.

□ 1130

American businessmen, American scientists, and American engineers, simply do not have critical information which they need about technological trends or manufacturing advances in some of our neighboring countries. That would apply particularly to the lack of knowledge we have about Japan and their manufacturing, and the technology growth in a number of Asian countries.

There are in Japan each year approximately 10,000 technological and science journals which are published. American businessmen, scientists, and engineers do not tend to read Japanese so we do not tend to notice what is in those journals. Because those journals are not translated, all of that information goes right past our people. There are only several hundred of them, in fact, out of the 10,000 which are translated and made available to the American business community and the American academic community.

On the other hand, the Japanese have, for 25 years, been reading our literature, benefiting from our accomplishments, learning from our mistakes. They have been reading what our scientists have been doing, and as they launch into advancement of technology and the manufacturing process, they simply can build on our accomplishments and around any mistakes we have made.

There is, in fact, in the office of the Prime Minister of Japan, a special section which deals with the problem of translating foreign technical journals into the Japanese languages where necessary so the people there can take advantage of it. We are operating in all respects at a competitive disadvantage with respect to technology information.

The task force believes that the Federal Government has an obligation to provide our private sector with the kind of information that is essential for it to compete. Our legislation proposes that the Department of Commerce establish an Office of Technology Assessment within the U.S. embas-

sies in five countries which are judged to be technological leaders. Personnel of the offices will participate in the host country's scientific and technological community; issue a monthly catalog of activities; and help abstract and translate important articles from the host country's scientific and technical journals. This proposal builds upon the concept of legislation offered by Senator BAUCUS and me, recently signed into law by the President, the Japan Technical Literature Act.

The pricetag on this proposal is $5 million, and yet, the competitive benefits would be far reaching. It will pay for itself many times over. I believe that this kind of proposal will receive universal support, particularly from those in the business community who know how tough the competition is and sense—quite correctly—that they are operating at a disadvantage.

Similar benefits will result from our proposal to double the funding provided for the National Science Foundation's new engineering research centers. The President's Commission on Industrial Competitiveness, better known as the Young Commission, concluded that "perhaps the most glaring deficiency in America's technological capabilities has been our failure to devote enough attention to manufacturing or 'process' technology." That deficiency has been fundamental to our loss of leadership in manufacturing to Japan.

The engineering research centers have begun to remedy that critical deficiency. Based on 11 university campuses, the ERC's are designed to promote collaborative efforts between industry and academia on research which will support our industrial competitiveness. Funded programs include research topics ranging from robotics and manufacturing automation to biotechnology.

The program is currently funded far below potential. For that reason, our legislation proposes to double the funding from $23 million to $46 million, which would allow for a doubling of the ERC's from 11 to 22. That is a very small amount of money to double the number of university-based catalysts around this country doing important work on industrial innovation. We must invest more in this area of research and development which is essential to our manufacturing prowess. Our competitors have demonstrated the benefits that flow from improving "process" technology, and they will not be reducing their efforts in the coming years.

Our legislation also proposes the creation of a Council on Industrial Competitiveness, made up of distinguished leaders from government, business, labor, academia, and the public. The Council would provide a forum for debating our competitive future, and a mechanism for recommending policies which will enhance our competitiveness.

This proposal has been offered before. It has sometimes been criticized as too much of an effort to copy Japan or too much centralizing of power. The task force debated it and included it, and I believe that it is an important idea. It could help our country in two areas where we tend to be weak: thinking long term, and building consensus about needed policies.

We all recognize the pressures in our political system that force us to deal with the crisis of the moment, rather than more deep-rooted, long-term problems. And we recognize the pressures in the business world to focus on the immediate bottom line, and the quarterly returns, too often at the expense of long-range planning.

Maybe it is wishful thinking, but I believe that the Council we are recommending could provide a partial antidote to these pressures. If we had had a Council charged with thinking about our competitive future 10 or 15 years ago, we might have recognized the problems that would face our steel industry—and brought management, workers, and Government together to respond in a timely way. We might have focused earlier on the failings of our education system, recognized that it was slipping in comparison to that of other countries—and rallied public support accordingly. The hard truth is that as a country, we do not seem to be able to face our problems until they are upon us in the form of a crisis. But I think that it is well worth trying to create something of an institutional early warning system, and this Council could serve such a function.

Moreover, every democratic country needs to build consensus behind policies that it undertakes. We have a diverse population; a system of separation of power and checks and balances; and a tradition of adversarial relations between the Government and the private sector. Given those tendencies toward fragmentation and stalemate, our country, more than most nations, needs institutions which give us the chance to build consensus.

It is instructive that Japan—even with its homogeneous population, close government-business ties, a parliamentary system, and a tradition of consensus—still goes to great lengths to make sure they have institutions which allow for consensus building. MITI puts forth its visions of the future; industrial strategies are debated in many agencies and organizations, public and private. Good policies—and consensus support for them do not happen automatically. Institutions are needed to help them emerge. Our proposal for a council reflects that fact.

The Council would not have executive or legislative authority; it would be advisory in nature, making recommendations to the President and Congress for policies and strategies that would help our country compete. And it would have a positive impact if its recommendations were sound and reflected a wise consensus about policies that were necessary for the country.

Mr. President, I think that the American people understand the competitiveness challenge far better than the administration does. If you travel in my State—or in any of ours—you will find parents working to improve their schools; corporations radically restructuring to meet the competition; labor and management working together to improve productivity.

But the people cannot do it alone. Only Government can provide the range of policies and tools which give the private sector a real chance to compete in this world economy. When the public recognizes the crucial role that Government must play in meeting the competitive challenge, they will demand action. And meaningful action on the competitiveness agenda will include the proposals that we are making today.

I thank the Chair.

RECOGNITION OF SENATOR HARKIN

The PRESIDING OFFICER. Under the previous order, the Senator from Iowa [Mr. HARKIN] is recognized for not to exceed 5 minutes.

13TH ANNIVERSARY OF THE CHILEAN COUP

Mr. HARKIN. Mr. President, today marks the 13th anniversary of the coup that brought Gen. Augusto Pinochet to power in Chile.

From the day he seized power on September 11, 1973, and murdered in the process the democratically elected President, Salvador Allende, Pinochet has ruled Chile with terror and violence. The coup unleashed a wave of repression unprecedented in Chile's 168-year history of democratic rule.

The new junta, as soon as it came in, dissolved the National Congress and discharged elected officials from their posts. It disbanded the constitutional court and suspended political party and labor union activities.

In the regime's first 18 months, 1 in every 10 Chilean families was affected by arrest, detention, or exile. Since the coup, hundreds of thousands of suspected opponents have been jailed and tortured, and an estimated 35,000 have "disappeared" since that fateful day of September 11, 1973.

The press has been censored, political opponents exiled or imprisoned, and political parties have been outlawed.

Under Pinochet, Chile has become a coercive State, where legalism fronts

for official violence and where violence gives laws their legitimacy.

The state of seige imposed Sunday is a tragic reminder of the system of repression institutionalized in Chile since Pinochet came to power 13 years ago.

The recent attack against General Pinochet, which prompted the Government's imposition of a state of siege, warrants the strongest condemnation of all those opposed to terrorist violence and committed to Chile's peaceful return to democracy. I join our Government and my colleagues in this body in supporting efforts by the Chilean Government to find and prosecute those responsible for this terrorist act.

The response of the Pinochet regime, however, extends far beyond legitimate efforts to identify those connected with Sunday's brutal attack. Under the current state of siege, two American and three French priests and democratic opposition and human rights leaders have been detained by Chilean authorities.

Six opposition magazines have been shut down, and the Reuters news agency was ordered to close its Santiago office.

Events took a tragic turn yesterday, when the body of Jose Carrasco, an editor of an opposition magazine, Analisis, was found outside a Santiago cemetery. He was found with nearly a dozen bullet holes in his head.

Shortly before 5 a.m. Monday morning, Carrasco was dragged out of his apartment and shoved into a white van by two armed men. The Government denies responsibility for the incident. However, at that hour—before the end of curfew—it is unlikely that any vehicles other than those of Government security forces would have been allowed on the streets of Santiago.

I sincerely hope that the extraordinary powers of censorship and arbitrary detention granted Pinochet under the state of siege will be soon lifted. Yet, so long as Pinochet remains in power, there is little hope that human rights, political freedoms, and democracy will be restored to the Chilean people.

Since 1973, one or more sets of emergency laws—which delegate to the military wide powers over individual liberties—have been in effect. A "state of emergency" has been in force for all but 7 months of the 13 years since the military coup.

A "state of siege" was simultaneously in force from 1973 to 1977, again from November 1984 to June 1985, and now since this past Sunday.

Pinochet shows no signs of loosening his grip over Chilean society. On July 11, the general declared that his Government will continue beyond 1989.

Living under a dictatorship now for 13 years, the Chilean people face the prospect of 11 more years of military rule.

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Pinochet's continued rule will not solve Chile's problems—because Pinochet himself is at the root of Chile's problems.

Thirteen years ago, he promised to wipe out Marxism and terrorism. Yet he has only driven a Communist Party which did not originally believe in violence to become a vast network for armed resistance and terrorism.

He has transformed a country that for most of its history was fundamentally harmonious and democratic into a place where the young learn violence every day—in the streets that are patrolled by marauding soldiers, in the schools where they are expelled and beaten up, in the lack of employment and abundance of hunger.

More State-sponsored violence and terrorism will beget more leftist violence and terrorism. The violence of General Pinochet and his thugs has led and will continue to lead to more reactive violence.

One step we can take to help restore democracy to Chile is to stop approving loans that support the regime of General Pinochet. Loans to Chile are expected to be voted on by the World Bank and Inter-American Development Bank in November.

By stopping the flow of these funds, the United States could put pressure on Pinochet to agree to step down and arrange for truly democratic elections.

We should employ this economic leverage to persuade Chile's military rulers to restore democracy.

Before it is too late, we must act now and send an unequivocal signal to Pinochet and his cronies that it is no longer business as usual so long as repressive rule continues in Chile.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

RECOGNITION OF SENATOR BINGAMAN

The PRESIDING OFFICER. Under the previous order, the Senator from New Mexico [Mr. BINGAMAN] is recognized for not to exceed 5 minutes.

Mr. BINGAMAN. Thank you, Mr. President.

AMERICA'S LIVING STANDARD ACT OF 1986

Mr. BINGAMAN. Let me just make a few additional comments about the report that our working group on economic competitiveness issued yesterday and on the subject of the legislation that we have introduced today on behalf of 22 Democratic Senators.

Our purpose in the working group was very simple. We were to investigate the seriousness of the competitive challenge that this country faces and, second, we were to identify areas most in need of attention and craft some concrete proposals to give those areas attention

I believe we were successful in making an initial thrust at the problem. I do not begin to suggest that what we have proposed is going to solve the problem. I do not begin to suggest that the problem we identified is one that can be solved in a short period of time or can be solved by merely the passage of a particular piece of legislation.

Mr. President, what we found was that over a period of several decades there has been a deterioration in the ability of this country to compete in international markets. We have seen the infrastructure, we have seen the underpinnings of a prosperous economy eroded over the last several decades, and the erosion of those underpinnings of our prosperous economy has become a major, major problem in the last several years.

The statistics that I referred to earlier this morning are depicted on the graphs that we have made part of our report, and I will not go into those in great detail at this time.

Let me just identify the five areas that we felt were most in need of concern in order to come to grips with this competitiveness challenge.

The first was, as Senator ROCKEFELLER pointed out, the need to have a better understanding of technologies and changes in technologies that are developed by our trading partners. Today we have a very inadequate ability to understand what changes are taking place abroad. We have always had the luxury of essentially ignoring technological advance elsewhere and assumed that we were at the cutting edge of all technological developments. That luxury is no longer with us, and we need to put increased emphasis on learning how to understand and monitor what is going on in the technologies in Japan, in South Korea, in Germany, and some of the countries which are able to compete very effectively with us in these international markets.

Second, we need to do much more to support excellence in the development of U.S. technology. A tremendous amount of the Federal dollar goes into research and development of technology. Mr. President, unfortunately, the bulk of that goes to the military research and development activities. When you look at how much we are putting into commercially relevant research and development as a percentage of our gross national product, we rank substantially lower than several of our trading partners. That has to be a concern for us. We have to find some specific ways to deal with it, and we have recommended several specific ways to deal with it.

As Senator ROCKEFELLER pointed out, we propose an expansion of the engineering research center idea that the National Science Foundation has been pursuing for the last several years. They have received many more meritorious proposals for the establishment of those centers than they have been able to fund.

Our proposal is that we increase funding so that the universities in this country which do have good proposals can get the necessary funding to go forward with the development of those centers.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "America's Living Standard Act of 1986".

FINDINGS

SEC. 2. The Congress finds that—

(1) competitiveness refers to a nation's ability to earn—not borrow—a rising standard of living for its citizens with sufficient productive investment to assure sustained growth and security in the future;

(2) new technologies and successful economic development strategies abroad have created a fundamentally new and highly competitive challenge to American economic growth and prosperity;

(3) the President's Commission on Industrial Competitiveness found that "our ability to compete is eroding" threatening our world leadership and our standard of living;

(4) the President's Commission on Industrial Competitiveness urged that this "New Reality" requires that competitiveness become the economic agenda for the next decade; and

(5) United States living standards continue to decline despite massive accumulation of debt and further decline in the growth of productive investment for the future.

(b) The Congress further finds that—

(1) weekly earnings, in the United States, are, on the average, now below 1963 levels;

(2) unemployment rates are trending upward;

(3) the gross national product is decelerating from 4 percent in the 1950-1960's, to 2.8 percent in the 1970's and only 2 percent in the 1980's;

(4) the Federal debt is growing 6 times faster than the gross national product and now equals more than 50 percent of the gross national product;

(5) business, consumer, and government debt are at post-1920's highs and the total now equals almost twice the gross national product;

(6) the United States became a debtor Nation in 1985, is now the world's largest debtor, and could owe more than all of Latin America combined by 1988;

(7) the merchandise trade deficit is larger than the gross national product of 169 of the 179 countries with which we trade;

(8) traded services deficits will soon be joined by enormous outflows to service United States foreign debt;

(9) investment and productivity are decelerating and are only a fraction of foreign growth rates; and

(10) in the area of educational excellence, in competition with students from other developed nations, Americans score near the bottom.

TITLE I—ESTABLISHMENT OF AN OFFICE OF TECHNOLOGY ASSESSMENT IN CERTAIN FOREIGN NATIONS TO CATALOGUE, ABSTRACT, TRANSLATE, AND REPORT ON SCIENTIFIC AND TECHNOLOGICAL DEVELOPMENTS

AMENDMENTS TO STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980

SEC. 101. Section 5 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3704) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

"(d) FOREIGN SCIENTIFIC AND TECHNOLOGICAL LITERATURE.—(1) The Secretary, in consultation with the Secretary of State, shall establish an Office of Technology Assessment within the United States Embassy in five foreign nations identified by the Secretary as—

"(A) maintaining a high level of scientific and technological development; and

"(B) potentially contributing the most to such development in the United States pursuant to the provisions of this section.

"(2) The Secretary, in consultation with the Secretary of State, shall direct the Office of Technology Assessment to—

"(A) participate in the scientific and technical community of the host nation and issue a monthly catalogue of activities;

"(B) monitor, select, abstract, and translate important articles from scientific and technical journals of the host nation, in coordination with the National Technical Information Service and other relevant agencies; and

"(C) prepare an annual analysis of technological trends and a directory listing government and private sources of information about scientific and engineering developments of the host nation.".

ADDITIONAL AUTHORIZATION

SEC. 102. Section 14 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3713) is amended—

(1) by redesignating subsection (d) a subsection (e);

(2) by amending subsection (c) to read as follows:

"(d) Such sums as may be appropriated under subsections (a), (b), and (c) of this section shall remain available until expended."; and

(3) by inserting after subsection (b) the following new subsection:

"(c) In addition to authorization of appropriations under subsections (a) and (b) of this section, there is authorized to be appropriated to the Secretary for purposes of carrying out the provisions of section 5(d) of this Act, not to exceed $5,000,000 for the fiscal year ending September 30, 1986.".

TITLE II—OFFICE OF TECHNOLOGY ASSESSMENT, FORECAST AND OUTREACH

ESTABLISHMENT OF OFFICE

SEC. 201. (a) There is established within the Department of Commerce the Office of Technology Assessment, Forecast and Outreach (hereinafter referred to as "Office").

(b) The Office shall be headed by a Director of the Office of Technology Assessment, Forecast and Outreach (hereinafter referred to as "Director"), who shall be appointed by the Secretary of Commerce. The Director shall be under the direction and supervision of the Commissioner of Patents and Trademarks.

(c) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new item:

"Director of the Office of Technology Assessment, Forecast and Outreach.".

FUNCTIONS OF OFFICE

SEC. 202. It shall be the function of the Office to—

(1) identify emerging areas of technology throughout the world;

(2) analyze the sources of new technology;

(3) develop and administer a program involving the identification of the ownership of United States patents, including by country and firm;

(4) determine trends in patent behavior throughout the world;

(5) assure regular reviews by relevant industry sector advisory committees;

(6) assure broad private sector knowledge of, and access to, findings, data, and other information made or acquired by the Office in carrying out its functions under this title; and

(7) carry out such other duties and functions as may be imposed by the Secretary of Commerce.

AUTHORIZATION OF APPROPRIATION

SEC. 203. For carrying out the provisions of this title, there is authorized to be appropriated, for the fiscal year 1987, the sum of $2,000,000, and for each fiscal year thereafter, such sum as may be necessary.

TITLE III—NATIONAL SCIENCE FOUNDATION ENGINEERING RESEARCH ASSISTANCE

SHORT TITLE

SEC. 301. This title may be cited as the "National Science Foundation Engineering Research Assistance Act".

AUTHORIZATION OF APPROPRIATION

SEC. 302. There are authorized to be appropriated for fiscal year 1987 to the National Science Foundation $12,000,000 for engineering research centers in addition to amounts otherwise authorized for such centers.

AMENDMENT TO NATIONAL SCIENCE FOUNDATION ACT OF 1950

SEC. 303. Section 14 of the National Science Foundation Act of 1950 is amended by adding at the end thereof the following new subsection:

"(j) The Foundation shall, in cooperation with participating institutions of higher education, seek methods of excluding from participation in engineering research activities any corporate entity which is primarily based, or whose parent is primarily based, in a foreign country and which does not allow reciprocal participation by United States corporate entities in similar research activities.".

TITLE IV—SCIENTIFIC RESEARCH FELLOWS PROGRAM

FELLOWSHIPS

SEC. 401. This title may be cited as the "Scientific Research Fellows Program Act".

AMENDMENT TO NATIONAL SCIENCE FOUNDATION ACT OF 1950

SEC. 402. Section 10 of the National Science Foundation Act of 1950 is amended—

(1) by inserting "(a)" after the section designation;

(2) by adding at the end thereof the following new subsection:

"(b)(1) The National Science Foundation shall award, within the limits of funds made available specifically for such purpose pursuant to paragraph (5), not to exceed 500 fellowships in each fiscal year to outstanding graduate students who pursue studies which give promise to contribute significantly to the efficiency, economic productivity, and international competitiveness of the United States.

"(2)(A) In carrying out the provisions of this subsection, the National Science Foundation shall identify specific business industries, technologies and foreign countries in which American leadership in efficiency, productivity, or international competitiveness is being most effectively challenged.

"(B) In awarding fellowships under this subsection, the National Science Foundation shall give preference to fellowship applicants whose qualifications and intended course of study give promise to meet the needs identified pursuant to this paragraph. In carrying out the provisions of this subsection, the National Science Foundation shall give special consideration to applicants who demonstrate competence in the foreign language in one of the foreign countries identified pursuant to this paragraph and who intend to perform a minimum of two years of research in the foreign country.

"(3)(A) The National Science Foundation shall apply the same terms and conditions (not inconsistent with this subsection) to the fellows appointed under this subsection as to fellowship awards made under subsection (a) of this section.

"(B) In addition, the National Science Foundation shall provide fellows performing research pursuant to this subsection in a foreign country identified pursuant to paragraph (2) allowances for two round-trip visits per year from the foreign country in which the research is being performed to the institution of higher education or other location at which the individual pursued professional activity prior to the award of the fellowship. The National Science Foundation may grant assistance to fellows for foreign language instruction and tutorials.

"(4) Individuals awarded fellowships under this subsection shall be known as 'scientific leadership fellows'.

"(5) There are authorized to be appropriated such sums as may be necessary for the fiscal year 1987 and for each of the four succeeding fiscal years to carry out the provisions of this subsection.".

TITLE V—UNIVERSITY RESEARCH FACILITIES FUND

SHORT TITLE

SEC. 501. This title may be cited as the "University Research Facilities Act of 1986".

DEFINITIONS

SEC. 502. For the purpose of this title—

(1) the term "Director" means the Director of the National Science Foundation;

(2) the term "Fund" means the University Research Facilities Fund established pursuant to section 504;

(3) the term "institution of higher education" has the same meaning as such term has pursuant to section 1201(a) of the Higher Education Act of 1965; and

(4) the term "Secretary" means the Secretary of the Treasury.

ESTABLISHMENT OF UNIVERSITY FACILITIES DIVISION

SEC. 503. The Director shall establish a University Facilities Division pursuant to section 8 of the National Science Foundation Act of 1950, within the Directorate for Science and Engineering Education of the National Science Foundation.

ESTABLISHMENT OF FUND

SEC. 504. (a) There is established, within the United States Treasury, a University Research Facilities Fund.

(b) The Secretary shall act as trustee of the Fund, and shall make such payments from the Fund upon certification by the Director.

(c) The Secretary shall invest such portion of the Fund as is not, in the judgment of the Secretary, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired—

(1) on original issue at the issue price; or

(2) by purchase of outstanding obligations at the market price.

(d) Amounts in the Fund may be used only for awards made in accordance with the provisions of this title.

USES OF AWARDS

SEC. 505. (a) Awards made under this title shall be used by institutions of higher education for the Federal share of the cost of acquiring, replacing, renovating, upgrading, or constructing facilities and equipment to be principally used for scientific research or laboratory instruction.

(b)(1) Not more than 50 percent of the amount of each award approved under section 507 may be used for permanently installed experimental equipment.

(2) Not more than 25 percent of any such award may be used for the purchase of stand-alone equipment.

APPLICATION FOR AWARD

SEC. 506. Any institution of higher education desiring an award under this title shall submit to the Director an application at such time, in such manner, and containing or accompanied by such information as the Director may reasonably require. Each such application shall—

(1) describe the facilities or equipment to be constructed or acquired;

(2) describe the type of research to be performed using such facilities or equipment;

(3) describe the contribution such research will make in meeting national, regional, and State research and related training needs; and

(4) identify the source of the matching non-Federal funds for such facilities or equipment as required by section 508.

REVIEW OF APPLICATION AND AWARD OF FUNDS; CERTIFICATION

SEC. 507. (a) Subject to the provisions of subsection (b), the Director shall approve applications submitted pursuant to section 506, and grant awards from the Fund to carry out the provisions of this title.

(b) The University Facilities Division established pursuant to section 503 shall establish peer review panels composed of members of the relevant scientific and technological community with substantial representation from smaller institutions, to review applications and recommend awards to be granted by the Director. The evaluation by such panels shall be based on—

(1) the quality of the research and training to be carried out in the facility; and

(2) the contribution which the project will make toward meeting national, regional, and State research and related training needs.

(c) The Director shall certify to the Secretary the amount of each award approved under this section.

MATCHING REQUIREMENT

SEC. 508. Any institution of higher education receiving an award under this title shall provide a matching amount for any project. Such amount shall derive from a non-Federal source and may be in cash or in kind, fairly evaluated, including but not limited to plant, equipment, or services.

AUTHORIZATION OF APPROPRIATIONS

SEC. 509. There are authorized to be appropriated for the fiscal year ending September 30, 1987, and each fiscal year thereafter ending prior to October 1, 1997, $250,000,000 to be deposited in the Fund established pursuant to section 504 of this title and to remain available until expended.

TITLE VI—FUTURE TEACHER TRAINING CORPS

SHORT TITLE

SEC. 601. This title may be cited as the "Future Teacher Training Corps Act".

AMENDMENT TO HIGHER EDUCATION ACT OF 1965

SEC. 602. Title V of the Higher Education Act of 1965 is amended by adding at the end thereof the following new part:

"PART G—FUTURE TEACHER TRAINING CORPS FELLOWSHIPS

"FINDINGS AND STATEMENT OF PURPOSE

"SEC. 581. (a) The Congress finds that—

"(1) excellence in and access to education is a national priority to improve human resources of the Nation, particularly to maintain economic competitiveness of the Nation;

"(2) although the States and localities bear primary responsibility for elementary and secondary education, educational achievement is a national concern;

"(3) demographic trends show a serious teacher shortage with some estimates projecting by 1990 1 million new teachers will be needed in the United States;

"(4) shortages of teachers exist in certain geographic areas of each State and in certain subject matter areas;

"(5) while there is a dramatic increase in minority student population, the proportion of minority teachers is declining, so that by 1990 minorities will constitute 30 percent of the total school population and comprise less than 5 percent of the elementary and secondary teaching force; and

"(6) it is appropriate to provide fellowship funds for outstanding students and experienced individuals to encourage them to pursue careers in teaching and to help address the serious teacher shortage.

"(b) The purpose of this part is to make available, through grants to the States, fellowships to individuals—

"(1) who are outstanding postsecondary students or experienced individuals, and

"(2) who demonstrate an interest in a teaching career and a desire to teach in areas of the State in which there is a shortage of elementary or secondary school teachers or in fields of study in which there is a shortage of elementary or secondary school teachers in the State, or both.

"ALLOTMENT OF FUNDS

"SEC. 582. (a) GENERAL ALLOTMENT.—From the sums available pursuant to section 590(a) to carry out this part in any fiscal year, the Secretary shall allot to each State an amount which bears the same ratio to such remainder as the school-age population of the State bears to the school-age

population of all States, except that no State shall receive less than one-half of 1 percent of such remainder.

"(b) MOST RECENT DATA.—For the purpose of this section, the population of a State and of all States shall be determined by the most recently available data from the United States Census Bureau.

"(c) REALLOTMENT.—If any State elects not to receive its allotment under this part, the Secretary shall reallot, among the remaining States, amounts from such State in accordance with subsection (a) of this section.

"(d) DEFINITION.—For the purpose of this section, the term 'school-age population' means the population 5 years of age through 17 years of age.

"SELECTION OF FELLOWSHIP RECIPIENTS

"SEC. 583. (a) SELECTION REVIEW PANEL.—The Governor shall appoint a Selection Review Panel for the purpose of selecting individuals who will be awarded fellowships under this part who are interested in careers in teaching and who agree to teach in areas of the State in which there is a shortage of elementary or secondary school teachers or in fields of study in which there is a shortage of elementary or secondary school teachers in the State, or both.

"(b) SELECTION PROCEDURE.—(1) The Governor shall establish selection procedures to be applied by the Selection Review Panel appointed pursuant to subsection (a), together with such application procedures as may be necessary.

"(2) The application procedures established under paragraph (1) shall include—

"(A) rank in the graduating class at an institution of higher education,

"(B) grade point average in the institution of higher education,

"(C) leadership activities in the institution of higher education,

"(D) scores on recognized admission examinations for institutions of higher education and for graduate education, if applicable,

"(E) recommendations of faculty at an institution of higher education,

"(F) submission of evidence of scholarship, including a writing sample or a completed project, and

"(G) a description of previous work experience.

"GRANT APPLICATIONS

"SEC. 584. (a) IN GENERAL.—The Secretary is authorized to make grants to States in accordance with the provisions of this part. In order to receive a grant under this part, a State shall submit an application at such time, in such manner, and containing or accompanying such information as the Secretary may prescribe. Each application shall set forth a program of activities for carrying out the purpose set forth in section 581 in such detail as will enable the Secretary to determine the degree to which such program will accomplish such purpose.

"(b) TERMS OF APPLICATIONS.—The Secretary shall approve an application only if the application—

"(1) describes the selection criteria and procedures to be used by the State in the selection of fellowships under this part which meet the requirements of section 583 and the other provisions of this part;

"(2) provides that the Governor of the State will administer the program;

"(3)(A) describes the outreach effort the Governor intends to use to publicize the availability of the fellowships authorized by this part to postsecondary students in the State and to potential midcareer applicants in the State;

"(B) provides assurances that the State will recruit among underrepresented groups for the program authorized by this part, particularly Black Americans, Hispanics, Asian Americans, and American Indians;

"(4) provides assurances that each recipient eligible under section 586(c) who receives a fellowship shall enter into an agreement with the Governor under which the recipient shall—

"(A) within the 3-year period after completing the postsecondary education for which the fellowship was awarded—

"(i) teach in areas of the State in which there is a shortage of elementary or secondary school teachers or in fields of study in which there is a shortage of elementary or secondary school teachers in the State for a period of not less than 3 years for the first year for which assistance was received and 4 years if the recipient receives assistance for 2 years; and

"(ii) teach in areas of the State in which there is a shortage of elementary or secondary school teachers in a field of study in which there is a shortage of elementary or secondary school teachers in the State for a period of not less than 2 years for the first year for which assistance was received, and 3 years if the recipient receives assistance for 2 years,

in an elementary or secondary school of a local educational agency of such State, a public elementary or secondary school of such State, an Indian school funded by the Bureau of Indian Affairs, or a public educational program in such State, any of which may be determined by such State, but in no event shall any recipient be required to teach for less than 2 years or more than 4 years;

"(B) provide the Governor with evidence of compliance with section 586 as required by such agency; and

"(C) repay all or part of a fellowship received under section 585 plus interest and, if applicable, reasonable collection fees, in compliance with section 587 and regulations issued by the Secretary under section 588, in the event that the conditions of clause (A) are not complied with, except as provided for in section 589;

"(5) provides (A) that the agreement entered into with recipients shall fully disclose the terms and conditions under which assistance under this part is provided and under which repayment may be required, and (B) a description of the manner in which the Governor will collect amounts owed under the program authorized by this part;

"(6) provides assurances that fellowship recipients may only attend institutions of higher education that have a clinical internship or experience program approved by the State;

"(7) provides that the State has a continuing education requirement for practicing teachers within the State;

"(8) provides assurances that a precertification teachers examination program will be in effect not later than 2 years after the first fellowships are awarded in the State under this part;

"(9) provides assurances that fellowships authorized by this part will be awarded without regard to sex, race, handicapping condition, or creed;

"(10) provides assurances that, with respect to the awarding of fellowships under this part, equal opportunity will be given to all postsecondary students in the State; and

"(11) provides that not more than 3 per centum of the grant shall be used for the administrative costs of the State in carrying out the provisions of this part.

"(c) CONSULTATION.—In developing the selection criteria and procedures to be used by the State, the State shall solicit the views of local educational agencies and other interested parties as the State deems appropriate, including classroom teachers, representatives of institutions of higher education, and representatives of the general public.

"AMOUNT AND DURATION OF ASSISTANCE

"SEC. 585. (a) IN GENERAL.—Each recipient shall receive a fellowship not to exceed $5,000 for each academic year of graduate education in preparation to become an elementary or secondary school teacher. No individual shall receive fellowship assistance for more than 2 years of graduate education, as determined by the Governor.

"(b) INTERNSHIP ASSISTANCE.—Each institution of higher education, at which fellows receiving assistance under this part are enrolled in a post-baccalaureate program, is encouraged to insure that each such fellow will participate in an internship program at an elementary or secondary school of a local educational agency under which the local educational agency will provide assistance to the participating fellow.

"FELLOWSHIP CONDITIONS

"SEC. 586. (a) Recipients of fellowship assistance under this part shall continue to receive such fellowship payments only during such periods that the Governor finds that the recipient is—

"(1) enrolled in a post baccalaureate program in an institution of higher education;

"(2) pursuing such a program for teacher certification, and, if necessary, together with courses in an academic field in which the student intends to teach;

"(3) participate in a clinical internship experience program approved by the State; and

"(4) maintaining satisfactory progress as determined by such institution of higher education.

"(b) At the time a recipient of a fellowship is chosen, the recipient may not meet the teacher certification standards of the State.

"FELLOWSHIP REPAYMENT PROVISIONS

"SEC. 587. Recipients found by the Governor to be in noncompliance with the agreement entered into under section 584(b)(4) shall be required to repay a pro rata amount of the fellowship awards received, plus interest, a penalty equal to 100 percent of such pro rata amount of such fellowship awards (without regard to interest thereon), and, where applicable, reasonable collection fees, on a schedule and at a rate of interest to be prescribed by the Secretary by regulations issued pursuant to this part.

"EXCEPTIONS TO REPAYMENT PROVISIONS

"SEC. 588. (a) IN GENERAL.—A recipient shall not be considered in violation of the agreement entered into pursuant to section 584(b)(4)(C) if the recipient—

"(1) is serving, not in excess of 3 years, as a member of the armed services of the United States;

"(2) is temporarily totally disabled for a period of time not to exceed 3 years as established by sworn affidavit of a qualified physician;

"(3) is unable to secure employment for a period not to exceed 12 months by reason of the care required by a spouse who is disabled;

"(4) is seeking and unable to find full-time employment for a single period not to exceed 12 months; or

"(5) satisfies the provisions of additional repayment exceptions that may be prescribed by the Secretary in regulations issued pursuant to this part.

"(b) TOTAL DISABILITY.—A recipient shall be excused from repayment of any fellowship assistance received under this part if the recipient becomes permanently and totally disabled as established by sworn affidavit of a qualified physician.

"AUTHORIZATION

"SEC. 589. (a) AUTHORIZATION AND NUMBER OF FELLOWSHIPS AUTHORIZED.—(1) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this part for the fiscal year 1987 and for each of the succeeding fiscal years ending prior to October 1, 1990.

"(2) The Secretary is authorized during the fiscal year 1987 and for each of the succeeding fiscal years ending prior to October 1, 1990, to award not to exceed 5,000 fellowships under this part.

"(b) AVAILABILITY OF FUNDS.—Sums appropriated pursuant to this section for any fiscal year shall be available until the end of the second fiscal year succeeding the fiscal year for which they were appropriated.

"DEFINITIONS

"SEC. 590. As used in this part—

"(1) 'clinical internship or experience program' means a program that provides the student with a progressive series of preprofessional field experiences in a regular school classroom setting on a regular basis throughout the student's graduate education, including classroom observation, tutorial roles with students, teacher helper roles, teacher aide roles, and internships or periods of student teaching;

"(2) 'continuing education' means a program of education that takes into account developments in theories of learning and content areas, and may include locally based in-service instruction;

"(3) 'fields of study in which there is a shortage of elementary or secondary school teachers' means mathematics, the sciences, and any 3 other fields of study designated by the Governor;

"(4) 'Governor' means the chief executive of a State; and

"(5) 'State' means the several States of the Union, the District of Columbia, and the Commonwealth of Puerto Rico.".

TITLE VII—COMPUTER SOFTWARE AND VIDEOTAPE ASSISTANCE

SHORT TITLE

SEC. 701. This title may be cited as the "Computer Software and Videotape Assistance Act".

NATIONAL INSTITUTE OF EDUCATION PROGRAM AUTHORIZED

SEC. 702. (a) For the purpose of providing advice and technical assistance to State and local educational agencies on the expenditure of funds for the acquisition of suitable computer software and videotapes, the Secretary of Education and the National Science Foundation, in accordance with an interagency agreement between the Secretary and the Foundation, shall—

(1) evaluate available computer hardware and software, in terms of its usefulness in the classroom, particularly in basic skills instruction and instruction in secondary education;

(2) evaluate the use of videotapes on basic skills instruction and secondary education;

(3) disseminate the results of such evaluation; and

(4) develop model computer educational software and educational videotapes, and make such model software (and its design premises) and videotapes available to computer software and videotape producers and distributors, as the case may be, and to teachers and school administrators.

(b) The Secretary of Education shall carry out the functions required by this section through the National Institute of Education.

(c) The Secretary of Education and the Foundation are authorized to make grants and enter into contracts to carry out the functions described in clauses (1), (2), and (3) of subsection (a).

(d) There are authorized to be appropriated to carry out this section such sums as may be necessary for the fiscal year 1987 and for each succeeding fiscal year ending prior to October 1, 1990.

PRIVATE EVALUATION AND DISSEMINATION CENTERS

SEC. 703. (a) The National Science Foundation shall, through grants to or contracts with professional scientific or engineering organizations, science museums, regional science education centers, public television, consortia of local educational agencies, regional laboratories and university based research centers and institutions of higher education (including community colleges), conduct, assist, and foster research and experimentation on, and dissemination of, models of instruction in the operation and use of computers and videotapes. Such models of instruction may include model training programs for adults. In carrying out the provisions of this section, the Foundation shall give priority to proposals prepared with active and broad community involvement of such groups as parents, teachers, school boards and administrators, and local business.

(b) Funds available under a grant or contract pursuant to this section may be used for the acquisition of computer hardware and software and videotapes.

(c) The Director of the National Science Foundation shall report to the Congress annually on the results of research and experimentation performed with funds made available under this section. The Director, in conjunction with the National Institute of Education, shall take such steps as may be necessary to disseminate information concerning such results to local educational agencies.

(d) There are authorized to be appropriated to carry out this section such sums as may be necessary for the fiscal year 1987 and for each succeeding fiscal year ending prior to October 1, 1990.

NATIONAL SCIENCE FOUNDATION PROGRAM

SEC. 704. (a)(1) From the amount appropriated pursuant to section 706 for any fiscal year, the National Science Foundation shall arrange for the development and operation by entities described in paragraph (2) of short-term or regular session institutes for study to improve the qualifications of individuals who are engaged in or preparing to engage in the teaching, or supervising or training of teachers, in the use of computers for computer education instruction and other education programs in elementary and secondary schools.

(2) In carrying out paragraph (1), the National Science Foundation shall make grants and enter into contracts with professional scientific or engineering organizations, science museums, regional science education centers, consortia of local educational agencies, intrastate resource and service centers, and institutions of higher education (including community colleges).

(b) In making grants and contracts under subsection (a), the National Science Foundation shall give special consideration to applicants who will train teachers, or supervisors or trainers of teachers, serving or preparing to serve in elementary and secondary schools that enroll substantial numbers of culturally, economically, socially, and educationally disadvantaged youth or in programs for children of limited English language proficiency.

STIPENDS

SEC. 705. Each individual who attends an institute operated under the provisions of section 704 of this title shall be eligible (after application therefor) to receive a stipend at the rate of $275 per week for the period of attendance at such institute.

AUTHORIZATION OF APPROPRIATIONS

SEC. 706. There are authorized to be appropriated to carry out this title $20,000,000 for the fiscal year 1987 and for each succeeding fiscal year ending prior to October 1, 1990.

TITLE VIII—WORK OPPORTUNITIES AND RETRAINING COMPACT

SHORT TITLE

SEC. 801. This title may be cited as the "Work Opportunities and Retraining Compact (WORC) of 1986".

STATEMENT OF PURPOSE

SEC. 802. It is the purpose of this title to establish a comprehensive and flexible work, training, and education opportunities program for AFDC recipients so that they may be prepared for entry into the labor force where they can earn an adequate income and thus no longer be dependent on welfare.

STATE PLAN REQUIREMENTS: REGISTRATION OF AFDC APPLICANTS AND RECIPIENTS FOR WORK-RELATED COUNSELING, ASSESSMENT, AND ASSIGNMENT

SEC. 803. (a) Section 402(a)(19) of the Social Security Act is amended—

(1) in subparagraph (A)—

(A) by striking out "shall register" and all that follows down through "regulations issued by him," in the matter preceding clause (i) and inserting in lieu thereof "shall register with the State agency, in accordance with regulations issued by the Secretary, for work-related counseling, assessment, and assignment to manpower services, training, employment, and other employment-related activities as described in section 416(b),";

(B) by striking out clause (iii) and inserting in lieu thereof the following:

"(iii) a person so remote from any available employment or training project that his or her effective participation in such a project is precluded;";

(C) by inserting ", unless the State otherwise provides" immediately before the semicolon at the end of clause (v);

(D) by striking out "to participate under a work incentive program or accept" in clause (vi) and inserting in lieu thereof "to participate in good faith in counseling and assessment with the State agency under section 416 and in employment, training, or education pursuant to an assignment under that section, or to accept"; and

(E) by striking out "any individual referred to in clause (v)" in the matter following clause (ix) and inserting in lieu thereof "any individual exempt from registration

under the preceding provisions of this subparagraph";

(2) in subparagraph (B), by striking out "or the individual's certification" and all that follows and inserting in lieu thereof "or the individual's certification to the State agency under subparagraph (G) of this paragraph, or by reason of an individual's participation in employment, training, or education pursuant to an assignment made by such agency under section 416(b)(6);";

(3) in subparagraph (C), by striking out "a non-Federal contribution to the work incentive programs" and all that follows and inserting in lieu thereof "a non-Federal contribution by appropriate State and local agencies and private organizations to the work incentive programs established by part C, and to any other work-related programs to which individuals are assigned by the State agency under section 416, equal to the portion of the cost of such programs not specifically financed by Federal contributions;";

(4) in subparagraph (D), by striking out "under section 434" and "a program established by section 432(b)(2) or (3)" and inserting in lieu thereof "under a program to which individuals are assigned by the State agency under section 416" and "such a program", respectively;

(5) in subparagraph (F)—

(A) by striking out "that if" and all that follows down through "purposes of part C" (in the matter preceding clause (i)) and inserting in lieu thereof "that if (and for such period as is prescribed under regulations of the Secretary) any child, relative, or individual required to register under subparagraph (A) has been found by the Secretary to have refused without good cause to so register, or has refused without good cause to participate in good faith in counseling and assessment with the State agency under section 416 or in employment, training, or education pursuant to an assignment made by such agency under section 416(b)(6),"; and

(B) by adding after and below clause (v) the following:

"and for purposes of this subparagraph a refusal by an individual to accept employment shall be considered to have been made with good cause if the acceptance of such employment would result in a net loss of income by such individual;";

(6) in subparagraph (G)—

(A) by striking out "for the administration of programs established pursuant to section 432(b)(1), (2), or (3)" and inserting in lieu thereof "by the State agency established or designated under section 416";

(B) by striking out "the order of priority listed in section 433(a)" and inserting in lieu thereof "any order of priority which may apply under the work-related program involved";

(C) by striking out "under section 432(b)(1), (2), or (3)" each place it appears and inserting in lieu thereof "under the work-related program involved";

(D) by striking out "the Secretary of Labor" each place it appears and inserting in lieu thereof "the State agency";

(E) by striking out "accepts employment" and "retain such employment" and inserting in lieu "accepts employment, training, or education" and "retain such employment or continue in such training or education", respectively; and

(F) by striking out clause (iii) and redesignating clause (iv) as clause (iii); and

(7) in subparagraph (H), by striking out "under section 432(b)(1), (2), or (3)" and inserting in lieu thereof "under section 416".

(b) Section 402(a) of such Act is further amended—

(1) by striking out "and" after the semicolon at the end of paragraph (38);

(2) by striking out the period at the end of paragraph (39) and inserting in lieu thereof "; and" ; and

(3) by inserting immediately after paragraph (40) the following new paragraph:

"(40) consolidate the administration of the State's work-related functions under this part, by providing for the assignment of registered individuals by the State agency to employment and training programs as described in section 416 and for the performance by such agency of its other duties under the section and under paragraph (19) of this section.".

CONSOLIDATED ADMINISTRATION OF WORK-RELATED PROGRAMS

SEC. 804. Part A of title IV of the Social Security Act is amended by adding at the end thereof the following new section:

"CONSOLIDATED ADMINISTRATION OF WORK-RELATED PROGRAMS

"SEC. 416. (a)(1) The State agency administering or supervising the administration of the plan approved under this part shall perform the functions specified in this section and in section 402(a)(19).

"(2) It shall be the general purpose of the State agency, in carrying out its duties under this section and section 402(a)(19), to assist applicants for and recipients of aid to families with dependent children in finding gainful employment and in obtaining any training and education which may be necessary to enable them to perform such employment, with the objective of reducing the number of individuals on the welfare rolls by providing such applicants and recipients with a realistic opportunity to become self-sufficient.

"(b) In carrying out the purpose described in subsection (a)(2), the State agency (in addition to performing its other duties under this part) shall—

"(1) establish a single intake and registration process for all applicants for and recipients of aid to families with dependent children, consistent with section 402(a)(19);

"(2) assess the employment capabilities of each registered applicant and recipient in order to determine whether immediate employment is a realistic possibility or whether training or education is needed in order to prepare such applicant or recipient for employment;

"(3) provide in-depth counseling for each such applicant and recipient with respect to his or her potential for such immediate employment or such training or education and with respect to the program or programs (Federal, State, local, or private) which might be available to such applicant or recipient and most appropriately serve his or her interests;

"(4) administer, or enter into arrangements with administering authorities for, the participation of such applicants and recipients in appropriate employment, training, and education activities in furtherance of the objective stated in subsection (a)(2), including activities authorized in—

"(A) the work incentive program under part C of this title,

"(B) the work incentive demonstration program under section 445,

"(C) the State's community work experience program under section 409,

"(D) the State's work supplementation program under section 414,

"(E) a work demonstration program under section 1115;

"(F) any program under the Job Training Partnership Act,

"(G) any program of job search and related services, including services offered by vocational education agencies and the public employment offices of the State, and

"(H) any other program (Federal, State, local, or private) which could be made effectively available to such applicants and recipients and participation in which would further such objective;

"(5) develop an employment plan for each such applicant and recipient, in partnership with the administering authorities of the programs with respect to which arrangements have been entered into under paragraph (4);

"(6) assign each such applicant or recipient to one or more of the programs with respect to which arrangements have been entered into under paragraph (4) and which are determined by the State agency, on the basis of the assessment made under paragraph (2) and the counseling provided under paragraph (3), to be appropriate for such applicant or recipient, and provide all possible assistance to such applicant or recipient in preparing for, enrolling in, and participating in such program or programs; and

"(7) take all other actions, not inconsistent with the provisions of this section or of the law governing the program or programs involved, which may be necessary or appropriate to achieve the objective stated in subsection (a)(2).

"(c)(1) The terms and conditions of participation in employment, training, and education activities as described in subsection (b)(4), and the manner in which the provisions of the programs involved are to apply with respect to applicants and recipients registered under section 402(a)(19), shall be determined (subject to the specific requirements of this title and of such programs) by the State agency in consultation with the administering authorities of such programs.

"(2) To the maximum extent possible, the steps taken in providing for participation in employment, training, and education activities as described in subsection (b)(4) shall include coordination of the services furnished and activities conducted under the various programs involved with respect to registered applicants and recipients in order to avoid inefficiency and duplication of effort and to assure the widest possible availability to such applicants and recipients of services and activities which will further the objective stated in subsection (a)(2).

"(d) The State agency shall provide registered applicants and recipients who are assigned for employment, training, or education under subsection (b)(6) with such child care services and transportation, and such other assistance not inconsistent with law, as may be necessary or appropriate to achieve the objective stated in subsection (a)(2).

"(e)(1) Notwithstanding any other provision of law, the Federal contribution to the costs incurred by the State agency in counseling, assessing, and assigning individuals under this section in any fiscal year, and to the costs incurred by any other State agency or entity in carrying out a program referred to in subparagraphs (A) through (G) of subsection (b)(4) with respect to individuals assigned to that program under subsection (b)(6) (other than costs described in

paragraph (7)) in any fiscal year, shall be equal to the applicable percentage of such costs as determined under this subsection.

"(2) For purposes of paragraph (1) (but subject to paragraph (3)), the applicable percentage of the costs described in that paragraph which are incurred by any agency or entity in any fiscal year shall be 70 percent.

"(3) In any fiscal year after the fiscal year 1987, the applicable percentage of the costs described in paragraph (1) which are incurred by agencies and entities in any State shall be increased to 75 percent if such State, in carrying out the program or programs involved in such fiscal year with respect to registered individuals assigned under subsection (b)(6), meets or exceeds the performance standards which are developed and prescribed as provided in paragraph (4) and applied in the State in accordance with paragraph (6).

"(4) The performance standards referred to in paragraph (3) shall be developed and prescribed by the Office of Technology Assessment in consultation with the Secretary of Health and Human Services, the Secretary of Labor, appropriate State officials designated for purposes of this paragraph by the Governors of the several States, and other appropriate experts. Such performance standards (which shall be coordinated with the corresponding performance standards under the Job Training Partnership Act)—

"(A) shall be measured by outcomes and not by levels of activity or participation, and shall be based on the degree of success which may reasonably be expected of States (in carrying out their work-related programs with respect to registered individuals assigned under subsection (b)(6)) in helping such individuals to achieve self-sufficiency and reducing welfare costs;

"(B) shall take into account job placement rates, wages, job retention, reduced levels of aid under the State plan, case closures, improvements in registered individuals' educational levels, and the extent to which registered individuals are able to obtain jobs providing health benefits;

"(C) shall encourage States to give appropriate recognition to the greater difficulties in achieving self-sufficiency which face individuals who have greater barriers to employment; and

"(D) shall include guidelines permitting appropriate variations to take account of the differing conditions (including unemployment rates) which may exist in different States.

"(5) Measures for the performance standards referred to in paragraph (3) shall be established within 6 months after the date of the enactment of this section; and the standards themselves shall be established, prescribed, and published no later than 18 months after the establishment of such measures.

"(6) The performance standards developed and prescribed under paragraph (4) shall be varied in any State, to the extent permitted under paragraph (4)(D), to the extent necessary to take account of specific economic, geographic, and demographic factors in the State, the characteristics of the population to be served, and the types of services to be provided.

"(7) The Federal contribution to the administrative costs incurred by any agency or entity of a State in performing its duties under this section and to the costs of providing child care, transportation, and other support services, with respect to individuals for whom work-related services are being provided by the State agency or by an agency or entity administering a program to which such individuals have been assigned pursuant to subsection (b)(6), shall be 50 percent.

"(f) Under regulations prescribed by the Secretary, this section and all functions performed by State agencies and entities under this section shall be coordinated with the work and training requirements which apply to applicants for and recipients of benefits under the Food Stamp Act of 1977.".

TECHNICAL, CONFORMING, AND MISCELLANEOUS AMENDMENTS

SEC. 805. (a)(1) Section 402(a)(8)(A)(iv)(II) of the Social Security Act is amended by striking out "under the programs established by section 432(b) (2) and (3)" and inserting in lieu thereof "under any training, education, or public service employment program to which such child or relative has been assigned pursuant to section 416(b)(6)".

(2) Section 403(c) of such Act is amended by striking out "certified to the local employment office of the State as being ready for employment or training under section 432(b)(1), (2), or (3)" and inserting in lieu thereof "assigned by the State agency for employment, training, or education pursuant to section 416(b)(6)".

(3) Section 407(b)(2)(C)(i) of such Act is amended by striking out "for the work incentive program" and all that follows and inserting in lieu thereof ", and".

(4) Section 407(d)(1) of such Act is amended by striking out "a community work experience program under section 409, or the work incentive program established under part C" and inserting in lieu thereof "a program with respect to which the State agency has provided under section 416(b)(4) for participation by registered individuals in employment, training, and education activities".

(5) Section 407(e) of such Act is amended—

(A) by striking out "and the Secretary of Labor shall jointly" and inserting in lieu thereof "shall";

(B) by striking out "for the work incentive program" and all that follows down through "or in connection" and inserting in lieu thereof "and in connection"; and

(C) by striking out "both the work incentive program" and inserting in lieu thereof "both the programs referred to in section 416(b)(4)".

(6) Section 414(h) of such Act is amended by striking out "or part C".

(b)(1) Part C of title IV of such Act is amended.

(A) in section 431, by striking out the text of the section and inserting in lieu thereof the following:

"SEC. 431. There is hereby authorized to be appropriated to the Secretary for each fiscal year a sum sufficient to carry out the purpose set forth in section 430 with respect to individuals assigned to the work incentive program pursuant to section 416(b)(6). The sums made available under the preceding sentence shall be used for making payments to States in accordance with this part.";

(B) in section 432(a), by striking out "The Secretary of Labor (hereinafter in this part referred to as the Secretary)" and inserting in lieu thereof "The Secretary";

(C) in section 436(b), by striking out "prescribed jointly by him and the Secretary of Health and Human Services" and inserting in lieu thereof "prescribed by him";

(D) in section 439—

(i) by striking out "and the Secretary of Health and Human Services" where it first appears, and

(ii) by striking out ", jointly by the Secretary and the Secretary of Health and Human Services," and inserting in lieu thereof "by the Secretary";

(E) in section 441, by striking out "(jointly with the Secretary of Health and Human Services)";

(F) in section 443—

(i) by striking out "of Health and Human Services" in the first and second sentences, and

(ii) by striking out "and shall be paid by the Secretary of Health and Human Services to the Secretary" in the fourth sentence;

(G) in section 444(a), by striking out "by the Secretary of Health and Human Services"; and

(H) in section 445—

(i) by striking out "of Health and Human Services" each place it appears in paragraphs (1) and (2) of subsection (b) and in subsection (e), and

(ii) by striking out paragraph (3) of subsection (b).

(2) Section 433(a) of such Act is amended—

(A) by striking out "certified to him by a State, pursuant to section 402(a)(19)(G)" and inserting in lieu thereof "assigned to the work incentive program pursuant to section 416(b)(6)"; and

(B) by striking out "certified to him under section 402(a)(19)(G)" and inserting in lieu thereof "assigned to the work incentive program pursuant to section 416(b)(6)".

(3) Section 433(b)(3) of such Act is amended by striking out "certified to him pursuant to section 402(a)(19)(G)" and inserting in lieu thereof "assigned to the work incentive program pursuant to section 416(b)(6)".

(4) Section 433(g) of such Act is amended by striking out "certified to the Secretary pursuant to section 402(a)(19)(G)" and inserting in lieu thereof "assigned to the work incentive program pursuant to section 416(b)(6)".

(5) Section 435(a) of such Act is amended by striking out "shall not exceed 90 per centum of the costs of carrying out this part" and inserting in lieu thereof "shall be equal to the applicable percentage of the costs of carrying out this part as determined under section 416(e)".

(6) Section 444(a) of such Act is amended by striking out "individuals certified" and all that follows and inserting in lieu thereof "individuals assigned to the work incentive program pursuant to section 416(b)(6).".

(7) Section 444(d) of such Act is amended by striking out "certified to the Secretary by such agency under section 402(a)(19)(G)" and inserting in lieu thereof "assigned to such agency under section 416".

(8) Section 445 of such Act is amended—

(A) by striking out "Not later than June 30, 1984, the" in subsection (b)(1) (in the matter preceding subparagraph (A)) and inserting in lieu thereof "The";

(B) by striking out ", and shall be required to participate in," in subsection (b)(1)(B); and

(C) by striking out "shall be in force for a three-year period" in subsection (d) and inserting in lieu thereof "shall be in force for such period as may be specified in the letter of application submitted under subsection (b)(1), and may be renewed (upon the submission by the Governor of an appropriate letter of application, subject to approval in

the manner described in subsection (b)(2)) for an additional period or periods".

(c) Whenever a provision of section 416 of the Social Security Act, or any other provision of such Act which is amended by the preceding provisions of this title, is determined to be inconsistent with a provision of any of the work-related programs referred to in section 416(b)(4) of such Act or of any other work-related program which may involve or affect individuals who have registered under section 402(a)(19) of such Act and are assigned to such program under section 416(b)(6) of such Act, the provision of section 416 of the Social Security Act (or other provisions of such Act as amended by this title) shall govern.

EFFECTIVE DATE

SEC. 806. Except to the extent otherwise specifically provided, the amendments made by this title shall take effect October 1, 1986.

TITLE IX—STATE JOB BANK SYSTEMS

SHORT TITLE

SEC. 901. This title may be cited as the "State Job Bank Assistance Act of 1986".

AMENDMENT TO JOB TRAINING PARTNERSHIP ACT

SEC. 902. (a) Title V of the Job Training Partnership Act is amended by adding at the end thereof the following new section:

"STATE JOB BANK SYSTEMS

"SEC. 505. (a) The Secretary shall carry out this section with sums made available pursuant to subsection (d) of this section.

"(b) The Secretary shall make such sums available through the United States Employment Service for the development and implementation of job bank systems in each State. Such systems shall be designed to use computerized electronic data processing and telecommunications systems for such purposes as—

"(1) identifying job openings and referring jobseekers to job openings, with continual updating of such information;

"(2) providing information on occupational supply and demand; and

"(3) utilization of such systems by career information delivery systems (including career counseling programs in schools).

"(c) Wherever possible, computerized data systems developed with assistance under this section shall be capable of utilizing software compatible with other systems (including management information systems and unemployment insurance and other income maintenance programs) used in the administration of employment and training programs. In developing such systems, special consideration shall be given to the advice and recommendations of the State occupational information coordinating committees (established under section 422(b) of the Carl D. Perkins Vocational Education Act), and other users of such systems for the various purposes described in subsection (b).

"(d) There are authorized to be appropriated such sums as may be necessary to carry out this section.".

(b) The table of contents of such Act is amended by adding after item "Sec. 504". the following new item:

"Sec. 505. State job bank systems.".

STUDY

SEC. 903. (a) The Secretary of Labor shall, within 6 months after the date of enactment of this title, commence a study of the feasibility of providing portability for pensions and health benefits for dislocated workers. Such study shall also evaluate the benefits of providing early retirement benefits without penalty for older dislocated workers. A report on the study conducted under this subsection shall be submitted to the Congress not later than 18 months after such date of enactment.

(b) There are authorized to be appropriated $5,000,000 to carry out subsection (a) of this section.

TITLE X—COUNCIL ON INDUSTRIAL COMPETITIVENESS

SHORT TITLE

SEC. 1001. This title may be cited as the "Council on Industrial Competitiveness Act".

FINDINGS AND PURPOSE

SEC. 1002. (a) The Congress hereby finds that—

(1) the preeminence of the United States in international industrial competition is seriously threatened and the insulation of United States domestic markets from international competition is at an end;

(2) the United States has been slow to accept and adapt to the reality of a highly competitive global marketplace and to regard the industrial development of competing countries as a challenge and an opportunity for its own economic growth;

(3) some major consequences of this failure to adapt are unnecessary plant closings, high unemployment, and a deterioration in the quality of jobs available for American workers;

(4) to be successful in the world arena, the United States must address the erosion of comparative advantage of its basic industries in a number of areas, including innovation, investment, and productivity;

(5) efforts to reverse the decline of American industry have been hindered by a number of factors, including—

(A) a long-term decline in relative productivity growth;

(B) insufficient capital investment in the revitalization of basic industries and in the commercialization and diffusion of new technologies;

(C) a lack of adequate patient capital to invest in smaller, innovative firms;

(D) insufficient investment in civilian research and development in comparison with our major competitors;

(E) a series of systemic inefficiencies in the management and organization of business, including adversarial labor-management relations and short-term time horizons; and

(F) a serious erosion in the institutional support for production, including a lack of high quality domestic and international economic data needed to—

(i) reveal sectoral strengths and weaknesses;

(ii) identify potential new markets and future trends; and

(iii) provide necessary information regarding the industrial strategies of our foreign competitors;

(6) helping to support the competitiveness of United States industries is a proper and necessary role for government, working with the private sector;

(7) at present, industrial policy in the United States is composed of a variety of Government programs, subsidies, and regulatory oversight functions which often are not coordinated, cohesive, or consistent;

(8) while our economy benefits when business, labor, government, academia, and public interest groups work together cooperatively, there exists no effective, high-level forum for developing a consensus on economic policies;

(9) the decline in United States industrial competitiveness endangers the economic stability of the Nation;

(10) such decline also endangers the ability of the United States to maintain the defense industrial base which is necessary to the national security of the United States;

(11) progress on the issue of competitiveness requires a recognition that the world is moving rapidly toward the creation of an integrated and interdependent economy, a world economy in which the policies of one nation have a major impact on other nations;

(12) effective management of such an integrated world economy requires a significant increase in multilateral solutions to such issues as trade, tax, investment, and the distribution of world markets and world production;

(13) effective participation by the United States in this process has been inhibited by the lack of specific mechanisms—

(A) to identify the problems of particular industries and sectors; and

(B) to develop specific solutions to those sectoral problems within the broader range of national economic policies;

(14) such lack of specific mechanisms has been particularly harmful to those labor intensive industries which must compete with very low wages paid in foreign countries;

(15) it is now imperative that Government, business, labor, academia, and public interest groups act together to develop and coordinate long-range forecasts and visions for helping to assure the international competitiveness of United States industries; and

(16) such forecasts and visions should be balanced by—

(A) encouraging the development of emerging industries which can provide substantial economic growth and employment; and

(B) directing resources into the revitalization of mature and linkage industries.

(b) It is the purpose of this title—

(1) to develop recommendations for long-range forecasts and visions for promoting the international competitiveness of United States industries; and

(2) to establish the Council on Industrial Competitiveness which will—

(A) gather and analyze information regarding the competitiveness of United States industries;

(B) create an institutional forum where national leaders with experience and background in business, labor, government, academia, and public interest activities will—

(i) identify economic problems inhibiting the competitiveness of United States industries;

(ii) develop long-term forecasts and visions to address such problems; and

(iii) create a broad consensus in support of such forecasts and visions; and

(C) make recommendations on issues crucial to the development of coordinated economic policies.

ESTABLISHMENT

SEC. 1003. There is established in the executive branch of the Government an independent agency to be known as the Council on Industrial Competitiveness.

DUTIES OF THE COUNCIL

SEC. 1004. The duties of the Council are—

(1) to collect and analyze relevant domestic and international data concerning current and future economic trends and market opportunities;

(2) to monitor the changing nature of the United States industrial economy and its capacity—

(A) to provide marketable goods and services in domestic and international markets; and

(B) to respond to international competition;

(3) to create a forum or forums where national leaders with experience and background in business, labor, academia, public interest activities, and Government will—

(A) identify national economic problems;

(B) develop recommendations to address such problems; and

(C) create a broad consensus in support of such recommendations;

(4) to develop and promote a national vision and specific policies which enhance the productivity and international competitiveness of United States industries;

(5) to assess private sector requests for governmental assistance or relief and to recommend, as a condition of such assistance or relief—

(A) those actions of the private sector which will ensure that the applicant involved, by receiving the assistance or relief, will become internationally competitive in the future; and

(B) any adjustment commitments which should be entered into by relevant parties, such as management and employees of the applicant, shareholders, creditors, suppliers and dealers, and financial institutions, to ensure that the applicant will become internationally competitive in the future;

(6) to prepare and publish reports containing the recommendations of the Council with respect to industrial development priorities;

(7) to establish industry subcouncils of public and private leaders to develop similar long-term forecasts and visions for sectors of the economy;

(8) to provide policy recommendations and guidance to the Congress, the President, and the Federal departments and agencies regarding specific issues concerning economic policies;

(9) to annually report to the President and the Congress—

(A) on the state of the national economy;

(B) on the status of major sectors of the national economy; and

(C) on the effect of existing Government policies on industries;

(10) to review and evaluate specific policy recommendations developed by the industry subcouncils and transmit such recommendations to the implementing agencies concerned; and

(11) to evaluate existing Government policies and business practices in terms of the competitive impact of such policies and practices.

MEMBERSHIP

SEC. 1005. (a) The Council shall be composed of sixteen members as follows:

(1) Members appointed by the President, who shall be heads of Federal departments or agencies, Members of Congress, or representatives of State or local governments.

(2) Members appointed by the President, by and with the advice and consent of the Senate—

(A) who shall be national leaders with experience and background in business, including at least one individual selected from the small business community; and

(B) who shall have a broad understanding of the United States economy and the United States position in the world economy.

(3) Members appointed by the President, by and with the advice and consent of the Senate—

(A) who shall be national leaders with experience and background in the labor community; and

(B) who shall have a broad understanding of the United States economy and of the United States position in the world economy.

(4) Members appointed by the President, by and with the advice and consent of the Senate, each of whom—

(A) shall be selected from the academic community or have been active in public interest activities; and

(B) shall have a broad understanding of the United States economy and of the United States position in the world economy.

(b) The Council shall not commence its duties until all the members specified in paragraphs (2), (3), and (4) of subsection (a) have been appointed and have qualified.

(c)(1) A vacancy in the Council shall be filled in the same manner in which the original appointment was made.

(2)(A) Any member appointed to fill a vacancy occurring before the expiration of the term for which such member's predecessor was appointed shall be appointed only for the remainder of such term.

(B) A member may serve after the expiration of such member's term until such member's successor has taken office.

(d)(1) No member may serve more than two consecutive terms.

(2) Members of the Council may be removed by the President only for malfeasance in office.

(e) Not more than nine members of the Council shall be of the same political party.

(f)(1) Members appointed under paragraphs (2) through (4) of subsection (a) shall be appointed for terms of six years.

(2) Of the members first appointed under paragraphs (2) through (4) of subsection (a)—

(A) three shall be appointed for a term of two years;

(B) three shall be appointed for a term of three years;

(C) three shall be appointed for a term of four years; and

(D) three shall be appointed for a term of six years; as designated by the President at the time of appointment.

(g)(1) Each member of the Council who is not otherwise in the service of the Government of the United States or any State or local government—

(A) shall receive a sum equivalent to the compensation paid at level II of the Executive Schedule, pursuant to section 5315 of title 5, United States Code, prorated on a daily basis for each day spent in the work of the Council; and0

(B) shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from his usual place of residence, in accordance with section 5703 of such title.

(2) Each member of the Council who is otherwise in the service of the Government of the United States or any State or local government shall serve without compensation in addition to that received for such other service, but while engaged in the work of the Council shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from his usual place of residence, in accordance with subchapter 1 of chapter 57 of title 5, United States Code.

(h) Nine members of the Council constitute a quorum, except that a lesser number may hold hearings if such action is approved by a two-thirds vote of the entire Council.

(i)(1) The Council shall elect, by a two-thirds vote of the entire Council, a Chairman from among the individuals appointed under paragraphs (2) through (4) of subsection (a).

(2) The Chairman shall serve full time.

(j) The Council shall meet at the call of the Chairman or a majority of its members, except that the Council shall meet not less than six times during each calendar year.

(k)(1) Each member of the Council shall designate one alternate representative to attend any meeting that such member is unable to attend.

(2) In the course of attending any such meeting, an alternate representative shall be considered a member of the Council for all purposes, including voting.

(l)(1) Except as provided in subsection (j), no action whatsoever (whether involving administrative or personnel matters, establishing policy, or any other type of action) shall be taken by the Council unless approved by two-thirds of the entire membership of the Council.

(2)(A) If a two-thirds consensus, as required under paragraph (1), cannot be reached on a matter referred to the Council by the President, or either House of the Congress, the Council shall transmit a report to the President and both Houses of the Congress explaining why a consensus could not be reached on such matter.

(B) Such report shall include all information gathered by the Council on such matter and a list of potential policy options for addressing the concern involved.

(m) The Council may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay for GS-16 of the General Schedule.

(n) Upon request of the Council, the head of any other Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Council to assist the Council in carrying out its duties under this title.

(o)(1) An individual may not be appointed as a member of the Council if, at any time within the 1-year period ending on the date on which any such appointment would otherwise be effective, such individual has acted as an agent or attorney for, or performed any other professional service for or on behalf of, the government of any foreign country, any agency or instrumentality of the government of a foreign country, or any foreign political party.

(2) If, after an individual is appointed as a member of the Council, such individual acts or performs in any manner or capacity described in paragraph (1), such individual shall cease to be a member of the Council as of the date such individual acts or performs in such manner or capacity.

EXECUTIVE DIRECTOR AND STAFF

SEC. 1006. (a)(1) The principal administrative officer of the Council shall be an Executive Director, who shall be appointed by the Council.

(2) The Council shall consult with the President and leaders of the Congress before appointing an individual to the position of Executive Director.

(3) The Executive Director shall serve full-time.

(b) Within the limitations of the Council's appropriations, the Executive Director may appoint the personnel of the Council in accordance with the civil service and classification laws.

POWERS OF THE COUNCIL

SEC. 1007. (a) The Council may, for the purpose of carrying out the provisions of this title, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Council considers appropriate. The Council may administer oaths or affirmations to witnesses appearing before the Council.

(b) If so authorized by the Council, any member or agent of the Council may take any action which the Council is authorized to take under this section.

(c)(1)(A) The Council may secure directly from any department or agency of the United States information necessary to enable the Council to carry out the provisions of this title.

(B) Upon request of the Chairman of the Council, the head of such department or agency shall furnish such information to the Council.

(2) In any case in which the Council receives any information from a department or agency of the United States, the Council shall not disclose such information to the public unless such department or agency is authorized to disclose such information pursuant to Federal law.

(d) The Council may accept, use, and dispose of gifts or donations of services or property.

(e) The Council may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(f) The Administrator of General Services shall provide to the Council, on a reimbursable basis, such administrative support services as the Council may request.

(g)(1) The Council shall establish, when and for such period of time as the Council deems appropriate, industry subcouncils of public and private leaders representing the major economic interests affected by sectoral policies.

(2) Subcouncil members shall serve on a part-time basis.

(3)(A) Such subcouncils shall examine the competitive problems facing individual industries in the economy and develop recommendations regarding long-term projections which could improve the competitiveness of such industries.

(B) In the course of developing recommendations, the industry subcouncils shall hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as such subcouncils consider appropriate.

(4)(A) The industry subcouncils shall report their findings and recommendations to the Council.

(B) Where appropriate, each of the subcouncil's reports shall assess the effectiveness of employee ownership as one of the tools and long-term needs for improving the competitive problems facing the industry.

(C) The Council shall review the findings and recommendations of the subcouncils in preparing the Council's recommendations.

EFFECTS OF IMPORTS ON DOMESTIC INDUSTRIES

SEC. 1008. (a) The Council shall examine and make available to the public all international agreements on foreign trade that have been agreed to by the United States.

(b) The Council shall continuously monitor, and maintain public records regarding, the effect of imports on all major United States industries and on such other United States industries as may be specified by the Council.

REPORTS

SEC. 1009. (a) Not later than one year after the date of the enactment of this title, the Council shall transmit a report to both Houses of the Congress and the President containing recommendations of the Council for changes in any Federal policy necessary to implement effective, productive economic policies.

(b)(1) The Council shall annually prepare and transmit to the President and to each House of the Congress a report setting forth—

(A) a vision of a competitive United States economy;

(B) the policies needed to meet such priorities; and

(C) a summary of existing Government policies affecting industries.

(2) Such report shall contain a statement of the findings and conclusions of the Council during the previous fiscal year, together with any recommendations of the Council for such legislative or administrative actions as the Council considers appropriate.

(c)(1) Upon receipt by either House of the Congress, the report shall be referred to the appropriate committee or committees of each House.

(2) The Council shall consult with each such committee with respect to such report and, following such consultation, each such committee shall submit to its respective House a report setting forth the views and recommendations of such committee with respect to the report of the Council.

AUTHORIZATION OF APPROPRIATIONS

SEC. 1010. There are authorized to be appropriated for fiscal year 1987 not to exceed $25,000,000 to carry out the provisions of this title.

DEFINITIONS

SEC. 1011. For purposes of this title—

(1) the term "Council" means the Council on Industrial Competitiveness established under section 1003;

(2) the term "member" means a member of the Council on Industrial Competitiveness; and

(3) the term "United States" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, American Samoa, and any other territory or possession of the United States.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business, with statements therein limited to 5 minutes each.

AMERICA'S LIVING STANDARDS ACT OF 1986

Mr. SASSER. Mr. President, I am pleased today to join as an original cosponsor of America's Living Standards Act of 1986. This legislation is an important step toward restructuring our economic priorities, those economic priorities that are so vital to this country's future.

I wish to commend the distinguished Senator from New Mexico [Mr. BINGAMAN] for his efforts in this regard and also the entire working group of Senators who worked with Senator BINGAMAN in this important study.

The erosion of our competitive posture in the world marketplace is no surprise to tens of thousands of Americans who have lost their jobs to overseas competitors. We have weathered the recession of the early 1980's, the worst recession—or depression—this country has seen since the dark days of the early 1930's, and we have waited for a full recovery, but it has not come. The full economic recovery that was supposed to come after the scourge of high interest rates had dissipated simply has not arrived, and it may never arrive if we do not take corrective steps now.

Growth in our gross national product is at a standstill. The Federal Reserve has recommended discount interest rate cuts exceeding the imagination of most forecasters just a scant 6 months ago. The gross national product has not responded, and last quarter's growth rate was at an agonizing snail's pace of six-tenths of 1 percent. The administration's projections were closer to 4 or 5 percent just 6 months ago, and they now seem wildly optimistic.

A widely accepted estimate is that GNP must grow at an annual rate of at least 3 percent to maintain our economic health, to absorb the expanding work force and put them into productive jobs.

Well, what is the problem? Why is this economy failing to respond? It is certainly not the sole fault of our allies—the Japanese or the West Germans. But the administration continues to insist that if only our economic allies would stimulate domestic demand within their own economies by lowering interest rates or instituting other measures for stimulation, all of our problems would be solved. This is, I submit, a very shortsighted answer to a problem which demands more comprehensive solutions.

The legislation that we are introducing today establishes the framework for such a comprehensive solution. This bill is designed to prepare the people and the institutions of the United States to compete successfully in the world marketplace, and as the bill's name implies, this does not mean reducing our working population to slave-labor conditions or abandoning the quality of life that we have come to enjoy. It means taking advantage of our natural advantages.

Many of the measures in the bill we are introducing today have evolved from recommendations made by the Young Commission, also known as the President's Commission on U.S. Industrial Competitiveness. The Young

Commission, comprised of national leaders from industry, labor, Government and academia, conducted an in-depth study of the challenge to U.S. competitiveness in the world marketplace. Their recommendations have been reviewed at length and in detail by the authors of this bill, and I believe the legislation being introduced today can be the foundation of a new era in American economic thinking.

There are a number of essential first steps in this process.

First, the bill would establish the means for assisting our industries in securing the most advanced technical information available in the world. It would establish within the Commerce Department the capability for monitoring developments, onsite, in foreign science and technology. It would establish within the U.S. Patent Office a new Office of Technology Assessment, Forecast and Outreach. The use by foreign industry of U.S. patents has outstripped American use of foreign patents manyfold. Our Government's institutions need to be organized to meet this challenge—not in making decisions about the use of the resources, but in making the resources available for private-sector decisionmaking.

The drive for technological excellence must be accelerated. The bill would expand and diversify the engineering research centers of the National Science Foundation, establish an economic competitiveness program to grant 500 graduate fellowships in science and engineering, and establish a fund to assist America's colleges and universities rebuild their R&D infrastructures.

Another key element in economic competitiveness is dramatic improvement in our education system. This bill would establish a graduate fellowship program for teacher training, and expand Federal funding to enhance the use of quality instructional software and video technologies. The great wealth of intellectual talent in this country deserves the resources to develop to its fullest potential.

Perhaps one of the most experimental portions of the bill is the proposal to expand work force mobility. In addition to providing States with additional resources to help the unemployed to become fully productive members of society, the bill would provide the Department of Labor with sufficient funding to implement a nationwide computerized job bank. It would also examine the merits and the costs of initiating a personal portable pension for all Americans. These are fairly radical concepts in many ways, and I think we're going to have to look further at the potential long-range impact of such proposals. While I would oppose any program that mandated workers to move their families away from home at the drop of a computer chip, I also believe the day is long past where we can tolerate the havoc caused by massive migrations, based frequently on rumor, during boom and bust cycles in particular industries.

Obviously, this is a complex and broad-ranging plan. Implementation of these proposals is going to require a great degree of coordination. The bill would provide the necessary support to meet this challenge.

The bill would establish a national council on industrial competitiveness to perform functions critical to the success of this effort. The council's mission would include targeted monitoring of economic, industrial, and trade developments, providing analytical information to public and private sector groups to ensure that U.S. competitiveness is being enhanced rather than hindered by current trends.

Mr. President, the old way of doing things isn't working. The time has come to realize that we're a player in a world community—not just the multinational corporations that have led the world to unprecedented prosperity, but the working people, the teachers, and students, the real backbone population of this country are ready to take their place as competitors in this new global reality. And I think our institutions should be ready to allow them to go forward. They can make their own living standards the best in the world, as they have in the past

I urge my colleagues to take part in this new endeavor. The "America's Living Standard Act of 1986" is the first step.

AMERICA'S LIVING STANDARDS ACT OF 1986

● Mr. BAUCUS. Mr. President, Ronald Reagan says, "It's morning in America."

He's right. We're mourning the steel industry. We're mourning the textile industry. We're mourning the lumber industry. We're mourning a host of industries that are losing their competitive edge in world markets.

It's time we stopped mourning. It's time we started doing something about it.

That's exactly what we're doing here today with this legislation, which has been drafted by the Senate Democratic Working Group on Economic Competitiveness led by Senator BINGAMAN.

History has taught us that no country is guaranteed that it will grow and prosper. That's going to take hard work and good tools.

The Democratic legislation provides those tools. It embodies many of the solutions that will reverse America's declining competitiveness.

It helps us gather better information on foreign technologies.

It encourages technological excellence and strives to improve education.

It helps create a more mobile work force capable of fueling the economic restructuring needed for economic competitiveness.

And it creates a forum for building a national consensus on competitiveness policy.

These recommendations are just the first step in making it easier for America to compete with foreign countries.

It's time we recognize that our trade problem is not entirely a result of unfair foreign trade practices and overvalued currencies. Important as these factors are, eliminating them will not solve the U.S. trade crisis.

Over the last 25 years, our productivity went up by only 2.7 percent each year. That's considerably less than Japan's growth of 8 percent and Great Britain's increase of 3.6 percent.

This problem cannot be solved only by eliminating unfair trade barriers and correcting currency misalignments.

The competitiveness gap between the United States and other countries is having a disastrous effect on the American standard of living. Today the median income of the average American family is the same as it was in 1965.

Our failure to compete is not some abstraction. It means real dollars and cents to every American.

In the end, we must compete our way out of the trade crisis. If we don't, we're going to lose the good life as we know it.

I am glad to be a cosponsor of the American Living Standards Act. It's one of the best ways to stop our "mourning in America."●

FEDERAL-AID HIGHWAY PROGRAM

Mr. STAFFORD. Mr. President, each October 1, Federal-aid highway funds are apportioned to the 50 States, the District of Columbia, Puerto Rico and the territories. Over $13 billion will not be apportioned to the States this October 1 unless the Federal-aid highway program is reauthorized.

The Environment and Public Works Committee ordered reported S. 2405, the Federal-Aid Highway Act of 1986, on July 23. S. 2405 is on the Senate calendar. It is extremely important that the Senate act on this legislation as soon as possible and that Congress complete action on highway reauthorization legislation before they leave in October.

I have received a letter, as have all my colleagues, signed by the Governors of all 50 States and American Samoa. I believe this letter and the 51 signatures illustrates better than anything I can say the importance of completing highway legislation so that the States can go forward with their trans-

portation programs without interruption.

I ask unanimous consent that the letter be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL GOVERNORS' ASSOCIATION,
August 26, 1986.

DEAR MEMBER OF CONGRESS: Through a model intergovernmental partnership, the states and the federal government have constructed a world-class Interstate highway system with major highway routes connecting states and communities and have worked to restore mass transit systems throughout the country. This partnership has been under strain in recent years, however, as Congress has not been able to approve in a timely manner legislation releasing highway and transit funds to the states.

Legislation reauthorizing the federal highway and transit programs must be approved by Congress before October 1 of this year for states to maintain the tremendous investment and the momentum built up under the Surface Transportation Assistance Act of 1982. The Interstate system is not yet completed and the need to repair current highway and transit systems is as great as ever. State programs to improve our transportation infrastructure should not be subject to unnecessary funding delays and disruptions.

The timely enactment of this legislation is crucial to the states, who need predictability and continuity to develop their highway and transit programs and to plan for the future. It is also important to the construction industry which can ill afford uncertainty and disruption. Problems in recent years, such as the delayed enactment of the Interstate cost estimates, have taken their toll on the states and the construction industry.

Congress should also keep in mind that these funds are raised by taxes imposed on users and placed in a Trust Fund for transportation needs. They cannot be used for any other purpose. The truth is, however, these Trust Fund dollars are not being used. The Highway Trust Fund has a cash balance of over $9 billion. The states have more than $6 billion in past highway authorizations they are unable to spend because of the obligation limitations that have been placed on the funds as a fiscal constraint. While lowering the obligation ceiling may, on paper, enhance the financial picture, it is a misleading picture. The federal deficit is still in the $200 billion range, and roads across the Nation are not being built.

While we must deal with other important issues, especially the need to reduce the deficit, the nation's surface transportation infrastructure cannot be placed on hold. We urge you, and the entire Congress, to make passage of the highway and transit reauthorization legislation one of your highest priorities when Congress reconvenes on September 8. We trust that you will do everything possible to enact this important legislation by October 1.

Sincerely,

Robert D. Orr, Governor; William O'Neill, Governor; James R. Thompson, Governor; Dick Thornburgh, Governor; Thomas H. Kean, Governor; Richard W. Riley, Governor; Gerald L. Baliles, Governor; James G. Martin, Governor; Madeleine M. Kuning, Governor; Anthony S. Earl, Governor; John Carlin, Governor; John V. Evans, Governor; William J. Janklow, Governor; Toney Anaya, Governor; Michael S. Dukakis, Governor; A.P. Lutali, Governor; George R. Ariyoshi, Governor; George Sinner, Governor; Norman H. Bangerter, Governor; James J. Blanchard, Governor; John Ashcroft, Governor; Joe Frank Harris, Governor; Bill Clinton, Governor; John H. Sununu, Governor; Michael N. Castle, Governor; Martha Layne Collins, Governor; Edward D. DiPrete, Governor; Rudy Perpich, Governor; William A. Allain, Governor; Mario M. Cuomo, Governor; Richard F. Celeste, Governor; Bob Graham, Governor; Harry Hughes, Governor; Ted Schwinden, Governor; Bill Sheffield, Governor; Robert Kerrey, Governor; Terry Branstad, Governor; Victor G. Atiyeh, Governor; Arch A. Moore, Jr., Governor; Richard D. Lamm, Governor; Bruce Babbitt, Governor; Booth Gardner, Governor; Richard H. Bryan, Governor; George Nigh, Governor; George C. Wallace, Governor; Edwin W. Edwards, Governor; Joseph E. Brennan, Governor; Ed Herschler, Governor; Mark White, Governor; Lamar Alexander, Governor; George Deukmejian, Governor.

THE 13TH ANNIVERSARY OF GENERAL PINOCHET'S MILITARY COUP

Mr. KENNEDY. Mr. President, today marks a sad anniversary for the people of Chile, the passing of yet another year of authoritarian rule by Gen. Augusto Pinochet. This 13th anniversary comes at a time when Chile is near the boiling point; hope of a peaceful return to democracy in Chile is growing more and more distant.

The Government and the people of Chile appear to be locked on a collision course; the ruthless policies of Pinochet have consistently undercut the possibility for compromise, peace, and reconciliation. The outcome of this repression is all too predictable. Unless the Government changes course, the country will be thrown into an unending cycle of increasing violence, death, and repression.

The deplorable assassination attempt against General Pinochet was a serious setback to the prospects for peace and reconciliation. Yet rather than show restraint at a time of crisis, General Pinochet and his henchmen have capitalized on the incident to unleash a relentless and ruthless campaign designed to crush any voice of dissent of criticism in the country. This campaign is a thinly veiled attempt to ensure that General Pinochet is assured of achieving his recently announced desire to remain in power well into the 1990's. Its effect can only be an escalation of violence and instability in the country.

A state of siege has once again been imposed in Chile. Leaders of political parties, student associations, neighborhood organizations, human rights groups, the church, and the press have all become targets for Pinochet's campaign to destroy any challenge to his authority. And now we see death squads at work with the brutal murder of Jose Carrasco Tapia, the editor of the opposition magazine Analisis. He was abducted from his home by armed men in civilian clothes and found dead Tuesday with bullet wounds in his head. A teacher and a machinist have also been abducted from their homes and murdered in similar fashions. Yesterday, riot policemen attacked several hundred people with clubs who had gathered for the funeral of Mr. Carrasco and then fired on the group with tear gas and water cannons.

Three French priests have been threatened with expulsion from the country and two U.S. priests were detained for a brief period. The Government has reported officially the detention of two dozen individuals, most of whom are associated with the political opposition, and has closed six opposition magazines, suspended the right of the Reuter news agency to dispatch from Chile and closed the Italian news agency ANSA.

General Pinochet boldly stated his contempt for advocates of human rights on Monday warning, "Now the war is going to begin on our side, and we are going to be tough, and all those people involved in human rights and the other things are going to be expelled from the country or locked up." Those ominous words do not bode well for the future of Chile. Unless both sides show moderation and a commitment to democracy, the war of which General Pinochet speaks could very well occur. Yet it is not the left or the democratic opposition in Chile which will determine the coming or avoidance of such a war—that determination is in the hands of General Pinochet. If the steps he had taken to date continue—and all indications are that they will—chaos and destruction will inevitably reign in that country.

The United States has an important role to play in urging peace and reconciliation in Chile. Our actions in light of the assassination attempt and renewed round of repression will have a critical impact on the outcome of the current crisis and on whether democracy has a chance of returning peacefully to Chile. A crucial point in United States policy will occur within the next few weeks when a large structural adjustment loan to Chile comes before the World Bank for consideration.

In the wake of the recent events in Chile, all eyes will be on the United States vote. Should the United States vote in favor of that loan, the United States would be aligned irrevocably with the repressive policies of Pinochet; the desperation and despair of those long denied freedom and democracy in Chile would be magnified. But,

should the United States vote against that loan, we would be sending a strong signal to General Pinochet that we do not support his undemocratic, brutal policies and as well as to the democratic forces in Chile that the United States is committed to a return to justice, freedom and democracy in that country.

For too long, this administration has kept General Pinochet afloat by voting in support of loans to the Government of Chile. Shortly after Orlando Letelier and Ronni Moffitt were murdered in the streets of Washington in 1976, Congress cut off all economic and military assistance to Chile. Congress also enacted into law section 701 of the International Financial Institutions Act which directs the U.S. executive directors of multilateral financial institutions to oppose loans to countries whose governments engage in a pattern of gross violations of internationally recognized human rights. For 13 years, the Government of Chile has engaged in such a pattern, but the Reagan administration has yet to vote against a single international loan to Chile on the human rights grounds stipulated in section 701.

President Ford voted no; President Carter voted no; but the Reagan administration has voted in favor of $2.2 billion in loans to Chile. That is not only unconscionable; it is illegal.

September 21 will mark another dark episode in the history of Chile—the 10th anniversary of the murder of Orlando Letelier on the streets of Washington. Yet, the Government of Chile has refused to seek justice against his murderers. Nor has the Government taken action against those who murdered Rodrigo Rojas de Negri, a resident of Washington. For 13 years, General Pinochet has demonstrated a consistent, cavalier disregard for the civil, political, and human rights of its citizens while abusing his illegally seized office to maintain his firm grip on power.

In view of Pinochet's crackdown, the imposition of a state of siege and his stated intention to expel or lock up all those concerned with human rights, a failure by the administration to oppose the next round of loans to Chile would be disastrous for United States relations with the people of Chile and would serve only to fuel the radical violence and anti-Americanism voiced in Chile. Last month I introduced, along with Senator HARKIN, a resolution instructing the United States executive directors to vote against loans to Chile until the Government has ended its abhorrent human rights abuses, has agreed to extradite the killers of Orlando Letelier and Ronni Moffit, and has brought to justice those individuals responsible for the brutal murder-by-fire of Rodrigo Rojas.

In light of the recent events in Chile it is all the more important that the United States put itself clearly on the side of decency and democracy in Chile and distance itself from the Pinochet regime. I urge the Senate to adopt this resolution and make it clear that we will not tolerate the new wave of Pinochet's repression. The world will be watching that vote—and I urge the administration to cast its vote in favor of democracy in Chile and against loans to Chile.

Mr. President, I ask unanimous consent that several articles and editorials concerning recent events in Chile may be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Sept. 9, 1986]

PINOCHET HAS REAPED WHAT HE HAS SOWN

(By Ariel Dorfman)

DURHAM, N.C.—The failed guerrilla attempt on the life of Gen. Augusto Pinochet on Sunday. Almost 13 years to the day that he seized power in a bloody coup in Chile, marked a turning point in the history of my country.

It is not the violence that is new. We have had more than our fill of that. In fact given the systematic violation of human rights, the murder and exile of thousands of dissidents, the arrest and torture of hundreds of thousands of others, what is puzzling is not that such an attempt should have been made but that it did not come sooner. General Pinochet, after all, is merely reaping the destruction he himself has sown.

What is new is that the hopes for a peaceful transition to democracy seem to have been dashed. Despite the death that had been visited upon us, despite the disastrous economic situation, an overwhelming majority of Chileans stubbornly clung to the expectation—and we continue to do so against all odds today—that we would be able to return our land to civilized rule using nonviolent means.

We kept anticipating that, unless the Government took effective steps to hold elections and give the people back its sovereignty, the country would be inevitably split apart and lapse into a generalized confrontation.

General Pinochet's intransigent decision to remain in power until 1997, his invasion of the slum areas, the impoverishment of vast sectors of a country where unemployment runs at about 30 percent—all created fertile ground for action by those dissidents who were losing patience. Many of them, basically linked to the powerful Communist Party, had gradually come to the conclusion that only armed resistance to an army at war with its own people could bring the dictatorship down.

Most Chileans, including myself, saw this call to arms as suicidal and irresponsible. We argued that this polarization of the country into two military bands could only strengthen the stranglehold that General Pinochet has on his army and allow him to present himself as the only man who could save the country from a Communist takeover.

Things have turned out, unfortunately, just as we predicted. The General is now able to proclaim a state of siege, jailing his main opponents, including many who have resolutely proclaimed nonviolence as the only method of struggle. If knowledge of how he has acted in the past is worth anything, he will probably continue mass arrests until he has wiped out all the organizations that have been peacefully mounting a campaingn of civil disobedience against him during the last month, incuding a successful general strike two months ago.

But these measures will not solve Chile's problems—because it is General Pinochet himself who is at the root of Chile's problems. Thirteen years ago, he promised to wipe out Marxism. He has only driven a Communist Party that did not believe in belligerence to become a vast network for armed resistance. He has turned a country that for most of its history was fundamentally harmonious and participatory into a place where the young learn violence every day—in the streets that are patrolled by marauding soldiers, in the schools where they are expelled and beaten up, in the lack of employment and the abundance of hunger.

More violence will beget more violence.

Is it already too late?

My basic fear is that even before this latest escalation in internal warfare the military had gone beyond the reach of reason.

The night of civil conflagation and death that now threatens us has been announced over and over to every Chilean in the faces of the soldiers who patrol our streets.

Our soldiers have no faces. Their features blackened with combat grease, they invade the city, stamp the hands of male slum dwellers as if they were animals, spread terror everywhere. People know—as I knew with certainty one night when I was beaten up by the military in Santiago—that anything can happen to them, that those men have no other identity than their guns.

Those masks of dark anonymity, which place Chile's soldiers beyond justice and control, also have come to represent the walls that General Pinochet has successfully erected between the armed forces and the unarmed civilian populace.

And yet only the image to come out of Chile is not this image of despair. Whenever dissidents meet in public—at protest marches and at sit-ins, during jail visits and funerals—their automatic reaction, when the police arrive or the troops begin to advance is to join their hands in the air and to sing.

Though the song has not been loud enough and the hands are often fragmented by divisions, we have always believed that somehow our voices would be able to reach the military and convince its members that there can be no security for a country where the army treats its own people as if they were the enemy.

Even now that we are in danger of being swallowed forever by those faces of darkness, I can only hope that our dream will persist and that the pacific men and women of Chile will be able to find a way of ridding ourselves of a tyrant without having to undergo many more years of endless and tragic bloodshed.

By joining hands, we may be able to pull down General Pinochet's walls, even as the walls of Jericho came tumbling down.

[From the Washington Post, Sept. 9, 1986]

FAILED ASSASSINATION

The attempt to assassinate Gen. Augusto Pinochet constitutes a severe setback to any hope for an easy or early return to democracy in Chile. The Manuel Rodriguez Patriotic Front, a guerrila organization on the fringes

of the Communist Party, says that it was responsible for the ambush; the general survived, but five of his bodyguards did not. The Front says that it will try again. Meanwhile the general has his troops combing savagely through Santiago for the perpetrators. He has also taken the opportunity to shut down a number of publications, arrest a couple of politicians who appear to have had nothing to do with the affair, and return the country to a state of siege, which legally endows the army with authority to do just about whatever it pleases in the name of rooting out the enemy.

Gen. Pinochet's junta and its most extreme adversaries have much in common. Both relay on violence, Each presents itself as the only means of rescue from the other. Each draws it political strength from the excess of the other. It is an example of political symbiosis of a most unwholesome sort.

Chile is now the most conspicuous laggard in South America's return to democracy. Among the largest countries, and those moving along the road to industrialization, all but Chile are now under elected governments. The United States, among others, has been trying to nudge Gen. Pinochet in the same direction. But the general's most recent response was the declaration, earlier this summer, that he expects to run for another eight-year term when his present one ends in 1989. He claims to be leading the country toward democracy, but he evidently sees no need to hurry.

Going after him with machine guns will not accelerate progress toward a better government. The junta was brought to power by the rising disorder, and widespread fears of worse to come, under Salvador Allende's left-wing government in the early 1970s. By resorting to attempted asassination, the guerrillas of the left only reinforce the claim by which Gen. Pinochet has perpetuated his hold on the country for the past 13 years—that he and the junta are the sole alternative to chaos and destruction. In fact, there are other far more promising possibilities. Chile has had much democratic experience, and successfuly maintained a long constitutional tradition until the military coup. There are many Chileans who know how to make democracy work, and are deeply committed to it. But when the generals and the terrorists begin to go after each other, the democratic center is squeezed so hard that it can barely breathe.

[From the New York Times, Sept. 10, 1986]

GENERAL PINOCHET DECLARES "WAR"

Chile is "in a war," Gen. Augusto Pinochet declared after he survived an assassination attempt Sunday night. Who is the enemy? In his view, it is the vast majority of the Chilean people.

Seizing on the assault that killed five of his guards, the general has declared a new state of siege. Tanks have rolled into residential areas. Moderate leaders of the sizable opposition have been thrown in jail. A well-known journalist has been found murdered after being picked up by men who reportedly identified themselves as police. Even conservative publications have been shut down.

Tomorrow will be the 13th anniversary of Chile's military rule. The crude repression of a people hungering for democracy is by now a familiar story. But an even more depressing stage may be at hand: the confrontation between armed extremes of the left and right.

For months, in the face of a broadly based opposition movement that was firmly committed to non-violent change, the regime had been telling Chileans that their only choice lay between the menacing violence of an armed left and acquiescence in military rule. Such claims met a mostly skeptical response; two magazine editors were recently jailed for a story questioning the regime's account of finding arms caches.

But now, the ambush of the general's motorcade, presumably by leftists, has lent plausibility to his crackdown. "People don't realize the danger we are in," the general insists. However effective in the short run, this willful campaign of polarization invites disaster. Neither the 70-year-old general nor his regime will last forever. Why strengthen the guerrilla left by driving all opposition underground? Chile was a mature democracy for generations before the 1973 coup against the left-leaning Allende government. More wisely led, the country would surely choose a moderate course.

The Reagan Administration perceives the dangers in General Pinochet's course. That is why it resists the agitation on his behalf by Senator Jesse Helms. That is why Ambassador Harry Barnes maintains highly visible contacts with leaders of the nonviolent opposition. And that is why the State Department, in condemning the ambush this week, also expressed proper concern about the state of siege.

The Administration will soon have to decide if the Pinochet regime has sufficiently improved its respect of human rights to warrant a U.S. vote in favor of multinational bank loans to Chile. Far from improving conditions, General Pinochet is turning bad to worse.

[From the New York Times, Sept. 11, 1986]

CHILE CLOSES A SECOND NEWS AGENCY IN CRACKDOWN

(By Shirley Christian)

SANTIAGO, CHILE, Sept. 10.—The Government continued its crackdown on the press today by closing an Italian news agency.

Human rights officials, meanwhile, defended themselves against what they said were attempts by President Augusto Pinochet to link them to terrorist actions.

Jaime Castillo Valasco, a prominent Christian Democratic politician who is president of the Chilean Human Rights Commission, said General Pinochet's oral attacks on human rights workers the day after he survived an assassination attempt were based on "an erroneous concept of political doctrine."

Under the third military edict issued since a state of siege was imposed late Sunday, the Italian news agency ANSA was ordered to stop sending news reports from Chile or distributing news from abroad here.

Giorgio Bagone, the ANSA bureau chief, said that the agency was accused of "divulging tendentious and false information about the armed forces" but that he had not been able to obtain more specific information.

Earlier this week, the military Government issued a similar order against the British news agency Reuters and close six Chilean magazines considered critical of or in opposition to the Government.

Later today, riot policemen swinging clubs attacked several hundred people, about half of them journalists, who had gathered for the start of the funeral cortege of the slain foreign editor of one of the closed magazines. Then the downtown block was swept by tear gas and water cannon.

The journalist, José Carrasco Tapia, was shot to death after being pulled out of his house by armed men during curfew hours Monday. He worked for the news magazine Análisis and was a member of the executive committee of the Journalists Federation. Two other men were found dead after being taken from their home Monday in similar circumstances.

The state of siege, giving the Government sweeping powers to detain people or banish them to distant parts of the country and to restrict public gatherings and the press, was imposed a few hours after General Pinochet's motorcade was ambushed by guerrillas Sunday night as he returned to the capital from a weekend in the country. Five of the general's bodyguards were killed.

The Government used the state of siege to arrrest 20 people, most of whom are identified with the political opposition.

Mr. Castillo said at his morning news conference that the Pinochet Government "thinks that to defend the fundamental rights of the human being is to favor a particular political band, which is completely absurd."

He was referring to several disparaging comments that General Pinochet made Monday about human rights workers. In one such remark, the President said, "Now the war is going to begin from our side, and we are going to be tough, and all those people involved in human rights and the other things are going to be expelled from the country or locked up.

Mr. Castillo, a lawyer, said he had presented a court petition Tuesday demanding judicial protection against what he said were Government threats against him and other leaders of the commission. He said that men who identified themselves as civilian policemen had been to the homes of two commission members on Tuesday to try to detain them but that the men had not been at home.

He also said that two of the 20 people detained since Monday had a history of collaboration with human rights organizations and pleaded for their release. One of them, Dr. Pedro Castillo, a physician, has been involved in work to halt the torture on detainees.

Mr. Castillo acknowledged that the Chilean Human Rights Commission processed and made complaints about violations of human rights, generally by Government forces. But he said it had tried to maintain correct relations with Government officials.

He repeated a statement issued earlier by the commission condemning the attempt on General Pinochet's life and said, "We are free of any imputation that might be made against us."

GATT TALKS

Mr. DOLE. Mr. President, I want to commend the administration for its forceful approach to the approaching GATT talks.

A new round of negotiations begins next week in Punta Del Esta, and the administration has announced its willingness to walk away from them if the United States is obstructed in its efforts to negotiate certain fundamental reforms: tougher protections for intellectual property; elimination of agricultural export subsidies; freer trade in services; improvements in the

GATT dispute process; and assurances of unimpeded flows of investment.

The global trading system is a delicate arrangement, and it operates largely on the basis of mutual and voluntary cooperation. Abrupt and nationalistic actions on the part of a single country have the potential to produce chain reactions which can threaten not only the harmony of international trade relations but the underlying structure of the world economy.

In short, walking away from the trade talks would not, and should not, be taken lightly.

But I believe it fair to say that the administration would have much congressional support were it to make a carefully considered decision that the potential outcome of trade negotiations was not worth the effort and compromise that our participation may involve.

This would not be a happy event; indeed, it would be a source of great international discomfort. But a new round is not an object intrinsically to be desired; a new round must be a good round.

And so we applaud the administration for its courage in confronting the serious choices that are posed as we consider new negotiations; we urge the administration to weigh such choices carefully and solemnly, recognizing their full implications; and we join the administration in urging our trading partners to appreciate the gravity of these talks and the determination of the United States to pursue true and meaningful reform.

□ 1150

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

The Senator from South Carolina is recognized.

EXECUTIVE SESSION

Mr. THURMOND. Mr. President, I ask unanimous consent that the Senate now go into executive session in order to consider Executive Calendar No. 995, William H. Rehnquist, of Virginia, to be Chief Justice of the United States.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1200

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DENTON). Without objection, it is so ordered.

Is there objection to the Senator's request to go into executive session?

Mr. BYRD. Mr. President, I know of no objection. I want to be sure the colleagues understand what is going on. I do not think there will be objection.

The PRESIDING OFFICER. Is there objection to the request to go into executive session to consider the Rehnquist nomination?

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nomination will be stated.

NOMINATION OF WILLIAM H. REHNQUIST TO BE CHIEF JUSTICE OF THE UNITED STATES

The assistant legislative clerk read the nomination of William H. Rehnquist, of Virginia, to be Chief Justice of the United States.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise today to voice my strong support of Justice William H. Rehnquist, President Reagan's nominee to be Chief Justice of the United States.

Justice Rehnquist was born in Milwaukee, WI, and attended elementary and high schools in Shorewood, WI. He attended Kenyon College in Gambier, OH, for a short time and then enlisted in the U.S. Army in 1943. Following military service he attended Stanford University and was elected to the National Scholastic Honor Society, Phi Beta Kappa. He attended Harvard University receiving a master of arts degree in history. Justice Rehnquist then entered Stanford University Law School. He graduated first in his class and was a member of the board of editors of the Stanford Law Review. He was also elected to the order of the COIF, a national honor society. Following his graduation from law school, Justice Rehnquist served as a law clerk to U.S. Supreme Court Justice Robert H. Jackson from February 1952 until June 1953.

From 1953 to 1969 he was in the private practice of law in Phoenix, AZ. He practiced with the firm of Evans, Hull, Kitchel & Jenckes until 1955. He then became a partner in the firm of Ragan & Rehnquist. In 1957 he was a partner in the firm of Cunningham, Carson & Messenger, until joining the firm of Powers & Rehnquist as a partner in 1960. He practiced law in Phoenix until he became the Assistant Attorney General, Office of Legal Counsel, Department of Justice, in 1969. During his years of legal practice Justice Rehnquist served at various times as the president and member of the board of directors of the Maricopa County Bar Association. He was also chairman of the Arizona State Bar continuing legal education committee and a member of the National Conference of Commissioners of Uniform State Laws. He also served on the council of the administrative law section of the American Bar Association.

In 1971 he was nominated to be an Associate Justice of the U.S. Supreme Court and was confirmed by the full Senate in December of that year. Justice Rehnquist has served with distinction as an Associate Justice since that time.

The Judiciary Committee received the President's nomination of Justice William H. Rehnquist for the position of Chief Justice of the United States on June 20, 1986. In accordance with a committee agreement, the hearings on Justice Rehnquist's nomination commenced on July 29, 1986. Also by agreement the committee vote on the nomination took place on August 14, 1986.

The Judiciary Committee carefully and thoroughly scrutinized the nominee's qualifications, credentials and 15 years' experience as an Associate Justice of the U.S. Supreme Court. The hearings on Justice Rehnquist's nomination were held on July 29, 30, 31 and August 1, 1986. The 4 days of hearings lasted approximately 40 hours and during that time, the committee heard from more than 40 witnesses. The Rehnquist nomination is distinctive when comparing the interval between Senate receipt of the nomination and the start of the committee hearings. Thirty-nine days elapsed before the Rehnquist hearing started, which was more than with any other Supreme Court nominee during the period from 1961 until 1986.

THE ABA AND OTHER SUPPORT

The American Bar Association's standing committee on Federal judiciary, found Justice Rehnquist to be well qualified and informed the Judiciary Committee:

> The ABA committee unanimously has found that Justice Rehnquist meets the highest standards of professional competence, judicial temperament and integrity, is among the best available for appointment as Chief Justice of the United States, and is entitled to the committee's highest evaluation of the nominees to the Supreme Court—well qualified.

The extensive investigation by the American Bar Association committee provides a significant basis supporting the association's unanimous findings and its granting of the highest evaluation possible to the nominee. In their investigation, the ABA committee interviewed all of the current Associate Justices of the Supreme Court, and more than 180 Federal and State judges. As reported by the ABA, Justice Rehnquist enjoys the respect and esteem of his colleagues on the Supreme Court.

The ABA committee also interviewed approximately 65 practicing attorneys throughout the United States. These attorneys, including some who disagree with Justice Rehnquist politically and philosophically, spoke of warm admiration for him and described him as "very talented, . . . a bright and able man, . . . always well prepared, . . . one who brings out the best in people, and will facilitate the work of the court." Additionally, the ABA committee interviewed more than 50 deans and faculty members of a number of law schools across the country. The ABA stated that many of these individuals spoke highly of his writing and analytical ability and the vast majority had strong praise for his professional qualifications. Finally, the ABA committee had approximately 200 of Justice Rehnquist's opinions examined and it was concluded that his legal analysis and writing ability were of the "highest quality."

□ 1210

At the Judiciary Committee hearings a number of very prominent individuals testified on behalf of Justice Rehnquist and in addition a number of letters were received supporting Justice Rehnquist's nomination. Among the many individuals supporting Justice Rehnquist were: Judge Griffin Bell, former Attorney General during the Carter administration; Erwin N. Griswold, former Solicitor General under President Johnson; former Attorney General William French Smith; Dean Gerhard Casper of the University of Chicago Law School; and Rex Lee, former Solicitor General under President Reagan.

CONCLUSION

The Judiciary Committee has thoroughly reviewed all allegations, old and new, and has found nothing that would keep Justice Rehnquist from being elevated to the position of Chief Justice. The committee also had the responsibility to determine if Justice Rehnquist possesses the qualities required of a Supreme Court Justice; namely, unquestioned integrity, honesty, incorruptibility, fairness; courage—the strength to render decisions in accordance with the Constitution and the will of the people as expressed in the laws of Congress; compassion—which recognizes both the rights of the individual and the rights of society in the quest for equal justice under the law; proper judicial temperament—an understanding of, and appreciation for, the majesty of our system of government in its separation of powers between the Federal and State governments.

Based upon his responses to questions during the hearing, his outstanding qualifications and intellect, it was determined that Justice Rehnquist does possess these attributes and is overwhelmingly qualified to serve as Chief Justice of the United States.

I urge my colleagues to vote in favor of President Reagan's nomination of Justice Rehnquist to be Chief Justice of the United States.

Mr. President, I yield the floor.

Mr. BIDEN. Mr. President, I thank my colleague, the chairman of the Judiciary Committee, Senator THURMOND, for yielding.

Mr. President, the debate that begins today marks the 18th time—only 18 times over the 200-year history of this Nation—that the U.S. Senate has considered the nomination of an individual to be Chief Justice of the United States. Only 15 of those men—and they have all been men—were confirmed and served in the high-ranking position. Today, we began what I hope will be a fruitful, a thorough, and a scholarly debate on the role of the Chief Justice and the fitness of Justice Rehnquist to serve in that role.

This should be a time of serious reflection by the Members of the U.S. Senate about the very nature of our constitutional system and the division of power among our three coequal branches of Government. I think it should be a time to consider the liberties and freedoms which the Constitution guarantees and for us to make clear to the American people who watch this and listen to this that we are cognizant of what the Constitution is about—that we understand fully why these liberties and guarantees are so much in hands of the members of the Supreme Court.

I think it should be a time also, Mr. President, to look a little bit into the future 10 and 20 years hence to contemplate the role of the Supreme Court of the United States of America, not only as it is constituted today but during the tenure of the next Chief Justice of the United States. It is a fact that the man before us and others who might come before us are men who have a good, long time left to serve their country if they are confirmed.

So, if we fail to look down the road the next 10 to 20 years, we will, in my view, be doing a disservice to the country and a disservice to the Court.

To contemplate the role of the Supreme Court in governing this diverse and fragmented society is one of the responsibility that we have.

If my colleagues undertake such a deliberative debate—as I fully expect they will with the leadership of Senator THURMOND and Senator HATCH, very strong and eloquent proponents of the nominee—I believe that if this debate is engaged, if we are able to make the arguments which I fully expect we will be able to, to deliberate on the subject of the role of the Court and the role of this individual within the Court, I believe my colleagues will come to the same conclusion that I have reached—that the nomination of Justice William Rehnquist to be Chief Justice of the United States should not be approved.

The hearings conducted by the Judiciary Committee, to which Senator THURMOND referred, delved into a number of very important issues regarding the personal background and the judicial philosophy of the nominee as well as exploring the significant role the Chief Justice plays in the conduct of justice in America.

Quite frankly, the Chief Justice of the United States of America is a metaphor for justice in America. There are those who will say—and my colleague from South Carolina has already said it and I expect to hear it time and again in the next several days, as we debate this nomination—there are those who will say that the hearings exhausted every possible avenue of objection, but I might suggest it is also possible to assert that the hearings raised more questions than were answered.

In many instances, the record, as we will hopefully demonstrate, remains incomplete or Justice Rehnquist's answers were not sufficiently forthcoming to satisfy the burden—and I emphasize "the burden"—the burden on every nominee to justify his or her confirmation.

We should set that straight. The burden is not on the U.S. Senate to suggest that someone not be the nominee, to prove they should not be the nominee. The burden is upon the nominee and the proponents of the nominee to demonstrate that they should be confirmed. Just as the burden is not upon the people of my district and my State to prove that I should or should not be the Senator; the burden is upon me to convince the people of my State that I should be the Senator.

We are talking about the second-most important person in America, heading one of the three coequal branches of the Government. And the burden is on the nominee to prove that he should be Chief Justice.

At the beginning of the Rehnquist hearings, I commented extensively on the historic role of the U.S. Senate in evaluating Supreme Court nominees. I think it bears repeating.

I am certain it will be argued, and argued repeatedly here today and tomorrow on the floor of the U.S. Senate, that the Senate has traditionally "gone along" with Presidential choices for the Supreme Court and that our advise and consent should be abbreviated.

I have no doubt this argument will be asserted with regard to a sitting Justice being elevated to the position of Chief Justice, as is the case with Justice Rehnquist.

As Prof. Larry Tribe of Harvard University noted in his recent book "God Save This Honorable Court," and as many others have noted—nothing could be further from the truth than to say the Senate has gone along with Presidential nominees to the Court.

Let us look at the record. The Senate has rejected more Presidential nominees for the Supreme Court than nominees to any other Federal office. About one out of every five persons nominated to serve on the Supreme Court of the United States from the beginning of our history as a constitutional nation, one out of five have been rejected by the U.S. Senate, Democrat as well as Republican, federalist, all.

□ 1220

So this notion that the Senate has historically gone along merely because the President has sent up a nominee is not historically accurate. Out of the 18 nominations for Chief Justice of the United States over our 200-year history, the Senate has rejected 4 of those, 4 out of 18. John Rutledge, George Williams, Caleb Cushing, and Abe Fortas all failed to win confirmation before the U.S. Senate.

Throughout our history it has been the Senate's solemn responsibility to assure that men and belatedly women picked by the President to sit on the Supreme Court are up to the task. The duty comes directly from the Constitution. Article II, section 2 requires that the Senate give its "advice and consent" before a Presidential nominee is approved to a position on the Court.

And this Senate prerogative was no constitutional afterthought by the framers. Here again I think a little history might be worthwhile. Initially, and almost to the end of the Constitutional Convention in Philadelphia, over 200 years ago, the framers lodged the power of appointing members of the Federal judiciary, including the Supreme Court, in the Senate alone.

Again, I will ask unanimous consent that at this point in the RECORD I can insert a longer explanation than the one I am about to give about how in fact the Constitutional Convention arrived at the conclusion that the President would be able to nominate.

I ask unanimous consent that be done.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CHOOSING JUDGES: THE FRAMER'S INTENT

(By Prof. Walter Dellinger, Duke University School of Law)

President Reagan and Attorney General Meese, echoing a doctrine enunciated by President Nixon, have boldly suggested that the Senate is obliged to consent to the appointment of any judicial nominee who is not shown to be corrupt or professionally unqualified. They suggest that the President and the Attorney General may take a judicial prospect's philosophy into account, but that the Senate may not. Others contest this view and argue that the Senate, when it decides whether to consent to a nomination, is obligated to take into account the same range of considerations open to the President, and make its own independent determination of whether confirmation of a particular nominee is in the best interest of the country.

Hardly anyone has bothered to refer to the original understanding of the framers of the Constitution. This is a significant oversight, because the debates over the drafting of the Constitution tell us a great deal about the proper role of the Senate in the judicial selection process. Although it is difficult to discern the original understanding of a constitutional provision, the records of the Constitutional Convention speak to this particular question with unusual clarity. Both the text of the Appointments Clause of the Constitution and the debates over its adoption strongly suggest that the Senate was expected to play an active and independent role in determining who should sit on the nation's judiciary.

The Constitutional Convention met in Philadelphia from late May until mid-September of the fateful summer of 1787. Throughout its deliberations, the Convention contemplated that the national legislature, in some form or other, would play a very substantial role in the selection of federal judges. On May 29, 1787, the Convention began its work on the Constitution by taking up the Virginia Plan introduced by Governor Randolph. It provided "that a National Judiciary be established . . . to be chosen by the National Legislature." The executive was, under this plan, to have no role at all in the selection of judges.

When this provision came before the Convention on June 5, several members expressed concern that the whole legislature might be too numerous a body to select judges. James Wilson's alternative suggestion that the President be given power to choose judges found almost no support, however. Rutledge of South Carolina stated that he "was by no means disposed to grant so great a power to any single person." James Madison agreed that the legislature was too large a body, but stated that "he was not satisfied with referring the appointment to the Executive." He was "rather inclined to give it to the Senatorial branch" of the legislature, a group "sufficiently stable and independent" to provide "deliberate judgments."

One week later, on June 13, Madison rendered his inclination into a formal motion that the power of appointing judges be given exclusively to the Senate, rather than to the legislature as a whole. This motion was adopted "nem. con."—without any objection. On June 19, the Convention formally adopted, as its working draft, the Virginia Plan which thus provided that a "national Judiciary" be established, the "Judges of which to be appointed by the second Branch of the National Legislature."

July was spent reviewing every position of the draft. On the 18th, the Convention reconsidered and reaffirmed its earlier decision to grant the Senate the exclusive power of appointing Judges. James Wilson again moved "that the Judges be appointed by the Executive." His motion was defeated, six states to two, after delegates offered "solid reasons against leaving the appointment to the Executive" as Bedford of Delaware put it. Luther Martin of Maryland, stating that he "was strenuous for an appointment by the 2nd branch," argued that "being taken from all the States, [the Senate] would be best informed of character and most capable of making a fit choice." Sherman of Connecticut concurred, "adding that the Judges ought to be diffused, which would be more likely to be attended to by the 2d branch [the Senate], than by the Executive." A compromise proposal suggested by Ghorum of Massachusetts to provide for appointment by the executive "by and with the advice and consent" of the Senate failed on a tie vote, apparently without much discussion.

The issue was considered once again on July 21, and Convention once again reaffirmed exclusive Senate appointment of judges, and rejected executive appointment, this time by a vote of six states to three, after a debate in which George Mason attacked the idea of executive appointment as a "dangerous precedent. It might even give him an influence over the Judiciary department itself." As rephrased by the Committee on Detail, the provision in the draft Constitution read, "The Senate of the U.S. shall have power to . . . appoint. . . Judges of the Supreme Court." Thus the matter stood until the closing days of the Convention.

On September 4, less than two weeks before the Convention's work was done, a Committee of Five reported out several provisions on matters that had been postponed, including sections dealing with how the President should be chosen and how various officers should be appointed. The Committee's draft provided for the first time that the President should have any role at all in the selection of judges: "The President shall nominate and by and with the advice and consent of the Senate shall appoint judges of the Supreme Court." Giving the President the power to nominate judges was not seen as ousting the Senate from a central role: Governeur Morris of Pennsylvania paraphrased the new provision as one giving to the Senate the power "to appoint Judges nominated to them by the President." With little discussion, and without dissent, the Convention adopted this reworked provision giving the President the power, with the advice of the Senate, to nominate judges, and the power, with the consent of the Senate, to appoint. The Convention having repeatedly and decisively rejected the idea that the President should have the exclusive power to select judges could not possibly have intended to reduce the Senate to a ministerial role.

President Nixon, in the course of his unsuccessful 1970 effort to persuade the Senate to confirm G. Harrold Carswell, asserted the doctrine that the President is "the one person entrusted by the Constitution with the power of appointment" and that his will should not be "frustrated by those who wish to substitute their own philosophy or subjective judgment. This erroneous notion has now been echoed by President Reagan's assertion that the President has the "right" to "choose Federal judges who share his judicial philosophy" and that the Senate is somehow bound to confirm these choices "so long as they are qualified by character and competence." These statements are simply inconsistent with both the text and the original intent of the Appointments Clause. The reasons given by delegates to the Constitutional Convention for making the selection of judges a joint decision of the President and the Senate are as cogent today as they were in 1787. The framers objected to giving the power of appointment to a "single individual" and un-

derstood that the goal of having a diverse judiciary would be advanced by having the Senate, which contains members from every state, play a substantial role in determining who should sit on the bench.

Mr. BIDEN. Mr. President, our Founding Fathers in the beginning said that the only way in which we are going to agree on putting someone on the Federal court or on the Supreme Court is if the Senate picks, names, nominates and votes on the process. The President was not even considered part of the process in the first several plans that were offered.

It was only during the last days of 1787 in the convention, as part of a very complex compromise, was the power to suggest, the power to appoint Supreme Court Justices divided between the President and the U.S. Senate.

Doubts about the capability or character of a nominee in the past have resulted in Senate rejections of the Court nominee sent up by the President. The nominations of Clement Haynsworth and Harold Carswell were rejected for those reasons along with many others, but historically these have not been the sole basis for the Senate's opposition to a Presidential choice. From the fight over the Rutledge nomination, which centered on his speeches against the then controversial Jay Treaty, through the more contemporary struggles over the nominations of Louis Brandeis, Judge John Parker, and Justice Abe Fortas, the Senate often considered the nominees' judicial philosophy and vision of the Constitution as part of what they had the right to consider.

I would like to put another notion to rest. That is the idea that the U.S. Senate constitutionally is precluded from considering anything other than whether the nominee is intellectually capable, competent as a jurist—by the way, you need not be a lawyer or a judge to be on the Supreme Court under the Constitution—and whether or not he or she has committed a crime of moral turpitude. All constitutional scholars agree that the Senate may go beyond this in considing the fitness of a nominee. I might note parenthetically we do not have to get to that in my view on this man to conclude that he should not be Chief Justice. But it is fully within the constitutional authority of the U.S. Senate to do so.

One need not go back to the 1930's to witness Senate leaders scrutinizing the judicial views of a Supreme Court nominee. During hearings on the last Chief Justiceship that was not confirmed—Abe Fortas' nomination—our distinguished Judiciary Committee chairman, Senator STROM THURMOND, stated, and I quote:

It is my contention that the Supreme Court has assumed such a powerful role as a policymaker that the Senate must necessarily be concerned with the views of propsective Justices or Chief Justices as they relate to broad issues confronting the American people, and the role of the Court in dealing with these issues.

As the loyal opposition, the Democrats owe this country no less now than Senator THURMOND and his colleagues from the other side of the aisle offered at that time. And they were right. These hearings should meet the same standard for completeness and hard scrutiny that Senator THURMOND expressed in those words 18 years ago.

Having set forth general parameters of our inquiry, let me turn now to specific topics considered in the conclusions that I have drawn and tried to do them in summary because I will be speaking to each of these at some length before the debate is over.

From my perspective, three areas of questioning directly relate to the ability of Justice Rehnquist to serve as Chief Justice. I should say there is no doubt about the legal ability or professional competence of the nominee, and that is not what these reservations are about. Rather my concerns relate to the unique symbolic role which the Chief Justice plays in our scheme of constitutional government.

The Chief Justice not only serves longer than any President, but he and his colleagues exercise power limited only by their consciences and principles. The Chief stands as a metaphor for justice in our society more than any other individual, including the President of the United States of America, or any U.S. Senator or Congressman. The Chief symbolizes the guarantee of equal protection under law, "equal justice under the law," for all Americans. And that is not just an arcane legalism. It is the embodiment of the fundamental purpose of our entire judicial system.

My first concern is whether Justice Rehnquist can serve effectively as a leader of the Court, and to my mind, this does not mean whether or not he can be an effective administrator, or whether or not he will do that expeditiously.

Two elements comprise the quality of leadership that I think is necessary to be Chief Justice of the United States. One, a Chief Justice must exhibit the capability and willingness to work for and forge a consensus for unanimous opinions in watershed cases, cases where if there is not a unanimous decision there would be serious problems in this Nation. Brown versus The Board of Education, the desegregation case, said separate but equal is no longer equal, no longer constitutional. Had that been a split court does anyone in this chamber doubt it would have been considerably more difficult, and possibly considerable bloodshed in this land, to bring about the change? Does anyone doubt that in the Nixon tapes case had the court not been unanimous the President, Richard M. Nixon, might have considered provoking a constitutional crisis rather than step down in shame as he did?

Second, the Chief Justice must demonstrate the flexibility and openmindedness to put aside his own philosophical or legal views when consensus on the Court is required even if he disagrees with the majority's holding. It is essentially two sides of the same coin requiring sensitivity to the great legal and social issues of our day.

Two of Justice Rehnquist's predecessors exemplify this kind of leadership. In his book, "Simple Justice," Richard Kluger detailed a careful and deliberate process by which Chief Justice Earl Warren sought to forge that unanimous opinion I referred to earlier, Brown versus The Board of Education.

□ 1230

Recognizing that only a unanimous decision would insure compliance with the Court's ruling and public respect for the law, he worked relentlessly to achieve a consensus on the Court. Knowing that Justice Stanley Reed, a southerner, was the last hold-out, Warren met privately with him many times, prevailing upon him—to his great credit, I might add—to make his decision in the best interests of the country. And that is what Reed did.

Similarly, Chief Justice Burger, in the Nixon tapes case, put aside his own views in the interests of a unanimous ruling requiring the President to turn over the Watergate tapes. It was reported in "The Brethern," a widely read book about the workings of the Supreme Court, that Chief Justice Burger originally intended to write an opinion which, although mandating the release of the tapes, would have provided a national security exception which might have allowed the President to withhold significant materials. However, the Chief Justice was convinced by his colleagues that such an approach might obstruct the legal process and he joined in and authored an unqualified unanimous opinion.

Justice Rehnquist's response to questions I asked him about the consensus-building role of the Chief Justice was quite unsettling. With regard to the Brown case, I asked whether he would have done what Chief Justice Warren had done. Let me cite his answer:

Certainly, from the point of view of hindsight, realizing the importance of Brown, the importance of unanimity, one would like to say in answer to the question: "Yes, of course I would." and I think I can probably answer the same way, *that if I had seen the thing, seen the case the way the Chief Justice did, and the need for unanimity,* I certainly would have tried to persuade a last dissenting colleague that it would be better

for the country to make it unanimous. (Emphasis added)

It became clear as I continued questioning that Justice Rehnquist did not then and would not now see the case the way Chief Justice Warren did. To lead the Court in this manner requires a broad vision of the major social and legal issue of the day.

Let me go back to his statement. He points out or states, "From the point of view of hindsight, realizing the importance of Brown, the importance of unanimity."

It was important that someone have the sensitivity to understand the importance of Brown, the importance of unanimity.

It seems to me, based on other answers, Justice Rehnquist is not such a person to recognize the sensitivity of the consequences of the Court's decision. Whether a ruling will provoke resentment and resistance or respect and compliance cannot be disregarded. There is nothing in his record as a sitting Justice, nor does the hearing record, indicate to me that Justice Rehnquist would be willing or capable or exercising this kind of leadership.

Another disappointing answer from my perspective came when I asked Justice Rehnquist about his dissenting opinions. Let me quote the question and the answer:

Q. Do you believe, had you been Chief, would there have been the necessity in any of your 8-1 decisions where you were the dissent that you think you could have changed? I mean, can you imagine having changed? Do any of those decisions rise to that level?

A. I do not have those readily before me. And I am trying to think whether any one of them might. My feeling is no. (Emphasis added)

Justice Rehnquist should perhaps have heeded the advice of his mentor, the late Justice Robert Jackson. From an address written in 1955, it is clear that Justice Jackson might not have approved of his law clerk's proliferation of dissenting opinions. Said Justice Jackson:

The right of dissent is a valuable one. Wisely used on well-chosen occasions, it has been of great service to the profession and to the law. But there is nothing good, for either the court or the dissenter, in dissenting per se. Each dissenting opinion is a confession of failure to convince the writer's colleagues, and the true test of a judge is his influence in leading, not in opposing his court.

I also explored with Justice Rehnquist his views on the 14th amendment, especially the distinction which becomes apparent from a reading of his opinions with regard to his treatment of race and gender cases. It became evident that the nominee regards the 14th amendment, the most basic affirmation of equal treatment under the law, as something different for blacks than for women and other minorities.

That is not my perception. He states it is a different test, as, I might add, others have.

This stems from his rigid view of the "original intent" of the amendment as directed toward the abolition of slavery.

He says "That is why it was written, so when you look at that amendment, you have to look at it in the context of the abolition of slavery." When they wrote it, they wrote it to stop slavery and here we are. "You are coming before the court, plaintiff, and saying women are not being treated well. Obviously, the framers were not thinking of women when they wrote that clause. Therefore, you do not treat the inequality of women in society, even when proven beyond a reasonable doubt, the same way you treat inequality to blacks because, obviously, when they wrote the 14th amendment they were only thinking of blacks in slavery."

That is what he means by original intent.

Since women and other minorities were not considered to be part of the Civil War amendments—the 14th amendment among them—they should not enjoy the same guarantees of equal protection that he would extend to blacks. Apparently, under Justice Rehnquist's view of the Constitution, women and corporations are to be treated similarly—that is, laws are to be challenged under what we call a rational basis test rather than the higher standard of "strict scrutiny," which I will talk some more about as the debate continues. Unfortunately, almost every act of the legislature which discriminates on the basis of sex, whether at the State or Federal level, which Justice Rehnquist has had an occasion to examine, meets his test of a rationality.

Almost every time there is a law on the books that discriminates against women, where clearly if that law were one on the books about blacks, it would be clearly unconstitutional because it would have to meet a test of strict scrutiny. But when the law is about women, he says, "You do not have to meet that test. You just have to find out whether there is a rational basis for it, any at all."

□ 1240

He always finds that there is, I might add, a rational basis for the discrimination. Whereas you cannot say, "By the way, is there a rational basis in the law that says blacks cannot do something that whites can do?" he says, "Oh, no," and he is right. The 14th amendment says you do not have to apply that statute. It does not matter whether it is rational or not. It matters whether it was intended to discriminate against blacks.

That is the view of the 14th amendment that some hold. But I do not. I suggest that Justice Rehnquist, when you look at his decisions—and he is not the only one who has ever ruled this way—he seems always to find that there is a rational basis for discriminating against women where it is challenged.

If the Chief Justice stands as a metaphor for justice in our society, as I suggested earlier, a nominee must, to my mind, exhibit a certain sensitivity to justice in his rulings. He may be technically correct; it may be an intellectually defensible argument; but in fact I think it sends a signal to 51 percent of our population that although, under arcane jurisprudential principles, you can make a distinction. It is very hard to make that decision when you are the person to whom 99 percent of the American people look and say, "This is my recourse to justice, the Chief Justice of the U.S. Supreme Court."

The mere fact that a Justice would be able to make an argument that was legally defensible, it seems to me there is a different standard that we should have—and have had, I might add—for a Chief Justice on account of the symbolic role of the Chief Justice.

Justice Rehnquist's dissent in the Bob Jones University case stands out as a disturbing example of his insensitivity and a startling example of his intellectual creativity. Many of you will recall that that case involved a determination of whether or not the Internal Revenue Service was empowered to promulgate regulations withholding tax exempt status from private schools that discriminated on the basis of race.

To put it in common language, can you say blacks are inferior and treat them differently and still be tax exempt? Can you do that? Well, Justice Rehnquist said you can. He said in an 8-to-1 decision, his being the only dissent—again intellectually defensible but, in fact, symbolically tragic—he said, "Yes, you can." The Court ruled 8 to 1, Justice Rehnquist filing the sole dissent, that the IRS did have the authority to issue the regulations in question. Justice Rehnquist dissented on the grounds that only Congress, not an administrative agency, was constitutionally empowered to pass legislation withholding such tax-exempt status.

Mr. President, it is not the legal grounds of Justice Rehnquist's dissent that bothers me. While I might strongly disagree, the rationale, as I said earlier, is intellectually defensible. But Justice Rehnquist was incapable of joining or in any way associating himself with the findings of Chief Justice Burger, who wrote an impassioned opinion, regarding the importance of a national policy against racial discrimination in education.

He comments that he does not disagree with the Court's finding that there is a strong national policy in this country opposed to racial discrimination, but he did not indicate that he personally agreed with that policy.

Go back to the person he always talks about, Justice Jackson. Let me reread that quote, because I think it is important here, at least to help my colleagues understand why I feel so strongly about this. Justice Jackson speaking:

> The right to dissent is a valuable one. Wisely used on well-chosen occasions—

He is talking about the right to dissent of a Justice—

> it has been of great service to the profession and to the law. But there is nothing good, for either the Court or the dissenter, in dissenting per se. Each dissenting opinion is a confession of the failure to convince the writer's colleagues, and the true test of the judge is his influence and leading, not in opposing, his court.

Let me ask why, on such a fundamental issue as whether or not a university can say blacks are going to be treated at this university different than whites if they are admitted, why could he not say at least, "This is a tragic commentary on American education; it should be stopped and," as they often do, "I urge Congress to remedy it forthwith? But, unfortunately, in my interpretation of the law, I cannot bring myself to join on intellectual grounds, but it grieves me to do so."

He does that in other places.

Look, Mr. President. When we talk about the Chief Justice, again, go back to my concern. The Chief Justice is a metaphor for justice. People look to him. My daughter, your daughter, your wife, your female staff person, your black friend, you, the black American. You say, "I know one thing for sure: the Supreme Court is with me." And the Supreme Court is the Chief Justice. Ninety percent of Americans cannot name one person beyond the Chief Justice. And we have a Chief Justice nominee who does not seem to understand that.

I believe that Justice Rehnquist's incapability of joining or associating himself with any of those findings of Justice Burger is a window into his soul as well as to his mind. It is just this kind of action, both during his tenure on the Court and during his confirmation hearings, that led me to the conclusion that he does not have an open mind with regard to racial and gender discrimination cases. He has an agile mind but not an open mind.

I am disturbed about how he approaches these cases as an Associate Justice, but I am deeply disturbed about how he will approach these cases as Chief Justice of the United States. For, as I indicated, the Chief Justice of the United States reflects more on the office as a symbol of justice than any other person in our society.

As the debate proceeds, I intend to discuss at length, along with many of my other colleagues, the third component of the role of the Chief Justice, that he or she be perceived by the American people as candid and forthright.

For if you cannot point to the Chief Justice, who is in office for life, who is the most important person in our judicial system, as being the epitome of candor and honesty, to whom, in God's name, do you point? What does it say if a significant portion of the American people or a significant number of our colleagues conclude that that cannot be said of a Chief Justice? What does it say for our system? What does it say for a branch of Government whose ability to function depends more upon its moral suasion than anything else, including its intellectual persuasion?

What is it that makes us all go along with a Supreme Court ruling? Is it that you, the American people, say, "Now, I have examined the rationale of that case and I have concluded, notwithstanding the fact that it does not seem right to me, that under legal precedents and English jurisprudential initiatives of the past, this is the right thing to do"?

That is not what we say.

□ 1250

We say, "They are fair women and men. I trust their instincts. They are smart. They are honorable. And although it does not feel good to me, I guess they are right."

That is what we say. We do not get a chance to go throw them out of office and they do not get a chance to send an army or the police to enforce their rulings.

That is why it is so important that when we look at a Chief Justice, we say, "I believe her," or "I believe him."

Ladies and gentlemen, my colleagues, I think our people expect this individual, the Chief Justice, above all others to exemplify the characteristics of candor and forthrightness. Unfortunately, and I will speak at length to this later, as I know my colleagues will, Justice Rehnquist's performance in the confirmation hearing did anything but enforce this perception. Whether it was his election day activities prior to assuming the bench or his clerkship for the late Justice Jackson and his views about the most significant desegregation case in the history of America, Brown versus Board of Education, or his participation in the Laird versus Tatum case—that is the case where he is alleged to have been involved as a member of the administration and then as a number of the Court ruled on a challenge to the policy he developed, whatever it is, any one of those areas, I believe and I hope to demonstrate that his record, his answers to our legitimate questions are at best incomplete, in all cases vague, in some cases misleading, and in some cases very difficult to believe.

For these reasons, I intend to vote against the nomination of William Rehnquist to be the 16th Chief Justice of the U.S. Supreme Court. I am well aware that he will remain on the Court, no matter what the outcome of this debate, but I believe the Nation will be better served and the causes of justice will be better served and the symbol of justice will be better served if he remains one among nine rather than the first among equals, which the Chief Justice of the United States is. I yield to my colleague from Utah. I thank my colleagues.

Mr. HATCH. Mr. President, at the outset of this debate I would like to note that many of Justice Rehnquist's opponents have left no stone unturned in this particular debate. During the Judiciary Committee hearings we inspected 20-year-old records from the Office of Legal Counsel; we scrutinized memos written 34 years ago by a young law clerk; we read FBI reports, some 20 years old, some 20 minutes old; we received reports from independent medical experts; we heard from over 50 witnesses and questioned them to our hearts' content. And much of that can be summarized as much ado about very little. It shows little more than honest people can disagree with Justice Rehnquist on his reading of the law. I wish that we would say it forthrightly. Instead, we hear personal attacks, misleading criticism, and I think political remonstrations. But personal attacks, threats of filibuster and prolonged debate and unseemly innuendo only demean this proceeding. They are irrelevant to our purpose and I hope we will see none of that. If we do, those who do it are going to be sorry for having done so. I certainly will be sorry that they have done so.

Later in this debate I will comment further on the proper standard for confirmations. At this point, however, I do want to ensure that no misleading impressions are left by my distinguished colleague from Delaware. And what I would like to do is talk about some of the comments he has quoted from Larry Tribe from the Harvard Law School.

The Senate has not ignored the dangers that politicization poses to the integrity of the Court and the public selection processes. Since 1894, it has failed to confirm only four nominees while considering the choices of Presidents as widely divergent in political ideology as Franklin Roosevelt, Dwight Eisenhower, Lyndon Johnson, and Gerald Ford. Although Mr. Tribe's book, "Save This Court," at-

tempts to argue that the Senate has traditionally questioned the nominees on political grounds, it offers no explanation for the modern Senate's consistent approval of 51 Justices on the basis of merit rather than on the basis of politics. Examination of that record discloses some important considerations militating against using political criteria in the confirmation process.

Mr. President, I hope that this debate will be a high-level debate and we can talk about the things that are really involved here and that we not malign a man who has served this country well for 15 years as a Justice on the Supreme Court.

Frankly, it is a great privilege to participate in the confirmation of a Chief Justice of the Supreme Court. This is an event which has occurred only 16 times in 199 years of free government under the Constitution. Moreover, to me—and I think to a majority of Senators—it is a honor to support the President's choice of Mr. William Hubbs Rehnquist, who was confirmed as the 100th Justice of the Supreme Court of the United States more than 15 years ago, to lead the judicial branch into the second century of American freedom.

As the Nation's third Chief Justice declared in Marbury versus Madison, "Ours is a government of laws, and not of men." This is the genius of the Constitution—that Americans do not owe their highest legal allegiance to any person, no matter how trusted and trustworthy, but to the concept of liberty embodied in law. Chief Justice John Marshall, in that same pivotal case, emphasized the vital mission of the Judiciary within this inspired constitutional scheme with the words: "It is emphatically the province and duty of the Judicial Department to say what the law is." For over 15 years, Justice Rehnquist has earned a reputation as a leader amongst leaders on the nine-member Court. He knows better than perhaps anyone in the Nation the responsibility of serving as a "keeper of the contract," a protector of the agreement between the Government and the governed. He, better than perhaps anyone in the Nation, can impart that vision in his fellow Federal judges throughout the Federal Judiciary.

QUALIFICATIONS

He already has the trust and respect of his peers and the rest of the bench and bar. This was the unmistakable message delivered by the American Bar Association which assesses the qualifications of candidates for judicial office. The ABA interviewed 180 Federal and State judges, including all members of the current Supreme Court, 50 law deans and professors, and 65 leading attorneys before giving Justice Rehnquist their highest possible rating. The ABA stated to Chairman THURMOND and the rest of us on the Judiciary Committee:

> The Committee on the Federal Judiciary unanimously has found that Justice Rehnquist meets the highest standards of professional competence, judicial temperament and integrity, is among the best available for appointment as Chief Justice of the United States.

Thus, the Judiciary Committee's approval for this nomination, by the wide margin of 13–5 after enormous efforts to discredit his outstanding reputation, is shared by the largest organization of lawyers and judges in the Nation. The ABA approval, however, was unanimous. It is also significant that the ABA called Justice Rehnquist "among the best available."

Leaving no stone unturned, the ABA Committee also reviewed 200 of Justice Rehnquist's written opinions. This led to their conclusion that his legal analysis and writing skills are of the "highest quality." In other words, after a thorough investigation, the American Bar Association Committee unanimously voiced its high regard for Justice Rehnquist and its approval for his qualifications and ability to serve as Chief Justice.

This nomination is also supported by many important leaders in the legal community who do not always share Justice Rehnquist's conclusions on various questions of law. At the top of this list is Associate Justice William Brennan who feels that Justice Rehnquist will make a "splendid Chief Justice." This candid statement of approval for President Reagan's choice for Chief Justice came in an interview in the Legal Times. It is a high tribute to Justice Rehnquist from a highly respected fellow Justice who is known for a different judicial philosophy.

Many other eminent legal scholars also have come forward to voice their high regard for Justice Rehnquist. This includes many who would not necessarily agree with him on many legal issues. For instance, Griffin Bell, President Carter's Attorney General, testified that Justice Rehnquist "would serve our Supreme Court and our country well" as Chief Justice. Erwin Griswold, President Johnson's Solicitor General, praised Justice Rehnquist for his "important contributions to our constitutional and other law" and endorsed his nomination. These are only a couple examples among many.

Justice Rehnquist is not only remarkably prepared and qualified to assume the leadership of the Federal Judiciary today, but was remarkably prepared and qualified to serve on the Supreme Court in 1971. He had received a M.A. from Harvard, scored a 99.6 out of 100 on the law school aptitude test, and graduated first in his 1952 law school class. A classmate, Sandra Day, now Associate Justice O'Connor, recalls that William Rehnquist was "head and shoulders above all the rest of us in terms of sheer talent and ability." Moreover he won a coveted Supreme Court clerkship and served as an Assistant Attorney General before his appointment to the high Court.

Since that time, Justice Rehnquist has proven a match for the awesome trust placed in him by the Presidency, the Senate, and the people of the United States. A 1985 New York Times article states that "Rehnquist stands out" from amongst his colleagues on the Court. Esteemed University of Virginia law professor, A.E. "Dick" Howard, commented well over a year ago that "Justice Rehnquist has a claim to the leadership role on the Court." Professor Howard also notes in a recent ABA journal that "Perhaps no Justice at the Court generates more genuine warmth and regard among both his colleagues and others who work at the Court."

President Reagan is to be commended for recognizing these marvelous qualities in Justice Rehnquist and appointing him to become the 16th Chief Justice of the United States. Perhaps no other individual today would more closely approximate the character and ability of former Chief Justices like John Marshall, Salmon Chase, William H. Taft, Charles Evans Hughes, and Warren Burger.

CONCLUSION

The importance of this proceeding is illustrated by the observation of Alexis de Tocqueville that "Scarcely any political question arises in the United States that is not resolved, sooner or later, into a judicial question." I would only add that in this era when many Supreme Court pronouncements are debated in Congress that scarcely any legal question arises that is not soon a political question. The legal history of this Nation, the daily lives of its citizens, and the future agenda of both Congress and the Court may well be shaped by today's events.

The Supreme Court will inevitably be ensnarled in the great questions of our generation. Indeed Justice Holmes noted that the only peace found at the Court is the uneasy stillness found at the eye of a hurricane. I am grateful that President Reagan has chosen an individual of the quality of Justice Rehnquist to guide the Court through coming storms.

(Mrs. KASSEBAUM assumed the chair.)

Madam President, I have been interested in some of the comments today—disagreements with this case or that case, or with his view on civil rights or with his view on women's rights, and so forth. We have had, right at the outset, an attempt to label Justice Rehnquist as "extreme."

The hearings showed who the extremists really are, and they certainly do not embrace Justice Rehnquist. As a matter of fact, he has written a majority of the majority opinions on the Court in the last two terms of the Court. That is anything but extreme.

The problem with his opponents is that they have controlled Congress for 51 of the last 53 years, during which time we have run into a lot of difficulties, and they see all of a sudden a man with whom they disagree. They have been used to having this power; they have been used to not sharing it; they have been used to not having people like Justice Rehnquist serve. Frankly, it is hard for them.

With regard to women's issues, let me say that they can try all they want to paint him as an extremist, but I think the tar is blown right back into their faces. They tried to paint him as not being sensitive to women's rights and that is not accurate.

Once again, I found 27 cases in which he had voted for the interests of women and minorities. I have to admit that there will be differences on how far he should have gone, how far he did not go, but there are always certain differences.

This is a particularly erroneous charge in light of the Meritor Bank case, which said that employers can be held for sexual harassment in the workplace. This was the most significant women's rights case in the last term. And who wrote that opinion? None other than Mr. Justice Rehnquist.

In the tarring, I wonder why that case has not been mentioned by the other side. It was the most significant women's rights case in the last term of the Court. Those who make these accusations seem to forget that Justice Rehnquist authored this landmark opinion. This is hardly the record of a judge who ignores the fair assertion of women's rights.

In the most important women's rights case in the 1984 term, the Jaycees case, Justice Rehnquist found that an all-male organization may be compelled to accept women.

□ 1310

That same year in the Hishon case he concluded that cries against women in admission to law firm partnerships justify a claim under title VII, a widely criticized case by certain elements of our society who themselves are sincere, educated, highly intellectual, and who disagreed with Mr. Justice Rehnquist in that landmark decision for women's rights.

In the 1979 Cannon versus University of Chicago case, Justice Rehnquist gave title IX a very broad reading to provide an implied cause of action. Justices White, Powell, and Blackmun dissented and would have denied the implied cause of action in that case.

No one is criticizing them. They were sincere. They knew that they believed in what they were doing. But he happened to be on the side of women's rights in that case, something that his opponents on the Judiciary Committee have continually ignored.

An analysis of the 20 leading civil rights cases of 1986 demonstrates that Mr. Justice Rehnquist is clearly in the mainstream of the Court when it comes to protecting minority interests. In these 20 civil rights cases, Justice Rehnquist voted with the majority 14 times for a 70-percent mainstream rating which is identical to the mainstream ratings of Justice Blackmun and Chief Justice Burger. The highest mainstream rating goes to Mr. Justice Powell who voted with the majority 90 percent of the time in civil rights cases. Several Justices, by the way, have lower mainstream ratings in regard to these issues than Mr. Justice Rehnquist.

What it comes down to is that certain members of the Senate Judiciary Committee cannot stand the fact that President Reagan has appointed Justice Rehnquist to become Chief Justice of the U.S. Supreme Court, why? Because they do differ ideologically with both President Reagan and Mr. Justice Rehnquist. Actually ideology should play a very limited role. However, a judge should be rejected if he believes in blatant segregation. But no one in his right mind, no one who understands, no one who reads these opinions, no one who looked at the 15-year history, no one who is fair will try to make that type of assertion unless they are trying to make political points.

Mr. Justice Rehnquist's nomination is not going to be destroyed by these political points. But I suspect that there is a desire on the part of some to tar his reputation so bad that no matter what opinions he writes in the opinion they will be criticized by certain segments of our society who always criticize those who are not on the left side of the political spectrum.

Mr. President, Justice Rehnquist clearly, like President Reagan, is not on the left side of the political spectrum of our country. He is on the right side. I will say that term "right" means more than just one connotation.

You cannot write the majority of the majority opinions for the last two terms and be outside the mainstream.

I have seen major journalists in this country try to distort his record. That is shocking to me. I have not seen major Supreme Court journalists who really understand what they are doing distort his record. Maybe it can be explained away in the explanation that many of those who have distorted his record just plain do not understand the Supreme Court, do not understand the law, do not understand the widely disparate viewpoints in the law and are just advocating again their own ideological makeup.

But some of it is a little more than vicious. I suspect the purpose now is not to defeat his nomination because that is not going to occur. The purpose now is to try to smear his reputation, at least by some, not by all. There is a sincere belief on the part of a number of our Senators that they would prefer to have someone different than Mr. Justice Rehnquist. There are many who will vote for him, not many, but a number who will vote for him who would prefer probably a Justice from the left to a Justice from the right of center. There are many in this country who might feel otherwise. But there are millions who believe that this President has the right to this nomination. This man has a right to be there. He has been on the Court 15 years. He has the support of all his colleagues. He has an eminent record, is considered the leading intellectual on the U.S. Supreme Court today among a class of intellectuals who are very seldom duplicated and have been very seldom duplicated in the history of our country.

I hope that our colleagues will be fair in this debate because it is really important. It is important that we do not tar the reputation of a man who has had such a public service record. I will be doing my best to make sure that he is not tarred here. If you want to talk cases we will talk about cases. If you want to talk about ideology we will talk about ideology. If you want to talk about the merits of certain things we will talk about that.

In considering this nominee, it is very important that we accord him the respect that his present position deserves.

I have to admit one of the low points to me of the hearings was people being brought in for something that happened 24 years ago and remembering details like none of us would ever remember, and others brought in who disputed those details, and the readiness on the part of some of our Senators to immediately presume the worst rather than giving the benefit of the doubt.

I do not mean to malign any Senators or impugn their motives or find fault with anyone, but I thought there were some pretty low points in the Senate hearings.

I hope that this debate will be an elevated one that befits the U.S. Supreme Court and the nomination of the Chief Justice. I hope that we can talk about the merits and not about just red herrings as were talked about in the committee.

I hope that we will somehow look at that 15-year record of service, the esteem his fellow colleagues have for him, and if there is a question, resolve

it by giving the benefit of the doubt to this wonderful man.

We have people accuse him of shoving people in voting lines. There is no one who knows Bill Rehnquist, not anyone, who would ever believe that. He is one of the most quiet, unassuming, unobtrusive people you will ever meet. He has been that way, as far as I can ascertain, all of his life.

We have people arguing about ethics. Again, assuming all the worst and never giving the benefit of the doubt, I wonder if ideology has not played a tremendous role in all of this.

If Justice Rehnquist wrote a memorandum where he pointed out the difficulties of the equal rights amendment, he is joined by literally hundreds of intellectuals who have drafted similar memorandums. It has been one of the most hotly debated issues for the last 14 years.

The fact that we differ sometimes on legal matters is really kind of insignificant and inconsequential. We are going to have a difference. We differ in the Senate. We differ among ourselves. And to impugn a person because he differs with you ideologically is really stooping too low.

It is fair to point out you are different, fair to point out that you believe one way rather than the other, fair to point out that you wish he had a different opinion, but it is really something to make that the sole determining factor as to whether or not you vote for or against a U.S. Supreme Court Chief Justice.

Madam President, I am grateful to have this opportunity to participate in this debate. I look forward to it. It should be a stimulating one.

Thank you.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

□ 1320

Mr. KENNEDY. Madam President, this vote is one of the most important that any of us will ever cast. The Chief Justice of the United States is more than just first among equals on the Supreme Court. He symbolizes the rule of law in our society. He speaks for the aspirations and beliefs of America as a nation.

The Senate is not a rubber stamp for the nomination of any Federal judge, let alone the most important judge of all, the Chief Justice of the Nation. The framers of the Constitution envisioned a major role for the Senate in the selection of judges. The Virginia plan, the original blueprint for the Constitution, gave the legislature sole authority for appointment of members of the judiciary. James Madison favored the selection of judges by the Senate. The provision ultimately adopted in the Constitution was a compromise described as giving the Senate the power "to appoint judges nominated to them by the President."

The Senate, therefore, has its own constitutional responsibility to scrutinize judicial nominees with special care, and the highest scrutiny should be reserved for the person nominated to be Chief Justice of the United States.

It is no accident that the Constitution speaks, not of the "Chief Justice of the Supreme Court," but of the "Chief Justice of the United States." In this sense, the Chief Justice is the ultimate trustee of American liberty; when Congresses and Presidents go wrong under the Constitution, it is the responsibility of the Supreme Court to set them right. Among members of the Court, the Chief Justice is chiefly responsible for ensuring that the Court faithfully meets this fundamental responsibility.

Presidents and Congresses come and go, but Chief Justices are for life. In the 200 years of our history, there have been only 15 Chief Justices. The best of them, the greatest of them, have been those who applied the fundamental values of the Constitution fairly and generously to the changing spirit of their times.

With his famous dictum, "We must never forget that it is a constitution we are expounding," John Marshall shaped the Court in the early years and laid the groundwork for America to become a nation. Roger Taney failed the test and helped put the country on the path to Civil War. Charles Evans Hughes helped guide the country safely through its severest domestic test of modern times—the upheaval of the Great Depression. In recent times, Earl Warren understood the central role of the Bill of Rights and its protections for the individual and helped guarantee that the civil rights revolution would pursue a peaceful path.

Two hundred years of history have assigned the Chief Justice a place in the affairs of our Nation not given to any other judge or justice. His commitment to equal justice under law is particularly important because the Court is the last refuge for racial minorities, those with unpopular views, and others outside the corridors of power who cannot look to the majority in society for protection of their rights.

Justice Rehnquist is not qualified to discharge this preeminent responsibility. His statements and actions throughout his career shed significant doubt on his commitment to equal justice under law, his adherence to ethical standards, and his credibility. His record on the Supreme Court places him outside the mainstream of American jurisprudence.

Near the end of the committee's examination of Mr. Rehnquist in 1971, we received allegations that Mr. Rehnquist had challenged minority voters in Phoenix in the early 1960's. We were unable to investigate those allegations completely in 1971. After the committee had reported Mr. Rehnquist's nomination in 1971, the infamous school segregation memo surfaced. Mr. Rehnquist denied in writing that the memo supporting school segregation stated his views, but was never cross examined on this issue.

We have now had the opportunity to look more thoroughly into these and other matters. Based on the current record, the Senate would probably reject Mr. Rehnquist if he were before us now as a first-time nominee to the Supreme Court. And he certainly does not deserve to be rewarded for concealing those transgressions in the past by elevating him now to be Chief Justice. I have heard the argument that refusing to approve this nomination will reflect adversely on Justice Rehnquist and therefore on the Court. Mr. Rehnquist should have been rejected in 1971. We should not compound that error by promoting him in 1986.

The choice is not whether to make Justice Rehnquist the Chief Justice or impeach him. If rejected by the Senate, Justice Rehnquist will presumably remain on the Court. We are saying simply that he lacks the special qualities we expect of our Nation's chief judicial officer. The Senate did not hesitate to make a similar judgment against Associate Justice Abe Fortas when he was nominated for Chief Justice in 1968, and we should not hesitate to apply the same test to Justice Rehnquist.

There are four basic reasons why I oppose this nomination of Mr. Rehnquist:

Consistent and appalling record of opposition to minorities; his extreme positions against the constitutional minorities; his extreme positions against the constitutional rights of individuals; his refusal to recuse himself in the case of Laird versus Tatum; and his lack of candor in testifying to the Senate Judiciary Committee.

INSENSITIVITY TO MINORITIES

Justice Rehnquist's entire legal career shows a persistent hostility to the rights of minority citizens. In his first job after law school, when Mr. Rehnquist was a law clerk to Justice Jackson, he authored his infamous memo on the school desegregation cases, in which he stated:

I realize that it is an unpopular and unhumanitarian position, for which I have been excoriated by my "liberal" colleagues but I think *Plessy v. Ferguson* was right and should be affirmed.

In 1971, Mr. Rehnquist stated that the views in the memo were Justice Jackson's, not his own. In the hearings in July, Justice Rehnquist reaffirmed this position. Frankly, his statements

are not credible. He has been contradicted by several people, including impartial commentators. His fellow law clerk at the time, Donald Cronson, disputes Rehnquist's explanation and says the memo was more Cronson's than Rehnquist's. Elsie Douglas, who was Justice Jackson's secretary for 9 years, said that Mr. Rehnquist's account was "incredible on its face." Richard Kluger, who wrote the definitive work on the Brown decision concluded that a preponderance of the evidence indicated that the memo was an accurate statement of Mr. Rehnquist's own views on segregation, not Justice Jackson's. We have looked at all of the memos Mr. Rehnquist prepared for Justice Jackson; several of them contain Mr. Rehnquist's personal views, and are written in a style similar to the segregation case memo.

Justice Jackson died in October 1954, a few months after he had voted for desegregation and against the position in the Rehnquist memo, so we don't know what he would say about it. But the record itself casts serious doubt on Justice Rehnquist's explanation.

Mr. Rehnquist's hostility to minorities increased when he entered private practice in Phoenix. In the 1960's he publicly opposed a Phoenix public accommodations ordinance, and he publicly challenged a plan to end school segregation in Phoenix, stating that "we are no more dedicated to an integrated society than a segregated society."

At his confirmation hearings in 1971, he stated that he has come to realize "the strong concern that minorities have for the recognition of these rights." Mr. Rehnquist did not, however, say that he had come to share this concern. In response to my question at the hearings, Justice Rehnquist could not recall a single civil rights statute which he had supported on the public record.

In the early 1960's, he led a Republican Party ballot security program designed to disenfranchise minority voters. Accounts of voter harassment by participants in the program in Phoenix in 1962 are documented by reports in the Arizona Republic of November 7, 1962, that voter-challenging by Republicans in predominately black and Hispanic precincts in South Phoenix obstructed the right to vote of citizens assigned to those precincts.

Similar difficulties characterized election day in Phoenix in 1964. On November 4, 1964, the Arizona Republic reported that:

Substantial harassment of Democratic voters in several Phoenix precincts was reported to State Democratic Party leaders.

Robert H. Allen, State Democratic chairman, said reports reaching his office indicated that the harassment consisted mainly of "indiscriminate mass challenging of voter residency." "Most of the harassment came from precincts with predominantly Negro and Mexican American voter registration," said Allen.

In 1960, Rehnquist was designated cochairman of the ballot security program; he supervised and assisted in the preparation of envelopes mailed to Democrats—largely in black and Mexican-American districts—which were the foundation of residency challenges; he recruited lawyers to serve on a lawyer's committee; he advised challengers on the law; and he supervised in assembling returns of the mailings for challenging purposes.

In 1962, Rehnquist was designated chairman of the lawyer's committee of the county Republican Party, and he again taught challengers the procedures they were to use. And, as in 1960, he served as a troubleshooter—going to precincts at which disputes had arisen in order to help resolve them.

Finally, in 1964 Rehnquist became chairman of the ballot security program, with overall responsibility for mailing out envelopes, recruiting challengers and members of the lawyer's committee, and speaking, or seeing that someone spoke, at a training session of challengers.

Thus while Mr. Rehnquist has sought to disassociate himself from the tactics in 1962 and other years, he held a high and responsible position in the election day apparatus from at least 1960 to 1964, a period that saw very substantial harassment and intimidation of voters in minority group precincts.

□ 1330

The committee has received sworn testimony from numerous credible witnesses that, as part of his involvement in the ballot security program, Mr. Rehnquist personally challenged the eligibility of minority voters. Mr. Rehnquist categorically denied this. In response to repeated questioning during the recent hearings, Justice Rehnquist continued to deny that he had ever challenged voters during the 1958-68 period or intimidated voters at any time. Nevertheless, five witnesses testified that Justice Rehnquist was engaged in challenging or intimidating voters. None of these witnesses had anything to gain by misrepresenting the truth, and, in fact, may feel they are risking adverse consequences.

For example, Mr. James Brosnahan, an assistant U.S. attorney in Arizona in 1962, testified that he visited a minority polling place in South Phoenix on election day 1962, that he saw Rehnquist at the precinct and that others in the polling place pointed out Rehnquist as having engaged in challenging voters. He discussed the matter with Rehnquist, who did not deny the charge. His answers to Mr. Brosnahan's questions acknowledged that he had been engaged in challenging voters.

Dr. Sidney Smith testified that he was in a predominantly minority Phoenix polling place in 1960 or 1962. He saw Mr. Rehnquist drive up with one or two men and get out of the car. Mr. Rehnquist approached two black men in the line of voters and held up a white card for them to read. He said:

You have no business being in this line trying to vote. I would ask you to leave.

Mr. Charles Pine testified that he was working out of Democratic county headquarters and received a complaint about someone intimidating voters at the Bethune polling place in 1962. When he arrived, an attorney identified the man engaged in challenging voters as Rehnquist. Mr. Pine saw the man identified as Rehnquist approaching voters, and asking, "Pardon me, are you a qualified voter?"

These witnesses provide overwhelming evidence that Rehnquist was personally engaged in challenging and harassing voters during the early 1960's.

Minority citizens look to our Federal courts for equal justice. They have reason to be concerned that their rights will not be protected in a court led by Justice Rehnquist.

As a member of the Supreme Court, Justice Rehnquist has been quick to seize on the slightest pretext to justify the denial of claims for racial justice:

His lone dissent in the Bob Jones University case supported tax credits for segregated schools.

In Batson versus Kentucky, his dissent supported the right of a prosecutor to prevent blacks and minorities from serving on a jury.

In Keyes versus School District No. 1, Denver, Colorado, his dissent supported the view that segregation in one part of a school district does not justify a presumption of segregation throughout the district.

In 33 cases during his 15 years on the Court, Rehnquist has voted in favor of a black complainant in a race discrimination case; 31 were unanimous decisions.

In 14 race discrimination cases brought by or on behalf of blacks, Justice Rehnquist cast the deciding vote against the civil rights claimant every time.

RECORD OF EXTREMISM ON THE COURT

In his 15 years on the Supreme Court, Justice Rehnquist has compiled a record of consistent opposition to individual rights in all areas—minority rights, women's rights, religious liberty, rights of the poor, rights of aliens, and rights of children.

In 1974, Harvard Law Professor David Shapiro reviewed Justice Rehnquist's first four terms on the Court and reached the following conclusion:

A review of all the cases in which Justice Rehnquist has taken part indicates that his votes are guided by three basic propositions:

(1) Conflicts between an individual and the Government should, whenever possible, be resolved against the individual.

(2) Conflicts between State and Federal authority, whether on an executive, legislative or judicial level, should, whenever possible, be resolved in favor of the States; and

(3) Questions of the exercise of Federal jurisdiction, whether on the district court, appellate court or Supreme Court level, should, whenever possible, be resolved against such exercise.

Justice Rehnquist's hostile record on individual rights is shocking. During Justice Rehnquist's tenure, the Court has decided 23 cases involving constitutional claims of sex discrimination. The majority of the Court voted with the claimant 14 times. Justice Rehnquist voted to uphold the challenged statute or practice in 20 of the 23 cases effectively against individuals.

In cases involving claims of discrimination against legal aliens, Justice Rehnquist has voted to uphold the discriminatory statute in everyone of the 12 cases in which he participated. The majority of justices found the challenged statute unconstitutional in eight of those cases. Justice Rehnquist would bar legal aliens from holding jobs ranging from architect to notary public.

In cases striking down statutes which provide that illegitimate children do not have the same rights as legitimate children, Justice Rehnquist has consistently voted to uphold the discriminatory statutes. Justice Rehnquist would deny disability insurance payments and worker's compensation benefits to illegitimate children.

Since Justice Rehnquist has been on the Court, it has decided 25 cases involving separation of church and State. In 13 of those cases, a majority of Justices held the challenged statute to be a violation of the first amendment prohibition on Government sponsorship of religion. Justice Rehnquist voted to uphold the statute completely in 23 of the 25 cases, and voted to uphold part of the statute in the remaining two cases.

Of 30 cases involving claims of cruel and unusual punishment, the Court found a constitutional violation in 15. Justice Rehnquist found a constitutional violation in none of those cases.

Justice Rehnquist's pattern of denying individual rights in pervasive and flies in the face of the Court's critical role as protector of such rights. Perhaps the most telling illustration of Justice Rehnquist's unwavering commitment to uphold Government action against challenge by an individual is his record in cases where he cast the deciding vote in a matter involving the constitutionality of Government action. In 120 of 124 cases, Justice Rehnquist cast the deciding vote to reject the constitutional claim.

Imagine what America would be like if Justice Rehnquist had been Chief Justice and his cramped and narrow view of the Constitution had prevailed in the critical years since World War II.

The schools of America would still be segregated. Millions of citizens would be denied the right to vote under scandalous malapportionment laws. Women would be condemned to second-class status as second-class Americans. Courthouses would be closed to individual challenges against police brutality and executive abuse—closed even to the press. Government would embrace religion, and the wall of separation between church and State would be in ruins. State and local majorities would tell us what we can read, how to lead our private lives, whether to bear children, how to bring them up, what kinds of people we may become. Such a result would be a radical and unacceptable retreat from the protections Americans enjoy today, and our Constitution would be a lesser document in a lesser land.

TATUM VERSUS LAIRD

The Chief Justice of the United States must have the highest ethical standards. Shortly after he joined the Court, Justice Rehnquist refused to recuse himself in the important case of Tatum versus Laird, and thereby demonstrated an ethical lapse that, in my view, should by itself disqualify Justice Rehnquist from being Chief Justice.

The plaintiffs in Tatum challenged the Government's policy of surveillance of civilians by the Army. Justice Rehnquist cast the deciding vote to reject the challenge, and denied the plaintiff's request that he recuse himself. The applicable ABA Code of Judicial conduct required disqualification if a judge's impartiality might reasonably be questioned because of the judge's involvement in the matter prior to his coming to the bench.

The public record indicates that Assistant Attorney General Rehnquist was heavily involved in the development of the policy of surveillance of civilians by the Army, the same policy which was challenged by the plaintiffs in Tatum. Further, Assistant Attorney General Rehnquist had some knowledge of disputed evidentiary facts in the Tatum case, and had, while the case was pending in the Federal Court of Appeals, expressed the opinion that the plaintiffs in Tatum versus Laird had a nonjusticiable claim.

I might point out for the RECORD, Mr. President, that I find the statement by the committee members in referencing the Laird versus Tatum issue in question to be in complete in significant respects. In the committee report, the memorandum in which Justice Rehnquist indicated his reasons for not recusing himself is reprinted verbating followed by excerpts from Mr. Rehnquist responses to questions by Senator Ervin when he appeared before the Ervin Committee.

But the most significant comment that Mr. Rehnquist made is not included in the majority views in the committee report. It is included in my comments on page 79 of the committee report. In this key statement, Mr. Rehnquist indicated "My only point of disagreement with you is to say whether in the case of Laird versus Tatum that has been pending in the court appeals here in the District of Columbia that an action would lie by private citizens to enjoin the gathering of information by the executive branch where there has been no threat of compulsory process and no pending action against any of those individuals on the part of the Government."

□ 1340

That is a direct statement about how he would rule if he were deciding the Laird versus Tatum case. But through oversight or whatever, that particular reference was not included in the committee's report to this body. That is one of the most significant points in the Laird case, that Mr. Rehnquist stated his conclusion about the parties rights in that particular case and then ruled on it when he got to the Supreme Court.

Finally, the record of Assistant Attorney General Rehnquist's actual role in the formulation of the policy involved in Tatum is in conflict with his sworn testimony on the subject. In his testimony last month, Justice Rehnquist stated that the only information he had about Army surveillance of civilians was obtained in connection with May Day. May Day was in 1971. In fact, Mr. Rehnquist was involved in the development of the policy of Army surveillance of civilians from the beginning—in 1969.

That was all brought out in the various documents provided by the Justice Department, many of which he authored. In the civil disturbance plan memorandum, Mr. Rehnquist provides a very detailed justification for the use of the Army to spy on American citizens, and the use of the FBI for intelligence gathering on American individuals.

In considering the Tatum versus Laird case, we should not forget the issue in that litigation and the consequences of Justice Rehnquist's vote. If Justice Rehnquist had recused himself, as he should have, the decision of the court of appeals would have been affirmed, and the case would have been sent back to the trial court. Discovery would have gone forward, and in the course of that discovery, the American people would have learned about the Huston plan, about the Army's surveillance of private citizens, and about the CIA's illegal domestic surveillance operations. But because of Justice Rehnquist's vote, that infor-

mation remained concealed from the American people for several years. His vote prevented the American people from learning about the illegal intelligence activities going on inside the Nixon administration. As an Assistant Attorney General in the Justice Department, Mr. Rehnquist was well aware of these activities and he did not want the American people to know about them.

That is why Prof. Geoffrey Hazard, one of our Nation's foremost judicial ethics experts, who played a key role in formulating the "ABA Canons On Judicial Ethics" has been so critical of Justice Rehnquist's decision to sit on that particular case. We will examine Professor Hazard's opinion in greater detail during the course of this debate.

CREDIBILITY

Throughout all of these issues which raise serious concerns about Justice Rehnquist's fairness and openmindedness and commitment to equal justice runs a thread of evasivenss that casts doubt on his credibility. From the Jackson memo to the voter harassment to the Tatum case, we see a pattern of explanations by Justice Rehnquist that are contradicted by others or are misleading or do not ring true. It is not a pattern worthy of the Chief Justice of the United States.

CONCLUSION

In the past, the Senate has not hesitated to oppose controversial Presidential nominations to the office of Chief Justice. Before Rehnquist, 20 persons have been nominated to that high office, but only 15 have been confirmed. Most recently, in 1968, with the active encouragement of the current chairman of this committee, the Senate refused to invoke cloture on President Lyndon Johnson's nomination of Associate Justice Abe Fortas to be Chief Justice, and the nomination was withdrawn.

The Senate should not hesitate to do the same today. This institution is not a rubberstamp. We have our own independent responsibility to the Constitution, the Supreme Court and the judicial appointment process.

On the merits, Justice Rehnquist is not mainstream but too extreme—he is too extreme on race, too extreme on women's rights, too extreme on freedom of speech, too extreme on separation of church and state, too extreme to be Chief Justice.

Further, Justice Rehnquist did not hesitate to defy the fundamental principles of judicial ethics by participating—and casting the decisive vote—as an Associate Justice in a major Supreme Court case that challenged his own extremist actions as an Assistant Attorney General in fashioning the Nixon policy of military surveillance of civilians. And he engaged in an unusually cruel and unseemly violation of legal ethics by concealing a trust he had drafted for the benefit of the destitute and deperately ill brother of his wife.

Finally, Justice Rehnquist did not come clean with the committee in any area of major controversy; the committee record, including the testimony of numerous witnesses, is replete with serious challenges against his credibility.

In sum, Justice Rehnquist is outside the mainstream of American constitutional law and American values, and he does not deserve to be confirmed as Chief Justice of the United States.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Madam President, I rise to oppose this nomination.

I want to put one point at rest very promptly. That is the point that was made by the majority leader this morning before we got into the Rehnquist nomination. The majority leader this morning said that this is just a question of giving the President the right to name those jurists that he believes should be on the Court, and that it was a question of liberalism versus conservatism.

Let me point out that this statement is just so contradictory to the facts that, before I get into some of the remarks I hope to make in connection with this nomination, I think we ought to look at the reality of the situation on that subject.

I will address myself later to the number of judges that we have confirmed without any question being raised concerning political philosophy. But let us take two outstanding cases.

In connection with the confirmation of Justice Sandra Day O'Connor, who is recognized, respected, and accepted as a conservative jurist, this body voted 99 to 0 for her confirmation. It is a fact that I think very few of us doubt that the vote with respect to the confirmation of Justice Scalia will probably be something in that very area. His nomination came out of the committee unanimously.

So, to suggest that the opposition to Justice Rehnquist is somehow related to his political philosophy or his conservatism just does not accord with reality. Anyone who suggests that that is the case just is not willing to look at the facts.

Madam President, I have been in this body off and on since 1974, and it is my view that there will never be a more important vote that I have cast or will cast than the one having to do with the confirmation of the Chief Justice of the United States.

Although I recognize the value of television in the Senate, I am frank to say that I am somewhat disappointed, that there are not more Members of this body on the floor prepared to debate this issue. We are considering the confirmation of a nominee for Chief Justice who would serve for 10, 15, 20 years, possibly well into the 21st century. Much is at stake for the Nation.

The Chief Justice heads the third branch of our Government. He heads the judicial conference of the United States, composed of all Federal judges. He appoints committees which make policy for our Federal courts. He chairs the board of the Federal Judicial Center, which does research, training, and education for our Federal courts. He literally manages the Supreme Court.

He presides over the Court sessions and decisionmaking meetings of the Court.

When he is in the majority he assigns opinions to the Justice who is to write them.

The Chief Justice serves as a symbolic head of the Federal court system. He holds the highest judicial office in our Nation. This is more than just another judicial appointment.

He occupies the pinnacle of judicial power in our country.

Before confirming a nominee for Chief Justice we must discuss fully the issues and the controversies presented by this nomination.

□ 1350

I accept the challenge of my colleague from Utah, who said "let us be fair." If my colleagues in the U.S. Senate will look at all the evidence concerning Justice Rehnquist and be fair about it, if they will not make a decision purely on a politically partisan basis, they will come to the conclusion that Justice Rehnquist should not be confirmed as Chief Justice. I am willing to be fair. I wonder if my colleagues are willing to be equally fair.

Some say that those of us who desire this debate are wrong to have the debate at all, that we seek a partisan fight over this nomination. Nothing could be further from the truth. I am frank to say that it should be noted that on my side of the aisle, there has been a split. Some of the Democrats have voted for confirmation and some have not. The partisanship comes from across the aisle.

Not one of those who sat on the committee could see fit to vote against the confirmation. That is indeed partisanship. One might say, well, it is not partisanship; they just understand the issues better. But I would say if you understand the issues and really thoroughly look at them, you cannot arrive at the conclusion that every Member on the other side would see fit to vote for confirmation. I hope that will not happen.

The importance of this nomination demands our integrity. It demands that we look at this man's record and put aside all political considerations and decide what is right for America.

Those of us on this side of the aisle have not delayed or thwarted confirmation of President Reagan's judicial nominees. There have been very few that have been opposed in the United States. We have confirmed over 285 Federal judges and only 5 or so of that 285 have excited any real controversy. I am frank to say that overall, there has been bipartisan cooperation.

Some would say we should not oppose or debate this confirmation because it is a reflection upon the Supreme Court of the United States itself, to raise some of the questions that my colleagues have already raised and that I shall elaborate upon in some detail today. But this is not an ordinary confirmation. To fail to raise the issues concerning Justice Rehnquist and his integrity and his candor and his truthfulness would be irresponsible on our part. We are confirming the Chief Justice of the United States, a post filled only 15 times in the history of this great Nation. The Chief Justice will serve longer than most Presidents and longer than most Senators. Therefore, I say to every Member of this body, you owe it to yourselves, but more than that, you owe it to your children and to your grandchildren to decide—do you want to make just a partisan judgment or will you make a judgment based upon all of the evidence? If it is a judgment based on all the evidence, it will be a judgment that Justice Rehnquist should not be the Chief Justice of the United States.

We are considering the confirmation of a Chief Justice who will serve all the people of the United States. Each Senator must decide on his or her own whether Justice Rehnquist is the appropriate person the appropriate choice to serve all the people of this Nation.

The Chief Justice affects future directions of constitutional interpretation. The Chief Justice is the symbol of the Supreme Court. He or she is the final guarantor of individual liberties. The Chief Justice is a symbol of the highest standards of integrity and fidelity to the law.

The most important issue for me is the last one. The Chief Justice of the United States is the embodiment of the ideal of integrity. The unfortunate truth is that the hearings cast great doubt on Justice Rehnquist's credibility. There are four major areas that trouble me in regard to his credibility. The area of voter intimidation, a memo about Brown versus Board of Education, and a restrictive covenant which applies to his property in Vermont, each of which I shall discuss in detail today. His statements regarding the case of Laird versus Tatum also raise certain credibility issues, but I will defer a discussion of those.

I want to talk about the issue of voter intimidation first. Let me make it very clear that the issue is not whether he intimidated voters. That is not the issue. The issue is whether he was truthful when he testified on this issue during his first confirmation hearing in 1971. The issue is not what he did but whether he was truthful when he testified during his confirmation hearing last month.

What did he say in 1971 when he was asked whether he had challenged voters? Justice Rehnquist stated to the Judiciary Committee in 1971 in response to written questions: "In none of these years"—meaning 1958 to 1968—"did I personally engage in challenging the qualifications of any voters." I repeat—

He stated that in none of those years did he personally engage in challenging the qualifications of any voter.

In response to evidence presented at the 1971 hearings that he engaged in harassing and intimidating voters, he submitted an affidavit after the conclusion of the hearing. In that affidavit, he stated under oath: "I have not, either in the general election of 1964 or in any other election, at Bethune precinct or in any other precinct, either myself harassed or intimidated voters, or encouraged or approved the harassment or intimidation of voters by other persons."

That was succinct, it was clear. He had not in any election, either himself harassed or intimidated voters or encouraged or approved the harassment or intimidation of voters by any other person. But the record shows overwhelmingly that that statement is untrue.

We are talking not alone about his statements in 1971. Again, in 1986, he repeated the same position over and over again. Questioned again and again as to whether he challenged voters, each time, he said no. Senator THURMOND said to him: "How do you respond to these allegations?" Justice Rehnquist said: "I have reread very carefully the statement I made to the committee in 1971 and I have absolutely no reason to doubt its correctness now."

□ 1400

Senator KENNEDY said to him, "Do you deny categorically that you were engaged in any of the activities that are identified by any of these individuals in any of the polling places that were mentioned?" Justice Rehnquist: "Yes, I do deny that."

I asked him, "Did you ever ask a voter any questions regarding his or her qualifications to vote?" Justice Rehnquist said, "Not that I can recall."

I asked him, "Did you ever ask a prospective voter to read from any text, whether the Constitution or otherwise? Justice Rehnquist: "Not that I can recall."

I asked him, "Did you ever personally confront voters at Bethune precinct?" Justice Rehnquist: "No, No, I did not."

Each time he was asked, Justice Rehnquist denied the allegation.

Members of the Senate, the evidence is exactly to the contrary. There were five witnesses who appeared before the committee, five witnesses who were totally impartial, objective, they had nothing to gain, and some, I am frank to say, had a lot to lose by being there. Yet each came forward and testified to Mr. Rehnquist's involvement in challenging, intimidating, and harassing voters.

Mr. Brosnahan was the first witness, senior partner in a San Francisco law firm of 235 lawyers, a former U.S. attorney, was the assistant U.S. attorney at that time when he met Mr. Rehnquist—even today represents clients practicing before the Supreme Court. It took a lot of courage for Mr. Brosnahan to appear before us. There is no doubt in my mind that if you had a law firm of 235 members in San Francisco, the overwhelming majority of them are going to be members of the Republican Party. There is no doubt in my mind that they are going to be conservative, that they are going to be supportive of Justice Rehnquist's nomination. But Mr. Brosnahan felt he had to come forward and testify. He was very clear. He personally did not see Justice Rehnquist challenge voters. He did not say that he did. But when he was called to investigate claims of harassment, Justice Rehnquist was there, and he testified. "At that polling place, I saw William Rehnquist, who was known to me as an attorney in the city of Phoenix. He was serving as a challenger of voters; that is to say, the conduct and complaints had to do with his conduct. People told me he was challenging, and he did not deny he was a challenger. At that time in 1962, he did not raise any question about credentials or any of that. He did not deny that."

Now, he further went on to testify that he had talked to Justice Rehnquist about the complaints about his having challenged voters, and Justice Rehnquist's comments to him acknowledged he had been challenging voters. There was no mistake that many people in the room complained about the fact that Justice Rehnquist had been challenging voters and they complained to Mr. Brosnahan, who was the assistant U.S. attorney.

Now, Mr. Brosnahan did not make a mistake about identity. He knew Mr. Rehnquist. He had attended bar association functions with him. He had introduced his wife to him. Mr. Brosnahan said that Justice Rehnquist had been challenging voters. Justice Rehnquist said that he did not, and I quote,

"personally challenge the qualifications of any voter."

Then came another witness, a Dr. Smith, a professor of psychology, former professor at the Arizona State University. He testified that he saw Justice Rehnquist at the minority polling place in Phoenix in 1960. He saw Justice Rehnquist approach two black men in a line of voters, and he heard Mr. Rehnquist—and I use the term Mr. Rehnquist because obviously he was not "Justice" at that time—he heard Mr. Rehnquist say, "You have no business being in this line trying to vote. I would ask you to leave." As a result, Dr. Smith said, the two men left the line. There was no mistake in Dr. Smith's opinion about his identity. He knew who Justice Rehnquist was and could identify him. There was no mistake about what Mr. Rehnquist did. He challenged voters. He intimidated voters. He deprived minority members of their right to vote. Dr. Smith testified that Justice Rehnquist was harassing and intimidating voters. Dr. Smith quoting Justice Potter Steward testified, "I may not be able to define intimidation but I know it when I see it."

Dr. Smith was a very impressive witness. He had absolutely nothing to gain from testifying. And when asked as to why he had come forward, he said, "I am here to keep from being shamed in the eyes of my children." And I might say that his children sat behind him during his testimony.

Yet, in spite of that direct evidence, Justice Rehnquist said he did not personally challenge the qualifications of any voters.

(Mr. COHEN assumed the chair.)

Mr. METZENBAUM. Then there was a third witness, a Mr. Pine, a successful businessman in Phoenix. In the 1960's he was active in the Democratic Party.

On election day, he was assigned to respond to complaints from precincts where harassment of voters had occurred. He testified that he received complaints about harassing voters at the Bethune precinct, and when he arrived, the attorney who accompanied him said, "That is Bill Rehnquist." He saw Mr. Rehnquist approaching voters, challenging their qualifications to vote. Mr. Pine stated that as a result of Mr. Rehnquist's challenge, voters left the line. They were entitled to vote but they left the line because Mr. Rehnquist made them feel that they should have some document, some piece of paper to show they were qualified. It was not the law. It was wrong. It was unfair.

But having said all of that, let me make it clear if Justice Rehnquist had come before the committee and said, "Yes, indeed, I did that; I challenged voters. I may have even gone too far; I'm sorry, I should not have done it. It was a number of years ago and it was a mistake on my part"—that is not what he has done—I think all of us could understand some misconduct on the part of a human being some years past.

The question is his veracity. Did he come forward and admit the conduct? Did he tell the Senate what he had done and say, "I should not have done it?" No. Justice Rehnquist back in 1971 and again in 1986, time and time again said he never personally challenged the qualifications of any voters.

And then there was Senator Pena, a State senator from New Mexico. He testified he saw Mr. Rehnquist challenge voters at a minority precinct. Mr. Rehnquist was holding up the lines. A hundred people were waiting to get in line. Mr. Rehnquist was asking everybody who came in, "Where do you live? How long have you lived there? What is your name?" These were minority voters. They were afraid. It was a way to force people to give up and leave the line, and they did just that. That is wrong. It is unfair. It was not proper conduct on his part.

□ 1410

I repeat: The issue is not what he did. The issue is, Did he tell the U.S. Senate committee considering his nomination in 1971, and again in 1986, the truth? One can only come to the conclusion that the answer is "No."

Justice Rehnquist says that he never personally challenged the qualifications of voters. That just is not the fact.

Then there was another witness, a Mr. Mirkin. Mr. Mirkin is an attorney in Phoenix, and obviously he had nothing to gain. As a matter of fact, he said that he supported Justice Rehnquist's confirmation. But when it came to the question of what he saw Mr. Rehnquist doing, he testified that he saw Mr. Rehnquist intimidate voters; he tried to encourage them to leave the line at a minority polling place. This was a man who said, "I support his confirmation."

Mr. Mirkin testified that Mr. Rehnquist was giving instructions to challengers at the polling place. But Mr. Mirkin said they were merely props. He said that the real audience was the minority voters and the real object was to get them to leave the line, to get them to give up their right to vote.

How Justice Rehnquist could tell Senator THURMOND, could tell Senator KENNEDY, could tell me that he did not challenge or intimidate voters, or how he could have told the Senate committee that in 1971, in view of the evidence, is hard to comprehend.

Before the day is over, we will hear my colleague from Utah probably talk about the fact that there were five witnesses on one side and there were seven witnesses on the other side. So I think we ought to talk about those seven witnesses, because, so far as I am concerned, those witnesses were honorable people; they were respectable people. Some were lawyers. Five of them were Republicans, or active in the party. But I do not question the fact of their total honesty, Republicans or Democrats. I am not one who believes that some people in one party tell the truth and some people in another party do not. Those five were involved in the challenging program with Justice Rehnquist.

One witness was actually involved with the Democratic Party—he had been the county chairman—and another was a police officer. All of them said the same thing: "We were not with Mr. Rehnquist, so we cannot say what he did, but we don't think he would do such a thing." In fact, they talked about the law of probabilities being that he would not do such a thing.

I respect their opinions. But testimony based on the "law of probabilities," has little weight in the face of uncontroverted direct evidence from five people under oath, each of whom has nothing to gain by testifying against Justice Rehnquist's confirmation. The witnesses were asked about Justice Rehnquist's conduct in 1962.

Question: "Can you state categorically that Justice Rehnquist did not challenge anyone on that election day?"

One answered for the group: "How could you answer that categorically when not one of us was with him all day?"

I accept that answer. You cannot categorically say that somebody did not do something on a particular day if you were not with him all during the day. The truth is that none of these witnesses knows everything that happened on election day in 1962, and they do not know everything that happened in 1960 or in 1964. They were not with Justice Rehnquist all day in 1962, and they did not claim to have been with him all day in other years.

The proponents of his confirmation say that all this is just a case of mistaken identity, that all the testimony really refers to one incident involving another man. That, I say to my colleague from Utah, who has made that statement previously, is a smokescreen; that is a phony argument.

There was an incident involving another man in 1962 at Bethune Precinct. There was a scuffle, and a man was taken away. That man's name was Mr. Bentson. But none of the five witnesses referred to that incident at all. None of the five witnesses testified to a scuffle; none mentioned the police taking someone away. That was a totally separate and distinct action by Mr. Bentson. That incident occurred at a different time and place than the

incidents described by the five eyewitnesses.

The five witnesses who saw Mr. Rehnquist were not talking about Mr. Bentson. There is no claim that Justice Rehnquist was involved in that incident. So let us not confuse the facts on the question of Mr. Bentson and Mr. Rehnquist.

I think my distinguished colleague will also probably say that they both were tall men, and therefore there was this confusion. But none of the five saw any scuffle. None of the five confused Mr. Rehnquist with anyone. All of the five recogized Mr. Rehnquist for whom he is.

There is another phony argument that has been offered. The supporters of Justice Rehnquist say that the police officer who investigated the scuffle was at the Bethune Precinct all day, and that he came forward and testified that he never saw Justice Rehnquist.

There are two major problems with that argument. First, only one of the witnesses testified he was sure an incident occurred at Bethune Precinct, and in that case the incident occurred in 1964. The police officer was at Bethune in 1962, not 1964.

Another problem: The police officer told us that he was at the polling place only 1 hour, and the rest of the day he was "in the area." Those are his words, "in the area." So he did not know what was going on there.

There are a lot of people in the area of the U.S. Senate today, probably some as close as the House of Representatives and some on the streets. They are in the area but they probably do not know what is going on on the floor of the U.S. Senate this afternoon.

Supporters of Justice Rehnquist go on to say that one of the witnesses they called, a Mr. Maggiore, was in Democratic headquarters in 1962—he was the county chairman at that time—and he never received a complaint about Mr. Rehnquist. So what? Because nobody called him, does that prove it did not occur? They contend that Mr. Rehnquist could not have been involved in challenging voters because Mr. Maggiore got no call.

□ 1420

Would the assistant U.S. attorney call the Democratic chairman, or would the State senator feel it necessary that he call the State chairman? Would the doctor feel that it was incumbent upon him to call the county chairman? Of course not.

The failure of a call to the Democratic county chairman does not prove anything. It just proves that nobody saw fit to call him.

And, again, the incidents that occurred in 1960 and 1964 could not lead to a call in 1962.

None of the witnesses, I might also say, claimed that he had called Mr. Maggiore.

So what do we have? On one side, we have five witnesses who were there, five witnesses with nothing to gain and a lot to lose, and on the other side, seven witnesses all of whom admit they were not with Justice Rehnquist throughout all the election days in either 1960, 1962, or 1964.

It is not easy to come out here on the floor and state my conclusion that a sitting Supreme Court Justice has misstated the facts. But the Constitution demands that each of us make an independent judgment as to the fitness of the nominee for this office, the nomination of the Chief Justice, the highest symbol of integrity and fidelity to the law. Justice Rehnquist misled the committee in 1971 and in 1986. He challenged voters. He harassed voters. He deprived them of their right to vote. Then he told the Senate—and to me this is the critical question—he told the Senate in 1971 under oath and again in 1986 that he did not.

That, to me, is the key point, the question of telling the truth to the U.S. Senate.

I cannot support his nomination under these circumstances. Yet I want to be very candid about something. If this had been the only instance of his lack of candor, I might be persuaded to say, "Well, maybe he has misstated the facts but one issue does not make a total case and perhaps I should give him the benefit of the doubt."

But there is so much more having to do with the very question of his candor and his integrity and his forthrightness.

Let me go now to another subject. As I go to these subjects, I want to emphasize I do not believe that the issue is what he did or did not do. I believe the issue has to do with his candor and his integrity and his truthfulness in his representations to the U.S. Senate.

The memo in connection with the case of Brown versus Board of Education is the next matter about which I would like to speak.

Justice Rehnquist wrote a memo. The memo has, right under the substance of the text, his initials, WHR. He was younger then. He was a clerk for Justice Jackson. He had a right to his own views. I am not concerned about whether I agree or disagree with him about his thoughts concerning Brown versus Board of Education of Plessy versus Ferguson back there in 1952. I am concerned about whether he told the truth about the memo in 1971 at his first confirmation hearings. I am concerned about whether he told the truth to the Senate in 1986.

Let us take a look at the facts: The memo was typed by Justice Rehnquist. As I previously stated, it has his initials on it. It is written in the first person. The memo says, "I realize that it is an unpopular and unhumanitarian position for which I have been excoriated by 'liberal' colleagues, but I think Plessy versus Ferguson was right and should be reaffirmed."

But in 1971, at his confirmation hearing, Justice Rehnquist stated, "Those are not my views. They are Justice Jackson's."

He stated in his 1971 letter to the Senate: "The bald simplistic conclusion that 'Plessy versus Ferguson was right and should be affirmed' is not an accurate statement of my own views at the time."

That leads to the first question of credibility because the memo is in the first person, the memo has his initials right below that very line and it is clear that he agreed with Plessy versus Ferguson doctrine of segregated schools. But when he advised the Senate about his position, he indicated that he disagreed with Plessy and supported the view that the public schools should be integrated.

I do not care what his opinion was then. He had a right to his point of view and he has a right to his point of view as a member of the Court and whether I agree or disagree is not the issue I am concerned about here.

So at one point he said he agreed with the Plessy decision, on the other point he said he disagreed with it, and then—and then—in 1986 When Senator BIDEN asked him what his views were, he said "I do not think I reached a conclusion."

Now, you have him on one of the issues, you have him on the other side of the issue categorically, and then you have him saying "I do not think I reached a conclusion."

These statements are too totally inconsistent to reconcile. The story just will not wash. All the rest of the evidence says the memo represented Justice Rehnquist's views.

The title of the memo is "A Random Thought on the Segregation Cases." Does that sound like he was stating Justice Jackson's views? Of course not.

The memo ends by it saying he has been "excoriated" by his liberal colleagues. If these are Justice Jackson's views in that memo, then is he saying that the liberal colleagues of Justice Jackson were excoriating him? Come on now. Other members of the Court excoriating their fellow colleague? Does Justice Rehnquist want us to believe that the liberal members of the Court were excoriating Justice Jackson?

Can we believe that Justice Jackson was excoriated by liberal colleagues for having a sincere view about this case? Can we believe that Justice Jackson would announce to his fellow Justices at the conference that he had been excoriated, as the memo indi-

cates? It strains one's credulity. It is unbelievable.

Justice Rehnquist's own colleagues, his fellow clerks, indicate who those liberal colleagues are. One of those fellow colleagues recently said, "Unquestionably, in our luncheon meetings with the clerks he—meaning Justice Rehnquist—did defend the view that Plessy was right."

Another problem with his explanation is that the first half of the memo is a gratuitous discussion of the history of court decisions on property rights. Can it be reasonably claimed that Justice Jackson lectured his fellow Justices about elementary propositions, when they were intimately familiar with this history?

Justice Rehnquist says that Justice Jackson supported the doctrine of separate but equal.

He said to the Senate in 1971 and in 1986 that Justice Jackson did not want to overturn Plessy. He makes that argument to support his position that it was not his memo but that it was Justice Jackson's.

But what were Justice Jackson's views at the time? Certainly not those indicated by Justice Rehnquist. We can pretty well conclude what Justice Jackson's view were. After all, Justice Jackson joined in the unanimous decision to strike down Plessy versus Ferguson.

Justice Rehnquist says, even if those were Jackson's view when the decision was handed down they were different when the Justices first conferred about the case. But then you check some other evidence and you look at the notes of Justice Jackson's fellow Justice, Justice Burton at the conference. Justice Burton's notes show that Jackson supported overturning Plessy, and another Jackson clerk said Justice Jackson was prepared to support a Court decision ending segregation. There is no evidence supporting Justice Rehnquist's claim or contention in this respect.

No other drafts or memos indicate Justice Jackson agreed with the statement that "I think Plessy versus Ferguson was right and should be reaffirmed." Those were the views of William Rehnquist, the clerk.

□ 1430

He had a right to have those views. He did not have a right to fail to state the facts in 1971 and then to indicate his position was exactly opposite and then indicate in 1986 that he had no views at all.

The supporters of Justice Rehnquist's interpretation point to a letter from Justice Rehnquist's fellow clerk, Donald Cronson, to the Senate in 1971;

That letter claimed Jackson asked for two memos—one supporting overturning the Plessy decision and the other supporting upholding it. Cronson claimed both memos were collaborative efforts.

But the Cronson account just does not withstand scrutiny:

First, if the memos were collaborative effort, why did not Justice Rehnquist ever mention that? Why did not he respond to all the controversy by saying he coauthored the memo with someone else? He did not say that?

Second, if the memos were collaborative efforts, why is each signed by only one clerk, WHR, William H. Rehnquist? No more, no less; no other names. It is not difficult to find at least 25 other memos that are signed the same way, WHR.

Third, with respect to the Cronson memo, Cronson's claim is that Justice Jackson asked for one memo supporting Plessy and the other one opposing it. But Justice Rehnquist, you will recollect, as I just told you, claimed that Justice Jackson favored reaffirming Plessy, not that he wanted argument on both sides.

Fourth, Mr. Cronson's memo is titled "A Few Expressed Prejudices on the Segregation Cases." That is not a title for a memo stating Jackson's views of the cases.

The fact is that Mr. Cronson's claim that the memo represented Jackson's views does not hold up.

Ten years ago, in a scholarly analysis of the Brown and Plessy decisions, Richard Kluger concluded:

> One finds a preponderance of evidence to suggest that the memorandum in question . . . was an accurate statement of his own views on segregation; not those of Robert Jackson, who, by contrast, was a staunch libertarian and humanist.

And to further refute Justice Rehnquist's denial that the memo represented his own views, we now have the statement of Justice Jackson's personal secretary of 9 years, Elsie Douglas. Ms. Douglas stated in a recent letter to Senator KENNEDY:

> It surprises me every time Justice Rehnquist represents what he said in 1971 that the views expressed in his 1952 memorandum concerning the segregation case then before the Court were those of Justice Jackson's rather than his own views. As I said in 1971 when this question first came up, that is a smear of a great man for whom I served as Secretary for many years.
>
> Justice Jackson did not ask law clerks to express his views. He expressed his own and they expressed theirs. That's what happened in this instance.

This is no ordinary memo about which we are speaking. And I must say that I somewhat apologize to my colleagues for taking so much time to talk about this, but I believe that it again bears on the question of the Justice' credibility, of his candor, of his truthfulness. We are talking about a memo in a matter that was not an ordinary case. The Brown case was the most important constitutional decision of this century.

The memo was a key issue in his 1971 confirmation. It is inconceivable, that Justice Rehnquist could have had no position in that case, at the time which is what his statement was in answer to Senator BIDEN's question. He did have a position. That position was to oppose integration of schools.

But the issue still is not whether he was right, wrong, or whether I agree or disagree. The issue is, has he deliberately misled the Senate and the American people on two separate occasions?

Enough on that issue.

Let us go to another issue having to do with integrity and credibility and candor and openness with the U.S. Senate—Justice Rehnquist's knowledge of the restrictive covenants on his property in Vermont. Again, I want to say the issue is not whether he did or did not buy a home subject to a restrictive covenant. He did. He is not the first nor the last person who did. The issue also is not whether or not he took some action in connection with the restrictive covenant, which I believe personally he should have done. But he did not do that. The issue still has to do, in my opinion, with his candor and with his frankness with the U.S. Senate.

On July 30, Senator LEAHY asked Justice Rehnquist about the restrictive covenant in his deed to his Vermont home purchased in July 1974. The covenant states:

> No feet of the herein conveyed property shall be leased or sold to any member of the Hebrew races.

Now Justice Rehnquist testified that he was not aware of the covenant "at the time" and "was advised of it a couple of days ago."

In other words he did not know of it at the time and he just learned about it, was just advised about it a couple of days ago.

But the facts indicate something totally contrary to that. The facts indicate that Justice Rehnquist was aware of the covenant "at the time."

There are two letters that show that he was made aware of the covenant "at the time" he purchased the property. One letter, from Justice Rehnquist's attorney, dated June 24, 1974, recommends that Mr. Rehnquist "examine closely the attached abstract deed of the main cottage property."

Now, that is a letter from his lawyer. He was a member of the Supreme Court at the time. He is told by his lawyer that he should examine closely the attached abstract deed of the main cottage property. That is the deed containing the restrictive covenant.

Now, a lot of people, you might say, would not pay too much attention, but we are talking about a Justice of the U.S. Supreme Court, a man who reads legal documents and legal papers

every single day of his life when he is sitting on the bench.

Can we believe that scholarly, erudite, able lawyer, William Rehnquist, Justice Rehnquist, totally disregarded his attorney's specific advice to "examine closely" the deed?

Now, as if that were not enough, there is another letter, dated about 10 days later, July 2, 1974. The second paragraph of that letter says:

> The property is subject to restrictions relative to use * * * and ownership by members of the Hebrew race.

To restrictions relative to use—and ownership by members of the Hebrew race.

□ 1440

So he not only got one letter. He got two letters from his lawyer.

There is no question that Justice Rehnquist was aware of the covenant "at the time." But he told the committee that he was not aware of it and just had learned about it a few days earlier. It is hard to believe. But then there is another development.

An August 4, 1986, article in the Legal Times newspaper revealed that Justice Rehnquist had received the two letters from attorneys with information on the restrictive covenant. The headline of the article was: "Rehnquist's lawyer urged him to note deed restriction."

The article said:

> Associate Justice William Rehnquist's lawyer in the 1974 purchase of a Vermont house said in an interview with Legal Times Friday that he had sent a letter to Rehnquist before the purchase advising him to read the property deed, including the condition set forth in the deed. One of those conditions was a covenant prohibiting sale or lease of the property "to any member of the Hebrew race."

At another point, the article mentions the second letter—and I have added the word "John" and I have added the phrase "lawyer for the sellers of the property" only for the purpose of this debate. And Willis, I might say, is the lawyer for Justice Rehnquist.

> (John) Downs (lawyer for the sellers of the property) said that both he and Willis (lawyer for Justice Rehnquist) were aware of the restrictive covenant at the time of the sale. Downs read to Legal Times an excerpt from a letter dated July 2, 1974, from Willis in which Rehnquist's lawyer said he studied the deed.
>
> According to Downs, the July 1974 letter states: "The property is also subject to restrictions relative to use, with rights of way, construction on the various parcels, and ownership by members of the Hebrew race."

Look what now develops. What an amazing coincidence of facts. On the very same day that the article appears, Justice Rehnquist who said he had not been notified and had not learned of the restrictive covenants until several days earlier writes a letter to Senator THURMOND, the chairman of our committee. And in that letter he said he reviewed his files and discovered that July 2, 1974 letter on restrictive covenants.

Mr. Justice, I respect you and I respect the office you hold. But, Mr. Justice, I wonder what you think about that kind of evidentiary development if the evidence only came out to contradict the witness' statement after it had been published in the newspapers, and then the witness came forward and reviewed and reversed his testimony.

Justice Rehnquist said in his letter to Senator THURMOND:

> While I do not doubt that I read the letter when I received it, I did not recall the letter or its contents before I testified last week.

Before this debate is concluded, I will attempt to bring to the attention of my colleagues the innumerable occasions on which Justice Rehnquist has faulty recall. It is very difficult to comprehend. I understand certainly somebody who could not recall what happened on October 7, 1968, or 1972. Nobody would expect that. We are not talking about those kinds of matters. We are talking about recall of issues far more important than that, recalls having to do with a memo concerning the most important constitutional decision perhaps in this country, recall having to do with lawyers' letters that does not become apparent until such time as a newspaper publishes the facts.

Justice Rehnquist told us the facts only after truth was published. Until then, he said he didn't know about restrictive covenants. Then when the whole world learned the truth—then and only then did he admit the truth.

Again—as in case of military surveillance of private citizens an issue which I will discuss at a later point—we find a distinguished legal scholar unable to recollect very salient, and very significant facts.

This failure of recollection is not believable. I quote from a recent newspaper editorial in the Toledo Blade:

> It is one thing for an ordinary home buyer to be unaware of a restrictive covenant in a deed, * * * it is quite different for a lawyer as astute as Mr. Rehnquist to plead ignorance. Quite simply, it is not believable * * *

In today's New York Times on this same subject about valid doubts about Justice Rehnquist, it states:

> Confronted with restrictive covenants on two of his homes, the nominee first said he had been unaware of them. Then he wrote to the Senate Judiciary Committee that he had found a letter in his file cautioning that his Vermont home could not be sold to "anyone of the Hebrew race." He said he "undoubtedly" read that letter when buying the property in 1974 but did not recall doing so. If the Senate believes that, what does this say of the sensitivity of a Supreme Court Justice?

Mr. President, I ask unanimous consent that the entire New York Times editorial be included in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit No. 1.)

Mr. METZENBAUM. The fact is—he did know about the covenant; he read the letter which described it—clearly and prominently—in the second paragraph.

But what did he do about it? Nothing.

When he was up for Senate confirmation, I believe he just was frankly embarrassed. He says he searched his files "after the conclusion of his testimony" and found the letter. We now know the letter was sent only after public disclosure of it. The issue is not simply whether he had a restrictive covenant on his property. The question is what did he tell the U.S. Senate concerning his knowledge of that fact. Did he tell us the truth or did he not? In this case, we have a restrictive covenant on a property purchased by a lawyer, a very prominent lawyer, a Justice of the Supreme Court. It is not a covenant just filed away in the courthouse record. It is in his deed. And the two letters are sent to him which mention it.

It is a temptation to ignore these issues. He is the President's nominee. He is already on the Court. He has the ABA's endorsement. These are arguments in favor of quick confirmation. But issues of integrity cannot be ignored and we in the Senate must meet our responsibility. It matters whether Justice Rehnquist told the truth to the Senate Judiciary Committee. The integrity of the Court is at stake. Integrity issues are always important when Senate confirmation is involved. But they are especially important here. We are confirming the head of the Supreme Court of the United States. The Senate cannot ignore the issue of integrity.

□ 1450

I am frank to say that I wish that I did not feel compelled to stand here on the floor today to talk about these issues of integrity, candor, and truthfulness with reference to a Justice of the Supreme Court who is up for confirmation as Chief Justice of that Court. But I do not know how I could look myself in the mirror if I had not discussed with my colleagues this entire question. It is so basic, it is so fundamental, it relates so directly to the question of whether or not Justice Rehnquist should be confirmed as our Chief Justice. I believe that I would have preferred, I know I would have preferred, not to have raised the questions concerning his integrity today. I do not think I had any alternative.

I yield the floor.

EXHIBIT No. 1

VALID DOUBTS ABOUT JUSTICE REHNQUIST

President Reagan has earned the right to try to shift the philosophy of the Supreme

Court. But the Senate has an equal right to insist on high-quality appointments—particularly for Chief Justice, the noblest position in American law. The debate that begins today on the nomination of Justice William Rehnquist will properly turn on concerns beyond the mundanely partisan. The Senate's own investigation has raised valid questions about the nominee's credibility and convictions.

Justice Rehnquist has served on the high court for 15 years and there is no doubt about his legal ability or agreeable personality. But brilliance and courtesy are not enough. The Supreme Court's center seat demands a symbol of impartiality, fairness and integrity that resoundingly affirms America's commitment to equal justice. At critical junctures in his confirmation hearings, when senators sought to explore Justice Rehnquist's beliefs and past actions, he stonewalled with failures to remember and unpersuasive explanations of embarrassing facts.

As Assistant Attorney General in 1971, Mr. Rehnquist defended the Nixon Administration in Senate hearings into the military's surveillance of civilian protesters of the war in Vietnam. He testified then that plaintiffs suing the Defense Department had no case, yet still voted as a Supreme Court Justice in 1972 to throw out their lawsuit. When Senator Charles Mathias recently asked what role the nominee played in formulating the surveillance policy, he said that he couldn't remember. Does the Senate believe that?

Justice Rehnquist also testified this summer that he favored from the start the Supreme Court's 1954 school desegregation decision. A memorandum to the contrary that he wrote as a law clerk in 1952, he said, was not really his opinion but that of the late Justice Robert Jackson. Does the Senate believe that? And how does that testimony square with a memorandum that surfaced only last week in which Assistant Attorney General Rehnquist urged a constitutional amendment that would have permitted widespread evasion of this decision?

Confronted with restrictive covenants on two of his homes, the nominee first said he had been unaware of them. Then he wrote to the Senate Judiciary Committee that he had found a letter in his file cautioning that his Vermont home could not be sold to "anyone of the Hebrew race." He said he "undoubtedly" read that letter when buying the property in 1974 but did not recall doing so. If the Senate believes that, what does this say of the sensitivity of a Supreme Court Justice?

Accused of harassing black and Hispanic voters in Phoenix during turbulent elections in the 1960's, Justice Rehnquist has categorically denied over the years lodging even a legal challenge to any voter's qualifications. Yet a former Federal prosecutor has testified that he encountered Mr. Rehnquist in 1962 at a polling place where voters were registering complaints and that while denying impropriety, Mr. Rehnquist never denied having challenged persons attempting to vote. Can the Senate rest easy with this unresolved conflict?

Justice Rehnquist's unhappy record on matters of civil rights, civil liberties and judicial ethics is a legitimate concern. He has frustrated the Senate's inquiry with evasive and unconvincing replies. The Senate's pride and the serious task of passing a candidate for Chief Justice ought to make it demand more. This venerated post should not be conferred midst so much nagging doubt.

Mr. METZENBAUM. I ask unanimous consent that the following additional materials be printed in the RECORD in connection with the nomination of Justice Rehnquist.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ARTICLE IN NATION, SEPTEMBER 20, 1986

The almost daily revelations of examples of Justice William Rehnquist's deep hostility to civil rights would ordinarily be enough to kill a nomination for any public office. Assistant Attorney General William Bradford Reynolds was denied a short-term promotion in the Reagan Administration partly because of a civil rights record that is not much worse. Yet Rehnquist's nomination to a lifetime position as Chief Justice of the United States may sail through. Many senators think that since Rehnquist is already on the Court, his promotion will not change the vote count and, will therefore have little impact. Nothing could be more wrong or shortsighted.

First of all there is the obvious symbolism of the choice. The Court is in the forefront of the nation's quest for justice and liberty. Its mission, in Justice Lewis Powell's words, is to afford "protection [to] . . . the constitutional rights and liberties of individual citizens and minority groups against oppressive or discriminatory government action." Justice Rehnquist's record on and off the Court has been one of consistent opposition to every effort to provide such protection. To elevate to leadership someone with such a uniquely hostile record to the fundamental mission of the institution is to mock and disparage that mission. It amounts to saying to the nation, and indeed to the whole world, for whom the U.S. Supreme Court has been a model, that we don't take that mission seriously.

The symbolic effect of the appointment is increased by the fact that the Chief Justice speaks for the Federal judiciary, as well as the Court, to Congress, the legal profession and the nation and indeed the world.

There are also tangible considerations. The Chief Justice assigns the writing of opinions when he is in the majority. Like his predecessors, Rehnquist will probably write the most important opinions himself and will probably take on a large number of them. (He reportedly writes easily and quickly.) In the past, when he has spoken for the Court in a decision restricting someone's rights, he has used sweeping and often vague language, as in a recent case refusing to recognize a right to privacy against electronic tracking devices. The scope and ramifications of such opinions are broad and difficult to confine.

Conversely, on the rare occasions when Rehnquist has joined his colleagues in upholding someone's rights—and invariably these have been decisions in which the other eight are unanimous—he has defined the right narrowly, as in a recent case involving the rights of illegitimate children to child support. Rehnquist has set something of a record for lone dissents in decisions upholding civil rights. Given the opinion-assignment power wielded by the Chief Justice, Rehnquist is likely to indulge himself far less in such largely ineffectual gestures, and instead join the majority, writing the opinion himself or assigning a kindred conservative.

The role of assigning opinions gives the chief power over the other Justices, whose place in history once they ascend the Court is determined by when and what they write. Warren Burger was said to have used his power to punish Justices whose votes had displeased him.

As chief, Rehnquist's influence will be greater with new Justices than with those now on the bench. Because he may serve as Chief Justice for from ten to twenty years, at least five new Justices will join the Court during his reign, and probably more. No matter who appoints them or who they are, they will feel the power of the Chief Justice, particularly in their early years. Moreover, some Chief Justices, such as William Howard Taft, influenced appointments to both the lower Federal judiciary and the Supreme Court itself. Given Rehnquist's activist history, he may well emulate Taft in this respect.

Finally, the Chief Justice heads a vast adminsitrative apparatus: the Federal judiciary. He designates the members of special judicial bodies, including the Temporary Emergency Court of Appeals and the secret Foreign Intelligence Surveillance Act court. He also presides over the Judicial Conference, a policy-making body which proposes and evaluates rules and legislation affecting the Federal courts. He appoints the membership and staff of the conference and of its twenty judicial committees. These groups play a significant role in the administration of justice in this country, for they deal with matters such as class-action rules, discovery, probation and sentencing. The importance of this authority is magnified by the Chief Justice's role as the spokesman to Congress on these and other legislative matters affecting court administration.

The power of the Chief Justice of the United States may not be visible, but it is very real. The Rehnquist nomination should not be dismissed as a minor shift in the Court's seating arrangements. The lifetime leadership of the third branch of our government deserves the closest scrutiny.

HERMAN SCHWARTZ.

LEGAL DEFENSE FUND,
Washington, DC, August 8, 1986.

Hon. HOWARD M. METZENBAUM,
Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR METZENBAUM: I am writing to provide the additional information requested at the August 1, 1986 hearing regarding the nomination of Justice Rehnquist to serve as Chief Justice.

(1) We have identified 33 cases in which Justice Rehnquist voted in favor of a black complainant in a race discrimination case. Of these, 31 were unanimous opinions; in the two remaining cases only a single Justice voted against the black complainant. A list of these decisions is set out in Table A.

(2) We have identified 14 race discrimination cases brought by or on behalf of blacks in which Justice Rehnquist cast the deciding vote. These include nine cases in which the rest of the Court was evenly divided, and four cases in which, because only eight Justices participated, a vote by Justice Rehnquist in support of the complainant would have had the effect of upholding by an equally divided vote a favorable decision in the Court below. In the remaining case, *Arlington Heights* v. *MCDH*, Justice Rehnquist's vote determined whether the lower court would be permitted to consider on remand the plaintiffs' racial discrimination claim. In every one of these cases Justice Rehnquist cast the deciding vote against the civil rights claimant. None of these cases involved a dispute about quotas, and none of

these cases concerned whether a particular statute or constitutional provision forbade practices with a discriminatory affect, or were limited to instances of intentional discrimination. A list of these decisions is set forth in Table B.

(3) At last week's hearing we urged the Committee to review with particular care Justice Rehnquist's record regarding the interpretation and application of twentieth century civil rights statutes. We believe that aspect of the nominee's record is important for several reasons. First, because such cases involve considerations of statutory construction, and are thus governed by well established rules of statutory construction, a nominee's constitutional philosophy should have little impact. Second, Justice Rehnquist has explained that his decisions on constitutional cases dervies in part from a reluctance to override the will of the majority as expressed in legislation; in statutory cases, however, it is the will of the majority as expressed by Congress which the Supreme Court is asked to enforce. Third, prior to becoming a member of the Court, Justice Rehnquist on several occasions voiced opposition to the adoption of certain civil rights measures. Justice Rehnquist's actual record with regard to statutory civil rights cases is the best evidence as to whether he has been influenced as a judge by his personal disagreement with this legislation.

We have identified a total of 83 cases since 1971 in which there has been some disagreement within the Court as to the interpretation or application of a twentieth century civil rights statute.[1] These cases involve more than a dozen different laws covering employment, housing, voting, and federal assistance programs, and prohibiting discrimination on a variety of grounds, including race, sex, national origin, age, and disability. Only four of these cases involved a dispute about quotas or affirmative action.[2] Only two of these cases concerned whether a particular statute forbade practices with a discriminatory effect, or was limited to instances of intentional discrimination.[3] Because these are cases in which the interpretation or application of a civil rights statute was sufficiently debatable that members of this Court reached different conclusions, it would not, of course, be reasonable to expect Justice Rehnquist to vote in every case for the result more favorable to the civil rights plaintiffs. The Court as a whole reached such a favorable result in slightly less than half of these cases.

Among the 83 cases in which members of the Court have disagreed about the interpretation or application of a twentieth century civil rights statute, Justice Rehnquist has joined on 80 occasions for the interpretation or application least favorable to minorities, women, the elderly, or the disabled. In two cases, *Albermarle Paper Company* v. *Moody* and *Dothard* v. *Rawlinson*, Justice Rehnquist's interpretation of Title VII was less favorable to minorities and women then the standard adopted by the majority in each of these cases, but more favorable than the standard and result urged by a sole dissenter in each case. In only one of the 83 disputed cases, *Cannon* v. *University of Chicago*, did Justice Rehnquist vote for the interpretation of the law that was advanced by the civil rights plaintiffs. A complete list of the 83 cases is set out in Table C.

There are a number of Supreme Court decisions which, although they originally arose out of a civil rights controversy were resolved by the Court on another basis, were disposed of in a manner not relevant to the attached tables. In categorizing cases for the tables, some judgment calls were at times required, but they did not affect the overall pattern revealed by the study.

Yours sincerely,

ELAINE R. JONES.
ERIC SCHNAPPER.

REHNQUIST DECISIONS IN FAVOR OF BLACK COMPLAINANTS

I. UNANIMOUS DECISIONS

Ham v. *South Carolina*, 409 U.S. 524 (1973) (black criminal defendant entitled to voir dire the jurors about their racial attitudes) (9-0 opinions for defendant) (Rehnquist wrote majority opinion).

Test v. *United States*, 420 U.S. 28 (1975) (9-0 decision holding criminal defendant entitled to inspect jury roles to prove discrimination) (Rehnquist joined per curiam decision).

McDonnell-Douglas v. *Green*, 411 U.S. 792 (1973) (9-0 opinion overturning dismissal of discrimination claim and setting standards for remand) (Rehnquist joined majority opinion).

Chandler v. *Roudebush*, 425 U.S. 840 (1976) (9-0 decision holding that federal employee alleging discrimination entitled to trial de novo) (Rehnquist joined majority opinion).

Teamsters v. *United States*, 431 U.S. 324 (1976) (finding of intentional discrimination) (9-0 decision finding discrimination) (Rehnquist joined majority opinion).

Carson v. *American Brands*, 450 U.S. 79 (1981) (9-0 decision holding refusal to approve Title VII consent decree is an appealable order) (Rehnquist joined majority opinion).

EEOC v. *Shell Oil Co.*, 466 U.S. 54 (1984) (9-0 decision sustaining EEOC subpoena) (Rehnquist joined concurring opinion).

Cooper v. *Federal Reserve Board*, 81 L. Ed. 2d 718 (1984) (8-0 decision holding rejection of class claim does not bar individual claim) (Rehnquist joined majority opinion).

University of Tennessee v. *Elliott*, 54 USLW 5084 (1986) (9-0 decision holding that unreviewed state administrative proceedings do not have preclusive effect on Title VII claims) (Rehnquist joined majority opinion).

Bazemore v. *Friday*, 54 USLW 4972 (1986) (9-0 decision holding that under Title VII the defendant Extension Service had a duty to eradicate salary disparities between white and black workers that originated prior to the effective date of Title VII) (Rehnquist joined with majority).

U.S. v. *Scotland Neck Board of Education*, 407 U.S. 484 (1972) (creation of separate school district prevented desegregation) (9-0 decision finds new district unconstitutional) (Rehnquist joined concurring opinion).

Norwood v. *Harrison*, 413 U.S. 455 (1973) (9-0 decision holds states may not provide textbooks to segregated private schools) (Rehnquist joined majority opinion).

Milliken v. *Bradley*, 418 U.S. 717 (1974) (9-0 opinion upholding remedial programs for segregated school system) (Rehnquist joined majority opinion).

White v. *Regester*, 412 U.S. 755 (1973) (9-0 opinion held that at-large plan unconstitutionally diluted votes of blacks and hispanics) (Rehnquist joined majority opinion).

Connor v. *Waller*, 421 U.S. 656 (1975) (9-0 decision holding redistricting plan is subject to §5 of Voting Rights Act) (Rehnquist joined majority opinion).

Briscoe v. *Bell*, 432 U.S. 404 (1977) (9-0 holding state cannot challenge §5 coverage) (Rehnquist joined majority opinion).

Connor v. *Coleman*, 440 U.S. 612 (1979) (8-1 decision directing district court to frame redistricting plan) (dissenter would have granted stronger remedy) (Rehnquist joined majority opinion).

Blanding v. *DuBose*, 454 U.S. 393 (1982) (9-0 decision holding letter was not request for preclearance within meaning of §5) (Rehnquist's separate opinion concurred in the result but denounced §5).

McCain v. *Lybrand*, 465 U.S. 236 (1983) (9-0 decision holding mailing of statute to Attorney General did not constitute §5 submission absenting request for preclearance) (Rehnquist concurred in judgment).

NAACP v. *Hampton County*, 84 L. Ed 2d 124 (1985) (9-0 decision holding election law changes subject to §5) (Rehnquist concurred in judgment).

Hunter v. *Underwood*, 85 L. Ed. 2d 222 (1985) (8-0 decision holding state law disenfranchising misdemeanants unconstitutional due to racial purpose) (Rehnquist wrote majority opinion).

Thornburg v. *Gingles*, 54 USLW 4877 (1986) (9-0 decision upholding §2 challenge to general at-large districts) (Rehnquist joined majority opinion as to those districts but urged adoption of standard more favorable to defendants).

Trafficante v. *Metropolitan Life Insurance Co.*, 409 U.S. 205 (1972) (9-0 decision holding whites may challenge exclusion of blacks under Title VIII) (Rehnquist joined majority opinion).

Hills v. *Gautreaux*, 425 U.S. 284 (1976) (8-0 decision upholding authority of district court to order multi-city housing remedy) (Rehnquist joined majority opinion).

Havens Realty v. *Coleman*, 455 U.S. 363 (1981) (9-0 decision holding "testers" can sue under Title VIII) (Rehnquist joined majority opinion).

Tillman v. *Wheaton-Haven Recreation Association*, 410 U.S. 431 (1973) (9-0 decision holding exclusion of blacks from swimming pool violates §1982) (Rehnquist joined majority opinion).

Gilmore v. *City of Montgomery*, 417 U.S. 556 (1974) (9-0 decision limits use of city facilities by segregated schools) (Rehnquist joins majority opinion).

Kush v. *Rutledge*, 460 U.S. 719 (1983) (9-0 decision holding §1985(2) does not require allegation of racial animus) (Rehnquist joined majority opinion).

Palmore v. *Sidoti*, 466 U.S. 429 (1984) (9-0 decision holding state cannot deny custody of child because mother married a black) (Rehnquist joined majority opinion).

Burnett v. *Grattan*, 82 L. Ed. 2d 36 (1984) (9-0 decision rejecting 6-month limitation period for filing §1983 complaint) (Rehnquist wrote concurring opinion).

Alexander v. *Gardner-Denver Co.*, 415 U.S. 36 (1974) (9-0 decision holding that an employee's statutory right to trial de novo under Title VII of the Civil Rights Act of 1964 is not foreclosed by prior submission of claim to final arbitration under the nondiscrimination clause of a collective-bargaining

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[1] This analysis does not include cases in which Justice Rehnquist joined unanimous opinions rejecting or sustaining a claim under one of these statutes.

[2] *Firefighters* v. *Cleveland* (July 2, 1986); *Sheetmetal Workers* v. *EEOC* (July 2, 1986); *Firefighters* v. *Stotts*, 81 L. Ed. 2d, March 4, 1983 (1984); *Steelworkers* v. *Weber*, 44 U.S. 480 (1979).

[3] *Board of Education* v. *Harris*, 444 U.S. 130 (1979) (Emergency School Aid Act); *Guardian Association* v. *Civil Service Commission*, 463 U.S. 582 (1982) (Title VI).

agreement) (Rehnquist joined majority opinion).

II. NON-UNANIMOUS DECISIONS

Albemarle Paper Co. v. *Moody*, 422 U.S. 405 (1975) (7-1 decision holding employer testing unlawful, and requiring back pay in most Title VII cases) (Rehnquist joined majority and filed concurring opinion).

United Jewish Organizations v. *Carey*, 430 U.S. 144 (1977) (7-1 decision upholding district lines drawn in race conscious manner to comply with §5) (Rehnquist joined majority opinion).[1]

CASES IN WHICH JUSTICE REHNQUIST CAST DECIDING VOTE

Mayor v. *Educational Equality League*, 415 U.S. 604 (1974) (5-4 decision holding plaintiffs failed to prove racial discrimination in the selection of city officials) (Rehnquist joined in majority opinion).

Delaware College v. *Ricks*, 449 U.S. 250 (1980) (5-4 decision construing Title VII such that plaintiffs charge was untimely) (Rehnquist joined majority opinion).

American Tobacco Co. v. *Patterson*, 71 L. Ed. 2d 748 (5-4 decision holding that § 703(h) is not limited to seniority systems adopted before the effective date of the Act.) (Rehnquist in majority).

Guardians Association v. *Civil Service Commission*, 463 U.S. 582 (1982) (5-4 decision holding only injunction but not damages can be awarded under Title VI for an employment practice with a discriminatory impact) (Rehnquist wrote concurring opinion).

Milliken v. *Bradley*, 418 U.S. 717 (1974) (5-4 decision rejecting interdistrict desegregation remedy) (Rehnquist joins majority opinion).

Electrical Workers v. *Robbins & Myers, Inc.*, 429 U.S. 229 (1976) (5-4 decision holding period of limitations for filing Title VII charge is tolled during consideration of grievance or arbitration)

Bazemore v. *Friday*, USLW 4972 (1986) (5-4 decision limiting obligation of state to desegregate de jure system) (Rehnquist joined majority opinion)

Warth v. *Seldin*, 422 U.S. 490 (1975) (5-4 decision holding plaintiffs lack standing to challenge allegedly discriminatory zoning) (Rehnquist joined majority opinion).

California Brewers Ass'n v. *Bryant*, 444 U.S. 598 (1980) (4-3 decision holding challenged discriminatory practice was immune from attack) (Rehnquist joined majority opinion).

Allen v. *Wright*, 82 L. Ed. 2d 556 (1984) (5-3 decision holding black parents lack standing to challenge grant of tax exempt status to segregated private schools) (Rehnquist joined majority opinion).

City of Richmond v. *United States*, 422 U.S. 358 (5-3 decision that annexation plan did not violate § 5) (Rehnquist joined majority opinion).

Beer v. *United States*, 425 U.S. 130 (1976) (5-3 decision holding § 5 prohibits only retrogressive election law changes) (Rehnquist joined majority opinion).

Rizzo v. *Goode*, 423 U.S. 362 (1976) (5-3 decision holding plaintiffs failed to prove sufficient incidents of police brutality towards blacks to justify injunction) (Rehnquist wrote majority opinion).

Arlington Heights v. *Metro Housing Corp.*, 429 U.S. 252 (1977) (5-3 decision holding plaintiff had not proved refusal of rezoning was racially motivated) (Rehnquist joined majority opinion).

CASES IN WHICH MEMBERS OF SUPREME COURT DISAGREED AS TO THE INTERPRETATION OR APPLICATION OF A TWENTIETH CENTURY CIVIL RIGHTS STATUTE

(1) TITLE VI

Regents of the University of California v. *Bakke*, 438 U.S. 265 (1978) (5-4 decision holding medical school admission plan violated Title VI) (Rehnquist joined in concurring opinion).

Guardians Association v. *Civil Service Commission of the City of New York*, 463 U.S. 582 (1983) (5-4 decision holding only injunction but not damages can be awarded under Title VI for an employment practice with a discriminatory impact) (Rehnquist wrote concurring opinion).

Bazemore v. *Friday*, USLW 4972 (1986) (5-4 decision limiting obligation of state to desegregate de jure system) (Rehnquist joined majority opinion).

(2) TITLE VII—RACE

Johnson v. *Railway Express Agency*, 421 U.S. 454 (1975) (6-3 decision holding that filing of a Title VII charge does not toll the § 1981 limitations period) (Rehnquist joined majority opinion).

Albermarle Paper Co. v. *Moody*, 422 U.S. 405 (1975) (7-1 decision holding employer testing unlawful and requiring back pay in most Title VII cases) (Rehnquist joined majority and filed concurring opinion).

Franks v. *Bowman Transportation Co.*, 424 U.S. 747 (1976) (5-4 decision holding that minorities denied a job are entitled to make whole seniority relief) (Rehnquist joined dissenting opinion).

Washington v. *Davis*, 426 U.S. 229 (1976) (6-2 decision rejecting Title VII claim of discrimination) (Rehnquist joined majority opinion).

National Education Association v. *South Carolina*, 434 U.S. 102 (1978) (5-2 decision holding Title VII not violated by teacher examination disqualifying 83% of all black teachers but only 17.5 percent of whites) (Rehnquist joined summary affirmance).

Brown v. *GSA*, 425 U.S. 820 (1976) (6-2 decision holding Title VII precludes all other remedies for employment discrimination against federal employees) (Rehnquist joined majority opinion).

Electrical Workers v. *Robbin & Myers, Inc.*, 429 U.S. 299 (1976) (5-4 decision holding period of limitations for filing Title VII charge is not tolled during consideration of grievance or arbitration).

Teamsters v. *United States*, 431 U.S. 324 (1976) (7-2 decision holding employers may use seniority system that perpetuates the effect of past discrimination) (Rehnquist joined majority opinion).

Hazelwood School District v. *United States*, 433 U.S. 299 (1977) (8-1 decision holding that plantiff made out a prima facie case of discrimination but defendant entitled to adduce more evidence) (Rehnquist joined majority opinion) (Court of Appeals found discrimination and was reversed)

Furnco Construction Corp. v. *Waters*, 438 U.S. 567 (1978) (7-2 and 5-4 decision reversing Court of Appeals finding of discrimination) (Rehnquist wrote majority opinion).

New York Transit Authority v. *Beazer*, 440 U.S. 568 (1979) (6-3 and 5-4 decision reversing district court finding of Title VII violation) (Rehnquist joined majority opinion).

Steelworkers v. *Weber*, 443 U.S. 480 (1979) (5-2 decision upholding voluntary affirmative action plan) (Rehnquist wrote dissenting opinion).

California Brewers Ass'n. v. *Bryant*, 444 U.S. 598 (1980) (4-3 decision holding challenged discriminatory practice was immune from attack) (Rehnquist joined majority opinion).

Delaware College v. *Ricks*, 449 U.S. 250 (1980) (5-4 decision construing Title VII such that plaintiffs charge was untimely) (Rehnquist joined majority opinion).

Connecticut v. *Teal*, 457 U.S. 440 (1982) (5-4 decision holding Title VII applies to any subpart of a selection procedure with a disparate impact) (Rehnquist joined dissenting opinion).

Baldwin County Welcome Center v. *Brown*, 466 U.S. 147 (1984) (6-3 decision holding filing with court of EEOC right-to-sue letter does not toll period of limitations) (Rehnquist joined majority).

Firefighters v. *Stotts*, 81 L. Ed 2d 483 (1984) (6-3 decision holding district could not modify a Title VII consent decree to require racially-based layoffs) (Rehnquist concurred in majority opinion).

Sheetmetal Workers v. *EEOC*, 54 LW 4984 (1986) (5-4 decision upholding court ordered affirmative action in Title VII case) (Rehnquist wrote dissenting opinion).

Firefighters v. *Cleveland* (July 1986) (6-3 decision upholding Title VII affirmative action settlement) (Rehnquist wrote dissenting opinion).

American Tobacco Co. v. *Patterson*, 456 U.S. 63 (5-4 decision holding that § 703(h) is not limited to seniority systems adopted before the effective date of the Act) (Rehnquist joined majority opinion).

(3) TITLE VII—SEX/NATIONAL ORIGIN/RELIGION

Cecilia v. *Espinoza*, 414 U.S. 86 (1973) (8-1 decision holding Title VII does not forbid discrimination on ground of alienage) (Rehnquist joined majority opinion) (National origin).

General Electric v. *Gilbert*, 429 U.S. 125 (1976) (6-3 decision holding Title VII permits exclusion of pregnancy related disability benefits from disability plans) (Rehnquist wrote majority opinion) (sex).

United Airlines v. *Evans*, 431 U.S. 553 (1977) (7-2 decision holding Title VII does not forbid application of seniority system that perpetuates effects of past Title VII violation) (Rehnquist joined majority opinion) (sex).

Trans World Airlines v. *Hardison*, 432 U.S. 63 (1977) (7-2 decision holding that Title VII did not require employer to accommodate religious needs of employee) (Rehnquist joined majority opinion) (religion).

Occidental Life Insurance Co. v. *EEOC*, 432 U.S. 335 (1977) (7-2 decision holding Title VII establishes no limitation period for EEOC initiated enforcement action) (Rehnquist wrote dissenting opinion) (sex).

Dothard v. *Rawlinson*, 433 U.S. 321 (1977) (8-1 decision finding Title VII violation as to non-contact positions; Rehnquist concurring opinion adopted intermediate standard) (7-2 decision holding Title VII not violated as to contact position; Rehnquist joined majority opinion) (sex).

Los Angeles Department of Water v. *Manhart*, 435 U.S. 702 (1978) (6-2 decision holding unlawful under Title VII smaller pensions for female employees) (Rehnquist joined dissenting opinion) (sex).

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[1] In *Patsy* v. *Florida Board of Regents*, 457 U.S. 496 (1982), Justice Rehnquist joined 6-3 majority holding that exhaustion of administrative remedies is not required under §1983. Although this precedent is helpful to plaintiffs presenting Civil Rights claims, the plaintiff in *Patsy* was a white alleging reverse discrimination.

Board of Trustees v. *Sweeney*, 439 U.S. 24 (1978) (5–4 decision vacating district court finding of unlawful intentional discrimination) (Rehnquist joined majority opinion) (sex).

Davis v. *Passman*, 442 U.S. 228 (1979) (5–4 decision holding exclusion of Congressional employees from Title VII coverage did not bar sex discrimination claim by such employees under § 1331) (Rehnquist joined dissenting opinions) (sex).

General Telephone v. *EEOC*, 446 U.S. 318 (1980) (5–4 decision holding EEOC may seek class-wide relief under Title VII without resort to rule 23) (Rehnquist joined dissenting opinion) (sex).

Mohasco Corp. v. *Silver*, 447 U.S. 807 (1980) (6–3 decision establishing more stringent interpretation of deadline for filing Title VII charge) (Rehnquist joins majority opinion) (religion).

Washington v. *Gunther*, 452 U.S. 161 (1981) (5–4 decision holding Title VII forbids employer to set lower salary for a job because the position is held by women) (Rehnquist wrote dissenting opinion) (sex).

Kremer v. *Chemical Construction Corp.*, 456 U.S. 461 (1982) (5–4 decision holding adverse determination of State law discrimination claim precludes litigation of Title VII claim) (Rehnquist joined majority opinion) (National origin-Religion).

Ford Motor Company v. *EEOC*, 458 U.S. 219 (1982) (6–3 decision limiting back pay where defendant employer makes certain job offers) (Rehnquist joined majority opinion) (sex).

Arizona Governing Committee v. *Norris*, 463 U.S. 1073 (1983) (5–4 decision holding *Manhart* violated by employer offering only discriminatory third party pension plans) (Rehnquist joined dissenting opinion) (sex).

Meritor Savings Bank v. *Vinson*, 54 USLW 4703 (1986) (5–4 establishing limits on employer legal responsibility under Title VII for sexual harassment by supervisors) (Rehnquist wrote majority opinion) (sex).

(4) TITLE VIII

Gladstone Realtors v. *Bellwood*, 441 U.S. 91 (1979) (7–2 decision holding city and certain individuals can sue under § 812 of Title VIII) (Rehnquist wrote dissenting opinion, limiting § 812 to "direct victims" of discrimination).

(5) TITLE IX

Cannon v. *University of Chicago*, 441 U.S. 677 (1979) (6–3 decision holding there is a private right of action under Title IX) (Rehnquist wrote concurring opinion).

North Haven Board of Education v. *Bell*, 456 U.S. 512 (1982) (6–3 decision holding employment discrimination is covered by Title IX) (Rehnquist joined dissenting opinion).

Grove City College v. *Bell*, 465 U.S. (6–2 decision limiting scope of Title IX coverage) (Rehnquist joined majority opinion).

(6) VOTING RIGHTS ACT

Taylor v. *McKeithen*, 407 U.S. 191 (1972) (districting allegedly gerrymandered to prevent election of blacks) (5–3 decision orders appellate court to explain why it overturned district court order for plaintiff) (Rehnquist wrote dissenting opinion).

Georgia v. *United States*, 411 U.S. 528 (1973) (6–3 decision holding Attorney General can reject § 5 submission if state fails to establish nondiscriminatory purpose and effect) (Rehnquist joined dissenting opinion).

NAACP v. *New York*, 413 U.S. 345 (1973) (7–2 decision denies NAACP right to intervene in section 5 bailout suit) (Rehnquist joined majority opinion).

City of Richmond v. *United States*, 422 U.S. 358 (5–3 decision that annexation plan did not violate § 5) (Rehnquist joined majority opinion).

Beer v. *United States*, 425 U.S. 130 (1976) (5–3 decision holding § 5 prohibits only retrogressive election law changes) (Rehnquist joined majority opinion).

Morris v. *Gressette*, 432 U.S. 491 (1977) (7–2 decision holding Attorney General's refusal to object under § 5 not subject to judicial review) (Rehnquist joined majority opinion).

United States v. *Sheffield Board of Commissioners*, 435 U.S. 110 (1978) (6–3 decision holding § 5 applies to political subdivisions as well as to states) (Rehnquist joined dissenting opinion).

Wise v. *Lipscomb*, 437 U.S. 535 (1978) (6–3 decision holding Dallas redistricting not subject to § 5) (Rehnquist wrote concurring opinion).

Dougherty County v. *White*, 439 U.S. 32 (1978) (5–4 decision holding board of education rule subject to § 5) (Rehnquist joined dissenting opinion).

United States v. *Mississippi*, 444 U.S. 1050 (1980) (6–3 decision rejecting challenge to redistricting plan under § 5) (Rehnquist joined majority opinion).

City of Mobile v. *Bolden*, 446 U.S. 55 (1980) (6–3 decision holding at-large elections did not violate § 2) (Rehnquist joined majority opinion).

City of Rome v. *United States*, 446 U.S. 156 (1980) (6–3 decision holding city election law change subject to § 5) (Rehnquist wrote dissenting opinion holding Voting Rights Act unconstitutional as applied).

McDaniel v. *Sanchez*, 452 U.S. 130 (1981) (7–2 decision holding reapportionment subject to § 5) (Rehnquist joined dissenting opinion urging § 5 did not apply).

Hathorn v. *Lovorn*, 457 U.S. 255 (1982) (8–1 decision holding state courts can enforce § 5) (Rehnquist wrote dissenting opinion).

Rogers v. *Lodge*, 458 U.S. 613 (1982) (6–3 decision finding at-large election plan adopted for unconstitutional racially discriminatory purpose) (Rehnquist joined dissenting opinion).

Port Arthur v. *United States*, 459 U.S. 159 (1982) (6–3 decision holding redistricting plan violated § 5) (Rehnquist joined dissenting opinion).

Lockhart v. *United States*, 460 U.S. 175 (1983) (6–3 decision holding election plan did not violate § 5) (Rehnquist joined majority opinion).

Thornburg v. *Gingles*, 54 USLW 4877 (1986) (6–3 division as to standard for proving § 2 standard) (Rehnquist concurred in result but joined concurring opinion proposing standard more favorable to defendants).

(7) DISCRIMINATION AGAINST DISABLED

State School v. *Halderman*, 451 U.S. 1 (1981) (6–3 decision holding § 6010 of Developmentally Disabled Assistance and Bill of Rights Act creates no legally enforceable rights) (Rehnquist wrote majority opinion).

Board of Education v. *Rawley*, 458 U.S. 176 (1982) (6–3 decision holding Education for All Handicapped Children Act does not require sign language interpreter for deaf child) (Rehnquist wrote majority opinion).

Community Television v. *Gottfried*, 459 U.S. 498 (1983) (6–3 decision holding FCC is not obligated to consider station's compliance with § 504 in renewing license) (Rehnquist joined majority opinion).

Atascaden State Hospital v. *Scanlon*, 87 L. Ed. 2d 171 (1985) (5–4 decision holding a plaintiff can never obtain damages against a state for violation of § 504) (Rehnquist joined majority opinion).

U.S. Department of Transportation v. *Paralyzed Veterans*, 54 USLW 4854 (6–3 decision holding that airline using federally-assisted airports may discriminate against the handicapped despite § 504) (Rehnquist joined majority opinion).

(8) AGE DISCRIMINATION IN EMPLOYMENT ACT

United Airlines, Inc. v. *McMann*, 434 U.S. 92 (1977) (6–3 decision holding ADEA does not prohibit mandatory retirement of 60-year-old worker under bona fide pre-Act seniority plan) (Rehnquist joined majority opinion).

Oscar Meyer and Co. v. *Evans*, 441 U.S. 750 (1979) (5–4 decision holding plaintiff need not resort to state administrative procedure prior to filing suit under ADEA) (Rehnquist joined dissenting opinion).

Lehman v. *Nakshian*, 453 U.S. 156 (1981) (5–4 decision holding there is no right to jury trial in an ADEA suit against the federal government) (Rehnquist joined the majority opinion).

(9) PREGNANCY DISCRIMINATION ACT

Newport News Shipbuilding v. *EEOC*, 462 U.S. (1983), (7–2 decision holding Act forbids distinction in pregnancy benefits between male workers with spouses and female workers with spouses) (Rehnquist wrote dissenting opinion).

(10) EMERGENCY SCHOOL AID ACT

Board of Education v. *Harris*, 444 U.S. 130 (1979) (6–3 decision holding claim under Emergency School Aid Act can be based on discriminatory impact alone) (Rehnquist joined dissenting opinion).

(11) COUNSEL FEE STATUTES

Hutto v. *Finney*, 437 U.S. 678 (1978) (5–4 decision upholding the Court of Appeals award of attorney's fees under Civil Rights Attorney's Fees Awards Act of 1976) (Rehnquist wrote dissenting opinion).

Hanrahan v. *Hampton*, 446 U.S. 754 (1980) (7–1 decision denying fees under 1976 Attorney Fees Act for interim success) (Rehnquist joined concurring opinion).

New York Gaslight Club v. *Carey*, 447 U.S. 54 (1980) (7–2 decision upholding the award of attorney's fees in a Title VII action to successful complaining party for services in state administrative and judicial proceedings) (Rehnquist joined dissenting opinion).

Maine v. *Thiboutot*, 448 U.S. 1 (1980) (6–3 decision holding that 1976 Attorney's Fees Act applies to all litigation under § 1983) (Rehnquist joined dissenting opinion).

Hughes v. *Rowe*, 449 U.S. 5 (1980) (7–2 decision holding Attorney's Fees Act did not authorize award against prison inmate) (Rehnquist wrote dissenting opinion).

Hensley v. *Eckerhart*, 461 U.S. 424 (1983) (5–4 decision establishing standards for determining the size of fee award under 1976 Attorney's Fees Act) (Rehnquist joined majority opinion).

Pulliam v. *Allen*, 466 U.S. 522 (1984) (5–4 decision holding judicial immunity not a bar to award of attorney's fees under 1976 Attorney's Fee Act) (Rehnquist joined dissenting opinion).

Webb v. *Board of Education*, 471 U.S. (1985) (6–2 decision holding that attorney's fees are not available under 1976 Attorney's Fee Act for time spent on optional administrative proceedings prior to filing civil rights action under § 1983) (Rehnquist joined majority opinion).

Evans v. *Jeff D.*, 54 U.S.L.W. 4359 (1986) (6–3 decision holding that Court may approve civil rights class action settlement

provision for plaintiffs' waiver of claim for attorney's fees under 1976 Attorney's Fees Act) (Rehnquist joined majority opinion).

Riverside v. *Rivera*, 54 U.S.L.W. 4845 (5-4 decision upholding District Court's award of attorney's fees under 1976 Attorney's Fees Act) (Rehnquist wrote dissenting opinion).

Library of Congress v. *Shaw*, 54 U.S.L.W. 4951 (1986) (6-3 opinion holding no interest is available on fee awards against Federal agencies under Title VII) (Rehnquist joined majority opinion).

Pennsylvania v. *Delaware Valley Clean Air Counsel*, 54 U.S.L.W. 5017 (1986) (6-3 opinion holding that the lower courts apply § 304(d) Clean Air Act) (Rehnquist joined majority opinion).

REPORT ON THE CIVIL LIBERTIES RECORD OF JUSTICE WILLIAM H. REHNQUIST

(Prepared by the American Civil Liberties Union)

PREFACE

It is important that the reader understand what this report is and what it is not.

Pursuant to ACLU policy, established by the National Board of Directors of the American Civil Liberties Union, the Union does not take any position on candidates for elective or appointive office at the national, state or local level. At the same time, the Board has directed the national staff to publish reports on the civil liberties records of individuals nominated for certain offices, including positions on the Supreme Court. The purpose of such reports, like the periodic publication by the ACLU of legislative voting records on civil liberties issues, is to provide relevant information to the public. The purpose is not to suggest that the civil liberties record of any candidate ought to determine anyone's position on such candidacy.

This is the report of the civil liberties record of U.S. Supreme Court Justice William Rehnquist, who has been nominated for the position of Chief Justice of the United States. The ACLU has not, and will not, take a postion on whether the Senate should consent to his appointment.

Justice Rehnquist has served on the Supreme Court for some fifteen years and has authored and joined a large number of majority, concurring and dissenting opinions. It is not possible to summarize even briefly every opinion he has written or joined, nor is it even possible to deal with most of those opinions in a report of manageable length. Therefore no effort is made to be comprehensive. Rather, the report presents a description of Justice Rehnquist's judicial philosophy and seeks to explain how it shapes his record on civil liberties questions by focusing on those opinions which Justice Rehnquist authored alone. The ACLU believes that these opinions fairly reflect Justice Rehnquist's civil liberties record.

Justice Rehnquist has a very clear and comprehensive position on the role of the Court and the nature of the American constitutional system of government. His judicial philosophy is not shared in its entirety or even in its central features by any other person who now sits on the Court or who has served with Justice Rehnquist, including Justices who often vote with him. For that reason, his position emerges most clearly in the opinions that he has written only for himself. This report quotes extensively from these opinions so as to present Justice Rehnquist's position on civil liberties in his own words. Unless otherwise noted the opinions of Justice Rehnquist quoted from and cited are dissents in which Justice Rehnquist speaks only for himself.

A reader introduced in reviewing the entire record might want to begin with the cases cited below which suggest the range of opinions that Justice Rehnquist has authored or joined. In the cases listed Justice Rehnquist authored the opinion unless otherwise noted.

Over the past fifteen years, Justice Rehnquist has authored or joined a small number of opinions of the Court which have expanded civil liberties. In almost all of these cases the issue was one of statutory, rather than constitutional, construction, and in many he issued concurring opinions joining the holding on narrower grounds. *See* e.g.:

Nashville Gas Co. v. *Satty*, 434 U.S. 136 (1977) (Discrimination under Title VII when women denied senority when returning from mandatory pregnancy leave.)

Meritor Saving Bank v. *Vinson*, 54 U.S. L.W. 4703 (June 19, 1986) (Title VII prohibits sexual harassment.)

Estelle v. *Smith*, 451 U.S. 454 (Rehnquist's concurring opinion at 474-476.) (1981) (Testimony of court-ordered, pretrial examining psychiatrist not admissible at capital sentencing proceeding.)

Chrysler Corp. v. *Brown*, 441 U.S. 281 (1979) (FOIA does not provide authority for a private business to seek court order enjoining release of information.)

Hunter v. *Underwood*, 85 L ED 2d 222 (1985) (State constitutional provision disenfranchising persons convicted of crimes unconstitutional as to misdemeanants.)

Cannon v. *University of Chicago*, 441 U.S. 677 (Rehnquist's concurring opinion at 717-718.) (1979) (Woman alleging sex discrimination has a private cause of action under Title IX.) (Justice Rehnquist joins in majority opinion.)

Albemarle Paper Co. v. *Moody*, 422 U.S. 405 (Rehnquist's concurring opinion at 441-447.) (1975) (Expanding rights under Title VII.) (Justice Rehnquist joins in majority opinion.)

Patsy v. *Florida Board of Regents*, 457 U.S. 496 (1982) (Exhaustion of Administrative Remedies not required under Sec. 1983.) (Justice Rehnquist joins in majority decision.)

U.S. v. *Ortiz*, 422 U.S. 891 (Rehnquist's concurring opinion at 898-899.) (1975) (Warrantless vehicle searches by the Border Patrol at checkpoints must be based on probable cause or consent.) (Justice Rehnquist joins in majority decision.)

Wolff v. *McDonnell*, 418 U.S. 539 (1974) (Prisoners' Rights.) Justice Rehnquist joins majority opinion.)

Procurier v. *Martinez*, 416 U.S. 396 (1974) (Prisoners' Rights.) Justice Rehnquist joins majority opinion.)

In a larger number of cases he has authored or joined majority opinions limiting civil liberties. *See*, e.g.:

Goldman v. *Weinberger*, 54 U.S. L.W. 4298 (March 25, 1986) (Army regulations prohibiting wearing of yarmulkes upheld.)

Posadas de Puerto Rico Ass'n. v. *Tourism Co. of Puerto Rico*, 54 U.S. L.W. 4956 (July 1, 1986) (Restrictions on Casino advertising upheld.)

Time, Inc. v. *Firestone*, 424 U.S. 448 (1976) (Participants in judicial proceedings are not "public figures" for purposes of libel suits.)

Michael M. v. *Superior Court of Sonama County*, 450 U.S. 464 (1981) (Sex-based distinction in a rape statute not unconstitutional.)

General Electric v. *Gilbert*, 429 U.S. 125 (1976) (Pregnancy discrimination not covered under Title VII.)

Edelman v. *Jordan*, 415 U.S. 651 (1974) (Eleventh Amendment limits federal courts remedial power to award retroactive relief to disabled persons.)

Pennhurst v. *Halderman*, (I), 451 U.S. 1 (1981) (Congressional statute conferred no substantive rights on mentally retarded persons.)

Salyer Land Co. v. *Tulare Lake Basin Water Storage District*, 410 U.S. 719 (1973) (Weighted voting based on land ownership upheld.)

Mahan v. *Howell*, 410 U.S. 315 (1973) (State and local redistricting subject to less rigorous standards than congressional districts.)

Bowers v. *Hardwick*, 54 U.S. L.W. 4919 (June 30, 1986) (Constitution does not provide a right to engage in sodomy.) (Justice Rehnquist joins majority opinion).

Bounds v. *Smith*, 430 U.S. 819, 837-841 (1977) (Limiting prisoners' rights.)

Paul v. *Davis*, 424 U.S. 693 (1976) (Rejecting right of privacy as to disclosure of unadjudicated arrest records.)

INS v. *Delgado*, 466 U.S. 210 (1984) (INS factory searches do not constitute either detention or seizure.)

Justice Rehnquist has also authored and joined a number of minority opinions which would have limited civil liberties. *See* e.g.:

County of Washington v. *Gunther*, 452 U.S. 161, 181-204 (1981) (Title VII does not apply to intentional sex-based wage discrimination.)

Michigan v. *Jackson*, 89 L. Ed. 631, 643-647 (1986) (Limiting right to counsel.)

Hill v. *Stone*, 421 U.S. 239, 302-308 (1975) (Approving restrictions on voting based on wealth.)

Roe v. *Wade*, 410 U.S. 113, 171-178 (1973) (No right of abortion in the Constitution.)

Payton v. *N.Y.*, 445 U.S. 573, 620-621 (1980) (Warrantless nonconsensual entry into a home to make a felony arrest does not violate Fourth Amendment.)

A report which included detailed consideration of these and other cases would not present a different view of Justice Rehnquist's civil liberties record.

SUMMARY

Two propositions are central to Justice Rehnquist's civil liberties record and the degree to which his views differ from those of every Justice with whom he has served on the Court. First, he believes that it is far worse to hold a statute unconstitutional than to deny an individual his/her civil rights. Second, he believes that the Bill of Rights as applied to the states prevents them from encroaching on the rights of individuals only when the state action is "irrational."

In Justice Rehnquist's opinion, the primary responsibility of the Supreme Court is to protect the freedom of action of the states against the actions of the federal government and the claims of rights by individual citizens. In interpreting federal legislation or actions of the federal courts which affect the powers of the states, he interprets the Constitution so as to preserve state autonomy. In dealing with individual liberty, on the other hand, he does not believe that the courts should go beyond the literal words of the Constitution or the original intentions of the Framers. Thus, he rejects the view that the Supreme Court has a special obligation to defend individual liberty, and rejects the position, often expressed in the opinions of the Court, that the Bill of Rights as a whole, and the First

Amendment in particular, have a favored place in the constitutional scheme.

This approach to the Constitution—viewing it as the creation of the majority whose primary objective was to preserve the power of the states—also determines Justice Rehnquist's view of the Civil War Amendments. Every other sitting Justice has come to accept the position that the Fourteenth Amendment "incorporates" the major provisions of the Bill of Rights and therefore requires the states to observe these limits on governmental action to the same degree that the federal government is limited. Justice Rehnquist, in marked contrast, views the Civil War Amendments as having only very limited applicability. Writing on a clean slate, Justice Rehnquist would reject the doctrine of incorporation entirely, and would permit the states to restrict the liberty of their citizens within limits proscribed by their own state constitutions and those few rights in the federal constitution that apply explicitly to the states. Justice Rehnquist mentions this position only in passing in his opinions, and focuses instead on the very narrow reading that he would give to the applicability of the Bill of Rights to the states.

The Supreme Court, with only Justice Rehnquist dissenting, has consistently interpreted the Equal Protection clause of the Fourteenth Amendment to prohibit discrimination on a variety of "suspect" grounds, including sex and citizenship. By contrast, Justice Rehnquist holds that the Amendment applies only to race discrimination, and even as to race only when segregation was the official policy of the state.

The Due Process clause of the Fourteenth Amendment, again with only Justice Rehnquist in dissent, has been held to require the states to observe the protections of liberty found in the Bill of Rights. In Justice Rehnquist's view the Amendment "incorporates" only the most fundamental principles of the Bill of Rights. State legislatures have wide latitude to determine what actions to take. In contrast to his Supreme Court colleagues who subject such legislation to heightened scrutiny of various kinds, Justice Rehnquist believes that the role of the Supreme Court in cases involving challenges to state action on constitutional grounds is limited to determining if the legislation is "irrational." If it is not, the Court must uphold the statute. Applying this rational basis test, Justice Rehnquist would permit the states to restrict freedom of speech or press in ways that would, in his view, violate the First Amendment if done by the federal government. This approach has led Justice Rehnquist to uphold the actions of states in the area of religion whether they expanded or limited religious liberty as long as he could articulate a rational reason for the state action.

Because of his belief that such legislation need only not be "irrational," Justice Rehnquist has routinely voted to uphold the constitutionality of state statutes not only when a majority of the court or a large minority took the same position, but also when all of his colleagues on the Supreme Court agreed the law violated the Constitution.

In addition, Justice Rehnquist holds a number of substantive views which affect his interpretation of civil liberties. He believes, for example, that the Establishment Clause of the First Amendment prohibits government aid to a particular religion, but does not prohibit legislation whose purpose is to support all religions. He also believes that commercial speech is not entitled to any special constitutional protection.

The civil liberties record of Justice Rehnquist is most succinctly summarized in his opinion of how a Justice should weigh the relative harms of denying a person rights under the Constitution and striking down a legislative act:

"An error in mistakenly sustaining the constitutionality of a particular enactment, while wrongfully depriving the individual of a right secured to him by the Constitution, nonetheless does so by simply letting stand a duly enacted law of a democratically chosen legislative body. The error resulting from a mistaken upholding of an individual's constitutional claim against the validity of a legislative enactment is a good deal more serious. For the result in such a case is not to leave standing a law duly enacted by a representative assembly, but to impose upon the Nation the judicial fiat of a majority of a court of judges whose connection with the popular will is remote at best."—*Furman* v. *Georgia*, 408 U.S. 238, 468 (1972) (three Justices joining in the dissenting opinion).

To the extent that the Bill of Rights and the Civil War Amendments were designed precisely to limit the popular will when it impinges on individual rights, Justice Rehnquist's view is inconsistent with the functional purpose of the Bill of Rights and the generally accepted role of the federal courts in enforcing it.

THE CIVIL LIBERTIES RECORD OF JUSTICE REHNQUIST

This is a report by the American Civil Liberties Union of the civil liberties record of Justice William H. Rehnquist. It first presents a description of the basic principles which Justice Rehnquist brings to the adjudication of claims that actions violate civil liberties or civil rights. It then deals with the role of the Fourteenth Amendment, which is central both to the protection of civil liberties and to understanding why Justice Rehnquist so often takes a position on civil liberties issues which finds no other support on the Court. Finally, the report describes his views on the First Amendment which depart from those of the rest of the court.

PROTECTING CIVIL LIBERTIES

In his Supreme Court opinions and his extra-judicial writings, Justice Rehnquist rejects the notion that the Supreme Court has a special responsibility to protect civil liberties to protect the individual against the excesses of the majority. Rather, he maintains that the Court's obligation is to protect the primary political structures of the government, which include the independence of the states and majority rule. This approach is illustrated, for example, by the narrow reading that Justice Rehnquist gives to the 5th clause of the Fourteenth Amendment. The power given to the Congress in that clause to take actions necessary to effectuate the purposes of the Amendment is viewed narrowly so as to protect the rights of the states to determine their own political structures and procedures. See *City of Rome v. U.S.* 446 U.S. 156, 168 (1980) (dissent joined by Justice Stewart). Doubts are to be resolved in favor of permitting the will of the legislature to be effectuated and the automony of the states protected. As Justice Rehnquist explains in a dissenting opinion in a death penalty case (joined by three other Justices):

"Whatever its precise rationale, today's holding necessarily brings into sharp relief the fundamental question of the role of judicial review in a democratic society. How can government by the elected representatives of the people coexist with the power of the federal judiciary, whose members are constitutionally insulated from responsiveness to the popular will, to declare invalid laws duly enacted by the popular branches of government?

"The answer, of course, is found in Hamilton's Federalist Paper No. 78 and in Chief Justice Marshall's classic opinion in *Marbury* v. *Madison*, 1 Cranch 137, 2 L. Ed 60 (1803). An oft-told story since then, it bears summarization once more. Sovereignty resides ultimately in the people as a whole and, by adopting through their States a written Constitution for the Nation and subsequently adding amendments to that instrument, they have both granted certain powers to the National Government, and denied other powers to the National and the State Governments. Courts are exercising no more than the judicial function conferred upon them by Art. III of the Constitution when they assess, in a case before them, whether or not a particular legislative enactment is within the authority granted by the Constitution to the enacting body, and whether it runs afoul of some limitation placed by the Constitution on the authority granted by the Constitution to the enacting body, and whether it runs afoul of some limitation placed by the Constitution on the authority of that body. For the theory is that the people themselves have spoken in the Constitution, and therefore its commands are superior to the commands of the legislature, which is merely an agent of the people.

"The Founding Fathers thus wisely sought the best of both worlds, the undeniable benefits of both democratic self-government and individual rights protected against possible excesses of that form of government.

"The courts in cases properly before them have been entrusted under the Constitution with the last word, short of constitutional amendment, as to whether a law passed by the legislature conforms to the Constitution. But just because courts in general, and this Court in particular, do have the last word, the admonition of Mr. Justice Stone dissenting in *United States* v. *Butler* must be constantly borne in mind:

'[W]hile unconstitutional exercises of power by the executive and legislative branches of the government is subject to judicial restraint, the only check upon our own exercise of power is our own sense of self-restraint.' 297 US 1, 78–79, 80 L Ed 477, 495, 56 S Ct 312, 102 ALR 914 (1936).

"Rigorous attention to the limits of this Courts authority is likewise enjoined because of the natural desire that beguiles judges along with other human beings into imposing their own views of goodness, truth, and justice upon others. Judges differ only in that they have the power, if not the authority, to enforce their desires. This is doubtless why nearly two centuries of judicial precedent from this Court counsel the sparing use of that power. The most expansive reading of the leading constitutional cases does not remotely suggest that this Court has been granted a roving commission, either by the Founding Fathers or by the framers of the Fourteenth Amendment, to strike down laws that are based upon notions of policy or morality suddenly found unacceptable by a majority of this Court. The Framers of the Constitution would doubtless have agreed with the great English political philosopher John Stuart Mill when he observed:

"The disposition of mankind, whether as rulers or as fellow-citizens, to impose their own opinions and inclinations as a rule of conduct on others, is so energetically supported by some of the best and by some of the worst feelings incident to human nature, that it is hardly ever kept under restraint by anything but want of power." *On Liberty* 28 (1855).

"A separate reason for deference to the legislative judgment is the consequence of human error on the part of the judiciary with respect to the constitutional issue before it. Human error there is bound to be, judges being men and women, and men and women being what they are. But an error in mistakenly sustaining the constitutionality of a particular enactment, while wrongfully depriving the individual of rights secured to him by the Constitution, nonetheless does so by simply letting stand a duly enacted law of a democratically chosen legislative body. The error resulting from a mistaken upholding of an individual's constitutional claim against the validity of a legislative enactment is a good deal more serious. For the result in such a case is not to leave standing a law duly enacted by a representative assembly, but to impose upon the Nation the judicial fiat of a majority of a court of judges whose connection with the popular will is remote at best.

"The task of judging constitutional cases imposed by Art. III cannot for this reason be avoided, but it must surely be approached with the deepest humility and genuine deference to legislative judgment." *Furman v. Georgia*, 408 U.S. 238, 466 (1972). *See also Fry v. U.S.* 421 U.S. 542, 549-559 (1975); *Carey v. Population Services International*, 431 U.S. 678, 717-719 (1977).

Justice Rehnquist also rejects the view that the courts should interpret the Bill of Rights in light of changing morality and circumstances. In an article challenging the notion of a "living Constitution," Justice Rehnquist sums up his view of this doctrine:

"The brief writer's version of the living Constitution, in the last analysis is a formula for an end run around popular government. To the extent that it makes possible an individual's persuading one or more appointed federal judges to impose on other individuals a rule of conduct that the popularly elected branches of government would not have enacted and the voters have not and would not have embodied in the Constitution, the brief writer's version of the living Constitution is genuinely corrosive of the fundamental values of our democratic society." Rehnquist, "The Notion of a Living Constitution," 54 *Texas Law Review* 693, 706 (May 1976).

In this view, protection for new rights as reflected in new moral values should come exclusively through legislation or constitutional amendment and not by the Supreme Court interpreting a "living" Constitution. "[S]urely," Justice Rehnquist wrote in dissenting from a decision of the Court holding that it violated the Fourteenth Amendment to exclude women from juries, "constitutional adjudication is a more canalized function than enforcing as against the States this Courts perception of modern life." *Taylor v. Louisiana*, 419 U.S. 522, 542 (1975). In the article quoted just above, he puts the point more fully as follows:

"It seems to me that it is almost impossible, after reading the record of the Founding Fathers' debates in Philadelphia, to conclude that they *intended the Constitution itself to suggest answers to the manifold problems that they knew would confront succeeding generations.* The Constitution that they drafted was indeed intended to endure indefinitely, but the reason for this very well-founded hope was the general language by which national authority was granted to Congress and the Presidency. These two branches were to furnish the motive power within the federal system, which was in turn to coexist with the state governments; the elements of government having a popular constituency were looked to for the solution of the numerous and varied problems that the future would bring. Limitations were indeed placed upon both federal and state governments in the form of both a division of powers and express protection for individual rights. These limitations, however, were not themselves designed to make certain that the constituent branches, when they attempted to solve those problems, should not transgress these fundamental limitations." *Id.* 699.

Justice Rehnquist does not believe that legistation challenged on the grounds that it violates constitutional rights should be subjected to strict scrutiny. Rather he believes that the Supreme Court should not invalidate legislation on constitutional grounds unless the Court is sure that the Constitution compels that result. Actions of legislatures should be accorded a presumption of constitutionality. Justice Rehnquist in a number of lone dissents quotes from *McGowan v. Maryland*, 366 U.S. 420 (1961) which he believes establishes this principle even when individual rights are at stake. Here is a typical statement of his position:

"State legislatures are presumed to have acted within their constitutional power despite the fact that, in practice, their laws result in some inequality. A statutory discrimination will not be set aside if any state of facts reasonably may be conceived to justify it. McGowan v. Maryland, 366 US 420, 425-426, 6 L Ed 2d 393, 398-399, 81 S Ct 1101 (1961). Under this test, so long as the 'discrimination is founded upon a reasonable distinction, or difference in state policy.' Allied Stores of Ohio, Inc. v. Bowers, 358 US 522, 528, 3 L Ed 2d 480, 485, 79 S Ct 437 (1959). The Court will not attempt to weigh its social value or determine whether the classification might have been more finely drawn. Ferguson v. Skrupa, 372 US 726 10 L Ed 2d 93, 83 S Ct 1028, 95 ALR 2d 1347 (1963). However, this salutary principle has been departed from by the Court in recent years, as pointed out in its opinion here, where the Court has felt that the classification has affected what it conceives to be 'fundamental personal rights.'" *Weber v. Aetna Casualty & Surety Co.*, 406 U.S. 164, 178-179 (1972). See also *Zablocki v. Redhail* 434 U.S. 374, 407-411 (1978); *Sugarman v. Dougall* 413 U.S. 634, 649-664 (1973).

Actions of administrators are assumed to be valid: "I think that the Court's approach reverses the presumption of constitutionality accorded acts of the States," Justice Rehnquist writes in a lone dissent. "The burden is not upon the State to demonstrate that its procedures are consistent with the Fourth Amendment, but upon respondent to demonstrate that they are not." *Delaware v. Prouse* 440 U.S. 648, 667 (1979). Administrators must be given very wide latitude to act. The role of the federal courts is limited to enjoining actions that are specifically prohibited by the Constitution. *Hutto v. Finney* 437 U.S. 678, 710-714 (1978). Those who wish to protect new rights, such as those of women, the right to an abortion, or the rights of aliens or prisoners should look to the legislatures or the constitutional amendment process rather than to existing constitutional principles as applied by the courts to new conditions.

Justice Rehnquist believes that in appropriate circumstances the Court should look beyond the original intent of the Framers and should not be bound by a literal reading of the Constitution. Where he differs from those who believe that a primary function of the Supreme Court is to protect civil liberties is on the question of when to rely exclusively on presumed original intent only and apply a literal reading of the Constitution. Confronted with claims of civil liberties or equal protection, Justice Rehnquist declines to go beyond the intent of the Framers as he sees it. In contrast, he goes beyond original intent to take account of changing conditions when the issue is the ability of the states to avoid federal regulation. (Compare, Roe v. Wade, 410 U.S. 113, 171-178 (1973) (abortion) *Payton v. N.Y.* 445 U.S. 573, 620-621 (1980) (privacy), *Woodson v. North Carolina* 428 U.S. 280, 308-324 (1976) (death penalty), *Carey v. Population Services International* 431 U.S. 678, 717-719 (1977) (contraceptive services), with *Nevada v. Hall* 440 U.S. 410, 432-443 (1979) (states rights) (dissent joined by Chief Justice Burger). He requires an explicit and unmisfeasable reference in the Constitution to uphold individual rights, but imposes no such requirement when the question is whether federal legislation impermissibly restricts the power of the states. *(See, Fry v. U.S.* 421 U.S. 542, 549-559 (1975)).

THE FOURTEENTH AMENDMENT

It is impossible to exaggerate either the role of the Fourteenth Amendment in protecting civil liberties in the United States, or the degree to which Justice Rehnquist's view of that Amendment explains his civil liberties records.

The Bill of Rights originally applied only to the federal government. Although there were earlier hints of this position, it was not until the 1930's that the Supreme Court began to systematically "incorporate" the Bill of Rights into the Fourteenth Amendment. Over the past 30 years the Court has held that almost all of the elements of the Bill of Rights apply to the states in the same way as they apply to the Federal government. For example, whatever restrictions the First Amendment puts on actions of the federal government it also places on actions of the states. Relying on this doctrine, the Supreme Court has struck down numerous statutes and state actions which discriminate against classes of people has held unconstitutional state and local statutes which violate rights both explicitly mentioned in the Bill of Rights, such as freedom of religion and the right to be secure in one's home, as well as rights which the court has found implicit in the Constitution, such as the right to travel and to privacy. This doctrine of "selective incorporation" was initially controversial both on and off the Supreme Court. On the Court, Justice Frankfurter and Harlen led the fight against full or selective incorporation. For most the fight is over; "incorporation" is now accepted as the settled interpretation by every sitting Supreme Court Justice but Justice Rehnquiust. See, *Wallace v. Jaffree* 86 L Ed 2d 29, 38 (1985).[1]

[1] See also Michael Kent Curtis, *No State Shall Abidge: The Fourteenth Amendment and the Bill of Rights* (Durham, NC: Duke University Press, 1986).

Justice Rehnquist's view is totally different. He is very skeptical of the doctrine of incorporation and continues in his optinions to dismiss it as an error. Although he does not seem to advocate the complete abandonment of the doctrine or to base his opinions on such a view, he does reach his conclusions on issues before the court based on a very narrow reading of the role of the Fourteenth Amendment and of "incorporation."

The key phrases of the Fourteenth Amendment read as follows:

"[N]or shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

The Supreme Court has interpreted the first clause as "incorporating" many elements of the Bill of Rights, and the second as preventing discrimination on a number of "suspect" grounds in addition to race. In assessing the constitutionality of statutes it often blends the requirements of the two sections. Justice Rehnquist insists on their strict separation and a very narrow reading of each one. In one of his many dissents in cases applying the Fourteenth Amendment to the states and limiting state action Justice Rehnquist puts his view this way:

"I would view this legislative judgment in the light of the traditional presumption of validity. I think that under the Equal Protection Clause the statute need pass only the 'rational basis test,' *Dandridge v. Williams*, 397 U.S. 471, 485, 90 S.Ct. 1153, 1161, 25 L.Ed.2d 491 (1970), and that under the Due Process Clause it need only be shown that it bears a rational relation to a constitutionally permissible objective. *Williamson v. Lee Optical Co.*, 348 U.S. 483, 491, 75 S.Ct. 461, 466, 99 L.Ed. 563 (1955); *Ferguson v. Skrupa*, 372 U.S. 726, 733, 83 S. Ct. 1028, 1032, 10 L.Ed.2d 93 (1963) (Harlan, J., concurring). The statute so viewed as a permissible exercise of the State's power to regulate family life and to assure the support of minor children, despite its possible imprecision in the extreme cases envisioned in the concurring opinions." *Zablocki v. Redhail*, 434 U.S. at 407 (1978).

His view of the Equal Protection Clause is that it relates only to race and not to discrimination on other grounds:

"The Equal Protection Clause was adopted as a part of the Fourteenth Amendment in 1868. Five years later Mr. Justice Miller delivered this Court's initial construction of that amendment in his classic opinion in Slaughter-House Cases, 16 Wass 36, 21 L Ed 394 (1873). After setting forth an account of the adoption of that amendment, he described the account as a 'recapitulation of events, almost too recent to be called history, but which are familiar to us all.' 16 Wall, at 71, 21 L Ed at 407. Referring to the Equal Protection Clause, he said: 'We doubt very much whether any action of a State not directed by way of discrimination against the negroes as a class, or on account of their race, will ever be held to come within the purview of this provision.' 16 Wall, at 81, 21 L Ed at 410.

"In nearly 100 years of subsequent adjudication concerning this clause, the Court has adhered to the notion expressed in the Slaughter-House Cases that racial classifications are 'suspect.' *See e.g., Loving v. Virginia*, 388 US 1, 18 L Ed 2d 1010, 87 S Ct 1817 (1967). But during that same period of time, this Court has proved Mr. Justice Miller a bad prophet with respect to nonracial classifications." *Weber* 406 U.S. at 178.

Rejecting this expansion, he has dissented, often alone, in a long list of cases in which the Supreme Court has applied equal protection analysis to a variety of classifications and struck down state laws as violative of the equal protection mandate of the Fourteenth Amendment.

Even as to race, Justice Rehnquist takes a narrow view, holding that Equal Protection applies only to those evils which were, in his opinion, envisioned by the Framers of the Amendment and only to remedies aimed at those specific evils. Thus, in his view, it does not permit actions to overcome de facto segregation, or to issue orders affecting entire school systems unless there was a formal, system-wide "dual" system of white and black schools. Justice Rehnquist has, as a result, dissented in major school desegregation cases. See *Columbus Board of Education v. Penick*, 443 U.S. 449, 489-525 (1979) (Justice Powell joined in dissent) and *Keyes v. School District No. 1*, 413 U.S. 189, 254-265 (1973). Justice Rehnquist also dissents from the nearly unanimous holdings of the Court that the fifth clause of the Fourteenth Amendment giving the Congress the power to take steps necessary to effectuate the objections of the Amendment is very broad. He thus dissented from an opinion ordering the City of Rome to change its electoral system:

"Congress unquestionably has the power to prohibit and remedy state action which intentionally deprives citizens of Fourteenth and Fifteenth Amendment rights. But unless these powers are wholly uncanalized, it cannot be appropriate remedial legislation for Congress to prohibit Rome from structuring its government in the manner as its population sees fit absent a finding or unrebutted presumption that Rome has been or is, intentionally discriminating against its black citizens. Rome has simply committed no constitutional violations, as this Court has defined them.

"More is at stake then sophistry at its worst in the Court's conclusion that requiring the local government to structure its political system in a manner that most effectively enhances black political strength serves to remedy or prevent constitutional wrongs on the part of the local government. . . . The enforcement provisions of the Civil War Amendments were not premised on the notion that Congress could empower a later generation of blacks to 'get even' for wrongs inflicted on their forebears. What is now at stake in the city of Rome is the preference of the black community to be represented by a black. This Court has never elevated such a notion, by no means confined to blacks, to the status of a constitutional rights. *See Whitcomb v. Chavis*, 403 US 124, 29 L Ed 2d 363, 92 S Ct 1858 (1971).

* * * * *

"The Constitution imposes no obligation on local governments to erect institutional safeguards to ensure the election of a black candidate. Nor do I believe that Congress can do so, absent a finding that this obligation would be necessary to remedy constitutional violations on the part of the local government.

* * * * *

"To permit congressional power to prohibit the conduct challenged in this case requires state and local governments to cede far more of their powers to the Federal Government than the Civil War Amendments ever envisioned; and it requires the judiciary to cede far more of its power to interpret and enforce the Constitution than ever envisioned. The intrusion is all the more offensive to our constitutional system when it is recognized that the only values fostered are debatable assumptions about political theory which should properly be left to the local democratic process." *City of Rome v. U.S.*, 446 U.S. 156.

Justice Rehnquist grudgingly accepts the doctrine of specific incorporation as settled constitutional law, but interprets its consequences in a narrow way which has no other adherents on the court. In an opinion for the Court, Justice Stevens described the position to which Justice Rehnquist takes exception:

"Before analyzing the precise issue that is presented to us, it is nevertheless appropriate to recall how firmly embedded in our constitutional jurisprudence is the proposition that the several States have no greater power to restrain the individual freedoms protected by the First Amendment than does the Congress of the United States.

"As is plain from its text, the First Amendment was adopted to curtail the power of Congress to interfere with the individual's freedom to believe, to worship, and to express himself in accordance with the dictates of his own conscience. Until the Fourteenth Amendment was added to the Constitution, the First Amendment's restraints on the exercise of federal power simply did not apply to the States. But when the Constitution was amended to prohibit any State from depriving any person of liberty without due process of law, the Amendment imposed the same substantive limitations on the States' power to legislate that the First Amendment had always imposed on the Congress' power. This Court has confirmed and endorsed this elementary proposition of law time and time again." *Wallace v. Jaffree*, 86 L. Ed.2d 29, 38-39 (1985) (footnotes omitted).

Justice Rehnquist's contrary view is that only the very general principles of each Amendment of the Bill of Rights are to be applied to the states. The states, for example, are limited by the requirement in the First Amendment that they pass no law abridging freedom of speech. However, the states are not limited by the decisions of the Supreme court elaborating that doctrine and applying it in various situations. Rather, the states are free to take actions which if undertaken by the federal government would violate the First Amendment as long as such actions do not violate the fundamental spirit of the Amendment. In this typical explanation, Justice Rehnquist notes that his position is the same as that consistently taken by Justices Harlan and Jackson:

"The limits imposed by the First and Fourteenth Amendments on governmental action may vary in their stringency depending on the capacity in which the government is acting.

* * * * *

"For the reasons stated in the dissenting opinion of Mr. Justice Jackson in *Beauharnais v. Illinois*, 343 US 250, 288-295, 96 L Ed 919, 72 S Ct 725 (1952), and by Mr. Justice Harlan in his dissenting opinion in *Roth v. United States*, 354 US 476, 500-503, 1 L Ed 2d 1498, 77 S Ct. 1304, 14 Ohio Ops 2d 331 (1957), I am of the opinion that not all of the strictures which the First Amendment imposes upon Congress are carried over against the States by the Fourteenth Amendment, but rather that it is only the 'general principle' of free speech, *Gitlow v. New York*, 268 US 652, 672, 69 L Ed 1138, 45 S Ct. 625 (1925) (Holmes, J., dissenting), that the latter incorporates. See *Palko v.*

Connecticut, 302 US 319, 324-325, 82 L Ed 288, 58 S Ct 149 (1937)." *Buckley v. Valeo*, 424 U.S. 1, 290-91 (1976). *See also First National Bank v. Bellotti* 435 U.S. 765, 823-828 (1978).

To take another example, the Supreme Court has held that in order to effectuate the Fifth Amendment ban on self-incrimination, a criminal defendant is entitled to have the judge instruct the jury that it cannot consider the fact that a defendant failed to testify. Justice Rehnquist believes that this rule is valid in the federal context but cannot be applied to the state courts by the Supreme Court. Only the literal rule against self-incrimination applies to the states, and the federal courts have no power to order the states or the state courts to take actions to effectuate that principle. As long as they do not literally compel someone to testify against him or herself, the states are free to determine how the purpose of the injunction is to be effectuated. Here is how Justice Rehnquist explained this position in a long dissent:

"If we begin with the relevant provisions of the Constitution, which is where an unsophisticated lawyer or layman would probably think we should begin, we find the provision in the Fifth Amendment stating that '[n]o person . . . shall be compelled in any criminal case to be a witness against himself . . . .' Until the mysterious process of transmogrification by which this Amendment was held to be "incorporated" and made applicable to the States by the Fourteenth Amendment in *Malloy v. Hogan*, 378 US 1, 12 L Ed 2d 653, 84 S Ct. 1489 (1964), the provision itself would not have regulated the conduct "of criminal trials in Kentucky. But even if it did, no one here claims that the defendant was forced to take the stand against his will or to testify against himself inconsistently with the provisions of the Fifth Amendment. The claim is rather that in *Griffin v. California*, supra, the Court, building on the language of the Constitution itself and on *Malloy*, supra, held that a charge to the effect that any evidence or facts adduced against the defendant which he could be reasonably expected to deny or explain could be taken into consideration by the jury violated the constitutional privilege against compulsory self-incrimination. The author of the present opinion dissented from that holding, stating: 'The formulation of procedural rules to govern the administration of criminal justice in the various States is properly a mater of local concern. We are charged with no general supervisory power over such matters; our only legitimate function is to prevent violations of the constitution's commands.' 380 US, at 623, 14 L Ed 2d 106, 85 S Ct 1229, 5 Ohio Misc 127, 32 Ohio Ops 2d 437." *Carter v. Kentucky*, 450 U.S. 288, 308-310 (1981).

Justice Rehnquist applies this view across the board and consistently finds that there are severe limits on the authority of the federal courts to insure that state courts effectively protect civil liberties. He believes that the Supreme Court should exercise self-restraint in order to promote what he describes as a healthy pluralism:

"We have at present 50 state judicial systems and one federal judicial system in the United States, and our authority to reverse a decision by the highest court of the State is limited to only those occasions when the state decision violates some provision of the United States Constitution. And that authority should be exercised with a full sense that the judges whose decisions we review are making the same effort as we to uphold the Constitution. As said by Mr. Justice Jackson, concurring in the result in *Brown v. Allen*, 344 U.S. 433, 540, 73 S. Ct. 397, 427, 7 L.Ed. 469 (1953), "We are not final because we are infallible, but we are infallible only because we are final."

"The proper administration of justice in any nation is bound to be a matter of the highest concern to all thinking citizens. But to gradually rein in, as this Court has done over the past generation, all of the ultimate decisionmaking power over how justice shall be administered, not merely in federal system but in each of the 50 states, is a task that no Court consisting of nine persons, however gifted, is equal to. Nor is it desirable that such authority be exercised by such a tiny numerical fragement of the 220 million people who compose the population of this country. In the same concurrence just quoted, Mr. Justice Jackson accurately observed that '[t]he generalities of the Fourteenth Amendment are so indeterminate as to what state actions are forbidden that this Court has found it a ready instrument, in one field or another, to magnify federal, and incidentally its own, authority over the states.' *Id.* at 534, 73 S.Ct., at 423.

"However high-minded the impulses which originally spawned this trend may have been, and which impulses have been accentuated since the time Mr. Justice Jackson wrote, it is basically unhealthy to have so much authority concentrated in a small group of lawyers who have been appointed to the Supreme Court and enjoy virtual life tenure. Nothing in the reasoning of Mr. Chief Justice Marshall in *Marbury* v. *Madison*, 1 Cranch 137, 2 L.Ed. 60 (1803), requires that this Court through ever-broadening use of the Supremacy Clause smother a healthy pluralism which would ordinarily exist in a national government embracing 50 States.

"The issue here is not whether the 'right' to freedom of the press conferred by the First Amendment to the Constitution overrides the defendant's 'right' to a fair trial conferred by other Amendments to the Constitution; it is instead whether any provision in the Constitution may fairly be read to prohibit what the trial judge in the Virginia state-court system did in this case. Being unable to find any such prohibition in the First, Sixth, Ninth, or any other Amendment to the United States Constitution, or in the constitution itself, I dissent." *Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555, 605-606 (1980).

Justice Rehnquist's analysis leads him to the view, not supported by any other Justice on the Court, that the Supreme Court cannot require the states to follow specific procedures in death penalty cases. Once the Court has determined that capital punishment is not cruel and unusual punishment within the meaning of the Eighth Amendment as it applies to the States, the Court lacks authority over the procedures used by the state to determine when the penalty should be applied and with what safeguards. In his own words, put succinctly in a dissenting opinion:

"[I]f capital punishment is not cruel and unusual under the Eighth and Fourteenth Amendments, as the Court held in that case, the use of particular sentencing procedures, never previously held unfair under the Due Process Clause, in a case where the death sentence is imposed cannot convert that sentence into a cruel and unusual punishment. The prohibition of the Eighth Amendment relates to the character of the punishment, and not to the process by which it is imposed. I would therefore affirm the judgment of the Supreme Court of Florida." *Gardner* v. *Florida*, 430 U.S. 349, 371 (1977). See also *Woodson v. North Carolina*, 428 U.S. 280,m 308-324 (1976), *Lockett v. Ohio* 438 U.S. 586, 628 (1978), and *Coleman v. Balkcom* 451 US 949 (1981).

In determining whether a state statute or action runs afoul of the Bill of Rights, Justice Rehnquist does not apply the same rules that would apply to such a challenge to a federal statute. Rather he applies the test which the Supreme Court applies to actions of the states which are challenged on grounds other than that they violate individual rights. Justice Rehnquist thus asks only whether the state action, whether by the legislature or an administrator, is rational. Unless he finds the action to be irrational, Justice Rehnquist upholds it. See, e.g. *Sugarman v. Dougall*, 413 US 634, 649-664 (1973). It is not even necessary for the state to have articulated a rational reason for its actions; rather the "Equal Protection Clause of the Fourteenth Amendment requires neither that the state enactments be 'logical' nor that they be 'just' in the common meanings of those terms. It requires only that there be some conceivable set of facts that may justify the classification involved." *Weber v. Aetna*, 406 U.S. 164, 183 (1972). See also *Sugarman v. Dougall*, 413 U.S. 631, 658 (1973).

Justice Rehnquist's opinions in cases arising under the Establishment and Free Exercise Clauses of the First Amendment illustrate how he applies these principles and why they often lead him to positions not accepted by any other member of the Court. The starting point for Justice Rehnquist in analyzing any such case is what action the legislature has taken. State action must, in his view, be accorded a presumption of constitutionality and be over-turned only if it has no rational purpose. Thus, Justice Rehnquist is no more willing to find a constitutional violation when a state refuses to provide religious facilities for a Buddhist prisoner, *Cruz v. Beto*, 405 U.S. 319, 324-328 (1972), or to bend the unemployment laws to accommodate religious beliefs, *Thomas v. Review Board*, 450 U.S. 707, 720-727 (1981), than he is to find a violation when the state allows a religious institution to veto the granting of a liquor license, *Larkin v. Grindel's Den* 459 U.S. 116 (1982). In each of the cases Justice Rehnquist dissented alone. He did so because he applied a different test than that of all of his colleagues. They applied particularized standards that the Court has developed to address challenges under the Free Exercise and Establishment clauses. Justice Rehnquist asked only if the state action was "irrational". Finding that it was not, he held that the Supreme Court had no power to hold it unconstitutional.

Similarly, in cases involving such issues as the rights of women, of aliens, of prisoners, and in cases relating to freedom of speech, Justice Rehnquist has penned lone dissents because he asked only whether there was some conceivable rational purpose for the statute, while his colleagues were balancing the state interest against the right of the individual with some degree of special scrutiny providing a balance in favor of the right of the individual. *Taylor* v. *Louisiana*, 419 U.S. 522, 538-539 (1975) (woman), *Weber* v. *Aetna* 406 U.S. 164, 177-185 (1972) (illegitimate children), *Zablocki* v. *Redhail* 434 U.S. 374, 407-411 (1978) (marriage), *Sugarman* v. *Dougall*, 413 U.S. 634, 649-664 (1973) (aliens), *Hutto* v. *Finney*, 437 U.S. 678, 710-714 (1978) (prisoners), *Woodsom* v. *North*

Carolina, 428 U.S. 280, 308-324 (1976) (death penalty procedures), and *Carey* v. *Population Services International*, 431 U.S. 678, 717-719 (1977) (right to contraception). *Delaware* v. *Prouse*, 440 U.S. 648 (1979) (scope of Fourth Amendment).

FIRST AMENDMENT

In two fundamental respects Justice Rehnquist's substantive view of the First Amendment differs from that of all of his colleagues on the Court and shapes his opinions on issues relating to these two aspects of the Amendment.

All of the other Justices of Supreme Court take the view that the Establishment clause of the First Amendment prohibits actions by the state of federal government which support religion. Justice Rehnquist believes that the provision only prohibits aid to a particular religion. In his famous lone dissent on this issue in *Wallace* v. *Jaffree* he explains his view as follows:

"It would seem from this evidence that the Establishment Clause of the First Amendment had acquired a well-accepted meaning: it forbade establisment of a national religion, and forbade perference amont religious sects or denoninations. Indeed, the first American dictionary defind the word 'establishment' as 'the act of establishing, founding, ratifying or ordaining(g,') such as in '[t]he episcopal form of religion, so called, in England.' 1 N. Webster, American Dictionary of the English Language (1st ed 1828). The Establishment Clause did not require government neutrality between religion and irreligion nor did it prohibit the federal government from providing non-discriminatory aid to religion. There is simply no historical foundation for the proposition that the Framers intended to build the 'wall separation' that was constitutionalized in Everson.

"Notwithstanding the absence of an historical basis for this theory of rigid separation, the wall ideal might well have served as a useful albeit misguided analytical concept, had it led this Court to unified and prinicpled results in Establishment Clause cases. The opposite, unfortunately, has been true; in the 38 years since Everson our Establishment Clause cases have been neither prinicipled nor unified. Our recent opinions, many of them hopelessly divided pluralties, have with embarrassing candor conceded that the 'wall of separation' is merely a 'blurred indistinct, and variable barrier,' which 'is not wholly accurate' and can only be 'dimly perceived.' Lemon v. Kurtzman, 403 US 602, 614, 29 L Ed 2d 745, 91 S Ct 2105 (1971); Tilton v. Richardson, 403 US 672, 677-678, 29 L Ed 2d 790, 91 S Ct 2593, 5 Ohio Ops 3d 197 (1977); Lynch v. Donnely, 465 US ——, 79 L Ed 2d 604, 104 S Ct 1355 (1984).

"Whether due to its lack of historical support or its practical unworkability, the Everson 'will' has proven all but useless as a guide to sound constitutional adjudication. It illustrates only too well the wisdom of Benjamin Cardozo's observation that '[m]etaphors in the law are to be narrowly watched, for starting as devices to liberate thought, they end often by enslaving it.' Berkey v. Third Avenue R. Co. 244 NY 84, 94, 155 NE 58, 61 (1926).

"But the greatest injury of the 'wall' notion is its mischievous diversion of judges from the actual intentions of the drafters of the Bill of Rights. The 'crucible of litigation,' ante at 14, is well adapted to adjudicating factual disputes on the basis of testimony presented in court, but no amount of repetition of historical errors in judicial opinions can make the errors true. The 'wall of separation between church and States' is a metaphor based on bad history, a metaphor which has proved useless as a guide to judging. It should be frankly and explicitly abandoned." *Wallace* v. *Jaffree*, 53 U.S. L.W. 4665, 4683-4684 (U.S. June 4, 1985) (footnotes omitted).

Justice Rehnquist also takes the view that commercial speech is not entitled to any special constitutional protection. *Va. Pharmacy Bd.* v. *Va. Consumer Council*, 425 U.S. 748, 781-790 (1976). Although he has joined in and even authored opinions for the Court applying the majority view that commercial speech is entitled to some First Amendment protection, he continues to assert his view that the federal government, as well as the states, are free to put any limits that they choose on the public statements of corporations.

CONCLUSION

This report on Justice Rehnquist's civil liberties record has focused not on his opinions in particular areas of the law, but rather on the philosophical approach that he brings to the adjudication of constitutional claims and in particular to his view of the Fourteenth Amendment. It attempts by this means to illuminate the sources of Justice Rehnquist's opinions and permit an evaluation of his civil liberties record taken an a whole.

As indicated at the outset, Justice Rehnquist rejects the views that the primary function of the Supreme Court is to protect the rights of persons and that the Court should err, if err it must, on the side of protecting individual liberty. A review of Justice Rehnquist's votes during the fifteen years on which he has served on the Supreme Court leaves no doubt that he has been faithful to that premise.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I wish to say that all of these matters have been debated very fully, all of them have gone over time and time again in the committee. I agree they should be brought up here.

On the other hand, there is a great propensity on the part of people who are opposed to the nominee to resolve every ambiguity in favor of their position against nominee, regardless of his years of public service, regardless of how good a Justice he is, regardless of the fact that he has the complete support of the fellow Justices, regardless of the fact that he is a good man and a leading intellect on the Court. I find that inconguous.

Let me take a few minutes to discuss one of the arguments that has come up. Several myths have circulated about Justice Rehnquist's 15 years on the Court. We heard that he was the Court's foremost lone dissenter. We heard charges of impropriety in connection with the Laird versus Tatum case. These deserve clarification.

At the outset of these proceedings, we heard that Justice Rehnquist's record as the Court's leading lone dissenter makes him too extreme to serve as Chief Justice. The problem with this argument is that it is not accurate. Justice Rehnquist is simply not the Court's leading lone dissenter. In the 10 years their terms have overlapped, Justice Stevens' record of lone dissents has far outstripped that of Justice Rehnquist. Over that period, Justice Stevens dissented alone 51 times, Justice Rehnquist, 40 times. The title of greatest dissenting author on the Court also goes to Justice Stevens with 145 from 1980-84. That is the difference in the number. Justice Brennan had 106 for that period; and Justice Rehnquist, 75. In terms of dissenting votes, Justice Rehnquist's 152 losing votes from 1980-84 falls far short of Justice Brennan's 245. As I mentioned earlier, the real test of the ability to shape a consensus on the Court would be the number of majority opinions authorized by any particular Justice. In that regard, no Justice has authored more majority opinions than Justice Rehnquist over the past four terms. A careful and fair examination of the facts simply does not make Justice Rehnquist an extreme dissenter, but the leading articulator of Supreme Court policy.

Admittedly, some of those opposed do not like Supreme Court policy any more than I do on certain issues. But that is not a reason to be against him. Unfortunately, it may be, in the eyes of some.

With respect to the Laird v. Tatum issue, we gave heard that Justice Rehnquist, who gave general testimony on executive branch surveillance before Senator Ervin's subcommittee in 1971, should have recused himself when the case came before the Court. Recusal is a legal doctrine governed by a statute. A fair look at that statute offers ample reason to agree with Justice Rehnquist on his decision not to recuse himself. The governing statute in 1972, 28 U.S.C. 445, read:

> Any Justice * * * shall disqualify himself in any case in which he has a substantial interest, has been of counsel, is or has been a material witness, or is so related to or connected with any party or his attorney as to render it improper, in his opinion, for him to sit * * *.

The statute requires disqualification where the Justice has a substantial interest, has been of counsel, is or has been a material witness. No one contends that Justice Rehnquist was ever "of counsel" or a "material witness" in the Laird versus Tatum case itself. Therefore, those provisions are inapplicable. It is important to note, however, that in cases where Justice Rehnquist did have a very slight advisory role at the Justice Department, for instance United States versus U.S. District Court and S&E Contractors versus United States, he recused himself.

The second part of the statute is qualified by the discretionary language "in his opinion," referring to the judge's discretion. It urges disqualification where the Justice "is so

related to or connected with any party or his attorney as to render it improper." In reviewing his relationship with this particular case while at the Justice Department, Justice Rehnquist concluded that discretionary disqualification was not warranted. This was based on his "total lack of any connection" with the case at the Department.

Critics of this judgment, which was completely within Justice Rehnquist's authority to make, contend that his testimony before the Ervin subcommittee was evidence of his extensive connection with the issues of the case while at the Justice Department. To the contrary, the extent of Justice Rehnquist's involvement with executive branch surveillance efforts was extremely minimal. He had helped prepare an initial draft of a plan to deal with civil emergencies. This included a section concerning information about potential instigators of unrest. This was simply a planning memo; the Justice did not participate in its implementation. The planning memo says nothing about surveillance underway nor about any specific event of the sixties or seventies. In fact, he explained repeatedly to the Ervin subcommittee that he was only giving his understanding of the constitutional and legal issues connected with executive branch information gathering.

He did not have personal knowledge of the actual surveillance. He did not have any personal knowledge of the facts of the Laird versus Tatum case. Most likely 28 U.S.C. 445 was discretionary in 1972 precisely because only the Justice himself can judge the degree of his involvement with a particular issue. The statute was later changed, but the Justice certainly could not be held to the subsequent changed standard at the time he made his decision to join in the Laird judgment.

Justice Rehnquist's decision was fully in line with the Supreme Court precedents and practices at that time. Justice Black had authored the Fair Labor Standards Act as the Labor Committee Chairman in the Senate, yet he helped decide its constitutionality on the Court. He even sat on one Fair Labor Standards Act case that has handled by one of his former law partners. Justice Frankfurter had written a book in the field of labor law and was acknowledged as a dominant force in the authorship of the Norris-LaGuardia Act, yet he wrote the primary case on the act.

By the way, the Norris-LaGuardia Act is one of those instances where the jurisdiction of a Federal Court of the United States was limited pursuant to article III, section 1 of the Constitution.

Justice Jackson resolved an immigration issue on the Court that he had developed as Attorney General. Chief Justice Vinson never hesitated to review legislation he had helped formulate as a Member of the House of Representatives. Chief Justice Hughes had written a book critical of one Supreme Court case and then on the Court wrote the opinion which overruled the case. This list could go on. The only purpose is to show that Justice Rehnquist's legal determination about the interpretation of the discretionary section of 28 U.S.C. 445 was completely in harmony with Supreme Court practice at that time.

Again, this is a red herring, it is offensive, frankly; it is something that should not be brought up this way. It shows a lack of knowledge about the Supreme Court.

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He not only made a careful legal analysis, but he reported that analysis in the spirit of full disclosure and ethical treatment of the issue.

We have heard Mr. Justice Rehnquist made a statement because he was biased against the case. There are two responses. First, a Justice is not expected to join the Court with a blank mind. As Justice Rehnquist said, this would be a "lack of qualification", not lack of bias.

Second, this was a legal decision permitted by the law of that time of Justice Rehnquist. He faithfully analyzed the law and he reached a decision which others can second-guess after the fact. But that legal judgment should not be twisted into something of ethical dimensions. That is what is being attempted here today. It was attempted on the committee, because they do not have anything else.

That is the problem, Mr. President, they do not have anything against Justice Rehnquist. The allegation they have made can all be easily rebutted. We do not want to take days doing that, because most of these items were rebutted in committee.

Justice Rehnquist, on the Laird versus Tatum case, acted completely ethically and within the law.

Once again, the Laird, versus Tatum case is just another instance of some individuals holding a different legal opinion than that credibly espoused by Mr. Justice Rehnquist.

Mr. KENNEDY. Does the Senator want to yield on that particular question?

Mr. HATCH. I am glad to yield.

Mr. KENNEDY. I noticed in the report of the majority that the Senator from Utah describes a similar expression was made, that the Laird versus Tatum controversy is just a difference of opinion on the Laird versus Tatum decision.

Mr. HATCH. That is correct.

Mr. KENNEDY. Has the Senator had the opportunity to examine Professor Hazzard's memorandum?

Mr. HATCH. I did.

Mr. KENNEDY. Professor Hazzard, who was a key draftsman of the 1972 ABA Code of Judicial Ethics, indicated a complete disbelief in Justice Rehnquist's decision to participate in a case involving a policy that the Justice had been very much involved in fashioning while he was a government attorney.

I want to make the point that it is not a question of different people agreeing or differing on the outcome of the Laird versus Tatum case. That misses the point completely. The point is that Justice Rehnquist had indicated to the Senate of the United States what the outcome of the Laird versus Tatum case should be, and Mr. Rehnquist was an architect of the disputed policy that dealt with some very basic liberties of the American people.

After he participated in the case, Justice Rehnquist mislead whoever was to read his memorandum opinion by excluding from it references to key testimony that he made to the Senate, and completely distorting the ABA's canons of ethics.

I wish that, both in the presentation that is being made in favor of Justice Rehnquist as well as in the committee's majority report, the Laird versus Tatum matter issue would be examined in a more complete and accurate fashion.

Mr. HATCH. If the Senator would let me reply. That is a little sophistry. The fact of the matter is Hazzard's opinion resolved everything against Justice Rehnquist just as you are doing. Every ambiguity has to be resolved against this man who has set on the bench for 15 solid years.

Mr. KENNEDY. Is the Senator talking about Laird versus Tatum?

Mr. HATCH. I am going to talk about Laird versus Tatum. Let me say this: You are applying ethical standards enacted afterward. I am just looking at the questions raised about his participation. He was not counsel in the Laird versus Tatum case. That is what the law was at the time. He was not an adviser in the case. That is what the law was at that time. He had discretion to make this decision. That is what the law was at that time.

I cited a whole raft of other Justices who did things that were far in excess of what anybody, any reasonable mind could say Mr. Justice Rehnquist did——

Mr. KENNEDY. Would the Senator yield so I can quote the law at this time.

Mr. HATCH. I would perfer not to yield.

Mr. President, who has the floor?

The PRESIDING OFFICER (Mr. EVANS). The Senator from Utah has the time.

Mr. HATCH. I shall yield in a moment. Let me finish my comments.

He was not counsel, he was not an adviser on the case, he had only com-

mented initially on Laird versus Tatum. When he was a judge, he could comment whether he could review that in making a judicial decision and he did. He said he used that statute.

Other Justices have asserted that right and used it.

I do not hear Justice Frankfurter being excoriated because he participated and exercised discretion in decisions he later helped to write. Because opponents of Mr. Justice Rehnquist do not have anything else, they are trying to do distort Laird versus Tatum, a case where he had the right to make the decision under the then existing law. The law was changed later. I doubt that he would have exercised the discretion any more than Mr. Justice Black would have in the case I have cited that he did, or Mr. Justice Frankfurter in the case that I have cited that he did. We could go on through dozens of other cases of people who were Justices who acted as they did.

Let us be fair. Let us not distort everything.

The law was such that Justice Rehnquist had every right to do what he did at the time and most Justices probably would have done the same thing.

With regard to these other memoranda, let us be honest about that, too. He was the Assistant Attorney General at the Office of Legal Policy. He did not write every memorandum. He may have had them come through his desk as you, and I do. A month from now we will not remember which ones we signed off and which ones we did not, let alone 15, 16, 24 years or in some cases even beyond that. He was the only one who knew whether or not he had personal knowledge of the case. Why can you not accept that? Who is Mr. Hazzard that he can say that he knew when he did not know? It is typical of the type of case that the opponents have tried to build here.

Mr. KENNEDY. Will the Senator yield?

Mr. HATCH. I will be happy to yield.

Mr. KENNEDY. Professor Hazard was a key draftsman of the ABA canons of ethics, and the preeminent expert on judicial ethics.

Mr. HATCH. What has that got to do with it?

Mr. KENNEDY. The Senator questioned Professor Hazard's authority to make a judgment whether the action that was taken by Mr. Rehnquist was ethical or not. Professor Hazard is a nationally recognized expert on legal and judicial ethics.

Mr. HATCH. The first time we hear from this author——

Mr. KENNEDY. He believes that Justice Rehnquist's action in participating in the Laird case and casting the deciding vote against the plaintiffs were unethical.

Mr. HATCH. The first time we hear from this author——

Mr. KENNEDY. That is all we are trying to point out.

Mr. HATCH. The first time we hear from this author on Laird versus Tatum is right now. I do not think that author is noted for his conservative politics any more than Rehnquist is noted for liberal politics. He has a right to the opinion, but he resolved everything against Justice Rehnquist. It is typical. We can get any authority sometimes to say something on one side or the other of these issues. But the fact of the matter is Mr. Justice Rehnquist's testimony absolves him of any responsibility for that because he abided by the then-existing law.

Now, if you are talking about the subsequent law, then you might be able to criticize. And, if course, you have talked about that as though he knew what was going to be passed or brought down a little bit later. He did not know any more than you did or anybody else and you were sitting in the U.S. Senate at the time.

In summation, the Justice was neither of counsel nor was he a material witness in the Laird case while at the Department of Justice. He did not even have an advisory role in connection with the case. For this reason he was entirely within his rights to refuse to recuse himself.

I might add that you can try and build a case out of anything I suppose, but let us be fair about it. Let us look at the facts. Let us look at the law. Let us look at the laws that then existed. Let us look at the practice of the Supreme Court. Let us look at what other Justices did.

It is amazing to me how free they were to not recuse themselves in a lot of the cases that they did. It is no small thing in some of the things that I cited, such as Justice Black.

He authored the Fair Labor Standards Act. He was the Labor Committee chairman. I understand a bit about that. I am the Labor Committee chairman in the U.S. Senate. Yet he helped to decide its very constitutionality in the Court. If he could do that, certainly Mr. Justice Rehnquist, who was not a witness, was not a material witness, was not counsel, who did not really basically have anything but a passive interest in it, certainly he could have refused to recuse himself.

Justice Frankfurter was considered one of the top labor professors in the country. He was the dominant force in the enactment of the Norris-LaGuardia Act. The only reason I bring that sideline issue into it is that the Norris-LaGuardia Act is a perfect illustration of how the jurisdiction of the courts can be limited. And Felix Frankfurter had a lot to do with that.

We have had a lot of arguments here on the floor, but there is a perfect illustration of how we in Congress can limit the jurisdiction of the courts in this country under article III, section 1 of the Constitution. Yet Mr. Justice Frankfurter wrote the primary case on that particular act.

Let us be fair. I mentioned Justice Jackson's resolution of an immigration issue, that was before the Court that he actually handled as Attorney General of the United States. Chief Justice Vinson never once, to my knowledge, I hesitated to review legislation he had helped formulate as a Member of the House of Representatives. He is not being excoriated here today. These are some of the greatest men who ever served on the Court. Chief Justice Hughes wrote a critical book of one Supreme Court case and then wrote the opinion that overruled the case.

Mr. KENNEDY. Will the Senator yield on this argument?

Mr. HATCH. Those were important issues.

Mr. KENNEDY. Will the Senator yield for a question?

Mr. HATCH. Yes.

Mr. KENNEDY. The record shows without question that Justice Rehnquist expressed an opinion on a case while it was pending in the lower court and then he voted on that case, cast the crucial vote, when he was on the Supreme Court of the United States.

Can the Senator from Utah give me any instance where any of the Justices to which the Senator is now referring had ever expressed an opinion about the outcome of a case in a lower court and then voted in the Supreme Court? Can the Senator give me any case?

Mr. HATCH. First of all, he did not express an opinion regarding the outcome of the case. He generally described the case. You cannot call that an opinion. That is again a distortion.

Mr. KENNEDY. It is not a distortion. I can read the record and the Members of the Senate can make their own decision on it.

Mr. HATCH. Go ahead.

Mr. KENNEDY. Mr. Rehnquist said to Senator Ervin:

My only point of disagreement with you is to say whether as in the case of *Laird* v. *Tatum* that has been pending in the Court of Appeals here in the District of Columbia that an action will lie by private citizens to enjoin the gathering of information by the executive branch where there has been no threat of compulsory process and no pending action against any of those individuals on the part of the government.

Senator Ervin said that a cause of action would lie and Mr. Rehnquist is pointing out, "My only point of disagreement with you" is whether an action will lie.

That is a major point of disagreement.

In addition, Mr. Rehnquist was an architect of the policy that was being disputed. That is very clear. That is not a question of ideology. That is a

question of fact. I am interested in whether the Senator can give me examples of other Supreme Court Justices who have expressed a view on the outcome of a case pending in the lower court and then voted in the case in Supreme Court.

Mr. HATCH. Let me go through the examples again. When Mr. Justice Black was in Congress, he was chairman of the Labor Committee. You sit on the committee with me. He helped write the Fair Labor Standards Act. He actually wrote the language. He not only gave opinions, I presume he had a lot to do with the report on the Fair Labor Standards Act. Then he decided the questions with regard to it and its constitutionality. That was the practice of the Court. Mr. Justice Vinson never recused himself on bills that he wrote, that he gave opinions on, that he wrote majority reports for. I think we could go through a lot of illustrations.

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Mr. KENNEDY. If that is the answer——

Mr. HATCH. Mr. President, who has the floor? I will be happy to yield for a question.

The PRESIDING OFFICER (Mr. EVANS). The Senator from Utah has the floor.

Mr. KENNEDY. I thought we would have an opportunity for a debate.

Mr. HATCH. I would like to yield to you, but I would like to make my points before you interrupt.

Mr. KENNEDY. I was still waiting for additional information, because if that is your best response, it is not a satisfactory one. What you are talking about is a general question of the constitutionality of a statute. In Laird versus Tatum we have the application of the Constitution to particular facts in a particular case. That was my question.

The examples given by the Senator from Utah fail to address the issue that is raised in the Laird versus Tatum case.

Mr. HATCH. He did not give an opinion of that case. It was a passing comment in a hearing.

Mr. KENNEDY. He commented the Laird versus Tatum was nonjusticiable.

Mr. HATCH. One passing comment. He did not write a bill in this case. He did not make decisions in this case. I am telling you that the contrast with what Mr. Justice Black did and this small matter that you brought up here is stark. I do not condemn Mr. Justice Black nor Mr. Justice Frankfurter nor Mr. Justice Vinson, nor would any reasonable person. I do not think Mr. Hazard would do that. I am surprised that he is doing it to Mr. Justice Rehnquist, in light of the testimony Mr. Justice Rehnquist has given. I do not know why he did that.

The fact of the matter is that if you read the statute, as I have read it, there is no reason in the world why he had to recuse himself. He had every right to or not to. The statute itself is fairly clear. The governing statute, as I said, was a 1972 statute, 28 U.S.C. 445. It read:

Any justice . . . shall disqualify himself in any case in which he has a substantial interest.

He did not have any special interest.

has been of counsel.

He was not of counsel.

is or has been a material witness.

He was not a material witness.

is so related to or connected with any party or his attorney

He was not related to any party or his attorney.

as to render it improper, in his opinion, for him to sit. . .

He had to make that final decision. He was right. He had a right to make it that way.

I have cited at least four illustrations, stronger illustrations than the one you are trying to bring up. Let us be fair about it. Besides, Laird versus Tatum was gone into years ago.

THE PHOENIX VOTING ISSUES

Let me turn my comments from the Laird versus Tatum matter to the Phoenix voting issues.

The allegations concerning the Phoenix voting practices testify more to the frailties of human memory than to anything else. Nonetheless, this 24-year-old history must be clarified. I will first make a few general observations and then discuss a few of the witnesses who challenged Justice Rehnquist's account of these 1962 events.

In the first place, it is important to realize that these allegations were investigated carefully in 1971 when they were only 9 years old. At that time, the Senate Judiciary Committee, which was chaired by a Democrat—Senator McClellan—concluded that the

Voter harassment charges against Mr. Rehnquist are found by this committee to be wholly unsubstantiated. Viewed in its entirety, the incident suggests at the very most a case of mistaken identity.

The case of mistaken identity arises from a disturbance at Bethune precinct in 1962. This disturbance began when a Republican official challenged the credentials of several voters. Challenging voters was a legal means of ensuring that those voting were adequately qualified and registered to vote. This particular challenger, however, evidently became so aggressive that the line of people waiting to vote grew very long. This precipitated some kind of scuffle. As a result, the Republican challenger was escorted away from the polling place by a police officer. This individual was a Mr. Wayne Bentson, not a Mr. William Rehnquist, although their heights and weights appear to have been similar.

According to those who know them, they probably looked a little bit alike. Certainly, heights and weights were pretty much the same.

In his capacity as legal advisor to the Maricopa County Republican Party, Attorney Rehnquist had occasion to visit precincts to mediate voting disputes and to advise challengers. Justice Rehnquist has repeatedly testified that this was entirely within his responsibility, and it was the only thing, basically, he did. Thus, it is very probably that Attorney Rehnquist may have even appeared at Bethune in 1962, but as a legal advisor, not as a disruptive challenger. In fact, none of the contemporaneous accounts of this disturbance, including the FBI report of the matter, the detailed news accounts in the Arizona Republic, and the Phoenix City Police reports, even mention Mr. Rehnquist. Each of these accounts carefully and consistently records these events, but each identifies Bentson as the challenger, not Rehnquist. Incidentally, none of these contemporaneous sources find another disturbance worth mentioning on election day in 1962.

These contemporaneous written accounts are corroborated by then Democratic U.S. attorney—now Federal judge—Carl Muecke, who thoroughly investigated voter harassment in 1962; by Carl Sims, who scuffled with Bentson; but all other persons present who were interviewed by the FBI; by Attorney Justice Rehnquist's Democratic counterpart—now Federal judge—Hardy; and by the Judiciary Committee in 1971. Judge Hardy's statement is particularly interesting. He is a Federal judge today. Here is what he said:

Can state unequivocally that Mr. Rehnquist did not act as a challenger at the Bethune precinct * * * challenging voters was not a part of Mr. Rehnquist's role in 1962 or subsequent election years.

This was 9 years after the alleged happenings occurred. Mr. Muecke, a leading Democrat, made those comments in 1971, when his recollections were a lot better.

Before discussing each of the witnesses before the committee, I have a few other general comments about those individuals who purported to have seen Mr. Rehnquist challenge voters 24 years ago. All of these individuals failed to come forward or to make any allegations 15 years ago in 1971. Much of their testimony is consistent with Attorney Rehnquist's role as legal advisor who visited precincts to settle voting disputes. Of the seven who claim to have seen Attorney Rehnquist challenge voters, five did not know him at the time and only identified him on the basis of 1971 newspaper photographs—9 years after

the alleged incidents. All of those purporting to have seen Attorney Rehnquist challenging are committed Democratic or liberal activists, whereas six Democrats—including four State or Federal judges—refute the harassment or challenging charges.

Perhaps at this point I could proceed to examine the testimony of these witnesses. Who are these witnesses? Every specific allegation—one identifying a particular year and voting precinct—is either refuted by contemporaneous eyewitness reports or rendered highly unlikely by internal inconsistencies or contrary testimony from other reliable witnesses.

BROSNAHAN

Let us take Mr. Brosnahan.

Mr. James Brosnahan was an assistant U.S. attorney in 1962. The Arizona Republic mentions him as the investigator of the Bethune precinct incident in that year. Moreover, a 1962 letter from Wayne Bentson identifies Brosnahan as the investigating legal officer at the disturbance. Actually there should be little doubt about where Brosnahan was on November 6, 1962 or what he was doing because he stated himself on two occasions that the place where he saw Rehnquist in 1962 was Bethune precinct.

The Washington Post of July 26, 1986 states: "Brosnahan, however, said there were enough complaints about the GOP challenges at the Bethune precinct in 1962 that he went there with an FBI agent to investigate. Brosnahan said he found a small group of Republicans, including Rehnquist, there. * * *" The Nation Institute Press release, which features a running commentary by Brosnahan, includes the admission that the investigation occurred at Bethune in 1962. Moreover, Carl Muecke, Brosnahan's supervisor, only mentions dispatching Brosnahan to Bethune, not any other precinct. Nonetheless, when he appeared before the Judiciary Committee, Mr. Brosnahan, a self-described "liberal Democrat," suddenly could not remember which precinct it was and suddenly could remember that he investigated several precincts that day.

One of the great mysteries of this entire proceeding is what caused Brosnahan's memory to change in the few weeks between the newspaper interviews and the hearing. The mystery becomes larger when we realize that Brosnahan never said or did anything in 1962 which implicated Attorney Rehnquist in the slightest in any voting dispute. Moreover the FBI investigation in which Brosnahan was involved did not even mention Rehnquist. Brosnahan failed to come forward in 1971. And finally, even Brosnahan admitted in his testimony and in numerous press accounts that he never saw Rehnquist challenge even a single voter.

The gist of Brosnahan's testimony was that some of the people at Bethune or wherever his inconsistent memory finds it convenient to place the matter, said that Rehnquist was involved in challenging. This would not necessarily be one bit inconsistent with Justice Rehnquist's testimony. After all, Justice Rehnquist said he was present at voting disputes in 1962. It would not be at all unusual for some distant observers to conclude that Attorney Rehnquist was somehow involved when, in fact, he merely appeared at the polling place to settle the dispute caused by Wayne Bentson. This explanation is so logical that it may even solve the mystery of Brosnahan's changing memory.

In any event, newspaper accounts, FBI reports, and police reports all confirm that Attorney Rehnquist was not involved—other than possibly as a legal adviser—in any incident at Bethune in 1962. Even Brosnahan's slippery memory produces no credible evidence to the contrary. One further enlightening view of this incident was provided by Edward Cassidy, the Phoenix police officer who escorted Bentson from the polling place in 1962. He was present at or near Bethune that entire day in 1962. He testified under oath that only Wayne Bentson was involved in the scuffle at Bethune and that no other Republicans were involved in challenging or other unseemly conduct on that occasion.

Anyone who knows Mr. Justice Rehnquist, who knows the passive personality that he has—it is a meek and mild personality—who knows how judicial, of what tremendous judicial temperament he was, would not believe for the slightest that he was there belligerently challenging voters on that day.

Since he said he was not there challenging voters, and that was his recollection, he should be given the benefit of the doubt.

Mr. President, I ask unanimous consent that my discussion regarding the other witnesses be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CHARLES PINE

Charles Pine began by telling the committee that the incidents he remembered occurred at Bethune in 1962. His memory seemed to work the opposite of Brosnahan's. Instead of forgetting what he had known a few weeks earlier, Pine remembered what he had not known a few weeks earlier. He told the Nation institute and other reporters in the weeks before the hearing that he could not identify the precinct or the year.

Mr. Pine also remembered complaining to democratic headquarters about Rehnquist, but Judge Maggiore, the 1962 county democratic chairman, testified that he knew Pine well and that neither Pine nor anyone else complained to him about Attorney Rehnquist. Mr. Pine also testified that he had discussed the incident with Judge Hardy who has stated that he knew of no involvement by Rehnquist. Mr. Pine also could not recall how many voters were challenged, but he did recall the exact words Attorney Rehnquist was purported to have said to various voters. He could even remember how Attorney Rehnquist punctuated his sentences over 24 years ago. This mysterious memory principle seems to operate even though all people present, including democratic officials, at Bethune in 1962 during the incident gave testimony in contemporaneous FBI, police, and news reports that Bentson was the only GOP official involved. Moreover, the nonpartisan police officer present at Bethune, Edward Cassidy, also testified that Bentsen alone was responsible for any challenging done at Bethune in 1962.

MELVIN MIRKIN

Mr. Mirkin's testimony was completely consistent with Justice Rehnquist's. He said he saw Attorney Rehnquist, in a normal tone of voice, advise a group of Republican Challengers of the proper procedures for this legal process in 1962. This would have been within Attorney Rehnquist's duties as legal advisor. Mr. Mirkin also noted that he would vote to confirm Justice Rehnquist as Chief Justice if he had a vote.

SYDNEY SMITH

Mr. Smith could not remember the name of the precinct or the year when he purportedly saw Attorney Rehnquist challenging voters. This makes it very difficult to corroborate his story. Although he could not remember the time or place, he could recall with remarkable clarity verbatim quotes from Mr. Rehnquist 24 years after the fact. Unfortunately his memory begins to fail again when he was inconsistent as to the number and race of the people he saw Rehnquist address and as to whether or not any of them left the voting line. Mr. Smith also claimed to have personally called the democratic headquarters to complain, but Judge Maggiore, the county chairman, testifies that he did not even hear a rumor that suggested Rehnquist might have been involved in challenging.

MANUEL PENA

Mr. Manuel Pena was sure that the GOP official with whom he argued over challenging techniques in 1964 was William Rehnquist because he identified him as the man 7 years later on the basis of a newspaper photo. He did not know Attorney Rehnquist from anyone else in 1964, but 7 years later he saw a photograph in a newspaper and identified him as the man at Butler Precinct in 1964.

Besides the improbability of this identification, several other facts make this improbable. First, Judge Thomas Murphy, the Democratic county chairman in 1964, investigated personally complaints of vote harrassment. He said that Rehnquist was simply not involved. Because Attorney Rehnquist had no challenging credentials and was in charge of the massive Ballot Security Program at the GOP headquarters, it is unlikely that he spent around an hour at Butler. Moreover, Pena declared that the man he met at Butler called his headquarters to establish that his challenging procedure was correct. As the head of the Ballot Security Program in 1964, William Rehnquist would not have had to call headquar-

ters to ask about the rules. He was the one answering those calls.

QUINCY T. HOPPER

Mr. Hopper admits in his 1986 affidavit that his memory is not clear and relies instead on his 1971 affidavit. This affadavit claims that he, too, identified Rehnquist as the person he saw in 1964 from a photo shown him in 1971. He further claims that Carl Sims was with him, but Sims was the individual involved in the 1962 altercation with Bentsen at Bethune. The rest of the incident he describes, complete with details about the scuffle and the police escorting the Republican away, is remarkably similar to the 1962, Bethune incident. Judge Thomas Murphy, police records, news accounts, and Republican poll watches at the Bethune Precinct in 1964 report no disturbance whatsoever that year.

JORDAN HARRIS AND ROBERT TATE

Both of these individuals were involved in the 1962 Bethune incident and gave statements to the FBI about the event. In their 1971 affidavits, they repeat a similar story but now say that the event occurred in 1964. Tate also claims that the challenger in question did nor wear glasses. Attorney Rehnquist wore glasses at all times. Finally both of them identified Rehnquist as the challenger on the basis of a photograph shown to them in 1971. Once again there are no independent reports of any similar incident in 1964.

SNELSON MCGRIFF

This account follows a familiar pattern. He describes an incident remarkably similar to the 1962 Bethune problem. He says that the challenger was not wearing glasses at some time during the day. He is not sure that the incident occurred in 1964. And he indentifies Rehnquist from a 1971 photo as the 1964 culprit. And there is still no independent account of any such event in 1964.

NEW AFFIDAVITS

Since the hearing, it has been interesting to note that a few new affidavits have come forth. For instance, Ruth Finn remembers her late husband remarking at the time of the 1971 confirmation that Justice Rehnquist is the "——— (expletive deleted) who tried to close the polls on the black voters." This hearsay is not explained. If it means that Justice Rehnquist participated in the Republican Ballot Security Program to prevent tombstones and vacant lots from voting early and often, it is correct. If it means something else, that meaning passed on with Mr. Finn.

We also hear from Susan B. Perkins who was a booth worker for the Democratic Party at Jackson Precinct in 1964. She remembers a man challenging voters and later returning to the poll at closing time to tell those in line that the time had expired for voting. She did not know him at the time, but * * * you guessed it—she recognized him 7 years later when his picture appeared in the paper as a nominee to the Supreme Court.

Mr. Louis Meyer writes a letter. He says: "* * * While I did not see Mr. Rehnquist at the polling places at which I stopped on election day in 1964, I do recall during the course of the day two people mentioning to me that 'Bill Rehnquist is a part of the voter line slow-down going on' and I understand Attorney Bill Rehnquist was removed from a polling place for harrassing voters.'" Set aside for a moment the miraculous memory of this chairman of the Democratic "get-out-the-vote" drive, this tid-bit does offer some enlightenment. We have all been part of campaigns and know that each side accuses the other of hyjinks, tearing up the other's signs, and so forth. Rumors abound. In this case, the mistaken identity with the Republican challenger removed from the Bethune Precinct in 1962 seems to be part of the rumor mill. In the heat of political campaigns, these things are to be expected. It is another thing altogether, however, to magnify that innuendo through over 20 years of hazy memory and bring it forth in a proceeding of this importance.

All of these accounts are convincing evidence that memory and rumor are elusive and sometimes deceptive—even to ourselves. I have yet to mention most of the testimony of the witnesses who had not heard a single rumor about Attorney Rehnquist's involvement in any challenging or harrassing activities in either 1962 or 1964. Seven individuals, including the Democratic county chairman of 1962, testified that Rehnquist had not challenged any voters and that such activity would have been completely outside his duties as a party official. They also described the challenging procedures and noted that Attorney Rehnquist did not even have the credentials which must be presented at each challenge. Again, it seems to me that the Judiciary Committee in 1971 summarized this well when it said" viewed in its entirety, the incident suggests at the very most a case of mistaken identity."

Mr. HATCH. Mr. President, I wanted to talk about Mr. Brosnahan for a minute since he got most of the media attention in this country. I will leave, of course, the remainder of this discussion up to our distinguished chairman.

Let me just conclude that I find it pretty incredible for Mr. Brosnahan, who did not appear in 1971 although he could have to suddenly appear and tell facts that he never told to any newspaper even though he had been repeatedly interviewed by them, and to not remember he was at Bethune, even though just a week before he told newspapers he was at Bethune. The reason he did not want to remember that, in my humble opinion, is that he knew if he agreed that when he saw Bill Rehnquist at Bethune School, that there certainly was a cloud over any allegations against Bill Rehnquist at Bethune School. Why? Because there was a man taken out who looked like Rehnquist, who was the same size as Rehnquist, who was named Wayne Bentson, who was a Republican, and who did they feel was disturbing people at the time.

The FBI records and the police report indicate that Mr. Bentson was the individual causing trouble. Frankly, Mr. Brosnahan's testimony and the other witnesses' testimony were refuted by more than adequate witnesses, one of whom was the leading Democrat. He said, "Had anything like what was alleged against Mr. Justice Rehnquist happened we would have known about it," and it simply did not happen.

On that I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. EAGLETON. Mr. President, as I read the hearing record on Justice Rehnquist's nomination to be Chief Justice, I conclude that the following are the principal matters to be evaluated.

MINORITY VOTER INTIMIDATION IN PHOENIX

After the oral hearings had been concluded in 1971—this point is very relevant to the point made by Senator HATCH at the very end of his remarks—when Mr. Rehnquist's nomination as Associate Justice was under consideration by the Senate, a matter was raised on a 1-minute-to-midnight basis. Had Mr. Rehnquist harassed or intimidated minority voters in the 1964 elections in Phoenix? His flat out written answer: the hearings had been concluded and the committee had him answer in writing. No.

The same matter was raised more fully in the recent hearings and five witnesses testified under oath that Mr. Rehnquist had intimidated minority voters in the 1964 elections. Again Justice Rehnquist said: No.

Thus, there is credible evidence one way, but there is also doubt. On this matter standing alone, since Justice Rehnquist is a Supreme Court Justice of high reputation, the benefit of the doubt goes to him.

THE PLESSY VERSUS FERGUSON MEMO

In the fall of 1952, while Mr. Rehnquist was a law clerk of Supreme Court Justice Robert Jackson, he wrote a memo opposing Supreme Court intervention to end segregation in public schools by overturning Plessy versus Ferguson, the so-called separate but equal doctrine.

Justice Rehnquist takes the position that he fully supported doing away with the separate but equal doctrine and that the memo expressed not his own views but the tentative views of Justice Jackson.

Historians, legal scholars, Jackson's own secretary hotly dispute that Justice Jackson harbored any such separate but equal views. Justice Rehnquist says Jackson did.

After the most recent hearings were completed, the Washington Post, September 7, 1986, surfaced a 1970 memorandum written by Mr. Rehnquist while he was serving as Assistant Attorney General in the Nixon Justice Department. The memo advanced the idea of a consitutional amendment that would have allowed continued segregation in school districts through the use of freedom of choice plans and neighborhood schools.

The Justice Department dismisses the Rehnquist memo as just something that "addresses what someone in the White House wanted." Really?

There is doubt. In this instance, there is double-header doubt. But, on these matters, these segregation mat-

ters, standing alone, since Justice Rehnquist is a Supreme Court Justice of high reputation, the benefit of the doubt, strained as it may be, goes to him.

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TATUM VERSUS LAIRD

During his days as Assistant Attorney General in the Nixon years, Mr. Rehnquist was deeply involved in the development of a policy of governmental surveillance of civilians by the Army. Some individuals brought a lawsuit claiming that their first amendment rights were violated by this surveillance and the case was known as Tatum versus Laird. Mr. Rehnquist personally knew of the disputed evidentiary facts in the case. In 1971, Mr. Rehnquist testified before the Senate Judiciary Committee, specifically mentioned Tatum versus Laird and specifically supported the Government's position in that specific case.

May I interject at this time. I was interested in the exchange between Senator KENNEDY and Senator HATCH on this Tatum versus Laird point. The point that Senator HATCH missed is as follows:

It is one thing for a lawyer or a trial judge to write a book on a general subject matter of the law, as Charles Evans Hughes had done, as Oliver Wendell Holmes had done, and as many later Justices of the Supreme Court had done, and then become a member of the Supreme Court and write an opinion or participate in a case that addresses the subject matter contained in that treatise or that book. Perfectly understandable.

The same is true for a Member of the U.S. Senate—and several Members of the U.S. Senate have gone up to the U.S. Supreme Court. Senator HATCH mentioned Justice Black; Mr. Truman appointed Sherman Minton; many have gone to the Court through the years.

It is one thing for a Senator of the United States to vote on a piece of legislation, a generic piece of legislation, and then to go up to the Supreme Court and there participate in the deliberation of an issue that is an outgrowth of that generic piece of legislation. It has happened before and it will happen again.

But it is a much different thing, Mr. President, it is a much different thing, for a lawyer to take a position in a specific case—Tatum versus Laird—and to stake out where that lawyer stands in that specific case while it is pending in a court of law—and that is what Mr. Rehnquist did—and then, having stated and declared a position in a specific case in controversy, a specific justiciable issue, go up to the U.S. Supreme Court and there sit in judgment on that same specific case. Indeed, he not only sat in judgment, but he cast the deciding vote, 5 to 4, in that case.

That is a far, far different thing than that which was described by Senator HATCH in terms of writing a book, writing a law review article or voting on a piece of generic legislation in the U.S. Senate, whether it be the Wage and Hour Act or the Norris-La Guardia Act or any other act. It is a far different thing to stake out a specific position in a specific case that is in litigation in court and then to rule on it "in an evenhanded and fair basis" as a member of the highest appellate court of the United States.

That just is not fair. And that is the test. One could go through the various canons of ethics or rules of conduct as set forth, for example, in section 455 of title 28 of the U.S. Code. They all provide the same standard—a judge is required to disqualify himself "in any proceeding in which his or her impartiality might reasonably be questioned."

I ask you, Mr. President, suppose you were on the losing side of Tatum versus Laird. Suppose you were either the attorney on the losing side or you were one of the parties to the proceeding, but you were on the losing side and you knew that a lawyer over there in the Justice Department named Rehnquist was dead set against your position in the case that was pending.

You would say, "Well, OK. He is an assistant attorney general over there and he testified before a committee and he is against our position in that case. It is pending in court. So be it. That is it."

Then a couple of years later or so, your case is being argued before the Supreme Court and you are sitting out there in the audience—and the litigants do come and sit there very anxiously while the Court is hearing oral arguments—and you look up and you say:

> My God. Look who is sitting there! Why, there is old Bill Rehnquist. He's the guy that already stated specifically where he stands in my case. I thought I was supposed to get impartiality. I thought I was supposed to get a situation where the judge's impartiality might not be open to reasonable question. How can a judgment be impartial if sitting up there amongst the nine is one who has already decided the specific case argued before the Court?

And then think, a few months later when hand-down day comes—and some of the litigants come back to the Court figuring that is the day their case is going to be handed down. Hand-down day comes and each of the nine Justices is permitted—and most of them avail themselves of the opportunity—to orally summarize his or her views as the opinion of the Court is announced. You sit there and you learn that the deciding vote against you was cast by the Justice that had already predetermined the case long, long ago.

Impartial justice? I wonder. Fair and evenhanded justice? I wonder.

So there is a lot of doubt, lots of doubt. Despite what Senator HATCH may have said about writing law books and law review articles and participating in statutory deliberations, there is a lot of doubt on this issue.

But one could argue, standing alone, since Justice Rehnquist is a Supreme Court Justice, and has a generally high reputation, one could argue the benefit of the doubt should go to him.

Judicial philosophy. There is not one iota of doubt that the Senate has the right under the Constitution to consider a judicial nominee's philosophical approach to important constitutional and legal questions. There is just no doubt about that. Presidents do so when they nominate a candidate. Roosevelt did it. Reagan does it. George Washington did it. Birds do it, bees do it—everybody does it.

Understandably, Presidents seek to place philosophically compatible individuals on the High Court. And the Senate, Mr. President, has no less a judgmental right when it exercises its duty to confirm. Justice Rehnquist himself, before he went on the Court, wrote an article urging the Senate to "restore its practice of thoroughly informing itself of the judicial philosophy of a Supreme Court nominee before voting to confirm him. * * *"

That is the one major writing by Justice Rehnquist with which I totally agree.

It is not difficult to formulate an amorphous, pleasant sounding "test" relating to judicial philosophy. It is very difficult, however, to apply such a "test."

I went through this "test" business when I was a new Senator, back in the days when the Haynsworth nomination was before us and in the first Rehnquist nomination.

□ 1550

During the debate on the Haynsworth nomination, I uttered these historic words:

> The Senate has the right and duty to consider the views of Supreme Court nominees on vital national issues. However, we should not seek a uniformity of opinion on the Court, and I believe a nominee should be rejected on this ground only if his views are so extreme as to place him outside the mainstream of American political and legal discourse.

I thought that was pretty nice—what I wrote back 15 or more years ago.

In 1971, in the debate on Rehnquist, I liked that quote so much I stated it again and then I added this footnote. I said:

> Once again, our quest is not an identity or conformity of philosophy between nominee and Senator. Rather, we ask, are his views

so patently irregular as to be outside the rationally debatable judicial mainstream?

And I liked that, too, by the way.

I found, based on such evidence then at hand, that both Haynsworth and Rehnquist passed the "test." I voted to confirm Rehnquist, but voted against Haynsworth on other grounds (which probably on reflection is one of my less spectacular votes).

We now know a great deal more about Justice Rehnquist's judicial philosophy—lots more, volumes more.

In common vernacular, Justice Rehnquist is a conservative—a very staunch conservative, indeed, the most conservative Justice on the Court.

Here's what I take to be the cutting edge of his judicial philosophy.

Whenever a challenge to Government action affecting individual rights is before him, Justice Rehnquist, as a conservative, almost always comes down on the side of Government. That is it really it in capsule form.

I find it ironic that conservatives who in their political and private lives profess the virtues of rugged individualism and who are the most outspoken opponents of an activist government role, end up being the most pro government, anti-individual in their judicial opinions. It takes more than a black robe to make this metamorphosis.

In any event, when Justice Rehnquist was distinguishing himself as a student at Stanford Law School, he took a course in Constitutional law. Undoubtedly, the first two cases considered in that course were Marbury versus Madison and McCulloch versus Maryland. These are the landmark, bedrock decisions of Chief Justice Marshall which set forth the role of the Supreme Court as the guardian of the Federal Constitution.

Marbury confirmed the power of the Court as the final arbiter of the Federal Constitution. McCulloch established that national interests must predominate, are supreme over State choices in areas of national constitutional concern.

One comes away from a reading of Justice Rehnquist's opinions with considerable doubt about his commitment to these fundamental constitutional precepts. It seems he would upset the judicial bedrock of the Nation on which rests nearly 200 years of our Nation's constitutional heritage. This is conservatism run amok.

One can steadfastly believe in States' rights without denying the precepts of Marbury and McCulloch. Rehnquist seems to believe so fervently in the authority of State action as to deny virtually any constitutionally protected individual or Federal interest that conflicts with State interests. He would, it seems, abrogate Marbury and McCulloch, he would sharply constrict the role of the Supreme Court; he would radically narrow the scope of the Constitution, converting it from a living statement of liberty to a narrow, almost sterile document.

So it may seem. Yet, perhaps there is doubt. Even on this matter, standing alone, since Justice Rehnquist is a Supreme Court Justice of high reputation and recognized intellect, the benefit of the doubt goes to him.

Thus, on each item, standing alone, Justice Rehnquist can be given the benefit of doubt and, on that basis, he probably will be confirmed by the Senate.

But these matters do not stand alone. They stand in the aggregate. They stand as a portrait of the personality and judicial philosophy of William Rehnquist. But, there is a deeply disquieting sense arising from the Rehnquist record that compels me to conclude that he is not entitled to inexhaustible benefit of all doubts.

Remember, we are not considering a Cabinet nominee where the term of office is limited and a mistake, once made, can be remedied. We are not considering a Federal District Court nominee where if we make a mistake it is but one of 575; or a Circuit Court nominee where if we make one mistake it is but one of 168.

We are considering the Chief Justice of the United States. The one—the only. We are voting on the individual who may well serve in that mighty and powerful position into the 21st century.

About a nominee for Chief Justice, we cannot harbor an array of disquieting doubts. About a nominee for Chief Justice our minds and consciences must be clear and unhesitating.

About William Rehnquist I have no such certainty. I have no such confidence. I can give Mr. Rehnquist the benefit of the doubt on each of the issues raised against him at his hearing. But I cannot erase from my mind the doubt which the totality of that record creates about his fitness for this high position.

Therefore, I will vote against the confirmation of William Rehnquist.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

□ 1600

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER [Mr. CHAFEE]. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I think over the course of the past several hours, the areas of principal concern for those of us who must cast our vote on this nomination have been brought to the attention of the Senate. I commend my colleagues—our ranking minority member, Senator BIDEN; my good friend from Ohio, Senator METZENBAUM, and the distinguished Senator from Missouri, Senator EAGLETON, on their excellent presentations. Senator EAGLETON really captured the essence of case against elevating Mr. Rehnquist to be Chief Justice of the United States.

Over the period of the next few days, we will have a chance to further develop the case against Justice Rehnquist.

One of the areas which the Senator from Missouri analyzed with great insight and persuasion was the role of Justice Rehnquist in the Laird versus Tatum case.

At the outset of this debate, I want to point out to our colleagues the representations that were made in the committee's report really do a disservice to the Members misconstruing the heart of the issue, which was so eloquently explained by the Senator from Missouri. It is a basic and fundamental point, that Mr. Rehnquist had prejudged the case, had actually testified before a Senate committee on that particular case, indicating that the plaintiffs did not have a cause of action and then ultimately participated in the case when it reached the Supreme Court and cast the key vote to decide the case against the plaintiffs.

This is basically the heart of the issue. One could not really draw that conclusion from examining the report of the committee. I refer to page 13, which concerns the Laird versus Tatum analysis, and which is very brief because it basically just reprints the memorandum that was written by Justice Rehnquist in support of his position.

In the introductory paragraphs on page 13, the report states:

> The first issue raised is the contention that by virtue of his testimony as Assistant Attorney General during the time the case was in the lower courts, Justice Rehnquist, after having been appointed to the Supreme Court, should have recused himself from considering Laird v. Tatum when it came before the Supreme Court, because of his knowledge of the disputed evidentiary facts. Second, his detractors suggest that Justice Rehnquist was not candid with the committee in 1971, when he stated that he did not have personal knowledge of the disputed evidentiary facts in the case.

□ 1610

That is not the issue. They say the first issue raised was that contention. That is not the issue. The issue is he was asked about his view by Senator Ervin at a Senate hearing and he indicated that the plaintiffs would not have a cause of action; therefore, he had basically made his decision that there was not a cause of action. He had decided the case, so to speak.

It is well understood how he could reach that since he was the architect,

when he was in the Justice Department, of the policy that was being questioned.

The majority says the major question concerned Justice Rehnquist's knowledge of the disputed evidentiary facts. That is not so.

Second, his detractors suggest that Justice Rehnquist was not candid with the committee in 1971, when he stated that he did not have personal knowledge of the disputed evidentiary facts in the case.

Again, this is not the only issue.

Professor Hazard's letter succinctly states all the issues posed by Justice Rehnquist's participation in Laird versus Tatum, and I ask unanimous consent that the full letter by Mr. Hazard be printed in the RECORD. I want to refer to particular provisions of it at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1)

Mr. KENNEDY. The letter outlines the particular fact situation and the actions that were taken by Mr. Rehnquist. Then it points out:

When *Laird* v. *Tatum* came before the Supreme Court, a motion to recuse Justice Rehnquist was filed by the plaintiffs. They argued that Justice Rehnquist was disqualified by reason of his prior relationship to the case, in that he had expressed opinions on issues in the case and that he had presented the Justice Department's position before a Senate Committee hearing. Responding to the motion, Justice Rehnquist rejected these contentions as insufficient to require his disqualification. In doing so he relied extensively on the analysis in Frank, *Disqualification of Judges: In Support of the Bayh bill*, 35 Law & Contemp. Prob. 43 (1970), which in my opinion correctly summarized the law of disqualification as it then stood.

In recent testimony before the Senate concerning his participation in the transaction out of which *Laird* v. *Tatum* arose, Justice Rehnquist stated, "I have no recollection of any participation in the formulation of policy on use of the military to conduct surveillance or collect intelligence concerning domestic civilian activities."

Mr. President, one of the key documents and memorandums that were made available to the Senate Judiciary Committee was a detailed memorandum of Mr. Justice Rehnquist on that very subject matter about the use of the Federal Bureau of Investigation as well as Army intelligence to be targeted against the individuals and groups back in the late 1960's. But evidently, that knowledge about his activities had been forgotten.

From other evidence, chiefly the testimony of Mr. Robert Jordan, General Counsel of the Army at the time that the surveillance policy was formulated, it appears that Mr. Rehnquist, as he then was, had a relationship to the surveillance program beyond that disclosed in his opinion in *Laird* v. *Tatum* or revealed in his testimony before the Senate last month.

I imagine Mr. Hazard's comments would be much more targeted if he had had the access to the memorandums that we did. He is right on point. He has reached the obvious conclusion that those of us who had the chance to examine the material reached without benefit of the memorandum.

Now, talking about the general counsel, Robert Jordan—

According to this evidence, the surveillance policy was formulated in the early months of 1969. At that time Mr. Rehnquist was Assistant Attorney General in charge of the Office of Legal Counsel. On behalf of the Justice Department that Office negotiated with the Army in formulating the surveillance policy. The negotiations were extensive. The circumstances strongly suggest that Mr. Rehnquist was personally and substantially involved in them.

That is correct, too. We can say that unequivocally.

These circumstances are that the subject was highly important, the Office is small in size, and Mr. Rehnquist himself sent a key transmittal memorandum. The negotiations resulted in a policy statement that was then adopted by President Nixon, and which in turn was the basis of the Government action complained of in the litigation in *Laird* v. *Tatum*.

First, in my opinion Justice Rehnquist's position as head of the Office of Legal Counsel constituted grounds of disqualification from participating in *Laird* v. *Tatum*, unless the significance of that relationship were overcome by additional evidence showing that he in fact was not involved in the matter while it was in the office. In a matter of such substance and complexity as the surveillance policy, it is implausible that the head of the government office responsible for development of its legal aspects would not be personally involved in considerable detail concerning the facts and issues going into the policy and its formulation. On that basis, Mr. Rehnquist was the responsible counsel in the matter in question, and as well a potential witness concerning any factual issues regarding the policy. Each of these two relationships is independently a ground for disqualification.

Each of them, Mr. President; each of them.

A lawyer directly involved in a transaction cannot properly later sit as a judge in a case in which that transaction is in dispute. As stated in the article by Mr. Frank which Justice Rehnquist cited: "Justice disqualify in government cases when they have been directly involved in some fashion in the particular matter, and not otherwise."

The letter continues to support that thesis. It goes on:

In his opinion in *Laird* v. *Tatum*, Justice Rehnquist stated that "I never participated, either of record or in any advisory capacity . . . in the government's conduct of the case of *Laird* v. *Tatum*." But that statement is irrelevant if he was counsel in the transaction out of which the case arose, a basis for disqualification that was well recognized then as now.

Well recognized then as a basis of disqualification as now:

Justice Rehnquist appears also disqualified because he was a potential witness, at least at the discovery stage in *Laird* v. *Tatum*.

No question that had the plaintiffs been successful in the circuit court, there would have been discovery. Justice Rehnquist's involvement in the development of that policy would have been made a part of the record. So he is a potential witness. The Hazard memorandum indicates another reason why he should have disqualified himself

He continues:

In his testimony before the Senate, he denied having knowledge of "evidentiary facts." The standard relevant to the question is not "evidentiary facts" but facts relating to the "subject matter" of the litigation.

Second, when the case of *Laird* v. *Tatum* was before the Supreme Court it was Justice Rehnquist's responsibility on his own initiative to address and resolve all issues concerning his disqualification.

□ 1620

We have to remember that Justice Rehnquist only responded to the question of whether he was going to participate after the plaintiff requested that he recuse himself. He did not bring this up voluntarily. It was only in response to the motion to recuse himself.

Professor Hazard makes the point that in a case such as Laird versus Tatum, it was his—

responsibility on his own initiative to address and resolve all issues concerning his disqualification. It was not the parties' responsibility to raise such matters, although they had a right to do so if they had access to the necessary facts. In his opinion in *Laird* v. *Tatum*, Justice Rehnquist referred, first, to the fact that he had not been counsel in the "case," i.e., the litigation that ensued after his involvement in the transaction, and, second, to his statements in public and as spokesman for the Justice Department before the Senate. Thus, Justice Rehnquist addressed only his publicly known involvements and omitted any reference to an involvement, as counsel in the transaction.

Remember, he was architect of the military surveillance program.

It was simply his duty to resolve both the publicly known possible bases of disqualification and those arising from an involvement that was confidential. Indeed, it is even more vital to fairness in adjudication that a judge resolve grounds or recusal which arise from confidential facts, for the parties ordinarily are helpless to raise such grounds.

That is an important tenet of judicial ethics that was completely overlooked and dismissed, not even referenced by Justice Rehnquist in this case.

Justice Rehnquist's addressing the publicly known grounds of recusal, but omitting reference to the confidential ones, would have been proper only if he had forgotten that his office in the Justice Department had handled the surveillance policy negotiations and that he himself was involved to a substantial extent.

For Justice Rehnquist to have forgotten his involvement, given the evidence that has been made available to

our committee, would be extraordinary.

If when writing his opinion in *Laird* v. *Tatum*, Justice Rehnquist has not forgotten his involvement in the surveillance policy negotiations, then his opinion constituted a misrepresentation to the parties and to his colleagues on the Supreme Court. In such a matter, a lawyer or judge is expected to give the whole truth.

Professor Hazard is an architect of the standards, the ethics, selected by the American Bar Association. He is one of the very outstanding, thoughtful individuals in the world of academia who is responding to a request of a Member of this body to comment on this particular issue. He has provided a very important and significant service. He has nothing obviously to gain from responding to the request of the Senator from Maryland. He concludes:

[Finally, Justice Rehnquist had a duty of candor to the Senate in answering questions concerning *Laird v. Tatum*. The Senate hearing was an evidentiary inquiry into his qualifications for the office of Chief Justice. In making statements before such a tribunal, whether sworn or not, a lawyer or judge has an obligation to be fully truthful. Justice Rehnquist complied with duty only if his statement is accepted that he had "no recollection of any participation in the formulation of policy on the use of the military to conduct surveillance." Whether that statement should be accepted is a matter of judgment. It was made by a lawyer of the highest intelligence concerning sensitive state policy over which his office had direct responsibility early in his service in government, and about which he had been asked to search his recollection on three official occasions.]

We are not talking about some incidental matter that anyone reasonably could have forgotten about. Justice Rehnquist remembers, people in this country remember the turmoil of the period the series of demonstrations against the war here in this city, hundreds of thousands of people pouring into the city, the threat to close down the city of Washington with individuals lying down at the airport and across railroad tracks and over the boulevards.

That was the atmosphere and climate. It was a crisis climate and atmosphere and Justice Rehnquist was the author of the memoranda advising what was permissible and what was not. And yet as Professor Hazard points out, on three different occasions, even though he was told he would be asked about these questions and he had an opportunity to refresh his recollection going back and examining any of this material which existed in the Justice Department, we were unable to get the Justice to comment.

Mr. President, we will have a chance to continue review of not only that matter but others, but I want to point out again to the Members we did not have the opportunity in 1971 to go over this case. I heard my friend and colleague from Utah saying earlier, when I tried to engage in an exchange with him on the Laird case, that we have gone over this a long time ago.

That is not correct, Mr. President. Laird versus Tatum was decided when the Justice was on the Supreme Court. The only time we have had an opportunity to go over it is during the course of these hearings. It related to actions of the Justice from some time ago but we only had the opportunity to examine this in light of our recent hearings. So even though these matters related to actions that were taken some time ago, they are very significant and current and important in terms of the Justice's qualifications to sit as the Chief Justice of the United States. I see my good friend and colleague from Ohio, who I believe wants to address the Senate. I yield the floor at this time.

EXHIBIT 1

YALE LAW SCHOOL,
401A YALE STATION,
New Haven, CT, September 8, 1986.

Senator CHARLES MATHIAS,
U.S. Senate, Senate Russell Office Building, Washington, DC

DEAR SENATOR MATHIAS: You have asked my opinion about the propriety of the conduct of Justice William Rehnquist in regard to *Laird v. Tatum*.

The essential facts as I have been given them are as follows: *Laird v. Tatum* was a suit to enjoin a certain Government information gathering and surveillance program that was adopted in 1969. The case was brought to the Supreme Court by the Government's appeal from a decision of the Court of Appeals, which had held that the lawsuit was maintainable. The effect of the Court of Appeals' decision was that the plaintiffs could have proceeded to the discovery stage and perhaps then on to the merits. The Supreme Court reversed, holding that the plaintiffs' lacked standing and hence that the suit should be dismissed without going into the merits. Justice Rehnquist participated in that decision and, since the decision was 5-4, cast a vote necessary to the result.

When *Laird v. Tatum* came before the Supreme Court, a motion to recuse Justice Rehnquist was filed by the plaintiffs. They argued that Justice Rehnquist was disqualified by reason of his prior relationship to the case, in that he had expressed opinions on issues in the case and that he had presented the Justice Department's position before a Senate Committee hearing. Responding to the motion, Justice Rehnquist rejected these contentions as insufficient to require his disqualification. In doing so he relied extensively on the analysis in Frank, *Disqualification of Judges: In Support of the Bayh Bill*, 35 Law & Contemp. Prob. 43 (1970), which in my opinion correctly summarized the law for disqualification as it then stood.

In recent testimony before the Senate concering his participation in the transaction out of which *Laird v. Tatum* arose, Justice Rehnquist stated, "I have no recollection of any participation in the formulation of policy on use of the military to conduct surveillance or collect intelligence concerning domestic civilian activities." From other evidence, chiefly the testimony of Mr. Robert Jordan, General Counsel of the Army at the time that the surveillance policy was formulated, it appears that Mr. Rehnquist, as he then was, had a relationship to the surveillance program beyond that disclosed in his opinion in *Laird v. Tatum* or revealed in his testimony before the Senate last month. According to this evidence, the surveillance policy was formulated in the early months of 1969. At that time Mr. Rehnquist was Assistant Attorney General in charge of the Office of Legal Counsel. On behalf of the Justice Department that Office negotiated with the Army in formulating the surveillance policy. The negotiations were extensive. The circumstances strongly suggest that Mr. Rehnquist was personally and substantially involved in them. These circumstances are that the subject was highly important, the Office is small in size, and Mr. Rehnquist himself sent a key transmittal memorandum. The negotiations resulted in a policy statement that was then adopted by President Nixon, and which in turn was the basis of the Government action complained of in the litigation in *Laird v. Tatum*.

First, in my opinion Justice Rehnquist's position as head of the Office of Legal Counsel constituted grounds of disqualification from participating in *Laird v. Tatum*, unless the significance of that relationship were overcome by additional evidence showing that he in fact was not involved in the matter while it was in the office. In a matter of such substance and complexity as the surveillance policy, it is implausible that the head of the government law office responsible for development of its legal aspects would not be personally involved in considerable detail concerning the facts and issues going into the policy and its formulation. On that basis, Mr. Rehnquist was the responsible counsel in the matter in question, and as well a potential witness concerning any factual issues regarding the policy. Each of these two relationships is independently a ground for disqualification.

A lawyer directly involved in a transaction cannot properly later sit as a judge in a case in which that transaction is in dispute. As stated in the article by Mr. Frank which Justice Rehnquist cited:

"Justice disqualify in government cases when they have been directly involved in some fashion in the particular matter, and not otherwise."

Mr. Rehnquist's relationship to the transaction was essentially the same as if he had been involved as legal counsel for the Internal Revenue Service in working up a tax investigation program and then sat as judge in a case challenging the program, or while in the Justice Department passed upon corporate merger or electoral districting policy and then sat in a case involving the policy.

In his opinion in *Laird v. Tatum*, Justice Rehnquist stated that "I never participated, either of record or in any advisory capacity . . . in the government's conduct of the case of *Laird v. Tatum.*" But that statement is irrelevant if he was counsel in the transaction out of which the case arose, a basis of disqualification that was well recognized then as now.

Justice Rehnquist appears also disqualified because he was a potential witness, at least at the discovery stage in *Laird v. Tatum*. In his testimony before the Senate, he denied having knowledge of "evidentiary facts." The standard relevant to the question is not "evidentiary facts" but facts relating to the "subject matter" of the litigation.

Second, when the case of *Laird v. Tatum*, was before the Supreme Court it was Justice

Rehnquist's responsbility on his own initiative to address and resolve all issues concerning his disqualification. It was not the parties' responsibility to raise such matters, although they had a right to do so if they had access to the necessary facts. In his opinion in *Laird v. Tatum*, Justice Rehnquist referred, first, to the fact that he had not been counsel in the "case," i.e., the litigation that ensued after his involvement in the transaction, and, second, to his statements in public and as spokesman for the Justice Department before the Senate. Thus, Justice Rehnquist addressed only his publicly known involvements and omitted any reference to an involvement, as counsel in the transaction, that was at least as significant but which was not publicly known. It was his duty to resolve both the publicly known possible bases of disqualification and those arising from an involvement that was confidential. Indeed, it is even more vital to fairness in adjudication that a judge resolve grounds of recusal which arise from confidential facts, for the parties ordinarily are helpless to raise such grounds.

Justice Rehnquist's addressing the publicly known grounds of recusal, but omitting reference to the confidential ones, would have been proper only if he had forgotten that his office in the Justice Department had handled the surveillance policy negotiations and that he himself was involved to a substantial extent. If when writing his opinion in *Laird v. Tatum*, Justice Rehnquist had not forgotten his involvement in the surveillance policy negotiations, then his opinion constituted a misrepresentation to the parties and to his colleagues on the Supreme Court. In such a matter, a lawyer or judge is expected to give the whole truth.

Finally, Justice Rehnquist had a duty of candor to the Senate in answering questions concerning *Laird v. Tatum*. The Senate hearing was an evidentiary inquiry into his qualifications for the office of Chief Justice. In making statements before such a tribunal, whether sworn or not, a lawyer or judge has an obligation to be fully truthful. Justice Rehnquist complied with duty only if his statement is accepted that he had "no recollection of any participation in the formulation of policy on the use of the military to conduct surveillance." Whether that statement should be accepted is a matter of judgment. It was made by a lawyer of the highest intelligence concerning sensitive state policy over which his office had direct responsibility early in his service in government, and about which he had been asked to search his recollection on three official occasions.

Sincerely,

GEOFFREY C. HAZARD, Jr.

The PRESIDING OFFICER. Who seeks recognition?

Mr. KENNEDY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1640

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, Professor Geoffrey Hazard of the Yale Law School has raised an ethics question concerning Justice Rehnquist in connection with the Laird versus Tatum case.

I would like to make a few remarks on that facet of this hearing.

LAIRD VERSUS TATUM

Opponents of Justice Rehnquist have raised two main issues with respect to Laird versus Tatum. This case involved surveillance activities by the Department of the Army in connection with attempts to control civil disorder in the late 1960's. This was a class action suit brought against the Government on the grounds that the Army's activities had a chilling effect on the first amendment rights of the individuals being observed by the Army. During the time the case was progressing through the lower courts Justice Rehnquist was the Assistant Attorney General for the Office of Legal Counsel. In 1971 he testified before the Senate Judiciary Subcommittee on Constitutional Rights chaired by Senator Sam Ervin. He testified as an expert witness for the Department of Justice on the subject of statutory and constitutional law dealing with the authority of the Executive Branch to gather information on private citizens.

The first issue raised against Justice Rehnquist is the contention that by virtue of his testimony as Assistant Attorney General during the time the case was in the lower courts, Justice Rehnquist after having been appointed to the Supreme Court should have recused himself from considering Laird versus Tatum when it came before the Supreme Court, because of his knowledge of the disputed evidentiary facts. Second, his detractors suggest that Justice Rehnquist was not candid with the committee when he stated that he did not have personal knowledge of the disputed evidentiary facts in the case.

□ 1650

While the controversy arising out of Justice Rehnquist's participation in the case is couched in terms of whether he had personal knowledge of the disputed evidentiary facts, the real issue was, what constituted disputed facts. Thus, both accusations are really the same.

Some opposed to the nomination, have attached great significance to a memorandum dated March 25, 1969, from the Office of Legal Counsel, Department of Justice, dealing with intelligence-gathering assignments within the Department of Justice and the Department of the Army. This memorandum has been cited as showing personal knowledge on the part of Justice Rehnquist of the facts in Laird versus Tatum. Also, cited as supporting this view is testimony given by Justice Rehnquist to Senator Ervin's Subcommittee on Constitutional Rights in 1971. In his testimony before Senator Ervin, Justice Rehnquist referred to a computer printout of intelligence material. He stated that the information pertaining to the computer printout was provided to him or his staff by the office of the Deputy Attorney General for use in preparing his testimony before Senator Ervin.

Neither the memorandum nor the reference to the printout provides any objective basis for concluding that Justice Rehnquist had any particular knowledge of the facts in Laird versus Tatum.

Both Justice Rehnquist and his opponents agree to the facts of his testimony. What they disagree on is its legal significance—whether it constitutes having "personal knowledge of disputed evidentiary facts." What is apparent here is that his critics disagree with his legal analysis. At the time Justice Rehnquist was Assistant Attorney General, he repeatedly made it clear in testimony before Senator Ervin's Subcommittee on the Constitution that his prepared testimony did not rest on personal knowledge of any ongoing case. The following excerpts from Mr. Rehnquist's testimony before Senator Ervin's subcomittee provide examples of this fact in referring to Army intelligence-gathering activities which, as stated, was the issue in the Laird case.

Justice Rehnquist stated:

As you might imagine, the Justice Department, in selecting a witness to respond to your inquiries, had to pick someone who did not have personal knowledge in every field. So I can simply give you my understanding * * *.

Next,

The office of the Deputy Attorney General * * * advised me or one of my staff as to the arrangement with respect to the computer printout from the Army data bank, and it was incorporated into the prepared statement that I read to the subcommittee. I had then and have now no personal knowledge of the arrangement, nor so far as I know have I ever seen or been apprised of the contents of this particular printout.

Next,

While it is not altogether clear to me, certainly not from personal knowledge * * * the extent the Army guidelines were actually carried out and practiced, it should be apparent that the data base used by internal security is much more restricted * * * than were the guidelines printed in the CONGRESSIONAL RECORD.

Accordingly, it seems convincingly clear that Justice Rehnquist did not have any personal knowledge of the disputed facts in the Laird versus Tatum case.

Justice Rehnquist in responding to questions from Senator LEAHY on the subject of his analysis of the pertinent statute affecting a judge's disqualification from the Laird versus Tatum case and any second thoughts he might have today on that position stated:

I realize people might disagree with me but that was the position I took in that case

* * *. I never thought of it again until these hearings, to tell the truth. I have gone back and read the opinion, and I think under the statute as it was changed after *Laird* v. *Tatum;* I think there would be probably a very strong ground for disqualification. But I didn't feel dissatisfied with the way I had behaved under the statute as it then stood.

This was a forthright statement by Justice Rehnquist concerning his views on the controlling statute in effect at the time as applied to the facts of the case. Additionally Justice Rehnquist acknowledges that subseqent amendments to the law could prossibly require a different conclusion.

In summary, the issue raised was one of legal analysis, upon which reasonable jurists could differ; however, in no way should Justice Rehnquist's actions be construed as being improper.

Mr. President, another incident concerning this matter is one that was alleged to have occurred at the Phoenix polling place.

The allegation that Justice Rehnquist challenged or harassed minority voters at a polling place in Phoenix during the 1960's again found itself an issue during the confirmation hearings in 1986. Similar allegations were raised in 1971 during his consideration for the position of associate justice. It should be noted at this juncture that the challenging of voters in Arizona at the time was a lawful election procedure. I repeat, the challenging of voters in Arizona at the time was a lawful election procedure. A challenger was an individual legally appointed as a representative by both Republican and Democratic Parties. The primary duty of a challenger was to observe for irregularities at the polling place. The conclusion reached by the committee in 1971 was that the allegations had been thoroughly investigated and found "to be wholly unsubstantiated" and, viewed in its entirety, the committee felt that the incident suggested at the very most a case of mistaken identity.

The allegation of voter harassment was originally made by the Southwest Conference of the NAACP in a resolution presented for the record at Justice Rehnquist's hearing in 1971. This resolution alleged that Justice Rehnquist had harassed black voters in 1968. In 1971 Justice Rehnquist categorically denied this charge and stated that he had nothing to do with polling activities in 1968.

At the same time in 1971 it was alleged by two witnesses before the committee that Justice Rehnquist had engaged in voter harassment in Phoenix, AZ in 1962. There was, in fact, an incident of voter harassment at the Bethune polling place in Phoenix, AZ during the 1962 elections, and the FBI investigated the matter. The FBI investigative report of that incident dated November 1962 was made available to the Judiciary Committee in 1971, as well as 1986. Justice Rehnquist's name was not mentioned in the 1962 FBI investigative report as either a participant in or a witness to the incidents under investigation. Mr. Carl Muecke, U.S. attorney for the district of Arizona, and A Mr. Carl Sims, who had spent a great deal of time campaigning for the Democratic Party, both, when interviewed in 1962 by the FBI, specifically identified the individual involved in voter harassment at the Bethune polling place as Mr. Wayne C. Bentson. Mr. Bentson when interviewed by the FBI—in 1962, 1971 and 1986—admitted that he was the individual involved in an incident at the Bethune polling place in the 1962 general election.

During the course of the 1962 investigation one of the individuals interviewed by the FBI was Mr. Robert Tate. Mr. Tate, when interviewed described the incident involving voter harassment which occurred at the Bethune polling place in 1962. In 1971, Mr. Tate and another individual, Mr. Jordan Harris, who was not interviewed by the FBI in 1962, sent affidavits to the Judiciary Committee, alleging that Justice Rehnquist had taken part in voter harassment at the Bethune polling place on November 3, 1964, as opposed to 1962. The incident described by Messrs. Tate and Harris in their 1971 affidavit is remarkably similar to Mr. Tate's own recollection when interviewed by the FBI in 1962 regarding the incident which took place at the Bethune polling place that same year, 1962; with the exception that Mr. Tate did not name Justice Rehnquist in his 1962 statement.

Judge Charles L. Hardy was the Democratic Party attorney in charge of the Election Advisory Committee and arbitrator with respect to voter challenges and disputes during the 1960's. Judge Hardy in 1971, after being informed that testimony before the committee that same year indicated that Justice Rehnquist was involved in voter harassment in 1964, wrote the committee:

> I am informed . . . the events in question occurred during the general election of 1964. It is my recollection and the recollection of a number of others, both Democrats and Republicans, that actually 1962 was the correct year . . . I never observed Mr. Rehnquist attempting to challenge voters at any polling place. I understand that there was testimony that he had challenged voters at Bethune and Granada precincts. I can state unequivocally that Mr. Rehnquist did not act as a challenger at Bethune precinct.

In a November 1971 letter to Senators BAYH, HART, and KENNEDY, regarding his election activities during the 1960's, Justice Rehnquist wrote:

> I did speak at the school for challengers in 1962, I believe, in much the same manner as in 1960. On election day, my recollection is that I spent most of the day in Republican county headquarters; however, I think that on several occasions in 1962, just as in 1960, I went to precincts where disputes had arisen in an effort to resovle them.

Justice Rehnquist's responses in 1971, are totally consistent with the information available to the committee then and now in 1986. The FBI's investigative report and eyewitness accounts are totally supportive of Justice Rehnquist's rendition of his election activities in the 1960's.

Now in 1986, individuals have come forward with essentially the same allegations against Justice Rehnquist. That is, sometime in the 1960's, and at some polling place, that Justice Rehnquist challenged, harassed or intimidated voters.

Individuals who claimed to have information concerning the allegation of voter harassment were invited to testify before the Judiciary Committee in 1986. Each of these witnesses were interviewed by the FBI prior to testimony before the committee. Thirteen individuals came before the committee in 1986 and testified on the voter intimidation matter. Five of these individuals were called by those opposed to Justice Rehnquist. All five who testified that Justice Rehnquist had in some manner harassed or challenged voters failed to make any such allegations against him during his confirmation hearing in 1971 to be Associate Justice.

Some of those who testified that Justice Rehnquist had harassed voters, as well as others interviewed by the FBI, did not know Justice Rehnquist at the time of the alleged incident and identified him based on photographs which they saw 7 to 9 years after the fact.

The following cases in point will support the conclusion that Justice Rehnquist at no time challenged or harassed voters at the polling place in the 1960's or at any other time.

James J. Brosnahan, former assistant U.S. attorney in 1962, testified before the committee in 1986 that Justice Rehnquist had challenged voters in 1962. However, prior to his testimony Mr. Brosnahan stated publicly that he never saw Justice Rehnquist actually challenge any voters at a polling place. He also stated publicly that the precinct where he saw Justice Rehnquist and where he made an appearance in his official capacity as assistant U.S. attorney to investigate complaints, was in 1962 at the Bethune polling place. However, when Mr. Brosnahan appeared before the Judiciary Committee in 1986 he was unable to recall the precinct in question. In fact, he informed Senator HATCH that "the name of the precinct is not that clear to me. The stories talk about Bethune." He now remembered investigating several disturbances at various precincts. Mr. Brosnahan also stated

that he was accompanied by an FBI agent during his election day investigations in 1962. As previously mentioned, there was an incident at the Bethune polling place in 1962 and it involved an individual by the name of Wayne C. Bentson.

A search of FBI's files fail to reveal any report filed by Mr. Brosnahan, or the FBI agent that allegedly accompanied him on election day 1962, regarding voter harassment by Justice Rehnquist. Although the FBI files do reveal that the Bureau received phone calls concerning complaints at various precincts in 1962 and 1964. There is no mention of Justice Rehnquist's name in any FBI report or complaint concerning this matter at that time.

Justice Rehnquist's role in the elections during the 1960's was that of legal advisor to the Maricopa County Republican Party. In this position he was required, on occasion, to visit precincts where disturbances occurred in order to mediate disputes and advise challengers.

Mr. Brosnahan's testimony that Justice Rehnquist was present at some precinct, in 1962, is completely consistent with Justice Rehnquist's statement in 1971 and to the Judiciary Committee in 1986.

One of the witnesses that testified before the committee on the subject of voter harassment, was Judge Vincent Maggiore, former Democratic Party chairman for Maricopa County. Judge Maggiore told the committee:

As a precinct committeeman, in the latter part of 1960, I was elected by the committee as the county chairman, the Maricopa County chairman. I was reelected in 1962, and I was the county chairman that was in office at the time all of the problems that you are facing came into being. I stayed county chairman until 1963.

At the time, I was county chairman in 1962, I was the culprit that caused all of your problems today. I have been a lifetime Democrat, and at the time of the problems as to voting with minorities, and Bethune was caused by me. I thought, as a matter of fact at that time that there was a little too much activity in the precincts, and I was the one that called the U.S. Attorney's Office . . . I am the one that caused the action that was taken by the U.S. Attorney's Office.

During this period of time, and I appreciate the seriousness of this today, at no time did anybody come to me and state that Justice Rehnquist had committed any of the acts that I have heard for 2 of 3 days. I feel that I was the party leader . . . and, for sure, all of these things should have come to me.

After the incident at Bethune, I realized that I was not going to get anything done as far as action by the U.S. Attorney's Office or action by the sheriff and the police were called also . . . I hope you realize that after 25 years it is very difficult to recollect each and every thing that occurred at that time. Too many things have passed.

But what I do recollect was that after Wayne Bentson was taken care of—and there was a little battle,—I hope the statute of limitations is broadened, because I may be the one that caused that battle to take place. I told some of my assistants to go and help out, to clear up the situation in Bethune.

I was at Bethune two or three times that day, and I was at other precincts where I thought this activity was not in accordance with the law. During all of this time, I never saw Justice Rehnquist there. I never saw him at any of the other precints either . . . A couple of days after the election and the incident in Bethune, I stopped Justice Rehnquist in the street. I told Justice Rehnquist that I was a little disturbed. Because I felt that there were some deprivation of certain people's rights.

Justice Rehnquist—and I'm paraphrasing it—stated at that time he agreed with me, that there should be something done in regards to protecting people's voting rights, that they were very important.

□ 1710

Judge Thomas Murphy was another individual knowledgeable of election activities in the 1960's. Judge Murphy, presently a judge for American Samoa, and the 1964 Democratic county chairman of Maricopa County, informed the FBI in 1986 that he personally, in 1964, investigated complaints which were made about activities at the polling places. He stated that the allegations being made about Justice Rehnquist were totally unfounded.

Finally, Mr. Ed Cassidy, former police officer with 29 years' service on the Phoenix Police Department testified in 1986 before the Judiciary Committee. Mr. Cassidy's statement to the committee, also corroborated by the FBI's 1962 investigation, utterly refutes the allegation that Justice Rehnquist was involved in voter challenging or harassment in Phoenix.

It is clear that a Republican challenger was involved in an incident at the Bethune polling place in 1962, and that this challenger was consequently escorted out of the polling place by a police officer. This person, the only person involved in the improper challenging in 1962, was Mr. Wayne C. Bentson.

In 1986 the committee expanded its investigative effort and also invited numerous witnesses to testify regarding the allegation. On completion of this investigation the committee came to essentially the same conclusion as that reached in 1971, Justice Rehnquist, although a legal advisor at the time, did not participate in any voter challenging or harassment. In fact, when all the evidence was reviewed it gave a more definitive and favorable impression of Justice Rehnquist's activities and duties as a legal advisor.

Mr. DENTON. Mr. President, I rise to urge my colleagues to give their wholehearted support to confirm William Rehnquist as Chief Justice of the United States.

Justice Rehnquist has served with distinction in the U.S. Supreme Court for the last 15 years. His keen intellect and deep understanding of law and precedent have quickly established William Rehnquist as one of the great jurists of our time.

It is significant to review some of the extraordinary information presented to this committee by the American Bar Association's standing committee on the Federal judiciary. After interviewing 50 law school professors, 70 lawyers, and 180 State and Federal judges, that committee gave William Rehnquist a well qualified rating, which is the committee's highest evaluation of a nominee for the Supreme Court. Furthermore, the committee found unanimous support on the Court for the elevation of William Rehnquist to the position of Chief Justice. Justice Rehnquist's colleagues characterized him as one who would pull the Court together. There was, in fact "a unanimous feeling of joy" expressed by Justice Rehnquist's colleagues.

With regard to his personal integrity, Justice Rehnquist has lived up to his word delivered to this committee in 1971 during his nomination hearing. There he spoke of Justice Frankfurter's famous adage that, "if putting on the robe does not change a man, there is something wrong with the man." Justice Rehnquist went on to say:

When you put on the robe, you are not there to enforce your own notions as to what is desirable public policy. You are there to construe as objectively as you possibly can the Constitution of the United States, the statutes of Congress, and whatever relevant legal materials there may be in the case before you.

I would like to note, Mr. President, that Justice Rehnquist was straightforward in answering questions put to him by the Judiciary Committee. Furthermore, he showed the utmost of integrity by raising no objection to this committee's review of the memos he authored while serving in the Justice Department's Office of Legal Counsel.

In terms of professional competence, Justice Rehnquist has demonstrated that he is second to none. Any Rehnquist opinion is a profound, clear and rightly worded text. The Wall Street Journal recently said that, "His opinions are famous for going to the heart of issues. There is rarely any doubt among lower courts about what a Rehnquist opinion means."

Mr. President, it is a special privilege and a keen honor to support a man who wholly adheres to these qualities of personal integrity, professional competence, and fidelity to the Constitution. I urge my colleagues to give him their strongest support and approve his nomination as the 16th Chief Justice of the United States.

Mr. THURMOND. Mr. President, I will now yield the floor.

Mr. GOLDWATER. Mr. President, has the Senator from South Carolina concluded?

Mr. THURMOND. Mr. President, I am very pleased that the distinguished

Senator from Arizona will now speak in behalf of this nomination.

The PRESIDING OFFICER (Mr. MCCONNELL). The Senator from Arizona.

□ 1720

LIBERAL BIGOTRY AND JUSTICE REHNQUIST

Mr. GOLDWATER. Mr. President, we are about to act on the nomination of a new Chief Justice of the United States, the 16th person to sit in that position. There is no question in my mind about the qualifications of the nominee, Justice William Rehnquist, to serve as a Chief Justice.

He possesses an outstanding intellect, a solid record of experience on the bench, and the highest reputation among his colleagues on the Court and in the legal community. He is known for excellence in every category of importance to the eminent office for which he was selected.

Justice Rehnquist is recognized as being a legal scholar in and of himself, steeped in the Court's history and precedents and holding a phenomenal memory for cases. He has twice received the American Bar Association's top rating of professional competence, judicial temperament and integrity.

Yet a small minority has mounted a personal attack on the nominee's credibility and his alleged insensitivity to the rights of minorities and women. He has not decided cases the way they would have wished and it is supposedly "insensitive" for anyone to disagree with their liberal agenda. A person becomes a racist or sexist because his reasoned judgments guide him to a different outcome from the tenets of liberal philosophy.

This is not "Advice and Consent." It is what the Arizona Republic has called "Liberal Bigotry."

What we are witnessing is an attempt to turn the clock back, to reverse the general practice of recent decades when judicial nominees were confirmed on the basis of fitness for the office, not the shade of their philosophy.

In 30 years of service in this body, I have guided my decision on judicial nominations according to three general standards, regardless of whether the President who makes the nomination is a Democrat or Republican:

First, is the nominee professionally able and of sound mind and health?

Second, is the nominee free of any significant conflict of interest?

Third, is the nominee a person of high moral character and integrity?

Professional fitness for the office has been the threshold criterion of judicial appointment ever since the Magna Carta of 1215 which decreed:

> We will not make Justices . . . except from those who know the law of the land and are willing to keep it.

Under these standards, I would agree that a nominee should be rejected who holds a strong racial or religious bias against other races or creeds than his own, because such a person is lacking in integrity and character. But where I part company with the opponents of Justice Rehnquist is their reliance on judicial philosophy as a measure of an individual's devotion to values of equality and justice.

The accusers of Justice Rehnquist are themselves out of the mainstream of contemporary American values. I thought it was a principle of our basic values of fairness that a person is not to be labeled as inflexible or unfair, or hostile to other groups, solely because of his reasoned conclusions on complex and controversial issues.

The judicial philosophy test which is at the heart of the opposition to Justice Rehnquist's nomination is a faulty concept unworthy of consideration in this Chamber. In the first place many issues cannot accurately be pegged as conservative or liberal. I have voted together with some of my liberal colleagues on certain questions of social morality and I have never considered the subject to be one that falls in the liberal or conservative camp.

My primary objection to using a philosophical measure for every nominee is that this is an abuse of the power conferred upon us by the framers of the Constitution. I believe there is an attempt here to convert the confirmation power into an open license to reject nominees at will whenever some faction of the Senate disagrees with the nominee's past writings or statements.

The road we are asked to take would distort the powers the framers of the Constitution have conferred upon us in article II, section 2, by using it as a weapon for confrontation and open collision with the President's appointment power.

Instead, I believe the framers contemplated that the Chief Executive of the United States should be given broad discretion in making appointments. Alexander Hamilton stated in the Federalist Paper No. 76 that it is "not very probable" that the President's nomination would often be overruled.

Let us remember that the President is chosen in the only nationwide election held in our country. The will of all the people, expressed in their most recent choice of President, should be given due respect when acting on his nominations. This is particularly true when there is a nominee of such impeccable credentials for the office as Mr. Justice Rehnquist.

According to this morning's newspaper, the latest attack on Justice Rehnquist centers on his decision not to withdraw himself from consideration of Laird versus Tatum, involving a challenge to the role of the military to conduct surveillance during the 1971 May Day demonstrations. But Justice Rehnquist has elaborated his reasons and the correctness of his decision in a lengthy memorandum interpreting the applicable statute and precedents at the time.

He has pointed out that a Federal judge has a duty to sit where not disqualified. In his words;

> There is no way of substituting Justices on this Court as one judge may be substituted for another in the district courts. There is no higher court of appeal that may review an equally divided decision of this Court and thereby establish the law for our jurisdiction.

The quarrel of his critics is not over the ethics of Justice Rehnquist's decision to participate in this case. They are disappointed with the way he ruled in the case. If he had decided against the Government, he would now be hailed as a hero by the same people who are making such a controversy about a matter of judgment on which informed and wise men can disagree.

Mr. President, not too many weeks ago, the Senate was told that it should insist on the standard of excellence for all members of the Federal judiciary. William Rehnquist is eminently qualified under this standard or under any other rational test.

I ask unanimous consent that the text of an editorial published in the Tucson Citizen may be printed in the RECORD. The article is written by Gary Born, associate professor of law at the University of Arizona. Professor Born served as a law clerk to Justice Rehnquist and, based on his first hand knowledge of the Justice's character and record, he strongly recommends the confirmation of William Rehnquist as Chief Justice.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SENATE SHOULD GIVE PROMPT APPROVAL TO REHNQUIST

(By Gary Born)

During 1982 and 1983 I served as a law clerk to U.S. Supreme Court Justice William Rehnquist. I developed a deep admiration and respect for the justice during my clerkship. As a result, I applauded President Reagan's appointment of Rehnquist as the next chief justice. I strongly believe that Rehnquist's appointment should be promptly confirmed by the Senate.

After graduating first in his class at Stanford Law School, Rehnquist clerked for Justice Jackson on the Supreme Court. He went on to become a respected and successful lawyer in Arizona and later in the U.S. Department of Justice. For the past 15 years, Rehnquist has served as an associate justice of the Supreme Court. His numerous opinions are acclaimed for their brilliant analysis and scholarship. The American Bar Association recently awarded Rehnquist the highest possible endorsement for the chief justice job.

These achievements are compelling reasons for confirming Rehnquist's appointment. An equally important—although less publicized—reason for Rehnquist's confir-

mation is the justice's personal commitment to the Supreme Court. Rehnquist has consistently, albeit quietly, devoted exceptional effort to the work of the court. He invariably carries an unusually large proportion of the court's heavy case-load. During the year that I clerked for him, he authored 20 of the clerk's 160 opinions—more than any other judge.

Rehnquist also devotes special attention to building consensus for opinions of the court and encouraging collegiality among its members. He frequently visits the chambers of other justices, either to discuss cases or simply to chat. Likewise, he maintains warm personal relations with other members of the court, and he is keenly aware of the personal interests and sensitivities of his fellow justices. These personal qualities will go far toward preventing the internal divisiveness that sometimes has beset the court.

Despite Rehnquist's obvious qualifications, a few senators have voiced opposition to his appointment. Most stridently, Sen. Edward Kennedy has charged that Rehnquist is "outside the mainstream of American constitutional law and American values."

Kennedy's charge is simply wrong. While Rehnquist is obviously a conservative jurist, his voting record and judicial philosophy place him well toward the center of contemporary American constitutional values. His opinions plainly show his commitment to contemporary American constitutional values. A large proportion of Supreme Court cases involve criminal justice issues, and many of Rehnquist's opinions deal with this subject. As most Americans would hope, Rehnquist has steadfastly refused to give criminal suspects unfair procedural advantages or to permit the release of convicted wrong-doers because of unrelated police misconduct.

Likewise, Rehnquist has been careful to ensure that law enforcement officials have adequate powers under the Constitution to protect ordinary citizens from violent crime. None of Rehnquist's critics have sought to explain how these views depart from mainstream American values.

Opposition to Rehnquist's appointment boils down to a single complaint: Rehnquist's critics wish that he would more frequently invoke the U.S. Constitution to overturn state and federal laws that they disagree with. Rehnquist's refusal to interfere with the democratic process in this way reflects his commitment to the most basic principles of the American Constitution—not his rejection of them. Rehnquist believes judges are bound by the Constitution to respect the policy choices made by the democratically-elected representatives of the people; as the Constitution's framers intended, the Justice responds with caution when litigants ask unelected, life-tenured judges to overturn democratically-enacted laws.

Charges that Rehnquist is insensitive to the interests of women and minorities are equally unfounded. During the year I clerked for him the justice unequivocally wrote that the "prohibitions against discrimination contained in the Civil Rights Act of 1984 reflected an important national policy." He has made similar statements in a number of other cases and has frequently voted to uphold claims by minorities and women. Although Rehnquist's cautious approach to the judiciary's power has often led him to reject constitutional claims by women and minorities, it is misleading and unfair to suggest that these decisions reflect insensitivity to the rights of such groups. Rather, his decisions simply reflect deeply held views about the limited powers of the federal judiciary.

Some critics have seized on accounts that Rehnquist challenged the literacy of prospective Arizona voters in the 1960s. If these accounts were true, Rehnquist could quite properly have responded that he did challenge voters—just as existing Arizona law permitted. Instead, Rehnquist forthrightly explained that he does not recall personally challenging voters on any occasion, although he candidly admits that the 30-year lapse in time may have dimmed his recollection.

One of Rehnquist's personal qualities that struck me most is his lack of guile or pretension. In his dealings with justices, law clerks, and others at the court, Rehnquist was invariably open, honest, and forthcoming. With this background, suggestions that the justice concealed—for no purpose—his involvement in long-past Arizona elections are simply implausible. The Senate plainly shares this view and almost certainly will confirm Rehnquist's appointment.

The Rehnquist critics can only be motivated by the hope of challenging the substance of Rehnquist's constitutional principles and wrongly impugning his personal integrity and authority. Questioning with this motivation amounts to a misuse of the Senate's power of confirmation and undermines the president's constitutional power to appoint federal judges.

Justice Rehnquist entered the Senate confirmation hearing with an unblemished record of service on the court. His forthright performance in the Senate hearings should only enhance his record. The Senate should promptly confirm Rehnquist's appointment and disown efforts to misuse the confirmation process.

Mr. GOLDWATER. Mr. President, a lot has been made of the activities of Justice Rehnquist in an election held in Arizona a number of years ago in which he was acting as a pollwatcher. I was acting as a pollwatcher in the same election. So were many Democrats. We did not have, at the time, adequate laws to cover the discrepancies and dishonesties which might occur in the election booths and both parties had pollwatchers for the sole purpose of determining whether a man or a woman was eligible to vote under the then existing laws of the State, which required literacy. Justice Rehnquist did nothing—I know, because I worked with him—he did nothing that was not done by many others of us acting as pollwatchers, and by many Democrats acting as pollwatchers.

I am not going to go into the rather screwy laws Arizona had at that time about elections, but I can remember the day when the Democrats, if you went up to register as a Republican, would say, "Republican? We cannot even spell it." That is what we had to put up with for many, many years.

Now people are seeking something to hold against Justice Rehnquist and they have come up with this little item that has been gone over and over by local people, Federal people, by the newspapers, by everybody concerned. There is absolutely nothing to it, as there is nothing to what the opponents of the Justice are trying to bring up on this floor.

I yield the floor, Mr. President.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, I hope that I may bring to this debate a somewhat different perspective than that of other Members who have spoken on the subject or who are likely to speak on the subject before the confirmation vote takes place.

We deal in this nomination with an issue quite different, in my opinion, from that which attends the debate over the lion's share of nominees for the Supreme Court of the United States.

Only on a handful of occasions have sitting Associate Justices been nominated by a President to sit as Chief Justice of the United States. In the case of that handful of nominations, however, we have not simply a prediction, an attempt to judge what kind of Justice the nominee will make; we have a record. In the case of Mr. Justice Rehnquist, we have a record of well over a decade, participation in literally hundreds of decisions, votes one way or another, authoring the decisions of the Court on a number of occasions.

It is for precisely that reason that I think the overwhelming direction of this debate should be based not on what Mr. Rehnquist's attitudes, whether political or legal, were before he became an Associate Justice of the Supreme Court of the United States, or, for that matter, even his personal life since that time. I believe that the consideration of the Senate should be directed primarily but not solely on whether or not the record of Justice Rehnquist as an Associate Justice of the United States is attended by a degree of personal intelligence, discipline, and commitment to the law and the the Constitution sufficient to allow him to become Chief Justice of the United States.

He is, of course, a member of the Court at the present time. A change in his title will not affect his vote on the Supreme Court in any respect whatsoever.

□ 1730

He will gain certain modest additional duties and perhaps a great more prominence with respect to his decisions. But the fact is that he is a member of the Supreme Court of the United States for life at the present time. An appropriate question may very well be whether or not Mr. Justice Rehnquist's decisions over the period of time during which he has served on the Court fall within what I consider to be the broad parameters of

acceptability with respect to an interpretation of the statutes and the Constitution of the United States. That it seems to me is a legitimate inquiry. It is not, however, an inquiry which is answered simply by a determination on the part of each individual Senator as to whether or not he or she agrees with each of those opinions or even agrees with the general philosophical bent of a Justice's actions. If a nominee falls within the parameters of a reasonable interpretation of the Constitution and the laws of the United States, it is my view that that nominee ought to be confirmed.

I stated at the beginning of these remarks that I had an insight into Mr. Justice Rehnquist which was not shared by any of my colleagues. That insight stems from the fact that for 12 years before I was sworn into this body I served as attorney general of the State of Washington. During the last 8 of those years, Mr. President, I argued 14 cases before the Supreme Court of the United States. I am certain that that is more cases than any other Members of this body has argued in that Court. It is likely that it is more than all other Members of this body combined have argued before that Court. I found during those arguments, 13 of which Mr. Justice Rehnquist attended—in one he took no part—without exception Justice Rehnquist was well prepared for argument of counsel. It was obvious that he had read and digested the serious legal or constitutional points which were at issue. That is something which a number of judges regrettably do not do at the time of argument by counsel. On the other hand, I must say that most members of the Supreme Court of the United States meet that qualification and that test. In any event, I do not know of any member of the Supreme Court during that 8-year period whom I regarded as better prepared for argument by counsel, the last action before the Court makes it decision on any case.

Second, Mr. President, Mr. Justice Rehnquist almost without exception played a major role in those oral arguments. He was and is a frequent and an aggressive questioner of counsel. His questions were without exception directly to the points at issue, were stated firmly, occasionally indicating a point of view on his part but always evidencing a desire to learn as much as he could about both the facts and the law applicable to those facts.

I had felt when I began to prepare these remarks, Mr. President, that I perhaps might have my testimony questioned on the ground that Mr. Justice Rehnquist voted for my side in those cases more than most other members of the Supreme Court. I find by a careful examination of those 13 decisions that that was not necessarily true. I won more than I lost in that Court. Justice Rehnquist voted with me more often than he voted on the other side but was not remarkably different from other Justices. In 9 of the 14 cases which I argued, Mr. Justice Rehnquist was in full and complete agreement with the majority of the opinion. In two of those cases he wrote the opinion of the Court. One of them was a win for me; one of them was a loss. The win was a rather important case having to do with whether or not Indian tribal sovereignty is sufficient so that Indian tribal courts can try and impose criminal penalties on non-Indians for offenses committed on reservations.

The second case, the loss, simply permitted the State of Idaho to sue the State of Washington in the original jurisdiction of the Supreme Court, a case in which Washington was eventually primarily triumphant.

Mr. Justice Rehnquist in three of the cases was in partial ageement with the majority but like other Justices he seemed to go through the opinion of the Court paragraph by paragraph and on occasion would dissent with only one or two paragraphs or one or two points. He took no part in the decision of the single case which I considered to be my most signal triumph. I am sorry that he did not do so, but he was absent in that connection. He was in pure dissent with the rest of the Court in only one of those 14 cases, one in which I may say he dissented on my side, on the side of the State of Washington.

The fact that Mr. Justice Rehnquist was very much a mainstream Justice in dealing with issues important enough for the Supreme Court to decide which related to the State of Washington, my impression of his service on the Court, which included times about which we have more recently learned a considerable amount in connection with his physical disabilities, was that on every single occasion on which I argued before him he was well prepared, asked intelligent questions, and reached objective and highly defensible answers. I must admit, Mr. President, that with one or two exceptions I was not arguing before the Court issues of profound constitutional implications as we seem to judge those questions here, that is to say, questions relating to civil rights and the like. When the State had constitutional questions before the Court, they were more likely to apply to the commerce clause than they were to the Bill of Rights. There was one exception, Mr. President. The second case which I argued before the Supreme Court was entitled DeFunis versus Odegaard. It was the first affirmative action/reverse discrimination case. It arose out of the law school of the University of Washington.

I was very disappointed when Mr. Justice Rehnquist joined with seven of the nine Justices, after we had, proceeded all the way to the Supreme Court, in dismissing the appeal on the grounds that it was moot because the young man who had brought the case and been admitted to a law school pending a decision was about to finish law school. When a few years later, the Bakke decision came down, I decided that I was rather fortunate that the case had been mooted, since it became quite evident that as counsel for the law school I would have lost had the case been decided on its merits.

In any event, Mr. President, I believe that with all of the rather heated oratory to which we have been subjected in connection with this nomination on both sides of the issue, it may be of some interest to Members of this body to share this experience. Mr. Justice Rehnquist in my opinion has acquitted himself well and honorably as a member of the Supreme Court of the United States. He has judged cases with which I have had firsthand experience objectively, soberly, and, when he has written the opinion of the Court or a dissenting opinion, intelligently and fashioned in a way that the lawyers and the parties could understand not only the decision but the reasons leading to that decision, I find Mr. Justice Rehnquist's philosphy of the law and of the Constitution to be one with which I differ on occasion but to be well within appropriate parameters of judicial and constitutional decisionmaking, and under those circumstances, because in my view his record has been a good one, I believe that we should confirm the nomination of the President of the United States and permit Mr. Justice Rehnquist to take the position of Chief Justice of this country.

Mr. President, I see another Senator on the floor, ready to speak, and I yield the floor.

The PRESIDENT pro tempore. The distinguished Senator from Kentucky.

□ 1730

Mr. McCONNELL. Mr. President, as a member of the Senate Judiciary Committee, I rise in enthusiastic support of Justice William Rehnquist's nomination to be Chief Justice of the United States.

As a personal observation at the outset, I might say that I first met Justice Rehnquist back in 1969. At that time I was a legislative assistance to a Senator from Kentucky who was assigned to the Judiciary Committee. As luck would have it, that particular Senator ended up being very much involved in the nomination to the U.S. Supreme Court of Judge Clement Haynsworth, of South Carolina, and

subsequently G. Harold Carswell of Florida.

The Senator for whom I worked, Marlow Cook, was very active in support of Judge Hanesworth. In my capacity as his assistant, I worked with not only the Senator but also then Assistant Attorney General William Rehnquist, who was at that time Assistant Attorney General in the Office of Legal Counsel of the Justice Department.

So, while I did not have an opportunity to argue cases before the Supreme Court, as my distinguished collegue from Washington has just outlined, I did have an opportunity to work with Justice Rehnquist, on an almost daily basis, during those confirmation hearings, and to get a chance to observe his intellect, skill, and ability firsthand.

Ironically, I was not always on the same side as Justice Rehnquist. The Senator for whom I worked supported Haynsworth and opposed Carswell. So I had a chance during that period of controversial Supreme Court nominations to be on the same side as Justice Rehnquist and in opposition to Justice Rehnquist.

I subsequently wrote a law journal article about the issue of Supreme Court appointments by the President—what are the appropriate criteria for the Senate to apply to such nominations—and with a bit of nostalgia, I suppose, I ask unanimous consent that that law journal article be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HAYNSWORTH AND CARSWELL: A NEW SENATE STANDARD OF EXCELLENCE

(By A. Mitchell McConnell, Jr.*)

(All politicians have read history; but one might say that they read it only in order to learn from it how to repeat the same calamities all over again.—Paul Valery.)

With the confirmation of Judge Harry A. Blackman by the United States Senate on May 12, 1970, the American public witnessed the end of an era, possibly the most interesting period in Supreme Court history. In many respects, it was not a proud time in the life of the Senate or, for that matter, in the life of the Presidency. Mistakes having a profound effect upon the American people were made by both institutions.

The Supreme Court of the United States is the most prestigious institution in our nation and possibly the world. For many years public opinion polls have revealed that the American people consider membership on the Court the most revered position in our society. This is surely an indication of the respect our people hold for the basic fabric of our stable society—the rule of law.

To the extent that it has eroded respect for this highest of our legal institutions, the recent controversial period has been unfortunate. There could not have been a worse time for an attack upon the men who administer justice in our country than in the past year, when tensions and frustrations about our foreign and domestic policies literally threatened to tear us apart. Respect for law and the administration of justice has, at various times in our history, been the only buffer between chaos and order. And this past year this pillar of our society has been buffeted once again by the winds of both justified and unconscionable attacks. It is time the President and the Congress helped to put an end to the turmoil.

The President's nomination of Judge Harry Blackmun and the Senate's responsible act of confirmation is a first step. But before moving on into what hopefully will be a more tranquil period for the High Court, it is useful to review the events of the past year for the lessons they hold. It may be argued that the writing of recent history is an exercise in futility and that only the passage of time will allow a dispassionate appraisal of an event or events of significance. This may well be true for the author who was not present and involved in the event. However, for the writer who is a participant the lapse of time serves only to cloud the memory. Circumstances placed a few individuals in the middle of the controversies of the past year. In the case of the author the experience with the Supreme Court nominees of the past year was the direct result of Senator Marlow W. Cook's election in 1968 and subsequent appointment to the powerful Senate Judiciary Committee. This committee appointment by the Senate Republican leadership, and Supreme Court nominations by President Nixon, brought about an initial introduction to the practical application of Article II, section 2 of the Constitution which reads, in part, that the President shall "nominate and by and with the advice and consent of the Senate, shall appoint . . . judges of the Supreme Court."

The purpose of this article is to draw upon the events of the past year in suggesting some conclusions and making some recommendations about what the proper role of the Senate should be in advising and consenting to Presidential nominations to the Supreme Court. The motivations of the Executive will be touched upon only periferally.[1]

Initiated by Senator Robert P. Griffin, Republican of Michigan, the senatorial attack upon the Johnson nomination of Justice Abe Fortas to be Chief Justice which resulted in blocking the appointment had set a recent precedent for senatorial questioning in an area which had largely become a Presidential prerogative in the twentieth century. The most recent period of senatorial assertion had begun. But there had been other such periods and a brief examination of senatorial action on prior nominations is valuable because it helps put the controversial nominations of the past two years in proper perspective.

Joseph P. Harris, in his book, the *Advice and Consent of the Senate*, sums up the history of Supreme Court nominations by pointing out that approximately one-fifth of all appointments have been rejected by the Senate. From 1894 until the Senate's rejection of Judge Haynsworth, however, there was only one rejection. In the preceding 105 years, 20 of the 81 nominees had been rejected. Four of Tyler's nominees, three of Fillmore's, and three of Grant's were disapproved during a period of bitter partisanship over Supreme Court appointments. Harris concludes of this area:

"Appointments were influenced greatly by political consideration, and the action of the Senate was fully as political as that of the President. Few of the rejections of Supreme Court nominations in this period can be ascribed to any lack of qualifications on the part of the nominees; for the most part they were due to political differences between the President and a majority of the Senate." [2]

The first nominee to be rejected was former Associate Justice John Rutledge, of South Carolina. He had been nominated for the Chief Justiceship by President George Washington. The eminent Supreme Court historian Charles Warren reports that Rutledge was rejected essentially because of a speech he had made in Charleston in opposition to the Jay Treaty. Although his opponents in the predominantly Federalist Senate also started a rumor about his mental condition, a detached appraisal reveals his rejection was based entirely upon his opposition to the Treaty. Verifying this observation, Thomas Jefferson wrote of the incident:

The rejection of Mr. Rutledge is a bold thing, for they cannot pretend any objection to him but his disapprobation of the treaty. It is, of course, a declaration that they will receive none but tories hereafter into any department of Government.[3]

On December 28, 1835, President Andrew Jackson sent to the Senate the name of Roger B. Taney, of Maryland, to succeed John Marshall as Chief Justice. As Taney had been Jackson's Secretary of the Treasury and Attorney General, the Whigs in the Senate strongly opposed him. Daniel Webster wrote of the nomination: "Judge Story thinks the Supreme Court is gone and I think so, too."[4] Warren reports that

". . . the Bar throughout the North, being largely Whig, entirely ignored Taney's eminent legal qualifications, and his brilliant legal career, during which he had shared . . . the leadership of the Maryland Bar and had attained high rank at the Supreme Court Bar, both before and after his service as Attorney General of the United States."[5]

Taney was approved, after more than two months of spirited debate, by a vote of 29 to 15 over vehement opposition including Calhoun, Clay, Crittenden, and Webster. He had actually been rejected the year before but was re-submitted by a stubborn Jackson.[6]

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*AUTHOR'S NOTE.—This article represents the thoughts and efforts of over a year's involvement in the Senate with three Presidential nominations to the Supreme Court. The experiences were possible only because of the author's association with the Junior Senator from Kentucky, Marlow W. Cook, and the conclusions drawn and suggestions made, many of which may be found in a speech by the Senator of May 5, 1970, represent, in large part, a joint effort by the two of them to evolve a meaningful standard by which the Senate might judge future Supreme Court nominees.

Only rarely does a staff assistant to a Member of Congress receive the opportunity to express himself by publication or speech on an issue of public significance. For the freedom and encouragement to do so in this instance, the author is grateful to Senator Cook.

*Chief Legislative Assistant to Marlow W. Cook, United States Senator from Kentucky; B.A., *cum laude*, 1961, University of Louisville; J.D., 1967, University of Kentucky. While attending the College of Law he was President of the Student Bar Association, a member of the Moot Court Team, and winner of the McEwen Award as the Outstanding Oral Advocate in his class. He was admitted to the Kentucky Bar in September of 1967 at which time he became associated with the Louisville, Kentucky law firm of Segal, Isenberg, Sales and Stewart.

History has judged Chief Justice Taney as among the most outstanding of American jurists, his tribulations prior to confirmation being completely overshadowed by an exceptional career. A contrite and tearful Clay related to Taney after viewing his work on the Court for many years:

"Mr. Chief Justice, there was no man in the land who regretted your appointment to the place you now hold more than I did; there was no Member of the Senate who opposed it more than I did; but I have come to say to you, and I say it now in parting, perhaps for the last time—I have witnessed your judicial career, and it is due to myself and due to you that I should say what has been the result, that I am satisfied now that no man in the United States could have been selected more abundantly able to wear the ermine which Chief Justice Marshall honored."[7]

It is safe to conclude that purely partisan politics played the major role in Senate rejections of Supreme Court nominees during the nineteenth century. The cases of Rutledge and Taney have been related only for the purpose of highlighting a rather undistinguished aspect of the history of the Senate.

No implication should be drawn from the preceding that Supreme Court nominations in the twentieth century have been without controversy because certainly this has not been the case. However, until Haynsworth only one nominee had been rejected in this century. President Woodrow Wilson's nomination of Louis D. Brandeis and the events surrounding it certainly exhibit many of the difficulties experienced by Judges Haynsworth and Carswell as Brandeis failed to receive the support of substantial and respected segments of the legal community. William Howard Taft, Elihu Root, and three past presidents of the American Bar Association signed the following statement:

"The undersigned feel under the painful duty to say . . . that in their opinion, taking into view the reputation, character and professional career of Mr. Louis D. Brandeis, he is not a fit person to be a Member of the Supreme Court of the U.S."[8]

Hearings were conducted by a Senate Judiciary subcommittee for a period of over four months, were twice-reopened, and the record of the hearings consisted of over 1500 pages.[9]

The nomination of Brandeis, like the nomination of Haynsworth, Carswell and to some extent Fortas (to be Chief Justice) quickly became a *cause celebre* for the opposition party in the Senate. The political nature of Brandeis' opposition is indicated by the fact that the confirmation vote was 47 to 22; three Progressives and all but one Democrat voted for Brandeis and every Republican voted against him.[10]

The basic opposition to Brandeis, like the basic opposition to Haynsworth and Carswell, was born of a belief that the nominee's views were not compatible with the prevailing views of the Supreme Court at that time. However, the publicly stated reasons for opposing Brandeis, just as the publicly stated reasons for opposing Carswell and Haynsworth, were that they fell below certain standards of "fitness."

Liberals in the Senate actively opposed the nominations to the Court of Harlan Fiske Stone in 1925 and Charles Evans Hughes five years later, for various reasons best summed up as opposition to what opponents predicted would be their conservatism. However, it was generally conceded by liberals subsequently that they had misread the leanings of both nominees, who tended to side with the Progressives on the Court throughout their tenures.[11]

No review of the historic reasons for opposition to Supreme Court nominees, even as cursory as this one has been, would be complete without mention of the Parker nomination. Judge John J. Parker of North Carolina, a member of the United States Court of Appeals for the Fourth Circuit, was designated for the Supreme Court by President Hoover in 1930. Harris reports that opposition to Parker was essentially threefold. He was alleged to be anti-labor, unsympathetic to Negroes, and his nomination was thought to be politically motivated.[12]

Opposition to Haynsworth and Carswell followed an almost identical pattern except that Judges Parker and Carswell were spared the charges of ethical impropriety to which Judge Haynsworth was subjected. All three nominees, it is worthy of note for the first time at this point, were from the Deep South.

As this altogether too brief historical review has demonstrated, the Senate has in its past, virtually without exception, based its objections to nominees for the Supreme Court on party or philosophical considerations. Most of the time, however, Senators sought to hide their political objections beneath a veil of charges about fitness, ethics and other professional qualifications. In recent years, Senators have accepted, with a few exceptions, the notion that the advice and consent responsibility of the Senate should mean an inquiry into qualifications and not politics or ideology. In the Brandeis case, for example, the majority chose to characterize their opposition as objecting to his fitness not his liberalism. So there was a recognition that purely political opposition should not be openly stated because it would not be accepted as a valid reason for opposing a nominee. The proper inquiry was judged to be the matter of fitness. In very recent times it has been the liberals in the Senate who have helped to codify this standard. During the Kennedy-Johnson years it was argued to conservatives in regard to appointments the liberals liked that the ideology of the nominee was of no concern to the Senate. Most agree that this is the proper standard, but it should be applied in a nonpartisan manner to conservative southern nominees as well as northern liberal ones. Even though the Senate has at various times made purely political decisions in its consideration of Supreme Court nominees, certainly it could not be successfully argued that this is an acceptable practice. After all, if political matters were relevant to senatorial consideration it might be suggested that a constitutional amendment be introduced giving to the Senate rather than the President the right to nominate Supreme Court Justices, as many argued during the Constitutional Convention.

A pattern emerges running from Rutledge and Taney through Brandeis and Parker up to an including Haynsworth and Carswell in which the Senate has employed deception to achieve its partisan goals. This deception has been to ostensibly object to a nominee's fitness while in fact the opposition is born of political expedience.

In summary, the inconsistent and sometimes unfair behavior of the Senate in the past and in the recent examples which follow do not lead one to be overly optimistic about its prospects for rendering equitable judgments about Supreme Court nominees in the future.

CLEMENT F. HAYNSWORTH, JR.: INSENSITIVE OR VICTIMIZED

(*For the great majority of mankind are satisfied with appearance, as though they were realities, and are often more influenced by the things that seem than by those that are.*—Author unknown.)

The resignation of Justice Abe Fortas in May of 1969 following on the heels of the successful effort of the Senate the previous Fall in stalling his appointment to be Chief Justice, (the nomination was withdrawn after an attempt to invoke cloture on Senate debate was defeated) intensified the resolve of the Senate to reassert what it considered to be its rightful role in advising and consenting to presidential nominations to the Supreme Court.

It was in this atmosphere of senatorial questioning and public dismay over the implications of the Fortas resignation that President Nixon submitted to the Senate the name of Judge Clement F. Haynsworth, Jr., of South Carolina, to fill the Fortas vacancy. Completely aside from Judge Haynsworth's competence, which was never successfuly challenged, he had a number of problems from a political point of view, given the Democrat-controlled Congress. Since he was from South Carolina his nomination was immediately considered to be an integral part of the so-called southern strategy which was receiving considerable press comment at that time. His South Carolina residence was construed as conclusive proof that he was a close friend of the widely-criticized senior Senator from that state, Strom Thurmond, whom, in fact, he hardly knew. Discerning Senators found offensive such an attack against the nominee rather than the nominator, since the southern strategy would be only in the latter's mind, if it existed. Nevertheless, this put the nomination in jeopardy from the outset.

In addition, labor and civil rights groups mobilized to oppose Judge Haynsworth on philosophical grounds. Some of the proponents of the Judge, including their acknowledged leader Senator Cook expressed the proper role of the Senate well in a letter to one of his constituents, a black student at the University of Louisville who was disgruntled over his support for the nominee. It read in pertinent part as follows:

". . . First, as to the question of his [Haynsworth's] view on labor and civil rights matters, I find myself in essential disagreement with many of his civil rights decisions—not that they in any way indicate a pro segregationist pattern, but that they do not form the progressive pattern I would hope for. However, as Senator Edward Kennedy pointed out to the conservatives as he spoke for the confirmation of Justice Thurgood Marshall.

"I believe it is recognized by most Senators that we are not charged with the responsibility of approving a man to be Associate Justice of the Supreme Court only if his views always coincide with our own. We are interested really in knowing whether the nominee has the background, experience, qualifications, temperament and integrity to handle this most sensitive, important, responsible job.

"Most Senators, especially of moderate and liberal persuasion, have agreed that while the appointment of Judge Haynsworth may have been unfortunate from a civil rights point of view, the ideology of the nominee is the responsibility of the President. The Senate's judgment should be made, therefore, solely upon grounds of

qualifications. As I agree with Senator Kennedy and others that this is the only relevant inquiry, I have confined my judgment of this nominee's fitness to the issue of ethics of qualifications?" [13]

The ethical questions which were raised about Judge Haynsworth were certainly relevant to the proper inquiry of the Senate into qualifications for appointment. Also distinction and competence had a proper bearing upon the matter of qualifications, but Judge Haynsworth's ability was, almost uniformly, conceded by his opponents and thus was never a real factor in the debate. A sloppy and hastily drafted document labelled the "Bill of Particulars" against Judge Haynsworth was issued on October 8, 1969, by Senator Birch Bayh of Indiana, who had become the *de facto* leader of the anti-Haynsworth forces during the hearings on the nomination before the Judiciary Committee the previous month. This contained, in addition to several cases in which it had been alleged during the hearings that Judge Haynsworth should have refused to sit, several extraneous and a few inaccurate assertions which were swiftly rebutted two days later by Senator Cook in a statement aptly labelled the "Bill of Corrections." This preliminary sparring by the leaders of both sides raised all the issues in the case but only the relevant and significant allegations will be discussed here, those which had a real impact upon the Senate's decisions.[14]

First, it was essential to determine what, if any, impropriety Judge Haynsworth had committed. For the Senator willing to make a judgment upon the facts this required looking to those facts. The controlling statute in situations where federal judges might potentially disqualify themselves is 28 U.S.C. § 455 which reads:

"Any Justice or Judge of the United States shall disqualify himself in any case in which he has a substantial interest, has been of counsel, is or has been a material witness, or is so related to or connected with any party or his attorney as to render it improper, *in his opinion* for him to sit on the trial, appeal, or other proceeding therein." [Emphasis added.]

Also pertinent is Canon 29 of the American Bar Association Canons of Judicial Ethics which provides:

"A judge should abstain from performing or taking part in any judicial act in which his personal interests are involved."

Formal Opinion 170 of the American Bar Association construing Canon 29 advises that a judge should not sit in a case in which he owns stock in a party litigant.

The first instance cited by Judge Haynsworth's opponents as an ethical violation was the much celebrated labor case, *Darlington Manufacturing Co. v. NLRB*,[15] argued before and decided by the Fourth Circuit in 1963. The Judge sat in this case contrary to what some of his Senate opponents felt to have been proper. The facts were that Judge Haynsworth had been one of the original incorporators, seven years before he was appointed to the bench, of a company named Carolina Vend-A-Matic which had a contract to supply vending machines to one of Deering Millikin's (one of the litigants) plants. In 1957, when Judge Haynsworth went on the bench, he orally resigned as Vice President of the Company but continued to serve as a director until October, 1963, at which time he resigned his directorship in compliance with a ruling of the U.S. Judicial Conference. During 1963, the year the case was decided, Judge Haynsworth owned one-seventh of the stock of Carolina Vend-A-Matic.

Suffice it to say that all case law in point, on a situation in which a judge owns stock in a company which merely does business with one of the litigants before him, dictates that the sitting judge not disqualify himself. And certainly the Canons do not address themselves to such a situation. As John P. Frank, the acknowledged leading authority on the subject of judicial disqualification testified to the Judiciary Committee:

"It follows that under the standard federal rule Judge Haynsworth had no alternative whatsoever. He was bound by the principle of the cases. It is a Judge's duty to refuse to sit when he is disqualified, but it is equally his duty to sit when there is no valid reason not to . . . I do think it is perfectly clear under the authority that there was virtually no choice whatsoever for Judge Haynsworth except to participate in that case and do his job as well as he could." [16]

This testimony by Mr. Frank was never refuted as no one recognized as an authority on the subject was discovered who held a contrary opinion.

The second situation of significance which arose during the Haynsworth debate concerned the question of whether Judge Haynsworth should have sat in three cases in which he owned stock in a parent corporation where one of the litigants before him was a wholly owned subsidiary of the parent corporation. These cases were *Farrow* v. *Grace Lines, Inc.*,"[17] *Donohue* v. *Maryland Casualty Co.*,[18] and *Maryland Casualty Co.* v. *Baldwin*.[19]

Consistently ignored during the outrage expressed over his having sat in these cases were the pleas of many of the Senators supporting the nomination to look to the law to find the answer to the question of whether Judge Haynsworth should have disqualified himself in these situations. Instead, the opponents decided, completely independent of the controlling statutes and canons, that the Judge had a "substantial interest" in the outcome of the litigation and should, therefore, have disqualified himself. Under the statute, 28 U.S.C. § 455, Judge Haynsworth clearly had no duty to step aside. Two controlling cases in a situation where the judged actually owns stock in one of the litigants, not as here where the stock was owned in the parent corporation, are *Kinnear Weed Corp.* v. *Humble Oil and Refining Co.*[20] and *Lampert* v. *Hollis Music, Inc.*[21] These cases interpret "substantial interest" to mean "substantial interest" in the outcome of the case, not "substantial interest" in the litigant. And here Judge Haynsworth not only did not have a "substantial interest" in the outcome of the litigation, he did not even have a "substantial interest" in the litigant, his stock being a small portion of the shares outstanding in the parent corporation of one of the litigants. There was, therefore, clearly no duty to step aside under the statute. It is interesting to note that joining in the *Kinnear Weed* decision were Chief Judge Brown and Judge Wisdom of the Fifth Circuit whom Joseph Rauh, a major critic of the Haynsworth nomination, had stated at the hearings on the nomination "would have been heroic additions to the Supreme Court." [22]

But was there a duty to step aside in these parent-subsidiary cases under Canon 29? The answer is again unequivocally No. The only case law available construing language similar to that of Canon 29 is found in the disqualification statute of a state. In *Central Pacific Railroad Co.* v. *Superior Court*,[23] the state court held that ownership of stock in a parent corporation did not require disqualification in litigation involving a subsidiary. Admittedly, this is only a state case, but significantly there is no federal case law suggesting any duty to step aside where a judge merely owns stock in the parent where the subsidiary is before the court. Presumably, this is because such a preposterous challenge has never occurred even to the most ingenious lawyer until the opponents of Judge Haynsworth created it. Therefore, Judge Haynsworth violated no existing standard of ethical behavior in the parent-subsidiary cases except that made up for the occasion by his opponents to stop his confirmation.

There was one other accusation of significance during the Haynsworth proceedings which should be discussed. It concerned the Judge's actions in the case of *Brunswick Corp* v. *Long*.[24] The facts relevant to this consideration were as follows: on November 10, 1967, a panel of the Fourth Circuit, including Judge Haynsworth, heard oral argument in the case and immediately after argument voted to affirm the decision by the District Court. Judge Haynsworth, on the advice of his broker, purchased 1,000 shares of Brunswick on December 20, 1967. Judge Winter, to whom the writing of the opinion had been assigned on November 10, the day of the decision, circulated his opinion on December 27. Judge Haynsworth noted his concurrence on January 3, 1968, and the opinion was released on February 2. Judge Haynsworth testified that he completed his participation, in terms of the decision-making process, on November 10, 1967, approximately six weeks prior to the decision to buy stock in Brunswick. Judge Winter confirmed that the decision had been substantially completed on November 10.[25] Therefore, it could be strongly argued that Judge Haynsworth's participation in *Brunswick* terminated on November 10. However, even if it were conceded that he sat while he owned Brunswick stock it is important to remember that neither the statute nor the canons require an automatic disqualification, although Opinion 170 so advises. And the facts show that his holdings were so miniscule as to amount neither to a "substantial interest" in the outcome of the litigation under 28 U.S.C. § 455 or to a "substantial interest" in the litigant itself. Clearly, once again, Judge Haynsworth was guilty of no ethical impropriety.

As mentioned earlier there were other less substantial charges by Haynsworth opponents but they were rarely used by opponents to justify opposition. These which have been mentioned were the main arguments used to deny confirmation. It is apparent to any objective student of this episode that Haynsworth violated no existing standard of ethical conduct, just those made up for the occasion by those who sought to defeat him for political gain. As his competence and ability were virtually unassailable, the opponents could not attack him for having a poor record of accomplishment or for being mediocre (an adjective soon to become famous in describing a subsequent nominee for the vacancy). The only alternative available was to first, create a new standard of conduct; second, apply this standard to the nominee retroactively making him appear to be ethically insensitive; third, convey the newly-created appearance of impropriety to the public by way of a politically hostile press (hostile due to an aversion to the so-called southern

strategy of which Haynsworth was thought to be an integral part); and fourth, prolong the decision upon confirmation for a while until the politicians in the Senate reacted to an aroused public. Judge Haynsworth was defeated on November 21, 1969, by a vote of 55-45. Appearance had prevailed over reality. Only two Democrats outside the South (and one was a conservative—Bible of Nevada) supported the nomination, an indication of the partisan issue it had become, leading the *Washington Post*, a lukewarm Haynsworth supporter, to editorially comment, the morning after the vote:

"The rejection, despite the speeches and comments on Capitol Hill to the contrary, seems to have resulted more from ideological and plainly political considerations than from ethical ones. It is impossible to believe that all Northern liberals and all Southern conservatives have such dramatically different ethical standards."

CARSWELL: WAS HE QUALIFIED?

(*Even if he was mediocre, there are a lot of mediocre judges and people and lawyers. They are entitled to a little representation, aren't they, and a little chance? We can't have all Brandeises and Cardozos and Frankfurters and stuff like that there.*—Senator Roman Hruska, March 16, 1970.)

The United States Senate began the new year in no mood to reject another nomination of the President to the Supreme Court. It would take an incredibly poor nomination, students of the Senate concluded, to deny the President his choice in two successive instances. Circumstances, however, brought forth just such a nomination.

Subsequent to the defeat of Judge Haynsworth, President Nixon sent to the Senate in January of 1970 the name of Judge G. Harrold Carswell, of Florida and the Fifth Circuit. Judge Carswell had been nominated to the Circuit Court by President Nixon the year before, after serving 12 years on the U.S. District Court for the Northern District of Florida at Tallahassee to which he had been appointed by President Eisenhower.

He, too, faced an initial disadvantage in that he came from the south and was also considered by the press to be a part of the southern strategy. This should have been, as it should have been for Haynsworth, totally irrelevant to considerations of the man and his ability, but it was a factor and it immediately mobilized the not insignificant anti-south block in the Senate.

Many were troubled at the outset of the hearings about reports of a "white supremacy" speech Carswell had made as a youthful candidate for the legislature in Georgia in 1948, and later by allegations that he had supported efforts to convert a previously all-white public golf course to an all-white private country club in 1956, thus circumventing Supreme Court rulings.[26] There were other less substantial allegations including lack of candor before the Senate Judiciary Committee (which had also been raised against Judge Haynsworth) but all of these were soon supplanted by what became the real issue—that is, did Carswell possess the requisite distinction for elevation to the High Court.

In attempting to determine by what standards Judge Carswell should be judged, some who had been very much involved in the Haynsworth debate attempted to define the standards which had been applied to the previous nominee. Kentucky's Marlow Cook called his standard the "Haynsworth test" and subsequently defined it as composed of essentially five elements, (1) competence; (2) achievement; (3) temperament; (4) judicial propriety and (5) non-judicial record.

Judge Haynsworth himself would not have passed this test had he in fact been guilty of some ethical impropriety—that is, if his judicial integrity had been compromised by violations of any existing standard of conduct. His record of achievement was only attacked by a few misinformed columnists and never really became an issue. And his competence, temperament and the record of his life off the bench was never questioned, but a breakdown in any of these areas might have been fatal also.

The judicial integrity component of the "Haynsworth test," previously described as a violation of existing standards of conduct for federal judges, was never in question in the Carswell proceedings. It was impossible for him to encounter difficulties similar to those of Judge Haynsworth because he owned no stocks and had not been involved in any business ventures through which a conflict might arise. Certainly, his non-judicial record was never questioned, nor was it a factor raised against any nominee in this century. Disqualifying non-judicial activities referred to here could best be illustrated by examples such as violations of federal or state law, or personal problems such as alcoholism or drug addiction—in other words, debilitating factors only indirectly related to effectiveness on the bench.

However, all the other criteria of the "Haynsworth test" were raised in the Carswell case and caused Senators seeking to make an objective appraisal of the nominee some difficulty. First, as to the question of competence, 1 Ripon Society Report and a study of the nominee's reversal percentages by a group of Columbia law students revealed that while a U.S. District Judge he had been reversed more than twice as often as the average federal district judge and that he ranked sixty-first in reversals among the 67 federal trial judges in the south. Numerous reversals alone might not have been a relevant factor; he could have been in the vanguard of his profession some argued. This defense, however, ignored simple facts about which even a first year law student would be aware. A federal district judge's duty in most instances is to follow the law as laid down by higher authority. Carswell appeared to have a chronic inability to do this. No comparable performance was ever imputed to Judge Haynsworth even by his severest critics.

Second, in the area of achievement, he was totally lacking. He had no publications, his opinions were rarely cited by other judges in their opinions, and no expertise in any area of the law was revealed. On the contrary, Judge Haynsworth's opinions were often cited, and he was a recognized expert in several fields including patents and trademarks, habeas corpus cases, and labor law. In addition, his opinions on judicial administration were highly valued; he had been called upon to testify before Senator Tydings' subcommittee on Improvements in Judicial Machinery on this subject in June of 1969.

In addition to his lack of professional distinction, Judge Carswell's temperament was also questionable. There was unrebutted testimony before the Judiciary Committee that he was hostile to certain classes of litigants—namely, those involved in litigation to insure the right to vote to all citizens regardless of race pursuant to the Voting Rights Act of 1965. There had been testimony that Judge Haynsworth was anti-labor and anti-civil rights, but these charges alleged not personal antipathy but rather philosophical bias in a certain direction such as Justice Goldberg might have been expected to exhibit against management in labor cases. Such philosophical or ideological considerations, as pointed out earlier, are more properly a concern of the President and not the Senate, which should sit in judgment upon qualifications only.

And finally, a telling factor possibly revealing something about both competence and temperament was Judge Carswell's inability to secure the support of his fellow judges on the Fifth Circuit. By contrast, all Fifth Circuit judges has supported Judge Homer Thornberry when he was nominated in the waning months of the Johnson presidency, even though that was not considered an outstanding appointment by many in the country. All judges of the Fourth Circuit had readily supported Judge Haynsworth's nomination. Therefore, it was highly unusual and significant that Judge Carswell could not secure the support of his fellow judges, especially when one considers that they must have assumed at that time that they would have to deal with him continually in future years should his nomination not be confirmed. His subsequent decision to leave the bench and run for political office in Florida seeking to convert a wave of sympathy over his frustrated appointment into the consolation prize of a United States Senate seat only tended to confirm the worst suspicions about his devotion to being a member of the Federal Judiciary.

Judge Carswell, then, fell short in three of the five essential criteria evolving out of the Haynsworth case. This compelled a no vote by the junior Senator from Kentucky and he was joined by several other Senators who simply could not, in good conscience, vote to confirm despite the wishes of most of their constituents. Of the southern Senators who had supported Haynsworth, Spong, of Virginia, and Fulbright, of Arkansas, switched. Gore, of Tennessee and Yarborough, of Texas, voted no again and the only Democrat outside the south of liberal credentials who had supported the Haynsworth nomination, Gravel, of Alaska, joined the opponents this time.

Judge Carswell was defeated 51-45 on April 8, 1970 by essentially the same coalition which had stopped Judge Haynsworth. The justification for opposition, however, as this article seeks to demonstrate, was much sounder. Some undoubtedly voted in favor of Carswell simply because he was a southern conservative. Others, no doubt, voted no for the same reason. The key Senators who determined his fate, however, clearly cast their votes against the Hruska maxim that mediocrity was entitled to a seat on the Supreme Court.

HARRY M. BLACKMUN: CONFIRMATION AT LAST

(*The political problem, therefore, is that so much must be explained in distinguishing between Haynsworth and Blackmun, and when the explanations are made there is still room for the political argument that Haynsworth should have been confirmed in the first place.*—Richard Wilson, *Washington, Evening Star*, April 20, 1970.)

President Nixon next sent to the Senate to fill the vacancy of almost one year created by the Fortas resignation of a childhood friend of Chief Justice Warren Burger, his first court appointment, Judge Harry A. Blackmun, of Minnesota and the Eighth Circuit. Judge Blackmun had an initial advantage which Judge Haynsworth and

Carswell had not enjoyed—he was not from the South. Once again, in judging the nominee it is appropriate to apply Senator Cook's "Haynsworth test."

Judge Blackmun's competence, temperament, and non-judicial record were quickly established by those charged with the responsibility of reviewing the nomination,[27] and were, in any event, never questioned, as no one asked the Judiciary Committee for the opportunity to be heard in opposition to the nomination.

In the area of achievement or distinction, Judge Blackmun was completely satisfactory. He had published three legal articles: "The Marital Deduction and Its Use in Minnesota";[28] "The Physician and His Estate";[29] and "Allowance of In Forma Pauperis in Section 2255 and Habeas Corpus Cases."[30] In addition, at the time of his selection he was chairman of the Advisory Committee on the Judge's Function of the American Bar Association Special Committee on Standards for the Administration of Criminal Justice. Moreover, he had achieved distinction in the areas of federal taxation and medico-legal problems and was considered by colleagues of the bench and bar to be an expert in these fields.

The only question raised about Judge Blackmun was in the area of judicial integrity or ethics. Judge Blackmun, since his appointment to the Eighth Circuit by President Eisenhower in 1959, had sat in three cases in which he actually owned stock in one of the litigants before him: *Hanson v. Ford Motor Co.*,[31] *Kotula v. Ford Motor Co.*,[32] and *Mahoney v. Northwestern Bell Telephone Co.*[33] In a fourth case, *Minnesota Mining and Manufacturing Co. v. Superior Insulating Co.*[34] Judge Blackmun acting similarly to Judge Haynesworth in *Brunswick*, bought shares of one of the litigants after the decision but before the denial of a petition for rehearings.

As previously mentioned, Judge Haynsworth's participation in *Brunswick* was criticized as violating the spirit of Canon 29 and the literal meaning of Formal Opinion 170 of the ABA, thus showing an insensitivity to judicial ethics, but Judge Blackmun acted similarly in the 3M case and was not so criticized. Except as it could be argued in *Brunswick*, Judge Haynsworth never sat in a case in which he owned stock in one of the litigants but, rather, three cases in which he merely owned stock in the parent corporation of the litigant-subsidiary, a situation not unethical under any existing standard, or even by the wildest stretch of any legal imaginations, except those of the anti-Haynsworth leadership.

Judge Blackmun, on the other hand, committed a much more clear-cut violation of what could be labelled the "Bayh standard." Senator Bayh, the leader of the opposition in both the Haynsworth and Carswell cases, ingored this breach of the Haynsworth test with the following interesting justification:

"He [Blackmun] discussed his stock holdings with Judge Johnson, then Chief Judge of the Circuit, who advised him that *his holdings did not constitute a "substantial interest"* under 28 USC 455, and that he was obliged to sit in the case. There is no indication that Judge Haynsworth ever disclosed his financial interest to any colleague or to any party who might have felt there was an apparent conflict, before sitting in such case."[35] [Emphasis added.]

Judge Haynsworth did not inform the lawyers because under existing Fourth Circuit practice he found no significant interest and, thus, no duty to disclose to the lawyers. In any event, Judge Blackmun did not inform any of the lawyers in any of the cases in which he sat, either. Judge Blackmun asked the chief judge his advice and relied upon it. Judge Haynsworth was the chief judge.

Chief Judge Johnson and Chief Judge Haynsworth both interpreted that standard, as it existed, not as the Senator from Indiana later fashioned it. That interpretation was, as the supporters of Judge Haynsworth said it was, and in accord with Chief Judge Johnson who described the meaning of 28 U.S.C. § 455 to be "that a judge should sit regardless of interest, so long as the decision will not have a significant effect upon the value of the judge's interest."[36]

In other words, it is not interest in the litigant but interest in the outcome of the litigation which requires stepping aside. But even if it were interest in the litigant, the interests of Blackmun were *de minimis*, and the interests of Haynsworth were not only *de minimis*, but were one step removed—that is, his interest was in the parent corporation where the subsidiary was the litigant. Furthermore, the case law, what little there is, and prevailing practice dictate that in the parent-subsidiary situation there is no duty to step aside.

As John Frank pointed out to the Judiciary Committee during the Haynsworth hearings, where there is no duty to step aside, there is a duty to sit. Judge Haynsworth and Judge Blackmun sat in these cases because under existing standards, not the convenient *ad hoc* standard of the Haynsworth opponents, they both had a duty to sit. But it is worth noting that if one were to require a strict adherence to the most rigid standard—Formal Opinion 170, which states that a judge shall not sit in a case in which he owns stock in a party litigant—Judge Haynsworth whom Senator Bayh opposed had only one arguable violation, *Brunswick*, while Judge Blackmun who Senator Bayh supported had one arguable violation, *3M*, and three clear violations, *Hanson*, *Kotula* and *Mahoney*.

The Senator from Indiana also argued that since Judge Blackmun stepped aside in *Bridgeman v. Gateway Ford Truck Sales*,[37] arising after the Haynsworth affair, a situation in which he owned stock in the parent Ford which totally owned one of the subsidiary-litigants, he "displayed a laudable recognition of the changing nature of the standards of judicial conduct."[38] Of course, Judge Blackmun stepped aside after seeing what Judge Haynsworth had been subjected to. Haynsworth did not have an opportunity to step aside in such situations since this new Bayh rule was established during the course of his demise. Certainly Judge Haynsworth would now comply with the Bayh test to avoid further attacks upon his judicial integrity just as Judge Blackmun wisely did in *Bridgeman*.

It is clear, then, to any objective reviewer, that the Haynsworth and Blackmun cases, aside from the political considerations involved, were virtually indistinguishable. If anything, Judge Blackmun had much more flagrantly violated that standard used to defeat Judge Haynsworth than had Judge Haynsworth. However, Judge Blackmun violated no existing standard worthy of denying him confirmation and he was quite properly confirmed by the Senate on May 12, 1970 by a vote of 88 to 0.

A NEW TEST: CAN ONE BE CONSIDERED?

(*Bad laws, if they exist, should be repealed as soon as possible, still, while they continue in force, for the sake of example they should be religiously observed.*—Abraham Lincoln.)

It has been demonstrated that Judge Haynsworth and Blackmun violated no existing standards worthy of denying either of them confirmation. Judge Carswell's defeat, like Judge Haynsworth's, was also due in part to the application of a new standard—it having been argued that mediocre nominees had been confirmed in the past, *a fortiori Carswell* should be also. Yet, certainly achievement was always a legitimate part of the Senate's consideration of a nominee for confirmation just as ethics had always been. The Senate simply ignored mediocrity at various times in the past and refused to do so in the case of Carswell. And in the case of Haynsworth it made up an unrealistic standard of judicial propriety to serve its political purposes and then ignored those standards later in regard to Judge Blackmun because politics dictated confirmation.

Possibly, new standards should be adopted by the Senate but, of course, adopted prospectively in the absence of a pending nomination and not in the course of confirmation proceedings. In this regard, Senator Bayh has now introduced two bills, The Judicial Disqualification Act of 1970 and the Omnibus Disclosure Act which, if enacted, would codify the standards he previously employed to defeat Judge Haynsworth. This legislative effort is an admission that the previously applied standards were nonexistent at the time. Those bills are, however, worthy of serious consideration in a continuing effort to improve judicial standards of conduct. Some standards have been suggested here and will be recounted again but first some observations about the body which must apply them.

First, it is safe to say that anti-southern prejudice is still very much alive in the land and particularly in the Senate. Although this alone did not cause the defeats of Haynsworth and Carswell, it was a major factor. The fact that so many Senators were willing to create a new ethical standard for Judge Haynsworth in November, 1969, in order to insure his defeat and then ignore even more flagrant violations of this newly established standard in May of 1970, can only be considered to demonstrate sectional prejudice.

Another ominous aspect of the past year's events has been that we have seen yet another example of the power of the press over the minds of the people. As Wendell Phillips once commented, "We live under a government of men and morning newspapers." Certainly, one should not accuse the working press of distorting the news. The reporters were simply conveying to the nation the accusations of the Senator from Indiana and others in the opposition camp. These accusations were interpreted by a misinformed public outside the south (as indicated by prominent public opinion polls) as conclusive proof of Judge Haynsworth's impropriety and Judge Carswell's racism, neither of which was ever substantiated. The press should remain unfettered, but public figures must continue to have the courage to stand up to those who would use it for their own narrow political advantage to destroy men's reputations, and more importantly, the aura of dignity which should properly surround the Supreme Court.

Some good, however, has come from this period. Senatorial assertion against an all-powerful Executive, whoever he may be, whether it is in foreign affairs or in Supreme Court appointments, is healthy for the country. Such assertions help restore

the constitutional checks and balances between our branches of government, thereby helping to preserve our institutions and maximize our freedom.

In addition, the American Bar Association has indicated a willingness to review its ethical standards and has appointed a Special Committee on Standards of Judicial Conduct, under the chairmanship of Judge Traynor, which issued a Preliminary Statement and Interim Report which would update the ABA Canons of Judicial Ethics. This report was discussed in public hearings on August 8th and 10th, 1970 at the Annual Meeting of the ABA in St. Louis and may be placed on the agenda for consideration at the February, 1971, mid-year meeting of the House of Delegates. Both supporters and opponents of Judge Haynsworth agreed that a review and overhaul of the ABA's Canons of Judicial Ethics was needed. This should be valuable and useful to the Senate as the Judiciary Committee under Senator Eastland has made a practice of requesting reports on Presidential nominees to the Supreme Court by the Standing Committee on the Federal Judiciary of the ABA. This practice probably should be continued as the Senate has not, in any way, delegated its decision upon confirmation to this outside organization. Rather, it seeks the views of the ABA before reporting nominees to the Judiciary to the floor of the Senate just as any committee would seek the views of relevant outside groups before proposing legislation.

Although not central to the considerations of this article, it should be noted what the Executive may have learned from this period. President Johnson undoubtedly discovered in the Fortas and Thornberry nominations that the Senate could be very reluctant at times to approve nominees who might be classified as personal friends or "cronies" of the Executive. It was also established that the Senate would frown upon Justices of the Supreme Court acting as advisors to the President as a violation of the concept of separation of powers. This argument was used very effectively against the elevation of Justice Fortas to the Chief Justiceship as he had been an advisor to President Johnson on a myriad of matters during his tenure on the Court. President Nixon learned during the Carswell proceedings that a high degree of competence would likely be required by the Senate before it approved future nominees. He also learned during the Haynsworth case that the Senate would likely require strict adherence to standards of judicial propriety.

Unfortunately, as a result of this episode, the administration has adopted a very questionable practice in regard to future nominations to the Supreme Court. Attorney General John N. Mitchell announced on July 28, 1970 that the Justice Department would adopt a new procedure under which the Attorney General will seek a compete investigation by the ABA's Standing Committee on the Federal Judiciary before recommending anyone to the President for nomination to the Supreme Court. This Committee has already enjoyed virtually unprecedented influence in the selection of U.S. District and Circuit Judges as this Administration has made no nominations to these Courts which have not received the prior approval of this twelve man Committee. In effect, the Administration, after delegating to this Committee veto power over lower federal court appointments, has now broadened this authority to cover its selections to the Supreme Court. Complete delegation of authority to an outside organization of so awesome a responsibility as designating men to our federal District and Circuit Courts is bad enough, but such a delegation of authority to approve, on the Supreme Court level, is most unwise. Far from representing all lawyers in the country, the ABA has historically been the repository of "big-firm," "defense-oriented," "corporate-type lawyers" who may or may not make an objective appraisal of a prospective nominee, if President Wilson had asked the ABA for prior approval of Brandeis, the Supreme Court and the nation would never have benefitted from his great legal talents. The presumption that such an outside organization as the American Bar Association is better able to pass upon the credentials of nominees for the federal courts and especially the Supreme Court than the President of the United States who is given the constitutional authority is an erroneous judgment which the passage of time will hopefully see reversed.[39] This is not to imply that ABA views would not be useful to the Executive in its considerations just as they are useful to but not determinative of the actions of the Senate (the Senate having rejected ABA approved nominees Haynsworth and Carswell).

What standard then can be drawn for the Senate from the experiences of the past year in advising and consenting to Presidential nominations to the Supreme Court? They have been set out above but should be reiterated in conclusion. At the outset, the Senate should discount the philosophy of the nominee. In our politically centrist society, it is highly unlikely that any Executive would nominate a man of such extreme views of the right or the left as to be disturbing to the Senate. However, a nomination, for example, of a Communist or a member of the American Nazi Party, would have to be considered an exception to the recommendation that the Senate leave ideological considerations to the discretion of the Executive. Political and philosophical considerations were often a factor in the nineteenth century and arguably in the Parker, Haynsworth and Carswell cases also, but this is not proper and tends to degrade the Court and dilute the constitutionally proper authority of the Executive in this area. The President is presumably elected by the people to carry out a program and altering the ideological directions of the Supreme Court would seem to be a perfectly legitimate part of a Presidential platform. To that end, the Constitution gives to him the power to nominate. As mentioned earlier, if the power to nominate had been given to the Senate, as was considered during the debates at the Constitutional Convention, then it would be proper for the Senate to consider political philosophy. The proper role of the Senate is to advise and consent to the particular nomination, and thus, as the Constitution puts it, "to appoint." This taken within the context of modern times should mean an examination only into the qualifications of the President's nominee.

In examining the qualifications of a Supreme Court nominee, use of the following criteria is recommended. First, the nominee must be judged competent. He should, of course, be a lawyer although the Constitution does not require it. Judicial experience might satisfy the Senate as to the nominee's competence, although the President should certainly not be restricted to naming sitting judges. Legal scholars as well as practicing lawyers might well be found competent.

Second, the nominee should be judged to have obtained some level of achievement or distinction. After all, it is the Supreme Court the Senate is considering not the police court in Hoboken, N.J. or even the U.S. District or Circuit Courts. This achievement could be established by writings, but the absence of publications alone would not be fatal. Reputation at the bar and bench would be significant. Quality of opinions if a sitting judge, or appellate briefs if a practicing attorney, or articles or books if a law professor might establish the requisite distinction. Certainly, the acquisition of expertise in certain areas of the law would be an important plus in determining the level of achievement of the nominee.

Third, temperament could be significant. Although difficult to establish and not as important as the other criteria, temperament might become a factor where, for example in the case of Carswell, a sitting judge was alleged to be hostile to a certain class of litigants or abusive to lawyers in the courtroom.

Fourth, the nominee, if a judge, must have violated no existing standard of ethical conduct rendering him unfit for confirmation. If the nominee is not a judge, he must not have violated the Canons of Ethics and statutes which apply to conduct required of members of the bar. If a law professor, he must be free of violations of ethical standards applicable to that profession, for example plagiarism.

Fifth and finally, the nominee must have a clean record in his life off the bench. He should be free from prior criminal conviction and not the possessor of debilitating personal problems such as alcoholism or drug abuse. However, this final criterion would rarely come into play due to the intensive personal investigations customarily employed by the Executive before nominations are sent to the Senate.

In conclusion, these criteria for Senate judgment of nominees to the Supreme Court are recommended for future considerations. It will always be difficult to obtain a fair and impartial judgment from such an inevitably political body as the United States Senate. However, it is suggested that the true measure of a statesman may well be the ability to rise above partisan political considerations to objectively pass upon another aspiring human being. While the author retains no great optimism for their future usage, these guidelines are now, nevertheless, left behind, a fitting epilog hopefully to a most unique and unforgettable era in the history of the Supreme Court.

FOOTNOTES

[1] For recent articles discussing the role of the Executive see Beckel, *The Making of Supreme Court Justices*, 53 THE NEW LEADER, May 25, 1970, at 14-18; Commager, *Choosing Supreme Court Judges*, 162 THE NEW REPUBLIC, May 2, 1970, at 13-16.

[2] J. HARRIS, THE ADVICE AND CONSENT OF THE SENATE 302-03 (1953).

[3] 1 C. WARREN, THE SUPREME COURT IN U.S. HISTORY 134-35 (rev. ed. 1935).

[4] 2 C. WARREN, THE SUPREME COURT IN U.S. HISTORY 10 (rev. ed. 1935).

[5] *Id.* at 12.

[6] *Id.* at 13-15.

[7] *Id.* at 16.

[8] J. HARRIS, *supra note* 2, at 99.

[9] *Id.*

[10] *Id.* at 113.

[11] *Id.* at 115-27.

[12] *Id.* at 127-32.

[13] Letter from Senator Marlow W. Cook to Charles Hagan, October 21, 1969.

[14] For complete discussion of all issues raised by the "Bill of Particulars" see speech of Senator Marlow W. Cook, 115 Cong. Rec. S12314-20 (daily ed. Oct. 13, 1969). *See also* REPORT OF SENATE JUDICIARY COMMITTEE ON THE NOMINATION OF CLEMENT

F. HAYNSWORTH, JR., EXECUTIVE REPORT NO. 91-12, 91st Cong., 1st Sess. (1909).

[15] 325 F.2d 682 (4th Cir. 1963).

[16] *Hearings on Nomination of Clement F. Haynsworth, Jr. of South Carolina to be Associate Justice of the Supreme Court of the United States Before the Senate Comm. on the Judiciary*, 91st Cong., 1st Sess. 115-16 (1969).

[17] 381 F.2d 380 (4th Cir. 1967).

[18] 363 F.2d 412 (4th Cir. 1966).

[19] 357 F.2d 228 (4th Cir. 1966).

[20] 403 F.2d 437 (5th Cir. 1968).

[21] 105 F. Supp. 3 (E.D.N.Y. 1952).

[22] *Hearings on Nomination of Clement F. Haynsworth, Jr., supra* note 15, at 469.

[23] 296 P. 883 (Cal. 1931).

[24] 392 F.2d 337 (4th Cir. 1968).

[25] *Hearings on Nomination of Clement F. Haynsworth, Jr., supra* note 15, at 238.

[26] *See Hearings on Nomination of George Harrold Carswell of Florida to be Associate Justice of the Supreme Court of the United States Before the Senate Comm. on the Judiciary*, 91st Cong., 2d Sess. (1970). *See also* REPORT OF SENATE JUDICIARY COMM. ON NOMINATION OF GEORGE HARROLD CARSWELL, EXECUTIVE REPORT NO. 91-14, 91st Cong. 2d Sess. (1970).

[27] *See Hearings on Nomination of Harry A. Blackmun of Minnesota to be Associate Justice of the Supreme Court of the United States Before the Senate Comm. on the Judiciary*, 91st Cong., 2d Sess. (1970).

[28] Blackmun, *The Marital Deduction and Its Use in Minnesota*, 36 MINN. L. REV. 50 (1951).

[29] Blackmun, *The Physician and His Estate*, 36 MINN. MED. 1033 (1953).

[30] Blackmun, *Allowance of In Forma Pauperis in Section 2255 and Habeas Corpus Cases*, 43 F.R.D. 343 (1968).

[31] 278 F.2d 586 (8th Cir. 1960).

[32] 338 F.2d 732 (8th Cir. 1964).

[33] 377 F.2d 549 (8th Cir. 1967).

[34] 284 F.2d 478 (8th Cir. 1960).

[35] REPORT OF SENATE JUDICIARY COMM. ON NOMINATION OF HARRY A. BLACKMUN, EXECUTIVE REPORT NO. 91-18, 91st Cong., 2nd Sess. 9 (1970).

[36] *Id.*

[37] No. 19, 749, (February 4, 1970).

[38] REPORT OF SENATE JUDICIARY COMM. ON NOMINATION OF HARRY A. BLACKMUN, *supra* note 34, at 10.

[39] *But see Walsh, Selection of Supreme Court Justices*, 56 A.B.A.J. 550-60 (1970); REPORT OF THE STANDING COMM. ON THE FEDERAL JUDICIARY OF THE AMERICAN BAR ASSOCIATION (1970).

Mr. McCONNELL. Mr. President, I have had a chance to observe Justice Rehnquist over a period of 15 years. While I would not in any way assert that I have studied all his writings and opinions, I have a sense of his distinguished career on the Supreme Court; and I can say that there is no person—not one, anywhere in the country—the President could have selected who would have been a better choice for Chief Justice of the United States than Bill Rehnquist.

So, Mr. President, I rise today in wholehearted support of the nomination of William Rehnquist to be Chief Justice of the United States. As a member of the Judiciary Committee, it is with great pride that I join the majority of my colleagues on that committee in recommending confirmation of Justice Rehnquist without reservation.

While I respect the opinions of my colleagues who disagree with the choice of Mr. Rehnquist, and who would have made a different choice, I believe that a heavy burden must be met by those who would have this nominee rejected. Under the Constitution, our duty is to provide advice and consent to judicial nominations, not to substitute our judgment for what are reasonable views for a judicial nominee to hold. I believe that if consideration of this nomination proceeds on the merits, William Rehnquist will be quickly confirmed as our next Chief Justice of the United States.

The Members of this body have a solemn, constitutional duty to rigorously scrutinize the qualifications of judicial nominees, especially those of nominees to this high office. But, I might add, we have a corresponding obligation to do so with civility and fairness, both out of a sense of respect for the nominee and a sense of dignity for this institution. I regret to say that this obligation has been honored more in the breach in recent months.

It has been asserted, dogmatically, by Members of this body, and by certain segments of the media, that candidates such as Justice Rehnquist and Judge Scalia are too "extreme" in their judicial philosophy. Regretfully also, attempts were made to cast doubts on Mr. Rehnquist's character. Mr. President, such characterizations, to be blunt, are nonsense.

Mainstreet America has spoken clearly and unequivocally throughout the decade of the eighties in articulating a new set of priorities for this Nation. Part of the mandate that the citizens of 49 of these United States entrusted to President Ronald Reagan has been to reign in the extreme activism of our Federal judiciary.

I would respectfully submit that those who maintain that the President's nominees are outcasts from the mainstream of contemporary judicial thought, are themselves so far adrift on the fringes that they have lost contact with the prevailing currents of American society. Justice Rehnquist's credentials and qualifications place him squarely on the crest of this new wave.

Mr. President, numerous attempts were made during the hearings in the Judiciary Committee and are being made now on the Senate floor to cast doubt on Mr. Rehnquist's character. Let me make clear that the "evidence" brought forward to date has failed to raise a doubt in this Senator's mind. Sadly, these allegations speak more to the politics of the confirmation process than to the personal integrity and professional competence of the nominee. Concerns raised about Justice Rehnquist's participation in *Laird* v. *Tatum*, 408 U.S.C. 1 (1972), fall particularly in this category.

The Laird versus Tatum case involved surveillance activities by the Department of the Army in connection with attempts to control civil disorder during the late 1960's. Justice Rehnquist, then Assistant Attorney General, Office of Legal Counsel, testified before the Senate Judiciary Subcommittee on Constitutional Rights in 1971. He testified as an expert witness for the Department of Justice in regard to the statutory and constitutional authority of the executive branch to gather information on private citizens. Opponents of this nomination have questioned Justice Rehnquist's refusal to recuse himself in the Laird versus Tatum case.

The only statute directly governing the recusal of Supreme Court Justices is section 455 of the judicial code, 28 U.S.C. section 455. That statute provides that:

> Any justice or judge of the United States shall disqualify himself in any case in which he has a substantial interest, has been of counsel, is or has been a material witness, or is so related to, or connected with any party of his attorney as to render it improper, in his opinion, for him to sit on the trial, appeal, or other proceeding therein.

This statute operates on two levels, one mandatory and one discretionary. Of the mandatory grounds, Justice Rehnquist clearly had no "substantial interest," was not "of counsel," nor was a "material witness." This is not in dispute. The discretionary level of the statute presents a closer question. As an Associate Attorney General, Mr. Rehnquist was a public spokesman for the Justice Department, and appeared before a Senate Judiciary Subcommittee in that capacity. The statute premises discretionary recusal on an appearance of impropriety. Other standards of conduct, although not directly binding on Justice Rehnquist, are also couched in terms of the appearance of impropriety.

I would commend Justice Rehnquist's comprehensive memorandum detailing his reasons for declining to recuse himself to my colleagues' attention. In that memorandum, Justice Rehnquist concluded that:

> Based upon the foregoing analysis, I conclude that the applicable statute does not warrant my disqualification in this case. Having so said, I would certainly concede that fair-minded judges might disagree about the matter.

This is the crux of the matter. As Justice Rehnquist recognized 15 years ago, this was not an easy call. Perhaps his decision not to recuse himself, viewed in the harsh glare of hindsight, was not wise. However, I would remind my colleagues that hindsight would give each and every one of us cause to rethink actions and decisions made, in good faith, in the past.

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Justice Rehnquist is not the first nor will he be the last Justice to be confronted with this discretionary decision. Indeed, one of the principle authors of the "Black-Connery Fair Labor Standards Act" later sat on the case which upheld the constitutionality of the act, United States versus Darby. Chief Justice Hughes, 2 years before he was appointed to that position, discussed at length Adkins versus Children's Hospital in a book about the court. Nine years later, he au-

thored the West Coast Hotel Co. versus Parrish decision which overruled Adkins. In each case, these respected members of the Court determined that there was a stronger public obligation to participate in the case, than to take the easy out and recuse himself.

After careful consideration of those factors I believe ought to be weighed in evaluating Presidental nominations to the Supreme Court, I have come to the conclusion that Mr. Justice Rehnquist is professionally, exceptionally well-qualified to lead our Nation's highest court. Furthermore, I am pleased to add my personal endorsement of this nominee as well, as a man of great integrity, wisdom, and foresight. I can assure my colleagues that Justice Rehnquist will not only serve the Court to the utmost of his vast abilities, but also perform those duties with distinction. Thus, Mr. President, it is without reservation that I can confidently go on record today as supporting the confirmation of Justice Rehnquist to be Chief Justice of the United States.

As I said earlier as someone who has known and worked with Justice Rehnquist in the past, I can say that I do not think the President could have picked a more outstanding nominee for Chief Justice than William Rehnquist.

Mr. President, I yield the floor.

Mrs. HAWKINS. Mr. President, I would like to ask my colleagues to join me in supporting Justice William H. Rehnquist who has been nominated by President Reagan to serve as the 16th Chief Justice of the U.S. Supreme Court. Justice Rehnquist meets every test of qualification for service as Chief Justice of the U.S. Supreme Court. He is a man of superior intelligence and proven excellence.

During his past 15 years of service as Associate Justice on the Supreme Court, Justice Rehnquist has demonstrated continued excellence in bringing balanced and scholarly opinion to Supreme Court rulings. His decisions, whether dissenting or concurring, have consistently reflected a keen perception and thorough understanding of constitutional law and issues. The American Bar Association described Chief Justice-designate Rehnquist as a "true scholar . . . unbelievably brilliant . . . a very capable individual in every respect." The ABA also notes that Justice Rehnquist is highly respected by fellow Associate Justices on the Court. He has twice received the American Bar Association's highest rating of professional competence, judicial temperament and integrity.

His history of dedicated service on the Court and his independent legal activities and honors prove Justice Rehnquist perfectly suited to lead the highest court in our judicial system. Before nomination to the Supreme Court, Justice Rehnquist served as Assistant Attorney General in charge of the Office of Legal Counsel at the Department of Justice. Between 1953 and 1969, while he practiced law in Phoenix, AZ, Justice Rehnquist served as president and member of the board of directors of the Maricopa County Bar Association in Phoenix. He also acted as chairman of the Arizona State Bar Continuing Legal Education Committee, and from 1963-69 was elected to the council of administrative law section of the American Bar Association. Justice Rehnquist has written articles published by U.S. News & World Report, the American Bar Association Journal, and the Harvard Law Record.

Prior to his 16-year private legal practice, Justice Rehnquist served as law clerk to Justice Robert H. Jackson on the Supreme Court. His education includes a bachelor of arts from Stanford University where he was elected to membership in Phi Beta Kappa and a master's degree from Harvard University in history. Justice Rehnquist attended Stanford University Law School where he graduated first in his class in 1952, and was a member of the Stanford Law Review.

Mr. President and fellow colleagues, we have in Justice Rehnquist a uniquely qualified candidate. I extend my wholehearted endorsement of his nomination and I urge you to join me today in my vote for confirmation.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that I may proceed for 5 minutes as though in morning business.

The PRESIDING OFFICER (Mr. MCCONNELL). Without objection, it is so ordered.

VISIT BY CARDINAL KROL

Mr. DURENBERGER. Mr. President, on the coming Sunday history of sorts will be made in northeast Minneapolis. For the first time in 50 years a cardinal of the Roman Catholic Church will visit the Twin Cities when Father Frank Decowski hosts Cardinal John Krol at the Church of the Holy Cross. The last visit—in 1936—was by an Italian Cardinal named Eugenio Pacelli who later became better known as Pope Pius XII.

Having enjoyed the celebration of Mass at Holy Cross just a year ago after my return from Poland, I now take pleasure in recognizing the honor which Cardinal Krol does the largest Polish parish west of Chicago and congratulating the parishoners who make Holy Cross possible.

Mr. President, I ask unanimous consent that an article in the Minneapolis Tribune describing this occasion be printed in the RECORD in full.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Minneapolis Star and Tribune, Sept. 6, 1986]

PASTOR, FLOCK TO OBSERVE CENTENNIAL OF POLISH PARISH CHURCH

(By Neal Gendler)

From the window of his study at Church of the Holy Cross in northeast Minneapolis, the Rev. Frank Decowski can look down the alley at the house in which he grew up.

At 53, Decowski is a little more than half the age of the church in which he grew up, and he has a lot in common with the folks in his flock.

"I've known 90 percent of these people all my life," Decowski said Thursday. "A lot of people still call me Frankie."

Decowski and most of the 1,300 households in Holy Cross share a Polish heritage, and many members have grown up near the church, 1621 University Ave. NE., in a neighborhood with about a dozen churches on as many blocks. Many families have belonged to Holy Cross since they arrived in Minneapolis sometime in the last century.

Decowski and the families that comprise the largest Polish parish between Chicago and the West Coast will celebrate the church's centennial a week from Sunday, with a mass of thanksgiving and a dinner featuring the nation's ranking Polish-American priest, Cardinal John Krol of Philadelphia.

Krol is to preside over the noon mass and speak at the dinner that afternoon at the Prom Center in St. Paul. Decowski believes that Krol's public appearance will be the first by a cardinal in the Twin Cities since the late Eugenio Pacelli, who later became Pope Pius XII, celebrated mass at the St. Paul Cathedral in 1936.

Decowski first invited the pope, although he didn't really expect John Paul to attend. The pope—who Decowski met in 1979, when both were guests of Vice President Mondale—sent a photo of himself inscribed in Polish with good wishes to Holy Cross on its centennial. Decowski wanted Krol to attend "to honor the people of our parish," a number of whom had arrived under difficult circumstances since 1945. "I wanted to honor our community."

The genial Decowski had thought of driving Krol from the church to the Prom in a horse-drown carriage, but dropped fancy ideas when he learned that the cardinal was returning from a trip to Poland and would be tired. Still, plans call for a lively day.

The mass, which Archbishop John Roach will celebrate, will be held in a church bedecked in the Polish national colors, with red-and-white banners with the white Polish eagle and white keys for the pope. Two pieces include the opening words of the Polish anthem that translate loosely as "Poland has not died."

If he can get the city to close the street, Decowski will have traditional Polish dancing in front of the church before the service.

It is such traditions, coupled with family ties, that have helped people maintain connections to Holy Cross even if they have moved to suburbs, Decowski said. His own parents met and married there, and two of his brothers still belong.

Their father died five weeks before he was born, Decowski said, and his mother supported her five children by scrubbing floors during the week and cooking for church weddings on weekends.

"I did not speak a word of English until kindergarten," he said. His Polish grew rusty over years serving other Minneapolis

churches, and when he returned to Holy Cross, he was tutored by immigrant high-school students so he could lead Polish masses. He doesn't preach in Polish, he said, but he hears confessions in Polish—and understands what he's being told.

The church in which Decowski grew up was built in 1927 and is the congregation's third. The first was the original building of nearby St. Anthony parish, a structure 28 by 46 feet built in 1851 as the city's first Catholic church. The people who started Holy Cross bought it for $25 and moved it to what now is a church-school playground across the street from Holy Cross.

The second church was built for about 500 people and began use in 1892. It was a period of great immigration from Eastern Europe to America, and, for many, work in the flour mills of Minneapolis.

The present church was built in 1927 and, the church history says, "has parishioners who have lived in the parish and sometimes on the same block or even in the same house all their lives." Decowski said that the sense of continuity is one of the church's great attractions.

"People stick together here," he said "They're related to everybody around here . . . they just like what we do, I suppose. We carry on a lot of the traditions that their parents and grandparents brought from Poland."

For example, families take home oplatki, or holy bread, that is eaten at Christmas-Eve dinner as a symbol of unity, peace and love. At Easter, people bring their food to church for a special blessing.

"Easter Sunday morning, we have what is called the resurrection mass," he said. "We have a procession around the church several times singing the traditional Polish hymns of the resurrection. After mass they go home—again as a family—to eat the blessed food." The dinner includes sharing an egg as a sign of unity and resurrection. Other churches also bless the food, he said, but Holy Cross does it five times at masses scheduled so all can attend.

Two of each Sunday's five masses are in Polish. One of Decowski's two assistants, the Rev. Antoni Bury, came from Poland 14 years ago. The other, the Rev. Gerard Dvorak, grew up in the community. The congregation includes a number of young immigrants who have arrived since martial law was declared in Poland in 1981, he said, and Holy Cross has the only Polish masses in Minneapolis. St. Adalbert's Church in St. Paul has Polish masses, too.

Decowski said that in his neighborhood, about 90 percent of the people are in church over a weekend. Although about 40 percent of his congregation is over 60, with the rest divided rather evenly by age group, a number of young families are moving back into the area. The school serves a number of parishes, but about 150 of its 450 students are from Holy Cross.

Decowski is the "native son" to be pastor, according to a church history.

"Everybody would love to come back to his own parish," Decowski said, but when the archbishop asked him to come to Holy Cross, Decowski had some mixed emotions, wondering if people would open up to him in time of need.

But it's been just the opposite, he said. "Especially in time of illness, time of death," he said, "it's somebody they've known all their life who is there."

LEE KNEIP'S BIRTHDAY HIGH

Mr. DURENBERGER. Mr. President, on the 50th anniversary of my birth I had a large party under an elaborate canopy with hundreds of well-wishers who came to gloat at my aging. I obliged them by acting 50.

On the second anniversary of my 50th birthday, my sister's husband, Lee Kneip, celebrated the 50th anniversary of his birth. He too did it under a canopy. But, he said, "anybody can have a party." And so he went out and made his first ever jump from higher than 6 feet. He went out of an airplane 3,500 feet over Menomonee Falls, WI, under an appropriate canopy, acting as though he were half his age.

Mr. President, I ask unanimous consent that an article on Lee's birthday "party" in the Sussex Sun be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BIRTHDAY CELEBRATION 3,500 FEET UP IN AIR

(By Fred H. Keller)

When you hit 50 years old, the family usually has a special party for you, the aged one, be it a house warming, a surprise party, or what have you. But Lee Kneip, W253 N9342 Bittersweet Dr., Blue Huron Subdivision, in the Town of Lisbon, didn't have any of the above events for his 50th. Oh, he was the center of attention, but he got that attention by what he did on his 50th, not what others did for him. He did something he had never done before, something he always wanted to do . . . he made his first-ever parachute jump from an airplane.

Prior to his jump Tuesday evening, Aug. 19, at Aero Park in Menomonee Falls, he said, "This is something I always wanted to do. Everyone else has parties. Anybody can have a party, but we are going to have a party, too . . . after I jump."

A lot of his friends, relatives and neighbors showed up to see Lee make his first jump. He said to them, "This is something to do . . . something different. I'm still young . . . at least I'm at the dividing line between young and old age. Now with all these people here to see me jump I don't dare back out."

He got a final kiss from his wife Connie, and almost a funeral, tearful, goodbye from his young daughter. He had to tell her that he knew what he was doing, and it wasn't going to be that bad. His last words to his wife was a reassuring, "It was a nice 24 years."

As he was putting his suit and parachute on, he commented. "I think this is kind of neat. My mother even thinks it is neat, but she can't make it to the field today."

To be able to jump, Lee had to go through a five hour special schooling that cost $90. He winked when he said that he had to pay an extra $30 for a set of rubber pants.

Lee walked to the plane waving and disappeared down the Aero Park runway. The plane made a couple of circles of the field and at 3,500 feet dumped Lee out into the wild blue yonder. His friends had gone to the landing circle that all parachutists aim for. Their comments while Lee floated down were that he was too far east, that they hoped he didn't land in the high tension wires a mile east, and a little later they said they hoped he didn't land in the golf course and trees a quarter mile west.

However, Lee turned his parachute at almost a right angle and came screaming in towards the landing circle. At the last possible moment he applied his brakes so that when he touched the ground it was almost like taking one step off the curb. He landed standing up and walked slowly missing the target circle by 60 feet.

Asked how it was, he said, "I'm going again as soon as I raise the $25 fee for the second jump. What the worst part was, was opening that door up there, and climbing out. The pilot only said go twice. You really feel it in the crotch when that chute opens. I made three circles of the field in the chute and at the end you have got to land into the wind. I had no embarrassment."

Asked what his biggest jump prior to the parachute jump, he said, "Six feet."

A big party followed, with a cake that had a miniature parachutist plunged head first into the center of the cake.

RECENT EVENTS IN CHILE

Mr. DURENBERGER. Mr. President, today the people of Chile mark the 13th anniversary of an authoritarian government that is characterized by restrictions on civil liberties, including the suspension of political activities. I take this occasion to deplore recent events in Chile and to express my firm hope that the momentum for democratic change can survive.

Mr. President, as I speak today, I am struck by the contrasts between two Southern Cone nations: Chile and Brazil. This morning I listened to the elected, civilian leader of Brazil, President Jose Sarney. After many years of military rule, Brazil has emerged as a healthy democracy. President Sarney knows what he is talking about when he says, "Only he who has lost his freedom knows its true value. And how difficult it is to regain it."

But while Brazil has embarked on the road of democracy, Chile is today in a state of siege under a military dictatorship. The democratic winds of change have swept across most of Latin America in recent years. The path of Brazil, as exemplified by President Jose Sarney, stands in stark contrast to the path of Chile.

Today marks a crucial juncture for the future of Chile. The attempted assassination of Gen. Augusto Pinochet and the government's reaction considerably dims the prospects for a democratic future in Chile.

Since 1980 elements of the extreme left in Chile have conducted a terrorist campaign that plays directly into the hands of those who wish to forestall a transition to democracy. The Movimiento Izquierdista (Iz-key-air-deé-sta) Revolucionaria [MIR] and the Manuel Rodriguez Patriotic Front [FPMR], both linked to the pro-Soviet Chilean Communist Party, have embraced the strategy and tactics of terror in pursuit of their extremist vision for Chile. The September 7, 1986, assassination

attempt represents an escalation in the terrorists' tactics and deserves the strongest condemnation.

The assassination attempt severely damages the evolving, and as yet fragile, efforts of democratic elements within Chile. I strongly supported the signing of the National Accord for the Transition to Full Democracy by 22 leading democratic politicians representing 11 parties on August 26, 1985. The signing of the national accord was a watershed in Chilean history. All who support a peaceful road to democracy in Chile were heartened by its' announcement. Thereupon I introduced Senate Concurrent Resolution 68 on September 23, 1985.

The Senate Foreign Relations Committee reported an identical resolution, Senate Concurrent Resolution 82, which was placed on the Senate Calendar on October 23, 1985. What has been the response of Pinochet's government to these expressions of support for democracy?

Unfortunately, the events of the past week have greatly complicated the chances for democratic progress in Chile.

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The attack on General Pinochet was launched by at least 30 heavily armed men and killed 5 members of his escort. This action can only strengthen Pinochet's claim that his continued rule is the only alternative to Communist-inspired chaos. Violence of this type, long advocated by the MIR and FPMR, polarizes the political atmosphere. And it benefits those who oppose a return to democracy in Chile but only temporarily. Sooner or later the democratization of all the Americas will be completed.

The reaction of the Chilean Government to the assassination attempt illustrates how the terrorists' strategy of provocation works.

It is tragic. But it is also predictable. The commission of violent acts leads to government repression that alienates moderate elements, thereby leaving the political field open to the extremists. The predictable repression that follows acts of terrorism strengthens the terrorists' claim that armed struggle is the only alternative to continued authoritarian rule. Government repression targets the overt, and therefore vulnerable, political center rather than the much more elusive terrorist infrastructure. This tragic cycle has been played over and over again in Latin America.

In my time in the Senate, we have seen it in El Salvador and Nicaragua despite the neighboring example of Costa Rica. But now we watch Guatemala and Honduras try to emulate Costa Rica to avoid the bloodshed of El Salvador and Nicaragua.

The reimposition of a state of siege in Chile is a lamentable response by Pinochet. The murders of Jose Carrasco Tapia, Gaston Vidarrauzaga, and Felipe Segundo Rivera represent a further increase in the Chilean cycle of violence.

The arrest of religious and political figures, including the moderate Socialist Ricardo Lagos, and the closing of six opposition publications, including the Christian Democrat's Hoy, is a significant regression in Chilean political development. Both the Socialists and the Christian Democrats are members of the Democratic Alliance and signed the National Accord on Transition to Full Democracy. Governmental actions further restricting the political center strengthens the appeal of the radical left just as terrorism increases the appeal of the right and provides a justification for increased repression.

The recent history of Chile is marked by an escalating cycle of violence. But that cycle can be broken as the experience of Brazil has illustrated. Today's speech by civilian President Jose Sarney of Brazil shows just how far Brazil has traveled along the democratic path.

Sarney distilled the essence of democracy: "This is the belief of the true democrat: to respect the opinions of others. Democracy has survived because it does not live by dogma, absolute truths or inquisitions of faith. It is nurtured by the creative power of freedom of opinion, of initiative, of having working, informing, believing, not believing, loving, dreaming."

Sarney also understands how foes of democracy fear the democratic idea. Today, Sarney spoke about an episode from the early history of Brazil's struggle for democracy. He said;

> In 1787, the young Brazilian Jose Joaquim Maia sought out Thomas Jefferson, then Minister Plenipotentiary in Paris, to ask his support for our independence. Two years later, our hero, Tiradentes, who dreamed of a free and republican Brazil, was hanged, drawn and quartered, his severed body hung for all to see, in the streets and the roads, as a cruel example to smother the dream of freedom, and to declare that it would not come forth in our land.
>
> Do you know what the King's agents found among the papers that had set the heart of our martyr afire with the holy madness of independence? The Constitution of the United States of America.

This brief episode illustrates the importance of the American role in setting an example for and assisting the efforts of democrats around the world. The triumph of democracy in Brazil is one of the many examples the forces of democratic change in Chile can look to in the difficult days ahead.

Continued faith by moderate political figures in an eventual transition to democracy through peaceful means is essential if Chile is not to be plunged into turmoil that will serve the goals of extremists. The Catholic Church in Chile, under the brave leadership of Cardinal Juan Francisco Fresno, continues to work as a moderating force within Chile. Cardinal Fresno played the central role in the formulation of the National accord. His efforts to encourage moderation in Chile deserve greater support.

I join with others in expressing the value of the appointment of a papal envoy to assist in mediating the current situation. The importance of the Catholic Church in Chile would impart great credibility to such a mediation effort.

The solutions of the radical left in Chile are not the solutions of the Chilean people. I call on the democratic leaders in Chile, the signatories of the National accord, to meet with representatives of the Popular Democratic Movement [MDP] on neutral ground to discuss the future of Chile.

The MDP must be encouraged to denounce political violence and terrorism, and to enter the evolving Chilean dialogue as a responsible actor.

I strongly urge the signers of the National accord to continue their courageous course of working for the restoration of a democratic order that satisfies the aspirations of the Chilean people. To achieve this goal, the large political center in Chile must make its' presence felt through nonviolent but resolute social pressure.

Only broad-based expressions of popular support for a moderate political course can undermine the attraction of the extremist alternatives.

Chile is in the throes of a crisis with very high stakes for the Chilean people, for the United States, and for the entire hemisphere. It is imperative that the violence of the past week does not lead to a further spiral of extremism. Strong United States support for the democratic forces laboring within Chile must continue.

The moderate voices in Chile must not let themselves be drowned out by those who wish to encourage an escalation of violence. On the 13th anniversary of authoritarian rule in Chile, the world must look to the future as well as the past.

Mr. President, I urge my colleagues over the next 3½ weeks to give some attention to the opportunity that this body and this country has to begin the process of democracy for the Chilean people. Senate Concurrent Resolution 82 is at the desk and can be called up at any time and ought to be acted on by this body before we conclude the business of this 99th Congress.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DURENBERGER). Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that I may be permitted to speak in morning business for a period not to exceed 5 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

CHILE

Mr. METZENBAUM. Mr. President, I rise to comment on the subject that I have not spoken to previously, but I have heard two of my colleagues speak on the subject today—one was the distinguished Senator from Iowa, Senator HARKIN, and the other was the distinguished Senator from Minnesota, Senator DURENBERGER—on the situation as it exists in Chile.

I wish to commend both of them for addressing themselves to the subject. I do not know of a more repressive regime that exists anywhere in this world than that which exists in Chile. It is an administration that has no respect whatsoever for human rights, for democracy, for freedom.

On this 13th anniversary, instead of moving more in the direction of a democratic regime, we find that they are engaged in the most repressive of tactics for those who have spoken out, including murders of those in the media, the press. I just rise to say that I am glad that two of my colleagues have seen fit to speak to the subject today. I want to be identified with the position that they have taken.

Mr. PELL. Mr. President, on September 11, 1973, the Chilean people came under the grip of one of the most repressive, intolerant, and systematic military dictatorships in Latin America. Today, 13 years later, the Chilean people still are suffering under the yoke of President Augusto Pinochet as brutal violations of human rights occur, as political freedoms are restricted, and the prospect of a peaceful transition to democracy seems as remote as ever.

Brutal and severe reaction on the part of Chilean military and security forces against popular demands for political and economic justice have intensified in the past months. The principal targets of government sponsored abuse have been those in the poor working class neighborhoods in Santiago. Also targets of this repression are student and labor leaders, the press and members of the clergy and others considered human rights activists. Just last week Amnesty International released a report revealing that the military government is using clandestine forces, which include members of the security forces acting under cover, to kidnap, torture, and kill those identified as opposition activists. According to Amnesty, these forces have intensified their operations since 1983 as mass arrests have become more common. Since May, mass roundups of people, especially those from the poor neighborhoods, have pushed arrest figures to the highest since the days following the coup in 1973. The Vicariate of Solidarity, a church-run human rights organization as well as the Chilean Commission on Human Rights have documented increasing cases of torture. The brutal burning of Washington resident Rodrigo Rojas and his companion by the Army this past July brought the stark reality faced by the people of Chile close to us.

The assassination attempt against President Pinochet this past weekend underscores the polarization which is taking place in Chile. The call for violence from the extreme left is as deplorable as the violence perpetrated by the security forces. The Government's response to the attempt on Pinochet's life is resulting in even more government repression as the state of siege was expanded, six opposition magazines were closed, and some political opposition leaders were jailed. An editor of one of the banned opposition magazines was found murdered after he had been taken from his home by armed men in civilian clothes. Several leaders of the democratic opposition in Chile, including members of the clergy, sent messages or visited the Presidential Palace to repudiate violence as a means to change the government.

The democratic opposition in Chile, representing a wide political spectrum of political parties from left to right, through the church-sponsored National Accord plan, is actively working for a peaceful transition toward democracy. These responsible political leaders are advocating moderate constitutional changes which would lead to free and democratic elections. The military government ignores the democratic opposition movement, seeing it as an obstacle to the perpetuation of Pinochet in political power through the end of this century.

Mr. President, the bloodbath has begun in Chile, but its not too late to stop it, although with each passing day it becomes more difficult. Those outside of Chile who believe in the peaceful transition to democracy should do everything possible to support the democratic movement. Inside Chile, the military itself, with its past proud tradition of supporting democratically elected civilian governments, must be increasingly uncomfortable with the role Pinochet has dictated for them these past 13 years. Moderates have prevailed among the democratic opposition and I would hope that moderates within the military would become more active in working for the transition to democracy. Chile is running out of time. Serious steps toward the restoration of Chilean democracy must take place now.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mrs. Emery, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a withdrawal which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3717. A communication from the Secretary of Health and Human Services, transmitting, for the information of the Senate, the comments of the Department of Health and Human Services on the proposed Andrews' amendment to S. 277, the Indian Health Care Amendments of 1986; to the Select Committee on Indian Affairs.

EC-3718. A communication from the Secretary of Health and Human Services, transmitting, for the information of the Senate, the comments of the Department of Health and Human Services on the proposed Melcher amendment to S. 277, the Indian Health Care Amendments of 1986; to the Select Committee on Indian Affairs.

EC-3719. A communication from the Chief Immigration Judge, Executive Office for Immigration Review, Department of Justice, transmitting, pursuant to law, copies of orders suspending the deportation of certain aliens under section 244(a)(1) and 244(a)(2) of the Immigration and Nationality Act; to the Committee on the Judiciary.

EC-3720. A communication from the Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, a report on the waiver of certain admissibility requirements for refugees; to the Committee on the Judiciary.

EC-3721. A communication from the Secretary of Education, transmitting, pursuant to law, a report entitled "FIRST LESSONS, A Report on Elementary Education in America"; to the Committee on Labor and Human Resources.

EC-3722. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the annual report on prevention activities undertaken by the Alcohol, Drug Abuse, and Mental Health Administration during fiscal year 1985; to the Committee on Labor and Human Resources.

EC-3723. A communication from the Director of the National Science Foundation,

transmitting, pursuant to law, requesting an extension of the deadline for filing of a report on establishment of a data collection and analysis capability; to the Committee on Labor and Human Resources.

EC-3724. A communication from the Members of the Railroad Retirement Board, transmitting, pursuant to law, the budget request of the Railroad Retirement Board for fiscal year 1988; to the Committee on Labor and Human Resources.

EC-3725. A communication from the Chairman of the National Mediation Board, transmitting, pursuant to law, notice of the appointment of a Congressional Advisory Board to submit a report on the current collective bargaining dispute between the Maine Central Railroad Company and Portland Terminal Company and their employees; to the Committee on Labor and Human Resources.

EC-3726. A communication from the Inspector General and the Chairman of the Railroad Retirement Board, transmitting, pursuant to law, comments on the budget submission of the Board for fiscal year 1988; to the Committee on Labor and Human Resources.

EC-3727. A communication from the Secretary of Education, transmitting, pursuant to law, a report entitled "The Condition of Education, 1986 Edition"; to the Committee on Labor and Human Resources.

EC-3728. A communication from the Chairman of the Federal Election Commission, Transmitting, pursuant to law, the fiscal year 1988 budget request of the Commission; to the Committee on Rules and Administration.

EC-3729. A communication from the Executive Secretary, Office of the Secretary of Defense, Transmitting, pursuant to law, a report on Department of Defense procurement from small and other business firms for October 1985 through June 1986; to the Committee on Small Business.

EC-3730. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on the Department of the Army's proposed letter of offer to the Netherlands for defense articles estimated to cost in excess of $50 million; to the Committee on Armed Services.

EC-3731. A communication from the Secretary of the Navy, transmitting a draft of proposed legislation to authorize the sale of two naval vessels to Taiwan; to the Committee on Armed Services.

EC-3732. A communication from the Chief, Program Liaison Division, Office of Legislative Laison, Department of the Air Force, Transmitting, pursuant to law, notice of the intention of the Air Force to publish a programmatic environmental impact statement on the proposed deployment of the Ground Wave Emergency Network at its final operation capability; to the Committee on Armed Services.

EC-3733. A communication from the State Cochairman Designee and the Federal Cochairman of the Alaska Land Use Council, transmitting, pursuant to law, the fifth annual report of the activities of the Alaska Land Use Council; to the Committee on Energy and Natural Resources.

EC-3734. A communication from the Secretary of Energy, transmitting, pursuant to law, notice of the determination that it is in the public interest to conduct a competitive procurement of crude oil for the Strategic Petroleum Reserve that is limited to domestically produced crude oil; to the Committee on Energy and Natural Resources.

EC-3735. A communication from the Administrator of the Environmental Protection Agency, transmitting a draft of proposed legislation to provide for the deposit and retention of certain fees and charges collected by the U.S. Environmental Protection Agency; to the Committee on Environment and Public Works.

EC-3736. A communication from the General Counsel of the Department of the Treasury, transmitting a draft of proposed legislation to amend chapter 3 of title 3, United States Code, to enhance the security of the President and the White House by authorizing the Uniformed Division of the United States Secret Service to protect the Treasury Building, Annex, and grounds, and for other purposes; to the Committee on Finance.

EC-3737. A communication from the Deputy Assistant Secretary of Defense (Comptroller), transmitting, pursuant to law, notice of a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-3738. A communication from the Chairman and Members of the Congressional Advisory Board, transmitting, pursuant to law, a report concerning the progress of negotiations in a labor dispute between the Maine Central Railroad Company and Portland Terminal Company, and the Brotherhood of Maintenance of Way Employes, findings of fact regarding financial and other related circumstances and recommendation for a solution; to the Committee on Labor and Human Resources.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-854. A resolution adopted by the National Association of Emergency Medical Technicians, Inc. supporting Emergency Medical Services Week; to the Committee on the Judiciary.

POM-855. A resolution adopted by the Senate of the State of Pennsylvania; to the Committee on Labor and Human Resources:

"RESOLUTION

"Whereas many Allegheny senior citizens dedicated their entire lives to working for LTV Corporation steel-making subsidiaries; and

"Whereas these individuals planned their retirement based upon the pension they earned and the benefit package which they negotiated with LTV over the past 40 years; and

"Whereas LTV has filed for reorganization under Chapter 11 of the Federal Bankruptcy Code in the United States Bankruptcy Court in the Southern District of New York; and

"Whereas LTV has notified retirees and surviving spouses that life insurance and medical insurance coverage previously paid for by LTV will no longer be provided; therefore be it

"*Resolved*, That the Senate of the Commonwealth of Pennsylvania call upon LTV to live up to its moral and contractual obligations with its retirees and to continue to provide benefits to which retirees are entitled; and be it further

"*Resolved*, That the Senate memorialize the Congress of the United States to take appropriate action to change the United States Bankruptcy Code so that corporations such as LTV will not be allowed to renege on contracted benefits for retirees by filing under Chapter 11; and be it further

"*Resolved*, That the Senate call upon the Secretary of Aging to establish an interagency task force in order to work with those retirees which are affected and to assist them in obtaining affordable health insurance.

"*Resolved*, That copies of this resolution be transmitted to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. COCHRAN, from the Committee on Appropriations, with amendments:

H.R. 5177. A bill making appropriations for Agriculture, Rural Development, and related agencies for the fiscal year ending September 30, 1987, and for other purposes (Rept. No. 99-438).

By Mr. THURMOND, from the Committee on the Judiciary, with an amendment and an amendment to the title and an amended preamble:

H.J. Res. 686. A joint resolution to designate August 12, 1986, as "National Civil Rights Day."

By Mr. THURMOND, from the Committee on the Judiciary, without amendment and with a preamble:

H.J. Res. 692. A joint resolution to designate the week of October 19, 1986, through October 26, 1986, "National Housing Week."

Mr. LUGAR, from the Committee on Foreign Relations, without amendment:

S. 2048. A bill to encourage international efforts to designate the shipwreck of the R.M.S. Titanic as an international maritime memorial and to provide for reasonable research, exploration and, if appropriate, salvage activities with respect to the shipwreck.

By Mr. THURMOND, from the Committee on the Judiciary, without amendment and with a preamble:

S.J. Res. 299. A joint resolution to designate the week of December 7, 1986, through December 13, 1986, as "National Alopecia Areata Awareness Week."

S.J. Res. 373. A joint resolution designating the week beginning May 10, 1987 as "National Fetal Alcohol Syndrome Awareness Week."

S.J. Res. 389. A joint resolution to designate March 1987 as the "Month of Developmentally Disabled Persons."

S.J. Res. 390. A joint resolution to authorize and request the President to proclaim the week of November 23, 1986, to November 30, 1986, as "American Indian Week."

S.J. Res. 392. A joint resolution to designate the month of December 1986 as "Made in America Month."

By Mr. THURMOND, from the Committee on the Judiciary, with an amendment and an amendment to the title and an amended preamble:

S.J. Res. 394. A joint resolution to designate the week of October 6, 1986, through October 12, 1986, as "National Children's Television Awareness Week."

By Mr. THURMOND, from the Committee on the Judiciary, without amendment and with a preamble:

S.J. Res. 402. A joint resolution designating July 2 and 3, 1987, as the "United States-Canada Days of Peace and Friendship."

S.J. Res. 406. A joint resolution to designate October 4, 1986 as "National Outreach to the Rural Disabled Day."

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary:

Alan C. Kay, of Hawaii, to be U.S. district judge for the district of Hawaii;

Richard B. McQuade, Jr., of Ohio, to be U.S. district judge for the northern district of Ohio;

Joel F. Dubina, of Alabama, to be U.S. district judge for the middle district of Alabama;

Stephen S. Trott, of California, to be Associate Attorney General;

William F. Weld, of Massachusetts, to be an Assistant Attorney General;

Thomas C. Kelly, of Texas, to be Deputy Administrator of Drug Enforcement;

Joseph S. Cage, Jr., of Louisiana, to be U.S. district attorney for the western district of Louisiana for the term of 4 years;

Joseph P. Russoniello, of California, to be U.S. attorney for the northern district of California for the term of 4 years;

James L. Fyke, of Illinois, to be U.S. district marshal for the central district of Illinois for the term of 4 years;

Thomas A. O'Hara, Jr., of Nebraska, to be U.S. marshal for the district of Nebraska for the term of 4 years;

Arthur David Borinsky, of New Jersey, to be U.S. marshal for the district of New Jersey for the term of 4 years;

Richard L. Cox, Jr., of Florida, to be U.S. marshal for the middle district of Florida for the term of 4 years;

Wallace L. McLendon, of Florida, to be U.S. marshal for the northern district of Florida for the term of 4 years;

Sherman L. Hansford, of Kentucky, to be U.S. marshal for the eastern district of Kentucky for the term of 4 years;

Gene G. Abdallah, of South Dakota, to be U.S. marshal for the district of South Dakota for the term of 4 years.

The following-named persons to be members of the Board of Directors of the State Justice Institute for the terms indicated (new positions):

For terms of 2 years from the date of the first meeting of the Board:

Lawrence H. Cooke, of New York.
John F. Daffron, Jr., of Virginia.
Daniel John Meador, of Virginia.
Rodney A. Peeples, of South Carolina.
Clement Clay Torbert, Jr., of Alabama.

For terms of 3 years from the date of the first meeting of the Board:

James Duke Cameron, of Arizona.
Janice L. Gradwohl, of Nebraska.
Sandra A. O'Conner, of Maryland.
Larry P. Polansky, of Virginia.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BINGAMAN (for himself, Mr. BYRD, Mr. BAUCUS, Mr. KERRY, Mr. LEVIN, Mr. MATSUNAGA, Mr. MOYNIHAN, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. BIDEN, Mr. BURDICK, Mr. CHILES, Mr. DECONCINI, Mr. EAGLETON, Mr. GORE, Mr. HARKIN, Mr. KENNEDY, Mr. LAUTENBERG, Mr. MITCHELL, Mr. SARBANES, Mr. SASSER, Mr. STENNIS and Mr. METZENBAUM):

S. 2810. A bill to promote economic competitiveness in the United States, and for other purposes; to the Committee on Governmental Affairs.

By Mr. SASSER (for himself and Mr. GORE):

S. 2811. A bill for the relief of Melvin Rosenberg; to the Committee on the Judiciary.

By Mr. QUAYLE (for himself and Mr. LUGAR):

S. 2812. A bill relating to the Indiana Dunes National Lakeshore, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LUGAR:

S.J. Res. 409. A joint resolution to designate October 6, 1986, as "German-American Day"; to the Committee on the Judiciary.

By Mr. WILSON:

S.J. Res. 410. A joint resolution to designate the period commencing February 9, 1987, and ending February 15, 1987, as "National Burn Awareness Week;" to the Committee on the Judiciary.

By Mr. MURKOWSKI:

S.J. Res. 411. A joint resolution to provide for the designation of April 9, 1987, as "National Former Prisoner of War Recognition Day;" to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BINGAMAN (for himself, Mr. BYRD, Mr. BAUCUS, Mr. KERRY, Mr. LEVIN, Mr. MATSUNAGA, Mr. MOYNIHAN, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. BIDEN, Mr. BURDICK, Mr. CHILES, Mr. DECONCINI, Mr. EAGLETON, Mr. GORE, Mr. HARKIN, Mr. KENNEDY, Mr. LAUTENBERG, Mr. MITCHELL, Mr. SARBANES, Mr. SASSER, Mr. STENNIS, and Mr. METZENBAUM):

S. 2810. A bill to promote economic competitiveness in the United States, and for other purposes; to the Committee on Governmental Affairs.

(Statements on this bill and the text of the legislation appear earlier in today's RECORD.)

By Mr. QUAYLE (for himself and Mr. LUGAR):

S. 2812. A bill relating to the Indiana Dunes National Lakeshore, and for other purposes; to the Committee on Energy and Natural Resources.

INDIANA DUNES NATIONAL LAKESHORE

● Mr. QUAYLE. Mr. President, today, along with my colleague, Senator LUGAR, I am introducing legislation to improve the management of the Indiana Dunes National Lakeshore.

On August 26, I conducted a meeting in Chesterton, IN, with several individuals who are actively concerned about the Indiana Dunes. Thanks to their comments, I came away from that meeting impressed that H.R. 4037, legislation to enhance the Dunes that has been passed by the House, is a balanced bill. At that meeting, participants shared with me their suggestions about particular changes that could improve the House bill. I have found many of these to be worthy, and, thus, I am introducing a new bill in the Senate that incorporates these recommendations.

I believe this bill addresses the management, development and environmental needs of the lakeshore for the foreseeable future. I believe it is a design for the next decade.

Where the House-passed bill provides for expanding the Dunes by 853 acres, our bill would authorize the acquisition of a total of about 1,100 additional acres within the park boundaries, but not all this acreage would be by fee purchase.

In the Heron Rookery, for example, H.R. 4037 proposes two parcels of property for acquisition, one to the south owned by the State of Indiana and one to the north owned by private landowners. Several of these landowners have expressed reservations about selling their lands and concern over the consequent loss to the local tax base. Because the current owners have no plans to use the land for any purpose but agriculture, one the lakeshore finds consistent with protection of the herons, I believe a trigger mechanism is a more appropriate approach to acquiring this parcel than fee purchase. Our bill, therefore, provides that the Park Service would be authorized to negotiate for an agricultural easement for this land only in the event a landowner decides not to conduct farming operations on it any longer. Otherwise, landowners could continue their current practice of farming this property, and there would be no loss to the local tax base.

Under our bill, a 267-acre parcel would be included in the lakeshore boundaries but not purchased. This land encompasses the NIPSCO/South Shore Railroad corridor to extend the boundary to U.S. 12. Current statutes prohibit the Park Service from diminishing existing rights-of-way or easements for electrical transmission or railroad operations. I support this current prohibition. Including this corridor within the lakeshore boundaries would both give the Park Service management responsibility for trails along this strip and enable the Park Service to coordinate better its development of a system of trails within the Dunes.

This bill also includes three parcels that were included in the original House bill, but deleted during House committee markup. The most significant of these, I-H, called Woodlake Dune Savannah, is characterized by oak savannah and intermittent wetlands. It was identified by the State of Indiana in the Indiana natural areas inventory and previously considered by both the State and the nature conservancy for acquisition for preserva-

tion purposes. It harbors several very rare plant species considered threatened in Indiana.

During my August 26 meeting, there was a consensus for including a few additional acres to the House-passed II-F parcel, generally following the 620' contour line, to establish a corridor along the Salt Creek that could be used to provide access to such recreational activities as fishing and canoeing. I have included this addition in my bill.

Finally, this legislation raises the authorization ceiling for development to $20 million rather than the $25 million provided in the House bill. Because the existing authorization ceiling has been breached, it is necessary to address this matter. However, I believe that a $20 million authorization ceiling will permit adequate development activities to take place within the Lakeshore for the foreseeable future.

To meet other management needs of the park besides acquisition, this legislation incorporates several features of H.R. 4037. Two studies are to be conducted under this legislation. The first would be a study of the feasibility of establishing portions of U.S. 12 as a scenic parkway. The second study would examine linking the west and east units of the Lakeshore. While I certainly believe this needs to be studied, it is my hope the emphasis would be on assessing nonacquisition means of linkage, such as through easements or cooperative agreements, wherever possible.

This legislation also gives the Secretary of the Interior the authority to participate in planning recreational activities along the Little Calumet River and Burns Waterway. This is warranted because any development of recreational facilities outside the park boundaries will have an effect on the number of visitors to the park and the services it provides.

The Indiana Dunes National Lakeshore is an important asset to the northwest Indiana region and to the State as a whole. Already an enhancement to the quality of life in the region, the park can also act as a drawing card for increased economic activity there. I believe this legislation makes improvements to the management, development and environmental quality of the Lakeshore that will carry it forward into the next decade.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2812

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INDIANA DUNES NATIONAL LAKESHORE.

(a) BOUNDARY CHANGES.—The first section of the Act entitled "An Act to provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes", approved November 5, 1966 (16 U.S.C. 460u), is amended by striking out "December 1980, and bearing the number 626-91014" and inserting in lieu thereof September 1986, and numbered 626-80033-A".

(b) DEFINITION OF IMPROVED PROPERTY.—Section 4 of such Act is amended by striking out the first sentence and substituting: "As used in this Act, the term 'improved property' means a detached, one-family dwelling which meets each of the following criteria.

"(1) The construction of the dwelling began before the date (shown in the table contained in this section) corresponding to the appropriate map.

"(2) The property is located within the boundaries delineated on the map described in such table which corresponds to such date.

"(3) The property is not located within the boundaries of any other map referred to in such table which bears an earlier date.

The term 'appropriate map' means a map identified as 'Boundary Map-Indiana Dunes National Lakeshore' (or 'A Proposed Indiana Dunes National Lakeshore' in the case of a dwelling the construction of which was begun before January 4, 1985) which is dated and numbered as provided in the following table:

Property Within Boundaries of Map	Construction Began Before
Dated January 1986, #626-80063	February 1, 1986
Dated December 1980, #626-91014	January 1, 1981
Dated September 1976, #626-91007	February 1, 1973
Dated September 1966, #LNPNE-1008-ID	January 4, 1965

The term 'improved property' also includes the land on which the dwelling is situated which meets both of the following criteria:

"(A) The land is in the same ownership as the dwelling.

"(B) The Secretary has designated the land as reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use.

Such term also includes any structures accessory to the dwelling which are situated on the lands so designated. The maps referred to in this section shall be on file and available for public inspection in the Office of the Director of the National Park Service, Department of the Interior. The Secretary shall designate the land referred to in subparagraph (B).".

(c) RETAINED RIGHTS.—Section 5(a) of such Act (16 U.S.C. 460u-5a) is amended as follows:

(1) Strike out "the first section" and inserting in lieu thereof "section 4, dated December 1980, and numbered 626-91004."

(2) Strike out ": *Provided,* That" and substitute a period followed by "In the case of improved property within the boundaries of the map dated December 1980 and numbered 626-91014".

(3) After "(a)" strike "Except for" and insert "(1) Except for owners described in paragraph (2) and".

(4) Strike "(1)" in each place it appears and substitute "(A)" and strike "(2)" and substitute "(B)".

(5) Add the following at the end thereof: "(2)(A) In the case of property included within the boundaries of the lakeshore after 1980, any owner or owners of record of improved property may retain a right of use and occupancy for noncommercial residential purposes for a term ending at either of the following:

"(i) A fixed term not to exceed beyond September 30, 2010, or such lesser fixed term as the owner or owners may elect at the time of acquisition.

"(ii) A term ending at the death of any owner or of a spouse of any owner, whichever occurs last.

The owner shall elect the term to be reserved.

"(B) The retention of rights under subparagraph (A) shall be available only to individuals who are homeowners of record as of July 1, 1986, who have attained the age of majority as of that date and who make a bona fide written offer not later than July 1, 1991 to sell to the Secretary.".

(d) AUTHORIZATION.—Section 9 of such Act (16 U.S.C. 460u-9) is amended as follows:

(1) In the first sentence strike "$11,000,000" and insert in lieu thereof "$20,000,000".

(2) Add after the last paragraph "In addition to any other sums authorized for the acquisition of lands and interests in lands pursuant to the provisions of this Act there are authorized to be appropriated an additional $4,350,000 to be used for such purposes. The Secretary shall conduct a feasibility study of establishing U.S. Highway 12 as the 'Indiana Dunes Parkway' under the jurisdiction of the National Park Service. The Secretary shall submit the results of such study to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate within 2 years after the enactment of this sentence. Effective October 1, 1986, there is authorized to be appropriated such sums as may be necessary for the purposes of conducting the feasibility study.".

"(e) OWNER CONSENT REQUIRED.—Section 13 of such Act (16 U.S.C. 460u-13) is amended by changing "Sec. 13" to "Sec. 13(a)", by striking out "the first section" and inserting in lieu thereof "section 4, dated December 1980 and numbered 626-91014", and by adding a new subsection (b) as follows:

"(b) The Secretary may acquire that portion of Area IV-B in private ownership on the map referred to in section 1 of this Act only with the consent of the owner; *Provided,* That the Secretary may acquire an agricultural easement should the owner change the use in existence as of September 19, 1986, through eminent domain."

(f) MAP REFERENCE.—Section 16 of such Act (16 U.S.C. 460u-16) is amended by inserting at the end of the first sentence "on the map referred to in section 4, dated September 1976, and numbered 626-9100".

(g) RIGHTS-OF-WAY.—Section 15 of such Act is amended by adding the following at the end thereof: "The Secretary may acquire only such interest in the rights-of-way designating 'Crossing B' and 'Crossing C' on the map dated September 1986 and numbered 626-80033-A as he determines to be necessary to assure public access to the banks of the Little Calumet River and the banks of Salt Creek within 50 feet on either side of the centerline of said river and creek.".

(h) COOPERATIVE AGREEMENT AND STUDY.—Add the following new section at the end of such Act:

"SEC. 24. LITTLE CALUMET RIVER AND BURNS/PORTAGE WATERWAY.

"(a) COOPERATIVE AGREEMENT.—The Secretary may enter into a cooperative agreement with the Little Calumet River Basin Development Commission, the State of Indiana or any political subdivision thereof for the planning, management, and interpretation of recreational facilities on the tract within the boundaries of Indiana Dunes National Lakeshore identified as tract number 09-177 or on lands under the jurisdiction of State of Indiana or political subdivision thereof along the Little Calumet River and Burns Waterway. The cooperative agreement may include provisions for the planning of public facilities for boating, canoeing, fishing, hiking, bicycling, and other compatible recreational activities. Any recreational developments on lands under the jurisdiction of the National Park Service planned pursuant to this cooperative agreement shall be in a manner consistent with the purposes of this Act, including section 6(b).

"(b) STUDY.—The Secretary shall conduct a study regarding the options available for linking the portions of the lakeshore which are divided by the Little Calumet River and Burns/Portage Waterway so as to coordinate the management and recreational use of the lakeshore. The Secretary shall submit the results of the study to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and National Resources of the United States Senate within 2 years after the enactment of this section. Effective October 1, 1986, there is authorized to be appropriated such sums as may be necessary for the purposes of conducting the study.".●

● Mr. LUGAR. Mr. President, I am today introducing with Senator QUAYLE legislation to modify the legislation pertaining to the Indiana Dunes National Lakeshore. This bill would add 13 parcels totaling an estimated 1,140 acres to the Indiana Dunes National Lakeshore. The bill would also increase the authorized limit on development projects in the lakeshore from the current level of $11 million to $20 million and require the National Park Service to complete a study of establishing all or portions of U.S. 12 within the boundaries of the park as a scenic "Indiana Dunes Parkway."

This bill is an authorization bill. Actual amounts of money to be spent at the lakeshore will have to be coordinated annually to comply with Federal budgetary requirements. By passing this bill in a timely fashion, we can ensure better future planning and further enhance the Indiana Dunes National Lakeshore.

This bill is similar to H.R. 4037, which has passed the House of Representatives. But the Senate bill authorizes the acquisition of three high priority areas in Gary, IN and provides for an easement rather than acquisition of a parcel of land near the Heron Rookery, with acquisition provided for only if the current land is altered. it also provides for a somewhat wider corridor at Salt Creek.

This bill is widely supported by citizen groups, local officials, and affected industries in Indiana. It will further improve one of the Nation's outstanding natural areas. I urge the Senate to consider this bill and to enact it into law prior to adjournment.●

By Mr. WILSON:

S.J. Res. 410. Joint resolution to designate the period commencing February 9, 1987, and ending February 15, 1987, as "National Burn Awareness Week"; to the Committee on the Judiciary.

NATIONAL BURN AWARENESS WEEK

● Mr. WILSON. Mr. President, I rise today to speak of a problem little noticed in America—except by those who are its victims. For them, it is literally life-shattering in its implications. I rise to introduce a Senate Joint Resolution designating the week of February 9, 1987, as "National Burn Awareness Week." And in so doing, I would suggest that this is but the first small step on a journey of many miles, a journey which must be taken by all of us who live in a country with the worst burn problem of any industrialized nation in the world.

Burns exact a tremendous toll of human life, suffering, disability and financial loss. Burn injuries continue to be one of the leading causes of death in the United States. Of the 2 million people who are victims of burn injury each year, 70,000 are hospitalized and another 12,000 suffer death as a result of their burns. An even more tragic statistic of this problem is the fact that children, elderly, and the disabled represent a majority of burn victims, with a death rate of five times that of any other group. Finally, the severe psychological impact of burn rehabilitation for the victim cannot be measured in simple economic terms.

Each year millions of dollars are spent trying to remedy the effects of burns and burn-related incidents. Recent studies conclude, however, that approximately 75 percent of all burns could be prevented by proper education of children and adults. For this reason, the resolution provides for a public awareness program designed to familiarize the public with methods of burn prevention.

I ask my colleagues support in this resolution by cosponsoring the establishment of "National Burn Awareness Week."

Mr. President, I ask unanimous consent that the text of the resolution be printed at this point in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 410

Whereas the burn problem in the United States is the worst of any industrialized nation in the world;

Whereas burn injuries are one of the leading causes of accidental death in the United States;

Whereas every year approximately two million people are victims of burn injury in the United States;

Whereas of these injuries, seventy thousand are hospitalized and account for nine million disability days annually;

Whereas approximately twelve thousand people die from burn injuries;

Whereas deaths resulting from burn injuries increased in 1985;

Whereas the rehabilitative and psychological impact of burns are devastating;

Whereas children, the elderly, and the disabled are most likely to suffer serious burns;

Whereas it is estimated that approximately 75 percent of all burns could be prevented by proper education of children and adults; and

Whereas there is a need for an effective national program that deals with all aspects of burn prevention: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing February 9, 1987, and ending February 15, 1987, is designated as "National Burn Awareness Week" and the President is authorized and requested to issue a proclamation calling upon the people of the United States and all Federal, State, and local government officials to observe such week with appropriate programs and activities.●

By Mr. MURKOWSKI:

S.J. Res. 411. Joint resolution to provide for the designation of April 9, 1987, as "National Former Prisoner of War Recognition Day"; to the Committee on the Judiciary.

(The remarks of Mr. MURKOWSKI and the text of the legislation appear earlier in today's RECORD.)

ADDITIONAL COSPONSORS

S. 2323

At the request of Mr. SIMON, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 2323, a bill to exempt certain activities from provisions of the antitrust laws.

S. 2417

At the request of Mr. BYRD, the name of the Senator from Nebraska [Mr. ZORINSKY] was added as a cosponsor of S. 2417, a bill to establish the Aviation Safety Commission, and for other purposes.

S. 2494

At the request of Mr. BRADLEY, the name of the Senator from Florida [Mrs. HAWKINS] was added as cosponsor of S. 2494, a bill to amend title XVIII of the Social Security Act to modify the limitations on payment for home health services under the Medicare Program to conform regulations; to assure that all legitimate costs are taken into account in calculating such limitations; to provide affected parties an opportunity to comment on revisions in Medicare policies; and to require discharge planning procedures.

S. 2658

At the request of Mr. HATCH, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of S. 2658, a bill to authorize the establishment of demonstration programs to provide assistance to needy children deprived of parental support of care by reason of the unemployment of a principal wage-earning parent.

S. 2723

At the request of Mr. ABDNOR, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 2723, a bill to amend title 39 of the United States Code to restore limited circulation second-class rates of postage for copies of a publication mailed to counties adjacent to the county of publication, and for other purposes.

S. 2781

At the request of Mr. EVANS, the names of the Senator from Indiana [Mr. QUAYLE] and the Senator from Arkansas [Mr. PRYOR] were added as cosponsors of S. 2781, a bill to amend the Energy Policy and Conservation Act with respect to energy conservation standards for appliances.

SENATE JOINT RESOLUTION 143

At the request of Mr. GORE, the name of the Senator from Georgia [Mr. MATTINGLY] was added as a cosponsor of Senate Joint Resolution 143, a joint resolution to authorize the Black Revolutionary War Patriots Foundation to establish a memorial in the District of Columbia at an appropriate site in Constitution Gardens.

SENATE JOINT RESOLUTION 313

At the request of Mr. HOLLINGS, the names of the Senator from Alabama [Mr. HEFLIN], the Senator from Oklahoma [Mr. BOREN], the Senator from Alaska [Mr. STEVENS], the Senator from North Dakota [Mr. BURDICK], and the Senator from Connecticut [Mr. DODD] were added as cosponsors of Senate Joint Resolution 313, a joint resolution proposing an amendment to the Constitution of the United States with respect to limiting expenditures in congressional elections.

SENATE JOINT RESOLUTION 372

At the request of Mr. TRIBLE, the names of the Senator from Alaska [Mr. MURKOWKSI], the Senator from California [Mr. WILSON], the Senator from Idaho [Mr. SYMMS], the Senator from Nebraska [Mr. ZORINSKY], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Mississippi [Mr. COCHRAN], the Senator from North Carolina [Mr. HELMS], the Senator from Oklahoma [Mr. BOREN], the Senator from Utah [Mr. HATCH], and the Senator from Washington [Mr. GORTON] were added as cosponsors of Senate Joint Resolution 372, a joint resolution authorizing establishment of a memorial to honor America's astronauts.

SENATE JOINT RESOLUTION 392

At the request of Mr. THURMOND, the name of the Senator from Alabama [Mr. DENTON] was added as a cosponsor of Senate Joint Resolution 392, a joint resolution to designate the month of December 1986 as "Made in America Month."

SENATE JOINT RESOLUTION 402

At the request of Mr. LUGAR, the names of the Senator from Mississippi [Mr. COCHRAN], the Senator from Oklahoma [Mr. NICKLES], the Senator from Tennessee [Mr. GORE], and the Senator from South Carolina [Mr. HOLLINGS] were added as cosponsors of Senate Joint Resolution 402, a joint resolution designating July 2 and 3, 1987, as the "United States-Canada Days of Peace and Friendship."

SENATE JOINT RESOLUTION 404

At the request of Mr. SIMON, the names of the Senator from Illinois [Mr. DIXON], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Utah [Mr. HATCH], the Senator from Oklahoma [Mr. NICKLES], the Senator from Michigan [Mr. RIEGLE], the Senator from Arizona [Mr. GOLDWATER], the Senator from Wisconsin [Mr. PROXMIRE], the Senator from New York [Mr. MOYNIHAN], the Senator from Virginia [Mr. TRIBLE], the Senator from South Dakota [Mr. PRESSLER], the Senator from Nebraska [Mr. ZORINSKY], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Connecticut [Mr. DODD], the Senator from Georgia [Mr. NUNN], and the Senator from North Dakota [Mr. BURDICK] were added as cosponsors of Senate Joint Resolution 404, a joint resolution to designate October 1986 as "Polish American Heritage Month."

SENATE CONCURRENT RESOLUTION 130

At the request of Mr. HOLLINGS, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of Senate Concurrent Resolution 130, a concurrent resolution to recognize the visit by the descendants of the original settlers of Purrysburg, SC, to Neufchatel, Switzerland, in October of 1986 as an international gesture of goodwill.

SENATE RESOLUTION 368

At the request of Mr. GORE, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of Senate Resolution 368, a resolution to express the sense of the Senate that Federal funding to States for Cooperative Extension Service programs for fiscal year 1987 be restored to at least the level approved in the 1986 budget resolution, except for reductions required in such programs by the Balanced Budget and Emergency Deficit Control Act of 1985.

NOTICES OF HEARINGS

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. ANDREWS. Mr. President, I would like to announce for the information of the public that the Select Committee on Indian Affairs will hold a business meeting on Monday, September 15, 1986, at 10 a.m. in room S205 of the Capitol, on the following bills:

H.R. 1344, a bill to provide for the restoration of Federal recognition to the Ysleta del Sur Pueblo and the Alabama and Coushatta Indian Tribes of Texas;

S. 2118, a bill to provide for the distribution of funds appropriated to pay a judgment awarded to the Sisseton and Wahpeton Tribes of Sioux Indians;

H.R. 1920, a bill to establish Federal standards and regulations for the conduct of gaming activities on Indian reservations and lands; and

H.R. 3526, a bill to provide for the settlement of certain claims respecting the San Carlos Apache Tribe of Arizona.

Those wishing additional information should contact the committee at 224-2251.

AUTHORITY FOR COMMITTEES TO MEET

SELECT COMMITTEE ON INTELLIGENCE

Mr. HATCH. Mr. President, I ask unanimous consent that the Senate Labor and Human Resources Committee be authorized to meet during the session of the Senate on Thursday, September 11, to hold a hearing in order to receive testimony on medical malpractice.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. HATCH. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, September 11, in closed session to hold a hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE EFFECT OF DRUG TESTING ON EPILEPTICS

● Mr. SIMON. Mr. President, all of us are concerned about drugs and what we can do in a meaningful way.

But we're also interested in meeting the problem without doing damage to the civil liberties of our country.

I sense that those in positions of leadership, by and large, have felt some frustration not knowing what to do; and in order to achieve the appearance of doing something, they have looked for simplistic solutions.

The New York Times recently printed an article by Richard Pollak, de-

scribing what mandatory drug testing does for victims of epilepsy.

I do not suggest this is the whole picture.

But it is one small insight into why we ought to move with care in this field.

I might add that one of those who has served with great distinction in the Congress of the United States is Congressman TONY COELHO of California who is a victim of epilepsy and is able to control it with drugs.

I don't want to discourage potential TONY COELHO's in Congress or in the private sector or anywhere else.

My colleagues in the Senate, as well as, Members of the House and others who read the CONGRESSIONAL RECORD will find the Richard Pollak article of interest, and I ask that it be printed in the RECORD.

The article follows:

[From the New York Times, Sept. 3, 1986]

A BITTER PILL FOR EPILEPTICS

(By Richard Pollak)

I have been taking drugs every day of my adult life: phenobarbital and Dilantin in my 20's, Mysoline in my 30's and 40's and now Depakene. They are anticonvulsants that control seizures for me and hundreds of thousand of others who have epilepsy. They also show up in the urine, if tested for.

I am a writer and editor who no longer needs a job in a large organization. But during the many years when I did, I would have been considerably unnerved if, as a condition of employment, I had been required to give a specimen of my urine to satisfy a company's drug abuse program. Would Newsweek, say, have hired me in 1964 if management had discovered from a mandatory drug test that I had phenobarbital in my system, thus forcing me to reveal that I had epilepsy?

I obviously can't answer that question with any certainty, but it is far from academic. The files of the Epilepsy Foundation of America and its local affiliates around the country are filled with cases of men and women who have been unjustly fired, or not hired, because of their epilepsy. And these cases represent only a small fraction of those who face job discrimination because of the disorder.

Despite educational gains in recent years, epilepsy remains among the most misunderstood afflictions; many who suffer from it justifiably fear society's stigma and shrink from drawing attention to themselves and their families by fighting for their job rights. Between 20 and 30 percent of those physically able to work are unemployed, according to the foundation, and among those who are working "many are in jobs well below their levels of education and ability."

The few who do seek justice usually face a prolonged ordeal. Tracy Hammonds is a railroad worker who was dismissed by Conrail because of his epilepsy. Earlier this year, a Michigan circuit court awarded him $150,000 in back pay and ordered Conrail to reinstate him in his job or pay him an additional $225,000 as compensation. It was a clear victory for Mr. Hammond, but his battle, in court and out, took six years.

Mr. Hammond has been seizure-free for 10 years. I have suffered only three serious seizures in the 38 years since my epilepsy was diagnosed at age 14. Happily, such histories are now typical. Of the estimated 2.4 million people in the United States with some form of epilepsy, the seizures of 85 percent are either fully controlled or almost so.

But now the anticonvulsant medication that makes this impressive record possible and gives so many people peace of mind has suddenly also become a bitter pill of forced revelation. The National Institute on Drug Abuse reports that "in the last 3 years the number of Fortune 500 companies screening employees for drug use has risen from 3 percent to nearly 30 percent." The Department of Justice wants more than half the Federal Government's employees tested. President Reagan shows us all the way by proudly submitting to a urine analysis himself.

Well, he has job security, so it wouldn't really matter that much if the test turned up drugs for epilepsy—or depression, diabetes, hypertension or any of the many other illnesses that millions of Americans keep under control daily by taking medication. But it matters greatly to many of them, if only because the "right to be left alone" is, in the words of Justice Louis D. Brandeis, "the most comprehensive of rights and the right most valued by civilized man."

Ten years ago, I wasn't able to discuss epilepsy beyond my immediate family and a few close friends. To do so, I was convinced, would invite all manner of social and professional rejection. Attitudes toward people with epilepsy have improved in recent years, but many of the irrational fears and prejudices remain. Even as I write these words, I can hear my worried father admonishing me as a teen-ager never, ever, to tell anyone that I had epilepsy. "It's none of their business," he warned, his finger urgently at his lips.

He was dead right about that, whatever his misguided motives at the time. That I ignore his stricture now is my decision, my choice. Thousands of others with epilepsy and other disorders would prefer to keep the fact private, many with good reason. That is their right. The so-called "war on drugs" does not justify indiscriminately invading people's privacy by making them submit to the growing enthusiasm for corporate chemical snooping.●

PROPOSED ARMS SALES

● Mr. LUGAR. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive formal notification of proposed arms sales under that act in excess of $50 million, or in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon receipt of such notification, the Congress has 30 calendar days during which any sale may be reviewed. The provision stipulates that, in the Senate, the notification of proposed sales be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is available to the full Senate, I ask to have printed in the RECORD the notifications I have received. The classified annexes referred to in several of the covering letters are available to Senators in the office of the Foreign Relations Committee, SD-423.

The notification follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, DC, September 8, 1986.

Hon. RICHARD C. LUGAR,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 86-53 and under separate cover the classified annex thereto. This transmittal concerns the Department of the Navy's proposed Letter(s) of Offer to Japan for defense articles and services estimated to cost $47 million. Soon after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

GLENN A. RUDD,
Acting Director.

[Transmittal No. 86-53]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b)(1) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Japan.

(ii) Total Estimated Value: Major Defense Equipment,[1] $42 million; Other, 5 million; Total, $47 million.

(iii) Description of Articles or Services Offered: Thirty-eight Harpoon missiles with containers, space parts, technical assistance and support equipment.

(iv) Military Department: Navy (AHA).

(v) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None.

(vi) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: See annex under separate cover.

(vii) Section 28 Report: Case not included in section 28 report.

(viii) Date Report Delivered to Congress: September 8, 1986.

POLICY JUSTIFICATION

JAPAN—HARPOON MISSILES

The Government of Japan has requested the purchase of 38 Harpoon missiles with containers, spare parts, technical assistance and support equipment. The estimated cost is $47 million.

Japan is one of the major political and economic powers in East Asia and the Western Pacific and key partner of the United States in ensuring the peace and stability of that region. It is vital to the U.S. national interests to assist Japan in developing and maintaining a strong and ready self-defense capability which will contribute to an acceptable military balance in the area. This sale is consistent with these U.S. objectives and with the 1960 Treaty of Mutual Cooperation and Security.

These missiles will be placed on destroyers, submarines and P-3C aircraft in accordance with the United States desire that Japan expand its defense role. Japan has harpoon missiles and will have no difficulty absorbing those additional missiles into its armed forces.

The prime contractor will be McDonnell Douglas Astronautics Company of St. Louis, Missouri.

Implementation of this sale will not require the assignment of any additional U.S. Government or contractor personnel to Japan.

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[1] As defined in Section 47(6) of the Arms Export Control Act.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, DC, September 8, 1986.

Hon. RICHARD C. LUGAR,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 86-55 and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Navy's proposed Letter(s) of Offer to the United Kingdom for defense articles and services estimated to cost $22 million. Soon after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

GLENN A. RUDD,
Acting Director.

[Transmittal No. 86-55]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b)(1) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: United Kingdom.

(ii) Total Estimated Value: Major Defense Equipment,[1] $18 million; Other, $4 million; Total, $22 million.

(iii) Description of Articles or Services Offered: Two Phalanx Close-in Weapon System (CIWS) with associated logistics, engineering and technical support.

(iv) Military Department: Navy (LFZ).

(v) Sales Commissioon, Fee, etc., Paid, Offered, or Agreed to be Paid: None.

(vi) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: See Annex under separate cover.

(vii) Section 28 Report: Included in report for quarter ending 30 June 1986.

(viii) Date Report Delivered to Congress: September 8, 1986.

POLICY JUSTIFICATION

UNITED KINGDOM—PHALANX CLOSE-IN WEAPON SYSTEMS

The Government of the United Kingdom has requested the purchase of two PHALANX Close-in Weapon Systems (CIWS) with associated logistics, engineering and technical support. The estimated cost is $22 million.

This sale will contribute to the foreign policy and national security objectives of the United States by improving the military capabilities of the United Kingdom; furthering NATO rationalization, standardization, and interoperability; and enhancing the defense of the Western Alliance.

This equipment will be installed on surface combatants to enhance close-in anti-air warfare self-defense capabilities. The United Kingdom will have no difficulty absorbing these additional PHALANX systems into its armed forces.

The sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be the General Dynamics Corporation, Pomona Division of Pomona, California.

Implementation of this sale will not require the assignment of any additional U.S. Government personnel or contractor representatives to the United Kingdom.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

[1] As defined in Section 47(6) of the Arms Export Control Act.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, DC, September 8, 1986.

Hon. RICHARD C. LUGAR,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 86-57 and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Navy's proposed Letter(s) of Offer to Australia for defense articles and services estimated to cost $47 million. Soon after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

GLENN A. RUDD,
Acting Director.

[Transmittal No. 86-57]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b)(1) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Australia.

(ii) Total Estimated Value: Major Defense Equipment,[1] $37 million; Other, $10 million; Total, $47 million.

(iii) Description of Articles or Services Offered: Twenty-eight Harpoon missiles, six Harpoon missile bodies without warheads, two exercise training missiles, associated containers and repair parts.

(iv) Military Department: Navy (ARY).

(v) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None.

(vi) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: See Annex under separate cover.

(vii) Section 28 Report: Case not included in Section 28 report.

(viii) Date Report Delivered to Congress: September 8, 1986.

POLICY JUSTIFICATION

AUSTRALIA—HARPOON MISSILES

The Government of Australia has requested the purchase of 28 Harpoon missiles, six Harpoon missile bodies without warheads, two exercise training missiles, associated containers and repair parts. The estimated cost is $47 million.

As an ally under the ANZUS Treaty, Australia plays a major role in assuring the stability of Southeast Asia and the South Pacific and is strategically located with respect to the Indian Ocean. Therefore, the United States has cooperated in improving Australia's military capability through foreign military sales, logistics agreements, and combined exercises. Australia will have no difficulty absorbing these Harpoon missiles into its armed forces.

The prime contractor will be McDonnell Douglas of St. Louis, Missouri.

Implementation of this sale will not require the assignment of any additonal U.S. Government personnel or contractor representatives to Australia.

There will be no adverse impact on U.S. defense readiness as a result of this sale.●

[1] As defined in Section 47(6) of the Arms Export Control Act.

MORATORIUM ON NUCLEAR TESTING

● Mr. SIMON. Mr. President, while I was a freshman at the University of Oregon, my first job as a journalist was working for the Eugene Register-Guard. Bill Tugman was the editor then, and my immediate boss was the sports editor, Dick Strite. The Baker family published the newspaper.

While the Tugmans and Strites no longer are affiliated with the paper, the Baker family still publishes it.

During the recess, my wife and I took a few days vacation and, among other places, stopped in Eugene, OR, where the Eugene Register-Guard had an editorial urging the United States to do the sensible thing and join the Soviets in a moratorium on nuclear testing.

That editorial of the Eugene Register-Guard makes eminent good sense, as I believe the large majority of those of us in this body would privately acknowledge.

I recognize that it is somewhat easier for a Democrat to stand in opposition to the administration policy than it is for a Republican, but we're talking about something that is far beyond partisan politics. We're talking about survival.

I ask that the editorial which appeared in the Eugene Register-Guard be inserted in the RECORD at this point, and I urge my colleagues to read it.

The editorial follows:

MATCH GORBACHEV ON TEST BAN

Every president since John F. Kennedy has tried to negotiate a nuclear test ban with the Soviet Union. Every president, that is, except Ronald Reagan. Soviet leader Mikhail Gorbachev suspended his country's testing program a year ago, and on Monday he extended the moratorium until Jan. 1. Reagan should match the Soviets' move, but he steadfastly refuses to do so.

In public, the Reagan administration advances a novel explanation for its desire to continue nuclear tests. The tests are necessary, the explanation goes, because the nation needs to ensure the reliability of its existing stockpile of weapons. No previous administration has made that argument. And there's no sign that Reagan believes the reliability of Soviet weapons has been reduced by a lack of testing.

There is another reason—less openly discussed but far more plausible—for the Reagan administration's firm commitment to continued nuclear testing. An end to testing would mean an end to the development of new weapons systems, notably the X-ray laser. The laser is powered by nuclear explosions and is a cornerstone of the President's cherished Strategic Defense Initiative.

These two lines of reasoning—that testing is needed to make sure old weapons work and to find out whether new ones do—add up to a strong case for a mutual test ban. If both the Soviet Union and the United States lose faith over time in the reliability of their current weapons, neither could be confident of launching a successful attack. At the same time, neither nation would be able to bolster its war-fighting capability

with new, tested weapons. The arms race would thereby be slowed.

In making that case, however, it must be assumed that both sides are interested in slowing down or ending the arms race. That is not the case. During the era of clear American nuclear superiority, the Soviet Union was intent on catching up and refused to negotiate a comprehensive test ban treaty. Now that a condition of rough nuclear parity has been achieved, the Soviets are willing to halt testing but Reagan believes it must go on in order to re-establish the United States' strategic edge.

But the idea that a test ban would call a timeout in the arms race while one side was behind—or insufficiently far ahead—is fatally flawed. It ignores the fact that both the Soviet Union and the United States are capable of equaling each other's advances in weaponry. Any advantage is only temporary. If Reagan proceeds to test and develop new nuclear weapons, Gorbachev will soon be forced to follow suit.

On a deeper level, the notion of either nation being ahead or behind in the arms race is itself a dangerous illusion. Both sides crossed the finish line long ago when they gained the ability to destroy each other with a fraction of their nuclear arsenals.

Under such conditions, Reagan should realize that both nations' security would be served by an agreement to limit or stop nuclear arms testing. A good precedent for such an agreement exists in the 1963 partial test ban, which prohibits nuclear testing in the atmosphere, under water and in outer space. That treaty is the most effective arms-control agreement ever negotiated between the Soviet Union and the United States.

Reagan should also acknowledge that unless he takes the initiative toward a test ban, others may take it for him. The House of Representatives voted Aug. 8 to halt all but the smallest nuclear tests provided that the Soviets do likewise and agree to on-the-spot monitoring. The leaders of Argentina, Greece, India, Mexico, Sweden and Tanzania recently called for a test ban and volunteered to verify compliance.

Such pressure ought to induce Reagan to take some steps of his own. As a minimum, he should propose that the number and size of nuclear tests be limited. Better yet, he should stop all testing for as long as the Soviet moratorium lasts. The Soviets would then be responsible for any resumption of testing. Reagan would thereby assure the world of his peaceful intentions and increase hopes for security in the nuclear age.●

ADVANCE NOTIFICATION

● Mr. LUGAR. Mr. President, by agreement, section 36(b) of the Arms Export Control Act provides that Congress receive advance notification of proposed arms sales under that act in excess of $50 million or, in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon such notification, the Congress has 20 calendar days to review and consult with the administration on the proposed sale. Section 36(b) requires that Congress then receive a statutory notification of the proposed arms sales and upon such notification, has 30 calendar days to review the sale. The provision stipulates that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

In keeping with the committee's intention to see that such information is immediately available to the full Senate, I ask to have printed in the RECORD the notification which has been received. A portion of the notification, which is classified information, has been deleted for publication, but is available to Senators in the office of the Foreign Relations Committee, room SD-423.

The notification follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, DC, September 8, 1986.
In reply refer to I-14027/86ct.

Dr. M. GRAEME BANNERMAN,
Staff Director, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR DR. BANNERMAN: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b)(1) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to an East Asian Country tentatively estimated to cost $50 million or more.

Sincerely,

GLENN A. RUDD,
Acting Director.●

REMARKS OF MAYOR DIXON OF DIXON, IL, IN MOROCCO

● Mr. SIMON, Mr. President, Dixon, IL, is the hometown of President Ronald Reagan.

Recently the mayor of Dixon, James E. Dixon, a descendant of the founder of that city, represented the municipalities of the United States and the city of Dixon, in particular, at a national colloquy on local councils in Morocco.

King Hassan has not only shown a willingness to provide leadership on the question of getting Israel and the Arab countries together, but one of the things that pleasantly surprised me when I was in Morocco some years ago was to see the encouragement that he is giving to political diversity.

There is a freedom of speech and expression in Morocco that is uncommon in African countries.

I believe my colleagues will find the statement of Mayor Dixon of interest.

He represented not only his home community but the cities of this Nation well. I ask that the remarks of Mayor Dixon be printed in the RECORD.

The remarks follow:

REMARKS OF MAYOR JAMES E. DIXON, OPENING SESSION OF THIRD NATIONAL COLLOQUY ON LOCAL COUNCILS OF MOROCCO

YOUR MAJESTY, I bring to you, to your ministers and all of your representatives gathered here in Casablanca today warm expressions of friendship and greetings from the people of America.

I am the mayor of Dixon, Illinois a small community, 100 miles west of Chicago, in the central part of the United States. It is a community of small shops and businesses surrounded by fertile farmland. We have one distinction—it is the home town of our President Ronald Reagan. It is the town where he lived as a boy and grew to manhood.

President Reagan spent his formative years in Dixon and we believe he reflects—as President—the values which we hold so dear: small town qualities of Faith in God, love of the family and quiet confidence and courage.

I believe I am here to symbolize the growing friendship between our people and to strengthen that friendship if I am able.

As a representative of President Reagan's hometown, I offer you my support and friendship.

We have already had leadership and encouragement toward this goal. King Hassan and President Reagan have met and formed a personal bond of mutual respect and friendship. Their ministers and ambassadors have worked to bring our countries together in that same spirit of friendship and respect. It is now time for us to bring our communities together following the example of our good leaders.

You have my support and friendship as you begin a difficult, but honorable task. You have been charged by your King to assume greater responsibility as local public officials and to exercise a more independent voice in decisions on local concerns.

Democracy in a city or village is democracy in its most difficult form, but it is democracy at its best. It is most difficult at the local level because local government is the closest to the people. In a democracy, local government is the people.

As local officials we must deal with the most difficult problems in the world: public health and sanitation, violent crime, housing, neighborhood fights and disputes. We must deal with the people themselves: angry people, confused people, sad people, hungry people.

And, because we are one with the people we must deal with them with love, understanding, patience and courtesy—even when they are yelling at you!

We often become angry or frustrated—or just tired of doing what seems to be the same old routine, such as listening to a man angry about his taxes that increased because you bought a new fire truck. (His house never burned down, so he doesn't see the need for another fire truck.)

We don't think of our daily tasks as noble deeds. But, remember—the service you provide your community means Justice to its citizens.

In government, Justice is providing all citizens with the means to lead a decent human life. This is a great responsibility. Justice requires that we not violate a person's natural rights. We must treat everyone fairly, honestly and with respect.

But Justice also requires that we promote the common good. We must work for the general welfare of the whole community. There is often a conflict between individual rights and the general welfare of the community. The criminal must lose his freedom to protect the community.

Justice, in the administration of local government, is bringing harmony between personal liberty and the needs of the community. Justice is not done with a grand gesture. It is done in little decisions day after day. It

is done by bringing honesty and fairness to all of your work.

Truth and respect are our guides. If we speak the truth and treat fellow citizens with respect, we will bring justice to our community.

We have important and honorable work, bringing harmony to a community and justice to our people. Because we do not have perfect wisdom we sometimes are unable to find that harmony. But we must see justice as our goal—even in the little daily tasks. We must always listen to our people—even when they do not listen to us. We must always love our people—even when they are angry with us.

Don't get discouraged. It is good work. It is honest work. It is God's work.

Thank you, your Majesty.●

PROPOSED ARMS SALES

● Mr. LUGAR. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive formal notification of proposed arms sales under that act in excess of $50 million, or in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be reviewed. The provision stipulates that, in the Senate, the notification of proposed sales be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is available to the full Senate, I ask to have printed in the RECORD the notifications I have received.

The notification follows:

DEFENSE SECURITY ASSISTANCE AGENCY.
Washington, DC, Sept. 10, 1986.

In reply refer to: I-04573/86.

Hon. RICHARD C. LUGAR,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 86-54, concerning the Department of the Army's proposed Letter(s) of Offer to the Netherlands for defense articles and services estimated to cost $192 million. This transmittal replaces Transmittal No. 86-47 forwarded on 30 July 1986. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

PHILIP C. GAST,
Director

[Transmittal No. 86-54]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b)(1) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective purchaser: Netherlands.

(ii) Total estimated value:

	Million
Major defense equipment[1]	$170
Other	22
Total	192

[1] As defined in section 47(6) of the Arms Export Control Act.

(iii) Description of articles or services offered: Twenty-one armored vehicle mounted rocket launchers, 2,700 M77 rocket pods, 31 practice rocket pods, and 34 rocket pod trainers, which comprise the Multiple Launch Rocket System (MLRS), concurrent spare parts and support equipment.

(iv) Military department: Army (JKR, VRP, and VRY).

(v) Sales commission, fees, etc., paid, offered, or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: None.

(vii) Section 28 report: Case not included in section 28 report.

(viii) Date report delivered to Congress: September 10, 1986.

POLICY JUSTIFICATION

NETHERLANDS—MULTIPLE LAUNCH ROCKET SYSTEMS

The Government of the Netherlands has requested the purchase of 21 armored vehicle mounted Multiple Launch Rocket Systems (MLRS), 2,700 M77 rocket pods, 31 practice rocket rods, 34 rocket pod trainers, which comprise the Multiple Launch Rocket System (MLRS), concurrent spare parts and support equipment. The estimated cost is $192 million.

This sale will contribute to the foreign policy and national security objectives of the United States by improving the military capabilities of the Netherlands; furthering NATO rationalization, standardization, and interoperability; and enhancing the defense of the Western Alliance.

The Netherlands will use these Multiple Launch Rocket Systems to continue an ongoing effort to upgrade its battlefield artillery capabilities. The Netherlands will have no difficulty absorbing these systems into its armed forces.

The sale of these systems will not affect the basic military balance in the region.

The prime contractor will be the LTV Aerospace and Defense Company of Dallas, Texas.

Implementation of this sale will not require the assignment of additional U.S. Government personnel and contractor representatives to the Netherlands.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, DC, September 8, 1986.

In reply refer to: I-04033/86ct.

Hon. RICHARD C. LUGAR,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 86-56, concerning the Department of the Air Force's proposed Letter(s) of Offer to the United Arab Emirates for defense articles and services estimated to cost $40 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

GLENN A. RUDD,
Acting Director.

[Transmittal No. 86-56]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b)(1) OF THE ARMS EXPORT CONTROL ACT

(1) Prospective purchaser: United Arab Emirates.

(ii) Total estimated value:

	Million
Major defense equipment[1]	$28
Other	12
Total	40

[1] As defined in section 47(6) of the Arms Export Control Act.

(iii) Description of articles or services offered: Eight AN/TRC-170 Digital Troposcatter Radio Systems, spare parts, tools and test equipment, mobilizing equipment, training, and support.

(iv) Military department: Air Force (DAA).

(v) Sales commission, fee, etc., paid, offered, or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: None.

(vii) Section 28 report: Case not included in section 28 report.

(viii) Date report delivered to Congress: September 8, 1986.

POLICY JUSTIFICATION

UNITED ARAB EMIRATES—AN/TRC-170 DIGITAL TROPOSCATTER RADIO SYSTEMS

The Government of the United Arab Emirates (UAE) has requested the purchase of eight AN/TRC-170 Digital Troposcatter Radio Systems, spare parts, tools and test equipment, mobilizing equipment, training, and support. The estimated cost is $40 million.

This sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country which has been and continues to be an important force for political stability and economic progress in the Middle East.

The United Arab Emirates needs these radio systems to provide a national defense communications system. The AN/TRC-170 system can provide a dedicated interregional communications link and will integrate directly into the regional communications architecture already selected by the UAE Defense Headquarters. The UAE will have no difficulty absorbing these radio systems into its armed forces.

The sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be the Raytheon Corporation of Boston, Massachusetts.

Implementation of this sale will not require the assignment of any additional U.S. Government personnel; however, two contractor representatives will be required in the UAE for three years.

There will be no adverse impact on U.S. defense readiness as a result of this sale.●

HUMAN RIGHTS IN CHILE

● Mr. HATFIELD. Mr. President, soon after his 1970 election, Chilean President Salvador Allende told a national audience: "Our coat of arms says 'By reason or by force,' but it puts reason first." On September 11, 1973—exactly 13 years ago today—that order was reversed: The military took control of Chile and promptly dissolved Congress, suspended the Constitution, declared political parties illegal, and imposed a "state of emergency" which

has been in effect for all but 7 months since that bloody day.

President Allende and his administration were not without serious flaws, nor is it our responsibility to judge the history of Chilean politics. But I am concerned, Mr. President, about the status of human rights in Chile. The horrific death of 19-year-old American Rodrigo Andres Rojas de Negri brought the tragedy of Chile to our headlines, Mr. President, but Rodrigo was just one of many men, women, and children who have been subjected to brutal treatment at the hands of Chilean security forces.

All citizens of Chile, Mr. President, deserve and demand our compassion. All too often those of us concerned about human rights abuses condemn only those abuses perpetrated by governments on the right. We must not do that in Chile. Mr. President, the six bodyguards killed in the recent assassination attempt against General Pinochet are also victims of human rights abuses.

That the victims of violence and human rights abuses in Chile are not all victims of their Government, however, does not diminish the fact that the Pinochet government has institutionalized its disregard for human rights. That institutionalized disregard ought to be of great concern for all of us, on both sides of the aisle, who believe in the existence of basic human rights.

As the third state of siege in the 13 years of the Pinochet government now takes hold in Chile, I would like to direct the attention of my colleagues to an Amnesty International report on the emergency laws now in place in Chile. This report, part of Amnesty International's September 1986, briefing on Chile, was issued before the current state of siege was declared. I ask that this brief but unsettling report appear in the RECORD.

The report follows:

EMERGENCY LAWS CURB HUMAN RIGHTS

A number of "states of exception" (emergency laws) are provided for in Chilean law, which, as in most countries' legislation, are intended for application in exceptional and temporary situations, usually involving a clear danger to national security. However, one or more sets of emergency laws have been in force ever since 1973. A "state of emergency" has been in force for all but seven months of the 13 years since the military coup. A "state of siege" was simultaneously in force from 1973 to 1978, and again from November 1984 to June 1985. A new constitution was introduced in March 1981, containing new "temporary" powers, including the declaration of a "state of danger of disturbance of internal peace" which remains in force.

All these emergency laws restrict individual freedoms. Some provisions give the military authorities wide powers which cannot be challenged in the courts. Under the states of exception the military authorities can:

Detain people without charge in their own homes, or in places which are not public buildings officially designated for the detention of common criminals. People can be thus detained indefinitely under the state of siege, and for five days, with a possible extension of up to 20 days, under the "state of danger of disturbance of internal peace."

Transfer people from one part of the country to another (state of siege), or expel them from the country (state of siege), or expel them from the country (state of siege and "state of danger of disturbance of internal peace") and send people into remote parts of the country for up to three months ("state of danger of disturbance of internal peace").

Prohibit the exit from or entry to the country of named individuals (state of siege and state of emergency) and prohibit entry into the country ("state of danger of disturbance of internal peace").

Suspend or restrict the rights of assembly, information and freedom of expression (under all states of exception). Under these regulations, public gatherings cannot be held without prior authorization from the military government.

All three states of exception were in force between 6 November 1984 and 16 June 1985. During this period, many thousands of people were arrested and the opposition press was closed down. Although the state of siege was lifted in 1985, new legislation extended the powers of the administrative authorities under the remaining emergency laws. For example, powers previously invested in the President were delegated to a wide range of military authorities.

Under the 1981 Constitution, which Amnesty International considers contravenes international human rights standards, the courts cannot challenge the grounds for measures taken by the military authorities in the exercise of their broad powers under emergency laws.●

9-1-1 EMERGENCY NUMBER DAY

● Mr. GLENN. Mr. President, I would like to thank my colleagues for passing Senate Joint Resolution 405 last evening, thereby proclaiming today "9-1-1 Emergency Number Day." I am particularly grateful to my 29 colleagues who cosponsored this resolution.

The House of Representatives is expected to take prompt action on this measure. When it does, the U.S. Congress will join communities in Ohio, Illinois, Virginia, Texas, Delaware, New York, Florida, and Missouri in formally recognizing the importance of the 9-1-1 system by issuing a proclamation. This recognition will increase the effectiveness of the 9-1-1 system since it must be brought to people's attention before an emergency arises.

Approximately 40 percent of communities across the country have adopted the 9-1-1 emergency system of dialing as a means of providing immediate emergency services to local residents. The basic 9-1-1 telephone service enables a person to dial just three numbers in an emergency to reach a public safety answering point, such as a police or fire department.

While the 9-1-1 system has saved many lives and enhanced the quality of life in many communities, there are still many areas of the country which do not have a 9-1-1 system. The need for all citizens to summon help rapidly in an emergency situation is essential to community well-being.

The 9-1-1 system has proven its value on numerous occasions. It is my hope that by drawing people's attention to this system today, more lives will be saved in future. I thank my colleagues for joining me, the National Emergency Number Association, and public safety workers across the Nation in recognizing today as "9-1-1 Emergency Number Day."●

PROGRAM FRAUD CIVIL REMEDIES ACT

● Mr. GRASSLEY. Mr. President, last month the Senate unanimously approved legislation I sponsored, S. 1562, the False Claims Reform Act, to enhance the Government's litigative and investigative tools under current law, as well as to increase the fines and penalties assessed against those who cheat the Government.

While I strongly believe that this legislation goes a long way toward bolstering the Government's arsenal in its fight against fraud, I want to emphasize that its passage does not diminish the need for another important piece of legislation, S. 1134, the Program Fraud Civil Remedies Act, which captures "small-dollar" frauds currently falling through the cracks of our judicial system.

My legislation strengthens the Government's ability to litigate false claims cases in court. But for those small-dollar cases under $100,000, the cost of litigation often exceeds the benefits of recovery, thus making it economically impractical for the Justice Department to go to court.

Consequently, even under my bill, the Government may be left without an adequate remedy for many small-dollar cases.

Senator COHEN's legislation, S. 1134, effectively remedies this problem by creating an alternative administrative proceeding for handling those false claim and false statement cases that the Justice Department has declined, as a practical matter, to pursue. I am a cosponsor of this legislation and believe it will provide the Government with an effective and, most important, a fair remedy to recoup taxpayer funds lost to fraud each year.

I have worked closely with Senator COHEN to ensure that the essential elements of our bills—particularly the standard of knowledge and burden of proof—are consistent. In this regard, a person alleged to be liable under S. 1134 would not be subject to any less proof requirements than under a Civil False Claims Act proceeding in court. I would also add that the due process protections provided in S. 1134 are

more than sufficient and go well beyond those afforded under the Administrative Procedure Act.

Mr. President, S. 1134, like my legislation, is strongly supported by the Department of Justice, the Packard and Grace Commissions, the inspectors general, and many others.

I would, therefore, urge my colleagues to lend their support to S. 1134, the Program Fraud Civil Remedies Act, so that the Government will have effective remedies for both large and small frauds.●

NICARAGUA

● Mr. SIMON. Mr. President, I spent part of the recess in the Pacific Northwest, and I came across an editorial in the Oregonian of Portland, OR, on the idiocy of our present policy in Nicaragua.

It asks the basic questions about our confusing policy.

I ask that the editorial be printed in the RECORD and I urge my colleagues to read the editorial.

The editorial follows:

[From the Oregonian, Aug. 24, 1986]

ALL CLEAR ON CONTRAS

President Reagan, in one of those rare lapses into clarity on his Central American policy, said Tuesday that the Contras might have to take over Nicaragua. Since the administration, although seeking to provide $100 million more in aid to the Contras, has never before admitted having the objective of overthrowing the Sandinista government, this statement was considered a new departure.

Wednesday, however, the State Department quickly insisted that American policy toward the Contras was unchanged, that it was just what it was before the president's remark to a Mexican newspaper.

This leaves only one question open: What was it then?

Originally, the United States was aiding the Contras to keep the Sandinistas from supplying the rebels in El Salvador. Then, the president explained that the aim was to make the Sandinistas say "uncle."

For the first time, the president said Tuesday that if the Sandinistas did not make the concessions involved in saying "uncle," the "only alternative" would be for the Contras "to have their way and take over."

There are actually two other alternatives, which the course of the war so far makes more likely: the failure of the rebellion because the Contras can draw little Nicaraguan support, or the introduction of American troops, which much of Latin America already expects.

But until then, American policy is unchanged: The United States is supporting a rebellion against a government it recognizes, but not seeking that government's overthrow.

Everything clear?●

REV. CLYDE ADAMS, D.D.

● Mr. LUGAR. Mr. President, I ask my colleagues in the Senate to join me in honoring Rev. Clyde Adams, D.D., for his 50 years of ministry and his 36 years of service and dedication to members and friends of the Union Baptist Church located in Fort Wayne, IN.

As the pastor of Union Baptist Church, Clyde Adams continues to display superior leadership ability and a deep devotion to correcting the wrongs of our society.

Born in Cherry Valley, AR, Dr. Adams has always been in the forefront of the fight for equal rights for minorities in the economic, legal, education and civic areas. He received an honorary doctorate degree from the Michigan Baptist Theological Seminary and a doctorate of sacred literature from the Ministers Institute and College of West Point, MS. He served 5 years as a member of the Board of Directors of the National Baptist Convention, Inc. Dr. Clyde Adams has shown an unerring ability to motivate others by capturing their enthusiasm and harnessing it for the betterment of this Nation. His leadership and commitment to his fellow man have been a testament to his strength of character as well as a beacon of hope to the city of Fort Wayne and to the State of Indiana. Union Baptist Church was blessed with the arrival of this religious giant; Clyde Adams has truly made a difference in the strive for humans rights.

I ask my fellow colleagues to join me in commending Reverend Adams.●

ABORTION AND INFORMED CONSENT: ALASKA

● Mr. HUMPHREY. Mr. President, this letter from Holly in Alaska, the second in my presentation of letters I have received from women advocating informed consent for abortions, contains testimony representative of the experience of many women who had their abortions years ago. The letter points out that abortion counseling has often been inadequate. In this case, as in others, facile euphemisms like "abortion is safer than childbirth" replace careful explanations of the procedure and its aftereffects.

Women deserve the respect that demands they be informed completely about all surgical procedures, especially one that bears with it the possibility of such severe physical complications as infection, hemorrhage and even sterility. Women must be told before deciding to abort their unborn children that there are various psychological complications which may follow abortion. Alcohol and drug abuse, along with eating disorders, are common aftereffects of abortion. When we examine the emotional and psychological damage done by abortion, we discover what is commonly known as postabortion trauma. It is my belief that informed consent before abortions is a critical preventive measure which should be utilized to reduce the number of incidences of postabortion trauma, and improve the health of American women.

Informed consent for abortion is an urgent need which can no longer be ignored. Today's lack of information will cause tomorrow's cases of postabortion trauma. Thus, we must wonder whether those involved in this conspiracy of silence truly have something to hide. Perhaps the profitability of performing abortions has blinded some to the long-range complications of abortion. I urge my colleagues to read this letter and reflect upon its content. Indeed, there are many women in every State who have suffered, presently suffer, or will suffer as a result of the lack of informed consent before the performance of abortions.

MAY 18, 1986.

DEAR SENATOR HUMPHREY: I want to thank you for introducing the bill regarding informed consent before abortion.

I had an abortion 14 years ago, at the age of 16. I was pressured to have an abortion by those closest to me at the time. I knew nothing about fetal development or how abortions are performed. I asked the family planning counselor about the possibility of emotional and physical risks and was told women feel relieved after abortion and it was much safer than childbirth. That was all I was told even though I told the doctor I wasn't sure I wanted to have an abortion.

Well, my abortion precipitated years of drug and alcohol abuse, an eating disorder and eventually a serious clinical depression. That supposedly safe procedure has had fourteen years of serious repercussions. I believe if I had had basic information about abortion, I would have resisted the pressure to abort and carried my baby to term. My child would not have lost his or her life and I would have been spared the anguish associated with abortion.

Sincerely,

HOLLY TRIMBLE,
Alaska.●

NAUM AND INNA MEIMAN: RESTRICTED FREEDOM

● Mr. SIMON. Mr. President, today the Senate was honored by the presence of Father Lawrence Martin Jenco. It was a blessing to have Father Jenco here in the Capitol, released from captivity in Lebanon. There can be no greater restraint on a human being than the restriction of his or her freedom.

Naum and Inna Meiman are two close friends of mine who live in Moscow. Their freedom, too, is restricted. As citizens of the Soviet Union, Naum and Inna lack the precious rights that most of us take for granted. Inna is 54 and dying of cancer. Her only chance for survival is experimental treatment only available to her in the West. Naum is 74 and a professor in physics. He has not been allowed to work in his field for more than 40 years. They desperately wish to be allowed to emigrate to Israel.

I strongly urge the Soviets to allow Naum and Inna Meiman to emigrate to Israel.●

EGYPTIAN-ISRAELI RELATIONS

● Mr. LUGAR. Mr. President, I would like to take a moment to draw the attention of my colleagues to an important event taking place today: A long-awaited summit meeting between President Hosni Mubarak of Egypt and Prime Minister Peres of Israel, the first meeting between the heads of state of these two countries in 5 years.

Many in Congress have complained over the last several years that relations between Egypt and Israel have not been as cordial as they should be. The negotiations leading to this summit serves to remind us all just how difficult it is to go from a state of war to a state of peace after a generation of hostility and mutual suspicions. But the important thing is that despite the many upheavals in the region since the signing of Camp David, the former enemies have remained at peace.

Better relations between the two countries had been sidetracked by a number of regional events and bilateral concerns. Diligent efforts on both sides over the past 2 years removed the various irritants of concern to both, save one final issue, a 250-acre scrap of desert beach known as Taba, the only part of the Sinai which Israel retained when it returned the rest to Egypt in 1982.

This week, however, perseverance has finally paid off and a Peres-Mubarak meeting is taking place. The summit follows agreement on a broad range of issues including improved trade and tourism, brought about by the determined efforts of both Egypt and Israel, with American assistance, particularly that of Assistant Secretary of State, Richard Murphy.

I think it's important that the U.S. Congress recognize the significance of this agreement and what it demonstrates about the difficulty of achieving peace in the region. We want to tell both sides that we're watching their efforts intently and offer them every possible encouragement.

Both sides have worked diligently, especially in the past year, to resolve the Taba issue and other aspects of their relations, including trade and tourism. President Mubarak and Prime Minister Peres needed to clear up these issues so they could sit down and talk face to face about some of the other pressing issues of conflict in the region.

Mr. Chairman, I would like to tell Mr. Mubarak and Mr. Peres that the U.S. Congress congratulates them on their meeting today and stands behind them in their efforts to forge ahead as the leaders of peace in the region. Working together, Egypt and Israel stand a much better chance of helping to establish a comprehensive peace in the Middle East, for the benefit of all concerned.●

QUESTIONS ON SOUTH AFRICA LEGISLATION

● Mr. LUGAR. Mr. President, in response to some questions raised about H.R. 4868, the legislation on South Africa which the Senate passed on August 15, 1985, I would like to make some clarifying remarks.

First, regarding the exception to the ban on new investment in the bill "to enable a controlled South African entity to operate in an economically sound manner, without expanding its operations," the Senate Foreign Relations report on S. 2701 explained that this provision "allows an extension of funds or assets in the event of a flood, fire or other occurrence which would force the operation to shut down or operate at an uneconomical level." Thus, those responsible for administering this provision would be expected to carefully review any such investments in accordance with the above criteria.

Second, the bill exempts from its ban on new loans "normal short-term trade financing, as by letters of credit or similar trade credits" and "sales on open account in cases where such sales are normal business practice." In determining which loans from U.S. banking institutions fall into these categories, we would expect that the administration would be guided by findings from the Federal Reserve Board's country reports which are based on surveys of loans including those falling into the categories contained in this exemption.

Third, the Senate bill prevents, as Senator WEICKER stated on the floor in amending section 306, "South Africans from leasing aircraft or having their aircraft leased for purposes of direct flight to the United States."

Fourth, the bill's provisions for aid to victims of apartheid are intended to support AID's continuing efforts to provide the victims of apartheid with both effective services and opportunities to promote the development of institutions in which the disadvantaged play important leadership roles and to promote an end to racial polarization by encouraging interracial cooperation on these projects.●

NAUM AND INNA MEIMAN: FREEDOM FOR LIFE

● Mr. SIMON. Mr. President, the movie "Moscow on the Hudson" aired last night on one of the networks. In a humorous and poignant manner, it demonstrated the differences between the Soviet Union and the United States. The story is based on the life of a Soviet musician who defected to New York City. What touched me was how desperately he wanted to leave the Soviet Union.

Professor and Inna Meiman, two very good friends of mine, have been dreaming of this same opportunity for a long time. Terminally ill with cancer, Inna's only chance for survival is treatment which is available only in the West. The character from "Moscow on the Hudson" fought for his freedom, Inna Meiman is fighting for her life. To the Meimans, freedom and life are one in the same. We must not take our freedom for granted and must fight to protect the right to medical treatment and freedom.

I implore the officials of the Soviet Union to allow the Meimans to emigrate to Israel.●

Mr. SIMPSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1810

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, in the spirit of accommodating the Democratic leader I have a statement to make with regard to Justice Rehnquist. It will not be over 10 minutes or so in length. I will make that statement after we conclude.

LEGISLATIVE SESSION

Mr. SIMPSON. Mr. President, I ask unanimous consent to proceed as if in legislative session for a period of 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIVE AMERICAN PROGRAMS AMENDMENTS

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Senate turn to consideration of H.R. 3247.

□ 1820

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3247) to amend the Native American Programs Act of 1974 to authorize appropriations for fiscal years 1987 through 1990.

The bill was considered, ordered to a third reading, read the third time, and passed.

Mr. ANDREWS. Mr. President, I rise today in support of H.R. 3247, a bill to reauthorize and amend the Native

American Programs Act of 1974 for fiscal years 1987 through 1990.

Section 806 of H.R. 3247 requires that certain information be provided by the Commissioner to the committees of jurisdiction with respect to grant rankings. In addition, section 806 requires that the committees be provided a statement of the reasons for deviation from the peer review rankings in awarding grants, in those instances where the Commissioner of the Administration for Native Americans [ANA] exercises this authority under the direction of the Secretary of Health and Human Services to deviate from the peer review ranking.

It is the committee's intent that the Commissioner simply outline his reasons for funding an applicant which significantly deviates from the rank order of applicants developed by panels of peer reviewers. This information should be provided following the completion of each funding cycle. The committee recognizes that the panel rankings are not the only factor the Commissioner uses in deciding which application to fund.

This provision is not meant to restrict the Commissioner's authority. It does not require new application procedures. It simply requires the ANA to provide to the Congress the information which will show that they successfully complied with their own procedures.

Let me add, section 814 (C) and (D) of the bill requires that certain rules or general statements of policy be published in the Federal Register. It is the committee's intent that only rules reflecting major changes in program policy be treated in this manner. For example, if the ANA decided to alter or amend its Social and Economic Development Strategy [SEDS] or change its eligibility requirements, the bill would require public notice.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on third reading and passage of the bill.

The bill (H.R. 3247) was ordered to a third reading, was read the third time, and passed.

Mr. SIMPSON. I move to reconsider the vote by which the bill passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE EXCHANGE PROGRAM VOLUNTARY SERVICES ACT

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Senate turn to the consideration of H.R. 3002, Calendar No. 860.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3002) to provide for the establishment of voluntary services from participants in an executive exchange program of the Government.

The Senate proceeded to consider the bill which had been reported from the Committee on Governmental Affairs, with amendments, as follows:

H.R. 3002

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Executive Exchange Program Voluntary Services Act of 1986".

SEC. 2 DEFINITIONS.

For the purposes of this Act—

(1) the term "Government" means the Government of the United States;

(2) the term "participant in an executive exchange program" means an executive, manager, or other individual from the private sector participating in an executive exchange program administered by the President' Commission on Executive Exchange (described in Executive Order 12493, dated December 5, 1984) or by a successor entity in function;

(3) the term "agency" means an Executive agency (as defined by section 105 of title 5 United States Code), the United States Postal Service, and the Postal Rate Commission; and

(4) the term "employee of the Government" means an individual employed in or under an agency.

SEC. 3. EXPERIMENTAL PROGRAM

(a) The President may establish an experimental program, to be conducted during fiscal years 1987 through 1989, under which voluntary services may be accepted by the Government, without regard to section 1342 of title 31, United States Code.

(b) Under the program, the voluntary services of an individual may be accepted if—

(1) such individual is a participant in an executive exchange program;

(2) the acceptance of such services will not result in the displacement of any employee of the Government; and

(3) the voluntary services will be performed in or under an agency.

(c)(1) An individual performing voluntary services under the experimental program shall, for purposes of any laws, rules, and regulations of the United States (including those relating to conflicts of interest, financial disclosure, and standards of conduct) be considered an individual employed in or under the agency to which assigned, except that such individual shall not be covered by chapter 51, 53, 63, 83, 87, or 89 of title 5, United States Code, or any comparable provision relating to pay, leave, retirement, life insurance, or health benefits for employees of the Government.

(d) Not more than ten individuals may commence participation in the experimental program during any fiscal year.

(e)(1) Nothing in this Act shall prevent—

(A) the continuation to pay and other benefits from the private-sector employer, or

(B) continued participation in a bona fide pension, retirement, group life, health or accident insurance, profit-sharing, stock bonus, or other employee welfare or benefit plan maintained by the private-sector employer,

for an individual performing voluntary services in the experimental program.

(2) For the purpose of this section, the term "private-sector employer", as used with respect to an individual, means the corporation or other person by which such individual was employed immediately before beginning to perform voluntary services in the experimental program.

SEC. 4. REPORTS.

Not later than March 31, 1989, [the President's Commission on Executive Exchange (or a successor entity in function)] *the General Accounting Office* shall transmit to the Congress a report on the experimental program under this Act. The report shall include a description of the administration of the program, the findings of the [Commission (or successor entity)] *General Accounting Office* relating to the advantages and disadvantages of accepting voluntary services from participants in an executive exchange program, and recommendations for legislation (if any) relating to the continuation of the program.

Mr. LAUTENBERG. Mr. President, I am pleased that the Senate is considering the Executive Exchange Voluntary Services Act of 1986. I cosponsored an earlier version of this bill and support its passage.

The Executive Exchange Program was created by President Johnson in 1969 to encourage improved understanding between the Government and private industry. Government executives were to be placed in the private sector for a year, and executives from the private sector would work in the Government at the same time. The experience of working in another environment with a different set of challenges and problems is intended to broaden the perspective with which Government and private leaders view each other's worlds.

Under current law, for the year that they spend in the Government, the private executives are Federal employees, paid by the Federal Government and subject to the conflict of interest and ethical codes applicable to all Federal employees. Their pay is based on the compensation the executives would have earned with their companies, but it cannot exceed the ceiling set for pay in the Federal Senior Executive Service.

The pay ceiling in the existing Executive Exchange Program has caused a recruitment problem. Private sector executive salaries frequently exceed the maximum that the Federal Government can pay. Many qualified private sector executives who would be interested in the program are deterred from participating by the prospect of having to accept a cut in pay for the year that they would be working for the Federal Government.

The bill before us today proposes a solution to the recruitment problem. This legislation sets up a 3-year experiment in which a maximum of 10 private sector executives would be part of the Executive Exchange Program, but paid their usual salaries by their sponsoring company. These executives would be serving as volunteers in the Federal agency to which they are assigned. However, in all respects, except pay and benefits, the executives in this experimental program would be considered Federal employees.

Mr. President, the Executive Exchange Program has been a success. Almost 500 private sector executives have participated since the program began. Significant cross fertilization of ideas, management techniques, and policy analysis has occurred. The program should be revised to permit its continued success.

Because it offers an experimental approach to the exchange program, the bill requires a report to Congress at the end of the experiment. With appropriate safeguards, the Executive Exchange Program should be able to go forward with this experiment in volunteer services and maintain the valuable interchange of private and public sector management expertise.

The PRESIDING OFFICER. The question is on agreeing to the amendments.

The amendments were agreed to.

The PRESIDING OFFICER. The bill is before the Senate and open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 3002), as amended, was passed.

Mr. SIMPSON. I move to reconsider the vote by which the bill passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AVIATION COMMISSION SAFETY ACT

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Senate now turn its attention to Calendar Order No. 880, S. 2417.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2417) to establish the Aviation Safety Commission, and for the purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike out all after the enacting clause, and insert the following:

That this Act may be cited as the "Aviation Safety Commission Act of 1986".

COMMISSION ESTABLISHED

SEC. 2. (a) There is established a Commission to be known as the Aviation Safety Commission (hereinafter referred to as the "Commission").

(b)(1) The Commission shall be composed of seven members appointed by the President no later than 30 days after the date of enactment of this Act.

(2) Appointees to the Commission shall possess extensive experience and expertise at the highest executive levels of public or corporate management.

(3) No member of the Commission shall, at the time of such member's appointment, be an employee or officer of the Federal Government, nor shall any member have been an employee of the Federal Government for at least 3 years before such member's appointment to the Commission.

(4)(A) At least four members of the Commission, including the Chairman, shall not have performed any service or have been involved in any way in any business concern in air commerce or any aviation-related industry for at least 3 years before their appointment to the Commission.

(B) For the purposes of this paragraph, the term "air commerce" has the meaning given to such term in section 101(4) of the Federal Aviation Act of 1958 (49 App. U.S.C. 1301(4)).

(c) The President shall appoint one of the members to serve as Chairman of the Commission.

(d) Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(e) Four members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(f)(1) The Commission shall hold its first meeting within 30 days after the appointment of all members.

(2) The Commission shall meet at the call of the Chairman or a majority of the members.

(g) Members of the Commission shall serve until the expiration of the Commission pursuant to section 3(f) of this Act.

FUNCTIONS OF THE COMMISSION

SEC. 3. (a) The Commission shall make a complete study of the organization and functions of the Federal Aviation Administration (hereinafter referred to as the "Administration") and the means by which the Administration may most efficiently and effectively perform the responsibilities assigned to it by law and increase aviation safety.

(b) In conducting such study, the Commission shall consider whether—

(1) the Administration has been provided adequate resources and has adequately utilized the resources provided to ensure aviation safety;

(2) the dual responsibilities of the Administration of promoting commercial aviation and ensuring aviation safety are in conflict, and whether such conflict impedes the effective maintenance and enhancement of aviation safety;

(3) the Administration should be reorganized as an independent Federal agency with the promotion, maintenance, and enhancement of aviation safety as the sole responsibility of such agency;

(4) the promotion of commercial aviation should be assigned as a responsibility to another agency of the Federal Government;

(5) airline deregulation has an adverse effect on the margin of aviation safety, including a review of whether the practice of airline self-compliance with respect to aviation maintenance standards is an outmoded approach in an environment designed to maximize cost-savings; and

(6) it is feasible to make mandatory certain or all of the safety recommendations issued by the National Transportation Safety Board.

(c) The study conducted under this section shall include findings and recommendations, including any recommendations for legislative action, regarding—

(1) the most appropriate and effective organizational approach to ensuring aviation safety; and

(2) measures to improve the enforcement of Federal regulations relating to aviation safety.

(d) In conducting such study, the Commission shall consult with the National Transportation Safety Board and a broad spectrum of representatives of the aviation industry, including—

(1) air traffic controllers;

(2) representatives of the commercial aviation industry;

(3) representatives of airways facilities technicians;

(4) independent experts on aviation safety;

(5) former Administrators of the Administration; and

(6) representatives of civil aviation.

(e) Within 9 months after the date of enactment of this Act, the Commission shall submit a report on the study conducted pursuant to this section to the President and to each House of the Congress. Such report shall contain a detailed statement of the findings and conclusions of the Commission, together with recommendations for legislative and administrative actions.

(f) The Commission shall cease to exist 9 months after the date of enactment of this Act.

POWERS AND ADMINISTRATIVE PROVISIONS

SEC. 4. (a) The Commission may, for the purpose of carrying out the provisions of this Act, hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, and publish such reports as the Commission considers appropriate.

(b)(1) Subject to such rules as may be adopted by the Commission, the Chairman, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 of such title relating to classification or chapter 53 of such title relating to General Schedule pay rates, may—

(A) appoint and fix the compensation of such staff personnel as the Chairman considers necessary, including an executive director who may be compensated at a rate not in excess of that provided for level V of the Executive Schedule in title 5, United States Code; and

(B) procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code.

(2) Any person appointed as executive director pursuant to paragraph (1)(A) of this subsection shall meet the same qualifications required of members pursuant to section (2)(b) if this Act.

(c) Each department, agency, and instrumentality of the executive branch of the Federal Government, including independent agencies, shall furnish to the Commission, upon request made by the Chairman, such information as the Commission considers necessary to carry out its functions.

(d) Upon request of the Commission, the head of any Federal agency may detail, on a reimburseable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties.

(e) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(f) The Commission may use the United States mail in the same manner and under the same conditions as other departments and agencies of the United States.

(g) Any member or agent of the Commission may, if so authorized by the Commission, take any action which the Commission may take under this section.

COMPENSATION OF MEMBERS

SEC. 5. Members of the Commission shall serve without compensation, but shall be reimbursed for travel or transportation expenses under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business and engaged in the actual performance of duties of the Commission.

AUTHORIZATION OF APPROPRIATIONS

SEC. 6. There are authorized to be appropriated for fiscal year 1987 $2,000,000 to carry out the provisions of this Act.

The PRESIDING OFFICER. Without objection, the committee amendment in the nature of a substitute is agreed to.

The committee amendment in the nature of a substitute was agreed to.

Mr. BYRD. Mr. President, on Sunday, August 31, 1986, Aeromexico Flight 498, carrying 58 passengers and 6 crew members collided in the skies of Los Angeles with a small single-engine Piper Cherokee. Both aircraft plunged to the ground killing everyone on board. To compound the tragedy, the Aeromexico DC-9 crashed into a Los Angeles suburb, damaging or destroying 11 homes, and, according to preliminary estimates, killing 22 residents.

This latest tragic aviation incident is further evidence of the declining margin of aviation safety the Nation has experienced over the past several years. Since 1975, reports of aviation safety incidents—e.g., near midair collisions, surface operational errors, and crashes—have been occurring more frequently.

For example, in 1975 an aviation safety incident was reported for every 12,805 aircraft departures. By 1980, an incident was reported for every 7,377 departures, a 42 percent decline in the number of departures between incidents during the period 1975–80.

Despite a temporary improvement in the margin of safety during the period 1980–82, perhaps reflecting the FAA's restrictions on air traffic at the busiest airports in response to the air traffic controllers' strike in 1981, the margin of safety continues to decline.

Between 1982 and 1985, the number of departures per incident decreased from 12,031 in 1982, to 5,323 in 1985, a 56-percent decline over the period.

Simply stated, the problem is that the skies have become more crowded over the past few years. For example, the number of commercial passenger airlines has increased from 29 in 1978, to 307 in 1986. The number of commercial passenger aircraft operated has increased from 2,145 in 1978 to 3,824 in 1984. And, in light of the Aero-Mexico incident, one must not neglect to mention that the number of general aviation aircraft in operation has increased from 177,964 in 1978, to 220,940 in 1984.

The Federal Aviation Administration has been overwhelmed by the increased number of commercial flights, aircraft, and airlines. In the face of the dramatic growth in the commercial airline industry, the FAA has not yet recovered from the 1981 air traffic controllers strike. Indeed, there are 4,344 fewer experienced air traffic controllers employed by the FAA in 1986 than there were in 1981 before the strike. In addition, there are serious shortcomings in the FAA's system to ensure compliance with Federal safety regulations relating to aircraft maintenance and operations. For example, in fiscal year 1986 there are 30 percent fewer FAA inspectors to ensure such compliance than there were in 1978.

The problem is not just a question of money. Congress has been more than willing to provide the FAA with the resources necessary to ensure aviation safety. Indeed, Congress has consistently appropriated more funds than requested by the FAA for its operating budget. In each of fiscal years 1985 and 1986, the FAA requested $2.7 billion for FAA operations, and, each year, the Congress appropriated $2.8 billion.

Central to the difficulties facing the FAA is a policy conflict between the Agency's statutory duties to promote commercial aviation and ensure its safety. This conflict may adversely affect the margin of aviation safety. Two years after the enactment of the Airline Deregulation Act of 1978, a congressional report expressed concern that this conflict could adversely affect aviation safety. The report concluded that FAA's conflicting policy goals were providing inadequate policy direction, and that this was "hurting Government efforts and could eventually lead to a situation that would endanger public safety."

Six years after that report, there is still reason for concern. Indeed, there are indications that the FAA provides assistance to the very carriers it shuts down for safety-related violations. For example, the FAA played a major role in helping Provincetown-Boston Airlines get back into business after the carrier's operating license was lifted by the FAA. Subsequent to its reopening, with FAA assistance, a Provincetown-Boston flight crashed near Jacksonville, FL, on December 6, 1984, killing 13 persons.

Mr. President, in view of the recent Aeromexico tragedy, and the concerns regarding the FAA's ability to meet the challenges brought by the dramatic growth of the airline industry, it is time for an independent reexamination of the FAA, the Nation's Aviation Safety Policy, and the impact of Airline Deregulation on Aviation Safety.

S. 2417, the Aviation Safety Commission Act, is a response to those concerns. On August 7, the Senate Committee on Commerce, Science, and Transportation reported the bill after hearings which were held on July 17 by the Subcommittee on Aviation. The bill was supported by the Air Transport Association, the Airline Pilots' Association, the National Air Traffic Controllers Association, the Professional Airways Systems Specialists, and the Aviation Safety Institute.

The bill has 16 cosponsors, including Senators HOLLINGS, EXON, FORD, ROCKEFELLER, PROXMIRE, ANDREWS, CHILES, LONG, MATSUNAGA, KASSEBAUM, GOLDWATER, KASTEN, LAUTENBERG, SIMON, RIEGLE, and GORTON.

S. 2417 directs the President to appoint a seven-member, Blue Ribbon Aviation Safety Commission to make a complete study of the organization and functions of the FAA and the means by which the FAA may most effectively enhance aviation safety.

The duties of the Commission include consideration of whether the dual responsibilities of the FAA—promotion and regulation—are in conflict, thus impeding safety; and whether the FAA should be reorganized as an independent Federal agency with aviation as its sole responsibility.

Nine months from the date of enactment, the Commission is to submit a report to the President and the Congress containing the Commission's findings and recommendations, including any recommendations for legislation.

The work of the Commission will make a valuable contribution to congressional efforts to restore the margin of aviation safety. Until this essential goal is achieved, it is premature to declare that airline deregulation is a success, or that the Nation's skies are as safe as they can be. The enactment of S. 2417 represents a major step forward in the effort to accomplish the goal of ensuring aviation safety.

● Mr. HOLLINGS. Mr. President, I am in strong support of Senator BYRD's Aviation Safety Commission Act. I believe that this legislation will result in a significant contribution to

our knowledge about the safe operation of our Nation's air transportation network, and I urge my colleagues to support its passage.

With the recent tragic mid-air collision in the skies over southern California earlier this month, the question of how safe are our skies once again faced the national spotlight. As of yet, we do not know the cause of the accident that resulted in the death of the 61 people aboard the Aeromexico DC-9 aircraft, the three people aboard the Piper aircraft, and the unknown number of people on the ground. Was it oversight by the air traffic controller who was too busy with other aircraft in his sector? Was it neglect on the part of the Piper pilot, flying into an area where he should not have been?

More importantly, what can and should be done to make sure that this type of accident never occurs again?

The Aeromexico accident may have had its own unique set of characteristics that provide little to our understanding and enhancement of aviation safety. However, because it comes on the tail of one of the worst years in terms of aviation safety, it must be considered as another sign of the growing threat to the traveling public. Such is one reason why I cosponsored S. 2417, and one reason why we must have an Aviation Safety Commission.

A second reason is airline deregulation. We deregulated the airlines in 1978, but we did not deregulate safety. No one has ever said that was our intention. But I am afraid that at various times in recent years, that is precisely what appears to have happened.

With airline deregulation diminishing the perceived margin of safety in the airline industry, the Congress must have some impartial body to rely on in its future deliberations on the Federal Aviation Administration and aviation safety. We will be asked before the end of the fiscal 1987 to extend the authorization of the FAA. And as a result, we will have to consider proposals being made to restructure the FAA into an independent agency, or possibly even to turn the operations of the air traffic control system over to a nonprofit, nongovernmental entity.

These are just some of the issues we face. And given the traditional inability of this body to take swift, bold actions, we must have the independent analysis that the Byrd Commission would provide.

S. 2417 is very simple. Within 30 days of enactment, the President would be directed to appoint seven individuals to examine a wide range of factors affecting safety. This Commission would be in existence for no more than 9 months, and it would report its findings and recommendations to the President and the Congress.

By acting today, we can begin the process that will provide us with the results of this review by early next summer, time enough to use in a constructive manner as a part of our authorization of the FAA and the Airport and Airway Improvement Program.

I commend the leadership of the Democratic Leader, Senator BYRD, in sponsoring this legislation. He has recognized the need for a high-level Commission and taken the necessary steps to create it. And I urge this body to support its swift passage.●

The PRESIDING OFFICER. If there be no further amendments to be proposed, the question is on the engrossment and the third reading of the bill.

The bill (S. 2417) was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. BYRD. I move to reconsider the vote by which the bill passed.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I thank the distinguished acting Republican leader for calling up this measure today. I also thank the distinguished majority leader and the staffs on both sides of the aisle for clearing the way for passage of this measure today.

My statement, printed in the RECORD, is in explanation of the measure.

I introduced this measure several weeks ago and I appeared to testify in support of it before the subcommittee of the Committee on Commerce. The subcommittee is chaired by the distinguished Senator from Kansas [Mrs. KASSEBAUM]. Mrs. KASSEBAUM, in addition to being chairman, is a cosponsor of that legislation, along with 16 others, as I previously mentioned. I thank them for their cosponsorship.

I am grateful for the action of the Senate in giving its approval by unanimous consent to this very important piece of legislation.

I ask unanimous consent that if any other Senators wish today to add their names as cosponsors, they may yet be permitted to do that for the record.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank the distinguished acting Republican leader.

Mr. SIMPSON. Mr. President, I thank the Democratic leader for his courtesy. I also share with him the belief that aviation safety is of concern to all of us, and I subscribe to his remarks. They are most appropriate.

Mr. BYRD. Mr. President, I thank the distinguished acting leader for his statement.

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PERMANENT BOUNDARY OF ACADIA NATIONAL FOREST

Mr. SIMPSON. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 720.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendments of the Senate numbered 1, 2, and 3, to the amendment of the House to the bill (S. 720) entitled "An Act to establish a permanent boundary for the Acadia National Park in the State of Maine, and for other purposes.".

Resolved, That the House disagree to the amendment of the Senate numbered 4 to the aforesaid bill.

Mr. SIMPSON. I move that the Senate recede from its amendment No. 4 to the amendment of the House of Representatives to the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. I move to reconsider the vote.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SIMPSON. Mr. President, if I had known it was in Maine, I never would have gone through that. I say to Senator MITCHELL, congratulations on that effort.

EXECUTIVE CALENDAR

Mr. SIMPSON. Mr. President, I would like to inquire of the minority leader if he is in a position to confirm the following nominations on the Executive Calendar:

No. 997, Ann Barbara Wrobleski;
No. 998, Brunson McKinley;
No. 1000, Herbert E. Horowitz;
No. 1001, Carol Boyd Hallett;
No. 1002, Princeton Nathan Lyman;
No. 1003, Dennis Kux;
No. 1004, David Lyle Mack;
No. 1005, Sam H. Zakhem;
No. 1006, Clair W. Burgener;
No. 1007, Milton Frank;
No. 1008, Lynn Marvin Hansen;
No. 1009, Richard W. Carlson; and all nominations placed on the Secretary's desk except Edwin G. Corr.

Mr. BYRD. Mr. President, all of the nominees identified by the distinguished acting Republican leader have been cleared by all Members on this side. We are ready to proceed with the confirmation thereof.

Mr. SIMPSON. I thank the Democratic leader.

EXECUTIVE SESSION

Mr. SIMPSON. I therefore ask unanimous consent that the Senate go into executive session in order to con-

sider the nominations just identified and that the nominations be considered en bloc and confirmed en bloc.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF STATE

Ann Barbara Wrobleski, of Maryland, to be Assistant Secretary of State for International Narcotics Matters.

Brunson McKinley, of New Jersey, a career member of the Senior Foreign Service, class of counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Haiti.

Herbert E. Horowitz, of Florida, a career member of the Senior Foreign Service, class of minister-counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of The Gambia.

Carol Boyd Hallett, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Commonwealth of the Bahamas.

Princeton Nathan Lyman, of Maryland, a career member of the Senior Foreign Service, class of career minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federal Republic of Nigeria.

Dennis Kux, of New York, a career member of the Senior Foreign Service, class of minister-counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Ivory Coast.

David Lyle Mack, of Oregon, a career member of the Senior Foreign Service, class of minister-counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the United Arab Emirates.

Sam H. Zakhem, of Colorado, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the State of Bahrain.

BOARD FOR INTERNATIONAL BROADCASTING

Clair W. Burgener, of California, to be a Member of the Board for International Broadcasting for a term expiring April 28, 1988.

AFRICAN DEVELOPMENT FOUNDATION

Milton Frank, of California, to be a Member of the Board of Directors of the African Development Foundation for the remainder of the term expiring February 9, 1990.

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

Lynn Marvin Hansen, of Idaho, to be an Assistant Director of the U.S. Arms Control and Disarmament Agency.

U.S. INFORMATION AGENCY

Richard W. Carlson, of California, to be an Associate Director to the U.S. Information Agency.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE FOREIGN SERVICE, SENIOR FOREIGN SERVICE

Foreign Service nominations beginning Charles Harold Antholt, and ending Earl J. Young, which nominations were received by the Senate and appeared in the Congressional Record of August 7, 1986.

Mr. SIMPSON. I move to reconsider the vote by which the nominations were confirmed en bloc.

Mr. BYRD. Mr. President, I move to lay the motion on the table.

The motion to lay on the table was agreed to.

Mr. SIMPSON. Further, Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. SIMPSON. I ask unanimous consent that the Senate resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR FRIDAY

RECESS UNTIL 10 A.M.

Mr. SIMPSON. Mr. President, I ask unanimous consent that once the Senate complete its business today, it stand in recess until 10 a.m. on Friday, September 12, 1986.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

RECOGNITION OF CERTAIN SENATORS

Mr. SIMPSON. Mr. President, I ask unanimous consent that on tomorrow, following the recognition of the two leaders under the standing order, the following Senators be recognized for not to exceed 5 minutes each, for special orders: Senators HAWKINS, PROXMIRE, BOSCHWITZ, and LEVIN.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ROUTINE MORNING BUSINESS

Mr. SIMPSON. Mr. President, following the special orders just identified, I ask unanimous consent that there be a period for the transaction of routine morning business, not to extend beyond 11 a.m., with Senators permitted to speak therein for not more than 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. SIMPSON. Mr. President, at 11 a.m. tomorrow, the Senate will resume consideration of the nomination of William Rehnquist to be Chief Justice of the United States, in executive session.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I ask unanimous consent to insert in the RECORD at this point a statement of mine welcoming a spiritual hero, Father Jenco, who gave the prayer at the opening of today's session.

I will not impose on the time of the distinguished acting Republican leader further. He has been very generous in going out of executive session to transact the housekeeping matters. We refer to them as housekeeping matters. They are matters which have been cleared for action by unanimous consent, both on the Executive Calendar and on the Legislative Calendar.

I thank the distinguished acting Republican leader, my good friend, ALAN SIMPSON.

Mr. SIMPSON. Mr. President, it is a pleasure to accommodate the Democratic leader. He has done that for me on many occasions, and I am most appreciative.

WELCOME TO A SPIRITUAL HERO

Mr. BYRD. I know that I speak for all our colleagues when I say that I was moved by Father Jenco's prayer and by his presence with us this morning.

For millions of Americans and other civilized people around the world, Father Jenco is a symbol of the irrationalities of the age in which we find ourselves.

Some generations ago, a purveyor of popular philosophy, exploiting the outlook of a more shallow era, encouraged his readers to get up every morning, look into their mirrors, and proclaim joyfully, "every day, in every way, you are getting better and better." That sentence, indeed, at one time captured a widespread attitude. Did not the galloping advance of science, the rampant multiplication of technology, and the rising flood of manners and etiquette presage an eon of human perfection and decency?

Subsequent events proved that faith naive. Hopes for the automatic blossoming of a more civilized world have been dashed by war, totalitarianism, fanaticism, and terrorism.

Perhaps no region of the world has suffered more from such evils in recent years than has the Middle East. The barbarism there reached new depths with the kidnaping of Father Jenco. How paradoxical that a man who had been sent there to serve the needs of people and to help heal broken lives should fall victim to the very forces that continue to rend the fabric of life in that region.

We rejoice with Father Jenco, his family, and his friends upon his safe return to our country. We also admire Father Jenco for the outstanding witness of courage and spiritual strength that he demonstrated during his ordeal and has continued to show since coming home. Without a doubt, Father Jenco is one of the true spiritual heroes of our time, and we are honored that he can visit with us here in the Senate.

I know also that I speak for all of our colleagues in saying that we shall not rest content until, like Father Jenco, all of our other fellow Americans being held prisoner by barbarians in Beirut once again stand free on the soil of the United States.

EXECUTIVE SESSION

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Senate now resume executive session.

There being no objection, the Senate resumed consideration of executive business.

NOMINATION OF WILLIAM H. REHNQUIST TO BE CHIEF JUSTICE OF THE UNITED STATES

The Senate continued with the consideration of the nomination of William H. Rehnquist to be Chief Justice of the United States.

Mr. SIMPSON. Mr. President, I have a few brief remarks on Justice Rehnquist. I have not spoken on the issue, and the hours have rolled by. I thought I would take a few minutes and try to summarize my own views, and then we will conclude our operations for today.

I am on the Judiciary Committee. I have seen Justice Rehnquist testify. I have come to know him in my time here.

He has an extraordinary record, academically and professionally. I will not go into that. It has already been recited very well. His fellow practicing attorneys in the American Bar Association—those with both the expertise and perspective to best judge a judiciary nominee—have given Justice Rehnquist their highest recommendations. His brethren and sister on the Supreme Court, those who have the most intimate knowledge possible of the nominee's qualifications and responsibilities of office, have strongly endorsed his nomination, including my friend William Brennan, for whom I have the greatest respect and admiration, and others—of my philosophy and not of my philosophy—as based upon a review of his decisions and background.

Those of us in this body who believe we all know better should take a more serious look at the evidence which is available before choosing to embark on a course of harsh and pompous criticism of this fine man. They must look at the record Justice Rehnquist has established these last 15 years as a member of the Supreme Court. To call it anything but distinguished would be a gross distortion of the truth.

So, because of the awesome strength of the nominee, the critics of the nomination had to go back 20 to 30 years to dig up the old bones and get into the old closets to find material that they believe is negative.

Who among those performing the inquisition could pass that test? That is curious to me. That is a base irony of the whole situation.

I have had a rather checkered career—it has been dazzling—and I will not go into that. But there are a lot of things in it that I wish I had not done. Some I did when I was very young and some I did when I was not so young.

But they were goofy and some of them were bizarre, and I will not go into the full line of activity.

Because of the fact that Justice Rehnquist's life was not a part of the public record at that time, the information rebutting the ancient and flimsy accusations is very difficult to reorganize.

I practiced law for 18 years; witnesses could not remember what happened 2 years after the event—now we go back 17, 20, 30 years, and the criticisms of the nominee even under those circumstances and before and after are amazingly weak.

The allegations from the Phoenix panel are based on hearsay, loose facts, and even worse. One witness bases his entire allegation of "voter harassment" on hearsay evidence that would never be admissible, never—even against the sleaziest felon—in a court of law.

Another witness claims that a man he believes to be Rehnquist ran through a voting line challenging voters and threatened this witness with his clenched fists, and this witness identified Rehnquist through a picture of William Rehnquist in a local newspaper nearly 7 years after the incident. How weak and puny that is as evidence.

It would be hard for me to believe that a 37-year-old lawyer, a Stanford graduate, first in his class, former Supreme Court law clerk and head of a lawyers committee on local election procedures, would be challenging some voter to a fist-fight. That does not really ring.

We have I think a bridge up in Brooklyn for anyone who might believe that and we could peddle it.

There has been criticism of the restrictive covenant in a deed for a house that the Justice owns. We all know that those are extremely offensive, obviously, and extremely repugnant. These covenants have no legal effect and they appear in many, many instruments—drafted, printed forms—in those years past.

Former President Kennedy, former Vice President Humbert Humphrey, former Senator McGovern have owned homes with similarly restrictive deeds that they did not attempt to remove. My own father had a similar covenant on his first home.

What is all the hurrah about that?

No one would suggest that these deeds impugned the commitment to civil rights of those men I just mentioned. Yet some imply that such a deed "says something" about Justice Rehnquist.

I think that is bosh.

Some claim that a memo written in 1952 to Justice Jackson might display Justice Rehnquist's "true feelings" about the Brown decision and the issue of racial segregation.

Justice Rehnquist has convincingly rebutted that allegation and there is no evidence at all to lead us to think otherwise. None has arisen.

Again, this is an allegation that is not only weak of its own accord, but with an additional defect of being over 34 years old with more gray hair on it than I have.

Some have questioned the "credibility" of the nominee, based on his responses to questions concerning the Phoenix panel, the restrictive covenants and the Brown decision memo.

I should point out that we challenge the integrity of a Supreme Court Justice by doing so, but what we are about is beginning to demean the Court. We are beginning to demean the U.S. Supreme Court. Others are on that Court who have served on it for 15 years or more. When do we bring them back here for some more fun and games? Maybe we just ought to sweep through there every 15 years, bring them back—they have been sitting, have a fine record, very credible—bring them back here and see what we can find on them 20, 30 years back down the road. None of us again could pass that test.

And importantly, some extremely questionable, and I use the word "extremely" because everybody else has used the word "exteme" about Justice Rehnquist on the other side of the issue—I have heard it used and used, extreme, extreme, extreme—I say there has been some extremely questionable evidence used to challenge Justice Rehnquist's answers on these subjects.

But before we challenge Justice Rehnquist's "credibility," and it comes in quotations marks, because it continues to come up from the opponents, we should determine whether the evidence on which those allegations are based is at all credible.

And based on what I have personnally seen at the hearings, read in the Judiciary Committee report on the nomination, evidence that Justice Rehnquist challenged voters, embraced restrictive convenants or endorsed the statements on the Jackson memo, is just not credible.

Since the Judiciary Committee proceedings, charges have appeared concerning Justice Rehnquist's authorship of memos while he was in the Justice Department—memos that dealt with desegregation and in opposition to the ERA.

I believe the attention being paid to those memos tells us more about the sheer pettiness and desperation of Mr. Rehnquist's opponents than about any doubt a reasonable person might have with the nominee's fine qualifications.

The desegregation memo was written at the request of the White House as were many other memos. If you were the President's lawyer, would you respond that you could not provide such a memo because you did not agree with its content? They were asked to do those things.

We lawyers, all of us, have often said, "Give me a brief on the other side; make it look as good as you can; give me the arguments." That is what he did. He produced those things. That is our business. That is our life in the law.

Then to make something sinister out of that when you find one of those things in an old file is really absurd.

The ERA memo was written in the first person because it was not intended to be an objective analysis. Justice Rehnquist was instructed to take a position of opposition to the ERA in order to balance the arguments made by another Department of Justice lawyer who was in favor of the ERA. That all gets lost in the swamps around here. It is extraordinary to watch.

If a lawyer were not a capable advocate, as Justice Rehnquist displays himself to be in that memo, he would not be qualified to be a Chief Justice. Those who accuse Justice Rehnquist of endorsing all of the arguments that he put forth in the memo are being deliberately deceptive and they know darn well it is not true. They know that in their hearts, but they have been having a good old time with it.

An interesting historical note to the ERA issue, Mr. President: The Nixon administration did come out in support of ERA. I happen to support it; I have supported that in the past.

And so, I have concluded that the allegations concerning Justice Rehnquist's unfitness to be Chief Justice are unfounded, vague, baseless, petty, and irresponsible. And really quite galling.

I have said before—and in politics, I find there is no such thing as repetition—you either pass or kill a bill in this place or confirm or not confirm a person in this place by using a deft blend of emotion, fear, guilt, or racism. Kind of a funny arena in which to work. And you have never seen it better than right here—racial imuendos, emotional innuendos, fearful innuendos, guilt. Heavens, I mean, really, it is an exhaustion of the process.

Because if you really want to be intellectually honest, just get up and say:

Mr. Rehnquist, I don't like your philosophy. I don't like it at all. I think it is bad for the country. I think you are bad for the country and I will not vote for you.

Period, with emphasis. That would do it very nicely. Then we would not have to go through all of this remarkable posturing and watch it go on for days as it did in the committee and now hours here.

That is the issue. "I don't like his philosophy. I haven't the courage to say it," and the rest of it is applesauce every foot of the way.

And they do not have the political courage to come at him like a Mack truck with six headlights bearing down on him. That would at least be honest and better than this stuff which, again, I have described as like getting pecked to death by ducks.

Also, when you turn the bugeyed zealots loose on a person like this, it has some extraordinary repercussions that will come back to, I think, a loss of credibility of those who profess it.

Well, I conclude, I strongly and deeply believe the Senate has this role, a very important role to play in providing the advice and consent to the President on his judicial nominations. I believe that the Senate has performed that task. We have done that and then some.

I am very puzzled, nay, troubled by those some who claim that now a "cloud has formed" over the nomination. That is like "Joe Btfsplk," or whatever it was, in Li'l Abner, who had the cloud in a permanent condition above his head. Should one really complain about the chance of rain when he has been up in the airplane seeding the clouds on this one?

I am also troubled by some who state they believe the Chief Justice must now be a "symbol" of something. We would think it is a symbol of equal justice. But there is a sinister connotation now in everything we see on Justice Rehnquist. An interesting spin. The "spin doctors" are at work.

Unfortunately, this has come to mean that the Chief Justice is a symbol, but it will be terribly unfortunate for the Court if he is a symbol or she is a symbol which must meet the approval of every single special-interest group that happens to have a Washington office and a hyperactive executive director. But that is how they get paid. That is how they keep their doors open. Juice up the troops and get the dues in and say they are fighting at the final bastion of whatever before we get on with something which will destroy the Republic.

So, in my mind, the Chief Justice must symbolize the wise—that is what he should symbolize—the wise, even-handed, fair, responsible, intelligent interpretation of the U.S. Constitution and the U.S. laws.

He is a good man. I know of no person more qualified than Justice William Rehnquist to perform this task, and I strongly support his nomination. He has been pilloried in a bizarre way. And I am interested as to how it should be that there should be a higher standard for him or any Chief Justice or Justice than there should be for a U.S. Senator. That one skips my logic chain. A higher standard for a Chief Justice than for a U.S. Senator? That is absurd.

And yet, some who are lobbing in the old mortar shells, I wonder how they would be on the other end in the trench. I do not think they would pass the test.

We lose ground when we throw mud. It is an old phrase, but it is surely true. So let us get on with our work and I hope we do.

RECESS UNTIL 10 A.M. TOMORROW

Mr. SIMPSON. Mr. President, I move, in accordance with the previous order, that the Senate stand in recess until 10 a.m. on Friday, September 12, 1986.

The motion was agreed to; and, at 6:51 p.m., the Senate in executive session recessed until Friday, September 12, 1986, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate September 11, 1986:

DEPARTMENT OF STATE

Elinor Greer Constable, of New York, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Kenya.

James Wilson Rawlings, of Connecticut, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Zimbabwe.

THE JUDICIARY

John L. Napier, of South Carolina, to be a judge of the U.S. Claims Court for a term of 15 years, vice Kenneth R. Harkins, term expired.

John Paul Wiese, of Virginia, to be a judge of the U.S. Claims Court for a term of 15 years, reappointment.

Patrick J. Duggan, of Michigan, to be U.S. district judge for the eastern district of Michigan vice a new position created by Public Law 98-353, approved July 10, 1984.

Thomas B. Wells, of Georgia, to be a judge of the U.S. Tax Court for a term expiring 15 years after he takes office, vice Richard C. Wilbur, retired.

DEPARTMENT OF JUSTICE

Donald Ray Melton, of Arkansas, to be U.S. Marshal for the eastern district of Arkansas for the term of 4 years vice Charles H. Gray, term expired.

SENIOR FOREIGN SERVICE

The following-named career members of the Senior Foreign Service of the Department of State for promotion in the Senior Foreign Service to the classes indicated:

Career members of the Senior Foreign Service of the United States of American, class of Career Minister:

Harry E. Bergold, Jr., of Florida.

William Andreas Brown, of New Hampshire.
Charles Hill, of New Jersey.
Herbert Stuart Okun, of the District of Columbia.
William Lacy Swing, of North Carolina.
Career members of the Senior Foreign Service of the United States of America, class of Minister-Counselor:
Charles E. Angevine, of Florida.
Thomas S. Brooks, of Wyoming.
Morris Dempson Busby, of Virginia.
Thomas J. Carolan, Jr., of Maryland.
Bruce Wormley Clark, of Iowa.
Harry L. Coburn, of New York.
Michael V. Connors, of Washington.
Robert Grant Deason, of California.
Charles F. Dunbar, Jr., of Maine.
David Joseph Fischer, of Texas.
Anthony G. Freeman, of New Jersey.
Harry J. Gilmore, of Pennsylvania.
Larry C. Grahl, of Ohio.
Olaf Grobel, of Tennessee.
John Paul Heimann, Sr., of Connecticut.
Irvin Hicks, of Maryland.
Arthur H. Hughes, of Nebraska.
Harriet Winsar Isom, of Oregon.
George William Jaeger, of Vermont.
Dalton V. Killion, of California.
Arthur L. Kobler, of New Jersey.
John C. Kornblum, of Michigan.
Vladimir Lehovich, of New York.
Perry W. Linder, of California.
Thomas E. McNamara, of New York.
Richard H. Melton, of Maryland.
Gerald Joseph Monroe, of New Mexico.
Day Olin Mount, of Massachusetts.
Richard Ogden, of Connecticut.
Miles S. Pendleton, Jr., of Washington.
John H. Penfold, of Colorado.
Vernon Dubois Penner, Jr., of New York.
Robert L. Pugh, of Virginia.
Peter Semler, of New York.
Robert E. Service, of California.
Pierre Shostal, of the District of Columbia.
Charles R. Stout, of California.
David H. Swartz, of Illinois.
Paul D. Taylor, of New York.
Victor L. Tomseth, of Oregon.
George A. Trail, III, of Pennsylvania.
Theresa A. Tull, of New Jersey.
Philip C. Wilcox, Jr., of Colorado.
Richard Llewellyn Williams, of Pennsylvania.
Larry Charles Williamson, of California.
Ronald E. Woods, of Florida.
The following-named career members of the Foreign Service for promotion into the Senior Foreign Service, and Consular officer and secretary in the Diplomatic Service appointments, as indicated:
Career members of the Senior Foreign Service of the United States of America, class of counselor:
Marc Allen Baas, of Florida.
Bruce Anthony Beardsley, of Nevada.
John E. Bennett, of New Hampshire.
John S. Blodgett, of Connecticut.
Avis T. Bohlen, of the District of Columbia.
Aurelia E. Brazeal, of Georgia.
Stephen W. Buck, of New York.
Raymond F. Burghardt, Jr., of Florida.
Ray L. Caldwell, of Florida.
Timothy Michael Carney, of Florida.
Walter S. Clarke, of Maryland.
Larry Cobert, of Ohio.
Francis B. Corry, of Virginia.
Stephen P. Dawkins, of New Jersey.
John D. Finney, Jr., of Missouri.
Thomas Howard Gewecke, of Massachusetts.
Jon D. Glassman, of California.
John E. Hall, of Florida.
Hugh G. Hamilton, Jr., of Missouri.
Richard E. Hecklinger, of New York.
John L. Hirsch, of New York.
Richard B. Howard, of Florida.
W. Nathaniel Howell, Jr., of Virginia.
Thomas C. Hubbard, of Alabama.
Darryl N. Johnson, of Washington.
A. Elizabeth Jones, of the District of Columbia.
John E. Kelley, of Virginia.
William A. Kirby, Jr., of New Jersey.
Alphonse F. LaPorta, of New York.
Wayne Stephen Leininger, of Florida.
Philip Thomas Lincoln, Jr., of Michigan.
John R. Malott, of Illinois.
J. Phillip McLean, of Washington.
Mary Ann Meysenburg, of Nebraska.
Richard W. Mueller, of Connecticut.
Cristobal Roberto Orozco, of California.
B. Lynn Pascoe, of Missouri.
Joseph A. Presel, of Rhode Island.
Robert Maxwell Pringle, of Virginia.
Kenneth M. Quinn, of Iowa.
Robert Rackmales, of Maryland.
Mark S. Ramee, of New York.
Charles E. Redman, of Indiana.
Dorothy M. Sampas, of Maryland.
Joseph Monroe Segars, of Pennsylvania.
Daniel H. Simpson, of Ohio.
Lawrence Palmer Taylor, of Ohio.
Philip Bates Taylor, III, of Texas.
Patrick N. Theros, of the District of Columbia.
William H. Twaddell, of Rhode Island.
Charles H. Twining, Jr., of Maryland.
Edmund van Gilder, of Pennsylvania.
James Donald Walsh, of California.
Keith L. Wauchope, of New York.
Theodore S. Wilkinson, III, of Maryland.
Andrew Jan Winter, of New York.
John Stern Wolf, of Maryland.
Leo R. Wollemborg, of New York.
Johnny Young, of Pennsylvania.
Career members of the Senior Foreign Service, class of Counselor, and Consular officers and secretaries in the Diplomatic Service of the United States of America:
Thomas Bruguier, of California.
Gregorie W. Bujac, of Maryland.
John C. Daniels, of Virginia.
Christopher M.B. Disney, of Virginia.
Bruce F. Duncombe, of Maryland.
Peter S. Flynn, of Massachusetts.
Katherine M. Radosh, of Florida.
David L. Roberts, of Virginia.
Stanley J. Wolfe, M.D., of Arizona.

IN THE AIR FORCE

The following-named officer for appointment to the grade of general on the retired list pursuant to the provisions of title 10, United States Code, section 1370:
Gen. Robert W. Bazley, xxx-xx-xxxx FR, U.S. Air Force.
The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be general

Lt. Gen. Jack I. Gregory, xxx-xx-xxxx FR, U.S. Air Force.
The following-named officer for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 1370:
Lt. Gen. Carl H. Cathey, xxx-xx-xxxx, U.S. Air Force.
The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Aloysius G. Casey, xxx-xx-xx... xxx-... FR, U.S. Air Force.
The following-named officer, under the provision of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Thomas G. McInerney, xxx-xx-x... xxx-... FR, U.S. Air Force.
The following-named officer, under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Craven C. Rogers, Jr., xxx-xx-x... xx... FR, U.S. Air Force.

IN THE NAVY

The following-named Naval Reserve Officers' Training Corps Program candidates to be appointed permanent ensign in the line or staff corps of the U.S. Navy, pursuant to title 10, United States Code, section 531:
James T. Bergeron
Patricia A. Dyer
The following-named Navy Enlisted Commissioning Program candidate to be appointed permanent ensign in the line or staff corps of the U.S. Navy, pursuant to title 10, United States Code, section 531:
Steven P. Ostrander
The following-named Naval Reserve Officers to be appointed permanent ensign in the line or staff corps of the U.S. Navy, pursuant to title 10, United States Code, section 531:

David W. Barton	David C. McLaughlin
Douglas R. Carroll	John A. Milton
Michael B. Evans	Gail L. Pressel
James J. Guzzetti	Donald A. Shoemake
James F. Harris	Clyde N. Stover
Kirk R. Higgs	Michael A.
Charles M. Lanman	Wettlaufer

The following U.S. Navy officer to be appointed permanent captain in the medical corps of the U.S. Naval Reserve, pursuant to title 10, United States Code, section 593:
Jesus A. Plaza
The following medical college graduate to be appointed permanent commander in the medical corps of the U.S. Naval Reserve, pursuant to title 10, United States Code, section 593:
Franklin C. Wagner, Jr.
The following-named U.S. Navy officers to be appointed permanent commander in the medical corps of the U.S. Naval Reserve, pursuant to title 10, United States Code, section 593:

Djalma A. Braga	Steven R. Schelkun
Donald D. Kidd	David A. Snyder

The following-named U.S. Navy officers to be appointed permanent commander in the line of the U.S. Naval Reserve, pursuant to title 10, United States Code, section 593:
Stephen C. Ross
Francis M. Wnek

CONFIRMATIONS

Executive nominations confirmed by the Senate September 11, 1986:

DEPARTMENT OF STATE

Ann Barbara Wrobleski, of Maryland, to be Assistant Secretary of State for International Narcotics Matters.

Brunson McKinley, of New Jersey, a career member of the Senior Foreign Service, class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Haiti.

Herbert E. Horowitz, of Florida, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of the Gambia.

Carol Boyd Hallett, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Commonwealth of the Bahamas.

Princeton Nathan Lyman, of Maryland, a career member of the Senior Foreign Service, class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federal Republic of Nigeria.

Dennis Kux, of New York, a career member of the Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Ivory Coast.

David Lyle Mack, of Oregon, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the United Arab Emirates.

Sam H. Zakhem, of Colorado, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the State of Bahrain.

BOARD FOR INTERNATIONAL BROADCASTING

Clair W. Burgener, of California, to be a member of the Board for International Broadcasting for a term expiring April 28, 1988.

AFRICAN DEVELOPMENT FOUNDATION

Milton Frank, of California, to be a member of the board of directors of the African Development Foundation for the remainder of the term expiring February 9, 1990.

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

Lynn Marvin Hansen, of Idaho, to be an assistant director of the U.S. Arms Control and Disarmament Agency.

U.S. INFORMATION AGENCY

Richard W. Carlson, of California, to be an associate director of the U.S. Information Agency.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

FOREIGN SERVICE

Foreign Service nominations beginning Charles Harold Antholt, and ending Earl J. Young, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on August 7, 1986.

WITHDRAWAL

Executive nomination withdrawn by the President September 11, 1986:

DEPARTMENT OF STATE

James Malone Theodore Rentschler, of Pennsylvania, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Guinea, which was sent to the Senate on June 19, 1986.

HOUSE OF REPRESENTATIVES—*Thursday, September 11, 1986*

The House met at 9:30 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Almighty God, may Your power be with us to give us strength for the day, may Your divine light be with us to lighten the road ahead, may Your forgiveness be with us to allow us to begin anew, and may Your love that passes all human understanding be with us and those we love. Hear our prayer, O God, and may Your spirit never depart from us. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills and a joint resolution of the House of the following title:

H.R. 1529. An act for the relief of Gerald M. Hendley;

H.R. 1783. An act for the relief of Mary E. Stokes;

H.R. 2316. An act for the relief of Paulette Mendes-Silva;

H.R. 3443. An act to designate the Closed Basin Conveyance Channel of the Closed Basin Division, San Luis Valley Project, Colorado as the "Franklin Eddy Canal"; and

H.J. Res. 580. Joint resolution to designate the week beginning September 7, 1986, as "National Freedom of Information Act Awareness Week."

The message also announced that the Senate had passed a joint resolution of the following title, in which the concurrence of the House is requested:

S.J. Res. 405. Joint resolution to designate September 11, 1986, as "9-1-1 Emergency Number Day."

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to make an announcement.

After consultation with the majority and minority leaders, and with their consent and approval, the Chair announces that today when the Houses meet in joint meeting to receive the President of the Federative Republic of Brazil only the doors immediately opposite the Speaker and those on his left and right will be open.

RECESS

The SPEAKER. Pursuant to the order of the House of August 15, 1986, the House will stand in recess subject to the call of the Chair.

Accordingly (at 9 o'clock and 35 minutes a.m.), the House stood in recess subject to the call of the Chair.

JOINT MEETING OF THE HOUSE AND SENATE HELD PURSUANT TO THE ORDER OF THE HOUSE OF AUGUST 15, 1986, TO HEAR AN ADDRESS BY THE PRESIDENT OF THE FEDERATIVE REPUBLIC OF BRAZIL

The SPEAKER of the House presided.

The Doorkeeper announced the Vice President and Members of the U.S. Senate who entered the Hall of the House of Representatives, the Vice President taking the chair at the right of the Speaker, and the Members of the Senate the seats reserved for them.

The SPEAKER. The Chair appoints as members of the committee on the part of the House to conduct the President of the Federative Republic of Brazil into the Chamber:

The gentleman from Texas, Mr. WRIGHT;

The gentleman from Washington, Mr. FOLEY;

The gentleman from Florida, Mr. FASCELL;

The gentlewoman from Ohio, Ms. OAKAR;

The gentleman from California, Mr. COELHO;

The gentleman from Illinois, Mr. MICHEL;

The gentleman from Mississippi, Mr. LOTT; and

The gentleman from Michigan, Mr. BROOMFIELD.

The VICE PRESIDENT. The President of the Senate at the direction of that body appoints the following Senators as members of the committee on the part of the Senate to escort the President of the Federative Republic of Brazil into the Chamber:

The Senator from Kansas, Mr. DOLE;

The Senator from South Carolina, Mr. THURMOND;

The Senator from Rhode Island, Mr. CHAFEE;

The Senator from Minnesota, Mr. DURENBERGER;

The Senator from Hawaii, Mr. INOUYE;

The Senator from Connecticut, Mr. DODD; and

The Senator from Illinois, Mr. SIMON.

The Doorkeeper announced the ambassadors, ministers, and charges d'affaires of foreign governments.

The ambassadors, ministers, and charges d'affaires of foreign governments entered the Hall of the House of Representatives and took the seats reserved for them.

The Doorkeeper announced the Cabinet of the President of the United States.

The members of the Cabinet of the President of the United States entered the Hall of the House of Representatives and took the seats reserved for them in front of the Speaker's rostrum.

At 10 o'clock and 1 minute a.m. the Doorkeeper announced the President of the Federative Republic of Brazil.

The President of the Federative Republic of Brazil, escorted by the committee of Senators and Representatives, entered the Hall of the House of Representatives, and stood at the Clerk's desk.

[Applause, the Members rising.]

The SPEAKER. Members of the Congress, it is my great privilege and I deem it a high honor and a personal pleasure to present to you his Excellency José Sarney, President of the Federative Republic of Brazil.

[Applause, the Members rising.]

ADDRESS BY HIS EXCELLENCY, JOSÉ SARNEY, PRESIDENT OF THE FEDERATIVE REPUBLIC OF BRAZIL, BEFORE THE JOINT MEETING OF THE UNITED STATES CONGRESS

(The following address was delivered in Portuguese except for that portion following the asterisk, which was delivered in English.)

President SARNEY. Mr. Speaker, Mr. Vice President, Members of Congress, it is difficult for a statesman from any part of the world to remain unmoved when received within these halls. It is difficult not to remember the lessons of the history and of the traditions of this Congress, since its origins in 18th-century Philadelphia, a Congress which has but one entrance and exit: The will of the people, free elections.

This country has faced crises, savored moments of triumph, and more than once tasted the bitterness of danger and mourning. It was heard the trumpets sound notes of rejoicing, and has shed bitter tears of sorrow. It

has known the ravages of war and the blessing of peace.

One institution has remained unchanged and resilient: The United States Congress.

We should keep in mind what Brogan said. At the time the Constitution was drawn up, there still ruled a French monarchy, a Roman emperor, a Venetian republic, and a German republic, an autocracy in St. Petersburg, a caliph in Constantinople, a divinely invested Emperor in Peking, and a shogun in what was then a weak and little-known Japan.

Times have changed, and rulers have changed, but the branches of government in the United States, since the Presidency of George Washington, have changed less than the forms of royal power in place not long ago in Tibet.

"All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives."

With these laconic words, the Founding Fathers devised the structure of these two legislative Chambers.

The whole world was inspired by your example.

In how many parts of the world, over two centuries, have dreamers, heroes, and martyrs not been drawn to the flame of your ideas of self-government?

Two hundred years ago, my country, Brazil, was a European colony. Since that distant time, the people of Brazil have felt close to the United States.

In 1787, the young Brazilian, José Joaquim Maia sought out Thomas Jefferson, then Minister Plenipotentiary in Paris, to ask his support for our independence. Two years later, our hero, Tiradentes, who dreamed of a free and republican Brazil, was hanged, drawn, and quartered, his severed body hung for all to see, in the streets and the roads, as a cruel example to smother the dream of freedom, and to declare that it would not come forth in our land.

Do you know what the King's agents found among the papers that had set the heart of our martyr afire with the holy madness of independence? The Constitution of the United States of America.

I have long been a legislator, a Representative and a Senator for 29 years. The Brazilian Congress was my school of political education. I pay tribute to the United States Congress, knowing what it represents. I am grateful for the kind gesture of this Joint Meeting of the Senate and House of Representatives. I could not come to this country without accepting this opportunity to renew faith in democracy.

I know that this warm welcome is a sign of friendship with Brazil.

Accept my gratitude, which I personally renew to Speaker O'NEILL and convey to all the Members of the House of Representatives and of the Senate, who have honored me with the invitation to address this Joint Meeting.

Congress is a school for public life. It is greater than the sum of all its Members. This institution is the sovereignty of the people. One learns here to listen rather than to speak. To listen to all the voices, all the groups of society, all the emotions, all the injustices. Here, all decisions are questioned, and here are shaped the true sentiments of the democrat, which can be summarized in an example that is also yours: Benjamin Franklin. Frail at 81 years of age and unable to sign his name to the Constitution, he asked James Wilson to read what he had written for that occasion. What were his words?

"The older I become, the more I come to doubt my judgment, and the more I respect the judgment of others!"

This is the belief of a true democrat: To respect the opinions of others. Democracy has survived because it does not live by dogma, absolute truths, or inquisitions of faith. It is nurtured by the creative power of freedom of opinion, of initiative, of having, working, informing, believing, not believing, loving, dreaming.

Only he who has lost freedom knows its true value. And knows how difficult it is to regain it.

Brazil is a country of conciliation and dialog, a country that practices peace. The true name of peace is democracy, because democracy is understanding, the capacity to find solutions other than the solutions of might. This is why democracies do not make war on one another.

I am here in the United States at the invitation of President Ronald Reagan, who, with tenacity and leadership, governs this country at a time when the international situation raises great concern.

The 18th century Nation of farmers has become the most highly industrialized Nation in the world.

The country that sought at any price to avoid "foreign entanglements" has become a world power with global responsibilities.

In World War II, we fought as allies against Nazi-Fascism. Throughout its history, Brazil has admired the vigor of American democracy, the solidity of its institutions, the public spirit of its people, and the creativity of its artists, scientists, and intellectuals.

Starting from different cultural backgrounds, Brazil and the United States have grown together, both founded on shared values forged by the period during which we stepped onto the stage of history as independent nations: The values of the enlightenment, from which we drew our unwavering faith in reason, truth, peace, and concord.

Members of Congress,

That is the Brazil that I represent before you.

I have come here as the President of a country that has affinities with the United States, and which, neither humbly nor arrogantly, is quietly conscious of its place in history and its importance as the eighth largest economy of the Western world. I represent a great people, and I have come here to visit a great Nation. I bring you greetings from my countrymen and the wishes of the Brazilian people that this Nation will move onward in its course of greatness, a course that is necessarily guided by justice.

Brazil and the United States today come together in the practice of democracy, which is not only the most just and humane form of government, but also the strongest and most efficient.

Brazil has experienced 20 years of institutional difficulties.

In only 17 months of democracy, the civilian government has shown its ability to act with determination and courage. It dared to abandon indexation, the speculative attitude of a whole generation. It reduced hyperinflation from over 200 percent a year to less than 1 percent per month. It spurred the economy to grow again at a rate of 8 percent. It created hundreds of thousands of jobs. It restored the value of wages. It launched agrarian reform. It is raising social investment to 12.5 percent of gross domestic product, so that by the century's end, we will have attained standards of living comparable to those of southern Europe.

It has restored full political and trade union freedom. It has called elections for a constitutional assembly, in which 69 million Brazilians will cast their votes, a number larger than the population of any Western country with the exception of the United States.

All of this has been accomplished without trauma, without violence, and in keeping with the motto of the new republic: Conciliation and change.

The same constructive attitude is the foundation of our international conduct. Every facet of the new Brazil—political, economic, social—should find an international response to reinforce and foster it.

We strive for political peace and stability, economic growth and expansion, and an end to hunger, disease, ignorance, and poverty. We seek to play our part in the international system.

We have not come here to exact or demand from others what we ourselves do not practice. Rather, we wish to be judged by our actions, by what we are doing to achieve each of our goals.

Our relations of friendship and cooperation with 10 neighboring countries, along a border of more than

10,000 miles, strengthen a world held together by the art of negotiation.

Overcoming the rivalry or indifference of the past, we are building with Argentina a historic project of integration and development, which has been joined by Uruguay.

Abandoning a narrow and distorted interpretation of sovereignty, we have adhered to the international conventions on human rights and against torture.

We are proposing that the South Atlantic, between South America and Africa, be preserved as an area of peace and unity, free from nuclear weapons, as has already been done, with our participation, in the Treaty for the Prohibition of Nuclear Weapons in Latin America.

We are a member of the group that supports a peaceful and negotiated solution for Central America, and we have passed legislation with effective sanctions against apartheid.

We are a mixed race nation, and the world's second largest black nation, after Nigeria. We practice examplary racial democracy.

All Brazilians are united in the task of rebuilding our country.

But we face a serious constraint—the volume of resources that the Brazilian economy has been transferring abroad yearly to service a burdensome foreign debt.

Last year, the sum of such transfers represented one-fourth of Brazil's gross domestic savings. It is clear that we cannot grow at the necessary and desirable rate if this continues.

It is a simple matter. To grow, we must import more and raise the investment rate.

In so doing, we will be buying more agricultural and industrial goods from our chief trading partners, especially from the largest, the United States of America.

Our demand for imports will thus help to reduce the trade deficit of this country.

Brazil has the potential for such cooperation. But at the same time, we will be reducing our trade surplus. In recent years, Brazil has maintained a trade surplus equivalent to nearly half its exports. In relative terms, very few countries have performed so well.

With this surplus, we have been meeting our debt service payments. If we reduce that surplus by increasing imports, we will necessarily curtail our ability to transfer resources as debt repayment. In other words, we will have to pay less for some time, to be able to import more. This is the only way we can attain targeted growth in the immediate future and reintegrate our country in the international economy in the medium and long term, without crises, shocks, or disruption, thus fulfilling our steadfast commitment to our people.

Latin America cannot survive on the poverty of a wage of $25 per month. It is this criminal injustice that spawns social upheaval, revolt, and the resort to violence.

We have proposed repeatedly, in the appropriate fora, a joint effort by creditors and debtors. The high spreads charged by banks and high real interest rates impede the growth of the debtor countries, and thus the enhancement of their ability to pay. Unstable interest rates and exchange fluctuations hamper their economic and social development planning, since they cannot forecast their financial obligations and liquidity for the upcoming 6 months, much less for the next year.

It is necessary to promote an understanding among the leaders of creditor and debtor nations to reduce the magnitude of payments now being made. This would allow the debtor countries to again import more from the creditor countries, and their own growth can, in turn, contribute to the recovery and normalization of the world economy.

For our part, we are still prepared to engage in such a joint endeavor. But we must not wait until it is too late. We have urged our industrialized partners to join us now in such an effort to safeguard the financial health and stability of the Western World.

With respect to the larger question of rescuing man from poverty and suffering, I recognize that we have been able to do little beyond our borders. My government's priority has been to honor our most important debt: The social and moral debt we owe our own people. Still, we stand ready to do our part to even disparities of wealth, fight disease and ignorance, and eradicate drug traffic. I repeat here the appeal I made at the United Nations: That a dedicated battle be waged to banish the scourge of hunger from the face of the Earth.

Members of Congress,

On every aspect of the global agenda, Brazil stands for stability and peace, conciliation, and balance. We are a country that gives, that does not take away. A country that brings not problems, but answers.

Our ability to forge our own solutions to challenges was demonstrated by our peaceful transition to democracy, and by our nonrecessive fight against inflation.

We are confident in our strength, while acknowledging that we rely, as do all of us to some degree, on the forces and conditions of the international system.

Brazil has everything to succeed. It has everything that is needed to make the leap to full development in the near future.

There is ample investment opportunity in the country, open to private domestic and foreign investors.

In addition to a robust economy, abundant resources, diligent and skilled labor, and a modern infrastructure, investors will find that we have sound legislation on the treatment of foreign capital.

For more than 20 years, our legislation, in addition to being fair and flexible, has successfully guided our relations with foreign companies that bring us their capital, their technology, and their management skills. This relationship has been stable, transparent, and dependable. With the return of economic growth and with the political and social stability Brazil now enjoys, I am sure it will again attract growing flows of investment to participate in the development of our wealth.

Brazil's success threatens no one. It is rather a victory for those who believe in the power of man's work to overcome backwardness and underdevelopment.

Brazil's success will vindicate the Western values of pluralistic and participatory democracy, of a free and open society, of a creative market economy, in which the economic freedom of private enterprise is the guarantee of political freedom and the driving force of development.

We strongy desire a high degree of cooperation with the United States, the first country to recognize our independence, a country with which we have cultural, political, and economic ties.

Cooperation that unites a superpower with global interests to a Latin American nation advancing toward development and assuming greater responsibilities in the world.

For this relationship to prosper and grow stronger, each side must have the maturity to accept as natural the difficulties that may arise, respect for the legitimate interests and viewpoints of the other, and an ongoing openness to dialog and understanding.

This has been our tradition in the past, is our practice now, and our expectation for the future.

*Members of Congress, now, as we look toward the third millenium with the vitality and confidence of the youthful pioneer societies of the Americans, in my rough English spoken as a Brazilian from the northeast of my country, I would like to conclude by quoting the poet of democracy, the great Walt Whitman.

He wrôte a poem to the Brazilian people to herald the birth of the Republic in 1889 that speaks to us still today. These are eternal verses that evoke freedom and democracy as forcefully as the lines of "When Lilacs Last in the Dooryard Bloomed":

"Welcome, Brazilian Brother, thy ample place is ready;
A loving hand, a smile from the north, a sunny instant hail!

(let the future care for itself, where it reveals its troubles, impedimentas,
ours, ours the present throe, the democratic aim, the acceptance and the faith);
to thee to-day our reaching arm, our turning neck—to thee from us the expectant eye,
thou cluster free! Thou brilliant lustrous one! thou, learning well,
the true lesson of a nation's light in the sky,
(more shining than the cross, more than the crown),
the height to be superb humanity."

God bless the United States. God bless the Americas.

Thank you,

[Applause, the Members rising.]

At 10 o'clock and 31 minutes a.m., the President of the Federative Republic of Brazil, accompanied by the committee of escort, retired from the Hall of the House of Representatives.

The Doorkeeper escorted the invited guests from the Chamber in the following order:

The members of the President's Cabinet.

The ambassadors, ministers, and charges d'affaires of foreign governments.

JOINT MEETING DISSOLVED

The SPEAKER. The purpose of the joint meeting having been completed, the Chair declares the joint meeting of the two Houses dissolved, and the House will meet in session at about 10:50 a.m.

Accordingly, at 10 o'clock and 34 minutes a.m., the joint meeting of the two Houses was dissolved.

The Members of the Senate retired to their Chamber.

□ 1100

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. WRIGHT] at 11 a.m.

PRINTING OF PROCEEDINGS HAD DURING THE RECESS

Mr. GRAY of Illinois. Mr. Speaker, I ask unanimous consent that the proceedings had during the recess be printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

PARLIAMENTARY INQUIRY

Mr. LUNGREN. Mr. Speaker, I have a parliamentary inquiry, then hopefully a unanimous-consent request.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. LUNGREN. Mr. Speaker, my parliamentary inquiry is that under the rule House Resolution 541, which controls the debate on the antidrug bill, the first amendment in order is from the gentleman from Texas [Mr. WRIGHT], which is an amendment en bloc, including amendments of other Members.

My inquiry is, if one wished to have a separate consideration of one of the included amendments, that is, amendment No. 5 from the gentleman from Connecticut [Mr. MORRISON], would it be appropriate at this time to make the unanimous-consent request for separate consideration of such an amendment, along with the request that a limit of no more than 10 minutes, equally divided, be allowed for that amendment?

The SPEAKER pro tempore. Such a request would be in order and the Chair would respond that under the rule, that is the only manner in which such a result might be achieved prior to going into the Committee of the Whole.

Mr. LUNGREN. Mr. Speaker, I appreciate that instruction.

REQUEST FOR SEPARATE CONSIDERATION OF A CERTAIN AMENDMENT TO H.R. 5484 NOTWITHSTANDING ITS INCLUSION AS PART OF THE WRIGHT AMENDMENTS

Mr. LUNGREN. Mr. Speaker, I ask unanimous consent that in the amendments en bloc from the gentleman from Texas [Mr. WRIGHT], including several other amendments, that amendment No. 5, the amendment from the gentleman from Connecticut [Mr. MORRISON], be separately considered and voted on, that separate debate be allowed on that amendment not to exceed 10 minutes equally divided between proponents and opponents, and that that consideration take place immediately following the en bloc amendments of the gentleman from Texas.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. MORRISON of Connecticut. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

OMNIBUS DRUG ENFORCEMENT, EDUCATION, AND CONTROL ACT OF 1986

The SPEAKER pro tempore. Pursuant to House Resolution 541 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5484.

□ 1103

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5484) to strengthen Federal efforts to encourage foreign cooperation in eradicating illicit drug crops and in halting international drug traffic, to improve enforcement of Federal drug laws and enhance interdiction of illicit drug shipments, to provide strong Federal leadership in establishing effective drug abuse prevention and education programs, to expand Federal support for drug abuse treatment and rehabilitation efforts, and for other purposes, with Mr. CARR in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose Wednesday, September 10, 1986, all time for general debate had expired.

Pursuant to House Resolution 541, the bill is considered as having been read for amendment under the 5-minute rule.

The amendments printed in section 2 of House Resolution 541 are considered as having been adopted.

The text of H.R. 5484, as amended by the amendments contained in section 2 of House Resolution 541, is as follows:

H.R. 5484

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Omnibus Drug Enforcement, Education, and Control Act of 1986".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

TITLE I—COMMITTEE ON FOREIGN AFFAIRS

Sec. 101. Short title.
Sec. 102. Statement of policy.
Sec. 103. Statement of purpose.

Subtitle A—International Narcotics Control Assistance Program

Sec. 111. Additional funding for international narcotics control assistance and regional cooperation.
Sec. 112. Additional aircraft for drug control eradication and interdictions efforts by foreign countries.
Sec. 113. Retention of title to aircraft provided to foreign countries for narcotics control purposes.
Sec. 114. Records of aircraft use.
Sec. 115. Pilot and aircraft maintenance training for narcotics control activities.
Sec. 116. Development of herbicides for aerial coca eradication.
Sec. 117. Review of effectiveness of international narcotics control assistance program.

Subtitle B—Improving Law Enforcement and Other Narcotics Control Activities Abroad
Sec. 121. Extradition to the United States for narcotics-related offenses.
Sec. 122. Issuance of diplomatic passports for Drug Enforcement Administration agents abroad.
Sec. 123. Restrictions on participation of United States personnel in arrest actions in narcotics control efforts abroad.
Sec. 124. Information-sharing so that visas are denied to drug traffickers.
Sec. 125. Information relating to illicit narcotics activities abroad.
Sec. 126. Combating narcoterrorism.
Sec. 127. Interdiction procedures for vessels of foreign registry.
Sec. 128. Armed forces assistance for law enforcement activities abroad—concurrence of Secretary of State.
Subtitle C—Development and Illicit Narcotics Production and Trafficking
Sec. 131. Findings.
Sec. 132. Consultation and authorities relating to agricultural research and pilot program activities to encourage substitution for narcotic crops in Mexico.
Sec. 133. Annual reports on development efforts to reduce narcotics production and trafficking.
Subtitle D—Drug Education Programs Abroad
Sec. 141. Increased funding for USIA drug education programs.
Sec. 142. Increased funding for AID drug education programs.
Sec. 143. Reports to Congress on drug education programs abroad.
Subtitle E—United Nations Activities Relating to Drug Narcotics Control
Sec. 151. Findings.
Sec. 152. International Conference on Drug Abuse and Illicit Trafficking.
Sec. 153. Effectiveness of international drug prevention and control system.
Sec. 154. Narcotics control conventions.
Subtitle F—Provisions Relating to Specific Countries
Sec. 161. Narcotics control efforts in Mexico.
Sec. 162. Mexico-United States Intergovernmental Commission.
Sec. 163. Opium production in Pakistan.
Sec. 164. Opium production in Iran, Afghanistan, and Laos.
TITLE II—COMMITTEE ON ARMED SERVICES
Sec. 201. Short title.
Sec. 202. Policy.
Sec. 203. Drug enforcement equipment.
Sec. 204. Coast Guard activities.
Sec. 205. Drug interdiction assistance to civilian law enforcement officials.
Sec. 206. Military personnel.
TITLE III—COMMITTEE ON WAYS AND MEANS
Subtitle A—Amendments to the Tariff Act of 1930
Sec. 300. Short title.
PART I—GENERAL PROVISIONS
Sec. 301. Reference.
Sec. 302. Prohibition on importation of drug paraphernalia.
Sec. 303. Definitions.
Sec. 304. Report of arrival of vessels, vehicles, and aircraft.
Sec. 305. Penalties for arrival, reporting, entry, and departure violations.
Sec. 306. Increase in penalties for unauthorized unloading of passengers.
Sec. 307. Reporting requirements for individuals.
Sec. 308. Examination of books and witnesses.
Sec. 309. Penalties for falsity or lack of manifest.
Sec. 310. Penalties for unlawful unlading and transshipment.
Sec. 311. Aviation smuggling.
Sec. 312. Seizures.
Sec. 313. Searches and seizures.
Sec. 314. Forfeitures.
Sec. 315. Disposition of proceeds of forfeited property.
Sec. 316. Compensation to informers.
Sec. 317. Commencement of actions.
Sec. 318. Foreign landing certificates.
Sec. 319. Exchange of information with foreign agencies.
Sec. 320. Inspections and preclearance in foreign countries.
Sec. 321. Investigations; oath; subpoenas; etc.
Sec. 322. Undercover investigative operations of the Customs Service.
Sec. 323. Effective date.
PART II—CUSTOMS FORFEITURE FUND
Sec. 331. Customs forfeiture fund.
Subtitle B—Customs Service Authorizations, Miscellaneous Customs Provisions, and Amendments to the Controlled Substances Import and Export Act
PART I—CUSTOMS SERVICE AUTHORIZATIONS
Sec. 341. Authorization of appropriations for fiscal year 1987 for the United States Customs Service.
PART II—MISCELLANEOUS CUSTOMS AMENDMENTS
Sec. 351. Treatment of hovering vessels.
Sec. 352. Assistance for customs officers.
Sec. 353. Recreational vessel licenses.
PART III—AMENDMENTS TO THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT
Sec. 361. Possession, manufacture, or distribution for purposes of unlawful importation.
Subtitle C—Denial of Trade Benefits to Uncooperative Drug Source Nations
Sec. 371. Short title.
Sec. 372. Determinations regarding uncooperative drug source nations.
Sec. 373. Tariff treatment of products of uncooperative drug source nations.
Sec. 374. Progress reports.
Sec. 375. Cancellation of determinations.
Sec. 376. Definition.
Sec. 377. Conforming amendments.
TITLE IV—COMMITTEE ON MERCHANT MARINE AND FISHERIES
Sec. 401. Short title.
Sec. 402. Findings and policy.
Sec. 403. Maritime air surveillance and interdiction.
Sec. 404. Authorization of funds.
Sec. 405. Authorization enhancement.
TITLE V—COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
Subtitle A—Money Laundering
Sec. 501. Short title.
Sec. 502. Structuring transactions to evade reporting requirements prohibited.
Sec. 503. Seizure and civil forfeiture of monetary instruments.
Sec. 504. Civil money penalty for structured transaction violation.
Sec. 505. Banking regulatory agency supervision of recordkeeping systems.
Sec. 506. Financial institutions and monetary instruments.
Sec. 507. Additional review time under the change in Bank Control Act and change in Savings and Loan Control Act.
Sec. 508. Monetary transaction recordkeeping and reporting amendments.
Sec. 509. Clarification of "state of mind" standard in effect for civil money and criminal penalties.
Sec. 510. Amendments to the Right to Financial Privacy Act.
Sec. 511. Compliance authority for Secretary of the Treasury and related matters.
Sec. 512. Amendments relating to exemptions granted for monetary transaction reporting requirements.
Sec. 513. Penalties for failure to comply with certain recordkeeping requirements.
Sec. 514. Extension of time limitations for assessment of civil penalty.
Sec. 515. Duty to investigate applicants for change in control approval.
Sec. 516. Public comment on change of control notices.
Sec. 517. Investigations and enforcement under the change in control acts.
Sec. 518. Discussions to develop international information exchange system to eliminate money laundering.
Sec. 519. Increase in maximum criminal fine for certain offenses.
Sec. 520. Regulations relating to cumulation of offenses for failure to report export or import of money.
Sec. 521. Effective dates.
Subtitle B—Multilateral Development Banks
Sec. 531. Short title.
Sec. 532. Findings and purposes.
Sec. 533. National drug eradication programs in developing countries.
Sec. 534. Conforming amendments.
TITLE VI—COMMITTEE ON THE JUDICIARY
Subtitle A—Money Laundering
Sec. 601. Short title.
Sec. 602. Money laundering offenses.
Sec. 603. Disclosure of information by financial institutions.
Subtitle B—Designer Drugs
Sec. 605. Short title.
Sec. 606. Inclusion of designer drugs in Controlled Substances Act.
Subtitle C—More Effective Criminal Penalties
Sec. 607. Short title.
PART I—CONTROLLED SUBSTANCES PENALTIES
Sec. 608. Penalties for major traffickers, penalties for serious traffickers, and other penalty increase amendments to section 401 of the Controlled Substances Act.
Sec. 609. Fine increase amendment to section 402(c)(2)(A) of the Controlled Substances Act.

Sec. 610. Fine increase amendment to section 402(c)(2)(B) of the Controlled Substances Act.
Sec. 611. Fine increase amendment to section 403(c) of the Controlled Substances Act.
Sec. 612. Amendments to section 404 of the Controlled Substances Act.
Sec. 613. Fine increase amendment to section 408(a) of the Controlled Substances Act.
Sec. 614. Special term of imprisonment for certain offenses under the Controlled Substances Act resulting in death or serious bodily injury.
Sec. 615. Penalties for serious traffickers; amendment to section 1010(b) of the Controlled Substances Import and Export Act.
Sec. 616. Fine increase amendment to section 1010(b)(2) of the Controlled Substances Import and Export Act.
Sec. 617. Fine increase amendment to section 1010(b)(3) of the Controlled Substances Import and Export Act.
Sec. 618. Fine increase amendment to section 1011(2) of the Controlled Substances Import and Export Act.
Sec. 619. Special term of imprisonment for certain offenses under Controlled Substances Import and Export Act resulting in death or serious bodily injury.

PART II—CONTROLLED SUBSTANCE OFFENSES RELATING TO CHILDREN AND SCHOOLS; PRECURSOR AND ESSENTIAL CHEMICAL REVIEW

Sec. 621. Criminal penalty for manufacture of controlled substance in or near schools (including colleges).
Sec. 622. Using children to manufacture or distribute a controlled substance.
Sec. 623. Precursor and essential chemical review.

PART III—CONTROLLED SUBSTANCES TECHNICAL AMENDMENTS

Sec. 625. Clarification of isomer inclusion.
Sec. 626. Modification of cocaine definition for purposes of schedule II.
Sec. 627. Correction of punctuation error.
Sec. 628. Correction of clerical error.
Sec. 629. Correction of erroneous section cross reference.
Sec. 630. Correction of erroneous subsection cross references.
Sec. 631. Authority of Attorney General to enter into contracts with State and local law enforcement agencies and to deputize State and local law enforcement officers for controlled substances enforcement.
Sec. 632. Correction of clerical error.
Sec. 633. Elimination of erroneous cross reference.
Sec. 634. Technical amendments to table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970.
Sec. 635. Amendment to section 511 of the Controlled Substances Act.
Sec. 636. Amendment to section 524 of title 28, United States Code.
Sec. 637. Amendment to section 5316 of title 31, United States Code.
Sec. 638. Clarification of intent of certain amendments.

Subtitle D—White House Conference

Sec. 641. Short title.
Sec. 642. Findings.
Sec. 643. Authorization of conference.
Sec. 644. Purposes of conference.
Sec. 645. Conference report and follow-up actions.
Sec. 646. Organization of conference.
Sec. 647. Definitions.
Sec. 648. Effective date.

Subtitle E—Career Criminals

Sec. 651. Short title.
Sec. 652. Expansion of predicate offenses.
Sec. 653. Effective date.

Subtitle F—Drug and Alcohol Dependent Offenders Treatment

Sec. 655. Short title.
Sec. 656. Permanent amendment relating to duties of Director of Administrative Office.
Sec. 657. Interim amendment relating to duties of Director of Administrative Office.
Sec. 658. Reauthorization of contract services.

Subtitle G—Drug Enforcement Enhancement

Sec. 661. Short title.
Sec. 662. Authorization of appropriations.
Sec. 663. Office of Justice Assistance Drug Grant Program.
Sec. 664. Department of Justice drug asset forfeiture fund.

TITLE VII—COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

Sec. 701. Short title.
Sec. 702. State enforcement of laws relating to aircraft registration.
Sec. 703. Criminal penalties.
Sec. 704. Drugs and highway safety.

TITLE VIII—COMMITTEE ON EDUCATION AND LABOR

Sec. 801. Short title.
Sec. 802. Findings and purpose.

Subtitle A—Establishment of Programs to Improve Drug Abuse Education and Prevention

Sec. 803. National Advisory Council on Drug Abuse Education and Prevention.
Sec. 804. Establishment.
Sec. 805. Allotment of funds.

Subtitle B—State and Local Programs of Drug Abuse Education and Prevention

PART I—GENERAL

Sec. 806. Allocation of State funds.

PART II—STATE PROGRAMS OF DRUG ABUSE EDUCATION AND PREVENTION

Sec. 811. State activities.
Sec. 812. State applications.
Sec. 813. Programs for school dropouts and school-age children during after school hours and summer vacations.

PART III—LOCAL PROGRAMS OF DRUG ABUSE EDUCATION AND PREVENTION

Sec. 821. Local design of programs.
Sec. 822. Local applications.

Subtitle C—Federal Programs of Drug Abuse Education and Prevention

Sec. 831. National programs of drug abuse education and prevention.
Sec. 832. Grants to institutions of higher education.
Sec. 833. Programs for Indian children.

Subtitle D—General Provisions

Sec. 841. Definitions.
Sec. 842. Functions of the Secretary of Education.
Sec. 843. Participation of children and teachers from private nonprofit schools.
Sec. 844. Study of drug abuse at the workplace.
Sec. 845. Authorization of appropriations.
Sec. 846. Effective date.

TITLE IX—COMMITTEE ON ENERGY AND COMMERCE

Sec. 901. Short title.

Subtitle A—Financial Assistance to States and Communities

Sec. 902. Allotments to States.

Subtitle B—Agency for Substance Abuse Prevention; Study

Sec. 905. Agency for Substance Abuse Prevention.
Sec. 906. Coverage study.

Subtitle C—Advisory Commission on the Comprehensive Education of Intercollegiate Athletes

Sec. 910. Establishment.
Sec. 911. Duties of Commission.
Sec. 912. Membership.
Sec. 913. Meetings.
Sec. 914. Staff of Commission; experts and consultants.
Sec. 915. Powers of Commission.
Sec. 916. Report.
Sec. 917. Termination.
Sec. 918. Authorization of appropriations.

Subtitle D—Alkyl Nitrites

Sec. 920. Regulation of alkyl nitrites by the Food and Drug Administration.

TITLE X—COMMITTEE ON POST OFFICE AND CIVIL SERVICE

Sec. 1001. Short title.
Sec. 1002. Programs to provide prevention, treatment, and rehabilitation services to Federal employees with respect to drug and alcohol abuse.
Sec. 1003. Educational program for Federal employees relating to drug and alcohol abuse.
Sec. 1004. Employee assistance programs relating to drug abuse and alcohol abuse.
Sec. 1005. Demonstration project relating to treatment for drug abuse and alcohol abuse under the Federal Employees Health Benefits Program.
Sec. 1006. Controlled substances as nonmailable matter.

TITLE XI—COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

Subtitle A—Indians and Alaska Natives

Sec. 1101. Short title.

PART I—GENERAL PROVISIONS

Sec. 1102. Findings.
Sec. 1103. Purpose.
Sec. 1104. Definitions.

PART II—COORDINATION OF RESOURCES AND PROGRAMS

Sec. 1105. Inter-departmental memorandum of agreement.
Sec. 1106. Tribal Action Plans.
Sec. 1107. Departmental responsibility.
Sec. 1108. Congressional intent.
Sec. 1109. Federal facilities, property, and equipment.

PART III—INDIAN YOUTH PROGRAMS

Sec. 1110. Review of programs.
Sec. 1111. Indian education programs.
Sec. 1112. Newsletter.
Sec. 1113. Emergency shelters.
Sec. 1114. Social services reports.

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PART IV—LAW ENFORCEMENT AND JUDICIAL SERVICES
Sec. 1115. Review of programs.
PART V—BUREAU OF INDIAN AFFAIRS LAW ENFORCEMENT
Sec. 1116. Tribal courts, sentencing, and fines.
Sec. 1117. Bureau of Indian Affairs law enforcement and judicial training.
Sec. 1118. Medical assessment and treatment of juvenile offenders.
Sec. 1119. Source eradication.
Sec. 1120. Illegal narcotics traffic on the Papago reservation.
Sec. 1121. Juvenile detention centers.
Sec. 1122. Model indian juvenile code.
Sec. 1123. Law enforcement and judicial report.
PART VI—INDIAN ALCOHOL AND SUBSTANCE ABUSE TREATMENT AND REHABILITATION
Sec. 1125. Review of programs.
Sec. 1126. Indian Health Service responsibilities.
Sec. 1127. Alcohol and substance abuse treatment.
Sec. 1128. Navajo alcohol rehabilitation demonstration program.
Sec. 1129. Indian Health Service reports.
Subtitle B—National Park Service Program
Sec. 1131. Short title.
Sec. 1132. National Park Police, authorization.
Subtitle C—Programs in United States Insular Areas
Sec. 1141. Short title.
Sec. 1142. Annual reports to Congress.
Sec. 1143. Enforcement and administration in insular areas.
TITLE XII—COMMITTEE ON GOVERNMENT OPERATIONS
Sec. 1201. Short title.
Sec. 1202. Findings.
Sec. 1203. Submission of legislation.
TITLE I—COMMITTEE ON FOREIGN AFFAIRS

SEC. 101. SHORT TITLE.

This title may be cited as the "International Narcotics Control Act of 1986".

SEC. 102. STATEMENT OF POLICY.

The Congress finds that—

(1) inadequate enforcement and eradication efforts have contributed to the rampant production of and trafficking in illicit narcotic drugs;

(2) such drug production and trafficking constitutes a clear and present danger to the international community;

(3) illegal narcotics production and trafficking operations seriously threaten national and regional political stability;

(4) it should be United States policy to assist the major drug producing and trafficking countries effectively to carry out their own enforcement and eradication efforts; and

(5) United States narcotics control assistance should be designed to facilitate the formation of regional solutions for combatting the threats posed by illegal cultivation, production, and trafficking of narcotic drugs.

SEC. 103. STATEMENT OF PURPOSE.

(a) PURPOSE.—The purpose of this title is to promote, through international and regional cooperation, the eventual elimination of narcotics production and trafficking (with assistance from the United States where appropriate) in order that all countries meet their international obligations with respect to narcotics control efforts.

(b) RELATION OF UNITED STATES ASSISTANCE PROGRAMS TO IMPLEMENTATION OF NARCOTICS CONTROL EFFORTS.—In recognition of the threat posed by the international narcotics trade, the Congress declares that frustration of the purpose of this title by lack of cooperation from another country would provide a basis for promptly implementing section 481(h) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(h); relating to suspension of United States assistance).

Subtitle A—International Narcotics Control Assistance Program

SEC. 111. ADDITIONAL FUNDING FOR INTERNATIONAL NARCOTICS CONTROL ASSISTANCE AND REGIONAL COOPERATION.

Section 482(a)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291a(a)(1); authorizing appropriations for assistance for international narcotics control) is amended—

(1) by striking out "$57,529,000 for the fiscal year 1987" and inserting in lieu thereof "$65,445,000 for the fiscal year 1987"; and

(2) by adding at the end the following: "In addition to the amounts authorized by the preceding sentence, there are authorized to be appropriated to the President $35,000,000 for the fiscal year 1987 to carry out the purposes of section 481, except that funds may be appropriated pursuant to this additional authorization only if the President has submitted to the Congress (A) a budget request for the appropriation of those funds, and (B) a plan showing how the requested funds will be used, including a description of how regional cooperation on narcotics control matters would be promoted by the use of those funds.".

SEC. 112. ADDITIONAL AIRCRAFT FOR DRUG CONTROL, ERADICATION AND INTERDICTIONS EFFORTS BY FOREIGN COUNTRIES.

(a) AUTHORIZATION OF ADDITIONAL FUNDS.—Not less than $10,000,000 of the funds available for fiscal year 1987 to carry out chapter 2 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2311 et seq.; relating to grant military assistance) shall be available only to provide helicopters or other aircraft to countries receiving assistance for fiscal year 1987 under chapter 8 of part I of that Act (22 U.S.C. 2291 et seq.; relating to international narcotics control). These aircraft shall be used solely for the purpose of and solely in narcotics control eradication and interdiction efforts.

(b) EARMARKING FOR AIRCRAFT FOR REGIONAL USE.—Not less than half of the funds used pursuant to subsection (a) shall be used for aircraft which will be based in Latin America and will be available for eradication and interdiction efforts throughout the region.

(c) RELATIONSHIP TO INTERNATIONAL NARCOTICS CONTROL ASSISTANCE PROGRAM.—The aircraft made available pursuant to subsection (a) are in addition to any aircraft made available under chapter 8 of part I of the Foreign Assistance Act of 1961. Assistance pursuant to subsection (a) shall be administered and provided in accordance with the authorities of that chapter, rather than the authorities of chapter 2 of part II of that Act.

SEC. 113. RETENTION OF TITLE TO AIRCRAFT PROVIDED TO FOREIGN COUNTRIES FOR NARCOTICS CONTROL PURPOSES.

Chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 et seq.; relating to the international narcotics control assistance program) is amended by adding at the end the following new section:

"SEC. 484. RETENTION OF TITLE TO AIRCRAFT.

"Any aircraft made available to a foreign country under this chapter at any time after the enactment of this section (including aircraft made available pursuant to section 102 of the International Narcotics Control Act of 1986) shall be provided only on a lease or loan basis.".

SEC. 114. RECORDS OF AIRCRAFT USE.

Chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 et seq.; relating to the international narcotics control assistance program), as amended by the preceding section of this title, is further amended by adding at the end the following new section:

"SEC. 485. RECORDS OF AIRCRAFT USE.

"(a) REQUIREMENT TO MAINTAIN RECORDS.—The Secretary of State shall maintain detailed records on the use of any aircraft made available to a foreign country under this chapter, including aircraft made available pursuant to section 102 of the International Narcotics Control Act of 1986 and aircraft made available under this chapter before the enactment of this section.

"(b) CONGRESSIONAL ACCESS TO RECORDS.—The Secretary of State shall make the records maintained pursuant to subsection (a) available to the Congress upon a request of the Chairman of the Committee on Foreign Affairs of the House of Representatives or the Chairman of the Committee on Foreign Relations of the Senate.".

SEC. 115. PILOT AND AIRCRAFT MAINTENANCE TRAINING FOR NARCOTICS CONTROL ACTIVITIES.

(a) EARMARKING OF FUNDS.—Not less than $2,000,000 of the funds made available for fiscal year 1987 to carry out chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.; relating to international military education and training) shall be available only for education and training in the operation and maintenance of aircraft used in narcotics control interdiction and eradication efforts.

(b) RELATIONSHIP TO INTERNATIONAL NARCOTICS CONTROL ASSISTANCE PROGRAM.—Assistance under this section shall be coordinated with assistance provided under chapter 8 of part I of that Act (22 U.S.C. 2291 et seq.; relating to international narcotics control).

(c) WAIVER OF SECTION 660.—Assistance may be provided pursuant to this section notwithstanding the prohibition contained in section 660 of the Foreign Assistance Act of 1961 (22 U.S.C. 2420; relating to police training).

SEC. 116. DEVELOPMENT OF HERBICIDES FOR AERIAL COCA ERADICATION.

The Secretary of State shall use not less than $1,000,000 of the funds made available for fiscal year 1987 to carry out chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 et seq.; relating to international narcotics control) to finance research on and the development and testing of safe and effective herbicides for use in the aerial eradication of coca.

SEC. 117. REVIEW OF EFFECTIVENESS OF INTERNATIONAL NARCOTICS CONTROL ASSISTANCE PROGRAM.

(a) REQUIREMENT FOR INVESTIGATION.—The Comptroller General shall conduct a thorough and complete investigation to determine the effectiveness of the assistance provided pursuant to chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 et seq.; relating to international narcotics control).

(b) REPORTS TO CONGRESS.—

(1) PERIODIC REPORTS.—The Comptroller General shall report to the Congress periodically as the various portions of the inves-

tigation conducted pursuant to subsection (a) are completed.

(2) FINAL REPORT.—Upon completion of the investigation, the Comptroller General shall submit a final report to the Congress on the results of the investigation. This report shall include such recommendations for administrative or legislative action as the Comptroller General finds appropriate based on the investigation.

Subtitle B—Improving Law Enforcement and Other Narcotics Control Activities Abroad

SEC. 121. EXTRADITION TO THE UNITED STATES FOR NARCOTICS-RELATED OFFENSES.

Section 481(e)(3) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(e)(3); relating to the annual international narcotics control report) is amended by inserting after subparagraph (C) the following new subparagraph:

"(D) A discussion of the extent to which such country has cooperated with the United States narcotics control efforts through the extradition or prosecution of drug traffickers, and a description of the status of negotiations with such country to negotiate a new or updated extradition treaty relating to narcotics offenses.".

SEC. 122. ISSUANCE OF DIPLOMATIC PASSPORTS FOR DRUG ENFORCEMENT ADMINISTRATION AGENTS ABROAD.

The Congress commends the decision of the Secretary of State to issue diplomatic passports, rather than official passports, to officials and employees of the Drug Enforcement Administration who are assigned abroad. The Secretary shall report to the Congress before making any change in this policy.

SEC. 123. RESTRICTIONS ON PARTICIPATION OF UNITED STATES PERSONNEL IN ARREST ACTIONS IN NARCOTICS CONTROL EFFORTS ABROAD.

Section 481(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(c); commonly known as the Mansfield amendment) is amended to read as follows:

"(c)(1) Notwithstanding any other provision of law, no officer or employee of the United States may engage or participate in any direct police arrest action in any foreign country with respect to narcotics control efforts, except that this paragraph does not apply in the case of a foreign country with respect to which the Secretary of State has made the determinations described in paragraph (2).

"(2) Paragraph (1) shall not apply, and paragraph (3) shall apply, with respect to a foreign country if the Secretary of State determines that the application of the prohibition in paragraph (3) rather than the prohibition in paragraph (1) with respect to that country—

"(A) would be in the United States national interest, and

"(B) would not harm United States relations with that country.

The Secretary shall keep the Congress fully informed of determinations made under this paragraph and of the activities carried out by officers and employees of the United States pursuant to those determinations.

"(3) In the case of a foreign country with respect to which the Secretary of State has made the determinations described in paragraph (2), an officer or employee of the United States may not directly effect an arrest in that country as part of any foreign police action with respect to narcotics control efforts, notwithstanding any other provision of law. This paragraph does not prohibit an officer or employee from assisting foreign officers who are effecting an arrest.

"(4) Paragraphs (1) and (3) do not prohibit an officer or employee from taking direct action to protect life or safety if exigent circumstances arise which are unanticipated and which pose an immediate threat to United States officers or employees, officers or employees of a foreign government, or members of the public.

"(5) No officer or employee of the United States may interrogate or be present during the interrogation of any United States person arrested in any foreign country with respect to narcotics control efforts without the written consent of such person.

"(6) This subsection shall not apply to the activities of the United States Armed Forces in carrying out their responsibilities under applicable Status of Forces arrangements.".

SEC. 124. INFORMATION-SHARING SO THAT VISAS ARE DENIED TO DRUG TRAFFICKERS.

(a) NEED FOR COMPREHENSIVE INFORMATION SYSTEM.—The Congress is concerned that the executive branch has not established a comprehensive information system on all drug arrests of foreign nationals in the United States so that information may be communicated to the appropriate United States embassies, even though the establishment of such a system is required by section 132 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987.

(b) ESTABLISHMENT OF SYSTEM.—The executive branch shall act expeditiously to establish the comprehensive information system required by section 132 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987, and submit to the Congress a report that the system has been established.

SEC. 125. INFORMATION RELATING TO ILLICIT NARCOTICS ACTIVITIES ABROAD.

(a) NEED FOR INCREASED PRIORITY.—The Congress urges the President to direct the appropriate Federal officials to give greater priority to the collection and sharing of information concerning narcotics-related activities abroad, including information relevant to estimating illicit drug production and information relevant to narcotics-related money laundering.

(b) ASSESSMENT OF NARCOTICS TRAFFICKING FROM AFRICA.—In particular, the President shall direct that an updated threat assessment of narcotics trafficking from Africa be prepared. If it is determined that an increased threat exists, the assessment shall examine the need for the United States to provide increased narcotics control training for African countries.

SEC. 126. COMBATING NARCOTERRORISM.

(a) FINDING.—The Congress finds that the increased cooperation and collaboration between narcotics traffickers and terrorist groups constitutes a serious threat to United States national security interests and to the political stability of numerous other countries, particularly in Latin America.

(b) IMPROVED CAPABILITY FOR RESPONDING TO NARCOTERRORISM.—The President shall take concrete steps to improve the capability of the executive branch—

(1) to collect information concerning the links between narcotics traffickers and acts of terrorism abroad, and

(2) to develop an effective and coordinated means for responding to the threat which those links pose.

Not later than 90 days after the date of enactment of this title, the President shall report to the Congress on the steps taken pursuant to this subsection.

(c) ADMINISTRATION OF JUSTICE PROGRAM.—Of the amounts made available for fiscal year 1987 to carry out section 534 of the Foreign Assistance Act of 1961 (22 U.S.C. 2346c; relating to the administration of justice program), up to $2,000,000 is authorized to be used to provide to Colombia or other countries in the region such assistance as they may request for protection of judicial or other officials who are targets of narcoterrorist attacks. Such assistance may include assistance to increase the investigative, judicial, or prosecutorial capabilities of those countries with respect to narcoterrorist attacks.

SEC. 127. INTERDICTION PROCEDURES FOR VESSELS OF FOREIGN REGISTRY.

(a) FINDINGS.—The Congress finds that—

(1) the interdiction by the United States Coast Guard of vessels suspected of carrying illicit narcotics can be a difficult procedure when the vessel is of foreign registry and is located beyond the customs waters of the United States;

(2) before boarding and inspecting such a vessel, the Coast Guard must obtain consent from either the master of the vessel or the country of registry; and

(3) this process, and obtaining the consent of the country of registry to further law enforcement action, may delay the interdiction of the vessel by 3 or 4 days.

(b) NEGOTIATIONS CONCERNING INTERDICTION PROCEDURES.—

(1) The Congress urges the Secretary of State, in consultation with the Secretary of the department in which the Coast Guard is operating, to increase efforts to negotiate with relevant countries procedures which will facilitate interdiction of vessels suspected of carrying illicit narcotics.

(2) If a country refuses to negotiate with respect to interdiction procedures, the President shall take appropriate actions directed against that country, which may include the denial of access to United States ports to vessels registered in that country.

(3) The Secretary of State shall submit reports to the Congress semiannually identifying those countries which have failed to negotiate with respect to interdiction procedures.

SEC. 128. ARMED FORCES ASSISTANCE FOR LAW ENFORCEMENT ACTIVITIES ABROAD—CONCURRENCE OF SECRETARY OF STATE.

Section 374(c)(1)(B) of title 10, United States Code, is amended by striking out "and the Attorney General" and insert in lieu thereof ", the Attorney General, and the Secretary of State".

Subtitle C—Development and Narcotics Production and Trafficking

SEC. 131. FINDINGS.

The Congress finds that—

(1) increased narcotics cultivation and trafficking in developing countries is associated with declining economic opportunities in those countries, and particularly with decreasing youth employment opportunities and migration of small farmers to narcotics-producing areas to take advantage of economic opportunities that are not available in legitimate agriculture; and

(2) priority in United States development assistance policy should be given to employment-generation and to increasing the incentives for people to remain engaged in legitimate agriculture by increasing the resources available to them and enhancing their ability to make an adequate living.

SEC. 132. CONSULTATION AND AUTHORITIES RELATING TO AGRICULTURAL RESEARCH AND PILOT PROGRAM ACTIVITIES TO ENCOURAGE SUBSTITUTION FOR NARCOTIC CROPS IN MEXICO.

(a) FINDINGS AND PURPOSE.—

(1) The Congress finds that—

(A) the widespread geographic distribution of narcotic crop production in Mexico indicates that there likely are numerous other crops that could be substituted for such narcotic crops,

(B) there are other indications that substitute crops can be grown successfully and profitably under local conditions in Mexico,

(C) the Department of Agriculture has crop development, research, extension, and teaching resources that could be made available to assist Mexico implement a narcotic crop substitution program,

(D) a successful program to encourage substitute cropping in Mexico would effectively contribute to reducing the availability of illegal drugs in the United States, and

(E) substitute cropping in Mexico should be evaluated and considered for potential use in an overall cooperative program to eradicate the production of illegal drugs.

(2) The purpose of this section is to foster a program to encourage the substitution of selected crops for narcotic crops in Mexico used for the production of illegal drugs and to authorize agricultural research and pilot program activities related to demonstrating the feasibility of such substitute cropping.

(b) CONSULTATION.—The Secretary of State, with the assistance of the Secretary of Agriculture, shall consult with the appropriate authorities of the Government of Mexico on—

(1) the development and implementation of a program to train and assist agricultural producers in Mexico to substitute production of selected crops for narcotic crops used in the production of illegal drugs, and

(2) the provision by the United States of agricultural research, extension, and teaching assistance to implement such program.

(c) RESEARCH BY THE SECRETARY OF AGRICULTURE.—

(1) As appropriate based on the consultations provided for under subsection (b), the Secretary of Agriculture, acting through the Agriculture Research Service, shall conduct research to identify crops and other agricultural commodities that have the economic potential to be substituted for narcotic crops presently grown in Mexico.

(2) Research under paragraph (1) shall be conducted in cooperation and coordination with appropriate institutions and agencies in the United States and Mexico and may include studies on crop adaptability, postharvest physiology, marketing, and social acceptance.

(3) A crop or agricultural commodity will be deemed to not be appropriate for substitution if the Secretary determines that increased production of the crop or commodity in Mexico would measurably decrease consumption of amounts of that crop or commodity produced in the United States.

(d) PILOT PROGRAMS.—As appropriate based on the consultations provided for under subsection (b), the Secretary of Agriculture shall establish pilot programs to determine and demonstrate that crops or commodities identified under subsection (c) have the economic potential to be substituted for narcotic crops presently grown in Mexico. Such pilot programs shall be conducted in cooperation with appropriate institutions and agencies in the United States and Mexico and in coordination with programs conducted by Mexico to eradicate the production of illegal drugs.

(e) ASSISTANCE AUTHORITY.—The Secretary of Agriculture may enter into contracts, grant agreements, and cooperative agreements under section 1472 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3318) to carry out this section.

(f) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 133. ANNUAL REPORTS ON DEVELOPMENT EFFORTS TO REDUCE NARCOTICS PRODUCTION AND TRAFFICKING.

Section 634(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2394(a); relating to the annual report on foreign assistance programs) is amended—

(1) by redesignating paragraphs (11) and (12) as paragraphs (12) and (13), respectively; and

(2) by inserting the following new paragraph (11) after paragraph (10):

"(11) a detailed description of the programs and activities carried out under part I (other than chapter 8) with respect to illicit narcotics production (such as crop substitution programs), and an assessment of the effectiveness of those programs and activities in reducing illicit narcotics production;".

Subtitle D—Drug Education Programs Abroad

SEC. 141. INCREASED FUNDING FOR USIA DRUG EDUCATION PROGRAMS.

In addition to amounts otherwise authorized to be appropriated, there is authorized to be appropriated for the United States Information Agency for fiscal year 1987 $2,000,000 which shall be available only for increasing drug education programs abroad. These programs may include—

(1) the distribution of films and publications which demonstrate the impact of drugs on crime and health; and

(2) exchange of persons programs and international visitor programs involving students, educators, and scientists.

SEC. 142. INCREASED FUNDING FOR AID DRUG EDUCATION PROGRAMS.

In addition to amounts otherwise authorized to be appropriated, there are authorized to be appropriated to the President for fiscal year 1987 $3,000,000 to carry out chapter 1 of part I of the Foreign Assistance Act of 1961, which amount shall be used pursuant to section 126(b)(2) of that Act for additional activities aimed at increasing awareness of the effects of production and trafficking of illicit narcotics on source and transit countries.

SEC. 143. REPORTS TO CONGRESS ON DRUG EDUCATION PROGRAMS ABROAD.

The Director of the United States Information Agency and the Administrator of the Agency for International Development shall include in their annual reports to the Congress a description of the drug education programs carried out by their respective agencies.

Subtitle E—United Nations Activities Relating to Drug Narcotics Control

SEC. 151. FINDINGS.

The Congress finds that—

(1) in response to the growing narcotics threat to the international community—

(A) the Single Convention on Narcotic Drugs, 1961, the 1972 Protocol amending that Convention, and the Convention on Psychotropic Substances were adopted under United Nations auspices, and

(B) the United Nations has created various entities to deal with drug abuse control and prevention; and

(2) a greater international effort is required to address this threat, such as additional or increased contributions by other countries to the United Nations Fund for Drug Abuse and Control and greater coordination of enforcement and eradication efforts.

SEC. 152. INTERNATIONAL CONFERENCE ON DRUG ABUSE AND ILLICIT TRAFFICKING.

(a) CONGRESSIONAL SUPPORT.—The Congress hereby declares its support for United Nations General Assembly Resolution 40/122 adopted on December 13, 1985, in which the General Assembly decided to convene in 1987 an International Conference on Drug Abuse and Illicit Trafficking in order to generate universal action to combat the drug problem in all its forms at the national, regional, and international levels, and to adopt a comprehensive outline of future activities.

(b) UNITED STATES PARTICIPATION.—With respect to United States participation in the International Conference on Drug Abuse and Illicit Trafficking, the Congress calls on the President—

(1) to appoint the head of the United States delegation well in advance of the conference; and

(2) to ensure that necessary resources are available for United States preparation and participation.

(c) REPORT TO CONGRESS.—Not later than April 30, 1987, the President shall report to the Congress on the status of United States preparations for the International Conference on Drug Abuse and Illicit Trafficking, including the status of naming the delegation, the issues expected to arise, and United States policy initiatives to be taken at the conference.

SEC. 153. EFFECTIVENESS OF INTERNATIONAL DRUG PREVENTION AND CONTROL SYSTEM.

(a) STUDY.—The United States should seek to improve the program and budget effectiveness of United Nations entities related to narcotics prevention and control by studying the capability of existing United Nations drug-related declarations, conventions, and entities to heighten international awareness and promote the necessary strategies for international action, to strengthen international cooperation, and to make effective use of available United Nations funds.

(b) REPORT TO CONGRESS.—Not later than April 30, 1987, the President shall report to the Congress any recommendations that may result from this study, including the possibility of consolidating existing United Nations entities which engage in narcotics-related activities.

SEC. 154. NARCOTICS CONTROL CONVENTIONS.

The Congress—

(1) urges that the United Nations Commission on Narcotic Drugs complete work as quickly as possible, consistent with the objective of obtaining an effective agreement, on a new draft convention against illicit traffic in narcotic drugs and psychotropic substances, in accordance with the mandate given the Commission by United Nations General Assembly Resolution 39/141; and

(2) calls for more effective implementation of existing conventions relating to narcotics.

Subtitle F—Provisions Relating to Specific Countries

SEC. 161. NARCOTICS CONTROL EFFORTS IN MEXICO.

(a) PROSECUTION OF THOSE RESPONSIBLE FOR THE MURDER OF DEA AGENT CAMARENA.—

Of the funds allocated for assistance for Mexico for fiscal year 1987 under chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 et seq.; relating to international narcotics control), $1,000,000 shall be withheld from expenditure until the President reports to the Congress that the Government of Mexico—

(1) has fully investigated the 1985 murders of Drug Enforcement Administration agent Enrique Camarena Salazar and his pilot Alfredo Zavala Avelar, and

(2) has brought to trial and is effectively prosecuting those responsible for those murders.

(b) REPORTS ON ERADICATION EFFORTS.—The Secretary of State shall report to the Congress on a monthly basis with respect to the illicit drug eradication program in Mexico.

SEC. 162. MEXICO-UNITED STATES INTERGOVERNMENTAL COMMISSION.

(a) NEGOTIATIONS TO ESTABLISH.—In accordance with the resolution adopted by the 26th Mexico-United Interparliamentary Conference which recommended that the Government of Mexico and Government of the United States establish a Mexico-United States Intergovernmental Commission on Narcotics and Psychotropic Drug Abuse and Control, the President should direct the Secretary of State to enter into negotiations with the Government of Mexico to create such a joint intergovernmental commission.

(b) MEMBERSHIP.—The commission, which should meet semiannually, should include members of the Mexican Senate and Chamber of Deputies and the United States House of Representatives and Senate, together with members of the executive departments of each government responsible for drug abuse, education, prevention, treatment, and law enforcement.

(c) REPORT TO CONGRESS.—Not later than 90 days after the date of enactment of this title, the Secretary of State shall report to the Congress on the progress being made in establishing a commission in accordance with subsection (a).

SEC. 163. OPIUM PRODUCTION IN PAKISTAN.

(a) FINDINGS.—The Congress finds that—

(1) the production of opium in Pakistan is expected to triple in the 1985-1986 growing season, posing an increased threat to the health and welfare of the people of Pakistan and the people of the United States; and

(2) the current eradication program in Pakistan, which employs manual eradication of opium poppies, has faltered.

(b) NEED FOR MORE EFFECTIVE DRUG CONTROL PROGRAM.—The Congress urges that the Government of Pakistan adopt and implement a comprehensive narcotics control program which would provide for more effective prosecution of drug traffickers, increased interdiction, and aerial eradication of opium poppies.

(c) REPORT TO CONGRESS.—The Secretary of State shall report to the Congress not later than 60 days after the date of enactment of this title with respect to the adoption and implementation by the Government of Pakistan of a comprehensive narcotics control program in accordance with subsection (b).

SEC. 164. OPIUM PRODUCTION IN IRAN, AFGHANISTAN, AND LAOS.

The Congress calls on the President to instruct the United States Ambassador to the United Nations to request that the United Nations Secretary General raise with delegations to the International Conference on Drug Abuse and Illicit Trafficking the problem of illicit drug production in Iran, Afghanistan, and Laos, the largest opium poppy producing countries which do not have narcotics control programs.

TITLE II—COMMITTEE ON ARMED SERVICES

SEC. 201. SHORT TITLE.

This title may be cited as the "Defense Narcotics Act of 1986".

SEC. 202. POLICY.

It is the sense of Congress that the President should—

(1) apply the full measure of the executive power of the President against the introduction of controlled substances into the United States; and

(2) to that end, should take such steps as may be necessary and appropriate (including the deployment of radar, aircraft, and military personnel) to expand the role of the Armed Forces in the war on illegal drugs.

SEC. 203. DRUG ENFORCEMENT EQUIPMENT.

(a) AMOUNTS AUTHORIZED.—The Secretary of Defense shall acquire aircraft and equipment as follows for enhancement of authorized drug enforcement assistance activities of the Department:

(1) Blackhawk helicopters in the amount of $40,000,000.

(2) Four aircraft configured with the AN/APS-138 radar in the amount of $83,000,000.

(3) Seven radar aerostats in the amount of $90,000,000.

(b) SOURCE OF FUNDS.—Funds for the purpose of subsection (a) shall be derived as the Secretary determines from—

(1) amounts appropriated or otherwise made available to the Department of Defense for fiscal year 1987; and

(2) amounts appropriated or otherwise made available to the Department of Defense for any prior fiscal year and which remain available for obligation.

(c) LOAN OF EQUIPMENT TO LAW ENFORCEMENT AGENCIES.—The Secretary of Defense shall make the aircraft and radar aerostats acquired under subsection (a) available to agencies of the United States designated by the Chairman of the National Drug Enforcement Policy Board established by the National Narcotics Act of 1984. Such aircraft and radar aerostats shall be made available subject to the provisions of chapter 18 of title 10, United States Code.

(d) LIMITATION ON PROCUREMENT.—Amounts appropriated or otherwise made available to the Department of Defense for procurement for fiscal year 1987 or any prior fiscal year may be obligated for equipment for enhancement of authorized drug enforcement activities of the Department of Defense under subsection (a) or any other provision of law only if the equipment—

(1) is fully supportable within the existing service support system of the Department of Defense; and

(2) reasonably relates to an existing military, war reserve, or mobilization requirement.

SEC. 204. COAST GUARD ACTIVITIES.

(a) FUNDING FOR PERSONNEL ON NAVAL VESSELS.—(1) Of the funds appropriated for operation and maintenance for the Navy for fiscal year 1987, the sum of $15,000,000 shall be transferred to the Secretary of Transportation and shall be available only for members of the Coast Guard assigned to duty as provided in section 379 of title 10, United States Code (as added by subsection (b)).

(2) The active duty military strength level for the Coast Guard for fiscal year 1987 is hereby increased by 500 above any number otherwise provided by law.

(b) ENHANCED DRUG INTERDICTION ASSISTANCE.—(1) Chapter 18 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 379. Assignment of Coast Guard personnel to naval vessels for law enforcement purposes

"(a) The Secretary of Defense and the Secretary of Transportation shall provide that there be assigned on board appropriate surface naval vessels at sea in a drug-interdiction area members of the Coast Guard who are trained in law enforcement and have powers of the Coast Guard under title 14, including the power to make arrests and to carry out searches and seizures.

"(b) Members of the Coast Guard assigned to duty on board naval vessels under this section shall perform such law enforcement functions (including drug-interdiction functions)—

"(1) as may be agreed upon by the Secretary of Defense and the Secretary of Transportation; and

"(2) as are otherwise within the jurisdiction of the Coast Guard.

"(c) No fewer than 500 active duty personnel of the Coast Guard shall be assigned each fiscal year to duty under this section. However, if at any time the Secretary of Transportation, after consultation with the Secretary of Defense, determines that there are insufficient naval vessels available for purposes of this section, such personnel may be assigned other duty at other units involved in the enforcement of laws listed in section 374(a)(1) of this title.

"(d) In this section, the term 'drug-interdiction area' means an area outside the land area of the United States in which the Secretary of Defense and the Attorney General jointly determine that activities involving smuggling of drugs into the United States are ongoing.

"(e) In this section, a reference to the Secretary of Transportation applies only when the Coast Guard is operating as a service in the Department of Transportation.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"379. Assignment of Coast Guard personnel to naval vessels for law enforcement purposes.".

(3) Effective on October 1, 1986, section 1421 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 750), is repealed.

SEC. 205. DRUG INTERDICTION ASSISTANCE TO CIVILIAN LAW ENFORCEMENT OFFICIALS.

Section 374(a) of title 10, United States Code, is amended by striking out the period at the end and inserting in lieu thereof "or with respect to any assistance that such an agency may be authorized to provide to officials of foreign nations who are involved in the enforcement of similar laws.".

SEC. 206. MILITARY PERSONNEL.

(a) STUDY OF APPROPRIATE ROLE OF MILITARY PERSONNEL.—Not later than March 1, 1987, the President shall submit to Congress a report describing the appropriate role of the active and reserve components of the Armed Forces under the jurisdiction of the Secretary of Defense in interdicting illegal drugs and otherwise participating in the national effort to control and reduce drug abuse.

(b) COAST GUARD RESERVE.—The Selected Reserve of the Coast Guard Reserve shall

be programmed to attain a strength as of September 30, 1987, of not less than 14,500. Of such number, not less than 1,500 shall be used to augment units of the Coast Guard assigned to drug interdiction missions.

(c) HEALTH PROMOTION PROGRAM.—(1) The Secretary of Defense shall establish a comprehensive anti-drug abuse health promotion program for members of the Armed Forces and civilian personnel of the Department of Defense and their families. Such program shall include education programs concerning controlled substances as a major component of basic training.

(2) The Secretary shall direct that the Department of Defense Dependents Schools System establish a drug abuse education curriculum and programs to be provided throughout elementary and secondary school.

(d) DRIVING UNDER INFLUENCE OF DRUGS.—Section 911 of title 10, United States Code, is amended by inserting "or while under the influence of a substance described in section 912a(b) of this title (article 112a(b))" after "manner,".

TITLE III—COMMITTEE ON WAYS AND MEANS

SEC. 300. SHORT TITLE.

This title may be cited as the "Drug Smuggling Enforcement Act of 1986".

Subtitle A—Amendments to the Tariff Act of 1930

PART I—GENERAL PROVISIONS

SEC. 301. REFERENCE.

Unless otherwise provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a title, part, section, subsection, or other provision, the reference shall be considered to be made to a title, part, section, subsection, or other provision of the Tariff Act of 1930 (19 U.S.C. 1401 et seq.).

SEC. 302. PROHIBITION ON IMPORTATION OF DRUG PARAPHERNALIA.

Part 1 of title III (19 U.S.C. 1301 et seq.) is amended by inserting after section 306 the following new section:

"SEC. 306A. DRUG PARAPHERNALIA: IMPORTATION PROHIBITED.

"(a) PROHIBITION.—The importation into the United States of any drug paraphernalia is prohibited; except that drug paraphernalia may be imported into the United States for medical or scientific needs under such regulations as the Attorney General may prescribe.

"(b) DEFINITION.—As used in subsection (a), the term 'drug paraphernalia' means any of the following articles, whether assembled or disassembled, and parts thereof:

"(1) Bongs, bong bowls, cocaine free base kits, miniature spoons with level capacities of one-tenth cubic centimeter or less, cocaine straws or snorters, cocaine screens or strainers, marijuana isomerization devices, marijuana separation gins, marijuana growing kits, chillums, ice or chiller pipes, air-driven pipes, electric pipes, chamber pipes, carburetor pipes, water pipes, pipes with glass, pyrex, metal, or stone bowls (except meerschaum), wired cigarette rolling papers, smoking masks, and smoking screens.

"(2) Any equipment, product, or material of any kind that is specifically designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, cutting, testing, analyzing, packaging, repacking, storing, containing, concealing, or injecting, ingesting, inhaling or otherwise introducing into the human body, marijuana, hashish, hashish oil, or cocaine.".

SEC. 303. DEFINITIONS.

Section 401 (19 U.S.C. 1401) is amended—

(1) by inserting ", and monetary instruments as defined in section 5312 of title 31, United States Code" before the period in subsection (c); and

(2) by adding at the end thereof the following:

"(m) CONTROLLED SUBSTANCE.—The term 'controlled substance' has the meaning given that term in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)). For purposes of this Act, any controlled substance is merchandise the importation of which into the United States is prohibited, unless the importation is authorized under—

"(1) an appropriate license or permit; or

"(2) the Controlled Substances Import and Export Act.".

SEC. 304. REPORT OF ARRIVAL OF VESSELS, VEHICLES, AND AIRCRAFT.

Section 433 (19 U.S.C. 1433) is amended to read as follows:

"SEC. 433. REPORT OF ARRIVAL OF VESSELS, VEHICLES, AND AIRCRAFT.

"(a) VESSEL ARRIVAL.—(1) Immediately upon the arrival at any port or place within the United States or the Virgin Islands of—

"(A) any vessel from a foreign port or place;

"(B) any foreign vessel from a domestic port; or

"(C) any vessel of the United States carrying bonded merchandise, or foreign merchandise for which entry has not been made;

the master of the vessel shall report the arrival at the nearest customs facility or such other place as the Secretary may designate.

"(2) The Secretary may by regulation—

"(A) prescribe the manner in which arrivals are to be reported under paragraph (1); and

"(B) extend the time in which reports of arrival must be made, but not later than 24 hours after arrival.

"(b) VEHICLE ARRIVAL.—(1) Vehicles may arrive in the United States only at border crossing points designated by the Secretary.

"(2) Except as otherwise authorized by the Secretary, immediately upon the arrival of any vehicle in the United States at a border crossing point, the person in charge of the vehicle shall—

"(A) report the arrival; and

"(B) present the vehicle, and all persons and merchandise (including baggage) on board, for inspection;

to the customs officer at the customs facility designated for that crossing point.

"(c) AIRCRAFT ARRIVAL.—The pilot of any aircraft arriving in the United States or the Virgin Islands from any foreign airport or place shall comply with such advance notification, arrival reporting, and landing requirements as the Secretary may by regulation prescribe.

"(d) PRESENTATION OF DOCUMENTATION.—The master, person in charge of a vehicle, or aircraft pilot shall, incident to the reporting of arrival under this section, present to customs officers such documents, papers, or manifests as the Secretary may by regulation prescribe.

"(e) PROHIBITION ON DEPARTURES AND DISCHARGE.—Unless otherwise authorized by law, after arriving in the United States or the Virgin Islands a vessel or aircraft may not, and after arriving in the United States a vehicle may not—

"(1) depart from the port, place, or airport of arrival; or

"(2) discharge any passenger or merchandise (including baggage);

except in accordance with regulations prescribed by the Secretary.".

SEC. 305. PENALTIES FOR ARRIVAL, REPORTING, ENTRY, AND DEPARTURE VIOLATIONS.

(a) FOR VIOLATIONS OF ARRIVAL, REPORTING, AND ENTRY REQUIREMENTS.—Section 436 (19 U.S.C. 1436) is amended to read as follows:

"SEC. 436. PENALTIES FOR VIOLATIONS OF THE ARRIVAL, REPORTING, AND ENTRY REQUIREMENTS.

"(a) UNLAWFUL ACTS.—It is unlawful—

"(1) to fail to comply with section 433(a), (b), or (c);

"(2) to present any forged, altered, or false document, paper, or manifest to a customs officer under section 433(d) without revealing the facts;

"(3) to violate section 433(e);

"(4) to fail to make entry as required by section 434, 435, or 644 of this Act or section 1109 of the Federal Aviation Act (49 U.S.C. App. 1509); or

"(5) to fail to comply with, or violate, any regulation prescribed under any section referred to in paragraphs (1) through (4).

"(b) CIVIL PENALTY.—Any master, person in charge of a vehicle, or aircraft pilot who violates any provision of subsection (a) is liable for a civil penalty of $5,000 for the first violation, and $10,000 for each subsequent violation, and any conveyance used in connection with any such violation is subject to seizure and forfeiture.

"(c) CRIMINAL PENALTY.—In addition to being liable for a civil penalty under subsection (b), any master, person in charge of a vehicle, or aircraft pilot who intentionally violates any provision of subsection (a) is, upon conviction, liable for a fine in accordance with title 18, United States Code, or imprisonment for 1 year, or both; except that if the vessel, vehicle, or aircraft has on board, or is discovered to have had on board, any merchandise (other than sea stores or the equivalent for conveyances other than vessels) the importation of which into the United States is prohibited, such individual is liable for a fine in accordance with title 18, United States Code, or imprisonment for not more than 5 years, or both.

"(d) ADDITIONAL CIVIL PENALTY.—If any merchandise (other than sea stores or the equivalent for conveyances other than a vessel) is imported or brought into the United in or aboard a conveyance which was not properly reported or entered, the master, person in charge of a vehicle, or aircraft pilot shall be liable for a civil penalty equal to the value of the merchandise and the merchandise may be seized and forfeited unless properly entered by the importer or consignee. If the merchandise consists of any controlled substance listed in section 584, the master, individual in charge of a vehicle, or pilot shall be liable to the penalties prescribed in that section.".

(b) INCREASE IN PENALTIES FOR DEPARTURE BEFORE REPORT OR ENTRY.—Section 585 (19 U.S.C. 1585) is amended—

(1) by striking out "shall be liable to a penalty of $5,000," after "vessel"; and

(2) by striking out "$500" and inserting "$5,000 for the first violation, and $10,000 for each subsequent violation,".

SEC. 306. INCREASE IN PENALTIES FOR UNAUTHORIZED UNLOADING OF PASSENGERS.

Section 454 (19 U.S.C. 1454), is amended by striking out "$500 for each" and insert-

ing "$1,000 for the first passenger and $500 for each additional".

SEC. 307. REPORTING REQUIREMENTS FOR INDIVIDUALS.

(a) AMENDMENT.—Section 459 (19 U.S.C. 1459) is amended to read as follows:

"SEC. 459. REPORTING REQUIREMENTS FOR INDIVIDUALS.

"(a) INDIVIDUALS ARRIVING OTHER THAN BY CONVEYANCE.—Except as otherwise authorized by the Secretary, individuals arriving in the United States other than by vessel, vehicle, or aircraft shall—

"(1) enter the United States only at a border crossing point designated by the Secretary; and

"(2) immediately—

"(A) report the arrival, and

"(B) present themselves, and all articles accompanying them for inspection;

to the customs officer at the customs facility designated for that crossing point.

"(b) INDIVIDUALS ARRIVING BY REPORTED CONVEYANCE.—Except as otherwise authorized by the Secretary, passengers and crew members aboard a conveyance the arrival in the United States of which was made or reported in accordance with section 433 or 644 of this Act or section 1109 of the Federal Aviation Act of 1958, or in accordance with applicable regulations, shall remain aboard the conveyance until authorized to depart the conveyance by the appropriate customs officer. Upon departing the conveyance, the passengers and crew members shall immediately report to the designated customs facility with all articles accompanying them.

"(c) INDIVIDUALS ARRIVING BY UNREPORTED CONVEYANCE.—Except as otherwise authorized by the Secretary, individuals aboard a conveyance the arrival in the United States of which was not made or reported in accordance with the laws or regulations referred to in subsection (b) shall immediately notify customs and report their arrival, together with appropriate information concerning the conveyance on or in which they arrived, and present their property for customs examination and inspection.

"(d) DEPARTURE FROM DESIGNATED CUSTOMS FACILITIES.—Except as otherwise authorized by the Secretary, any person required to report to a designated customs facility under subsection (a), (b), or (c) may not depart that facility until authorized to do so by the appropriate customs officer.

"(e) UNLAWFUL ACTS.—It is unlawful—

"(1) to fail to comply with subsection (a), (b), or (c);

"(2) to present any forged, altered, or false documents or paper to a customs officer under subsection (a), (b), or (c) without revealing the facts;

"(3) to violate subsection (d); or

"(4) to fail to comply with, or violate, any regulation prescribed to carry out subsection (a), (b), (c), or (d).

"(f) CIVIL PENALTY.—Any individual who violates any provision of subsection (e) is liable for a civil penalty of $5,000 for the first violation, and $10,000 for each subsequent violation.

"(g) CRIMINAL PENALTY.—In addition to being liable for a civil penalty under subsection (f), any individual who intentionally violates any provision of subsection (e) is, upon conviction, liable for a fine in accordance with title 18, United States Code, or imprisonment for not more than 1 year, or both.".

(b) REPEAL.—Section 460 is repealed.

SEC. 308. EXAMINATION OF BOOKS AND WITNESSES.

Section 509 (19 U.S.C. 1509) is amended—

(1) by striking out ", required to be kept under section 508 of this Act," in subsection (a)(2) and inserting ", as defined in subsection (c)(1)(A),"; and

(2) by amending subsection (c)(1)(A) to read as follows:

"(A) The term 'records' includes statements, declarations, or documents—

"(i) required to be kept under section 508; or

"(ii) regarding which there is probable cause to believe that they pertain to merchandise the importation of which into the United States is prohibited.".

SEC. 309. PENALTIES FOR FALSITY OR LACK OF MANIFEST.

Section 584 (19 U.S.C. 1584) is amended—

(1) by amending subsection (a)—

(A) by striking out "(1)" after "GENERAL RULE.—",

(B) by striking out "(2) If any of such merchandise so found" and inserting "(b) SPECIAL RULE IF CERTAIN ILLEGAL SUBSTANCES FOUND.—If any of the merchandise described in subsection (a)",

(C) by striking out "(3)" and inserting "(c) SEIZURE AND FORFEITURE.—If any of the merchandise described in subsection (a)",

(D) by striking out "$500" wherever it appears and inserting "$1,000"; and

(E) by striking out "$10", "$25", and "$50" wherever they appear and inserting "$200", "$500", and "$1,000", respectively; and

(2) by striking out subsection (b);

SEC. 310. PENALTIES FOR UNLAWFUL UNLADING AND TRANSSHIPMENT.

Section 586 (19 U.S.C. 1586) is amended—

(1) by striking out "$1,000" wherever it appears and inserting "$10,000"; and

(2) by amending subsection (e)—

(A) by striking out "one league of the coast of the United States" and inserting "customs waters"; and

(B) by striking out "2 years" and inserting "15 years".

SEC. 311. AVIATION SMUGGLING.

Part V of title IV is amended by adding after section 589 the following new section:

"SEC. 590. AVIATION SMUGGLING.

"(a) IN GENERAL.—It is unlawful for the pilot of any aircraft to transport, or for any individual on board any aircraft to possess, merchandise knowing, or intending, that the merchandise will be introduced into the United States contrary to law.

"(b) AT SEA TRANSFER OF PROHIBITED MERCHANDISE BETWEEN UNITED STATES CONVEYANCES.—It is unlawful for any person to transfer, unless the transfer is authorized by the Secretary, prohibited merchandise on the high seas or in the customs waters between—

"(1) an aircraft that is owned by a citizen of the United States or is registered in the United States; and

"(2) a vessel of the United States as defined in section 3(b) of the Anti-Smuggling Act (19 U.S.C 1703(b)).

"(c) OTHER AT SEA TRANSFERS OF PROHIBITED MERCHANDISE.—It is unlawful for any person to transfer, unless the transfer is authorized by the Secretary, prohibited merchandise on the high seas or in the customs waters between any aircraft and vessel, regardless of the nationality of either, with intent that such merchandise be introduced into the United States contrary to law.

"(d) CIVIL PENALTIES.—Any person who violates subsection (a), (b), or (c) is liable for a civil penalty equal to twice the value of the prohibited merchandise involved in the violation, but not less than $10,000.

"(e) CRIMINAL PENALTIES.—In addition to being liable for a civil penalty under subsection (d), any person who intentionally violates subsection (a), (b), or (c) is, upon conviction—

"(1) liable for a fine in accordance with title 18, United States Code, or imprisonment for not more than 5 years, or both, if none of the prohibited merchandise involved was a controlled substance; or

"(2) liable for a fine in accordance with title 18, United States Code, or imprisonment for not more than 20 years, or both, if any of the prohibited merchandise involved was a controlled substance.

"(f) SEIZURE.—(1) Except as provided in paragraph (2), a vessel or aircraft used in connection with, or in aiding or facilitating, any violation of subsection (a), (b), or (c), whether or not any person is charged in connection with such violation, may be seized and forfeited in accordance with the customs laws.

"(2) Paragraph (1) does not apply to a vessel or aircraft operated as a common carrier.

"(g) DEFINITION.—As used in this section, the term 'prohibited merchandise' means merchandise the importation of which into the United States is prohibited.

"(h) PRESUMPTIONS AND PRIMA FACIE EVIDENCE.—Any of the following acts, if engaged in within 250 miles of the territorial sea of the United States, shall—

"(1) for purposes of imposing civil penalties under subsection (d) for violations of subsection (c), be presumed to constitute circumstances indicating that the intent of the transfer is to make it possible for the merchandise, or any part thereof, to be introduced into the United States contrary to law; and

"(2) for purposes of subsection (f) and section 595a, be prima facie evidence that an aircraft or vessel was used in connection with, or in aiding or facilitating, a violation of subsection (a), (b), or (c) or section 595a, as the case may be:

"(A) The operation of an aircraft or a vessel without lights during such times as lights are required to be displayed under applicable law or regulation.

"(B) The presence on an aircraft of an auxiliary fuel tank which is not installed in accordance with applicable law or regulation.

"(C) Falsely identifying the vessel by name or country of registration, or the aircraft by registration number and country of registration, when requested to do so by a customs officer or other government authority.

"(D) The external display of false registration numbers, false country of registration, or false vessel name.

"(E) The presence on board of unmanifested merchandise, the importation of which is prohibited or restricted.

"(F) The presence on board of controlled substances which are not manifested or which are not accompanied by the permits or licenses required under Single Convention on Narcotic Drugs or other international treaty.

"(G) The presence of any compartment or equipment which is built or fitted out for smuggling.

"(H) The failure of a vessel to stop when hailed by a customs officer or other government authority.".

SEC. 312. SEIZURES.

Section 594 (19 U.S.C. 1594) is amended to read as follows:

"SEC. 594. SEIZURE OF CONVEYANCES.

"(a) IN GENERAL.—Whenever—

"(1) any vessel, vehicle, or aircraft; or

"(2) the owner or operator, or the master, pilot, conductor, driver, or other person in charge of a vessel, vehicle, or aircraft;

is subject to a penalty for violation of the customs laws, the conveyance involved shall be held for the payment of such penalty and may be seized and forfeited and sold in accordance with the customs laws. The proceeds of sale, if any, in excess of the assessed penalty and expenses of seizing, maintaining and selling the property shall be held for the account of any interested party.

"(b) EXCEPTIONS.—No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to seizure and forfeiture under the customs laws for violations relating to merchandise contained—

"(1) on the person;

"(2) in baggage belonging to and accompanying a passenger being lawfully transported on such conveyance; or

"(3) in the cargo of the conveyance if the cargo is listed on the manifest and marks, numbers, weights and quantities of the outer packages or containers agree with the manifest;

unless the owner or operator, or the master, pilot, conductor, driver or other person in charge participated in, or had knowledge of, the violation, or was grossly negligent in preventing or discovering the violation.

"(c) PROHIBITED MERCHANDISE ON CONVEYANCE.—If any merchandise the importation of which into the United States is prohibited is found to be, or to have been—

"(1) on board a conveyance used as a common carrier in the transaction of business as a common carrier in one or more packages or containers—

"(A) that are not manifested (or not shown on bills of lading or airway bills); or

"(B) whose marks, numbers, weight or quantities disagree with the manifest (or with the bills of lading or airway bills); or

"(2) concealed in or on such a conveyance, but not in the cargo;

the conveyance may be seized, and after investigation, forfeited unless it is established that neither the owner or operator, master, pilot, nor any other employee responsible for maintaining and insuring the accuracy of the cargo manifest knew, or by the exercise of the highest degree of care and diligence could have known, that such merchandise was on board.

"(d) DEFINITIONS.—For purposes of this section—

"(1) The phrase 'owner or operator' includes—

"(A) a lessee or person operating a conveyance under a rental agreement or charter party; and

"(B) the officers and directors of a corporation;

"(C) station managers and similar supervisory ground personnel employed by airlines;

"(D) one or more partners of a partnership;

"(E) representatives of the owner or operator in charge of the passenger or cargo operations at a particular location; and

"(F) and other persons with similar responsibilities.

"(2) The term 'master' and similar terms relating to the person in charge of a conveyance includes the purser or other person on the conveyance who is responsible for maintaining records relating to the cargo transported in the conveyance.

"(e) COSTS AND EXPENSES OF SEIZURE.—When a common carrier has been seized in accordance with the provisions of subsection (c) and it is subsequently determined that a violation of such subsection occurred but that the vessel will be released, the conveyance is liable for the costs and expenses of the seizure and detention.".

SEC. 313. SEARCHES AND SEIZURES.

Section 595(a) (19 U.S.C. 1595(a)) is amended to read as follows:

"(a) WARRANT.—(1) If any officer or person authorized to make searches and seizures has probable cause to believe the presence in any dwelling house, store, or other building or place of—

"(A) any merchandise upon which the duties have not been paid, or which has been otherwise brought into the United States unlawfully;

"(B) any property which is subject to forfeiture under any provision of law enforced or administered by the Customs Service; or

"(C) subject to the limitation in paragraph (2), any document, container, wrapping, or other article which is evidence of a violation of any law enforced or administered by the Customs Service,

he may make application, under oath, to any justice of the peace, to any municipal, county, State, or Federal judge, or to any Federal magistrate, and shall thereupon be entitled to a warrant to enter such dwelling house in the daytime only, or such store or other place at night or by day, and to search for and seize such merchandise or other article described in the warrant; except that if any house, store, or other building or place in which any merchandise or other article subject to forfeiture is found is upon, or within ten feet of, the boundary line between the United States and a foreign country, such portion thereof as is within the United States may be taken down or removed.

"(2) In the case of violations of section 592, paragraph (1)(C) applies only to violations in which there is probable cause to believe that fraud is involved.".

SEC. 314. FORFEITURES.

Section 596 (19 U.S.C. 1595a) is amended—

(1) by striking out "the proviso to" in subsection (a) and inserting "subsection (b) or (c) of";

(2) by striking out "shall" in subsection (a) and inserting "may"; and

(3) by adding at the end thereof the following new subsection:

"(c) Any merchandise that is introduced or attempted to be introduced into the United States contrary to law (other than in violation of section 592) may be seized and forfeited.".

SEC. 315. DISPOSITION OF PROCEEDS OF FORFEITED PROPERTY.

Section 613 (19 U.S.C. 1613) is amended by adding at the end thereof the following new subsections:

"(c) TREATMENT OF DEPOSITS.—If property is seized by the Secretary under law enforced or administered by the Customs Service, or otherwise acquired under section 605 of this Act, and relief from the forfeiture is granted by the Secretary, or his designee, upon terms requiring the deposit or retention of a monetary amount in lieu of the forfeiture, the amount recovered shall be treated in the same manner as the proceeds of sale of a forfeited item.

"(d) EXPENSES.—In any judicial or administrative proceeding to forfeit property under any law enforced or administered by the Customs Service or the Coast Guard, the seizure, storage, and other expenses related to the forfeiture that are incurred by the Customs Service or the Coast Guard after the seizure, but before the institution of, or during, the proceedings, shall be a priority claim in the same manner as the court costs and the expenses of the Federal marshal.".

SEC. 316. COMPENSATION TO INFORMERS.

Section 619 (19 U.S.C. 1619) is amended—

(1) by striking out "of 25 per centum" each place it appears and inserting in lieu thereof "of not more than 25 percent";

(2) by striking out "which shall be paid out of any appropriations available for the collection of the revenue from customs" in the first sentence;

(3) by striking out the fourth sentence;

(4) by inserting "as an expense of such forfeiture" after "Treasury under the provisions of this section" in the third sentence;

(5) by inserting the following sentence after the second sentence: "Notwithstanding any other provision of law, any amount paid as an award of compensation under this section shall be paid from the net amount recovered before such net amount is deposited in the general fund of the Treasury or the Customs Forfeiture Fund, as appropriate."; and

(6) by adding at the end thereof the following sentence: "Regardless if any duty is recovered, any fine or penalty is paid, or any property is forfeited to the United States, the Secretary may, based upon the value of the information, award not to exceed $100,000 to any person not an officer or employee of the United States who discovers and reports to an appropriate officer original information concerning any violation, or plan to violate, any customs law or navigation law.".

SEC. 317. COMMENCEMENT OF ACTIONS.

Section 621 (19 U.S.C. 1621) is amended by inserting at the end thereof the following sentence: "For purposes of this section, an action to recover a pecuniary penalty is considered to have been commenced when the appropriate customs officer issues a penalty notice.".

SEC. 318. FOREIGN LANDING CERTIFICATES.

Section 622 (19 U.S.C. 1622) is amended by inserting before the period at the end thereof the following: ", or to comply with international obligations".

SEC. 319. EXCHANGE OF INFORMATION WITH FOREIGN AGENCIES.

Part V of title IV is amended by adding at the end thereof the following new section 628:

"SEC. 628. EXCHANGE OF INFORMATION.

"The Secretary may by regulation authorize customs officers to exchange information or documents with foreign customs and law enforcement agencies if the Secretary reasonably believes the exchange of information is necessary to—

"(1) insure compliance with any law or regulation enforced or administered by the Customs Service;

"(2) verify the accuracy of information provided to the Department of the Treasury or the Customs Service that is used in making determinations concerning the classification, value, country of origin, quota allocability, admissibility, or other characteristics of imported merchandise that relevant to the laws and regulations enforced or administered by Customs Service;

"(3) administer or enforce multilateral or bilateral agreements to which the United States is a party;

"(4) assist in investigative, judicial and quasi-judicial proceedings in the United States; and

"(5) an action comparable to any of those described in paragraphs (1) through (4) undertaken by a foreign customs or law enforcement agency, or in relation to a proceeding in a foreign country.".

SEC. 320. INSPECTIONS AND PRECLEARANCE IN FOREIGN COUNTRIES.

Part V of title IV is further amended by adding at the end thereof the following new section:

"SEC. 629. INSPECTIONS AND PRECLEARANCE IN FOREIGN COUNTRIES.

"(a) IN GENERAL.—When authorized by treaty or executive agreement, the Secretary may station customs officers in foreign countries for the purpose of examining persons and merchandise prior to their arrival in the United States.

"(b) FUNCTIONS AND DUTIES.—Customs officers stationed in a foreign country under subsection (a) may exercise such functions and perform such duties (including inspections, searches, seizures and arrests) as may be permitted by the treaty, agreement or law of the country in which they are stationed.

"(c) COMPLIANCE.—The Secretary may by regulation require compliance with the customs laws and regulations in a foreign country and, in such a case the customs laws and other civil and criminal laws of the United States relating to the importation of merchandise, filing of false statements, and the unlawful removal of merchandise from customs custody shall apply in the same manner as if the foreign station is a port of entry within the customs territory of the United States.

"(d) SEIZURES.—When authorized by treaty, agreement or foreign law, merchandise which is subject to seizure or forfeiture under United States law may be seized in a foreign country and transported under customs custody to the customs territory to the United States to be proceeded against under the customs law.

"(e) STATIONING OF FOREIGN CUSTOMS OFFICERS IN THE UNITED STATES.—The Secretary of State, in coordination with the Secretary, may enter into agreements with any foreign country authorizing the stationing in the United States of customs officials of that country (if similar privileges are extended by that country to United States officials) for the purpose of insuring that persons and merchandise going directly to that country from the United States comply with the customs and other laws of that country governing the importation of merchandise. Any foreign customs official stationed in the United States under this subsection may exercise such functions and perform such duties as United States officials may be authorized to perform in that foreign country under reciprocal agreement.

"(f) APPLICATION OF CERTAIN LAWS.—When customs officials of a foreign country are stationed in the United States in accordance with subsection (e), and if similar provisions are applied to United States officials stationed in that country—

"(1) sections 111 and 1114 of title 18, United States Code, shall apply as if the officials were designated in those sections;

"(2) any person who in any matter before a foreign customs official stationed in the United States knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, is liable for a fine in accordance with title 18, United States Code, or imprisonment for not more than 5 years, or both.

SEC. 321. INVESTIGATIONS; OATHS; SUBPOENAS; ETC.

(a) AMENDMENT.—Part V of title IV is further amended by adding at the end thereof the following new section:

"SEC. 630. INVESTIGATIONS; OATHS; SUBPOENAS; WITNESSES; EVIDENCE; PRODUCTION OF RECORDS; TERRITORIAL LIMITS; FEES AND MILEAGE OF WITNESSES.

"(a) IN GENERAL.—For the purpose of any investigation which, in the opinion of the Secretary, is necessary and proper to—

"(1) the reporting of monetary instruments, transactions, or transportation under chapter 53 of subchapter II of title 31, United States Code; or

"(2) the enforcement of the Bank Secrecy Act (Public Law 91-508);

the Secretary may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of records (including books, papers, documents, and tangible things which constitute or contain evidence) relevant or material to the investigation. The attendance of witnesses and the production of records may be required from any place within the customs territory of the United States, except that a witness shall not be required to appear at any hearing distant more than 100 miles from the place where he was served with subpoena. Witnesses summoned by the Secretary shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. Oaths and affirmations may be made at any place subject to the jurisdiction of the United States.

"(b) SERVICE OF SUBPOENA; PROOF OF SERVICE.—A subpoena of the Secretary may be served by any person designated in the subpoena to serve it. Service upon a natural person may be made by personal delivery of the subpoena to him. Service may be made upon a domestic or foreign corporation or upon a partnership or other unincorporated association which is subject to suit under a common name, by delivering the subpoena to an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process. The affidavit of the person serving the subpoena entered on a true copy thereof by the person serving it shall be proof of service.

"(c) CONTEMPT PROCEEDINGS.—In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary of the Treasury may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on or of which the subpoenaed person is an inhabitant, carries on business or may be found, to compel compliance with the subpoena of the Secretary. The court may issue an order requiring the subpoenaed person to appear before the Secretary of the Treasury there to produce records, if so ordered, or to give testimony touching the matter under investigation and to pay the costs of the proceeding. Any failure to obey the order of the court may be punished by the court as a contempt thereof. All process in any such case may be served in the judicial district whereof the subpoenaed person is an inhabitant or where he may be found.".

(b) REPEAL.—The Act entitled "An Act to authorize subpoenas in connection with the enforcement of the narcotic laws, and for other purposes", approved August 11, 1955 (21 U.S.C. 967-969), is repealed.

SEC. 322. UNDERCOVER INVESTIGATIVE OPERATIONS OF THE CUSTOMS SERVICE.

(a) CERTIFICATION REQUIRED FOR EXEMPTION OF UNDERCOVER OPERATIONS FROM CERTAIN LAWS.—With respect to any undercover investigative operation of the United States Customs Service (hereinafter in this section referred to as the "Service") which is necessary for the detection and prosecution of offenses against the United States which are within the jurisdiction of the Secretary of the Treasury—

(1) sums authorized to be appropriated for the Service may be used—

(A) to purchase property, buildings, and other facilities, and to lease space, within the United States, the District of Columbia, and the territories and possessions of the United States without regard to—

(i) sections 1341 and 3324 of title 31, United States Code,

(ii) sections 3732(a) and 3741 of the Revised Statutes of the United States (41 U.S.C. 11(a) and 22),

(iii) section 305 of the Act of June 30, 1949 (63 Stat. 396; 41 U.S.C. 255),

(iv) the third undesignated paragraph under the heading "Miscellaneous" of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34), and

(v) section 304(a) and (c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(a) and (c)), and

(B) to establish or to acquire proprietary corporations or business entities as part of the undercover operation, and to operate such corporations or business entities on a commercial basis, without regard to sections 9102 and 9103 of title 31, United States Code;

(2) sums authorized to be appropriated for the Service and the proceeds from the undercover operation, may be deposited in banks or other financial institutions without regard to the provisions of section 648 of title 18, United States Code, and section 3302 of title 31, United States Code; and

(3) the proceeds from the undercover operation may be used to offset necessary and reasonable expenses incurred in such operation without regard to the provisions of section 3302 of title 31, United States Code;

only upon the written certification of the Commissioner of Customs (or, if designated by the Commissioner the Deputy or an Assistant Commissioner) that any action authorized by paragraph (1), (2), or (3) of this subsection is necessary for the conduct of such undercover operation.

(b) LIQUIDATION OF CORPORATIONS AND BUSINESS ENTITIES.—If a corporation or business entity established or acquired as part of an undercover operation under paragraph (1)(B) of subsection (a) with a net value over $50,000 is to be liquidated, sold, or otherwise disposed of, the Service, as much in advance as the Commissioner or his designee determines is practicable, shall report the circumstances to the Secretary of the Treasury and the Comptroller General. The proceeds of the liquidation, sale, or other disposition, after obligations are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.

(c) DEPOSIT OF PROCEEDS.—As soon as the proceeds from an undercover investigative operation with respect to which an action is authorized and carried out under paragraphs (2) and (3) of subsection (a) are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall

be deposited into the Treasury of the United States as miscellaneous receipts.

(d) AUDITS.—(1) The Customs Service shall conduct a detailed financial audit of each undercover investigative operation which is closed in each fiscal year, and

(A) submit the results of the audit in writing to the Secretary of the Treasury; and

(B) not later than 180 days after such undercover operation is closed, submit a report to the Congress concerning such audit.

(2) The Customs Service shall also submit a report annually to the Congress specifying as to its undercover investigative operations—

(A) the number, by programs, of undercover investigative operations pending as of the end of the 1-year period for which such report is submitted;

(B) the number, by programs, of undercover investigative operations commenced in the 1-year period preceding the period for which such report is submitted; and

(C) the number, by programs, of undercover investigative operations closed in the 1-year period preceding the period for which such report is submitted and, with respect to each such closed undercover operation, the results obtained and any civil claims made with respect thereto.

(e) DEFINITIONS.—For purposes of subsection (d)—

(1) The term "closed" refers to the earliest point in time at which—

(A) all criminal proceedings (other than appeals) are concluded, or

(B) covert activities are concluded, whichever occurs later.

(2) The term "employees" means employees, as defined in section 2105 of title 5 of the United States Code, of the Customs Service.

(3) The terms "undercover investigative operation" and "undercover operation" mean any undercover investigative operation of the Customs Service—

(A) in which—

(i) the gross receipts (excluding interest earned) exceed $50,000, or

(ii) expenditures (other than expenditures for salaries of employees) exceed $150,000; and

(B) which is exempt from section 3302 or 9102 of title 31, United States Code;

except that subparagraphs (A) and (B) shall not apply with respect to the report required under paragraph (2) of subsection (d).

SEC. 323. EFFECTIVE DATE.

The amendments made by this part shall take effect on the 15th day after the date of the enactment of this Act. Any amendment made by this part that imposes or increases a civil or criminal penalty applies only with respect to violations committed on or after such 15th day.

PART II—CUSTOMS FORFEITURE FUND

SEC. 331. CUSTOMS FORFEITURE FUND.

(a) AMENDMENT.—Section 613a (19 U.S.C. 1613b) is amended—

(1) by amending subsection (a)—

(A) by striking out "1987" in the first sentence and inserting "1991";

(B) by inserting "(including investigative costs leading to seizures)" after "seizure" in paragraph (1);

(C) by inserting "and" after the semicolon at the end of paragraph (4);

(D) by striking out paragraph (5);

(E) by redesignating paragraph (6) as paragraph (5); and

(F) by amending the last sentence to read as follows:

"In addition to the purposes described in paragraphs (1) through (5), the fund is available for—

"(i) purchases by the Customs Service of evidence of—

"(I) smuggling of controlled substances, and

"(II) violations of the currency and foreign transaction reporting requirements of chapter 51 of title 31, United States Code, if there is a substantial probability that the violations of these requirements are related to the smuggling of controlled substances;

"(ii) the equipping for law enforcement functions of any vessel, vehicle, or aircraft available for official use by the Customs Service;

"(iii) the reimbursement, at the discretion of the Secretary, of private citizens for expenses incurred by them in cooperating with the Customs Service in investigations and undercover law enforcement operations; and

"(iv) the publicizing of the availability of rewards under section 619."; and

(2) by amending subsection (f) to read as follows:

"(f)(1) There are authorized to be appropriated from the fund for each of the fiscal years beginning with fiscal year 1987 not more than $20,000,000.

"(2) At the end of each of fiscal years 1987, 1988, 1989, and 1990, any amount in the fund in excess of $20,000,000 shall be deposited in the general fund of the Treasury. At the end of fiscal year 1991, any amount remaining in the fund shall be deposited in the general fund of the Treasury, and the fund shall cease to exist.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect October 1, 1986.

Subtitle B—Customs Service Authorizations, Miscellaneous Customs Provisions, and Amendments to the Controlled Substances Import and Export Act

PART I—CUSTOMS SERVICE AUTHORIZATIONS

SEC. 341. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1987 FOR THE UNITED STATES CUSTOMS SERVICE.

Section 301(b) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)) is amended as follows:

"(b)(1) There are authorized to be appropriated to the Department of the Treasury not to exceed $1,062,631,000 for the salaries and expenses of the United States Customs Service for fiscal year 1987; of which—

"(A) $749,131,000 is for salaries and expenses to maintain current operating levels, and includes such sums as may be necessary to complete the testing of the prototype of the automatic license plate reader program and to implement that program;

"(B) $99,300,000 is for the salaries and expenses of additional personnel to be used in carrying out drug enforcement activities; and

"(C) $214,200,000 is for the operation and maintenance of the air interdiction program of the Service, of which—

"(i) $137,000,000 is for additional aircraft, communications enhancements, and command, control, communications, and intelligence centers, and

"(ii) $350,000 is for a feasibility and application study for a low-level radar detection system in collaboration with the Los Alamos National Laboratory.

"(2) No part of any sum that is appropriated under the authority of paragraph (1) may be used to close any port of entry at which, during fiscal year 1986—

"(A) not less than 2,500 merchandise entries (including informal entries) were made; and

"(B) not less than $1,500,000 in customs revenues were assessed.".

PART II—MISCELLANEOUS CUSTOMS AMENDMENTS

SEC. 351. TREATMENT OF HOVERING VESSELS.

Section 201 of the Act of August 5, 1935 (19 U.S.C. 1432a) is amended by inserting after "hovering vessel" the following: "or has received merchandise while in the customs waters beyond the territorial sea or while on the high seas,".

SEC. 352. ASSISTANCE FOR CUSTOMS OFFICERS.

Section 3071 of the Revised Statutes of the United States (19 U.S.C. 507) is amended to read as follows:

"SEC. 3071. (a) Any customs officer (as defined in section 401 of the Tariff Act of 1930) who needs assistance in making any arrest, search, or seizure that is authorized under any law that is enforced or administered by customs officers may, after identifying himself or herself as a customs officer, demand the assistance of any person. Any person who, without reasonable excuse, neglects or refuses to assist a customs officer after proper demand under this subsection is guilty of a misdemeanor and subject to a fine of not more than $1,000.

"(b) Any person, not an officer or employee of the United States, who renders assistance in good faith upon the request of a customs officer shall not be held liable for any civil damages as a result of the rendering of such assistance where the assisting person acts as an ordinary, reasonably prudent person would have acted under the same or similar circumstances.".

SEC. 353. RECREATIONAL VESSEL LICENSES.

Section 12109(b) of title 46, United States Code, is amended by adding at the end the following: "Such vessel must, however, comply with all customs requirements for reporting arrival under section 433 of the Tariff Act of 1930 (19 U.S.C. 1433) and all persons aboard such a pleasure vessel shall be subject to all applicable customs regulations.".

PART III—AMENDMENTS TO THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT

SEC. 361. POSSESSION, MANUFACTURE, OR DISTRIBUTION FOR PURPOSES OF UNLAWFUL IMPORTATION.

Section 1009 of the Controlled Substances Import and Export Act (21 U.S.C. 959) is amended to read as follows:

"SEC. 1009. POSSESSION, MANUFACTURE, OR DISTRIBUTION FOR PURPOSES OF UNLAWFUL IMPORTATION.

"(a) It shall be unlawful for any person to manufacture or distribute a controlled substance in schedule I or III—

"(1) intending that such substance be unlawfully imported in the United States or into waters within a distance of twelve miles of its coast; or

"(2) knowing that such substance will be unlawfully imported into the United States or into waters within a distance of 12 miles of its coast.

"(b) It shall be unlawful for any United States citizen on board any aircraft, or any person on board an aircraft owned by a United States citizen or registered in the United States, to manufacture or distribute or possess with intent to manufacture or distribute a controlled substance.

"(c) This section is intended to reach acts of manufacture or distribution committed

outside the territorial jurisdiction of the United States. Any person who violates this section shall be tried in the United States district court at the point of entry where such person enters the United States, or in the United States District Court for the District of Columbia.".

Subtitle C—Denial of Trade Benefits to Uncooperative Drug Source Nations

SEC. 371. SHORT TITLE.

This subtitle may be cited as the "Narcotics Control Trade Act".

SEC. 372. DETERMINATIONS REGARDING UNCOOPERATIVE DRUG SOURCE NATIONS.

(a) ANNUAL DETERMINATION.—The President, after taking into account the factors set forth in subsection (b), shall determine if any foreign country, during any fiscal year commencing after September 30, 1986—

(1) was a direct or indirect source of one or more illicit narcotic and psychotropic drugs and other controlled substances that is significantly affecting the United States; and

(2) did not cooperate with the United States Government in preventing narcotic and psychotropic drugs and other controlled substances from significantly affecting the United States.

(b) FACTORS.—For purposes of making a determination under subsection (a) regarding a foreign country, the President shall take into account the capabilities, effort, and progress of that country in—

(1) limiting legal narcotic crop production to levels required for legal purposes;

(2) licensing legal narcotic crop production and effectively controlling it to prevent significant diversion to the illicit traffic;

(3) limiting the legal manufacture of narcotic and psychotropic drugs and other controlled substances to levels required for medical purposes and effectively controlled manufacture to prevent significant diversion to the illicit traffic;

(4) detecting and eradicating the illicit cultivation of narcotic crops, and

(5) suppressing the illicit manufacture, processing, and traffic of narcotic and psychotropic drugs, under the control of the Single Convention of Narcotic Drugs of 1961 as amended by the 1972 Amending Protocol or the Controlled Substances Act of 1970 or the Convention on Psychotropic Substances of 1971.

(c) REPORT OF DETERMINATIONS.—The President shall submit to each House of the Congress the name of each foreign country regarding which an affirmative determination is made under subsection (a). The submission must be made on the first day on which both Houses are in session after the close of the fiscal year with respect to which the determination is made.

SEC. 373. TARIFF TREATMENT OF PRODUCTS OF UNCOOPERATIVE DRUG SOURCE NATIONS.

(a) REQUIRED ACTION BY PRESIDENT.—The President shall, with respect to each foreign country regarding which an affirmative determination is made under section 372(a) and to the extent considered necessary by the President to achieve the purposes of this subtitle—

(1) deny to any or all of the products of that country tariff treatment under the Generalized System of Preferences, the Caribbean Basin Economic Recovery Act, or any other law providing preferential tariff treatment;

(2) apply to any or all of the dutiable products of that country an additional duty at a rate not to exceed 50 percent ad valorem or the specific rate equivalent;

(3) apply to one or more duty-free products of that country a duty at a rate not to exceed 50 percent ad valorem; or

(4) take any combination of the actions described in paragraphs (1), (2), and (3).

(b) DURATION OF ACTION.—The action taken by the President under subsection (a) shall apply to the products of a foreign country that are entered, or withdrawn from warehouse for consumption, during the period that—

(1) begins on October 1 of the fiscal year occurring after the fiscal year with respect to which an affirmative determination regarding that country was made under section 372(a); and

(2) ends on the day on which the determination is cancelled under section 307.

SEC. 374. PROGRESS REPORTS.

The President shall include as a part of the annual report required under section 481(e)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(e)(1)) an evaluation of progress that each major drug source nation has made during the reporting period in achieving the objectives set forth in section 372(b).

SEC. 375. CANCELLATION OF DETERMINATIONS.

If the President considers that a foreign country regarding which an affirmative determination was made under section 372(a) has made significant progress, and will continue to make progress, in remedying those acts, programs, or policies on which that determination was based, the President may cancel the determination. The President must immediately notify each House of Congress of each cancellation made under this section.

SEC. 376. DEFINITION.

For purposes of this subtitle, the term "narcotic and psychotropic drugs and other controlled substances" has the same meaning as is given that term in section 481(i)(3) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(i)(3)).

SEC. 377. CONFORMING AMENDMENTS.

(a) GENERALIZED SYSTEM OF PREFERENCES.—Section 502(b) of the Trade Act of 1974 (19 U.S.C. 2462(b)) is amended—

(1) by striking out paragraph (5);

(2) by redesignating paragraphs (6), (7), and (8) as paragraphs (5), (6), and (7); and

(3) by striking out "(5)," in the last sentence.

(b) CARIBBEAN BASIS ECONOMIC RECOVERY.—Section 212(b) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(b)) is amended—

(1) by inserting "and" after the semicolon at the end of paragraph (5);

(2) by striking out paragraph (6); and

(3) by redesignating paragraph (7) as paragraph (6).

TITLE IV—COMMITTEE ON MERCHANT MARINE AND FISHERIES

SEC. 401. SHORT TITLE.

This title may be cited as the "Coast Guard Drug Interdiction and Law Enforcement Act of 1986".

SEC. 402. FINDINGS AND POLICY.

(a) FINDINGS.—Congress finds that—

(1) the Coast Guard is responsible for carrying out a variety of important missions in behalf of the security, safety, and economic and environmental well-being of the United States,

(2) among the high priority missions of the Coast Guard are search and rescue, maritime law enforcement, military readiness, and marine safety,

(3) there currently exists an imbalance between the responsibilities of the Coast Guard and the personnel and material resources available to the Coast Guard, and

(4) the Coast Guard will therefore require a significant increase in resources if it is to carry out its missions at a level the public expects and the national interest demands.

(b) POLICY.—It is the sense of Congress that—

(1) the Coast Guard should be accorded the resources necessary to significantly increase its ability to interdict the illegal transportation of drugs into the United States without causing a reduction in the ability of the Coast Guard to carry out its other missions, and

(2) if given adequate resources, the Coast Guard is the agency of the Federal Government that is best qualified to carry out drug interdiction and law enforcement operations upon the high seas and waters over which the United States has jurisdiction, and to carry out maritime air surveillance or interdiction operations over the high seas that are required to support drug law enforcement activities in the United States.

SEC. 403. MARITIME AIR SURVEILLANCE AND INTERDICTION.

Title 14, United States Code, is amended as follows:

(1) Section 2 is amended by striking out "United States;" the first place it appears and inserting in lieu thereof "United States; shall engage in maritime air surveillance or interdiction to enforce or assist in the enforcement of the laws of the United States;".

(2) Sectfon 89 is amended to read as follows:

"§ 89. Law enforcement

"(a)(1) To prevent, detect, and suppress violations of laws of the United States, the Secretary may—

"(A) in the case of a vessel subject to the jurisdiction, or to the operation of law, of the United States, make inquiries, examinations, inspections, searches, seizures, and arrests on the high seas and waters subject to the jurisdiction of the United States;

"(B) in the case of an aircraft subject to the jurisdiction, or to the operation of law, of the United States, make inquiries, examinations, inspections, searches, and seizures of the aircraft or order the aircraft to a landing area; or

"(C) take any other lawful action.

"(2) For the purposes of this section, a commissioned, warrant, or petty officer of the Coast Guard may—

"(A) order a vessel to stop or an aircraft to a landing area;

"(B) at any time go on board a vessel or aircraft subject to the jurisdiction, or to the operation of law, of the United States;

"(C) address inquiries to those on board;

"(D) examine the vessel's or aircraft's documents and records;

"(E) examine, inspect, and search the vessel or aircraft;

"(F) use all necessary force to compel compliance; and

"(G) take any other lawful action.

"(b)(1) When the inquiries, examinations, inspections, or searches indicate that a violation of the laws of the United States making an individual subject to arrest is being, or has been, committed by an individual, the commissioned, warrant, or petty officer shall—

"(A) arrest the individual;

"(B) if escaping to shore or from a landing area, pursue and arrest the individual; and

"(C) take any other lawful action.

"(2) The vessel or aircraft or any part of the goods on the vessel or aircraft, or both, shall be seized when—

"(A) probable cause exists that a violation of the laws of the United States has been committed rendering the vessel, aircraft, or goods on the vessel or aircraft liable to forfeiture; or

"(B) if necessary, seizure is required to secure a civil penalty.

"(c) When a commissioned, warrant, or petty officer of the Coast Guard is engaged under the authority contained in this section, the officer is—

"(1) deemed to be acting as an agent of the particular department, agency, or instrumentality of the United States Government charged with the administration of the particular law; and

"(2) subject to the rules and regulations prescribed by that department, agency, or instrumentality with respect to the enforcement of that law.

"(d) This section is in addition to any powers conferred by law on those commissioned, warrant, or petty officers and does not limit any powers conferred by law on those commissioned, warrant, or petty officers, or any other officers of the United States.".

(3) Chapter 17 is amended as follows:

(A) Item 637 of the analysis of the chapter is amended to read as follows:

"637. Stopping vessels or aircraft; immunity of Coast Guard officers.".

(B) The caption of section 637 is amended to read as follows:

"§ 637. Stopping vessels or aircraft; immunity of Coast Guard officers"; and

(C) Section 637(a) is amended—

(i) by striking out "Whenever any vessel liable to seizure or examination does not bring-to," and inserting in lieu thereof "When a vessel or aircraft is subject to the law enforcement actions authorized by section 89 of this title and does not stop or land,", and

(ii) by striking out "fire at or into such vessel which does not bring-to." and inserting in lieu thereof "fire at or into the vessel or aircraft that does not stop or land.".

SEC. 404. AUTHORIZATION OF FUNDS.

(a) Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal years 1987 and 1988 as follows:

(1) For the operation and maintenance of additional personnel and equipment, $59,000,000 for fiscal year 1987 and $59,000,000 for fiscal year 1988, to remain available until expended.

(2) For the acquisition of additional equipment and related capital improvements, $59,000,000 for fiscal year 1987 and $84,000,000 for fiscal year 1988, to remain available until expended.

(b) In order to carry out the amendments made by this title, the Coast Guard may—

(1) recruit and train 1,500 additional active duty military personnel,

(2) procure secure communications equipment, as needed, for cutters, shore stations, and aircraft,

(3) operate and maintain four surveillance aircraft, if made available by the Navy,

(4) procure, operate, upgrade, and maintain sea-based aerostat balloons,

(5) equip 8 HU-25A Falcon jet aircraft with air-to-air radar, appropriate night vision devices, or other spare parts, and

(6) take any other lawful action deemed necessary by the Secretary of Transportation or the Commandant, including the coordination of drug law enforcement activities with State, local, or other government authorities as provided under section 141 of title 14, United States Code.

SEC. 405. AUTHORIZATION ENHANCEMENT.

Nothing in this title shall require the Coast Guard to recruit, compensate, train, purchase, or deploy any personnel or equipment except to the extent that additional appropriations are made available in appropriation Acts for that purpose.

TITLE V—COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS

Subtitle A—Money Laundering

SEC. 501. SHORT TITLE.

This subtitle may be cited as the "Comprehensive Money Laundering Prevention Act".

SEC. 502. STRUCTURING TRANSACTIONS TO EVADE REPORTING REQUIREMENTS PROHIBITED.

(a) IN GENERAL.—Subchapter II of chapter 53 of title 31, United States Code (relating to records and reports on monetary instruments transactions) is amended by adding at the end thereof the following new section:

"§ 5324. Structuring transactions to evade reporting requirement prohibited

"No person shall for the purpose of evading the reporting requirements of section 5313(a) with respect to such transaction—

"(1) cause or attempt to cause a domestic financial institution to fail to file a report required under section 5313(a);

"(2) cause or attempt to cause a domestic financial institution to file a report required under section 5313(a) that contains a material omission or misstatement of fact; or

"(3) structure or assist in structuring, or attempt to structure or assist in structuring, any transaction with one or more domestic financial institutions.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 53 of title 31, United States Code, is amended by adding at the end thereof the following new item:

"5324. Structuring transactions to evade reporting requirement prohibited.".

SEC. 503. SEIZURE AND CIVIL FORFEITURE OF MONETARY INSTRUMENTS.

(a) FAILURE TO REPORT EXPORT OR IMPORT OF MONETARY INSTRUMENT.—The first sentence of section 5317(c) of title 31, United States Code (relating to seizure and forfeiture of monetary instruments in foreign commerce) is amended to read as follows: "If a report required under section 5316 with respect to any monetary instrument is not filed (or if filed, contains a material omission or misstatement of fact), the instrument and any interest in property, including a deposit in a financial institution, traceable to such instrument may be seized and forfeited to the United States Government.".

(b) SEIZURE AND CIVIL FORFEITURE OF MONETARY INSTRUMENTS INVOLVED IN STRUCTURED TRANSACTION VIOLATION.—Section 5317 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) SEIZURE AND CIVIL FORFEITURE OF MONETARY INSTRUMENTS INVOLVED IN STRUCTURED TRANSACTION VIOLATION.—

"(1) IN GENERAL.—Any—

"(A) United States coins or currency (or such other monetary instrument as the Secretary of the Treasury may prescribe by regulation) involved in any knowing violation of section 5313(a) or 5324; and

"(B) interest in property, including a deposit in a financial institution, traceable to such coins or currency (or other monetary instrument),

may be seized and forfeited to the United States Government in the manner provided in subchapter C of chapter 75 of the Internal Revenue Code of 1954.

"(2) EXCEPTION.—Paragraph (1) shall not apply if the owner of the property or the interest in property otherwise subject to seizure and forfeiture under paragraph (1) is—

"(A) a bona fide purchaser for value who took without notice of the violation;

"(B) a depository institution (as such term is defined in section 19(b)(1)(A) of the Federal Reserve Act); or

"(C) a financial institution regulated by the Securities and Exchange Commission.

"(3) HOLDS ON PROPERTY HELD BY FINANCIAL INSTITUTIONS.—Any—

"(A) United States coins or currency (and such other monetary instruments as the Secretary of the Treasury may prescribe by regulation); and

"(B) other interest in property, including any deposit,

which is in the possession or custody of any financial institution shall be held by such financial institution for a period of 10 days upon receipt of notice (in such form and in such manner as the Secretary shall prescribe) from the Secretary of the Secretary's intent to seize such coin or currency, instrument, or other property under this subsection.

"(4) SEIZURE OF PROPERTY HELD BY FINANCIAL INSTITUTIONS.—Upon a showing by the Secretary of the Treasury that there is probable cause to believe that any coin or currency, monetary instrument, or other interest in property, including any deposit, which is in the possession or custody of any financial institution is subject to forfeiture under paragraph (1), the district court of the United States for the district in which such property is held may issue an order authorizing the Secretary to seize such property.

"(5) EXEMPTION FROM LIABILITY FOR IMPOSITION OF HOLD.—The United States, any agency, department, or employee of the United States, any financial institution, and any officer, director, or employee of a financial institution shall be exempt from any liability to any other person which may otherwise arise for interest, damages, or any other type of compensation or relief, including injunctive and declaratory relief, in connection with or as a result of a hold being placed upon any property under paragraph (3).

"(6) LIABILITY OF FINANCIAL INSTITUTION TO THE UNITED STATES FOR FAILURE TO COMPLY.—Any financial institution which—

"(A) receives a notice under paragraph (3) with respect to any property or interest in property; and

"(B) after receipt of such notice, fails or refuses to hold, without reasonable cause, such property or interests until the earlier of—

"(i) the expiration of the 10-day period described in paragraph (3); or

"(ii) the presentation by the Secretary of a court order issued under paragraph (4),

shall be liable to the United States for an amount which is equal to the value of the property or interests which such institution failed or refused to hold.".

(c) TECHNICAL AND CONFORMING AMENDMENTS TO INTERNAL REVENUE CODE OF 1954.—

(1) Section 7302 of the Internal Revenue Code of 1954 (relating to property used in violation of internal revenue laws) is amended by adding at the end thereof the following new sentence: "The second and fourth sentences are hereby extended to coins, currency, and other monetary instruments (and to interests in property traceable to such instruments) seized pursuant to section 5317 of title 31, United States Code.".

(2) The heading for such section 7302 is amended by inserting "OR TITLE 31, UNITED STATES CODE" after "REVENUE LAWS".

(3) Section 7321 of the Internal Revenue Code of 1954 (relating to authority to seize property subject to forfeiture) is amended by inserting "and any coins, currency, or other monetary instrument (and any interest in property traceable to such instrument) subject to forfeiture under section 5317 of title 31, United States Code," after "this title".

(4) Section 7327 of the Internal Revenue Code of 1954 (relating to applicability of customs laws) is amended by inserting "and to forfeitures of coins, currency, and other monetary instruments (or interests in property traceable to such instruments) incurred or alleged to have been incurred under section 5317 of title 31, United States Code (except that, in the case of forfeitures under such section 5317, the customs laws shall apply only to the extent such laws are not inconsistent with any applicable provision of such section)" before the period.

(5) Section 7608(b)(1) of the Internal Revenue Code of 1954 (relating to authority of internal revenue enforcement officers to enforce certain internal revenue laws) is amended—

(A) by striking out "internal revenue laws or" and inserting in lieu thereof "internal revenue laws,"; and

(B) by inserting ", or any provision of section 5317 of title 31, United States Code, relating to seizures and forfeitures of coins, currency, and other monetary instruments (and interests in property traceable to such instruments)" after "responsible".

(6) Section 7608(b)(2) of the Internal Revenue Code of 1954 (relating to functions authorized to be performed by internal revenue enforcement officers) is amended—

(A) by adding at the end thereof the following new subparagraph:

"(D) to make seizures of coins, currency, and other monetary instruments (and interests in property traceable to such instruments) subject to forfeiture under section 5317 of title 31, United States Code.";

(B) by striking out "and" at the end of subparagraph (B); and

(C) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; and".

(7) The item relating to section 7302 in the table of sections for part I of subchapter C of chapter 75 of the Internal Revenue Code of 1954 is amended by inserting "or title 31, United States Code" after "revenue laws".

SEC. 504. CIVIL MONEY PENALTY FOR STRUCTURED TRANSACTION VIOLATION.

(a) IN GENERAL.—Section 5321(a) of title 31, United States Code, is amended by adding at the end thereof the following new paragraph:

"(4) STRUCTURED TRANSACTION VIOLATION.—

"(A) PENALTY AUTHORIZED.—The Secretary of the Treasury may impose a civil money penalty on any person who knowingly or with reckless disregard for the provisions of section 5324 violates any provision of section 5324.

"(B) MAXIMUM AMOUNT LIMITATION.—The amount of any civil money penalty imposed under subparagraph (A) shall not exceed the amount of the coins and currency (or such other monetary instruments as the Secretary may prescribe) involved in the transaction with respect to which such penalty is imposed.

"(C) COORDINATION WITH FORFEITURE PROVISION.—The amount of any civil money penalty imposed by the Secretary under subparagraph (A) shall be reduced by the amount of any forfeiture to the United States under section 5317(d) in connection with the transaction with respect to which such penalty is imposed.".

(b) CONFORMING AMENDMENT.—Section 5321(c) of title 31, United States Code, is amended by striking out "section 5317(b)" and inserting in lieu thereof "subsection (c) or (d) of section 5317".

SEC. 505. BANKING REGULATORY AGENCY SUPERVISION OF RECORDKEEPING SYSTEMS.

(a) INSURED BANKS.—

(1) IN GENERAL.—Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended by adding at the end thereof the following new subsection:

"(s) COMPLIANCE WITH MONETARY TRANSACTION RECORDKEEPING AND REPORT REQUIREMENTS.—

"(1) COMPLIANCE PROCEDURES REQUIRED.—Each appropriate Federal banking agency shall prescribe regulations requiring insured banks to establish and maintain procedures reasonably designed to assure and monitor the compliance of such banks with the requirements of subchapter II of chapter 53 of title 31, United States Code.

"(2) EXAMINATIONS OF BANK TO INCLUDE REVIEW OF COMPLIANCE PROCEDURES.—

"(A) IN GENERAL.—Each examination of an insured bank by the appropriate Federal banking agency shall include a review of the procedures required to be established and maintained under paragraph (1).

"(B) EXAM REPORT REQUIREMENT.—The report of examination shall describe any problem with the procedures maintained by the insured bank.

"(3) ORDER TO COMPLY WITH REQUIREMENTS.—If the appropriate Federal banking agency determines that an insured bank—

"(A) has failed to establish and maintain the procedures described in paragraph (1); or

"(B) has failed to correct any problem with the procedures maintained by such bank which was previously reported to the bank by such agency,

the agency shall issue an order in the manner prescribed in subsection (b) or (c) requiring such bank to cease and desist from its violation of this subsection or regulations prescribed under this subsection.".

(2) CIVIL MONEY PENALTIES FOR FAILURE TO MAINTAIN COMPLIANCE PROCEDURES.—Section 8(i)(2)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)(2)(i)) is amended by striking out "subsection (b) or (c)" and inserting in lieu thereof "subsection (b), (c), or (s)".

(b) INSTITUTIONS REGULATED BY THE BANK BOARD.—

(1) IN GENERAL.—Section 5(d) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)) is amended by adding at the end thereof the following new paragraph:

"(16) COMPLIANCE WITH MONETARY TRANSACTION RECORDKEEPING AND REPORT REQUIREMENTS.—

"(A) COMPLIANCE PROCEDURES REQUIRED.—The Board shall prescribe regulations requiring associations to establish and maintain procedures reasonably designed to assure and monitor the compliance of such associations with the requirements of subchapter II of chapter 53 of title 31, United States Code.

"(B) EXAMINATIONS OF ASSOCIATIONS TO INCLUDE REVIEW OF COMPLIANCE PROCEDURES.—

"(i) IN GENERAL.—Each examination of an association by the Board shall include a review of the procedures required to be established and maintained under subparagraph (A).

"(ii) EXAM REPORT REQUIREMENT.—The report of examination shall describe any problem with the procedures maintained by the association.

"(C) ORDER TO COMPLY WITH REQUIREMENTS.—If the Board determines that an association—

"(i) has failed to establish and maintain the procedures described in subparagraph (A); or

"(ii) has failed to correct any problem with the procedures maintained by such association which was previously reported to the association by the Board,

the Board shall issue an order in the manner prescribed in paragraph (2) or (3) requiring such association to cease and desist from its violation of this paragraph or regulations prescribed under this paragraph.".

(2) CIVIL MONEY PENALTIES FOR FAILURE TO MAINTAIN COMPLIANCE PROCEDURES.—Section 5(d)(8)(B)(i) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(8)(B)(i)) is amended by striking out "paragraph (2) or (3)" and inserting in lieu thereof "paragraph (2), (3), or (16)".

(c) INSURED THRIFT INSTITUTIONS.—

(1) IN GENERAL.—Section 407 of the National Housing Act (12 U.S.C. 1730) is amended by adding at the end thereof the following new subsection:

"(s) COMPLIANCE WITH MONETARY TRANSACTION RECORDKEEPING AND REPORT REQUIREMENTS.—

"(1) COMPLIANCE PROCEDURES REQUIRED.—The Corporation shall prescribe regulations requiring insured institutions to establish and maintain procedures reasonably designed to assure and monitor the compliance of such institutions with the requirements of subchapter II of chapter 53 of title 31, United States Code.

"(2) EXAMINATIONS OF INSTITUTIONS TO INCLUDE REVIEW OF COMPLIANCE PROCEDURES.—

"(A) IN GENERAL.—Each examination of an insured institution by the Corporation shall include a review of the procedures required to be established and maintained under paragraph (1).

"(B) EXAM REPORT REQUIREMENT.—The report of examination shall describe any problem with the procedures maintained by the insured institution.

"(3) ORDER TO COMPLY WITH REQUIREMENTS.—If the Corporation determines that an insured institution—

"(A) has failed to establish and maintain the procedures described in paragraph (1); or

"(B) has failed to correct any problem with the procedures maintained by such institution which was previously reported to the institution by the Corporation,

the Corporation shall issue an order in the manner prescribed in subsection (e) or (f) requiring such institution to cease and desist from its violation of this subsection or

regulations prescribed under this subsection.".

(2) CIVIL MONEY PENALTIES FOR FAILURE TO MAINTAIN COMPLIANCE PROCEDURES.—Section 407(k)(3)(A) of the National Housing Act (12 U.S.C. 1730(k)(3)(A)) is amended by striking out "subsection (e) or (f) of this section shall forfeit" and inserting in lieu thereof "subsection (e), (f), or (s) of this section shall forfeit".

(d) INSURED CREDIT UNIONS.—

(1) IN GENERAL.—Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended by adding at the end thereof the following new subsection:

"(q) COMPLIANCE WITH MONETARY TRANSACTION RECORDKEEPING AND REPORT REQUIREMENTS.—

"(1) COMPLIANCE PROCEDURES REQUIRED.—The Board shall prescribe regulations requiring insured credit unions to establish and maintain procedures reasonably designed to assure and monitor the compliance of such credit unions with the requirements of subchapter II of chapter 53 of title 31, United States Code.

"(2) EXAMINATIONS OF CREDIT UNIONS TO INCLUDE REVIEW OF COMPLIANCE PROCEDURES.—

"(A) IN GENERAL.—Each examination of an insured credit union by the Board shall include a review of the procedures required to be established and maintained under paragraph (1).

"(B) EXAM REPORT REQUIREMENT.—The report of examination shall describe any problem with the procedures maintained by the credit union.

"(3) ORDER TO COMPLY WITH REQUIREMENTS.—If the Board determines that an insured credit union—

"(A) has failed to establish and maintain the procedures described in paragraph (1); or

"(B) has failed to correct any problem with the procedures maintained by such credit union which was previously reported to the credit union by the Board,

the Board shall issue an order in the manner prescribed in subsection (e) or (f) requiring such credit union to cease and desist from its violation of this subsection or regulations prescribed under this subsection.".

(2) CIVIL MONEY PENALTIES FOR FAILURE TO MAINTAIN COMPLIANCE PROCEDURES.—Section 206(k)(2)(A) of the Federal Credit Union Act (12 U.S.C. 1786(k)(2)(A)) (as in effect on July 1, 1986) is amended by striking out "subsection (e) or (f)" and inserting in lieu thereof "subsection (e), (f), or (q)".

SEC. 506. FINANCIAL INSTITUTIONS AND MONETARY INSTRUMENTS.

(a) DEFINITION OF FINANCIAL INSTITUTIONS INCLUDES FOREIGN SUBSIDIARIES OF U.S. INSTITUTIONS.—Section 5312(a)(2) of title 31, United States Code (defining financial institutions) is amended—

(1) by redesignating subparagraphs (T) and (U) as subparagraphs (U) and (V), respectively; and

(2) by inserting after subparagraph (S) the following new subparagraph:

"(T) any foreign subsidiary or affiliate, as defined by the Secretary of the Treasury, of any entity described in this paragraph;".

(b) DEFINITION OF MONETARY INSTRUMENTS INCLUDES SUCH OTHER TRANSFERS AS THE SECRETARY MAY PRESCRIBE.—Section 5312(a)(3) of title 31, United States Code (defining monetary instruments) is amended—

(1) by adding at the end thereof the following new subparagraph:

"(C) as the Secretary may prescribe by regulation, any transfer of funds.";

(2) by striking out "and" at the end of subparagraph (A); and

(3) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; and".

(c) UNITED STATES AGENCIES INCLUDES THE POSTAL SERVICE.—Section 5312(a)(2)(U) of title 31, United States Code (defining financial institutions) (as redesignated by subsection (a)) is amended by inserting before the semicolon at the end the following: ", including the United States Postal Service".

SEC. 507. ADDITIONAL REVIEW TIME UNDER THE CHANGE IN BANK CONTROL ACT AND CHANGE IN SAVINGS AND LOAN CONTROL ACT.

(a) CHANGE IN BANK CONTROL AMENDMENTS.—

(1) INITIAL EXTENSION AT DISCRETION OF AGENCY.—The first sentence of section 7(j)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)(1)) is amended by striking out "or extending up to another thirty days" and inserting in lieu thereof "or, in the discretion of the agency, extending for an additional 30 days".

(2) ADDITIONAL EXTENSIONS IN CASE OF INCOMPLETE OR INACCURATE NOTICE OR TO CONTINUE INVESTIGATION.—The second sentence of section 7(j)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)(1)) is amended to read as follows: "The period for disapproval under the preceding sentence may be extended not to exceed 2 additional times for not more than 45 days each time if—

"(A) the agency determines that any acquiring party has not furnished all the information required under paragraph (6);

"(B) in the agency's judgment, any material information submitted is substantially inaccurate;

"(C) the agency has been unable to complete the investigation of an acquiring party under paragraph (2)(B) because of any delay caused by, or the inadequate cooperation of, such acquiring party; or

"(D) the agency determines that additional time is needed to investigate and determine that no acquiring party has a record of failing to comply with the requirements of subchapter II of chapter 53 of title 31, United States Code.".

(b) CHANGE IN SAVINGS AND LOAN CONTROL AMENDMENTS.—

(1) INITIAL EXTENSION AT DISCRETION OF AGENCY.—The first sentence of section 407(q)(1) of the National Housing Act (12 U.S.C. 1730(q)(1)) is amended by striking out "or extending up to another thirty days" and inserting in lieu thereof "or, in the discretion of the Corporation, extending for an additional 30 days".

(2) ADDITIONAL EXTENSIONS IN CASE OF INCOMPLETE OR INACCURATE NOTICE OR TO CONTINUE INVESTIGATION.—The second sentence of section 407(q)(1) of the National Housing Act (12 U.S.C. 1730(q)(1)) is amended to read as follows: "The period for disapproval under the preceding sentence may be extended not to exceed 2 additional times for not more than 45 days each time if—

"(A) the Corporation determines that any acquiring party has not furnished all the information required under paragraph (6);

"(B) in the Corporation's judgment, any material information submitted is substantially inaccurate;

"(C) the Corporation has been unable to complete the investigation of an acquiring party under paragraph (2)(B) because of any delay caused by, or the inadequate cooperation of, such acquiring party; or

"(D) the Corporation determines that additional time is needed to investigate and determine that no acquiring party has a record of failing to comply with the requirements of subchapter II of chapter 53 of title 31, United States Code.".

SEC. 508. MONETARY TRANSACTION RECORDKEEPING AND REPORTING AMENDMENTS.

(a) SECRETARY AUTHORIZED TO REQUIRE RECORDKEEPING FOR DOMESTIC COIN AND CURRENCY TRANSACTIONS.—Subchapter II of chapter 53 of title 31, United States Code (relating to records and reports on monetary instruments transactions) (as amended by section 502(a)) is amended by adding at the end thereof the following new section:

"§ 5325. Records of certain domestic coin and currency transactions

"(a) RECORDS AUTHORIZED TO BE REQUIRED UNDER PARTICULAR CIRCUMSTANCES.—Under such circumstances as the Secretary of the Treasury may prescribe by regulation, the Secretary may issue an order requiring any domestic financial institution—

"(1) to obtain such information as the Secretary may describe in such order concerning—

"(A) any transaction in which such financial institution is involved for the payment, receipt, or transfer of United States coins or currency (or such other monetary instruments as the Secretary may describe in such order) in amounts or denominations of $3,000 or more; and

"(B) any other person participating in such transaction;

"(2) to maintain a record of such information for such period of time as the Secretary may require; and

"(3) to file a report with respect to any transaction described in paragraph (1)(A) in the manner and to the extent specified in the order.

"(b) RECORDS REQUIRED FOR CERTAIN CASH TRANSACTIONS INVOLVING MORE THAN $3,000.—

"(1) IN GENERAL.—Whenever a domestic financial institution issues or sells a bank check, cashier's check, traveler's check, or money order in connection with a transaction which involves United States coins or currency in amounts or denominations of more than $3,000, such financial institution shall—

"(A) prepare and maintain, on a form prescribed by the Secretary of the Treasury, a record containing the information described in paragraph (2) with respect to each such transaction;

"(B) obtain any information which is necessary for such record from the person to whom such check or money order is issued or sold; and

"(C) obtain the signature of such person on such record.

"(2) INFORMATION REQUIRED TO BE OBTAINED FOR RECORD.—The record required to be prepared under paragraph (1) with respect to any transaction shall contain the following information:

"(A) The identity of the person to whom a check or money order described in paragraph (1) is issued or sold.

"(B) The date, amount, number, and type of such check or money order.

"(C) The method of payment for such check or money order by the person to whom such check or money order is issued or sold.

"(D) The aggregate amount of checks or money orders described in paragraph (1) which were issued or sold to or on behalf of such person (by any financial institution)

on the business day on which such transaction occurs, to the extent such aggregate amount exceeds $10,000.

"(E) The name of the payee of such check or money order.

"(F) Such other information as the Secretary may prescribe.

"(3) REPORT REQUIRED IN CERTAIN CASES.—

"(A) IN GENERAL.—If, in the case of a transaction with respect to which a record is required to be prepared by a financial institution under paragraph (1)—

"(i) the aggregate amount described in paragraph (2)(D) is greater than $10,000; or

"(ii) the person to whom a check or money order described in paragraph (1) is issued or sold refuses to provide the information necessary to determine such aggregate amount,

the transaction shall be treated as a transaction with respect to which a report is required to be filed under section 5313(a).

"(B) RECORD REQUIRED TO BE FILED WITH REPORT.—The record prepared under paragraph (1) shall be filed with the report required under subparagraph (A) of this paragraph.

"(C) NOTICE OF FAILURE TO PROVIDE AGGREGATE AMOUNT.—If a report is required under this paragraph because the person described in subparagraph (A)(ii) refused to provide the information required for purposes of paragraph (2)(D), the report shall include a notice of such refusal.".

(b) INFORMATION REQUIREMENTS.—Subchapter II of chapter 53 of title 31, United States Code (as amended by subsection (a)) is amended by adding at the end thereof the following new section:

"§ 5326. Information requirements

"In each case in which a person is required to provide any information to a domestic financial institution or other person under any provision of this subchapter or any regulation prescribed under this subchapter, the information provided by such person shall be complete and accurate with respect to all material facts.".

(c) CLERICAL AMENDMENT.—The table of sections for chapter 53 of title 31, United States Code (as amended by section 502(b)) is amended by adding at the end thereof the following new items:

"5325. Records of certain domestic coin and currency transactions.
"5326. Information requirements.".

SEC. 509. CLARIFICATION OF "STATE OF MIND" STANDARD IN EFFECT FOR CIVIL MONEY AND CRIMINAL PENALTIES.

(a) CIVIL MONEY PENALTIES.—Section 5321(a)(1) of title 31, United States Code, is amended by striking out "willfully violating" and inserting in lieu thereof "who knowingly or with reckless disregard for a provision of this subchapter violates".

(b) CRIMINAL PENALTIES.—Subsections (a) and (b) of section 5322 of title 31, United States Code, are each amended by striking out "willfully" and inserting in lieu thereof "knowingly".

SEC. 510. AMENDMENTS TO THE RIGHT TO FINANCIAL PRIVACY ACT.

(a) CLARIFICATION OF RIGHT OF FINANCIAL INSTITUTIONS TO REPORT SUSPECTED VIOLATIONS.—Section 1103(c) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3403(c)) is amended by adding at the end thereof the following new sentences: "The information which a financial institution, or any officer, employee, or agent of a financial institution, may provide under this subsection shall be limited to the names, addresses, and account numbers of persons, information concerning the persons and acts involved in any possible violation, and the nature of and a description of the possible violation. No information provided under this subsection may include financial records or, except to the extent provided in the preceding sentence, information identified with, or identifiable as being derived from, the financial record of any particular customer. Such information may be so disclosed notwithstanding the constitution of any State or any State or local law.".

(b) FINANCIAL RECORDS OF INSIDERS.—Section 1113 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413) is amended by adding at the end thereof the following new subsection:

"(l) CRIMES AGAINST FINANCIAL INSTITUTIONS BY INSIDERS.—Nothing in this title shall prohibit any financial institution or supervisory agency from providing any financial record of any officer, director, employee, or controlling shareholder (within the meaning of subparagraph (A) or (B) of section 2(a)(2) of the Bank Holding Company Act of 1956 or subparagraph (A) or (B) of section 408(a)(2) of the National Housing Act) of such institution to the Attorney General of the United States, to a State law enforcement agency, or, in the case of a possible violation of subchapter II of chapter 53 of title 31, United States Code, to the Secretary of the Treasury if there is reason to believe that such record is relevant to a possible violation by such individual of—

"(1) any law relating to crimes against financial institutions or supervisory agencies by directors, officers, employees, or controlling shareholders of financial institutions; or

"(2) any provision of subchapter II of chapter 53 of title 31, United States Code.".

SEC. 511. COMPLIANCE AUTHORITY FOR SECRETARY OF THE TREASURY AND RELATED MATTERS.

(a) IN GENERAL.—Section 5318 of title 31, United States Code, is amended—

(1) by inserting "(a) GENERAL POWERS OF SECRETARY.—" before "The Secretary of the Treasury";

(2) in paragraph (1), by inserting "except as provided in subsection (b)(2)," before "delegate";

(3) by striking out "and" at the end of paragraph (2);

(4) by inserting after paragraph (2) the following:

"(3) examine any books, papers, records, or other data of financial institutions relevant to the recordkeeping or reporting requirements of this subchapter;

"(4) summon a financial institution, an officer or employee of a financial institution (including a former officer or employee), or any person having possession, custody, or care of the reports and records required under this subchapter, to appear before the Secretary of the Treasury or his delegate at a time and place named in the summons and to produce such books, papers, records, or other data, and to give testimony, under oath, as may be relevant or material to an investigation described in subsection (b); and";

(5) by redesignating paragraph (3) as paragraph (5); and

(6) by adding at the end the following new subsections:

"(b) LIMITATIONS ON SUMMONS POWER.—

"(1) SCOPE OF POWER.—The Secretary of the Treasury may take any action described in paragraph (3) or (4) of subsection (a) only in connection with investigations for the purpose of civil enforcement of violations of this subchapter, section 21 of the Federal Deposit Insurance Act, section 411 of the National Housing Act, or chapter 2 of Public Law 91-508 (12 U.S.C. 1951 et seq.) or any regulation under any such provision.

"(2) AUTHORITY TO ISSUE.—A summons may be issued under subsection (a)(4) only by, or with the approval of, the Secretary of the Treasury or a supervisory level delegate of the Secretary of the Treasury.

"(c) ADMINISTRATIVE ASPECTS OF SUMMONS.—

"(1) PRODUCTION AT DESIGNATED SITE.—A summons issued pursuant to this section may require that books, papers, records, or other data stored or maintained at any place be produced at any designated location in any State or in any territory or other place subject to the jurisdiction of the United States not more than 500 miles distant from any place where the financial institution operates or conducts business in the United States.

"(2) FEES AND TRAVEL EXPENSES.—Persons summoned under this section shall be paid the same fees and mileage for travel in the United States that are paid witnesses in the courts of the United States.

"(3) NO LIABILITY FOR EXPENSES.—The United States shall not be liable for any expense, other than an expense described in paragraph (2), incurred in connection with the production of books, papers, records, or other data under this section.

"(d) SERVICE OF SUMMONS.—Service of a summons issued under this section may be by registered mail or in such other manner calculated to give actual notice as the Secretary may prescribe by regulation.

"(e) CONTUMACY OR REFUSAL.—

"(1) REFERRAL TO ATTORNEY GENERAL.—In case of contumacy by a person issued a summons under paragraph (3) or (4) of subsection (a) or a refusal by such person to obey such summons, the Secretary of the Treasury shall refer the matter to the Attorney General.

"(2) JURISDICTION OF COURT.—The Attorney General may invoke the aid of any court of the United States within the jurisdiction of which—

"(A) the investigation which gave rise to the summons is being or has been carried on;

"(B) the person summoned is an inhabitant; or

"(C) the person summoned carries on business or may be found,

to compel compliance with the summons.

"(3) COURT ORDER.—The court may issue an order requiring the person summoned to appear before the Secretary or his delegate to produce books, papers, records, and other data, to give testimony as may be necessary to explain how such material was compiled and maintained, and to pay the costs of the proceeding.

"(4) FAILURE TO COMPLY WITH ORDER.—Any failure to obey the order of the court may be punished by the court as a contempt thereof.

"(5) SERVICE OF PROCESS.—All process in any case under this subsection may be served in any judicial district in which such person may be found.".

(b) CONFORMING AMENDMENT.—Sections 5321 and 5322 of title 31, United States Code, are each amended by striking out "5318(2)" each place such term appears and inserting in lieu thereof "5318(a)(2)".

SEC. 512. AMENDMENTS RELATING TO EXEMPTIONS GRANTED FOR MONETARY TRANSACTION REPORTING REQUIREMENTS.

Section 5318 of title 31, United States Code (as amended by section 511) is amended by adding at the end thereof the following new subsections:

"(f) REVIEW OF EXEMPTIONS.—In any case in which there is a change in management or control of a financial institution, the Secretary of the Treasury shall review each currently outstanding exemption granted by such institution under subsection (a)(3) not later than 30 days after the date such change in management or control occurs.

"(g) WRITTEN AND SIGNED STATEMENT REQUIRED.—No person shall qualify for an exemption under subsection (a)(5) unless the relevant financial institution—

"(1) prepares and maintains a statement which—

"(A) describes in detail the reasons why such person is qualified for such exemption; and

"(B) contains the signature of such person; and

"(2) certifies to the Secretary that such person is qualified for such exemption.".

SEC. 513. PENALTIES FOR FAILURE TO COMPLY WITH CERTAIN RECORDKEEPING REQUIREMENTS.

(a) INSURED BANKS.—Section 21 of the Federal Deposit Insurance Act (12 U.S.C. 1829b) is amended by adding at the end thereof the following new subsection:

"(j) CIVIL AND CRIMINAL PENALTIES.—

"(1) CIVIL PENALTY.—Any insured bank and any director, officer, or employee of an insured bank who knowingly or with reckless disregard for any regulation prescribed under subsection (b) of this section violates any such regulation shall be liable to the United States for a civil penalty of not more than $10,000. Any penalty imposed under this paragraph shall be assessed, mitigated, and collected in the manner provided in subsections (b) and (c) of section 5321 of title 31, United States Code.

"(2) CRIMINAL PENALTY.—Whoever knowingly violates subsection (b) of this section or any regulation prescribed under such subsection shall be fined not more than $250,000 or imprisoned for not more than 5 years, or both.".

(b) INSURED INSTITUTIONS.—Section 411 of the National Housing Act (12 U.S.C. 1730d) is amended by adding at the end thereof the following new sentence: "The penalties provided in subsection (j) of section 21 of the Federal Deposit Insurance Act for violations of any regulation prescribed under subsection (b) of such section shall apply with respect to any violation of any regulation prescribed under this section which corresponds to the regulation prescribed under such subsection (b).".

SEC. 514. EXTENSION OF TIME LIMITATIONS FOR ASSESSMENT OF CIVIL PENALTY.

(a) IN GENERAL.—Section 5321(b) of title 31, United States Code, is amended to read as follows:

"(b) TIME LIMITATIONS FOR ASSESSMENTS AND COMMENCEMENT OF CIVIL ACTIONS.—

"(1) ASSESSMENTS.—The Secretary of the Treasury may assess a civil penalty under subsection (a) at any time before the end of the 6-year period beginning on the date of the transaction with respect to which the penalty is assessed.

"(2) CIVIL ACTIONS.—The Secretary may commence a civil action to recover a civil penalty assessed under subsection (a) at any time before the end of the 2-year period beginning on the later of—

"(A) the date the penalty was assessed; or

"(B) the date any judgment becomes final in any criminal action under section 5322 in connection with the same transaction with respect to which the penalty is assessed.".

SEC. 515. DUTY TO INVESTIGATE APPLICANTS FOR CHANGE IN CONTROL APPROVAL.

(a) CHANGE IN BANK CONTROL AMENDMENTS.—Section 7(j)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)(2)) is amended—

(1) by striking out "(2)" and inserting in lieu thereof "(2)(A) NOTICE TO STATE AGENCY.—"; and

(2) by adding at the end thereof the following new subparagraphs:

"(B) INVESTIGATION OF PRINCIPALS REQUIRED.—Upon receiving any notice under this subsection, the appropriate Federal banking agency shall—

"(i) conduct an investigation of the competence, experience, integrity, and financial ability of each person named in a notice of a proposed acquisition as a person by whom or for whom such acquisition is to be made; and

"(ii) make an independent determination of the accuracy and completeness of any information described in paragraph (6) with respect to such person.

"(C) REPORT.—The appropriate Federal banking agency shall prepare a written report of any investigation under subparagraph (B) which shall contain, at a minimum, a summary of the results of such investigation. The agency shall retain such written report as a record of the agency.".

(b) CHANGE IN SAVINGS AND LOAN CONTROL AMENDMENTS.—Section 407(q)(2) of the National Housing Act (12 U.S.C. 1730(q)(2)) is amended—

(1) by striking out "(2)" and inserting in lieu thereof "(2)(A) NOTICE TO STATE AGENCY.—"; and

(2) by adding at the end thereof the following new subparagraphs:

"(B) INVESTIGATION OF PRINCIPALS REQUIRED.—Upon receiving any notice under this subsection, the Corporation shall—

"(i) conduct an investigation of the competence, experience, integrity, and financial ability of each person named in a notice of a proposed acquisition as a person by whom or for whom such acquisition is to be made; and

"(ii) make an independent determination of the accuracy and completeness of any information described in paragraph (6) with respect to such person.

"(C) REPORT.—The Corporation shall prepare a written report of any investigation under subparagraph (B) which shall contain, at a minimum, a summary of the results of such investigation. The Corporation shall retain such written report as a record of the Corporation.".

SEC. 516. PUBLIC COMMENT ON CHANGE OF CONTROL NOTICES.

(a) CHANGE IN BANK CONTROL AMENDMENTS.—Section 7(j)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)(2)) is amended by adding after subparagraph (C) (as added by section 15(a)(2)) the following new subparagraph:

"(D) PUBLIC COMMENT.—Upon receiving notice of a proposed acquisition, the appropriate Federal banking agency shall, within a reasonable period of time—

"(i) publish the name of the insured bank proposed to be acquired and the name of each person identified in such notice as a person by whom or for whom such acquisition is to be made; and

"(ii) solicit public comment on such proposed acquisition, particularly from persons in the geographic area where the bank proposed to be acquired is located, before final consideration of such notice by the agency,

unless the agency determines in writing that such disclosure or solicitation would seriously threaten the safety or soundness of such bank.".

(b) CHANGE IN SAVINGS AND LOAN CONTROL AMENDMENTS.—Section 407(q)(2) of the National Housing Act (12 U.S.C. 1730(q)(2)) is amended by adding after subparagraph (C) (as added by section 15(b)(2)) the following new subparagraph:

"(D) PUBLIC COMMENT.—Upon receiving notice of a proposed acquisition, the Corporation shall, within a reasonable period of time—

"(i) publish the name of the insured institution proposed to be acquired and the name of each person identified in such notice as a person by whom or for whom such acquisition is to be made; and

"(ii) solicit public comment on such proposed acquisition, particularly from persons in the geographic area where the institution proposed to be acquired is located, before final consideration of such notice by the Corporation,

unless the Corporation determines in writing that such disclosure or solicitation would seriously threaten the safety or soundness of such institution.".

SEC. 517. INVESTIGATIONS AND ENFORCEMENT UNDER THE CHANGE IN CONTROL ACTS.

(a) CHANGE IN BANK CONTROL AMENDMENTS.—Section 7(j) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)) is amended—

(1) by redesignating paragraphs (15) and (16) as paragraphs (16) and (17), respectively; and

(2) by inserting after paragraph (14) the following new paragraph:

"(15) INVESTIGATIVE AND ENFORCEMENT AUTHORITY.—

"(A) INVESTIGATIONS.—The appropriate Federal banking agency may exercise any authority vested in such agency under section 8(n) in the course of conducting any investigation under paragraph (2)(B) or any other investigation which the agency, in its discretion, determines is necessary to determine whether any person has filed inaccurate, incomplete, or misleading information under this subsection or otherwise is violating, has violated, or is about to violate any provision of this subsection or any regulation prescribed under this subsection.

"(B) ENFORCEMENT.—Whenever it appears to the appropriate Federal banking agency that any person is violating, has violated, or is about to violate any provision of this subsection or any regulation prescribed under this subsection, the agency may, in its discretion, apply to the appropriate district court of the United States or the United States court of any territory for—

"(i) a temporary or permanent injunction or restraining order enjoining such person from violating this subsection or any regulation prescribed under this subsection; or

"(ii) such other equitable relief as may be necessary to prevent any such violation (including divestiture).

"(C) JURISDICTION.—

"(i) The district courts of the United States and the United States courts in any territory shall have the same jurisdiction and power in connection with any exercise of any authority by the appropriate Federal banking agency under subparagraph (A) as such courts have under section 8(n).

"(ii) The district courts of the United States and the United States courts of any territory shall have jurisdiction and power to issue any injunction or restraining order or grant any equitable relief described in subparagraph (B). When appropriate, any injunction, order, or other equitable relief granted under this paragraph shall be granted without requiring the posting of any bond.".

(b) CHANGE IN SAVINGS AND LOAN CONTROL AMENDMENTS.—Section 407(q) of the National Housing Act (12 U.S.C. 1730(q)) is amended—

(1) by redesignating paragraphs (16) and (17) as paragraphs (17) and (18), respectively; and

(2) by inserting after paragraph (15) the following new paragraph:

"(16) INVESTIGATIVE AND ENFORCEMENT AUTHORITY.—

"(A) INVESTIGATIONS.—The Corporation may exercise any authority vested in the Corporation under paragraph (2) or (3) of subsection (m) in the course of conducting any investigation under paragraph (2)(B) or any other investigation which the Corporation, in its discretion, determines is necessary to determine whether any person has filed inaccurate, incomplete, or misleading information under this subsection or otherwise is violating, has violated, or is about to violate any provision of this subsection or any regulation prescribed under this subsection.

"(B) ENFORCEMENT.—Whenever it appears to the Corporation that any person is violating, has violated, or is about to violate any provision of this subsection or any regulation prescribed under this subsection, the agency may, in its discretion, apply to the appropriate district court of the United States or the United States court of any territory for—

"(i) a temporary or permanent injunction or restraining order enjoining such person from violating this subsection or any regulation prescribed under this subsection; or

"(ii) such other equitable relief as may be necessary to prevent any such violation (including divestiture).

"(C) JURISDICTION.—

"(i) The district courts of the United States and the United States courts in any territory shall have the same jurisdiction and power in connection with any exercise of any authority by the Corporation under subparagraph (A) as such courts have under paragraph (2) or (3) of subsection (m).

"(ii) The district courts of the United States and the United States courts of any territory shall have jurisdiction and power to issue any injunction or restraining order or grant any equitable relief described in subparagraph (B). When appropriate, any injunction, order, or other equitable relief under this paragraph shall be granted without requiring the posting of any bond.".

SEC. 518. DISCUSSIONS TO DEVELOP INTERNATIONAL INFORMATION EXCHANGE SYSTEM TO ELIMINATE MONEY LAUNDERING.

(a) IN GENERAL.—The Secretary of the Treasury, in consultation with the Board of Governors of the Federal Reserve System, shall initiate discussions with the central banks or other appropriate governmental authorities of other countries and propose that an information exchange system be established to assist the efforts of each participating country to eliminate the international flow of money derived from illicit drug operations and other criminal activities.

(b) REPORT REQUIRED.—Before the end of the 9-month period beginning on the date of the enactment of this Act, the Secretary of the Treasury shall prepare and transmit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the results of negotiations initiated pursuant to subsection (a).

SEC. 519. INCREASE IN MAXIMUM CRIMINAL FINE FOR CERTAIN OFFENSES.

Section 5322(b) of title 31, United States Code, is amended by striking out "$500,000" and inserting in lieu thereof "$1,000,000 if the person is an individual (and not more than $5,000,000 in any other case)".

SEC. 520. REGULATIONS RELATING TO CUMULATION OF OFFENSES FOR FAILURE TO REPORT EXPORT OR IMPORT OF MONEY.

(a) CLOSELY RELATED EVENTS.—Section 5316 of title 31, United States Code, is amended by adding at the end the following new subsection:

"(d) CUMULATION OF CLOSELY RELATED EVENTS.—The Secretary of the Treasury may prescribe regulations under this section defining the term 'at one time' for purposes of subsection (a). Such regulations may permit the cumulation of closely related events in order that such events may collectively be considered to occur at one time for the purposes of subsection (a).".

(b) INCHOATE OFFENSE.—Section 5316(a)(1) of title 31, United States Code, is amended—

(1) by striking out "or attempts to transport or have transported,", and

(2) by inserting ", is about to transport," after "transports".

SEC. 521. EFFECTIVE DATES.

(a) The amendments made by sections 502 and 508 shall apply with respect to transactions for the payment, receipt, or transfer of United States coins or currency or other monetary instruments completed after the end of the 3-month period beginning on the date of the enactment of this Act.

(b) The amendments made by sections 503 and 504 shall apply with respect to violations committed after the end of the 3-month period beginning on the date of the enactment of this Act.

(c) The regulations required to be prescribed under the amendments made by section 505 shall take effect at the end of the 3-month period beginning on the date of the enactment of this Act.

(d) The amendments made by sections 509, 513, 514, and 519 shall apply with respect to violations committed after the date of the enactment of this Act.

(e) The amendments made by sections 507, 515, 516, and 517 shall apply with respect to notices of proposed acquisitions filed after the date of the enactment of this Act.

(f) Any regulation prescribed under the amendments made by section 520 shall apply with respect to transactions completed after the effective date of such regulation.

Subtitle B—Multilateral Development Banks

SEC. 531. SHORT TITLE.

This subtitle may be cited as the "Drug Eradication Act of 1986".

SEC. 532. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds the following:

(1) The illegal use of controlled substances by citizens of the United States represents a clear, present, and growing danger to the health, well-being, and productivity of the American people.

(2) More than $100,000,000,000 of controlled substances will be sold and used by Americans in 1986 and expenditures on such controlled substances will continue to rise at a rate of $10,000,000,000 per year unless effective action is taken to reduce and eliminate international commerce in such substances.

(3) Most of the controlled substances used in the United States are cultivated and produced in and exported from the major illicit drug producing countries, and the multilateral development banks make loans to these countries.

(4) The monetary earnings from participation in international trade in controlled substances has directly contributed to the growth of an underground economy in the major illicit drug producing countries, which inhibits realization of legitimate foreign exchange earnings and thereby exacerbates the international debt crisis and the long-term economic development of these countries.

(5) In order to achieve a reduction in controlled substance abuse in the United States, priority must be given to improved interdiction efforts, including more effective interception of controlled substances being imported into the United States from foreign nations, and reductions in the cultivation of controlled substances or raw materials for such substances in foreign nations and the United States.

(6) Certain nations are so economically dependent on commerce involving drugs and controlled substances that economic, legal, and administrative assistance must be targeted to those nations to wean them of their economic drug dependency.

(7) The United States Government should take steps to encourage nations in which controlled substances are produced or from which controlled substances are exported to develop effective programs to stop such production and exportation and to seek other means of economic livelihood.

(8) The multilateral development banks are the largest single source of development finance and influential providers of advice in helping establish development priorities for the developing countries.

(9) The United States retains considerable influence in the multilateral development banks and should therefore use such influence to urge these institutions to place increased emphasis in their lending programs and use their considerable policy leverage to address the problem of cultivation of controlled substances and the raw materials for production of such substances.

(b) DECLARATION OF PURPOSES.—The Congress declares that the purposes of this subtitle are to—

(1) eradicate illicit narcotic drug cultivation and production in developing countries; and

(2) stimulate effective action to ensure the development and implementation of long-term economic strategies to promote growth in developing countries which are not dependent on the drug trade.

SEC. 533. NATIONAL DRUG ERADICATION PROGRAMS IN DEVELOPING COUNTRIES.

(a) ESTABLISHMENT OF NATIONAL DRUG ERADICATION PROGRAMS.—The United States Government, in connection with its voice and vote in the International Bank for Reconstruction and Development, the International Development Association, the Inter-American Development Bank, the African Development Bank, and the Asian Development Bank (hereinafter in this section re-

ferred to as the "multilateral development banks") shall promote the development and implementation, by all countries in which narcotic drugs and other controlled substances are cultivated or produced or from which narcotic drugs and other controlled substances are exported, of clear and feasible programs for the reduction and eventual eradication of illicit narcotic drugs and other controlled substances in such countries.

(b) CRITERIA FOR PROGRAMS.—The drug eradication program developed by each such country shall include—

(1) a detailed description of the manner in which precise reductions in the amount of illicit narcotic drugs and other controlled substances known to be cultivated or produced in such country will be made;

(2) a timetable indicating the times by which the reductions described in paragraph (1) will be made; and

(3) a description of alternate economic activities which could be implemented with the assistance and support of the multilateral development banks to replace the economic benefits derived from the cultivation and production of controlled substances.

(c) MDB ASSISTANCE FOR DEVELOPMENT AND IMPLEMENTATION OF PROGRAMS.—The Secretary of the Treasury shall instruct the United States Executive Directors of the multilateral development banks to initiate discussions with other directors of their respective banks and to propose that all possible assistance be provided to each country described in subsection (a) in developing and implementing the drug eradication program described in that subsection, including technical assistance, assistance in conducting feasibility studies and economic analyses, and assistance for alternate economic activities described in subsection (b)(3).

(d) CERTIFICATION OF PROGRAM.—The Secretary of State, in cooperation with the Administrator of the Drug Enforcement Administration, shall examine the drug eradication program developed by each major illicit drug producing country to determine whether such drug eradication program is adequate to meet the purposes of this subtitle. If the Secretary determines, with the concurrence of the Administrator, that the program is adequate for such purposes, the Secretary shall certify to the Secretary of the Treasury that such determination has been made.

(e) ANNUAL REVIEW OF PROGRAM.—After a drug eradication program has been certified under subsection (d), the Secretary of State, in cooperation with the Administrator of the Drug Enforcement Administration, shall review on an annual basis the implementation and operation of the drug eradication program to determine whether adequate progress has been made in meeting the goals and the timetable established under such program. If the Secretary determines, with the concurrence of the Administrator, that adequate progress has been made, the Secretary shall certify to the Secretary of the Treasury that such determination has been made.

(f) EXECUTIVE DIRECTORS TO VOTE AGAINST LOANS TO COUNTRIES WHICH FAIL TO DEVELOP DRUG ERADICATION PROGRAMS.—If, by the end of the 1-year period beginning on the date of the enactment of this subtitle, the Secretary of the Treasury has not received certification under subsection (d) that a major illicit drug producing country has developed an adequate drug eradication program, the Secretary shall instruct the United States Executive Directors of the multilateral development banks to vote against loans or other utilization of funds of the respective banks for the benefit of such country until such time as the Secretary instructs such Directors that such certification has been received unless the loans or utilization of funds are directed specifically to programs which serve the basic human needs of the citizens of such country.

(g) EXECUTIVE DIRECTORS TO VOTE AGAINST LOANS TO COUNTRIES WHICH FAIL TO CARRY OUT DRUG ERADICATION PROGRAMS.—If, by the end of any calendar year beginning after the 1-year period described in subsection (f), the Secretary of the Treasury has not received certification under subsection (e) (with respect to such year) that a major illicit drug producing country is making adequate progress in carrying out its drug eradication program, the Secretary shall instruct the United States Executive Directors of the multilateral development banks to vote against loans or other utilization of funds of the respective banks for the benefit of such country until such time as the Secretary instructs such Directors that such certification has been received unless the loans or utilization of funds are directed specifically to programs which serve the basic human needs of the citizens of such country.

(h) INCREASES IN MULTILATERAL DEVELOPMENT BANK LENDING FOR CROP SUBSTITUTION PROJECTS.—The Secretary of the Treasury shall instruct the United States Executive Directors of the multilateral development banks to initiate discussions with other Directors of their respective banks and to propose that each such bank increase the amount of lending by such bank for crop substitution programs which will provide an economic alternative for the cultivation or production of illicit narcotic drugs or other controlled substances in countries described in subsection (a), to the extent such countries develop and maintain adequate drug eradication programs.

(i) REPORTING REQUIREMENT.—

(1) NATIONAL ADVISORY COUNCIL REPORT.—The Secretary of the Treasury shall include in the annual report to the Congress by the National Advisory Council on International Monetary and Financial Policies a detailed accounting of the manner in which and the extent to which the requirements of this section have been carried out.

(2) INTERNATIONAL NARCOTICS STRATEGY REPORT.—The accounting made under paragraph (1) shall also be included in the report submitted to the Congress pursuant to section 481(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(e)).

(j) DEFINITIONS.—For purposes of this section—

(1) the terms "controlled substance", "narcotic drug", and "Drug Enforcement Administration" have the meanings given to such terms in section 102 of the Controlled Substances Act (21 U.S.C 802); and

(2) the term "major illicit drug producing country" has the meaning provided in section 481(i)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(i)(2)).

SEC. 534. CONFORMING AMENDMENTS.

(a) INTERNATIONAL DEVELOPMENT ASSOCIATION ACT.—Section 13 of the International Development Association Act (22 U.S.C. 284k) is amended to read as follows:

"SEC. 13. OPPOSITION TO ASSISTANCE FOR MAJOR ILLICIT DRUG PRODUCING COUNTRIES WHICH FAIL TO TAKE ADEQUATE DRUG CONTROL MEASURES.

"The Secretary of the Treasury shall instruct the United States Executive Directors of the International Bank for Reconstruction and Development and the International Development Association to vote against any loan or other utilization of funds of the Bank and the Association for the benefit of any major illicit drug producing country when such action is required—

"(1) by the Drug Eradication Act of 1986; or

"(2) by section 481(h)(1)(B) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(h)(1)(B)).".

(b) INTER-AMERICAN BANK ACT.—Section 22 of the Inter-American Development Bank Act (22 U.S.C. 283s) is amended to read as follows:

"SEC. 22. OPPOSITION TO ASSISTANCE FOR MAJOR ILLICIT DRUG PRODUCING COUNTRIES WHICH FAIL TO TAKE ADEQUATE DRUG CONTROL MEASURES.

"The Secretary of the Treasury shall instruct the United States Executive Director of the Bank to vote against any loan or other utilization of funds of the Bank for the benefit of any major illicit drug producing country when such action is required—

"(1) by the Drug Eradication Act of 1986; or

"(2) by section 481(h)(1)(B) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(h)(1)(B)).".

(c) ASIAN DEVELOPMENT BANK ACT.—Section 19 of the Asian Development Bank Act (22 U.S.C. 285p) is amended to read as follows:

"SEC. 19. OPPOSITION TO ASSISTANCE FOR MAJOR ILLICIT DRUG PRODUCING COUNTRIES WHICH FAIL TO TAKE ADEQUATE DRUG CONTROL MEASURES.

"The Secretary of the Treasury shall instruct the United States Executive Director of the Asian Development Bank to vote against any loan or other utilization of funds of the Bank for the benefit of any major illicit drug producing country when such action is required—

"(1) by the Drug Eradication Act of 1986; or

"(2) by section 481(h)(1)(B) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(h)(1)(B)).".

(d) AFRICAN DEVELOPMENT BANK ACT.—The African Development Bank Act (22 U.S.C. 290i et seq.) is amended by adding at the end thereof the following new section:

"SEC. 1343. OPPOSITION TO ASSISTANCE FOR MAJOR ILLICIT DRUG PRODUCING COUNTRIES WHICH FAIL TO TAKE ADEQUATE DRUG CONTROL MEASURES.

"The Secretary of the Treasury shall instruct the United States Executive Director of the African Development Bank to vote against any loan or other utilization of funds of the Bank for the benefit of any major illicit drug producing country when such action is required—

"(1) by the Drug Eradication Act of 1986; or

"(2) by section 481(h)(1)(B) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(h)(1)(B)).".

(e) FOREIGN ASSISTANCE ACT OF 1961.—Section 481(h)(1)(B) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(h)(1)(B)) is amended by inserting "the United States Executive Director of the African Development Bank," after "Inter-American Development Bank,".

TITLE VI—COMMITTEE ON THE JUDICIARY

Subtitle A—Money Laundering

SEC. 601. SHORT TITLE.

This subtitle may be cited as the "Money Laundering Control Act of 1986".

SEC. 602. MONEY LAUNDERING OFFENSES.

(a) IN GENERAL.—Chapter 95 (relating to racketeering) of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 1956. Money laundering defined and prohibited

"(a) OFFENSES.—(1) Whoever, in any of the circumstances set forth in subsection (d), knowingly engages or attempts to engage in a financial transaction in criminally derived property that is derived from a designated offense shall be punished as provided in subsection (b). This paragraph does not apply to financial transactions involving the bona fide fees an attorney accepts for representing a client in a criminal investigation or any proceeding arising therefrom.

"(2) Whoever, in any of the circumstances set forth in subsection (d), knowingly engages or attempts to engage in a commercial transaction, knowing the transaction is part of a scheme—

"(A) to conceal criminally derived property that is derived from a designated offense; or

"(B) to disguise the source or ownership of, or control over, criminally derived property that is derived from a designated offense;

shall be punished as provided in subsection (b).

"(3) Whoever knowingly transports or attempts to transport a monetary instrument or funds from a place in the United States to or through a place outside the United States or to a place in the United States from or through a place outside the United States, knowing that such transportation is part of a scheme—

"(A) to conceal criminally derived property that is derived from a designated offense; or

"(B) to disguise the source or ownership of, or control over, criminally derived property that is derived from a designated offense;

shall be punished as provided in subsection (b).

"(b) PUNISHMENT.—(1) Except as provided in paragraph (2), the punishment for an offense under this section is—

"(A) a fine of not more than $1,000,000 or imprisonment for not more than 20 years, or both, if the offender is an individual; and

"(B) a fine of not more than $5,000,000, if the offender is a person other than an individual.

"(2) The court may impose an alternate fine to that imposable under paragraph (1) of not more than twice the amount of the property, funds, or monetary instrument involved in the transaction.

"(c) STATE OF MIND RELATING TO OFFENSE FROM WHICH PROPERTY WAS DERIVED.—In a prosecution for an offense under this section, the Government is not required to prove the defendant knew that the offense from which the criminally derived property was derived was a designated offense.

"(d) CIRCUMSTANCES REQUIRED.—The circumstances referred to in subsection (a) are—

"(1) that the offense under this section takes place in the United States or in the special maritime and territorial jurisdiction of the United States; or

"(2) that the offense under this section takes place outside the United States and such special jurisdiction, but the defendant is a United States person (as defined in section 3077 of this title, but excluding the class described in paragraph (2)(D) of such section).

"(e) INVESTIGATIVE JURISDICTION.—The Secretary of the Treasury shall, in addition to any other agency having such authority, have the authority to investigate offenses under this section, and may delegate such authority to the Internal Revenue Service as appropriate. Such authority of the Secretary of the Treasury shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury and the Attorney General.

"(f) CRIMINAL FORFEITURE.—(1) The court, in imposing sentence on a person convicted of an offense under this section based on conduct consisting of providing services to another that are illegal under this section, shall order that the person forfeit to the United States any property constituting, or derived from, any gross receipts the person obtained, directly or indirectly, as a result of such offense.

"(2) Subsections (c) and (e) through (o) of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853) apply with respect to property subject to forfeiture under this subsection, to any seizure or disposition thereof, and to any administrative or judicial proceeding in relation thereto, to the extent not inconsistent with this section, as they apply to property subject to forfeiture under that Act.

"(g) DEFINITIONS.—As used in this section—

"(1) the term 'financial transaction' means the deposit, withdrawal, transfer, or exchange, in or affecting interstate or foreign commerce, of funds or a monetary instrument by, through, or to a financial institution (as defined in section 5312(a)(2) of title 31);

"(2) the term 'commercial transaction' means—

"(A) a financial transaction;

"(B) the creation, in or affecting interstate or foreign commerce, of a debt; or

"(C) the purchase or sale, in or affecting interstate or foreign commerce, of any property of a fair market value or for a price—

"(i) greater than $10,000; or

"(ii) equal to or less than $10,000, if effected with the intent to evade criminal jurisdiction under clause (i);

"(3) the term 'criminally derived property' means any property constituting, or derived from, proceeds obtained from a criminal offense;

"(4) the term 'designated offense' means—

"(A) an offense against the United States that is listed in section 1961(1) of this title;

"(B) an offense under section 152 (relating to concealment of assets; false oaths and claims; bribery), section 215 (relating to commissions or gifts for procuring loans), any of sections 500 through 503 (relating to certain counterfeiting offenses), section 511 (relating to securities of States and private entities), section 545 (relating to smuggling goods into the United States), section 641 (relating to public money, property, or records), section 656 (relating to theft, embezzlement, or misapplication by bank officer or employee), section 666 (relating to theft or bribery concerning programs receiving Federal funds), any of section 793 or 794 (relating to espionage), section 798 (relating to disclosure of classified information), section 875 (relating to interstate communications), section 1201 (relating to kidnaping), section 1203 (relating to hostage taking), section 1344 (relating to bank fraud), or either of section 2113 or 2114 (relating to bank and postal robbery and theft) of this title, or under section 38 of the Arms Export Control Act (22 U.S.C. 2778), or section 203 (relating to criminal violations) of the International Economic Powers Act (50 U.S.C. 1702), section 3 (relating to criminal violations) of Trading with the Enemy Act (50 U.S.C. App. 3) or section 2 (relating to criminal violations) of the Export Administration Act of 1979 (50 U.S.C. App. 2401); or

"(C) with respect to a financial transaction or commercial transaction in the United States, an offense against any foreign nation involving the manufacture, importation, sale, or distribution of a controlled substance (as such term is defined for the purposes of the Controlled Substances Act); and

"(5) the term 'monetary instrument' has the meaning given that term for the purposes of subchapter II of chapter 53 of title 31.

"§ 1957. Civil forfeiture in connection with money laundering

"(a) GENERAL RULE.—The following property is subject to forfeiture to the United States:

"(1) Any property constituting, or derived from, any gross receipts a person obtains, directly or indirectly, as a result of a violation of section 1956 of this title that is based on conduct consisting of providing services to another that are illegal under that section.

"(2) Any property, funds, or monetary instrument involved in a transaction in violation of section 1956 of this title, or the proceeds derived from such property, funds, or instrument, if the designated offense is an offense described in section 1956(g)(4)(C) of this title.

"(b) SEIZURE.—Any property subject to forfeiture to the United States under this section may be seized by the Attorney General or the Secretary of the Treasury, upon process issued pursuant to the Supplemental Rules for certain Admiralty and Maritime Claims by any district court of the United States having jurisdiction over the property, except that seizure without such process may be made when—

"(1) the seizure is pursuant to a lawful arrest or search; or

"(2) the Attorney General or the Secretary of the Treasury, as the case may be, has obtained a warrant for such seizure under the Federal Rules of Criminal Procedure, in which event proceedings under subsection (d) of this section shall be instituted promptly.

"(c) PRESERVATION OF PROPERTY PENDING OUTCOME OF LITIGATION.—Property taken or detained under this section shall not be repleviable, but shall be deemed to be in the custody of the Attorney General or the Secretary of the Treasury, as the case may be, subject only to the orders and decrees of the court or the official having jurisdiction thereof. Whenever property is seized under this subsection, the Attorney General or the Secretary of the Treasury, as the case may be, may—

"(1) place the property under seal;

"(2) remove the property to a place designated by him; or

"(3) require that the General Services Administration take custody of the property and remove it, if practicable, to an appropriate location for disposition in accordance with law.

"(d) PROCEDURE.—For the purposes of this section the provisions of the customs laws relating to the seizure, summary and judicial forfeiture, condemnation of property for violation of the customs laws, the disposition of such property or the proceeds from the sale thereof, the remission or mitigation of such forfeitures, and the compromise of claims (19 U.S.C. 1602 et seq.), insofar as they are applicable and not inconsistent with the provisions of this section, shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under this section, except that such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this section by such officers, agents, or other persons as may be authorized or designated for that purpose by the Attorney General or the Secretary of the Treasury, as the case may be.

"(e) DISPOSITION.—(1) Notwithstanding any other provision of the law, the Attorney General or the Secretary of the Treasury, as the case may be, is authorized to retain property forfeited pursuant to this section, or to transfer such property, or the proceeds of the sale of such property, on such terms and conditions as the Attorney General or the Secretary of the Treasury, as the case may be, may determine to—

"(A) any other Federal agency; or

"(B) any State or local law enforcement agency which participated directly in any of the acts which led to the seizure or forfeiture of the property.

"(2) The Attorney General or the Secretary of the Treasury, as the case may be, shall ensure the equitable transfer pursuant to paragraph (1)(B) of this subsection of any forfeited property (or the proceeds of the sale of such property) to the appropriate State or local law enforcement agency so as to reflect generally the contribution of any such agency participating directly in any of the acts which led to the seizure or forfeiture of such property. A decision by the Attorney General or the Secretary pursuant to paragraph (1)(B) shall not be subject to review. The United States shall not be liable in any action arising out of the use of any property the custody of which was transferred pursuant to this section to any non-Federal agency.

"(3) The Attorney General or the Secretary of the Treasury may order the discontinuance of any forfeiture proceedings under this section in favor of the institution of forfeiture proceedings by State or local authorities under an appropriate State or local statute. After the filing of a complaint for forfeiture under this section, the Attorney General may seek dismissal of the complaint in favor of forfeiture proceedings under State or local law.

"(4) Whenever forfeiture proceedings are discontinued by the United States in favor of State or local proceedings, the United States may transfer custody and possession of the seized property to the appropriate State or local official immediately upon the initiation of the proper actions by such officials.

"(5) Whenever forfeiture proceedings are discontinued by the United States in favor of State or local proceedings, notice shall be sent to all known interested parties advising them of the discontinuance or dismissal. The United States shall not be liable in any action arising out of the seizure, detention, and transfer of seized property to State or local officials.

"(f) VESTING OF TITLE.—All right, title, and interest in property described in subsection (a) of this section shall vest in the United States upon commission of the act giving rise to forfeiture under this section.

"(g) RELATION TO CRIMINAL PROCEEDINGS.—The filing of an indictment or information alleging a violation of law which is also related to a forfeiture proceeding under this section shall, upon motion of the United States and for good cause shown, stay the forfeiture proceeding.

"(h) ADDITIONAL VENUE.—In addition to the venue provided for in section 1395 of title 28 or any other provision of law, in the case of property of a defendant charged with a violation that is the basis for forfeiture of the property under this section, a proceeding for forfeiture under this section may be brought in the judicial district in which the defendant owning such property is found or in the judicial district in which the criminal prosecution is brought.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 95 (relating to racketeering) of title 18, United States Code, is amended by adding at the end the following:

"1956. Money laundering defined and prohibited.
"1957. Civil forfeiture in connection with money laundering.".

(c) WIRETAP AUTHORITY.—Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 1956 (money laundering)," after "section 1955 (prohibition of business enterprises of gambling),".

SEC. 603. DISCLOSURE OF INFORMATION BY FINANCIAL INSTITUTIONS.

(a) PROTECTION FROM LIABILITY.—Section 1117(c) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3417(c)) is amended—

(1) by inserting "or providing in good faith a notification referred to in section 1103(c) of this Act" after "authority"; and

(2) by inserting "or notification" after "such disclosure".

(b) NONDISCLOSURE ORDER.—Section 1113(i) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413(i)) is amended by adding at the end the following: "A court may, for a cause shown that would justify delay in notice under section 1109, issue an order precluding, for such time as the court deems appropriate, the recipient of a grand jury subpoena for financial records from notifying any other person (except the recipient's attorney) of the existence of the subpoena.".

Subtitle B—Designer Drugs

SEC. 605. SHORT TITLE.

This subtitle may be cited as the "Designer Drug Enforcement Act of 1986".

SEC. 606. INCLUSION OF DESIGNER DRUGS IN CONTROLLED SUBSTANCES ACT.

(a) DEFINITION.—Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended by adding at the end thereof the following:

"(31)(A) Except as provided in subparagraph (B), the term 'controlled substance analogue' means a substance —

"(i) the chemical structure of which is substantially similar to the chemical structure of a controlled substance in schedule I or II; and

"(ii)(I) which has a stimulant, depressant, or hallucinogenic effect on the central nervous system; or

"(II) with respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance.

"(B) Such term does not include—

"(i) a controlled substance;

"(ii) any substance for which there is an approved new drug application;

"(iii) with respect to a particular person any substance, if an exemption is in effect for investigational use, for that person, under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) to the extent conduct with respect to such substance is pursuant to such exemption; or

"(iv) any substance to the extent not intended for human consumption before such an exemption takes effect with respect to that substance.".

(b) TREATMENT OF CONTROLLED SUBSTANCE ANALOGUES.—Part B of the Controlled Substances Act is amended by adding at the end the following new section:

"TREATMENT OF CONTROLLED SUBSTANCE ANALOGUES

"SEC. 203. A controlled substance analogue shall, to the extent intended for human consumption, be treated, for the purposes of this title and title III as a controlled substance in schedule I.".

(c) CLERICAL AMENDMENT.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by inserting after the item relating to section 202 the following new item:

"Sec. 203. Treatment of controlled substance analogues.".

Subtitle C—More Effective Criminal Penalties

SEC. 607. SHORT TITLE.

This subtitle may be cited as the "Narcotics Penalties and Enforcement Act of 1986".

PART I—CONTROLLED SUBSTANCES PENALTIES

SEC. 608. PENALTIES FOR MAJOR TRAFFICKERS, PENALTIES FOR SERIOUS TRAFFICKERS, AND OTHER PENALTY INCREASE AMENDMENTS TO SECTION 401 OF THE CONTROLLED SUBSTANCES ACT.

(a) PENALTY INCREASE.—Section 401 of the Controlled Substances Act (21 U.S.C. 841) is amended by striking out subsection (b) and all that follows through the end of the section and inserting in lieu thereof the following:

"(b) Except as otherwise provided in section 405, 405A, or 405B, any person who violates subsection (a) of this section shall be sentenced as follows:

"(1)(A) In the case of a violation of subsection (a) of this section involving—

"(i) 1 kilogram or more of a mixture, preparation, or compound containing a detectable amount of heroin;

"(ii) 5 kilograms or more of a mixture, preparation, or compound containing a detectable amount of cocaine (other than cocaine freebase), ecgonine, their salts, optical and geometric isomers, and salts of isomers;

"(iii) 2,500 grams or more, or 6,000 tablets or more, of a mixture, preparation, or compound containing a detectable amount of a narcotic drug in schedule I or schedule II (other than a substance described in clause (ii));

"(iv) 100 grams or more of a mixture, preparation, or compound containing a detectable amount of cocaine freebase;

"(v) 100 grams or more of a mixture, preparation, or compound containing a detectable amount of a controlled substance analogue;

"(vi) 100 grams or more of a mixture, preparation, or compound containing a detectable amount of a fentanyl analogue;

"(vii)(I) 946 milliliters or more of a liquid mixture, preparation, or compound containing a detectable amount of phencyclidine; or

"(II) 34 grams or more of pure phencyclidine or 340 grams or more of a solid mixture, preparation, or compound containing a detectable amount of phencyclidine; or

"(viii) 1 gram or more of a mixture, preparation, or compound containing a detectable amount of lysergic acid diethylamide;

such person shall be sentenced to a term of imprisonment of not less than 10 years and not more than 30 years, and a fine of not more than $2,000,000, or both in the case of an individual, or to a fine of not more than $5,000,000, in the case of a person other than an individual. If the offense under this subparagraph is a second or subsequent controlled substances offense, such person shall be sentenced to a term of imprisonment for any term of not less than 20 years, or to imprisonment for life, and a fine of not more than $4,000,000, or both in the case of an individual, or to a fine of not more than $10,000,000, in the case of a person other than an individual. Any sentence imposing a term of imprisonment under this subparagraph shall, in the absence of such a prior conviction, impose a special parole term of at least 4 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a special parole term of at least 8 years in addition to such term of imprisonment.

"(B) In the case of a violation of subsection (a) of this section involving—

"(i) 125 grams or more of a mixture, preparation, or compound containing a detectable amount of heroin;

"(ii) 1 kilogram or more of a mixture, preparation, or compound containing a detectable amount of cocaine (other than cocaine freebase), ecgonine, their salts, optical and geometric isomers, and salts of isomers;

"(iii) 125 grams or more, or 300 tablets or more, of a mixture, preparation, or compound containing a detectable amount of a narcotic drug in schedule I or schedule II, (other than a substance described in clause (ii));

"(iv) 20 grams or more of a mixture, preparation, or compound containing a detectable amount of cocaine freebase;

"(v) 10 grams or more of a mixture, preparation, or compound containing a detectable amount of a controlled substance analogue;

"(vi) 10 grams or more of a mixture, preparation, or compound containing a detectable amount of a fentanyl analogue;

"(vii)(I) 28 milliliters or more of a liquid mixture, preparation, or compound containing a detectable amount of phencyclidine; or

"(II) 10 grams or more of pure phencyclidine or 100 grams or more of a solid mixture, preparation, or compound containing a detectable amount of phencyclidine; or

"(viii) 500 milligrams or more of a mixture, preparation, or compound containing a detectable amount of lysergic acid diethylamide;

such person shall be sentenced to a term of imprisonment of not less than 5 and not more than 20 years, a fine of not more than $1,000,000, or both if such person is an individual, or to a fine of not more than $3,000,000 if such person is other than an individual. If the offense under this subparagraph is a second or subsequent controlled substances offense, such person shall be sentenced to a term of imprisonment of not less than 10 years and not more than 40 years, and a fine of not more than $2,000,000, or both in the case of an individual, or to a fine of not more than $6,000,000, in the case of a person other than an individual. Any sentence imposing a term of imprisonment under this subparagraph shall, in the absence of such a prior conviction, impose a special parole term of at least 4 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a special parole term of at least 8 years in addition to such term of imprisonment.

"(C)(i) In the case of—

"(I) a controlled substance in schedule I or II (other than a narcotic drug, a controlled substance analogue, or phencyclidine);

"(II) an amphetamine in schedule III, its salts, optical isomers, and salts of its optical isomers;

"(III) a methamphetamine in schedule III, its salts, isomers, and salts of its isomers;

"(IV) a phenmetrazine in schedule III, and its salts;

"(V) a methylphenidate in schedule III;

"(VI) benzphetamine;

"(VII) chlorphentermine;

"(VIII) clortermine; or

"(IX) phendimetrazine;

such person shall be sentenced to a term of imprisonment of not more than 15 years, a fine of $500,000, or both if such person is an individual, or to a fine of not more than $2,000,000 if such person is other than an individual.

"(ii) In the case of a controlled substance analogue or a controlled substance in schedule I or II that is a narcotic drug or phencyclidine, such person shall be sentenced to a term of imprisonment of not more than 15 years, a fine of $1,000,000, or both if such person is an individual, or to a fine of not more than $5,000,000 if such person is other than an individual.

"(iii) If the offense under this subparagraph is a second or subsequent controlled substances offense such person shall—

"(I) be sentenced to a term of imprisonment of not more than 30 years, a fine of not more than $1,000,000, or both if such person is an individual, or to a fine of not more than $4,000,000 if such person is other than an individual (if the offense is described in clause (i)); and

"(II) be sentenced to a term of imprisonment of not more than 30 years, a fine of $2,000,000, or both if such person is an individual, or to a fine of not more than $10,000,000 if such person is other than an individual (if the offense is described in clause (ii)).

"(iv) Any sentence imposing a term of imprisonment under this subparagraph shall, in the absence of such a prior conviction, impose a special parole term of at least 3 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a special parole term of at least 6 years in addition to such term of imprisonment.

"(D) In the case of less than 50 kilograms of marihuana, 10 kilograms of hashish, or one kilogram of hashish oil or in the case of any controlled substance in schedule III (other than a substance listed in any of subclauses (II) through (IX) of subparagraph (C)(i)), such person shall, except as provided in paragraph (4), be sentenced to a term of imprisonment of not more than 5 years, a fine of not more than $250,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual. If the offense under this subparagraph is a second or subsequent controlled substances offense such person shall be sentenced to a term of imprisonment of not more than 10 years, a fine of not more than $500,000, or both if such person is an individual, or to a fine of not more than $2,000,000 if such person is other than an individual. Any sentence imposing a term of imprisonment under this paragraph shall, in the absence of such a prior conviction, impose a special parole term of at least 2 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a special parole term of at least 4 years in addition to such term of imprisonment.

"(E) Imposition or execution of a sentence of imprisonment under subparagraph (A) or subparagraph (B) shall not be suspended, and probation shall not be granted with respect to such sentence. A person convicted under subparagraph (A) or subparagraph (B) shall not be eligible for parole until the individual has served the minimum sentence required by such subparagraph.

"(2) In the case of a controlled substance in schedule IV, such person shall be sentenced to a term of imprisonment of not more than 3 years, a fine of not more than $250,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual. If the offense under this paragraph is a second or subsequent controlled substances offense such person shall be sentenced to a term of imprisonment of not more than 6 years, a fine of $500,000, or both if such person is an individual, or to a fine of not more than $2,000,000 if such person is other than an individual. Any sentence imposing a term of imprisonment under this paragraph shall, in the absence of such a prior conviction, impose a special parole term of at least one year in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a special parole term of at least 2 years in addition to such term of imprisonment.

"(3) In the case of a controlled substance in schedule V, such person shall be sentenced to a term of imprisonment of not more than one year, a fine of not more than $100,000, or both if such person is an individual, or to a fine of not more than $250,000 if such person is other than an individual. If the offense under this paragraph is a second or subsequent controlled substances offense such person shall be sentenced to a term of imprisonment of not more than 2 years, a fine of not more than $250,000, or both if such person is an individual, or to a fine of not more than $500,000 if such person is other than anindividual.

"(4) Notwithstanding paragraph (1)(D) of this subsection, any person who violates subsection (a) of this section by distributing a small amount of marihuana for no remuneration shall be treated as provided in section 404.

"(c) A special parole term imposed under this section or section 405, 405A, or 405B may be revoked if its terms and conditions are violated. In such circumstances the original term of imprisonment shall be increased by the period of the special parole term and the resulting new term of imprisonment shall not be diminished by the time which was spent on special parole. A person whose special parole term has been revoked may be required to serve all or part of the remainder of the new term of imprisonment. A special parole term provided for in

this section or section 405, 405A, or 405B shall be in addition to, and not in lieu of, any other parole provided for by law.

"(d) Any person who knowingly or intentionally—

"(1) possesses any piperidine with intent to manufacture phencyclidine except as authorized by this title, or

"(2) possesses any piperidine knowing, or having reasonable cause to believe, that the piperidine will be used to manufacture phencyclidine except as authorized by this title,

shall be sentenced to a term of imprisonment of not more than 5 years, a fine of not more than $15,000, or both.

"(e) For purposes of this section, a person shall be considered convicted of a second or subsequent controlled substances offense if, before the commission of such offense, at least one felony conviction of such person under this title, title III, or any other law of the United States, or any law of a State or a foreign country relating to narcotic drugs, marijuana, or depressant or stimulant substances, has become final.".

(b) CONFORMING PROSPECTIVE AMENDMENTS.—(1) Section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) is amended by striking out the last sentence.

(2) Section 401(b)(1)(B) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(B)) is amended by striking out the last sentence.

(3) Section 401(b)(1)(C) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(C)) is amended by striking out clause (iv).

(4) Section 401(b)(1)(D) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(D)) is amended by striking out the last sentence.

(5) Section 401(b)(2) of the Controlled Substances Act (21 U.S.C. 841(b)(2)) is amended by striking out the last sentence.

(6) Section 401(b)(4) of the Controlled Substances Act (21 U.S.C. 841(b)(4)) is amended by striking out "404" and inserting in lieu thereof "404(a), section 404(b), and section 3607 of title 18, United States Code".

(7) The amendments made by this subsection shall take effect on the date of the taking effect of section 224 of the Comprehensive Crime Control Act of 1984.

SEC. 609. FINE INCREASE AMENDMENT TO SECTION 402(c)(2)(A) OF THE CONTROLLED SUBSTANCES ACT.

Section 402(c)(2)(A) of the Controlled Substances Act (21 U.S.C. 842(c)(2)(A)) is amended by striking out "$25,000, or both" and inserting in lieu thereof "$250,000, or both if such person is an individual, or to a fine of not more than $500,000 if such person is other than an individual".

SEC. 610. FINE INCREASE AMENDMENT TO SECTION 402(c)(2)(B) OF THE CONTROLLED SUBSTANCES ACT.

Section 402(c)(2)(B) of the Controlled Substances Act (21 U.S.C. 842(c)(2)(B)) is amended by striking out "$50,000, or both" and inserting in lieu thereof "$500,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual".

SEC. 611. FINE INCREASE AMENDMENT TO SECTION 403(c) OF THE CONTROLLED SUBSTANCES ACT.

Section 403(c) of the Controlled Substances Act (21 U.S.C. 843(c)) is amended—

(1) by striking out "$30,000, or both" and inserting in lieu thereof "$250,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual"; and

(2) by striking out "$60,000, or both" and inserting in lieu thereof "$500,000, or both if such person is an individual, or to a fine of not more than $2,000,000 if such person is other than an individual".

SEC. 612. AMENDMENTS TO SECTION 404 OF THE CONTROLLED SUBSTANCES ACT.

Section 404 of the Controlled Substances Act (21 U.S.C. 844) is amended by adding at the end the following new subsection:

"(c)(1) It shall be unlawful for any person, in the special maritime and territorial jurisdiction of the United States, as defined in section 7 of title 18, United States Code, knowingly or intentionally to possess a controlled substance unless such substance was obtained directly, or pursuant to a valid prescription or order, from a practitioner, while acting in the course of his professional practice, or except as otherwise authorized by this title or title III.

"(2)(A) Except as provided in subparagraph (B) or (C), any person who violates this subsection shall be sentenced to a term of imprisonment of not more than one year, and shall be fined a minimum of $1,000 but not more than $5,000, or both.

"(B) Any person who violates this subsection after a prior conviction under this subsection, or a prior conviction for any drug or narcotic offense chargeable under the law of any State, has become final, shall be sentenced to a term of imprisonment of a minimum 15 days but not more than 2 years, and shall be fined a minimum of $2,500 but not more than $10,000, or both.

"(C) Any person who violates this subsection after 2 or more prior convictions under this subsection, or 2 or more prior convictions for any drug or narcotic offense chargeable under the law of any State or a combination of 2 or more such offenses have become final, shall be sentenced to a term of imprisonment of a minimum of 90 days but not more than 3 years, and shall be fined a minimum of $5,000 but not more than $25,000.

"(D) The imposition or execution of a minimum sentence required to be imposed under this subsection shall not be suspended or deferred. Upon conviction, a person who violates this subsection shall be taxed the reasonable costs of the investigation and prosecution of the offense, including the costs of prosecution of an offense as defined in section 1918 and section 1920 of title 28, United States Code.

"(E) As used in this subsection, the term 'drug or narcotic offense' means any offense chargeable under the law of any State which proscribes the possession, distribution, manufacture, cultivation, sale, transfer, or the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or transfer any substance the possession of which is prohibited under this Act.".

SEC. 613. FINE INCREASE AMENDMENT TO SECTION 408(a) OF THE CONTROLLED SUBSTANCES ACT.

Section 408(a) of the Controlled Substances Act (21 U.S.C. 848(a)) is amended—

(1) by striking out "$100,000" and inserting in lieu thereof "$2,000,000 if such person is an individual, or a fine of not more than $5,000,000 if such person is other than an individual"; and

(2) by striking out "$200,000" and inserting in lieu thereof "$4,000,000 if such person is an individual, or a fine of not more than $10,000,000 if such person is other than an individual".

SEC. 614. SPECIAL TERM OF IMPRISONMENT FOR CERTAIN OFFENSES UNDER THE CONTROLLED SUBSTANCES ACT RESULTING IN DEATH OR SERIOUS BODILY INJURY.

Part D of the Controlled Substances Act (21 U.S.C. 841 et seq.) is amended by adding at the end the following new section:

"SPECIAL TERM OF IMPRISONMENT FOR CERTAIN OFFENSES RESULTING IN DEATH OR SERIOUS BODILY INJURY

"SEC. 416. (a) In the case of an offense under subparagraph (A), (B), or (C) of section 401(b)(1) of this title, from which death or serious bodily injury results, the defendant shall be sentenced (in addition to any fine otherwise applicable under such subparagraph) to imprisonment for any term of not less than 20 years, or to imprisonment for life.

"(b) As used in this section—

"(1) the term 'serious bodily injury' means bodily injury which involves—

"(A) a substantial risk of death;

"(B) unconsciousness;

"(C) extreme physical pain;

"(D) protracted and obvious disfigurement; or

"(E) protracted loss or impairment of the function of a bodily member, organ, or mental faculty; and

"(2) the term 'results' includes results from the use of a quantity of controlled substance involved in the offense.

"(c) Imposition or execution of a sentence of imprisonment under this section shall not be suspended, and probation shall not be granted with respect to such sentence. A person convicted under this section shall not be eligible for parole until the individual has served the minimum sentence required by this section.".

SEC. 615. PENALTIES FOR SERIOUS TRAFFICKERS; AMENDMENT TO SECTION 1010(b) OF THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.

(a) SECTION 1010(b)(1) AMENDMENT.—Section 1010(b)(1) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)) is amended to read as follows:

"(b)(1)(A)(i) In the case of a violation of subsection (a) of this section involving a controlled substance and the minimum amount specified for that controlled substance in section 401(b)(1)(A), the person committing such violation shall be sentenced to a term of imprisonment of not less than 10 years and not more than 30 years, and a fine of not more than $2,000,000, or both in the case of an individual, or to a fine of not more than $5,000,000, in the case of a person other than an individual.

"(ii) If the offense under this subparagraph is a second or subsequent offense, such person shall be sentenced to a term of imprisonment of not less than 20 years, or to imprisonment for life, and a fine of not more than $4,000,000, or both in the case of an individual, or to a fine of not more than $10,000,000, in the case of a person other than an individual.

"(B)(i) In the case of a violation of subsection (a) of this section involving a controlled substance and the minimum amount specified for that controlled substance in section 401(b)(1)(B), the person committing such violation shall be sentenced to a term of imprisonment of not less than 5 and not more than 20 years, a fine of not more than $2,000,000, or both if such person is an individual, or to a fine of not more than $5,000,000 if such person is other than an individual.

"(ii) If the offense under this subparagraph is a second or subsequent offense, such person shall be sentenced to a term of imprisonment of not less than 10 years and not more than 40 years, and a fine of not more than $4,000,000, or both in the case of an individual, or to a fine of not more than $10,000,000, in the case of a person other than an individual.

"(C) Imposition or execution of a sentence of imprisonment under this paragraph shall not be suspended, and probation shall not be granted with respect to such sentence. A person convicted under this paragraph shall not be eligible for parole until the individual has served the minimum sentence required by this paragraph.

"(D) Any sentence imposing a term of imprisonment under this paragraph shall, in the absence of such a prior conviction, impose a special parole term of at least 4 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a special parole term of at least 8 years in addition to such term of imprisonment.".

(b) CONFORMING AMENDMENTS.—(1) Section 1010(b)(1) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)) is amended by striking out subparagraph (D).

(2) The amendment made by this subsection shall take effect on the date of the taking effect of section 225 of the Comprehensive Crime Control Act of 1984.

SEC. 616. FINE INCREASE AMENDMENT TO SECTION 1010(b)(2) OF THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.

Section 1010(b)(2) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(2)) is amended in the first sentence by striking out "$125,000, or both" and inserting in lieu thereof "$500,000, or both if such person is an individual, or shall be fined not more than $2,000,000 if such person is other than an individual".

SEC. 617. FINE INCREASE AMENDMENT TO SECTION 1010(b)(3) OF THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.

Section 1010(b)(3) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(3)) is amended in the first sentence by striking out "$50,000, or both" and inserting in lieu thereof "$250,000, or both if such person is an individual, or shall be fined not more than $1,000,000 if such person is other than an individual".

SEC. 618. FINE INCREASE AMENDMENT TO SECTION 1011(2) OF THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.

Section 1011(2) of the Controlled Substances Import and Export Act (21 U.S.C. 961(2)) is amended by striking out "$25,000 or both" and inserting in lieu thereof "$100,000, or both if such person is an individual or a fine of $500,000 if such person is other than an individual".

SEC. 619. SPECIAL TERM OF IMPRISONMENT FOR CERTAIN OFFENSES UNDER CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT RESULTING IN DEATH OR SERIOUS BODILY INJURY.

(a) IN GENERAL.—The Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.) is amended by adding at the end the following new section:

"SPECIAL TERM OF IMPRISONMENT FOR CERTAIN OFFENSES RESULTING IN DEATH OR SERIOUS BODILY INJURY

"SEC. 1018. (a) In the case of an offense under paragraph (1) or (2) of section 1010(b) of this title, from which death or serious bodily injury results, the defendant shall be sentenced (in addition to any fine otherwise applicable under such subsection) to imprisonment for any term of not less than 20 years, or to imprisonment for life.

"(b) As used in this section—

"(1) the term 'serious bodily injury' means bodily injury which involves—

"(A) a substantial risk of death;

"(B) unconsciousness;

"(C) extreme physical pain;

"(D) protracted and obvious disfigurement; or

"(E) protracted loss or impairment of the function of a bodily member, organ, or mental faculty; and

"(2) the term 'results' includes results from the use of a quantity of controlled substance involved in the offense.

"(c) Imposition or execution of a sentence of imprisonment under this section shall not be suspended, and probation shall not be granted with respect to such sentence. A person convicted under this section shall not be eligible for parole until the individual has served the minimum sentence required by this section.".

(b) TECHNICAL AMENDMENT.—The table of contents for the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by inserting after the item relating to section 1017 the following new item:

"Sec. 1018. Special term of imprisonment for certain offenses resulting in death or serious bodily injury.".

PART II—CONTROLLED SUBSTANCE OFFENSES RELATING TO CHILDREN AND SCHOOLS; PRECURSOR AND ESSENTIAL CHEMICAL REVIEW

SEC. 621. CRIMINAL PENALTY FOR MANUFACTURE OF CONTROLLED SUBSTANCE IN OR NEAR SCHOOLS (INCLUDING COLLEGES).

(a) IN GENERAL.—Section 405A of the Controlled Substances Act (21 U.S.C. 845a) is amended—

(1) in subsection (a), by striking out "distributing a controlled substance in or on, or within one thousand feet of, the real property comprising a public or private elementary or secondary school" and inserting in lieu thereof "manufacturing or distributing a controlled substance in or on, or within 1,000 feet of, the real property comprising a school";

(2) in subsection (b), by striking out "distributing a controlled substance in or on, or within one thousand feet of, the real property comprising a public or private elementary or secondary school" and inserting in lieu thereof "manufacturing or distributing a controlled substance in or on, or within 1,000 feet of, the real property comprising a school "; and

(3) by adding at the end the following new subsection:

"(d) As used in this section, the term 'school' means a public or private elementary, vocational, or secondary school, or a public or private college, junior college, community college, or university.".

(b) TECHNICAL AMENDMENT.—The section heading for section 405A of the Controlled Substances Act (21 U.S.C. 845a) is amended to read as follows:

"MANUFACTURE OR DISTRIBUTION IN OR NEAR SCHOOLS".

SEC. 622. USING CHILDREN TO MANUFACTURE OR DISTRIBUTE A CONTROLLED SUBSTANCE.

The Controlled Substances Act (21 U.S.C. 801 et seq.) is amended by inserting after section 405A the following new section:

"USING CHILDREN TO MANUFACTURE OR DISTRIBUTE

"SEC. 405B. (a) Any person at least 18 years of age who violates section 401(a)(1) by employing, using, persuading, inducing, enticing, or coercing another person less than 18 years of age to manufacture or distribute a controlled substance is punishable by a term of imprisonment, or a fine, or both, up to twice that otherwise authorized for that offense, and at least twice any special parole term otherwise authorized for that offense.

"(b) If the offense under this subparagraph is a second or subsequent offense, such offense is punishable by a term of imprisonment, or a fine, or both, up to three times that otherwise authorized for that offense, and at least three times any special parole term otherwise authorized for that offense.

"(c) In the case of any sentence imposed under this section, imposition or execution of such sentence shall not be suspended and probation shall not be granted with respect to such sentence. An individual convicted under this section shall not be eligible for parole until the individual has served the minimum sentence required by such section.".

SEC. 623. PRECURSOR AND ESSENTIAL CHEMICAL REVIEW.

(a) STUDY AND REPORT.—The Attorney General shall—

(1) conduct a study of the need for legislation, regulation, or alternative methods to control the diversion of legitimate precursor and essential chemicals to the illegal production of drugs of abuse; and

(2) report all findings of such study to Congress not later than the end of the 90th day after the date of enactment of this part.

(b) CONSIDERATIONS.—In conducting such study the Attorney General shall take into consideration that—

(1) clandestine manufacture continues to be a major source of narcotic and dangerous drugs on the illegal drug market;

(2) these drugs are produced using a variety of chemicals which are found in commercial channels and which are diverted to illegal uses;

(3) steps have been taken to deny drug traffickers access to key precursor chemicals, including that—

(A) P2P, a precursor chemical used in the production of amphetamines and methamphetamines was administratively controlled in schedule II of the Controlled Substances Act by the Drug Enforcement Administration;

(B) a variety of controls were placed on piperidine, the precursor for phencyclidine, by the Psychotropic Substance Act of 1978; and

(C) the Drug Enforcement Administration has maintained a voluntary system in cooperation with chemical industry to report suspicious purchases of precursors and essential chemicals; and

(4) despite the formal and voluntary systems that currently exist, clandestine production of synthetic narcotics and dangerous drugs continue to contribute to drug trafficking and abuse problems in the United States.

PART III—CONTROLLED SUBSTANCES TECHNICAL AMENDMENTS

SEC. 625. CLARIFICATION OF ISOMER INCLUSION.

The second and third sentences of section 102(14) of the Controlled Substances Act (21 U.S.C. 802(14)) are each amended by

striking out "the" after "the term 'isomer' means" and inserting in lieu thereof "any".

SEC. 626. MODIFICATION OF COCAINE DEFINITION FOR PURPOSES OF SCHEDULE II.

Subsection (a)(4) of schedule II of section 202(c) the Controlled Substances Act (21 U.S.C. 812) is amended to read as follows:

"(4) Coca leaves (except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed); cocaine, its salts, optical and geometric isomers, and salts of isomers; and ecgonine, its derivatives, their salts, isomers, and salts of isomers.".

SEC. 627. CORRECTION OF PUNCTUATION ERROR.

Section 403(a)(2) of the Controlled Substances Act (21 U.S.C. 843(a)(2)) is amended by striking out the period at the end and inserting a semicolon in lieu thereof.

SEC. 628. CORRECTION OF CLERICAL ERROR.

Section 405A(b) of the Controlled Substances Act (21 U.S.C. 845a(b)) is amended by inserting "parole" after "(2) at least three times any special".

SEC. 629. CORRECTION OF ERRONEOUS SECTION CROSS REFERENCE.

Section 405A(c) of the Controlled Substances Act (21 U.S.C. 845a(c)) is amended by striking out "section 4202" and inserting "chapter 311" in lieu thereof.

SEC. 630. CORRECTION OF ERRONEOUS SUBSECTION CROSS REFERENCES.

Section 413 of the Controlled Substances Act (21 U.S.C. 853) is amended—

(1) in subsection (c) and in the second subsection (h), by striking out "subsection (o)" and inserting "subsection (n)" in lieu thereof;

(2) in subsection (f) by striking out "subsection (f)" and inserting "subsection (e)" in lieu thereof;

(3) in subsection (i)(1), by striking out "this chapter" and inserting "this title" in lieu thereof; and

(4) by redesignating the second subsection (h) as subsection (k).

SEC. 631. AUTHORITY OF ATTORNEY GENERAL TO ENTER INTO CONTRACTS WITH STATE AND LOCAL LAW ENFORCEMENT AGENCIES AND TO DEPUTIZE STATE AND LOCAL LAW ENFORCEMENT OFFICERS FOR CONTROLLED SUBSTANCES ENFORCEMENT.

(a) CONTRACT AUTHORITY.—Section 503(a) of the Controlled Substances Act (21 U.S.C. 873(a)) is amended—

(1) by striking out "and" at the end of paragraph (5);

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

"(7) notwithstanding any other provision of law, enter into contractual agreements with State and local law enforcement agencies to provide for cooperative enforcement and regulatory activities under this title.".

(b) AUTHORITY TO DEPUTIZE.—Section 508 of the Controlled Substances Act (21 U.S.C. 878) is amended—

(1) by inserting "(a)" before "Any officer or employee";

(2) by inserting after "Drug Enforcement Administration" the following: "or (with respect to offenses under this title or title III) any State or local law enforcement officer"; and

(3) by adding at the end thereof the following new subsection:

"(b) State and local law enforcement officers performing functions under this section shall not be deemed Federal employees and shall not be subject to provisions of law relating to Federal employees, except that such officers shall be subject to section 3374(c) of title 5, United States Code.".

SEC. 632. CORRECTION OF CLERICAL ERROR.

Section 1008(e) of the Controlled Substances Import and Export Act (21 U.S.C. 958(e)) is amended by striking out "section" the first place it appears and inserting "sections" in lieu thereof.

SEC. 633. ELIMINATION OF ERRONEOUS CROSS REFERENCE.

Section 1010(b)(3) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(3)) is amended by striking out ", except as provided in paragraph (4)".

SEC. 634. TECHNICAL AMENDMENTS TO TABLE OF CONTENTS OF THE COMPREHENSIVE DRUG ABUSE PREVENTION AND CONTROL ACT OF 1970.

The table of contents for the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended—

(1) by inserting after the item relating to section 405 the following new items:

"Sec. 405A. Manufacture or distribution in or near schools.

"Sec. 405B. Using children to manufacture or distribute.";

and

(2) by adding at the end the following new items:

"Sec. 415. Alternative fine.

"Sec. 416. Special term of imprisonment for certain offenses resulting in death or serious bodily injury.".

SEC. 635. AMENDMENT TO SECTION 511 OF THE CONTROLLED SUBSTANCES ACT.

Section 511(e) of the Controlled Substances Act (21 U.S.C. 881(e)) is amended—

(1) so that paragraph (1) reads as follows:

"(1) retain the property for official use or transfer the custody or ownership of any forfeited property to any Federal agency pursuant to section 616 of the Tariff Act of 1930;";

(2) by inserting after paragraph (1) the following new paragraph;

"(2) transfer the custody or ownership of any forfeited property or proceeds to any State or local agency pursuant to section 616 of the Tariff Act of 1930;"; and

(3) by renumbering the following paragraphs accordingly.

SEC. 636. AMENDMENT TO SECTION 524 OF TITLE 28, UNITED STATES CODE.

Section 524(c)(4) of title 28, United States Code, is amended by striking out "remaining after the payment of expenses for forfeiture and sale authorized by law" and inserting in lieu thereof ", except all proceeds of forfeitures available for use by the Secretary of the Treasury or the Secretary of the Interior pursuant to section 11(d) of the Endangered Species Act (16 U.S.C. 1540(d)) or section 6(d) of the Lacey Act Amendments of 1981 (16 U.S.C. 3375(d))".

SEC. 637. AMENDMENT TO SECTION 5316 OF TITLE 31, UNITED STATES CODE.

Section 5316(a)(2) of title 31, United States Code, is amended by striking out "$5,000" and inserting in lieu thereof "$10,000".

SEC. 638. CLARIFICATION OF INTENT OF CERTAIN AMENDMENTS.

The amendments made by sections 224(a) and 235(a)(1) of the Comprehensive Crime Control Act of 1984 are referenced to the law as it existed immediately before the enactment of the Comprehensive Crime Control Act of 1984 and are intended to be executed without regard to redesignations made by and after that enactment. To the extent that a provision to which such an amendment is so referenced has been stricken out or repealed before the date such amendments would take effect, however, such amendments shall not take effect.

Subtitle D—White House Conference

SEC. 641. SHORT TITLE.

This subtitle may be cited as the "White House Conference on Drug Abuse and Control Act of 1986".

SEC. 642. FINDINGS.

The Congress finds that—

(1) the illicit production and trafficking of controlled substances abroad and the illicit importation of controlled substances into the United States is increasing each year;

(2) the social and economic cost in the United States of drug abuse, including increased health care costs, lost productivity, and related crime and violence, is estimated to be more than $100,000,000,000 annually, and there is a direct relationship between drug abuse and criminal activity and street violence;

(3) the National Drug Enforcement Policy Board recently stated that drug abuse is a major health problem that damages our social institutions and threatens our most valuable human resource—our young people;

(4) controlled substances of all kinds are readily available on the streets of major cities in the United States, it is estimated that there are 500,000 heroin addicts, 4,000,000 regular cocaine users, and 20,000,000 regular marijuana users in the United States, and the amount of cocaine available for export to the United States increased by over 50 percent in 1984 and the number of cocaine-related deaths in the United States in 1984 increased by 77 percent;

(5) the President's Commission on Organized Crime, in its final report, stated that drug trafficking is the most serious organized crime problem in the world today and is the most widespread and lucrative organized crime activity in the United States, producing revenues exceeding $110,000,000,000 annually, and that insofar as the violence and corruption associated with drug trafficking threatens the stability of friendly nations, our own national security is jeopardized;

(6) President Reagan has repeatedly emphasized the importance of the fight against drug abuse and has called drug abuse one of the gravest problems facing the nation;

(7) the International Narcotics Control Board and the United States Department of State have found that the illicit production, trafficking, and abuse of drugs is international in scope and affects almost every country, and that these activities undermine the economic and social order, spread violence and corruption, and jeopardize the very political stability of some countries;

(8) despite major strides toward achieving coordination of drug law enforcement among Federal agencies or between Federal efforts and State and local efforts total national control is still needed;

(9) the flow of drugs into the United States and increased domestic production and diversion place overwhelming burdens on Federal, State, and local police, prosecutors, courts, and correctional authorities, and represents a threat to the national security;

(10) elected officials and leaders in the fields of law enforcement, health, and edu-

cation are nearly unanimous in agreement that drug abuse can only be defeated by education, prevention, and other demand reduction efforts;

(11) demand reduction efforts need more resources, direction, and coordination, having received comparatively less support than have law enforcement and other supply reduction efforts; and

(12) in order to address these drug control and abuse issues in a coordinated manner and in a manner that responds to the crisis situation at hand, it is necessary to bring together, under sponsorship and with support at the highest level of government, experts in drug abuse issues, ordinary citizens, including those who have suffered the effects of drug abuse and who want to help end it, and officials from all levels of government and all three branches of Government, to make recommendations for development and implementation of a comprehensive national strategy for public and private action to eliminate drug abuse in America.

SEC. 643. AUTHORIZATION OF CONFERENCE.

The President shall call a White House Conference on Drug Abuse and Control (in this subtitle referred to as the "Conference"), in accordance with this subtitle, not later than 9 months after the date of the enactment of this subtitle in order to develop recommendations for further action to control the illicit production, trafficking, and distribution of controlled substances internationally and in the United States and to prevent and treat drug abuse.

SEC. 644. PURPOSES OF CONFERENCE.

(a) IN GENERAL.—The purposes of the Conference are—

(1) to increase public awareness of, and to focus attention on, various aspects of the problems of drug abuse and control (including issues of enforcement of controlled substances laws and of prevention, treatment, and rehabilitation of drug abusers);

(2) to pool information and experiences in order vigorously and directly to attack drug abuse at all levels— local, State, Federal, and international; and

(3) to assist in formulating a national strategy (encompassing international, Federal, State, and local activities) to control trafficking in controlled substances and to prevent and treat drug abuse.

(b) SPECIFIC CONSIDERATIONS.—The Conference shall specifically review—

(1) the impact of recently enacted laws (including the Comprehensive Crime Control Act of 1984 and the Balanced Budget and Emergency Deficit Reduction Act of 1985) on efforts to control trafficking in controlled substances and to prevent and treat drug abuse,

(2) the recommendations of the President's Commission on Organized Crime as they relate to drug abuse and control;

(3) the extent to which the sanctions in section 481 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291) have been, or should be, used in encouraging foreign states to comply with their international responsibilities respecting controlled substances; and

(4) the circumstances contributing to the initiation of illicit drug usage, with particular emphasis on the onset of drug use by youth.

SEC. 645. CONFERENCE REPORT AND FOLLOW-UP ACTIONS.

(a) FINAL REPORT.—Not more than 6 months after the date on which the Conference is convened, a final report of the Conference shall be submitted to the President and the Congress. The report shall include the findings and recommendations of the Conference as well as proposals for any legislative action necessary to implement the recommendations of the Conference. The final report of the Conference shall be available to the public.

(b) FOLLOW-UP ACTIONS.—The President shall report to the Congress annually, during the 3-year period following the submission of the final report of the Conference, on the status and implementation of the findings and recommendations of the Conference.

SEC. 646. ORGANIZATION OF CONFERENCE.

(a) PARTICIPATION OF APPROPRIATE CABINET OFFICERS AND OTHER OFFICIALS.—The President shall—

(1) ensure the active participation in the Conference of appropriate cabinet officers, and

(2) shall provide for the involvement in the Conference of—

(A) elected officials at the Federal, State, and local levels;

(B) persons from business and industry;

(C) individuals distinguished in medicine, law, sociology, education, and law enforcement; and

(D) private citizens who have first-hand experience with drug abuse.

(b) ASSISTANCE OF FEDERAL AGENCIES.—All Federal departments, agencies, and instrumentalities shall provide such support and assistance as may be necessary to facilitate the planning and administration of the Conference.

(c) NO PAYMENT OF INDIVIDUAL EXPENSES.—Each participant in the Conference shall be responsible for his or her expenses related to attending the Conference and shall not be reimbursed from funds appropriated to carry out this subtitle.

(d) DETAIL OF STAFF.—Appropriate cabinet officers may detail employees to work on the planning and administering of the Conference without regard to section 3341(b) of title 5, United States Code.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 1987 to carry out this subtitle such sums as may be necessary.

(f) RESTRICTION ON EXPENDITURES AND CONTRACTING.—New spending authority or authority to enter contracts as provided in this subtitle shall be effective only to such extent and in such amounts as are provided in advance in appropriation Acts.

SEC. 647. DEFINITIONS.

In this subtitle:

(1) CONTROLLED SUBSTANCE.—The term "controlled substance" has the meaning given such term in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

(2) APPROPRIATE CABINET OFFICER.—The term "appropriate cabinet officers" means the Attorney General, the Secretary of State, the Secretary of Health and Human Services, the Secretary of Defense, the Secretary of the Treasury, the Secretary of Transportation, the Secretary of Education, and such other cabinet officers as have responsibilities respecting controlled substances abuse and control (including combating illicit production, trafficking, or distribution of controlled substances).

(3) STATE.—The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, and American Samoa.

SEC. 648. EFFECTIVE DATE.

This subtitle shall become effective on October 1, 1986.

Subtitle E—Career Criminals

SEC. 651. SHORT TITLE.

This subtitle may be cited as the "Career Criminal Amendments Act of 1986".

SEC. 652. EXPANSION OF PREDICATE OFFENSES.

(a) IN GENERAL.—Section 924(e)(1) of title 18, United States Code, is amended by striking out "for robbery or burglary, or both," and inserting in lieu thereof "for a violent felony or a serious drug offense, or both,".

(b) DEFINITIONS.—Section 924(e)(2) of title 18, United States Code, is amended by striking out subparagraph (A) and all that follows through subparagraph (B) and inserting in lieu thereof the following:

"(A) the term 'serious drug offense' means—

"(i) an offense under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the first section or section 3 of Public Law 96-350 (21 U.S.C. 955a et seq.), for which a maximum term of imprisonment of ten years or more is prescribed by law; or

"(ii) an offense under State law, involving manufacturing, distributing, or possessing with intent to manufacture or distribute, a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), for which a maximum term of imprisonment of ten years or more is prescribed by law; and

"(B) the term 'violent felony' means any crime punishable by imprisonment for a term exceeding one year that—

"(i) has as an element the use, attempted use, or threatened use of physical force against the person of another; or

"(ii) involves conduct that presents a serious potential risk of physical injury to another.".

SEC. 653. EFFECTIVE DATE.

The amendments made by this subtitle shall take effect November 15, 1986.

Subtitle F—Drug and Alcohol Dependent Offenders Treatment

SEC. 655 SHORT TITLE.

This subtitle may be cited as the "Drug and Alcohol Dependent Offenders Treatment Act of 1986".

SEC. 656. PERMANENT AMENDMENT RELATING TO DUTIES OF DIRECTOR OF ADMINISTRATIVE OFFICE.

(a) IN GENERAL.—The section of title 18, United States Code, that is redesignated section 3672 by section 212(a) of the Comprehensive Crime Control Act of 1984 is amended by adding at the end thereof:

"He shall have the authority to contract with any appropriate public or private agency or person for the detection of and care in the community of an offender who is an alcohol-dependent person, or an addict or a drug-dependent person within the meaning of section 2 of the Public Health Service Act (42 U.S.C. 201). This authority shall include the authority to provide equipment and supplies; testing; medical, educational, social, psychological, and vocational services; corrective and preventive guidance and training; and other rehabilitative services designed to protect the public and benefit the alcohol dependent person, addict, or drug dependent person by eliminating his dependence on alcohol or addicting drugs, or by controlling his dependence and his susceptibility to addiction. He may negotiate and award such contracts without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

"He shall pay for presentence studies and reports by qualified consultants and presentence examinations and reports by psychiatric or psychological examiners ordered by the court under subsection (b) or (c) of section 3552, except for studies conducted by the Bureau of Prisons.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the taking effect of such redesignation.

SEC. 657. INTERIM AMENDMENT RELATING TO DUTIES OF DIRECTOR OF ADMINISTRATIVE OFFICE.

The second paragraph of section 4255 of title 18, United States Code, is amended to read as follows:

"The Director of the Administrative Office of the United States Courts shall have the authority to contract with any appropriate public or private agency or person for the detection of and care in the community of an offender who is an alcohol-dependent person, or an addict or a drug-dependent person within the meaning of section 2 of the Public Health Service Act (42 U.S.C. 201). Such authority includes the authority to provide equipment and supplies; testing; medical, educational, social, psychological, and vocational services; corrective and preventive guidance and training; and other rehabilitative services designed to protect the public and benefit the alcohol dependent person, addict, or drug dependent person by eliminating that person's or addict's dependence on alcohol or addicting drugs, or by controlling that person's or addict's dependence and susceptibility to addiction. Such Director may negotiate and award such contracts without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).".

SEC. 658. REAUTHORIZATION OF CONTRACT SERVICES.

Section 4(a) of the Contract Services for Drug Dependent Federal Offenders Act of 1978 is amended—

(1) by striking out "and $6,000,000" and inserting "$6,500,000" in lieu thereof; and

(2) by striking out the two periods at the end and inserting in lieu thereof "; $12,000,000 for the fiscal year ending September 30, 1987; $14,000,000 for the fiscal year ending September 30, 1988; and $16,000,000 for the fiscal year ending September 30, 1989.".

Subtitle G—Drug Enforcement Enhancement

SEC. 661. SHORT TITLE.

This subtitle may be cited as the "Drug Enforcement Enhancement Act of 1986".

SEC. 662. AUTHORIZATION OF APPROPRIATIONS.

(a) DRUG ENFORCEMENT ADMINISTRATION.—There is authorized to be appropriated for fiscal year 1987 for the Department of Justice, in addition to any amounts appropriated before the date of the enactment of this subtitle for fiscal year 1987, $60,000,000 for the Drug Enforcement Administration.

(b) ASSISTANT UNITED STATES ATTORNEYS.—There is authorized to be appropriated for fiscal year 1987 for the Department of Justice, in addition to any amounts appropriated before the date of the enactment of this subtitle for fiscal year 1987, $31,000,000 for United States attorneys for assistant United States attorneys.

(c) DRUG LAW ENFORCEMENT BY DEPARTMENT OF JUSTICE.—There is authorized to be appropriated for fiscal year 1987 for the Department of Justice, in addition to any amounts appropriated before the date of the enactment of this subtitle for fiscal year 1987, $167,000,000 of which—

(1) $140,000,000 shall be made available for the construction of Federal penal and correctional institutions,

(2) $20,000,000 shall be made available for United States marshals, and

(3) $7,000,000 shall be made available for the Federal Prison System.

Funds appropriated under this subsection shall remain available until expended.

(d) AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEARS 1988 AND 1989.—(1) In addition to any other amounts that may be authorized to be appropriated for fiscal year 1988 for the Department of Justice, there is authorized to be appropriated $450,000,000 for fiscal year 1988 for the Department of Justice for the construction of Federal penal and correctional institutions.

(2) In addition to any other amounts that may be authorized to be appropriated for 1989 for the Department of Justice, there is authorized to be appropriated $527,000,000 for fiscal year 1989 for the Department of Justice, of which—

(A) $500,000,000 shall be made available for the construction of Federal penal and correctional institutions, and

(B) $27,000,000 shall be made available for the Federal Prison System for salaries.

(3) Funds appropriated under paragraphs (1) and (2) shall remain available until expended.

SEC. 663. OFFICE OF JUSTICE ASSISTANCE DRUG GRANT PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3712 et seq.) is amended—

(1) by redesignating part M as part N,

(2) by redesignating section 1301 as section 1401, and

(3) by inserting after part L the following new part:

"PART M—GRANTS FOR DRUG LAW ENFORCEMENT PROGRAMS

"FUNCTION OF DIRECTOR

"SEC. 1301. The Director shall provide funds to eligible States and units of local government pursuant to this part.

"DESCRIPTION OF DRUG LAW ENFORCEMENT FORMULA GRANT PROGRAM

"SEC. 1302. The Bureau is authorized to make grants under this part to States for the purpose of enforcing State and local laws that establish offenses similar to offenses established in the Controlled Substances Act (21 U.S.C. 801 et seq.).

"FEDERAL PORTION OF PROGRAM

"SEC. 1303. (a) The amount of any grant made under section 1302 of this title shall be equal to 50 per centum of the cost of programs and projects specified in the application of such grant, except that in the case of funds distributed to an Indian tribe which performs law enforcement functions (as determined by the Secretary of the Interior) for any such program or project, the amount of such grant shall be equal to 100 per centum of such cost.

"(b) The non-Federal portion of the cost of any program or project for which a grant is made under section 1302 of this title shall be in cash.

"ELIGIBILITY

"SEC. 1304. The Bureau is authorized to make grants under section 1302 of this title available to a State for the use of the State, and units of local government in the State, for enforcing State and local laws that establish offenses similar to offenses established in the Controlled Substances Act (21 U.S.C. 801 et seq.).

"APPLICATIONS

"SEC. 1305. No grant may be made by the Bureau to a State, or by a State to an eligible recipient, pursuant to this part unless the application for such grant sets forth programs and projects which meet the purpose specified in section 1302 of this title and identifies the State agency or unit of local government which will implement each such program or project. The application shall be amended if new programs are to be added to the application or if the programs contained in the original application are not implemented. The application shall include—

"(1) an assurance that following the first fiscal year covered by an application and each fiscal year thereafter, the applicant shall submit to the Bureau or to the State, as the case may be—

"(A) a performance report concerning the activities carried out pursuant to section 1302 of this title; and

"(B) an assessment by the applicant of the impact of those activities on the purposes of such section and the needs and objectives identified in the applicant's statement;

"(2) a certification that Federal funds made available under section 1302 of this title will not be used to supplant State or local funds, but will be used to increase the amounts of such funds that would, in the absence of Federal funds, be made available for drug law enforcement activities;

"(3) a certification that funds required to pay the non-Federal portion of the cost of each program and project for which such grant is made shall be in addition to funds that would otherwise be made available for drug law enforcement by the recipients of grant funds;

"(4) an assurance that fund accounting, auditing, monitoring, and such evaluation procedures as may be necessary to keep such records as the Bureau shall prescribe shall be provided to assure fiscal control, proper management, and efficient disbursement of funds received under section 1302 of this title;

"(5) an assurance that the applicant shall maintain such data and information and submit such reports in such form, at such times, and containing such data and information as the Bureau may reasonably require to administer other provisions of this title;

"(6) a certification that its programs meet all the requirements of this section, that all the information contained in the application is correct, that there has been appropriate coordination with affected agencies, and that the applicant will comply with all provisions of this title and all other applicable Federal laws (such certification shall be made in a form acceptable to the Bureau and shall be executed by the chief executive or such other officer of the applicant qualified under regulations promulgated by the Bureau);

"(7) an assurance that the State will take into account the needs and requests of units of local government in the State and encourage local initiative in the development of programs which meet the purpose of section 1302;

"(8) an assurance that the State application described in this section, and any amendment to such application, has been submitted for review to the State legislature or its designated body (for purposes of this section, such application or amendment shall be deemed to be reviewed if the State legislature or such body does not review

such application or amendment within the 60-day period beginning on the date such application or amendment is so submitted); and

"(9) an assurance that the State application and any amendment thereto was made public before submission to the Bureau and, to the extent provided under State law or established procedure, an opportunity to comment thereon was provided to citizens and to neighborhood and community groups.

"REVIEW OF APPLICATIONS

"SEC. 1306. (a) The Bureau shall provide financial assistance to each State applicant under section 1302 of this title to carry out the programs or projects submitted by such applicant upon determining that—

"(1) the application or amendment thereto is consistent with the requirements of this title; and

"(2) before the approval of the application and any amendment thereto the Bureau has made an affirmative finding in writing that the program or project has been reviewed in accordance with section 1305.

Each application or amendment made and submitted for approval to the Bureau pursuant to section 1305 of this title shall be deemed approved, in whole or in part, by the Bureau not later than sixty days after first received unless the Bureau informs the applicant of specific reasons for disapproval.

"(b) Grant funds awarded under section 1302 of this title shall not be used for land acquisition or construction projects.

"(c) The Bureau shall not finally disapprove any application, or any amendment thereto, submitted to the Director under this section without first affording the applicant reasonable notice and opportunity for reconsideration.

"ALLOCATION AND DISTRIBUTION OF FUNDS

"SEC. 1307. (a) Of the total amount appropriated for this part in any fiscal year, 65 per centum shall be set aside for grants under section 1302 of this title and allocated to States as follows:

"(1) $250,000 shall be allocated to each of the participating States.

"(2) Of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each State an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the population of such State bears to the population of all the participating States.

"(b)(1) Each State which receives funds under subsection (a) in a fiscal year shall distribute among units of local government, or combinations of units of local government, in such State for the purpose specified in section 1302 of this title that portion of such funds which bears the same ratio to the aggregate amount of such funds as the amount of funds expended by all units of local government for criminal justice in the preceding fiscal year bears to the aggregate amount of funds expended by the State and all units of local government in such State for criminal justice in such preceding fiscal year.

"(2) Any funds not distributed to units of local government under paragraph (1) shall be available for expenditure by the State involved.

"(3) For purposes of determining the distribution of funds under paragraph (1), the most accurate and complete data available for the fiscal year involved shall be used. If data for such fiscal year are not available, then the most accurate and complete data available for the most recent fiscal year preceding such fiscal year shall be used.

"(c) No funds allocated to a State under subsection (a) or received by a State for distribution under subsection (b) may be distributed by the Director or by the State involved for any program other than a program contained in an approved application.

"(d) If the Director determines, on the basis of information available to the Director during any fiscal year, that a portion of the funds allocated to a State for that fiscal year will not be required or that a State will be unable to qualify or receive funds under section 1302 of this title, or that a State chooses not to participate in the program established by this part, then such portion shall be awarded by the Director to urban, rural, and suburban units of local government or combinations thereof within such State, giving priority to those jurisdictions with greatest need.

"(e) Any funds not distributed under subsections (b) and (d) with respect to a State shall be reallocated under subsection (a), excluding such State and the population of such State.

"STATE OFFICE

"SEC. 1308. (a) The chief executive of each participating State shall designate a State office for purposes of—

"(1) preparing an application to obtain funds under section 1302 of this title; and

"(2) administering funds received under such section from the Bureau, including receipt, review, processing, monitoring, progress and financial report review, technical assistance, grant adjustments, accounting, auditing, and fund disbursements.

"(b) An office or agency performing other functions within the executive branch of a State may be designated to carry out the functions specified in subsection (a).

"DESCRIPTION OF DRUG LAW ENFORCEMENT DISCRETIONARY GRANT PROGRAM

"SEC. 1309. The Administrator of the Drug Enforcement Administration (hereinafter in this part referred to as the 'Administrator') is authorized to make grants under this part to States and to units of local government for the purpose of enforcing State and local laws that establish offenses similar to offenses established in the Controlled Substances Act (21 U.S.C. 801 et seq.). The Administrator shall have final authority over all grants awarded by the Administrator under this part.

"PERCENTAGE OF APPROPRIATION FOR DISCRETIONARY PROGRAM

"SEC. 1310. (a) Of the total amount appropriated for this part in any fiscal year, 20 per centum shall be reserved and set aside for grants under section 1309 of this title in a special discretionary fund for use by the Administrator in carrying out such section. Grants made with funds reserved under this subsection may be made for amounts up to 100 per centum of the cost of the programs and projects contained in the approved application.

"(b)(1) Of the total amount appropriated to carry out this part, 15 per centum shall be reserved and set aside for grants under section 1309 in a special discretionary fund for use by the Administrator in carrying out such section. The amount of any grant made with funds reserved under this subsection shall be equal to 50 per centum of the cost of the programs and projects specified in the approved application.

"(2) In making grants under this subsection, the Administrator shall give consideration to the severity of the following drug law enforcement problems in the jurisdictions applying for such grants:

"(A) the unlawful importation of controlled substances (as defined in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6));

"(B) the unlawful production and processing of such substances; and

"(C) the unlawful diversion, distribution, and sale of such substances.

"(3) In awarding grants under this subsection, the Administrator shall give priority to jurisdictions in which such grants will have the greatest national and regional impact on combatting illegal trafficking in such substances.

"(4) An applicant may not receive a grant made with funds reserved under this subsection unless such applicant certifies that funds required to pay the non-Federal portion of the cost of each program and project for which such grant is made shall be in addition to funds that would otherwise be made available by such applicant for drug law enforcement.

"APPLICATION REQUIREMENTS

"SEC. 1311. (a) No grant may be made pursuant to section 1310 of this title unless an application has been submitted to the Administrator in which the applicant—

"(1) sets forth a program or project which is eligible for funding pursuant to section 1309 of this title; and

"(2) describes the services to be provided, performance goals, and the manner in which the program is to be carried out.

"(b) Each applicant for funds under section 1309 of this title shall certify that its program or project meets all the requirements of this section, that all the information contained in the application is correct, and that the applicant will comply with all the provisions of this title and all other applicable Federal laws. Such certification shall be made in a form acceptable to the Administrator.

"LIMITATION ON USE OF DISCRETIONARY GRANT FUNDS

"SEC. 1312. Grant funds awarded under section 1309 of this title shall not be used for land acquisition or construction projects.

"ADMINISTRATIVE ASSISTANCE BY BUREAU

"SEC. 1313. The Bureau shall provide assistance to the Administrator in processing applications and administering grants authorized under section 1309 of this title.".

(b) TECHNICAL AMENDMENTS.—(1) Subsections (a) and (b) of section 401 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3741) are each amended by striking out "part E" and inserting in lieu thereof "parts E and M".

(2) Section 801(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3782(b)) is amended—

(A) by striking out "parts D and E" and inserting in lieu thereof "parts D, E, and M", and

(B) by striking out "part D" each place it appears and inserting in lieu thereof "parts D and M".

(3) Section 802(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3783(b)) is amended by inserting "or M" after "part D".

(4) Section 808 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789) is amended by inserting "or 1308, as the case may be," after "section 408".

(5) The table of contents of title I of the Omnibus Crime Control and Safe Streets

Act of 1968 (42 U.S.C. 3711 et seq.) is amended by striking out the items relating to part M and section 1301, and inserting in lieu thereof the following new items:

"Part M—Grants for Drug Programs

"Sec. 1301. Function of Director.
"Sec. 1302. Description of drug law enforcement formula grant program.
"Sec. 1303. Federal portion of program.
"Sec. 1304. Eligibility.
"Sec. 1305. Applications.
"Sec. 1306. Review of applications.
"Sec. 1307. Allocation and distribution of funds.
"Sec. 1308. State office.
"Sec. 1309. Description of drug law enforcement discretionary grant program.
"Sec. 1310. Percentage of appropriation for discretionary program.
"Sec. 1311. Application requirements.
"Sec. 1312. Limitation on use of discretionary grant funds.
"Sec. 1313. Administrative assistance by Bureau.

"Part N—Transition; Effective Date; Repealer

"Sec. 1401. Continuation of rules, authorities, and proceedings.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793) is amended—

(1) in subsection (a)—

(A) in paragraph (3) by striking out "and L" and inserting in lieu thereof "L, and M",

(B) by redesignating paragraph (6) as paragraph (7), and

(C) by inserting after paragraph (5) the following new paragraph:

"(6) There are authorized to be appropriated $100,000,000 for fiscal year 1987 and $200,000,000 for fiscal year 1988, to carry out the programs under part M of this title. Funds appropriated under this paragraph shall remain available until expended.", and

(2) in subsection (b) by striking out "and E" and inserting in lieu thereof ", E, and M".

SEC. 664. DEPARTMENT OF JUSTICE DRUG ASSET FORFEITURE FUND.

Section 524 of title 28, United States Code, is amended in subsection (c)—

(1) in paragraph (1)—

(A) in subparagraph (A) by inserting "(i)" after "(A)",

(B) by adding at the end of subparagraph (A) the following new clause:

"(ii) the payment pursuant to regulations promulgated by the Attorney General of necessary program-related expenses which may include payment necessary for expenses involving in the purchase or lease of automatic data processing equipment, training, printing, contracting for services related to the processing of and accounting for forfeitures, and the storage, protection, and destruction of controlled substances;", and

(C) by amending subparagraph (E) to read as follows:

"(E) for equipping for law enforcement functions any vessels, vehicles, and aircraft available for official use by the Drug Enforcement Administration, the Federal Bureau of Investigation, or the Immigration and Naturalization Service; and"; and

(2) in paragraph (8)—

(A) by striking out "1984, 1985, 1986, and 1987" and inserting in lieu thereof "1986, 1987, and 1988", and

(B) by striking out "$5,000,000" and inserting in lieu thereof "$10,000,000".

TITLE VII—COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

SEC. 701. SHORT TITLE.

This title may be cited as the "Transportation Drug Act of 1986".

SEC. 702. STATE ENFORCEMENT OF LAWS RELATING TO AIRCRAFT REGISTRATION.

(a) IN GENERAL.—Section 902(b) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472(b)) is amended by adding at the end the following new paragraph:

"(3) Nothing in this subsection or in any other provision of this Act shall preclude a State from establishing criminal penalties, including providing for forfeiture or seizure of aircraft, for a person who—

"(A) knowingly and willfully forges, counterfeits, alters, or falsely makes an aircraft registration certificate,

"(B) knowingly sells, uses, attempts to use, or possesses with intent to use a fraudulent aircraft registration certificate,

"(C) knowingly and willfully displays or causes to be displayed on any aircraft any marks that are false or misleading as to the nationality or registration of the aircraft, or

"(D) obtains an aircraft registration certificate from the Administrator by knowingly and willfully falsifying, concealing, or covering up a material fact, or making a false, fictitious, or fraudulent statement or representation, or making or using any false writing or document knowing the writing or document to contain any false, fictitious, or fraudulent statement or entry.".

(b) INSPECTION.—Section 501 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1401) is amended by adding at the end the following new subsection:

"INSPECTION BY LAW ENFORCEMENT OFFICERS

"(g) The operator of an aircraft shall make available for inspection an aircraft's certificate or registration upon request by a Federal, State, or local law enforcement officer.".

(c) CONFORMING AMENDMENT.—That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the side heading

"Sec. 501. Registration of aircraft nationality."

is amended by adding at the end the following:

"(g) Inspection by law enforcement officers.".

SEC. 703. CRIMINAL PENALTIES.

(a) IN GENERAL.—Subsection (q) of section 902 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472(q)) is amended to read as follows:

"VIOLATIONS IN CONNECTION WITH TRANSPORTATION OF CONTROLLED SUBSTANCES

"(q)(1) It shall be unlawful, in connection with transportation described in paragraph (2) and with knowledge of such transportation, for any person—

"(A) who is the owner of an aircraft eligible for registration under section 501, to knowingly and willfully operate, attempt to operate, or permit any other person to operate such aircraft if the aircraft is not registered under section 501 or the certificate of registration of the aircraft is suspended or revoked;

"(B) to operate or attempt to operate an aircraft eligible for registration under section 501 knowing either that such aircraft is not registered under section 501 or that the certificate of registration is suspended or revoked;

"(C) to knowingly and willfully serve, or attempt to serve, in any capacity as an airman without a valid airman certificate authorizing him to serve in such a capacity;

"(D) to knowingly and willfully employ for service or utilize any airman who does not possess a valid airman certificate authorizing him to serve in such capacity;

"(E) to knowingly and willfully operate an aircraft in violation of any rule, regulation, or requirement issued by the Administrator with respect to the display of navigation or anticollision lights; or

"(F) to knowingly operate an aircraft with a fuel tank or fuel system that has been installed or modified on the aircraft, unless such tank or system and the installation or modification of such tank or system is in accordance with all applicable rules, regulations, and requirements of the Administrator.

"(2) The transportation referred to in paragraph (1) is the transportation by aircraft of any controlled substance where such transportation is punishable by death or imprisonment for a term exceeding one year under a State or Federal law or is provided in connection with any act that is punishable by death or imprisonment for a term exceeding one year under a State or Federal law relating to a controlled substance (other than a law relating to simple possession of a controlled substance).

"(3) A person violating this subsection shall be subject to a fine not exceeding $25,000, or imprisonment not exceeding 5 years, or both.

"(4) A person who, in connection with transportation described in paragraph (2), operates an aircraft on which a fuel tank or fuel system has been installed or modified and does not carry aboard the aircraft any certificate required to be issued by the Administrator for such installation or modification shall be presumed to have violated subparagraph (F) of paragraph (1).

"(5) In the case of a violation of subparagraph (F) of paragraph (1), the fuel tank or fuel system and the aircraft involved shall be subject to seizure and forfeiture. The provisions of law relating to—

"(A) the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws;

"(B) the disposition of such property or the proceeds from the sale thereof;

"(C) the remission or mitigation of such forfeitures; and

"(D) the compromise of claims and the award of compensation to informers in respect of such forfeitures;

shall apply to seizures and forfeitures under this paragraph. The Secretary may authorize such officers and agents as are necessary to carry out seizures and forfeitures under this paragraph, and such officers and agents shall have the powers and duties given to customs officers with respect to the seizure and forfeiture of property under the customs laws.

"(6) For purposes of this subsection, the term 'controlled substance' has the meaning given such term by section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).".

(b) CONFORMING AMENDMENT.—That portion of the table of contents of the Federal Aviation Act of 1958 which appears under the side heading

"Sec. 902. Criminal penalties."

is amended by striking the item relating to subsection (q) and inserting

"(q) Violations in connection with transportation of controlled substances.".

SEC. 704. DRUGS AND HIGHWAY SAFETY.

(a) STUDY.—The Secretary of Transportation shall conduct a study to determine the relationship between the usage of controlled substances and highway safety. Such study shall include a simulation of driving conditions, emergency situations, and driver performance under various drug and dosage conditions. Such study shall determine the incidence of controlled substance usage in highway accidents resulting in fatalities and the dosage levels for controlled substances which are most likely to result in impairment of driver performance.

(b) REPORT.—Not later than one year after the date of the enactment of this title, the Secretary of Transportation shall submit to Congress a report on the results of the study conducted under subsection (a).

TITLE VIII—COMMITTEE ON EDUCATION AND LABOR

SECTION 801. SHORT TITLE.

This title may be cited as the "Drug Abuse Education and Prevention Act of 1986".

SEC. 802. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that drug abuse education and prevention programs are an essential component of a comprehensive Federal initiative to reduce the demand for and use of drugs throughout the Nation.

(b) PURPOSE.—It is the purpose of this title to establish programs of drug abuse education and prevention (coordinated with related community efforts and resources) through the provision of Federal financial assistance—

(1) to States for grants to local and intermediate educational agencies and consortia to establish, operate, and improve local programs of drug abuse prevention, early intervention, rehabilitation referral, and education in elementary and secondary schools (including intermediate and junior high schools);

(2) to States for grants to and contracts with community-based organizations for programs of drug abuse prevention, early intervention, rehabilitation referral, and education for school dropouts and for school-age children after school hours and during summer vacations and other periods of non-attendance;

(3) to States for model, demonstration, training, and technical assistance activities;

(4) to institutions of higher education to establish, implement, and expand programs of drug abuse education and prevention (including rehabilitation referral) for students enrolled in colleges and universities; and

(5) to institutions of higher education in cooperation with State and local educational agencies for teacher training programs in drug abuse education and prevention.

Subtitle A—Establishment of Programs to Improve Drug Abuse Education and Prevention

SEC. 803. NATIONAL ADVISORY COUNCIL ON DRUG ABUSE EDUCATION AND PREVENTION.

(a) ESTABLISHMENT OF NATIONAL ADVISORY COUNCIL.—There is established a National Advisory Council on Drug Abuse Education and Prevention. The Advisory Council shall attract and focus national attention on drug-related problems, support and publicize programs of drug abuse education and prevention and advise the Secretary on programs and activities under this title.

(b) MEMBERSHIP.—The Advisory Council shall be composed of not less than 15 and not more than 25 individuals who are nationally prominent and recognized as broadly representative of education groups, parent groups, student groups, community and philanthropic organizations, State and local elected officials, law enforcement officials, the entertainment industry, professional and amateur athletics, and business. Members of the Advisory Council shall be appointed by the President to 4 year terms. A vacancy in the Advisory Council shall be filled in the manner in which the original appointment was made.

(c) ADMINISTRATION.—The Advisory Council shall meet at the call of the President or the Secretary of Education. Members of the Council shall serve without pay, but may be reimbursed for actual and necessary travel and expenses incurred in the performance of their duties on the Council. Upon request of the Council, the head of any Federal agency is authorized to detail any of the personnel of such agency to the Council to assist the Council in carrying out its duties under this title.

SEC. 804. ESTABLISHMENT.

The Secretary of Education shall establish Federal financial assistance programs for drug abuse education and prevention in elementary and secondary schools and institutions of higher education in accordance with this title.

SEC. 805. ALLOTMENT OF FUNDS.

(a) RESERVED AMOUNTS FOR FEDERAL PROGRAMS.—From the sums appropriated or otherwise made available to carry out this title for any fiscal year, the Secretary shall reserve—

(1) 1 percent for payments to Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands, to be allotted in accordance with their respective needs;

(2) 1 percent for programs for Indian children under section 833;

(3) 5 percent for national programs under section 831; and

(4) 10 percent for programs with institutions of higher education under section 832.

(b) ALLOTMENTS TO STATES.—

(1) From the remainder of the sums not reserved under subsection (a), the Secretary shall allot to each State an amount which bears the same ratio to the amount of such remainder as the school-age population of the State bears to the school-age population of all States, except that no State shall receive less than an amount equal to 0.5 percent of such remainder.

(2) The Secretary may reallot any amount of any allotment to a State to the extent that the Secretary determines that the State will not be able to obligate such amount within two years of allotment. Any such reallotment shall be made on the same basis as an allotment under paragraph (1).

(3) For purposes of this subsection, the term "State" means any of the fifty States, the District of Columbia, and Puerto Rico.

Subtitle B—State and Local Programs of Drug Abuse Education and Prevention

PART I—GENERAL

SEC. 806. ALLOCATION OF STATE FUNDS.

(a) AMOUNTS RESERVED FOR STATE ACTIVITIES.—From the payment made to a State for each fiscal year under section 805, the Governor shall reserve—

(1) 10 percent for State activities under section 811; and

(2) an additional amount, consistent with the number of school dropouts in the State, for the purposes of section 813.

(b) GRANTS TO LOCAL AND INTERMEDIATE EDUCATIONAL AGENCIES AND CONSORTIA.—From the remainder of the payment under section 805 not reserved under subsection (a), the State educational agency, in consultation with the State advisory council (described in section 812(a)(4)), shall make grants to local educational agencies, intermediate educational agencies, and consortia for activities under part III.

PART II—STATE PROGRAMS OF DRUG ABUSE EDUCATION AND PREVENTION

SEC. 811. STATE ACTIVITIES.

(a) USE OF FUNDS.—Funds made available to a State under section 806(a)(1) may be used in accordance with an approved application for—

(1) the development, acquisition, dissemination, and implementation of drug abuse education and prevention model curricular materials for elementary and secondary schools throughout the State;

(2) demonstration projects of drug abuse education and prevention (including programs and activities during after school hours, summer vacations, and other periods of non-attendance);

(3) programs of inservice and preservice training in drug abuse education and prevention for teachers, counselors, other educational personnel, public service personnel (including law enforcement officials), and community leaders;

(4) technical assistance to help local and intermediate educational agencies and consortia of such agencies and community-based organizations—

(A) in the planning and implementation of drug abuse prevention, early intervention, rehabilitation referral, and education programs, and

(B) in undertaking the coordination of such programs with related community efforts and resources;

(5) other drug abuse education and prevention activities, consistent with the purposes of this title; and

(6) State administrative costs.

(b) LIMITATION.—Not more than 5 percent of the funds available to a State under section 806(a)(1) may be used for administrative costs in carrying out the State's responsibilities under this part.

SEC. 812. STATE APPLICATIONS.

(a) REQUIREMENTS.—In order to receive a payment under section 805 for any fiscal year a State shall submit to the Secretary for approval an application which—

(1) sets forth a comprehensive Statewide plan for programs under this subtitle which includes the criteria and priorities for award of grants and contracts by the State under this subtitle;

(2) contains an estimate of the cost for the establishment and operation of such programs;

(3) designates the State agency or agencies responsible for the administration and supervision of programs assisted under this subtitle;

(4) provides for a State advisory council on drug abuse education and prevention, appointed by the Governor and determined to be broadly representative of the general public, which shall include the chief State school officer and persons representative of—

(A) parents of elementary and secondary schoolchildren,

(B) teachers and counselors,

(C) officers of State and local government,

(D) medical and mental health professionals,

(E) social service workers,
(F) the law enforcement community, and
(G) community-based organizations,

to advise the Governor and other appropriate State agencies on State programs, the allocation of funds to local and intermediate educational agencies and consortia, and the planning, development, support, implementation, and evaluation of State-assisted programs under this title;

(5) provides assurances that the State will provide financial assistance under this subtitle only to local educational agencies, intermediate educational agencies, and consortia which establish and implement mandatory drug abuse education and prevention programs in elementary and secondary schools;

(6) provides assurances that the State will ensure an equitable distribution throughout the State of funds available under this subtitle;

(7) describes the manner in which the State will coordinate its efforts under this subtitle with appropriate Federal, State, and local law enforcement officials and with other programs in the community related to drug abuse education, prevention, treatment, and rehabilitation;

(8) provides that the Federal funds made available under this title shall be used to supplement and, to the extent practical, to increase the level of funds that would, in the absence of such Federal funds, be made available by the recipient for the purposes described in this title, and in no case supplant such funds;

(9) provides for an annual evaluation of the effectiveness of programs in the State assisted under this title;

(10) provides that the State will keep such records and provide such information to the Secretary as may be required for fiscal audit and program evaluation;

(11) contains assurances that there is compliance with the specific requirements of this title, including the Federal share limitations of section 842(c); and

(12) includes such other information and assurances as the Secretary reasonably determines to be necessary.

(b) PERIOD OF APPLICATION.—An application under this section shall be for a period not to exceed 3 fiscal years and may be amended annually as may be necessary to reflect changes without filing a new application.

SEC. 813. PROGRAMS FOR SCHOOL DROPOUTS AND SCHOOL-AGE CHILDREN DURING AFTER SCHOOL HOURS AND SUMMER VACATIONS.

From the amounts reserved under section 806(a)(2), the Governor of each State shall make grants to and enter into contracts with community-based organizations of demonstrated performance for drug abuse education and prevention programs for school dropouts and programs for school-age children after school hours and during the summer vacation and other periods of non-attendance. Any such grant or contract shall be subject to the applicable provisions of section 822.

PART III—LOCAL PROGRAMS OF DRUG ABUSE EDUCATION AND PREVENTION

SEC. 821. LOCAL DESIGN OF PROGRAMS.

(a) USE OF FUNDS.—Funds made available to a local or intermediate educational agency or consortium under section 806(b) may be used in accordance with an approved application for—

(1) the development, acquisition, and implementation of drug abuse education and prevention curricula for elementary and secondary schools;

(2) school-based programs of drug abuse prevention and early intervention (other than treatment);

(3) drug abuse education programs, including programs for parents and other family members;

(4) drug abuse prevention counseling programs for students and parents, including professional and peer counselors and involving the participation (where appropriate) of parent or other adult counselors and reformed abusers;

(5) programs of drug abuse treatment and rehabilitation referral;

(6) programs of inservice and preservice training in drug abuse education and prevention for teachers, counselors, other educational personnel, public service personnel (including law enforcement officials), and community leaders;

(7) other drug abuse education and prevention activities, consistent with the purposes of this subtitle; and

(8) administrative costs.

(b) LIMITATION.—Not more than 5 percent of any grant from funds available under section 806(b) may be used for administrative costs in carrying out programs under this part.

SEC. 822. LOCAL APPLICATIONS.

(a) REQUIREMENTS.—In order to be eligible to receive a grant under section 806(b) for any fiscal year, a local educational agency, intermediate educational agency, or consortium shall submit an application to the State educational agency for approval. Such application shall—

(1) set forth a comprehensive plan for programs of the applicant under this part;

(2) contain an estimate of the cost for the establishment and operation of such programs;

(3) as appropriate, establish or designate a local or regional advisory council on drug abuse education and prevention composed of individuals who are parents, teachers, officers of State and local government, medical professionals, representatives of the law enforcement community, community-based organizations, and other groups with interest and expertise in the field of drug abuse;

(4) describe the manner in which the applicant will establish, implement, or augment mandatory age-appropriate, developmentally-based, drug abuse education and prevention programs in elementary and secondary schools from the early elementary level through grade 12, and provide assurances that the applicant enforces related rules and regulations of student conduct;

(5) describe the manner in which the applicant will coordinate its efforts under this part with other programs in the community related to drug abuse education, prevention, treatment, and rehabilitation;

(6) provide assurances that the applicant will coordinate its efforts with Federal, State, and local law enforcement officials;

(7) provide assurances that the Federal funds made available under this title shall be used to supplement and, to the extent practical, to increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purposes described in this title, and in no case supplant such funds;

(8) provide assurances of compliance with the provisions of this title, including the Federal share limitations of section 842(c);

(9) agree to keep such records and provide such information to the State educational agency as reasonably may be required for fiscal audit and program evaluation, consistent with the responsibilities of the State agency under this title; and

(10) include such other information and assurances as the State educational agency reasonably determines to be necessary.

(b) THREE-YEAR APPLICATION.—An application under this section shall be for a period not to exceed 3 fiscal years and may be amended annually as may be necessary to reflect changes without filing a new application.

Subtitle C—Federal Programs of Drug Abuse Education and Prevention

SEC. 831. NATIONAL PROGRAMS OF DRUG ABUSE EDUCATION AND PREVENTION.

(a) NATIONAL PROGRAMS OF DRUG ABUSE EDUCATION AND PREVENTION.—From sums reserved by the Secretary under section 805(a)(3) the Secretary shall carry out the purposes of this section.

(b) NATIONAL EDUCATION PROGRAM.—The Secretary of Education in conjunction with the Secretary of Health and Human Services shall establish a national education and prevention program on drug abuse. The Secretary shall coordinate such drug abuse education and prevention program with other appropriate Federal programs related to drug abuse. The Secretary shall—

(1) provide information on drug abuse education and prevention to the Secretary of Health and Human Services for dissemination by the clearinghouse for alcohol and drug abuse information established under section 507 of the Public Health Service Act (as added by section 905 of this Act);

(2) provide technical assistance to State, local, and intermediate educational agencies and consortia in the selection and implementation of drug abuse education and prevention curricula, approaches, and programs to address most effectively the needs of the elementary and secondary schools served by such agencies; and

(3) identify research and development priorities with regard to school-based drug abuse education and prevention, particularly age-appropriate programs focusing on kindergarten through grade 4.

(c) NATIONAL STUDY OF DRUG ABUSE EDUCATION AND PREVENTION.—The Secretary of Education in conjunction with the Secretary of Health and Human Services shall conduct, directly or by contract, a study of the nature and effectiveness of existing Federal, State, and local programs of drug abuse education and prevention and shall submit a report of the findings of such study to the President and to the appropriate committees of the Congress not later than one year after the date of the enactment of this title.

SEC. 832. GRANTS TO INSTITUTIONS OF HIGHER EDUCATION.

(a) USES OF FUNDS.—

(1) From sums reserved by the Secretary under section 805(a)(4) for the purposes of this section, the Secretary shall make grants to or enter into contracts with institutions of higher education for drug abuse education and prevention programs under this section.

(2) The Secretary shall make financial assistance available on a competitive basis to institutions of higher education which apply under this section. An institution of higher education which desires to receive a grant or enter into a contract under this section shall file an application with the Secretary at such time, in such manner, and containing or accompanied by such informa-

tion as the Secretary may reasonably require.

(3) The Secretary shall make every effort to ensure the equitable participation of private and public institutions of higher education (including community and junior colleges) and to ensure the equitable geographic participation of such institutions. In the award of grants and contracts under this section, the Secretary shall give appropriate consideration to colleges and universities of limited enrollment.

(4) Not less than 50 percent of sums available for the purposes of this section shall be used to make grants under subsection (d).

(b) TRAINING.—Training grants shall be available for—

(1) preservice and inservice training and instruction of teachers and other personnel in the field of drug abuse education and prevention in elementary and secondary schools;

(2) summer institutes and workshops in instruction in the field of drug abuse education and prevention;

(3) research and demonstration programs for teacher training and retraining in drug abuse education and prevention;

(4) training programs for law enforcement officials, community leaders, parents, and government officials.

(c) CURRICULA DEVELOPMENT PROGRAMS.—Grants shall be available for model demonstration programs to be coordinated with local elementary and secondary schools for the development and implementation of quality drug abuse education curricula. In the award of grants under this subsection, the Secretary shall give priority consideration to joint projects involving faculty of institutions of higher education and teachers in elementary and secondary schools in the practical application of the findings of educational research and evaluation and the integration of such research into drug abuse education and prevention programs.

(d) STUDENT PROGRAMS OF DRUG ABUSE EDUCATION AND PREVENTION.—Grants shall be available under this subsection to develop, implement, operate, and improve programs of drug abuse education and prevention (including rehabilitation referral) for students enrolled in institutions of higher education.

SEC. 833. PROGRAMS FOR INDIAN CHILDREN.

(a) PROGRAMS UNDER THIS TITLE.—

(1) From the funds reserved pursuant to section 805(a)(2), the Secretary shall make payments and grants and enter into other financial arrangements for Indian programs in accordance with this subsection.

(2) The Secretary of Education shall enter into such financial arrangements as the Secretary determines will best carry out the purposes of this title to meet the needs of Indian children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior. Such arrangements shall be made pursuant to an agreement between the Secretary of Education and the Secretary of the Interior containing such assurances and terms as they determine will best achieve the purposes of this title.

(3) The Secretary of Education may, upon request of any Indian tribe which is eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination Act or under the Act of April 16, 1934, enter into grants or contracts with any tribal organization of any such Indian tribe to plan, conduct, and administer programs which are authorized and consistent with the purposes of this title (particularly programs for Indian children who are school dropouts), except that such grants or contracts shall be subject to the terms and conditions of section 102 of the Indian Self-Determination Act and shall be conducted in accordance with sections 4, 5, and 6 of the Act of April 16, 1934, which are relevant to the programs administered under this paragraph.

(4) Programs funded under this subsection shall be in addition to such other programs, services, and activities as are made available to eligible Indians under other provisions of this subtitle and conducted in accordance with a tribal action plan in accordance with section 1106.

(b) PROGRAMS FOR INDIAN CHILDREN UNDER OTHER LAWS.—

(1) Section 304 of the Indian Elementary and Secondary School Assistance Act (20 U.S.C. 241cc) is amended by—

(A) striking out "and" at the end of paragraph (1);

(B) striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(C) adding at the end the following new paragraph:

"(3) the training of counselors at schools eligible for funding under this title in counseling techniques relevant to the treatment of alcohol and substance abuse.".

(2) Section 423 of the Indian Education Act (20 U.S.C. 3385b) is amended—

(A) in subsection (a), by inserting "clinical psychology," after "medicine,"; and

(B) by adding at the end of the section the following new subsection:

"(e) Not more than 10 percent of the fellowships awarded under subsection (a) shall be awarded, on a priority basis, to persons receiving training in guidance counseling with a specialty in the area of alcohol and substance abuse counseling and education.".

(3) Section 1121 of the Education Amendments of 1978 is amended by adding at the end the following new subsection:

"(i)(1) All schools funded by the Bureau of Indian Affairs shall include within their curriculum a program of instruction relating to alcohol and substance abuse prevention and treatment. The Assistant Secretary shall provide the technical assistance necessary to develop and implement such a program for students in kindergarten and grades 1 through 12, at the request of—

"(A) any Bureau of Indian Affairs school (subject to the approval of the school board of such school); or

"(B) any school board of a school operating under a contract entered into under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

"(2) In schools operated directly by the Bureau of Indian Affairs, the Secretary shall, not later than 120 days after the date of the enactment of this subsection, provide for—

"(A) accurate reporting of all incidents relating to alcohol and substance abuse; and

"(B) individual student crisis intervention.

"(3) The programs requested under paragraph (1) shall be developed in consultation with the Indian tribe that is to be served by such program and health personnel in the local community of such tribe.

"(4) Schools requesting program assistance under this subsection are encouraged to involve family units and, where appropriate, tribal elders and Native healers in such instructions."

(4) Section 1129 of the Education Amendments of 1978 is amended by adding at the end the following new subsection:

"(e)(1) A financial plan under subsection (b) for a school may include, at the discretion of the local administrator and the school board of such school, a provision for a summer program of academic and support services for students of the school. Any such program may include activities related to the prevention of alcohol and substance abuse. The Assistant Secretary of Indian Affairs shall provide for the utilization of any such school facility during any summer in which such utilization is requested.

"(2) Notwithstanding any other provision of law, funds authorized under the Act of April 16, 1934 (25 U.S.C. 452 et seq.) and the Indian Education Act may be used to augment the services provided in each summer program at the option, and under the control, of the tribe or Indian controlled school receiving such funds.

"(3) The Assistant Secretary of Indian Affairs, acting through the Director of the Office of Indian Education Programs, shall provide technical assistance and coordination for any program described in paragraph (1) and shall, to the extent possible, encourage the coordination of such programs with any other summer programs that might benefit Indian youth, regardless of the funding source or administrative entity of any such program.".

Subtitle D—General Provisions

SEC. 841. DEFINITIONS.

(a) GENERAL PROVISION—Except as otherwise provided, the terms used in this title shall have the meaning provided under section 595 of the Education Consolidation and Improvement Act of 1981.

(b) OTHER DEFINITIONS.—For the purposes of this title, the following terms have the following meanings:

(1) The term "drug abuse education and prevention" means prevention, early intervention, rehabilitation referral, and education related to the abuse of alcohol and the use and abuse of controlled, illegal, addictive, or harmful substances, as determined by the Secretary in consultation with the Secretary of Health and Human Services.

(2) The term "Secretary" means the Secretary of Education.

(3) The term "school-age population" means the population aged five through eighteen, as determined by the Secretary on the basis of the most recent satisfactory data available from the Department of Commerce.

(4) The term "school dropout" means an individual aged five through eighteen who is not attending any school and who has not received a secondary school diploma or a certificate from a program of equivalency for such a diploma.

(5) The term "State" means a State, the District of Columbia, Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, or the Virgin Islands.

(6) The terms "institution of higher education", "secondary school", and "nonprofit" have the meanings provided in section 1001 of the Elementary and Secondary Education Act of 1965 in effect prior to October 1, 1981.

(7) The term "consortium" means a consortium of local educational agencies or local educational agencies and an intermediate educational agency.

(8) The term "community-based organization" means a private nonprofit organization which is representative of a community or significant segments of a community and

which provides educational or related services to individuals in the community.

SEC. 842. FUNCTIONS OF THE SECRETARY OF EDUCATION.

(a) ADMINISTRATION.—The Secretary shall be responsible for the administration of the programs authorized by this title.

(b) APPLICABILITY OF GENERAL EDUCATION PROVISIONS ACT.—Except as otherwise provided, the General Education Provisions Act shall apply to programs authorized by this title.

(c) PAYMENTS; FEDERAL SHARE.—

(1) For any fiscal year for which a State has an approved application, the Secretary shall pay from the allotment for that State under section 805 the Federal share of the costs of carrying out the State and local programs under such application.

(2) The Federal share of the costs for State and local programs assisted under subtitle B shall be 100 percent for the first year and 75 percent for the second and any subsequent year of assistance. The non-Federal share of the costs of programs, services, and activities under subtitle B may be public or private assistance and contributions, in cash or in kind, fairly valued.

(3) The Secretary may waive the non-Federal share requirement under this section upon making a determination that the local applicant serves a distressed area and is unable to meet such requirement or that the waiver would be equitable due to exceptional or uncontrollable circumstances affecting the ability of the applicant to meet such requirements, such as a natural disaster or an unforeseen and precipitous decline in financial resources.

SEC. 843. PARTICIPATION OF CHILDREN AND TEACHERS FROM PRIVATE NONPROFIT SCHOOLS.

(a) PARTICIPATION OF CHILDREN.—To the extent consistent with the number of school-age children in the State or in the school attendance area of a local or intermediate educational agency or consortium receiving financial assistance under subtitle B who are enrolled in private nonprofit elementary and secondary schools, such State, agency, or consortium shall, after consultation with appropriate private school representatives, make provision for including services and arrangements for the benefit of such children as will assure the equitable participation of such children in the purposes and benefits of this title.

(b) PARTICIPATION OF TEACHERS.—To the extent consistent with the number of school-age children in the State or in the school attendance area of a local or intermediate educational agency or consortium receiving financial assistance under subtitle B who are enrolled in private nonprofit elementary and secondary schools, such State, State educational agency, or State agency for higher education shall, after consultation with appropriate private school representatives, make provision, for the benefit of such teachers in such schools, for such teacher training as will assure equitable participation of such teachers in the purposes and benefits of this title.

(c) WAIVER.—If by reason of any provision of law a State, local, or intermediate educational agency or consortium is prohibited from providing for the participation of children or teachers from private nonprofit schools as required by subsections (a) and (b) or, if the Secretary determines that a State, local, or intermediate educational agency or consortium has substantially failed or is unwilling to provide for such participation on an equitable basis, the Secretary shall waive such requirements and shall arrange for the provision of services to such children or teachers which shall be subject to the requirements of this section. Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements in accordance with paragraphs (3) and (4) of section 557(b) of the Education Consolidation and Improvement Act of 1981.

SEC. 844. STUDY OF DRUG ABUSE AT THE WORKPLACE.

(a) STUDY BY SECRETARY OF LABOR.—The Secretary of Labor shall conduct a study concerning the incidence, severity, and impact of drug abuse at the workplace. The Secretary shall investigate the availability and extent of counseling and rehabilitation services and other employer programs of prevention and assistance. Not later than two years after the date of the enactment of this title, the Secretary of Labor shall submit a report of the findings of such study to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

(b) SPECIFIC AUTHORIZATION OF APPROPRIATIONS.—In addition to any other sums authorized to be appropriated under this title, there are authorized to be appropriated $3,000,000 for fiscal year 1987 to enable the Secretary of Labor to carry out the purposes of this section.

SEC. 845. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $350,000,000 for each of the fiscal years 1987, 1988, and 1989 to carry out the purposes of this title.

(b) AVAILABILITY OF APPROPRIATIONS ON SCHOOL-YEAR BASIS.—Appropriations for any fiscal year for payments made under this title in accordance with regulations of the Secretary may be made available for obligation or expenditure by the agency or institution concerned on the basis of an academic or school year differing from such fiscal year.

(c) AVAILABILITY OF APPROPRIATIONS.—Funds appropriated for any fiscal year under this title shall remain available for obligation and expenditure until the end of the fiscal year succeeding the fiscal year for which such funds were appropriated.

(d) OBLIGATIONAL AUTHORITY.—Notwithstanding any other provision of this title, no authority to enter into contracts or financial assistance agreements under this title shall be effective except to such extent or in such amount as are provided in advance in appropriation Acts.

SEC. 846. EFFECTIVE DATE.

This title shall take effect October 1, 1986.

TITLE IX—COMMITTEE ON ENERGY AND COMMERCE

SEC. 901. SHORT TITLE.

This title may be cited as the "Drug Abuse Prevention and Treatment Act of 1986".

Subtitle A—Financial Assistance to States and Communities

SEC. 902. ALLOTMENTS TO STATES.

Title XIX of the Public Health Service Act is amended by adding at the end the following:

"PART D—EMERGENCY SUBSTANCE ABUSE TREATMENT AND PREVENTION

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1935. For the purpose of the Agency for Substance Abuse Prevention and for allotments under sections 1937 and 1938, there is authorized to be appropriated $180,000,000 for fiscal year 1987.

"AGENCY FOR SUBSTANCE ABUSE PREVENTION

"SEC. 1936. Of the funds appropriated under section 1935, $30,000,000 shall be made available for the Agency for Substance Abuse Prevention established under section 507.

"ALLOTMENTS FOR TREATMENT SERVICES FOR DRUG ABUSE

"SEC. 1937. (a) From two thirds of the amount appropriated under section 1935 and available for allotments, the Secretary shall allot to each State an amount determined by a formula prescribed by the Secretary which is based equally on the population of each State and on the population of each State weighted by its relative per capita income. Any amount paid to a State from its allotment and remaining unobligated at the end of fiscal year 1987 shall be returned to the Treasury.

"(b) Amounts paid to a State under its allotment under subsection (a) shall be used to provide treatment and rehabilitation services for persons suffering from drug abuse. In using its allotment under subsection (a), a State shall give priority, to the extent practicable, to treatment and rehabilitation services for individuals in the age group 15 to 24.

"(c) In order to receive an allotment under subsection (a) each State shall transmit an application to the Secretary. Each such application shall be in such form and transmitted by such date as the Secretary shall require. Each such application shall contain a plan for the use of amounts paid to the State under its allotment in accordance with this section and section 1939.

"ALLOTMENTS FOR COMMUNITY-BASED PREVENTION ACTIVITIES

"SEC. 1938. (a) From one-third of the amounts appropriated under section 1935 and available for allotments, the Secretary, acting through the Agency for Substance Abuse Prevention established under section 507, shall allot to each State an amount determined on the basis of the relative population of each State in the age group of 5 through 24.

"(b) Amounts paid to a State under its allotment under subsection (a) shall be used for—

"(1) the development by the State of a substance abuse prevention education program,

"(2) the development of community-based substance abuse prevention activities among school-aged children which will make the use of drugs unattractive to such children,

"(3) the development by the State of educational programs relating to the risks presented by alcohol and drug abuse to pregnant women and children, and

"(4) the development by the State of an education program relating to the risks of acquired immune deficiency syndrome among individuals who use drugs intravenously and relating to the transmittal of acquired immune deficiency syndrome from pregnant women to unborn children.

"(c) In order to receive an allotment under subsection (a) each State shall transmit an application to the Secretary. Each such application shall be in such form and transmitted by such date as the Secretary shall require. Each such application shall contain a plan for the use of amounts paid to the State under its allotment in accordance with this section and section 1939.

"GENERAL PROVISIONS

"SEC. 1939. (a) A State may not use amounts paid to it under its allotment under section 1937 or 1938 to—

"(1) provide inpatient hospital services,

"(2) make cash payments to intended recipients of health services,

"(3) purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment,

"(4) satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds,

"(5) pay administrative costs, or

"(6) provide financial assistance to any entity other than a public or nonprofit private entity.

"(b) The provisions of part B which are not inconsistent with subsection (a) or sections 1937 or 1938 shall apply with respect to allotments made under sections 1937 and 1938.".

Subtitle B—Agency for Substance Abuse Prevention; Study

SEC. 905. AGENCY FOR SUBSTANCE ABUSE PREVENTION.

Part A of title V of the Public Health Service Act is amended by adding at the end the following:

"AGENCY FOR SUBSTANCE ABUSE PREVENTION

"SEC. 507. (a) There is established in the Alcohol, Drug Abuse, and Mental Health Administration the Agency for Substance Abuse Prevention. The Agency shall be headed by a Director appointed by the Secretary from individuals with extensive experience or academic qualifications in the prevention of drug or alcohol abuse.

"(b) The Director of the Office shall—

"(1) sponsor regional workshops on the prevention of drug and alcohol abuse,

"(2) coordinate the findings of research sponsored by agencies of the Service on the prevention of drug and alcohol abuse,

"(3) develop effective drug and alcohol abuse prevention literature (including literature on the adverse effects of cocaine free base (known as 'crack'),

"(4) create public service announcements for radio and television broadcasting on the prevention of drug and alcohol abuse,

"(5) in cooperation with the Secretary of Education, assure the widespread dissemination of prevention materials among States, political subdivisions, and school systems,

"(6) support programs of clinical training of substance abuse counselors and other health professionals,

"(7) in cooperation with the Director of the Centers for Disease Control, develop educational materials to reduce the risks of acquired immune deficiency syndrome among intravenous drug abusers, and

"(8) administer the allotment programs under part D of title XIX.

"(c) The Secretary, acting through the Director of the Office, shall establish a clearinghouse for alcohol and drug abuse information to assure the widespread dissemination of such information to States, political subdivisions, school systems, and the general public. The clearinghouse shall—

"(1) disseminate of publications by the National Institute of Alcohol Abuse and Alcoholism, the National Institute of Drug Abuse, and the Secretary of Education concerning alcohol and drug abuse,

"(2) disseminate of accurate information concerning the health effects of alcohol and drug abuse,

"(3) collect and disseminate information concerning successful drug abuse education and prevention curricula, and

"(4) collect and disseminate information on effective and ineffective school-based drug abuse education and prevention programs.

"(d)(1) There is established an advisory board to advise the Director of the Office in carrying out subsections (b) and (c). The Board shall—

"(A) advise the Director and the White House Conference on Drug Abuse and Drug Trafficking Control and other governmental agencies to promote an awareness among the general public about the problems of drug abuse and the need to prevent drug abuse among young people,

"(B) advise the Director with respect to establishing priorities in conducting an informational program aimed at preventing drug abuse,

"(C) advise the Director on the most effective means of communicating to the public the problems associated with drug abuse and of providing information that will contribute towards the prevention of drug abuse,

"(D) promote an awareness among the media throughout the country about problems relating to drug abuse,

"(E) encourage media outlets throughout the country to provide information, including public service announcements, aimed at assisting in the prevention of drug abuse,

"(F) advise the Director and media entities in the preparation and production of material, including public service announcements, aimed at discouraging drug abuse by young people,

"(G) encourage private sector initiatives aimed at drug abuse prevention,

"(H) encourage local broadcasters, newspapers, cable systems, and other media outlets to work closely with their local community, including representatives of schools, business, and religious and parent groups, to devise effective means of disseminating information about the need to discourage drug abuse by young people, and

"(I) aid in coordinating the efforts of all Federal agencies to provide information to the public on the need for drug abuse prevention and on the problems related to drug abuse.

"(2) The advisory board shall be composed of 15 members appointed by the Secretary and shall include representatives from radio and television broadcasting, cable communications, media productions, the print media, and professional sports associations. A member of the advisory board shall receive no compensation by virtue of the member's appointment to the advisory board.

"(3) The Secretary shall provide the advisory board with such administrative support services as it may require to carry out paragraph (1).

"(4) The advisory board shall terminate upon the expiration of 3 years after the date of the enactment of this section unless the President extends it by Executive Order.".

SEC. 906. COVERAGE STUDY.

The Secretary of Health and Human Services shall contract with the Institute of Medicine of the National Academy of Sciences to conduct a study of (1) the extent of the coverage of drug abuse treatment provided by private insurance, public programs, and other sources of payment for such treatment, and (2) the adequacy of such coverage in rehabilitating drug abusers. Not later than one year after the date of the enactment of this title the Secretary shall transmit to the Congress a report of the results of the study conducted under this section. The report shall include recommendations for the means of meeting identified needs.

Subtitle C—Advisory Commission on the Comprehensive Education of Intercollegiate Athletes

SEC. 910. ESTABLISHMENT.

There is established a commission to be known as the Advisory Commission on the Comprehensive Education of Intercollegiate Athletes (hereafter in this subtitle referred to as the "Commission").

SEC. 911. DUTIES OF COMMISSION.

The Commission shall investigate and advise Congress regarding issues related to athletic programs at colleges and universities in the United States, including—

(1) the use of drugs by athletes, examining in particular the role of colleges and universities in discouraging the illegal use of drugs by athletes, and

(2) the impact of television on athletics, examining in particular both the negative and positive effects on colleges and universities and their athletes of revenues received by televising athletic events,

(3) the balance between athletics and academics, examining in particular—

(A) the need for—

(i) establishing stricter eligibility and academic requirements for athletes, and

(ii) less frequent and fewer competitive events to allow for greater pursuit of academic goals by athletes, and

(B) the role of regulation and enforcement in the areas of athletic recruiting, financing, and scheduling, and

(4) the extent of the involvement of Federal and State government in intercollegiate athletics, including involvement in the form of taxation, grants, and student loans.

SEC. 912. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 17 members, appointed jointly by the Speaker of the House of Representatives and the majority leader of the Senate within 30 days after the date of the enactment of this title in a manner that insures balanced geographic representation, as follows:

(1) 1 member who is the President of a college or university.

(2) 2 members who are college or university professors.

(3) 2 members who are college or university admissions officers.

(4) 1 member who is a college or university academic advisor.

(5) 1 member who is a former or current college or university coach.

(6) 1 member who is a former or current college or university athletic director.

(7) 1 member who is a high school principal, guidance counselor, or teacher with special knowledge of high school academics and athletics.

(8) 1 member who is a current student athlete at a college or university.

(9) 1 member who is associated with one of the major regional college accrediting associations.

(10) 1 member who is associated with the National Collegiate Athletic Association.

(11) 1 member who is a physician with special knowledge of sports medicine and drug abuse problems.

(12) 1 member who is a former or current member of the House of Representatives and 1 member who is a former or current member of the Senate.

(13) 1 member who is not associated with college and university academics or athletics.

(14) 1 member who is associated with the National Athletic Trainers Association.

Appointments may be made under this subsection without regard to section 5311(b) of title 5, United States Code.

(b) TERMS.—Members shall be appointed for the life of the Commission.

(c) PAY.—(1) Members of the Commission shall serve without pay.

(2) While away from their homes or regular place of business in the performance of services for the Commission, members shall be allowed travel expenses, including a per diem allowance in lieu of subsistence, in the same manner as persons serving intermittently in the Government service are allowed travel expenses under section 5703 of title 5 of the United States Code.

(d) CHAIRMAN.—(1) The member of the Commission who is a former or current member of the House of Representatives shall serve as Chairman of the Commission.

(2) The member of the Commission who is a former or current member of the Senate shall serve as Vice Chairman of the Commission.

SEC. 913. MEETINGS.

(a) ORGANIZATIONAL MEETING.—Not later than 30 days after all members have been appointed to the Commission, the Commission shall hold an organizational meeting to establish the rules and procedures under which it will carry out its responsibilities.

(b) RULES AND PROCEDURES.—The rules and procedures referred to in subsection (a) shall provide that—

(1) half of the total Commission membership shall constitute a quorum, and

(2) a majority of those voting at a properly called meeting shall be required to authorize any recommendation or other official action of the Commission.

SEC. 914. STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.

(a) STAFF.—Subject to such rules as may be prescribed by the Commission and subsection (b), the Chairman may appoint and fix the pay of such personnel as the Chairman considers appropriate.

(b) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The staff of the Commission shall—

(1) be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service; and

(2) be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(c) EXPERTS AND CONSULTANTS.—Subject to such rules as may be prescribed by the Commission, the Chairman may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code.

(d) STAFF OF FEDERAL AGENCIES.—Upon request of the Chairman, the head of any Federal agency shall detail any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under section 911.

SEC. 915. POWERS OF COMMISSION.

(a) HEARINGS AND SESSIONS.—(1) The Commission may, for the purpose of carrying out section 911, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

(2) Hearings, meetings, and other sessions of the Commission may be closed to the public only by vote of the Commission.

(b) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out section 911. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(d) ADMINISTRATIVE SUPPORT SERVICES.—The head of any department or agency of the United States shall provide to the Commission such administrative support services as the Chairman may request.

(e) OFFICE SPACE.—The Administrator for General Services shall provide the Commission with appropriate office space, at no expense to the Commission, to enable it to carry out its responsibilities under section 911.

SEC. 916. REPORT.

The Commission shall transmit to the Congress not later than 18 months after the organizational meeting of the Commission is held under section 913 a report which shall contain a detailed statement of the findings and conclusions of the Commission as it considers appropriate.

SEC. 917. TERMINATION.

The Commission shall cease to exist 60 days after submitting its report under section 916.

SEC. 918. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal years beginning after fiscal year 1986 not to exceed $650,000 to carry out this title.

Subtitle D—Alkyl Nitrites

SEC. 920. REGULATION OF ALKYL NITRITES BY THE FOOD AND DRUG ADMINISTRATION.

Alkyl nitrites and their isomers shall be treated as a drug for purposes of the Federal Food, Drug, and Cosmetic Act unless the alkyl nitrites or their isomers are not manufactured, processed, distributed, or sold for use by individuals.

TITLE X—COMMITTEE ON POST OFFICE AND CIVIL SERVICE

SEC. 1001. SHORT TITLE.

This title may be cited as the "Federal Employee Substance Abuse Education and Treatment Act of 1986".

SEC. 1002. PROGRAMS TO PROVIDE PREVENTION, TREATMENT, AND REHABILITATION SERVICES TO FEDERAL EMPLOYEES WITH RESPECT TO DRUG AND ALCOHOL ABUSE.

(a) IN GENERAL.—(1) Chapter 73 of title 5, United States Code, is amended by adding at the end the following:

"SUBCHAPTER VI—DRUG ABUSE AND ALCOHOL ABUSE AND ALCOHOLISM

"§ 7361. Drug abuse

"(a) The Office of Personnel Management shall be responsible for developing and maintaining, in cooperation with the President, with the Secretary of Health and Human Services (acting through the National Institute on Drug Abuse), and with other agencies, and in accordance with applicable provisions of this subpart, appropriate prevention, treatment, and rehabilitation programs and services for drug abuse among employees. Such agencies are encouraged to extend, to the extent feasible, these programs and services to the families of employees and to employees who have family members who are drug abusers. Such programs and services shall make optimal use of existing governmental facilities, services, and skills.

"(b) Section 527 of the Public Health Service Act (relating to confidentiality of records), and any regulations prescribed thereunder, shall apply with respect to records under this section.

"(c) Each agency shall, with respect to any programs or services provided by such agency, submit such written reports as the Office may require in connection with any report required under section 7363.

"(d) For the purpose of this section, the term 'agency' means an Executive agency.

"§ 7362. Alcohol abuse and alcoholism

"(a) The Office of Personnel Management shall be responsible for developing and maintaining, in cooperation with the Secretary of Health and Human Services and with other agencies, and in accordance with applicable provisions of this subpart, appropriate prevention, treatment, and rehabilitation programs and services for alcohol abuse and alcoholism among employees. Such agencies are encouraged to extend, to the extent feasible, these programs and services to the families of alcoholic employees and to employees who have family members who are alcoholics. Such programs and services shall make optimal use of existing governmental facilities, services, and skills.

"(b) Section 523 of the Public Health Service Act (relating to confidentiality of records), and any regulations prescribed thereunder, shall apply with respect to records under this section.

"(c) Each agency shall, with respect to any programs or services provided by such agency, submit such written reports as the Office may require in connection with any report required under section 7363.

"(d) For the purpose of this section, the term 'agency' means an Executive agency.

"§ 7363. Reports to Congress

"(a) The Office of Personnel Management shall, within 6 months after the date of the enactment of this section and annually thereafter, submit to each House of Congress a report containing the matter under subsection (b).

"(b) Each report under this section shall include—

"(1) a description of any programs or services provided under section 7361 or 7362, including the costs associated with each such program or service and the source and adequacy of any funding therefor;

"(2) information as to the levels of participation in the programs and services provided under sections 7361 and 7362, and the efficacy of such programs and services;

"(3) a description of the training and qualification requirements of the personnel providing the programs and services under sections 7361 and 7362;

"(4) a description of the training given to supervisory personnel in connection with recognizing the symptoms of drug or alcohol abuse and the procedures (including those relating to confidentiality) under which individuals are referred for treatment, rehabilitation, or other assistance;

"(5) recommendations for any legislation or administrative action; and

"(6) information relating to any related, separate activities under section 7904 of this title, and any other matter which the Office considers appropriate.".

(2) The analysis for chapter 73 of title 5, United States Code, is amended by adding at the end the following:

"SUBCHAPTER VI—DRUG ABUSE AND ALCOHOL ABUSE AND ALCOHOLISM

"Sec.
"7361. Drug abuse.
"7362. Alcohol abuse and alcoholism.
"7363. Reports to Congress.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Subsection (a) of sections 521 and 525 of the Public Health Service Act (42 U.S.C. 290dd-1(a) and 290ee-1(a)) is repealed, subsection (b)(1) of each such section is amended by striking out "similar", and subsections (b), (c), and (d) of each such section are redesignated as subsections (a), (b), and (c), respectively.

SEC. 1003. EDUCATIONAL PROGRAM FOR FEDERAL EMPLOYEES RELATING TO DRUG AND ALCOHOL ABUSE.

(a) ESTABLISHMENT.—The Director of the Office of Personnel Management shall, in consultation with the Secretary of Health and Human Services, establish a Government-wide education program, using seminars and such other methods as the Director considers appropriate, to carry out the purposes set forth in subsection (b).

(b) PURPOSES.—The program established under this section shall be designed so as to provide information to Federal employees with respect to—

(1) the short-term and long-term health hazards associated with alcohol abuse and drug abuse;

(2) the symptoms of alcohol abuse and drug abuse;

(3) the availability of any prevention, treatment, or rehabilitation programs or services relating to alcohol abuse or drug abuse, whether provided by the Federal Government or otherwise;

(4) confidentiality protections afforded in connection with any prevention, treatment, or rehabilitation programs or services;

(5) any penalties provided under law, rule, or regulation, and any administrative actions (permissive or mandatory), relating to the use of alcohol or drugs by a Federal employee or the failure to seek or receive appropriate treatment or rehabilitation services; and

(6) any other matter which the Director considers appropriate.

SEC. 1004. EMPLOYEE ASSISTANCE PROGRAMS RELATING TO DRUG ABUSE AND ALCOHOL ABUSE.

(a) IN GENERAL.—Chapter 79 of title 5, United States Code, is amended by adding at the end the following:

"§ 7904. Employee assistance programs relating to drug abuse and alcohol abuse

"(a) The head of each Executive agency shall, in a manner consistent with guidelines under subsection (b) and applicable provisions of this subpart, establish appropriate prevention, treatment, and rehabilitation programs and services for drug abuse and alcohol abuse for employees in or under such agency.

"(b) The Office of Personnel Management shall, after such consultations as the Office considers appropriate, prepare guidelines for programs and services under this section.

"(c) The Secretary of Health and Human Services, on request of the head of an Executive agency, shall review any program or service provided under this section and shall submit comments and recommendations to the head of the agency concerned.".

(b) CHAPTER ANALYSIS.—The analysis for chapter 79 of title 5, United States Code, is amended by adding at the end the following:

"7904. Employee assistance programs relating to drug abuse and alcohol abuse.".

SEC. 1005. DEMONSTRATION PROJECT RELATING TO TREATMENT FOR DRUG ABUSE AND ALCOHOL ABUSE UNDER THE FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM.

(a) DEFINITIONS.—For the purpose of this section—

(1) the term "enrollee" means an individual enrolled in a health benefits plan; and

(2) the terms "health benefits plan", "employee", "annuitant", "carrier", and "family member" each has the meaning given such term under chapter 89 of title 5, United States Code.

(b) IN GENERAL.—The Office of Personnel Management shall, during calendar years 1988, 1989, and 1990, conduct a demonstration project to provide a basis for determining the feasibility and desirability of including certain benefits relating to the treatment of drug abuse and alcohol abuse among the types of benefits generally provided for under chapter 89 of title 5, United States Code (relating to health insurance for Federal employees).

(c) SCOPE OF THE PROJECT.—(1) The demonstration project—

(A) shall involve—

(i) the service benefit plan under section 8903(1) of title 5, United States Code;

(ii) the indemnity benefit plan under section 8903(2) of title 5, United States Code;

(iii) the 2 employee organization plans under section 8903(3) of title 5, United States Code, with the largest number of enrollments, as determined by the Office; and

(iv) the carrier operating the 2 comprehensive medical plans under section 8903(4) of title 5, United States Code, with the largest number of enrollments, as determined by the Office; and

(B) shall cover a sufficient number of enrollees and family members to provide an adequate basis on which to make any determination referred to in subsection (b).

(2) The demonstration project shall—

(A) to the extent that it involves the plans under clauses (i) through (iii) of paragraph (1)(A), be conducted within at least 1, and not more than 4, standard metropolitan statistical areas, as determined by the Office; and

(B) to the extent that it involves the carrier referred to in clause (iv) of paragraph (1)(A), be conducted within the standard metropolitan statistical area which includes Portland, Oregon.

A standard metropolitan statistical area may not be selected for inclusion under subparagraph (A) unless such area is one within which not less than 10,000, and not more than 25,000, employees and annuitants reside.

(d) BENEFITS.—Under the demonstration project, any contract under chapter 89 of title 5, United States Code, between the Office and the carrier offering a plan described in subsection (c)(1)(A)—

(1) shall, to the extent that such contract relates to individuals covered by the demonstration project, include benefits relating to—

(A) inpatient detoxification;

(B) patient assessment;

(C) outpatient therapy, including, wherever appropriate, worksite-based evening and weekend treatment programs, individual therapy, and group therapy;

(D) inpatient therapy;

(E) follow-up patient counselling; and

(F) counselling for family members of the individual having the abuse problem; and

(2) may, to the extent that such contract relates to individuals covered by the demonstration project, include benefits for related support services, including child care or other dependent care.

(e) CONSULTATION.—The Office shall consult with appropriate representatives of carriers, labor organizations representing Government employees, and agency heads with regard to—

(1) the determinations required under subsection (c)(2)(A);

(2) any maximums, limitations, exclusions, or other terms or conditions relating to the benefits described in subsection (d); and

(3) any other matter relating to the design, conduct, or evaluation of the demonstration project which the Office considers appropriate.

(f) COORDINATION WITH OTHER GOVERNMENT PROGRAMS.—The Office shall coordinate the demonstration project with any activities carried out under—

(1) section 7904 of title 5, United States Code (as added by section 1003), relating to employee assistance programs offered by Executive agencies with respect to drug abuse and alcohol abuse;

(2) subchapter VI of chapter 73 of title 5, United States Code (as added by section 1001), relating to programs and services for drug abuse and alcohol abuse;

(3) section 1002, relating to an educational program for Federal employees with respect to drug abuse and alcohol abuse; and

(4) other related programs.

(g) EVALUATION AND REPORTING REQUIREMENTS.—(1) The Office shall by contract provide for the periodic evaluation of the demonstration project with respect to—

(A) cost and efficacy;

(B) effects on employee productivity; and

(C) the feasibility and desirability of offering the benefits provided under the demonstration project on a general basis under chapter 89 of title 5, United States Code.

(2)(A) The Office shall—

(i) not later than March 15, 1990, submit an interim report to the Committee on Post Office and Civil Service of the House of Representatives and the Committee on Governmental Affairs of the Senate on the demonstration project; and

(ii) not later than April 1, 1991, submit to each of the committees referred to in clause (i) a final report on the project.

(B) Each report submitted under subparagraph (A) shall include a copy of the most recent evaluation received by the Office under paragraph (1).

(h) FUNDING.—(1) Notwithstanding any other provision of law, individual contributions and Government contributions under section 8906 of title 5, United States Code, shall be determined as if the preceding provisions of this section had not been enacted.

(2) There is authorized to be appropriated such sums as may be necessary to carry out this section (including any additional administrative costs).

TITLE XI—COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

Subtitle A—Indians and Alaska Natives

SEC. 1101. SHORT TITLE.

This subtitle may be cited as the "Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986".

PART I—GENERAL PROVISIONS

SEC. 1102. FINDINGS.

The Congress finds and declares that—

(1) the Federal Government has a historical relationship and unique legal and moral

responsibility to Indian tribes and their members,

(2) included in this responsibility is the treaty, statutory, and historical obligation to assist the Indian tribes in meeting the health and social needs of their members,

(3) alcoholism and alcohol and substance abuse is the most severe health and social problem facing Indian tribes and people today and nothing is more costly to Indian people than the consequences of alcohol and substance abuse measured in physical, mental, social, and economic terms,

(4) alcohol and substance abuse is the leading generic risk factor among Indians and Indians die from alcoholism at over 4 times the age-adjusted rates for the United States population and alcohol and substance misuse results in a rate of years of potential life lost nearly 5 times that of the United States,

(5) 4 of the top 10 causes of death among Indians are alcohol and drug related injuries (18 percent of all deaths), chronic liver disease and cirrhosis (5 percent), suicide (3 percent), and homicide (3 percent),

(6) primarily because deaths from unintentional injuries and violence occur disproportionately among young people, the age-specific death rate for Indians is approximately double the United States rate for the 15 to 45 age group,

(7) Indians between the ages of 15 and 24 years of age are more than 2 times as likely to commit suicide as the general population and approximately 80 percent of those suicides are alcohol-related,

(8) Indians between the ages of 15 and 24 years of age are twice as likely as the general population to die in automobile accidents, 75 percent of which are alcohol-related,

(9) the Indian Health Service, which is charged with treatment and rehabilitation efforts, has directed only 1 percent of its budget for alcohol and substance abuse problems,

(10) the Bureau of Indian Affairs, which has responsibility for programs in the fields of education, social services, law enforcement, and other programs, has assumed little responsibility for coordinating its various efforts to focus on the epidemic of alcohol and substance abuse among Indian people,

(11) this lack of emphasis and priority continues despite the fact that Bureau of Indian Affairs and Indian Health Service officials publicly acknowledge that alcohol and substance among Indian youth is the most serious health and social problem facing the Indian people, and

(12) the Indian tribes have the primary responsibility for protecting and ensuring the well-being of their communities and that the resources available through actions taken under this subtitle will be provided in order to assist Indian tribes in meeting those responsibilities.

SEC. 1103. PURPOSE.

It is the purpose of this subtitle to—

(1) authorize and develop a comprehensive, coordinated attack upon the illegal narcotics traffic in Indian country and the deleterious impact of alcohol and substance abuse upon Indian tribes and their members,

(2) provide needed direction and guidance to those Federal agencies responsible for Indian programs to identify and focus existing programs and resources, including those made available by this subtitle, upon this problem,

(3) provide authority and opportunities for Indian tribes to develop and implement a coordinated program for the prevention and treatment of alcohol and substance abuse at the local level, and

(4) to modify or supplement existing programs and authorities in the areas of education, family and social services, law enforcement and judicial services, and health services to further the purposes of this subtitle.

SEC. 1104. DEFINITIONS.

For purposes of this subtitle:

(1) The term "agency" means the local administrative entity of the Bureau of Indian Affairs serving one or more Indian tribes within a defined geographic area.

(2) The term "youth" shall have the meaning given it in any particular Tribal Action Plan adopted pursuant to section 1106, except that, for purposes of statistical reporting under this subtitle, it shall mean a person who is 18 years or younger or who is in attendance at a secondary school.

(3) The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians (including any Alaska Native village or regional or village corporation as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) which is recognized as eligible for special programs and services provided by the United States to Indians because of their status as Indians.

(4) The term "prevention and treatment" includes, as appropriate—

(A) efforts to identify, and the identification of, individuals who are at risk with respect to, or who are abusers of, alcohol or controlled substances,

(B) intervention into cases of on-going alcohol and substance abuse to halt a further progression of such abuse,

(C) prevention through education and the provision of alternative activities,

(D) treatment for alcohol and substance abusers to help abstain from, and alleviate the effects of, abuse,

(E) rehabilitation to provide on-going assistance, either on an inpatient or outpatient basis, to help individuals reform or abstain from alcohol or substance abuse,

(F) follow-up or after-care to provide the appropriate counseling and assistance on an outpatient basis, and

(G) referral to other sources of assistance or resources.

(5) The term "service unit" means an administrative entity within the Indian Health Service or a tribe or tribal organization operating health care programs or facilities with funds from the Indian Health Service under the Indian Self-Determination Act through which the services are provided, directly or by contract, to the eligible Indian population within a defined geographic area.

PART II—COORDINATION OF RESOURCES AND PROGRAMS

SEC. 1105. INTER-DEPARTMENTAL MEMORANDUM OF AGREEMENT.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this subtitle, the Secretary of the Interior and the Secretary of Health and Human Services shall develop and enter into a Memorandum of Agreement which shall, among other things—

(1) determine and define the scope of the problem of alcohol and substance abuse for Indian tribes and their members and its financial and human costs, and specifically identify such problems affecting Indian youth,

(2) identify and assess—

(A) the resources and programs of the Bureau of Indian Affairs and Indian Health Service, and

(B) other Federal, tribal, State and local, and private resources and programs,

which would be relevant to a coordinated effort to combat alcohol and substance abuse among Indian people, and specifically among Indian youth, including those programs and resources made available by this subtitle,

(3) develop and establish appropriate minimum standards for each agency's program responsibilities under the Memorandum of Agreement which may be—

(A) the existing Federal or State standards in effect, or

(B) in the absence of such standards, new standards which will be developed and established in consultation with Indian tribes,

(4) coordinate the Bureau of Indian Affairs and Indian Health Service alcohol and substance abuse programs existing on the date of the enactment of this subtitle with programs or efforts established by this subtitle,

(5) delineate the responsibilities of the Bureau of Indian Affairs and the Indian Health Service to coordinate alcohol and substance abuse-related services at the central, area, agency, and service unit levels,

(6) direct Bureau of Indian Affairs agency and education superintendents and the Indian Health Service service unit directors to cooperate fully with tribal requests made pursuant to section 1106, and

(7) provide for an annual review of such agreements by the Secretary of the Interior and the Secretary of Health and Human Services.

(b) CHARACTER OF ACTIVITIES.—To the extent that there are new activities undertaken pursuant to this subtitle, those activities shall supplement, not supplant, activities, programs, and local actions that are ongoing on the date of the enactment of this subtitle. Such activities shall be undertaken in the manner least disruptive to tribal control, in accordance with the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), and local control, in accordance with section 1130 of the Education Amendments of 1978 (25 U.S.C. 2010).

(c) CONSULTATION.—The Secretary of the Interior and the Secretary of Health and Human Services shall, in developing the Memorandum of Agreement under subsection (a), consult with and solicit the comments of—

(1) interested Indian tribes,

(2) Indian individuals,

(3) Indian organizations, and

(4) professionals in the treatment of alcohol and substance abuse.

(d) PUBLICATION.—The Memorandum of Agreement under subsection (a) shall be submitted to Congress and published in the Federal Register not later than 190 days after the date of enactment of this subtitle. At the same time as publication in the Federal Register, the Secretary of the Interior shall provide a copy of this subtitle and the Memorandum of Agreement under subsection (a) to each Indian tribe.

SEC. 1106. TRIBAL ACTION PLANS.

(a) IN GENERAL—The governing body of any Indian tribe may, at its discretion, adopt a resolution for the establishment of a Tribal Action Plan to coordinate available resources and programs, including programs and resources made available by this subtitle, in an effort to combat alcohol and substance abuse among its members. Such reso-

lution shall be the basis for the implementation of this subtitle and the Memorandum of Agreement under section 1105.

(b) COOPERATION.—At the request of any Indian tribe pursuant to a resolution adopted under subsection (a), the Bureau of Indian Affairs agency and education superintendents and the Indian Health Service service unit director providing services to such tribe shall cooperate with the tribe in the development of a Tribal Action Plan to coordinate resources and programs relevant to alcohol and substance abuse prevention and treatment. Upon the development of such a plan, such superintendents and director, as directed by the Memorandum of Agreement established under section 1105, shall enter into an agreement with the tribe for the implementation of the Tribal Action Plan under subsection (a).

(c) PROVISIONS.—

(1) Any Tribal Action Plan entered into under subsection (b) shall provide for—

(A) the establishment of a Tribal Coordinating Committee which shall—

(i) at a minimum, have as members a tribal representative who shall serve as Chairman and the Bureau of Indian Affairs agency and education superintendents and the Indian Health Service service unit director, or their representatives,

(ii) have primary responsibility for the implementation of the Tribal Action Plan,

(iii) have the responsibility for on-going review and evaluation of, and the making of recommendations to the tribe relating to, the Tribal Action Plan, and

(iv) have the responsibility for designating key Federal, tribal or other personnel for training in the prevention and treatment of Indians affected by alcohol and substance abuse as provided under section 1127, and

(B) the incorporation of the minimum standards for those programs and services which it encompasses which shall be—

(i) the Federal or State standards as provided in section 1105(a)(3), or

(ii) applicable tribal standards, if such standards are no less stringent than the Federal or State standards.

(2) Any Tribal Action Plan may, among other things, provide for—

(A) an assessment of the scope of the problem of alcohol and substance abuse for the Indian tribe which adopted a resolution for the adoption of the Tribal Action Plan and its members,

(B) the identification and coordination of the range of available programs and resources relevant to a program of alcohol and substance abuse prevention and treatment for tribal members,

(C) the establishment and prioritization of goals and efforts needed to meet those goals, and

(D) the identification of the community and family roles in any of the efforts undertaken as part of the Tribal Action Plan.

(d) GRANTS.—The Secretary of the Interior may make grants to Indian tribes adopting a resolution pursuant to subsection (a) to provide technical assistance in the development of a Tribal Action Plan. In allocating funds appropriated for such grants, the Secretary shall take into consideration—

(1) the population of the Indian tribe receiving the grant,

(2) the size of the tribe's reservation or service area,

(3) the scope of intended efforts under a Tribal Action Plan as identified by the tribe in its resolution adopted pursuant to subsection (a), and

(4) the commitment of the Indian tribe as measured by the tribal funds or other tribal resources made available to carry out the purposes of this subtitle.

There is authorized to be appropriated not to exceed $8,000,000 for each of the fiscal years 1987, 1988, and 1989 for grants under this subsection.

(e) FEDERAL ACTION.—If any Indian tribe does not adopt a resolution as provided in subsection (a) within 180 days after the publication of the Memorandum of Agreement in the Federal Register as provided in section 1105, the Secretary of the Interior and the Secretary of Health and Human Services shall require the Bureau of Indian Affairs agency and education superintendents and the Indian Health Service service unit director serving such tribe to enter into an agreement to identify and coordinate available programs and resources to carry out the purposes of this subtitle for such tribe. After such an agreement has been entered into for a tribe such tribe may adopt a resolution under subsection (a).

SEC. 1107. DEPARTMENTAL RESPONSIBILITY.

(a) IMPLEMENTATION.—The Secretary of the Interior, acting through the Bureau of Indian Affairs, and the Secretary of Health and Human Services, acting through the Indian Health Service, shall bear equal responsibility for the implementation of this subtitle in cooperation with Indian tribes.

(b) OFFICE OF ALCOHOL AND SUBSTANCE ABUSE.—

(1) In order to better coordinate the various programs of the Bureau of Indian Affairs in carrying out this subtitle, there is established within the Office of the Assistant Secretary of Indian Affairs an Office of Alcohol and Substance Abuse. The director of such office shall be appointed by the Assistant Secretary on a permanent basis at no less than a grade GS-15 of the General Schedule.

(2) In addition to other responsibilities which may be assigned to such Office, it shall be responsible for—

(A) monitoring the performance and compliance of programs of the Bureau of Indian Affairs in meeting the goals and purposes of this subtitle and the Memorandum of Agreement entered into under section 1105, and

(B) serving as a point of contact within the Bureau of Indian Affairs for Indian tribes and the Tribal Coordinating Committees regarding the implementation of this subtitle, the Memorandum of Agreement, and any Tribal Action Plan established under section 1106.

(c) INDIAN YOUTH PROGRAMS OFFICER.—

(1) There is established in the Office of Alcohol and Substance Abuse the position to be known as the Indian Youth Programs Officer.

(2) The position of Indian Youth Programs Officer shall be established on a permanent basis at no less than the grade of GS-14 of the General Schedule.

(3) In addition to other responsibilities which may be assigned to the Indian Youth Programs Officer relating to Indian Youth, such Officer shall be responsible for—

(A) monitoring the performance and compliance of programs of the Bureau of Indian Affairs in meeting the goals and purposes of this subtitle and the Memorandum of Agreement entered into under section 1105 as they relate to Indian youth efforts, and

(B) providing advice and recommendations, including recommendations submitted by Indian tribes and Tribal Coordinating Committees, to the Director of the Office of Alcohol and Substance Abuse as they relate to Indian youth.

SEC. 1108. CONGRESSIONAL INTENT.

It is the intent of Congress that—

(1) specific Federal laws, and administrative regulations promulgated thereunder, establishing programs of the Bureau of Indian Affairs, the Indian Health Service, and other Federal agencies, and

(2) general Federal laws, including laws limiting augmentation of Federal appropriations or encouraging joint or cooperative funding,

shall be liberally construed and administered to achieve the purposes of this subtitle.

SEC. 1109. FEDERAL FACILITIES, PROPERTY, AND EQUIPMENT.

(a) FACILITY AVAILABILITY.—In the furtherance of the purposes and goals of this subtitle, the Secretary of the Interior and the Secretary of Health and Human Services shall make available for community use, to the extent permitted by law and as may be provided in a Tribal Action Plan, local Federal facilities, property, and equipment, including school facilities. Such facility availability shall include school facilities under the Secretary of the Interior's jurisdiction, provided that the use of any school facilities shall be conditioned upon approval of the local school board with jurisidiction over such school.

(b) COSTS.—Any additional cost associated with the use of Federal facilities, property, or equipment under subsection (a) may be borne by the Secretary of the Interior and the Secretary of Health and Human Services out of available funds, by other Federal funds if not otherwise prohibited by law, or by tribal, State or local, or private funds. This subsection does not require the Secretary of the Interior or the Secretary of Health and Human Services to expend additional funds to meet the additional costs which may be associated with the provision of such facilities, property, or equipment for community use. Where the use of Federal facilities, property, or equipment under subsection (a) furthers the purposes and goals of this subtitle, the use of funds other than those funds appropriated to the Department of the Interior or the Department of Health and Human Services to meet the additional costs associated with such use shall not constitute an augmentation of Federal appropriations.

(c) SECRETARY OF THE INTERIOR.—Subject to the availability of specific appropriations, the Secretary of the Interior shall—

(1) establish summer recreation, employment, and counseling programs for Indian youth on reservations,

(2) keep open for those weeks not within the normal school year such Bureau of Indian Affairs funded or contracted schools, subject to the approval of the school board involved, and as the Secretary determines to be necessary to provide facilities for the programs established under paragraph (1),

(3) take all steps necessary to preserve any school property made available for any programs established under paragraph (1) and to defray all expenses associated with such programs, including facility expenses, and

(4) provide, as needed, salaried coordinators for such programs.

PART III—INDIAN YOUTH PROGRAMS

SEC. 1110. REVIEW OF PROGRAMS.

(a) REVIEW.—In the development of the Memorandum of Agreement required by section 1105, the Secretary of the Interior and the Secretary of Health and Human Services, in cooperation with the Secretary of Education shall review and consider—

(1) the various programs established by Federal law providing education services or benefits to Indian children,

(2) tribal, State, and local, and private educational resources and programs,

(3) the various programs established by Federal law providing family and social services and benefits for Indian families and children,

(4) various programs and resources established by Federal law relating to youth employment, recreation, cultural, and community activities, and

(5) tribal, State, and local, and private resources for programs similar to those cited in paragraphs (3) and (4),

to determine their applicability and relevance in carrying out the purposes of this subtitle.

(b) PUBLICATION.—The results of the review conducted under subsection (a) shall be provided to each Indian tribe as soon as possible for their consideration and use in the development or modification of a Tribal Action Plan under section 1106.

SEC. 1111. INDIAN EDUCATION PROGRAMS.

(a) PILOT PROGRAMS.—The Assistant Secretary of Indian Affairs shall develop and implement a pilot program in selected schools to determine the effectiveness of summer youth programs in furthering the purposes and goals of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986. For the pilot program there are authorized to be appropriated $5,000,000 for each of the fiscal years 1987, 1988, and 1989.".

(b) USE OF FUNDS.—Federal financial assistance made available to public or private schools because of the enrollment of Indian children pursuant to—

(1) the Act of April 16, 1934, as amended by the Indian Education Assistance Act, (25 U.S.C. 452 et seq.),

(2) the Indian Elementary and Secondary School Assistance Act (20 U.S.C. 241aa et seq.), and

(3) the Indian Education Act (20 U.S.C. 3385),

may be used to support a program of instruction relating to alcohol and substance abuse prevention and treatment.

SEC. 1112. NEWSLETTER.

The Secretary of the Interior shall, not later than 120 days after the date of the enactment of this subtitle, publish an alcohol and substance abuse newsletter in cooperation with the Secretary of Health and Human Services and the Secretary of Education to report on Indian alcohol and substance abuse projects and programs. The newsletter shall—

(1) be published once in each calendar quarter,

(2) include reviews of programs determined by the Secretary of the Interior to be exemplary and provide sufficient information to enable interested persons to obtain further information about such programs, and

(3) be circulated without charge to—

(A) schools,

(B) tribal offices,

(C) Bureau of Indian Affairs' agency and area offices,

(D) Indian Health Service area and service unit offices,

(E) Indian Health Service alcohol programs, and

(F) other entities providing alcohol and substance abuse related services or resources to Indian people.

SEC. 1113. EMERGENCY SHELTERS.

(a) IN GENERAL.—A Tribal Action Plan adopted pursuant to section 1106 may make such provisions as may be necessary and practical for the establishment, funding, licensing, and operation of emergency shelters or half-way houses for Indian youth who are alcohol or substance abusers, including youth who have been arrested for offenses directly or indirectly related to alcohol or substance abuse.

(b) REFERRALS.—

(1) In any case where an Indian youth is arrested or detained by the Bureau of Indian Affairs or tribal law enforcement personnel for an offense relating to alcohol or substance abuse, other than for a status offense as defined by the Juvenile Justice and Delinquency Prevention Act of 1974, under circumstances where such youth may not be immediately restored to the custody of his parents or guardians and where there is space available in an appropriately licensed and supervised emergency shelter or half-way house, such youth shall be referred to such facility in lieu of incarceration in a secured facility unless such youth is deemed a danger to himself or to other persons.

(2) In any case where there is a space available in an appropriately licensed and supervised emergency shelter or half-way house, the Bureau of Indian Affairs and tribal courts are encouraged to refer Indian youth convicted of offenses directly or indirectly related to alcohol and substance abuse to such facilities in lieu of sentencing to incarceration in a secured juvenile facility.

(c) DIRECTION TO STATES.—In the case of any State that exercises criminal jurisdiction over any part of Indian country under section 1162 of title 18 of the United States Code or section 401 of the Act of April 11, 1968 (25 U.S.C. 1321), such State is urged to require its law enforcement officers to—

(1) place any Indian youth arrested for any offense related to alcohol or substance abuse in a temporary emergency shelter described in subsection (d) or a community-based alcohol or substance abuse treatment facility in lieu of incarceration to the extent such facilities are available, and

(2) observe the standards promulgated under subsection (d).

(d) STANDARDS.—The Assistant Secretary of Indian Affairs shall, as part of the development of the Memorandum of Agreement set out in section 1105, promulgate standards by which the emergency shelters established under a program pursuant to subsection (a) shall be established and operate.

(e) HOUSING INVENTORY.—Upon the request of any Indian tribe, the Bureau of Indian Affairs shall include in its housing inventory for such tribe the lack of an emergency shelter or half-way house as an unmet housing need. The construction or renovation of such a facility shall be considered an eligible activity under the Bureau of Indian Affairs' Housing Improvement Program.

(f) FINANCIAL ASSISTANCE.—To assist Indian tribes in the construction, renovation, and operation of emergency shelters, half-way houses, or foster care homes to provide emergency care for Indian youth who are affected by alcohol and substance abuse there is authorized to be appropriated not to exceed $10,000,000 for each of the fiscal years 1987, 1988, and 1989. The Secretary of the Interior shall allocate funds appropriated pursuant to this subsection on the basis of priority of need of the various Indian tribes and such funds, when allocated, shall be subject to contracting pursuant to the Indian Self-Determination Act.

SEC. 1114. SOCIAL SERVICES REPORTS.

(a) DATA.—The Secretary of the Interior, with respect to the administration of any family or social services program by the Bureau of Indian Affairs directly or through contracts under the Indian Self-Determination Act, shall require the compilation of data relating to the number and types of child abuse and neglect cases seen and the type of assistance provided. Additionally, such data should also be categorized to reflect those cases that involve, or appear to involve, alcohol and substance abuse, those cases which are recurring, and those cases which involve other minor siblings.

(b) REFERRAL OF DATA.—The data compiled pursuant to subsection (a) shall be provided annually to the affected Indian tribe and Tribal Coordinating Committee to assist them in developing or modifying a Tribal Action Plan and shall also be submitted to the Indian Health Service service unit director who will have responsibility for compiling a tribal comprehensive report as provided in section 1129.

(c) CONFIDENTIALITY.—In carrying out the requirements of subsections (a) and (b), the Secretary shall insure that the data is compiled and reported in a manner which will preserve the confidentiality of the families and individuals.

PART IV—LAW ENFORCEMENT AND JUDICIAL SERVICES

SEC. 1115. REVIEW OF PROGRAMS.

(a) LAW ENFORCEMENT AND JUDICIAL SERVICES.—In the development of the Memorandum of Agreement required by section 1105, the Secretary of the Interior and the Secretary of Health and Human Services, in cooperation with the Attorney General of the United States, shall review and consider—

(1) the various programs established by Federal law providing law enforcement or judicial services for Indian tribes, and

(2) tribal and State and local law enforcement and judicial programs and systems

to determine their applicability and relevance in carrying out the purposes of this subtitle.

(b) DISSEMINATION OF REVIEW.—The results of the review conducted pursuant to subsection (a) shall be made available to every Indian tribe as soon as possible for their consideration and use in the development and modification of a Tribal Action Plan.

PART V—BUREAU OF INDIAN AFFAIRS LAW ENFORCEMENT

SEC. 1116. TRIBAL COURTS, SENTENCING, AND FINES.

To enhance the ability of tribal governments to prevent and penalize the traffic of illegal narcotics on Indian reservations, paragraph (7) of section 202 of the Act of April 11, 1969 (25 U.S.C. 1302) is amended by striking out "for a term of six months and a fine of $500, or both" and inserting in lieu thereof "for a term of one year and a fine of $5,000, or both".

SEC. 1117. BUREAU OF INDIAN AFFAIRS LAW ENFORCEMENT AND JUDICIAL TRAINING.

(a) IN GENERAL.—The Secretary of the Interior shall ensure, through the establishment of a new training program or through the supplement of existing training programs, that all Bureau of Indian Affairs and tribal law enforcement and judicial personnel shall have available training in the in-

vestigation and prosecution of offenses relating to illegal narcotics and in alcohol and substance abuse prevention and treatment. Any training provided to Bureau of Indian Affairs and tribal law enforcement and judicial personnel as provided in this subsection shall specifically include training in the problems of youth alcohol and substance abuse prevention and treatment. Such training shall be coordinated with the Indian Health Service in the carrying out of its responsibilities under section 1127.

(b) AUTHORIZATION.—For the purpose of providing the training required by subsection (a), there are authorized to be appropriated not to exceed $2,500,000 for each of the fiscal years 1987, 1988, and 1989.

SEC. 1118. MEDICAL ASSESSMENT AND TREATMENT OF JUVENILE OFFENDERS.

The Memorandum of Agreement entered into pursuant to section 1105 shall include a specific provision for the development and implementation at each Bureau of Indian Affairs agency and Indian Health Service service unit of a procedure for the emergency medical assessment and treatment of every Indian youth arrested or detained by Bureau of Indian Affairs or tribal law enforcement personnel for an offense relating to or involving alcohol or substance abuse. The medical assessment required by this subsection—

(1) shall be conducted to determine the mental or physical state of the individual assessed so that appropriate steps can be taken to protect the individual's health and well-being,

(2) shall occur as soon as possible after the arrest or detention of an Indian youth, and

(3) shall be provided by the Indian Health Service, either directly or through its contract health service.

SEC. 1119. SOURCE ERADICATION.

(a) MARIJUANA ERADICATION.—The Secretary of the Interior, in cooperation with appropriate Federal, tribal, and State and local law enforcement agencies, shall establish and implement a program for the eradication of marijuana cultivation within Indian country as defined in section 1151 of title 18, United States Code. The Secretary shall establish a priority for the use of funds appropriated under subsection (b) for those Indian reservations where the scope of the problem is most critical and such funds shall be available for contracting by Indian tribes pursuant to the Indian Self-Determination Act.

(b) AUTHORIZATION.—To carry out subsection (a), there are authorized to be appropriated not to exceed $1,500,000 for each of the fiscal years 1987, 1988, and 1989.

SEC. 1120. ILLEGAL NARCOTICS TRAFFIC ON THE PAPAGO RESERVATION.

(a) INVESTIGATION AND CONTROL.—The Secretary of the Interior shall provide assistance to the Papago Indian Tribe (Tohono O'odham) of Arizona for the investigation and control of illegal narcotics traffic on the Papago Reservation along the border with Mexico. The Secretary shall ensure that tribal efforts are coordinated with appropriate Federal law enforcement agencies, including the United States Customs Service.

(b) AUTHORIZATIONS.—For the purpose of providing the assistance required by subsection (a), there is authorized to be appropriated not to exceed $1,000,000 for each of the fiscal years 1987, 1988, and 1989.

SEC. 1121. JUVENILE DETENTION CENTERS.

(a) PLAN.—The Secretary of the Interior shall develop and implement a plan for the construction or renovation and staffing of tribal juvenile detention and rehabilitation centers for Indian tribes. In the development of the plan and in the allocation of funds appropriated under subsection (b), the Secretary shall insure that the construction and operation of tribal juvenile detention centers shall be consistent with the Juvenile Justice and Delinquency Prevention Act of 1974.

(b) AUTHORIZATION.—For the purpose of subsection (a), there are authorized to be appropriated not to exceed $24,000,000 for each of the fiscal years 1987, 1988, and 1989.

SEC. 1122. MODEL INDIAN JUVENILE CODE.

The Secretary of the Interior, either directly or by contract, shall provide for the development of a Model Indian Juvenile Code which shall be consistent with the Juvenile Justice and Delinquency Prevention Act of 1974 and which shall include provisions relating to the disposition of cases involving Indian youth arrested or detained by Bureau of Indian Affairs or tribal law enforcement personnel for alcohol or drug related offenses. The development of such model code shall be accomplished in cooperation with Indian organizations having an expertise or knowledge in the field of law enforcement and judicial procedure and in consultation with Indian tribes. Upon completion of the Model Code, the Secretary shall make copies available to each Indian tribe.

SEC. 1123. LAW ENFORCEMENT AND JUDICIAL REPORT.

(a) COMPILATION OF LAW ENFORCEMENT DATA.—The Secretary of the Interior, with respect to the administration of any law enforcement or judicial services program by the Bureau of Indian Affairs, either directly or through contracts under the Indian Self-Determination Act, shall require the compilation of data relating to calls and encounters, arrests and detentions, and disposition of cases by Bureau of Indian Affairs or tribal law enforcement or judicial personnel involving Indians where it is determined that alcohol or drug abuse is a contributing factor.

(b) REFERRAL OF DATA.—The data compiled pursuant to subsection (a) shall be provided annually to the affected Indian tribe and Tribal Coordinating Committee to assist them in developing or modifying a Tribal Action Plan and shall also be submitted to the Indian Health Service unit director who will have the responsibility for compiling a tribal comprehensive report as provided in section 1128.

(c) CONFIDENTIALITY.—In carrying out this section, the Secretary shall insure that the data is compiled and reported in a manner which will preserve the confidentiality of the families and individuals involved.

PART VI—INDIAN ALCOHOL AND SUBSTANCE ABUSE TREATMENT AND REHABILITATION

SEC. 1125. REVIEW OF PROGRAMS.

(a) IN GENERAL.—In the development of the Memorandum of Agreement required by section 1105, the Secretary of the Interior and the Secretary of Health and Human Services shall review and consider—

(1) the various programs established by Federal law providing health services and benefits to Indian tribes, including those relating to mental health and alcohol and substance abuse prevention and treatment, and

(2) tribal, State and local, and private health resources and programs,

(3) where facilities to provide such treatment are or should be located, and

(4) the effectiveness of public and private alcohol and substance abuse treatment programs in operation on the date of the enactment of this subtitle,

to determine their applicability and relevance in carrying out the purposes of this subtitle.

(b) DISSEMINATION.—The results of the review conducted under subsection (a) shall be provided to every Indian tribe as soon as possible for their consideration and use in the development or modification of a Tribal Action Plan.

SEC. 1126. INDIAN HEALTH SERVICE RESPONSIBILITIES.

The Memorandum of Agreement entered into pursuant to section 1105 shall include specific provisions pursuant to which the Indian Health Service shall assume responsibility for—

(1) the determination of the scope of the problem of alcohol and substance abuse among Indian people, including the number of Indians within the jurisdiction of the Indian Health Service who are directly or indirectly affected by alcohol and substance abuse and the financial and human cost,

(2) an assessment of the existing and needed resources necessary to adequately support a program for the prevention of alcohol and substance abuse and the treatment of Indians affected by alcohol and substance abuse, and

(3) an estimate of the funding necessary to adequately support a program of prevention of alcohol and substance abuse and treatment of Indians affected by alcohol and substance abuse.

SEC. 1127. ALCOHOL AND SUBSTANCE ABUSE TREATMENT.

(a) IN GENERAL.—The Secretary of Health and Human Services, acting through the Indian Health Service, shall provide a program of comprehensive alcohol and substance abuse prevention and treatment which shall include—

(1) prevention, through educational intervention, in Indian communities,

(2) acute detoxification and treatment,

(3) community-based rehabilitation, and

(4) community education and involvement, including extensive training of health care, educational, and community-based personnel.

The target population of such a program shall be the members of Indian tribes, with particular emphasis on Indian youth. Additionally, efforts to train and educate key members of the Indian community should target those who are involved in the provision of health, education, judicial, law enforcement, legal, and social services to this population.

(b) DETOXIFICATION AND REHABILITATION.—The Secretary shall develop and implement a program for acute detoxification and treatment for Indian youth who are alcohol and substance abusers. The program shall include regional treatment centers designed to include detoxification and rehabilitation for both sexes on a referral basis. These regional centers shall be integrated with the intake and rehabilitation programs based in the referring Indian community.

(c) CENTERS.—The Secretary, with funds appropriated under this subsection, shall begin the construction of eleven regional treatment centers serving the Indian tribes under the jurisdiction of the area offices of the Indian Health Service. For purposes of the preceding sentence, the Area Offices of the Indian Health Service in Tucson and Phoenix, Arizona, shall be considered one area office. The regional treatment centers shall be appropriately staffed with health

professionals, including psychologists, alcohol and substance abuse counselors, physical fitness professionals, nutritionists, physicians, nurses and administrative and support staff. There are authorized to be appropriated for the construction of the regional treatment centers not to exceed $4,000,000. There are also authorized to be appropriated not to exceed $8,250,000 for each of the fiscal years 1987, 1988, and 1989 to provide staff for such centers.

(d) REHABILITATION AND FOLLOW-UP SERVICES.—

(1) The Secretary in cooperation with the Secretary of the Interior, shall develop and implement within each Indian Health Service service unit community-based rehabilitation and follow-up services for Indian youth who are alcohol or substance abusers which are designed to integrate long-term treatment and to monitor and support the Indian youth after their return to their home community.

(2) Services under paragraph (1) shall be administered within each service unit by trained staff within the community who can assist the Indian youth in continuing development of self-image, positive problem-solving skills, and non-alcohol or non-substance abusing behaviors. Such staff shall include alcohol and substance abuse counselors, mental health professionals, and other health professionals and para-professionals, including community health representatives.

(3) For the purpose of providing the services authorized by paragraph (1), there are authorized to be appropriated $18,000,000 for each of the fiscal years 1987, 1988, and 1989.

(e) COMMUNITY EDUCATION.—

(1) The Secretary, in cooperation with the Secretary of the Interior, shall develop and implement within each service unit a program of community education and involvement which shall be designed to provide concise and timely information to the community leadership of each tribal community. Such program shall include training in alcohol and substance abuse to the critical core of each tribal community, including political leaders, tribal judges, law enforcement personnel, members of tribal and health and education boards, and other critical parties.

(2) For the purpose of implementing the program established by paragraph (1), there are authorized to be appropriated $4,000,000 for fiscal year 1987, $1,000,000 for fiscal year 1988, and $500,000 for fiscal year 1989.

(f) TRAINING.—

(1) The Secretary shall require that existing health staff of the Indian Health Service, particularly those at the service unit level, shall receive the necessary training in alcohol and substance abuse to enable the Indian Health Service to address that problem in a coordinated manner with common approaches. In carrying out that responsibility, the Secretary shall make available to community health representatives funded by the Indian Health Service additional training in prevention strategies that will support a school-based program. Such training will also include techniques for early identification of symptoms of alcohol and substance abuse and support strategies for maintenance of alcohol and substance-free life-styles, including fitness programs, nutritional awareness programs, recreational alternatives, and cultural activities.

(2) For the purpose of providing training under paragraph (1), there are authorized to be appropriated $4,000,000 for fiscal year 1987, $2,000,000 for fiscal year 1988, and $500,000 for fiscal year 1989.

(g) PREVENTION.—

(1) The Secretary, in cooperation with the Secretary of the Interior, shall develop and implement a program of prevention of alcohol and substance abuse among Indian youth through education intervention. Such a program shall include—

(A) the training of counselors and supervisors employed in Head Start programs serving Indian tribes in methods to enhance the self-image of Indian children attending such Head Start programs,

(B) the development and implementation of a program of instruction in alcohol and substance abuse in the curricula of Bureau of Indian Affairs' schools operated under contracts entered into pursuant to the Indian Self-Determination Act, and

(C) the training of counselors, teachers, and other educational professionals in such schools in alcohol and substance abuse.

(2) For the purpose of carrying out—

(A) subparagraph (A) of paragraph (1), there are authorized to be appropriated $1,000,000 for each of the fiscal years 1987, 1988, and 1989,

(B) subparagraph (B) of paragraph (1), there are authorized to be appropriated $1,000,000 for each of the fiscal years 1987, 1988, and 1989, and

(C) subparagraph (C) of paragraph (1), there are authorized to be appropriated $1,250,000 for each of the fiscal years 1987, 1988, and 1989.

(h) FEDERALLY OWNED STRUCTURES.—

(1) The Secretary of Health and Human Services shall, acting through the Indian Health Service, identify and use, wherever appropriate and consistent with the needs of an Indian tribe or tribal organization, existing federally owned structures suitable as residential alcohol and substance abuse treatment centers for Indian youths.

(2) The Secretary of Health and Human Services shall, in consultation with professionals involved in the clinical treatment of alcohol and substance abuse among Indian youth, establish guidelines for determining the suitability of any such federally owned structure to be used as a residential alcohol and substance abuse treatment center. No clinically inappropriate or structurally unsound building shall be used as such a treatment center.

(3) Any structure described in paragraph (1) may be used under such terms and conditions as may be agreed upon by the Secretary of Health and Human Services and the agency having responsibility for the structure.

(4) The Secretary of Health and Human Services may, directly or by contract, renovate any facility described in paragraph (1). Any such renovation shall conform with—

(A) such terms and conditions as have been agreed upon under paragraph (3), and

(B) such clinical requirements for alcohol and substance abuse treatment centers as are determined to be appropriate by alcohol and substance abuse treatment professionals.

(5) There are authorized to be appropriated such sums as may be necessary to carry out paragraphs (1) through (4).

SEC. 1128. NAVAJO ALCOHOL REHABILITATION DEMONSTRATION PROGRAM.

(a) DEMONSTRATION PROGRAM.—The Secretary of Health and Human Services shall make grants to the Navajo Tribe to establish a demonstration program in the city of Gallup, New Mexico, to rehabilitate adult Navajo Indians suffering from alcoholism or alcohol abuse.

(b) EVALUATION AND REPORT.—The Secretary, acting through the National Institute on Alcohol Abuse and Alcoholism, shall evaluate the program established under subsection (a) and submit a report on such evaluation to the appropriate Committees of Congress by January 1, 1990.

(c) AUTHORIZATION.—There are authorized to be appropriated for the purposes of grants under subsection (a) $400,000 for each of the fiscal years 1988, 1989, and 1990. Not more than 10 percent of the funds appropriated for any fiscal year may be used for administrative purposes.

SEC. 1129. INDIAN HEALTH SERVICE REPORTS.

(a) COMPILATION OF DATA.—The Secretary of Health and Human Services, with respect to the administration of any health program by an Indian Health Service service unit, directly or through contract, including a contract under the Indian Self-Determination Act, shall require the compilation of data relating to the number of cases or incidents which any of the Indian Health Service personnel or services were involved and which were related, either directly or indirectly, to alcohol or substance abuse. Such report shall include the type of assistance provided and the disposition of these cases.

(b) REFERRAL OF DATA.—The data compiled under subsection (a) shall be provided annually to the affected Indian tribe and Tribal Coordinating Committee to assist them in developing or modifying a Tribal Action Plan.

(c) COMPREHENSIVE REPORT.—Each Indian Health Service service unit director shall be responsible for assembling the data compiled under this section and sections 1114 and 1123 into an annual tribal comprehensive report which shall be provided to the affected tribe and to the Director of the Indian Health Service who shall develop and publish a biennial national report on such tribal comprehensive reports.

Subtitle B—National Park Service Program

SEC. 1131. SHORT TITLE.

This subtitle may be cited as the "National Park Police Drug Enforcement Supplemental Authority Act".

SEC. 1132. NATIONAL PARK POLICE AUTHORIZATION.

In order to improve Federal law enforcement activities relating to the use of narcotics and prohibited substances in national park system units there are made available to the Secretary of the Interior, in addition to sums made available under other authority of law, $1,000,000 for the fiscal year 1987, and for each fiscal year thereafter, to be used for the employment and training of additional Park Police, for equipment and facilities to be used by Park Police, and for expenses related to such employment, training, equipment, and facilities.

Subtitle C—Programs in United States Insular Areas

SEC. 1141. SHORT TITLE.

This subtitle may be cited as the "U.S. Insular Areas Drug Abuse Act of 1986".

SEC. 1142. ANNUAL REPORTS TO CONGRESS.

The President shall report annually to the Congress as to—

(1) the efforts and success of Federal agencies in preventing the illegal entry into the United States of controlled substances from the insular areas of the United States outside the customs territory of the United States and states freely associated with the

United States and the nature and extent of such illegal entry, and

(2) the efforts and success of Federal agencies in preventing the illegal entry from other nations, including states freely associated with the United States, of controlled substances into the United States territories and the commonwealths for use in the territories and commonwealths or for transshipment to the United States and the nature and extent of such illegal entry and use.

SEC. 1143. ENFORCEMENT AND ADMINISTRATION IN INSULAR AREAS.

(a) AMERICAN SAMOA.—(1) With the approval of the Attorney General of the United States or his designee, law enforcement officers of the Government of American Samoa are authorized to—

(A) execute and serve warrants, subpoenas, and summons issued under the authority of the United States;

(B) make arrests without warrant; and

(C) make seizures of property to carry out the purposes of this subtitle, the Controlled Substances Import and Export Act (21 U.S.C. 951-970), and any other applicable narcotics laws of the United States.

(2) The Attorney General of the United States is authorized to—

(A) train law enforcement officers of the Government of American Samoa, and

(B) provide by purchase or lease law enforcement equipment, including aircraft and high-speed vessels, and technical assistance to the Government of American Samoa to carry out the purposes of this subtitle and any other Federal or territorial drug abuse laws.

(3) There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this subsection, to remain available until expended.

(b) GUAM.—(1)(A) The Drug Enforcement Administration and the Federal Bureau of Investigation should each assign no less than 2 agents to Guam.

(B) The Coast Guard should assign and maintain at least 4 patrol vessels in Guam at all times.

(2) The Customs Service and the Postal Service should assign officers to work in conjunction with the personnel assigned to Guam pursuant to paragraph (1) and other agents in Guam.

(3)(A) The Attorney General of the United States may provide technical assistance and equipment to the Government of Guam to carry out the purposes of this subtitle and any other Federal or territorial drug abuse law.

(B) There are authorized to be appropriated such sums as may be necessary to carry out subparagraph (A). Funds appropriated under this subparagraph shall remain available until expended.

(c) THE NORTHERN MARIANA ISLANDS.—(1) With the approval of the Attorney General of the United States or his designee, law enforcement officers of the Government of the Northern Mariana Islands are authorized to—

(A) execute and serve warrants, subpoenas, and summons issued under the authority of the United States;

(B) make arrests without warrant; and

(C) make seizures of property to carry out the purposes of this subtitle, the Controlled Substances Import and Export Act (21 U.S.C. 951-970), and any other applicable narcotics laws of the United States.

(2) The Attorney General of the United States is authorized to—

(A) train law enforcement officers of the Government of the Northern Mariana Islands, and

(B) provide, by purchase or lease, law enforcement equipment, including aircraft and high-speed vessels, and technical assistance to the Government of the Northern Mariana Islands to carry out the purposes of this subtitle and any other Federal or commonwealth drug abuse law.

(3) There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this subsection, to remain available until expended.

(4) Federal personnel and equipment assigned to Guam pursuant to subsection (b) of this section shall also be available to carry out the purposes of this subtitle in the Northern Mariana Islands.

(d) PUERTO RICO.—(1) There are authorized to be appropriated for grants to the Government of Puerto Rico—

(A) $3,300,000 for the purchase of 2 helicopters;

(B) $3,500,000 for the purchase of an aircraft; and

(C) $1,000,000 for the purchase and maintenance of 5 high-speed vessels.

Sums appropriated under this paragraph shall remain available until expended.

(2) The Drug Enforcement Administration should assign and maintain no less than 26 agents in Puerto Rico.

(3) The Federal Bureau of Investigation should assign and maintain no less than 96 agents in Puerto Rico.

(4) The Customs Service should assign and maintain no less than 25 agents in Puerto Rico.

(5) Equipment provided to the Government of Puerto Rico pursuant to paragraph (1) of this subsection shall be made available upon request to the Federal agencies involved in drug interdiction in Puerto Rico.

(6)(A) The Attorney General of the United States may provide technical assistance and equipment to the Government of Puerto Rico to carry out the purposes of this subtitle and any other Federal or commonwealth drug abuse law.

(B) There are authorized to be appropriated such sums as may be necessary to carry out subparagraph (A). Funds appropriated under this subparagraph shall remain available until expended.

(e) THE VIRGIN ISLANDS.—(1) There are authorized to be appropriated for grants to the Government of the Virgin Islands—

(A) $3,000,000 for 2 patrol vessels, tracking equipment, supplies, and agents, and

(B) $1,000,000 for programs to prevent narcotics abuse, such sums to remain available until expended.

(2) The Drug Enforcement Administration and the Federal Bureau of Investigation should each assign no less than 2 agents to the United States Virgin Islands.

(3) The Customs Service and the Postal Service should assign officers to work in conjunction with the personnel assigned pursuant to subsection (b) and other agents in the United States Virgin Islands.

(4) The United States Coast Guard should assign and maintain at least 1 patrol vessel to St. Thomas and St. John and 1 patrol vessel to St. Croix, Virgin Islands, at all times.

(5)(A) The Attorney General of the United States may provide technical assistance and equipment to the Government of the United States Virgin Islands to carry out the purposes of this subtitle and any other Federal or territorial drug abuse law.

(B) There are authorized to be appropriated such sums as may be necessary to carry out subparagraph (A). Funds appropriated under this subparagraph shall remain available until expended.

TITLE XII—COMMITTEE ON GOVERNMENT OPERATIONS

SEC. 1201. SHORT TITLE.

This title may be cited as the "National Antidrug Reorganization and Coordination Act".

SEC. 1202. FINDINGS.

The Congress finds that—

(1) the Federal Government's response to drug trafficking and drug abuse is divided among several dozen agencies and bureaus of the Government, ranging from the Department of Defense to the Department of Health and Human Services;

(2) numerous recent congressional hearings and reports, reports by the Comptroller General, and studies by Executive branch agencies have documented the waste and inefficiency caused by this division of responsibilities;

(3) interagency competition for credit and budget dollars imposes critical obstacles to efficient application of national resources in combating drug trafficking and drug abuse; and

(4) successfully combating such trafficking and drug abuse requires coherent planning that includes intelligent organization and operations of Executive branch agencies.

SEC. 1203. SUBMISSION OF LEGISLATION.

Not later than 6 months after the date of enactment of this title, the President shall submit to each House of Congress recommendations for legislation to reorganize the Executive branch of the Government to more effectively combat international drug traffic and drug abuse. In the preparation of such recommendations, the President shall consult with the Comptroller General, State and local law enforcement authorities, relevant committees of the Congress, and the Attorney General and the Secretaries of State, the Treasury, Transportation, Health and Human Services, Defense, and Education.

The CHAIRMAN. No other amendment to the bill are in order except the amendments contained in House Report 99-810, which shall be considered only in the order listed, and if ordered by the Member indicated in the report, shall not be subject to amendment or to a demand for a division of the question unless otherwise specified in House Resolution 541, and each amendment shall be debatable for the time indicated in House Report 99-810, equally divided and controlled by the proponent of the amendment and a Member opposed to the amendment.

AMENDMENTS OFFERED BY MR. WRIGHT

Mr. WRIGHT. Mr. Chairman, I offer amendments en bloc.

The Clerk read as follows:

Amendments offered by Mr. WRIGHT: Page 31, after line 7, insert the following:

SEC. 144. REPORTS TO CONGRESS REGARDING FOREIGN COOPERATION IN ILLICIT DRUG ERADICATION PROGRAMS.

The Secretary of State shall transmit to Congress, as part of the presentation materials for assistance programs proposed for each fiscal year, a full and complete report,

with respect to cooperation and progress made by each country proposed as a recipient of assistance, in carrying out illicit drug eradication programs.

Page 38, line 18, insert after "subsection (a)" the following: "and, provided it would not interfere with the performance of a military mission, other similar aircraft and radar aerostats,"

Page 120, line 9, following "violation" insert the following: "sufficient to enable the Government authority to obtain access to or copies of such information pursuant to law".

Page 120, beginning in line 21, strike out "prohibit any financial institution or supervisory agency from providing" and insert in lieu thereof "apply when a financial institution or supervisory agency provides".

Page 163, line 6, strike out "or".

Page 163, line 9, strike out the close quotation marks and the period following and insert in lieu thereof "; or".

Page 163, line 9, insert the following: "(v) with respect to a particular practitioner registered at the Drug Enforcement Administration to conduct research using a controlled substance and to the extent not prohibited by the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355), only amounts of analogs used in that person's research.".

Page 224, insert after line 13 the following:

Subtitle H—Miscellaneous

SEC. 671. ASSIGNMENT OF JUDGES.

It is the sense of Congress that the judicial branch of the Government should increase the exercise of its authority under chapter 13 of title 28, United States Code, to reassign Federal judges temporarily and otherwise provide additional Federal judges to district courts in districts with large backlogs of pending criminal cases arising out of drug enforcement efforts.

Page 224, insert after line 13 the following:

Subtitle H—Miscellaneous

SEC. 671. DRUG PARAPHERNALIA.

(a) OFFENSE.—It is unlawful for any person—

(1) to make use of the services of the Postal Service as part of a scheme to sell any item which constitutes drug paraphernalia; or

(2) to offer for sale and transportation in interstate commerce any item which constitutes drug paraphernalia.

(b) PENALTY.—Anyone convicted of an offense under subsection (a) of this section shall be imprisoned for not more than three years and fined not more than $100,000.

(c) FORFEITURE.—Any drug paraphernalia involved in any violation of subsection (a) of this section shall be subject to seizure and forfeiture. Any such paraphernalia shall be delivered to the Administrator of General Services, General Services Administartion, who may order such paraphernalia destroyed or may authorize its use for law enforcement or educational purposes by Federal, State, or local authorities.

(d) DEFINITIONS.—The term "drug paraphernalia" means all equipment, products, or materials of any kind which are used, intended for use, or designed for use, in manufacturing, compounding, converting, concealing, producing, processing, preparing, injecting, ingesting, inhaling, or otherwise introduced into the human body a controlled substance in violation of the Controlled Substances Act (title II of Public Law 91-513). It includes, but is not limited to, items used, intended for use, or designed for use, in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, hashish oil, PCP, or amphetimines into the human body, such as:

(1) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

(2) water pipes;

(3) carburetion tubes and devices;

(4) smoking and carburetion masks;

(5) roach clips: meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held by the hand;

(6) miniature spoons with level capacities of one-tenth cubic centimeter or less;

(7) chamber pipes;

(8) carburetor pipes;

(9) electric pipes;

(10) air-driven pipes;

(11) chillums;

(12) bongs;

(13) ice pipes or chillers;

(14) wired cigarette papers; or

(15) cocaine freebase kits.

(e) EVIDENCE.—In determining whether an item constitutes drug paraphernalia, in addition to all other logically relevant factors, the following may be considered:

(1) instructions, oral or written, provided with the item concerning its use;

(2) descriptive materials accompanying the item which explain or depict its use;

(3) national and local advertising concerning its use;

(4) the manner in which the item is displayed for sale;

(5) whether the owner, or anyone in control of the item, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;

(6) direct or circumstantial evidence of the ratio of sales of the item(s) to the total sales of the business enterprise;

(7) the existence and scope of legitimate uses of the item in the community; and

(8) expert testimony concerning its use.

(f) EFFECTIVE DATE.—This section shall become effective 90 days after the date of enactment of this title.

Page 241, strike out lines 1 through 3 and insert in lieu thereof the following:

(1) the development, acquisition, and implementation of elementary and secondary school drug abuse education and prevention curricula which clearly and consistently teach that drugs are wrong and harmful;

Page 241, line 8, insert "(which teach that drugs are wrong and harmful)" after "programs".

Page 241, strike out lines 6 and 7 and insert in lieu thereof the following:

(3) family drug abuse prevention programs, including education for parents about the symptoms and effects of drug use;

Page 245, after line 3, insert the following new paragraph (and redesignate the subsequent paragraphs accordingly):

(2) develop, publicize the availability of, and widely disseminate audio-visual and other curricula materials for drug abuse education and prevention programs in elementary and secondary schools throughout the Nation;

Page 232, insert before the period in line 20 the following: "and who shall include physicians and other health care professionals who have training or experience in drug abuse prevention".

Page 267, insert before the period in line 5 the following: "and shall include physicians and other health care professionals who have training or experience in drug addiction problems".

Page 267, insert after line 25 the following:

SEC. 907. NATIONAL STUDY OF DRUG ABUSE TREATMENT PROGRAMS.

The Secretary of Health and Human Services shall conduct, directly or by contract, a study of the nature and effectiveness of Federal, State, and local programs of drug abuse treatment (including programs to treat cocaine free base (known as "crack") addiction) and shall submit a report of the findings of such study to the President and to the appropriate committees of Congress not later than one year after the date of the enactment of this title.

Page 267, insert after line 25 the following:

SEC. 907. CONGRESSIONAL REQUEST THAT THE ENTERTAINMENT INDUSTRY TAKE CERTAIN STEPS TO ASSIST IN THE NATIONAL WAR AGAINST ILLEGAL DRUGS.

It is the sense of the Congress that, whereas illegal drug consumption and the trafficking of those illegal drugs is a major problem in the United States; whereas this problem is particularly prevalent among and harmful to the Nation's young people; whereas the values and mores portrayed in various forms of commercially produced entertainment have a profound effect on the attitudes of young people in this country, the entertainment industry should voluntarily refrain from producing material meant for general entertainment which in any way glamorizes or encourages the use of illegal drugs and the entertainment industry further is encouraged to develop films, television programs, records, and videos which encourage the rejection of illegal drug usage.

Mr. WRIGHT (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. GILMAN. Mr. Chairman, reserving the right to object, and I do not intend to object, but I ask consent to permit the gentleman from Texas [Mr. WRIGHT] to explain the amendments.

The CHAIRMAN. The Chair would inform the gentleman from New York [Mr. GILMAN] that there will be 10 minutes' debate on the amendments.

Mr. WRIGHT. Mr. Chairman, will the gentleman yield?

Mr. GILMAN. I yield to the gentleman from Texas.

Mr. WRIGHT. Mr. Chairman, it would be my intention to explain each of the 14 provisions contained, at least briefly, to clarify exactly what is involved in this amendment.

Mr. GILMAN. I thank the gentleman.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. Under the rule, the gentleman from Texas [Mr. WRIGHT] will be recognized for 5 minutes and a Member opposed will be recognized for 5 minutes.

Mr. LUNGREN. Mr. Chairman, I am opposed to the amendment and wish to claim the 5 minutes.

The CHAIRMAN. The gentleman from California [Mr. LUNGREN] will be recognized at the appropriate time for 5 minutes.

The Chair now recognizes the gentleman from Texas [Mr. WRIGHT].

Mr. WRIGHT. Mr. Chairman, I yield such time as he may consume to the gentleman from Oklahoma [Mr. ENGLISH].

PERFECTING AMENDMENT OFFERED BY MR. ENGLISH

Mr. ENGLISH. Mr. Chairman, I ask unanimous consent for a perfecting amendment to title XII of the bill.

On page 333, line 26, the word "international" appears. This word was deleted in the Government Operations Committee because that section applies to all drug trafficking, not just international trafficking. The drafters of the Omnibus Act did not take note of the committee amendment. It should be corrected at this time, and I ask that it be stricken.

The minority is in complete agreement with this request.

The CHAIRMAN. Is there objection to the request of the gentleman from Oklahoma?

Mr. GILMAN. Mr. Chairman, reserving the right to object, while I do not object, I ask the gentleman from Oklahoma [Mr. ENGLISH] if he would explain this technical provision.

Mr. ENGLISH. Mr. Chairman, will the gentleman yield?

Mr. GILMAN. I yield to the gentleman from Oklahoma.

Mr. ENGLISH. Mr. Chairman, this word was deleted in the Committee on Government Operations because it applies to all drug trafficking. This section of the bill applies to all drug trafficking, not just international trafficking. The drafters of the Omnibus Act evidently overlooked this particular provision and it should be corrected at this time.

For that reason, I am asking unanimous consent.

Mr. GILMAN. Mr. Chairman, I thank the gentleman and I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. WRIGHT. Mr. Chairman, how much time have I consumed?

The CHAIRMAN. The gentleman from Texas has consumed 45 seconds.

Mr. WRIGHT. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, this is a compilation of 14 different amendments offered by Democratic and Republican Members. They are thought to be relatively noncontroversial. They require that a criminal offense will be made to use the Postal Service to sell drug paraphernalia. It expresses the sense of Congress that the Federal judicial branch should reassign judges temporarily to districts with large backlogs of drug cases.

It requires the Secretary of Education to develop and distribute audiovisual materials on drug abuse prevention to elementary and secondary schools.

It expresses the sense of Congress that the entertainment industry should refrain from producing programming which glamorizes drug use and should produce programs rejecting the use of drugs.

It adds medical and mental health officials to the list of those who would serve on the Council of Drug Abuse Education Prevention, as well as physicians and other health care professionals.

It allows the Department of Defense to loan additional aircraft and radar aerostats for the use in drug interdiction.

It requires the Health and Human Services to study the effectiveness of Federal, State, and local drug abuse prevention programs, clarifies that the information volunteered by banks under the money laundering statute will be sufficient to allow the Government to obtain a grand jury subpoena. It requires a report to Congress on the cooperation and progress of drug eradication by countries which receive U.S. aid. It requires that funds for local education projects will be used to support cirricular and counseling programs to teach that drug use is wrong and harmful, and specifies that family drug abuse prevention programs include education of parents about the symptoms and effects of drug abuse.

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There is one additional provision which will be discussed under the Morrison exclusion, and will be discussed by the gentleman from Connecticut and the gentleman from California.

Mr. LUNGREN. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Chairman, I want to mention at the outset of this discussion that the majority leader, the gentleman from Texas [Mr. WRIGHT] has been most cooperative with the minority relative of some of the noncontroversial items.

This specific item, the one in question that we will be discussing here, was brought to our attention by way of a letter from the sponsor, the letter indicating that the item was not controversial in a straight forward basis. The leaders together accepted that as the case.

Needless to say, I believe without publicly saying so, the leader is probably embarrassed by this circumstance. I am disconcerted, because it interferes with our ability to work together.

Mr. LUNGREN. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, the amendment in dispute, No. 5, is not noncontroversial, and is not technical in nature. It is anything but that. Unfortunately, I have to say with all sincerity that it is in part an anti-law-enforcement, prodrug use amendment. I do not think it was drawn to be that; I do not think it was intended to be that, but that is in fact the interpretation of the concept that I received from the DEA, from the FDA, and from the State orgnizations of substance control authorities.

Now, all of those cannot be wrong. What this amendment says is, if you have an M.D. or Ph.D. after your name; and you have in any way a research connection with the FDA, even if it is with schedule 5, which is like with cough syrup, you can be involved in designer drugs that we have, in every other instance in this bill, put under schedule 1. That is the toughest restraints that we have.

Why? Because designer drugs are the new epidemic of drugs in this country.

Just today there is an article in the Washington Post about a Ph.D. who happens to be a laboratory chemist for the Navy, who is involved in the course of his work in manufacturing fentanyl analogs; that is, heroin analogs that are 2,500 times more potent than raw heroin on the streets.

Had that person had the knowledge, after this bill was passed with the Morrison amendment in it, and received a research registration from DEA under schedule 5, but then involved himself in creating a new heroin analog, he could not have been arrested nor stopped until he actually distributed it for money.

He could use it on himself, he could use it on his wife, he could use it on others; as long as he said he was doing it in his own research protocol, not following the schedule 1 protocol. That is the problem with this amendment.

This amendment makes a distortion of the entire designer drug bill, which is a part of the overall bill, the designer drug bill that I have been working for the last 2 years.

Mr. WRIGHT. Mr. Chairman, I yield such time as he may consume to the gentleman from Connecticut [Mr. MORRISON].

Mr. MORRISON of Connecticut. Mr. Chairman, this is, in fact, a highly technical issue, and it has to do with making sure that in our very legitimate effort to criminalize the designer drug industry we do not criminalize legitimate research.

We have taken all drugs on schedules 1 and 2 and said all analogs of those drugs are to be treated as schedule 1 drugs. As a result of that proposed change, legitimate research permitted under current law might be made criminal.

It is one thing, and an important thing, to crack down on the designer drug industry. It is another thing to cut off, in an arbitrary fashion through the threatening use of criminal sanctions, legitimate research.

This amendment does not raise the kind of horrible specter that the gentleman from California [Mr. LUNGREN] has suggested. If refinements of this amendment are needed, they can well be worked out further in the legislative process of enacting this bill, and as the gentleman from California knows, we have worked hard to find satisfactory language and are willing to continue that kind of process in the future.

Mr. WRIGHT. Mr. Chairman how much time do I have remaining?

The CHAIRMAN. The gentleman from Texas [Mr. WRIGHT] has 1 minute remaining.

Mr. LUNGREN. Mr. Chairman, do I have 2½ minutes remaining?

The CHAIRMAN. The gentleman is correct.

Mr. LUNGREN. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, quite simply, this is the Timothy Leary bailout amendment. This says, basically, that if you happen to be a psychiatrist that was of the kind that distributed MDMA, or ecstasy, to others until we made it illegal, we are going to allow you to continue doing that sort of thing.

The gentleman from Connecticut [Mr. MORRISON] says that I have brought up a horror that does not exist. Well, in fact, in response to my request about this type of amendment, Mr. Lawn, who is the Administrator of the DEA, had this to say:

> Such activities have, in fact, occurred with regard to at least one such analog. This analog has been synthesized in unknown and undocumented facilities and administered in dosage forms of unknown and uncertain quality and quantity by a few physicians, in an apparently informal manner. This activity undoubtedly risks the health of those concerned.

The fact of the matter is, there are some few doctors and psychiatrists in this country who say they do not come under the FDA. Why? Because the FDA requires that you do animal studies for toxicity before you ever give it to humans; and if you have a human study, you do a blind study. You go through the proper protocol.

These doctors do not want to be under the thumb, as they say, of the FDA, because they would be required to do animal studies first, and then do absolutely scientific studies.

One of them testified to us that he should have the right to test it on himself. He has also testified elsewhere that he has tested it on his wife, and there have been suggestions that others have used students.

We are creating an absolute loophole here for those who happen to have M.D. or Ph.D. behind their name, who have any registration with the DEA, to do any type of investigation they want even though we are saying for everybody else under every other circumstance, they are subject to schedule 1.

This is a terrible distortion of our whole effort. This is exactly the type of dual standard we have been trying to get away from. We have been trying to say that everybody is equal under the law with respect to drug abuse in this country, and this amendment, unfortunately, says everybody is equal except if you had Ph.D. or M.D. after your name.

Let us be very clear: We are talking about people dealing in psychedelic drugs. That is what we are talking about. That is what the one doctor who appeared before us, pleading his case, was talking about. He says we have a right to expand the horizons of everybody's perceptions. It is argued that we have any obligation to have the Government say there are certain scientific standards.

I would just remind my colleagues that coming out of the Nuremberg trials, we have the Nuremberg protocols with respect to research.

No. 1 on the list of protocol is that animal research should always be done before research.

I support the rest of the amendment, but this is a tragic flaw in this amendment, sending the wrong signal at the wrong time.

Mr. WRIGHT. Mr. Chairman, I yield myself the balance of my time to close debate.

Mr. Chairman, I am impressed by the concern expressed by the gentleman from California [Mr. LUNGREN]. There is a legitimate disagreement as to the intent and working of that provision. It was not the intention and is not the intention of the authors to do other than to permit legitimate research by legitimate researchers.

In order that we may be sure, I would ask that we vote aye on this entire bloc of amendments, there being so many good and beneficial and uncontroversial things contained therein; and I would assure the gentleman from California that I would ask the conferees to look with care into the wording of this portion of the amendment to make certain that it does not open a loophole of the type feared by the gentleman from California.

Mr. LUNGREN. Mr. Chairman, is gentleman will yield, I thank the gentleman for that offering. I am sorry that is the way we have to do it under the rule. I know the gentleman was amenable to my unanimous consent to have it voted on separately; that was objected to.

At this time, Mr. Chairman, I submit for the RECORD three pieces of correspondence that I have received from various agencies regarding the bill:

U.S. DEPARTMENT OF JUSTICE,
DRUG ENFORCEMENT ADMINISTRATION
Washington, DC, September 10, 1986.

Hon. DANIEL E. LUNGREN,
U.S. House of Representatives, Washington, DC.

DEAR CONGRESSMAN LUNGREN: Thank you for your letter of August 26, 1986 concerning the important issue brought about by the clandestine synthesis and distribution of controlled substance analogs during recent years. The questions which you have set out in your letter raise complex issues which could be elaborated on at length. Nevertheless, I shall respond to them here as briefly as possible and provide such additional information or discussion as you may require hereafter.

First, let me state that I strongly urge the enactment of S. 1437, "The Controlled Substance Analogs Enforcement Act of 1985," a bill which has been carefully crafted with our participation to deal effectively with problems of illicit traffic while protecting the interests of legitimate industry and the research community.

In response to your first question concerning the appropriate schedule for these substances, I wish to point out that we are here concerned only with drugs of abuse which have no accepted medical use. With respect to these drugs, the Food and Drug Administration's procedures for establishing safety and effectiveness for any projected medical purpose have not been complied with. Therefore, should these substances be placed in any schedule other than Schedule I additional risks would result because of their extended availability for use in improperly controlled and speculative circumstances. Such activities have, in fact, occurred with regard to at least one such analog. This analog has been synthesized in unknown and undocumented facilities and administered in dosage forms of unknown and uncertain quality and quantity by a few physicians, in an apparently informal manner. This activity undoubtedly risks the health of those concerned.

It has often been observed that poor and undocumented research is worse than no research at all because so much careful study is then required to disprove dubious and unprofessional reports. The Schedule I classification is a safeguard against this in the controlled substances area because legitimate researchers must submit a scientific protocol for approval. This ensures that only those who are professionally capable to conduct such research have access to these drugs for that purpose. More than 2,000 such researchers are currently registered by DEA. If these analogs were to be scheduled in other schedules the disadvantages and risks become obvious from the foregoing. Moreover, this would create an anomaly within the drug control structure unintended by Congress and which has never previously occurred. Therefore, the answer to your second question is that there are no other instances in which an unapproved new drug with a high potential for abuse has been placed into Schedule II. Some special considerations have been made regard-

ing certain drugs because of treaty obligations.

Question three concerning the merit of special exemptions for research with psychedelic drugs is an issue also within the purview of the Department of Health and Human Services. I am aware of no sound reason why this type of research should be exempted from the regular approval process required for other drugs. Also, it is clear that the Congress felt that, with regard to drugs with a high potential for abuse, the additional requirement of a special registration with DEA was also necessary. I believe this also satisfactorily responds to question four.

Finally, question five also raises a matter of health and research policy in which the Department of Health and Human Services possesses special expertise. Nevertheless, it is difficult to imagine how subjects participating in studies utilizing these drugs would be at less risk than in studies involving other classes of drugs since these drugs may have powerful effects on mood and personal disposition and, in some cases, are believed to cause long-term brain damage. It would appear that the risks could be very significant.

I hope this has answered your questions. As I have stated, this is a brief response concerning some very complex issues. As always, both my staff and I are available to discuss these issues in greater detail.

Sincerely,

JOHN C. LAWN,
Administrator.

NATIONAL ASSOCIATION OF STATE CONTROLLED SUBSTANCES AUTHORITIES
Lexington, KY, September 4, 1986.

Hon. DANIEL E. LUNGREN,
2440 Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN LUNGREN: I am pleased to respond to a request for comment from your office and to have the opportunity to express concerns about possible amendments to federal controlled substance analog legislation relating to:

(1) exemption of DEA-registered practitioners in Schedules II-V to use (or conduct research with) Schedule I controlled substance analogs, including MDMA, without meeting any further research requirements under the Controlled Substances Act (CSA) or the Food, Drug and Cosmetic Act (FDCA), and

(2) movement of controlled substance analogs to Schedule II.

The following points are respectfully offered for you and your colleagues to consider:

(1) If, as proposed, a practitioner, licensed in a State and registered only for Schedules II-V under Federal Law, comes into possession of a substance that is controlled in Schedule I under that State law, the person could be exposed to criminal prosecution for unlawful possession. The likelihood that analogs would be placed in Schedule I by States is discussed in item 2, below. Exposure to State criminal prosecution would be an unintended consequence precipitated by the Federal government's exemption. This loophole in Federal law would have no parallel under State laws.

Some State laws enable practitioners to register as a researcher before using drugs in State Schedule I. But if the research subjects are humans, bonafide research protocols as well as animal studies would likely be required, not just an explanation of a hoped-for innovation in clinical practice as appears to be the case with current so-called medical uses of MDMA.

If this exemption proposal should somehow survive the legislative process and be signed into law, I would recommend that an affirmative responsibility be placed on the person or researcher to file with the Drug Enforcement Administration (DEA) and the State a letter from the Food and Drug Administration (FDA) certifying that the proposed use of the drug under this exemption is "permitted under the FDCA."

(2) If, as proposed, analogs are placed in Federal Schedule II, absent any evidence of approval under the FDCA, you should be aware that it is likely that States will consider controlling these substances in Schedule I. This would happen because most States' uniform controlled substances laws (USCA) exclusively reserve Schedule I for those substances with "no accepted medical use in treatment in the U.S." According to a survey of the State Scheduling Agencies I conducted in June, 1985 (enclosed), eighty-seven percent of the forty-three States responding stated unequivocally that they rely on a definition of "accepted medical use" which means "lawfully marketed under the FDCA," and that "FDA approval of an NDA establishes this acceptance." The uniform act does not contain any provision which would allow these scheduling tests to be bypassed.

The States, in following a uniform standard derived from the CSA, could be placed in the untenable position of prohibiting, without any discussion, those activities which the Federal government sought to permit. And again, a practitioner in possession of a federal Schedule II analog would be exposed to criminal prosecution for a Schedule I violation at the State level.

(3) If, as proposed, Congress and subsequently the DEA, were to place substances in Schedule II-V which are not accepted under the FDCA, the distinction between Schedule I and Schedule II-V disappears. Further, the "accepted medical use" test would be rendered meaningless, as there would be IND drugs in Schedule I which would be much closer to approval than analogs in Schedule II. The integrity of the CSA would disintegrate because the scheduling tests for a criminal statute would become vague or perhaps altogether abandoned.

It has always been my understanding that a principal purpose of the Congress in enacting the FDCA was to protect the public health by assuring that the drugs that reach patients are safe and effective. These proposals apparently seek to circumvent or create a loophole in that principal and, in my opinion, establish a dangerous precedent and should be rejected. That some clinicians want to avoid applying for an IND to use new drugs on patients is not a widely held standard of medical practice in the U.S., and I urge you to consult with groups representing organized medicine, such as the American Medical Association.

Public policy should not be dominated by such an exceptionally narrow view of what is accepted medical use of a drug, no matter how loudly or forcefully the case is stated. Mechanisms exist to conduct research with Schedule I drugs and should be used. If there are problems with the mechanism it can be revised, but it should not be rejected.

Some of the issues raised by these possible amendments are the subject of a DEA administrative law proceeding in the matter of MDMA scheduling, to which I am a party, representing the State of Wisconsin, Controlled Substances Board. These issues are also being discussed as the National Conference of Commissioners on Uniform State Laws drafting committee, to which I serve as an advisor, prepares the first complete revision of the UCSA since 1970. I believe that some of the issues may require clarification by the Congress, but not in the manner currently being discussed. I would be pleased to discuss these issues with you.

Thank you for the opportunity to comment. Please call on me if I can be of any assistance to you.

Very truly yours,

DAVID E. JORANSON,
President.

DEPARTMENT OF HEALTH AND HUMAN SERVICES,
Rockville, MD, September 9, 1986.

Hon. DANIEL E. LUNGREN,
House of Representatives,
Washington, DC.

DEAR MR. LUNGREN: I am pleased to respond on behalf of Commissioner Frank E. Young, to the questions raised in your letter of August 26, 1986. The response to your specific questions is enclosed. I would also like to provide some information from the perspective of the Food and Drug Administration (FDA) on the regulation of controlled substance analogs that have a potential for abuse.

The clinical investigation of controlled substance analogs does not differ from other classes of unapproved new drugs. A new drug is defined as a drug that is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs, as safe and effective for use under conditions prescribed, recommended, or suggested in the labeling that accompanies the drug. [21 U.S.C. 321(p)]. Courts have broadly interpreted this definition as calling for well-substantiated scientific evidence of the safety and effectiveness of a drug. Under this interpretation, most drugs are new drugs.

For the most part, controlled substance analogs are simply one subgroup of unapproved new drugs. Moreover, unlike many unapproved new drugs, controlled substance analogs produce alterations in mental state and have a potential for abuse.

We are unaware of any scientific basis to exempt these analogs from the established procedures designed to provide safeguards for the subjects of clinical research. These safeguards are embodied in the rules and regulations governing investigational new drugs (IND).

There is no scientific reason not to apply the new drug provisions of the Act to the investigation and use of controlled substance analogs. These requirements do not impose any inappropriate burdens on researchers. Moreover, placement of controlled substance analogs in schedule I of the Controlled Substances Act does not significantly affect research on the substance. Placement in schedule I does, however, ensure continued protection of the health and safety of research subjects and protection of the public from diversion of the substance.

In summary, the FDA's regulation of the development of new drugs applies to all drugs regardless of drug class. We are not aware of any valid reason for special exemptions or privileges for a select group of practitioners to use a particular class of unapproved substance analogs on patients without the safeguards already provided for in statute.

If we can be of any further assistance, please let us know.

Sincerely yours,

HUGH C. CANNON,
Associate Commissioner for Legislative Affairs.

RESPONSE TO QUESTIONS CONTAINED IN AUGUST 26, 1986 LETTER FROM THE HONORABLE DANIEL E. LUNGREN

1. What are the consequences of excluding unapproved new drugs with a potential for abuse and diversion, i.e. controlled substance analogs, from schedule I of the Controlled Substances Act (CSA)?

(a). What are the advantages and disadvantages to investigators?

(b). What are the advantages and disadvantages to society?

(c). What effect might this have on current scheduling of drugs and the CSA?

The placement of a substance in schedule I represents a finding by the Drug Enforcement Administration (DEA) that the substance: (1) has a high potential for diversion and abuse; (2) has no recognized medical use; and (3) has a lack of accepted safety for use of the substance under medical supervision. The use of a schedule I substance in humans is limited by the CSA to qualified investigators (researchers) who are registered with and specifically authorized by DEA to possess and use a specific substance. Registrants for other schedules do not need DEA's special permission to possess drugs in those schedules. Under this scheme, practitioners normally register possession of drugs in schedules II through V while researchers register for possession of specific substances in schedule I.

As noted above, a decision to grant a registration to an investigator/researcher to use a schedule I substance in humans is made by DEA. Registration is obtained by application which must include detailed information described in 21 *CFR* 1301.33 (copy enclosed) or a certification from the investigator that he has filed for an Investigational new Drug Exemption (IND) with FDA. Even if an IND has been filed, DEA requests FDA to determine the qualifications and competency of each health investigator requesting registration for a schedule I substance, as well as the merits of the research protocol, even if no IND has been filed. This information is given by FDA to DEA routinely. DEA's registration process and FDA's IND process are independent.

Your proposed placement of a controlled substance analog in a schedule of the CSA other than schedule I would nullify the requirement that investigators must apply for and obtain registration from the DEA to possess a controlled substance analog. This is a serious consequence because it would permit practitioners to have uncontrolled access for unrestricted use in patients of highly abusable substances for which no medical benefits has ever been shown. Another serious consequence could be the disruption to the established system for tracking the possession of controlled substance analogs and the consequent impairment of DEA's control over the distribution of these substances.

(1a) The advantages of not requiring investigators to register for possession of substances with specific abuse potential e.g., schedule I substances, which are currently restricted to researchers only, would:

Remove paperwork requirements necessary to register for possession of each substance with abuse potential;

Make such substances available to all practitioners, rather than limiting them to researchers; and

Reduce the accountability for use and/or distribution of such substances by practitioners.

Moreover, all practitioners would become researchers without any evaluation of their competency as investigators or merit of the research.

In addition to the fundamental regulatory problems discussed above, the proposed revision alluded to in your letter would be accompanied by the following disadvantages to investigators:

Increased civil liability arising from the use of abusable, potentially unsafe substances; and

Probable lack of access to Institutional Review Board evaluation or independent peer review, thereby being denied assistance and evaluation on whether the research is an adequate and proper study.

(1b) We are unaware of any advantages that the proposed revision would provide to society. The disadvantages to society would be:

The entire population would be exposed to the use of untested and unapproved drugs which are of unknown toxicity, potency, purity, and pharmacological effects;

There would be no requirement for patient/subject consent;

That would be a potential for the unrestricted availability and distribution of substances which could be abused; and

There would be an increase in the potential for drug diversion because of the disruption to the current tracking system.

(1c) The process of scheduling controlled substance analogs would be disrupted if these substances were automatically excluded from schedule I. The FDA, with the advice of the National Institute on Drug Abuse, makes recommendations about the scheduling of these substances as directed by the requirements of the CSA. The FDA's findings are based upon a set of analyses that consider the substance's relative potential for abuse and diversion, the medical and societal risks arising from such abuse and diversion, and whether the drug has a bona fide medical use. If a scientific and medical determination is made that a substance has a high potential for abuse and diversion and the substance in question is not approved by FDA, the Agency recommends that the substance be placed in schedule I. The automatic placement of an unapproved new drug (i.e., a drug without a recognized medical use) with a high potential for abuse and diversion in a schedule other than schedule I would, for nonscientific reasons, avoid this type of medical review and would be in conflict with the current regulatory scheme of the Controlled Substances Act [see 21 U.S.C. 812(b)] (copy attached).

2. Has an unapproved new drug with a high potential for abuse ever been placed in schedule II?

No. An unapproved substance has never been recommended by FDA for any schedule other than schedule I.

3. Is there any basis to grant individuals conducting research with psychedelic drugs special exemptions from the requirements of the Federal Food, Drug, and Cosmetic Act, supporting regulations, and enabling policies?

There is no reason to grant special exemptions from the requirements of the Food, Drug, and Cosmetic Act to investigators working with any class of controlled substance analogs, psychedelic drugs in particular. In the Agency's view, controlled substance analogs, in particular those that cause psychedelic effects, require enhanced rather than reduced regulatory attention. Furthermore, we are unaware of any consensus among psychopharmacologists, psychiatrists, neurologists or academic physicians that special efforts are required to promote the conduct of research with "psychedelic" drugs.

4. Specifically, is psychedelic drug research so important and useful, and encumbered under current laws and regulations, that it should be allowed to proceed outside the established rules for all other drug research?

It is difficult to imagine a situation in which psychedelic substances should be considered so important or useful that our usual protections should be reduced. In fact, the Agency believes that any such exemptions would be inappropriate and unjustified. Indeed, if there is a need to single out psychedelic drugs for special treatment, it is to impose additional controls, not to remove them. In addition to the unknown risks associated with the experimental use of any new drug, the experimental use of new psychedelic substances is, by definition, associated with the production of an altered mental state. Whether an altered mental state induced by a psychedelic drug will be benefical, temporarily harmful, or permanently injurious cannot be reliably predicted. With respect to controlled substance analogs in general, we know of no reason to believe that subjects receiving them in investigations are at a lesser risk than subjects receiving other unapproved new drugs. Patients receiving unapproved analogs would be subject to as much if not greater risk if there is reduced regulatory controls.

From the Agency's perspective, and that of responsible investigators, the administration of any new substance to humans before it has been adequately characterized and tested for toxicity in animal studies is, in most cases, reckless and unethical. This is true even when the substances seem promising and the diseases are serious. Admittedly, if a patient were near death and a potentially life-saving experimental substance were available, a case might be made for using the new agent before animal testing was completed. In these cases, we are prepared to act quickly to allow treatment of particular individuals on an emergency basis. But the overall development of such a substance requires attention to needed animal data, good study design, careful assessment of effectiveness and safety, etc. Most studies under IND's proceed unencumbered; required submissions include chemistry and toxicologic data, protocols for clinical studies, periodic progress reports and reports of important adverse effects. Any responsible investigator would develop or obtain most of this data whether or not an IND existed.

5. Are subjects participating in studies using unapproved new drugs, i.e., controlled substance analogs, at any less risk than those involved in the study of any class of unapproved new drug? If so, why?

There is no basis for assuming that a new drug, by virtue of its being a controlled substance analog, will be any less toxic than drugs used in the treatment of, for example, heart disease or depression. The intended uses of a drug, or its collateral properties, do not predict its potential risk. Accordingly, the agency relies heavily upon the results of animal testing to estimate the potential risks associated with the proposed human testing of a new drug.

The unpredictability of drug associated risk is well known. Consider the recent example wherein a street chemist, attempting to synthesize an analog of meperidine, inadvertently made a product contaminated by N-methyl tetrahydropyridine (MPTP). The MPTP contaminant caused irreversible neurological injury among the addicts who used this particular "designer" drug. Examples of this sort may not be uncommon. Indeed, preliminary findings in animal studies suggest that the infamous "designer" drug MDMA, also known as "Ecstasy," may cause identifiable injury to brain tissue. These examples document why the Agency feels so strongly against granting anyone working with controlled substance analogs a special exemption from existing laws and regulations.

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21 CFR 1301.33

§ 1301.33 Research protocols

(a) A protocol to conduct research with controlled substances listed in Schedule I shall be in the following form and contain the following information where applicable:

(1) Investigator:

(i) Name, address, and DEA registration number; if any.

(ii) Institutional affiliation.

(iii) Qualifications, including a curriculum vitae and an appropriate bibliography (list of publications).

(2) Research project:

(i) Title of project.

(ii) Statement of the purpose.

(iii) Name of the controlled substances or substances involved and the amount of each needed.

(iv) Description of the research to be conducted, including the number and species of research subjects, the dosage to be administered, the route and method of administration, and the duration of the project.

(v) Location where the research will be conducted.

(vi) Statement of the security provisions for storing the controlled substances (in accordance with § 1301.75) and for dispensing the controlled substances in order to prevent diversion.

(vii) If the investigator desires to manufacture or import any controlled substance listed in paragraph (a)(2)(iii) of this section, a statement of the quantity to be manufactured or imported and the sources of the chemicals to be used or the substance to be imported.

(3) Authority:

(i) Institutional approval.

(ii) Approval of a Human Research Committee for human studies.

(iii) Indication of an approved active Notice of Claimed Investigational Exemption for a New Drug (number).

(iv) Indication of an approved funded grant (number), if any.

(b) In the case of a clinical investigation with controlled substances listed in Schedule I, the applicant shall submit three copies of a Notice of Claimed Investigational Exemption for a New Drug (IND) together with a statement of the security provisions (as prescribed in paragraph (a)(2)(v) of this section for a research protocol) to, and have such submission approved by, the Food and Drug Administration as required in 21 U.S.C. 355(i) and § 130.3 of this title. Submission of this Notice and statement to the Food and Drug Administration shall be in lieu of a research protocol to the Administration as required in paragraph (a) of this section. The applicant, when applying for registration with the Administration, shall indicate that such notice has been submitted to the Food and Drug Administration by submitting to the Administration with his DEA (or BND) Form 225 three copies of the following certificate:

I hereby certify that on ——— (Date), pursuant to 21 U.S.C. 355(i) and 21 CFR 130.3, I, ——————————— (Name and Address of IND Sponsor) submitted a Notice of Claimed Investigational Exemption for a New Drug (IND) to the Food and Drug Administration for:

——————————— (Name of Investigational Drug).

——————— (Date)

——————————— (Signature of Applicant).

(c) In the event that the registrant desires to increase the quantity of a controlled substance used for an approved research project, he shall submit a request to the Registration Branch, Drug Enforcement Administration, Post Office Box 28083, Central Station, Washington, D.C. 20005, by registered mail, return receipt requested. The request shall contain the following information: DEA registration number; name of the controlled substance or substances and the quantity of each authorized in the approved protocol; and the additional quantity of each desired. Upon return of the receipt, the registrant shall be authorized to purchase the additional quantity of the controlled substance or substances specified in the request. The Administration shall review the letter and forward it to the Food and Drug Administration together with Administration comments. The Food and Drug Administration shall approve or deny the request as an amendment to the protocol and so notify the registrant. Approval of the letter by the Food and Drug Administration shall authorize the registrant to use the additional quantity of the controlled substance in the research project.

(d) In the event the registrant desires to conduct research beyond the variations provided in the registrant's approved protocol (excluding any increase in the quantity of the controlled substance requested for his research project is outlined in paragraph (c) of this section), he shall submit three copies of a supplemental protocol in accordance with paragraph (a) of this section describing the new research and omitting information in the supplemental protocol which has been stated in the original protocol. Supplemental protocols shall be processed and approved or denied in the same manner as original research protocols.

CONTROLLED SUBSTANCES ACT (21 USC 812)

SCHEDULES OF CONTROLLED SUBSTANCES

SEC. 202. [812] (a) There are established five schedules of controlled substances, to be known as schedules I, II, III, IV, and V. Such schedules shall initally consist of the substances listed in this section. The schedules established by this section shall be updated and republished on a semiannual basis during the two-year period beginning one year after the date of enactment of this title and shall be updated and republished on an annual basis thereafter.

(b) Except where control is required by United States obligations under an international treaty, convention, or protocol, in effect on the effective date of this part, and except in the case of an immediate precursor, a drug or other substance may not be placed in any schedule unless the findings required for such schedule are made with respect to such drug or other substance. The findings required for each of the schedules are as follows:

(1) SCHEDULE I.—

(A) The drug or other substance has a high potential for abuse.

(B) The drug or other substance has no currently accepted medical use in treatment in the United States.

(C) There is a lack of accepted safety for use of the drug or other substance under medical supervision.

(2) SCHEDULE II.—

(A) The drug or other substance has a high potential for abuse.

(B) The drug or other substance has a currently accepted medical use in treatment in the United States or a currently accepted medical use with severe restrictions.

(C) Abuse of the drug or other substances may lead to severe psychological or phyical dependence.

(3) SCHEDULE III.—

(A) The drug or other substance has a potential for abuse less than the drugs or other substances in schedules I and II.

(B) The drug or other substance has a currently accepted medical use in treatment in the United States.

(C) Abuse of the drug or other substance may lead to moderate or low physical dependence or high psychological dependence.

(4) SCHEDULE IV.—

(A) The drug or other substance has a low potential for abuse relative to the drugs or other substances in schedule III.

(B) The drug or other substance has a currently accepted medical use in treatment in the United States.

(C) Abuse of the drug or other substance may lead to limited physical dependence or psychological dependence relative to the drugs or other substances in schedule III.

(5) SCHEDULE V.—

(A) The drug or other substance has a low potential for abuse relative to the drugs or other substances in schedule IV.

(B) The drug or other substance has a currently accepted medical use in treatment in the United States.

(C) Abuse of the drug or other substance may lead to limited physical dependence or psychological dependence relative to the drugs or other substances in schedule IV.

Mr. WALKER. Mr. Chairman, I would just like to offer a word of explanation concerning a provision which was included in the en bloc amendment just adopted by the House. Included in the en bloc amendment is a provision which I have offered which calls on the entertainment industry to refrain from producing movies, music videos, and other entertainment products, which encourage or glamorize drug use, and it also calls on the entertainment industry to produce products which encourage our young people to say "no" to drugs. This language is identical to my legislation, House Joint Resolution 712, which has over one-half of the Members of this House as original cosponsors. It is my hope that the entertainment industry will take careful note of this action, and join in the war on drugs which this country must fight. The entertainment industry must realize that their movies and videos do have an impact on the values and perceptions of the people who watch

them, especially on our young people, and that it is imperative that drug use be portrayed realistically, as the destructive, addictive thing that it is, instead of glamorizing the use of dangerous drugs.

On a final note, I would like to commend the House for adopting this provision, and give a special thanks to the 200-plus Members of this House who agreed to become original cosponsors of the initial legislation. Their support for this bill was vital to its adoption in the omnibus drug package.

Mr. COUGHLIN. Mr. Chairman, today the House is considering an omnibus antidrug bill that is a sincere effort to fight the tremendous drug abuse and narcotics trafficking crisis that is plaguing our Nation. I have served as a member of the House Anti-Drug Task Force and seen the commitment and work that members and staffs have devoted to shaping this legislative effort. I believe the Nation is becoming increasingly aware of the seriousness of the drug-abuse problem and that the issue is touching every portion of our population. The attention of the media, national figures, and political leaders has elevated this issue to new heights, and it is certainly about time.

As a member of the Select Committee on Narcotics Abuse for the past 7 years, I have long been concerned with the dangers that drug abuse and narcotics trafficking pose to individuals and to society as a whole. In August 1985, I and several other members of the select committee, visited South American countries where we reviewed the status of illicit narcotics production and trafficking. Having visited Bolivia, Peru, and Colombia and discussed the issue with Presidents Paz, Garcia, and Betancur, I am convinced that the laboratories are the vulnerable choke points of the cocaine trade. I applauded the decision of the administration earlier this summer to assist the Government of Bolivia in eliminating cocaine laboratories. Crop substitution efforts in these South American countries are difficult and expensive; coca is grown by poor campesinos in remote areas, and it is difficult to outbid narcotics traffickers.

During that South American experience I also got a firsthand and very realistic view of just how difficult a task we face in narcotics interdiction. Our military and intelligence efforts prove costly and are not nearly effective enough to make a dent in the surge of drugs pouring into this country every day. The interdiction of cocaine shipments to the United States is also failing because of the drug's small bulk and high concentration.

I am convinced that we devote a disproportionate share of our resources to the supply side of the narcotics trade—to foreign crop eradication, interdiction at or beyond our borders, and law enforcement efforts to apprehend drug traffickers in the United States. I do not denigrate these efforts, but too such illegal money is involved to be able to predict success.

In my 18 years of experience, too little of our resources have been devoted to the demand side of the equation—toward drug-abuse education. We must increase public awareness and provide drug-abuse education particularly to our impressionable youth in their formative years. Our elementary and secondary school students must learn that drugs are harmful. We must dispell the myth that getting high is just a harmless feeling of euphoria. We have increasing evidence that cocaine and its derivative crack are highly addictive and can kill.

Last month in the Labor, HHS and Education appropriations bill, I offered a successful amendment to transfer money to the Secretary of Education's discretionary fund. I established legislative history surrounding this money asking that it be used by the Department of Education for the production, publicity, and distribution of a series of audiovisual aids. These films should be geared toward elementary and secondary school students and distributed to every school in the country to enhance a drug abuse curriculum.

Today I have asked to have included under title VIII, the Education and Labor portion of the omnibus drug bill, this very same concept. Under section 831, "National Programs of Drug Abuse Education and Prevention," I have asked that the Secretary and Department of Education be required to develop, publicize the availability of, and widely disseminate audiovisual and other curricula materials for drug abuse education and prevention programs in elementary and secondary schools throughout the Nation.

I believe that the audiovisual medium is a very effective and influential way to reach today's youth. Utilizing information and situations that are relevant to their lives, that is factual and realistic, is essential if we are to provide quality educational materials for students to learn from, and teachers to utilize effectively.

It is imperative that the Department of Education take responsibility and become involved in this capacity to help lessen the demand for illegal drugs in this country. We have got to make a national commitment to drug-abuse education and there isn't a more appropriate and necessary place to begin this national initiative.

For awhile it appeared as though the Department was not going to become involved in the drug issue except to take a zero-tolerance stance, kicking all drug users and dealers out of the schools and into the streets. I agree that we should not tolerate drugs and that we should enforce our convictions especially in the schools. Education can, however, be a more powerful weapon against drug abuse.

It encourages me to see that the Secretary of Education and the Department have indicated that they will be participating and coordinating drug-abuse education and prevention programs. I believe that a series of drug-abuse prevention films put out by the Department of Education would be a valuable contribution to any anti-drug-abuse curriculum.

By learning and becoming more aware, our children will be given the power of choice—the choice to say no to drugs, and to know that they are doing the right thing.

Mr. RICHARDSON. Mr. Chairman, first, I would like to state my strong support of this legislation. The evidence is clear—we have a very serious problem with drug abuse in this country. Something must be done to address its causes and to promote prevention and rehabilitation. I believe that this legislation takes a significant first step toward solving the drug crisis in this country. I would like to commend the majority leader for his long and tireless work on this important legislation.

It is my understanding that the Rules Committee has allowed an amendment of mine to be offered en bloc. I thank the Rules Committee for this opportunity. My amendment is simple. It ties U.S. foreign assistance to the drug eradication efforts in foreign countries. This is accomplished by calling upon the President to submit to the Congress a full report of the progress achieved by each country proposed for assistance in that country's illicit drug eradication programs. This report must be submitted prior to consideration of request for foreign assistance programs for each fiscal year.

An integral part of developing a comprehensive program to head off the growing drug crisis in this country is addressing the problem at the source. We must look at where the drugs are being grown, produced, and trafficked. We must clearly know which governments are being cooperative in addressing this problem and which governments are not. This is the kind of long-term approach we need. We have an obligation to ensure that the U.S. taxpayers dollars are not used to support the growth, manufacture, production, and trade of illicit drugs which have such an adverse consequence here. I urge my colleagues to accept my amendment and to support this legislation, which goes a long way toward stopping a very serious crisis in this country.

Mr. LEVINE of California. Mr. Chairman, I am offering an amendment in the package here today which would ban the mail order sales of drug paraphernalia. Conviction of selling

drug paraphernalia would result in imprisonment of up to 3 years and a fine of not more than $100,000. The amendment also provides for the seizure and forfeiture of drug paraphernalia being used for sale in interstate commerce. If passed, this legislation will end the sale of drug paraphernalia through the mails.

Drug abuse is one of the most serious problems facing our Nation. It is a drain on our economy. It contributes to violent crime. It ruins the lives of our young people. Although drug abuse cuts across ethnic, class, and age groups, I am particularly concerned about the high rates of abuse among young people. According to estimates by the National Institute on Drug Abuse [NIDA] the drug abuse rates among America's youth are among the highest found in any developed country in the world. Nearly two-thirds of all high school seniors in 1984 had tried an illicit drug before graduation; 40 percent had tried a drug other than marijuana. And at least 1 in every 20 high school seniors is smoking marijuana on a daily basis. Most shocking however, is the early age at which children are experimenting with drugs. According to NIDA, 32 percent of high school students graduating in 1984 had experimented with marijuana before entering high school.

In fact, for most illegal drugs, including inhalants, barbiturates, nitrites, heroin, PCP, amphetamines, methaqualone, and tranquilizers, between 40 and 50 percent of the eventual users initiated use prior to high school.

Among the total population, it is estimated that more than 20 million Americans use marijuana on a regular basis and approximately 8 to 20 million are regular cocaine users.

The sale of illicit drugs grossed an estimated $110 billion in 1984. The cost of prevention, treatment, and law enforcement efforts related to drug abuse approached $100 billion.

The drug paraphernalia industry both glamorizes the use of illegal drugs and contributes to the problem of drug abuse. It has been estimated that this industry produces more than $3 billion annually.

The open sale of drug paraphernalia misleads many young Americans to believe that drugs are acceptable to use. Advertisements in catalogs touting the paraphernalia ignore the serious consequences of drug abuse—health risks, addiction, progression to stronger drugs—and instead sell the idea that drug use is a normal and acceptable activity. A further danger, again especially for young people, is the idea that if drug paraphernalia can be openly sold through the mails, then society is not serious about enforcing drug laws, that the health risks are not really so great, and that the legal consequences are not serious.

Our children are victims of drug abuse while a few manufacturers profit from open trade in drug paraphernalia.

Dr. Carlton Turner, Director of the White House Office on Drug Abuse Policy, stated at the annual Conference of the National Federation of Parents for a Drug-Free Youth that "it is now time for a National Paraphernalia Act to be passed." Banning the sale of drug paraphernalia through the mail will help in the effort to end drug abuse by reemphasizing that society is completely opposed to any glamorization or acceptance of dangerous drug use.

I first became concerned with the issue of drug paraphernalia sales as a member of the California State Legislature. There I sponsored the first drug paraphernalia bill to pass the California assembly and be signed into law. To date a total of 38 States have passed laws, similar to this amendment, banning the sale of drug paraphernalia. Although State laws have been successful in closing down local headshops, paraphernalia dealers are circumventing these laws and continuing their illicit sales through the mails. My amendment seeks to shut this final loophole.

This amendment is identical to legislation I introduced last year with the distinguished chairman and ranking minority member of the Select Committee on Narcotics Abuse and Control. This legislation received wise bipartisan support and has been cosponsored by 70 Members of this body. Hearings on this legislation were conducted by the Subcommittee on Crime.

Mr. Chairman, representatives from the tobacco industry have expressed some concern that this amendment might be misconstrued by some to ban the mail order sales of tobacco pipes. This amendment clearly is not intended to include traditional tobacco pipes in the ban on drug paraphernalia. I would like to highlight three sections of the amendment which make clear the intent of this language. First, section (e), the evidence section of this amendment states that "in determining whether an item constitutes drug paraphernalia * * * the following may be considered" and the amendment lists eight items. Item 5 states that among the factors to be considered is "whether the owner, or anyone in control of the item, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products." In other words, distributors of tobacco pipes are not to be included in this ban.

Second, section (d), the definition section of this amendment states that "The term 'drug paraphernalia' means all equipment, products or materials of any kind which are used, intended for use, or designed for use in manufacturing, compounding, converting, concealing, producing, processing, preparing, injecting, ingesting, inhaling, or other introducing into the human body a controlled substance in violation of the Controlled Substances Act." Since tobacco is not a substance on the Controlled Substances Act, tobacco pipes clearly are not included in the definition of drug paraphernalia.

Third, also under section (d), this amendment states that the definition of drug paraphernalia "includes, but is not limited to, items used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, hashish oil, PCP, or amphetamines into the human body." Again, tobacco is not included on this list and although the list is not limited the intent nonetheless is clear, drug paraphernalia consists only of items used with illegal drugs.

In addition to highlighting the intent of these three sections, I would like to state explicitly for the record that the intent of this amendment is not to interfere in anyway with the sale of tobacco pipes. Let me also say I assured my distinguished colleague from Ohio, Congressman REGULA, who has called me regarding this issue, that the intent of this amendment is not to penalize pipe tobacco manufacturers or sellers, but rather this language seeks only to halt the sale of drug paraphernalia.

The legal and easy availability through the mails of drug paraphernalia intended and designed for use with controlled substances is antithetical and detrimental to the goal of ending the abuse of drugs. In the midst of the war against illicit drug use, we are allowing these mail order profiteers to glamorize the illegal use of drugs.

I urge my colleagues to support these amendments.

The CHAIRMAN. All time has expired.

The question is on the amendments offered by the gentleman from Texas [Mr. WRIGHT].

The amendments were agreed to.

The CHAIRMAN. Under the rule, amendment No. 15 will be in order.

AMENDMENT OFFERED BY MR. SMITH OF FLORIDA

Mr. SMITH of Florida. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SMITH of Florida: Page 23, insert after line 19 the following:

(d) REWARD CONCERNING JORGE LUIS OCHOA VASQUEZ.—It is the sense of the Congress that the authority of section 36(b) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708(b)), as amended by section 502(a) of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (Public Law 99-399; enacted August 27, 1986), should be used expeditiously to establish a reward of up to $500,000 for informa-

tion leading to the arrest or conviction of Jorge Luis Ochoa Vasquez for narcotics-related offenses.

Mr. SMITH of Florida [during the reading]. Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

□ 1120

Mr. GILMAN. Mr. Chairman, I request equal time.

The CHAIRMAN. Is the gentleman opposed to the amendment?

Mr. GILMAN. Mr. Chairman, I am in support of the amendment.

The CHAIRMAN. The gentleman will be recognized for 5 mintues in opposition to the amendment.

Under the rule the gentleman from Florida [Mr. SMITH] will be recognized for 5 minutes and the gentleman from New York [Mr. GILMAN] will be recognized in opposition for 5 minutes.

The Chair now recognizes the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. Mr. Chairman, I believe that this amendment is not controversial. It deals with a matter that occurred after the Foreign Affairs Committee's markup of the antidrug bill. This amendment must be offered now if the House is to address these troubling events.

This amendment to section 126 of the bill deals with narcoterrorism. I propose a new section (d) which would recommend that the administration approve a reward of $500,000 for information leading to the arrest or conviction of the notorious drug trafficker Jorge Ochoa.

Since a number of my colleagues have asked me who Jorge Ochoa is, I'd like to provide a little background. In 1984, Mr. Jorge Luis Ochoa Vasquez was indicted in Miami for smuggling 1,500 kilograms of cocaine into the United States through Nicaragua. The indictments resulted from testimony—and pictures—provided by Barry Seal, a pilot and drug smuggler working for the DEA. Mr. Seal had indicated that Ochoa personally directed Seal to a Managua airport where Frederico Vaughan, an aide to Interior Minister Thomas Borge, and other Sandinistas helped load the cocaine into the plane. Pictures of this operation have been shown on national television. You may recall that Mr. Seal was murdered in Louisiana earlier this year, and Mr. Ochoa is suspected of having a hand in the murder.

In 1984, Ochoa was arrested in Spain. The United States and Colombia both sought extradition, but Ochoa was extradited to Colombia on a bill importing charge. In August 1986, a Colombian judge released Ochoa before the latter could be tried on narcotics trafficking charges. Ochoa has since dropped out of sight. According to press reports, the judge was ousted and is under investigation.

I sponsored the provision of the antiterrorism law (Public Law 99-239) that authorizes such rewards, and I believe that the administration should use that authority to try to catch one of the "top 10" traffickers in the Western Hemisphere.

This amendment does not add to the bill. I hope that the committee will support it.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Florida. I am happy to yield to the gentleman from Florida [Mr. FASCELL], the chairman of the Committee on Foreign Affairs.

Mr. FASCELL. I thank the gentleman for yielding.

Mr. Chairman, on our side for the committee, we think it is a very good amendment. I commend the gentleman for his leadership. We accept the amendment.

Mr. ENGLISH. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Florida. I yield briefly to the gentleman from Oklahoma.

Mr. ENGLISH. I thank the gentlemen for yielding.

Mr. Chairman, I want to say very quickly I comment the gentleman for his amendment. It is an outstanding amendment.

I also want to commend the gentleman for his fight in the war on drugs.

Mr. SMITH of Florida. I thank the gentleman for his comments.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from Florida has 2 minutes remaining.

The gentleman from New York [Mr. GILMAN] is recognized for 5 minutes.

Mr. GILMAN. Mr. Chairman, I regret that due to time constraints that we have to utilize this procedure in this manner. I am not opposed to the measure, Mr. Chairman, and I rise in support of the measure, the amendment offered by the gentleman from Florida [Mr. SMITH].

Mr. Chairman, Colombia has been shaken in recent years by the extraordinarily bold, ruthless actions of its narcotics traffickers. They assassinated the Colombian Minister of Justice and then, adding insult to injury, killed the judge who was investigating the murder. The perpetrators of that murder went a step further, offering to pay off the nation's multibillion-dollar foreign debt if they would be granted amnesty.

As noted by the gentleman from Florida [Mr. SMITH] a key narcotics kingpin Jorge Ochoa, was recently—outrageously—released by a Colombia judge. The Smith amendment expresses the sense of Congress that the administration should place a price of $500,000 on Ochoa's head, using the authorities provided in Public Law 99-239 to establish rewards for the capture of important narcotics traffickers.

The gentleman's efforts in this regard are highly appreciated on this side of the aisle, as are all his efforts as chairman of the Foreign Affairs Committee's Task Force on International Narcotics Matters, as an active member of the Select Committee on Narcotics Abuse and Control, and as an active member of the Committee on the Judiciary.

Accordingly, I urge the adoption of the gentleman's amendment.

Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. MICHEL], our minority leader.

Mr. MICHEL. I thank the gentleman for yielding.

Mr. Chairman, I certainly do not intend to oppose the amendment, but I only take this opportunity, without asking unanimous consent for the opportunity to proceed under another order, to compliment the majority leader for the manner in which we have resolved the last group of amendments en bloc. We both recognize that in our speed to put together as expeditiously as we possibly could a package here that there might be an occasion, as just happened, where with a little bit more care and time we could have avoided the conflict. I appreciate the fact that notwithstanding the misunderstanding we were able to also avoid scuttling the balance of those amendments in the package that were good and deserving of our support. I appreciate the conciliatory attitude on the part of those, particularly Mr. LUNGREN, who feel so strongly about this issue. It was worthwhile to have the legislative history evolve here as it did on the floor of the House, so that it can be considered at some later date when surely the other body will have to be taking up this piece of legislation before it ever becomes law.

Mr. GILMAN. I thank the minority leader for his remarks.

Mr. Chairman, I yield back the balance of my time.

Mr. SMITH of Florida. Mr. Chairman, I yield the balance of my time to the gentleman from New York [Mr. GARCIA].

The CHAIRMAN. The gentleman from New York [Mr. GARCIA] is recognized for 2 minutes.

Mr. GARCIA. I thank the gentleman for yielding me this time.

Mr. Chairman, I would like to engage the chairman of the Committee on Foreign Affairs, the gentleman from Florida [Mr. FASCELL] in a colloquy.

Mr. Chairman, I am interested in seeking clarification from you regarding the amount of assistance this bill provides for Latin America. How much of the international assistance provid-

ed for in this bill is expected to be allocated to Latin America?

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. GARCIA. I yield to the gentleman from Florida [Mr. FASCELL], the chairman of the committee.

Mr. FASCELL. Mr. Chairman, title I of the bill authorizes $48 million in new appropriations for foreign drug interdiction and eradication efforts, and increases the current authorization of international narcotics control from $57.5 million in fiscal year 1987 to $65.4 million. It also authorizes an additional $35 million for international narcotics control purposes if the President requests the appropriation of such funds, and details how such funds would be used. The only specific geographic earmark in the bill is for $10 million in already authorized foreign military assistance funds for the lease or loan of aircraft for narcotics eradication and interdiction efforts, of which half must be used in Latin America.

Mr. GARCIA. Is it the intent of this legislation that the bulk of these new assistance funds be directed toward drug interdiction and eradication efforts in Latin America?

Mr. FASCELL. That is indeed our intention. There is a very clear consensus in Congress and in the administration that our efforts as a nation must be directed at the interdiction and eradication of cocaine production in Latin America, which is the source of all illegal cocaine coming into this country.

Mr. GARCIA. Which Latin American countries do you believe are helping us the most with the cocaine problem, and should they deserve receiving the majority of our funds because of their cooperation?

Mr. FASCELL. Clearly, Ecuador is one of the Latin American countries that is cooperating the most with United States authorities to interdict and eradicate the coca problem. As a result, Ecuador should be one of the principal beneficiaries of our international drug assistance funds. I believe we must support them as long as they are willing to help us in this fight.

And I feel the same way about any other country.

The CHAIRMAN. All time has expired.

Mr. FASCELL. Mr. Chairman, will the gentleman from New York [Mr. GILMAN] yield time to this side so that we may complete our statement?

The CHAIRMAN. The gentleman has yielded back the time, and there is no more time remaining.

Mr. GILMAN. Mr. Chairman, may I reclaim my time?

Mr. MICHEL. Mr. Chairman, I ask unanimous consent that the gentleman from New York [Mr. GILMAN] be permitted to reclaim his time.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. The gentleman from New York [Mr. GILMAN] is recognized for 2 minutes.

Mr. GILMAN. Mr. Chairman, I am pleased to yield that 2 minutes to the gentleman from Florida [Mr. FASCELL], the chairman of the Committee on Foreign Affairs.

Mr. FASCELL. I thank the gentleman for yielding the time to me.

Mr. Chairman, likewise, the Government of Ecuador, under the leadership of President Febres Cordero, has demonstrated vigorous regional leadership in the struggle against drug trafficking and illicit narcotics. Ecuador has promoted regional cooperation and vigorous law enforcement against the illicit coca trade, and is willing to do more if we help them with additional assistance.

And I think that is the kind of principle of philosphy that we ought to have with all the Latin countries.

Mr. GARCIA. Mr. Chairman, if the gentleman will yield, I thank the gentleman for his comments.

Mr. Chairman, since taking office in August 1985, President Victor Paz Estenssoro of Bolivia has made very encouraging strides in addressing the illicit cocaine traffic in his country.

Through the end of July 1986, the Government of Bolivia has impounded 3,705 kilos of cocaine, which exceeds the amount impounded in all of 1985. This is a very impressive accomplishment, and one we should continue to promote and support.

As a result of the recent cocaine raids in Bolivia undertaken by the United States and Bolivian Governments, the average coca leaf price in that country has dropped from $700 per 100 lbs. (during the first half of 1985) to $20 today. Seven labs with a weekly production capability of 11,000 pounds of cocaine paste were found and destroyed. The DEA reports that these raids have virtually halted the production of cocaine in Bolivia. Fifteen drug traffickers, of which three are considered major dealers, were arrested and will be tried shortly.

The Government of Bolivia has made a public commitment to eradicate illegal cocaine production in Bolivia under a 3-year plan to be developed bilaterally between our two countries. The objectives of this plan include the destruction of all cocaine-refining laboratories in the country, the destruction of all past-producing laboratories, the reduction of coca leaf production by 140,000 tons by eliminating 55,000 coca-producing hectares and introducing substitute crops in these areas, and other related projects.

The recent United States-Bolivian raids represent an impressive first step by Bolivia to eliminate the cocaine problem, and clear evidence of President Paz Estenssoro's serious commitment to this goal. For it represents a tremendous challenge to Bolivia to achieve, combining economic, social, political, and logistical difficulties of the highest order. Bolivia is the poorest country in South America, and simply does not have all of the financial and technical means to do the job alone. The United States must recognize Bolivia's bold efforts toward drug eradication and support their actions with sufficient economic and political assistance to achieve their goal.

The CHAIRMAN. All time has expired on this amendment.

The question is on the amendment offered by the gentleman from Florida [Mr. SMITH].

The amendment was agreed to.

The CHAIRMAN. Pursuant to the order of the House of September 10, 1986, amendment No. 22 by the gentleman from Florida [Mr. SMITH] is now in order.

AMENDMENT OFFERED BY MR. SMITH OF FLORIDA

Mr. SMITH of Florida. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SMITH of Florida: Page 34, line 7 strike out "MURDER OF DEA AGENT CAMARENA" and insert in lieu thereof "TORTURE AND MURDER OF DEA AGENTS".

Page 34, line 17, strike out "and".

Redesignate paragraph (2) as paragraph (3).

Page 34, insert after line 17 the following:

(2) has fully investigated the 1986 detention and torture of Drug Enforcement Administration agent Victor Cortez, Junior, and

Page 34, line 19, after "murders" insert "and those responsible for that detention and torture".

Mr. SMITH of Florida (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. Under the rule, the gentleman from Florida [Mr. SMITH] will be recognized for 5 minutes and a Member opposed thereto will be recognized for 5 minutes.

Mr. GILMAN. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from New York [Mr. GILMAN] will be recognized for 5 minutes after the gentleman from Florida [Mr. SMITH] is recognized.

The Chair recognizes the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. I thank the Chair.

Mr. Chairman, I want to take this opportunity to thank the gentleman from New York [Mr. GILMAN] as the cochair of the International Narcotics Task Force of the Committee on Foreign Affairs, who has been a great help in putting this bill together, and certainly all the amendments thereto.

Mr. Chairman, I believe that the amendment is not controversial. It deals with a matter that occurred after the Foreign Affairs Committee's

markup of the antidrug bill. This amendment must be offered now if the House is to address these troubling events.

The amendment to section 161(a) establishes a second condition on the $1 million that is being withheld from drug assistance to Mexico. The bill already withholds these funds until those responsible for the torture and murder of DEA agent Enrique Camarena Salazar are brought to justice. Unfortunately, we have been confronted by yet another atrocity against a DEA agent. While carrying out his duties in Guadalajara, Victor Corte was kidnaped by Mexican police officials and brutally tortured. It was a repeat of the Camarena case: The same city, same police unit, and so forth. Only this time our agent was fortunate enough to be released with his life.

I believe that justice must be served by the effective prosecution of those responsible for both the Cortez kidnaping and the Camarena murder. I, therefore, propose that we also condition the $1 million on action against the Cortez kidnapers.

This amendment does not add money to the bill. I hope that the committee will support it.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Florida. I yield to the gentleman from Florida [Mr. FASCELL], the chairman of the Committee on Foreign Affairs.

Mr. FASCELL. I thank the gentleman for yielding.

Mr. Chairman, we have examined this amendment, we think it is a good amendment, and we are prepared to accept it on this side.

Mr. SMITH of Florida. I thank the gentleman, and I reserve the balance of my time.

The CHAIRMAN. The Chair recognizes the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Chairman, I regret that the procedure requires that I had to rise in opposition to save time and I withdraw my opposition and rise in support of the amendment by the gentleman from Florida [Mr. SMITH].

Mr. Chairman, I cannot think of a more shocking incident in recent months in our fight against narcotics than the revelation last month that even as American and Mexican officials at the highest levels were meeting on the problem of United States-Mexican cooperation in the struggle against narcotics, an American DEA agent was being tortured by Mexican policemen in an effort to subvert our cooperative relationship with Mexico.

I fully agree with the gentleman that we need a lever to encourage the Mexican authorities to act effectively to bring the torturers of DEA agent Victor Cortez, Jr., to justice, and I support his amendment to condition the release of a symbolic $1 million of our antinarcotics assistance funds on a Presidential certification that Mexicans have commenced an effective prosecution of his torturers, as well as the effective prosecution of the murderers of DEA agent Enrique Camarena Salazar and his pilot, Alfredo Zavala Avelar.

Mr. Chairman, I commend the gentleman from Florida for his efforts to focus attention on the Cortez outrage. I joined with him in writing in the strongest terms to the Mexican authorities after the incident came to light. The minority accepts this amendment and I urge its adoption.

□ 1135

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. GILMAN. I yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I just want to say that I commend the gentleman from Florida. As a Congressman who had Enrique Camarena for a constituent and who appreciated his services for the DEA, I appreciate the gentleman and the ranking member on the select committee and their statements.

I think it is very important that we send a strong message to Mexico, because I understand that some of the same people in the Mexican authorities, some of the same authorities, were involved in torturing this latest drug enforcement agent. They were the same people who participated in the torture and at least apprehension of Enrique Camarena. I think the seriousness of this must be made clear to the Mexican Government.

Mr. Chairman, I appreciate the efforts of both gentlemen.

Mr. GILMAN. Mr. Chairman, I thank the gentleman for his statement.

I might note that it has now been reported that the legal proceedings in Guadalajara concerning the injuries against DEA agent Victor Cortez have been suspended because the judge does not have enough evidence to order the arrest of 11 Jalisco judicial policemen who are presumably the ones responsible for the assault. The Mexican authorities state that they now need a declaration by Cortez, but he has not made one, and that seems to be the latest status of this investigation by the Mexican authorities.

Mr. Chairman, I yield back the balance of my time.

Mr. SMITH of Florida. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. YATRON].

Mr. YATRON. Mr. Chairman, I rise in strong support of the Smith amendment and in support of title I, as reported out by the Foreign Affairs Committee.

Mr. Chairman, this very important amendment is designed to encourage the Mexican Government to bring to justice those persons responsible for the torture of Agent Victor Cortez and the murder of Agent Camarena.

Mr. Chairman, if the criminal justice systems in a country where our agents are working do not provide legal recourse, as we have seen with these two cases, there will be greater temptation on the part of those who don't respect the law, including drug traffickers, to commit heinous crimes against our people.

I strongly urge our colleagues to support this amendment.

Mr. Chairman, as a member of the Foreign Affairs Committee and as an original cosponsor of this title, I want to commend Chairman FASCELL, Congressman BROOMFIELD, and members of the committee for bringing this important piece of legislation to the floor.

I rise in strong support of H.R. 5352, to combat international narcotics trafficking.

As we all know, the widespread abuse of illegal drugs today has become a threat to our civilization as we know it. Drug abuse has permeated our country and the world. The International Narcotics Control Act of 1986 is a comprehensive plan to arrest the spread of this cancer.

Mr. Chairman, I strongly support the entire bill, and I would like to take a few moments to address three provisions of this measure which I find of particular importance.

First are the U.N. activities relating to narcotics control. This bill calls for greater international coordination and additional contributions by other countries to the U.N. Fund for Drug Abuse and Control, and directs the United States to give high priority to U.S. participation in the U.N. International Conference on Drug Abuse and Illicit Trafficking to be held in June 1987.

Section 503 calls for a study of the effectiveness of U.N. entities relating to narcotics prevention and control, including an evaluation of the potential savings and greater coordination that might be attained by consolidating various U.N. agencies and affiliations. The final section of this title urges a speedy completion of the proposed new narcotics control convention and calls for more effective implementation of existing conventions.

As a vice-chairman of the Mexican-American Interparliamentary Conference, I strongly support the provision regarding Mexico. Section 602 urges the President to begin negotiations for the creation of a United States-Mexico Intergovernmental Commission on Narcotics. This Commission proposal was originally approved by the 26th

Mexico-United States Interparliamentary Conference.

Finally, Mr. Chairman, I would like to address the modification of the Mansfield amendment, which would prohibit U.S. officials from being present during narcotics raids overseas. Section 203 waives this prohibition in the case of a foreign country where the Secretary of State determines that it would be in the U.S. national interest, and would not be detrimental to U.S. relations with that country. The Secretary is to keep the Congress apprised of those activities carried out by U.S. employees pursuant to those determinations. I strongly support this section, as the Mansfield amendment has had a limiting effect on the ability of U.S. officials to monitor antinarcotics actions abroad.

In conclusion, this legislation will strengthen and enhance our ability to confront the menace of global drug abuse, which threatens the welfare of virtually every nation. I strongly urge my colleagues to support this bill.

I also want to commend the Public Works and Transportation Committee and Chairman JIM HOWARD for including in their section of the bill increased penalties against pilots convicted of drug smuggling. Current laws revoke a pilot's license for only 1 year. This bill will increase pilot license revocation fivefold. I think this will be very helpful in providing sufficient punishment and deterrence to drug trafficking by pilots, I commend my colleague from New Jersey for his leadership on this issue.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Mr. GILMAN. Mr. Chairman, I ask unanimous consent that the gentleman from Pennsylvania [Mr. YATRON] be granted 1 additional minute.

The CHAIRMAN. Under the rule, the Chair would advise the gentleman from New York [Mr. GILMAN] that the rule confines the gentleman to 1 remaining minute.

Mr. SMITH of Florida. Mr. Chairman, may I inquire how much time I have remaining?

The CHAIRMAN. The gentleman from Florida [Mr. SMITH] has 1 minute remaining.

Mr. SMITH of Florida. Mr. Chairman, I yield 30 seconds to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I wish to rise to commend the gentleman from Pennsylvania [Mr. YATRON] for his long-standing and diligent efforts in battling narcotics. As cochairman of our Interparliamentary Conference between the United States and Mexico, the gentleman from Pennsylvania has done an outstanding job of bringing this issue to the floor of that interparliamentary body in seeking greater cooperation between the United States and Mexico in combating narcotics trafficking and abuse.

Mr. SMITH of Florida. Mr. Chairman, I yield myself the remainder of my time.

Mr. Chairman, let me close by saying first of all that I want to commend the gentleman from Pennsylvania, who not only as the vice chair of the Interparliamentary Conference, but also as the chairman of the Human Rights Subcommittee of the Committee on Foreign Affairs, has tried desperately to get those countries to battle narcotics trafficking as well.

I also want to take this opportunity to tell the Members in this Chamber that this is the kind of thing we must continue to do if we are going to fight the war on drugs worldwide. Whatever leverage we have must be used.

One hundred and three people have been arrested in the Camarena, but in a year and a half, not one has been brought to trial, no indictments, nothing. This is the way to proceed with foreign countries. Use the leverage we have. This is the kind of thing that is going to bring eventual success.

Mr. Chairman, I urge the committee to adopt the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. SMITH].

The amendment was agreed to.

The CHAIRMAN. Under the rule, amendment 16 is in order.

AMENDMENT OFFERED BY MR. BENNETT

Mr. BENNETT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BENNETT: Page 41, strike out line 23 through line 5 on page 42 and redesignate the succeeding subsections accordingly.

Page 43, insert after line 2 the following:

SEC. 207. ENHANCED AUTHORITY OF MEMBERS OF THE ARMED FORCES IN DRUG INTERDICTION ACTIVITIES.

(a) IN GENERAL.—Section 374 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(d)(1) Subject to paragraph (2), the Secretary of Defense, upon request from the head of a Federal agency with jurisdiction to enforce the Controlled Substances Act (21 U.S.C. 801 et seq.) or the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), may assign members of the armed forces under the Secretary's jurisdiction to assist drug enforcement officials of that agency in searches, seizures, and arrests outside the land area of the United States (or of any territory or possession of the United States) in connection with the enforcement of such Acts.

"(2) Members may be assigned to provide assistance under paragraph (1) only if—

"(A) the Attoney General certifies that there are insufficient law enforcement resources available to ensure the success of the operation;

"(B) the assistance is approved by the Secretary of Defense with the concurrence of the Secretary of State; and

"(C) Federal drug enforcement officials maintain control over the activities and direction of any drug enforcement operation.

"(3) Nothing in this subsection shall be construed to transfer the responsibility for the enforcement of the Controlled Substances Act (21 U.S.C. 801 et seq.) or the Controlled Substance Import and Export Act (21 U.S.C. 951 et seq.) to the Department of Defense."

(b) CONFORMING AMENDMENT.—Section 375 of such title is amended by inserting "(other than under section 374(d))" after "under this chapter".

Mr. BENNETT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. Under the rule, the gentleman from Florida [Mr. BENNETT] will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

Does any Member seek recognition in opposition?

Mr. DICKINSON. Mr. Chairman, I am opposed to the amendment.

The CHAIRMAN. The gentleman from Alabama [Mr. DICKINSON] will be recognized for 10 minutes.

The Chair recognizes the gentleman from Florida [Mr. BENNETT].

Mr. BENNETT. Mr. Chairman, I yield such time as he may consume to the gentleman from Virginia [Mr. DANIEL].

Mr. DANIEL. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, we have examined the amendment. We know how much effort the gentleman has put into this drug problem, and we commend the gentleman for the work he has done. This side has no objection to the gentleman's amendment.

Mr. BENNETT. Mr. Chairman, I yield myself 6 minutes.

Mr. Chairman, this amendment is an amendment which has already passed the House by a record vote of 364 to 51. By definition, all it does is enable the military to be used in very restricted circumstances to assist in the fight against drugs. It has solid bipartisan support.

The Conference of Mayors and Municipalities emergency narcotics discussion convened by the gentleman from New York [Mr. RANGEL] and Mayor Koch have approved. The President's Commission on Organized Crime has approved. It follows the tradition of our Nation.

There has been some talk about what the traditions of our Nation are in this matter. I point out that President Washington mobilized the mili-

tary to put down the Whisky Rebellion in 1794. President Eisenhower used the military in the Little Rock situation to enforce integration. Presidents Eisenhower, Kennedy, and Johnson in various civil rights matters did similarly. And in 1981, Congress passed the posse comitatus amendment to allow the military to provide limited assistance in the war against illegal drug traffic.

This is not a piece of legislation that is subject to the criticism that is going to create a "banana republic." Just exactly the opposite is true. The criticism would be well founded against a piece of legislation if it turned over to the military civilian functions, and that is what we think about when we think about a banana republic. This is just exactly the reverse. This is the civilian branch of the Government using the militry to enforce laws that have been enacted by Congress to protect the country in various aspects, and it will in no way infringe upon the responsibilites or protections of the American people in any aspect of their lives.

□ 1145

So it is a good piece of legislation. It is a moderate piece of legislation. I offer this amendment not only on my own behalf but on behalf of particularly the gentleman from Florida [Mr. SHAW] and others who have expressed an interest in it. Mr. SHAW and I have really drafted this legislation, therefore, it really is the Bennett-Shaw amendment. I want to pay tribute to him for his great leadership in this field.

Another amendment will be offered shortly and I might as well talk a little bit about that. It will add to the amendment. It will not subtract from the amendment. It is a little confused in the RECORD as it stands. If you read the RECORD, you might think that it was going to substitute for the amendment that I am offering. I have been advised by the Parliamentarian that what actually happened is the amendment by Mr. HUNTER of California will be addition to and not otherwise involve this matter. Therefore, as I understand it, we can vote for or against Mr. HUNTER's proposal and then we can vote for or against the proposal that I have with that added or with it out.

I would like to say a little bit on how I feel about Mr. HUNTER's proposal. Mr. HUNTER's proposal is a more dramatic proposal. It has "hot pursuit" in it. I personally favor that, but I would be very distressed if I felt that in some way that carried down and destroyed the very temperate amendment which I have offered here. So I am expressing my personal feelings about it, but I want to put it in the proper context.

Mr. ENGLISH. Mr. Chairman, will the gentleman yield?

Mr. BENNETT. I yield to the gentleman from Oklahoma.

Mr. ENGLISH. I thank the gentleman for yielding.

Mr. Chairman, I would simply like to commend the gentleman from Florida. His leadership in this area and particularly the use of the military is well known and well founded. I remember back in 1981 with the change of posse comitatus it made a lot of this possible. He is the father, so to speak, of involvement of the military.

I certainly want to commend the gentleman and commend him for this amendment. It is excellent.

Mr. BENNETT. I thank the gentleman. God bless you.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. BENNETT. I yield to the gentleman.

Mr. FASCELL. I thank the gentleman for yielding to me.

Mr. Chairman, I rise in support of the amendment offered by my distinguished colleague from Florida, Mr. BENNETT.

Despite the outstanding efforts of Federal, State, and local law enforcement agencies, south Florida continues to be a haven for drug traffickers. Since 1981, the military has been loaning equipment to Federal law enforcement agencies to fight drug smuggling. The amendment before us would enhance existing military cooperation and allow military personnel to assist in certain aspects of Federal antidrug efforts outside U.S. borders.

This House overwhelmingly approved the use of military personnel in the war against drugs last year when CHARLIE BENNETT offered this language to the fiscal year 1986 Department of Defense authorization bill. Let's escalate the war against drug trafficking and approve the Bennett amendment once again.

Mr. RANGEL. Mr. Chairman, will the gentleman yield?

Mr. BENNETT. I yield to the gentleman from New York.

Mr. RANGEL. I thank the gentleman for yielding.

Mr. Chairman, I stand in support of the Bennett amendment that has been worked on by a member of the Select Narcotics Committee, Mr. SHAW. I think we all are concerned when it appears as though the military is usurping civilian authority. Clearly, you have more protection in this bill where the Attorney General and the Secretary of Defense are clearly giving assistance to the civilian authority which needs more help now than ever before.

It is a good amendment, and I am certain that we are going to pass it into law.

Mr. BENNETT. Mr. Chairman, I yield 2½ minutes to the gentleman from New York [Mr. SCHEUER].

Mr. SCHEUER. I thank the gentleman for yielding me this time.

Mr. Chairman, I strongly support this amendment. Tightening up these borders with the assistance of the military may be our last, best hope. Eradication of crops abroad on the poppy fields of Laos, Burma, Thailand, Turkey, our Latin American neighbors, a whole horde of them, simply has not worked. The cash values of the crops are too high, the corruption and inefficiency in those governments is too great. We have spent hundreds of milions of dollars, and yet the drugs keep flowing over our borders and into the mouths or veins of our kids.

I myself sponsored an amendment with Senator Ed Muskie 15 years ago to start crop substitution efforts in Turkey. It has worked in Turkey, but in most of the rest of the developing world, it has not worked. We know from experience that once the drugs get off of those fields, are processed, and get into our country, our law enforcement process breaks down. It is corrupting. Our police are virtually overwhelmed with the burden of law enforcement. We cannot cope with the avalanche of drugs once it crosses our borders.

Stopping it at the border is our last, best chance, Mr. Chairman. The very sophisticated drug traffickers who are operating in this $100 billion-plus industry have the most exquisite advances in high-technology communications, transportation, intelligence and the like. They use "mules" at the border as intelligence. They encourage large numbers of people to cross our border illegally not only carrying drugs across but to send back to them information as to when the borders are less manned and when they are more manned and what would be the best time for them to send their deadly poison across the border.

We urgently need the latest advances in communications, in transportation, in surveillance, in intelligence, and finally in sheer, brute firepower that only the armed services can provide.

Mr. BENNETT. Mr. Chairman, I reserve the balance of my time.

Mr. DICKINSON. Mr. Chairman, I yield 3 minutes to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. I thank the gentleman for yielding me this time.

Mr. Chairman, under the rule I know that in order to claim the time on our side on this particular amendment that you would have to rise in opposition, but I am sure that the gentleman from Alabama is going to listen very carefully to this debate and that in a few minutes he is not only going to favor it, but he may even stand up and speak in favor of it because of the wisdom of what we are saying here on the floor of the House.

We have traveled down this road many times. Unfortunately, here in the House, despite the fact that we have overwhelmingly passed on this issue time and time again, the wisdom of the House just does not seem to be heard down at the other end of the corridor and the other body has not embraced this concept.

What we have now I think is a new spirit in this country, and it is a spirit of the people that is rising up and saying, "Enough is enough; we have gotten ourselves into a situation where this drug problem is affecting and threatening our very future and our very presence in the workplace and in the schools."

All across this country drugs are the biggest, biggest threat that we have ever had to our national security. What country, what country would go after the greatest threat to its national security without in any way involving in a significant manner the Armed Forces of the United States?

The budget of this country has overwhelmingly been weighted in favor of the military over the last several years. I have favored such buildup because it has been absolutely necessary. But why have all of those men and women and machinery and equipment, airplanes, ships, all of that talent, all of that manpower, why keep it bottled up and suppressed and not use it against the greatest threat to this country that we have? Why not put it out there and use it to its fullest extent against the drug dealers and those who would smuggle drugs into this country?

The Bennett-Shaw amendment merely says that we are going to be giving the Armed Forces the right to make searches and seizures and arrests. This means that they will have their trained personnel, and they will be trained, in order to accomplish this mission. They will not fail us. We are going to put the first line into the battle.

We do not have sufficient funds nor sufficient capacity in order to put the necessary funds into the DEA, the Coast Guard, the Customs and the other agencies that we have depended upon exclusively as the first line of defense against drugs.

□ 1155

It is now time to bring the military to the front. I compliment my friend, the gentleman from Florida [Mr. BENNETT], who has steadfastly stood firm in this particular matter as it has come before the House time and time again.

Mr. Chairman, I would say to the conferees and to my colleagues here today that this, if it survives the conference process, is the most important and most vital thing in this bill, and it is the one thing that is going to make the difference if we are to win our war against drugs.

Mr. DICKINSON. Mr. Chairman, I yield 2 minutes to the very distinguished gentleman from South Carolina [Mr. HARTNETT].

Mr. HARTNETT. Mr. Chairman, I want to commend my colleague, the gentleman from Florida [Mr. BENNETT], for doing something about the one major threat we really face, as was pointed out by my immediate predecessor at this podium. This is bigger than our imbalanced budget, and it is bigger than the tax bill. It is the most important thing facing us. It is chemical warfare of the most hideous and horrible kind.

This chemical warfare is being waged against our people, not against armies in the field that are prepared to combat this threat but against the innocent minds and bodies of our young people, our older people, our innocent people.

It is time that the Congress of the United States put its money where its mouth is. We spend almost $300 billion every year to preserve our national security against a potential threat when year after year after year larger numbers of our citizens are suffering and dying from this threat to our national security, a threat worse than any nuclear warfare or any chemical warfare waged on any battlefield. It is time that we commit the resources of this country against the greatest threat to our national security, this chemical warfare of the worst and most horrible kind.

Mr. Chairman, I say to the gentleman from Florida [Mr. BENNETT] that I commend him for his tenacity, for his stick-to-it-iveness and for coming back year after year. It is time that we agreed to commit all the resources of this country, including our Armed Forces, to combat this horrible threat to our national security.

Mr. DICKINSON. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Connecticut [Mr. MCKINNEY], who offered this amendment to the armed services defense authorization bill initially.

Mr. MCKINNEY. Mr. Chairman, let me say to the Members of the House that, as they probably recall, I spoke in a somewhat impassioned manner on this amendment when the gentleman from Florida [Mr. BENNETT] first offered it last year. We both had had very, very personal experiences with the drug, cocaine. Therefore, I rise in strong support of this amendment which would allow the use of Defense Department personnel to assist drug enforcement officials in drug interdiction functions.

There are some amazing figures here, and let us get some of these figures down before we start discussing this. There are 25 million people in the United States who have tried cocaine. There are 5 million current users of the drug. There are approximately 1.2 million American citizens who are addicted to the drug.

There are 25 million American citizens who use marijuana regularly, and there are 550,000 or about half a million active heroin addicts. I would point out that it is estimated that 150 million tons of cocaine, 12 tons of heroin, and 30,000 to 60,000 tons of marijuana will enter the United States during 1986.

Mr. Chairman, we are willing to tax the American people to pay $292 billion in order to be prepared to defend ourselves against an evil power known as the Soviet Union, a country that would have to destroy itself to attack us. It is time we are willing to put similar might against a danger that is destroying our families every day and every night.

These animals who sell drugs to our kids are not taking any risk except that of getting rich. the State of Virginia just sold a drug kingpin's house for $4.1 million. The only thing that can happen to drug pushers is that they will probably get arrested, and then I am sure they will get a light sentence, instead of getting burned as many of them ought to be.

AMENDMENT OFFERED BY MR. HUNTER TO THE AMENDMENT OFFERED BY MR. BENNETT

Mr. HUNTER. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. HUNTER to the amendment offered by Mr. BENNETT:

After the section inserted by the Bennett amendment, insert the following:

SEC. 208. USE OF ARMED FORCES FOR INTERDICTION OF NARCOTICS AT UNITED STATES BORDERS.

(a) GENERAL REQUIREMENT.—

(1) AUTHORITY TO LOCATE, PURSUE, AND SEIZE AIRCRAFT AND VESSELS.—Within 30 days after the date of the enactment of this Act, the President shall deploy equipment and personnel of the Armed Forces sufficient to halt the unlawful penetration of United States borders by aircraft and vessels carrying narcotics. Such equipment and personnel shall be used to locate, pursue, and seize such vessels and aircraft and to arrest their crews. Military personnel may not make arrests of crew members of any such aircraft or vessels after crew members have departed the aircraft or vessels, unless the military personnel are in hot pursuit.

(2) RADAR COVERAGE.—Within 30 days after the date of the enactment of this Act, the President shall deploy radar aircraft in sufficient numbers so that during the hours of darkness there is continuous aerial radar coverage of the southern border of the United States.

(3) PURSUIT AIRCRAFT.—The President also shall deploy sufficient numbers of rotor wing and fixed wing aircraft to pursue and seize intruding aircraft detected by the radar aircraft referred to in paragraph (2). The President shall use personnel and equipment of the United States Customs Service and the Coast Guard to assist in carrying out this paragraph.

(4) USE OF NATIONAL GUARD AND RESERVES.—In carrying out this section, the President shall use members of the National Guard and the Reserves. The tours of such members shall correspond to their training commitments and shall be considered to be within their mission. The President shall withhold Federal funding from any National Guard unit whose State commander does not cooperate with the drug interdiction program required by this Act.

(5) EXPENSES.—The expenses of carrying out this section shall be borne by the Department of Defense.

(b) 45-DAY DEADLINE.—The President shall substantially halt the unlawful penetration of United States borders by aircraft and vessels carrying narcotics within 45 days after the date of the enactment of this Act.

(c) REPORT.—Within 60 days after the date of the enactment of this Act, the President shall report to Congress the following:

(1) The effect on military readiness of the drug interdiction program required by this section and the costs in the areas of procurement, operation and maintenance, and personnel which are necessary to restore readiness to the level existing before commencement of such program.

(2) The number of aircraft, vessels, and persons interdicted during the operation of the drug interdiction program and the number of arrests and convictions resulting from such program.

(3) Recommendations for any changes in existing law that may be necessary to more efficiently carry out this program.

(d) REQUEST FOR FUNDING.—Within 90 days after the date of the enactment of this Act, the President shall submit to Congress a request for—

(1) the amount of funds spent as a result of the drug interdiction program required by this section; and

(2) the amount of funds needed to continue operation of the program through fiscal year 1987.

Such request shall include amounts necessary to restore the readiness of the Armed Forces to the level existing before commencement of the program.

(e) BUDGET REQUESTS.—Beginning with the budget request for fiscal year 1988 and for each fiscal year thereafter, the President shall submit in his budget for the Department of Defense a request for funds for the drug interdiction program required by this section in the form of a separate budget function.

Mr. HUNTER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. DICKINSON. Mr. Chairman, reserving the right to object, under my reservation I would like to propound a parliamentary inquiry, if I may.

PARLIAMENTARY INQUIRY

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. DICKINSON. Mr. Chairman, it was my understanding that there would be 10 minutes allocated to each side on the pending amendment, after which it would be in order for the gentleman from California [Mr. HUNTER] to offer his amendment. If that were true, I had assumed that the gentleman from Florida [Mr. BENNETT] would make the closing argument on his amendment, and that I still had 3 unallocated minutes.

I was wondering if the procedure has been changed or whether I am correct in my assessment that we still have some time left, 3 minutes on my side on the Bennett amendment before we get to the Hunter amendment, or would that follow the Hunter amendment?

The CHAIRMAN (Mr. CARR). The Chair will state that the gentleman from Alabama [Mr. DICKINSON] and the gentleman from Florida [Mr. BENNETT] have reserved their time on the Bennett amendment, and that reservation stays in effect.

The gentleman from California [Mr. HUNTER] is entitled to offer his amendment at any time during the consideration of the current pending amendment, and the gentleman has sought to do so. The gentleman's time will be protected.

Mr. DICKINSON. Mr. Chairman, I had not sought to reserve my time, but I shall do so.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DANIEL. Mr. Chairman, I rise in opposition to the Hunter amendment.

The CHAIRMAN. Under the rule, the gentleman from California [Mr. HUNTER] will be recognized for 10 minutes and the gentleman from Virginia [Mr. DANIEL] will be recognized for 10 minutes in opposition.

The Chair now recognizes the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Chairman, let me say to my colleagues that this is an amendment that is offered by himself and the gentleman from Arkansas [Mr. ROBINSON]. It is an amendment that complements very closely the amendment that is offered by the gentleman from Florida [Mr. BENNETT], an amendment that calls for use of the Armed Forces outside the United States in interdicting this terrible drug traffic.

The problem is that we have literally hundreds of aircraft and ships penetrating our borders on an annual basis and bringing in 150 tons—that is 300,000 pounds—of cocaine to our children annually.

I can give the Members my own experience from my own area of the border, which is the California-Mexican border. In the last 8 years Customs has interdicted by aerial pursuit this many aircraft bearing narcotics: Zero, not a single one.

The amendment that the gentleman from Arkansas [Mr. ROBINSON] and I are offering very simply says that the President, within 30 days after the enactment of the act, shall deploy sufficient resources, radars, aircraft, et cetera, to interdict aircraft that are penetrating American borders and that the American military shall have only the right to arrest where there is hot pursuit. They cannot kick in doors in Sacramento or Alabama or anywhere else. And right now they have the right to arrest anyway if a plane comes in over 10,000 feet. Right now we have jurisdiction by altitude. North American Air Defense will interdict fast-moving aircraft that moves in at 10,000 feet, and they will arrest people, whether they are civilian, military, or whatever. They will bring those planes down. Under 10,000 feet, they say, "Well, we are going to give that jurisdiction to Customs." Customs is not up to the job.

Let me just tell the Members that this is a good package that we put together in the Committee on Armed Services calling for aerostat balloons that will cover the southern borders of the United States. The problem is that it will take at least a year to construct those balloons. I think it will take about 1½ to 2 years, so it is going to be close to 1988 or thereafter when we have them.

Mr. Chairman, this is an important amendment. If Members are interested in closing the door now on narcotics in a very reasonable way, this complements the Bennett amendment, and I will ask the Members for their support.

□ 1205

Mr. DICKINSON. Mr. Chairman, will the gentleman yield for a question?

Mr. HUNTER. I cannot yield, unless I have some time at the end, and then I will be happy to yield.

Mr. Chairman, first I yield 2 minutes to the Republican whip, the gentleman from Mississippi [Mr. LOTT].

Mr. LOTT. Mr. Chairman, I thank the gentleman for yielding me this time.

I want to congratulate the gentleman from Florida [Mr. BENNETT] for his amendment and also urge the adoption of the amendment by the gentleman from California [Mr. HUNTER] to the Bennett amendment which will be supported also by the gentleman from Arkansas [Mr. ROBINSON].

It is a very narrowly drawn amendment. It is one I think we should support. It allows the use of military equipment and personnel in sufficient numbers to halt the unlawful penetration of drug traffickers across our borders. The military could locate, pursue, seize, and arrest crews of aircraft and vessels that are trafficking in drugs. The military could make arrests only along the U.S. borders.

Now, lawyers will argue that there are some constitutional problems here. Well, I am a law graduate. I served on the Judiciary Committee. I am a lawyer, but I think there have been exceptions to the posse comitatus rule. I know the history of why it was put into place.

I think there is no question that this is not an unconstitutional amendment. It is one that we should adopt, even though we will hear these legalistic arguments.

Also, there will be those who will say, well, this is not a military role that our Armed Forces should be involved in. Well, then what should they be involved in?

There was a Governor of Wisconsin a few years ago who got elected Governor by saying that the Government at the Federal level should defend the shores, deliver the mail, and stay the hell out of our lives.

Now, if this is not defending the shores, I do not know what is, with the illegal and illicit drugs that are invading our country, polluting our children, harming the economy, and undermining the social fiber of our country.

Also, I had a constituent tell me, "You guys quit talking about the war on drugs if you are not going to wage war." This is war.

Are we serious about stopping the drug traffic coming into this country? If we are, should we not make full use of our military in using their radar to locate these people, seizing and arresting these people when you catch them in the act on a vessel or an aircraft?

Mr. Chairman, we should support the amendment of the gentleman from California [Mr. HUNTER] to the amendment of the gentleman from Florida [Mr. BENNETT]. Vote "yes" on the war on drugs.

Mr. HUNTER. Mr. Chairman, may I inquire as to how much time we have left?

The CHAIRMAN. The gentleman from California [Mr. HUNTER] has 5½ minutes remaining.

Mr. HUNTER. Mr. Chairman, we reserve the balance of our time.

Mr. DANIEL. Mr. Chairman, I rise in opposition to this amendment, and I yield myself such time as I may consume.

Mr. Chairman, the amendment introduced by the gentleman from California is neither frivolous nor careless. It stems from the same frustration that affects every Member in this Chamber, and indeed, the same frustration which has led the bipartisan leadership of this House to create the omnibus drug bill in the first place. But that very frustration inherent in this amendment has caused the author to look for an instant solution.

What this amendment proposes is to use the full military resources of the United States to seal our borders in one rapid operation. What the amendment seeks is to stop the flood of illicit narcotics across our borders. There is no question that such a mobilization can result in a substantially closed border for a short period of time. That is not an issue here. The issue is, that once we have used massive resources to close our borders, what relevance does that have to our overall national war on drugs, and what long-term effect will this step have in stopping the drugs?

The answer is, that in the short term, this would be a very satisfying maneuver. It would very much relieve all of our frustration to throw massive resources at one aspect of this problem, the physical aspect of interdiction, for so long as the level of effort could be sustained.

But once we had done so, what would we really have accomplished in combating illegal drugs?

Mr. Chairman, in cooperation with our distinguished colleague from Oklahoma, his Government Operations Subcommittee, and both the House and Senate Appropriations Committees, we have been working for almost 4 years to build a permanent, effective, and successful drug interdiction system for this country, one that took advantage of our military capability and linked it to our law enforcement agencies in all the jurisdictions. We know where the drugs come from, how they get in, and what it will take, day in and day out, year in and year out, to fashion an effective interdiction system, and we have been building that system. This omnibus bill could not have come at a better time to coordinate all of the actions necessary to include such an interdiction system, and to effectively link it with means to disrupt, apprehend, and prosecute the smugglers.

But the key to years of effort is that to be ultimately successful, and halt, rather than just harass, the flow of illegal drugs. We have had to create a system. At any point over the last 4 years, the President could have ordered 95 percent of what this amendment seeks to accomplish. And why hasn't he? No one in this Chamber can question his concern at stemming the flow of these drugs.

And the reason that he has not created a domestic Iron Curtain, using our military, is that it alone cannot work. And that it, in conjunction with coordinated and effective law enforcement, is not necessary.

Title II of this bill, before you today, is a logical, orderly, and balanced culmination of 4 years effort. It represents how we can build in the remaining assets needed for the military contribution to a border interdiction system which will work. It is not dramatic, and it doesn't provide short-term, instant gratification. The gentleman from California's amendment is sincere, and it comes from the heart, and it captures all of our frustration.

But it will not work. It encapsulates all of the mistakes we have tried and discarded in building a permanent interdiction system. We have found that throwing military resources at the problem by themselves results in no long-term benefit, and eventually does nothing but destroying the military readiness of the units without halting the drug flow. We have tried using dedicated E-2C's from the Atlantic and Pacific Fleets. We have tried using dedicated AWACS missions. We have tried massive coastal blockages near the exporting countries. The smugglers know that these incredibly expensive and wasteful tactics can't be sustained. So for a month or 6 weeks, they lay back or resort to smaller and more secret shipments.

In essence, we have learned that we can use some of the capabilities of some military systems and units some of the time, to profitably support law enforcement operations. But if we try to substitute the military for adequate law enforcement, then it results in two negative effects. Military readiness to perform its wartime missions immediately suffers, and what we get is very expensive and not-very-successful interdiction for a short period of time.

I share the gentleman from California's frustration, and his concern. There is no more serious problem facing our country than these illicit drugs. But I say to him that past a short time period, 1 or 2 months only, his amendment will not have an appreciable effect on the problem. And in the longer term will actually siphon off precious resources which should be applied to a balanced law enforcement effort. I urge the defeat of the amendment and the passage of title II as found in the leadership's bill.

Mr. Chairman, I yield 2 minutes to the gentleman from Alabama [Mr. DICKINSON].

Mr. DICKINSON. Mr. Chairman, I yield to the gentleman from Virginia [Mr. WHITEHURST].

Mr. WHITEHURST. Mr. Chairman, I rise in opposition to the Hunter amendment. Although I support and applaud the motives of my friend from California, I believe his amendment is both unnecessary in light of improvements in drug interdiction capabilities provided in this bill and unwise from a military readiness point of view.

Briefly, Mr. Chairman, the gentleman from California argues that his amendment is necessary because the civilian law enforcement agencies do not have the resources or the know-how to get the job done—namely, stop—or greatly diminish—the flow of illegal drugs into this country. Moreover, the gentleman asserts that putting military personnel in a direct interdiction, search, seizure, and arrest

role would be excellent military training. Unfortunately, none of these premises is correct.

With regard to underfunding of civilian law enforcement agencies, I couldn't agree more. That's why this and other titles of the omnibus drug bill provide significant plus-ups for the Customs Service, the Coast Guard, the Drug Enforcement Agency and so on. I would submit that the gentleman's amendment is unnecessary and could be somewhat redundant given all that we propose to give the civilian drug enforcement organizations.

With regard to the know-how to get the job done, my friend from California would have you believe that civilian drug enforcement officials are bumblers—Keystone cops—in comparison to military personnel and that military personnel are in an excellent position to immediately step in and halt the drug problem. This perception couldn't be farther from reality, Mr. Chairman. First, far from being bumblers, our civilian drug agents are highly trained and capable individuals. Their perennial problem has not been incompetence, but a lack of resources—and we propose to fix that today in this bill. Second, military personnel are not trained in law enforcement procedures and are, therefore, not in a position to step into this fray immediately. Sure, an Army soldier is trained to handle a weapon and could forcibly detain and arrest a drug smuggler at gunpoint. But if he doesn't follow proper arrest procedures—procedures our military personnel currently do not know or practice—a smart drug lawyer could easily have the case thrown out of court after wasting months of the soldier's valuable time in litigation. So the bottom line is: If you want to get the military more involved, you have to give them the proper training—something the 30-day limit of this amendment would not permit.

Finally, with regard to the claim that a direct interdiction, search, seizure, and arrest role for the military would be excellent military training, I believe that the gentleman is misguided. True, pursuing a drug aircraft gets a military pilot in the cockpit and permits very limited flight training, but in no way does it provide the kind of training in maneuverability, attack, and defense techniques that our pilots need to counter the Soviet threat. You might think of it this way: Sending Mario Andretti out on a driving errand may get the job done and may give Mario some experience behind the wheel, but it certainly doesn't help him prepare for the Indy 500. And why pay for an expensive Mario Andretti when others can perform the job just as capably at a much lower cost?

In sum, Mr. Chairman, this amendment is well intentioned but bad policy. I urge my colleagues to keep the primary responsibility for drug law enforcement where it belongs—in the hands of capable, well-resourced, and experienced civilian law enforcement agencies. I ask for a no vote on this measure.

Mr. DICKINSON. Mr. Chairman, let me join with my colleagues. The three of us, the gentleman from California [Mr. HUNTER], the gentleman from Virginia [Mr. DANIEL], and I all serve together on the Armed Services Committee.

Mr. Chairman, I rise in opposition to the Hunter amendment because it is not practical. It is not doable. We all are attempting to do the same thing, that is to halt the influx of drugs into this country.

I originally had told the gentleman from California [Mr. HUNTER] that I would support this because I favor the concept of trying to do everything within our power to keep this from happening, but the way this amendment is drafted, Mr. Chairman, you cannot do it.

This mandates, this is not discretionary, this mandates that the Secretary of Defense will do these things within 30 days, and then another section says 45 days. You cannot physically do it.

What the gentleman from Florida [Mr. BENNETT] says, and I support it now that I understand it, he says that the Attorney General may call the Secretary of Defense for whatever assistance he needs.

It also says there will be a study made by spring of next year by the administration saying what they need.

Now, this is discretionary. Everybody wants to do it. It is a good thing.

This says, and I do not know if the American people are aware of this, but there are 290,000 registered and 4,000 unregistered general aviation aircraft. This thing mandates that we have got to interdict the influx of drugs by aircraft. How do you know which ones are carrying it? You cannot do this. This is a well-intentioned, but a badly thought-through amendment. It is not discretionary. It makes no difference whether the military is in a position to do it.

The CHAIRMAN. The time of the gentleman from Alabama has expired.

Mr. DANIEL. Mr. Chairman, I yield 1 additional minute to the gentleman.

The CHAIRMAN. The gentleman from Alabama [Mr. DICKINSON] is recognized for 1 additional minute.

There was no objection.

Mr. DICKINSON. Mr. Chairman, I thank the gentleman.

As I said in my remarks on general debate yesterday, we are all working to achieve the same end. We would like to prohibit all influx of drugs into this country, but this amendment the Department of Defense says they cannot do it. It does not make it discretionary. There are not funds in here with which to pay for what is being ordered done.

Under this a sheriff in a local community could just call on the National Guard and say, "Hey, send me a helicopter. I need it pretty soon."

The Department of Defense is not in charge of anything. Our civilian agencies have a mandate, they can mandate the Department of Defense to furnish them anything they want. There is no way to pay for it. There is no control. It is a bad amendment, well-intentioned, but a bad amendment.

I would hope that Members would support the Bennett amendment, but vote against the Hunter amendment.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. DANIEL. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Chairman, I rise in strong support of the amendment to the omnibus drug bill offered by the distinguished gentleman from Florida [Mr. BENNETT]. As my colleagues are fully aware, Representative BENNETT has been a strong and effective leader in the fight against narcotics trafficking and drug abuse.

The Bennett amendment would allow members of the armed services to assist civilian drug law enforcement officials in drug searches, seizures, and arrests outside the land area of the United States. Strong safeguards are provided under conditions of their use. First, in order for such assistance to take place, the action would have to be certified by the Attorney General as being necessary because the law enforcement resources are insufficient to ensure success of the operation without the armed service's participation; second, military assistance must be approved by the Secretary of Defense with the concurrence of the Secretary of State, and third, Federal drug enforcement officials must maintain control over the activities and direction of any drug enforcement operation. Under the Bennett amendment, the military is specifically restricted in enforcing certain Federal civilian law enforcement statutes. Civilian control over military assistance for civilian drug enforcement operations is clearly stipulated in this amendment.

Mr. Chairman, we are all too aware of the fact that drug trafficking and drug abuse have reached epidemic proportions in this Nation and our law enforcement officials are hard pressed to deal with the situation. In April, President Reagan signed a national security decision directive stating that drug trafficking is a threat to our national security. While we have increased some forms of military assistance to civilian drug law enforcement agencies under provisions of the posse comitatus statute amendments of 1981, this assistance does not fully address the

true national security threat that we face. If we are to truly wage a war against drugs, we must use all the resources that are available to our Nation to fight that war.

Military assistance to our civilian drug law enforcement agencies would be a clear sign to the traffickers that we mean business, and that we do not intend to fight a war with one hand tied behind our backs. There must be no mistaken impression about the power and resources of the enemy we face. The military assistance proposed in this amendment is a small but vital step in our Nation's efforts. Accordingly, I urge my colleagues to support the Bennett amendment.

Mr. DANIEL. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Mr. Chairman, I rise in opposition to both amendments.

Mr. Chairman, this important piece of legislation has in it many provisions that will improve our efforts to halt the flow of illegal drugs into this country. Moreover, it has substantial components on education and rehabilitation, which law enforcement professionals believe are the only really effective solutions to the drug problem.

As introduced, the bill does not infringe the civil or constitutional rights of our citizens. However, several Members, seeking an opportunity to exploit the drug issue, have rushed forward with time-worn amendments that are unwarranted and constitutionally suspect. Among the most dangerous of these amendments are those that would authorize the expanded use of the military to enforce the drug laws.

Mr. Chairman, we can all understand the frustration that has led to these proposals. After 6 years of this administration's budget priorities, the military sometimes seems like the only place to look for help. Certainly, the administration hasn't put adequate resources into the law enforcement agencies responsible for drug interdiction. In fact, the combined staffing of the two agencies with primary responsibility for drug interdiction—the Customs Service and the Coast Guard—is less today than 6 years ago, and these agencies would have suffered even deeper cuts if the administration had gotten its way.

Law enforcement officials admit they are intercepting at most 5 to 15 percent of the drugs coming into this country. So it is easy to understand how some would want to place greater reliance on the military. However, is a job for which the military is neither trained nor equipped. Military personnel simply do not have the knowledge of criminal procedure. Their arrests will almost certainly be challenged in court, and prosecutions will be jeopardized.

Moreover, these proposals strike at something fundamental: the strict separation we have maintained between civilian and military authorities. These amendments would break down that separation. They would bring the military, with its awesome power and its unique mission, into the civilian law enforcement business.

Mr. Chairman, the strongest argument against the use of the military is found in the very bill before the House today. Provisions already in the bill make changes in the role of the military unnecessary. First, the bill significantly increases funding for the Coast Guard for personnel and equipment. We are finally giving the Coast Guard the resources it needs to do its job. Second, the legislation expands the Taclets program which places Tactical Law Enforcement Teams consisting of Coast Guard personnel trained in law enforcement on board Navy ships to carry out searches, seizures, and arrests. This means that the military won't need the power to arrest. Third, the bill increased the commitment of military resources to the gathering of drug-related intelligence outside the United States and providing that information to the civilian agencies so they can act upon it.

This keeps the military out of the search and seizure and arrest area and limits the military to a support role, which is the most it should play.

The amendment offered by Mr. HUNTER is absolutely unprecedented. It would authorize, apparently, use of the military in making searches, seizures and arrests within the United States. For the first time ever, the military would have a permanent, daily role in law enforcement. The amendment orders the President to deploy military equipment and personnel sufficient to halt the flow of illegal drugs. Nobody in their wildest dreams has ever expected that we could halt the flow of illegal drugs. Yet this amendment requires substantial compliance within 45 days. The cost of such a provision can only be described as astronomical. The impact on military preparedness has to be catastrophic.

The Hunter amendment is sometimes described as a "hot pursuit" amendment. But it states that the military shall "locate" vessels and aircrafts bringing illegal drugs into the country, regardless of where those vessels and aircraft are at the time. It says the military may seize such vessels and aircraft and arrest their crews, regardless of where those vessels and aircraft are found. This amendment puts the military at the front lines of law enforcement in all 50 States. It fundamentally contradicts the intention of the Framers, who didn't even contemplate a need for a standing army and believed that law enforcement should be mainly a matter of State and local responsibility.

Mr. BENNETT's amendment differs only in that it limits the military to searches, seizures and arrests outside the land area of the United States. Yet it would still allow military arrests in our harbors and on our navigable waterways.

Mr. BRYANT's amendment, to be considered next, appears to avoid the arrest problem by authorizing the military only to participate in interdiction. This limitation gives no comfort. Webster's dictionary defines the verb "interdict" as "to impede or hinder or isolate by firepower and bombing." Keep in mind this amendment applies in the United States as well as overseas. Is this what we want our Armed Forces doing in this country?

Mr. Chairman, drugs are a law enforcement problem, not a national security problem. The gentleman from Oklahoma [Mr. ENGLISH] has documented extensively how we have failed to give our civilian agencies the resources they need to interdict illegal drugs. The military has been turned to only in desperation because the military seems to have so many resources. This bill for the first time provides those resources to the civilian agencies. It makes the involvement of the military unnecessary. This country has gotten into serious problems in the past when it has too broadly defined the concept of national security. I believe we should place our trust, and our resources, in our civilian law enforcement agencies. I urge the members to reject all of these amendments.

Mr. DANIEL. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia [Mr. RAY].

Mr. RAY. Mr. Chairman, I favor a strong but reasonable and common sense drug enforcement program by our local, State, and Federal officials. But I rise in opposition to the Hunter amendment.

My opposition to this amendment is not against the good intentions of my colleague, but it stems from a statute that is over 100 years old and has its roots in our U.S. Constitution. That doctrine is posse comitatus, which Mr. Edwards referred to. It is a rule which prohibits the military from taking away the powers of our States and acting as a police force in domestic matters. We only have to look into Central and Latin America governments and others around the world to see military units which are heavily involved in enforcement of citizen activities.

This is a doctrine which provides a distinct separation between the policing functions of our society and our military. Now, we might think that the idea of a military police force enforcing civic law is far-fetched. And our military is run by a civilian.

I believe that with its new beefed-up budget, the Drug Enforcement Administration will be better able to do a better job. This tight enforcement agency will make strong inroads into the serious drug problems. I also believe that with the new awareness of this problem by the American people and with the strength of this bill, we will have a potent and effective weapon against all who seek to contaminate our society and our children with drugs.

This amendment, as I see it and as the Department of Defense sees it, would damage the posse comitatus safeguard. I quote from a letter written by Under Secretary William Taft to Chairman LES ASPIN:

> This amendment would encourage reliance on military forces rather than civilian law enforcement officials in the drug interdiction effort. This would have the effect of using the defense budget to fund this activity which would act as a disincentive to proper budgeting for civilian agencies, with a parallel negative impact on the accounts that fund military readiness. Such backdoor budgeting is contrary to the best interests of drug interdiction and national defense.

For almost 10 years I was senior staff person to Senator SAM NUNN, a recognized expert on defense, when the first series of exception amendments were passed to the posse comitatus statutes. I witnessed the intense deliberations which were undertaken before the strictly defined exceptions were written into law. These exceptions already allow DOD to aid in drug enforcement efforts in many ways. For example, in the last year alone, the Defense Department provided over 10,000 hours of aerial surveillance for civilian agencies and loaned over $88 million in equipment.

The proper role for Defense is to provide aid and not to become enforcers. The Hunter amendment goes too far in this respect. The Supreme Court agrees with this position, also. In 1972, Chief Justice Burger, in writing for the Court, addressed the subject of the separation of military and civilian affairs:

> The traditional and strong resistance of Americans to any military intrusion into civilian affairs * * * has deep roots in our history and found an early expression, for example, in the third amendment's explicit prohibition against quartering soldiers in private homes without consent and in the constitutional provisions for civilian control of the military. These prohibitions * * * explain our traditional insistence on limitations on military operations in peacetime.

The overall bill in general is a good one and deserves positive attention. But this is our battle as civilians and law enforcement officials. I am going to be doing my part to get tough against drugs. I will start today with my votes to assure that D.E.A. has the funds it needs to stop drugs at the source.

Mr. HUNTER. Mr. Chairman, I yield 30 seconds to the gentlewoman from Maryland [Mrs. BENTLEY].

Mrs. BENTLEY. Mr. Chairman, I rise in support of the Hunter-Robinson amendment.

The only way we are going to be able to get at this massive flow of drugs across the border is to have a massive amount of manpower down there. As has been said already on the floor, the Customs Service does not have the reservoir of people needed to do that, but the Defense Department does.

Earlier this summer I suggested to the President that he assign the reservists and the National Guard to do their training maneuvers down on the border for the very reason that has been outlined here today so that we will have the manpower necessary in order to hold down drug smuggling.

As radical as this proposal may sound, the border patrol has said an army is necessary to stop the staggering flow of illegal drugs. Why not our soldiers—already scheduled to be in the field—to defend us against a toxic invasion as deadly as any military invasion.

Mr. HUNTER. Mr. Chairman, I yield 1½ minutes to the gentleman from Texas [Mr. BRYANT].

Mr. BRYANT. Mr. Chairman, I rise in well-considered support of the Hunter-Robinson amendment today.

To those who are concerned about the implications of this amendment for civil liberties, I would make the following observation: The greatest threat to civil liberties in the United States is an exasperated public that is losing faith rapidly in our current system of civil liberties and is impatient with the insistence that many of us have for protecting that system when they experience every day in their homes the unlimited rash of crime that breaks out all across this Nation as a direct result of drugs.

Drugs are not simply a problem of usage. Drugs are a problem that translates directly into garden variety crimes in the neighborhood. In my own community, an increase of 18 percent in crime in my city last year was accompanied by a doubling in the number of drug related deaths, a doubling in the amount of drugs confiscated in our region. There is a clear statistical connection.

Mr. Chairman, I strongly urge a vote for the Hunter-Robinson amendment. Contrary to some of the things that have been said, it relates only to interdiction and law enforcement at the borders of the United States.

Ask your citizens, they will tell you, they believe already that we are using the Armed Forces for protecting our borders, because it is a simple commonsense assumption. It is a commonsense proposal that is made today by the gentleman from Arkansas [Mr. ROBINSON] and the gentleman from California [Mr. HUNTER].

I urge you to support it. I think nothing less than this is going to make a dramatic impact on the smuggling of drugs into the United States.

□ 1220

Mr. HUNTER. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Chairman, in part as a response to the comments and concern about posse comitatus of the gentleman from Florida, Mr. DANTE FASCELL, I would suggest that the reason that both of these amendments are effectively before us is because the Department of Defense has used that historical issue as an excuse, often, for not cooperating with private and civilian agencies. As a matter of fact, we need to use our resources to carry out this war against drugs. We ought to send a message to DOD here and now regarding our intent in that regard.

Mr. DANIEL. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, listening to this debate one would think that the Defense Department has not been active in support of civilian law enforcement agencies. The fact is that over the past 4 years they have spent $300 million; last year alone it was $80 million. The Defense Department is contributing its share in support of civilian law enforcement within constitutional restraints.

Mr. Chairman, I yield the balance of my time to the able gentleman from New York [Mr. RANGEL] to conclude the debate for the opposition.

Mr. RANGEL. Mr. Chairman I rise in opposition to the Hunter amendment. Nobody can claim more credit in fighting against this surge of drugs than the gentleman from California [Mr. HUNTER] and the gentleman from Arkansas [Mr. ROBINSON]. There is no question in my mind that the overwhelming number of citizens believe that the military can and should be doing more. It is the popular thing to do, just to tell the President in 30 days put them out there and stop these drugs from coming into the United States.

But what we are doing today if we allow the Hunter-Robinson amendment to pass is to hold hostage the work that has been done by this committee and by the gentleman from Florida [Mr. BENNETT]. We have already broken new ground today in allowing the military to be doing more of what they should be doing, without putting the restrictions on that are in the Duncan-Robinson amendment, which we have not had hearings on, and we really do not know whether they violate the civil liberties of individuals that are entitled to have civil-

ians control, and not the military control.

I am just hoping that we can take a look at what Mr. BENNETT is trying to do, and to realize what the parliamentary situation that we face today is that Mr. HUNTER is attempting to perfect. If it turns out that there is something that he has overlooked, that the President cannot respond in 30 days, that we cannot get this thing moving in 45 days, then all of the good work that we have done in 1981, the passage of the Bennett amendment, all of that is wasted.

It would seem to me that we should stick with Bennett and that we should ask the gentleman to reconsider, because we have Governors from all over the country asking for the Bennett amendment. They have testified on behalf of it. I would just hate for us to move in what appears to be popular, to move in what I believe is the right direction, without having the constitutional safeguards and without having to jeopardize the work that we have done on Mr. BENNETT's amendment.

Mr. HUNTER. Mr. Chairman, I yield 30 seconds to the gentleman from New Mexico [Mr. SKEEN].

Mr. SKEEN. Mr. Chairman, I think that maybe we ought to take a little different slant on this thing, and I understand all the provisions and the exceptions and have great respect for all those, but what segment of our society today is most under attack from the use of drugs? The military. If you are going to have a war, let us have a war and use the resource that you have at your command, because if you do not do something about drugs today, you will not have the kind of people that you need to handle the assignments in the military coming up. Why not use the military to do exactly that?

Mr. Chairman, I rise in support of the amendment offered by the gentleman from California [Mr. HUNTER]. I believe the amendment is an appropriate response to the invasion of drugs that threatens our Nation's future. The Hunter amendment would truly add meaning to the rhetorical phrase we all use in this Chamber alluding to America's "war on drugs."

The Hunter amendment directs the President to use military equipment and personnel to interdict aircraft and ships which are coming into our country. As a representative of a border district, I can say firsthand that our southern frontier is open to anyone who wants to profit from the lucrative drug smuggling trade. The U.S. Customs Service does a great job for the resources they have and as ranking member of the Appropriations Subcommittee that has jurisdiction over Customs, I am happy to say that we included $68 million over the fiscal year 1986 Customs funding level. However, we need to support the Hunter amendment to supplement our border defenses.

DRUG PARAPHERNALIA

Speaking of the Customs Service, I would also like to take the opportunity to thank my good friend from Nebraska, Mr. DAUB, for introducing two of my amendments relating to the Ways and Means Committee markup of this bill.

I introduced H.R. 5282, the Antidrug Paraphernalia Act of 1986 which would amend the Tariff Act of 1930 to provide U.S. Customs officials with the authority to confiscate drug paraphernalia imported into this country. I am pleased that the Ways and Means Committee adopted my bill as an amendment to H.R. 5484. My amendment would not be difficult to implement because it would merely provide Customs agents with the legal authority to seize any paraphernalia they find during the course of their routine inspections or enforcement operations.

Included in the drug paraphernalia import ban are cocaine free base kits, any product or material that is specifically designed for planting, growing, harvesting or processing marijuana, hashish, or cocaine, and any array of other drug utensils.

TOTO

The Ways and Means Committee also adopted an amendment which would authorize $350,000 for a feasibility and application study for a low-level radar detection system for Los Alamos National Laboratory in New Mexico. There exists a huge radar gap along the 2,000-mile southern border and the Los Alamos technology looks very promising based on recent test results.

CONCLUSION

Again, let me commend my good friend, Mr. HUNTER, for introducing his timely amendment. I believe it's a good idea and if we are serious about the war on drugs, let's fight the battles with adequate resources and manpower.

Mr. HUNTER. Mr. Chairman, may I inquire how much time I have remaining?

The CHAIRMAN. The gentleman from California [Mr. HUNTER] has 2½ minutes remaining.

Mr. HUNTER. Mr. Chairman, I yield 30 seconds to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Chairman, I just want to say that this bill is going to cost about $4 billion, and that is peanuts. Most of that money is going to education programs and other things that we have been doing for years that are having a slight effect. But the key to the war on drugs is to get it off the streets, out of your town, out of your county, out of your State, and out of this Nation, and to stop it from coming into this Nation.

Now $4 billion is peanuts when we are spending well over $280 billion on our defense budget, while at the same time, those whom we are fighting are making billions. This is the least that we can do on this war on drugs.

Mr. Chairman, I rise in strong support of the Hunter-Robinson amendment. It is an amendment that will add an essential element to our war on drugs.

Make no mistake about it, we are at war. Drugs threaten to tear apart the very fabric of our system. We have a political and economic system that rests upon the productivity, understanding, and participation by its citizenry. Can we long endure while the poison of drug addiction lowers our productivity, subverts our education system, and forces so many to become society's dropouts?

This bill is filled with provisions that might be effective, but we all know the problem is immense. We've got to find a way to stop the flow. There's obviously great amounts of money to be made at the expense of everything we hold dear. This money is an overwhelming incentive to find ways to dump these poisons on our shores. Let's vote for an amendment that could prove to be the one disincentive, the one obstacle that drug runners cannot overcome. For the sake of our system, for the sake of our children—let this House agree that there is at least a limited role for the military in this war—let's start winning these battles—let's win this war.

Mr. HUNTER. Mr. Chairman, I yield my remaining 2 minutes to the gentleman from Arkansas [Mr. ROBINSON], a cosponsor of this amendment, to close debate.

Mr. ROBINSON. Mr. Chairman, as a former student of criminal justice with an undergraduate and graduate major in criminal justice, as a former teacher of criminal justice, and as a practitioner in the field for over 20 years serving in such capacities as police chief, sheriff, director of a State department of public safety over the State police and National Guard, I have reviewed our total drug package, and I find it without flaw, with the exception of a lack of willingness to commit the only true resource that we have in this country in our war against drugs, our military.

I have tried to listen to some of the arguments today, and they remind me of arguments that were made against me several years ago when we had armed robberies in convenience stores in Little Rock. Armed robbers would go in and blow the clerks away.

I decided that I would put deputies in the back room with shotguns and put a sign out front, "If you enter this store, you're going to be blown away." All the ACLU types came down there and said, "Oh, it's badly thought through. You might kill someone. It's a fundamental change. Oh, my God, the military will be next."

After I did that, we did not have one single armed robbery in the convenience stores, either in those stores that were covered, or the ones not covered, because I slipped some deputies into those stores also.

I have listened to the arguments. "We should wait. Let's wait, and let 12 more tons of heroin come through, 150 more tons of cocaine this year, 60 more tons of marijuana, 200 tons of hashish."

It is just our children and our Nation. The Communists have the best thing going for them that they have ever had, drug trafficking, the most powerful weapon in the world.

For my friend, the gentleman from New York, let me quote Mayor Koch: "Give me the Army, the Navy, the Air Force," His own mayor wants the military forces. We are telling the President of the United States: "You can't think about it. You can't have a jelly bean. You shall deploy the members of the armed services." It's not up to Weinberger; the President is the Chief Executive Officer of this country. He must deploy the resources that he has to fight this terrible, terrible crime.

The CHAIRMAN. All time on the Hunter amendment, No. 17, has expired.

PARLIAMENTARY INQUIRY

Mr. DICKINSON. Mr. Chairman, I have 3 minutes remaining on the Bennett amendment, which is affected by this. Would it be appropriate for me to take that at this time?

The CHAIRMAN. The Chair advises the gentleman that he may take his time now or he may reserve his time.

Mr. DICKINSON. Mr. Chairman, I would prefer to take it at this time.

The CHAIRMAN. The gentleman from Alabama [Mr. DICKINSON] is recognized for 3 minutes.

Mr. DICKINSON. Mr. Chairman, I yield 1 minute to the gentleman from Oklahoma [Mr. ENGLISH].

Mr. ENGLISH. Mr. Chairman, I do not think that there is anyone in this body who has been more critical of the President and the Department of Defense with regard to the use of military assets, and I certainly feel a certain kinship with regard to the Hunter amendment. However, I think that there are certain facts that we should be well aware of.

What this in effect requires is that the President shall—it mandates it. For that reason I am concerned that this may in fact push the President—or give him the opportunity, depending on your outlook—for a veto.

Let me tell the Members what it does direct the President to do. The President shall use sufficient numbers so that during the times of darkness there is continual air coverage on the entire southern border of the United States. Well, those who are familiar with the AWACS and the E-2C assets of this Nation realize that whenever you consider that along with that equipment that is also in maintenance, very quickly that coverage would have to be downgraded as not being combat ready, and I am not certain that you could get the President of the United States to agree to drive our forces to the point that they are not combat ready.

Mr. DICKINSON. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, following on what the distinguished gentleman has said, everybody wants to accomplish what the framers of the amendment would like to see done, and that is the elimination of drugs coming into this country.

□ 1230

Everybody has the simplistic solution, well, turn it over to the military. They have all these people and planes and tanks and so forth, let them do it. Fine.

But in our bill, in title II, we say give us 45 days, until March, to make a study and report back what they would propose to do. That is in the bill.

The gentleman from Florida [Mr. BENNETT] gives the Attorney General the right to call in the Secretary of Defense for whatever assets he deems necessary and which the Secretary of Defense would make available.

Nobody can say that this President and this administration are not hard over the enforcement of our drug control laws, so nobody is accusing him of dragging his feet.

What I am trying to do and what the resisters to this amendment would do is say, look, let us not go off half-cocked here without knowing what we are doing.

This amendment has had no hearings. We do not know the effect of posse comitatus. The gentleman says it would allow hot pursuit. What are we going to do, allow the military to have the authority to shoot down civilian aircraft if they are not forced down?

What we are trying to do is give us an opportunity to set in a reasonable framework a way to do this. Give us the 45 days or until March 1 to make a report to see what is necessary. Do not mandate the Secretary of Defense to do anything or the President.

The Bennett amendment is good; the Hunter amendment is not workable.

Mr. Chairman, the administration opposes this bill which mandates deployment of military equipment and personnel to halt the flow of drugs by aircraft and surface vessels; mandates continuous employment of military radar surveillance aircraft; and mandates direct military forces participation in seizures and arrests.

I have three major concerns regarding the bill. First, the legislative mandate for the military to substantially halt the flow of drugs by aircraft and vessels within 45 days of enactment represents a herculean challenge. The FAA has reported that there were over 78,000 known general aviation aircraft which flew into the United States across the southern border during 1985. Further, that there are over 290,000 registered and 4,000 unregistered general aviation aircraft in the United States. Without adequate intelligence, the only way to comply with this legislative mandate would be to intercept all inbound noncommercial aircraft. The surface vessel challenge would be even more formidable. The United States has an enormous coastal border, filled with coves, inlets, and other topography which facilitate concealed entry by water. There are over 160,000 documented U.S.-registered vessels including yachts, tugs, barges, and other commercial vessels. On average, an additional 170 foreign vessels arrive at U.S. ports daily. The net result is that the legislation calls for a continous 4,000-mile naval blockade of our coastlines.

The second major concern relates to the requirement for continuous nighttime airborne radar platform surveillance around the southern U.S. border. Compliance with this mandate would require 32 E-2C aircraft be added to the Navy inventory or the use of 25 E-3 AWACS aircraft per night to sustain continuous coverage. Apart from the potential impact to military preparedness, it would be expected that drug traffickers would likely revert to ship containers for movement of the contraband.

The third major concern is associated with legislative authority for military forces to participate directly in interdiction and perform civilian arrest functions. It would be inconsistent with the history and traditions of American democracy to place military forces in police work in direct confrontation with civilians.

The CHAIRMAN. The Chair would ask the gentleman from Florida [Mr. BENNETT] if he wishes to use his time at this time.

Mr. BENNETT. Mr. Chairman, I reserve the balance of my time to close the debate.

Mr. BIAGGI. Mr. Chairman, I rise in strong support of the Bennett amendment to allow our vast military resources to be used in the war on drugs. Simply put, the war against drugs is as important as any this Nation has ever fought, and who better to fight a war than the U.S. military.

Last year, this same amendment passed this House by an overwhelming margin when it was offered to the Defense Authorization bill. I spoke out in support of it then because I was convinced that the abundant resources of our Nation's Armed Forces would greatly improve our ability to interdict and seize drug shipments coming into this country. I was greatly disappointed when this vital provision was watered down in a House-Senate conference to merely allow Coast Guard personnel to be assigned to Naval ships in drug smuggling areas. That was indeed a meek response to a crisis of such monumental proportions.

But, if we needed the military's involvement in the drug war then, their participation is absolutely essential today. Consider that the House Select Committee on Narcotics estimates that 12 tons of heroin will enter the United States in 1986, along with 150 tons of cocaine and 30,000 tons of marijuana. Chances are, we may never be able to do enough to stop this drug flow entirely, but we shouldn't be reluctant to try. Historically, we have not used our military to interdict drugs, but historically we have never faced a drug crisis of this magnitude. Tough times demand tough actions and that is what this amendment proposes.

As chairman of the Coast Guard Subcommittee during the years 1975–80, I placed a much greater emphasis than ever before on the Coast Guard's antidrug smuggling operations. As a result, drug seizures and arrests increased dramatically during that time. For example, the Coast Guard seized only one drug smuggling vessel in 1974, compared to 149 seized in 1980. In addition, the Coast Guard confiscated 38,501 pounds of marijuana in 1974, compared to 2,494,774 pounds in 1980. I am pleased to report that these aggressive antidrug smuggling activites by the Coast Guard are continuing.

I raise this fact to illustrate just how successful an even limited role by the U.S. military can be in the task of drug interdiction. I have to believe that if we made a full commitment, as proposed by the Bennett amendment, we would be rewarded accordingly.

The head of the U.S. Drug Enforcement Agency has said that he would need an additional 40,000 agents to effectively combat the current level of drug trafficking, at a cost of about $1 billion. Obviously, such an expenditure is not possible given the tight budget constraints that we are now working under. Yet, the military, with their vast resources, offers us the personnel and equipment that is necessary without anywhere near the cost of 40,000 new drug agents.

Consider for a moment that Ed Koch, the mayor of our Nation's largest city, is a leading and outspoken supporter of this proposal. His motives are quite simple. The drug crisis has hit nowhere in our country harder than New York City and I am proud to say that my home city has responded in tough and proper fashion. However, Mayor Koch knows, just as I do, that once the illicit drugs reach our city streets, we are waging a losing battle. We need to do more to stop the flow of drugs before they reach our borders and that is precisely what this amendment is all about.

Doesn't it seem strange that we're authorizing some $3 billion in this bill to increase the Federal Government's role in all aspects of the drug war—an ambitious and commendable effort—and yet we are leaving perhaps our greatest single resource, the U.S. military, on the sidelines? I believe that is a terrible mistake and would seriously undercut all the other good we're doing in this bill. We can and should correct that flaw by adopting the Bennett amendment.

The CHAIRMAN. All time has expired on the Hunter amendment.

The question is on the amendment offered by the gentleman from California [Mr. HUNTER] to the amendment offered by the gentleman from Florida [Mr. BENNETT].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. HUNTER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 237, noes 177, not voting 17, as follows:

[Roll No. 367]

AYES—237

Anderson	Hatcher	Rahall
Andrews	Hendon	Regula
Annunzio	Henry	Reid
Applegate	Hertel	Richardson
Archer	Hiler	Ridge
Armey	Hopkins	Rinaldo
Badham	Howard	Ritter
Barnard	Hubbard	Roberts
Bartlett	Hunter	Robinson
Barton	Hyde	Roe
Bates	Ireland	Roemer
Bennett	Jacobs	Rogers
Bentley	Jenkins	Roth
Biaggi	Jones (OK)	Roukema
Bilirakis	Kanjorski	Rowland (CT)
Bliley	Kaptur	Rowland (GA)
Boehlert	Kasich	Russo
Boggs	Kemp	Saxton
Boner (TN)	Kindness	Schaefer
Boulter	Kolbe	Schuette
Broomfield	Kolter	Schulze
Brown (CO)	Kramer	Schumer
Bryant	LaFalce	Sensenbrenner
Burton (IN)	Lagomarsino	Shaw
Callahan	Lantos	Shelby
Carper	Latta	Shumway
Carr	Lehman (CA)	Shuster
Chapman	Lent	Siljander
Clinger	Lewis (CA)	Skeen
Coats	Lewis (FL)	Slattery
Cobey	Lightfoot	Slaughter
Coble	Lipinski	Smith (FL)
Coleman (MO)	Livingston	Smith (IA)
Coleman (TX)	Lloyd	Smith (NE)
Combest	Loeffler	Smith (NJ)
Courter	Lott	Smith, Denny (OR)
Craig	Lowery (CA)	Smith, Robert (NH)
Crane	Lujan	Smith, Robert (OR)
Dannemeyer	Luken	Snowe
Darden	Lundine	Snyder
Daschle	Mack	Solomon
Davis	MacKay	Spence
de la Garza	Madigan	St Germain
DeLay	Manton	Staggers
DeWine	Marlenee	Stallings
DioGuardi	Martin (IL)	Stangeland
Donnelly	Martin (NY)	Stenholm
Dornan (CA)	McCain	Strang
Dowdy	McCandless	Stump
Dreier	McCloskey	Sundquist
Duncan	McCurdy	Sweeney
Dwyer	McGrath	Swindall
Dyson	McHugh	Tallon
Early	McKernan	Tauke
Eckart (OH)	McKinney	Tauzin
Eckert (NY)	McMillan	Taylor
Edwards (OK)	Meyers	Thomas (CA)
Emerson	Mica	Thomas (GA)
Erdreich	Michel	Torricelli
Evans (IA)	Miller (OH)	Traficant
Fawell	Miller (WA)	Vander Jagt
Fiedler	Molinari	Volkmer
Fields	Mollohan	Vucanovich
Florio	Monson	Walgren
Franklin	Moore	Walker
Frenzel	Moorhead	Watkins
Frost	Morrison (WA)	Waxman
Gallo	Murphy	Weber
Gaydos	Natcher	Whittaker
Gekas	Nowak	Wilson
Gingrich	Ortiz	Wise
Goodling	Packard	Wolf
Gradison	Parris	Wortley
Gregg	Pashayan	Wyden
Guarini	Penny	Wylie
Gunderson	Perkins	Yatron
Hall (OH)	Petri	Zschau
Hall, Ralph	Pickle	
Hammerschmidt	Porter	
Hartnett	Quillen	

NOES—177

Ackerman	Beilenson	Boxer
Akaka	Bereuter	Brooks
Alexander	Berman	Brown (CA)
Anthony	Bevill	Bruce
Aspin	Boland	Bustamante
Atkins	Bonior (MI)	Byron
AuCoin	Bonker	Carney
Barnes	Borski	Chandler
Bateman	Bosco	Chappell
Bedell	Boucher	Cheney
Clay	Hawkins	Obey
Coelho	Hayes	Olin
Collins	Hefner	Owens
Conte	Hillis	Oxley
Conyers	Horton	Panetta
Cooper	Hoyer	Pease
Coughlin	Hughes	Pepper
Coyne	Hutto	Price
Crockett	Jeffords	Pursell
Daniel	Johnson	Rangel
Daub	Jones (NC)	Ray
Dellums	Jones (TN)	Rodino
Derrick	Kastenmeier	Rose
Dickinson	Kennelly	Roybal
Dicks	Kildee	Sabo
Dingell	Kleczka	Savage
Dixon	Kostmayer	Scheuer
Dorgan (ND)	Leach (IA)	Schneider
Downey	Leath (TX)	Schroeder
Durbin	Lehman (FL)	Seiberling
Dymally	Leland	Sharp
Edgar	Levin (MI)	Sisisky
Edwards (CA)	Levine (CA)	Skelton
English	Long	Solarz
Evans (IL)	Lowry (WA)	Spratt
Fascell	Lungren	Stark
Fazio	Martinez	Stokes
Feighan	Matsui	Studds
Fish	Mavroules	Swift
Flippo	Mazzoli	Synar
Foglietta	McCollum	Torres
Foley	McDade	Towns
Ford (MI)	McEwen	Traxler
Ford (TN)	Mikulski	Udall
Frank	Miller (CA)	Valentine
Fuqua	Mineta	Vento
Garcia	Mitchell	Visclosky
Gejdenson	Moakley	Waldon
Gephardt	Montgomery	Weiss
Gibbons	Moody	Wheat
Gilman	Morrison (CT)	Whitehurst
Glickman	Mrazek	Whitley
Gonzalez	Murtha	Williams
Gordon	Myers	Wirth
Gray (IL)	Neal	Wolpe
Gray (PA)	Nichols	Wright
Green	Nielson	Yates
Hamilton	Oakar	Young (FL)
Hansen	Oberstar	Young (MO)

NOT VOTING—17

Breaux	Holt	Sikorski
Burton (CA)	Huckaby	Stratton
Campbell	Markey	Weaver
Chappie	Nelson	Whitten
Fowler	Rostenkowski	Young (AK)
Grotberg	Rudd	

□ 1250

Messrs. EMERSON, BLILEY, RAHALL, BATES, GUNDERSON, ANNUNZIO, McCLOSKEY, HOWARD, PERKINS, CARR, NATCHER, ORTIZ, ST GERMAIN, and Mrs. ROUKEMA changed their votes from "no" to "aye."

So the amendment to the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Chair would inform the Members that 1½ minutes remain in debate on the pending amendment offered by the gentleman from Florida [Mr. BENNETT].

PARLIAMENTARY INQUIRY

Mr. FASCELL. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. FASCELL. Mr. Chairman, is the pending order of business consideration of the Bennett amendment?

The CHAIRMAN. The pending order of business is the Bennett amendment, as amended.

The gentleman from Florida [Mr. BENNETT] has 1½ minutes remaining.

The gentleman from Florida [Mr. BENNETT] is recognized.

Mr. BENNETT. Mr. Chairman, I appreciate the attention that has been given and is being given to the conclusion of this.

Mr. Chairman, the purpose of the Bennett amendment was to see to it that every ship, every airplane, every materiel of the U.S. Government, which was armed, would be in a position where it could make an arrest of a drug smuggler if that were available. So if a smuggler saw a ship, he would know that he could be arrested, regardless of what other personnel they had on it besides Navy or other type of personnel. That is the real purpose of that amendment, the one which I introduced. It was very carefully couched, seeing to it that the Department of State, the Department of Justice and all these people agreed, and the Department of Defense decided it was not in any way an infringement on training or preparedness or anything like that. It is a very simple amendment.

To that there has now been added an amendment which I voted for, Mr. HUNTER's amendment, which is a much more dramatic amendment which has now passed the House. And I believe we probably should have a record vote on the thing in its final passage so that everybody will have a chance to express themselves again.

I must say, however, that my amendment as a whole overwhelmingly passed the House, 450-some-odd to a few score a year or so ago. This is a much narrower vote. I hope it will not be interpreted as in any way diminishing the part of my amendment, which still exists.

PARLIAMENTARY INQUIRIES

Mr. BENNETT. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BENNETT. Mr. Chairman, all of the Bennett amendment is still in this bill, as I understand it, is that correct?

The CHAIRMAN. The gentleman is correct.

Mr. BENNETT. That is the end of my remarks.

Mr. FASCELL. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. FASCELL. Mr. Chairman, am I correct that the pending question is on the Bennett amendment as amended by the Hunter amendment?

The CHAIRMAN. The gentleman is correct.

The question is on the amendment offered by the gentleman from Florida [Mr. BENNETT], as amended.

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. FASCELL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 359, noes 52, not voting 20, as follows:

[Roll No. 368]

AYES—359

Ackerman	Dyson	Kostmayer
Akaka	Early	Kramer
Alexander	Eckart (OH)	LaFalce
Anderson	Eckert (NY)	Lagomarsino
Andrews	Edgar	Lantos
Annunzio	Edwards (OK)	Latta
Anthony	Emerson	Leach (IA)
Applegate	English	Leath (TX)
Archer	Erdreich	Lehman (CA)
Armey	Evans (IA)	Leland
Badham	Evans (IL)	Lent
Barnard	Fascell	Levin (MI)
Bartlett	Fawell	Levine (CA)
Barton	Fazio	Lewis (CA)
Bateman	Feighan	Lewis (FL)
Bates	Fiedler	Lightfoot
Bennett	Fields	Lipinski
Bentley	Fish	Livingston
Bereuter	Florio	Lloyd
Bevill	Foglietta	Loeffler
Biaggi	Ford (MI)	Long
Bilirakis	Ford (TN)	Lott
Bliley	Franklin	Lowery (CA)
Boehlert	Frenzel	Lujan
Boland	Frost	Luken
Boner (TN)	Fuqua	Lundine
Bonker	Gallo	Lungren
Borski	Garcia	Mack
Boucher	Gaydos	MacKay
Boulter	Gejdenson	Madigan
Boxer	Gekas	Manton
Brooks	Gephardt	Marlenee
Broomfield	Gibbons	Martin (IL)
Brown (CA)	Gilman	Martin (NY)
Brown (CO)	Gingrich	Martinez
Bruce	Goodling	Matsui
Bryant	Gordon	Mavroules
Burton (IN)	Gradison	Mazzoli
Bustamante	Gray (IL)	McCain
Byron	Gray (PA)	McCandless
Carney	Gregg	McCloskey
Carper	Guarini	McCollum
Carr	Gunderson	McCurdy
Chandler	Hall (OH)	McDade
Chapman	Hall, Ralph	McEwen
Chappell	Hamilton	McGrath
Cheney	Hammerschmidt	McHugh
Clinger	Hansen	McKernan
Cobey	Hartnett	McKinney
Coble	Hatcher	McMillan
Coelho	Hayes	Meyers
Coleman (MO)	Hefner	Mica
Coleman (TX)	Hendon	Michel
Combest	Henry	Mikulski
Conte	Hertel	Miller (CA)
Cooper	Hiler	Miller (OH)
Coughlin	Hillis	Miller (WA)
Courter	Hopkins	Moakley
Coyne	Horton	Molinari
Craig	Howard	Mollohan
Crane	Hubbard	Monson
Daniel	Hughes	Montgomery
Dannemeyer	Hunter	Moore
Darden	Hutto	Moorhead
Daschle	Hyde	Morrison (WA)
Daub	Ireland	Mrazek
Davis	Jacobs	Murphy
de la Garza	Jeffords	Murtha
DeLay	Jenkins	Myers
Derrick	Johnson	Natcher
DeWine	Jones (NC)	Neal
Dicks	Jones (OK)	Nelson
Dingell	Jones (TN)	Nichols
DioGuardi	Kanjorski	Nielson
Donnelly	Kaptur	Nowak
Dorgan (ND)	Kasich	Oakar
Dornan (CA)	Kemp	Oberstar
Dowdy	Kennelly	Olin
Downey	Kildee	Ortiz
Dreier	Kindness	Owens
Duncan	Kleczka	Oxley
Durbin	Kolbe	Packard
Dwyer	Kolter	Parris
Pashayan	Sharp	Tauke
Penny	Shaw	Tauzin
Pepper	Shelby	Taylor
Perkins	Shumway	Thomas (CA)
Petri	Shuster	Thomas (GA)
Pickle	Siljander	Torres
Porter	Sisisky	Torricelli
Price	Skeen	Traficant
Pursell	Skelton	Traxler
Quillen	Slattery	Udall
Rahall	Slaughter	Valentine
Rangel	Smith (FL)	Vander Jagt
Regula	Smith (IA)	Vento
Reid	Smith (NE)	Volkmer
Richardson	Smith (NJ)	Vucanovich
Ridge	Smith, Denny (OR)	Waldon
Rinaldo	Smith, Robert (NH)	Walgren
Ritter	Smith, Robert (OR)	Walker
Roberts	Snowe	Watkins
Robinson	Snyder	Waxman
Roe	Solarz	Weber
Roemer	Solomon	Whitehurst
Rogers	Spence	Whitley
Rose	Spratt	Whittaker
Roth	St Germain	Williams
Roukema	Staggers	Wilson
Rowland (CT)	Stallings	Wirth
Rowland (GA)	Stangeland	Wise
Russo	Stenholm	Wolf
Saxton	Strang	Wortley
Schaefer	Stump	Wright
Scheuer	Sundquist	Wyden
Schneider	Sweeney	Wylie
Schroeder	Swindall	Yatron
Schuette	Tallon	Young (FL)
Schulze		Young (MO)
Schumer		Zschau
Sensenbrenner		

NOES—52

Aspin	Foley	Rodino
Atkins	Frank	Roybal
AuCoin	Glickman	Sabo
Barnes	Gonzalez	Savage
Bedell	Green	Seiberling
Beilenson	Hawkins	Stark
Berman	Hoyer	Stokes
Bonior (MI)	Kastenmeier	Studds
Bosco	Lehman (FL)	Swift
Clay	Lowry (WA)	Synar
Collins	Mineta	Towns
Conyers	Mitchell	Visclosky
Crockett	Moody	Weiss
Dellums	Morrison (CT)	Wheat
Dickinson	Obey	Wolpe
Dixon	Panetta	Yates
Dymally	Pease	
Edwards (CA)	Ray	

NOT VOTING—20

Boggs	Flippo	Rudd
Breaux	Fowler	Sikorski
Burton (CA)	Grotberg	Stratton
Callahan	Holt	Weaver
Campbell	Huckaby	Whitten
Chappie	Markey	Young (AK)
Coats	Rostenkowski	

□ 1305

Mr. TORRES changed his vote from "no" to "aye."

So the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

□ 1315

The CHAIRMAN. Under the rule, amendment No. 18 is now in order.

Mr. BRYANT. Mr. Chairman, I have amendment No. 18 at the desk. However, in view of the passage of the preceding amendment which accomplishes all of its purposes, I decline to offer my amendment at this time.

The CHAIRMAN. Under the rule, amendment No. 19 is now in order.

AMENDMENT OFFERED BY MR. CRANE

Mr. CRANE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CRANE: Page 43, strike out line 10 and on page 77 strike out line 12 and all that follows through line 12 on page 79.

The CHAIRMAN. Under the rule, the gentleman from Illinois [Mr. CRANE] will be recognized for 5 minutes and a Member opposed thereto will be recognized for 5 minutes.

Mr. GIBBONS. Mr. Chairman, I stand in opposition to the Crane amendment.

The CHAIRMAN. The gentleman from Florida [Mr. GIBBONS] will be recognized for 5 minutes in opposition to the amendment.

The Chair recognizes the gentleman from Illinois [Mr. CRANE].

PARLIAMENTARY INQUIRIES

Mr. DANIEL. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. DANIEL. Mr. Chairman, has title II been completed? Are there any further amendments to title II?

The CHAIRMAN. The Chair states to the gentleman that the committee must proceed by amendment number, according to the report of the Rules Committee.

Mr. DANIEL. I thank the Chair.

Mr. ENGLISH. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. ENGLISH. Mr. Chairman, is this amendment number 19?

The CHAIRMAN. The gentleman is correct.

Mr. ENGLISH. I thank the Chair.

Mr. CRANE. Mr. Chairman, the first of my two amendments deals with the question of the Customs Forfeiture Fund. When the customs forfeiture Fund was initially created, there was some debate and some disagreement over the advisability of proceeding in this manner rather than going through standard appropriations routines and authorizations. I think that in this instance, there is no legitimate basis for either expanding the purposes for which the moneys in the customs forfeiture fund may be used, nor is there a legitimate basis for calling for a doubling of that fund.

The increased authorizations in this bill are a 45-percent increase over the previous fiscal year, to begin with. The doubling of the cap on the forfeiture fund from $10 million to $20 million, a relatively inconsequential amount of money perhaps by our standards here, but on the other hand, I do not think that is justified. I do not think it is advisable. I think the secondary point I made about the accountability as to how these moneys are going to be spent at a time when we are having difficulty maintaining appropriate oversight, why expand the authority of the Customs Office to utilize these moneys in a broader discretionary manner than exists under the current law.

Mr. Chairman, my amendment really does not do anything in the way of altering existing law. It simply says, maintain the current jurisdictions and authority under the customs forfeiture fund and maintain the current existing cap of $10 million.

One final point I would make is that the Customs Commissioner, when he appeared before our committee, did not request this increase. He did not call for this doubling of the cap in the forfeiture fund.

Second, under the appropriations control we have, only $8 million currently of the $10 million that is eligible under that cap has been appropriated. Mr. Chairman, I urge my colleagues to support what I think is a strengthening amendment to this total bill.

The CHAIRMAN. The Chair recognizes the gentleman from Florida [Mr. GIBBONS] in opposition to the amendment.

Mr. GIBBONS. Mr. Chairman, because the Customs Forfeiture Fund that is currently in law would expire in 1987, the Crane amendment would, in effect, put an end to it. A number of years ago, we painfully worked out with the Office of Management and Budget and the Budget Committee and others this Customs Forfeiture Fund. The forfeitures arise in the fund when drug smuggling equipment, planes and ships, are forfeited and automobiles are forfeited. Sometimes residences are forfeited to the U.S. Government because they are involved in the handling of contraband. It is nothing new; there is a 200-year-old history of that in this country.

The forfeiture fund was put in there to make it a little more flexible and a little more possible to get things done and to get them done expeditiously.

The forfeiture fund is not a wide open fund. Every penny that is spent out of the forfeiture fund must be appropriated through the normal appropriations process. It must be included in the appropriations bill and passed. It is just a trust fund dedicated for the purpose of getting done in an expeditious manner the kind of work that must be done to take transportation equipment and convert it to Government use so that it can be used in the war on drugs.

I hope that we will not spend a lot of time on this amendment. I hope we will vote it down very rapidly.

Mr. RANGEL. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from New York.

Mr. RANGEL. I thank the gentleman for yielding.

Mr. Chairman, I rise in opposition to the amendment. There are so many people that ask where the money comes from and how are we going to pay for this bill. Under the forfeiture trust fund, because of the good work that Customs is doing, they managed to get the equipment to sell the equipment and to be able to do a variety of things out of this fund under the guidelines of the proper appropriation committee.

Some of the things that they are allowed to do under the legislation is to subsidize the investigative cost that leads up to the seizures. The cost of equipment for law enforcement functions. The cost of reimbursing private citizens for expenses incurred during these investigations, and the cost of publicizing the availability of awards.

This has really worked and sometimes we hear people say that "If it ain't broke, don't fix it." The fund has been viable; it pays for itself. It has the proper legislative guidelines and I do hope that we can get a vote against this amendment to repeal it.

Mr. ENGLISH. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from Oklahoma.

Mr. ENGLISH. I thank the gentleman for yielding to me.

Mr. Chairman, I would like to oppose this particular amendment and commend the gentleman from Florida for opposing it.

I would also like to say that the forfeiture fund has been one that has been extremely helpful to law enforcement. It is one that is dedicated totally to law enforcement. It is money for the most part that is collected through these various operations with drug traffickers. So it seems entirely fitting that a portion of those funds that are collected be set aside and dedicated to law enforcement. I think that it makes imminently good sense, as the committee did, to raise that level up to $20 million.

Mr. GIBBONS. I thank the gentleman.

Mr. Chairman, I ask for a "no" vote.

□ 1325

The CHAIRMAN. The Chair will inquire, does the gentleman from Florida [Mr. GIBBONS] yield back his time?

Mr. GIBBONS. I do, Mr. Chairman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. CRANE].

The amendment was rejected.

AMENDMENT OFFERED BY MR. CRANE, AS MODIFIED

The CHAIRMAN. Under the rule, amendment No. 20 is in order.

Mr. CRANE. Mr. Chairman, I offer an amendment, but first I would make a unanimous-consent request.

Mr. Chairman, I ask unanimous consent that the language that I present-

ed to the desk earlier this morning, with a very minor technical correction which I have shown to the majority, be made in order. The one that is printed in the report unfortunately had a shift of about a half a million dollars in one category versus another, and I think I have explained it to the satisfaction of my distinguished colleague.

The CHAIRMAN. The Clerk will report the amendment, as modified.

The Clerk read the amendment, as modified, as follows:

Amendment offered by Mr. CRANE, as modified: On page 80, line 10, strike "$99,300,000" and insert "$30,730,000"; on page 80, line 16, strike "$137,000,000" and insert "$95,000,000".

On page 81, after line 7, insert the following:

"(3) There are authorized to be appropriated to the Customs Service for fiscal year 1988 $27,960,000 for salaries and expenses of personnel to be used in carrying out drug enforcement activities, and $24,500,000 for additional aircraft, communications enhancements, and command, control, communications, and intelligence centers, of the air interdiction program.

"(4) There are authorized to be appropriated to the Customs Service for fiscal year 1989 $36,710,000 for salaries and expenses of personnel to be used in carrying out drug enforcement activities, and $15,000,000 for additional aircraft, communications enhancements, and command, control, communications, and intelligence centers, of the air interdiction program."

Section 301(b) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)) is amended by renumbering paragraphs (3) through (7) as paragraphs (5) through (9).

Mr. CRANE (during the reading). Mr. Chairman, if the majority is satisfied with the explanation I made as far as the technical alteration is concerned, I would ask unanimous consent that the amendment, as modified, be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. There being no objection, the amendment is considered as read.

Is there objection to the modification?

Mr. ENGLISH. I object, Mr. Chairman.

The CHAIRMAN. Objection is heard.

The Clerk will report the original amendment.

The Clerk read as follows:

Amendment offered by Mr. CRANE: Page 80, line 10, strike out "$99,300,000" and insert "$28,730,000".

Page 80, line 16, strike out "$137,000,000" and insert "$97,000,000".

Page 81, after line 7, insert the following:

"(3) There are authorized to be appropriated to the Customs Service for fiscal year 1988 $27,460,000 for salaries and expenses of personnel to be used in carrying out drug enforcement activities, and $25,000,000 for additional aircraft, communications enhancements, and command, control, communications, and intelligence centers, of the air interdiction program.

"(4) There are authorized to be appropriated to the Customs Service for fiscal year 1989 $36,210,000 for salaries and expenses of personnel to be used in carrying out drug enforcement activities, and $15,500,000 for additional aircraft, communications enhancements, and command, control, communications, and intelligence centers, of the air interdiction program.".

Mr. ENGLISH (during the reading). Mr. Chairman, I have no objection to the modification.

The CHAIRMAN. Does the Chair understand that the gentleman withdraws his objection to the modification?

Mr. ENGLISH. I have no objection to considering the amendment, as modified, Mr. Chairman.

The CHAIRMAN. The Chair understands, then, that the gentleman withdraws his objection to the modification of the amendment as offered by the gentleman from Illinois [Mr. CRANE].

Mr. ENGLISH. I withdraw my objection, Mr. Chairman.

The CHAIRMAN. Is there any further objection to the modification?

Mr. MICHEL. Reserving the right to object, and I shall not object, Mr. Chairman, the Clerk was reading the corrected figures, and there was really only one short paragraph remaining to be read. I wonder if we might have that read, if there is an alteration in those figures, so that I might make the proper annotation.

The CHAIRMAN. Without objection, the Clerk will continue reading.

The Clerk continued the reading of the amendment.

Mr. CRANE (during the reading). Mr. Chairman, I think that the Clerk is reading the original version as it was printed rather than the corrected one. I brought a copy up to the desk, but let me deliver a second one to the desk.

Mr. MICHEL. My request, Mr. Chairman, was that the modified amendment be read in its entirety so that we might make the proper corrections. There were only a few sentences left.

The CHAIRMAN. The Chair will state that there being no objection to the modification, the Clerk will read the modified language in toto.

The Clerk read the amendment offered by Mr. CRANE, as modified.

The CHAIRMAN. The Chair understands that the distinguished minority leader, the gentleman from Illinois [Mr. MICHEL], has reserved the right to object.

Mr. MICHEL. I withdraw my reservation of objection, Mr. Chairman.

The CHAIRMAN. Without objection, the amendment is modified.

There was no objection.

The CHAIRMAN. The gentleman from Illinois [Mr. CRANE] is recognized for 5 minutes in support of his amendment.

Mr. CRANE. Mr. Chairman, when we contrast the language of this amendment with the language in the existing bill before us, we will see that the total dollar figures are not more than $3 million over the 3-year period at variance. What my amendment basically does is to spread the moneys that we have appropriated to Customs over a 3-year period on the ground that they cannot possibly effectively utilize those funds in just a single year. And it does not just do this in an arbitrary one-third, one-third, one-third way. Most of the spread of the authorization deals with the area of acquiring additional personnel to the Customs Service, and in the area, by contrast of operations and maintenance in the air interdiction program, virtually all of the money is up front available to them in the first year where that money can be utilized effectively in a single year. Otherwise, as I said, it spreads these sums out in fiscal year 1988 and through 1989, and I think that that is dictated in terms of a responsible expenditure of money.

There is no point in having the moneys lying around idle, which must inevitably happen, because they cannot come up to speed in terms of what we are authorizing them to do in a single year.

With that, Mr. Chairman, unless there is a question, I would yield back the balance of my time.

The CHAIRMAN. The gentleman from Illinois [Mr. CRANE] yields back the balance of his time.

For what purpose does the gentleman from Oklahoma [Mr. ENGLISH] rise?

Mr. ENGLISH. I rise in opposition to the amendment, Mr. Chairman.

The CHAIRMAN. Under the rule, the gentleman from Oklahoma [Mr. ENGLISH] is recognized for 5 minutes.

Mr. ENGLISH. Mr. Chairman, I yield to the distinguished majority leader.

Mr. WRIGHT. Mr. Chairman, I earnestly hope that we would not adopt this Crane amendment. It reduces the amount available under the bill to the Customs Office and asks that office to do in 3 years what we have asked them to do in 1 year. It, therefore, would reduce by one-third the impact of the bill.

The Customs Office has been undermanned and underfunded. They are required right now to operate against a highly mobile and highly funded opposition in this drug culture with old World War II vintage radios in their cars. Drug czars and operatives can go into a retail store and buy a monitoring system that can track their radios and bust in on their communications

and know what they are planning and what they are doing.

They need this help. We need more drug monitoring personnel for the Customs Office. We need a great many things, and I am convinced and the committee was convinced that they can use this money in the first year, and we can give them some more for the next 2 years.

The CHAIRMAN. I urge a no vote on this amendment.

Mr. CRANE. Mr. Chairman, will the gentleman yield?

Mr. ENGLISH. Mr. Chairman, I have a couple of statements I would like to make, and then I would be happy to yield to the gentleman.

There are a couple of points that should be underscored. Right now we do not have enough Customs personnel on line to be able to fly the aircraft the Customs Service has more than 8 hours a day 5 days a week.

□ 1335

This would allow us to go up to 16 hours, 7 days a week, as the Customs Service has requested. The Congress has provided 40 new interceptor boats, but we have no one who can man those boats.

I have talked to the Commissioner of Customs as recently as yesterday. He assured me that there is no question that they would be able to acquire all these personnel, be able to train them and put them on line within 1 year.

Also, I think it should be understood that we are talking about pulling together the resources of the United States in these command and control centers, something that we do not have today. The design contracts will be let within the next few days.

The question is whether we are going to have the money available next year so that we can move ahead, build the command and control centers and have them in operation next year.

We desperately need to get this war underway. We do not need a delay in the war on drugs for another 3 years.

Mr. GIBBONS. Mr. Chairman, will the gentleman yield?

Mr. ENGLISH. I am happy to yield to the distinguished gentleman from Florida.

Mr. GIBBONS. Mr. Chairman, to show what this would do if what we plan goes through, we will add approximately 800 positions to the Customs Service. That is almost enough positions to operate 200 slots—or 150 slots 24 hours a day, 7 days a week, that Customs must operate.

Lest anyone think that Customs is a bloated overgrown agency, they should know that in 20 years the total number of people in Customs has increased by 39 warm bodies, only 39 people. Foreign trade has jumped from $50 to $700 billion in that time and the number of air passengers who must be processed has quadrupled in that time.

This is an agency that needs help and to adopt the Crane amendment would be a serious setback to what we are trying to do.

Mr. ENGLISH. I might also say, Mr. Chairman, that according to the General Accounting Office and the study and the report that they made to my subcommittee on Tuesday, we have boats today that are setting around because we do not have the personnel to put in them. That does not count those 40 new interceptors that I just mentioned.

We also find that to go up to 16 hours a day, 7 days a week, requires 650 personnel. Today the Customs Service has in their area branch only 280 personnel.

We have new interceptors that are contained within this budget that need to be brought online. We have to have those interceptors to be able to track these drug traffickers and be able to apprehend them. We only have seven interceptors today.

We find that even if we are able to detect those smugglers, unless we have those interceptors, we are not going to be able to make this apprehension.

Communications today, drug smugglers are listening in on what the law enforcement personnel are saying, the way they are shifting their forces around.

There is no question that we need secure communications. We have to be able to prevent the smugglers from listening in and knowing what the game plan is as far as the war on drugs is concerned. Today there simply is not in existence any type of secure communications.

But the bottom line it comes down to I think and the real issue that we are facing is this question: Are we going to get the war on drugs launched today? Is it going to be something that the people of this country can look forward to within the next 12 months or is it going to be stretched over the next 2, 3, and 4 years, and goodness knows how many delays we may have beyond that.

I think, Mr. Chairman, that the case has been made time and time again over the past number of hours about the importance of the war on drugs. Let us get it going today.

Mr. CRANE. Mr. Chairman, could I make a unanimous-consent request that the time I relinquished on my side might be yielded to the gentleman from Oklahoma for a brief colloquy?

The CHAIRMAN. The gentleman may ask unanimous consent to reclaim his time.

Mr. CRANE. Mr. Chairman, I ask unanimous consent to reclaim my time.

The CHAIRMAN. Without objection, the gentleman from Illinois [Mr. CRANE] is recognized for 3 minutes.

There was no objection.

Mr. CRANE. Mr. Chairman, very briefly, I would like to make one observation about the total funding levels in my amendment versus what is in the committee bill.

On personnel and expenses, the committee bill has $99.3 million that is authorized. In mine it is $99.4 million. There is a differential of about $4 million only there.

On operations and maintenance in the Air Interdiction Program, the committee bill has $137 million authorized and my amendment has $134.5 million.

The reason I mentioned this is the dollar figures are essentially the same. I agree with the distinguished gentleman from Oklahoma about the importance of this and that is why in terms of the spread of the moneys authorized in my amendment over a 3-year period, most of that money is up front in the first year.

My only argument is, and as the distinguished majority leader pointed out, they may be able to absorb it all. Maybe they will need more next year; but right now we do not know that and I would argue that what we are authorizing up front in this first year I do not think can be effectively utilized in their training program.

Mr. ENGLISH. Mr. Chairman, will the gentleman yield?

Mr. CRANE. I yield to the gentleman from Oklahoma.

Mr. ENGLISH. Mr. Chairman, I appreciate the gentleman yielding.

I would simply again stress that the Commissioner of Customs told me yesterday that they would be able to digest the personnel and the funds requested within this provision, or within the House bill, and do it within 1 year.

So the real issue we are facing is whether we are going to get the war on now or whether we are going to wait 3 years until we finally get everything in place.

I would also point out that from the standpoint of command and control, those are centers that we need now. We cannot stretch those out over 3 years.

Mr. CRANE. Mr. Chairman, if I can reclaim my time just a second, that money is provided under my amendment in the first year. The command and control and communications, all of that money is up front in the first year.

The area of the spread-out is primarily in the category of acquisitions of additional personnel that will have to be trained.

I would submit that based upon past experience, you are not going to bring that army on board in the first year

and be able effectively to spend all that money that first year.

We can change that next year if the Commissioner so advises us, but remember, he told us he could live with a freeze and do his job in 1985. That may have been because we are all trying to control expenditures here, but in 1986 with the modest increases provided in the authorizations for that office, they did not express their indication that they were understaffed or incapable of handling the workload.

Now we have made a 45-percent increase. My amendment does not alter that in terms of the total sum. It simply phases it in, as I say, in the addition of personnel.

Mr. ENGLISH. Mr. Chairman, will the gentleman yield further?

Mr. CRANE. I yield to the gentleman from Oklahoma.

Mr. ENGLISH. Mr. Chairman, the real key, though, in order to operate those centers, we have to have personnel. We have to have people. In order to operate the boats and the aircraft, we need people. That is where the problem is.

The CHAIRMAN. All time on this amendment has expired.

The question is on the amendment offered by the gentleman from Illinois [Mr. CRANE], as modified.

The question was taken; and the chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. CRANE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 12, noes 395, not voting 24, as follows:

[Roll No. 369]

AYES—12

Brown (CO)	Frenzel	Nielson
Cheney	Gekas	Porter
Crane	McCandless	Shelby
Dannemeyer	Monson	Walker

NOES—395

Akaka	Boehlert	Coble
Alexander	Boggs	Coelho
Anderson	Boland	Coleman (MO)
Andrews	Boner (TN)	Coleman (TX)
Annunzio	Bonior (MI)	Collins
Anthony	Bonker	Combest
Applegate	Borski	Conte
Archer	Bosco	Cooper
Armey	Boucher	Coughlin
Aspin	Boulter	Courter
Atkins	Boxer	Coyne
AuCoin	Brooks	Craig
Badham	Broomfield	Crockett
Barnard	Bruce	Daniel
Barnes	Bryant	Darden
Bartlett	Burton (IN)	Daschle
Barton	Bustamante	Daub
Bateman	Byron	Davis
Bates	Callahan	de la Garza
Bedell	Carney	DeLay
Beilenson	Carper	Dellums
Bennett	Carr	Derrick
Bentley	Chandler	DeWine
Bereuter	Chapman	Dickinson
Berman	Chappell	Dicks
Bevill	Clay	Dingell
Biaggi	Clinger	DioGuardi
Bilirakis	Coats	Dixon
Bliley	Cobey	Donnelly
Boehlert	Coble	Dorgan (ND)
Boggs	Coelho	Dornan (CA)
Boland	Coleman (MO)	Dowdy
Boner (TN)	Coleman (TX)	Downey
Bonior (MI)	Collins	Dreier
Bonker	Combest	Duncan
Borski	Conte	Durbin
Bosco	Cooper	Dwyer
Boucher	Coughlin	Dymally
Boulter	Courter	Dyson
Boxer	Coyne	Early
Brooks	Craig	Eckart (OH)
Broomfield	Crockett	Eckert (NY)
Bruce	Daniel	Edgar
Bryant	Darden	Edwards (CA)
Burton (IN)	Daschle	Edwards (OK)
Bustamante	Daub	Emerson
Byron	Davis	English
Callahan	de la Garza	Erdreich
Carney	DeLay	Evans (IA)
Carper	Dellums	Evans (IL)
Carr	Derrick	Fascell
Chandler	DeWine	Fawell
Chapman	Dickinson	Fazio
Chappell	Dicks	Feighan
Clay	Dingell	Fiedler
Clinger	DioGuardi	Fields
Coats	Dixon	Fish
Cobey	Donnelly	Flippo
Coble	Dorgan (ND)	Florio
Coelho	Dornan (CA)	Foglietta
Coleman (MO)	Dowdy	Foley
Coleman (TX)	Downey	Ford (MI)
Collins	Dreier	Ford (TN)
Combest	Duncan	Frank
Conte	Durbin	Franklin
Cooper	Dwyer	Frost
Coughlin	Dymally	Fuqua
Courter	Dyson	Gallo
Coyne	Early	Garcia
Craig	Eckart (OH)	Gejdenson
Crockett	Eckert (NY)	Gephardt
Daniel	Edgar	Gibbons
Darden	Edwards (CA)	Gilman
Daschle	Edwards (OK)	Gingrich
Daub	Emerson	Glickman
Davis	English	Gonzalez
de la Garza	Erdreich	Goodling
DeLay	Evans (IA)	Gordon
Dellums	Evans (IL)	Gradison
Derrick	Fascell	Gray (IL)
DeWine	Fawell	Green
Dickinson	Fazio	Gregg
Dicks	Feighan	Guarini
Dingell	Fiedler	Gunderson
DioGuardi	Fields	Hall (OH)
Dixon	Fish	Hall, Ralph
Donnelly	Flippo	Hamilton
Dorgan (ND)	Florio	Hammerschmidt
Dornan (CA)	Foglietta	Hansen
Dowdy	Foley	Hartnett
Downey	Ford (MI)	Hatcher
Dreier	Ford (TN)	Hawkins
Duncan	Frank	Hayes
Durbin	Franklin	Hefner
Dwyer	Frost	Hendon
Dymally	Fuqua	Henry
Dyson	Gallo	Hertel
Early	Garcia	Hiler
Eckart (OH)	Gejdenson	Hillis
Eckert (NY)	Gephardt	Horton
Edgar	Gibbons	Howard
Edwards (CA)	Gilman	Hoyer
Edwards (OK)	Gingrich	Hubbard
Emerson	Glickman	Hughes
English	Gonzalez	Hunter
Erdreich	Goodling	Hutto
Evans (IA)	Gordon	Hyde
Evans (IL)	Gradison	Ireland
Fascell	Gray (IL)	Jacobs
Fawell	Green	Jeffords
Fazio	Gregg	Jenkins
Feighan	Guarini	Johnson
Fiedler	Gunderson	Jones (NC)
Fields	Hall (OH)	Jones (OK)
Fish	Hall, Ralph	Jones (TN)
Flippo	Hamilton	Kanjorski
Florio	Hammerschmidt	Kaptur
Foglietta	Hansen	Kasich
Foley	Hartnett	Kastenmeier
Ford (MI)	Hatcher	Kemp
Ford (TN)	Hawkins	Kennelly
Frank	Hayes	Kildee
Franklin	Hefner	Kindness
Frost	Hendon	Kleczka
Fuqua	Henry	Kolbe
Gallo	Hertel	Kolter
Garcia	Hiler	Kostmayer
Gejdenson	Hillis	Kramer
Gephardt	Horton	LaFalce
Gibbons	Howard	Lagomarsino
Gilman	Hoyer	Lantos
Gingrich	Hubbard	Latta
Glickman	Hughes	Leach (IA)
Gonzalez	Hunter	Leath (TX)
Goodling	Hutto	Lehman (CA)
Gordon	Hyde	Lehman (FL)
Gradison	Ireland	Leland
Gray (IL)	Jacobs	Lent
Green	Jeffords	Levin (MI)
Gregg	Jenkins	Levine (CA)
Guarini	Johnson	Lewis (CA)
Gunderson	Jones (NC)	Lewis (FL)
Hall (OH)	Jones (OK)	Lightfoot
Hall, Ralph	Jones (TN)	Lipinski
Hamilton	Kanjorski	Livingston
Hammerschmidt	Kaptur	Lloyd
Hansen	Kasich	Loeffler
Hartnett	Kastenmeier	Long
Hatcher	Kemp	Lott
Hawkins	Kennelly	Lowery (CA)
Hayes	Kildee	Lowry (WA)
Hefner	Kindness	Lujan
Hendon	Kleczka	Luken
Henry	Kolbe	Lundine
Hertel	Kolter	Lungren
Hiler	Kostmayer	Mack
Hillis	Kramer	MacKay
Horton	LaFalce	Madigan
Howard	Lagomarsino	Manton
Hoyer	Lantos	Marlenee
Hubbard	Latta	Martin (IL)
Hughes	Leach (IA)	Martin (NY)
Hunter	Leath (TX)	Martinez
Hutto	Lehman (CA)	Matsui
Hyde	Lehman (FL)	Mavroules
Ireland	Leland	Mazzoli
Jacobs	Lent	McCain
Jeffords	Levin (MI)	McCloskey
Jenkins	Levine (CA)	McCollum
Johnson	Lewis (CA)	McCurdy
Jones (NC)	Lewis (FL)	McDade
Jones (OK)	Lightfoot	McEwen
Jones (TN)	Lipinski	McGrath
Kanjorski	Livingston	McHugh
Kaptur	Lloyd	McKernan
Kasich	Loeffler	McKinney
Kastenmeier	Long	McMillan
Kemp	Lott	Meyers
Kennelly	Lowery (CA)	Mica
Kildee	Lowry (WA)	Michel
Kindness	Lujan	Mikulski
Kleczka	Luken	Miller (CA)
Kolbe	Lundine	Miller (OH)
Kolter	Lungren	Miller (WA)
Kostmayer	Mack	Mineta
Kramer	MacKay	Mitchell
LaFalce	Madigan	Molinari
Lagomarsino	Manton	Mollohan
Lantos	Marlenee	Montgomery
Latta	Martin (IL)	Moody
Leach (IA)	Martin (NY)	Moore
Leath (TX)	Martinez	Moorhead
Lehman (CA)	Matsui	Morrison (CT)
Lehman (FL)	Mavroules	Morrison (WA)
Leland	Mazzoli	Mrazek
Lent	McCain	Murphy
Levin (MI)	McCloskey	Murtha
Levine (CA)	McCollum	Myers
Lewis (CA)	McCurdy	Natcher
Lewis (FL)	McDade	Neal
Lightfoot	McEwen	Nelson
Lipinski	McGrath	Nichols
Livingston	McHugh	Nowak
Lloyd	McKernan	Oakar
Loeffler	McKinney	Oberstar
Long	McMillan	Obey
Lott	Meyers	Olin
Lowery (CA)	Mica	Ortiz
Lowry (WA)	Michel	Owens
Lujan	Mikulski	Oxley
Luken	Miller (CA)	Packard
Lundine	Miller (OH)	Panetta
Lungren	Miller (WA)	Parris
Mack	Mineta	Pashayan
MacKay	Mitchell	Pease
Madigan	Molinari	Penny
Manton	Mollohan	Pepper
Marlenee	Montgomery	Perkins
Martin (IL)	Moody	Petri
Martin (NY)	Moore	Pickle
Martinez	Moorhead	Price
Matsui	Morrison (CT)	Pursell
Mavroules	Morrison (WA)	Quillen
Mazzoli	Mrazek	Rahall
McCain	Murphy	Rangel
McCloskey	Murtha	Ray
McCollum	Myers	Regula
McCurdy	Natcher	Reid
McDade	Neal	Richardson
McEwen	Nelson	Ridge
McGrath	Nichols	Rinaldo
McHugh	Nowak	Ritter
McKernan	Oakar	Roberts
McKinney	Oberstar	Robinson
McMillan	Obey	Rodino
Meyers	Olin	Roe
Mica	Ortiz	Roemer
Michel	Owens	Rogers
Mikulski	Oxley	Rose
Miller (CA)	Packard	Rostenkowski
Miller (OH)	Panetta	Roth
Miller (WA)	Parris	Roukema
Mineta	Pashayan	Rowland (CT)
Mitchell	Pease	Rowland (GA)
Molinari	Penny	Roybal
Mollohan	Pepper	Russo
Montgomery	Perkins	Sabo
Moody	Petri	Savage
Moore	Pickle	Saxton
Moorhead	Price	Schaefer
Morrison (CT)	Pursell	Scheuer
Morrison (WA)	Quillen	Schroeder
Mrazek	Rahall	Schuette
Murphy	Rangel	Schulze
Murtha	Ray	Schumer
Myers	Regula	Seiberling
Natcher	Reid	Sensenbrenner
Neal	Richardson	Sharp
Nelson	Ridge	Shaw
Nichols	Rinaldo	Shumway
Nowak	Ritter	Shuster
Oakar	Roberts	Siljander
Oberstar	Robinson	Sisisky
Obey	Rodino	Skeen
Olin	Roe	Skelton
Ortiz	Roemer	Slattery
Owens	Rogers	Slaughter
Oxley	Rose	Smith (FL)
Packard	Rostenkowski	Smith (IA)
Panetta	Roth	Smith (NE)
Parris	Roukema	Smith (NJ)
Pashayan	Rowland (CT)	Smith, Denny (OR)
Pease	Rowland (GA)	Smith, Robert (NH)
Penny	Roybal	Smith, Robert (OR)
Pepper	Russo	Snowe
Perkins	Sabo	Snyder
Petri	Savage	Solarz
Pickle	Saxton	Solomon
Price	Schaefer	Spence
Pursell	Scheuer	Spratt
Quillen	Schroeder	St Germain
Rahall	Schuette	Staggers
Rangel	Schulze	Stallings
Ray	Schumer	Stangeland
Regula	Seiberling	Stenholm
Reid	Sensenbrenner	Stokes
Richardson	Sharp	Strang
Ridge	Shaw	Studds
Rinaldo	Shumway	Stump
Ritter	Shuster	Sundquist
Roberts	Siljander	Sweeney
Robinson	Sisisky	Swift
Rodino	Skeen	Swindall
Roe	Skelton	Synar
Roemer	Slattery	Tallon
Rogers	Slaughter	Tauke
Rose	Smith (FL)	Tauzin
Rostenkowski	Smith (IA)	Taylor
Roth	Smith (NE)	Thomas (CA)
Roukema	Smith (NJ)	Thomas (GA)
Rowland (CT)	Smith, Denny (OR)	Torres
Rowland (GA)	Smith, Robert (NH)	Torricelli
Roybal	Smith, Robert (OR)	Towns
Russo	Snowe	Traficant
Sabo	Snyder	Traxler
Savage	Solarz	Udall
Saxton	Solomon	Valentine
Schaefer	Spence	Vander Jagt
Scheuer	Spratt	Vento
Schroeder	St Germain	Visclosky
Schuette	Staggers	Volkmer
Schulze	Stallings	Vucanovich
Schumer	Stangeland	Waldon
Seiberling	Stenholm	Walgren
Sensenbrenner	Stokes	Watkins
Sharp	Strang	Waxman
Shaw	Studds	Weber
Shumway	Stump	Weiss
Shuster	Sundquist	Wheat
Siljander	Sweeney	Whitehurst
Sisisky	Swift	Whitley
Skeen	Swindall	Whittaker
Skelton	Synar	Williams
Slattery	Tallon	Wilson
Slaughter	Tauke	Wirth
Smith (FL)	Tauzin	Wise
Smith (IA)	Taylor	Wolf
Smith (NE)	Thomas (CA)	Wolpe
Smith (NJ)	Thomas (GA)	Wortley
Smith, Denny (OR)	Torres	Wright
Smith, Robert (NH)	Torricelli	Wyden
Smith, Robert (OR)	Towns	Wylie
Snowe	Traficant	Yates
Snyder	Traxler	Yatron
Solarz	Udall	Young (FL)
Solomon	Valentine	Young (MO)
Spence	Vander Jagt	Zschau
Spratt	Vento	
St Germain	Visclosky	
Staggers	Volkmer	
Stallings	Vucanovich	
Stangeland	Waldon	
Stenholm	Walgren	
Stokes	Watkins	
Strang	Waxman	
Studds	Weber	
Stump	Weiss	
Sundquist	Wheat	
Sweeney	Whitehurst	
Swift	Whitley	
Swindall	Whittaker	
Synar	Williams	
Tallon	Wilson	
Tauke	Wirth	
Tauzin	Wise	
Taylor	Wolf	
Thomas (CA)	Wolpe	
Thomas (GA)	Wortley	
Torres	Wright	
Torricelli	Wyden	
Towns	Wylie	
Traficant	Yates	
Traxler	Yatron	
Udall	Young (FL)	
Valentine	Young (MO)	
Vander Jagt	Zschau	
Vento		
Visclosky		
Volkmer		
Vucanovich		
Waldon		
Walgren		

NOT VOTING—24

Ackerman	Gaydos	Rudd
Breaux	Gray (PA)	Schneider
Brown (CA)	Grotberg	Sikorski
Burton (CA)	Holt	Stark
Campbell	Hopkins	Stratton
Chappie	Huckaby	Weaver
Conyers	Markey	Whitten
Fowler	Moakley	Young (AK)

□ 1400

Messrs. COBEY, GEJDENSON, FLIPPO, and COUGHLIN changed their votes from "aye" to "no."

So the amendment, as modified, was rejected.

The result of the vote was announced as above recorded.

Mr. RANGEL. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose and the Speaker pro tempore [Mr. WRIGHT], having assumed the chair, Mr. CARR, Chairman of the Committee of the Whole on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5484) to strengthen Federal efforts to encourage foreign cooperation in eradicating illicit drug crops and in halting international drug traffic, to improve enforcement of Federal drug laws and enhance interdiction of illicit drug shipments, to provide strong Federal leadership in establishing effective drug abuse prevention and education programs, to expand Federal support for drug abuse treatment and rehabilitation efforts, and for other purposes, had come to no resolution thereon.

ORDER OF AMENDMENTS TO H.R. 5484

Mr. ENGLISH. Mr. Speaker, I ask unanimous consent that the amendments numbered 25 and 26 be reversed in their order of presentation and in the subsequent debate on H.R. 5484.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

OMNIBUS DRUG ENFORCEMENT, EDUCATION, AND CONTROL ACT OF 1986

The SPEAKER pro tempore. Pursuant to House Resolution 541 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5484.

□ 1404

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5484) to strengthen Federal efforts to encourage foreign cooperation in eradicating illicit drug crops and in halting international drug traffic, to improve enforcement of federal drug laws and enhance interdiction of illicit drug shipments, to provide strong Federal leadership in establishing effective drug abuse prevention and education programs, to expand Federal support for drug abuse treatment and rehabilitation efforts, and for other purposes, with Mr. CARR in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, consideration of amendment No. 20 had been completed.

Under the rule, amendment No. 21 is in order at this time.

Is there a Member seeking recognition to offer amendment No. 21?

Under the rule, an amendment numbered 23 is in order.

AMENDMENT OFFERED BY MR. KRAMER

Mr. KRAMER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KRAMER: Page 189, after line 19, insert the following:

SEC. 624. MANDATORY LIFE SENTENCE FOR CERTAIN OFFENSES.

(a) DISTRIBUTION TO PERSONS UNDER AGE 21.—Section 405(b) of the Controlled Substances Act (21 U.S.C. 845(b)) is amended—

(1) by inserting "in the second sentence of this subsection and" after "Except as provided"; and

(2) by adding at the end the following: "If the offense under this section consists of a distribution involving an amount of a controlled substance described in subparagraph (A), (B), (C)(i)(I), or (C)(ii) of section 401(b)(1), the convicted person, if at least 21 years of age, shall be sentenced to imprisonment for life without eligibility for parole.".

(b) DISTRIBUTION IN OR NEAR SCHOOLS.—Section 405a(b) of the Controlled Substances Act (21 U.S.C. 845a(b)) is amended by adding at the end the following: "If the offense under this subsection consists of a distribution involving an amount of a controlled substance described in subparagraph (A), (B), ((C)(i)(I), or (C)(ii) or of section 401(b)(1) and the convicted person has attained the age of 21 years, the term of imprisonment imposed under this subsection shall not be less than life.".

Mr. KRAMER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Colorado?

There was no objection.

The CHAIRMAN. Under the rule, the gentleman from Colorado [Mr. KRAMER] will be recognized for 5 minutes and a Member opposed to the amendment will be recognized for 5 minutes.

Mr. HUGHES. Mr. Chairman, I am opposed to the amendment offered by the gentleman from Colorado [Mr. KRAMER].

The CHAIRMAN. At the appropriate time, the gentleman from New Jersey [Mr. HUGHES] will be recognized for 5 minutes in opposition to the amendment.

The Chair now recognizes the gentleman from Colorado [Mr. KRAMER].

Mr. KRAMER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to compliment the Members of the House and the bipartisan leadership that put this package together. I think it is an excellent piece of legislative work, but I do think it is failing in one regard.

Neither current law nor the judiciary provisions of this bill mandate mandatory sentencing for all of those who sell a highly addictive or deadly drug to children or teenagers, even for a second offense.

What this amendment does, simply put, is require a sentence of life imprisonment without parole for all adults who are convicted a second time of selling highly addictive or deadly drugs to young people.

As you know, drug abuse has become a monstrous problem, particularly among our young. In a recent nationwide study, nearly two-thirds of high school seniors were reported to have used illicit drugs sometime in their lives.

Other statistics indicated by the time these same seniors reached their mid-twenties, 75 to 80 percent will have tried such a drug.

What is even more alarming is the fact that nearly half of these students had first used an illicit drug prior to their entering 10th grade.

Moreover, another study done in Michigan clearly shows that this Nation's high school students and other young adults are more involved with drugs than in any other industrialized nation in the world

□ 1410

More and more it is becoming evident that not only do dangerous drugs such as cocaine and heroin and crack lead to abuse and addiction, they can kill.

In 1985, 3,000 teenagers died from factors related to drug abuse. So in short, drug abuse cannot only ruin a young person's life; it can take it.

This has got to deeply sadden all of us. Young people are the hope of our Nation, and if we lose our children to drug abuse, we lose two wonderful resources: people and hope.

So I believe that this amendment is necessary to stem the flow of those who would earn profit and prosper off of the abuse of our young people.

I do not believe that a sentence of life imprisonment without parole for those who profit in such a profane way, for a second conviction, is at all unjustified.

I would ask that we support this amendment. I believe that a prior conviction is more than sufficient warning not to commit the same crime again. It is simply too depressing to think that our Nation's schoolyards are being used as drug operations centers by certain pushers.

Schools and schoolyards are centers for growth, for learning, for understanding; not to learn about drugs. Let us make sure that those schoolyards and schools and young people are as they were originally intended. Schoolyards not tainted by scenes of drug distribution and young people whose minds are not warped by having them put behind the eight ball before they have their chance in life.

The battle against drug abuse will be a long and costly one. It is a battle we must not lose if our Nation is to remain strong. It is clear that stiffer sentencing is in need, and particularly for those dealers who prey on our youth.

This legislation is one step in the struggle. The combining it with rehabilitation and education and treatment, cooperation with drug-producing countries, strengthening our control at our borders, we can produce a united front that will put an end to this deadly threat and protect our children.

Mr. Chairman, I yield to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Chairman, I want to compliment the gentleman on this very tough amendment to our sentencing enhancement provisions of the bill. It is a mandatory life sentence, but it is in a place in this legislation that it needs to be if we are going to put real tough deterrence in here; and dealing with kids is a place where we have got to say no and we have got to really mean it.

I compliment the gentleman for offering the amendment, and I support the amendment.

Mr. KRAMER. Mr. Chairman, I thank the gentleman for this support and I reserve the balance of my time.

Mr. HUGHES. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I ask your attention for just 1 minute. I realize that the steamroller is moving, and we are doing some things that are very, very, very questionable.

The Kramer amendment would impose a mandatory life prison term for a second offender; a person over 18 years of age that distributes any quantity of any schedule 1 or 2 drug, any quantity, to a person under 21 years of

age within 1,000 feet of a school or college.

Two 19-year-olds, one selling five amphetamines, triggers a violation of this statute. Now it is a serious offense, and we provided for a serious, in fact, fine and penalty in the bill. We have enhanced it significantly.

For a second offender, in the legislation we have before you, the term that can be imposed by a court is from 30 to 90 years; 30 to 90 years, depending upon the circumstances.

Mr. KRAMER would have the court impose a mandatory life imprisonment on a 19-year-old—mandatory; no parole.

Now I served for 10 years as a prosecutor, in the pits, trying criminal cases; and believe me when I tell you that the fastest way to get an exoneration before a jury is to have penalty that is too severe. Anybody that has tried cases in the courts, criminal cases, knows that the toughest case you can try is one where the penalty is one that is abhorrent to the jurors. They will not convict.

If you do not want them to convict, then take this path. I know everybody wants to be tough on criminals, but you hamstring the prosecution and you give the defense the best argument they could possibly have; and that is, you cannot impose a life term on this 19-year-old for selling five tablets. Come on, let us get some reason back into the system.

It is a bad amendment, Mr. Chairman. It does not mean you are weak on crime because you oppose it; it means you are trying to use some common sense.

Mr. KRAMER. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I will be happy to yield to my colleague, briefly.

Mr. KRAMER. Mr. Chairman, the gentleman has apparently not read the amendment as I intended it to read. It only applies to adults; those who are 21 years of age or older and who sell to those who are under 18.

Mr. HUGHES. Reclaiming my time, Mr. Chairman, the amendment says, for a second offender, by a person over 18, distributing any quantity of a schedule 1 or schedule 2 drug, except marijuana, to a person under 21 or to any person within 1,000 feet of a school or college.

That is what it says, and that is the essence of the gentleman's amendment, and I urge my colleagues to defeat the amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. KRAMER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me respond briefly. The amendment reads: "if at least 21 years of age." So there is no question—I do not know what the gentleman is reading from, but this amendment clearly provides that it only applies to adults over 21, not those under 21.

Second, it only applies in the case of class 1 or class 2 drugs, those that are deemed to be extraordinarily serious by previous legislation.

Third, the Judiciary amendment, as it reads, makes no change whatsoever in the law as it applies to transactions in schoolyards.

Fourth, I would say I was a prosecutor, both in the Army and in the civilian courts of El Paso County, CO; and I can tell you the juries do not know what sentences are before a conviction takes place.

I would also suggest, Mr. Chairman, that we cannot possibly, possibly suggest that we can deter crime by lessening sentences. I think that is a step in the wrong direction, and if we want a lesson from how we have improved on cracking down on DUI with stiffer sentences, I think that a fair and just sentence is life imprisonment for those who are convicted twice of the same offense dealing with our young people.

Mr. HUGHES. Mr. Chairman, I wanted to reserve the balance of my time.

Mr. KRAMER. Mr. Chairman, I object. The gentleman yielded back his time.

The CHAIRMAN. The gentleman is correct; the gentleman yielded back his time.

The question is on the amendment offered by the gentleman from Colorado [Mr. KRAMER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. KRAMER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 355, noes 54, not voting 22, as follows:

[Roll No. 370]

AYES—355

Akaka	Boggs	Combest
Alexander	Boland	Conte
Anderson	Bonior (MI)	Cooper
Andrews	Borski	Coughlin
Annunzio	Boucher	Courter
Anthony	Boulter	Coyne
Applegate	Brooks	Craig
Archer	Broomfield	Crane
Armey	Brown (CO)	Daniel
Aspin	Bruce	Dannemeyer
Atkins	Bryant	Darden
AuCoin	Burton (IN)	Daschle
Badham	Bustamante	Daub
Barnard	Byron	Davis
Bartlett	Callahan	de la Garza
Barton	Carney	DeLay
Bateman	Carper	Derrick
Bates	Carr	DeWine
Bedell	Chapman	Dickinson
Bennett	Chappell	Dicks
Bentley	Cheney	Dingell
Bereuter	Clinger	DioGuardi
Berman	Coats	Dixon
Bevill	Cobey	Donnelly
Biaggi	Coble	Dorgan (ND)
Bilirakis	Coelho	Dornan (CA)
Bliley	Coleman (MO)	Dowdy
Boehlert	Coleman (TX)	Downey
Dreier	Leach (IA)	Roberts
Duncan	Leath (TX)	Robinson
Durbin	Lehman (CA)	Roe
Dwyer	Lent	Roemer
Dyson	Levin (MI)	Rogers
Eckart (OH)	Levine (CA)	Rose
Eckert (NY)	Lewis (CA)	Rostenkowski
Edgar	Lewis (FL)	Roth
Edwards (OK)	Lightfoot	Roukema
Emerson	Lipinski	Rowland (CT)
English	Livingston	Rowland (GA)
Erdreich	Lloyd	Russo
Evans (IA)	Loeffler	Saxton
Fascell	Lott	Schaefer
Fawell	Lowery (CA)	Schroeder
Fazio	Lujan	Schuette
Feighan	Luken	Schulze
Fiedler	Lundine	Schumer
Fields	Lungren	Seiberling
Fish	Mack	Sensenbrenner
Flippo	MacKay	Sharp
Florio	Madigan	Shaw
Foglietta	Manton	Shelby
Ford (MI)	Marlenee	Shumway
Ford (TN)	Martin (IL)	Shuster
Fowler	Martin (NY)	Siljander
Frank	Martinez	Sisisky
Franklin	Matsui	Skeen
Frenzel	Mavroules	Skelton
Fuqua	Mazzoli	Slattery
Gallo	McCain	Slaughter
Gejdenson	McCandless	Smith (FL)
Gekas	McCloskey	Smith (IA)
Gephardt	McCollum	Smith (NE)
Gibbons	McCurdy	Smith (NJ)
Gilman	McDade	Smith, Denny (OR)
Gingrich	McEwen	Smith, Robert (NH)
Glickman	McGrath	Smith, Robert (OR)
Goodling	McKernan	Snowe
Gordon	McKinney	Snyder
Gradison	McMillan	Solomon
Gray (IL)	Meyers	Spratt
Gray (PA)	Mica	St Germain
Green	Michel	Staggers
Gregg	Mikulski	Stallings
Guarini	Miller (CA)	Stangeland
Gunderson	Miller (OH)	Stenholm
Hall (OH)	Miller (WA)	Strang
Hall, Ralph	Mineta	Stump
Hamilton	Moakley	Sundquist
Hammerschmidt	Molinari	Sweeney
Hansen	Mollohan	Swindall
Hartnett	Monson	Tallon
Hatcher	Montgomery	Tauke
Hefner	Moore	Tauzin
Hendon	Moorhead	Taylor
Henry	Morrison (WA)	Thomas (CA)
Hertel	Mrazek	Thomas (GA)
Hiler	Murphy	Torres
Hillis	Myers	Torricelli
Holt	Natcher	Traficant
Hopkins	Neal	Traxler
Horton	Nelson	Valentine
Howard	Nichols	Vander Jagt
Hoyer	Nielson	Volkmer
Hubbard	Nowak	Vucanovich
Hunter	Oakar	Waldon
Hutto	Olin	Walgren
Hyde	Ortiz	Walker
Ireland	Owens	Weber
Jacobs	Oxley	Wheat
Jeffords	Packard	Whitehurst
Jenkins	Panetta	Whitley
Johnson	Parris	Whittaker
Jones (NC)	Pashayan	Wilson
Jones (OK)	Penny	Wirth
Jones (TN)	Pepper	Wise
Kanjorski	Perkins	Wolf
Kaptur	Petri	Wolpe
Kasich	Pickle	Wortley
Kemp	Porter	Wright
Kennelly	Price	Wyden
Kildee	Pursell	Wylie
Kindness	Quillen	Yatron
Kleczka	Rahall	Young (FL)
Kolbe	Ray	Young (MO)
Kolter	Regula	Zschau
Kostmayer	Reid	
Kramer	Richardson	
Lagomarsino	Ridge	
Lantos	Rinaldo	
Latta	Ritter	

NOES—54

Barnes	Beilenson	Bonker

Bosco	Hayes	Roybal
Boxer	Hughes	Sabo
Chandler	Kastenmeier	Savage
Clay	LaFalce	Scheuer
Collins	Lehman (FL)	Solarz
Conyers	Leland	Stark
Crockett	Long	Stokes
Dellums	Lowry (WA)	Studds
Dymally	McHugh	Swift
Early	Moody	Towns
Edwards (CA)	Morrison (CT)	Udall
Evans (IL)	Murtha	Vento
Foley	Oberstar	Visclosky
Frost	Obey	Waxman
Garcia	Pease	Weiss
Gonzalez	Rangel	Williams
Hawkins	Rodino	Yates

NOT VOTING—22

Ackerman	Grotberg	Stratton
Boner (TN)	Huckaby	Synar
Breaux	Markey	Watkins
Brown (CA)	Mitchell	Weaver
Burton (CA)	Rudd	Whitten
Campbell	Schneider	Young (AK)
Chappie	Sikorski	
Gaydos	Spence	

□ 1435

Mr. RANGEL and Mr. BOSCO changed their votes from "aye" to "no."

Messrs. JEFFORDS, LUKEN, BERMAN, and SCHUMER changed their votes from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. ENGLISH

Mr. ENGLISH. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ENGLISH: Page 208, line 11, strike out "$60,000,000" and insert in lieu thereof "$114,000,000".

Page 208, after the period in line 12 insert the following: "Of the amount appropriated under this subsection, $54,000,000 shall be used to support increased narcotics interdiction operations in the Bahamas."

The CHAIRMAN pro tempore (Mr. FOWLER). Under the rule, the gentleman from Oklahoma [Mr. ENGLISH] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

Mr. HUGHES. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN pro tempore. The gentleman from New Jersey [Mr. HUGHES] will be recognized for 5 minutes.

The Chair recognizes the gentleman from Oklahoma [Mr. ENGLISH].

Mr. ENGLISH. Mr. Chairman, officials of the General Accounting Office 2 days ago testified before my subcommittee about drug trafficking. They told us that perhaps 80 percent of the cocaine entering the United States this year will come through the Bahamas into south Florida.

The Government of the Bahamas, in sharp contrast to the Government of Mexico, has repeatedly expressed an interest in cooperating with us to fight this avalanche of drugs. They have allowed us to operate a powerful antismuggling radar on their soil. They have invited the U.S. Air Force to operate two pursuit helicopters in the Bahamas to carry Bahamian police and American DEA agents to smuggler landing sites.

The Bahamians have even extended their consent to allow our customs agents to land in the Bahamas when in hot pursuit of drug smuggler aircraft. This is the same overflight and hot pursuit authority that the President recently begged Mexico to grant, and which they refused. Mexico is the second leading drug transshipment nation, trailing far behind the Bahamas as a source of illegal drugs for the United States.

A source of continuing wonderment to me is that our Acting Ambassador to the Bahamas has refused to accept the Bahamian's generous hot pursuit offer. I can't conceive of the rationale for that, but I intend to find out why we need it in Mexico but can afford to turn it down in the Bahamas.

Mr. Chairman, we have a number of new detection assets that will be coming on the line in the very near future down in the Southeastern part of the United States and in the Bahamas itself. And with over 80 percent of the cocaine entering this country coming up through the Windward Passage in the Bahamas into south Florida and further north along the eastern seaboard, it does not make a whole lot of sense to have detection coverage down there unless you are willing to provide the interceptors and the helicopters to allow our law enforcement officials in cooperation with the Bahamians to make arrests.

There are hundreds of islands in the Bahamian chain. We have two helicopters presently that carry law enforcement officials from the United States and the Bahamas in making arrests in the northern part of that chain.

What this amendment does is make available additional personnel as well as six high-endurance aircraft that would have tracking capability, along with six new helicopters that will allow us to scatter these forces throughout the Bahamian chain and take away this launching point, and it is a launching point, into the Southern part of the United States and into the west coast.

Mr. Chairman, this is a huge whole that is left unless we adopt this amendment. Mr. Chairman, I urge the amendment be adopted.

Last April, the commander of the Royal Bahamas Defence Force, Comdr. Leon Smith, testified before my subcommittee. He again expressed the commitment of the Bahamas to expanded cooperation in drug interdiction, but stressed that the aircraft, communications equipment, and funding for the increased operations were beyond the ability of the Bahamian Government to provide.

This is the kind of cooperation that can lead to real success in the international war on drugs. We would be foolish to let this opportunity slip away. We can show the world that everyone benefits when nations cooperate to crush drug trafficking, and that national soverignty can be honored while doing it.

Because we have been somewhat successful in diverting drug smugglers from actually landing in Florida, pressures on the Bahamas have increased tremendously in the past 3 years. Great increases in air drops and landings of smuggler aircraft there have been documented.

The current cooperative interdiction effort is called Operation BAT. It has proven the concept that powerful radar, combined with a quick reaction force, can have tremendous impact on drug traffickers, often arriving before the smugglers can even unload their aircraft.

This current modest program, for all its successes, can operate only in the northernmost islands of the long Bahamian chain because of the limited range of the helicopters and the small numbers of people in the program. These activities are frequently out of the effective range of the BAT team.

We have forced many traffickers out of its limited area of effectiveness, but we have not shut them down. As GAO told us just 2 days ago, they still operating at a tremendous level of activity.

Forty-nine million dollars of the $54 million which this amendment authorizes is for the procurement of six radar equipped pursuit aircraft and six high speed, long-range bust team helicopters. This is a one-time cost. The equipment will remain the property of the U.S. Government, and will be used for years to come. The remaining $5 million is for personnel costs.

Mr. Chairman, drug interdiction works best when it is done closest to the country of origin. By taking advantage of the willingness of the Bahamians to join us in this fight, we are taking the interdiction effort away from our immediate border and one step closer to South America. Clearly, it is more cost effective to seize cocaine by the ton overseas than to search for ounces on our streets and playgrounds.

Let me emphasize that this is not "foreign aid." We are not making a grant to a foreign nation. We are simply saying: "We desperately need your cooperation. You are willing to help us, and we are willing to pay for the help."

I urge the support of every Member for this amendment.

Mr. Chairman, I reserve the balance of my time.

□ 1445

Mr. HUGHES. Mr. Chairman, first of all, I want to congratulate my colleague from Oklahoma who has done yeoman's work in this whole area of

drug interdiction and intelligence gathering. We have a very serious problem in the Bahamas, and the gentleman could not be more accurate in describing the problems that we are wrestling with in that area of the country. It is a very critical area, particularly with regard to the movement of cocaine and marijuana out of South America.

I just have three concerns. I just wish we had had some time, I say to the gentleman, to have worked on this amendment together because we could perhaps have addressed some of the concerns.

One of the concerns is, as the gentleman well knows, we need operational flexibility. Even though we have major problems in the Bahamas right now which will require this kind of a commitment perhaps, 6 months from now we might have other operational problems and would have to move operations. We need that flexibility. That is one problem we have with the amendment.

Second, in light of recruitment, training, and procurement capabilities, we just may not be able in one fiscal year to actually implement this program. We are talking in terms of $54 million to support increased cooperation with narcotics interdiction operations in the Bahamas. We probably need more time in trying to implement an operation of this nature. We are talking about substantial increases in resources.

Finally, with regard to the equipment, there needs to be some discussion with DEA insofar as the specifications: The kind of equipment, radar, communication equipment that they really need; the kind of equipment that would be appropriate.

My question to the gentleman would be: Would the gentleman be amenable to providing that kind of flexibility in the context of the gentleman's amendment?

I yield to the gentleman from Oklahoma for his response.

Mr. ENGLISH. I thank the gentleman.

Mr. Chairman, I think the gentleman makes some good points and certainly I think we need to provide our law enforcement flexibility whenever we can. The one insistence that I think that is critical is so long as the Bahamas is used as a main thoroughfare, either going further north up along the coast or into south Florida, I think we have got to insist that DEA concentrate in that area.

Let me say as far as special operations which take place elsewhere, I think that it makes good sense to allow those assets the opportunity to participate.

Mr. HUGHES. I can assure the gentleman, as the gentleman knows, that in fact this area of the Bahamas is a critical area, it is an area of first priority. It is an area that is essential if we are going to try to deter much of the cocaine in particular, but also marijuana coming in from South America that we do a better job. It is a priority, the only thing is we need some flexibility; operational flexibility.

Mr. ENGLISH. If the gentleman will yield further, I would certainly agree that if we see a shifting away. With 80 percent of the cocaine coming in, obviously that has to be a prime consideration at this time. If we see a shifting and a movement I have always favored in providing our law enforcement agencies, DEA and Customs, the flexibility they need.

Mr. HUGHES. Then if we in conference can in fact provide that flexibility the gentleman would support that?

Mr. ENGLISH As long as there is this insistence that so long as this heavy traffic is within the Bahamas that we do maintain these assets there recognizing that there may be periodically times in which they should be used in special operations elsewhere.

Mr. HUGHES. Mr. Chairman, I think we have an accord, and I am prepared to agree to the amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. ENGLISH. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. I thank the gentleman for yielding me this time.

Mr. Chairman, I would like to compliment the gentleman from Oklahoma for not only this amendment but his input into the total bill. I think he can take credit for the authorship for a very significant portion of the bill.

I would like to talk about the problems in the Bahamas. I was down there about a month ago, and I had not been down there for a number of years, and I had seen how the situation had deteriorated down there; how many people were involved in the drug business. The little, black speedboats that are in the harbors down there ready to make their run of just some 20 miles onto the south Florida coast.

It makes sense to go after them in the Bahamas. I think this is a wonderful amendment. We have got a tremendous problem with corruption and just geography as to the proximity of the Bahamas and how they are being used and overutilized by the drug smugglers bringing their traffic into Florida.

I certainly intend to support the amendment and I compliment the gentleman for his authorship.

Mr. ENGLISH. I thank the gentleman.

Let me say that all these assets will be retained in ownership by the U.S. Government and law enforcement officials.

Mr. HUGHES. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. I thank the gentleman for yielding.

Mr. Chairman, I just wanted to commend the gentleman from Oklahoma [Mr. ENGLISH] for this very good and very important amendment. I want to commend the gentleman from New Jersey, the chairman of the Crime Subcommittee, on which I am honored to serve, for clarifying that there is some need to make sure that the assets are used correctly and used in balance and proportion to the way they can be used by the agency.

I just wanted to say, like Mr. SHAW of Florida, the Bahamas is a special problem to us. It is a major problem in terms of narcotics trafficking. The trafficking is a problem that we need to solve. This amendment will go a long way in helping to solve that. We are getting better cooperation now than we ever did before, but we have got a long way to go and too much drugs are being run in from the Bahamas to Florida.

Mr. COLEMAN of Texas. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from Texas.

Mr. COLEMAN of Texas. I thank the gentleman.

Mr. Chairman, I just wanted to point out that this amendment does not remove assets or equipment or materiel from anywhere else in the United States in this overall effort. It is in addition to the Bahamas problem.

Mr. HUGHES. The gentleman is correct. It is a good amendment with the flexibility that I am sure that we can create in conference. I support the amendment.

Mr. STARK. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from California.

Mr. STARK. I thank the gentleman.

Mr. Chairman, I know the gentleman is familiar with Alameda County's Targeted Urban Crime Narcotics Task Force. I wonder under section 663 if the gentleman recognizes that this is the type of program and type of area that the committee intended to encourage in section 663.

Mr. HUGHES. The gentleman is correct. It would be eligible if it is drug related.

Mr. STARK. If the gentleman is also aware that on the State's bid for the intended level of expenditures and local governments would be a prime determinant in the allocation of these funds.

In other words, would the local governments which spend the most receive the most help from this?

Mr. HUGHES. The gentleman is correct.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Oklahoma [Mr. ENGLISH].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. RANGEL

Mr. RANGEL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RANGEL: Page 211, line 3, strike out "50" and insert in lieu thereof "90".

Page 215, beginning in line 12, strike out "or construction projects" and insert in lieu thereof "or for construction projects other than penal and correctional institutions".

Page 215, line 20, strike out "65 per centum" and insert in lieu thereof "the amount remaining after amounts are reserved under section 1310".

Page 218, line 20, strike out "(a) Of" and insert in lieu thereof "(a)(1) Subject to paragraph (2), of".

Page 219, after line 2, insert the following:

"(2) The amount reserved under paragraph (1)—

"(A) for fiscal year 1987 may not exceed $20,000,000, and

"(B) for fiscal year 1988 may not exceed $40,000,000.

Page 219, line 3, strike out "(b)(1) Of" and insert in lieu thereof "(b)(1)(A) Subject to subparagraph (B), of".

Page 219, after line 9, insert the following:

"(B) The amount reserved under subparagraph (A)—

"(i) for fiscal year 1987 may not exceed $15,000,000; and

"(ii) for fiscal year 1988 may not exceed $30,000,000.

Page 223, strike out line 2 and insert in lieu thereof the following: "$660,000,000 for fiscal year 1987 and $695,000,000 for".

Mr. RANGEL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN pro tempore. Under the rule, the gentleman from New York [Mr. RANGEL] will be recognized for 10 minutes and a Member opposed will be recognized for 10 minutes.

Mr. HUGHES. Mr. Chairman, I stand in opposition to the amendment.

The CHAIRMAN pro tempore. The gentleman from New Jersey [Mr. HUGHES] will be recognized for 10 minutes to speak in opposition to the amendment.

The Chair recognizes the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Chairman, we are now really getting to the real substantive area of this omnibus package.

□ 1455

The real frontline troops in this war have to be our local law enforcement officials, and certainly in the bill that was passed out of committee I do not think we give them the equipment to work with.

All that my amendment would do is to take the amendment which the resolution or the bill, H.R. 526, the one that originally went before the Judiciary Committee, and increase the moneys available to the amount that was in the original bill. That is, in 1987 $660 million will be added to what was reported out, and in 1988 $695 million will be added, and we will go along with the discretionary grants that were in the existing legislation. The only other area where we make changes is to allow the local authorities to decide where they will use the money as it relates to building prisons.

Let me tell the Members that one of the major problems that we face today is not just the lack of local policemen and district attorneys and judges, but we are facing a lack of confidence in the local and State law enforcement officials. Why is this? It is because when people see drug trafficking taking place all around them and see the sales taking place outside the courtrooms, outside the classrooms, and outside the boardrooms, and see the police looking at these sales and not making the necessary arrests and see people who are arrested returning to the streets quicker than the policemen can leave the court and come back to the streets, it means that we on the Federal level are calling it a local problem. Yet we know that none of the drugs that we are talking about, when we talk about cocaine, when we talk about crack, when we talk about opium, and when we talk about heroin, none of these drugs are being processed or grown by local or State jurisdictions.

It seems to me that if we are serious, the Federal Government is going to have to extend a hand by providing the funds that are necessary to reinforce and to back up our local policemen who are doing the best they can with limited resources. But certainly if we take a look at what they have to look forward to in the Federal Establishment, we have not increased the Drug Enforcement Administration in agents since 1974. Why, we have in the city of New York alone some 25,000 policemen who are on the front line, and when we take a look at what they have in Drug Enforcement, they have closer to 2,500 agents. We are making some 50,000 arrests in the city of New York and spending some $318 million a year in trying to have a real war against drugs. You cannot tell me that when you go to Boston, Philadelphia, Newark, Los Angeles, and all the other areas that the committee has gone into, we are going to say that we have a war against drugs and not provide the tools to our mayors, to our district attorneys, and to our judges to really do the job that is necessary. I ask you just to take a look at some of the documents that the Conference of Mayors has produced, the documents that the National District Attorneys has produced, and the documents that the governors of our great States have produced, and you see that they want to get involved in this struggle. But we cannot convince them that they have to assume the full responsibility of protecting our borders and protecting our youth and protecting our communities when we refuse to unplug what is happening in many of the systems.

We have a system in which sometimes the police do not arrest because the district attorneys have a backlog. The city of New York has 1,500. We have a situation where the judges cannot sentence because there is no place to send them. I really suspect that if we take a look at the overall battle, we will find that the real troops we are concerned with will have to be the troops back home who will do the job if we will give them the tools to work with.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. RANGEL. I will yield to the ranking member of the Select Committee on Narcotics, but first let me say that I do not recall when we have gone to any city in the United States, whether it was on the border or whether it was on the eastern coastline, that we did not listen to the police chiefs, to mayors, and to judges.

Mr. Chairman, I yield 5 minutes to the gentleman from New York [Mr. GILMAN] in order that he may share his experience with this body.

Mr. GILMAN. Mr. Chairman, I rise in strong support of the amendment proposed by the distinguished chairman of the Select Committee, Mr. RANGEL, and myself to increase the amount authorized for grants to State and local law enforcement to $660 million for fiscal year 1987, and $695 million for fiscal year 1988. In addition, the amendment reduces the State matching requirement from 50 to 10 percent, and provides for non-Federal prison construction.

The bill under consideration here today was necessitated by the fact that drug trafficking and drug abuse have reached epidemic proportions in this Nation. Despite many efforts to increase our interdiction and enforcement capabilities, local enforcement personnel are being overwhelmed by drug trafficking abuse and related criminal activity. Caseloads for these crimes are so overloaded that justice is not being achieved for offenders; would many cases not being handled because of a lack of time and resources.

The House Judiciary Committee, however, has authorized only $100 million for fiscal 1987 and $200 million for fiscal 1988 for such grants. Of these amounts, 65 percent would be set aside for formula grants to States and the remaining 35 percent would be set aside for DEA to make discretionary grants to States, not only to continue support for successful enforcement efforts, but also to assist in fur-

thering efforts in areas experiencing severe drug problems.

The amendment Chairman RANGEL and I are proposing would have to correct this situation, while preserving the discretionary amounts proposed in the bill. First, the formula grant authorization level would be restored to $625 million as proposed in the original version of H.R. 526, the State and Local Narcotics Control Assistance Act as proposed by Chairman RANGEL and myself. In drafting that bill we considered this amount to be a minimum sum that could have a significant impact on the severe problems confronting our Nation. Second, the matching funds requirement for States would be reduced from the Judiciary Committee proposed 50 percent to the 10-percent figure in H.R. 526. Third, the $35 million discretionary funds included in the omnibus drug bill would be maintained. In all, $600 million would be authorized for formula and discretionary grants for fiscal year 1987. For fiscal year 1988, the omnibus drug bill would authorize $200 million, of which $70 million would be discretionary grants. We believe this amount is insufficient to combat narcotics trafficking. Accordingly, we have proposed $695 million for fiscal year 1988; which would retain $70 million in discretionary grants of the omnibus drug bill and include $625 from our original bill.

Mr. Chairman, hearings held around the country have clearly disclosed that State and local law enforcement agencies are under tremendous pressure and in desperate need of a substantial amount of assistance. In addition, the amounts proposed in this amendment have the strong support of Governors, mayors, and State and local enforcement officials around the country. I believe that our amendment far more adequately recognizes and deals with that need. Accordingly, I urge my colleagues to give this measure their strong support.

Let us bear in mind that we cannot fight a $100 billion criminal activity of narcotics trafficking with mere words. We cannot wage a narcotics war with peashooters.

Mr. RANGEL. Mr. Chairman, I yield myself such time as I may consume, and I yield to the gentleman from New York [Mr. MCGRATH].

Mr. MCGRATH. Mr. Chairman, I thank the gentleman for yielding, and I rise in support of the amendment and also in support of the bill.

Mr. Chairman, I wish to congratulate my colleagues, both gentlemen from New York, for bringing us to the point where we are going to have a bill that is going to have some teeth in it.

Mr. RANGEL. Mr. Chairman, I yield 2 minutes to the chairman of the Committee on the Judiciary, the gentleman from New Jersey [Mr. RODINO].

Mr. RODINO. Mr. Chairman, this amendment is probably the amendment that makes the most sense in this effort to fight the war against drugs.

For a long period of time local municipalities and local law enforcement agencies have been pounding at our door saying, "Give us some help. We are in need. They continue to plead with us for Federal financial resources to be able to combat this terrible plague that visits our country and our cities."

This has been established by the Select Committee and by our own committee in hearings in my own district and around the country. Regrettably, our Committee on the Judiciary voted down this amendment by a one vote margin. Unless we are genuinely interested in applying resources and helping those on the frontline fighting this problem on a day-to-day basis, we are not going to win the war on drugs. The only way we are going to be able to do it—and I do not want to reiterate what has been so eloquently stated by the chairman of the Select Committee, Mr. RANGEL, and the other gentleman from New York who is the ranking member of the Select Committee on Narcotics, Mr. GILMAN—is to support this amendment.

I received a letter yesterday from the New Jersey League of Municipalities which stated that those "men and women who are closest to the problem and who risk their lives to solve it" need our support.

Our State and local criminal justice systems now bear the brunt of this problem and they need Federal leadership, support, and funding if we expect them to effectively address it. This amendment provides that necessary help.

This amendment will, in my judgment, enable us to put a dent in this fight against drug abuse and I urge my colleagues' support.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The gentleman from New York [Mr. RANGEL] has 1 minute remaining.

The Chair recognizes the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Chairman, I yield myself 3 minutes.

□ 1505

Mr. Chairman, it is with a great deal of reluctance that I rise in opposition to the amendment of the gentleman from New York. As chairman of the Select Committee on Narcotics, on which I serve, he has been at the forefront of our antidrug efforts. I chair the Subcommittee on Crime which has legislative authority for narcotics law enforcement. Our two committees have formed a team in developing the tools for effective drug law enforcements efforts.

The gentleman from New York [Mr. RANGEL] and the gentleman from New York [Mr. GILMAN] have been at the head of the effort of the Select Committee. As evidenced by the work of my former colleague, Hal Sawyer of Michigan, the ranking minority Member of the 98th Congress and myself in our work on the Justice Assistance Act in the last Congress and the drug enforcement enhancement title in the bill which we are discussing today, I have been and remain a consistent advocate for Federal aid for appropriate State and local law enforcement efforts, particularly drug enforcement. I can't count the number of times that I have taken this podium to state that we in the Federal Government are bad partners to our colleagues at the State and local levels and as long as I am in Congress I will continue to encourage the Federal Government to improve its performance as an effective ally to the State.

However, in this instance I am forced to disagree with my colleague's approach in this amendment. I do so because the amendment proposes too much money, too quickly for intelligent spending, with too little contribution by the recipient units of Government, with too much incentive for the recipient units of Government to convert it from a drug fighting program to a prison construction subsidy program. Let me briefly explain how the amendment would bring about these results.

First, too much money. The amendment caps the discretionary portion of the bill as reported at the reported levels: $35 million in fiscal year 1987 and $70 million in fiscal year 1988. However, it increases the formula grants to the States from $65 million in fiscal year 1987 and $130 million in fiscal year 1988 to $625 million each year. This tenfold increase in fiscal year 1987 and half that for 1988 cannot be justified in the present Federal budget crisis, nor can it be reconciled with the careful approach to Federal aid to State and local criminal justice reflected in the ongoing Justice Assistance Act of 1984.

Second, too soon. $625 million is authorized for formula grants in fiscal year 1987, which will begin before this authorization becomes law, and long before any supplemental appropriation based on the authorization. State and local governments have not planned or budgeted for fiscal year 1987 taking these amounts into account. We would be recreating the chaotic early years of LEAA, during which large amounts (though less than this amount) of Federal money was thrown at the States with little or no guidance or limitation.

Third, too small a match. The amendment would reduce the State and local matching fund requirement

from 50 to 10 percent. This would again repeat the errors of LEAA, where we found that, as a practical matter, a 10-percent match is too low to insure a real commitment to the purposes for which the money is being spent. It is, in reality, free Federal money.

Fourth, too much incentive to spend all the money on prison construction. No one in this body is more committed to helping law enforcement combat drug trafficking than the gentleman from New York. The reality is, however, that the changes proposed by this amendment, which include express authority to use the money for prison construction, will convert it into a prison construction program, with little or none of the money going directly for drug law enforcement.

State and local government will see this large amount of Federal money as a one shot windfall, not to be continued or repeated, just as one does not expect to win the Irish Sweepstates or the Maryland Lottery two times in a row. They will not start new programs, or hire permanent personnel whom they will have to fire or find new money for in a year or two. No, they will almost certainly use this money not for drug law enforcement, but for prison and jail construction. There is a real crisis in corrections, in the States as well as in the Federal system, but the question before the House is whether we find that our present priorities justify voting a $1.2 billion, 90 percent Federal subsidy for State and local prison and jail construction. That is the practical effect of this amendment.

Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. LUNGREN].

Mr. LUNGREN. Mr. Chairman, I thank the gentleman for yielding.

With all due respect, Mr. Chairman, this is truly the kitchen sink amendment. Some people have said that Congress is going to get so hot on the antidrug warpath that we are going to throw everything in including the kitchen sink. Well, this is it.

A half a billion dollars, we are just going to up it like that.

You might call it the bust-the-budget-amendment or the sink-the-Gramm-Rudman amendment. All of those things apply here.

The tragedy of it is that we have overall a good bill, but I just ask you, what in God's name are we in the House of Representatives doing telling the American people that we can accept $200 billion plus deficits every single year, when the combined situation of local and State governments is that they have a surplus of $58 billion. Now, $58 billion, we are going to take money we do not have, take over half a billion of that and give it to those who are running surpluses. I do not think you have to buy off local governments. I do not think you have to blackmail them into doing the job they ought to be doing.

We ought to set the example at the Federal level. We have not funded the DEA consistent with the request made by the administration. We have not funded the administration's Justice Department to grant us additional prosecutors. We have not funded the administration's request for marshals.

Why are those things important? If we do not take the tough criminals off the streets who are convicted of Federal crimes, they will still be on the streets and that pressure is on the State and local governments.

The best thing we can do right now to take the pressure off local and State governments is to do the job at the Federal level.

Prisons right now on the Federal level are running 42 percent above capacity and we are going to take half a million dollars that we ought to be spending for prison construction at the Federal level and send it to the States and localities when they have a surplus.

Certainly if you ask any mayor, they would like money. You might call this the "make your local mayor feel good amendment." They love us to send money, but let us be realistic. Let us not just posture. We are going to go to the Senate. We are going to have to compromise and when we compromise, we are going to have to compromise with the monies that are in the bill. That means you are not going to get your $600 million for the States. You are going to get something less, but it is going to be taken out of the hides of the FBI, DEA, prison construction and every other thing on the Federal level.

We ought to request that our local governments spend more money on the antidrug program.

Let me just give you some statistics. In New York, 4.3 percent of their law enforcement budget is used against drugs.

In Chicago nine-tenths of 1 percent.

Philadelphia, 1.3 percent.

D.C., 5.9 percent.

Dallas, 1.3 percent.

San Francisco, 2.4 percent.

St. Petersburg, FL, 2.7 percent of their total budget is being used for drugs.

It is not that they do not have the money. It is that they are not establishing the priorities.

So we are going to say that we are going to bail them out with money we do not have. It is an empty promise and what it really means is that we are going to take it away from the DEA. We are going to take it away from the FBI. We are going to take it away from Federal prison construction.

You can vote for this amendment to make yourselves feel good, but I will tell you that ultimately it is going to mean you are going to take more money away.

Mr. Chairman, I ask my colleagues to vote down this amendment.

Mr. HUGHES. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Chairman, I thank the gentleman for yielding me this minute.

It is with a great deal of regret and I might even say hesitation with regard to how fast we are going through these amendments today that I stand up in opposition to this amendment. I do so with all due respect to the gentleman from New York, the sponsor of the amendment, for whom I have a tremendous regard; however, there is one fatal flaw in the amendment. Having been a mayor for three terms of the city of Fort Lauderdale, I can tell you that it is a fatal flaw.

When you send money down to State and local governments and require only a 10-percent matching fund, this guarantees that the money will not be wisely spent. It will go to new types of projects, experimental types of projects. It will be spending Federal money by the mayors of this country on projects which they are not willing to tax their own citizens for.

The States of this country, including my own, and the cities of this country, incluidng my own, are not spending enough to fight this war on drugs. For us to take our money with the large deficit we have and shovel it down to local governments is in error.

Mr. HUGHES. Mr. Chairman, I yield one-half minute to the gentleman from Ohio [Mr. FEIGHAN].

Mr. FEIGHAN. Mr. Chairman, I appreciate the chairman of our Crime Subcommittee yielding to me.

I would like to rise in very enthusiastic support of the amendment offered by the gentleman from New York. This is the incorporation of legislation which the gentleman from New York [Mr. RANGEL] and others have been working on for more than a year that I think makes eminent sense.

We all are saying that we are in a war on drugs. We all say that we recognize that it is the local law enforcement officers of this Nation who are on the front lines of that war. Then let us give them the kind of resources that they need really to meet the enemy in this war.

I think this is a reasonable level of funding and it is clearly a necessary level of funding.

Mr. Chairman, I would urge adoption of the amendment.

Mr. HUGHES. Mr. Chairman, I yield such time as he may consume to the distinguished minority leader, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Chairman, I appreciate the gentleman yielding.

I simply want to compliment the gentleman for the good taste that he laid out here, and also the gentleman from California and the gentleman from Florida.

I think we have to be reasonable about what we are doing here. I thought the case that was made about the strengths of the States and local communities financialwise versus what we are faced with here at the Federal level is a very important point to make at this juncture.

I want this measure signed into law. I do not want there to be an impediment on the cost factor when it comes to the folks downtown.

I applaud the gentleman for opposing the amendment. It takes a little guts and intestinal fortitude to do that from time to time around here, particularly on such a sensitive subject; but I am going to certainly vote against the amendment.

I appreciate the gentleman yielding.

Mr. HUGHES. Mr. Chairman, just in closing, I strongly support the Justice Assistance Program. Former Congressman Hal Sawyer and myself in the 98th Congress wrote it, were very strongly supportive of it. The funding level of the bill, $100 million for the fiscal year 1987 and $200 million in fiscal year 1988 is all we can really assimilate.

There is permitted in this amendment prison construction. Believe me when I tell you that what is going to happen is that these moneys which were to be directed to drug enforcement are going to be siphoned off into prison construction at the State level. There is no question about it, because it will not be used for those task force operations that we want to see set up. We are increasing 15 more task forces around the country. We are setting up diversion investigative units. They are going to need local commitments, local police officers to man those teams. They are not going to have those resources. This is going to siphon it right away from those programs into prison construction, because they are the only programs that are going to be ready.

You are going to be funding States that have large surpluses and that is not what we should be doing in these fiscal times.

Mr. RANGEL. Mr. Chairman, I yield such time as he may consume to the majority leader, the gentleman from Texas [Mr. WRIGHT], the chief sponsor of this legislation.

Mr. WRIGHT. Mr. Chairman, I rise in support of the Rangel amendment.

The test of our seriousness is whether we are willing to provide support for those brave local forces on the front lines of this battle against a massive enemy, a slimy underground subculture that is financed to the tune of probably $130 billion this year in unreported ill-gotten gains.

For too long we have allowed those whom we charge with the responsibility of enforcing our drug laws to be underfunded, undermanned, outgunned by an enemy that is invading our streets and our schools and our homes.

There has been established ample information, documented in the Narcotics Committee hearings, that this amount provided in the Rangel amendment is needed and can be effectively used in these 15 task forces that we are creating throughout the country.

Let us not send them into battle against an armed tank with a peashooter. Let us give them the tools they need to win the war.

Mr. YOUNG of Florida. Mr. Chairman, I rise in strong support of the amendment by my colleague from New York, Mr. RANGEL, to increase from $100 to $600 million the funding available for Federal grants to State and local authorities to assist with drug enforcement activities.

The problem of drug abuse is not new to our Nation, but never before has it been more widespread or available to Americans regardless of age or income. The legislation we consider today, H.R. 5484, the Omnibus Drug Enforcement, Education, and Control Act of 1986, will make an important contribution to our war against drugs by providing a wide range of increased resources and broader enforcement powers to Federal agencies in the effort to apprehend and convict drug smugglers. The Rangel amendment ensures that additional funds are also provided to reduce the supply of drugs available in our schools and on our streets.

During a meeting of a Pinellas County drug task force I took part in Monday, community leaders expressed concern that not enough resources are available at the local level to fight, let alone win, the battle against drugs on our streets. Participants in the meeting, called by the Pinellas-Pasco State attorney, included the Pinellas County sheriff, superintendent of schools, county commissioners, local chiefs of police, and directors of area drug abuse treatment and prevention programs. They recounted specific examples of setbacks in their effort to curtail the local drug trade because of insufficient funding. Law enforcement officials missed the opportunity to make more arrests in drug raids because not enough officers were available to take part in an operation. Additional patrols and undercover operations are not possible without additional financial support. More addicts could be treated by drug abuse centers if greater funding was available to hire staff and counselors.

The scope and intent of the legislation before us today is good because it will improve efforts at the Federal, State, and local level to apprehend and convict drug smugglers and dealers by increasing the resources available to Federal agencies such as the Coast Guard, Customs Service, and the Drug Enforcement Administration who are on the front line at our borders in this difficult battle. It also widens the search and seizure powers of these agencies to enhance the effectiveness of their expanded operations. This legislation provides funds to hire more attorneys to prosecute drug dealers and gives the courts the authority to impose stiffer sentences on those who are convicted. And more than $1 billion is provided over the next 3 years to construct new prisons to jail these criminals.

Provisions are included to also deal with the increasing supply of narcotics being smuggled into our country. The President and other U.S. officials are required to monitor the efforts of known drug producing nations to eradicate their illicit crops. Authority is granted in this legislation for the United States to withhold foreign assistance and trade rights for any nation refusing to cooperate in this regard. It also allows greater U.S. participation with law enforcement officials in these countries during eradication programs and in the apprehension of drug traffickers.

And the legislation before us today seeks to curb the demand for drugs by providing Federal assistance to State and local governments and schools for expanded prevention and awareness programs. Additional funds are available to assist with alcohol and drug abuse treatment programs.

This is an important package of legislation and I strongly support its wide-ranging approach to combat drug abuse, including the expanded use of U.S. military equipment and personnel. But Navy ships can't help in tracking the movement of drug supplies and dealers from one block to another in our communities. AWACS and ED-2 surveillance aircraft cannot detect 10-year-old children on bicycles who are acting as couriers to transport packages of crack. In addition to the provisions already included in this bill, we need an increased emphasis on Federal support to local law enforcement programs such as that provided by the Rangel amendment. Without this type of support, we cannot possibly expect to win the drug battle at the local level.

Pinellas County task force members presented information during our meeting Monday to show that the drug problem on our Nation's streets is getting worse. And there was general agreement that crack has exacerbated this problem.

Crack is extremely dangerous because it is immediately addictive. Local authorities say that this drug causes

such a high in first-time users, that the body keeps demanding more in an effort to repeat that same effect. However, that first-time high is impossible to achieve again, even when the quantity and repetition of its use is increased.

Equally troubling is the fact that crack is relatively inexpensive, costing as little at $5 to $15 per dose. This makes it available to all income brackets and age groups. There are reports that crack now is even available at elementary schools throughout our Nation.

Although the full extent of the harmful side effects of drugs such as cocaine and its derivative crack continue to be studied, it is known that they can cause death, even in well-conditioned athletes. There is general agreement that these drugs can cause severe and sometimes permanent adverse effects on the body. The health and safety of drug users clearly is jeopardized.

The health and safety of nonusers in our communities is also jeopardized. Addictive drugs such as crack force users to feed their habit regardless of the cost. Theft, robbery, and other crimes become the only alternative to provide their drug money.

Police reports document this threat to our families and neighbors. St. Petersburg historically has had a small crime problem compared to other urban areas, but in the first 6 months of this year, crime has risen dramatically, and police officials attribute it to increased drug use. During the first 6 months of this year, the number of robberies reported in St. Petersburg rose 81 percent, as compared to the first 6 months of 1985. Burglary increased 18 percent and larceny cases were up 10 percent.

The rising crime rate, like the problem of drug abuse, is not limited to St. Petersburg. Florida law enforcement officials note a major increase in crime statewide. In the first 6 months of this year, robbery rose 30 percent, breaking and entering increased 18 percent, and larceny cases were up 11.8 percent. Stolen property, which can be sold for money to purchase drugs, showed dramatic increases. The theft of motor vehicles increased 60 percent statewide, stolen construction machinery increased 41.5 percent, and stolen boats and motors rose 35 percent.

There are some who say that this legislation and the Rangel amendment will be too expensive. But the cost of this legislation will be small when compared to the devastation drug abuse causes thousands of families whose children are addicted to drugs. It will be small compared to the cost of crimes such as theft and robbery from our homes and businesses, particularly those of the elderly, who addicts prey upon to feed their expensive habits. The cost of this amendment and legislation will be small relative to the lost potential of thousands of young people who terminate their educations because of drug problems. It will be small compared to the cost of providing medical care to the countless number of individuals who will become sick or die from drugs and drug overdoses.

Drug abuse is a national problem that affects all Americans, whether or not they are drug users. The legislation we consider today is a tough response to this difficult problem. Increased drug enforcement and eradication efforts, tougher sentences for drug suppliers, and expanded drug education and prevention programs will not work unless there is a commitment by the Federal Government, as provided by the Rangel amendment, to provide greater assistance to local law enforcement officials as they battle the drug epidemic in our schools and on our streets.

Mrs. LLOYD. Mr. Chairman, I rise in strong support of the Rangel-Gilman amendment to the historic legislation we are considering today to address the drug scourge that confronts our Nation and its citizens. I am a cosponsor of the earlier legislation which makes up the heart of this amendment and a strong proponent.

Our State and local criminal justice systems have borne a heavy burden as the drug epidemic has swept our Nation. For too long we have responded to the increases in drug-related crimes, overcrowded court systems and overcrowded jails with inadequate Federal assistance. Our cities and States need desperate help and the omnibus antidrug bill is the vehicle to provide it.

While I applaud the efforts of the various committees which have worked on this bill, and commend our law enforcement community for the tremendous work they have done to date, I am concerned that the amount of funds provided for assistance to State and local law enforcement in this bill is woefully inadequate—$100 million the first year, $200 million the second, with a 50–50 match. The Rangel-Gilman amendment substantially increases funds for the State and local criminal justice systems, to $625 million annually, and deserves our strong support.

The need for this amendment is crucial, particularly in Tennessee where we have seen a significant increase in drug trafficking. I urge my colleagues to join with me in reaffirming our committment to strengthening our resources against the war on drugs—vote for Rangel-Gilman.

Mr. FAUNTROY. Mr. Chairman, I rise in strong support of H.R. 5484, the Omnibus Drug Enforcement, Education, and Control Act of 1986.

With bipartisan support, this Chamber will bring to the American people wide-ranging, detailed and complex legislative improvements in the laws by which we must attack the ever-increasing drug crisis in American life.

This crisis, though addressed in the past years by steadfast and dedicated attention in the Congress and elsewhere in our society, has deepened. An accurate reading of the present data and symptoms indicates that in the near future, our country's security, our most important financial institutions, and the health and actual lives of a whole generation of young Americans are in peril. Never before in our country's history has our society been so imperiled.

As a member of the Select Committee on Narcotics Abuse and Control for the past 8 years, I have joined other Members in bringing before the committees of the Congress a steady stream of hearings and briefings that have guided and shaped the writing of laws implementing interdiction on the high seas, crop substitution, asset forfeiture and many other subtle and specific remedies for the dilemma facing every segment of our American society.

Now, we are confronted by information that shows us an overwhelming concentration by certain countries in flooding this country with death-dealing narcotics. While the American public is awakening, on a large scale, to the deadly danger the escalating drug problem causes to everyone, the full scope of the peril is just beginning to be evaluated by all of us.

As a member of the House Committee on Banking, Finance, and Urban Affairs, I want to compliment our chairman, Congressman FERNAND ST GERMAIN, for his brilliant work on the ongoing threat of money laundering. I support the work of our committee in this crucial financial area, and I commend the provisions in title V of H.R. 5484 on money laundering. These provisions will make an invaluable contribution to eliminating this danger to our national security and our international monetary and banking systems.

I also want to especially applaud the provisions in title III that give the U.S. Customs Service a whole new arsenal of instruments with which they can fight the war on drugs on our borders in a new and impressive variety of ways.

New provisions in title III as well, which give new tools to the Internal Revenue Service, will also increase our strength in fighting this war.

Beyond the specific provisions of the bill, I want to speak also in support of two amendments that address needed improvements in this historic omnibus drug legislation.

As the Congressman from the District of Columbia, I receive daily reports that reflect the conditions of people who are arrested and incarcerated in the city of Washington, DC. Depending on which day, month, and often agency, the criminal justice system is flooded by drug-addicted criminal offenders that now enter the system—both local and Federal. From 60 to 80 percent of the people entering our jails are drug-involved. Whether Federal or local, there is little or no treatment or counseling available for these cases. They enter with a drug-use problem, they are reported "able to get anything they need in the underground movement while incarcerated" and they return to our communities in worse shape then when they entered. That condition speaks to the need for drug treatment within the prison. There is also another more crucial need in prison problems today—prison overcrowding. Throughout the United States numerous local and State jurisdictions are under court order for overcrowding in their prison facilities.

For those reasons, I urge my colleagues to support an amendment introduced by Congressman CHARLES RANGEL, chairman of the Select Committee on Narcotics Abuse and Control and Congressman BENJAMIN GILMAN, ranking member of the select committee. This amendment would increase the amounts authorized in title VI for grants to States for State and local drug law enforcement efforts. I also urge support for the provision in this amendment which reduces the matching funds requirement from 50 percent to 10 percent. I share the Rangel-Gilman views expressed in their statement that it has been the failure of the Federal Government to halt the importation and interstate distribution of massive quantities of illicit cocaine, heroin, marijuana and other illegal drugs that makes it imperative that the Federal Government share the heavy responsibilities of costs of drug problems in the States and local jurisdictions. It is also the language in the Rangel-Gilman amendment which would permit formula grant funds to be used for prison construction that is one of the most needed provisions to be added to H.R. 5484.

Congressman CLAUDE PEPPER has submitted an amendment on increasing the funding for drug treatment (title IX). The Pepper amendment would increase from $100 million to $200 million a base figure for drug treatment within title IX under the provisions provided by the Committee on Energy and Commerce. There are many social signals immediately available to us as citizens through the media, as legislators through reports from hospital emergency rooms, police and emergency ambulance runs that show us how enormous is the need for treatment on both an emergency and rehabilitation basis for the drug-induced health crises. These figures tell only part of the story on the need for treatment funding, shocking as they are. Another set of figures needs more publicity—the numbers of people who ask for treatment in their drug-induced condition, and for whom there is nothing available except a list, which sometimes is a year in waiting. We must face the crisis of treatment-need all over this country that is with us today and we must responsibly project the escalating need for treatment in the near future, based upon today's statistics of users. I plead with my colleagues to support the increased treatment funding provisions in Congressman PEPPER's amendment through their "aye" votes.

The time is short; our work on the Omnibus Drug Act will be historic. The citizens of the United States are now fully participatory partners in our war on drugs. We must now vote to provide the instruments and funds to win this war.

Mr. GARCIA. Mr. Chairman, I rise in strong support of the Rangel amendment to H.R. 5484, the Omnibus Drug Enforcement, Education and Control Act of 1986. Finally, we have acknowledged the fact that there is a drug epidemic plaguing our Nation. For many years, I, along with the chairman of the Select Committee on Narcotics Abuse and Control, Mr. RANGEL and many other Members from poor urban areas have been trying to bring the issue of drug abuse to the forefront of this body's agenda in order that we may devise a comprehensive strategy to break the grip that drugs have on our society.

Unfortunately, it was not until the drug problem firmly entrenched itself in middle America before the country began to take notice. Not only do we find widespread drug abuse in the Bronx, Harlem, and Watts, but we find it in Grosse Point, MI; Beverly Hills; and Salt Lake City. Illegal drugs such as crack/cocaine, heroin, marijuana, acid, speed, quaaludes, PCP, and others have taken countless lives. Moreover, drugs have wrecked careers, broken homes, invaded schools, incited crime, tainted businesses, toppled heroes, corrupted policemen and politicians, bled billions of dollars from our economy and in some measure infected every corner of our public and private lives.

Your children, my children, your friends, my friends have all been affected in one way or another by the drug plague. Whether it was an overdose by a friend or relative, a victim of a drug-related crime, or the loss of abilities as a result of drug use or abuse. We have all been affected.

Mr. Chairman, this legislation before us today addresses every facet of our society's drug problem in order that we may eradicate this plague from our society. H.R. 5484 contains provisions for both the demand and supply sides of the drug problem. The Energy and Commerce Committee's portion of the bill authorizes adequate resources for a serious commitment to treatment and prevention. Unfortunately, resources authorized for State and local law enforcement efforts by the Judiciary Committee are not adequate to meet the demands of an all out war on drugs. We are willing to invest trillions to prepare for conventional war, but we have found it to be very difficult to make the same investment and commitment to the war on drugs.

Therefore, I urge my colleagues to support the Rangel amendment which would raise the authorization for State and local law enforcement efforts to adequate levels. Again, I urge my colleagues to support H.R. 5484, the Omnibus Drug Enforcement, Education and Control Act of 1986. Let our Nation say no to drugs once and for all.

Mr. FEIGHAN. Mr. Chairman, I rise in enthusiastic support of the amendment offered by the gentleman from New York, the distinguished chairman of the Select Committee on Narcotics, Mr. RANGEL.

No one here today needs to be convinced of the importance of fighting drugs. We all know about their devastating effect on our society. We've all read statistics which tell us that the number of deaths from cocaine has tripled in the last 5 years. We've all seen reports indicating that over half of the crime suspects in our major cities are acting under the influence of drugs.

The link between drugs and crime is clear—and deadly. And if we are going to break that link, if we are going to fight the war on drugs effectively, we must devote resources to those on the front lines of the battle—local police and law enforcement officials.

The bill before us today doesn't pay attention to that central fact. It beefs up our efforts on every level of the battle except that which most consistently engages the enemy. Yes, we must be adding money for drug education and treatment. Yes, we must work to stamp out drugs in the countries where they are grown and to stop them from crossing our borders. But all of this doesn't necessarily make the job of a policeman busting a dealer any easier. As it stands right now, this bill provides plenty of money for our support forces, but it starves the troops on the front lines.

Let me give you an example: The sheriff of Cuyahoga County in my district is trying to control drug trafficking in 60 communities with a population of 1.5 million. But his entire budget for that anti-drug effort is only $21,000—half of his salary—and he gets no money at all from the Federal Government. With 4 months to go in 1986, he has only $1,000 remaining in that fund. One thousand dollars—the kind of money a street dealer can make in minutes. These dealers know how to evade the law, and they can afford expensive equipment to make sure they get away with their crimes.

That leaves Sheriff McFaul fighting battles against an enemy that can outgun him, outrun him, and outspend him when it has to. To meet these criminals on their own turf, the sheriff needs quality surveillance equipment like cameras and nightscopes. His men need body transmitters to keep in touch. And they need more vehicles to catch the pushers once they are spotted.

All of this costs money—money that the sheriff, and others like him across the country, just don't have access to right now. We are telling these brave and hard-working men and women that we care about the drug fight. We are telling them that we want the drug pushers off of our streets and out of our neighborhoods. But we are not giving them the funds they need to do the job right. If local enforcement officials are to have faith in our commitment to fight drugs, they need Federal aid which at least approaches their tremendous needs.

Passage of this amendment would demonstrate that commitment. Based on H.R. 526, which the gentleman from New York introduced with 140 cosponsors earlier this year, it would ensure that we devote $625 million a year to State and local drug enforcement programs. It would permit all of that funding to go directly to localities, and it would allow more jurisdictions to participate in the program by lowering the matching grant requirement from 50 percent to 10 percent.

I've talked to law enforcement leaders from my community and other communities across the country, and I am convinced that we must do more to help them in the battles they face every day and every night. Some here today may say that this amendment costs too much, that it gives too much money to our police and other law enforcement officials. But we must put that claim in perspective: First, this is the only section of the bill dealing with local law enforcement, this is all the money local police and enforcement officials will get to fight drugs. For all enforcement officials, in every city, county, and town across the country, we are asking for $625 million a year.

Yes, that is a lot of money. But as everyone agrees, we are in a war against drugs. Drugs are a direct threat to our national security. To

combat this threat we are asking today for less than one day of Pentagon funding. In the time it's taken to conduct this debate the Pentagon has spent the money we are asking for in this amendment. All we want is a few hours of national defense funding to fight the enemy that is all around us—the enemy that injures our children, increases crime, and infects our future with each life it wastes.

I urge my colleagues to vote for the Rangel amendment.

The CHAIRMAN. All time has expired on this amendment.

The question is on the amendment offered by the gentleman from New York [Mr. RANGEL].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. LUNGREN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 242, noes 171, not voting 18, as follows:

[Roll No. 371]

AYES—242

Akaka	Edgar	Lantos
Alexander	Edwards (CA)	Leath (TX)
Anderson	Edwards (OK)	Lehman (CA)
Andrews	Emerson	Leland
Annunzio	English	Lent
Anthony	Erdreich	Levin (MI)
Applegate	Evans (IL)	Levine (CA)
Aspin	Fascell	Lewis (FL)
Barnes	Feighan	Lipinski
Bates	Flippo	Lloyd
Bennett	Florio	Long
Bentley	Foglietta	Luken
Berman	Foley	Lundine
Bevill	Ford (MI)	MacKay
Biaggi	Ford (TN)	Manton
Boggs	Fowler	Martin (NY)
Boland	Frank	Martinez
Bonior (MI)	Frost	Matsui
Borski	Gallo	Mavroules
Boucher	Garcia	Mazzoli
Boxer	Gaydos	McCloskey
Brooks	Gejdenson	McCurdy
Broomfield	Gephardt	McDade
Brown (CA)	Gibbons	McGrath
Bruce	Gilman	McHugh
Bryant	Gordon	McKernan
Bustamante	Gray (IL)	McKinney
Byron	Gray (PA)	McMillan
Carr	Green	Mica
Chapman	Guarini	Mikulski
Clay	Hall, Ralph	Miller (CA)
Coelho	Hamilton	Mineta
Coleman (MO)	Hammerschmidt	Mitchell
Coleman (TX)	Hatcher	Moakley
Collins	Hawkins	Molinari
Conyers	Hayes	Mollohan
Cooper	Hefner	Moody
Coughlin	Hendon	Moore
Courter	Henry	Morrison (CT)
Coyne	Hertel	Morrison (WA)
Craig	Hillis	Mrazek
Crockett	Hopkins	Murtha
Daschle	Horton	Natcher
de la Garza	Howard	Neal
Dellums	Hoyer	Nelson
Dicks	Hubbard	Nichols
Dingell	Jacobs	Nowak
DioGuardi	Jeffords	Oakar
Dixon	Johnson	Ortiz
Donnelly	Jones (NC)	Owens
Dornan (CA)	Jones (OK)	Parris
Dowdy	Jones (TN)	Pashayan
Downey	Kanjorski	Pepper
Duncan	Kemp	Perkins
Durbin	Kennelly	Price
Dwyer	Kildee	Pursell
Dymally	Kindness	Quillen
Dyson	Kolter	Rahall
Eckart (OH)	LaFalce	Rangel
Reid	Skelton	Vento
Richardson	Smith (FL)	Visclosky
Rinaldo	Smith (NJ)	Volkmer
Robinson	Smith, Robert (OR)	Waldon
Rodino	Snowe	Walgren
Roe	Solarz	Watkins
Roemer	Solomon	Waxman
Rose	St Germain	Weiss
Rostenkowski	Stark	Wheat
Rowland (CT)	Studds	Whitley
Rowland (GA)	Swift	Wilson
Roybal	Tauzin	Wirth
Savage	Taylor	Wise
Saxton	Thomas (GA)	Wolf
Scheuer	Torres	Wolpe
Schroeder	Torricelli	Wortley
Schuette	Towns	Wright
Schulze	Traficant	Wyden
Schumer	Traxler	Yates
Seiberling	Udall	Yatron
Sharp	Vander Jagt	Young (FL)
Shelby		Young (MO)

NOES—171

Archer	Gonzalez	Panetta
Armey	Goodling	Pease
Atkins	Gradison	Penny
AuCoin	Gregg	Petri
Badham	Gunderson	Pickle
Barnard	Hall (OH)	Porter
Bartlett	Hansen	Ray
Barton	Hartnett	Regula
Bateman	Hiler	Ridge
Bedell	Holt	Ritter
Beilenson	Hughes	Roberts
Bereuter	Hutto	Rogers
Bilirakis	Hyde	Roth
Bliley	Ireland	Roukema
Boehlert	Jenkins	Russo
Bonker	Kaptur	Sabo
Bosco	Kasich	Schaefer
Boulter	Kastenmeier	Schneider
Brown (CO)	Kleczka	Sensenbrenner
Burton (IN)	Kolbe	Shaw
Callahan	Kostmayer	Shumway
Carney	Kramer	Shuster
Carper	Lagomarsino	Siljander
Chandler	Latta	Sisisky
Chappell	Leach (IA)	Skeen
Cheney	Lehman (FL)	Slattery
Clinger	Lewis (CA)	Slaughter
Coats	Lightfoot	Smith (IA)
Cobey	Livingston	Smith (NE)
Coble	Loeffler	Smith, Denny (OR)
Combest	Lott	Smith, Robert (NH)
Conte	Lowery (CA)	Snyder
Crane	Lowry (WA)	Spence
Daniel	Lujan	Spratt
Dannemeyer	Lungren	Staggers
Darden	Mack	Stallings
Daub	Madigan	Stangeland
Davis	Marlenee	Stenholm
DeLay	Martin (IL)	Stokes
Derrick	McCain	Stump
DeWine	McCandless	Sundquist
Dickinson	McCollum	Sweeney
Dorgan (ND)	McEwen	Swindall
Dreier	Meyers	Tallon
Early	Michel	Tauke
Eckert (NY)	Miller (OH)	Thomas (CA)
Evans (IA)	Miller (WA)	Valentine
Fawell	Monson	Vucanovich
Fazio	Montgomery	Walker
Fiedler	Moorhead	Weber
Fields	Murphy	Whitehurst
Fish	Myers	Whittaker
Franklin	Nielson	Williams
Frenzel	Oberstar	Wylie
Fuqua	Obey	Zschau
Gekas	Olin	
Gingrich	Oxley	
Glickman	Packard	

NOT VOTING—18

Ackerman	Grotberg	Strang
Boner (TN)	Huckaby	Stratton
Breaux	Hunter	Synar
Burton (CA)	Markey	Weaver
Campbell	Rudd	Whitten
Chappie	Sikorski	Young (AK)

□ 1530

The Clerk announced the following pair:

On this vote:

Mr. Stratton for, with Mr. Campbell against.

Mr. COBLE changed his vote from "aye" to "no."

Messrs. MANTON, McCURDY, DOWDY of Mississippi, JEFFORDS, DUNCAN, VOLKMER, Mrs. JOHNSON, and Mr. MILLER of California changed their votes from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. ROWLAND of Georgia. Mr. Chairman, I rise in support of the bill.

Mr. Chairman, as a cosponsor of H.R. 5484, I can attest to the fact that the House is dead serious about eliminating the drug problem—a problem which threatens the lives of our children and inflicts upon this country billions of dollars in medical and rehabilitative costs.

This is a bipartisan effort which attacks the drug problem on all fronts. In addition to the hard-hitting aspects of this legislation—strengthening the enforcement of drug laws, stemming the flow of illegal drugs into the country, increasing penalties for illegal drug activities—the bill puts strong emphasis on drug education and treatment.

I am especially pleased that through the crackdown on drug usage, this legislation will assist us in our battle against another health threat—AIDS. A provision within the bill funds educational programs relating to the risks of AIDS associated with the use of intravenous drugs. Additionally, educating the public regarding the danger of AIDS transmission from pregnant women to their unborn children is highlighted. It also calls on the CDC to cooperate with the Agency for Substance Abuse Prevention to develop educational programs related to AIDS and drug use.

I hope that the Clearinghouse on Alcohol and Drug Abuse will be sure to distribute its information to all school systems, including universities and colleges. As you know, Mr. Chairman, I have previously expressed my concern that college students may be at somewhat higher risk for drug abuse and sexually transmitted diseases and so we should devote greater efforts to educate them to the dangers that they face. This legislation would at least initiate educational programs to reach out to students.

Another aspect of this bill which is of special interest to me is the provision for reimbursement for treatment costs. While I applaud the initiation of funding for the treatment of individuals with drug problems, I believe that a much greater commitment will eventually be required if we are to successfully return these disabled individuals to full participation in our society. I

would urge that the study called for in title IX, section 906, to examine the available coverage for drug treatment and to report to the Congress on meeting identified needs, reviews every Government health program to assure that all possible avenues for coverage have been investigated and determinations made on the amount of reimbursement available.

Mr. Chairman, these first steps we are taking with the passage of this bill are only the beginning of this great undertaking. Indeed, we must wager a war on drugs and anticipate a long and difficult struggle before we achieve success.

□ 1540

The CHAIRMAN. Under the rule, amendment No. 25 is in order.

Does the gentleman from Oklahoma [Mr. ENGLISH] wish to offer amendment No. 25?

If not, under the rule, amendment No. 27 is in order.

Mr. LUNGREN. Mr. Chairman, in light of the fact that amendment No. 27 would cut $300 million from the section to which we just added $1 billion, I have counted the votes and, therefore, I will withdraw my amendment at this time.

The CHAIRMAN. The gentleman from California withdraws his amendment.

The rule next makes in order amendment No. 28.

AMENDMENT OFFERED BY MR. PEPPER

Mr. PEPPER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PEPPER: Page 220, after line 6, insert the following:

"(5) Notwithstanding paragraph (1), the Administrator may waive the non-Federal share requirement applicable to a grant made with funds reserved under this subsection if the Administrator determines that the applicant for such grant is financially unable to satisfy such requirement.

The CHAIRMAN. Under the rule, the gentleman from Florida [Mr. PEPPER] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

Mr. HUGHES. Mr. Chairman, I do not intend to oppose the gentleman's amendment. I understand the gentleman's amendment would give the Drug Enforcement Administration the authority to waive the 50-50 matching discretionary portion of the amendment.

The CHAIRMAN. Is the gentleman opposed to the amendment?

Mr. HUGHES. Mr. Chairman, I do not intend to oppose the amendment.

The CHAIRMAN. In that event, the gentleman from Florida [Mr. PEPPER] will be recognized for 5 minutes.

Mr. LEWIS of California. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from California [Mr. LEWIS] will be recognized for 5 minutes.

The Chair recognizes the gentleman from Florida [Mr. PEPPER].

Mr. PEPPER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of my amendment to allow the Administrator of the Office of Justice Assistance Drug Grant Program the ability to waive the non-Federal share matching requirement of 50 percent contained in the legislation under the discretionary State and local drug enforcement grant program. The reason I propose this amendment is that I do not believe that an applicant for assistance under this provision should be precluded from obtaining vitally important resources just because of financial constraints. I completely understand the rationale that an applicant might exercise better management over the Federal dollars if they are required to match a grant dollar for dollar. Unfortunately, in my home State of Florida and many other States most of the prospective applicants cannot fiscally afford to apply for the resources made available under this program. Take for instance Dade County, where the anticipated Federal budget cuts require the county to raise $53 million next year to maintain current services, however, under State law the county's property tax authority will only permit the county to raise $12 million. Dade County would be forced to cut very valuable services in order to meet any matching requirement. To ensure that the Federal dollars go to the areas where they are most urgently needed the Administrator should not be prohibited from making grants to a drug infested area because the intended area is unable financially to satisfy the matching requirement. We must remember that our primary objective is to reduce crime and return our cities to the people. We can impose fiscal accountability in certain instances by other means.

The Judiciary Committee included a discretionary grant program at my request. I would have preferred a program with a higher funding level and with a lower matching component. However, even with these shortcomings, I firmly believe that a program of this type is a necessary complement to a nondiscretionary grant formula based primarily on population by providing the Administrator with the option of providing more resources to an area that is particularly hard hit by the drug menace.

I would like to take this time to express my sincere appreciation to Mr. RANGEL for his success at increasing the funding level for the formula grant program. There is no question that State and local law enforcement agencies in all sections of our Nation can utilize these additional revenues in their war on drugs. In my own State of Florida we experienced a 15-percent increase in crime in 1985, 64 percent of all our homicides are related to substance abuse and similarly an estimated 60 percent of all our crimes are related to narcotics. The police officers in my county are overworked. Their response time is falling and in many instances they have become report takers with little time for apprehending criminals. These funds will have a tremendous positive impact on the crime situation in south Florida.

Mr. Chairman, in conclusion I urge my colleagues to vote for my amendment especially in light of the previous vote to reduce the matching requirement under the nondiscretionary grant program to 10 percent has just been adopted. Matching requirements can have value but they can also be a mistake. Let the Administrator decide under the discretionary program if a 50-percent requirement for a given applicant would be proper.

Mr. Chairman, I want to thank the distinguished gentleman from New Jersey [Mr. HUGHES] for his kindness in not opposing my amendment.

We want the maximum participation possible from all those who have the curse of this drug matter upon them; and there may be some, and no doubt are, many States which are very much beset by the drug problem that are not able to match the 50-50 requirement of the bill.

All my amendment does is to give discretion to the Administrator to waive the 50-percent requirement to the extent that he feels necessary to get the maximum participation of the local authorities in the country in fighting the drug problem.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. PEPPER. I yield to the gentleman.

Mr. LEWIS of California. Mr. Chairman, I am rising simply because, unless I am mistaken, in the last amendment which just passed, we reduced that local requirement to 10 percent; and I am wondering whether we really have a serious problem with local agencies not being able to afford that 10 percent.

Mr. PEPPER. It is not waived; it is 50 percent in the bill. All my amendment says is if there are those who could participate but cannot put up quite 50 percent, that the Administrator may have discretion to waive the 50 percent.

Mr. HUGHES. Mr. Chairman, will the gentleman yield to me?

Mr. PEPPER. I understand the discretionary part was not removed in the last amendment.

I yield to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Chairman, in response to our colleague from California, Mr. LEWIS, the Rangel amendment was not directed, really, to changing the matching requirement under the discretionary program which the gentleman from Florida, Mr. PEPPER's amendment was directed to.

That is a 50-50 match, as part of that particular discretionary program. The gentleman's amendment would reduce that or give the Drug Enforcement Administrator the authority—he is a signoff authority—the right to waive that match in his sole discretion, as I understand.

Mr. PEPPER. Mr. Chairman, I hope the gentleman would not oppose the amendment because otherwise there will be many who need this help and not be able to get it.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. PEPPER. I yield to the gentleman.

Mr. LEWIS of California. Mr. Chairman, I rose to take the time of the opposition not because I had the intention of opposing the gentleman's position, but I wanted to clarify whether it was his intention to go beyond the last amendment; and apparently you do want to reach the discretionary——

Mr. PEPPER. Only the discretionary area.

Mr. LEWIS of California. I thank the gentleman.

Mr. PEPPER. I thank the gentleman.

Mr. Chairman, I yield back the remainder of my time.

Mr. LEWIS of California. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time on this amendment has expired.

The question is on the amendment offered by the gentleman from Florida [Mr. PEPPER].

The amendment was agreed to.

The CHAIRMAN. Under the rule, amendment No. 29 is in order.

AMENDMENT OFFERED BY MR. MC COLLUM

Mr. MCCOLLUM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MCCOLLUM: Page 224, after line 13, insert the following:

Subtitle H—Miscellaneous Provisions

SEC. 671. REMOVAL OF PROHIBITION REGARDING CONVICT LABOR.

(a) IN GENERAL.—The first section of the Act entitled "An Act to provide conditions for the purchase of supplies and the making of contracts by the United States, and for other purposes", approved June 30, 1936 (41 U.S.C. 35), is amended—

(1) in subsection (d)—

(A) by striking out "and no convict labor"; and

(B) by striking out ", except that" and all that follows through "title 18, United States Code"; and

(2) by adding at the end the following:

"Any law or Executive order containing prohibitions on the use of convict labor in the manufacture, production, or furnishing of any goods purchased by the Federal Government does not apply to convict labor which satisfies the conditions of section 1761 of title 18, United States Code. This section does not apply to any contract carried out by convict labor.".

(b) EFFECTIVE DATE.—The amendments made by this section shall not apply to contracts entered into before the date of the enactment of this Act.

□ 1550

Mr. MCCOLLUM (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. Under the rule the gentleman from Florida [Mr. MCCOLLUM] will be recognized for 5 minutes, and a Member opposed thereto will be recognized for 5 minutes.

Mr. MURPHY. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. At the appropriate time, the gentleman from Pennsylvania [Mr. MURPHY] will be recognized for 5 minutes.

The Chair now recognizes the gentleman from Florida [Mr. MCCOLLUM] for 5 minutes.

Mr. MCCOLLUM. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, this amendment makes a significant change in the law with regard to States. A lot of what we have been doing up until now has been dealing strictly with the Federal Government except for the grant programs we passed just a few minutes ago. The problem is, though, as we passed minimum mandatory sentences, we have overcrowding in Federal prisons, we also have overcrowding in the State prisons. Today the State prisons of this country are full of drug offenders.

My amendment is a very simple one; it allows State prison industry-made goods to be sold to the Federal Government. We have a fledgling prison industry group out there in the State prisons that simply do not have a marketplace of any quantity and size for their goods. Since 1936 we have prohibited the selling of prison-made goods to the Federal Government except under a very limited circumstance, when a contract is under $10,000. There is no restriction on their selling prison industry-made goods among themselves, to other States and State governments or within their own States. But the fact is that we have long neglected, for 50 years, revisiting the question of the marketplace for these goods.

When we have overcrowding caused by the drug questions that we are dealing with in this bill, it seems to me that it is now time that we address this long-overdue problem. We have said in our bill that we are going to build 17 new Federal prisons. We have got to do that. A good hunk of the money that is in this bill is addressed to that problem. But we have not looked at the States as we should.

Chief Justice Burger's National Task Force on Prison Industry said that we should remove this cap, this restriction on State prison industry sales to the Federal Government. That is what the bill does. If we do it, we can have responsible job training in our prisons so that we will not have such a high rate of recidivism. When we have these young people in prisons who are there for drug-related offenses, we need to give them something to do, some task, some learning, some skill.

Unfortunately, our prison industries are woefully inadequate. The only way we are ever going to get them up to speed is if we go forward with a process of allowing them to sell their products so that they can have the resources to get those skills up to speed.

By passing this amendment, we also save a lot of dollars for the taxpayers in the States. We would pay for the room and board for a lot of those State-housed drug criminals. We would free up money that could be used for other things such as education, housing, health care in the States.

Today the States of the United States spend over $7 billion a year to house State prisoners, over $7 billion a year. That is greater than $14,000 per prisoner. All of that is a load on the State taxpayers. If we would let our prison industries grow as Chief Justice Burger wanted us to do and as he suggested, we build factories within fences as this amendment would encourage, we could get to the point one of these days not too far down the road where we would have self-sufficient, at least for room and board purposes, State prisons with their industries, with products that could be made, and we would have good employment training for these prisoners who are going to go back out, for the most part, on the streets someday, needing a job, needing to join a union and needing to get involved.

Mr. Chairman, I urge adoption of this very realistic amendment.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania [Mr. MURPHY] for 5 minutes.

Mr. MURPHY. I thank the chairman.

Just very briefly, I rise in opposition to what is tantamount to prison or slave labor. This is the type of labor they use in the totalitarian countries, the Soviet countries. But here in America it is abhorrent to our system.

The Small Business Council opposes this, all of the labor unions are in opposition to this, the textile industry is in opposition to this. There are enough jobs to do in the prison itself, which is usually a small city in itself, to train and keep prisoners occupied.

Having them out picking up trash on the highways is all right but not competing with the law-abiding, legitimate work interests.

Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin [Mr. KASTENMEIER].

Mr. KASTENMEIER. I thank the gentleman for yielding.

Mr. Chairman, I do not quite share the views of the gentleman from Pennsylvania about convict labor.

I do think the gentleman from Florida has a good idea, and I cosponsored his bill which would make some changes in the Walsh-Healey on the limitation of convict labor with respect to Federal contracts.

But I fear I have reservations about this particular formulation, which goes a bit farther. It also suggest that the act, itself, that is the section does not apply to any contract carried out by convict labor.

We do not know what that effect is with respect to health and safety laws, with respect to time and a half or other wage provisions.

I do suggest that the Committee on Education and Labor and the Committee on the Judiciary do have hearings on this question, but I think in the context of this bill, with this language we ought not to approve it.

Mr. MURPHY. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Chairman, I really do not think we should support this amendment. Mr. Chairman, I advocate a "no" vote. This is hardly the place or the bill in which someone should be dealing with prison reform or prison rehabilitation. I think this matter should properly be discussed by the Committee, but just because we have an omnibus bill I do not think we should be creative enough to get programs that will be actually competing against small business people.

Mr. Chairman, I yield back the balance of my time and ask for a "no" vote.

Mr. MURPHY. Mr. Chairman, I yield 30 seconds to the gentleman from Texas [Mr. DELAY]

Mr. DELAY. I thank the gentleman for yielding.

Mr. Chairman, I deeply respect the gentleman from Florida, but I must point out that this would be devastating to the small-business man who deals with the Federal Government, who would be competing with slave labor coming from the prison systems, and I would be for the amendment if you added in all the costs of keeping these inmates in the prisons to the price of the goods. But I just think that this well-intentioned amendment is very misguided, and I urge my colleagues to vote "no" on the amendment.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. MURPHY] has 1½ minutes remaining and the gentleman from Florida [Mr. MCCOLLUM] has 2 minutes remaining.

Mr. MURPHY. Mr. Chairman, I yield such time as he may consume to the chairman of the Committee on Education and Labor, the gentleman from California [Mr. HAWKINS].

Mr. HAWKINS. I thank the gentleman for yielding.

Mr. Chairman, there is no question that an effective prison rehabilitation program should include job training and work experience. However, this amendment has ramifications far beyond the rehabilitation of prison inmates.

The amendment is to the Walsh-Healey Act which is under the jurisdiction of the Committees on Education and Labor and the Judiciary. The use of convict labor in Federal contract work has not been addressed recently by the Committee on Education and Labor nor, to my knowledge, by the Committee on the Judiciary. Thus, the House is being presented with a far-reaching proposal without the benefit of consultation with or information from the committees having jurisdiction over the act to be amended. Moreover, I am not aware that any assessment has been made to determine the likely benefit or potential harm of this proposal.

The amendment removes the prohibition on the use of convict labor in the performance of Federal supply contracts without any wage-rate requirements; overtime compensation requirements, or any other worker protections. We are being asked to make an informed judgment about a proposal that could have a ruinous effect on local economies and the living standards of American workers. We must ask ourselves to what extent will the regular work force be displaced by prison inmates? How do we explain that to 8 million unemployed, and an estimated 5 million underemployed and discouraged job seekers? Will this be another roadblock to employment opportunity for minorities who have a chronic unemployment rate in the high teens? Isn't this counterproductive to Federal job training programs? To what extent will living standards be undermined by the absence of a specific wage-rate requirement? Without the answers to these very basic questions, we should not embark on a program, however laudable its goals, if it has the result of exacerbating our serious unemployment problems and pushing more workers onto the welfare rolls.

I urge defeat of the amendment.

The CHAIRMAN. The gentleman from Florida [Mr. MCCOLLUM] has 2 minutes remaining.

Mr. MCCOLLUM. Mr. Chairman, I yield 1 minute to the gentleman from Washington [Mr. CHANDLER].

Mr. CHANDLER. I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of the amendment. In my home State of Washington we have a very successful prison industry and this has not brought on the baleful results predicted by some of my colleagues.

Indeed, it improves the quality of rehabilitation, giving prisoners useful skills for a life of recovery from crime. Without these programs, the only skills most prisoners leave the penitentiary with are ones that will make them more effective criminals.

The amendment made by the gentleman from Florida also helps lessen the terrible financial pressures faced by our prisons. It is fiscally responsible that our prisons be more self-supporting.

The $10,000 cap on the current law is archaic. It was passed back in 1936. Drug-related crime has radically changed the problems faced by our prisons today, and a half-century-old statute is no way to deal with them.

Mr. MCCOLLUM. Mr. Chairman, I yield the balance of my time to myself.

The CHAIRMAN. The gentleman from Florida is recognized for 1 minute.

Mr. MCCOLLUM. I thank the Chairman.

At this point in time I think it is appropriate to point out, as the gentleman from Washington did, that there are a few fairly viable, young, thriving prison industries in this country, including Washington State's, Minnesota's, Kansas', Florida's, and a few others. But they do not have a marketplace for their goods. It is ridiculous what we have done to hamper them with age-old, antiquated ideas about how somehow there is going to be harm to business or labor out of letting prisoners do constructive work, produce a profit for the prison system, allow the taxpayers of the States to save money by doing that and give job training to the prisoners who are in those prisons. That is what it is all about. We here in this bill are trying to do something to alleviate the cost burden on our Federal and State governments to take care of drug-related criminals. We have drug-related criminals. We need to do what we can to rehabilitate them. We need to do what we can to save the taxpayers money. That money would be much better spent on education, health, a lot of other things.

Please vote for the McCollum amendment allowing prison industries to grow and do what Chief Justice Burger's task force is recommending

after a lot of study over all of the issues that some of the critics say have not been studied; they have looked at it, they have said they know what they are.

Vote "yes" on the McCollum amendment.

The CHAIRMAN. On this amendment, all time has expired.

The question is on the amendment offered by the gentleman from Florida [Mr. MCCOLLUM].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. MCCOLLUM. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 72, noes 339, not voting 20, as follows:

[Roll No. 372]

AYES—72

Anthony	Fish	MacKay
Applegate	Gekas	McCandless
Archer	Glickman	McCollum
Badham	Goodling	McEwen
Barnard	Gordon	Miller (OH)
Bartlett	Gradison	Monson
Bilirakis	Gray (IL)	Morrison (WA)
Boulter	Gregg	Nelson
Brown (CO)	Hall (OH)	Nielson
Callahan	Henry	Oxley
Carney	Hertel	Packard
Carper	Hillis	Rowland (CT)
Chandler	Holt	Shaw
Clinger	Hughes	Shumway
Coats	Hunter	Slattery
Conyers	Hyde	Smith, Robert (NH)
Crane	Kasich	Stangeland
Dannemeyer	Kindness	Vander Jagt
DeWine	Kolbe	Vucanovich
Dickinson	Kramer	Walker
Dreier	Lehman (FL)	Whittaker
Durbin	Livingston	Wolf
Fawell	Lowery (CA)	
Fiedler	Lujan	
Fields	Lungren	

NOES—339

Akaka	Burton (IN)	Dornan (CA)
Alexander	Bustamante	Dowdy
Anderson	Byron	Downey
Andrews	Carr	Dwyer
Annunzio	Chapman	Dymally
Armey	Chappell	Dyson
Aspin	Cheney	Early
Atkins	Clay	Eckart (OH)
AuCoin	Cobey	Eckert (NY)
Barnes	Coble	Edgar
Barton	Coelho	Edwards (CA)
Bateman	Coleman (MO)	Edwards (OK)
Bates	Coleman (TX)	Emerson
Bedell	Collins	English
Beilenson	Combest	Erdreich
Bennett	Conte	Evans (IA)
Bentley	Cooper	Evans (IL)
Bereuter	Coughlin	Fascell
Berman	Courter	Fazio
Bevill	Coyne	Feighan
Biaggi	Craig	Flippo
Bliley	Crockett	Florio
Boehlert	Daniel	Foglietta
Boggs	Darden	Foley
Boland	Daschle	Ford (MI)
Boner (TN)	Daub	Ford (TN)
Bonior (MI)	Davis	Fowler
Bonker	de la Garza	Frank
Borski	DeLay	Franklin
Bosco	Dellums	Frenzel
Boucher	Derrick	Frost
Boxer	Dicks	Fuqua
Brooks	Dingell	Gallo
Broomfield	DioGuardi	Garcia
Brown (CA)	Dixon	Gaydos
Bruce	Donnelly	Gejdenson
Bryant	Dorgan (ND)	Gephardt
Gibbons	McDade	Schulze
Gilman	McGrath	Schumer
Gingrich	McHugh	Seiberling
Gonzalez	McKernan	Sensenbrenner
Gray (PA)	McKinney	Sharp
Green	McMillan	Shelby
Guarini	Meyers	Shuster
Gunderson	Mica	Siljander
Hall, Ralph	Michel	Sisisky
Hamilton	Miller (CA)	Skeen
Hammerschmidt	Miller (WA)	Skelton
Hansen	Mineta	Slaughter
Hartnett	Mitchell	Smith (FL)
Hatcher	Moakley	Smith (IA)
Hawkins	Molinari	Smith (NE)
Hayes	Mollohan	Smith (NJ)
Hefner	Montgomery	Smith, Denny (OR)
Hendon	Moody	Smith, Robert (OR)
Hiler	Moore	Snowe
Hopkins	Moorhead	Snyder
Horton	Morrison (CT)	Solarz
Howard	Mrazek	Solomon
Hoyer	Murphy	Spence
Hubbard	Murtha	Spratt
Hutto	Myers	St Germain
Ireland	Natcher	Staggers
Jacobs	Neal	Stallings
Jeffords	Nichols	Stark
Jenkins	Nowak	Stenholm
Johnson	Oakar	Stokes
Jones (NC)	Oberstar	Strang
Jones (OK)	Obey	Studds
Jones (TN)	Olin	Stump
Kanjorski	Ortiz	Sundquist
Kaptur	Owens	Sweeney
Kastenmeier	Panetta	Swift
Kemp	Parris	Swindall
Kennelly	Pashayan	Tallon
Kildee	Pease	Tauke
Kleczka	Penny	Tauzin
Kolter	Pepper	Taylor
Kostmayer	Perkins	Thomas (CA)
LaFalce	Petri	Thomas (GA)
Lagomarsino	Pickle	Torres
Lantos	Price	Torricelli
Latta	Pursell	Towns
Leach (IA)	Quillen	Traficant
Leath (TX)	Rahall	Traxler
Lehman (CA)	Rangel	Udall
Leland	Ray	Valentine
Lent	Regula	Vento
Levin (MI)	Reid	Visclosky
Levine (CA)	Richardson	Volkmer
Lewis (CA)	Ridge	Waldon
Lewis (FL)	Rinaldo	Walgren
Lightfoot	Ritter	Watkins
Lipinski	Roberts	Waxman
Lloyd	Robinson	Weber
Loeffler	Rodino	Weiss
Long	Roe	Wheat
Lott	Roemer	Whitehurst
Lowry (WA)	Rogers	Whitley
Luken	Rose	Wirth
Lundine	Rostenkowski	Wise
Mack	Roth	Wolpe
Madigan	Roukema	Wortley
Manton	Rowland (GA)	Wright
Marlenee	Roybal	Wyden
Martin (IL)	Russo	Wylie
Martin (NY)	Sabo	Yates
Martinez	Savage	Yatron
Matsui	Saxton	Young (FL)
Mavroules	Schaefer	Young (MO)
Mazzoli	Scheuer	Zschau
McCain	Schneider	
McCloskey	Schroeder	
McCurdy	Schuette	

NOT VOTING—20

Ackerman	Huckaby	Synar
Breaux	Markey	Weaver
Burton (CA)	Mikulski	Whitten
Campbell	Porter	Williams
Chappie	Rudd	Wilson
Duncan	Sikorski	Young (AK)
Grotberg	Stratton	

□ 1615

Messrs. MOLINARI, THOMAS of California, LAGOMARSINO, TRAFICANT, LEWIS of Florida, STRANG, and DARDEN changed their votes from "aye" to "no."

Mr. BOULTER changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Under the rule, amendment No. 30 is in order.

AMENDMENT OFFERED BY MR. LUNGREN

Mr. LUNGREN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LUNGREN: Page 224, after line 13, insert the following:

Subtitle H—Miscellaneous Provisions

SEC. 671. REFORM OF FOURTH AMENDMENT EXCLUSIONARY RULE.

(a) IN GENERAL.—Chapter 223 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 3508. Limitation of the fourth amendment exclusionary rule

"Except as specifically provided by Act of Congress, evidence which is obtained as a result of a search or seizure and which is otherwise admissible shall not be excluded in a proceeding in a court of the United States if the search or seizure was undertaken in a reasonable, good faith belief that it was in conformity with the fourth amendment to the Constitution of the United States. A showing that evidence was obtained pursuant to and within the scope of a warrant constitutes prima facie evidence of such a reasonable good faith belief, unless the warrant was obtained through intentional and material misrepresentation.".

(b) TECHNICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following item:

"3508. Limitation of the fourth amendment exclusionary rule.".

Mr. LUNGREN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Under the rule, the gentleman from California [Mr. LUNGREN] will be recognized for 15 minutes and a Member opposed will be recognized for 15 minutes.

Mr. HUGHES. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from New Jersey will be recognized for 15 minutes to speak in opposition to the amendment.

The Chair recognizes the gentleman from California [Mr. LUNGREN].

□ 1625

Mr. LUNGREN. Mr. Chairman, I yield myself such time as I may consume, but not to exceed 5 minutes.

Mr. Chairman, let me say to my colleagues that this is one of the so-called controversial amendments, one of the so-called controversial amendments that we will have to vote on today. I happen to think that it goes to the very guts of the issue. It goes to the

question of whether or not we are going to be serious about our efforts to deal with the drug problem in this country. It goes to the question of the so-called exclusionary rule.

Mr. Chairman, the exclusionary rule goes to an evidentiary ruling which basically says that in criminal cases, although you have evidence which is probative and which goes to the question which is relevant to the question of the guilt or innocence of an individual, that evidence will not be allowed in the courtroom to be considered by the jury because one of the police officers in gathering that evidence did not follow the prescriptions as set down by the Supreme Court. In other words, because of an error by the police officer we will not allow the evidence to be presented.

Judge Cardozo said what it amounts to is that the criminal is to go free because the constable has blundered. It is very difficult to try to explain to someone who has been a victim of a crime and it is very difficult to explain to the public that because a police officer has made an error in gathering the evidence, he is not punished but society is punished and the individual who is the victim of the crime is punished by virture of the fact that the person who otherwise would have been proven guilty is allowed to go free.

There has been movement on this issue over the past number of years. The Supreme Court, recognizing that it had gone too far and recognizing that some of the rulings do not, in fact, create a deterrence for improper police action, has decided that a good-faith exception ought to be made in a warrant case.

Where a police officer makes an error in good faith in bringing a warrant before a judicial officer or in executing that warrant, the Supreme Court has said that "In those cases, if it is a good-faith error, it serves no deterrent purpose for us to deny that evidence to go forward." They did not address the question of a good-faith exception in a case where a warrant is not required or thought not to be required.

This amendment says that an exception to the exclusionary rule on the Federal level will lie where there is a good-faith action by the police officer involved.

Now, someone may ask, if that goes to the question of all crimes, why would we have it in this bill? The only substantive study of which I am aware is a study of California cases done in the last decade in which they discovered that 30 percent of all felony drug cases were not brought for prosecution, not because they did not believe the person was guilty, not because they did not believe they had evidence, but because in some way the evidence was tainted. Thirty percent of all the felony drug cases in the largest State in the Union were tossed out, not even prosecuted, because of the problem of the exclusionary rule and other problems.

We do not in this amendment in any way allow an officer who intentionally creates a ruse, who intentionally violates the constitutional protections, to go forward and have the evidence brought forward. This amendment only says that when a police officer, following what he thinks is the law and based on his training—and there is an objective as a subjective standard involved—makes an error, we will not penalize the public and we will not penalize the victim for his doing so.

Let me just give an example of how this plays in real life. In hundreds of appellate court decisions we have sometimes confusing and contradictory information and instructions given to the police. Precisely that type of problem arose in Robbins versus California in 1981. In Robbins the court excluded evidence of a substantial quantity of marijuana found in a car trunk in a decision that was largely based on two cases: The Chadwick case of 1979 and Arkansas versus Sanders in 1979, neither one of which had been decided at the time the officers were making the arrest. So they went back and they said to the officers, "Even though you followed the law as you thought it to be at that time, we had some decisions under consideration which we later made, and because you didn't follow what we later decided, the evidence of the substantial amount of marijuana cannot be brought forward."

The Robbins decision overruled previous decisions of the trial and appellate courts in California that the search was valid. In other words, they were following what they thought the law to be. Even if the police officers read the law books and followed the law, they were found later to be in error.

When finally decided, 14 judges had reviewed the search, 7 had found it valid and 7 had found it invalid. To add to the confusion, less than 3 months after they had decided the Robbins case, the Supreme Court granted certiorari in the case of United States versus Ross and asked both sides to address the question as to whether Robbins should be reconsidered.

So you are a police officer out there, you are trying to follow the law, and you have found somebody who is dirty, you have found somebody with a large amount of drugs. You have followed the law as you thought it to be and as the courts would tell you it is at that time, and despite that fact, the evidence is thrown out and the drug-pusher and the drug trafficker goes free.

The CHAIRMAN. The 5 minutes of the gentleman from California [Mr. LUNGREN] has expired.

Mr. LUNGREN. Mr. Chairman, I yield myself 1 additional minute.

Mr. Chairman, this amendment merely says that when the officer in good faith has followed what he thought he should do—and that is based not only on being a reasonable man but also having a reasonable standard of training—that society ought not be be punished and the victim ought not to be punished.

I would say that this is a gut check amendment. If you are serious about doing something about drugs, this covers almost 30 percent of the serious drug cases, according to the only study done. If you are serious about getting the evidence before the jury in a case where the police officer would not be deterred by the exclusionary rule because he did not intentionally violate the rules and prescriptions of the court, I would think that you would vote "aye". I would think that you would seriously think that this is one of the things we have to do, to make a fundamental change in the court system. We can make all the changes in the police and the investigators, and so forth, but if we do not make fundamental changes in the court system, it is all for naught.

Mr. Chairman, I ask for an "aye" vote on this amendment.

The CHAIRMAN. The Chair recognizes the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, just at the outset I rise to inform my colleagues that I support a good faith exception to the exclusionary rule. However, the amendment, as proposed by our colleague, the gentleman from California [Mr. LUNGREN], would suggest a subjective standard, not the objective standard which I think is important as a part of any good faith exception to the exclusionary rule.

In fact, when Stephen Trott, the Assistant Attorney General, was before the other body back in October, the Attorney General in fact recommended that this particular provision be modified so that in fact we would use the standard set forth in the United States versus Leon, the 1984 case which used the standard, "reasonable reliance on the part of the police officer."

I do not think it would make sense for us to permit a police officer just to say that he acted in good faith and take that as the standard in fact in deciding whether to hold in evidence that which might have been illegally seized.

So, Mr. Chairman, while I support the concept of a good faith exception, I think that this particular amend-

ment is fatally flawed. I worry over the standard that is used because it does not use the standard the Justice Department recommends and as set forth by the Supreme Court in its decision in United States versus Leon.

Mr. CHAIRMAN. The time of the gentleman from New Jersey [Mr. HUGHES] has expired.

Mr. HUGHES. Mr. Chairman, I yield 3 minutes to the distinguished chairman of the Committee on the Judiciary, the gentleman from New Jersey [Mr. RODINO].

Mr. RODINO. Mr. Chairman, today we have been fighting a war against drugs, and now it seems to me that the attack is on the Constitution of the United States. The gentleman from California [Mr. LUNGREN], who offered the amendment, cited the fact that there is an exclusionary rule, that this was adopted by the Supreme Court, and that it recognized that this was the way to protect the rights of individuals under the fourth amendment.

The gentleman from California [Mr. LUNGREN], who offered this amendment, incidentally cited a figure of 30 percent, which I have questioned since looking at an American Bar Foundation News Report of March 16, 1984.

That report states that a study it commissioned found that "the exclusionary rule only rarely causes the loss of arrests for violent crime." It further stated that the study also shows that "the same statewide California data used by NIJ indicate that prosecutors only drop 2.4 percent of felony drug arrests because of illegal searches, not 30 percent, but NIJ failed to report the lower figure." The report concludes that the study indicates that "NIJ's 30-percent figure, which is based on an examination of less than 300 cases from Los Angeles only, is a result of faulty research methods."

□ 1635

Now, I do not think we want to adopt an amendment on figures that are based on faulty research methods, nor do I think we want cavalierly to amend the Constitution on the floor of the House without going through the normal legislative process.

The fourth amendment provides that "the right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures shall not be violated * * *." The Supreme Court, in 1914, adopted the exclusionary rule for Federal criminal trials and required Federal courts to exclude any evidence obtained in violation of the fourth amendment. [*Weeks* v. *U.S.*, 232 U.S. 383]. The Supreme Court later extended the exclusionary rule to State courts in *Mapp* v. *Ohio* [367 U.S. 343 (1961)]. The proposed amendment, which would provide a "good faith" exception to the exclusionary rule, is unconstitutional and unwise.

The Constitution, as the Supreme Court cases indicate, requires exclusion of evidence seized in violation of the fourth amendment. A constitutional requirement can be modified only by amending the Constitution, not by amending a statute.

Changing the exclusionary rule, moreover, would be unwise. The rule has had a beneficial impact upon law enforcement, improving law enforcement methods and techniques, as law enforcement groups have testified. This benefit has been obtained without greatly affecting the disposition of cases. The huge percentage of Federal criminal cases settled by guilty pleas and convictions is proof positive that the exclusionary rule has not unduly hampered Federal law enforcement agencies or Federal courts.

It is sometimes charged that the rule lets criminals free on "Technicalities." This allegation is not borne out by the data we have available. A survey by the Institute for Law and Social Research, for example, found that fewer than 1 percent of all arrests were "refused by the prosecutor with an indication that the police failed to protect the arrestee's right to due process."

The American Bar Association has carefully studied the exclusionary rule and the desirability of modifying it. It has concluded that the rule should not be changed. As its spokesman has stated, "congressional changes in the rule will undercut law enforcement professionalism, engender decades of litigation over various new tests, and result in very few additional criminals ending up behind bars."

People who attack the exclusionary rule are really attacking the Constitution. As Senator Robert Wagner pointed out in 1938 at a New York State constitutional convention:

> All the arguments [that the exclusionary rule will handicap law enforcement] seem to me to be properly directed not against the exclusionary rule but against the substantive guarantee itself. * * * It is the [law of search and seizure], not the sanction, which imposes limits on the operation of the police. If the rule is obeyed as it should be, and as we declare it should be, there will be no illegally obtained evidence to be excluded by the operation of the sanction.

Furthermore, I would like to state that this is not the appropriate vehicle to modify the exclusionary rule. The purpose of this bill is limited to enhancing our antidrug efforts. I would point out to the Members that this amendment modifies the exclusionary rule with respect to all criminal cases.

I believe that it is unwise for the House to make such a major change in our criminal law procedures which will have far-reaching impact in the context of a bill whose legislative purposes are limited to drug-related offenses.

In summary, modification of the exclusionary rule is bad law, and is being attempted here in the wrong situation. I urge the defeat of the amendment.

Mr. HUGHES. Mr. Chairman, I yield 4 minutes to the gentleman from Wisconsin [Mr. KASTENMEIER].

Mr. KASTENMEIER. Mr. Chairman, I thank my colleague, the gentleman from New Jersey, for yielding this time. I perhaps will not use the 4 minutes, but I do have to express my concern.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from California [Mr. LUNGREN] to create an alleged good faith exception to the exclusionary rule. What is at stake in this amendment is whether we, as people, continue to believe in the fundamental protections of the Bill of Rights. As Justice Brennan put it:

> * * * the task of combatting crime and convicting the guilty in every era seem of such critical and pressing concern that we may be lured by the temptations of expediency into foresaking our commitment to protecting individual privacy and liberty.

It was for those very reasons that the Framers crafted the antimajoritarian restrictions on Government conduct found in the Bill of Rights. One of the bulwarks of our freedoms is the right to be free from unreasonable searches and seizures. Thus, fourth amendment protection has since at least 1914 meant that illegally seized evidence could not be admitted to trial in Federal court. This exclusion of relevant evidence serves several central purposes. Most importantly, it bars the independent judiciary from becoming mere conduits to the admission of improperly obtained evidence. Second, the exclusionary rule provides an incentive for careful review of warrants because of the adverse consequences of allowing an improper warrant. Third, it provides an incentive for law enforcement officers to conform their conduct to the Constitution. Finally, the most effective method of protecting the innocent against abusive searches is to have an exclusionary rule.

The amendment by Mr. LUNGREN has not been the subject of any hearing in the House this Congress. But if such hearing were held, Members would know that this amendment is opposed by the American Bar Association and the Judicial Conference of the United States. Members would also have learned that the costs of an exclusionary rule are relatively small in comparison to the benefits. The best evidence is that:

The cumulative loss—nonprosecution or nonconviction—resulting from illegal searches is between 0.6 to 2.33 percent of all felony arrests.

Less than 1 percent of individuals arrested for felonies are released because of illegal searches and seizures at the preliminary hearing or after trial.

If hearings had been held on this amendment, Members would have learned that this amendment does not conform to the Supreme Court's most recent decision on the fourth amendment. The amendment goes beyond the Leon case by extending the existing good faith exception to cases which do not involve search warrants. Moreover, the amendment does not incorporate limitations of the good faith exception which the Supreme Court has said are required by the Constitution.

Thus, Members should know that by voting on this amendment they will be facing conflicting Supreme Court decision of a constitutional magnitude, the opposition of the two most respected legal organizations in the country and a weak case for change.

Let me close with the warning of Justice Brennan:

When the public, as it quite properly has done in the past as well as in the present, demands that those in government increase their efforts to combat crime, it is all too easy for those government officials to seek expedient solutions. In contrast to such costly and difficult measures as building more prisons, improving law enforcement methods, or hiring more prosecutors and judges to relieve the overburdened court systems in the country's metropolitan areas, the relaxation of Fourth Amendment standards seems a tempting, costless means of meeting the public's demand for better law enforcement. In the long run, however, we as a society pay a heavy price for such expediency, because as Justice Jackson observed, the rights guaranteed in the Fourth Amendment "are not mere second-class rights but belong in the catalog of indispensable freedoms." Once lost, such rights are difficult to recover.

As Justice Stewart has observed:

[T]he exclusionary rule is not designed to serve a specific deterrence function; that is, it is not designed to punish the particular police officer for violating a person's fourth amendment rights. Instead, the rule is designed to produce [systematic deterrence]; the exclusionary rule is intended to create an incentive for law enforcement officials to establish procedures by which police officers are trained to comply with the fourth amendment because the purpose of the criminal justice system—bringing criminals to justice—can be achieved only when evidence of guilt may be used against defendants.

Uncontrolled search and seizure is one of the first and more effective weapons in the arsenal of every arbitrary government.

Mr. LUNGREN. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Chairman, the criminal lawyer's best friend is the motion to suppress provided by the exclusionary rule. If they know that motion, they are going to win a lot of their cases. The purpose of the exclusionary rule is to deter policemen from overreaching, from making unreasonable searches and seizures.

Now, it is misconceived because the only one that gets punished by suppressing this evidence is the prosecutor, society, the public at large. The big winner is the defendant, the accused, and the policeman leaves the court unchastened to go and do whatever he does another day.

Now, if the warrantless search and seizure was done in good faith, yes, that is a subjective test, but is not probable cause subjective? Is not "beyond a reasonable doubt" subjective? Somebody has to make the judgment that, yes, it measures up to good faith, or no, it does not.

Now, we assume that our judges are capable of determining whether good faith has been exercised in this search and seizure. The exclusionary rule is waived now when a warrant exists and a good faith effort has been made. This amendment simply has the same exemption apply without the warrant.

Now, if you really care about hitting drug trafficking where it hurts, never mind conferences, never mind scattering money as though it has bacteria on it. Do something substantial. Take that exclusionary rule, the criminal lawyer's best friend, and make it inapplicable where a good faith search and seizure has been made.

We are not simply to inquire, did the constable blunder? We are to find out if this accused is guilty or innocent. The evidence should be adduced to make that determination. If you want to deter policemen from making unreasonable searches, then fire them, suspend them, but do not frustrate justice and do not permit drugs to proliferate and to be sold protected by the misconceived exclusionary rule.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I only have 3 minutes, let me say to the gentleman from Ohio [Mr. SEIBERLING].

I would suggest doing something of substance in this omnibus blockbuster of a costly bill which we are rushing to completion with very few hearings.

Now I will yield to the gentleman from Ohio [Mr. SEIBERLING].

Mr. SEIBERLING. Well, Mr. Chairman, I wonder how many other constitutional protections the gentleman is prepared to sacrifice?

Mr. HYDE. None, I would sacrifice none. Unreasonable searches and seizures are wrong and should be punished and I say punish the miscreant, but do not let the guilty go free. Where is that in the Constitution?

Mr. SEIBERLING. Mr. Chairman, if the gentleman will yield further, these protections protect all of us, not just the guilty, but the innocent as well. That is the whole point.

Mr. HYDE. Yes, the victims of this dope trafficking, let us do something about them. I want to protect the public.

Mr. HUGHES. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Mr. Chairman, the crux of the matter is that all of us here believe that if you misbehave, if you violate the law, you should be caught and punished; but the gentleman from Illinois [Mr. HYDE] does not want the policeman's misconduct held against him. That is all we are talking about. The problem is that we are going to encourage the police to do wrong if we allow them to use illegal evidence.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of California. Yes, of course, I always yield to the gentleman from Illinois, with great care, though.

Mr. HYDE. Mr. Chairman, I want that policeman punished, but by suspending him or firing him or even jailing him for making an illegal search and seizure, but I do not want the consequence of his act to be visited on the community land society.

It is the remedy that I question, not that the wrong has been done, and where good faith has been expended I would make that different from bad faith, and I think the gentleman would, too.

Mr. EDWARDS of California. No, Mr. Chairman, I disagree very strongly. I do not think the way to correct the policeman is just to fire him. The way to stop him from collecting illegal evidence is not to allow the evidence to be used in court.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. HUGHES. Mr. Chairman, I yield an additional 30 seconds to the gentleman.

Mr. EDWARDS of California. So I just do not think, Mr. Chairman, that we want to travel down this path. As has already been pointed out by previous speakers, you are not talking about very many cases that the police or the DEA would lose. It is somewhere around 1 percent of felony cases in the United States that are lost because of illegal searches.

Mr. JACOBS. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from Indiana.

Mr. JACOBS. Mr. Chairman, I would like to cite for the Record at this point——

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. HUGHES. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Chairman, I was interested in the opening statement of the gentleman from California [Mr. LUNGREN] which carefully excluded any reference to the fourth amendment of the Constitution. Why? Well, the reason is very simple, be-

cause the exclusionary rule was brought in there, I say to the gentleman from California [Mr. LUNGREN] because you cannot have a fourth amendment to the Constitution without the exclusionary rule written, so sayeth the Supreme Court of the United States.

Now, the reason that they said that and the reason you have to allow the case to go off, not jail the policeman, I say to the gentleman from Illinois [Mr. HYDE], is because the law requires that it be absolute. You cannot have good faith about your knowledge of the law. You can have good faith in the application of a fact, probable cause. You cannot have good faith in applying the law.

Mr. LUNGREN. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Chairman, I thank my colleague for yielding.

I intend to support the amendment of the gentleman from California. There is no question but that the application of the exclusionary rule has led to some absurd and bizarre results in drug cases, but I think what is needed here is a definition of the term good faith in a warrantless situation.

The gentleman from New Jersey, the chairman of the subcommittee, has raised the issue of subjective versus objective standards. I would like to address a couple questions to the sponsor of this amendment.

How does the gentleman intend that the courts interpret good faith? What are the standards that would define good faith?

Mr. LUNGREN. It is my intention that the good faith that is intended in this particular amendment would be the standard that was established by the Supreme Court in the United States versus Leon case. That is where they establish a good faith standard in a warrent case.

Mr FISH. Second, who has the burden of proof to demonstrate good faith under the language of the gentleman's amendment? Is it the prosecution or the defense?

Mr. LUNGREN. Once the objection has been raised by the defense—that is, the defense would first have to raise the objection—both the burden of going forward and the burden of proof would shift to the prosecution to show that in fact they met the standard of good faith.

Mr. FISH. I thank the gentleman.

Finally, what about warrantless searches? Is the test what the individual police officer's subjective view of the fourth amendment requirement is?

Mr. LUNGREN. No, it would not. It would be what the court contemplated in the Leon case.

I would also make reference to a previous case from the fifth circuit, the Williams case, in which it was said:

> We emphasize that the belief, in addition to being held in subjective good faith, must be grounded in an objective reasonableness. It must therefore be based upon articulable premises sufficient to cause a reasonable and a reasonably trained officer to believe he was acting lawfully.

In other words, there is a subjective element to it, but it is grounded in an objective reasonableness. I think that expresses what the fifth circuit had in mind and it also expresses what the Supreme Court had in mind.

Mr. FISH. Mr. Chairman, I thank the gentleman.

□ 1650

Mr. HUGHES. Mr. Chairman, I yield 1 minute to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Chairman, we do have some exceptions to the exclusionary rule, but in my judgment the Lungren amendment is a gaping hole in the fourth amendment.

This amendment on the exclusionary rule would allow illegally seized evidence to be used in a trial whenever police could argue subjectively that they acted in good faith.

The Supreme Court has held that a good faith defense only applies when police officers rely on a judicial warrant. This amendment would apply a good faith exception even when no warrant is obtained and in all cases—not simply those related to drug offenses. We are amending the entire criminal code here with respect to all Federal cases, not just drug cases, opening a door to illegal searches and seizures.

Mr. Chairman, I urge Members to vote down the Lungren amendment.

Mr. HUGHES. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Chairman, this is a very, very bad amendment. It incorporates in our Federal criminal law the notion that ignorance of the law is an excuse. A "good faith" exception, notwithstanding the previous colloquy on this floor, is not defined by any standard other than the subjective good faith belief of the police officer. He is now rewarded for unconstitutional searches to the extent to which he testifies he does not know that the search was illegal.

The court did not adopt the exclusionary rule because it loved to exclude evidence; it adopted it because there was no other effective and meaningful deterrent and remedy to deal with the problem of protecting our fundamental constitutional rights.

At the very least one should expect that the authors of this amendment would set up a proposal such as the gentleman from Illinois talked about that involves criminal penalties and discipline for violations of the fourth amendment. There is nothing in the amendment to protect the citizens in their fundamental constitutional rights. I urge this body to reject it.

Mr. HUGHES. Mr. Chairman, may I inquire as to how much time I have remaining?

The CHAIRMAN. The gentleman from New Jersey [Mr. HUGHES] has 3½ minutes remaining and the gentleman from California [Mr. LUNGREN] has 4 minutes remaining

Mr. HUGHES. Mr. Chairman, I yield 1 minute to the gentleman from Connecticut [Mr. MORRISON].

Mr. MORRISON of Connecticut. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I hope that this body will be strong in defense of the fourth amendment and vote down this amendment.

As has been so articulately stated by the gentleman from Kansas, this is not a narrow amendment, this is the entire Federal Criminal Code that is being affected. This is not just something about drugs. It is going to have a perverse effect. We are going to say to policemen first that they should not worry about the quality of their information to enforce the law. Is it a substitute for this that they could be disciplined? No, on the contrary, they will be too cautious for fear of discipline to themselves, and they will enforce less of the law, not more.

The fourth amendment protects us all, the innocent most of all, and we should not create the improper incentive to violate the law by anyone, most of all the police.

Vote down this amendment and preserve the very best law enforcement under this drug law, and also the entire Criminal Code.

Mr. LUNGREN. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Chairman, I thank the gentleman from California [Mr. LUNGREN] and compliment him for his most able amendment.

You know, to listen to some of the argument against this amendment, you would think that we were asking to amend the Constitution. Well, my colleagues know as well as I know that we are not amending the Constitution here. We are simply putting a minor adjustment in the exclusionary law that grew up some 125 to 150 years after the ratification of the Constitution and the fourth amendment.

What we are doing is just good, common sense. What we are doing today, in fact, is cleaning out the attic of the Committee on the Judiciary, where this particular amendment has lingered in the way of a bill without even being allowed a hearing or a markup for so many years time after time, as we are going to have a chance to do on other legislation today.

This different from other amendments that have been offered today, because this one does not carry a big price tag. This one is going to cost the

taxpayers absolutely nothing. This is something that the voters are going to be screaming for and have been screaming for. They are sick and tired of the criminal walking out of the courtroom unpunished.

I urge Members to vote "yes" on this amendment.

Mr. HUGHES. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Chairman, I rise in opposition to this amendment. It looks like, as the gentleman from Florida has indicated, this is a Judiciary Committee shootout, that anything that they could not get in the Judiciary Committee, then they might as well come along with the drug bill and have some death penalty, exclusionary rule, anything else that they want to bring to the floor.

Basically what we are talking about is illegal searches and seizures. Now the gentleman says that he wants to make an exception to what is already illegal. But the gentleman from Illinois had claimed, "Don't penalize the policeman." A cop wants to make arrests; a cop wants to make convictions. If you provide the incentives, the fruit from an illegal search and seizure, and then ask the police officer did he do it in good faith, I am telling you that you will find a very difficult case in which to throw out any of the evidence, no matter how tainted.

I wish Members could put themselves in this position. Here comes a policeman. He has good faith that he wants to put you in jail, but he has violated every protection that you have. I submit that Members ought to oppose this amendment.

Mr. LUNGREN. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. MCCOLLUM], the distinguished ranking member of the Subcommittee on Crime.

Mr. McCOLLUM. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, sometimes in this debate when we talk about the Constitution and things like searches and seizures and the exclusionary rule, we forget some fundamentals. One of the fundamentals is that the exclusionary rule is not a part of the fourth amendment. It is not a part of the Constitution. It is a procedural device for enforcement adopted by the Supreme Court in the century by case law and case decision, because they were not happy with the enforcement devices that existed.

It is a Court-made rule of procedure that I think, and I think that the majority of the Members of this body are going to decide today, should be a vested right in Congress to decide and determine, and that is what we would be doing here today. We would be saying—and I am strongly in support of the amendment of Mr. LUNGREN—we would be saying that with respect to those searches and seizures that a police officer makes without a warrant, in good faith, that he is going to be able to be deemed to be right in that judgment at least to the extent of admitting that stuff into evidence, unless there is some burden that is not met by the prosecution later.

Mr. Chairman, I strongly urge the adoption of this amendment to put the exclusionary rule away on this issue.

Mr. HUGHES. Mr. Chairman, I yield 30 seconds to the gentleman from Indiana [Mr. JACOBS].

Mr. JACOBS. Mr. Chairman, I oppose the exclusionary rule, and I oppose this amendment, because it is not balanced. The way to get rid of the exclusionary rule is to provide some other remedy to protect the people without forbidding valuable evidence in trials.

The way to do that is cited in *Bevins* v. *Six Unnamed Federal Agents*, 403 U.S. 388, a 1971 case, namely to waive sovereign immunity so that the offended party can sue. If that were added to this amendment, I would vote for it gladly.

Mr. HUGHES. Mr. Chairman, I yield myself the remainder of my time.

Mr. Chairman, I just want to say, if I may have the attention of the gentleman from California [Mr. LUNGREN], as I understand it, his intent was to create a standard that would be objectively reasonable, the Leon standard. And yet I do not read the gentleman's amendment that way. The gentleman's amendment is quite vague. I know that it was probably crafted as part of an amendment in the other body, but it seems to me that the standard that we ought to be using is just that. It can be our intent that it be interpreted a certain way, but why not in fact spell it our just that way.

I differ with many of my colleagues on the subject of the exclusionary rule. I support a "good faith" exception, but it has to be an objective standard.

Mr. LUNGREN. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. Will the gentleman give me some time so that we can discuss that issue?

I yield to the gentleman from California.

Mr. LUNGREN. I said that I would do that in conference: If that is the gentleman's intent, I would support him in making that change. But with the rule, I cannot make any change.

□ 1700

Mr. HUGHES. Mr. Chairman, would the gentleman agree that we should have an objective standard in the language, not really in what is our intent?

Mr. LUNGREN. It is my intent to have what the Leon case has, and if it is required to make the gentleman happy, it can be articulated there. I would be happy to do that and I would recede to that in a conference.

The CHAIRMAN. The time of the gentleman from New Jersey [Mr. HUGHES] has expired.

Mr. LUNGREN. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from California [Mr. LUNGREN] is recognized for 2 minutes.

Mr. LUNGREN. Mr. Chairman, first of all, I might say that this is not such a unique experience we are having here. Other State courts have been involved in that. In fact, one of the distinguished members of our Subcommittee on Crime, the gentleman from Florida [Mr. SMITH], is the author of a similar piece of legislation in the Florida Legislature.

They have not had a rash of abuse of police activity in Florida since they got that through, but they have added an additional tool to strike against major crime, particularly drug trafficking, in their home State. We should do at least as much here on the floor of the House.

I am not obliterating the exclusionary rule. What we are doing here is adding a good-faith exception, and let us just analyze it for a moment.

If what you are trying to do is deter police conduct that is inappropriate, then you could have the exclusionary rule where that is the intention of the police officer when he has made a good-faith mistake because he may have been following what the law has been thus far, what has been printed. If he stays up all night and reads the latest law articles and law review articles and decisions and follows that, to have evidence thrown out because the court says later on, "We had not anticipated that; we are going to make a new ruling," does not make sense, does not make common sense and tends to undercut the credibility of the judicial system.

One of the things we ought to remember is, yes, we are here to make sure we do not make great errors. We are here to make sure we protect the public and we are here to protect constitutional rights.

I am not saying we ought not to do that, but we ought to keep another thing in mind. If we continue to turn a blind eye to changes that the American people think are reasonable, are common sense, and, in fact, are, then we tend to give more and more disrespect to the judicial system itself.

I will readily admit the ACLU does not support this. I will readily admit the police officers do, the attorneys general do, the Justice Department does, and maybe that is weighted toward the prosecution. I will admit it. I have got a bias in this war on crime; it is toward the prosecution.

All I am asking for is a small change that will make a very effective change in terms of our war on drug dealers.

The CHAIRMAN. All time has expired on the amendment.

The question is on the amendment offered by the gentleman from California [Mr. LUNGREN].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. HUGHES. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 259, noes 153, not voting 19, as follows:

[Roll No. 373]

AYES—259

Alexander	Evans (IA)	Mack
Anderson	Fascell	MacKay
Andrews	Fawell	Madigan
Anthony	Fiedler	Manton
Applegate	Fields	Marlenee
Archer	Fish	Martin (IL)
Armey	Flippo	Martin (NY)
Badham	Fowler	Martinez
Barnard	Franklin	Mazzoli
Bartlett	Frenzel	McCain
Barton	Frost	McCandless
Bateman	Fuqua	McCollum
Bennett	Gallo	McCurdy
Bentley	Gaydos	McEwen
Bereuter	Gekas	McGrath
Bevill	Gibbons	McKernan
Bilirakis	Gilman	McMillan
Bliley	Gingrich	Meyers
Boehlert	Goodling	Mica
Boner (TN)	Gradison	Michel
Borski	Gregg	Mikulski
Boulter	Guarini	Miller (OH)
Broomfield	Gunderson	Miller (WA)
Brown (CO)	Hall, Ralph	Molinari
Bryant	Hammerschmidt	Mollohan
Burton (IN)	Hansen	Monson
Byron	Hatcher	Montgomery
Callahan	Hefner	Moore
Carney	Hendon	Moorhead
Carper	Henry	Morrison (WA)
Carr	Hiler	Myers
Chandler	Hillis	Natcher
Chapman	Holt	Nelson
Chappell	Hopkins	Nichols
Clinger	Hubbard	Nielson
Coats	Hughes	Oxley
Cobey	Hunter	Packard
Coble	Hutto	Parris
Coelho	Hyde	Pashayan
Coleman (MO)	Ireland	Penny
Coleman (TX)	Jenkins	Petri
Combest	Johnson	Pickle
Coughlin	Jones (NC)	Porter
Courter	Jones (OK)	Pursell
Craig	Jones (TN)	Quillen
Crane	Kanjorski	Rahall
Daniel	Kasich	Ray
Dannemeyer	Kemp	Regula
Darden	Kindness	Reid
Daschle	Kolbe	Richardson
Daub	Kolter	Rinaldo
Davis	Kramer	Ritter
de la Garza	Lagomarsino	Roberts
DeLay	Lantos	Robinson
DeWine	Latta	Roe
Dickinson	Leath (TX)	Roemer
DioGuardi	Lent	Rogers
Dorgan (ND)	Lewis (CA)	Rose
Dornan (CA)	Lewis (FL)	Rostenkowski
Dowdy	Lightfoot	Roth
Dreier	Lipinski	Roukema
Duncan	Livingston	Rowland (CT)
Durbin	Lloyd	Rowland (GA)
Dyson	Loeffler	Russo
Eckert (NY)	Lott	Saxton
Edwards (OK)	Lowery (CA)	Schaefer
Emerson	Lujan	Schuette
English	Luken	Sensenbrenner
Erdreich	Lungren	Shaw
Shelby	Snyder	Vander Jagt
Shumway	Solomon	Volkmer
Shuster	Spence	Vucanovich
Siljander	Stallings	Walgren
Sisisky	Stangeland	Walker
Skeen	Stenholm	Watkins
Skelton	Strang	Weber
Slaughter	Stump	Whitehurst
Smith (FL)	Sundquist	Whitley
Smith (IA)	Sweeney	Whittaker
Smith (NE)	Swindall	Wolf
Smith (NJ)	Tallon	Wortley
Smith, Denny (OR)	Tauke	Wylie
	Tauzin	Yatron
Smith, Robert (NH)	Taylor	Young (FL)
	Thomas (CA)	Young (MO)
Smith, Robert (OR)	Thomas (GA)	Zschau
	Traficant	
Snowe	Valentine	

NOES—153

Akaka	Gejdenson	Obey
Annunzio	Gephardt	Olin
Aspin	Glickman	Ortiz
Atkins	Gonzalez	Owens
AuCoin	Gordon	Panetta
Barnes	Gray (IL)	Pease
Bates	Gray (PA)	Pepper
Bedell	Green	Perkins
Beilenson	Hall (OH)	Price
Berman	Hamilton	Rangel
Biaggi	Hawkins	Ridge
Boggs	Hayes	Rodino
Boland	Hertel	Roybal
Bonior (MI)	Horton	Sabo
Bonker	Howard	Savage
Bosco	Hoyer	Scheuer
Boxer	Jacobs	Schneider
Brooks	Jeffords	Schroeder
Brown (CA)	Kaptur	Schumer
Bruce	Kastenmeier	Seiberling
Bustamante	Kennelly	Sharp
Clay	Kildee	Sikorski
Collins	Kleczka	Slattery
Conte	Kostmayer	Solarz
Conyers	LaFalce	Spratt
Cooper	Leach (IA)	St Germain
Coyne	Lehman (CA)	Staggers
Crockett	Lehman (FL)	Stark
Dellums	Leland	Stokes
Derrick	Levin (MI)	Studds
Dicks	Levine (CA)	Swift
Dingell	Long	Torres
Dixon	Lowry (WA)	Torricelli
Donnelly	Lundine	Towns
Downey	Matsui	Traxler
Dwyer	Mavroules	Udall
Dymally	McCloskey	Vento
Early	McHugh	Visclosky
Eckart (OH)	McKinney	Waldon
Edgar	Miller (CA)	Waxman
Edwards (CA)	Mineta	Weaver
Evans (IL)	Mitchell	Weiss
Fazio	Moakley	Wheat
Feighan	Moody	Williams
Florio	Morrison (CT)	Wilson
Foglietta	Mrazek	Wirth
Foley	Murphy	Wise
Ford (MI)	Murtha	Wolpe
Ford (TN)	Nowak	Wright
Frank	Oakar	Wyden
Garcia	Oberstar	Yates

NOT VOTING—19

Ackerman	Grotberg	Schulze
Boucher	Hartnett	Stratton
Breaux	Huckaby	Synar
Burton (CA)	Markey	Whitten
Campbell	McDade	Young (AK)
Chappie	Neal	
Cheney	Rudd	

□ 1720

Mr. TORRES and Mr. ANNUNZIO changed their votes from "aye" to "no."

Mr. TRAFICANT and Mr. YOUNG of Missouri changed their votes from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. CHENEY. Mr. Chairman, I was unavoidably detained in a meeting in the other body a few minutes ago and missed rollcall No. 373. Had I been present, I would have voted "aye."

The CHAIRMAN. Under the rule, the gentleman from California [Mr. LUNGREN] will be recognized to offer amendment No. 31.

AMENDMENT OFFERED BY MR. LUNGREN

Mr. LUNGREN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LUNGREN: Page 224, after line 13, insert the following:

Subtitle H—Miscellaneous Provisions

SEC. 671. FORFEITURE OF SUBSTITUTE PROPERTY.

(a) AMENDMENT TO SECTION 1963 OF TITLE 18, UNITED STATES CODE.—Section 1963 of title 18, United States Code, is amended by inserting after subsection (c) the following new subsection:

"(d) If, because of an act or omission of the defendant, property subject to forfeiture under subsection (a) of this section—

"(1) is removed from the jurisdiction of the court or is otherwise unavailable for forfeiture;

"(2) is diminished in value; or

"(3) cannot reasonably be separated from property that is not subject to forfeiture;

the court shall order the forfeiture of such other property of the defendant as may be necessary to recover the value lost to the United States because of the act or omission of the defendant.".

(b) AMENDMENT TO SECTION 413 OF THE CONTROLLED SUBSTANCES ACT.—Section 413 of the Controlled Substances Act is amended—

(1) by redesignating subsections (d) through (o) as subsections (e) through (p), respectively; and

(2) by inserting after subsection (c) the following new subsection:

"Substitute Property

"(d) If, because of an act or omission of the defendant, property subject to forfeiture under subsection (a)—

"(1) is removed from the jurisdiction of the court or is otherwise unavailable for forfeiture;

"(2) is diminished in value; or

"(3) cannot reasonably be separated from property that is not subject to forfeiture;

the court shall order the forfeiture of such other property of the defendant as may be necessary to recover the value lost to the United States because of the act or omission of the defendant.".

Mr. LUNGREN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. HUGHES. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. Under the rule the gentleman from California [Mr. LUNGREN] will be recognized for 5 minutes and the gentleman from New Jersey [Mr. HUGHES] will be recog-

nized for 5 minutes in opposition to the amendment.

Mr. LUNGREN. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, a little over a year ago, one of my staff members was at home watching television and watching that rather popular show called "Miami Vice."

In that show there was a scene in which Don Johnson was talking rather heatedly to a suspect in which he said, "Look, haven't you heard of the Omnibus Crime Control Act of 1948?" The defendant looked at him rather quizzically.

He then said, "Under that we can take away your house, we can take away your car, we can take away your boat, we can take away your cash in the bank. So you had better cooperate with us." In fact, that is one of what I consider to be the major strides we made in criminal prosecutions as a result of the adoption of that act.

We are striking at major drug dealers where it hurts; not only are we putting them in prison but we are attaching their assets and after the conclusion of the trial there is a presumption that their assets flow from their illegal activity.

What does that mean? That means that unless they can overcome that presumption, we take away their car, we take away their boat, we take away their house, we take away their funds, and when they get out of prison they do not have the assets with which to get involved in their criminal enterprises again.

The question before us now is whether or not we should have the ability to go after substitute assets. That is, if they have been successful in hiding their assets or transferring their assets, could we not go after a similar amount of other assets they might have in which they have hidden their previous ones? Why do we do this? Because we are dealing with tough, smart people who try to stay one step ahead of the law and try to hide their assets whenever they can.

Some will say we do not need this. The Justice Department has asked for it. In fact it was part of the Comprehensive Crime Control Act when it left this House several years ago and similarly was passed in the other body. Somehow it got dropped out in conference.

This is another arrow in the quiver of law enforcement against those who are dealing drugs to our children and throughout our society.

Some may say there is a constitutional problem with that.

I have had the CRS look at that through their legal staff, we have looked at it; we can find no constitutional problem with it whatsoever. It adds an additional penalty so that we can stay one step ahead of the bad guys who are out there. They are smart, they know what they are doing, and when they get assets they try to hide them. This amendment would say that we can go after those assets they have substituted for the assets that they got as a result of their criminal enterprise.

Why should we allow them to keep these assets merely because they were smart enough to hire some good attorneys and some good accountants? Why should we allow them to keep a boat or a house or a new bank account merely because they shifted the source of those assets?

This is another effort for us to get tough on drugs. It does not cost us anything. It costs the guys who are out there doing something. I ask you to support the amendment.

Mr. HUGHES. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I am very proud of the forfeiture bill. As a matter of fact, I was the prime sponsor of the bill. It was written in both the 97th and 98th Congresses; it has been one of the dynamite tools we provided for the law enforcement community, and I am delighted to say that it has reached every expectation that we had for it. This amendment, however, is both unnecessary and, in my judgment, undesirable. We considered it, as a matter of fact, when we first developed the bill in 1981 and rejected it as an approach for the reasons I am going to tell you. It is unnecessary because when it was first offered as a method to get at the assets of criminals who hide or dissipate their ill-gotten gains, we debated it and found out that basically it did not get at what we wanted. The theory behind the amendment is that if a criminal has hidden the proceeds of his crime, the courts shall order the forfeiture of legally held assets of the same value. The flaw in the approach before us is that the criminal who hides illegally obtained assets is going to hide legal ones also. For example, we cannot effectively seize a Swiss bank account or a Bahamian bank account because it is beyond the reach of our authorities.

The solution we developed in response to that dilemma and which we enacted 2 years ago strips the ill-gotten gains from criminals through greatly increased fines, improved stronger fine collection laws, fines unlimited by the ill-gotten gains, which can be twice the amount of those gains. We also created a presumption that all assets that are created or in fact acquired during the time of the criminal enterprise are presumed to come from the criminal enterprise. And we require the defendant to come forward to establish that those gains were not gotten from the criminal enterprise, just like in net worth cases, net worth cases with the IRS.

We made the defendant come forward and show where those assets came from.

And we did something else: We said that if he is doing $2 million a year for 5 years, that is the size of the criminal enterprise, that a court can impose a fine of up to $20 million on the defendant and say to the defendant that for each of the counts, 5 years in Federal prison, 5 years probation to be served if the defendant does not come forward and pay the fine.

That is how we reached the Swiss bank accounts.

The response of the Justice Department to us was,

> Great idea, Bill, wonderful idea. You know, we had not thought of that. That is a great approach. We ought to apply that kind of a standard, and we ought to have that presumption. We ought to develop that kind of a fine for the courts. But we ought to have substitute assets, too.

That is just to throw it in, to make it a little better. What is wrong with that is that pushes it much closer, in my judgment, to a constitutionally impermissible standard.

The CHAIRMAN. The gentleman from California [Mr. LUNGREN] has 2 minutes remaining and the gentleman from New Jersey [Mr. HUGHES] has 2 minutes remaining.

Mr. LUNGREN. Mr. Chairman, I yield myself the remaining time.

The CHAIRMAN. The gentleman from California [Mr. LUNGREN] is recognized for 2 minutes.

Mr. LUNGREN. Mr. Chairman, I might say I applaud the gentleman from New Jersey for those changes we made in the law. They are in fact good. But just because we have one good idea in the law now does not mean we ought to reject another good one.

Let me just talk about the fine. We can fine them up to $20 million. With some of the major drug traffickers and some of the major organized crime figures today $20 million is not sufficient. We ought to take their assets as well as $20 million.

We know the types of dollars we are talking about. Why not have the ability to go after it?

If somebody is smart enough to be able to hide the assets that we are able to prove they got from their illegal enterprise, if they are able to hide that and they have purchased something, a pizza parlor, a baseball team, a building that happens to be worth the same amount, why ought not we be able to go after that? That is what this amendment does. Besides, the fine is discretionary.

It does not have to be imposed by the judge. The defendant still has ample time following indictment to dispose of any assets which would be subject to the alternative fine. By contrast, in forfeiture proceedings, the judge can order a freezing of the

assets. All I am asking for is an additional bit of ammunition.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I would be happy to yield to the gentleman from New York.

Mr. FISH. I thank the gentleman for yielding.

Will the gentleman correct me if I am mistaken: Is this not the magnitude of what we are talking about, in the range of $100 billion spent in the United States on illegal drugs?

Mr. LUNGREN. At least. We think that is the low-ball estimate. Hundreds of billions of dollars.

Mr. FISH. Worldwide, I am told, it is about $500 billion, which exceeds the national income of all but five countries in the world.

Mr. LUNGREN. Absolutely, and all we want to do is to say let us give law enforcement every single tool to get all of it if they can, not let us be confused by the smart guys out there who happen to be able to hire good lawyers and good accountants.

Mr. FISH. I thank the gentleman.

□ 1735

Mr. LUNGREN. Mr. Chairman, all I am saying here is let us give law enforcement every tool. Twenty million is a good fine, but sometimes these criminal enterprises, to them that is a spit in the ocean. Let us get every bit of their assets we can and let us hit them where it hurts, in their pocketbook.

Mr. HUGHES. Mr. Chairman, I yield myself the remainder of my time.

Mr. Chairman, I would say to my colleagues that I am not going to belabor the point. Frankly, I can see just exactly what is happening. Anything that would appear to provide additional resources, no matter whether or not it is perhaps as constitutional impermissible, whether it adds anything to the arsenal, is going to be approved.

Let me just say to my colleagues, however, that in this instance, in my judgment, there are some constitutional problems. We push it very close to that limit. In one U.S. Circuit Court of Appeals case involving a RICO forfeiture provision, the court said the forfeiture provision should indeed be read to produce penalties which are not shockingly disproportionate to the offense. That is the concern we have.

For what it adds, it does not get at the assets we want to get at in Swiss bank accounts. It is just not worth the risk. It is that simple. If I felt it would be an important new tool, I would be leading the charge for law enforcement. I do not believe that. I do not believe it for the reason we developed the alternative approach to begin with. It was for that reason that our committee rejected it.

I might say that my colleague from California serves on my Subcommittee on Crime and on the Judiciary Committee. The gentleman did not offer the amendment. It was debated at length. You cannot debate this in just 10 minutes and give it the kind of debate that it really needs. That is unfortunate.

I would hope my colleagues reject the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. LUNGREN].

The amendment was agreed to.

The CHAIRMAN. Under the rule, amendment number 32 is in order.

AMENDMENT OFFERED BY MR. LUNGREN

Mr. LUNGREN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LUNGREN: Page 224, after line 13, insert the following:

Subtitle H—Miscellaneous Provisions

SEC. 671. EXCLUSION AND DEPORTATION OF CONTROLLED SUBSTANCES OFFENDERS.

(a) EXCLUSION.—Section 212(a)(23) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(23)) is amended—

(1) by striking out "any law or regulation relating to" and all that follows through "addiction-sustaining opiate" and inserting in lieu thereof "any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802)", and

(2) by striking out "any of the aforementioned drugs" and inserting in lieu thereof "any such controlled substance".

(b) DEPORTATION.—Section 241(a)(11) of such Act (8 U.S.C. 1251(a)(11)) is amended by striking out "any law or regulation relating to" and all that follows through "addiction-sustaining opiate" and inserting in lieu thereof "any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to convictions occurring before, on, or after the date of the enactment of this Act, and the amendments made by subsection (a) shall apply to aliens entering the United States after the date of the enactment of this Act.

Mr. LUNGREN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. HUGHES. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. Under the rule, the gentleman from California [Mr. LUNGREN] will be recognized for 5 minutes and the gentleman from New Jersey [Mr. HUGHES] will be recognized for 5 minutes.

The Chair recognizes the gentleman from California [Mr. LUNGREN].

Mr. LUNGREN. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I do not think this amendment ought to be controversial. Under the law today, I think there is a possible loophole in our immigration laws which could serve to inadvertently benefit those convicted of drug offenses.

Under the present law a sentencing judge has the authority to make a binding recommendation to the Attorney General that an alien convicted of a variety of Federal offenses not be deported. In other words, at the time the conviction takes place, the Federal judge can say, "But I do not want this person to be deported." That is a binding recommendation to the Attorney General the person cannot be deported.

However, we have made one exception to that binding recommendation authority. We have said that in drug cases that authority is not binding. They can make a recommendation to the Attorney General, but he still has his full discretion.

Unfortunately, we have not upgraded that or brought that up to present-day law, and we only articulate particular drug offenses. In other words, we do not include in here designer drugs, analogs of heroin, all this whole host of new types of drugs and offenses attached thereto, that I think people would readily say ought to not have a binding effect on the recommendation of the judicial officer but allow the discretion of the Attorney General to prevail.

That is simply what I do. What I say is if you are convicted of any drug offense on the Federal law, including those with designer drugs and so forth, the judge may make a recommendation but it is not binding on the Attorney General. The Attorney General then can exercise his discretion as to whether or not that ought to stop him from deporting someone.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I do not believe I oppose the gentleman's amendment. We have had a chance to discuss it. But let me just for the record ask again, is it the gentleman's intention by his amendment to do any damage to the act which the gentleman and I helped pass in 1981 which does give the Attorney General some discretion in certain kinds of drug-related matters with respect to exclusion as well as deportation?

Mr. LUNGREN. Mr. Chairman, I would answer the gentleman, no, I do not try to affect the discretion of the Attorney General. What I do try to do is say that the binding authority of the recommendation of the judge shall not prevail in drug cases. So the dis-

cretion of the Attorney General is not touched at all.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Chairman, as I understand it, what the gentleman is doing is substituting language, Controlled Substances Act language, for specific substances in the act.

Mr. LUNGREN. That is correct.

Mr. HUGHES. Mr. Chairman, I want to congratulate the gentleman on the amendment. I think it is a good amendment, and I intend to support the amendment.

Mr. LUNGREN. Mr. Chairman, I thank the gentleman.

Mr. Chairman, I yield back the balance of my time.

Mr. HUGHES. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. LUNGREN].

The amendment was agreed to.

The CHAIRMAN. Under the rule, amendment number 33 is in order.

AMENDMENT OFFERED BY MR. GEKAS

Mr. GEKAS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GEKAS: Page 224, after line 13, insert the following:

Subtitle H—Miscellaneous Provisions

SEC. 671. DEATH PENALTY FOR CERTAIN CONTINUING CRIMINAL ENTERPRISE DRUG OFFENSES.

(a) ELEMENTS OF OFFENSE.—Section 408(a) of the Controlled Substances Act (21 U.S.C. 848(a)) is amended—

(1) by striking out "(a) Any" and inserting "(a)(1) Except as otherwise provided in this section, any" in lieu thereof;

(2) by striking out "; except that if" and inserting ". If" in lieu thereof; and

(3) by adding at the end the following:

"(2) If an individual intentionally engages in conduct during the course of a continuing criminal enterprise and thereby knowingly causes the death of any other individual, the individual so engaging shall be subject to the death penalty in accordance with this section.".

(b) PROCEDURE APPLICABLE WITH RESPECT TO THE DEATH PENALTY.—Section 408 of the Controlled Substances Act is amended by adding at the end the following:

"Hearing Required With Respect To The Death Penalty

"(d) A person shall be subjected to the penalty of death for any offense under this section only if a hearing is held in accordance with this section.

"Notice By The Government In Death Penalty Cases

"(e)(1) Whenever the Government intends to seek the death penalty for an offense under this section for which one of the sentences provided is death, the attorney for the Government, a reasonable time before trial or acceptance by the court of a plea of guilty, shall sign and file with the court, and serve upon the defendant, a notice—

"(A) that the Government in the event of conviction will seek the sentence of death; and

"(B) setting forth the aggravating factors which the Government will seek to prove as the basis for the death penalty.

"(2) The court may permit the attorney for the Government to amend this notice for good cause shown.

"Hearing Before Court Or Jury

"(f)(1) When the attorney for the Government has filed a notice as required under subsection (d) and the defendant is found guilty of or pleads guilty to an offense under subsection (a)(2), the judge who presided at the trial or before whom the guilty plea was entered, or any other judge if the judge who presided at the trial or before whom the guilty plea was entered is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. The hearing shall be conducted—

"(A) before the jury which determined the defendant's guilt;

"(B) before a jury impaneled for the purpose of the hearing if—

"(i) the defendant was convicted upon a plea of guilty;

"(ii) the defendant was convicted after a trial before the court sitting without a jury;

"(iii) the jury which determined the defendant's guilt has been discharged for good cause; or

"(iv) after initial imposition of a sentence under this section, redetermination of the sentence under this section is necessary; or

"(C) before the court alone, upon the motion of the defendant and with the approval of the Government.

"(2) A jury impaneled pursuant to paragraph (1)(B) shall consist of 12 members, unless, at any time before the conclusion of the hearing, the parties stipulate with the approval of the court that it shall consist of any number less that 12.

"Proof Of Aggravating And Mitigating Factors

"(g) Notwithstanding rule 32(c) of the Federal Rules of Criminal Procedure, when a defendant is found guilty of or pleads guilty to an offense under subsection (a)(2), no presentence report shall be prepared. In the sentencing hearing, information may be presented as to any matter relevant to the sentence and shall include matters relating to any of the aggravating or mitigating factors set forth in subsections (j) and (k), or any other mitigating factor. Where information is presented relating to any of the aggravating factors set forth in subsection (k), information may be presented relating to any other aggravating factor. Information presented may include the trial transcript and exhibits if the hearing is held before a jury or judge not present during the trial. Any other information relevant to such mitigating or aggravating factors may be presented by either the Government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury. The Government and the defendant shall be permitted to rebut any information received at the hearing and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any of the aggravating or mitigating factors, and as to appropriateness in that case of imposing a sentence of death. The Government shall open the argument. The defendant shall be permitted to reply. The Government shall then be permitted to reply in rebuttal. The burden of establishing the existence of any aggravating factor is on the Government, and is not satisfied unless established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless established by a preponderance of the information.

"Return Of Findings

"(h) The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any mitigating factors, and any aggravating factors set forth in subsection (k), found to exist. If one of the aggravating factors set forth in subsection (k)(1) and another of the aggravating factors set forth in subsection (k) is found to exist, a special finding identifying any other aggravating factor may be returned. A finding of any aggravating or mitigating factor by a jury shall be made by unanimous vote. If an aggravating factor set forth in subsection (k)(1) is not found to exist or an aggravating factor set forth in subsection (k)(1) is found to exist but no other aggravating factor set forth in subsection (k) is found to exist, the court shall impose a sentence, other than death, authorized by law. If an aggravating factor set forth in subparagraph (k)(1) and one or more of the other aggravating factors set forth in subsection (k) are found to exist, the jury, or if there is no jury, the court, shall then consider whether the aggravating factors found to exist sufficiently outweigh any mitigating factor or factors found to exist, or in the absence of mitigating factors, whether the aggravating factors are themselves sufficient to justify a sentence of death. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall return a finding as to whether a sentence of death is justified.

"Imposition Of Sentence

"(i) Upon a finding that a sentence of death is justified, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence, other than death, authorized by law.

"Mitigating Factors

"(j) In determining whether a sentence of death is to be imposed on a defendant, the following mitigating factors shall be considered but are not exclusive:

"(1) The defendant was less than 18 years of age at the time of the crime.

"(2) The defendant's capacity to appreciate the wrongfulness of the defendant's conduct or to conform the defendant's conduct to the requirements of law was significantly impaired, but not so impaired as to constitute a defense to the charge.

"(3) The defendant was under unusual and substantial duress, although not such duress as constitutes a defense to the charge.

"(4) The defendant is punishable as a principal (as defined in section 2(a) of title 18 of the United States Code) in the offense, which was committed by another, but the defendant's participation was relatively minor, although not so minor as to constitute a defense to the charge.

"(5) The defendant could not reasonably have foreseen that the defendant's conduct in the course of the commission of the offense resulting in death for which the defendant was convicted, would cause, or would create a grave risk of causing, death to any person.

"Aggravating Factors

"(k) If the defendant is found guilty of or pleads guilty to an offense under subsection (a)(2), the following aggravating factors shall be considered but are not exclusive:

"(1) The defendant—

"(A) intentionally killed the victim;

"(B) intentionally inflicted serious bodily injury which resulted in the death of the victim; or

"(C) intentionally engaged in conduct intending that the victim be killed or that lethal force be employed against the victim, which resulted in the death of the victim.

"(2) The defendant has been convicted of another Federal offense, or a State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute.

"(3) The defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury upon another person.

"(4) The defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the distribution of a controlled substance.

"(5) In the commission of the offense or in escaping apprehension for a violation of subsection (a)(1), the defendant knowingly created a grave risk of death to one or more persons in addition to the victim of the offense.

"(6) The violation of this chapter in relation to which the conduct described in subsection (a)(2) occurred was a violation of section 405.

"(7) The defendant committed the offense in an especially heinous, cruel, or depraved manner.

"(8) The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(9) The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value.

"(10) The defendant committed the offense against a judge, a law-enforcement officer, or an employee of a penal or correctional institution, while that victim was performing official duties or because of that victim's status as a public servant of the United States, or a State or political subdivision of the United States. For purposes of this paragraph the term 'law-enforcement officer' means a public servant authorized by law to conduct or engage in the prevention, investigation, or prosecution of an offense.

"Instruction To Jury On Right Of the Defendant To Justice Without Discrimination

"(1) In any hearing held before a jury under this section, the court shall instruct the jury that in its consideration of whether the sentence of death is justified it shall not consider the race, color, national origin, creed, or sex of the defendant. The jury shall return to the court a certificate signed by each juror that consideration of race, color, national origin, creed, or sex of the defendant was not involved in reaching his or her individual decision.

"Sentencing In Capital Cases In Which Death Penalty Is Not Sought Or Imposed

"(m) If a person is convicted for an offense under subsection (a)(2) and the court does not impose the penalty of death, the court may impose a sentence of life imprisonment without the possibility of parole.".

"Appeal In Capital Cases

"(n)(1) In any case in which the sentence of death is imposed under this section, the sentence of death shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal must be filed within the time prescribed for appeal of judgment in section 2107 of title 28 of the United States Code. An appeal under this section may be consolidated with an appeal of the judgment of conviction. Such review shall have priority over all other cases.

"(2) On review of the sentence, the court of appeals shall consider the record, the evidence submitted during the trial, the information submitted during the sentencing hearing, the procedures employed in the sentencing hearing, and the special findings returned under this section.

"(3) The court shall affirm the sentence if it determines that—

"(A) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor; and

"(B) the information supports the special finding of the existence of every aggravating factor upon which the sentence was based, together with the failure to find sufficient mitigating factors as set forth or allowed in this section.

In all other cases the court shall remand the case for reconsideration under this section. The court of appeals shall state in writing the reasons for its disposition of the review of the sentence.".

Mr. GEKAS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. HUGHES. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. Under the rule, the gentleman from Pennsylvania [Mr. GEKAS] will be recognized for 30 minutes and the gentleman from New Jersey [Mr. HUGHES] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the drug dealer will stop at nothing to further his enterprise. He would poison our populace; he would enslave our children; he would kill a judge; he would kill a prosecutor; he would kill a law inforcement officer; he would kill anybody who would stand in his way. That has been proved time and time by the history of this issue, in the recent history of this issue.

So the amendment I have to offer is society's response to this killer who seems unstoppable at this juncture in our history.

□ 1745

Mr. Chairman, the amendment that is before us is society's response to this drug dealer, this czar of the most pernicious traffic ever known to mankind.

This amendment would offer the jury in a case in which a continuing criminal enterprise concerning drug traffic becomes the issue at trial that when an intentional death is caused at the hands of this drug dealer czar kingpin, that that intentional death would result in the possibility of the imposition of the death penalty under the constitutional provisions that have stood the test of the Supreme Court in allowing juries to make that choice.

This amendment I warrant to you and I represent to you, my colleagues, is very carefully drafted. It will pass constitutional muster. It provides for the bifurcated system of a jury deliberation in which first the jury must find guilt or innocence and in fact it does find a verdict of guilty for a continuing criminal enterprise involving drugs, and then also find as part of the facts there that an intentional death occurred at the hands of this drug czar, then in a separate hearing, where they can hear aggravating factors and mitigating factors they can conclude that the imposition of the death penalty would be an appropriate remedy. That is what this amendment does.

There can be no ultimate war on drugs if we do not cast our ultimate weapon: To place the fear of capital punishment in front to the drug czar who does anything he wants as we sit and stand here today.

We have countless instances of judges, law enforcement officers and others who are trying to bring this menace under control who have been killed at the hands of a drug kingpin.

In Texas, a Federal judge, deeply embedded in a trial concerning a drug czar, if you will, and a whole drug conspiracy, a continuing criminal enterprise if you will, that judge was excuted, I mean killed, murdered at the direction of a drug kingpin.

It is not appalling, I ask you, Members of the House, that there exists no procedure in our Federal law that would cover such a killing? This amendment, in the case of a drug czar, doing this act, would cover that situation and allow a jury to find the death penalty if appropriate.

I ask you as people who have shown in vote after vote on the drug package that is before us that you consider the law enforcement officer and the efforts of law enforcement generally and the efforts of the judiciary and the efforts of the Federal Government on a whole host of levels to do everything in this all-out war on drugs that you must not allow that war to be waged without the ultimate weapon, the threat of the death penalty to apply to the killer drug dealer.

Mr. Chairman, I reserve the balance of my time.

Mr. HUGHES. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. I thank the gentleman for yielding me this time.

Mr. Chairman, I think it is a great mistake to bring the death penalty into this bill and to have to debate and vote on it because it is an issue that is very deeply felt by many people throughout the United States and indeed in this body and also whether or not the amendment is approved is not going to make any difference. It is not going to help the war against drugs one tiny, tiny bit.

The President understands this. The President and I do not often agree, but we certainly agree on this. It is very devisive and should not be injected into an important bill like this.

These people do not think they are going to get caught; the people that the gentleman from Pennsylvania refers to, my friend, Mr. GEKAS. These are professional dealers and hired killers and they do not really care about the difference between life imprisonment and the death penalty.

Also, if this amendment is adopted, it is going to jeopardize passage in the Senate. There are, in the other body, Members who will filibuster this bill. I assure you, if this amendment is adopted.

Any death penalty is going to be arbitrary and capricious and this particular amendment, particularly so. It applies only to individuals engaged in, "A continuing criminal enterprise. Individuals not engaged in a continuing enterprise will not be subject to death. Individuals engaged in other crimes will not be subject, and in all likelihood the kingpins," the ones that you really intend to go after, "* * * who are insulated by layers of underlings will not be subject."

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from Michigan.

Mr. CONYERS. What does the gentleman mean by that? Why that distinction? Is there some reason why some Americans will be put to death and others will just be given life?

Mr. HUGHES. Mr. Chairman, I yield 4 minutes to the gentleman from New Jersey [Mr. RODINO].

Mr. RODINO. I thank the gentleman for yielding me this time.

Mr. Chairman, I rise to vigorously oppose the gentleman's amendment. The death penalty is one of the most divisive and difficult issues in the political arena. President Reagan has recognized this, which is why he spoke out just this week, and I quote:

> We think the drug issue is too important, and we want to approach it with a consensus of the American people so it does not get embroiled in a side issue such as the death penalty.

Now I oppose the death penalty, for several very important reasons.

The President disagrees—he favors the death penalty. He has stated, however, that it is a side issue that must not be allowed to jeopardize this legislative package. A filibuster in the other body is certain if this amendment is adopted. With little time remaining in this Congress, we can't afford to take the chance that this vital legislation will be derailed.

There are a number of reasons why even those who favor the death penalty can and should oppose the amendment. First, this amendment will actually drain the resources the Federal Government must use in this war against drugs. In all 37 States that provide the death penalty, that punishment is already authorized for virtually the same crimes covered by this amendment. Under the amendment, the Federal Government would spend millions of dollars prosecuting offenses which are now handled by the States. These capital cases require both complex trials and lengthy appeals and are consequently many times more expensive than noncapital criminal cases. A recent study pegs the cost at $1.8 million for trial and first appeals alone. Time and money spent duplicating State efforts cannot then be spent in areas where the Federal Government can make a unique contribution, which is the driving force of this bill.

And, in States which have not authorized the death penalty for crimes covered by this amendment, Congress would be usurping the States' prerogative to determine punishment under their own criminal laws.

□ 1755

In addition, this amendment will add a tremendous burden to the Federal courts, a burden that is now handled by State courts, when Federal courts especially in drug-intensive areas of the country, are already choking on their caseloads.

Further, the amendment as written is seriously flawed in that it fails to meet the standards for imposition of the death penalty set out by the Supreme Court in several recent cases. First, the amendment unconstitutionally authorizes death as punishment for conduct that results in the death of an individual regardless of whether the accused actually killed the victim, attempted to kill the victim or intended that the victim be killed. This unconstitutionally broad application of the death penalty is contrary to two recent Supreme Court decisions.

Second, the unconstitutionally broad scope of the amendment is exacerbated by the amendment's failure to provide adequate guidance in distinguishing those offenses which are punishable by death from those which are not.

In fact, a death sentence which was imposed on the basis of language quite similar to that in the amendment was overturned by the Supreme Court in *Godfrey* v. *Georgia*, 446 U.S. 420 (1980).

Third, the amendment would also permit a death sentence to be imposed on the basis of "information presented regardless of its admissibility under the rules governing the admissibility of evidence at criminal trials." The use of such unreliable evidence would create a level of uncertainty which should not be tolerated in capital cases.

Fourth, the appellate review provision may subject the defendant to double jeopardy by requiring the appellate court to remand the case, rather than vacating the death sentence, in all cases in which the death sentence is not affirmed, again contrary to two recent Supreme Court cases.

For all these reasons, the amendment was defeated in subcommittee and again in the full Committee on the Judiciary. Most importantly, because adoption of this amendment would seriously endanger the legislative fate of this drug package, those who favor the death penalty can and should join with those who do not, in once again defeating this amendment.

Mr. GEKAS. Mr. Chairman, I yield myself as much time as I may consume, the main purpose for which would be to enter into the RECORD, if that would be in order, a letter that we received from the Justice Department in which the tenor of the letter is that the President of the United States and the Federal law enforcement community and the Attorney General all endorse the instant amendment.

At the end of the vote, at the various doors of the Chamber, I will distribute copies of that letter along with a request that each Member vote yes on this amendment.

The letter is as follows:

> U.S. DEPARTMENT OF JUSTICE,
> OFFICE OF LEGISLATIVE AND INTERGOVERNMENTAL AFFAIRS,
> *Washington, DC, September 10, 1986.*
>
> The SPEAKER,
> *House of Representatives, Washington, DC.*
>
> DEAR MR. SPEAKER: On behalf of the President and the federal law enforcement community, I would like to communicate our unqualified support for the amendment to be offered by Congressman George Gekas authorizing the imposition of the death penalty for certain drug-related homicides.
>
> Murder has historically been viewed as one of the most heinous crimes which a person can commit, a crime which demands punishment truly proportionate to the offense. Where murders are committed by persons in furtherance of pernicious drug distribution schemes, the concept of proportionate punishment mandates that the death penalty be available. Only through bold and dramatic action such as that proposed by Mr. Gekas can we bring home to

drug traffickers that their violent acts will not be tolerated by the American public.

As you know, the Administration endorses the death penalty as an appropriate sanction for the most heinous federal crimes, and has supported comprehensive death penalty legislation, S. 239, which has already been reported favorably by the Senate Judiciary Committee. In the House, Congressman Gekas' comparable bill, H.R. 343, has been pending for more than a year. The Department has also supported individual death penalty proposals such as that added to anti-terrorism legislation earlier this year in the House Subcommittee on Crime but never acted on by the full Committee or on the House floor.

We likewise strongly support the Gekas Amendment. We feel that House action on this measure will represent the clearest test of the determination of Members to give federal law enforcement authorities the weapons we must have in order to deal effectively with narcoterrorists and renegade drug traffickers whose contempt for human life defies understanding. For far too long, federal law enforcement officials have struggled against the forces of lawlessness without access to the ultimate judicial sanction. The amendment offered by Mr. Gekas presents a long awaited opportunity to remedy this imbalance and, if approved, would represent one of the most important features of the historic legislative endeavor upon which you have embarked.

Sincerely,

JOHN R. BOLTON,
Assistant Attorney General.

Mr. GEKAS. But what I am asking the Members now to recognize is that what the President said in the past was something that we have all known, that the issue was divisive within the confines of the Judiciary Committee where we were never accorded the full right for years at a time, actually years, to air the issue of the applicability of the death penalty in proper cases. Even though we had hearings galore, even though the chairman of the Criminal Justice Subcommittee accorded us hearing after hearing on it, we were never able to overcome the feeling among the majority members of the Judiciary Committee that any death penalty legislation that would come that far to the full committee would be crushed before it had a chance to reach the floor. That is the feeling that this Member had, which was amply evidenced by a host of things that developed. That is what the President of the United States was saying. He was saying if indeed our drug package, if indeed the Presidential movement and momentum to bring about reform of our drug laws and to get tough with our drug criminals is to succeed, I do not want to see it get bogged down in the Judiciary Committee, even though I believe in the death penalty, if the death penalty is going to be the stumbling block to the full passage of drug legislation.

But Mr. Chairman, we have now gone beyond that. We have now come to a point where the President knows that the drug package can no longer be held hostage to the death penalty bill, that it is part and parcel of the great movement on the part of the U.S. Congress to begin and to continue the war on drugs.

So the President of the United States applauds our collective efforts here today in supporting this amendment.

Mr. CONYERS. Mr. Chairman, will my colleague yield?

Mr. GEKAS. I cannot at the moment. The gentleman can get his own time and can yield to me so that I can respond to the gentleman, because I have other speakers.

Mr. CONYERS. Mr. Chairman, will the gentleman yield to me to respond to his declination of yielding?

Mr. GEKAS. I cannot, I say to the gentleman. The gentleman knows I have been fair to him from the beginning of time.

Mr. Chairman, I yield 2 minutes to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Chairman, I for one sincerely and strongly support the amendment of the gentleman from Pennsylvania.

It has been said here that if this amendment is adopted that in the other body there will be a filibuster and we will see the end of the antidrug bill. That is a decision that the other body should make and not here.

I believe that the Members of this body should make their own decision as to whether or not we should have a death penalty for not just a person who in the course of drug trafficking kills another, but of a person who actually has been engaged in the business of it and knowingly, deliberately kills another.

I firmly believe that there should be a punishment, a death penalty for that type of person, just as much as I believe if the Judiciary Committee would act properly that this body would eventually be able to decide whether or not there should be a death penalty for the person who kills a law enforcement officer in the course of his duties as a law enforcement officer, just as also this body should be able to decide whether or not there should be a death penalty for a person who commits mass murder and many other crimes, which I believe are appropriate for a death penalty.

I do not believe many Members in this body like the idea of having a death penalty. I do not, for one, and I never have; but I believe that today in our society we need to have this type of punishment in order to try to prevent as many crimes as possible resulting in the killing of another human being.

Human life is sanctus, indeed, it is very sacred to every Member in this body; but on the other hand, the taking of a human life by another, deliberately, premediatatively, solely for the purpose of killing that person, I believe a person when he does so forfeits their right to live.

Mr. Chairman, I support the amendment.

Mr. HUGHES. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Chairman, I am not authorized to speak for the President of the United States, but I can say that he does not support this particular provision. He talked about the death penalty. He did not talk about the Gekas provision, and I am glad that he did not, because I say to the ranking member of the Criminal Justice Subcommittee that it is fatally flawed. I hope I may gain the gentleman's attention, because we spent a lot of time perfecting the gentleman's proposals in my committee.

This thing is fatally flawed. It is unconstitutional, Mr. Chairman.

Now, the second thing I want to say is that this is the fried-in provision. We have given up, let us just fry everybody that gets involved in drugs. Well, maybe so; but you know, in States like Pennsylvania, from which the gentleman from Pennsylvania [Mr. GEKAS] comes, that has the death penalty, guess what? They do not use it. They do not use it because it would have a reverse effect on the criminal justice system. Too many times when you bring that in to a courtroom, they are going to say, well, maybe they are guilty, but death, the gas chamber, the rope and so on? I am telling you that this will not work.

We have got a big problem, but it is not going to be solved this way.

Now, the third point I want to make about the death penalty in general is that it is being tested in the courts now about its discriminatory effect. The Supreme Court has recently—may I gain the attention of the gentleman, please—all right.

Mr. Chairman, I say to the gentleman from Pennsylvania [Mr. GEKAS], this question has been slotted before the U.S. Supreme Court on the precise reason that we hold so many hearings in the Criminal Justice Subcommittee, the discriminatory nature of the death penalty as it has been historically applied in the United States, so we now have for the first time McClusky versus Kemp in which we are going to examine all the studies and allegations of a racially discriminatory character of the death penalty.

It is also economically discriminatory. Nobody rich has ever gotten the death penalty, to be brief about it.

If I thought that this amendment was going to democratize the death penalty, at least it would give pause to consider; but do not worry, it will not. It has been misapplied, reluctantly applied, and not used, so please, let us

not try to change American law in one evening in the course of a drug bill. We have already done enough in that direction; so let us turn this amendment aside.

Then I would ask the gentleman to join with me in the regular disposition of this important measure.

Mr. GEKAS. Mr. Chairman, I yield 4½ minutes to the gentleman from Florida [Mr. SHAW].

I might say, Mr. Chairman, that it is the gentleman from Florida, Mr. CLAY SHAW, who first introduced the idea of homing in on the drug czar as a target for the application of the death penalty in appropriate cases.

Mr. SHAW. Mr. Chairman, I thank the gentleman from Pennsylvania for yielding.

I have some prepared remarks which I would like to read into the RECORD. Before I do so, I must for one moment reply to the comments from the gentleman from Michigan who immediately preceded me.

I can assure my colleagues that we are not after the impoverished drug dealer.

Mr. Chairman, the Gekas drug dealer death penalty amendment represents the language of a bill, H.R. 4815 that I introduced earlier in this Congress. My intentions in drafting this legislation as well as my intentions for supporting this amendment represent my strongest and my most complex feelings toward this undefinable and to date untouchable drug scourge that has scarred the moral fiber and the youth of this country. I, a Member of this body from southeast Florida, where so much of this drug war has been fought and lost, want to discourage the drug runner, want to hurt the drug runner and most of all want to stop the drug runner. Nothing has worked. We have tried so many things and the reality remains that nothing has worked.

This amendment, which sets forth very narrow and specific procedures for allowing a jury, once they have found a drug dealer guilty of murder, to determine whether or not to also find him subject to the death penalty, takes this war into a new realm. This amendment says to the drug dealer, we as a society have determined that you represent a cause so severe and invincible, that we must subject you to the most severe penalty we as a society can impose. This amendment says to the American people, we as a society who hold human life as the most cherished value in our country, are willing to impose the most severe penalty we know of against the drug dealer. Yes, we are going to require that you not only be a large-scale drug dealer, and that you be involved in an ongoing conspiracy and that you intentionally kill somebody before we subject you to that supreme penalty, but you are now subject to it.

This Member does not have a problem imposing the death penalty on one who intentionally takes a human life, as this amendment does. This Member does not have a problem telling the American people that he is willing to make drug running one of the most severely punished activities in this country. And this Member does not have a problem singling out the drug runner as the target of the most grave punishment our society can impose on an individual.

This bill has been drafted in conformance with guidelines specifically set forth by the U.S. Supreme Court in developing a uniform and constitutional approach for the several States to follow in imposing the death penalty. This bill requires two separate jury determinations before allowing a judge to even consider imposing the death penalty it requires an intentional killing by a defendant and it requires a jury to make several—I repeat several—findings of aggravating and mitigating factors before even determining that a judge may impose the death penalty. If it is possible to draft a death penalty bill that is constitutional and that is fair, this amendment is it. It does single out the drug dealer to be subject to the death penalty, just as this body singled out the airplane hijacker for the death penalty several years ago.

I think the drug dealer/murderer ought to at least be subject to the same penalty as the hijacker. I think the drug dealer is in a position to do a great deal more harm to this country than the hijacker ever was or will be.

I urge my colleagues to give this amendment serious consideration and then vote to pass it—let's tell the drug dealer where he stands in our eyes.

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Mr. HUGHES. Mr. Chairman, I yield 4 minutes to the gentleman from Wisconsin [Mr. KASTENMEIER].

Mr. CLAY. Mr. Chairman, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman from Missouri.

Mr. CLAY. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Pennsylvania [Mr. GEKAS].

Mr. Chairman, the enactment of a capital punishment statute as punishment for any crime in my opinion contradicts the high ideals and principles for which this Nation purports to stand. The application of government sanctioned executions makes a mockery of our religious credos, cheapens our moral values and demeans human worth. The mandate of the sixth commandment: Thou shall not kill—does not exempt individuals, criminal cartels or the U.S. Government, but religious tenets and, capital punishment is barbaric and should have no place in civilized society.

Our national experience in the use of capital punishment has proven that there has been little, if any, deterrent effect; it has been exclusively applied to certain classes of powerless people and has called into question our stated assertions about the value of human life.

Race and poverty are the dominant factors determining who will be executed in the United States. Not one rich person has ever gone to the gallows. Only poor whites and minorities are forced to walk the last mile and choose a last supper. Many scholarly studies substantiate charges that the death penalty is never meted out as fitting retribution for the economically elite. In particular, they document relationship between race of the criminal, race of the victim and differences in assessing punishment depending on those races. A white criminal and a black victim or a black criminal and a black victim invariably end up with little or no punishment. But black criminals and white victims or white criminals and white victims are much more likely to be considered serious threats to an orderly society and punished accordingly. I contend the same scenario would prevail in judging the dispensers of illegal narcotics.

The application of capital punishment is reserved for those in this society who are economically and politically powerless. Only poor whites and racial minorities are victimized by this act of vengeance, euphoniously referred to as fitting retribution for those who callously disregard the right of others to live.

Premeditated murder or wrongful death through illegal drug dealings committed by individuals or groups of individuals or by vigilantes or the State are heinous acts under any set of ethical rules possible to devise. We must have the courage to confront this moral dilemma and the wisdom to reject forthright this morally perversive recommendation.

According to a recent Gallup poll, more than two out of three persons in this country support the imposition of capital punishment. Equally alarming are national polls indicating two out of three Americans oppose protections afforded by the first amendment to the Constitution; favor abolishing the Supreme Court and support reestablishing corporal punishment in public schools. Finally, polls reflect the sad truth that two out of three students now finishing high school are functional illiterates. If nothing else, national polls make a persuasive argument for going beyond popular referendum in arriving at moral imperatives.

Church leadership in this country does not passively oppose capital punishment, but aggressively speaks out, loudly and clearly, against the death penalty. Most spokespersons for organized religion in the United States have emphatically stated their consternation of capital punishment and labeled it as demeaning to the value of human existence.

At seminars and national conventions, leaders of the Methodist church, Episcopalians, Christian Church, (Disciples of Christ), Lutheran church in America, Presbyterian church (U.S.A.), American Baptist churches in the U.S.A., all Jewish conferences and the American Catholic bishops have gone on record in opposition to the death penalty.

According to American Catholic bishops, there seems to be no middle ground on this basic question of morality.

The bishops stated:

We believe that in the conditions of contemporary American Society, the legitimate purposes of punishment do not justify the imposition of the death penalty * * * In the first place, we note that infliction of the death penalty extinguishes possibilities for reform and rehabilitation * * * Second, the imposition of capital punishment involves the possibility of mistake * * * Third, the legal imposition of capital punishment in our society involves long unavoidable delays * * * Delay also diminishes the effectiveness of capital punishment as a deterrent * * * Fourth, we believe that the actual carrying out of the death penalty brings with it great and avoidable anguish for the criminal, for his family and loved ones, and for those who are called on to witness or to perform the execution * * * Fifth, in the present situation of dispute over the justifiability of the death penalty and at a time when executions have been rare, executions attract enormous publicity, much of it unhealthy, and stir considerable acrimony in public discussion * * * Sixth, there is a widespread belief that many convicted criminals are sentenced to death in an unfair and discriminatory manner * * *.[12]

Bishop Edward D. Head of Buffalo, who assisted in drafting the position paper for the conference said, "Our statement was grounded in the belief that the taking of life should not be answered by more violence in the taking of more life." [1]

Even when the Federal Government was empowered to use the death penalty for civil offenses, it rarely was imposed. The only civilians ever convicted in a federal court and executed for espionage involved the 1953 nuclear spying trial of Julius and Ethel Rosenberg. That case is still the subject of much controversy. They, too, fit the criteria for capital punishment in the United States. Both were members of a minority group—Jewish.

A single passage from the Old Testament of the Bible provides what many people believe sufficient moral validity for supporting capital punishment.

Using the phrase, "an eye for an eye,"[1] they erect a theological basis, from which they seek to rationalize government inflicted homicide. Nothing short of revenge and insensitive consideration of other humans, drive those who cite this restricted phrase to underpin their case for capital punishment. Convenient quotations and tasteful utterances do not alter reality. The hypocracy of this mental gyeration has been reduced to its' irreversible common denominator by Albert Camus who wrote:

Let us call it by the name, which, for lack of any other nobility, will at least give the nobility of truth, and let us recognize it for what it is essentially: a revenge.[2]

The full text of an "eye for an eye" paints with a wide brush numerous human acts abhorrent to civilized people. Other sections of that parable are so outlandish, so unreasonable, so contrary to any just code of ethics, its readily perceived why they are not quoted in defense of the death penalty. An integral part of that language specifies when an eye will be plucked. Continued reading of the passage reveals that,

a kidnapper, whether he sells his victim or still has him when caught, shall be put to death * * * whoever curses his father or mother shall be put to death * * * when a man strikes his male or female slave with a rod so hard that the slave dies under his hand, he shall be punished. If, however, the slave survives for a day or two, he is not to be punished, since the slave is his own property.[3]

The next section is even more preposterous. Chapter 21 of Exodus, verses 22, 23, and 24 states:

When men have a fight and hurt a pregnant woman, so that she suffers a miscarriage, but not further injury, the guilty one shall be fined as much as the woman's husband demands of him, and he shall pay in the presence of the judges. But if injury ensues, you shall give life for life, eye for eye, tooth for tooth, hand for hand * * *.[4]

In one fell-swoop, these words in the book of Exodus sanction human slavery, cater to the notion that men are superior to women, and advocate vengeance as a means of resolving human differences. What a phenomena that intelligent people of geniune religious persuasion use this particular passage of complete intolerance to justify the moral efficacy of capital punishment?

Does the Bible dictate that a child who is the victim of physical and/or sexual abuse by a parent must be killed because he curses his mother or father? Does it suggest contempt for the rights of women? A man striking a pregnant woman shall be punished only to the extent of the injury afflicted and then only for damages demanded by her husband. What authority gives a man the sole discretion to make that determination? The woman's rights, her health, her safety, her feelings are reduced to secondary importance in this situation. According to this passage in the Bible, a women's rights exist exclusively in the preceptions of men. Literally reading, in this instance can only be translated as unadulterated male chauvinism.

Most significantly perhaps, it can be construed from this passage that the Bible for ever and all times embraces the barbarism of human slavery.

During the 18th and 19th centuries, American Christians who rigorously adhered to these tenets were not morally outraged when other Christians kidnaped tens of thousands of black africans and sold them into slavery to other Christians. Economics, not ethics, obviously influenced their religious interpretation of this passage in the Bible. Mistreatment of slaves according to the Old Testament is not prohibited. In fact, it is approved of if properly applied. Only a master who beat his slave so severely that he died immediately was to be punished. A master skillful in using the lash might even be cannonized if the slave lived for two weeks, 3 days, and 2 hours. What the Bible does say in unequivocal terms, is that one man has the God given right to own another man and also the option to physically abuse that other human being.

One need not look far to see that strict application of these passages is contradicted in the Bible itself. According to scripture, all kidnapers, regardless of severity of the offense, must be executed. Literal interpretation of the Bible does not support current philosophical and moral attitudes.

Killing kidnappers represents a stark contradiction to the story in the book of Genesis involving the sale of Joseph by his brothers. Two of them plotted to kill and throw him into a cistern; claiming that a wild beast devoured him. A third brother, Reuben, persuaded them to merely throw him into the cistern. Should Reuben also have been killed for his complicity in the crime? And more contradictory to the "eye for an eye" interpretation is that when the scheme finally unfolded, Joseph said to them:

Do not fear; can I take the place of God? * * * You intended evil against me, but God intended it for good, to do as he has done today, namely, to save the lives of many people. Therefore do not fear, I will provide for you and your dependents.[5]

The Federal Governments will be no more successful in use of capital punishment to deter crime as they would be in forcing jack rabbits to apply for marriage licenses. Threat of death to hardened criminals serves the same purpose as locks on doors to keep out professional burglars.

If there is deterrent value in imposing the death penalty, it is minimal at best. All evidence points to it being negligible if not negative. No scientific study has documented any cases proving it deterred others from committing similar crimes. Capital punishment as a deterrent to heinous crime, is the most widely accepted myth in American lore.

Fear of being detected, arrested, sentenced for serious crime is the least concern in the minds of those who engage in the sort of criminal activity prohibited by this amendment. Psychological tests determine that the degree to which a stiff sentence is effective, depends on the ability of the Government to carry out its threat. Mandating harsh penalties has less impact on deterring criminal act than practicing consistent punishment. In fact, if authority equivocates repressive measures with justice, the opposite result is true.

The greatest deterrent for those inclined to commit acts of violence, is the realization that in no uncertain terms that they will be subjected to coercive treatment. Patting some on the wrist and throwing the book at others, leaves to much room for conjecture. Those who abuse the rules should know the severity of punishment in store for them.

Studies conducted by criminologists, political scientists, and sociologists conclude that even in highly publicized cases, involving specific geographical areas, homicides have not diminished during periods leading up to or immediately following executions. This data substantiate the reality that homicides are no more frequent in States which have abolished capital punishment than in those who still employ it. Lives and property are no more jeopardized in non-capital punishment States than in others.

[12] Ibid.

[1] "American Catholic Bishops Detail Opposition to Capital Punishment," the Washington Post, November 14, 1983, p. C5.

[2] Albert Camus, "Reflections on the Guillotine," Evergreen Review, (1957).

[3] Op.cit., the Holy Bible, Exodus 16-21, p. 65.

[4] Ibid., Exodus 22-24, p. 65.

[5] Ibid., Genesis 50:19-21, p. 45.

If there is any salient societal good in capital punishment, it is not readily evident in statistics showing its effects on future actions of people. Deterrence, as it relates to crime means, a person deliberately abstains from specific illegal acts for fear of being punished. In the case of capital punishment, proponents argue, death is the most feared emotion of man, therefore, the threat of it, the most effective deterrent weapon. There is no argument as to the severity of executions. Therefore, it should be a simple matter to show the relationship between its application and a decrease in the kinds of crimes which merit the punishment. Reasonable people engaged in reasonable thought processes, sufficiently fearful of death, would not commit such crimes if afraid of the consequences. But most of those engaged in illegal narcotic trafficking are not reasonable people engaging in rational thought processes.

The present system of intimidating, frightening those who may tend to engage in antisocial acts is failing to achieve its' goal. One recent study indicates that the death penalty in fact induces more crime. Conducted by Bowers and Pierce of the Center for Applied Social Research at Northeastern University, the study found that in the State of Massachusetts between 1907 and 1963 after executions, there averaged two more homicides than normal in the month following the execution. This finding held true even when other possibly relevant factors were accounted for—including seasonality, the effects of war and time trends.

The two authors suggest that executions may actually devalue appreciation for life because they are viewed by the public as human sacrifice. In addition, executions have a tendency to demonstrate that killing is an appropriate way of settling disputes.

At very least, the burden of proof rests with those who claim capital punishment a deterrent to capital crime. It is their responsibility to build a case. Speculation without evidence is not prudent. Simple utterance of a statement does not make it fact.

What is necessary to establish that the death penalty is a deterrent? Firstly and foremost, prove that States which impose capital punishment have a substantially lower rate of murder than States who have abolished it. Since all available data shows this is simply not the case, proponents must conduct their own studies. Who knows, their findings may differ? Second, there should be evidence that when a highly publicized execution occurs in the community where a notorious crime was committed, the rate of murder decreases appreciable. Proponents of capital punishment cannot point to one neighborhood where this has happened. A professional research team hired by them ought to be able to find one example. Third, States that have imposed the death penalty should experience a sharp decrease in crimes which carry that penalty, while States which have abolished it will show a sharp increase in these types of crimes. This is not the case in a single instance where States have either imposed or abolished the death penalty. Fourth, the inhabitants of States which authorize the death penalty should feel safer on their streets than the citizens in States that have repealed it. This apparently is not the case. Florida, Texas, and California have 25 percent of the total number of persons in the United States awaiting death. Their residents do not feel any safer than those in noon-capital punishment States such as Michigan, Massachusetts, and South Dakota. Placing on death row, mass murderers in California; drug related murderers in Florida; cowboy murderers in Texas does not make Sunset Boulevard, Los Angeles, Flagler Street, Miami or Main Street, Houston more safe than King Street in Hawaii, Honolulu.

Clearly if the death penalty were an effective deterrent, those States applying it would have less incidence of major crime. At a minimum, there must be some showing of a relationship between the threat of capital punishment and the fear of criminals to engage in the sort of crimes to which capital punishment is applied. There is no known correlation.

This controversy has continued for generations. The majority of those societies that engaged in serious discussions, eventually abolished capital punishment. Reasons other nations prohibited official taking of life by the State are various and sundry. But ultimately, they all concluded that capital punishment is anathema to civilized people.

Debate, for or against, has produced a large body of writings but little justification for its usage. That's why most nations in the Western World have stopped executing criminals. Capital punishment popularly believed to deter crime at one time was honored by all European nations. Today, France, England, Germany, Belgian, the Netherlands, Austria, Italy, Luxemberg, Portugal, Spain, have abolished it. Most South American countries have stopped employing it. The only developed countries in the western alliance which still believe in State executions are Japan, South Africa, and the United States. Japan has not executed anyone in more than 30 years. The three nations, however, enjoy this communality with alien comrades behind the Iron Curtain: Russia, China, Vietnam, North Korea. Mr. Chairman, I urge my colleagues to vote against this amendment.

Mr. KASTENMEIER. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Pennsylvania [Mr. GEKAS].

Mr. Chairman, in the past 2 days many Members have come to the well to describe the terrible scourge of illegal drugs that confronts the Nation. They have advocated serious measures to fight this problem, many of which I agree with and some with which I do not. The bill contains many important weapons that can be effective in the war against drugs. If the bill is not enacted into law, however, it might as well contain nothing. And the gentleman's amendment—unintentionally, to be sure—might very well sink this legislation.

So, if you want to see this drug legislation fail, vote for the gentleman's amendment. For as surely as I stand here, Members of the other body will filibuster. Although it appears to some that the death penalty is a political issue, it is not; it is a moral issue. For that reason it will face fierce opposition, opposition that can surely doom legislation this late in the session.

I say this, frankly, not simply out of concern for this bill. The death penalty is a moral issue for me as well; I firmly oppose it and always will. The point was eloquently made by Camus, who wrote that an execution—

is not simply death. It is just as different * * * from the privation of life as a concentration camp is from prison * * * It adds to death a * * * public premeditation known to the future victim, an organization * * * which is itself a source of moral sufferings more terrible than death. [Capital punishment] is * * * the most premeditated of murders, to which no criminal's deed, however calculated * * * can be compared * * * For there to be an equivalency, the death penalty would have to punish a criminal who had warned his victim of the date at which he would inflict a horrible death on him and who, from that moment onward, had confined him at his mercy for months. Such a monster is not encountered in private life.

In addition to my moral opposition, which is shared by virtually all of the major religious organizations, I am opposed to the death penalty because it does not deter crime, is applied with racial discrimination, can result in the execution of an innocent person, and is bad publicly policy for a host of other important reasons, as already expressed by my chairman and other colleagues.

The people of Wisconsin agree with me. There is no death penalty in Wisconsin. The gentleman's amendment would usurp the right of the citizens of Wisconsin, and of every other State, to determine the penalty for criminal acts that have always been squarely within State jurisdiction. This amendment is a quantum leap in the expansion of Federal criminal jurisdiction, and there have been no hearings, no demonstration of need, no estimate of cost.

I urge my colleagues to vote against the gentleman's amendment.

Mr. GEKAS. Mr. Chairman, may I inquire as to how much time is remaining?

The CHAIRMAN. The gentleman from Pennsylvania [Mr. GEKAS] has 15½ minutes remaining and the gentleman from New Jersey [Mr. HUGHES] has 18 minutes remaining.

Mr. GEKAS. Mr. Chairman, I yield 1 minute to the gentleman from Kentucky [Mr. HOPKINS].

Mr. HOPKINS. Mr. Chairman, I appreciate the gentleman's yielding time to me.

Mr. Chairman, I had no idea that I was going to be involved today in this amendment, but I cannot help but respond to the statements of my colleague, the gentleman from Wisconsin [Mr. KASTENMEIER], insofar as the death penalty not being a deterrent.

I do not know how many States have the death penalty in our country, and I do not know how many people have been executed by these individual

States, but I do know that not one of those persons has committed a single crime since then. So you be the judge as to whether or not the death penalty is a deterrent. I think that the record is very clear on that.

Mr. HUGHES. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. SEIBERLING].

Mr. SEIBERLING. Mr. Chairman, I find that this is a very divisive issue for myself, and I feel divided morally and intellectually.

I have no quarrel with the use of the death penalty where there is no feasible alternative to deter violent crime, nor do I feel that in this case it is necessarily inappropriate. Somehow the message is going to have to get across to the people who have no moral or other human compunctions that if they are going to use violence that results in the death of another person, they are putting their own lives in jeopardy. That is the only way I see to get across to some of the animals that are loose in this country today. But the question is, How do we do it in a way that is narrowly defined to achieve the particular target that we are concerned about, and at the same time do not prejudice the moral rectitude of our laws generally, and the protection of innocent citizens.

With that in mind, I would like to ask the author of this amendment a couple of questions to clarify, hopefully, the meaning.

The key to this amendment is paragraph (a)(2), as I understand it, and it says as follows—and it might be helpful to have it in the RECORD so that people following this debate can see what it says. It says, "If an individual intentionally engages in conduct during the course of a continuing criminal enterprise and thereby knowingly causes the death of another individual, the individual so engaging shall be subject to the death penalty in accordance with this section."

I would like to ask the gentleman who is the author of this amendment, what is meant by "knowingly causes the death of another individual"? How can you knowingly cause the death of another individual and still not intend the death of that individual?

Mr. GEKAS. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Pennsylvania.

Mr. GEKAS. The gentleman quite properly points out "knowingly causes the death of another individual" appears in subsection (2). However, it must be read in conjunction with the later provisions in the bifurcated system on aggravating factors which brings in the necessity of an intentional killing. This merely triggers, if you have a defendant who knowingly caused the death of someone, then you have that triggered into the aggravating circumstances where it must further be proved, or else a person cannot be subjected to the death penalty, that there was an intentional killing. And so this "knowingly" does not apply and cannot apply to someone who unintentionally or even knowing that it might cause the death did not intentionally cause the death.

□ 1820

Mr. SEIBERLING. That is extremely important because, as the gentleman knows, criminal statutes must be narrowly construed in favor of the defendant. If this is too narrow, it is not going to do the job, and if it is too broad, then it is bad from the constitutional standpoint.

Mr. HUGHES. Mr. Chairman, I yield 2 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Chairman, as a parent, I was absolutely delighted to see this body move on a drug bill with the kind of consensus that we have had because there is nothing, I think, that any parent in America fears more than drugs and people trying to make money off of children. It is a horrible thing.

Yet, for one of the rare times in my life, I agree with the President of the United States. This should not have been partisan; this should have been bipartisan. This should have been a consensus and this should have moved forward.

There are some very good things in here that we are doing and that should be happening. But we are in a political season and I must say I am very saddened by amendments like this and I hope people vote against these amendments.

In football, there is a thing called "piling on." I think we are seeing political piling on right before the election.

If we want to talk about what we could do about drugs, I can think of some amendments that I would have liked to have offered. We have the pediatricians of America telling us that they cannot tell you who will become a drug addict, but they can tell you who will not. The ones that will not are the ones who have had proper bonding with their parents at birth.

So I probably should have offered parental leave as an amendment to this.

We can think of all sorts of things that would have been preventive and that are very important. But when you get into this particular amendment, very controversial, it may kill the whole thing. You are talking about professionals, the worst people. For those professionals, this is not going to stop them from becoming professionals because, let us be honest, they are in it to make money.

What are they going to do? They are going to go out and hire kids. They are going to pass it on to someone else. We know that because we have seen the experience.

There has never been a study showing that this really deters. If you wanted to deter, you should have backed parental leave or we should have done all sorts of other things.

We always have heard over and over again, you should never see law or sausage made. In these waning hours, I really regret watching this law made because I worry as a parent that what we are doing is sinking the whole bill and we will lose that consensus the President brought together.

Mr. GEKAS. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, I want to commend the subcommittee chairman, the gentleman from New Jersey [Mr. HUGHES], for his efforts, not only in crime, but in the area of drugs, the Select Committee on Narcotics, and the gentleman from New Jersey, Chairman RODINO.

If you look at my voting record, it is 99 percent paralled to most of the Members on this side of the aisle. I offered legislation that includes the death penalty far before an election came about.

I just want to offer this today: The drug legislation alone will not solve the drug problem in America. Until we deal with the root causes of poverty, unemployment, and conditions which produce the social dilemma in this country, we will not have an impact upon it.

That is not my statement today. I stand in support of this amendment. This is not the best amendment that could be brought forward on the death penalty, that should be brought.

As I heard the gentleman from Michigan, JOHN CONYERS, and my heart goes out to him, I would just like to say this: Who looks at the victim? Who looks at who are the large number of victims that are suffering due to the types of drugs and murder in this country that have gone unabated?

I would like to now just deviate 1 second and remind the Members of Congress of the words of a book that was written relative to the Speck murders in Chicago. Maybe these words might stick with you today.

Where he had literally and methodically taken eight nurses, put them up in the front of the room, bound them, and one at a time executed them, there was a young Spanish-speaking nurse who hid herself from view and crawled underneath the daybed. She is seeing this whole thing before her eyes and she writes a passage in that book that everybody in this House should deal with today. She says, "God, don't let him hear the pounding of my heart."

I think we have come all the way full circle and I think the country is not only ready, Congress is dealing with the sense of the capital punishment issue today, not just this amendment.

I would just like to offer very strongly that I believe that it is powerful time enough that we put our foot down on large drug trafficking. My drug penalty bill, Controlled Substances Penalty Act, had the capital punishment section in it for anybody who would traffic in more than 10 kilograms of heroin or cocaine.

Folks, we do not produce domestically 1 ounce of cocaine or heroin. I know the issues that come before the House, but I think today we should pass this amendment and let the other body make their decision.

Mr. HUGHES. Mr. Chairman, I yield 4 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. Mr. Chairman, I must say that I have seen the legislative process work better.

So far, since this bill has come before us, it seems to me we have—I do not know how much we have landed on the drug traffic, I think we have done violence to common sense, legislative procedure, Gramm-Rudman, although I do not mind that one, and we have taken a shot at several amendments to the Constitution, maybe even the third now that we have put the Armed Forces fully into the law enforcement business. I am not sure that having them quartered in our houses will not be one of the next things that happens.

I wish it were the case that the more indignant Congress acted, the less drugs there would be in America. If that were the correlation, then we would be in great shape. Unfortunately it is not the case.

We have had people in this body talk about the fact that you cannot just solve a problem by throwing money at it. That has not stopped people from voting more and more money, and how people who voted for Gramm-Rudman on the one hand can vote more and more money here, I do not understand.

Similarly, we are told that concerns about procedural fairness or constitutionality—it is almost unseemly to demonstrate those because, after all, we are talking about drugs.

The problem is that the more ferocious we talk does not necessarily mean that the less drugs people take. I am afraid that this bill is becoming the legislative equivalent to crack. It is going to give people a short-term high, but it is going to be dangerous in the long run to the system and expensive to boot.

This is one example of it here in the death penalty. My problem with the death penalty is our inability to find perfect people to serve as juries and judges. Give me perfect people and I have no problems with the death penalty.

There are people I would gladly see no longer with us in this society, but I have not yet been able to figure out an inerrant process for dealing with them. I have seen too many cases, capital cases, where a death penalty might have been applied where a mistake had been made.

But even beyond that, there seem to be problems with this one.

The gentleman from Ohio [Mr. TRAFICANT] raised some questions about what this requires. I have a problem. On page 19 of the rule, it was mitigating factor 5. This is only a mitigating factor. "The defendant could not reasonably have foreseen that the defendant's conduct in the course of the commission of the offense would cause or would create a grave risk of causing death."

In other words, it is only a mitigating factor that you could not reasonably have foreseen that your conduct would have caused death. That could only make sense if it contemplates that in some circumstances, because a mitigating factor is not an absolute defense. A mitigating factor is something you take into account. That being in here must mean that circumstances are contemplated in which that could be the case and someone could be executed. That seems to me inexplicable.

It seems contradictory to other things that are here. If that is just a mitigating factor, it must mean that someone, of whom that is true, because mitigating factors are mitigating, but they are not absolute and they get waived. Apparently, it could be true that you could not reasonably have foreseen this and you would still be executed.

□ 1830

It seems to me symptomatic of where we are here. It is true that drugs are a terrible thing. It is not true that simply by the legislative equivalent of a tantrum, we can make drugs go away; and I think we ought to deal with this problem a little bit more seriously.

The gentleman from Ohio [Mr. TRAFICANT], who just spoke, when he talked about the underlying conditions: We have got to do more. As a matter of fact, it is ironic that some of those who were shouting loudly against drugs now voted for programs; Gramm-Rudman, across-the-board cuts, that cut funding for treatment, that cut funding for education, that cut funding for the Drug Enforcement Administration and the FBI.

To a certain extent I suppose this is Members seeking absolution for some of their past acts, and I understand that that is a useful concept; but it is being done in such a helter-skelter fashion; it is being without a sense of discrimination; and I think it does disservice to the legislative process.

Mr. GEKAS. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. DIOGUARDI].

Mr. DIOGUARDI. Mr. Chairman, I want to commend the gentleman from Texas [Mr. WRIGHT] and the gentleman from Illinois [Mr. MICHEL], as well as the gentlemen from New York [Mr. RANGEL] and [Mr. GILMAN] of the Select Committee on Narcotics and Drug Abuse, on which I serve, for acting in an effective, bipartisan manner in crafting the Omnibus Drug Act of 1986. This is a good bill and I wholeheartedly support it.

Mr. Chairman, the gentleman from Pennsylvania [Mr. GEKAS] has offered what I think is a commonsense amendment to allow for the death penalty when existing criminal narcotics enterprises commit murder during the course of their illegal activities. I strongly support the death penalty amendment to H.R. 5484 because the people of Westchester County in New York's 20th Congressional District are sick and tired of drug kingpins literally getting away with murder.

Mr. Chairman, let us look the truth straight in the eye: the people running the drug cartels in this country and internationally have no respect for civil activity, no respect for the kids, no respect for humanity and no respect for life. In short, Mr. Chairman, these people are out of touch with reality and the values we hold in this country.

For the House of Representatives to pass an antidrug bill without the Federal death penalty statute attached, we will have failed to deliver to our constituents meaningful action against major narcotics trafficking. The death penalty for activities of this nature is the only thing these high level drug dealers understand.

Mr. Chairman, I stand in support of the Gekas amendment and urge our fellow Members to support this important addition to this excellent piece of antidrug legislation.

Mr. HUGHES. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan [Mr. WOLPE].

Mr. WOLPE. Mr. Chairman, I rise in strong opposition to Representative GEKAS' death penalty amendment now before us. There is no question that we all want to get pushers off the streets. Earlier today many of us, myself included, voted for Representative KRAMER'S amendment to create unprecedented mandatory life imprisonment sentences for repeat offenders pushing drugs on children. Such votes reflect our deep frustration with the current drug crisis and our commitment to doing all we can to effectively combat it.

If I felt for a moment that the death penalty could help us win the war against drugs, I would consider it. After decades of experience, however, we have no evidence whatsoever, that capital punishment is effective against crime. If we examine the experiences of Michigan and Illinois, for example—States which have similar socioeconomic backgrounds and would therefore be expected to have similar crime rates—Illinois, which allows the death sentence for capital offenses, has historically had a higher rate of such offenses that Michigan, which has never permitted capital punishment under any circumstances.

Let us be perfectly clear on this matter, Michigan and Illinois are not exceptional, they are the rule. There is no study anywhere in the world which has ever produced evidence that capital punishment deters crime. And there is absolutely no indication that the imposition of this sentence against drug offenders will in any way further our battle against drug abuse.

Nor can we forget that capital punishment has always been unevenly applied, with the poor and minorities receiving a disproportionate number of death sentences in this country. For example, in Florida—a State known for its high incidence of drug crimes—between 1976 and 1980, 286 blacks killed whites, and 111 whites killed blacks; yet 48 blacks were sentenced to death and not one white received the death sentence. We must face the fact that extending the death penalty to drug-related crimes would only encourage the discriminatory application of this ultimate penalty.

Finally, the criminal justice system does makes mistakes, and, tragically, capital punishment is wholly irreversible. In my own State of Michigan, there are recorded at least six cases of people who were convicted of first degree murder and would have been executed had Michigan had capital punishment on the books, but who were subsequently wholly exonerated of their alleged crimes. What could we possibly have said to the families of these people if they had been executed under their false convictions?

The calls we are hearing for the imposition of the death penalty in this Chamber today reflect a deep frustration with the current situation and a desire to demonstrate effective action to combat it. Tragically, the death penalty would achieve just the opposite; it would create no more than an illusion of effective action. And, in the process, the debate over capital punishment will only direct our attention and resources away from those initiatives that will have an impact on this problem. We must not let this divisive issue divert us from the central provisions of this bill—the drug education and treatment programs, the increased penalties for drug traffickers, the support for more aggressive enforcement of anti-drug laws, and the mandate for improved interdiction activities at our Nation's borders—that can and will make a real difference in our fight against drugs.

Mr. BERMAN. Mr. Chairman, my purpose in opposing this amendment is not to go into lengthy arguments about the reason why I oppose the death penalty or to argue why I think that penalty should be held unconstitutional. It is clear under present Supreme Court interpretations that under certain circumstances it is unconstitutional.

I simply say to the body that if you think in this amendment you are passing a death penalty which will stand the present Court's test of constitutionality for a death penalty, you are sadly mistaken.

We just passed a rule that carves out a good-faith exemption to the exclusionary rule. This amendment eliminates all prohibitions on admissibility of evidence, in introducing evidence at the sentencing with respect to aggravation or mitigation. This amendment attempts to foist on the defendant the burden of producing evidence, and demonstrating by a preponderance of that evidence that there are factors in mitigation.

This amendment is not restricted to people who actually kill or attempt to kill or intend to kill; it goes far beyond that. This bill will not be sustained by this Court; it is illusory, and I urge a no vote.

Mr. GEKAS. Mr. Chairman, I yield 2 minutes to the gentleman from Arkansas [Mr. ROBINSON].

Mr. ROBINSON. Mr. Chairman, I rise in strong support of the Gekas amendment. In fact, this is a happy day for me. I feel like I have died and gone to heaven. I never thought I would see a good bill come out of Judiciary without a discharge petition. Can you believe it, my colleagues? We did not have to get a discharge petition to talk about the death penalty.

I have gone through this bill. I think it is one of the greatest amendments I have ever looked at in my life. We protect the rights of all citizens. We even have a notice when we are going after the death penalty: Hearing before a court or jury. Can you believe that? We are not going to hang them on the street corner.

Proof of aggravating and mitigating factors. The list goes on and on and on and on. We could write an amendment that is this tall; and I will guarantee my colleagues on the Committee on the Judiciary would not agree with it, because they disagree with the death penalty.

Our committee, unfortunately, has turned into a graveyard for good bills. My colleagues will vote for this bill, it will turn into a graveyard for criminals. The death penalty is a deterrent. Let me repeat: the death penalty is a deterrent.

When you fry that drug dealer that caused the death of someone, that person is never going to come back and kill anyone else.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. ROBINSON. I yield to the gentleman.

Mr. HUGHES. Mr. Chairman, I just want to say to the gentleman I think his characterization is extremely unfair. In the first place, in this legislation, there are seven different provisions including a money laundering bill that is dynamite.

The Subcommittee on Crime which in fact has reported these bills out, has reported about 25 anticrime, anti-drug bills in the last two Congresses.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HUGHES. Mr. Chairman, I yield 30 additional seconds to the gentleman.

Mr. HUGHES. Mr. Chairman, will the gentleman yield further?

Mr. ROBINSON. Mr. Chairman, I am going to respond by stating that the gentleman has his opinion of the Judiciary Committee, I have mine; the truth hurts.

Mr. HUGHES. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I hate to take this time, but the gentleman's characterization is so unfair, because the Committee on the Judiciary, Subcommittee on Crime has reported out some 25 bills including a forfeiture bill that a number of Members today stepped up and praised; a child pornography bill that is one of the strongest that we could possibly create; a whole host of anticrime, antidrug bills including the Justice Assistance Act, providing local law enforcement moneys which is part of this legislation; legislation to try to coordinate the activities—so I think it is an unfair characterization.

Mr. HUGHES. Mr. Chairman, I yield 1 minute to the gentleman from West Virginia [Mr. STAGGERS].

Mr. STAGGERS. Mr. Chairman, I rise in strong opposition to the gentleman's amendment. I believe that it is ironic that the House is attempting to attach a death penalty to a bill that's ultimate purpose is to save lives. To my pro-life friends, I say, in a civilized society there is no place for capital punishment. Just as there is no place in a civilized society for abortion. The taking of a life is morally wrong—in every respect. Most non-Communist Western nations have abolished the death penalty. The only countries in the world that have the death penalty for drug trafficking are: Iran, the Republic of Korea, Malaysia, the Philippines, Taiwan, and Turkey. We don't want to add the United States to this list.

I ask my colleagues not to be drawn into the fervor surrounding this amendment. Yes, the drug problem is very serious in this country, and yes, we need to pass equally serious legislation to deal with the problem. But to attach a death penalty to this bill will not advance these efforts. The death sentence is an end in itself. It cannot be reversed if the individual is later found to be innocent. The death penalty does not allow for the fallibility of human beings. The possibility is very

real that an innocent person could be convicted and wrongly sentenced to death. When we legislate, we take the chance of making an error. If we must err, then let us err in favor of life.

The CHAIRMAN. The Chair will inform the gentleman from Pennsylvania [Mr. GEKAS] that he has 8½ minutes remaining; the gentleman from New Jersey [Mr. HUGHES] has 6 minutes remaining.

Mr. GEKAS. Mr. Chairman, I yield 2½ minutes to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Chairman, I rise in strong support of the Gekas amendment. I think there are rare circumstances where the death penalty is justified, and this is one of those circumstances.

I would like to take my colleagues back to what I consider to be the operative provision here. The amendment provides that the death penalty is only applicable if an individual intentionally engages in conduct during the course of a continuing criminal enterprise and thereby knowingly causes a death of any other individual.

Then that individual so engaging shall be subject to the death penalty in accordance with this section.

□ 1840

I think it is important to remember that, while the consumer of narcotics is motivated and driven mainly by his addiction to a particular narcotic, the people, the big dealers who are moving this stuff are driven by a very careful weighing of risks versus profits. Their decisions are business decisions, they are cold, ruthless, deliberate decisions. I have a particular memory of the slaying of one of my constituents, Enrique Camarena, drug enforcement agent in Mexico. It was very clear after a review of this case that Mr. Camarena was killed because he was investigating activities in Guadalajara, close ties between drug dealers and Federal Mexican officials and was causing financial losses to the drug dealers, and because of that they executed him.

It was not an execution of passion, it was not an execution that was motivated by intoxication or by addiction or any of the other things that are affected by the consumers of narcotics, it was a cold-blooded business decision.

If there ever was a right time to apply the death penalty, it would be in cases like this.

I think the fact that—I think it is clear that the major narcotics dealers very carefully weigh the plusses versus the minuses, the assets versus the liabilities, the benefits versus the detriments, and very clearly this death penalty wil be a deterrent to their criminal activities.

I commend the gentleman. I very strongly urge my colleagues to vote for this amendment.

Mr. HUGHES. Mr. Chairman, I yield 1 minute to the gentleman from Connecticut [Mr. MORRISON].

Mr. MORRISON of Connecticut. I would be standing before the House, Mr. Chairman, opposing this amendment if it were perfectly drafted; I will admit that.

I oppose the death penalty. I do not think it has a place in a civilized society. I think we, as other civilized western nations, can learn to do without it and to find better ways to seek deterrents without taking human life at the hands of the State.

But I do not think that is the reason that a majority should vote against it today because I know that a majority do not agree on that score. By introduction of this amendment into this debate and into this bill, we have taken a very divisive issue on which people disagree morally, as a matter of good faith, and thrust it as a partisan and divisive issue into the middle of something on which there is broad agreement in this House, that is that we should have a comprehensive and aggressive drug bill.

We should all be able to hold our heads high. We may disagree with one or another amendment, but hold our heads high and vote "yes" for this bill. And when this amendment passes, if it does, it will become very difficult for some of us to vote "yes."

We may be forced to do so against our consciences because we want to make a strong statement about drugs. I would urge the Members of this House to consider that in casting their vote on this amendment.

Mr. GEKAS. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. The gentleman from Pennsylvania and I have worked for a long time on the issue of the death penalty together in many, many battles so far in this Congress.

Mr. Chairman, I am sure we will be working a long time together to try to get the revisions that we need not only in this particular evening but on other occasions in Federal law dealing with the death penalty for heinous crimes where we really do need to have that kind of punishment and that kind of deterrence.

I do not know why the big hoopla tonight over this particular proposal, though, because this is nothing in terms of what maybe we could have out here and what I wish that we could have out here tonight. We need to revise the Federal laws on the death penalty, giving the death penalty for assassination of the President, for kidnaping, for peacetime espionage on the civilian side to go along with the peacetime espionage death penalty on the military side that my amendment was adopted gave us last year in this Congress. And if we are talking about drugs alone, I for one do not see why we do not look at having a death penalty for anytime that we have a death that results from a drug dealing by these heavy traffickers when someone dies from the use of those drugs.

Frankly, I do not see why we do not have a death penalty in this situation for real tough traffickers even though you do not have a death that results, although I realize that there may be some court challenges to that particular proposal.

I think we ought to try that.

But all we are doing here tonight, all that is in this amendment that the gentleman from Pennsylvania is asking us to vote on, is to have a death penalty in that very narrow case where you have that organized criminal who is a repeated, continuous criminal who has done a lot of drug dealing and he goes out and intentionally has somebody murdered in the course of his business. That is the only thing we are doing tonight. I would think that this body would overwhelmingly, overwhelmingly adopt the death penalty in this situation. It is inconceivable to me that we would not do that much, when we ought to be doing a lot more.

I will join with my colleague in the future to bring about some of that.

Mr. HUGHES. Mr. Chairman, I yield 2½ minutes to the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Chairman, I rise in opposition to this amendment.

I truly fail to understand the political appeal that the death penalty seems to have for so many Members of this House. But I know one thing, that it has nothing to do with this drug package that we are considering today. For those people that are so concerned about getting a vote on this death penalty today, it has something to do with the politics of the Committee on the Judiciary, and they just waited until the bill came to the floor to give vent to the pent-up feelings that they have. I am begging you do not hold the drug package bill hostage to this vindictiveness.

Let me tell you something: there are other moral grounds why people may object to the death penalty, but I am thoroughly convinced that this bill that we are considering today no one thought of until there was an opportunity to circumvent the hearing process of the Judiciary Committee and just bring it to the floor under the rule that was carefully crafted in order to make certain that we expedite this bill.

Having said that, let me tell you about some of my personal concerns about how other people can completely disregard the right to life after birth.

That is the way that this bill is written, certain juries can consider who will die for one set of facts and an-

other jury might consider who will die for another set of facts. We recognize that people's value of life vary from community to community. What is shocking to me is that some facts were revealed to me that in the State of Florida during the period of 1976 to 1980 there were 286 blacks that killed white folks in the State of Florida, and during this very same period of time there were 111 white folks that killed some black folks in the State of Florida.

When we took a look to examine, when they took a count of who was found eligible or convicted and given the death sentence, the score was: for the whites, zero; for the blacks, 48.

Mr. GEKAS. Mr. Chairman, I reserve the balance of my time. I ask my colleague, the gentleman from New Jersey, if he wishes to close.

Mr. HUGHES. Mr. Chairman, how much time remains on each side at this point?

The CHAIRMAN. The Chair would announce that the gentleman from Pennsylvania [Mr. GEKAS] has 4 minutes remaining; the gentleman from New Jersey [Mr. HUGHES] has 2½ minutes remaining.

Mr. GEKAS. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. LUNGREN].

Mr. LUNGREN. Mr. Chairman, this is a controversial issue, no doubt about that, no doubt that there are strong feelings on both sides. Within my church, the Catholic church, there is a dispute as to the efficacy of the death penalty. I would not support the death penalty if I did not feel it was a deterrent. I am satisfied in my own mind it is a deterrent.

I had an opportunity a number of years ago to speak with Vincent Bugliosi, the assistant district attorney at that time of Los Angeles, perhaps most famous for prosecuting the Manson family. I asked him about the death penalty. And he talked to me about a number of interviews he had with people sitting in prison in California who had opportunity and reason to kill people on the scene. That is, they had opportunity to kill the only witnesses that could have tied them to the crime they had just committed, and they did not do so. He asked them why they did not do so. He said—this is at the time when the death penalty was still real in California—he said, "because we knew we could get the chair for it."

So he was saying he interviewed people who had every reason to murder witnesses.

We have examples now where witnesses are murdered precisely because they could tie people to the crime and they know that there is no death penalty available to the perpetrators of the crime.

This is a very narrowly drawn death penalty. It specifically talks about those involved in a criminal enterprise, the traffickers who intentionally kill another person. That is what it is talking about. They are the ones who are weighing the pros and cons, who are trying to make an economic decision as well as a decision as to what might befall them if they get caught.

So all we are saying is give us a chance to have a vote. Somebody says there is politics about the Judiciary Committee here. We are caught in a catch-22 situation.

We are refused the opportunity to present a death penalty in the Committee on the Judiciary, we are refused the opportunity to pass it out of committee, and then if we bring it to the floor, we are criticized because we did not follow the committee process or we did not go through the amendment process in the committee, which would have been allowed.

You cannot have it both ways, gentlemen, you cannot have it both ways.

If we are denied the opportunity to have it there, we are going to use the opportunity we have it here, and it does fit into this bill.

Mr. HUGHES. Mr. Chairman, I yield 1 minute to the gentleman from Maryland [Mr. MITCHELL].

Mr. MITCHELL. Mr. Chairman, it is going to be very difficult for me to do this in 1 minute.

Some years ago, Adam Clayton Powell stood in the well of this House and talked about the flow of narcotics in his district, and he was ignored. As a result of that, it spilled out, and now there are subcultures dealing with narcotics.

Many of those subcultures are headed by people under 18 years old. They are professional in their operation; they are the kingpins, they control their turf, and they order people to be killed. They are 18, 17, and 16.

But under this bill age is a mitigating factor and therefore though they commit the same offense as any adult, they cannot be subject to the death penalty.

Let me add very quickly: Under this bill they cannot even be tried as an adult the way this bill is worded. So what you are doing is you are excluding a whole category of offenders who commit murders, exempting them from the death penalty. Someone said earlier that this was one of the happiest days of their life. This is one of the most tragic days of my life, when in our zeal, in our hatred against drugs we trample the Constitution of the United States.

Mr. GEKAS. Mr. Chairman, I have no further requests for time.

Mr. HUGHES. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from New Jersey [Mr. HUGHES] is recognized for 1½ minutes.

Mr. HUGHES. We have on the floor right now about four Republicans from the Subcommittee on Crime, and I would just like to get their attention because much has been said about the working of the Committee on the Judiciary. The work product in title VI is the work product of the Subcommittee on Crime, which I am proud to chair. If any of the members of the Subcommittee on Crime can step forward and tell us when we have had any bills that were bottled in the Subcommittee on Crime, I wish they would do it now.

The fact of the matter is that has not been the case. We have had a mill, we have turned out 25 anticrime bills. I happen to support the death penalty. I do not agree with most of my colleagues on the Committee on the Judiciary.

One of the last cases I tried as a prosecutor was a capital case

I strongly support the death penalty in selected instances. I would support the death penalty for a drugpin. But I want to tell you, I must tell you I feel a little uncomfortable, and I must tell you about this amendment. We had no hearings in my subcommittee. I do not have jurisdiction. It was narrowly drafted. It is going to effect a very narrow class. It is attached to the continuing criminal enterprise statute.

To make it germane, it was tacked on to that statute, where there is drugs involved and where in fact it fits in with those specifics, it would only be a handful of cases, if that, that it would affect.

What I am concerned, and I want to share it with you, I fear that when this bill leaves here, and this is going to carry, that we are going to see a filibuster in the other body, we are going to see the whole drug bill go down the drain.

□ 1855

That is my fear, and you have to weigh that in the balance. That is what I am doing, trying to weigh that.

Mr. GEKAS. Mr. Chairman, I yield myself the remainder of my time.

Mr. Chairman, the gentleman from New Jersey need not feel any sense of guilt about his work as chairman of the Subcommittee on Crime. It is the chairman himself, the gentleman from New Jersey, who told me about the status of the conditions of the Judiciary Committee that from time to time compelled the gentleman to oppose some of my principles, some of my issues, because of what would happen in the Judiciary Committee. I thanked the gentleman for giving me that insight. So the gentleman need not feel guilty about his work on the Subcommittee on Crime.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. GEKAS. I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Chairman, I am not feeling guilty; I am just making a statement of fact.

Mr. GEKAS. Mr. Chairman, I agree, the gentleman is not guilty.

Mr. Chairman, I close this argument by reading from that letter to which I alluded before and which now is part of the RECORD and which I will be distributing with the help of my colleagues at the doorways at the end of the debate in this issue.

The letter from the Justice Department in which the presidential support and Federal law enforcement endorsement are contained says, and this is the strongest statement we can make:

We feel that House action on this measure will represent the clearest test of the determination of Members to give federal law enforcement authorities the weapons we must have in order to deal effectively with narcoterrorists and renegade drug traffickers whose contempt for human life defies understanding.

There is a Federal judge who lies dead at the hands of a drug assassin. There are drug law enforcement officers who lie dead at the hands of drug dealers.

The President of the United States supports it; Members of Congress support it; and most importantly of all, the American public demands it. Let us vote "yes" on this issue.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. GEKAS].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. HUGHES. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 296, noes 112, not voting 23, as follows:

[Roll No. 374]

AYES—296

Alexander	Brown (CO)	Daschle
Anderson	Bruce	Daub
Andrews	Bryant	Davis
Annunzio	Burton (IN)	de la Garza
Anthony	Bustamante	DeLay
Applegate	Byron	Derrick
Archer	Callahan	DeWine
Armey	Campbell	Dickinson
Badham	Carper	Dicks
Barnard	Carr	Dingell
Bartlett	Chandler	DioGuardi
Barton	Chapman	Donnelly
Bateman	Chappell	Dorgan (ND)
Beilenson	Cheney	Dornan (CA)
Bennett	Clinger	Dowdy
Bentley	Coats	Dreier
Bereuter	Cobey	Duncan
Bevill	Coble	Durbin
Biaggi	Coelho	Dwyer
Bilirakis	Coleman (MO)	Dyson
Bliley	Coleman (TX)	Early
Boehlert	Combest	Eckart (OH)
Boland	Conte	Eckert (NY)
Boner (TN)	Coughlin	Edwards (OK)
Borski	Courter	Emerson
Bosco	Craig	English
Boulter	Crane	Erdreich
Boxer	Daniel	Evans (IA)
Brooks	Dannemeyer	Fascell
Broomfield	Darden	Fawell
Fiedler	Lloyd	Rogers
Fields	Loeffler	Rose
Fish	Lott	Rostenkowski
Flippo	Lowery (CA)	Roth
Florio	Lujan	Rowland (CT)
Foglietta	Lungren	Rowland (GA)
Foley	Mack	Russo
Fowler	MacKay	Saxton
Franklin	Madigan	Schaefer
Frenzel	Manton	Schuette
Frost	Marlenee	Sensenbrenner
Fuqua	Martin (IL)	Shaw
Gallo	Martin (NY)	Shelby
Gaydos	Martinez	Shumway
Gekas	Mavroules	Shuster
Gibbons	Mazzoli	Siljander
Gilman	McCain	Sisisky
Gingrich	McCandless	Skeen
Glickman	McCloskey	Skelton
Gradison	McCollum	Slattery
Gray (IL)	McCurdy	Slaughter
Gray (PA)	McEwen	Smith (FL)
Green	McGrath	Smith (NE)
Guarini	McKernan	Smith, Denny (OR)
Gunderson	McMillan	Smith, Robert (NH)
Hall (OH)	Meyers	Smith, Robert (OR)
Hall, Ralph	Mica	Snowe
Hammerschmidt	Michel	Solomon
Hansen	Miller (OH)	Spence
Hatcher	Moakley	Spratt
Hefner	Molinari	St Germain
Hendon	Monson	Stallings
Henry	Montgomery	Stangeland
Hiler	Moore	Stenholm
Hillis	Moorhead	Strang
Holt	Morrison (WA)	Stump
Hopkins	Murphy	Sundquist
Horton	Murtha	Sweeney
Howard	Myers	Swindall
Hubbard	Natcher	Tallon
Hughes	Neal	Tauzin
Hunter	Nelson	Taylor
Hutto	Nichols	Thomas (CA)
Hyde	Nielson	Thomas (GA)
Ireland	Oakar	Torres
Jeffords	Ortiz	Torricelli
Jenkins	Oxley	Traficant
Johnson	Packard	Valentine
Jones (NC)	Panetta	Vander Jagt
Jones (OK)	Parris	Volkmer
Jones (TN)	Pashayan	Vucanovich
Kanjorski	Pease	Walgren
Kaptur	Perkins	Walker
Kasich	Petri	Watkins
Kemp	Pickle	Whitehurst
Kindness	Porter	Whitley
Kolbe	Price	Whittaker
Kolter	Pursell	Wilson
Kramer	Quillen	Wolf
Lagomarsino	Ray	Wright
Lantos	Regula	Wyden
Latta	Reid	Wylie
Leath (TX)	Richardson	Yatron
Lehman (CA)	Ridge	Young (FL)
Lent	Rinaldo	Young (MO)
Lewis (CA)	Ritter	Zschau
Lewis (FL)	Roberts	
Lightfoot	Robinson	
Lipinski	Roe	
Livingston	Roemer	

NOES—112

Akaka	Evans (IL)	LaFalce
Aspin	Fazio	Leach (IA)
Atkins	Feighan	Lehman (FL)
AuCoin	Ford (MI)	Leland
Barnes	Ford (TN)	Levin (MI)
Bates	Frank	Levine (CA)
Bedell	Garcia	Long
Berman	Gejdenson	Lowry (WA)
Boggs	Gonzalez	Luken
Bonior (MI)	Goodling	Lundine
Bonker	Gordon	Matsui
Brown (CA)	Gregg	McHugh
Clay	Hamilton	McKinney
Collins	Hawkins	Mikulski
Cooper	Hayes	Miller (CA)
Coyne	Hertel	Miller (WA)
Crockett	Hoyer	Mineta
Dellums	Jacobs	Mitchell
Dixon	Kastenmeier	Mollohan
Downey	Kennelly	Moody
Dymally	Kildee	Morrison (CT)
Edgar	Kleczka	Mrazek
Edwards (CA)	Kostmayer	Nowak
Oberstar	Seiberling	Vento
Owens	Sharp	Visclosky
Penny	Sikorski	Waldon
Pepper	Smith (IA)	Waxman
Rahall	Smith (NJ)	Weaver
Rangel	Solarz	Weber
Rodino	Staggers	Weiss
Roukema	Stark	Wheat
Roybal	Stokes	Williams
Sabo	Studds	Wirth
Savage	Swift	Wise
Scheuer	Tauke	Wolpe
Schneider	Towns	Yates
Schroeder	Traxler	
Schumer	Udall	

NOT VOTING—23

Ackerman	Grotberg	Schulze
Boucher	Hartnett	Snyder
Breaux	Huckaby	Stratton
Burton (CA)	Markey	Synar
Carney	McDade	Whitten
Chappie	Obey	Wortley
Conyers	Olin	Young (AK)
Gephardt	Rudd	

□ 1915

The Clerk announced the following pair:

On this vote:

Mr. McDade for, with Mr. Conyers against.

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. WORTLEY. Mr. Speaker, on rollcall No. 374, the Gekas amendment, I was temporarily out of the Chamber and not recorded. Had I been present I would have voted "yea."

The CHAIRMAN. Under the rule, amendment No. 34 to be offered by the gentleman from Florida [Mr. BENNETT] is in order.

AMENDMENT OFFERED BY MR. BENNETT

Mr. BENNETT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BENNETT: Page 224, after line 13, insert the following:

Subtitle H—Miscellaneous Provisions

SEC. 671. TRANSFER OF CERTAIN DEPORTABLE ALIENS FROM STATE AND LOCAL PENAL FACILITIES TO FEDERAL PENAL FACILITIES.

Notwithstanding any other provision of law, any alien, upon conviction, who is incarcerated in a State or local penal facility for an offense, including an offense involving controlled substances, the commission of which makes such alien deportable under section 241 of the Immigration and Nationality Act and who at the time of entry into the United States did not possess an immigrant visa, shall, upon written notification by the appropriate State or local official and within thirty days of such notification, be transferred to a penal facility under the authority of the Director of the Bureau of Prisons. The Attorney General shall prescribe such regulations as may be necessary to carry out this section.

Mr. KASTENMEIER. Mr. Chairman, I rise in opposition to the amendment and seek to oppose it.

The CHAIRMAN. Under the rule, the gentleman from Florida [Mr. BENNETT] will be recognized for 5 minutes and the gentleman from Wisconsin [Mr. KASTENMEIER] will be recognized

for 5 minutes in opposition to the amendment.

The Chair recognizes the gentleman from Florida [Mr. BENNETT].

Mr. BENNETT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, if adopted, aliens who enter this country without adequate immigration inspection, who are here because of international failures on the part of our Government, will be placed in Federal prisons.

The focus of this amendment is Cuban illegal aliens who came here during the Muriel boat lift in 1980 and subsequently committed crimes. Most of these crimes go to this sort of relation for their incarceration.

The amendment will put the responsibility where it belongs, on the Federal Government. As things now stand, States are bearing an unfair burden due to the foreign policy of the United States and a failure of the U.S. Government to handle these properly when they come in.

Currently, there are 834 Cuban felons in Florida jails. This is not only a problem from Florida, but it is also a problem for many other States. New York State has 225 and Texas has a large number.

Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Chairman, I thank the gentleman for yielding.

Florida has a very unique situation now. We are the recipient of a large number of Cuban refugees, many of them who are supposed to be deported. Under existing law, they would be subject to deportation, but we are caught with the problem now because, of course, Cuba does not want to take these people back. It puts us in a unique situation which I think needs a law which is unique to our particular area, as well as to areas that are similarly affected.

The Federal Government does have under existing law an obligation to house these people awaiting deportation.

I think what this law does, and I compliment my friend, the gentleman from Florida, for bringing it to the attention of this body, it simply recognizes that fact and in fact mandates the Federal Government to go forward with what I consider to be its responsibility.

Florida under the law, as all of you know, as any State, has no ability to regulate the importation or deportation of people in and out of this country. Because of that we are stuck and we are a victim.

Mr. BENNETT. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. Mr. Chairman, I thank the gentleman for yielding.

I want to just say that I commend the gentleman for this effort. I think this is a very good amendment.

Let me just remind my colleagues about something. Because of Florida's unique geographical position, we were the ones in 1980, at the end of 1979 and 1980, to be flooded with this refugee wave. Many of those are fine people who have taken a strong leadership role in the community. They have done good for the State. They have done good for the community.

The problem is the approximately 20,000 or so who became what was known as the deranged criminal element.

We have paid, the citizens of Florida have paid for that. The Federal Government has refused to pay for their hospitalization when they have problems with medical care and all the other problems we have been paying for, educational problems, the cost of education on us, not the Federal Government.

The one thing we ask you to reimburse us for, in all right, is what it costs us to incarcerate criminals when they commit crimes. It is a Federal responsibility.

Mr. BENNETT. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Chairman, I think the gentleman's amendment is right on the money with a problem that is extremely serious. We in central Florida have a number of dealers who are illegal, illegally here, who are dealing in crack, which has become one of the most tremendous problems that we have. They get convicted, they sit in our jails, they await appeals and so forth, and the Immigration and Naturalization Service will not do anything about that because of the cost they say is involved to the Federal Government in removing them from the State prisons and putting them in Federal prisons as they await deportation.

Well, my word, whose problem is this? These are illegals who have no business being here in the first place. They are involved with drugs. We need to get them deported. We do not have to wait until they serve their sentence or some appeals are exhausted. They ought to be taken out of the country now.

It is our responsibility. If they are short in funds somewhere, let us move it over there. We will find the funds and worry about that as the time comes; but the pressure needs to be on to get those illegals dealing in crack and cocaine out of this country as fast as we can possibly get them out under the deportation laws as they now exist.

Mr. Chairman, the gentleman's amendment is right on target and I fully support it.

Mr. BENNETT. Mr. Chairman, I yield one-half minute to the gentleman from Florida [Mr. PEPPER].

Mr. PEPPER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I just want to say that Florida has 1,900 people in this category who ought to be in Federal prisons who are in our local prisons.

Mr. BENNETT. Mr. Chairman, I reserve the balance of my time.

Mr. KASTENMEIER. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I thought we had our quota of Florida amendments today, but apparently not.

This is a particularly inappropriate amendment. The amendment really is not limited to drug offenders, but is related to all who do not possess immigrant visas in this country and there may be 10,000 to 20,000 such persons. That is the estimate as to the number of aliens who have violated State law and are incarcerated in State or local jails.

Now, with this bill, we will expect to see a lot more people imprisoned in the Federal system.

Rather than help, the gentleman from Florida would dump another 10,000 to 20,000 pesons who are convicted, not of a Federal law, but of State laws into the Federal system.

I would like to briefly read a letter made available to us today from the Justice Department, signed by John R. Bolton, Assistant Attorney General. It reads:

> This is to express the grave concerns of the Department of Justice with respect to the proposed amendment which would authorize transfer of illegal aliens in State and local penal facilities to the Federal Bureau of Prisons. It simply is not realistic in the light of current conditions. The Federal inmate population today has increased from 24,000 in 1981 to 41,000.

It goes on to say:

> Consequently, Federal prisons are now overcrowded by 50 percent.
>
> In short, it would be simply impossible to incarcerate that number of additional offenders—

Referring to 10,000 to 20,000—

> in Federal correctional facilities. In short, we believe the amendment regarding detention of aliens, combined with the existing overcrowding and an increased inmate population relating to enhanced sentencing of drug offenders, would precipitate a major crisis in the Federal prison system. Moreover, it could prove counterproductive by resulting in court ordered early releases of Federal inmates.

That is the Justice Department position.

□ 1930

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Chairman. I thank my chairman on the committee that deals with the Bureau of Prisons

for yielding, and I join him in opposing, with great respect the offeror of this particular amendment.

If I understand it correctly, it would apply to the universe of those who have entered the United States without an immigrant visa, which means students, which means business visitors, which means as many as 10 million people who enter legally but are not entering with immigrant visas. This is in addition to the very important argument that the gentleman from Wisconsin made, which is the immediate moving over to the Federal prisons of 10,000 to 15,000 to 20,000 prisoners.

I would prefer and I hope that the House might go along with the version within the immigration bill, which we believe will come to the floor this year, which deals with illegal aliens, people who are here illegally. Our bill provides reimbursement to the States for the incarceration costs of illegal aliens, and I think that that is how we ought to tailor it, but will not deal with people who might have entered legally.

Mr. KASTENMEIER. I thank my colleague, and I would add that the Federal system already has 1,862 Cuban Marielitos in Atlanta in a Federal facility, overcrowded and in questionably constitutional conditions, and we would add to that crisis by this amendment.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Chairman, as a matter of fact, Federal prisons are 50 percent overcrowded now. If we require more to be transferred from State to Federal prisons, judges will order more Federal prisoners turned loose under the laws against overcrowding, and some of the ones turned loose will be criminals who should not be discharged that early.

The cost of the construction required to house these extra prisoners would be $1 billion, plus $300 million per year for personal and costs. That means this Congress would need to increase by one-half of 1 percent this year the amount that has to be cut across the board from all appropriations—nutrition, health, law enforcement, courts, FBI, education, whatever—to make up for this increase, because we do not have the money within the total outlays permitted under Gramm-Rudman.

There was a vote here on July 27 in which 223 Members voted for the Frenzel amendment. Those Members who voted for that amendment voted to cut $161 million out of some of these same programs that are being increased under this bill. Those who voted on July 27 to cut $161 million from law enforcement, $39.5 million from prisons, $30.4 million from INS, etc. are talking about adding $1½ billion today for the same programs they voted to cut.

I think Members should reflect on that inconsistency and the fact that any increase will be provided later by across the board cuts in every discretionary program.

Mr. BENNETT. Mr. Chairman, will the gentleman yield for a correction?

Mr. KASTENMEIER. I yield to the gentleman from Florida.

Mr. BENNETT. Mr. Chairman, it was implied at least by a previous speaker that these include legal aliens, but that is not true. The language says that these aliens are deportable under the section "who at the time of entry into the United States did not possess an immigrant visa * * *." It specifically says that in the amendment. That is one reason that I had the amendment read, rather than saying forget about it. I wanted everybody to read the words that these are illegal aliens.

Mr. KASTENMEIER. In any event, the Justice Department anticipates that there are 10,000 to 20,000 individuals, convicted not of Federal but of State law, who would be affected, to complicate the situation.

The CHAIRMAN. The time of the gentleman from Wisconsin [Mr. KASTENMEIER] has expired.

The gentleman from Florida. [Mr. BENNETT] has 30 seconds remaining.

Mr. BENNETT. Mr. Chairman, I do not have much time, so I have to be real brief.

First, these are illegal aliens, and second, they are here today because of improper entry, and so that is the Federal Government's responsibility, and it is the culpability of the Federal Government for not ousting them. They are supposed to oust them under the law, and they have not done so. So they are allowing them to be in State jails.

This is not the responsibility of the State of Florida, the State of New York, or wherever they are; this is the responsibility of the Federal Government. The Federal Government under the law is supposed to exclude them. They are supposed to get them out. They were put into State institutions because of the fact that they did State crimes, but they are illegally here.

Mr. FASCELL. Mr. Chairman, I rise in support of the amendment offered by my distinguished colleague from Florida, Mr. BENNETT.

We in Florida have been coping with the consequences of the Mariel boatlift since 1980. Florida's Gov. Bob Graham tells us there are currently 834 Mariels and 1,898 other illegal aliens who are incarcerated in Florida's State and county jails for drug-related crimes. The Mariel prisoners cost the State of Florida $8 million a year. Only $1.8 million of that amount is reimbursed by the Justice Department. We receive no reimbursement for the other illegal aliens. This is an injustice to the taxpayers of Florida and other heavily impacted States.

The Bennett amendment is very simple. It states that, upon conviction, any alien incarcerated in State or local prisons for drug or other offenses would be transferred to a Federal Bureau of Prisons facility, within 30 days of notification by State or local authorities. This action is reasonable and treats the taxpayers of Florida and other impacted State far more equitably than they have been treated in years past. Local and State taxpayers should not continue to bear the burden of the criminal justice consequences of the Mariel boatlift. The Federal Government decided to admit these individuals and the Federal Government should be responsible for maintaining convicted Mariels and illegal aliens in Federal prison facilities. I urge my colleagues to vote yes on the Bennett amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. BENNETT].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BENNETT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 198, noes 206, not voting 27, as follows:

[Roll No. 375]

AYES—198

Akaka	Dreier	Lewis (CA)
Anderson	Durbin	Lewis (FL)
Andrews	Dwyer	Loeffler
Anthony	Dyson	Long
Applegate	Eckart (OH)	Lowery (CA)
Archer	Edwards (OK)	Lowry (WA)
Armey	Emerson	Lujan
Badham	English	Mack
Bartlett	Evans (IL)	MacKay
Barton	Fascell	Manton
Bateman	Fawell	Martin (NY)
Bates	Feighan	McCandless
Bennett	Fiedler	McCloskey
Biaggi	Fields	McCollum
Bilirakis	Fish	McCurdy
Bliley	Florio	McEwen
Boehlert	Foglietta	McGrath
Boggs	Ford (TN)	McKinney
Boland	Fowler	Meyers
Boner (TN)	Frost	Mica
Borski	Fuqua	Mikulski
Boulter	Garcia	Miller (CA)
Boxer	Gaydos	Miller (WA)
Brown (CA)	Gejdenson	Molinari
Brown (CO)	Gekas	Mollohan
Bryant	Gibbons	Moody
Burton (IN)	Gilman	Moore
Bustamante	Gingrich	Morrison (WA)
Callahan	Green	Mrazek
Campbell	Gunderson	Murtha
Carr	Hall, Ralph	Nelson
Chandler	Hatcher	Nichols
Chapman	Hawkins	Nowak
Chappell	Hayes	Oakar
Cheney	Horton	Ortiz
Coelho	Hunter	Owens
Collins	Hutto	Oxley
Combest	Ireland	Packard
Cooper	Johnson	Pashayan
Coughlin	Jones (OK)	Pepper
Courter	Jones (TN)	Pickle
Crane	Kasich	Rahall
Daniel	Kemp	Rangel
Dannemeyer	Kennelly	Ray
Daub	Kleczka	Reid
Davis	Kolbe	Richardson
de la Garza	Kostmayer	Rinaldo
DeLay	LaFalce	Ritter
Dickinson	Lagomarsino	Roberts
DioGuardi	Leath (TX)	Robinson
Dornan (CA)	Lehman (CA)	Roe
Downey	Lehman (FL)	Roemer

Roth	Smith, Robert (OR)	Vucanovich
Roukema	Solarz	Waldon
Rowland (CT)	Solomon	Walgren
Rowland (GA)	Spence	Walker
Russo	Stenholm	Watkins
Sabo	Strang	Weiss
Schaefer	Sweeney	Wheat
Schneider	Swift	Whittaker
Schumer	Swindall	Wilson
Shaw	Tauzin	Wortley
Skeen	Thomas (CA)	Wright
Smith (FL)	Towns	Yatron
Smith (NJ)	Traficant	Young (FL)
Smith, Robert (NH)	Valentine	Zschau

NOES—206

Alexander	Hamilton	Parris
Annunzio	Hammerschmidt	Pease
Aspin	Hansen	Penny
Atkins	Hefner	Perkins
AuCoin	Hendon	Petri
Barnard	Henry	Porter
Barnes	Hertel	Price
Bedell	Hiler	Pursell
Beilenson	Hillis	Quillen
Bentley	Holt	Regula
Bereuter	Hopkins	Ridge
Berman	Howard	Rodino
Bevill	Hoyer	Rogers
Bonior (MI)	Hubbard	Rose
Bonker	Hughes	Rostenkowski
Bosco	Hyde	Roybal
Brooks	Jacobs	Savage
Broomfield	Jeffords	Saxton
Bruce	Jenkins	Scheuer
Byron	Jones (NC)	Schuette
Carper	Kanjorski	Sensenbrenner
Clay	Kaptur	Sharp
Clinger	Kastenmeier	Shelby
Coats	Kildee	Shumway
Cobey	Kindness	Shuster
Coble	Kolter	Sikorski
Coleman (MO)	Kramer	Siljander
Coleman (TX)	Lantos	Sisisky
Conte	Latta	Skelton
Conyers	Leach (IA)	Slattery
Coyne	Leland	Slaughter
Craig	Lent	Smith (IA)
Crockett	Levin (MI)	Smith (NE)
Darden	Levine (CA)	Smith, Denny (OR)
Daschle	Lightfoot	
Dellums	Lipinski	Snowe
Derrick	Livingston	Spratt
DeWine	Lloyd	St Germain
Dicks	Lott	Staggers
Dingell	Luken	Stallings
Dixon	Lundine	Stark
Donnelly	Lungren	Stokes
Dorgan (ND)	Madigan	Studds
Dowdy	Marlenee	Stump
Duncan	Martin (IL)	Sundquist
Dymally	Martinez	Tauke
Early	Matsui	Taylor
Eckert (NY)	Mavroules	Thomas (GA)
Edgar	Mazzoli	Torres
Edwards (CA)	McCain	Torricelli
Erdreich	McHugh	Traxler
Evans (IA)	McKernan	Udall
Fazio	McMillan	Vander Jagt
Flippo	Michel	Vento
Foley	Miller (OH)	Visclosky
Ford (MI)	Mineta	Volkmer
Frank	Mitchell	Waxman
Franklin	Moakley	Weaver
Frenzel	Monson	Weber
Gallo	Montgomery	Whitehurst
Glickman	Moorhead	Whitley
Gonzalez	Morrison (CT)	Wirth
Goodling	Murphy	Wise
Gordon	Myers	Wolf
Gradison	Natcher	Wolpe
Gray (IL)	Neal	Wyden
Gray (PA)	Nielson	Wylie
Guarini	Oberstar	Yates
Hall (OH)	Panetta	Young (MO)

NOT VOTING—27

Ackerman	Hartnett	Seiberling
Boucher	Huckaby	Snyder
Breaux	Markey	Stangeland
Burton (CA)	McDade	Stratton
Carney	Obey	Synar
Chappie	Olin	Tallon
Gephardt	Rudd	Whitten
Gregg	Schroeder	Williams
Grotberg	Schulze	Young (AK)

□ 1950

Mr. PRICE changed his vote from "aye" to "no."

Messrs. GINGRICH, RAHALL, BATES, BADHAM, HORTON, EMERSON, LEHMAN, of California, COELHO, and WHEAT, Mrs. BOXER, and Mr. TOWNS changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. RANGEL. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. WRIGHT] having assumed the chair, Mr. CARR. Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5484) to strengthen Federal efforts to encourage foreign cooperation in eradicating illicit drug crops and in halting international drug traffic, to improve enforcement of Federal drug laws and enhance interdiction of illicit drug shipments, to provide strong Federal leadership in establishing effective drug abuse prevention and education programs, to expand Federal support for drug abuse treatment and rehabilitation efforts, and for other purposes, had come to no resolution thereon.

PERMISSION FOR AMENDMENT NO. 36 TO BE OFFERED BY MR. SMITH OF FLORIDA TO H.R. 5484

Mr. RANGEL. Mr. Speaker, I ask unanimous consent to allow amendment No. 36, scheduled to be offered by the gentleman from New York [Mr. ACKERMAN], as printed in the committee report, to be offered by the gentleman from Florida [Mr. SMITH].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

PERMISSION TO DELETE SECTION 673 FROM AMENDMENT NO. 36 TO H.R. 5484

Mr. SMITH of Florida. Mr. Speaker, I ask unanimous consent that the last section of amendment No. 36, section 673, be deleted from the amendment upon consideration by the body. This has been requested by the gentleman from New York [Mr. ACKERMAN].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. HUGHES. Mr. Speaker, I reserve the right to object, and I will not object.

It is my understanding that the sense-of-the-Congress provisions of this amendment are being dropped, dealing with the Attorney General and FBI and Immigration and Naturalization Service, cooperating and utilizing the existing nationwide computer capability. Is that what the gentleman is proposing?

I yield to the gentleman from Florida.

Mr. SMITH of Florida. Mr. Speaker, that is what we are proposing. The FBI had a problem with the use of the NCIC in certain instances, and we have agreed to work with them, and the gentleman from New York [Mr. ACKERMAN] has requested that this section be dropped.

Mr. HUGHES. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

OMNIBUS DRUG ENFORCEMENT EDUCATION, AND CONTROL ACT OF 1986

The SPEAKER pro tempore. Pursuant to House Resolution 541 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5484.

□ 1956

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5484) to strengthen Federal efforts to encourage foreign cooperation in eradicating illicit drug crops and in halting international drug traffic, to improve enforcement of Federal drug laws and enhance interdiction of illicit drug shipments, to provide strong Federal leadership in establishing effective drug abuse prevention and education programs, to expand Federal support for drug abuse treatment and rehabilitation efforts, and for other purposes, with Mr. CARR in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, consideration of amendment No. 34 had been completed. Amendment No. 35 is in order at this time.

AMENDMENT OFFERED BY MR. MCCOLLUM

Mr. McCOLLUM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MCCOLLUM: Page 224, after line 13, insert the following:

Subtitle H—Miscellaneous Provisions

SEC. 671. DESTRUCTION OF SEIZED CONTROLLED SUBSTANCES.

Section 551(f) of the Controlled Substances Act (21 U.S.C. 881(f)) is amended—

(1) by inserting "(1)" after "(f)",

(2) by inserting "or II" after "schedule I" in each place it appears, and

(3) by inserting at the end thereof the following:

"(2) All controlled substances in schedule I or II that are seized for violation of this title may be destroyed as soon as possible subsequent to seizure after being photographed, weighed, and representatively sampled for evidentiary purposes.".

Mr. McCOLLUM (during the reading). Mr. Chairman, I asked unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. Under the rule, the gentleman from Florida [Mr. MCCOLLUM] will be recognized for 5 minutes and a Member opposed will be recognized for 5 minutes.

The Chairman recognizes the gentleman from Florida [Mr. MCCOLLUM].

Mr. McCOLLUM. Mr. Chairman, what this amendment does, and I believe we can resolve this in a moment with a colloquy with the chairman of my subcommittee; what this amendment does is to clarify that seized controlled substances can be destroyed before trial if the evidence is going forward and all of the parties involved on the prosecution and the court agree to do that.

□ 2000

I think it is a very important thing that the Government have control of that fact. They do not quite now.

All we need to try a case is a small sample of a substance whether it be cocaine, marijuana, heroin, some other drug that we are trying a drug case on. Unfortunately, a lot of people dispute that fact in terms of what the law allows them to destroy and to not destroy. We are seeing stockpiled in our country huge quantities of narcotics that are really quite dangerous to have stored in this large amount in certain locations within the Government. Right now what we are attempting to do in this amendment is to clarify the law to make sure that anything more than the necessary small quantity for use at trial, can go ahead and be destroyed while we are awaiting trial, if they are controlled substances in class I or class II.

The summary forfeiture and expedient destruction of schedule I and schedule II substances authorized by the amendment would substantially alleviate a big problem by DEA. The indefinite storage of these substances in vaults at present is occurring; it constitutes a security risk of a critical portion of these drugs set-aside, and it is an enormous cost to the taxpayers.

We also are clarifying which ones from the schedules are included. I do not think this is controversial. We need the authority.

I would be glad, if the gentleman would seek it, to yield to my distinguished chairman of the Subcommittee on Crime, Mr. HUGHES, so that we can have a colloquy and clarify this amendment.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from New Jersey.

Mr. HUGHES. I thank the gentleman for yielding.

Mr. Chairman, this is a good amendment. We have so much contraband stored it is just unimaginable. It is costing us millions of dollars in security, it is being stolen, pilfered. We do not really have to keep all this contraband in bulk. It varies from vicinage to vicinage, it depends upon local conditions, local attitude with regard to what is kept and what is destroyed. It makes sense to destroy it. The only question I have is I would assume when we talk in terms of representative sample we are talking about a sufficient quantity that we can do a reanalysis, if need be, if there is another trial, for instance, both by the prosecution and the defense, so that we have sufficient quantities of the contraband that would serve as well in the event of a retrial.

Mr. McCOLLUM. The gentleman is absolutely correct, that is the intent of the author of this amendment, and we would not want to do anything less.

Mr. HUGHES. I would urge my colleagues to support the amendment.

Mr. ENGLISH. Mr. Chairman, will the gentleman yield to me?

Mr. McCOLLUM. I would be glad to yield to the gentleman from Oklahoma.

Mr. ENGLISH. I thank the gentleman for yielding.

Mr. Chairman, I want to compliment the gentleman from Florida. I think this is a good amendment. It will save us a great deal in the form of storage, and as the gentleman well knows, this has become a tremendous problem as far as the volume of contraband.

So it definitely is an excellent amendment, and I certainly want to commend him.

Mr. McCOLLUM. I thank the gentleman, and I will retire at this point asking my colleagues to vote for the amendment. I do not think it is a problem, but it is an opportunity to correct a flaw.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Is there a Member opposed to the amendment? If not, all time has expired.

The question is on the amendment offered by the gentleman from Florida [Mr. MCCOLLUM].

The amendment was agreed to.

The CHAIRMAN. Under the rule, amendment No. 36 to be offered by the gentleman from New York [Mr. ACKERMAN] will, by the unanimous-consent agreement previously entered into, be offered by the gentleman from Florida [Mr. SMITH].

AMENDMENT OFFERED BY MR. SMITH OF FLORIDA

Mr. SMITH of Florida. Mr. Chairman, I offer an amendment.

The Clerk read as follow:

Amendment offered by Mr. SMITH of Florida: Page 224, after line 13, insert the following:

Subtitle H—Miscellaneious Provisions

SEC. 671. REQUIRING PROMPT INS RESPONSE TO INQUIRIES OF LOCAL OFFICIALS CONCERNING ILLEGAL ALIENS ARRESTED FOR DRUG-RELATED VIOLATIONS.

Section 287 of the Immigration and Nationality Act (8 U.S.C. 1357) is amended by adding at the end the following new subsection:

"(d) In the case of an alien who is arrested by a Federal, State, or local law enforcement official for a violation of any law relating to controlled substances, if the official (or another official)—

"(1) has reason to believe that the alien may not have been lawfully admitted to the United States or otherwise is not lawfully present in the United States,

"(2) expeditiously informs an appropriate officer or employee of the Service authorized and designated by the Attorney General of the arrest and of facts concerning the status of the alien, and

"(3) requests the Service to determine promptly whether or not to issue a detainer to detain the alien, the officer or employee of the Service shall promptly determine whether or not to issue such a detainer. If such a detainer is issued and the alien is not otherwise detained by Federal, State, or local officials, the Attorney General shall effectively and expeditiously take custody of the alien.".

SEC. 672. PILOT PROGRAM TO IMPROVE INS RESPONSE TIME TO LOCAL LAW ENFORCEMENT OFFICIALS.

(a) IN GENERAL.—From the sums appropriated to carry out this Act, the Attorney General, through the Investigative Division of the Immigration and Naturalization Service, shall provide a pilot program in 4 cities to establish or improve the computer capabilities of the local offices of the Service and of local law enforcement agencies to respond to inquiries concerning aliens who have been arrested or convicted for, or are the subject to criminal investigation relating to, a violation of any law relating to controlled substances. The Attorney General shall select cities in a manner that provides special consideration for cities located near the land borders of the United States and for large cities which have major concentrations of aliens. Some of the sums made available under the pilot program shall be used to increase the personnel level of the Investigative Division.

(b) EVALUATION.—At the end of the first year of the pilot program, the Attorney General shall provide for an evaluation of the effectiveness of the program and shall report to Congress on such evaluation and on whether the pilot program should be extended or expanded.

Mr. SMITH of Florida (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. SMITH of Florida. Mr. Chairman, let me just say that the gentleman from New York [Mr. ACKERMAN] is not here to offer his own amendment because of a family matter which necessitated his return to his home district.

Please allow me to read into the RECORD the statement of the author of the amendment.

Mr. Chairman, I rise today to introduce an amendment to the omnibus drug bill which will further close the gap in our Nation's defenses against narcotics.

I was a teacher before being given the privilege to serve in the United States Congress. I have seen the effects narcotics have on young minds and the waste of future potential at the hands of pushers.

Often, those dealing drugs have entered this country illegally and show absolutely no fear of United States law. This is because those agencies charged with handling this particular problem are presently incapable of meeting the challenge.

My amendment will help to alleviate this problem. It serves to enhance the performance of the Immigration and Naturalization Service's Investigative Branch in its battle against illegal aliens who use our streets to peddle death.

It addresses local law enforcement complaints concerning the INS' inability to issue a judgement on a suspect's citizenship status fast enough to allow the authorities to continue to detain him.

In a one month period in New York City, 724 cases involving crimes of varying degree were referred to the INS's District Office for status verification. After 8 weeks, 286 of these were dismissed by the District Office as not being serious enough to bother with and 325 were still awaiting initial action.

Obviously, the suspect cannot be held indefinitely, pending the issuance of an INS detainer. Quite often, an individual who is eventually found to have entered the United States illegally has already been set free. But you can rest assured that he will be back in business somewhere else and ruining somebody else's future.

My amendment requires the INS to respond quickly to an inquiry by a local law enforcement agency and make a determination as to the status of the suspect. If the individual is determined to be an illegal alien the INS must take the necessary actions to detain the suspect and process the case.

I, with the assistance of the distinguished Majority Leader, propose a pilot program to establish or improve the computer capabilities of the local INS offices and the local law enforcement agencies. According to the General Accounting Office, such a program would immediately reduce by 30 percent those suspects prematurely released for lack of identification.

The program will run in four municipalities, chosen by the Attorney General with special consideration for larger cities with large immigrant populations and those cities which are located near or on national borders. At the end of a one year period, the Attorney General shall report to Congress on the effectiveness of the program.

The effort underway is tantamount to a life or death struggle for the health of our Nation. All of the provisions in the Omnibus legislation address a crucial area in this battle. My amendment ensures that fewer of the guilty persons slip through the cracks in the system. I urge the acceptance of this amendment and commend all of my colleagues who have chosen to take a leading role in this campaign.

Mr. Chairman, I rise in support of the amendment being offered by the gentleman from New York [Mr. ACKERMAN].

I had drafted a similar amendment that seeks to accomplish the same thing: Ensuring that aliens convicted of drug crimes are deported as expeditiously as possible.

I want to remind the committee of action that Congress took just 1 year ago. Under section 132 of the State Department authorization, the National Drug Enforcement Policy Board was to agree on uniform guidelines that would permit the sharing of information on foreign drug traffickers to ensure that they are not permitted to legally enter the United States. The State Department was to share with DEA and Customs information on all drug arrests of foreign nationals in the United States so that information may be communicated to our embassies that issue visas.

Under the law, the Foreign Affairs Committee should have received 7 months ago a report on steps taken to implement that section. As chairman of the Foreign Affairs Committee's Task Force on International Narcotics Control, I still am waiting for this report.

The lack of internal communication within the Justice Department and the lack of coordination by the Drug Enforcement Policy Board disturb me greatly. How can we expect a coordinated policy when the Department of Justice itself is so disorganized?

I use this opportunity to remind the appropriate departments and agencies of their obligation under the law. We should already have had in place an information sharing program on alien drug traffickers. The footdragging must stop.

I urge the adoption of the Ackerman amendment.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Florida. I am happy to yield to the gentleman from New Jersey.

Mr. HUGHES. I thank the gentleman for yielding.

I want to congratulate the gentleman. It is a good amendment. If you wonder about the tie-in between illegal aliens and drug trafficking what that tie-in is, take a look at the report of the INS to the Senate Appropriations Committee. A survey of southern California law enforcement agencies reports that 50 to 80 percent of those arrested for selling crack are believed to be illegal aliens.

So obviously there is a very definite tie-in.

This is a good amendment, and I urge my colleagues to support it.

Mr. SMITH of Florida. Mr. Chairman, reclaiming the balance of my time, let me just say this: we have so many severe problems in this country that it is very difficult to do something about. This one is a problem that we can do something about. With the sophisticated computer technology that we have today, it is an absolute crime that we cannot get information on suspected drug dealers who are illegal aliens from the INS. We are waiting at the Foreign Affairs Committee for 7 months for a report that was mandated to be filed by the INS on the upgrading of this equipment. This is a very good amendment. I commend Mr. ACKERMAN. I joined him before in offering it; I join him now in offering it, and I urge my colleagues to support this amendment.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Florida. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. I thank the gentleman for yielding. I appreciate what the gentleman said. I certainly have no philosophic problem with what the gentleman offers, but I would just ask the gentleman a question.

The CHAIRMAN. The time of the gentleman from Florida [Mr. SMITH] has expired.

Is there any Member who opposes the amendment?

Mr. LUNGREN. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from California [Mr. LUNGREN] is recognized for 5 minutes in opposition to the amendment.

Mr. LUNGREN. Mr. Chairman, I am happy to yield to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. I appreciate my friend from California taking the time. Because I think it is important to at least talk about this amendment. Whether we have a vote on it is conjectural. But I would just, using my friend's time, direct a question to my friend from Florida.

I think it is well and good to suggest that the INS is taking time, too much time in responding to the inquiries of State and local law enforcement officials, and as you say from your vantage point on the Foreign Affairs Committee, taking too much time to produce a report.

But the reason they are taking too much time is they do not have the people, they do not have the money, they do not have the resources.

So I may respectfully ask, how does the Ackerman amendment, which imposes additional responsibilities on the INS, deal with their lack of resources? Therefore, does it give them resources to deal with the problem?

Mr. SMITH of Florida. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I yield to the gentleman from Florida.

Mr. SMITH of Florida. I thank the gentleman for yielding.

Mr. Chairman, the chairman of the Subcommittee on Immigration, on which I have the pleasure to serve, and I have great admiration for him, he is well aware of the answer. We have not put in the additional resources. This only creates a pilot program to see if within the current confines of their budgetary limitations and with the personnel they have on hand they can create a system. If that system is viable, I know the chairman, joined by me and many others, will be there to once again do what this administration has frankly not been really willing to do, and that is put significant resources into the INS to do the job. I urge my colleagues to remember that if this pilot program works, that is what we intend to do.

Mr. MAZZOLI. Would my friend from California yield?

Mr. LUNGREN. I would yield again to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. I appreciate what my friend says about the pilot program. I think the Ackerman amendment has another section which requires the INS to take into immediate custody all aliens who are here illegally, unless those State or local law enforcement officials have a detainer on that illegal alien. I think the GAO report, which I have had a chance to glance at, dealing with the city of New York suggests that under the current situation the INS does not have the people to allow them to make these immediate investigations of the bona fides of the individuals. Yet the Ackerman amendment demands that that be done. I wondered how that is going to be handled, and where the resources will come from.

Mr. LUNGREN. Let me reclaim my time just to say that I do oppose the amendment. I am not going to call for a vote on it. The gentleman from Florida [Mr. SMITH] came over and asked if I would not object to the unanimous consent request to offer the amendment because of the circumstances of the author. I acceded to that demand although I must say I do have some problems with it for the very same reasons established by the chairman of our subcommittee, the gentleman from Kentucky.

I think we would all like this to be done. But the language in here is mandatory. It gives no discretion to the Attorney General or to the Commissioner of the INS. It does not say "if you have the resources, do it." It says, "It shall be done," which suggests to me that with the limited resources they have now they are going to have to take them from somewhere else.

I will tell you in my own area of Los Angeles for the present time those of us who are Members of Congress making an inquiry of the INS of the Los Angeles office get to call them once every 62 days. On the 62d day they will answer my inquiries. Any other time a constituent says to me, "Can you help me with a problem?" I have to say, "Yes, wait until my 62d day and I can inquire." That is just one manifestation of the fact they do not have enough personnel.

I would like to say that this administration has put more increased resources into the INS than any previous administration but in spite of that we still do not have enough. It is a worthy goal. I do not think it is totally practical, but I do not think this is the place to fight it out. We will probably work it out in conference.

Mr. SMITH of Florida. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I would be happy to yield to the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. I thank the gentleman for yielding.

Mr. Chairman, I understand the gentleman's concerns about that.

Let me point out two things: one, the INS investigations division has been slashed from 970 positions in 1976 down to only 690 positions this year.

The alien problem, especially as it relates to drug smuggling, deserves a much higher priority than it has.

Mr. LUNGREN. Reclaiming my time——

Mr. SMITH of Florida. If the gentleman would just allow me to finish——

Mr. LUNGREN. Let me say in response that the administration did take into account some of the Grace Commission recommendations to take some of the administrative positions out.

□ 2015

In addition, we added approximately 850 new personnel, and by eliminating about 150 of the administrative side, a total of 1,000 new personnel, all most all in border patrol. I understand that we need more in the INS.

Mr. SMITH of Florida. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I yield to the gentleman from Florida.

Mr. SMITH of Florida. Mr. Chairman, the gentleman is well aware that the Congress has been fully supportive of the effort to put more into the INS, because we know that that will help us clear some of these problems.

We are asking now that we start a program. The mere fact that we do not have all of the resources that we need should not prevent us from starting down the road to cure a problem that we know exists.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. SMITH].

The amendment was agreed to.

The CHAIRMAN. Under the rule, amendment No. 37 is in order.

AMENDMENT OFFERED BY MR. DAUB

Mr. DAUB. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DAUB: Page 224, after line 19, insert the following:

SEC. 702. LIMITATION ON REISSUANCE OF AIRMAN CERTIFICATE.

(a) IN GENERAL.—Paragraph (2) of section 602(b) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1422(b)(2)) is amended by striking subparagraphs (A) and (B) and inserting the following:

"(A) Except as provided in subparagraph (B), the Administrator shall not issue an airman certificate to any person whose airman certificate has been revoked under subsection (c) of section 609 of this title.".

(b) CONFORMING AMENDMENT.—Subparagraph (C) of section 602(b) of the Federal Aviation Act of 1958 is redesignated as subparagraph (B).

Page 224, line 20, strike out "702" and insert in lieu thereof "703".

Page 226, line 9, strike out "703" and insert in lieu thereof "704".

Page 230, line 1, strike out "704" and insert in lieu thereof "705".

Mr. DAUB (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

The CHAIRMAN. Under the rule, the gentleman from Nebraska [Mr. DAUB] will be recognized for 5 minutes.

Mr. DAUB. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I will not take all of the time, but I do want to bring to the attention of my colleagues this amendment in very clear form.

What the pilots do who have a license to fly in the United States, if they are involved in the trafficking into this country any of the drugs that we have talked a long time about yesterday and today, is, in my judgment, flying death not to a corn field or a wheat field somewhere, not to an aviation airstrip somewhere, but these pilots are flying death into the school yards of America. And if they get caught, they might get their license suspended for 1 year to 5 years. And if they are put into prison and rehabilitated citizens and they get out, they can get that license to fly in America back again.

I think, particularly considering the fact that we are now going to employ the Army on our borders, use evidence obtained without a warrant in a court of law, imprison for life those over 21 who have been convicted for a second time of selling drugs to children or near a school, and consider the death penalty, that this is one other additional step, certainly not nearly as drastic one might argue as putting

that pilot in jail for life, that we could do to improve this bill.

It certainly conforms with the procedural standards that are now contained within Public Law 98-499 that was reported well and is in the law now, as amended in 1984 by the Public works and Transportation Committee.

I would hope that my colleagues would agree to this amendment. I think it improves the bill, and I ask for a supportive vote by my colleagues.

Mr. ENGLISH. Mr. Chairman, will the gentleman yield?

Mr. DAUB. I yield to the gentleman from Oklahoma.

Mr. ENGLISH. Mr. Chairman, I would like to commend the gentleman for his amendment.

I remember 4 or 5 years ago one of the first visits I made to an air support branch of the Customs Service. They made the point to me that is one thing to take away the airplane; it is something else if we can finally take away the license.

I think there is no question that any person who uses that license to go out and fly loads of drugs into this Nation, I think he deserves to have his license jerked and jerked permanently.

I think the bottom line comes down to the fact that there is a lot of temptation out there. I remember a few years ago, and I suppose it is probably even more today, that the price that a pilot could get flying a load from Colombia into south Florida was around $150,000. And for someone who may be an out-of-work airline pilot or something of that sort, he may be tempted by that. If he knows that he is risking the loss of that license entirely, I think he will think long and hard before he runs that risk. So I commend the gentleman.

Mr. DAUB. Mr. Chairman, I want to thank the gentleman from Oklahoma. [Mr. ENGLISH]. I know of no one who has labored harder on this subject in his subcommittee for over 5 years now to elevate the body's awareness and to bring these matters to our attention. I thank the gentleman for his support.

Mr. Chairman, I reserve the balance of my time.

Mr. MINETA. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. Under the rule, the gentleman from California [Mr. MINETA] is recognized for 5 minutes.

Mr. MINETA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman I rise in oppositon to the amendment offered by my distinguished colleague from Nebraska. I admit that I rise opposed somewhat reluctantly because generally I support efforts to increase the penalties for drug smuggling. But in this particular area of aviation law, as the gentleman who chairs the Aviation Subcommittee I believe the effort to increase penalties could very well be counterproductive in the war on drugs.

The amendment would require that if a person were convicted of an aviation drug smuggling offense, that person would be permanently banned for holding an airman's certificate. Present law bans the issuance of an airman's certificate for up to 5 years if a person is convicted of a drug smuggling offense. This penalty was established by the Congress in the Aviation Drug Smuggling Act just 2 years ago. At that time, we considered whether a lifetime ban was preferable, and we decided it was not.

The principle program with the amendment is that it would remove important prosecutorial and administrative discretion. When law enforcement authorities have caught a pilot involved in drug smuggling, a mandatory lifetime revocation of that pilot's license would greatly reduce the flexibility of the authorities to induce the pilot to present evidence against other, more important drug smugglers. So with this amendment we may be foregoing significant opportunities to catch the bigger fish.

Under present law, the FAA Administrator is explicitly authorized to reduce the penalty of revocation if he or she deems it in the public interest. This amendment would remove that authority and require that the full penalty be imposed even when it was counter to the public interest and the fight against drug smuggling.

I am also opposed to the amendment because it belies the concept of possible rehabilitation of a drug violator by making an important penalty a lifetime penalty. I believe we need to be tough on pilots involved in smuggling. But if we take away a pilot's license for life, we should be clear that we are not taking away his or her unique skills, and a pilot would continue to possess these skills after a jail term. But that pilot, without a pilot's license, could only use his or her skills in an illegitimate or illegal manner. So with the amendment we would be foreclosing the opportunity of someone to use his or her skills ever again in a legitimate way providing a strong incentive to continue in illegal drug smuggling after they are back out on the street. Again, with this amendment we would only take away their license, not their skills. They could continue to use these skills without a license, meaning they could only be used in an illegitimate or illegal manner.

Again, I support strong drug penalties, but we need to be careful that in this effort, we do not actually make the situation worse or take away important law enforcement tools.

I urge my colleagues to vote no on this amendment.

Mr. MINETA. Mr. Chairman, I reserve the balance of my time.

Mr. DAUB. Mr. Chairman, I yield 1 minute to the distinguished gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Chairman, I rise in support of this amendment.

I realize that the penalty appears to be harsh, but I cannot think of any traffickers who are more difficult to apprehend than the aviators. Certainly most of the contraband, the drugs, coming into the United States is coming by air.

It just seems to me that if airmen want to resist the temptation of the millions of dollars that are out there, we have to find something of value that he or she would treasure, and I cannot think of anything more than their certificate to fly.

It seems to me that if we are looking for cooperation once arrested, that these people besides having a revocation of license, should be facing a substantial jail term. This incentive not to go to jail should be enough for them to cooperate in terms, as the chairman of the subcommittee said, getting bigger fish. But I cannot think of anything that is too harsh for those people who violate the privilege of flying and are bringing drugs knowingly into the United States.

□ 2025

Mr. DAUB. Mr. Chairman, I yield myself the remainder of my time.

I thank my good friend for his supportive remarks.

I want to assure my good friend and person with whom I served on the Public Works and Transportation Committee, and I know of his diligent work on this particular section of the law, that the prosecutor still has the discretion and the FAA Administrator still has the discretion to use the pilot, if they seek to get him to confess and help them to get the names of those higher up in a trafficking scheme, still has the discretion not to bring suit and/or not to prosecute.

The other side of it, precedurally, is that in fact the license is not actually taken away for a lifetime until a conviction does occur. So I think there is plenty of room to protect the gentleman's concerns. I do understand them and appreciate them being raised and made a part of the record.

With that, Mr. Chairman, I want to urge my colleagues to adopt this amendment. I think it is an important and appropriate step.

Mr. Chairman, I yield back the balance of my time.

Mr. MINETA. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Nebraska [Mr. DAUB].

The amendment was agreed to.

The CHAIRMAN. Under the rule, the next amendment in order is amendment No. 38.

AMENDMENT OFFERED BY MR. CHANDLER

Mr. CHANDLER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CHANDLER:

Page 231, line 14, insert "and" after the semicolon.

Page 231, line 16, strike out the semicolon and insert in lieu thereof a period.

Page 231, strike out lines 17 through 24.

Page 233, line 23, insert "and" after the semicolon.

Page 233, line 25, strike out "; and" and insert in lieu thereof a period.

Page 234, strike out lines 1 through 2.

Page 245, strike out line 24 and all that follows through page 248, line 4 (and redesignate the succeeding section accordingly).

Mr. CHANDLER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD, and I also ask unanimous consent that the record show that this amendment is being offered by myself and the gentleman from Minnesota [Mr. PENNY].

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. CHANDLER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment is to title VIII of the education section of the bill. I want to say from the outset this is not a cut in funding. It is not a cut whatsoever. What the bill does is it mandates that 10 percent of the funds that are allocated for education, 10 percent of those funds would be devoted to grants for higher education institutions. This amendment strikes that requirement. That is all that it does. It simply says that the Secretary of Education does not have to devote 10 percent of whatever funds are appropriated eventually to higher education.

I want to emphasize that we are dealing here with very limited funds. Three hundred and fifty million dollars are authorized. I think that it is very likely it will be less than that that is appropriated. We ought to target those resources where it will do the most good.

When I was home for the recess, I conducted a meeting with law enforcement officers, educators, people who are experts in treatment and the overwhelming response that they gave me to where would we be wisest to devote our resources, the limited resources that will be made available in this bill was to the young. In fact, they said, "If you are dealing with junior and high school, let alone college, you are probably too late."

The spirit of this amendment is to address that problem and to say let us take those precious resources that we do have and spend them where they will do the most good.

Mr. Chairman, the amendment the gentleman from Minnesota and I are offering to title VIII, the education title to H.R. 5484, would delete from the bill the requirement that the Secretary of Education award to institutions of higher education 10 percent of the funds available each year.

It is my view that the funds authorized under this title should be reserved for drug education and prevention efforts at the elementary and secondary level. The U.S. Department of Education, researchers, and school officials are indicating that attitudes toward drugs are being developed at an increasingly early age. Initial experiences with drugs, such as marijuana, are also taking place at a very early age.

A 1983 Weekly Reader survey showed that 25 percent of fourth graders reported pressure to try alcohol and marijuana and 50 percent of seventh graders reported pressure to try marijuana. Further the Education Department indicates that between 1984 and 1985 61 percent of high school seniors have at least tried an illicit drug, with cocaine reportedly used at least once in the last year by 13 percent of 1985 seniors. The percent of seniors reporting that they used cocaine in the last year more than doubled between 1975 and 1985.

I refer to these statistics for the purpose of focusing the attention of this body on the need to be judicious in the expenditure of funds under title VIII of this legislation. I believe we should target the drug education and prevention moneys where they can be most effective—that is with the younger students. It is at this level where a truly lasting impact can be made on our youngsters—while they are still developing habits and attitudes toward all aspects of life.

This, of course, does not prevent postsecondary institutions from establishing their own policies and controls to establish and maintain an antidrug learning environment. Many already have such policies and controls. Others are in the process of developing them.

Finally, I do not believe that setting aside 10 percent of the available education funds would be likely to have an impact upon college and university students. A stricter enforcement of existing policies at the postsecondary level could, however, have a major impact. Students at this level are much more likely to understand the consequences of their actions than those in the elementary and secondary schools.

Again, this amendment is designed to better target the funds available in the education title to this bill. Let's do a thorough job of educating our children about drugs at an early age—when it can make a difference. This amendment would not reduce authorization levels, but would simply eliminate the 10 percent requirement for postsecondary schools.

I urge the adoption of this bipartisan amendment.

Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. I thank the gentleman for yielding me this time.

Mr. Chairman, I rise today to encourage my colleagues to support the Chandler-Penny amendment.

The amendment addresses the crucial need to direct drug education programs where they can do the most good: among our younger students. It accomplishes this by omitting from the bill the requirement that 10 percent of the funds for education programs be awarded to postsecondary schools.

Mr. Chairman, during the Education and Labor Committee's consideration of the bill, several members—myself included—raised the concern that the proper focus of education efforts to stem our drug problem is among younger students not college and university students.

Study after study shows that drug use is increasingly a problem in the primary school grades. A recent Department of Education study indicates that between 1984 and 1985 61 percent of high school seniors have at least tried an illicit drug, with cocaine reportedly used at least once by 13 percent of 1985 seniors. The percent of seniors reporting that they used cocaine more than doubled between 1975 and 1985. It is even more disturbing to me that a 1983 Weekly Reader study found that 25 percent of fourth graders have used or have felt peer pressure to try marijuana.

I refer to these statistics for the purpose of focusing the attention of the House on the need to use those funds provided for in the bill in an effective manner. We should target drug education and prevention funding where prevention has its best chance—that is with the younger students. It is at the elementary and secondary school level where a truly lasting impact can be made in our effort to get our children to say no to drugs.

Mr. Chairman, I do not believe that setting aside 10 percent of the education funds in this bill would have an impact on college and university students. First of all, it will not reach that many college campuses. Ten percent of the money set aside here amounts to a very small allocation, that will then be put out on a grant basis to campuses that do some good grant writing. But it will not reach very many many campuses across the country and it means that the vast majority of our campuses in America will not get access to these few dollars anyhow.

In addition, we have already encouraged in a variety of ways our colleges and our universities to more strictly enforce antidrug policies, and there is some evidence that those policies are now working. In fact, this afternoon, in the Higher Education Conference Committee, we approved language that will make it a requirement for campuses to certify that they have

drug education and prevention programs in place in order for them to continue to participate in student financial aid programs. Moreover, college and university students are much more likely to understand the consequences of their actions than those in the elementary and secondary schools.

The Chandler-Penny amendment will not—let me emphasize, Mr. Chairman, will not—prevent any postsecondary institution from developing their own policies and controls to maintain an antidrug learning environment. Many already have such policies and controls. Other schools are in the process of developing them.

Furthermore, Mr. Chairman, I remind my colleagues that preservice and inservice training of teachers and others in drug abuse education is an authorized activity at the State and local levels under the State grant program created in the bill. Nothing in this amendment will affect those funds.

Members, this amendment is only designed to better target the limited drug abuse prevention funds in the bill. Let's insure that at an early age our young children are educated on the horrors of drugs—when it can make a difference.

Mr. Chairman, I urge adoption of the Chandler-Penny amendment.

Mr. HAWKINS. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. Under the rule, the gentleman from California [Mr. HAWKINS] is recognized for 5 minutes.

Mr. HAWKINS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I think the membership should know precisely what this amendment does. The Chandler-Penny amendment eliminates the allocation of funds to institutions of higher education to provide preservice and inservice teacher instruction, instruction for law enforcement officials, instruction to community leaders, parents, and Government officials.

This is a clear instance of ignoring the need for this kind of expertise and Mr. CHANDLER'S amendment would exclude this use of funds under the bill. It is simply not enough to rely on athletes and entertainment personalities to influence our youth.

They also need effective teaching which demonstrates that drugs are harmful.

□ 2035

The Chandler amendment would also eliminate funds for programs for drug abuse education for college students. While many students are exposed to drugs before college, others are introduced to them in college. These college students, like elementary and high school students, deserve attention in this particular proposal.

Title VIII in this bill, as reported out of the Committee on Education and Labor, is supported by the American Council on Education, the American Association of Community and Junior Colleges, the American Association of State Colleges and Universities, the Association of American Universities, the Association of Catholic Colleges and Universities, the Association of Jesuit Colleges and Universities, the Association of Urban Universities, the Council of Independent Colleges, the National Association for Equal Opportunity in Higher Education, the National Association of Schools and Colleges of the United Methodist Church, and the National Association of State Universities.

Now, it seems to me, Mr. Chairman, that if this is a declaration of war, there should be no reason why we should exempt institutions of higher education from the mobilization.

I think it is widely supported. It was included in the proposal out of the committee by a strong vote of that committee on behalf of these institutions.

Mr. Chairman, I urge defeat of the Chandler amendment.

Mr. Chairman, I yield the balance of my time to the gentleman from Michigan [Mr. FORD].

Mr. FORD of Michigan. Mr. Chairman, I rise in strong opposition to this amendment. I think it is ill-conceived and I am a little disappointed in the Members who offered it, because it is totally inconsistent with my experience with them to date. I really feel that if we had an opportunity to discuss it before they introduced it, we might well have prevailed upon them.

I should call the attention of the House to the fact that just this afternoon in the conference between the House and the Senate and the reauthorization of all the higher education programs, we accepted an amendment by the gentleman from Missouri [Mr. COLEMAN] which requires that every college or university or institution receiving any aid under higher education in its agreement with the Department of Education, that as a condition precedent to students at that campus receiving any aid or the college itself receiving any aid, they will represent to the Department that they have in place on that campus a campuswide comprehensive drug prevention program.

Now here we are just a few hours later on the floor of the House saying we are putting in the higher education bill a requirement that you will have on every campus in this country a drug program, but we do not think that the college campus is the proper place to attack the drug problem when it gets to be 9 o'clock in the evening.

Now, that is totally inconsistent. The vote on the House side today in that conference was virtually unanimous for the amendment of the gentleman from Missouri [Mr. COLEMAN]. The Senate accepted it by unanimous action. It will be in the law and we will be telling every college in the country, even those who do not believe that they presently a drug problem, that they have got to become engaged in drug education, that that is a condition for their continued eligibility for Federal aid.

Then this evening we have the proponents of this amendment saying the college campus is the wrong place to be teaching about drugs. How do you teach drug education teachers who are going to go into the schools that they are talking about here? Where are they taught? They are not taught in the elementary and secondary schools. They are taught on the college campus.

How do you teach law enforcement people to conduct courses in drug use prevention? You take them to workshops on college campuses.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Washington [Mr. CHANDLER].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. FORD of Michigan. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 170, noes 231, not voting 30, as follows:

[Roll No. 376]

AYES—170

Applegate	Emerson	Loeffler
Archer	Fawell	Lott
Armey	Fazio	Lowery (CA)
Badham	Feighan	Lujan
Bartlett	Fields	Lungren
Bateman	Fish	Mack
Beilenson	Ford (TN)	MacKay
Bereuter	Fowler	Marlenee
Bilirakis	Frank	Martin (IL)
Bliley	Franklin	Martin (NY)
Boulter	Frenzel	McCain
Boxer	Gekas	McCandless
Broomfield	Gingrich	McCollum
Brown (CO)	Green	McEwen
Burton (IN)	Gregg	McKernan
Bustamante	Hall (OH)	Mica
Byron	Hall, Ralph	Miller (CA)
Callahan	Hammerschmidt	Miller (WA)
Campbell	Hansen	Molinari
Carper	Hendon	Moore
Chandler	Hiler	Moorhead
Coats	Hillis	Morrison (CT)
Cobey	Holt	Morrison (WA)
Coble	Hopkins	Mrazek
Combest	Hubbard	Nelson
Crane	Hunter	Nielson
Daniel	Hyde	Oxley
Dannemeyer	Ireland	Packard
de la Garza	Kasich	Parris
DeLay	Kolbe	Pashayan
DeWine	Kramer	Pease
Dickinson	Lagomarsino	Penny
DioGuardi	Lantos	Petri
Dornan (CA)	Leach (IA)	Quillen
Dreier	Lent	Richardson
Duncan	Lewis (CA)	Ridge
Early	Lewis (FL)	Ritter
Eckart (OH)	Lightfoot	Roberts
Edwards (OK)	Livingston	Robinson

Rodino	Slaughter	Taylor
Roemer	Smith, Denny (OR)	Thomas (CA)
Rogers	Smith, Robert (NH)	Torricelli
Rostenkowski	Smith, Robert (OR)	Traxler
Roth	Snowe	Vander Jagt
Rowland (CT)	Spence	Vucanovich
Russo	Stallings	Walker
Schaefer	Stangeland	Whitehurst
Schneider	Stenholm	Whittaker
Schumer	Strang	Wise
Sensenbrenner	Stump	Wolf
Shaw	Sundquist	Wortley
Shumway	Sweeney	Wylie
Shuster	Swindall	Yatron
Sikorski	Tauke	Young (FL)
Siljander	Tauzin	Zschau
Skeen		
Skelton		
Slattery		

NOES—231

Akaka	Florio	Mikulski
Alexander	Foglietta	Miller (OH)
Anderson	Foley	Mineta
Andrews	Ford (MI)	Mitchell
Annunzio	Gallo	Moakley
Anthony	Garcia	Mollohan
Aspin	Gaydos	Monson
Atkins	Gejdenson	Montgomery
AuCoin	Gibbons	Moody
Barnard	Gilman	Murphy
Barnes	Glickman	Murtha
Barton	Gonzalez	Myers
Bates	Goodling	Natcher
Bedell	Gordon	Neal
Bennett	Gradison	Nichols
Bentley	Gray (IL)	Nowak
Berman	Guarini	Oakar
Bevill	Gunderson	Oberstar
Biaggi	Hamilton	Ortiz
Boehlert	Hatcher	Owens
Boggs	Hawkins	Panetta
Boland	Hayes	Pepper
Boner (TN)	Hefner	Perkins
Bonior (MI)	Henry	Pickle
Borski	Hertel	Porter
Bosco	Horton	Price
Brooks	Howard	Pursell
Brown (CA)	Hoyer	Rahall
Bruce	Hughes	Rangel
Bryant	Hutto	Ray
Carr	Jacobs	Regula
Chapman	Jeffords	Reid
Chappell	Jenkins	Rinaldo
Clay	Johnson	Roe
Clinger	Jones (NC)	Rose
Coelho	Jones (OK)	Roukema
Coleman (MO)	Jones (TN)	Rowland (GA)
Coleman (TX)	Kanjorski	Sabo
Collins	Kaptur	Savage
Conte	Kastenmeier	Saxton
Conyers	Kemp	Scheuer
Cooper	Kennelly	Schuette
Coughlin	Kildee	Schulze
Courter	Kindness	Seiberling
Coyne	Kleczka	Sharp
Craig	Kolter	Shelby
Crockett	Kostmayer	Sisisky
Darden	LaFalce	Smith (FL)
Daschle	Latta	Smith (IA)
Daub	Leath (TX)	Smith (NE)
Davis	Lehman (CA)	Smith (NJ)
Dellums	Leland	Solarz
Derrick	Levin (MI)	Solomon
Dicks	Levine (CA)	Spratt
Dingell	Lipinski	St Germain
Dixon	Lloyd	Staggers
Donnelly	Long	Stokes
Dorgan (ND)	Lowry (WA)	Studds
Dowdy	Luken	Swift
Downey	Lundine	Thomas (GA)
Durbin	Madigan	Torres
Dwyer	Manton	Towns
Dymally	Martinez	Traficant
Dyson	Matsui	Udall
Eckert (NY)	Mavroules	Valentine
Edgar	Mazzoli	Vento
Edwards (CA)	McCloskey	Visclosky
English	McCurdy	Volkmer
Erdreich	McGrath	Waldon
Evans (IA)	McHugh	Walgren
Evans (IL)	McKinney	Waxman
Fascell	McMillan	Weaver
Fiedler	Meyers	Weiss
Flippo	Michel	Wheat
Whitley	Wirth	Wyden
Williams	Wolpe	Yates
Wilson	Wright	Young (MO)

NOT VOTING—30

Ackerman	Gephardt	Roybal
Bonker	Gray (PA)	Rudd
Boucher	Grotberg	Schroeder
Breaux	Hartnett	Snyder
Burton (CA)	Huckaby	Stark
Carney	Lehman (FL)	Stratton
Chappie	Markey	Synar
Cheney	McDade	Tallon
Frost	Obey	Whitten
Fuqua	Olin	Young (AK)

□ 2050

Messrs. REID, NEAL, HUGHES, KINDNESS, and GUNDERSON changed their votes from "aye" to "no."

Messrs. McEWEN, RICHARDSON, RUSSO, and ROSTENKOWSKI changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

□ 2100

AMENDMENT OFFERED BY MR. COLEMAN OF MISSOURI

Mr. COLEMAN of Missouri. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. COLEMAN of Missouri. Page 233, after line 7, insert the following new sectioon (and redesignate the subsequent sections accordingly):

SEC. 804. ESTABLISHMENT OF NATIONAL TRUST FOR DRUG-FREE YOUTH.

(a) ESTABLISHMENT.—In order to encourage private gifts of real and personal property to assist the Secretary in carrying out the national programs of drug abuse research, education, and prevention under section 831 and the activities of the Advisory Council under section 803, there is hereby established a charitable, nonprofit, and nonpartisan corporation to be known as the National Trust for Drug Free Youth.

(b) BOARD OF DIRECTORS.—The National Trust for Drug-Free Youth shall be under the general direction of a Board of Directors. The overall priorities, policies, and goals of the National Trust shall be determined by the Board in consultation with the Secretary. The Board shall coordinate the activities of the National Trust for Drug-Free Youth with the Secretary. The Board shall be composed of three members appointed as follows:

(1) one member shall be appointed by the President;

(2) one member shall be appointed by the Speaker of the House of Representatives; and

(3) one member shall be appointed by the Majority Leader of the Senate.

(c) PRINCIPAL OFFICE.—The National Trust shall have its principal office in the District of Columbia and for the purposes of venue in civil actions shall be considered an inhabitant and resident of the District.

(d) GENERAL POWERS.—The National Trust shall have the following general powers:

(1) to have succession until dissolved by Act of Congress, in which event title to the properties of the National Trust, both real and personal shall, insofar as consistent with existing contractual obligations and subject to all other legally enforceable claims or demands by or against the National Trust, pass to and become vested in the United States of America;

(2) to adopt, alter, and use a corporate seal which shall be judicially noticed;

(3) to sue and be sued, complain and defend in any court of competent jurisdiction;

(4) to adopt and establish such bylaws, rules, and regulations, not inconsistent with the laws of the United States or any State, as the Board considers necessary for the administration of its functions, including among other matter, bylaws, rules, and regulations governing administration of corporate funds;

(5) to accept, hold, and administer gifts and bequests of money, securities, or other personal property of whatsoever character, absolutely or on trust, for the purposes for which the National Trust is created;

(6) to sell, exchange, or otherwise dispose of as it may determine from time to time the moneys, securities, or other gifts given or bequeathed to it;

(7) to appoint and prescribe the duties of such officers, agents, and employees as may be necessary to carry out its functions, and to fix and pay such compensation to them for their services as the National Trust is created; and

(8) to audit the financial records of the corporation.

(e) LIMITATIONS.—The National Trust shall not have authority—

(1) to issue shares or stock or declare or pay dividends; or

(2) to loan funds to its officers or directors.

(f) REPORTS.—The Board shall submit an annual report and independent audit to the Congress and the President concerning the expenditure of funds under the National Trust.

Mr. COLEMAN of Missouri (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The CHAIRMAN. Under the rule, the gentleman from Missouri [Mr. COLEMAN] is recognized for 5 minutes.

Mr. COLEMAN of Missouri. Mr. Chairman, I yield myself such time as I may consume.

This amendment creates a national trust for drug-free youth which will serve as a catalyst and a vehicle for people to contribute their individual funds, as well as corporate funds, to a fund which will help defray the expenses of the educational drug prevention section of this bill.

It is a nonprofit corporation, a nonpartisan corporation created now by Congress which will be created by three people. The President will appoint one member, the Speaker of the House will appoint another member, and the majortiy leader of the other body will appoint a member.

These people, in conjunction with the Secretary of Education, will embark on a fundraising effort in this Nation, I think, very similar to what we have seen happen with the Statue

of Liberty, where Americans have contributed well over a quarter of a billion dollars to aid in the glorification of our past.

I think the American public is willing to make a tremendous contribution, a financial commitment to help secure the future of this Nation. So the drug-free youth trust fund will be set up under this amendment.

I think it is a good idea and one which, very frankly, I think has very widespread support in that regard.

Mr. HAWKINS. Mr. Chairman, will the gentleman yield?

Mr. COLEMAN of Missouri. I yield to the gentleman from California, the chairman of the Committee on Education and Labor.

Mr. HAWKINS. Mr. Chairman, I have indicated acceptance of the amendment. I think it is an excellent amendment. I know of no opposition to the amendment and I commend the gentleman from Missouri [Mr. COLEMAN] for offering it.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. COLEMAN of Missouri. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, I want to commend the gentleman for his amendment and urge its strong support. I point out that there are organizations very similar to what the gentleman is proposing here in existence in several of the States.

For example, there is a drug-free youth organization in California. It has been quite successful and, as a matter of fact, last year, the wives of the California delegation held a fundraising function here in Washington and raised some $50,000 on rather short notice for that organization.

I think that the gentleman is exactly right. The public will support this kind of a drive and it can have an effect in two ways. One, the money will be helpful and the involvement of people in the process will be very helpful.

Mr. COLEMAN of Missouri. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. MARTIN] for a colloquy with the chairman of the committee.

Mr. MARTIN of New York. Mr. Chairman, will the chairman engage with me for a minute in a colloquy?

Mr. Chairman, I note in this section with respect to the State Advisory Council on Drug Abuse Education and Prevention, I speak to page 238, that I spoke to the chairman about earlier, it has come to my attention, and a little bit too late to amend the section to specifically related to members of the boards of education of the various States, and specifically in subsection (c), speaking to officers of State and local governments, I would like to ask the chairman what his view is as to whether or not that includes members of the boards of education of the various States to be mandated to serve on this council.

Mr. HAWKINS. Mr. Chairman, will the gentleman yield?

Mr. MARTIN of New York. Certainly, I yield to the gentleman from California.

Mr. HAWKINS. Mr. Chairman, it was the intent, obviously, to include local boards of education. If there is any doubt as to whether or not the world "local government" does not do that, may I call attention to the fact that the rest of that section of paragraph 4 does say that the council appointed by the Governor and determined to be broadly representative of the general public certainly would include them by reference.

In addition to that, in the report of the committee, this language is included. While the legislation specifies that certain kinds of individuals who, at a minimum, must be included on such advisory committees, the States and the local education agencies are free to include others whose membership would enhance the effectiveness of the advisory committees.

I would assume that under that type of instruction, school board officials would certainly be given consideration.

The act, however, does not mandate it, but obviously it does allow them to be included and certainly in the charge to the Government that it should be broadly representative, I would certainly assume that they would be included.

Mr. MARTIN of New York. Mr. Chairman, I thank the chairman very much for that explanation.

Mr. HAWKINS. May I also add that if, in addition to that, further clarification is needed, I assure the gentleman that in the conference, we will certainly take steps to clarify that.

Mr. MARTIN of New York. Mr. Chairman, I thank the gentleman because I feel it is very important for members of boards of education to be included.

Mr. CONYERS. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Michigan [Mr. CONYERS] is recognized for 5 minutes in opposition to the amendment.

Mr. CONYERS. Mr. Chairman, this is an extraordinary provision. Are we providing money to be controlled by whom? In other words, what I am asking is, and I belong to a number of groups that are working on combatting narcotics, funding for communities that are working in this area, but it never occurred to me that we could pass a bill in Congress that would nationalize the whole effort and have it all, I suppose, going through one single conduit.

How would some of the organizations that I am already a member of, and they are rather small, I must admit, could they get in on the act or would they be competing with this new national monster?

Is there another Lee Iacocca to come forward to chair such a committee as the gentleman proposes?

Why could we not, and I know this is daring, but why could we not just let the private sector get it together and do it themselves?

I recall many lectures about getting the Government off of people's backs. They seem to have come from this side of the room more than this side of the room, but how did the Government get into the business of organizing private charitable donations?

I know we are getting desperate in this war, but this is about the last straw. I do not know how I am going to go back and tell all of the organizations, one in Highland Park, one in Conan Gardens in Detroit, that you either have to file an application for a grant application, or I do not know what the mechanism is going to be. Or let us just dissolve and get with the national movement.

Mr. COLEMAN of Missouri. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I am delighted to yield to the gentleman from Missouri.

Mr. COLEMAN of Missouri. Mr. Chairman, the gentleman from Michigan [Mr. CONYERS] has raised a number of questions that I would like to respond to.

This is not an unprecedented venture into legislation. We have the National Trust for Historic Preservation; we have a trust for national parks and resources of that nature.

□ 2110

I want to let the gentleman know that the effort that we are putting together here is to focus national attention on a source where people can send their money. I am talking about corporations making tremendous contributions to a national effort and also individuals. I do not think it is going to detract from the gentleman's individual efforts throughout the country; but I think it will focus attention where a lot of people have not made those contributions.

Mr. CONYERS. Mr. Chairman, is the gentleman suggesting that the Citizens Against Crime in Highland Park, MI, will be just in a friendly competition for funds with this national organization?

Mr. COLEMAN of Missouri. If the gentleman will yield further, Mr. Chairman. Just like there are historical societies probably in every county in this country that the gentleman may feel are competing with the National Trust for Historic Preservation.

Mr. CONYERS. Then the gentleman does suggest that there will be a little friendly competition?

Then, Mr. Chairman, I will have to respectfully dissent from this unani-

mous consent about raising bread from the citizens to fight the war against drugs. I do not think at 9 o'clock at night that this is the safest or the most cogent hour for us to all come together and create another trust fund like that that preserves our national environment, and that rebuilt the Statue of Liberty and other funds.

I think this idea, on reflection, is all wet.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri [Mr. COLEMAN].

The amendment was agreed to.

The CHAIRMAN. Under the rule, amendment No. 40, to be offered by the gentleman from Missouri [Mr. COLEMAN] is now in order.

Mr. COLEMAN of Missouri. Mr. Chairman, I do not wish to proceed with that amendment at this time.

The CHAIRMAN. The gentleman from Missouri [Mr. COLEMAN] withdraws the amendment.

Under the rule, it is in order to recognize the gentleman from Wisconsin [Mr. PETRI] for amendment No. 41.

Mr. LEWIS of California. The amendment has been withdrawn, Mr. Chairman.

The CHAIRMAN. Under the rule, it is in order to recognize the gentleman from Florida [Mr. PEPPER] to offer amendment No. 42.

AMENDMENT OFFERED BY MR. PEPPER

Mr. PEPPER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PEPPER: Page 260, line 2, strike out "$180,000,000" and insert in lieu thereof "$280,000,000".

Page 260, line 10, strike out "two thirds" and insert in lieu thereof "four-fifths".

Page 261, line 8, strike out "one third" and insert in lieu thereof "one-fifth".

The CHAIRMAN. Under the rule, the gentleman from Florida [Mr. PEPPER] is recognized for 5 minutes.

Mr. PEPPER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, a few months ago the distinguished chairman of the Select Committee on Drugs, the gentleman from New York [Mr. RANGEL], allowed me to sit with him while he was holding a hearing on the drug problem in Miami, my district.

We sat there and listened to the admiral, the head of the Coast Guard, representatives of other agencies of the Government, and civil authorities State and national, talk about the tremendous magnitude of this drug problem, of the vast quantities of drugs being brought into our country from Latin America.

As I sat there and listened to those men struggling over how to interdict these hundreds and hundreds of airplanes, these hundreds and hundreds of boats, these various other means of communication and transportation bringing these drugs into the United States.

I wondered what a magnificent task it would be for us ever to be able to interdict all of these drugs coming into our country. So I began to wonder, why are they coming here? To get the money. I began to wonder: Should we put more effort and more money behind reducing the demand? If we reduce the demand, there would not be any occasion for them to bring the drugs here. There would not be anybody to buy them.

Now I have some facts here from our Select Committee on Drugs, prepared for this discussion. For example, there are 550,000 Americans dedicated to the use of heroin. There are 5 million Americans committed to the use of cocaine. There are 20 million Americans habitually using marijuana.

Americans spend an estimated $120 billion a year on drugs. Then I found from this report, the number of treatment admissions per cocaine use in America has increased from 26,000 to 36,000 in the last year.

Only 19 percent of the money being spent for education and treatment comes from the Federal Government. Over 80 percent of the State alcohol and drug agencies identified a critical need for treatment programs for use under the age of 19.

Lastly, the resources allocated are inadequate to meet the challenge.

So I am simply saying to you, my colleagues, let us add at least $100 million more to the $280 million that is already in the program, in this bill, for education and treatment. If we dry up the demand, we will reduce the supply, you may be sure of that.

So I am asking you, will you not favorably consider an additional $100 million—let us see if it does not make some difference. Maybe we will find that we should put the impetus on education and treatment and be more effective that way than in trying to interdict this market to those who have so much to gain by bringing their illicit drugs into our market.

Mr. Chairman, today I rise in support of my amendment to increase the funds for substance abuse treatment in the omnibus drug bill under title IX. This amendment will provide an additional $100 million for drug rehabilitation to the states under a formula based on the population at risk and the relative per capita income. I believe that this is one area that was neglected during the formulation of this very important, all American bill. We know that the provision of treatment services is cost effective and a proven method of rehabilitation of drug addicts. This is extremely important since these addicts are responsible for the majority of crimes committed in our society. It has been documented that with treatment the average addict's criminal activity can be reduced by 84 percent.

Arresting people alone will not make the crime problem go away. Putting people in jail will not by itself end crime in the United States. Eventually, these people wil be back on the streets, using drugs again and returning to careers of crime to support their habit. We can stop a large portion of the crime in the United States, instead of just waging guerrilla attacks on it, by eliminating the craving for drugs that drives people into the streets to rob and kill our neighbors.

Treatment services are woefully inadequate to treat the 500,000 heroin addicts, the 4,000,000 regular users of cocaine, and the 20,000,000 regular users of marijuana in the United States. Presently, out of the estimated 24.5 million individuals who have a drug problem only 272,042 are receiving treatment. It has also been determined that only 10 percent of those actively seeking treatment are able to enroll in a program. In fact, the need for treatment centers is so great virtually every State responding to a survey indicated they required more resources. Mr. Chairman, I do not believe that increasing the amount earmarked for treatment from $100 million to $200 million will provide all the resources needed in this area but it will be of significant help.

The need is so great that the cost seems low when you compare it against the benefits it will provide not only to the addicts but also to society in general. Today we are embarking on a multibillion dollar war on drugs. To be successful we must push ahead on all fronts—law enforcement, prevention, education and treatment. If our efforts on any one of these fronts are weak, we risk losing not just a battle but the whole war.

By spending now on treatment we can reduce the need for increased expenditures in the future in the other areas. For too long our country has concentrated its efforts on reducing the inflow of illegal narcotics into our country while ignoring the need to reduce the demand for the drugs within our borders. As long as people are willing to pay for drugs there will be those who are willing to provide them.

Mr. Chairman, in conclusion I want to urge my colleagues to vote for my amendment. The need is real. We have the chance to expand dramatically the treatment services available. We must not let this opportunity slip away.

Mr. Chairman, I yield to the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Chairman, I want to congratulate the gentleman from Florida [Mr. PEPPER], the chairman of the Committee on Rules, as someone who has always understood how serious this problem was.

I would just like to say, for those people who think that the $100 million is a lot of money, I can tell you that for the $100 million, we can get a lot of savings.

In New York City, we got a waiting list of some 2,000 people, waiting to get into some of these treatment centers. Mr. Chairman, the tragic thing is that some of these are merely children, children that have run away from home, children that are picked up by priests and ministers in trying to help these kids; kids that are responding to hot lines, where we are paying for a hot line, and people call the hot

line, and there is no place for them to go, no place for them to receive assistance.

It seems to me that if we are sending a message out that we want to help, that one of the cruelest things we could do is to get people, like when Jesse Jackson convinces the kid to come up in front of his peers and say, "I made a mistake, I'm on drugs," at least to be able to have the kid get some treatment after he recognizes that he or she has a problem.

I do not think this is costing us any money. I think in the long run it is going to save us some money, because these kids normally end up in jail.

Mr. PEPPER. I thank the gentleman very much for his remarks.

The CHAIRMAN. The time of the gentleman from Florida [Mr. PEPPER] has expired.

Mr. YOUNG of Missouri. Mr. Chairman, I rise today in support of H.R. 5484 and Mr. PEPPER's amendment to the bill. I am pleased to see that Members on both sides of the aisle have come together in this declaration of war on drugs in the United States. H.R. 5484 is the first comprehensive piece of legislation to reach the House floor on this issue, and I am proud to have been an original cosponsor of this historic bill.

The drug crisis has reached epidemic proportions in the United States, with the use of controlled substances increasing at alarming levels. It has been estimated that well over $100 billion will be spent on illegal drugs in the United States in 1986.

The drug problem is no doubt a national problem that requires a national response. Drug use has unfortunately become a fact of life in every segment of our society, from the elementary schools to the corporate boardrooms.

This legislation attacks the problem on several fronts, including the creation and expansion of programs that address education and prevention of substance abuse and rehabilitation for those who have already become involved with drugs. I am particularly interested in these provisions, due to the fact that they are designed to steer the next generation away from this deadly trend. Our greatest national resource is our young people, and we have a responsibility to help them to realize their full potential. This cannot happen unless they say no to drugs.

In my home State of Missouri, we have seen that the stakes are all too high where drugs are concerned. According to the Missouri Department on Probation and Parole, 65 to 70 percent of the 28,995 adults on probation and parole in Missouri were under the influence or had a chemical dependency at the time their crime was committed. Of the 10,000 people currently in Missouri's prisons, 7,500 have some type of chemical dependency.

I would also like to note that abuse of cocaine has increased dramatically in the St. Louis metropolitan area. The recovery center at Christian Hospital Northwest has said that they have witnessed an increase in cocaine addiction among their clients. Drug and Alcohol Rehabilitation and Treatment, Inc. [DART, Inc.] of St. Louis has reported the following numbers for admissions to treatment in facilities in the area as a result of cocaine dependency: 205 in 1982; 248 in 1983; 274 in 1984; 363 in 1985; and 108 for the first quarter of 1986—the projection for 1986 is 450.

As you can see, this situation must be addressed and we must invest in rehabilitation for the thousands of Americans who have become chemically dependent. Ideally, we would prefer to prevent any American from ever experiencing substance abuse; however, we have an obligation to do whatever we can to assist those trying to kick these deadly habits.

I would like to commend each of the committees that contributed to this legislation and I urge my colleagues to support this bipartisan effort to reduce drug trafficking and improve drug education and treatment.

□ 2120

The CHAIRMAN. Is there a Member in opposition to the amendment?

Mr. LEWIS of California. Mr. Chairman, I have no requests for time, and I yield back the balance of our time.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Florida [Mr. PEPPER].

The amendment was agreed to.

The CHAIRMAN. Under the rule, amendment No. 43 by the gentleman from Illinois [Mr. MADIGAN] is in order at this time.

Mr. MADIGAN. Mr. Chairman, I withdraw the amendment.

The CHAIRMAN. Under the rule, it is in order to recognize the gentleman from Florida [Mr. BILIRAKIS] to offer amendment No. 44.

AMENDMENT OFFERED BY MR. BILIRAKIS

Mr. BILIRAKIS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BILIRAKIS: Page 268, strike out line 1 and all that follows through line 19 on page 274 and redesignate part D as part C and section 920 as section 910.

Mr. BILIRAKIS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. Under the rule the gentleman from Florida [Mr. BILIRAKIS] is recognized for 5 minutes.

Mr. BILIRAKIS. Mr. Chairman, I am told that my colleagues will love me so much, because I have the last amendment, that hopefully they would see fit to accept the amendment.

Mr. Chairman, my amendment is a simple one and merely seeks to strike that provision under the Energy and Commerce Committee section of the bill which would create a $650,000 commission, to investigate drug use by college athletes. The commission would also be required to investigate the impact of television on athletics and athlete recruiting practices.

Mr. Chairman, it simply does not make sense to me that we would include in an omnibus drug package a high-cost commission to study college athletic programs. Yes, we are all concerned about the use of drugs on college campuses and I have expressed my concern to every college and university president in the State of Florida. However, we can't let all of the media hype push us into irresponsible public policy decisions.

Most of the items which the new commission would study are presently being addressed by the President's Commission of the National Collegiate Athletic Association at no cost to the taxpayers. The NCAA is the appropriate body for the consideration and implementation of solutions to the problems in our university and college athletic programs. Not the Congress or a Federal commission.

Opposition to this commission was voiced by the Washington Post yesterday in an editorial which I would like to insert in the RECORD. Additionally, I recently received a letter from the Tampa-based Drug and Alcohol Health Care Services, which conducts drug rehabilitation programs for young people, stating that they feel a decision to fund a new sports commission would be an error, which I would like to insert in the RECORD.

That letter reflects a shortage of counselors due to low wages, and it tells of a substantial waiting list.

This situation isn't unique to my district; but is happening across the Nation. With such a serious shortage of counselors and facilities, it makes a lot more sense to strive to address these problems than to create a commission to study recruiting practices and the impact of television on college athletes. These commissions are getting out of hand. Just a few short weeks ago, the Energy and Commerce Committee reported out a bill to establish a boxing commission. Where is it going to end? If we don't address the needs of the children who are drug abusers now and waiting in line to be admitted to a treatment program, they may never have the opportunity to become college sports heroes. I hope my colleagues will join in supporting my amendment.

In January, the NCAA authorized drug testing for any athlete competing in the association's championship events and the 18 major-college postseason football bowl games, as well as penalties for any athlete testing positive. In addition to the NCAA's actions, each college and university can have its own drug testing programs and I am told many of them do. Had

hearings been conducted on the establishment of an Advisory Commission on the Comprehensive Education of Intercollegiate Athletes these points would have been brought out. These people are trying to clean up their own houses without Government interference or tax dollars.

If my amendment is passed, we won't be neglecting college athletes. There is already included in the bill a White House Conference on Drug Abuse and Drug Trafficking Control which will have the authority to address the use of drugs by college athletes, and for that matter the use of drugs by people in the entertainment field.

The letter and article follow:

TAMPA HILLSBOROUGH COUNTY DRUG ABUSE COMPREHENSIVE COORDINATING OFFICE, INC.,
Tampa, FL, September 8, 1986.

Mr. MICHAEL BILIRAKIS,
Congress of the United States, House of Representatives, Washington, DC.

DEAR MR. BILIRAKIS: I am sending to you a letter concerning House Bill HR 5334 which addresses Federal programs for the prevention and treatment of drug abuse.

As I discussed with Sandy Handberry, it is important that you understand that the current treatment resources are stretched beyond capacity. Without additional resources, waiting lists for client treatment will continue. Last year DACCO provided services for 2,354 clients and their families.

At the last board meeting of the Florida Alcohol and Drug Abuse Association, of which I am a representative, ten government funded programs were polled in reference to their waiting lists. It was shocking to learn that more than 600 clients are currently awaiting treatment services in those programs.

Counselors who provide these services are currently being paid at an entry level salary of $12,000.00 annually. This includes counselors that have a master's level degree.

We feel that a decision to fund the new sports program would be in error until these existing inequities are addressed.

If you have any questions or if I can provide you with any additional information, please feel free to contact me.

Sincerely,

BARBARA ROSENBERG,
Director of Administrative Services.

[From the Washington Post, Sept. 10, 1986]

HANDLE THIS PACKAGE WITH CARE

The trouble with the drug problem is that there are no quick fixes. Surely, after all these years, members of Congress know that. What, then, is going on in the House this week? A mammoth bill and a set of amendments full of all sorts of proposals—some good, some doubtful and some really awful—are up for consideration. Yes, the war on narcotics is a hot political issue, but before this package is pushed through on the eve of national elections, legislators should take a deep breath, count to 10 and look critically at this legislation.

The rush to legislate began only six weeks ago when Speaker O'Neill announced a major bipartisan initiative on the drug problem. Each House committee with narcotics jurisdiction—there are at least nine—was asked to report a package of drug bills before the Labor Day recess. These bills were then rolled together into a single proposal and sent, via the Rules Committee, to the floor. It's a wish list, really. It contains a little something for everyone who has a plan for fighting drugs. Some of these ideas, such as long mandatory prison sentences for pushers, have been tried in the states and failed. Others look like window dressing. Do we really need a new White House Conference, a study by DOT on the relationship between drugs and highway safety (yes, a study) or a federal Advisory Commission on the Comprehensive Education of Intercollegiate Athletes? Then there are the "Beefing-up" proposals: more coordination, more confiscation of assets, more pressure on drug-producing countries. Is any of this in response to a thoughtful and considered analysis of what is already being done?

Some zealots believe that even this package isn't enough. They propose to offer amendments on the floor that would bring the armed forces into the law enforcement effort, create a good-faith exception to the exclusionary rule and institute a federal death penalty to deal with traffickers. The fear of more reasonable members is that in this can-you-top-this atmosphere, just about anything will be passed and quickly considered by the Senate, where a comprehensive bill was introduced yesterday.

There is no doubt that narcotics are a major national problem in our society and that much can be done to address it. Education programs seem to be making a dent, for example, and should be continued. Results will be slow in coming, but we believe they will be steady. Activities in support of this trade by banks and individuals who handle the enormous amounts of money involved must be curbed. And law enforcement must be firm, well funded and well organized. There is much that is good in the House package, but the pressures of time and politics behind this rush are dangerous. It may take some political courage to challenge any part of it, but if legislators aren't careful, an awful lot of bad law could slip through in the guise of a tough and popular assault on narcotics.

Mr. Chairman, I yield the balance of my time to the gentleman from Ohio [Mr. OXLEY].

The CHAIRMAN. The gentleman from Ohio [Mr. OXLEY] is recognized for 1 minute.

Mr. OXLEY. I thank the gentleman for yielding.

Mr. Chairman, just briefly, all of our colleagues received a telegram from the NCAA. I would like to quote from it if I may:

No hearings were ever held on this proposal. In fact, the proposed role of the commission is in major part simply repetitive of ongoing initiatives already undertaken in the education community. Under these circumstances expenditures of $650,000 in taxpayer funds appears unwarranted.

I think that says it all. We cannot fight the drug war whether it be on campus or wherever it may be, with another commission. I would certainly hope that we do not burden this already burdensome bill right now with some more extraneous commissions that have been set up.

I would ask that the Bilirakis amendment be adopted, and we can get on with fighting the drug problem without burdening the NCAA or college athletics or anything else.

The bill capably handles the question we are dealing with, that is the drug problem on campus, as my friend from Florida pointed out, with the White House conference and with other sections of the bill.

We do not need another commission. I ask you to support the Bilirakis amendment.

Mr. WAXMAN. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. Under the rule the gentleman from California [Mr. WAXMAN] is recognized for 5 minutes.

Mr. WAXMAN. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. LUKEN], the author of this provision.

Mr. LUKEN. I thank the gentleman for yielding.

Mr. Chairman, I urge this body to vote "no" on this amendment. Many college presidents and academicians are concerned about the students as persons and want to break out of the bonds of the NCAA, and they are pleading for our help today. This bill offers that help. If you vote for Bilirakis, you will deny that help. These college presidents say that their athletes are being systematically exploited at universities and big-time professional sports business, that these same athletes, like Len Bias, infrequently attend class, have no plans to graduate, they are consigned to jock dormitories and separated from the mainstream. They leave college, usually do not graduate, and they leave unprepared for the game of life.

These college presidents, not the NCAA, have told us that these deprived students turn to drugs to fill in the void. Yes, the NCAA made an in-house investigation in 1982 but today the scandal of players who are bought, rented and hired by the college, not to be students but to be a commercial commodity, has reached new heights.

Let us examine this NCAA. You all have letters from the NCAA. The NCAA is the one opposing this provision in the bill.

Then I have letters from college presidents, 40 of them who are supportive, individually. They are asking for our help. Is the NCAA interested in the kids? What they are interested in is the bottom line, the big-time sports business; that is what they are interested in. They are interested in the $40 million they got, the $40 million from the college basketball tournament this past February or April, I guess it was. The season does not end in February any more; it ends in April or May or June.

They got that $40 million, and did that go into any drug abuse programs? Has anybody here suggested that the NCAA has promoted any drug abuse programs? It is going to be left for this

body, it is going to be left for others, it is going to be left for the presidents, the academicians who are asking for our help simply to give them the clout to strengthen their hand.

A vote for Bilirakis would be to deny those college presidents, those who are interested in the students as students, not as commodities and as athletes, a vote for Bilirakis would be a continuation of Exploitation U; the exploitation of these youth.

Let us vote against the Bilirakis amendment and end this exploitation.

Mr. WAXMAN. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, my colleagues, professional sports personalities represent role models for our youth. That is a fact. It is also a fact that college athletes enjoy a special privileged status in their schools, they are the subject of envy and admiration, they enjoy the respect of their fellow students. The tragic death of Maryland basketball star Len Bias underscored the reality of drug use on our college campuses.

The purpose of the Advisory Commission on the Comprehensive Education of Intercollegiate Athletes is to examine the prevalence of drugs in college sports and the role of colleges and universities in discouraging illegal drug use by athletes.

An objective and dispassionate assessment of this issue is overdue.

The legislation provides an appropriate forum for these activities. Please vote against the amendment that would strike out that provision, go along with the recommendation that Mr. LUKEN has made, it is an excellent one.

Mr. Chairman, I urge opposition to the amendment.

Mr. Chairman, I yield such time as he may consume to the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Chairman, drug use and abuse in America has reached epidemic proportions. No instant congressional panacea can cure this problem. But a well conceived and multifaceted assault on drug abuse can reverse this trend and help to unhook millions of Americans from drug dependency.

Consider, for example, that some 25 million Americans have tried cocaine and that about 2 million of these are actually addicts. No wonder that cocaine is an $11 billion a year industry or that its use resulted in the deaths of 563 people in 25 cities last year. Rural North Dakota alone accounts for about 1,000 drug arrests each year.

Perhaps even more alarming is the growing popularity of crack or cheap cocaine. Because it causes a speedy rush of exhiliration, it may spawn addiction in even greater numbers than other forms of cocaine. The director of the National Cocaine Hotline refers to crack as ". . . the dealers's dream and the user's nightmare" because of its relatively low cost and quick effect.

Police report that increased crack use has also engendered increased crime in several cities. Users become so deranged from its psychotic effects that they may perpetrate brutal crimes.

Users not only endanger others, they also harm themselves. Cocaine abusers suffer from such debilitating symptoms as emphysema-like damage to the lungs. increased heart rate and blood pressure, weight loss, and malnutrition. And as many addicts have discovered, the road to recovery is paved with broken glass.

Because of such realities of cocaine abuse—as well as the entire gamut of chemical dependency—Congress has marshalled a frontal assault on drug abuse and drug trafficking. And this action rests on the bedrock of popular support for concerted action on the part of citizens across the Nation. Without doubt, we could hope that we did not have to wait for a crisis to act vigorously. As Yale University's professor of psychiatry, Dr. David F. Musto, recently argued:

> It would be far better if a public consensus against cocaine and other seductive drugs did not have to be relearned every few generations, but there seem to be no easy ways to ensure such a lasting public attitude.

ACTION ON DRUG ABUSE

Fortunately, such a consensus is emerging in the general public and now Congress is putting these concerns into action. I rise in support of the Omnibus Drug Enforcement, Education, and Control Act as a strong effort to tackle this problem. It will help us to attack both the illegal supply of drugs and to prevent the demand for drug use in this country.

The bill will help curb the supply of drugs by increasing penalties for most drug-related offenses and by establishing a minimum 20-year jail sentence for certain forms of drug trafficking and manufacturing. Moreover, it will authorize added funds for drug enforcement, prison construction, and drug enforcement grants to local police.

Among the noteworthy enforcement improvements which I endorse is expanding the Armed Career Criminal Act to include a mandatory 15-year prison term for possession of a firearm by a person with three convictions for drug trafficking. Keeping drugs away from kids means keeping dangerous career pushers off the streets and playgrounds of America.

As daunting as the task may seem, we must also expand our efforts to cut off drugs at their source. Drug interdiction and drug crop destruction present mind-boggling tasks, when one considers that worldwide traffic in drugs involves dozens of countries, thousands of miles of unchecked borders, and thousands of tons of drug transactions. Yet, we are not without tools for the job.

This bill requires the U.S. representatives to international organizations to make drug eradication a top priority. Whenever foreign countries refuse to cooperate with us we can more easily suspend foreign aid under other provisions in the legislation.

REDUCING THE DEMAND FOR DRUGS

But as one Justice Department official informed me, we could send out the entire Air Force on drug interdiction and still fail to cut off most of the drug traffic. That is why we also need a massive campaign of drug education and prevention to dry up the demand for illegal drugs.

This bill authorize $350 million for each of the next 3 years for the development of drug abuse education programs run by State governments, local school boards, and colleges and universities. These funds will help bolster curriculum development, counseling, early referral and intervention, as well as community education.

Educators in North Dakota inform me that such efforts have played a major role in curbing and preventing drug abuse by our students. My only concern with the new progam is that resources reach local schools and communities and not get tangled up in the drug education bureaucracy.

Among the communities assisted by this bill are Indian reservations, where chemical dependency of all kinds is a major health problem. The bill will focus added resources on drug education, prevention and law enforcement. This will not only help tribal members to use their own human resources more productively, but also reduce the burden on the law enforcement officials in surrounding communities for dealing with such problems as drunk driving.

THE ILLUSION OF DRUG TESTING

While this bill moves us down the right roads of drug interdiction and drug education, some would also say that we needed expanded drug testing of employees to clean up the work place, to make it safer, and to set an example for young people.

Undoubtedly, the careful and complete use of topnotch drug tests may help ensure greater safety in such critical jobs as air traffic control, transportation, and public safety. Unfortunately for proponents, drug testing is a tricky, costly, and intrusive business.

Initial screening tests have such a rate of inaccuracy that they may miss up to 50 percent of drug users and find false drug-use indicators in 5 percent of samples. As a result, a second more sophisticated test is needed to verify the screening results. While initial tests may cost only a few dollars, the follow-on test might run as much as $100.

In other words, a valid, one-time test of Federal employees might cost over $200 million. Whether such a cost is warranted deserves careful debate and scrutiny before we rush down the path of limited and highly questionable testing programs. The same could be said for the private sector.

In addition, accuracy also requires what experts call a "chain of custody" from the time a urine sample is given until its testing land labeling. In the strictest program this also entails close observation of test subjects as they produce a urine specimen.

To expand on this debate, I include for the record a recent article entitled "Drug Testing: Open to Misuse and Many Hazards."

In closing, Mr. Chairman, we need wise investments in drug enforcement and education—as this bill provides. I support this bipartisan, comprehensive effort and urge its support by my colleagues.

[From the Washington Post, Sept. 10, 1986]

DRUG TESTING: OPEN TO MISUSE AND MANY HAZARDS

(By Philip J. Hilts)

Drug testing is a tricky, technical business that under ideal circumstances can accurately identify more than half of those who have used drugs, while falsely accusing a tiny percentage.

But in practice, testing like that in use at many companies is subject to so many hazards and serious questions of misuse that it would be virtually impossible to set up a program free from significant human error and potential for fraud, according to experts.

Drug testing is being considered by the Reagan administration for a wide range of federal employees.

Experts say the greatest abuse of the technology comes in business, and that as the test become more widespread, the toll in mistakes and false accusations may be large. "I just hope there isn't too high a body count" before testing is done properly, said Theodore Shults, corporate lawyer for CompuChem, a drug-testing firm in Research Triangle Park, N.C.

By consensus, the best testing programs—and the system used by the military—first employ a screening test using a rough method, followed by an expensive and far more accurate second test. The first test misses a substantial nmber of people, perhaps as many as half, who have signs of drug use in their systems. It also falsely finds drug indicators in urine 5 percent of the time at a minimum, possibly more frequently.

Because of the high inaccuracy rate of these initial tests, the second is used to check results showing drugs present. This second test, experts say, is critical to any testing system but frequently is not used by business.

The typical sort of testing expected in a large screening program, like that being considered for federal employees, involves taking a urine sample and testing it for two to eight drugs. Some drugs can be identified for a few days after they have been taken, such as cocaine, and others for months, such as marijuana.

Factors affecting the accuracy of the final result include whether the sample was taken correctly with a witness present; whether the person tested has eaten or drunk something that will confound the test; the type of test used to take a first look for drugs; the type of test used to confirm the first result, and sloppiness such as mislabeling or contamination of the sample at any stage of the process.

The hazards of testing begin before the urine sample is taken. Subjects may be taking prescription or nonprescription drugs that can falsely give positive readings on the initial test. In addition, the amount of liquid taken before a test can affect the result.

Drugs that can cause false positives in screening for marijuana use, for example, are anti-inflammatory drugs and such common painkillers as Advil and Nuprin. In testing for amphetamines, drugs that can give false positives include diet pills, nasal decongestants and heart or asthma medication.

Accuracy also requires a clear "chain of custody" of the urine sample, witnessed at every step to prevent switching, adulterating or mislabeling.

Thus, in the strictest programs, test subjects must be closely observed while they urinate into sample bottles.

When samples are taken to the laboratory, two screening tests are most common: the radio immunoassay (RIA), and the enzyme-multiplied immunoassay technique (EMIT).

Both use methods in which special chemicals from the body's immune system, called antibodies, pick out drugs or drug-breakdown products if they are present in the urine.

Both methods are also relatively inaccurate. In a study by the federal Centers for Disease Control in Atlanta, 13 drug-testing firms were sent urine samples not knowing they were from the CDC. The study showed that results varied from zero correct to 100 percent correct in identifying drugs such as cocaine, morphine and barbiturates. Most firms were correct less than half the time.

In contrast, Cmdr. Walter Vogl, a senior policy analyst in the office of the assistant defense secretary for health affairs, said that in military testing of about 3 million people annually, the first screening tests are correct about 90 percent of the time.

Experts agree that the most important drug test is the second, confirmatory test. This must be done with a gas chromatograph mass spectrometer test, according to D. Ian MacDonald, director of the federal Alcohol, Drug Abuse and Mental Health Administration.

While screening tests cost a few dollars a sample, this second test can cost as much as $100. Its accuracy, however, is counted by experts to be near 100 percent, not counting human errors such as mislabeling.

Mr. WAXMAN. Mr. Chairman, we call for opposition to the Bilirakis amendment, and I yield back the balance of our time.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Florida [Mr. BILIRAKIS].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BILIRAKIS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 165, noes 245, not voting 21, as follows:

[Roll No. 377]

AYES—165

Archer	Clinger	English
Armey	Coats	Erdreich
Badham	Cobey	Fawell
Bartlett	Coble	Fields
Barton	Coleman (MO)	Flippo
Bateman	Combest	Frank
Bedell	Conyers	Franklin
Bereuter	Craig	Frenzel
Bevill	Crane	Gaydos
Bilirakis	Crockett	Gekas
Bliley	Daniel	Gibbons
Boehlert	Dannemeyer	Gingrich
Borski	Daub	Goodling
Boulter	DeLay	Gradison
Brown (CO)	Dickinson	Green
Burton (IN)	Dicks	Gregg
Callahan	Dornan (CA)	Gunderson
Campbell	Dreier	Hansen
Carper	Duncan	Henry
Carr	Early	Hiler
Chappell	Eckert (NY)	Hillis
Cheney	Emerson	Holt
Hunter	Michel	Shaw
Ireland	Miller (OH)	Shelby
Jacobs	Miller (WA)	Shumway
Johnson	Molinari	Shuster
Jones (OK)	Monson	Siljander
Kanjorski	Montgomery	Skeen
Kasich	Moore	Slaughter
Kemp	Moorhead	Smith (NE)
Kindness	Morrison (WA)	Smith, Denny (OR)
Kolbe	Murphy	
Kolter	Murtha	Smith, Robert (NH)
Kramer	Nichols	
Lagomarsino	Nielson	Smith, Robert (OR)
Latta	Olin	
Leach (IA)	Oxley	Spence
Leath (TX)	Packard	Stallings
Lent	Parris	Stangeland
Lewis (CA)	Penny	Stenholm
Lewis (FL)	Petri	Strang
Lightfoot	Porter	Sundquist
Livingston	Pursell	Sweeney
Loeffler	Quillen	Swindall
Lott	Ray	Tauke
Lowery (CA)	Regula	Thomas (CA)
Lujan	Ridge	Vander Jagt
Lungren	Rinaldo	Vucanovich
Mack	Roberts	Walker
Marlenee	Roemer	Weber
McCain	Rose	Whitehurst
McCandless	Roth	Whitley
McCollum	Schneider	Whittaker
McCurdy	Schuette	Yatron
McEwen	Schulze	Young (FL)
Meyers	Sensenbrenner	Zschau

NOES—245

Akaka	Dymally	LaFalce
Alexander	Dyson	Lantos
Anderson	Eckart (OH)	Lehman (CA)
Andrews	Edgar	Lehman (FL)
Annunzio	Edwards (CA)	Leland
Anthony	Edwards (OK)	Levin (MI)
Applegate	Evans (IA)	Levine (CA)
Aspin	Evans (IL)	Lipinski
Atkins	Fascell	Lloyd
AuCoin	Fazio	Long
Barnard	Feighan	Lowry (WA)
Barnes	Fiedler	Luken
Bates	Fish	Lundine
Beilenson	Florio	MacKay
Bennett	Foglietta	Madigan
Bentley	Foley	Manton
Berman	Ford (MI)	Martin (IL)
Biaggi	Ford (TN)	Martin (NY)
Boggs	Fowler	Martinez
Boland	Frost	Matsui
Boner (TN)	Fuqua	Mavroules
Bonior (MI)	Gallo	Mazzoli
Bonker	Garcia	McCloskey
Bosco	Gejdenson	McGrath
Boxer	Gilman	McHugh
Brooks	Glickman	McKernan
Broomfield	Gonzalez	McKinney
Brown (CA)	Gordon	McMillan
Bruce	Gray (IL)	Mica
Bryant	Gray (PA)	Mikulski
Bustamante	Guarini	Miller (CA)
Byron	Hall (OH)	Mineta
Chandler	Hall, Ralph	Mitchell
Chapman	Hamilton	Moakley
Clay	Hammerschmidt	Mollohan
Coelho	Hatcher	Moody
Coleman (TX)	Hawkins	Morrison (CT)
Collins	Hayes	Mrazek
Conte	Hefner	Myers
Cooper	Hendon	Natcher
Coughlin	Hertel	Neal
Courter	Hopkins	Nelson
Coyne	Horton	Nowak
Darden	Howard	Oakar
Daschle	Hoyer	Oberstar
Davis	Hubbard	Ortiz
de la Garza	Hughes	Owens
Dellums	Hutto	Panetta
Derrick	Hyde	Pashayan
DeWine	Jeffords	Pease
Dingell	Jenkins	Pepper
DioGuardi	Jones (NC)	Perkins
Dixon	Jones (TN)	Pickle
Donnelly	Kaptur	Price
Dorgan (ND)	Kastenmeier	Rahall
Dowdy	Kennelly	Rangel
Downey	Kildee	Reid
Durbin	Kleczka	Richardson
Dwyer	Kostmayer	Ritter

Robinson	Smith (IA)	Vento
Rodino	Smith (NJ)	Visclosky
Roe	Snowe	Volkmer
Rogers	Solarz	Waldon
Rostenkowski	Solomon	Walgren
Roukema	Spratt	Watkins
Rowland (CT)	St Germain	Waxman
Rowland (GA)	Staggers	Weaver
Roybal	Stark	Weiss
Russo	Stokes	Wheat
Sabo	Studds	Williams
Savage	Stump	Wilson
Saxton	Swift	Wirth
Schaefer	Tauzin	Wise
Scheuer	Taylor	Wolf
Schumer	Thomas (GA)	Wolpe
Seiberling	Torres	Wortley
Sharp	Torricelli	Wright
Sikorski	Towns	Wyden
Sisisky	Traficant	Wylie
Skelton	Traxler	Yates
Slattery	Udall	Young (MO)
Smith (FL)	Valentine	

NOT VOTING—21

Ackerman	Grotberg	Schroeder
Boucher	Hartnett	Snyder
Breaux	Huckaby	Stratton
Burton (CA)	Markey	Synar
Carney	McDade	Tallon
Chappie	Obey	Whitten
Gephardt	Rudd	Young (AK)

□ 2145

Messrs. BROOMFIELD, BENNETT, and FUQUA changed their votes from "aye" to "no."

Mr. TAUKE changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. MARKEY. Mr. Chairman, I want to stress the importance of the media's role as we accelerate our efforts in combatting the national drug abuse menace. This legislation creates a Media Advisory Board which will have the crucial task of informing and hopefully educating our young people about the harmful consequences from any consumption of any hard drug.

This Media Advisory Board will bring together experts from the broadcasting and publishing industries, and from the program production and advertising communities. These are the groups who have the special knowledge and experience to shape and convey the best possible message to America's youth—that drug abuse hurts.

The formation of this panel presupposes that much more needs to be done by our Nation's media to drive home this message. But our action here in no way should be construed as ignoring or belittling the initiatives already started by many communications media. In fact, the antidrug program campaigns of which I am aware appear to be well-conceived and already may be discouraging some young people from experimenting with drugs.

For example, the National Broadcasting Co., Inc. [NBC] has been conducting antidrug abuse campaigns since 1980. NBC's first campaign was entitled "Get High on Yourself"—a theme that stressed individual self-respect to the exclusion of drug use. The most recent on-air campaign—"Just Say No"—centered on peer pressure messages, relying on consensus research which identified positive peer pressure as an effective way to fight substance abuse.

NBC and other broadcast groups are already planning new and more targetted campaigns for 1986–87. It is this kind of expertise and experience that we hope will be brought together in our media advisory panel. Because, although much has been done, much more is necessary.

I am proud to have joined my colleague, TIM WIRTH, in introducing this amendment in committee. Our Nation's media need to accelerate their efforts in helping us fight this enormous threat.

Mr. LAFALCE. Mr. Chairman, I rise in support of H.R. 5484, the Omnibus Drug Enforcement, Education, and Control Act. This legislation represents a bipartisan, comprehensive approach to one of the most serious social problems confronting America today. It replaces appealing homilies and empty rhetoric with a multifaceted attack on a problem that cannnot be solved overnight or through any one approach. Indeed, we must address the drug problem on all fronts if we are to have any hope for success so great is its dimensions.

The legislation would allocate about $1.5 billion over the next 3 years for education, Federal prison construction, aid to drug producing nations willing to join the fight against drugs, as well as assistance to State and local agencies for the same purpose. The bill also increases penalties across the board for most drug offenses, as well as creating new ones.

I. THE SCOPE OF THE PROBLEM

Drug abuse in the United States is an intensifying problem that creates huge health, economic, law enforcement and social problems. In recent years, both the accessibility and affordability of such dangerous drugs as cocaine has threatened to tear apart the nation's social fabric.

Between 1970 and 1985, arrests for drug violations have doubled from 400,000 to 800,000, according to FBI statistics, and these figures reflect only a tiny percentage of those who abuse drugs and have serious problems as a result.

The dollar value of cocaine seized at our borders by U.S. authorities increased from about $15 to $75 million between 1984 and 1985. Marijuana seizures went from about $30 to $50 million in the same period, and law enforcement officials are among the first to admit that they confiscate a tiny share of the drugs that come into the country. Estimates of that total range from $27 to $110 billion annually.

Absenteeism, accidents, and inefficiency due to the use of drugs cost American employers an estimated $33 billion per year.

A recent development of frightening proportions is the easy availability of a processed form of cocaine which is smoked, called crack. Crack is throught to be even more highly addictive than other forms of cocaine or heroin. While a gram of cocaine sells for at least $100, two small pieces of crack, or enough to get three people high can be purchased in almost any American city for about $10. Perhaps the most alarming elements of the crisis are that crack and other drugs are readily available on school yards across the land.

While crack has received the lion's share of publicity in recent months, the pervasive nature of alcohol and marijuana abuse by youngsters and adults is a continuing problem. A recent study by the National Center for Health Statistics put the national medical bill for drug abuse at $59.7 billion, while alcohol abuse accounted for $116.7 billion.

In view of the scope of the problem the bill is a small but important step in the right direction.

II. DRUG ENFORCEMENT AND PENALTIES

Those that traffic in drugs do so for profit. It is big business and if we are to have any success at all we must alter the balance between the rewards, which are often vast, and the punishment, which is often too slight to dilute the attraction of the millions that can be made in the drug trade. It is not just the suppliers, however, that must be deterred. The users, many of whom are young and impressionable, view drugs as a recreational vice, with little potential for serious harm. We must impress upon the users that this is not the case; that drugs are a serious and dangerous business and that no matter how satisfying the kick, the punishment makes it an even worse gamble than it already is.

The legislation increases the penalties for most drug-related offenses, makes it a crime to sell drugs near school grounds, which includes colleges and universities, makes it illegal to use children to manufacture or distribute drugs, and permits the Justice Department to enter into joint operations with state and local police for drug enforcement.

Although the bill increases the penalties for drug trafficking, it also acknowledge that there are differing degrees of culpability in the drug world. Thus, separate penalties are established for the biggest traffickers, with another set of penalties for other serious drug pushers. If death or bodily injury results from the manufacture or distribution of drugs, the bill mandates a prison term of 20 years to life. The bill also doubles the normal penalty for using children to distribute drugs, and establishes a 15-year mandatory sentence for possession of a firearm by an habitual drug trafficker. For those caught with small amounts of drugs, the bill increases the fines that can be imposed rather than mindlessly sending individuals off to prison when another form of deterrence would be more appropriate.

The resort to increased penalties to combat criminal activity has often been undermined by the paucity of available prison space. Needless to say, a long sentence is of little value if overcrowding of prison facilities influences prosecutors to arbitrarily drop or reduce charges or necessitates the early release of convicted felons. The legislation puts its money where its mouth is in this regard and appropriates several hundred millions for Federal prison construction. This sends a clear message to those who violate the law that these increased penalties are more than just idle threats.

Of course, increasing the Federal criminal penalties alone will not be sufficient to deter illegal drug trafficking. Historically, law enforcement in this country has been a local function, and the legislation recognizes that the full cooperation of State and local governments must be enlisted to effectively combat this problem. For this reason, the bill substantially increases the funds available for drug enforcement assistance. This, I believe, is a

welcome sight in these times of budget austerity for it indicates that we are willing to spend money to combat an urgent national priority.

III. DRUG INTERDICTION

In addition to putting drug traffickers behind bars, we must increase our efforts to halt the introduction of illegal drugs into our country from overseas. The available supply of drugs can be reduced in several ways, and I am pleased that the legislation takes a broad approach to the problem.

The first line of defense against drug smuggling is the Coast Guard and the Customs Service. The legislation provides these agencies with both the increased resources and the clear sense of mission necessary to put a crimp into the huge volume of illegal drugs flowing into the United States. It also expedites the procedure under which vessels or vehicles carrying illegal drugs can be seized to secure payment of penalties; prohibits the importation of drug paraphernalia; provides greater flexibility to use drug informers; and establishes tighter reporting requirements needed to monitor the entry into the United States of vessels, vehicles, or aircraft that might be carrying illegal drugs.

No matter how much we increase the effectiveness of the Coast Guard and the Customs Service, however, it will never be sufficient as long as producing countries continue to export drugs to the United States in large quantities. The legislation attempts to deal with this problem by establishing an incentive system which rewards those nations that establish effective drug eradication programs, while penalizing those that do not.

Specifically, the bill instructs the U.S. executive directors to the multilateral development banks to oppose any financial assistance to countries that have not developed and implemented drug eradication programs. Conversely, it instructs the U.S. executive directors to support increased assistance for such eradication programs and to encourage increased lending for crop substitution programs.

Many of the drug-producing nations are extremely poor and drug crops are virtually the only source of income for millions of their inhabitants. In light of this economic reality, it will not be easy to turn them away from such activities, but we must make a start, and I believe that it is far preferable to offer positive incentives rather than negative sanctions to accomplish this.

In addition to utilizing the financial power of the multilateral development banks, the legislation also provides for trade sanctions against those countries that fail to cooperate with U.S. efforts to reduce drug trafficking, authorizes millions in new appropriations for foreign drug interdiction and eradication efforts, and permits the military, under carefully specified conditions, to assist in these operations.

Again, I prefer an approach that seeks to enlist the cooperation of foreign governments rather than one that seeks to coerce them. Moreover, I am a bit uneasy about allowing U.S. military personnel to participate in overseas drug interdiction efforts. Still, our military has enormous resources at its disposal, and to the extent that these could be used to reduce drug trafficking, this could represent a positive contribution to the fight against drugs.

IV. DRUG TREATMENT, PREVENTION AND EDUCATION

It is axiomatic in economics that demand creates supply, and until we do something to cure America's apparently insatiable appetite for illegal drugs the problem will continue, despite the most earnest enforcement and interdiction efforts. The legislation recognizes this fact and focuses on prevention, treatment and education. Funds are allocated for treatment and community services, radio and television announcements, research, training of personnel, and drug education.

It is particularly important that we target our school-age population and educate them as to the dangers of drugs if we are to have any chance of getting on top of this problem. Indeed, just a few years ago it was widely believed that cocaine was harmless, nonaddictive drug. Tragic and bitter experience has demonstrated the folly of this belief. We must develop a better way to learn the truth about drugs. Fortunately, the bill recognizes this fact, and does not rely purely on law enforcement activities, which although critical, cannot, unlike education, get at the root of the problem.

V. CONCLUSION

This legislation is but a start, but I believe it is a good one because, primarily, it does not rely on any single approach in trying to deal with a problem whose dimensions are so vast. Still, the magnitude of the problem necessitates large financial commitments to deal with it; but money alone will not be sufficient. Parents, friends, relatives, churches, schools, labor, and management must join with Government in a concerted effort to eradicate the drug problem. Individuals must assume responsibility for their own lives and actions and reject the drug culture. Government's proper role is not to supplant, but to support these efforts.

It is time to put aside the false rhetoric and recognize the drug problem for what it is—perhaps the great single threat to America's social fabric. This is why we have a Govenment in the first place, to marshall the resources necessary to deal with this extraordinary problem. Mr. Speaker, this legislation is a positive first step which deserves our wholehearted support.

Mr. DREIER of California. Mr. Chairman, I rise in support of H.R. 5484 and this national declaration of war on drugs. H.R. 5484 should mark an end to Government complacency over the dire need to readdress aggressively the issue of illegal drugs in our society.

I support the bill's broad scope which seeks not only to reinforce our efforts abroad to interdict drugs at their source but to focus on the domestic demand. With this legislation, funds will be provided for community-based drug eradication efforts and a national advisory council will be created to deal specifically with shrinking demand and deglamorizing drugs among young Americans. In the same breath the Omnibus Antidrug Act gives the United States the power to persuade drug producing countries that it is no longer in their interest to preserve this immoral but lucrative industry. As for the notorious drug trafficker, the unscrupulous leeches which feed on the pain, suffering and ignorance of the drug user. This package dramatically stiffens mandatory penalties for pushers in the spirit of "deal drugs, go to jail."

Therefore, Mr. Chairman, I reiterate my support for H.R. 5484 and commend my colleagues for working in a truly bipartisan manner to strike down the evil menace of drugs which threaten to destroy the fiber of this Nation from within.

Mr. GALLO. Mr. Chairman, as a sponsor of this Omnibus Antidrug Act, I believe that we must have a comprehensive Federal antidrug abuse policy that addresses every phase of this complex problem.

The seriousness of this tragic drug epidemic has been obvious for quite some time.

The recent deaths of two famous athletes have focused national attention on the tragedy of drug abuse.

Revelations of suburban, as well as urban, drug abuse are not new. But, the recent CBS documentary showing the effect of "crack" and other drugs in our northern New Jersey communities brings the whole issue very close to home.

I have heard from distraught parents and law enforcement officials who lack the tools to stop the illegal use of drugs within their communities. Those very real needs are not fully covered within our current codes of criminal justice.

I have spoken to young people within my district who have told me that "crack" is easily obtained.

I have attended drug prevention assemblies in our schools where you could hear a pin drop as young people who were former drug abusers told their stories of thievery and prostitution to support their habits.

We know that we have a real problem.

But the actions needed to treat this disease in our society have not been as obvious.

Since 1981, the Reagan administration has been putting increasing pressure on the importation of drugs and has pressured other countries to eliminate illegal production.

As Members of Congress, we have been attempting to create a drug prevention program piecemeal for several years. Now, we have done what many of us felt was the right thing to do for quite some time. We have brought all of these individual proposals together in one bill.

This bill has strong bipartisan support and takes an across-the-board approach to our drug problems. It puts teeth in our efforts to stop drugs coming into the country and backs it up with a multibillon-dollar financial commitment.

It provides our local law enforcement officials with the tools they need to increase their efforts. And, it expands current efforts to provide treatment for those individuals who have become physically or psychologically addicted to these substances.

The bill cracks down on designer drugmakers, money launderers, and traffickers, with mandatory sentences up to life imprisonment for those contributing to drug-related deaths.

It creates a comprehensive drug education and abuse counseling network to help prevent this epidemic from spreading.

The bill also steps up Coast Guard and Customs efforts with additional personnel and

equipment and calls for a Presidential study on the possible uses of National Guard forces in the antidrug fight.

Mr. Chairman, I urge my colleagues to support this comprehensive approach and then to go one step further to break the biggest link in the chain of drug production, delivery, and dependency.

I am referring to the organized system that exists exclusively to make big money by distributing imported, watered down, and repackaged illegal drugs for street sales.

Criminals who are making big money from this illegal enterprise and whose actions result in the death of another person deserve the most severe possible sentence. I feel the death penalty should be an option for juries in this particular instance.

I urge my colleagues to support this death penalty provision being offered as an amendment today, and strongly urge my colleagues to support this comprehensive legislation.

Mr. McGRATH. Mr. Chairman, during the last few weeks the media has been reporting the hype generated by both bodies of Congress over the Omnibus Drug Enforcement, Education, and Control Act, a measure which will provide the necessary armor to fight drug abuse.

Congressional concern over this issue is well founded. Drug abuse in our country has reached dangerous proportions. We have recently witnessed the cocaine-related deaths of two popular athletes. Our daily newspapers document that crack is being used, on a large scale, by all economic categories of our society.

A recent New York Times/CBS News poll indicated that two-thirds of the respondents would support an increase in taxes to jail drug sellers. While some are shocked by this poll, I think the message is extremely clear—the costs of drug abuse are taking their toll on our society, both economically—through increased medical costs, and emotionally—by draining our work force and human spirit.

In New York alone, there were 137 deaths due to cocaine use within the last year. During the 1984–85 school year, 6,000 individuals were arrested for selling illegal drugs to schoolchildren, and over 60 percent of our prison population in New York were convicted of drug- or alcohol-related charges.

I think the House should be commended for developing this legislation and bringing it to the House floor. This effort is long overdue. The omnibus antidrug measure will increase penalties for drug-related offenses and will establish a minimum 20-year jail sentence for drug trafficking and manufacturing which results in serious injury or death. Additional funds will be provided for the Drug Enforcement Administration, prison construction, and drug enforcement grants to local police. The current crime of selling drugs near school grounds would be extended to include colleges and universities, and the bill would create a new offense against using children to distribute or manufacture drugs.

In New York State, the legislation will provide funds in the form of matching grants for drug enforcement; authorize money to assist the Customs Service in the State; provide additional funding for Federal prison construction and operations; authorize several million dollars to New York's drug treatment and rehabilitation services; and additional money for our State's education and drug prevention programs.

In addition, I was pleased to see my amendment, as introduced in the Ways and Means Committee, included in the final package. My amendment will encourage individuals participating in international trade to come forward and aid the Customs Service with useful information to apprehend criminals. The proceeds of the Customs forfeiture fund will be available to reimburse private citizens for expenses incurred in assisting Customs enforcement efforts. It is my hope that the publicity surrounding these awards will generate new information and new arrests.

The menance that illegal drugs poses to our Nation has finally begun receiving the attention that it demands. Now that my colleagues in the House accept this reality, I hope our efforts will be mirrored by the other body.

Mr. FUSTER. Mr. Chairman, I rise in support of the Omnibus Drug Enforcement and Control Act (H.R. 5484) particularly regarding the provisions that recognize the importance of Puerto Rico as one of the crucial borders of the United States. This comprehensive bill contains several measures of importance to the Commonwealth of Puerto Rico which will help us to continue our longstanding fight against the substantial drug traffic which flows to and through our island from abroad.

Stemming the flow of drugs is very important to the 3.5 million American citizens of Puerto Rico since drug traffic and crime in the island have increased alarmingly during the past recent years to become the most important problem which Puerto Rico faces today. The numbers are shocking. Crime due to drug trafficking is suffocating our small island. The murder rate in 1985 was more than twice the national average and increased, in San Juan, a further 61 percent in the first months of this year. Robbery was at a level approaching twice the national average and, during the first months of 1986, increased another 44 percent in the metropolitan areas. A violent crime related to drugs is committed every 4 minutes in Puerto Rico and studies conducted at the University of Puerto Rico show that the real figures for some of these crimes can be up to 2.8 times the amount indicated in the statistics collected by the Commonweath police department. Even so, the police department estimates that the type I crimes including homicide, robbery, burglary, and theft, which are largely drug related will reach an all-time high of 118,560 in 1986 despite the fact that the size of the police department budget has increased 24 times over the 1950 level.

The U.S. attorney in Puerto Rico and the police superintendent estimate that between 70 and 85 percent of those crimes are drug related. Given this figure, it is not surprising to find that the Federal authorities alone have confiscated close to $2 billion in drugs in the past 3 years. A recent drug raid conducted less than a month ago, and code named Operation Pedestal, involved 270 Federal agents, mostly flown in from the United States. It also included more than 70 Puerto Rican agents plus our local SWAT team. That operation resulted in 62 arrests and 51 more were anticipated. The drug ring that was broken by this particular raid stretched from the Netherland Antilles, Venezuela, and Colombia to Puerto Rico, New Jersey, and Florida and carried out at least 12 so called drops. Surprisingly enough, this particular ring concerned itself only with the local market, although such a huge operation would seem too big for Puerto Rico. Upward of $3 million in property were confiscated, including 16 residences, 9 automobiles, 3 boats, and 2 airplanes.

The New York Times of August 17, writing about Operation Pedestal stated and I quote:

> Officials of the Drug Enforcement Administration say Puerto Rico is a major transshipment point for drugs, particularly marijuana and cocaine, that are bound for the United States [mainland].
>
> Because Puerto Rico is formally a point of entry to the United States, there are no Customs Service checks on flights bound from the Commonwealth to the United States. The Drug enforcement agency says that 80% of the Drugs that reach the island are transshipped to the United States. An official involved in the raids said only a small part of the drugs brought in by those indicted by a federal grand jury here Monday had been shipped to the United States.

If this ring accounts for only a fraction of the 20 percent of drugs that enter Puerto Rico, I shudder to think what the total volume is, considering the fact that the local addict population is estimated at 300,000.

The importance of Puerto Rico as a border, in both national and local terms, cannot be underestimated and, as the U.S. attorney in San Juan stated, crime in Puerto Rico will not decrease until we control the drug problem. He is concerned that the situation in Puerto Rico will grow worse due to the rapid inroads "crack" is making in Puerto Rico. Recently confiscated cocaine paste suggests the existence of drug-processing laboratories in Puerto Rico, something new to the island.

The importance of the Commonwealth of Puerto Rico as a transshipment point is due not only to the fact that it is strategically located, that our common borders allow unrestricted and unchecked access to the mainland, but also to the gaps in the existent radar coverage of the island. The Federal Aeronautics Agency radar in Puerto Rico are mainly geared toward commercial traffic. Some controllers have been known to cooperate with the drug traffickers. As a result, those controllers were among the ones arrested recently. Using personnel common to the Puerto Rico Police Department and the National Guard, some temporary radar facilities are being operated for more than 8 hours during the day. At night, when smugglers operate, radar coverage is clearly inadequate despite our best efforts. In a recent meeting with the former special agent in charge of the Drug Enforcement Administration as well as the current special agent in charge for Customs, I was told that the most effective way to reduce drug traffic and particularly illegal flights under the 5,000-feet level, was to install an aerostat in the island. A significant portion of the hundreds of miles of coasts in Puerto Rico is inadequately monitored. In fact, top DEA and Customs officials in Puerto Rico have said to me personally that Federal agencies in Puerto Rico do not have the technical capacity to

detect low-flying aircraft, particularly at the southwest coast of the island, which is the one closest to Central and South American drug sources.

Puerto Rico is one of the three major "choke" points in the fight against narcotics and its importance in stemming the flow of drugs cannot be overlooked. The Government of Puerto Rico and the Federal agents in Puerto Rico need our help. Through their concerted efforts, I am happy to announce, Interpol has decided that they will establish an office in Puerto Rico soon. However, this is not enough. We need more help. This is why I believe that in addition to the several provisions of H.R. 5484 that deal with or apply to Puerto Rico, this Congress should also express its intention that one of the seven radar aerostats provided for in title II of H.R. 5484 should be placed in Puerto Rico.

The aerostat which we are asking for U.S. Customs operations in Puerto Rico will not only benefit the 3.5 million United States citizens of Puerto Rico but all the citizens of the Virgin Islands and the Nation as a whole. We simply cannot ignore them.

We cannot solve our drug-related problem unless one of the aerostats made available under other provisions of this bill is placed in the insland. As I have said already, Puerto Rico has been recognized by the United States DEA as one of the three major entry points for illicit drugs from abroad. The United States district attorney in Puerto Rico has estimated that drugs worth billions of dollars are coming to Puerto Rico and the mainland through the island's border. Without adequate equipment, such as the aerostat, this huge gap will persist. It behooves this House to help resolve this situation.

Before concluding, I would like to thank Congressman SEIBERLING from Ohio for recognizing the need for increased radar coverage in Puerto Rico. I also want to thank the other members of the Interior Committee and of the Select Committee on Narcotics for the attention they have given to the serious crime and drug problems in Puerto Rico and for the help they have provided me in drafting the parts of this bill that deal with Puerto Rico.

I am particularly grateful for the help received from them and from the leadership in my efforts to assure that the Commonwealth of Puerto Rico is given additional resources to continue the strong battle against drugs that we have been waging in the island for several years now.

Mr. ARMEY. Mr. Chairman, this is war. No foreign enemy, however insidious, could possibly have wrought as much destruction on our young people in peacetime as drugs have. We all all know what's happening. Lives are being lost, careers ruined, families broken, and dreams destroyed. We've had enough talk; the time has come to act. We need a comprehensive national strategy to combat drug abuse, and we need it now. That's what this omnibus drug bill is all about, and I wholeheartedly support it.

The size of the problem is truly staggering. Almost 60 percent of the world's entire population of illegal drugs ends up in the United States. That's more than 12 million tons of heroin, 65 million tons of marijuana, and 150 million tons of cocaine crossing our borders in this year alone, adding up to $120 billion in sales, more than the net sales of General Motors.

We, as Americans, and particularly as parents of teenagers, have to become more aware of the dangers of drug abuse and take action to stop it. By necessity, much of the responsibility for discouraging young people from seeking the illusory pleasures that drugs seem to offer falls on families and local communities. This omnibus drug bill, however, embodies what the Federal Government can do to see that drugs are not available to those foolish enough to seek them.

Sure this bill costs money, wars tend to do that. But we must recognize that there are both legitimate and illegitimate functions of government; the trick is to be able to tell the difference. If defending our country, enforcing our laws and saving the lives of our young people are not proper responsibilities of government, then what is? I'm going to keep on cutting the fat out of the Federal Government, but I'm going to leave the muscle alone.

The drug bill imposes mandatory sentences on drug traffickers, bans so-called designer drugs, beefs up the Drug Enforcement Agency, and gives the Government the ability to control our borders. All of this is long overdue. I'm prepared to do whatever it takes to end this national tragedy of drug abuse, and I'm sure that every tax paying citizen out there agrees with me.

Mr. McDADE. Mr. Chairman as a coauthor of the comprehensive drug bill being considered today, I rise in strong support of enactment of this important legislation. The overwhelming problem of drugs needs to be dealt with severely, efficiently and effectively.

The clock on this Nation's drug problem is not just running, for may it has already run out. The fabric of society is being eroded, and it is essential that Congress address this problem in a responsible and timely manner.

This legislation takes needed steps to increase enforcement of drug laws, toughen penalties for narcotics trafficking and improve drug abuse education, treatment and prevention programs. The bill offers a broad approach to a problem that can no longer take a backseat in our list of priorities. Our constituents recognize the drug problem as a top domestic concern, and we must not ignore their call for action.

Of the people, by the people and for the people is the best definition of our democratic form of government that I have heard. It is not just our way of life stressed and strained by the drug problem, but society itself is threatened with destruction unless we act. It is time for the Government to respond on behalf of the people.

It is clearly time for the Congress and the citizens of this Nation to join together and direct our resources and our determination toward combatting the drug problem. Hand in hand, we must work to educate, enforce, prevent and attack this problem. We can afford to do no less. The time for mitigation is over. The time for action is now.

Mr. Chairman, when the House concludes its consideration of this legislation, I trust that my colleagues will join with me in giving this measure our whole-hearted and overwhelming support.

Mr. GEJDENSON. Mr. Chairman, I rise in strong support of H.R. 5484, the Omnibus Drug Enforcement, Education and Control Act of 1986.

Americans have spoken loud and clear on the subject of drug trafficking and abuse: they are sick and tired of losing generation after generation of young people to illegal drugs. Americans have lost too many friends, too many neighbors, and too many children to merely stand by and watch more young lives go down the drain. The people of Connecticut, as well as the people of every State in the Nation, want strong action against drug trafficking and they want it now.

This legislation brings Congress into step with the desires of this Nation's people. This excellent legislative package assembled through a bipartisan effort of the House leadership sends a clear and distinct message to drug traffickers and pushers here and abroad: America will not complacently watch illegal drugs flow over its borders and destroy the minds and bodies of those we care most about.

I am especially pleased that this legislative initiative increases funding for drug education programs in our Nation's schools. When I introduced my own legislation to promote drug education programs in January, the Student Chemical Substance Abuse Prevention Act, I received an outpouring of response from people in eastern Connecticut who welcomed increased support for drug education programs. They firmly believe, as I do, that America's drug crisis will only be solved when young people clearly understand the hazards of illegl drug use and the many options available for treatment and rehabilitation.

The drug education provisions of this legislation, which have been carefully crafted by the Education and Labor Committee, will be particularly effective in fighting the war on drugs because State and local school districts, not the Federal Government, will be charged with developing individualized and school-specific solutions to the drug problem. Each school system has to fight its own style of war against drug abuse, and I am pleased that the Federal Government has belatedly stepped in to help them fight that war.

Despite the specific nature of each school's drug problem, there are certain truths which can be discovered about the causes of drug abuse and the most effective ways of telling young people about the hazards of using illegal drugs. By funding drug abuse education demonstration programs, my legislation and the legislation we are debating today will save the Federal Government millions of dollars by preventing reduplication of needed drug abuse research and by encouraging school systems to look at the experiences of other school systems.

I, therefore, urge my colleagues to approve this comprehensive legislation. We cannot and must not wait to act until another generation of young people are lost to drug abuse.

Mr. WALGREN. Mr. Chairman, I rise in support of the Omnibus Drug Enforcement, Education, and Control Act and want to say how important it is, in my view, that the House is giving drug abuse priority attention. The problem of drug abuse in this country is growing. Almost 3 out of 4 young people now will try an illicit drug before they reach their mid-twenties. And despite tragic deaths demonstrating the hazards of cocaine, only 34 percent of those in twelth grade believe there is a real risk in trying cocaine—a figure reflecting practically no change since 1978. Clearly more education and prevention efforts are needed since our children are continuing to experiment with drugs.

Prevention of drug abuse begins in the home. But the Government has a critical role. This bill places emphasis on a number of fronts: Stronger penalties for those trafficking in illegal drugs, new treatment programs for those addicted to drugs, and new efforts to stem the production and distribution of drugs from foreign countries. The bill requires trade sanctions on foreign countries that are sources of illicit drugs. Denial of preferential tariff treatment or imposing added duties if a country does not cooperate with U.S. efforts to reduce drug trafficking is only common sense self defense. The bill also requires drug-producing countries to establish eradication programs as a condition of receipt of U.S. aid. And the bill adds funds and manpower to the Coast Guard and Customs service to increase the effort to stop illegal drugs from entering this country.

As a participant in the development of parts of this bill in the Energy and Commerce Committee, I want to underscore the value of one of my amendments to give priority to young people, ages 15 to 24, in establishing and conducting treatment programs. Our greatest leverage on drugs is to stop young people before they start. Young people do most of the experimenting with drugs. Over one in two high school seniors have used illicit drugs. My amendment would focus our prevention money where the problem is and where the money would be best spent.

A second amendment I authored would require the Secretary of Health and Human Services to contract with the Institute of Medicine to study of the extent and adaquacy of public and private insurance coverage or other payment sources for drug and alcohol treatment. We have little information on health insurance coverage of drug rehabilitation. When seeking treatment for drug and alcohol abuse, like so many other medical problems, people need public or private insurance coverage to assist in paying for what can be expensive services. In many cases, people just assume their insurance covers drug rehabilitation, but learn that it is quite limited. If treatment programs are not covered, people are not able to break their addiction. This study will be a first step toward determining whether we have to improve coverage and if so how much.

Drug abuse is a wide ranging problem in our society and calls for a multi-faceted approach. No single committee or government agency can tackle the problem alone. Clearly, more than public relations campaigns are required. This bill is a concrete step toward effectively combining our resources to tackle and defeat drug abuse.

Mr. DASCHLE. Mr. Chairman, I rise in support of H.R. 4584, the Omnibus Drug Enforcement, Education and Control Act, which authorizes funding for a wide variety of programs designed to strengthen the enforcement of drug laws, stem the flow of illegal drugs into the country, increase penalties for illegal drug activities, expand Federal prison facilities, and assist drug education and treatment to prevent drug abuse.

This bipartisan legislation is the product of the combined efforts of 12 House committees and incorporates all or part of 20 drug-related bills previously introduced in the House of Representatives. It is the most sweeping drug control measure ever considered by Congress, and I am pleased to be a cosponsor of this important initiative.

House consideration of this comprehensive proposal is recognition of this body's concern about the tremendous toll which the drug problem is taking on the fabric of our society. It also reflects growing sentiment throughout the country that the Federal Government should take the lead in controlling this national problem and repesents tacit acknowledgement that past and current antidrug efforts have been insufficient.

The fact of the matter is that for years Washington has bungled the battle against illegal drugs. We seem to be forever launching a new antidrug campaign which, after the initial fanfare, quickly recedes into the background, while the human cost of illegal drugs grows ever greater.

The magnitude of the drug problem in our country dictates that we can no longer tolerate occasional pronouncements of concern followed by prolonged periods of inaction. It is time to take serious, comprehensive action against the drug problem. The "war on drugs" must move from the realm of empty rhetoric to that of grim reality.

We have an opportunity to initiate such action today through passage of the Omnibus Drug Enforcement, Education, and Control Act. This legislation holds real promise for progress in the fight against drugs.

The key to this effort is the word comprehensive. For the first time, we could have an antidrug program that does not pretend the problem can be solved just by intercepting drug shipments or just by educating users or just by attacking drugs at their source.

The fact is that illegal drugs must be fought at every stage: in the countries where they originate; at points of entry into the United States where they may be interecepted; on the streets where they are sold; in the homes and schools where education against their use must be delivered; and at the clinics where their users can be rehabilitated. That is the approach embodied in the bipartisan Omnibus Drug Enforcement, Education and Control Act.

H.R. 5484 seeks to strengthen interdiction and eradication efforts and improve drug enforcement, education, research and education. Specifically, it would:

1. Increase penalties for various narcotics offenses and mandate a prison term of 20 years to life imprisonment for drug trafficking and manufacturing that results in serious injury or death;

2. Authorize additional funds for numerous drug-related law enforcement activities, including additional Drug Enforcement Administration [DEA] efforts, prison construction, and State and local drug enforcement assistance;

3. Increase funding for the Coast Guard to provide for more personnel and equipment to help stop the flow of illegal drugs into the country;

4. Increase Customs Service authorization to improve drug interdiction;

5. Make it easier to detect and prosecute money laundering, which is frequently used by drug traffickers to hide their illicit profits;

6. Require drug-producing countries to establish eradication programs as a condition of U.S. support for multilateral development bank aid;

7. Impose trade sanctions on drug producing or exporting nations that refuse to cooperate with U.S. antidrug efforts;

8. Provide additional funds for drug interdiction and eradication programs in foreign countries;

9. Permit U.S. agents to accompany foreign police on drug raids;

10. Authorize funding for Defense Department procurement of antidrug equipment and assign Coast Guard personnel to Navy ships to make arrests in drug smuggling areas;

11. Create grant programs for local drug education and treatment programs and fund Indian drug abuse programs;

12. Mandate Federal drug education programs and a demonstration program to determine the feasibility and cost of drug treatment under Federal health plans; and

13. Require the President to recommend a reorganization of executive agencies to better combat drug trafficking and abuse.

Mr. Speaker, there is no problem more tragic to the families it destroys, or more menacing to our society and its citizens, than drug abuse. Defeating drugs will take the combined, continuing efforts of the President, both parties in Congress and, especially, the public.

The Omnibus Drug Enforcement, Education and Control Act is a realistic centerpiece for this effort. I urge my colleagues to vote for H.R. 5484, and I hope that the Senate will follow the House's lead on this important issue so that a comprehensive antidrug bill can be sent to the President to be signed into law this year.

Mr. MAVROULES. Mr. Chairman, I rise today in strong support of H.R. 5484, the omnibus drug bill. This legislation before us today represents a comprehensive initiative which effectively addresses the issues of enforcement, prison construction, interdiction of drugs from foreign nations, and education.

This bill is broad in scope and crosses the jurisdictional lines of numerous House committees. I would like to congratulate the Speaker and the majority and minority leaders for the guidance they have given all of us on this landmark legislation.

Certainly no one needs to remind the families of those individuals who have been scarred by drug abuse of the need to take drastic action on this issue. They know the pain of a young person gone astray or of a promising life ended prematurely, due to the misuse of illegal drugs.

The American people have developed an increasing awareness of the problems associated with drug abuse. A recent New York Times survey revealed that 13 percent of all Americans believe that drug abuse is the most important problem facing the Nation today. This contrasts with only 2 percent who held this position in a similar survey in April of this year.

Mr. Chairman, these people know that the cost of drug abuse is high; both in human terms and in lost worker productivity in our Nation's businesses. They also know that use of illegal drugs in no longer isolated to urban neighborhoods or along racial lines. This has become an issue of paramount importance to every American.

Any effective drug plan must have an effective educational component, one which provides drug education at an early age. In this regard I would like to take note of the fact that the section of H.R. 5484 which was drafted by the Committee on Education and Labor includes many of the most successful provisions of the Governor's Alliance Against Drugs; a very successful State program initiated by Massachusetts Governor Michael Dukakis.

In conclusion, Mr. Chairman, the problems associated with drug abuse have no Democratic or Republican solution. The bipartisan effort that has brought this bill before us today is testimony to that fact. I would urge all of my colleagues to support H.R. 5484.

Mr. DASCHLE. Mr. Chairman, I want to commend you, the distinguished majority leader, and the various House committee chairman and ranking minority members who worked so hard to put together this comprehensive approach to the tragic problem of substance abuse in America. All Members of this body are aware of how rapidly this epidemic is spreading throughout our society. It crosses all socioeconomic, racial, ethnic, and geographic lines, and it is fitting that we address this problem in a bipartisan manner.

I am proud to have worked with the chairman of the Interior Committee, Mr. UDALL, as well as Mr. KILDEE from the Education and Labor Committee and Mr. WAXMAN from the Energy and Commerce Committee to formulate the provisions of this bill dealing with substance abuse as it occurs among native Americans. This section addresses a distinct aspect of substance abuse within our society, and I am pleased that it has been incorporated into this comprehensive legislation.

My friend from Nebraska, Mr. BEREUTER, and I have been working with the Indian community for approximately 3 years on a comprehensive approach to combat alcoholism on Indian reservations. The product of those 3 years of work is the Indian Juvenile Alcohol and Drug Abuse Prevention Act (H.R. 1156), which was passed by both the House Education and Labor and the House Interior Committees this summer.

Three years ago, Mr. BEREUTER and I were aware that there was a serious problem with alcohol and drug abuse on America's Indian reservation. But as we get more and more involved in the issue, the scope of the problem loomed larger than either of us had ever suspected.

The problem of substance abuse among native Americans is serious across-the-board, but it is especially among Indian youth. Recent studies have indicated that at the tender age of 11, one-third of all Indian children have used alcohol with some frequency. Over and over we listened to tragic stories about young people destroying their lives by abusing drugs, alcohol, and readily available inhalants like Lysol and other cleaning fluids, paint thinners, and antifreeze.

If we ever hope to combat the problem of substance abuse on indian reservations, our single best hope is to take a preventive approach and focus our best efforts on Indian children at an early age.

Many troubling health and social problems on Indian reservations today can be directly linked to the abuse of alcohol and drugs. IHS statistics reveal that Indian youth are two times as likely to commit suicide as the general population—80 percent of those suicides are alcohol-related. Indian young people are tragically killed in automobile accidents more than twice as often as the general population—75 percent of those losses are alcohol-related. Finally, young native Americans are about 16 times more likely to die prematurely because of chronic alcoholism than the average American. This is clearly a present and growing tragedy of great proportions.

I would further point out to my colleagues the the health and social problems associated with alcohol and drug abuse only intensify later in life for the untreated substance abuser. IHS hospitals today are taxed to the limit with patients suffering from diseases directly associated with substance abuse: chronic liver disease, cirrhosis, alcoholic psychoses, and alcoholic dependence syndrome. Young mothers abusing alcohol during pregnancy have caused the incidence of Fetal Alcohol Syndrome among newborn native Americans to skyrocket, casrrying over the detrimental effects of substance abuse to the next generation of Indian children.

Administration officials have correctly stated that alcohol and substance abuse are the most serious health and social problems facing Indian people today. Despite this acknowledgement, the BIA and the IHS have assumed little responsibility in coordinating their various efforts to focus on the epidemic of drug and alcohol abuse. The IHS, for instance, has directed only one percent of its budget for substance abuse programs. H.R. 1156 clearly and emphatically calls for a coordination of Federal resources between the IHS, the BIA, the Department of Education, and other relevant programs so that Indian people can establish a specialized framework to effectively attack the scourge of drug and alcohol abuse.

The ray of hope that has continually shone throughout our discussions of this issue was the testimony of Indian people. Over and over, Indian people from all over the country indicated their desire to battle this extensive problem head-on. In a series of congressional hearings in Washington, Albuquerque, Phoenix, and Rapid City, SD, tribal officials, parents, teachers, elderly people, and, of course, young people themselves came forward to offer their positive suggestions on how we can work together to address the problem. These people are ready to fight substance abuse problems today. We owe it to them to provide an effective mechanism to use in their battle against drugs and alcohol on Indian reservations.

The Indian provisions of this bill recognize that the people who are most willing and able to combat these problems on the reservations are not far-removed Federal officials—they are the local Indian people Themselves. Our bill directs the Federal Government to identify, coordinate, and focus its resources toward preventing alcohol and drug abuse among Indian youth, through a memorandum of agreement between the IHS and the BIA. But the success of the program really will depend in large part upon the locally established Tribal Action Plan [TAP].

The legislation calls for a Tribal Coordinating Committee [TCC], which will consist of a tribal government representative, officials from the IHS service unit and the local BIA agency office, and other individuals identified in the Tribal Action Plan. The TCC will be the catalyst which will implement the Tribal Action Plan and will be responsible for ongoing review and evaluation of the Tribal Action Plan. The TCC, for example, will be the entity that will decide which local individuals will receive training in substance abuse prevention and treatment, decide how those persons can use their training most effectively in a culturally relevant program, and later evaluate that same program to assess its effectiveness.

This bill envisions that local citizens will take control of their individualized tribal programs. The TCC may, for example, explore the possibility of setting up summer youth programs at local schools to provide a constructive outlet for youthful energies. The TCC will identify school teachers, counselors, community health representatives [CHR], law enforcement officials, or other local people to receive training in prevention and treatment of alcohol and drug abuse. It will coordinate with State, local, and Federal officials to improve and expand local substance abuse treatment facilities and emergency shelters available for young native Americans.

The TCC will utilize all available State, Federal, and private funding to implement its Tribal Action Plan. The Federal Government should, as much as possible, direct existing resources and expertise toward tribal activities to combat the problem it acknowledges is the most serious health and social problem of the Indian constituency they are mandated to serve.

As the statistics I quoted earlier make clear, nothing is more costly to Indian people, in physical, mental, social, and economic terms, than the consequences of substance abuse. This situation must be addressed now, or we will ultimately have to face the health and social consequences of our neglect again and again in the years to come.

I am honored to have contributed to the Indian section of this well-crafted comprehensive bill. It is a first step, but a critical first step. This bill assumes a certain amount of dedication and cooperation from the administration, and I expect we will have that commitment. I am even more certain that local Indian people will seize this opportunity and enact a comprehensive plan of action to fight alcoholism and drug abuse on the reservations, and, with the help of Federal, State, and local officials and private sources, they will win the battle against drugs and alcohol.

Mr. Chairman, I again thank everyone who contributed to what I think is a very good piece of legislation. I strongly urge passage of the bill.

Mr. KOSTMAYER. Mr. Chairman, I rise in strong support of H.R. 5484, the omnibus drug enforcement bill which will strengthen the enforcement of drug laws, help stem the flow of illegal drugs into the country, increase penalties for illegal drug activities, expand Federal prison facilities, and increase drug education and treatment to prevent drug abuse.

It's particularly appropriate that as schools reopen this month, we focus our attention on the drug crisis. Drugs are having a devastating effect on every community in the country, in the suburbs and rural communities which I represent, as well as our cities, large and small.

Parents certainly have cause to be concerned about the level of drug abuse in our country. The statistics, and what they bode for the future, are frightening. Last year the Drug Enforcement Administration estimated 75 tons of cocaine were smuggled into the United States. This year the estimate exceeds 150 tons. This is a national crisis, Mr. Chairman, a crisis which demands bold action and the combined efforts of Federal, State, and local officials.

That's why this bill is important, and timely. It addresses the major areas where action is needed.

First, in drug enforcement. We've heard a lot of rhetoric lately about "getting tough" on drug dealers, and drug smugglers. The plain truth is we've not been providing the resources to our enforcement personnel, and political rhetoric alone won't get the job done.

In the coming year it's estimated that as many as 8,000 smuggler aircraft will make illegal flights across our borders. Fully 60 percent of cocaine entering the United States arrives in small, private aircraft.

It's an enormous logistical problem to interdict these small, low-flying airplanes. Currently in our entire Customs Service there are only six aircraft which can intercept and follow planes, and just eight helicopters to carry law enforcement officials to arrest smugglers. And there are fewer employees in the Customs Service today than in 1980. This is in spite of the fact that narcotics trafficking has increased manyfold during the same period.

The Customs Service is obviously undermanned and underequipped and underfunded for its task.

The situation is no better at sea. Hundreds of boatloads of cocaine will arrive in south Florida from the Bahamas this year. The Customs Service and Coast Guard will be lucky to intercept 5 percent of these shipments.

It's clear that there simply has to be more and better enforcement. We've got to get control of our borders back from the drug smugglers.

This bill increases funding for the Coast Guard and Customs Service—reversing the trend of recent years. This money—$150 million in 1987 and 1988—will go directly for purchase and operation of new equipment, and will restore the military strength of the Coast Guard to 39,900, about the level it stood in 1981.

The bill, Mr. Chairman, also makes strides in the area of foreign cooperation. As a member of the Foreign Affairs Committee, I am pleased to have had a hand in the writing of these new provisions.

Greater efforts must be made to enlist the help of governments in those countries where drugs are grown and processed, and from which illegal shipments originate.

Some countries, unfortunately, have corrupt officials who profit by ignoring illegal drug activity. There are ways to pressure governments to get rid of these officials, and to work with our police and intelligence personnel.

Last year in Paraguay, for example, 49,000 gallons of ether, acetone, and hydrochloric acid—chemicals used in the processing of coca into cocaine—were seized as they were unloaded from Germany. It was obvious the chemicals were destined for use in an illegal drug-processing operation somewhere in South America, and United States officials were concerned that the Paraguayans would release the shipment. As a member of the Foreign Affairs Committee I traveled to Paraguay and met personally with President Stroessner, and assured him of our country's grave concern that these chemicals be destroyed or returned to Germany. I subsequently transmitted to him a letter signed by over 60 of my colleagues reaffirming the urgency of this matter. As a result of this pressure, and the efforts of our Ambassador, and State Department narcotics officials, the Paraguayans did cooperate with our enforcement personnel, and the seized materials were returned to Germany.

When countries do not cooperate, we should make clear that any military or economic aid they receive will be terminated.

Of course, Mr. Chairman, as long as there is rising demand for cocaine and other drugs in our country, the supply and smuggling problem will not go away.

We've got to educate our young—before they're corrupted by drugs—of the dangers of drug use and abuse. Parents, teachers, and local police and government officials must ensure that every school child gets the message: "Say no to drugs."

In 1981, $14 million was spent in Federal funding for drug prevention and education. That figure is now $2.5 million a year, an enormous decline. This program must be revived, and reinvigorated, and made a key part of school curriculum.

This bill begins that process. Title VIII of the bill authorizes $350 million in 1987-89 for the development of drug abuse education programs run by State governments and local schools and education agencies. Some of the costs of these programs will be offset by funds seized by the Customs Service and the Justice Department form illegal drug activities.

Mr. Chairman, I look forward to working with local school systems to ensure that adequate funding is available so that each and every school in Bucks County and eastern Montgomery County in Pennsylvania has a drug education program.

H.R. 5484 is an important bill, Mr. Chairman, perhaps the most important the 99th Congress will consider. I urge my colleagues to support it.

Mr. KOLBE. Mr. Chairman, I rise in support of H.R. 5484. This legislation seeks to remedy a problem which has split families, drained our economy, killed innocent citizens, and undermined the credibility and effectiveness of our primary and secondary educational systems. Drugs are tearing asunder the very fabric of our society.

The fact that this bill has moved through the House more quickly than any other piece of omnibus legislation yet this year is testament to the gravity of the problem, and the need to find realistic solutions. And we have already taken the first steps toward accomplishing that.

Last month, WW launched "Operation Alliance," an initiative aimed at combating the drug traffic across the Mexican border. This initiative establishes the organizational framework, and interagency cooperation necessary to wage a war against drugs. Now, it's our turn to stand, as we must, to say that Congress believes this war on drugs must be a priority for spending. I have already made my priority clear, with the vote I cast a few weeks ago for H.R. 5161, the combined Commerce, Justice, State, the Judiciary, and Related Agencies Appropriation Authorization Act of 1987. Though a strong proponent of limiting spending—and I voted against most of the fiscal year 1987 appropriations bills because they do not hold the line on spending—I voted for increased spending in this bill because the money would go to the war on drugs. This spending should be a priority.

My district lies in southern Arizona, sharing more than 100 miles of border with Mexico. It is no secret that the entire Mexican border area has been a highway for drugs coming into the United States. Some of these substances originate in Mexico. Others originate in Bolivia, Colombia, and other Latin American countries. Some even originate in the Orient, and are brought through extensive networks to our southern border. It's time for us to padlock the door.

Crime—often violent crime—has historically been associated with this trafficking activity. We don't have to look beyond the borders at the tragic death of such people as our DEA officer, Enrique Salazar, to be reminded that a war is going on in our communities and on our streets. Teenagers are stabbed to death in a classroom. A cab driver is shot in the head for a few dollars that will buy one more fix. People in my communities are erecting bars on their doors and windows to protect themselves from the burglar who needs to feed his increasingly expensive habit.

A change in this dismal situation can only come about if we combine the resources of Federal, State, and local law enforcement

agencies. The problem is simply too massive for any one of these components to handle alone. And the stakes are too high to allow us to fail or to permit a haphazard, hit-or-miss approach to the problem.

But we must also recognize that all the money in the world won't solve this problem. As long as there is a demand for drugs, there will be individuals who are willing to take the risk to supply them. The monetary rewards are simply too great. So how do we slash the demand for drugs?

The answer is not a simple, nor quick, nor politically attractive. But, in the long run, it is our best hope to solve this problem. We must have programs in the schools, on television, in recreation centers for youth which not only alert them to the problems of drugs, but give youngsters the self-confidence to say "no" when their peers encourage them to use and abuse a substance which can only cause them harm.

That won't be easy, but we can do it. We have the experience of drunk driving to know that public attitudes about its seriousness can be changed. We need a national campaign to change attitudes about substance abuse—not for adults, but for young people when they are forming their views and making their judgments about such matters.

The answer, then, to the drug "crisis"—and it is a crisis—which confronts us today is the dual approach suggested by this legislation: On the one hand, better enforcement of tougher laws to reduce the supply of drugs; and on the other hand, greater emphasis on drug prevention, education, and rehabilitation programs that reduce the demand for drugs.

Passage of this legislation won't solve our problems with substance abuse in America. But it will help the time for action is now.

Mr. MANTON. Mr. Chairman, I rise in strong support of H.R. 5484, the Omnibus Drug Enforcement, Education and Control Act of 1986. As an original consponsor of this bill, I believe this is one of the most important bills to be considered by the 99th Congress.

Mr. Chairman, our Nation faces a drug epidemic which is destroying our youth, increasing the rate of violent crime and ripping apart the very fabric of our society. The time has long since passed for the Federal Government to pass a strong, comprehensive bill which will put an end to the drug trade and put drug pushers behind bars.

Drug abuse and drug trafficking in the United States is not a new problem. Thirty years ago I walked a beat as a police officer in New York City. At that time, arrests for narcotics were not uncommon. But in the past three decades, the amount of drugs coming into our country has increased thousands upon thousands of times.

Drugs now permeate every segment of our society, from the financial corridors of Wall Street to elementary schools in our neighborhoods. Cocaine, marijuana, heroin and crack are everywhere and the results are devastating. Our Nation's youth are dying, professional careers are being destroyed, and millions of law abiding citizens are living in fear of drug addicts who rob, steal and kill to satisfy their growing drug habits. We must act forcefully to put an end to this epidemic immediately.

H.R. 5484 is a dramatic step in the right direction. This bill attacks the drug menace on five fronts: eradication, interdiction, enforcement, education and treatment.

This measure toughens narcotics enforcement by increasing penalties for most drug-related offenses. In particular, the bill establishes a minimum 20 year jail sentence—up to life imprisonment—for drug trafficking and manufacturing which results in serious injury or death.

H.R. 5484 permits U.S. agents to accompany foreign police on drug raids, and increases funding levels for the Drug Enforcement Administration, the Coast Guard, and the Customs Service for drug interdiction and eradication programs.

The bill also makes it easier to detect and prosecute money laundering, which is frequently used by drug traffickers to hide their illicit profits.

And finally, H.R. 5484 creates important grant programs for local drug education and treatment programs.

Mr. Chairman, H.R. 5484 is strong medicine and will go a long way toward rooting out the drug epidemic. However, I firmly believe we should go even further in the months ahead.

Last year my good friend and colleague from Ohio, Mr. TRAFICANT, and I introduced H.R. 994, the Controlled Substances Penalties Act, which would impose much stronger penalties for those convicted of drug trafficking. H.R. 994 would make certain drug dealers spend a minimum of 15 years in jail for major drug sales and would give Federal judges the authority to impose even harsher sentences for repeat offenders, including the death penalty.

Mr. Chairman, I commend the gentleman from Texas, the distinguished majority leader, for his important leadership in this area. I look forward to working with him in making certain this bill is passed expeditiously and sent to the Senate for quick consideration.

Mr. TALLON. Mr. Chairman, it has been said that the deadliest enemies of nations are not their foreign foes but those that dwell within their own borders. Drug abuse is one of our greatest enemies, domestically and internationally. It threatens our international security as we see our personal and economic strength eroded. Domestically, it threatens the health and safety of millions of Americans, as well as our financial productivity and well-being.

The drug trade will drain our economy of some $230 billion this year. A large part of this is due to crime—50 percent of all crime and two-thirds of all violent crime being directly related to addictive drugs. Add to that the cost of hospitalization and rehabilitation and the loss of productivity due to the drugs, and you begin to realize it costs our economy and our society much more not to take action.

We have before us today, a measure which will go far in ending this tragic, consuming situation. I am proud to be a cosponsor and supporter of the Omnibus Drug Act of 1986, our Nation's first comprehensive approach to a national policy for drug eradication. This bill, H.R. 5484, is a major step forward to our efforts to stop the tide of drug production, sale and use.

H.R. 5484 brings much-needed funding and support to our drug enforcement system. Up until now, drug enforcement has combated the growing problem of drug abuse with too little funds and support, much like trying to fight a tank with a slingshot. The bill authorizes a total of $1.5 billion for a wide variety of drug enforcement programs.

These funds will allow us to mobilize our forces to combat the menace on five fronts: eradication of supplies; interdiction of shipments; enforcement of existing laws and strengthening laws on money laundering and designer drugs; education, where we hope the biggest payoff of all will occur; and rehabilitation for those whose lives are so devastated by this cruel addiction.

H.R. 5484 is a tough bill and will increase the penalties for illegal drug activities of all sorts. I believe it signals an important start in our Nation's all-out war against the drug abuse which is in one way or another victimizing us all. However, this bill will not be a cure-all; the drug problem can not be solved with one piece of legislation.

This war that we must embark upon is the most consuming and difficult sort of war to fight; it is a civil war. It is a war that must be fought, not only in Washington, but also in the pulpit, at the work place, in the town hall, in our schools, and in the media. Yet the war is urgent and necessary. What is at stake is the health and safety of millions of Americans, American productivity and potential, and our most important resource—American lives.

Mr. ANDREWS. Mr. Chairman, narcotics trafficking and drug abuse have reached epidemic proportions both in our Nation and abroad. The toll in ruined lives, crime and corruption is staggering. Just in the United States alone, narcotics trafficking is estimated to exceed $110 billion. The costs to our society are estimated to exceed $60 billion in mortality, treatment, loss of productivity and crime.

The House Select Committee on Narcotics Abuse and Control estimates that 150 tons of cocaine, 12 tons of heroin, between 30,000 and 60,000 tons of marijuana, and 200 tons of hashish will enter the United States this year. An additional 4,000 tons of marijuana will be grown and 100 tons of mind-altering drugs will be illicitly manufactured and abused domestically.

The problem is obvious, but our solution must work in two directions. First, we have to attack the supplyside of the drug trade, that is, efforts aimed at drug producers and sellers.

The second tackles the demand side and is designed to educate or scare people away from drugs. I believe the best national strategy is a stronger emphasis on "comprehensive" drug control, in which supply-reduction efforts are complemented by demand-side programs. This new approach must combine tough new law enforcement with new treatment and education programs.

On the supply side, an effective policy must include a response to the reality that many developing countries are actively involved in the production of illicit narcotics. These nations have become so involved, politically and economically, in the production of drugs that it will take a concerted change in our foreign policy to release them from their economic

dependence on illicit narcotics. Simultaneously, new policies must be implemented to strengthen our borders against the deluge of illicit drugs coming across them.

On the demand side, vigorous education and prevention efforts have to be undertaken in the work place, in our schools and in our homes. Presently, only $3 million of the $18 billion Department of Education budget is set aside for drug education. This is simply inadequate. It is crucial that we provide the drug education and prevention resources that will meet the demand problem head on.

Today the House is debating an omnibus drug measure which I support, that would comprehensively combat narcotics trafficking and drug abuse. Only through a sustained effort at destroying the illegal production of drugs at their sources, blocking narcotics trafficking, educating our citizens and treating those individuals who have become dependent upon drugs can we win this war on drugs. This is not a Democratic or Republican issue or a rich versus poor problem but a national emergency which we in Congress must act on now to insure a drug-free society for the children of tomorrow.

Mr. PURSELL. Mr. Chairman, I rise in support of H.R. 5484, the Omnibus Drug Enforcement, Education, and Control Act of 1986. I would like to congratulate members and staff of the 12 contributing committees as well as the minority and majority leadership for their hard work in coordinating and drafting this bipartisan effort.

This bill is a revolutionary approach to addressing the drug abuse epidemic facing this country. Not only does H.R. 5484 step up existing Federal efforts to interdict the supply of drugs entering the United States, it also channels resources toward drug education, rehabilitation, treatment, and prevention initiatives designed to stem the rising demand for drugs.

Specifically, the bill provides an additional $180 million to the alcohol, drug abuse, and mental health administration for block grants to States for urgently needed treatment and prevention programs. According to substance abuse centers in the State of Michigan, the waiting list for drug treatment and rehabilitation is long and growing. These agencies currently do not have the resources necessary to adequately deal with the enormous demand for their services. Persons badly in need of treatment must wait weeks before the substance abuse agency can assess his or her drug problem and respond accordingly. Due to our huge Federal deficit, the Federal Government has been forced to reduce its contributions to State drug abuse programs. H.R. 5484 takes a small step toward assisting State efforts to respond to the ravaging effects of drugs.

In addition to Federal assistance for drug treatment and rehabilitation, this bill includes a number of provisions designed to expand and coordinate Federal, State, and local drug education programs. A recent survey conducted by the University of Michigan found that almost two-thirds of high school seniors surveyed had used illicit drugs, that cocaine use among seniors has increased by 17 percent, and that more than 34 percent of the students did not believe that trying cocaine was dangerous. In light of these frightening statistics, it is apparent that a comprehensive and effective drug education effort at all levels is drastically needed. I strongly support provisions in the bill which establish grants for a variety of drug education programs to States, local intermediate educational agencies, and higher education institutions, which require the Departments of Education and Health and Human Services to create a joint national education program on drug abuse, and which require these Departments to study the nature and effectiveness of existing programs.

Mr. Chairman, I also applaud provisions which take a tough stand on reducing the supply of drugs in this country. Nothing short of a declaration of war on drug suppliers and dealers is necessary to dam the flood of drugs pouring into the United States. I strongly support provisions which increase penalties for drug pushers, establish new crimes for money laundering and designer drugs, heighten military participation in the drug surveillance and interdiction effort, use foreign aid as a lever for increasing international cooperation in the drug war, and revise the customs laws to deter drug imports. Through these tough new measures, the United States can reduce the supply of drugs available, increase the expense to drug dealers of producing and importing illicit substances, and apprehend and punish those responsible for this pervasive and serious problem.

In closing, I would just emphasize that although the efforts of State, Federal, and local governments are important contributions to combating this Nation's drug crisis, the success or failure of our fight will depend ultimately on the strength and commitment of the American family.

The first place for drug education and prevention is the family and the home. Parents must educate themselves through local drug abuse prevention programs about the symptoms and effects of drug abuse. This information must be passed on to their children in a family environment where it will have the most impact. Parents also must set an example for their children. How can we expect our children to say no to drugs if the abuse of drugs and alcohol is prevalent in the home. Mr. Chairman, I am talking about a new and strengthened commitment from the foundation of this country: The family. I strongly support efforts in this and future legislation which encourage parents and children to say no to drugs so that one day we can realize the dream of a drug-free America.

Mr. WEISS. Mr. Chairman, it is with the greatest sense of disappointment that I must oppose final passage of H.R. 5484, the omnibus drug bill, as amended.

As I indicated in my statements earlier in this debate, I strongly supported this bill in its original form. In my 30 years as a prosecutor, city councilman, and congressional representative from New York City, I have continuously fought drug abuse and illegal narcotics trafficking. I have also seen, firsthand, the devasting effect that drugs can have on a community.

So I was delighted to see the leadership of the House, from both sides of the aisle, bring this comprehensive antidrug legislation to the House floor. In particular, I was pleased that this bill includes $350 million annually for the next 3 fiscal years for drug education programs. One of the best ways to solve the drug problem is to stop drug use before it begins. Yet right now, for every Federal dollar spent on drug enforcement efforts, barely one penny is spent on education. Efforts to discourage cigarette smoking through education campaigns have proven enormously effective. A similar campaign waged against illicit narcotics could turn out to be the most cost-effective way to keep drugs off the streets.

I was also pleased to see the inclusion of $180 million for drug treatment and prevention programs for the coming fiscal year. When we condemn the use of illicit drugs, we also oblige ourselves to extend a hand to those who are struggling to follow our exhortations and rid themselves of their additions. Surely it is difficult to expect people to stop using drugs, when there are no affordable treatment programs that allow them to do so. Yet drug treatment programs are expensive, and have been drastically underfunded until now. Title IX of this bill would help correct this problem.

Curtailing the demand for drugs is one part of the solution: stopping the supply is the other part. For this effort, H.R. 5484 contains many important provisions, including additional funds for the Drug Enforcement Administration, the Coast Guard, for the Customs Service, for prison construction, and for grants to local police programs. Sadly, each of these programs have been and will continue to be subject to across-the-board cuts under Gramm-Rudman. Yet all of these areas are part of an absolutely essential effort to stop the horrible destruction of narcotics.

When I rose to speak in favor of this bill yesterday, I warned against the adoption of pernicious amendments that would undermine the many valuable provisions of this bill, and make it impossible to support final passage of an amended bill. I deeply regret to say that with the adoption of amendments to establish a death penalty, to destroy the protections of the exclusionary rule, and to erase the separation of military and civilian forces by involving the Armed Forces in drug enforcement, I will be unable to vote for this measure.

The Gekas amendment to establish a death penalty for drug-related deaths has no place in a bipartisan effort to address the drug problem. The omnibus narcotics bill already increases penalties for drug-related crimes across the board, and requires a prison term of between 20 years and life for drug distribution or production offenses that result in serious death or injury. The taking of human life by the State will do nothing to reduce the availability of drugs, and its inclusion in the current antidrug efforts has been opposed by President Reagan.

The Lungren amendment to the exclusionary rule, which would allow illegally seized evidence to be used in a trial whenever police can argue they acted in "good faith," is not only inappropriate, it is probably unconstitutional. The exclusionary rule is one of the most important protections Americans have aganist unreasonable search and seizure. Under the Lungren amendment, however, police will no longer have to even obtain a warrant before embarking on seizures of admissible evidence. The Lungren amendment wounds one of our coun-

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try's most cherished constitutional protections against the abuse of power by the State.

Moreover, there is no evidence that it will make any contribution to stopping the drug problem. Recent federally funded studies indicate that less than 1 percent of arrests do not culminate in a conviction because of the exclusionary rule.

Finally, the Hunter amendment, which brings the Armed Forces into the business of law enforcement, would destroy the historic separation of the police and Armed Forces, with potentially calamitous results for the liberties of Americans. Our Armed Forces are not agents of the courts: they are not trained to comply with the law and to protect the constitutional rights of defendants. The Hunter amendment leads the way toward the creation of a national police force, one with little knowledge of the rights and protections of U.S. citizens. To take this grave step on the basis of less than 1 hour's debate on the House floor shows a foolish carelessness about the principles to which we owe over 200 years of liberty. Moreover, these amendments were opposed by Secretary of Defense Casper Weinberger, who undoubtedly recognizes their impropriety.

In adopting these three amendments, the House has unwisely forced Members to choose between fighting the menace of drugs, and upholding the Constitution and our basic moral principles. Even though I was a strong supporter of this bill as introduced, I cannot support a bill that casually and unnecessarily attacks constitutional rights in the process of attacking the drug problem. For these reasons, I must reluctantly oppose the final passage of this bill as amended, in the hopes that its destructive provisions will be removed either by the other body or in conference, to produce a truly effective drug bill that I would happily support.

Ms. OAKAR. Mr. Chairman, yesterday, I spoke in support of H.R. 5484, the omnibus drug bill of 1986. This very important legislation has been developed through a bipartisan effort to fight our Nation's drug problem. The omnibus legislation before us today takes a comprehensive look at the problem of drug abuse which faces our Nation, and offers solutions to deal with all facets of the problem.

All Members and every committee of this House have contributed to this bill, reflecting the national resolve to defeat the problems of drug abuse. I want to commend the superb leadership of Speaker O'NEILL, Majority Leader WRIGHT, Minority Leader MICHEL, Chairman BILL FORD, and my other colleagues who have worked on this blueprint.

Mr. Chairman, I would like to add a few remarks today about title X of this bill, which authorizes demonstration projects to test the efficacy and cost effectiveness of new drug treatment and rehabilitation programs under the Federal Employees Health Benefits Program [FEHBP]. The bill establishes a 3-year demonstration, beginning January 1, 1988, during which several models for drug and alcohol abuse treatment programs will be tried under the FEHBP.

This legislation directs the Office of Personnel Management [OPM] to work with the FEHBP plans, Federal agencies, and employee organizations to develop innovative rehabilitation programs to be offered in several geographic areas across the country. Under the bill, OPM and the other groups are instructed to include outpatient and inpatient services, as well as various other services, such as child care, to make certain that individuals who need help will have access to it. OPM and the other groups will select which agency or agencies will participate in the demonstration at each site. The demonstration will not interfere with existing employee assistance programs [EAPs]; instead, the legislation directs that the demonstration will coordinate with these EAPs to take advantage of their services and expertise. A separate appropriation is authorized for the demonstration so that insurance costs will not rise for individuals or for the FEHBP Program.

Under H.R. 5484, the evaluators of the demonstration projects are instructed to measure not only the cost and effectiveness of the new health coverage, but the effects of such care on worker productivity. Undoubtedly, we will realize gains in both the well-being of individuals and their job performance by making help available when it is needed. Any responsible employer knows that both the employer and the employee gain when a health problem like substance abuse is acknowledged and dealt with effectively. It is far more humane, and far less costly, to offer assistance than to ignore health problems or respond to them with punishment.

This demonstration is very important. Ever since 1982, when the administration forced extensive cuts in the FEHBP, Federal employees, annuitants, and their families have not had adequate health insurance coverage for drug abuse and alcoholism rehabilitation. In 1982, FEHBP benefits were cut by 13 percent, with the brunt of those reductions falling in the areas of mental health care and drug abuse and alcoholism rehabilitation. Today, when the entire Nation is recognizing the serious implications of substance abuse for our citizens and our work force, we must reexamine our health insurance programs to fill in the gaps where needs are not being met.

Today, we are taking an important step toward restoring the FEHBP to a more comprehensive health care program. We are acting to deal with the problems of substance abuse in a reasonable, responsible, humane fashion. I would like to thank my colleagues again for their participation in this effort, and urge swift approval of this legislation.

Mr. SENSENBRENNER. Mr. Chairman, as an original cosponsor, I want to underscore my support for H.R. 5484, the Omnibus Drug Act of 1986, legislation whose time has finally come. Today, the United States makes up only about 5 percent of the world's population, yet consumes nearly 60 percent of the world's illegal drugs. The real tragedy is that our Nation's future is the victim, because the users of illegal drugs are predominantly among young people.

However, even before this legislation was introduced, we were starting to see a fundamental change in the attitude of the American people toward the problem of drugs. Across the country, individual citizens, private organizations, community groups, and public agencies are all working to reestablish a climate in which drug abuse is not just illegal, but socially and ethically unacceptable.

President Reagan has made fighting drug abuse a major goal of his administration, and recently announced a national strategy consisting of six major goals to eradicate drug abuse. Mrs. Reagan has made it her major goal. With her help, 10,000 "Just Say No" clubs have been established across the country. Five years ago, there were only 900 such groups.

Among other provisions, the omnibus measure incorporates provisions of seven bills reported by the Judiciary Committee to enhance drug enforcement, stiffen penalties for drug-related crimes, provides for treatment of drug- and alcohol-dependent offenders, and fund additional prison construction.

To make this bill more effective, we need the death penalty for people convicted of drug trafficking, we need to spend more money on border patrols and customs services, and we should use our foreign aid to tell foreign countries where drugs are produced that if they want foreign aid, they are going to have to get rid of the drug sources and not be involved in having drugs as a money-making export.

There is no single solution to the drug crisis. The 20 Federal agencies and hundreds of State and local offices which fight drugs must battle on many fronts: the source, interdiction of supply, prevention, treatment and rehabilitation. The ultimate success of that effort, however, depends upon citizen volunteers who, in one community after another, are taking the lead in fighting drug abuse in the workplace, in our schools, and on our streets.

Mr. LANTOS. Mr. Chairman, the drug epidemic we are facing is affecting all Americans—both those who use illegal drugs as well as non-drug users who, though innocent of wrong doing, are affected by this cancer on our society. This rampant drug use is increasing the danger on our highways, increasing crime in our cities, and destroying families and homes throughout our Nation. More than half of all crimes are now drug-related; and as illicit drug use grows, more crimes are committed. It is an increasing spiral of causes and effects, taking in an ever-widening circle of tragedy.

The price of human lives of this epidemic is incalculable. But, the financial price we are paying as a society can be calculated—and it is staggering. Americans spend $110 billion a year on illicit drugs. The recent appearance of less expensive cocaine, "crack" has taken the drug scene by storm. Alternative forms of use, such as free-basing, have also made this substance more convenient to use. It is now believed, based on recent studies, that one of every six teenagers is trying cocaine before graduating from high school, and one of every three college students is now using cocaine before graduating from college. Current estimates suggest that there are 4 to 5 million regular adult cocaine users in our Nation.

There has been an enormous quantitative jump—an explosive increase—in the amount of cocaine smuggled into this country from South America. While we were shocked by 1984 figures that Federal Drug Enforcement Administration agents were seizing an average of 48 pounds of cocaine per month, current figures have rocketed. The figure jumped to 275 pounds in 1985 and it is even higher for 1986. Earlier this year in Los Angeles, three unrelated seizures in less than 1 week resulted in the seizure of 790 pounds of cocaine. That is in only one city, in only 1 week, in our Nation alone.

The time is long overdue for us to declare war on illicit drugs, to take comprehensive action on all fronts to deal with illicit drugs.

Mr. Chairman, the legislation which we are considering in the House today—H.R. 5484, the Omnibus Drug Enforcement, Education, and Control Act of 1986—is that long overdue declaration of war, it is the comprehensive program that is required if we are to deal with the drug crisis.

This legislation provides new programs and new legislation in a large number of important areas. Any assault on the drug problem must deal with many areas. This legislation provides important new tools in all areas of drug interdiction, enforcement, education, and rehabilitation, as well as providing increased penalties for violation of our drug laws.

I am delighted that provisions of my bill, H.R. 5247—the Youth Drug Protection Act have been included in this legislation. The Omnibus Drug Act strengthens penalties and clarifies legislation making it a Federal crime to use young people to distribute drugs and to manufacture or distribute drugs in or near schools. It also increases the penalties for cocaine dealers for first and subsequent offenses.

This legislation is our declaration of war against the use of illicit drugs in the United States and against international drug dealers who provide illegal narcotics. As Gen. Douglas MacArthur said, "In war there is no substitute for victory." In this war against drugs, the stakes are high—the lives and futures of our children and our grandchildren. It is a war we can win, it is a war we must win. The legislation the House is considering today is an essential weapon in that war. I urge my colleagues to vote for its adoption.

□ 2155

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. CARR, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5484) to strengthen Federal efforts to encourage foreign cooperation in eradicating illicit drug crops and in halting international drug traffic, to improve enforcement of Federal drug laws and enhance interdiction of illicit drug shipments, to provide strong Federal leadership in establishing effective drug abuse prevention and education programs, to expand Federal support for drug abuse treatment and rehabilitation efforts, and for other purposes, pursuant to House Resolution 541, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The amendments printed in section 2 of House Resolution 541, agreed to by the House on September 10, 1986, are considered as having been adopted.

Is a separate vote demanded on any other amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the yeas appeared to have it.

Mr. LEWIS of California. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 392, nays 16, not voting 23, as follows:

[Roll No. 378]

YEAS—392

Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Barnard
Barnes
Bartlett
Barton
Bateman
Bates
Bedell
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Biaggi
Bilirakis
Bliley
Boehlert
Boggs
Boland
Boner (TN)
Bonior (MI)
Bonker
Borski
Bosco
Boulter
Boxer
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Burton (IN)
Bustamante
Byron
Callahan
Campbell
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clinger
Coats
Cobey
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Cooper
Coughlin
Courter
Coyne
Craig
Daniel
Dannemeyer
Darden
Daschle
Daub
Davis
de la Garza
DeLay
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dornan (CA)
Dowdy
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart (OH)
Edgar
Edwards (OK)
Emerson
English
Erdreich
Evans (IA)
Evans (IL)
Fascell
Fawell
Fazio
Feighan
Fiedler
Fields
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fowler
Franklin
Frenzel
Frost
Fuqua
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gibbons
Gilman
Gingrich
Glickman
Goodling
Gordon
Gradison
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall, Ralph
Hamilton
Hammerschmidt
Hansen
Hatcher
Hawkins
Hayes
Hefner
Hendon
Henry
Hertel
Hiler
Hillis
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Johnson
Jones (NC)
Jones (OK)
Jones (TN)
Kanjorski
Kaptur
Kasich
Kastenmeier
Kemp
Kennelly
Kildee
Kindness
Kleczka
Kolbe
Kolter
Kostmayer
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Loeffler
Long
Lott
Lowery (CA)
Lujan
Luken
Lundine
Lungren
Mack
MacKay
Madigan
Manton
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCain
McCandless
McCloskey
McCollum
McCurdy
McEwen
McGrath
McHugh
McKernan
McKinney
McMillan
Meyers
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Monson
Montgomery
Moody
Moore
Moorhead
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Olin
Ortiz
Owens
Oxley
Packard
Panetta
Parris
Pashayan
Pease
Penny
Pepper
Perkins
Petri
Pickle
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ray
Regula
Reid
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Russo
Saxton
Schaefer
Scheuer
Schneider
Schuette
Schulze
Schumer
Seiberling
Sensenbrenner
Sharp
Shaw
Shelby
Shumway
Shuster
Sikorski
Siljander
Sisisky
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (NE)
Smith (NJ)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Strang
Studds
Stump
Sundquist
Sweeney
Swift
Swindall
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Waldon
Walgren
Walker
Watkins
Waxman
Weber
Wheat
Whitehurst
Whitley
Whittaker
Williams
Wilson
Wirth
Wise
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (FL)
Young (MO)
Zschau

NAYS—16

Clay
Conyers
Crane
Crockett
Dellums
Edwards (CA)
Frank
Gonzalez
Lowry (WA)
Mitchell
Roybal
Sabo
Savage
Stokes
Weaver
Weiss

NOT VOTING—23

Ackerman
Boucher
Breaux
Burton (CA)
Carney
Chappie

Dorgan (ND)	Markey	Snyder
Eckert (NY)	McDade	Stratton
Gephardt	Obey	Synar
Grotberg	Rudd	Whitten
Hartnett	Schroeder	Young (AK)
Huckaby	Smith (IA)	

□ 2210

Mr. LOWRY of Washington changed his vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. RANGEL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include extraneous matter, on H.R. 5484, the Omnibus Drug Enforcement, Education, and Control Act of 1986.

The SPEAKER. Is there objection to the request of the gentleman from New York,

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF MOTION TO CONCUR IN SENATE AMENDMENT TO H.R. 4868, ANTI-APARTHEID ACT OF 1986

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 99-814) on the resolution (H. Res. 548) providing for a motion to take the bill (H.R. 4868) to prohibit loans to, other investment in, and certain other activities with respect to, South Africa, and for other purposes, from the Speaker's table and to agree to the Senate amendment, which was referred to the House Calendar and ordered to be printed.

REQUEST FOR PERMISSION TO HAVE UNTIL MIDNIGHT TUESDAY, SEPTEMBER 16, 1986, TO FILE CONFERENCE REPORT ON H.R. 3838, TAX REFORM ACT OF 1985

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that the managers may have until midnight Tuesday, September 16, 1986, to file the conference report on the bill, H.R. 3838, Tax Reform Act of 1985.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

Mr. FRENZEL. Reserving the right to object, Mr. Speaker, I shall not object. I think that the request is self-explanatory

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, this gives the conferees up until Tuesday at midnight to file. Is there any chance that it would be filed before Tuesday at midnight? I think that most of the Members would prefer to have the full 3 legislative days and not have weekend time in order to examine the report of the committee before we vote.

I just wanted to be assured that we probably would not get it, or we should not get it, before Tuesday at midnight, so that we would have the full 3-day period.

Mr. ROSTENKOWSKI. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Illinois.

Mr. ROSTENKOWSKI. Mr. Speaker, I am certainly optimistic. I had hoped that we could get the report filed before then. It is unlikely, however, because it is such a large document, but I certainly would like to see the membership have the necessary legislative days to review the report.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield further to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, all that I am trying to assure is that we do not have a report filed on a Saturday and then end up with Saturday and Sunday being a part of the 3-day period that would be then a shortened time for the Members coming back to town to consider the bill.

I am just trying to assure that the 3 days will run concurrent with time that the Members would actually be in town.

Mr. ROSTENKOWSKI. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield further to the gentleman from Illinois.

Mr. ROSTENKOWSKI. Mr. Speaker, I have no intentions of trying to see that Sunday or Monday would be counted as a legislative day. I think that getting it filed on Monday night is going to be a success story in itself.

Mr. FRENZEL. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Washington [Mr. LOWRY].

Mr. LOWRY of Washington. I thank the gentleman for yielding.

Mr. Speaker, I was going to reserve the right after the gentleman. I do not think that I have any real problem perhaps with this request for filing the report, but I have a strong problem with the unanimous-consent request made here Tuesday that waived the points of order on being out of the scope of the conference on items such as the sales tax deduction.

□ 2220

That is not a small item. A member of the Committee on Ways and Means came to the floor and received unanimous consent to waive points of order thereby not going to the Committee on Rules on items such as being out of scope such as the House position on the sales tax was 100-percent deduction and the other body's position was 60-percent deduction and just come and waive that, to set it up so that we will have 2 hours of debate on the conference report coming here.

I think there is—is it 3 hours? The gentleman says 3 hours of debate on what is billed as the most major reform of the tax system since 1950. But to come and get a unanimous consent to waive points of order on things like the deduction of the sales tax as a for instance, and there are other for instances, so that we could not go to the Committee on Rules and talk about that, I frankly think on a bill of this magnitude is very bad policy.

When the gentleman is done with his reservation, I am going to bring mine up and then I am going to think about listening to why that makes sense if this is not a railroad.

Mr. FRENZEL. Mr. Speaker, further reserving the right to object, I was on the floor when the unanimous-consent request was made. I, and other Members who were here present, felt that the bill of this size and scope, even though I objected to the features that went beyond the scope of the conference, to have restricted it to six items, however big they were, and I agree with the gentleman that the one he is talking about is a serious one, and I assure you I am no fan of the bill. I intend to vote against it, but I thought the committee ought to have their chance to bring their bill up as a unit.

Going to one more committee could only delay, cause decisions to be deferred in the economy that ought not to be deferred and, therefore, I did not object.

Mr. LOWRY of Washington. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Washington.

Mr. LOWRY of Washington. Mr. Speaker, the economy had a little comment today. I do not know if it had any results on this or anything else. This is a serious question before us.

I would like to know, in my State of Washington, which is constitutionally prohibited against an income tax, in which 60 percent of the revenue to the State of Washington is from the sales tax, it pays for education; it pays for services, why, when we had a position coming out of this House that was 100 percent deductible, than now, and the other body was 60 percent deductible, that now we find it set down, come up with this report after we recessed and came back now and found out the rules of order are waived so that we could not go to the Committee on Rules?

I wanted to talk to the Committee on Rules about why should education in my State subsidize education in the

State of Oregon? Why should the cost of paying for services in the State of Washington, in which an income tax is prohibited, and we had two efforts in the last 10 years to change that and got beaten over 2-to-1 both times, should, by a unanimous consent brought by a member of the Committee on Ways and Means on this floor put out of order even going to the Committee on Rules and getting a chance to talk about this?

I would like to know why that makes sense.

Mr. FRENZEL. Mr. Speaker, further reserving my right to object, I am not going to defend the substance of the bill because I am not supporting it. I only was trying to defend the procedures.

I think if the gentleman wants to proceed, he probably ought to do it under his own reservation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

Mr. LOWRY of Washington. Mr. Speaker, reserving the right to object, I would like to ask the chairman of the Committee on Ways and Means, who has worked very hard on this bill, why an item of that importance should be dropped as not in order of being brought up and going to the Committee on Rules to talk about?

It was 100-percent deduction coming out of this House with 60 percent from the other body.

Mr. ROSTENKOWSKI. Mr. Speaker, will the gentleman yield?

Mr. LOWRY of Washington. I yield to the gentleman from Illinois.

Mr. ROSTENKOWSKI. Mr. Speaker, a conference to negotiate both the House and Senate positions is exactly what it is. It is a conference.

In the negotiations, the other body was very adamant about their position. In the negotiations, this is one of those areas where the House yielded.

As far as the gentleman's opportunity to debate, I am sure that the gentleman is going to have an opportunity on the floor of the House of Representatives to raise his points. But the procedures of the House were accepted, the unanimous-consent request was made and no one objected.

Mr. LOWRY of Washington. Mr. Chairman, what happened in the procedures of the House, the unanimous consent request went around the Committee on Rules so that this can be talked to. That is true.

A member of the Committee on Ways and Means stood up and got unanimous consent to waive the points of order. That is true.

It was not the other body's position that prevailed. The other body's position was for a 60-percent deduction. The House position was 100-percent deduction, and we got zero.

Mr. ROSTENKOWSKI. Mr. Speaker, if the gentleman will yield further, I am informed that before the unanimous consent request was made, it was cleared by members of the Committee on Ways and Means that made the unanimous consent request and by the chairman of the Committee on Rules as well.

So the procedures of the House were conformed with.

Mr. LOWRY of Washington. Mr. Speaker, would the gentleman mind telling me why education in my State should subsidize education in the gentleman's State of Illinois, where, in my State, the only thing that pays 60 percent of the revenues for education in my State is the sales tax? We cannot get out of that. We are locked by constitutional amendment. Why should we now subsidize education in the State of Illinois.

Mr. ROSTENKOWSKI. Mr. Speaker, if the gentleman will yield, I am not going to debate the merits of the bill this evening. Those questions can be answered when the debate is taking place on the floor of the House some time next week or the following week.

Mr. LOWRY of Washington. Mr. Speaker, since this is one of the first opportunities I have had since this procedure to debate that, I debated.

Mr. Speaker, I object.

The SPEAKER. Objection is heard.

HOUR OF MEETING ON TOMORROW

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns tonight, it adjourn to meet at 9 a.m. tomorrow.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 5484, OMNIBUS DRUG ENFORCEMENT, EDUCATION, AND CONTROL ACT OF 1986

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 5484, the enrolling clerk be authorized to make such technical and conforming amendments to the table of contents as may be necessary to reflect amendments adopted to the bill and to make corrections in capitalization and punctuation.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

□ 2230

THE RAILROAD UNEMPLOYMENT INSURANCE INSOLVENCY AND BENEFIT INCREASE ACT OF 1986

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. COATS] is recognized for 5 minutes.

Mr. COATS. Mr. Speaker, today, I am joining my colleague Chairman FLORIO in introducing the Railroad Unemployment Insurance Insolvency and Benefit Act of 1986. This legislation, in the form of a subcommittee print, was favorably approved in June 1986, by the Subcommittee on Commerce, Transportation, and Tourism for consideration by the Committee on Energy and Commerce. I believe that this legislation is a step in the right direction toward addressing the financial problems that face the Railroad Unemployment Insurance [RUI] system.

The future of the RUI system is crucial to the approximately 30,000 unemployed rail workers who are currently receiving benefits. Further, since the RUI system has often been able to pay benefits only by borrowing money from the Railroad Retirement Pension Fund, the financial health of the RUI system has a direct impact on the financial security of railroad retirees.

The financial problems facing the RUI system are nothing new. The system has had to borrow from the Railroad Retirement account in 19 of the last 24 years. I have been working throughout this Congress to ensure that those problems are addressed. Congress cannot afford to delay addressing these problems any longer. The indebtedness of the RUI system to the Railroad Retirement Pension Fund now exceeds $800 million. Additionally, despite this huge debt, RUI daily benefits are lower than those paid by many States. The maximum daily benefit under RUI is $25 per day, compared to $40 per day, which is the weighted average of maximum daily benefit paid to other unemployed workers in the six States where there are 20,000 rail workers.

The legislation we are introducing today is a step toward establishing a financially viable railroad unemployment insurance system that is fair to railroad workers and pensioners, the railroad carriers and the American taxpayer. Although the legislation retains the independent nature of the RUI system it makes important changes in that system.

First, it requires rail carriers to pay unemployment taxes based on their unemployment experience, instead of the flat tax they currently pay. This will encourage rail carriers to attempt to keep their unemployment rates low.

Second, this bill provides a surcharge which will be triggered when the funds in the RUI account fall below certain designated levels. Presently, when the funds in the RUI account are not sufficient to pay unemployment benefits the RUI system borrows funds from the Railroad Retirement System. The RUI system's record of repaying those loans is dismal. Providing a mechanism to raise additional funds will contribute to the financial solvency of both the RUI system and the Railroad Retirement System.

Finally, the bill increases the maximum daily benefit afforded unemployed rail workers from its current, unrealistically low level of $25 to $27. I do not, however, believe that this increase is sufficient. Therefore, at the Subcommittee markup I offered an amendment to increase the daily benefit level to $30. Although that amendment was defeated at subcommittee, both rail labor and management have recently endorsed the amendment. I am heartened that management and labor have finally agreed that reform is needed in this area. RUI benefits are currently too low, and management's recognition of this is a real step forward. I plan to offer my amendment again when the full committee considers this legislation. I am confident that with the support of management and labor my amendment will pass.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. PEPPER] is recognized for 5 minutes.

Mr. PEPPER. Mr. Speaker, I was unavoidably absent for rollcall 364, on Friday afternoon, August 15, 1986. This vote was a motion to adjourn until Monday, September 8, 1986. Had I been present, I would have voted "aye."

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. NELSON] is recognized for 5 minutes.

Mr. NELSON of Florida. Mr. Speaker, this morning I was attending the funeral service of the husband of my executive assistant, who was a close, personal friend, and therefore was unable to be present for rollcall vote No. 367. Had I been present, I would have voted "yes" on the Hunter and Robinson amendment to the Bennett amendment to H.R. 5484, The Omnibus Drug Act of 1986.

NATIONAL CHILDREN'S TELEVISION AWARENESS WEEK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado [Mr. WIRTH] is recognized for 5 minutes.

Mr. WIRTH. I rise in support of House Joint Resolution 710, legislation which designates the week beginning October 12 as "National Children's Television Awareness Week."

The purpose of "National Children's Television Awareness Week" is to highlight the positive uses of television and to help parents and children maximize television's great potential as an educational tool. During the commemorative week, families, broadcasters, schools, libraries, and religious institutions will all be focusing national attention on the positive role that television can play in child development through various activities on the National, State, and local levels.

Television teaches a wide variety of skills and behavior. Programs such as "Sesame Street," for example, have been instrumental in increasing the reading and mathematical proficiency of children. Research indicates that TV can teach values ranging from kindness toward others to cooperation with friends and neighbors. It can also motivate children to learn about the world around them.

Thus, television can play a pivotal role in education if its potential is fully realized and used properly by children, parents and other institutions. Unfortunately, all too often we take television for granted and do little to maximize the tremendous educational, cultural, and social potential that television holds for children.

"National Children's Television Awareness Week" will encourage such positive uses of television through a variety of activities scheduled to focus national attention on how best to utilize the medium. Here are just a few examples of the various activities which will be taking place to promote the special commemorative week:

Seven States have already passed proclamations inaugurating complementary children's television awareness compaigns;

Several cable channels will be scheduling special showings of past quality children's programing and promotional PSAs to highlight the week;

Action for Children's Television is kicking off a yearlong campaign to heighten family awareness of television viewing with a series of publications and the release of a special "TV Smart" book;

Religious groups and the regional PTA groups will be holding children/parent workshops to promote the educational uses of TV; and

The American Academy of Pediatrics will be distributing special leaflets to pediatricians and patients highlighting the positive uses of television.

This resolution is strongly supported by the National Education Association, Action for Children's Television, Consumer Federation of America, International Reading Association, National PTA, American Academy of Child Psychiatry and a host of other organizations. I urge my colleagues to join me in joining this resolution.

THE PRESIDENT'S VOLUNTARY RESTRAINT AGREEMENT ON STEEL IS NOT WORKING

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 30 minutes.

Mrs. BENTLEY. Mr. Speaker, the recently reported trade figures on steel imports for the month of July of 27.3 percent import penetration of the American market is a shocker and it makes a mockery of the President's voluntary restraint agreement on steel which was to keep import penetration at 18.5 percent of domestic market.

Two years into the agreement, total year-to-date imports are at 23.3 percent, so we are still 5 points above the agreed amount. And, the Trade Representative, Mr. Yeutter, in this poor atmosphere, has just ceded another 200,000 tons of semifinished steel to the European Community.

In negotiations, Dr. Yeutter promised to come up with a "nifty" citrus agreement in exchange for the 200,000 tons of steel. However, it was all promises. He came back from the EEC without the citrus agreement; but, he announced he had given away the steel, anyway.

This raises several questions in my mind. How can anyone seriously equate the dollar value of steel with the dollar value of grapefruit? How can anyone seriously equate the strategic value of having a domestic steel industry in place and having a domestic citrus industry in place? I have heard that apples and oranges can't be mixed.

Well, I say that steel and grapefruit are not interchangeable either in monetary value or in intrinsic value to the American economy, or to the defense. No one ever won a war hurling grapefruit at an enemy. The state of our industrial base raises the question of whether we can even produce old fashioned grape shot inside this country.

This Government and the Trade Representatives better get national priorities in order.

The capacity of our steel industry is in a drastic decline. It seemingly has little to do with the competitiveness of the industry, it has to do with the attitude of our Government toward the necessity of having a steel industry, viable and profitable, inside this country.

When the EEC demanded—as their right—the entry of a million tons of European steel into our markets, they were awarded 600,000 tons with two extra fillips the 200,000 more tons of semifinished product—and no grapefruit sales in return—and an escalator clause which allows even more sales into our markets over the next few years.

There are few United States steel exports into the EC and other nations such as Japan are severely limited on what they can export to Europe. Inside the European market, there are no restraints from country to country. However, European steel is more expensive for internal use, than for export, because the Value Added Tax, common to all EC countries is collected internally, but backed off at the time of export.

This industry is also heavily subsidized by the European Community by several billions of dollars over the last few years of heavy export to the United States. Not only should these countries be delighted with our marshmallow defense of our own industry, they should be absolutely ecstatic over our projected new tax bill which will totally discourage any new investments in our smoke stack industries.

European steel makers, therefore, effectively, cut their prices for export by backing off or rebating the VRA

tax. It is purely and simply a legalistic manuever to get around a free trade no-no—products sold more cheaply internally than in export are considered outside of the pale in free trade parlance.

Mr. Speaker, when we criticize our own steel industry, saying that they are not competitive, somehow we always forget to point out that our steel industry is private enterprise; it is free enterprise; and we are putting each of our steel companies up against a government, because the Government of Korea, the Government of Japan, the governments in the European Countries all subsidize their steel industries. We forget that.

Pogo convinces me. "We have seen the enemy and it is us!"

Ambassador Yeutter was even quoted in the newspapers, while in negotiations on EC steel, that it was questionable as to whether we needed smokestack industries. How's that for flashing your hold card while in a high stakes game?

Over the last 6 years, time and time again our steel companies had cases prepared against many foreign companies and countries on illegal trade practices inside the American market—on each and every occasion the U.S. companies were pursuaded by the White House that charges should not be filed. That the White House would take care of them with the voluntary restraint agreement; "not to worry."

Everybody makes mistakes, Mr. Speaker. For example, for the first 7 months of the second year of the President's voluntary restraint agreements with import penetration at 23.3 percent of market. We can surely say that we have indeed made a mistake in listening, and that the industry has made a mistake in not going ahead and filing charges for damage done to them by imports.

Other nations have watched the behavior of the EC and are beginning to push up shipments. Canada is on a roll taking 3.2 percent of our market, refusing to cut back on the basis that we have no national boundries between us, that we share a common market—inside the United States.

That's an interesting viewpoint since there are tariffs all over the place on American products flowing into Canada—and some of those tariffs are very steep.

American truck drivers would also be interested to know that we are boundary-less with Canada. The Eastern Provinces of Canada demand that every load going into Canada be offloaded at the border and loaded onto Canadian rigs. American drivers who have gone into Canada—with special dispensation—cite instances of harrassment by Canadian Mounted Police.

The boundary to the north seems to exist only against American products and American businesses. For Canadian products and transport coming south it obviously disappears. What a magical boundary we've allowed to grow up along our Northern States—a one-way turnstile, always operating against us.

Sweden has been refusing to negotiate with us on steel. Again a nationally subsidized steel industry which competes unfairly with ours and gets away with it.

Both Korea and Taiwan observing the success of the western nations battering at our steel markets are beginning to ship increasing amounts—and why not? Once they have pushed up the percentages—when we begin to negotiate seriously with them—sometimes in the next few years—the level of negotiations we start at will be theirs.

It happened with the EC negotiations and Uncle Sam doesn't seem to know how to say, "First let's look at what level is good for our country—our industry!"

If I sound annoyed, exercised by what is happening in the steel industry—then I make my point well. However, what is happening in steel is only a part of a greater, more frightening picture.

□ 2240

Another set of figures came out over the Labor Day weekend. These projected a $170 billion trade deficit for 1986. Steel imports are only a part of that picture, automotive parts and automobiles, machine tools and ball bearings, TV and radios, shoes and clothing—many, many other products contribute to this astronomical sum.

Let us take some of those one by one, some of the stories that we have been hearing about that. Let us take the automotive parts, the automobiles which consumed at one time, when they were made in this country, a substantial portion of the steel that was manufactured here. When we are talking about the voluntary restraint agreement on steel coming in, we are not talking about manufactured goods made out of steel which actually raises the amount of steel coming into this country as 50 percent of the market. That goes to the automobiles and it goes to the automotive parts and the machine tools and the ball bearings. But on the automotive parts we are hearing a lot of after-market repair parts. Now, what are after-market repair parts? Why are they called that?

Our research shows that they are inferior products being sent in here and that the insurance ccmpanies when they are making the estimates for repairs on American cars or other cars, I guess, are using these cheap figures, the lowest cost figures, the after-market figures, and they are not even letting the customer know in many instances that he or she is being given an inferior part, and inferior repairs.

Something needs to be done about that.

Ball bearings, you might say we are almost at a crisis stage on that. They are very important to all production. Here we are with more than 80 percent coming in from overseas today. Machine tools, another industry that is on the decline in this country, another very vital industry to our national defense. When you look at the empty steel plants, the buildings where there were once pipe mills, rod mills, and you see how empty they are, the equipment has even been taken out of them and sold somewhere overseas, you think how are we ever going to rev up if we get into an emergency situation again because we do not have the machine tool industry to prepare us for it?

I am worried, yes. I worry a great deal about this. We have a lot of questions that must be answered.

I remember the days not too long ago when the trade deficit was around $100 billion. We were told the reason was the vast amount of oil imported into this country. At that time oil was nearly $35 to $40 a barrel. Here we are with oil down to $8, $10, $12 a barrel and the balance of trade deficit is going up and up and up. And nobody has ever wanted to admit that it is the increasing amounts of manufactured goods coming from overseas that is creating this deficit as well as creating a deficit in jobs in this country.

For the future economic independence of the country, this $170 billion should raise grave concern. Those dollars will eventually return to be spent in this country and from past records, it is obvious that they will not be spent to purchase our goods, but to purchase our assets. It is capital we are not shipping offshore which will return to us as economic bullets.

Our economy has degenerated into a Ponzi scheme—money flowing out on imports, foreign money flowing back in to buy Treasury bills, and U.S. assets and fewer and fewer American products being sold. We are caught in a rip. As we import more foreign goods, more and more American businesses are destroyed creating the urge to buy yet more and more foreign products.

To add insult to injury, which is what I think it is, in our tax bill which we are going to be considering on this floor next week, there is a $100 million tax break for Toyota of Japan to come in and build a new assembly plant in the State of Kentucky. Do you know what? All of the components that will be assembled in that plant will be manufactured overseas in Japan and will be brought over here. That steel

does not count in the voluntary restraint agreement. But that is going to be brought in here and assembled. And do you know something more? That plant is not even going to be built by American workers. Somehow they are going to be bring in 500 Japanese to construct the plant. Our reports are that they are even going to bring in Japanese to work in the plant.

Now, that is really giving it to the Americans good.

I say, Mr. Speaker, that we are inviting many of the problems that are being heaped upon us in the loss of our manufacturing base, our industrial base, and I think it is time that we in this House show the necessary leadership to stop this, to stop this bleeding of a very, very very necessary industrial base.

Mr. Speaker, at this time I yield to the gentleman from Pennsylvania.

Mr. GAYDOS. I thank the gentlewoman for yielding.

Mr. Speaker, I was very hesitant to interrupt my colleague on the Steel Caucus because her presentation was so logical, so informative and so expertly done. I think the entire House, the American people, the citizens of this country owe the gentlewoman a deep sincere debt of gratitude.

Mrs. BENTLEY. I thank the gentleman for his comments.

Mr. GAYDOS. The gentlewoman has taken the time not only for the special order but to get down and in detail present in such a practical manner the argument, the explanation of what has been going on for the last 15 to 18 years in this country.

I want to particularly commend the gentlewoman for being so practical in making the logical comparison, though it may seem illogical, between grapefruit and the agriculture industry and steel.

I think that makes it very easy to understand for those of our citizenry who have not had the privilege or maybe some even lack the ability to be able to analyze some of these complicated international situations in trade and all the exponents of trade and the machinations of Mr. Yeutter, who has appeared so many times before our committee and has told us so many conflicting things. I think the explanation of the gentlewoman and her very clear explanation in particular instances goes a long way to making this very delicate, yet most important subject matter understandable for our citizens.

That is why I hesitated to interrupt because I thought it was so good, I was impressed sitting here listening to it.

I think everything the gentlewoman has said is proven by facts. The presentation was very clear. I know it is going to be very effective. I would like to ask my colleague who serves with me on the steel caucus executive committee if she does not agree with me that both of us, if we have not already lost it, should lose patience with Ambassador Yeutter. He has told us many, many things before the caucus committee where he has understandably, and so kindly presented himself. He does not have to come before us. But when he did bring the message on numerous occasions it appears that everything he said could be discounted because everything he said could almost be put into one bag that could be marked "non-attainable." Every time he comes back to the caucus, he has to explain why what he said before was going to happen did not happen. I was particularly impressed by my colleague when she emphasized that aspect of the Yeutter diplomacy, the international trade diplomacy where he has repeatedly come back with explanations saying, "Well, I gave it away because of this or that."

□ 2255

So I would like to have a comment on record, and I think our citizens listening to this very, very clear explanation would benefit from further explanation on why a trade ambassador has to come back to us repeatedly and tell the Nation and tell us that he cannot do this and he has not done this, was unable to do this, and trade away the very life blood of this country as far as trade is concerned.

Mrs. BENTLEY. I appreciate the kind remarks of my colleague from Pennsylvania, and I am delighted that the gentleman has entered into this colloquy with me.

I get very disturbed by the conflicting reports that we have been getting from our special Trade Representative's office. In fact, I believe it was as recent as July that we were assured that the figures were going to decrease and that finally everything was going to get in line, and that the ceiling that the President had set 2 years ago, nearly 2 years ago, was finally going to be achieved. And here we are, the next report we get, it has skyrocketed instead.

Stepping away from the steel industry momentarily, we were in negotiations with the Far Eastern countries on textiles very recently. We got one or two or three which were supposed to be good. I have not studied them sufficiently or heard from the textile industry whether they were good or bad. I have heard some, and they were not impressed with them.

But I felt that it was particularly significant that the Japanese stock negotiations, the minute that we failed to override the President's veto on that textile bill.

My point of bringing that out is that the only way you can deal with these is with strength. And if we do not hold clubs over their heads, they are sure going to run away with us.

We cannot go to the European market with hat in hand and beg from them. I think we really have to say it is either going to be this way or forget it. I do not think we have to bow and kowtow to these countries. That is one of the biggest mistakes we made, and our State Department is famous for doing that. They do not consider the United States' position; they consider only what the reaction is going to be abroad. I think it is time we start worrying about what is happening here.

What I am concerned about in saying it is either going to be a quid for a quo or a quo for a quid is that our manufacturing base is eroded so severely that we may not have the merchandise, the materials, to export anymore when we are demanding that they open their doors the same way we open ours. That is where we made the mistake. Our doors are wide open: free trade roll in; free trade takes our jobs. But their doors have remained closed, and I say all around the world practically. It is a rare door that is open to us or to many other countries. But we have given it away.

Only, and only with demanding that our goods have equal treatment, equal openings, can we ever make any gains, I am afraid.

Mr. GAYDOS. I believe my colleague will agree with me because she has been exposed to the same information during our colloquys and also during our interrogation of the Trade Representatives and other representatives of the administration, when I say that Mr. Nakasone from Japan has repeatedly refused to open markets, have done just a little, just a little, to placate us as far as publicity is concerned. I think the gentlewoman so wisely cite the incident. As soon as we failed to override that incident, it went back again, the veto, he went back again to his old games and delay after delay after delay. The Japanese market today is still a closed market. If anybody says otherwise, they do not understand or they do not know or they are lying. That is a fact, an unadulterated fact. I think my colleague agrees with me.

Mrs. BENTLEY. Very much. I mean their doors are not open even that much. Interestingly, one of our weaknesses is when we go into negotiations with the Japanese or with these other countries, I am afraid that their people are much better prepared than are our people, and that may be one of the reasons why we get beat on the head all of the time.

I will give you a specific example. Automotive repair parts, the components for repairs. Our Department of Commerce went over there in August to do some negotiations. We had developed some material in my office on the after-market parts. So we had some discussions, my administrative

assistant had some discussions over there with the Department of Commerce. We find out that those people who were going to these negotiations did not have as much material or as much knowledge on some of this as we did. I am not saying that we had very much. That was a shock and a surprise and a disappointment. We are not as well prepared, and we do not have the hard-nose negotiators going over there.

Mr. GAYDOS. I agree with my colleague, because the gentlewoman and I both have experienced in the past a chance of international Trade Ambassadors, whether it was Mr. Strauss, or Mr. Brock who is not there, or Mr. Baldrige who was there before he became Secretary, and now Yeutter and a couple of others in between. I would say they probably average around 2 years at the most. They just learn the job and, before you know it, they are replaced.

I think it is so evident that because they repeatedly come back that it just cannot be done.

For instance Sweden thumbing their noses at us, taking advantage of some of the voluntary restraint agreements that are in place, and flooding this country, particularly in speciality steel, steel tubing, which is so important for medical instrumentation and things like that, and just absolutely ignoring us like we did not exist.

I jump to another subject very fast. I know my colleague agrees with me because we discussed this personally on many occasions. We talked about the rubber industry. They wonder why in Akron, OH, and other places who were well renowned for years as a manufacturer of rubber tires, way before Michelin came in and invaded our market. They are not there anymore. They are closed.

Why? Because when you have 25 percent of your automobiles in this country being imported, there are four and sometimes five tires on an automobile coming in, well, that is where the rubber industry went. We do not have it anymore.

This has repeated itself and repeated itself and has enlarged itself.

I agree with the gentlewoman when she says, and I think she says it scholarly and I think she says it based upon the facts, that this country is in trouble, serious trouble.

I remember when a $10 billion deficit was so outstanding. We are talking about $200 billion and people are accepting it. We should have an actual national emergency when a $200 billion trade deficit presents itself.

H.R. 1309, THE HIGH RISK OCCUPATIONAL DISEASE NOTIFICATION AND PREVENTION ACT OF 1986

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. GAYDOS] is recognized for 60 minutes.

Mr. GAYDOS. Mr. Speaker, I apologize to my colleague, the gentlewoman from Maryland, because I did take some of her time.

I just wanted to emphasize, if I may at this time, that I deeply respect and appreciate all of the dedicated hours that the gentlewoman from Maryland has given to the Steel Caucus. The gentlewoman has done more than a yeoman's task and has been in the forefront. I want to say on this floor and for the offficial record that without the gentlewoman, I can say I think with authority and experience on the Steel Caucus, it would be in very dire straits. The gentlewoman has always been there to our hearings, always has been there to help us accumulate evidence, and has always been there to the presentation and the argumentation on the floor of this House. I for one appreciate it. I know that I speak on behalf of our colleagues on the Executive Committee and also the general membership of the Steel Caucus. I want to thank the gentlewoman as a matter of record.

Mr. Speaker, I yield to the gentlewoman from Maryland.

Mrs. BENTLEY. I just want to say I appreciate those very kind remarks. I am very honored by them.

I had said most of what I wanted to say, and I do appreciate the fact the gentleman had engaged in a colloquy with me so we could bring out more of the points. I am interested in what the gentleman has to say tonight. I am sure the gentleman is going to be talking on something similar that I am equally interested in.

□ 2305

Mr. GAYDOS. Unfortunately, I have another subject matter. But I do want to say this: I think this short discussion between the two of us, and based upon authentic and acceptable facts as so adequately and intelligently presented by my colleagues is going to go a long way toward helping the general public and our citizens understand what is at stake in this very serious international trade problem that we now experience.

Mrs. BENTLEY. Mr. Speaker, I think that what we might consider, and I think we are reaching that crisis stage on this, is that we may have to consider legislating the voluntary restraint agreements into effect because they are not working. I think we may have to legislate, not the agreements, I meant the percentages on those and make sure that they are adhered to because that is the only way our industry is going to survive.

Mr. GAYDOS. I think the gentlewoman makes a very viable point and I agree with her 1,000 percent.

Mr. Speaker, when I got back to Washington this week, I found on my desk a letter from three Cabinet officers expressing their strong opposition to H.R. 1309, the High Risk Occupational Disease Notification-Prevention Act of 1986 that I introduced last year. The three Cabinet officers, Secretaries Bowen of Health and Human Services, Brock of Labor, and Attorney General Meese have conveniently outlined the particular points of disagreement they have with this bill which I introduced.

Normally, I would not respond in this way, but because I believe that they have expressed some misconceptions about H.R. 1309, I feel it is essential that I must answer them.

To begin with, though, I would like to recap some of the history of this bill. I introduced H.R. 1309 in February 1985. In the time that has passed, the bill has been the subject of six hearings by the Subcommittee on Health and Safety and on Labor standards. The two subcommittees conducted and markup session this past May and the full Committee on Education and Labor ordered the bill reported after a markup session this past June.

Throughout the process I and my staff have expressed our willingness to meet with interested parties to consider their suggestions for improving this bill and to answer any of their questions. The bill has been amended since it was introduced and I firmly believe vastly improved. It is an important piece of legislation; it complements some of the other actions taken by the Occupational Safety and Health Administration and others in the area of occupational disease notification.

Thus, while I can recognize this administration's right to oppose the bill H.R. 1309, I cannot understand the continued misunderstanding of the bill and its components. In order to respond fully, I intend to address each of the specific objections raised in the letter from Messrs. Bowen, Brock, and Meese.

First, while the Department of Health and Human Services does have a committee to coordinate the environmental health and related programs, I seriously doubt, based upon the record, that it has the same functions as a risk assessment board as created in H.R. 1309. The committee, according to the letter given to me, is chartered to develop a balanced, objective consensus on all risk assessments and risk management procedures. The committee's function is applied generally to the population at large and is not geared to focus on the specific

risks attendant to the work place and specific worker populations.

The risk assessment board created in H.R. 1309, in the bill I sponsored, is composed of nine members. Five of those members are career or commissioned public health service officers with particular specialties such as toxicology, epidemiology, medicine, to mention three, and three other members are nongovernment physicians and at least two are expected to have a background in occupational hygiene and medicine.

The final member of the board is to be the Assistant Secretary for Health. The risk assessment board is charged with reviewing existing and forthcoming studies with the intent of identifying those worker populations and subpopulations that are at specific risk of disease because of their jobs and the substances to which they are exposed.

Let me divert just for a minute and state for the record that I have been chairman of the committee for now it is going onto, well, since 1975 or 1974. During that time, after we passed the OSHA Act some 12 years ago, when we were the only major industrial country in the world whereby we had no major piece of legislation governing the workplace and we had people working in all types of industries, no regulations, dealing with dangerous substances, and it took this country almost 200 years to pass comparable legislation. Only in the last 12 or 15 years, with other industrialized nations like West Germany, Sweden, Finland, France, who had this type of legislation in being for years, 30 and 40 years before we had it.

Not only did we get it recently, we also have a reluctant administration. The record is replete with all types of facts indicating a reluctance on the part of the administration to ask for substantially more money to make this act work. To ask for more inspectors. To illustrate the sensitivity to the working people, men and women, who are taxpayers that your Government is concerned with you. None of that has occurred. It has been a very shabby operation; it has been done with reluctance. The record speaks for itself.

The number of inspections, the type of fines that are levied, and the massive accidents that still occur today. The exposures that we have been having. For instance, the American Cancer Society has already, as a matter of public record, indicated after spending hundreds of millions if not billions of dollars that the only cure for cancer as of today is preventative medicine or preventative procedures or preventative rules.

A lot of people just pass it off if they do not have cancer, but if you or any member of your family has it or is exposed to it or is suffering from it, then you understand the sensitivity to any early diagnosis of cancer, as the Cancer Society has said. That is the only way to fight it; you have got to diagnose it early. They give as an example the cervical cancer suffered by many women. If found in the early stages, $500 will cure it. If left alone and discovered later, $30,000 to $40,000 is what it costs, and that figure is escalating without limitation. So within a few years it will probably be $50,000 and $100,000.

So until there is a cure for cancer, one accepted by the medical profession, it remains as a fact, an unadulterated fact, that the only way and the only attack on cancer as one of the many diseases in this country, that the only way you can fight it, the only way to conquer it now is early diagnosis. That is the nature of this bill.

This bill that I introduced is a good bill. It says that OSHA is not doing their job, or if it is doing its job or doing it in another manner, that we as a Nation have a duty to set up a risk assessment board made up of these individuals, let them meet, let them decide, looking at all the things that are manufactured in this country and let that board of intelligent individuals decide what is dangerous to that breadwinner when he goes to work; he is dealing with some radium, dealing with some isotopes, dealing with anything that is dangerous, chemical, all types of mixtures, toluene, whatever you have, dyes, any of those things that he has a right to be notified that he is working with and handling a dangerous material.

Then give him an opportunity, nothing mandatory, but give him an opportunity to go see a doctor or to get information about it, to have himself examined early. If there is any kind of disease that he has been exposed to or if he has contracted it, early treatment, which has been proven to be less costly. Let him transfer jobs if he has to.

That is the nature of this legislation which I have put together with the committee and on which we had hearings and which I am talking about.

Second in that letter that I received, according to these three Cabinet officers, the bill that I have introduced will result in substantial litigation that would impose significant costs on consumers and workers and will create a burden of tort liability and the workers compensation systems.

Insofar as these claims are concerned, H.R. 1309 in and of itself has absolutely no impact on either the tort liability structure nor the Workman's Compensation System. The bill neither makes it easier nor more difficult for a worker or anyone else to file a claim.

There may well be claims filed, either upon receipt of the notification letter or after the medical testing, but there is nothing that would prevent any worker from filing a claim even if that worker was not one of those notified under the terms of the bill.

The concerns raised probably stem from the pilot notification program in Augusta, GA, run by the National Institute for Occupational Safety and Health. In that pilot project, more than 800 chemical workers were notified that they were at risk of bladder disease.

Of those notified, fewer than 170 filed claims totaling $330 million. In all, 119 claims were settled, with the average settlement of about $2,500. There were four or five settlements for as much as $25,000 and one for about $80,000.

That is a matter of course and would have occurred and probably ended up with more cost involved if they had not been notified at that time. This bill does not institute, instigate, nor encourage suits as such. If the man has a disease at the time he is notified, he would have the disease eventually later. He is going to sue one time or another. The bill does not manufacture lawsuits.

The third item raised by the letter from these three Government officials said that the bill may expose the Federal Government and Federal employees to immense liability, either for failure to warn or for inadequate warnings.

The Justice Department raised this issue when one of its attorney's testified before the Subcommittee on Health and Safety last November. Based on the comments, we adopted an amendment providing that the Secretary and agents of the Secretary—this includes both Federal employees as well as private employers who choose to cooperate—would not be liable for monetary damages under Federal or State law with respect to any omission or act in connection with notification.

Our attorneys on the committee assures us that this language resolves the problems of concern to the Attorney General.

The fourth item, the technical feasibility of notifying individuals in populations at risk is questionable, according to these three Government officials, especially if workers other than those involved in the study are to be notified.

Further, the costs of such notification would be considerable, they go on to claim.

I find it hard to believe that opposition to notifying workers of their risks still exists in this country. NIOSH has already proven that notification can be achieved individually. The Augusta, GA, program is not the only one that NIOSH has dealt with successfully. Another notification program has been conducted in Port Allegheny, PA,

with respect to an asbestos program there.

Beyond that, let me quote from a September 8, 1986, letter from Arthur C. Upton, M.D., professor and chairman of environmental medical at the New York University Medical Center and president of the Association of University Environmental Health Sciences Centers.

Dr. Upton writes:

What has been disputed is the feasibility of notifying these workers populations at risk. As the former director of the National Cancer Institute [NCI], I can attest to the fact that such a program can be implemented in an efficient and cost effective manner.

During my tenure at NCI, at the cost of pennies per worker, we sent millions of recipients of Social Security checks a simple printed notification recommending that they seek medical counseling if they had been exposed to asbestos during the course of their working life.

H.R. 1309 also provides for this kind of mass notice, where and when necessary.

Insofar as the costs of notificaiton, NIOSH itself has estimated that the average cost of notification per individual is between $40 and $55.

It should also be noted here that while none of the authors of the letter were in their respective positions in the first term of the current administration. I am talking about Mr. Meese and others. Mr. Meese, though, was a senior advisor to the President, when NIOSH submitted a budget request to follow its Augusta notification program with a broader one. That request was rejected by this administration, unqualifiedly.

Another item raised in the letter was that the criteria for identifying workers for notification are not justifiable and could lead to notifying many workers who are not at increased risk of disease.

The real issue here is whether or not the 30-percent trigger, which triggers this notification, is a valid one. Those most strongly opposed to the 30-percent trigger, obviously, say that it cannot be justified.

On the other hand, epidemiologists such as Irving Selikoff and William J. Nicholson of the Mount Sinai Medical Center feel that the 30-percent trigger is a conservative one.

The 30-percent trigger is in an individual population group if the investigation shows that they suffer 30 percent more disease than the general public and that triggers off the notification, meaning that 30 percent more would indicate they should be notified.

Even if the trigger were at a higher level, say 40 or 50 percent, there would be workers who might be notified who would not necessarily be at risk. That does happen.

But the converse is also true. Even at the 30-percent trigger level, there will be workers who will not be notified, but who should be. And, if the trigger is raised to a more conservative figure, there would be many more at-risk workers who might not be notified.

The real question is whether it is more important to notify some of their possibility of risk or to leave them in the dark with no warning and no effort to put them into a medical monitoring program; as provided under the bill.

Based on testimony presented to the subcommittee during its hearings, general warnings as to the risk of one's job is less likely to generate the kinds of attention to personal safety and medical testing than an individual notification would.

Further, while there may be a reaction of fear by some workers, too many workers are not going to react at all, even with the individual notification in their hands.

Beyond that, as the letter from the three Cabinet officers notes, we have included a provision covering rare diseases that would give the Risk Assessment Board more leeway.

In that same context, the committee report on H.R. 1309 speaks to the necessity of having either a member of the Board or available staff with a special background in biostatistics to assist in determining the biological plausibility of the identification process.

Another item raised by the three Cabinet officers was to the extent that current workers would be notified, OSHA's hazard communication standard already provides more efficient broader, and more effective means of communication to those workers who are at risk.

This statement would be truer if it applied to any of the 22 permanent health standards promulgated by OSHA, but it is not true with respect to the hazard communication standard, even for current employees.

The hazard communication standard is a generic labeling standard. It is aimed at warning workers that they are handling a hazardous material, be it sulfur, acid, benzine, toluene, or what have you. The material safety data sheet, which is an explanation of that item they are handling, the core element of the existing standard, is to provide such information as the chemical compound involved, the hazardous elements, if it is a compound, the various warnings with respect to flammability, explosives, and similar reactions. That is the purpose of it. The material safety data sheet also provides warnings with respect to acute and chronic health problems and provides information on personal protective equipment.

But, as I said, the hazard communication standard is a generic one. It does not say what the permissible exposure limits are to a particular substance, as the 22 permanent health standards do. The hazard communication standard does not require or recommend periodic medical monitoring, as the permanent health standards do.

The material safety data sheet is to be available in the workplace, with access available to workers; but, there is no guarantee that it will be easily accessible.

There are shortcomings with the material safety data sheets today.

At a meeting of the American Chemical Society earlier this year, several speakers raised questions about the accuracy of the material safety data sheets. Some sheets on the same substance from different companies showed extreme variations. In one case, a known carcinogenic was so recorded on one material safety data sheet, but was not recorded as being hazardous insofar as chronic sense on a material safety data sheet by another firm.

California OSHA, 2 years ago, reviewed some 20,000 material safety data sheets and found about 80 percent failed to provide full information for the workers. The information most often missing—chronic health concerns.

How well is industry in compliance with the hazard communication standard? It is hard to say. OSHA says that in 3,520 inspections of manufacturing facilities between May 25, 1986, when the standard became fully effective, and August 13, 1986, about 700 showed evidence of alleged violations of the standard. That is roughly 20 percent of the facilities.

What we really do not know is whether or not the material safety data sheets in each plant for each of the hazardous substances is accurate. OSHA inspectors are not toxicologists and to assume that they will be able to determine more than just the most visible errors or omissions is erroneous. In fact, OSHA really does not have the skilled staff to review every material safety data sheet or even a sizable sample of them to determine whether they are accurate and complete.

In addition, the hazard communication standard applies only to workers in the manufacturing sector. OSHA has issued an advance notice of proposed rulemaking to expand the scope of the standard to all workers, but it is hard to say how long it will be before it is in place.

It must be remembered that OSHA only covers certain workers and workers working for the counties, the municipalities, the States, and, yes, the Federal Government are not presently covered by the OSHA Act.

When you consider that the courts ordered the coverage to all workers in a ruling issued in June 1985, it seems that OSHA is moving at an inordinately slow pace—just like it has on so

many other standards designed to protect the health of American workers.

Another item raised in the letter from the three Cabinet officers was that OSHA regulations require employers to inform workers of their medical and exposure records and of their right of access to those records.

That regulation, as the letter stated, went into effect in 1980. That's all well and good. But if you retired in 1979, it is too bad. You were not notified.

Also, we have some complaints from union officials that some employers haven't exactly made access to those records very easy.

Another complaint was that medical surveillance is available for those workers exposed to such substances as those covered by OSHA's 22 health standards.

As I mentioned earlier, those standards, just like the one providing access to medical and exposure records, are well and good if you were working at the time the standards went into effect or started working thereafter.

But, and I stress this point, these standards are not retroactive. If you retired, if your employer went out of business, or if you changed employers so that you were no longer in a hazardous environment, you would not get the benefit of those standards or notification.

You would still be at risk of the disease, but under current standards, you would have no way of knowing that you had handled a toxic substance or been exposed to unsafe levels.

In fact, let us assume that the exposure level for a toxic substance already covered in 1 of the 22 health standards were to be changed tomorrow. If you retired today, the chances are you would not be notified of the change, even though your risk of disease is as great or greater than the worker who had been exposed for only a short time.

So much for the points of opposition by the three Cabinet secretaries.

We have been told by the agencies that as many as 100,000 workers die each year from workplace caused cancers and other diseases and that another 400,000 are newly disabled each year by those same workplace caused diseases.

If you do not suffer from a disease, you are not going to be concerned, but if your father or a relative or your children or a relation of some sort suffers, you are going to be concerned.

□ 2330

How can we stand by in this country and watch more American men and women suffer and eventually die from diseases that we know could have been prevented?

H.R. 1309 simply seeks to prevent those deaths and disablements by eliminating the causes of those diseases. With an authorization of $25 million for each of the first 2 years, H.R. 1309 is a cost-effective, workable notification program.

It clearly fills an important gap in the occupational health and safety sector and will complement the OSHA Act of 1970 and OSHA's activities since.

The savings to American business in preventing and reducing production losses, trimming high health insurance premiums and other medical and health program costs as well as the savings to the public health system of Social Security and Medicare more than justify the modest costs of the program.

Let me close by saying this about this bill. This bill is a very simple bill. It says that under the existing OSHA Act a lot of people are handling some very dangerous material and they are not being notified, and they are not getting available health advice, are not being sent to doctors, are not being exposed to x rays and other technical changes that we have now in detecting diseases.

This bill is aimed at saving the employer tons of money, unlimited sums of money. Workmen's compensation cases, as indicated by the statistics and the facts, are increasing so fast that the workmen's comp insurance is becoming almost prohibitive, almost confiscatory. So something has to be done along the lines so that these workmen's compensation insurance costs do not put everybody out of business.

Entrepreneurs and business people are going to refrain from going into business because paying simply for the insurance to provide the law provision of providing for the workmen's comp is going to keep them out of business.

If we want to stimulate business and activate business and ask our younger people to give us some new ideas and new concepts, we are going to have to make it economically plausible and feasible for them, and one area is workmen's compensation insurance costs.

As I mentioned before earlier, when you take a look at what it costs to cure cancer after it has progressed to the almost death stage, you are talking about thousands of dollars. An average cancer bill after a person is in the hospital, regardless of what cancer—liver, colon, what have you—runs $40,000, $50,000, $80,000, $100,000, particularly with the new type of treatments that are out. Those are great costs. That is why it costs you today $400 and $500 for a hospital room, and Medicare and Social Security is now in trouble, the medical portion, because the costs have escalated so rapidly that it is almost impossible to keep up with it, and it seems to be the bellwether or seems to be the oncoming concept of socialized medicine in this country, because costs are becoming confiscatory.

If we could save that cost, we could maybe preserve after a fashion our existing mode of living, the way we do business, the entrepreneur, the laissez-faire type of business enterprise that we have in this country, our fundamental democratic concept of business, to try to make a good living for as many people as are willing to work for it. That is what we are trying to do with this bill.

We are also trying to save the misery. Again, if you do not have a cancer victim in your family, if no relative of yours has ever had the disease, you do not care, or some other disease; it does not have to be cancer. If you do not experience it, you are not going to be concerned, but our obligation here in the committee, and as a nation, and particularly this subcommittee, is that we are supposed to worry about those things, and in worrying about those things we are concerned that there are going to be families and there are going to be orphans left, and there are going to be families that are going to be ripped asunder because the breadwinner was exposed to a disease and early death, and left orphans, and did not have the advice, did not have the advantage of a college education because of financial difficulties at home.

All these things come into play. We have said repeatedly that the least that this Nation owes, through the Government that we have and the committee that we serve on, is reasonable notification.

The bill works this way. If you are determined through this risk-assessment board to be working with and handling a chemical substance, and the incidence in that population work group—say putting radium on the dials of a clock—leads the risk assessment board to say, "Look, there are 30 percent more incidents of cancer"—or some other disease—"in this radium field," then they conclude that that is an area where the workers that work with this substance throughout the whole country should be notified.

That is what the bill does. It actually notifies the worker, "You're working with a dangerous substance." It goes on to tell him, since you are notified, you do not have to do anything if you do not want to. If you accept that notification, you like your job, and you are self-analytical and you do not care, or you do not want to follow it up, you do not do anything more. That is it.

But if you want to do something, they tell you. You can go to a certain center and have yourself examined. Maybe there is nothing wrong with you. Or you can go to your physician, family physician, and your family physician after he examines you, if he wants to find out the ramifications of the exposure, if any, whether you could develop a disease, whether you

have developed a disease, what the timeframes are, if that is the case, then the physician even can call certain centers and get some information and some instructions, and he can talk with them.

Maybe after you go to your physician and the physician says, "Hey, you don't have a disease. You can check back with me in a year," that is the preventive aspect. That is the least that we can do.

Not every worker working in every plant. Maybe the ones handling the pickle plant over here maybe are not going to be notified. They are not going to be notified, I do not think, because they have no evidence that I have heard of in our hearings whereby pickle packers are exposed to any particular danger. He is not going to be notified.

But on the other hand some of these people who are cleaning instruments in the dental shops and working with various chemicals are being exposed, and the incidence rate is passing that 30-percentile mark that I talked about. That group would be notified, and they would be told, "Look, you're working with a dangerous substance. If you want, you don't have to, you can go to your doctor and have him examine you."

Maybe you should change jobs, or so the doctor may tell you. Maybe the doctor will say, "Hey, you're not suffering from any disease." Maybe it is in its beginning stages. The doctor will say, "Look, there's a treatment here." The treatment may cost $100. It costs $100, you change jobs, or maybe within that company you move him from that job away from that dangerous chemical that he is handling and put him in another job. That is going to save him from developing a serious disease which in turn is going to be the basis of a workmen's compensation case, going to be very expensive, going to add to the cost of insurance.

That is what we are talking about, an identification, to identify where these dangers are, and notification if your work group does come in that 30 percentile that a lot of people are suffering from some type of disease from the material which you are handling. That is notification and the overall prevention.

That is the whole concept—there are some other elements to it—but that is the whole concept of the bill, what it tries to do. I think that it is necessary. OSHA is not doing that. Other countries are doing that, and I think that if we are going to, No. 1, preserve the entrepreneur way of doing business in this country, meaning free enterprise, we are going to have to make workmen's compensation a reasonable type of production expense so that the company can get into business and can carry the insurance. We are going to do away with an awful lot of human misery.

Again I emphasize, if it does not happen to you or yours, or anybody that you know, you do not give a damn. That is human nature. But if it does, then you are very concerned.

Just to cite that, let me tell you this. Our committee some 15 years ago passed ERISA. ERISA is Employer Retirement Income Security Act. It guarantees pensions.

Today in my district and throughout this whole country companies are going out of business. They are being bought up. United States Steel, in my district I had 33,000 steelworkers 4 years ago; I now have 3,000 from United States Steel, 3,000, and the 3,000 are on strike. That is how it has changed. But yet, all those workers that I have lost, a lot of them are on pension, ERISA protects them, protects their retirement. In case United States Steel goes bankrupt, those retirees are going to receive their pension check.

Why do I bring it up? I bring it up to illustrate and to emphasize what I have said repeatedly: If it is affecting you and your pocketbook, you are going to be concerned, just like those pensioners today are so grateful for that legislation.

□ 2330

That is why we say on this act here that I am proposing that if it cures one disease before it destroys a family and before it becomes a basis of a great workmen's compensation case, it is well worth it.

Mr. Speaker, I yield back the balance of my time.

PRESERVING HOME HEALTH CARE

The SPEAKER pro tempore (Mr. GRAY of Illinois). Under a previous order of the House, the gentleman from Arkansas [Mr. ALEXANDER] is recognized for 20 minutes.

Mr. ALEXANDER. Mr. Speaker, I recall a conversation about 30 years ago with the late Dan Blodgett, former judge of Mississippi County, AR, my home county.

"Judge," I asked, "what happens to people when they get too old to work and have no one to take care of things?"

"Bill," he said, "they stay home and crawl into a corner, where they shrivel up and die."

Largely because of the efforts of the Federal Government, we've made a lot of progress since then. I've always supported home health care and other programs that allow seniors to live productive, constructive, dignified lives.

Last March, I visited the home of Mrs. Hattie Graham in Marion, AR. Mrs. Graham, who is 92 years old, told me she is able to live at home and have at least one well-balanced meal a day because of help from Federal programs.

According to the East Arkansas Area Agency on Aging, the cost of services Mrs. Graham receives under the Older Americans Act and other programs is about $10.50 a day. If she stayed in a nursing home she would cost the Government about $30 a day. But because of programs that help her live in her own home, she is happier and the Government saves money. The human argument and the fiscal argument are on the same side.

Mrs. Graham said she was worried about possible cuts in Older Americans Act programs, which make it possible for someone from the senior citizens center near her house to deliver a hot meal every day and help her in a number of ways.

In response to Mrs. Graham's needs and those of millions like her, the House included an increase in funding for programs conducted by the Administration on Aging in H.R. 5223, the Labor-HHS-Education appropriations bill for fiscal year 1987. I was proud to support this bill when it passed the House July 31.

But, senior citizens living at home often need more than Older Americans Act programs. These folks have their own particular medical needs, which often include sophisticated, expensive medical equipment. Because we in Government realize the value of enabling the elderly to live at home, we have allowed part B of Medicare to pay for home health services and equipment.

Medical equipment suppliers were hurt earlier this year by a misguided Health Care Financing Administration [HCFA] decision to effectively delay Medicare reimbursement by several weeks in order to cope with Gramm-Rudman cuts and build interest in the Medicare trust funds. After expressions of outrage from Congress, HCFA backed down. However, new legislative and regulatory developments may threaten the ability of older Americans to receive proper health care at home.

Provisions of the 1987 budget reconciliation bill reported by the Ways and Means Committee would reimburse home health providers only for the amount of oxygen prescribed by a patient's doctor and not for the oxygen actually used. Additionally, reimbursement for oxygen equipment would be eliminated, passing the cost for this technical and costly hardware directly to the patient—who may not be able to afford it.

When energy prices are higher there was a lot of talk around here about elderly Americans having to choose between heating and eating. I'm concerned that these proposals will make some have to choose between eating and breathing.

I am also concerned about new HCFA proposed rules that would give that agency almost limitless power to determine the rate of reimbursement for home health equipment.

At present, Medicare reimbursement for this equipment is based on regional data. Charges is a region are arrayed from lowest to highest, and reimbursement for a given piece of equipment is set at the 75th percentile of charges for that equipment in that region. HCFA has unilaterally proposed a rule that would lower that reimbursement to the 25th percentile.

Additionally, in a separate rulemaking, HCFA has proposed to give itself authority to set national reimbursement levels for home health equipment when it considers that

amount yielded under the formula I just mentioned to be too high.

In other words, the bureaucrats at HCFA want to cut home health reimbursement levels to figures lower than what 75 percent of suppliers are charging, and if they don't like that figure they want to cut reimbursement even further until they find a figure they do like.

While the effect of these proposals is not yet clear, they may send the out-of-pocket costs to home health beneficiaries through the roof. What's more, the proposals completely ignore the long-standing congressional interest in Medicare reimbursement levels.

These proposals are not constructive. They do not fit in with the ongoing effort to get Medicare patients out of the hospital or the nursing home and into their own house or apartment, when practical. And they do nothing to enhance the ability of older Americans to live with dignity.

I'm opposed to any proposal that limits the ability of senior citizens to live a fulfilling life in their own homes. This Nation owes respect to the people who helped build it. I believe part of that respect is support of home health programs. I urge Members to look hard at the reconciliation proposals on oxygen reimbursement and I urge HCFA to forget about its proposal to dictate how much elderly Americans will pay out of their own pockets for health care.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. ACKERMAN (at the request of Mr. FOLEY) after 1:30 p.m. today and for September 12, on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. ARMEY) to revise and extend their remarks and include extraneous material:)

Mr. CRANE, for 60 minutes, on September 24.

Mr. ARCHER, for 60 minutes, on September 15.

Mr. ARCHER, for 60 minutes, on September 16.

Mr. CRANE, for 60 minutes, on September 15.

Mr. CRANE, for 60 minutes, on September 16.

Mr. COLEMAN of Missouri, for 60 minutes, on September 16.

Mr. COATS, for 5 minutes, today.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. PEPPER, for 5 minutes, today.

Mr. NELSON of Florida, for 5 minutes, today.

Mr. WIRTH, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. FAZIO, for 5 minutes, today.

Mr. ALEXANDER, for 20 minutes, today.

Mr. HOYER, for 60 minutes, on September 12.

Mr. NATCHER, for 60 minutes, on September 18.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. YOUNG of Florida, on the Rangel amendment, on H.R. 5484, in the Committee of the Whole, today.

Mr. FAUNTROY, prior to the vote on the Rangel amendment, in the Committee of the Whole, today.

Mrs. LLOYD, prior to the vote on the Rangel amendment in the Committee of the Whole, today.

Mr. CHENEY, on rollcall No. 373, following the vote, in the Committee of the Whole, today.

Mr. GARCIA, during debate on the Rangel amendment, in the Committee of the Whole, today.

Mr. LUNGREN, and to include extraneous matter, in the Committee of the Whole, today.

Mr. WORTLEY, following rollcall 374, in the Committee of the Whole, today.

(The following Members (at the request of Mr. ARMEY) and to include extraneous matter:

Mr. SHUMWAY.
Mr. PACKARD.
Mr. GALLO in two instances.
Mr. FRENZEL.
Mr. MCGRATH.
Mr. GEKAS in two instances.
Mr. LENT.
Mr. FISH.
Mr. SCHAEFER.
Mr. LIGHTFOOT in two instances.
Mr. KINDNESS.
Mr. LAGOMARSINO.
Mr. YOUNG of Florida.
Mr. ROGERS.
Mr. KEMP.
Mr. CAMPBELL.
Mr. GILMAN in two instances.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:

Mr. TRAFICANT.
Mr. DIXON.
Mr. MRAZEK.
Mr. KILDEE.
Mr. TALLON.
Mr. GORDON.
Mr. GUARINI.
Mrs. SCHROEDER.
Mr. MATSUI in two instances.
Mr. DONNELLY.
Mr. GARCIA in two instances.
Mr. MARTINEZ.
Mr. WYDEN.
Mr. DELLUMS.
Mr. FAZIO.
Mr. MAVROULES.
Mr. ORTIZ.
Mr. CLAY in two instances.
Mr. LEVINE of California in two instances.
Mr. SCHEUER.
Mr. WALGREN.
Mr. BONKER.

SENATE JOINT RESOLUTION REFERRED

Joint resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 405. Joint resolution to designate September 11, 1986, as "9-1-1 Emergency Number Day"; to the Committee on Post Office and Civil Service.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1529. An act for the relief of Gerald M. Hendley;

H.R. 1783. An act for the relief of Mary E. Stokes;

H.R. 2316. An act for the relief of Paulette Mendes-Silva; and

H.J. Res. 580. Joint resolution to designate the week beginning September 7, 1986, as "National Freedom of Information Act Awareness Week."

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 2462. An act to provide for the awarding of a special gold medal to Aaron Copland.

ADJOURNMENT

Mr. GAYDOS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly at 11 o'clock and 41 minutes p.m., under its previous order, the House adjourned until tomorrow, Friday, September 12, 1986, at 9 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4193. A letter from the Director, the Office of Management and Budget, transmitting a cumulative report on rescissions and deferrals of budget authority as of September 1, 1986, pursuant to 2 U.S.C. 685(e) (H. Doc. No. 99-265); to the Committee on Appropriations and ordered to be printed.

4194. A letter from the Deputy Assistant Secretary of Defense, transmitting notification that the Department of the Navy intends to exclude the clause from a contract concerning examination of records by the

Comptroller General, pursuant to 10 U.S.C. 2313(c); to the Committee on Armed Services.

4195. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting notice of the intent to issue a commercial export license involving the reconfiguration of five Israeli-owned Arava 202 aircraft for electronic warfare capability for the Government of Israel, pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

4196. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting a report on political contributions by Ronald DeWayne Palmer, of the District of Columbia, to be Ambassador to Mauritius, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

4197. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting a report of political contributions by James Roderick Lilley, of Maryland, as Ambassador and Extraordinary and Plenipotentiary of the United States of America to the Republic of Korea, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

4198. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting a report on political contributions by David A. Korn, of the District of Columbia, as Ambassador and Extraordinary and Plenipotentiary of the United States of America to the Republic of Togo, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

4199. A letter from the Assistant Inspector General for Administration, Office of the Inspector General, Department of Agriculture, transmitting notice of a new Federal records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4200. A letter from the Secretary of Health and Human Services, transmitting a report on the inclusion of hospitals located outside of the 50 States under prospective payment system for purposes of Medicare reimbursement, pursuant to 42 U.S.C. 1395ww nt (Pub. L. 98-21, sec. 603(a)(4)); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. WHEAT: Committee on Rules. H. Res. 548. Resolution providing for the consideration of motion to concur in the Senate amendment to H.R. 4868 an act to prohibit loans to, other investments in, and certain other activities with respect to, South Africa, and for other purposes. (Rept. 99-814. Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. EMERSON (for himself and Mr. HUCKABY):

H.R. 5499. A bill to amend the Agricultural Act of 1949 to remove the authority of the Secretary of Agriculture to reduce the soybean loan rate for crop years 1986 and 1987 and to require the Secretary to implement a marketing loan or a producer option payment program for soybeans for such crop years; to the Committee on Agriculture.

By Mr. RUSSO (for himself, Mr. FAZIO, and Mr. MILLER of California):

H.R. 5500. A bill to allow the Tax Reform Act of 1986 to be applied and administered as if the 3-year basis recovery rule applicable to employees' annuities had not been repealed; to the Committee on Ways and Means.

By Mr. FLORIO (for himself, Mr. COATS, and Mr. RAHALL):

H.R. 5501. A bill to amend the Railroad Unemployment Insurance Act to assure sufficient resources to pay benefits under that act, to increase the maximum daily benefit provided under that act, and for other purposes; jointly, to the Committees on Energy and Commerce, and Ways and Means.

By Mr. GLICKMAN (for himself and Mr. SLATTERY):

H.R. 5502. A bill to amend title 28, United States Code, to designate Lawrence, KS, as a place of holding court for the district of Kansas; to the Committee on the Judiciary.

By Mr. KINDNESS:

H.R. 5503. A bill to amend chapter 39 of title 31, United States Code, to require the Federal Government to pay interest on overdue payments, and for other purposes; to the Committee on Government Operations.

By Mr. MOORE:

H.R. 5504. A bill to amend the Agricultural Act of 1949 to require marketing loans or production option payments for soybeans; to the Committee on Agriculture.

By Mr. VANDER JAGT (for himself and Mr. GOODLING):

H.R. 5505. A bill to increase temporarily the duty on apple juice; to the Committee on Ways and Means.

By Mr. BONKER (for himself, Mr. ROTH, and Mr. MICA):

H.R. 5506. A bill to amend the International Claims Settlement Act of 1949 to provide that the value of claims be based on the fair market value of the property taken; to the Committee on Foreign Affairs.

By Mr. MARTINEZ:

H.J. Res. 721. Joint resolution to designate the week of October 12, 1986, through October 18, 1986, as "National Job Skills Week"; to the Committee on Post Office and Civil Service.

By Mr. SWINDALL:

H.J. Res. 722. Joint resolution to designate the week beginning January 25, 1987, as "National Productivity Improvement Week"; to the Committee on Post Office and Civil Service.

By Mr. SHUMWAY (for himself and Mr. DORNAN of California):

H. Con. Res. 389. Concurrent resolution expressing the continuing support of the Congress for the normalization of relations between Egypt and Israel and calling for resolution of the Taba territorial dispute in accordance with the 1979 Treaty of Peace; to the Committee on Foreign Affairs.

By Mr. FASCELL (for himself, Mr. HAMILTON, Mr. YATRON, Mr SOLARZ, Mr. BONKER, Mr. STUDDS, Mr. MICA, Mr. BARNES, Mr. WOLPE, Mr. CROCKETT, Mr. GEJDENSON, Mr. DYMALLY, Mr. LANTOS, Mr. KOSTMAYER, Mr. TORRICELLI, Mr. SMITH of Florida, Mr. BERMAN, Mr. REID, Mr. LEVINE of California, Mr. FEIGHAN, Mr. WEISS, Mr. ACKERMAN, Mr. MACKAY, Mr. UDALL, Mr. GARCIA, Mr. BROOMFIELD, Mr. GILMAN, Mr. LAGOMARSINO, Mr. LEACH of Iowa, Mr. ROTH, Ms. SNOWE, Mr. HYDE, Mr. SOLOMON, Mr. BEREUTER, Mr. SILJANDER, Mr. ZSCHAU, Mr. DORNAN of California, Mr. SMITH of New Jersey, Mr. MACK, Mr. DEWINE, Mr. BURTON of Indiana, Mr. MCCAIN, Mr. OBEY, Mr. CONTE, Mr. COURTER, Mr. HALL of Ohio, Mr. HENRY, Mr. LEHMAN of Florida, Mr. LEWIS of California, Mr. MOODY, Mr. MRAZEK, and Mr. PETRI):

H. Res. 546. Resolution commending the Peace Corps, on the occasion of its 25th anniversary, for its dedication to the promotion of world peace and friendship; to the Committee on Foreign Affairs.

By Mr. GILMAN (for himself, Mr. FASCELL, Mr. BROOMFIELD, Mr. HAMILTON, Mr. YATRON, Mr. SOLARZ, Mr. MICA, Mr. BARNES, Mr. WOLPE, Mr. CROCKETT, Mr. GEJDENSON, Mr. DYMALLY, Mr. LANTOS, Mr. SMITH of Florida, Mr. REID, Mr. LEVINE of California, Mr. WEISS, Mr. UDALL, Mr. GARCIA, Mr. LAGOMARSINO, Mr. LEACH of Iowa, Mr. ROTH, Ms. SNOWE, Mr. HYDE, Mr. SOLOMON, Mr. BEREUTER, Mr. SILJANDER, Mr. DORNAN of California, Mr. MACK, Mr. DEWINE, Mr. MCCAIN, Mr. SMITH of New Jersey, and Mr. ZSCHAU):

H. Res. 547. Resolution expressing the sense of the House of Representatives that the President should convene a summit meeting of world leaders to adopt a unified, effective program against international terrorism; to the Committee on Foreign Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 864: Mrs. BURTON of California.
H.R. 988: Mr. PEASE.
H.R. 1125: Mr. SLAUGHTER.
H.R. 1126: Mr. SLAUGHTER.
H.R. 1128: Mr. SLAUGHTER.
H.R. 1129: Mr. SLAUGHTER.
H.R. 1780: Mr. BUSTAMANTE, Mr. HAWKINS, Mr. NIELSON of Utah, Mr. SCHUETTE, and Mrs. SMITH of Nebraska.
H.R. 2539: Mr. YOUNG of Florida.
H.R. 3505: Mr. GARCIA and Mr. HYDE.
H.R. 3845: Mr. MARTINEZ.
H.R. 4029: Mr. GONZALEZ and Mr. BOLAND.
H.R. 4223: Mr. DYMALLY and Mrs. BURTON of California.
H.R. 4413: Mr. FRANK, Mr. GARCIA, Mr. KOSTMAYER, Mr. MORRISON of Connecticut, Mr. RICHARDSON, and Mr. WEAVER.
H.R. 4439: Mr. CARPER, Mr. SKEEN, Mr. SHARP, and Mr. HENRY.
H.R. 4469: Mr. FAUNTROY.
H.R. 4471: Mr. ANTHONY.
H.R. 4520: Mr. STRANG.
H.R. 4535: Mr. DYMALLY, Mr. DELLUMS, Mr. CONYERS, Mrs. BENTLEY, Mr. GINGRICH, Mr. TOWNS, Mr. GILMAN, and Mr. ANDERSON.
H.R. 4633: Mr. BOULTER, Mr. HUTTO, Mr. MCCOLLUM, and Mr. ANDERSON.
H.R. 4711: Mr. BROOKS, Mr. MCCOLLUM, Mr. WOLPE, Mr. TORRES, and Mr. IRELAND.
H.R. 4714: Mr. CLINGER.
H.R. 4719: Mr. SWEENEY.
H.R. 4755: Mr. CHAPPELL.

H.R. 4788: Mr. CRAIG and Mr. MOLLOHAN.
H.R. 4807: Mr. SKELTON.
H.R. 4828: Mr. SWEENEY.
H.R. 4838: Mr. WIRTH.
H.R. 4853: Mr. EMERSON.
H.R. 4872: Mr. LUNDINE.
H.R. 4922: Mr. LUKEN.
H.R. 4953: Mr. DELAY and Mr. BARNARD.
H.R. 4984: Mr. EMERSON.
H.R. 5051: Mr. SCHUMER, Mr. BEDELL, Mr. HORTON, Mrs. JOHNSON, Mr. SMITH of Florida, Mr. GEJDENSON, Mr. BRYANT, Mr. FISH, Mr. WISE, Mr. BARNARD, Mr. BOEHLERT, Mr. HUGHES, Mr. KLECZKA, Mr. LEVINE of California, Mr. PORTER, Mr. BONKER, Mr. SCHEUER, Mr. OBERSTAR, Mr. UDALL, Mr. BROWN of California, Mr. FRANK, Mr. WHEAT, Mr. MURTHA, Mr. MRAZEK, Mr. HAYES, Mr. BEILENSON, Mr. WEAVER, Mr. ACKERMAN, and Mr. WOLPE.
H.R. 5103: Mr. MARTINEZ.
H.R. 5121: Mrs. KENNELLY.
H.R. 5127: Mr. MARTINEZ.
H.R. 5131: Mr. DYSON.
H.R. 5184: Mr. BOSCO and Mr. GORDON.
H.R. 5195: Mr. FEIGHAN, Mr. RUSSO, Mr. ECKART of Ohio, Mr. WALDON, Mr. MARTINEZ, and Mr. HAWKINS.
H.R. 5275: Mr. HAYES and Mr. BARTON of Texas.
H.R. 5304: Mr. FRANK and Mr. LIGHTFOOT.
H.R. 5360: Mr. SMITH of Florida, Mr. FASCELL, Mr. MACKAY, and Ms. KAPTUR.
H.R. 5386: Mr. DORGAN of North Dakota and Mr. TOWNS.
H.R. 5387: Mr. MCEWEN, Mr. DORGAN of North Dakota, and Mr. TOWNS.
H.R. 5403: Mr. STANGELAND and Mr. TOWNS.
H.R. 5425: Mr. LELAND and Mr. FROST.
H.R. 5427: Mr. HENRY and Ms. KAPTUR.
H.R. 5477: Mr. LEACH of Iowa, Mr. BUSTAMANTE, Mr. HENRY, Mr. IRELAND, Mr. BROWN of Colorado, Mr. HATCHER, Mr. LENT, and Mr. GORDON.
H.R. 5485: Mr. GUNDERSON and Mr. MONSON.
H.R. 5488: Mr. GALLO and Mr. RAHALL.
H.J. Res. 346: Mr. CRAIG.
H.J. Res. 504: Ms. MIKULSKI and Mr. DE LUGO.
H.J. Res. 535: Mr. DORNAN of California, Mrs. HOLT, Mr. MRAZEK, Mr. MCDADE, Mr. BEILENSON, Mr. LAGOMARSINO, Mr. WAXMAN, Mr. SMITH of Florida, Mr. HUGHES, Mr. YOUNG of Florida, Mr. CONTE, Mr. NEAL, Mr. FISH, and Mr. MINETA.
H.J. Res. 550: Mr. SMITH of Florida, Mr. DAUB, Mr. MOODY, Mr. MACK, Mr. STARK, Mr. CALLAHAN, Mr. SKELTON, Mr. DASCHLE, Mr. RALPH M. HALL, Mr. WOLF, Mr. NEAL, Mr. FUSTER, Mrs. BOXER, Mr. TOWNS, Mr. FAZIO, Mr. APPLEGATE, Mr. DYMALLY, Mr. DWYER of New Jersey, Mr. KOLBE, Mr. BRYANT, Mrs. LLOYD, Mr. MORRISON of Connecticut, Mr. ANTHONY, Mr. BURTON of Indiana, Mr. WALGREN, Mrs. BENTLEY, Mr. LANTOS, Mr. HERTEL of Michigan, Mr. EARLY, Mr. FUQUA, Mr. BEDELL, and Ms. KAPTUR.
H.J. Res. 588: Mr. GARCIA, Mr. YOUNG of Florida, Mr. COBEY, Mr. MACK, Mr. SKELTON, Mr. MILLER of Washington, Mr. STOKES, Mr. SWINDALL, Mr. ANTHONY, Mr. DEWINE, Mr. GALLO, Mr. KOSTMAYER, Mr. KEMP, Mr. OBERSTAR, and Mr. WIRTH.
H.J. Res. 638: Mrs. BOXER, Mr. KOLTER, Mr. BADHAM, Mr. MCKERNAN, Mr. PURSELL, Ms. SNOWE, Mr. COLEMAN of Missouri, Mr. MCEWEN, Mrs. BURTON of California, Mr. FORD of Michigan, Mr. EMERSON, Mr. MORRISON of Connecticut, Mr. VENTO, Mr. MURPHY, Mr. MOAKLEY, Mr. KINDNESS, Mr. BUSTAMANTE, Mr. MCGRATH, Mr. FUSTER, Mr. HATCHER, Mr. FRENZEL, Mr. DIOGUARDI, Ms. OAKAR, Mr. BEVILL, Mr. LEHMAN of Florida, Mr. MCDADE, Mr. GUARINI, Mr. DE LA GARZA, Mr. GALLO, Mr. WILSON, Mr. GREEN, Mr. LOTT, Mr. LIVINGSTON, Mr. LIGHTFOOT, Mr. MACK, Mr. FEIGHAN, Mr. DASCHLE, Mr. TAUKE, and Mr. LUKEN.
H.J. Res. 653: Mr. LOTT, Mr. COBLE, and Mr. BADHAM.
H.J. Res. 663: Mr. SWINDALL.
H.J. Res. 675: Mr. HENRY, Mr. BERMAN, Mr. GRADISON, Mr. BRYANT, Mr. LAGOMARSINO, Mr. WORTLEY, Mr. KEMP, Mr. HORTON, Mr. BROWN of Colorado, Mr. TOWNS, Mrs. KENNELLY, Mr. DANNEMEYER, Mr. ANNUNZIO, Mr. BURTON of Indiana, Mr. LEACH of Iowa, Mr. HAMILTON, Mr. GRAY of Pennsylvania, Mr. PRICE, Mr. DICKINSON, Mr. SCHULZE, Mr. ROE, and Mr. KINDNESS.
H.J. Res. 684: Mr. LOWERY of California, Mr. TORRICELLI, Mr. COUGHLIN, Mrs. BENTLEY, Mr. CARPER, Mr. CHANDLER, Mr. COMBEST, Mr. EARLY, Mr. FIELDS, Mrs. BURTON of California, Mr. FOGLIETTA, Mr. FORD of Tennessee, Mr. GILMAN, Mr. HAMMERSCHMIDT, Mr. HENDON, Mr. HUGHES, Ms. KAPTUR, Mrs. KENNELLY, Mr. KINDNESS, Mr. LIGHTFOOT, Mr. MCKERNAN, Mrs. MEYERS of Kansas, Mr. NICHOLS, Mr. OLIN, Mr. SLAUGHTER, Mr. SCHUMER, Mr. SEIBERLING, Mr. SMITH of New Hampshire, Mr. SPENCE, Ms. SNOWE, Mr. WYDEN, Mr. YATRON, Mr. DUNCAN, Mr. FOLEY, Mrs. LONG, Mr. BARTON of Texas, Mr. CONYERS, Mr. SCHAEFER, Mr. SHELBY, and Mr. MORRISON of Connecticut.
H.J. Res. 698: Mr. HUGHES, Mr. FEIGHAN, Mr. CROCKETT, Mr. HUTTO, Mr. DE LUGO, and Mr. LOWERY of California.
H.J. Res. 709: Mr. MORRISON of Connecticut Mr. ORTIZ, Mr. BOLAND, Mr. AKAKA, Mr. ROWLAND of Georgia, Mr. SCHUMER, Mr. STARK, Mr. DWYER of New Jersey, Mr. BOUCHER, Mrs. BENTLEY, Mr. MCDADE, Mr. LELAND, Mr. HOYER, Mr. TORRICELLI, Mr. GREGG, Mr. TOWNS, Mr. FAZIO, Mrs. KENNELLY, Mr. FAUNTROY, Mr. TRAFICANT, Mr. NIELSON of Utah, Mr. YATES, Mr. MOAKLEY, Mr. HENRY, and Mr. MANTON.
H.J. Res. 710: Mr. NEAL, Mr. GREEN, Mr. WILSON, Mr. BIAGGI, Mr. BOLAND, Mr. KASTENMEIER, Mr. WHITTEN, Mr. ANTHONY, Mr. LEVIN of Michigan, Ms. MIKULSKI, Mr. BURTON of Indiana, Mr. FIELDS, Mr. PURSELL, Mr. COOPER, Mr. BROOMFIELD, Mr. BARNES, Mr. BLAZ, Mr. OBERSTAR, Mr. CRANE, Mr. CAMPBELL, Mr. HERTEL of Michigan, Mr. DIOGUARDI, Mr. LEVINE of California, Mr. SMITH of New Hampshire, Mr. BERMAN, Mr. JACOBS, Mr. FAWELL, Mr. KOLTER, Mr. DEWINE, Mr. KILDEE, Mr. SISISKY, Mr. YOUNG of Missouri, Mr. HUTTO, Mr. SABO, Mr. DAVIS, Mr. EVANS of Iowa, Mr. WOLF, Mr. HOWARD, Mr. RICHARDSON, Mr. SILJANDER, Mr. GEJDENSON, Mr. BEILENSON, Mr. KOLBE, Mr. ANNUNZIO, Mr. FLIPPO, Mr. MURTHA, Mr. OLIN, Mr. EDGAR, Mr. PICKLE, Mr. STARK, Mr. MOORHEAD, Mr. EARLY, Mr. SCHUETTE, Mr. PACKARD, Ms. KAPTUR, Mr. KLECZKA, Mr. HUGHES, Mr. BENNETT, Mr. BOSCO, Mr. COLEMAN of Texas, Mr. DANIEL, Mr. DERRICK, Mr. DICKINSON, Mr. ENGLISH, Mr. FASCELL, Mr. FOWLER, Mr. GALLO, Mr. HALL of Ohio, Mr. JENKINS, Mr. MCKINNEY, Mr. MANTON, Mr. MILLER of California, Mr. ORTIZ, Mr. SWINDALL, Mrs. VUCANOVICH, Mr. WALDON, Mr. RALPH M. HALL, and Mr. TORRES.
H.J. Res. 716: Mr. FAZIO, Mr. DWYER of New Jersey, Mr. HEFNER, Mr. NIELSON of Utah, Mr. JENKINS, Mr. DERRICK, Mr. DAUB, Mr. HENRY, Mr. BARTLETT, and Mr. BERMAN.
H. Con. Res. 129: Mr. TOWNS, Mr. ROSE, Mr. SWINDALL, Mr. EMERSON, Mr. DYMALLY, Mr. GRAY of Illinois, Mr. PRICE, Mr. PANETTA, and Mr. MCCAIN.
H. Con. Res. 233: Mr. NEAL, Mr. RINALDO, Mr. MITCHELL, and Mr. EVANS of Illinois.
H. Con. Res. 351: Mr. GILMAN, Mr. LUKEN, Mr. DE LUGO, Mr. SOLARZ, Mr. FLORIO, Mr. ANDREWS, Mr. SWEENEY, Mr. ENGLISH, Mr. BENNETT, Mr. STRANG, Mr. HUBBARD, Mr. OBERSTAR, Mr. DERRICK, Mr. LELAND, Mr. MATSUI, and Mr. SHUMWAY.
H. Con. Res. 381: Mrs. BENTLEY.
H. Con. Res. 385: Mrs. MARTIN of Illinois, Mr. PORTER, Mr. NIELSON of Utah, Mr. ZSCHAU, and Mr. KOLBE.
H. Con. Res. 386: Mr. ACKERMAN and Mr. SWEENEY.
H. Con. Res. 388: Mr. DORNAN of California, Mr. LAGOMARSINO, Mr. HARTNETT, Mr. ROEMER, Mr. BEREUTER, Mr. BARNARD, Mr. SKEEN, Mr. COURTER, Mr. NELSON of Florida, Mr. LIPINSKI, Mr. ROBINSON, Mr. DANNEMEYER, Mr. ERDREICH, Mr. COMBEST, Mr. HORTON, Mr. FEIGHAN, Mr. LENT, and Mr. PEPPER.
H. Res. 466: Mr. COLEMAN of Missouri.
H. Res. 469: Mr. FASCELL and Mr. KILDEE.
H. Res. 522: Mr. JEFFORDS.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

477. By the SPEAKER: Petition of Enrique J.A. Candioti, Ambassador, Argentine Republic, relative to foreign intervention in South America; to the Committee on Foreign Affairs.

478. Also, petition of the Secretary, American Bar Association, Redmond, WA, relative to individuals in prison in South Africa; to the Committee on Foreign Affairs.

479. Also, petition of the Shasta County Board of Supervisors, CA, relative to diseases contracted by former prisoners of war; to the Committee on Veterans' Affairs.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1309.

By Mr. PENNY:

—Page 6, strike out lines 3 through 7 and insert in lieu thereof the following:

(4) the term "population at risk" means an employee population exposed to hazardous occupational exposures which are associated with a rate of disease, as contrasted to comparable populations not exposed to the hazardous occupational exposure, that is (A) increased by a significant amount, and (B) not less than 30 percent greater than in such comparable population;

Page 9, after line 4, insert the following new paragraph (and redesignate the succeeding paragraph accordingly):

(3) In identifying such populations, the Institute shall consider medical and epidemiological principles, including the following: consistency of the association, specificity of the association, strength of the association, dose-response relationship, biologic plausibility, temporal relationship, and statistical significance. The Institute shall also take into account the extent and seriousness of the risk and the consequences of notifying or failing to notify (including the implications of erroneous notification).

—Page 6, strike out lines 8 through 16 and insert in lieu thereof the following:

(5) the term "hazardous occupational exposure" means—

(A) a history of hazardous exposure for sufficient duration or sufficient intensity, or both, as to be associated with a risk for occupational disease; and

(B) a history of actual use of potentially hazardous chemical, physical, or biological agents found in the workplace; or

(C) any hazardous industrial or commercial process or activity found in the workplace which is associated with the risk of disease;

—Page 6, line 23, strike out "and", strike out lines 24 and 25, and insert in lieu thereof the following:

(8) the term "Institute" means the National Institute of Occupational Safety and Health; and

(9) the term "Board" means the Science Advisory Board established by the Secretary pursuant to section 4(d).

Page 7, strike out line 1 and all that follows through 26 and line 5 on page 8 and insert in lieu thereof the following:

SEC. 4. FUNCTION OF THE INSTITUTE.

(a) FUNCTIONS.—The Institute shall—

Page 9, lines 10 and 21, redesignate subsections (c) and (d) as subsections (b) and (c), respectively.

At each of the following locations strike out "Board" and insert in lieu thereof "Institute": page 8, line 16; page 9, lines 5, 10, 15, and 21; page 10, lines 11, 14, and 24; and page 11, line 4.

Page 10, after line 19 insert the following new subsection:

(d) ESTABLISHMENT OF SCIENCE ADVISORY BOARD.—The Secretary shall establish a Science Advisory Board to review the findings and recommendations of the National Institute of Occupational Safety and Health pursuant to this section and to advise the Secretary concerning such findings and recommendatons. The Board shall be composed of 10 members and shall include an epidemiologist, a toxicologist, an industrial hygientist, a physician specializing in occupational medicine, and an occupational health nurse.

—Page 9, line 3, insert "and intensities" after "durations".

—Page 20, line 20, after the period insert the following: "In the event of a disagreement between the employee's personal physician and the medical representative of the employer, an independent medical consultant shall be retained at the employer's expense to make a final determination with respect to the necessity for such a temporary or permanent transfer.".

EXTENSIONS OF REMARKS

ON THE SUBJECT OF JAPANESE AMERICAN REDRESS

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 11, 1986

Mr. MATSUI. Mr. Speaker, on behalf of NORMAN Y. MINETA and myself I am pleased to submit for the RECORD a speech delivered before the Japanese American Citizens League by our colleague from California, MEL LEVINE.

The internment of U.S. citizens and permanent resident aliens of Japanese ancestry is a blot on the history of our great Nation. In his speech MEL LEVINE addressed this issue and the bill H.R. 442, the legislative effort to redress this injustice.

Mr. Speaker, all of the Members of the House of Representatives are encouraged to read this speech. It sensitively describes the internment, and makes strong arguments for redress.

REMARKS OF CONGRESSMAN MEL LEVINE BEFORE THE JAPANESE AMERICAN CITIZENS LEAGUE, LOS ANGELES, CA, AUGUST 24, 1986

Good afternoon, I am very pleased to be with you today and to have the opportunity to speak with you. I am honored to have been invited to speak with you by a marvelous public servant, City Councilman George Nakano of Torrance. And I am honored to serve in Congress with two of your Members who are known to be two of the finest Congressmen not just from California but from the entire Nation, Bob Matsui and Norm Mineta.

Having grown up in California, I have long been familiar with the work of the Japanese American Citizens League, and with your many contributions in the areas of education and civil and human rights. I have a great deal of respect for the work of the JACL, so I am especially happy to be here.

As I stand here today, I cannot imagine a United States without Japanese Americans, any more than I can imagine a United States without Italian Americans, Polish Americans, or—well, you fill in the name. Ours is a diverse culture. This very diversity lends to its stunning complexity, and is part and parcel of the richness and uniqueness of our country. And no matter what our diverse heritages, we all share the same common bond: we are all Americans.

Japanese Americans have made contributions to virtually every profession in every region of the United States. Their contributions to business, architecture, science, medicine, education—are well-documented.

I would like to think things have always been well for Americans of Japanese ancestry. But such is not the case. In truth, there is a dark blot upon this country with respect to them. That dark blot is the internment of 120,000 citizens and permanent resident aliens of Japanese ancestry during World War II.

The decision to intern Japanese Americans followed a long and ugly history of west coast anti-Japanese agitation and legislation. From 1907 through 1948 anti-Japanese bills were introduced in every session of the California Legislature. In 1907 an agreement between the United States and Japan halted immigration of male laborers. In 1913 a California law banned purchase of land by aliens "ineligible for citizenship." As Asians, the Japanese were barred from U.S. citizenship. This was perhaps the single most important factor affecting the issei (pronounced E-say)—first generation Japanese immigrants—because it kept them out of the American political process and left them virtually defenseless against discriminatory legislation.

In 1920 aliens were prevented from leasing land. In 1924 a new U.S. immigration law completely slammed the door on Japanese immigration.

It was in that context that the Japanese American Citizens League was founded in 1929.

The anti-Japanese hostility stemmed in part from feared economic competition, and in part from outright racism. It was a time of what was so disparagingly called the "yellow peril"—fear of an unknown Asian culture.

The Japanese, small in number and with no political voice, became a convenient target for political demagogues.

In the first months of World War II, Japanese armies in the Pacific won a frightening string of victories against the United States. In January and February 1942, the military position of the United States in the Pacific was perilous. There was fear the Japanese would attack the west coast.

As one individual in the Government at the time recently explained, "frightened people do frightening things." And it was within that context that, on February 19, 1942, 10 weeks after Pearl Harbor, President Roosevelt signed Executive Order 9066. This order gave to the Secretary of War and the military commanders the power to exclude any and all persons, citizens and aliens, from designated areas in order to provide security against sabotage, espionage and fifth column activities.

President Roosevelt called December 7, 1941, "a day that will live in infamy." One historian has written that February 19, 1942 was a day that "should live in infamy," for shortly thereafter all American citizens of Japanese descent were prohibited from living, working or traveling on the west coast of the United States. The same prohibition applied to the generation of Japanese immigrants who, pursuant to Federal law and despite long residence in the United States, were not permitted to become American citizens.

So began one of the most shameful chapters in the history of the United States.

With no charges filed, with no hearings or trials, and with little notice, Japanese American citizens and aliens were given numbers and herded to "assembly centers." Allowed to bring only what they could carry, they were transported for the duration of World War II to 10 "relocation centers"—barely habitable camps of tar-paper shacks, surrounded by barbed wire fences.

The justification given for this action was military necessity. But the historical causes which shaped the decision to intern Japanese Americans were racism, war hysteria and a failure of political leadership. In fact, not a single documented act of espionage, sabotage or fifth column activity was committed by an American citizen of Japanese ancestry or by a resident Japanese alien on the west coast.

The internment experience was, to say the least, a traumatic one. Those interned suffered many losses: tremendous financial and personal losses—lost friends, lost education, lost opportunity, lost standing in their communities—and loss of nearly three precious years of their lives.

There were bitter ironies in the wake of Executive Order 9066. In early 1942 a newspaper ran a photograph of a little Japanese boy on a train headed for an internment camp. He was leaning out the window waving an American flag.

And in its attempt to "Americanize" the already American children in the camps, they had to salute the flag and sing "My country, 'tis of thee, sweet land of liberty." In this context these words ring hollow and exceedingly cruel.

Fourth of July celebrations were bravely held behind barbed wire in the camps, and in the shadow of sentry towers.

Departure from the camps was permitted only after a loyalty review. Many were allowed to leave to go to college outside the west coast or to private employment, or to join the Army. Some 33,000 Japanese Americans served during the war, some drafted right out of the camps. Parents in tar-paper shacks displayed starred banners indicating that their sons were American soldiers.

The irony of Japanese Americans fighting for a nation that confined their people is sharpened by the valor they displayed on the battlefield. For its size and length of service, no other American unit was more decorated than the 442nd Regimental Combat Team. The 442nd has been called the most highly decorated unit in the history of American fighting forces. Made up primarily of Japanese Americans, the unit earned more than 18,000 individual citations for bravery, including a medal of honor, 52 Distinguished Service Crosses, 560 Silver Stars, and no fewer than 9,486 Purple Hearts.

But after serving, one member of the 442nd returned home to California to find, as he said, "every store on Main Street had a 'No Japs Wanted' sign out front."

Hawaii's Senator Daniel Inouye, who lost an arm in combat and earned the Distinguished Service Cross, has said, "We were fighting two wars—one against the Axis overseas and another against racism at home."

And one detainee wrote: "The thoroughly American" internees "realized that Americanism had somehow skipped the Japanese Americans."

It was not until December 1944 that Japanese Americans were freed to return to their homes on the west coast. But many had lost

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

everything. They were the victims of an indignity of tremendous proportions, and they lived with a tremendous stigma.

Although some remedial measures were implemented to redress the war's injustices, it was not until 1980 that Congress began in earnest the process of national reconciliation with the creation of the Commission on Wartime Relocation and Internment of Civilians. The Commission heard the testimony of some 750 witnesses, many speaking about their painful experience for the first time. The Commission's lengthy and detailed report is an excellent historical study and a powerful indictment of a shameful wartime policy.

The Commission recommended appropriate remedies for the injustices of the internment. Its recommendations are the basis of a bill—H.R 442—the "Civil Liberties Act of 1985"—now pending in Congress with 140 consponsors, of which I am one. This number—442—honors the 442nd Regimental Combat Team.

There are 12 findings in this important legislation, but I want to mention just five.

One, the evacuation, relocation and internment of individuals of Japanese ancestry was carried out without any documented acts of espionage and sabotage, or other acts of disloyalty by any citizen or permanent resident aliens of Japanese ancestry on the west coast.

Two, there was no military or security reason for the evacuation, relocation or internment.

Three, the evacuation, relocation and internment of individuals of Japanese ancestry were caused by racial prejudice, war hysteria and a failure of political leadership.

Four, the excluded individuals suffered enormous damages and losses, both material and intangible, all of which resulted in significant human suffering for which full and appropriate compensation has not been made.

Five, the basic civil liberties and constitutional rights of those individuals interned were fundamentally violated by the evacuation and internment.

H.R. 442 seeks to redress the internment in several ways. First, the bill contains a provision which I would like to quote in total. It is titled "Recognition of Injustice and an Apology on Behalf of the Nation." It reads, "The Congress recognizes that a grave injustice was done to both citizens and resident aliens of Japanese ancestry by the evacuation, relocation, and internment of civilians during World War II. On behalf of the Nation, the Congress apologizes."

The bill also directs the United States Attorney General to review all cases in which U.S. citizens and permanent resident aliens of Japanese ancestry were convicted of violations of laws of the United States, and to recommend to the President for pardon consideration those convictions which the Attorney General deems appropriate. The President is requested to offer pardons to those individuals recommended by the Attorney General.

The bill directs executive agencies, to which Japanese Americans may apply, to review with liberality applications for the restitution of positions, status or entitlements lost because of acts or events during the internment period.

The bill establishes a $1.5 billion "civil liberties public education fund." This fund would be used in part to sponsor research and public educational activities so that events surrounding the evacuation, relocation and internment of U.S. citizens and permanent resident aliens of Japanese ancestry will be remembered and understood.

Lastly, the bill requires the Attorney General to indentify and locate individuals excluded from their places of residence pursuant to Executive Order 9066 and to provide a one-time per capita compensatory payment of $20,000 to each of these surviving 60,000 people.

Hearings were held in Congress on this bill in both 1984 and this year. H.R. 442 is pending in the House Judiciary Subcommittee on Administrative Law and Governmental Relations, where members are hopeful that consideration can be completed this session.

There is no question in my mind about the appropriateness of monetary compensation to Americans of Japanese ancestry. During my days in the State legislature I coauthored a bill, which became law in 1982, to permit those Japanese Americans in the civil service, who were dismissed or who resigned during the war because of their Japanese ethnicity, to claim $5,000 as reparation.

The United States Congress supported the policy of removal and detention, and enacted a Federal statute which made criminal the violation of orders issued pursuant to Executive Order 9066. The Government of the United States was responsible for the catastrophic damages, and the Government therefore has a legal and moral responsibility to compensate the internees for those losses.

Desirable and appropriate as is the intent of H.R. 442, Americans of Japanese ancestry can and will never be adequately redressed for their loss and suffering. But this bill is a very important symbolic expression of the recognized responsibility of the United States Government in this shameful chapter in the history of our country.

Japanese Americans have had other successes in rectifying the wrongs against them. In February of this year a Federal judge overturned the conviction of Mr. Gordon Hirabayashi, who refused to be evacuated to a wartime internment camp in 1942, was found guilty, and had fought the conviction ever since.

In June the Washington, D.C. U.S. Court of Appeals upheld the reinstatement of a lawsuit brought on behalf of the 120,000 interned Japanese Americans. The decision upheld a January decision that overruled a 1981 ruling that a six-year statute of limitation on suits against the Government barred the lawsuit.

Still, Asian Americans of all backgrounds have felt the brunt of racism over the years, and it has been reported that there has been a rise in both racial tension and violence since the early 1980s. The current discrimination is motivated in part by fears among some Americans that Asians are "taking over" businesses and jobs. The inability of certain U.S. industries to compete effectively against Asian—particularly Japanese—imports has been a factor.

The most gruesome example of this is the 1982 murder of Vincent Chin in Detroit. Two former automobile workers thought Mr. Chin was Japanese, and they blamed Japan for unemployment in the American auto industry. Mr. Chin was beaten to death with a baseball bat the night before his wedding.

Incidents of anti-Asian behavior reportedly increased 40 percent from 1983 to 1984 in the Los Angeles area, the home of the U.S.' largest group of Asians.

As you can see, anti-Asian sentiment continues to exist in this country. This latent tendency rears its ugly head in times of economic stress, providing an excuse to abandon moral and legal principles.

Every one of us has a responsibility to do all we can to ensure that what happened to Americans of Japanese ancestry during World War II never again happens to them or to any other group. Those of us who so dearly cherish the best that America stands for, and who so deeply revere the principles and rights enumerated in our constitution, must be ever-vigilant to make sure our democratic system and due process is not stampeded again.

The internment experience was a fundamental personal and social tragedy, not only for Americans of Japanese ancestry, but for all of us. For when even one person's rights are tread upon, the rights of all of us are tread upon, and society as a whole is dimished.

I might add that, as a Jewish American, I believe I have a somewhat heightened sensitivity to the curse of racial or religious discrimination. And I believe the historical frame of reference in which I was raised has heightened my interest in fighting against discrimination wherever it might rear its ugly head.

To help ensure that the events of World War II are never repeated, I urge you to be politically involved, for with that involvement comes power. The first Asian American is now serving on the Los Angeles City Council. Others serve in other cities and towns across this country, but not enough. Don't forget that being excluded from the American political process left Americans of Japanese ancestry virtually defenseless against the horrible discriminatory actions of World War II.

Lastly, be vigilant in protecting your rights, because when you do, you help protect the rights of us all and of all citizens of our great Nation.

Thank you.

MINORITY ENTERPRISE DEVELOPMENT WEEK IN HARRISBURG

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 11, 1986

Mr. GEKAS. Mr. Speaker, September 14, 1986 marks the official beginning of "Minority Enterprise Development Week" in Harrisburg, PA. This week, September 14–20, will focus on the minority business community and its contribution to Pennsylvania and Harrisburg in particular. A banquet will be held on Monday evening to honor all minority businesses with special recognition going to Philadelphia Design Collaborative and Leonardo Herrada Public Accountant Firm.

Philadelphia Design Collaborative, headed by Alfred M. Brown, with locations in Philadelphia and Harrisburg, is a consulting engineering firm specializing in building design and analysis, feasibility studies, electrical engineering, plumbing, and energy management and conservation.

Leonardo Herrada, PA, headed by Leonardo Herrada and located in Lewisberry, PA, is known for its prestigious clientele and outstanding professional service.

I would like to lend my support to this important event and extend my congratulations to those members of the minority business community for their contributions to the Harrisburg area and Pennsylvania.

THE NEED FOR NATO TO STEP UP ITS PUBLIC INFORMATION EFFORT

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 11, 1986

Mr. GARCIA. Mr. Speaker, my friend and colleague from the North Atlantic Assembly, Mr. Peter Corterier, a member of the West German Bundestag, wrote an excellent article for the April edition of the NATO Review on a new approach to NATO's information policy.

Since NATO has come under fire from all points on the political spectrum of late, it must begin to improve its information policy in order to dispel any misconceptions that may have arisen as a result of that recent criticism. I, therefore, commend Peter Corterier's article to my colleagues so that they may have a better idea of how NATO can better get its message across.

THE ATA AND A NEW APPROACH TO NATO INFORMATION

(By Peter Corterier)

The major task of the Atlantic Treaty Association and of its national member organizations is to inform the publics of all member countries about the Alliance and to help win their continued support for its policies. As a consequence, the ATA closely follows the public debate on the Alliance and is anxious that NATO, in view of the way this debate is evolving, should adopt the right information policy.

The widespread and deeply held misconceptions that are so often found, can damage a democratic alliance such as NATO. All too frequently in recent years, a misinterpretation of Alliance policy and goals has generated a poorly informed public debate—a phenomenon which may eventually erode the credibility of NATO's deterrence and even of the West's ability to negotiate effectively in Geneva. Indeed, deterrence largely depends on the adversary's perception of our publics' determination to defend themselves in the face of aggression. Preserving this perception becomes extraordinarily difficult when the foreign policy strategic debate, so necessary to a democratically-administered alliance, is marred by the propagation of half truths, misconceptions or even outright propaganda.

The dynamics of ill-informed debate do not merely end with a confused public. The resultant unfocused national or transatlantic dialogue ultimately creates an image of NATO as an alliance beset by inescapable strategic contradictions, grown irrelevant in a changing world and caving in on itself as the waves of domestic debate loom ever larger and crash down with greater frequency. As this image becomes more accepted, the notion of ascendant American neo-isolationism and European neutralism gains currency, although neither movement is anything like as pervasive as is popularly believed. Misunderstanding Alliance policies and over-estimating its difficulties could beget a crisis of confidence in Alliance ability to deter and defend; this would be unacceptable because public confidence is a prerequisite to effective deterrence.

An article published in Janes Defense Weekly identified three elements of NATO's strategy which have contributed to greater disaffection among its publics. First of all, the strategy of flexible response, which underlines the important role of nuclear weapons for Western deterrence, has come under increasing attack from many citizen groups who have come to associate nuclear strategy with global holocaust rather than with its prevention. They maintain that no rational Western leader would ever employ nuclear weapons to "defend" national territory. If this belief takes root, public faith in NATO's ability to counter a Soviet attack naturally declines.

Secondly, a public perception has arisen that NATO is divorced from national defense. For many Europeans, the Alliance remains an abstract organization closely linked with the United States and somehow not a central actor in the defense of the national way of life. American prominence as a global power tends to reinforce this impression, particularly when certain American and European interests seem to diverge or even fully conflict.

A third important development is the change in the international system itself. One example is that since 1973, Western Europe has recognized its dependence upon imported raw materials and the concurrent strategic vulnerability which such dependence entails. As a result of NATO being confined to the Treaty Area, there is no common approach to secure the flow of strategic resources.

Finally, the Strategic Defense Initiative presents new problems with obviously important political side effects.

CONFUSING PORTRAIT

Despite such problems, NATO obviously remains a vital force in the preservation of peace. If the Alliance is genuinely in difficulty, it is in the public relations arena, not in its lack of military capabilities. To a certain extent, member governments have not seized the initiative in the struggle to inform their publics. In the West, the debate tends to be led by the radio and television media, special interest groups, newspapers, and even Soviet arms negotiators, who have effectively employed the negotiating table as a pulpit from which their country's "pacific intentions" can be preached. They all play a role in shaping how Westerners perceive today's compelling strategic issues and, collectively, they paint a confusing portrait of a complex international situation.

An urgent need exists for a higher degree of synthesis of defense-related information in the West. Arms control, generational change, SDI, Western missile deployments and conventional force modernisation are not issues locked in distinct vacuums; they are in fact highly interrelated. However, there is a tendency to treat these questions in isolation. Public perceptions of today's pressing military problems are somehow distorted or rendered even more remote when the Geneva talks are treated on page one of the local newspaper, SDI is placed in the science pages, youth attitudes towards defense are conveyed through television images of mass demonstrations, and conventional force modernisation efforts are given no mention at all or are only referred to by such slogans as FOFA or Airland Battle. One cannot deny the important role a free Press plays in the West, but at the same time, it cannot be relied upon as the principal means for coherently elucidating NATO's policies. The Alliance and its member governments must actively provide the larger meaning of seemingly unrelated developments, problems and concerns, and relate these to the notion of national defence. Only in this way can those national defence policies which are inextricably linked to NATO, achieve higher levels of public support.

In future, the Alliance will also have to stress those positive developments which so often escape public attention because of their unspectacular nature. Thus the role of the Alliance as a consultative forum on issues ranging from arms control to the monitoring of human rights must be stressed among the Western publics. NATO's recent unilateral decision to reduce considerably the nuclear stockpiles in Europe generated, for instance, very little media attention. But if the Alliance cannot adequately publicise its role as a peacemaker, and peacekeeper, then those who have cast it in the role of an aggressive militarist organisation could eventually win a devasting public relations victory. Consequently, the Alliance and its member governments must exploit such positive developments, particularly as the international press tends to ignore the more mundane but nonetheless highly relevant aspects of the West's politico-military policies. Unfortunately, the Alliance does not sufficiently support its own machinery for doing this.

There are a number of political barriers and structural features which have always operated against a more active role for the Alliance in the dissemination of information. Undoubtedly, the most important of these is that it is a collective organisation of sovereign nations and not a supranational body. Information remains a national prerogative—one which member governments are naturally keen on preserving. Governments and not the Alliance are ultimately responsible to national electorates and it is quite proper that elected officials should strive to shape the national dialogue in the most relevant terms as they see them. Obviously, no reform of the NATO information structure should be contemplated that would allow the Alliance to override an elected government's express wishes regarding how it portrays its policies to its own people. NATO's information policy therefore finds itself in a kind of limbo between supranationalism and national sovereignty. It might consequently be best to seek improvements through decentralising even further the task of getting NATO's message across.

A second problem is that NATO's public relations structure was formed in a period when the threat to the member countries was extremely well defined and fully recognized by a vast majority of the public. In a certain sense, an unambiguously bipolar world made it easier to identify national defence priorities and generate public support for them. (The obvious exception being those countries which had large anti-system parties. In these cases, national political divisions tended to reflect the greater East-West conflict and consensus remained elusive). The present public relations challenge is far more formidable simply because the international system has grown much more complex and the external "threat" is no longer so easily perceived.

ORGANISATIONAL CHANGES NECESSARY

In 1984, the North Atlantic Assembly's Civilian Affairs Committee produced a General Report on "The Public and the Alliance." The Committee brought to light the unsettling fact that despite growing public relations problems in the Alliance, NATO's Information Service has continued to operate on a shoestring budget. Clearly, the objective changes in popular attitudes and concerns have not been matched by an appropriate budgetary adjustment in the NATO information system. As a result, the North Atlantic Assembly recommended a "sharp increase" in NATO's information budget as a first step in improving Alliance communication with its citizens.

In deference to the full sovereignty of member countries, the NATO Council and its supporting committees take decisions by consensus. In practice, this means that the Information Service is prevented from producing publications, except for a particular national public relations campaign or purpose, without at least the tacit approval of all the member countries. Even when consensus is achieved, as is the case with NATO communiques, these are addressed to both Western publics and Warsaw Pact governments and they often reflect the bargaining which preceded their release. It is thus apparent that an effective public relations policy and the need for political consensus do not necessarily go hand in hand.

As well as funds for a truly effective information system, it therefore seems that some organizational measures may also be necessary. At the moment, it is not very easy for NATO to tailor information precisely for a particular country or a specific national group. One reason for this is that close contacts with national media and social interest groups are more difficult to maintain for NATO Information Service officials working mainly in Brussels; at any rate, this is the case for countries at a considerable distance from NATO Headquarters. It would be a significant advance if other officials specialising in NATO information were normally to operate in the home countries and in close contact with local politicians, media, citizen groups and the Atlantic Committees. Aware of this problem, the North Atlantic Assembly has also recommended that the North Atlantic Council, or at least individual member countries, establish information bureaux in Alliance countries willing to participate in such a programme. These offices could provide local representation by NATO Information Service officials or they could be governmental offices without a hierarchical link to NATO Headquarters. National bureaux would both diversify the content of NATO information and make it specifically relevant to national concerns.

This decentralization of NATO's information process carries a step farther the notion of national control over Alliance public relations. The creation of nationally based bureaux could extend and broaden NATO's message while directly communicating with those groupings in society which are indifferent to, or actively opposed to, Alliance policy.

Staffing these bureaux with individuals who reflect a country's particular approach would afford a new means to adapt information to the terminology and concerns of each society. Union officials, young people, lawyers and diplomats could formulate information concerning national, European and Western defence issues in such a way that NATO's message would truly be "brought home".

A commonly cited example provides a telling illustration of the way information can be made understandable and more accessible. NATO is presently involved in an important programme to improve conventional defence—a costly project certainly, but one with important and beneficial strategic consequences. Western publics do not fully appreciate or understand this effort. In contrast, the financial resources that are required to fund such a programme are readily understood and, more often than not, resented. Would not the national dialogue on the issue be more sophisticated and less emotional, if all those who are critical of NATO's present nuclear posture understood that improved conventional capability lowers the likelihood of nuclear weapons ever being used in Europe? Clearly, creating such diversely staffed bureaux could contribute to a more balanced national assessment of this and other important issues.

Such bureaux could also publicise NATO's lesser known functions such as monitoring Warsaw Pact compliance with the Helsinki Final Act—an agreement which, if fully complied with, would certainly contribute to improved East-West relations. The proper message in this case is that NATO is committed to the balanced implementation of all parts of the Final Act, including, in particular, the protection of human rights. The preservation of basic human liberties, in fact, must be popularly recognized as an essential justification for the Alliance.

ROLE OF ATLANTIC COMMITTEES

I would now like to discuss more specifically the efforts that the Atlantic Treaty Association and its national member organisations are making to help improve NATO's information effort.

One such national organization, the Atlantic Council of the United States, with the aid of the NATO Information Service, recently launched a highly successful public relations campaign in that country. Probably of even greater long-term significance is the establishment at the Atlantic Council's Headquarters in Washington of a NATO Information Office, which is partly staffed with State Department personnel, and is dedicated to explaining the purposes of the Alliance to the US public. Although it receives some funds from the NATO Information Service, the major part comes from the US private sector. This could be a first step towards achieving the ultimate North Atlantic Assembly goal of a diversely staffed organization communicating with a broader strata of the general public. And it presents a third option—essentially privately realized—for achieving the goal of setting up local NATO Information Offices.

It will, of course, be up to Atlantic Committees in other countries, and each national government, to design their own specific strategy for conveying the NATO message. In most cases, diversely staffed committees operating in each country would represent an important improvement in the present structure. France may be a special case. It has engendered a great deal of public support for defence by stressing national autonomy. This concept alone has generated a high level of public enthusiasm for national defence and support for the special ties with the Alliance. In this instance, changing the formula along the lines of the Assembly's recommendations might not prove helpful. However, it is important to remember that the French situation is quite unique in the Alliance.

The efforts of the existing Atlantic Committees could be significantly improved by greater emphasis on the Atlantic Treaty Association. The ATA is an umbrella organisation with its headquarters in Paris whose purpose is to coordinate and stimulate the work of the voluntary, nongovernmental Atlantic Committees in each of the NATO member countries. Twice yearly, these national organisations meet to report on their activities and benefit from each other's experience. Both delegates and ATA staff are briefed at the highest possible level at NATO Headquarters and SHAPE so as to remain informed about current developments.

The Secretary General of NATO, the Supreme Allied Commander Europe, and political leaders from all the member countries regularly attend the yearly plenary meetings of ATA. Two ATA programmes deserve special mention: the Atlantic Education Committee and the Atlantic Association of Young Political Leaders. The former, for example, has been concerned with the way NATO is treated in school textbooks in the member countries. The latter has grown to become an autonomous organisation and, as the name suggests, has been successful in forming transatlantic ties among the next generation of leaders.

In regard to the challenges posed by the Successor Generation, an important study sponsored by the ATA jointly with the Atlantic Institute in Paris should also be mentioned. In "The Public and Atlantic Defense" (edited by Gregory Flynn and Hans Rattinger and supported by the NATO Information Service), the increased polarisation of popular opinion about defence policy and NATO is explored on a country by country basis by a number of well-known authors.

However, the main function of the ATA remains one of coordination. Thus, a closer look at the individual Atlantic Committees is necessary to get a better understanding of the kind of information work that is being carried out.

Informing the public through the written word has been an important part of the work of the Norwegian Atlantic Committee. Approximately 20 to 25 studies on topics such as "Soviet Sea Power" and "NATO's Defence Strategy" are printed yearly. In cooperation with the Institute of International and Strategic Studies (IISS) in London, a special Norwegian version of "The Military Balance" is also published annually. The Norwegian Atlantic Committee takes particular pride in its Press service, which is responsible for drafting 60 to 80 original articles every year. Some twenty-six newspapers subscribe to this service. An important reason for the success of the Atlantic Committees is the fact that they are bi-partisan. The Norwegian organisation is a case in point. All the major political parties are represented on its Executive Board.

Almost all the Atlantic Committees host seminars and conferences, frequently with financial support from the NATO Information Service. The Netherlands Atlantic Commission, for example, held a very successful symposium on The Future of the Defence of Europe at the Hague in May 1985 with a number of high-ranking speakers from the US and Europe. They managed not only to attract most of the leading Dutch politicians to that symposium but also such personalities as NATO Secretary General Lord Carrington, and Zbigniew Brzezinski and Henry Kissinger from the United States and Horst Ehmke from Germany.

The Dutch Atlantic Commission also held a major conference on Negotiating with the Soviet Union last October, followed by a special and wisely publicised session with General Rogers in December. In the first week of September, the Netherlands Atlantic Commission organised its eighth journalists visit to Washington, the participants representing all sides of the Dutch political spectrum. Perhaps the most important feature of the Dutch Commission is that their activities are very well covered by the Dutch media.

The Atlantic Committees devote a great deal of their attention to educational institutions. The Dutch Commission cooperates closely with the two national teachers organisations, resulting in joint conferences and projects. The total output of Dutch educational publications is well over 100,000 copies annually.

The British Atlantic Committee has formed two sub-committees for its work in this area. The first deals with pupils aged 11 to 19 and concentrates on briefings at NATO in Brussels or at military headquarters in the UK for headmasters or heads of school departments. After such briefings, these teachers are asked if they can arrange a discussion at their schools thus extending the information process. This sub-committee is also preparing data sheets and posters for use by the 11 to 16 year olds in schools.

The second sub-committee concentrates on briefing academic staff of universities and polytechnics as well as interested members of the student body through departments and non-political unions and societies.

While the British Atlantic Committee presents its material in a nonpartisan manner, a sister organisation called Peace Through NATO, an all-party organisation, carries out responsible campaigning in favour of the Alliance and its policies. PTN has an excellent speakers service and provides a steady flow of speakers to churches, schools, colleges, voluntary organisations, trade unions and to so-called unilateralist groups. The success of PTN's policy of engaging groups like the Campaign for Nuclear Disarmament in public debates and discussions may serve as a model to other NATO countries. In the best British tradition of political debate, PTN even has arrangements with some anti-Nuclear and pacifist organisations for PTN to provide pro-NATO speakers for some of their meetings.

As far as educational work is concerned, some valuable lessons could also be learned from the German Atlantic Committee. In the Federal Republic of Germany school presentations about NATO are made in cooperation with specially trained young officers ("Jugendoffiziere") of the Bundeswehr. These informed "citizens in uniform" do much to dissipate the distorted image of the military that is often prevalent among the young. The fact that the "generation gap" between these officers and their audience is small helps to give these officers added credibility and no doubt makes their audiences more receptive to information about the Atlantic Alliance.

These are just a few examples of the kind of work being carried out by the Atlantic Committees. If I have singled out some of our national committees and their work here it is not because the others do not work as well, but because I cannot talk about them all; I believe that the work of those I have mentioned illustrates what is done by the others.

The Atlantic Treaty Association could do much more to facilitate and support the efforts of these national organisations. An ATA bulletin, for example, has been proposed to inform the sixteen member organisations on a regular basis about each other's activities, on problems relevant to public opinion in the NATO countries, and on NATO's information policy.

In line with increased concern about the Successor Generation, a pilot seminar for teachers of history is being considered by ATA to contrast the values of the West with those of the Soviet Union. In addition, an essay contest is being planned for the eleventh grade level on the definition of a free society. However, none of these and other proposals can be translated into reality without more money. Currently, the ATA is undertaking a fund-raising drive to supplement the small membership fees from the Atlantic Committees and the relatively modest allowances from NATO. Without these additional funds, the Atlantic Treaty Association will become increasingly unable to fulfill its original purpose—namely "to counteract the recurring temptation of peaceful peoples to forget the urgency of defence".

If the NATO information structure is to be modernised, clearly the Atlantic Treaty Association and the Atlantic Committees will play an indispensable role in the process. Yet the Atlantic Committees in each country cannot alone stem the tide of public disaffection. Concerted efforts are required by member governments and by NATO itself. The Alliance will find it increasingly difficult to implement the necessary defence policies without garnering sufficient and sustained public support. Although a revised information policy cannot by itself guarantee consensus, it would represent an important acknowledgement of the crucially important role public support plays in Western defence.

A SILVER ANNIVERSARY TRIBUTE TO REV. CANON LEWIS P. BOHLER, JR.

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 11, 1986

Mr. DIXON. Mr. Speaker, the Episcopal Church of the Advent will commemorate Rev. Canon Lewis P. Bohler, Jr.'s, 25 years of distinguished service and spiritual guidance at a celebration luncheon on Saturday, October 11, 1986, at the Los Angeles Airport Hilton and Towers.

As a member of the Church of the Advent, I have witnessed the monumental impact Father Bohler's dedication, devotion, and wisdom has had on thousands of lives through his work as rector; member of the California State Board of Education; president of the Los Angeles Unified School District's Executive Council, School Volunteers; board member of the Los Angeles Brotherhood Crusade and the Los Angeles Council of Churches; and member of the Police-Community Advisory Council, the NAACP, the Urban League, and the board of directors for the USO.

Ordained to the priesthood in Trinity Cathedral in Cleveland, OH, Father Bohler holds bachelor of divinity degrees from Oberlin College and Kenyon College, as well as a bachelor of arts degree in psychology from West Virginia State College. He became rector of St. Augustine's Episcopal Church in Youngstown, OH, in July 1955 and has been rector of the Episcopal Church of the Advent since October 1, 1961.

Father Bohler, who as a member of the Southern Christian Leadership Conference marched from Selma to Montgomery during the historic civil rights crisis in 1965, has been a tireless activist for education, civil rights, and community relations. For his unflagging efforts and valuable insights, Father Bohler is the recipient of numerous honors including the first Human Relations Service Award presented by the city of Los Angeles in 1970, resolutions from the California State Assembly and Senate, and citations from the Los Angeles Urban League, the Los Angeles County Board of Supervisors, and various civic, education, and business groups. Father Bohler was also named the National Association of Media Women's Newsmaker of the Year in Education for 1979, and is an honorary canon at Cathedral Church of St. Paul in Los Angeles.

Father Bohler is deeply committed to civic programs that encourage and facilitate drug addiction rehabilitation and prevention, suicide prevention, crime prevention, prison reform, and criminal rehabilitation. He is also an avid "hi-fi bug" and phonographic record collector, which is augmented by an enduring passion for music, the theater, and writing.

For the past 25 years, Father Bohler has been a vibrant, forceful, and effective leader for the parishioners of the Episcopal Church of the Advent and the citizens of Los Angeles and California. I share with them my deepest appreciation for his devoted service and my personal gratitude for his wise counsel over the years. I am deeply honored to join Father Bohler's wife, Gloria, his children, Carmen and Craig, coworkers, and many friends and well-wishers in paying this much-deserved tribute to a truly remarkable and outstanding humanitarian.

THE NATIONAL FORUM

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 11, 1986

Mr. DONNELLY. Mr. Speaker, I would like to share with my colleagues an initiative which is a most important endeavor being undertaken by the students of Milton Academy, Milton, MA.

On April 30, 1986, Dr. Helen Caldicott, the founder of Physicians for Social Responsibility, addressed the student body at Milton Academy, Milton, MA. Her clear and dramatic depiction of the consequences of nuclear confrontation elicited an electric and passionate response from the Milton students. For several days after her speech, classrooms and assembly halls were filled with churning and controversial discussion. Regardless of their own positions, students soon came to understand that they were insufficiently informed about the complexities of the nuclear issue to have a reasoned response to Dr. Caldicott's presentation. They could argue with vehemence, but they were arguing out of igno-

rance. As one student said, "How can I have an opinion? I don't know anything."

This frustration led to a student-initiated movement on campus. Open meetings during the next week brought together about 120 students and 30 faculty members. Students sustained this level of interest during the remainder of the school year as the project began to take shape. By early June, merely a month after the address of Dr. Caldicott, the National Forum was established, a summer organization was put into place, and the task of making the project a reality began.

The National Forum is a grassroots, educational effort, designed to bring all the high school students of America together in a cooperative movement. It has two parts. The National Forum is one, a petition drive to get the 15.6 million high school students of America to request, two, a nationally televised forum on the nuclear arms issue.

First, the petition drive will start from Milton Academy and fan out across America. We are sending a letter to every high school principal and student council president in the 20,000 high schools of the United States, urging their students to sign a petition between election day 1986 and the last day of classes in January 1987.

Second, the petition itself will call for a nationally televised forum on the nuclear arms issue. It should be educational in nature, nonpartisan. It should present an array of opinions, a spectrum of the diversity of viewpoints that exist on the nuclear arms issue. President Reagan should be one of the participants, and high school students should have an opportunity to question the experts who make the presentations. As one student from Nebraska commented, "The National Forum attempts to show students how to think, not what to think."

We hope that the National Forum can become a regular program of the national media, focusing each year on an important national or international issue.

The National Forum fulfills several student needs:

It emphasizes the value of impartiality, of free and open discussion, a hallmark of American democracy;

It demonstrates that students of vastly differing views can come together over a common issue;

It involves future voters in a process of public discussion and decisionmaking, preparing them for the difficult task of citizenship;

It educates students about a crucial issue of our times;

It helps develop in students a consciousness beyond their own individual circumstances; and

It shows students that they can make a difference.

The National Forum is coming from high school students; it is being directed to high school students; and it will be participated in by high school students.

The National Forum is a project endorsed by the executive board of the National Association of Student Councils.

NUNQUAM FIDELIS

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 11, 1986

Mrs. SCHROEDER. Mr. Speaker, this week's Village Voice has a good story on an interesting Korean war episode.

The story follows:

PAT ROBERTSON'S KOREAN COP-OUT: WITH DAD ON HIS SIDE

(By Joe Canason, Jack Newyfield, and James Ridgeway)

"My single distinct memory," wrote former Congressman Pete McCloskey, "is of Pat with a big grin on his face, standing on the dock at Kobe after his second phone call, saying something like, 'So long you guys—good luck,' and telling us that his father had gotten him out of combat duty."

There is nothing covered up
That will not be uncovered,
Nothing hidden
That will not be made known.
What I say to you in the dark
You must repeat in broad daylight;
What you hear whispered
You must shout from the housetops.—Matthew 10:26,27 (cited as the epigraph in Pat Robertson's 1971 autobiography, *Shout It From the Housetops.*

By January 1951, American and United Nations troops had suffered severe casualties against the Chinese and North Korean armies in the bloody conflict on the Korean peninsula. The First Marine Division had several weeks earlier completed a disastrous retreat with great loss of life—one of the worst defeats in the history of the corps.

As the Americans reeled from the deadly winter cold and the human wave assaults of the Chinese, A. Willis Robertson, the conservative democrat from Virginia, rose on the floor of the United States Senate, 5000 miles from the scene of combat. He wanted to share with his colleagues a message one of his consitutents had just received from a son on the front lines: "I don't see how they expect us to operate an army over here with what little they gave us," the young soldier wrote home. "Most of our Division is about half strength from the lack of equipment and replacements. I think they should either do the job or move out. They are letting the Chinese make fools of us." After reading this bitter letter, Robertson said, "I urge you to use your influence to right this deplorable situation. This is certainly not upholding the democratic way of life for which our men in Korea are fighting and dying."

This was not the first time Robertson had spoken up for more manpower and firepower in Korea and for a keener appreciation by all Americans of the terrible toll the war was taking on soldiers who fought there. In August 1950, he listened to an emotional speech by a colleague who had just seen off a National Guard unit, and now was calling for total mobilization. The Virginian, a veteran of World War I, rose and declared, "The senator has delivered a very wonderful speech. I listened to it with great interest and with keen approval of its appeal to the nation to mobilize our spiritual powers, and our physical powers, and to spread evenly the burden of defending our manner of life."

Shortly after Willis Robertson's January Senate speech, his own son, Marion G. "Pat" Robertson, shipped out from San Diego aboard the USS *Breckinridge* with the Fifth Replacement draft—a battalion of fresh Marines headed for battle in Korea. Proud members of the First Marine Division, nearly all the men on the *Breckinridge* would soon be facing Chinese shellfire and bayonets. Many would die. But young Robertson would not face those dangers—and now a former Marine buddy, war hero, and U.S. congressman has come forward to say that Robertson used his father's influence to avoid combat.

In a six-page August 4 letter to Indiana representative Andrew Jacobs Jr.—who is also a decorated Korea veteran—former California Republican congressman Paul N. "Pete" McCloskey, reconstructed the events of winter 1951 aboard the *Breckinridge.* He and Robertson were both second lieutenants, and during the two-week trip to Japan they became well acquainted. "Pat was affable, barrulous, and candid; he spoke frankly of his desire to avoid combat and to have his father . . . intervene on his behalf," recalled McCloskey.

According to McCloskey's recollection, aided by diaries and conversations with Marine comrades, Robertson went ashore at a Navy base in Japan. "I believe most of us thought he was joking when he told us he was going to call his father and request transfer off the ship," said McCloskey. Apparently Robertson did make such a call: the ship proceeded to Kobe, but when it left Kobe for Korea, Robertson was not aboard.

"My single *distinct* memory," wrote McCloskey, "is of Pat with a big grin on his face, standing on the dock at Kobe after his second phone call, saying something like, "So long you guys—good luck," and telling us that his father had gotten him out of combat duty." Months later, when McCloskey and other battle-weary platoon leaders were rotated back to the rear, he met up with Second Lieutenant John Gearhart, a former shipmate, who told him more about what happened to Robertson.

"Gearhart told us he had been one of three other second lieutenants who had been pulled off the ship with Robertson at Kobe, in Gearhart's mind solely to disguise the political nature of Robertson's case," McCloskey wrote. Gearhart was unhappy that they had been assigned to a rehabilitation camp in Japan, far from the front lines, and informed superiors that he and the three other junior officers had never seen combat. Within a day, all four were sent to Korea. But according to McCloskey, only Gearhart and the other two officers ended up in rifle companies. Robertson became an assistant adjutant, the so-called "liquor officer," quite safe at division headquarters. "Robertson's major duty was apparently to fly to Japan once a week and bring back booze for the officers' mess. On occasion I believe it was possible that those at Division HQ could hear the distant firing of our own artillery batteries. . . .

"I did not see Pat again," McCloskey continued, "until turning on a television set in Southern California one morning in 1981 or 1982 and seeing his smiling face on [*The 700 Club*]. . . . He was blasting Congress for being 'soft on Communism." I couldn't help laughing over the incongruity of Pat's new views. . . . There are several others [Marine vets] whom I see from time to time and share a laugh with occasionally over the reborn Pat Robertson who would now lead us against the dreaded communist menace."

Most journalistic accounts of the life of Pat Robertson, TV messiah and soon-to-be-

announced Republican presidential candidate, describe him, as *Time* did last February, as "a combat officer in Korea." *Time's* notion of Robertson under fire probably came from the biographical handout of his Freedom Council political operation, which claimed until quite recently that its leader had served in combat. According to Michael Kramer, who profiled the minister for *New York* last month, an aide to Robertson suddenly called the combat reference "a mistake" when Kramer innocently asked about it, and added. "We'll have to change that." But Robertson's 1971 autobiography, *Shout It From the Housetops,* makes the same supposed "error" on page 14, in a blustering list of his own accomplishments. However, Robertson's military service is strangely absent from his *Who's Who* entries.

Of course, the warrior image comports well with Robertson's belligerent religiosity and apocalyptic militarism. He is not just an electronic ayatollah who talks to God and redirects hurricanes; he is an Armageddon theologist who believes that Jesus will literally lead a host of believers in a horrible war against Satan. All Christians will be required to serve in this holy war (and the only liquor officers are likely to be in the devil's tent). In the meantime, Robertson has been an ardent apologist for former Guatemalan president Rios Mont, an evangelical dictator who carried out a little Armageddon against the defenseless Indians of his own country, supposedly at God's command. Robertson, who cites Isaiah to prove that "Pacifism is not Biblical," also predicts war with the Soviet Union. On a more personal level, he has tried to bully critics such as television producer Norman Lear. "Though I am a former Golden Gloves boxer," he warned Lear in a 1981 letter, "I dislike fights. I seldom fight but when I do I seldom lose."

A spokesman for Robertson has denied that Willis Robertson helped his son avoid combat duty. McCloskey was first quoted about Robertson's avoidance of combat duty in a newspaper article in which he said Robertson "had wanted no part of the communists in Korea when he had had the chance. Pat saw the article and sent me a letter mildly objecting, but making no objections as to its veracity." McCloskey was on a backpacking trip in the High Sierra and thus unreachable last week.

Robertson's political ambitions may depend on whether Americans believe him or McCloskey. Robertson is a faith healer who soothes his contributors' hemorrhoids, claims to have turned Hurricane Gloria away from the Virginia shore (and toward New York City), and has referred to non-Christians as "termites."

McCloskey is widely respected for his candor and courage, both in politics and as a genuine war hero. A platoon leader in Korea, he was wounded while leading a bayonet charge up Hill 566 and was awarded the Navy Cross, the Silver Star, and the Purple Heart. But he came to strongly oppose the war in Vietnam, and his 1972 campaign against Richard Nixon in the snows of New Hampshire proved he would fight for his beliefs even in the face of certain defeat by a president of his own party. Andy Jacobs Jr. went to Korea while his father was a member of Congress from the district he now represents. Nobody pulled strings for him.

Wounded by shrapnel, former Marine private Jacobs is entitled to a 10 per cent disability, but he refused to collect it after his election in 1964. He has strong feelings about proxy patriots like Robertson. "I doubt there are more than 20 of us in Congress who have ever faced a man with a rifle who was actually trying to kill you," he once said. "When I hear these men who have never been in such a circumstance casually contemplate sending teenagers off to Lebanon and other troubled places, my nerves go cold."

UNITED STATES LOSING TROPICAL FORESTS

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 11, 1986

Mr. SEIBERLING. Mr. Speaker, in June, the House passed legislation, authored by our distinguished colleague GUS YATRON, to provide aid to other countries to help in preserving the world's tropical forests. The bill is now under consideration in the Senate.

Tropical rain forests are believed to provide over 20 percent of the renewal of the Earth's oxygen supply. They are also major factors in moderating the climate as well as preserving soil and water quality. As scientists begin to understand the potentially catastrophic consequences of the "greenhouse effect" and the resultant overheating of the world's climate because of the increase in concentration of carbon dioxide in the atmosphere, the preservation of tropical forests is becoming crucial. They also constitute the major reserve of biological species, whose potential for medicinal and agricultural purposes have yet to be fully understood and utilized.

For all these reasons, the Yatron bill, modest as it is, constitutes an extremely important step in raising national and global recognition of the urgency of protecting the tropical forests. Ironically, it now appears that thousands of acres of tropical forests in the United States itself are in danger. A recent article by Erik Van Lennep, printed in the September 3 issue of the Cleveland Plain Dealer, presented some details of our own domestic tropical forest crisis.

According to the article, the U.S. Virgin Islands loss of forest cover has caused streams to dry up and water must be imported from Puerto Rico or distilled from seawater.

In Puerto Rico, some 200,000 acres of the island have been deemed suitable for commerical forestry, including the 28,000-acre Caribbean National Forest. This national forest, which contains three-fourths of Puerto Rico's virgin timber, according to the article, is home to over 225 native tree species and at least three endangered animal species, including the Puerto Rican parrot, whose population has dwindled to about 16.

The Plain Dealer article states that in Hawaii the situation is just as grim. Of the 57 species of birds once found in the island's forests, 23 are now extinct and 23 more are endangered. Eight hundred of Hawaii's native plant species are endangered and 270 are already extinct. The principal cause is deforestation, according to the article. The deforestation is continuing at an accelerated pace, encouraged by Federal and State policies that provide tax advantages for conversion of rain forests to cattle pastures.

The Campbell estate last year converted into pasture 1,000 acres of what has been described as the best lowland rain forest left in Hawaii and is now planning a 9,000-acre geothermal energy complex in a rain forest preserve on the slopes of Kilauea Volcano. Environmentalists say the project could wipe out the home of several endangered species. Ironically, since the project would produce more power than is needed on the Big Island, the State and Federal governments are funding a $27 million study on the feasibility of laying a power cable from Hawaii to Oahu.

In short, Mr. Speaker, it is becoming increasingly clear that further action is needed to protect rain forests located within our own borders. Such action would not only be in our own long-term interest but would be a further demonstration of our commitment to the global conservation goals developed at the Inter-Parliamentary Union Conference on Environment held at Nairobi, Kenya, in 1984. Among other things, the conference recommended that national legislators should urge their governments to give priority to conservation of the biosphere and its component ecosystems and, in particular, "To control the use of certain essentially nonrenewable forest types, particularly in the humid tropics and boreal regions of the world, so as to retain sufficient areas of the existing forests to maintain ecological balance."

By the extensive designation of wilderness areas and national parks by the Congress over the years and the continuing addition of protected areas, the Congress has demonstrated a national commitment to the preservation of boreal forests in the United States. However, clearly the time has come for us to take additional action with respect to the tropical forests located in our island territories. Leadership by the United States in these fields is essential if we expect other countries, particularly those with very large tropical forests, to adopt the conservation disciplines that are essential to preserving the global environment on which all life depends.

The complete text of the Plain Dealer article follows these remarks:

[From the Cleveland Plain Dealer, Sept. 3, 1986]

U.S. LOSES TROPICAL FORESTS

(By Erik Van Lennep)

In June the U.S. House of Representatives passed $10 million in aid to help preserve the world's tropical forests. With over 100 acres of rain forest disappearing every minute around the globe, the measure, now under Senate consideration, is badly needed.

Unfortunately, what politicians seem not to have recognized is that thousands of acres of tropical forest on the United States' own soil are in mortal danger as well.

In the U.S. Virgin Islands loss of forest cover has caused streams to dry up, and water must now be either imported from Puerto Rico, or distilled from sea water.

In Puerto Rico some 200,000 acres of the island have been deemed suitable for commercial forestry, including the 28,000-acre Caribbean National Forest, which contains three-fourths of Puerto Rico's virgin timber. This tropical rain forest is home to over 225 native trees species and at least three en-

dangered animal species: the Arctic peregrine falcon, Puerto Rican parrot, and the Puerto Rican boa. The Puerto Rican parrot, whose population since the 1950s has dwindled from 200 to about 16, is found nowhere else on Earth.

A number of international bodies, including the United Nations, have recommended that most of the Caribbean National Forest be declared an "international biosphere preserve," and clearly as such the park offers Puerto Rico and the world far more than the meager revenue expected from timber sales. The National Forest Service's own socioeconomic impact assessments indicate that local employment would not be boosted significantly by new logging.

Meanwhile new roads will be built, increasing access to previously undistrubed areas, and what were once forest habitats will come to be regarded as crops. In an attempt to regulate tree growth, NFS has proposed an integrated pest management system that would bring an arsenal of toxic chemicals to a relatively pristine area.

In Hawaii, the situation is just as grim.

The Hawaiian archipelago is one of the most isolated island systems in the world. After millions of years of evolution, more than 95% of its flowering plants and 90% of its animals are unique to Hawaii. Yet of the 57 species of birds once found in the islands' forests, 23 are now extinct; 23 more are endangered. Eight hundred of Hawaii's estimated 3,000 native plant species are endangered, and 270 are already extinct.

The cause is deforestation, which began when the Polynesians arrived 1,500 years ago, but increased dramatically with the coming of Europeans and Americans in the 18th century.

Now local environmental groups are fighting what they term "a new boom in deforestation." Most of the destruction takes place on private land, encouraged by federal and state policies that provide tax advantages for conversion of rain forests to cattle pasture. Typically, the trees are chipped and sold to Hawaii Electric Light Co. to fuel its power plant.

Last year the Campbell Estate, a large landholder near Hilo, converted 1,000 acres of what University of Hawaii botanist Dieter Mueller-Dombios described as "the best lowland rain forest left in Hawaii" into pasture and wood chips.

The Campbell Estate is also the site of Hawaii's most controversial development, a 9,000-acre geothermal energy complex located in the Wao Kele O Puna rain forest preserve. The facility is to be developed upon the slopes of Kilauea Volcano.

Environmentalists say the project could wipe out the home of several endangered species. For native Hawaiians, the development would be like drilling for oil in the Vatican's Sistine Chapel.

The big island does not even need the estimated 100 megawatts of new power, so the state and federal governments are funding a $27 million study on the feasibility of laying the world's longest deep-sea power cable, to send electricity to Oahu. The project is estimated at $400 million.

Why, one may well ask, are federal and state governments, and by proxy all of us, willing to fund the same destruction on U.S. soils that we discourage overseas?

CONGRESSIONAL SALUTE TO LA COOPERATIVA CAMPESINA DE CALIFORNIA

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 11, 1986

Mr. MATSUI. Mr. Speaker, it is my privilege and honor to call your attention and that of my colleagues to a special anniversary celebration of the founding of La Cooperativa Campesina De California, a Sacramento-based statewide association of migrant and seasonal farmworker organizations.

On August 20, 1986, La Cooperativa will celebrate its ninth year of providing effective, critically needed programs in job training, employment, housing, migrant education, child care, elderly nutrition, vocational rehabilitation, and energy conservation programs and services for farmworkers and other rural poor.

An umbrella group of four private, nonprofit organizations, it includes the Santa Rosa-based California Human Development Corp.; the Center for Employment Training in San Jose; the Central Valley Occupational Center in Merced and Visalia-based Proteus Employment and Training, Inc. Its two public agencies are the Employers' Training Resource of Bakersfield, and representation from the Employment Development Department's Office of the Monitor Advocate. Together, they provide a variety of human and social services for refugees, handicapped, frail elderly, minority women, veterans, ex-offenders, and out-of-school youth.

La Cooperativa's member agencies are awarded grants and contracts to provide programs and services from six Federal agencies and three State agencies. The association operates 64 service and training centers with 900 professional and technical staff. Since its inception in 1977, La Cooperativa has helped more than 1 million people and has placed 62,537 individuals in unsubsidized private industry jobs through its skills training programs. Another 26,800 families have received housing assistance, weatherization, and related energy services.

Mr. Speaker, on behalf of the U.S. House of Representatives, I would like to offer my personal congratulations and best wishes to the officers, management, and staff of the association members for their fine organizations, outstanding accomplishments, and enduring commitment to those in our society who are less fortunate and who must rely on our Nation's social and economic safety net.

GOOD WORKS BY THE BROTHERS OF CHOSEN FRIENDS

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 11, 1986

Mr. GEKAS. Mr. Speaker, I would like to take this time to commend a fine group of men from my district who have consistently given of themselves to help others in our community. The Brothers of Chosen Friends, have given their time to a number of programs which benefit the underprivileged of the Harrisburg area including running a yearly Toys for Tots and Christmas Basket Program at Christmastime.

This past year the Toys and Tots Program put smiles on the faces of over 75 children while the Christmas Basket Program provided over 60 families with a Christmas feast. Other worthy projects have included the Knights of Pythagoras Youth Program serving young men ages 13 to 18 to curb juvenile delinquency, and strengthen moral character. Another program, the College Bound School Program, has helped students defray the cost of books.

The goodness of this group of men is not limited to our younger generation. The senior citizens of the hill area of Harrisburg were the guests at an open house hosted by the Chosen Friends this past Christmas.

I would like to thank each member of this group for their interest in improving the Harrisburg community.

IN RECOGNITION OF THE INDIAN AMERICAN FORUM FOR POLITICAL EDUCATION

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 11, 1986

Mr. GARCIA. Mr. Speaker, I would like to insert in the RECORD a copy of a speech made by Mrs. Achamma Chandersekaran, president of the Indian American Forum for Political Education. The speech was delivered at the National Federation of Asian Indian Organizations' fourth National Biennial Convention held in Anaheim, CA this past August.

It is my pleasure to better acquaint my colleagues with the fine work being done by the forum, and I hope they will take a moment to read Mrs. Chandersekaran's fine speech.

I would also like to mention that next Wednesday, September 17, the forum will be hosting a congressional luncheon in honor of "Citizen's Day" in the Mike Mansfield room in the Capitol from 11:30 to 1:30. I have been told that we are all cordially invited.

IN RECOGNITION OF THE INDIAN AMERICAN FORUM FOR POLITICAL EDUCATION

The Indian American Forum for Political Education was established solely for promoting political awareness and civic consciousness among Indian Americans, and as such, it complements the sociocultural activities of the Asian Indian organizations. We do not lobby nor do we work for one particular political party. Our goal is to get every Indian American to realize the need to get involved politically.

About five years ago we realized that whether we are involved or not, state and federal laws that affect our lives will be passed and we have no choice but to obey them. If we are politically involved, we can have some say in what form the laws are passed. We can have some influence on the lawmakers at the local, state and national levels.

It is this realization that made the Forum members testify before the Senate Committee on Immigration. The surprising results of that testimony encouraged everyone.

Indian Americans all over the country realized the impact a politically oriented organization can have and State Chapters of the Forum sprung up in many parts of the country.

The history of Asian Indians in many countries should teach us that unity and political involvement are necessary for the long-term well-being of our community. The history of countries like Guayana and Kenya may not be repeated here because this is a country of immigrants. But we must realize that problems take different forms. Consider the legislative initiatives regarding the medical profession. Professional medical organizations have enough clout and money to persuade the U.S. Congress that there is going to be a surplus of doctors in this country and, therefore, we don't need any more foreign medical graduates here. Bills that had been shelved are now expected back on the floor of the Congress next year. A bill is being introduced in the California legislature requiring foreign dental graduates to drop the DDS after their names. Already, there are laws in several states requiring nurses to take additional exams before they can take the exam to be a Registered Nurse.

Do we wait and see what will come next? For instance, will the Indian American motel owners become the target like the Korean grocery store owners in the Washington, D.C., area? The time to take preventive measures is now. Now is the time to use our votes and other resources to elect candidates who will be sensitive to our needs. Find out what your candidates have to say on matters that will affect our lives here.

Reportedly, this year more Indian Americans have taken fund raising initiatives for candidates of both parties and more Indian Americans are contributing to campaign funds. But contributions alone will not help us. We need to meet especially with the candidates for state and local offices before primaries and find out about their views on matters of our concern. Since we go to the dining table with more than just an appetite, make sure what we take with us will benefit us and our children. Let us show the candidates that we take the civic responsibilities of citizenship seriously and we are concerned about our future and our children's future. It may be too late for this year. But let us start now to get organized so that working with the other Asian Americans under the umbrella of Asian American Voters Coalition, we can have a decisive impact in 1988, when the next president also will be elected.

If you study the history of immigration to this country, you will find that, compared to many other national groups that came before us, such as the Irish and the Italians, we are doing very well as first generation because of our education and knowledge of the English language. We have not been called as many names as they have been, or treated as badly because of the changes in the laws of this country. We should be careful not to turn this advantage into a curse. The fact that we did not go through the hardships that others went through does not mean we can just sit back and enjoy the good life. As intelligent beings we need to learn from the experiences of others, we need to have the foresight to see the need for political involvement and take steps to prevent similar things from ever happening to us or our children. Otherwise, we are not as smart as we think and our education is not yet complete.

If we accept the combination of two American ideas, we will be able to do many things. The first one: it is not economic well being, but political involvement that is the ultimate power in this country. President Reagan, the Kennedys and the Rockefellers are all examples. And the second one: team playing is considered a requirement for success in this country. If you are not a teamplayer, you do not get very far. Therefore, out of our diversity we need to find the basis for unity, and get involved politically. As a unified community we can accomplish great things and reach new heights.

Let us begin to promote political awareness among our own. Let us work together to protect our rights. Then, I am sure, history will record that the unique community of Asian Indians in America used their education and wealth with wisdom and foresight.

A TRIBUTE TO JAMES GARITO

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 11, 1986

Mr. GUARINI. Mr. Speaker, on Friday evening, September 19, 1986, at the Villa Nova on 19th Street and Avenue E, Bayonne, NJ, a testimonial dinner will be held in honor of James Garito, president of the Bayonne Board of Education.

James Garito is the oldest son of the late Michael and Catherine Garito of San Vito S'Iono, Italy. Mr. Garito is a life-long resident of Bayonne. He attended local elementary schools and graduated from Bayonne Technical High School in 1940. After graduation, he entered the U.S. Marine Corps and served during World War II as a demolitions expert and section leader. He fought in the Pacific theater and was with the Marines who invaded Iwo Jima. For his service in the Pacific, he was awarded the Bronze Star for Meritorious Service. After his discharge from the service, he married the former Dorothy Stanek. They have been married for 39 years and have three children, Michael, Kathleen, and Christine, and six grandchildren.

In 1946, Mr. Garito began a career with Hunt Wesson Foods. He worked for the company in a supervisory position for more than 30 years and just recently retired in 1985.

In 1963, Mr. Garito was appointed executive director of the Bayonne Parking Authority, and he continues to serve in this position. In 1980, Mayor Dennis Collins appointed him a trustee of the Bayonne Board of Education. This past May, he was elected president of the board.

Mr. Garito has been active in many community activities. He is a parishioner of Our Lady of the Assumption Parish where he has served as past president of the Holy Name Society and was a founding member of the parish council. He has also served in a number of other capacities at the parish including chairman of the annual carnival for 5 years.

Mr. Garito is also a member of the Assumption Catholic War Veterans Post 1612. He is a past commander of this post. He is also past president of the Bayonne Chapter of UNITO and a founding trustee of the Dominic J. DelMonte Lodge of the Sons of Italy. He has also been active with the Bayonne Detachment of the United States Marine Corps League, the Sicilian Citizens Club, the New Frontier Democrats and the Elks Club.

Mr. Garito has informed the testimonial dinner committee that he would like all proceeds from the affair to go to the Social Concerns Committee of Our Lady of the Assumption Church to help them continue the good work they are doing for the entire city of Bayonne.

I am certain that my colleagues here in the House of Representatives wish to join me today in this well-deserved tribute to James Garito, servant of God, servant of mankind.

Jim Garito is a perfect example of the spirit of the 14th District I represent wherein people silently, steadily and unselfishly continue to support their community and programs of good will.

Jim Garito has already been blessed by his God. I join with the people of Bayonne and all his friends here this evening assuring him of our thanks and further blessings which we just know will be forthcoming.

IN HONOR OF THE LATE ADMIRAL FRANK D. HIGBEE

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 11, 1986

Mr. ANDERSON. Mr. Speaker, earlier this week, the Los Angeles Harbor area lost one of its most respected residents, Adm. Frank D. Higbee.

Admiral Higbee, whom my wife, Lee, and I counted as one of our closest friends, was recognized as an expert in marine and port-related matters. On many occasions, I would call on Admiral Higbee to ask his opinion on various issues affecting the Ports of Los Angeles and Long Beach. And I was always amazed with his depth of knowledge and ability to comprehend the subject matter. I shall miss his guidance and counsel.

An excellent summary of Admiral Higbee's accomplishments, as it appeared in yesterday's Los Angeles Times, follows:

FRANK HIGBEE, FORMER L.A. PORT WARDEN

(By Jerry Belcher)

Retired Coast Guard Rear Adm. Frank D. Higbee, who went to sea on everything from square-rigger sailing ships to nuclear-powered vessels, has died in San Pedro at the age of 92.

Higbee, a decorated veteran of World Wars I and II, served as warden of the Port of Los Angeles for nearly 20 years.

Vigorous and alert to the end, he collapsed during his regular daily workout at the local YMCA, was rushed to San Pedro Peninsula Hospital and pronounced dead of cardiac arrest at 8:02 a.m. Monday.

"I'll really miss him," his daughter, Anne Higbee-Glace, said Tuesday, "but when a man dies at 92 while doing push-ups—that's the way to go." Although he has long since stopped going to sea, he maintained his first-class pilot's license, renewing it only last July. "Allowing it to lapse," he told a reporter, "is to sink into the past."

A native of Albany, N.Y., orphaned as a child, Higbee enlisted in the Navy in 1913, serving on the cruiser Galveston in the Pacific, and on the Bainbridge, the first de-

stroyer in the American fleet. By 1917, he has risen to the rank of warrant officer, and with the outbreak of World War I he was promoted to ensign.

He served throughout the war on transports, crossing and recrossing the U-boat-infested North Atlantic.

After the war he took his discharge to try farming in Oregon but went back to sea within a few months as an officer in the Merchant Marine.

He was commissioned a lieutenant in the Coast Guard in 1926. His first tour of duty as a Coast Guardsman was aboard the barkentine Bear, on which he spent two years in Arctic waters.

He served as Coast Guard captain of the port for Long Beach and Los Angeles just before World War II.

In 1942, Higbee took command of the troop ship General Scott, later transferring to the Pacific Theater to command a flotilla of 32 landing ships.

Among his most treasured possessions was a portrait of Gen. Douglas MacArthur inscribed "to Capt. Higbee, a Comrade in Arms."

"I was serving as beach master at Taclaban, in Leyte, and met the general when he waded ashore on his historic 'I have returned' landing [in the Philippines]," Higbee recalled in a 1980 interview. "I saluted and said, 'Good morning, general,' and he responded with only four words, 'See me in Tokyo.'"

Higbee did indeed see MacArthur in Japan at the end of the war, when the veteran seaman was named to the temporary post of captain of the Port of Yokohama.

Higbee retired from the Coast Guard in 1946 as a rear admiral and in 1947 was appointed port warden, the port's chief technical administrator. Higbee was legendary for his strictness in enforcing safety regulations in the port and in 1954—long before the ecology movement became popular—had the master of a vessel jailed for spilling gasoline in the harbor. Some labor union leaders and shipping executives demanded his ouster because of his tough stance on safety.

After retiring from that post, he later became maritime adviser to the State Lands Commission.

His daughter Anne, of Bolton, Mass., is a veteran of Coast Guard duty during World War II. He also is survived by daughters Joan Mercer of Toronto, Canada, a World War II veteran of the Women's Army Corps, and attorney Joyce Denny of Monrovia.

A memorial service will be held Sept. 23 at the Navy chapel on Terminal Island.

TRIBUTE TO MR. JAMES ARNHART

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 11, 1986

Mr. GORDON. Mr. Speaker, on September 1, 1986, Mr. James Arnhart, president and chief executive officer of Middle Tennessee Medical Center in Murfreesboro, retired after 33 years of service to this hospital. I ask my colleagues in the House of Representatives to join Mr. Arnhart's family, friends, associates, and the entire community in paying a special tribute to him.

As the longest tenured hospital administrator in Tennessee, Mr. Arnhart has unselfishly given his time and compassion to the hospital to ensure top quality health care for all of us in the middle Tennessee community. Reflecting this dedication, he was honored recently for meritorious service in hospital administration by the Tennessee Hospital Association.

In 1953, James Arnhart began leadership of Rutherford Hospital which had been seriously threatened by organizational and financial problems. The hospital had made no real progress in 23 years and its future prognosis was no better.

Within the next 33 years, the small, general care hospital underwent a complete about-face into a progresssive medical center offering a variety of services with Arnhart at the helm. He eliminated an enormous debt, increased the capacity by over 200 beds, and added a long list of services including a critical care pavillion housing laser surgery, a radiology suite and a nuclear medicine facility. Also nearing completion are a physicians' office building and a substance abuse center.

The influence that James Arnhart has had on Middle Tennessee Medical Center is obvious to everyone in the area who has brought a new life into the world, broken an arm or leg, required emergency surgery, or needed many other types of medical attention. We are all very grateful to him.

I would like to share a portion of a letter that I received from one of James Arnhart's associates, Ms. Rebecca Climer, who quite eloquently described his accomplishments:

I am most anxious to see Mr. Arnhart recognized for his outstanding service to the people of Rutherford and the seven surrounding counties which make up MTMC's service area.

A community hospital touches the lives of everyone near and Mr. Arnhart has imbued Middle Tennessee Medical Center with a spirit of pride in achievement that has resulted in excellent medical care for the area. Since his arrival at Middle Tennessee Medical Center in 1953, Mr. Arnhart has been responsible for the literal metamorphosis of this facility. He came to a smallish, troubled hospital and, by determination and foresight, has transformed it into a vital, multiservice medical center.

Mr. Arnhart means a great deal to the employees of this Medical Center and the citizens of this commuity.

I believe Ms. Climer's feelings are shared by everyone in the entire community.

James Arnhart is truly a humanitarian, a man dedicated to his profession and to his community. I extend to him a hearty congratulations and with him an enjoyable and fruitful retirement.

MAKING THE CASE FOR THE SELF-EMPLOYMENT OPPORTUNITY ACT

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 11, 1986

Mr. WYDEN. Mr. Speaker, last year DICK GEPHARDT and I introduced legislation to permit carefully screened unemployment insurance recipients to use their earned benefits to start up small businesses. Such use is now prohibited by Federal law. Our legislation, cosponsored by Representatives SCHUMER, LUNGREN, and others, would build on successful models in France and Great Britain. Over the past 7 years, these European programs have assisted in the creation of more than 250,000 small business ventures.

Since our Self-Employment Opportunity Act was introduced, we have often been asked, "Could it really help dislocated workers and the structually unemployed here in the United States?" Enormously compelling evidence that it could is found in a September 8 Wall Street Journal article by Bill Richards: "Starting Up: Blue-Collar Laborers, Laid Off In Rust Belt, Try to Run Own Firms."

This eye-opening piece highlights the rapid growth of blue-collar entrepreneurs, who are proving an unexpected boon to depressed Rust Belt State economies. This fascinating new trend upends the conventional notion that the past decade's sharp increase in small business start-ups have been strictly white collar and service sector. Ten percent of the displaced workers who have returned to work have done so by starting their own businesses, according to a Federal estimate cited in the Journal.

The employment boom in certain depressed industrial States is attributed to displaced workers' entrepreneurship; Ohio, for example, has gained an impressive 286,000 jobs over the past 2 years. Potential new entrepreneurs like these are precisely the people the Self-Employment Opportunity Act is designed to foster.

Our legislation would set up pilot projects administered locally in 5 to 10 different States. Clearly the concept would not work for every unemployed person. It would, however, give those who do have the ideas, drive, and access to other working capital a leg up. And, of course, if their ventures were successful, they would eventually create jobs for the pool of workers not assisted directly by our proposal.

Mr. GEPHARDT and I are pleased to share this significant and engaging article:

STARTING UP: BLUE-COLLAR LABORERS, LAID OFF IN RUST BELT, TRY TO RUN OWN FIRMS

THE ADMIRAL TRIO IN ILLINOIS

EAST MOLINE, ILL.—The newly minted business card says "Admiral Improvement Inc." and sports a whirling atom in the corner. Richard Meers, Admiral's president, looks a bit abashed as he offers it to a visitor.

Mr. Meers confesses that the name doesn't really stand for anything. "Admiral gets you to the head of the line in the Yellow Pages," he says. As for the atom, Admiral's president says that when he went to choose checks for his new company, a bank official offered him a list of corporate symbols. "It was that," he says, "or a road grader."

In truth, there isn't much to Admiral Improvement at this stage of the game: three empty desks, a cavernous building in this economically stricken Mississippi River town, a handful of secondhand machinery and the dreams of Mr. Meers, James Goodwin and Robert Schoemaker. The three beefy factory hands formed Admiral Improvement after they lost their jobs in January when International Harvester Co.

closed its Farmall tractor plant in nearby Rock Island, Ill.

AN UNEXPECTED BOOST

Short on cash and business experience but long on blue-collar skills and enthusiasm, the three partners belong to a growing group of garage-shop entrepreneurs springing up in some of the nation's most devastated industrial areas. Many of these newcomers are striking out on their own rather than choose low-paying service employment or no work at all. Little noticed at first, the blue-collar entrepreneurs now are giving several recession-weary states an unexpected economic boost.

"There's a striking growth in new jobs in some of these states that have really been clobbered," says John D. Kasarda, the chairman of the sociology department at the University of North Carolina at Chapel Hill. In a recent study, Mr. Kasarda found that Rust Bowl states hit hard during the most recent recession, such as Ohio, Michigan and Pennsylvania, are generating some of the biggest gains in new jobs.

Nationwide, small-business start-ups have more than doubled in the past decade, to 700,000 annually. That explosive growth has been widely noted, but what is surprising many experts now is the extent of blue-collar participation.

THE LOW-TECH FACTOR

"Most of these new jobs are low-tech or are applications of technology," says David Birch, the head of Massachusetts Institute of Technology's program on neighborhood and regional change. "And blue-collar workers are filling those jobs." Nearly 10% of the nation's displaced blue-collar workers who have returned to work are operating their own businesses, federal researchers say.

Some of the new start-ups have been masked by traditional job classifications. Messrs. Meers, Schoemaker and Goodwin, for example, are performing essentially the same work at Admiral Improvement that they did for Farmall—welding, salvaging and renovating machinery. When their Farmall jobs ended, the government listed the loss in the manufacturing sector. Admiral's new owners now are lumped in the service sector, a more amorphous classification that includes everything from television repairmen to fast-food purveyors.

MIT's Mr. Birch says that when he first tried to point out the impact that small low-tech entrepreneurs are having on regional economies "people just didn't believe our numbers.

But that attitude is changing fast. The surge in blue-collar entrepreneurship has sparked new hope in some struggling Rust Bowl states. For other states, the phenomenon is raising hard questions over the wisdom of their frantic and expensive promotions to land big business, such as last year's scramble to snag General Motors Corp.'s Saturn auto plant, now building in Tennessee.

Illinois, which finished near the bottom of Mr. Kasarda's tally of job-gainers, recently stepped up its small-business program and set aside $8 million for loans and other assistance for small start-ups. "The big-company, Saturn approach has been the traditional way of reviving business here," says Scott Hodge, a researcher at the Chicago-based Heartland Institute. "Perhaps we're starting to get a different message."

Blue collar start-ups are already fueling one of the nation's hottest economic recoveries in California. Officials there say 70% of the state's new employment involves small-scale entrepreneurs. "A lot of that activity has come from displaced workers who went into business for themselves," say Lance Barnett, the chief economist for California's Governor's Office of Planning and Research. "The Fortune 500," adds Mr. Barnett, "just isn't generating the jobs."

One of the hottest spots is Ohio. Written off as an economic disaster area in the early 1980s, Ohio gained 286,000 new jobs in the past two years, and the rate of startups is climbing.

One evening in Youngstown, in the heart of depressed steelmaking country, a dozen men and women sip coffee out of Burger King cups during an entrepreneurship class at Youngstown State University. The group—nearly all blue-collar workers who lost their jobs during the slump—listens intently as a local businessman, George McClay, explains how to fill out an application for a Small Business Administration loan.

Mr. McClay isn't all that encouraging: "You're putting your neck on the line out there," he says, "You may not make money in the first three months. In fact, you may not make anything for six months."

VARIETY OF VENTURES

But the warnings don't seem to faze the class. Enthusiasm runs high as members of the group discuss plans for ventures ranging from rib restaurants to home-repair outfits. One student, 46-year-old Eugene Caleris, has already opened a van-customizing shop in nearby Warren, Ohio, after his steel-mill job went sour. To drum up business, Mr. Caleris says, he handed out fliers that said: "You dream it—we'll build it."

"After the last layoff" at the steel mill, Mr. Caleris says, "I told my wife I've been a foreman and I know how to get a job done. I'm not going to work for anyone anymore."

Since January, 111 displaced workers have gone through the 10-week entrepreneurship program at Youngstown State. Dozens of similar programs are operating in other states. The Labor Department's Employment and Training Administration, which originates most of the financing for the programs, says it doesn't keep count of the exact number.

A program in Jackson, Mich., with mostly former auto workers as students, has spawned more than 30 new small businesses, from a hay-brokerage firm to a company that prints personal messages on coffee mugs. "A lot of these people see this as a chance for a new start," says Joseph Rahn, who heads the Jackson program.

Here in East Moline, Mr. Meers and his partners are relying mainly on the skills they picked up during a total of 65 years working for Farmall. Mr. Meers, 43, was a general foreman, while Mr. Schoemaker, 41, and Mr. Goodwin, 39, were welders. Each put up $15,000 to start the company after three local banks rejected their request for a loan of up to $50,000 and the Small Business Administration said it wasn't interested in advancing them less than $150,000.

"We decided to stick with what we knew," says Mr. Goodwin, a bushy-bearded man whose colleagues boast he is so skilled with a welding torch he "can weld tinfoil." The three entrepreneurs bid on their first job in April, a contract to clean and renovate production machinery for Tenneco Inc.'s Case IH unit, a farm-equipment manufacturer. They drew up the bid on Mr. Schoemaker's kitchen table, working through several nights until dawn. When they marched into the bidders' conference at Case, carefully dressed in jackets and ties, the three men were greeted with curious stares from seven competitors. "It seemed like everybody knew everybody but us," Mr. Meers recalls.

Nonetheless, they won the contract. Mr. Meers says they toasted each other that night with beer.

Of course, not every entrepreneur up from the assembly line gets such a fast start. Federal figures indicate that about 85% of the business failures each year fall into the small-business category. And blue-collar entrepreneurs are on the shakiest ground of all, since most lack basic business skills.

THE LENDER'S VIEWPOINT

Ron Moliterno, a lending officer at Bank One in Youngstown, says he has headed off aspiring entrepreneurs looking for cash to start everything from spaghetti-submarine sandwich shops to barbell factories. Most aren't prepared for the rough-and-tumble world of small business, he says. "Sometimes, you have to stop these people so they won't lose everything they have left."

But lenders also say that many industrial-area banks, while wary, are especially eager to find qualified borrowers these days. "There's an excess of money to lend, and everybody's pounding on doors looking for good borrowers," says Richard Sumner, a loan officer at Second National Bank in Warren, Ohio.

As a result, bankers claim that an unemployed blue-collar craftsman can find start-up financing if he has a good idea and a solid business plan. "You can't walk in waving two scrawny pieces of paper and say, 'Here's my plan,'" says Franz Burnier, senior business adviser at Mainstream, an entrepreneurship program established last year by Inland Steel Co. and the steelworkers' union. Mr. Burnier says two of his clients, both former steelworkers, had no trouble getting cash recently to start a business renovating Volkswagens after they handed their banker a 60-page business plan.

Blue-collar entrepreneurs are likely to get an additional boost as big manufacturers, trying to cut costs, step up the amount of work they farm out to independent contractors. Such "outsourcing," predicts David Cole, a University of Michigan transportation analyst, "is going to happen at a very rapid pace, especially in the auto industry." Mr. Cole estimates that General Motors Corp., for example, will farm out huge amounts of work formerly done inhouse as it pares half its work force over the next 10 years. (General Motors officials decline to comment on their outsourcing plans.)

BASIC BUSINESS

Much of that work is fairly basic, requiring little elaborate or expensive machinery. Those workers with previous experience should have an edge in picking up the business, experts say. That would be good news for low-budget entrepreneurs like Mr. Meers and his partners. Most of their equipment either is homemade or was picked up at a bargain when Harvester auctioned off the remains of the Rock Island Farmall plant.

Still, Admiral Improvement's owners have precious little room to coast. The Case contract will help, and they have since received smaller contracts to repair taxi and dump-truck bodies. They now have 18 employees, including several former co-workers at Farmall.

But the recession has been stubborn here. New layoffs are a regular occurrence at plants up and down this industrial stretch of the Mississippi, leaving the pickings very lean for newcomers.

To survive, Mr. Meers and his partners have assigned themselves annual salaries of under $20,000—much less than they made at Farmall. And they are working harder and longer than before, handling machinery by day and working into the night calling and writing to potential customers to drum up new business.

None of this seems to bother the fledging entrepreneurs, however. "All of us used to dream about starting our own business," says Mr. Goodwin, propping a pair of scuffed cowboy boots on his desk. Farmall's steady paycheck damped their enthusiasm. "Sometimes," he says, "I think Farmall did us a favor kicking us out the door."

CONGRESSIONAL TRIBUTE TO SACRAMENTO CIVIC AND BUSINESS LEADER R.M. "WOODY" WOODWARD

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 11, 1986

Mr. MATSUI. Mr. Speaker, I would like to take this opportunity to recognize any pay tribute to Mr. R.M. "Woody" Woodward, one of Sacramento's most outstanding civic and community leaders, who is retiring this month after more than 40 years of exemplary service to the Bank of America. A retirement party was planned by friends, family members, and business associates on August 28, 1986, for this very special and close personal friend of mine.

A native of Ames, IA, Mr. Woodward is retiring as one of the most highly respected and competent Bank of America officials in the history of the company. Since 1983; he has served as senior vice president and area manager for the Sacramento main office, which has responsibility for 15 bank branches. Prior to launching his highly successful career in the business world, Mr. Woodward completed his education with banking degrees from the University of Wisconsin and University of Iowa and served as a Marine Corps captain in World War II and as a major during the Korean conflict.

Active in Sacramento civic and cultural affairs, Mr. Woodward has held a variety of positions of responsibility and importance, including past president of the Sacramento Metropolitan Chamber of Commerce and as a member of the board of the directors of the Sacramento Private Industry Council, KVIE channel 6, Eskaton Development Council. He currently serves as a director of the United Way, Camellia Festival Association, Sacramento Safety Council, Golden Empire Boy Scouts and Sacramento County Taxpayers' League.

Mr. Speaker, on behalf of the people of Sacramento I would like to congratulate Mr. Woodward on his outstanding accomplishments and dedicated service to this community and offer my sincere best wishes to him, his wife, Marie, and their family as they enter a very well deserved time of rest and relaxation in retirement.

A TRIBUTE TO GLADYS AND GEORGE BROOKS

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 11, 1986

Mr. FISH. Mr. Speaker, Gladys and George Brooks of New Windsor, NY, have dedicated their lives to the accounting of all our missing American heros in Southeast Asia. They have dedicated their lives to making certain that those brave Americans are not forgotten.

This Sunday, the National Human Rights for Our Prisoners of War and Missing in Action in Southeast Asia are honoring the Brooks. The group is recognizing them because this couple has done more for this cause then anyone else involved in the MIA/POW issue.

George and Gladys Brooks became involved with the MIA/POW issue in the 1970's, while the Vietnam war was still raging. They founded the National League of Families and kept the issue alive during the Nixon administration. Through their efforts, the majority of American prisonsers of war were freed in January 1973.

During the administrations of Presidents Ford and Carter, the Brooks continually traveled to Washington at their own expense to keep Congress and the administration reminded of the need for a full accounting. They went to Southeast Asia, following every lead. Not every trip was fruitful, but the determination of George and Gladys Brooks inspired everyone to have faith and to keep trying to locate the MIA's and POW's.

The Brooks' own son, Nicholas, was missing in action in Southeast Asia. But it was not their own tragedy that prompted their involvement in the MIA/POW movement. They became involved because another young man, Joe Mobley, a friend and classmate of their son's, was reported missing. Joe Mobley eventually came home. The Brooks' son did not.

In March 1982, George and Gladys Brooks learned their son had been killed. Their long wait ended when the remains of their son were returned home. Their commitment to the MIA/POW cause did not end there, however.

George still served as chairman of the National League of Families. They both continued to devote themselves to the MIA/POW cause.

President Reagan's current commitment to locating all MIA's and POW's is in part because of the Brooks' leadership and insistence that the issue remain a top priority.

The entire country, expecially the families of MIA's and POW's, owe George and Gladys Brooks a debt of thanks. Their efforts are heroic. I salute them. Last year, I had the privilege of presenting them a special congressional medal for their great sacrifice. Now, I ask that my colleagues join me in paying tribute to these fine Americans—George and Gladys Brooks.

JEFFESON COUNTY SHERIFF'S COMPLEX

HON. DAN SCHAEFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 11, 1986

Mr. SCHAEFER. Mr. Speaker, I have a question for my colleagues:

What new facility saves the taxpayers money, operates efficiently and economically, exceeds all building and safety codes, and is hailed as a great success by everyone from civil rights leaders to law enforcement officers? As incredible as it may sound, this in not a riddle without a solution.

The answer, I am excited to tell you, is the new Jefferson County Sheriff's Complex, located in Golden, CO.

Jefferson County is Colorado's second most populated county, encompassing 11 municipalities with a total population of nearly 431,000 people. Rapid growth in the number of residents, businesses and industry has been accomplished by an increase in the amount of crime and the need for effective law enforcement. A new sheriff's facility became a priority when, in 1980, a Federal court order instructed the county to build a new jail to alleviate overcrowding.

The Jefferson County Sheriff's Complex houses an administration and a detention center, both located in an attractive, modern building. The administration building has space to accommodate all aspects of law enforcement training and support services, including those which are frequently used by the public.

The detention center is an impressive facility. The Jefferson County sheriff, Harold Bray, and his staff worked closely with architects in its design and construction. They took the best from facilities around the Nation, then incorporated many new ideas. The result is a modern efficient, secure center for the care, custody and control of inmates.

The center can comfortably and safely house up to 384 inmates with only 170 total personnel, or approximately 50 per shift. This is, in part, due to the circular design of the building and its division into semicircular modules. From a computerized control point in the center, one deputy can visually see and monitor 48 cells.

The 192 cells average 80.5 square feet in size, exceeding Federal standards. Each has a sink, toilet, bed, table and window. Outside of each cell is a shared dayroom where meals are served. The philosophy that "essential services should be provided at one central location" is apparent in the design. A 24-hour staffed infirmary and dental unit, a law library, multipurpose meeting rooms, and indoor-outdoor exercise facilities can be accessed without the inmate ever leaving the main facility.

In short, I was very impressed by this detention center. Its clean, bright cells assured me that inmates will be comfortable and safe, and that the deputies and public will be secure. It exceeds all standards set by recent civil rights litigation.

I commend the Jefferson County Sheriff's Office, Sheriff Harold Bray, and the Jefferson

County commissioners, Marjorie "Bunny" Clement, Rich Ferdinandsen and Don Stanbro, for the successful completion of this important project.

Mr. Speaker, I bring this facility to the attention of my colleagues because it is not only impressive, but it is unique. Although it cost over $34 million to build, its efficient design and innovative operation will make it one of the most cost-effective jails ever constructed. I am sure that it will be a model for other Federal, State and local detention facilities.

A TRIBUTE TO COMDR. BILL KAISER

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 11, 1986

Mr. LENT. Mr. Speaker, since the Wright Brothers' first flight at Kitty Hawk, Americans have been the leading pioneers in the field of air and space technology. A constituent of mine from Merrick, NY, Comdr. Bill Kaiser, had a dream of building an air and space museum on Long Island. His desire was not only to exhibit various air and space craft, but in so doing, to enrich the public's knowledge and appreciation of our Nation's great aviation history.

That dream is becoming a reality with the creation of the Cradle of Aviation Museum, now underway at historic Mitchel Field in Garden City, NY. As curator, Bill Kaiser organized the first phase of that effort: the assembly and restoration of a major air and space collection. This exciting exhibition features Glenn Curtiss' *Golden Flyer* biplane, and a silver sistership of Charles Lindbergh's *Spirit of St. Louis*. Visitors can imagine landing on the Moon in an original lunar module, constructed by Long Island's Own Grumman Corp. Bill Kaiser compiled the museum's aviation library and research collection, one of the finest in the country. The Nassau Country Division of Recreation and Parks expects final renovation of the airplane hangars housing the exhibit to be completed by 1989. However, daily visitors are already enjoying preview tours.

Over the years, Comdr. Bill Kaiser has received numerous awards for his dedicated work in aviation history and education, including the American Institute of Aeronautics and Astronautics Award for Accomplishments in Aviation History. Certainly, the Cradle of Aviation Museum is the highlight of Commander Kaiser's remarkable and distinguished career.

The New York State Air Force Association has presented Commander Kaiser with the Sperry Award in recognition of his significant contributions to preserving aviation history. In addition, the Aerospace Education Foundation will invest him as an Ira C. Eaker historical fellow at a luncheon on September 15.

I'd like to extend my personal thanks and appreciation to Commander Kaiser for his dedicated efforts in the establishment of the Cradle of Aviation Museum and in preserving this important part of America's history for future generations.

TRIBUTE TO DR. FRANK ALDERETE

HON. MATTHEW G. MARTINEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 11, 1986

Mr. MARTINEZ. Mr. Speaker, I rise to draw the attention of my colleagues to the recent appointment of Dr. Frank Alderete as vice president of administration at East Los Angeles Commuinty College. He brings a potent portfolio of skills to his new job—including wide experience in government, community service, and higher education. Dr. Alderete, who holds a bachelor's degree from the University of California at San Diego, a master's degree from the University of Southern California, and a Ph.D. from Union Graduate School, has worked in each of these sectors to improve educational opportunities for all Americans. He has received many honors including a Ford Foundation Fellowship, and an "Outstanding Educator" award from the University of Southern California.

Dr. Alderete's knowledge of the ways of government will serve him well in his new post. He has served as Special Assistant to the U.S. Commissioner of Education, where he was responsible for legislative analysis and for the direction or coordination of many studies on how to make our education programs more effective. As a senior program officer for programs to assist disadvantaged studies, he provided expert assistance and advice on legislative and policy issues. He developed national guidelines for Teacher Corps Community-Based Education.

Firm knowledge of East Los Angeles Community College—where he has served for nearly a decade in a wide variety of vital posts—will also serve him well. Dr. Alderete's previous posts at the college include service as the acting vice president for academic affairs, and as dean of the college. He has also served as the director of governmental affairs for the Los Angeles Community College District. In these roles, he has worked closely with students, faculty, community service groups, business, and others to ensure that students get the highest quality education, helping to ensure that students gain the knowledge they will need to contribute fully as members of the community.

With this knowledge of the realities of higher education and its role in the American community, Dr. Alderete can guide East Los Angeles Community College and the larger education system in helping students gain the skills they need to wield opportunities effectively to prosper and contribute to our country. Dr. Alderete's special concern for helping those most in need is particularly vital in helping meet the challenges that face America. I take this opportunity to congratulate Dr. Adlerete on his new post. I wish him all the best as he works to ensure that quality education geared to meeting our country's needs is available to all our citizens.

KILDEE HONORS DR. JOSEPH HENRY BOWER

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 11, 1986

Mr. KILDEE. Mr. Speaker, I would like to bring to the attention of my colleagues and the Nation a ceremony that was held Saturday, August 30, in Lapeer, MI, honoring Dr. Joseph Henry Bower. Dr. Bower is concluding 46 years of outstanding pastoral ministry, 16 of which were spent at the First Baptist Church in Lapeer.

Dr. Bower began his ministry at the age of 20, after being left an orphan at the age of 14. During World War II, he ministered to and shared his strength with those who had lost loved ones in the war. This has been true for every conflict since. During his career, he inspired many with his unselfish manner and unusual compassion and wisdom. He is an incredibly giving man who always thinks of others. In his 46 years of pastoral ministry, Dr. Bower has grown from a young man delivering his trial sermon into an eloquent and articulate messenger for the Lord. We in the Seventh Congressional District are better off because of his guidance and I am pleased to bring him to the attention of my colleagues. We would all be better if we were to emulate his devotion and concern.

IN RECOGNITION OF LOU BONACCI

HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 11, 1986

Mr. GALLO. Mr. Speaker, there are times in our careers that we are fortunate enough to know of someone who embodies the spirit and commitment to excellence that we all strive for. These people are role models—for us and for the people we represent.

Nello, or "Lou," Bonacci is just such a person.

Fifty-five years ago, Lou and his brothers Harry, Marius, Albert, and Samuel founded the Bonacci Express Co., the forerunner of the AAA Trucking Corp.

Founding a venture of this sort is not easy, even in the best of times. When Lou helped to found Bonacci Express, our Nation was in the throws of the depression. Founding the express forced Lou to leave high school in the 10th grade.

In spite of the adverse times and conditions, Lou persevered, and he succeded. In fact, the AAA Trucking Co. has had a record of 51 years of profitable operation.

Lou Bonacci is now the chairman of the board and the chief executive officer of the AAA Trucking Co. Even after more than a half century of involvement, Lou remains committed to the operation and success of AAA.

Mr. Speaker, I think that it is important to recognize Lou Bonacci, not only for his pro-

fessional accomplishments, but also for his personal and civic successes.

Lou Bonacci is a member of countless civic organizations and professional associations. You and I both know that memberships of this sort are a clear indication that a person is genuinely interested in making this world a better place, not only for ourselves but, more importantly, for our families and neighbors.

Later this month, the New Jersey Motor Truck Association will honor Lou Bonacci as its "Man of the Year." This is an annual award, presented by the organization in recognition of the efforts of one of its members. This award is an award presented to a deserving individual, based on the judgment of the person's professional peers. There are no tougher judges, anywhere.

Mr. Speaker, I have taken this opportunity to let my fellow Members of Congress know of Lou Bonacci's legacy. I have done so in the hope that we will all learn by his example.

Mr. Speaker, I ask you to join with me in recognizing Nello A. Bonacci.

TRIBUTE TO THE RIGHT REVERENT MONSIGNOR SYLVESTER HLADKY

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 11, 1986

Mr. TRAFICANT. Mr. Speaker, it is my pleasure to rise today to extend by best wishes and hearty congratulations to the Right Reverend Monsignor Sylvester Hladky, a resident of my 17th District, who will be celebrating his 50th jubilee on October 11 and 12, 1986. Monsignor Hladky has served in the Byzantine Catholic Church for 50 years, with 40 of those years having been spent at Saints Peter and Paul Byzantine Catholic Parish in Warren, OH.

Monsignor Hladky certainly has led an admirable career and has gained respect as an inspiring leader. A native of Brooklyn, NY, he was ordained into the priesthood in 1936 after serving 3 years in the U.S. Navy. Soon after, he was appointed to work among the missions at Fisher Branch, Manitoba, and later in the Niagara peninsula. After serving as pastor of Saints Peter and Paul Church in Struthers, OH, from 1939 to 1945, Monsignor Hladky became pastor of Saints Peter and Paul Byzantine Catholic Church which he continues to serve today.

As well as being known and respected as a spiritual leader, Monsignor Hladky, who was given the papal title of monsignor in 1965, has also been credited for the growth of Warren's Saints Peter and Paul Parish. Soon after Monsignor Hladky became pastor of the parish, the parish quickly grew from 100 to 300 families. This rapid growth made the monsignor realize the need for a new church which could accommodate the growing number of parish members. In 1947, Monsignor Hladky played a lead role in the building fund campaign which was used in 1950 to build the new church as well as purchase land for a school. Today, as a result of Monsignor Hladky's efforts, Saints Peter and Paul Parish consists of over 1,100 families, a large beautiful church, a church auditorium, a rectory for the priests, a convent for the sisters, 26 classrooms for the elementary and junior high school, multipurpose school auditorium, and a bus garage.

Monsignor Hladky is certainly an outstanding resident of the 17th District of Ohio and, again, I take great pleasure in recognizing and congratulating him today. It is only appropriate to thank the monsignor for the guidance he has lent over the years to the members of his parish as well as to all others who have come in contact with him. On behalf of the residents of the Mahoning Valley, I would like to commend the monsignor on an outstanding career. His efforts, both past and present, are very much appreciated. Because of his lasting dedication to the people of our area and to the church, all who know the monsignor consider him as one who is truly blessed.

PERSONAL EXPLANATION

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 11, 1986

Mr. LEHMAN of Florida. Mr. Speaker, earlier today, I was recorded as voting no on the Rangel amendment to H.R. 5484, the Omnibus Drug Bill.

I should have been recorded as voting yes on this amendment. I am a cosponsor of H.R. 526, and I support efforts to improve the ability of State and local law enforcement officials to apprehend, convict, and punish drug offenders.

BOY SCOUTS OF AMERICA FIGHT DRUG ABUSE

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 11, 1986

Mr. PACKARD. Mr. Speaker, I wish to commend the Boy Scouts of America for their active involvement in the fight against drug abuse.

On September 3, the 2,200 Boy Scout Explorer units which specialize in law enforcement career education launched a continuing program of drug abuse prevention. With help from the Drug Enforcement Administration and ACTION, 42,000 teenagers between the ages of 14 and 20 will be trained to present drug abuse education programs to school and community groups.

Everyone knows that drug use is rampant among our Nation's youth. A recent survey found that 63 percent of our high school students have tried an illegal drug. The pain that results in individual families as a result of drug abuse is the force that is driving the Boy Scout drug education campaign. Since much drug use is a result of peer pressure, what better method of prevention is there than to train thousands of teenagers to become a source of peer pressure to refuse rather than use drugs?

My colleagues and I wish the Boy Scouts and their leaders the best in this most worthwhile endeavor.

H.R. 4756, TORTURE VICTIM'S PROTECTION ACT OF 1986

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 11, 1986

Mr. FRENZEL. Mr. Speaker, today I am cosponsoring H.R. 4756, the Torture Victim's Protection Act of 1986. I do so because the bill asserts a strong U.S. posture against unacceptable human rights abuses overseas, but I also add the caveat that the bill needs to be improved before being passed.

H.R. 4756 allows any victim of torture, or the descendents of victims of extrajudicial killing, to sue individuals for damages in the United States. This provision is a stern warning for would-be torturers anywhere that the United States will not tolerate inhuman practices. Because of the fundamental strength of that position, and because I believe we need to assert a greater emphasis in human rights as a component of our foreign policy, I am sponsoring this bill.

However, I believe that the bill should not be passed until it receives comment from the administration, which it has not. I also am concerned that the bill needs refinement, particularly in the section defining who has standing to file suit (which I feel now is unclear). A section further defining respondents covered by the law also may be helpful. Also, there ought be some prospect of actually receiving payments.

Mr. Speaker, H.R. 4756 is a strong start toward an improved U.S. position against torture. It is worthy of support and further refinement. While it may not advance in the few remaining days of this Congress, I hope that it will gain some impetus and receive serious attention next year.

TRIBUTE TO MRS. RICHARD (FRINNY) STORRS

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 11, 1986

Mr. MRAZEK. Mr. Speaker, it gives me particular pleasure to rise today in recognition of a special member of the town of Oyster Bay in the Third Congressional District.

Next month, the Oyster Bay Chamber of Commerce will hold a dinner dance in honor of Mrs. Richard (Frinny) Storrs. More than 50 years ago, Frinny Storrs moved to Oyster Bay with her parents, John and May Rousmaniere.

In the ensuing years, Frinny has left her impact on the town both through her infectious good cheer, and her work with community and civic organizations.

Perhaps among her greatest contributions has been her attention to the community's youth through unflagging support for the Oyster Bay Youth Council. She has been a champion of the youth council, offering financial and personal commitment to the future leaders of the town.

Frinny and her husband Dick also have opened their home to host fundraisers for a variety of community organizations. Their philanthropy has proven to be a godsend for these organizations.

Mr. Speaker, those who can look beyond their own lives to the greater common good deserve our admiration and respect. It is clear that Frinny Storrs meets this criterion, and I would bring her good works to the attention of my colleagues today.

EGYPT AND ISRAEL SHOULD SETTLE TABA DISPUTE

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 11, 1986

Mr. SHUMWAY. Mr. Speaker, it has been over 7 years since President Sadat of Egypt and Prime Minister Begin of Israel traveled to Washington in 1979 to sign the historic Treaty of Peace Between Egypt and Israel. This treaty which ended the state of war between Egypt and Israel represents a major step toward peaceful relations in the Middle East.

The premise of the peace treaty is the exchange of land for peace. As a result of the treaty, Egypt recovered most of the Sinai Peninsula which Israel had occupied since the 1967 war. The Israeli withdrawal began in 1979 and was completed in 1982, with the exception of Taba, a small strip of land on the Gulf of Aqaba.

The continuing territorial dispute over Taba has been a major stumbling block in the normalization of relations provided for in the peace treaty. Yesterday Egypt and Israel finally agreed to submit the Taba dispute to arbitration after resolving the final questions concerning the selection of international arbitrators and the map presenting the claims of the two parties.

The active participation of the United States for over a year in the mediation talks which eventually led to the arbitration agreement once again demonstrates the importance of U.S. support for the Middle East peace process.

Now is the time for the Congress to confirm its support for improved relations between Egypt and Israel on the basis of the 1979 peace treaty and to call upon the parties to settle the Taba dispute, which has been a thorn in their relations for too long, and to move forward in normalizing relations in accordance with the treaty.

SENATE—*Monday, September 12, 1986*

(Legislative day of Monday, September 8, 1986)

The Senate met at 10 a.m., on the expiration of the recess, in executive session, and was called to order by the Honorable MARK O. HATFIELD, a Senator from the State of Oregon.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Gracious God, loving Father and Deliverer, thank You for the pleasure and privilege of having Father Jenco with us yesterday, and thank You for the loving response of the Senators to his presence. Thank You for the efforts that the Senators have made and continue to make to free the hostages and do all in their power to free the captives and the oppressed. Bless these faithful and zealous advocates of freedom.

Thank you Father for the success of Senator GARN's surgery and the functioning of his kidney in the body of his daughter. Grant rapid and total recovery to both. Bless Mrs. Garn and the loving care she gave to husband and daughter during the process.

Now, Father, be with the Senators and their leadership in the monumental task they face in these next 3 weeks. Grant to them special wisdom, strength, and courage to do the impossible task. Be with their families who with them endure the pressures peculiar to this period and let these final days of the 99th Congress be triumphant days. To the glory of Thy name and the good of the Nation. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. THURMOND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, September 12, 1986.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MARK O. HATFIELD, a Senator from the State of Oregon, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Mr. HATFIELD thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the majority leader.

Mr. DOLE. Mr. President, I thank the distinguished presiding officer, the Senator from Oregon, Senator HATFIELD.

THE WAR AGAINST DRUGS

Mr. DOLE. Mr. President, last night the House passed an omnibus antidrug bill; I guess the price tag is at least $2 billion. At the outset I want to indicate that there were a number of good provisions in the House-passed bill. I want to commend the House for moving as quickly as they did on this legislation.

I guess where I would fault the House is the fact that again there is a lot of money spent, money just literally thrown at the problem in many cases without hearings, and without any indication whether or not it will be effective.

I ask unanimous consent at the conclusion of my remarks that an editorial which appeared in the New York Times be made a part of the RECORD. It is entitled "Drug Crazed." It is a response to some of the action on the House side. Again I would indicate however that some of the efforts by the House were constructive.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit No. 1.)

Mr. DOLE. I believe there is an understanding among all of us, Democrats, Republicans, House Members, Senators, certainly the President, First Lady, families, concerned citizens, doctors, that all across this country there is more and more interest in how we can cope with the drug problem.

I would guess that the Senate is going to act. I listened with interest on C-SPAN the other evening as the distinguished minority leader and nine of his colleagues spelled out their proposal. I believe in many areas that was a constructive effort. We are now in the process on this side of trying to put together a package, waiting for the administration to see what precisely the administration has in mind, and then trying to supplement that with some ideas of our own. I would assume that would include some ideas in the House bill.

I think it is well to point out, so that there be no public misperception that the Senate has not been responsive again with the strong bipartisan support, that we have already passed seven drug measures this year. Designer drugs was addressed in the Senate. Money laundering has been addressed in the Senate. Corrections to the Comprehensive Crime Control Act of 1984 have been addressed in the Senate. Rewards for information on the death or kidnaping of Federal agents has been passed in the Senate. Prohibiting the operation of a common carrier while under the influence of drugs or alcohol has been passed in the Senate. Treatment and education for American Indian children has been passed in the Senate, and provisions of the DOD authorization for interdiction by the Customs Service and the Coast Guard and how they deal with drugs.

So it is not that we have not been aware of the problem. Frankly, we have been moving on the Senate side, as many have on the House side.

I guess what I am suggesting is that this is not a political contest. It should not be a political contest. I believe I can say it will not be a political contest. I do not really believe the victims of drug abuse and their families really are looking for a Republican or Democratic alternative or solution. They are looking for help. I think they expect the Congress, to proceed in a nonpartisan way to address the problem.

I am not certain that the measure of our sensitivity or concern is going to depend on how much money we spend. That is the old politics: That we would throw money at the problem and then indicate well, we are more concerned than the other side, because we are willing to spend more of your money than they are. I do not believe that would be the contest either. I do not believe we can ignore the realities of the Federal deficits. I think we have to be responsible if we are going to pass a drug bill, as we will I hope, and it will cost some money, probably more than the administration has indicated. In my view we have to find a way to pay for it.

As I have indicated, apparently the House has not yet learned how to kick the spending habit. There was a near unanimous vote on the House side—Democrats and Republicans. So I am prepared, as I am certain the distinguished minority leader is, to go to work for the welfare of the American people. We hope to do that. We will be working with the House bill with the proposal of the distinguished minority leader, and others.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

71-059 O-87-26 (Pt. 16)

EXHIBIT No. 1

[From the New York Times]

DRUG CRAZED

What does America think it is doing about drugs? The House orders the military to halt drug traffic into the country within 45 days. Candidates challenge each other to submit to urinalysis and rush to endorse the death penalty for drug dealers. White House aides bicker over how many Federal workers should take drug tests. Congress suddenly wants to throw money at the drug problem. In bills hastily coopered together, House Democrats would commit $1.5 billion for enforcement, treatment and education; Senate Democrats would add $100 million more. No one knows what it will buy.

The new spending would be added to the $1.5 billion Washington already spends on drug enforcement and border interdiction. That's serious money for more personnel and equipment like radar planes. Yet there's no reason to think it will do much good. Trafficking profits are so huge that dealers match the cops gun for gun, plane for plane.

Such proposals are enough to stir up the ghosts of the old Law Enforcement Assistance Administration, which in 14 years doled out $8 billion to help fight local crime. Yet in those years, crime grew faster than ever. So it is now with Federal spending against narcotics. It has nearly doubled since 1982 but more cocaine flows in than ever.

The tragedy is that more useful ways to spend are obvious.

Sooner or later, most addicts seek help as the frustrations of supporting a habit grow. Yet the search for help often produces only more frustration: overcrowded programs turn them away for weeks or months. The House bill offers only $100 million for drug treatment, barely restoring cuts in Federal funding since 1982. The Senate does somewhat better with $300 million. But even that's modest, given the need and potential effect.

Both bills offer only a trivial $50 million for the most promising strategy of all: eradication of drug production at the source. It worked for a time with Turkey during the Nixon Administration and more recently, for a short time, in Mexico. Bolivian officials claim some success for recent American aided raids to destroy jungle drug factories.

Producer countries are becoming more sympathetic to American demands for cooperation since drugs increasingly threaten their own societies. Instead of dubiously investing another billion-plus in enforcement, why not try spending on that scale to buy up coca and help Andean peasants plant rice, coffee or cirtus fruit?

The haste to look good undermines hopes for initatives that would do good. So does the rush to partisanship; these rough Democratic proposals are likely to be misshapen further in negotiations with Congressional Republicans and the White House. The need for drug spending is urgent but the need for quick and dirty legislation is not.

DEBATE ON THE REHNQUIST NOMINATION

Mr. DOLE. Mr. President, I would also hope that we could reach some agreement on when to vote on the Rehnquist nomination. I happen to believe that it is a very important nomination. It deserves thorough discussion and consideration. No Senator who wishes to speak on the matter should be denied that opportunity.

Yesterday Senators had good solid debate for about 6 hours. I was a bit disappointed we did not stay in longer last evening. But we were still discussing the Rehnquist nomination until almost 7 o'clock. So there was a good 7 hours, I would guess, on the Rehnquist nomination. I hope there can be another good 5 or 6 hours today on the Rehnquist nomination.

I am quite certain there will not be a vote on the Rehnquist nomination today. I think it has been indicated to me that we would not vote on the Rehnquist nomination today. But I would hope and I have indicated to the distinguished minority leader that we might have a vote on Tuesday. That would give another full day Monday. We would be prepared to vote late on Tuesday, 3, 4, or 5 o'clock, and still hope to take up the Scalia nomination on that same day. That should give everyone ample opportunity to discuss this nomination.

□ 1010

We would like to avoid filing cloture. It seems to me this should not be necessary on this nomination. It will come to a vote. The only reason I urge my colleagues, the primary reason, is I am still convinced we can finish our work by October 3. I must say I had different signals as I visited the House in the joint meeting yesterday morning. They were wringing their hands, saying there was no way to do it by October 3. In any event, that is a possibility. I hope we would reach some agreement on when we might vote on the nominations.

Today we have special orders. I ask that the order in favor of Senator HAWKINS be vitiated.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DOLE. That will leave Senators BOSCHWITZ, PROXMIRE, and LEVIN with special orders, with routine morning business until 11 o'clock.

At 11 o'clock we will resume consideration of the Rehnquist nomination.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the Democratic leader is recognized.

THE REHNQUIST NOMINATION

Mr. BYRD. Mr. President, I share the distinguished majority leader's hope that cloture will not need to be sought on the nominations, certainly on the Rehnquist nomination. I do not see any indication on this side of the aisle or on the other side of the aisle that a filibuster is in progress. I think Senators are rightfully expressing their support or opposition to the nomination. There has been good debate on the nomination thus far.

I applaud the distinguished majority leader for not offering a cloture motion today.

I will explore the possibilities on this side for a time for the vote, as the majority leader indicated his desire to do that.

THE DRUG EPIDEMIC

Mr. BYRD. Mr. President, on the drug legislation matter, I commend the House for yesterday's passage of drug legislation. I realize that cost is a factor in this or any other matter. But I think we also have to contemplate the cost of not doing something. When I say not doing something, I say not doing something that is meaningful and effective in dealing with this drug epidemic.

If we do not take effective, immediate, and meaningful action then the cost in wasted lives and increasing crime will certainly dwarf any cost of any meaningful, effective program which might otherwise have been the case.

Already there are crocodile tears beginning to be shed about the penalties that the House has included in their bill. But I say to the cynics, "What would you do? What would you do?"

All too long we have been soft on criminals in this country, and it appears there is still a lot of thinking out there that these are poor guys who are caught pushing drugs, selling drugs—making millions of dollars. This is a multibillion dollar business in this country and it results in wasted lives. It results in crime, crime in which innocent victims pay the price, a high price—sometimes the price of life.

I hope we have not reached the point where we look at the cost of everything and the value of nothing. If an individual seeks to enrich himself by destroying a life, and in this instance the lives of many, and in all too many instances the lives of young people who have otherwise promising futures ahead of them, in such instances it seems to me that life in prison is a low price to ask for those who perpetrate this crime against society.

If it is the death penalty, so be it. I know it sounds tough and it may sound mean-spirited. But what about the children who go to our schools and who become addicts, slaves, to this costly, deadly habit? What about them? What about their lives? How about that? Is that mean-spirited, to think in those terms?

So I would say to the cynics, "What would you do? You have tried your way. We have been soft too long. We have not had a coordinated, comprehensive program to deal with this epi-

demic. You have tried it your way. It is not working. Now let us try it our way. Let us get tough on the criminals."

You know what would happen to some of these people in some countries. Yet, ours is a democracy and we want to do things the right way. There is such a thing as due process. We believe in it. We intend to maintain it. But if it ends in the electric chair for some of those who want to enrich themselves with the blood of others on their hands, then so be it. I am for it. I have never felt otherwise than that the death penalty is appropriate in some cases where due process has had its way, where the accused has had his rights observed, the legal process has run its course, and the appellate process has run its course. For certain crimes, treason among them, premeditated murder, and now those who are the kingpins of this dirty, sinister, deadly drug trade—for them, too, it is not asking too much that they snuffer the death penalty. Again, I commend the House for the action it has taken.

BRAZIL: WELCOME PRESIDENT JOSE SARNEY

Mr. BYRD. Mr. President, the esteemed and articulate President of our hemispheric sister nation, newly democratic Brazil, Mr. Jose Sarney, yesterday addressed a joint meeting of the Congress. His address was strong and inspirational, warm and wise. He displays a deep understanding of our history and the true meaning and values of democracy. He has eloquently complemented the United States, and we are very grateful for that. He is to be congratulated on his vision and his leadership. Brazil is a giant nation, with a people acclaimed worldwide for their style, creativity, and innovative talents. They have created one of the great cities of the world, Rio de Janeiro, and carved out of the jungle the totally new and beautiful capital city of Brasilia. Brazil has always been noted for the tremendous potential of its human and physical resource base, and it has only lacked the right combination of political and economic structures and policies to propel those potentials into new realities.

Mr. President, it now appears that that kind of combination is coming together under President Sarney. After 21 years of revolving military regimes, and lackluster economic performance, the resurrection of democracy under President Sarney has given Brazil a new sense of self-assurance. Her economic growth is rapid, and she is a successful trading power. She is now the world's eighth largest free-market economy. She has become more active, politically, in the affairs of the hemisphere and, happily, her political and diplomatic goals dovetail rather well with those of the United States.

As far as this hemisphere is concerned, the administration's policies have suffered from its myopic focus on the confrontation we are engaged in with Nicaragua. The rest of the hemisphere has been badly neglected, and yet the opportunities to deepen our understanding of, and relations with, nations like Brazil are vast and exciting. She has pioneered alternative fuel technologies, has the ability to develop safe nuclear technology, has made impressive advances in computer technology, and can today participate as a major partner in the exploration and uses of outer space. A creative foreign policy would, in my opinion, put the development of cooperative relationships in technology, education, and many advanced fields of study and practice with Brazil at the top of the list.

Mr. President, with all of this potential, there is a strong undercurrent of concern over frictions in the trade field with Brazil. Our trade deficit with Brazil will be around $4 billion for this calendar year, dropping from some $5 billion in 1985 due to the more vigorous demand of the Brazilian economy. Tensions have arisen over a series of trade disputes, including Brazil's exclusion of foreign companies from its data-processing industry. On September 16, this coming Monday, it is reported that President Reagan will announce the results of an investigation into Brazil's unfair trading practices. No doubt there are valid complaints in this area.

But, complaints are not what the United States needs to focus on. Solving those problems through creative solutions are what the economic doctor should be ordering. In the case of Brazil, it is clear what Brazil needs. She has a very big external debt, $105 billion—the annual service on it constitutes 5 percent of her gross domestic product. She needs debt relief. Mr. Sarney stated in his address yesterday that—

> It is necessary to promote an understanding among the leaders of creditor and debtor nations to reduce the magnitude of (debt) payments now being made. This would allow the debtor countries to again import more from the creditor countries, and their own growth can, in turn, contribute to the recovery and normalization of the world economy. For our part—

He continued:

> We are still prepared to engage in such a joint endeavor. But we must not wait until it is too late. We have urged our industrialized partners to join us now in such an effort to safeguard the financial health and stability of the western world.

Now there is an obvious arrangement that could be made here, and it has been the distinguished Senator from New Jersey [Mr. BRADLEY] and the distinguished Senator from New Mexico [Mr. BINGAMAN] who have taken a strong leadership position in this area. Mr. BRADLEY would have creditor nations and commercial banks provide debt relief, in the way of rescheduling loan payments and interest terms, in return for agreement by debtor nations to liberalize their trade barriers and promote domestic economic growth. This would benefit everyone. Mr. BINGAMAN, in his report released on September 10, 1986, on competitiveness, focuses on positive, cooperative efforts to solve the world's economic problems, instead of recrimination and retaliation.

I think we ought to rethink our economic relationship with Brazil and test the Bradley formula, and test the Bingaman approach. The visit by President Sarney provides an opportunity to refocus and expand the priorities of American policies in our hemisphere. It provides an opportunity to be positive about what could be a new and better relationship between the two biggest democracies in the Americas. It provides an opportunity to refashion economic relationships that could serve as a model elsewhere.

I commend President Sarney on his address, I congratulate him on his leadership, and I wish him success in his visit to the United States. I urge that those who could not hear the address when it was delivered read it in the RECORD where it will appear in its entirety.

Mr. BYRD. Mr. President, have I any time remaining?

The ACTING PRESIDENT pro tempore. The minority leader has 3 minutes remaining.

Mr. BYRD. Mr. President, I thank the Chair.

I ask unanimous consent that I may reserve that time throughout the day.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF SENATOR PROXMIRE

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Wisconsin [Mr. PROXMIRE] is recognized for not to exceed 5 minutes.

□ 1020

SENATE DEFENSE APPROPRIATIONS SUBCOMMITTEE GIVES STAR WARS MORE THAN THE PRESIDENT DOES

Mr. PROXMIRE. Mr. President, how many Members of the Congress would believe that the Defense appropriations bill as it has emerged from the Appropriations Subcommittee and on its way to the full committee actually provides more money for the strategic defense initiative [SDI] or star wars than President Reagan requested? I am sure the chairman and some other members of the subcommittee

will vehemently deny this. But it is a fact. Consider the following:

First, the President's total request for SDI for the coming fiscal year was $5.4 billion;

Second, that compares with only $3.1 billion approved by the House in its authorization bill. That $3.1 billion is also precisely the amount approved by the House Appropriations Committee in its markup. It is $23 billion below the President's request;

Third, last month, the Senate approved $3.9 billion for SDI in fiscal year 1987; that is $1.5 billion below the President's request.

Now consider what the Defense Appropriations Subcommittee has done. First, it appropriated outright $3.6 billion. For SDI, this $3.6 billion is the Department of Defense share of star wars. But there is more. There is an additional $370 billion also for SDI from the Department of Energy portion of SDI. That Energy Appropriations Subcommittee has already marked up their bill and about $370 million is the amount they allocated to SDI. This brings the total for SDI to $3.97 billion. Is not this $3.97 billion still well below the President's request? Yes—but.

At this point, the hocus-pocus begins in earnest. The subcommittee also carried an additional $1.2 billion for SDI. That is right—I said $1.2 billion. That brings the total for SDI to $5.17 billion in 1987 for SDI. Those behind this massive SDI buildup on the subcommittee will say that we should not count this $1.2 billion because it is "fenced." How is it "fenced"? It can only be released and spent if the release meets two conditions: First, the President must certify that the arms talks have failed; second, both Houses have to vote to release the money.

Mr. President, what is wrong with that? Answer: Just about everything. First, has the President asked for this so-called arms control "help"? He has not. If he needs it, why does he not ask for it? After all, the President is necessarily this country's one and only ultimate arms control negotiator. This kind of appropriation, unasked for, can only embarrass him. Can we imagine the President telling the country that he has failed to win an arms control agreement and that therefore he wants more than a billion dollars more in this coming year to rush research on a program whose director General Abrahamson tells us cannot be deployed for at least 10 years?

More importantly, consider the coffin the subcommittee is asking the Congress to climb into. Let me describe that coffin. The other condition that fences the additional $1.2 billion is that both Houses of Congress must vote to release the money. We all know the President and the Soviet Union are far apart on many arms control issues. There may be some agreement, but the President could certify very easily next January that the "arms talks have failed." Since Congress would have passed this legislation with the obvious implication that it would ante up the extra $1.2 billion if the President tells us he is not satisfied with the arms control agreement, what do Members of the Congress do then? Do we wimp out? Do we say "we thought it might be a pretty good bluff, but we were only kidding"?

No way. We built the fence. The President did not. Many Members of the Congress would feel that we have no alternative as a proud country but to live up to our clearly implied commitment.

Now, Mr. President, that is not all. The subcommittee also appropriated $400 million to "SDI spinoffs." That $400 million brings the grand total subcommittee SDI appropriation to $5.57 billion. And that's a cool $170 million over the immense request of President Reagan.

How about that $400 million? Once again, the subcommittee champions of SDI will strongly denounce any suggestion that the $400 million is for SDI. Here's their argument: The $400 million is not SDI money. It would simply develop spinoffs that came from SDI research, but applied to other weapons programs.

And who decides whether to spend the money and when and how to spend it? Secretary of Defense Weinberger, that's who. Secretary Weinberger has made it clear that he wants far more for SDI than Congress is willing to give him. So what can we expect him to do with that $400 million of SDI-related technologies? Will he use it on field artillery or aircraft? Or will he find a way to adapt it to star wars related functions?

Keep in mind that the $400 million will be appropriated for fiscal 1987. The year 1987 will be a year of continued research for SDI. There will be little or no development. General Abrahamson has told the committee that deployment is 10 years away. What does this mean? This means that the $400 million will be expended in the research infancy of this technology. The ultimate application whether to SDI systems or antitank guns or aircraft is years away. That means the $400 million will be for SDI research with the first objective SDI application. The "spinoff" will be an incidental and accidental development years down the line. This $400 million for SDI in 1987 for "spinoff" for conventional weapons is transparently just another $400 million for SDI. Let us not kid ourselves.

AMENDMENTS TO S. 2752

Mr. PROXMIRE. Mr. President, today I am introducing six amendments to S. 2752 which was reported by the Banking Committee on August 13. As reported, S. 2752 would provide for a recapitalization of the FSLIC, extend the emergency authorities under the Garn-St Germain Act, and provide new authority to the bank regulators to merge failing banks with out-of-State banking institutions.

The first amendment would establish a 1-year moratorium on the creation of new nonbank banks while placing certain restrictions on existing nonbank banks.

The second amendment would terminate the new authority to sell failing banks after 1 year.

The next four amendments would provide bank holding companies with new securities powers including the authority to underwrite and deal in municipal revenue bonds, mortgage backed securities and commercial paper and to offer mutual funds.

Mr. President, at a minimum, I strongly believe the first two amendments are essential to the passage of S. 2752. It would be foolish to provide the FSLIC with $15 billion in new funds to close insolvent savings and loan associations while at the same time, the nonbank bank loophole remains a viable option for the potential buyers of those ailing S&L's. Clearly, the FSLIC will receive fewer bids at lower amounts if the nonbank bank loophole is still open. That means the ultimate cost of closing these institutions will be higher. This higher cost will be passed on to the savings and loan industry and their customers.

The same argument also applies to the authority provided the bank regulators to sell failing banks to out-of-State buyers. How many institutions will want to buy a sick bank if they can penetrate the same market through the nonbank bank loophole? Presumably, the motivation for selling failing banks to out-of-State buyers is to save the FDIC money. But that objective is undermined by failing to close the nonbank bank loophole. Keeping the nonbank bank loophole open will cost the FDIC more money and that cost will likewise be passed on to the banking industry and their customers.

I have heard it argued that the nonbank bank issue is controversial, that we cannot reach an agreement in the time remaining, and that prudence dictates that we proceed on the two items on which there is a reasonable consensus. I do not buy that argument.

First, the bank regulators have made no showing that they even need the new authority they have requested to sell failing banks across State lines in contravention of State law. Most of the States that have had problems have already amended or are in the process of amending their laws to fa-

cilitate out of State mergers including the State of Texas which was reported to have had the severest banking problems.

Second, there is also not a strong consensus behind the FSLIC recapitalization measure. As recently as a few weeks ago, the major trade association representing the savings and loan industry was saying that the plan vastly overestimated the amount of new capital needed by FSLIC and that the entire program could be accomplished without additional borrowing. These savings and loan officials argued that many institutions that are nominally insolvent today will not be insolvent a year or two from now as real estate markets begin their inevitable recovery. Pumping a lot of money into FSLIC could actually result in costing more money in the long run.

For these reasons, I do not believe a compelling case can be made that the Congress must act on these two items this year, especially if they are not coupled with a closing of the nonbank bank loophole. If we cannot get an agreement on the nonbank bank issue in the few weeks remaining, I believe we would be better served by having no bill and considering all banking issues together next year.

One of the arguments made by the Treasury against closing the nonbank bank loophole is that it should not be considered unless it is part of a broader bill to extend new powers to banks and bank holding companies. I fail to see the logic of holding the nonbank bank issue as hostage to new powers for the banks even though I favor limited new securities powers similar to those already approved by the Senate in 1984 by a vote of 89 to 5.

While I do not agree with the Treasury position, I am nonetheless prepared to vote on securities powers if that is what it takes to secure an agreement this year on closing the nonbank loophole. Accordingly, I have introduced amendments allowing bank holding companies to engage in new securities activities including the underwriting of municipal revenue bonds, mortgage backed securities and commercial paper. All of these activities were previously approved by the Senate in 1984. In addition, I would allow banks to offer mutual funds.

Mr. President, if and when S. 2752 is called up for consideration, I reserve my rights to speak at length against the legislation. If it appears that new bank securities powers are the key to breaking the Treasury opposition to closing the nonbank bank loophole, I am prepared to offer these amendments and to ask for roll call votes on them.

(The text of the amendments appears in today's RECORD under Amendments Submitted.)

Mr. PROXMIRE. Mr. President, I yield the floor.

Mr. STENNIS addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Mississippi is recognized.

RECOGNITION OF MRS. GRACE SMITH CAPERTON

Mr. STENNIS. Mr. President, I wish to make a very short statement for the RECORD with regard to a newspaper article.

At a time when national concern is mounting on problems of teenage pregnancy, drug abuse, and other problems facing our young people, and when our schools and teachers are coming under criticism for failure to better prepare our young people for productive lives, I have found a source of encouragement and hope in the example of Mrs. Grace Smith Caperton, a young lady who is a home economics teacher at West Kemper High School in my hometown, DeKalb, MS.

Mrs. Caperton recognized the tremendous pressures facing her students as they struggled to cope with life as teenagers in our society. She decided to do something positive to help equip them in their efforts to deal adequately and positively with the problems they face day by day. She initiated a program that helps students realize their potential by improving their skills in coping with problems involving such sensitive issues as suicide, death, drug abuse, family planning, sexuality, and child and spouse abuse.

Three years ago, Mrs. Caperton introduced a class entitled "Coping with Life" as part of the home economics curriculum at West Kemper High School. The class has been highly successful in helping students to better understand the pressures facing them and the alternative choices they can make leading to happier and more productive lives. An outgrowth of the class has been establishment of a peer counseling squad to help students on a more informal basis with their needs and problems.

Mrs. Caperton was recently awarded a National Merit Award in the Home Economics Teacher of the Year Program in recognition of her successful efforts at West Kemper High School. She is certainly deserving of this high award which was announced at the annual convention of the American Home Economics Association in Kansas City, MO, last month. She had earlier been selected as Mississippi's Home Economics Teacher of the Year.

I have, personally, known Mrs. Caperton all of her life. I have known her family through several generations, and it comes as no surprise to me that she is making such a significant and successful contribution to the lives of young people in my home county. She is a truly outstanding individual who contributes to the community in many ways. We need more people with sensitivity to recognize the needs of our young people who will respond with compassion and concern rather than with criticism. Her approach has been entirely positive, recognizing that many of her students' problems result from family difficulties and circumstances largely beyond their control. She has helped these young students to see that they can make decisions on a daily basis that will make their own lives better in the long run.

Mrs. Caperton's efforts have already reached far beyond the classroom where she teaches. Her students have participated in numerous community service projects and have raised money to help build a Christian center at the State penitentiary at Parchman. These students, who have learned to better cope with life through her teaching, are also now in a position to help others in the community with the problems they are facing. She has helped them to become productive members of the community. The lessons they have learned have enabled them in many cases to strengthen their family structures and to prepare for the future.

Mr. President, I commend Mrs. Caperton highly for the initiative she has taken, and congratulate her on the recognition she so richly deserves. I hope she will serve as a real example to other teachers as to what can be done through such efforts in the classroom, and I hope my colleagues will find in her a source of encouragement and hope as I have.

I ask unanimous consent that two articles describing Mrs. Caperton's work and the "Coping With Life" class which recently appeared in the Meridian Star be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

GRACE CAPERTON INSTILLS CONFIDENCE

Her county has one of the highest unemployment rates in Mississippi and many of her school's students tended to face the future with pessimism, or at least concern.

Grace Smith Caperton, who grew up in Kemper County, Mississippi, and returned there to teach home economics at West Kemper High School in KeKalb, decided to do something about it. She developed a program that helps students realize their potential by erasing that pessimism by improving their self-esteem and coping skills.

Her efforts have earned her a National Merit Award in the Home Economics Teacher of the Year program.

Announcement of the award was made in Kansas City, Mo., Monday at the American Home Economics Association's annual convention by Daria Sheehan, manager of consumer programs at Chesebrough-Pond's Inc., which co-sponsors the home economics teaching excellence awards program with the AHEA.

Ms. Caperton earned bachelor of science and master of science degrees in home economics education from the University of

Southern Mississippi. She has taught at West Kemper High School since 1981. She was named Mississippi's Home Economics Teacher of the Year prior to receiving the National Merit Winner award.

Three years ago, Ms. Caperton instituted a "Coping with Life" class as part of the home economics curriculum at West Kemper to help students deal with personal and family problems while improving their everyday decision-making skills.

"I felt there was a real need to help my students feel better about themselves, their present and future families," says Ms. Caperton. "I grew up in this county and was very familiar with the types of problems they faced and the feeling of insecurity that can develop. It is essential to know how to deal with life's problems, to have the ability to make wise decisions as consumers and citizens, and to know that you can make a difference in your community. That is what this course is designed to promote."

Ms. Sheehan said "Ms. Caperton has taken a leadership role in her community by helping provide young people with the confidence and skills necessary to meet the pressing demands of their everyday life."

Ms. Caperton also tries to teach students the value and importance of helping others. Last year, they raised money to make a donation to help build a Christian Center at the State Penitentiary at Parchman.

To help improve communications skills, students select newspaper stories to summarize and discuss before class members and are given a "show and tell" time each week to discuss television programs. Students are also required to prepare a family tree tracing their roots back to their great-grandparents.

"I realize that my values and opinions about life can influence the values of my students," says Ms. Caperton. "Therefore, I have a great responsibility to serve as a role model. Because of some unfavorable family conditions, many of the teen-agers have not had the opportunity to develop sound ideas about the many functions and responsibilities of family living."

"COPING" CLASSES TEACHES STUDENTS HOW TO DEAL WITH LIFE

One objective of Ms. Caperton's "Coping with Life" class is to assist students in learning about sensitive issues such as suicide, death, drug abuse, family planning, sexuality and child and spouse abuse. "We try to provide a safe environment in which to learn accurate information about these topics," says Ms. Caperton. "If sensitive issues are confronted and discussed openly, students can develop the ability to deal with them knowledgeably."

Topics covered in class studies and discussions include sexual behavior, communications skills, child development and care, family roles, career choices, peer pressure, caring for the sick and elderly, budget planning, consumer rights and responsibilities, first aid procedures and personal health, among others. Outside experts, such as speakers from the State Board of Health and an area mental health center are frequently called on for help. Field trips to a child-care facility, nursing home, vocational training center, retail and service establishments to learn wise purchasing practices, and even to the local sheriff's department, are part of class activities.

Class topics are not selected totally without student input. At the end of each year, a questionnaire is provided to at least 100 West Kemper students, which helps identify student concerns and aids in planning the class for the coming year. Almost half of the students in the "Coping with Life" classes are males.

As an outgrowth of the "Coping with Life" class, and as a result of encouragement and advice from students, faculty members, administrators and parents, a Peer Counseling Squad was established at West Kemper High School to help students with their needs and problems. Its purpose is to allow selected class students (peer counselors) to listen to and assist other students in solving current personal, school and family problems. Selected faculty counselors and the school nurse assist the Peer Counseling Squad as needed in counseling sessions.

"Students, faculty members and parents have been very receptive to this outreach program," says Ms. Caperton. "To me, it crystallizes the success of the 'Coping with Life' curriculum. Not only are the students learning to deal with their personal problems, they are now reaching out to help others in the community."

Mr. STENNIS. It has been my privilege to know the young lady during her entire lifetime as well as that of her mother, father, and grandfather. I am proud of every one of them.

Mrs. Caperton recently received nationwide recognition for her originality and her very effective way of bringing teaching into fashion in a large way in these problems I have referred to.

There was a good article in the newspaper, the Meridian Star, that reflects a great deal about this young lady and her amazing work. I have asked that it be printed in the RECORD at this point with my brief remarks so that more will get the benefit of her counsel and relation of her experiences which we encourage and carry on in a broader and more effective way.

Mr. President, I yield the floor.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ACID DEPOSITION AND SULFUR REDUCTION ACT

Mr. PROXMIRE. Mr. President, today along with Senators HUMPHREY, BURDICK, D'AMATO, SIMPSON, HOLLINGS, and BOSCHWITZ, I am introducing the Acid Deposition and Sulfur Reduction Act. This bill builds on S. 503 which I introduced with Senator HUMPHREY on February 25, 1985.

The bill reduces sulfur dioxide emissions by 10 million tons per year below their 1980 levels in 31 States east of or bordering the Mississippi River. Statewide average rates of sulfur dioxide emissions from steam generating units would be reduced to 2 pounds of sulfur dioxide per million Btu of heat input by 1992 and to 1.2 pounds of sulfur dioxide per million Btu by 1997.

It reduces nitrogen oxide emissions by approximately 3 million tons below 1980 levels by 1997 and allows States and sources free choice of methods for achieving these reductions. New clean coal technologies, coal cleaning, fuel switching, scrubbers, and energy conservation would all be available options under the bill.

The bill requires installation of continuous emission monitoring devices on all powerplants, improving implimentation of the bill's standards.

It also includes modest auto emission controls for nitrogen oxide modeled on those in H.R. 4567 but set at slightly lower levels.

The Acid Deposition and Sulfur Emissions Reduction Act provides equitable protection for all consumers by favoring at least-cost approach to emissions control.

According to the Congressional Budget Office my bill costs approximately $34 billion over 30 years to achieve a 10 million ton sulfur dioxide reduction which under Senator STAFFORD's bill, S. 2203, a reduction of just 2 million tons more would cost nearly three times as much.

Since the bill closely parallels the control strategy contained in H.R. 4567, the compromise House bill, it would face a much easier conference with the House as well as better prospects in the Senate than would S. 2203.

Only this acid rain control bill encourages State use of energy conservation as part of emissions control programs by providing an optional method for calculating reduction requirements that fully credit conservation.

The bill's phased approach encourages the development of new clean coal technologies which burn high sulfur coal cleanly and cheaply. In contrast, S. 2203 would rule out new technologies through early compliance dates and a requirement that all existing plants eventually comply with very expensive new source performance standards.

My bill follows the polluter-pays principle, providing no subsidy and collecting no tax. This economically efficient approach lets producers and consumers make decisions based on the economic cost of the resources they use, including the cost of environmental controls.

Its two-phased design makes my bill more flexible, by allowing for adjustments in emissions requirements based on research obtained during phase I. Such adjustments go into effect only with the approval of Congress.

In addition, the bill encourages cost-saving emissions trading between

plants, utilities, and States. Trading achieves the same environmental result at a lower total cost to consumers by concentrating industry efforts on plants where cleanup is less costly.

Finally, the bill excludes new sources from the averaging required to meet its emission rate of 1.2 million pounds of sulfur per million Btu's. This exclusion translates into an extra million tons of reduction above that contained in H.R. 4567.

Mr. President, this bill enjoys the support of the Alliance for Acid Rain Control, a coalition of eight governors, corporate leaders, academics and environmentalists which actively work for its passage. The Governors who formed the Alliance want to break the 5-year deadlock on the issue and win passage of cost-effective legislation. Only my bill meets their objectives and can win broad support in the Senate.

My own State of Wisconsin, one of the leaders in environmental protection, recently enacted the toughest State law in the Nation for reducing acid rain. But we can't do it alone. Emissions from other States cause acid deposition in Wisconsin. Yet we have no control over their behavior. Only comprehensive legislation can save our lakes and forest from acid rain damage.

Mr. President I ask unanimous consent that a section-by-section analysis, a side-by-side comparison with other acid rain bills and the text of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE NEW PROXMIRE-HUMPHREY ACID RAIN CONTROL BILL: SECTION-BY-SECTION SUMMARY

Section 1: Short Title. "The Acid Rain and Sulfur Emissions Reduction Act."

Section 2 of the bill amends the Clean Air Act by adding the following new sections:

Section 180: Findings and Purposes. Congress declares that the long-range transportation of pollutants is a serious problem threatening public health and welfare and the environment. This bill intends to reduce the emissions of pollutants which cause acid rain.

Section 181: Applicability to New Sources. This program does not apply to plants which are defined as "new sources" in the Clean Air Act; only "existing" sources are covered.

Section 182: Establishment of Region. The emission reduction program applies to the 31 States east of our bordering the Mississippi and the District of Columbia, which are defined as the "acid deposition impact region."

Section 183: State Plans to Control Emissions. This section establishes requirements for reducing emissions of sulfur dioxide and nitrogen oxides. The Governor of each State in the region must submit an emission control plan and compliance schedules to the EPA Administrator within 24 months after the enactment of this Act.

Sulfur Dioxide Emission Rate Requirements. By January 1, 1992, the annual average rate of emissions of sulfur dioxide (SO_2) must be reduced to 2.0 pounds per million Btu of heat input in each State. By January 1, 1997, the annual average rate of emissions of SO_2 must be reduced to 1.2 pounds per million Btu of heat input in each State.

Separate Utility and Non-Utility Requirements. These average rates of SO_2 emissions must be achieved separately by the pool of "existing" electric utility sources and by the pool of "existing" non-utility fossil-fuel fired steam generating units.

Conservation Option. If the Governor certifies to the Administrator that the State plan includes a conservation program that will help reduce emissions, then electric utility sources in the State may comply with an SO_2 tonnage emission reduction requirement, rather than an emission rate. The 1992 reduction requirement would be set at the amount of emissions in excess of 2.0 lbs per million Btu from "existing" utility sources in the State in 1980; the 1997 reduction requirement would be set at the amount of emissions in excess of 1.2 lbs per million Btu from "existing utility sources in the state in 1980.

Nitrogen Oxides. The Administrator must identify all sources in the region that can achieve an emissions rate of 0.6 lbs of nitrogen oxides (NO_x) per million Btu by 1997 using burner retrofit technology or using other means at a cmparable cost per ton of NO_x removed. By 1988, the Administrator must transmit to each State a calculation of the total amount of NO_x emission reduction that can be achieved in this way. The Governor's emission control plan must achieve the amount of NO_x reduction by 1997.

Section 184: Accelerated Research Programs. An accelerated research program is to be conducted by the Acid Precipitation Task Force (in the National Oceanic and Atmospheric Administration), in addition to the other research being conducted by that Task Force. The research program will include high terrain modeling, regional tracer studies, research on the relative importance of different air pollutants in environmental damage, identification of sulfate and nitrate sensitive geographic areas, and research on health effects. The research is to focus especially on the long range transport and deposition of pollutants in the Western U.S. The research should be completed by January 1, 1990; $25 million is authorized for the program annually in fiscal years 1987, 1988, 1989, and 1990.

The EPA Administrator must conduct an intensive evaluation of the results of the research and of the effects of the first phase emission reductions. The evaluation is to be conducted between January 1, 1990 and July 1, 1991, and $1 million is authorized annually for it in fiscal years 1990 and 1991.

Section 185: Review of Phase II Requirements. The EPA Administrator may recommend changes in the Phase II emission control requirements based on the research and evaluation conducted under section 184 and other available research. By no later than July 1, 1991, the Administrator may recommend requiring States to comply with Phase II of the program that were not included in Phase I; exempting States included in Phase I from complying with Phase II; or increasing or decreasing an individual State's SO_2 or NO_x reduction requirements. The Administrator may recommend such changes only if they are supported by scientific evidence, and the recommendations shall take effect only if they are enacted into law by the Congress before January 1, 1993.

Section 186: General Provisions Applicable to State Plans.

Interstate Trading. The Governors of any two or more States may agree to reallot reductions requirements among the States, or to permit interstate trading of reduction requirements, as long as the total aggregate tonnage emission reduction achieved is the same as it would have been otherwise.

Revisions to State Plans. Governors may submit revisions to measures in their States' emission reduction plans at any time. If the Congress enacts changes in the Phase II requirements for any State, then the Governor must submit revised measures to achieve emission reductions within 9 months of enactment or by September 1, 1993 (whichever is earlier). However, if Congress eases a State's requirements, then the Governor may opt not to submit revised measures.

Criteria for Approving State Plans. In order to be approved, State measures to achieve emission reductions must include requirements for monitoring by the source and enforcement agencies including the installation of continuous emission monitors on all fossil-fired electric utility units; must be adequate to achieve the required reductions; and must establish a State baseline for SO_2 and NO_x emissions and baseline capacity factors for each electric unit. If the state's plan meets these criteria, the EPA Administrator shall approve the measures submitted by the Governor of a State within four months, taking into consideration the comments of Governors of other States. State plans shall also specify compliance schedules and incremental progress requirements, and to the extent practicable shall phase compliance dates so that larger amounts of emission reductions occur earlier. Emission limitations and requirements of State plans shall be treated as requirements of an applicable "implementation plan."

Enforcement and Penalties. The EPA Administrator may sue for a permanent or temporary injunction against violators of any requirement or measure of a State plan. The Administrator may also assess a civil penalty of up to $10,000 per day on any violator, by an order made on the record after opportunity for a hearing.

Section 187: Major Stationary Source Sulfur Dioxide Reduction Requirements—"Default" Provisions. If any State in the region fails to adopt measures to achieve the required reductions or fails to have such measures approved by the EPA Administrator within 42 months after the enactment of this bill, then every "existing" fossil fuel fired steam generating unit which is a "major source" in the State must achieve an annual average sulfur dioxide emission rate of 2.0 lbs per million Btu by 1992, and 1.2 lbs per million Btu by 1997. The owners or operators of each source are then responsible for submitting plans and measures to the EPA Administrator that will achieve the required reductions, establish baselines, and install continuous emission monitors on all electric generating units.

Section 188: Alternative Programs for Enforceable Emission Reductions. Emission reductions may be achieved using enforceable continuous emission reduction measures, or using alternative means including: least emissions dispatch of electric generating units; early retirement of major stationary sources; investments in conservation of electricity; precombustion cleaning of fuels; fuel substitution; and trading.

Trading of emission reduction requirements is permitted if the total aggregate tonnage emissions reduction is no less than the total that would be achieved absent

such trading. Trading schemes may credit emissions reductions resulting from enforceable continuous emission reduction techniques, fuel substitution, precombustion cleaning of fuels, or early plant retirement. The States and the EPA Administrator are authorized to facilitate trading by establishing emissions reduction banks or brokerage institutions, and shall consider emissions and capacity factor baselines and the actual monitored emissions and capacity factors achieved when implementing trading.

Section 3: Smelters. Section 3 of the bill is appended to § 119(c)(2) of the Clean Air Act. This section requires each primary nonferrous smelter, which has applied for or been granted a second order extending deadlines for complying with sulfur dioxide emission limitations or standards, to be in compliance by January 2, 1988. No administrative or court order may extend the compliance deadline beyond this date. The EPA must complete action on all pending applications within 180 days of enactment of this bill, and within 60 days of enactment must amend all orders already in effect to provide for compliance by January 2, 1988.

Section 4: International Cooperation. Congress expresses its concern and sense of urgency about transboundary air pollution between the U.S. and Mexico. Congress directs the Secretary of State to conclude an Annex concerning transboundary air pollution with Mexico with all due dispatch. Congress directs the Secretary of State to ensure that the new Nacozari smelter and any expansions to the existing Cananea smelter will meet standards at least as stringent as new source performance standards under the Clean Air Act. The Secretary of State is to negotiate a mutually acceptable arrangement for monitoring, inspecting, and enforcing pollution control standards near the border, and with the EPA Administrator, is to report to Congress on the results of research by the EPA and international agencies on the effects of transboundary air pollution from copper smelters on public health and welfare in the U.S. and Mexico. (This section is identical to the international provision in H.R. 4567.)

Section 5: Mobile Sources. Passenger cars must meet .8gpm by the 1989 model year, gasoline-powered trucks weighing up to 8,500 lbs. must meet 1.1gpm by 1988, gasoline-powered trucks weighing from 8,500 lbs. up to 14,000 lbs. must meet 5.0 g/Bhp-hr by 1988, and diesel trucks weighing up to 6,000 lbs. must meet 5.0 g/Bhp-hr by 1988, and diesel trucks weighing from 6,000 to 8,500 lbs. must meet 5.0 g/Bhp-hr by 1988.

[Charts not reproducible for the RECORD.]

SIDE-BY-SIDE COMPARISON OF ACID DEPOSITION CONTROL BILLS

[September 11, 1986]

	Stafford bill (S. 2203)	Waxman-Sikorski bill (H.R. 4567)	New Proxmire-Humphrey bill
Phasing?	No	Yes	Yes.
Effective dates	1991	1993, 1997	1992, 1997.
Effective region	Entire United States	Entire United States	31 Eastern States.
Limitation of utility SO_2 emissions	Average emissions from each plant limited to 0.7 lbs per MMBtu, with a short phase-out period permitted for plants that do not meet this standard.	Annual statewide average rate of emissions from all fossil-fueled utility plants limited to 2.0 lbs per MMBtu in the first phase, and 1.2 lbs per MMBtu in the second phase.	Annual statewide average rate of emissions from all fossil fueled utility plants limited to 2.0 lbs per MMBtu in the first phase, and 1.2 lbs per MMBtu in the second phase, excluding "new sources" as defined in Clean Air Act.
Limitation of nonutility SO_2 emissions.	No provision	By 1994, each state must promulgate emission reduction plans and compliance schedules for industrial process emitters. By 1997, monthly average statewide SO_2 emissions from nonutility fossil fueled steam generating units must not exceed 1.2 lbs per MMBtu.	Nonutility fossil fuel-fired boilers must meet statewide average levels of 2.0 lbs per MMBtu in the first phase and 1.2 lbs per MMBtu in the second phase.
Limitation of utility NO_x emissions	Best available NO_x emission control technology (e.g., German SCR process) required for each plant.	Annual average statewide utility emissions limited to 0.6 lbs per MMBtu in the second phase. Revised NSPS: 0.35 lbs per MMBtu for subbituminous coal; 0.40 lbs per MMBtu for bituminous coal.	EPA Administrator to identify all units which can achieve a emissions rate of 0.6 lbs per MMBtu using burner retrofit technology or other means at a comparable cost. Statewide reduction level, based on amounts identified, to be achieved by 1997.
Limitation of nonutility NO_x emissions.	Best available NO_x emission control technology utilized in Germany for all major stationary sources.	By 1994, each state must promulgate emission reduction plans and compliance schedules for industrial process emitters. By 1997, monthly average statewide emissions from non-utility fossil-fueled steam generating units must not exceed 0.6 lbs of NO_x per MMBtu.	Nonutility stationary source boilers are included in the same NO_x reduction program as utility boilers, to be achieved by 1997.
Trading and bubbling	Not allowed	Only intrastate trading allowed but no interstate trading or trading between utility and nonutility stationary sources.	Full interstate and intrastate trading allowed as well as full trading between utility and non-utility stationary sources.
State implementation	No State role, no flexibility	Free choice of strategies to reduce emissions, except that in order to be eligible to receive a subsidy, the state must ensure that rate increases due to emissions reductions are equalized among residential ratepayers of all utilities in the state, and are levelized over time.	Free choice of strategies to reduce emissions.
Specific old sources requirements	Must meet NSPS standards 35 years after completion of construction.	None beyond overall statewide average emissions limits.	None beyond overall statewide average emissions limits.
Mobil sources	Vehicles must meet the following standards: Light-duty cars made after 1990 model year: HC: 0.16 g/mi CO: 1.3 g/mi NO_x: 0.25 g/Mi. Heavy-duty gasoline powered vehicles made after 1991 model year: NO_x: 5.1 g/bhph HC: 0.48 g/bhph CO: 1.3 g/bhph. Heavy-duty diesel-powered vehicles made after 1991 model year: NO_x: 5.1 g/bhph HC: 0.54 g/bhph CO: 1.7 g/bhph. Particulates: 0.25 g/bhph (except buses: particulates: 0.1 g/bhph). Light-duty trucks made after 1990 model year: NO_x 0.5 g/bhph HC: 0.54 g/bhph CO: 3.0 g/bhph Particulates: 0.18 g/bhph. Sulfur content of diesel fuel may not exceed average sulfur content of gasoline during 1985 (0.05 pct by weight).	Enacts provisions identical to current EPA regulations, except for auto standard for NO_x, which is tightened to 0.7 g/mile.	Passenger cars must meet 0.8 gpm by the 1989 model year, gasoline-powered trucks weighing up to 8,500 lbs. must meet 1.1 gpm by 1988, gasoline-powered trucks weighing from 8,500 lbs. up to 14,000 lbs. must meet 5.0 g/Bhp-hr by 1988, and diesel trucks weighing up to 6,000 lbs. must meet 5.0/Bjp-hr by 1988, and diesel trucks weighing from 6,000 to 8,500 lbs. must meet 5.0 g/Bjp-hr by 1988.

SIDE-BY-SIDE COMPARISON OF ACID DEPOSITION CONTROL BILLS—Continued

[September 11, 1986]

	Stafford bill (S. 2203)	Waxman-Sikorski bill (H.R. 4567)	New Proxmire-Humphrey bill
International provisions	Encourages negotiations with Canada and Mexico for air pollution monitoring and control.	Encourages negotiation of an annex with Mexico to ensure that the Nacozari smelter and any expansion of the Cananea smelter will meet NSPS standards.	Encourages negotiation of an annex with Mexico to ensure that the Nacozari smelter and any expansion of the Cananea smelter will meet NSPS standards.
Civil penalties for violators	$10,000 per day per violation	$50,000 per day per violation	$10,000 per day per violation.
Review of requirements in second phase.	No phasing	The EPA is to conduct a study before the second phase, but only Congress may authorize changes.	EPA Administrator may recommend changes in phase II to Congress based on research results. Congress must act by Jan. 1, 1993 to put changes into effect.
Monitoring compliance	No provision	No provision	All fossil fuel fired power plants required to install continuous emissions monitors on stacks. States must calculate emissions and plant capacity baseline.
Research	Study of tariff on emissions required. Implementation of system of monitoring acid deposition in Western states required. Funding level not specified.	EPA to assist with financing R&D of innovative emissions reduction technologies. Study required on trans-boundary air pollution. Funding level not specified.	$25 million authorized for an accelerated study of source receptor relationships and health effects of SO_2 and NO_x emissions, with a special emphasis on the Western United States.
Subsidy	None	An 8-year tax of up to 0.5 mill per kwh, varying in proportion to SO_2 emission rates, on fossil-fuel electric generation in the United States and all electric imports, would be used to fund a subsidy to utility systems to ensure that residential rates would not increase by more than 10 percent due to emissions controls.	None.
Smelters	No provision	Each nonferrous primary smelter that has been granted or has applied for a "second order" extending its deadline for compliance with SO_2 emissions limits or standards must comply by no later than January 2, 1988; no administrative or court order may extend this deadline. EPA must amend all orders already in effect to provide for compliance by January 2, 1988.	Each nonferrous primary smelter that has been granted or has applied for a "second order" extending its deadline for compliance with SO_2 emissions limits or standards must comply by no later than January 2, 1988; no administrative or court order may extend this deadline. EPA must amend all orders already in effect to provide for compliance by January 2, 1988.

S. 2813

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Acid Deposition and Sulfur Emissions Reduction Act".

ACID DEPOSITION AND SULFUR EMISSIONS REDUCTION

SEC. 2. Title I of the Clean Air Act is amended by adding at the end thereof the following new part:

"PART E—ACID DEPOSITION AND SULFUR EMISSIONS REDUCTION

"FINDINGS AND PURPOSES

"SEC. 180. (a) The Congress finds that—

"(1) the long-range transport of pollutants and their transformation products is an interstate and international problem;

"(2) current levels of emissions of air pollutants from existing sources as well as increased emissions from new and existing sources threaten public health and welfare and the environment in States and countries other than the States and countries from which the emissions are made;

"(3) reductions in total regional atmospheric loading of pollutants such as sulfur oxides and nitrogen oxides will enhance protection of public health and welfare and the environment;

"(4) more effective regulation of the interstate transport of air pollutants is needed in order to protect the health and welfare of the citizens of downwind States and is properly a Federal concern;

"(5) a phased reduction strategy will provide additional time to demonstrate, on a commercial scale, innovative technologies, such as limestone injection and fluidized bed combustion and other precombustion, combustion, and postcombustion technologies, which eventually will provide sources of air pollution with a wider choice of cost-effective alternatives to reduce the atmospheric loading of pollutants;

"(6) creation of a two-phase pollution control program, with an evaluation period of new research efforts prior to implementation of the second phase, will allow the second phase of the program to be revised by Congress as necessary to incorporate the results of the research and produce increased protection of sensitive areas and increased mitigation of environmental damage; and

"(7) in particular—

"(A) the deposition of acid compounds from the atmosphere is causing and contributing to widespread long-term ecosystem degradation including damage to aquatic and terrestrial resources;

"(B) the principal sources of the acid compounds in the atmosphere, and their precursors, is the combustion of fossil fuels;

"(C) the problem of acid deposition is of national and international significance and cannot be addressed adequately without Federal intervention;

"(D) control strategies and technology for precursors to acid deposition exist now that are economically feasible; and

"(E) current and future generations of Americans will be more adversely affected by delayed action, so that efforts to remedy the problem should commence now.

"(b) The purposes of this part are to—

"(1) initiate a program to protect public health and welfare and the environment from any actual or potential adverse effect caused by ambient concentrations or deposition of sulfur dioxide and nitrogen oxides, including the products of atmospheric transformation of pollutants;

"(2) enhance the ability of States to protect the public health and welfare and the environment of their citizens from air pollution originating in other States;

"(3) provide for State flexibility in the design of a pollution control program in order to encourage the use of the most cost-effective emission reduction techniques;

"(4) achieve a just and efficient solution to the problem of acid deposition by requiring those responsible for pollution to pay for its control; and

"(5) identify and protect areas which are sensitive to ozone and to sulfate and nitrate deposition, including but not limited to, aquatic and terrestrial resources.

"APPLICABILITY TO NEW SOURCES AND CONVERSIONS

"SEC. 181. Nothing in this part shall be construed to limit emissions from any major stationary source defined as a 'new source' in section 111(a)(2) of this Act.

"ESTABLISHMENT OF REGION

"SEC. 182. There is established an acid deposition impact region (hereafter in this part referred to as the 'region'), which shall consist of the States of Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia. The Administrator may include additional States within the region and may exclude States from the region as provided by section 185(b) herein.

"STATE PLANS TO CONTROL EMISSIONS

"SEC. 183. (a) Not later than 24 months after the date of the enactment of this section, the Governor of each State within the region shall submit to the Administrator a plan establishing emission limitations and compliance schedules for controlling emissions of sulfur dioxide and oxides of nitro-

gen from major stationary sources in the State. The plan shall meet the requirements of subsections (b) and (c).

"(b)(1) The emission limitations and compliance schedules contained in the plan under this section shall be adequate to ensure that by January 1, 1992, and thereafter, the annual statewide average rate of emissions of sulfur dioxide from the total of all fossil fuel fired electric utility steam generating units in the State not defined as new sources under section 111(a)(2) of this Act, shall not exceed 2.0 pounds per million Btu of heat input.

"(2)(A) If the Governor certifies to the Administrator that a program encouraging the conservation of electricity will be implemented as part of the State plan under this section and that such program will result in a reduction in sulfur dioxide emissions, then the plan shall comply with the requirements of subparagraph (B) in lieu of complying with the requirements of paragraph (1).

"(B) The emission limitations and compliance schedules contained in the State plan under this section shall be adequate to ensure that by January 1, 1992, and thereafter, aggregate statewide emissions of sulfur dioxide from the total of all fossil fuel fired electric utility steam generating units in the State, not defined as new sources under section 111(a)(2) of this Act, shall not exceed an aggregate statewide sulfur dioxide emissions ceiling. Such aggregate emissions ceiling for each State shall be equal to the total amount of sulfur dioxide emitted by all fossil fuel fired electric utility steam generating units in the State in 1980, not defined as new sources under section 111(a)(2) of this Act, minus the aggregate amount of sulfur dioxide emitted by such plants in excess of 2.0 pounds per million Btu of heat input in the State in 1980.

"(3) The emission limitations and compliance schedules contained in the State plan under this section shall be adequate to ensure that by January 1, 1992, and thereafter, the annual statewide average rate of emissions of sulfur dioxide from the total of all fossil fuel fired steam generating units in the State (other than fossil fuel fired electric utility steam generating units), not defined as new sources under section 111(a)(2) of this Act, shall not exceed 2.0 pounds of sulfur dioxide per million Btu of heat input.

"(c)(1) The emission limitations and compliance schedules contained in the State plan under this section shall be adequate to ensure that by January 1, 1997, and thereafter, the annual statewide average rate of emissions of sulfur dioxide from the total of all fossil fuel fired electric utility steam generating units in the State not defined as new sources under section 111(a)(2) of this Act shall not exceed 1.2 pounds per million Btu of heat input.

"(2)(A) If the Governor certifies to the Administrator that a program encouraging the conservation of electricity will be implemented as part of the State plan under this section and that such program will result in a reduction in sulfur dioxide emissions, then the plan shall comply with the requirements of subparagraph (B) in lieu of complying with the requirements of paragraph (1).

"(B) The emission limitations and compliance schedules contained in the State plan under this section shall be adequate to ensure that by January 1, 1997, and thereafter, aggregate statewide emissions of sulfur dioxide from the total of all fossil fuel fired electric utility steam generating units in the State, not defined as new sources under section 111(a)(2) of this Act, shall not exceed an aggregate statewide sulfur dioxide emissions ceiling. Such aggregate emissions ceiling for each State shall be equal to the total amount of sulfur dioxide emitted by all fossil fuel fired electric utility steam generating units in the State in 1980, not defined as new sources under section 111(a)(2) of this Act, minus the aggregate amount of sulfur dioxide emitted by such plants in excess of 1.2 pounds per million Btu of heat input in the State in 1980.

"(3) The emission limitations and compliance schedules contained in the State plan under this section shall be adequate to ensure that by January 1, 1997, and thereafter, the annual statewide average rate of emissions of sulfur dioxide from the total of all fossil fuel fired steam generating units in the State (other than fossil fuel fired electric utility steam generating units), not defined as new sources under section 111(a)(2) of this Act, shall not exceed 1.2 pounds of sulfur dioxide per million Btu of heat input.

"(d)(1) The Administrator shall identify all fossil fuel fired steam generating units in the region which can achieve, by January 1, 1997, an annual emission rate of 0.6 pounds of nitrogen oxides per million Btu's of heat input annual emission rate through the use of burner retrofit technology or other means that can be utilized at a comparable cost per ton of nitrogen oxides removed. By December 31, 1988, the Administrator shall transmit to each State in the region a statement containing a calculation of the total nitrogen oxide emission reduction that can be achieved through utilization of such technologies in that State.

"(2) Not later than December 31, 1990, the Governor of each State shall submit to the Administrator a plan establishing emission limitations and compliance schedules for emissions of nitrogen oxides from fossil fuel fired steam generating units. Such State plan may include any emissions limitations and compliance schedules, applicable to such steam generating units within the State, which the State deems appropriate and which are adequate to ensure that, by January 1, 1997, the aggregate annual reductions in emissions of nitrogen oxides from the total of such sources located in the State will be at least equal to the total statewide emission reduction identified by the Administration under paragraph (1) of this subsection.

"ACCELERATED RESEARCH PROGRAMS

"SEC. 184. (a) An accelerated research program to examine the pattern of effects of atmospheric loading of pollutants such as sulfur oxides and nitrogen oxides shall be implemented by the Acid Precipitation Task Force (established under section 703 of the Acid Precipitation Act of 1980), under the direction of the Administrator of the National Oceanic and Atmospheric Administration. Results of such research program shall be made freely available to the States. Such research program shall include but shall not be limited to—

"(1) high terrain modeling;

"(2) research on the health effects resulting from emissions of sulfur dioxide and nitrogen oxides;

"(3) regional tracer studies to identify source receptor relationships in the continental United States, Mexico, and Canada;

"(4) research on the impacts of emissions of sulfur dioxide and nitrogen oxides and their transformation products on visibility and air quality related values in the continental United States, with particular emphasis on such impacts as they affect national parks and high mountain areas of the western United States;

"(5) the identification of sulfate and nitrate sensitive geographic areas in the continental United States; and

"(6) the identification of the causes of aquatic, terrestrial, and materials air pollution damage in the United States, including an examination of the relative role of emissions of sulfur dioxide, nitrogen oxides, hydrocarbons, and their transformation products, individually and in combination, and the role of natural stress factors and other potential causes of such damage.

"(b) The Administrator shall conduct a study of air pollution problems associated with the long-range transport of pollutants in the portions of the continental United States not within the region. The study shall give particular attention to examining, within such portions, the possibility of damage from acid deposition to health and the environment in high mountain areas in the western United States, and to national parks, wilderness areas, and national monuments. The study shall determine the causes and consequences of such potential or actual damage, and make recommendations as to means to prevent or control such damage. Each Federal agency responsible for administering Federal lands is directed to make available to the Administrator, at his or her request, such personnel, resources, and equipment as are necessary to collect the data required by the Administrator concerning the natural and cultural resources of these areas which will allow the Administrator to form an adequate scientific basis for estimating the effects of long distance pollutant transport, particularly that of acid precursors, on these areas. To the extent possible, the Administrator shall design and implement this study to complement the research program authorized in subsection (a).

"(c) The accelerated research program shall expand on the research being conducted pursuant to sections 701 through 706, section 711, and section 712 of the Acid Precipitation Act of 1980 (Public Law 96–294). The authorization for appropriations for the accelerated research program under subsection (d) is intended to supplement and not to replace funds authorized and appropriated pursuant to such Act and subsequent laws.

"(d) To implement the accelerated research program, there are authorized to be appropriated not in excess of $25,000,000 for each fiscal year beginning after September 30, 1986, and ending before October 1, 1990. The Administrator of the National Oceanic and Atmospheric Administration shall submit to Congress a comprehensive report on the accelerated research program by no later than January 1, 1990.

"(e) The accelerated research program shall be completed no later than January 1, 1990.

"(f)(1) An intensive evaluation of the results of the accelerated research program required under this section, and to the extent practicable, an evaluation of the effects of the reductions in emissions under the first phase of the program under section 183(b), shall be conducted by the Administrator during a period beginning no later than January 1, 1990, and ending no later than July 1, 1991.

"(2) To carry out the evaluations required under paragraph (1) of this subsection, there are authorized to be appropriated $1,000,000 for each of the fiscal years begin-

ning after September 30, 1989, and ending before October 1, 1991.

"REVIEW OF PHASE II REQUIREMENTS

"SEC. 185. (a) Taking into consideration the research conducted under section 184, other available research, and the evaluation conducted pursuant to section 184(f), the Administrator may recommend to Congress no later than July 1, 1991, that changes should be made in the phase II sulfur dioxide requirements and the nitrogen oxide requirements of section 183 of this part.

"(b) Pursuant to subsection (a), the Administrator is authorized to recommend changes in phase II of the program only in the following respects on the basis of findings made pursuant to subsection (c):

"(1) Requiring States which were not included in the region in the first phase of the program to comply with the phase II sulfur dioxide emission reduction requirements of section 183(c).

"(2) Exempting States in the region from the phase II sulfur dioxide requirements of section 183(c).

"(3) Increasing the individual State annual average sulfur dioxide emission rate required for States in the region, or the individual State maximum aggregate emission ceiling required, if applicable.

"(4) Decreasing the individual State annual average sulfur dioxide emission rate required for States in the region, or the individual State maximum aggregate emission ceiling required, if applicable.

"(5) Requiring States which are not in the region to comply with the nitrogen oxide emission reduction requirement of section 183(d).

"(6) Exempting States which are in the region from complying with the nitrogen oxide emission reduction requirement of section 183(d).

"(7) Increasing the individual State annual nitrogen oxide emission reduction requirement of section 183(d) for States in the region.

"(8) Decreasing the individual State annual nitrogen oxide reduction requirement of section 183(d) for States in the region.

"(c)(1) The Administrator shall not recommend to the Congress that a State in the region be exempt, pursuant to subsection (b)(2), from the requirements of section 183(c) or that an individual State's required annual emission rate of sulfur dioxide or required maximum aggregate emission ceiling of sulfur dioxide be increased in phase II of the program, pursuant to subsection (b)(3), unless the Administrator finds and reports to Congress that emissions of sulfur dioxide originating in that State are not causing damage, and are not reasonable anticipated to cause damage, to areas sensitive to sulfate deposition (including but not limited to aquatic and terrestrial resources) identified by the research program under section 184.

"(2) The Administrator shall not recommend to Congress that a State outside the region comply, pursuant to subsection (b)(1), with the requirements of section 183(c) or decrease an individual State's required annual average emission rate of sulfur dioxide or required maximum aggregate emission ceiling of sulfur dioxide, if applicable, in phase II of the program pursuant to subsection (b)(4), unless the Administrator finds and reports to Congress that emissions of sulfur dioxide are causing, or are reasonably anticipated to cause, damage to areas sensitive to sulfate deposition (including but not limited to aquatic and terrestrial resources) identified by the research program under section 184 which will not be adequately mitigated by full compliance with the annual average sulfur dioxide emission rates required under section 183.

"(3) The Administrator shall not recommend to Congress that States outside the region comply, pursuant to subsection (b)(5), with the requirements of section 183(d) or recommend an increase in an individual State's nitrogen oxide emission reduction requirement pursuant to subsection (b)(7), unless the Administrator finds and reports to Congress that emissions of nitrogen oxide originating in that State are causing, or are reasonably anticipated to cause, damage to areas sensitive to nitrate deposition or ozone identified by the research program under section 184 which will not be adequately mitigated by full compliance with the annual average nitrogen oxide emission reductions required under section 183(d).

"(4) The Administrator shall not recommend to Congress to exempt a State in the region, pursuant to subsection (b)(6), from the requirements of section 183(d) or to decrease an individual State's annual nitrogen oxide emission reduction requirement, pursuant to subsection (b)(7), unless the Administrator finds and reports to Congress that emissions of nitrogen oxide originating in that State are not causing damage, and are not reasonably anticipated to cause damage, to areas sensitive to nitrate deposition or ozone (including but not limited to aquatic and terrestrial resources) identified by the research program under section 184.

"(d) The recommendations of the Administrator for changes in the requirements of sections 183 (c) and (d), made pursuant to subsection (a) of this section, shall not take effect unless the Congress enacts into law legislation before January 1, 1993, providing that such recommendations shall take effect.

"GENERAL PROVISIONS APPLICABLE TO STATE PLANS

"SEC. 186. (a) The Governors of any two or more States within the region may by agreement reallot among agreeing States the reductions required under section 183 if the total aggregate tonnage emissions reduction equals the total that would otherwise be achieved under section 183.

"(b) Revisions to measures to achieve the emission reductions required by this part may be submitted to the Administrator by the Governor of each State in the region at any time.

"(c) If the Congress enacts into law changes to phase II requirements, the Governor of each State shall submit revised measures to achieve emission reductions to the Administrator within 270 days following the date of the enactment into law of such changes, or by September 1, 1993, whichever first occurs; except that, if Congress, by law, increases a State's phase II sulfur dioxide average emission rate, decreases its aggregate sulfur dioxide emission ceiling (if applicable), or decreases its nitrogen oxide reduction requirement, the Governor of that State may elect not to submit revisions to measures submitted previously pursuant to section 183.

"(d) Review and approval of measures submitted under this part shall be as provided in section 110(a)(3). The Administrator shall approve within four months measures submitted by the Governor of a State under sections 183 and 186 if, taking into consideration the comments of Governors of other States in such region, the Administrator finds that such measures—

"(1) contain enforceable requirements for continuous emission reduction, or alternate measures permitted under section 187;

"(2) contain requirements for monitoring by the source and enforcement agencies, including but not limited to, the installation of continuous emission monitors by all fossil fuel-fired electric utility steam generating units, to assure that the emission limitations are being met;

"(3) are adequate to achieve the sulfur dioxide emissions rate and nitrogen oxide emissions reduction required by this part within the time period specified by section 183; and

"(4) contain requirements for the establishment of an actual State sulfur dioxide and nitrogen oxide emissions baseline and a baseline capacity factor for each electric steam generating unit in the State.

"(e)(1) The enforceable measures adopted under this section shall include schedules for compliance which specify actions to be performed leading toward final compliance and increments of progress to be achieved by dates in advance of the dates by which the State requires each particular source to comply with the emission limitation necessary to attain the reductions in each phase for such State under section 183. The State in adopting such measures and the Administrator in reviewing such measures shall stage or phase such compliance dates so that to the maximum extent practicable the largest amount of emissions reductions occurs in the early years of each phase.

"(f) Each emission limitation in effect under this part and each requirement of a State plan approved or promulgated by the Administrator under this part shall be treated for purposes of sections 113, 114, 116, 120, and 304 as a requirement of an applicable implementation plan.

"(g)(1) The Administrator may commence a civil action for permanent or temporary injunction, or may assess a civil penalty of not more than $10,000 per day of violation, or both, on any person who violates any requirement of a State plan, regulation, or measure promulgated under this part. Such civil penalty shall be assessed by the Administrator by an order made on the record after opportunity for a hearing. In connection with any proceeding under this section the presiding officer may issue subpoenas for the attendance and testimony of witnesses and the production of papers, books, documents, and records.

"(2) In determining the amount of a civil penalty, the Administrator shall take into account the gravity of the violation, the size of the violator's business, the violator's history of compliance, action taken to remedy the violation, and the effect of the penalty on the violator's ability to continue in business.

"MAJOR STATIONARY SOURCE SULFUR DIOXIDE REDUCTION REQUIREMENTS

"SEC. 187. (a) In any State in the region which has not in accordance with section 183 adopted measures to achieve the reduction required by such section within 30 months after the date of the enactment of this part or which has not had such measures approved by the Administrator under section 186(d) within 42 months after the date of the enactment of this part, each fossil-fuel fired steam generating unit which is a major stationary source which is not subject to section 111(a) shall comply with an emission limitation of 2.0 pounds of sulfur dioxide per million Btu of heat input on an annual average by January 1, 1992,

and an emission limitation of 1.2 pounds of sulfur dioxide per million Btu of heat input on an annual average by January 1, 1997.

"(b) The owner or operator of each such facility shall submit to the Administrator a plan and schedule of compliance for achieving such emission limitation or equivalent emission reduction in accordance with section 187, not later than three years after the date of the enactment of this part or six months after the date on which such owner or operator becomes subject to such emission limitation, whichever is later. The Administrator shall approve such plan and schedule for compliance if it—

"(1) contains enforceable requirements for continuous emission reduction or alternate measures permitted under section 186;

"(2) contains requirements for monitoring by the source and enforcement agencies, including but not limited to the installation of continuous emission monitors by all fossil fuel fired electric utility steam generating units, to assure that the emission limitations are being met;

"(3) is adequate to achieve the sulfur dioxide emissions rate and nitrogen oxide emissions reduction required by this part within the time period specified by section 183; and

"(4) provides for the establishment of an actual sulfur dioxide and nitrogen oxide emissions baseline for each such source and a baseline capacity factor for each electric steam generating unit owned or operated by said owner or operator.

"(c) Failure of such owner or operator to submit such approvable plan and schedule within the time provided in this section, failure to comply with the plan and schedule of compliance, or failure to achieve the emission limitations required by this section at the earliest practicable date, but no later than March 1, 1995, shall be violations of emission limitations for the purposes of sections 113, 120, and 304.

"ALTERNATIVE PROGRAMS FOR ENFORCEABLE EMISSION REDUCTIONS

"SEC. 188. For the purposes of maintaining the limitation on emissions required by section 183, or attaining emission reductions required by section 183, 186, or 187, the following methods or programs for net emission reduction may be used, in addition to enforceable continuous emission reduction measures by a State or the owner or operator of a source, if emission limitations under such methods or programs, are enforceable by the Federal Government, States other than those in which the emissions occur, and citizens under section 304—

"(1) least emissions dispatch to meet electric generating demand at existing generating facilities;

"(2) retirement of major stationary sources at an earlier date than provided in schedules on file with the Federal Energy Regulatory Commission, the Internal Revenue Service, or State utility regulatory agencies;

"(3) investments in the conservation of electricity, which are likely to contribute to reductions in emissions;

"(4) precombustion cleaning of fuels;

"(5) fuel substitution; and

"(6) trading of emission reduction requirements and actual reductions on a State or regional basis, where the total aggregate tonnage emissions reduction is no less than the total that would be achieved under section 183 absent such trading. Trading of reduction requirements and of actual reductions shall be limited to situations where actual reductions of emissions occur as a result of fuel substitution, enforceable continuous emission reduction techniques, precombustion cleaning of fuels, or plant retirement. The States and the Administrator are authorized to establish emission reduction banks or brokerage institutions to facilitate such trading, and shall consider emissions and capacity factor baselines established under section 186(d)(4) of this Act as well as the actual monitored emissions and capacity factors achieved by sources when implementing such trading.".

SMELTERS

SEC. 3. Section 119(c)(2) of the Clean Air Act is amended by adding the following at the end thereof: "Each primary nonferrous smelter which has applied for, or been granted, a second order under this section with respect to an emission limitation or standard for sulfur oxides under the applicable implementation plan shall be in compliance with such limitation or standard by January 2, 1988. No order under section 113 and no action under any authority contained in this Act or in any other provision of law (including any State implementation plan) and no order of any court shall permit any extension or delay of the effective date of such compliance beyond January 2, 1988. Within 180 days after the date of the enactment of this sentence, the Administrator shall complete action on all applications for an order under this section which are pending on such date. Within 60 days after the date of the enactment of this sentence, the Administrator shall amend each order in effect on such date under this section to require final compliance by the primary nonferrous smelter before January 2, 1988, with the emission limitations and standards for sulfur oxides under the applicable implementation plan.".

INTERNATIONAL COOPERATION

SEC. 4. (a) The Congress expresses its concern and sense of urgency regarding the ongoing and prospective environmental impacts of transboundary air pollution between the United States and Mexico, particularly from existing and future point sources of sulfur dioxide in both countries. The Congress finds that the progress of the United States in negotiating an Annex concerning transboundary air pollution to the August 4, 1983, United States-Mexico Border Environmental Agreement has been unsatisfactory and therefore directs the Secretary of State and the Administrator of the Environmental Protection Agency to, with all due dispatch, conclude with the Government of Mexico an Annex concerning transboundary air pollution to the 1983 Border Environmental Agreement. All feasible efforts shall be made to conclude a final version of said Annex as soon as possible and in no case later than 3 months after enactment of this section.

(b)(1) In negotiating the Annex referred to in subsection (a), the Secretary shall give special emphasis to ensuring that an agreement is concluded that will ensure that the Nacozari smelter in Mexico will meet pollution control standards that are at least as stringent as new source performance standards under the Clean Air Act (40 CFR Part 60, subpart p), preferably before startup of that smelter but in no case later than January 1, 1988.

(2) In negotiating such Annex the Secretary shall ensure that an agreement is concluded that will ensure that the Cananea smelter in Mexico will—

(A) at a minimum, achieve a level of pollution control for any increased emissions before any proposed expansion that is at least as stringent as new source performance standards under the Clean Air Act (40 CFR Part 60, subpart p); and

(B) if technically feasible, achieve that level of pollution control for the entire source before any expansion.

(3) In negotiating such Annex the Secretary shall ensure that an agreement is concluded for a mutually acceptable arrangement for monitoring, inspection, and enforcement of pollution control standards for copper smelters in both countries in the air quality control region (within 100 kilometers in each direction from the border) encompassing the copper smelters at Douglas, Arizona; Nacozari, Sonora; and Cananea, Sonora.

(4) In negotiating such Annex the Secretary shall promote a final version that in its other provisions is in no case less stringent in terms of absolute emissions and ambient air quality standards, and in the schedule for coming into force of such standards, than set out in the July 18, 1985, joint communique of the national coordinators of the 1983 Border Agreement.

(c) The Secretary of State and the Administrator of the Environmental Protection Agency shall submit a report to Congress no later than 6 months after enactment of this section, on their implementation of subsections (a) and (b) of this section.

(d) The Environmental Protection Agency shall perform atmospheric field experiments to determine the effects of emissions of sulfur dioxide from the Nacozari smelter in Mexico, before and after implementation of pollution controls, on concentrations of oxides of sulfur and deposition thereof in the States of Arizona, Colorado, Idaho, Montana, New Mexico, Utah, and Wyoming. The experiments shall place particular emphasis on the effects of the smelter, before and after implementation of pollution controls, on acid rain and visibility in the above-mentioned States.

(e) The Secretary of State, in consultation with the Administrator of the Environmental Protection Agency, shall establish a duly constituted international agency, or make use of an already constituted international agency to prepare and report on the effects of transboundary air pollution originating from copper smelters on public health and welfare in the United States and in Mexico. The study and report shall address, to the extent available data permit, the magnitude and effects of transborder pollution by sulfur dioxide, including pollution expected from further industrial expansion. The report shall make a finding as to whether such transborder pollution by sulfur dioxide originating from copper smelters may reasonably be expected to endanger public health and welfare in the territories of the United States and in Mexico and shall make recommendations for prevention or elimination of such endangerments as may be documented in the report.

Mr. D'AMATO. Mr. President, I rise today in support of the new acid rain control bill being introduced by my colleague from Wisconsin, Senator PROXMIRE, and by my colleague from New Hampshire, Senator HUMPHREY. I commend these two distinguished gentleman for their leadership on this urgent issue.

As a supporter of other legislation to address the acid rain problem, I want to reiterate my willingness to back any

reasonable proposal to address this problem.

I consider the Proxmire-Humphrey acid rain bill to be a major step toward a realistic solution. Without effective controls, we will continue to see costly destruction of our irreplaceable resources.

This bill is similar to the approach proposed by Congressman WAXMAN in the House of Representatives. As we all know, Congressman WAXMAN's bill has received widespread support from House Members as well as from the environmental community.

Our goal is to reduce the potential adverse effects caused by ambient concentrations of sulfur dioxide and nitrogen oxide, including the products of atmospheric transformation of pollutants.

Under the Proxmire-Humphrey bill, these goals will be achieved in a manner which permits State flexibility in conjunction with Federal oversight; cost-effective emission-reduction techniques; and specified acid-deposition impact regions. The bill offers a practical, two-phased transition of energy-producing facilities rather than an immediate cessation.

Instead of placing sulfur dioxide emission restrictions on each plant regardless of size, this new proposal provides for a more flexible aggregate emission standard. Such latitude would result in the same emission output, but would provide a reasonable method of achieving the necessary reduction.

I am pleased that this proposal also recognizes the need for a truly federalist approach by allowing for full interstate and intrastate trading between utility and nonutility stationary sources. It also permits the States free choice to implement individual emission reduction strategies. In both instances, the same aggregate reduction would be achieved, but in a more reasonable manner.

This new Proxmire-Humphrey acid rain control bill includes stiff fines and, for the first time, calls for the installation of continuous emissions monitors on smokestacks.

The pragmatic theme of this bill is ultimately revealed in its cost evaluations. In a comparison of annual costs of acid rain control bills, the new Proxmire-Humphrey acid rain control bill will amount to less than half of previous versions, and only cost about a third as much in 20 years.

Mr. President, I cosponsor this proposal because it is reasonable and fair. I believe it has a real chance of attracting the coalition necessary for passage, and I think this is something we have to be realistic about. The acid rain problem is too important for us to clash on egos or pride of authorship. We need to reduce the emissions responsible for the problem, and we need to do it now.

Behind these numbers and provisions is the more tangible proof of our deteriorating ecosystem. Those trees damaged thus far by acid rain will not bloom, nor will the affected lakes bear the life which so enhances the quality of living in New York State and elsewhere. We must act immediately and effectively. The Proxmire-Humphrey acid rain control bill has my support. I continue to stand ready to support any reasonable compromise to reduce these emissions effectively and expeditiously.

Mr. BURDICK. Mr. President, for years, many in this body have been frustrated by the continued inaction on the part of the Federal Government with regard to the problem of acid rain. Others have maintained that further research is necessary to ensure the enactment of effective legislation regarding this matter. I believe acid rain is causing serious environmental damage in North America, and that the United States, Canada, and Mexico each must do their fair share in controlling acid rain throughout the continent.

Unfortunately, this bill does not cover the major concern of my State. While it is expected that Canada and Mexico will take appropriate action to reduce emissions, they should also recognize extra costs of producing electricity in achieving this goal.

I am pleased to join my distinguished colleagues, Senators PROXMIRE and HUMPHREY, in introducing new acid rain legislation that may be the delicate compromise which breaks the congressional deadlock which has prevented the passage of acid rain control legislation in this country. This bill offers the most viable and cost-effective plan offered to date accompanied by a valuable research program.

The bill is divided into two phases of 6 and 5 years respectively with a research program to be conducted with the first phase to evaluate the requirements of the next. The plan involves the 31-State region east of the Mississippi River, and sets the emissions reductions for stationary sources at an annual statewide average rate of 2.0 lbs per MMBtu in the first phase, and 1.2 lbs per MMBtu in the second phase. In order to achieve the required emissions standards, States will be free to choose their own reduction strategies.

By covering only those States east of the Mississippi, western States, like North Dakota, which have already spent hundreds of millions of dollars for clean air controls, will be able to continue their operations without further costs. Since these States will be required to reduce their SO_2 emissions by 1–3 percent, it is unfair to ask them to bear a greater burden.

In addition, by dividing the reductions into two phases, utilities and other pollutors can use cheaper controls such as coal washing and fuel switching during the first phase while preparing for perhaps more expensive controls in the second. This flexible approach is the key to this new legislation.

This bill also offers an effective plan to ensure the reduction of nitrogen oxides form stationary sources, believed to play a serious role in the formation of acid rain. In addition, the bill requires continued compliance monitoring on all coal-fired powerplants, and establishes an intensive research program to study the health effects of SO_2 and NO_x emissions and to develop innovative clean coal technologies.

This is sound acid rain control legislation. While other bills provide no alternative to the implementation of expensive stack scrubbers, this legislation stimulates the development of new cheaper technologies.

We must act now to prevent further damage of our natural environment caused by acid rain, but at the same time we must enact the most cost-effective and flexible approach available. This legislation is an innovative approach which deserves the support of the Senate.

Mr. HUMPHREY. Mr. President, I am pleased to join Senator PROXMIRE and others in introducing an amended version of our acid rain control bill, originally introduced at the beginning of the 99th Congress. I believe that this bill is an improvement over our original legislation and, as such, an effective vehicle to reduce and control acidic deposition.

Little progress has been made on acid rain control legislation within the last two Congresses. However, recent action in the House of Representatives offers us some encouragement. The House is currently marking up H.R. 4567, a bill which is enjoying widespread bipartisan support. The Proxmire-Humphrey bill, based on recommendations made by the National Governors Association, has been amended to conform to the House bill and to capitalize on past experience and new developments to reach a feasible, cost-effective solution to this critical environmental problem.

The bill takes a two-phase approach to acid rain control and mandates new standards for an acid rain impact region consisting of 31 States. By January 1, 1992, annual Statewide average rate of emissions for sulfur dioxide shall not exceed 2.0 pounds per million Btu of heat input. By January 1, 1997, annual statewide average rate of emissions for sulfur dioxide shall not exceed 1.2 pounds per million Btu of heat input. These emissions standards translate into a yearly emissions reduction of approximately 10 million tons of sulfur dioxide. In addition, all sources of nitrogen oxide must meet

the new source performance standard annual emission rate of 0.6 pounds of nitrogen oxides per million Btu's of heat input by January 1, 1997. Most plants can meet this standard by using low nitrogen oxide burners.

The new Proxmire-Humphrey bills would accelerate and refocus acid rain research and allow for an alteration of the provisions laid out in this bill if, at the conclusion of the first phase, new research leads to this determination. After taking into consideration the research conducted under the bill and other available research, the Administrator of the Environment Protection Agency may recommend to Congress that changes be made in the emissions requirements for sulfur dioxide and nitrogen oxide. the Administrator's recommendations must be made by July 1, 1991, and will not take effect unless the Congress enacts legislation to impose the recommended changes by January 1, 1983.

The bill would require that all fossil fuel-fired plants install continuous emissions monitors on stacks. This provision is vital for an accurate reading of emission baselines, chemical composition and emission reduction rates.

Automobiles and other mobile sources of air pollutants contribute significantly to the percentage of nitrogen oxide and other chemicals in our air. The mobile source emissions provision contained in our bill is a good first step toward combating the problems caused by the emission of excessive amounts of nitrogen oxide. I believe that mobile source controls should be further examined and considered to be an important part of any acid rain control program.

The relative flexibility incorporated into the bill being introduced today is one of its great strengths. While establishing firm goals for emissions reduction, the bill allows for a reduction strategy that is cost effective. Our bill would allow both inter- and intra-state trading and would not mandate the use of a specific emissions reduction technology. This means that States may develop the most cost-effective method for dealing with the problems and circumstances which are unique to their State or area. The flexibility allowed within this bill will significantly decrease the cost of emission reductions. Other acid rain control bills with more stringent and inflexible standards will probably lead to excessive use of scrubbers and exorbitant cost increases.

It is a well-documented fact that acid rain is killing our lakes and rivers. The 1986 report by the National Research Council, "Acid Deposition: Long-Term Trends," concludes that "there is a cause-and-effect relationship between SO_2 emissions and stream sulfate fluxes." The report documents a causal link between sulfur dioxide emissions levels and reduced visibility and also states that, "The data that are available indicate that fish populations decline concurrently with acidification." Scientists testifying before the Environment and Public Works Committee stated that acid deposition is eroding our buildings, our monuments, and other manmade materials. Furthermore, scientists have linked an increase in acidic deposition with epidemiological effects and forest growth decline. The red spruce and other trees throughout the forests of the world are dying at an alarming and an increasing rate. The forests of the Appalachian Mountains are riddled with dead and damaged trees. In West Germany, it has been determined that this forest dieback or "waldsterben" is affecting up to 50 percent of the trees.

I have no doubt that we must enact Federal legislation to reduce acid deposition. I am committed to that objective. Scientists have testified that "a causal relationship does link sulfur emissions produced by burning fossil fuels with the formation of acid rain." My assessment of the current state of science, technology and the environment leads me to wholeheartedly endorse the Proxmire-Humphrey bill as a positive and necessary step toward the control of the threat posed by acid rain.

Problems related to acidic deposition are not just national, but international. For this reason, I would encourage international cooperation and a 50-State Emissions Reduction Program. Several of the other acid rain bills which have been introduced this Congress set emission reduction standards for the entire United States. I believe that a national program will ultimately be necessary to ensure adequate acid rain control.

In conclusion, I appreciate the opportunity to work with Senator PROXMIRE and others on this legislation which is so critical to the health of our environment. I urge my colleagues to join this effort to reduce the effects of acid rain and to preserve our natural resources. I am hopeful that this bill will elicit support of the same magnitude and enthusiasm which similar legislation has received in the House. I am encouraged by the recent movement on this issue and look forward to working with the other members of the Environment and Public Works Committee on marking up an effective and feasible acid rain control bill.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

A SENSE OF FAIRNESS

Mr. HARKIN. Mr. President, we all know that the Nation is reeling from huge budget deficits and we also know that the farm crisis worsens every day. Farmers are going bankrupt, being driven out of business. Our rural communities are drying up; our small businesses and our small towns are closing their doors. In my own State of Iowa we have lost an estimated 50,000 people in the last 4 or 5 years, almost 17,000 from our farms. And yet at a time when this is happening, when we have these huge budget deficits and we have farmers going broke, we see also something very odd happening—millions of taxpayers' dollars going to the largest farm corporations in America, one large cotton farm in the State of California getting almost $20 million in Farm Program payments.

This is unconscionable, Mr. President, and it is time that it come to a halt. Where is our sense of fairness? While our small farmers are going bankrupt, the Farmers Home Administration employs a cut-throat collection agency to go after the families that have been foreclosed on, that have lost everything, their farms, their homes, everything. Farmers Home hires a collection agency to hound them to try to get the last drop of blood out of the turnip, so to speak. Where is our sense of fairness and outrage that this would happen?

Mr. President, yesterday, I offered an amendment in the Appropriations Committee to try to put a halt to this. I had two surprises. First of all, that I offered the amendment yesterday which would have put a $500,000 limit on all Government payments and loans to any farmer in the United States. I never thought I would offer an amendment that would have an amount that high. But a lot of people said, well, you could not have it any lower than that. So I offered it with a $500,000 limit.

The second surprise I had is I never thought it would be defeated, but it was. The majority voted to say no, we could not limit these payments to $500,000.

I am sure we are going to hear all kinds of excuses about why we cannot, but I think the time has come to say for once and for all that we are going to limit these payments to these huge farmers. No more $20 million payments to large cotton farmers; that we are going to put a limit on it.

□ 1040

So it is this Senator's intention that when this legislation reaches the floor of the Senate, I will offer this amendment again and let the full Senate speak as to whether or not we really want to gear our programs to the smaller, family farms or whether or not we want to continue to give these huge payments to these large farm corporations.

In essence it is a vote on fairness and equity as to whether we are going to use the scarce resources we have to support those family farmers out there who are on the brink, ready to go under, ready to leave their farms or whether we are going to have these huge payments of $20 million to one cotton farmer in California. I believe that the Senate will vote to make this more fair and to make sure that we gear our programs to the smaller, family farms.

With this budget deficit, with the farm crisis, I believe it is the least we can do. I believe it will be a great step forward for harboring the scarce resources we have and sending a message to the farm families of America that indeed this Government is on the side of the family farmer and not just on the side of the large corporate farmers in this country.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF SENATOR LEVIN

The ACTING PRESIDENT pro tempore. The Senator from Michigan [Mr. LEVIN] is recognized, under a previous order, for not to exceed 5 minutes.

Mr. LEVIN. I thank the Chair.

THE TAX REFORM BILL

Mr. LEVIN. Mr. President, the past 2 weeks have provided us with some interesting and disturbing insights into the potential consequences of the tax reform bill which the Senate will consider later this month. I would like to focus on these events and consequences as the basis for my fifth in a series of speeches on the tax reform bill.

First, there has been the discussion by both Chairman ROSTENKOWSKI of the House Ways and Means Committee and Chairman PACKWOOD of the Senate Finance Committee about the need for and the methods of raising revenues to reduce the budget deficit after the tax reform bill has been passed. Chairman ROSTENKOWSKI has ruled out a national sales tax or consumption tax and suggested perhaps increasing the new income tax rates. Chairman PACKWOOD has agreed that a consumption tax is not going any place, but also has ruled out an increase in the income tax rates any time soon. Both agreed that the deficit should be reduced.

Implicit in Chairman ROSTENKOWSKI's remarks is a suggestion that increased revenues are going to be needed to reduce the budget deficit. Implicit in both his and Chairman PACKWOOD's statements is a preview of the stalemate that is likely to develop in any attempt to raise revenues: consumption taxes are not on the table and there is disagreement over whether to consider raising income taxes.

But there is a way out of this dilemma. We can have tax reform. We can avoid increased consumption taxes, which would disproportionately affect middle- and low-income people. We do not have to increase tax rates. And, we can reduce the deficit. It requires only one thing. And it is really quite simple. All we have to do is to defeat the pending tax reform bill.

Once the pending tax reform bill is defeated, the revenues generated by a new and different tax reform bill—a bill which would have as its cornerstone a strengthened minimum tax on profitable corporations and wealthy individuals and which would close some tax loopholes—that new tax reform bill would provide the additional revenues necessary as part of a comprehensive and credible deficit reduction package.

Such a bill would get at, and respond to, what an aide to Chairman ROSTENKOWSKI has called "the fire in the belly behind this issue"—that is, the anger our people feel because some wealthy individuals and tens of thousands of profitable corporations have paid nothing in taxes.

But such a bill would not do other things:

It would not increase income taxes on middle- and low-income people and would not increase the sales taxes on the items which people, including middle- and low-income individuals, buy.

It would not increase taxes on a broad range of businesses, thereby minimizing the potential for the passing on of higher business taxes in the form of higher prices.

It would not raise income tax rates—from 28 percent to 29 percent, for example—thereby avoiding the prospect of making middle- and low-income taxpayers who lose under the current tax reform bill into bigger losers and avoiding the prospect of transforming modest winners into losers.

At the same time, the new tax reform legislation would produce enough revenue for comprehensive and credible deficit reduction.

However, once the Congress has approved of the pending conference report on the tax reform bill, the revenues from a strengthened minimum tax and from loophole closing will already have been soaked up to pay for the uneven tax cuts in this bill. Then, we will have to face the prospects of increased consumption taxes, or increased income tax rates, or unacceptable spending cuts, or inadequate deficit reduction.

These are all unpleasant choices. But they are unpleasant choices of our own making if we approve this tax reform bill.

Second, there was a debate on Wednesday during consideration of the Labor-HHS appropriation bill on whether we should cut funding for research programs on Alzheimer's disease and other dread diseases in order to adequately fund a program for math and science education. There was agreement on the great need for both programs. The tragedy of Alzheimer's disease is well known and greatly feared. The need to regain our competitive edge as a nation through greater math and science education also is well recognized. But there isn't the money to adequately fund both of them.

This is the kind of choice that we will face over and over again, this year and in future years, if we are to remain true to our deficit reduction goals but not rely on any additional revenues to share the burden of deficit reduction. And, again, once the revenues from loophole closing and from a minimum tax on profitable corporations and wealthy individuals have been soaked up to pay for uneven tax cuts in the quest for a revenue-neutral tax reform bill, then any new revenues will have to come from taxes which will particularly affect middle- and low-income individuals. The Congress thus will have engaged only in an elaborate charade of lowering taxes for some people on one day with one hand and of raising them the next day with a heavier hand. Do we really think that when the American public becomes aware of this that they will bestow accolades on us? Is it not more likely that once our constituents see the full picture of what we have done and of how it will affect their lives, they will not say "Thank you," but rather, "Say it ain't so—say it ain't so"?

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, as in legislative session, there will now be a period for the transaction of routine morning business, not to extend

beyond 11 a.m., with statements therein limited to 5 minutes each.

IT'S TIME TO PASS FIFRA

Mr. DIXON. Mr. President, I rise today as a member of the Senate Agriculture Committee, who has worked for many hours, and was the sponsor of several amendments, to ensure that the Federal Insecticide, Fungicide, and Rodenticide Act [FIFRA] would protect the consumer, while preserving the interests of agriculture and small business.

The Agriculture Committee reported out S. 2792 before the August recess. However, it is my understanding that it has not yet been scheduled for consideration on the Senate floor.

I have written to both the majority and minority leaders to urge that this legislation receive our expeditious consideration before the Senate is scheduled to recess in October.

The reauthorization of FIFRA is important to the State of Illinois and to the entire Nation. It is vital that this legislation come before the Senate at the earliest possible time.

At this point, I ask unanimous consent that the September 4, 1986, editorial, "Don't Zap Pesticide Bills," which appeared in the Chicago Sun-Times, be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

DON'T ZAP PESTICIDE BILLS

A few months ago we rejoiced at the landmark agreement struck between environmentalists and pesticde manufacturers for a tougher, more comprehensive law regulating pesticides.

But the agreement, embodied in bills awaiting approval by the House and Senate, now stands in danger of itself being fumigated by narrow interests.

The bills were the result of 18 months of careful and difficult negotiations between 40 environmental, consumer and labor groups, called the Campaign for Pesticide Reform, and the pesticide industry represented by the 92-member National Agricultural Chemical Association. Crafted with the assistance of the American Farm Bureau Federation, the legislation would give the public additional protection from potentially health-damaging chemicals by tightening procedures and requirements for testing, registering and labeling pesticides, by imposing better restrictions on pesticide use and by establishing standards for removing pesticides from the market if new evidence indicates they pose a health hazard.

Legislation embodying the agreement has been endorsed by both the Senate and House agriculture committees. However, lawmakers have only a few more weeks to approve the bills when they return to work next week. Failure to act in those few weeks will unravel the agreement and require all sides to start from scratch next year.

But that could be the scenario. Lawmakers have much to do before the projected (and unlikely) Oct. 3 adjournment date, from tax reform to budget-setting.

Furthermore, several members of Congress are threatening to hang amendments on the legislation. One would prevent states from imposing product registration standards more stringent than the federal government's—an amendment we would oppose because of the special needs of some crop-producing states. The manufacturers generally support the environmentalists in their strong opposition to this amendment. Another possible amendment centers on a complicated issue involving compensation owed to a pesticide's inventor.

The pesticide agreement is much too important to die, because of almost-certain floor fights over these special-interest amendments. The legislation should be approved by Congress without amendment and signed into law by President Reagan as soon as possible.

□ 1100

OLD DEFENDERS' DAY AND THE BICENTENNIAL OF THE ANNAPOLIS CONVENTION

Mr. MATHIAS. Mr. President, it is the law in Maryland to observe September 12 as Old Defenders Day. For it was on this day in 1814 that the British Army was repulsed at the Battle of North Point near Baltimore City.

Events had not been going too well for the Americans in this second war of independence. Only weeks before, British forces had captured Washington, burned the Capitol and White House, and sent President James Madison scurrying to safety. American troops were defeated at the Battle of Bladensburg just several miles northeast of the Capitol. So it was with a great deal of justified concern that the citizens of Baltimore watched the advancing troops.

The British had planned to take Baltimore by a land and sea operation. On September 12, 4,000 British troops landed at North Point where they were met by 3,200 militiamen from Baltimore. The British commander, General Ross, was killed that day and American opposition was so stiff that the attack was not pressed.

The following day the battle for Fort McHenry began and on the 14th Marylander Francis Scott Key wrote the words to the "Star Spangled Banner." The British, having been defeated on land and at sea, withdrew and the battle for Baltimore was over.

This year Old Defenders' Day coincides with another historical occasion. Two hundred years ago on September 11, 1786, a hearty band of 12 patriots from five States gathered in Annapolis, MD. Their names, Hamilton and Madison, Randolph and Dickinson, are a rollcall of American history. Exasperated by rampant bickering over interstate trade and fishing and navigation rights, they convened to search for solutions to their differences. However, hindered by problems too big and attendance too small, the delegates adjourned 3 days later, with squabbles remaining and nothing resolved.

Well, they did agree on something. The Annapolis Convention, as it came to be known, recognized that the young Nation's troubles were rooted in the system it had constructed to govern itself, and they agreed that, for the United States to survive, fundamental changes had to be made in that system. So the delegates sent out a call to all 13 States, asking that each send representatives to Philadelphia in May 1787 to discuss weaknesses in the Articles of Confederation—and to do something about them. The defects of those loosely-binding articles, wrote the delegates in their report, "merit a deliberate and candid discussion * * * which will unite the sentiments and councils of all the States." As we know, the convention in Philadelphia was a success. And so was born in Annapolis 200 years ago the process that produced the U.S. Constitution.

As activities in the Annapolis of 1786 launched the constitutional process, so do activities in the Annapolis of 1986 kick off with a flourish the 200th anniversary celebration of our Constitution. For the next several days, Annapolis will be a festive whirlwind of galas, workshops, lectures, and cultural events. The new Maryland State Archives Building officially opens today, featuring an exhibit on Maryland and the Constitution which will include an original copy of the Constitution as signed in April 1788, by the members of Maryland's ratifying commission. Tomorrow, the National Commission on the Bicentennial of the U.S. Constitution will open a 2-day meeting in Annapolis. The Commission's activities will include participating in the ribbon cutting for the Constitution Resource Room in the Maryland State House and the dedication of a plaque marking the site of Mann's Tavern, where the delegates met.

As the weekend continues, the Ballet Theatre of Annapolis will present the ballet, "Annapolis Yesteryear," and the State bicentennial commission will sponsor a number of performances of "A More Perfect Union," a play about the framing of our Constitution. Music and art programs are scheduled at the city dock, including a demonstration of "transparency" art, a popular 18th century medium in which a large painting on transparent material is illuminated by candles at night to create a tremendously vivid effect. Fort George G. Meade plans to participate in the celebration with a full military review and a performance by the Golden Knights parachute team. The festivities will conclude on Sunday with an 18th century fair on the St. John's College campus, featuring costumed craftspeople and artisans, and colonial food and games galore.

I hope my colleagues and their families and friends will have the chance to visit Annapolis in the next few days and join in this celebration. It is a special opportunity to reflect on the legacy of the Annapolis Convention and to revel in the spirit of our enduring Constitution.

Mr. President, I ask unanimous consent that an article by Leonard Rapport on the Annapolis Convention in this month's National Archives bulletin be printed in the RECORD at this time.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CLASSIC VOLUME ON CONSTITUTION REPRINTED BY NATIONAL ARCHIVES

Two hundred years ago this month there was a political meeting, the name of which is familiar to most Americans even though its significance is not. On September 11, 12, 13, and 14, 1786, 12 delegates met in what come to be known as the Annapolis Convention.

The Annapolis Convention was a way station on the historical road from the Revolution and the resultant Articles of Confederation to the convention that sat in Philadelphia in 1787 and produced the Constitution that replaced the Articles. Participants in these events wrote letters, kept diaries and notes and, in later years, reminisced; much of that documentation has survived. But not much more is known about what happened during the four days in the small capital of Maryland than what is contained in a single document, now in the National Archives. Even the meeting site in Annapolis is a matter of surmise.

The Articles of Confederation was a weak instrument. This was pleasing to some, displeasing to others. Increasingly displeasing to those wanting a stronger central government was the Congress's lack of authority to regulate commerce between the states and between the states and foreign nations. In January 1786, the Virginia legislature adopted a resolution appointing commissioners to "meet such Commissioners as may be appointed by the other States in the Union . . . to consider how far a uniform system in their commerical regulations may be necessary to their common interest and their permanent harmony; and to report to the several States such an act relative to this great object, as, when unanimously ratified by them, will enable the United States in Congress effectually to provide for the same." In February Governor Edmund Randolph sent the resolution to the other states with the proposal that the delegates meet that September in Annapolis.

Nine states appointed delegates. On September 11, with delegates from five states present, the convention was called to order. The delegates were, from New York, Alexander Hamilton and Egbert Benson; from New Jersey, Abraham Clark, William C. Houston, and James Schureman; from Pennsylvania, Tench Coxe; from Delaware, John Dickinson, George Read, and Richard Bassett; and from Virginia, Edmund Randolph, James Madison, and St. George Tucker.

On that first day the convention elected John Dickinson chairman, examined the credentials of the delegates, appointed a committee to prepare a report to the states, and adjourned until the 13th. On the 13th and 14th the commissioners considered the draft report and, after some amending, on the 14th unanimously adopted it.

The commissioners "did not conceive it advisable to proceed on the business of their mission, under the Circumstance of so partial and defective a representation." They proposed, rather, "the appointment of Commissioners, to meet at Philadelphia on the second Monday in May next, to take into consideration the situation of the United States, to devise such further provisions as shall appear to them necessary to render the constitution of the Federal Government adequate to the exigencies of the Union; and to report such an Act for that purpose to the United States in Congress Assembled, as when agreed to, by them, and afterwards confirmed by the Legislatures of every State will effectually provide for the same."

Copies of the report, signed only by John Dickinson as chairman, went to the Congress and to the executives of the 13 states. Apparently Dickinson retained the document, in the handwriting of Alexander Hamilton, that included the proceedings of the meeting and the report which all the delegates signed. He also retained the credentials of the delegates. In December 1803 Dickinson sent these documents to President Thomas Jefferson who added them to the Federal archives (which already included the copy of the report that Dickinson had sent to the Congress on September 14, 1786) The unique document that Dickinson sent 17 years after the event is now in the National Archives.

Though the delegates cut short their meeting because of the "partial and defective" representation, other delegations were at the time on their way to Annapolis. The Rhode Island delegation reached Philadelphia where they met the returning delegates from Annapolis. The Massachusetts delegation was even closer to Annapolis when they encountered the returning delegates. North Carolina delegate Hugh Williamson actually got to Annapolis but at some time after September 14th.

Once they received the report of the Annapolis Convention, some of the states did not wait for the Congress to act before selecting delegates for the May meeting in Philadelphia. On February 14, 1787, the Congress resolved "that on the second Monday in May next a convention of delegates who shall have been appointed by the several states be held at Philadelphia for the sole and express purpose of revising the Articles of Confederation and reporting to Congress and the several legislatures such alterations and provisions therein as shall when agreed to in Congress and confirmed by the states render the federal constitution adequate to the exigencies of government and the preservation of the Union."

After that all roads led to Philadelphia and the long hot summer of 1787.

(For a detailed discussion of the history and significance of the Annapolis Convention documents that Dickinson sent to Jefferson, see National Archives staff member Howard Wehmann's article, "The 'Lost' Records of the Annapolis Convention, 1786-1986" in the Spring 1986 issue of Manuscripts).—Leonard Rapport.

(Mr. Rapport recently completed a year's search for unpublished contemporary records of the Federal Convention of 1787. The project was funded by the National Endowment for the Humanities. The Yale University Press will publish these documents as an addendum to Max Farrand's Records of the Federal Convention of 1787. Mr. Rapport is a retired staff member of the National Archives.)

STUDY OF SALVADORAN DEPORTEES

Mr. SIMPSON. Mr. President, I cali to the attention of my colleagues a very important study that has recently been concluded which concerns pending legislation in the Senate Judiciary Committee (S. 377). This legislation would suspend the deportation of all Salvadorans who are presently in the United States in an illegal immigration status. The study is the most thorough and conclusive to date concerning Salvadorans who are returned—deported—to El Salvador, and it demonstrates that S. 377 is wholly and assuredly unnecessary—a most inappropriate and very misguided piece of legislation. Indeed, it is just that.

The Intergovernmental Committee on Migration [ICM] is a well-respected international refugee organization which has participated in many of the international refugee assistance efforts that the United States has been involved in over many years—including the resettlement of over 700,000 Indochinese refugees in the United States over the last 10 years. Representatives of this fine organization have been meeting Salvadoran deportees at the San Salvador Airport since December of 1984 and then assisting them in resettling in their native provinces. ICM has also been closely monitoring the security of those returned Salvadorans through mailed questionnaires and onsite visits to those persons who did not return a questionnaire.

From December 1, 1984 through December 31, 1985, ICM met 4,822 returnees at the San Salvador Airport and maintained or reestablished contact with 3,812 of these people—approximately 79 percent of the caseload. Of those people monitored, four deaths were recorded: two by natural causes, one in a bar fight over a disputed soccer game, and one in the process—as a participant—of an armed robbery. No deaths nor injuries were recorded due to the civil conflict in the country.

I believe that this is the most conclusive one of a series of very convincing reports that all Salvadorans in this country should not be able to enjoy the privileges of a blanket suspension of United States immigration laws. While some Salvadorans certainly do have legitimate fears of violence above and beyond that of the average Salvadoran national, these are special people who may apply for United States refugee status through our political asylum system. Charges that this system is slanted by the present administration are inaccurate and misleading, since any denied applicant may then appeal his denial to the independent Federal judiciary. In addition, the record of reversal of administrative asylum decisions at the Federal

court level is minimal—suggesting that charges of political favoritism in the political asylum process are not without a remarkable degree of political distortion themselves. The groups that are the most strident and raucus are simply those who just don't like Ronald Reagan worth a damn * * * or his policies in Central America. That is their real bitch. He galls them period.

An article in the Washington Post, September 9, 1986, page A9, noted that,

Although intended only as a progress report on the relief organization's effort to assist returned Salvadorans, the ICM report provides the most systematic and direct evidence to date of the fate of the returned refugee.

As one might expect, proponents of the Sanctuary Movement and of S. 377 have already begun to salivate and react and have criticized the findings, but I suggest that all Members read the study and decide quite for themselves whether the most comprehensive information found to date should be ignored. You will find the hard evidence here to refute one of the most hyped up and ill-advised pieces of legislation in this Congress. You just don't give special status to 500,000 to 600,000 people who would not be injured or harassed in any way if they were returned to their country. Recall that the second largest flow of illegal, undocumented persons to our country are from El Salvador. They come here to work. They flee poverty. But they are not refugees. They should not have special privileges.

Mr. President, I ask that the ICM report be made part of the record.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

ICM'S SALVADORAN RECEPTION AND COUNSELLING PROGRAM

On the basis of ICM's 34 years of experience in facilitating refugee resettlement, national migration, and repatriation all over the world on behalf of its member governments, ICM was requested by the governments of El Salvador and the U.S. to provide a reception and counselling service for Salvadorans returning to El Salvador.

ICM established in December 1984 reception facilities at the San Salvador airport and in its office in the city of San Salvador. Through these facilities, ICM also offers inland transportation, temporary accommodation and food for the first 2-3 days and limited material assistance as necessary. If individuals so wish, they are channeled to existing camps for displaced persons (run by church or government authorities), or they can travel to their homes or other destinations of their own choosing. If they express an interest in migrating to another country, ICM will refer them to the appropriate embassies.

After carrying out a thorough interview of the returnees in the ICM office to ascertain their needs and personal situation, ICM also gives them a series of questionnaires which they are asked to mail back to ICM over a four months' period, in order to report on their whereabouts and well-being and let ICM know if they face any specific problems where ICM may be of assistance. Subsequently, reminder letters are sent to those who do not return the questionnaire within the period indicated. All facilities offered and all communications with ICM are on a voluntary basis. Personal information supplied by the returnees is kept strictly confidential. According to needs in individual cases, the program includes cooperation with the competent medical authorities of El Salvador, voluntary agencies such as Project Hope, the local office of the International Committee of the Red Cross, and with other relevant Salvadoran authorities.

The ICM staff at the airport meet all flights arriving from the United States, as they are not previously informed on which flight returnees will arrive. Approximately 400 returnees are thus received by ICM each month. From 1 December 1984 to 31 December 1985, for example, ICM met 4,822 returnees at the airport, of whom 4,365 were offered the ICM assistance mentioned in the two previous paragraphs.

As regards the 4,822 persons who had returned between 1 December 1984 and 31 December 1985, ICM maintained or re-established contact with 3,812 returnees, i.e. 79 percent of the total caseload. These contacts were made in certain cases up to eight months after return. Thus, from the 4,822 returnees, 1,887 returned spontaneously the questionnaire they had received from ICM upon arrival, and 1,925 returnees were contacted in person, or through relatives, freinds and neighbors, in the course of three major surveys. These surveys were carried out, at the request of ICM, by a specialized polling agency which employed, on each occasion, over 40 interviewers and other specialists who travelled throughout the country for the purpose of tracing and interviewing the returnees or their relatives, whenever feasible. Of those who could not be located in this follow-up action, the large majority had given inaccurate or incomplete addresses during their first interview and were thus untraceable.

The contacts between ICM and the returnees after the return are entirely voluntary on the part of the returnee and the findings of the surveys and the questionnaire replies cannot therefore be considered as a scientific data base upon which to construct definitive analyses of situations of returnees after a given period of return. The information gained does, however, permit the recognition of general trends in the situation of those returnees who could be located.

Taking into consideration the limitations of the data collected, it is possible to make the following general observations on the situation of the returnees, through 31 December 1985:

During the first interviews at the ICM office the large majority of the returnees indicated as primary motives for their departure their poor economic situation in El Salvador and the wish to find employment abroad. This indication was confirmed through the survey and other follow-up action with the returnees.

Of the 4,822 returnees, 35 alleged that they had problems relating to their security in El Salvador. ICM referred 13 persons to the relevant embassies for consideration under their special humanitarian resettlement programs and ICM's on-going emigration program in El Salvador. Two of these cases have so far departed from El Salvador, seven are pending decision, and four were rejected by resettlement countries on the grounds that they were economic cases. Of those remaining, in nine cases it turned out that their problems were of an economic nature or had otherwise been solved, six had again left the country by their own means, one did not re-establish contact with ICM and in six other cases, which had been contacted through the third survey, ICM is endeavoring to locate the persons concerned and ascertain their specific needs.

Over the period from 1 December to 31 December 1985, it was reported to ICM that the death of four returnees had occurred, two from natural causes. The other two returnees had been killed, one in a dispute over a football game in a bar and the other in the process of robbing a store. In both the latter cases, specific investigations were made which corroborated these findings.

Two returnees were arrested upon arrival in San Salvador in connection with the Zona Rosa incident during which four US marines were killed. These two returnees were never interviewed by ICM.

Some 29 percent of those returnees located by ICM through relatives or friends had again left El Salvador for the United States or other countries. A number of returnees have gone through the ICM facilities more than once, and several have made the trip from the U.S. more than twice.

FORMER UNITED STATES AMBASSADOR TO MALAWI WESTON ADAMS

Mr. THURMOND. Mr. President I would like to take this opportunity to welcome the United States Ambassador to Malawi, Weston Adams, and his lovely family back home to their native South Carolina.

I had the pleasure of recommending his appointment to President Reagan and he was confirmed by the Senate on June 8, 1984. He served in the post from July 9, 1984, until September 3, 1986, when he resigned to return to private law practice in Columbia, SC.

I want to highly commend Ambassador Adams on his distinguished service to our country during his 2 years in Malawi. The State Department has praised him, stating that he had significantly improved relations with key officials in the Government of Malawi, in particular, advisors to the President of Malawi. This has not been easy in a country where political discussion is discouraged and the Government has been known to restrict contact between civil service and foreigners.

Ambassador Adams has established himself as an individual of great ability, not only as a diplomat, but as a lawyer, a businessman, and as a State legislator in South Carolina. His résumé is an impressive one.

Upon graduation from the University of South Carolina in 1960, Ambassador Adams entered the University Law School, earning his law degree in 1962. He was admitted to the South Carolina Bar in August 1962 and served as assistant staff judge advocate as a captain in the U.S. Air Force from 1963 until 1966.

He joined South Carolina National Bank as a trust officer in 1966.

In 1970 Ambassador Adams came to Washington as associate counsel to the House of Representatives' Select Committee on Crime.

Returning to Columbia in 1971, he practiced law until his appointment as Ambassador in 1984.

He served a term in the South Carolina House of Representatives from 1972-74 and was a member of the U.S. Presidential delegation to the inauguration of the President of the Dominican Republic in 1982 with the rank of Special Ambassador.

I would like to officially welcome him, his lovely wife, and his fine family back to the United States and their home State of South Carolina. The people of South Carolina are proud to have the Adamses back home.

In view of his honorable and dedicated service, I would like to call the attention of my colleagues to Ambassador Adams' latest performance evaluation as well as a recent article in the Malawi Daily Times, and ask unanimous consent that these be printed in the RECORD following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PERFORMANCE EVALUATION FOR AMBASSADOR TO MALAWI WESTON ADAMS—APRIL 16, 1985-APRIL 15, 1986

During the rating period, Ambassador Adams has significantly improved relations with key officials in the government of Malawi, particularly advisors to the President of Malawi. For example, he maintained excellent rapport with the Secretary of the Office of the President and Cabinet and arranged an official visit to the United States for him. The Ambassador's regular offical and social contact with the Principal Secretary in the Ministry of External Affairs has yielded valuable insight into the inner workings of the closed society of Malawi politics. This has not been easy in a country where political discussion is discouraged and the government sometimes restricts contact between civil servants and foreigners.

Ambassador Adams' political reporting included his assessment and analysis of the political hierarchy of Malawi, and in-depth evaluations of key issues such as the relationship between the Government of Malawi and insurgents in neighboring Mozambique.

At a time of unrest throughout southern Africa, the U.S. position on regional conflicts is often misunderstood. Ambassador Adams has seen to it that Malawians are familiar with U.S. policies and their benefits for the region in general and Malawi in particular. His efforts have helped to keep Malawi one of the few countries in Africa that consistantly supports our southern Africa policies; Malawi has the second highest coincidence in Africa of voting with the United States in the United Nations.

Economic performance is closely linked to political stability in Malawi, as elsewhere in Africa. Ambassador Adams has closely monitored economic developments and, under his leadership, USAID and international banking agencies have worked together to influence the government of Malawi to pursue sound economic and fiscal policies. Ambassador Adams' good working relationship with the AID Director has ensured that U.S. AID funds, which increased from $9 million in FY 85 to $25 million in FY 86, have been used with commendable efficiency and effectiveness. He met regularly with American and foreign national AID employees and took a personal role in strengthening relations between AID and the government of Malawi. One fruit of these efforts has been the up-grading of AID/Malawi to full Mission status and of the AID representative position to Mission Director.

Although the diplomatic community in Malawi is small, Ambassador Adams has excelled in cooperating with his colleagues. As one example, he initiated and encouraged establishment of joint U.S.—Israeli aid projects for Malawi by enlisting the active support of the Israeli Ambassador and instigating planning meetings between Israeli Embassy officials, the U.S. Embassy and the Government of Malawi.

Administratively, the Ambassador has involved himself in all aspects of the Embassy's operations, demonstrating his concern for all levels of his Mission. He has stressed the application of sound and consistent administrative procedures and personnel policies. He saw to it that Mission objectives were correctly understood and pursued. He supervised the orderly transfer of the branch office in the old capital of Blantyre and its employees to the Embassy in Lilongwe, leaving behind a reduced office facility to serve the Blantyre/Limbe community on a part-time basis.

Ambassador Adams has taken a close interest in all levels of Embassy operations. For example, he personally supervised revision of the emergency action plan, and took a particular interest in continuous improvement of security for the Embassy and other American facilities. His efforts, which included increased guards, screening of visitors and vehicles, and improved employee identification procedures, have been commended by the regional security officer.

In sum, as Ambassador to Malawi, Weston Adams has served his country well and contributed to the excellent relations which exist between the United States and Malawi.

CHESTER A. CROCKER,
Assistant Secretary of State for African Affairs, July 29, 1986.

[From the Malawi Daily Times, Aug. 7, 1986]

U.S. AMBASSADOR TO MALAWI—WESTON ADAMS

Malawi is most grateful for the economic and technical support the United States of America gives the country and hopes that the relations happily existing between the two countries will continue to grow from strength to strength, for the mutual benefit of the two countries, the Minister of Trade, Industry and Tourism, Mr. Wadson Deleza said in Lilongwe.

Mr. Deleza was speaking at a farewell luncheon in honour of the United States Ambassador to Malawi, Mr. Weston Adams and his wife which was held at Capital Hotel on Tuesday.

Mr. and Mrs. Adams are returning to the United States this Friday after serving two years in the country.

The Minister noted that during Mr. Adams' term of office, the urgent needs of the Malawi Government were brought to the attention of the United States Government.

He said Malawi greatly appreciated the continued support the United States was rendering to this country in various fields of development, including agriculture, industry, education and health.

We are most grateful for the economic and technical support we have received and continue to receive from the United States of America," Mr. Deleza said, adding that Malawi was delighted that the United States had recently granted Malawi funds for upgrading the northern transport corridor.

Mr. Deleza said the route would offer Malawi an alternative passage to the sea and help solve transportation bottleneck which the country was experiencing at present.

On the problems of southern Africa, Mr. Deleza said Malawi shared a common policy with the United States, based on peaceful means of solving the problems.

TRIBUTE

I can only pay special, tribute for all this to the wise and dynamic leadership of this country which has created a climate of tranquillity and peace that has paved the way for political and economic viability as well as racial harmony," Mr. Deleza said.

Mr. Deleza commended the role Mrs. Adams played to enhance charity work in the country during her stay in Malawi. He said Mrs. Adams worked with vigor and determination to boost charity work in the country, through the association of the diplomatic women of which she was the chairperson.

Mr. Deleza then wished the out-going ambassador and his wife a safe journey home.

In reply, Mr. Adams said Malawi was most deserving to receive external aid, because the nation was hard working, committed to accomplishing it development projects, and made good use of the money from external donors.

He said that was why the United States Government had increased its aid to Malawi four to seven times the original quota, despite fierce competition for aid from other developing countries.

ASBESTOS HAZARD EMERGENCY RESPONSE ACT OF 1986

Mr. SIMPSON. Mr. President, I would like to add my support of the Asbestos Hazard Emergency Response Act of 1986. This legislation, recently reported from the Committee on Environment and Public Works, represents a signal achievement in the protection of the public health. It is important to all of us because it involves the protection of our most valuable resource—our children. We have learned in recent years that there is no safe threshold of exposure to asbestos fibers. This legislation will help to ensure that exposure in the classrooms today does not lead to the tragedy of asbestosis and mesothelioma tomorrow.

The Environmental Protection Agency has already responded to the asbestos problem through its authorities under the Clean Air Act and the Toxic Substances Control Act. But we have all come to realize that technical guidance and training are an insuffi-

cient response to a critical national need.

As in other areas of environmental concern, there is always the possibility that in our desire to do the right thing, we might act hastily and less thoughtfully than we should. I am proud that this legislation, which was drafted with the active cooperation of the EPA, is a measured attempt to improve EPA's existing Asbestos-in-Schools Program, with three major components.

First, the bill requires that the Agency publish national standards for asbestos inspection, to help determine whether there are hazardous materials present in specific schools, and to determine whether abatement action will be required in specific schools.

Second, the bill calls for State accreditation of asbestos contractors to make certain that only competent and reliable persons undertake asbestos-related work.

Finally, the bill requires that the asbestos standards be followed. Those schools which have satisfactorily responded to asbestos problems under the pre-existing, voluntary EPA program are not covered in this legislation. But those which have not yet undertaken proper inspection, operation, and maintenance, or abatement activities will now be required to act in the interest of public health.

This legislation does not include any provision for an express or implied Federal cause of action in tort. In this environmental area, as in others, there are grave problems inherent in embarking into the uncharted waters of toxic torts before we have all the facts. After being assured that there is no express or implied Federal cause of action in tort included in this key legislation, I lent my support to its passage in committee.

Finally, I want to commend the able chairman of the Environment and Public Works Committee, BOB STAFFORD, for his fine leadership in getting this bill to the full Senate. It is my hope that the Senate, working in conference to forge a compromise with the well-considered House asbestos bill, can get a good bill to the President's desk before we recess in October.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

NOMINATION OF WILLIAM H. REHNQUIST TO BE CHIEF JUSTICE OF THE UNITED STATES

The ACTING PRESIDENT pro tempore. The clerk will report the nomination of Justice Rehnquist.

The legislative clerk read the nomination of William H. Rehnquist, of Virginia, to be Chief Justice of the United States.

The Senate resumed consideration of the nomination.

The ACTING PRESIDENT pro tempore. Is there further debate on the nomination?

Mr. CRANSTON addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from California is recognized.

(Mr. HECHT assumed the chair.)

REHNQUIST LACKS JUDICIAL TEMPERAMENT

Mr. CRANSTON. Mr. President, I rise to speak in opposition to Senate confirmation of William Hubbs Rehnquist to be Chief Justice of the United States.

I am convinced that Mr. Rehnquist does not possess the requisite judicial temperament to serve as the Nation's Chief Justice, or for that matter as Associate Justice.

Indeed, when Justice Rehnquist first was nominated by Richard Nixon, I reached the conclusion—along with 26 of my then-Senate colleagues that he did not qualify to be Associate Justice. Three Republicans were among those opposed to the nomination.

In 1971, I made my judgment after researching carefully the Rehnquist record and concluding it lacked evidence of a balanced, dispassionate approach to legal and policy questions.

I observed then that William Rehnquist apparently was an extraordinarily committed ideologue, who first forms conclusions, then reasons backward to justify them.

I found that Mr. Rehnquist used his considerable intellect to examine microscopically arguments presented which opposed his predetermined conclusion, but questioned only superficially the merits of arguments which supported his predispositions.

When President Reagan nominated Associate Justice Rehnquist for even higher office. I undertook to review carefully not only his judicial record of the last 15 years, but additional information which has surfaced about the prior years, to determine whether there was a basis on which to change my original judgment.

It is clear to me, having completed that review, that there is not.

Indeed, my original observations, regrettably, are strengthened.

SUPPORTER OF SEGREGATION

Particularly, Mr. President, I find that Mr. Rehnquist is an unrelenting supporter of segregation—a position so far from the temper of the times and from the attitudes that the American people believe proper in a Federal judge that it has been an important factor in the Senate's rejection of three Presidential nominees for the Supreme Court since 1930.

I find that this view of women's rights would find wider acceptance in a prior century, and that he is unwilling to remedy even obvious examples of sex-based discrimination for such reasons as administrative convenience.

Moreover, I find—as I did in 1971—that Mr. Rehnquist has consistently provided the narrowest possible interpretations to opinions and concepts that protect all individual rights and liberties, and the most sweeping interpretations to those opinions and concepts that sanction government restrictions on individual rights and liberties.

Mr. President, the essential bedrock on which our unique form of government rests is the supremacy, not of government, but of law.

The supremeacy of law in turn rests on the existence of an independent judiciary, free dominance by either the executive or legislative branches.

And to head that independent judicial branch, more than in any other Federal judicial position, we need an individual prepared to match deeds to the words carved in stone on the wall of the Supreme Court, "Equal Justice Under Law." Time after time, as a private citizen, as a public official, and as a justice of the Supreme Court, William Rehnquist's actions have shown that he does not support those words.

History taught the Founding Fathers—and should teach us—that the judiciary must be coequal with the other branches, and subservient only to the Constitution.

The independent judiciary is essential to guard the human freedom and rights that our constitutional system—more effectively than any other governmental system yet devised—was designed to protect.

Careful review of Justice Rehnquist's judicial opinions conclusively demonstrates that he rigidly, consistently, and virtually without exception, rejects the view that the Supreme Court has any special obligation to defend individual liberty from legislative or executive encroachment, and rejects the position, frequently expressed in the opinions of the Court, that the Bill of Rights as a whole, and the first amendment in particular, have a favored place in the constitutional scheme.

In this respect, Mr. Rehnquist is not a "strict constructionist" or a conservative, words often used to describe several members of the present Supreme Court.

Rather, Mr. President, he is an extreme ideologue, whose judicial philosophy is far beyond the mainstream, and is not shared in its entirety, or even in its central features, by any other person who now sits or who has served with him on the Supreme Court, including justices who often vote with him.

And very frequently—more than any other member of the Court—Justice Rehnquist has voted alone.

In my judgment, Mr. Rehnquist's unremitting record of ideological extremism makes him an inappropriate choice for the Federal bench. But certainly, it makes him an even more inappropriate choice for Chief Justice.

Ideological zeal and biased prejudgment of issues are the very antithesis of acceptable qualifications for the Federal bench.

The agenda of an ideological extremist, whether of the right or the left, can create a doctrinal conflict of interest fully as inappropriate for a Supreme Court Justice as a financial conflict of interest.

QUESTIONABLE ETHICS

In one case where this doctrinal conflict of interest was manifest, *Laird* v. *Tatum*, 408 U.S. 1 and 409 U.S. 824 (1972), Mr. Rehnquist declined to recuse himself, as judicial ethics and propriety seemed to require, and cast the deciding vote in a 5-4 Supreme Court decision reversing a Federal appellate decision reviewing a case challenging government policies which he had helped formulate as both participant and advocate.

Conceding that his [unreviewable] decision to sit was "debatable", and one with which "fair-minded judges might disagree", Justice Rehnquist explained that the prospect that his recusal in that case would result in Supreme Court affirmance of the Court of Appeals decision by an equally divided court propelled him to decide the case.

The notion that recusal is appropriate judicial conduct only when it doesn't matter to the decision "seems to turn the doctrine of recusal on its head", as one witness against this nomination told the Senate Judiciary Committee.

And, it demonstrates that William Rehnquist is a zealot, more committed to the outcome in a particular case than to a desire to serve fairness and justice, or, as importantly, the appearance of fairness and justice.

The main indication of ideological zeal is the inability to separate strongly held personal or political beliefs from the responsibilities of judicial decisionmaking.

Standard judicial ethics require not only the fact of impartiality, but its appearance, in order to maintain the confidence of the people in their judicial system.

The fact and appearance of impartiality is required of all judges, but is especially important for the Chief Justice of the United States.

There is another quality that the American people have a right to expect in the person that stands at the top of their judicial system.

That is unquestioned integrity.

But there are now serious questions about the integrity of William Rehnquist.

That he is loyal to his own philosophical agenda I do not doubt, for he has demonstrated that loyalty for over 35 years.

But it is also increasingly obvious that he is willing to cut corners with the truth to protect his ability to serve that agenda.

And, Mr. President, I speak of far more than merely a case of a suspiciously selective memory or an attempt to "stonewall" questions from the Judiciary Committee, though that pattern is also abundantly clear.

Even one apparent Rehnquist supporter on the committee has expressed regret that Justice Rehnquist was not "more forthcoming" in his appearances before the committee.

But I am particularly appalled that in one of several situations in which Mr. Rehnquist's more extreme views are documented, he has denied the views are his own, although they were written in a memorandum he admittedly authored.

He would have us believe in an instance of particular concern to me that these views belong to Associate Justice Robert H. Jackson, for whom Mr. Rehnquist was a law clerk.

Mr. President, I am now going to explain why that particular incident is of grave personal concern to me. Regrettably Justice Jackson died in 1954 and cannot testify to the facts.

The memorandum, written in 1952 by Mr. Rehnquist in the context of the pending *Brown* v. *Board of Education*, 347 U.S. 483, urges that the previous decision of the Supreme Court in *Plessy* v. *Ferguson*, 163 U.S. 537, is "right" and should be reaffirmed.

The Rehnquist attribution of these views to Justice Jackson was first made during Rehnquist's 1971 confirmation hearings, and repeated in the present hearings.

One colleague with whom I discussed this situation suggests that perhaps Justice Jackson solicited memoranda on both sides of the issue. Or one can imagine Justice Jackson saying to an importuning clerk, "Get me a memo." But these scenarios are not what Mr. Rehnquist has testified to. He has attributed these views to Justice Jackson, not to himself, not to theoretical advocacy.

The Plessy case had sustained the constitutionality of a Louisiana statute requiring separate—but, theoretically, "equal"—accommodations for "white and colored persons" on railroads. The law was challenged in respect to its application to trains engaged in interstate travel. The 1986 case initiated the "separate, but equal" doctrine, and stood for the proposition, among others, that "a law which requires the separation of the races in public conveyances is a reasonable exercise of the police power of the state."

The record is abundantly clear that Justice Jackson did not even accept the memorandum's recommendation, let alone start with the view that Plessy was "right".

Justice Jackson was one of the nine Supreme Court Justices who joined in the unanimous decision in Brown versus Board of Education, expressly rejecting the doctrine of Plessy versus Ferguson in education, and forecasting its total demise.

Nor did Justice Jackson participate reluctantly. On May 17, 1954, he left a hospital bed where he was recuperating from a heart attack to stand with the united Court announcing the Brown decision.

Moreover, the Brown decision did not reflect a changed position for Jackson.

As early as 1941, his first year on the Court, Jackson had written a concurring opinion declaring that race, creed or color is a neutral fact, "constitutionally an irrelevance," which under the 14th amendment could not be used by a State to restrict constitutionally protected rights, *Edwards* v. *California*, 314 U.S. 160, at 185.

In 1949, concurring in *Railway Express* v. *New York*, 336 U.S. 106, at 111, though Jackson urged restraint in using the due process clause to strike down a State or municipal statute, he commented:

> Invocation of the equal protection clause [of the 14th Amendment], on the other hand, does not disable any government body from dealing with the subject at hand. It merely means that the regulation must have a broader impact. I regard it as a salutary doctrine that cities, states and the Federal Government must exercise their powers so as not to discriminate between their inhabitants except upon some reasonable differentiation fairly related to the object of regulation. This equality is not merely abstract justice. The framers of the Constitution knew, and we should not forget today, that there is no more practical guaranty against arbitrary and unreasonable government than to require that the principles of law which officials would impose on a minority must be imposed generally.

So spoke Justice Jackson.

These and other opinions written by Justice Jackson totally discredit Rehnquist's testimony that Justice Jackson believed that Plessy versus Ferguson was "right." They also state the antithesis of Rehnquist's extremist view that a State statute must be upheld against constitutional attack under the 14th amendment unless it is "irrational."

Mrs. Elsie Douglas, Justice Jackson's long time secretary, has called Rehnquist's testimony "incredible on its face" and a "smear of a great man" in a letter to Senator KENNEDY.

SOME PERSONAL HISTORY

And it is. I want to bring a bit of history—personal history—to bear on this matter.

I knew Robert H. Jackson and worked with him on matters relating to discrimination and bigotry when he was Attorney General of the United States. I know, firsthand, that he could not have held the views attributed to him by Mr. Rehnquist. Later on, in 1945, Justice Jackson went to Nuremberg, Germany, to become chief U.S. prosecutor at the war crimes trials. It is beyond belief—absolutely beyond belief—to suggest that, after prosecuting Adolf Hitler's top associates who committed some of the most cruel acts of intolerance and brutality in human history, Justice Jackson returned to the Supreme Court to represent the views on race expressed in the Rehnquist memorandum. For Mr. Rehnquist to attribute such views to Justice Jackson, who gave him the opportunity to serve him on the Supreme Court, is shocking, to put it very, very mildly. I deem the charge a slander on the record of a great justice. It reflects not on Justice Jackson but on Justice Rehnquist.

I know firsthand of Justice Jackson's commitment to equal justice under law, and that to uphold racial segregation was as foreign to his judicial philosophy as it is consistent with everything we know about William Rehnquist.

Although there is other evidence of Mr. Rehnquist's lack of credibility, his shabby attempt to rewrite history and blacken the memory of Justice Robert Jackson in order to protect himself is, alone, in my judgment, disqualifying.

Ironically, as Merlo J. Pusey has reported, "as a Supreme Court Justice, Jackson showed independence, and argued that judges should try to keep their judgment free from personal opinion," another point on which he is at odds with his former clerk.

Some have suggested that this debate on confirmation is a partisan debate between Republicans and Democrats, and that the President is entitled to confirmation of his nomination because of his reelection victory in 1984.

But big election victories give the President no right to abrogate our constitutional protections or place an ideological extremist at the head of the Supreme Court.

Some have suggested that this is an ideological struggle between conservatives and liberals, with each side trying to control the makeup of the Supreme Court.

In my judgment, both of these viewpoints are wrong.

The Founding Fathers clearly intended to give the Senate the power and obligation to make its own independent judgment of whether confirmation of a Federal judicial nomination would be in the best interests of the Nation.

Judicial nominees are not part of the President's team. They serve for life, and will serve long after a succession of Presidents with new claims to a political mandate have been elected.

His electoral mandate gives President Reagan the right and power to send us this nomination, but it does not take away our right, power, and, indeed constitutional obligation, to withhold consent if the nominee is found wanting, as, in this case, I believe he is.

From the administration of President George Washington, when his nomination of Associate Justice John Rutledge to be Chief Justice was rejected by the Senate primarily for his views on the Jay Treaty to as recently as the Lyndon Johnson administration, when a Senate filibuster, led by some of the proponents of this nomination, prevented confirmation of Associate Justice Abe Fortas to be Chief Justice, the Senate has demonstrated its right and power to reject Supreme Court nominees whose views offended the temper of the times, when Senators believed those views would disserve the interests of the Nation.

The Chief Justice should personify evenhanded justice in the United States.

The Chief Justice must be able to meet the most exacting standards: dedication to the great principles of the Constitution he will swear to uphold; dedication to dispense equal justice under law, not just for the majority, but for all in our society; impeccable ethical judgment; unquestioned integrity.

□ 1120

It ill behooves us at this time in history to put into that hallowed seat a man who is a consistent foe of civil rights; a man who is insensitive to changing roles and rights of women in our society; an ideological extremist whose very zeal prevents detached judicial consideration and affects his ethical judgments; a man whose integrity is under serious question.

William Rehnquist does not meet the qualifications for Chief Justice of the United States.

I urge that his nomination be defeated.

Mr. HATCH. Mr. President, I would like to comment on some of the statements which were made here yesterday, including the statement of the Senator from California today.

We are all aware that many questions have been raised about this nomination which date back several decades. Not only do many of these alleged concerns predate Rehnquist's 1971 confirmation, but many relate to his clerkship in 1952. These allegations come under the heading of ancient history rather than under a category of fair questions concerning Mr. Justice Rehnquist's nomination.

To put this in context, my colleagues might be shocked to learn that there was not a Kennedy in the Senate in 1952. Most shocking of all, STROM THURMOND, as I said in committee, was still a misguided Democrat and had not yet embarked on his Senate career.

Imagine the Senate without STROM THURMOND and TED KENNEDY and you can imagine the relevance of these accounts.

The first bit of ancient history which is supposed to be relevant to this nomination is a memorandum written by Justice Rehnquist in 1952. That was 34 years ago. It was written by him in 1952 when he was serving as a law clerk to then Supreme Court Justice Robert Jackson.

The Senator from California has just referred to that memorandum.

Justice Rehnquist has explained Mr. Justice Jackson asked him to prepare this memorandum to present the point of view that the doctrine of Plessy versus Ferguson was correct. That is the testimony of Mr. Justice Rehnquist.

Therefore, in the memorandum entitled "A Random Thought on the Segregation Cases," it is not surprising to read that Plessy versus Ferguson was right and should be reaffirmed, as a memorandum written to present that point of view which the Justice had asked him to do.

After all, then clerk Rehnquist's assignment was to defend that proposition. That is done today on the Supreme Court. There are Justices who ask a more conservative law clerk to write a memorandum on a conservative issue and Justices who ask more liberal law clerks to write a memorandum on more liberal issues. That is necessary to express the viewpoint of the writer of the memorandum.

I think in fairness these were not Mr. Rehnquist's personal views. He said so. My colleagues cannot seem to agree with that because they want to defeat Mr. Justice Rehnquist.

They do not care about his 15 years of great service to this country. They do not care that he is the leading intellect on the U.S. Supreme Court. They do not care that he has the respect of all his colleagues. They do not care that he has the respect of the bar and bench across this country. They differ with him ideologically. Therefore, they are going to assume the worst in everything.

It seems to me if a Supreme Court Justice says those were not his views and he says that categorically, that ought to end it right there. But we hear these diatribes here on the floor, and we hear them in the committee, as to how it could not have been the viewpoint of Mr. Justice Jackson. It

was not his viewpoint. Nobody disputes that. But it also was not then law clerk Rehnquist's at the time. He said that it was not.

Why can we not take his word for that? Why do we have to dredge up all that ancient history? Why do we have to put our own distorted approach to it? Why do we have to always resolve every ambiguity, and I do not think there is one here, against Mr. Justice Rehnquist?

There is only one answer. Ideologically, he does not fit the mold that so many of my colleagues have been used to over these last 30 or 40 years. That is what is wrong with the court system in our country. We have had basically one mold, a predominant position.

In the first place, my cursory review of his 15 years on the bench indicates that Justice Rehnquist has voted at least 34 times to sustain the most famous civil rights case of all time, Brown versus Board of Education.

When asked to decide the legal issues covered by the 1952 memo, Justice Rehnquist has consistently and without exception voted against the principles of Plessy versus Ferguson every time.

Yet we have Senators coming on the floor saying, "No, this cannot be right."

Justice Rehnquist's personal statements to the Judiciary Committee, it seems to me, have to be taken at face value. He feels Plessy is not consistent with the 14th amendment. That statement only embellishes his clear judicial record. We have a clear record here.

In addition, the only other living person, a self-admitted liberal, with the knowledge of the genesis of the 1952 segregation memo agrees that the memo was commissioned by Justice Jackson and that Justice Rehnquist believed even then that Plessy was wrongly decided.

What more do you need? We do not need a Senator, albeit a distinguished Senator from California, coming here and saying he knows Justice Jackson's views were different because he knew him personally. I know they are different. I do not need to know him personally.

On the other hand, how about giving the benefit of the doubt to knowing that Justice Rehnquist is not a liar? I think fairness, decency and dignity would lead everyone to conclude he is not a liar, that he told the truth, especially when the only other person who has any knowledge of this agrees with what he has said, and especially when his judicial record makes very clear what he believes.

Donald Cronson was Justice Rehnquist's coclerk in 1952. Mr. Cronson recalls that two memoranda were prepared for Mr. Justice Jackson, one for and one against overturning Plessy. He went on to say that he thought the "random thoughts" memo, though signed with Rehnquist's initials, was probably more his work than Clerk Rehnquist's work. Mr. Cronson, who probably knew Rehnquist's mind in 1952 on this subject better than anybody else, or at least certainly on that date, also told the New York Times in 1971 that "Both of us personally thought that Plessy was wrong."

We do not need to have somebody second-guessing this at this point when the record is so clear. It is ludicrous, like all of the charges against Mr. Justice Rehnquist.

This 34-year-old memo ought to never have become an issue in this proceeding. The facts are overwhelming that Clerk Rehnquist was preparing a paper to defend a proposition dictated by his employer and that Rehnquist did not then and does not now favor the policies of Plessy. If anything, this 34-year-old memo is indicative of Justice Jackson's struggle to ascertain the merits of the Brown case. Beyond that, it has little significance. Fifteen years on the Supreme Court has already made evident Mr. Rehnquist's abhorrence of the "separate but equal" doctrine.

Another memo was the subject of discussions in the Judiciary Committee hearings.

That memo likewise presents Justice Jackson's views and only shows the lengths some have gone to create issues about this nomination.

This memo, prepared in connection with the Terry versus Allen case, presents the views of three Justices: Justices Black and Frankfurter, and then under the heading "Your Views," the views of Justice Jackson, to whom the memo is written. Those clearly labeled views of Justice Jackson included the phrase, "It is about time the Court faced the fact that white people in the South don't like colored people."

□ 1130

Although some critics like to stop at that point, Justice Jackson's views continue to say, "The Constitution restrains them from effecting this dislike thru State action." With this additional clarification, it becomes apparent that Clerk Rehnquist understands the principle of the Brown case, that the Constitution bars discriminatory State actions. The memo continues to say that private discrimination, which Rehnquist characterizes as "ugly," is not barred by the Constitution. This last point is still the law, as is clearly established by the Court's holding in the Moose Lodge among others.

Thus, the intent of this memo is clear on its face. Clerk Rehnquist is stating Jackson's idea that the issue in this case is State action. The showing of discrimination is clear, the issue is whether the State has done the discriminating. That is the issue. If so, it is illegal. If not, the Constitution does not provide a remedy. Justice Jackson was correct on the law and his clerk was merely expressing those views to prepare his employer for a court conference. By the way, Justice Jackson's conference notes indicate that he followed this memo rather closely. It must have accurately reflected his views, regardless of what the distinguished Senator from California or any other critic of the Rehnquist nomination has to say about it.

Another piece of ancient history that is occasionally misconstrued is a 20-year-old letter written by Attorney Rehnquist in Phoenix, AZ. It was written in defense of the neighborhood school concept. It contains the phrase "we are no more dedicated to an integrated society than we are to a segregated society." Those who prefer to take things out of context stop at that point. That phrase, however, is only part of the sentence. The rest of the sentence reads:

> We are instead dedicated to a free society, in which each man is equal before the law, but in which each man is accorded a maximum amount of freedom of choice in his individual activities. The neighborhood school concept, which has served us well for countless years, is quite consistent with this principle.

The full quote indicates that the Justice did not support segregation, but instead endorsed a "free society" where "each man is equal before the law." This is a ringing endorsement of the fundamental principle of equality before the law. The letter proceeds to show that this concept of equality is furthered by a race-neutral assignment of students to neighborhood schools. On this principle, the Senate agrees. This body has voted numerous times in favor of the neighborhood school concept. Once again, when these so-called items of ancient history are presented in their unabridged version, the myths are revealed as inaccurate and the facts speak for themselves.

Mr. President, the efforts that have been put forth in some of these areas to malign and, I hate to say it but to smear, this man's reputation are really incredible.

LAIRD VERSUS TATUM

I will like to return briefly to the Laird versus Tatum question. This issue, like most of those we have heard presented on the Senate floor, probably does not deserve the time devoted to it. In fact, the weakness of the argument demonstrates the lengths to which some will go to find a flaw in Justice Rehnquist's distinguished record.

Yesterday, I went through the law that governed situations when judges would be required to recuse themselves, or refuse to participate in the decision of a case. A fair reading of that law leaves little doubt that Jus-

tice Rehnquist was justified in accepting the responsibility of deciding the Laird case.

Nonetheless my colleague from Massachusetts and a few others suggest that a further ethical consideration should have caused the Justice to refrain from accepting his judicial duties. In particular, my friend from Massachusetts suggests that Justice Rehnquist should have recused himself because he had "personal knowledge of disputed evidentiary facts." My colleague suggests that he had such a "personal knowledge" because he testified on the general subject before Senator Ervin's Constitutional Rights Subcommittee, a committee that I now chair.

I am now chairman of the subcommittee chaired by Senator Ervin in 1971. Last evening I reviewed the testimony given by Justice Rehnquist in 1971 to see if it showed a "personal knowledge" on the part of the Justice. To the contrary, I found at least four instances where Justice Rehnquist directly told Senator Ervin that he lacked personal knowledge of the evidentiary facts related to Army surveillance. In fact, Justice Rehnquist used those very words "personal knowledge" to clarify what he did not know. Let me rehearse some testimony from that hearing 15 years ago. Justice Rehnquist clarified:

> While it is not altogether clear to me, certainly not from personal knowledge . . . the extent to which the Army guidelines were actually carried out and practiced, it should be apparent that the data base used by internal security is much more restricted. . . .

Justice Rehnquist stated forthrightly in the very hearing we have heard so much about that he had no "personal knowledge" of the Army activities.

In that hearing, Justice Rehnquist said:

> As you might imagine, the Justice Department, in selecting a witness to respond to your inquiries, had to pick someone who did not have personal knowledge. in every field. So I can simply give you my understanding. . . .

He did not have personal knowledge. He said he did not. This is the second time Justice Rehnquist specifically stated that he had no personal knowledge about all the aspects of the hearings, and specifically, no personal knowledge about military surveillance.

Later in the hearing, Justice Rehnquist again states:

> I am not certain—that sounds like he does not have personal knowledge—what use was made by /sic/ the information gathered by the Army. . . . So far as I know, the information gathered by the Army was not used by the Justice Department.

Justice Rehnquist, in these sentences, tells Senator Ervin once again that he is not personally aware of the circumstances of the hearing. He was only present, as he explained, to discuss the legal and constitutional implications of Government information gathering, not to verify any specific surveillance activity.

In other words, Justice Rehnquist told Senator Ervin, at least four times, that he had no personal knowledge about Army surveillance in 1972. I must admit it puzzles me that some individuals would continue to say that this hearing indicates that he had "personal knowledge of the evidentiary facts" of Laird under those circumstances.

That simply is not true; it simply is not fair; and it simply is not seemly to make these arguments on the floor of the U.S. Senate if you look at the record. What it comes down to, pure and simple, is that it is another attempt to distort this man's record because they differ with him ideologically.

Some critics contend that one paragraph in a 1969 memorandum, prepared by a staff attorney for his signature, indicates that he had personal knowledge. In the first place, I should clarify that this single mention in a lengthy memo advises caution in connection with any domestic surveillance by the military. Frankly, it is most probable that Justice Rehnquist did not even read, or at least does not remember reading, that brief paragraph prepared by a staff attorney for his signature. Is there anybody in this body who can tell me all the content of memos they were supposed to have read when they are 3 years old? The single paragraph was prepared for his signature in 1969 and it was not until 1972—3 years later—that the Laird case came up.

□ 1140

I doubt if that single cautionary paragraph would be enough to show "personal knowledge of the evidentiary facts of the case." But more important, Justice Rehnquist clearly did not even know or remember that paragraph. The most important judge of whether he had personal knowledge of the evidentiary facts was of course Justice Rehnquist. He stated in 1972 and again before the committee that he had "no personal knowledge of the arrangement."

Even giving the arguments of my colleagues a fair reading, they do not amount to a significant concern. When these arguments are placed in the context of Supreme Court practice, however, they are almost ludicrous. As I noted yesterday, Justice Black drafted the Fair Labor Standards Act. He had the most intimate knowledge imaginable about that act. As its proponent, he would have had a bias in favor of its approval. Yet he sat on the Court and voted to hold it constitutional. Justice Frankfurter participated in issues about which had formed strong prior opinions as a leading labor lawyer. Chief Justice Vinson decided cases about legislation on which he had taken public positions as a Member of the House. Chief Justice Hughes had publicly criticized the Adkins case in a book he wrote 2 years before he became a member of the Court. As Chief Justice, he authored the opinion overruling Adkins in the West Coast Hotel case, which upheld a minimum wage law. In other words, Justice Rehnquist was fully in line with Supreme Court practice.

Finally, I would note that many have suggested Justice Rehnquist refused to recuse himself because he had an axe to grind. This is not characteristic of Justice Rehnquist. Just a few months ago, he recused himself from participating in the celebrated Baby Doe case merely because it has litigated by his son-in-law's law firm. He recused himself twice early in his Court career because he had a distant advisory role in the case while he was at the Justice Department. In fact, he has recused himself nearly 100 times while on the Court. He is regarded as one of its most ethically scrupulous members. That is what makes these charges so questionable, ludicrous and downright wrong. Anybody who knows him realized that he is an ethical, outstanding good person.

To have these charges brought here with all of these ambiguities and resolve everything against him based upon suspect evidence seems highly questionable. And that is putting it mildly.

I might add that to bring up Mr. Hazard, who clearly has jumped at a number of conclusions to reach his opinion, is also shakey evidence. Yes, he did participate in writing canons for the Bar Association. That does not make him the all-seeing eye of what Mr. Justice Rehnquist did or did not do, nor should it allow him to rebut the expressed testimony of Mr. Justice Rehnquist. I suggest it borders on the unethical for him to get involved in this problem at this late date and to give an opinion that is without all the facts. Talk about ethics. He should read his own canons.

One last point I would like to make. Everyone agrees that Justice Rehnquist testified to Senator Ervin. The real question is a legal question, namely whether his testimony violated 28 U.S.C. 455 and whether his testimony amounted to "personal knowledge of disputed evidentiary facts." This calls for a legal conclusion. On the statutory law, we should all agree in fairness that he was fully within the law. On the question of "personal knowledge," he was once again well justified in finding himself on solid ground. Lawyers can disagree on these points. Justice Rehnquist himself said that some might disagree with his reading of these provisions, but I think fairness demands our recogni-

tion that his legal interpretation and conduct was ethical and undertaken in good faith. Again, I think it is fair to disagree with the Justice. We all have disagreed with him on some points. That is normal. It is another matter to attack him personally because of those legal disagreements.

Mr. President, throughout this debate we have heard it repeatedly said that Mr. Justice Rehnquist has continually sided with the Government against individual rights.

This is an extremely simplistic and misleading view of many complex constitutional issues. In particular, this view overlooks the fact that there are invariably individual rights on both sides of these very important constitutional cases. The only reason that some try to neatly divide competing interests in the Government versus individual rights is that by the time the controversy reaches the judicial stage, one branch of Government has already had to decide between the two sets of individual interests and has made that decision generally by statute.

Let me give you an example. Silent prayer cases. Some would have us believe that silent prayer cases involve the mammoth power of the State against some child who does not want to leave class or stay in class while others silently pray.

This is a pretty one-sided view of that case. On the other side, many students are seeking the religious liberty to participate in a moment of silent prayer or reflection at the outset of the school day. The State legislature has to decide between these competing rights. In 16 States silent prayer rights had been favored until the Supreme Court cast a cloud over those laws in the Jeffrey case. Regardless of the merits of this particular prayer issue, it's clear that there are individual rights on both sides of the controversy and there are differences on both sides of the controversy and those differences are sincere. And neither side needs to be maligned in the process.

It is simplistic to say that this is merely a case of the State against individuals, but we have heard that over and over again by Members of this body who are unwilling to look at both sides.

Let me give another example. The lawyer defending his client on death row would invariably like the court to believe he is advocating individual rights against the Goliath power of the State which seeks to impose upon his client the death penalty. In fact, what has occurred is that the State legislature has weighed the individual interests of murderers against the individual interests of the rest of society at large to be secure and has adopted the policy in favor of the latter.

We have tremendous discord in this body about whether that policy is right, but that is what the legislature has done. In fact, what has occurred is that the States have weighed the interests of murderers against interests of the public to be free from murder and the latter policy has been adopted.

The only reason that the law in question has taken on the character of government policy rather than protection of individual rights is because an elected body has already been required to choose between two sets of competing interests and has done so.

Regardless of the merits of these capital punishment cases, we can see that there are individual rights on both sides of these controversies. It is simply inaccurate and somewhat misleading to speak of these cases as if Justice Rehnquist is always choosing to ignore individual rights. That is ridiculous and some of the media ought to be ashamed of themselves for trying to present it that way. Certainly some of our Senators ought to be ashamed of themselves in trying to present it that way.

On the contrary, there are individual rights on both sides of almost every case that involve serious constitutional questions. The Justice is required to choose between two sets of competing rights.

Incidentally, Justice Rehnquist must do his job well because no other Justice has written more majority opinions, 73 to be exact, over the last four terms of the Court then Mr. Justice Rehnquist. What it comes down to is that some of our colleagues in their own sincere way, I am sure, differ with Mr. Justice Rehnquist's standings on individual rights. They differ with his point of view on individual rights. Some of them are totally against capital punishment. He appears to be for capital punishment, as are the vast majority of people in this country today. That does not take him out of the mainstream, nor does that make him extreme. In fact, it might be equally said on the other side.

□ 1150

Those who do not believe in capital punishment are in a distinct minority in this country. I do not think that is extreme. There are genuine arguments against capital punishment. It should be rarely used and only in the most grievous of cases. I accord them the right to believe what they want to believe, but let us accord the right to a Supreme Court Justice to believe as he wants to.

STANDARD FOR SENATE CONSIDERATIONS

If I may, Mr. President, I would like to comment just briefly on these confirmation proceedings. As we all know, the Constitution contains no explicit standard for appointment or for the advice and consent obligation of the Senate. Nonetheless, article III, which defines the role of the judiciary, and article VI, which requires judges to take an oath to uphold the Constitution, suggest a standard. These provisions note that a judge's duty is to decide cases and controversies in accord with the Constitution and laws of the United States. Because judges are obligated to find, and not make, the law, this suggests that our inquiry ought to focus on the willingness and ability of the candidate to fulfill a judicial office by interpreting the laws enacted by democratic institutions. In more than 15 years of service on the High Court, Justice Rehnquist has amply demonstrated this temperament and talent. A quick review of his ABA rating confirms this.

EXTREMISM

We have heard some critics of this nomination contend that Justice Rehnquist ought to be subjected to an ideological inquisition. According to their view of an ideal justice, Justice Rehnquist is "out of the mainstream." This assertion deserves some examination.

In the first place, it is irrelevant. In the second place, it is inaccurate. And finally, it is dangerous.

First, these charges are only marginally, if at all, relevant to our inquiry. Justice Rehnquist has been nominated to serve as Chief Justice. He is already on the Supreme Court. He will continue to serve on the Court and cast the same single vote he would have as Chief Justice. His views will continue to be represented in Court opinions and influence his colleagues to the degree of their persuasiveness. Thus, any particular Senator's personal assessment of Justice Rehnquist's voting record is only of marginal value, because Justice Rehnquist's ability to influence the directions of the Court will still depend primarily on his ability to persuade four of his colleagues of the soundness of his views.

Second, these charges are inaccurate. At best, they are simply a measure of the extremism of those making the judgment. I think a few examples will serve to establish this point. During the Judiciary Committee proceedings, we heard numerous charges that Justice Rehnquist was "extreme" or "out of the mainstream" because he dissented in the Jaffree case which struck down Alabama's silent prayer law. It is important to note that if this vote makes an individual too "extreme" to serve on the Supreme Court, then Chief Justice Burger and Justice White, a Kennedy appointment, would also be disqualified. They also voted to sustain Alabama's authority to permit silent prayer.

More important, however, is the realization that 12 members of the Senate Judiciary Committee itself have voted against that case—12 out of 18. Senate Joint Resolution 2, a proposed constitutional amendment to

overturn Jaffree and permit silent prayer, was approved by a 12 to 6 vote on October 3, 1985. It just may be the case that those who are out of the mainstream on these church/State issues are those Senators who found themselves without a prayer after losing the vote in the Judiciary Committee.

Should that constitutional amendment ever come to this floor, we will see what a majority of the U.S. Senate will have to say about it. If 56 could vote for a vocal prayer amendment last year, can you imagine how many of them are going to vote for a silent prayer or reflection amendment? I believe that such an amendment will be adopted if it is brought to the floor of the Senate.

We have also heard that Justice Rehnquist is out of the mainstream and insensitive on civil rights. We have heard remarks by the distinguished Senator from California on that issue. He is just parroting what a number of others have said who believe that civil rights controversies have to be decided the way they want them decided.

This assertion that he is insensitive to civil rights is inaccurate. More important, this masks the real reason these accusations are made—namely, that Justice Rehnquist simply does not uniformly vote in the way some civil rights activists would prefer to have him vote.

First, I would like to show why it is inaccurate to characterize Justice Rehnquist as "insensitive" to civil rights. This overlooks that in 27 cases which I was able to locate rather quickly he voted for the interests of minorities or women. For instance, in the famous 1974 bilingual education case, Lau versus Nichols, he found that discriminatory impact suffices to establish liability under title VI. He voted to overturn a much narrower circuit court opinion in this case. In the 1984 Palmore case, he found that a State may not remove a child from a mother simply because she is married to a black man. In the 1975 Albemarle case, he invalidated an employment test having a disproportionate impact on minorities. Incidentally, in this case, Justice Blackmun and Chief Justice Burger filed a much narrower dissent. In the pivotal 1973 voting rights case of White versus Regester, he voted to strike down a Texas at-large voting plan because it would have diluted minority voting strength. He reached similar conclusions in striking down voting plans in 1985, Chapman, and in 1977, Connor. This hardly sounds like the record of someone insensitive to civil rights. In doing so, he incurred the wrath of a number of conservatives in our country, particularly in the South. He is not pleasing anybody in some of these decisions. This hardly sounds to me like the record of someone who is insensitive to civil rights.

In the 1973 Tillman case, he also found that a community swimming pool could not exclude patrons on the basis of race. In the 1977 Dothard case, Justice Rehnquist held that title VII did preclude certain limitations on employment requirements, even though Justice White dissented. This list could go on further, but I think fairness would suggest that his record is not as insensitive on civil rights as some might wish us to believe.

We have also heard that he is extreme because he is not sensitive to women's rights. This is simply not accurate. Once again, I found very quickly 27 cases where he had voted for the interests of women and minorities. This is a particularly ironic charge at this time, however, because only a few months ago, the front page of the Washington Post and other papers heralded the result in the Meritor Bank case which said that employers can be held liable for sex harassment in the workplace. This was the most significant women's rights case of this last term. Yet those who make these charges seem to forget that Justice Rehnquist authored this landmark opinion. This is hardly the record of a judge who ignores the fair assertion of women's rights.

□ 1200

In the most important women's rights case of the 1984 term, the Jaycees case, Justice Rehnquist found that an all-male organization may be compelled to accept women. That same year in the Hishon case, he concluded that discrimination against women in admission to law firm partnerships justifies a claim under title VII. In the 1979 Cannon versus University of Chicago case, Justice Rehnquist gave title IX a broad reading to provide an implied cause of action. Justice White, Powell, and Blackmun dissented and would have denied an implied cause of action. Once again this is hardly the record of an individual insensitive to women's rights.

An analysis of the 20 leading civil rights cases of 1986 demonstrates that Justice Rehnquist is fully in the mainstream of the Court when it comes to protecting minority interests. In these 20 civil rights cases, Justice Rehnquist voted with the majority 14 times for a 70-percent mainstream rating, which is identical to the mainstream ratings of Justice Blackmun and Chief Justice Burger. The highest mainstream rating goes to Justice Powell, who voted with the majority 90 percent of the time in civil rights cases. Several Justices have lower mainstream ratings than Justice Rehnquist, as you can easily see.

These idle charges about Justice Rehnquist's record on civil rights simply are just a smokescreen obscuring the real reason these charges are made, which is that some people do not always agree with his independent reading of the law. It may be that Justice Rehnquist does not consistently vote in the way that some civil rights groups or some Senators would want. This, however, is an outstanding qualification for a Supreme Court Justice. A Justice should not feel obliged to reflect the viewpoint of one particular group or interest, but should independently decide each case on its own merits.

CIVIL RIGHTS CASES

Moreover all this rhetoric obscures some realities about these civil rights cases. They deserve a closer examination. To start with, I would like to refer to a few constitutional issues. In the Wygant case, Justice Rehnquist joined the plurality opinion authored by Justice Powell. In other words, the Justice joined an opinion with four of his colleagues which stood for the proposition that a school board could not give racial preferences to some teachers when deciding who to lay off. The school board was using race in its layoff decisions to retain a proportional representation on the faculty. It was that simple. As I recall that decision, the opinion joined by Justice Rehnquist agreed that strict scrutiny applies to racial classification, but concluded that there was not sufficient evidence to justify the conclusion that there had been prior discrimination. This is important because some accounts circulated about Justice Rehnquist's record suggested that he did not think racial distinctions warranted the extra protection of strict scrutiny analysis. This is clearly wrong. He applied strict scrutiny in Wygant, for just one example. In any event that case concluded that, "Societal discrimination without more is too amorphous for imposing a racially classified remedy." The dissent, as I recall, wanted to use quotas in these layoffs even if no showing of actual discrimination were made.

This is an extreme position because even a vast majority of blacks do not want to use the quotas to become the norm in our society. And the vast majority of people in our society do not want them either.

Next I would like to turn to the Fullilove case, where Justice Rehnquist joined a dissent by Justice Stewart. Once again, I note that in these vital cases, Justice Rehnquist is not alone in his views and I have never heard anyone suggest that Justice Stewart was "out of the mainstream." Justice Stewart based his dissent on Harlan's famous principle that "our Constitution is color-blind." Justice Stewart stated: "Except to make whole the identified victims of racial discrimination, the guarantee of equal protection prohibits the Government from taking

detrimental action against innocent people on the basis of the sins of others of their own race." This sounds pretty mainstream to me. It says that when discrimination is proven, it will be remedied swiftly, but that otherwise the Government ought not to presume to use quotas or other race-conscious remedies.

Perhaps I could next look at a few statutory civil rights issues. In the Bakke case, which is seminal in this area of law, Justice Rehnquist joined Justice Stevens' opinion. Chief Justice Burger and Justice Stewart also were on that opinion as I remember. Justice Stevens is not noted as weak on civil rights issues. These four argued that the exclusion of any individual from a school on the basis of race would violate the plain language of title VI. Incidentally, Bakke was admitted to school afterward.

For an example of title VII cases, we could perhaps examine Weber, which upheld a collective bargaining agreement containing a racial hiring quota. Justice Rehnquist dissented in an opinion joined by the Chief Justice. That dissent, once again, maintained that a quota is per se violative of the notion of equality and that title VII does not permit racial preferences. This can hardly be called extreme because it prevailed in the Stotts case when the Court held that court-ordered preferences violate section 706 (G) of title VII. The majority in that case decided that court-ordered relief was to provide "make whole relief only to those who have been actual victims of discrimination."

Let me make a few more observations. In the first place, Justice Rehnquist's views in these cases are not unique, nor extreme. As you have seen in just this quick overview, his opinions are invariably joined by several of his colleagues. Another point is also evident. These are close cases. Fine distinctions of statutory language or of the facts often change the outcome from 5 to 4 in favor to 5 to 4 against a particular outcome. In such close cases, it is understandable that observers passionately desiring to win every time would be disappointed. And they are quick to fault someone who does not always vote with their preferences. Nonetheless we must respect that this is not a political, but a legal, process and that Justice Rehnquist is not a political, but a legal, officer. His job is not to balance the equities and keep the majority of his constituents happy; his job is to interpret what is written in the law. In this regard, Justice Rehnquist is respected by his colleagues and lawyers nationwide. Moreover he is not extreme. Even his opponents' statistics bear out that fact. We have heard here on the floor that Justice Rehnquist, in 14 of these close cases, cast the "deciding vote" against minorities. What this really means is that Justice Rehnquist joined the majority of the Court in 14 5-to-4 decisions. With four other Justices agreeing with Justice Rehnquist, he can hardly be called "out of the mainstream" on those 14 close cases, and they involved 14 close, hard-fought, difficult issues with good arguments on both sides or they would not have been that close.

In summary, Justice Rehnquist's record reflects intellectual honesty, not insensitivity. It shows that Justice Rehnquist interprets the civil rights acts and the Constitution to provide equal opportunities for all individuals, which I would submit, is the logical and reasonable view of those laws. Some of his opponents believe that these acts guarantee proportional representation through quotas, busing, and effects tests that invalidate legitimate State activity or require reverse discrimination.

They really argue for those positions. They are legitimate arguments but they are way out of the mainstream because the vast majority of people in this country do not want proportional representation in all instances through quotas. They do not want their kids bused across huge distances against their will. They do not want the effects test that makes every civil rights case regardless of the point of view almost a winnable case at that whether or not the cause is just. They do not want an effects test that will invalidate legitimate State activities and rights to handle matters for themselves, and they do not want an effects test that will permit reverse discrimination or in essence discrimination against a person or any person as a result of the color of their skin. The majority of people just do not want this, but there are legitimate points of view arguing for those positions.

I do not think they are very legitimate. Nevertheless, there certainly are a lot of people who are minority viewpoint people, but nevertheless people who are going to be for them.

They simply differ with Justice Rehnquist on the reading of the law. I wish that is what would be said, not that he is out of the mainstream or that he is extreme because he differs with me on the law.

Instead we hear scathing and misleading attacks on the Justice's character and record. Differences of opinion I can understand, but in my view, personal attacks demean the significance of this proceeding.

MORE ON EXTREMISM

It is also important to note that the groups charging "extremism" only focus on a few narrow areas of law. We do not hear about his record in criminal justice cases where his toughness on drugs and crime and sensitivity to the needs of victims have strengthened law enforcement against the forces of lawlessness. We do not hear about his protection of the separation of powers in cases like U.S. versus Nixon, where he concluded that the President himself is subject to the law, or in the recent Synar case, where he concluded that a provision of Gramm-Rudman infringed on vital constitutional principles. We do not hear about his preservation of rights in numerous other contexts. No Senator likes to be attacked on the basis of a single issue, yet we hear very little examination of Justice Rehnquist's entire record, which is one of leadership and distinction. For a reference on that point, I would once again refer to the ABA's exhaustive study.

I started this discussion, Mr. President, with the observation that charges about Justice Rehnquist's supposed "extremism" were irrelevant, inaccurate, and dangerous. I would like to make one final point about the inaccuracy of these charges before proceeding to discuss their danger. The most important refutation of that charge has yet to be mentioned. In the last four terms, no Justice has written more majority opinions than Justice Rehnquist. To repeat, Justice Rehnquist has authored 73 opinions in the last four terms, more than any other Justice. He simply cannot be "out of the mainstream" of the Court and also be its leading consensus-former and opinion-writer. Because Justice Rehnquist is clearly in the mainstream of the Supreme Court, either the entire Court is "out of the mainstream" or those making the charges are themselves perhaps circling in an eddy so fast that they no longer recognize the center of the current.

Finally, as I mentioned, overemphasis on ideology contains a dangerous assumption. This notion of excluding some nominees on the basis of their views on some debatable issues finds its best expression in Larry Tribe's book, "God Save This Honorable Court." Professor Tribe argues in his book, as we have heard throughout this debate, that "any judicial nominee . . . who denounced . . . the fundamental democratic principle of 'one person, one vote,'" should not be approved by the Senate. The danger in this is that such a standard would have excluded Justices Frankfurter and Harlan, who consistently rejected the doctrine. It would be hard to find two Justices in the last century who had more influence on the shape of American jurisprudence than Frankfurter and Harlan, yet they would fail one of Tribe's litmus tests. Similarly Professor Tribe would exclude nominees who would overrule Roe versus Wade, the abortion case. Of course, this view would reject President Kennedy's appointment, Justice White, and apparently, the first woman Justice, Justice Sandra Day O'Connor.

Ideological inquisition is a two-edged sword. The staunchly conservative Senate in 1910 and 1916 might have rejected Louis Brandeis or Charles Evans Hughes, who both made outstanding contributions to the law, on the basis of ideology. Thus, one danger is that rejecting nominees on the basis of a few ideological yardsticks may overlook the miles of merit a candidate offers the Nation and its courts.

Another danger of requiring an ideological orthodoxy are the consequences for the nonpolitical third branch. There is danger in reducing the selection of Justices to a political free-for-all. Frankly, the Senate would do well to realize that our Constitution commits some decisions to other branches of Government. Demanding that our political ideology be reflected in those other branches would misunderstand that the judicial branch is not a political entity. The Constitution recognizes that, in the society where taking sides is a national pastime, the judiciary is essential as the one institution capable of applying rules outside the frenzied climate of political activity. Politicizing the selection of its members can only detract from this essential judicial mission.

I have spoken long enough but I want to set the record straight on some of these issues. These are not simple issues. These are not ABC type issues. These are contested and hotly debated issues. Some of them we cannot even bring to this body because we know they are hotly contested and they will bog this body down like nothing else will. We avoid them because we have such a widely divergent set of viewpoints in the U.S. Senate and the House of Representatives. Yet he is being harangued, condemned, mistreated, and vilified because he cannot avoid making decisions, many of which have been 5-to-4 majority positions.

You know it is one thing to say that a man differs with you on civil rights and interpretation of civil rights law. It is another thing to say he is insensitive to civil rights with the record he clearly has with the Court over the past 15 years. In fact, it is an insult to this body to have those types of statements being made.

If they want to point out the cases of law where he is insensitive, we will be happy to debate them. We will be happy to take any case you want.

(Mr. COCHRAN assumed the chair.)

□ 1210

Mr. BIDEN. Will the Senator yield?

Mr. HATCH. Yes.

Mr. BIDEN. Does the Senator think that Justice Rehnquist was insensitive in the Bob Jones case?

Mr. HATCH. No, I do not.

Mr. BIDEN. Thank you.

Mr. HATCH. It would be very misleading to suggest his vote on this very difficult and complex case was insensitive. I am surprised you raised that, Senator BIDEN. I disagreed with him on some aspects of that case. He was the one dissenter. But you seem to assume, as has an awful lot of media which commented on it, that he did not want to have civil rights in universities in this country. That would be an oversimplification.

In that case, the Internal Revenue Service revoked the tax-exempt status of a religious university. This involves a university run by a particular religion with particular values and points of view, with which you and I disagree, at least on this one issue.

The first amendment talks in terms of religious freedom. It is one of the heralded freedoms. It is not just freedom of the press. We have freedom of religion, too. This played a role in that case.

Let me answer your question. The IRS denied Bob Jones University a tax exemption because racially discriminatory policies at the school were against public policy. Justice Rehnquist's vote in the case has been characterized as "support for tax credits for segregated schools."

That is really misleading and is simply inaccurate.

Justice Rehnquist specifically stated that Congress would have the power to deny tax exemptions for discriminatory institutions even if those institutions practiced discrimination by virtue of their religious beliefs. That is a pretty forthright and forceful position.

This is far from support for tax credits for discriminators and those that practice discrimination and segregation. In fact, many would feel that his opinion did not offer enough protection to bona fide religious beliefs.

There are a number of scholars who argue on the other side of this point and who would argue that he did not go far enough. The real issue in the case was not whether racial discrimination was against public policy. Everybody including Mr. Justice Rehnquist, agrees that it is and should be. The entire Court agreed on that point, including Mr. Justice Rehnquist.

The question, according to Mr. Justice Rehnquist's very trained legal eye, concerns separation of powers. Specifically, whether the IRS could, without any further congressional action, undertake to decide the content of public policy. Justice Rehnquist voted against allowing the IRS to decide unilaterally what constitutes appropriate public policy. And, you know, that is a pretty important point.

The IRS, in Justice Rehnquist's view, was exercising a legislative power which should have been given and reserved only to Congress. In other words, Justice Rehnquist clearly agreed that Congress has the power to deny tax exemptions, but the power to make this legislative change resides solely in Congress. This power should not be exercised unilaterally by some agency just because they wanted to do it. The Justice's opinion vents no absence of sensitivity to issues of discrimination, but it vents great sensitivity to the powers of Congress relative to the agencies under the separation of powers doctrine.

Admittedly, he was alone on that point, although I believe the other Justices probably recognized that point, as well. I would have ruled with the majority in that case if I had been sitting on the Supreme Court.

But, I have to tell you that he made what was a valid legal point. It was significant enough to dissent on. As somebody who has seen some of the persecutions by some of these agencies in the past, I respect his position. I have gone to court and fought for the individual rights of people who were oppressed, many times without fees as you have.

Mr. BIDEN. You are right.

Mr. HATCH. I have to admit that Justice Rehnquist has a pretty valid point. I do not want the IRS interpreting the statutes completely on their own and defining what individual rights are, especially in the area of religious freedom. It is a far more different case than what the media has described the Bob Jones University case to be.

Mr. BIDEN. Will the Senator yield?

Mr. HATCH. Of course.

Mr. BIDEN. I always admire the Senator's advocacy. The Senator started off suggesting that there were no cases where Justice Rehnquist demonstrated an insensitivity on racism.

Mr. HATCH. I do not think that one is.

Mr. BIDEN. Let me finish for a moment.

Second, he said one of the reasons why this is not a matter of real insensitivity, even though he was in the minority and has explained it, was because it was religious. Then he went on to say the decision had nothing to do with religious freedom—zero; never mentioned it; was not an issue.

Mr. HATCH. Who did? I did?

Mr. BIDEN. Yes.

Mr. HATCH. There was a legitimate religious freedom argument that could have been raised.

Mr. BIDEN. Could have been raised, but had nothing to do with Justice Rehnquist's decision.

Mr. HATCH. The final decision.

Mr. BIDEN. Not only the final decision. If the Senator will yield, the beginning, the middle, and the end of Justice Rehnquist's opinion had nothing to do with religious freedom. Zero.

Mr. HATCH. I agree.

Mr. BIDEN. Then why do we keep mentioning religious freedom?

Mr. HATCH. I want to make it clear that this is not some simple case. It was a very important constitutional issue concerning a religious school with religious tenets. The Court decided, in their zeal, to permit the IRS to revoke their tax status.

Mr. BIDEN. But it was not an issue that was adjudicated before the Court about religious freedom on the part of Justice Rehnquist. Justice Rehnquist did not reach that judgment. He did not say this had anything to do with religious freedom. He said this had to do with whether or not the IRS, notwithstanding the facts the Senator says he acknowledges that it is broad public policy, broad public policy to not allow institutions, regardless of their makeup, to discriminate. He said that is broad public policy. But, notwithstanding that, Justice——

Mr. HATCH. Could I correct the Senator on that one point? That is not the broad public policy in this country.

Mr. BIDEN. It is not?

Mr. HATCH. It is not the public policy to ignore religious rights that are acceptable in this country today. We do not need to debate the religious discrimination issue.

Mr. BIDEN. We surely do.

Mr. HATCH. It was raised in this case.

Mr. BIDEN. We surely do.

Mr. HATCH. We do not, because I agree with you. It was raised in this case and it was legitimately raised, but it was brushed aside by all nine Justices. Eight of the Justices said that Bob Jones University practiced discrimination. Therefore, the agency, according to the Court, was within its powers to do what it did. Justice Rehnquist said the agency should not have asserted this power because Congress only could have given the power. That is a far cry from saying he is in favor of discrimination and against civil rights.

Mr. BIDEN. If the Senator will let me now make a full statement. I want to be short and full on this point.

Let us make it clear. Justice Rehnquist made absolutely no judgment relative to whether or not Bob Jones should be allowed to continue the practice of discrimination because it was a religious institution. He, with the other eight Justices, said that is a specious argument. He went out and he said, notwithstanding the fact that it is broad public policy to do away with discrimination in America, we have something here that I, Justice Rehnquist, do not like and think it is, in fact, unconstitutional. He said that the IRS, which had, since the Nixon administration when Justice Rehnquist was counsel for it, been engaging in a practice which said, at the direction of the President and with clear concurrence for failure of the Congress to do anything, said, "Look, if you are going to discriminate,"—"you" meaning anyone out there—"we are not going to allow you to have a tax exemption status."

Now, he seized upon, as I told you before, an intellectually elegant and credible point. He said, technically the IRS, and all of the executive branch, is making a judgment about whether or not discrimination exists. That is not a judgment the IRS should make, he said. He said that is a judgment that only the Congress should make, or, I suspect he would have said, if the Justice Department chose to go in and sue, bring suit against an institution.

□ 1220

But he said here you have an agency that is designed to collect taxes, and to make a judgment that this outfit discriminates. Therefore, they are going to withhold an exemption under the tax code—by the way, they are the arbiters in every other case—saying we are not going to, when you file your income tax, allow you to write off in effect paying us taxes; that is, saying tax exempt because you discriminate. Granted, it is an intellectually elegant argument as all arguments are.

I stood, and the Senator from Hawaii is waiting to speak and I will not take any more time but I will come back to this. But I want to make a point. I was responding specifically to the assertion by my colleague from Utah saying that there is no record of insensitivity, and not legality—insensitivity. Was he insensitive on race? I cannot believe that if in fact he wished to make that argument, if the Senator from Utah were on the Court and I fully expect some day he will be, I suspect he would have written the decision this way: If he agreed with the legal principle stated by Justice Rehnquist he would have said although it is public policy and should be public policy that institutions not discriminate against people merely because of the color of their skin, and inasmuch as I dislike having to write the opinion this way I must conclude that the Congress should move posthaste to remedy the situation which in fact the Internal Revenue Service has arrogated unto itself.

I do not like doing this but technically they should not be allowed—"they"—the Internal Revenue Service—to do this. He did not say that. He did not express any sensitivity.

Again, legal scholars can point out—and I admit, too—he came along, and he made an intellectually defensible argument. That is clear. I am not arguing with that. I am just raising the question, Mr. President, whether or not this fellow understands how delicate the balance in this Nation is. He is to be the Chief Justice of the United States of America. He is technically right. I think he is wrong as does eight other Justices. But he can technically make the argument. But I doubt whether anybody can move from there beyond to saying it is technically right that he expressed any sensitivity.

There are those who will sit and listen to this and say, "Wait a minute, Senator BIDEN. What are you asking the Justice to have sensitivity for? All he or she has to do is have the intellectual ability to define within boundary that we can think of the arguments they hold that is fitting with the constitutional framework. That is all you have a right to do, BIDEN."

Well, if they are right, then I am wrong. But if the issue is sensitivity, which I will come back to later and I will argue the rationale for, if that is the issue, then it is a different matter.

But I do not want to hold up the Senator from Hawaii, and I am sure my colleague and I are going to get a chance to continue this discussion at some point and many others also over the range of the day and maybe into the next couple of days.

I thank the Chair.

Mr. HATCH. Mr. President, the technicality Senator BIDEN mentions was the law. And Justice Rehnquist was upholding the law as it was written, which is what Supreme Court Justices should do.

Mr. BIDEN. If the Senator will yield, it was technically the law according to one man. Seven other men and one woman disagreed.

Mr. HATCH. There is more to it than that. It is interesting to note that 18 of the 26 major law review articles on this issue—and these are the leading scholars of America—are critical of the majority opinion of the case.

All I am trying to point out is that you can take any case out of context. It is insensitivity to you because he disagrees with you. It is courageous for anyone to be a dissenter. And he has been a dissenter on a number of occasions, not as much as some of his colleagues, however. It is also interesting to note that Prof. Larry Tribe from Harvard, who is a liberal law professor, wrote in the Indiana Law Journal that the Court's use of congressional inaction in the Bob Jones University case was not—let me emphasize "was not"—a legitimate means of ascertaining congressional intent.

In addition, two of the four judges that heard this case before it arrived at the Supreme Court ruled that the university was entitled to a tax exemption.

To present it as though he is insensitive to civil rights or that he does not stand for the mainstream of civil rights is not only misleading but it is wrong.

I might add that Justice Harlan was the lone dissenter in the Plessy versus Ferguson case. He was one who coined the language "Colorblind Society." All I can say is that I differ with the Bob

Jones case, however, I can understand the very powerful constitutional argument involving separation of powers.

Let us not condemn anybody because of a series of cases. This man has been involved in thousands of cases since he has been on the Supreme Court of the United States of America and has written many opinions.

What I really resent is not my distinguished friend from Delaware. What I really resent is the way some of our esteemed correspondents and journalists have written about this Bob Jones case as though he was for segregation. He is not for segregation. His whole career says that he is not. But he does not go as far as "forced busing" and a whole raft of other issues that are highly controversial and hard-fought issues in the area of civil rights where reasonable minds can differ.

Mr. BIDEN. Mr. President, will the Senator yield?

Mr. HATCH. Yes.

Mr. BIDEN. I was responding only to the one question of sensitivity. Let me broaden it just a moment, and then I will yield to the Senator from Hawaii.

Mr. HATCH. If I can interject, we were limiting this discussion to the Bob Jones case. We should let the distinguished Senator from Hawaii give his remarks. But, in my view, it would not be correct to cite the Bob Jones case to show that he is insensitive to civil rights.

It would be inappropriate to attack the intellectual credibility of his arguments. Some have distorted what he really wrote in that case. Some have tried to make him look like he is anti-civil rights when he merely was standing for one of the most hallowed principles of constitutional law, albeit alone, but so did Justice Harlan in the Plessy case. So did Justice Frankfurter in many cases. So did Justice Holmes and so does nearly every justice at times.

These are not simplistic issues. They are difficult issues. There are always two sides. Even though the person is a lone dissenter, it is a mark of honor. It is not a mark to be criticized for. He has had the courage to do both. He has led and has been a lone dissenter. That is the point I am making.

Sometimes we get too simplistic in our zeal to make our points in these matters. I do not think we should do that.

I will be happy to yield.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. I will only take 3 minutes.

Let me make a couple of points with regard to the Bob Jones case. The Bob Jones case taken all by itself, even though I think it was a real stretch for Justice Rehnquist to reach the conclusion he had, all by itself I would say although insensitive is not one that would lead one to belive that this man is not in the mainstream of American civil rights. Do not forget, we are talking about a man who before he was on the Court fought open housing in his home town and wrote letters to the editor in his home town. We are talking about a man who has been, alleged to have been involved in what was then a constitutionally legitimate practice of challenging voters, Hispanics and blacks, primarily, to ask them whether or not they can read English—read before they voted. We are talking about a man who has written a memo which I will not go into now, but I will go into later, when he was at the Justice Department and allegedly by some, and I am one of those who believes it, wrote a memo for Mr. Justice Jackson saying Plessy versus Ferguson was constitutionally valid law, and it should not be overruled.

□ 1230

So we are not talking about the aberration of an otherwise committed civil libertarian and civil rights activist, you know, not that you have to be a civil rights activist to be in the courts. We should not paint this in being A, in this case, or, B, that Justice Rehnquist does not have a 30-years history of having been at best resistant to change in our civil rights laws in this country.

Let us put it in focus, to use the phrase my friend from Utah likes to use. Let us look at this.

Well, as we look at this, we have a man who in everything he has done from his most narrow interpretation—again, as I said yesterday, intellectually elegant but yet narrow interpretation—of every piece of civil rights legislation that was passed, and prior to him being a man who was to rule on that legislation, he wrote as either counsel to the President or he acted as counsel to the party of his choice in his home State, or as a private citizen, he felt the need to go forward and testify why open housing was a bad idea.

You look at things in a continuum, and the fact that he ends up somewhere 81 out of 84 times voting against civil rights characterizes the position taken by black Americans, black plaintiffs, and I will go further into it, again, in and of itself, does not mean that the man is a racist, it does not mean that the man is not intellectually sound, it does not mean that he is one who has not found arguments in the Constitution to make his argument constitutionally credible.

I will make those points later.

At a minimum, it is not someone who shows an overwhelming sensitivity or any sensitivity, I might add. That is the context in which this occurred. This is not Earl Warren, who was equally as disliked or objected to as Justice Rehnquist. Let us get in everybody's mind the man we are talking about.

We are talking about a man who has not been anywhere near the forefront, and at best he has been at the rear and not hanging on but pulling back, it seems to me, on any movement in civil rights in this country.

I yield the floor to whomever would like the floor. I will come back and discuss other matters.

Mr. HATCH. I know my distinguished colleague from Hawaii would like to speak, but I will just take a moment.

I thank my colleague for being willing to participate in this debate. Some of the criticisms which have been lodged have been general criticisms.

When you start talking about individual issues and individual cases, you find that they generally involve very hotly contested matters in our society.

The Leadership Conference for Civil Rights has been advocating timetables and quotas.

However, the majority of blacks in this country do not want to arrive at their future on the backs of other people who are discriminated against solely because of their skin. They do not believe in quotas.

Mr. BIDEN. Let me ask the Senator, who is talking about quotas?

Mr. HATCH. Let me go into this. A lot of them involve the effects test.

Mr. BIDEN. Quotas?

Mr. HATCH. I am talking about various aspects of the civil rights law in some of these cases, like the Fullilove and Weber cases which involve quotas.

Back in 1979 this body came to a standstill on the effects test issue. Those who advocated for the effects test lost, because it was an important issue. There is a good argument for the effects test, but I think there are overwhelming arguments against it.

A lot of these people are arguing for forced busing in our public schools. That is a neighborhood school concept which has been criticized here.

I know that Senator BIDEN is on the right side on forced busing, he is against it, as I am, the vast majority of people in this country are against forced busing. They are outraged. It has not been proven to be a working situation. You have to really stretch the truth to try to really show where it works at all.

A vast majority of the people are against that.

I could not let the Senator raise Bob Jones just because a lot of people have said that Mr. Justice Rehnquist was against civil rights because he was the lone dissenter in the Bob Jones University case.

He not only made legitimate arguments but they were arguments that should have been made by the other justices as well. Whether he was right

or wrong only long-term history can tell. The point is he had a legitimate point of view. He argued it well and it did not show insensitivity to argue that position.

This whole dispute is caused becaused some differ with Justice Rehnquist's ideology.

When Richard Nixon was President, when Gerald Ford was President, and when Eisenhower was President, they could not put a conservative on the Supreme Court because the U.S. Senate, except for a couple of years under Eisenhower, was controlled by the Democrats. And the Democrats are not known for conservative politics in this country except on occasional instances and they are very rare.

The fact is that a conservative President has taken the leading conservative on the U.S. Supreme Court and given him the opportunity to become Chief Justice. His opponents do not like it. There is a good reason for it. They do not agree with him on forced busing. Senator BIDEN does, but a lot of others do not. They do not agree with him on quotas. They do not agree with him on the effects test versus the intent test. These are three of the most crucial and hotly contested issues in civil rights. They involve rights of people on both sides which are extremely important.

What the opponents of Mr. Justice Rehnquist are really upset about is that they do not control this nomination and they do not control this President. They cannot attack this man's sterling 15-year record legitimately, so we get these broad-brush arguments about Bob Jones University. When you get into the issues, you find it is not the simplistic little thing that some of our journalists have written about or some of our colleagues on this floor have talked about.

I really find it reprehensible what went on in the committee hearings. In their zeal to tar this man with something that might stop him from being Chief Justice of the U.S. Supreme Court, they bring up matters that some of the media have mischaracterized. Some have tried to make Bob Jones look bad because it did in fact discriminate against blacks through its religious beliefs. If you want to get into religious beliefs, I can show my colleagues that a lot of religions have religious beliefs others object to. And if we want to portray them as bad, the Hassidic Jews are sure going to be upset, and the Catholics are going to be upset.

Mr. BIDEN. Mr. President, Catholics will not be upset.

Mr. HATCH. They will be upset if they are told they have to have abortions.

Mr. BIDEN. You said on race. Will you stick to the point, Senator?

Mr. HATCH. I am sticking to the point.

Mr. BIDEN. You are mixing bananas and apples and oranges now.

Mr. HATCH. Wait a minute.

The reason the Grove City bill is stopped in the House right now is because there is a strong coalition, including the Catholics, which objects to the Carter regulations that would provide that abortion has to be treated——

Mr. BIDEN. What does that have to do with race, Senator?

Mr. HATCH. Because they are part of the coalition that has stopped that bill in the House.

Mr. BIDEN. Is that race, Senator?

Mr. HATCH. The Grove City bill is not limited to title IX but extends to title VI as well.

Mr. BIDEN. Oh, OK, I see.

Mr. HATCH. The Grove City bill involves very serious issues. It involves the nuance of abortion that has the Catholic Church interested in it.

Mr. BIDEN. Mr. President, if the Senator will yield, I can understand when there is so much occasional confusion because I engage in it also. I thought the Grove City case relates to discrimination under title IX based on sex.

Mr. HATCH. It does relate to title IX, and also to title VI, involving race discrimination, the Age Discrimination Act and the——

Mr. BIDEN. The only point I want to make is the Catholic Church has no problem on any race issue. You can go in and tell us anything you want to tell us about not discriminating based on race and there is no problem. That is the only point I want to make.

Mr. HATCH. The entire bill is a problem in the context that a bill which will literally overrule the Grove City case on institution-wide coverage in all universities for women has been delayed because the Catholic Church and many other organizations do not like the fact that that bill will result in forced abortions at religious institutions. The entire bill relates to a variety of issues.

I am not saying they are for discrimination. There are instances where various religious institutions do hold beliefs others do not understand.

These are complex issues, Mr. President. The Supreme Court is a complex forum. There are widely divergent views on the Court right now. That is why it is such an interesting institution. To come in and make broad-brush generalities about Mr. Justice Rehnquist demeans the process. It demeans him. It demeans us.

If you want to talk about individual cases, we shall be happy to do it.

I yield the floor.

Mr. BIDEN. Mr. President, how about Batson v. Kentucky? Let us make sure we are talking—if the Senator will let me finish.

Mr. HATCH. I shall be glad to talk about Batson.

Mr. BIDEN. Give me a chance.

Mr. HATCH. I am glad to do it.

Mr. BIDEN. The Senator suggests that what we are talking about here is busing and quotas. The Senator from Delaware has not raised cases regarding busing and quotas. We are talking about much broader issues, about whether or not this man has any sensitivity on the issue of race.

There are a lot of cases, there are a lot of circumstances, there is a lot in Justice Rehnquist's background which, in this Senator's opinion, indicate that in fact he is insensitive on race questions and gender questions and age questions that do not have anything to do with quotas, that do not have anything to do with busing at all.

Maybe the Senator and I could make an agreement that we will let the Senator from Hawaii speak and then afterward, he and I could get back into the discussion about whether or not this is an area that should be pursued, because we have both been standing here saying we are going to let the Senator from Hawaii speak. That is, for the last 45 minutes we have been saying that.

I yield the floor.

Mr. HATCH. The Senator from Delaware brought up the Batson case. We will discuss that later. The Batson case is an interesting one. I shall be happy to discuss it in detail.

I yield the floor to the distinguished Senator from Hawaii.

The PRESIDING OFFICER. The Chair recognizes the patient Senator from Hawaii.

Mr. INOUYE. Mr. President, with much reluctance I intrude into this provocative and interesting debate.

Seriously, we have just seen and listened to a demonstration of what makes this body the most important deliberative body on this Earth. My only regret is that most of my colleagues are not here and were not here to listen in on this exchange. I commend my distinguished friends from Utah and Delaware for carrying on this debate.

Mr. President, I rise to join those who have expressed their opposition to the confirmation of William Rehnquist as Chief Justice of the United States.

The issue before us is not whether Justice Rehnquist should continue to serve as a member of our Supreme Court, the question is whether he should be confirmed to become the single most powerful jurist in our country—the Chief Justice of the United States. This is a distinction which is not to be taken lightly, for we are asked to confirm the leader of one of the three coequal branches of our Government.

Perhaps it is naive, but I believe that the leader of America's judiciary

should be above reproach. I believe that there should be no reasonable basis to question his commitment to racial justice; that there should be no reasonable basis to even suggest that he questions the fundamental right of women to equal protection; that there should be no reasonable basis to question his integrity and candor; and, perhaps most importantly, no reasonable basis to question his ability to lead a court which will almost certainly be called to unite a nation, and to remind our people that the promise of fairness and equality embodied in our Constitution will continue to evolve and be made real.

The administration of justice in our Nation deserves no less than a man in whom our people can place its unequivocal confidence. Because I do not believe this to be the case, I must oppose Justice Rehnquist's confirmation.

In the course of this debate, Mr. President, I believe that we must continually remind ourselves that we are selecting a man for leadership. This is not a matter of service on the Court. Nor is it a matter of providing a balancing view or alternative perspective. It is a matter of expressing our confidence that the Court and the American people will be led in a fashion that we believe represents the best of our commitment to justice.

Mr. President, the role of the Chief Justice is far more then merely ceremonial and administrative. He must lead. He must also serve as a moderator and consensus builder who will bind the Court and our Nation.

Although I cannot hold myself out as expert in these matters, I think that it is significant that the role of the Supreme Court in our Government was largely defined by a Chief Justice whose leadership and ability to find a common ground was such that he dissented only once on Constitutional issues in 34 years as chief justice. I speak of Chief Justice John Marshall. Chief Justice John Marshall serves as the paramount example of the duty and potential of the office to bring together a court, engender confidence in our form of Government and give life to the Constitution. And while it is, of course, unfair to compare any jurist to a giant such as Marshall, it is fair to ask that the qualities of leadership, moderation, and an ability to unify be demonstrated at the time of appointment. I do not find this to be the case with Justice Rehnquist.

□ 1250

He has, to my knowledge, served rather than led. He has neither a reputation nor apparent inclination toward compromise and moderation, and on the basis of the record it appears that Justice Rehnquist may be more likely to divide than unite a court or nation.

Mr. President, I believe that the Chief Justice must also symbolize and effectuate our commitment to racial and social equality.

The commitment of our Nation to genuine racial equality was manifested in Brown versus Board of Education. In that case Chief Justice Earl Warren spoke for a unanimous court declaring that "separate educational facilities are inherently unequal." This simple, now self-evident conclusion, precipitated a revolution in the history of race relations in America. The philosophical and moral leadership exhibited by Warren, together with his ability to bind a court epitomized what the American people have the right to expect of its Chief Justice.

Ironically, in 1986, we are debating whether a prospective Chief Justice supported, or currently fundamentally accepts, the premise and principles of the Brown decision.

In this age, we tend to forget that the evil of segregation was supported by benign sounding and apparently objective social and legal analysis. In Plessy versus Ferguson, the Supreme Court sanctioned segregation thusly:

> Legislation is powerless to eradicate racial instincts or to abolish distinctions based upon physical differences, and the attempt to do so can only result in accentuating the difficulties of the present situation. If the civil and political rights of both races be equal one cannot be inferior to the other civilly or politically. If one race be inferior to the other socially, the Constitution, cannot put them upon the same plane.

But those who have historically been the victim of such language have not forgotten the vicious and degrading reality which such neutrality engendered. It is understandable that they are necessarily discomforted by the nominee's statement in 1952 that "I think Plessy versus Ferguson was right and should be affirmed." Although this was subsequently recanted and attributed to Justice Jackson, concern has been reinforced by his statement 15 years later that "we are no more dedicated to an integrated society than to a segregated society"; by his alleged participation in ballot security operations; by his allegedly innocent purchase of two homes with racial covenants; by his development of a constitutional amendment which would consciously permit intentional segregation; and by a judicial record most recently manifested by a lone dissent attempting to retain tax benefits for an educational institution which practiced racial discrimination.

It is difficult to equate this record with leadership of an Earl Warren in Brown. It is equally difficult to imagine that the confidence of the American people in our Court's commitment to racial equality will be enhanced by Justice Rehnquist's confirmation. Mr. President, I think they, and we, deserve better.

Mr. President, in 1974, our Nation was confronted with a constitutional crisis regarding the unwillingness of President Nixon to surrender certain tapes. The case was before the U.S. Supreme Court and many feared that the Court might be predisposed toward the executive since five of its members had been appointed by the President. Led by Chief Justice Burger, the Court not only put these fears to rest but substantially contributed to the resolution of the national crisis. In doing so it raised the Court's, and the Chief Justice's, reputation for integrity by issuing a unanimous consent which left no doubt as to its objectivity, honesty or allegiance.

On the basis of the record before us, I find it difficult to conclude that the Court's reputation in this regard will be enhanced by the confirmation of Justice Rehnquist. Justice Rehnquist's choice in Laird versus Tatum has been thoroughly discussed, as has his candor before the Senate Judiciary Committee. And while I cannot say that he has been proven to be less than candid under oath or violated the canons to which he is bound, I believe that there is more than sufficient doubt which has been raised to justify a rejection of his nomination. For the question before us is not whether he is a criminal who has perjured himself, or whether he must be sanctioned or impeached, but rather whether the evidence justifies elevation to a position which serves as one of the most important repositories of trust in our form of government.

Mr. President, I do not question that Justice Rehnquist is equipped with a fine legal mind. But brilliance is neither a necessary nor sufficient condition for the leadership of the U.S. Supreme Court. What is required is the flexibility to rally a court in times of national crisis; a willingness to forward and symbolize those commitments which represent the best that our system of justice has to offer; and a character and reputation which enhances the Court's reputation for unquestioned integrity.

Mr. President, in applying this standard I ask how the Nation might have evolved if Justice Rehnquist were Chief Justice when John Marshall was confronted with Marbury versus Madison and a need to cautiously and moderately unite the Court; or if he were Chief Justice when the Court was confronted with Brown versus Board of Education and the future of race relations lay at stake; or if he were Chief Justice when the Court decided United States versus Nixon when the faith of the American people in the integrity of the Court lay at issue.

Because I have substantial doubts about how a Chief Justice Rehnquist, or Rehnquist Court, would have led and comforted the Nation, I have no

choice but to oppose his confirmation and urge my colleagues to do so.

I yield the floor.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I would like to discuss for a few minutes what I think is the basic question. It is very easy, in the process of all this debate, to avoid looking at the basic question. The basic question—and I think we are all in agreement—is not the ability of the nominee. The basic question in my mind at least is not his ability to administer the Court, or to serve as the Court administrator. I have no trouble at all with the fact that he has had a great many lone dissents; that shows some courage. The question is not even how he votes on the Court, because we are not going to change one vote on the Supreme Court. What are we discussing? We are discussing the symbol of justice for this country well into the next century. If what we are debating is only the symbol of justice, is it that important? I suggest to you, Mr. President, it is that important.

Right in back of you, Mr. President, is a piece of cloth that happens to be colored red, white, and blue. It is only a symbol. Is it important? You bet it is important. It is important to every Member of this body. It is important to 220 million Americans. We just celebrated the centennial of a piece of metal and concrete in New York Harbor. Is it simply a piece of metal and concrete? No, it is much more than that. The Statue of Liberty is a symbol. We die for symbols. Symbols are extremely important.

Can Justice Rehnquist, in the words of Senator INOUYE, bind our Nation together? Can Americans in every State in this country, in Mississippi, in New Jersey, in Delaware, in South Carolina, look to the nominee and say, "Here is a person who represents justice for me" without any hesitation? I have come to the conclusion that Justice Rehnquist is not a good symbol.

Now, can or should ideology be considered? Here I think Justice Rehnquist has provided the best answer. I think in the case of a district court nominee, unless it is a very extreme nominee, ideology should not be a major factor. The court of appeals? It is more important. Supreme Court? Yes, it is important. And important also for that symbol of justice. William Rehnquist wrote in the Harvard Law Review—this is prior to his nomination to the Court:

> Until the Senate restores its practice of thoroughly informing itself on the judicial philosphy of a Supreme Court nominee before voting to confirm him, it will have a hard time convincing doubters that it could make effective use of any additional part in the selection process.

What is true of a nominee is also true of that symbol, the Chief Justice.

A second factor has been raised, and that this is the candor of the nominee before the Senate Judiciary Committee. In the case of the memo to Justice Jackson when Rehnquist was a law clerk, it is difficult to know when memory is guilded a little bit. I was impressed by the comments of our colleague from California, Senator CRANSTON. After he made his remarks today I talked to Senator CRANSTON. I said, "Did you know Justice Jackson well enough so that there is no doubt in your mind these were not Justice Jackson's views?" And Senator CRANSTON said, "Absolutely not." Maybe memory is guilded. I will give the benefit of the doubt to Justice Rehnquist.

In the case of the Phoenix precinct, I have to say I was very impressed by a courageous attorney from California, Mr. James Brosnahan, and his testimony. I think there is at least a small cloud over the question of candor before the Senate Judiciary Committee, but I do not regard that as the main question. The main question is in the area of civil liberties, and in the area of those less fortunate in our society, for whom justice is extremely important. In the area of civil rights, will Justice Rehnquist represent the symbol of justice that we need?

□ 1300

Let me take, first, the area of civil liberties.

One matter that is not a big issue on the floor here but is an important issue, I think, for many Americans, and an important issue in the long run, is the question of wiretapping. When our Constitution was written, they said you cannot come into our home without a very specific search warrant, because we wanted to confine police activity. Also, we should not permit people to invade our conversations without great restrictions. Justice Rehnquist has not shown great sensitivity here.

In the area of church-state relations, the first amendment, the establishment clause, his record, I regret to say, is not strong. As a law clerk—again, I recognize that this is some years ago—William Rehnquist commented in a memo:

> I personally don't see why a city can't set aside a park for all games, picnics, or other group activities without having *some outlandish group like Jehovah's Witnesses* commandeer the space and force their messages on everyone. (Emphasis added.)

Again, if we were talking about some isolated statement made 30 years ago, that is not a basis for rejecting someone. But the pattern is very clear.

The Society of Professional Journalists, formerly called Sigma Delta Chi, did an analysis of 80 speech-related cases in which Justice Rehnquist has participated. They found that in 69 of the 80 speech-related cases, Justice Rehnquist cast an unfavorable vote for the first amendment.

On the church-state question: In one case, Wallace versus Jaffree, the Justice Rehnquist cited a decision by Chief Justice Story, who was Chief Justice from 1811 to 1840, which he calls the most comprehensive analysis of the Constitution until that time. In that dissent, in that decision by Chief Justice Story, he says this:

> The real object of the first amendment was not to countenance must less to advance Mohamidism or Judaism or infidelity by prostrating Christianity but to exclude all rivalry among christian sects.

I am not suggesting this is precisely Justice Rehnquist's view. But when he cites that particular decision, I feel some discomfort.

Let us quote from Justice Rehnquist, himself, in the same decision:

> The "wall of separation between church and States" is a metaphor based on bad history, a metaphor which has proved useless as a guide to judging. It should be frankly and explicitly abandoned.

I recognize that there is not a complete and total wall of separation. If the local Methodist Church is on fire, you call out the fire department. You do not say "a wall of separation." Yet, that separation has been important to our country, has been a protection for freedom, has been a protection for the religious bodies and the religious opinions of our country. Justice Rehnquist's record in this church-state field does not embody the symbol of justice that I would like to see as the Chief Justice.

Second, what about the less fortunate in our society? Let me just mention a couple of examples.

The Supreme Court has declared unconstitutional eight statutes that discriminated in some way against illegitimate children. Justice Rehnquist dissented in all eight cases—again, a lack of sensitivity that does not commend him to the position of Chief Justice.

In a Wisconsin case, Zablocki versus Redhail, the Wisconsin statute made it a crime for anyone to marry if you had not paid your child support payments. The Supreme Court, by an 8-to-1 ruling, said this is not fair. The Court said:

> The freedom to marry has long been recognized as one of the vital personal rights essential to the orderly pursuit of happiness by free men.
>
> Marriage is one of the "basic civil rights of man," fundamental to our very existence and survival.

The Court said that if you are to deny people the right to marry because they have not paid a child support payment, you would, in effect, be denying the right to marry to very many poor people.

□ 1320

The Supreme Court Justice Rehnquist dissented from that opinion.

In a Florida case, Gardner versus Florida, a death penalty case, a jury which heard the case unanimously recommended that the death penalty be imposed. After the jury made this recommendation the trial judge, on the basis of a secret presentence report which he refused to disclose to either the defense attorney or to the defendant, ordered the death penalty. The Supreme Court by an 8-to-1 vote reversed that death penalty saying that a defendant and the defendant's attorney are entitled to see the evidence. Again, Justice Rehnquist lacks sensitivity.

Finally, in the area of civil rights, it is very clear despite the comments by my good friend from Utah, Senator HATCH, that the record is not a good one on the part of Justice Rehnquist.

When he was a law clerk—and I recognize here again views change, but the pattern is there consistently—in a memorandum concerning Terry versus Adams, he wrote:

It is about time the Court faced the fact that white people in the South don't like the colored people: the constitution restrains them from effecting this dislike through state action, but it most assure[d]ly did not appoint the Court as a sociological watchdog to rear up every time private discrimination raises its admittedly ugly head.

Admittedly ugly head.

Then he argued to the argument made by Thurgood Marshall, not—

A majority may not deprive a minority of its constitutional right, the answer must be made that while this is sound in theory, in the long run it is the majority who will determine what the constitutional rights of the minority are. One hundred and fifty years of attempts on the part of the Court to protect minority rights of any kind—whether those of businessmen, slaveholders, or Jehovah's Witnesses—have all met the same fate. One by one the cases establishing such rights have been sloughed off, and crept silently to rest. If the present Court is unable to profit by this example, it must be prepared to see its work fade in time, too, as embodying only the sentiments of a transient majority of nine men.

Majority of nine men.

Is that the kind of sentiment we want as a symbol of justice.

Now, you can say well, his opinions have changed a great deal since then. It is interesting because the justice says they haven't changed; in the NAACP Legal Defense and Education Fund memo they quote a 1985 interview with the New York Times in which Justice Rehnquist observed, "I don't think that my views have changed much from the time" when he was a law clerk to Justice Robert H. Jackson.

Justice Rehnquist has a very different view of the function of the Supreme Court than I have in mind or a great many other people have in mind.

My colleague, Senator BIDEN, has already referred to the letter to the editor he wrote to the Arizona Republic of Phoenix which he recalled the passage of an ordinance prohibiting discrimination on the basis of race in places of public accommodation. Justice Rehnquist opposed that ordinance.

He testified before our committee that he was not aware of the restrictions on the sale of his home. I have no reason to doubt that. It is clear he had been told, because he later sent letters to us, but the restrictions did not seem that important to him, again a lack of sensitivity.

This morning's Washington Post has this paragraph:

But the pattern goes beyond this. The Leadership Conference on Civil Rights made a study of Justice Rehnquist's opinions over the years. It found 83 cases involving civil rights that (1) were statutory, not constitutional, involving interpretation not of the intent of the Founders but the will of Congress, and (2) were not unanimously decided; they were close calls. Mr. Rehnquist, the conference reported, voted against the civil rights complainant in 80 of these 83 cases.

In the years since Justice Rehnquist has been on the Court the Supreme court has decided 11 equal protection cases in which it resolved a dispute of fact between State officials and minorities who claimed discrimination. In 7 of these 11 cases a majority of the Court resolved the dispute in favor of the minorities. Justice Rehnquist, on the other hand, agreed with the minorities in only 1 of those 11 cases.

Fourteen race discrimination cases have been brought to the Court on behalf of blacks in which Justice Rehnquist cast the deciding vote. In every one of those 14 cases Justice Rehnquist cast the deciding vote against the black complainant.

In the case of women, we have the ERA memorandum that he wrote prior to his joining the Court.

Clearly he was wrong in his judgment as to what the effect would be, and I say that coming from the State of Illinois where we have an ERA amendment in our State constitution.

The fact that he was wrong should not be held against him. PAUL SIMON has been wrong. JOHN STENNIS has been wrong. STROM THURMOND has been wrong. DAVE DURENBERGER has been wrong. Even BILL BRADLEY has been wrong from time to time. We all make mistakes in judgment.

The question is not whether he was wrong. The question is whether he was insensitive and the answer clearly has to be that he was insensitive.

Listen to part of that memo:

"Traditionally," Rehnquist wrote, "the domicile of a married woman has been that of her husband, and if the husband decides to move . . . [for a job] the wife is legally obligated to accompany him." ERA, he wrote, "apparently would leave both parties with the power to decide this question."

Well, we have had both parties deciding this question in Illinois for some years and it has not worked out badly nor any differently than it has in any other State.

Since 1971, the Court has ruled on the constitutionality of 23 statutes or Government practices which in one way or another discriminated on the basis of sex and in 14 instances it found them unconstitutional. Justice Rehnquist voted to uphold all but 3 of these discriminatory practices.

Finally, Mr. President, what we have here is a clear pattern. A clear pattern that is going to alienate millions of American citizens if he is our symbol of justice.

Someone criticized me the other day because I had voted against the majority on this side in the case of a Federal court nominee, Judge Fitzwater of Texas. The difference is very clear. Judge Fitzwater was in error on one thing he handled. I do not defend that. But there was no pattern that was wrong.

There is a pattern in the case of William Rehnquist and it is not a good pattern. I will vote in opposition to his nomination.

□ 1320

I recognize at the same time that this body is going to approve him. A question the American public asks themselves and I ask myself is: Despite the pattern, can Justice Rehnquist grow into this new role? Time will tell. I cannot answer that. History is not very encouraging on that point, the history of Justice Rehnquist.

I would encourage Justice Rehnquist, if he is approved—and I am sure he will be within a few days—to take a weekend off by himself, walk along the beach and reflect on this role of being the symbol of justice for all the people of this country. He will no longer be a single Justice. He will be important in ways that none of us know. He will be important as the symbol of justice to everyone.

I want a Chief Justice that will bind the country together, that will give all of us a feeling that he represents justice for every man, woman, and child in this country.

On the basis of the record, I cannot vote for Justice Rehnquist. I hope he will conduct himself in such a way that my vote will turn out to be the wrong vote.

I yield the floor, Mr. President.

Mr. STENNIS. Mr. President, I appreciate very much the gesture here of my colleague from New Jersey for allowing me to proceed at this time.

Mr. President, in many ways, our function here, representing our respective States, in considering the approval or rejection of a nomination for a judge and, more particularly, a member of the Supreme Court of the United States and, even more particularly than that, for the Chief Justice

of the United States, is grave indeed and far reaching in consequence.

I want to make one point clear here, too, that this is our responsibility. The Chief Justice of the United States is not a part of the administration of whomever may be President when his name came in as a nomination. He will not be a part of the administration that follows and follows that, should he serve year after year after year as Chief Justice.

Under the Constitution, it is clear, crystal clear, that the judicial branch of the Government is separate and apart from the executive and legisative part. It is a separate function. It has a separate independence to it and, more particularly, to the Chief Justice of the United States. Even the President, even the Congress, should the vote be unanimous, cannot change the salary, for instance, for any Federal judge, even for a small amount, $100, or any change whatsoever. This illustrates how complete and how practical and how certain the framers of our Constitution were that they were to create an independent body, a body independent of every other agency in the Government, except of course in the case of the willful violation of the law of such kind that would be grounds for an impeachment.

So I speak with deference, special deference to the Presidents who send the name in because they have the responsibility of it. But they do not have any control as to how we vote.

Now I am not going to take a great deal of time. I just want to put the greatest emphasis that I know how on the importance of any judicial officer under our Constitution and, more particularly, as I say, the Chief Justice of the United States.

The President has his responsibility, as I have already covered quite briefly. But it is there and I am sure the present President felt that responsibility. I am proud to say that I believe that almost every nomination that comes in through this process does represent care and represents careful selection and represents the fundamental principle that is intended.

But I have to emphasize that the final decision is our responsibility. And it should be made clear to the people that this is a function of the Senate to pass a yes or no verdict with reference to any nominee in the judicial branch of the Government and keep on until one is selected that would go forth with the powers and the immunities that are clearly set forth in the Constitution of the United States.

But I will tell you, anyone can have defects pointed out if he served on any high court for as much as 14 years, as has this gentleman. Now I have no personal familiarity or connection with him. I have been to a reception or two at the Supreme Court quarters and have shaken hands with this gentleman. But I do not know him and he does not know me, as we ordinarily use that term.

But I do know, to some degree, about judicial experience. I was a trial judge in a court of unlimited civil and criminal jurisdiction for a good number of years. I will tell you right now, it is a hard, severe, exhausting experience that tries every fiber that a man has, every inclination that he might have. It is a test. His learning in the law is generally recognized, but the qualities, the decisions a judge has to make are far, far more important many times than is the knowledge of the law.

Now, you can have all kinds of apparent qualifications for a man you think will make a good judge. You know he is a man of honor and character and all those virtues that go with it. But the real test comes when you try him out and send him around the track, year after year, and see how he works with his fellow judges, how he reacts to certain sets of facts, how he carries on and conducts the general and special affairs of that court with impartiality. That is where you find the measure of the man.

Now, as I see things, if we had even one case of willfulness or gross carelessness, even, or gross intention to do wrong in any matter that he was deciding these 14, nearly 15 years, I would just let him go. I would not support him.

□ 1330

But as I understand the facts in the record, there is nothing that is clearcut that shows a willfulness or maliciousness or the wrong qualities of character or honor that can be laid at the foot of this man.

Now you can find matters on which you disagree. That is the easiest thing I suppose there is to do. Just go to check in the record, read the law books, the judge's opinion to see what he wrote under this circumstance, that circumstance, these facts and these alleged facts. And you can get barrels and barrels of cases where you thought, well, in that time he made a mistake. But you are not proving any defects of character, honor, capacity, and attitude against anyone that is performing that function. He has to do the best he can.

Another factor is this: how does he get along with his fellow judges? That would be a material point. It is to me, at least, looking at least, looking at these judges, their work, the complexity of it, year after year after year.

I am proud of the Members that have been holding the hearings, all of them. I am proud of the fellow Members we have here that have worked on these cases and brought them in to hear the facts.

But in all of these hearings, I have not heard anything wrong or lack of capacity, lack of intelligence or lack of a will to carry his part of the load that is attributed to this man. You may find things, as I say, that you disagree with him on. I know I could find some things by looking at the record close enough on which I disagreed with him. But when you lay that down beside the average fellow that you are trying to find to serve in this position, you are going to find about the same thing and about the same batting average so to speak with reference to those kind of mistakes, and those kind of conditions. That is true of all those that try to really turn out the work and carry on their part of the load of the Court.

When I said load, that is a deliberate choice. I do not believe anything connected with Government—the President of the United States has gotten a load that is almost impossible to carry because of the volume of it—but I do not believe even the Presidency is any harder on a man to carry the load of it and perform properly than the membership now on our Supreme Court.

In a measure, it is the most unrewarding job, as I see it, except for that satisfaction if he tries to do his best and render his duty. Then there is a certain amount of satisfaction that goes with it.

The first time I ever went into the Supreme Court Chamber was in the old Chamber here on this floor. And the Chief Justice then was a former President of the United States, former President Taft, then Chief Justice presiding over the sitting that was there, a man of great jovial disposition and nature, and in his opening remarks, he found plenty of ways to entertain us. But when he got out into the cases, it was altogether a different situation. He created an atmosphere. He was carrying on his duty. You would feel proud of him.

I think when the fundamentals are really weighed, and the general character is considered there is the capacity to turn on the work, to do the work, and the willingness to do the work. When all of those things are measured carefully and impartially, I believe that this man will be counting particularly on these years of service, and that is what I find convincing. All those things add up to the fact that it would mean that this man is capable and competent. There may be a little thing back there when he was a young man coming along. That did not weigh much with me. I believe this man will measure up in character, honor, and experience far above the average.

I believe that he will make a capable, competent, satisfactory man filling the role of leadership there even more than his brethren, according to all the proof I have heard. And that this man will turn out, round out, and be a servant of the type that we need. And if

he is finally chosen and goes on to these special duties, may I especially wish him godspeed, satisfaction, and the reward that comes to him from duty done well.

I yield the floor, Mr. President.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER (Mr. SIMPSON). The Senator from New Jersey.

Mr. BRADLEY. Mr. President, I thank the distinguished Senator from Delaware for making this time available and the distinguished Senator from Mississippi for his remarks, particularly demonstrating the length of his service in this body. Not all of us can remember when William Howard Taft was Supreme Court Justice, and very, very few of us ever saw him in action. So it is an honor to hear his speech.

Mr. President, the nomination of William Rehnquist to be Chief Justice of the Supreme Court is one of the most important questions to come before this Congress. The Chief Justice is not simply one of nine jurists. He is the very symbol of our Nation's dedication to fundamental fairness and equal justice for all.

The commitment of a Chief Justice in the area of civil rights must be beyond reproach, for the history of America has been shaped by racial minorities struggling to realize the promise of the Declaration of Independence "that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness. That to secure these rights, Governments are instituted among men, deriving their just powers from the consent of the governed."

America's efforts to put our most noble ideals into practice is not ancient history. Much of it happened just yesterday. Certainly it happened within our lifetime. Often within our children's lifetime. Yet we forget.

We forget that only 3 years ago, private schools that practiced racial discrimination had their bigotry subsidized by the Tax Code.

We forget the footdragging that persisted throughout the seventies in implementing the school desegregation that had been ordered 20 years before.

We forget that as recently as the sixties, blacks were still risking their necks for the right to share lunch counters, parks, hotels, and public transportation with their white compatriots.

We forget that until 1964, the right to vote was routinely denied by the imposition of poll taxes.

And, if we forget the history that happened in our own lifetime, how likely are we to remember the 400-year odyssey of black Americans' struggle for equality? Yet that history frames today's debate.

Even as the stirring words of the Declaration of Independence were being written, they were being dishonored. America was practicing slavery in a form as demeaning as any in recorded history. American slaves had no legal standing. They belonged to their white owners. They could take no action to control their sale. They could not swear a legally binding oath, nor make a binding contract, nor own any property to speak of. They had no freedom of speech or movement. They were subject to their owner's curfew. They had no privacy. Neither church nor State recognized their marriages. In sum, they were openly classified as the white man's property and required to do the white man's bidding.

□ 1340

The 13th amendment, which abolished slavery, technically changed this appalling state of affairs. Yet its promise, like the promise of the 14th and 15th amendments which followed, was systemically thwarted by the Government and the courts. The promise of equality was an illusion. Blacks were denied learning. They were denied access to political and social institutions. They were effectively disenfranchised and relentlessly ostracized. In practice, their newly won emancipation proved to be an empty husk. Except in isolated cases, the courts, instead of enforcing the Federal legislation of the Reconstruction Period, whittled away the protections it had tried to secure. By 1896, State-imposed segregation was almost the rule in the South and in some places in the North. In the two decades of the 19th century, 3,000 lynchings were recorded (and many surely went unreported). And they were carried out with impunity.

By 1900, the Supreme Court had nullified nearly every vestige of the Federal protection that had been extended to blacks to liberate them from their bondage. Once again, the black citizen had almost no rights that the white citizen was required to honor.

Jim Crow laws filled the books throughout the South. The first half of the 20th century was not much better. Nor was the Nation's Capitol immune. During William Howard Taft's presidency, the Post Office, the Census Bureau, the Treasury and the Bureau of Printing and Engraving all practiced segregation. Black men's desks were curtained off; cafeteria tables were assigned on the basis of race; toilets in Federal buildings were marked "whites only" and "colored." By the end of the Wilson administration, segregation had been extended to the galleries of the U.S. Senate and the lunchroom of the Library of Congress.

And, Mr. President, this was the law.

Blacks, though technically liberated from bondage and inferiority, were nonetheless denied education and opportunity. Black America, with the Supreme Court's acquiescence, was routinely degraded. Banished to the back of the bus. Placated with the fiction of separate but equal.

And, not until 1954, with the landmark case of Brown versus Board of Education, was the law finally changed.

In Brown, a unanimous Court found that:

> To separate negro children from others of similar age and qualifications solely because of their race generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely to be undone."

Separate educational facilities are inherently unequal. Segregation deprives black people of the equal protection of the laws guaranteed by the 14th amendment.

Brown, and the cases that implemented it, reaffirmed that this Nation is dedicated to the proposition that all men are created equal, that they are entitled to equal protection of the laws, that America lives up to its ideals of fairness and justice for all.

Since Brown, it is the law that white Americans can no longer humiliate black Americans by setting them apart. They can no longer legally relegate them to the status of official outcasts.

Brown ignited a mass movement to translate the law into fact. It began in Montgomery, AL, when Rosa Parks refused to move to the back of the bus. It lasted throughout the sixties and seventies. It goes on today. It brought black Americans greater freedom and opportunity and it gave white Americans self respect.

But, unfortunately, Justice Rehnquist, the man President Reagan asks us to make Chief Justice of the Supreme Court, was not a part of that movement to enforce and advance these hard-won civil rights. As far as I can tell, he derived no self-respect from America's significant attempt to shed the legal garb of racism. He sat on the sidelines disapproving and nitpicking as the sweep of history left him behind. He belongs in a different era and has a different view of America's destiny and America's historic responsibility. His confirmation as Chief Justice will signal to the vast majority of Americans, who have fought for, or who care about these rights that a dark cloud has descended over the Court.

Just this past weekend Justice Thurgood Marshall, long a warrior on the battleground of civil rights, declared that America has a very long way to go before we become a colorblind society. And if we are ever going to get there, we had better be sure that the Chief Justice of the Supreme Court is firmly at the helm.

And what specifically has Mr. Rehnquist done to make us doubt his commitment to civil rights? Well he opposed the Supreme Court ruling that desegregated the schools. He opposed the civil rights legislation of the 1960's. He opposed efforts in his home town to outlaw racial discrimination in public facilities. He opposed requiring cities to make their electoral systems fair to blacks. He supported the right of a prosecutor to prevent blacks from serving on a jury. And he, alone, supported tax exemptions for schools that practice racial discrimination.

His positions on civil liberties and racial justice betray his pinched view of the Constitution and his disdain for minorities and individual rights. He fails to grasp that America is still an idea becoming—becoming what its people would have it be. A land where men and women are judged not by color but stand equal in the eyes and practices of the State, just as they do in the eyes of God. William Rehnquist seems not to grasp that America is incomplete until we have eliminated the injustice, festering in our national soul, of a dual society of black and white.

People praise William Rehnquist for championing the rule of law. For practicing judicial restrain. For his brilliant legal mind. But I see nothing in Mr. Rehnquist's philosophy that offers redemption from our original sin. On the contrary, I see his stewardship of the Supreme Court leading us back to darker, more divisive times.

For Mr. Rehnquist believes that even where civil rights are at issue, the Court should adhere strictly to the literal words of the Constitution and the original intent of the framers. This belief harks back to another Chief Justice, Roger Taney, whose infamous Dred Scott opinion is one of the most shameful episodes in our history. Taney, too, sought to discover the intent of the framers—in this case the framers of the Declaration of Independence. The Declaration's ringing affirmation of life and liberty clearly did not include African slaves, Taney reasoned. For the framers of the Declaration knew that, given the mores of the day, including blacks would have subjected them to:

> Universal rebuke and reprebation. [The framers] perfectly understood the meaning of the language they used, and how it would be understood by others; and they knew that it would not in any part of the civilized world be supposed to embrace the negro race, which by common consent, had been excluded from civilized governments and the family of nations, and doomed to slavery * * *. The unhappy black race were separated from the white by indelible marks and laws long before established, and were never thought or spoken of except as property.

And since no citizen could be deprived of property without due process of law, he argued, that Congress could therefore not outlaw slavery.

Shocking as Justice Taney's conclusion is, I do not criticize the opinion because it is poorly reasoned, carelessly argued, or technically unsound. I dismiss it because it is wrong. Man's inhumanity to man, the subjugation of the black race by the white, cannot be transformed and made acceptable by a well-reasoned legal opinion.

□ 1350

It is unfashionable these days to question a Supreme Court nominee's philosophy. But where civil rights are at stake, such self-restraint is out of place. Civil rights, equal protection, freedom from racial discrimination. these guarantees are the heart, the soul, of the American system. They are the source of those "just powers" from whence the consent of the governed derives. Call into question the Supreme Court's commitment to civil rights and you put the integrity of the entire Government, the character of the whole Nation, on the line. If we confirm a Chief Justice whose commitment to civil rights is in doubt we betray our past, our future and ourselves.

Let us take a look at Mr. Rehnquist's civil rights record. It is impossible to exaggerate either the role of the 14th amendment in protecting civil rights or the degree to which Mr. Rehnquist's narrow view of that amendment explains why he consistently speaks in a manner contrary to the rights of minorities and women.

The prevailing view of the 14th amendment is that almost all elements of the Bill of Rights apply to the States in the same way they apply to the Federal Government. Mr. Rehnquist is alone among sitting Supreme Court Justices in rejecting this interpretation. His view is totally different. In the world, according to Rehnquist, the 14th amendment prohibits only race discrimination and only that discrimination flowing from deliberate, official policies of segregation. Moreover, he believes that equal protection applies only to those evils envisioned by the amendment's framers. Accordingly, he rejects the view that the amendment allows actions to overcome de facto, not just de jure, segregation. He rejects the view that it permits the courts to issue orders affecting an entire school system unless there was a formal, systemwide dual system of white and black schools. That is why he has dissented in many of the major school desegregation cases of the last 15 years.

Rehnquist, like those who opposed the plaintiffs in the Dred Scott case and Brown versus Board of Education, believes that racial discrimination can be viewed strictly as a legal matter. But remember, man's inhumanity to man, the subjugation of the black race by the white race, cannot be transformed or made acceptable by well-reasoned legal argument. He seems oblivious to the swirl of moral, political, and social events that affect the issue of racial discrimination.

That obliviousness is the only charitable explanation I can think of for his extraordinary statement in 1967 when he spoke out against a desegregation program on the grounds that we are no more dedicated to an integrated society than to a segregated society.

Well, let me make one thing absolutely clear, Mr. President. That is not my view. Nor, I beleive, is it the view of a majority of the U.S. Senate. And it certainly is not the view of a majority of the American people. Most of us have unequivocally and irrevocably rejected a segregated society. And we are just as unequivocally and irrevocably committed to an integrated one.

Before I finish, I wish to turn to one of Mr. Rehnquist's more recent opinion. Bob Jones University versus United States. Frankly, I was shocked by Justice Rehnquist's position.

As you remember, Bob Jones raised the question whether there should be tax exemptions for private schools that practice racial discrimination. This was a case that I had an intense interest in because, at the time, as a supporter of tutition tax credits, it was imperative for me to be certain that no tax benefit would flow to schools that practiced racial discrimination. The Supreme Court, by an 8-to-1 majority, affirmed my view. Justice Rehnquist was the only member of the Supreme Court who voted to grant tax-exempt status to racially discriminatory schools.

This case involved more than just how you interpret a technical tax provision. All the other Justices understood that what was at stake was whether the Internal Revenue Code should be interpreted to allow a public subsidy of racial bigotry. They also understood that granting tax exemptions to racially discriminatory schools involved more than narrow construction of congressional intent. On the contrary, as Chief Justice Burger recognized:

> Few social * * * issues in our history have been more * * * extensively ventilated than the issue of racial discrimination, particularly in education. Given the stress and anguish of the history of efforts to escape from the shackles of the "separate but equal" doctrine of Plessy v. Ferguson * * * it cannot be said that educational institutions that * * * practice racial discrimination, are institutions exercising "beneficial and stabilizing influences in community life" * * * or should be encouraged by having all taxpayers share in their support by way of special tax status * * *. Whatever may be the rationale for such private schools' policies, and however sincere the rationale may be, racial discrimination in education is contrary to public policy. Racially discriminatory educational institutions cannot be viewed as con-

ferring a public benefit within the "charitable" concept * * * or within the underlying Congressional intent.

The Court found that:

There can no longer be any doubt that racial discrimination in education violates deeply and widely accepted views of elementary justice. Prior to 1954, public education in many places still was conducted under the pall of Plessy v. Ferguson; racial segregation in primary and secondary education prevailed in many parts of the country * * *. The Court's decision in Brown v. Board of Education signaled an end to that era. Over the past quarter of a century, every pronouncement of this Court and myriad Acts of Congress and Executive Orders attest a firm national policy to prohibit racial segregation and discrimination in public education.

An unbroken line of cases following Brown v. Board of Education establishes beyond doubt this Court's view that racial discrimination in education violates a most fundamental national public policy, as well as rights of individuals.

The Court appreciated that the mere existence of tax-supported segregated private schools was likely to frustrate Brown. It would provide a Government-subsidized, all-white haven for white parents who did not want their children to attend integrated public schools. And they held accordingly.

Justice Rehnquist was the lone dissenter. He reached the wrong result. Not because he does not understand the complexities of the tax code, but because he does not understand that race discrimination is simply unacceptable in today's America.

Nor is Bob Jones an isolated example. Since 1971, there have been 14 race discrimination cases in which Mr. Rehnquist cast the deciding vote. None of these cases, I might add, involved quotas. In every instance, Justice Rehnquist cast the deciding vote against the black complainant.

As each of us thinks about our vote on this confirmation, I ask you to think how you would have felt if your vote confirmed Chief Justice Taney, who later wrote the Dred Scott decision, or if your vote placed as Chief Justice, Justice Brown, who wrote the Plessy opinion legitimizing the segregation doctrine of separate but equal. My guess is that if you took your religion seriously or if you accepted wholeheartedly our noble national ideals you would be shocked and embarrassed. I ask each of you to ask yourself how you will feel in 5, 7, or 10 years from now if the Rehnquist Court in a series of decisions declares an end to 32 years of progress in civil rights and proclaims the second coming to Jim Crow. Most in this body would say it could never happen. I hope it will not but I believe that the chances of it happening are dangerously higher with a Rehnquist as Chief Justice. And I will not take the chance.

So, Mr. President, I cannot vote to confirm William Rehnquist. I vote against the nominee not because he is unqualified, not because I disapprove of some of his decisions, not because I oppose his ideology, and not because I question some of his past activities.

I vote against him because he does not have the commitment to individual rights and liberties which a Chief Justice should have, and because his appointment will be viewed as a rejection of those in our society who most need his support. Hs confirmation will retard, not advance, our quest for a truly colorblind society.

I yield the floor.

□ 1400

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I compliment the Senator from New Jersey on an obviously well prepared and well thought out statement. I would like to reiterate the point that some of us have made and made very eloquently by the Senator from New Jersey today that Justice Rehnquist has been able to engage through his intellectual dexterity in seizing upon a legal point to arrive at an unacceptable position, an unacceptable position in the eyes of the vast majority of the Senate and a vast majority of the American people. Let me give an example to reinforce that. Under the law as it has been, there used to be great questions about whether or not prosecutors could preemptively challenge jurors because of their race. As we all know, in my State and others throughout the South, the all-white jury system was a notorious vehicle by which black defendants found themselves in serious difficulty. And I do not wish to keep the Senator on the floor, but in Batson versus Kentucky, a State which engaged in similar practices historically, there was a challenge as to whether or not a prosecutor could preemptively challenge all blacks who were sought to be put on the jury because there was a black defendant. Because the person charged was black, did that mean that the prosecutor for the State of Kentucky had the right to automatically say, "We are not going to allow any blacks to sit on this jury because they will probably be prejudiced on behalf of the black defendant." A pretty racist notion but—but—it had been allowed.

Now, it came up to the Supreme Court, and the Supreme Court in Batson versus Kentucky, with Rehnquist and only one other dissenting, said, "You can do that; it's all right. It's all right to say because there is a black defendant, I, the prosecutor, am not going to allow any blacks to sit on the jury. You don't have to give any other reason other that I don't want them on the jury because they are black, not because they are smart, not because they don't pay attention, not because they're criminals, not because they're brother or sister of the defendant, not because they're related, just simply they are black, and I feel as prosecutor blacks should not be able to sit in judgment of blacks because they will not do anything other than favor the black defendant's position."

Justice Rehnquist said, "That is OK; it is all right to do that."

Now, listen to his reasoning. He said he dissented not on the grounds that no discrimination had occurred, he did not dissent saying that is not discriminatory. It is discriminatory. It is discriminatory to keep blacks off juries just because they are black, but he said he believed that such discrimination was entirely constitutional. The equal protection clause of the Constitution, the 14th amendment, he argued, simply did not prohibit a State from using its peremptory—and for those who are not lawyers it simply means an automatic challenge, the automatic right to say, "I don't want you in the jury; therefore, you can't be in the jury." That is a peremptory challenge. He says that the equal protection clause does not prohibit a State from using its automatic challenge to bar all black jurors from cases with a black defendant or from all cases with any black defendants. A prosecutor could reasonably conclude, Rehnquist argued, that all black jurors would be biased in favor of any black defendant and could in reliance on that belief strike all blacks from the jury.

Let me quote him. He says, "In my view there is simply nothing unequal about the State"—this is the equal protection clause he is interpreting. He says, "There is nothing unequal about the State using preemptory challenges to strike blacks from the jury in cases involving black defendants so long as such challenges are also used to exclude whites in cases involving white defendants, Hispanics in cases involving Hispanic defendants, Asians in cases involving Asian defendants," and so on.

That seems completely reasonable, does it not? He is saying I am allowing discrimination. You can discriminate against blacks as long as you also discriminate against whites, and also as long as you discriminate against Hispanics.

That sounds pretty fair, right? In a sense that is not discrimination. If you allow discrimination against blacks, if you exercise it against blacks on juries, it is OK as long as you exercise it against whites.

Well, that sounds reasonable. But let us look at the facts to show you how disingenuous I beleive that conclusion is. It provides I think a striking illustration of Justice Rehnquist's willing-

ness to conjure up the most implausible suppositions to excuse discriminatory practices. Although, as Justice White noted, the use of preemptory challenges to strike all blacks in juries in widespread, there is simply no similar prosecution practice purging whites.

Whoever heard of prosecutors keeping a white persom from being on a jury because there was a white defendant? Whoever heard of that? But Justice Rehnquist has given us the right to do that, and that is his justification for saying you can keep black people off juries because there is a black defendant.

Everybody knows there is a long history of trying to keep black women and men off of juries throughout this country. It is a practice that has been engaged in shamefully, but he says it is OK to do that because if you want to do it for whites you can, too.

Who wants to do it for whites? Show me any point in history where that has been done. Point out to me any time when that has been abused. It is a red herring, as we used to say in law school, but it is part of that elegant reasoning of his.

The second point I would like to make: although a small number of black jurors often make it possible for a prosecutor to use his preemptory challenges to create an all-white jury, I wonder where—do you understand what I am saying? The overwhelming portion of the population is white. So obviously all you have to do in most jurisdictions is challenge a half a dozen blacks to end up with an all-white jury.

Now, how many jurisdictions are there where you could exercise a few preemptory challenges against whites and end up with an all-black jury? Justice Rehnquist says that it is discrimination, but it is legal discrimination. It is all right.

□ 1410

Why does he say it is all right? Keep in mind that he says it is all right because you could also discriminate against whites in the same way. But whoever heard of that happening? In what jurisdictions is it likely to be able to occur? How many people within the sound of my voice have ever heard of a circumstance where a prosecutor was able to produce, and could have reasonable prospects of producing, by opposing all whites who were in the pool of jurors, an all-black jury? It obviously would be discriminatory—a discriminatory practice he says would be all right.

Justice Rehnquist trades off that nonexistent possibility against a persistent practice, the practice being that there are a lot of jurisdictions, there are a lot of circumstances, there is a long history of 150 years of prosecutors saying, "We don't want a black man on this jury. We don't want a black woman on this jury. We want an all-white jury."

The only point I want to make is that that is what I meant and I think the Senator from New Jersey meant as examples where, on the surface, his argument seems to have some merit. It is legal and elegant but substantively bankrupt. He acknowledges that it is discriminatory to automatically keep all blacks off a jury because there is a black defendant. He acknowledges that that is discriminatory on its face. He says that kind of discrimination is all right as long as you do the same to whites.

"Ain't" that something? That is setting up a straw man that in fact is easily knocked down. That is like saying—Well, I will not go on any longer, because I know that the Senator from South Carolina was considering where we were going to go next. I will talk about it some more.

If you look at Justice Rehnquist's reasoning in a number of his cases, from Bob Jones to Batson, to the cases allowing for discrimination against women, he has the same kind of elegant reasoning to arrive at a conclusion that is incompatible with how far we think we have come in this country but which cannot be readily characterized as an automatic rejection to the vast body of civil rights laws and the vast body of civil rights changes that have occurred in this country.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. HELMS). The Senator from South Carolina.

Mr. THURMOND. Mr. President, I will not go into detail in responding to the remarks just made by the able and distinguished ranking minority member of the Judiciary Committee.

I simply say that Justice Rehnquist, in all his testimony, said that he was opposed to discrimination, that he believed in equal rights for all. The record is clear in this matter, that that is his feeling, that those are his actions, and that he meets all the requirements to become Chief Justice of the Supreme Court. In the summary that is in the committee report—which I will go into on another day—it explains the situation on the part of the committee. If this committee had felt that he was in favor of discrimination in any way, shape, or form, I do not believe they would have confirmed him. I do not believe that even 1 member of the 18 members of the Judiciary Committee would favor any Justice or Chief Justice who favored discrimination or who opposed equal opportunity for all citizens.

Mr. President, if we continue this matter on Monday, I will have a few more remarks at that point.

Mr. President, Senator DOLE will be in the Chamber in a few minutes to make an announcement about the matter we are conducting now and to see if some agreement can be reached. In the meantime, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll. The assistant legislative clerk proceeded to call the roll.

□ 1420

Mr. DIXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NICHOLAS DANILOFF

Mr. DIXON. Mr. President, I have very good news for my colleagues in the U.S. Senate and people in the country generally.

The daughter of Mr. Daniloff, Miranda, lives in the city of Chicago, and had requested that our office make some inquiries about the good health of her father.

I am delighted to tell the U.S. Senate and the country at large that I just had the pleasure a moment ago, not more than 10 minutes ago, of talking on the telephone with Mr. Daniloff in the American Embassy in Moscow.

We had a very pleasant conversation. He said he is in good health, in good spirits, very safe, and happy to be in the Embassy.

He asked me to convey his best wishes to his daughter, Miranda, in Chicago.

He hold me he had served about 5 years here covering the Senate and Congress on the Hill and said to express to all in the Senate his high regard for this institution and his pleasant experiences that he had here.

He asked me to particularly remember him to his personal friends, JOE BIDEN and PAUL SARBANES, with whom he apparently had a personal relationship here on the Hill. He assures everybody that he is feeling splendidly, he is being treated very well, he is in good health, his spirits are good, and he asked me to particularly express his warm appreciation to the Congress for the resolution we passed supportive of him and to tell everyone here that that news came to him in jail and nothing did more for his spirits than to know that the Congress of the United States and those in the Senate had remembered him and were sending out a message all over the world about our support for him.

So I think that is splendid news, Mr. President. I am delighted.

I do not have the pleasure of knowing this fine gentleman. I am delighted to have the personal experience of conveying this message to friends in the Congress and Senate and able to say to his daughter, Miranda, in Chi-

cago, that he is in splendid health and good spirits and looks forward to the future with relish.

I thank the President for yielding to me. I thank my colleague from Delaware.

Mr. BIDEN. Mr. President, I hope he did not acknowledge to the Soviets that he was a personal friend of SARBANES and me. That may have been the reason they arrested him in the first place.

The ACTING PRESIDENT pro tempore. The distinguished majority leader is recognized.

Mr. DOLE. Mr. President, I thank the distinguished Senator from Illinois for that firsthand report concerning Mr. Daniloff.

Many have indicated throughout the week that he should have been released and now he has been, at least in part.

I hope the Kremlin's decision to release Mr. Daniloff into the custody of the American Embassy is the first step in granting him the total freedom he deserves.

While he no longer is a prisoner in a Soviet jail, he is still a virtual hostage.

I am glad that while he is bound to remain in the Soviet Union it is in much friendlier confines.

It was patently clear from the moment of Mr. Daniloff's arrest that he was a pawn, a victim of Moscow's retaliation for the U.S. arrest of a Soviet citizen who was caught redhanded as a spy.

Mr. Daniloff is not a spy.

It seems the Kremlin now recognizes that the U.S. Government, the American people, will not sit still while an American is arrested and charged with cooked up crimes.

The Soviets have grossly understated and underestimated the global outrage the Daniloff kidnaping has engendered.

I hope the powers that be in the Soviet Union also recognize that the United States does not trade in human lives. There will be no swap, because a swap entails an even trade.

This administration, this Congress, and the American people will continue to keep the heat on, until Mr. Daniloff is allowed to return to the United States with no constraints.

We are all pleased that Nick Daniloff will be reunited with his wife, although this reunion represents a very conditional freedom. An apartment in Moscow is a far more desirable place to sleep than the prison in which he was detained.

I know Congress will not relent. The President will not relent. The American people will not relent until Mr. Daniloff is back in this country.

Again I thank my distinguished colleague, Senator DIXON, for the firsthand report.

NOMINATION OF WILLIAM H. REHNQUIST TO BE CHIEF JUSTICE OF THE UNITED STATES

The Senate resumed consideration of the nomination.

Mr. DOLE. Mr. President, it is only about 2:25 p.m. on a Friday afternoon. I had hoped by now we could have had some agreement on when we might vote on the Rehnquist nomination.

As indicated earlier this morning when the Senate convened, I hoped that we could reach some time agreement, hopefully on Tuesday, and that we could, therefore, avoid filing cloture.

If we file cloture today, the vote would come on Tuesday.

I also indicated I knew that many Members want to make statements. They want to engage in a dialog and much of that has been done. I certainly commend Members, on both sides, because up until 10 minutes ago there has been almost continuous debate or statements on the nomination.

Again, I would urge that we come to some agreement. Because if we do intend to leave here on October 3, there is a mountain of work that we have to complete. It would seem to me that Thursday, Friday, and Monday and most of Tuesday would be enough time to debate the Rehnquist nomination, unless there is some bombshell that we are not aware of.

We need to complete action on the Rehnquist and Scalia nominations by next Tuesday so we can turn to reconciliation and a lot of other painful matters, and appropriations bills, the remainder of next week. We also need to start focusing, I hope, in a bipartisan way the following week on drug legislation. We need to respond to the demand, to the concern, to the problem, to the President's initiative, to the House action, to the initiatives of my Democratic colleagues in the Senate. And we hope to address that in the next couple of weeks.

I indicated to the distinguished minority leader earlier this morning that I would be visiting with him about an agreement to vote on the Supreme Court nominations Tuesday. I hope to have an opportunity to visit with the minority leader as soon as he has time. If we can reach that agreement then there will be no necessity of filing a cloture motion.

I would rather not file cloture. I would just rather not do it in this case. Although, I think we could probably obtain cloture.

I have to be visiting with the minority leader in the next few moments and can advise my colleagues. It is quite certain there will be no more votes the remainder of today.

□ 1430

The PRESIDENT pro tempore. The Chair, in his capacity as a Senator from the State of South Carolina, suggests the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1450

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The minority leader is recognized.

RELEASE OF NICHOLAS DANILOFF TO CUSTODY OF AMERICAN AMBASSADOR IN MOSCOW

Mr. BYRD. Mr. President, a major development has occurred, which has just been announced, that Nicholas Daniloff was being released to the custody of the American Ambassador in Moscow. This is encouraging news. As a matter of fact, it is wonderful news. But I would rather say it is encouraging news.

I hope that the Soviets will now promptly take the next step, which would put it into the category of being truly wonderful: To give Mr. Daniloff his freedom to leave the Soviet Union—or to continue his reporting, which may constitute a little fantasizing on my part.

This would be an important gesture on the part of the Soviet leadership and it would help to clear the sour atmosphere.

Mr. President, I understand that the Soviet citizen accused of espionage in New York is also being released to the Soviet Ambassador here. I would hope that this is not going to be followed up by the unconditional release of Sakharov without a trial, which is entirely appropriate in his case.

If that is done, the Soviets will have accomplished too much of their purpose in originally snatching Mr. Daniloff.

Mr. Daniloff himself has said he does not want to be traded one for one with an accused spy. Everybody knows Daniloff is just a good, hard-working journalist, nothing more. He is no spy and everybody knows that.

I should think that the KGB ought to know it even more than anyone else.

The United States should not encourage hostage taking. It would be a dangerous precedent in a world in which terrorist prey on the weak.

So as I applaud the release from prison of Mr. Daniloff, I would deplore the accomplishment of a trade which would hand the Soviets a victory through the extortionist technique of hostage taking.

Mr. President, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1520

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MCCONNELL). Without objection, it is so ordered.

Mr. BROYHILL. Mr. President, only 6 years ago, a small but vocal group made the charges that Ronald Reagan was "too extreme" to lead this country, that he was "utterly outside the mainstream" of American politics. Well, two elections and a sound record of accomplishment have proven these allegations false. And I am proud to say that North Carolinians have defended the President against these charges on two occasions by reaffirming as true his vision of America and his philosophy of government.

Now a still smaller but even more political group is making these same charges against President Reagan's nominee for Chief Justice. I suggest these detractors pause and consider for a moment the true reason for their opposition to Justice Rehnquist. It is more an extreme reaction against his values and rejection of his philosophical views. Or is it a resolute belief that he is extremely lacking in qualification and skill? I submit that the reason underlying this vehement opposition has more to do with differences of opinion and philosophy than with qualification. In either case, this opposition can be characterized as nothing less than extreme.

Insisting that Justice Rehnquist does not pass its litmus test and rejecting as extreme President Reagan's considered judgment, this group also finds itself at odds with the majority view within the legal community. Chief Justice Burger, widely respected across the legal and political spectrum, is quoted by USA Today as calling the attacks on Justice Rehnquist "absolute utter nonsense." Is Chief Justice Burger therefore an extremist? Judge Griffin Bell, President Jimmy Carter's Attorney General, endorses Justice Rehnquist as suited for the post. Is Griffin Bell therefore an extremist? The American Bar Association, the largest lawyers' organization in this country, has conducted an extensive investigation. As we have heard, the ABA spoke with all of Justice Rehnquist's colleagues on the Supreme Court and with lawyers with whom he worked when in private practice. The ABA also critically reviewed his legal writings. Its conclusion: Justice Rehnquist is "among the best available for appointment" in the entire country. By giving the Justice its highest possible rating, is the ABA therefore an extremist organization?

Those who measure Supreme Court ratings against their own political views and values unavoidably will come to different answers on questions concerning qualification and professional fitness. But if the standard we apply to Supreme Court opinions is observance of the rule of law and obedience to the Constitution, there can be no doubt that Justice Rehnquist is a superb jurist.

Mr. Chairman, is it extremist to hold that the Constitution does not make victim's rights and society's rights inferior to the rights of the criminal defendant? Is it extremist to rule that the Constitution does not always guarantee a criminal a successful defense? Is it extremist to believe that a Constitution that provides for capital punishment should not be read as always prohibiting that penalty? Is it extremist, Mr. Chairman, to acknowledge that the 10th amendment does exist and is part of our Constitution? Is it extremist to believe in the separation of powers? More importantly, is it extremist, in our democratic society, to think that Federal judges should not make policy for the Nation without some warrant in the Constitution and the statutes of the United States? If we call this extremism, then we are telling a great many Americans that their principles are unacceptable.

I am not a legal scholar, but I am privileged to sit on the Judiciary Committee in the company of many fine legal minds. Perhaps I differ with some of my colleagues on that committee by believing that in the long run, individual rights are best advanced when our political process is allowed to work as the Constitution envisions. The Constitution gives some fundamental guidelines for deciding important matters, but leaves many questions to the people to resolve as they see fit. We should not call Justice Rehnquist an extremist for failing to make various policy choices that the Constitution may not permit.

The Justice was asked at some point in his testimony for which groups of people and for what kinds of litigants he considered himself a champion. His answer, I thought, was exactly right: He feels no prior obligation to favor one side over another, realizing that his duty is to judge each question on its own merits. He is not a champion for any interest group. Instead, as his carefully reasoned opinions demonstrate to me, he tries to champion the Constitution.

North Carolinians remember with fondness their great Senator, Sam Ervin, who was a noted scholar on the U.S. Constitution. I'm sure that if he were with us today he would highly commend Justice Rehnquist on his exercise of judicial restraint, his strict adherence to the Constitution, as well as on his intellect and professional values. And I know he would support this nomination.

Thank you.

LEGISLATIVE SESSION

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

There being no objection, the Senate resumed the consideration of legislative business.

PROTECTIVE SERVICES FOR SUPREME COURT JUSTICES AND COURT PERSONNEL

Mr. THURMOND. Mr. President, I send a bill to the desk on behalf of myself and Senator DOLE and ask that it be read for the first time.

Mr. BYRD. Mr. President, there would certainly be no objection on my part to this, and I would simply like to know what the bill does.

Mr. THURMOND. Mr. President, we passed a bill for 1 year to give the Supreme Court protection, the Supreme Court employees, and this bill extends that protection permanently.

Mr. BYRD. Mr. President, I have no reservation and no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2814) to preserve the authority of the Supreme Court police to provide protective services for Justices and Court personnel.

Mr. THURMOND. Mr. President, I ask that the bill be read a second time.

Mr. BYRD. Mr. President, reserving the right to object, I have not seen the bill. I may be very much in support of the bill. But in order that the Senator may be assisted in getting it on the calendar, which he is attempting to do, under rule XIV, I make the appropriate objection.

The PRESIDING OFFICER. Objection is heard.

Mr. THURMOND. As I understand it, the bill will be here——

The PRESIDING OFFICER. On the next legislative day.

Mr. THURMOND. Mr. President, at the request of the Chief Justice of the United States, I am introducing legislation to preserve the authority of the Supreme Court Police to provide protective services for Justices and Court personnel off of Court premises.

In 1982, Congress formally recognized the authority of the Supreme Court Police to carry firearms and to provide a statutory basis for the protection of Court personnel off of Court premises. That legislation included a sunset provision which automatically terminated such authority on December 29, 1985. Last year, Congress extended the authority for 1 additional year, through December 26, 1986. This legislation I am introducing today would make the authority of the Supreme Court Police protection permanent. The increased need for off-

premises protection of Justices and Court personnel, the efficient manner in which the police have handled security over the last 4 years, and the relatively low administrative cost of such protection indicate that this service should continue.

The enactment of this bill providing for the permanent legal status of police protection would be of great assistance in ensuring the continued efficient administration of the Supreme Court.

I ask unanimous consent that the bill, transmittal letter, and accompanying materials from the Supreme Court of the United States be printed in the RECORD following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2814

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 9(c) of the Act entitled "An Act relating to the policing of the building and grounds of the Supreme Court of the United States," approved August 18, 1949 (40 U.S.C. § 13N(c)) is amended—(1) by striking the first sentence; and (2) in the second sentence by striking "such subsection" and inserting "subsection (a)(2)(A)."

SUPREME COURT OF THE UNITED STATES,
Washington, DC, August 4, 1986.

Hon. GEORGE BUSH,
President, U.S. Senate,
Washington, DC

DEAR MR. PRESIDENT: I am transmitting, for your consideration, a draft bill to preserve the status and jurisdiction of the police force which serves the Supreme Court of the United States. This draft bill would continue the authority of the Supreme Court Police to protect Supreme Court Justices, personnel and official guests on and off the Supreme Court grounds as provided by 40 U.S.C. § 13n. The bill also continues the requirement that the Marshal of the Court annually file a special report with Congress on the administrative costs associated with providing protection outside the Court grounds.

The police officers of the Supreme Court have rendered outstanding protection for the Justices, employees and premises of the Supreme Court since it moved from quarters in the United States Capitol to the Supreme Court Building in 1935. In 1949, Congress accorded the Supreme Court Police legal recognition and established their jurisdiction as a special force to patrol the Supreme Court building and grounds, just as the Capitol Police provide similar services for your buildings and grounds.

In 1982, Congress amended 40 U.S.C. § 13n to formally recognize the authority of the Supreme Court Police to carry firearms and to provide an explicit statutory basis for the protection of Court personnel outside the Court premises. That legislation, however, included a provision which automatically terminated the Supreme Court Police's authority outside the Court grounds on December 29, 1985. In 1985, Congress extended the Supreme Court Police's authority for one additional year, through December 26, 1986.

The enclosed draft bill preserves the authority of the Supreme Court Police that was formally recognized by Congress in 1982, and extended in 1985, by eliminating the sunset provision and making the authority of the police force permanent. The proposal is supported by the increased need for off-premises protection of Justices and Court employees, the efficient manner in which the Police have handled security problems over the past four years, and the relatively low administrative cost of such protection. The draft bill continues the requirement that the Marshal submit annual reports to Congress on the cost of such protection. A memorandum is attached which explains the proposed draft bill. Also enclosed are copies of all four special annual reports filed to date.

The enactment of the proposed bill would be of great assistance in ensuring the continued efficient administration of the Supreme Court by according the Supreme Court Police the permanent legal status and recognition merited by the nature of its present duties. I would therefore be grateful for whatever consideration Congress might give this matter. The staff of the Supreme Court will, of course, provide any assistance the Congress may request in reviewing this proposal.

With warm personal regards, I am
Respectfully,

WARREN E. BURGER.

SUPPORTING MEMORANDUM FOR PROPOSED BILL TO CONTINUE THE AUTHORITY AND JURISDICTION OF THE SUPREME COURT POLICE TO PROTECT JUSTICES, COURT PERSONNEL AND GUESTS OUTSIDE THE COURT PREMISES

PURPOSE

The purpose of the proposed legislation is to continue the authority of the Supreme Court Police under 40 U.S.C. § 13n to protect Justices, Court employees and official visitors on and off the Supreme Court grounds.

BACKGROUND

In 1800, the Federal Government moved to Washington, D.C., a new city and permanent capital. Since no provisions were made for a Judiciary building, the Court was loaned space by Congress in the new Capitol building. At that time, the United States Capitol Police provided security for the Court. After numerous relocations of the Court within the Capitol, President William H. Taft persuaded Congress to authorize construction of a permanent "home" for the Court. Under the leadership of Chief Justice Hughes, construction proceeded from 1932 to 1935, when the Court was finally able to occupy its own building directly across the street from the United States Capitol.

In 1935, the United States Capitol Police detailed a small contingent of officers from the Capitol to provide security for the Justices and Court employees, as well as the new building and grounds. Those officers, who formed the nucleus for the security force of the Supreme Court, were appointed as special police officers by the Commissioners of the District of Columbia under 30 Stat. 1057. Their authority to enforce the law on the Supreme Court premises remained unquestioned until September 1948.

In September 1948, the Corporation Counsel of the District of Columbia, realizing that the statute was ambiguous with respect to appointment of special police officers, issued an order that all special police commissions were to expire December 31, 1948. By the request of Chief Justice Vinson, the expiration date was extended to provide time to pass legislation providing for "policing of the building and grounds of the Supreme Court of the United States." Under the direction of the Chief Justice, the Marshal of the Court, Thomas E. Waggerman, worked with the leadership of both houses of Congress and with Mr. Perley, Legislative Counsel to the House of Representatives, to formulate legislation and put it into effect. Their resulting bill was patterned after S. 2405—Public Law 570 of the 79th Congress (2nd Session)—the intention being "to place (the Supreme Court) police force, within its jurisdictional limitation, on practically the same 'power and authority' basis under which the United States Capitol Police operates."

In 1982, Congress formally recognized the authority of the Supreme Court Police to protect the Justices, Court personnel and official visitors outside the Court premises. The new legislation provided specific statutory authorization to carry firearms and expanded the jurisdiction of the Supreme Court Police to "any part of the United States." The legislation also included limitations, however. A provision was inserted which automatically terminated the Supreme Court Police's authority to protect the Justices outside Court grounds on December 29, 1985. Another provision requires a special annual report to Congress from the Marshal of the Supreme Court concerning the administrative cost of such protection.

In December, 1985 Congress extended through December 26, 1986, the authority of the Supreme Court Police to protect the Justices, Court personnel and official visitors, outside the Court premises.

NEED FOR UPDATED LEGISLATION

Since Congress recognized the Supreme Court Police's jurisdiction outside the Court grounds in 1982, threats of violence against the Justices and the Court have increased. These incidents have created an increased need for the Supreme Court Police to provide protection to Justices when they are away from the Court building.

Prior to 1982, arrangements were made to have certain Supreme Court Officers deputized as Special Deputy United States Marshals in order to ensure that they could carry firearms away from the Court. This arrangement, although only occasionally invoked, was not satisfactory to either the United States Marshal's Service or the Supreme Court. The present need for constant protection of the Justices and employees outside the Court grounds cannot be met by the ad hoc appointment of special United States Marshals.

Another factor contributing to the Supreme Court Police's need to carry firearms off Court premises is the location of the Court's parking lot for employees, approximately one-half block east of the Supreme Court building. Supreme Court Police officers have an obligation to protect employees going to and from the parking lot, particularly late at night. If the current authorization is allowed to lapse, officers would not have clear statutory authority to carry firearms as they walk the one-half block to and from the parking lot. The need for officers to carry weapons is supported by the fact that several years ago a Supreme Court employee was shot to death within a few blocks of the Supreme Court.

Over the last four years, the Supreme Court Police have provided the Justices and Court employees with the necessary protection at a minimal cost. Since the 1982 amendments to 40 U.S.C. § 13n, there have

been only 30 requests for protection beyond the Washington, D.C. metropolitan area at a total additional cost of $2,711.30. Officers providing off-premise protection perform such duties in addition to their regularly assigned tasks on the Supreme Court grounds. In this way, most trips in the Washington, D.C. metropolitan area are accommodated without the payment of overtime or the need to call on additional personnel. If the Supreme Court Police's present authorization is allowed to lapse, the Supreme Court Police may not be permitted to protect the Justices off Court premises. Nonetheless, the need for protection will remain and alternate arrangements for security are likely to be more expensive.

Over the last five years, the Supreme Court has made substantial changes in the procedures used to hire, train and educate its Police Officers to assure that the Justices, Court employees and official guests receive the best possible protection. All Police Officers receive basic training at the Federal Law Enforcement Training Center (Glynco) in Brunswick, Georgia. After this eight (8) week program, Police Officers receive another 18 weeks of on-the-job field training, during which they are evaluated weekly. In addition, Police Officers receive 24 hours of in-service training every year and attend firearms training and recertification programs twice a year. Officers selected to transport Justices (within the limits defined by applicable appropriations) and official guests receive special training in safe driving and evasive driving techniques. The Supreme Court's training program was patterened after, and parallels, the training practices of the United States Capitol Police and the United States Secret Service (Uniform Division).

Finally, the Court has made every effort to ensure that proper security is provided at minimal cost. In light of the increase in the number of reported threats to Court personnel, the fact that off-permises security expenditure has only cost $2,711.30 in four years indicates that the authority has been sparingly invoked. In any event, the annual reports provide a more than adquate safeguard.

SPECIFIC STATUTORY CHANGES PROPOSED

The proposed legislation would eliminate the first sentence of 40 U.S.C. § 13n(c) which automatically terminates as of December 26, 1986, the authority of the Supreme Court Police to protest Justices, Court personnel and official guests outside the court premises. The provision for a separate annual report on the administrative cost of such protection is retained to allow for Congressional oversight.

CONCLUSION

This proposed bill is necessary to ensure the continued protection of the Justices, employees and official visitors of the Supreme Court. The Court's experience over the last four years reveals that the Supreme Court Police have provided the requisite security at a minimal cost and that there has been no abuse of the authority. The enactment of this proposed legislation would be of great assistance in ensuring the continued efficient administration of the Supreme Court Police by according to Supreme Court Police the permanent legal status and recognition merited by the nature of its present duties.

SUPREME COURT OF THE UNITED STATES,
Washington, DC, February 28, 1983.

Re: Annual Report of the Marshal of the Supreme Court of the United States Regarding Administrative Cost of Carrying Out Duties Under 40 U.S.C. 13n(c).

Hon. GEORGE BUSH,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: I hereby transmit, pursuant to 40 U.S.C. 13n(c), the Annual Report to Congress on the cost of the protective function provided by the Supreme Court police to Justices, official guests and employees of the Supreme Court. This report is required by section 9(c) of H.R. 6204, which was passed by the 97th Congress and enacted into law on December 29, 1982, as Public Law 97-390. H.R. 6204 amended 40 U.S.C. 13 to clarify the jurisdiction and authority of the Supreme Court Police.

The subcommittee discussion surrounding the enactment of this bill and the legislative history indicated that only incremental protective costs resulting from the enactment of this new legislation need to be reported. In other words, the cost of routine protection provided by the Supreme Court Police prior to the enactment of this new legislation need not be reported. Only additional activity resulting from the enactment of this bill which is not routine and which is outside of the Washington, D.C., vicinity need be reported.

Therefore, we have implemented an accounting system to record all protection provided outside a fifteen mile radius of Washington, D.C., excluding Dulles and Baltimore International airports. A fifteen mile radius has been selected because the Chief Justice of the United States suggested the fifteen mile radius in his September 29, 1982 letter to Senator Thurmond, which appeared in the October 1, 1982 issue of the CONGRESSIONAL RECORD, on p. S 13012 along with the amendment requiring this annual report. Because all Justices currently reside within fifteen miles of the court, that radius was selected to avoid incorporating routine costs into the reporting system that predated the bill. For the same reason, transportation to and from Dulles and Baltimore-Washington International airports was similarly excluded. Should the Congress have a different interpretation of this new legislation please advise and I will try to accommodate your needs. Absent instructions to the contrary, we shall assume that our reporting system comports with the intent of Congress.

A breakdown of the cost of the protective function is contained in the enclosed report. As you will note, there were no incremental costs resulting from the protective function during the reporting period from December 29, 1982, to February 15, 1983, and protective services were not provided outside of a 15 mile radius of the Supreme Court (excluding Dulles and Baltimore International airports) during that period of time.

Sincerely,

ALFRED WONG,
Marshal of the Court.

Annual report to Congress on the cost of protective function under 40 U.S.C. 13n(c) March 1, 1983

Number of protective trips made outside a 15 mile radius of Washington, D.C. (including Baltimore-Washington International and Dulles airports) from December 29, 1982 to February 15, 1983	0
Total number of miles for such trips.	0
Transportation cost of such protective trips	0
Cost of personnel for such protective trips	0
Total number of authorized Supreme Court Police on December 29, 1982	83
Total number of authorized Supreme Court Police at End of Reporting Period on February 15, 1983	83

ALFRED WONG,
Marshal of the Supreme Court of the United States.

OFFICE OF THE MARSHAL,
SUPREME COURT OF THE UNITED STATES,
Washington, DC, February 29, 1984.

Re Annual Report of the Marshal of the Supreme Court of the United States Regarding Administrative Cost of Carrying Out Duties Under 40 U.S.C. 13n(c).

Hon. GEORGE BUSH,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: I hereby transmit, pursuant to 40 U.S.C. 13n(c), the Annual Report to Congress on the cost of the protective function provided by the Supreme Court police to Justices, official guests and employees of the Supreme Court. This report is required by section 9(c) of H.R. 6204, which was passed by the 97th Congress and enacted into law on December 29, 1982, as Public Law 97-390. H.R. 6204 amended 40 U.S.C. 13 to clarify the jurisdiction and authority of the Supreme Court Police.

The subcommittee discussion surrounding the enactment of this bill and the legislative history indicated that only incremental protective costs resulting from the enactment of this new legislation need to be reported. In other words, the cost of routine protection provided by the Supreme Court Police prior to the enactment of this new legislation need not be reported. Only additional activity resulting from enactment of this bill which is not routine and which is outside of the Washington, D.C., vicinity need be reported.

As you are aware, in our February 28, 1983 report, we implemented an accounting system to record all protection provided outside a fifteen mile radius of Washington, D.C., excluding Dulles and Baltimore International airports. A fifteen mile radius was selected because Chief Justice of the United States suggested the fifteen mile radius in the September 29, 1982 letter to Senator Thurmond, which appeared in the October 1, 1982 issue of the CONGRESSIONAL RECORD, on p. 13012 along with the amendment requiring this annual report. Because all Justices currently reside within fifteen miles of the court, that radius was selected to avoid incorporating routine costs into the reporting system that predated the bill. For the same reason, transportation to and from Dulles and Baltimore-Washington International airports was similarly excluded. Absent any information to the contrary, we shall assume that our previous report comported with the intent of Congress.

A breakdown of the cost of the protective function is contained in the enclosed report. As you will note, there were only minor incremental costs resulting from the protective function during the reporting period

from February, 16, 1983, to February 15, 1984.

Sincerely,

ALFRED WONG,
Marshal of the Court.

Annual report to Congress on the cost of protective function under 40 U.S.C. 13n(c)

Number of protective trips made outside a 15 mile radius of Washington, D.C. (excluding Baltimore-Washington International and Dulles Airports) from February 16, 1983 to February 15, 1984	10
Total number of miles for such trips	2,725
Transportation cost of such protective trips	$545.00
Cost of personnel for such protective trips	$172.50
Total number of authorized Supreme Court Police on December 29, 1982	83
Total number of authorized Supreme Court Police at End of Reporting Period on February 15, 1984	81

ALFRED WONG,
Marshal of the Supreme Court of the United States.

OFFICE OF THE MARSHAL,
SUPREME COURT OF THE UNITED STATES,
Washington, DC, March 1, 1985.

Re: Annual Report of the Marshal of the Supreme Court of the United States Regarding Administrative Cost of Carrying Out duties Under 40 U.S.C. 13n (c).

Hon. GEORGE BUSH,
President of the Senate,
Washington, DC.

DEAR MR. BUSH: I hereby transmit, pursuant to 40 U.S.C. 13n (c), the Annual Report to Congress on the cost of the protective function provided by the Supreme Court police to Justices, Official guests and employees of the Supreme Court. This report is required by section 9 (c) of H.R. 6204, which was passed by the 97th Congress and enacted into Law on December 29, 1982, as Public Law 97-390. H.R. 6204 amended 40 U.S.C. 13 to clarify the jurisdiction and authority of the Supreme Court Police.

In this final reporting period we are presenting the overall costs by year since the enactment of the legislative requirement.

A breakdown of the cost of the protective function is contained in the enclosed reports. As you will note, there were only minor incremental costs resulting from the protective function during the reporting period from February 16, 1984 to February 15, 1985.

Sincerely,

ALFRED WONG, *Marshal.*

OFFICE OF THE MARSHAL,
SUPREME COURT OF THE UNITED STATES,
Washington, DC.

ANNUAL REPORT TO CONGRESS ON THE COST OF PROTECTIVE FUNCTION UNDER 40 U.S.C. 13n (c)

	1983	1984	1985
Number of protective trips made outside a 15 mile radius of Washington, D.C. (excluding Baltimore-Washington International and Dulles Airports) from February 16, to February 15, unless otherwise noted	0	10	4
Total number of miles for such trips		2,725	2,690
Transportation cost of such protective trips		$545.00	$742.42
Cost of personnel for such protective trips		$172.50	$1,318.50

ANNUAL REPORT TO CONGRESS ON THE COST OF PROTECTIVE FUNCTION UNDER 40 U.S.C. 13n (c)—Continued

	1983	1984	1985
Total number of authorized Supreme Court Police on December 29, 1982	83	83	83
Total number of authorized Supreme Court Police at End of Reporting Period	83	81	76

From December 29, 1982 to February 15, 1983.

ALFRED WONG,
Marshal of the Supreme Court of the United States.

OFFICE OF THE MARSHAL,
SUPREME COURT OF THE UNITED STATES,
Washington, DC, February 27, 1986.

Re: Annual Report of the Marshal of the Supreme Court of the United States Regarding Administrative Cost of Carrying Out Duties Under 40 U.S.C. 13n(c).

Hon. GEORGE BUSH,
President of the Senate,
Washington, DC.

DEAR MR. BUSH: I hereby transmit, pursuant to 40 U.S.C. 13n(c), the Annual Report to Congress on the cost of the protective function provided by the Supreme Court Police to Justices, Official guests and employees of the Supreme Court. This report is required by Section 9(c) of H.R. 6204, which was passed by the 97th Congress and enacted into Law on December 29, 1982, as Public Law 97-390. H.R. 6204 amended 40 U.S.C. 13 to clarify the jurisdiction and authority of the Supreme Court Police.

In this reporting period we are presenting the overall costs by year since the enactment of the legislative requirements.

A breakdown of the cost of the protective function is contained in the enclosed report. As you will note, there were only minor incremental costs resulting from the protective function during the reporting period from February 16, 1985 to February 15, 1986.

Sincerely,

ALFRED WONG,
Marshal of the Court.

OFFICE OF THE MARSHAL,
SUPREME COURT OF THE UNITED STATES,
Washington, DC.

ANNUAL REPORT TO CONGRESS ON THE COST OF PROTECTIVE FUNCTION UNDER 40 U.S.C. 13n(c)

	[1]1983	1984	1985	1986
Number of protective trips made outside a 15 mile radius of Washington, D.C. (excluding Baltimore-Washington international and Dulles Airports) from February 16 to February 15, unless otherwise noted	0	10	4	16
Total number of miles for such trips		2,725	2,690	4,745
Transportation cost of such protective trips		$545.00	$742.42	$407.01
Cost of personnel for such protective trips		$172.50	$1,318.50	1,220.30
Total number of authorized Supreme Court Police on December 29, 1982	83	83	83	83
Total number of authorized Supreme Court Police at End of Reporting Period	83	81	76	76

[1] From December 29, 1982 to February 15, 1983.

ALFRED WONG,
Marshal of the Supreme Court of the United States.

PROCEDURE ON NOMINATIONS

Mr. DOLE. Mr. President, no cloture motion will be filed today. We do not have an agreement to vote on Tuesday, but I hope we can vote on Tuesday on both the Rehnquist and Scalia nominations.

We will have debate again on Monday, and I hope there will be an appropriate number of hours on Monday for particularly those who oppose the nomination to make their case.

I know that the distinguished chairman of the committee, Senator THURMOND, will be present on Monday—or his designee will be here, in any event—if there should be a request or need for a dialog or debate concerning allegations, or whatever might be made. It is my hope that we will have a vote on Tuesday.

Mr. THURMOND. Mr. President, in response to the statement of the able majority leader, I will say that I will be here every day next week, and we hope this matter can be disposed of on Monday or Tuesday.

Mr. DOLE. I thank the distinguished chairman.

ORDERS FOR MONDAY, SEPTEMBER 15, 1986

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate convenes on Monday, September 15, the reading of the Journal be dispensed with; that no resolutions come over under the rule; that the call of the calendar be dispensed with; that following the recognition of two leaders under the standing order, there be special orders in favor of Senators PROXMIRE and LEVIN, to be followed by a period for the transaction of routine morning business, not to extend beyond 12 noon, with Senators permitted to speak therein for not more than 5 minutes each; provided, further, that the morning hour be deemed to have expired.

The PRESIDING OFFICER. Without objection, it is so ordered.

CALENDAR

Mr. DOLE. Mr. President, I inquire of the distinguished minority leader if he is in a position to pass any or all of the following calendar items: Calendar Nos. 768, 896, 897, 898, 899, 900, 901, 902, 903, 904, and 905.

Mr. BYRD. Mr. President, all the measures on the Legislative Calendar that have just been identified by the distinguished majority leader have been cleared by all Members on this side, and we are ready to proceed to action thereon.

Mr. DOLE. I thank the distinguished minority leader.

Mr. President, I ask unanimous consent that the Senate proceed to the

consideration of the calendar items just identified.

PUBLIC BUILDINGS SERVICE AUTHORIZATION

The Senate proceeded to consider the bill (S. 2397) to authorize appropriations for the Public Buildings Service of the General Services Administration for fiscal year 1987, which had been reported from the Committee on Environment and Public Works, with an amendment to strike out all after the enacting clause, and insert the following:

That this Act may be cited as the "Public Buildings Authorization Act of 1986".

SEC. 2. No appropriation, including any appropriation from the fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, shall be made by Congress or obligated by the Administrator unless it has been authorized by Congress in accordance with this Act.

SEC. 3. (a) No public building construction, renovation, repair, or alteration shall be commenced unless an appropriation has first been made in the same fiscal year for which such appropriation is authorized and for the estimated cost of completion of such construction, renovation, repair, or alteration.

(b) Beginning in fiscal year 1988, no lease shall be entered into unless the authority to enter into contracts has first been made for the maximum cost of such lease over the entire term in such amounts as are specified in annual appropriations Acts and in the fiscal year for which such lease is authorized.

SEC. 4. There is hereby authorized to be appropriated for fiscal year 1987 not to exceed in the aggregate the amount of $2,404,437,000 from revenues and collections deposited into the fund pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)), for the real property management and related activities of the Public Buildings Service of which:

CONSTRUCTION AND ACQUISITION

(a) Not to exceed $120,672,000 shall be available for fiscal year 1987 as follows:

(1) $2,680,000 for construction of the Columbus, New Mexico, Border Station (including funds for site acquisition);

(2) $20,672,000 for the construction of the Wilkes-Barre, Pennsylvania, Social Security Administration Data Processing Center;

(3) $1,000,000 for construction of public buildings of less than ten thousand gross square feet of space;

(4) $1,057,000 for the payment of a claim in relation to the Columbia, South Carolina, Federal Building, Courthouse; and

(5) $95,263,000 for the purchase of sites and buildings at the following locations and maximum acquisition costs:

New York, Wellesley Island, Border Station	$1,925,000
Other selected purchases including options to purchase	93,338,000

RENOVATIONS, ALTERATIONS, AND REPAIRS

(b) Not to exceed $304,409,000 shall be available for fiscal year 1987 as follows:

(1) $162,825,000 for renovations, alterations, and repairs of public buildings at the following locations and maximum construction costs of $500,000 or more:

Arizona, Phoenix, Federal Building, Courthouse	$762,000
California, San Diego, Federal Building (Old)	1,576,000
California, San Diego, Federal Building, Courthouse	1,178,000
California, San Francisco, Post Office, Courthouse	1,683,000
California, San Francisco, Burton Federal Building (Phase I)	20,000,000
Colorado, Denver, Federal Building, Courhouse	8,540,000
District of Columbia, Federal Building, Post Office (New)	1,700,000
District of Columbia, Federal Building No. 6	1,213,000
District of Columbia, Federal Building No. 8	1,886,000
District of Columbia, Federal Building No. 9	1,713,000
District of Columbia, Federal Building No. 10A	1,121,000
District of Columbia, General Accounting Office	3,552,000
District of Columbia, Justice	599,000
District of Columbia, State	2,765,000
District of Columbia, Steam Distribution System	13,796,000
Florida, Miami, Federal Building	11,481,000
Hawaii, Honolulu, Kalanianaole Federal Building, Courthouse	1,850,000
Illinois, Chicago, Railroad Retirement Board	5,200,000
Massachusetts, Boston, Kennedy Federal Building (Phase I)	13,544,000
Missouri, Kansas City, 601 E. 12th	997,000
Missouri, Kansas City, 1500 E. Bannister	2,560,000
Missouri, St. Louis, Mart Federal Building (Phase I)	20,000,000
Missouri, St. Louis, 4300 Goodfellow	2,176,000
Nevada, Las Vegas, Federal Building, Courthouse	2,197,000
New Jersey, Trenton, Federal Building	2,070,000
New York, New York, Customshouse	8,000,000
Oregon, Portland, Federal Building	12,069,000
Texas, Dallas, Federal Building	1,600,000
Texas, Dallas, Terminal Annex	4,600,000
Utah, Salt Lake City, Post Office, Courthouse	675,000
Virginia, Arlington, Pentagon	7,000,000
Wisconsin, Milwaukee, Federal Building, Courthouse	2,799,000
Wyoming, Casper, Federal Building, Courthouse	1,923,000

(2) $126,584,000 for renovations and repairs of public buildings at construction costs of less than $500,000; and

(3) $15,000,000 for alterations of leased buildings, the maximum cost for a single building being less than $250,000.

DESIGN AND CONSTRUCTION SERVICES

(c) Notwithstanding the provisions of section 3(a) of this Act, not to exceed $62,205,000 shall be available for design and construction services as follows:

(1) $21,000,000 for repair and alteration projects whose maximum costs of construction do not exceed $500,000;

(2) $13,834,000 for technical services;

(3) $488,000 for design of the Columbus, New Mexico, Border Station;

(4) $2,997,000 for design of the Wilkes-Barre, Pennsylvania, Social Security Administration Data Processing Center;

(5) $14,146,000 for design of repair and alteration projects whose construction phase is authorized to commence in fiscal year 1987 at the following locations and maximum design costs:

Arizona, Phoenix, Federal Building, Courthouse	$57,000
California, San Diego, Federal Building (Old)	292,000
California, San Diego, Federal Building, Courthouse	88,000
California, San Francisco, Post Office, Courthouse	311,000
California, San Francisco, Burton Federal Building (Phase I)	1,876,000
District of Columbia, Federal Building, Post Office (New)	128,000
District of Columbia, Federal Building No. 6	91,000
District of Columbia, Federal Building No. 8	141,000
District of Columbia, Federal Building No. 9	128,000
District of Columbia, Federal Building No. 10A	84,000
District of Columbia, General Accounting Office	266,000
District of Columbia, Justice	47,000
District of Columbia, State	207,000
District of Columbia, Steam Distributon System	1,307,000
Florida, Miami, Federal Building	989,000
Hawaii, Honolulu, Kalanianaole Federal Building, Courthouse	342,000
Illinois, Chicago, Railroad Retirement Board	312,000
Massachusetts, Boston, Kennedy Federal Building (Phase I)	1,001,000
Missouri, Kansas City, 601 E. 12th	75,000
Missouri, Kansas City, 1500 E. Bannister	192,000
Missouri, St. Louis, Mart Federal Building (Phase I)	1,200,000
Missouri, St. Louis, 4300 Goodfellow	163,000
Nevada, Las Vegas, Federal Building, Courthouse	388,000
New Jersey, Trenton, Federal Building	215,000
New York, New York, Customshouse	1,160,000
Oregon, Portland, Federal Building	1,750,000
Texas, Dallas, Federal Building	120,000
Utah, Salt Lake City, Post Office, Courthouse	125,000
Virginia, Arlington, Pentagon	525,000
Wisconsin, Milwaukee, Federal Building, Courthouse	210,000
Wyoming, Casper, Federal Building, Courthouse	356,000

(6) $9,740,000 for design of additional repair and alteration projects at the following locations and maximum design cost:

California, Los Angeles, Courthouse	$386,000
California, Los Angeles, Federal Building, 300 N. La	173,000
California, Sacramento, Federal Building, Courthouse	642,000
District of Columbia, Central Heating Plant	700,000
District of Columbia, Internal Revenue Service	110,000
Illinois, Champaign, Federal Building	176,000
Illinois, Chicago, Dirksen Federal Building	869,000
Kentucky, Louisville, Courthouse	139,000
Louisiana, New Orleans, Boggs Federal Building	657,000
Maryland, Middle River, Depot	1,000,000

Massachusetts, Boston, McCormack Post Office and Courthouse	3,200,000
Pennsylvania, Philadelphia, Courthouse	500,000
Texas, Austin, Internal Revenue Service Complex	743,000
Texas, Austin, Post Office	445,000

LEASING

(d) Not to exceed $985,000,000 shall be available for fiscal year 1987 for rental of space.

REAL PROPERTY OPERATIONS

(e) Not to exceed $743,619,000 shall be available for fiscal year 1987 real property operations.

PROGRAM DIRECTION

(f) Not to exceed $57,090,000 shall be available for fiscal year 1987 program direction.

PURCHASE CONTRACTS

(g) Not to exceed $131,442,000 shall be available for fiscal year 1987 for payment of principal, interest, taxes, and any other obligation for public buildings acquired by purchase contract.

SEC. 5. (a) Funds appropriated under section 4 of the Act for construction, renovation, repair, or alteration shall remain available for obligation and expenditure without regard to fiscal year limitations: Provided, That construction, renovation, repair, or alteration has commenced in the same fiscal year which funds are made available.

(b) Commencement of design using funds authorized pursuant to section 4(c) of this Act for projects authorized by sections 4(a) and 4(b) shall be regarded as complying with the provisions of subsection (a) of this section.

SEC. 6. Ten per centum of the funds made available pursuant to this Act to the Public Buildings Service for renovation, alteration, and repair of public buildings and for payment of leases on buildings shall be available for repair or alteration projects and leases, respectively, not otherwise authorized by this Act, if the Administrator certifies that the space to be repaired, altered, or leased resulted from emergency building conditions or changing or additional programs of Federal agencies. Funds for such projects may not be obligated until thirty days after the submission by the Administrator of an explanatory statement to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives. The explanatory statement shall, among other things, include a statement of the reasons why such project or lease cannot be deferred for authorization in the next succeeding fiscal year.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL ALOPECIA AREATA AWARENESS WEEK

The joint resolution (S.J. Res. 299) to designate the week of December 7, 1986, through December 13, 1986, as "National Alopecia Areata Awareness Week," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 299

Whereas alopecia areata is a serious disease affecting approximately two million people;

Whereas alopecia areata, which usually afflicts children and young adults, causes severe and often permanent hair loss;

Whereas the coordinated efforts of support groups in forty-two States have helped thousands of people cope with the physical and emotional problems caused by alopecia areata;

Whereas much of the trauma associated with alopecia areata could be reduced through greater public awareness, understanding, and education; and

Whereas the cause of alopecia areata is unknown, and promising research efforts to find a cure for the disease should be promoted: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of December 7, 1986, through December 13, 1986, is designated as "National Alopecia Areata Awareness Week" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL FETAL ALCOHOL SYNDROME AWARENESS WEEK

The joint resolution (S.J. Res. 373) designating the week beginning May 19, 1987, as "National Fetal Alcohol Syndrome Awareness Week," was considered, ordered to be engrossed for a third reading, read the third time and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 373

Whereas fetal alcohol syndrome is one of the three major known causes of birth defects with accompanying mental retardation in the United States, and the only preventable one;

Whereas fetal alcohol syndrome can result in such serious health problems as: deficiencies in prenatal and postnatal growth that are associated with mental retardation; developmental disabilities that may cause an infant to experience delays in learning to walk and speak; and heart defects, including defects in the wall between the pumping chambers of the heart;

Whereas in cases in which fetal alcohol syndrome is avoided, infants may still experience alcohol-related birth effects, known as fetal alcohol effects, which are a series of health problems that include increased irritability during the newborn period and hyperactivity;

Whereas the discovery of fetal alcohol syndrome as a major health problem is a recent occurrence, and many questions regarding the illness remain unanswered;

Whereas there has never been an infant born with fetal alcohol syndrome whose mother did not consume alcohol during pregnancy;

Whereas fetal alcohol syndrome can be prevented if pregnant women and women considering pregnancy abstain from alcohol consumption; and

Whereas the Surgeon General of the Public Health Service has issued an advisory stating that pregnant women and women considering pregnancy should not consume alcohol: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning May 10, 1987, hereby is designated "National Fetal Alcohol Syndrome Awareness Week", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate activities.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MONTH OF DEVELOPMENTALLY DISABLED PERSONS

The joint resolution (S.J. Res. 389) to designate March 1987 as the "Month of Developmentally Disabled Persons," was considered, ordered to be engrossed for a third reading, read the third time and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 389

Whereas there are 3,900,000 children and adults with developmental disabilities in the United States;

Whereas such persons have severe chronic disabilities attributed to mental or physical impairment which begin early in life and result in substantial limitations in major life activities such as self care, mobility, language, learning, and self direction;

Whereas persons with developmental disabilities need interdisciplinary or generic service and treatment for extended periods of their lives;

Whereas persons with developmental disabilities have the capability to become more independent and economically self-sufficient;

Whereas the services and expertise provided by professional personnel, parents, and concerned citizens enable persons with developmental disabilities to participate more freely in education, employment and community living;

Whereas increasingly more persons with developmental disabilities are living in the community enabling them to live less restricted lives; and

Whereas through increased national awareness of such programs, the public will better understand the potential and needs

of persons with developmental disabilities: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 1987 is designated as the "Month of Developmentally Disabled Persons" and the President is authorized and requested to issue a proclamation calling upon the people of the United States and all Federal, State, and local government officials to observe the month with appropriate programs and activities.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMERICAN INDIAN WEEK

The joint resolution (S.J. Res. 390) to authorize and request the President to proclaim the week of November 23, 1986, to November 30, 1986, as "American Indian Week," was considered, ordered to be engrossed for a third reading, read the third time and passed.

The preamble was agreed to.

The joint resolution and the preamble are as follows:

S.J. RES. 390

Whereas American Indians were the original inhabitants of the lands that now constitute the United States;

Whereas American Indians have made a unique and essential contribution to the United States;

Whereas the people of the United States should be reminded of the assistance American Indians provided to the Founding Fathers of our Nation;

Whereas the people of the United States should consider the present relationship between American Indians and the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to proclaim the week of November 23, 1986, to November 30, 1986, as "American Indian Week" and to call upon Federal, State, and local governments, interested groups and organizations, and the people of the United States to observe such week with appropriate programs, ceremonies, and activities.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MADE IN AMERICA MONTH

The joint resolution (S.J. Res. 392) to designate the month of December 1986 as "Made in America Month," was considered, ordered to be engrossed for a third reading, read the third time and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 392

Whereas the trade deficit in our country in 1985 reached a record level of $148,500,000,000;

Whereas the 1986 trade deficit is predicted to increase still further;

Whereas over 1,661,000 jobs have been lost in the manufacturing sector since 1972 as a direct result of imports;

Whereas imports now account for more than 20 per centum of all manufactured products sold in the United States;

Whereas imports continue to grow at an increasing rate and constitute a larger and larger percentage of all manufactured goods sold in this Nation;

Whereas the manufacturing sector of the United States economy is shrinking dramatically as a result of imports;

Whereas a continuing flood of imports of manufactured goods could permanently reduce the manufacturing capacity of our Nation and, as a direct result, threaten our ability to respond to a national emergency and make the United States highly vulnerable to embargoes of a wide range of products necessary for the national defense and the smooth functioning of the national economy;

Whereas there is little awareness of the country of origin of most products sold in the United States; and

Whereas United States consumers should be aware of the impact that their purchase decisions could have on their own jobs and the economy as a whole: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating the month of December 1986, "Made in America Month" and to call upon Federal, State, and local government agencies, and the people of the United States to observe the month with appropriate programs, ceremonies, and activities.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL CHILDREN'S TELEVISION AWARENESS WEEK

The joint resolution (S.J. Res. 394) to designate the week of October 6, 1986, through October 12, 1986, as "National Children's Television Awareness Week," was considered, ordered to be engrossed for a third reading, read the third time and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 394

Whereas children spend an average of four hours of each day watching television and will have spent almost fifteen thousand hours watching television by the time they finish high school;

Whereas television can create an intellectual and emotional environment which can play a critical role in shaping the development and perception of the world of a child;

Whereas television has the power to promote and reinforce the pro-social values parents try to teach children regarding health and safety;

Whereas television often serves as a companion and babysitter for children with working parents;

Whereas many people do not realize the great potential of television for enriching family life and for improving the education of children;

Whereas families need to be shown how to use television as an educational resource;

Whereas national attention must be focused on the positive role that television can play in child development to insure that broadcasters uphold the obligation to serve the child audience;

Whereas schools, libraries, religious institutions, and community groups need to work with broadcasters in helping parents and children take advantage of the potential of television as an educational and learning device; and

Whereas greater awareness must be achieved regarding how television can be effectively utilized and further developed to enhance the education of children: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 12, 1986, through October 18, 1986, is designated as "National Children's Television Awareness Week" and the President is requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Amend the title so as to read: "A bill to designate the week of October 12, 1986, through October 18, 1986, as "National Children's Television Awareness Week.".

Mr. DOLE. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNITED STATES-CANADA DAYS OF PEACE AND FRIENDSHIP

The joint resolution (S.J. Res. 402) designating July 2 and 3, 1987, as the "United States-Canada Days of Peace and Friendship," was considered, ordered to be engrossed for a third reading, read the third time and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 402

Whereas, since the War of 1812, the people of the United States and Canada have peacefully shared and extended the longest border in the world;

Whereas more cultural and economic exchanges are made between the United States and Canada than any other two countries;

Whereas the United States and Canada have welcomed immigrants from all nations everywhere, resulting in rich and similar cultures in each country;

Whereas the United States and Canada share common ideals and institutions, including freedom, democracy, human rights, justice under law, and an ardent desire for a peaceful world;

Whereas the United States and Canada have been allies against tyranny in two World Wars;

Whereas the United States and Canada have confronted differences between the two countries with diplomacy and goodwill;

Whereas the United States and Canada are rich in resources and, together, represent an ever-more-powerful prospect for world economic progress;

Whereas the United States and Canada demonstrate the dynamism of democracy and, together, contribute to establishing lasting peace in the world;

Whereas a similar resolution commemorating continued peace and friendship between the United States and Canada has been proposed in the Canadian Parliament;

Whereas in Canada July 1 is Canada Day;

Whereas in the United States July 4 is Independence Day; and

Whereas the days between Canada Day and Independence Day are appropriate annual days on which to commemorate the friendship between the United States and Canada: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That July 2 and 3, 1987, are designated as "United States-Canada Days of Peace and Friendship", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such days with appropriate ceremonies and activities.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL OUTREACH TO THE RURAL DISABLED DAY

The joint resolution (S.J. Res. 406) to designate October 4, 1986, as "National Outreach to the Rural Disabled Day" was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 406

Whereas there are approximately eight million five hundred thousand disabled persons in rural America;

Whereas, in 1984, farm residents suffered approximately two hundred and ninety thousand disabling injuries and approximately five hundred and sixty thousand agricultural workers were hindered in their farming operations because of permanent disabilities;

Whereas disability is proportionately more prevalent in rural areas than in urban areas and the rural disabled are more disadvantaged than their urban counterparts;

Whereas little attention has been given to the unique problems faced by the rural disabled in the United States; and

Whereas there is a need to focus attention on the unmet needs of the rural disabled, to underscore their potential, and to encourage outreach programs by rural communities to their disabled members: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 4, 1986, is hereby designated "National Outreach to the Rural Disabled Day", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe this day with appropriate ceremonies and activities.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL CIVIL RIGHTS DAY

The Senate proceeded to consider the joint resolution (H.J. Res. 686) to designate August 12, 1986, as "National Civil Rights Day," which had been reported from the Committee on the Judiciary, with an amendment:

On page 2, line 3, strike "1986", and insert "1987".

The amendment was agreed to.

The joint resolution was ordered engrossed for a third reading, read the third time, and passed.

The amendment to the preamble was agreed to.

The preamble, as amended, was agreed to.

The joint resolution, and the preamble, as amended, is as follows:

H.J. RES. 686

Whereas the people of the United States are the heirs and beneficiaries of the courageous men and women who have struggled to achieve legal and social equality in the United States for men and women of every race, religion, and country;

Whereas such men and women include Martin Luther King Jr., Susan B. Anthony, and Mary McLeod Bethune;

Whereas the people of the United States should not forget that constant vigilance is necessary to ensure that civil rights are protected;

Whereas the people of the United States should not forget that much yet remains to be accomplished with respect to securing civil rights for all the people of the United States;

Whereas, in August 1963, Martin Luther King Jr. led a march in Washington, D.C., to demonstrate the need for legislation to protect the civil rights of the people of the United States;

Whereas August 12, 1987, is an appropriate date on which to commemorate the progress made in securing civil rights and the need for continued progress;

Whereas, at noon on such date, it would be appropriate for the people of the United States to pause for a moment of silence to pay tribute to the men and women who have struggled to secure civil rights for all the people of the United States;

Whereas, during the moment of silence, it would be appropriate for all church bells to ring 11 times as a reminder that the hour is late with respect to continuing progress in securing civil rights for all the people of the United States; and

Whereas the National Civil Rights Museum and Hall of Fame will be constructed in Gary, Indiana, to pay continued tribute to the fallen national heroes of civil rights and the cause which they embraced: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That August 12, 1987, is designated "National Civil Rights Day", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

The title was amended so as to read: "Joint resolution to designate August 12, 1987, as 'National Civil Rights Day.' "

Mr. DOLE. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL HOUSING WEEK

The joint resolution (H.J. Res. 692) to designate the week of October 19, 1986, through October 26, 1986, "National Housing Week," was considered, ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ANTI-KICKBACK ENFORCEMENT ACT

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 890, S. 2250, to strengthen the prohibition of kickbacks relating to subcontracts under Federal Government contracts.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2250) to strengthen the prohibition of kickbacks relating to subcontracts under Federal Government contracts.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Governmental Affairs, with an amendment to strike out all after the enacting clause, and insert the following:

That this Act may be cited as the "Anti-Kickback Enforcement Act of 1986".

SEC. 2. (a) The Act entitled "An Act to eliminate the practice by subcontractors, under cost-plus-a-fixed fee or cost reimbursable contracts of the United States, of paying fees or kick-backs, or of granting gifts or gratuities to employees of a cost-plus-fixed-fee or cost reimbursable prime contractors or of higher tier subcontractors for the purpose of securing the award of subcontracts or orders", approved March 8,

1946 (41 U.S.C. 51-54), is amended to read as follows:

"SHORT TITLE

"SECTION 1. This Act may be cited as the 'Anti-Kick-back Act of 1986'.

"DEFINITIONS

"SEC. 2. As used in this Act:

"(1) 'Contracting agency', when used with respect to a prime contractor, means any department, agency, or establishment of the United States which enters into a prime contract with a prime contractor.

"(2) 'Kickback' means any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind which is provided, directly or indirectly, to any prime contractor, prime contractor employee, subcontractor, or subcontractor employee for the purpose of obtaining or acknowledging favorable treatment in connection with a prime contract or in connection with a subcontract relating to a prime contract.

"(3) 'Person' means a corporation, partnership, business association of any kind, trust, joint-stock company, or individual.

"(4) 'Prime contract' means a contract or contractual action entered into by the United States for the purpose of obtaining supplies, materials, equipment, or services of any kind.

"(5) 'Prime contractor' means a person who has entered into a prime contract with the United States.

"(6) 'Prime contractor employee means any officer, partner, employee, or agent of a prime contractor.

"(7) 'Subcontract' means a contract or contractual action entered into by a prime contractor or subcontractor for the purpose of obtaining supplies, materials, equipment, or services of any kind under a prime contract.

"(8) 'Subcontractor'—

"(A) means any person, other than the prime contractor, who offers to furnish or furnishes any supplies, materials, equipment, or services of any kind under a prime contract or a subcontract entered into in connection with such prime contract; and

"(B) includes any person who offers to furnish or furnishes general supplies to the prime contractor or a higher tier subcontractor.

"(9) 'Subcontractor employee' means any officer, partner, employee, or agent of a subcontractor.

"PROHIBITED CONDUCT; PRESUMPTION THAT PROHIBITED CONDUCT OCCURRED

"SEC. 3. (a) It is prohibited for any person—

"(1) to pay, attempt to pay, or offer to pay any kickback;

"(2) to solicit, accept, or attempt to accept any kickback; or

"(3) to include, directly or indirectly, the amount of any kickback prohibited by clause (1) or (2) in the contract price charged by a subcontractor to a prime contractor or a higher tier subcontractor or in the contract price charged by a prime contractor to the United States.

"(b) In a civil suit or administrative action commenced under this Act, there shall be a conclusive presumption that the amount of any kickback paid or accepted in connection with a prime contract or subcontract in violation of subsection (a)(1) or (a)(2) has been included in the price of such contract and has been ultimately borne by the United States.

"CRIMINAL PENALTIES

"SEC. 4. (a) Any individual who knowingly engages in conduct prohibited by section 3(a) shall be fined not more than $250,000 or be imprisoned for not more than 10 years or both.

"(b) Any person (other than an individual) which knowingly engages in conduct prohibited by section 3(a) shall be fined not more than $1,000,000.

"CIVIL ACTIONS

"SEC. 5. (a)(1) The United States may bring a civil suit against any person who violates section 3(a).

"(2) In a civil suit brought under paragraph (1) the United States may recover—

"(A) in the case of a person who knowingly engages in conduct prohibited by section 3(a), an anount equal to the sum of—

"(i) twice the amount of each kickback involved in the violation; and

"(ii) not more than $10,000 for each occurrence of prohibited conduct; or

"(B) in any other case, the amount of each kickback involved in the violation.

"(b) A civil action under this section shall be barred unless the action is commenced within 6 years after the later of (1) the date on which the prohibited conduct establishing the cause of action occurred, and (2) the date on which the United States should reasonably have become aware that the prohibited conduct had occurred.

"TERMINATION OF CONTRACTS

"SEC. 6. If a violation of section 3(a) has occurred in connection with a prime contract, as determined by the head of the contracting agency, the head of such agency may, by written notice to the prime contractor, terminate the prime contract for default. Any such termination shall be governed by the Contract Disputes Act of 1978.

"ADMINISTRATIVE OFFSETS

"SEC. 7. (a) The United States may recover the amount of any kickback paid, accepted, or charged in violation of section 3(a) by offsetting such amount against any moneys owed by the United States—

"(1) to the prime contractor, prime contractor employee, subcontractor, or subcontractor employee which included such amount in a contract price; or

"(2) to the recipient or recipients of such kickback.

"(b)(1) Upon the written directions of the contracting officer for a prime contract, the prime contractor shall withhold from sums the prime contractor owes any subcontractor the amount of any kickback found to have been paid, accepted, or charged in violation of section 3(a).

"(2) Upon the written direction of the contracting officer for a prime contact, the prime contractor (A) shall pay all sums withheld under paragrph (1) to the contracting agency, or (B) shall retain such sums, if the United States has, by administrative offset under subsection (a), collected such sums from the prime contractor, and shall notify the contracting officer of the retention and the reasons for the retention.

"CONTRACTOR RESPONSIBILITIES

"SEC. 8. (a) Each contracting agency shall include in each prime contract awarded by such agency a requirement that the prime contractor shall have in place and follow reasonable procedure designed to prevent and detect violations of section 3(a).

"(b) Each contracting agency shall include in each prime contact awarded by such agency a requirement that the prime contractor shall cooperate fully with any Federal Government agency investigating a violation of section 3(a).

"(c)(1)(A) Whenever a prime contractor or subcontractor has reasonable grounds to believe that a violation of section 3(a) may have occurred, the prime contractor or subcontractor shall promptly report the potential violation in writing.

"(B) A contractor shall make the reports required by subparagraph (A) to the inspector general of the contracting agency, the head of the contracting agency if the agency does not have an inspector general, or the Department of Justice.

"(2) In the case of an administrative or contractual action to suspend or debar any person who is eligible to enter into contracts with the Federal Government, evidence that such person has supplied information to the United States pursuant to paragraph (1) shall be favorable evidence of such person's responsibility for the purposes of Federal procurement laws and regulations.

"INSPECTION AUTHORITY

"SEC. 9. For the purpose of ascertaining whether there has been a violation of section 3(a) with respect to any prime contract, the General Accounting Office and the inspector general of the contracting agency, or a representative of such contracting agency designated by the head of such agency if the agency does not have an inspector general, may inspect the facilities and audit the books and records of any prime contractor or subcontractor under a prime contract awarded by such agency.".

(b) The title of such Act is amended to read as follows: "An Act to prohibit the paying or offering of kickbacks to any contractor or contractor employee in connection with Federal Government contracting actions.".

SEC. 3. (a) Except as provided in subsection (b), the Anti-Kickback Act of 1986 (as set out in section 2(a)) shall take effect with respect to conduct described in section 3(a) of such Act which occurs on or after the date of the enactment of this Act.

(b) Subsections (a) and (b) of section 8 of the Anti-Kickback Act of 1986 (as set out in section 2(a)) shall take effect with respect to contract solicitations issued by an agency, department, or other establishment of the Federal Government on or after the date which is 90 days after the date of the enactment of this Act.

□ 1530

AMENDMENT NO. 2800

(Purpose: To make clarifying amendments)

Mr. DOLE. Mr. President, I send an amendment to the desk on behalf of Senators COHEN and LEVIN to the committee substitute.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for Mr. LEVIN and Mr. COHEN, proposes an amendment numbered 2800.

Mr. DOLE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 11, line 2, insert "improperly" after "of".

On page 14, line 1, insert "became aware or" after "States".

On page 14, strike out lines 3 through 9.

On page 14, line 11, strike out "Sec. 7." and insert in lieu thereof "Sec. 6.".

On page 15, line 5, strike out "of" and all that follows through "retention" on line 6 and insert in lieu thereof "when the retention of funds has actually occurred.".

On page 15, line 8, strike out "Sec. 8." and insert in lieu thereof "Sec. 7.".

On page 15, line 12, insert "in its own operations and direct business relationships" after "section 3(a)".

On page 16, line 9, strike out "Sec. 9." and insert in lieu thereof "Sec. 8.".

On page 16, line 14, insert "shall have access to and" after "general,".

On page 16, line 15, insert ", including any electronic data or records," after "records".

On page 17, line 1, strike out "8" and insert in lieu thereof "7".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2800) was agreed to.

● Mr. LEVIN. Mr. President, S. 2250, the Anti-Kickback Enforcement Act of 1986, is a bill designed to strengthen existing law on subcontractor kickbacks. I introduced it with the unanimous, bipartisan support of the members of the Subcommittee on Oversight of Government Management. An amended version was approved by the Governmental Affairs Committee members also on a unanimous and bipartisan basis. The cosponsors of the bill are Senators COHEN, RUDMAN, CHILES, DURENBERGER, BOREN, BINGAMAN, NUNN, and WILSON. I want to thank in particular Senator COHEN, my good friend from Maine, for his leadership on this issue and for the long hours and hard work that he and his excellent staff have spent on behalf of this legislation. I also want to thank my friend from Delaware, Senator ROTH, for his help and support in this matter.

The impetus for the bill is the shocking story of subcontractor kickbacks in the defense industry. It is a table of widespread corruption where what counts in the award of too many defense subcontracts is not the price or the performance or the product but the payoff.

Just this summer, reports of kickback scandals in the defense industry have made the news across the country. In California, 19 individuals and 1 supplier were indicted for kickbacks affecting the space shuttle rocket booster, the B-1 bomber, the F-16 and F-18 fighter airplanes, tactical communications satellites, radar surveillance systems, several classified weapons programs, and other defense procurements. In Massachusetts, officers of one of the largest privately owned machine shops on the east coast were indicted for compiling a "slush fund" of more than $750,000 to pay kickbacks to the employees of a major defense firm. In Virginia, a senior buyer at a shipbuilding firm pleaded guilty to demanding kickbacks from two subcontractors, one of which had reportedly paid him more than $150,000 over a 2-year period.

Subcontractor kickback schemes span the width of this country, undermining legitimate competition in the Federal procurement system. They push honest subcontractors out of the marketplace, inflate contract costs by at least the amount of the kickbacks being paid, and may lead to the procurement of shoddy goods. Unless we take action to stop them, kickback schemes will continue to corrupt Government purchasing.

The legislation before us today, the Anti-Kickback Enforcement Act of 1986, is an attempt to meet the kickback problem head on. It is the product of our investigation into the scope of kickback fraud in the defense industry and the need for new legislation to stop it. This investigation, conducted by the Subcommittee on Oversight of Government Management, resulted in two hearings in February and June of this year.

In the hearing held on February 27, witness after witness told our subcommittee that subcontractor kickbacks were a nationwide, well-entrenched problem in the defense industry. The U.S. attorney from Los Angeles testified that kickback schemes had:

> Corrupted the subcontracting process at most, if not all, defense contractors, and most, if not all, defense procurement programs within the Central District of California.

He estimated that, in California, "up to 50 percent of the buyers or frontline procurement personnel at prime contractors take kickbacks in return for issuing subcontracts." The U.S. attorney from New Orleans testified that subcontractor kickbacks were "a way of life" at a nearby shipyard and described 26 convictions obtained to date. Representatives from the FBI, IRS, DOD Inspector General's Office, and Defense Contract Audit Agency provided additional facts, figures and descriptions of kickback schemes taking place throughout the United States.

We heard, for example, about a subcontractor whose president had to pay $5,000 cash to get his company on a list of bidders for Navy subcontracts. The same gentleman was later forced to take out a second mortgage on his home to meet the kickbacks demands placed on his company. In another case, a prime contractor employee was so brazen about his kickback collections that he instructed a subcontractor to give him a promissory note for certain overdue payoffs so that, if the vendor died, the employee could collect from his estate. We also heard about an employee who set up a dummy corporation to launder his kickback payments—it was appropriately named "Profit Maker Enterprises."

Witnesses also described kickbacks affecting key defense procurement programs such as the Stealth bomber program. When my fellow Senators asked whether the quality and integrity of our weapon programs were being compromised by this corruption, no witness could say with certainty that they were not.

At the June 11 hearing, the subcommittee traced the employment histories of 25 prime contractor employees who had been strongly suspected or convicted of taking kickbacks. We learned that at least one-third of these employees had found new defense procurement positions even when under investigation by the FBI, a grand jury or their employer, and that many had taken kickbacks at more than one job.

The hearings also exposed the dissatisfaction law enforcement officials have with respect to the only Federal law now on the books designed to deal with the problem—the Anti-Kickback Act of 1946. This statute, first enacted after World War II, hasn't been amended in 25 years. Instead of using it to punish wrongdoers or to recover kickback costs, prosecutors turn to more general laws—like the mail fraud statute or the criminal sections of the Tax Code—to obtain appropriate prison sentences and fines.

When we asked why they don't use the existing statute, we were told that it was a defective law, filled with loopholes, restrictive provisions, and antiquated terms. We were told, for example, that the law applies to only "negotiated contracts" instead of to all types of contracts; that it prohibits completed kickbacks but not attempted kickbacks; and that it prohibits kickbacks paid to induce the award of a subcontract but not kickbacks paid for other, equally invalid purposes. Witnesses described its criminal penalties as weak and its civil recovery provisions as wholly inadequate. The legal community emphasized that they want a law designed specifically to stop subcontrator kickbacks, but that the existing Anti-Kickback Act didn't meet this need.

The bill before you today, the Anti-Kickback Enforcement Act of 1986, meets the criticisms levelled at the existing statute. It was introduced, as I said earlier, with the unanimous, bipartisan support of the members of the Oversight Subcommittee. Representatives from industry, the law enforcement community and government poured over it and offered numerous suggestions to improve its provisions. The Aerospace Industries Association of America provided detailed and thoughtful comments. The Senate Subcommittee staff accepted many of the suggestions it received and labored to iron out the remaining differences on the legislation.

An amendment in the nature of a substitute was drafted and, on August 12, 1986, this amended version of the bill was unanimously approved by the

Senate Governmental Affairs Committee and reported to the full Senate for further action. The committee report states that the committee "strongly supports" its enactment into law.

During the course of the Senate proceedings, Members of the House of Representatives also began to look at the legislation. Congressman JOHN BRYANT introduced a companion bill in the House, H.R. 4783, which he has worked diligently to bring to the attention of his colleagues. In consultation with them and others. Mr. BRYANT has suggested several changes to the bill. His suggestions make up the majority of the amendments which I and my colleague, Senator COHEN, are today proposing. The result is that the final bill is a carefully crafted piece of legislation which enjoys widespread support by Members of Congress, the Department of Justice, the Department of Defense, and others.

Now let me describe the bill. S. 2250 improves existing anti-kickback law in a number of ways. First, it strengthens the criminal penalties for kickback activities, increasing the maximum prison sentence from 2 years to 10 and the maximum fine from $10,000 to $250,000 for individuals and $1 million for corporations. Second, it closes two obvious loopholes in current law by prohibiting kickbacks on any type of Federal contract, not just for "negotiated contracts," and by prohibiting attempted kickbacks, not just completed kickbacks. The bill also beefs up the civil recovery provisions in current law by allowing the United States, in cases of knowing misconduct, to recover double the kickback amount plus a civil forfeiture.

One of the bill's most important improvements to current law is its expanded definition of prohibited conduct. Current law prohibits payoffs made to induce or acknowledge the award of a subcontract, but doesn't affect payoffs made for other improper purposes. For example, current law doesn't apply to kickbacks paid to obtain unfair information about a competitor's bid or to induce the prime contractor to accept substandard goods. The Senate bill addresses this problem by defining a "kickback" as a payoff provided for the purpose of improperly obtaining or acknowledging any type of favorable treatment in connection with a prime contract.

Another important feature of the bill is that it requires prime contractors to institute reasonable procedures to detect and prevent kickbacks within their operations, to cooperate fully with kickback investigations, and to report kickback activities to Federal authorities. These measures require prime contractors to participate actively in the fight against subcontractor kickbacks. The bill requires prime contractors to implement thoughtful, self-policing measures and to take an active role in the battle against subcontractor fraud.

In this era of budget cuts and huge deficits, Federal dollars have to be wisely spent. Subcontractor kickbacks increase procurement costs and foster corruption within the Federal procurement system. With commonsense improvements to existing law, the Anti-Kickback Enforcement Act of 1986 can strengthen the legal deterrent to this type of procurement fraud.

The summary of S. 2250 follows:

SUMMARY OF S. 2250

The Anti-Kickback Enforcement Act of 1986 amends the existing Anti-Kickback Act, 41 U.S.C. 51-54, by reorganizing its provisions and adding new language. In particular, the bill:

(1) adds a definition section to the Act;

(2) clarifies language prohibiting the payment of kickbacks, the acceptance of kickbacks, and the inclusion of kickbacks costs in contract prices charged to the United States;

(3) makes it clear that the Act applies to kickbacks paid by independent sales representatives and by companies that furnish general supplies to prime contractors;

(4) expands the Act to prohibit attempted as well as completed kickbacks;

(5) expands the Act to prohibit kickbacks paid in connection with any government contract, removing the Act's current restriction to "negotiated contracts";

(6) expands the Act to prohibit kickbacks paid to obtain any type of favorable treatment in connection with a government contract, removing the Act's current restriction to kickbacks paid to induce or acknowledge the award of a subcontract;

(7) increases the Act's criminal penalities from a maximum of 2 years' imprisonment and a $10,000 fine to a maximum of 10 years' imprisonment and a $250,000 fine for individuals and a $1 million fine for corporations;

(8) expands the Act's civil remedies, now limited to the recovery of kickbacks charged to the United States, to permit the recovery, in cases of knowing violations, of twice the amount of any kickback plus a $10,000 civil forfeiture for each occurrence of prohibited conduct;

(9) clarifies the statute of limitations for filing civil actions, specifying a period of 6 years;

(10) clarifies language allowing the United States to use administrative offsets to recover the cost of kickbacks charged to the government;

(11) imposes new requirements on contracts to implement reasonable procedures to prevent and detect kickbacks, to cooperate fully with kickback investigations, and to report possible violations of the Act to the government; and

(12) maintains a provision authorizing GAO to conduct audits to investigate violations of the Act and extends the same authorization to other federal agencies.

The committee report contains a detailed analysis of each of the provisions of S. 2250.

AMENDMENTS PROPOSED BY MR. LEVIN AND MR. COHEN TO S. 2250

Several amendments have been proposed to perfect S. 2250. Most derive from suggestions offered by Congressman Bryant and industry representatives. In general, the amendments refine the definition of "kickback"; tighten up language concerning the statute of limitations for civil actions, administrative offsets, and the right to conduct inspections and audits for kickback purposes; delete as unnecessary a provision to codify a Supreme Court case on the Anti-Kickback Act; and clarify the duty of prime contractors to try to keep their operations free of kickback activities. The text of each amendment is reprinted in full below and following that is an explanation of the purpose and effect of each change in the bill.

TEXT OF AMENDMENTS

On page 11, line 2, insert "improperly" after "of".

On page 14, line 1, insert "became aware or" after "States".

On page 14, line 3, strike out "Termination" and all that follows through "1978." on line 9.

On page 14, line 11, strike out "7" and insert in lieu thereof "6".

On page 15, line 5, strike out "of" and all that follows through "retention." On line 6 and insert in lieu thereof "when the retention of funds has actually occurred.".

On page 15, line 8, strike out "8" and insert in lieu thereof "7".

On page 15, line 12, insert "in its own operations and direct business relationships" after "section 3(a)".

On page 16, line 9, strike out "9" and insert in lieu thereof "8".

On page 16, line 14, insert "shall have access to and" after "general,".

On page 16, line 15, insert ", including any electronic data or records," after "records".

On page 17, line 1, strike out "8" and insert in lieu thereof "7".

EXPLANATION OF AMENDMENTS

SECTION 2

The first amendment modifies subsection 2(2) of the bill which defines "kickback." This subsection has been amended by adding the word "improperly" to it so that the definition of "kickback" refers to valuable items provided for the "purpose of improperly obtaining or acknowledging favorable treatment in connection with a prime contract. * * *" This amendment emphasizes that the bill prohibits only conduct designed to improperly influence procurement decisions and does not reach business transactions, such as the exchange of de minimums gifts or business meals, which are engaged in for legitimate purposes.

SECTION 5

The next amendment is a technical change which causes the bill's 6-year statute of limitations for civil actions to run from the date on which the relevant prohibited conduct occurred, from the date on which the United States should reasonably have become aware of the prohibited conduct, or from the date on which the United States actually became aware of the prohibited conduct.

SECTION 6

The third amendment strikes the section of the bill which attempted to codify *United States* v. *Acme Process Equipment Co.*, 385 U.S. 138 (1966), because the section represents a poten-

tial restriction of that case which is neither necessary nor appropriate.

Acme holds that the existing Anti-Kickback Act authorizes the United States to cancel a prime contract tainted by subcontractor kickbacks. The sponsors of S. 2250 wholeheartedly supports that holding, and the amendment striking codification of it from the Anti-Kickback Enforcement Act should not be interpreted, under any circumstances, as an attempt to nullify or overrule the case. To the contrary, the Senate believes not only that the United States is authorized by the existing Anti-Kickback Act to terminate prime contracts tainted by subcontractor kickbacks, but also that a refurbished Anti-Kickback Act, strengthened by this bill, will continue to authorize that kickback remedy. The amendment simply signifies that Congress is content to allow the agencies to continue to employ the Acme rule without elaboration in the United States Code.

SECTION 7

The next two amendments are technical ones. The first renumbers the section, because the preceding amendment deletes the sixth section of the bill. The next amendment clarifies the intent of subsection (b)(2)(B) to rquire that a prime contractor who has been instructed to retain certain sums by a contracting officer, under the administrative offset procedures, notify the contracting officer when the retention of funds actually takes place. The amendment deletes as unnecessary and confusing the requirement that the prime contractor also specify the "reasons" for the retention of funds, since the reason will always be that the prime contractor had been so instructed.

SECTION 8

The next two amendments are also technical in nature. The first merely renumbers the section. The following amendment clarifies the responsibility of Government contractors, as described in subsection (a), to institute reasonable procedures designed to prevent and detect kickbacks.

The purpose of this subsection is to cause prime contractors to police their operations for illegal kickback schemes by, for example, monitoring the persons with whom they do business. These persons include, for example, the prime contractor's own employees, their subcontractors and any independent sales representatives with whom they have direct dealings. Some persons expressed the concern that the provision's wording was too broad and would make prime contractors responsible for detecting and preventing kickbacks wherever they occur—at every level of subcontracting, no matter how remote, and perhaps even among companies with whom the prime contractors have no direct dealings. For example, some prime contractors expressed worries that this provision would require them to develop procedures to stop kickbacks among fourth and fifth tier subcontractors even though, as a practical matter, they have no contacts with these companies and may not even be aware of their role in the subcontracting process.

These concerns fail to take into account the section's requirement that the prime contractors institute "reasonable procedures." The key word is "reasonable." It would not be reasonable to require prime contractors to police unrelated companies or lower tier subcontractors with whom they have no direct contact.

To further clarify the intended reach of the section, however, we have agreed to add language stating that prime contractors need to institute reasonable procedures designed to detect and prevent kickbacks "in their own operations and direct business relationships." This language makes it clear that the bill does not require prime contractors to make a superhuman effort or to become kickback troubleshooters for an entire business community; they have only to make a reasonable effort to keep their own business dealings free of kickback activity.

SECTION 9

The next three amendments are technical corrections to the section of the bill authorizing specified Federal agencies to inspect facilities and audit materials in the course of a kickback investigation. The first amendment merely renumbers the section. The second makes it clear that the agencies have the right to enter the facilities they want to inspect and to obtain physical access to the books and records they want to audit. This amendment clarifies the right of access that was only implied by the existing language. The final amendment clarifies the agencies' right, in this modern age, to audit electronic data and records as well as hard copy materials. The terms are intended to be interpreted broadly to include databases, mocrofiche, computer tapes and other electronic materials.

We have also been asked to state for the record that the rights of access, inspection and audit provided in this bill are, of course, in addition to any other rights that the agencies have to investigate contract matters and fraud, and they are in no way intended to limit other statutes or regulations.

SECTION 3

The final amendment is a technical one which corrects a reference to a section which has been renumbered.

In closing, I would like to thank Senator COHEN, Senator ROTH, Congressman BRYANT, Congressman BROOKS, Congressman GLICKMAN, the bill's cosponsors, and all the other persons who have demonstrated the bipartisan interest and support this bill deserves.

I particularly want to thank Elise Bean of my staff for her extraordinary dedication to this effort. She has made this cause her cause, working effectively with others, and putting in the countless hours necessary for us to get to this threshold of success.●

● Mr. COHEN. Mr. President, I am pleased that the Senate is considering legislation that Senator LEVIN and I have introduced, the Anti-Kickback Enforcement Act of 1986, which would strengthen existing statutory sanctions against subcontractor kickbacks.

As Senator LEVIN has explained in detail, S. 2250 would revise the current law by increasing the criminal penalties, authorizing civil recovery of double damages and forfeitures, covering all types of contracts, extending coverage to attempted as well as completed kickbacks, and prohibiting kickbacks to obtain any type of favorable treatment in connection with a Federal contract.

This legislation stems from hearings held by the Governmental Affairs Oversight Subcommittee earlier this year to examine the prevalence of subcontractor kickbacks in the defense industry and to determine what could be done to stop this illicit activity.

The testimony from these hearings confirmed our worst fear that kickbacks aren't the exception, but rather the rule, in defense contracting across the country. For example, Robert Bonner, the U.S. attorney for the central district of California, estimated that "up to 50 percent of the buyers or front-line procurement personnel at prime contractors take kickbacks in return for issuing subcontracts" in southern California.

Just 2 months ago, in fact, 19 current or former officials of southern California defense contractors were indicted for alleged kickback violations.

Subcontractor kickbacks, however, are by no means restricted to the west coast. Federal indictments for kickback activities have recently been handed down in New Jersey, Massachusetts, and South Carolina. Moreover, according to the U.S. attorney for the eastern district of Louisiana, kickbacks were a "way of life" at a New Orleans shipyard, where 26 employees and suppliers have been indicted over the past 2 years.

The list of companies which have had employees either indicted or convicted for subcontractor kickback violations reads like a veritable "who's who" of Fortune 500 companies: Hughes Aircraft, Northrop, General Electric, Raytheon, TRW, and Teledyne. Kickbacks have been uncovered in contracts involving major weapons systems, including contracts for the B-1 bomber, the Stealth bomber, the F-16 and F-18 jets, the A-6 aircraft, the

Blackhawk helicopter, and the M-1 tank.

Contributing to the problem is the fact that the Anti-Kickback Act, the statute enacted in 1946 to provide sanctions against subcontractor kickbacks, is riddled with loopholes, contains antiquated provisions, and has a relatively light penalty structure. According to Victoria Toesing, the Deputy Assistant Attorney General of the Criminal Division, the "limited applicability of the statute * * * precludes prosecution of many kickback situations." As a result, the law is rarely used. According to the Justice Department, there have been only eight convictions under the Anti-Kickback Act during the past 5 years. Federal prosecutors often resort to other laws, such as the mail fraud and conspiracy statutes, to prosecute individuals involved in kickback schemes.

Mr. President, S. 2250 would make the Anti-Kickback Act a far more effective sanction against subcontractor kickbacks. Senator LEVIN is to be commended for taking the initiative to focus on this serious and pervasive problem and for drafting legislation to strengthen the penalties against the corrupt practice of subcontractor kickbacks. I urge my colleagues to lend their support to this much-needed reform of the Federal anti-kickback law.●

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment was agreed to.

The bill was in order to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (S. 2250), as amended, was passed as follows:

S. 2250

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Anti-Kickback Enforcement Act of 1986".

SEC. 2. (a) The Act entitled "An Act to eliminate the practice by subcontractors, under cost-plus-a-fixed-fee or cost reimbursable contracts of the United States, of paying fees or kick-backs, or of granting gifts or gratuities to employees of a cost-plus-fixed-fee or cost reimbursable prime contractors or of higher tier subcontractors for the purpose of securing the award of subcontracts or orders", approved March 8, 1946 (41 U.S.C. 51-54), is amended to read as follows:

"SHORT TITLE

"SECTION 1. This Act may be cited as the 'Anti-Kickback Act of 1986'.

"DEFINITIONS

"SEC. 2. As used in this Act:

"(1) 'Contracting agency', when used with respect to a prime contractor, means any department, agency, or establishment of the United States which enters into a prime contract with a prime contractor.

"(2) 'Kickback' means any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind which is provided, directly or indirectly, to any prime contractor, prime contractor employee, subcontractor, or subcontractor employee for the purpose of improperly obtaining or acknowledging favorable treatment in connection with a prime contract or in connection with a subcontract relating to a prime contract.

"(3) 'Person' means a corporation, partnership, business association of any kind, trust, joint-stock company, or individual.

"(4) 'Prime contract' means a contract or contractual action entered into by the United States for the purpose of obtaining supplies, materials, equipment, or services of any kind.

"(5) 'Prime contractor' means a person who has entered into a prime contract with the United States.

"(6) 'Prime contractor employee' means any officer, partner, employee, or agent of a prime contractor.

"(7) 'Subcontract' means a contract or contractual action entered into by a prime contractor or subcontractor for the purpose of obtaining supplies, materials, equipment, or services of any kind under a prime contract.

"(8) 'Subcontractor'—

"(A) means any person, other than the prime contractor, who offers to furnish or furnishes any supplies, materials, equipment, or services of any kind under a prime contract or a subcontract entered into in connection with such prime contract; and

"(B) includes any person who offers to furnish or furnishes general supplies to the prime contractor or a higher tier subcontractor.

"(9) 'Subcontractor employee' means any officer, partner, employee, or agent of a subcontractor.

"PROHIBITED CONDUCT; PRESUMPTION THAT PROHIBITED CONDUCT OCCURRED

"SEC. 3. (a) It is prohibited for any person—

"(1) to pay, attempt to pay, or offer to pay any kickback;

"(2) to solicit, accept, or attempt to accept any kickback; or

"(3) to include, directly or indirectly, the amount of any kickback prohibited by clause (1) or (2) in the contract price charged by a subcontractor to a prime contractor or a higher tier subcontractor or in the contract price charged by a prime contractor to the United States.

"(b) In a civil suit or administrative action commenced under this Act, there shall be a conclusive presumption that the amount of any kickback paid or accepted in connection with a prime contract or subcontract in violation of subsection (a)(1) or (a)(2) has been included in the price of such contract and has been ultimately borne by the United States.

"CRIMINAL PENALTIES

"SEC. 4. (a) Any individual who knowingly engages in conduct prohibited by section 3(a) shall be fined not more than $250,000 or be imprisoned for not more than 10 years or both.

"(b) Any person (other than an individual) which knowingly engages in conduct prohibited by section 3(a) shall be fined not more than $1,000,000.

"CIVIL ACTIONS

"SEC. 5. (a)(1) The United States may bring a civil suit against any person who violates section 3(a).

"(2) In a civil suit brought under paragraph (1), the United States may recover—

"(A) in the case of a person who knowingly engages in conduct prohibited by section 3(a), an amount equal to the sum of—

"(i) twice the amount of each kickback involved in the violation; and

"(ii) not more than $10,000 for each occurrence of prohibited conduct; or

"(B) in any other case, the amount of each kickback involved in the violation.

"(b) A civil action under this section shall be barred unless the action is commenced within 6 years after the later of (1) the date on which the prohibited conduct establishing the cause of action occurred, and (2) the date on which the United States became aware or should reasonably have become aware that the prohibited conduct had occurred.

"ADMINISTRATIVE OFFSETS

"SEC. 6. (a) The United States may recover the amount of any kickback paid, accepted, or charged in violation of section 3(a) by offsetting such amount against any moneys owed by the United States—

"(1) to the prime contractor, prime contractor employee, subcontractor, or subcontractor employee which included such amount in a contract price; or

"(2) to the recipient or recipients of such kickback.

"(b)(1) Upon the written direction of the contracting officer for a prime contract, the prime contractor shall withhold from sums the prime contractor owes any subcontractor the amount of any kickback found to have been paid, accepted, or charged in violation of section 3(a).

"(2) Upon the written direction of the contracting officer for a prime contract, the prime contractor (A) shall pay all sums withheld under paragraph (1) to the contracting agency, or (B) shall retain such sums, if the United States has, by administrative offset under subsection (a), collected such sums from the prime contractor, and shall notify the contracting officer when the retention of funds has actually occurred.

"CONTRACTOR RESPONSIBILITIES

"SEC. 7. (a) Each contracting agency shall include in each prime contract awarded by such agency a requirement that the prime contractor shall have in place and follow reasonable procedures designed to prevent and detect violations of section 3(a) in its own operation and direct business relationships.

"(b) Each contracting agency shall include in each prime contract awarded by such agency a requirement that the prime contractor shall cooperate fully with any Federal Government agency investigating a violation of section 3(a).

"(c)(1)(A) Whenever a prime contractor or subcontractor has reasonable grounds to believe that a violation of section 3(a) may have occurred, the prime contractor or subcontractor shall promptly report the potential violation in writing.

"(B) A contractor shall make the reports required by subparagraph (A) to the inspector general of the contracting agency, the head of the contracting agency if the agency does not have an inspector general, or the Department of Justice.

"(2) In the case of an administrative or contractual action to suspend or debar any person who is eligible to enter into contracts

with the Federal Government, evidence that such person has supplied information to the United States pursuant to paragraph (1) shall be favorable evidence of such person's responsibility for the purposes of Federal procurement laws and regulations.

"INSPECTION AUTHORITY

"SEC. 8. For the purpose of ascertaining whether there has been a violation of section 3(a) with respect to any prime contract, the General Accounting Office and the inspector general of the contracting agency, or a representative of such contracting agency designated by the head of such agency if the agency does not have an inspector general, shall have overs to and may inspect the facilities and audit the books and records, including any electronic data or records, of any prime contractor or subcontractor under a prime contract awarded by such agency.".

(b) The title of such Act is amended to read as follows: "An Act to prohibit the paying or offering of kickbacks to any contractor or contractor employee in connection with Federal Government contracting actions.".

SEC. 3. (a) Except as provided in subsection (b), the Anti-Kickback Act of 1986 (as set out in section 2(a)) shall take effect with respect to conduct described in section 3(a) of such Act which occurs on or after the date of the enactment of this Act.

(b) Subsections (a) and (b) of section 7 of the Anti-Kickback Act of 1986 (as set out in section 2(a)) shall take effect with respect to contract solicitations issued by an agency, department, or other establishment of the Federal Government on or after the date which is 90 days after the date of the enactment of this Act.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

WILDLIFE AND SCENIC RIVERS ACT AMENDMENT

Mr. DOLE. Mr. President, I ask unanimous consent that the Energy Committee be discharged from further consideration of H.R. 4350, a Wild and Scenic Rivers Act, and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 4350) to amend the Wild and Scenic Rivers Act, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2801

Mr. DOLE. Mr. President, I send an amendment to the desk on behalf of Senator MCCLURE in the nature of a substitute.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for Mr. MCCLURE, proposes an amendment numbered 2801.

Mr. DOLE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert in lieu thereof:

"TITLE I—CACHE LA POUDRE, COLORADO

"SEC. 101. Section 3(a) of the Wild and Scenic River Act (16 U.S.C. 1274) is amended by adding at the end the following new paragraph:

"'(56) CACHE LA POUDRE, COLORADO.—The following segments as generally depicted on the proposed boundary map number FS-56 and dated March 1986, published by the United States Department of Agriculture, each to be administered by the Secretary of Agriculture; except that those portions of the segments so designated which are within the boundary of Rocky Mountain National Park shall continue to be administered by the Secretary of the Interior:

"'(A) Beginning at Poudre Lake downstream to the confluence of Joe Wright Creek, as a wild river. This segment to be designated the "Peter H. Dominick Wild River Area".

"'(B) Downstream from the confluence of Joe Wright Creek to a point where the river intersects the easterly north-south line of the west half southwest quarter of section 1, township 8 north, range 71 west of the sixth principal meridian, as a recreational river.

"'(C) South Fork of the Cache la Poudre River from its source to the Commanche Peak Wilderness Boundary, approximately four miles, as a wild river.

"'(D) Beginning at the Commanche Peak Wilderness Boundary to a point on the South Fork of the Cache la Poudre River in section 1, township 7 north, range 73 west of the sixth principal meridian, at elevation 8050 mean sea level, as a recreational river.

"'(E) South Fork of the Cache la Poudre River from its intersection with the easterly section line of section 30, township 8 north, range 72 west of the sixth principal meridian, to confluence of the main stem of the Cache la Poudre River, as a wild river.

"'With respect to the portions of the river segments designated by this paragraph which are within the boundaries of Rocky Mountain National Park, the requirements of section 102 shall be fulfilled by the Secretary of the Interior through appropriate revisions to the general management plan for the park, and the boundaries, classification, and development plans for such portions need not be published in the Federal Register. Such revisions to the general management plan for the park shall assure that no development or use of parklands shall be undertaken that is inconsistent with the designation of such river segments as a wild river. For the purposes of the segments designated by this paragraph, there are authorized to be appropriated $500,000 for development and $2,500,000 for land acquisition.'.

"SEC. 102. Inclusion of the designated portions of the Cache la Poudre River and the Wild and Scenic Rivers system under section 101 of this title shall not interfere with the exercise of existing decreed water rights to water which has heretofore been stored or diverted by means of the present capacity of storage, conveyance, or diversion structures that exist as of the date of enactment of this title, or operation and maintenance of such structures. Nor shall inclusion of the designated portions of the Cache la Poudre River in the Wild and Scenic Rivers System be utilized in any Federal proceeding, whether concerning a license, permit, right-of-way, or other Federal action, as a reason or basis to prohibit the development or operation of any water impoundments, diversion facilities, and hydroelectric power and transmission facilities below Poudre Park located entirely downstream from and potentially affecting designated portions of the Cache la Poudre River, or relocation of highway 14 to any point east of the north-south half section line of section 2, township 8 north, range 71 west of the sixth principal meridian, as necessary to provide access to Poudre Park around such facilities: *Provided*, That due consideration shall be given to reasonable measures for minimizing the impact of such facilities and road relocation on the designated segments. Congress finds that development of water impoundments, diversion facilities, and hydroelectric power and transmission facilities located entirely downstream from the designated portions of the Cache la Poudre River below Poudre Park, in accordance with the provisions of this section, is not incompatible with the designation of portions of the Cache la Poudre River in the Wild and Scenic Rivers system under section 101 of this title. The reservation of water established by the inclusion of portions of the Cache la Poudre River in the Wild and Scenic Rivers System shall be subject to the provisions of this title, shall be adjudicated in Colorado Water Court, and shall have a priority date as of the date of enactment of this title.

"SEC. 103. (a) GRANTS AND ASSISTANCE.—The Secretary of Agriculture, acting through the Chief of the Forest Service, shall provide grants and technical assistance to the City of Fort Collins, Colorado, to carry out a study regarding the designation of the following area as a national recreation area: the 18.5-mile segment of the Cache la Poudre River Corridor from the northwest boundary of the city of Fort Collins urban growth area to the Weld-Larimer County line.

"(b) STUDY.—The study under this section shall include each of the following:

"(A) a comprehensive evaluation of the public recreation opportunities and flood plain management options which are available with respect to the river corridor involved;

"(B) an evaluation of the natural, historical, and recreational values of such corridor;

"(C) patterns for possible land acquisition within the corridor which are deemed necessary for the purpose of resource protection, scenic and integrity, or management and administration of the corridor area;

"(D) cooperative management proposals for the administration of the corridor area;

"(E) the number of visitors and types of public use within the corridor area that can be accommodated in accordance with the full protection of its resources; and

"(F) the facilities deemed necessary to accommodate and provide access for such visitors and uses, including the location and estimated costs of such facilities.

"(c) REPORT TO CONGRESS.—Within three years of the date of enactment of this title, the Secretary of Agriculture shall transmit to the Congress a comprehensive report containing the results of the study conducted pursuant to this section.

"(d) FUNDING.—There are hereby authorized to be appropriated up to $150,000 to carry out the provisions of this section.

"(e) COST SHARING.—Not more than 75 per centum of the cost of the study carried out under this section shall be paid by the United States: *Provided*, That in no event shall the contribution of the United States exceed $150,000. The remaining portion of such costs shall be contributed by interested parties. The portion contributed by such interested parties may consist of appropriated funds or contributed services.

"SEC. 104. Notwithstanding any other provision of law, the Secretaries of Agriculture and the Interior shall, within 30 days of the enactment of this title, complete the exchange as described in the Decision Notice and Finding of No Significant Impact, Trust For Public Land Proposed Land-for-Land Exchange, signed by the Rocky Mountain Regional Forester, on August 22, 1985, to acquire certain private lands in the portion of the Cache La Poudre River designated in section 3(a)(56)(B) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)(56(B)).

"TITLE II—FARMINGTON, WEST BRANCH, CONNECTICUT AND MASSACHUSETTS

"SEC. 201. This title may be cited as the 'Farmington Wild and Scenic River Study Act'.

"SEC. 202(a). Congress finds that—

"(1) the West Branch of the Farmington River and related land areas possess resource values of national significance, such as significant white water rapids, undeveloped lands, scenic and cultural areas, important sport fisheries, and prime agricultural lands;

"(2) based on the National Rivers Inventory by the National Park Service, published in January 1982, this portion of the Farmington River is eligible for study for inclusion in the wild and scenic rivers system;

"(3) there is strong support among local, State, and Federal officials, area residents, and river users for a concerted cooperative effort to manage the river in a productive and meaningful way; and

"(4) in view of the longstanding Federal practice of assisting States and local governments in protecting, conserving, and enhancing rivers of national significance, the United States has an interest in assisting the State of Connecticut and the Commonwealth of Massachusetts and the appropriate local governments in managing the river.

"(b) Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)) is amended by adding the following new paragraph:

"'(92) FARMINGTON, WEST BRANCH, CONNECTICUT AND MASSACHUSETTS.—The segment from the intersection or the New Hartford-Canton, Connecticut, town line upstream to the base of the West Branch Reservoir in Hartland, Connecticut; and the segment from the confluence with Thorp Brook in Sandisfield, Massachusetts, to Hayden Pond in Otis, Massachusetts.'.

"(c) Section 5(b) of such Act (16 U.S.C. 1276(b)) is amended by adding at the end thereof the following new paragraph:

"'(7) The study of the West Branch of the Farmington River identified in paragraph (92) of subsection (a) shall be completed and the report submitted thereon not later than the end of the third fiscal year beginning after the enactment of this paragraph. Such report shall include a discussion of management alternatives for the river if it were to be included in the national wild and scenic river system.'.

"(d)(1) At the earliest practicable date following the enactment of this title, but not later than forty-five days after enactment, the Secretary of the Interior (hereinafter in this title referred to as the 'Secretary') shall establish the Farmington River Study Committee (hereinafter in this title referred to as the 'Committee'). The Secretary shall consult with the Committee on a regular basis during the conduct of the study. Membership on the Committee shall consist of seventeen members appointed by the Secretary as follows:

"(A) One member shall be appointed by the Secretary.

"(B) Two members shall be appointed by the Secretary from a list of candidates supplied to the Secretary by the Governor of the State of Connecticut.

"(C) Two members shall be appointed by the Secretary from a list of candidates supplied to the Secretary by the Governor of the Commonwealth of Massachusetts.

"(D) Two members shall be appointed by the Secretary from a list of candidates supplied to the Secretary by the Farmington River Watershed Association.

"(E) One member shall be appointed by the Secretary from each of the eight towns located along the West Branch of the river. The governing body of each of the eight towns shall provide a list of candidates to the Secretary from which the eight appointments under this paragraph shall be made.

"(F) Two members shall be appointed by the Secretary from a list of candidates supplied to the Secretary by the Metropolitan District Commission of Hartford, Connecticut.

"(2) The members of the Committee shall elect a chairman, vice chairman, and recording secretary from the membership at the first official meeting of the Committee. Official minutes shall be kept of each regular and special meeting of the Committee and shall be open for public inspection.

"(3) Any vacancy on the Committee shall be filled in the same manner in which the original appointment was made. Any member appointed to fil a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. Vacancies in the membership of the Committee shall not affect its power to function if there remain sufficient members to constitute a quorum under paragraph (4) of this subsection.

"(4) A majority of the members of the Committee shall constitute a quorum for all meetings.

"(5) The Committee shall advise the Secretary in conducting the study of the Farmington River segment specified in section 5(a)(92) of the Wild and Scenic Rivers Act. The Committee also shall advise the Secretary concerning management alternatives should the river be included in the wild and scenic rivers system.

"(6) Members of the Committee shall serve without compensation but may be compensated for reasonable and necessary expenses incurred by them in the performance of their duties as members of the Committee.

"(7) The Committee may accept and utilize the services of voluntary, uncompensated personnel.

"(8) The Committee shall terminate on the later of the following:

"(A) the completion of the river study of the Farmington River described in section 5(a)(92) of the Wild and Scenic Rivers Act; or

"(B) the publication of managment alternatives should the river be included in the wild and scenic rivers system.

"(e) As used in this title (other than in subsection (b)) the term 'River' means the segments of the Farmington River described in paragraph (92) of section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1275(a)).

"(f) There are authorized to be appropriated up to $150,000 to carry out the purposes of this title.

"TITLE III—GREAT EGG HARBOR, NEW JERSEY

"SEC. 301. (a) STUDY.—Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1271-1287) is amended by adding at the end thereof the following new paragraph:

"'(93) Great Egg Harbor River, New Jersey: The entire river.'.

"(b) COMPLETION DATE.—Section 5(b)(3) of such Act is amended by adding at the end thereof the following: 'The study of the river named in paragraph (93) of subsection (a) shall be completed not later than three years after the date of the enactment of this sentence.'.

"(c) AUTHORIZATION OF APPROPRIATIONS.—Paragraph (4) of section 5(b) of such Act is amended by adding at the end thereof the following: 'Effective October 1, 1986, there are authorized to be appropriated for the purpose of conducting the study of the river named in paragraph (93) not to exceed $150,000.'.

"TITLE IV—SALINE BAYOU, LOUISIANA

"SEC. 401. Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding the following new paragraph:

"'(57) SALINE BAYOU, LOUISIANA.—The segment from Saline Lake upstream to the Kisatchie National Forest, as generally depicted on the Proposed Boundary Map, numbered fs-57, and dated March, 1986; to be administered by the Secretary of Agriculture. For the purposes of the segment designated by this paragraph, there are authorized to be appropriated for fiscal years commencing after September 30, 1986, not to exceed $1,000,000 for the acquisition of lands and interests in lands and for development.'.

"TITLE V—GENERIC AMENDMENTS

"SEC. 501. (a) Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by redesignating the paragraphs relating to the Au Sable River, the Tuolumne River, the Illinois River, and the Owyhee River as paragraphs (52) through (55) respectively.

"(b)(1) The first sentence of section 3(b) of the Wild and Scenic Rivers Act is amended as follows:

"(A) Strike out 'one year from the date of this Act' and substitute 'one year from the date of designation of such component under subsection (a)'.

"(B) Strike out the second parenthetical statement, '(which boundaries shall include an average of not more than 320 acres of land per mile measured from the ordinary high water mark on both sides of the river)'.

"(C) Strike out the seimcolon and the remainder of the sentence after the words 'its various segments' and substitute a period.

"(2) The second sentence of section 3(d) of such Act is amended by striking out 'Said boundaries, classification, and development plans' and substituting the words 'Notice of the availability of the boundaries and classification, and of subsequent boundary amendments'.

"(3) Section 3 of such Act is amended by adding the following new subsections at the end:

"'(c) Maps of all boundaries and descriptions of the classifications of designated river segments, and subsequent amendments to such boundaries, shall be available for public inspection in the offices of the administering agency in the District of Columbia and in locations convenient to the designated river.

"'(d)(1) For rivers designated on or after January 1, 1986, the Federal agency charged with the administration of each component of the National Wild and Scenic Rivers System shall prepare a comprehensive management plan for such river segment to provide for the protection of the river values. The plan shall address resource protection, development of lands and facilities, user capacities, and other management practices necessary or desirable to achieve the purposes of this Act. The plan shall be coordinated with and may be incorporated into resource management planning for affected adjacent Federal lands. The plan shall be prepared, after consultation with State and local governments and the interested public within three full fiscal years after the date of designation. Notice of the completion and availability of such plans shall be published in the Federal Register.

"'(2) For rivers designated before January 1, 1986, all boundaries, classifications, and plans shall be reviewed for conformity within the requirements of this subsection within 10 years through regular agency planning processes.'.

"SEC. 502. Section 4 of the Wild and Scenic Rivers Act is amended by adding a new subsection (d) after subsection (c):

"'(d) The boundaries of any river proposed in section 5(a) of this Act for potential addition to the National Wild and Scenic Rivers System shall generally comprise that area measured within one-quarter mile from the ordinary highwater mark on each side of the river. In the case of any designated river, prior to publication of boundaries pursuant to section 3(b) of this Act, the boundaries also shall comprise the same area. This subsection shall not be construed to limit the possible scope of the study report to address areas which may lie more than one-quarter mile from the ordinary high water mark on each side of the river.'.

"SEC. 503. Section 5 of the Wild and Scenic Rivers Act is amended as follows:

"(a) In subsection (a) paragraph (90) relating to the North Umpqua is redesignated as paragraph (91).

"(b) At the end of subsection (b)(1) add: 'Studies of the rivers named in paragraph (38), (55), (83), and (87) shall be completed and the reports transmitted to the Congress not later than January 1, 1987.'.

"(c) Amend paragraph (4) of subsection (b) to read as follows:

"'(4) For the purposes of conducting the studies of rivers named in subsection (a), there are authorized to be appropriated such sums as necessary.'.

"SEC. 504. (a) Section 6(e) of the Wild and Scenic Rivers Act is amended by striking out 'Congress in authorized' and substituting 'Congress is authorized'.

"(b) Section 6(a) of the Wild and Scenic Rivers Act is amended by striking out 'donation, and lands' in the second sentence and substituting 'donation or by exchange in accordance with subsection (d) of this section. Lands'.

"(c) Section 6(a) of the Wild and Scenic Rivers Act is amended by inserting '(1)' after '(a)' and by adding the following at the end:

"'(2) When a tract of land lies partially within and partially outside the boundaries of a component of the National Wild and Scenic Rivers System, the appropriate Secretary may, with the consent of the landowners for the portion outside the boundaries, acquire the entire tract. The land or interest therein so acquired outside the boundaries shall not be counted against the average one-hundred-acre-per-mile fee title limitation of subsection (a)(1). The lands or interests therein outside such boundaries, shall be disposed of, consistent with existing authorities of law, by sale, lease, or exchange.'.

"(d) Section 6(b) of the Wild and Scenic Rivers Act is amended as follows:

"(1) Insert in the first sentence 'outside the ordinary highwater mark on both sides of the river' after the word acreage'.

"(2) Insert 'in fee title' after the word 'owned'.

"SEC. 505. (a) The second sentence of section 7(a) of the Wild and Scenic Rivers Act is amended by deleting 'approval of this Act' and substituting 'designation of a river as a component of the National Wild and Scenic Rivers System'.

"(b) Section 7(b) of the Wild and Scenic Rivers Act is amended as follows:

"(1) In the first sentence after clause (i) insert a new clause (ii) as follows:

"'(ii) during such interim period from the date a report is due and the time a report is actually submitted to the Congress; and'.

"(2) Redesignate existing clause (ii) as clause (iii).

"(3) At the end of the second sentence, delete 'approval of this Act' and insert in lieu thereof the words, 'designation of a river for study as provided for in section 5 of this Act'.

"SEC. 506. Section 8(a) of the Wild and Scenic Rivers Act is amended by adding the following at the end thereof: 'This subsection shall not be construed to limit the authorities granted in section 6(d) or section 14A of this Act.'.

"SEC. 507. Section 9(b) of the Wild and Scenic Rivers Act is amended by striking out 'issuance or leases,' in the second sentence and substituting 'issuance of leases,'.

"SEC. 508. Section 11 of the Wild and Scenic Rivers Act is amended by deleting the second sentence in subsection (a) and by amending section (b) to read as follows:

"'(b)(1) The Secretary of the Interior, the Secretary of Agriculture, or the head of any Federal agency, shall assist, advise, and cooperate with States or their political subdivisions, landowners, private organizations, or individuals to plan, protect, and manage river resources. Such assistance, advice, and cooperation may be through written agreements or otherwise. This authority applies within or outside a federally administered area and applies to rivers which are components of the Wild and Scenic Rivers System and to other rivers. Any agreement under this subsection may include provisions for limited financial or other assistance to encourage participation in the acquisition, protection, and management of river resources.

"'(2) Wherever appropriate in furtherance of this Act, the Secretary of Agriculture and the Secretary of the Interior are authorized and encouraged to utilize the following:

"'(A) For activities on federally owned land, the Volunteers in the Parks Act of 1969 (16 U.S.C. 18g-j) and the Volunteers in the Forest Act of 1972 (16 U.S.C. 558a-558d).

"'(B) For activities on all other lands, section 6 of the Land and Water Conservation Fund Act of 1965 (relating to the development of statewide comprehensive outdoor recreation plans).

"'(3) For purposes of this subsection, the appropriate Secretary or the head of any Federal agency may utilize and make available Federal facilities, equipment, tools and technical assistance to volunteers and volunteer organizations, subject to such limitations and restrictions as the appropriate Secretary or the head of any Federal agency deems necessary or desirable.

"'(4) No permit or other authorization provided for under provision of any other Federal law shall be conditioned on the existence of any agreement provided for in this section.'.

"SEC. 507. Section 12(c) of the Wild and Scenic Rivers Act is amended by deleting the words 'Secretary of the Interior, and inserting in lieu thereof the words 'Administrator, Environmental Protection Agency'.

"SEC. 510. Section 14 of the Wild and Scenic Rivers Act is amended by inserting '(a)' after '14' and adding a new subsection (b) as follows:

"'(b) For the conservation purposes of preserving or enhancing the values of components of the National Wild and Scenic Rivers System, and environs thereof as determined by the appropriate Secretary, landowners are authorized to donate or otherwise convey qualifed real property interests to qualified organizations consistent with section 170(h)(3) of the Internal Revenue Code of 1954. Such interest may include, but shall not be limited to, rights-of-way, open space, scenic, or conservation easements, without regard to any limitation on the nature of the estate or interest otherwise transferable within the jurisdiction where the land is located. The conveyance of any such interest in land in accordance with this subsection shall be deemed to further a Federal conservation policy and yield a significant public benefit for purposes of section 6 of Public Law 96-541.'.

"SEC. 511. Section 16(c) of the Wild and Scenic Rivers Act is amended by adding at the end thereof: "For any designated wild and scenic river, the appropriate Secretary shall treat the acquisition of fee title with the reservation of regular existing uses to the owner as a scenic easement for purposes of this Act. Such an acquisition shall not constitute fee title ownersip for purposes of section 6(b).

"TITLE VI

"SEC. 601. Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding at the end thereof the following new paragraph:

"'(58) BLACK CREEK MISSISSIPPI.—The segment from Fairley Bridge Landing upstream to Moody's Landing as generally depicted on a map entitled "Black Creek Wild and Scenic River", numbered fs-58 and dated March 1986, to be administered by the Secretary of Agriculture as a scenic river area under section 2(b)(2). For the purposes of the segment designated by this paragraph, there are authorized to be appropriated up to $300,000 for the acquisition of lands and interests in lands and for deployment.'.

"TITLE VII—HENRY'S FORK OF THE SNAKE RIVER, IDAHO

"SEC. 701. This title may be cited as the 'Henry's Fork of the Snake River Protection Act of 1986'.

"SEC. 702. Except as set forth in section 703 and section 704 of this title, the Federal Energy Regulatory Commission (FERC) is prohibited from taking any action, other than denial, on any application for a license, preliminary permit, or exemption or any further action on an issued preliminary permit pursuant to sections 4(e), 4(f), and 30 of the Federal Power Act, as amended (16 U.S.C. 797(e-f), and 823), for any project proposed to be sited on or adjacent to that portion of Henry's Fork of the Snake River, Idaho (including that segment originating at Big Springs), or its tributaries within one-half mile of their confluence with Henry's Fork of the Snake River, from its point of origin at Henry's Lake, Idaho to the point of its confluence with the backwaters of Ashton Reservoir, Idaho.

"SEC. 703. The prohibition in section 702 of this title shall not apply to the application for license filed for the Island Park Dam Hydropower project (FERC project numbered 2973) or the subsequent relicensing of said project: Provided, That such license may be approved only if FERC determines that significant and permanent alteration of streamflow, habitat, water temperature, and quality will not occur as a result of the project.

"SEC. 704. The prohibition in section 702 of this title shall not apply to the relicensing of the Ponds Lodge Hydropower project (FERC project numbered 1413).

"SEC. 705. (a) Nothing in this title shall be construed as authorizing (either expressed or implied) the appropriation or reservation of water by any Federal, State, or local agency, Indian tribe, or any other entity or individual. Nor shall any provision of this title (1) affect the rights or jurisdictions of the United States, the States, Indian tribes, or other entities over waters of any river or stream or over any ground water resource, (2) alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by the States, (3) be construed to alter or establish the respective rights of States, the United States, Indian tribes, or any person with respect to any water or water-related right, or (4) otherwise be construed to affect the validity of any existing license, permit, or certificate (other than as set forth in section 702) issued by any Federal agency pursuant to any other Federal law.

"(b) For the purposes of any Federal law authorizing an express or implied appropriation or reservation of water for any Federal purpose, the provisions of this title (other than this subsection) shall be deemed not to exist.".

● Mr. ARMSTRONG. Mr. President, I am pleased to support the amendment to H.R. 4350 which, in effect, attaches S. 1819, the Cache La Poudre Wild and Scenic River bill, to this legislation. This is a historic moment for Colorado, as this represents the first such designation in our State. Moreover, this bill represents the product of extensive negotiations among affected citizens of northern Colorado and expresses their agreement for protection of the river with options for water project development.

This legislation has been in the making for a number of years. In fact, as early as 1963, the Colorado Governor's Conference on Parks and Recreation recommended that Colorado preserve the mountainous portion of the Poudre River. In that spirit, the late Senator Peter H. Dominick of Colorado added an amendment to the Wild and Scenic Rivers Act of 1968, directing that the river be studied for possible designation. The Forest Service began studying the river for designation in 1977. The draft environmental impact statement and proposed recommendations, covering 83 miles of the upper reaches of the river, were issued for public comment in early 1980 and resulted in over 1,300 comments. In the spring of 1985, the White House recommended that 62 miles of the Cache La Poudre be designated. The bill, before the Senate today, which was worked out by a consensus of northern Colorado long-term interests, would designate 75 miles of the river.

The Cache la Poudre River is a marvelous unique, free-flowing body of water representing the largest remaining stretch of undeveloped river in the United States east of the Rocky Mountains. Beginning at the Continental Divide in Rocky Mountain National Park, the river flows east through Roosevelt National Forest and the Colorado cities of LaPorte, Fort Collins, and Greeley, before joining the South Platte River. Beginning at the river's source at Poudre Lake in Rocky Mountain National Park, the legislation would preserve the river through the town of Poudre Park. In honor of the late Senator Dominick's contribution to this designation, the bill would declare the first 18 miles of the river as the "Peter H. Dominick Wild River Area." Overall, the legislation will designate 31 miles of river as wild and 44 miles as recreational.

The legislation also expressly provides that nothing in it would affect storage and hydroelectric projects downstream of the designated portions of the river, and also includes authorization for land acquisition from willing sellers along the designated portions of the river. Private property rights are protected by the bill, with acquisitions of public rights-of-way and scenic easements occurring only where necessary and only when owners wish to sell. The legislation would additonally grandfather existing water developments to insure that conflicts in the maintenance and management of those projects will not occur.

This amendment is identical to H.R. 3547, which was introduced in the House by my colleague Congressman HANK BROWN, on October 10, 1985. I commend him in particular and all of the parties involved in the negotiations for their spirit of cooperation and success in balancing the unique environmental values of the Poudre River with Colorado's need to conserve and manage its limited water supplies. This is the kind of cooperative attitude that can resolve many basic differences that we now confront on natural resource management issues.

I believe that we, in the West, are at a crossroads in defining the position of the Federal Government in our water management systems, particularly when it comes to the creation or noncreation of reserved water rights for purposes of the Wild and Scenic Rivers Act or any designation that may be interpreted by a court to confer a Federal right to stream flow. In the past, we, the Congress, have not expressed ourselves on the subject of court inferred Federal reserved water rights to attend a Federal reservation of lands. The history of this judicial creature dates back to the United States versus Winter dispute over reserve rights for the benefit of Indian reservations. Today, Federal reserved water rights are adjudicated in State water courts and have been strictly interpreted in the West. The subject, however, has been clouded by the recent Federal court decision in the Sierra Club versus Block case regarding wilderness—where water rights have been inferred to exist for the purposes of wilderness designations. Like wild and scenic river protections, such rights are not like the earlier Winter's rights, viewed solely as diversionary rights. They are by their very nature a water right for asthetics—or in other terms a right to flow levels. By their very nature, such rights will have major impacts on existing and future privately held water rights in Western States like Colorado.

These long-established private rights are rights to divert water from a stream and put it to beneficial use, which is diametrically opposed to a Federal right to maintain certain levels of stream flow. Therefore, it is important, for the Congress to not leave the issue to judicial inference, but to spell out exactly what Federal reserved water rights are created by virtue of the designation, as we are doing here in this designation of the Cache La Poudre River. The water experts involved in the negotiation process have assured me that adequate provision has been expressly made to address this and that the legislation will prevent unexpected and unintended effects on existing water rights and future development on this river. This legislation will provide an example for others that environment and water interests can be balanced, and I urge other communities with rivers being considered as candidates for a wild and scenic river designation to look at its particular set of circumstances and expressly craft legislative language to address their particular needs and conflicts. Whatever they work out, I suggest that the issue of Federal reserved water rights needs to be expressly addressed and not left to interference by some court of law.

I recommend this legislation for passage by the Senate today as a sincere

effort to resolve the conflicts that surround this proposed designation. This proposal has been drafted with a precise effect in mind and what is not expressly said in the bill is not intended. Moreover, I trust that Congress' intent is clear enough in the bill that it shall never even become the subject of litigation.

Also incorporated in this amendment is language to authorize an exchange of the trust for public lands. This provision agreed to by all parties involved. It has the support of the trust for Public Lands and the Forest Service, as I understand. It would direct consummation of a land exchange which would place in Federal ownership a private inholding along the river.

This exchange has been analyzed in a Forest Service environmental assessment, wildlife report, and decision document. It was found to be environmentally beneficial and in the public interest. It has undergone the congressional review required by Forest Service regulations. It is also supported by the House sponsors of the Cache La Poudre Wild and Scenic River bill. Finally, the diverse interests which have helped to shape this bill—including landowners, water districts and environmental groups—reviewed, and either endorsed or did not object to, this exchange.●

PROTECTION FOR THE WEST BRANCH OF THE FARMINGTON RIVER,

● Mr. WEICKER. Mr. President, I am pleased to note the passage today of H.R. 4350, legislation to designate the West Branch of the Farmington River as a study area for inclusion in the National Wild and Scenic River System. The passage of H.R. 4350 represents 6 years of hard work by the members of the Connecticut congressional delegation to obtain protection for the Farmington, a magnificient natural resource that is treasured by the entire State.

The passage of this bill, which is cosponsored by my colleague from Connecticut, Senator DODD, demonstrates congressional recognition of the outstanding qualities of the West Branch of the Farmington River. The West Branch is an essentially free-flowing 23-mile long segment of the 600-square-mile Farmington River watershed. The river supports Connecticut's largest trout fishery and is part of the Federal Atlantic salmon restoration program. The river's corridor includes natural areas that support a variety of rare and endangered species, agricultural lands, two State parks, and five State forests.

Upon passage of H.R. 4530, the National Park Service will convene a study committee composed of representatives of State and local government and citizens groups to prepare a study management plan. This plan will define long-term goals and objectives to guide future decisions affecting the river. During the study period, the river will be protected by a moratorium on federally initiated, licensed or funded activities and projects having a negative impact on the river. The study process should take less than 36 months.

Once the management plan is complete, the Governors and the Legislatures in Connecticut and Massachusetts will vote on whether to send the river on for Federal consideration for inclusion in the Wild and Scenic River System. It is my hope that the West Branch of the Farmington River will be included in the National System within a few years.

Mr. President, I would also like to take this opportunity to thank the chairman of the Subcommittee on Public Lands, Reserved Water and Resource Conservation, Mr. WALLOP, for his assistance in moving this bill through the Senate Energy Committee. His cooperation was invaluable to our efforts to bring this bill to final passage in the Senate this year. The State of Connecticut sincerely appreciates his help.●

The PRESIDING OFFICER. The question is on agreeing to the amendment in the nature of a substitute.

The amendment (No. 2801) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 4350) was passed.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WEICKER. Mr. President, will the distinguished majority leader yield for a unanimous-consent request?

Mr. DOLE. I am pleased to yield.

APPOINTMENT OF CONFEREES—H.R. 5233

Mr. WEICKER. Mr. President, I ask unanimous consent that the Senate insist on its amendment to H.R. 5233, the fiscal year 1987 Labor-Health and Human Services, Education, and related agencies appropriation bill, request a conference with the House on the disagreeing votes of the two Houses, and the Chair be authorized to appoint conferees on the part of the Senate.

The PRESIDING OFFICER. The authority has previously been granted.

Mr. WEICKER. Is the Chair in a position to announce the names of the conferees.

There being no objection, the Chair appointed Mr. WEICKER, Mr. HATFIELD, Mr. STEVENS, Mr. ANDREWS, Mr. RUDMAN, Mr. SPECTER, Mr. MCCLURE, Mr. DOMENICI, Mr. PROXMIRE, Mr. BYRD, Mr. HOLLINGS, Mr. CHILES, Mr. BURDICK, Mr. INOUYE, and Mr. HARKIN conferees on the part of the Senate.

Mr. WEICKER. I thank the distinguished majority leader.

I yield the floor.

NATIONAL SCHOOL-AGE CHILD CARE AWARENESS WEEK

Mr. DOLE. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of House Joint Resolution 60, to designate National School-Age Child Care Awareness Week, and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 60) to designate the week beginning September 1, 1985, as "National School-Age Child Care Awareness Week."

There being no objection, the Senate proceeded to consider the joint resolution.

AMENDMENT NO. 2802

Mr. DOLE. Mr. President, I send an amendment to the desk on behalf of Senator HAWKINS.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] for Mrs. HAWKINS proposes an amendment numbered 2802.

On page 2 line 3 delete "September 1, 1985" and insert in lieu thereof, "September 15, 1986"

● Mrs. HAWKINS. Mr. President, the amendment that I am offering to House Joint Resolution 60 would designate the week beginning September 15, 1986 as "National School-Age Child Care Awareness Week." This designation is particularly timely not only because millions of latchkey children will be entering school during the week of September 15 but also because legislation to authorize a program to encourage the development of school-age child care programs in the States will be sent to the President for his signature that week. That legislation, H.R. 2241, provides for authorization of $20 million a year for 4 years for the State Dependent Care Development Grants Act.

The limited Federal funding that is available through this act is not intended to fund all the before- and after-school child care programs that are needed to care for this Nation's latchkey children. The legislation is a

modest attempt to stimulate public and private agencies to develop and finance school-age child care programs in their communities. I am hopeful that this resolution will increase the public's awareness of the plight of latchkey children and the need for school-age child care programs.

Mr. President, I urge my Senate colleagues to accept this amendment and pass this resolution.●

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2802) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the joint resolution.

The amendment was ordered to be engrossed and the bill to be read a third time.

The joint resolution is to be read a third time.

The joint resolution was read a third time.

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is, Shall it pass?

So the joint resolution (H.J. Res. 60) was passed.

The preamble was agreed to.

The PRESIDING OFFICER. The clerk will state the amendment to the title.

The legislative clerk read as follows:

Amend the title so as to read "To designate the week beginning September 15, 1986, as National School-Age Child Care Awareness Week."

The amendment to the title was agreed to.

The title was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDING THE DEPARTMENT OF DEFENSE AUTHORIZATION ACT OF 1985

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate now turn to H.R. 4530, to amend the Department of Defense Authorization Act of 1985, now being held at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4530) to amend the Department of Defense Authorization Act, 1985, to provide that members of the Commission on Merchant Marine and Defense shall not be considered to be Federal employees for certain purposes, to extend the deadline for reports of the Commission, and to extend the availability of funds appropriated to the Commission.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Kansas?

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 4530) was ordered to a third reading, was read the third time, and passed.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE EXECUTIVE CALENDAR

Mr. DOLE. Mr. President, I inquire of the minority leader if he is in a position to confirm any or all of the following Executive Calendar nominations: Calendar No. 1010, Calendar No. 1011, Calendar No. 1012, Calendar No. 1013, Calendar No. 1014, Calendar No. 1015, Calendar No. 1016, Calendar No. 1017, Calendar No. 1018, Calendar No. 1019, Calendar No. 1020, Calendar No. 1021, Calendar No. 1022, Calendar No. 1023, Calendar No. 1024, and Calendar No. 1025, the State-Justice Institute.

Mr. BYRD. Mr. President, all of the nominations that have been enumerated by the majority leader have been cleared by all Members on this side of the aisle and we are ready to proceed with the confirmation thereof.

Mr. DOLE. Mr. President, I thank the distinguished minority leader.

EXECUTIVE SESSION

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate now go to executive session in order to consider the nominations just identified and that the nominations be considered en bloc and confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominees are considered en bloc and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

Alan C. Kay, of Hawaii, to be U.S. district judge for the district of Hawaii.

Richard B. McQuade, Jr., of Ohio, to be U.S. district judge for the northern district of Ohio.

Joel F. Dubina, of Alabama, to be U.S. district judge for the middle district of Alabama.

DEPARTMENT OF JUSTICE

Stephen S. Trott, of California, to be associate attorney general.

William F. Weld, of Massachusetts, to be an assistant attorney general.

Thomas C. Kelly, of Texas, to be deputy administrator of drug enforcement.

Joseph S. Cage, Jr., of Louisiana, to be U.S. attorney for the western district of Louisiana for the term of 4 years, reappointment.

Joseph P. Russoniello, of California, to be U.S. attorney for the northern district of California for the term of 4 years, reappointment.

James L. Fyke, of Illinois, to be U.S. Marshal for the central district of Illinois for the term of 4 years, reappointment.

Thomas A. O'Hara, Jr., of Nebraska, to be U.S. Marshal for the district of Nebraska for the term of 4 years, reappointment.

Arthur David Borinsky, of New Jersey, to be U.S. Marshal for the district of New Jersey for the term of 4 years.

Richard L. Cox, Jr., of Florida, to be U.S. Marshal for the middle district of Florida for the term of 4 years, reappointment.

Wallace L. McLendon, of Florida, to be U.S. Marshal for the northern district of Florida for the term of 4 years, reappointment.

Sherman L. Hansford, of Kentucky, to be U.S. Marshal for the eastern district of Kentucky for the term of 4 years.

Gene G. Abdallah, of South Dakota, to be U.S. Marshal for the district of South Dakota for the term of 4 years, reappointment.

STATE JUSTICE INSTITUTE

The following-named persons to be members of the board of directors of the State Justice Institute for the terms indicated:

For terms of 2 years from the date of the first meeting of the board:

Lawrence H. Cooke, of New York.
John F. Daffron, Jr., of Virginia.
Daniel John Meador, of Virginia.
Rodney A. Peeples, of South Carolina.
Clement Clay Torbert, Jr., of Alabama.

For terms of 3 years from the date of the first meeting of the board:

James Duke Cameron, of Arizona.
Janice L. Gradwohl, of Nebraska.
Sandra D. O'Connor, of Maryland.
Larry P. Polansky, of Virginia.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the various nominations were confirmed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to these nominations.

NOMINATION OF JOEL FREDRICK DUBINA TO BE U.S. DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF ALABAMA

Mr. HEFLIN. Mr. President, it is with a sense of pride and satisfaction that I rise today to speak in favor of Joel Dubina who has been nominated by the President to be a Federal district court judge for the middle district of Alabama. There has been much discussion in recent months concerning the need for excellence in our Federal judiciary. With this nomination, the President has met the high standards of excellence which we must require of those who are to sit for life on the Federal bench.

I have personally known Joel Dubina for many years. I believe that he will bring to the bench not only a solid knowledge of the law but also a

strong sense of the purpose of a judge—to administer justice fairly and equitably to all.

Joel was a dean's-list student at the University of Alabama where he graduated in 1970. He continued his education at Cumberland Law School where he graduated in 1973. Upon graduation from Cumberland, Joel served as a law clerk to District Court Judge Robert Varner. Judge Varner trained him well since he has been nominated to fill the vacancy Judge Varner will leave upon retirement—after a long and distinguished career.

Joel was in private practice from 1974 until 1983. During that time he gained the reputation of being a well-prepared and articulate lawyer. He handled both criminal and civil cases and his practice was equally balanced between Federal and State courts. Since 1983, Joel has served with distinction as the U.S. magistrate for the middle district of Alabama, and his experience with the Federal court system should prove invaluable.

While he has devoted a large amount of time to his legal career, Joel is also a devoted family man and has served the Montgomery community in many ways. Joel Dubina's work with the YMCA, the Lion's Club, and the Leukemia Foundation has brought him into contact with a broad spectrum of the community and should give him a better understanding of those who will appear before him.

On behalf of all Alabamians I would wish Joel Dubina well as he begins a new career as U.S. Federal judge.

NOMINATION OF ARTHUR BORINSKY TO BE U.S. MARSHAL FOR THE DISTRICT OF NEW JERSEY

Mr. BRADLEY. Mr. President, New Jersey is fortunate that today the Senate will confirm the appointment of Arthur D. Borinsky as U.S. marshal for New Jersey. Mr. Borinsky has had a distinguished record of community and public service in our State and I look forward to his continuing that record in this important new position.

Mr. Borinsky has served in the criminal justice system as undersheriff of Essex County and as a commissioner of the New Jersey State Police Training Commission. In addition to more traditional academic training, Mr. Borinsky is a graduate of the Essex County Police Academy.

The criminal justice system has not been the only beneficiary of Arthur Borinsky's community involvement. He has served as chairman of the United Jewish Federation of Metro West, chairman of the Century Division of Israel Bonds, chairman of the Expansion Committee of the Daughters of Israel Home for the Aged in West Orange, NJ, and many other civic projects too numerous to mention.

And in addition to his distinguished criminal justice experience, Mr. Borinsky headed a successful business for almost 20 years in New Jersey, as chairman and chief executive officer of Tuscan Dairy Farms.

Mr. President, New Jersey is fortunate that Arthur Borinsky has agreed to continue his public service and I am pleased to endorse his nomination today.

NOMINATION OF CHIEF JUSTICE TORBERT TO THE BOARD OF DIRECTORS OF THE STATE JUSTICE INSTITUTE

Mr. HEFLIN. Mr. President, I would like to recognize and congratulate Chief Justice Clement Clay, "Bo", Torbert, Jr., of Alabama, on his nomination to the board of directors for the State Justice Institute. This institute was created to aid State and local governments in strengthening and improving their judicial systems.

After obtaining his bachelor of science degree from Auburn University in Auburn, AL, and his law degree from the University of Alabama School of Law, Chief Justice Torbert began his illustrious legal career by practicing law with Congressman BILL DICKINSON of Alabama and serving as a municipal court judge. Chief Justice Torbert was elected to the Alabama State Legislature in 1958 and served until 1962, and he also served a total of 7 years in the Alabama State Senate. Chief Justice Torbert is a member of the American Bar Association, the Alabama State Bar Association, the Federal Bar Association, the National Center for State Courts, the Conference of Chief Justices, where he is first vice president and on the board of directors, and the Alabama Judicial Study Commission, where he serves as chairman.

Chief Justice Torbert began his tenure as chief justice in 1977. While serving as chief justice, Mr. Torbert has made significant contributions to the Alabama court system in the areas of case management, juror management, and financial management. In the area of case management, the Alabama courts have experienced no case delay, except in isolated situations. In the area of juror management, the Alabama courts meet or exceed the ABA national juror standards in the areas of juror summons and juror orientation. Also, in the area of financial management, the Alabama courts have an automated expense account that allows them to know how much money the judges and clerks spend each day.

I believe all these accomplishments qualify Chief Justice Torbert for the position on the board of directors for the State Justice Institute. He has gained a wealth of experience as chief justice that can only benefit the Nation as he serves in this position. He is a good friend and I wish Justice Torbert and all the other nominees to this State justice board of directors congratulations on their nominations.

The State Justice Institute has been many years in coming. At this time I would like to recognize the efforts of the National Center for State Courts and the work of the Conference of Chief Justices for their assistance and their years of perseverance. I would also like to thank Harry Swegle, the Washington liaison for the national center, because it is largely through his dedication and tireless efforts that the institute will now become a reality.

NOMINATION OF HON. CLEMENT CLAY TORBERT, JR., CHIEF JUSTICE OF THE ALABAMA SUPREME COURT, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE STATE JUSTICE INSTITUTE

Mr. DENTON. Mr. President, I offer my strongest support for the nomination of Hon. Clement Clay Torbert, Jr., chief justice of the Alabama Supreme Court, to be a member of the board of directors of the State Justice Institute.

Chief Justice Torbert has a most distinguished background. After graduating from the University of Alabama Law School in 1954, he practiced law in Opelika, AL, until 1977, when he was elected as Alabama's 25th chief justice. He was reelected without opposition for a second 6-year term beginning January 18, 1983.

Chief Justice Torbert has also served as a municipal judge and in both houses of the Alabama State legislature. He is an active member of the Lee County, AL, and American Bar Associations. He serves as a member of the board of commissioners of the Alabama State Bar and is a member of the Farrah Law Society. He was elected to the Alabama Academy of Honor in 1979. Further, he is the president of the Alabama Judicial Study Commission, a member of the board of directors of the American Judicature Society, and first vice president and a member of the board of directors of the Conference of Chief Justices.

Mr. President, I urge my colleagues to support his nomination.

NOMINATION OF JOEL FREDRICK DUBINA TO SERVE AS JUDGE FOR THE U.S. DISTRICT COURT, MIDDLE DISTRICT OF ALABAMA

Mr. DENTON. Mr. President, I offer my strongest support for Joel Fredrick Dubina, who is President Reagan's nominee to serve as district court judge for the middle district of Alabama. Mr. Dubina comes to us highly qualified to serve as a district court judge.

Mr. President, Joel Dubina is a graduate of the University of Alabama, where he was on the dean's list for 2 years. He went on to the Cumberland School of Law at Samford University and was graduated in 1973. After graduation, he served as a clerk to the man he is now nominated to succeed, Judge Robert E. Varner.

Joel Dubina served in private law practice for the next 9 years with the Montgomery firm of Jones, Murray,

Steward & Yarbrough. During that time, he worked in varied areas of the law including criminal defense work, real estate, corporate law, domestic relations, civil litigation, civil rights, antitrust and securities fraud. Later in his law practice, he concentrated his efforts in civil litigation, primarily in the Federal courts.

In 1983, he was appointed U.S. magistrate for the middle district of Alabama, which is the position in which he now serves.

Mr. President, this committee has taken an exceedingly close look at all the facets that make an excellent Federal judge. In particular, we have stressed a nominee's professional competence, personal integrity, and fidelity to the Constitution. Joel Dubina has all of these.

Our analysis of a nominee's professional competence has covered such areas as length, breadth and depth of legal experience, writing skills, and contributions to legal scholarship. Joel Dubina's record is a stellar one in terms of his legal experience, and is exemplary of the kind of background we look for in Federal judicial nominees.

In his 9 years of private practice, Joel Dubina has served as counsel or associate counsel for approximately 375 cases, half of which were heard in Federal courts. Many of these cases involved various types of litigation, covering hundreds of depositions, thousands of hours of discovery, and numerous briefs, motions and pleadings.

In the cases which he reported as the 10 most significant litigated matters which he has personally handled, Joel Dubina has represented to this committee the benchmarks of legal professionalism. In one case, State of Alabama versus Coffee County Abstract and Title Co., Joel Dubina successfully argued his client's case before the full Alabama Supreme Court. This was also a case which the legal profession terms as one of first impression, in which the court set a precedent regarding what nonlawyer title company employees could and could not do in conducting real estate closings.

In another case, Vanguard Security Life Insurance Company versus Alabama State Insurance Commissioner, Mr. Dubina argued against the constitutionality of an Alabama statute which allowed the insurance commissioner to place an insurance company under an order of supervision. In this, his first argument before a three-judge Federal panel, Joel Dubina was successful in overturning the State statute as an unconstitutional infringement on 14th amendment due process guarantees.

The high regard for which his colleagues hold Joel Dubina became most apparent when a Federal district judge appointed Mr. Dubina as legal guardian to represent mental patients in the case of Lynch versus Baxley. Here Mr. Dubina represented the patients at recommitment hearings ordered by the judge.

The writing skills portrayed by Mr. Dubina in the questionnaire he prepared for this committee are to be admired and even envied. His case descriptions and essay responses reflect a clear, thoughtful, and tightly worded writing style which will serve him well as a district court judge.

Mr. Dubina's contribution to legal scholarship is also worth noting as we consider his qualifications. As a U.S. magistrate, he had his opinion in the case of Burnett versus Kindt published. Furthermore, he delivered a speech to the 11th Circuit Judicial Conference in May, 1984, entitled, "What can lawyers and judges do to expedite cases in the Federal courts?"Certainly this is a subject of particular interest to this committee.

Mr. President, a nominee's personal integrity must also be closely measured when being considered for a Federal judgeship. In word and in deed, Joel Dubina's integrity is of the highest. His integrity is reflected in his attitude and desire to serve as a judge without interference or conflict of interest.

The third and certainly not the least criterion by which we should evaluate a candidate for a judgeship is that person's fidelity to the Constitution and to legal precedent. Joel Dubina is committed to an even application of the law without imposing his personal views on a decision. Furthermore, he believes in the principle of judicial restraint, realizing that a balance of power can only be maintained when the judicial branch adheres to its job as interpreter of the law and avoids the temptation of legislating.

Mr. President, apart from his distinguished service at the bar and on the bench, Joel Dubina has given much of his time to community service both in the law and in civic activities. As a private practitioner, he offered free legal representation to disadvantaged persons through the "Lighthouse," an organization funded through private contributions to aid individuals who cannot afford legal counsel. He also represented disadvantaged persons, without charge, based on referrals from the Montgomery County Bar Association.

Joel Dubina has been active in county, State and Federal bar associations. He was the president of the Montgomery chapter of the Federal Bar Association in 1982 and 1983.

His civic activities are exemplary. Joel Dubina has given a great deal of his time to his local YWCA, and served on the board of trustees of the Alabama Leukemia Foundation for 4 years. He and his family are active in Trinity Presbyterian Church, where Joel is a member of the board of deacons.

Mr. President, it is with great pride that I recommend this extraordinary and highly qualified young man to the committee for our approval as a U.S. district judge for the middle district of Alabama. I urge my colleagues to support the nomination.

NOMINATION OF JUDGE LAWRENCE H. COOKE

● Mr. MOYNIHAN. Mr. President, I have already advised the Committee on the Judiciary of my support for Judge Lawrence H. Cooke's appointment to the Board of Directors of the State Justice Institute, but, as we have now confirmed his nomination, I should like to, if only briefly, reiterate my confidence in Judge Cooke for the full Senate.

Judge Cooke, until his retirement in 1984, served as chief judge for the New York State Court of Appeals, an office in which he served with the greatest distinction. Previously, he served on both the New York State Supreme Court and the New York State Appellate Division. And Judge Cooke has been an active and recognized leader in the cause of legal reform in his State.

Judge Cooke has been of special and valued assistance to this Senator as a member of my judicial screening panel, which advises me on appointments to the Federal bench in New York.

There are, in short, Mr. President, few jurists in the State of New York possessing the tremendous experience and ability of Lawrence H. Cooke. I commend the decision of the Senate, and send Judge Cooke my great congratulations on the honor of this newest office. It is richly deserved.●

LEGISLATIVE SESSION

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate now resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME FOR COMMITTEES TO FILE REPORTS

Mr. DOLE. Mr. President, I ask unanimous consent that committees have until the hour of 5 p.m. today, Friday, September 12, 1986, for the purpose of filing reports only.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. There is no objection on this side.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DOLE. Just to recap for Monday, we will convene at 11 a.m. and under the standing order the lead-

ers will have 10 minutes each. There will be two special orders in favor of Senator PROXMIRE and Senator LEVIN for not to exceed 5 minutes each. There will be morning business until 12 noon, and following morning business we will resume consideration of the Rehnquist nomination. It could be later on Monday that we could have an appropriation bill, if we can find one that is not controversial.

I would guess though if any votes are ordered on that particular bill they would be put over until Tuesday. I think it is fair to say there will be no votes on Monday.

ROUTINE MORNING BUSINESS

Mr. DOLE. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business not to extend beyond the hour of 4 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

TELEVISION COVERAGE OF IMPEACHMENT PROCEEDINGS

● Mr. MATHIAS. Mr. President, the proceedings of the Special Committee for Impeachment under rule XI will be televised live on channel 2 on the congressional cable system. Thus, those Members of the Senate and the House of Representatives who are not directly participating in this part of the proceeding will be able to follow these evidentiary hearings from their respective offices and elsewhere in the Capitol and the House and Senate Office Buildings.

As previously announced, these sessions are scheduled from 9 a.m. to noon and 2 to 5 p.m., Monday through Friday of next week, September 15, 1986, through September 19, 1986, in the Caucus Room of the Senate Russell Office Building, Room SR 325.

I want to express my appreciation to Congressman ROSE, chairman of the Speaker's broadcast committee, for his assistance in arranging for this coverage.●

COLLECTION AGENCIES ARE WRONG APPROACH FOR FARMERS

Mr. DIXON. Mr. President, at a time when thousands of farmers are caught in a serious financial crisis, it is absolutely incredible that the Farmers Home Administration [FmHA] has retained a private debt collection agency to collect delinquent payments from FmHA borrowers.

The recent decision by the FmHA concerning delinquent loans has created much anxiety among farmers in my home State of Illinois. The Administration reportedly has this new practice under review. Farmers have never before had to contend with collection agencies in connection with Farmers Home loans, and I am very concerned about the financial and psychological impact this approach will have on thousands of farmers.

Last January, I wrote to Vance Clark, the Administrator of the Farmers Home Administration, to urge forbearance and compassion for those farmers who are behind in repaying their loans.

□ 1540

I believe that the FmHA should again work to restructure these loans, and give farmers the time they need to work out their significant financial problems. For this reason, I strongly support the action taken by the Senate Subcommittee on Appropriations on Tuesday, September 9. The subcommittee adopted an amendment which provided that no funds appropriated by H.R. 5177, the fiscal year 1987 appropriation bill for agriculture, may be used by the Farmers Home Administration to contract with private debt collection agencies to collect delinquent payments from FmHA borrowers. I believe it is time for the Farmers Home Administration to seriously review their lending practices. It is my hope that this amendment will force them to begin the process.

Mr. President, I am also concerned about the health of the Farm Credit System. The Farm Credit System is made up of 37 banks in 12 districts around the country, as well as a variety of other agencies important to farmers. The system holds approximately a third of the Nation's farm debt. Farmers look to the system to provide short-term loans for spring planting and longer-term loans for purchasing equipment and land.

The Administration has had since December 23, 1985, to appoint a three-member Board of Directors for the Farm Credit System, which is farmer owned and the largest source of loans for farmers. However, the Administration has only appointed two of the three members. I believe that this delay in making the last appointment may affect the availability and terms of farm loans, as well as the effectiveness of the Farm Credit Administration Board. We have the responsibility to maintain public confidence in our Farm Credit System. Farmers have enough to worry about already. It is vital that our Farm Credit System be fully staffed, and prepared to handle the present serious farm credit crisis.

At this time of great crisis in our agricultural sector, I believe that the Administration's policies should stress forbearance and compassion, as our farmers continue to work hard in order to cope with the depression in the agricultural sector of our economy.

Mr. President, I yield the floor.

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

FORECAST FOR REAL CAPITAL SPENDING—1986

Mr. DANFORTH. Mr. President, yesterday, September 11, the Commerce Department's Bureau of Economic Analysis issued its updated forecast on real capital spending for 1986.

The Commerce Department's estimate, which was an adjustment downward from a prior survey, indicates that in 1986 there will be a 2.5-percent reduction in real capital spending.

The 2.5-percent reduction that is forecast for 1986 as compared with 1985 is made up of a variety of component parts.

The Commerce Department estimates that the manufacturing sector of American business will reduce its capital spending not by 2.5 percent but by 6.2 percent, and, further, that the durable goods industry will reduce its capital spending by 6.9 percent.

By way of further refinement of these estimates, the Commerce Department forecasts that the blast furnace steelw_rks industry will reduce its capital spending by 10.5 percent; electrical machinery by 6.3 percent; machinery except electrical by 16.9 percent; motor vehicles by 12.4 percent; stone, glass, and clay by 6.8 percent; textiles by 7 percent; and petroleum by 27.5 percent.

□ 1550

Mr. President, in articles that appeared in several papers today, there were some comments on the projections by the Department of Commerce. The Washington Post reported, quoting in part from the article:

> Many analysts said they believed the investment decline will be even worse than the survey plans indicate, casting further doubt on the Reagan administration's forecast for revived economic growth in the second half of the year.

The article goes on to say:

> Michael Evans, head of Evans Economics, a Washington consultng firm, said he believed investment spending will decline by 5 percent this year, double the 2.5 percent survey prediction. "This has been a bad year for business spending. We got an extra wallop from the tax changes and the problems in oil country which came on top of an already weak economy," he said.
>
> Economists said the overhaul of the tax law, which shifts $120 billion in taxes from individuals to businesses, forced companies to scale back investment plans. Many provisions that favored business investment have either been eliminated or scaled back in the overhaul, which is awaiting final congressional approval.

Mr. President, I ask unanimous consent that an article from the Washington Post and an article from the Wall

Street Journal be printed at this point in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 12, 1986]

BUSINESS INVESTMENT SPENDING DROPS

(By Martin Crutsinger)

U.S. businesses, beset by a sluggish economy and tax-law uncertainty, have reduced their investment spending plans by 2.5 percent this year, the biggest cut since the last recession, the government reported yesterday.

The Commerce Department said a survey completed in August found that businesses, after adjusting for inflation, plan to spend $376.47 billion this year on capital improvement projects, down from $386.32 billion actually spent in 1985.

It would be the first decline in business investment since 1983 and the biggest drop since a 7.9 percent plunge in 1982. Business spending on expansion and modernization rose 8.7 percent in 1985 after surging 15.8 percent in 1984.

Economists blamed the weak economy, cutbacks in oil and gas drilling and uncertainty about changes in the tax law for the steep decline in capital investment plans.

Many analysts said they believed the investment decline will be even worse than the survey plans indicate, casting further doubt on the Reagan administration's forecast for revived economic growth in the second half of the year.

The new estimate of spending plans represented a downward revision from the previous survey taken in April and May. At that time, businesses were planning a somewhat smaller 1.3 percent cut in investment this year.

"The downward revision from an already dismal figure certainly isn't encouraging for economic growth for the rest of the year," said David Wyss, economist with Data Resources Inc. of Lexington, Mass.

The administration is forecasting that the economy, as measured by the gross national product, will expand at a robust annual rate of 4 percent in the last six months of this year, up substantially from the 2.2 percent growth rate turned in from January through June.

But Michael Evans, head of Evans Economics, a Washington consulting firm, said he believed investment spending will decline by 5 percent this year, double the 2.5 percent survey prediction. "This has been a bad year for business spending. We got an extra wallop from the tax changes and the problems in oil country which came on top of an already weak economy," he said.

Economists said the overhaul of the tax law, which shifts $120 billion in taxes from individuals to businesses, forced companies to scale back investment plans. Many provisions that favored business investment have either been eliminated or scaled back in the overhaul, which is awaiting final congressional approval.

"The numbers reflect the reality that businesses have little incentive to invest today," said Jerry Jasinowski, chief economist for the National Association of Manufacturers. "The combination of lousy economic conditions and confusion over taxes throws a lot of cold water on capital investment spending plans."

Before adjusting for inflation, the survey said, industry will spend $379.6 billion on new plant and equipment this year, a drop of 1.9 percent from 1985.

After removing the effects of inflation, the Commerce Department said, manufacturers are planning to cut back capital spending by 7 percent this year. Factories making durable goods, items expected to last three or more years, forecast a 6 percent reduction and businesses making nondurable goods expect to reduce spending by 7.9 percent.

[From the Wall Street Journal, Sept. 12, 1986]

WASHINGTON WIRE: A SPECIAL WEEKLY REPORT

Stopping Terrorism is once again a growing U.S. worry:

Officials fear more terrorist attacks may be on the way and concede that they are still on the defensive. They say terrorist groups are relying more on small cells recruited for only one mission, on couriers and on counterfeit or stolen passports. Such tactics make it tougher to track down the sponsors of terrorist attacks.

U.S. strategists seek ways to move the Army's anti-terrorist forces more swiftly to incidents such as the Pakistan hijacking. They cringe at a Bush aide's public comments about seeking permission from allies to base commandos in Europe. "The only way they would agree to this," complains an administration official, "is if it were kept secret."

U.S. officials expect Israel to bomb Palestinian strongholds in retaliation for the attack on a Turkish synagogue.

Lawmakers scramble for ways to meet the deficit-reduction target:

House Democrats consider some previously discarded GOP proposals for selling certain government assets, such as the naval petroleum reserve. The Senate takes another look at about $1 billion of savings that it rejected in a House budget bill. Election-year pressures for action grow, but lawmakers face a struggle to stay within the fiscal 1987 deficit target of $144 billion. Some worry that the impasse may force a post-election, lame-duck session.

Many proposed cuts stir skepticism. Sales of government assets, such as Conrail, would reap only temporary savings. Lawmakers may try to count a first-year, $11 billion revenue bulge from passage of the tax-overhaul law. But doing that without also making major spending cuts, argues Colorado Sen. Armstrong, would be "transparent and phony."

Republicans rush to take the offensive on the anti-drug issue:

In a GOP survey, 76 percent of those polled favored drug testing for elected officials. Some Republican candidates challenge Democrats to submit to tests, Reps. Wolpe of Michigan, McCloskey of indiana and Perkins of Kentucky decline, Democrats cite evidence that drug tests are unreliable but worry about the political risk of refusing.

Both sides attack past support for decriminalizing marijuana. Republicans mail post cards citing Louisiana House candidate Tommy Hudson's votes as a state lawmaker, while Democrats note Colorado Rep. Strang's sponsorship of such a state bill. But one democratic pollster predicts drugs will fade soon as a political issue.

The U.S. Education Department advances release of a report on "schools without drugs" to coincide with Reagan's anti-drug TV talk on Sunday.

A Kemp clash with a Buffalo TV news director is jumped on by the Democrats. They accuse the New York GOP congressman of "losing his cool" by jabbing the newsman in the chest during an argument. A Kemp spokesman says that the incident has been blown out of proportion.

Aids aid would be increased 34 percent to $471 million in the next budget from $351 million in fiscal 1987 under proposals sent by the Health and Human Services Department to the White House. Officials are optimistic that the rise will be approved as part of growing efforts to fight the fatal disease.

Mr. DANFORTH. Mr. President, within the next week or two, we will be taking up the conference report on the tax bill on the floor of the Senate. The executive branch, the Commerce Department, has estimated a decline of 2.5 percent in capital spending. We are on the brink of enacting tax legislation which begins from this base of a declining investment in new equipment by American business and we in Congress are going to pass a tax bill which eliminates the investment tax credit and which takes some $1 billion out of depreciation.

In other words, what we will be saying if we pass this conference report is that we are in a position to exacerbate the problem of declining investment in new plant and equipment in the United States.

We will pass a tax bill that will make matters worse, not better, for U.S. competitiveness and for U.S. plant modernization. I point this out because this is a matter that is in the news today. My hope is that, as we proceed to address the question of tax reform, we shall be raising questions on the floor of the Senate on whether tax reform cannot be accomplished short of throwing major monkey wrenches into the American economy. The test of tax reform, I submit, is not simply how much individual rates will be reduced but the effect on the total economy of the United States. If capital investment in new plant and equipment is already on the decline, why should we in Congress want to make things worse and not better?

Mr. President, I yield the floor.

MESSAGES FROM THE HOUSE

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

At 11:12 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolution:

S. 2462. An act to provide for the awarding of a special gold medal to Aaron Copland;

H.R. 1529. An act for the relief of Gerald M. Hendley;

H.R. 1783. An act for the relief of Mary E. Stokes;

H.R. 2316. An act for the relief of Paulette Mendes-Silva; and

H.J. Res. 580. Joint resolution to designate the week beginning September 7, 1986, as "National Freedom of Information Act Awareness Week".

The bills and joint resolution, except S. 2462, were subsequently signed by the President pro tempore [Mr. THURMOND].

The bill S. 2462 was signed by the Vice President.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MURKOWSKI, from the Committee on Veterans' Affairs, with an amendment in the nature of a substitute and an amendment to the title:

H.R. 4345: A bill to authorize the Administrator of Veterans' Affairs to establish a national cemetery in or near Cleveland, Ohio (Rept. No. 99-439).

By Mr. HEINZ, from the Committee on Banking, Housing, and Urban Affairs, without amendment:

S. 2815: An original bill to amend the Bank Export Services Act, to coordinate international economic and monetary policies, and for other purposes (Rept. No. 99-440).

By Mr. ROTH, from the Committee on Governmental Affairs, with an amendment:

S. 2134: A bill to amend title 39, United States Code, to extend to certain officers and employees of the Postal Service the same procedural and appeal rights with respect to certain adverse personnel actions as are to Federal employees under title 5, United States Code.

By Mr. DOMENICI, from the Temporary Joint Committee on Deficit Reduction, without amendment:

S.J. Res. 412: An original joint resolution complying with the requirements of section 274(f)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. PROXMIRE (for himself, Mr. HUMPHREY, Mr. BURDICK, Mr. D'AMATO, Mr. SIMPSON, Mr. HOLLINGS, and Mr. BOSCHWITZ):

S. 2813. A bill to amend the Clean Air Act to provide for reductions in acid deposition and sulfur emissions; to the Committee on Environment and Public Works.

By Mr. THURMOND:

S. 2814. To preserve the authority of the Supreme Court Police to provide protective services for Justices and court personnel.

By Mr. HEINZ:

S. 2815. An original bill to amend the Bank Export Services Act, to coordinate international economic and monetary policies, and for other purposes; from the Committee on Banking, Housing, and Urban Affairs.

By Mr. DURENBERGER:

S. 2816. A bill to provide for temporary duty free treatment for cyclosporine; to the Committee on Finance.

By Mr. ROTH:

S. 2817. A bill to prohibit the interstate sale, transportation, advertising and the importing and exporting of drug paraphernalia; to the Committee on Finance.

By Mr. ROTH:

S. 2818. A bill to amend the Immigration and Nationality Act to provide for the exclusion or deportation from the United States of aliens who possessed or used certain controlled substances, and for other purposes; to the Committee on the Judiciary.

By Mr. DOMENICI:

S.J. Res. 412. An original joint resolution complying with the requirements of section 274(f)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985; from the Temporary Joint Committee on Deficit Reduction; placed on the calendar.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PROXMIRE (for himself, Mr. HUMPHREY, Mr. BURDICK, Mr. D'AMATO, Mr. SIMPSON, Mr. HOLLINGS, and Mr. BOSCHWITZ):

S. 2813. A bill to amend the Clean Air Act to provide for reductions in acid deposition, and sulfur emissions; to the Committee on Environment and Public Works.

(Statements on this bill and the text of the legislation appear earlier in today's RECORD.)

By Mr. THURMOND (for himself and Mr. DOLE):

S. 2814. A bill to preserve the authority of the Supreme Court Police to provide protective services for Justices and Court personnel; read the first time.

(The remarks of Mr. THURMOND and the text of the legislation appear elsewhere in today's RECORD.)

By Mr. ROTH:

S. 2817. A bill to prohibit the interstate sale, transportation, advertising, and the importing and exporting of drug paraphernalia; to the Committee on Finance.

S. 2818. A bill to amend the Immigration and Nationality Act to provide for the exclusion or deportation from the United States of aliens who possessed or used certain controlled substances, and for other purposes; to the Committee on the Judiciary.

DRUG PARAPHERNALIA BAN AND IMMIGRATION AMENDMENT

● Mr. ROTH. Mr. President, today I am proud to introduce two bills to resolve some gray areas of law and forge substantial inroads toward winning the war on drugs. Drug abuse by America's youth is a perennial problem that grows more severe each year despite progressively better understanding of the grave dangers involved. In spite of the well-publicized and tragic deaths of sports stars Len Bias and Don Rogers from illicit drugs, the popularity and use of "crack" and other deadly substances continues to mount. Rather than prospering in the promise of youth, some of tomorrow's potential leaders are instead wallowing in the devastation of addiction to illegal drugs.

Why does this menace continue to rear its ugly head, in the face of the best efforts of educators and law enforcement officials? It seems as though our Federal and State laws banning drugs of every conceivable type should be enough to behead this beast. But somehow those who abuse drugs are not getting the message.

Perhaps it's because of the inconsistencies in our laws. Maybe it's the institutional hypocrisy our young people see. They see that it's OK to buy the pipes, screens, and accessories that drug users need, but patently illegal to have the substances that are used with this paraphernalia.

What should we expect them to think? How should we expect younger citizens to behave when we threaten incarceration on the one hand for possessing cocaine, but allow them to purchase a "free base kit" over the counter and legally carry it home from the store in the same pocket as the controlled substances they have to hide? Perhaps they think we're not serious? Maybe it appears that drug use is the 1980's version of the little white lie. The elders speak out against drug use, but do little or nothing to really control it.

This legislation puts the Congress squarely on track with the young, and most important, it changes our message about drug abuse. This law shows that we're serious.

It's time to correct the impression that the lawmakers of the land speak out of both sides of their mouths. This bill will eliminate the mixed message that drug use is bad but items specifically made to manufacture and ingest drugs are OK.

Today 38 States have wisely chosen to outlaw open sale of drug paraphernalia in one way or another. But States are still powerless to regulate the open advertising of these contraband items through the mail and have no jurisdiction over the initial importation of these products.

This is an area in which States are asking for our help. This bill helps. It controls the availability of drug paraphernalia in four ways. It would make it a criminal act to: Use the mails to sell drug paraphernalia; sell or transport these items interstate; advertise; import or export these items; and, it provides for the seizure and forefeiture of contraband.

Let's strip away the double standard that has come to symbolize our system of laws to many young Americans. I support this legislation with pride and conviction. I urge my colleagues to join me in this long overdue solution to the most serious of legal dilemmas.

A second piece of legislation I am introducing today would empower our immigration authorities to turn away known drug users and sellers. This bill would broaden the discretion of our immigration officers to exclude and deport those persons known to have

possessed and used illegal drugs. It would also enlarge the class of drugs to be covered.

I have long thought that the way to keep drugs out of the hands of our young people is to keep the drugs themselves out of this country. The way to do that is to keep the drug users and dealers out in the first place.

Current law allows immigration officers to exclude only those who are "traffickers," but that seems too high a standard, too difficult to define and prove. My bill would expand the existing law to keep out those who are known users of or who possess illegal drugs.

This legislation is a step forward whose time has surely come. I urge my colleagues to join me in enthusiastically supporting this bill.●

ADDITIONAL COSPONSORS

S. 2573

At the request of Mr. HEINZ, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 2573, a bill to amend the Disaster Relief Act of 1974 to provide more effective assistance to disaster and emergency victims.

S. 2574

At the request of Mr. HEINZ, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 2574, a bill to amend the Disaster Relief Act of 1974 to provide more effective assistance to disaster and emergency victims.

S. 2683

At the request of Mr. THURMOND, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 2683, a bill to make unlawful the laundering of money, and for other purposes.

S. 2737

At the request of Mr. ABDNOR, the name of the Senator from Wyoming [Mr. WALLOP] was added as a cosponsor of S. 2737, a bill to amend the Commodity Exchange Act to remove the application of such act to the trading of cattle.

S. 2770

At the request of Mr. COCHRAN, the name of the Senator from Tennessee [Mr. SASSER] was added as a cosponsor of S. 2770, a bill to amend the Farm Credit Act of 1971 to provide the opportunity for competitive interest rates for the farmer, rancher, and cooperative borrowers of the Farm Credit System, and for other purposes.

S. 2781

At the request of Mr. EVANS, the names of the Senator from Tennessee [Mr. GORE], and the Senator from Texas [Mr. BENTSEN] was added as cosponsors of S. 2781, a bill to amend the Energy Policy and Conservation Act with respect to energy conservation standards for appliances.

SENATE JOINT RESOLUTION 329

At the request of Mr. BIDEN, the names of the Senator from South Carolina [Mr. THURMOND], the Senator from North Dakota [Mr. ANDREWS], and the Senator from Nevada [Mr. LAXALT] were added as cosponsors of Senate Joint Resolution 329, a joint resolution to designate the period of December 1, 1986, through December 7, 1986, as "National Aplastic Anemia Awareness Week."

SENATE JOINT RESOLUTION 359

At the request of Mr. NICKLES, the name of the Senator from Georgia [Mr. NUNN] was added as a cosponsor of Senate Joint Resolution 359, a joint resolution to designate March 17, 1987, as "National China-Burma-India Veterans Association Day."

SENATE JOINT RESOLUTION 394

At the request of Mr. LAUTENBERG, the name of the Senator from Vermont [Mr. STAFFORD] was added as a cosponsor of Senate Joint Resolution 394, a joint resolution to designate the week of October 6, 1986, through October 12, 1986, as "National Children's Television Awareness Week."

SENATE JOINT RESOLUTION 406

At the request of Mr. TRIBLE, the name of the Senator from Alabama [Mr. DENTON] was added as a cosponsor of Senate Joint Resolution 406, a joint resolution to designate October 4, 1986 as "National Outreach to the Rural Disabled Day."

SENATE JOINT RESOLUTION 407

At the request of Mr. CHILES, the name of the Senator from Texas [Mr. BENTSEN] was added as a cosponsor of Senate Joint Resolution 407, a joint resolution designating November 12, 1986, as "Salute to School Volunteers Day."

SENATE CONCURRENT RESOLUTION 145

At the request of Mr. STEVENS, the names of the Senator from South Dakota [Mr. PRESSLER], the Senator from Delaware [Mr. ROTH], and the Senator from New Hampshire [Mr. HUMPHREY] were added as cosponsors of Senate Concurrent Resolution 145, a concurrent resolution to encourage State and local governments and local educational agencies to require quality daily physical education programs for all children from kindergarten through grade 12.

SENATE RESOLUTION 485

At the request of Mr. HEINZ, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of Senate Resolution 485, a resolution expressing the sense of the Senate that Congress should enact legislation to return Conrail to the private sector through a public stock offering.

AMENDMENT NO. 2702

At the request of Mr. BOSCHWITZ, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of Amendment No. 2702 intended to be proposed to S. 655, a bill granting the consent of Congress to the Central Interstate Low-level Radioactive Waste Compact.

AMENDMENT NO. 2703

At the request of Mr. BOSCHWITZ, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of Amendment No. 2703 intended to be proposed to S. 655, a bill granting the consent of Congress to the Central Interstate Low-level Radioactive Waste Compact.

AMENDMENT NO. 2704

At the request of Mr. BOSCHWITZ, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of Amendment No. 2704 intended to be proposed to S. 655, a bill granting the consent of Congress to the Central Interstate Low-level Radioactive Waste Compact.

AMENDMENT NO. 2705

At the request of Mr. BOSCHWITZ, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of Amendment No. 2705 intended to be proposed to S. 655, a bill granting the consent of Congress to the Central Interstate Low-level Radioactive Waste Compact.

AMENDMENT NO. 2707

At the request of Mr. BOSCHWITZ, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of Amendment No. 2707 intended to be proposed to S. 655, a bill granting the consent of Congress to the Central Interstate Low-level Radioactive Waste Compact.

AMENDMENTS SUBMITTED

FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION AND FINANCIAL REGULATIONS ACT

PROXMIRE AMENDMENT NOS. 2794 THROUGH 2799

(Ordered to lie on the table.)

Mr. PROXMIRE submitted six amendments intended to be proposed by him to the bill (S. 2752) to extend titles I and II of the Garn-St Germain Depository Institutions Act of 1982, to provide for emergency acquisition of banks in danger of closing, to recapitalize the Federal Savings and Loan Insurance Corporation, and for other purposes; as follows:

AMENDMENT No. 2794

At the end of the bill, add the following:

TITLE III—MISCELLANEOUS BANK HOLDING COMPANY ACTIVITIES

SEC. 301. Section 4(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)) is amended—

(1) by striking out the period at the end of paragraph (14) and inserting in lieu thereof "; and"; and

(2) by inserting after paragraph (14) the following:

"(15) shares of any affiliate that underwrites, deals in, sells, and distributes, as principal or agent or both, commercial paper issued by any entity.".

AMENDMENT No. 2795

At the end of the bill, add the following:

TITLE III—MISCELLANEOUS BANK HOLDING COMPANY ACTIVITIES

SEC. 301. Section 4(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)) is amended—

(1) by striking out the period at the end of paragraph (14) and inserting in lieu thereof "; and"; and

(2) by inserting after paragraph (14) the following:

"(15) shares of any affiliate that organizes, sponsors, operates, and controls an investment company, as such term is defined in section 3 of the Investment Company Act of 1940; underwrite, deal in, sell, and distribute, as principal or agent or both, the securities of such an investment company; and render investment advice to an investment company other than a closed-end investment company.".

AMENDMENT No. 2796

At the end of the bill, add the following:

TITLE III— MISCELLANEOUS BANK HOLDING COMPANY ACTIVITIES

SEC. 301. Section 4(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)) is amended—

(1) by striking out the period at the end of paragraph (14) and inserting in lieu thereof "; and "; and

(2) by inserting after paragraph (14) the following:

"(15) shares of any affiliate that deals in and underwrites promissory notes secured by real estate mortgages or credit obligations secured by real or personal property manufactured housing and participation interests in such notes and credit obligations or mortgage related payment bonds secured by such notes or participation interests. For purposes of this subparagraph, a mortgage related payment bond means an obligation (which may be with or without resources to the issurer thereof) which, by its terms, provides for payments of principal in relation to payments, or reasonable projections of payments, on notes meeting the above requirements or participation interests therein which are pledged as security for such obligation and which are rated in one of the four highest rating categories by at least one nationally recognized statistical rating organization.".

AMENDMENT No. 2797

At the end of the bill, add the following:

TITLE III—MISCELLANEOUS BANK HOLDING COMPANY ACTIVITIES

SEC. 301. Section 4(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)) is amended—

(1) by striking out the period at the end of paragraph (14) and inserting in lieu thereof "; and"; and

(2) by inserting after paragraph (14) the following:

"(15) shares of any affiliate that deals in and underwrites all obligations issued or guaranteed by or on behalf of a State or any political subdivision thereof or any agency or instrumentality of either of the foregoing, except industrial development bonds as defined in section 103(b)(2) of the Internal Revenue Code of 1954. Affiliates of bank holding companies may deal in and underwrite such industrial development bonds, the interest on which is exempt from Federal income tax under section 103(a) of the Internal Revenue Code of 1954, if (A) a State, territory, possession of the United States, or any political subdivision of the foregoing, or the District of Columbia pledges its full faith and credit for the payment of all principal and interest on such bonds, or (B) the issuer, or the State or local governmental unit on behalf of which the industrial development bonds were issued, is considered the sole owner, for Federal income tax purposes, of the facility with respect to which financing is to be provided from the proceeds of such industrial development bonds.".

AMENDMENT No. 2798

At the end of the bill, add the following new title:

TITLE III—MORATORIUM ON ACTIONS REGARDING NONBANK BANKS CHARTERS, INSURANCE, AND ACQUISITIONS

SEC. 301. (a) Prior to August 13, 1987, the Comptroller of the Currency shall not grant final approval of any application for a charter, for amendment of an institution's articles of association to eliminate restrictions on powers, or for the exercise of banking powres pursuant to section 26103(b) of the District of Columbia Code, by any association or entity that is not (or upon the commencement of business, will not be) a bank within the meaning of section 2(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)).

(b) Prior to August 13, 1987, the Federal Deposit Insurance Corporation shall not grant final approval of any application under section 5(a) of the Federal Deposit Insurance Act by a State bank which is not a bank within the meaning of section 2(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)) to become an insured bank, unless the bank is required by State law to obtain Federal deposit insurance and, if controlled by a company, was controlled by such company on August 13, 1986.

(c) Prior to August 13, 1987, the appropriate Federal banking agency shall disapprove any notice under section 7(j) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)) involving the acquisition or control of an insured bank which is not, or upon consummation will not be, operated as a bank within the meaning of section 2(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)).

(c) Prior to August 13, 1987, the Board of Governors of the Federal Reserve System shall not approve any application by a bank holding company under section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843), to acquire or expand the activities of an insured bank that is not a bank within the meaning of section 2(c) of that Act, unless such insured bank engages solely in activities permissible for bank holding companies by regulation adopted pursuant to section 4(c)(8) of that Act on or before August 13, 1986.

(e) This section shall not apply to an insured bank that—

(1) engages exclusively in credit operations;

(2) does not accept demand deposits or deposits the depositor may withdraw by check or similar means for payment to third parties or others and is not in the business of making commercial loans;

(3) does not accept any savings or time deposits unless such deposit is in an amount of more than $100,000; and

(4) maintains only one office.

(f) For purposes of this section, the term "insured bank" has the same meaning as in section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813(h)).

ACTIVITIES OF NONBANKS

SEC. 302. The Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.), is amended by adding at the end thereof the following new section:

"RESTRICTIONS ON INSURED BANKS

"SEC. 13. (a) Prior to August 13, 1987, an insured bank that is controlled by a company that is not a bank holding company may not—

"(1) offer or market the products of services of an affiliate engaged in an activity not permissible for bank holding companies under this Act or permit its products or services to be offered to or marketed by or through any such affiliate;

"(2) engage in activities that would make it a bank as defined in this Act;

"(3) increase the number of locations from which it conducts business after August 13, 1986; or

"(4) permit any overdraft, including an intra-day overdraft, on behalf of an affiliate, unless such overdraft is the result of a computer error, inadvertent accounting error, or unanticipated delivery of book-entry government securities against payment, and is beyond the control of the bank and affiliate.

"(b) For purposes of this section—

"(1) The term 'insured bank' has the same meaning as in section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813(h)); and

"(2) The term 'affiliate' means any company that directly or indirectly controls an insured bank and any subsidiary of such company.".

AMENDMENT No. 2799

On page 2, line 17, strike out "October 1, 1989" and insert in lieu thereof "October 1, 1987".

ANTIKICKBACK LEGISLATION

LEVIN (AND COHEN) AMENDMENT NO. 2800

Mr. DOLE (for Mr. LEVIN, for himself and Mr. COHEN) proposed an amendment to the bill (S. 2250) to strengthen the prohibition of kickbacks relating to subcontracts under Federal Government subcontracts; as follows:

On page 11, line 2, insert "improperly" after "of".

On page 14, line 1, insert "became aware or" after "States".

On page 14, strike out lines 3 through 9.

On page 14, line 11, strike out "Sec. 7." and insert in lieu thereof "Sec. 6."

On page 15, line 5, strike out "of" and all that follows through "retention." on line 6 and insert in lieu thereof "when the retention of funds has actually occurred.".

On page 15, line 8, strike out "Sec. 8." and insert in lieu thereof "Sec. 7.".

On page 15, line 12, insert "in its own operations and direct business relationships" after "section 3(a)".

On page 16, line 9, strike out "Sec. 9." and insert in lieu thereof "Sec. 8.".

On page 16, line 14, insert "shall have access to and" after "general,".

On page 16, line 15, insert ", including any electronic data or records," after "records".

On page 17, line 1, strike out "8" and insert in lieu thereof "7".

WILD AND SCENIC RIVERS ACT AMENDMENTS

McCLURE AMENDMENT NO. 2801

Mr. DOLE (for Mr. McCLURE) proposed an amendment to the bill (H.R. 4350) to amend the Wild and Scenic Rivers Act, and for other purposes; as follows:

Strike all after the enacting clause and insert in lieu thereof:

"TITLE I—CACHE LA POUDRE, COLORADO

"SEC. 101. Section 3(a) of the Wild and Scenic River Act (16 U.S.C. 1274) is amended by adding at the end the following new paragraph:

"'(56) CACHE LA POUDRE, COLORADO.—The following segments as generally depicted on the proposed boundary map number FS-56 and dated March 1986, published by the United States Department of Agriculture, each to be administered by the Secretary of Agriculture; except that those portions of the segments so designated which are within the boundary of Rocky Mountain National Park shall continue to be administered by the Secretary of the Interior:

"'(A) Beginning at Poudre Lake downstream to the confluence of Joe Wright Creek, as a wild river. This segment to be designated the "Peter H. Dominick Wild River Area".

"'(B) Downstream from the confluence of Joe Wright Creek to a point where the river intersects the easterly north-south line of the west half southwest quarter of section 1, township 8 north, range 71 west of the sixth principal meridian, as a recreational river.

"'(C) South Fork of the Cache la Poudre River from its source to the Commanche Peak Wilderness Boundary, approximately four miles, as a wild river.

"'(D) Beginning at the Commanche Peak Wilderness Boundary to a point on the South Fork of the Cache la Poudre River in section 1, township 7 north, range 73 west of the sixth principal meridian, at elevation 8050 mean sea level, as a recreational river.

"'(E) South Fork of the Cache la Poudre River from its intersection with the easterly section line of section 30, township 8 north, range 72 west of the sixth principal meridian, to confluence of the main stem of the Cache la Poudre River, as a wild river.

"'With respect to the portions of the river segments designated by this paragraph which are within the boundaries of Rocky Mountain National Park, the requirements of section 102 shall be fulfilled by the Secretary of the Interior through appropriate revisions to the general management plan for the park, and the boundaries, classification, and development plans for such portions need not be published in the Federal Register. Such revisions to the general management plan for the park shall assure that no development or use of parklands shall be undertaken that is inconsistent with the designation of such river segments as a wild river. For the purposes of the segments designated by this paragraph, there are authorized to be appropriated $500,000 for development and $2,500,000 for land acquisition.'.

"SEC. 102. Inclusion of the designated portions of the Cache la Poudre River and the Wild and Scenic Rivers system under section 101 of this title shall not interfere with the exercise of existing decreed water rights to water which has heretofore been stored or diverted by means of the present capacity of storage, conveyance, or diversion structures that exist as of the date of enactment of this title, or operation and maintenance of such structures. Nor shall inclusion of the designated portions of the Cache la Poudre River in the Wild and Scenic Rivers System be utilized in any Federal proceeding, whether concerning a license, permit, right-of-way, or other Federal action, as a reason or basis to prohibit the development or operation of any water impoundments, diversion facilities, and hydroelectric power and transmission facilities below Poudre Park located entirely downstream from and potentially affecting designated portions of the Cache la Poudre River, or relocation of highway 14 to any point east of the north-south half section line of section 2, township 8 north, range 71 west of the sixth principal meridian, as necessary to provide access to Poudre Park around such facilities: *Provided*, That due consideration shall be given to reasonable measures for minimizing the impact of such facilities and road relocation on the designated segments. Congress finds that development of water impoundments, diversion facilities, and hydroelectric power and transmission facilities located entirely downstream from the designated portions of the Cache la Poudre River below Poudre Park, in accordance with the provisions of this section, is not incompatible with the designation of portions of the Cache la Poudre River in the Wild and Scenic Rivers system under section 101 of this title. The reservation of water established by the inclusion of portions of the Cache la Poudre River in the Wild and Scenic Rivers System shall be subject to the provisions of this title, shall be adjudicated in Colorado Water Court, and shall have a priority date as of the date of enactment of this title.

"SEC. 103. (a) GRANTS AND ASSISTANCE.—The Secretary of Agriculture, acting through the Chief of the Forest Service, shall provide grants and technical assistance to the City of Fort Collins, Colorado, to carry out a study regarding the designation of the following area as a national recreation area: the 18.5-mile segment of the Cache la Poudre River Corridor from the northwest boundary of the city of Fort Collins urban growth area to the Weld-Larimer County line.

"(b) STUDY.—The study under this section shall include each of the following:

"(A) a comprehensive evaluation of the public recreation opportunities and flood plain management options which are available with respect to the river corridor involved;

"(B) an evaluation of the natural, historical, and recreational values of such corridor;

"(C) patterns for possible land acquisition within the corridor which are deemed necessary for the purpose of resource protection, scenic and integrity, or management and administration of the corridor area;

"(D) cooperative management proposals for the administration of the corridor area;

"(E) the number of visitors and types of public use within the corridor area that can be accommodated in accordance with the full protection of its resources; and

"(F) the facilities deemed necessary to accommodate and provide access for such visitors and uses, including the location and estimated costs of such facilities.

"(c) REPORT TO CONGRESS.—Within three years of the date of enactment of this title, the Secretary of Agriculture shall transmit to the Congress a comprehensive report containing the results of the study conducted pursuant to this section.

"(d) FUNDING.—There are hereby authorized to be appropriated up to $150,000 to carry out the provisions of this section.

"(e) COST SHARING.—Not more than 75 per centum of the cost of the study carried out under this section shall be paid by the United States: *Provided*, That in no event shall the contribution of the United States exceed $150,000. The remaining portion of such costs shall be contributed by interested parties. The portion contributed by such interested parties may consist of appropriated funds or contributed services.

"SEC. 104. Notwithstanding any other provision of law, the Secretaries of Agriculture and the Interior shall, within 30 days of the enactment of this title, complete the exchange as described in the Decision Notice and Finding of No Significant Impact, Trust For Public Land Proposed Land-for-Land Exchange, signed by the Rocky Mountain Regional Forester, on August 22, 1985, to acquire certain private lands in the portion of the Cache La Poudre River designated in section 3(a)(56)(B) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)(56(B)).

"TITLE II—FARMINGTON, WEST BRANCH, CONNECTICUT AND MASSACHUSETTS

"SEC. 201. This title may be cited as the 'Farmington Wild and Scenic River Study Act'.

"SEC. 202(a). Congress finds that—

"(1) the West Branch of the Farmington River and related land areas possess resource values of national significance, such as significant white water rapids, undeveloped lands, scenic and cultural areas, important sport fisheries, and prime agricultural lands;

"(2) based on the National Rivers Inventory by the National Park Service, published in January 1982, this portion of the Farmington River is eligible for study for inclusion in the wild and scenic rivers system;

"(3) there is strong support among local, State, and Federal officials, area residents, and river users for a concerted cooperative effort to manage the river in a productive and meaningful way; and

"(4) in view of the longstanding Federal practice of assisting States and local governments in protecting, conserving, and enhancing rivers of national significance, the United States has an interest in assisting the State of Connecticut and the Commonwealth of Massachusetts and the appropriate local governments in managing the river.

"(b) Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)) is amended by adding the following new paragraph:

"'(92) FARMINGTON, WEST BRANCH, CONNECTICUT AND MASSACHUSETTS.—The segment from the intersection or the New Hartford-Canton, Connecticut, town line upstream to the base of the West Branch Reservoir in Hartland, Connecticut; and the segment from the confluence with Thorp Brook in

Sandisfield, Massachusetts, to Hayden Pond in Otis, Massachusetts.'.

"(c) Section 5(b) of such Act (16 U.S.C. 1276(b)) is amended by adding at the end thereof the following new paragraph:

"'(7) The study of the West Branch of the Farmington River identified in paragraph (92) of subsection (a) shall be completed and the report submitted thereon not later than the end of the third fiscal year beginning after the enactment of this paragraph. Such report shall include a discussion of management alternatives for the river if it were to be included in the national wild and scenic river system.'.

"(d)(1) At the earliest practicable date following the enactment of this title, but not later than forty-five days after enactment, the Secretary of the Interior (hereinafter in this title referred to as the 'Secretary') shall establish the Farmington River Study Committee (hereinafter in this title referred to as the 'Committee'). The Secretary shall consult with the Committee on a regular basis during the conduct of the study. Membership on the Committee shall consist of seventeen members appointed by the Secretary as follows:

"(A) One member shall be appointed by the Secretary.

"(B) Two members shall be appointed by the Secretary from a list of candidates supplied to the Secretary by the Governor of the State of Connecticut.

"(C) Two members shall be appointed by the Secretary from a list of candidates supplied to the Secretary by the Governor of the Commonwealth of Massachusetts.

"(D) Two members shall be appointed by the Secretary from a list of candidates supplied to the Secretary by the Farmington River Watershed Association.

"(E) One member shall be appointed by the Secretary from each of the eight towns located along the West Branch of the river. The governing body of each of the eight towns shall provide a list of candidates to the Secretary from which the eight appointments under this paragraph shall be made.

"(F) Two members shall be appointed by the Secretary from a list of candidates supplied to the Secretary by the Metropolitan District Commission of Hartford, Connecticut.

"(2) The members of the Committee shall elect a chairman, vice chairman, and recording secretary from the membership at the first official meeting of the Committee. Official minutes shall be kept of each regular and special meeting of the Committee and shall be open for public inspection.

"(3) Any vacancy on the Committee shall be filled in the same manner in which the original appointment was made. Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. Vacancies in the membership of the Committee shall not affect its power to function if there remain sufficient members to constitute a quorum under paragraph (4) of this subsection.

"(4) A majority of the members of the Committee shall constitute a quorum for all meetings.

"(5) The Committee shall advise the Secretary in conducting the study of the Farmington River segment specified in section 5(a)(92) of the Wild and Scenic Rivers Act. The Committee also shall advise the Secretary concerning management alternatives should the river be included in the wild and scenic rivers system.

"(6) Members of the Committee shall serve without compensation but may be compensated for reasonable and necessary expenses incurred by them in the performance of their duties as members of the Committee.

"(7) The Committee may accept and utilize the services of voluntary, uncompensated personnel.

"(8) The Committee shall terminate on the later of the following:

"(A) the completion of the river study of the Farmington River described in section 5(a)(92) of the Wild and Scenic Rivers Act; or

"(B) the publication of managment alternatives should the river be included in the wild and scenic rivers system.

"(e) As used in this title (other than in subsection (b)) the term 'River' means the segments of the Farmington River described in paragraph (92) of section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1275(a)).

"(f) There are authorized to be appropriated up to $150,000 to carry out the purposes of this title.

"TITLE III—GREAT EGG HARBOR, NEW JERSEY

"SEC. 301. (a) STUDY.—Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1271-1287) is amended by adding at the end thereof the following new paragraph:

"'(93) Great Egg Harbor River, New Jersey: The entire river.'.

"(b) COMPLETION DATE.—Section 5(b)(3) of such Act is amended by adding at the end thereof the following: 'The study of the river named in paragraph (93) of subsection (a) shall be completed not later than three years after the date of the enactment of this sentence.'.

"(c) AUTHORIZATION OF APPROPRIATIONS.—Paragraph (4) of section 5(b) of such Act is amended by adding at the end thereof the following: 'Effective October 1, 1986, there are authorized to be appropriated for the purpose of conducting the study of the river named in paragraph (93) not to exceed $150,000.'.

"TITLE IV—SALINE BAYOU, LOUISIANA

"SEC. 401. Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding the following new paragraph:

"'(57) SALINE BAYOU, LOUISIANA.—The segment from Saline Lake upstream to the Kisatchie National Forest, as generally depicted on the Proposed Boundary Map, numbered fs-57, and dated March, 1986; to be administered by the Secretary of Agriculture. For the purposes of the segment designated by this paragraph, there are authorized to be appropriated for fiscal years commencing after September 30, 1986, not to exceed $1,000,000 for the acquisition of lands and interests in lands and for development.'.

"TITLE V—GENERIC AMENDMENTS

"SEC. 501. (a) Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by redesignating the paragraphs relating to the Au Sable River, the Tuolumne River, the Illinois River, and the Owyhee River as paragraphs (52) through (55) respectively.

"(b)(1) The first sentence of section 3(b) of the Wild and Scenic Rivers Act is amended as follows:

"(A) Strike out 'one year from the date of this Act' and substitute 'one year from the date of designation of such component under subsection (a)'.

"(B) Strike out the second parenthetical statement, '(which boundaries shall include an average of not more than 320 acres of land per mile measured from the ordinary high water mark on both sides of the river)'.

"(C) Strike out the semicolon and the remainder of the sentence after the words 'its various segments' and substitute a period.

"(2) The second sentence of section 3(d) of such Act is amended by striking out 'Said boundaries, classification, and development plans' and substituting the words 'Notice of the availability of the boundaries and classification, and of subsequent boundary amendments'.

"(3) Section 3 of such Act is amended by adding the following new subsections at the end:

"'(c) Maps of all boundaries and descriptions of the classifications of designated river segments, and subsequent amendments to such boundaries, shall be available for public inspection in the offices of the administering agency in the District of Columbia and in locations convenient to the designated river.

"'(d)(1) For rivers designated on or after January 1, 1986, the Federal agency charged with the administration of each component of the National Wild and Scenic Rivers System shall prepare a comprehensive management plan for such river segment to provide for the protection of the river values. The plan shall address resource protection, development of lands and facilities, user capacities, and other management practices necessary or desirable to achieve the purposes of this Act. The plan shall be coordinated with and may be incorporated into resource management planning for affected adjacent Federal lands. The plan shall be prepared, after consultation with State and local governments and the interested public within three full fiscal years after the date of designation. Notice of the completion and availability of such plans shall be published in the Federal Register.

"'(2) For rivers designated before January 1, 1986, all boundaries, classifications, and plans shall be reviewed for conformity within the requirements of this subsection within 10 years through regular agency planning processes.'.

"SEC. 502. Section 4 of the Wild and Scenic Rivers Act is amended by adding a new subsection (d) after subsection (c):

"'(d) The boundaries of any river proposed in section 5(a) of this Act for potential addition to the National Wild and Scenic Rivers System shall generally comprise that area measured within one-quarter mile from the ordinary highwater mark on each side of the river. In the case of any designated river, prior to publication of boundaries pursuant to section 3(b) of this Act, the boundaries also shall comprise the same area. This subsection shall not be construed to limit the possible scope of the study report to address areas which may lie more than one-quarter mile from the ordinary high water mark on each side of the river.'.

"SEC. 503. Section 5 of the Wild and Scenic Rivers Act is amended as follows:

"(a) In subsection (a) paragraph (90) relating to the North Umpqua is redesignated as paragraph (91).

"(b) At the end of subsection (b)(1) add: 'Studies of the rivers named in paragraph (38), (55), (83), and (87) shall be completed and the reports transmitted to the Congress not later than January 1, 1987.'.

"(c) Amend paragraph (4) of subsection (b) to read as follows:

"'(4) For the purposes of conducting the studies of rivers named in subsection (a), there are authorized to be appropriated such sums as necessary.'.

"SEC. 504. (a) Section 6(e) of the Wild and Scenic Rivers Act is amended by striking out 'Congress in authorized' and substituting 'Congress is authorized'.

"(b) Section 6(a) of the Wild and Scenic Rivers Act is amended by striking out 'donation, and lands' in the second sentence and substituting 'donation or by exchange in accordance with subsection (d) of this section. Lands'.

"(c) Section 6(a) of the Wild and Scenic Rivers Act is amended by inserting '(1)' after '(a)' and by adding the following at the end:

"'(2) When a tract of land lies partially within and partially outside the boundaries of a component of the National Wild and Scenic Rivers System, the appropriate Secretary may, with the consent of the landowners for the portion outside the boundaries, acquire the entire tract. The land or interest therein so acquired outside the boundaries shall not be counted against the average one-hundred-acre-per-mile fee title limitation of subsection (a)(1). The lands or interests therein outside such boundaries, shall be disposed of, consistent with existing authorities of law, by sale, lease, or exchange.'.

"(d) Section 6(b) of the Wild and Scenic Rivers Act is amended as follows:

"(1) Insert in the first sentence 'outside the ordinary highwater mark on both sides of the river' after the word acreage'.

"(2) Insert 'in fee title' after the word 'owned'.

"SEC. 505. (a) The second sentence of section 7(a) of the Wild and Scenic Rivers Act is amended by deleting 'approval of this Act' and substituting 'designation of a river as a component of the National Wild and Scenic Rivers System'.

"(b) Section 7(b) of the Wild and Scenic Rivers Act is amended as follows:

"(1) In the first sentence after clause (i) insert a new clause (ii) as follows:

"'(ii) during such interim period from the date a report is due and the time a report is actually submitted to the Congress; and'.

"(2) Redesignate existing clause (ii) as clause (iii).

"(3) At the end of the second sentence, delete 'approval of this Act' and insert in lieu thereof the words, 'designation of a river for study as provided for in section 5 of this Act'.

"SEC. 506. Section 8(a) of the Wild and Scenic Rivers Act is amended by adding the following at the end thereof: 'This subsection shall not be construed to limit the authorities granted in section 6(d) or section 14A of this Act.'.

"SEC. 507. Section 9(b) of the Wild and Scenic Rivers Act is amended by striking out 'issuance or leases,' in the second sentence and substituting 'issuance of leases,'.

"SEC. 508. Section 11 of the Wild and Scenic Rivers Act is amended by deleting the second sentence in subsection (a) and by amending section (b) to read as follows:

"'(b)(1) The Secretary of the Interior, the Secretary of Agriculture, or the head of any Federal agency, shall assist, advise, and cooperate with States or their political subdivisions, landowners, private organizations, or individuals to plan, protect, and manage river resources. Such assistance, advice, and cooperation may be through written agreements or otherwise. This authority applies within or outside a federally administered area and applies to rivers which are components of the Wild and Scenic Rivers System and to other rivers. Any agreement under this subsection may include provisions for limited financial or other assistance to encourage participation in the acquisition, protection, and management of river resources.

"'(2) Wherever appropriate in furtherance of this Act, the Secretary of Agriculture and the Secretary of the Interior are authorized and encouraged to utilize the following:

"'(A) For activities on federally owned land, the Volunteers in the Parks Act of 1969 (16 U.S.C. 18g-j) and the Volunteers in the Forest Act of 1972 (16 U.S.C. 558a-558d).

"'(B) For activities on all other lands, section 6 of the Land and Water Conservation Fund Act of 1965 (relating to the development of statewide comprehensive outdoor recreation plans).

"'(3) For purposes of this subsection, the appropriate Secretary or the head of any Federal agency may utilize and make available Federal facilities, equipment, tools and technical assistance to volunteers and volunteer organizations, subject to such limitations and restrictions as the appropriate Secretary or the head of any Federal agency deems necessary or desirable.

"'(4) No permit or other authorization provided for under provision of any other Federal law shall be conditioned on the existence of any agreement provided for in this section.'.

"SEC. 507. Section 12(c) of the Wild and Scenic Rivers Act is amended by deleting the words 'Secretary of the Interior, and inserting in lieu thereof the words 'Administrator, Environmental Protection Agency'.

"SEC. 510. Section 14 of the Wild and Scenic Rivers Act is amended by inserting '(a)' after '14' and adding a new subsection (b) as follows:

"'(b) For the conservation purposes of preserving or enhancing the values of components of the National Wild and Scenic Rivers System, and environs thereof as determined by the appropriate Secretary, landowners are authorized to donate or otherwise convey qualifed real property interests to qualified organizations consistent with section 170(h)(3) of the Internal Revenue Code of 1954. Such interest may include, but shall not be limited to, rights-of-way, open space, scenic, or conservation easements, without regard to any limitation on the nature of the estate or interest otherwise transferable within the jurisdiction where the land is located. The conveyance of any such interest in land in accordance with this subsection shall be deemed to further a Federal conservation policy and yield a significant public benefit for purposes of section 6 of Public Law 96-541.'.

"SEC. 511. Section 16(c) of the Wild and Scenic Rivers Act is amended by adding at the end thereof: "For any designated wild and scenic river, the appropriate Secretary shall treat the acquisition of fee title with the reservation of regular existing uses to the owner as a scenic easement for purposes of this Act. Such an acquisition shall not constitute fee title ownersip for purposes of section 6(b).

"TITLE VI

"SEC. 601. Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding at the end thereof the following new paragraph:

"'(58) BLACK CREEK MISSISSIPPI.—The segment from Fairley Bridge Landing upstream to Moody's Landing as generally depicted on a map entitled "Black Creek Wild and Scenic River", numbered fs-58 and dated March 1986, to be administered by the Secretary of Agriculture as a scenic river area under section 2(b)(2). For the purposes of the segment designated by this paragraph, there are authorized to be appropriated up to $300,000 for the acquisition of lands and interests in lands and for deployment.'.

"TITLE VII—HENRY'S FORK OF THE SNAKE RIVER, IDAHO

"SEC. 701. This title may be cited as the 'Henry's Fork of the Snake River Protection Act of 1986'.

"SEC. 702. Except as set forth in section 703 and section 704 of this title, the Federal Energy Regulatory Commission (FERC) is prohibited from taking any action, other than denial, on any application for a license, preliminary permit, or exemption or any further action on an issued preliminary permit pursuant to sections 4(e), 4(f), and 30 of the Federal Power Act, as amended (16 U.S.C. 797(e-f), and 823), for any project proposed to be sited on or adjacent to that portion of Henry's Fork of the Snake River, Idaho (including that segment originating at Big Springs), or its tributaries within one-half mile of their confluence with Henry's Fork of the Snake River, from its point of origin at Henry's Lake, Idaho to the point of its confluence with the backwaters of Ashton Reservoir, Idaho.

"SEC. 703. The prohibition in section 702 of this title shall not apply to the application for license filed for the Island Park Dam Hydropower project (FERC project numbered 2973) or the subsequent relicensing of said project: Provided, That such license may be approved only if FERC determines that significant and permanent alteration of streamflow, habitat, water temperature, and quality will not occur as a result of the project.

"SEC. 704. The prohibition in section 702 of this title shall not apply to the relicensing of the Ponds Lodge Hydropower project (FERC project numbered 1413).

"SEC. 705. (a) Nothing in this title shall be construed as authorizing (either expressed or implied) the appropriation or reservation of water by any Federal, State, or local agency, Indian tribe, or any other entity or individual. Nor shall any provision of this title (1) affect the rights or jurisdictions of the United States, the States, Indian tribes, or other entities over waters of any river or stream or over any ground water resource, (2) alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by the States, (3) be construed to alter or establish the respective rights of States, the United States, Indian tribes, or any person with respect to any water or water-related right, or (4) otherwise be construed to affect the validity of any existing license, permit, or certificate (other than as set forth in section 702) issued by any Federal agency pursuant to any other Federal law.

"(b) For the purposes of any Federal law authorizing an express or implied appropriation or reservation of water for any Federal purpose, the provisions of this title (other than this subsection) shall be deemed not to exist.".

NATIONAL SCHOOL-AGE CHILD CARE AWARENESS WEEK

HAWKINS AMENDMENT NO. 2802

Mr. DOLE (for Mrs. HAWKINS) proposed an amendment to the joint resolution (H.J. Res. 60) to designate the week beginning September 1, 1985, as "National School-Age Child Care Awareness Week;" as follows:

On page 2 line 3 delete "September 1, 1985" and insert in lieu thereof, "September 15, 1986"

OMNIBUS BUDGET RECONCILIATION

QUAYLE (AND EXON) AMENDMENT NO. 2803

(Ordered to lie on the table.)

Mr. QUAYLE (for himself and Mr. EXON) submitted an amendment intended to be proposed by them to the bill (S. 2706) to provide for reconciliation pursuant to section 2 of the concurrent resolution on the budget for fiscal year 1987 (S. Con. Res. 120, 99th Congress) as follows:

At the appropriate place in the text of the bill insert the following: (Section) that (a) the President may, within 3 days of the time the President approves any appropriation bill, transmit to both Houses of Congress, one or more special messages in accordance with subsection (b) proposing to rescind all or part of any item of appropriation provided in the appropriation bill, such special messages shall be considered in accordance with the provisions of this resolution.

(b)(1) Each special message transmitted under subsection (a) shall specify, with respect to each item of appropriation (or part thereof) proposed by the message to be rescinded, the matters referred to in paragraphs (1) through (5) of section 1012(a) of the Impoundment Control Act of 1974 (2 U.S.C. 683(a)).

(2) Each special message transmitted under subsection (a) shall be accompanied by a draft bill or joint resolution that would, if enacted, rescind each item of appropriation (or part thereof) proposed by the message to be rescinded.

(c)(1)(A) On the day on which a special message proposing to rescind an item of appropriation is transmitted to the House of Representatives and the Senate under subsection (a), the draft bill or joint resolution accompanying such special message shall be introduced (by request) in the House by the majority leader of the House, for himself and the minority leader of the House, or by the Members of the House designated by the majority leader and the minority leader of the House, and shall be introduced (by request) in the Senate by the majority leader of the Senate, for himself and the minority leader of the Senate, or by the Members of the Senate designated by the majority leader and the minority leader of the Senate. If either House is not in session on the day on which a special message is transmitted, the draft bill or joint resolution shall be introduced in the House, as provided in the preceding sentence, on the first day thereafter on which such House is in session.

(B) A bill or joint resolution introduced in the House of Representatives or the Senate pursuant to subparagraph (A) shall be referred on the date of introduction to the Committee on Appropriations of such House. The committee shall report the bill or joint resolution without substantive revision (and with or without recommendation) not later than 5 calendar days of continuous session of the Congress after the date on which the bill or joint resolution is introduced. A committee failing to report a bill or joint resolution within the 5-day period referred to in the preceding sentence shall be automatically discharged from consideration of the bill or joint resolution, and the bill or joint resolution shall be placed on the appropriate calendar.

(C) A vote on final passage of a bill or joint resolution introduced in a House of the Congress pursuant to subparagraph (A) shall be taken on or before the close of the 10th calendar day of continuous session of the Congress after the date of the introduction of the bill or joint resolution in such House. If the bill or joint resolution is agreed to, the Clerk of the House of Representatives (in the case of a bill or joint resolution agreed to in the House of Representatives) or the Secretary of the Senate (in the case of a bill or joint resolution agreed to in the Senate) shall cause the bill or joint resolution to be engrossed, certified, and transmitted to the other House of the Congress on the same calendar day on which the bill or joint resolution is agreed to by such House.

(2) If prior to the passage by one House of a bill or joint resolution introduced in that House under this section, that House receives a bill or joint resolution containing the same provisions from the other House pursuant to subparagraph (C) of paragraph (1), then—

(A) the procedure in the House receiving the bill or joint resolution with respect to the bill or joint resolution introduced in that House shall be the same as if the bill or joint resolution had not received from the other House; but

(B) the vote on final passage shall be on the bill or joint resolution of the other House.

(3)(A) A motion in the House of Representatives to proceed to the consideration of a bill or joint resolution under this section shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) Debate in the House of Representatives on a bill or joint resolution under this section shall be limited to not more than 4 hours, which shall be divided equally between those favoring and those opposing the bill or joint resolution. A motion to postpone, made in the House of Representatives with respect to the consideration of a bill or joint resolution under this section, and a motion to proceed to the consideration of other business, shall not be in order. A motion further to limit debate shall not be debatable. It shall not be in order to move to table or to recommit a bill or joint resolution under this section or to move to reconsider the vote by which the bill or joint resolution is agreed to or disagreed to.

(C) All appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to a bill or joint resolution under this section shall be decided without debate.

(D) Except to the extent specifically provided in the preceding provisions of this paragraph, consideration of a bill or joint resolution under this section shall be governed by the Rules of the House of Representatives applicable to other bills and joint resolutions in similar circumstances.

(4)(A) A motion in the Senate to proceed to the consideration of a bill or joint resolution under this section shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) Debate in the Senate on a bill or joint resolution under this section, and all debatable motions and appeals in connection therewith, shall be limited to not more than 4 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(C) Debate in the Senate on any debatable motion or appeal in connection with a bill or joint resolution under this section shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill or joint resolution, except that in the event the manager of the bill or joint resolution is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a bill or joint resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(D) A motion in the Senate to further limit debate on a bill or joint resolution under this section is not debatable. A motion to table or to recommit a bill or joint resolution under this section is not in order.

(d) No amendment to a bill or joint resolution considered under this section shall be in order in either the House of Representatives or the Senate. No motion to suspend the application of this subsection shall be in order in either House, nor shall it be in order in either House for the Presiding Officer to entertain a request to suspend the application of this subsection by unanimous consent.

(e) For purposes of this section—

(1) "item of appropriation" means any numerically expressed amount of budget authority set forth in the appropriation bill;

(2) "appropriation bill" means any general or special appropriation bill, and any bill or joint resolution making supplemental, deficiency, or continuing appropriations;

(3) "appropriation Act" means any appropriation bill that has been approved by the President and become law;

(4) "budget authority" has the meaning given to such term in section 3(2) of the Congresional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622(2)); and

(5) continuity of a session of the Congress shall be considered as broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain shall be excluded in the computation of the 5-day and 10-day periods referred to in subsection (c) of this section. If a special message is transmitted under this section during any Congress and the last session of the Congress adjourns sine die before the expiration of 10 calendar days of continuous session (or a special mes-

sage is transmitted after the last session of the Congress adjourns sine die), the message shall be deemed to have been retransmitted on the first day of the succeeding Congress and the 5-day and 10-day periods referred to in subsection (c) of this section shall commence on the day after such first day.

(f) The provisions of this section are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

● Mr. QUAYLE. Mr. President, when the reconciliation bill comes to the floor, I will, on behalf of myself and Senator EXON, offer the substance of Senate Concurrent Resolution 65 as an amendment to the Sixth Omnibus Reconciliation bill, S. 2706. Our resolution provides an improved rescission procedure and will, I am confident, result in significant savings. Because it is a savings amendment, I believe it is appropriate as an amendment to the reconciliation bill.

For the benefit of those interested, I will ask unanimous consent that the remarks I made on introduction of the proposal be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS OF SENATOR QUAYLE

Mr. QUAYLE. Mr. President, it would be easy but not productive to dwell at lenth on the fiscal crisis threatening our Nation, to expound further on the staggering deficits of the past or to emphasize once again that, even with the overoptimistic assumptions built into the last budget resolution, future deficits are even more frightening than those of the past. Those of us concerned with the prospect—or should I say the reality—of a $2 trillion national debt and worried about the not so distant future when it will be $3 trillion, must do more than curse the fates or command the tide to recede. We must not only vote for fiscally prudent options, whether on budget resolutions, appropriations, or entitlement bills, but we must also examine our congressional procedures to determine how we may counteract the drift toward extravagance that seems to afflict our processes.

I am today introducing, for appropriate referral, a concurrent resolution that, if adopted, could make a significant contribution toward congressional fiscal responsibility without encountering the difficult constitutional and passionate political objections that seem to surround line-item veto proposals. Let me make clear, however, that this proposal does not diminish my enthusiasm for Senator MATTINGLY's line-item veto proposal.

My proposal is a simple one. Using the rulemaking powers of each House, it guarantees an up-down vote on rescission bills submitted by the President under specified conditions. More specifically, my concurrent resolution provides that, if the President signs an appropriations bill containing one or more items of which he disapproves, he may send a special message to Congress proposing the rescission of all or any part of an item of appropriation contained in that bill. A bill, or bills, implementing the President's message would be introduced in both Houses and referred to the Appropriations Committees. These committees would be limited to determining whether the President's message met the conditions for expedited consideration in the resolution and would then report the bill to the floor without amendment. The bill would be guaranteed consideration on the floor with no amendments in order. I invite my colleagues attention to the text of the concurrent resolution which deals with the many technical points required to carry out such a procedure.

Let me take a few minutes to explain why I think such a procedure is necessary as one important approach to dealing with our deficit problem. I want to emphasize immediately that I recognize that my proposal is no cure-all for our deficit problems, but it will have some restraining effect on the amounts we spend—and in our current situation of staggering deficits, we must utilize every available mechanism that will promote responsibility.

Historically, the pressures for spending came from the executive branch, and the legislature served as the mechanism for restraint. In those early days of our Republic, the legislature had the painful and difficult task of raising taxes in order to finance expenditures, and they did that with great reluctance. In fact, we know that our representative form of government is derived from the ability of Parliament to refuse to vote funds for the King's use unless he agreed to redress popular grievances.

But the growth of democracy has changed that old relationship between executive and legislative, and expenditure of money has become a popular function for the legislature—especially when unconstrained by the need to raise equivalent revenues. Nowdays, the pressure for restraint more often comes from the executive than the legislature so that over the last few decades we have been searching for ways to prune out the extravagances that seem to get included in the congressional appropriations process where the opportunities for what is euphemistically called logrolling frequency overwhelm the cries for economy.

President Nixon tried to prune the budget through an expansion of the impoundment process that was rejected by both the courts and the Congress. The Congress tried a different approach in title X of the Congressional Budget and Impoundment Control Act of 1974, through a system of deferrals and rescissions, but that system has not served the desired function. While that statute authorizes the President to submit rescission proposals, it does not ensure that such proposals receive congressional consideration—and in fact they do not. Though President Reagan submitted 242 rescission proposals as a part of his fiscal year 1986 budget, not one has had a record vote in the Senate. It is, of course, true that many rescission proposals are incorporated into regular or supplemental appropriations bills, but it remains a fact that such proposals have no guarantee of separate consideration by the House or the Senate as a body.

The special procedures of section 1017 of the Budget Act have not worked to bring rescissions to the floor for consideration and that weakness must be corrected. The purpose of my proposal is to ensure serious congressional reconsideration of those items of appropriations that the President considers excessive or unnecessary. We have all voted for appropriation bills without being committed to every item that is included. My proposal will require Congress to give careful consideration to those items in an appropriations bill of which the President disapproves. If the President believes that an appropriation is unnecessary or excessive, it does not seem unreasonable to require Senators and Congressmen to vote publicly on the need for that item.

It is my belief that this process will make it easier to eliminate unnecessary spending without making any change in our constitutional balance of powers. I invite all my colleagues, both supporters and opponents of the line-item veto, to support this concurrent resolution as one means of promoting fiscal responsibility.●

NOTICES OF HEARINGS

SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER AND RESOURCE CONSERVATION

Mr. WALLOP. Mr. President, I would like to announce for the information of the Senate and the public that a public hearing has been scheduled before the Subcommittee on Public Lands, Reserved Water and Resource Conservation of the Committee on Enegy and Natural Resources on Friday, September 19, 1986, at 9 a.m. in room SD-366 of the Senate Dirksen Office Building in Washington, DC 20510.

Testimony will be received on the following measures: S. 1971, to transfer certain lands under the jurisdiction of the Secretary of the Interior to the city of Mesquite, NV; S. 2194, to authorize the conveyance of 40 acres in Nevada to the Catholic Diocese of Reno/Las Vegas; S. 2599, to declare that the United States holds certain public domain lands in trust for the Pueblo of Zia; S. 2698, to transfer certain public lands in Nevada to the Toiyabe, Humboldt, and Inyo National Forests; S. 2758, to authorize the exchange of certain lands in the States of Nevada and Florida; Senate Joint Resolution 372, authorizing establishment of a memorial to honor America's astronauts; S. 2812 and H.R. 4037, relating to the Indiana Dunes National Lakeshore, and for other purposes; and H.R. 4645, an act to modify the boundaries of the Cuyahoga Valley National Recreation Area.

Those wishing to testify should contact the Subcommittee on Public Lands, Reserved Water and Resource Conservation of the Committee on Energy and Natural Resources, room SD-308, Dirksen Senate Office Building, Washington, DC 20510. Oral testimony may be limited to 3 minutes per witness. Witnesses may be placed in panels, and are requested to submit 25 copies of their testimony 24 hours in advance of the hearing, and 25 copies

on the day of the hearing. For further information, please contact Tony Bevinetto or Patty Kennedy of the subcommittee staff at 202-224-0613.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Friday, September 12, to hold an oversight hearing on consideration of applicable water law during the Federal Energy Regulatory Commission's hydroelectric licensing proceedings.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. THURMOND. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet in closed session, during the session of the Senate on Friday, September 12, to receive a briefing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

H.R. 4530—THE OMNIBUS SCENIC RIVERS BILL

● Mr. BRADLEY. Mr. President, the National Wild and Scenic River Act, passed in 1968, offered the first Federal protection for the Nation's rapidly disappearing network of free-flowing rivers and streams. This landmark law preserves selected rivers and river corridor landscapes which possess outstanding scenic, recreational, historic, and cultural values.

Mr. President, H.R. 4530, the Omnibus Scenic River Act, includes in it a bill that I introduced last April with my colleague, Senator LAUTENBERG. This bill directs the Department of the Interior to study the potential addition of New Jersey's Great Egg Harbor River to the National Wild and Scenic River System. The Great Egg Harbor River is located in a largely undeveloped area of southern New Jersey. A large portion of the river is within the Pineland National Reserve. The mainstem of the river is 60 miles in length. It rises in urbanized Camden County and flows through Gloucester and Atlantic Counties before it empties into the Atlantic Ocean behind the barrier island of Ocean City.

The slow moving water of the Great Egg Harbor River represents a typical Pine Barrens ecosystem where water is the most important resource. Fresh water is stored in the extensive Cohansey aquifer below the Pine Barrens surface. It is estimated that the Cohansey aquifer is the largest underground reservoir of fresh water in the world.

The unique plant and animal species found in the Great Egg Harbor watershed are peculiarly adapted to the limitations of this naturally highly acidic water. The wetlands support a large number of threatened and endangered species which are extemely sensitive to changes in water level and quality.

Most of the 39 species of mammals, 299 bird species, 59 reptile and amphibian species, and 91 fish species common to the Pine Barrens exist in the Great Egg Harbor watershed. Beaver, otter, and muskrat are found in the wetlands along with 44 species of game birds, ospreys, and nesting bald eagles. The endangered Pine Barrens tree frog, gray tree frog, and timber rattlesnake are also found in the area.

The Great Egg Harbor River has provided opportunites for hunting, trapping, and fishing since the 1700's. Remains of 17th and 18th century sawmills, papermills, and gristmills, early factories and intact 18th and 19th century villages are common throughout the watershed. Ninteenth and twentieth century ethnic settlements are found in agricultural communities near the river. Two important local agricultural crops are cranberries and blueberries, both of which represent a significant share of New Jersey's agricultural economy.

Mr. President, the Great Egg Harbor River is remarkably diverse. It represents an ecosystem so unique that the United Nations has proclaimed it and the rest of the New Jersey Pinelands National Reserve as an "international biosphere." It is a truly remarkable combination of natural features that has been the focus of study by scientists of international reputation.

The Great Egg Harbor River is one of New Jersey's greatest and most beautiful natural resources. Those who live in southern New Jersey would like to assure that the river's water quality and recreational opportunities are maintained through sound planning and management. The Wild and Scenic Rivers Act provides this protection through the development of a management plan. The proposed study has the support of 14 local municipalities and none has opposed the study. Subsequent hearings and the study itself will give local supporters and opponents the opportunity to present their views to determine the future of the river.

Mr. President, the Wild and Scenic Rivers Act has been successful in preserving a number of our Nation's free-flowing rivers. The Great Egg Harbor River is an ideal candidate for inclusion with these natural wonders.●

CELEBRATING THE OPENING OF THE 100TH RONALD McDONALD HOUSE

● Mr. D'AMATO. Mr. President, to an ill child being treated for cancer, leukemia, and other serious illnesses, no better relief exists than a family close by. The presence of a loving parent, sibling, or relative can make all the difference in the world to a child fighting to live.

Often, however, the ill child must travel great distances with a parent to obtain the proper treatment. As a result, parents find themselves sleeping in hospital waiting rooms, surviving on vending-machine meals, and incurring expensive motel bills to provide the much needed love and attention their sick child deserves. The resulting financial and emotional burdens can be unmanageable and, unfortunately, family members are often separated from each other for long periods of time. These tremendous strains and anxieties have been known to end marriages and to split families apart.

I rise today to call attention to a working solution to this problem: Ronald McDonald Houses. Ronald McDonald Houses provide temporary residences for family members with children suffering serious illnesses that require prolonged hospital treatment and care. Ronald McDonald Houses are warm sanctuaries for families members who must spend many hours a day tending to their loved ones in a sterile hospital environment.

The first Ronald McDonald House was built nearly 12 years ago in Philadelphia. Since then, they have been built across the United States and around the world, and they have opened their doors to more then one-quarter of a million people of all races. Today, I am proud to announce that, on September 28 and 29 of this year, the 100th Ronald McDonald House will be opening in New Hyde Park, NY, on the campus of the Schneider Children's Hospital of Long Island.

Mr. President, it is my hope that the opening of this Ronald McDonald House will provide the same comfort and opportunity to the people of Long Island as others have provided to people the world over. It is my hope, as well as the hope of this Congress, that the successful opening of the 100th Ronald McDonald House will mark the beginning of many, many successful years in the future.●

THE NATIONAL COUNCIL OF COMPULSIVE GAMBLING, INC.

● Mr. SPECTER. Mr. President, on November 19, 1986, the Council on Compulsive Gambling of Pennsylvania and Valley Forge Medical Center & Hospital of Norristown, PA, will host in Philadelphia, PA, a gathering of ex-

perts to address the national problem of compulsive gambling.

This meeting, the Second Annual Conference on Gambling Behavior held under the auspices of the National Council on Compulsive Gambling, Inc., will bring together administrators, educators, legislators, researchers, criminal justice personnel and other professionals, all with one purpose—to try to find more effective ways to ameliorate the scourge of compulsive gambling that is destroying the lives of hundreds of thousands of Americans.

These experts will examine and discuss the implications of compulsive gambling and its impact in the social, economic and business spheres, as well as its savages to the individual.

It is altogether fitting that the U.S. Senate take note of this auspicious gathering and commend the National Council on Compulsive Gambling, Inc., the Council on Compulsive Gambling of Pennsylvania and the Valley Forge Medical Center & Hospital for their efforts to bring attention to this national problem and to alleviate the suffering of the many individuals afflicted.●

JUDGE BARRY DEROSE

● Mr. DECONCINI. Mr. President, this evening in Globe, AZ, Judge Barry DeRose is being honored by his friends and colleagues for his many years of service to both his community and his State. I want to bring to the attention of this body, and the Nation as a whole, the story of this man who so personifies the Arizona spirit.

Barry is a native of Globe, AZ and labored in the copper mines to support his college education. He has spent virtually his entire life in partnership with that community. The only two occasions on which he left Globe for any period of time were to complete his law degree at the University of Arizona in Tucson and to serve his country during WWII as a Seabee in the Navy.

Upon his return to Globe after the war, Barry began his long legal association with Globe and Gila County. From the oath he took when accepted by the State Bar Association, Barry found the credo that would guide his professional life * * * it was the promise to serve and represent "all the people who need legal advice."

In 1954, he was elected Gila County attorney, a position which he held for 6 years. Also, he was chief counsel for the White Mountain Apache Tribe for 19 years. In fact, during his tensure with the tribe, Barry was involved in a case in which he found himself in opposition with a future Supreme Court Justice by the name of William Rehnquist. For the record, Barry won the case.

Fortunately for myself and other Democrats in Arizona, Barry was not the least bit hesitant to get involved in partisan politics. Known as "Mr. Democrat" in Gila County, Barry was a leader in John Kennedy's campaign effort in Arizona in 1960. Many Democratic officeholders, both past and present, are the beneficiaries of his efforts on their behalf.

Judge Barry DeRose is retiring from the bench in Gila County. After serving as presiding judge since 1975, Barry will be sorely missed by all who have had the opportunity to argue before him. He was known as a fair judge who upheld the law in a fashion that left even those who were the recipients of adverse rulings with a tremendous amount of respect for this fine jurist.

I know Barry will continue to be an active community leader after his retirement, as he has for so many years.

Mr. President, I ask that my colleagues join me in wishing Judge DeRose and his wife, Eunice, the best that this country has to offer in their retirement. So few have been so deserving.●

AVIATION SAFETY COMMISSION ACT

● Mr. KASTEN. Mr. President, last night, the U.S. Senate approved legislation that advances the cause for increasing aviation safety one step further. The Aviation Safety Commission Act is the culmination of the growing concern that many Members of this body have felt as reports of decreasing margins of air safety have proliferated over the past year and one half.

As a member of both the Transportation Appropriations Subcommittee and the Commerce, Science, and Transportation Committee, both of which oversee aviation issues, I have been long concerned by the inadequacies in our air transportation system. Unfortunately, due to the tragic and fatal crash of the Midwest Express flight in Milwaukee that occurred just over one year ago, the diminished margins of air safety were vividly brought home for me.

Because of my increased awareness and concern, as well as the fact that like most of my colleagues I travel back to my home State each weekend by plane, I asked the Republican conference to set up a task force on air transportation safety. In January, I was named as chairman of that task force. Certainly, one of the goals which we were working toward has been accomplished: Informing the public as well as the Members of Congress that there is a serious problem that will not go away until we take measured and prudent steps to ensure the utmost safety.

Mr. President, several positive actions took place shortly after the task force held a meeting. The Aviation Subcommittee held extensive hearings as did the Transportation Appropriations Subcommittee. Probably the most positive step occurred when Senator ROBERT BYRD introduced S. 2417, the Aviation Commission Safety Act. Senator BYRD took the goals of the task force one step further by proposing to move the public debate into a blue ribbon Presidential commission.

Mr. President, I am excited by the fact that my Senate colleagues have recognized the concerns of Senators BYRD, KASSEBAUM, EXON, and myself among others through the passage of this important bill. And while the final report of my task force can only serve as a prelude to what the commission will do, I am pleased that we have been able to put the administration on notice that we are serious about maintaining the maximum possible safety standards for air travel.●

NAUM AND INNA MEIMAN: CANCER PATIENTS DESERVE A CHANCE TO LIVE

● Mr. SIMON. Mr. President, yesterday, I joined with several of my colleagues to publicize the plight of five Soviet citizens sticken with cancer whose lives depend on obtaining medical treatment in the West. One of those involved in the International Committee for Solidarity with Cancer Patients is Inna Meiman, a close friend in Moscow.

Inna, 54, was diagnosed with cancer almost 3 years ago. Since then, Inna has bravely undergone four operations to remove cancerous tumors on her spine. Treatment is available to her which may improve Inna's chance to live. As medical specialists stated in yesterday's news conference, "every patient has the right to pursue every possible treatment."

The cancer victims had gathered at the home of Tanya Bogolomolny, who has breast cancer, and spoke, via speakerphone, to the gathering. I had the pleasure of speaking with Naum who said, "Each day is a gift."

The pleas of these cancer patients is humanitarian, not political. They want to fight for their lives and I strongly urge the Soviets to grant them the most precious gift of life.

Inna and Naum want to pursue experimental treatment in the West. I implore the Soviet authorities to allow them to emigrate to Israel.●

GRAMM-RUDMAN-HOLLINGS

● Mr. MOYNIHAN. Mr. President, I rise today to note that there are 15 working days left before scheduled adjournment sine die on October 3; and, Congress and the President must agree to a deficit reduction package of $9.4 billion to meet the requirements

of Gramm-Rudman-Hollings. That's $626.7 million of deficit reduction per day. If we actually need to cut the deficit more than the OMB-CBO report indicated—and I believe we do—we may have to come up with more like $1 billion of deficit reduction each day until we go home.

I submit that we will not do this. We may say before we leave that we have met the requirements of Gramm-Rudman-Hollings: the average of OMB and CBO projections of the deficit will probably be very close to $154 billion. But when the 100th Congress convenes next year, the deficit estimate will be higher. And on September 30, 1987, we will know that we did not do what we said we did during these 15 days. The deficit at the end of fiscal year 1987 will be closer to $170 billion, or $180 billion. To reach the next Gramm-Rudman-Hollings target—$108 billion for fiscal year 1988—Congress and the President will need to agree to cuts of about $65 billion. That will not happen either.

As early as September 1980, David Stockman knew that the fiscal mathematics of the administration would institutionalize triple-digit deficits. In 1981, the administration knew that the tax cut was too big. But the administration concealed this fact, as it saw the resulting deficits as an opportunity to achieve great reductions in the size of Federal domestic programs.

In 1985, Congress passed, and the President signed into law, the Gramm-Rudman-Hollings amendment to the debt ceiling. The Nation heaved a sigh of relief. Finally, they thought, there would be honest budgeting in Washington, and the budget would be balanced in 1991.

Instead, the law brought with it a new terminology. Words like "sequester," and the "Gradison baseline," have been added to an already overcomplicated budget lexicon. We promised to reach a budget deficit of $144 billion this year, but now $154 billion will do.

Gramm-Rudman-Hollings has not brought honest budgeting to Washington. One lie leads to another. Congress cannot meet the Gramm-Rudman-Hollings targets. The economy is too weak. Domestic discretionary spending has been cut enough. Almost all agree that spending on education, health care, and drug prevention and rehabilitation programs cannot be cut any further. Defense will not be cut, and taxes, according to the President, will not be raised. But Congress, having passed Gramm-Rudman-Hollings, and having promised the American public a balanced budget by 1991, must now at least appear to follow through.

At yesterday's meeting of the Temporary Joint Committee on Deficit Reduction, the chairman of the Senate Budget Committee said that it would be tough to comply with the fiscal year 1987 deficit ceiling, and that it would be nearly impossible to meet that of fiscal year 1988. He said: "I think we're getting very close to abandoning the notion that we will ever get to a balanced budget." Gramm-Rudman-Hollings will be repudiated. It has to be.

To meet the current Gramm-Rudman-Hollings targets is probably fiscal folly. To meet the targets nominally will require a kind of creative bookkeeping that would even make the administration blush.

Congress must not do that.

The administration's original lie led to a loss of trust in OMB and the President's budget proposals. In the early 1970's the public lost confidence in the Presidency. After the first 2 years of this administration, Congress began to distrust OMB, and Congress now spends an inordinate amount of time trying to write its own budget. What will happen if, in the late 1980's, the public begins to distrust Congress?●

TRIBUTE TO JOHN VOJKOVICH

● Mr. LONG. Mr. President, I would like to bring to the attention of my colleagues a resident of New Orleans in my home State of Louisiana whose place of business is a local institution.

I am referring to Mr. John Vojkovich, owner of the Cresent City Restaurant, a New Orleans landmark for more than 50 years.

After arriving in America as a young immigrant from Yugoslavia, Mr. Vojkovich introduced the city to a unique method of steak preparation which has since become known as "the New Orleans Style." But the great success of his restaurant cannot be attributed only to the quality of his food.

Since arriving in the United States, he has worked diligently for the good of New Orleans, especially its sizable Yugoslavic community, and he is highly regarded by the many New Orleans residents he has assisted over the years.

Mr. President, I wish him and his family continued success.●

Mr. DANFORTH. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WILSON). Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. DANFORTH. Mr. President, I ask unanimous consent that morning business be extended to the hour of 4:30 p.m., and that following the speech by the Democratic leader, the Senate automatically stand in adjournment until 11 a.m. on Monday, September 15.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DANFORTH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The minority leader is recognized.

Mr. BYRD. Mr. President, for those who are perhaps viewing and listening for the first time to one of the series of speeches that I make from time to time on the United States Senate, I should say that since March 21, 1980, I have been making a series of speeches on the history of the United States Senate. I always at the outset take care to state that I only take the floor at a time when there is no business to be transacted and that if any Senator wishes me to yield the floor during the course of my statement, I will be happy to yield it, with the understanding that my statement not show an interruption in the RECORD. I have that understanding with the distinguished majority leader—there is no other business to be transacted today.

Mr. President, today's statement is titled "Mike Mansfield's Senate: The Vietnam Years."

THE UNITED STATES SENATE

MIKE MANSFIELD'S SENATE: THE VIETNAM YEARS

Mr. BYRD. Mr. President, on the last day of Mike Mansfield's service in the United States Senate he arose to recall the many great events that had taken place during his sixteen years as majority leader. Quite naturally among the issues that loomed the largest in his memory was the war in Vietnam, which "first supported by the nation and then denounced by the nation, was finally brought to an end by the president under the persistent pressure of the Senate." This was a bittersweet accomplishment for Mansfield. As a young congressman in 1945, just a month after the end of World War II, he had warned that: "With the exception of Japan, our military business has ended in the Far East, and the best procedure for us to follow would be to let the countries in that part of the world settle their own internal difficulties." But Mr. President, his warnings went unheeded over the next three decades, and the United

States stumbled into the tragic war he had wanted to avoid.[1]

There were many senators who took an active role either for or against the war in Vietnam; they made many eloquent speeches, and cast many courageous votes. One thinks of J. William Fulbright, Richard Russell, Wayne Morse, Henry Jackson, Frank Church, John Sherman Cooper, George McGovern, George Aiken, and so many more who fought this war verbally and tactically in the committee rooms and on the Senate floor. Not everyone agreed with Mike Mansfield about Vietnam. I had my differences with him over our policies there. But no senator doubted his wisdom, expertise, and strong sense of principle on matters relating to foreign policy in general and Southeast Asia in specific. No other senator devoted so much of his attention over so long a time to Vietnam, no one visited that country more often, had more contact with its leaders, and had more respect from all sides of the fierce debate that followed than did Mike Mansfield. His words and his activities offer us a road map through the Vietnam maze. My remarks today owe a debt to a very fine collection of Senator Mansfield's speeches, *Hon. Politician: Mike Mansfield of Montana*, edited by Louis Baldwin. I recommend this volume to all those interested in the Senate's role in the Vietnam war.

During an earlier address in my continuing series on the history of the United States Senate, I discussed the Senate and a bipartisan foreign policy during the 1950's. At the time, I referred to the roots of American involvement in Indochina, at the time of the Dienbienphu crisis in 1954, the formation of the Southeast Asia Treaty Organization, and the creation of Laos, Cambodia, and North and South Vietnam out of the former French colony. I pointed out that warnings from congressional Democratic leaders had persuaded President Eisenhower not to become militarily involved in Vietnam unless supported by our European allies—a support that Secretary of State John Foster Dulles discovered was not forthcoming. In retrospect, President Eisenhower receives high marks for avoiding American military participation in Vietnam, although his administration provided the economic and military aid that enabled the new government of Ngo Dinh Diem to become established in South Vietnam, and tied the United States to that regime with fateful consequences.

Senator Mansfield was strongly influenced by earlier American actions in China and Korea. As a young Marine he had visited China in 1922; he had studied and taught about China at Montana State University; and had visited China as President Roosevelt's special representative in 1944. Mansfield had few illusions over the strength or ability of Chiang Kai-shek's Nationalist govenment, and was not surprised when Chiang's government collapsed in 1949, and the Nationalists fled to the island of Formosa. When a bitter debate developed in the United States over "Who Lost China?" Mansfield supported the policies of President Harry Truman and his beleaguered Secretary of State, Dean Acheson. Opponents of Truman's policies, most notably Wisconsin's Joe McCarthy, tried to smear any-one who had the slightest doubt about Chiang as somehow being pro-Communist, and tried to label the Montana congressman as "China Mike." Montana voters were not convinced, and they elected Mike Mansfield to the Senate after a bitter and hard-fought campaign in 1952. Still, this experience long affected him deeply, and it was many years before he renewed his interests in American relations with China. Similarly, Mansfield was shaped by his observations of the Korean war, which involved American troops on the mainland of Asia, which lingered on longer than anyone had expected, which affected American public opinion, and which brought to an unhappy end the administration of Harry Truman.

As a senator, Mike Mansfield returned to Asia, although now the doors of China were closed to him. He toured extensively throughout Southeast Asia, including the capitals of what would later become Laos, Cambodia, and Vietnam, after the collapse of the French colonial effort in Indochina. He was also a member of the American delegation to the Geneva convention that divided Indochina, and witnessed the birth of the Southeast Asia Treaty Organization, known as SEATO. Mansfield was visiting Hanoi at the very time the French evacuated that city. Because he knew the region, its history and its leaders so intimately, Mansfield was dubious when the Eisenhower administration moved to establish an American role in Southeast Asia. In July 1954, Mansfield delivered a prophetic warning in the Senate:

> I do not know whether the president himself ever seriously considered committing this nation to an armed involvement in Indochina. Nevertheless, the air around him was full of military sound and fury just prior to Geneva. There was much talk of involvement, even though Indochina would have been in every sense a nibbling war.
>
> The terrain of the Indochinese conflict—the flooded deltas, the thousands of scattered villages, the jungles—is made to order for the nibbling of mechanized forces. The French have been nibbled and chewed for eight years. . . .
>
> A people, whether in Asia or in the Americas, can preserve their independence only if they have it in the first place and if they are willing to fight to keep it. Beyond this initial responsibility, which every nation must accept, nations can combine among themselves for a joint defense of freedom. . . . But from the beginning to the end of this process of defense, the key factor is the determination of the people of each nation to defend their freedom.

Senator Mansfield proposed that the United States favor any government in Asia which represented its people and was responsive to their needs, but that we should stay out of their internal affairs. He argued that any military alliances must draw their primary strength from the Asian nations themselves, and that American involvement, if any, should be indirect. And he insisted that the United Nations should serve as "the only worldwide marshalling center for resistance, in the event of aggression or threat of aggression in Asia." Senator John Sherman Cooper suggested that Mansfield wanted it both ways, to protect Southeast Asia from Communism without engaging U.S. troops, and asked whether he favored intervention in Indochina, Mansfield responded bluntly: "No, I was never in favor of intervention, and I am opposed to it now. I think that it would be suicidal. I believe the worst thing that could happen to the United States would be to have our forces intervene in Indochina and then bog down in the jungles there." Sadly, as we know, his worst fears were to materialize a decade later.[2]

Like Senator John F. Kennedy, and Supreme Court Justice William O. Douglas, Senator Mansfield met and came to admire the Vietnamese nationalist Ngo Dinh Diem, during the early 1950's, while Diem lived in exile in a Catholic convent in the United States. After South Vietnam became an independent nation, Diem returned as its president, and Mansfield became one of his strongest supporters. Mansfield recognized Diem's limitations: he was cool and aloof from his people, by no means a charismatic leader, he could be rigid and dogmatic, and he relied excessively upon his brother, Ngo Din Nhu, whose tactics verged on despotic. But Mansfield also insisted that if South Vietnam was going to survive as an independent nation it must do so under its own leadership, and Diem provided the only hope. This was the whole thrust of his belief in the self-determination of nations. Mansfield defended Diem against criticism from both the French and the State Department, which periodically signaled its own suspicions, but he insisted that Diem was never "our boy."

When Diem was overthrown in a coup in November 1963—a coup which the United States may have sparked, and certainly did nothing to prevent—Mansfield rose in the Senate to regret that "a government which began with so much promise, in the end crumpled in a military coup and violent death."

[1] Footnotes at end of text.

He called upon the Kennedy administration to reevaluate America's role in Southeast Asia and to begin a reduction in the commitment of U.S. forces in Vietnam. Within just a few weeks, however, the Kennedy administration itself ended with a violent and tragic death, and a new administration under Lyndon B. Johnson was in office.[3]

On one hand, Mansfield might have hoped to influence the Johnson administration's policies towards Vietnam. President Johnson had had little experience in foreign policy, and with the exception of one whirlwind tour of Southeast Asia in 1961, he had little background in the Vietnam conflict. He was not necessarily bound to the policies of his predecessor. While he was majority leader in 1959 Johnson had picked Mansfield as his whip, and seemed to respect his advice on foreign policy. Johnson in those days had also been in the habit of calling Senator J. William Fulbright "my Secretary of State," and Fulbright shared much of Mansfield's skepticism about the Vietnam situation. But, once in the White House, rather than turning to his old congressional colleagues for advice Johnson, who also recalled the "Who Lost China?" debate, was determined that he should not appear weak, and that an American ally should not fall to Communist expansion during his presidency. He thus ignored Mansfield's call for self-determination and respect for the nationalist movements in both North and South Vietnam, and came to picture the conflict as just another outbreak of the great global clash between Communism and democracy.

Although Mansfield disagreed strongly with Johnson's policies, and regularly sent memoranda to the White House suggesting alternatives to escalation of the war, in public he stood loyally by his president. As the Democratic majority leader, Mansfield believed it was his institutional role to defend the programs of the Democratic administration in the White House, no matter what his personal feelings. He supported the Gulf of Tonkin resolution in August 1964, and each successive increase in troops to Vietnam. As the Senate and the nation began to divide into hawks and doves, Mansfield resisted the urge to join the doves, and instead defended his president. When Mansfield's close friend and breakfast companion George Aiken rose to condemn President Johnson's policies, Mansfield rose in rebuttal:

> I think I probably know Lyndon Johnson as well as any other member of this body knows him. I have been closely associated with him for 24 years. I know how deeply concerned he is about Vietnam. I know the agonizing days and nights he goes through. I know of his intense desire to bring this most difficult of all situations which has ever faced an American president to some sort of honorable conclusion. . . .
>
> So far as the Senator from Montana is concerned, he will do his very best to give the President of the United States as much in the way of support as he possibly can.[4]

At the same time he offered the president his support, Senator Mansfield worked hard for peace in Vietnam. He felt dismayed over the situation in South Vietnam, where coup followed coup until it was difficult to tell who was in charge, and where American military forces were increasingly taking over the war. At the beginning of 1965, Americans were suffering five casualties a week in Vietnam. By the end of 1965, the number of killed and wounded had risen to five hundred a week. The annual cost of the war had risen from one billion dollars to thirteen billion. The field of battle had spread from South Vietnam into bombing of North Vietnam, into Laos and eventually into Cambodia. "Is Vietnam, both north and south, to be reduced to a charnel house amidst smoking, silent ruins?," he asked. Seeing the issue in larger geopolitical terms, he suggested that peace in Southeast Asia was inseparable from peace with China. "What is needed most, at this time and in the light of the danger, is an initiative for a direct contact between the Peking government and our own government on the problem of peace in Vietnam." He delivered these remarks at a commencement in June 1966, five years before Richard Nixon, as president, would achieve a breakthrough in relations between the United States and the People's Republic of China.[5]

During the last two years of the Johnson administration, as the Vietnam war intensified, Mansfield continued to pursue these themes. He called for a face-to-face meeting between Secretary of State Dean Rusk and the Chinese Foreign Minister. He proposed a halt to the aerial bombardment of North Vietnam, and a concentration on sealing off the borders of South Vietnam. He called for a reconvening of the Geneva Conference on Southeast Asia, and for an all-Asian conference on the war. He called on the administration to give closer consideration to French proposals for the neutralization of Southeast Asia. He suggested that the United Nations play a role in ending the war. "The conflict in Vietnam cannot be settled from the Congress or from the campus," he said in a speech at the University of North Carolina in 1967. "In a government such as ours, a senator lives with a constitution, a constituency and a conscience." Only the president, however, could make the fundamental decisions of war and peace. "These decisions are of an immensity which enjoins upon us all a high respect for the burdens which a president must bear, and a responsibility to tender to him every support which can be given in good conscience." [6]

By 1967, all the optimistic predictions of an early end to the war, and "bringing the boys home by Christmas," had passed as just so many fantasies. "The fact is that the war bewilders," said Senator Mansfield. The statistics were benumbing. The costs in human life and dollars were staggering. "Eight weeks of military expenses in Vietnam equal all of the Federal monies sought for education," he pointed out, ". . . and the special funds for improving education in city slums and depressed rural areas." By mid-1967, over 10,000 Americans had died in the war, (an appalling statistic then, before we knew that 50,000 names would one day be inscribed on a wall in Washington). By February 1968, the Tet Offensive had taken place and events in Vietnam had deteriorated even further. In remarks at Indiana University, Senator Mansfield described the struggle in Vietnam as "grim, pitiful and devastating." He said that he found the question "Who's winning in Vietnam?" offensive, as if the war were an athletic contest. "Vietnam is not a game. There can be no winners; there are only losers, and the longer the war persists the greater are the losses of all concerned." In his most critical statement on the conduct of the war, Mansfield concluded: "There is no obligation to continue to pour out the blood and resources of this nation until South Vietnam is made safe for one Vietnamese faction or another. On the contrary, there is an obligation to the people of the United States to conserve that blood and those resources; and, to the people of Vietnam there is an obligation to avoid the destruction of their land and society even in the name of saving them." [7]

Five weeks later President Johnson announced that he would not stand for reelection, but would devote his complete attention instead to achieving a negotiated peace in Vietnam. In March, he delivered the first lecture sponsored by the Maureen and Mike Mansfield Endowment at the University of Montana. Vietnam was still the great issue, but he wanted to go beyond Vietnam to reiterate his belief that the crisis in Asia could not be settled without reproachment with China. "Like it or not, the present Chinese government is here to stay," he observed. "Like it or not, China is a major power in Asia and is on the way to becoming a nuclear power." It was therefore in America's best interest to put aside its efforts to isolate China.[8]

The 1968 election of Richard Nixon, who promised a "secret plan" to end the war, and who as president advocated "Vietnamization" of the war, seemed to hold promise of an honorable end to the terrible conflict, but

Senator Mansfield was soon horrified to see the President expanding the war into neighboring Laos and Cambodia. Freed from the constraints of speaking for a president from his own party, Mansfield took to the Senate floor to wave a warning flag against a deepening conflict. "The danger of our over extended commitment in Southeast Asia needs to be considered frankly and without delay." [9]

The war caused Senator Mansfield to reevaluate his position on the president's handling of foreign affairs. "For many years, we have seen our role in matters of war and peace largely as one of acquiescence in the acts of the executive branch," he said to the Senate in 1970. "If we have had doubts, we have swallowed them . . . we have gone along. We have rocked few boats." But that time has passed, and too much blood had been spilled. He insisted that the Senate exert its responsibility "to curb the further expansion of the war." [10]

In 1972, as the final negotiations for withdrawal of American troops from Vietnam took place, the Nixon administration made the grand gesture towards China that Senator Mansfield had been advocating for years. It was appropriate that after the President's historic visit to Peking, the first official congressional delegation to China would consist of Senator Mike Mansfield and Republican Leader Hugh Scott. Opening the door to China, he pointed out, undermined much of our rationale for being in Vietnam:

> It seems to me high time to ask why we are using the most advanced machines of destruction in that primitive land. Are we doing so out of force of habit? Out of fear? Fear of what? The fact is that we are still engaged in a war which, to put the best face on it, was sanctioned by what has now become a discredited policy towards China. The president's visit to China had the symbolic effect of marking the end of that policy. If the old China policy is no longer valid, is not the present involvement in the Vietnam war which derived from that policy also invalid?[11]

In the end, as the last American troops were withdrawn, Senator Mansfield proclaimed the Vietnam war "not a comedy or errors, but a tragedy of errors for this nation, with 55,000 dead, with 305,000 casualties; with something on the order of $130 billion spent so far; with three times as many bombs being used, in tonnage, as was the case in all of the Second World War and Korea; with the tactics of defoliation and craterization of Indochina; with the difficulties it has caused us at home." He called on the nation to "put Indochina behind us, wipe the slate clean, and start out to bind up some of the wounds and take care of some of our own concerns."[12]

The independent nation of South Vietnam lasted only two years after withdrawal of American troops, and collapsed in the spring of 1975. On April 30, the last Americans were helicoptered out of Saigon. President Gerald Ford called for Americans to close ranks and avoid recriminations. Senator Mansfield seconded that sentiment. "A tragic episode in our history has now come to a close in Vietnam," he said. The end of the war came "because Congress was unwilling to give the executive branch a blank check in providing the closeout funds. Congress insisted not only on the withdrawal of American personnel but on the speed up of that withdrawal as a precondition of further appropriations. Working with the Congress . . . the president moved the executive branch to proceed on that basis." Senator Mansfield stressed "the importance of the closest collaboration between the president and the Congress. It was the decisive factor in this situation . . . . In moments of crisis, at least, the president and the Congress cannot be adversaries; they must be allies who, together, must delineate the path to guide the nation's massive machinery of government in a fashion which serves the interests of the people and is acceptable to the people."[13]

Mr. President, these were the words of a great senator on one of the most significant episodes in our country's history. I have repeated them here because I believe they are still meaningful, still worth taking the time to read and to contemplate. As we toil in the post-Vietnam era, and struggle to interpret the legacy of that war, we have much to learn from the words of our prophets—a title for which Mike Mansfield amply qualified.

Mr. President, my next speech will be titled "Everett Dirksen's Senate."

I ask unanimous consent that there be printed in the RECORD at this point the notes for "The Vietnam Years."

There being no objection, the notes were ordered to be printed in the RECORD, as follows:

NOTES FOR THE VIETNAM YEARS

[1] Louis Baldwin, *Hon. Politician: Mike Mansfield of Montana* (Missoula, 1979), 36, 351.
[2] Ibid., 56–8.
[3] Ibid., 111–3.
[4] Ibid., 150–53.
[5] Ibid., 154–59.
[6] Ibid., 171–3.
[7] Ibid., 174–7, 187–90.
[8] Ibid., 190–4.
[9] Ibid., 198–200.
[10] Ibid., 205–8.
[11] Ibid., 283–4.
[12] Ibid., 285.
[13] Ibid., 335–6.

Mr. BYRD. Mr. President, I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

ADJOURNMENT UNTIL MONDAY, SEPTEMBER 15, 1986, AT 11 A.M.

The PRESIDING OFFICER. Under the previous order, the Senate stands in adjournment until 11 a.m., Monday next.

Whereupon, at 4:39 p.m., the Senate adjourned until Monday, September 15, 1986, at 11 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 12, 1986:

THE JUDICIARY

Alan C. Kay, of Hawaii, to be U.S. district judge for the district of Hawaii.

Richard B. McQuade, Jr., of Ohio, to be U.S. district judge for the northern district of Ohio.

Joel F. Dubina, of Alabama, to be U.S. district judge for the middle district of Alabama.

DEPARTMENT OF JUSTICE

Stephen S. Trott, of California, to be associate attorney general.

William F. Weld, of Massachusetts, to be an assistant attorney general.

Thomas C. Kelly, of Texas, to be deputy administrator of drug enforcement.

Joseph S. Cage, Jr., of Louisiana, to be U.S. attorney for the western district of Louisiana for the term of 4 years.

Joseph P. Russoniello, of California, to be U.S. attorney for the northern district of California for the term of 4 years.

James L. Fyke, of Illinois, to be U.S. Marshal for the central district of Illinois for the term of 4 years.

Thomas A. O'Hara, Jr., of Nebraska, to be U.S. Marshal for the district of Nebraska for the term of 4 years.

Arthur David Borinsky, of New Jersey, to be U.S. Marshal for the district of New Jersey for the term of 4 years.

Richard L. Cox, Jr., of Florida, to be U.S. Marshal for the middle district of Florida for the term of 4 years.

Wallace L. McLendon, of Florida, to be U.S. Marshal for the northern district of Florida for the term of 4 years.

Sherman L. Hansford, of Kentucky, to be U.S. Marshal for the eastern district of Kentucky for the term of 4 years.

Gene G. Abdallah, of South Dakota, to be U.S. Marshal for the district of South Dakota for the term of 4 years.

STATE JUSTICE INSTITUTE

The following-named persons to be members of the board of directors of the State Justice Institute for the terms indicated:

For terms of 2 years from the date of the first meeting of the board:

Lawrence H. Cooke, of New York.
John F. Daffron, Jr., of Virginia.
Daniel John Meador, of Virginia.
Rodney A. Peeples, of South Carolina.
Clement Clay Torbert, Jr., of Alabama.

For terms of 3 years from the date of the first meeting of the board:

James Duke Cameron, of Arizona.
Janice L. Gradwohl, of Nebraska.
Sandra A. O'Connor, of Maryland.
Larry P. Polansky, of Virginia.

HOUSE OF REPRESENTATIVES—*Friday, September 12, 1986*

The House met at 9 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

You have commanded, O God, that we ought to seek justice, love, mercy, and walk humbly with You. Grant that we may be so illumined by our tradition of faith and encouraged by all women and men of good will that we will truly seek justice in word and in deed. May we understand the need for responsibility not just for others, but for ourselves.

As we say the words of justice with our lips, may we believe them in our hearts and all that we believe in our hearts may we practice in our daily lives. This we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. BROOMFIELD. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BROOMFIELD. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 232, nays 53, answered "present" 4, not voting 142, as follows:

[Roll No. 379]

YEAS—232

Akaka	Bonior (MI)	Daniel
Alexander	Bonker	Darden
Anderson	Borski	Daschle
Andrews	Broomfield	Daub
Annunzio	Bruce	de la Garza
Applegate	Byron	DeLay
Archer	Callahan	Derrick
Barnard	Carper	Dicks
Barnes	Carr	Dingell
Bateman	Clinger	Dorgan (ND)
Bates	Coats	Dornan (CA)
Bedell	Coble	Dowdy
Bennett	Coleman (TX)	Downey
Berman	Collins	Dreier
Bevill	Combest	Durbin
Biaggi	Conyers	Dwyer
Bliley	Cooper	Dymally
Boland	Craig	Early
Eckart (OH)	Levin (MI)	Rowland (GA)
Edgar	Levine (CA)	Roybal
Edwards (CA)	Lewis (CA)	Russo
Emerson	Lightfoot	Savage
English	Lipinski	Saxton
Erdreich	Lloyd	Schaefer
Evans (IL)	Long	Schneider
Fascell	Lowry (WA)	Schulze
Fazio	Lungren	Schumer
Feighan	Manton	Sensenbrenner
Flippo	Martin (NY)	Sharp
Foglietta	Martinez	Shaw
Foley	Matsui	Shelby
Ford (TN)	Mazzoli	Shumway
Frank	McCain	Sisisky
Franklin	McCollum	Skelton
Frenzel	McCurdy	Slaughter
Fuqua	McEwen	Smith (FL)
Garcia	McMillan	Smith (IA)
Gaydos	Mica	Smith (NE)
Gejdenson	Michel	Smith (NJ)
Gibbons	Miller (CA)	Smith, Denny (OR)
Glickman	Miller (OH)	Snowe
Gonzalez	Miller (WA)	Spence
Gordon	Moakley	Spratt
Gradison	Mollohan	Staggers
Gray (PA)	Montgomery	Stenholm
Green	Moody	Stokes
Hall, Ralph	Morrison (WA)	Strang
Hamilton	Mrazek	Studds
Hammerschmidt	Murphy	Sweeney
Hefner	Murtha	Tallon
Hendon	Myers	Tauzin
Hertel	Natcher	Thomas (GA)
Hiler	Nelson	Torres
Hillis	Nichols	Torricelli
Hopkins	Nowak	Traficant
Horton	Oberstar	Vento
Howard	Obey	Visclosky
Hoyer	Olin	Volkmer
Hubbard	Ortiz	Waldon
Hughes	Packard	Walgren
Hutto	Panetta	Walker
Hyde	Parris	Watkins
Ireland	Pease	Weaver
Jeffords	Perkins	Weiss
Jenkins	Petri	Wheat
Johnson	Pickle	Whitley
Jones (TN)	Quillen	Whitten
Kanjorski	Rahall	Wise
Kasich	Regula	Wolpe
Kennelly	Reid	Wortley
Kildee	Richardson	Wright
Kleczka	Ritter	Wyden
Kolter	Robinson	Wylie
Kostmayer	Roe	Yatron
LaFalce	Roemer	Young (FL)
Lantos	Rogers	Young (MO)
Latta	Rostenkowski	
Lehman (FL)	Rowland (CT)	

NAYS—53

Armey	Goodling	Monson
Badham	Gregg	Moorhead
Bartlett	Hansen	Nielson
Bereuter	Hawkins	Penny
Brown (CO)	Hayes	Roth
Chandler	Holt	Sabo
Clay	Jacobs	Schuette
Cobey	Kindness	Shuster
Coughlin	Kolbe	Sikorski
Dannemeyer	Kramer	Smith, Robert (NH)
DeWine	Lagomarsino	
Duncan	Lent	Solomon
Evans (IA)	Lewis (FL)	Stump
Fawell	Luken	Sundquist
Fiedler	Mack	Swindall
Fields	Madigan	Tauke
Gallo	McCandless	Whittaker
Gekas	Molinari	Zschau

ANSWERED "PRESENT"—4

Bryant	Mineta
Dellums	Rodino

NOT VOTING—142

Ackerman	Gephardt	Pashayan
Anthony	Gilman	Pepper
Aspin	Gingrich	Porter
Atkins	Gray (IL)	Price
AuCoin	Grotberg	Pursell
Barton	Guarini	Rangel
Beilenson	Gunderson	Ray
Bentley	Hall (OH)	Ridge
Bilirakis	Hartnett	Rinaldo
Boehlert	Hatcher	Roberts
Boggs	Henry	Rose
Boner (TN)	Huckaby	Roukema
Bosco	Hunter	Rudd
Boucher	Jones (NC)	Scheuer
Boulter	Jones (OK)	Schroeder
Boxer	Kaptur	Seiberling
Breaux	Kastenmeier	Siljander
Brooks	Kemp	Skeen
Brown (CA)	Leach (IA)	Slattery
Burton (CA)	Leath (TX)	Smith, Robert (OR)
Burton (IN)	Lehman (CA)	
Bustamante	Leland	Snyder
Campbell	Livingston	Solarz
Carney	Loeffler	St Germain
Chapman	Lott	Stallings
Chappell	Lowery (CA)	Stangeland
Chappie	Lujan	Stark
Cheney	Lundine	Stratton
Coelho	MacKay	Swift
Coleman (MO)	Markey	Synar
Conte	Marlenee	Taylor
Courter	Martin (IL)	Thomas (CA)
Coyne	Mavroules	Towns
Crane	McCloskey	Traxler
Crockett	McDade	Udall
Davis	McGrath	Valentine
Dickinson	McHugh	Vander Jagt
DioGuardi	McKernan	Vucanovich
Dixon	McKinney	Waxman
Donnelly	Meyers	Weber
Dyson	Mikulski	Whitehurst
Eckert (NY)	Mitchell	Williams
Edwards (OK)	Moore	Wilson
Fish	Morrison (CT)	Wirth
Florio	Neal	Wolf
Ford (MI)	Oakar	Yates
Fowler	Owens	Young (AK)
Frost	Oxley	

□ 0925

Ms. FIEDLER and Mr. HAYES changed their votes from "yea" to "nay."

Mr ANNUNZIO changed his vote from "present" to "yea."

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 4378. An act to provide standards for placement of commemorative works on lands administered by the National Park Service in the District of Columbia, and for other purposes.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2320. An act to amend an act to add certain lands on the Island of Hawaii to Hawaii Volcanoes National Park, and for other purposes.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. DANIEL). The Chair announces that the Speaker has stated that we will have 1-minute speeches later in the day.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 3622, JOINT CHIEFS OF STAFF REORGANIZATION ACT OF 1985

Mr. NICHOLS. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 3622) to amend title 10, United States Code, to strengthen the position of Chairman of the Joint Chiefs of Staff, to provide for more efficient and effective operation of the Armed Forces, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

MAKING IN ORDER ON TUESDAY, SEPTEMBER 16, 1986, OR ANY DAY THEREAFTER CONSIDERATION OF CONFERENCE REPORT ON H.R. 3622, JOINT CHIEFS OF STAFF REORGANIZATION ACT OF 1985

Mr. NICHOLS. Mr. Speaker, I ask unanimous consent that it may be in order to consider the conference report on the bill, H.R. 3622, on Tuesday, September 16, 1986, or any day thereafter, and that the conference report be considered as read when called up.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

Mr. WALKER. Mr. Speaker, reserving the right to object for a point of clarification if I may, do I understand that the gentleman has asked permission for the conference report on military reorganization to be considered at any time.

Mr. NICHOLS. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Alabama.

Mr. NICHOLS. Mr. Speaker, the request is for consideration on Tuesday or any time after that.

Mr. WALKER. On Tuesday or on any day after Tuesday of next week.

Mr. NICHOLS. That is correct, on Tuesday or any day thereafter.

Mr. WALKER. Mr. Speaker, I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

CONFERENCE REPORT ON H.R. 4421, HUMAN SERVICES REAUTHORIZATION ACT OF 1986

Mr. HAWKINS submitted the following conference report and statement on the bill (H.R. 4421), to authorize appropriations for fiscal years 1987, 1988, 1989, and 1990 to carry out the Head Start, Follow Through, dependent care, community services block grant, and community food and nutrition programs, and for other purposes:

CONFERENCE REPORT (H. REPT. 99-815)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4421) to authorize appropriations for fiscal years 1987, 1988, 1989, and 1990 to carry out the Head Start, Follow Through, dependent care, community services block grant, and community food and nutrition programs, and for other purposes having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "Human Services Reauthorization Act of 1986".

TITLE I—THE HEAD START PROGRAM

SEC. 101. REAUTHORIZATION.

Section 639 of the Head Start Act (42 U.S.C. 9834) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 639. There are authorized to be appropriated for carrying out the provisions of this subchapter $1,198,000,000 for fiscal year 1987, $1,263,000,000 for fiscal year 1988, $1,332,000,000 for fiscal year 1989, and $1,405,000,000 for fiscal year 1990.".

SEC. 102. ALLOTMENT OF FUNDS FOR INDIAN AND MIGRANT HEAD START PROGRAMS.

Subparagraph (A) of section 640(a)(2) of the Head Start Act (42 U.S.C. 9835(a)(2)(A)) is amended to read as follows:

"(A) Indian and migrant Head Start programs and services for handicapped children, except that there shall be made available for use by Indian and migrant Head Start programs, on a nationwide basis, no less funds for fiscal year 1987 and each subsequent fiscal year than were obligated for use by Indian and migrant Head Start programs for fiscal year 1985;".

SEC. 103. COORDINATION.

Section 642(c) of the Head Start Act (42 U.S.C. 9837(c)) is amended by inserting before "programs" the following: "State and local".

SEC. 104. PRESERVATION OF INCOME CALCULATION METHOD.

Section 645(a)(2) of the Head Start Act (42 U.S.C. 9840(a)(2)) is amended by striking out "1986" and inserting in lieu thereof "1990".

TITLE II—FOLLOW THROUGH PROGRAM

SEC. 201. FOLLOW THROUGH.

(a) AUTHORIZATION OF APPROPRIATIONS.—Subsection (a) of section 663 of the Follow Through Act (42 U.S.C. 9862(a)) is amended to read as follows:

"(a) There are authorized to be appropriated for carrying out the purposes of this subchapter $7,500,000 for fiscal year 1987, $7,800,000 for fiscal year 1988, $8,112,000 for fiscal year 1989, and $8,436,000 for fiscal year 1990.".

(b) REPEALER.—Section 668 of the Follow Through Act (42 U.S.C. 9867) is amended—

(1) by striking out subsection (b); and

(2) by redesignating subsection (c) as subsection (b).

(c) TECHNICAL AMENDMENT.—Section 670 of the Follow Through Act (42 U.S.C. 9861 note) is amended by striking out "1986" and inserting in lieu thereof "1990".

TITLE III—DEPENDENT CARE STATE GRANT PROGRAM

SEC. 301. REAUTHORIZATION.

Section 670A of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9871) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 670A. For the purpose of making allotments to States to carry out the activities described in section 670D, there is authorized to be appropriated $20,000,000 for each of the fiscal years 1987, 1988, 1989, and 1990.".

SEC. 302. AMENDMENTS ON DEPENDENT CARE SERVICES INFORMATION; LICENSING.

(a) DEPENDENT CARE SERVICES.—Subsection (a) of section 670D of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9874) is amended—

(1) by inserting "(1)" after the subsection designation;

(2) by striking out "shall" in the second sentence and inserting in lieu thereof "may";

(3) by redesignating clauses (1), (2), (3), (4), (5), (6), and (7) in the second sentence as clauses (A), (B), (C), (D), (E), (F), and (G), respectively; and

(4) by striking out the third sentence and inserting in lieu thereof the following:

"(2) The State, with respect to the uses of funds described in paragraph (1) of this subsection shall—

"(A) provide assurances that no information will be included with respect to any dependent care services which are not provided in compliance with the laws of the State and localities in which such services are provided; and

"(B) provide assurances that the information provided will be the latest information available and will be kept up to date.".

(b) SCHOOL-AGE CHILD CARE SERVICES.—(1) Section 670D(b)(1) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9874(b)(1)) is amended by striking out "where school facilities are not available".

(2) Section 670D(b)(2)(E) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9874(b)(2)(E)) is amended by inserting before "licensing laws" the following: "child care".

SEC. 303. SCHOOL-AGE CHILD DEFINITION.

Section 670G(7) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9877(7)) is amended by inserting before the semicolon a comma and the following: "except that in any State which by State law children at an earlier age are provided free public education, the age provided in State law shall be substituted for age five".

SEC. 304. SHORT TITLE.

Subchapter D of chapter 8 of title VI of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9871-9877) is amended by adding at the end thereof the following new section:

"SHORT TITLE

"SEC. 670H. This subchapter may be cited as the 'State Dependent Care Development Grants Act'.".

TITLE IV—COMMUNITY SERVICES BLOCK GRANT PROGRAM

SEC. 401. GENERAL AUTHORIZATION OF APPROPRIATIONS.

Subsection (b) of section 672 of the Community Services Block Grant Act (42 U.S.C. 9901) is amended to read as follows:

"(b) There is authorized to be appropriated $390,000,000 for fiscal year 1987, $409,500,000 for fiscal year 1988, $430,000,000 for fiscal year 1989, and $451,500,000 for fiscal year 1990, to carry out the provisions of this subtitle.".

SEC. 402. DEFINITION OF ELIGIBLE ENTITY.

The first sentence of section 673(1) of the Community Services Block Grant Act (42 U.S.C. 9902(1)) is amended by inserting after "1981" a comma and the following: "or which came into existence during fiscal year 1982 as a direct successor in interest to such a community action agency or community action program and meets all the requirements under section 675(c)(3) of this Act with respect to the composition of the board".

SEC. 403. REQUIREMENTS.

(a) TERMINATION PROCEDURES.—(1) Section 675(c)(11) of the Community Services Block Grant Act (42 U.S.C. 9904(c)(11)) is amended by inserting "the procedures and" after "subject to".

(2) Section 676A of the Community Services Block Grant Act (42 U.S.C. 9905a) is amended—

(A) by redesignating the section as subsection (b); and

(B) by inserting before the redesignated subsection (b) the following:

"SEC. 676A. (a) Whenever a State violates the assurances contained in section 675(c)(11) and terminates the funding of a community action agency or migrant and seasonal farmworker organization prior to the completion of the State's hearing and the Secretary's review as required in section 679 of this Act, the Secretary shall assume responsibility for providing financial assistance to the community action agency or migrant and seasonal farmworker organization affected. The allotment for the State shall be reduced by an amount equal to the funds provided under this section by the Secretary to such agency or organization.".

(3) Section 676A of the Community Services Block Grant Act (42 U.S.C 9905a), as amended by this subsection, is amended by adding at the end thereof the following:

"(c) The Secretary shall conduct the review under subsection (b) through the Office of Community Services, which shall promptly conduct such review and issue a written determination together with the reasons of the Secretary therefor.".

(4) The heading of section 676A of the Community Services Block Grant Act (42 U.S.C. 9905a) is amended to read as follows:

"PROCEDURES FOR A REVIEW OF TERMINATION OF FUNDING".

(b) REPEAL OF EXECUTED PROVISION.—The last sentence of section 675(c) of the Community Services Block Grant Act (42 U.S.C. 9904(c)) is repealed.

SEC. 404. FISCAL EVALUATIONS.

(a) GENERAL RULE.—Section 679(b)(1) of the Community Services Block Grant Act (42 U.S.C. 9908(b)(1)) is amended—

(1) by inserting "evaluations and" after "fiscal year";

(2) by adding before the period at the end thereof a comma and the following: "and especially with respect to compliance with subsections (a) and (b) of section 675, and clauses (1) through (11) of subsection (c) of such section"; and

(3) by adding at the end thereof the following:

"Each such evaluation shall include identifying the impact that assistance furnished under this subtitle has on children, pregnant adolescents, homeless families, and the elderly poor. A report of the evaluation, together with recommendations of improvements designed to enhance the benefit and impact to people in need, will be sent to each State evaluated. Upon receiving the report the State will then submit a plan of action in response to the recommendation contained in the report. The results of the evaluation shall be submitted annually to the Chairman of the Committee on Education and Labor of House of Representatives and the Chairman of the Committee of Labor and Human Resources of the Senate.".

(b) CONFORMING AMENDMENT.—Subsection (i) of section 675 of the Community Services Block Grant Act (42 U.S.C. 9904(i)) is repealed.

SEC. 405. DISCRETIONARY AUTHORITY.

(a) GENERAL RULE.—(1) The matter preceding clause (1) of section 681(a) of the Community Services Block Grant Act (42 U.S.C. 9910(a)) is amended—

(A) by striking out "is authorized, either directly or through" and inserting in lieu thereof "is authorized to make"; and

(B) by inserting "to enter into" before "contracts".

(2) Section 681(a)(1) of the Community Services Block Grant Act (42 U.S.C. 9910(a)(1)) is amended by inserting before the semicolon a comma and the following: "including national conferences, newsletters, and collection and dissemination of data about programs and projects assisted under this subtitle".

(3) Subclause (A) of section 681(a)(2) of the Community Services Block Grant Act (42 U.S.C. 9910(a)(2)(A)) is amended to read as follows:

"(A) special programs of assistance, awarded on a competitive basis, to private, locally initiated, nonprofit community development corporations, (or affiliates of such corporations) governed by a board consisting of residents of the community and business and civic leaders, which sponsor enterprises providing employment and business development opportunities for low-income residents of the community designed to increase business and employment opportunities in the community;".

(4) Section 681(a)(2)(D) of the Community Services Block Grant Act (42 U.S.C. 9910(a)(2)(D)) is amended by inserting before the semicolon the following:

"(in selecting entities to carry out such programs, the Secretary shall give priority to private nonprofit organizations that before the date of the enactment of the Human Services Reauthorization Act of 1986 carried out such programs under this subparagraph)".

(b) REPORTS ON PROJECTS.—Section 681 of the Community Services Block Grant Act (42 U.S.C. 9910) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following:

"(b)(1) The final reports submitted by recipients of assistance under this section on projects completed with such assistance shall be summarized and reported by the Secretary annually to the Chairman of the Committee on Education and Labor of the House of Representatives and the Chairman of the Committee on Labor and Human Resources of the Senate. The report shall contain a list of recipients who have received assistance under this section outside of the competitive process.

"(2) The Secretary shall, at the end of each fiscal year, prepare and distribute a catalog listing all the projects assisted under clause (A) of subsection (a)(2) in such fiscal year. The catalog shall include—

"(A) a description of each project;

"(B) an identification of the agency receiving the award, including the name and address of the principal investigator;

"(C) a description of the project objectives; and

"(D) a statement of the accomplishments of the project.".

(c) CONFORMING AMENDMENTS.—(1) Section 674(a)(1)(B) of the Community Services Block Grant Act (42 U.S.C. 9903(a)(1)(B)) is amended by striking out "section 681(b)" and inserting in lieu thereof "section 681(c)".

(2) Section 680(a) of the Community Services Block Grant Act (42 U.S.C. 9909(a)) is amended by striking out "section 681(b)" and inserting in lieu thereof "section 681(c)".

(3) Section 614 of the Community Economic Development Act of 1981 (42 U.S.C. 9803) is amended by striking out "section 681(b)" and inserting in lieu thereof "section 681(c)".

SEC. 406. AUTHORIZATION OF APPROPRIATIONS FOR COMMUNITY FOOD AND NUTRITION.

Section 681A of the Community Services Block Grant Act (42 U.S.C. 9910(a)) is amended by striking out subsection (b) and inserting in lieu thereof the following new subsections:

"(b)(1) From 60 percent of the amount appropriated for a fiscal year to carry out this section, the Secretary shall allot for grants under subsection (a) to eligible agencies for statewide programs in each State an amount which bears the same ratio to 60 percent of such appropriation as the low-income and unemployed populations of such State bear to the low-income and unemployed populations of all the States.

"(2) Forty percent of the amount appropriated in a fiscal year to carry out this section shall be available for grants under subsection (a) to be awarded on a competitive basis to eligible agencies for local and statewide programs. In any fiscal year no agency may receive funds awarded in accordance with this paragraph in excess of $50,000.

"(c) There is authorized to be appropriated $3,000,000 for each of the fiscal years 1987, 1988, 1989, and 1990 to carry out this section.".

SEC. 407. INTEREST RATES PAYABLE ON CERTAIN RURAL DEVELOPMENT LOANS; ASSIGNMENT OF LOAN CONTRACTS.

(a) MODIFICATION OF INTEREST RATES.—Notwithstanding any other provision of law—

(1) any outstanding loan made after December 31, 1982, by the Secretary of Health and Human Services; or

(2) any loan made after the date of the enactment of this Act;

with monies from the Rural Development Loan Fund established by section 623(c)(1) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9812(c)(1)) or with funds available under section 681(a) of the Community Services Block Grant Act (42 U.S.C. 9910(a)) to an intermediary borrower shall bear interest at a fixed rate equal to the rate of interest that was in effect on the date of issuance for loans made in 1980 with such monies or such funds if the weighted average rate of interest for all loans made after December 31, 1982, by such intermediary borrower with such monies or such funds does not exceed the sum of 6 percent and the rate of interest payable under this subsection by such intermediary borrower.

(b) ASSIGNMENT OF CERTAIN LOAN CONTRACTS.—Any contract for a loan made during the period beginning on December 31, 1982, and ending on the date of the enactment of this Act with—

(1) monies from the Rural Development Loan Fund established by section 623(c)(1) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9812(c)(1)); or

(2) funds available under section 681(a) of the Community Services Block Grant Act (42 U.S.C. 9910(a));

to an intermediary borrower that is a county government may be assigned by such borrower to an entity to which such loan could have been made for the purpose for which such contract was made. Any entity to which such contract is so assigned shall be substituted as a party to such contract and shall be obligated to carry out such contract and the purpose for which such contract was made.

(c) TECHNICAL AMENDMENT.—Section 1323(b)(2) of the Food Security Act of 1985 (7 U.S.C. 1631(b)(2)) is amended—

(1) by striking out "authorized under" and inserting in lieu thereof "in, appropriated to, or repaid to";

(2) in subparagraph (A) by striking out "and" at the end thereof;

(3) in subparagraph (B) by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(4) by adding at the end thereof the following new subparagraph:

"(C) notwithstanding paragraph (1), all funds other than funds to which subparagraph (A) applies shall be used by the Secretary to make loans—

"(i) to the entities;

"(ii) for the purposes; and

"(iii) subject to the terms and conditions;

specified in the first, second, and last sentences of section 623(a) of the Community Economic Development Act of 1981 (42 U.S.C. 9812(a)). For purposes of this subparagraph, any reference in such sentences to the Secretary shall be deemed to be a reference to the Secretary of Agriculture.".

SEC. 408. DEMONSTRATION PARTNERSHIP AGREEMENTS ADDRESSING THE NEEDS OF THE POOR.

(a) GENERAL AUTHORITY.—(1) In order to provide for the self-sufficiency of the Nation's poor, the Secretary may make grants from funds appropriated under subsection (e) to eligible entities for the development and implementation of new and innovative approaches to deal with particularly critical needs or problems of the poor which are common to a number of communities. Grants may be made only with respect to applications which—

(A) involve activities which can be incorporated into or be closely coordinated with eligible entities' ongoing programs;

(B) involve significant new combinations of resources or new and innovative approaches involving partnership agreements; or

(C) are structured in a way that will, within the limits of the type of assistance or activities contemplated, most fully and effectively promote the purposes of the Community Services Block Grant Act.

(2) No grant may be made under this section unless an application is submitted to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may require.

(b) FEDERAL SHARE; LIMITATIONS.—(1) Grants awarded pursuant to this section shall be used for new programs and shall not exceed 50 per centum of the cost of such new programs.

(2) Non-Federal contributions may be in cash or in kind, fairly evaluated, including but not limited to plant, equipment, or services.

(3) Not more than one grant may be made to any eligible entity, and no grant may exceed $250,000.

(4) No application may be approved for assistance under this section unless the Secretary is satisfied that—

(A) the activities to be carried out under the application will be in addition to, and not in substitution for, activities previously carried on without Federal assistance; and

(B) funds or other resources devoted to programs designed to meet the needs of the poor within the community, area, or State will not be diminished in order to provide the matching contributions required under this section.

(c) DISSEMINATION OF RESULTS.—As soon as practicable, but no later than 90 days after the expiration of the fiscal year for which any grant is awarded under this section, the Secretary shall prepare and make available upon request to each State and eligible entity descriptions of the demonstration programs assisted under this section, and any relevant information developed and results achieved, so as to provide models for innovative programs to other eligible entities.

(d) DEFINITIONS.—As used in this section—

(1) the term "eligible entity" has the same meaning given such term by section 673(1) of the Community Services Block Grant Act (42 U.S.C. 9902(1)); and

(2) the term "Secretary" means the Secretary of Health and Human Services.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $5,000,000 for each of the fiscal years 1987, 1988, and 1989, to carry out this section.

TITLE V—LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM

SEC. 501. REAUTHORIZATION.

Subsection (b) of section 2602 of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621(b)) is amended to read as follows:

"(b) There are authorized to be appropriated to carry out the provisions of this title $2,050,000,000 for fiscal year 1987, $2,132,000,000 for fiscal year 1988, $2,218,000,000 for fiscal year 1989, and $2,307,000,000 for fiscal year 1990.".

SEC. 502. ADMINISTRATION OF ENERGY CRISIS INTERVENTION PROGRAM.

(a) ENERGY CRISIS INTERVENTION.—Section 2604(c) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623(c)) is amended—

(1) in the last sentence—

(A) by striking out "and the capacity" and inserting in lieu thereof "the capacity"; and

(B) by inserting ", and the ability to carry out the program in local communities" before the period at the end thereof; and

(2) by adding at the end thereof the following:

"The program for which funds are reserved under this subsection shall—

"(1) not later than 48 hours after a household applies for energy crisis benefits, provide some form of assistance that will resolve the energy crisis if such household is eligible to receive such benefits;

"(2) not later than 18 hours after a household applies for crisis benefits, provide some form of assistance that will resolve the energy crisis if such household is eligible to receive such benefits and is in a life-threatening situation; and

"(3) require each entity that administers such program—

"(A) to accept applications for energy crisis benefits at sites that are geographically accessible to all households in the area to be served by such entity; and

"(B) to provide to low-income individuals who are physically infirm the means—

"(i) to submit applications for energy crisis benefits without leaving their residences; or

"(ii) to travel to the sites at which such application are accepted by such entity.

The preceding sentence shall not apply to a program in a geographical area affected by a natural disaster in the United States designated by the Secretary, or by a major disaster or emergency designated by the President under the Disaster Relief Act of 1974, for so long as such designation remains in effect, if the Secretary determines that such disaster or such emergency makes compliance with such sentence impracticable.".

(b) ISSUANCE OF RULES.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall issue rules to carry out the amendments made by subsection (a).

SEC. 503. CALCULATION OF GRANTS TO INDIAN TRIBES.

Section 2604(d)(2) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623(d)(2)) is amended—

(1) by striking out "in such State with respect to which a determination under this subsection is made" and inserting in lieu thereof "and residing within the State on the reservation of the tribes or on trust lands adjacent to such reservation";

(2) by inserting before the period at the end of such section a comma and the following: "or such greater amount as the Indian tribe and the State may agree upon"; and

(3) by adding at the end thereof the following:

"In cases where a tribe has no reservation, the Secretary, in consultation with the tribe and the State, shall define the number of Indian households for the determination under this paragraph.".

SEC. 504. APPLICATIONS AND REQUIREMENTS.

(a) STATE PROCEDURES.—Section 2605(b)(5) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8624(b)(5)) is amended by striking out "in a manner consistent with the efficient and timely payment of benefits" and inserting in lieu thereof "in a timely manner".

(b) CONFORMING AMENDMENTS.—Section 2605(b) of the Low-Income Home Energy Act of 1981 (42 U.S.C. 8624(b)) is amended—

(1) by striking out clauses (14), (15), and (16);

(2) by inserting "and" at the end of clause (13); and

(3) by redesignating clause (17) as clause (14).

(c) CONTENTS OF STATE PLAN.—Section 2605(c)(1) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8624(c)(1)) is amended by striking out clauses (A) through (E) and inserting in lieu thereof the following:

"(A) describes the eligibility requirements to be used by the State for each type of assistance to be provided under this title, including criteria for designating an emergency under section 2604(c);

"(B) describes the benefit levels to be used by the States for each type of assistance including assistance to be provided for emergency crisis intervention and for weatherization and other energy-related home repair;

"(C) contains estimates of the amount of funds the State will use for each of the programs under such plan and describes the alternative use of funds reserved under section 2604(c) in the event any portion of the amount so reserved is not expended for emergencies;

"(D) describes weatherization and other energy-related home repair the State will provide under subsection (k);

"(E) describes how the State will carry out assurances in clauses (3), (4), (5), (6), (7), (8), (10), (12), and (13) of subsection (b); and

"(F) contains any other information determined by the Secretary to be appropriate for purposes of this title.".

(d) MODEL STATE PLAN FORMAT.—Section 2605(c) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8624(c)) is amended by adding at the end thereof the following new paragraph:

"(3) Not later than April 1 of each fiscal year the Secretary shall make available to the States a model State plan format that may be used, at the option of each State, to prepare the plan required under paragraph (1) for the next fiscal year.".

(e) CONSISTENT TREATMENT OF ENERGY ASSISTANCE PAYMENTS.—Section 2605(f) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8624(f)) is amended—

(1) by inserting "(1)" after the subsection designation;

(2) by striking out "provided to" and inserting in lieu thereof "provided directly to, or indirectly for the benefit of,"; and

(3) by adding at the end thereof the following:

"(2) For purposes of paragraph (1) of this subsection and for purposes of determining any excess shelter expense deduction under section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e))—

"(A) the full amount of such payments or allowances shall be deemed to be expended by such household for heating or cooling expenses, without regard to whether such payments or allowances are provided directly to, or indirectly for the benefit of, such household; and

"(B) no distinction may be made among households on the basis of whether such payments or allowances are provided directly to, or indirectly for the benefit of, any of such households.".

SEC. 505. GRANTS AND CONTRACTS FOR TECHNICAL ASSISTANCE AND TRAINING.

(a) AUTHORITY TO MAKE GRANTS AND CONTRACTS.—The Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.) is amended by inserting after section 2609 the following new section:

"TECHNICAL ASSISTANCE AND TRAINING

"SEC. 2609A. (a) Of the amounts appropriated under section 2602(b) for any fiscal year, not more than $500,000 of such amounts may be reserved by the Secretary—

"(1) to make grants to State and public agencies and private nonprofit organizations; or

"(2) to enter into contracts or jointly financed cooperative arrangements with States and public agencies and private nonprofit organizations;

to provide for training and technical assistance related to the purposes of this subtitle, including collection and dissemination of information about programs and projects assisted under this subtitle, and ongoing matters of regional or national significance that the Secretary finds would assist in the more effective provision of services under this title.

"(b) No provision of this section shall be construed to prevent the Secretary from making a grant pursuant to subsection (a) to one or more private nonprofit organizations that apply jointly with a business concern to receive such grant.".

(b) TECHNICAL AMENDMENTS.—Section 2604(a)(1) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623(a)(1)) is amended—

(1) in subparagraph (A) by inserting "after reserving any amount permitted to be reserved under section 2609A and" after "remaining"; and

(2) in subparagraph (B) by inserting "after reserving any amount permitted to be reserved under section 2609A" after "therefor".

SEC. 506. CONTENT OF REPORTS.

Section 2610(b) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8629(b)) is amended by inserting before the period at the end thereof the following:

", and a report that describes for the prior fiscal year—

"(1) the manner in which States carry out the requirements of clauses (2), (5), (8), and (15) of section 2605(b); and

"(2) the impact of each State's program on recipient and eligible households".

TITLE VI—CHILD DEVELOPMENT ASSOCIATE SCHOLARSHIP ASSISTANCE PROGRAM

SEC. 601. SHORT TITLE.

This title may be cited as the "Child Development Associate Scholarship Assistance Act of 1985".

SEC. 602. GRANTS AUTHORIZED.

The Secretary is authorized to make a grant for any fiscal year to any State receiving a grant under title XX of the Social Security Act for such fiscal year to enable such State to award scholarships to eligible individuals within the State who are candidates for the Child Development Associate credential.

SEC. 603. APPLICATIONS.

(a) APPLICATION REQUIRED.—A State desiring to participate in the grant program established by this title shall submit an application to the Secretary in such form as the Secretary may require.

(b) CONTENTS OF APPLICATIONS.—A State's application shall contain appropriate assurances that—

(1) scholarship assistance made available with funds provided under this title will be awarded—

(A) only to eligible individuals;

(B) on the basis of the financial need of such individuals; and

(C) in amounts sufficient to cover the cost of application, assessment, and credentialing for the Child Development Associate credential for such individuals; and

(2) not more than 10 percent of the funds received by the State under this title will be used for the costs of administering the program established in such State to award such assistance.

(c) EQUITABLE DISTRIBUTION.—In making grants under this title, the Secretary shall—

(1) distribute such grants equitably among States; and

(2) ensure that the needs of rural and urban areas are appropriately addressed.

SEC. 604. DEFINITIONS.

For purposes of this title—

(1) the term "eligible individual" means a candidate for the Child Development Associate credential whose income does not exceed the poverty line, as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), by more than 50 percent;

(2) the term "Secretary" means the Secretary of Health and Human Services; and

(3) the term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, and Palau.

SEC. 605. ADMINISTRATIVE PROVISIONS.

(a) REPORTING.—Each State receiving grants under this title shall annually submit to the Secretary information on the number of eligible individuals assisted under the grant program, and their positions and salaries before and after receiving the Child Development Associate credential.

(b) PAYMENTS.—Payments pursuant to grants made under this title may be made in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

SEC. 606. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $1,500,000 for each of the fiscal years 1987, 1988, 1989, and 1990 for carrying out this title.

TITLE VII—EXCELLENCE IN EDUCATION

SEC. 701. TECHNICAL AMENDMENTS.

Section 604(b) of the Excellence in Education Act (20 U.S.C. 4033(b))is amended—

(1) in paragraph (2) by inserting after "fiscal year" the second place it appears the following: "in which the appropriations for that year exceed $15,000,000"; and

(2) in paragraph (3) by inserting after "fiscal year" the second place it appears the following: "in which the appropriations for that year exceed $15,000,000".

TITLE VIII—REPORT REGARDING HOURS OF EMPLOYMENT OF BAT BOYS AND BAT GIRLS

SEC. 801. REPORT TO CONGRESS.

Not later than 180 days after the date of the enactment of this Act, the Secretary of Labor shall—

(1) determine whether a change in the permissible hours of employment for batboys and batgirls would be detrimental to their well-being and whether any such change should be proposed to the Congress; and

(2) submit a report to the President pro tempore of the Senate and the Speaker of the House of Representatives describing the results of such determination.

TITLE IX—BEGINNING READING INSTRUCTION STUDY AND LISTING REQUIRED

SEC. 901. STUDY AND LISTING REQUIRED.

(a) STUDY.—The Secretary of Education (hereinafter in this title referred to as the

"Secretary") shall conduct a study in order to compile a complete list, by name, of beginning reading instruction programs and methods, including phonics, indicating—

(1) the average cost per pupil of such programs and methods; and

(2) whether such programs and methods do or do not present well-designed instruction as recommended in the report of the Commission on Reading entitled "Becoming a Nation of Readers".

The listing required by this section shall be written in such a way as to be understandable to the general public.

(b) PUBLIC COMMENT.—In carrying out the study required by this section, the Secretary shall solicit public comments on beginning reading programs and methods.

(c) REPORTS.—The Secretary shall prepare and submit to the Congress such interim reports of the study and listing as the Secretary deems advisable. The Secretary shall prepare and submit a final report containing the listing required by this subsection to the Congress not later than 12 months after the date of the enactment of this Act. The Secretary shall publicize and disseminate nationally the listing required by this section to the education community, parents, and other interested persons.

TITLE X—EFFECTIVE DATES AND RELATED MATTERS

SEC. 1001. EFFECTIVE DATES; APPLICATION OF AMENDMENTS.

(a) GENERAL EFFECTIVE DATE.—Except as provided in subsections (b) and (c), this Act and the amendments made by this Act shall take effect on October 1, 1986, or the date of the enactment of this Act, whichever occurs later.

(b) EFFECTIVE DATE FOR ENERGY CRISIS INTERVENTION AMENDMENTS.—The amendments made by section 502(a) shall take effect on December 1, 1986, or 60 days after the date of the enactment of this Act, whichever occurs later.

(c) APPLICATION OF CERTAIN OTHER AMENDMENTS RELATING TO ENERGY ASSISTANCE.—The amendments made by subsections (a), (b), (c), and (d) of section 504 shall not apply with respect to any fiscal year beginning in or before the 60-day period ending on the effective date of this Act.

And the Senate agree to the same.

For consideration of the bill and all provisions (except title X) of the Senate amendment and modifications:

AUGUSTUS F. HAWKINS,
DALE E. KILDEE,
AUSTIN J. MURPHY,
MAJOR R. OWENS,
CARL C. PERKINS,
TERRY L. BRUCE,
DENNIS E. ECKART,
JIM J. JEFFORDS.

From the Committee on Energy and Commerce, for consideration of title III of the Senate amendment and modifications:

JOHN D. DINGELL,
ED MARKEY,
PHIL SHARP.

From the Committee on Education and Labor, for consideration of title X of the Senate amendment and modifications:

AUGUSTUS F. HAWKINS,
MARIO BIAGGI,
PAT WILLIAMS,
CHARLES A. HAYES,
DENNIS E. ECKART,
MATTHEW G. MARTINEZ,
JIM JEFFORDS,
BILL GOODLING,
TOM COLEMAN,
STEVE BARTLETT.

From the Committee on the Judiciary:

PETER W. RODINO,
DON EDWARDS,
JOHN CONYERS,
HAMILTON FISH,
F. JAMES SENSENBRENNER, Jr.

From the Committee on Energy, for consideration of section 1006 of the Senate amendment and modifications:

JOHN D. DINGELL,
HENRY A. WAXMAN,
Managers on the part of the House.

ORRIN G. HATCH,
PAULA HAWKINS,
DAN QUAYLE,
ROBERT STAFFORD,
EDWARD M. KENNEDY,
CHRISTOPHER DODD,
JOHN F. KERRY,
Managers on the part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE ON CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4421) to authorize appropriations for fiscal years 1987, 1988, 1989, and 1990 to carry out the Head Start, Follow Through, dependent care, community services block grant, and community food and nutrition programs, and for other purposes submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment to the text of the bill struck out all of the House bill after the enacting clause and inserted and substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

HUMAN SERVICES REAUTHORIZATION ACT

Citation

House bill—The House bill cites the Act as the Community Services Programs Amendments of 1986.

Senate amendment—The Senate amendment cites the Act as the Human Services Reauthorization Act of 1986.

Conference agreement—The House recedes.

HEAD START

Authorization

House bill—The House bill provides for authorization for Head Start at such sums as necessary for FY '87, FY '88, FY '89 and FY '90.

Senate amendment—The Senate amendment authorizes appropriations.

Fiscal year:	
1987	$1,130,542,000
1988	1,175,764,000
1989	1,222,795,000
1990	1,271,717,000

Conference agreement—The Senate recedes with an amendment to authorize the program at the following levels:

Fiscal year:	
1987	$1,198,000,000
1988	1,263,000,000
1989	1,332,000,000
1990	1,405,000,000

The Conferees direct the Secretary of Health and Human Services to distribute any appropriated funds for this program in a prompt manner. The conferees are concerned that delays in the receipt of funding awards can result in a reduction in program staff, an interruption of or reduction in vital education, health and social services and in certain instances, in additional and unnecessary costs being incurred by Head Start grantees.

Indian and migrant

House bill—The House bill provides that no less funds can be provided for Indian and Migrant programs for fiscal year 1987 and each subsequent fiscal year than were obligated for use in fiscal year 1985.

Senate amendment—The Senate amendment specifies that national funding for the Indian and Migrant Head Start programs is 7.1% of the amount appropriated for the total Head Start program.

Conference agreement—The Senate recedes.

Training and technical assistance

House bill—The House bill has no comparable provision

Senate amendment—The Senate amendment provides that in years when the Head Start appropriations are less than the FY 84 appropriation, funding for training and technical assistance shall be 3% of the appropriation.

Conference agreement—The Senate recedes.

Coordination

House bill—The House bill does not have a comparable provision

Senate amendment—The Senate amendment specifies that the type of programs Head Start agencies are to coordinate with are "state and local".

Conference agreement—The House recedes.

Income calculation

House bill—The House bill continues the current method of accounting income for purposes of determining eligibility for Head Start through fiscal year 1990.

Senate amendment—The Senate amendment continues the prohibition through 1990, of any change in the method the Secretary uses to calculate income used to prescribe eligibility for the participation of persons in the Head Start program if the change would result in any reduction or exclusion of persons in the program.

Conference agreement—The Senate recedes. The Conferees note under current law at least 10% of all of the enrollment opportunities in the Head Start program must be available for handicapped children to meet their very special needs. Handicapped children as defined by section 602(a)(1) of the Education of the Handicapped Act includes children who are mentally retarded, hard of hearing, deaf, speech or language impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, or other health impaired children or children with specific learning disabilities who by reason thereof require special education and related services. Based upon the strong commitment displayed by Congress over the years to serve handicapped preschoolers through the Head Start program, the Conferees reiterate their support of the definition of handicapped children as de-

fined in the Education of the Handicapped Act, the Conferees expect that the individuals who fall within this definition will continue to be served with the Head Start program. The Conferees further intend that any proposed change in the handicapped eligibility criteria meet those standards.

FOLLOW THROUGH

House bill—The House bill extends the Follow Through program through 1990 at such sums as necessary.

Senate amendment—The Senate amendment does not have a comparable provison.

Conference agreement—The Senate recedes with an amendment to delete Section 668(b) of the Act and to authorize the program at the following levels:

Fiscal year:	
1987	$7,500,000
1988	7,800,000
1989	8,112,000
1990	8,436,000

Section 668(b) of the Follow Through Act provides that financial assistance under this subchapter shall not be suspended for failure to comply with applicable terms and conditions, except in emergency situations, nor shall an application for refunding be denied, unless the recipient agency has been given reasonable notice and opportunity to show cause why such action should not be taken. In making this change, it is the conferees intent to emphasize that this is a competitive grant program and that the grant award process can consider applications other than existing grantees. However, current or past receipt of grants does not in or of itself preclude or give preference for consideration of future funding.

DEPENDENT CARE

Title

House bill—The House bill cites the Subchapter as "Dependent Care Programs Act".

Senate amendment—The Senate amendment cites the Act as the "State Dependent Care Development Grants Act".

Conference agreement—The House recedes.

Dependent care authorization

House bill—The House bill authorizes such sums as may be necessary for fiscal years 1987, 1988, 1989, and 1990.

Senate amendment—The Senate amendment reauthorizes the Dependent Care programs at

Fiscal year:	
1987	$20,000,000
1988	20,000,000
1989	20,000,000

Conference agreement—The Senate recedes with an amendment to authorize the program at the following levels:

Fiscal years:	
1987	$20,000,000
1988	20,000,000
1989	20,000,000
1990	20,000,000

The conferees direct the Secretary of Health and Human Services to distribute any appropriated funds for this program in a prompt manner.

Licensing

House bill—The House bill does not have a comparable provision.

Senate amendment—The Senate amendment provides that the specified types of information on dependent care services to be made available by resources and referral systems are optional rather than mandatory. It eliminates the requirement that before and after school childcare programs be provided at community centers only where school facilities are not available and clarifies that the licensing laws and regulations with which applicants must comply are those relating to "child care".

Conference agreement—The House receded. It is the conferees intent that where school facilities are utilized for childcare, programs physically conducted in schools may calculated space which they have access to and regularly use for school age child care programs after 3 p.m.

Child care definitions

House bill—The House bill does not have a comparable provision.

Senate amendment—The Senate amendment revises the definition of school-aged children to include children under age five, the younger age to be consistent with the age at which each state provides free public education to children.

Conference agreement—The House recedes.

COMMUNITY SERVICES BLOCK GRANT

CSBG authorization

House bill—The House bill authorizes $390,000,000 for fiscal year 1987 and such sums as may be necessary for fiscal years 1988, 1989 and 1990.

Senate amendment—The Senate amendment authorizes the CSBG program at

Fiscal year:	
1987	$381,409,000
1988	392,851,000
1989	404,636,000
1990	416,775,000

Conference Agreement—The Senate recedes with an amendment to authorize the program at the following levels:

Fiscal year:	
1987	$390,000,000
1988	409,500,000
1989	430,000,000
1990	451,500,000

Eligible entity

House bill—The House bill does not have a comparable provision.

Senate amendment—The Senate amendment expands the definition of eligible entity to include programs which came into existence in FY 1982 as a direct successor to a community action agency and meets all of the board composition requirements of section 675(c)(3).

Conference agreement—The House recedes.

Transfer authority

House bill—The House bill does not have a comparable provision.

Senate amendment—The Senate amendment requires that the allowed transfer of up to 5% of a state's allotment to specified programs or to provide assistance for state-awarded discretionary grants is to increase funds otherwise available to eligible entities under the Community Services Block Grant program. It prohibits the transfer of funds that would diminish the state's responsibility to pass through 90% of funds to eligible entities.

Conference Agreement—The Senate recedes.

Termination procedure

House bill—The House bill does not have a comparable provision.

Senate amendment—The Senate amendment establishes procedures which the Secretary must follow in reviewing State proposed termination of funding to CAA's or migrant and seasonal farmworker organizations. The procedures include a prompt review and written determination by the OCS. The Senate bill also requires the Secretary to assume responsibility for funding the affected eligible entity if a state terminates funding prior to the completion of the required state hearing and Secretary's review.

Conference agreement—The House recedes with an amendment. The Conferees intend that in situations where the Secretary provides continuing funding to an eligible entity, the amount of funding provided will be subtracted from the state allotment.

Fiscal evaluations

House bill—The House bill has no comparable provision.

Senate amendment—The Senate amendment combines the required investigation and evaluation of compliance requirements in the Community Services Block Grant program. It states that such compliance evaluations are to be made especially with regard to purposes of the Act to ameliorate the causes of poverty in communities, State public hearings on the proposed use and distribution of funds, and all the eleven agreements required of States in their annual applications for their allotments of funds. Such evaluations are to include the impact of funds under this program on children, homeless families, and the elderly poor. The Secretary will send recommendations of improvements on how to enhance the benefit and impact to people in need to each State and the State will then submit a plan of action in response to the recommendation contained in the report. Evaluation results are to be submitted annually to the Chairmen of the House Education and Labor and Senate Labor and Human Resources Committees.

Conference agreement—The House recedes with an amendment to add the category of pregnant adolescents to the list of which the Secretary will note the impact of CSBG funds during their evaluations.

Discretionary authority

House bill—The House bill does not have a comparable provision.

Senate amendment—The Senate amendment authorizes the Secretary to fund national conferences, newsletters, and the collection and dissemination of data about programs and projects funded under the Community Services Block Grant program as part of training activities authorized under the program. It also specifies that community development corporations, which are one of the special emphasis programs for which funding is authorized, are to be governed by a board consisting of residents of the community and business and civic leaders.

Conference agreement—The House recedes. The Conferees intend that funds available under this provision not be utilized for political activities including direct support of a national association.

Community economic development discretionary authority

House bill—The House bill provides that the Community Economic Development discretionary program be carried out in accordance with the Community Economic Development Act. The House bill references Section 616 and 617(a) paragraphs (1) through (4) to provide better direction regarding the goals and structure of this discretionary program.

Senate amendment—The Senate amendment specifies that Community Development Corporations, which are one of the special emphasis programs for which fund-

ing is authorized, are to be governed by a board consisting of residents of the community and business and civic leaders.

Conference agreement—The House recedes. The Conference notes that the continuing crisis in the farm economy has resulted in dislocation and high rates of unemployment in many rural states. Subject to the changes in the Community Economic Development section made in this Conference report, the Secretary is directed to ensure that CED funds are granted to rural states or rural areas within states. The Secretary is expected to encourage applications for discretionary funds which promote job creation and enterprise development in distressed rural communities and promote coordination with other state and federal efforts.

Rural development loan fund

House bill—The House bill does not have a comparable provision.

Senate amendment—The Senate amendment clarifies that the loans to borrowers made after the date of enactment of the Food Security Act and prior to the date of enactment of the Human Services Reauthorization Act of 1986 shall be transferred to and administered by the Secretary of Agriculture.

Conference Agreement—the House recedes with an amendment. The amendment makes a number of technical corrections to complete the transfer of rural development loan functions accomplished in large part by enactment of P.L. 99-198, the Food Security Act of 1985. That Act transferred to the Secretary of Agriculture funds available in the Rural Development Loan Fund established under section 623(c)(1) of the Community Economic Development Act of 1981 (42 U.S.C. 9801 et seq.) The Conference agreement ensures that all intermediary borrowers will be treated equitably, that the weighted average passed on by intermediary borrowers shall be no more than six points. The Conferees recognize that the cost of interest, administration, bad debt and technical assistance far exceeds the rate of interest charged by the intermediary on some loans but it is intended that the interest spread on individual loans be kept as close to six points as possible. The Conferees intend that funds available for loan purposes, i.e. repayments into the Rural Development Loan Fund, will be distributed in accordance with the provisions of Section 405 of the Human Services Reauthorization Act Amendments of 1986. It is the intent of the conferees that such distribution give high priority to rural areas in distress due to the farm crisis.

Rural community assistance programs

House bill—The House bill directs the Secretary to give priority to private nonprofit organizations that carried out such programs prior to the enactment of the Community Services Programs of 1986.

Senate amendment—The Senate amendment gives special priority to rural community assistance programs under the special emphasis program on rural housing and community facilities development.

Conference agreement—The Senate recedes with an amendment changing "such" to "community facility".

Poverty conference

House bill—The House bill does not have a comparable provision.

Senate amendment—The Senate amendment directs the Secretary to appoint an advisory panel to develop and hold a national conference to exchange information on past approaches to the problems of poverty and to formulate plans for future methods of attacking the causes of poverty. The Secretary is directed to reserve $100,000 from administrative expenses to fund this conference. This section specifies the composition of the nine member panel and who is to designate each of its members.

Conference agreement—The Senate recedes.

Reports on Grants outside of competitive process

House bill—The House bill has no comparable provision.

Senate amendment—The Senate amendment requires that the Chairman of the House Education and Labor and Senate Labor and Human Resources Committees are to be provided annually with a summary of final reports on projects assisted under the Secretary's discretionary authority and a list of grantees who have received funds under this authority outside of the competitive process. The Senate bill directs the Secretary to compile and make available a catalog listing information on the projects funded under the discretionary program.

Conference agreement—The House recedes.

COMMUNITY FOOD AND NUTRITION

House bill—The House bill continues authority for appropriations for Community Food and Nutrition programs at such sums as may be necessary for Fiscal Years 1987, 1988, 1989 and 1990.

Senate amendment—The Senate amendment extends the current authority for appropriations for the Community Food and Nutrition program at $2.5 million annually through 1990.

Conference Agreement—The Senate recedes with an amendment to specify that 60 percent of the funds appropriated shall be allocated as grants on the basis of poor and unemployed in each state and 40 percent of the grants shall be allocated on a competitive basis. In addition, the amendment authorizes the program at the following levels:

Fiscal year:

1987	$3,000,000
1988	3,000,000
1989	3,000,000
1990	3,000,000

The Conferees are concerned about past delays in the promulgation of regulations and distribution of federal grants, therefore, the Conferees direct the Secretary of Health and Human Services to issue a Request for Proposals no later than 90 days after enactment of the Act, and to obligate any appropriation made available no later than sixty days thereafter. In awarding grants under this authority, the Conferees expect the Department of Health and Human Services to take into consideration both the needs of Native Americans, migrants, seasonal and displaced workers and the demonstrated ability of state and local public and private nonprofit agencies to successfully develop and implement programs and activities similar to that authorized by Section 681A. It is the intent of the Conferees that agencies receiving grants under this Section give high priority to outreach and public education programs designed to inform low-income individuals of criteria for participation in and the nutrition services afforded by the various federally-assisted nutrition programs.

COMMUNITY SERVICES BLOCK GRANT DEMONSTRATION PROGRAM

CSBG demonstration projects

House bill—The House bill does not have a comparable provision.

Senate amendment—The Senate amendment authorizes a new program for the development and implementation of new and innovative approaches to deal with particularly critical needs or programs of the poor which are common to a number of communities. Grants are to be made only for the projects which: can be closely coordinated with grantees' ongoing programs, involve significant new combinations of resources of new and innovative approaches involving partnership agreements, or will effectively promote the purposes of the Community Services Block Grant program. The Secretary is authorized to make grants to eligible entities to pay for no more than 50% of the costs of the program, with the non-Federal share to be in cash or in-kind. Not more than one grant may be made to a single entity, and no grant may exceed $250,000. Federal funds are to be for new programs; they may not substitute for programs previously carried out without Federal assistance; and other resources for the poor may not be diminished to provide the non-Federal match required for this program.

Conference agreement—The House recedes.

Authorization for community services block grant demonstration projects

House bill—The House bill has no comparable provision.

Senate amendment—The Senate amendment authorizes $10,000,000 each for fiscal years 1987, 1988, and 1989

Conference agreement—The House recedes with an amendment to authorize grants for the Community Services Demonstration project at the following levels:

Fiscal year:

1987	$5,000,000
1988	5,000,000
1989	5,000,000

LOW INCOME HOME ENERGY ASSISTANCE PROGRAM

LIHEAP authorizations

House bill—The House bill does not have a comparable provision.

Senate amendment—The Senate amendment provides authorization for appropriations for the LIHEAP program at

Fiscal year

1987	$2,163,000,000
1988	2,227,890,000
1989	2,294,726,000
1990	2,363,567,000

Conference agreement—The House recedes with an amendment to authorize the program at the following levels:

Fiscal year

1987	$2,050,000,000
1988	2,132,000,000
1989	2,218,000,000
1990	2,307,000,000

The House recedes with a further amendment to require the Secretary to issue a yearly report on the manner in which certain requirements of the law are being carried out and the impact of each state's program on recipient and eligible households. It is the conferees intent that the new reporting requirements be included as a part of reports currently required under the statute, not a separate report. The amendment allows not more than $500,000 for technical assistance.

Energy crisis

House bill—The House bill does not have a comparable provision.

Senate amendment—The Senate amendment specifies that community-based organizations can be designated to administer LIHEAP payments for energy crisis intervention.

Conference Agreement—The House recedes with an amendment which specifies three components the crisis intervention programs shall include so as to ensure timely responses to emergency situations and that the special needs of handicapped and elderly are met. Conferees intended that the term nonprofit includes private community based organizations such as agencies on aging or community action programs. In providing specific performance standards at the end of section 2604(c), the conferees do not intend to require that the states actually deliver a check to an applicant or fuel vendor within the deadlines for delivering assistance. It is the intent of conferees to ensure that individuals who are in life threatening situations receive care. Noncash assistance will satisfy these standards as long as the assistance is received by the client within the deadlines specified in the statute. Examples of energy-related crisis intervention include space heaters, blankets, alternative shelter, payments, flexible arrangements with utility providers, and resolution of the crisis through means which result in the immediate provision of essential energy. States will be considered in compliance with this provision as long as the crisis is averted by the deadline. It is the conferees intent that the provision suspending the energy crisis intervention sections only applies in situations where the ability of programs to provide services is directly affected.

Indian tribal allotment under LIHEAP

House bill—The House bill does not have a comparable provision.

Senate amendment—The Senate amendment directs the Secretary to include Indian households residing within the State on the tribe's reservation or on trust lands adjacent to the reservation when calculating tribal allotments instead of only Indian households of the petitioning tribe. The section further provides authority to the Secretary to allocate a great amount of Federal LIHEAP funding for a tribal organization if the Indian tribe and the State both agree to such amount. In the case of tribes that do not have reservations, the Secretary shall define a population for the purposes of this paragraph in consultation with the tribe and the State.

Conference agreement—The House recedes.

Applications

House bill—The House bill does not have a comparable provision.

Senate amendment—The Senate amendment expands the requirements for the annual application under Section 2605(c) to stress that the neediest households receive the maximum assistance under LIHEAP. This section also repeals the requirement that States must describe the types of energy usage and the average costs of home energy by type of fuel for each region of the State.

Conference agreement—The House recedes with an amendment to Section 2605(b)(5) of such Act to give added emphasis to the fact that assistance should be directed to those most in need. The amendment would amend Section 2605(b) of LIHEAP in paragraph 5 by striking out "in a manner consistent with the efficient and timely payment of benefits" and insert "in a timely manner,". The amendment also reorganizes and revises the information which must be included in state plans.

State plans

House bill—The House bill does not have a comparable provision.

Senate amendment—The Senate amendment reorganizes the requirements for the annual applications under Section 2605(b) of the Act and the State plan under Section 2605(c) of the Act.

Conference agreement—The House recedes with an amendment to include the Model Plan requirement. The amendment requires the Secretary to make available each year a model state plan format that may be used to prepare the next fiscal year's state plan. The Conferees want to clarify that the Model State plan format required under this section need not be redrafted each year.

Consistent treatment

House bill—The House bill does not have a comparable provision.

Senate amendment—The Senate amendment clarifies that LIHEAP payments may not be considered as income in the determination of eligibility for Food Stamps. The section states that for the purposes of the Food Stamp Act the LIHEAP payments or allowances shall be deemed to be spent for heating or cooling expenses and no distinction shall be made regarding whether payments or allowances are provided directly to or indirectly for the benefit of any household. Amendments in this section are to become effective on date of enactment or October 1, 1986, whichever is later.

Conference agreement—The House recedes with a technical amendment.

Effective date

House bill—The House bill does not have a comparable provision.

Senate amendment—The Senate amendment provides for an effective date of October 1, 1986 or the date of enactment of the Act whichever is later.

Conference agreement—The House recedes with an amendment to provide for an effective date of October 1, 1986 or the date of enactment of the Act whichever is later. The amendment specifies that the amendments made by subsections (a), (b) and (c) of Section 504 shall not apply with respect to any fiscal year beginning in or before the 60 day period ending on the effective date of this Act. The amendment specifies that the amendments made by Section 502 shall take effect on December 1, 1986 or 60 days after the date of the enactment of this Act, whichever occurs later.

CHILD DEVELOPMENT ASSOCIATE SCHOLARSHIP

Child development associate scholarship

House bill—The House bill does not have a comparable provision.

Senate amendment—The Senate amendment authorizes the Secretary of Health and Human Services to award Child Development Associate Scholarship grants to any State receiving federal funds under the Social Services Block Grant. The grants may be used by the States to award scholarships to individuals who are eligible candidates for the Child Development Associate credentials. The Senate bill specifies assurances that the State must make on grant applications. These assurances include that the scholarship be awarded only to eligible individuals on the basis of financial need; in an amount sufficient to cover the costs of application, assessment and credentialing and that no more than 10% of the grant will be used on administrative costs. The Senate bill defines eligible individuals as those whose income does not exceed 150% of poverty. The Senate bill requires each State receiving a grant to submit an annual report on the number of eligible individuals assisted under this Act and their position and salaries before and after receiving the CDA credential.

Conference agreement—The House recedes with an amendment to delete the phrase "the various regions of the nation" from Section 503(c)(1). It is the intent of the Conferees that scholarship assistance for the CDA credential made available with funds under this title shall be made equally available for individuals working in family day care homes and child care centers as for those working in Head Start programs. In making grants under this section, the Secretary shall redistribute equitably any funds left over in the event that any state fails to apply. Further, the Conferees direct the Secretary of Health and Human Services to distribute any appropriated funds in a prompt manner and that regulations be promulgated within ninety days of enactment of these provisions.

CDA authorization

House bill—The House bill has no comparable provision.

Senate amendment—The Senate amendment authorizes appropriations at the following levels:

Fiscal year:	
1987	$1,500,000
1988	1,500,000
1989	1,500,000
1990	1,500,000

Conference agreement—The House recedes. The conferees direct the Secretary of Health and Human Services to distribute any appropriated funds for this program in a prompt manner.

EXCELLENCE IN EDUCATION

Excellence in education

House bill—The House bill has no comparable provision.

Senate amendment—The Senate amendment contains a provision which clarifies a clause in the Excellence in Education Act that authorizes funding for grants which are secured by private-sector funds. The Senate bill will limit the use of the set-aside until such time as appropriations reach at least $15 million.

Conferees agreement—The House recedes.

BAT BOYS

Bat boys

House bill—The House bill does not have a comparable provision.

Senate amendment—The Senate amendment amends the Fair Labor Standards Act to permit an exemption for children ages 14 and 15 to work up to 11:00 pm when school is in session two nights a week as bat boys and bat girls for league baseball games.

Conference agreement—The Senate recedes. The Conference agreement directs the Secretary of Labor to issue a report regarding whether a change in permissible hours of employment for bat boys and girls would be detrimental to their well being and whether or not such a change should be proposed. The report is required to be submitted to the Chairman of the House Committee on Education and Labor and the Senate Committee on Labor and Human Re-

sources within six months of date of enactment.

PRIMATE RESEARCH

Primate research

House bill—The House bill has no comparable provision

Senate amendment—The Senate amendment designates the Laboratory for Experimental Medicine and Surgery for Primates (LEMSIP) which is located in Sterling Forest New York as a regional primate center, thus making it eligible to compete for NIH grants.

Conference agreement—The Senate recedes.

READING INSTRUCTION

Reading instruction

House bill—The House bill does not have a comparable provision.

Senate amendment—The Senate amendment requires the Department of Education to compile a complete list, by name, of beginning reading programs, indicating whether they do or do not present well-designed phonics instruction as recommended by "Becoming a Nation of Readers".

Conference agreement—The House recedes with an amendment to require the Secretary of Education to conduct a study in order to compile a complete list by name of beginning reading instruction programs and methods, including phonics. This listing shall indicate the average cost per pupil of such programs and methods and whether they do or do not present well-designed instruction as recommended in the report of the Commission on Reading.

CHILDREN'S JUSTICE ACT

Children's Justice Act

House bill—The House bill does not have a comparable provision

Senate amendment—The Senate amendment amends the Child Abuse Prevention and Treatment Act to encourage States to enact child protection reforms which are designed to improve legal and administrative proceedings regarding the investigation and prosecution of child abuse cases.

Conference agreement—The Senate recedes.

For consideration of the bill and all provisions (except title X) of the Senate amendment and modifications:

AUGUSTUS F. HAWKINS,
DALE E. KILDEE,
AUSTIN J. MURPHY,
MAJOR R. OWENS,
CARL C. PERKINS,
TERRY L. BRUCE,
DENNIS E. ECKART,
JIM J. JEFFORDS.

From the Committee on Energy and Commerce, for consideration of title III of the Senate amendment and modifications:

JOHN D. DINGELL,
ED MARKEY,
PHIL SHARP.

From the Committee on Education and Labor, for consideration of title X of the Senate amendment and modifications:

AUGUSTUS F. HAWKINS,
MARIO BIAGGI,
PAT WILLIAMS,
CHARLES A. HAYES,
DENNIS E. ECKART,
MATTHEW G. MARTINEZ,
JIM JEFFORDS,
BILL GOODLING,
TOM COLEMAN,
STEVE BARTLETT.

From the Committee on the Judiciary:

PETER W. RODINO,
DON EDWARDS,
JOHN CONYERS,
HAMILTON FISH,
F. JAMES SENSENBRENNER, Jr.

From the Committee on Energy, for consideration of section 1006 of the Senate amendment and modifications:

JOHN D. DINGELL,
HENRY A. WAXMAN,
Managers on the Part of the House.

ORRIN G. HATCH,
PAULA HAWKINS,
DAN QUAYLE,
ROBERT STAFFORD,
EDWARD M. KENNEDY,
CHRISTOPHER DODD,
JOHN F. KERRY,
Managers on the Part of the Senate.

APPOINTMENT OF CONFEREES ON H.R. 4021, REHABILITATION ACT AMENDMENTS OF 1986

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4021), to extend and improve the Rehabilitation Act of 1973, with a Senate amendment thereto, disagree to the Senate amendment, and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California? The Chair hears none and, without objection, appoints the following conferees: Messrs. HAWKINS, BIAGGI, WILLIAMS, MARTINEZ, HAYES, ECKART of Ohio, WALDON, JEFFORDS, GOODLING, COLEMAN of Missouri, and BARTLETT.

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 4116, DOMESTIC VOLUNTEER SERVICE ACT AMENDMENTS OF 1986

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4116) to extend and improve the Domestic Volunteer Service Act of 1973, with a Senator amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California? The Chair hears none and, without objection, appoints the following conferees:

For consideration of all provisions of the House bill and of the Senate amendment and modifications committed to conference: Messrs. HAWKINS, ECKART of Ohio, JEFFORDS, and COLEMAN of Missouri.

For consideration of all provisions of the House bill and of the Senate amendment (except sections 3, 4, 5, 7, and 8(a) of the House bill and sections 3, 6, and 9 of the Senate amendment) and modifications committed to conference: Messers. KILDEE, OWENS, PERKINS, BRUCE, PETRI, and TAUKE.

For consideration of all provisions of the House bill and of the Senate amendment (except sections 8(b), 8(c), 8(d), and 9 of the House bill and sections 4, 5, and 10 of the Senate amendment) and modifications committed to conference: Messrs. WILLIAMS, BIAGGI, MARTINEZ, HAYES, WALDON, GOODLING, and BARTLETT.

There was no objection.

PROVIDING FOR CONSIDERATION OF SENATE AMENDMENT TO H.R. 4868, ANTI-APARTHEID ACT OF 1986

Mr. WHEAT. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 548 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 548

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House, without intervening motion, a motion if offered by the chairman of the Committee on Foreign Affairs to take from the Speaker's table the bill (H.R. 4868) to prohibit loans to, other investments in, and certain other activities with respect to, South Africa, and for other purposes, with the Senate amendment thereto, and to concur in the Senate amendment, and the Senate amendment shall be considered as having been read. Debate on said motion shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs, the previous question shall be considered as ordered on said motion to final adoption without intervening motion, and all points of order against said motion are hereby waived.

SEC. 2. Upon the adoption of the motion provided for in section 1, the House shall be considered to have adopted a House resolution containing the text: "*Resolved,* That in passing the bill, H.R. 4868, as amended by the Senate, it is not the intent of the House of Representatives that the bill limit, preempt, or affect, in any fashion, the authority of any State or local government or the District of Columbia or of any Commonwealth, territory, or possession of the United States or political subdivision thereof to restict or otherwise regulate any financial or commercial activity respecting South Africa".

□ 0935

The SPEAKER pro tempore. The gentleman from Missouri [Mr. WHEAT] is recognized for 1 hour.

Mr. WHEAT. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from Missouri [Mr. TAYLOR] pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 548 makes it in order for the chairman of the Foreign Affairs Committee to make a motion that the House concur in the Senate amendment to H.R. 4868, a bill which prohibits future loans to and investments in South Africa.

All points of order against the motion are waived under the provisions of the rule.

The rule also provides that the motion to concur in the Senate amendments is to be debatable not to exceed 1 hour—the time equally divided between the chairman and ranking minority member of the Committee on Foreign Affairs.

After debate is completed, a vote will occur on the motion. Adoption of the motion by the House will clear the bill for the President's signature.

The rule also provides that upon adoption of the motion to concur in the Senate amendment, the House shall be considered to have adopted a House resolution consisting of language which is contained in section 2 of the rule itself.

The text of the resolution states that in passing H.R. 4868, it is not the intent of the House that the bill should limit the ability of State or local governments to restrict or regulate financial or commercial activity relating to South Africa.

Mr. Speaker, today this House stands on the brink of passing historic legislation that will place the United States on the side of 24 million black South Africans trapped under the iron fist of apartheid. Enactment of the Anti-apartheid Act of 1986 would be the first significant step of this Congress to put moral force behind the administration's rhetorical condemnations of the racist regime in South Africa. No longer will we turn our heads and look the other way while millions of innocent men, women, and children suffer and die because of one reason, and one reason only—the color of their skin.

Among its major provisions, H.R. 4868 would prohibit importation into the United States of all products produced by any South African Government-owned or controlled organization. However, strategic minerals important to our military needs would be exempted from this prohibition if the President certifies to Congress that the amounts produced in the United States are inadequate to meet those needs. In addition, the importation of several specific items would be banned, including textiles, uranium, iron and steel, coal, and agricultural products.

Another new sanction in the bill would bar all new United States loans to South African businesses and the Government. United States firms would be prohibited from making any new investments in South Africa, except to those firms owned by black South Africans.

This legislation would prohibit any South African-owned airline from operating in the United States and ban all United States airlines from taking off or landing in South Africa.

These are some of the more important sanctions contained in the act. However, the President could suspend or modify any of the sanctions in the bill if he reports to the Congress that the South African Government has made substantial progress toward dismantling the apartheid system. Such progress would include the release of black leader Nelson Mandela and other political prisoners and repeal of the current state of emergency.

My colleagues, the apartheid system is founded on institutionalized racism, enforced by brutality, and sustained in no small measure by American compliance. The repression of that system draws a race of war of immense proportions closer by the day. The few voices of peace and moderation still left in South Africa are slowly drowning in a sea of blood, clinging to a branch of hope that this country will bring pressure to bear on a still intransigent regime.

We must respond in a meaningful way to the cries of reasonable black and white South Africans. Their cries have carried a loud, clear message for many years: The international community must apply sanctions against the South African Government. Sanctions represent the only means left by which the West can offer effective support to the cause of freedom in South Africa.

No doubt we will again be warned that sanctions will hurt those we are trying to help—black South Africans—as if this revelation of truth has gone unnoticed by black South Africans.

Those concerned with the effect of sanctions on the already miserable conditions of black South Africans will be relieved to know that punitive economic sanctions are supported by the African National Congress, the United Democratic Front, the largest trade unions, most prominent church leaders, including Bishop Desmond Tutu, Rev. Alan Boesak, and the leading Catholic hierachy in South Africa.

A clear consensus exists among black South Africans in support of this legislation. A clear consensus exists among our constituents to apply sanctions against Pretoria. Now, hopefully, a clear consensus exists in this Congress on the need for this legislation, on the need to bring moral conviction to United States policy in South Africa.

The time is upon us. Admittedly, this bill cannot guarantee peace in South Africa; it cannot guarantee freedom for black South Africans; it cannot guarantee an end to apartheid in South Africa. But it can guarantee one thing: That the rest of the world—especially those suffering in South Africa—will know that this Congress witnessed evil and had the guts to take a stand. Mr. Speaker, let's take that stand. We can do no less than that.

Mr. TAYLOR. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, House Resolution 548 is a limited rule under which the House will consider agreeing to the other body's version of a bill imposing economic sanctions against South Africa.

This rule eliminates the necessity for a conference with the Senate on the bill, H.R. 4868, which the House passed on June 18.

Mr. Speaker, the rule provides for consideration of the motion to agree to the Senate amendments in the House and no amendments will be in order.

The rule provides for 1 hour of debate on the motion, which is to be equally divided between the gentleman from Florida [Mr. FASCELL], the chairman of the Committee on Foreign Affairs; and the gentleman from Michigan [Mr. BROOMFIELD], the ranking Republican member of the Committee on Foreign Affairs.

Mr. Speaker, the rule waives all points of order against the motion to agree to the Senate amendments, in order that the House might accommodate the leadership's desire to complete action on this legislation this week.

The rule also includes the text of a resolution expressing the intent of the House that the bill not limit, preempt, or affect in any fashion, the authority of State and local governments to impose sanctions of their own.

Mr. Speaker, section 2 of the rule is included because a provision of the Senate amendment apparently has the effect of giving State and local governments 90 days to bring their laws into conformity with the bill, or face the possible loss of Federal funds.

Although I do not like the idea of Congress telling our State and local governments they must do something or face the loss of funds they are otherwise entitled to by law, the area of foreign policy belongs primarily to the Federal Government.

Mr. Speaker, there was no opposition to this rule during our hearing in the Committee on Rules last night. Many Members may very well be opposed to the Senate amendment, but there is also ample reason to oppose this rule on procedural grounds alone.

Mr. Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Speaker, this is an embarrassment for the House; but we are used to embarrassments. Yesterday we dealt with an omnibus blockbuster bill on drugs that went from aardvark to zebra. There had been no hearings to make the thing coherent, intelligible, but we got on the train and it went down the track and now today, another rush to judgment on a bill that is of great importance, that I have not seen a copy of. It is not here in the Chamber; I have looked under the chairs and all over, but we are going to move on it, because that same train is gathering speed.

I hope during the debate the defenders of the Constitution, who were so evident here yesterday and who expressed with some passion their concerns about the sanctity of the unreasonable search and seizure provisions of the Constitution, will today explain their reaction to article I, section 8 of the Constitution which says Congress shall have the power to regulate commerce with foreign nations.

Because in our rush over the cliff of legislative prudence, we are going to adopt a motion here that says that it is not the House's intent that this bill limit, preempt or affect in any fashion the authority of any State or local government or the District of Columbia to restrict or otherwise regulate any financial or commercial activity respecting South Africa.

I would like some of you scholars of the Constitution to explain how that squares with article I, section 8 of the Constitution. Or do we pick and select those parts of the Constitution we choose to recognize, and we ignore the others.

Now, you are not treating this issue seriously if you do not give us a chance to read what the sanctions are. You do not give us a chance to study them, and I suggest that this issue deserves more than a rush to judgment and shoving it down everybody's throat.

□ 0945

I am concerned about sanctions. I want moderation. I am not looking for a revolution to tear the African Continent apart. But I think there are those who want a revolution, and nothing short of a revolution will satisfy them. But this is unconstitutional, it is an embarrassment. It is a terrible way to legislate on important, serious matters, and I repeat it is an embarrassment. I yield back the balance of my time.

Mr. WHEAT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I appreciate the seriousness of the concern of the gentleman, and certainly Members of the House ought to have the opportunity to review this significant historic legislation. As the gentleman is aware, this legislation passed the other body some time ago in the middle of August and has in fact been available to all the Members of the House to review since that time. So all of the Members have had the opportunity to look at the sanctions. The sanctions will be thoroughly debated when we get to the review of the bill itself, and there will be 1 hour allotted to that review process.

Mr. GRAY of Pennsylvania. Mr. Speaker, will the gentleman yield?

Mr. WHEAT. I yield to the gentleman from Pennsylvania.

Mr. GRAY of Pennsylvania. I thank the gentleman for yielding.

Is it not true, I would ask the distinguished gentleman from Missouri—I would ask the gentleman, is it not true that the bill that is coming before the House as a result of this rule, if it is passed, is a bill written by the Republican leadership of the other body and was written and passed and debated for several weeks and had several hearings? And is it not true that most of the provisions in that bill are very similar to provisions that have been debated and considered on the floor of the House at one time or another and there have been hearings by the Committee on Foreign Affairs, which I think the gentleman has a crucial interest and maybe even a membership on, is that not true?

Mr. WHEAT. The gentleman states it correctly. We will in fact be debating the bill verbatim that was written by members of the other party in the other body.

Mr. GRAY of Pennsylvania. May I ask another question?

Mr. WHEAT. Certainly.

Mr. GRAY of Pennsylvania. With regard to the item read by the gentleman with regard to the rule and its constitutionality, it is my understanding that this writing is intended primarily to protect States rights and local governments' rights under the Constitution with regard to how they handle their financial affairs. It is not designed in any way, shape, or form to give State government and local government the ability to regulate international commerce, but it is designed primarily to express the intent that we, in no way, want to interfere with the judgment of any State legislature, any council which decides how it wants to regulate its own financial affairs with regard to things such as pension funds; is that not correct?

Mr. WHEAT. That is my understanding, that is the intent, is not to provide any new additional authority to State and local governments but merely not to preempt actions that they may have in fact taken with regard to this issue at this point, nor actions that they contemplate taking in the future.

Mr. GRAY of Pennsylvania. If the gentleman would further yield, so that is what you would be doing, you would be protecting the right of Governors like Tom Kean of New Jersey, a Republican Governor, or Governor Deukmejian of California, a Republican Governor, who have said that they have a special concern about how their States handle their pension funds and investments; is that not correct?

Mr. WHEAT. The rights of all States and local municipalities would be protected under the House resolution we would be adopting today.

Mr. GRAY of Pennsylvania. I was wondering, I would think many of our colleagues who, for many years, have been very concerned about Federal activities intervening in State and local governments and who have been arguing for greater State and local control would now be concerned about such a statement of intent since clearly what this is intended to do is to say that any action we take is not intended to preempt State and local governments from handling their own personal or their own jurisdictional financial affairs. So I would hope that everyone would understand that and that many of the gentlemen from the other side of the aisle who have been leaders in this country for several decades arguing about the Federal Government's intrusion into State and local affairs, would understand that this is a clear statement of that which they have argued for many, many years.

Mr. FASCELL. Mr. Speaker, will the gentleman yield?

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. WHEAT. I would be happy to yield to the gentleman from Illinois immediately after I yield to the distinguished chairman of the Committee on Foreign Affairs, the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. I thank the gentleman for yielding.

I would simply say in response to the constitutional question that the bill does not amend the Constitution because it cannot do so. So the Constitution is still the Constitution. And if a State or local government is doing something that is unconstitutional, it is still unconstitutional, I say to the gentleman from Illinois. The bill does not change that situation one bit; he knows it and I know it; we all know it.

With respect to the availability of the printed material, let me say it has never been the practice, as far as I know, since I have been here to print up the Senate amendment and distribute it as an original bill. The only way that is available is in the engrossed copy or when it is printed in the RECORD on the Senate side. What we are doing here today is totally in order, and that is to take up the Senate amendment.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. WHEAT. I would be happy to yield some of this side's time to the distinguished gentleman from Illinois.

Mr. HYDE. I will try to be brief. I thank my friend for yielding.

I appreciate the constitutional instruction from the chairman of the Committee on Foreign Affairs that we are not trying to amend the Constitution. I had discerned that myself from reading this document. But I suggest the gentleman has never addressed what rights the States have to regulate foreign commerce because the Constitution says Congress shall have the right and the power to regulate foreign commerce. You are saying you

are safeguarding the States' rights. They have no rights to regulate foreign commerce. While this does not amend the Constitution, as a matter of fact, it does not have the force of law, it is the sense of the House. But I suggest to you that in the plain reading of the English language in the Constitution, article I, section 8, it is the nonsense of the House, not the sense of the House.

I thank my friend for yielding.

Mr. WHEAT. Mr. Speaker, for the purposes of debate only, I yield 5 minutes to the gentleman from Texas [Mr. LELAND].

Mr. LELAND. I thank the gentleman for yielding.

Mr. Speaker, I rise in strong support of the rule before this body. Millions of our constituents have devoted countless time and energy to help place our great Nation on the side of justice and freedom in South Africa. Their tireless efforts to end United States support for the racist and inhuman Government of South Africa have resulted in the passage of anti-apartheid ordinances and laws in about 20 States and 80 cities throughout our country, including my home city of Houston, TX.

On June 18, 1986, the House of Representatives responded to the mandate of the American people by approving a comprehensive sanctions package authored by my good friend and colleague from California, RON DELLUMS, that would have ended all United States investment in and trade with South Africa. Subsequently, the other body approved a less stringent and less comprehensive measure against South Africa.

While the other body's language fails to end all commercial activity between the United States and South Africa, it does demonstrate to South Africa and the world the end of United States political support of a racist regime.

I am, however, particularily concerned, as I'm sure many of my colleagues are, over the other body's statutory silence on the question of Federal preemption over more stringent local and State ordinances and laws.

The rule before us has my strong support because its language clearly states that it is not the intention of this body to preempt or supercede any local and State laws referring to South Africa.

In the absence of statutory language in the other body's text, it is essential that we in this body establish a legislative history of intent not to preempt or supercede local and State anti-apartheid ordinances and laws.

I am concerned that without the clarifying language of intent contained in this rule, we risk losing the significant advance by the American people on local and State levels.

On a question of such magnitude, in which the American people have repeatedly and unequivocally called for an end to the oppression and violence that is apartheid, it is unconscionable for us—their elected Federal representatives—to ignore their mandate.

As Members of the House of Representatives we must emphatically state—for the record—that it was and is not our intention for the legislation soon before us to negate, in any form or fashion, any and all local and State anti-apartheid measures, ordinances and laws which resulted from the tireless efforts of millions of our constituents struggling to help bring peace and freedom to South Africa.

I would like to again commend my colleague of course from Missouri who has led us with the rule itself, has given us an incredible opportunity here to make that statement. I would also like to commend again the gentleman from California [Mr. DELLUMS], for his leadership in this matter, for providing us on balance the real debate on the issue of apartheid and how it is that we should challenge it.

I thank the Speaker and urge all my colleagues to join me in supporting this rule.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. DANIEL). The gentleman yields back 1 minute.

Mr. TAYLOR. Mr. Speaker, I yield 4 minutes to the gentleman from Virginia [Mr. PARRIS].

Mr. PARRIS. I thank the gentleman for yielding.

Mr. Speaker, every Member of this Chamber believes apartheid is an abhorrent policy. I am one of those, however, who have some lingering concern about the effectiveness of sanctions to eliminate that situation, or to improve the situation that exists in South Africa.

I ask for this time this morning, Mr. Speaker, and I rise in opposition to the process that is being utilized in this measure as I speak. This matter was not on the whip notice which is traditionally given to us at the end of the previous week so that we might know what will be considered by this body. This matter was not on the printed agenda, it was placed on the agenda only last evening at something around 10 p.m. by the leadership who only decided yesterday that they would accede to the Senate version of this legislation. The point is that we are asked to vote on a very important matter when there is not even a copy available on the floor of this Chamber, as we engage in this debate. We do not have a copy of the Senate version of this bill in the Cloakroom. The staff does not have a copy to give to us. It was not printed in the CONGRESSIONAL RECORD and the document room indicates it does not have a copy available. The Senate bill is 70 pages long and nobody has a copy of it to even look at as we discuss this matter. There isn't even a summary available for review.

Mr. Speaker, there is something fundamentally wrong with the legislative process when the greatest deliberative body of the strongest nation in the free world is asked to take some critically important action without even having the simple expediency of a piece of paper to read to see what it says that we are about to do. I suggest to you this resolution reads that we "concur in the Senate amendment and the Senate amendment shall be considered as having been read." The reason we do not read it is because nobody has got one. How do we know what we are about to do?

The bill as passed by the House was enormously different than the version adopted by the Senate. Who can tell me whether it says in the Senate version that we must negotiate only with the African National Council which has a large Communist representation in its membership? That's what the House bill provided. Who can tell me whether the Senate version says there must be immediate disinvestment without any opportunity for the extension of economic credit for health, or for humanitarian concerns or for any other reason? Does anybody know what we were asked to vote for here this morning?

Mr. DELLUMS. Mr. Speaker, will my colleague yield?

Mr. PARRIS. I would be glad to yield to my distinguished friend.

Mr. DELLUMS. I appreciate my distinguished colleague yielding, and I in no way wish to challenge the gentleman's concern with respect to process. But I would just say I know that my colleague has been here long enough to know that we do not print Senate amendments other than the day that they are passed in the Senate and then printed in the RECORD. That is tradition. That is a matter of fact.

Mr. PARRIS. I would simply say to my friend that, had I been informed that this matter was coming up this morning. I would hope, in the face of an important consideration on the drug abuse problem of yesterday on which we spent all day and until 10:30 last night, had I known that we were not going to approach the problem, if you will, of tax reform which I am trying to do a little study about, had it not been for the fact that we are going into the continuing resolution next week and the reconciliation act which represents the expenditure of one-half trillion dollars, on which I have been spending some time, I would have tried, had time permitted, to look at this matter. But nobody ever told any of us; not just me that this matter was pending and would be considered this morning. I am not the only person around here

who did not know until last night at 10 p.m. that this matter was coming up because the leadership did not know. Had we been given some kind of reasonable notice, then those of us who were unable to address our attention to this matter at an earlier time would be in a different situation. The situation we have here today is totally unconscionable, regardless of the merits of the issue addressed by this legislation. How can we as the elected leadership of the citizens of the United States take some action as critically important to the continent of Africa and the citizens of South Africa, black or white, as this without even knowing what we are doing and without an adequate time for consideration or debate? I respectfully submit that that is exactly what we are are doing here this morning.

Now, on the question of constitutionality or unconstitutionality, I would say to my friend, the chairman of the Committee on Foreign Affairs, if you believe this matter is clearly unconstitutional, which it obviously is, then we ought not to vote for it. It is not a question of whether we are amending the Constitution. This resolution says it is not the intent of this Congress to limit or preempt the District of Columbia to restrict or otherwise regulate any financial or commercial activity respecting South Africa.

□ 1000

What that means, Mr. Speaker, is that every political jurisdiction in this Nation can restrict the sale of Ford auto parts unless it disinvests its presence in South Africa. That is in direct opposition to article I, section 8 of the Constitution and should therefore be rejected.

I think the consideration of this proposal under this process this morning is simply outrageous.

Mr. WHEAT. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Connecticut [Mr. MORRISON].

Mr. MORRISON of Connecticut. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in support of the rule and in support of the House passage of this measure.

I wish we were voting on a conference report that was closer to the version that the House passed earlier this year. The amendment of the gentleman from California was the toughest sanctions bill that we have ever considered in the House, and we passed it.

I spent 10 days in South Africa during August, and I come back with the conviction that economic leverage, strong economic leverage, as mandatory and as universal as we can achieve is the last hope that we have to avoid a holocaust in South Africa of great bloodshed and suffering.

The debate is not whether some in South Africa will suffer, including some blacks will suffer, from sanctions. The question is whether or not that economic hardship can be used as leverage for the change that must come for majority rule in that country. That is where things must go. The question is: Is this Nation, is this Congress, going to put itself squarely on the side of that change and use the powers that are available to us to help bring it about?

There cannot be change in South Africa without sacrifice of the white majority, those who have controlled the destiny there for too long. If we can do it with economic pressure, we will gain much in that regard. For too long we have searched for and found excuses not to act, but our failure to act will be recorded against us long into the future.

I hope the House will take this opportunity to move one small step in the right direction. The decision now will be up to the President whether or not he wants a peaceful and rapid change to majority rule in South Africa.

Mr. TAYLOR. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, for 1 moment, I want to add my voice to those who have gone before me, and not to talk about the oppressive laws of South Africa. I think we could get a total majority in this House, a total vote, against those laws.

What I am talking about is not the Constitution of South Africa, but the Constitution of the United States. And I would ask us for 1 moment to take a look at what we are doing here. I might take just 1 moment to give a short lesson in constitutional law.

The several States of this Nation came together 200 years ago and granted certain powers to the Federal Government. Specifically, those powers not specifically granted to the Federal Government are reserved to the States, and that is what those of us who believe so strongly in States' rights are talking about.

But even those of us who are so strongly in favor of States' rights do understand that there are some specific powers that were granted to the Federal Government. I read to you: "The Congress shall have the power to regulate commerce with foreign nations."

Even 200 years ago our forefathers recognized the importance of speaking with one voice. If we want to expand the sanctions, let us do it from Washington. We are the United States speaking to the Union of South Africa about an oppressive regime. We are not the District of Columbia, the State of Florida, the State of Texas or the State of Pennsylvania.

Can you imagine in other situations how confusing it would be for the world for the 50 States and the District of Columbia to be speaking and espousing the public policy of this United States as it applies to foreign nations? It is wrong. It is unconstitutional, and it damages the image that this country wishes to portray to the entire world in dealing with foreign countries.

Mr. WHEAT. Mr. Speaker, for the purpose of debate only, I yield 3 minutes to the gentleman from New York [Mr. SOLARZ].

Mr. SOLARZ. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I hope to speak during the debate on the bill itself about the fundamental justification for the adoption of this legislation. During the course of the debate on the rule, I simply want to confine myself to commenting on the issue of preemption.

I want to make the point that in addition to the language included in the rule before us which makes it clear that it is the intent of the House that the adoption of the legislation on South Africa not preempt State and local authorities from taking their own actions with respect to South Africa, that there has been a memorandum prepared at my request by the law division of New York City which makes it very clear, I think, that with but one exception, there is nothing in the bill that came out of the Senate which would preempt the right of State and local governments to take their own actions concerning apartheid.

I am including the memorandum at this point as a way of further bolstering the legislative history on this issue.

The memorandum follows:

THE CITY OF NEW YORK,
LAW DEPARTMENT,
New York, NY, September 11, 1986.

MEMORANDUM

To: Hon. STEPHEN SOLARZ, Member of Congress.

From: Paul T. Rephen, Chief, Division of Legal Counsel.

Re: Status of State and Local Anti-Apartheid Legislation under the Proposed Comprehensive Anti-Apartheid Act of 1986.

You have asked for our view as to the effect of the proposed Comprehensive Anti-Apartheid Act of 1986, as approved by the Senate, on the ability of state and local governments to continue to enforce their anti-apartheid legislation. Such legislation generally limits the power of government to enter into contracts with certain companies doing business in South Africa or requires divestiture of stockholdings in those companies. For the reasons explained below, it is our view that if the Senate bill in its current form is enacted into law, state and local governments will continue to be able to enforce

their laws, except with respect to contracts that are federally-aided.

The Senate considered the effect of its bill on state and local laws during a debate on August 15, 1986. The issue was raised when Senators D'Amato and Moynihan introduced an amendment that would have preserved the right of state and local governments to apply their anti-apartheid legislation to federally-aided contracts, as long as the state or local government assumed any increase in the cost of a contract resulting from the application of its law. Senator D'Amato explained that early this year the United States Department of Transportation had withheld approval of funding for highway contracts by the City of New York on the ground that application of the City's Local Law 19, which provides for the award of a contract to other than the lowest bidder in certain circumstances where the lowest bidder does not agree to refrain from doing business with the agencies that enforce apartheid, conflicts with federal competitive bidding requirements. Senator D'Amato also noted that Congress had provided relief to the City by enacting legislation that would enable the City to apply Local Law 19 to its federally-aided contracts through the end of the current federal fiscal year, September 30, 1986. The purpose of the D'Amato/Moynihan amendment to the Senate version of the Comprehensive Anti-Apartheid Act was to make this protection permanent, and to extend it to all state and local governments that have adopted similar legislation. As Senator D'Amato observed, such legislation has been enacted by at least 25 local governments.

Senator Lugar opposed the D'Amato/Moynihan amendment on the ground that the proposed federal legislation should preempt state and local legislation concerning South Africa. When Senator Pell commented that the legislation should not interfere with divestiture programs that have been adopted by some states, Senator Lugar responded that this matter would have to be resolved by the courts, but the D'Amato/Moynihan amendment "muddies the water with regard to the preemption issue." After this discussion, a vote was taken on the amendment, and it was defeated by a vote of 64–35, with one abstention.

Senators D'Amato and Moynihan then offered another amendment, which was adopted by the Senate. This amendment, now § 606 of the Senate bill, provides:

"Notwithstanding section 210 of Public Law 99–348 or any other provision of law—

"(1) no reduction in the amount of funds for which a State or local government is eligible or entitled under any Federal law may be made, and

"(2) no other penalty may be imposed by the Federal Government,

by reason of the application of any State or local law concerning apartheid to any contract entered into by a State or local government for 90 days after the date of enactment of this Act."

Senator D'Amato explained that this amendment gives local governments that have passed anti-apartheid legislation 90 days after the date of enactment of the proposed federal law "to change their laws," and said that it "prevents any loss of Federal funds that might result from the passage of the anti-apartheid legislation on a local basis."

The amendment adopted by the Senate appears to allow state and local governments to continue to apply their local anti-apartheid legislation to federally-financed contracts for a period of up to 90 days following the enactment of the proposed federal law, while at the same time allowing the state and local governments time to exclude federally-funded contracts from the operation of their legislation.

By adopting this amendment, it would appear that the Senate did not intend to preempt all state or local laws concerning South Africa. Rather, the Senate bill only precludes states and localities from applying such laws to contracts funded by the federal government. Senator D'Amato's comments in support of his and Senator Moynihan's amendment indicate that the amendment's purpose was to permit states and localities to continue to enforce their statutes dealing with South Africa except in the case of federally funded contracts. We have consulted with Senator D'Amato, and he confirms this interpretation of his amendment.

I believe the adoption of the rule will make it crystal clear the House does not intend that this legislation on South Africa preempt the right of State and local authorities to take action on South Africa, and this memorandum of law makes it clear that neither did the Senate intend to do so either, regardless of some passing observations that may have been made by one Member of the other body during the course of the debate.

Mr. SHAW. Mr. Speaker, will the gentleman yield to me?

Mr. SOLARZ. I yield to the gentleman from Florida.

Mr. SHAW. The question is not the point of talking about whether or not we are preempting the States rights. The problem is in the wording of the resolution itself. It said, and I read:

* * * The authority of any State or local government or the District of Columbia or of any Commonwealth, territory, or possession of the United States or political subdivision thereof to restrict or otherwise regulate any financial or commercial activity respecting South Africa.

That is all inclusive of the powers that have been specifically reserved to the Federal Government.

Mr. FASCELL. Mr. Speaker, will the gentleman yield?

Mr. SOLARZ. I yield to the gentleman from Florida, the very distinguished chairman of the Foreign Affairs Committee.

Mr. FASCELL. Mr. Speaker, the answer is obviously simple in the sense that if the States and local governments do not have authority, then they do not have it under the Constitution. So it does not make any difference how you read this language. It is immaterial, because it cannot change the Constitution.

If the States are now doing something unconstitutional, then it is unconstitutional. This legislation does not clothe them with any additional power.

Mr. TAYLOR. Mr. Speaker, I yield 5 minutes to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, we simply do not have enough time, this rule does not allow enough time for us to debate the ramifications of the Senate bill adequately.

I want to make three points. The pain and suffering that colleagues on the other side of the aisle say is necessary to bring about positive change in South Africa is going to be much more widespread than we anticipate because of this legislation.

Yesterday in my office, I had 12 people from Inkatha come to visit me and talk to me about these sanctions. To a man or woman, they were opposed to these sanctions. They represent 1.3 million black South Africans. They represent Chief Buthelezi, the Chief of the Zulu tribes, 6 million black South Africans. They said they do not want these sanctions.

So many of my colleagues have been misguided into believing that the previous sanctions that have been imposed by the administration have changed such things as the pass laws. Those people yesterday told me the pass laws were changed because of internal pressure from blacks coming to the cities in large numbers to such a degree that the South African Government could not cope and they changed the pass laws out of necessity. Not because of our sanctions. Our bludgeoning the South African Government is not going to change apartheid; what is going to change apartheid, according to INCATHA, is for us to help the economic plight of the blacks so that they can grow in strength and continue to put pressure internally upon that Government to bring about change. That is what they asked us to do.

□ 1010

What will these sanctions bring to the South African blacks? First of all, we are going to see in the coal mines 145,000 blacks lose their jobs. The Gray bill would have done that. But this bill, the bill coming out of the Senate, will cut agricultural exports, among other things, totaling 446,000 jobs. Each one of those people feeds five to six other South African blacks. That means 2.2 million South African blacks will be without sustenance. That does not include the other industries that are related to these industries that will be adversely affected.

In addition to that, the South African National Congress, the African National Congress, is going to be the beneficiary and we all know they are controlled by the Communists. Nineteen of the 30 members of the Executive Committee of the African National Congress are members of the South African Communist Party, and they want violent revolution. Joe Slovo, the head of their military wing, has talked consistently about a violent revolution and overthrow of that Government.

If we put these people out of work, if they cannot feed their kids, they are going to be ripe for that revolutionary rhetoric from the Communists and they are going to fall right into that trap and we are going to see a bloodletting like you will not believe. Not because of leaving them alone, but because of what we are doing.

My colleagues say if we do not do something there will be a revolution. I say to you these sanctions will cause a bloody revolution, and we do not want that to happen.

Let us just talk about how it is going to affect the United States of America. Nobody talks about that. The strategic minerals that are vital for the security of this country and our industrial health come from South Africa. Only 5 percent of their exports are strategic minerals. What makes anyone think they are going to sell us strategic minerals that are vital to our economic health and our defense if we embargo products that they want to sell to us in large quantities? Ninety-nine percent of the manganese that we use in steel production comes from South Africa. The only other place we can get it in quantity is from the Soviet Union.

Now the cost of steel is going to go up directly proportionate to the cost of manganese. Platinum, which is vital to this country, the catalytic converters, 80 percent of it for the free world comes from South Africa. We are going to cut that off.

Let us get back to the steel. The cost of automobiles is going to go up, the cost of farm implements is going to go up, the cost of constructing buildings is going to go up. Let us talk about agriculture. Two years ago South Africa bought 2.7 million metric tons of corn. They bought more wheat this year than the Soviet Union has and they are cash buyers.

My colleagues, we cannot afford to lose any more agricultural markets. So if you look at the bottom line, the bottom line is we are going to hurt the very people we want to help. We are going to play into the hands of the Communists. Strategic minerals that are vital to the security of this country we are going to have to deal with the Soviets to get if the African National Congress takes over South Africa, if the Communists have their way and they might very well succeed.

Finally, the farmers, and I have a lot of them in the Sixth Congressional District of Indiana, are going to be without another market. We cannot afford that. Now if you think that is not a big problem, go out and talk to them. If you think that is not a big problem to auto workers, the unfair competition from overseas and how this is going to translate into higher auto costs, go out and talk to them.

So you are not only hurting the black South Africans, you are hurting American industry and business and the farmers as well.

Mr. WHEAT. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. WEISS].

(Mr. WEISS asked and was given permission to revise and extend his remarks.)

Mr. WEISS. Mr. Speaker, let us speak plainly. For its black majority, South Africa is a totalitarian state without a free press, without the rule of law. South Africans are prevented from assembling peaceably even to bury the victims of official murder.

The bill before us today is not all that I would have wished. It does not provide for full disinvestment as the bill I cosponsored, which was sponsored by our distinguished friend and colleague, Mr. DELLUMS from California, and adopted by this House on June 18 provided. Its impact on the South African Government will be only incremental. But it is, nonetheless, an important step in the right direction. It is a step in the direction to which the American people have been pushing us over the course of these past months and years.

In that context, let me address the issue of preemption. There has been reference to Republican Governors of California and of New Jersey whose States, among many other States and localities, have undertaken to prevent financial involvement with South Africa. The city of New York has a regulation which provides that any company desiring to bid for New York City business has to certify that it is not any company doing business with South Africa.

The Secretary of the U.S. Department of Transportation has ruled that because of that provision, the city of New York shall receive a reduced amount of Federal assistance from DOT. That is wrong. No city or State should be penalized for adhering to a higher moral standard than the Federal Government in regard to the evil of apartheid. The language in this resolution sets forth the clear congressional intent to allow the States and localities to decide whom they will do business with.

It has been made necessary to include such a sense of Congress because one important Member of the other body has seen fit to make a statement which would suggest otherwise. It is absolutely essential, for the record to be clear, that the right of the cities, localities, and the State governments of this country to make their own determination to stop doing business with South Africa is in no way intended to be preempted or superseded by this legislation.

These local initiatives are in the best tradition of local government in America. They do not undermine or interfere with the Federal Government's control over foreign policy. On the contrary they complement it.

Mr. Speaker, the time for decisive action on South Africa is now. In recent weeks we have seen the level of repression and official murder increase to unprecedented levels. The South African authorities have made it plain that they will not be moved by words of condemnation, or "quiet diplomacy," or "constructive engagement."

I urge the adoption of the bill before us today. We must send a strong signal which will be heard by the black majority in South Africa and by our European allies—and by those who cling to power in South Africa itself.

Mr. TAYLOR. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. I thank the gentleman for yielding me this time.

Mr. Speaker, I get the feeling that we have kind of a clever little game being played out here about the bill that we are bringing to the floor, and I just want to try to make a little legislative history here myself.

I intend to vote for the Senate amendments, but I intend to vote for them because they are in fact a balanced approach to this problem. A balanced, constitutional approach to the problems that we face in South Africa. A part of that balance is that Congress is saying flatly that we are making a determination of national foreign policy relating to South Africa. It is a unified policy that is not to be changed by States or localities or universities or whatever.

We are in fact saying that we are preempting the ability of others to set their own foreign policies. Now, when we put language in this particular rule that causes some of us who are going to vote for the Senate approach a little bit of a problem because what this is an attempt to do is to say something different than that which the bill is that they are bringing to the floor. I think it is extremely important for some of us who are going to vote for this bill to say flatly that it is our intention to vote for a bill that does in fact set a unified foreign policy and a unified policy with regard to the commerce of this Nation that is in line with article 1, section 8 of the Constitution. That is exactly what I think we intend to do out here. I want the legislative history to be clear.

What we are doing in this rule is simply a sense of the House. It has absolutely nothing to do with the statutory language which is in the Senate bill. The statutory language of the Senate bill makes absolutely clear that we are preempting the ability of others outside the national government to set foreign policy. Foreign policy should be in the hands of the Congress and it should stay there.

Mr. SOLARZ. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from New York.

Mr. SOLARZ. I thank the gentleman for yielding.

Mr. Speaker, I have in my hand the Senate bill. Can the gentleman point to a single paragraph, a single sentence or a single word in the Senate bill which explicitly preempts the right of State and local governments to take action on South Africa?

Mr. WALKER. Let me say to the gentleman I will go back to what the gentleman from Florida has told us here a few minutes ago.

□ 1020

The Constitution makes that clear. We do not have to put language in to do that. The Constitution makes clear that when we set policy and when we tell the States they must come into compliance with the Federal law, we are in fact acting under the Constitution. The gentleman from Florida is absolutely right there, and that is the language in the bill to which I refer.

Mr. GRAY of Pennsylvania. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Pennsylvania.

Mr. GRAY of Pennsylvania. Mr. Speaker, let me say to my colleague, the gentleman from Pennsylvania, that I just want to understand what he is saying. I think I do. I might disagree, but I just want to make sure I understand.

The gentleman is telling us he is for legislation——

The SPEAKER pro tempore (Mr. DANIEL). The time of the gentleman from Pennsylvania [Mr. WALKER] has expired.

Mr. WHEAT. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise also today to discuss the legislative history and to support the rule as well as the bill, H.R. 4868, as amended.

While the language of this bill will not be nearly as strong as the language that I would like to see nor as strong as the language that this body sent over to the other body, it does remain a powerful policy statement on one of the most important moral issues of our times—apartheid, the ability of an individual to exercise his or her fundamental human rights, the right to vote, the right to live where they choose, and the right to be treated as a full citizen in the land of their birth.

The overwhelming bipartisan support in Congress for sanctions reflects our legitimate concern over South Africa and our frustration with the appalling administration inaction on this issue.

But there is a very important point that has been discussed in the context of this debate and in the context of this rule that I would like to emphasize in the remainder of my remarks. Many State and local governments have taken the lead on South African sanctions. In fact, they have been instrumental in creating the momentum for action at the Federal level when the Federal Government lagged behind some of the leadership on the State and local levels.

My own State of California, for example, recently passed a landmark law mandating the divestiture of stock in companies operating in South Africa.

This rule that we are voting on today includes language protecting such laws. We include important language protecting such laws by clearly indicating that it was not the intent of Congress in passing legislation to preempt State and local actions on South Africa. That language in this rule is critical if we are to ensure that States have the right to determine their own investment policies.

Mr. Speaker, I urge my colleagues to support the rule and the bill, as amended, and specifically to understand the legislative history contained in this rule, that we oppose preemption and that we are protecting State and local laws.

Mr. TAYLOR. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin [Mr. ROTH], a member of the committee.

Mr. ROTH. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, just as the Bible and the Constitution or any other legislation passed by this House, this legislation is open to interpretation. Today the House is agreeing to the South African sanctions bill adopted by the other body. In so doing, we adopt the intent and legislative history of its authors.

This bill was debated for 3 days on the floor of the other body and the authors who penned various provisions in the bill made clear their intent.

As ranking member of the International Economic Policy and Trade Subcommittee which has jurisdiction for trade sanctions, I would like to add to the record a reiteration of congressional intent with respect to the provisions of new loans and investments:

PROHIBITIONS ON NEW LOANS TO, AND NEW INVESTMENTS IN, SOUTH AFRICAN ENTITIES

H.R. 4868, passed by the Senate on August 15, 1986, prohibits U.S. persons from extending new financing to public and private sector South African entities whether in the form of loans, purchase of stock, bonds, or assets. The specific exceptions to these broad prohibitions, discussed here and established by the bill, represent a reasoned decision in each case that U.S. nationals, rather than South Africans, would suffer unjustified financial harm absent the exceptions.

1. PREEXISTING AND RESTRUCTURED LOANS

A. Description of restructured debt

In August 1985, South Africa declared a moratorium on payment of short-term debt owed by South African residents to foreign creditors. South African debt outstanding and subject to the moratorium totalled approximately $14 billion. The reason for the suspension of payments was that South Africa lacked the aggregate foreign exchange for South African private and public sector debtors to meet all payments owed in foreign exchange when due.

Such a unilateral suspension of payments clearly was untenable from the viewpoint of the creditors, who immediately began pressing the South African authorities to resume repayments on an orderly schedule at the earliest possible date, and made clear that no new foreign exchange would be provided. The result of these efforts was as follows:

South Africa provided to its public and private sector debtors a repayment of 5 percent of the principal amounts covered by the moratorium and maturing, beginning April 15, 1986.

South Africa committed to provide foreign exchange to South African debtors so they could continue to make interest payments on the debt. Moreover, South Africa agreed that interest could be charged and paid at up to a 1 percent spread over the rates then in place, reflecting increasing risk on the credits.

South Africa agreed that the remainder of outstanding principal would be paid June 30, 1987.

South Africa further provided that: (1) the foregoing commitments would apply even where a creditor chose to substitute one private sector borrower for another on outstanding debt (for example, a creditor could substitute a more creditworthy borrower); and (2) the South African government (through the Public Investment Commissioners [PIC]) would assume a private sector debt directly if the creditor so chose (for example, during such time as a substitution of one private debtor for another is being arranged).

B. Need for statutory exception

H.R. 4868 allows restructured loans, under the foregoing arrangements, to remain outstanding, and, if appropriate, for further restructurings to be arranged that are aimed at achieving full repayment to foreign creditors. Failure to make these exceptions to the prohibitions on loans to the private and public sector in South Africa, would grant a windfall financial benefit to South Africa, since South Africa could refuse to make the repayments.

As no South Africa loan presently is in default, U.S. creditors at this time would have no legal basis on which to demand payment—by litigation or otherwise—on the loans: rather, the effect would be outright debt forgiveness to South Africa.

Moreover, even if there were some legal basis for suit now, or in the future, the expenses of international litigation and the limited amount of South African assets located outside South Africa on which a recovery might be sought (relative to the aggregate outstanding debt) indicate that U.S. creditors would suffer extensive losses from which South Africa directly would gain.

Accordingly, the exceptions to the prohibition on loans to South African residents created for rescheduled loans (including the substitution of debtors on outstanding loans) avoids unjustified financial losses to

creditor institutions, and has a corresponding financial cost to South Africa.

2. SUSTAINING FINANCIAL VIABILITY OF U.S. CORPORATIONS REMAINING IN SOUTH AFRICA

H.R. 4868 prohibits new investments in South African companies but makes an exception for certain financial transactions by, and with respect to, the South African business operations of U.S. companies. H.R. 4868 does not, directly or indirectly, require any U.S. company to divest its South African business interests (either through the prohibition on new investments or loans to South African entities). To do so could lead to extraordinary losses to the U.S. companies, the assumption of those businesses by others, and thus the absence from South Africa of a continuing important force for social change.

However, H.R. 4868 does limit investments by U.S. companies in their South African offices, branches, or subsidiaries solely to: reinvestment of profits [1] and investment necessary to maintain continuing operations. Thus, U.S. companies can continue to conduct their businesses in South Africa at the current level of operations. This includes U.S. financial institutions which, consistent with the ban on new loans to South African companies, may reemploy their local currency assets through, for example, local currency loans to private sector companies. Indeed, absent such authority, the financial institution would soon be in liquidation and the bill effectively would result in divestment. Again, liquidation of local assets could lead to unjustifiable losses to U.S. companies.

Thus H.R. 4868 has permitted U.S. corporations to remain in operation in South Africa, although under clear constraints on the permissible growth of those businesses. To do otherwise would cause unjustified financial harm to U.S. companies while removing an important force for change in South Africa.

Mr. TAYLOR. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan [Mr. SILJANDER], the ranking member of the Subcommittee on Africa.

Mr. SILJANDER. Mr. Speaker, I have just a couple of quick points to make on this issue that we have discussed over and over and over again here in the Congress. This procedure is a little bit peculiar, if nothing else. We have not been in session at 9 o'clock in the morning since I can remember, let alone on a Friday and let alone on a Friday when the night previously we were in session until nearly midnight.

It is pretty clear that there is a ramrod approach to get the sanctions bill through in enough time so we can override the President's veto. Manipulation is nothing new on the floor of the Congress. Manipulation relative to this issue is nothing new. Unfortunately, many in this Congress insist on ramrodding this issue that has tremendous implications not only for the blacks in South Africa but indeed for all of America and the Western World.

Let it be stated very clearly that this approach, the Senate approach, while some may call it a balanced approach and some may call it a moderate approach, is a very tough approach indeed. It is far more tough than the Gray approach, in my opinion, that was debated on this floor not too many months ago.

If a black woman who makes rugs in South Africa were in any way whatsoever subsidized by the South African Government, she could not export those rugs to the United States. Those involved in handicrafts and in so many black entrepreneurships who are subsidized in one way or another by the Government of South Africa could not under this bill export their products to the United States. Under this bill, if the business of a black entrepreneur in South Africa, by any remote stretch of the imagination, were subsidized by the government in any indirect fashion, he could not export his goods to America.

Under this bill intelligence cooperation would be cut off. We could certainly go on for many, many hours with what I perceive to be the problems with this bill. But I would ask two simple questions of those who are promoting this approach of sanctions. I would ask just two questions, and if those questions could be responded to in a reasonable fashion, I would vote with them without question.

The first question I would ask is this: How specifically will sanctions stop the killing in South Africa? After all, that has been an initial presentation of the speeches—the deaths in South Africa and the racial apartheid in that country. How specifically will sanctions deal with those two issues?

The second question is this: If blacks in South Africa were so overwhelmingly supportive of sanctions against South Africa, then why do not the blacks themselves go on a general strike for 2 weeks? They are legally involved in labor unions in South Africa, and the blacks could easily within 2 weeks, as I said, stymie the entire economy of South Africa. They could do more in 2 weeks than would be required by years of sanctions by the entire trading West against the Government of South Africa. There could be an entire economic stymie in 2 weeks.

Why, then, if the blacks are so supportive of sanctions in South Africa, as you contend, why do not the blacks just walk off their jobs themselves? We have not heard a response because frankly there is not one.

By destroying the very wheels that turn the economy, we will remove the very force the blacks themselves are using to forge change in South Africa.

Let me ask one other question before I close. What if sanctions do not work? What if the sanctions that we propose in this bill will not encourage or create change in the apartheid system in South Africa? What then? Where would the United States be in terms of our ability to negotiate, to use pressure to encourage change? We will have yielded that away completely.

So in all compassion, I would just ask those who are supporting this approach to answer those two basic questions. And may I close by repeating those questions. How specifically, not with emotionalism but with practical reality, will sanctions stop the apartheid in South Africa and stop the killing? And, No. 2, why do blacks themselves not engage in an internal economic stymie of their own country, which could easily be done in only a few weeks?

So, Mr. Speaker, I would encourage the membership of the Congress to look again at those two very important and very crucial questions.

Mr. FIELDS. Mr. Speaker, will the gentleman yield?

Mr. SILJANDER. I am happy to yield to the gentleman from Texas.

Mr. FIELDS. Mr. Speaker, I do not doubt the intentions of any of my colleagues here today. What rational person could support a system of apartheid which relegates an individual to an inferior status simply because he or she has black skin. I cannot and do not.

But, the vote to accept the Senate amendments to H.R. 4868 is not a referendum on apartheid. I strongly support the peaceful abolition of apartheid. South Africa is moving toward a more fair society, albeit slower than I would like. But, change does not occur overnight. I am afraid that H.R. 4868 will not foster peaceful change but will move South Africa one step closer to bloody revolution.

Economic sanctions will harm South Africans, black and white alike. But, black South Africans will suffer the most from sanctions. American firms, like IBM, have led the way in improving the plight of black South Africans. If American firms are hampered by this legislation, their efforts to improve the plight of black South Africans will be hampered too. If sanctions lead to fewer jobs from United States-based companies operating in South Africa, blacks will lose the most. If the South African standard of living is lowered as a result of sanctions, black South Africans will be most severely harmed.

Most black South African leaders understand the consequences of disinvestment. Chief Buthelezi, leader of the Zulu Tribe, has said: "It is morally imperative that American firms remain active here. * * * My people want and need you here. * * *" Mrs. Lucy Mvubelo, general-secretary of the National Union of Clothing Workers, South Africa's largest union had said of United States withdrawal from South Africa: "It will be seen as a surrender to the revolutionary philosophies of the East and a lack of faith in the very democratic capitalistic system which you represent. Remaining in South Africa and increasing your stake will be a boost to the evolutionary proc-

[1] Indeed, as profits largely cannot be remitted, inability to reinvest the profits would serve only to benefit South Africa.

ess which is now taking place. It will be encouragement that the freedom which is so cherished by Americans can also be ours."

And, finally, I would like to quote a well-known South African journalist, Mr. Percy Quoboza. Mr. Quoboza forcefully drives home the truth about economic sanctions: "If you want a complete transformation of this society, the easiest thing to do is get everybody packing up their bags, taking their money out of the country and resisting all forms of investment in the country. But, of course, the moment you do that you create economic chaos. And that is a sure guarantee for full-scale, bloody confrontation, which would unleash a bloodbath such as we have never seen. * * * So, when people talk glibly about disinvestment, I think they ought to realize what they are saying—from 8,000 miles away and the security of distance—'Let the blood flow, and maybe then we'll have a just society.'"

Let's not "pack our bags" and relegate South Africa to violent bloodshed. In the final analysis, your good intentions in voting for sanctions won't count; the tragic results these sanctions may bring will.

Mr. SILJANDER. Mr. Speaker, I yield back the balance of my time.

Mr. WHEAT. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Pennsylvania [Mr. GRAY].

□ 1030

Mr. GRAY of Pennsylvania. Mr. Speaker, the issue before us now is whether or not we will adopt a rule that will allow consideration of a sanctions bill written by the Republican leadership of the Senate, passed by the Senate over 1 month ago, 84 to 14, bipartisanly, that has been published, that has been available for anybody who wanted to do their homework and read it, and particularly for those who are on the Foreign Affairs Committee.

It seems ridiculous now to argue that we cannot take a vote because we have not done our homework or we do not have a copy or we do not know how to read the language.

Second, it seems to me the argument about constitutionality is absolutely a ludicrous and absurd one, for clearly anyone who reads this language, as the distinguished gentleman from Florida, the chairman of the Foreign Affairs Committee has pointed out, there is no change of the Constitution. There is a statement of intent.

The gentleman from Pennsylvania [Mr. WALKER] is absolutely right when he described what the issue was with regard to intent, and that is whether or not by passage of this bill are we preempting States and local governments from taking certain actions within their jurisdictions? Clearly, the answer to that is one which is in doubt, because, first, the Senate bill mentions nothing about preemption; so therefore, by voting for this rule, you are saying that you are allowing States to do as they please.

I am sure the gentleman from Pennsylvania [Mr. WALKER] would agree with me that the Lieutenant Governor, Mr. Scranton, who just recently said he would not like to invest pension funds in companies in South Africa, and the State senate and the State house in Pennsylvania, he would not want to deny them the right to determine how to make their investments. That is essentially what the issues is with regard to the Constitution.

Thus, when you vote for this rule, all you will be saying is that I want to allow Pennsylvania, I want to allow California, I want to allow Virginia, I want to allow Maryland to determine what to do with their pension funds.

So the issue is clear. Let us not cloud it up with any gamesmanship about, "I can't read, I need a copy, or there is a constitutional question."

Let us push the Senate bill and give it to the President and make a statement and light a candle for those oppressed.

Mr. RANGEL. Mr. Speaker, I rise in strong support of H.R. 4868, the Anti-Apartheid Act of 1986. I would especially like to extend my support for the provision in the rule which expressly states that local antiapartheid initiatives will not be preempted by this act.

Local commercial and economic restrictions on companies which do business in South Africa are the prerogative of State and municipal governments. At least 25 localities across the country have enacted laws which restrict businesses from engaging in financial relationships with South Africa. These laws reflect the will of the people in those localities that the United States should not do business with South Africa.

I would suggest, Mr. Speaker, that it is the duty of the Members of this body to submit to the will of our constituents who have chosen to enact local antiapartheid laws. We cannot, and should not, ignore the sentiment of the American people by unilaterally declaring their will to be somehow misguided or misinformed. Our constituents know what they want, Mr. Speaker, and it is evident that they want us out of South Africa.

We must send a signal to South Africa that we are absolutely committed to ending our economic and commercial relationship with apartheid. This commitment requires the participation of our society at every level. The Federal Government should work in tandem with State and local governments, and the business community must respond to the concerns of consumers and the academic community.

Spiritual leaders, elected officials, the legal community, and our financial institutions must join the growing moral consensus that is reflected in the antiapartheid initiatives of local governments. The bottom line is that the people have spoken, and we must answer them.

Let us defeat any attempt to preempt local antiapartheid laws. Let the people have their say.

Mr. BIAGGI. Mr. Speaker, I rise to lend my strong support to the rule and the bill, H.R. 4868, the Anti-Apartheid Act of 1986. This rule and the legislation are critical and must be passed at this time to provide sufficient time for another vote should the President exercise his option to veto the bill.

It is critical that Congress complete action on this legislation and express its substantive opposition to the repugnant policy of apartheid in South Africa. The distinguished aspect of the rule is that, upon its adoption, the House will agree to an important provision which says that nothing contained in H.R. 4868 shall be deemed to, in any way, limit, preempt, or affect actions taken by State or local governments regarding financial or commercial dealing with South Africa.

That is the proper position for the Congress to take. The fact is that a number of local jurisdictions, including and especially my home city of New York, have passed their own laws calling for the divestment of pension funds invested in companies doing business in South Africa. That is responsible action and it must be encouraged to continue.

If the United States is going to make an impact in putting an end to apartheid in South Africa, it must do more than merely express moral indignation. It must exercise economic muscle to extract change. This cannot be done unless all levels of government are allowed to participate. Therefore, I urge support of the rule.

Mr. DIXON. Mr. Speaker, I rise in strong support of the rule. The clarifying language that the rule includes is critical to establishing legislative history on this issue.

It is not the intent of this bill to preempt or affect in any fashion the authority of any State or local government to restrict or otherwise regulate any financial or commercial activity with respect to South Africa.

About 20 States and 80 cities have taken the lead in passing divestiture laws, including my State—the State of California. We are not here to preempt State and municipal laws on divestiture or contracts, nor are we giving them the right to dictate foreign policy. We should not preempt the rights of States like the State of California to determine where to invest $13 billion of their pension or public funds. It is not the jurisdictional purpose of this bill to intrude or intervene in the internal affairs or a State or local government.

Mr. Speaker, there is a deepening crisis in South Africa and it is time to respond to the unambiguous appeals of thousands of South Africa's black majority who are pleading for us to take a stronger stand. It is time to take a stand and answer the calls of thousands of Americans who urge emphatically for sanctions against South Africa.

I believe H.R. 4868 may not go far enough, but it is a beginning and a new direction in our foreign policy in South Africa. More importantly, it is time we demonstrated our commitment to the principles of freedom and democracy not only in South Africa, but throughout the world.

The Senate bill is silent on th question of the preemption issue, but I strongly believe our rule clarifies this issue and establishes legislative history. I encourage my colleagues to support this rule.

Mr. TAYLOR. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WHEAT. Mr. Speaker, just to make it very clear what the rule actually does in its second section on preemption, it is not the intent of the committee, it is not the intent of this body, to pass any legislation which grants any new constitutional authority. It is merely our intent to make it clear that this legislation does not impact upon authority that States and local governments already have. If the State of California has the right to pass legislation affecting their own funds in regard to the situation in South Africa, then they continue to have that authority. If the State of Pennsylvania has the authority, then they continue to have that authority.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. WHEAT. No; I will not yield at this time.

If the University of Mississippi system has that authority, then they will continue to have that authority, and this legislation has no impact upon the legal or constitutional authority of any State or local municipality.

The gentleman has asked some very good questions about what will happen in South Africa, and admittedly this bill cannot guarantee peace in South Africa. This bill does not guarantee an end to apartheid in South Africa, but it does guarantee one thing, that the rest to the world, especially those suffering in South Africa, will know that this Congress witnessed the evil and would not turn away.

Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

Mr. SPEAKER pro tempore (Mr. DANIEL). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BROOMFIELD. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

Mr. SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 292, nays 92, not voting 47, as follows:

[Roll No. 380]

YEAS—292

Akaka	Barnard	Biaggi
Alexander	Barnes	Bliley
Anderson	Bates	Boehlert
Andrews	Bedell	Boggs
Annunzio	Beilenson	Boland
Anthony	Bennett	Bonior (MI)
Applegate	Bereuter	Bonker
Aspin	Berman	Borski
AuCoin	Bevill	Bosco
Brown (CO)	Hubbard	Pursell
Bruce	Hughes	Rahall
Bryant	Hutto	Rangel
Bustamante	Ireland	Ray
Byron	Jacobs	Regula
Carper	Jeffords	Reid
Carr	Jenkins	Richardson
Chandler	Jones (NC)	Rinaldo
Chappell	Jones (TN)	Roberts
Clay	Kanjorski	Robinson
Clinger	Kaptur	Rodino
Coats	Kasich	Roe
Collins	Kastenmeier	Roemer
Conte	Kemp	Rose
Conyers	Kennelly	Rostenkowski
Cooper	Kildee	Roth
Coughlin	Kindness	Roukema
Courter	Kleczka	Rowland (CT)
Coyne	Kolbe	Rowland (GA)
Daniel	Kolter	Roybal
Darden	Kostmayer	Russo
Daschle	LaFalce	Sabo
Davis	Lantos	Savage
de la Garza	Latta	Saxton
Dellums	Leach (IA)	Scheuer
Derrick	Leath (TX)	Schneider
Dicks	Lehman (CA)	Schuette
Dingell	Lehman (FL)	Schulze
DioGuardi	Leland	Schumer
Dixon	Lent	Seiberling
Donnelly	Levin (MI)	Sensenbrenner
Dorgan (ND)	Levine (CA)	Sharp
Dowdy	Lewis (CA)	Shelby
Downey	Lipinski	Sikorski
Duncan	Lloyd	Sisisky
Durbin	Long	Skelton
Dwyer	Lowry (WA)	Slattery
Dymally	Lujan	Smith (FL)
Dyson	Luken	Smith (IA)
Early	Lungren	Smith (NE)
Eckart (OH)	MacKay	Smith (NJ)
Edgar	Manton	Snowe
Edwards (CA)	Martin (IL)	Solarz
English	Martin (NY)	Spratt
Erdreich	Martinez	Staggers
Evans (IA)	Matsui	Stallings
Evans (IL)	Mavroules	Stangeland
Fascell	Mazzoli	Stark
Fazio	McCain	Stokes
Feighan	McCloskey	Studds
Fish	McCollum	Swift
Flippo	McCurdy	Tallon
Florio	McEwen	Tauke
Foglietta	McGrath	Tauzin
Foley	McHugh	Thomas (GA)
Ford (TN)	McKernan	Torres
Fowler	McMillan	Torricelli
Frank	Meyers	Traficant
Franklin	Mica	Traxler
Frenzel	Mikulski	Udall
Fuqua	Miller (CA)	Valentine
Gallo	Miller (WA)	Vento
Garcia	Mineta	Visclosky
Gaydos	Mitchell	Volkmer
Gejdenson	Moakley	Waldon
Gibbons	Mollohan	Walgren
Glickman	Montgomery	Watkins
Gonzalez	Moody	Weaver
Gordon	Morrison (CT)	Weber
Gradison	Morrison (WA)	Weiss
Gray (IL)	Mrazek	Wheat
Gray (PA)	Murphy	Whitley
Green	Murtha	Whittaker
Gregg	Natcher	Whitten
Guarini	Neal	Wilson
Gunderson	Nelson	Wirth
Hall (OH)	Nichols	Wise
Hamilton	Nowak	Wolpe
Hatcher	Oakar	Wortley
Hawkins	Oberstar	Wright
Hayes	Obey	Wyden
Hefner	Olin	Wylie
Henry	Ortiz	Yates
Hertel	Panetta	Yatron
Hillis	Pease	Young (FL)
Hopkins	Penny	Young (MO)
Horton	Perkins	Zschau
Howard	Pickle	
Hoyer	Price	

NAYS—92

Archer	Barton	Boulter
Armey	Bateman	Broomfield
Badham	Bentley	Burton (IN)
Bartlett	Bilirakis	Callahan
Cheney	Hyde	Rogers
Coble	Johnson	Schaefer
Coleman (MO)	Kramer	Shaw
Combest	Lagomarsino	Shumway
Craig	Lewis (FL)	Shuster
Crane	Lightfoot	Siljander
Dannemeyer	Lott	Skeen
Daub	Lowery (CA)	Slaughter
DeLay	Mack	Smith, Denny (OR)
DeWine	Madigan	Smith, Robert (NH)
Dickinson	Marlenee	Smith, Robert (OR)
Dornan (CA)	McCandless	Solomon
Dreier	Michel	Spence
Eckert (NY)	Miller (OH)	Stenholm
Edwards (OK)	Molinari	Strang
Emerson	Monson	Stump
Fawell	Moorhead	Sundquist
Fiedler	Myers	Sweeney
Fields	Nielson	Swindall
Gekas	Oxley	Taylor
Gingrich	Packard	Vander Jagt
Hall, Ralph	Parris	Vucanovich
Hammerschmidt	Pashayan	Walker
Hansen	Petri	Wolf
Hendon	Porter	
Hiler	Quillen	
Holt	Ridge	
Hunter	Ritter	

NOT VOTING—47

Ackerman	Crockett	Moore
Atkins	Ford (MI)	Owens
Boner (TN)	Frost	Pepper
Boucher	Gephardt	Rudd
Boxer	Gilman	Schroeder
Breaux	Goodling	Snyder
Brooks	Grotberg	St Germain
Brown (CA)	Hartnett	Stratton
Burton (CA)	Huckaby	Synar
Campbell	Jones (OK)	Thomas (CA)
Carney	Livingston	Towns
Chapman	Loeffler	Waxman
Chappie	Lundine	Whitehurst
Cobey	Markey	Williams
Coelho	McDade	Young (AK)
Coleman (TX)	McKinney	

[Roll No. 380]

□ 1045

Messrs. DICKINSON, GINGRICH, PACKARD, and RALPH M. HALL changed their votes from "yea" to "nay."

Mr. FRENZEL changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1055

GENERAL LEAVE

Mr. WHEAT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution just adopted.

The SPEAKER pro tempore. (Mr. DANIEL). Is there objection to the request of the gentleman from Missouri?

There was no objection.

PERSONAL EXPLANATION

Mr. ECKERT of New York. Mr. Speaker, I was surprised to learn this morning that the RECORD lists me as not voting on final passage of the Omnibus Drug Act of 1986 last evening. That is not accurate. It must be a mechanical mishap.

I was present in the Chamber, cast a vote in the affirmative and voted not only on final passage but on all bills yesterday. I would like the RECORD to reflect my statement, and I ask unanimous consent that these remarks be recorded in the permanent RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

PERSONAL EXPLANATION

Mr. HORTON. Mr. Speaker, last night during final passage of the omnibus drug bill of 1986, I was standing next to the gentleman from New York, Mr. FRED ECKERT, when the vote was taken. I saw the gentleman take his voting card out and cast his vote on final passage.

I know from my personal conversation during the vote that he had voted "yes."

I learned this morning that the RECORD showed that he had not voted. That is not accurate; he was present; he did vote; I was a witness to that.

Mr. Speaker, I ask unanimous consent that my remarks be recorded in the permanent RECORD immediately following the vote on the Omnibus Drug Act of 1986.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON FISHERIES AND WILDLIFE CONSERVATION AND THE ENVIRONMENT AND SUBCOMMITTEE ON MERCHANT MARINE OF THE COMMITTEE ON MERCHANT MARINE AND FISHERIES TO SIT ON WEDNESDAY, SEPTEMBER 17, 1986, DURING THE 5-MINUTE RULE

Mr. BOSCO. Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries' Subcommittee on Fisheries and Wildlife Conservation and the Environment, in conjunction with the Subcommitte on Merchant Marine, and by itself, have permission to sit during the consideration of legislation under the 5-minute rule on Wednesday, September 17, 1986.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

ANTI-APARTHEID ACT OF 1986

Mr. FASCELL. Mr. Speaker, pursuant to House Resolution 548, I move to take from the Speaker's table the bill (H.R. 4868) to prohibit loans to, other investments in, and certain other activities with respect to, South Africa, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 548, the Senate amendment is considered as having been read.

The text of the Senate amendment is as follows:

Strike out all after the enacting clause and insert:

SHORT TITLE

Section 1. This Act may be cited as the "Comprehensive Anti-Apartheid Act of 1986".

TABLE OF CONTENTS

Sec. 2. The table of contents of this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Definitions.
Sec. 4. Purpose.
TITLE I—POLICY OF THE UNITED STATES WITH RESPECT TO ENDING APARTHEID
Sec. 101. Policy toward the Government of South Africa.
Sec. 102. Policy toward the African National Congress, etc.
Sec. 103. Policy toward the victims of apartheid.
Sec. 104. Policy toward other countries in Southern Africa.
Sec. 105. Policy toward "frontline" states.
Sec. 106. Policy toward a negotiated settlement.
Sec. 107. Policy toward international cooperation on measures to end apartheid.
Sec. 108. Policy toward necklacing.
Sec. 109. United States Ambassador to meet with Nelson Mandela.
Sec. 110. Policy toward the recruitment and training of black South Africans by United States employers.
TITLE II—MEASURES TO ASSIST VICTIMS OF APARTHEID
Sec. 201. Scholarships for the victims of apartheid.
Sec. 202. Human rights fund.
Sec. 203. Expanding participation in the South African economy.
Sec. 204. Export-Import Bank of the United States.
Sec. 205. Labor practices of the United States Government in South Africa.
Sec. 206. Welfare and protection of the victims of apartheid employed by the United States.
Sec. 207. Employment practices of United States nationals in South Africa.
Sec. 208. Code of Conduct.
Sec. 209. Prohibition on assistance.
Sec. 210. Use of the African Emergency Reserve.
Sec. 211. Prohibition on assistance to any person or group engaging in "necklacing".
Sec. 212. Participation of South Africa in agricultural export credit and promotion programs.
TITLE III—MEASURES BY THE UNITED STATES TO UNDERMINE APARTHEID
Sec. 301. Prohibition on the importation of krugerrands.
Sec. 302. Prohibition on the importation of military articles.
Sec. 303. Prohibition on the importation of products from parastatal organizations.
Sec. 304. Prohibition on computer exports to South Africa.
Sec. 305. Prohibition on loans to the Government of South Africa.
Sec. 306. Prohibition on air transportation with South Africa.
Sec. 307. Prohibitions on nuclear trade with South Africa.
Sec. 308. Government of South Africa bank accounts.
Sec. 309. Prohibition on importation of uranium and coal from South Africa.
Sec. 310. Prohibition on new investment in South Africa.
Sec. 311. Termination of certain provisions.
Sec. 312. Policy toward violence or terrorism.
Sec. 313. Termination of tax treaty and protocol.
Sec. 314. Prohibition on United States Government procurement from South Africa.
Sec. 315. Prohibition on the promotion of United States tourism in South Africa.
Sec. 316. Prohibition on United States Government assistance to, investment in, or subsidy for trade with, South Africa.
Sec. 317. Prohibition on sale or export of items on Munition List.
Sec. 318. Munitions list sales, notification.
Sec. 319. Prohibition on importation of South African agricultural products and food.
Sec. 320. Prohibition on importation of iron and steel.
Sec. 321. Prohibition on exports of crude oil and petroleum products.
Sec. 322. Prohibition on cooperation with the armed forces of South Africa.
Sec. 323. Prohibition on sugar imports.
TITLE IV—MULTILATERAL MEASURES TO UNDERMINE APARTHEID
Sec. 401. Negotiating authority.
Sec. 402. Limitation on imports from other countries.
Sec. 403. Private right of action.
TITLE V—FUTURE POLICY TOWARD SOUTH AFRICA
Sec. 501. Additional measures.
Sec. 502. Lifting of prohibitions.
Sec. 503. Study of health conditions in the "homelands" areas of South Africa.
Sec. 504. Reports on South African imports.
Sec. 505. Study and report on the economy of southern Africa.
Sec. 506. Report on relations between other industrialized democracies and South Africa.
Sec. 507. Study and report on deposit accounts of South African nationals in United States banks.
Sec. 508. Study and report on the violation of the international embargo on sale and export of military articles to South Africa.
Sec. 509. Report on Communist activities in South Africa.
Sec. 510. Prohibition on the importation of Soviet Gold Coins.
Sec. 511. Economic support for disadvantaged South Africans.
Sec. 512. Report on the African National Congress.

TITLE VI—ENFORCEMENT AND ADMINISTRATIVE PROVISIONS
Sec. 601. Regulatory authority.
Sec. 602. Congressional priority procedures.
Sec. 603. Enforcement and penalties.
Sec. 604. Applicability to evasions of Act.
Sec. 605. Construction of Act.
Sec. 606. State or local anti-apartheid laws, enforce.

DEFINITIONS

SEC. 3. As used in this Act—

(1) the term "Code of Conduct" refers to the principles set forth in section 208(a);

(2) the term "controlled South African entity" means—

(A) a corporation, partnership, or other business association or entity organized in South Africa and owned or controlled, directly or indirectly, by a national of the United States; or

(B) a branch, office, agency, or sole proprietorship in South Africa of a national of the United States;

(3) the term "loan"—

(A) means any transfer or extension of funds or credit on the basis of an obligation to repay, or any assumption or guarantee of the obligation of another to repay an extension of funds or credit, including—

(i) overdrafts,

(ii) currency swaps,

(iii) the purchase of debt or equity securities issued by the Government of South Africa or a South African entity on or after the date of enactment of this Act,

(iv) the purchase of a loan made by another person,

(v) the sale of financial assets subject to an agreement to repurchase, and

(vi) a renewal or refinancing whereby funds or credits are transferred or extended to the Government of South Africa or a South African entity, and

(B) does not include—

(i) normal short-term trade financing, as by letters of credit or similar trade credits;

(ii) sales on open account in cases where such sales are normal business practice; or

(iii) rescheduling of existing loans, if no new funds or credits are thereby extended to a South African entity or the Government of South Africa;

(4) the term "new investment"—

(A) means—

(i) a commitment or contribution of funds or other assets, and

(ii) a loan or other extension of credit, and

(B) does not include—

(i) the reinvestment of profits generated by a controlled South African entity into that same controlled South African entity or the investment of such profits in a South African entity;

(ii) contributions of money or other assets where such contributions are necessary to enable a controlled South African entity to operate in an economically sound manner, without expanding its operations; or

(iii) the ownership or control of a share or interest in a South African entity or a controlled South African entity or a debt or equity security issued by the Government of South Africa or a South African entity before the date of enactment of this Act, or the transfer or acquisition of such a share, interest, or debt or equity security, if any such transfer or acquisition does not result in a payment, contribution of funds or assets, or credit to a South African entity, a controlled South African entity, or the Government of South Africa;

(5) the term "national of the United States" means—

(A) a natural person who is a citizen of the United States or who owes permanent allegiance to the United States or is an alien lawfully admitted for permanent residence in the United States, as defined by section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)); or

(B) a corporation, partnership, or other business association which is organized under the laws of the United States, any State or territory thereof, or the District of Columbia;

(6) the term "South Africa" includes—

(A) the Republic of South Africa;

(B) any territory under the Administration, legal or illegal, of South Africa; and

(C) the "bantustans" or "homelands", to which South African blacks are assigned on the basis of ethnic origin, including the Transkei, Bophuthatswana Ciskei, and Venda; and

(7) the term "South African entity" means—

(A) a corporation, partnership, or other business association or entity organized in South Africa; or

(B) a branch, office, agency, or sole proprietorship in South Africa of a person that resides or is organized outside South Africa; and

(8) the term "United States" includes the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

PURPOSE

SEC. 4. The purpose of this Act is to set forth a comprehensive and complete framework to guide the efforts of the United States in helping to bring an end to apartheid in South Africa and lead to the establishment of a nonracial, democratic form of government. This Act sets out United States policy toward the Government of South Africa, the victims of apartheid, and the other states in southern Africa. It also provides the President with additional authority to work with the other industrial democracies to help end apartheid and establish democracy in South Africa.

TITLE I—POLICY OF THE UNITED STATES WITH RESPECT TO ENDING APARTHEID

POLICY TOWARD THE GOVERNMENT OF SOUTH AFRICA

SEC. 101. (a) United States policy toward the Government of South Africa shall be designed to bring about reforms in that system of government that will lead to the establishment of a nonracial democracy.

(b) The United States will work toward this goal by encouraging the Government of South Africa to—

(1) repeal the present state of emergency and respect the principle of equal justice under law for citizens of all races;

(2) release Nelson Mandela, Govan Mbeki, Walter Sisulu, black trade union leaders, and all political prisoners;

(3) permit the free exercise by South Africans of all races of the right to form political parties, express political opinions, and otherwise participate in the political process;

(4) establish a timetable for the elimination of apartheid laws;

(5) negotiate with representatives of all racial groups in South Africa the future political system in South Africa; and

(6) end military and paramilitary activities aimed at neighboring states.

(c) The United States will encourage the actions set forth in subsection (b) through economic, political, and diplomatic measures as set forth in this Act. The United States will adjust its actions toward the Government of South Africa to reflect the progress or lack of progress made by the Government of South Africa in meeting the goal set forth in subsection (a).

POLICY TOWARD THE AFRICAN NATIONAL CONGRESS, ETC.

SEC. 102. (a) United States policy toward the African National Congress, the Pan African Congress, and their affiliates shall be designed to bring about a suspension of violence that will lead to the start of negotiations designed to bring about a nonracial and genuine democracy in South Africa.

(b) The United States shall work toward this goal by encouraging the African National Congress and the Pan African Congress, and their affiliates, to—

(1) suspend terrorist activities so that negotiations with the Government of South Africa and other groups representing black South Africans will be possible;

(2) make known their commitment to a free and democratic post-apartheid South Africa;

(3) agree to enter into negotiations with the South African Government and other groups representing black South Africans for the peaceful solution of the problems of South Africa;

(4) reexamine their ties to the South African Communist Party.

(c) The United States will encourage the actions set forth in subsection (b) through political and diplomatic measures. The United States will adjust its actions toward the Government of South Africa not only to reflect progress or lack of progress made by the Government of South Africa in meeting the goal set forth in subsection 101(a) but also to reflect progress or lack of progress made by the ANC and other organizations in meeting the goal set forth in subsection (a) of this section.

POLICY TOWARD THE VICTIMS OF APARTHEID

SEC. 103. (a) The United States policy toward the victims of apartheid is to use economic, political, diplomatic, and other effective means to achieve the removal of the root cause of their victimization, which is the apartheid system. In anticipation of the removal of the system of apartheid and as a further means of challenging that system, it is the policy of the United States to assist these victims of apartheid as individuals and through organizations to overcome the handicaps imposed on them by the system of apartheid and to help prepare them for their rightful roles as full participants in the political, social, economic, and intellectual life of their country in the post-apartheid South Africa envisioned by this Act.

(b) The United States will work toward the purposes of subsection (a) by—

(1) providing assistance to South African victims of apartheid without discrimination by race, color, sex, religious belief, or political orientation, to take advantage of educational opportunities in South Africa and in the United States to prepare for leadership positions in a post-apartheid South Africa;

(2) assisting victims of apartheid;

(3) aiding individuals or groups in South Africa whose goals are to aid victims of apartheid or foster nonviolent legal or political challenges to the apartheid laws;

(4) furnishing direct financial assistance to those whose nonviolent activities had led to their arrest or detention by the South African authorities and (B) to the families of those killed by terrorist acts such as "necklacings";

(5) intervening at the highest political levels in South Africa to express the strong

desire of the United States to see the development in South Africa of a nonracial democratic society;

(6) supporting the rights of the victims of apartheid through political, economic, or other sanctions in the event the Government of South Africa fails to make progress toward the removal of the apartheid laws and the establishment of such democracy; and

(7) supporting the rights of all Africans to be free of terrorist attacks by setting a time limit after which the United States will pursue diplomatic and political measures against those promoting terrorism and against those countries harboring such groups so as to achieve the objectives of this Act.

POLICY TOWARD OTHER COUNTRIES IN SOUTHERN AFRICA

SEC. 104. (a) The United States policy toward the other countries in the Southern African region shall be designed to encourage democratic forms of government, full respect for human rights, an end to cross-border terrorism, political independence, and economic development.

(b) The United States will work toward the purposes of subsection (a) by—

(1) helping to secure the independence of Namibia and the establishment of Namibia as a nonracial democracy in accordance with appropriate United Nations Security Council resolutions;

(2) supporting the removal of all foreign military forces from the region;

(3) encouraging the nations of the region to settle differences through peaceful means;

(4) promoting economic development through bilateral and multilateral economic assistance targeted at increasing opportunities in the productive sectors of national economies, with a particular emphasis on increasing opportunities for nongovernmental economic activities;

(5) encouraging, and when necessary, strongly demanding, that all countries of the region respect the human rights of their citizens and noncitizens residing in the country, and especially the release of persons persecuted for their political beliefs or detained without trial;

(6) encouraging, and when necessary, strongly demanding that all countries of the region take effective action to end cross-border terrorism; and

(7) providing appropriate assistance, within the limitations of American responsibilities at home and in other regions, to assist regional economic cooperation and the development of interregional transportation and other capital facilities necessary for economic growth.

POLICY TOWARD "FRONTLINE" STATES

SEC. 105. It is the sense of the Congress that the President should discuss with the governments of the African "frontline" states the effects on them of disruptions in transportation or other economic links through South Africa and of means of reducing those effects.

POLICY TOWARD A NEGOTIATED SETTLEMENT

SEC. 106. (a)(1) United States policy will seek to promote negotiations among representatives of all citizens of South Africa to determine a future political system that would permit all citizens to be full participants in the governance of their country. The United States recognizes that important and legitimate political parties in South Africa include several organizations that have been banned and will work for the unbanning of such organizations in order to permit legitimate political viewpoints to be represented at such negotiations. The United States also recognizes that some of the organizations fighting apartheid have become infiltrated by Communists and that Communists serve on the governing boards of such organizations.

(2) To this end, it is the sense of the Congress that the President, the Secretary of State, or other appropriate high-level United States officials should meet with the leaders of opposition organizations of South Africa, particularly but not limited to those organizations representing the black majority. Furthermore, the President, in concert with the major allies of the United States and other interested parties, should seek to bring together opposition political leaders with leaders of the Government of South Africa for the purpose of negotiations to achieve a transition to the postapartheid democracy envisioned in this Act.

(b) The United States will encourage the Government of South Africa and all participants to the negotiations to respect the right of all South Africans to form political parties, express political opinions, and otherwise participate in the political process without fear of retribution by either governmental or nongovernmental organizations. It is the sense of the Congress that a suspension of violence is an essential precondition for the holding of negotiations. The United States calls upon all parties to the conflict to agree to a suspension of violence.

(c) The United States will work toward the achievement of agreement to suspend violence and begin negotiations through coordinated actions with the major Western allies and with the governments of the countries in the region.

(d) It is the sense of the Congress that the achievement of an agreement for negotiations could be promoted if the United States and its major allies, such as Great Britain, Canada, France, Italy, Japan, and West Germany, would hold a meeting to develop a four-point plan to discuss with the Government of South Africa a proposal for stages of multilateral assistance to South Africa in return for the Government of South Africa implementing—

(1) an end to the state of emergency and the release of the political prisoners, including Nelson Mandela;

(2) the unbanning of the African National Congress, the Pan African Congress, the Black Consciousness Movement, and all other groups willing to suspend terrorism and to participate in negotiations and a democratic process;

(3) a revocation of the Group Areas Act and the Population Registration Act and the granting of universal citizenship to all South Africans, including homeland residents; and

(4) the use of the international offices of a third party as an intermediary to bring about negotiations with the object of the establishment of power-sharing with the black majority.

POLICY TOWARD INTERNATIONAL COOPERATION ON MEASURES TO END APARTHEID

SEC. 107. (a) The Congress finds that—

(1) international cooperation is a prerequisite to an effective anti-apartheid policy and to the suspension of terrorism in South Africa; and

(2) the situation in South Africa constitutes an emergency in international relations and that action is necessary for the protection of the essential security interests of the United States.

(b) Accordingly, the Congress urges the President to seek such cooperation among all individuals, groups, and nations.

POLICY TOWARD NECKLACING

SEC. 108. It is the sense of the Congress that the African National Congress should strongly condemn and take effective actions against the execution by fire, commonly known as "necklacing", of any person in any country.

UNITED STATES AMBASSADOR TO MEET WITH NELSON MANDELA

SEC. 109. It is the sense of the Senate that the United States Ambassador should promptly make a formal request to the South African Government for the United States Ambassador to meet with Nelson Mandela.

POLICY TOWARD THE RECRUITMENT AND TRAINING OF BLACK SOUTH AFRICANS BY UNITED STATES EMPLOYERS

SEC. 110. (a) The Congress finds that—

(1) the policy of apartheid is abhorrent and morally repugnant;

(2) the United States believes strongly in the principles of democracy and individual freedoms;

(3) the United States endorses the policy of political participation of all citizens;

(4) a free, open, and vital economy is a primary means for achieving social equality and economic advancement for all citizens; and

(5) the United States is committed to a policy of securing and enhancing human rights and individual dignity throughout the world.

(b) It is the sense of the Congress that United States employers operating in South Africa are obliged both generally to actively oppose the policy and practices of apartheid and specifically to engage in recruitment and training of black and colored South Africans for management responsibilities.

TITLE II—MEASURES TO ASSIST VICTIMS OF APARTHEID

SCHOLARSHIPS FOR THE VICTIMS OF APARTHEID

SEC. 201. (a) Section 105(b) of the Foreign Assistance Act of 1961 is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end thereof the following new paragraph:

"(2)(A)(i) Of the amounts authorized to be appropriated to carry out this section for the fiscal years 1987, 1988, and 1989, not less than $4,000,000 shall be used in each such fiscal year to finance education, training, and scholarships for the victims of apartheid, including teachers and other educational professionals, who are attending universities and colleges in South Africa. Amounts available to carry out this subparagraph shall be provided in accordance with the provisions of section 802(c) of the International Security and Development Cooperation Act of 1985.

"(ii) Funds made available for each such fiscal year for purposes of chapter 4 of part II of this Act may be used to finance such education, training, and scholarships in lieu of an equal amount made available under this subparagraph.

"(B)(i) In addition to amounts used for purposes of subparagraph (A), the agency primarily responsible for administering this part, in collaboration with other appropriate departments or agencies of the United States, shall use assistance provided under this section or chapter 4 of part II of this Act to finance scholarships for students pursuing secondary school education in South Africa. The selection of scholarship recipients shall be by a nationwide panel or by regional panels appointed by the United States chief of diplomatic mission to South Africa.

"(ii) Of the amounts authorized to be appropriated to carry out this section and chapter 4 of part II of this Act for the fiscal years 1987, 1988, and 1989, up to an aggregate of $1,000,000 may be used in each such fiscal year for purposes of this subparagraph.

"(C)(i) In addition to the assistance authorized in subparagraph (A), the agency primarily responsible for administering this part shall provide assistance for inservice teacher training programs in South Africa through such nongovernmental organizations as TOPS or teachers' unions.

"(ii) Of the amounts authorized to be appropriated to carry out this section and chapter 4 of part II of this Act, up to an aggregate of $500,000 for the fiscal year 1987 and up to an aggregate of $1,000,000 for the fiscal year 1988 may be used for purposes of this subparagraph, subject to standard procedures for project review and approval.".

(b) The Foreign Assistance Act of 1961 is amended by inserting after section 116 the following new section:

"SEC. 117. ASSISTANCE FOR DISADVANTAGED SOUTH AFRICANS.—In providing assistance under this chapter or under chapter 4 of part II of this Act for disadvantaged South Africans, priority shall be given to working with and through South African nongovernmental organizations whose leadership and staff are selected on a nonracial basis, and which have the support of the disadvantaged communities being served. The measure of this community support shall be the willingness of a substantial number of disadvantaged persons to participate in activities sponsored by these organizations. Such organizations to which such assistance may be provided include the Educational Opportunities Council, the South African Institute of Race Relations, READ, professional teachers' unions, the Outreach Program of the University of the Western Cape, the Funda Center in Soweto, SACHED, UPP Trust, TOPS, the Wilgespruit Fellowship Center (WFC), and civic and other organizations working at the community level which do not receive funds from the Government of South Africa.".

HUMAN RIGHTS FUND

SEC. 202. (a) Section 116(e)(2)(A) of the Foreign Assistance Act of 1961 is amended—

(1) by striking out "1984 and" and inserting in lieu thereof "1984,"; and

(2) by inserting after "1985" a comma and the following: "and $1,500,000 for the fiscal year 1986 and for each fiscal year thereafter".

(b) Section 116 of such Act is amended by adding at the end thereof the following new subsection:

"(f)(1) Of the funds made available to carry out subsection (e)(2)(A) for each fiscal year, not less than $500,000 shall be used for direct legal and other assistance to political detainees and prisoners and their families, including the investigation of the killing of protesters and prisoners, and for support for actions of black-led community organizations to resist, through nonviolent means, the enforcement of apartheid policies such as—

"(A) removal of black populations from certain geographic areas on account of race or ethnic origin,

"(B) denationalization of blacks, including any distinctions between the South African citizenships of blacks and whites,

"(C) residence restrictions based on race or ethnic origin,

"(D) restrictions on the rights of blacks to seek employment in South Africa and to live wherever they find employment in South Africa, and

"(E) restrictions which make it impossible for black employees and their families to be housed in family accommodations near their place of employment.

"(2)(A) No grant under this subsection may exceed $100,000.

"(B) The average of all grants under this paragraph made in any fiscal year shall not exceed $70,000.

"(g) Of the funds made available to carry out subsection (e)(2)(A) for each fiscal year, $175,000 shall be used for direct assistance to families of victims of violence such as 'necklacing' and other such inhumane acts. An additional $175,000 shall be made available to black groups in South Africa which are actively working toward a multi-racial solution to the sharing of political power in that country through nonviolent, constructive means.".

EXPANDING PARTICIPATION IN THE SOUTH AFRICAN ECONOMY

SEC. 203. (a) The Congress declares that—

(1) the denial under the apartheid laws of South Africa of the rights of South African blacks and other nonwhites to have the opportunity to participate equitably in the South African economy as managers or owners of, or professionals in, business enterprises, and

(2) the policy of confining South African blacks and other nonwhites to the status of employees in minority-dominated businesses,

is an affront to the values of a free society.

(b) The Congress hereby—

(1) applauds the commitment of nationals of the United States adhering to the Code of Conduct to assure that South African blacks and other nonwhites are given assistance in gaining their rightful place in the South African economy; and

(2) urges the United States Government to assist in all appropriate ways the realization by South African blacks and other nonwhites of their rightful place in the South African economy.

(c) Notwithstanding any other provision of law, the Secretary of State and any other head of a department or agency of the United States carrying out activities in South Africa shall, to the maximum extent practicable, in procuring goods or services, make affirmative efforts to assist business enterprises having more than 50 percent beneficial ownership by South African blacks or other nonwhite South Africans.

EXPORT-IMPORT BANK OF THE UNITED STATES

SEC. 204. Section 2(b)(9) of the Export-Import Bank Act of 1945 is amended—

(1) by striking out "(9) In" and inserting in lieu thereof "(9)(A) Except as provided in subparagraph (B), in"; and

(2) by adding at the end thereof the following:

"(B) The Bank shall take active steps to encourage the use of its facilities to guarantee, insure, extend credit, or participate in the extension of credit to business enterprises in South Africa that are majority owned by South African blacks or other nonwhite South Africans. The certification requirement contained in clause (c) of subparagraph (A) shall not apply to exports to or purchases from business enterprises which are majority owned by South African blacks or other nonwhite South Africans.".

LABOR PRACTICES OF THE UNITED STATES GOVERNMENT IN SOUTH AFRICA

SEC. 205. (a) It is the sense of the Congress that the labor practices used by the United States Government—

(1) for the direct hire of South Africans,

(2) for the reimbursement out of official residence funds of South Africans and employees of South African organizations for their long-term employment services on behalf of the United States Government, and

(3) for the employment services of South Africans arranged by contract,

should represent the best of labor practices in the United States and should serve as a model for the labor practices of nationals of the United States in South Africa.

(b) The Secretary of State and any other head of a department or agency of the United States carrying out activities in South Africa shall promptly take, without regard to any provision of law, the necessary steps to ensure that the labor practices applied to the employment services described in paragraphs (1) through (3) of subsection (a) are governed by the Code of Conduct. Nothing in this section shall be construed to grant any employee of the United States the right to strike.

WELFARE AND PROTECTION OF VICTIMS OF APARTHEID BY THE UNITED STATES

SEC. 206. (a) The Secretary of State shall acquire, through lease or purchase, residential properties in the Republic of South Africa that shall be made available, at rents that are equitable, to assist victims of apartheid who are employees of the United States Government in obtaining adequate housing. Such properties shall be acquired only in neighborhoods which would be open to occupancy by other employees of the United States Government in South Africa.

(b) There are authorized to be appropriated $10,000,000 for the fiscal year 1987 to carry out the purposes of this section.

EMPLOYMENT PRACTICES OF UNITED STATES NATIONALS IN SOUTH AFRICA

SEC. 207. (a) Any national of the United States that employs more than 25 persons in South Africa shall take the necessary steps to insure that the Code of Conduct is implemented.

(b) No department or agency of the United States may intercede with any foreign government or foreign national regarding the export marketing activities in any country of any national of the United States employing more than 25 persons in South Africa that is not implementing the Code of Conduct.

CODE OF CONDUCT

SEC. 208. (a) The Code of Conduct referred to in sections 203, 205, 207, and 603 of this Act is as follows:

(1) desegregating the races in each employment facility;

(2) providing equal employment opportunity for all employees without regard to race or ethnic origin;

(3) assuring that the pay system is applied to all employees without regard to race or ethnic origin;

(4) establishing a minimum wage and salary structure based on the appropriate local minimum economic level which takes into account the needs of employees and their families;

(5) increasing by appropriate means the number of persons in managerial, supervisory, administrative, clerical, and technical jobs who are disadvantaged by the apartheid system for the purpose of significantly increasing their representation in such jobs;

(6) taking reasonable steps to improve the quality of employees' lives outside the work environment with respect to housing, transportation, schooling, recreation, and health; and

(7) implementing fair labor practices by recognizing the right of all employees, regardless of racial or other distinctions, to self-organization and to form, join, or assist labor organizations, freely and without penalty or reprisal, and recognizing the right to refrain from any such activity.

(b) It is the sense of the Congress that in addition to the principles enumerated in subsection (a), nationals of the United States subject to section 207 should seek to comply with the following principle: taking reasonable measures to extend the scope of influence on activities outside the workplace, including—

(1) supporting the unrestricted rights of black businesses to locate in urban areas;

(2) influencing other companies in South Africa to follow the standards of equal rights principles;

(3) supporting the freedom of mobility of black workers to seek employment opportunities wherever they exist, and make provision for adequate housing for families of employees within the proximity of workers' employment; and

(4) supporting the rescission of all apartheid laws.

(c) The President may issue additional guidelines and criteria to assist persons who are or may be subject to section 207 in complying with the principles set forth in subsection (a) of this section. The President may, upon request, give an advisory opinion to any person who is or may be subject to this section as to whether that person is subject to this section or would be considered to be in compliance with the principles set forth in subsection (a).

(d) The President may require all nationals of the United States referred to in section 207 to register with the United States Government.

(e) Notwithstanding any other provision of law, the President may enter into contracts with one or more private organizations or individuals to assist in implementing this section.

PROHIBITION ON ASSISTANCE

SEC. 209. No assistance may be provided under this Act to any group which maintains within its ranks any individual who has been found to engage in gross violations of internationally recognized human rights (as defined in section 502B(d)(1) of the Foreign Assistance Act of 1961).

USE OF THE AFRICAN EMERGENCY RESERVE

SEC. 210. Whenever the President determines that such action is necessary or appropriate to meet food shortages in southern Africa, the President is authorized to utilize the existing, authorized, and funded reserve entitled the "Emergency Reserve for African Famine Relief" to provide food assistance and transportation for that assistance.

PROHIBITION ON ASSISTANCE TO ANY PERSON OR GROUP ENGAGING IN "NECKLACING"

SEC. 211. No assistance may be provided under this Act, the Foreign Assistance Act of 1961, or any other provision of law to any individual, group, organization, or member thereof, or entity that directly or indirectly engages in, advocates, supports, or approves the practice of execution by fire, commonly known as "necklacing".

PARTICIPATION OF SOUTH AFRICA IN AGRICULTURAL EXPORT CREDIT AND PROMOTION PROGRAMS

SEC. 212. Notwithstanding any other provision of this Act or any other provision of law, the Secretary of Agriculture may permit South Africa to participate in agricultural export credit and promotion programs conducted by the Secretary at similar levels, and under similar terms and conditions, as other countries that have traditionally purchased United States agricultural commodities and the products thereof.

TITLE III—MEASURES BY THE UNITED STATES TO UNDERMINE APARTHEID

PROHIBITION ON THE IMPORTATION OF KRUGERRANDS

SEC. 301. No person, including a bank, may import into the United States any South African krugerrand or any other gold coin minted in South Africa or offered for sale by the Government of South Africa.

PROHIBITION ON THE IMPORTATION OF MILITARY ARTICLES

SEC. 302. No arms, ammunition, or military vehicles produced in South Africa or any manufacturing data for such articles may be imported into the United States.

PROHIBITION ON THE IMPORTATION OF PRODUCTS FROM PARASTATAL ORGANIZATIONS

SEC. 303. (a) Notwithstanding any other provision of law, no article which is grown, produced, manufactured by, marketed, or otherwise exported by a parastatal organization of South Africa may be imported into the United States, (1) except for agricultural products during the 12 month period from the date of enactment; and (2) except for those strategic minerals for which the President has certified to the Congress that the quantities essential for the economy or defense of the United States are unavailable from reliable and secure suppliers and except for any article to be imported pursuant to a contract entered into before August 15, 1986: Provided, That no shipments may be received by a national of the United States under such contract after April 1, 1987.

(b) For purposes of this section, the term "parastatal organization" means a corporation or partnership owned or controlled or subsidized by the Government of South Africa, but does not mean a corporation or partnership which previously received start-up assistance from the South African Industrial Development Corporation but which is now privately owned.

PROHIBITION ON COMPUTER EXPORTS TO SOUTH AFRICA

SEC. 304. (a) No computers, computer software, or goods or technology intended to manufacture or service computers may be exported to or for use by any of the following entities of the Government of South Africa:

(1) The military.

(2) The police.

(3) The prison system.

(4) The national security agencies.

(5) ARMSCOR and its subsidiaries or the weapons research activities of the Council for Scientific and Industrial Research.

(6) The administering authorities for controlling the movements of the victims of apartheid.

(7) Any apartheid enforcing agency.

(8) Any local, regional, or homelands government entity which performs any function of any entity described in paragraphs (1) through (7).

(b)(1) Computers, computer software, and goods or technology intended to service computers may be exported, directly or indirectly, to or for use by an entity of the Government of South Africa other than those set forth in subsection (a) only if a system of end use verification is in effect to ensure that the computers involved will not be used for any function of any entity set forth in subsection (a).

(2) The Secretary of Commerce may prescribe such rules and regulations as may be necessary to carry out this section.

PROHIBITION ON LOANS TO THE GOVERNMENT OF SOUTH AFRICA

SEC. 305. (a) No national of the United States may make or approve any loan or other extension of credit, directly or indirectly, to the Government of South Africa or to any corporation, partnership or other organization which is owned or controlled by the Government of South Africa.

(b) The prohibition contained in subsection (a) shall not apply to—

(1) a loan or extension of credit for any education, housing, or humanitarian benefit which—

(A) is available to all persons on a nondiscriminatory basis; or

(B) is available in a geographic area accessible to all population groups without any legal or administrative restriction; or

(2) a loan or extension of credit for which an agreement is entered into before the date of enactment of this Act.

PROHIBITION ON AIR TRANSPORTATION WITH SOUTH AFRICA

SEC. 306. (a)(1) The President shall immediately notify the Government of South Africa of his intention to suspend the rights of any air carrier designated by the Government of South Africa under the Agreement Between the Government of the United States of America and the Government of the Union of South Africa Relating to Air Services Between Their Respective Territories, signed May 23, 1947, to service the routes provided in the Agreement.

(2) Ten days after the date of enactment of this Act, the President shall direct the Secretary of Transportation to revoke the right of any air carrier designated by the Government of South Africa under the Agreement to provide service pursuant to the Agreement.

(3) Ten days after the date of enactment of this Act, the President shall direct the Secretary of Transportation not to permit or otherwise designate any United States air carrier to provide service between the United States and South Africa pursuant to the Agreement.

(b)(1) The Secretary of State shall terminate the Agreement Between the Government of the United States of America and the Government of the Union of South Africa Relating to Air Services Between Their Respective Territories, signed May 23, 1947, in accordance with the provisions of that agreement.

(2) Upon termination of such agreement, the Secretary of Transportation shall prohibit any aircraft of a foreign air carrier owned, directly or indirectly, by the Government of South Africa or by South African nationals from engaging in air transportation with respect to the United States.

(3) The Secretary of Transportation shall prohibit the takeoff and landing in South Africa of any aircraft by an air carrier owned, directly or indirectly, or controlled by a national of the United States or by any corporation or other entity organized under the laws of the United States or of any State.

(c) The Secretary of Transportation may provide for such exceptions from the prohibition contained in subsection (a) or (b) as the Secretary considers necessary to provide for emergencies in which the safety of an aircraft or its crew or passengers is threatened.

(d) For purposes of this section, the terms "aircraft", "air transportation", and "foreign air carrier" have the meanings given those terms in section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301).

PROHIBITIONS ON NUCLEAR TRADE WITH SOUTH AFRICA

SEC. 307. (a) Notwithstanding any other provision of law—

(1) the Nuclear Regulatory Commission shall not issue any license for the export to South Africa of production or utilization facilities, any source or special nuclear material or sensitive nuclear technology, or any component parts, items, or substances which the Commission has determined, pursuant to section 109b. of the Atomic Energy Act, to be especially relevant from the standpoint of export control because of their significance for nuclear explosive purposes;

(2) the Secretary of Commerce shall not issue any license for the export to South Africa of any goods or technology which have been determined, pursuant to section 309(c) of the Nuclear Non-Proliferation Act of 1978, to be of significance for nuclear explosive purposes for use in, or judged by the President to be likely to be diverted to, a South African production or utilization facility;

(3) the Secretary of Energy shall not, under section 57b.(2) of the Atomic Energy Act, authorize any person to engage, directly or indirectly, in the production of special nuclear material in South Africa; and

(4) no goods, technology, source or special nuclear material, facilities, components, items, or substances referred to in clauses (1) through (3) shall be approved by the Nuclear Regulatory Commission or an executive branch agency for retransfer to South Africa,

unless the Secretary of State determines and certifies to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate that the Government of South Africa is a party to the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow on July 1, 1968, or otherwise maintains International Atomic Energy Agency safeguards on all its peaceful nuclear activities, as defined in the Nuclear Non-Proliferation Act of 1978.

(b) Nothing in this section shall preclude—

(1) any export, retransfer, or activity generally licensed or generally authorized by the Nuclear Regulatory Commission or the Department of Commerce or the Department of Energy; or

(2) assistance for the purpose of developing or applying International Atomic Energy Agency or United States bilateral safeguards, for International Atomic Energy Agency programs generally available to its member states, for reducing the use of highly enriched uranium in research or test reactors, or for other technical programs for the purpose of reducing proliferation risks, such as programs to extend the life of reactor fuel and activities envisaged by section 223 of the Nuclear Waste Policy Act of 1982 or which are necessary for humanitarian reasons to protect the public health and safety.

(c) The prohibitions contained in subsection (a) shall not apply with respect to a particular export, retransfer, or activity, or a group of exports, retransfers, or activities, if the President determines that to apply the prohibitions would be seriously prejudicial to the achievement of United States nonproliferation objectives or would otherwise jeopardize the common defense and security of the United States and, if at least 60 days before the initial export, retransfer, or activity is carried out, the President submits to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report setting forth that determination, together with his reasons therefor.

GOVERNMENT OF SOUTH AFRICA BANK ACCOUNTS

SEC. 308. (a) A United States depository institution may not accept, receive, or hold a deposit account from the Government of South Africa or from any agency or entity owned or controlled by the Government of South Africa except for such accounts which may be authorized by the President for diplomatic or consular purposes. For purposes of the preceding sentence, the term "depository institution" has the same meaning as in section 19(b)(1) of the Federal Reserve Act.

(b) The prohibition contained in subsection (a) shall take effect 45 days after the date of enactment of this Act.

PROHIBITION ON IMPORTATION OF URANIUM AND COAL FROM SOUTH AFRICA

SEC. 309. (a) Notwithstanding any other provision of law, no—

(1) uranium ore,

(2) uranium oxide,

(3) coal, or

(4) textiles,

that is produced or manufactured in South Africa may be imported into the United States.

(b) This section shall take effect 90 days after the date of enactment of this Act.

PROHIBITION ON NEW INVESTMENT IN SOUTH AFRICA

SEC. 310. (a) No national of the United States may, directly or through another person, make any new investment in South Africa.

(b) The prohibition contained in subsection (a) shall take effect 45 days after the date of enactment of this Act.

(c) The prohibition contained in this section shall not apply to a firm owned by black South Africans.

TERMINATION OF CERTAIN PROVISIONS

SEC. 311. (a) This title and sections 501(c) and 504(b) shall terminate if the Government of South Africa—

(1) releases all persons persecuted for their political beliefs or detained unduly without trial and Nelson Mandela from prison;

(2) repeals the state of emergency in effect on the date of enactment of this Act and releases all detainees held under such state of emergency;

(3) unbans democratic political parties and permits the free exercise by South Africans of all races of the right to form political parties, express political opinions, and otherwise participate in the political process;

(4) repeals the Group Areas Act and the Population Registration Act and institutes no other measures with the same purposes; and

(5) agrees to enter into good faith negotiations with truly representative members of the black majority without preconditions.

(b) The President may suspend or modify any of the measures required by this title or section 501(c) or section 504(b) thirty days after he determines, and so reports to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate, that the Government of South Africa has—

(1) taken the action described in paragraph (1) of subsection (a),

(2) taken three of the four actions listed in paragraphs (2) through (5) of subsection (a), and

(3) made substantial progress toward dismantling the system of apartheid and establishing a nonracial democracy,

unless the Congress enacts within such 30-day period, in accordance with section 602 of this Act, a joint resolution disapproving the determination of the President under this subsection.

(c) It is the policy of the United States to support the negotiations with the representatives of all communities as envisioned in this Act. If the South African Government agrees to enter into negotiations without preconditions, abandons unprovoked violence against its opponents, commits itself to a free and democratic post-apartheid South Africa under a code of law; and if nonetheless the African National Congress, the Pan African Congress, or their affiliates, or other organizations, refuse to participate; or if the African National Congress, the Pan African Congress or other organizations—

(1) refuse to abandon unprovoked violence during such negotiations; and

(2) refuse to commit themselves to a free and democratic post-apartheid South Africa under a code of law,

then the United States will support negotiations which do not include these organizations.

POLICY TOWARD VIOLENCE OR TERRORISM

SEC. 312. (a) United States policy toward violence in South Africa shall be designed to bring about an immediate end to such violence and to promote negotiations concluding with a removal of the system of apartheid and the establishment of a non-racial democracy in South Africa.

(b) The United States shall work toward this goal by diplomatic and other measures designed to isolate those who promote terrorist attacks on unarmed civilians or those who provide assistance to individuals or groups promoting such activities.

(c) The Congress declares that the abhorrent practice of "necklacing" and other equally inhumane acts which have been practices in South Africa by blacks against fellow blacks are an affront to all throughout the world who value the rights of individuals to live in an atmosphere free from fear of violent reprisals.

TERMINATION OF TAX TREATY AND PROTOCOL

SEC. 313. The Secretary of State shall terminate immediately the following convention and protocol, in accordance with its terms, the Convention Between the Government of the United States of America and the Government of the Union of South Africa for the Avoidance of Double Taxation and for Establishing Rules of Reciprocal Administrative Assistance With Respect to Taxes on Income, done at Pretoria on December 13, 1946, and the protocol relating thereto.

PROHIBITION ON UNITED STATES GOVERNMENT PROCUREMENT FROM SOUTH AFRICA

SEC. 314. On or after the date of enactment of this Act, no department, agency or any other entity of the United States Government may enter into a contract for the procurement of goods or services from parastatal organizations except for items necessary for diplomatic and consular purposes.

PROHIBITION ON THE PROMOTION OF UNITED STATES TOURISM IN SOUTH AFRICA

SEC. 315. None of the funds appropriated or otherwise made available by any provision of law may be available to promote United States tourism in South Africa.

PROHIBITION ON UNITED STATES GOVERNMENT ASSISTANCE TO, INVESTMENT IN, OR SUBSIDY FOR TRADE WITH, SOUTH AFRICA

SEC. 316. None of the funds appropriated or otherwise made available by any provi-

sion of law may be available for any assistance to investment in, or any subsidy for trade with, South Africa, including but not limited to funding for trade missions in South Africa and for participation in exhibitions and trade fairs in South Africa.

PROHIBITION ON SALE OR EXPORT OF ITEMS ON MUNITIONS LIST

SEC. 317. (a) Except as provided in subsection (b), no item contained on the United States Munition List which is subject to the jurisdiction of the United States may be exported to South Africa.

(b) Subsection (a) does not apply to any item which is not covered by the United Nations Security Council Resolution 418 of November 4, 1977, and which the President determines is exported solely for commercial purposes and not exported for use by the armed forces, police, or other security forces of South Africa or for other military use.

(c) The President shall prepare and submit to Congress every six months a report describing any license issued pursuant to subsection (b).

MUNITIONS LIST SALES, NOTIFICATION

SEC. 318. (a) Notwithstanding any other provision of this Act, the President shall:

(i) notify the Congress of his intent to allow the export to South Africa any item which is on the United States Munition List and which is not covered by the United Nations Security Council Resolution 418 of November 4, 1977, and

(ii) certify that such item shall be used solely for commercial purposes and not exported for use by the armed forces, police, or other security forces of South Africa or for other military use.

(b) The Congress shall have 30 calendar days of continuous session (computed as provided in section 906(b) of title 5, United States Code) to disapprove by joint resolution of any such sale.

PROHIBITION ON IMPORTATION OF SOUTH AFRICAN AGRICULTURAL PRODUCTS AND FOOD

SEC. 319. Notwithstanding any other provision of law, no:

(1) agricultural commodity, product, byproduct of derivative thereof,

(2) article that is suitable for human consumption, that is a product of South Africa may be imported into the customs territory of the United States after the date of enactment of this Act.

PROHIBITION ON IMPORTATION OF IRON AND STEEL

SEC. 320. Notwithstandig any other provision of law, no iron or steel produced in South Africa may be imported into the United States.

PROHIBITION ON EXPORTS OF CRUDE OIL AND PETROLEUM PRODUCTS

SEC. 321. (a) No crude oil or refined petroleum product which is subject to the jurisdiction of the United States or which is exported by a person subject to the jurisdiction of the United States may be exported to South Africa.

(b) Subsection (a) does not apply to any export pursuant to a contract entered into before the date of enactment of this Act.

PROHIBITION ON COOPERATION WITH THE ARMED FORCES OF SOUTH AFRICA

SEC. 322. No agency or entity of the United States may engage in any form of cooperation, direct or indirect, with the armed forces of the Government of South Africa, except activities which are reasonably designed to facilitate the collection of necessary intelligence. Each such activity shall be considered a significant anticipated intelligence activity for purposes of section 501 of the National Security Act of 1947.

PROHIBITIONS ON SUGAR IMPORTS

SEC. 323. (a)(1) Notwithstanding any other provision of law, no sugars, sirups, or molasses that are products of the Republic of South Africa may be imported into the United States after the date of enactment of this Act.

(2) The aggregate quantity of sugars, sirups, and molasses that—

(A) are products of the Philippines, and

(B) may be imported into the United States (determined without regard to this paragraph) under any limitation imposed by law on the quantity of all sugars, sirups, and molasses that may be imported into the United States during any period of time occurring after the date of enactment of this Act,

shall be increased by the aggregate quantity of sugars, sirups, and molasses that are products of the Republic of South Africa which may have been imported into the United States under such limitation during such period if this section did not apply to such period.

(b)(1) Paragraph (c)(i) of headnote 3 of subpart A of part 10 of schedule 1 of the Tariff Schedules of the United States is amended—

(A) by striking out "13.5" in the item relating to the Philippines in the table and inserting in lieu thereof "15.8", and

(B) by striking out the item relating to the Republic of South Africa in the table.

(2) Paragraph (c) of headnote 3 of subpart A of part 10 of schedule 1 of the Tariff Schedules of the United States is amended by adding at the end thereof the following new subparagraph:

"(iii) Notwithstanding any authority given to the United States Trade Representative under paragraphs (e) and (g) of this headnote—

"(A) the percentage allocation made to the Philippines under this paragraph may not be reduced, and

"(B) no allocation may be made to the Republic of South Africa,

in allocating any limitation imposed under any paragraph of this headnote on the quantity of sugars, sirups, and molasses described in items 155.20 and 155.30 which may be entered.".

TITLE IV—MULTILATERAL MEASURES TO UNDERMINE APARTHEID

NEGOTIATING AUTHORITY

SEC. 401. (a) It is the policy of the United States to seek international cooperative agreements with the other industrialized democracies to bring about the complete dismantling of apartheid. Sanctions imposed under such agreements should be both direct and official executive or legislative acts of governments. The net economic effect of such cooperative should be measurably greater than the net economic effect of the measures imposed by this Act.

(b)(1) Negotiations to reach international cooperative arrangements with the other industrialized democracies and other trading partners of South Africa on measures to bring about the complete dismantling of apartheid should begin promptly and should be concluded not later than 180 days from the enactment of this Act. During this period, the President or, at his direction, the Secretary of State should convene an international conference of the other industrialized democracies in order to reach cooperative agreements to impose sanctions against South Africa to bring about the complete dismantling of apartheid.

(2) The President shall, not less than 180 days after the date of enactment of this Act, submit to the Congress a report containing—

(A) a description of United States efforts to negotiate multilateral measures to bring about the complete dismantling of apartheid; and

(B) a detailed description of economic and other measures adopted by the other industrialized countries to bring about the complete dismantling of apartheid, including an assessment of the stringency with which such measures are enforced by those countries.

(c) If the President successfully concludes an international agreement described in subsection (b)(1), he may, after such agreement enters into force with respect to the United States, adjust, modify, or otherwise amend the measures imposed under any provision of sections 301 through 310 to conform with such agreement.

(d) Each agreement submitted to the Congress under this subsection shall enter into force with respect to the United States if (and only if)—

(1) the President, not less than 30 days before the day on which he enters into such agreement, notifies the House of Representatives and the Senate of his intention to enter into such an agreement, and promptly thereafter publishes notice of such intention in the Federal Register;

(2) after entering into the agreement, the President transmits to the House of Representatives and to the Senate a document containing a copy of the final legal text of such agreement, together with—

(A) a description of any administrative action proposed to implement such agreement and an explanation as to how the proposed administrative action would change or affect existing law, and

(B) a statement of his reasons as to how the agreement serves the interest of United States foreign policy and as to why the proposed administrative action is required or appropriate to carry out the agreement; and

(3) a joint resolution approving such agreement has been enacted within 30 days of transmittal of such document to the Congress.

(e) It is the sense of the Congress that the President should instruct the Permanent Representative of the United States to the United Nations to propose that the United Nations Security Council, pursuant to Article 41 of the United Nations Charter, impose measures against South Africa of the same type as are imposed by this Act.

LIMITATION ON IMPORTS FROM OTHER COUNTRIES

SEC. 402. The President is authorized to limit the importation into the United States of any product or service of a foreign country to the extent to which such foreign country benefits from, or otherwise takes commercial advantage of, any sanction or prohibition against any national of the United States imposed by or under this Act.

PRIVATE RIGHT OF ACTION

SEC. 403. (a) Any national of the United States who is required by this Act to terminate or curtail business activities in South Africa may bring a civil action for damages against any person, partnership, or corporation that takes commercial advantage or otherwise benefits from such termination or curtailment.

(b) The action described in subsection (a) may only be brought, without respect to the amount in controversy, in the United States district court for the District of Columbia or the Court of International Trade. Damages which may be recovered include lost profits

and the cost of bringing the action, including a reasonable attorney's fee.

(c) The injured party must show by a preponderance of the evidence that the damages have been the direct result of defendant's action taken with the deliberate intent to injure the party.

TITLE V—FUTURE POLICY TOWARD SOUTH AFRICA

ADDITIONAL MEASURES

SEC. 501. (a) It shall be the policy of the United States to impose additional measures against the Government of South Africa if substantial progress has not been made within twelve months of the date of enactment of this Act in ending the system of apartheid and establishing a nonracial democracy.

(b) The President shall prepare and transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate within twelve months of the date of enactment of this Act, and every twelve months thereafter, a report on the extent to which significant progress has been made toward ending the system of apartheid, including—

(1) an assessment of the extent to which the Government of South Africa has taken the steps set forth in section 101(b) of this Act;

(2) an analysis of any other actions taken by the Government of South Africa in ending the system of apartheid and moving toward a nonracial democracy; and

(3) the progress, or lack of progress, made in reaching a negotiated settlement to the conflict in South Africa.

(c) If the President determines that significant progress has not been made by the Government of South Africa in ending the system of apartheid and establishing a nonracial democracy, the President shall include in the report required by subsection (b) a recommendation on which of the following additional measures should be imposed:

(1) a prohibition on the importation of steel from South Africa;

(2) a prohibition on military assistance to those countries that the report required by section 508 identifies as continuing to circumvent the international embargo on arms and military technology to South Africa;

(3) a prohibition on the importation of food, agricultural products, diamonds, and textiles from South Africa;

(4) a prohibition on United States banks accepting, receiving, or holding deposit accounts from South African nationals; and

(5) a prohibition on the importation into the United States of strategic minerals from South Africa.

(d) A joint resolution which would enact part or all of the measures recommended by the President pursuant to subsection (c) shall be considered in accordance with the provisions of section 602 of this Act.

LIFTING OF PROHIBITIONS

SEC. 502. (a) Notwithstanding any other provision of this Act, the President may lift any prohibition contained in this Act imposed against South Africa if the President determines, after six months from the date of the imposition of such prohibition, and so reports to Congress, that such prohibition would increase United States dependence upon any member country or observer country of the Council for Mutual Economic Assistance (C.M.E.A.) for the importation of coal or any strategic and critical material by an amount which exceeds by weight the average amounts of such imports from such country during the period 1981 through 1985.

(b)(1) Not later than 30 days after the date of enactment of this Act, the Secretary of Commerce shall prepare and transmit to the Congress a report setting forth for each country described in subsection (a)—

(A) the average amount of such imports from such country during the period of 1981 through 1985; and

(B) the current amount of such imports from such country entering the United States.

(2) Thirty days after transmittal of the report required by paragraph (1) and every thirty days thereafter, the President shall prepare and transmit the information described in paragraph (1)(B).

STUDY OF HEALTH CONDITIONS IN THE "HOMELANDS" AREAS OF SOUTH AFRICA

SEC. 503. The Secretary of State shall conduct a study to examine the state of health conditions and to determine the extent of starvation and malnutrition now prevalent in the "homelands" areas of South Africa and shall, not later than December 1, 1986, prepare and transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report setting forth the results of such study.

REPORT ON SOUTH AFRICAN IMPORTS

SEC. 504. (a) Not later than 90 days after the date of enactment of this Act, the President shall submit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report on the extent to which the United States is dependent on the importation from South Africa of—

(1) chromium,

(2) cobalt,

(3) manganese,

(4) platinum group metals,

(5) ferroalloys, and

(6) other strategic and critical materials (within the meaning of the Strategic and Critical Materials Stock Piling Act).

(b) The President shall develop a program which reduces the dependence, if any, of the United States on the importation from South Africa of the materials identified in the report submitted under subsection (a).

STUDY AND REPORT ON THE ECONOMY OF SOUTHERN AFRICA

SEC. 505. (a) The President shall conduct a study on the role of American assistance in southern Africa to determine what needs to be done, and what can be done to expand the trade, private investment, and transport prospects of southern Africa's landlocked nations.

(b) Not later than 180 days after the date of enactment of this Act, the President shall prepare and transmit to the chairman of the Committee on Foreign Affairs of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report setting forth the findings of the study conducted under subsection (a).

REPORT ON RELATIONS BETWEEN OTHER INDUSTRIALIZED DEMOCRACIES AND SOUTH AFRICA

SEC. 506. (a) Not later than 180 days after the date of enactment of this Act, the President shall prepare and transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report containing a detailed assessment of the economic and other relationships of other industrialized democracies with South Africa. Such report shall be transmitted without regard to whether or not the President successfully concluded an international agreement under section 401.

(b) For purposes of this section, the phrase "economic and other relationships" includes the same types of matters as are described in sections 201, 202, 204, 205, 206, 207, sections 301 through 307, and sections 309 and 310 of this Act.

STUDY AND REPORT ON DEPOSIT ACCOUNTS OF SOUTH AFRICAN NATIONALS IN UNITED STATES BANKS

SEC. 507. (a)(1) The Secretary of the Treasury shall conduct a study on the feasibility of prohibiting each depository institution from accepting, receiving, or holding a deposit account from any South African national.

(2) For purposes of paragraph (1), the term "depository institution" has the same meaning as in section 19(b)(1) of the Federal Reserve Act.

(b) Not later than 180 days after the date of enactment of this Act, the Secretary of the Treasury shall submit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report detailing the findings of the study required by subsection (a).

STUDY AND REPORT ON THE VIOLATION OF THE INTERNATIONAL EMBARGO ON SALE AND EXPORT OF MILITARY ARTICLES TO SOUTH AFRICA

SEC. 508. (a) The President shall conduct a study on the extent to which the international embargo on the sale and exports of arms and military technology to South Africa is being violated.

(b) Not later than 179 days after the date of enactment of this Act, the President shall submit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report setting forth the findings of the study required by subsection (a), including an identification of those countries engaged in such sale or export, with a view to terminating United States military assistance to those countries.

REPORT ON COMMUNIST ACTIVITIES IN SOUTH AFRICA

SEC. 509. (a) Not later than 90 days after the date of enactment of this Act, the President shall prepare and transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Affairs of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate an unclassified version of a report, prepared with the assistance of the Director of the Central Intelligence Agency, the Director of the Defense Intelligence Agency, the National Security Advisor, and other relevant United States Government officials in the intelligence community, which shall set forth the activities of the Communist Party in South Africa, the extent to which Communists have infiltrated the many black and nonwhite South African organizations engaged in the fight against the apartheid system, and the extent to which any such Communist infiltration or influence sets the policies and goals of the organizations with which they are involved.

(b) At the same time the unclassified report in subsection (a) is transmitted as set forth in that subsection, a classified version of the same report shall be transmitted to the chairmen of the Select Committee on Intelligence of the Senate and of the Permanent Select Committee on Intelligence of the House of Representatives.

PROHIBITION ON THE IMPORTATION OF SOVIET GOLD COINS

SEC. 510. (a) No person, including a bank, may import into the United States any gold coin minted in the Union of Soviet Socialist Republics or offered for sale by the Government of the Union of Soviet Socialist Republics.

(b) For purposes of this section, the term "United States" includes the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

(c) Any individual who violates this section or any regulations issued to carry out this section shall be fined not more than five times the value of the rubles involved.

ECONOMIC SUPPORT FOR DISADVANTAGED SOUTH AFRICANS

SEC. 511. (a) Chapter 4 of part II of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new section:

"SEC. 535. ECONOMIC SUPPORT FOR DISADVANTAGED SOUTH AFRICANS.—(a)(1) Up to $40,000,000 of the funds authorized to be appropriated to carry out this chapter for the fiscal year 1987 and each fiscal year thereafter shall be available for assistance for disadvantaged South Africans. Assistance under this section shall be provided for activities that are consistent with the objective of a majority of South Africans for an end to the apartheid system and the establishment of a society based on non-racial principles. Such activities may include scholarships, assistance to promote the participation of disadvantaged South Africans in trade unions and private enterprise, alternative education and community development programs.

"(2) Up to $3,000,000 of the amounts provided in each fiscal year pursuant to subsection (a) shall be available for training programs for South Africa's trade unionists.

"(b) Assistance provided pursuant to this section shall be made available notwithstanding any other provision of law and shall not be used to provide support to organizations or groups which are financed or controlled by the Government of South Africa. Nothing in this subsection may be construed to prohibit programs which are consistent with subsection (a) and which award scholarships to students who choose to attend South African-supported institutions.".

(b) Not later than 90 days after the date of enactment of this Act, the Secretary of State shall prepare and transmit to the Congress a report describing the strategy of the President during the five-year period beginning on such date regarding the assistance of black Africans pursuant to section 535 of the Foreign Assistance Act of 1961 and describing the programs and projects to be funded under such section.

REPORT ON THE AFRICAN NATIONAL CONGRESS

SEC. 512. (a) Not later than 180 days after the date of enactment of this Act, the Attorney General shall prepare and transmit to the Congress a report on actual and alleged violations of the Foreign Agents Registration Act of 1938, and the status of any investigation pertaining thereto, by representatives of governments or opposition movements in sub-Saharan Africa, including, but not limited to, members or representatives of the African National Congress.

(b) For purposes of conducting any investigations necessary in order to provide a full and complete report, the Attorney General shall have full authority to utilize civil investigative demand procedures, including but not limited to the issuance of civil subpenas.

TITLE VI—ENFORCEMENT AND ADMINISTRATIVE PROVISIONS

REGULATORY AUTHORITY

SEC. 601. The President shall issue such rules, regulations, licenses, and orders as are necessary to carry out the provisions of this Act, including taking such steps as may be necessary to continue in effect the measures imposed by Executive Order 12532 of September 9, 1985, and Executive Order 12535 of October 1, 1985, and by any rule, regulation, license, or order issued thereunder (to the extent such measures are not inconsistent with this Act).

CONGRESSIONAL PRIORITY PROCEDURES

SEC. 602. (a)(1) The provisions of this subsection apply to the consideration in the House of Representatives of a joint resolution under sections 311(b), 401(d), and 501(d).

(2) A joint resolution shall, upon introduction, be referred to the Committee on Foreign Affairs of the House of Representatives.

(3)(A) At any time after the joint resolution placed on the appropriate calendar has been on that calendar for a period of 5 legislative days, it is in order for any Member of the House (after consultation with the Speaker as to the most appropriate time for the consideration of that joint resolution) to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of that joint resolution. The motion is highly privileged and is in order even though a previous motion to the same effect has been disagreed to. All points of order against the joint resolution under clauses 2 and 6 of Rule XXI of the Rules of the House are waived. If the motion is agreed to, the resolution shall remain the unfinished business of the House until disposed of. A motion to reconsider the vote by which the motion is disagreed to shall not be in order.

(B) Debate on the joint resolution shall not exceed ten hours, which shall be divided equally between a Member favoring and a Member opposing the joint resolution. A motion to limit debate is in order at any time in the House or in the Committee of the Whole and is not debatable.

(C) An amendment to the joint resolution is not in order.

(D) At the conclusion of the debate on the joint resolution, the Committee of the Whole shall rise and report the joint resolution back to the House, and the previous question shall be considered as ordered on the joint resolution to final passage without intervening motion.

(b)(1) The provisions of this subsection apply to the consideration in the Senate of a joint resolution under section 311(b), 401(d), or 501(d).

(2) A joint resolution shall, upon introduction, be referred to the Committee on Foreign Relations of the Senate.

(3) A joint resolution described in this section shall be considered in the Senate in accordance with procedures contained in paragraphs (3) through (7) of section 8066(c) of the Department of Defense Appropriations Act, 1985 (as contained in Public Law 98-473), except that—

(A) references in such paragraphs to the Committee on Appropriations of the Senate shall be deemed to be references to the Committee on Foreign Relations of the Senate; and

(B) amendments to the joint resolution are in order.

(c) For purposes of this subsection, the term "joint resolution" means only—

(A) in the case of section 311(b), a joint resolution which is introduced in a House of Congress within 3 legislative days after the Congress receives the report described in section 311(b) and for which the matter after the resolving clause reads as follows: "That the Congress, having received on the report of the President containing the determination required by section 311(b) of the Comprehensive Anti-Apartheid Act of 1986, disapproves of such determination.", with the date of the receipt of the report inserted in the blank;

(B) in the case of section 401(d)(3), a joint resolution which is introduced in a House of Congress within 3 legislative days after the Congress receives the document described in section 401(d)(2) and for which the matter after the resolving clause reads as follows: "That the Congress, having received on the text of the international agreement described in section 401(d)(3) of the Comprehensive Anti-Apartheid Act of 1986, approves of such agreement.", with the date of the receipt of the text of the agreement inserted in the blank; and

(C) in the case of section 501(d), a joint resolution which is introduced in a House of Congress within 3 legislative days after the Congress receives the determination of the President pursuant to section 501(c) and for which the matter after the resolving clause reads as follows: "That the Congress, having received on a determination of the President under section 501(c) of the Comprehensive Anti-Apartheid Act of 1986, approves the President's determination.", with the date of the receipt of the determination inserted in the blank.

(d) As used in this section, the term "legislative day" means a day on which the House of Representatives or the Senate is in session, as the case may be.

(e) This section is enacted—

(1) as an exercise of the rulemaking powers of the House of Representatives and the Senate, and as such it is deemed a part of the Rules of the House and the Rules of the Senate, respectively, but applicable only with respect to the procedure to be followed in the House and the Senate in the case of joint resolutions under this section, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of the House and the Senate to change their rules at any time, in the same manner, and to the same extent as in the case of any other rule of the House or Senate, and of the right of the Committee on Rules of the House of Representatives to report a resolution for the consideration of any measure.

ENFORCEMENT AND PENALTIES

SEC. 603. (a)(1) The President with respect to his authorities under section 601 shall take the necessary steps to ensure compliance with the provisions of this Act and any regulations, licenses, and orders issued to carry out this Act, including establishing mechanisms to monitor compliance with this Act and such regulations, licenses, and orders.

(2) In ensuring such compliance, the President may—

(A) require any person to keep a full record of, and to furnish under oath, in the form of reports or otherwise, complete information relative to any act or transaction described in this Act either before, during, or after the completion thereof, or relative to any inter-

est in foreign property, or relative to any property in which a foreign country or any national thereof has or has had any interest, or as may be otherwise necessary to enforce the provisions of this Act; and

(B) conduct investigations, hold hearings, administer oaths, examine witnesses, receive evidence, take depositions, and require by subpena the attendance and testimony of witnesses and the production of all books, papers, and documents relating to any matter under investigation.

(b) Except as provided in subsection (d)—

(1) any person that violates the provisions of this Act, or any regulation, license, or order issued to carry out this Act shall be subject to a civil penalty of $50,000;

(2) any person, other than an individual, that willfully violates the provisions of this Act, or any regulation, license, or order issued to carry out this Act shall be fined not more than $1,000,000;

(3) any individual who willfully violates the provisions of this Act or any regulation, license, or order issued to carry out this Act shall be fined not more than $50,000, or imprisoned not more than 10 years, or both; and

(4) any individual who violates section 301(a) or any regulations issued to carry out that section shall, instead of the penalty set forth in paragraph (2), be fined not more than 5 times the value of the krugerrands or gold coins involved.

(c)(1) Whenever a person commits a violation under subsection (b)—

(A) any officer, director, or employee of such person, or any natural person in control of such person who knowingly and willfully ordered, authorized, acquiesced in, or carried out the act or practice constituting the violation, and

(B) any agent of such person who knowingly and willfully carried out such act or practice,

shall be fined not more than $10,000, or imprisoned not more than 5 years, or both.

(2) Paragraph (1) shall not apply in the case of a violation by an individual of section 301(a) of this Act or of any regulation issued to carry out that section.

(3) A fine imposed under paragraph (1) on an individual for an act or practice constituting a violation may not be paid, directly or indirectly, by the person committing the violation itself.

(d)(1) Any person who violates any regulation issued under section 208(d) or who, in a registration statement or report required by the Secretary of State, makes any untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein not misleading, shall be subject to a civil penalty of not more than $10,000 imposed by the Secretary of State. The provisions of subsections (d), (e), and (f) of section 11 of the Export Administration Act of 1979 shall apply with respect to any such civil penalty.

(2) Any person who commits a willful violation under paragraph (1) shall upon conviction be fined not more than $1,000,000 or imprisoned not more than 2 years, or both.

(3) Nothing in this section may be construed to authorize the imposition of any penalty for failure to implement the Code of Conduct.

APPLICABILITY TO EVASIONS OF ACT

SEC. 604. This Act and the regulations issued to carry out this Act shall apply to any person who undertakes or causes to be undertaken any transaction or activity with the intent to evade this Act or such regulations.

CONSTRUCTION OF ACT

SEC. 605. Nothing in this Act shall be construed as constituting any recognition by the United States of the homelands referred to in this Act.

STATE OR LOCAL ANTI-APARTHEID LAWS, ENFORCE

SEC. 606. Notwithstanding section 210 of Public Law 99-349 or any other provision of law—

(1) no reduction in the amount of funds for which a State or local government is eligible or entitled under any Federal law may be made, and

(2) no other penalty may be imposed by the Federal Government,

by reason of the application of any State or local law concerning apartheid to any contract entered into by a State or local government for 90 days after the date of enactment of this Act.

The SPEAKER pro tempore. The gentleman from Florida [Mr. FASCELL] will be recognized for 30 minutes and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 30 minutes.

Before the gentleman from Florida is recognized, would the gentleman from California [Mr. DIXON] take the chair.

The SPEAKER pro tempore (Mr. DIXON). The Chair recognizes the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Speaker, I yield myself 2½ minutes.

Mr. Speaker, the matter which I bring before the House today is intended to assist in the formulation of a bipartisan United States policy toward South Africa, encouraging that Government to dismantle its system of apartheid.

During the 99th Congress, the House has passed several bills imposing sanctions on South Africa—none have been enacted into law. By approving the motion which I offer today, we have a real opportunity to have United States policy toward South Africa enacted into law. Both Houses of Congress have recognized the need for a change in U.S. policy. The motion I offer today is intended to bring about a change in that policy.

On June 18, the House passed a strong sanctions bill, H.R. 4868. The Senate amendment to that bill, while not as strong as the House bill, is a good bill. It will send a strong bipartisan message to the Government and people of South Africa.

I know many Members would like to strengthen the bill. It is important for the Congress to send a strong message South Africa but it is equally important to send a message which has the support of both Houses. In light of the shortness of time remaining in this session and in light of the need to expedite sending this important legislative policy initiative to the President, H.R. 4868, as amended by the Senate, is the most appropriate vehicle at this time.

Let me briefly discuss the resolution contained in the rule, House Resolution 548. During the debate on this matter statements were made that this legislation preempts State and local anti-apartheid laws. The resolution House Resolution 548 simply states that it is not the intent of the House of Representatives that this bill limit or preempt State of local financial or commerical activity respecting South Africa.

Mr. Speaker, I urge adoption of the motion.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in the face of a steadily deteriorating situation at home, and an increasingly united opposition abroad, the South African Government continues to cling to the debilitating system of apartheid. Let no one claim that there is confusion on this point: The Congress, the administration, and the American people deplore the system of apartheid and the human toll that lies in its wake.

Today, the House considers whether or not to accept the Senate amendment to H.R. 4868, the Anti-Apartheid Act of 1986. This amendment, of course, is substantially different from the bill passed by the House in late June. I believe it is a better bill than the more extreme legislation passed by the House. However, in my judgment, the House should have appointed conferees to work out the differences in the respective bills with our Senate colleagues. I believe that many constructive changes could have emerged from a conference.

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However, the Democrat leadership in the House has apparently chosen to accept in its entirety the Senate bill.

I want to say, Mr. Speaker, in fairness, there are a number of aspects of this bill before us that will, if enacted, do a great deal of good. For example, title II contains provisions earmarking funds for scholarships for the victims of apartheid. It sets forth guidelines for assistance to disadvantaged South Africans. It earmarks funds for the promotion of human rights and takes steps to encourage blacks to use Export Import Bank facilities.

In addition, it does not require disinvestment, but requires U.S. companies to comply with a rigorous set of fair employment principles.

These are positive actions that provide assistance to nonwhite South Africans while maintaining numerous benefits to the black majority associated with the presence of the American business community in that country.

In other titles, the bill clearly sets forth U.S. policy toward South Africa. It calls for negotiations to reach international agreements incorporating sanctions against South Africa. Lastly, it prohibits after 90 days, the enforcement of State and local anti-apartheid

laws with respect to contracts funded in whole or in part by the Federal Government.

Mr. Speaker, it seems to me in response to this latter point that our Democrat colleagues included in the rule we just adopted a most unusual and probably unconstitutional provision. Section 2 of the rule provides that upon adoption of H.R. 4868, the House shall be considered to have adopted a House resolution containing a statement of intent of the House regarding the issue of preemption. Mr. Speaker, this is a highly unusual and alarming procedural twist which appears to attempt to reshape the bill passed by the other body without going to conference. The language of the rule appears to try to rewrite our Constitution to allow States and localities to independently conduct their own foreign policies.

I want to conclude by saying it is unfortunate that this unusual procedural situation has developed. It can only jeopardize the bill's acceptance by the President. The White House has notified me this morning that the President is strongly opposed to enactment of this legislation in its present form.

Mr. WOLPE. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. LELAND].

Mr. LELAND. Mr. Speaker, today we are considering legislation that will put the United States on the legislative record against the continuation of South Africa's brutal and oppressive policy of racism.

Unfortunately, the legislation before us today is not as comprehensive as the legislation passed earlier by this body on June 18, 1986, which would have put an end to all United States investment in and trade with South Africa.

South Africa is the only country in the world that judges how much freedom, justice, or property a person is entitled to strictly on the basis of his or her color. After decades of this racial oppression by the minority government in Pretoria the American public—and many in the world community—has now developed a clear and unequivocal abhorrence to the continuation of apartheid and any action, or inaction, on the part of the United States that could in any way support the maintenance of this hideous and violent policy.

There has been some difference of opinion among Members of Congress on the effect of the implementation of economic sanctions on Pretoria's continuation of apartheid. Yet there are many, and the number is steadily growing, who believe that apartheid has been allowed to exist far too long and the only nonviolent action that will help facilitate the demise of that hideous policy is the implementation of economic sanctions.

The bill before us today is an initial step to legislatively demonstrate to South Africa and the world our great Nation's strong disapproval of apartheid. Although I would have liked to see this bill strengthened in conference, I recognize the political realities and time constraints of Congress and the White House. People in South Africa are dying every day. The United States cannot morally and politically afford to support our current political and commercial relationship with South Africa. It is for this reason, that I reluctantly support this legislation which has a strong chance of becoming law soon rather than fighting now to achieve a definitive anti-apartheid bill that would not pass the other body or be signed by the President.

I was very concerned, however, over the other body's statutory silence on the question of Federal preemption over more stringent and comprehensive local and State anti-apartheid ordinances and laws already approved by about 20 States and 80 cities. Because of my concern not to negate the results achieved by millions of Americans on the local and State levels, I actively worked with other Members of the Congressional Black Caucus to ensure that the rule for consideration of this bill would explicitly state this body's intention not to preempt local and State anti-apartheid ordinances. The inclusion of this language in the rule already adopted by the House helps us establish a legislative history of our intent not to preempt the advances against apartheid made on the local and State levels. I would like to reiterate the wording of that rule at this point in my statement:

Resolved, That in passing the bill, H.R. 4868, as amended by the Senate, it is not the intent of the House of Representatives that the bill limit, preempt, or affect, in any fashion, the authority of any State or local government, or the District of Columbia, or of any commonwealth territory, or possession of the United States, or political subdivision thereof to restrict, or otherwise regulate any financial, or commercial activity respecting South Africa.

Although this does not ensure the retention of the significant gains made by Americans across our great Nation, it does allow us to go on the record stating our intention not to supersede local and State anti-apartheid ordinances and laws.

The inclusion of this language in the rule is significant in protecting the strides already made in the struggle to end apartheid.

I, therefore, rise in support of the measure before us which I am hopeful will become law soon and help accelerate the collapse of apartheid in South Africa. Thank you.

Mr. WOLPE. Mr. Speaker, I yield myself 6 minutes.

Mr. Speaker, the legislation that is before us would impose tough, effective sanctions against South Africa; sanctions which would enable American policy to turn away from the failure of so-called constructive engagement.

The bill is not as strong as the original House version, and not as strong as many of us had hoped for. While the legislation does not go as far as we would have liked, there is no quarrel that it is effective and that House passage of its original legislation, in the form of the stronger substitute offered by the gentleman from California [Mr. DELLUMS], has played a key role in moving this process forward to where we are today.

I want to pay tribute to the gentleman from California [Mr. DELLUMS], the gentleman from Pennsylvania [Mr. GRAY], the author of the original House version of the legislation, and to so many others such as Mr. SOLARZ, Mr. WHEAT, Mr. LELAND, Mr. FISH, Mr. MILLER, Mr. ROEMER, and Mr. GILMAN, all of whom have had a key role in providing the leadership to the anti-apartheid movement nationally and within this body.

H.R. 4868, as amended by the Senate, bans imports of textiles, agricultural products, coal, uranium, and steel from South Africa, as well as any products produced, manufactured, marketed, or otherwise exported by South African para-statal agencies. It bans virtually all new investment of U.S. dollars in South Africa, and the overwhelming majority of new loans.

It ends landing rights for South African-owned aircraft in the United States, and vice versa. It contains a number of lesser sanctions, including legislative codification of the sanctions contained in the President's Executive orders of September 9 and October 11 of 1985.

Furthermore, the sanctions may not be lifted unless and until South Africa meets four of five stiff conditions aimed at fostering a negotiated political settlement with the representatives of the black majority and the dismantling of the apartheid system.

Finally, the bill threatens further sanctions within a year if the South African Government has not made substantial progress in ending apartheid and establishing a nonracial democracy.

Mr. Speaker, as chairman of the Subcommittee on Africa, I want to state my own view that there is nothing whatever in this bill that seeks to preempt or supersede State and city laws and policies which seek to ensure that the funds of those entities are used and invested in a socially responsible manner with respect to apartheid. In this regard, I would like to insert in the RECORD an excellent editorial by Gerald Warburg, foreign policy adviser to Senator ALAN CRANSTON, which was published in today's Los Angeles Times:

[From the Los Angeles Times, Sept. 12, 1986]

DIVESTITURE WILL SURVIVE

(By Gerald Warburg)

Will the South Africa sanctions legislation pending in Congress undermine California's new anti-apartheid law? Can federal authority require local governments to profit from apartheid against their will?

The answer to both vexing questions is yes, according to proponents of a sweeping federal preemption doctrine recently advanced by Sen. Richard G. Lugar (R-Ind.).

The specter that enacting the pending congressional measure on anti-apartheid trade sanctions would strike down broader state divestiture legislation has alarmed grass-roots activists. At stake is the fate of as many as 20 state statutes and more than

80 city and county regulations that address the South Africa issue.

There is valid reason for concern when one hears the views of Lugar, the respected Foreign Relations Committee chairman: "When we get into anti-apartheid law, the federal government is speaking for the nation . . . we cannot have individual states and cities establishing their own foreign policies."

Lugar rests his case on the presumptive constitutional grant of federal supremacy in international affairs, and concludes that any federal legislation on South Africa—no matter how limited its scope—preempts all state legislation on the matter.

But before the activists' concern turns to panic, the full record needs to be scrutinized. There is no reason for California to back away from the strong measures adopted in Sacramento. Lugar's is a minority opinion—one unlikely to prevail if pressed in a legal challenge.

"When I use a word, it means just what I choose it to mean," says the Queen in "Alice In Wonderland." So it often is with lawmakers struggling to place their own interpretation on legislation during the drafting process. Lugar currently is advancing his own preemption thesis as a selling point to persuade the White House and corporate leaders to live with the Senate bill, which Lugar maintains would at least get local authorities off their backs on the emotionally charged South Africa issue.

Yet the "Lugar bill" actually is a cut-and-paste job of legislation drafted by a half-dozen senators. These co-authors utterly rejected Lugar's interpretation, as the following statements culled from the long and tortured legislative history of the South Africa debate illustrate.

William Proxmire of Wisconsin, senior Democrat on the Banking Committee: "We have no intention of preempting state divestment laws."

Alan Cranston of California, Democratic floor manager of the measure: "Courts always recognize the distinction between the state as market participant and the state as a market regulator . . . we have no intention of compelling sovereign states to invest in companies that they do not wish to invest in."

Edward M. Kennedy of Massachusetts, senior Democrat on the Judiciary Committee: "The law is clear that this legislation will not preempt the kind of state and local action against apartheid that has occurred throughout this country."

Advocates of total preemption make much of a vote last month against an amendment by Sen. Alfonse M. D'Amato (R-N.Y.). But this amendment pertained only to a special contracting issue (whereby federal funds for New York City might be withheld if local authorities, acting against companies still in South Africa, ignored U.S. civil-rights and budget laws requiring acceptance of low-bid contracts). D'Amato said explicitly that this debate "had nothing to do with divestiture."

Those who wish that the federal legislation explicity preempted local divestiture have failed to win their point in the congressional debate. The only effort to legislate a total ban on state laws pertaining to South Africa, an amendment introduced by Sen. William V. Roth Jr. (R-Del.), was withdrawn in the face of very strong opposition. The final legislative product has no substantive provisions whatsoever on preemption. And it is totally silent on the divestiture issue. This it is grasping at straws to maintain, as Lugar has, that the bill "occupies the field" on all South Africa-related matters.

While Lugar is correct that the Constitution yields supremacy to Washington in conducting foreign relations, the Supreme Court has defended repeatedly the right of states to manage their own funds—even if their trusteeship involves choices affecting international affairs.

As is often the case, Washington lawmakers have followed, not led, local governments, churches and university activities in addressing the South Africa issue. The federal courts are unlikely to sustain an illogical assertion that congressional action, which imposes trade sanctions but is silent on divestiture and preemption, could force states to keep their IBM stock. Yet, because of the stir created by Lugar's assertions, proponents of sanctions will move to enact new provisions that would make the case for total preemption legally untenable.

The bottom line is that local authorities already have a clear legal right (and moral obligation) to exercise discretion in how they invest their money. While a minority may *wish* that the emerging federal law would immobilize grass-roots action, wishing isn't going to make it so.

There are over 19 States, 68 cities, and 10 counties whose total divestment from securities of companies with operations in South Africa already amounts to some $18.5 billion and many other States and localities are considering similar action. Among the leaders in divestment are my own home State of Michigan, New Jersey, West Virginia, Nebraska, Rhode Island, Connecticut, New Mexico, and, most recently, California.

In passing their bills, they do not seek—these municipalities and State governments—to regulate the activities of other private or government entities. These bills are therefore markedly different from the bill we will be voting on today. They do not violate any express constitutional mandate, treaty, executive agreement, or with the possible exception of rules governing bidding for Federal contracts, any Federal statutes.

If anything, they are consistent in principle with the national policy toward South Africa, and apartheid, articulated in the provisions of this bill.

I would also note that in many respects, the bill now before us is very similar to the bill passed by this House last year, the first session of this Congress.

If you go back to that debate, you will note that there was not a single suggestion made in the entire course of that debate by Members of either side of this aisle that the legislation has anything to do whatsoever with an effort at preempting or superseding State and local laws.

In closing, Mr. Speaker, I want to make a special plea to the President. Please, Mr. President, heed the overwhelming bipartisan consensus that exists in this Congress and among the American people.

We, the Congress, are saying by the passage of this legislation that we do not want America any longer to be an accomplice to apartheid. We are also saying to the South African Government that they must understand that their hope of maintaining the system of apartheid in place, their hope of preserving minority rule in South Africa, is pure fantasy.

That their delay in negotiating with the credible black leadership, their delay in freeing Nelson Mandela, and unbanning the African National Congress, and entering into direct negotiations with the ANC and other representative groups within South Africa, will meet only with increasing economic pressure and growing international isolation.

Mr. President, throughout the world, people are puzzled by how different our approach has been to South Africa and to other cases of oppression and inhumanity around the world. They see how the United States has responded in the cases of Nicaragua and Cuba and Afghanistan and Poland and Libya and by contrast that with the way we have responded in South Africa.

There is a perception that we are pursuing a double standard, and it is that perception that is eroding America's moral authority and political influence around the world.

Mr. President, do not resist this sanctions effort. Instead, please use the influence and authority of your office to reinforce the bipartisan national consensus that is being expressed by the passage of this legislation by this Congress.

Mr. Speaker, I reserve the balance of my time.

Mr. BROOMFIELD. Mr. Speaker, I yield 2 minutes to the gentleman from Washington [Mr. MILLER].

□ 1115

Mr. MILLER of Washington. Mr. Speaker, this is a constructive and responsible measure. This legislation, which enjoys the overwhelming support of both Houses of the U.S. Congress, is the strongest message yet that the American people want substantial progress toward ending apartheid now. This action makes clear our position on apartheid today as it preserves our hopes for the future of democracy in South Africa.

I believe this is an appropriate message to come from the United States. As the leader in the struggle for freedom and democracy in the world, as the leader in the fight against Communist oppression, we must be vigorous in our opposition to racist and political oppression.

The worldwide yearning for freedom and self-determination demands no less of us.

I am especially pleased, Mr. Speaker, that this measure expands on the positive approach I suggested over a year ago and which was adopted by this House. That is the linking up with and supporting groups working for democracy and a peaceful end to apartheid. I thank the gentleman.

Mr. Speaker, I yield back the balance of my time.

Mr. WOLPE. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Pennsylvania [Mr. GRAY].

Mr. GRAY of Pennsylvania. Mr. Speaker and colleagues, I rise today in support of the resolution before us. I would have welcomed the opportunity to go to conference to strengthen this legislation, because I believe the position taken by the House was the correct position in light of the increased oppression and tyranny of apartheid that we have seen in the last 18 months. But unfortunately, we do not have the opportunity to go to conference and yet at the same time ensure that there will be a sanctions bill that can be signed into law, and the Congress can have the opportunity to vote on whether or not to override a Presidential veto. Thus, even though I would have preferred the House position, I rise today to urge all of my colleagues to support this resolution.

I do so with mixed feelings, because many of the provisions of this resolution which were written by the distinguished chairman of the Committee on Foreign Affairs of the other body, a Republican, I might add, were provisions that we wrote 5 years ago: No new investment, no bank loans, fair employment practices.

Clearly the situation in South Africa has progressed far beyond where it was 5 years ago. Thus, we need a more powerful signal, a more powerful restriction of the economic fuel for the political engine of apartheid.

However, in the interest of getting sanctions passed which would clearly show to the 28,000,000 black majority that we stand with them, will clearly say to our allies we want to restrict economic activity with the racist regime and at the same time put us strategically and morally in the correct position on human rights, I urge my colleagues to support the resolution before us.

This bill will maintain pressure on South Africa. It is not designed to knock down the economy of South Africa. It is perhaps designed to knock some sense into the Botha regime and apartheid. It is not going to bring about startling change overnight, just as our sanctions against Poland, Libya, Nicaragua, Afghanistan, and 16 other nations have not brought startling change.

But what it will say to the entire world is that the American people do not want to provide economic support for apartheid. It is important that we collectively, bipartisanly say that. We were willing to light candles for those oppressed in Poland. If we pass this legislation, and if we are willing to override a veto, today, we will light a candle for those oppressed in South Africa as well. That is the position that this great democracy should have in the world.

We must not simply talk about democratic values, but we must implement them as we have done in other places in the world.

There are those who will say, "Sanctions do not work." Well, why is it we have them in 20 other countries in the world? They will say," Sanctions hurt, they hurt the very people you are trying to help." Well, interestingly they never said that in Poland, they never said it in Iran, they never said it in Afghanistan, they never said it in Kampuchea, or North Korea. So why have that as the standard in South Africa?

But more importantly, they overlook the one important fact of racism in South Africa—sanctions may hurt, but apartheid kills.

Right now, as we debate, there are people who cannot even bury their dead who have been killed by the violence of Apartheid.

So, yes, there may be some pain. Bishop Tutu has acknowledged that and Reverend Boesak has also acknowledged that.

When I was there with my colleague, Congressman FAUNTROY, and Congresswoman LYNN MARTIN from this Republican side of the aisle, in January, even the labor leaders said, "Yes, restrictions will hurt, but we are prepared to endure that hurt if it means that our day of liberation and freedom may come closer because you raise the cost of apartheid for the minority who is living off of our oppression."

So, yes, sanctions may hurt but, remember when you vote today that apartheid kills.

Therefore, I urge you to vote so that we can stand with those oppressed.

Let us pass this measure and send it to the President of the United States and then override his veto if he will not lead a bipartisan consensus of the American Congress.

The SPEAKER pro tempore (Mr. DIXON). The gentleman from Forida has 16½ minutes remaining and the gentleman from Michigan [Mr. BROOMFIELD] has 24 minutes remaining.

Mr. BROOMFIELD. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. CRANE].

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. CRANE. I yield to the gentleman from New York.

Mr. SOLOMON. I thank the gentleman for yielding.

Mr. Speaker, like all people should, I abhor apartheid but I rise in opposition to this legislation, although I am certainly under no illusions about the eventual outcome of the vote we will be taking today. And I do feel compelled to make a few remarks.

That additional sanctions are going to be imposed on South Africa seems beyond doubt. But what is equally beyond reasonable doubt is the fact that sanctions can only make a bad situation even worse. Throughout the several years that Congress has debated sanctions against South Africa, not one concrete argument has been produced in support of the contention that a de facto disengagement of American involvement in South Africa holds out the promise of anything better for that country.

A recent editorial in the Wall Street Journal declared that congressional advocates of sanctions against South Africa have seemingly embraced "the strange idea that economic collapse will somehow confer unity and true democracy" in such an extremely diverse and racially divided country.

I would suggest that South Africa defies neat and easy categorization. It is a country possessing attributes of both the first world and the Third World. And the salient reality about Southern Africa as a whole is that the political, social, and economic fabric of that region is such that sanctions or punitive actions taken against South Africa will also spill over into each of the neighboring countries. And all of this will take place with no likelihood that the apartheid system will be in any significant way either changed or done away with.

A recent editorial in the Washington Post suggested that many advocates of sanctions against South Africa are only now—somewhat belatedly—coming to the realization that sanctions against one country in Southern Africa really mean sanctions against all countries in that region.

The editorial went on to make the even more ominous observation that the South African Government, for its own perverse reasons, may even welcome such pressure in order "to show it can endure Western sanctions and dish out tougher ones itself." In fact, South Africa has already started with Zimbabwe and Zambia.

South Africa has begun demonstrating just how steep the cost of sanctions can be by recently levying an import tax on all goods bound for Zimbabwe and Zambia that traverse South Africa. According to the new regulations, importers in Zimbabwe and Zambia are required to place a cash deposit equal to 125 percent of South African customs duties on all goods bound for those two countries that are being shipped via South African-controlled facilities. Over time, the enforcement of such a requirement can only have a devastating impact on the economies of those two countries.

Throughout the many congressional debates on South Africa, I have always emphasized that we must resist the temptation of dealing with South Africa purely from an attitude of malice. And so I approach this vote today with a feeling of profound regret.

We must stand ready to help the South African people achieve change in a manner that does not foreclose their future—the continent

of Africa is already littered with the wreckage of too many failed revolutions and ruined economies. Unfortunately, this bill isn't the way to do it.

Mr. Speaker, I would also like to speak to the intent of this bill and any report language concerning outstanding obligations and current investments.

Mr. Speaker, in defining the term "loan" and "investment" in H.R. 4868, our colleagues in the U.S. Senate gave careful thought to the real and practical effect that the imposition of sanctions would have both on South Africa and on the United States. The Senate reached two broad conclusions about the ban on new loans and new investments that are embodied in H.R. 4868: Loans outstanding to South African residents are not prohibited—nor is rescheduling of such loans—and South African business operations of United States companies, including those of United States financial institutions, are not required to be terminated or reduced at this time. These conclusions are based on the sound judgment that imposing extraordinary losses on United States creditors and investors by making them in effect write off all or most of these financial or corporate assets injures those Americans and benefits South Africa: South Africa would continue to have full use of those financial resources and enterprises.

I commend the wisdom of these provisions of the Senate bill.

One of the purposes of H.R. 4868 is to codify the provisions of the Executive orders President Reagan issued last fall with respect to South Africa. To implement those Executive orders, the Departments of Treasury, Commerce, and others issued a variety of regulations. To the greatest extent possible, those regulations should be relied upon in implementing H.R. 4868.

For example, the Executive orders and the regulations issued under them do not bar U.S. financial institutions for making rand-denominated loans to the private sector. This is permitted so long as the making of these loans do not involve any transfers of new funds by the financial institution to its South African subsidiary. This practice of redeploying local assets is fully consistent with the ban on new investment contained in this bill.

Mr. CRANE. Mr. Speaker, once again the House of Representatives has the opportunity to stop an emotionally driven legislative effort that will have the unfortunate impact of hurting the very people that it is trying to help—the blacks in South Africa. While from a moral standpoint this legislation certainly has a commendable objective, the sad reality is that it will not help to bring about a peaceful change in South Africa. In fact, it is likely to do just the opposite, further adding to the unrest and violence that already plagues that country. Consequently, each of us will have to live with the fact that the black South African will suffer to pay for our moral crusade. I, for one, do not want to live with that burden.

Repeatedly during the debate on the House sanctions bill, I heard proponents of the bill claim that the blacks in South Africa are willing to suffer to bring about an end to apartheid. That is easy to say from the comfort of a Capitol Hill office, but a recent Sunday Times—London—poll of 615 blacks throughout South Africa, indicates that nearly two-thirds are opposed to suffering and violence as a means to end apartheid. Furthermore, the polls revealed the 44 percent of the blacks surveyed thought they would be hurt personally by sanctions, as opposed to only 17 percent who thought they would not be hurt. Clearly then, those who claim that the blacks are willing to suffer the consequences of our sanctions are not representing the people who will do the actual suffering.

Those factions that support unrest and violence in South Africa as a means to end apartheid are also the very ones that stand to benefit from the turmoil that would accompany the fall of the Government. My fear is that the United States will act unwisely, and as a result, we will deliver the people of South Africa to a future which promises only the tragic shackles of economic chaos, civil war, and Soviet dominated totalitarianism.

The Reverend John Gugucha, director of a private black religious outreach program in South Africa, recently warned that "one man, one vote" in South Africa would lead to totalitarianism as it has in other African nations. "We have all seen what has happened in other African states," said Mr. Gugucha. "It's one man, one vote—once. Government by the majority tribe and then the minority tribes have no snowball's chance in hell of coming to power." Without exception, no Member of this body could possibly want to be responsible for condemning all South Africans to such a bleak and hopeless future. However, economic sanctions may well do precisely that.

Mr. Speaker, over the years I have warned proponents of economic sanctions against South Africa of the likely impact of such sanctions on South Africa, the neighboring African states, and on the United States. I have repeatedly cited black leaders in South Africa, such as Lucy Mvubelo of the black National Union of Clothing Workers and Chief Buthelezi of the Zulus, who genuinely believe that economic sanctions will only add to the unrest and violence, and will ultimately do more harm than good for the blacks in that country. Today I am again raising my concerns, this time citing a liberal member of the South African Parliament as my source.

Helen Suzman was first elected to the South African Parliament in 1953. As an opposition member of parliament, she has long been an articulate and outspoken critic of the Government's policy of apartheid. Although she is morally opposed to the system of apartheid, as am I, she warns:

> Those who believe that a quick fix is likely to follow the imposition of sanctions, and that the Pretoria regime will collapse within a short time thereafter, are sadly misinformed * * *. Far more likely is a retreat into a siege economy, more oppression and more violence.

Based on this fear, Mrs. Suzman concludes:

> Unpalatable as it may seem to the sanctions lobby, the most practicable way to get rid of apartheid and to achieve a nonracial democratic society in South Africa is through an expanding, flourishing economy.

In spite of the warnings from within South Africa, by pressing forward with economic sanctions against South Africa, we will again fall victim to the arrogant philosophy that "the U.S. Government knows what is best for your country despite what you might think otherwise." In the meantime, sanctions will surely reverse the progress that the Government of South Africa has recently made. This progress can be in part attributed to the positive example set by United States firms engaged in business in South Africa.

The American firms operating in South Africa stand in the vanguard of those who promote the continued advancement of the political and economic aspirations of all South Africans. Operating under the Sullivan principles, the majority of American firms have dedicated themselves to the dismantling of apartheid and the promotion of equal rights for nonwhite South Africans. To date, American firms have spent more than $140 million adding classrooms to schools, building health centers, awarding scholarships, and otherwise assisting their black employees.

For these very reasons, and in the face of warnings from a wide array of prominent South Africans, black and white, liberal and conservative, it remains a mystery to me why United States legislators still feel a need to take the moral high ground and impose severe sanctions against South Africa. Congress should carefully evaluate the action we are about to take before we realize Reverend Gugucha's ominous prediction that:

> As soon as the American people impose sanctions, they will pat themselves on the back and turn their attention to other trouble spots in the world, and blacks in South Africa will be left to pick up the pieces.

If you really want to vote your conscience today, do not vote in favor of punitive sanctions which are sure to bring pain and suffering to the very people we are trying to help. Instead, let's work together to bring about a positive and peaceful end to apartheid in South Africa. With determination, and serious consideration as to what will be in the best interest of the

people of South Africa, I am confident that we can work out a solution that we will not have to feel guilty and responsible for in the future. I urge my colleagues to oppose the Senate sanctions legislation.

Mr. Speaker, I submit for the RECORD a letter from Raymond J. Celada, senior specialist in American public law, CRS, Library of Congress.

CONGRESSIONAL RESEARCH SERVICE,
THE LIBARY OF CONGRESS,
Washington, DC, September 10, 1986.

To: House Committee on Foreign Affairs; Subcommittee on Africa. Attn: Steve Weissman.

From: American Law Division.

Subject: Preemption of State and Local Laws by Federal Legislation Respecting South Africa.

Following our conversation earlier today, I discovered that one of my colleagues, Johnny Killian, previously prepared a paper on the above subject in connection with another South Africa sanctions bill. Although it is not dispositive of the present situation, it covers in detail the major points raised during our discussion, including our conclusion regarding the importance of the scope of the eventual federal law and statements made during its consideration. Although isolated statements made by individual members in the course of debate are not given much weight by the courts in determining congressional intent, statements by the chairman of the committee which reported the legislation are considered more persuasive of legislative intent. Accordingly, in light of Chairman Lugar's remarks of August 15, 1986, supportive of across-the-board preemption, and absent any probative contrary evidence a court holding in accord with that conclusion is not an unlikely eventuality. In the circumstances as you described them to me, your only recourse at this time is to fill House consideration of the Senate bill with as many corresponding statements by the chairman and leading spokespersons on South African sanctions and hope that these prove persuasive with the courts. The latter may not tilt the balance against preemption but, given the uncertainties that mine the legal landscape, it gives you a chance, to prevail.

Mr. BROOMFIELD. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. COATS].

Mr. COATS. Mr. Speaker, I rise in support of the bill that is before us today. I think it is a sensible and workable compromise of a very difficult and divisive issue before this Congress. There is no doubt in my mind that the House version went much too far. While disinvestment may have sent the right message, it is the wrong remedy. It works against those that we are trying to help and I think for that reason alone it was good that we adopted the Senate proposal. The Senate proposal is superior because it imposes both sanctions and incentives. The incentives and sanctions work together to provide a carrot and stick approach that I think has the best chance of bringing about a workable solution to the problem that we face. The Senate version is sensible, workable, it recognizes the positive contributions that investment, United States investment in South Africa have brought toward the people of that country. The incentives provided in the legislation are directed toward those very necessary first steps that the South African Government must take to end apartheid and bring about needed reform. This carrot and stick approach is one that can pass Congress this session. It can impact positively on South African policy this year, and hopefully it is one that can bring about much-needed change in the South African Government.

Mr. Speaker, I yield back the balance of my time.

Mr. WOLPE. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from California [Mr. DELLUMS].

Mr. DELLUMS. I thank the gentleman for yielding.

I thank the Speaker.

Mr. Speaker, several weeks ago to the shock and surprise of many of our colleagues in the House, millions of American people around the country and, I might add, this gentleman, the author of the amendment in the nature of a substitute, the Congress of the United States in a voice vote passed it.

This gentleman suddenly found himself in a very interesting place, the winner of the floor of the Congress on a major issue of our time.

Now I came to the floor with no illusions, Mr. Speaker and Members of the House, and my distinguished colleagues. I thought that we would achieve a significant vote, but I did not come to the floor thinking that it would win; but only coming to the floor to try to fashion a solution, not that I thought that would pass the House of Representatives, be enacted by the Congress of the United States, signed into law by the President; but a bill that I thought would do the job, that is to bring South Africa to their senses.

But lo and behold, by some extraordinary fluke my colleagues found themselves stumbling into integrity, falling into principle and finding themselves on the correct side of history.

For that I thank all of them. But we now find ourselves confronted with a piece of legislation that has some substantial difference from that piece of legislation. I did not have any thought that it would pass, but my hope was that we could move back the fear barrier. Most of us as politicians operate in an incredible atmosphere of fear: "if I take this stance, will my constituents understand? If I take this position, will I be opposed in the next election? What will this do for my future?"

So in enacting what we did, we moved back the fear barrier. Many politicians and people around the country realized that out of idealism many things could happen. I think history would look back upon this moment and they will say that even though we are not at this moment confronted with the bill that we brought, because we had no illusion about the Senate enacting it, but our hope was to force the Senate to do more than they would normally have done. History will record that we were correct. But a number of things have moved around the country, including the great State of California, a conservative Republican Governor, about the business almost at this very moment of signing into law perhaps the most significant piece of divestiture legislation ever enacted by any State in this entire United States, I think as a direct result of what the House of Representatives did when the smoke cleared and this aggressive piece of legislation had indeed passed the House.

I would like to state clearly and unequivocally, Mr. Speaker, I am not happy about the legislation that comes to the floor.

□ 1130

I am concerned about the issue of preemption. I would have liked to see us go to conference and resolve that problem. I am not happy about the definition of new loans and new investments, that even watered down the version of the bill that was an alternative when our piece of legislation passed.

So there is not a great deal in this bill.

I took the different route. I said, why do we not go to conference and fight for a stronger bill and come up with a piece of legislation whose objective not was simply to pass a piece of paper. Our objective here is not ultimately to pass legislation, but to bring down apartheid in South Africa. And that what we do ought to always be evaluated against that backdrop. And if we believe in principle and integrity, that the legislation did not do that, then we should fight for something stronger.

But that position did not fail, Mr. Speaker. My colleagues felt, and I think it is a very important view, that Mr. Botha and Pretoria should not be able to celebrate as a result of no bill coming through, so that we should keep the momentum. It is out of that consensus that we find ourselves with the Senate bill.

We have now stated the House intent on the issue of preemption, so that is to some extent satisfying. We are now moving forward with some continued momentum of the issue of sanctions that brings us to this moment.

I would like to say that in January, if it is the will of our constituency, we will be back. We will fight again for a stronger piece of legislation, not

simply because our objective is to pass a piece of legislation, but to bring significant sanctions that will ultimately bring down apartheid because it is the greatest human rights issue of our time.

In conclusion, Mr. Chairman, I am willing to see this bill go forward, not because it is a satisfactory response to one of the most terrible situations on the face of this Earth, but it is the only thing that we have at this moment, and it ought to pass to keep the momentum going forward.

Mr. BROOMFIELD. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I cannot believe what I just heard, that apartheid is the greatest human rights violation and horrible atrocity of our time. What about communism? What about millions of people who are dying in Ethiopia as a result of communism? I do not understand why we do not talk about that once in a while, but we do not.

But apartheid is repugnant, and I am opposed to it just as your folks are. It should be changed.

But I think we are involved today in an orgy of self-righteousness that is going to hurt the very people that we purport to want to help.

Has anybody been listening? Six hundred thousand South African blacks are going to lose their jobs. They each feed a family of five. That is 3 million people who are going to be without sustenance. The African National Congress that you want to recognize is controlled by the Communists, and the Soviet Union gave them $8 million in weapons last year. They want violent revolution. Those 3 million people who will not be able to eat or survive without some kind of sustenance, a job, are going to be ripe for revolutionary talk in a very short time. We are playing right into the hands of the ANC and the South African Communist Party and the Soviet bloc.

They want South Africa because of its vital minerals, because it provides a mechanism to strangle the West. Ninety-nine percent of our manganese and 88 percent of our platinum comes from South Africa needed for industry and defense of this country, and yet we are playing right into their hands.

I talked to the Inkatha people in my office yesterday, 12 of them, and they said exactly what I just told you. Not me speaking, the people from the Zulu tribe in Inkatha, 1.3 million South African blacks. It is going to hurt them severely. It is going to hurt the very people we want to help. I do not know if anybody else was listening earlier, but it is going to hurt America, too.

We were elected to represent America. Think about that just a little bit. Ninety-nine percent of our manganese comes from there which is used for steel, which is used for automobiles, which is used for farm implements, things that are vital to industry and economic health in this country. Yet we are going to charge the American people more money for those implements, which is going to cause inflation and possibly a loss of jobs. And the only other place you can get those minerals in quantity is from, you guessed it, the Soviet Union.

What about our farmers? Did anybody hear that a while ago? Two point seven million metric tons of corn was purchased by South Africa 2 years ago. We cannot afford to lose more markets. Our farmers are in the tank right now. Yet we are going to cut off another market. The South African Government has bought more wheat this year than the Soviet Union has, and they are a cash buyer. Did you hear that?

You go home and explain that to your farmers, to your auto workers, to the people in industry, because it is going to come back to haunt us. People say they will sell us the vital minerals because the bill allows us to buy them. Only 5 percent of their exports are in those minerals. If we embargo the others, they are not going to give us those minerals, and it is going to come back to haunt the United States of America.

Mr. BROOMFIELD. Mr. Speaker, I yield 4 minutes to the gentleman from California [Mr. SHUMWAY].

Mr. SHUMWAY. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I recognize the fact that we have before this body this day a great policy dilemma, one that is difficult for all of us to see a clear way in, and certainly one which is difficult for all Americans. Certainly the impact of the decision made here today will have significant and far-reaching overtones, moral and political and otherwise, not just for this country but for nations around the world.

But as we deliberate this issue, I think there are some basic questions that we should keep in mind, and I would just like to suggest these to Members and perhaps we can think about them as we go through this debate.

The first is, are we giving any recognition to what appears to me to be a strong likelihood that economic sanctions will turn out to be a two-way street? That is when South Africa cuts off the sales of precious metals to the United States and those metals are available to no other country in the world except the Soviet Union. What do we do then. And can there be any question that the South Africans would not so retaliate. I think there cannot be such a question.

Second, Mr. Speaker, I would suggest that we should ask ourselves, do we have any understanding of the impact of sanctions on other nations in the southern African hemisphere? Now we know there are many employees of South African firms that come from Botswana, from Zimbabwe, from Zambia, from other places, even Mozambique. If our purpose is to force the collapse of that South African economy, and I do believe it is in spite of the protestations of that purpose, do we realize that it is going to take other nations down with it and the implications of those nations falling?

Third, Mr. Speaker, is there any recognition given to the progress made thus far, including the repeal of pass laws? Is there any understanding on our part of measures taken by South African businesses, both American and domestically-owned, to aid the cause of minorities, including application of the Sullivan principles?

Is there any concern about the apparent hypocrisy of our own self-righteous indignation about apartheid when we have not eliminated racism here in our own society? Or how about the irony in this congressionally suggested foreign policy of making great efforts to achieve friendly relations, for example, with Red China while bashing a long-term reliable ally, South Africa.

It seems to me, Mr. Speaker, that these are questions we should have foremost in our minds as we embark upon this debate, and that we would serve our purpose of policy in this country far better by striving to find ways to provide economic incentives for South Africa to help that country build up its economy and provide jobs for those who need them the most and social equality for those who are entitled to it, rather than tear down that economy as this kind of policy will eventually culminate in.

Mr. FAUNTROY. Mr. Speaker, will the gentleman yield?

Mr. SHUMWAY. I yield to the gentleman from the District of Columbia.

□ 1140

Mr. FAUNTROY. I thank the gentleman for yielding to me.

Mr. Speaker, the gentleman does raise serious questions. First, it is apparent that South Africa will respond by imposing sanctions on the neighboring front line nations. The question is what do we do about it.

The gentleman, I think, does know that the diamonds, the ferro-manganese, the platinum the precious metals that South Africa sells did not stop at the line of the border of South Africa. Those precious metals are available in all the front line nations. But they cannot produce and market them around the world because of the destabilization efforts of the South African

Government in bombing and murdering and destroying the trade routes which would allow them to move them out and reduce our dependency upon this racist regime alone for these precious metals.

We ought to think in terms of a supplemental program that would assist the front line nations not only in developing their trade and developing routes, but also in bringing the technology and human resources to extract from the soil those same resources which we so vitally need.

Mr. BROOMFIELD. Mr. Speaker, I yield 30 additional seconds to the gentleman from California [Mr. SHUMWAY] to respond.

Mr. SHUMWAY. I thank the gentleman for the additional time.

Mr. Speaker, I appreciate the gentleman's suggestion and I really think that it goes hand-in-hand with the idea that I expressed in conclusion. That is we should be seeking ways to build up our neighbors and allies in South Africa not to bash them by trying to bring ruin and devastation to their economy.

I made no reference to diamonds but I did feel very strongly about those rare metals that we do obtain from South Africa. We have heard time and again from good authority that if we do not buy them from that nation they are only available from one other source and that is a source that we do not want to trade with. I think therefore that we need to keep that particular effect of sanctions in mind as we go ahead with this debate.

Mr. WOLPE. Mr. Speaker, I yield 4½ minutes to the gentleman from New York [Mr. SOLARZ].

Mr. SOLARZ. I thank the gentleman for yielding me this time.

Mr. Speaker, I doubt in the short run that this bill will bring an end to the killing in South Africa. I rather doubt that it will result in the abolition of apartheid. I rather doubt that it will lead to the release of the political prisoners in that country, and I rather doubt that it will produce negotiations between the Government of South Africa and the legitimate black leadership of the nation.

The sad truth is that the situation in South Africa is likely to get much worse before it gets much better. But what this bill will do is to make it clear that the United States is on the side of change rather than the status quo. That the United States is not prepared to continue doing business as usual with the apartheid regime in South Africa. That the United States is willing to join with the commonwealth and with the European community and with other industrialized nations around the world in applying additional economic pressure to the racist regime in Pretoria.

This bill will make it clear that the United States has finally abandoned the policy of constructive engagement and replaced it with a new policy of constructive engagement in which we make it clear by deed as well as by word that we are opposed to the apartheid regime in South Africa.

For better or for worse, rightly or wrongly, a situation now exists where our willingness to impose sanctions against South Africa has become the litmus test of the sincerity of our opposition to apartheid. Without the adoption of this legislation, our rhetorical denunciations of apartheid will ring increasingly hollow.

Furthermore, even if this bill is unlikely to facilitate real change in South Africa in the short run, its adoption is critical if apartheid is going to be abolished in the long run. In the absence of increasing internal and international pressure, the incentives for the Government of South Africa to abolish the apartheid would be de minimis. In this sense, I would recall the words of the ancient negro spiritual, "God gave Noah the rainbow sign, no more water, the fine next time."

I fear that in the absence of legislation like this the accumulated rage and resentment and repression in South Africa will produce a fire that will consume that entire country, the region in which it exists, and perhaps even the world. So I believe that the adoption of this legislation may well be the last, best hope for peaceful change in South Africa.

Those who oppose the bill say that it would hurt the very people that we want to help. I think this is a serious and significant argument. I want to say this morning that if in fact I believe that the black leadership of South Africa were opposed to this legislation, I would vote against it myself. But the fact of the matter is that virtually all of the recognized black leaders of that country are in favor of additional economic pressure against South Africa.

Nelson Mandela favors increased sanctions against South Africa, so does Oliver Tambo, so does the Bishop Tutu, so does Reverend Bosack, so does Dr. Matwana and the Committee of Ten in Soweto, and Cosato and Cusa, the two largest federations of black trade unions in South Africa which represent the overwhelming majority of organized black labor in that country are on record in favor of additional sanctions as well.

The United Democratic Front which represents 700 organizations and over 2 million blacks in South Africa is strongly in favor of increased economic pressure against the Government of South Africa. In view of the fact that the black leadership of South Africa and the black people of South Africa are asking us to impose sanctions against their government and against their country in order to facilitate the abolition of apartheid, I say that it would be politically cynical and morally presumptious for us to take the position that we know what is in the best interests of the black people of South Africa better than they do themselves.

I say that by voting for this legislation we will be keeping faith with the black majority whom we say we want to help in South Africa, and so I call for the adoption of this bill today.

Mr. BROOMFIELD. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. PURSELL].

Mr. PURSELL. I thank the gentleman for yielding me this time.

Mr. Speaker, I want to compliment the chairmen on both sides. I think that this is a bipartisan foreign policy issue and that there has been a healthy debate over the years on sanctions against South Africa and apartheid. I was an original cosponsor of Congressman GRAY's bill when we introduced the first bill to implement sanctions with regard to apartheid.

I have been to Africa and I do not claim to be an African expert in foreign policy, but I think, in terms of human justice, it is reprehensible that 28 million black people in Africa do not have the right to vote and do not have the right to move around Africa or anywhere else in the world.

I think apartheid is a major human rights issue. I suggest to some people who think that communism is equally as bad how very important it is that the United States takes the right position as a moral leader of the world on moral issues. I suggest that the African nations will look some day to the West or to the East and decide who has been a supporter in terms of constructive policy and who has worked with the African leaders on the economic, social, political, and cultural development of this Nation and this world.

I think the President's policy on constructive engagement really has not worked. I also believe that the Sullivan code is not enough either. I have met with Dr. Sullivan, I know him quite well and I have studied the Sullivan code. I think that is a step in the right direction. In conclusion, I also think this bill is a step in the right direction. I am sure we have more to do, but I ask the President, in all of my humble experience as a Member of this Congress for 10 years, to consider this bill carefully and to look at it favorably. I hope that he has the courage and conviction to say that we should change our foreign policy and support the sanctions issue here. The embodiment of some sanctions that are not that difficult to adhere to hopefully will improve the situation and will abolish apartheid.

Mr. BROOMFIELD. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. ZSCHAU].

Mr. ZSCHAU. I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in strong support of this Anti-Apartheid Act of 1986 passed by the other body on August 15.

Last year, about this time, this body passed the conference report on H.R. 1460. It never became law, but some of its provisions, in fact, most of its provisions were implemented by the President by Executive order.

□ 1150

It was important that we did that last year because it made clear our abhorrence of the policy of apartheid, and that we were willing to back up our talk with actions. It was also important because it began to put pressure on the Government of South Africa.

We agreed at that time that we would monitor the situation and base future action on what occurred in the intervening period. Although there have been some small steps taken to improve the situation, on balance the situation has deteriorated dramatically. Stronger action is necessary, and we must take that action now. This legislation increases the pressure. It is that stronger action that we should be taking.

But I believe it is a balanced approach. It imposes greater pressure on the Government of South Africa. It has some positive measures to help the lives of blacks in South Africa, and it retains the possibility of United States firms that are Sullivan code-compliant to continue to do work there, to not only help in the lives of South Africans but also to set an example for others.

I believe we should continue to monitor the situation, and those provisions for monitoring are contained in this legislation. Specific objectives are set out. In addition, we should seek the support of other nations around the world to join with us in these stronger actions taken to put pressure on the Government of South Africa in a balanced and responsible way in order to bring an end to apartheid.

Mr. WOLPE. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, I thank the gentleman for yielding this time to me, and I congratulate him on this compromise.

I want to assure all my friends that women do not want those diamonds from South Africa. We would rather wear our fake diamonds.

Mr. Speaker, apartheid is the equivalent of nazism. The former Prime Minister, Dr. Verwoerd, the "architect of apartheid," said, and I quote: "Any further admission of Jews into South Africa will lead to the defiling of our white race."

There is strong evidence that these laws in South Africa were derived from the Nazi Nuremberg Laws. If you look at them, you will see that the race laws of South Africa prevent the nonwhite races from interbreeding; inhibition and limitations with regard to nonwhite races from employing or giving orders to whites; and the laws which deprive the nonwhite races of citizenship and of political rights and most civil rights in this land which is devoid of human rights.

The least we should be doing, Mr. Speaker, is passing this legislation.

Mr. BROOMFIELD. Mr. Speaker, I yield 1½ minutes to the gentleman from Louisiana [Mr. ROEMER].

Mr. ROEMER. Mr. Speaker, I rise in support of the bill before us, and I would take the time to ask a few simple questions.

Should our country bar trade with and take the profit out of apartheid? Yes. Support the bill.

Should we in the Congress stand mute and allow this administration to continue its policy of so-called constructive engagement? No. The record clearly shows that this administration will continue to honor the economic contract with South Africa while ignoring the moral contract with its citizens. Support the bill.

Will the policy of sanctions outlined in this bill be imposed without risk or pain? Of course not. But inaction is more risky to America and to South Africa and, in the long run, more painful to both. Support the bill.

Finally, unlike most Members, I grew up on a farm in the deep South during the fifties and saw a great region and a decent people attempt to finesse and temporize the horror of apartheid, using all the economic arguments and seemingly practical arguments utilized by the Government of South Africa and this administration. From personal experience I can tell you there is no turning back, no temporizing. We cannot knowingly continue to do businss with a nation that treats a majority of its citizens like animals. Support the bill.

Mr. BROOMFIELD. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I rise in support of the bill, but I think it needs to be understood that those of us who are supporting this bill come from different perspectives on it from time to time.

I rise in support of a unified, coordinated, and comprehensive approach to foreign policy toward South Africa. That is what is contained in the bill that was brought to us by the other body.

The other body's specific intent in that bill was to keep the rest of the country; namely, State and local governments, and so on, from formulating their own foreign policy. Rather, their intent was to bring our whole foreign policy together in a coordinated kind of effort.

I think that is right. I think as this Nation expresses itself to the world, we ought to do it through the voices of the elected Representatives of this Congress, and that is the intent of the bill that we have before us. Many of us who support that bill are in fact supporting that approach to the foreign policy of this Nation, and I think it is extremely important that we understand that that is our intent.

Mr. GRAY of Pennsylvania. Mr. Speaker, will the gentleman yield?

The SPEAKER pro tempore (Mr. DIXON). The time of the gentleman from Pennsylvania [Mr. WALKER] has expired.

The Chair wishes to state that the gentleman from Michigan [Mr. BROOMFIELD] and the gentleman from Michigan [Mr. WOLPE] both have 6 minutes remaining.

Mr. WOLPE. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Maryland [Mr. MITCHELL].

Mr. MITCHELL. Mr. Speaker, as a citizen of a nation born in revolution, as America was—we tend to forget that—I am proud to be a supporter of this legislation.

In 1960, when America came to grips with the ugly racism in this Nation, whether we liked it or not, whether we wanted to or not, we assumed the moral leadership of the world on the issue of a color bar, and it is for that reason, and that reason only, that nations around the world were puzzled and hurt and pained and disillusioned when our Government by word and deed supported the racist regime in South Africa and thereby kept millions of black people living out their lives in humiliation and degradation.

Is it any wonder that those black men and women in South Africa raised the question: How many years can a mountain exist before it is washed to the sea? How many years can some people exist before they are allowed to be free?

Mr. Speaker, these are the waning days for me in this Congress, and I feel proud of the action that this House will take. I will respect you forever for it, and I will respect you when you override the Presidential veto of this legislation.

Mr. BROOMFIELD. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman for yielding me this time.

Very little mention has been made today of what the President's position is. He has stated continually that he is diametrically opposed to apartheid, but he believes that if we pull stakes and run, we are going to end up hurting the people we want to help very se-

verely. He thinks we should stay in there and work and not cut and run, as he has said in the past.

One of his quotes is this: "If postapartheid South Africa is to remain the economic locomotive of southern Africa, its strong and developed economy must not be crippled. Therefore," he said, "I urge the Congress and the countries of Western Europe to resist this emotional clamor for punitive sanctions."

And make no mistake about it, the South African sanctions contained in the Senate bill are punitive. For example, the Senate bill, as I said before, will ban the import into the United States of South African agricultural commodities and products. The impact on black employment in the agricultural area alone will be 446,000 jobs.

Banning the import into the United States of South African coal, iron and steel will have an impact on blacks of 145,000 jobs. The impact on the people that it will feed is 725,000 workers and their families. It is 2.2 million from agriculture alone, and we are not mentioning the other areas that are connected with those industries. The bottom line is that more than 600,000 jobs will be lost, and the livelihoods of more than 3 million blacks will be affected.

As I said before, we are playing right into the hands of the South African Communist Party. The African National Congress is controlled by the Communists, and I believe we are setting the stage for a major, major disaster in South Africa by the actions we are taking here today.

□ 1200

Mr. Speaker, I urge my colleagues to reconsider their actions. I know this thing is on rails and it is probably going to pass overwhelmingly, but I wish you would really think of the ramifications to the people we are trying to help and to the people of the United States as well.

Mr. BROOMFIELD. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts [Mr. CONTE].

Mr. CONTE. Mr. Speaker, on June 18, I stood in this well and pleaded with my colleagues to support disinvestment as the last best hope to avoid a potential bloodbath in South Africa. Shortly after that speech, I put my money where my mouth is. I divested my portfolio of all stock of any company doing business in South Africa and, Mr. Speaker, it is going to be a hell of an expense, too.

Today we have an opportunity to vote for a Senate package that does not go far enough, but it is another step forward. I would prefer that today's vote be on sending a disinvestment package to the President, but that is not the reality. But we do have a sanctions package that puts the weight of this great country behind the effort to eliminate the evil and immoral system of apartheid. Sanctions hurt, you bet they hurt. But apartheid kills, and black leaders throughout Africa—including Archbishop Tutu, the United Democratic Front, and others—are calling for sanctions as the last defense against a holocaust of profound proportion in South Africa.

I urge my colleagues to vote for this bill, and I also urge that others join me in taking their own actions to convey their total opposition to apartheid by divesting stock they may hold.

Mr. BROOMFIELD. Mr. Speaker, I yield 1 minute to the gentleman from the District of Columbia [Mr. FAUNTROY].

Mr. FAUNTROY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, and my colleagues, on Thanksgiving evening in 1984 I took an action, together with a couple colleagues, Randall Robinson and Mary Francis Berry, that was a tribute to the wisdom of the Founding Fathers. They recognized that there might come times in the course of our democracy when the body politic might not respond to the legitimate concerns of even one citizen, so they guaranteed to us the right of peaceful assembly to petition the government for addressing grievances. When we have done that effectively in this country, it has done two things. It has raised consciousness and it has pricked the consciousness of the American people to take action.

I want to thank you all for responding to the legitimate concerns of millions of Americans, that we come down on the right side of this issue.

I urge, therefore, support for this measure, albeit weaker than that which ought to be done, as another step toward the elimination of this heinous system of apartheid in South Africa.

We in the Congressional Black Caucus look forward in the next Congress to providing other alternatives to strengthen the will of the coalition of consciousness around this world that this issue and this system be dismantled.

I thank the gentleman for yielding 1 minute of his precious time.

Mr. BROOMFIELD. Mr. Speaker, I yield 1 minute to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I rise today in strong support of the Senate's amended version of H.R. 4868.

Though this measure is not strong enough and not as strong as I would prefer, it is a step forward. The values of our country which we should seek to express in our policy toward South Africa are equality, freedom and justice for all men and women.

South Africa's brutal system of apartheid threatens the very core of those values. Racism is in direct conflict with these basic values. It is an evil which we have fought long and hard to rid ourselves of in this country, and as has been said before, we are still fighting it in this country and to be true to those values here at home we must be true to those values throughout the world.

The Government of South Africa is intent on continuing its practice of organized racism. A country like the United States, whose Constitution is based on equality for all cannot subject itself to continuing a relationship as usual with such system. By not having a strong, well defined policy with regard to South Africa, we are in effect, condoning that country's racist behavior.

The President's Executive order does little more than dance around the issue. Since the order was issued last year, Pretoria has stepped up its intimidation of the black population in South Africa. People are taken from their homes for no reason at all. Many families have no idea where their loved ones are, or even if they are alive. Hundreds are tortured and brutally killed. In light of this increase in violence, it is unconscionable that the President would reissue his same do-nothing policy.

What does the President think his Executive order accomplishes? It surely does not express this country's values, and obviously has not put enough pressure on South Africa to force that country to abandon its racist practices.

Unlike the President's weak policy the Senate measure will raise the cost of South Africa practicing its policy of apartheid. It must be made clear, that the United States abhors apartheid and that if South Africa continues to practice these policies, they will totally alienate the rest of the world.

Again, this measure before us today is not as strong as I would prefer. However, the provisions contained in the Senate version would let Pretoria know, that the United States is committed to the total elimination of apartheid. Approval of this measure will let South Africa, as well as the rest of the world know, that the United States is committed to upholding those values on which our country is based, equality for all of mankind.

It is not time, as the gentleman from Louisiana said, to temporize or rationalize. It is time to act. It is time to act now. Vote for this bill and vote against the override when and if it comes.

Mr. BROOMFIELD. Mr. Speaker, I think we have had a very good debate on this subject. I think the House is obviously prepared to vote.

I want to indicate that my understanding from a phone call this morning from the White House is that the President does not like the bill in its present form. It is a clear signal, at least to me, this gentleman from

Michigan, that he intends to veto the bill.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. BROOMFIELD. I am glad to yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I rise in strong support of the pending motion, a motion to agree to the Senate amendments to the bill and sending the South African sanctions legislation to the President without the possible delay of a House-Senate conference.

Mr. Speaker, the South African Government simply must be placed on notice that it cannot expect to carry on "business as usual" with the American people while a state of emergency continues and scant progress is made in the move toward powersharing in that country. This bill sends a strong signal reflecting the attitude of the American people toward the system now in place in South Africa. Just as we have sanctions in place against Nicaragua and the Soviet Union, against Syria and Iran, we should exercise this peaceful weapon of economic sanctions as a means of attempting to influence the policies of another nation.

These sanctions include termination of the South African Airlines' landing rights, prohibiting importation of materials from South African Government-owned or controlled corporations, banking the importation of textiles, uranium, iron and steel, coal, and agricultural products. It bars new United States loans to South African businesses—except those owned by black South Africans. In addition to other important sanctions, it states that United States policy will be to impose more sanctions if South Africa does not make substantial progress toward ending apartheid in a year.

Mr. Speaker, this is a balanced, thoughtful piece of legislation.

A conference might result in some marginal improvements, but they would not be of any critical nature. It is important to take the opportunity presented to us to pass this bill now, without further delay. Accordingly, now, I urge my colleagues to vote in favor of the motion now pending.

Mr. BROOMFIELD. Mr. Speaker, I am sure, regardless of what happens today, we hope this bill does pass and it will do something to improve the situation in South Africa and that everyone will be much better off for it.

Mr. WOLPE. Mr. Speaker, to close the debate, I yield such time as he may consume to our distinguished Speaker, the gentleman from Massachusetts [Mr. O'NEILL].

Mr. O'NEILL. Mr. Speaker, I rise in support of the motion.

Today, the House considers a vital matter of American purpose. Ever since World War II, our great country has offered itself as a force for freedom and independence in the world. We have opposed communism, and, at the same time, we have supported the end of European colonialism. We have fostered a third alternative, the alternative we enjoy here in America, the alternative of freedom and human liberty.

Today, we in the House vote on a measure that breathes life into our historic commitment to American values. We send to the President of the United States a document that clarifies our values, but, more than that, our determination to uphold these values.

Six years ago, this administration embarked on a new approach to South Africa. Rejecting the previous policy of public condemnation, it offered the carrot of constructive engagement. South Africa took the carrot, applauded the new administration's policy, and insisted on the right of that county's whites to monopolize supreme power over 22 million of its black citizens.

Constructive engagement, this policy of offering American sympathy to the government in Pretoria, has been a failure. After 6 years of failure, in my opinion it is time to abolish that policy. It is one thing to experiment. That might be forgivable in the eyes of history. What is not forgivable is to continue with a policy that has proven itself a failure, morally as well as politically.

President Reagan has a unique opportunity in the next few days to serve as a champion of freedom. He has a chance to make it clear that this great country of ours is willing to once again pay the price of freedom. We are willing to sacrifice short-term economic gain to support our long-term values. We are willing to tell our brothers in South Africa, black and white and Asian, that our bill of rights is not only alive in this country, but a valued treasure for all humanity.

As an American, I hope our President will not veto this bill and will join the Congress of the United States in listening to the call from the millions of Americans in the towns and cities of our country to sign the sanctions bill and send Pretoria and the world a message:

When it comes to basic human principles, Americans always stand together.

Mr. WOLPE. Mr. Speaker, I yield such time as he may consume to the gentleman from Tennessee [Mr. FORD].

Mr. FORD of Tennessee. Mr. Speaker, it is with mixed feelings that I consider the Senate bill on sanctions against South Africa. While my constituents and I would have rather be sending the Dellums disinvestment language to the President, the Senate bill we will be voting on today is a first step toward bringing reform to that nation.

The bill has several worthwhile provisions. It ends landing rights in this country for South African aircraft, prohibits most new investment in South Africa, and prohibits the import of uranium ore, coal, and steel coming from that nation. It also provides educational and housing assistance for black South Africans disadvantaged by apartheid.

Mr. Speaker, I will vote for today's bill, but with no strings attached as to whether this measure will preempt the authority of State and local municipalities to enact disinvestment legislation on South Africa. I encourage these entities to pull their investments from South Africa. While this Congress may not be able to pass disinvestment legislation this year, there is no reason for us to preempt those legislative bodies that can.

We have not heard the last on this issue. While we will almost certainly be considering an override in the next few weeks, I am hoping that the 100th Congress will bring about new pressure on the other body to approve disinvestment. We must make the Pretoria government respect the rights of its black majority.

Mr. WOLPE. Mr. Speaker, I yield such time as he may consume to the gentleman from New Mexico [Mr. SKEEN].

Mr. SKEEN. Mr. Speaker, I rise in support of the bill.

Mr. GUNDERSON. Mr. Speaker, shortly after returning from my trip to South Africa in February 1985 this body began to debate and struggle with the important question of how the United States might be a constructive influence toward change in that country. Since that time, the situation in South Africa has deteriorated and grown increasingly violent, yet Congress has been unable to reach agreement on the issue of sanctions.

The question is out as to whether or not the United States can still make a difference in South Africa; whether the United States can still make a positive contribution to help to bring an end to apartheid and a renewal of peace.

However, in approving the measure before us today (H.R. 4868) we have an opportunity to speak with one voice in telling the people of South Africa and the world, that the citizens and Government of the United States disassociate themselves, clearly and without reservation, from the system of apartheid. In passing this bill, we will be passing a measure that can, and I am confident will, be signed into law. After 2 years of debate, we can finally signify to the merging and legitimate black majority population that America stands with them in their efforts to obtain justice.

The bill puts into permanent law all of the sanctions that President Reagan imposed on South Africa in his September 9, 1985 Executive order. Those were bans on: the importation of Krugerrands; the importation into the United States of arms, ammunition or military

vehicles made in South Africa; the export of computer software and related items to South Africa for use by Government agencies, such as the police; loans by United States banks to the Government of South Africa; and the export to South Africa of nuclear power equipment and supplies.

Additional sanctions are established in an attempt to achieve short-term objects, such as the lifting of the current state of emergency, and long term, broader objectives, including the creation of a truly democratic form of government. Among the sanctions are included: a ban on the import of South African textiles, uranium and uranium ore, iron and steel, coal, and agricultural products; a prohibition on any form of cooperation between United States Government agencies and South African armed forces; a ban on new United States loans to South African businesses, the Pretoria government or any entity it controls; no new investments in South Africa by American business; and termination of a 1947 air travel agreement between the United States and South Africa.

The bill reaffirms the U.S. commitment to help the victims of apartheid through direct financial aid and other efforts. Funds are included for education scholarships, housing, and human rights programs aimed at helping black South Africans help themselves overcome the weight of apartheid.

Sanctions can be waived if the South African Government undertakes five steps:

First, free African National Congress leader Nelson Mandela and all persons persecuted for their political beliefs or detained without trial;

Second, repeal the state of emergency and release all persons detained under it:

Third, legalize democratic political parties and permit all South Africans to join political parties, to express political opinions and participate in the political process;

Fourth, repeal the Group Areas Act and the Population Registration Act, which restrict where nonwhites live and work; and

Fifth, agree to enter into good-faith negotiations with truly representative black leaders without precondition.

While denouncing government violence perpetrated by Pretoria, we must also condemn acts of violence, such as the horrid "necklacing" carried out by black militants. H.R. 4868 calls on the African National Congress to strongly condemn these acts and take immediate action to bring a halt to this violence.

I am not so naive as to think that the passage of this bill guarantees an end to either apartheid, or the violence that has resulted from its enforcement. It is up to the people of South Africa, black and white, to bring about an end to the bloodshed and injustice plaguing their nation.

However, if our goal is to promote freedom and democracy throughout the world, and at a minimum establish communications with blacks in all of Africa; we cannot stand by and allow the 85 percent of the population in South Africa to be denied their similar rights to freedom and majority rule. I strongly urge my colleagues to join with me in supporting the passage of this bill, in the hope that we may best promote America's interests, the interests of the South African majority and the cause of peace.

Ms. MIKULSKI. Mr. Speaker, I rise to express my total opposition to apartheid and my support for complete United States divestment from South Africa.

In the past I called for the toughest sanctions against the apartheid regime. In May, the House paid heed to that call. I call for those sanctions again today.

It is most unfortunate that the President refuses to join the House of Representatives, the American people, and the Eminent Persons Group in expressing total abhorrence to apartheid. Apartheid enslaves black South Africans. It is evil. The United States will be an accessory to this evil until all ties are cut with the apartheid regime.

I continue to believe that we must send the strongest message possible to the South African regime that we oppose apartheid. I also believe that we must, as a nation, wait no longer to move decisively. It is unfortunate that the Senate package is the toughest sanctions bill we can pass and sustain over a veto.

The sanctions the President imposed last year have simply not done the job. We must send a stronger message. I urge my colleagues to accept the Senate amendments: a compromise, but a stronger message nonetheless.

Mr. RAHALL. Mr. Speaker, I rise in strong support of H.R. 4868. The provisions of this bill, although not as stringent as those originally passed by the House, will go a long way toward pressuring the South African Government to begin negotiating with recognized black leaders of that country to work toward a nonviolent resolution of the unconscionable political, economic and social structure of South Africa. Passage of this legislation is the least that we can do today. As Members of the U.S. Congress, we have been entrusted by the people of this Nation with a moral and political obligation to strive for equity and peace, not only in America, but throughout all regions of the world. It is far past the time for us to take decisive action to end the grossly unjust situation in South Africa.

There are many critical elements contained in H.R. 4868, but I will take time to point out one of the most important from the standpoint of West Virginia, the bill's ban on the importation of South African coal into the United States. In recent years, the amount of foreign coal entering this country has steadily increased. The infiltration of imported coal into domestic markets obviously displaces coal mining jobs in this country.

Leading the attack on coal field employment is South African coal which is produced under conditions very different than those maintained in this country. There are virtually no health and safety standards enforced in South African coal mines and the right of the primarily black miners to organize against the atrocious conditions they are forced to work in has consistently been denied. How can we not act against a system that not only submits its workers to inhumane and dangerous conditions, but also contributes to the unemployment and suffering of workers right here in America?

How can we not enact this legislation, as limited as it may be? How can we not do at least this, in an effort to help the downtrodden majority of South Africa reach a level of respect due all human beings? Our efforts heretofore have gone unheeded by those in power in South Africa. We have no course other than to pass this bill and stringently enforce its provisions. I urge its adoption.

Mr. BIAGGI. Mr. Speaker, as an original cosponsor of H.R. 4868, I rise in absolute support of this final version of this critically important legislation. If the Congress of the United States is going to take a stand on any foreign policy issue this year—and do so in a meaningful way—then it must take the kind of unequivocal stand against the evil of apartheid in South Africa that H.R. 4868 takes.

I would be the first to acknowledge that the bill before us today is not as strong as the House-passed version. I voted for that measure and stand by it. However, our objective in this process is to emerge with a final legislative product, not a one-House stand. The managers on the part of the House in the conference were able to negotiate from a position of strength because of the House vote in June.

The result is, we have not a compromise bill but a genuinely strong and viable piece of legislation to vote on today. The bill would provide for the following:

The bill would ban all new public and private sector loans or investments or other extensions of credit.

The bill bars the importation of uranium, coal, textiles, iron, steel, ammunition, military vehicles, agricultural products and food from South Africa. These bans would take effect immediately, except the uranium, coal and textile bans which take effect 90 days after enactment.

The bill would also ban any imports from South African state-owned companies, either directly or indirectly through third countries.

This bill bans the export of all crude oil petroleum products and munitions to South Africa. In addition, it would ban exports of computers, computer software and computer services to the South African military, police or other entities responsible for enforcing apartheid.

The bill terminates the air services agreement now in effect with South Africa and ends all South African landing rights in the United States.

The bill earmarks $40 million out of the Foreign Assistance Act economic support fund for assistance to South Africans disadvantaged by apartheid.

This legislation contains important penalties against those corporations which violate these sanctions. The absence of this provision would render this legislation meaningless in my judgment.

By enacting this measure, the United States is taking a strong stand. The message we convey is that we want no part of condoning the continued existence of apartheid in South Africa. We are able to exert genuine pressure to achieve peaceful change in this ravaged land. We must end our association with any elements who are in any way responsible for

apartheid. Apartheid is a policy as abhorrent as any system the world has ever seen. It is a policy which imposes permanent subjugation on a group of people, namely the black majority in South Africa.

Mr. Speaker, there have been more than 100 legislative measures introduced this Congress to, in some way, condemn and/or end the normally repugnant system of apartheid in South Africa. I have cosponsored a number of those measures, including House Resolution 373, which would urge the South African Government to engage in meaningful political negotiations with their black majority; and H.R. 1460, a bill that passed this body last year to impose economic sanctions on South Africa. Today's measure is the strongest action yet, and it deserves our strong support. Simply put, apartheid and the bloody civil unrest it is spawning cannot be tolerated and this legislation will do more than merely mouth that message.

Mr. DANNEMEYER. Mr. Speaker. South Africa's racial policy of apartheid has been under attack since its institutionalization in 1948. More recently, world moral indignation has escalated to calls for direct action; that is, disinvestment. It is presumed that compelling corporations, banks, and other investors to cease their business activities in South Africa will force an end to apartheid. This is wishful thinking, and dangerously naive.

On June 19, the House of Representatives passed by voice vote a radical sanctions bill introduced by Mr. RON DELLUMS; allowing it to succeed without a fight was a calculated gamble since opponents of sanctions believe that such an extreme measure would never pass the Senate or be signed by the President. Should the legislation become law, all United States companies owning interests in South Africa must divest themselves of those interests within 180 days.

It is estimated that some 300 American firms have $1.8 billion in direct investments in South Africa, producing $2.2 billion in annual trade. Were sanctions instituted, and they were only 20 percent effective, it is projected that 90,000 whites and 343,000 blacks would lose their jobs; if 50 percent effective, the total rises to 1.1 million South Africans who would be unemployed.

An alarming aspect of sanctions would be the potential prohibiting of the importation of strategic minerals vital to the United States, minerals vital to our basic economy as well as to our national defense effort. It has been estimated by some experts that the loss of these minerals might effectively result in forbidding the importation of foreign automobiles, repealing the Clean Air Act, and, of course, paying much higher prices for those minerals obtainable elsewhere. American imports from South Africa include: 56 percent of chromium, 33 percent of manganese (which is essential in the manufacture of tanks, ships, and aircraft), 67 percent of the platinum group minerals (which includes rhodium, used in making catalytic converters which all cars sold in the United States must possess), 67 percent of industrial diamonds, and 44 percent of ferrochromium (used in making stainless steel). In many of these groups, including manganese, platinum, and vanadium, the only other major source is the Soviet Union. The loss—or greatly increased cost of having to purchase elsewhere—of these minerals would severely impact those industries most reliant upon them, including aerospace and defense industries in California.

Moreover, we would be unable to export our products to South Africa, currently amounting to about $125 million annually, primarily in computers and other high-technology equipment. Fully 47 percent of all South African computer purchases is from the United States. Again, California would be hard hit.

The question is asked: Is it right to choose an economic argument over a moral one? Are jobs and economic growth in the United States more important than the freedom and human rights of blacks in South Africa? It is an easy question to ask, but an elusive one for proponents of sanctions to answer. What morality is inherent in disinvestment?

Polls taken among South African blacks indicate that between 68 and 74 percent oppose sanctions. Neighboring countries who rely on South Africa for between 50 and 100 percent of their electricity and for 40 to 70 percent of their trade would suffer with any decline in the South African economy. We should heed the lesson of Rhodesia/Zimbabwe. We applied sanctions against that nation 20 years ago because the white minority government refused to hand control over to blacks. Rhodesia subsequently fell and a black regime now rules. Unfortunately, Marxism has devastated the economy and the faction in power is intent upon destroying all political opposition. We find that, instead of freedom, there is widespread violence and bloodshed. Is this what we have to look forward to in South Africa? It is important to note that not all blacks oppose the existing Government's program of reform. The Zulus, led by their Chief Mangosuthu Buthelezi, are opposed to the radical African National Congress, which is heavily infiltrated and controlled by Communists. The ANC is a terrorist group trained in the Soviet Union, East Germany, Libya, and Angola, and which has received millions of dollars in aid from the PLO.

Progress toward ensuring human, economic, social, and political rights for all South Africans has been slow. But progress is being made: The hated pass laws were abolished this summer, the policy of forced resettlement has been revoked, more extensive voting rights are being negotiated, and spending on education for blacks has increased 600 percent since 1980. These are steps in the right direction. Of course, anything less than immediate change fails to satisfy promoters of revolution.

The United States has an option: We can make a stupid and counter-productive symbolic gesture which injures ourselves, fails to deliver on its promise of freedom, and plays directly into the hands of the Soviets; or we can help an ally solve very basic problems and seek a solution which maximizes common sense and genuine progress and minimizes carnage and catastrophe.

Mr. HOWARD. Mr. Speaker, I rise in support of the H.R. 4868, the Anti-Apartheid Act of 1986, before us today. This legislation is an important and necessary step in bringing about the abolition of the apartheid regime in South Africa.

I would like to bring to the attention of the House the portion of the bill over which the Committee on Public Works and Transportation has jurisdiction; that is, the section prohibiting South African aircraft from landing in the United States. I am pleased that the legislation on the floor today contains this provision, which is identical to the earlier House-passed bill.

This is an important provision of the legislation because air travel is a major means of commerce internationally, and if we intend to have an impact on the regime of apartheid, a sanction against convenient air travel from South Africa to the United States is crucial. Air travel is also a highly visible and symbolic means of commerce, so the significance of the sanction goes far beyond the economic value of the air service.

Again, it is most important that we send a strong message to the people and Government of South Africa that apartheid is abhorrent and unacceptable to the American people and that we expect changes in that Government's policies.

Again, I rise in support of the H.R. 4868 and urge it passage.

Mr. TALLON. Mr. Speaker, I rise once again to urge my colleagues to join me in strong support of legislation imposing sanctions on the white majority government of South Africa. This House now stands on the brink of historic legislation. Through H.R. 4868, the Anti-Apartheid Act, we will establish a national policy of opposition to South African racist governance by threat, violence and repression. One which defends essential democratic principles: the basic rights to vote and to participate on a one-person, one-vote basis in the National Government. We will establish a policy that puts us clearly on the side of change in South Africa.

H.R. 4868 would prohibit new United States business investment in South Africa, ban some imports, including steel and other products from corporations controlled by the Government, and deny landing rights in the United States to the Government-owned South Africa Airways, along with imposing a number of other restrictions aimed at the Government and its commercial enterprises.

H.R. 4868 threatens additional, stronger sanctions unless South Africa makes substantial progress within a year to end its apartheid system of racial segregation. The measure also provides for rescinding the sanctions if the South African Government takes steps such as lifting segregationist rules, freeing antiapartheid leader Nelson Mandela, legalizing all political parties and negotiating with black political leaders.

Importantly, this legislation allows States and local governments to continue to individually regulate financial or commercial activity with regard to South Africa. H.R. 4868 in no way preempts the efforts or decisions of State and local governments respecting South Africa.

These sanctions represent our first significant step to put moral force behind our rhetorical opposition to apartheid. If rhetoric would change the situation, the government would have long since folded, and there would be no apartheid today. But that has not happened. South Africa has continued its rule of institutionalized racism, sustained by United States companies.

The administration has come out quite soundly in support of the status quo in South Africa. Let us think for a moment what a status quo for South Africa means. Status quo in South Africa means repression of 22 million blacks who are deprived of the most basic rights such as the right to vote, to chose a job, an education or a place to live.

South Africa is the only nation on Earth that constitutionally enshrines racism by denying blacks the basic right to vote, the right to move about, freedom of association, equal protection under the law, virtually all of the constitutional freedoms that we know and cherish in this country.

Over the last 20 years some 3½ million blacks have been relocated by the Government, forcibly onto worthless patches of land. Eight million of them have been stripped of their citizenship. During the same period of time, U.S. investment has grown from about $150 million to a current combined direct and indirect investment of $14 billion. But as the American role has grown in South Africa, so has the tyranny of the South African Government.

Violence and Government repression have reached tragic new levels in South Africa. The news media carries daily reports of brutal and senseless attacks by the white government against the blacks of South Africa. We see blacks seeking political and humanitarian rights beaten and imprisoned. Meanwhile, the Government has prohibited almost all public dissent, closed opposition newspapers, and banned television and other press coverage of unrest and police actions.

Mr. Speaker, as the traditional leader of the free world, our Nation has to take a stand. H.R. 4868 puts us squarely behind liberty and equality. And this is in our own interest because I am certain that blacks in South Africa will inevitably come to power. As a nation, we must be at that time in a posture to be able to say that we were on the right side of this most important social justice issue. I hope my colleagues will join me in sending this message of U.S. support for peace and democracy. It is a message we can all be proud of.

Mr. FRENZEL. Mr. Speaker, this vote on sanctions is a terribly hard one for me.

Essentially, all of us abhor apartheid, and want to do what is reasonable to hasten the demise of the system.

Essentially, I do not like sanctions, either. I do not like them as policy and I believe they are almost invariably unsuccessful.

Also, I believe that the Senate bill, on which we vote today, like the original House bill, and unlike the Dellums version, has as much protectionism as idealism as its basis. The usual suspects, the coal industry, the steel industry, and the textile industry have managed to isolate and protect their commercial interests in the name of human rights.

I am also troubled about the emphasis on only 1 of the 150 countries in the world which do not offer the basic human right of the democratic franchise to their people.

Apartheid is noxious, but so are the systems of dozens of other countries, many of them on the same continent. Free elections are the exceptions in this world, not the rule.

Despite my distaste for sanctions, I must now yield to a stronger distaste for apartheid. The democratic traditions of this country are too strong. The United States is too important as a symbol of freedom.

I shall, therefore, vote for the conference report not because I think it will change the conduct of the Botha government, but because I must. There is, at this time, no other way to express the strong feelings that demand expression now.

Mr. KEMP. Mr. Speaker, in considering sanctions against South Africa, our foremost concern at this time must be how we can help the black people of South Africa to achieve a full political democracy which fully protects human rights and human dignity for all.

Apartheid, in every form must end and is demonstrably evil. Thanks to our American Declaration of Independence, we can all agree on that. But there are many persuasive voices who tell us that the only way to build a new society is to tear down the old. I disagree, violence does not beget peace. Nor does poverty beget prosperity.

It would be tempting to disregard the substance of this bill and to vote for it as a symbol, a gesture of solidarity with the oppressed minorities in South Africa. I believe it would also be, on balance, politically popular to do so and I know this bill will pass. I don't question motives, that would be easy to do, but wrong. Because the result of this bill, I believe, would be to hurt the prospects for the emergence of a just, peaceful, and free democratic society in South Africa.

We must hate evil with a divine hatred. But we should always keep in mind what we want to build—this is ultimately more important than what we are against. Yet I see no plan, for how punitive sanctions against the South African people will help build a democracy in which everyone has an equal opportunity and a society and economy in which everyone has a fair and free stake.

I want to join in devising such a plan. But I see no such plan connected in any way with this bill. I favor pressure in South Africa and have demonstrated by word and action my commitment to demolishing apartheid but I don't want anarchy and depression.

We do not build political democracy by tearing down economic opportunity. We do not improve the future for South African working people and their families by destroying their jobs. We do not improve the prospects for bringing the weight of world opinion to bear upon South Africa's unjust political system, by cutting that nation off from the rest of world society.

The way to help the people of South Africa is not to turn our back on the very principles which we proclaim as true not only for ourselves, but for all people everywhere—that human freedom, both political and economic, is the bedrock of political society. The future of the South African people will be best advanced through democratic self-determination, and free and growing economic opportunity, and I do favor a summit conference to help achieve that end.

I do not believe that the interests of the South African people, least of all South African blacks, are served by preventing new investment that creates jobs and increases their standard of living, as this bill would do. I do not believe that the people of South Africa are helped by prohibiting imports of any firm that receives any kind of Government subsidy. This would be equivalent to banning all agricultural products produced by American farmers although the bill hypocritically allows for subsidized grain sales to South Africa but not petroleum.

I can't believe it, but it's true.

I ask all people of good will on both sides of the aisle to join together in an effort to build up, not tear down. To be voices of reconciliation, not hatred. To bolster our natural love of human rights and human dignity which is in every conscience. Every person of good will can join in putting pressure for change toward observance of human right, but also in resisting pressure for violence and poverty. I agree that constructive employment is not enough, but we've sent signals, we are pressuring South Africa for an end to this evil.

I cast my vote against these ill-advised sanctions, and ask my colleagues that we begin together the vital work of reconstruction, reconciliation, and an end to racism in South Africa.

There are many of my colleagues and good friends who will not understand a vote against sanctions. I am profoundly sorry but I sincerely share the common goal of a summit conference on democratizing power, the release of Mandela, the repeal of the state of emergency, and repeal of the Group Areas and Population Registration Act. Let's eradicate apartheid not the economy.

Mrs. COLLINS. Mr. Speaker, I am not satisfied with the current form of the South African sanctions bill, H.R. 4868. I will, however, support it as a step in the right direction.

The racist Government of South Africa has again proven its moral bankruptcy. Two weeks ago, demonstrators peacefully assembled in protest, were gunned down by security forces. When the families of those victims attempted to mourn their dead, they were refused permission to hold funeral services. Those who defied this inhumane restriction were met by bullets and tear gas.

Can you imagine such barbarity? To have one's children shot down in cold blood and then not to be able to give them a decent funeral. The Afrikaner government even went so far as to secretly bury many of these victims without their families' knowledge. The parents were not even told the location of the graves! Weeping mothers must now walk, in anguish, from grave to grave in the hopes of finding the final resting place of their sons and daughters.

Nothing could be more heartless and brutal. Not only does Pretoria kill its opponents, but it also intensifies the mental anguish and emotional suffering of the victim's families. The United States cannot stand idle in the face of this barbarity.

Mr. Speaker, the bill before us today is not nearly as strong as it should be. The Dellums version, which the House passed earlier, would provide far greater measures with which to attack apartheid. It did not simply institute economic sanctions, but did so in a manner designed to encourage Pretoria to undertake peaceful change. The bill before us today is far less comprehensive. Nevertheless, it does represent a step in the right direction and I urge my colleagues to support it.

Finally, I want to address a few words to the South African regime. I warn them, here and now, do not take our action lightly. Americans are a tolerant people, but they cannot abide repression and brutality—they cling too dearly to the ideals of human justice. Pretoria, you have shown your true face to this Nation and the American people will not forget its ugly form. The time for change is now! Continue on your present course, Pretoria, and you will bring upon yourselves the full wrath of all freedom-loving people.

Mr. RICHARDSON. Mr. Speaker, I rise in support of the legislation being voted on today by the House. As a supporter of the House version of anti-apartheid legislation, I would have preferred to see stronger sanctions implemented. However, pragmatically, I understand that stronger sanctions might not have the legislative success which this version can hopefully attain. I feel that the imposition of effective sanctions is imperative at this time. The earlier passage of the strong House anti-apartheid bill has greatly facilitated the serious consideration of a sanctions bill. The version we have before us today would not, in all likelihood, be as strong as it is had the House not taken a dramatic stand on sweeping anti-apartheid actions. I commend all of the key players in the development of the anti-apartheid legislation.

I am pleased to see that some of the major House provisions are included in this version which we are considering today. One significant provision—vital to the people of New Mexico—bans the importation of South African uranium, coal, and steel into the United States. In 1985, South Africa exported 192 million dollars' worth of uranium, 117 million dollars' worth of steel and 44 million dollars' worth of coal into the United States. Despite the fact that our country has among the largest coal deposits in the world, we continue to increase our coal imports from South Africa, the leading importer of coal in the United States since 1980, coal imports from South Africa have more than doubled to over $27 million. In 1985, half of all of the coal imported into this country came from South Africa. This is at a time when 60,000 American coal miners are out of work.

Our uranium imports from South Africa and Namibia have increased 350 percent since 1981—at a time when the number of domestic uranium mines has dropped from 362 to a mere hand-full, and over 85 percent of our miners have lost their jobs. Since 1981, New Mexico alone has lost about 11,500 mining jobs—the largest decline was in the uranium ores subsector. The State's two remaining conventional uranium producers were forced to close their mines and mills in 1985, laying off hundreds of workers.

These statistics and lost jobs are not just indicators of the problems caused by foreign trade to industries in the United States. South Africa has been so successful at its exploitation of its mineral resources because it relies on exploitation of its population. Conditions for black miners reflect the adverse circumstances experienced by other blacks in South Africa. The labor conditions for black miners in South Africa and Namibia are frankly deplorable.

Black miners have virtually no job security. They must contract for a limited number of months and then reapply for their jobs. Black miners are not allowed to live with their families; white miners are. Black miners are prohibited by law from holding skilled labor positions. These slots are reserved for whites only. Black miners must pay for their health insurance; white miners receive free insurance. Black miners receive one-fifth of the wages of white miners—their low wage has artificially depressed the world price of uranium and coal, making U.S. coal and uranium less competitive.

This description of the status of black miners in South Africa is clearly a reflection of the greater oppression the entire black population in South Africa experiences. Since last year, when the House passed an anti-apartheid bill, the administration's policy of "constructive engagement," toward South Africa has clearly made no improvements in the situation there. Nowhere else in the world is the administration turning such a blind eye toward censorship, repression, and the implementation of a police state.

Congress has tried being patient. It has tried allowing the President to implement "constructive engagement" measures—the end result is that South Africa is now experiencing upheaval and violent turmoil which will likely result in a bloodbath. Since the administration is not willing to take active steps to force South Africa to democratize, to allow equal participation in all facets of life for all members of the society, Congress has no choice now but to once again pursue the course of sanctions. Sanctions are essential, and they are the only avenue left for the United States to pursue. We must act, and act immediately in order to salvage the region. The sanctions legislation we are considering today is a start—not only will it prove the United States to be against apartheid—but through provisions such as the one banning the importation of South African uranium, coal, and steel, we will be counteracting South African unfair foreign trade practices, and giving a much needed boost to American miners. Thank you.

Mr. WOLPE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. DIXON). Pursuant to House Resolution 548, the previous question is considered as ordered.

The question is on the motion offered by the gentleman from Florida [Mr. FASCELL] to concur in the Senate amendment.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BROOMFIELD. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 308, nays 77, not voting 46, as follows:

[Roll No. 381]

YEAS—308

Akaka	Erdreich	Leath (TX)
Alexander	Evans (IA)	Lehman (CA)
Anderson	Evans (IL)	Lehman (FL)
Andrews	Fascell	Leland
Annunzio	Fawell	Lent
Anthony	Fazio	Levin (MI)
Applegate	Feighan	Levine (CA)
AuCoin	Fiedler	Lewis (CA)
Barnard	Fish	Lewis (FL)
Barnes	Flippo	Lightfoot
Bateman	Florio	Lipinski
Bates	Foglietta	Lloyd
Bedell	Foley	Long
Beilenson	Ford (MI)	Lowery (CA)
Bennett	Ford (TN)	Lowry (WA)
Bentley	Fowler	Lujan
Bereuter	Frank	Luken
Berman	Franklin	MacKay
Bevill	Frenzel	Madigan
Biaggi	Fuqua	Manton
Bliley	Gallo	Martin (IL)
Boehlert	Garcia	Martin (NY)
Boggs	Gaydos	Martinez
Boland	Gejdenson	Matsui
Bonior (MI)	Gekas	Mavroules
Bonker	Gibbons	Mazzoli
Borski	Gilman	McCain
Bosco	Gingrich	McCloskey
Broomfield	Glickman	McCurdy
Brown (CO)	Gonzalez	McGrath
Bruce	Goodling	McHugh
Bryant	Gordon	McKernan
Bustamante	Gradison	McMillan
Byron	Gray (IL)	Meyers
Carper	Gray (PA)	Mica
Carr	Green	Mikulski
Chandler	Gregg	Miller (CA)
Chapman	Guarini	Miller (WA)
Chappell	Gunderson	Mineta
Clay	Hall (OH)	Mitchell
Clinger	Hamilton	Moakley
Coats	Hatcher	Molinari
Coleman (MO)	Hawkins	Mollohan
Coleman (TX)	Hayes	Moody
Collins	Hefner	Morrison (CT)
Conte	Henry	Morrison (WA)
Conyers	Hertel	Murphy
Cooper	Hiler	Murtha
Coughlin	Hillis	Natcher
Courter	Hopkins	Neal
Coyne	Horton	Nelson
Darden	Howard	Nichols
Daschle	Hoyer	Nowak
Daub	Hubbard	Oakar
Davis	Hughes	Oberstar
de la Garza	Hutto	Obey
Dellums	Ireland	Olin
Derrick	Jacobs	Ortiz
DeWine	Jeffords	Panetta
Dicks	Jenkins	Pashayan
Dingell	Johnson	Pease
DioGuardi	Jones (NC)	Penny
Dixon	Jones (TN)	Perkins
Donnelly	Kanjorski	Petri
Dorgan (ND)	Kaptur	Pickle
Dowdy	Kasich	Price
Downey	Kastenmeier	Pursell
Duncan	Kennelly	Rahall
Durbin	Kildee	Ray
Dwyer	Kleczka	Regula
Dymally	Kolbe	Reid
Dyson	Kolter	Richardson
Eckart (OH)	Kostmayer	Ridge
Edgar	LaFalce	Rinaldo
Edwards (CA)	Lagomarsino	Roberts
Edwards (OK)	Lantos	Robinson
English	Leach (IA)	Rodino

Roe	Smith (IA)	Vucanovich
Roemer	Smith (NE)	Waldon
Rose	Smith (NJ)	Walgren
Rostenkowski	Snowe	Walker
Roukema	Solarz	Watkins
Rowland (CT)	Spratt	Waxman
Rowland (GA)	Staggers	Weaver
Roybal	Stallings	Weber
Russo	Stangeland	Weiss
Sabo	Stark	Wheat
Savage	Stokes	Whitley
Saxton	Studds	Whitten
Scheuer	Swift	Williams
Schneider	Tallon	Wilson
Schuette	Tauke	Wirth
Schulze	Tauzin	Wise
Schumer	Thomas (GA)	Wolf
Seiberling	Torres	Wolpe
Sensenbrenner	Torricelli	Wortley
Sharp	Traficant	Wyden
Shelby	Traxler	Wylie
Sikorski	Udall	Yates
Sisisky	Valentine	Yatron
Skelton	Vento	Young (MO)
Slattery	Visclosky	Zschau
Smith (FL)	Volkmer	

NAYS—77

Archer	Holt	Roth
Armey	Hunter	Schaefer
Badham	Hyde	Shaw
Bartlett	Kemp	Shumway
Barton	Kindness	Shuster
Bilirakis	Kramer	Siljander
Boulter	Latta	Skeen
Burton (IN)	Lott	Slaughter
Callahan	Lungren	Smith, Denny (OR)
Cheney	Mack	Smith, Robert (NH)
Cobey	Marlenee	Smith, Robert (OR)
Coble	McCandless	Solomon
Combest	McCollum	Spence
Craig	McEwen	Stenholm
Crane	Miller (OH)	Strang
Daniel	Monson	Stump
Dannemeyer	Montgomery	Sundquist
DeLay	Moorhead	Sweeney
Dickinson	Myers	Swindall
Dornan (CA)	Nielson	Taylor
Dreier	Oxley	Vander Jagt
Eckert (NY)	Packard	Whittaker
Emerson	Parris	Young (FL)
Fields	Porter	
Hall, Ralph	Quillen	
Hammerschmidt	Ritter	
Hendon	Rogers	

NOT VOTING—46

Ackerman	Frost	Owens
Aspin	Gephardt	Pepper
Atkins	Grotberg	Rangel
Boner (TN)	Hansen	Rudd
Boucher	Hartnett	Schroeder
Boxer	Huckaby	Snyder
Breaux	Jones (OK)	St Germain
Brooks	Livingston	Stratton
Brown (CA)	Loeffler	Synar
Burton (CA)	Lundine	Thomas (CA)
Campbell	Markey	Towns
Carney	McDade	Whitehurst
Chappie	McKinney	Wright
Coelho	Michel	Young (AK)
Crockett	Moore	
Early	Mrazek	

□ 1225

The Clerk announced the following pairs:

On this vote:

Mr. Rangel for, with Mr. Hansen against.

Mr. McKinney for, with Mr. Loeffler against.

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WOLPE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the motion just agreed to.

The SPEAKER pro tempore (Mr. DIXON). Is there objection to the request of the gentleman from Michigan?

There was no objection.

The SPEAKER pro tempore. Pursuant to House Resolution 548, House Resolution 549 is considered as having been adopted.

The text of House Resolution 549 is as follows:

Resolved, That in passing the bill, H.R. 4868, as amended by the Senate, it is not the intent of the House of Representatives that the bill limit, preempt, or affect, in any fashion, the authority of any State or local government or the District of Columbia or of any commonwealth, territory, or possession of the United States or political subdivision thereof to restrict or otherwise regulate any financial or commercial activity respecting South Africa.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. GILMAN. Mr. Speaker, I was unavoidably detained earlier today. Had I been present I would have voted "yes" on rollcall No. 379; and I would have voted "yes" on rollcall No 380 providing for consideration of the Senate amendment to H.R. 4868, the Anti-Apartheid Act of 1986.

WAIVING CERTAIN POINTS OF ORDER AGAINST CONSIDERATION OF H.R. 5313, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT-INDEPENDENT AGENCIES APPROPRIATIONS ACT 1987

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 532 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 532

Resolved, That during the consideration of the bill (H.R. 5313) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1987, and for other purposes, all points of order against the following provisions in the bill for failure to comply with the provisions of clause 2 of rule XXI are hereby waived: beginning on page 2, line 8 through page 7, line 9; beginning on page 7, line 22 through page 9, line 11, beginning on page 10, line 1 through page 13, line 21; beginning on page 14, lines 13 through 16; beginning on page 15, line 21 through page 16, line 9; beginning on page 16, line 23 through page 18, line 4; beginning on page 18, line 10 through page 19, line 12; beginning on page 20, line 10 through page 25, line 3; beginning on page 26, line 1 through page 29, line 4; beginning on page 29, line 13 through page 33, line 8; beginning on page 35, line 20 through page 36, line 9; and beginning on page 39, line 7 through page 41, line 22. It shall be in order to consider an amendment to the bill printed in section two of this resolution, if offered by Representative Boland of Massachusetts, and all points of order against said amendment for failure to comply with the provisions of clause 2 of rule XXI are hereby waived.

SEC. 2. On page 26, line 14, insert at the end of the sentence: ": *Provided further*, That of the funds appropriated under this heading, not to exceed $160,000,000 shall be provided for space station phase C/D development and such funds shall not be available for obligation until the enactment of a subsequent appropriations Act authorizing the obligation of such funds.".

The SPEAKER pro tempore. (Mr. ANTHONY). The gentleman from California [Mr. BEILENSON] is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 532 is the rule waiving certain points of order against consideration of H.R. 5313, the Department of Housing and Urban Development and independent agencies appropriations for fiscal year 1987.

Since general appropriation bills are privileged under the rules of the House, the rule does not provide for any special guidelines for the consideration of the bill. Provisions related to time for general debate are not included in the rule.

Customarily, Mr. Speaker, general debate time is limited by a unanimous-consent request by the chairman of the Appropriations Subcommittee prior to the consideration of the bill.

Mr. Speaker, the rule protects specified provisions of the bill against points of order for failure to comply with the provisions of clause 2 of rule XXI. Clause 2 of rule XXI prohibits unauthorized appropriations and legislative provisions in an appropriations bill. The specific provisions of the bill for which the waiver is provided are detailed in the rule by page and line.

Also, Mr. Speaker, the rule makes in order an amendment offered by Representative BOLAND of Massachusetts. The amendment is printed in section 2 of the rule. The rule waives points of order against the amendment under clause 2 of rule XXI which, as I stated earlier, prohibits the inclusion of unauthorized appropriations and legislation in general appropriation bills.

Mr. Speaker, H.R. 5313 contains $54.6 billion in new budget authority for the Department of Housing and Urban Development and for 17 independent agencies in fiscal year 1987. The bill would provide $13.2 billion to the Department of Housing and Urban Development, which includes $8.1 billion for the assisted housing programs—sufficient to provide for 98,000 units. The committee has appropriated $3 billion for community develop-

ment block grants, and $275 million for urban development action grants.

In addition to providing funding for HUD, this bill appropriates $26.1 billion for all of the programs of the Veterans' Administration. Of this total, the bill provides $14.4 billion for compensation and pensions, $9.5 billion for medical care and treatment, and $355 million for construction projects.

Finally, Mr. Speaker, H.R. 5313 appropriates funds for several other independent agencies including $34.5 million for the Consumer Product Safety Commission, $7.65 billion for NASA, and $1.6 billion for the National Science Foundation. The bill also would provide $1.2 billion for salaries, abatement and buildings for the Environmental Protection Agency and $2.4 billion for waste water grants administered by that agency.

Mr. Speaker, the rule would allow the House to fully consider the action of the Appropriations Committee on an important bill as we approach the beginning of the new fiscal year. I urge its adoption so that we can move expeditiously to consideration of the issues.

□ 1235

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, at the outset I would like to say that I support the rule in its present form. I want to advise the Membership, however, that there will be an effort made to defeat the previous question, which I do not support.

The purpose of the effort to defeat the previous question will be to make in order a line-item veto amendment which is only applicable to this bill. As much as I favor a line-item veto, it should be across the board and no individual appropriation should be singled out.

Mr. Speaker, this is an important measure, coming here on Friday in the closing days of this session, but there is no more important appropriation bill than this one appropriating for HUD and some independent agencies of this Government, including the Veterans' Administration and NASA.

We know how valuable the Veterans' Administration is to the veterans of this country, their health care and their well-being. Even though it is above the request of the administration, it will be possible to offer an amendment to reduce that amount. I support the rule. I support the measure. I urge a yes vote on the previous question.

Mr. Speaker, I do have two or three requests for time.

At this time, I yield 5 minutes to my friend, the gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. Mr. Speaker, I thank the gentleman for yielding. I appreciate his generosity in giving me this time. I think it is reflective of the quality of people we have here that we are so generous in giving time to one another, even when we are in disagreement with each other.

Mr. Speaker, at the end of this debate when the previous question is moved, I will be asking for a recorded vote. Of course as the Members of this body approach that vote, they are going to wonder why somebody asked for a recorded vote in a manner that is not within our regular proceedings here.

The reason I do that, Mr. Speaker, is if I am successful, then, in defeating the previous question under the rules of the House I will be able to offer an amendment to the rule that will allow and protect against points of order, an amendment to the appropriations bill that will grant to the President a line-item veto authority.

I take this action not because I am disappointed in or lack any regard for the work done by the Appropriations Subcommittee on this HUD appropriations bill. I think it is very clear that we in this body must understand and appreciate the hard work and the sincere work done by the Appropriations Committee in fulfilling the limits of their 302(b) allocations, and even indeed in some cases going beyond.

The fact of the matter is we are about to close out a fiscal year with a $230 billion deficit despite what has been in effect good efforts of this body to control spending, the deficit stays out of control.

The American people have indicated in poll after poll that we must get this spending under control; and indeed, as you know, there have been efforts made on each appropriation bill that we have dealt with on this floor to amend the bill and reduce spending on a line item basis by Members of this body.

Some 26 amendments have been offered, and all but 2 or 3 have been voted down, giving us a clear indication that the body is not prepared to make these extra necessary cuts on a line item basis.

Realizing that, I hit upon the strategy to try then to give the President that authority which he requested in his State of the Union Message when he said, "Give me the authority to make the cuts; I'll take the heat."

If we cannot pass the cut amendments, we have got to pass the buck; but in one way or another, Mr. Speaker, we have got to gain control of this spending.

It is for that reason that I went to the Committee on Rules and requested, carrying with me a letter signed by over 90 Members of this body. I asked for a rule that would allow me to make this amendment to the HUD appropriations bill and I was denied.

Consequently, I am compelled, then, if I am to pursue this, to take this extraordinary action and ask the Members of this body to join me in voting no when the previous question is ordered; so that as we defeat the previous question, we can then bring that amendment to the floor and let the Members of this body work their will with an up or down vote that will allow line-item veto authority for the President of the United States.

I must remind the Members of the body that not only have the people of this Nation spoken in poll after poll about their concern about the spending, but they overwhelmingly support this kind of authority to be granted to the President.

I might also point out that in my peculiar amendment, we are by and large replicating the language of the Budget Impoundment Control Act of 1974 where indeed this kind of authority did exist for the President where, if indeed this body does not approve of his specific line item cuts, they can override him with a 50-percent or majority veto.

So it does not have the stringent two-thirds requirement of the regular veto power. We have given this body every opportunity to work its will, we ask now for the opportunity to give the President the power and the authority to assist us in this difficult business of cutting spending, while reserving for us in this body the right to override.

Finally, Mr. Speaker, I ask the Members of the body to vote no on the previous question.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. WYLIE].

Mr. WYLIE. Mr. Speaker, I rise in support of the rule and in support of the bill, which this rule makes in order, H.R. 5313, the HUD-independent agencies appropriations bill for 1987.

In particular, I want to applaud the efforts of the gentleman from Massachusetts, Chairman BOLAND, and the gentleman from New York [Mr. GREEN], the ranking minority member of this Subcommittee on Appropriations as they relate to the housing and community development sections of the bill.

These programs fall under the authorization of the Committee on Banking, and I have had an opportunity to discuss the bill with both of these gentlemen, and think they have done a good job.

This past June, the House considered H.R. 1, the Housing Act of 1986. As an alternative to that, I offered a substitute, H.R. 4756, which I believe was a balanced, well-rounded legislative approach which stayed within the bounds of reality as dictated by the rather substantial budget deficit that we now face.

Although at that time I did not receive a majority of the Members votes

in support of my substitute, I am pleased to see the HUD appropriations figures before us today for assisted housing do reflect the cornerstone of that substitute which I offered at that time.

□ 1245

That is a belief that it is necessary to set a new standard of priorities in order to provide the greatest amount of assistance for the least amount of money, or the amount of money which is realistically available for housing. The primary example of this is the issue of new construction units versus modernization of existing public housing units. In this regard the appropriations bill does provide no appropriation for new public housing units with the agreed-upon exception of Indian housing units.

The primary example of this is the issue of new construction units versus modernization of existing public housing units. In this regard, the appropriations bill provides no appropriation for new public housing units with the agreed upon exception of Indian public housing units. Such funds that would have gone to new construction have been used to increase funding for the public housing modernization program. This reflects a significant redirection in Federal housing policy and is consistent with the Bartlett amendment which overwhelmingly passed the House during consideration of H.R. 1.

Finally, for assisted housing the appropriations bill reflects the administration's request for 50,000 housing vouchers. Housing vouchers can be the key to alleviating some of the problems associated with low-income housing assistance at a much less expensive and faster rate than costly production programs.

The appropriations bill also contains credit limits of $80 billion for FHA and $132.5 billion for GNMA. In view of this past years FHA activity and a continued decline in mortgage rates I fear that the 1987 FHA credit limit of $80 billion will not be enough. I believe the level should be $100 billion and I will support efforts to raise the FHA figure to that level. I remind my colleagues these are credit limits only and do not represent increased Federal outlays. In fact, with regard to FHA we have negative outlays meaning that the Government collects receipts via premiums which technically reduces the deficit, rather than adding to the deficit.

The bottom line is that I hope the FHA credit limit contained in H.R. 5313 can be resolved so as not to repeat the fiscal year 1986 experience of having to increase the limit on two occasions. The lack of credit authority along with the short-term reauthorizations of FHA, were very disruptive to the American homebuyer and the home finance industry in general, as I'm sure my colleagues remember.

Finally, although I am in general support of the appropriations bill, I do have some concern over certain authorizing language which amends a provision I added to the 1983 housing authorization bill. That provision prohibits rent controls from being placed on projects funded under the Rental Rehabilitation Grant Program, if rent control ordinances were put in effect after November 30, 1983. The language in H.R. 5313 would negate this anti-rent control language and allow rent controls to be placed on projects that are assisted through State programs where the amount of the State assistance exceeds the amount of assistance provided under the Rental Rehabilitation Program.

I understand that this language was included in the bill because the State of New York established a housing trust fund after passage of the 1983 housing bill. Instead of the State changing their statute to conform to the Federal rental rehab statute, the State sought relief by seeking to change the Federal statute.

Mr. Speaker, in view of the legislative history on the issue of rent control with regard to the Rental Rehabilitation Program I do not believe an appropriation bill is the proper vehicle to modify our previously established position. While I will not contest the provision at this time, I would hope that this issue could be deferred until the committee with authorizing jurisdiction has had an opportunity to conduct hearings and review the issue of rent control, as well as other issues, that may be raised with regard to multifamily rental housing by the pending tax reform legislation.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. I thank the gentleman.

Mr. Speaker, I probably will not take all of those 3 minutes. I appreciate having the time in order to discuss two amendments that I will be bringing to the HUD appropriations bill.

The first one will be a strict limitation that any of the funds so expended under title I be used specifically for domestic goods, products and services. It is, I guess, the buy-American clause. I think it is necessary. I am hoping for support on it.

One of the conditions will be that it will not be able to be offered until the conclusion of the bill in its entirety. At that particular time if the committee, in objection to these particular two amendments, would decide to rise, I would try to have the motion to rise defeated. I would prefer not to do that. This is Friday afternoon, people want to leave. I certainly do not want to belabor this House. But I would like to say this; I think it is high time when you have a situation where we are able to get $4.5 million for the Youngstown Metropolitan Housing Association to refurbish existing low-income housing and they buy heating radiators from Sweden and pipe from Sweden and an LTV pipe factory 5 miles down the road ends up closing, then there is something intrinsically wrong with the thinking of Congress.

I do not want to keep anybody here, but I want to bring this issue and the awareness of these dynamics to the floor of the House.

The second one deals specifically with a parochial issue that I think is of great interest. We have only a part-time outpatient veterans clinic in my district. We have been noticed and notified that they will close down. We have 125,000 veterans who will have to travel at least 60 to 80 miles on an average to get reasonable medical care.

I am going to ask that no money in this particular HUD appropriation bill be used to transport, transfer or transport any of the items or other equipment in that clinic out. I want your help. Our mills helped us when those bombs were flying in the Second World War, and now our people, many of them retired or veterans, now even are being denied these basic types of services.

I will not be able to offer these if the committee says "no." I do not want to have to fight the motion to rise. That is the dilemma that I am in. I am going to be asking for your help. I would appreciate those of you who would support them, hopefully we will not have to go to the term with a contested vote to approve these two amendments; that is not the case. I would hope that there would be that empathy in the House to consider these two issues and, with resolve, give a firm hand of support.

I yield back the balance of my time.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding. I rise to urge my colleagues, as did the gentleman from Texas, to vote "no" on the previous question so that we can grant the Members another opportunity to debate an issue long desired by the general population, by the public, by our constituents, by the President of the United States, by many Members of Congress and a debate on this issue which has never been granted us on the floor of this House, namely, the line item veto.

We deserve a chance to record our sentiments on this vital piece of budgetary discipline and budgetary theme which we have never had the opportunity to do before.

I myself am contemplating, in the pattern just outlined by the gentle-

man from Ohio in his concerns, that if we should lose, if the previous question is not defeated, later on when the time comes on the motion to have the committee rise, to oppose that motion and I hope to introduce my own version of a limited line-item veto which would occur within the confines of the HUD appropriation itself and not beyond, but which will break the ice, open the door for an eventual contemplation by this body of the entire structure of a line-item veto to be granted to the President of the United States.

The public wants scrutiny line by line, not only by the Congress but by the President of the United States, whoever he may be.

I might say that whatever we may do in the exercise of trying to promote the line-item veto may not inure to the benefit, if that is what you want to call it, of this current President.

So we are not simply interested in furthering Ronald Reagan's policies, we want this for budgetary control into the next century, whoever may be the President, whoever may have the right to exercise it.

So let us vote down the previous question, give the gentleman from Texas the right to bring the line-item veto within the context of this appropriation and, failing that, I will have to consider very strongly opposing the motion to rise later on to bring in this limited line-item veto that would pertain and obtain to HUD appropriations alone.

I thank the gentleman for the time.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. GREEN].

Mr. GREEN. Mr. Speaker, I rise in support of the rule and urge Members to vote for the previous question and for the rule. I think the HUD and independent agencies appropriation bill would be a particularly futile place to experiment with the line-item veto. The fact of the matter is that those parts of the HUD appropriation of which the President disapproves are well known to this House. The administration earlier this year sought to impound some of those funds and defer others. This House did not go along with that. We specifically overrode the deferrals. We allowed the impoundments to expire. It seems foolish to go through that same exercise again in another form, a form, in my opinion, of dubious constitutionality when the mechanism is there in the Budget Impoundment and Control Act of 1974.

It was used by the President. This House and this Congress overruled the President on those issues. You are only going to tie this appropriation bill into knots by going that route.

There are many important policy issues that have to be resolved in this appropriation bill, particularly issues relating to NASA. I think it would be a terrible mistake if we do something which will almost certainly force this bill into a continuing resolution and will destroy any hope we have that we can move forward with this bill without regard to the continuing resolution.

So I would urge my colleagues do not get us in that quagmire. Please vote for the previous question and for the rule.

Mr. QUILLEN. Mr. Speaker, I urge a "yes" vote on the rule, a "yes" vote on the previous question, and a "yes" vote on the bill itself. It is an important measure that we must pass soon if we are to avoid funding these agencies through a continuing resolution.

Mr. Speaker, I yield 1 minute to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, I rise in support of the Armey amendment, which can only be made if the previous question on the rule is defeated. I, therefore, urge a vote against the previous question when that vote occurs in the House of Representatives.

With all due respect to my good friend from New York, Mr. GREEN, it is about time that the Congress experimented, stuck its toe, a tiny bit, into the waters of fiscal responsibility, and gave this good idea of the line item veto a chance to work in a cost center which is small compared with our whole Government spending program.

The gentleman suggested that a vote for the Armey amendment would throw the bill into the continuing resolution.

I suggest that the bill is already in the continuing resolution, and it is going to take a miracle to handle it otherwise. Give us a chance to vote once on the line item veto in one small place, and give those Members of the House, who want to stand for fiscal responsibility, a chance to vote for it.

I urge a vote against the previous question.

Mr. BEILENSON. Mr. Speaker, I have no further requests for time, but I do want to just close debate, taking 1 minute to respond to some of the comments in opposition to ordering the previous question. However, I do want to pause briefly before that to express appreciation to the able gentleman from Texas for his courtesy in advising the committee of his intentions here today. We appreciate that very much.

Mr. Speaker, the gentleman urges the House to defeat the previous question so that he can offer an amendment to the rule to make in order a line-item veto amendment to the HUD appropriation.

I must note that the amendment of the gentleman from Texas is clearly legislative in character, and requires a waiver of clause 2 of rule XXI. I also have some doubt as to whether the amendment is germane.

Mr. Speaker, there are better, much better, vehicles than the HUD appropriation bill for rewriting the Budget Act or, for that matter, the Constitution.

The people of this country have elected the Members of Congress to write the laws, including appropriations. The Founding Fathers viewed legislative control of the power of the purse as one of the most important safeguards of liberty, and vested it in Congress absolutely in the Constitution. I don't know if we can give away a responsibility that 200 years of history have won for us. But I have no doubt that we should not, and especially not under these circumstances.

Mr. Speaker, this resolution and the rules of the House give each Member a right to offer an amendment to the spending numbers in the bill. If the gentleman from Texas or any other Member of this august body feels that any amounts in the bill are too high, his rights or her rights are protected by the rule.

Mr. Speaker, in concluding I urge the House to order the previous question and to adopt the resolution. I thank my friends on the other side, Mr. WYLIE, Mr. GREEN, and Mr. QUILLEN for supporting us in these efforts, and after yielding to the gentleman from Texas I will move the previous question.

Mr. ARMEY. I thank the gentleman for yielding.

I just want to clarify one point because I think it is an important point. We have researched our effort, we checked with the Parliamentarian. If we should defeat the previous question, then we will be offering not only an amendment the rule that allows an amendment to the bill but a protection waiver against rule XXI which is commonly given quite frequently by the Rules Committee, quite in conformity with that practice and which could have been granted to me and my 92 cosigners by the Rules Committee and was turned down. So I think we have covered these kinds of parliamentary bases. I appreciate the time of the gentleman.

Mr. BEILENSON. Mr. Speaker, I appreciate the clarification of the gentleman from Texas.

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. BEILENSON. I would be happy to yield to the gentleman from Minnesota.

Mr. FRENZEL. I thank the gentleman for yielding.

The gentleman is quite correct that this is not the best vehicle to rewrite the Budget Act or to set overall fiscal policy. The gentleman has done great work in this area, and I only wish that some of his ideas could have gotten

before us. While it is not the best vehicle, all the other vehicles are in a locked barn upon blocks with no air in their tires, their battery disconnected. This remains the only one in sight. I thank the gentleman for his good work on the Budget Act.

Mr. BEILENSON. We thank the gentleman for his kind comments. We understand that there are problems and frustrations which the gentleman has.

Mr. Speaker, I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ARMEY. Mr. Speaker, I object to the vote on the ground a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 226, nays 137, not voting 68, as follows:

[Roll No. 382]

YEAS—226

Akaka	Dixon	Jones (NC)
Alexander	Donnelly	Jones (TN)
Anderson	Dowdy	Kanjorski
Andrews	Downey	Kaptur
Annunzio	Duncan	Kastenmeier
Anthony	Durbin	Kildee
Applegate	Dwyer	Kleczka
AuCoin	Dymally	Kolter
Barnard	Dyson	LaFalce
Barnes	Eckart (OH)	Lantos
Bates	Edgar	Leath (TX)
Bedell	Edwards (CA)	Lehman (CA)
Beilenson	Edwards (OK)	Lehman (FL)
Bennett	English	Leland
Bentley	Erdreich	Levin (MI)
Berman	Evans (IL)	Levine (CA)
Bevill	Fascell	Lewis (CA)
Biaggi	Fazio	Lipinski
Boehlert	Feighan	Lloyd
Boggs	Fish	Long
Boland	Flippo	Lowry (WA)
Bonior (MI)	Florio	Luken
Bonker	Foglietta	MacKay
Borski	Foley	Manton
Bosco	Ford (MI)	Matsui
Bruce	Frank	Mavroules
Bryant	Fuqua	McCloskey
Bustamante	Garcia	McCurdy
Byron	Gaydos	McGrath
Carper	Gejdenson	McHugh
Carr	Gilman	McMillan
Chapman	Glickman	Mica
Chappell	Gonzalez	Mikulski
Clay	Gordon	Miller (CA)
Coleman (MO)	Gray (IL)	Mineta
Coleman (TX)	Gray (PA)	Mitchell
Collins	Green	Molinari
Conte	Guarini	Mollohan
Conyers	Hall (OH)	Montgomery
Cooper	Hamilton	Moody
Coughlin	Hammerschmidt	Morrison (CT)
Coyne	Hatcher	Mrazek
Daniel	Hayes	Myers
Darden	Hefner	Natcher
Daschle	Horton	Neal
Davis	Howard	Nelson
de la Garza	Hoyer	Nichols
Dellums	Hubbard	Nowak
Derrick	Hughes	Oakar
Dicks	Hutto	Oberstar
Dingell	Jeffords	Obey
DioGuardi	Jenkins	Olin
Ortiz	Schulze	Valentine
Panetta	Schumer	Vento
Pashayan	Seiberling	Visclosky
Pease	Sikorski	Volkmer
Perkins	Sisisky	Waldon
Pickle	Skelton	Walgren
Price	Smith (FL)	Watkins
Quillen	Smith (IA)	Waxman
Rahall	Smith (NJ)	Weaver
Ray	Smith, Robert (OR)	Weiss
Reid	Solarz	Wheat
Richardson	Spratt	Whitley
Rinaldo	Staggers	Whitten
Robinson	Stallings	Williams
Rodino	Stenholm	Wilson
Roe	Stokes	Wirth
Rose	Studds	Wise
Rostenkowski	Swift	Wolpe
Roukema	Taylor	Wyden
Rowland (GA)	Thomas (GA)	Wylie
Russo	Torricelli	Yates
Sabo	Traficant	Yatron
Savage	Traxler	Young (MO)
Schneider		

NAYS—137

Archer	Hendon	Parris
Armey	Henry	Penny
Badham	Hertel	Petri
Bartlett	Hiler	Porter
Barton	Hillis	Pursell
Bateman	Holt	Regula
Bereuter	Hopkins	Ridge
Bilirakis	Hunter	Ritter
Bliley	Hyde	Roberts
Boulter	Ireland	Roemer
Broomfield	Jacobs	Rogers
Brown (CO)	Johnson	Roth
Burton (IN)	Kasich	Rowland (CT)
Callahan	Kindness	Saxton
Chandler	Kolbe	Schaefer
Cheney	Kostmayer	Sensenbrenner
Clinger	Kramer	Sharp
Coats	Lagomarsino	Shaw
Cobey	Latta	Shumway
Coble	Leach (IA)	Shuster
Combest	Lent	Skeen
Courter	Lewis (FL)	Slaughter
Craig	Lightfoot	Smith (NE)
Crane	Lott	Smith, Denny (OR)
Dannemeyer	Lowery (CA)	Smith, Robert (NH)
DeLay	Lujan	Snowe
DeWine	Lungren	Solomon
Dickinson	Madigan	Spence
Dorgan (ND)	Marlenee	Stangeland
Dornan (CA)	Martin (IL)	Strang
Dreier	Martin (NY)	Stump
Eckert (NY)	Mazzoli	Sundquist
Emerson	McCain	Sweeney
Evans (IA)	McCandless	Swindall
Fawell	McCollum	Tauke
Fiedler	McEwen	Tauzin
Fields	McKernan	Vander Jagt
Franklin	Meyers	Vucanovich
Frenzel	Miller (OH)	Walker
Gallo	Miller (WA)	Weber
Gekas	Monson	Whittaker
Gingrich	Moorhead	Wolf
Goodling	Morrison (WA)	Wortley
Gradison	Nielson	Young (FL)
Gunderson	Oxley	Zschau
Hall, Ralph	Packard	

NOT VOTING—68

Ackerman	Grotberg	Rangel
Aspin	Hansen	Roybal
Atkins	Hartnett	Rudd
Boner (TN)	Hawkins	Scheuer
Boucher	Huckaby	Schroeder
Boxer	Jones (OK)	Schuette
Breaux	Kemp	Shelby
Brooks	Kennelly	Siljander
Brown (CA)	Livingston	Slattery
Burton (CA)	Loeffler	Snyder
Campbell	Lundine	St Germain
Carney	Mack	Stark
Chappie	Markey	Stratton
Coelho	Martinez	Synar
Crockett	McDade	Tallon
Daub	McKinney	Thomas (CA)
Early	Michel	Torres
Ford (TN)	Moakley	Towns
Fowler	Moore	Udall
Frost	Murphy	Whitehurst
Gephardt	Murtha	Wright
Gibbons	Owens	Young (AK)
Gregg	Pepper	

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The Clerk announced the following pairs:

On the note:

Mr. McDade for, with Mr. Daub against.

Mr. McKinney for, with Mr. Schuette against.

Mr. PURSELL and Mr. HERTEL of Michigan changed their votes from "yea" to "nay."

Messrs. WALGREN, WHEAT, and YATES changed their votes from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BOLAND. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 5313, and that I be permitted to include tables, charts, and other extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT-INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1987

Mr. BOLAND. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5313) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1987, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not to exceed 1 hour, the time to be equally divided and controlled by the gentleman from New York [Mr. GREEN] and myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. BOLAND].

The motion was agreed to.

□ 1320

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the

Whole House on the State of the Union for the consideration of the bill (H.R. 5313), with Mr. MACKAY in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the unanimous consent agreement, the gentleman from Massachusetts [Mr. BOLAND] will be recognized for 30 minutes, and the gentleman from New York [Mr. GREEN] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. BOLAND].

Mr. BOLAND. Mr. Chairman, I yield myself such time as I might require.

Mr. Chairman, we bring before the Committee today the 1987 appropriations bill for HUD and 17 independent agencies. It is a bill that has the unanimous support of the Subcommittee on HUD-Independent Agencies and the support of the full Committee on Appropriations.

I want to express my appreciation to all the members who serve on the subcommittee, particularly the ranking minority member, the gentleman from New York [Mr. GREEN]. His tireless efforts and constant attention at subcommittee meetings have made the job of all the members of this subcommittee a little easier.

May I also express my appreciation to all the Members on the majority side who have given me and the rest of the Members so much help.

Mr. Chairman, the bill this year totals $54,006,168,700. This amount is about $10.8 billion above the President's original 1987 budget request—with virtually all of that difference arising from assisted housing.

The recommended amount is some $4,141 million below the current 1986 level after Gramm-Rudman—the major difference being revenue sharing—for which no funds have been included in 1987. To date, that program has not been reauthorized.

This bill is within the subcommittee's section 302(b) allocation for both budget authority and outlays. It was a tight squeeze. There were some tough tradeoffs that had to be made to stay within those particular limits. But I think the bill we bring before you today is a fair bill, a balanced bill, and one the House will support.

And let me tell you why you should support it.

This bill, which totals $54,006,168,700, is about $5 million below the subcommittee's section 302(b) allocation.

The 1987 discretionary bill total of $38,895,848,700 is approximately $4 million below the subcommittee's section 302(b) allocation for discretionary accounts.

The 1987 bill total of $54,006,168,700 is $4,141,215,284 below the 1986 enacted level of $58,147,383,984.

The 1987 bill total of $54,006,168,700 is about $294 million below the Senate's section 302(b) allocation of $54,300 million.

And, finally, the 1987 discretionary total of $38,895,848,700 is approximately $504 million below the Senate's section 302(b) allocation of $39,400 million to the HUD Subcommittee.

So by almost any measure, this bill meets all the tests.

Briefly, let me give you some of the highlights. First, in the Department of Housing and Urban Development we have added $8,095 million for assisted housing. This mark is virtually identical to the assumption in the budget resolution for subsidized housing. When the accounting change recommended by the administration is factored in—converting public housing modernization to direct capital grants financing—assisted housing is about $50 million below the comparable 1986 level.

The bill provides a total of 81,500 incremental subsidized housing units. For the first time, we have not recommended funds for new public housing construction. Instead, we have directed much of that money to public housing modernization.

We provide for 50,000 vouchers, 12,000 section 202 elderly/handicapped units, 2,000 Indian housing units, 10,000 section 8 existing, 7,500 section 8 moderate rehabilitation units, and $250 million for approximately 35,000 rental rehabilitation units. In addition, we have provided $225,000 for 10,000 rental development [HODAG] units with bill language to assure that HODAG funds are targeted to areas with low vacancy rates—where the need for additional construction is greatest.

For public housing operating subsidies, we recommend a total of $1.3 billion. This should be sufficient to fully cover the performance funding system needs. Bill language would also make excess energy conservation savings available to help public housing authorities cover liability insurance costs.

The committee has provided increases above the budget request for both FHA and Ginnie Mae loan guarantees—based on the continuing high activity in the housing industry; $80 billion is set as the new FHA mortgage insurance ceiling and a total of $132.5 billion is provided for Ginnie Mae.

For community development block grants, the committee is recommending $3 billion. This is slightly above the current 1986 level after sequestration. For urban development action grants the recommendation is $275 million—or about $40 million below the current level. The committee has found it necessary to make substantial additions to staff at HUD to operate these programs. Altogether an increase of 2,140 FTE is provided above the budget request—due both to increased mortgage activity and to carry out the various assisted housing and community development programs.

Not included in our report are the President's August 14 budget amendments of an additional $3.06 billion for HUD. The increase in budget authority will provide for a $2.53 billion request in assisted housing, will provide a new level of $2.6 billion in community development grants—up from $2.1 billion, and will provide for a $605.3-million request in salaries and expenses, up from $573.8 million.

Also, the amendments provide increased GNMA authority for guarantees of mortgage-backed securities to $125 billion and an increase in FHA guarantee authority to $90 billion.

Now as we move on to title II, let me discuss the larger independent agencies. The Environmental Protection Agency operating programs receive and increase of $60 million above the budget request. These funds have been targeted at priority problems and to respond to critical needs related to the recently passed safe drinking water amendments. We have added $9.7 million for EPA research, $23 million for State grants and a total of 135 work-years in EPA operating programs.

For Superfund, the recommended appropriation is $861.3 million. That is the current level. Because of the delays in Superfund reauthorization, there should be about $600 million available at the end of 1986. So that carryover plus the new apprcpriation should provide a Superfund Program level of almost $1.5 billion in 1987.

In EPA construction grants, we have provided $2.4 billion, the historical program level. However, for both construction grants and Superfund we have included bill language reserving the money for release in a subsequent appropriations bill—after we have a chance to review the authorizing legislation.

For the Federal Emergency Management Agency, the committee has included a total of $614,250,000. This is an increase of $145 million above the budget request. The increase is comprised of $70 million to continue the Emergency Food and Shelter Program at its current rate and $75 million for disaster relief.

The committee made this addition to disaster relief to cover the additional costs that will result from rejecting the administration's proposed legislative and regulatory changes for disaster relief. These changes have been very controversial and bill language has been included preventing the proposed regulations from being implemented in 1987.

There have also been concerns raised over the administration's proposals to terminate the U.S. Fire Administration. The committee has

added $6 million to continue the Fire Administration, and we have added $3.5 million for travel stipends and lodging costs for emergency and fire training. With respect to the Flood Insurance Program, report language has been included capping increases in flood insurance premiums to 10 percent in 1987—instead of the 27-percent increase proposed by the administration.

For the National Aeronautics and Space Administration, the committee recommends $7,650 million. This is a decrease of $44.4 million below the budget request—but is an increase of $350 million above the assumption in the budget resolution. Basically, the 1987 NASA budget request is obsolete because of the *Challenger* accident. We have made a number of additions and subtractions, which are detailed in the report, in order to accommodate these changes.

For the space station a total of $410 million has been provided, which is the same as the administration's request. However, the committee has a number of concerns over the development of the space station, which are detailed on pages 43 to 47 of the report.

The thrust of our recommendation attempts to protect against the possibility of squeezes in NASA's budget reducing the benefits that this country will derive from the space station.

The United States is providing the basic infrastructure—and 80 percent of the total cost—and the foreign partners are providing two of the science modules. So our language is intended to assure that the space station is usable from the outset and will produce benefits to the United States commensurate with our investment.

One other point on NASA—as everyone knows. The President has supported a fourth orbiter—a replacement for the *Challenger*. In fact, just 2 days ago we received a budget amendment for $272 million for the replacement orbiter. Our bill does not include the moneys for that amendment now—but we will try to find those moneys later—either in our negotiations with the Senate or in the continuing resolution.

For the National Science Foundation, we provide a total of $1.550 million in 1987. This marks a new high in spending for the National Science Foundation, an increase of $92 million above the current level. The recommended amount, however, is $135 million below the requested amount. The committee recommendation is based on achieving overall balance in the bill. The National Science Foundation still gets the largest increase of any major agency in the bill. And again this year within the National Science Foundation, we have increased the request for science education—from $89 million to $99 million.

The Selective Service System receives a slight reduction from the budget request in their operating budget—maintaining their funding at the 1986 level. The Selective Service also has adopted regulations which have been controversial, concerning conscientious objectors and draft deferment. Bill language has been included to set aside these changes to the Selective Service System regulations.

For the Veterans' Administration, the committee recommends a total of $26,115,242,000. Again, in 1987 we are forced to provide major increases in the medical care account to maintain existing staffing in VA hospitals and other health care facilities to provide adequate medical care for the growing number of aging veterans. The requested amounts have been provided for the three major VA entitlement programs: compensation and pensions, readjustment benefits—and veterans insurance and indemnities.

So, all in all, I think this is a good bill. It is a balanced bill. It's within our 302 allocation for both budget authority and outlays. We take care of subsidized housing. We meet the most critical problems in NASA, in National Science Foundation, in VA, in EPA, in FEMA, and the other independent agencies. I urge your support of the bill.

I will include a table summarizing the amounts recommended in the bill with comparisons to the 1986 appropriations and the revised 1987 budget requests at this point.

SUMMARY OF ESTIMATES AND NEW BUDGET (OBLIGATIONAL) AUTHORITY IN BILL

Department or agency	Appropriations, 1986[1]	Budget estimates, 1987[2]	Recommended in bill	Bill compared with—	
				Appropriations, 1986	Budget estimates, 1987
(1)	(2)	(3)	(4)	(5)	(6)
American Battle Monuments Commission	$11,920,506	$11,673,000	$11,673,000	−$247,506	.....
Cemeterial Expenses, Army	13,987,442	15,783,000	6,701,000	−7,286,442	−$9,082,000
Consumer Information Center	1,182,261	1,272,000	1,272,000	+89,739	.....
Consumer Product Safety Commission	34,452,000	33,000,000	34,452,000	.....	+1,452,000
Council on Environmental Quality	670,000	820,000	670,000	.....	−150,000
Department of Housing and Urban Development	12,905,450,747	6,416,661,000	13,271,483,300	+366,032,553	+6,854,822,300
Environmental Protection Agency	4,661,597,000	4,226,466,000	4,697,397,000	+35,800,000	+470,931,000
Federal Emergency Management Agency	824,881,628	469,250,000	614,250,000	−210,631,628	+145,000,000
Federal Home Loan Bank Board [3]	(30,528,000)	(33,659,000)	(29,159,000)	(−1,369,000)	(−4,500,000)
National Aeronautics and Space Administration	7,764,240,000	7,966,400,000	7,650,000,000	−114,240,000	−316,400,000
National Credit Union Administration [4]	(593,400,000)	(600,000,000)	(600,000,000)	(+6,600,000)	.....
National Science Foundation	1,458,329,000	1,685,700,000	1,550,000,000	+91,671,000	−135,700,000
Neighborhood Reinvestment Corporation	17,669,000	15,285,000	18,669,000	+1,000,000	+3,384,000
Office of Consumer Affairs	1,903,000	400,000	1,000,000	−903,000	+600,000
Office of Revenue Sharing	4,192,382,200	5,560,000	5,560,000	−4,186,822,200	.....
Office of Science and Technology Policy	2,217,227	1,671,000	1,671,000	−546,227	.....
Selective Service System	26,128,420	27,474,000	26,128,400	−20	+1,345,600
Veterans Administration	26,230,373,553	25,642,073,000	26,115,242,000	−115,131,553	+473,169,000
Total	58,147,383,984	46,519,488,000	54,006,168,700	−4,141,215,284	+7,486,680,700

[1] Appropriations in 1986, adjusted by Gramm-Rudman sequestration.
[2] Includes budget amendments of $3,060,605,000 for HUD and $272,000,000 for NASA.
[3] Limitation on corporate funds; administrative expenses.
[4] Limitation on direct loans.

Let me further indicate, Mr. Chairman, that I am conscious of the fact that Members had a very long day and night yesterday and most of the Members are anxious to get away this afternoon. My understanding is that there are relatively few amendments that will be offered to this bill, and I would hope that we could complete consideration of the bill and final passage in 1 hour.

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. BOLAND. I am delighted to yield to the gentleman from Ohio.

Mr. WYLIE. Mr. Chairman, I thank the gentleman for yielding.

I would like to ask a question. My realtors, mortgage lenders, and first-time home buyers in my district have asked me a question regarding the FHA credit ceiling which I discussed with the gentleman a little earlier.

In this fiscal year FHA has already utilized more than the $100 billion in FHA credit.

What is the subcommittee chairman's information as to the demand for mortgages in the coming fiscal year? Does he anticipate a need to raise the limit above the $80 billion which is in the bill now or at some later date?

Mr. BOLAND. Mr. Chairman, the subcommittee's recommendation was $97 billion. That level was reduced to $80 billion in full committee because of concern over exceeding the 302 credit allocation. It appears that even if the FHA credit ceiling is raised in the House, consideration of the conference report containing a higher number would be subject to a point of order. That assumes the Senate does not change the House-passed credit limitation amount.

However, if the Senate raises the FHA credit ceiling, the House can agree to a higher amount and bring the amendment back in technical disagreement—outside the conference report for a separate vote. This would only subject that amendment to a point of order, not consideration of the conference report and we could live with that.

Mr. Chairman, I can assure the gentleman from Ohio and all the members of this committee who have an interest in this credit allocation for FHA that we will support that position.

Mr. WYLIE. Mr. Chairman, I thank the gentleman very much for his answer.

My information from HUD is that we will need a credit limit of somewhere in the neighborhood of $100 billion for the next fiscal year, and I appreciate the gentleman's cooperation in that regard.

Mr. GREEN. Mr. Chairman, will the gentleman yield to me on that point?

Mr. BOLAND. I yield to the gentleman from New York.

Mr. GREEN. Mr. Chairman, I think the gentleman from Ohio [Mr. WYLIE] has raised an important point, and I would like to deal with it a little further. I join, of course, in the remarks of the gentleman from Massachusetts [Mr. BOLAND] as to how, as a practical matter, we can deal with that issue at this time. But I think there is a larger issue, and that is the way we count the credit for Budget Act purposes.

I think the Budget Act is right to look at Federal credit guarantees and to impose limits on them because they do represent Federal intrusions into the credit market every bit as much as direct Federal borrowings. However, I think they miscount because in fact much of the FHA activity this past year and probably next year has been and will be refinancings, and refinancings obviously are not intrusions by the Federal Government further into the credit markets. They are simply taking one federally guaranteed credit and replacing it with another. It seems to me that we ought to change the budget process so that we count that accurately and not count refinancings as new intrusions into the credit market.

Mr. WYLIE. Mr. Chairman, the gentleman makes an excellent point, and I support him in that position.

Mr. GREEN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I shall not again cover the ground that the distinguished chairman of the Subcommittee on HUD and Independent Agencies of the Appropriations Committee has covered in his remarks. I do want to express my appreciation and, I am sure, that of all the other members of his subcommittee for the leadership he has given us this year, as in the past, in crafting a very important and complex appropriation bill.

Let me simply try to deal with a few of the issues that I think are implicit in what we have done in this bill. First of all, as the gentleman from Massachusetts [Mr. BOLAND] pointed out, we have stayed within our limits under the Budget Act, both with respect to budget authority and with respect to outlays, so I think there could be no criticism of the bill in that respect.

In terms of the housing programs, we have tried to conform what we have done in this appropriation bill to the will of the House as expressed during its consideration of H.R. 1 earlier this year. That is not everything that I would like to see in a housing program, but the House expressed itself very clearly, and I think we did the right thing by listening to what the House was telling us. We have gone very heavily into rehabilitation and the use of existing housing rather than new construction. In the one place where we have provided for new construction, the HODAG program, we have specifically provided in the report that that is to be targeted on housing market areas where there is a tight vacancy rate.

□ 1330

Turning to the NASA part of the bill, what was going to be a very difficult budget situation with respect to the NASA programs was, of course, greatly aggravated by the *Challenger* tragedy earlier this year. Only earlier this week did the Administration finally come to us with a request for $270 million for a replacement orbiter. Given the fact that we are right up against our budget authority limits in this bill, it is not possible at this time to deal with that request, but it is obviously one that we take extremely seriously, and it must be dealt with by the Congress.

We do in our report express a number of concerns with respect to the development of the Space Station Program. There is concern that NASA is over optimistic about how quickly it will be able to get the station into a permanently manned mode of operation, and we therefore are insistent that from the beginning the station when it gets up there be able to perform useful work for the country.

We are also concerned that, in our negotiations with foreign governments on their participation in the station, we will not wind up in a situation where because of budget pressures they are getting all the technological benefits of it and we are simply providing a transportation vehicle for their experiments. That, too, we have addressed in the report.

With respect to the National Science Foundation, although we did not provide all the money that the administration requested, that is proportionately the largest increase in this bill for the major agencies covered by the bill. I think it represents an important investment for the future in the development of American science and technology and in science education.

Finally, I should make the point that this bill does not deal with the problem of general revenue sharing. The full Appropriations Committee considered that issue and decided that in view of the lack of action by the House on the authorizing bill, this bill would not be an appropriate vehicle by which that question could come to the floor of the House. However, that is a question that the House may want to address before we adjourn, either via the authorization bill or the continuing resolution. I simply want the Members to understand that this appropriation bill has normally carried that appropriation, and it is not in here because the program is not authorized and is currently scheduled to expire on September 30.

In conclusion, I think we bring you a bill that is as good as it could be under the circumstances. None of us is happy with the limitations we face, but we have honored the limitations that are imposed upon us in the budget process. Within those limitations I think we have done a yeoman job in meeting the concerns in the various areas that this bill covers. I should hope the House would agree with us and would adopt the bill.

Mr. BOLAND. Mr. Chairman, I yield such time as he may require to a distinguished member of the subcommittee, the gentleman from Michigan [Mr. TRAXLER].

Mr. TRAXLER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in strong support of the bill. I commend the chairman, the gentleman from New York [Mr. GREEN] for his excellent work on behalf of the committee in reporting both the bill and the report. I am very pleased with the language of the bill and the report, most especially those areas that deal with the Environmental Protection Agency and the ques-

tion of ways to control fuel pump emissions.

The committee has directed that the EPA review a number of issues and report back to the Congress by December 1986 before proposing any regulations and it appears that based on current information their proposed rules may be ineffective and perhaps even unnecessary.

Also, I support the decision on the part of the committee not to further fund the Asbestos Hazard Abatement Program. It is my hope that we will be able to resume funding in the near future when we are convinced that the EPA will make use of appropriated funds that we have already done in a timely fashion and when we know, in addition, that appropriate and consistent reinspection is being accomplished, along with enhanced efforts to provide for contractor training and certification activities for which the committee has provided funding in 1987.

Mr. Chairman, the report of our committee regarding funding for the Environmental Protection Agency was amended during full committee consideration to bring to the attention of the Agency the concern that many of us have about the way in which the Agency is proceeding with respect to nationwide controls on gasoline vapor emissions from the refueling of motor vehicles.

There are two primary ways to control emissions: control them at the fuel pump, or control them at the fuel receptacle of vehicles, and this assumes that controls beyond the ones currently in place are both necessary and effective. Our concern is that EPA may not have developed sufficient data upon which to base a judgment of these alternatives. That is why the report specifically directs EPA to review a number of issues and report back to Congress by December 1986 before proposing any regulations that based on current information appear to be ineffective and unnecessary.

We expect EPA to comply with this directive.

I also rise, Mr. Chairman, to discuss the fact that the committee has postponed further funding for the asbstos hazard abatement loans and grants for our Nation's schools. I stress the word postponed, because it is my hope that we will resume funding in the near future, when we are convinced that EPA will make use of appropriated funds in a timely fashion and when we know that appropriate and consistent reinspection is being accomplished, along with an enhanced effort to provide contractor training and certification, activities for which the committee has provided funding in fiscal year 1987.

I remain a strong supporter of the Asbestos Hazard Abatement Program and was happy to join with the other Members of the House in approving H.R. 5073, the Asbestos Hazard Emergency Response Act of 1986 in August. I look forward to the program's reauthorization and improvement in the coming months.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. TRAXLER. I yield to the gentleman from Michigan, the chairman of the Energy and Commerce Committee, for a colloquy with the chairman.

Mr. DINGELL. Mr. Chairman, I thank the gentleman from Michigan, who is my dear friend, and I commend the committee and the distinguished subcommittee chairman for the outstanding work done here on the legislation before us.

I would thank the gentleman from Massachusetts and the gentleman from Michigan especially for their support for the language found at page 62 of the committee's report accompanying H.R. 5313. That language directs the Veterans' Administration to adopt the so-called "dual campus" approach in replacing the existing VA hospital at Allen Park, MI. The dual campus approach, agreed to by all sectors of the southeastern Michigan veteran, educational, governmental, and business sectors nearly 2 years ago, will, I believe, and will in the mines of all, best serve the medical care needs of the veteran population of southeastern Michigan. I commend the distinguished chairman and the distinguished gentleman from Michigan for their support of this approach.

I would like at this time to ask my dear friend, the chairman of the subcommittee, the gentleman from Massachusetts [Mr. BOLAND] whether it is his intention and the intention of the committee that this language serve as an integral part of the legislative history of this appropriations bill and whether it is the gentleman's intention to use the very considerable powers of persuasion that he possesses and that the subcommittee possesses to insure that the VA complies with this language.

Mr. BOLAND. Mr. Chairman, will the gentleman from Michigan yield?

Mr. TRAXLER. I am delighted to yield to the gentleman from Massachusetts.

Mr. BOLAND. Mr. Chairman, I am delighted to respond to the gentleman from Michigan, the all-powerful chairman of the Energy and Commerce Committee, whose persuasive powers are well known, not only in Congress but in the executive branch, as well.

I would say to my distinguished colleague that it is the intent of the committee that this language serve as an expression of the committee's intent. The committee expects its directive to be complied with.

Mr. DINGELL. Mr. Chairman, I thank my dear friend. He has served the Nation well.

Mr. BOLAND. Mr. Chairman, I thank the gentleman.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. TRAXLER. I am pleased to yield to the gentleman from New Jersey for the purpose of engaging in a colloquy.

Mr. FLORIO. Mr. Chairman, just for clarification on what the committee has done with regard to the Superfund, and I commend the committee because I think what they have done is appropriate and fitting.

It is my understanding that the actions that will be taken here today will result in making available appropriations in the amount of $1.46 billion for 1987 in two components, a $600 million carryover from last year and $861 million new spending authority to be carried next year, but that both of these provisions are contingent upon authorizing legislation being enacted into law by this body with the President's signature and that those appropriations will be available only upon that activity and that action being taken.

Mr. BOLAND. Mr. Chairman, will the gentleman from Michigan yield?

Mr. TRAXLER. I am delighted to yield to the distinguished chairman, the gentleman from Massachusetts.

Mr. BOLAND. Mr. Chairman, in response to the distinguished gentleman from New Jersey, let me say that the gentleman is probably one who is as well versed on the problems of the Superfund as anyone in this Chamber.

The figures that the gentleman states with reference to Superfund are correct. There will be approximately $1,461,000,000 available for Superfund in fiscal year 1987, based on language carried in this bill and as the result of the carryover from 1986. And any of these funds not obligated in 1987 would carryover until 1988 and beyond to expand Superfund, and it would be subject to appropriations.

Mr. FLORIO. Subject to authorization?

Mr. BOLAND. Yes, subject to authorization and appropriation.

Mr. FLORIO. Mr. Chairman, I thank the gentleman for his cooperation.

Mr. Chairman, I rise to note an unfortunate omission in H.R. 5313—funding currently authorized under the Asbestos Hazard Emergency Response Act [ASHAA] for schools to clean up hazardous asbestos. I would like to add that Chairman DINGELL and Mr. LENT share my concern regarding this omission. We all know that asbestos is a known human carcinogen which can cause lung cancer, mesothelioma and asbestosis when airborne fibers of the mineral are inhaled. Since children breathe five times faster than adults, they are particularly susceptible to the effects of asbestos inhalation. For this reason, asbestos-containing material in school buildings is such a potentially disastrous problem.

The House recently passed H.R. 5073, the Asbestos Hazard Emergency Response Act, which is a comprehensive response to the asbestos-in-schools problem. The legislation requires the Environmental Protection Agency [EPA] to prescribe proper inspection procedures, difine the circumstances when asbestos must be cleaned up and set standards for the proper transport and disposal of asbestos wastes. EPA must also establish a contractor accreditation program that the States must adopt to ensure that only qualified contractors are hired for any asbestos-related work.

H.R. 5073 mandates that schools must complete an inspection or reinspection according to the EPA standards, develop a management plan describing the manner in which any asbestos will be responded to, and clean up any potentially hazardous asbestos.

Chairman BOLAND, in urging the House to support H.R. 5073, stated that it addresses the problems the Appropriations Committee had with regard to the existing school grant and loan program, most notably that money was being spent on shoddy cleanup work. With the passage of H.R. 5073, we can feel confident that work will be performed properly. As a result, the authorized funds in the grant and loan program should be appropriated.

We require much from the schools in H.R. 5073. From reinspection to abatement, schools will incur many expenses to provide for the safety of the Nation's schoolchildren. While I am pleased that the Appropriations Committee has included $5 million in H.R. 5313 to help schools cover the cost of performing the reinspections, I am concerned that no money has been appropriated to assist the schools in cleaning up the asbestos.

To date, over $90 million has been provided to schools to cleanup asbestos under the grant and loan program. But that is not enough to cover much of the cost of abating asbestos. Providing any portion of the authorized level of $100 million is truly necessary.

ASHAA is not a gold-plated program. Money is provided to schools that most need it. School districts receiving the assistance must show that they have both financial need and hazardous conditions in their schools. Furthermore, 75 percent of the money is distributed as loans while just a quarter of the money is provided in the form of grants. We can be sure the money will be spent properly given the strict guidelines set forth in H.R. 5073.

This grant and loan program is important. By providing money to schools to assist cleaning up hazardous asbestos, we are making a sound investment in America's future. We will be protecting the 15 million school children—almost one-third of the Nation's school population—who are currently exposed to the potentially deadly substance in their school buildings.

Mr. TRAXLER. In conclusion, Mr. Chairman, let me say that there is one other important area in the bill and the report that the Members should be aware of, and I am sure they are. That relates to FEMA and disaster relief funds. As you know, the administration has been attempting, through the administrative rulemaking process, to significantly cut back on the Federal share of disaster relief. This bill and the report directs language that blocks those rules from being implemented. In addition, the bill provides $175 million for disaster relief for FEMA, which is up from the requested level of $100 million.

Now, we have no control over when disasters occur, nor have we any control over how severe they are going to be.

Let me say right now at this time in my district we have Lake Michigan. We are under water, very, very severe flooding. It is a tragedy. It is harming us and unfortunately it has killed a number of people in our State. It is going to harm small business and farmers. It is a booming disaster. The intervention and the assistance from FEMA are going to be critical and absolutely necessary, as my State is suffering, regretfully, millions and millions of dollars of damage now. We are going to need this program. We are going to need this money.

I am confident that the committee, should the administration later on want more funding for FEMA, I am confident the chairman, as he has in the past, and the ranking minority member, the gentleman from New York [Mr. GREEN] will honor such a request.

This is an essential and vital program. I wish to extend my personal thanks to the chairman and the other members of the committee for making certain that the language is in the bill which stops that rulemaking takeaway language from going into effect that the administration was proposing.

Mr. GREEN. Mr. Chairman, I yield 2 minutes to the gentleman from Arkansas [Mr. HAMMERSCHMIDT].

Mr. HAMMERSCHMIDT. Mr. Chairman, I rise to commend the very able chairman of the HUD and Independent Agencies Subcommittee of the Committee on Appropriations, Mr. BOLAND of Massachusetts. I commend also the very able ranking member, the gentleman from New York, [Mr. GREEN]. They and the other members of the subcommittee have rendered yeoman service to the veterans of our Nation by their works on the Veterans' Administration appropriation for 1987.

Mr. Chairman, in these times of careful and very necessary congressional scrutiny of all appropriations requests, the Veterans' Administration is treated very fairly by the bill before us, and I support it as it relates to veterans programs.

Mr. Chairman, H.R. 5313 is immensely fair to Veterans' Administration medical programs. It essentially provides for a current services budget by restoring a suggested reduction of some 8,800 employees. It also provides money to implement the new Veterans' Administration health care reforms which were legislated earlier this year. It increases the research budget by some $5 million over the budget request. It provides sufficient construction funds for that program to proceed in an orderly way. It further provides funds to implement a new Veterans' Administration policy on parking facilities. And it doubles the Federal commitment for State homes, a program that is an excellent example of Federal/State relationships. All in all, Mr. Chairman, it is an excellent Veterans' Administration medical budget.

Mr. Chairman, the suggested funds for the central office management of the medical program, the suggested funds for compensation and pensions, the suggested funds for the GI bill and for vocational rehabilitation, and the suggested funds for general operating expenses are also adequate unto the need.

Mr. Chairman, this is a frugal but adquate budget. Of course, it doesn't do all the things or pay for all the things that many would want it to do. But in these times of fiscal restraint, veterans have fared well and, again, I commend the members of the subcommittee and particularly Mr. BOLAND and Mr. GREEN.

Mr. Chairman, the annual congressional process on budgets for the several departments and agencies of our Government always provokes alarm at its beginning. However, it is the end result that counts. This year that result tells us the Congress understands its commitment to our Nation's veterans, their dependents and survivors. It tells us the Congress keeps its commitments. I am pleased to wholeheartedly endorse the veterans section of H.R. 5313 and I urge my colleagues to do likewise.

Mr. GREEN. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. COUGHLIN], who preceded me as the ranking minority member on this subcommittee.

Mr. COUGHLIN. Mr. Chairman, I thank my colleague, the gentleman from New York, and let me join in congratulating the very distinguished chairman of the subcommittee, the gentleman from Massachusetts [Mr. BOLAND] and the distinguished minority member, the gentleman from New York [Mr. GREEN], whose expertise in crafting this bill is tremendous. I think we are very proud to have the bill before us.

Having served on this subcommittee for some 12 years now, let me just say that this bill is a critical bill in many areas.

First, it is a bill for our cities. It is really a cities' bill because it contains funding for our housing programs, our urban development action grant programs, our community development block grant programs. I have seen the

results of this program as they are at work in our cities today in leveraging private capital, in improving the cities and the quality of life in our cities themselves.

Second, also it is a bill for the environment, because it does provide a little funding for our environmental programs, so it is also very responsible for the quality of life in that area and is a critical bill particularly for its funding of the Superfund, which is important at this time.

This is a bill for our sciences, our future, our technology, because that is all funded in this bill. Those of my colleagues who are interested in that area must realize that this bill is critical to the future of our scientific progress.

Finally, of course, it is a bill for our veterans. It takes care of our veterans. It provides them benefits. It provides for all kinds of veterans benefits, health, education, and programs in other areas.

So as my colleagues consider this critical piece of legislation, I hope they understand that this is a bill that is a major piece of legislation, that has been the product of a great deal of work by the staffs, by the chairman and the ranking minority member and the other members of the subcommittee.

Mr. Chairman, I heartily endorse the bill.

Mr. BOLAND. Mr. Chairman, I yield such time as he may require to the distinguished gentleman from Ohio [Mr. STOKES], a valued member of the subcommittee.

Mr. STOKES. Mr. Chairman, I thank my distinguished chairman for yielding time to me.

Mr. Chairman, I rise in support of H.R. 5313. As a member of the subcommittee which drafted this important bill, I wish to say that it continues to be one of the great privileges of my tenure to work with the distinguished chairman from Massachusetts, ED BOLAND. He is an extremely hardworking chairman, who is responsive and imminently fair when considering programs that are important to the people of this Nation. I, personally, appreciate his cooperation and consideration. Additionally, I want to express by appreciation to the very able ranking minority member, BILL GREEN. It is a great privilege to serve on this subcommittee with both of these distinguished gentlemen.

Mr. Chairman, This bill is one of the most important and diverse of the 13 appropriations bills that this body will consider this year. This bill fulfills one of the most basic human needs of thousands of individuals and families throughout America, the need for decent and affordable housing. This bill ensures that adequate funding is provided in our effort to see that our environment is clean and free from the threat of toxic substances. It takes the lead in embarking the Nation on an exciting and promising new venture, as we prepare for the next quantum leap in space, the building of the space station. This bill appropriates vital funding for science education and scientific research programs, and disaster relief funding to aid areas of our Nation that face unanticipated natural disasters. It appropriates funding to ensure that quality medical care and an appropriate level of benefits be made available to our Nation's 27 million veterans. Certainly, residents of my district, and the people of this Nation rely heavily on the services that this bill makes possible.

In total, H.R. 5313 provides $54.0 billion in new budget authority for fiscal year 1987. The total is $10.4 billion more than the administration requested, and $1 billion less than was appropriated for comparable programs in fiscal year 1986. The bill provides $9.6 billion in fiscal year 1987 for a variety of housing programs, including $8.1 billion for housing assistance. Low-income citizens of this country cannot afford to have the Federal Government withdraw its commitment to public housing programs, which have tragically been cut by 65 percent since this administration came to power.

In addressing the critical needs of large public housing authorities throughout the Nation, the bill includes $1.3 billion for public housing operating subsidies. This funding is particularly important for my district of Cleveland, OH, which has the oldest housing stock in the Nation, some of which is 50 years old. According to public housing officials in my district, because HUD has so severely underfunded modernization needs, it will take more than $80 million in the coming years to redress this critical problem. The Congress has already exercised wise judgment in rejecting the administration's request to rescind all modernization funds appropriated for fiscal year 1986; and, I further believe that this bill properly rejects the administration's request to make modernization money available only in emergency situations.

I am expecially pleased that this bill appropriates $3 billion in fiscal year 1987 for the Community Development Block Grant Program, and $275 million for the Urban Development Action Grant Program, two Federal programs that have served as valuable tools in moving our Nation's cities away from deterioration and decay, and toward economic revitalization and community pride. In Cleveland, OH, these programs have been effective in creating jobs, providing social services for the low-income elderly and handicapped, weathering homes, developing deteriorating communities, and stimulation private capital investment.

This bill also includes $7.7 billion for the National Aeronautics and Space Administration, with $410 million earmarked for continuing our efforts on space station development. My constituents are eager to see that we move forward with this enormous undertaking, in which Cleveland, OH, will serve as the NASA center for the development of space station power. As I know my colleagues are fully aware, 1986 has been an especially difficult year for NASA, as the agency continues to recover from the aftermath of the shuttle accident of January 28. As a nation, we all share a deep sadness at the loss of the *Challenger* and its brave crew. As NASA continues to recover from this national tragedy, I urge all of my colleagues to join together in support of Dr. Fletcher, NASA's Administrator, as he continues the difficult task of rebuilding our space effort. Although we may disagree on methods, we must not lose sight of or jeopardize our long-term goal for a space program that both ourselves and our children can look to with pride.

Additionally, I strongly support the $99 million recommended in H.R. 5313 for science and engineering activities under the National Science Foundation account. This represents a $10 million increase above the administration's request, and is urgently needed to address the critical problem of year's of underfunding science and engineering education. In addition, these funds will assist more minorities and women in entering the scientific job market, where they are currently highly underrepresented. Blacks for example, make up only 2 percent of all employed scientists and engineers in the United States, even though they represent over 10 percent of the overall labor force. Only by continuing a strong Federal commitment to science education can we hope to seriously redress this problem.

Mr. Chairman, the 15 agencies that will receive new budget authority through H.R. 5313 administer hundreds of programs that substantially benefit the people of this Nation. I strongly endorse H.R. 5313, and urge my colleagues to support the bill.

□ 1345

Mr. BOLAND. Mr. Chairman, I yield such time as he may consume to the gentleman from Mississippi [Mr. MONTGOMERY], the chairman of the Committee on Veterans' Affairs.

Mr. MONTGOMERY. Mr. Chairman, I want to pay tribute to the very able chairman of the subcommittee, the distinguished gentleman from Massachusetts [Mr. BOLAND], and to the very able ranking minority member of the subcommittee, the gentleman from New York [Mr. GREEN], for their leadership in bringing to the

House a very good appropriations measure for veterans' programs. If this measure is adopted, veterans benefits and services during fiscal year 1987 will be secured. Given the current economic situation, I think the committee on appropriations has treated veterans very fairly.

During the past several years, I have taken the floor to express my appreciation to my colleagues on the Appropriations Committee for their work in behalf of veterans. Seldom do conflicts arise between the authorizing and Appropriations Committees on veterans' issues. We work together and year after year the House lets veterans know that it cares about them.

The administration talks a lot about its commitment to veterans, but year after year its budget is woefully inadequate. For example, this year the administration's proposed budget would require a staff reduction in VA hospitals and clinics of more than 8,000 employees; inpatients treated would be reduced by 57,000 from the previous year, and outpatient visits would be cut by 1,114,000. The administration proposed a 41 percent reduction in VA construction program, a cut of more than $330 million from the current fiscal year. It proposed that the funding fee paid by veterans to get a home loan be increased from 1 percent to 2 percent—a 100 percent increase over the current fee. The administration's proposal would set the fee at 3.8 percent in 1990 and thereafter. None of these things will occur if the reported bill is adopted and becomes law.

Finally, Mr. Chairman, despite the clear intent of the House to maintain current services for the VA budget, the Administration plans to cut beneficiary travel for veterans by $90,000,000 in the next fiscal year, a cut that would eliminate the travel allowance for all veterans, including the service connected, except in emergency cases.

Mr. Chairman, the Appropriations Committee has rejected most of the reductions proposed by the Administration and I commend my distinguished colleagues for doing so. Rather than cut back on veterans programs, the committee is proposing a budget that would generally allow for current services during the next fiscal year. The reported bill would:

First, provide $396,159,000 above the administration's request to restore the 8,848 health care personnel cut proposed by the administration. It is expected that these additional resources will permit the VA to provide treatment for an estimated 65,482 inpatients and 1,264,000 outpatients above the administration's 1987 requested levels.

Second, provide $8,470,000 to support 459 full-time personnel to implement medical care eligibility reforms enacted by the Congress last year (Public Law 99-272). This is the level of resources originally requested of OMB by VA. These additional staff will assure that veterans will not experience delays in gaining timely admission to VA hospitals and clinics. In addition, adequate staff can be provided to administer the third-party reimbursement legislation enacted earlier this year.

Third, increase the medical and prosthetic research budget by $5 million over the President's request.

Fourth, increase the budget for major construction projects by $81,500,000 over the administration's request. This increase will provide funds for the outpatient and clinical addition project at New York City; $6 million to acquire the site for a new medical center at Palm Beach, FL; design funds for the replacement medical center at Pittsburgh, and design funds for a 120-bed nursing home care unit at New Orleans.

In addition, the bill contains $26,000,000 for the revolving fund authorized several years ago by our committee for parking garages to be constructed in urban areas where parking facilities are not available to hospital employees and visitors. From the inital appropriation to the revolving fund, we would expect parking garages to be constructed in Baltimore, Durham, San Francisco, and Syracuse.

Finally, Mr. Chairman, I would like to point out that the bill contains $42,400,000 for the construction of state extended care facilities, about double the appropriation made last year. We should do everything we can to assist States who want to help provide health care to our Nation's veterans, especially nursing home care, and I am very pleased that the committee has appropriated all of the funds requested by the administration for this program for the coming fiscal year.

Mr. Chairman, veterans can be proud of this bill and I hope they fare as well in the other body.

Mr. GREEN. Mr. Chairman, I yield 6 minutes to the gentleman from Texas [Mr. BARTLETT].

Mr. RIDGE. Mr. Chairman, will the gentleman yield?

Mr. BARTLETT. I yield to the gentleman from Pennsylvania.

Mr. RIDGE. Mr. Chairman, I would like to take just a few minutes to call to my colleagues' attention what is a small, easily overlooked but vital expenditure in this appropriation: The Federal Emergency Management Agency's Disaster Fund. This fund provides the moneys to assist both the communities and individual victims of disasters.

When the President's budget was forwarded to the Congress earlier this year only $100 million was requested for FEMA's Disaster Fund. Last year that request was for $196 million and over the last 10 years, average annual obligations have totaled $342 million. I, along with several of my colleagues, expressed serious doubts about the agency's ability to fulfill its congressional mandate at a funding level that was far below what has been needed in recent years.

It quickly became clear that FEMA was going beyond the normal cost-saving initiatives that the entire Federal Government has responsibly been adopting in recent years. Instead, the agency was undertaking a concerted, but indirect effort to relieve the Federal Government of its congressionally mandated responsibility to provide meaningful peacetime disaster assistance. Specifically, by rules offered in the Federal Register on April 18 of this year, FEMA proposed to drastically reduce, by $75 million, the amount of funds available to assist local communities that are trying to recover from the devastating effects of hurricanes, floods, tornadoes, and fires.

My deep concern regarding FEMA's national priorities in 1986 was precipitated by a series of devastating tornadoes that ripped through my district resulting in a Federal disaster declaration for the area. I witnessed the most powerful series of tornadoes in Pennsylvania's history cause 65 deaths and an estimated $250 million in damage. To date, FEMA has provided $7 million to help Pennsylvania's communities and non-profit institutions recover from this tragedy. There is no conceivable way that the communities in my district, many of which were literally sawed in half by tornadoes with wind speeds ranging from 150 to 300 miles per hour could have even started the recovery process without a considerable amount of support from all levels of government and the private sector.

Today, I remain convinced that FEMA's assistance was essential to the recovery effort. However, under the proposed regulations of April 18, the communities in my district would have received no money for reconstruction. FEMA would have labeled the catastrophe a "smaller disaster" thereby rendering the affected communities ineligible for any Federal disaster assistance. Incredibly, by FEMA's own estimation 61 of the last 111 Presidentially declared Federal public disasters would not qualify for any help from the Federal Government. Nearly every State in this country would have found itself with drastically reduced and, in some cases, no funds to help return their disaster devasted communities to their predisaster condition.

There is, in my opinion, absolutely no substantive justification for FEMA's use of the regulatory process to drastically curtail public disaster assistance. I'm pleased to report to you today, however, that the Appropriations Committee has wisely stopped FEMA from decimating Federal disas-

ter assistance. The bill orders FEMA to withdraw the proposed regulations. It also restores the estimated $75 million that would have been saved thus bringing the total appropriation to a more realistic $175 million. In addition, I will continue my efforts to amend the Disaster Relief Act by mandating specific fiscal responsibilities for the Federal Government that I believe will reflect the Congressional intent of making the Federal Government a meaningful partner in the recovery effort after a disaster.

Congress never has and must never retreat from its responsibility to the victims of natural disasters. This appropriation will allow FEMA to meet that responsibility and I urge my colleagues to vote for passage.

Mr. BOLAND. Mr. Chairman, will the gentleman yield?

Mr. BARTLETT. I yield to the gentleman from Massachusetts.

Mr. BOLAND. Mr. Chairman, I want to commend the gentleman from Pennsylvania [Mr. RIDGE] for his appearance before our committee. He was one of the many effective spokesmen who disagreed with the regulations established by FEMA with respect to disaster relief. And he was right.

Mr. BARTLETT. Mr. Chairman, I rise to discuss and to support the priorities that are set in the subsidized housing section of this bill, and I commend the efforts and the good will of the chairman of the subcommittee, the gentleman from Massachusetts [Mr. BOLAND], and the ranking minority member of the subcommittee [Mr. GREEN], in establishing priorities that are set by this appropriations bill.

I have one caveat, and that is that in the aggregate this total piece of legislation, H.R. 5313, is still a large appropriations bill. There are a number of agencies that are included, and I understand that the administration and others have some objections to some of the spending levels in other sections of the bill. So I will listen to the debate on those sections.

In the housing section—and I serve on the housing authorizing subcommittee—it is my judgment that the committee has done a good job—not perfect—but they have adopted the priorities that have been set by this House in the appropriation sections of subsidized housing, adopted the priorities that were set by the housing legislation at the end of a week-long debate on this floor.

I have a good deal of respect, as do all Members, for these two gentlemen. They have earned the respect of this entire House by their skill and by their legislative fairness, because I know that they do not necessarily agree with each of the priorities in every respect, and they participated in the debate rather vigorously. It is to their credit and the credit of the entire Committee on Appropriations that they did enact the priorities so far as they can do within the appropriations process.

I would specify some of those priorities. For example, in the area of new construction the House has said several times that before we spend scarce Federal dollars to build new units of Government housing at a cost of some $60,000 per unit, that we ought to spend those scarce resources to repair units instead, and so last year, in fiscal year 1986, the appropriations bill on final passage had built some 5,000 new units of public housing at a cost of $1 billion in total, and this year there are no funds appropriated for new construction.

Second, this committee report, this bill, virtually doubles the funding for repair and modernization, thus increasing the living standards and the livability of tenants of public housing throughout this country. It is estimated that some 36 percent of all the public housing in this country is in need of repair, and if you allow for the new capital grant formula that is in this bill, the $1.4 billion that is appropriated in this bill after adjusting for the change in the financing method doubles from fiscal year 1986 the money spent for repair and modernization.

In section 202 the committee maintained 12,000 new units, and that is consistent with the views of this House.

In the area of certificates and vouchers this bill provided for 60,000 new certificates and vouchers, thus providing an emphasis on those items of assistance directly to low-income families where you can obtain the maximum assistance and allow people to live where they want to and not where the Government chooses where they live. And within that 60,000 this bill provides 50,000 of those certificates in the form of vouchers, which has the maximum flexibility.

Overall new units in this bill are some 92,750 units, about the same number that we had all agreed on all along, but what is important is that this appropriations bill maximizes the scarce Federal resources to obtain those 90,000 new units in the most cost-effective way possible.

I would note that there are two sections with which I do have some concern. First is the very large increase in the HODAG programs, from some $75 million to $225 million, and second is that I think we did make a mistake in the bill by modifying the 1983 prohibition of rent controls on units assisted by the Federal Government.

But the bottom line is that this appropriations bill does set the right priorities and sets the priorities that we would hope to achieve in the authorizing legislation.

In my remaining minute I will speak on the authorizing legislation, because reform is needed now—reform in aggregate spending, reform of the nature that was adopted by the housing bill, and it is now at the point that it is going to be up to everybody in the other body, in this body, in the administration, in HUD, and elsewhere, to decide that we are not satisfied with the status quo, and the only way to change the status quo of assisted housing programs in this country beyond what the Appropriations Committee has done is going to be to adopt authorizing legislation of a reform nature, of a nature that has been contemplated by the housing bill by this committee, adopt with that some limit on aggregate spending, and change the status quo through the adoption of authorizing legislation.

It is my hope that this body, that this Congress, this year, adopts authorizing legislation and gets on with that task of reforming assisted housing programs, and I commend the committee for their fine work.

Mr. BOLAND. Mr. Chairman, I yield 3 minutes to the gentleman from Florida [Mr. NELSON].

Mr. NELSON of Florida. Mr. Chairman, I rise in support of H.R. 5313—the fiscal year 1987 HUD-independent agencies appropriations bill. As chairman of the Subcommittee on Space Science and Applications, I particularly wish to commend Chairman BOLAND and his subcommittee for their insight and their leadership concerning our Nation's space future.

In the time since the *Challenger* tragedy, NASA and America's space program have been lacking in direction. We have reached the nadir and have just begun the resurgence to regain our preeminence as the leading spacefaring nation in the world.

Last week, we witnessed the successful launching of a Delta rocket at the Kennedy Space Center. NASA has a new, experienced Administrator. A number of new managers at NASA are providing fresh insight and decisiveness. This appropriations bill and our authorizing bill—due on the floor shortly—are providing direction to the help NASA to get back on its feet.

And, finally, the administration has recently requested the funding to begin construction of a fourth orbiter. These are all positive indicators—America will retain its position as the number one spacefaring nation—but we cannot hesitate.

This bill at a level of $7.65 billion is sufficient under the Gramm-Rudman budget realities. In truth we should be spending much more on the Nation's civilian space program to keep our leadership.

I share the concern of Chairman BOLAND and his subcommittee about progress in the space station program.

We have new and very able management in the space station program at NASA, but progress has not been as fast as originally anticipated. The Congress has the duty to exercise its oversight and to be sure that the taxpayer gets the best space station for the money. Not only do we need to get our shuttle fleet back into operation, we need to proceed to this next logical step—the space station. America cannot afford to slip back from the edge of technology.

I commend the chairman for his leadership on this bill before us. I urge its adoption by my colleagues.

□ 1355

Mr. BOLAND. Mr. Chairman, I yield myself such time as I might consume.

I would like to propose a question to the gentleman from Texas concerning Mr. LOEFFLER's amendment adopted in the full committee on the HUD—independent agencies appropriations bill. Basically, that amendment restricts the movement of any employee from the Johnson Space Center to any other NASA facility. I recognize why that amendment was offered, And I understand the gentleman's position and his concern in regard to the Houston Space Center and that Center's contribution to the Space Station Program. Those concerns are being addressed by NASA currently and I am hopeful that something can be worked out that will be satisfactory to both the Marshall Space Center and the Johnson Space Center.

But in the meantime, as the gentleman knows, one of the objectives of NASA was to move a small number of people from the Johnson Space Center and other NASA centers to Washington in order to consolidate at headquarters the management of the Space Station Program. That move is essential to good management—and perhaps most importantly—it was in response to a direct recommendation of the Rogers Commission. The Commission emphasized the importance of NASA having program control and accountability through the strong centralized management of all NASA programs.

With that as background, it is my understanding that Mr. LOEFFLER and the gentleman do not object to the movement of a small number of Space Station Program management personnel from Houston to Washington—their objection is to the movement of space station personnel and program content from Houston to Marshall.

Is that correct?

Mr. COLEMAN of Texas. Mr. Chairman, if the gentleman will yield, the gentleman is correct. As he knows, myself and other Members of the Texas congressional delegation are concerned that the traditional role for the Johnson Space Center—which has been to oversee the manned aspects of U.S. space flight—not be seriously eroded by moving pieces of the space station from Houston to Marshall. However, it is not my intention, nor do I believe the intention of the Members of the Texas delegation, to prevent moving the overall program management to Washington—and we would not want to block this from happening.

Mr. BOLAND. I thank the gentleman for that response.

Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. ANDREWS].

Mr. ANDREWS. Mr. Chairman, over the last several weeks, a debate has progressed over the future of the space station program. I as well as many of my colleagues on the Space Science Subcommittee raised concerns over the design of the station and the wisdom of work package changes embodied in Dr. James Fletcher's June 30 announcement.

Today, I am pleased to note that we have made important and encouraging progress toward resolving these questions. The work of the space station design review team at the NASA-Langley Research Center is nearing completion, and I am hopeful that they will report to the Congress soon on design modifications that will answer key safety and efficiency concerns.

At the same time we are hearing resolution on the management efficiency concerns we raised over the distribution of space station work package duties between the Johnson Space Center and the Marshall Space Flight Center.

I would like to take this opportunity to compliment NASA on the good faith progress that has been made recently. I look forward to the completion of these reviews in the near future and to the opportunity to fully study their results. Once we have completed this process, I am confident that the space station program will be on a firm foundation for future progress.

However, as we debate appropriations for NASA, I would like to discuss some other areas of deep concern I have about our Nation's space program—concerns which I know are shared by many of my colleagues.

Mr. Chairman, there is a desparate need for strong leadership in our space policy. Since the devastating loss of the space shuttle *Challenger* and her crew, our national space effort has been adrift. Decisions that must be made have piled up. Direction and purpose have been lacking. It seems that all we can do is repair some of the physical damage caused on January 28. But no actions have been taken to mend the deeper wounds to the space program: the morale of NASA is at an alltime low: the continuing departure of our veteran NASA personnel, representing decades of experience, could cripple our ability to make new advances in space; and the siphoning off of funds away from the space effort is nothing less than a retreat from our national commitment to leadership in space science and exploration.

How can we solve these deeply disturbing problems in our space program? The key to correcting this discouraging situation lies in regaining the precious momentum that NASA has lost this year, and the leadership to regain that momentum must come from the White House. The Congress stands ready to work with the President in going forward in space.

Today, I call upon the President to act and assure him that we are ready to join him. There are several fronts upon which his leadership is needed.

First, we must have a fourth shuttle orbiter. It is that simple. Without it, the space station, our most daring venture in space since going to the Moon, will be in doubt. Until we have a viable, four orbiter fleet, our capability to do manned work in space will be hobbled. But this is not an area of dispute between Congress and the President; we have called repeatedly for a replacement orbiter, and the President has replied that he too sees this need. Not long ago, we all heard the White House announce its intention to build the replacement for the *Challenger.* However, one thing seriously lacking in that announcement was a forthright explanation of where the funds will come from. It does no good to commit to a fourth orbiter without accompanying that commitment with a hardnosed and prudent plan for paying for it.

I am deeply disturbed by those in the administration who say that the cost of the fourth shuttle should come out of NASA's ongoing budget. Anyone familiar with NASA's budget knows that they have been squeezed tight as a drum for years. Promising scientific work has been hacked back in all areas, and we have foregone excellent opportunities for space science probes to other parts of our solar system. In fact, the Rogers Commission noted that a contributing factor to the shuttle disaster was insufficient funding for the job we asked them to do. Are we going to repeat that error by exacerbating those very funding problems? I truly hope not.

If the administration will come forward with a reasonable proposal for funding the fourth shuttle, we will support it.

Another area of concern to me is the meager overall funding for NASA. Americans have always been proud of our civilian space effort. We gloried in the heyday of the Apollo Program. And yet today we wonder why we have all these problems. What happened to the giant leaps of advancement we remember from other years? Well, that's

pretty simple. We have starved NASA. If you look at the trend in NASA's funding since the Moon shots, there should be no surprise at their difficulties. I am frankly amazed at their successes given such meager funding over the years.

I feel it is time we broke out of that self-defeating approach to our space effort. The President has committed himself to a space station, yet there is uncertainty about coming up with the funding to support that commitment. We need to work together to make NASA healthy again, to build morale among those who have dedicated much of their lives to the space program, and to regain the crucial momentum we have lost.

The time has come to rededicate ourselves to achievement in space. There is no lack of vision and daring on the space frontier, but there is a lack of investment. Let us work together to assure that our investment matches our vision.

Mr. GREEN. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from New York [Mr. GREEN] has 15 minutes remaining.

Mr. GREEN. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. lBOEHLERT].

Mr. BOEHLERT. Mr. Chairman, I just want to take a moment to commend my colleagues on the Appropriations Committee for producing an outstanding bill which balances our social responsibility with fiscal responsibility. It will be a pleasure to vote for a bill which includes funds for several very important programs, while remaining within the targets set by the budget resolution.

I am especially pleased by the committee's commitment to continuing CDBG's and UDAG's. Although the funding is well below the demonstrated need, it will help to produce jobs and economic development in towns and cities across the country.

Just ask the citizens of Utica, NY, where a UDAG-financed convention center has exceeded expectations, creating jobs and a revitalized downtown. In fact, in 1984 the GAO found that UDAG-financed projects tend to exceed expectations for the number of jobs created and private investment realized. That's a program that pays off, and I am pleased to see the committee realize it.

I am also pleased by our increased commitment to the EPA, whose mandate to protect the environment seems to grow more pressing every year. Poll after poll shows that the American people are willing to pay for a pristine environment, and whether the challenge is acid rain, the Superfund, or clean water, the EPA must be given the resources it needs to research these tough problems and enforce our environmental laws.

The bill provides funds crucial to continue America's commitment to scientific excellence. While the funding levels should be higher, this bill provides money for the National Science Foundation, whose basic research is increasingly concentrating on problems faced by industry. Advances in robotics, supercomputers, and other engineering challenges are vital to improve our economic competitiveness into the 21st century.

And finally, the bill includes money for two small but very important programs, the National Fire Academy and U.S. Fire Administration. These programs help train local firefighters, and enhance prevention and arson investigation. They have contributed to a 50-percent drop in lives and property lost to fire in the past 10 years.

Mr. Chairman, the members of the Appropriations Committee have brought before us a bill which balances many competing interests. As I have explained, they have continued and in some cases strengthened programs which are investments in America's future, and they have done so without losing their fiscal heads. I urge my colleagues to vote yes on this legislation.

Mr. BOLAND. Mr. Chairman, I yield 2 minutes to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Chairman, I wish to commend the members of the Appropriations Committee, the chairman and ranking members for their fine work in crafting this important legislation. I especially want to call attention to an important directive which the committee has included in its report accompanying this bill. In its report, the committee has taken notice of legitimate concerns over the safety and effectiveness of using soil blending technology in the disposition of radioactive soil from Superfund remedial action sites.

In my district, these concerns are very real and close at hand. In fact, the New Jersey Department of Environmental Protection has announced plans and presently engaged in litigation to dispose of tons of radium-contaminated soil from the Monclair/Glen Ridge Superfund site in Vernon Township, NJ. This State proposal to move 10,000 cubic yards of contaminated soil is only a small part of a larger Federal Superfund cleanup involving up to 200,000 cubic yards of additional waste. The DEP's decision has prompted a justifiable outcry from residents in Vernon, because this State lead agency has failed to follow basic public notice procedures which should be standard practice in all Superfund cleanups.

The DEP has failed to convince the people of Vernon that its disposal technology will not pose a real health risk now or in the future. Its decision to dump this contaminated soil was made by the DEP without consulting Sussex County leaders, without notifying the residents of Vernon Township and without full disclosure of its effects on health and safety.

While the State lead agency in this case has sought to avoid Federal public notice and comment regulations by using extraordinary power granted by an Executive order signed by Governor Kean in 1983, the committee today is putting the Environmental Protection Agency on notice that this kind of disregard for establish process will not be tolerated during the Federal second phase of this cleanup action. EPA is directed by the committee to conduct all necessary studies and follow all standard Superfund procedures for review and comment. This assessment should include an evaluation of all reasonable cleanup alternatives, including alternative disposal methods for this radium-contaminated soil. There can be no shortcuts taken when so many questions as to the safety and effectiveness of this new disposal process remain unanswered.

I commend the committee for including this important directive in its report, and I thank Chairman BOLAND and ranking Member, Mr. GREEN (for their efforts on behalf of my constituents in Vermon.

Mr. BOLAND. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Connecticut. [Mr. MORRISON].

Mr. MORRISON of Connecticut. Mr. Chairman, first of all, I want to take this opportunity to commend the chairman of the subcommittee for his hard work in putting this important bill together and bringing it to the House today.

This bill is significant for many reasons, not the least of which are the provisions appropriating funds for the Federal Government's housing assistance programs and for the Veterans Administration. As the chairman of the subcommittee knows, I have served on the Subcommittee on Housing and Urban Development since being first elected to the Congress and, for that reason, I particularly appreciate the dedicated leadership he has shown in the area of housing.

I take this time today, however, not to talk about our housing programs, but rather to discuss the Veterans Administration Hospital in West Haven, CT, and the potential threat posed to its cardiac unit by the VA's plan to close up to one-third of the 51 existing VA heart surgery units.

As you know, Mr. Chairman, the VA hopes to close less busy units and has established 150 heart surgery procedures as its benchmark in determining whether enough procedures are being done to guarantee that our veterans receive medical care from surgeons who are sufficiently experienced.

This plan is shortsighted because it uses an arbitrary figure on the number of procedures, rather than focusing more broadly on the overall quality of care and mortality rates.

Unlike the cardiac units at many other VA hospitals, the VA's cardiac unit in West Haven is almost completely integrated—not merely affiliated—with a teaching hospital, Yale-New Haven Hospital, which indeed is

one of the great hospitals of the world.

According to Dr. Irving Modlin, chief of surgery at the Veterans Administration Hospital in West Haven, just under 100 cardiac procedures were performed there in both 1984 and 1985. However, the combined totals for the West Haven VA facility and affiliated Yale-New Haven cardiac unit is 690 procedures in 1984 and 731 procedures in 1985.

The West Haven VA cardiac unit does not have any itinerant surgeons or doctors who can't make the grade elsewhere. Every surgeon appointed at the West Haven heart surgery facility must be a full faculty member at Yale Medical School. Dr. Modlin himself is vice chairman of the university's medical department.

In addition, Mr. Chairman, the West Haven facility's mortality rate is significantly lower than the average mortality rate for similar procedures. The average mortality rate for heart surgery procedures in VA hospitals is 5.3 percent. At the six VA facilities with the greatest number of procedures the mortality rates range from 5 to 6 percent. In West Haven, the average mortality rate over the last 5 years is 4.8 percent and for 1986 now stands at 2.9 percent.

I am quite familiar with the heart surgery program at the West Haven hospital. They have a comprehensive approach to heart care that includes sophisticated diagnostic work and postoperative care, including a solid postoperative support group system which helps patients make necessary adjustments to their lifestyles and stick with them.

If this unit is closed, the VA will lose one if its best facilities and veterans in my district and throughout Connecticut will be forced to travel to either New York City or Boston for surgery and most diagnostic procedures. Others will have to get their treatment at non-VA hospitals, but at the VA's expense.

This isn't going to save the Government any money or assure that my constituents get the best quality of care.

I wonder if the chairman would enter into a colloquy with me to discuss whether he thinks the VA's heart surgery unit in West Haven is the kind of unit that should be closed down.

Mr. BOLAND. Mr. Chairman, will the gentleman yield?

Mr. MORRISON of Connecticut. I am happy to yield to the gentleman from Massachusetts.

Mr. BOLAND. Mr. Chairman, the gentleman has spoken to me and I understand he has spoken to the minority with reference to the VA's position on cardiac surgery units. This committee is concerned about the movement within the Veterans Administration to limit some of these activities and to change procedures within veterans hospitals.

The statistics that you have enunciated and that you have indicated today, I think, will clearly indicate that the cardic unit in the West Haven Veterans Administration Hospital should not be closed—for the very simple reason that the procedures that are used there are identical to the procedures that are used in the Yale University Medical Hospital. And the personnel involved in operations there are also used at Yale-New Haven; is that correct?

Mr. MORRISON of Connecticut. That is correct, Mr. Chairman.

Mr. BOLAND. I think the gentleman makes a very clear, compelling and forceful case with reference to the VA hospital in West Haven. You have indicated that the mortality rate is running around 2.9 percent, compared to the mortality rate throughout the VA system of better than 5 percent. In addition, the number of procedures has risen to about 700 per year.

Those are impressive statistics. I do not know of any other combination in the United States where you have that kind of affiliation between a hospital of the importance of Yale-New Haven and the West Haven VA that could equal those procedures and those statistics.

I certainly believe that there is great deal of sense to the theory that the quality of heart surgery will depend to a great extent on the experience of the surgeons. To the extent that experience is significant in making a determination about the quality of care at a given facility, it is the number of heart procedures performed by the surgeons themselves that should matter, not where those procedures happen to be performed.

I certainly would express my concern and my opposition, and I am sure the committee would, too, to the closing of the cardiac unit at West Haven.

I want to thank the gentleman for bringing this matter to the committee's attention and assure him that the subcommittee will closely monitor the Veterans' Administration's activity in this area.

□ 1405

Mr. MORRISON of Connecticut. Mr. Chairman, I thank the gentleman. I will look forward to working with him if there are future problems on this, and I thank him for his comments.

Mr. BOLAND. I thank the gentleman.

Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Pennsylvania [Mr. WALGREN], a member of the Committee on Science and Technology.

Mr. WALGREN. Mr. Chairman, I want to urge my colleagues to support the HUD-independent agencies appropriations bill which is before the House today.

This bill contains important dollars to improve the quality of health care services for nearly a half million veterans in western Pennsylvania.

Several years ago I became aware that the Veterans hospital and nursing home facilities in Aspinwall, PA, were outdated and inadequate to meet the needs of our veterans. In fact, the Veterans Administration has called the Aspinwall center one of the four VA centers in the country most in need of reconstruction.

Today, thanks to the leadership of committee Chairman JAMIE WHITTEN, subcommittee Chairman ED BOLAND, and committee member and fellow Pennsylvanian JACK MURTHA, this bill provides $5.3 million for the design and engineering of a new veterans medical center and 250-bed nursing home facility. This is the first step in replacing an outdated and overutilized facility, and I am grateful for the understanding that the Appropriations Committee has so obviously demonstrated to our needs in this area.

I also want to salute my colleague BOB EDGAR who, as chairman of the Hospitals and Health Care Subcommittee of the Veterans' Affairs Committee, visited the old hospital in my district and has worked hard to secure the authorization for this project. BOB, whose record on behalf of veterans is well-recognized, has shown a special sensitivity to the health needs of these citizens.

Mr. Chairman, our veterans deserve the best we can give them in health care in view of the sacrifice so many of them gave to our country. Medical needs of veterans are rapidly increasing as many veterans of World War II reach their sixties and seventies. This new Aspinwall facility will become increasingly important in the years ahead. Over 452,000 veterans live in western Pennsylvania.

I urge my colleagues to join with me in supporting this appropriations bill.

Mr. Chairman, I rise to commend my colleague from Massachusetts [Mr. BOLAND] for his legislative leadership in bringing the HUD-Independent Agencies appropriations bill to the floor. As chairman of the HUD-Independent Agencies Subcommittee, Mr. BOLAND has accomplished the difficult task of crafting a balance between the urgent necessities of subsidized housing and the important work of Federal agencies such as the National Science Foundation.

Recently, the Congress passed and the President signed the National Science Foundation Authorization Act for fiscal year 1987, Public Law 99-383. This new law reflects our shared belief that basic research and the National Science Foundation play a unique role in our long range economic well being.

No Federal agency other than the National Science Foundation provides such a wide scope of support to colleges and universities although the NSF budget is relatively small, it is the primary source of support for fundamental science and engineering research and education. As research advances the frontiers of basic scientific and engineering knowledge, our Nation grows stronger in world economic competition.

I want to take this opportunity to thank Mr. BOLAND for his continued support for research and the National Science Foundation. Also, I urge the Chairman and the other House conferees, to seek a level of funding for NSF, when negotiating with the other body, that reflects our near unanimous support for basic research.

Mr. GREEN. Mr. Chairman, I yield such much time as he may consume to the distinguished ranking minority member of the full Committee on Appropriations, the gentleman from Massachusetts [Mr. CONTE]

Mr. CONTE. Mr. Chairman, I rise in support of H.R. 5313, the fiscal year 1987 appropriations bill for the Department of Housing and Urban Development and Independent Agencies.

This is the 11th regular fiscal 1987 appropriations bill to come before the House. It is, however, the 10th bill we have reported that is considered by OMB to be veto bait. For the RECORD, I will include a copy of the administration's official policy statement dated September 12. But I say to my colleagues that I do not agree with these objections. This is a good bill, and one that deserves your support.

At $39.8 billion, this is the second largest bill in terms of discretionary new budget authority that we have seen this year. Our largest, so far, of course, has been Agriculture at $42 billion. And we can only imagine how much larger that one will grow by this fall when the money trees are bare and we have to sprout another supplemental or two for the CCC.

I regret to say that we'll need a supplemental for this bill, too, Mr. Chairman, to release funds being withheld for lack of authorization. And I say that with all due respect for my colleagues from Massachusetts and New York, the distinguished and able managers of this bill.

Because they have produced a good bill under the most difficult of circumstances.

It is a bill that restores over $6.9 billion of unacceptable cuts in the area of housing and community development, and provides the maximum possible level of funding for veterans medical care and environmental protection.

It is a bill that fully funds our mandatory programs.

And—most important to those who have supported blind, across-the-board cuts—the bill lies within our 302(b) allocations of budget authority, outlays, direct loans, and loan guarantees.

And it totals $4 billion below the 1986 program levels, primarily because we were not able to include funds for the unauthorized general revenue sharing program.

As was pointed out during the debate on the rule, however, most of the funding recommended in this bill is for programs and activities whose authorities are currently expired or are soon to expire. These involved funds for 10 of the 18 agencies, offices, and boards covered by this bill.

With greater deference than is perhaps due at this late date to our authorizing colleagues, we are reserving over $3 billion in funds subject to release in future appropriations acts.

For the second year in a row, we are unable to provide Superfund or EPA construction grant funds without strings. This is a shame, Mr. Chairman.

In the case of NASA, clearly one of our most troubled Federal agencies, we have been forced to take the lead on issues ranging from the space station to the Orient Express without benefit of legislative guidance or timely budget amendments from the administration.

I think that most of the problems we have encountered in drafting this bill, Mr. Chairman, represent the worst-case scenarios regularly faced by our Appropriations Committee.

The Budget Committees present us with outlay ceilings that have little realistic relation to our budget authority ceilings. The legislative committees are unable to act in a timely manner or are unable to reach agreement with conferees from the other body.

The administration proposes reductions in programs that are impossible to accept. But we must juggle and shift, guess and commit.

I commend the members of the HUD subcommittee and all of my colleagues on the full committee for their efforts to make these tough choices and to make them well.

Most Members, I would hope, will be pleased with our recommendations. We have provided for 12,000 units of elderly and handicapped housing, we have $3 billion for CDBG's, we have another $70 million for emergency food and shelter grants, and $9.5 billion for veterans medical care.

But there are some who will be disappointed.

Our budget allocations have not left us enough for school asbestos abatement loans and grants. Our UDAG Program appears to be on its last, short leg.

And we can never add enough for public housing modernization.

Then there's revenue sharing. I have no doubt that we will see a provision in the conference report for $3 or $4 billion for revenue sharing. I have been a strong supporter of this program for many years.

I'd like to support it again if someone can tell me where we're going to get the revenue to share. We could not seem to find it over in that conference on the simplified tax bill, that's for sure.

We have our share of special legislative provisions, and we have assumed some increases in programs that our colleagues may not support. In some cases, I regret that we had to take cuts. For example, the UDAG Program has been cut 13 percent from the 1986 level; $275 million was all we could get. I have to wonder whether it's worth having a program at all at this level. But we ought to give full consideration to these issues here and now. If there are problems with our recommendations, let's determine the will of the House today.

Let's not surrender the authority and responsibility of 432 Members to one President with a red pen.

Mr. Chairman, I urge support for our bill.

STATEMENT OF ADMINISTRATION POLICY

SEPTEMBER 12, 1986.

H.R. 5313, HUD/INDEPENDENT AGENCIES APPROPRIATIONS BILL, 1987

(Sponsors: Whitten, Mississippi; Boland, Massachusetts)

The President's senior advisors will recommend veto of this bill in its present form. The bill provides $1.6 billion more than the President's request and nearly $370 million more than the CBO/OMB average Gradison baseline specified by Gramm-Rudman-Hollings for budget authority for discretionary programs other than subsidized housing, substantial increases above the requested level for subsidized housing programs, and several objectionable language provisions.

Past economic activity as well as revised economic assumptions point to slower growth and a higher projected deficit than was forecast earlier. In the Administration's opinion, as well as that of the Congressional Budget Office, the Congressional Budget Resolution, including its allocation to the HUD Appropriations Subcommittee, will be inadequate to avoid the necessity of a Gramm-Rudman-Hollings sequester. The Administration believes Congress should act to cut spending in areas of lower priority in the bill so that a sequester, which would hit high-priority and low-priority areas alike, can be avoided.

The major areas of concern are:

The inclusion of $275 million in unrequested funding for HUD Urban Development Action Grants, continuing an inefficient and unnecessary program;

An increase of $600 million above the President's request for EPA construction grants;

An additional $403 million in unrequested funding for VA, Medical Care, which is not necessary for the continued provision of quality health care to the nation's veterans and for the administration of the means test and third party reimbursement;

$225 million in unrequested funding for the HUD Rental Housing Development Grant program, an expensive, poorly target-

ed program that subsidizes housing for middle and upper income families.

$250 million for the HUD Rental Rehabilitation Grant program that was not requested and that more than triples the 1986 appropriations.

Funding increases in salaries and expenses accounts that are not consistent with corresponding Committee action on related program levels;

The inclusion of language linking vouchers to the rental rehabilitation grant program, despite passage last month by the House of a bill that would relax this relationship; and

Objectionable Committee language prohibiting the Veterans Administration from implementing their management proposal to consolidate the operation of insurance programs. The VA proposal would save $7.75 million over six years.

Mr. GREEN. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. PURSELL].

Mr. PURSELL. Mr. Chairman, I rise in support of H.R. 5313, HUD appropriations for fiscal year 1987. I would like to congratulate the chairman, Mr. BOLAND, and the ranking Republican, Mr. GREEN, as well as members of the Appropriations Committee on which I proudly serve for their efforts in producing this fiscally responsible and well drafted legislation.

This appropriations bill includes $1.6 billion in fiscal year 1987 for the National Science Foundation which is responsible for the development of a national science policy and for the support and promotion of basic science research and education. NSF also promotes the development and coordination of engineering education both at home and abroad. Through a variety of grants, contracts, and other agreements awarded to higher education institutions, such as the University of Michigan in Ann Arbor, and nonprofit and other research organizations, NSF is able to support fundamental, long-term research in all the scientific and engineering disciplines.

Mr. Chairman, I support the funding levels included in this bill for the National Science Foundation and other programs and I am particularly gratified that this bill falls below levels set by the congressional budget resolution as well as appropriations provided in last year's bill. H.R. 5313 stands as both a fiscally responsible effort to reduce the Federal deficit and a well crafted initiative for necessary education and research programs.

Mr. GREEN. Mr. Chairman, I yield 3 minutes to the gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. Mr. Chairman, I want to commend the Committee on Appropriations for its work on the housing provisions of this legislation. The committee has placed the appropriate emphasis on rehabilitation and modernization, rather than on costly new construction programs. At a time when the Federal budget is stretched to the limit, the committee bill gives us the most possible housing for our money.

I especially want to commend the committee for its added emphasis on vouchers. The bill before us provides for 53,500 vouchers, which will be both free-standing and used in connection with the rental rehab program.

During the debate on H.R. 1, the Housing authorization, I added an amendment that removed the requirement that substantially all housing vouchers be used in connection with the rental rehabilitation program. This legislation effectively reinforces that position by providing funding for a significant number of free-standing vouchers.

The Housing Voucher Program offers greater freedom of choice than any other rental housing programs. It allows participating families to decide for themselves the tradeoff between choice of neighborhood, style of housing, and the share of the family budget they wish to devote to housing.

Vouchers essentially act as income supplements to improve a low-income family's ability to meet its shelter needs. The voucher allows an assisted family to obtain decent, safe and sanitary rental housing and guarantees payment to the landlord for a portion of the rent. The voucher approach makes use of existing rental stock on the private market and encourages recipients to shop for units.

Vouchers are much less costly and more efficient than new construction programs. They can serve more families immediately. They are more portable than other types of housing assistance and they allow recipients the maximum amount of freedom of choice and flexibility.

Many people believe that vouchers are the wave of the future in terms of housing assistance for low-income families. The Appropriations Committee's emphasis on vouchers will allow the program to operate more effectively, and will go a long way toward determining the future of the voucher program.

I want to express my concern, however, that this legislation caps the FHA's obligation ceiling at $80 billion. If the housing market remains strong through next year, the $80 billion limit will be much too low.

In the past year, the FHA has experienced six different shutdowns, causing great hardship for borrowers, lenders, realtors and a host of other third parties. FHA is a vital Federal housing program that has enabled millions of Americans to realize the dream of home ownership. If we are to continue to reap the full benefits of FHA, we must at all costs act to restore confidence and stability to the program.

Mr. BOLAND. Mr. Chairman, I yield such time as he may consume to the distinguished majority whip, the gentleman from Washington [Mr. FOLEY].

Mr. FOLEY. Mr. Chairman, I rise to engage in a colloquy with the distinguished chairman, the gentleman from Massachusetts [Mr. BOLAND], and to express my grave concern regarding a proposal currently being considered by the Veterans' Administration which calls for closing the Walla Walla Veterans Medical Center and converting the facility to an outpatient clinic. I hope you will concur with my assessment that this plan is ill-advised, unwise and should be withdrawn.

Currently as estimated 75,000 veterans residing in largely rural areas of southeastern Washington, northeastern Oregon, and central Idaho rely upon the Walla Walla veteran's facility for inpatient medical attention. If the current 150 inpatient beds at the Center are eliminated, these veterans and their families will not only be cut off from direct access to a VA acute care facility but will also be forced to travel great distances to receive needed inpatient care in urban VA facilities located hundreds of miles away in Spokane, Seattle, Boise or Portland. For many veterans who rely upon the Walla Walla VA Center for inpatient care—those with serious service connected disorders and countless destitute and older veterans, I fear closure of the Center's acute beds would effectively keep them in many instances from securing critically needed medical attention.

Equally significant in such cases is the profound impact such a far-reaching mission change would have on the Walla Walla economy which is already feeling the effect of a depressed farm economy. With an annual budget of $12 billion, the Walla Walla VA Medical Center stands as the third largest employer in the community, employing more than 300 medical and auxiliary staff members. In addition to an estimated $9 million annual payroll, the center infuses the local economy with several million dollars in service, supply and construction contracts. If this proposed mission change is implemented, it is predicted the Center's staff will be reduced to 40-50 employees and its annual budget slashed more than $89 million, a certain disastrous loss for any small community.

Perhaps most disturbing is the lack of consideration VA officials have shown toward the Walla Walla community which is understandably distressed by the prospect of this mission change becoming a reality. Since the proposal first surfaced earlier this year, community leaders and representatives of VA organizations have attempted to understand the VA's argument that budget constraints prevent continued full operation of Walla Walla facility and have tried to work with VA officials to reach some accommodation that would keep the facility open by substituting nursing home

beds or other alternative services for the present inpatient beds. To date, the VA has largely ignored the local community's pleas to be drawn into the planning process and has repeatedly refused to share pertinent data that might justify such a major change of mission.

Finally, there is a great deal of dispute over whether this mission change would actually save the VA money. At a minimum, many of those workers who will likely be dismissed will have to be paid severance pay; the VA will certainly incur substantial close-out costs and some added costs by transferring the Walla Walla inpatient case load to either local hospitals on a contract basis or other VA facilities. Finally, part of the Center is listed on the National Historic Register and the VA will be required to maintain that portion of the facility.

Given these facts, I hope you would concur that the most prudent course would be to restrain the VA for fiscal year 1987 from proceeding with this plan.

Mr. BOLAND. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Massachusetts.

Mr. BOLAND. Mr. Chairman, I certainly agree with the gentleman from Washington [Mr. FOLEY] that this proposal to convert a medical center to an outpatient clinic is unsound and would certainly have a devastating impact on the Walla Walla community. I share his concern that the VA has apparently not considered all of the ramifications of this proposal, and agree that we should do everything possible to see that the VA does not proceed on its current course. I will certainly work with the majority and minority members of the committee to that end.

I appreciate the comments of the gentleman from Washington.

Mr. FOLEY. I thank the gentleman.

□ 1415

Mr. GREEN. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. FIELDS].

Mr. FIELDS. Mr. Chairman, I would like to take this opportunity to thank the members of the committee who supported the Loeffler amendment during committee markup of this bill. I especially want to acknowledge the bipartisan effort by my colleagues from Texas to ensure that the Johnson Space Center and the Houston area would not be dealt another and unwarranted blow. The adoption of the Loeffler amendment was recognition that the success and longevity of our space station are paramount.

With the space shuttle tragedy on January 28, NASA—and our space program—entered a difficult period of self-searching. NASA is now trying to regroup and regain its status as the world's premier space program.

On June 30, NASA announced a multipart restructuring plan for the space station program. The plan involved not only appointment of an associate administrator for the space station, but the movement of midlevel NASA management to Washington and the shifting of space station work between various centers.

Like many Members of Congress, I was shocked and outraged that NASA would make a significant structural change in the space station program without first conferring with Congress. I was particularly concerned that NASA failed to carefully study the cost effectiveness of shifting work between various centers.

These are the reasons I joined with my colleague TOMMY LOEFFLER, to draft an amendment that would force NASA to stop and closely reexamine its proposed restructuring plan. The Loeffler amendment simply gives Congress the opportunity to provide oversight and direction to NASA. It does not prevent the transfer of midmanagement personnel to Washington.

Finally, I would like to commend NASA for their great progress in the reexamination of the proposed space station reorganization plan. Since the announcement on July 31 to put the space station reorganization plan on hold, NASA has made every effort to work with Congress to reach a more acceptable plan for the space station program.

Mr. BOLAND. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from New York [Mr. SCHUMER], a member of the Committee on Banking, Finance and Urban Affairs.

Mr. SCHUMER. I thank the gentleman for yielding.

Mr. Chairman, I would like to add my accolades to the chairman of the subcommittee and the ranking minority member for an excellent bill. It is no secret that in these days of budget constraints housing is under severe attack. What I would like to say to my colleagues here is that under this bill and under previous bills housing has really done its fair share in terms of the budget problems we face in America. We had a HUD bill that originally was close to $31 billion. We are now down in the vicinity of somewhere near $8 billion. We are building many fewer units of housing for people who cannot afford to house themselves. We have seen the effects of the crisis among the very poor with an increase in the number of homeless and the effect among the middle income for whom the American dream is fading rapidly into the dawn because they are running out, they do not have enough money to house themselves.

I want to particularly thank the chairman for adding an increased appropriaton for the HODAG Program and also the ranking minority member.

Mr. HOYER. Mr. Chairman, will the gentleman yield?

Mr. SCHUMER. I yield to the gentleman from Maryland.

Mr. HOYER. I thank the gentleman for yielding.

Mr. Chairman, I am pleased to rise in strong support of this bill. It provides $101.2 million for the construction of a new Veterans' Administration hospital for Baltimore, MD. For at least 5 years, members of the Maryland delegation and the veterans' organizations have been working hard and lobbying for the construction of this new hospital.

It has not been an easy or smooth path. Many people expressed concern over the construction of this hospital. The Veterans' Administration, the veterans of Maryland, and the members of the Maryland delegation never questioned the need for the hospital because it is needed to meet the needs of Maryland's veterans. This year, the President recognized the tremendous need and included funds for construction of the hospital in his fiscal year 1986 budget.

The chairman and the committee saw fit to provide the necessary funds in this bill. On behalf of the Maryland delegation, the city of Baltimore, and the veterans of the State of Maryland, I would like to express my sincere appreciation to the committee and its staff for their action and assistance.

I strongly urge the adoption of this legislation.

Mr. GREEN. Mr. Chairman, I yield 1 minute to my distinguished colleague on the subcommittee, the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. I thank the gentleman for yielding.

Mr. Chairman, I want to express my compliments and appreciation for the work of both the chairman and ranking minority member of our Subcommittee on Appropriations. It should be pointed out once again to the House that the subcommittee has done its work extremely well. The bill as reported is approximately $4 million under BA and $407 million under in outlays. We are some 7 percent below the 1986 appropriations.

There has been considerable effort to restrain ourselves in this bill. I particularly would like to mention my support for the funding of NASA and add to that support the comment that last week NASA successfully launched a Delta rocket from Kennedy Space Center. The launch was perfect and the SDI-rated mission was considered 100-percent successful. In another successful launching of the Aries-class rocket from White Sands once again we saw that NASA is on course. We are indeed back in space, hopefully with more success for the future.

I appreciate the time and support of the chairman.

Mr. GREEN. Mr. Chairman, how much time remains on this side?

The CHAIRMAN. The gentleman from New York [Mr. GREEN] has 4½ minutes remaining.

Mr. GREEN. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. I thank the gentleman for yielding.

May I say that on balance I think this is a very good bill. I think the committee has done its work well and has shown remarkable restraint in many areas in the bill, and that is something that I do not usually say.

As the ranking Republican on the NASA Subcommittee, I also want to thank the committee for their cooperative efforts with us for what they have done with regard to the NASA programs. I think it has been a very difficult time and that this bill reflects the need to rebuild NASA.

One thing I am somewhat disappointed by is in finding some of these spending cuts that the one place that the committee did go into was the hypersonic. The administration requested an appropriation of $45 million in order to get the hypersonic aircraft moving. This is really the future of out space program.

It offers low-cost delivery systems into space, it is the chance that by the next century this Nation will have really moved markedly ahead in space by having a vehicle that can take off from runways and fly into space as a single vehicle. That is a really important technology. We need to move on it very quickly because it offers hope not only for space transportation but also as the craft that will allow us to fly from New York to Tokyo in 2 hours or coast to coast in 15 minutes. That will change the economics of this country, it will change the economics of the world, it is an important advance for the future, and I think it is technology we have to be aggressive about pursuing. But beyond that, I think the committee has done an excellent job on NASA.

I thank the gentleman for yielding the time.

Mr. GREEN. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Chairman, I note that this bill is below the BA of last year. I commend the committee on bringing in a bill of this kind. I have been making a number of amendments to try to insure a freeze. The subcommittee has frustrated me by bringing in a bill which makes it impossible for me to do such a thing. On the other hand, I note that most of the savings in the bill occur by reason of the elimination of any funds for revenue sharing, a total of about $4 billion, I think. Therefore, the savings in the bill are ephemeral. It is my understanding further that the chairman of the Committee on Appropriations intends to put revenue sharing in our continuing resolution, thus making a mockery out of the savings that are in this bill. And I would ask the gentleman from New York if he understands that that is the case or if he can shed some light on this spurious or truthful rumor?

Mr. Chairman, I yield to the gentleman from New York.

Mr. GREEN. Mr. Chairman, I would not presume to speak for the chairman of the Committee on Appropriations, but it is my understanding that in the allocation under section 302(b) of the Budget Act of the several subcommittees some $4 billion was reserved by the full committee. One potential for which it could be used would be general revenue sharing. But that was accounted for in the budget process. The full committee explicitly decided, and we did have a debate on this during the consideration of this measure in the full committee, not to proceed with general revenue sharing on this bill because general revenue sharing expires September 30 and has not been reauthorized by the House.

Mr. FRENZEL. I thank the gentleman for his comment.

Mr. Chairman, it is obvious then we are looking only at the tip of the iceberg and there is $4 billion to follow. "Sic transit" frugality, it is gone again.

For that reason I am not going to be able to vote for the bill.

Mr. EDGAR. Mr. Chairman, I rise in support of H.R. 5313, the fiscal year 1987 HUD-independent agencies appropriations bill.

Mr. Chairman, let me first acknowledge the great leadership and hard work of the distinguished chairman of the subcommittee, the gentleman from Massachusetts [Mr. BOLAND] and to the equally distinguished ranking minority member of the subcommittee, Mr. GREEN.

The bill they have helped to bring to the floor today, if it is adopted, will provide a current services budget for Veterans' Administration medical care for fiscal year 1987. This is the kind of budget that I recommended as chairman of the Veterans' Affairs Subcommittee on Hospitals and Health Care and this is the kind of budget that was recommended by the full Committee on Veterans' Affairs. With the authorizing and appropriating committees working together as they have done for this budget, the House will be able to continue telling our veterans in very real terms that our commitment to them continues.

Mr. Chairman, I am especially pleased that we have been able to secure funding for the design of the Aspinwall Division Replacement Medical Center in Pittsburgh, PA. It is a sorely needed project and one that is long overdue.

Mr. Chairman, it is important for us to understand how the VA has responded to the tight constraints in budgets over the last several years. Over these past years, the number of inpatients treated in VA Hospitals has grown by 24 percent. Visits to VA outpatient clinics have increased by 62 percent. The number of prescriptions filled by VA pharmacists has increased by 47 percent. The number of veterans over age 65 who are cared for in VA hospitals has increased by 51 percent. The number of beds operated by the VA has declined by 18 percent and the number of patients treated per year in the same VA bed has increased by nearly 50 percent.

That impressive increase in medical services has been accomplished with almost no increase in resources. The ability of the VA to achieve this remarkable record is partly due to changes in medical technology and computer support, but it is mainly due to the real dedication of the VA medical care staff and their ability to deliver high-quality medical care within a current services appropriation, such as the one we are considering today.

I know that the funds in H.R. 5313 for the VA will be used effectively for our Nation's veterans in maintaining our commitment to them and I urge my colleagues to support it.

Mr. DAUB. Mr. Chairman, I rise in support of the H.R. 5313, the Department of Housing and Urban Development-independent agencies appropriations bill for fiscal year 1987. The Appropriations Committee has done a fine job in crafting a bill that is in line with the budget resolution and the 1986 appropriated level.

I have heard from numerous constituents in Nebraska's Second Congressional District who have a strong interest in the funding for housing and veterans programs contained in this bill. H.R. 5313 provides essential funding in these areas, while also reflecting fiscal restraint.

H.R. 5313 to a large degree reflects the sentiments of the House that were promulgated during consideration of the housing authorization bill (H.R. 1) in June. Specifically, the bill we are considering today emphasizes public housing modernization by appropriating a total of $1,436,940,000 in this area. This level of funding reflects a vote during consideration of H.R. 1 that mandated an emphasis on repairing our existing public housing stock before proceeding with much more costly new units. Such a policy can dramatically improve this Nation's housing stock in a cost-efficient manner.

Also, H.R. 5313 provides essential funding for section 202 housing for elderly and handicapped units and for community development block grants [CDBG's]. I strongly supported congressional override of the administration's proposed deferral of CDBG funds in fiscal 1986, and I am pleased that H.R. 5313 provides the same level of funding in this area as in fiscal 1986.

With respect to the Veterans' Administration provisions contained within this legislation, I am in strong support. Included among the provisions: Funding for the proposed 3.7 percent cost-of-living [COLA] increase, financing of $741 million for veterans readjustment benefits, and $6.5 million which will be used to hire additional employees for the VA Loan Guaranty Program—a most welcome move to alleviate the application backlog resulting from dramatically reduced mortgage rates.

I commend the Appropriations Committee's inclusion of language in H.R. 5313 blocking

the closure of the St. Paul Insurance Center. The VA has proposed to consolidate the St. Paul Center into the Philadelphia Insurance Center. The General Accounting Office is currently studying the feasibility of this approach, and by including a delay on the consolidation plan, we will prevent any unnecessary confusion and concern that may result from the premature implementation of this proposal.

Finally, I am especially pleased to highlight the inclusion of an additional $396 million to prevent any reductions in the staffing levels of our VA hospitals—which would have otherwise occurred due to a lack of adequate Federal support. This has been an ongoing concern of the growing number of veterans in Nebraska who rely on the quality of care they now receive in our VA hospitals.

Again, this is a good bill that provides essential funding for a wide variety of programs, and I urge the Members to support H.R. 5313.

Mr. ARMEY. Mr. Chairman, I would be remiss if I did not point out that I would be rising to offer a line-item veto amendment to this bill if the rule permitted me.

This Appropriations Subcommittee, and all the subcommittees, have a difficult job when it comes to prioritizing funding contained in this and other spending bills. Under the leadership of Mr. Boland, the HUD and Independent Agencies appropriation bill is under last year's level of spending. For this, the chairman and the members of the subcommittee are to be commended.

But let me remind Members that last year's level of spending left us with a projected deficit of $230 billion. Coming in under last year's level just isn't enough, it won't begin to meet Gramm-Rudman-Hollings deficit targets. We must go further on this spending bill and all others.

Let me, then, put Members on notice that I'll be attempting to add limited line-item veto language to the continuing resolution when it comes before us. Business as usual, or even last year's level of spending, just isn't good enough. It amounts to a recipe for massive across-the-board cuts. We must go further, and I believe that line-item veto authority can help us put our Federal Government back on a sound financial footing.

Mr. MCEWEN. Mr. Chairman, I rise in support, along with my colleague from Ohio, TONY HALL, in behalf of the Veterans' Administration's budget which contains $8.4 million for the modernization of the VA Medical Center in Dayton, OH. This facility was constructed in 1931, and it has not been significantly renovated since that time.

In my view, if we are to continue our commitment to care for America's veterans, it is essential for the Congress to approve the funding for this project. Brown Hospital is the third oldest facility in the Nation. It serves 28 counties in southwestern Ohio and a total veteran population of 387,000. When the modernization of this hospital is completed, the building will accomodate medical, surgical, and psychiatric beds, as well as selected diagnostic treatment and support functions. But more importantly, this effort will enable the dedicated professional and medical staff of Brown Hospital to continue to give quality care to their patients.

Mr. Chairman, I strongly urge my colleagues in the House to support this important project and the veterans in southern Ohio.

Mr. FORD of Tennessee. Mr. Chairman, I rise today to express my support for the provisions of H.R. 5313 relating to housing programs and community planning and development. In a time when so many in this Chamber are making their political mark by cutting every budget in sight, some of us must stand strong for programs without which many in our Nation will die a slow death.

I am proud to stand in agreement with my House colleagues, particularly those on the Appropriations Committee, who will vote for this bill's increase in funds for housing assistance and community planning programs. It is clearly apparent that we cannot throw money at all the Nation's problems given the deficit crisis. But we cannot act irresponsibly in stopping the flow of critically needed dollars for our communities.

Winter is coming. Winter kills homeless people on the streets. The homeless people are men, women, children—they are families. I urge my colleagues on both side of the aisle to vote in favor of sane and responsible spending to support our communities and the families and individuals in our communities in need for quality affordable housing.

Mr. ROYBAL. Mr. Chairman, I rise in support of H.R. 5313, the HUD appropriations bill for fiscal year 1987. I commend Mr. BOLAND, Mr. WHITTEN, and my colleagues on both sides of the aisle for their hard work in bringing this comprehensive, bipartisan legislation to the House floor.

While I would have liked to have seen the Federal Government reclaim more of its responsibility for providing housing to low-income individuals, H.R. 5313 reaffirms Congress' belief that housing assistance to the neediest of Americans has been cut back to its barest minimum. For low-income Americans in particular, recent Federal budget cuts initiated by the President have intensified the severe shortage of suitable housing arrangements. In my own city of Los Angeles, for example, for every needy older adult who needs assistance, another 10 remain on the waiting list.

As the chairman of the Select Committee on Aging, I have received testimony throughout the country attesting to the complex challenge we face as a nation in meeting the housing and service-related needs of our rapidly growing older population. Older Americans differ greatly in terms of their health status, activity limitations, economic resources, and the availability of family or community supports. Housing policies must be flexible enough to adapt to a variety of circumstances and help facilitate timely living arrangements and assistance as they become necessary.

H.R. 5313 recognizes this fact by maintaining a number of highly successful and cost-effective policy initiatives for assisting low-income older Americans. The Congregate Housing Services Program (CHSP), for instance, prevents unnecessary institutionalization by providing both the shelter and service needs of functionally impaired or socially isolated seniors who do not require constant supervision or intensive health care. In many communities which have not benefited from the CHSP, a lack of supportive housing arrangements forces families to inappropriately place frail older adults in nursing homes—at great cost to families and to publicly supported programs. H.R. 5313 ensures that sufficient funding is available during fiscal year 1987 to prevent vulnerable low-income senior citizens who are presently assisted through the CHSP from being displaced from their homes.

This legislation also provides funding for approximately 12,000 units of one of the Federal Governments most successful efforts—the Section 202 Program. Combined with section 8 low-income rental assistance, this program has provided numerous communities with a major source of safe, decent and affordable housing for low-income senior citizens and handicapped individuals.

In short, Mr. Chairman, I support H.R. 5313 because it reaffirms the fact that low-income housing assistance cannot be reduced any further without substantial and tragic costs to older Americans, families, and other vulnerable individuals. I urge my colleagues to support this important legislation.

Mr. BONER of Tennessee. Mr. Chairman, I rise in strong support of the HUD-independent agencies appropriations bill, H.R. 5313.

As a member of the HUD Appropriations Subcommittee, I would like to express my appreciation to our chairman, Representative ED BOLAND of Massachusetts. Chairman BOLAND does a tremendous job each year leading our subcommittee in drafting a fair and balanced bill.

This year, he again led the committee in fashioning a good bill. And I would like to point out for the benefit of all Members that the chairman's task was particularly difficult, following as it did not only the passage of Gramm-Rudman-Hollings, but also the tragic accident involving NASA's shuttle *Challenger*.

An outline of the bill's provisions has already been given to Members. I would like to briefly discuss two areas of the bill which concern me greatly. The first is NASA, its future, and that of our Nation's Space Exploration Program. The second area is the credit ceiling for the Federal Housing Administration's Mortgage Guarantee Program.

As Members know, the explosion of the shuttle interrupted the forward progress of our Nation's Space Exploration Program. The investigation of the explosion and NASA's own administrative practices has identified quite a few technical and administative problems that will be corrected. It has also reopened the debate on the role of the shuttle program, the future of space commercialization, and several other important policy areas.

I hope that the debate, particularly among administration policymakers, is nearing conclusion. Important decisions about the shuttle program, about, commercialization, and about the space station, need to be made—and soon. In this regard, I commend the efforts of our colleague BILL NELSON, chairman of the Space Science and Applications Subcommittee, in encouraging the administration to make recommendations and present them to Congress for consideration. To date, the absence

of specific administration recommendations appears to be the result of infighting, inattention, and the lack of leadership.

Our Nation's Space Exploration Program is to important to allow it to languish. Progress in constructing the space station is too dependent on decisions that must be made soon to permit further unnecessary delay. Scientific research programs utilizing both shuttle and station are too promising to postpone indefinitely. Thus, as a member of the HUD Appropriations Subcommittee, I will work with my subcommittee colleagues and with members on the Science and Technology Committee in moving the decisionmaking process forward.

The second program which I would like to bring to the attention of my colleagues is the Federal Housing Administration's Mortgage Insurance Program.

H.R. 5313 limits the FHA mortgage insurance credit ceiling to $80 billion. During the subcommittee markup, the members approved a $97 billion ceiling, which was the requested amount. This ceiling was reduced at the full Appropriations Committee markup because the higher level would have exceeded the subcommittee's section 302 credit allocation provided under the concurrent budget resolution.

Assuming that a healthy and active housing market continues through this coming year, the $80 billion FHA insuring authority provided in the bill for next year will fall far short of what will be needed. Members will recall that FHA's insuring authority ran out twice this year, resulting in a tremendous disruption in the housing market, including processing backlogs and delays and uncertainties for home buyers and sellers. To avoid repeating this result, I hope the HUD appropriations conferees will agree to a FHA ceiling of $100 billion. Thus, I appreciate Chairman BOLAND's continued commitment to join me and other members in supporting a higher level in conference.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, September 10, 1986.

Hon. WILLIAM HILL BONER,
House of Representatives,
Wahington, DC.

DEAR BILL: Thank you for your efforts to increase the 1987 Federal Housing Administration mortgage insurance credit ceiling. We both agree that the FHA ceiling needs to be raised above $80,000,000,000.

The Subcommittee's recommendation was for a $97,000,000,000 ceiling. That recommendation was reduced to $80,000,000,000 in full Committee because of a concern with exceeding the Subcommittee's section 302 credit allocation.

Because of the parliamentary situation, I believe it would be better to let the Senate increase the FHA ceiling. Of course, I would support a higher level in conference.

Thanks again for your help in this matter.

Sincerely,

EDWARD P. BOLAND,
Chairman, Subcommittee on HUD-Independent Agencies.

H.R. 5313 is a fair and balanced bill. It provides funds for a number of important programs benefiting all Americans and continues our Nation's commitment to assist veterans, older Americans, low-income individuals and families, among others. The bill reflects many hours of hearings and many difficult program choices and I urge my colleagues to support its passage.

Mr. SCHEUER. Mr. Chairman, I rise in support of H.R. 5313, which makes appropriations for the Environmental Protection Agency for fiscal year 1987.

The distinguished chairman of the subcommittee, Mr. BOLAND, and the ranking minority member, Mr. GREEN, have brought to the floor a bill that provides funding for important EPA research programs.

In several key areas, the bill provides additional funding that is consistent with the research funding provisions of H.R. 4634, the EPA's research and development authorization bill, which was reported by the Natural Resources Subcommittee of the Committee on Science and Technology.

For example, the bill restores $3 million to a Competitive Grants Program in which leading university researchers can conduct peer-reviewed, long-range research needed to detect emerging environmental problems and to improve our understanding of environmental processes.

The bill also directs $3 million to support the Health Effects Institute, a unique and highly promising joint research effort equally funded by the automotive industry and the EPA. The Natural Resources Subcommittee has been highly impressed by the HEI Program to date and strongly supports this continued funding.

Research on indoor air pollution and residential radon mitigation, which have been previously identified as areas of critical importance in hearings before the Natural Resources Subcommittee, would also receive increased funding under the bill.

I am concerned, however, about the committee's reduction of $6 million and 100 positions from EPA's In-House Research Program. While the funding would not be significantly below current fiscal year 1986 levels, the bill rejects the administration's proposed 4-percent increase for EPA's in-house research. The administration apparently agreed with the Agency's independent Science Advisory Board that EPA's In-House Research Program had been cut to the bone and was "seriously underfunded."

While I share the committee's frustration with several aspects of the management of EPA's In-house Research Program, I do not share the view that the appropriate response is to reduce the funding available for research. The answer to bad research is not to end all research, but to correct the problems.

A new Assistant Administrator for Research has been nominated by the President, and we should give him the tools and the funds to make the necessary changes. We hope, in the coming months, to work cooperatively with the committee and the new Assistant Administrator to correct some of these problems.

Overall, however, the bill recognizes the fundamental importance of adequate funding for EPA's Research Program. Additional funding for extramural research provides a needed increase over the President's request. Time and again, scientific uncertainty has hampered the development of cost-effective, rational environmental regulations. Only an investment in the underlying research and science will help resolve those uncertainties.

I commend the Appropriations Committee for their work on this bill and I urge its adoption.

The CHAIRMAN. The gentleman from New York has one-half minute remaining.

Mr. GREEN. Mr. Chairman, I yield back my one-half minute.

The CHAIRMAN. All time has expired.

The Clerk will read.

The Clerk read as follows:

H.R. 5313

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1987, and for other purposes, namely:

TITLE I

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

(INCLUDING RESCISSION)

The amount of contracts for annual contributions, not otherwise provided for, as authorized by section 5 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437c), and heretofore approved in appropriations Acts, is increased by $638,280,885: *Provided,* That the budget authority obligated under contracts for annual contributions shall be increased above amounts heretofore provided in appropriations Acts by $8,095,000,000: *Provided further,* That of the budget authority provided herein, $366,120,000 shall be for assistance in financing the development or acquisition cost of public housing for Indian families; $1,436,940,000 shall be available as an appropriation of funds, to remain available until expended, for modernization of existing public housing projects pursuant to section 14 of such Act (42 U.S.C. 1437l); $1,602,786,540 shall be for assistance for projects developed for the elderly or handicapped under section 202 of the Housing Act of 1959, as amended (12 U.S.C. 1701q); $790,950,000 shall be for the section 8 existing housing program (42 U.S.C. 1437f); $716,287,500 shall be for the section 8 moderate rehabilitation program (42 U.S.C. 1437f); $1,025,000,000 shall be available for the housing voucher program under section 8(o) of the United States Housing Act of 1937, as amended (42 U.S.C. 1437f), for use, notwithstanding the limitations in section 8(o)(1) of such Act that the Secretary conduct a demonstration, and in section 8(o)(4) of such Act that the Secretary use substantially all authority in connection with certain programs, in connection with the rental rehabilitation program under section 17 of such Act and for any other purposes as determined by the Secretary; $250,000,000 shall be available as an appropriation of funds, to remain available until September 30, 1987, only for rental rehabilitation grants pursuant to section 17(a)(1)(A) of the United States Housing Act of 1937, as amended (42 U.S.C. 1437o); and $225,000,000 shall be available as an appropriation of funds, to remain available until September 30, 1987, only for development grants pursu-

ant to section 17(a)(1)(B) of the United States Housing Act of 1937, as amended (42 U.S.C. 1437o): *Provided further,* That with respect to grants as authorized by section 17(a)(1)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437o) which are made using funds under this paragraph, notwithstanding the rental housing vacancy rate criteria of the third and sixth sentences of section 17(d)(2) of such Act, no unit of general local government shall be eligible for such a grant unless it has a percentage of rental dwelling units which are vacant of less than eight per centum, and a percentage of rental dwelling units which are vacant for more than two months of less than four per centum, except that the housing vacancy criteria specified in this paragraph shall not apply to grants authorized by the seventh sentence of such section 17(d)(2): *Provided further,* That none of the amounts available for obligation in 1987 shall be subject to the provisions of section 213(d) of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 1439): *Provided further,* That all amounts of budget authority (and contract authority) equal to the amounts of such budget authority (and contract authority) which are recaptured during fiscal year 1987, shall be rescinded.

Section 17(f) of the United States Housing Act of 1937 is amended by adding at the end the following new sentence: "This subsection shall not apply to requirements relating to rents imposed on a structure by a State as a condition of receiving State financial assistance for the rehabilitation of such structure, if the dollar amount of such State financial assistance (including the principal amount of loans) exceeds the dollar amount of financial assistance provided for such structure under this section.".

RENT SUPPLEMENT

(RESCISSION)

The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s) is reduced in fiscal year 1987 by not more than $2,900,000 in uncommitted balances of authorizations provided for this purpose in appropriations Acts.

RENTAL HOUSING ASSISTANCE

(RESCISSION)

The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 236 of the National Housing Act (12 U.S.C. 1715z-1) is reduced in fiscal year 1987 by not more than $3,500,000 in uncommitted balances of authorizations provided for this purpose in appropriations Acts.

HOUSING FOR THE ELDERLY OR HANDICAPPED FUND

In 1987, $592,661,000 of direct loan obligations may be made under section 202 of the Housing Act of 1959, as amended (12 U.S.C. 1701q), utilizing the resources of the fund authorized by subsection (a)(4) of such section, in accordance with paragraph (C) of such subsection: *Provided,* That such commitments shall be available only to qualified nonprofit sponsors for the purpose of providing 100 per centum loans for the development of housing for the elderly or handicapped, with any cash equity or other financial commitments imposed as a condition of loan approval to be returned to the sponsor if sustaining occupancy is achieved in a reasonable period of time: *Provided further,* That the full amount shall be available for permanent financing (including construction financing) for housing projects for the elderly or handicapped: *Provided further,* That the Secretary may borrow from the Secretary of the Treasury in such amounts as are necessary to provide the loans authorized herein: *Provided further,* That, notwithstanding any other provision of law, the receipts and disbursements of the aforesaid fund shall be included in the totals of the Budget of the United States Government: *Provided further,* That, notwithstanding section 202(a)(3) of the Housing Act of 1959, loans made in fiscal year 1987 shall bear an interest rate which does not exceed 9.25 per centum, including the allowance adequate in the judgment of the Secretary to cover administrative costs and probable losses under the program.

CONGREGATE SERVICES

For contracts with and payments to public housing agencies and nonprofit corporations for congregate services programs in accordance with the provisions of the Congregate Housing Services Act of 1978, $3,400,000, to remain available until September 30, 1988.

PAYMENTS FOR OPERATION OF LOW-INCOME HOUSING PROJECTS

For payments to public housing agencies and Indian housing authorities for operating subsidies for low-income housing projects as authorized by section 9 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437g), $1,300,000,000.

HOUSING COUNSELING ASSISTANCE

For contracts, grants, and other assistance, not otherwise provided for, for providing counseling and advice to tenants and homeowners—both current and prospective—with respect to property maintenance, financial management, and such other matters as may be appropriate to assist them in improving their housing conditions and meeting the responsibilities of tenancy or homeownership, including provisions for training and for support of voluntary agencies and services as authorized by section 106(a)(1)(iii) and section 106(a)(2) of the Housing and Urban Development Act of 1968, as amended, $4,000,000.

TROUBLED PROJECTS OPERATING SUBSIDY

For assistance payments to owners of eligible multifamily housing projects insured, or formerly insured, under the National Housing Act, as amended, in the program of operating subsidies for troubled multifamily housing projects under the Housing and Community Development Amendments of 1978, all uncommitted balances of excess rental charges and any collections after September 30, 1986, to remain available until September 30, 1988: *Provided,* That assistance payments to an owner of a multifamily housing project assisted, but not insured, under the National Housing Act may be made if the project owner and the mortgagee have provided or agreed to provide assistance to the project in a manner as determined by the Secretary of Housing and Urban Development.

FEDERAL HOUSING ADMINISTRATION FUND

For payment to cover losses, not otherwise provided for, sustained by the Special Risk Insurance Fund and General Insurance Fund as authorized by the National Housing Act, as amended (12 U.S.C. 1715z-3(b) and 1735c(f)), $272,955,000, to remain available until expended.

During 1987, within the resources available, gross obligations for direct loans are authorized in such amounts as may be necessary to carry out the purposes of the National Housing Act, as amended.

During 1987, additional commitments to guarantee loans to carry out the purposes of the National Housing Act, as amended, shall not exceed a loan principal of $80,000,000,000.

During fiscal year 1987, gross obligations for direct loans of not to exceed $73,800,000 are authorized for payments under section 230(a) of the National Housing Act, as amended, from the insurance fund chargeable for benefits on the mortgage covering the property to which the payments made relate, and payments in connection with such obligations are hereby approved.

NONPROFIT SPONSOR ASSISTANCE

During 1987, within the resources and authority available, gross obligations for the principal amounts of direct loans shall not exceed $1,000,000.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

PAYMENT OF PARTICIPATION SALES INSUFFICIENCIES

For the payment of such insufficiencies as may be required by the Government National Mortgage Association, as trustee, on account of outstanding beneficial interest or participations in assets of the Department of Housing and Urban Development (including the Government National Mortgage Association) authorized by the Independent Offices and Department of Housing and Urban Development Appropriation Act, 1968, to be issued pursuant to section 302(c) of the Federal National Mortgage Association Charter Act, as amended (12 U.S.C. 1717), $1,079,000.

GUARANTEES OF MORTGAGE-BACKED SECURITIES

During 1987, new commitments to issue guarantees to carry out the purposes of section 306 of the National Housing Act, as amended (12 U.S.C. 1721g), shall not exceed $132,500,000,000 of loan principal.

SOLAR ENERGY AND ENERGY CONSERVATION BANK

ASSISTANCE FOR SOLAR AND CONSERVATION IMPROVEMENTS

The funds appropriated under this heading in the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1985 (Public Law 98-371) shall remain available until September 30, 1987: *Provided:* That all funds recaptured from prior year appropriations under this heading shall be reallocated to eligible financial institutions.

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT GRANTS

For grants to States and units of general local government and for related expenses, not otherwise provided for, necessary for carrying out a community development grant program as authorized by title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), $3,000,000,000, to remain available until September 30, 1989: *Provided,* That not to exceed 20 per centum of any grant made with funds appropriated herein shall be expended for "Planning and Management Development" and "Administration" as defined in regulations promulgated by the Department of Housing and Urban Development.

During 1987, total commitments to guarantee loans, as authorized by section 108 of the aforementioned Act, shall not exceed

$150,000,000 of contingent liability for loan principal.

During 1987 and each succeeding fiscal year, any city within a metropolitan area shall be considered to be a metropolitan city under section 102(a)(4) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(4)) if such city—

(1) was classified as a metropolitan city under clause (B) of such section pursuant to the amendment made to such section by section 102(a) of the Housing and Community Development Act of 1977 (Public Law 95-128);

(2) had, according to the 1980 decennial census, a population of 36,957; and

(3) received a preliminary grant approval on February 8, 1984, for an urban development action grant under section 119 of the Housing and Community Development Act of 1974.

URBAN DEVELOPMENT ACTION GRANTS

For grants to carry out urban development action grant programs authorized in section 119 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), pursuant to section 103 of that Act, $275,000,000, to remain available until September 30, 1990.

REHABILITATION LOAN FUND

During 1987, collections, unexpended balances of prior appropriations (including any recoveries of prior reservations) and any other amounts in the revolving fund established pursuant to section 312 of the Housing Act of 1964, as amended (42 U.S.C. 1452b), after September 30, 1985, are available and may be used for commitments for loans and operating costs and the capitalization of delinquent interest on delinquent or defaulted loans notwithstanding section 312(h) of such Act.

URBAN HOMESTEADING

For reimbursement to the Federal Housing Administration Fund or the Rehabilitation Loan Fund for losses incurred under the urban homesteading program (12 U.S.C. 1706e), and for reimbursement to the Administrator of Veterans Affairs and the Secretary of Agriculture for properties conveyed by the Administrator of Veterans Affairs and the Secretary of Agriculture, respectively, for use in connection with an urban homesteading program approved by the Secretary of Housing and Urban Development pursuant to section 810 of the Housing and Community Development Act of 1974, as amended, $12,000,000, to remain available until expended.

MODEL CITIES PROGRAM

Notwithstanding any other provision of law or other requirement, the Secretary of Housing and Urban Development may not require the City of New Orleans in the State of Louisiana to pay any amount relating to ineligible costs incurred with respect to the model cities grant numbered ME-17-001 under title I of the Demonstration Cities and Metropolitan Development Act of 1966.

POLICY DEVELOPMENT AND RESEARCH

RESEARCH AND TECHNOLOGY

For contracts, grants, and necessary expenses of programs of research and studies relating to housing and urban problems, not otherwise provided for, as authorized by title V of the Housing and Urban Development Act of 1970, as amended (12 U.S.C. 1701z-1 et seq.), including carrying out the functions of the Secretary under section 1(a)(1)(i) of Reorganization Plan No. 2 of 1968, $16,173,000, to remain available until September 30, 1988.

FAIR HOUSING AND EQUAL OPPORTUNITY

FAIR HOUSING ASSISTANCE

For contracts, grants, and other assistance, not otherwise provided for, as authorized by title VIII of the Civil Rights Act of 1968, as amended, $6,341,300, to remain available until September 30, 1988.

MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary administrative and nonadministrative expenses of the Department of Housing and Urban Development, not otherwise provided for, including not to exceed $4,000 for official reception and representation expenses, $649,085,000, of which $306,962,000 shall be provided from the various funds of the Federal Housing Administration.

ADMINISTRATIVE PROVISION

None of the funds appropriated by this or any other Act shall be used to implement or enforce the regulations published on April 1, 1986, at 51 Fed. Reg. 11198-11231.

Mr. BOLAND (during the reading). Mr. Chairman, I ask unanimous consent that title I be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The CHAIRMAN. Are there any points of order against title I?

Are there any amendments to title I?

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: Page 14, after line 16, insert the following:

ADMINISTRATIVE LIMITATION

None of the funds appropriated or otherwise made available in this title may be used to purchase any nondomestic goods or services.

Mr. FRENZEL. Mr. Chairman, I make a point of order against the amendment.

The CHAIRMAN. The gentleman will state his point of order.

Mr. TRAFICANT. Mr. Chairman, I would ask to reserve time so that I may speak on the issue.

Mr. FRENZEL. Mr. Chairman, I reserve my point of order in deference to the mover of the amendment.

The CHAIRMAN. The gentleman from Ohio [Mr. TRAFICANT] is recognized for 5 minutes.

Mr. TRAFICANT. Mr. Chairman, I have an amendment that basically states that any expenditures under title I must be spent on American goods or services. It seems that every time we bring these types of legislative initiatives to the floor there is a technical point of order that is placed against it. We are not really able to bring this type of initiative through committees, we cannot really get it through the rules. We get it to the floor and we are subject to the technicalities of the given codes to strike down what may be the salvation of the country. I mean it. I have lost 55,000 jobs. Youngstown Metropolitan Housing Association, a $4.5 million grant, they turned around and bought Swedish radiators and heaters, Swedish pipe, and 3 months later an LTV pipe mill in my district closed down. Now, there are some Members here that are even laughing about it. Maybe you have the technicalities on your side, but I have never really asked for anything here. I have gone to certain Members and I have had the approval of both sides, supposedly I did, unless somebody was able to give me that horse and donkey act and get somebody to sabotage it through this type of maneuvering. I cannot hold the Parliamentarian at ill ease about it. I understand the duties that they have. But this particular amendment that I bring is strictly a limitation. And my argument is whether it is one piece of jute rope in a textile mill or if it is 100 particular items under a HUD title I bill that precedent from the past should hold. I do not know what other type of remedy we have. I have heard many people from the other side of the aisle saying "we can't get our good legislative initiatives to the floor. The committee won't hear them, the chairman won't hear them."

Well, that is bunk. That has been played too much politically.

Now you have a Democrat from Ohio who has lost more jobs than anyone else, who since 1977 has had the toughest unemployment area in the country, and no one in this Congress even wants to listen. And this is not demagoging for anybody on TV.

And I have gone to people and asked them to back up on it, and you have not. I am asking the Parliamentarian here to hold precedent similar to the amendment that was offered dealing with a restricting limitation on textiles that was offered and allowed to be brought to this floor. This amendment simply says that none of the funds appropriated or otherwise made available in this title, specifically title I, may be used to purchase any nondomestic goods or services. And it is about time we start passing this.

□ 1430

All this protection is bunk that I am hearing. Why do you not just send every job overseas, send all the money overseas, send the country overseas? No one in this House stood up when they sent $14 billion in foreign aid overseas and talked about points of order or American bankruptcy, the deficits. You talk about protecting one job and we have every technicality in the country. I do not like it.

I am now addressing the Chair on the point of order and asking that the Chair so rule.

The CHAIRMAN (Mr. MACKAY). The point of order must first be made.

Does the gentleman yield back the balance of his time?

Mr. TRAFICANT. I reserve the balance of my time.

The CHAIRMAN. The gentleman must under the House rules yield back the balance of his time.

Mr. TRAFICANT. I yield back the balance of my time.

The CHAIRMAN. Does the gentleman from Minnesota [Mr. FRENZEL] insist upon his point of order?

POINT OF ORDER

Mr. FRENZEL. Mr. Chairman, I renew my point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. FRENZEL. Mr. Chairman, I make the point of order that the amendment offered by the gentleman from Ohio [Mr. TRAFICANT] constitutes legislating on an appropriation bill and is, therefore, in violation of rule XXI.

Mr. Chairman, there have been some what I consider to be borderline precedents set in this House on the basis of an old precedent which I consider no longer usable because of the way we now appropriate.

Not too long ago, a chairman ruled that one of these kinds of amendments was a limitation based on a precedent from another century. In those days, the appropriations were rather narrow and one could make that statement that, yes, it was a limitation because we are talking about buying mules for the Army or rope for the Navy.

Now we are talking about a bill here that has vast appropriations that are spread across the United States and across various agencies with all kinds of materials being bought. Many of those materials have components, some of which are fashioned in this country, some of which are not fashioned in this country; some of which have engineering done abroad, some of which have engineering done in this country.

The amendment by the gentleman from Ohio is clearly one that imposes a whole series of new duties upon the department in question, for it must determine whether any of those or all of those or part of those things that are being bid on have received bids which may have some foreign component. I think that in this case when we are talking about an appropriation as broad as the HUD appropriation, there is simply no question that this is legislating, is imposing broad duties on a department head, which we have not done in the regular legislative law.

Since we are speaking on the point of order, I will not respond to other statements made, but I hope that the point of order is sustained.

The CHAIRMAN. Does the gentleman from Ohio [Mr. TRAFICANT] wish to respond to the point of order?

Mr. TRAFICANT. Mr. Chairman, I again stand on the ground here before the House and address the Chairman insofar as my contention is, if it is a limitation that is placed upon an appropriation measure only, that whether it is 1 item or 100 items, the precedent for 1 item should stand for the decision on the 100 since it imposes the same duty, nevertheless there is a duty imposed on previous precedential actions of the Chair.

I would ask the Chairman to strike down this motion to strike on the point of order, and sustain my position to bring this amendment to the floor.

The CHAIRMAN (Mr. MACKAY). The Chair feels that it is incumbent upon him to examine for the Committee of the Whole those principles which have led him to consider whether a decision previously made by the chairman of the committee, properly presented and on the same facts should be reversed. As Speaker Henderson stated in 1900, as carried in volume 4, Hinds' Precedents, section 4045, "It is a great advantage to the Congress to have before it the decisions of previous Congresses on any question liable to come up. If the decisions of the past are to be disregarded, confusion and uncertainly would constantly prevail." The Chair has equally, in proper and carefully examined cases, stated the principle that the decisions of the Chair on questions of order are not like judgments of courts which conclude the rights of parties, but may be examined and reversed. Speaker Carlisle followed that principle in 1888, as noted in volume 4, Hinds' precedents, section 4637, where he expressly overruled a decision made by the Chair to overrule a prior decision when the Chair, after mature consideration, concluded the decision was erroneous.

On July 30, 1986, the chairman of the Committee of the Whole held in order an amendment requiring "none of the funds made available in this act may be used to purchase any nondomestic goods or services" citing a 1930 precedent carried in volume 7 of Cannon's Precedents, Section 1697. The limitation in that instance concerned only a single item—twine—and the issue of whether the implementation of the amendment would impose additional duties on executive officials not required by law to ascertain the origin of that one product was never raised. In this case however, the amendment would require numerous officials in the Department of Housing and Urban Development making purchases of thousands of items ranging from pencils to trucks to ascertain the origin of each as well as all of the components. The amendment would require the same determinations by HUD as to purchases by all the recipients of the funds. In the opinion of the Chair this would impose a new investigative burden on those officials not required by law and in violation of clause 2 of rule XXI. The decision of July 30, 1986 is thus overruled, and the point of order is sustained.

PREFERENTIAL MOTION OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer a preferential motion.

The CHAIRMAN. The gentleman's motion is not at the desk and it is not in the proper form.

Mr. TRAFICANT. I have it here and I will present it to the desk.

The CHAIRMAN. The Clerk will report the preferential motion.

The Clerk read as follows:

Mr. TRAFICANT moves to strike all after the enacting clause of H.R. 5313.

The CHAIRMAN. The gentleman's motion is not in the proper form.

The gentleman can be recognized for 5 minutes if he moves to strike the last word.

Mr. TRAFICANT. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. The gentleman from Ohio [Mr. TRAFICANT] is recognized for 5 minutes.

Mr. TRAFICANT. Mr. Chairman, everybody wants to get home because it is Friday. I think it is time that America should not be put on pilot and we should start dealing with the major problems that affect this country.

I am trying not to be upset, and I would like to start out with my comments as follows, that if you cannot get it through the committee and you cannot get it through the rules, and when you do get it to the floor, you continue to face these types of technicalities, then maybe it is time that we draw the lines and have the war that is necessary down here.

I am not talking about as a Republican who is upset. I am talking about a Democrat who represents the toughest district in America that has been overlooked and no one really cares. You will not care until the fire is at your feet, maybe at your behind. Me, I am going to try to put it there.

But one thing we did today is we put a clarification on the record here about these types of amendments, the buy-American amendment. Here is what I am announcing today. I believe HUD should have to look and see where every pencil comes from, every gallon of gasoline, every automobile, every piece of paper in everything they buy. I do not know what the technicalities are on continuing resolution, but I am going to be back. And now I am going to try to amend every program in this House.

I have had chairmen come to me and say, "Don't put us in a political position." I have had Members of the opposition party come to me and say, "Don't bring this now, it's election."

□ 1440

Now I do put the House on notice, while I am here, I will attempt to markup and amend the continuing resolution that has to be brought before this House and I am letting the chairmen know: I do not have any problem with anybody but I am prepared to stand up and take the chairmen on.

We have lost 55,000 jobs since 1977, we are continuing to lose them. We are replacing them with $3.50-an-hour jobs, and while you laugh, you are next.

I am very disappointed because this point of order and this objection need not have been brought today. When I hear the arguments we have to think of our NATO neighbors, damn it, they should have paid their war debts to this country. Now you are talking about the people who fought in those who cannot get a job, having their retirement benefits cut out, cannot get unemployment, do not even have hospitalization and medical benefits, and they are going to close the vet clinic in my district.

What do you want next? You are not getting from here. Maybe I should not be speaking to that side. The tragedy is that I have to oppose Members on this side.

You prepare yourselves for what technical language it takes. If I have to hire a constitutional attorney I am going to bring before the House amendments on the continuing resolutions and I am going to challenge this House on them.

I apologize to any Parliamentarian, recognizing the rules and order of the House, that you should not address the Parliamentarian. I did not mean to do that. They do a fine job; their advance has always been sound.

But I do not apologize for the statements made in behalf of the 17th District of Ohio and for every American who does not have a job and who is getting really run roughshod over by this administration. I do not apologize for anything.

I will see you in the continuing resolution.

Mr. FRENZEL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I regret that this past 10 or 15 minutes was made necessary. I yield to nobody in my admiration for the gentleman from Ohio and for the work that he is doing to try to protect jobs within his district. That is his duty, and he is doing it superbly well with great enthusiasm despite the frustration.

On the other hand, there are many of us who have had frustration with the rules. A group on this side was just denied an opportunity for a shot at the line-item veto which we think is very important to the Nation's economy.

I must say on my part that I am not raising points of order and have never done so to have fun with the rules. What I am trying to do is to protect the rules of the House and to protect certain jurisdictions which I think are important. In addition to that, I have the same feeling about American jobs as my distinguished friend from Ohio. I believe that the protectionist measures introduced in this House, by and large, sooner or later, and usually sooner, cost more American jobs than the protectionist principles that are introduced into our law to save them.

Over the years of history, it has been my observation that periods of time of increased trade have been periods of increased prosperity for our country and, before our county was invented, for the rest of the world as well.

I have no desire to disadvantage the gentleman or any of his constituents. I would just like him to know that I feel as strongly on the other side of the issue as he does for his constituents.

Again, I admire his work.

Mr. TRAFICANT. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Ohio.

Mr. TRAFICANT. I thank the gentleman for yielding.

Mr. Chairman, I appreciate the fine comments, but all of the theories and all of these so-called trade strategies that the gentleman has talked about have led us to $160 billion in trade deficits, and whenever I continue to hear people saying "protectionist, protectionist," I think we should give a weighted advantage to a society that has the greatest standard of living of all. We should not roll it back to Taiwan or Korea. There is nothing wrong with the legislation that has been brought before this House. But you see we do not have the medium and the access to do it.

When we continue to argue this protectionism, I just want to say one thing to everybody about protectionism because it has become a dirty word. I think it is a word of patriotism for America, and if we have to protect this great, free country and protect it, we should not be hiding behind the word but implementing the action and doing what we have to do.

I think it is time we start looking at the people who fought in those wars, pay the bills, are basically taxed. They are losing their jobs; they are losing their homes. The rich are getting richer and the poor are getting poorer, and this country is languishing with great national debt, budget deficits, and you cannot separate that trade deficit from it.

I am not going to stand back, even though we may philosophically agree, there is nothing personal, but I am going to oppose you. I am saying here in the House of Representatives today that productionism is not a bad word to me. If it is, then I am guilty, because I am not going to back up from it. In fact, I am asking you to change and temper your position to take a look at some of the other dynamics that affect this and try and keep some of these jobs at home before we have no national security, no infrastructure in a country languishing, languishing with such a national debt that we will put $50,000 per citizen in this country in the next 12 years.

That is where we are going. Maybe this President is popular, but he is killing my district. I am not backing up. The continuing resolution? I will see you then.

Mr. FRENZEL. Mr. Chairman, I thank the gentleman for his contribution. The response to his statement I think is better left for another time and another forum. I know the Members are anxious to proceed with the bill. I merely want to restate that I feel as strongly on my side of this issue as he does on his.

Mr. FUQUA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to congratulate the gentleman from Massachusetts, the chairman of the Appropriations Subcommittee on HUD-Independent Agencies, Mr. BOLAND, for developing the delicately balanced proposal before us. I am aware that achieving the subcommittee's budget allocation was a difficult task and required hard choices between reductions in subsidized housing and increases for other agencies in the bill.

I am concerned that the appropriation for the National Science Foundation [NSF] did not reflect more closely the authorization level the House passed for the Foundation by a vote of 405 to 2 on June 26, 1986. The authorization bill passed by the Senate included a budgetary level identical to the House version. The House and Senate agreement became Public Law 99-383 on August 21, 1986.

The National Science Foundation plays a unique role in the Federal support of science and engineering research and education. NSF accounts for less than 3 percent of the Federal support for total research and development. Yet, the Foundation provides about 25 percent of the Federal support for basic research at colleges and universities.

Basic research ultimately provides much of the knowledge base required for finding solutions to the Nation's current and future economic and technological challenges. Since the NSF supported research is conducted at universities, the research function is

coupled effectively with the education of future scientists and engineers. Thus, the activities supported through NSF make significant, broad-range contributions to the Nation's future.

In view of the National Science Foundation Authorization Act for fiscal year 1987, I encourage the gentleman, in negotiations with the Senate, to seek the highest level of support for the Foundation. Investment in basic science and engineering is essential to improving our competitiveness internationally and reducing our trade deficit.

I am certain the gentleman will continue his strong support, and I again want to thank the gentleman from Massachusetts and his subcommittee on its hard work on behalf of the Foundation.

Mr. BOLAND. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. I yield to the gentleman from Massachusetts.

Mr. BOLAND. I thank the gentleman for yielding to me.

Mr. Chairman, I just want to congratulate the gentleman from Florida for his invaluable service to the Science and Technology Committee, where he has served as an outstanding chairman, and to the Congress and the Nation as a whole.

I know all of us regret the gentleman's leaving this body. I am sure that the people in your district regret that you are leaving, but you have other fields to enter. I know this: That you will be missed, not only as chairman of the Science and Technology Committee, but you will be missed by the entire body.

I want to congratulate the gentleman on the great service you have given to your district, to this Nation, and to the U.S. Space Program.

Mr. GREEN. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. I yield to the gentleman from New York.

Mr. GREEN. I thank the gentleman for yielding to me.

Mr. Chairman, I would like to join the distinguished chairman of the subcommittee in his expressions of gratitude to you for the service you have given this House, the Congress, this country on the Science and Technology Committee.

It has been a real privilege for me to have the opportunity, because of the appropriating jurisdiction of this subcommittee, to work with you. I want to wish you well in your future endeavors.

Mrs. BOGGS. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. I yield to the gentlewoman from Louisiana.

Mrs. BOGGS. I thank the gentleman for yielding to me.

Mr. Chairman, I would like to join my remarks with those of the distinguished chairman and ranking minority member of the subcommittee, and to add my own congratulations and expressions of gratitude for the tremendous service that you have rendered to our Nation.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

TITLE II

INDEPENDENT AGENCIES

AMERICAN BATTLE MONUMENTS COMMISSION

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the American Battle Monuments Commission, including the acquisition of land or interest in land in foreign countries; purchases and repair of uniforms for caretakers of national cemeteries and monuments outside of the United States and its territories and possessions; rent of office and garage space in foreign countries; purchase (one for replacement only) and hire of passenger motor vehicles; and insurance of official motor vehicles in foreign countries when required by law of such countries; $11,673,000: *Provided*, That where station allowance has been authorized by the Department of the Army for officers of the Army serving the Army at certain foreign stations, the same allowance shall be authorized for officers of the Armed Forces assigned to the Commission while serving at the same foreign stations, and this appropriation is hereby made available for the payment of such allowance: *Provided further*, That when traveling on business of the Commission, officers of the Armed Forces serving as members or as Secretary of the Commission may be reimbursed for expenses as provided for civilian members of the Commission: *Provided further*, That the Commission shall reimburse other Government agencies, including the Armed Forces, for salary, pay, and allowances of personnel assigned to it: *Provided further*, That section 409 of the general provisions carried in title IV of this Act shall not apply to the funds provided under this heading.

CONSUMER PRODUCT SAFETY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Consumer Product Safety Commission, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18, and not to exceed $500 for official reception and representation expenses, $34,452,000: *Provided*, That no more than $250,000 of these funds shall be available for personnel compensation and benefits for the Commissioners of the Consumer Product Safety Commission appointed pursuant to 15 U.S.C. 2053: *Provided further*, That none of these funds shall be available after March 31, 1987, for any Commissioners' offices located in the Logan Building.

DEPARTMENT OF DEFENSE—CIVIL

CEMETERIAL EXPENSES, ARMY

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, for maintenance, operation, and improvement of Arlington National Cemetery and Soldiers' and Airmen's Home National Cemetery, and not to exceed $1,000 for official reception and representation expenses; *$6,701,000*, to remain available until expended: *Provided*, That reimbursement shall be made to the applicable military appropriation for the pay and allowances of any military personnel performing services primarily for the purposes of this appropriation.

ENVIRONMENTAL PROTECTION AGENCY

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, including hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18; purchase of reprints; library memberships in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members; construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $25,000 per project; and not to exceed $3,000 for official reception and representation expenses; $696,047,000: *Provided*, That none of these funds may be expended for purposes of Resource Conservation and Recovery Panels established under section 2003 of the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6913).

RESEARCH AND DEVELOPMENT

For research and development activities, $202,500,000 to remain available until September 30, 1988.

ABATEMENT, CONTROL, AND COMPLIANCE

For abatement, control, and compliance activities, $532,550,000, to remain available until September 30, 1988: *Provided*, That none of these funds may be expended for purposes of Resource Conservation and Recovery Panels established under section 2003 of the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6913), or for support to State, regional, local and interstate agencies in accordance with subtitle D of the Solid Waste Disposal Act, as amended, other than section 4008(a)(2) or 4009 (42 U.S.C. 6948, 6949).

BUILDINGS AND FACILITIES

For construction, repair, improvement, extension, alteration, and purchase of fixed equipment for facilities of, or use by, the Environmental Protection Agency, $5,000,000, to remain available until expended.

HAZARDOUS SUBSTANCE RESPONSE TRUST FUND

For necessary expenses to carry out the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, including sections 111 (c)(3), (c)(5), (c)(6), and (e)(4) (42 U.S.C. 9611), $861,300,000, to be derived from the Hazardous Substance Response Trust Fund, to remain available until expended: *Provided*, That none of these funds shall be available for obligation until the enactment of a subsequent appropriations Act authorizing obligation of such funds: *Provided further*, That funds appropriated under this account may be allocated to other Federal agencies in accordance with section 111(a) of Public Law 96-510. For necessary expenses to carry out the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, an additional $135,000,000 shall be available for administrative expenses.

CONSTRUCTION GRANTS

For necessary expenses to carry out title II of the Federal Water Pollution Control Act, as amended, other than sections 201(m)(1-3), 201(n)(2), 206, 208, and 209,

$2,400,000,000, to remain available until expended: *Provided*, That none of these funds may be used for any project providing treatment more stringent than secondary, unless the project has been reviewed in accordance with the Environmental Protection Agency's advance treatment review policy: *Provided further*, That none of these funds shall be available for obligation until the enactment of a subsequent appropriations Act authorizing obligation of such funds.

EXECUTIVE OFFICE OF THE PRESIDENT

COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY

For necessary expenses of the Council on Environmental Quality and the Office of Environmental Quality, in carrying out their functions under the National Environmental Policy Act of 1969 (Public Law 91-190), the Environmental Quality Improvement Act of 1970 (Public Law 91-224), and Reorganization Plan No. 1 of 1977, including not to exceed $500 for official reception and representation expenses, and hire of passenger motor vehicles, $670,000.

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

For necessary expenses of the Office of Science and Technology Policy, in carrying out the purposes of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 and 6671), hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, not to exceed $1,500 for official reception and representation expenses, and rental of conference rooms in the District of Columbia, $1,671,000: *Provided*, That the Office of Science and Technology Policy shall reimburse other agencies for not less than one-half of the personnel compensation costs of individuals detailed to it.

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses in carrying out the functions of the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121 et seq.), $175,000,000, to remain available until expended: *Provided*, That $5,385,000 shall, upon enactment of this Act, be transferred to the "Salaries and expenses" appropriation for costs of employees doing disaster assistance work located at headquarters and regional offices and the amount so transferred shall be available until September 30, 1987: *Provided further*, That the regulation changes proposed by the Federal Emergency Management Agency and set forth at 51 Fed. Reg. 13332-13373 (April 18, 1986), or any finally adopted regulations related to or developed or following from such proposed regulations, shall not be effective from enactment of this Act through September 30, 1987.

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, including hire and purchase of motor vehicles (31 U.S.C. 1343); uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18; expenses of attendance of cooperating officials and individuals at meetings concerned with the work of emergency preparedness; transportation in connection with the continuity of government program to the same extent and in the same manner as permitted the Secretary of a Military Department under 10 U.S.C. 2632; and not to exceed $1,500 for official reception and representation expenses, $118,507,000.

EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE

For necessary expenses, not otherwise provided for, to carry out activities under the National Flood Insurance Act of 1968, as amended, and the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4001 et seq.), the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977, as amended (42 U.S.C. 7701 et seq.), the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 2201 et seq.), the Strategic and Critical Materials Stock Piling Act, as amended (50 U.S.C. 98 et seq.), the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251 et seq.), the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 et seq.), section 103 of the National Security Act (50 U.S.C. 404), and Reorganization Plan No. 3 of 1978, $250,743,000.

NATIONAL FLOOD INSURANCE FUND

(TRANSFERS OF FUNDS)

Of the funds available from the National Flood Insurance Fund for activities under the National Flood Insurance Act of 1968, and the Flood Disaster Protection Act of 1973, $9,300,000 shall, upon enactment of this Act, be transferred to the "Salaries and expenses" appropriation for administrative costs of the insurance programs and $45,200,000 shall, upon enactment of this Act, be transferred to the "Emergency management planning and assistance" appropriation for flood plain management activities, including $4,720,000 for expenses under section 1362 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4103, 4127), which amount shall be available until September 30, 1988. In fiscal year 1987, no funds in excess of (1) $42,788,000 for operating expenses, (2) $117,950,000 for agents' commissions and taxes, and (3) $5,362,000 for interest on Treasury borrowings shall be available from the National Flood Insurance Fund without prior notice to the Committees on Appropriations.

EMERGENCY FOOD AND SHELTER PROGRAM

There is hereby appropriated $70,000,000 to the Federal Emergency Management Agency to carry out an emergency food and shelter program. Notwithstanding any other provision of this or any other Act, such amount shall be made available under the terms and conditions of the following paragraphs:

The Director of the Federal Emergency Management Agency shall, as soon as practicable after enactment of this Act, constitute a national board for the purpose of determining how the program funds are to be distributed to individual localities. The United Way of America, the Salvation Army, the National Council of Churches of Christ in the U.S.A., the National Conference of Catholic Charities, the Council of Jewish Federations, Inc., and the American Red Cross shall each nominate a representative to sit on the national board, and the Director of the Federal Emergency Management Agency shall designate a representative from each of these organizations to sit on the national board. The Federal Emergency Management Agency shall also designate a representative to sit on the national board, and the representative of the Federal Emergency Management Agency shall chair the national board.

Each locality designated by the national board to receive funds shall constitute a local board for the purpose of determining how its funds will be distributed. The local board shall consist, to the extent practicable, of representatives of the same organizations as the national board except that the mayor or appropriate head of government will replace the Federal Emergency Management Agency member.

The Director of the Federal Emergency Management Agency shall award a grant for $70,000,000 to the national board within thirty days after enactment of this Act for the purpose of providing emergency food and shelter to needy individuals through private voluntary organizations and through units of local government.

Eligible private voluntary organizations should be nonprofit, have a voluntary board, have an accounting system, and practice nondiscrimination.

Participation in the program should be based upon a private voluntary organization's or unit of local government's ability to deliver emergency food and shelter to needy individuals and such other factors as are determined by the local boards.

Total administrative costs shall not exceed 2 per centum of the total appropriation.

As authorized by the Charter of the Commodity Credit Corporation, the Corporation shall process and distribute surplus food owned or to be purchased by the Corporation under the food distribution and emergency shelter program in cooperation with the Federal Emergency Management Agency.

GENERAL SERVICES ADMINISTRATION

CONSUMER INFORMATION CENTER

For necessary expenses of the Consumer Information Center, including services authorized by 5 U.S.C. 3109, $1,272,000, to be deposited into the Consumer Information Center Fund: *Provided*, That the appropriations, revenues and collections deposited into the fund shall be available for necessary expenses of Consumer Information Center activities in the aggregate amount of $5,200,000. Administrative expenses of the Consumer Information Center in fiscal year 1987 shall not exceed $1,664,000. Appropriations, revenues and collections accruing to this fund during fiscal year 1987 in excess of $5,200,000 shall remain in the fund and shall not be available for expenditure except as authorized in appropriations Acts.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF CONSUMER AFFAIRS

For necessary expenses of the Office of Consumer Affairs, including services authorized by 5 U.S.C. 3109, $1,000,000.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

RESEARCH AND DEVELOPMENT

For necessary expenses, not otherwise provided for, including research, development, operations, services, minor construction, maintenance, repair, rehabilitation and modification of real and personal property; purchase, hire, maintenance, and operation of other than administrative aircraft, necessary for the conduct and support of aeronautical and space research and development activities of the National Aeronautics and Space Administration, $3,020,700,000, to remain available until September 30, 1988: *Provided*, That none of the funds in this bill shall be used to reassign programs and/or transfer personnel from the Johnson Space Center without the express authorization of Congress.

□ 1450

AMENDMENT OFFERED BY MR. BOLAND

Mr. BOLAND. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BOLAND: On page 26, line 14, insert at the end of the sentence: ": *Provided further.* That of the funds appropriated under this heading, not to exceed $160,000,000 shall be provided for space station phase C/D development and such funds shall not be available for obligation until the enactment of a subsequent appropriations Act authorizing the obligation of such funds.".

Mr. BOLAND. Mr. Chairman, this amendment is really very simple. What it does is cap space station development funding at $160 million and provides that the release of the funds will be made in a subsequent appropriations act.

In effect, this mirrors the action taken in the report accompanying the HUD appropriations bill. But this amendment is important because it will strengthen the House's position and the committee's position in conference.

Mr. Chairman, after spending more than $150 million over the past 2½ years, the Space Station Program today is beset with a number of design problems. The bottom line is that unless NASA addresses those problems and the concerns expressed by this committee, we are going to spend $10 billion on a space station that will not enhance this Nation's scientific and technological capabilities.

To meet that concern, we imposed requirements on the space station before moneys requested for development are released. Those requirements are stated on pages 45 and 46 of our report.

The thrust of the requirements is that before the space station moves ahead with development funding, this committee and this House and this Congress can be assured that the station will provide useful and beneficial science as soon as possible to this Nation.

That's what the requirements that are detailed in our report are designed to do. So the purpose of this amendment is to ensure that before NASA proceeds with actual development of the space station, our committee's concerns and the concerns of others in this body are addressed.

Mr. Chairman, it is my fervent hope that NASA will take seriously these concerns so that we can release development funds and get on with building the next major U.S. step in space.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. BOLAND. I am delighted to yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Chairman, I want to commend the gentleman and his committee on this bill and also for their position on being cautious about moving ahead on these big expenditures that we are talking about. The reason I say this is that for each $2.6 billion that is added in 1987 we will have to have an across-the-board cut of 1 percent out of all discretionary programs that have been appropriated heretofore.

So it is important that we watch these expenditures because whenever anybody votes from now on for increases in anything, what they are really voting for is to cut everything that has already been appropriated. That is the position we are in unless we do one of two things: Raise taxes or waive Gramm-Rudman. If we want to not raise taxes, if we want to keep Gramm-Rudman, then we have got to be cautious about these added expenditures. What we did yesterday on the floor of the House by an overwhelming majority was add 1 percent to the amount that will have to be cut across the board in all discretionary programs.

Mr. GREEN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to express my support for this amendment. I know the Members want to get home, so I will not reiterate what the subcommittee chairman has already said as to the need for it. I would commend to the Members of the House the report which the subcommittee chairman submitted on behalf of the committee, particularly pages 44, 45, and 46 of that report, which details the concerns that the subcommittee and the full committee have had regarding the Space Station Program and which I think explains fully the need for this amendment.

Mr. Chairman, I urge the House to support this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts [Mr. BOLAND].

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SPACE FLIGHT, CONTROL AND DATA COMMUNICATIONS

For necessary expenses, not otherwise provided for, in support of space flight, spacecraft control and communications activities of the National Aeronautics and Space Administration, including operations, production, services, minor construction, maintenance, repair, rehabilitation, and modification of real and personal property; tracking and data relay satellite services as authorized by law; purchase, hire, maintenance and operation of other than administrative aircraft, $3,038,000,000, to remain available until September 30, 1988.

CONSTRUCTION OF FACILITIES

For construction, repair, rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and for facility planning and design not otherwise provided, for the National Aeronautics and Space Administration, and for the acquisition or condemnation of real property, as authorized by law, $166,300,000, to remain available until September 30, 1989: *Provided,* That, notwithstanding the limitation on the availability of funds appropriated under this heading by this appropriations Act, when any activity has been initiated by the incurrence of obligations therefor, the amount available for such activity shall remain available until expended, except that this provision shall not apply to the amounts appropriated pursuant to the authorization for repair, rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and facility planning and design: *Provided further,* That no amount appropriated pursuant to this or any other Act may be used for the lease or construction of a new contractor-funded facility for exclusive use in support of a contract or contracts with the National Aeronautics and Space Administration under which the Administration would be required to substantially amortize through payment or reimbursement such contractor investment, unless an appropriations Act specifies the lease or contract pursuant to which such facilities are to be constructed or leased or such facility is otherwise identified in such Act: *Provided further,* That the Administrator may authorize such facility lease or construction, if he determines, in consultation with the Committees on Appropriations, that deferral of such action until the enactment of the next appropriations Act would be inconsistent with the interest of the Nation in aeronautical and space activities.

RESEARCH AND PROGRAM MANAGEMENT

For necessary expenses of research in Government laboratories, management of programs and other activities of the National Aeronautics and Space Administration, not otherwise provided for, including uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); awards; lease, hire, maintenance and operation of administrative aircraft; purchase (not to exceed thirty-three for replacement only) and hire of passenger motor vehicles; and maintenance and repair of real and personal property, and not in excess of $100,000 per project for construction of new facilities and additions to existing facilities, repairs, and rehabilitation and modification of facilities, $1,425,000,000: *Provided,* That contracts may be entered into under this appropriation for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year: *Provided further,* That not to exceed $35,000 of the foregoing amount shall be available for scientific consultations or extraordinary expense, to be expended upon the approval or authority of the Administrator and his determination shall be final and conclusive.

NATIONAL CREDIT UNION ADMINISTRATION

CENTRAL LIQUIDITY FACILITY

During 1987, obligations of the Central Liquidity Facility for new loans to member credit unions as authorized by the National Credit Union Central Liquidity Facility Act (12 U.S.C. 1795) shall not exceed $600,000,000: *Provided,* That administrative expenses of the Central Liquidity Facility in fiscal year 1987 shall not exceed $850,000.

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

For necessary expenses in carrying out the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875), title IX of the National Defense

Education Act of 1958 (42 U.S.C. 1876-1879), and the Act to establish a National Medal of Science (42 U.S.C. 1880-1881); services as authorized by 5 U.S.C. 3109; maintenance and operation of aircraft and purchase of flight services for research support; acquisition of one aircraft; hire of passenger motor vehicles; not to exceed $2,500 for official reception and representation expenses; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); rental of conference rooms in the District of Columbia; and reimbursement of the General Services Administration for security guard services, $1,333,300,000, to remain available until September 30, 1988: *Provided*, That of the funds appropriated in this Act, or from funds appropriated previously to the Foundation, not more than $75,000,000 shall be available for program development and management in fiscal year 1987: *Provided further*, That contracts may be entered into under the program development and management limitation in fiscal year 1987 for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year: *Provided further*, That receipts for scientific support services and materials furnished by the National Research Centers and other National Science Foundation supported research facilities may be credited to this appropriation: *Provided further*, That to the extent that the amount appropriated is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally.

UNITED STATES ANTARCTIC PROGRAM ACTIVITIES

For necessary expenses in carrying out the research and operational support for the United States Antarctic Program pursuant to the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875); maintenance and operation of aircraft and purchase of flight services for research and operations support; maintenance and operation of research ships and charter or lease of ships for research and operations support; hire of passenger motor vehicles; not to exceed $1,000 for official reception and representation expenses, $117,000,000, to remain available until expended: *Provided*, That receipts for support services and materials provided to individuals for non-Federal activities may be credited to this appropriation: *Provided further*, That no funds in this account shall be used for the purchase of aircraft.

SCIENCE EDUCATION ACTIVITIES

For necessary expenses in carrying out science education programs and activities pursuant to the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875), including award of graduate fellowships, services as authorized by 5 U.S.C. 3109, and rental of conference rooms in the District of Columbia, $99,000,000, to remain available until September 30, 1988: *Provided*, That to the extent that the amount of this appropriation is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally.

SCIENTIFIC ACTIVITIES OVERSEAS

(SPECIAL FOREIGN CURRENCY PROGRAM)

For payments in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States, for scientific activities, as authorized by law, $700,000, to remain available until September 30, 1988: *Provided*, That this appropriation shall be available in addition to other appropriations to the National Science Foundation for payments in the foregoing currencies.

NEIGHBORHOOD REINVESTMENT CORPORATION

PAYMENT TO THE NEIGHBORHOOD REINVESTMENT CORPORATION

For payment to the Neighborhood Reinvestment Corporation for use in neighborhood reinvestment activities, as authorized by the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8101-8107), $18,669,000.

SELECTIVE SERVICE SYSTEM

SALARIES AND EXPENSES

For necessary expenses of the Selective Service System, including expenses of attendance at meetings and of training for uniformed personnel assigned to the Selective Service System, as authorized by law (5 U.S.C. 4101-4118) for civilian employees; and not to exceed $1,000 for official reception and representation expenses, $26,128,400: *Provided*, That during the current fiscal year, the President may exempt this appropriation from the provisions of 31 U.S.C. 1341, whenever he deems such action to be necessary in the interest of national defense: *Provided further*, That none of the funds appropriated by this Act may be expended for or in connection with the induction of any person into the Armed Forces of the United States: *Provided further*, That upon enactment of this Act, the amendments to title 32 of the Code of Federal Regulations set forth at 51 Fed. Reg. 17618-17628 (May 14, 1986) shall be null and void.

DEPARTMENT OF THE TREASURY

OFFICE OF REVENUE SHARING, SALARIES AND EXPENSES

For necessary expenses of the Office of Revenue Sharing, including hire of passenger motor vehicles, $5,560,000.

VETERANS ADMINISTRATION

COMPENSATION AND PENSIONS

For the payment of compensation benefits to or on behalf of veterans as authorized by law (38 U.S.C. 107, chapters 11, 13, 51, 53, 55, and 61); pension benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 15, 51, 53, 55, and 61; 92 Stat. 2508); and burial benefits, emergency and other officers' retirement pay, adjusted-service credits and certificates, payment of premiums due on commercial life insurance policies guaranteed under the provisions of Article IV of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, and for other benefits as authorized by law (38 U.S.C. 107, 412, 777, and 806, chapters 23, 51, 53, 55, and 61; 50 U.S.C. App. 540-548; 43 Stat. 122, 123; 45 Stat. 735; 76 Stat. 1198), $14,364,400,000, to remain available until expended.

READJUSTMENT BENEFITS

For the payment of readjustment and rehabilitation benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 21, 30, 31, 34-36, 39, 51, 53, 55, and 61), $741,150,000, to remain available until expended.

VETERANS INSURANCE AND INDEMNITIES

For military and naval insurance, national service life insurance, servicemen's indemnities, and service-disabled veterans insurance, as authorized by law (38 U.S.C. chapter 19; 70 Stat. 887; 72 Stat. 487), $4,770,000, to remain available until expended.

MEDICAL CARE

For necessary expenses for the maintenance and operation of hospitals, nursing homes, and domiciliary facilities; for furnishing, as authorized by law, inpatient and outpatient care and treatment to beneficiaries of the Veterans Administration, including care and treatment in facilities not under the jurisdiction of the Veterans Administration, and furnishing recreational facilities, supplies and equipment; funeral, burial and other expenses incidental thereto for beneficiaries receiving care in Veterans Administration facilities; repairing, altering, improving or providing facilities in the several hospitals and homes under the jurisdiction of the Veterans Administration, not otherwise provided for, either by contract or by the hire of temporary employees and purchase of materials; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); aid to State homes as authorized by law (38 U.S.C. 641); and not to exceed $2,000,000 to fund cost comparison studies as referred to in 38 U.S.C. 5010(a)(5); $9,488,612,000, plus reimbursements.

MEDICAL AND PROSTHETIC RESEARCH

For necessary expenses in carrying out programs of medical and prosthetic research and development, as authorized by law, to remain available until September 30, 1988, $193,915,000, plus reimbursements.

MEDICAL ADMINISTRATION AND MISCELLANEOUS OPERATING EXPENSES

For necessary expenses in the administration of the medical, hospital, nursing home, domiciliary, construction, supply, and research activities, as authorized by law, $41,694,000, plus reimbursements.

GENERAL OPERATING EXPENSES

For necessary operating expenses of the Veterans Administration, not otherwise provided for, including uniforms or allowances therefor, as authorized by law; not to exceed $3,000 for official reception and representation expenses; cemeterial expenses as authorized by law; purchase of eleven passenger motor vehicles, for use in cemeterial operations, and hire of passenger motor vehicles; and reimbursement of the General Services Administration for security guard services, and the Department of Defense for the cost of overseas employee mail; $763,531,000: *Provided*, That none of the funds appropriated by this or any other Act shall be obligated to effect the closing of the St. Paul Insurance Center during the period beginning on the date of the enactment into law of this Act and ending on September 30, 1987.

CONSTRUCTION, MAJOR PROJECTS

For constructing, altering, extending and improving any of the facilities under the jurisdiction or for the use of the Veterans Administration, or for any of the purposes set forth in sections 1004, 1006, 5002, 5003, 5006, 5008, 5009, and 5010 of title 38, United States Code, including planning, architectural and engineering services, and site acquisition, where the estimated cost of a project is $2,000,000 or more or where funds for a project were made available in a previous major project appropriation, $382,708,000, to remain available until ex-

pended: *Provided*, That, except for advance planning of projects funded through the advance planning fund and the design of projects funded through the Design Fund, none of these funds shall be used for any project which has not been considered and approved by the Congress in the budgetary process: *Provided further*, That funds provided in the appropriation "Construction, major projects" for fiscal year 1987, for each approved project shall be obligated (1) by the awarding of a working drawings contract by September 30, 1987 and (2) by the awarding of a construction contract by September 30, 1988: *Provided further*, That the Administrator shall promptly report in writing to the Comptroller General and to the Committees on Appropriations any approved major construction project in which obligations are not incurred within the time limitations established above; and the Comptroller General shall review the report in accordance with the procedures established by section 1015 of the Impoundment Control Act of 1974 (title X of Public Law 93-344): *Provided further*, That no funds from any other account, except the "Parking garage revolving fund", may be obligated for constructing, altering, extending, or improving a project which was approved in the budget process and funded in this account until one year after substantial completion and beneficial occupancy by the Veterans Administration of the project or any part thereof with respect to that part only: *Provided further*, That prior to the issuance of a bidding document for any construction contract for a project approved under this heading (excluding completion items), the director of the affected Veterans Administration medical facility must certify that the design of such project is acceptable from a patient care standpoint.

CONSTRUCTION, MINOR PROJECTS

For constructing, altering, extending, and improving any of the facilities under the jurisdiction or for the use of the Veterans Administration, including planning, architectural and engineering services, and site acquisition, or for any of the purposes set forth in sections 1004, 1006, 5002, 5003, 5006, 5008, 5009, and 5010 of title 38, United States Code, where the estimated cost of a project is less than $2,000,000, $65,562,000, to remain available until expended, along with unobligated balances of previous "Construction, minor projects" appropriations which are hereby made available for any project where the estimated cost is less than $2,000,000: *Provided*, That not more than $37,885,000 shall be available for expenses of the Office of Facilities, including research and development in building construction technology: *Provided further*, That funds in this account shall be available for (1) repairs to any of the nonmedical facilities under the jurisdiction or for the use of the Veterans Administration which are necessary because of loss or damage caused by any natural disaster or catastrophe and (2) temporary measures necessary to prevent or to minimize further loss by such causes.

PARKING GARAGE REVOLVING FUND

(INCLUDING TRANSFER OF FUNDS)

For the parking garage revolving fund as authorized by law (38 U.S.C. 5009), $30,000,000, together with income from fees collected, to remain available until expended, of which $4,000,000 shall be derived by transfer from "Construction, major projects". Resources of this fund shall be available for all expenses authorized by 38 U.S.C. 5009.

During 1987, within the resources available, gross obligations of the "Parking garage revolving fund" shall not exceed $31,000,000.

GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE FACILITIES

For grants to assist the several States to acquire or construct State nursing home and domiciliary facilities and to remodel, modify or alter existing hospital, nursing home and domiciliary facilities in State homes, for furnishing care to veterans, as authorized by law (38 U.S.C. 5031-5037), $42,400,000, to remain available until September 30, 1989.

GRANTS TO THE REPUBLIC OF THE PHILIPPINES

For payment to the Republic of the Philippines of grants, as authorized by law (38 U.S.C. 632), for assisting in the replacement and upgrading of equipment and in rehabilitating the physical plant and facilities of the Veterans Memorial Medical Center, $500,000, to remain available until September 30, 1988.

DIRECT LOAN REVOLVING FUND

During 1987, within the resources available, not to exceed $1,000,000 in gross obligations for direct loans is authorized for specially adapted housing loans (38 U.S.C. chapter 37).

LOAN GUARANTY REVOLVING FUND

(INCLUDING TRANSFER OF FUNDS)

During 1987, the resources of the loan guaranty revolving fund shall be available for expenses for property acquisitions, payment of participation sales insufficiencies, and other loan guaranty and insurance operations, as authorized by law (38 U.S.C. chapter 37, except administrative expenses, as authorized by section 1824 of such title): *Provided*, That the unobligated balances, including retained earnings of the direct loan revolving fund, shall be available, during 1987, for transfer to the loan guaranty revolving fund in such amounts as may be necessary to provide for the timely payment of obligations of such fund, and the Administrator of Veterans Affairs shall not be required to pay interest on amounts so transferred after the time of such transfer.

During 1987, with the resources available, gross obligations for direct loans and total commitments to guarantee loans are authorized in such amounts as may be necessary to carry out the purposes of the "Loan guaranty revolving fund".

ADMINISTRATIVE PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

Not to exceed 5 per centum of any appropriation for 1987 for "Compensation and pensions", "Readjustment benefits", and "Veterans insurance and indemnities" may be transferred to any other of the mentioned appropriations, but not to exceed 10 per centum of the appropriations so augmented.

Appropriations available to the Veterans Administration for 1987 for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

No part of the appropriations in this Act for the Veterans Administration (except the appropriations for "Construction, major projects" and "Construction, minor projects") shall be available for the purchase of any site for or toward the construction of any new hospital or home.

No part of the foregoing appropriations shall be available for hospitalization or examination of any persons except beneficiaries entitled under the laws bestowing such benefits to veterans, unless reimbursement of cost is made to the appropriation at such rates as may be fixed by the Administrator of Veterans Affairs.

One or more pilot programs shall be conducted to determine the effectiveness of utilizing private contractual services to assist in the administrative collection of various types of delinquent debts or other funds due the Government.

TITLE III

CORPORATIONS

Corporations and agencies of the Department of Housing and Urban Development and the Federal Home Loan Bank Board which are subject to the Government Corporation Control Act, as amended, are hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Act as may be necessary in carrying out the programs set forth in the budget for 1987 for such corporation or agency except as hereinafter provided: *Provided*, That collections of these corporations and agencies may be used for new loan or mortgage purchase commitments only to the extent expressly provided for in this Act (unless such loans are in support of other forms of assistance provided for in this or prior appropriations Acts), except that this proviso shall not apply to the mortgage insurance or guaranty operations of these corporations, or where loans or mortgage purchases are necessary to protect the financial interest of the United States Government.

FEDERAL HOME LOAN BANK BOARD

LIMITATION ON ADMINISTRATIVE EXPENSES, FEDERAL HOME LOAN BANK BOARD

Not to exceed a total of $27,693,000 shall be available for administrative expenses of the Federal Home Loan Bank Board for procurement of services as authorized by 5 U.S.C. 3109, and contracts for such services with one organization may be renewed annually, and uniforms or allowances therefor in accordance with law (5 U.S.C. 5901-5902), and said amount shall be derived from funds available to the Federal Home Loan Bank Board, including those in the Federal Home Loan Bank Board revolving fund and receipts of the Board for the current fiscal year, of which not to exceed $800,000 shall be available for purposes of training State examiners and not to exceed $1,500 shall be available for official reception and representation expenses: *Provided*, That members and alternates of the Federal Savings and Loan Advisory Council may be compensated subject to the provisions of section 7 of the Federal Advisory Committee Act, and shall be entitled to reimbursement from the Board for transportation expenses incurred in attendance at meetings of or concerned with the work of such Council and may be paid in lieu of subsistence per diem not to exceed the dollar amount set forth in 5 U.S.C. 5703: *Provided further*, That, notwithstanding any other provisions of this Act, except for the limitation in amount hereinbefore specified, the expenses and other obligations of the Board shall be incurred, allowed, and paid in accordance with the provisions of the Federal Home Loan Bank Act of 1932, as amended (12 U.S.C. 1421-1449).

LIMITATION ON ADMINISTRATIVE EXPENSES, FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

Not to exceed $1,466,000 shall be available for administrative expenses, which shall be on an accrual basis and shall be exclusive of interest paid, depreciation, properly capitalized expenditures, expenses in connection with liquidation of insured institutions or activities relating to section 406(c), 407, or 408 of the National Housing Act, liquidation or handling of assets of or derived from insured institutions, payment of insurance, and action for or toward the avoidance, termination, or minimizing of losses in the case of insured institutions, legal fees and expenses and payments for expenses of the Federal Home Loan Bank Board determined by said Board to be properly allocable to said Corporation, and said Corporation may utilize and may make payments for services and facilities of the Federal home loan banks, the Federal Reserve banks, the Federal Home Loan Bank Board, the Federal Home Loan Mortgage Corporation, and other agencies of the Government: *Provided,* That, notwithstanding any other provisions of this Act, except for the limitation in amount hereinbefore specified, the administrative expenses and other obligations of said Corporation shall be incurred, allowed, and paid in accordance with title IV of the Act of June 27, 1934, as amended (12 U.S.C. 1724-1730f).

TITLE IV

GENERAL PROVISIONS

SECTION 401. Where appropriations in titles I and II of this Act are expendable for travel expenses and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the amounts set forth therefor in the budget estimates submitted for the appropriations: *Provided,* That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards of the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Veterans Administration; to travel performed in connection with major disasters or emergencies declared or determined by the President under the provisions of the Disaster Relief Act of 1974; to site-related travel performed in connection with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980; to site-related travel under the Solid Waste Disposal Act, as amended; or to payments to interagency motor pools where separately set forth in the budget schedules: *Provided further,* That if appropriations in titles I and II exceed the amounts set forth in budget estimates initially submitted for such appropriations, the expenditures for travel may correspondingly exceed the amounts therefor set forth in the estimates in the same proportion.

SEC. 402. Appropriations and funds available for the administrative expenses of the Department of Housing and Urban Development and the Selective Service System shall be available in the current fiscal year for purchase of uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); hire of passenger motor vehicles; and services as authorized by 5 U.S.C. 3109.

SEC. 403. Funds of the Department of Housing and Urban Development subject to the Government Corporation Control Act or section 402 of the Housing Act of 1950 shall be available, without regard to the limitations on administrative expenses, for legal services on a contract or fee basis, and for utilizing and making payment for services and facilities of Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Financing Bank, Federal Reserve banks or any member thereof, Federal home loan banks, and any insured bank within the meaning of the Federal Deposit Insurance Corporation Act, as amended (12 U.S.C. 1811-1831).

SEC. 404. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 405. No funds appropriated by this Act may be expended—

(1) pursuant to a certification of an officer or employee of the United States unless—

(A) such certification is accompanied by, or is part of, a voucher or abstract which describes the payee or payees and the items or services for which such expenditure is being made, or

(B) the expenditure of funds pursuant to such certification, and without such a voucher or abstract, is specifically authorized by law; and

(2) unless such expenditure is subject to audit by the General Accounting Office or is specifically exempt by law from such audit.

SEC. 406. None of the funds provided in this Act to any department or agency may be expended for the transportation of any officer or employee of such department or agency between his domicile and his place of employment, with the exception of the Secretary of the Department of Housing and Urban Development, who, under title 5, United States Code, section 101, is exempted from such limitation.

SEC. 407. None of the funds provided in this Act may be used for payment, through grants or contracts, to recipients that do not share in the cost of conducting research resulting from proposals not specifically solicited by the Government: *Provided,* That the extent of cost sharing by the recipient shall reflect the mutuality of interest of the grantee or contractor and the Government in the research.

SEC. 408. None of the funds provided in this Act may be used, directly or through grants, to pay or to provide reimbursement for payment of the salary of a consultant (whether retained by the Federal Government or a grantee) at more than the daily equivalent of the maximum rate paid for GS-18, unless specifically authorized by law.

SEC. 409. No part of any appropriation contained in this Act for personnel compensation and benefits shall be available for other object classifications set forth in the budget estimates submitted for the appropriations.

SEC. 410. None of the funds in this Act shall be used to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings. Nothing herein affects the authority of the Consumer Product Safety Commission pursuant to section 7 of the Consumer Product Safety Act (15 U.S.C. 2056 et seq.).

SEC. 411. Except as otherwise provided under existing law or under an existing Executive order issued pursuant to an existing law, the obligation or expenditure of any appropriation under this Act for contracts for any consulting service shall be limited to contracts which are (1) a matter of public record and available for public inspection, and (2) thereafter included in a publicly available list of all contracts entered into within twenty-four months prior to the date on which the list is made available to the public and of all contracts on which performance has not been completed by such date. The list required by the preceding sentence shall be updated quarterly and shall include a narrative description of the work to be performed under each such contract.

SEC. 412. Except as otherwise provided by law, no part of any appropriation contained in this Act shall be obligated or expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) for a contract for services unless such executive agency (1) has awarded and entered into such contract in full compliance with such Act and the regulations promulgated thereunder and (2) requires any report prepared pursuant to such contract, including plans, evaluations, studies, analyses and manuals, and any report prepared by the agency which is substantially derived from or substantially includes any report prepared pursuant to such contract, to contain information concerning (A) the contract pursuant to which the report was prepared and (B) the contractor who prepared the report pursuant to such contract.

SEC. 413. Except as otherwise provided in section 406, none of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency.

SEC. 414. None of the funds provided in this Act to any department or agency shall be obligated or expended to procure passenger automobiles as defined in 15 U.S.C. 2001 with an EPA estimated miles per gallon average of less than 22 miles per gallon.

This may be cited as the "Department of Housing and Urban Development-Independent Agencies Appropriations Act, 1987".

Mr. BOLAND (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The CHAIRMAN. Are there any points of order?

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: Page 50, after line 12, insert the following new section:

SEC. 415. None of the funds provided by this Act shall be used to close the Veterans' Administration Outpatient Clinic at Youngstown, Ohio.

PREFERENTIAL MOTION OFFERED BY MR. BOLAND

Mr. BOLAND. Mr. Chairman, I offer a preferential motion.

The CHAIRMAN. The Clerk will report the preferential motion.

Mr. BOLAND. Mr. Chairman, I move that the Committee do now rise.

The CHAIRMAN. The Chair would inquire, Is this a simple motion to rise or a motion to rise and report the bill?

Mr. BOLAND. Mr. Chairman, the motion is as follows:

Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with an amendment, with the recommendation that the amendment be agreed to and that the bill, as amended, do pass.

The CHAIRMAN. The question is on the motion offered by the gentleman from Massachusetts [Mr. BOLAND].

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. FOLEY] having assumed the chair, Mr. MACKAY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5313) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1987, and for other purposes, had directed him to report the bill back to the House with an amendment, with the recommendation that the amendment be agreed to and that the bill, as amended, do pass.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FRENZEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 295, nays 46, answered "present" 1, not voting 89, as follows:

[Roll No. 383]

YEAS—295

Akaka	Bates	Boland
Alexander	Bedell	Bonior (MI)
Anderson	Beilenson	Borski
Andrews	Bennett	Bosco
Annunzio	Bentley	Boulter
Anthony	Bereuter	Bruce
Applegate	Berman	Bryant
Aspin	Bevill	Bustamante
Barnard	Biaggi	Byron
Barnes	Bilirakis	Callahan
Bartlett	Bliley	Carper
Barton	Boehlert	Carr
Bateman	Boggs	Chandler
Chappell	Holt	Price
Clay	Hopkins	Pursell
Clinger	Howard	Rahall
Coats	Hoyer	Ray
Cobey	Hubbard	Regula
Coble	Hunter	Richardson
Coleman (MO)	Hyde	Ridge
Coleman (TX)	Ireland	Rinaldo
Collins	Jacobs	Ritter
Conte	Jeffords	Robinson
Cooper	Johnson	Rodino
Coughlin	Jones (NC)	Roe
Courter	Jones (TN)	Roemer
Coyne	Kanjorski	Rogers
Craig	Kaptur	Rose
Daniel	Kasich	Rostenkowski
Darden	Kastenmeier	Roth
Daschle	Kildee	Roukema
Davis	Kleczka	Rowland (CT)
de la Garza	Kolter	Rowland (GA)
Dellums	Kostmayer	Roybal
Derrick	Kramer	Sabo
Dickinson	LaFalce	Savage
Dicks	Lagomarsino	Saxton
Dingell	Lantos	Scheuer
DioGuardi	Leach (IA)	Schneider
Dixon	Leath (TX)	Schulze
Donnelly	Lehman (FL)	Schumer
Dorgan (ND)	Leland	Seiberling
Dornan (CA)	Lent	Shaw
Dowdy	Levin (MI)	Sikorski
Downey	Levine (CA)	Sisisky
Duncan	Lewis (CA)	Skeen
Durbin	Lewis (FL)	Skelton
Dwyer	Lightfoot	Slattery
Dymally	Lipinski	Slaughter
Dyson	Long	Smith (IA)
Eckart (OH)	Lowery (CA)	Smith (NE)
Edgar	Lowry (WA)	Smith (NJ)
Edwards (CA)	Lujan	Smith, Robert (NH)
Edwards (OK)	Luken	Smith, Robert (OR)
Emerson	Mack	Solarz
English	MacKay	Spence
Erdreich	Manton	Spratt
Evans (IL)	Martin (IL)	Staggers
Fascell	Martinez	Stallings
Fazio	Matsui	Stangeland
Feighan	Mavroules	Stark
Fiedler	McCain	Stokes
Fields	McCloskey	Studds
Fish	McCurdy	Sweeney
Flippo	McGrath	Swift
Florio	McHugh	Swindall
Foglietta	McKernan	Tauke
Foley	McMillan	Tauzin
Ford (MI)	Meyers	Taylor
Ford (TN)	Mica	Thomas (GA)
Frank	Mikulski	Torricelli
Fuqua	Miller (OH)	Udall
Gallo	Miller (WA)	Valentine
Gaydos	Mineta	Vander Jagt
Gejdenson	Mitchell	Vento
Gekas	Molinari	Visclosky
Gibbons	Mollohan	Volkmer
Gilman	Montgomery	Vucanovich
Gingrich	Morrison (CT)	Waldon
Glickman	Morrison (WA)	Walgren
Gonzalez	Mrazek	Walker
Goodling	Myers	Waxman
Gordon	Natcher	Weaver
Gray (IL)	Neal	Weber
Gray (PA)	Nelson	Weiss
Green	Nichols	Wheat
Guarini	Nowak	Whittaker
Gunderson	Oberstar	Whitten
Hall (OH)	Obey	Williams
Hall, Ralph	Olin	Wilson
Hamilton	Ortiz	Wise
Hammerschmidt	Packard	Wolf
Hatcher	Parris	Wortley
Hawkins	Pashayan	Wyden
Hayes	Pease	Yatron
Hefner	Penny	Young (FL)
Hendon	Perkins	Young (MO)
Henry	Pickle	
Hertel	Porter	

NAYS—46

Archer	Combest	Evans (IA)
Armey	Crane	Fawell
AuCoin	Dannemeyer	Frenzel
Badham	DeLay	Gradison
Brown (CO)	DeWine	Hiler
Burton (IN)	Dreier	Hughes
Cheney	Eckert (NY)	Kindness
Latta	Nielson	Siljander
Lott	Oxley	Smith, Denny (OR)
Lungren	Petri	Solomon
Marlenee	Roberts	Stenholm
McCandless	Russo	Strang
McCollum	Schaefer	Stump
Monson	Sensenbrenner	Sundquist
Moody	Shumway	
Moorhead	Shuster	

ANSWERED "PRESENT"—1

Traficant

NOT VOTING—89

Ackerman	Horton	Quillen
Atkins	Huckaby	Rangel
Boner (TN)	Hutto	Reid
Bonker	Jenkins	Rudd
Boucher	Jones (OK)	Schroeder
Boxer	Kemp	Schuette
Breaux	Kennelly	Sharp
Brooks	Kolbe	Shelby
Broomfield	Lehman (CA)	Smith (FL)
Brown (CA)	Livingston	Snowe
Burton (CA)	Lloyd	Snyder
Campbell	Loeffler	St Germain
Carney	Lundine	Stratton
Chapman	Madigan	Synar
Chappie	Markey	Tallon
Coelho	Martin (NY)	Thomas (CA)
Conyers	Mazzoli	Torres
Crockett	McDade	Towns
Daub	McEwen	Traxler
Early	McKinney	Watkins
Fowler	Michel	Whitehurst
Franklin	Miller (CA)	Whitley
Frost	Moakley	Wirth
Garcia	Moore	Wolpe
Gephardt	Murphy	Wright
Gregg	Murtha	Wylie
Grotberg	Oakar	Yates
Hansen	Owens	Young (AK)
Hartnett	Panetta	Zschau
Hillis	Pepper	

□ 1515

Mr. UDALL and Mr. WEAVER changed their votes from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM

(Mr. LOTT asked and was given permission to address the House for 1 minute.)

Mr. LOTT. Mr. Speaker, I have requested this time for the purpose of receiving the legislative schedule for today and the balance of the week, and for next week.

Mr. Speaker, momentarily I will yield to the distinguished majority whip, who has the very dubious responsibility of explaining our schedule for the rest of this day and for next week.

I would like to say first of all that it is amazing to me that the membership of this body continues to tolerate the type of jerking around that we are getting on the way in which the schedule is handled. We are not working on Mondays, we are not having votes on Tuesdays, and the schedule which I have before me shows that we will not even be in session on Monday. Then we are in session until 10 o'clock on Wednesday night. We are first told that we will not have a session on

Friday, and then on Wednesday afternoon we are told that we will have a session on Friday. Major legislation is not on the schedule next week.

It is amazing to me that our membership tolerates from the leadership this type of process, and I include the leadership of this side, too, because we should complain a lot more vigorously than we do, and we should make it known much more aggressively when we are not even consulted as to the way in which the schedule is handled.

I frankly resent it, and I would hope that our leadership would be fairer with each other and with the rank-and-file Members in the way in which the schedule is handled in the next 3 weeks, because it is going to be bad enough without the type of uncertainty and acrimony that schedule changes induce.

With that, I am glad to yield to my good friend, the gentleman from Washington [Mr. FOLEY], who is in the very difficult position of having to explain other people's decisions.

Mr. FOLEY. Mr. Speaker, I certainly understand the depth of the gentleman's feelings on this issue. I would say, however, that the Members have generally been familiar with a schedule where we consider suspensions on Monday and roll the votes until Tuesday, and that has been the process of suspension votes on Monday for most of this year, and I am not aware of a good deal of complaint from the leadership on the other side, or from Members on either side, with that proceeding.

We can schedule votes on Monday and have Members come back and vote on Monday, but it has been our practice to attempt to accommodate the primary elections in various States where both Members are involved, and to have votes postponed on Tuesday, on a primary day, and to have those votes considered at the end of the day, and to have either a pro forma session or votes rolled from Monday until Tuesday in late afternoon.

There is nothing unusual about that. It has been done to accommodate Members from every State in the Union that has had primaries over the recent several months.

Next week in Washington State and in Massachusetts there will be primaries. I am personally going to be here, but there are Members who may want to be in their home States on those 2 days, exactly as we have done for every other State that has had a primary.

The one difference between the schedule this week compared to last week is that rather than rolling the votes on suspensions from Monday to Tuesday, we propose not to have a session at all on Monday. There is really very little difference in that, except that we are considering all of the suspensions on Tuesday, rather than half of them on Monday and half on Tuesday.

Mr. LOTT. If the gentleman will allow me to comment on that point, you now have on the schedule for Tuesday 15 suspensions, the Intelligence Authorization Act, conference report on Community Services Programs amendments, minimum altitude over park lands, and votes on suspensions. It may be Wednesday before we get through with that Tuesday session.

Mr. FOLEY. I will tell the gentleman, without denigrating the importance of any of the bills on the Suspension Calendar, if he will read over the list—and I will read it for him and for the Members—he will find that the bills can be fairly classified as noncontroversial, and they should not take all day for debate and consideration.

Mr. LOTT. On one of these bills I have already had somebody gnawing on my leg that it is not noncontroversial.

Mr. FOLEY. If the gentleman finds one that is controversial that he feels that he would like to have moved to a certain time on the schedule, I would be glad to consider doing that.

As far as the Intelligence Authorization Act is concerned, the rule and the general debate only are being considered on Tuesday, and conference reports, of course, can be brought up at any time under normal considerations.

I should not think that the schedule on Tuesday will keep us overly late, but again, I do not think that most of the Members would appreciate it if we were to back up and schedule half of the suspensions on Monday and have votes on Monday, and bring Members back here who would then have to go back to their home States and come back here again if they are in primary States for more votes on Tuesday.

I think that if we had done that in the past, we would have had the most vigorous representation of objection from the leadership on the other side and from Members on both sides on the aisle.

□ 1525

We are just treating next week virtually as we have treated every week in which there has been a primary election.

As to the schedule at the end of the year, the gentleman knows that it is not easy to predict with absolute certainty in the final weeks of a session whether we will have a Friday session or not. For the benefit of Members, I would say it is extremely unwise at this juncture, and until the sine die adjournment of the House, for any Member to plan in advance to be free on Friday.

I think the Members should be on notice that Friday sessions may well be scheduled or may have to be used to finish important business not completed during the earlier part of the week.

Mr. LOTT. Mr. Speaker, if I could reclaim my time just to make two basic points; No. 1, at the very minimum, if the Members could have some certainty as to what they could count on, I think they could live with just about anything.

If we could try, by talking to each other, to keep our Members informed as early as possible what they can count on, that would solve a lot of the grumbling.

If the gentleman is not hearing it on his side, I am sorry, because I am hearing it from your side over here.

Second, we are in the final days of a session that I keep hearing is going to adjourn October 3, although there are others who talk about the 10th and there are others who are talking about a lame duck session. We understand you have to listen to Members and accommodate elections and all that, but if we are going to get out of here by October 3, at some point we are going to have to start working more than 3 days a week.

Mr. FOLEY. I am just telling the gentleman that Friday sessions are to be expected from now until the end of the session.

As the gentleman knows, the course of legislation is not easy to predict. We might have a serious bill up on Thursday that takes a very long time to conclude because of amendments and debate and might have to go over until Friday.

It would be nice if we could adjust the schedule to perfect certainty, but no one knows how long a bill will sometimes require because of the extent of debate and the offering of amendments, particularly on bills with open rules.

We have all had the experience of having people come up to us and say, "What time will this debate be over?" It will be over when the House decides it is over, unless there is a limitation on time.

So we are going to do our best, I will assure the gentleman, to advise Members, but I cannot see that any Member has been inconvenienced by the fact that I am going to propose that we adjourn until Tuesday, and if that is objected to, we will have a pro forma session on Monday.

Mr. LOTT. I know there is a very, very bipartisan event scheduled, I think, for next Tuesday night, September 16. I presume it is Tuesday or Wednesday. I presume that the House would not go early while our bipartisan effort is engaged in combat on the baseball diamond.

Mr. FOLEY. I think the gentleman is referring to something on Wednesday.

Mr. LOTT. So we do not anticipate a late session on Wednesday, then?

Mr. FOLEY. I am not going to speak as the most expert or active baseball fan in the House, but I think we will try to put the schedule first and we hope that that will also make it possible to do whatever the gentleman has in mind.

Mr. LOTT. We would like to cooperate with you in that effort.

Maybe we could hear the schedule and we can discuss this more after that.

Mr. FOLEY. If the gentleman will yield further, if unanimous consent is given, the House will meet on Tuesday to consider the Private Calendar and suspension of the rules on the following bills:

H.R. 4754, FDA Commissioner confirmation;

H.R. 5230, authorizations for childhood immunization;

H.R. 5259, alcohol and drug abuse amendments;

H.R. 1156, Indian Youth Alcohol and Substance Abuse Prevention Act;

H.R. 5167, hold in trust Pueblo (Zia) lands;

H.R. 4873, authorize transfer of lands to Santa Anna pueblos;

H.R. 4089, prohibit construction of dams in national parks;

H.R. 4794, amend National Trails System Act to designate Santa Fe Trail as a national history trail;

H.R. 4316, patents in space;

H.R. 4899, Patent Equity Act;

H.R. 4545, American Folklife Center;

H.R. 3358, striped bass;

H.R. 4838, fair treatment of airline mergers;

H. Con. Res. 339, sense of Congress that essential air service program be continued; and

H.R. 4492, transfer of airport property in Algona, IA.

In addition, the consideration of H.R. 4759, Intelligence Authorization Act, fiscal year 1987, modified rule, the rule and general debate only, and the conference report on H.R. 4421, the Community Services Programs amendments.

Recorded votes on suspensions debated on Tuesday will be voted on Tuesday at the conclusion of all suspensions.

Also on Tuesday, H.R. 4430, the minimum altitude over park lands, open rule, 1 hour of debate.

On Wednesday, September 17, 1986, the House meets at noon and considers H.R. 4759, the Intelligence Authorization Act of fiscal year 1987 and H.R. 2482, the Federal Insecticide, Fungicide, and Rodenticide Act, modified rule, 1 hour of debate.

Thursday and Friday, the House will meet at 9:30 on Thursday and 10 a.m. on Friday.

On Thursday, the House will meet at 9:30 and immediately recess until shortly before 10 a.m. when there will be a joint session to receive Her Excellency, President Aquino, the President of the Republic of the Philippines, and then consider, following her address in the joint session, House concurrent resolution, unnumbered, to continue appropriations for fiscal year 1987, and H.R. 1426, the Indian Health Care Improvement Act.

Mr. LOTT. Will there be any further business today?

Mr. FOLEY. No further business today.

Mr. LOTT. You do not intend to take up the rule on the intelligence bill?

Mr. FOLEY. No; we do not intend to take up the rule on intelligence today. We have assured Members that the House would conclude its legislative business at 3 p.m.

Mr. LOTT. I noticed that on Wednesday, you had us coming in at noon instead of 10 a.m. Do we not usually come in at 10 a.m. on Wednesday? If we are going to be squeezed a little bit at the end of the day, I would have thought we would have come in earlier.

The reason I ask that is that some Members gave me a hard time because we came in at 9 a.m. today. They thought it was 10 a.m. We put out the notice; they did not get the notice.

Is there a reason why we come in at 12 on Wednesday?

Mr. FOLEY. I am not particularly aware of any reason why we are coming in at 12 on Wednesday. I am informed that there is a Democratic caucus scheduled for that morning.

Mr. LOTT. That would be fine with us.

Mr. FOLEY. We try to accommodate the Republican conference; we try to accommodate our own caucuses.

Mr. LOTT. So we will not go in at 10 a.m., we go in at 12 on Wednesday.

Mr. FOLEY. That is right.

Mr. LOTT. Let me ask you a couple of questions about some things that are not listed here.

Of course, you note that conference reports can come up at any point and, therefore, would not necessarily be specifically listed here, but the gentleman, I take it, does not anticipate the tax reform conference report would very likely come up next week?

Is that correct?

Mr. FOLEY. It is possible. I am not suggesting this; it is possible that it could be brought up on Friday of next week.

Mr. LOTT. That is very important because on Friday, you have got a couple of bills that maybe would not be considered of major consequence if Members might not be able to stay, but if a tax reform package is going to come up——

Mr. FOLEY. We would certainly advise the Members on both sides of the aisle at the beginning of next week. The conference report has not been filed on the tax bill, and at the time that it is filed, we would advise the Members if it is to be considered next week.

□ 1535

Mr. LOTT. I note that once again there is nothing on here about reconciliation.

Mr. FOLEY. If the gentleman will yield, we intend to take up a reconciliation bill at an early time. As the gentleman knows, there has been an action of the joint Budget Committee, referring the report of the OMB and the CBO, to the two bodies of the Congress, the House and the Senate; it may be that the Senate will be voting late next week and we would hope to be voting on a reconciliation bill prior to the consideration of a sequestration act or simultaneously with it.

So, although it is not listed on the schedule, the gentleman will be assured that a reconciliation bill is very much in the immediate schedule.

Mr. LOTT. Mr. Speaker, some of the things the gentleman is saying, I think it may be applicable to what you are doing on sequestration, not necessarily on reconciliation—are they both being moved and are you going to put them together and are you going to act on them after you take up the continuing resolution? It looks to me as if we ought to look at reconciliation.

Mr. FOLEY. If the gentleman will yield, a decision has not been made on that to the degree that I could make any announcement on it, except to assure the gentleman that, as he knows, under the Gramm-Rudman statute, 5 legislative days following the adoption of the joint resolution, it is a privileged matter to be brought on the floor by any Member.

As I understand the intention of our leadership, and I assume your leadership as well, there is a desire to deal with the Reconciliation Act prior to that time.

Mr. LOTT. Absolutely. Mr. Speaker, we wanted to deal with it before we went out in August, so we are very much interested in reconciliation.

I wonder, though, you know we are not going to be in session on Monday, which is kind of an unusual event; and so then the 5 legislative days would not start counting until Tuesday instead of Monday, so the odds are sequestration could not be, or is not likely to be brought up next week. Is that part of your thinking? Is that why we are not going to be in session on Monday?

Mr. FOLEY. If the gentleman will yield, there was some original thought on that, but it is not part of the final decision to not have a session Monday; and the Budget Committee has not indicated any desire to avoid a Monday session for that reason.

Mr. LOTT. Mr. Speaker, let me ask the gentleman, does he expect recon-

ciliation or sequestration, either, one to come up any day next week?

Mr. FOLEY. If the gentleman will yield further, I personally do not believe that we will have either one next week, but the week following.

Mr. LOTT. And so we will have already voted in the House on the continuing resolution?

Mr. FOLEY. I do not want to make a commitment to the gentleman. The situation could change, but that is my expectation.

Mr. LOTT. In that case, we will have already voted on the continuing resolution, before we take up reconciliation or even sequestration; is that correct?

Mr. FOLEY. Yes; I believe we will be voting on the continuing resolution previous to voting on reconciliation.

Mr. LOTT. Well, Mr. Speaker, I am extremely frustrated and concerned about what I see on the schedule; but I understand the gentleman's role and I appreciate his advising us of what we can expect at this point.

Mr. LUNGREN. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I am glad to yield to the gentleman from California if he has an inquiry he would like to make.

Mr. LUNGREN. Mr. Speaker, I note the absence of the immigration bill on the calendar; and some of us, at the time we left for our break in August, were under the understanding that it was going to come up next week.

Is it now the thinking of the leadership that the immigration bill is to be scheduled the week after? Or has there been any date set for that.

Mr. FOLEY. If the gentleman from Mississippi [Mr. LOTT] will yield, again I can only give the gentleman an impression that we have a schedule for it to be considered by Rules next week, and I assumed it would be scheduled for floor action the following week.

Mr. LUNGREN. Mr. Speaker, if the gentleman from Mississippi [Mr. LOTT] will yield for a further inquiry. That is consistent with the intention at this point to have October 3 as our getaway date?

Mr. FOLEY. The gentleman will have to make his own judgment as to the likelihood of meeting the target, the official target, of the 3d of November.

It remains the joint intention of the leadership on both sides of the aisle and of the leadership in the other body to adjourn the House sine die by the 3d of October. There is no other intention.

I would suggest to the gentleman that in the 22 years that I have served in this body, I cannot yet remember an occasion on which the precise announced adjournment date was actually adhered to due to the pressure of business.

Mr. LUNGREN. I appreciate the comments of the distinguished gentleman.

Mr. Speaker, if the gentleman from Mississippi [Mr. LOTT] will continue to yield, I would just say that for those of us who have been working for immigration reform, the assurances that we had received earlier in the year that the House was in fact going to work on it, and it was the intention to deal with that issue before we went home in a finished fashion, ring rather hollow now.

If the gentleman believes an issue of that magnitude can be dealt with in 1 week and then go to conference, with all the problems that ensue, and have it on the President's desk, I think the gentleman is asking too much; and I understand the House may therefore look like it is doing something but unfortunately it sounds like the will of the people is to be frustrated again.

Mr. FOLEY. Mr. Speaker, if the gentleman from Mississippi [Mr. LOTT] will yield, I do not agree with the gentleman from California's [Mr. LUNGREN] conclusions. That is the only comment I would make on his statement.

ADJOURNMENT TO TUESDAY, SEPTEMBER 16, 1986

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Tuesday next.

The SPEAKER pro tempore (Mr. GRAY of Illinois). Is there objection to the request of the gentleman from Washington?

There was no objection.

HOUR OF MEETING ON WEDNESDAY NEXT

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns on Tuesday next, it adjourn to meet at noon on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, SEPTEMBER 17, 1986

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the business under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

AUTHORIZING A SPECIAL CONSENT CALENDAR ON TUESDAY, SEPTEMBER 16, 1986

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that there be a special Consent Calendar on Tuesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

PERMISSION FOR COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO FILE REPORTS ON HOUSE CONCURRENT RESOLUTION 339, H.R. 4492, AND H.R. 4838

Mr. KANJORSKI. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation may have until midnight tonight to file three reports on bills passed unanimously from the committee. They have been cleared by the minority.

They are: House Concurrent Resolution 339, H.R. 4492, and H.R. 4838.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will now entertain requests by Members for 1-minute speeches?

THE NEW CITY OF ENCINITAS, CALIFORNIA

(Mr. PACKARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PACKARD. Mr. Speaker, on October 1, 1986, a new city will be born in my district—the city of Encinitas. Encinitas incorporates 26 square miles of some of the most beautiful coastline in San Diego County. 44,000 Californians make their homes there.

The decision to incorporate was made by 70 percent of the voters in order to gain local control of land use issues and to develop a community identity. A great deal of pride went into this important decision resulting in the incorporation of the largest area in recent California history. This proud community has elected its first city council, comprised of Marjorie Gaines, Greg Luke, Ann Omsted, Rick Shea, and Gerald Steel.

Congratulations to Encinitas on its October 1, 1986, birthday!

DESIGNATION OF THE HONORABLE THOMAS S. FOLEY TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS UNTIL SEPTEMBER 17, 1986

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
September 12, 1986.

I hereby designate the Honorable Thomas S. Foley to act as Speaker pro tempore to sign enrolled bills and joint resolutions until Wednesday, September 17, 1986.

THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives.

The SPEAKER pro tempore. Without objection, the designation is agreed to.

There was no objection.

□ 1545

SECURITY ASSISTANCE FOR GREECE AND TURKEY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. YATRON] is recognized for 5 minutes.

Mr. YATRON. Mr. Speaker, I rise today to call the House's attention to a legislative development which could have negative implications for the U.S. Security Assistance Programs for Greece and Turkey.

The legislation in question is section 1205 of the Senate Defense authorization bill. This section authorizes the Pentagon to transfer defense equipment to countries in NATO's southern flank, including Greece and Turkey, to assist them in modernizing their defense capabilities.

On the surface this legislation would seem to be a necessary tool in bolstering the NATO alliance. However, this legislation in its present form is flawed in several respects. Further it reflects the administration's desire to circumvent present law regarding United States policy toward Greece and Turkey.

This section, if enacted into law, would blatantly disregard the congressionally-mandated earmarks of the International Security and Development Cooperation Act of 1985 for Greece and Turkey. As my colleagues know, the Congress has for successive years appropriated security assistance for Turkey and Greece based on the concept of the 10 to 7 ratio. Our foreign aid program for these two nations reflects the strong interest of Congress to ease tensions between these two NATO allies and to bring about a peaceful settlement on Cyprus. It seems clear to me that the Pentagon, in promoting this section, was motivated by a desire to undercut legitimate congressional involvement in U.S. policy toward the eastern Mediterranean.

Mr. Speaker, it is unclear as to whether this legislation is germane to the defense authorization bill. Providing security assistance to foreign nations, whether as grant aid or in the form of FMS credits, is the responsibility of the House Foreign Affairs Committee and the Senate Foreign Relations Committee.

I recognize the importance of providing a sufficient amount of military assistance to our allies. But there are serious political and security problems between Greece and Turkey which must be resolved if NATO's southern flank is to be an effective deterrent against Soviet expansionism.

Mr. Speaker, the House has not considered this legislation, and I strongly urge our colleagues to oppose this section in conference committee.

S. 2638

SEC. 1205. MODERNIZATION OF DEFENSE CAPABILITIES OF COUNTRIES OF NATO'S SOUTHERN FLANK

(a) AUTHORITY TO TRANSFER EQUIPMENT.—Notwithstanding any other provision of law and subject to subsection (b), the President may transfer to those member nations of the North Atlantic Treaty Organization (NATO) on the southern flank of NATO which are eligible for United States security assistance and which are integrated into NATO's military structure such defense equipment as the President determines necessary to help modernize the defense capabilities of such nations. Such equipment may be transferred without cost to the recipient nations.

(b) LIMITATIONS ON TRANSFERS.—The President may transfer defense equipment under this section only if—

(1) the equipment is drawn from existing stocks of the Department of Defense.

(2) no funds available to the Department of Defense for the procurement of defense equipment are expended in connection with the transfer; and

(3) the President determines that the transfer of the equipment will not have an adverse impact on the Armed Forces of the United States.

(c) NOTIFICATION TO COMMITTEES OF CONGRESS.—The President may not transfer defense equipment under this section until—

(1) he has notified the Committees on Armed Services of the Senate and the House of Representatives, the Committee on Foreign Relations of the Senate, and the Committee on Foreign Affairs of the House of Representatives of the proposed transfer and included in such notification a certification of the need for the transfer and an assessment of the impact of the transfer on the Armed Forces of the United States; and

(d) DEFINITION.—In subsection (a), the term "member nations of the North Atlantic Treaty Organization (NATO) on the southern flank of NATO" means Greece, Italy, Portugal, Spain, and Turkey.

UPCOMING VOTE ON SEQUESTRATION JOINT RESOLUTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. PANETTA] is recognized for 5 minutes.

Mr. PANETTA. Mr. Speaker, it is likely that late next week the House will vote on a joint resolution encompassing the across-the-board spending cuts outlined in the OMB/CBO August 20 Gramm-Rudman report. Yesterday, the Temporary Joint Committee on Deficit Reduction—made up of the House and Senate Budget Committees—approved a joint resolution providing for these cuts and once the committee's report is filed the clock will start running on the 5 calendar days of session time limit for a vote in both the House and Senate.

Since the OMB/CBO report did not receive wide distribution I think it would be useful to list the highlights of the reductions necessary to reach the $144 billion target. Also, some of the key tables in the OMB/CBO report are included below.

OMB/CBO fiscal year 1987 deficit snapshot: $163.4 billion.

Total deficit reduction needed to reach $144 billion: $19.4 billion.

Across-the-board percentage cuts in defense: 5.6 percent.

Across-the-board percentage cuts in nondefense: 7.6 percent.

Total defense cuts: Budget authority, $19.1 billion; outlays, $9.7 billion.

Total nondefense cuts: Budget authority, $16.4 billion; outlays, $9.7 billion.

COLA's for 16 programs, including Civil Service retirement and military retirement, are eliminated.

Cut of 2 percent in Medicare totaling $1.2 billion.

Cut of 2 percent in veterans medical care, Community and Migrant Health Centers, Indian Health Services, for savings of $192 million.

Cut in CCC payments of $1.3 billion.

Budget authority cut in Department of Education, $1.1 billion.

Budget authority cut for Department of Transporation, $2.3 billion.

Budget authority cut for NASA, $600 million.

Budget authority cut in Veterans Administration, $400 million.

Budget authority cut in HHS, $2.7 billion.

Budget authority cut in military personnel, $3.8 billion.

Budget authority cut in Defense procurement, $7.7 billion.

Budget authority cut in Defense Operations and Maintenance, $4.2 billion.

The following are some of the key tables from the OMB/CBO report:

SEQUSTRATION CALCULATIONS FOR 1987

[Outlays in millions of dollars]

Category	OMB	CBO	Average
Defense Programs:			
Total required reductions	6,086	13,323	9,704
Estimated savings from automatic spending increases: Indexed retirement programs [1]	139	221	180
Amount remaining to be obtained from uniform percentage reductions of budget resources	5,947	13,102	9,525
Estimated outlays associated with across-the-board sequesterable budget resources	164,330	173,635	168,983
Uniform reduction percentage	3.6	7.5	5.6
Nondefense Programs:			
Total required reductions	6,086	13,323	9,704
Estimated savings from automatic spending increases:			
Indexed retirement programs	139	221	180
Other indexed programs	7	7	7
Estimated savings from the application of special rules:			
Guaranteed student loans	29	31	30
Foster care and adoption assistance	2	2	2
Medicare	1,115	1,240	1,178
Other health programs	164	161	163
Amount remaining to be obtained from uniform percentage reductions of budget resources	4,631	11,661	8,146
Estimated outlays associated with across-the-board sequesterable budget resources [2]	108,350	106,998	107,674
Uniform reduction percentage	4.3	10.9	7.6

[1] These retirement programs are not included in the national defense function of the budget; most are included in the income security function.
[2] Includes estimated 1988 outlays for the Commodity Credit Corporation [CCC] that can be affected by a 1987 sequester (see discussion of special rule for the CCC). The OMB estimate is $14,137 million, the CBO estimate is $9,215 million, and the average is $11,676 million.

DEFENSE PROGRAM SEQUESTRATIONS FOR 1987

[In billions of dollars]

Function 050	Spending authority [1]	Estimated outlays
Department of Defense-Military:		
Military personnel	3.8	3.7
Operation and maintenance	4.2	3.2
Procurement	7.7	1.0
Research, development, test, and evaluation	2.1	1.0
Military construction	0.5	0.1
Family housing and other	0.4	0.2
Subtotal, DOD	18.7	9.2
Atomic energy defense activities	0.4	0.3
Other defense-related activities [2]	0.1	([3])
Total	19.1	9.5

[1] Includes new budget authority for 1987 and unobligated balances from budget authority provided in previous years.
[2] Includes the function 050 portion of Federal Emergency Management Agency budget accounts which are reduced at the same rate as nondefense programs.
[3] $50 million or less.

NONDEFENSE PROGRAM SEQUESTRATIONS FOR 1987 BY FUNCTION

[In billions of dollars]

Function	Spending authority [1]	Direct loan obligations	Loan guarantees	Estimated outlays
International affairs	1.6	0.6	0.9	0.8
General science, space and technology	0.7			0.5
Energy	0.5	0.3	0.2	0.2
Natural resources and environment	1.2	([4])		0.7
Agriculture	1.5	1.1	0.6	[2] 1.7
Commerce and housing credit	0.4	0.3	24.4	0.4
Transportation	2.4	([4])	([4])	0.5
Community and regional development	0.4	0.1	([4])	0.1
Education, training, employment, and social services	2.0	([4])		0.7
Health	0.8	([4])		0.5
Medicare	1.3			1.3
Income security [3]	1.8	([4])		1.0
Social security	0.2			0.1
Veterans benefits and services	0.4	([4])	2.9	0.3
Administration of justice	0.5			0.4
General government	0.5			0.5
General purpose fiscal assistance	0.1			0.1
Allowances	([4])			([4])
Total	16.4	2.3	29.0	9.9

[1] Includes new budget authority, obligation limitations, and other spending authority for 1987.
[2] Includes $0.9 billion in estimated 1988 outlay savings for Commodity Credit Corporation [CCC] programs (see discussion of special rule for CCC).
[3] Includes $0.2 billion in spending authority and outlays from eliminating automatic spending increases for Federal retirement programs that are credited as reductions in defense programs.
[4] $50 million or less.

SEQUESTRATIONS FOR 1987 BY AGENCY

[In billions of dollars]

Department or other unit	Spending authority [1]	Direct loan obligations	Loan guarantees	Estimated outlays
Legislative Branch	0.1			0.1
The Judiciary	0.1			0.1
Executive Office of the President	([3])			([3])
Funds appropriated to the President	1.1	0.4	([3])	0.5
Agriculture	2.1	1.6	0.7	[2] 2.2
Commerce	0.2		([3])	0.1
Defense-Military	18.7			9.2
Defense-Civil	0.4			0.3
Education	1.1	([3])		0.3
Energy	0.9			0.4
Health and Human Services, except Social Security	2.7	([3])		2.3
Health and Human Services, Social Security	0.2			0.1
Housing and Urban Development	1.1	0.1	24.1	0.1
Interior	0.5	([3])	([3])	0.4
Justice	0.3			0.2
Labor	0.6			0.3
State	0.3	([3])		0.2
Transportation	2.3	([3])	([3])	0.5
Treasury	0.5			0.4
Environmental Protection Agency	0.3	([3])		0.1
General Services Administration	0.1			([3])
National Aeronautics and Space Administration	0.6			0.4
Office of Presonnel Management	0.3			0.3
Small Business Administration	([3])	([3])	0.4	([3])
Veterans Administration	0.4	([3])	2.9	0.3
Other independent agencies	0.7	0.1	0.9	0.5
Allowances	([3])			([3])
Total	35.5	2.3	29.0	19.4

[1] Includes new budget authority for 1987 (except for expiring authority), unobligated balances from budget authority provided in previous years (Defense-Military and other function 050 programs and certain administrative costs), obligation limitations for and other spending authority for 1987.
[2] Includes $0.9 billion in estimated 1988 outlays savings for Commodity Credit Corporation [CCC] programs (see discussion of special rule for CCC).
[3] $50 million or less.

THE STOCK MARKET COLLAPSE OF 1986

The SPEAKER pro tempore. Under previous order of the House, the gentleman from Oregon [Mr. WEAVER] is recognized for 5 minutes.

Mr. WEAVER. Mr. Speaker, the stock market fall of 86 points in the Dow Jones industrial average yesterday was indeed a reminder of the 1929 stock market crash, and it is in my estimation the beginning of our own demise of our own stock market. I wrote an article which was published by the New Republic a year and a half ago in which I said that, first, the stock market would go way up, would hit 2,000 points. It came to about 1920. And then would crash. And I said that that would be the beginning of an economic depression in the United States.

These predictions of gloom and doom do no one any good unless there is a reason that we should explore why they are going to occur because, Mr. Speaker, it will not be the stock market crash that will be the big event in this cycle, this 55-year cycle that we are going to enter into now. The real estate crash will be by far worse, for the simple reason that in 1929 it was the stock market that had gone into the sky in a binge of buying, and its crash was the greatest.

In this cycle our cycle that is ending now, it has been real estate that has been most inflated. the prices most absurd. So we can anticipate a horrendous real estate crash in the years immediately to follow. The tax bill that is under way and out of conference now is of course not going to cause the real estate crash but it will certainly knock the props out from the already wobbly real estate market in this Nation. The basic reasons as to why this happens? Why are we now going to enter into a period of economic depression? Why is the stock market going to fall? Why is the real estate market going to crash? The answers are very simple. For the last 20 or 30 years we have been gradually building up in our entire economy, our entire society a more lax, loose, sloppy, greedy way of life. We have gone out and where, in the 1930's, we built efficient dams and produced electricity cheaply, we built small cars that operated cheaply on cheap oil, later on we got nuclear plants costing billions of dollars, oil that cost $35 a barrel.

I predicted in my New Republic article a year and a half ago that while the stock market would make one last trip up and then crash, that OPEC would collapse sooner than that and oil would fall to $12 a barrel. It indeed has and I assume it will go even lower.

The fundamental reason the world is now in trouble after that binge of the last 20 or 30 years of the "m" generation, greed, laxity, sloppiness, permissive life styles, permissive economics, permissive morals, the reason that that is going to collapse now is that all productive facets in the world are overproducing.

Our farmers are overproducing but also the computers and car manfacturers, et cetera, throughout the world are overproducing.

The world is awash in goods. That is an irony. People are starving, people are poor in the world, yet for those who can buy, the world is awash in goods and the price will be driven down for all goods. International trade wars are going to come simply because everybody is going to dump their goods on the market. It was very simple to real estate when the dollar fell a year ago it was not going to help restore our international trade because the companies in Taiwan, Korea, Japan, and Germany were going to continue manufacturing as much as they possible could because they had cash flow problems, bank loans, and that is going to continue, that is going to increase and accelerate, with the dumping of goods all over the world, on our markets where they can. Our farmers want to sell cheaper the grain that they grow that they are already taking a loss on. So this is all going to be deflationary. Now if we do however try to bail out the big New York banks when those banks collapse as they soon will, if we try to bail them out when they collapse from the loss of Third World loans, agriculture, real estate, energy loans, and put hundreds of billions of dollars into them and then try to bail out other people throughout the Nation when their houses fall below the value of their mortgages, if we try to do that, we will get a spike-up in inflation. But the most likely thing to occur is deflation because the money supply will, while accelerating today from the permissive rules of the Federal Reserve Board, presently the deflation will come primarily from the liquidation, bankruptcy, and foreclo-

sure of all the other values that we have.

MY ADVICE TO THE PRIVILEGED ORDERS

The SPEAKER pro tempore. Under previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, I wish to assure the distinguished Speaker pro tempore and my colleagues that it certainly is not my intention to utilize the privileged 60 minutes I have been authorized on this occasion. However, as I have on prior occasions, I am impelled to rise and speak at this precise moment because of the urgency of some of the issues that are not being addressed either by the Congress or by the administration and which I believe the American people should expect us to address. For one, I have spoken before on many occasions, now, since December 1981, but particularly within the last 9 months about continuing precarious situation of our armed services personnel, mostly airborne, that are part of the so-called peace-keeping contingent in the Sinai. This was born of a resolution that was entertained in the House of Representatives on December 12, 1981, with very few Members being present, and which I questioned at the time. All of this, of course, is in the RECORD of that day so that I shall not go into that.

I questioned it because the fact that this is the first time that the Congress has on its own since the first Congress in 1789 mandated and deployed the organization of an armed services component of our country and then deployed it, on congressional mandate, to form a part of what was going to be projected as an international consortium or as a peace-keeping group.

There were two things unique, besides the fact that this was the first time that the Congress had legislated in this matter. As you know, constitutionally speaking it is a question that the Constitution really leaves for the Commander in Chief of the executive branch or the Chief Magistrate, as they used to say, in the Constitutional Convention, and the actual raising of armies has been the constitutional prerogatives of the Congress. But once it has, then it is the Commander in Chief, the President, who is to order and mandate and carry on the operations of the defense of our country. The other uniqueness of it is that there is no clear mission, peace keeping or otherwise, as to what the purpose of the military, equipped as they are, is on this particular occasion on this mission.

There might be also a corollary strange thing about it, and that is the component nations that share this peace-keeping duty. I have mentioned before for the record that our contingency consists of some close to 2,000, not quite 2,000 troops. That is the statutory limitation that we placed in that resolution at the time of the formulation of the group under congressional mandate. The next highest contingent is 500 Fiji Islanders. Then there are about 500 Colombians, soldiers. Originally there were 1,000 but they had trouble in Colombia, and they took about half of their contingent back. The Colombian contingency was actually forced by then Secretary Alexander Haig, by actually inviting and then threatening the President of Colombia that if they did not comply, perhaps American aid would not be forthcoming. Our American citizens simply do not realize how in the name of all of us our Government and some of its temporary office holders have acted in such ways that we do not consider to be in keeping with the American tradition and that we associate with totalitarian-structured governments. Yet we are and continue to be, I have on repeated occasions pointed out how we have so immorally behaved in the case of Central America, and continue to do so, in which we are the direct cause of much blood shedding of indigenous fratricidal civil wars that to our great, I believe, detriment, as the future will inexorably show us, will prove.

In any event, I have pointed out that ever since the relationship between our country and some of the countries in the Arabic world have deteriorated, that the threat to the well-being of these contingents in the Sinai increases daily.

My immediate discussion has to do with a news item the day before yesterday in which negotiators representing the State of Israel and that of Egypt had, on a lower diplomatic level, failed to reach agreement on a border dispute and therefore were looking toward a hoped-for summit meeting between the actual executive leaders of both states.

I had pointed out that ever since the advent of these acts of terrorism those committed by the individuals and heads of state that we so roundly condemn, and I might also say with a great deal of sadness those that we have committed because we have committed acts that would fully be defined and are in world opinion, maybe not here in America because I think our constituents simply are not really informed, but I might add also sadly that outside in the external world public opinion is condemnatory of America's behavior, and we have authorized the attempt to assassinate leaders of some of the Central American nations.

It has been our so-called, supposedly under the 1947 act, exclusively operative in foreign shores, our intelligence community but which actually has violated that charter time and time again by conducting espionage and unauthorized surveillance of American citizens domestically in the boundaries of the continental United States.

□ 1600

But it has been cheeks by jowl with the assassins of the Arch Bishop of El Salvador, our own five American nuns, tragically all with what I consider to be a mistaken notion and a sadly aired misperception of what it is all about in this part of the world.

I feel that these men in the Sinai are highly vulnerable to those with whom we have engaged in actual acts of war, particularly some of the Arab nations that we are, in effect, conducting acts of war, and that finds us very vulnerable. The men in the Sinai, though, they are soldiers, are not equipped. They have no armor. They have no air power. I believe they are very susceptible to a well coordinated and supplied attack or force that would have minimal capability with the required armament, such as recoilless rifles and the like.

The question remains: What is the mission? Among whom are they keeping the peace?

As I said in December of 1981, it is an attempt to keep the peace between two friendly nations up to now, Israel and Egypt. So my question remains the same as I asked in 1981: Should Israel accuse Egypt of violating the understanding which was based on the Camp David agreements to which the United States was not a party signatory? What do we do? Do the peacekeeping forces march in case of an alleged violation on the complaint of one state marching to the other and vice versa? Or if attacked, as I fear—the danger is so great, and especially now when ways and means are being sought to embarrass this country and embarrass our leaders at this time.

Remember that in April with the bombing of Tripoli with the unquestionable intention of killing the leader in Libya, Qadhafi, that we also killed and maimed many innocent children and women. The fact is that weeks later, we were all boasting, and the leadership in the Congress approved that act. Some of us did not. Some of us were and continue to be highly critical of the President's decision along those lines. But we were not heard from. Everybody was drowned out in the chorus of endorsement by the leaders of the Congress on both sides of the aisle.

It was announced that this would put a stop to terrorism, that this would teach a lesson to those that were going to be hunting down Americans. But what has happened here is the reverse, just in a matter of less than 2 weeks. We had two Americans abducted in Beirut. We had the terri-

ble, terrible tragedy in Pakistan. There is no question that Americans were the object.

So that the increment for this violence has been intensed. The chances and the potential have not been reduced.

Therefore, in my humble opinion, one of the most forceful ways of demonstrating our vulnerability would be to foist an attack by whoever would consider that to be advantageous on these troops that we have in the Sinai.

I have requested the committees that have jurisdiction to continue to have some oversight on this, and ask these questions: What do we do, Mr. President? Suppose some, even if it is just one, of the soldiers, whether he is American or not, is attacked and is killed, what are we going to do? Are we going to back them up or are we going to send additional troops? What are we going to do? What is the mission?

This was the question I asked for 14 months of President Reagan in the case of his deployment of the marines in Beirut with the tragic consequences of 241 having been killed.

These things are disheartening because they are avoidable with wise, prudent, and dispassionate leadership, which I have said unfortunately is not the case of what we have in America today.

So I am again warning my colleagues as they go back over this weekend period to their districts that this is a constantly hovering ghost over us and should be. We cannot be comfortable and know that we have not defined the mission of these men. Remember we are talking about a little under 2,000 Americans, if nothing else, though we ought to be equally concerned about those who we have elicited to join us.

Second, I wish to discuss a subject matter that is agitating, and again which neither the Congress nor the administration seems to be cognizant of. It affects such States as my own, the State of Texas, and all of the petroleum product producing States, about 5 out of the 50.

We are in great distress. The fact is that here again our erstwhile competitors—some consider them enemies. I do not. I believe in Lyndon Johnson's old dictum. He said, "If you want to have a friend, you got to be a friend." I think that is true in relations collectively. So what to some of my colleagues is a confirmed enemy, I would not describe it as such because history does not show it to be as such.

Therefore, I feel that we have reached a point where we must realize that these countries, whether they are enemies or just plain economic competitors, are more skillful and have developed an ability to use such resources as energy, petroleum products, as a policy weapon. As of last week, for instance, Russia announced, even though there has been hostility between the two nations—I will recall for the record that Russia invaded Iran soon after the shooting phase of World War II was over with in 1946. At that time, we had a lot of muscle. We had a lot of moral suasive power plus muscle. And we really were the ones who compelled a rollback, together with the help of the British at that time, whose colonial inheritance we have accepted, both French as well as British. This is not the way we look upon ourselves, I know; but this is the way the external world looks upon us, and that is the way we are looked upon in the Middle East.

What I am saying is that despite the hostility, ideological, political, and international, between these border states of Russia and Iran, Russia announced a compact or an agreement with Iran to supply it with gas in its conduct of war against Iraq. Our State Department is praying every day that Iran will not win for a variety of reasons.

In the meanwhile, the President's bombing of Tripoli has unified in a way the Arab world, because Libya and its leader are Arabic. Iran is not. It is not Arabic. Iraq is Arabic. However, the question is: Why would Russia enter into a deal. It really actually produces more petroleum than we do, and this has been true now for several years.

□ 1610

But it uses it as a weapon because it knows that it is a diplomatic weapon that can be used in this unseasoned struggle for hegemony or power in the Middle East, and that either one, they feel that Iran can win or is going to or they are hedging their bets. Either way, they cannot lose.

We cannot do that. The Russians know also that if they help Iran and Iran does win that we will see our domestic oil production capability erode completely. This is the issue. The price of oil that has so descended, disastrously for the producing countries such as ours, Mexico, Great Britain, and its high cost energy source on the North Sea.

I have been reminding my colleagues, and this seems like a lonely voice in the wilderness, I have also been saying this back home. Everything I have been saying here, I say the same thing back home first. I have suggested to the Vice President of the United States, who is the only highly placed Texan in this administration, certain recommendations. One is that our strategic petroleum reserve utilized domestic production. You know that less than 1 percent of the oil we have placed in the strategic petroleum reserve is American, domestically produced oil. Right now 100 percent, 95 percent is Mexican production because in 1982 we entered into a deal in an attempt to save Mexico from financial disaster, and we have been adding these bandaids all along. Up to this year we were paying an undetermined cost which actually I have found out amounted to the then prevailing price of $27. Today, the price has gone below $10, below $8.

So I am saying that charity begins at home. We ought to reverse that. We ought to keep our strategic petroleum reserve. After all, we had a good reason for it, and we are going to find out we had better. The Arab Finance Minister, Yamani has never made any bones about what their strategem is, since 1973 and the boycott then. That is to make OPEC absolutely dominant and the American domestic capability absolutely subservient to their production. That is what it was then; that is what it is now. There is no such thing as a free market in the oil world. That is a lot of hogwash. Never has, never will.

The Saudis particularly, and its finance minister feels that they are ruling the roost, and in fact they are because they have been able to use their energy as a source of diplomatic leverage which we have not learned. We do not even take cognizance and certainly this administration does not, of this great stress now wracking our states that produce this vital source of energy.

I have suggested that. I have also suggested that we really put some meaning into that agency that we ourselves led to the creation of, in 1974 in the throes of the boycott, and that was the International Energy Agency; IEA. In concert with them, impose, in concert, a fee on this oil that one has to be dependent upon, but only in concert. We no longer can do this unilaterally, I want to announce to all and sundry.

I have suggested to the Vice President in a letter over 2 weeks ago, I have not had a reply, that he take the lead inasmuch as he would be very knowledgeable about the situation in this particular industry because he comes from it.

Third, I want to comment on also all of this that interconnects with these events, believe it or not. Central America, Libya, the Middle East, the economic situation of our country now, they are all interconnected. It is no longer isolated. No matter what we do domestically. You can try to make a worthwhile something out of a worthless piece of legislation like Gramm-Rudman which will never work; never could or never will. But let us say that we could. We still are at the mercy of forces over which we have no control. Yet we have not had any leadership, particularly in that branch of the Government that, through the Constitution and through history and precedent, is deposited in our President.

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There is no leadership forthcoming there in order to bring about the collective action under American leadership because this is what the world wants. It does not want, contrary to what the President thinks, star wars. It does not want elaborate weapons. It wants moral leadership from the American country that has loudly proclaimed the basic principles the world anxiously wants and is in a great, great disturbed state of mind collectively because they see us behaving in a contradictory way to our heritage of democracy and self-determination.

We were the revolutionary force in the world. We are now and have been for some years the status quo force. The old, colonial status quo. In the meanwhile I think we have the catastrophic, bankrupt definition of these policies is clearly exemplified by pointing out to you that just in the last 3 years our country for the first time in 1914 is a debtor nation. The biggest debtor in the world.

As of the last 4½ years it is no longer a producing country. We no longer produce. We are a consumption, importing nation. We are now, as of last year, importing more food into the United States than what we are exporting.

This would have been unbelievable just 8, 9, or 10 years ago. This is where we are today. Surely something is not working. Surely there is something wrong. Oh, there is great commotion right now because the news today was that the stock market level had plunged 86 points or something like that. Well, that should not be news. The same thing happened before. I have been taking this floor since 1979 and pointing out that this would happen. That you will have these big shifts that one week it announced with great alarm that it had plunged; next week that it had risen. In the next 2 weeks the Dow was going to go to 2,000. Then, all of a sudden, a headline like today's: Wow, it dropped 86 points overnight.

What does this mean? I have pointed out that the only reason that will happen and should and can be avoided is that you have had absolute instability in all of the financial markets since 1970 and 1971 when President Nixon took us off of the gold exchange system and we sent into the so-called floating exchange system, and also deflated or debased our currency three times. Once in 1971 and in 1972 and 1973.

Why do I say this? Because I happen to be on the committee, and have been on that committee since I came here 25 years ago, and happened to have been the chairman of the subcommittee and had warned and found myself completely steam-rollered by the so-called goldbugs in 1975 and 1976 with the consequences that sadly, tragically we had foreseen and only wish we had been dead wrong.

□ 1620

But you cannot be wrong when you know that what you are doing is simply adding in the old way, 2 plus 2 equals 4, that when you start getting in and out of the Congress, in and out of the economists' world, the doctrine that 4 minus 2 might equal 6, then you know you are in trouble.

All history shows that all bubbles burst, the tulip mania of the 18th century and other manias, manias of the last century here in our country. We called them depressions. We have had five money manias in less than one decade. We had the rates, the real estate investment trusts. We have had the money markets. Every one of them was based on a gridlock of high usurious, extortionate rates of interest.

I have gone into that in detail. I just want to point out that these are the interconnecting factors and to each one of these I have offered suggestions.

In the case of our oil dilemma, it would help very much, in fact I think it would extricate from the serious depressed state these five States are confronted with if we would utilize domestic production at the cost plus production factor for the strategic petroleum reserve, plus exerting leadership and getting into a consortium on the International Energy Agency, which is not only the answer to but the antidote to OPEC.

I sum up by saying that overall, philosophically, we will continue to err. Our councils will be clouded almost as if in a Greek tragedy, or if mandated through some divine intercession, punishing a people for their misdeeds, but which I do not think so. I believe that all of these things are divine actions. They are all not acts of God. High interest rates are not acts of God, even though everybody acts as if they are. They are manmade problems, and they are susceptible to manmade solutions. All we have to do is restrain, rein in this egregious, unheard of greed that has brought us to the brink of financial, fiscal, monetary and economic destruction and depression.

Russia. I have never shared those great fears. History shows that there are only two major nations in the last 300 years that have never gone to war against each other. Those two are the United States and the United Soviet Socialist Republic.

Second, the history of Russia's attitude to the United States since the last century and before has always been supportive. It was supportive during our revolutionary struggle. It was supportive 120 years ago when Czar Alexander III expressed great friendship, comradeship toward the American ideal. It was reinforced when we purchased Alaska, Seward's Folly, a dollar an acre. If the Russians had been these traditional enemies, they would have never given us Alaska, that close to home, that valuable land, as it has turned out to be.

On top of that, we have failed all along to want to study the Russian people's history. It is a very, very multiple body of people.

Interestingly enough, you have provinces such as Armenia, the Province of Armenia. There the official language is that tongue of that state, the Armenian language. Children going to school can go and have an option of studying in three schools: English, French or the Armenian language. Yet they are a part and parcel of the Union known as the Soviet State, and you have similar things with other states. Russia has had war between its eastern nation, China, and itself for more than 200 years. Our leaders have never perceived that world in the sight of reality. If they had, and I said this during the struggle, we would never once have had to lose 58,000 of ours, and untold treasury in what we call Vietnam, had we known and perceived the world.

We are on the verge now, presidential, inexorable, irreversible order of engaging in serious war in, involving casualties of our men in Central America, but most seriously, as I have said repeatedly, ensuring that we will have foisted and sown the seeds of this old European strife that led to war after war between kings and now peoples in these European countries, and developing into these horrible suicidal world wars. We are sowing those seeds among people that now exceed us in number by 80 million, who really have traditionally felt a great inspiration and admiration of the American people, maybe not at their government. Nobody likes to be invaded, and we have, in fact. We have invaded Nicaragua more than seven times just in this century, not counting the number that we invaded the last century. So these are histories and perceptions that I feel my colleagues ought to consider.

In the case of Russia, for instance, how many of you among my colleagues would ever pass a resolution naming a Russian as a semigod? Yet, I offer for the RECORD at this point from Parade magazine from September 17, 1986, this last Sunday, page 17, a story entitled "Life Above All," the story of Dr. Robert Gale, an American doctor who has become a Soviet hero. He went over. He is a bone marrow specialist. He went over not expecting, given the hatred that has been fostered, the way psychosis that President Reagan has fostered among us toward Russia that he would be re-

ceived, and yet they wrote a poem, and it is this way:

God is in a man who walked into a radiated complex,
Put out the fire, burned his skin and clothes,
Who didn't save himself,
But saved Odessa and Kiev,
A man who simply acted like a human being.

"God is in Dr. Gale who came to Russia." I offer this article in its entirety for the RECORD. Dr. Gale says simply; "This is too small a planet, with too big problems, to let politics interfere."

The article referred to follows:

LIFE ABOVE ALL

(By Michael Ryan)

Robert Peter Gale, M.D., Ph.D., is a high-tech physician, an expert on bone-marrow transplantation who probably doesn't even own a little black bag. But last spring, he became a sort of family doctor to an entire nation—an American physician who grew into an overnight hero in the Soviet Union.

As soon as he heard about the disastrous explosion and fire at the Chernobyl nuclear plant, Dr. Gale, who is chairman of the International Bone Marrow Transplant Registry, knew he wanted to help. The registry represents specialists in more than 30 countries, but the Soviet Union is conspicuously absent.

"They had the same day declined a generous offer of humanitarian aid from President Reagan and an offer of aid from several European countries, so my expectation of them accepting our offer was not very high," Gale, 40, recalled on a brief return to his UCLA office between visits to Moscow. But, to illustrate why he was welcomed to the USSR, Gale slid a piece of paper across his desk. "This is a poem that appeared in Pravda," he explained.

God is in a man who walked into a radiated complex.
Put out the fire, burned his skin and clothes,
Who didn't save himself,
But saved Odessa and Kiev,
A man who simply acted like a human being.

"They regard the firemen and the others who tried to put out the fire as great heroes," Gale said. "They weren't going to let political factors interfere with them getting the best medical treatment."

In Moscow, Gale performed transplants on 19 people who had tried to put out the fire at Chernobyl. Despite his efforts, six soon dies. (By last month, the fatality count had reached 30.)

"Human beings can show remarkable qualities in this kind of situation," Gale said with a warmth unusual in a man of science. "Many of these people performed heroic feats, way beyond what we would expect of someone just doing his job. One physician whom I had the privilege to take care of went repeatedly back into the reactor to help pull out firefighters who were injured, overcome by smoke. He probably knew better than any of them the potential risks. He ultimately died.

"They had a memorial on Soviet television for each of the victims. I knew many of them personally, and, on television, I could see them not as patients but as individuals, with their wives and children, in their firefighters' or military uniforms. I felt it very personally."

The experience of flying over the power station and the city of Pripyat in a military helicopter remains seared in his memory: "It was virtually impossible to speak because of the high level of noise," Gale recalled, "It was a time when you could just absorb and reflect on what was going on. What made it most dramatic was that there was relatively little physical destruction. The power plant looked like a burnt-out small apartment building, but there was a huge, deserted city of Pripyat a short distance away. [The entire population of Pripyat has been evacuated in an attempt to save the people from Chernobyl's radiation.] What was impressive was the absence of human life—of any life for that matter. That was when I first started to think about the full consequences of this."

"We have nuclear energy," he continued. "That is a fact. It's here, and it's not going to go away. There's no precedent for society going back on a technology that already exists. The obligation is on us to show that we've learned everything we can from Chernobyl."

Gale believes that the human price of Chernobyl will be exacted over the next 30 years. The number of people who will die as a result of their exposure will be somewhat under 1,000—a horrendous number, although much smaller than some early reports suggested. For those three decades, Gale and his colleagues from around the world plan to cooperate with Soviet scientists, following victims, treating them and learning all they can about the effects of radiation.

"The Soviets are enthusiastic about this," he said. "It's a long, expensive commitment that will tap the resources of scientists all over the world. But I think it's our obligation to do these studies. The Soviets want to give their citizens the best possible health care. That's just a basic human right—health care after an accident—and if there's anything known by Japanese or American or European scientists that would bear on their follow-up of these patients, they want to know it.

"Perhaps we can use this openness not just on a short term, but on a long term. Perhaps Chernobyl can bring our two leaders together. If we had so large an accident that we needed to get scientists from 20 countries involved, that we'll be sorting through the data for the next 20 years—can you imagine what would happen if there were intentional use of nuclear weapons? This is too small a planet, with too big problems, to let politics interfere."

As Gale spoke, my eyes wandered down to the second page of that poem from Pravda, which the doctor had not pointed out. It read:

God is . . . in Dr. Gale . . . who came to Russia . . .

Gale seemed slightly flustered as I read it aloud. As the conversation ended, he rose quickly and plucked a white lab coat from the back of his office door. He bade goodbye and hurried off to the hospital wing of the building.

Mr. Speaker, I say by way of conclusion what I have said now since long before I ever thought I would be in politics or in the Congress, much less, and that is that either we learn, my colleagues, that we were all born equal, or we will find curselves all being cremated equal.

I yield back the balance of my time.

CONFERENCE REPORT ON H.R. 3622

Mr. NICHOLS submitted the following conference report and statement on the bill (H.R. 3622) to amend title 10, United States Code, to strengthen the position of Chairman of the Joint Chiefs of Staff, to provide for more efficient and effective operation of the Armed Forces, and for other purposes:

CONFERENCE REPORT (H. REPT. 99-824)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the amendments of the Senate to the bill (H.R. 3622) to amend title 10, United States Code, to strengthen the position of Chairman of the Joint Chiefs of Staff, to provide for more efficient and effective operation of the Armed Forces, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS

(a) SHORT TITLE.—This Act may be cited as the "Goldwater-Nichols Department of Defense Reorganization Act of 1986".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References to title 10, United States Code.
Sec. 3. Policy.
TITLE I—DEPARTMENT OF DEFENSE GENERALLY
Sec. 101. Organization of the Department of Defense.
Sec. 102. Powers and duties of the Secretary of Defense.
Sec. 103. Modification of authority of Secretary of Defense to reorganize the Department of Defense.
Sec. 104. Office of the Secretary of Defense.
Sec. 105. Under Secretary for Policy and Director of Defense Research and Engineering.
Sec. 106. Assistant Secretaries of Defense.
Sec. 107. Comptroller of the Department of Defense.
Sec. 108. Inspector General of the Department of Defense.
Sec. 109. Management studies of Office of the Secretary of Defense.
Sec. 110. Technical and conforming amendments.
TITLE II—MILITARY ADVICE AND COMMAND FUNCTIONS
PART A—JOINT CHIEFS OF STAFF
Sec. 201. Revised functions of Chairman; establishment of Vice Chairman.
Sec. 202. Provisions relating to Vice Chairman.
Sec. 203. Participation in National Security Council meetings.

Sec. 204. Transition.
PART B—COMBATANT COMMANDS
Sec. 211. Establishment of combatant commands and authority of commanders.
Sec. 212. Initial review of combatant commands.
Sec. 213. Repeal of certain limitations on command structure.
Sec. 214. Transition.
TITLE III—DEFENSE AGENCIES AND DEPARTMENT OF DEFENSE FIELD ACTIVITIES
Sec. 301. Establishment and management of Defense Agencies and Department of Defense Field Activities.
Sec. 302. Definitions of Defense Agency and Department of Defense Field Activity.
Sec. 303. Reassessment of Defense Agencies and DOD Field Activities.
Sec. 304. Transition.
TITLE IV—JOINT OFFICER PERSONNEL POLICY
Sec. 401. Joint officer management.
Sec. 402. Promotion procedures for joint officers.
Sec. 403. Consideration of joint duty in senior general and flag officer appointments and advice on qualifications.
Sec. 404. Joint duty assignment as prerequisite for promotion to general or flag officer grade.
Sec. 405. Annual report on implementation.
Sec. 406. Transition.
TITLE V—MILITARY DEPARTMENTS
PART A—DEPARTMENT OF THE ARMY
Sec. 501. The Army Secretariat.
Sec. 502. The Army Staff.
Sec. 503. Authority to organize Army into commands, forces, and organizations.
PART B—DEPARTMENT OF THE NAVY
Sec. 511. The Navy Secretariat.
Sec. 512. Office of the Chief of Naval Operations.
Sec. 513. Headquarters, Marine Corps.
Sec. 514. Technical and clerical amendments.
PART C—DEPARTMENT OF THE AIR FORCE
Sec. 521. The Air Force Secretariat.
Sec. 522. The Air Staff.
Sec. 523. Authority to organize Air Force into separate organizations.
PART D—GENERAL CONFORMING AMENDMENTS AND TRANSITION PROVISIONS
Sec. 531. Conforming amendments.
Sec. 532. Transition.
TITLE VI—MISCELLANEOUS
Sec. 601. Reduction in personnel assigned to management headquarters activities and certain other activities.
Sec. 602. Reduction of reporting requirements.
Sec. 603. Annual report on national security strategy.
Sec. 604. Legislation to make required conforming changes in law.
Sec. 605. General technical amendments.

SEC. 2. REFERENCES TO TITLE 10, UNITED STATES CODE

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 10, United States Code.

SEC. 3. POLICY

In enacting this Act, it is the intent of Congress, consistent with the congressional declaration of policy in section 2 of the National Security Act of 1947 (50 U.S.C. 401)—

(1) to reorganize the Department of Defense and strengthen civilian authority in the Department;

(2) to improve the military advice provided to the President, the National Security Council, and the Secretary of Defense;

(3) to place clear responsibility on the commanders of the unified and specified combatant commands for the accomplishment of missions assigned to those commands;

(4) to ensure that the authority of the commanders of the unified and specified combatant commands is fully commensurate with the responsibility of those commanders for the accomplishment of missions assigned to their commands;

(5) to increase attention to the formulation of strategy and to contingency planning;

(6) to provide for more efficient use of defense resources;

(7) to improve joint officer management policies; and

(8) otherwise to enhance the effectiveness of military operations and improve the management and administration of the Department of Defense.

TITLE I—DEPARTMENT OF DEFENSE GENERALLY

SEC. 101. ORGANIZATION OF THE DEPARTMENT OF DEFENSE

(a) REORGANIZATION OF CODE.—(1) Part I of subtitle A is amended by inserting after chapter 1 the following new chapter:

"CHAPTER 2—DEPARTMENT OF DEFENSE

"Sec.
"111. Executive department.
"112. Department of Defense: seal.
"113. Secretary of Defense.
"114. Annual authorization of appropriations.
"115. Annual authorization of personnel strengths; annual manpower requirements report.
"116. Annual operations and maintenance report.
"117. Annual report on North Atlantic Treaty Organization readiness.
"118. Sale or transfer of defense articles: reports to Congress.".

(2) The sections of chapter 4 listed in the left-hand column of the following table are transferred (in the order they appear in that column) to the end of chapter 2 of such title, as added by paragraph (1), and are redesignated in accordance with the corresponding section numbers in the right-hand column of the table, as follows:

Existing Sections of Chapter 4	New Sections of Chapter 2
131	111
132	112
133	113
138	114
133a	117
133b	118

(3) The sections of chapter 4 listed in the left-hand column of the following table are transferred (in the order they appear in that column) to the end of chapter 3 of such title and are redesignated in accordance with the corresponding section numbers in the right-hand column of the table, as follows:

Existing Sections of Chapter 4	New Sections of Chapter 3
140	127
140a	128
140b	129
140c	130

(4) Part IV of subtitle A is amended by inserting after chapter 143 the following new chapter:

"CHAPTER 144—OVERSIGHT OF COST GROWTH IN MAJOR PROGRAMS

"Sec.
"2431. Weapons development and procurement schedules.
"2432. Selected Acquisition Reports.
"2433. Unit cost reports.
"2434. Independent cost estimates.".

(5) The sections of chapter 4 listed in the left-hand column of the following table are transferred (in the order they appear in that column) to chapter 144, as added by paragraph (4), and are redesignated in accordance with the corresponding section numbers in the right-hand column of the table, as follows:

Existing Sections of Chapter 4	New Sections of Chapter 3
139	2431
139a	2432
139b	2433
139c	2434

(6) The heading of chapter 4 is amended to read as follows:

"CHAPTER 4—OFFICE OF THE SECRETARY OF DEFENSE".

(7) Chapter 4 is amended by redesignating sections of such chapter listed in the left-hand column of the following table in accordance with the corresponding section numbers in the right-hand column of the table, as follows:

Existing Sections	New Sections
134	132
134a	133
136a	138
137	139

(b) ELEMENTS OF THE DEPARTMENT.—Section 111 (as transferred and redesignated by subsection (a)(2)) is amended—

(1) by inserting "(a)" before "The Department of Defense"; and

(2) by adding at the end the following:

"(b) The Department is composed of the following:

"(1) The Office of the Secretary of Defense.

"(2) The Joint Chiefs of Staff.

"(3) The Joint Staff.

"(4) The Defense Agencies.

"(5) Department of Defense Field Activities.

"(6) The Department of the Army.

"(7) The Department of the Navy.

"(8) The Department of the Air Force.

"(9) The unified and specified combatant commands.

"(10) Such other offices, agencies, activities, and commands as may be established or designated by law or by the President.

"(11) All offices, agencies, activities, and commands under the control or supervision of any element named in paragraphs (1) through (10).

"(c) If the President establishes or designates an office, agency, activity, or command in the Department of Defense of a kind other than those described in paragraphs (1) through (9) of subsection (b), the President shall notify Congress not later than 60 days thereafter.".

SEC. 102. POWERS AND DUTIES OF THE SECRETARY OF DEFENSE

Section 113 (as transferred and redesignated by section 101(a)(2)) is amended by adding at the end the following new subsections:

"(f) When a vacancy occurs in an office within the Department of Defense and the office is to be filled by a person appointed from civilian life by the President, by and with the advice and consent of the Senate, the Secretary of Defense shall inform the President of the qualifications needed by a person serving in that office to carry out effectively the duties and responsibilities of that office.

"(g)(1) The Secretary of Defense, with the advice and assistance of the Chairman of the Joint Chiefs of Staff, shall provide annually to the heads of Department of Defense components written policy guidance for the preparation and review of the program recommendations and budget proposals of their respective components. Such guidance shall include guidance on—

"(A) national security objectives and policies;

"(B) the priorities of military missions; and

"(C) the resource levels projected to be available for the period of time for which such recommendations and proposals are to be effective.

"(2) The Secretary of Defense, with the approval of the President and after consultation with the Chairman of the Joint Chiefs of Staff, shall provide annually to the Chairman written policy guidance for the preparation and review of contingency plans. Such guidance shall include guidance on the specific force levels and specific supporting resource levels projected to be available for the period of time for which such plans are to be effective.

"(h) The Secretary of Defense shall keep the Secretaries of the military departments informed with respect to military operations and activities of the Department of Defense that directly affect their respective responsibilities.".

SEC. 103. MODIFICATION OF AUTHORITY OF SECRETARY OF DEFENSE TO REORGANIZE THE DEPARTMENT OF DEFENSE

Section 125 is amended—

(1) by striking out "unless the Secretary" in the second sentence of subsection (a) and all that follows in that subsection and inserting in lieu thereof a period; and

(2) by inserting "vested by law in the Department of Defense, or an officer, official, or agency thereof" in subsection (b) after "function, power, or duty".

SEC. 104. OFFICE OF THE SECRETARY OF DEFENSE

Chapter 4 (as amended by section 101(a)) is further amended by inserting after the table of sections the following new section:

"§131. Office of the Secretary of Defense

"(a) There is in the Department of Defense an Office of the Secretary of Defense. The function of the Office is to assist the Secretary of Defense in carrying out his duties and responsibilities and to carry out such other duties as may be prescribed by law.

"(b) The Office of the Secretary of Defense is composed of the following:

"(1) The Deputy Secretary of Defense.

"(2) The Under Secretary of Defense for Acquisition.

"(3) The Under Secretary of Defense for Policy.

"(4) The Director of Defense Research and Engineering.

"(5) The Assistant Secretaries of Defense.

"(6) The Comptroller of the Department of Defense.

"(7) The Director of Operational Test and Evaluation.

"(8) The General Counsel of the Department of Defense.

"(9) The Inspector General of the Department of Defense.

"(10) Such other offices and officials as may be established by law or the Secretary of Defense may establish or designate in the Office.

"(c) Officers of the armed forces may be assigned or detailed to permanent duty in the Office of the Secretary of Defense. However, the Secretary may not establish a military staff in the Office of the Secretary of Defense.

"(d) The Secretary of each military department, and the civilian employees and members of the armed forces under the jurisdiction of the Secretary, shall cooperate fully with personnel of the Office of the Secretary of Defense to achieve efficient administration of the Department of Defense and to carry out effectively the authority, direction, and control of the Secretary of Defense.".

SEC. 105. UNDER SECRETARY FOR POLICY AND DIRECTOR OF DEFENSE RESEARCH AND ENGINEERING

Chapter 4 is further amended—

(1) by striking out the heading and subsection (a) of section 135 and inserting in lieu thereof the following:

"§134. Under Secretary of Defense for Policy

"(a) There is an Under Secretary of Defense for Policy, appointed from civilian life by the President, by and with the advice and consent of the Senate. A person may not be appointed as Under Secretary within 10 years after relief from active duty as a commissioned officer of a regular component of an armed force.

"(b)(1) The Under Secretary shall perform such duties and exercise such powers as the Secretary of Defense may prescribe.

"(2) The Under Secretary shall assist the Secretary of Defense—

"(A) in preparing written policy guidance for the preparation and review of contingency plans; and

"(B) in reviewing such plans.

"(c) The Under Secretary takes precedence in the Department of Defense after the Secretary of Defense, the Deputy Secretary of Defense, and the Secretaries of the military departments.

"§135. Director of Defense Research and Engineering

"(a) There is a Director of Defense Research and Engineering, appointed from civilian life by the President, by and with the advice and consent of the Senate."; and

(2) by striking out the first sentence of subsections (b) and (c) of section 135 (as designated by paragraph (1)).

SEC. 106. ASSISTANT SECRETARIES OF DEFENSE

(a) REPEAL OF SPECIFICATION OF CERTAIN ASSISTANT SECRETARIES.—Subsection (b) of section 136 is amended—

(1) by striking out paragraphs (2) and (3);

(2) by redesignating paragraphs (4) and (5) as paragraphs (2) and (3), respectively; and

(3) by striking out paragraph (6).

(b) PRECEDENCE.—Subsection (e) of such section is amended—

(1) by striking out "and the Under Secretaries of Defense" and inserting in lieu thereof "the Under Secretaries of Defense, and the Director of Defense Research and Engineering"; and

(2) by adding at the end the following new sentence: "The Assistant Secretaries take precedence among themselves in the order prescribed by the Secretary of Defense.".

(c) CONFORMING AMENDMENTS.—Such section is further amended—

(1) in subsection (c)—

(A) by striking out "him" in paragraph (1) and inserting in lieu thereof "the Assistant Secretary"; and

(B) by striking out ", or his designee" in paragraph (2);

(2) by striking out subsection (d); and

(3) by redesignating subsection (e) (as amended by subsection (b) of this section) as subsection (d).

SEC. 107. COMPTROLLER OF THE DEPARTMENT OF DEFENSE

Chapter 4 is further amended by inserting after section 136 the following new section:

"§ 137. Comptroller

"(a) There is a Comptroller of the Department of Defense, appointed from civilian life by the President, by and with the advice and consent of the Senate.

"(b) The Comptroller shall perform such duties and exercise such powers as the Secretary of Defense may prescribe.

"(c) The Comptroller shall advise and assist the Secretary of Defense—

"(1) in performing such budgetary and fiscal functions and duties, and in exercising such budgetary and fiscal powers, as are needed to carry out the powers of the Secretary;

"(2) in supervising and directing the preparation of budget estimates of the Department of Defense;

"(3) in establishing and supervising the execution of principles, policies, and procedures to be followed in connection with organizational and administrative matters relating to—

"(A) the preparation and execution of budgets;

"(B) fiscal, cost, operating, and capital property accounting; and

"(C) progress and statistical reporting;

"(4) in establishing and supervising the execution of policies and procedures relating to the expenditure and collection of funds administered by the Department of Defense; and

"(5) in establishing uniform terminologies, classifications, and procedures concerning matters covered by clauses (1) through (4).".

SEC. 108. INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE

Chapter 4 is further amended by inserting after section 139 (as redesignated by section 101(a)) the following new section:

"§ 140. Inspector General

"(a) There is an Inspector General of the Department of Defense, who is appointed as provided in section 3 of the Inspector General Act of 1978 (Public Law 95-452; 5 U.S.C. App. 3).

"(b) The Inspector General performs the duties, has the responsibilities, and exercises the powers specified in the Inspector General Act of 1978.".

SEC. 109. MANAGEMENT STUDIES OF OFFICE OF THE SECRETARY OF DEFENSE

(a) SECRETARY OF DEFENSE STUDY.—The Secretary of Defense shall conduct a study of the functions and organization of the Office of the Secretary of Defense. The study shall consider whether the present allocation of functions to, and the organizational structure of, the Office constitute the most effective, efficient, and economical allocation and structure of the Office to assist the Secretary in carrying out his duties and responsibilities. The study shall include consider-

ation of each of the matters specified in subsection (d).

(b) SERVICE SECRETARIES JOINT STUDY.—(1) The Secretaries of the military departments shall conduct a joint study of the functions and organization of the Office of the Secretary of Defense. The study shall be conducted independently of the study conducted by the Secretary of Defense under subsection (a). The Secretaries shall submit a joint report to the Secretary of Defense on such study at a time specified by the Secretary. Except as provided in paragraph (2), the report shall include a discussion of and recommendations concerning each of the matters specified in subsection (d).

(2) The Secretary of Defense shall determine the extent to which, and prescribe the procedures under which, the Secretaries of the military departments shall study the matters specified in subsection (d)(1)(A) relating to contingency planning and military operations.

(c) CHAIRMAN OF JCS STUDY.—The Chairman of the Joint Chiefs of Staff shall conduct a study of the functions and organization of the Office of the Secretary of Defense. The study shall be conducted independently of the study conducted by the Secretary of Defense under subsection (a). The Chairman shall submit a report to the Secretary of Defense on such study at a time specified by the Secretary. The report shall include a discussion of and recommendations concerning the matters specified in paragraphs (1)(C), (1)(D), (2), (3), (5), and (6) of subsection (d).

(d) MATTERS TO BE INCLUDED.—The study required by subsection (a) shall include consideration of the following:

(1) Whether the present organization of the Office—

(A) is optimally structured to assist the Secretary of Defense in the effective exercise of civilian control of the Department of Defense, including civilian control of—

(i) defense policy development and strategic planning;

(ii) program and budget development;

(iii) policy, program, and budget execution;

(iv) contingency planning; and

(v) military operations;

(B) is the most effective and efficient organization for the initiation, development, and articulation of defense policy;

(C) ensures that strategic planning and contingency planning are linked to, and derived from, national security strategy, policies, and objectives; and

(D) inhibits integration of the capabilities of the Armed Forces along mission lines.

(2) Whether the planning, programming, and budgeting system of the Department of Defense (including the role of the Office in such system) needs to be revised—

(A) to strengthen strategic planning and policy direction;

(B) to ensure that strategic planning is consistent with national security strategy, policies, and objectives;

(C) to ensure that there is a sufficient relationship between strategic planning and the resource levels projected to be available for the period for which the planning is to be effective;

(D) to ensure that strategic planning and program development give sufficient attention to alliances with other nations;

(E) to provide for more effective oversight, control, and evaluation of policy, program, and budget execution; and

(F) to ensure that past program and budget decisions are effectively evaluated, that such evaluations are supported by consistent, complete, and timely financial and performance data, and that such evaluations are fully considered in the next planning, programming, and budgeting cycle.

(3) Whether the major force program categories of the Five-Year Defense Plan could be restructured to better assist decisionmaking and management control.

(4) Means to improve and strengthen the oversight function within each element of the Office in policy areas not addressed by the planning, programming, and budgeting system.

(5) Factors inhibiting efficient and effective execution of the functions of the Office, including factors relating to—

(A) duplication of functions (both within the Office and between the Office and other elements of the Department);

(B) insufficient information; and

(C) insufficient resources (including personnel).

(6) Alternative allocations of authorities and functions of the Office and other reorganization proposals for the Office, including the desirability of—

(A) establishing Under Secretaries of Defense for mission-oriented areas of responsibility;

(B) decentralizing functions of the Office;

(C) reducing the number of officials reporting directly to the Secretary of Defense; and

(D) changing the ratio of members of the Armed Forces to civilian employees in the Office.

(7) Whether political appointees in the Office of the Secretary of Defense have sufficient experience and expertise, upon appointment, to be capable of contributing immediately to effective policy formulation and management.

(e) ANALYSIS OF CIVILIAN CONTROL.—(1) The Secretary of Defense, in considering under subsection (d)(1)(A) whether effective civilian control of the Department of Defense is best assisted by the current structure of the Office, shall examine the functions performed in the Office by—

(A) members of the Armed Forces on the active-duty list; and

(B) members of the Armed Forces in a retired status and members of the reserve components who are employed in a civilian capacity.

(2) Such examination shall include a determination of the total number of positions in the Office of the Secretary of Defense above grade GS-8 and the military equivalent (as determined by the Secretary of Defense), and of such number—

(A) the number of positions held by members of the Armed Forces on the active-duty list, shown for the military equivalent of each civilian pay grade by number and as a percentage of the total number of positions in the Office in the civilian pay grade concerned and in the military equivalent of such civilian pay grade;

(B) the number of such positions held by members of the Armed Forces in a retired status who are serving in a civilian capacity, shown for each civilian pay grade in the same manner as provided under clause (A); and

(C) the number of such positions held by members of the reserve components who are serving in a civilian capacity, shown for each civilian pay grade in the same manner as provided under clause (A).

(3) In determining the total number of positions in the Office of the Secretary of Defense in grades above GS-8, the Secretary shall exclude positions which are primarily clerical or secretarial.

(f) INDEPENDENT CONTRACTOR STUDY.—The Secretary shall provide for an independent study to be carried out by a contractor to consider the same matters required to be considered by the Secretary under subsection (d). The Secretary shall ensure that the contractor has full access to such information as the contractor requires and that the contractor otherwise receives full cooperation from all officials and entities of the Department of Defense.

(g) REPORT TO CONGRESS.—(1) The Secretary of Defense shall submit to Congress a report on the Secretary's study under subsection (a). The report shall include—

(A) the findings and conclusions of the Secretary with respect to each of the matters set forth in subsection (d);

(B) the findings and statistical determinations required under subsection (e); and

(C) any recommendations of the Secretary for organizational changes in the Office of the Secretary of Defense and a description of the means for implementing each recommendation.

(2) The Secretary shall include with the report a copy of the reports to the Secretary under subsections (b) and (c) and a copy of the report of the independent contractor under subsection (f), together with such comments on each such report as the Secretary considers appropriate.

(3) The report under this subsection shall be submitted not later than one year after the date of the enactment of this Act.

SEC. 110. TECHNICAL AND CONFORMING AMENDMENTS

(a) CONFORMING AMENDMENT FOR OFFICE OF SECRETARY OF DEFENSE.—Chapter 41 is amended—

(1) by striking out section 718; and

(2) by striking out the item relating to that section in the table of sections at the beginning of such chapter.

(b) REVISION OF OLD SECTION 138.—Section 114 (as transferred and redesignated by section 101(a)) is amended—

(1) by striking out the section heading and inserting in lieu thereof the following:

"§114. Annual authorization of appropriations";

(2) by transferring subsection (h) to the end of section 113 (as transferred and redesignated by section 101(a) and amended by section 102) and redesignating such subsection as subsection (i);

(3) by striking out "(as defined in subsection (f))" in subsection (a)(6);

(4) by inserting after subsection (a) the following:

"§ 115. Annual authorization of personnel strengths; annual manpower requirements report";

(5) by redesignating subsections (b), (c), and (d) as subsections (a), (b), and (c), respectively;

(6) by inserting after such subsection (c) (as so redesignated) the following:

"§ 116. Annual operations and maintenance report";

(7) by redesignating subsection (e) as subsection (a);

(8) by transferring subsection (f)(1) to the end of section 114 (as determined by the amendments made by this subsection) and striking out "(f)(1)" therein and inserting in lieu thereof "(b)";

(9) by striking out "(2) In subsection (e)" and inserting in lieu thereof "(b) In this section";

(10) by striking out "(A) 'Combat" and "(B) 'Major" and inserting in lieu thereof "(1) The term 'combat" and "(2) The term 'major", respectively; and

(11) by transferring subsections (g) and (i) to the end of section 114 (as determined by the amendments made by this subsection) and redesignating such subsections as subsections (c) and (d), respectively.

(c) TECHNICAL AMENDMENTS.—(1) Section 133 (as redesignated by section 101(a)) is amended by inserting "of Defense" in subsection (a) after "Under Secretary".

(2) The heading of chapter 3 is amended to read as follows:

"CHAPTER 3—GENERAL POWERS AND FUNCTIONS".

(d) REVISED SECTION HEADINGS.—(1) The heading of section 112 (as redesignated by section 101(a)) is amended to read as follows:

"§ 112. Department of Defense: seal".

(2) The heading of section 113 (as redesignated by section 101(a)) is amended to read as follows:

"§ 113. Secretary of Defense".

(3) The heading of section 117 (as redesignated by section 101(a)) is amended to read as follows:

"§ 117. Annual report on North Atlantic Treaty Organization readiness".

(4) The heading of section 127 (as redesignated by section 101(a)) is amended to read as follows:

"§ 127. Emergency and extraordinary expenses".

(5) The heading of section 128 (as redesignated by section 101(a)) is amended to read as follows:

"§ 128. Funds transfers for foreign cryptologic support".

(6) The heading of section 130 (as redesignated by section 101(a)) is amended to read as follows:

"§ 130. Authority to withhold from public disclosure certain technical data".

(7) The heading of section 132 (as redesignated by section 101(a)) is amended to read as follows:

"§ 132. Deputy Secretary of Defense".

(8) The heading of section 133 (as redesignated by section 101(a)) is amended to read as follows:

"§ 133. Under Secretary of Defense for Acquisition".

(9) The heading of section 136 is amended to read as follows:

"§ 136. Assistant Secretaries of Defense".

(10) The heading of section 138 (as redesignated by section 101(a)) is amended to read as follows:

"§ 138. Director of Operational Test and Evaluation".

(11) The heading of section 139 (as redesignated by section 101(a)) is amended to read as follows:

"§ 139. General Counsel".

(12) The heading of section 2431 (as redesignated by section 101(a)) is amended to read as follows:

"§ 2431. Weapons development and procurement schedules".

(13) The heading of section 2432 (as redesignated by section 101(a)) is amended to read as follows:

"§ 2432. Selected Acquisition Reports".

(14) The heading of section 2433 (as redesignated by section 101(a)) is amended to read as follows:

"§ 2433. Unit cost reports".

(15) The heading of section 2434 (as redesignated by section 101(a)) is amended to read as follows:

"§ 2434. Independent cost estimates".

(e) CLERICAL AMENDMENTS FOR REORGANIZATION OF CHAPTER 4.—(1) The table of sections at the beginning of chapter 3 is amended by adding at the end the following new items:

"127. Emergency and extraordinary expenses.
"128. Funds transfers for foreign cryptologic support.
"129. Prohibition of certain civilian personnel management constraints.
"130. Authority to withhold from public disclosure certain technical data.".

(2) The table of sections at the beginning of chapter 4 is amended to read as follows:

"Sec.
"131. Office of the Secretary of Defense.
"132. Deputy Secretary of Defense.
"133. Under Secretary of Defense for Acquisition.
"134. Under Secretary of Defense for Policy.
"135. Director of Defense Research and Engineering.
"136. Assistant Secretaries of Defense.
"137. Comptroller.
"138. Director of Operational Test and Evaluation.
"139. General Counsel.
"140. Inspector General.".

(g) CROSS REFERENCE AMENDMENTS TO TITLE 10.—(1) Section 138(a)(2)(B) (as redesignated by section 101(a)) is amended by striking out "section 139a(a)(1)" and inserting in lieu thereof "section 2432(a)(1)".

(2) Section 1621(3) is amended by striking out "section 139a(a)(1)" and inserting in lieu thereof "section 2432(a)(1)".

(3) Section 2305a(d) is amended—

(A) by striking out "section 139a(a)" in paragraph (1) and inserting in lieu thereof "section 2432(a)"; and

(B) by striking out "section 139a(a)(1)(B)" both places it appears in paragraph (2) and inserting in lieu thereof "section 2432(a)(1)(B)".

(4) Section 2362(e)(2) is amended by striking out "section 139a" and inserting in lieu thereof "section 2432".

(5) Section 2403(e) is amended by striking out "section 139a" in paragraphs (1) and (2) and inserting in lieu thereof "section 2432".

(6) Section 2431 (as redesignated by section 101(a)) is amended by striking out "section 138(a)" in subsection (a) and inserting in lieu thereof "section 114(a)".

(7) Section 2432(c) (as redesignated by section 101(a)) is amended by striking out "section 139" in subsection (c)(1) and inserting in lieu thereof "section 2431".

(8) Section 2433 (as redesignated by section 101(a)) is amended—

(A) by striking out "section 139a(a)" in subsection (a)(1) and inserting in lieu thereof "section 2432(a)"; and

(B) by striking out "section 139a(b)(3)" in subsection (b) and inserting in lieu thereof "section 2432(b)(3)".

(9) Section 2434(b)(1) (as redesignated by section 101(a)) is amended by striking out "section 139a(a)(1)" and inserting in lieu thereof "section 2432(a)(1)".

(10) Section 8062(e) is amended by striking out "section 138" and inserting in lieu thereof "section 114".

(h) CROSS REFERENCE AMENDMENTS TO OTHER ACTS.—(1) Section 51(c)(1) of the Arms Export Control Act (22 U.S.C. 2795(c)(1)) is amended by striking out "section 138(g)" and inserting in lieu thereof "section 114(c)".

(2) Section 53(b) of the Arms Export Control Act (22 U.S.C. 2795b(b)) is amended by striking out "section 139(a)" and inserting in lieu thereof "section 2431(a)".

(3) Section 303(c) of the Internal Security Act of 1950 (50 U.S.C. 833(c)) is amended by striking out "section 133(d)" and inserting in lieu thereof "section 113(d)".

TITLE II—MILITARY ADVICE AND COMMAND FUNCTIONS

PART A—JOINT CHIEFS OF STAFF

SEC. 201. REVISED FUNCTIONS OF CHAIRMAN; ESTABLISHMENT OF VICE CHAIRMAN

Chapter 5 is amended to read as follows:

"CHAPTER 5—JOINT CHIEFS OF STAFF

"Sec.
"151. Joint Chiefs of Staff: composition; functions.
"152. Chairman: appointment; rank.
"153. Chairman: functions.
"154. Vice Chairman.
"155. Joint Staff.

"§151. Joint Chiefs of Staff: composition; functions

"(a) COMPOSITION.—There are in the Department of Defense the Joint Chiefs of Staff, headed by the Chairman of the Joint Chiefs of Staff. The Joint Chiefs of Staff consist of the following:

"(1) The Chairman.
"(2) The Chief of Staff of the Army.
"(3) The Chief of Naval Operations.
"(4) The Chief of Staff of the Air Force.
"(5) The Commandant of the Marine Corps.

"(b) FUNCTION AS MILITARY ADVISERS.—(1) The Chairman of the Joint Chiefs of Staff is the principal military adviser to the President, the National Security Council, and the Secretary of Defense.

"(2) The other members of the Joint Chiefs of Staff are military advisers to the President, the National Security Council, and the Secretary of Defense as specified in subsections (d) and (e).

"(c) CONSULTATION BY CHAIRMAN.—(1) In carrying out his functions, duties, and responsibilities, the Chairman shall, as he considers appropriate, consult with and seek the advice of—

"(A) the other members of the Joint Chiefs of Staff; and

"(B) the commanders of the unified and specified combatant commands.

"(2) Subject to subsection (d), in presenting advice with respect to any matter to the President, the National Security Council, or the Secretary of Defense, the Chairman shall, as he considers appropriate, inform the President, the National Security Council, or the Secretary of Defense, as the case may be, of the range of military advice and opinion with respect to that matter.

"(d) ADVICE AND OPINIONS OF MEMBERS OTHER THAN CHAIRMAN.—(1) A member of the Joint Chiefs of Staff (other than the Chairman) may submit to the Chairman advice or an opinion in disagreement with, or advice or an opinion in addition to, the advice presented by the Chairman to the President, the National Security Council, or the Secretary of Defense. If a member submits such advice or opinion, the Chairman shall present the advice or opinion of such member at the same time he presents his own advice to the President, the National Security Council, or the Secretary of Defense, as the case may be.

"(2) The Chairman shall establish procedures to ensure that the presentation of his

own advice to the President, the National Security Council, or the Secretary of Defense is not unduly delayed by reason of the submission of the individual advice or opinion of another member of the Joint Chiefs of Staff.

"(e) ADVICE ON REQUEST.—The members of the Joint Chiefs of Staff, individually or collectively, in their capacity as military advisers, shall provide advice to the President, the National Security Council, or the Secretary of Defense on a particular matter when the President, the National Security Council, or the Secretary requests such advice.

"(f) RECOMMENDATIONS TO CONGRESS.—After first informing the Secretary of Defense, a member of the Joint Chiefs of Staff may make such recommendations to Congress relating to the Department of Defense as he considers appropriate.

"(g) MEETINGS OF JCS.—(1) The Chairman shall convene regular meetings of the Joint Chiefs of Staff.

"(2) Subject to the authority, direction, and control of the President and the Secretary of Defense, the Chairman shall—

"(A) preside over the Joint Chiefs of Staff;

"(B) provide agenda for the meetings of the Joint Chiefs of Staff (including, as the Chairman considers appropriate, any subject for the agenda recommended by any other member of the Joint Chiefs of Staff);

"(C) assist the Joint Chiefs of Staff in carrying on their business as promptly as practicable; and

"(D) determine when issues under consideration by the Joint Chiefs of Staff shall be decided.

"§ 152. Chairman: appointment; rank

"(a) APPOINTMENT; TERM OF OFFICE.—(1) There is a Chairman of the Joint Chiefs of Staff, appointed by the President, by and with the advice and consent of the Senate, from the officers of the regular components of the armed forces. The Chairman serves at the pleasure of the President for a term of two years, beginning on October 1 of odd-numbered years. Subject to paragraph (3), an officer serving as Chairman may be reappointed in the same manner for two additional terms. However, in time of war there is no limit on the number of reappointments.

"(2) In the event of the death, retirement, resignation, or reassignment of the officer serving as Chairman before the end of the term for which the officer was appointed, an officer appointed to fill the vacancy shall serve as Chairman only for the remainder of the original term, but may be reappointed as provided in paragraph (1).

"(3) An officer may not serve as Chairman or Vice Chairman of the Joint Chiefs of Staff if the combined period of service of such officer in such positions exceeds six years. However, the President may extend to eight years the combined period of service an officer may serve in such positions if he determines such action is in the national interest. The limitations of this paragraph do not apply in time of war.

"(b) REQUIREMENT FOR APPOINTMENT.—(1) The President may appoint an officer as Chairman of the Joint Chiefs of Staff only if the officer has served as—

"(A) the Vice Chairman of the Joint Chiefs of Staff;

"(B) the Chief of Staff of the Army, the Chief of Naval Operations, the Chief of Staff of the Air Force, or the Commandant of the Marine Corps; or

"(C) the commander of a unified or specified combatant command.

"(2) The President may waive paragraph (1) in the case of an officer if the President determines such action is necessary in the national interest.

"(c) GRADE AND RANK.—The Chairman, while so serving, holds the grade of general or, in the case of an officer of the Navy, admiral and outranks all other officers of the armed forces. However, he may not exercise military command over the Joint Chiefs of Staff or any of the armed forces.

"§ 153. Chairman: functions

"(a) PLANNING; ADVICE; POLICY FORMULATION.—Subject to the authority, direction, and control of the President and the Secretary of Defense, the Chairman of the Joint Chiefs of Staff shall be responsible for the following:

"(1) STRATEGIC DIRECTION.—Assisting the President and the Secretary of Defense in providing for the strategic direction of the armed forces.

"(2) STRATEGIC PLANNING.—(A) Preparing strategic plans, including plans which conform with resource levels projected by the Secretary of Defense to be available for the period of time for which the plans are to be effective.

"(B) Preparing joint logistic and mobility plans to support those strategic plans and recommending the assignment of logistic and mobility responsibilities to the armed forces in accordance with those logistic and mobility plans.

"(C) Performing net assessments to determine the capabilities of the armed forces of the United States and its allies as compared with those of their potential adversaries.

"(3) CONTINGENCY PLANNING; PREPAREDNESS.—(A) Providing for the preparation and review of contingency plans which conform to policy guidance from the President and the Secretary of Defense.

"(B) Preparing joint logistic and mobility plans to support those contingency plans and recommending the assignment of logistic and mobility responsibilities to the armed forces in accordance with those logistic and mobility plans.

"(C) Advising the Secretary on critical deficiencies and strengths in force capabilities (including manpower, logistic, and mobility support) identified during the preparation and review of contingency plans and assessing the effect of such deficiencies and strengths on meeting national security objectives and policy and on strategic plans.

"(D) Establishing and maintaining, after consultation with the commanders of the unified and specified combatant commands, a uniform system of evaluating the preparedness of each such command to carry out missions assigned to the command.

"(4) ADVICE ON REQUIREMENTS, PROGRAMS, AND BUDGET.—(A) Advising the Secretary, under section 163(b)(2) of this title, on the priorities of the requirements identified by the commanders of the unified and specified combatant commands.

"(B) Advising the Secretary on the extent to which the program recommendations and budget proposals of the military departments and other components of the Department of Defense for a fiscal year conform with the priorities established in strategic plans and with the priorities established for the requirements of the unified and specified combatant commands.

"(C) Submitting to the Secretary alternative program recommendations and budget proposals, within projected resource levels and guidance provided by the Secretary, in order to achieve greater conformance with the priorities referred to in clause (B).

"(D) Recommending to the Secretary, in accordance with section 166 of this title, a budget proposal for activities of each unified and specified combatant command.

"(E) Advising the Secretary on the extent to which the major programs and policies of the armed forces in the area of manpower conform with strategic plans.

"(F) Assessing military requirements for defense acquisition programs.

"(5) DOCTRINE, TRAINING, AND EDUCATION.—(A) Developing doctrine for the joint employment of the armed forces.

"(B) Formulating policies for the joint training of the armed forces.

"(C) Formulating policies for coordinating the military education and training of members of the armed forces.

"(6) OTHER MATTERS.—(A) Providing for representation of the United States on the Military Staff Committee of the United Nations in accordance with the Charter of the United Nations.

"(B) Performing such other duties as may be prescribed by law or by the President or the Secretary of Defense.

"(b) REPORT ON ASSIGNMENT OF ROLES AND MISSIONS.—(1) Not less than once every three years, or upon the request of the President or the Secretary of Defense, the Chairman shall submit to the Secretary of Defense a report containing such recommendations for changes in the assignment of functions (or roles and missions) to the armed forces as the Chairman considers necessary to achieve maximum effectiveness of the armed forces. In preparing each such report, the Chairman shall consider (among other matters) the following:

"(A) Changes in the nature of the threats faced by the United States.

"(B) Unnecessary duplication of effort among the armed forces.

"(C) Changes in technology that can be applied effectively to warfare.

"(2) The Chairman shall include in each such report recommendations for such changes in policies, directives, regulations, and legislation as may be necessary to achieve the changes in the assignment of functions recommended by the Chairman.

"§ 154. Vice Chairman

"(a) APPOINTMENT.—(1) There is a Vice Chairman of the Joint Chiefs of Staff, appointed by the President, by and with the advice and consent of the Senate, from the officers of the regular components of the armed forces.

"(2) The Chairman and Vice Chairman may not be members of the same armed force. However, the President may waive the restriction in the preceding sentence for a limited period of time in order to provide for the orderly transition of officers appointed to serve in the positions of Chairman and Vice Chairman.

"(3) The Vice Chairman serves at the pleasure of the President for a term of two years and may be reappointed in the same manner for two additional terms. However, in time of war there is no limit on the number of reappointments.

"(b) REQUIREMENT FOR APPOINTMENT.—(1) The President may appoint an officer as Vice Chairman of the Joint Chiefs of Staff only if the officer—

"(A) has the joint specialty under section 661 of this title; and

"(B) has served in at least one joint duty assignment (as defined under section 668(b) of this title) as a general or flag officer.

"(2) The President may waive paragraph (1) in the case of an officer if the President determines such action is necessary in the national interest.

"(c) DUTIES.—The Vice Chairman performs such duties as may be prescribed by the Chairman with the approval of the Secretary of Defense.

"(d) FUNCTION AS ACTING CHAIRMAN.—When there is a vacancy in the office of Chairman or in the absence or disability of the Chairman, the Vice Chairman acts as Chairman and performs the duties of the Chairman until a successor is appointed or the absence or disability ceases.

"(e) SUCCESSION AFTER CHAIRMAN AND VICE CHAIRMAN.—When there is a vacancy in the offices of both Chairman and Vice Chairman or in the absence or disability of both the Chairman and the Vice Chairman, or when there is a vacancy in one such office and in the absence or disability of the officer holding the other, the President shall designate a member of the Joint Chiefs of Staff to act as and perform the duties of the Chairman until a successor to the Chairman or Vice Chairman is appointed or the absence or disability of the Chairman or Vice Chairman ceases.

"(f) PARTICIPATION IN JCS MEETINGS.—The Vice Chairman may participate in all meetings of the Joint Chiefs of Staff, but may not vote on a matter before the Joint Chiefs of Staff except when acting as Chairman.

"(g) GRADE AND RANK.—The Vice Chairman, while so serving, holds the grade of general or, in the case of an officer of the Navy, admiral and outranks all other officers of the armed forces except the Chairman. The Vice Chairman may not exercise military command over the Joint Chiefs of Staff or any of the armed forces.

"§ 155. Joint Staff

"(a) APPOINTMENT OF OFFICERS TO JOINT STAFF.—(1) There is a Joint Staff under the Chairman of the Joint Chiefs of Staff. The Joint Staff assists the Chairman and, subject to the authority, direction, and control of the Chairman, the other members of the Joint Chiefs of Staff and the Vice Chairman in carrying out their responsibilities.

"(2) Officers of the armed forces (other than the Coast Guard) assigned to serve on the Joint Staff shall be selected by the Chairman in approximately equal numbers from—

"(A) the Army;

"(B) the Navy and the Marine Corps; and

"(C) the Air Force.

"(3) Selection of officers of an armed force to serve on the Joint Staff shall be made by the Chairman from a list of officers submitted by the Secretary of the military department having jurisdiction over that armed force. Each officer whose name is submitted shall be among those officers considered to be the most outstanding officers of that armed force. The Chairman may specify the number of officers to be included on any such list.

"(b) DIRECTOR.—The Chairman of the Joint Chiefs of Staff, after consultation with the other members of the Joint Chiefs of Staff and with the approval of the Secretary of Defense, may select an officer to serve as Director of the Joint Staff.

"(c) MANAGEMENT OF JOINT STAFF.—The Chairman of the Joint Chiefs of Staff manages the Joint Staff and the Director of the Joint Staff. The Joint Staff shall perform such duties as the Chairman prescribes and shall perform such duties under such procedures as the Chairman prescribes.

"(d) OPERATION OF JOINT STAFF.—The Secretary of Defense shall ensure that the Joint Staff is independently organized and operated so that the Joint Staff supports the Chairman of the Joint Chiefs of Staff in meeting the congressional purpose set forth in the last clause of section 2 of the National Security Act of 1947 (50 U.S.C. 401) to provide—

"(1) for the unified strategic direction of the combatant forces;

"(2) for their operation under unified command; and

"(3) for their integration into an efficient team of land, naval, and air forces.

"(e) PROHIBITION OF FUNCTION AS ARMED FORCES GENERAL STAFF.—The Joint Staff shall not operate or be organized as an overall Armed Forces General Staff and shall have no executive authority. The Joint Staff may be organized and may operate along conventional staff lines.

"(f) TOUR OF DUTY OF JOINT STAFF OFFICERS.—(1) An officer who is assigned or detailed to permanent duty on the Joint Staff may not serve for a tour of duty of more than four years. However, such a tour of duty may be extended with the approval of the Secretary of Defense.

"(2) In accordance with procedures established by the Secretary of Defense, the Chairman of the Joint Chiefs of Staff may suspend from duty and recommend the reassignment of any officer assigned to the Joint Staff. Upon receipt of such a recommendation, the Secretary concerned shall promptly reassign the officer.

"(3) An officer completing a tour of duty with the Joint Staff may not be assigned or detailed to permanent duty on the Joint Staff within two years after relief from that duty except with the approval of the Secretary.

"(4) Paragraphs (1) and (3) do not apply—

"(A) in time of war; or

"(B) during a national emergency declared by the President.

"(g) LIMITATION ON SIZE OF JOINT STAFF.—(1) Effective on October 1, 1988, the total number of members of the armed forces and civilian personnel assigned or detailed to permanent duty on the Joint Staff may not exceed 1,627.

"(2) Paragraph (1) does not apply—

"(A) in time of war; or

"(B) during a national emergency declared by Congress.

"(h) COMPOSITION OF JOINT STAFF.—(1) The Joint Staff is composed of all members of the armed forces and civilian employees assigned or detailed to permanent duty in the executive part of the Department of Defense to perform the functions and duties prescribed under subsections (a) and (c).

"(2) The Joint Staff does not include members of the armed forces or civilian employees assigned or detailed to permanent duty in a military department.".

SEC. 202. PROVISIONS RELATING TO VICE CHAIRMAN

(a) EXEMPTION OF VICE CHAIRMAN FROM 4-STAR GRADE LIMITATION.—Section 525(b)(3) is amended by inserting "or Vice Chairman" after "Chairman".

(b) RANK OF VICE CHAIRMAN.—Section 743 is amended—

(1) by striking out "and" after "Chief of Naval Operations,";

(2) by inserting ", and the Commandant of the Marine Corps" after "Air Force"; and

(3) by inserting "and the Vice Chairman" after "Chairman".

SEC. 203. PARTICIPATION IN NATIONAL SECURITY COUNCIL MEETINGS

Section 101 of the National Security Act of 1947 (50 U.S.C. 402) is amended by adding at the end the following new subsection:

"(e) The Chairman (or in his absence the Vice Chairman) of the Joint Chiefs of Staff may, in his role as principal military adviser to the National Security Council and subject to the direction of the President, attend and participate in meetings of the National Security Council.".

SEC. 204. TRANSITION

(a) PREPAREDNESS EVALUATION SYSTEM.—The uniform system of evaluating the preparedness of each unified and specified combatant command required to be established by paragraph (3)(D) of section 153(a) of title 10, United States Code, as added by section 201 of this Act, shall be established not later than one year after the date of the enactment of this Act.

(b) DATE FOR FIRST REPORT.—The first report under section 153(b) of title 10, United States Code, as added by section 201 of this Act, shall be submitted by the Chairman of the Joint Chiefs of Staff not later than two years after the date of the enactment of this Act.

(c) WAIVER OF QUALIFICATIONS FOR APPOINTMENT AS VICE CHAIRMAN OF JCS.—(1) The President may waive, as provided in paragraph (2), the requirements provided for in section 154(b) of title 10, United States Code (as added by section 201 of this Act), relating to requirements for appointment of an officer as Vice Chairman of the Joint Chiefs of Staff.

(2) In exercising such waiver authority, the President may—

(A) waive the requirement that the officer have the joint specialty;

(B) waive the requirement under section 664 of such title (as added by section 401 of this Act) for the length of a joint duty assignment if the officer has served in such an assignment for not less than two years; and

(C) consider as a joint duty assignment any tour of duty served by the officer as a general or flag officer before the date of the enactment of this Act (or being served on the date of the enactment of this Act) that was considered to be a joint duty assignment or a joint equivalent assignment under regulations in effect at the time the assignment began.

(3)(A) A waiver under paragraph (2)(A) may not be made more than two years after the date of the enactment of this Act.

(B) A waiver under paragraph (2)(B) or (2)(C) may not be made more than four years after the date of the enactment of this Act.

PART B—COMBATANT COMMANDS

SEC. 211. ESTABLISHMENT OF COMBATANT COMMANDS AND AUTHORITY OF COMMANDERS

(a) IN GENERAL.—Part I of subtitle A is amended by inserting after chapter 5 the following new chapter:

"CHAPTER 6—COMBATANT COMMANDS

"Sec.
"161. Combatant commands: establishment.
"162. Combatant commands: assigned forces; chain of command.
"163. Role of Chairman of Joint Chiefs of Staff.
"164. Commanders of combatant commands: assignment; powers and duties.
"165. Combatant commands: administration and support.
"166. Combatant commands: budget proposals.

"§ 161. Combatant commands: establishment

"(a) UNIFIED AND SPECIFIED COMBATANT COMMANDS.—With the advice and assistance of the Chairman of the Joint Chiefs of Staff, the President, through the Secretary of Defense, shall—

"(1) establish unified combatant commands and specified combatant commands to perform military missions; and

"(2) prescribe the force structure of those commands.

"(b) PERIODIC REVIEW.—(1) The Chairman periodically (and not less often than every two years) shall—

"(A) review the missions, responsibilities (including geographic boundaries), and force structure of each combatant command; and

"(B) recommend to the President, through the Secretary of Defense, any changes to such missions, responsibilities, and force structures as may be necessary.

"(2) Except during time of hostilities or imminent threat of hostilities, the President shall notify Congress not more than 60 days after—

"(A) establishing a new combatant command; or

"(B) significantly revising the missions, responsibilities, or force structure of an existing combatant command.

"(c) DEFINITIONS—In this chapter:

"(1) The term 'unified combatant command' means a military command which has broad, continuing missions and which is composed of forces from two or more military departments.

"(2) The term 'specified combatant command' means a military command which has broad, continuing missions and which is normally composed of forces from a single military department.

"(3) The term 'combatant command' means a unified combatant command or a specified combatant command.

"§ 162. Combatant commands: assigned forces; chain of command

"(a) ASSIGNMENT OF FORCES.—(1) Except as provided in paragraph (2), the Secretaries of the military departments shall assign all forces under their jurisdiction to unified and specified combatant commands to perform missions assigned to those commands. Such assignments shall be made as directed by the Secretary of Defense, including direction as to the command to which forces are to be assigned. The Secretary of Defense shall ensure that such assignments are consistent with the force structure prescribed by the President for each combatant command.

"(2) Except as otherwise directed by the Secretary of Defense, forces to be assigned by the Secretaries of the military departments to the combatant commands under paragraph (1) do not include forces assigned to carry out functions of the Secretary of a military department listed in sections 3013(b), 5013(b), and 8013(b) of this title.

"(3) A force assigned to a combatant command under this section may be transferred from the command to which it is assigned only—

"(A) by authority of the Secretary of Defense; and

"(B) under procedures prescribed by the Secretary and approved by the President.

"(4) Except as otherwise directed by the Secretary of Defense, all forces operating within the geographic area assigned to a unified combatant command shall be assigned to, and under the command of, the commander of that command. The preceding sentence applies to forces assigned to a specified combatant command only as prescribed by the Secretary of Defense.

"(b) CHAIN OF COMMAND.—Unless otherwise directed by the President, the chain of command to a unified or specified combatant command runs—

"(1) from the President to the Secretary of Defense; and

"(2) from the Secretary of Defense to the commander of the combatant command.

"§ 163. Role of Chairman of Joint Chiefs of Staff

"(a) COMMUNICATIONS THROUGH CHAIRMAN OF JCS; ASSIGNMENT OF DUTIES.—Subject to the limitations in section 152(c) of this title, the President may—

"(1) direct that communications between the President or the Secretary of Defense and the commanders of the unified and specified combatant commands be transmitted through the Chairman of the Joint Chiefs of Staff; and

"(2) assign duties to the Chairman to assist the President and the Secretary of Defense in performing their command function.

"(b) OVERSIGHT BY CHAIRMAN OF JOINT CHIEFS OF STAFF.—(1) The Secretary of Defense may assign to the Chairman of the Joint Chiefs of Staff responsibility for overseeing the activities of the combatant commands. Such assignment by the Secretary to the Chairman does not confer any command authority on the Chairman and does not alter the responsibility of the commanders of the combatant commands prescribed in section 164(b)(2) of this title.

"(2) Subject to the authority, direction, and control of the Secretary of Defense, the Chairman of the Joint Chiefs of Staff serves as the spokesman for the commanders of the combatant commands, especially on the operational requirements of their commands. In performing such function, the Chairman shall—

"(A) confer with and obtain information from the commanders of the combatant commands with respect to the requirements of their commands;

"(B) evaluate and integrate such information;

"(C) advise and make recommendations to the Secretary of Defense with respect to the requirements of the combatant commands, individually and collectively; and

"(D) communicate, as appropriate, the requirements of the combatant commands to other elements of the Department of Defense.

"§ 164. Commanders of combatant commands: assignment; powers and duties

"(a) ASSIGNMENT AS COMBATANT COMMANDER.—(1) The President may assign an officer to serve as the commander of a unified or specified combatant command only if the officer—

"(A) has the joint specialty under section 661 of this title; and

"(B) has served in at least one joint duty assignment (as defined under section 668(b) of this title) as a general or flag officer.

"(2) The President may waive paragraph (1) in the case of an officer if the President determines that such action is necessary in the national interest.

"(b) RESPONSIBILITIES OF COMBATANT COMMANDERS.—(1) The commander of a combatant command is responsible to the President and to the Secretary of Defense for the performance of missions assigned to that command by the President or by the Secretary with the approval of the President.

"(2) Subject to the direction of the President, the commander of a combatant command—

"(A) performs his duties under the authority, direction, and control of the Secretary of Defense; and

"(B) is directly responsible to the Secretary for the preparedness of the command to carry out missions assigned to the command.

"(c) COMMAND AUTHORITY OF COMBATANT COMMANDERS.—(1) Unless otherwise directed by the President or the Secretary of Defense, the authority, direction, and control of the commander of a combatant command with respect to the commands and forces assigned to that command include the command functions of—

"(A) giving authoritative direction to subordinate commands and forces necessary to carry out missions assigned to the command, including authoritative direction over all aspects of military operations, joint training, and logistics;

"(B) prescribing the chain of command to the commands and forces within the command;

"(C) organizing commands and forces within that command as he considers necessary to carry out missions assigned to the command;

"(D) employing forces within that command as he considers necessary to carry out missions assigned to the command;

"(E) assigning command functions to subordinate commanders;

"(F) coordinating and approving those aspects of administration and support (including control of resources and equipment, internal organization, and training) and discipline necessary to carry out missions assigned to the command; and

"(G) exercising the authority with respect to selecting subordinate commanders, selecting combatant command staff, suspending subordinates, and convening courts-martial, as provided in subsections (e), (f), and (g) of this section and section 822(a) of this title, respectively.

"(2)(A) The Secretary of Defense shall ensure that a commander of a combatant command has sufficient authority, direction, and control over the commands and forces assigned to the command to exercise effective command over those commands and forces. In carrying out this subparagraph, the Secretary shall consult with the Chairman of the Joint Chiefs of Staff.

"(B) The Secretary shall periodically review and, after consultation with the Secretaries of the military departments, the Chairman of the Joint Chiefs of Staff, and the commander of the combatant command, assign authority to the commander of the combatant command for those aspects of administration and support that the Secretary considers necessary to carry out missions assigned to the command.

"(3) If a commander of a combatant command at any time considers his authority, direction, or control with respect to any of the commands or forces assigned to the command to be insufficient to command effectively, the commander shall promptly inform the Secretary of Defense.

"(d) AUTHORITY OVER SUBORDINATE COMMANDERS.—Unless otherwise directed by the President or the Secretary of Defense—

"(1) commanders of commands and forces assigned to a combatant command are under the authority, direction, and control of, and are responsible to, the commander of the combatant command on all matters for which the commander of the combatant command has been assigned authority under subsection (c);

"(2) the commander of a command or force referred to in clause (1) shall communicate with other elements of the Department of Defense on any matter for which the commander of the combatant command has been assigned authority under subsection (c) in accordance with procedures, if any, established by the commander of the combatant command;

"(3) other elements of the Department of Defense shall communicate with the commander of a command or force referred to in clause (1) on any matter for which the commander of the combatant command has been assigned authority under subsection (c) in accordance with procedures, if any, established by the commander of the combatant command; and

"(4) if directed by the commander of the combatant command, the commander of a command or force referred to in clause (1) shall advise the commander of the combatant command of all communications to and from other elements of the Department of Defense on any matter for which the commander of the combatant command has not been assigned authority under subsection (c).

"(e) SELECTION OF SUBORDINATE COMMANDERS.—(1) An officer may be assigned to a position as the commander of a command directly subordinate to the commander of a combatant command or, in the case of such a position that is designated under section 601 of this title as a position of importance and responsibility, may be recommended to the President for assignment to that position, only—

"(A) with the concurrence of the commander of the combatant command; and

"(B) in accordance with procedures established by the Secretary of Defense.

"(2) The Secretary of Defense may waive the requirement under paragraph (1) for the concurrence of the commander of a combatant command with regard to the assignment (or recommendation for assignment) of a particular officer if the Secretary of Defense determines that such action is in the national interest.

"(3) The commander of a combatant command shall—

"(A) evaluate the duty performance of each commander of a command directly subordinate to the commander of such combatant command; and

"(B) submit the evaluation to the Secretary of the military department concerned and the Chairman of the Joint Chiefs of Staff.

"(f) COMBATANT COMMAND STAFF.—(1) Each unified and specified combatant command shall have a staff to assist the commander of the command in carrying out his responsibilities. Positions of responsibility on the combatant command staff shall be filled by officers from each of the armed forces having significant forces assigned to the command.

"(2) An officer may be assigned to a position on the staff of a combatant command or, in the case of such a position that is designated under section 601 of this title as a position of importance and responsibility, may be recommended to the President for assignment to that position, only—

"(A) with the concurrence of the commander of such command; and

"(B) in accordance with procedures established by the Secretary of Defense.

"(3) The Secretary of Defense may waive the requirement under paragraph (2) for the concurrence of the commander of a combatant command with regard to the assignment (or recommendation for assignment) of a particular officer to serve on the staff of the combatant command if the Secretary of Defense determines that such action is in the national interest.

"(g) AUTHORITY TO SUSPEND SUBORDINATES.—In accordance with procedures established by the Secretary of Defense, the commander of a combatant command may suspend from duty and recommend the reassignment of any officer assigned to such combatant command.

"§165. Combatant commands: administration and support

"(a) IN GENERAL.—The Secretary of Defense, with the advice and assistance of the Chairman of the Joint Chiefs of Staff, shall provide for the administration and support of forces assigned to each combatant command.

"(b) RESPONSIBILITY OF SECRETARIES OF MILITARY DEPARTMENTS.—Subject to the authority, direction, and control of the Secretary of Defense and subject to the authority of commanders of the combatant commands under section 164(c) of this title, the Secretary of a military department is responsible for the administration and support of forces assigned by him to a combatant command.

"(c) ASSIGNMENT OF RESPONSIBILITY TO OTHER COMPONENTS OF DOD.—After consultation with the Secretaries of the military departments, the Secretary of Defense may assign the responsibility (or any part of the responsibility) for the administration and support of forces assigned to the combatant commands to other components of the Department of Defense (including Defense Agencies and combatant commands). A component assigned such a responsibility shall discharge that responsibility subject to the authority, direction, and control of the Secretary of Defense and subject to the authority of commanders of the combatant commands under section 164(c) of this title.

"§166. Combatant commands: budget proposals

"(a) COMBATANT COMMAND BUDGETS.—The Secretary of Defense shall include in the annual budget of the Department of Defense submitted to Congress a separate budget proposal for such activities of each of the unified and specified combatant commands as may be determined under subsection (b).

"(b) CONTENT OF PROPOSALS.—A budget proposal under subsection (a) for funding of activities of a combatant command shall include funding proposals for such activities of the combatant command as the Secretary (after consultation with the Chairman of the Joint Chiefs of Staff) determines to be appropriate for inclusion. Activities of a combatant command for which funding may be requested in such a proposal include the following:

"(1) Joint exercises.

"(2) Force training.

"(3) Contingencies.

"(4) Selected operations.".

(b) COURT-MARTIAL JURISDICTION.—Section 822(a) (article 22(a) of the Uniform Code of Military Justice) is amended—

(1) by redesignating paragraphs (2) through (7) as paragraphs (4) through (9), respectively; and

(2) by inserting after paragraph (1) the following new paragraphs (2) and (3):

"(2) the Secretary of Defense;

"(3) the commanding officer of a unified or specified combatant command;".

(c) REPEAL OF SECTION 124.—(1) Section 124 is repealed.

(2) The table of sections at the beginning of chapter 3 is amended by striking out the item relating to that section.

SEC. 212. INITIAL REVIEW OF COMBATANT COMMANDS

(a) MATTERS TO BE CONSIDERED.—The first review of the missions, responsibilities (including geographic boundaries), and force structure of the unified and specified combatant commands under section 161(b) of title 10, United States Code, as added by section 211 of this Act, shall include consideration of the following:

(1) Creation of a unified combatant command for strategic missions which would combine—

(A) the missions, responsibilities, and forces of the Strategic Air Command;

(B) the strategic missions, responsibilities, and forces of the Army and Navy; and

(C) other appropriate strategic missions, responsibilities, and forces of the armed forces.

(2) Creation of a unified combatant command for special operations missions which would combine the special operations missions, responsibilities, and forces of the armed forces.

(3) Creation of a unified combatant command for transportation missions which would combine the transportation missions, responsibilities, and forces of the Military Traffic Management Command, the Military Sealift Command, and the Military Airlift Command.

(4) Creation of a unified combatant command for missions relating to defense of Northeast Asia.

(5) Revision of the geographic area for which the United States Central Command has responsibility so as to include—

(A) the ocean areas adjacent to Southwest Asia; and

(B) the region of the Middle East that is assigned to the United States European Command.

(6) Revision of the geographic area for which the United States Southern Command has responsibility so as to include the ocean areas adjacent to Central America.

(7) Revision of the geographic area for which the United States Pacific Command has responsibility so as to include all of the State of Alaska.

(8) Revision of the missions and responsibilities of the United States Readiness Command so as to include—

(A) an enhanced role in securing the borders of the United States; and

(B) assignment of regions of the world not assigned as part of the geographic area of responsibility of any other unified combatant command.

(9) Revision of the division of missions and responsibilities between the United States Central Command and the United States Readiness Command.

(10) Elimination of the command designated as United States Forces, Caribbean.

(b) DEADLINE.—The first report to the President under such section shall be made not later than one year after the date of the enactment of this Act.

SEC. 213. REPEAL OF CERTAIN LIMITATIONS ON COMMAND STRUCTURE

(a) PROHIBITION AGAINST CONSOLIDATING FUNCTIONS OF THE MILITARY TRANSPORTATION COMMANDS.—Section 1110 of the Department of Defense Authorization Act, 1983 (Public Law 97-252; 96 Stat. 747), is repealed.

(b) PROHIBITION AGAINST ALTERING COMMAND STRUCTURE FOR MILITARY FORCES IN ALASKA.—Section 8106 of the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190 (99 Stat. 1221)), is repealed.

SEC. 214. TRANSITION

(a) ASSIGNMENT OF FORCES TO COMBATANT COMMANDS.—Section 162(a) of title 10, United States Code (as added by section 211 of this Act), shall be implemented not later than 90 days after the date of the enactment of this Act.

(b) WAIVER OF QUALIFICATIONS FOR ASSIGNMENT AS COMBATANT COMMANDER.—(1) The President may waive, as provided in paragraph (2), the requirements provided for in section 164(a) of title 10, United States Code (as added by section 201 of this Act), relating to the assignment of commanders of the combatant commands.

(2) In exercising such waiver authority, the President may, in the case of any officer—

(A) waive the requirement that the officer has the joint specialty;

(B) waive the requirement under section 664 of such title (as added by section 401 of this Act) for the length of a joint duty assignment if the officer has served in such an assignment for not less than two years; and

(C) consider as a joint duty assignment any tour of duty served by the officer as a general or flag officer before the date of the enactment of this Act (or being served on the date of the enactment of this Act) that was considered to be a joint duty assignment or a joint equivalent assignment under regulations in effect at the time the assignment began.

(3)(A) A waiver under paragraph (2)(A) may not be made more than two years after the date of the enactment of this Act.

(B) A waiver under paragraph (2)(B) or (2)(C) may not be made more than four years after the date of the enactment of this Act.

(4) A waiver under this subsection may be made only on a case-by-case basis.

(c) SELECTION AND SUSPENSION FROM DUTY OF SUBORDINATE OFFICERS.—Subsections (e), (f), and (g) of section 164 of title 10, United States Code (as added by section 211 of this Act), shall take effect at the end of the 90-day period beginning on the date of the enactment of this Act, or on such earlier date as may be prescribed by the Secretary of Defense.

(d) BUDGET PROPOSALS.—Section 166 of title 10, United States Code (as added by section 211 of this Act), shall take effect with budget proposals for fiscal year 1989.

TITLE III—DEFENSE AGENCIES AND DEPARTMENT OF DEFENSE FIELD ACTIVITIES

SEC. 301. ESTABLISHMENT AND MANAGEMENT OF DEFENSE AGENCIES AND DEPARTMENT OF DEFENSE FIELD ACTIVITIES

(a) IN GENERAL.—Chapter 8 is amended—

(1) by redesignating section 191 as section 201; and

(2) by striking out the chapter heading and the table of sections at the beginning of such chapter and inserting in lieu thereof the following:

"CHAPTER 8—DEFENSE AGENCIES AND DEPARTMENT OF DEFENSE FIELD ACTIVITIES

"Subchapter Sec.
"I. Common Supply and Service Activities 191
"II. Miscellaneous Defense Agency Matters 201

"SUBCHAPTER I—COMMON SUPPLY AND SERVICE ACTIVITIES

"Sec.
"191. Secretary of Defense: authority to provide for common performance of supply or service activities.
"192. Defense Agencies and Department of Defense Field Activities: oversight by the Secretary of Defense.
"193. Combat support agencies: oversight.
"194. Limitations on personnel.

"§191. Secretary of Defense: authority to provide for common performance of supply or service activities

"(a) AUTHORITY.—Whenever the Secretary of Defense determines such action would be more effective, economical, or efficient, the Secretary may provide for the performance of a supply or service activity that is common to more than one military department by a single agency of the Department of Defense.

"(b) DESIGNATION OF COMMON SUPPLY OR SERVICE AGENCY.—Any agency of the Department of Defense established under subsection (a) (or under the second sentence of section 125(d) of this title (as in effect before the date of the enactment of the Goldwater-Nichols Department of Defense Reorganization Act of 1986)) for the performance of a supply or service activity referred to in such subsection shall be designated as a Defense Agency or a Department of Defense Field Activity.

"§192. Defense Agencies and Department of Defense Field Activities: oversight by the Secretary of Defense

"(a) OVERALL SUPERVISION.—(1) The Secretary of Defense shall assign responsibility for the overall supervision of each Defense Agency and Department of Defense Field Activity designated under section 191(b) of this title—

"(A) to a civilian officer within the Office of the Secretary of Defense listed in section 131(b) of this title; or

"(B) to the Chairman of the Joint Chiefs of Staff.

"(2) An official assigned such a responsibility with respect to a Defense Agency or Department of Defense Field Activity shall advise the Secretary of Defense on the extent to which the program recommendations and budget proposals of such agency or activity conform with the requirements of the military departments and of the unified and specified combatant commands.

"(3) This subsection does not apply to the Defense Intelligence Agency or the National Security Agency.

"(b) PROGRAM AND BUDGET REVIEW.—The Secretary of Defense shall establish procedures to ensure that there is full and effective review of the program recommendations and budget proposals of each Defense Agency and Department of Defense Field Activity.

"(c) PERIODIC REVIEW.—(1) Periodically (and not less often than every two years), the Secretary of Defense shall review the services and supplies provided by each Defense Agency and Department of Defense Field Activity to ensure that—

"(A) there is a continuing need for each such agency and activity; and

"(B) the provision of those services and supplies by each such agency and activity, rather than by the military departments, is a more effective, economical, or efficient manner of providing those services and supplies or of meeting the requirements for combat readiness of the armed forces.

"(2) Paragraph (1) shall apply to the National Security Agency as determined appropriate by the Secretary, in consultation with the Director of Central Intelligence. The Secretary shall establish procedures under which information required for review of the National Security Agency shall be obtained.

"§193. Combat support agencies: oversight

"(a) COMBAT READINESS.—(1) Periodically (and not less often than every two years), the Chairman of the Joint Chiefs of Staff shall submit to the Secretary of Defense a report on the combat support agencies. Each such report shall include—

"(A) a determination with respect to the responsiveness and readiness of each such agency to support operating forces in the event of a war or threat to national security; and

"(B) any recommendations that the Chairman considers appropriate.

"(2) In preparing each such report, the Chairman shall review the plans of each such agency with respect to its support of operating forces in the event of a war or threat to national security. After consultation with the Secretaries of the military departments and the commanders of the unified and specified combatant commands, as appropriate, the Chairman may, with the approval of the Secretary of Defense, take steps to provide for any revision of those plans that the Chairman considers appropriate.

"(b) PARTICIPATION IN JOINT TRAINING EXERCISES.—The Chairman shall—

"(1) provide for the participation of the combat support agencies in joint training exercises to the extent necessary to ensure that those agencies are capable of performing their support missions with respect to a war or threat to national security; and

"(2) assess the performance in joint training exercises of each such agency and, in accordance with guidelines established by the Secretary of Defense, take steps to provide for any change that the Chairman considers appropriate to improve that performance.

"(c) READINESS REPORTING SYSTEM.—The Chairman shall develop, in consultation with the director of each combat support agency, a uniform system for reporting to the Secretary of Defense, the commanders of the unified and specified combatant commands, and the Secretaries of the military departments concerning the readiness of each such agency to perform with respect to a war or threat to national security.

"(d) REVIEW OF NATIONAL SECURITY AGENCY.—(1) Subsections (a), (b), and (c) shall apply to the National Security Agency, but only with respect to combat support functions the Agency performs for the Department of Defense.

"(2) The Secretary, after consulting with the Director of Central Intelligence, shall establish policies and procedures with respect to the application of subsections (a), (b), and (c) to the National Security Agency.

"(e) COMBAT SUPPORT CAPABILITIES OF DIA AND NSA.—The Secretary of Defense, in consultation with the Director of Central Intelligence, shall develop and implement, as they may determine to be necessary, policies and programs to correct such deficiencies as the Chairman of the Joint Chiefs of Staff and other officials of the Department of Defense may identify in the capabilities of the Defense Intelligence Agency and the National Security Agency to accomplish assigned missions in support of military combat operations.

"(f) DEFINITION OF COMBAT SUPPORT AGENCY—In this section, the term 'combat support agency' means any of the following Defense Agencies:

"(1) The Defense Communications Agency.

"(2) The Defense Intelligence Agency.

"(3) The Defense Logistics Agency.

"(4) The Defense Mapping Agency.

"(5) Any other Defense Agency designated as a combat support agency by the Secretary of Defense.

"§194. Limitations on personnel

"(a) CAP ON HEADQUARTERS MANAGEMENT PERSONNEL.—After September 30, 1989, the total number of members of the armed forces and civilian employees assigned or detailed to permanent duty in the management headquarters activities or management headquarters support activities in the Defense Agencies and Department of Defense Field Activities may not exceed the number that is the number of such members and employees assigned or detailed to such duty on September 30, 1989.

"(b) CAP ON OTHER PERSONNEL.—After September 30, 1989, the total number of members of the armed forces and civilian employees assigned or detailed to permanent duty in the Defense Agencies and Department of Defense Field Activities, other than members and employees assigned to management headquarters activities or management headquarters support activities, may not exceed the number that is the number of such members and employees assigned or detailed to such duty on September 30, 1989.

"(c) PROHIBITION AGAINST CERTAIN ACTIONS TO EXCEED LIMITATIONS.—The limitations in subsections (a) and (b) may not be exceeded by recategorizing or redefining duties, functions, offices, or organizations.

"(d) EXCLUSION OF NSA.—The National Security Agency shall be excluded in computing and maintaining the limitations required by this section.

"(e) WAIVER.—The limitations in this section do not apply—

"(1) in time of war; or

"(2) during a national emergency declared by Congress.

"(f) DEFINITIONS.—In this section, the terms 'management headquarters activities' and 'management headquarters support activities' have the meanings given those terms in Department of Defense Directive 5100.73, entitled 'Department of Defense Management Headquarters and Headquarters Support Activities' and dated January 7, 1985.

"SUBCHAPTER II—MISCELLANEOUS DEFENSE AGENCY MATTERS

"Sec.
"201. Unauthorized use of Defense Intelligence Agency name, initials, or seal.".

(b) CONFORMING AMENDMENTS.—(1) Section 125 is amended by striking out subsection (d).

(2) Subsection (c)(2) of section 113 (as redesignated by section 101(a)) is amended by striking out "section 125" and inserting in lieu thereof "sections 125 and 191".

SEC. 302. DEFINITIONS OF DEFENSE AGENCY AND DEPARTMENT OF DEFENSE FIELD ACTIVITY

Section 101 is amended by adding at the end the following new paragraphs:

"(44) 'Defense Agency' means an organizational entity of the Department of Defense—

"(A) that is established by the Secretary of Defense under section 191 of this title (or under the second sentence of section 125(d) of this title (as in effect before the date of the enactment of the Goldwater-Nichols Department of Defense Reorganization Act of 1986)) to perform a supply or service activity common to more than one military department (other than such an entity that is designated by the Secretary as a Department of Defense Field Activity); or

"(B) that is designated by the Secretary of Defense as a Defense Agency.

"(45) 'Department of Defense Field Activity' means an organizational entity of the Department of Defense—

"(A) that is established by the Secretary of Defense under section 191 of this title (or under the second sentence of section 125(d) of this title (as in effect before the date of the enactment of the Goldwater-Nichols Department of Defense Reorganization Act of 1986)) to perform a supply or service activity common to more than one military department; and

"(B) that is designated by the Secretary of Defense as a Department of Defense Field Activity.".

SEC. 303. REASSESSMENT OF DEFENSE AGENCIES AND DOD FIELD ACTIVITIES

(a) SECRETARY OF DEFENSE.—(1) The Secretary of Defense shall conduct a study of the functions and organizational structure of the Defense Agencies and Department of Defense Field Activities. The study shall determine the most effective, economical, or efficient means of providing supply or service activities common to more than one military department, after considering the matters set forth in subsection (d) and the reports submitted under subsection (b).

(2) To the extent that the most effective, economical, or efficient means of providing those activities is determined under paragraph (1) to be the existing Defense Agency and Department of Defense Field Activity structure, the study shall analyze methods to improve the performance and responsiveness of Defense Agencies and Department of Defense Field Activities with respect to the entities to which they provide supplies and services, particularly with regard to the unified and specified combatant commands.

(b) SERVICE SECRETARIES AND CHAIRMAN OF THE JCS.—The Secretaries of the military departments and the Chairman of the Joint Chiefs of Staff shall each conduct a study of the functions and organizational structure of the Defense Agencies and Department of Defense Field Activities. The Secretaries and Chairman shall each submit a report to the Secretary of Defense on such study at a time specified by the Secretary. Each such report shall include a discussion of and recommendations concerning each matter set forth in subsection (d).

(c) NATIONAL SECURITY AGENCY.—This section shall apply to the National Security Agency as determined appropriate by the Secretary of Defense, in consultation with the Director of Central Intelligence. The Secretary shall establish procedures under which information required for review of the National Security Agency shall be obtained.

(d) MATTERS CONSIDERED.—The studies required by subsections (a) and (b) shall consider the following matters:

(1) Whether the existing allocation of functions to, and organizational structure of, the Defense Agencies and Department of Defense Field Activities meet the statutory requirement of providing a supply or service activity common to more than one military department in a more effective, economical, or efficient manner.

(2) Alternative allocations of authority and functions assigned to the Defense Agencies and Department of Defense Field Activities, including—

(A) various possible redistributions of responsibilities among those agencies and activities;

(B) transfer of the responsibility for those functions to—

(i) the Secretaries of the military departments;

(ii) the appropriate officers in the Office of the Secretary of Defense;

(iii) the Chairman of the Joint Chiefs of Staff; or

(iv) the commanders of unified or specified combatant commands;

(C) creation of new Defense Agencies or Department of Defense Field Activities;

(D) consolidation of two or more such agencies and activities;

(E) elimination of any such agency or activity; and

(F) other organizational changes in the Department of Defense designed to make the performance of those functions more effective, economical, or efficient.

(3) Whether the requirements of the amendments made by section 301 will have the effect of ensuring the readiness and responsiveness of the Defense Agencies in the event of a war or threat to national security and whether any additional legislation is necessary to ensure such readiness and responsiveness.

(4) Additional legislative or administrative actions that the Secretary considers necessary to ensure effective oversight of Defense Agency and Department of Defense Field Activity resource management, personnel policies, and budget procedures and to clarify supervisory responsibilities.

(5) Whether the findings and recommendations of the report of March 1979 entitled "Report to the Secretary of Defense of the Defense Agency Review" and directed by Major General Theodore Antonelli, United States Army (Retired), should be the basis for additional legislative or administrative actions.

(e) REPORT.—The Secretary of Defense shall submit to Congress a report that includes the following:

(1) A report on the study required by subsection (a) that includes—

(A) a discussion of and recommendations concerning each matter set forth in subsection (d); and

(B) a discussion of the reports required by subsection (b).

(2) A copy of each report required by subsection (b).

(3) A study of the improved application of computer systems to functions of Defense Agencies and Department of Defense Field Activities, including a plan for the rapid replacement, where necessary, of existing automated data processing equipment with new equipment.

(4) Plans to achieve reductions in the total number of members of the Armed Forces and civilian employees assigned or detailed to permanent duty in the Defense Agencies and Department of Defense Field Activities (other than the National Security Agency) by 5 percent, 10 percent, and 15 percent of the total number of such members and employees projected to be assigned or detailed to such duty on September 30, 1988, together with a discussion of the implications of each such reduction and a draft of any legislation that would be required to implement each such plan.

(f) DEADLINE FOR SUBMISSION.—The report required by subsection (e) shall be submitted not later than one year after the date of the enactment of this Act.

SEC. 304. TRANSITION

(a) SECRETARY OF DEFENSE REVIEW OF DEFENSE AGENCIES.—The first review under section 192(c) of title 10, United States Code (as added by section 301(a)), shall be completed not later than two years after the date that the report under section 303(e) is required to be submitted to Congress.

(b) REPORT AND OTHER ACTIONS BY CHAIRMAN OF JCS.—The first report under subsection (a) of section 193 of such title (as added

by section 301(a)) shall be submitted, and subsections (b) and (c) of such section shall be implemented, not later than one year after the date of the enactment of this Act. The Secretary of Defense shall provide a report on the implementation of such subsections (b) and (c) in the report of the Secretary submitted to Congress for 1988 under section 113(c) of title 10, United States Code (as redesignated by section 101(a)).

TITLE IV—JOINT OFFICER PERSONNEL POLICY

SEC. 401. JOINT OFFICER MANAGEMENT

(a) ESTABLISHMENT OF JOINT OFFICER MANAGEMENT POLICIES.—Part II of subtitle A is amended by inserting after chapter 37 the following new chapter:

"CHAPTER 38—JOINT OFFICER MANAGEMENT

"Sec.
"661. Management policies for joint specialty officers.
"662. Promotion policy objectives for joint officers.
"663. Education.
"664. Length of joint duty assignments.
"665. Procedures for monitoring careers of joint officers.
"666. Reserve officers not on the active-duty list.
"667. Annual report to Congress.
"668. Definitions.

"§ 661. Management policies for joint specialty officers

"(a) ESTABLISHMENT.—The Secretary of Defense shall establish policies, procedures, and practices for the effective management of officers of the Army, Navy, Air Force, and Marine Corps on the active-duty list who are particularly trained in, and oriented toward, joint matters (as defined in section 668 of this title). Such officers shall be identified or designated (in addition to their principal military occupational specialty) in such manner as the Secretary of Defense directs. For purposes of this chapter, officers to be managed by such policies, procedures, and practices are referred to as having, or having been nominated for, the 'joint specialty'.

"(b) NUMBERS AND SELECTION.—(1) The number of officers with the joint specialty shall be determined by the Secretary. Such number shall be large enough to meet the requirements of subsection (d).

"(2) Officers shall be selected for the joint specialty by the Secretary of Defense with the advice of the Chairman of the Joint Chiefs of Staff. The Secretaries of the military departments shall nominate officers for selection for the joint specialty. Nominations shall be made from among officers—

"(A) who meet qualifications prescribed by the Secretary of Defense; and

"(B) who—

"(i) are senior captains or, in the case of the Navy, senior lieutenants; or

"(ii) are serving in the grade of major or lieutenant commander or a higher grade.

"(c) EDUCATION AND EXPERIENCE REQUIREMENTS.—(1) An officer who is nominated for the joint specialty may not be selected for the joint specialty until the officer—

"(A) successfully completes an appropriate program at a joint professional military education school; and

"(B) after completing such program of education, successfully completes a full tour of duty in a joint duty assignment.

"(2) An officer who has a critical occupational specialty involving combat operations (as designated by the Secretary of Defense) and who is nominated for the joint specialty may be selected for the joint specialty after successful completion of a joint duty assignment of not less than two years and successful completion of a program under paragraph (1)(A). An officer selected for the joint specialty under this paragraph shall be required to complete the generally applicable requirements for selection under paragraph (1)(B) as soon as practicable after such officer's selection.

"(d) NUMBER OF JOINT DUTY ASSIGNMENTS.—(1) The Secretary of Defense shall ensure that approximately one-half of the joint duty assignment positions in grades above captain or, in the case of the Navy, lieutenant are filled at any time by officers who have (or have been nominated for) the joint specialty.

"(2) The Secretary of Defense shall designate not fewer than 1,000 joint duty assignment positions as critical joint duty assignment positions. Each such position shall be held only by an officer with the joint specialty.

"(e) CAREER GUIDELINES.—The Secretary, with the advice of the Chairman of the Joint Chiefs of Staff, shall establish career guidelines for officers with the joint specialty. Such guidelines shall include guidelines for—

"(1) selection;

"(2) military education;

"(3) training;

"(4) types of duty assignments; and

"(5) such other matters as the Secretary considers appropriate.

"§ 662. Promotion policy objectives for joint officers

"(a) QUALIFICATIONS.—The Secretary of Defense shall ensure that the qualifications of officers assigned to joint duty assignments are such that—

"(1) officers who are serving on, or have served on, the Joint Staff are expected, as a group, to be promoted at a rate not less than the rate for officers of the same armed force in the same grade and competitive category who are serving on, or have served on, the headquarters staff of their armed force;

"(2) officers who have the joint specialty are expected, as a group, to be promoted at a rate not less than the rate for officers of the same armed force in the same grade and competitive category who are serving on, or have served on, the headquarters staff of their armed force; and

"(3) officers who are serving in, or have served in, joint duty assignments (other than officers covered in paragraphs (1) and (2)) are expected, as a group, to be promoted at a rate not less than the rate for all officers of the same armed force in the same grade and competitive category.

"(b) REPORT.—The Secretary of Defense shall periodically (and not less often than every six months) report to Congress on the promotion rates of officers who are serving in, or have served in, joint duty assignments, especially with respect to the record of officer selection boards in meeting the objectives of clauses (1), (2), and (3) of subsection (a). If such promotion rates fail to meet such objectives, the Secretary shall immediately notify Congress of such failure and of what action the Secretary has taken or plans to take to prevent further failures.

"§ 663. Education

"(a) CAPSTONE COURSE FOR NEW GENERAL AND FLAG OFFICERS.—(1) Each officer selected for promotion to the grade of brigadier general or, in the case of the Navy, rear admiral (lower half) shall be required, after such selection, to attend a military education course designed specifically to prepare new general and flag officers to work with the other armed forces.

"(2) Subject to paragraph (3), the Secretary of Defense may waive paragraph (1)—

"(A) in the case of an officer whose immediately previous assignment was in a joint duty assignment and who is thoroughly familiar with joint matters;

"(B) when necessary for the good of the service;

"(C) in the case of an officer whose proposed selection for promotion is based primarily upon scientific and technical qualifications for which joint requirements do not exist (as determined under regulations prescribed under section 619(e)(4) of this title); and

"(D) in the case of a medical officer, dental officer, veterinary officer, medical service officer, nurse, biomedical science officer, or chaplain.

"(3) The authority of the Secretary of Defense to grant a waiver under paragraph (2) may only be delegated to the Deputy Secretary of Defense, an Under Secretary of Defense, or an Assistant Secretary of Defense. Such a waiver may be granted only on a case-by-case basis in the case of an individual officer.

"(b) JOINT MILITARY EDUCATION SCHOOLS.—The Secretary of Defense, with the advice and assistance of the Chairman of the Joint Chiefs of Staff, shall periodically review and revise the curriculum of each school of the National Defense University (and of any other joint professional military education school) to enhance the education and training of officers in joint matters. The Secretary shall require such schools to maintain rigorous standards for the military education of officers with the joint specialty.

"(c) OTHER PROFESSIONAL MILITARY EDUCATION SCHOOLS.—The Secretary of Defense shall require that each Department of Defense school concerned with professional military education periodically review and revise its curriculum for senior and intermediate grade officers in order to strengthen the focus on—

"(1) joint matters; and

"(2) preparing officers for joint duty assignments.

"(d) POST-EDUCATION DUTY ASSIGNMENTS.—The Secretary of Defense shall ensure that—

"(1) unless waived by the Secretary in an individual case, each officer with the joint specialty who graduates from a joint professional military education school shall be assigned to a joint duty assignment for that officer's next duty assignment; and

"(2) a high proportion (which shall be greater than 50 percent) of the other officers graduating from a joint professional military education school also receive assignments to a joint duty assignment as their next duty assignment.

"§ 664. Length of joint duty assignments

"(a) GENERAL RULE.—The length of a joint duty assignment—

"(1) for general and flag officers shall be not less than three years; and

"(2) for other officers shall be not less than three and one half years.

"(b) WAIVER AUTHORITY.—The Secretary of Defense may waive subsection (a) in the case of any officer, but the Secretary shall ensure that the average length of joint duty assignments meets the standards prescribed in that subsection.

"(c) CERTAIN OFFICERS WITH CRITICAL COMBAT OPERATIONS SKILLS.—Joint duty assignments of less than the period prescribed by subsection (a), but not less than two

years, may be authorized for the purposes of section 661(c)(2) of this title. Such an assignment may not be counted for the purposes of determining the average length of joint duty assignments under subsection (b).

"(d) EXCEPTION.—(1) Subsection (a) does not apply in the case of an officer who fails to complete a joint duty assignment as the result of—

"(A) retirement;

"(B) separation from active duty; or

"(C) suspension from duty under section 155(f)(2) or 164(g) of this title.

"(2) In computing the average length of joint duty assignments for purposes of this section, the Secretary of Defense shall exclude joint duty assignments not completed because of a reason specified in paragraph (1).

"§ 665. Procedures for monitoring careers of joint officers

"(a) PROCEDURES.—(1) The Secretary of Defense, with the advice of the Chairman of the Joint Chiefs of Staff, shall establish procedures for overseeing the careers of—

"(A) officers with the joint specialty; and

"(B) other officers who serve in joint duty assignments.

"(2) Such oversight shall include monitoring of the implementation of the career guidelines established under section 661(e) of this title.

"(b) FUNCTION OF JOINT STAFF.—The Secretary shall take such action as necessary to enhance the capabilities of the Joint Staff so that it can—

"(1) monitor the promotions and career assignments of officers with the joint specialty and of other officers who have served in joint duty assignments; and

"(2) otherwise advise the Chairman on joint personnel matters.

"§ 666. Reserve officers not on the active-duty list

"The Secretary of Defense shall establish personnel policies emphasizing education and experience in joint matters for reserve officers not on the active-duty list. Such policies shall, to the extent practicable for the reserve components, be similar to the policies provided by this chapter.

"§ 667. Annual report to Congress

"The Secretary of Defense shall include in the annual report of the Secretary to Congress under section 113(c) of this title, for the period covered by the report, the following information (which shall be shown for the Department of Defense as a whole and separately for the Army, Navy, Air Force, and Marine Corps):

"(1) The number of officers selected for the joint specialty and their education and experience.

"(2) The promotion rate for officers considered for promotion from within the promotion zone who are serving on the Joint Staff compared with the promotion rate for other officers considered for promotion from within the promotion zone in the same pay grade and the same competitive category, shown for all officers of the armed force and for officers serving on the headquarters staff of the armed force concerned.

"(3) The promotion rate for officers with the joint specialty, compared in the same manner as specified in paragraph (2).

"(4) The promotion rate for other officers who are serving in joint duty assignments, compared in the same manner as specified in paragraph (2).

"(5) The promotion rate for officers considered for promotion from below the promotion zone, shown for officers serving on the Joint Staff, officers with the joint specialty, and other officers serving in joint duty assignments, compared in the same manner as specified in paragraph (2).

"(6) An analysis of assignments of officers after selection for the joint specialty.

"(7) The average length of tours of duty in joint duty assignments—

"(A) for general and flag officers, shown separately for assignments to the Joint Staff and other joint duty assignments; and

"(B) for other officers, shown separately for assignments to the Joint Staff and other joint duty assignments.

"(8) In any case in which the information under paragraphs (2) through (5) shows a significant imbalance between officers serving in joint duty assignments or having the joint specialty and other officers, a description of what action has been taken (or is planned to be taken) by the Secretary to correct the imbalance.

"(9) An analysis of the extent to which the Secretary of each military department is providing officers to fill that department's share (as determined by law or by the Secretary of Defense) of Joint Staff and other joint duty assignments, including the reason for any significant failure by a military department to fill its share of such positions and a discussion of the actions being taken to correct the shortfall.

"(10) Such other information and comparative data as the Secretary of Defense considers appropriate to demonstrate the performance of the Department of Defense and the performance of each military department in carrying out this chapter.

"§ 668. Definitions

"(a) JOINT MATTERS.—In this chapter, the term 'joint matters' means matters relating to the integrated employment of land, sea, and air forces, including matters relating to—

"(1) national military strategy;

"(2) strategic planning and contingency planning; and

"(3) command and control of combat operations under unified command.

"(b) JOINT DUTY ASSIGNMENT.—(1) The Secretary of Defense shall by regulation define the term 'joint duty assignment' for the purposes of this chapter. That definition shall be limited to assignments in which the officer gains significant experience in joint matters and shall exclude—

"(A) assignments for joint training or joint education; and

"(B) assignments within an officer's own military department.

"(2) The Secretary shall publish a list showing—

"(A) the positions that are joint duty assignment positions under such regulation and the number of such positions; and

"(B) of the positions listed under subparagraph (A), those that are critical joint duty assignment positions and the number of such positions.".

(b) CLERICAL AMENDMENTS.—The tables of chapters at the beginning of subtitle A, and at the beginning of part II of subtitle A, are amended by inserting after the item relating to chapter 37 the following new item:

"38. Joint Officer Management.....661".

SEC. 402. PROMOTION PROCEDURES FOR JOINT OFFICERS

(a) COMPOSITION OF SELECTION BOARDS.—Section 612 is amended by adding at the end the following new subsection:

"(c) Each selection board convened under section 611(a) of this title that will consider officers who are serving in, or have served in, joint duty assignments shall include at least one officer designated by the Chairman of the Joint Chiefs of Staff who is currently serving in a joint duty assignment. The Secretary of Defense may waive the preceding sentence in the case of any selection board of the Marine Corps.".

(b) GUIDANCE TO SELECTION BOARDS.—Section 615 is amended—

(1) by inserting "(a)" before "The Secretary of the";

(2) by striking out "and" at the end of clause (4)";

(3) by redesignating clause (5) as clause (6);

(4) by inserting after clause (4) the following new clause (5):

"(5) guidelines, based upon guidelines received by the Secretary from the Secretary of Defense under subsection (b), for the purpose of ensuring that the board gives appropriate consideration to the performance in joint duty assignments of officers who are serving, or have served, in such assignments; and"; and

(5) by adding at the end the following new subsection:

"(b) The Secretary of Defense, with the advice and assistance of the Chairman of the Joint Chiefs of Staff, shall furnish to the Secretaries of the military departments guidelines for the purpose of ensuring that each selection board convened under section 611(a) of this title gives appropriate consideration to the performance in joint duty assignments of officers who are serving, or have served, in such assignments.".

(c) REVIEW OF PROMOTION LISTS BY CHAIRMAN OF JCS.—Section 618 is amended—

(1) by redesignating subsections (b), (c), (d), and (e) as subsections (c), (d), (e), and (f), respectively; and

(2) by inserting after subsection (a) the following new subsection (b):

"(b)(1) After completing the requirements of subsection (a), the Secretary concerned, in the case of the report of a selection board that considered officers who are serving, or have served, in joint duty assignments, shall submit the report to the Chairman of the Joint Chiefs of Staff.

"(2) The Chairman, in accordance with guidelines furnished to the Chairman by the Secretary of Defense, shall review the report for the purpose of determining if—

"(A) the selection board acted consistent with the guidelines of the Secretary of Defense under section 615(b) of this title to ensure that selection boards give appropriate consideration to the performance in joint duty assignments of officers who are serving, or have served, in such assignments; and

"(B) the selection board otherwise gave appropriate consideration to the performance in joint duty assignments of officers who are serving, or have served, in such assignments.

"(3) After reviewing the report, the Chairman shall return the report, with his determinations and comments, to the Secretary concerned.

"(4) If the Chairman determines that the board acted contrary to the guidelines of the Secretary of Defense under section 615(b) of this title or otherwise failed to give appropriate consideration to the performance of officers in joint duty assignments, the Secretary concerned may—

"(A) return the report, together with the Chairman's determinations and comments, to the selection board (or a subsequent selection board convened under section 611(a) of this title for the same grade and competitive category) for further proceedings in accordance with subsection (a);

"(B) convene a special selection board in the manner provided for under section 628 of this title; or

"(C) take other appropriate action to satisfy the concerns of the Chairman.

"(5) If, after completion of all actions taken under paragraph (4), the Secretary concerned and the Chairman remain in disagreement with respect to the report of a selection board, the Secretary concerned shall indicate such disagreement, and the reasons for such disagreement, as part of his transmittal of the report of the selection board to the Secretary of Defense under subsection (c). Such transmittal shall include any comments submitted by the Chairman."; and

(3) by adding at the end of paragraph (1) of subsection (c) (as redesignated by paragraph (1)) the following new sentence: "The Secretary of Defense shall, before transmitting the report of a selection board to the President, take appropriate action to resolve any disagreement between the Secretary concerned and the Chairman transmitted to him under subsection (b)(5).".

SEC. 403. CONSIDERATION OF JOINT DUTY IN SENIOR GENERAL AND FLAG OFFICER APPOINTMENTS AND ADVICE ON QUALIFICATIONS

Section 601 is amended by adding at the end the following new subsection:

"(d)(1) When an officer is recommended to the President for an initial appointment to the grade of lieutenant general or vice admiral, or for an initial appointment to the grade of general or admiral, the Chairman of the Joint Chiefs of Staff shall submit to the Secretary of Defense the Chairman's evaluation of the performance of that officer as a member of the Joint Staff and in other joint duty assignments. The Secretary of Defense shall submit the Chairman's evaluation to the President at the same time the recommendation for the appointment is submitted to the President.

"(2) Whenever a vacancy occurs in a position within the Department of Defense that the President has designated as a position of importance and responsibility to carry the grade of general or admiral or lieutenant general or vice admiral or in an office that is designated by law to carry such a grade, the Secretary of Defense shall inform the President of the qualifications needed by an officer serving in that position or office to carry out effectively the duties and responsibilities of that position or office.".

SEC. 404. JOINT DUTY ASSIGNMENT AS PREREQUISITE FOR PROMOTION TO GENERAL OR FLAG OFFICER GRADE

Section 619 is amended by adding at the end the following new subsection:

"(e)(1) An officer may not be selected for promotion to the grade of brigadier general or rear admiral (lower half) unless the officer has served in a joint duty assignment.

"(2) Subject to paragraph (3), the Secretary of Defense may waive paragraph (1)—

"(A) when necessary for the good of the service;

"(B) in the case of an officer whose proposed selection for promotion is based primarily upon scientific and technical qualifications for which joint requirements do not exist;

"(C) in the case of a medical officer, dental officer, veterinary officer, medical service officer, nurse, biomedical science officer, chaplain, or judge advocate; and

"(D) until January 1, 1992, in the case of an officer who served before the date of the enactment of this subsection in an assignment (other than a joint duty assignment) that involved significant experience in joint matters (as determined by the Secretary).

"(3)(A) A waiver may be granted under paragraph (2) only on a case-by-case basis in the case of an individual officer.

"(B) In the case of a waiver under paragraph (2)(A), the Secretary shall provide that the first duty assignment as a general or flag officer of an officer for whom the waiver is granted shall be in a joint duty assignment.

"(C) The authority of the Secretary of Defense to grant a waiver under paragraph (2)(B), (2)(C), or (2)(D) may only be delegated to the Deputy Secretary of Defense, an Under Secretary of Defense, or an Assistant Secretary of Defense.

"(4) The Secretary of Defense shall prescribe regulations to carry out this subsection. Such regulations shall specifically identify those categories of officers for which selection for promotion to brigadier general or, in the case of the Navy, rear admiral (lower half) is based primarily upon scientific and technical qualifications for which joint requirements do not exist.".

SEC. 405. ANNUAL REPORT ON IMPLEMENTATION

The Secretary of Defense shall include in the annual report of the Secretary to Congress under section 113(c) of title 10, United States Code (as redesignated by section 101(a)), for each year from 1987 through 1991 a detailed report on the implementation of this title and the amendments made by this title.

SEC. 406. TRANSITION

(a) JOINT DUTY ASSIGNMENTS.—(1) Section 661(d) of title 10, United States Code (as added by section 401), shall be implemented as rapidly as possible and not later than two years after the date of the enactment of this Act.

(2) The list of positions that are joint duty assignment positions, including identification of those positions that are critical joint duty assignment positions, required to be published by section 668(b)(2) of such title shall be published not later than six months after the date of the enactment of this Act.

(b) JOINT SPECIALTY.—

(1) INITIAL SELECTIONS.—(A) In making the initial selections of officers for the joint specialty under section 661 of title 10, United States Code (as added by section 401 of this Act), the Secretary of Defense may waive the requirement of either subparagraph (A) or (B) (but not both) of subsection (c)(1) of such section in the case of any officer in a grade above captain or, in the case of the Navy, lieutenant.

(B) In applying such subparagraph (B) to the initial selections of officers for the joint specialty, the Secretary may in the case of any officer—

(i) waive the requirement that a joint duty assignment be served after the officer has completed an appropriate program at a joint professional military education school;

(ii) waive the requirement for the length of a joint duty assignment if the officer has served in such an assignment for not less than two years; and

(iii) consider as a joint duty assignment any tour of duty served by the officer before the date of the enactment of this Act (or being served on the date of the enactment of this Act) that was considered to be a joint duty assignment or a joint equivalent assignment under the regulations in effect at the time the assignment began.

(C) A waiver under subparagraph (A) of this paragraph or under any provision of subparagraph (B) of this paragraph may only be made on a case-by-case basis.

(D) The authority of the Secretary of Defense to grant a waiver under subparagraph (A) or (B) of this paragraph may be delegated only to the Deputy Secretary of Defense.

(2) REQUIREMENT FOR HIGH STANDARDS.—In exercising the authority provided by paragraph (1), the Secretary of Defense shall ensure that the highest standards of performance, education, and experience are established and maintained for officers selected for the joint specialty.

(3) SUNSET.—The authority provided by paragraph (1) shall expire two years after the date of the enactment of this Act.

(c) CAREER GUIDELINES.—The career guidelines required to be established by section 661(e) of such title, the procedures required to be established by section 665(a) of such title, and the personnel policies required to be established by section 666 of such title (as added by section 401) shall be established not later than the end of the eight-month period beginning on the date of the enactment of this Act. The provisions of section 665(b) of such title shall be implemented not later than the end of such period.

(d) EDUCATION.—

(1) CAPSTONE COURSE.—Subsection (a) of section 663 of such title (as added by section 401) shall apply with respect to officers selected in reports of officer selection boards submitted to the Secretary concerned after the end of the 120-day period beginning on the date of the enactment of this Act.

(2) REVIEW OF MILITARY EDUCATION SCHOOLS.—(A) The first review under subsections (b) and (c) of such section shall be completed not later than 120 days after the date of the enactment of this Act. The Secretary of Defense shall submit to Congress a report on the results of the review at each Department of Defense school not later than 60 days thereafter.

(B) Such subsections shall be implemented so that the revised curricula take effect with respect to courses beginning after July 1987.

(3) POST-EDUCATION DUTY ASSIGNMENTS.—Subsection (d) of such section shall take effect with respect to classes graduating from joint professional military education schools after January 1987.

(e) LENGTH OF JOINT DUTY ASSIGNMENTS.—Subsection (a) of section 664 of title 10, United States Code (as added by section 401), shall apply to officers assigned to joint duty assignments after the end of the 90-day period beginning on the date of the enactment of this Act. In computing an average under subsection (b) of such section, only joint duty assignments to which such subsection applies shall be considered.

(f) PROMOTION POLICY.—The amendments made by section 402 shall take effect with respect to selection boards convened under section 611(a) of title 10, United States Code, after the end of the 120-day period beginning on the date of the enactment of this Act.

(g) INITIAL REPORT.—The first report submitted by the Secretary of Defense after the date of the enactment of this Act under section 113(c) of title 10, United States Code (as redesignated by section 101), shall contain as much of the information required by section 667 of such title (as added by section 401) as is available to the Secretary at the time of the preparation of the report.

TITLE V—MILITARY DEPARTMENTS

PART A—DEPARTMENT OF THE ARMY

SEC. 501. THE ARMY SECRETARIAT

(a) AMENDMENTS TO CHAPTER 303.—(1) Section 3015 is transferred to the end of chapter 305 and redesignated as section 3040.

(2) Sections 3010, 3011, 3012, 3013, and 3014 are redesignated as sections 3011, 3012, 3013, 3014, and 3015, respectively.

(3) Section 3016 is transferred within chapter 303 to appear after section 3017 and is redesignated as section 3018.

(4) Section 3019 is transferred to chapter 305, inserted after section 3037, and redesignated as section 3038.

(5) Chapter 303 is amended by striking out sections 3013, 3014, and 3015 (as redesignated by paragraph (2)) and inserting in lieu thereof the following:

"§3013. Secretary of the Army

"(a)(1) There is a Secretary of the Army, appointed from civilian life by the President, by and with the advice and consent of the Senate. The Secretary is the head of the Department of the Army.

"(2) A person may not be appointed as Secretary of the Army within 10 years after relief from active duty as a commissioned officer of a regular component of an armed force.

"(b) Subject to the authority, direction, and control of the Secretary of Defense and subject to the provisions of chapter 6 of this title, the Secretary of the Army is responsible for, and has the authority necessary to conduct, all affairs of the Department of the Army, including the following functions:

"(1) Recruiting.
"(2) Organizing.
"(3) Supplying.
"(4) Equipping (including research and development).
"(5) Training.
"(6) Servicing.
"(7) Mobilizing.
"(8) Demobilizing.
"(9) Administering (including the morale and welfare of personnel).
"(10) Maintaining.
"(11) The construction, outfitting, and repair of military equipment.
"(12) The construction, maintenance, and repair of buildings, structures, and utilities and the acquisition of real property and interests in real property necessary to carry out the responsibilities specified in this section.

"(c) Subject to the authority, direction, and control of the Secretary of Defense, the Secretary of the Army is also responsible to the Secretary of Defense for—

"(1) the functioning and efficiency of the Department of the Army;

"(2) the formulation of policies and programs by the Department of the Army that are fully consistent with national security objectives and policies established by the President or the Secretary of Defense;

"(3) the effective and timely implementation of policy, program, and budget decisions and instructions of the President or the Secretary of Defense relating to the functions of the Department of the Army;

"(4) carrying out the functions of the Department of the Army so as to fulfill (to the maximum extent practicable) the current and future operational requirements of the unified and specified combatant commands;

"(5) effective cooperation and coordination between the Department of the Army and the other military departments and agencies of the Department of Defense to provide for more effective, efficient, and economical administration and to eliminate duplication;

"(6) the presentation and justification of the positions of the Department of the Army on the plans, programs, and policies of the Department of Defense; and

"(7) the effective supervision and control of the intelligence activities of the Department of the Army.

"(d) The Secretary of the Army is also responsible for such other activities as may be prescribed by law or by the President or Secretary of Defense.

"(e) After first informing the Secretary of Defense, the Secretary of the Army may make such recommendations to Congress relating to the Department of Defense as he considers appropriate.

"(f) The Secretary of the Army may assign such of his functions, powers, and duties as he considers appropriate to the Under Secretary of the Army and to the Assistant Secretaries of the Army. Officers of the Army shall, as directed by the Secretary, report on any matter to the Secretary, the Under Secretary, or any Assistant Secretary.

"(g) The Secretary of the Army may—

"(1) assign, detail, and prescribe the duties of members of the Army and civilian personnel of the Department of the Army;

"(2) change the title of any officer or activity of the Department of the Army not prescribed by law; and

"(3) prescribe regulations to carry out his functions, powers, and duties under this title.

"§3014. Office of the Secretary of the Army

"(a) There is in the Department of the Army an Office of the Secretary of the Army. The function of the Office is to assist the Secretary of the Army in carrying out his responsibilities.

"(b) The Office of the Secretary of the Army is composed of the following:

"(1) The Under Secretary of the Army.
"(2) The Assistant Secretaries of the Army.
"(3) The Administrative Assistant to the Secretary of the Army.
"(4) The General Counsel of the Department of the Army.
"(5) The Inspector General of the Army.
"(6) The Army Reserve Forces Policy Committee.
"(7) Such other offices and officials as may be established by law or as the Secretary of the Army may establish or designate.

"(c)(1) The Office of the Secretary of the Army shall have sole responsibility within the Office of the Secretary and the Army Staff for the following functions:

"(A) Acquisition.
"(B) Auditing.
"(C) Comptroller (including financial management).
"(D) Information management.
"(E) Inspector General.
"(F) Legislative affairs.
"(G) Public affairs.

"(2) The Secretary of the Army shall establish or designate a single office or other entity within the Office of the Secretary of the Army to conduct each function specified in paragraph (1). No office or other entity may be established or designated within the Army Staff to conduct any of the functions specified in paragraph (1).

"(3) The Secretary shall prescribe the relationship of each office or other entity established or designated under paragraph (2) to the Chief of Staff and to the Army Staff and shall ensure that each such office or entity provides the Chief of Staff such staff support as the Chief of Staff considers necessary to perform his duties and responsibilities.

"(4) The vesting in the Office of the Secretary of the Army of the responsibility for the conduct of a function specified in paragraph (1) does not preclude other elements of the executive part of the Department of the Army (including the Army Staff) from providing advice or assistance to the Chief of Staff or otherwise participating in that function within the executive part of the Department under the direction of the office assigned responsibility for that function in the Office of the Secretary of the Army.

"(d)(1) Subject to paragraph (2), the Office of the Secretary of the Army shall have sole responsibility within the Office of the Secretary and the Army Staff for the function of research and development.

"(2) The Secretary of the Army may assign to the Army Staff responsibility for those aspects of the function of research and development that relate to military requirements and test and evaluation.

"(3) The Secretary shall establish or designate a single office or other entity within the Office of the Secretary of the Army to conduct the function specified in paragraph (1).

"(4) The Secretary shall prescribe the relationship of the office or other entity established or designated under paragraph (3) to the Chief of Staff of the Army and to the Army Staff and shall ensure that each such office or entity provides the Chief of Staff such staff support as the Chief of Staff considers necessary to perform his duties and responsibilities.

"(e) The Secretary of the Army shall ensure that the Office of the Secretary of the Army and the Army Staff do not duplicate specific functions for which the Secretary has assigned responsibility to the other.

"(f)(1) The total number of members of the armed forces and civilian employees of the Department of the Army assigned or detailed to permanent duty in the Office of the Secretary of the Army and on the Army Staff may not exceed 3,105.

"(2) Not more than 1,865 officers of the Army on the active-duty list may be assigned or detailed to permanent duty in the Office of the Secretary of the Army and on the Army Staff.

"(3) The total number of general officers assigned or detailed to permanent duty in the Office of the Secretary of the Army and on the Army Staff may not exceed the number equal to 85 percent of the number of general officers assigned or detailed to such duty on the date of the enactment of this subsection.

"(4) The limitations in paragraphs (1), (2), and (3) do not apply in time of war or during a national emergency declared by Congress. The limitation in paragraph (2) does not apply whenever the President determines that it is in the national interest to increase the number of officers assigned or detailed to permanent duty in the Office of the Secretary of the Army or on the Army Staff.

"(5) The limitations in paragraphs (1), (2), and (3) do not apply before October 1, 1988.

"§ 3015. Under Secretary of the Army

"(a) There is an Under Secretary of the Army, appointed from civilian life by the President, by and with the advice and consent of the Senate.

"(b) The Under Secretary shall perform such duties and exercise such powers as the Secretary of the Army may prescribe.

"§ 3016. Assistant Secretaries of the Army

"(a) There are five Assistant Secretaries of the Army. They shall be appointed from civilian life by the President, by and with the advice and consent of the Senate.

"(b)(1) The Assistant Secretaries shall perform such duties and exercise such powers as the Secretary of the Army may prescribe.

"(2) One of the Assistant Secretaries shall be the Assistant Secretary of the Army for Manpower and Reserve Affairs. He shall have as his principal duty the overall supervision of manpower and reserve component affairs of the Department of the Army.

"(3) One of the Assistant Secretaries shall be the Assistant Secretary of the Army for Civil Works. He shall have as his principal duty the overall supervision of the functions of the Department of the Army relating to programs for conservation and development of the national water resources, including flood control, navigation, shore protection, and related purposes.".

(6) Section 3017 is amended—

(A) by striking out "(a)" at the beginning of the text of such section;

(B) by striking out clause (2) and inserting in lieu thereof the following:

"(2) The Assistant Secretaries of the Army, in the order prescribed by the Secretary of the Army and approved by the Secretary of Defense."; and

(C) by striking out subsection (b).

(7) Chapter 303 is further amended by adding at the end the following new sections:

"§ 3019. General Counsel

"(a) There is a General Counsel of the Department of the Army, appointed from civilian life by the President.

"(b) The General Counsel shall perform such functions as the Secretary of the Army may prescribe.

"§ 3020. Inspector General

"(a) There is an Inspector General of the Army who shall be detailed to such position by the Secretary of the Army from the general officers of the Army. An officer may not be detailed to such position for a tour of duty of more than four years, except that the Secretary may extend such a tour of duty if he makes a special finding that the extension is necessary in the public interest.

"(b) When directed by the Secretary or the Chief of Staff, the Inspector General shall—

"(1) inquire into and report upon the discipline, efficiency, and economy of the Army; and

"(2) perform any other duties prescribed by the Secretary or the Chief of Staff.

"(c) The Inspector General shall periodically propose programs of inspections to the Secretary of the Army and shall recommend additional inspections and investigations as may appear appropriate.

"(d) The Inspector General shall cooperate fully with the Inspector General of the Department of Defense in connection with the performance of any duty or function by the Inspector General of the Department of Defense under the Inspector General Act of 1978 (5 U.S.C. App. 3) regarding the Department of the Army.

"(e) The Inspector General shall have such deputies and assistants as the Secretary of the Army may prescribe. Each such deputy and assistant shall be an officer detailed by the Secretary to that position from the officers of the Army for a tour of duty of not more than four years, under a procedure prescribed by the Secretary.".

(8) Section 3033 is transferred to the end of chapter 303 (as amended by paragraph (7)), redesignated as section 3021, and amended—

(A) in subsection (a)—

(i) by striking out "office" and inserting in lieu thereof "Office";

(ii) by striking out "Committee which" and inserting in lieu thereof "Committee. The Committee";

(iii) by inserting "and the mobilization preparedness" after "reserve components";

(iv) by striking out "Army, and the" and inserting in lieu thereof "Army. The"; and

(v) by striking out "Chief of Staff and the Assistant Secretary responsible for reserve affairs" and inserting in lieu thereof "Secretary of the Army and the Chief of Staff";

(B) in subsection (h), by striking out "General" each place it appears; and

(C) by striking out the section heading and inserting in lieu thereof the following:

"§ 3021. Army Reserve Forces Policy Committee".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 303 is amended to read as follows:

"Sec.
"3011. Organization.
"3012. Department of the Army: seal.
"3013. Secretary of the Army.
"3014. Office of the Secretary of the Army.
"3015. Under Secretary of the Army.
"3016. Assistant Secretaries of the Army.
"3017. Secretary of the Army: successors to duties.
"3018. Administrative Assistant.
"3019. General Counsel.
"3020. Inspector General.
"3021. Army Reserve Forces Policy Committee.".

SEC. 502. THE ARMY STAFF

(a) COMPOSITION OF THE ARMY STAFF.—Section 3031 is amended to read as follows:

"§ 3031. The Army Staff: function; composition

"(a) There is in the executive part of the Department of the Army an Army Staff. The function of the Army Staff is to assist the Secretary of the Army in carrying out his responsibilities.

"(b) The Army Staff is composed of the following:

"(1) The Chief of Staff.
"(2) The Vice Chief of Staff.
"(3) The Deputy Chiefs of Staff.
"(4) The Assistant Chiefs of Staff.
"(5) The Chief of Engineers.
"(6) The Surgeon General of the Army.
"(7) The Judge Advocate General of the Army.
"(8) The Chief of Chaplains of the Army.
"(9) The Chief of Army Reserve.
"(10) Other members of the Army assigned or detailed to the Army Staff.
"(11) Civilian employees of the Department of the Army assigned or detailed to the Army Staff.

"(c) Except as otherwise specifically prescribed by law, the Army Staff shall be organized in such manner, and its members shall perform such duties and have such titles, as the Secretary may prescribe.".

(b) GENERAL DUTIES.—(1) Subsection (a) of section 3032 is amended by inserting "and to the Chief of Staff of the Army" before the period.

(2) Subsection (b) of such section is amended—

(A) by striking out "direction and control of the Secretary" in the matter preceding clause (1) and inserting in lieu thereof "authority, direction, and control of the Secretary of the Army";

(B) by inserting "subject to subsections (c) and (d) of section 3014 of this title," before "prepare" in clause (1);

(C) by striking out ", training, serving, mobilizing, and demobilizing" in clause (1) and inserting in lieu thereof "(including those aspects of research and development assigned by the Secretary of the Army), training, servicing, mobilizing, demobilizing, administering, and maintaining";

(D) by striking out "for military operations" in clause (2) and inserting in lieu thereof "to support military operations by combatant commands"; and

(E) by striking out clause (4) and inserting in lieu thereof the following:

"(4) as directed by the Secretary or the Chief of Staff, coordinate the action of organizations of the Army; and".

(3) The heading of such section is amended to read as follows:

"§ 3032. The Army Staff: general duties".

(c) CHIEF OF STAFF.—Section 3034 is redesignated as section 3033 and is amended to read as follows:

"§ 3033. Chief of Staff

"(a)(1) There is a Chief of Staff of the Army, appointed for a period of four years by the President, by and with the advice and consent of the Senate, from the general officers of the Army. He serves at the pleasure of the President. In time of war or during a national emergency declared by Congress, he may be reappointed for a term of not more than four years.

"(2) The President may appoint an officer as Chief of Staff only if—

"(A) the officer has had significant experience in joint duty assignments; and

"(B) such experience includes at least one joint duty assignment as a general officer.

"(3) The President may waive paragraph (2) in the case of an officer if the President determines such action is necessary in the national interest.

"(b) The Chief of Staff, while so serving, has the grade of general without vacating his permanent grade.

"(c) Except as otherwise prescribed by law and subject to section 3013(f) of this title, the Chief of Staff performs his duties under the authority, direction, and control of the Secretary of the Army and is directly responsible to the Secretary.

"(d) Subject to the authority, direction, and control of the Secretary of the Army, the Chief of Staff shall—

"(1) preside over the Army Staff;

"(2) transmit the plans and recommendations of the Army Staff to the Secretary and advise the Secretary with regard to such plans and recommendations;

"(3) after approval of the plans or recommendations of the Army Staff by the Secretary, act as the agent of the Secretary in carrying them into effect;

"(4) exercise supervision, consistent with the authority assigned to commanders of unified or specified combatant commands under chapter 6 of this title, over such of the members and organizations of the Army as the Secretary determines;

"(5) perform the duties prescribed for him by section 171 of this title and other provisions of law; and

"(6) perform such other military duties, not otherwise assigned by law, as are assigned to him by the President, the Secretary of Defense, or the Secretary of the Army.

"(e)(1) The Chief of Staff shall also perform the duties prescribed for him as a member of the Joint Chiefs of Staff under section 151 of this title.

"(2) To the extent that such action does not impair the independence of the Chief of Staff in the performance of his duties as a member of the Joint Chiefs of Staff, the Chief of Staff shall inform the Secretary regarding military advice rendered by members of the Joint Chiefs of Staff on matters affecting the Department of the Army.

"(3) Subject to the authority, direction, and control of the Secretary of Defense, the Chief of Staff shall keep the Secretary of the Army fully informed of significant military

operations affecting the duties and responsibilities of the Secretary.".

(d) VICE CHIEF OF STAFF.—Section 3035 is redesignated as section 3034 and is amended—

(1) by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"(a) There is a Vice Chief of Staff of the Army, appointed by the President, by and with the advice and consent of the Senate, from the general officers of the Army.

"(b) The Vice Chief of Staff of the Army, while so serving, has the grade of general without vacating his permanent grade.";

(2) by adding at the end the following new subsection:

"(d) When there is a vacancy in the office of Chief of Staff or during the absence or disability of the Chief of Staff—

"(1) the Vice Chief of Staff shall perform the duties of the Chief of Staff until a successor is appointed or the absence or disability ceases; or

"(2) if there is a vacancy in the office of the Vice Chief of Staff or the Vice Chief of Staff is absent or disabled, unless the President directs otherwise, the most senior officer of the Army in the Army Staff who is not absent or disabled and who is not restricted in performance of duty shall perform the duties of the Chief of Staff until a successor to the Chief of Staff or the Vice Chief of Staff is appointed or until the absence or disability of the Chief of Staff or Vice Chief of Staff ceases, whichever occurs first."; and

(3) by striking out the section heading and inserting in lieu thereof the following:

"§ 3034. Vice Chief of Staff".

(e) DEPUTY CHIEFS OF STAFF.—Chapter 305 is further amended by inserting after section 3034 (as redesignated by subsection (d) of this section) the following new section:

"§ 3035. Deputy Chiefs of Staff and Assistant Chiefs of Staff

"(a) The Deputy Chiefs of Staff and the Assistant Chiefs of Staff shall be general officers detailed to those positions.

"(b) The number of Deputy Chiefs of Staff and Assistant Chiefs of Staff shall be prescribed by the Secretary, except that—

"(1) there may not be more than five Deputy Chiefs of Staff; and

"(2) there may not be more than three Assistant Chiefs of Staff.".

(f) REPEAL OF SECTION FOR PROVOST MARSHAL GENERAL.—(1) Section 3039 is repealed.

(2) Section 3040 (relating to Deputy and Assistant Chiefs of Branches) is redesignated as section 3039 and is amended by striking out "sections 3036 and 3039" in subsection (a) and inserting in lieu thereof "section 3036".

(3) Section 3081(a) is amended by striking out "section 3040" and inserting in lieu thereof "section 3039".

(g) TECHNICAL AND CLERICAL AMENDMENTS.—(1) Section 3038 (as redesignated by section 501(a)(4) of this Act) is amended by striking out "services" in subsection (c) and inserting in lieu thereof "service".

(2) The table of sections at the beginning of chapter 305 is amended to read as follows:

"Sec.
"3031. The Army Staff: function; composition.
"3032. The Army Staff: general duties.
"3033. Chief of Staff.
"3034. Vice Chief of Staff.
"3035. Deputy Chiefs of Staff and Assistant Chiefs of Staff.
"3036. Chiefs of branches: appointment; duties.
"3037. Judge Advocate General, Assistant Judge Advocate General, and general officers of Judge Advocate General's Corps: appointment; duties.
"3038. Office of Army Reserve: appointment of Chief.
"3039. Deputy and assistant chiefs of branches.
"3040. Chief of National Guard Bureau: appointment; acting chief.".

SEC. 503. AUTHORITY TO ORGANIZE ARMY INTO COMMANDS, FORCES, AND ORGANIZATIONS

Section 3074(a) is amended by inserting "or by the Secretary of Defense" after "by law".

PART B—DEPARTMENT OF THE NAVY

SEC. 511. THE NAVY SECRETARIAT

(a) REPEAL OF SUPERSEDED CHAPTER.—Chapter 507 is repealed.

(b) TRANSFER OF SECTIONS PROVIDING FOR COMPOSITION OF THE DEPARTMENT OF THE NAVY.—(1) Part I of subtitle C is amended by inserting after chapter 505 the following new chapter 507:

"CHAPTER 507—COMPOSITION OF THE DEPARTMENT OF THE NAVY

"Sec.
"5061. Department of the Navy: composition.
"5062. United States Navy: composition; functions.
"5063. United States Marine Corps: composition; functions.

"§ 5061. Department of the Navy: composition

"The Department of the Navy is composed of the following:

"(1) The Office of the Secretary of the Navy.

"(2) The Office of the Chief of Naval Operations.

"(3) The Headquarters, Marine Corps.

"(4) The entire operating forces, including naval aviation, of the Navy and of the Marine Corps, and the reserve components of those operating forces.

"(5) All field activities, headquarters, forces, bases, installations, activities, and functions under the control or supervision of the Secretary of the Navy.

"(6) The Coast Guard when it is operating as a service in the Navy.".

(2) Section 5011 is amended by striking out the third and fourth sentences.

(3) Sections 5012 and 5013 are transferred to the end of chapter 507 (as added by paragraph (1)) and redesignated as sections 5062 and 5063, respectively.

(4) Section 5062 (as so transferred and redesignated) is amended)—

(A) by striking out "assigned and is" in subsection (a) and all that follows in that subsection and inserting in lieu thereof " assigned and, in accordance with integrated joint mobilization plans, for the expansion of the peacetime components of the Navy to meet the needs of war."; and

(B) by striking out subsection (d).

(c) REVISION OF NAVY SECRETARIAT SECTIONS.—Chapter 503 (as amended by subsection (b)) is further amended as follows:

(1) The heading of section 5011 is amended to read as follows:

"§ 5011. Organization".

(2) Such chapter is amended by adding after section 5011 the following new sections:

"§ 5012. Department of the Navy: seal

"The Secretary of the Navy shall have a seal for the Department of the Navy. The design of the seal must be approved by the President. Judicial notice shall be taken of the seal.

"§ 5013. Secretary of the Navy

"(a)(1) There is a Secretary of the Navy, appointed from civilian life by the President, by and with the advice and consent of the Senate. The Secretary is the head of the Department of the Navy.

"(2) A person may not be appointed as Secretary of the Navy within 10 years after relief from active duty as a commissioned officer of a regular component of an armed force.

"(b) Subject to the authority, direction, and control of the Secretary of Defense and subject to the provisions of chapter 6 of this title, the Secretary of the Navy is responsible for, and has the authority necessary to conduct, all affairs of the Department of the Navy, including the following functions:

"(1) Recruiting.
"(2) Organizing.
"(3) Supplying.
"(4) Equipping (including research and development).
"(5) Training.
"(6) Servicing.
"(7) Mobilizing.
"(8) Demobilizing.
"(9) Administering (including the morale and welfare of personnel).
"(10) Maintaining.
"(11) The construction, outfitting, and repair of military equipment.
"(12) The construction, maintenance, and repair of buildings, structures, and utilities and the acquisition of real property and interests in real property necessary to carry out the responsibilities specified in this section.

"(c) Subject to the authority, direction, and control of the Secretary of Defense, the Secretary of the Navy is also responsible to the Secretary of Defense for—

"(1) the functioning and efficiency of the Department of the Navy;

"(2) the formulation of policies and programs by the Department of the Navy that are fully consistent with national security objectives and policies established by the President or the Secretary of Defense;

"(3) the effective and timely implementation of policy, program, and budget decisions and instructions of the President or the Secretary of Defense relating to the functions of the Department of the Navy;

"(4) carrying out the functions of the Department of the Navy so as to fulfill (to the maximum extent practicable) the current and future operational requirements of the unified and specified combatant commands;

"(5) effective cooperation and coordination between the Department of the Navy and the other military departments and agencies of the Department of Defense to provide for more effective, efficient, and economical administration and to eliminate duplication;

"(6) the presentation and justification of the positions of the Department of the Navy on the plans, programs, and policies of the Department of Defense; and

"(7) the effective supervision and control of the intelligence activities of the Department of the Navy.

"(d) The Secretary of the Navy is also responsible for such other activities as may be prescribed by law or by the President or Secretary of Defense.

"(e) After first informing the Secretary of Defense, the Secretary of the Navy may make such recommendations to Congress relating to the Department of Defense as he considers appropriate.

"(f) The Secretary of the Navy may assign such of his functions, powers, and duties as he considers appropriate to the Under Secretary of the Navy and to the Assistant Secretaries of the Navy. Officers of the Navy and the Marine Corps shall, as directed by the Secretary, report on any matter to the Secretary, the Under Secretary, or any Assistant Secretary.

"(g) The Secretary of the Navy may—

"(1) assign, detail, and prescribe the duties of members of the Navy and Marine Corps and civilian personnel of the Department of the Navy;

"(2) change the title of any officer or activity of the Department of the Navy not prescribed by law; and

"(3) prescribe regulations to carry out his functions, powers, and duties under this title.".

(3) Section 5032 is transferred to the end of such chapter and redesignated as section 5013a.

(4) Such chapter is further amended by adding after section 5013a (as transferred and redesignated by paragraph (3)) the following new sections:

"§ 5014. Office of the Secretary of the Navy

"(a) There is in the Department of the Navy an Office of the Secretary of the Navy. The function of the Office is to assist the Secretary of the Navy in carrying out his responsibilities.

"(b) The Office of the Secretary of the Navy is composed of the following:

"(1) The Under Secretary of the Navy.

"(2) The Assistant Secretaries of the Navy.

"(3) The General Counsel of the Department of the Navy.

"(4) The Judge Advocate General of the Navy.

"(5) The Naval Inspector General.

"(6) The Chief of Naval Research.

"(7) Such other offices and officials as may be established by law or as the Secretary of the Navy may establish or designate.

"(c)(1) The Office of the Secretary of the Navy shall have sole responsibility within the Office of the Secretary of the Navy, the Office of the Chief of Naval Operations, and the Headquarters, Marine Corps, for the following functions:

"(A) Acquisition.

"(B) Auditing.

"(C) Comptroller (including financial management).

"(D) Information management.

"(E) Inspector General.

"(F) Legislative affairs.

"(G) Public affairs.

"(2) The Secretary of the Navy shall establish or designate a single office or other entity within the Office of the Secretary of the Navy to conduct each function specified in paragraph (1). No office or other entity may be established or designated within the Office of the Chief of Naval Operations or the Headquarters, Marine Corps, to conduct any of the functions specified in paragraph (1).

"(3) The Secretary shall—

"(A) prescribe the relationship of each office or other entity established or designated under paragraph (2)—

"(i) to the Chief of Naval Operations and the Office of the Chief of Naval Operations; and

"(ii) to the Commandant of the Marine Corps and the Headquarters, Marine Corps; and

"(B) ensure that each such office or entity provides the Chief of Naval Operations and the Commandant of the Marine Corps such staff support as each considers necessary to perform his duties and responsibilities.

"(4) The vesting in the Office of the Secretary of the Navy of the responsibility for the conduct of a function specified in paragraph (1) does not preclude other elements of the executive part of the Department of the Navy (including the Office of the Chief of Naval Operations and the Headquarters, Marine Corps) from providing advice or assistance to the Chief of Naval Operations and the Commandant of the Marine Corps or otherwise participating in that function within the executive part of the Department under the direction of the office assigned responsibility for that function in the Office of the Secretary of the Navy.

"(d)(1) Subject to paragraph (2), the Office of the Secretary of the Navy shall have sole responsibility within the Office of the Secretary of the Navy, the Office of the Chief of Naval Operations, and the Headquarters, Marine Corps, for the function of research and development.

"(2) The Secretary of the Navy may assign to the Office of the Chief of Naval Operations and the Headquarters, Marine Corps, responsibility for those aspects of the function of research and development relating to military requirements and test and evaluation.

"(3) The Secretary shall establish or designate a single office or other entity within the Office of the Secretary of the Navy to conduct the function specified in paragraph (1).

"(4) The Secretary shall—

"(A) prescribe the relationship of the office or other entity established or designated under paragraph (3)—

"(i) to the Chief of Naval Operations and the Office of the Chief of Naval Operations; and

"(ii) to the Commandant of the Marine Corps and the Headquarters, Marine Corps; and

"(B) ensure that each such office or entity provides the Chief of Naval Operations and the Commandant of the Marine Corps such staff support as each considers necessary to perform his duties and responsibilities.

"(e) The Secretary of the Navy shall ensure that the Office of the Secretary of the Navy, the Office of the Chief of Naval Operations, and the Headquarters, Marine Corps, do not duplicate specific functions for which the Secretary has assigned responsibility to another of such offices.

"(f)(1) The total number of members of the armed forces and civilian employees of the Department of the Navy assigned or detailed to permanent duty in the Office of the Secretary of the Navy, the Office of Chief of Naval Operations, and the Headquarters, Marine Corps, may not exceed 2,866.

"(2) Not more than 1,720 officers of the Navy and Marine Corps on the active-duty list may be assigned or detailed to permanent duty in the Office of the Secretary of the Navy, the Office of the Chief of Naval Operations, and the Headquarters, Marine Corps.

"(3) The total number of general and flag officers assigned or detailed to permanent duty in the Office of the Secretary of the Navy, the Office of the Chief of Naval Operations, and the Headquarters, Marine Corps, may not exceed the number equal to 85 percent of the number of general and flag officers assigned or detailed to such duty on the date of the enactment of this subsection.

"(4) The limitations in paragraphs (1), (2), and (3) do not apply in time of war or during a national emergency declared by Congress. The limitation in paragraph (2) does not apply whenever the President determines that it is in the national interest to increase the number of officers assigned or detailed to permanent duty in the Office of the Secretary of the Navy, the Office of the Chief of Naval Operations, or the Headquarters, Marine Corps.

"(5) The limitations in paragraphs (1), (2), and (3) do not apply before October 1, 1988.

"§ 5015. Under Secretary of the Navy

"(a) There is an Under Secretary of the Navy, appointed from civilian life by the President, by and with the advice and consent of the Senate.

"(b) The Under Secretary shall perform such duties and exercise such powers as the Secretary of the Navy may prescribe.

"§ 5016. Assistant Secretaries of the Navy

"(a) There are four Assistant Secretaries of the Navy. They shall be appointed from civilian life by the President, by and with the advice and consent of the Senate.

"(b)(1) The Assistant Secretaries shall perform such duties and exercise such powers as the Secretary of the Navy may prescribe.

"(2) One of the Assistant Secretaries shall be the Assistant Secretary of the Navy for Manpower and Reserve Affairs. He shall have as his principal duty the overall supervision of manpower and reserve component affairs of the Department of the Navy.

"§ 5017. Secretary of the Navy: successors to duties

"If the Secretary of the Navy dies, resigns, is removed from office, is absent, or is disabled, the person who is highest on the following list, and who is not absent or disabled, shall perform the duties of the Secretary until the President, under section 3347 of title 5, directs another person to perform those duties or until the absence or disability ceases:

"(1) The Under Secretary of the Navy.

"(2) The Assistant Secretaries of the Navy, in the order prescribed by the Secretary of the Navy and approved by the Secretary of Defense.

"(3) The Chief of Naval Operations.

"(4) The Commandant of the Marine Corps.

"§ 5018. Administrative Assistant

"The Secretary of the Navy may appoint an Administrative Assistant in the Office of the Secretary of the Navy. The Administrative Assistant shall perform such duties as the Secretary may prescribe.

"§ 5019. General Counsel

"(a) There is a General Counsel of the Department of the Navy, appointed from civilian life by the President.

"(b) The General Counsel shall perform such functions as the Secretary of the Navy may prescribe.".

(5) Section 5088 is transferred to the end of such chapter (as amended by paragraph (4)), redesignated as section 5020, and amended—

(A) by striking out "Office of the Chief of Naval Operations" in subsection (a) and inserting in lieu thereof "Office of the Secretary of the Navy";

(B) by redesignating subsection (c) as subsection (d) and striking out "the Chief of Naval Operations" in such subsection and inserting in lieu thereof "the Secretary of the Navy"; ; and

(C) by inserting after subsection (b) the following new subsection (c):

"(c) The Naval Inspector General shall cooperate fully with the Inspector General of the Department of Defense in connection with the performance of any duty or function by the Inspector General of the Depart-

ment of Defense under the Inspector General Act of 1978 (5 U.S.C. App. 3) regarding the Department of the Navy.".

(d) TRANSFERS FROM CHAPTER 513.—Sections 5150, 5151, 5152, and 5153 are transferred to the end of chapter 503 (as amended by subsection (c)) and redesignated as sections 5021, 5022, 5023, and 5024, respectively.

(e) REPEAL OF SUPERSEDED CHAPTER.—Chapter 505 is repealed.

(f) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 503 is amended to read as follows:

"Sec.
"5011. Organization.
"5012. Department of the Navy: seal.
"5013. Secretary of the Navy.
"5013a. Secretary of the Navy: powers with respect to Coast Guard.
"5014. Office of the Secretary of the Navy.
"5015. Under Secretary of the Navy.
"5016. Assistant Secretaries of the Navy.
"5017. Secretary of the Navy: successors to duties.
"5018. Administrative Assistant.
"5019. General Counsel.
"5020. Naval Inspector General: detail; duties.
"5021. Office of Naval Research: Chief; appointment, term, emoluments; Assistant Chief; succession to duties.
"5022. Office of Naval Research: duties.
"5023. Office of Naval Research: appropriations; time limit.
"5024. Naval Research Advisory Committee.".

SEC. 512. OFFICE OF THE CHIEF OF NAVAL OPERATIONS

(a) REPEAL OF FORMER CHAPTER ON OFFICE OF CNO.—Chapter 509 is repealed.

(b) NEW CHAPTER ON OFFICE OF CNO.—Part I of subtitle C is amended by inserting after chapter 503 the following new chapter 505:

"CHAPTER 505—OFFICE OF THE CHIEF OF NAVAL OPERATIONS

"Sec.
"5031. Office of the Chief of Naval Operations: function; composition.
"5032. Office of the Chief of Naval Operations: general duties.
"5033. Chief of Naval Operations.
"5034. Chief of Naval Operations: retirement.
"5035. Vice Chief of Naval Operations.
"5036. Deputy Chiefs of Naval Operations.
"5037. Assistant Chiefs of Naval Operations.

"§ 5031. Office of the Chief of Naval Operations: function; composition

"(a) There is in the executive part of the Department of the Navy an Office of the Chief of Naval Operations. The function of the Office of the Chief of Naval Operations is to assist the Secretary of the Navy in carrying out his responsibilities.

"(b) The Office of the Chief of Naval Operations is composed of the following:

"(1) The Chief of Naval Operations.

"(2) The Vice Chief of Naval Operations.

"(3) The Deputy Chiefs of Naval Operations.

"(4) The Assistant Chiefs of Naval Operations.

"(5) The Surgeon General of the Navy.

"(6) The Chief of Naval Personnel.

"(7) The Chief of Chaplains of the Navy.

"(8) Other members of the Navy and Marine Corps assigned or detailed to the Office of the Chief of Naval Operations.

"(9) Civilian employees in the Department of the Navy assigned or detailed to the Office of the Chief of Naval Operations.

"(c) Except as otherwise specifically prescribed by law, the Office of the Chief of Naval Operations shall be organized in such manner, and its members shall perform such duties and have such titles, as the Secretary may prescribe.

"§ 5032. Office of the Chief of Naval Operations: general duties

"(a) The Office of the Chief of Naval Operations shall furnish professional assistance to the Secretary, the Under Secretary, and the Assistant Secretaries of the Navy and to the Chief of Naval Operations.

"(b) Under the authority, direction, and control of the Secretary of the Navy, the Office of the Chief of Naval Operations shall—

"(1) subject to subsections (c) and (d) of section 5014 of this title, prepare for such employment of the Navy, and for such recruiting, organizing, supplying, equipping (including those aspects of research and development assigned by the Secretary of the Navy), training, servicing, mobilizing, demobilizing, administering, and maintaining of the Navy, as will assist in the execution of any power, duty, or function of the Secretary or the Chief of Naval Operations;

"(2) investigate and report upon the efficiency of the Navy and its preparation to support military operations by combatant commands;

"(3) prepare detailed instructions for the execution of approved plans and supervise the execution of those plans and instructions;

"(4) as directed by the Secretary or the Chief of Naval Operations, coordinate the action of organizations of the Navy; and

"(5) perform such other duties, not otherwise assigned by law, as may be prescribed by the Secretary.

"§ 5033. Chief of Naval Operations

"(a)(1) There is a Chief of Naval Operations, appointed by the President, by and with the advice and consent of the Senate. The Chief of Naval Operations shall be appointed for a term of four years, from officers on the active-duty list in the line of the Navy who are eligible to command at sea and who hold the grade of rear admiral or above. He serves at the pleasure of the President. In time of war or during a national emergency declared by Congress, he may be reappointed for a term of not more than four years.

"(2) The President may appoint an officer as the Chief of Naval Operations only if—

"(A) the officer has had significant experience in joint duty assignments; and

"(B) such experience includes at least one joint duty assignment as a flag officer.

"(3) The President may waive paragraph (2) in the case of an officer if the President determines such action is necessary in the national interest.

"(b) The Chief of Naval Operations, while so serving, has the grade of admiral without vacating his permanent grade. In the performance of his duties within the Department of the Navy, the Chief of Naval Operations takes precedence above all other officers of the naval service.

"(c) Except as otherwise prescribed by law and subject to section 5013(f) of this title, the Chief of Naval Operations performs his duties under the authority, direction, and control of the Secretary of the Navy and is directly responsible to the Secretary.

"(d) Subject to the authority, direction, and control of the Secretary of the Navy, the Chief of Naval Operations shall—

"(1) preside over the Office of the Chief of Naval Operations;

"(2) transmit the plans and recommendations of the Office of the Chief of Naval Operations to the Secretary and advise the Secretary with regard to such plans and recommendations;

"(3) after approval of the plans or recommendations of the Office of the Chief of Naval Operations by the Secretary, act as the agent of the Secretary in carrying them into effect;

"(4) exercise supervision, consistent with the authority assigned to commanders of unified or specified combatant commands under chapter 6 of this title, over such of the members and organizations of the Navy and the Marine Corps as the Secretary determines;

"(5) perform the duties prescribed for him by section 171 of this title and other provisions of law; and

"(6) perform such other military duties, not otherwise assigned by law, as are assigned to him by the President, the Secretary of Defense, or the Secretary of the Navy.

"(e)(1) The Chief of Naval Operations shall also perform the duties prescribed for him as a member of the Joint Chiefs of Staff under section 151 of this title.

"(2) To the extent that such action does not impair the independence of the Chief of Naval Operations in the performance of his duties as a member of the Joint Chiefs of Staff, the Chief of Naval Operations shall inform the Secretary regarding military advice rendered by members of the Joint Chiefs of Staff on matters affecting the Department of the Navy.

"(3) Subject to the authority, direction, and control of the Secretary of Defense, the Chief of Naval Operations shall keep the Secretary of the Navy fully informed of significant military operations affecting the duties and responsibilities of the Secretary.

"§ 5034. Chief of Naval Operations: retirement

"An officer who is retired while serving as Chief of Naval Operations, or who, after serving at least two and one-half years as Chief of Naval Operations, is retired after completion of that service while serving in a lower grade than admiral, may, in the discretion of the President, be retired with the grade of admiral.

"§ 5035. Vice Chief of Naval Operations

"(a) There is a Vice Chief of Naval Operations, appointed by the President, by and with the advice and consent of the Senate, from officers on the active-duty list in the line of the Navy serving in grades above captain and eligible to command at sea.

"(b) The Vice Chief of Naval Operations, while so serving, has the grade of admiral without vacating his permanent grade.

"(c) The Vice Chief of Naval Operations has such authority and duties with respect to the Department of the Navy as the Chief of Naval Operations, with the approval of the Secretary of the Navy, may delegate to or prescribe for him. Orders issued by the Vice Chief of Naval Operations in performing such duties have the same effect as those issued by the Chief of Naval Operations.

"(d) When there is a vacancy in the office of Chief of Naval Operations or during the absence or disability of the Chief of Naval Operations—

"(1) the Vice Chief of Naval Operations shall perform the duties of the Chief of Naval Operations until a successor is appointed or the absence or disability ceases; or

"(2) if there is a vacancy in the office of the Vice Chief of Naval Operations or the Vice Chief of Naval Operations is absent or

disabled, unless the President directs otherwise, the most senior officer of the Navy in the Office of the Chief of Naval Operations who is not absent or disabled and who is not restricted in performance of duty shall perform the duties of the Chief of Naval Operations until a successor to the Chief of Naval Operations or the Vice Chief of Naval Operations is appointed or until the absence or disability of the Chief of Naval Operations or Vice Chief of Naval Operations ceases, whichever occurs first.

"§ 5036. Deputy Chiefs of Naval Operations

"(a) There are in the Office of the Chief of Naval Operations not more than five Deputy Chiefs of Naval Operations, detailed by the Secretary of the Navy from officers on the active-duty list in the line of the Navy serving in grades above captain.

"(b) The Deputy Chiefs of Naval Operations are charged, under the direction of the Chief of Naval Operations, with the execution of the functions of their respective divisions. Orders issued by the Deputy Chiefs of Naval Operations in performing the duties assigned them are considered as coming from the Chief of Naval Operations.

"§ 5037. Assistant Chiefs of Naval Operations

"(a) There are in the Office of the Chief of Naval Operations not more than three Assistant Chiefs of Naval Operations, detailed by the Secretary of the Navy from officers on the active-duty list in the line of the Navy and officers on the active-duty list of the Marine Corps.

"(b) The Assistant Chiefs of Naval Operations shall perform such duties as the Secretary of the Navy prescribes.".

SEC. 513. HEADQUARTERS, MARINE CORPS

(a) REPEAL OF FORMER CHAPTER ON HEADQUARTERS, MARINE CORPS.—Chapter 515 is repealed.

(b) NEW CHAPTER.—Part I of subtitle C is amended by inserting after chapter 505 (as added by section 512 of this Act) the following new chapter:

"CHAPTER 506—HEADQUARTERS, MARINE CORPS

"Sec.
"5041. Headquarters, Marine Corps: function; composition.
"5042. Headquarters, Marine Corps: general duties.
"5043. Commandant of the Marine Corps.
"5044. Assistant Commandant of the Marine Corps.
"5045. Chief of Staff; Deputy and Assistant Chiefs of Staff.

"§ 5041. Headquarters, Marine Corps: function; composition

"(a) There is in the executive part of the Department of the Navy a Headquarters, Marine Corps. The function of the Headquarters, Marine Corps, is to assist the Secretary of the Navy in carrying out his responsibilities.

"(b) The Headquarters, Marine Corps, is composed of the following:

"(1) The Commandant of the Marine Corps.

"(2) The Assistant Commandant of the Marine Corps.

"(3) The Chief of Staff of the Marine Corps.

"(4) The Deputy Chiefs of Staff.

"(5) The Assistant Chiefs of Staff.

"(6) Other members of the Navy and Marine Corps assigned or detailed to the Headquarters, Marine Corps.

"(7) Civilian employees in the Department of the Navy assigned or detailed to the Headquarters, Marine Corps.

"(c) Except as otherwise specifically prescribed by law, the Headquarters, Marine Corps, shall be organized in such manner, and its members shall perform such duties and have such titles, as the Secretary may prescribe.

"§ 5042. Headquarters, Marine Corps: general duties

"(a) The Headquarters, Marine Corps, shall furnish professional assistance to the Secretary, the Under Secretary, and the Assistant Secretaries of the Navy and to the Commandant of the Marine Corps.

"(b) Under the authority, direction, and control of the Secretary of the Navy, the Headquarters, Marine Corps, shall—

"(1) subject to subsections (c) and (d) of section 5014 of this title, prepare for such employment of the Marine Corps, and for such recruiting, organizing, supplying, equipping (including research and development), training, servicing, mobilizing, demobilizing, administering, and maintaining of the Marine Corps, as will assist in the execution of any power, duty, or function of the Secretary or the Commandant;

"(2) investigate and report upon the efficiency of the Marine Corps and its preparation to support military operations by combatant commanders;

"(3) prepare detailed instructions for the execution of approved plans and supervise the execution of those plans and instructions;

"(4) as directed by the Secretary or the Commandant, coordinate the action of organizations of the Marine Corps; and

"(5) perform such other duties, not otherwise assigned by law, as may be prescribed by the Secretary.

"§ 5043. Commandant of the Marine Corps

"(a)(1) There is a Commandant of the Marine Corps, appointed by the President, by and with the advice and consent of the Senate. The Commandant shall be appointed for a term of four years from officers on the active-duty list of the Marine Corps not below the grade of colonel. He serves at the pleasure of the President. In time of war or during a national emergency declared by Congress, he may be reappointed for a term of not more than four years.

"(2) The President may appoint an officer as Commandant of the Marine Corps only if—

"(A) the officer has had significant experience in joint duty assignments; and

"(B) such experience includes at least one joint duty assignment as a general officer.

"(3) The President may waive paragraph (2) in the case of an officer if the President determines such action is necessary in the national interest.

"(b) The Commandant of the Marine Corps, while so serving, has the grade of general without vacating his permanent grade.

"(c) An officer who is retired while serving as Commandant of the Marine Corps, or who, after serving at least two and one-half years as Commandant, is retired after completion of that service while serving in a lower grade than general, may, in the discretion of the President, be retired with the grade of general.

"(d) Except as otherwise prescribed by law and subject to section 5013(f) of this title, the Commandant performs his duties under the authority, direction, and control of the Secretary of the Navy and is directly responsible to the Secretary.

"(e) Subject to the authority, direction, and control of the Secretary of the Navy, the Commandant shall—

"(1) preside over the Headquarters, Marine Corps;

"(2) transmit the plans and recommendations of the Headquarters, Marine Corps, to the Secretary and advise the Secretary with regard to such plans and recommendations;

"(3) after approval of the plans or recommendations of the Headquarters, Marine Corps, by the Secretary, act as the agent of the Secretary in carrying them into effect;

"(4) exercise supervision, consistent with the authority assigned to commanders of unified or specified combatant commands under chapter 6 of this title, over such of the members and organizations of the Marine Corps and the Navy as the Secretary determines;

"(5) perform the duties prescribed for him by section 171 of this title and other provisions of law; and

"(6) perform such other military duties, not otherwise assigned by law, as are assigned to him by the President, the Secretary of Defense, or the Secretary of the Navy.

"(f)(1) The Commandant shall also perform the duties prescribed for him as a member of the Joint Chiefs of Staff under section 151 of this title.

"(2) To the extent that such action does not impair the independence of the Commandant in the performance of his duties as a member of the Joint Chiefs of Staff, the Commandant shall inform the Secretary regarding military advice rendered by members of the Joint Chiefs of Staff on matters affecting the Department of the Navy.

"(3) Subject to the authority, direction, and control of the Secretary of Defense, the Commandant shall keep the Secretary of the Navy fully informed of significant military operations affecting the duties and responsibilities of the Secretary.

"§ 5044. Assistant Commandant of the Marine Corps

"(a) There is an Assistant Commandant of the Marine Corps, appointed by the President, by and with the advice and consent of the Senate, from officers on the active-duty list of the Marine Corps not restricted in the performance of duty.

"(b) The Assistant Commandant of the Marine Corps, while so serving, has the grade of general without vacating his permanent grade.

"(c) The Assistant Commandant has such authority and duties with respect to the Marine Corps as the Commandant, with the approval of the Secretary of the Navy, may delegate to or prescribe for him. Orders issued by the Assistant Commandant in performing such duties have the same effect as those issued by the Commandant.

"(d) When there is a vacancy in the office of Commandant of the Marine Corps, or during the absence or disability of the Commandant—

"(1) the Assistant Commandant of the Marine Corps shall perform the duties of the Commandant until a successor is appointed or the absence or disability ceases; or

"(2) if there is a vacancy in the office of the Assistant Commandant of the Marine Corps or the Assistant Commandant is absent or disabled, unless the President directs otherwise, the most senior officer of the Marine Corps in the Headquarters, Marine Corps, who is not absent or disabled and who is not restricted in performance of duty shall perform the duties of the Commandant until a successor to the Commandant or the Assistant Commandant is appointed or until the absence or disability of the Commandant or Assistant Commandant ceases, whichever occurs first.

"§ 5045. Chief of Staff; Deputy and Assistant Chiefs of Staff

"There are in the Headquarters, Marine Corps, a Chief of Staff, not more than five Deputy Chiefs of Staff, and not more than three Assistant Chiefs of Staff, detailed by the Secretary of the Navy from officers on the active-duty list of the Marine Corps.".

SEC. 514. TECHNICAL AND CLERICAL AMENDMENTS

(a) CONFORMING AMENDMENTS TO CHAPTER 513.—(1) The heading of chapter 513 is amended to read as follows:

"CHAPTER 513—BUREAUS; OFFICE OF THE JUDGE ADVOCATE GENERAL".

(2) Section 5155 is redesignated as section 5150.

(3) The table of sections at the beginning of such chapter is amended—

(A) by striking out the items relating to sections 5150, 5151, 5152, and 5153; and

(B) by redesignating the item relating to section 5155 to conform to the redesignation made by paragraph (2).

(b) TECHNICAL AMENDMENTS TO CHAPTER 661.—Chapter 661 is amended—

(1) by redesignating sections 7861 and 7862 as sections 7862 and 7863, respectively; and

(2) by striking out the table of sections at the beginning of such chapter and inserting in lieu thereof the following:

"Sec.
"7861. Custody of departmental records and property.
"7862. Accounts of paymasters of lost or captured naval vessels.
"7863. Disbursements by order of commanding officer.

"§ 7861. Custody of departmental records and property

"The Secretary of the Navy has custody and charge of all books, records, papers, furniture, fixtures, and other property under the lawful control of the executive part of the Department of the Navy.".

(c) CROSS-REFERENCE AMENDMENTS.—(1) Section 125(b) is amended by striking out "5012, 5013" and inserting in lieu thereof "5062, 5063".

(2) Section 5023 (as redesignated by section 5011(d) of this Act) is amended by striking out "section 5151" in subsection (a) and inserting in lieu thereof "section 5022".

(3) Sections 5589(a) and 6027 are amended by striking out "section 5155(b)" and inserting in lieu thereof "section 5150(b)".

(d) CLERICAL AMENDMENTS.—(1) The tables of chapters at the beginning of subtitle C, and at the beginning of part I of such subtitle, are each amended by striking out the items relating to chapters 505, 507, 509, 513, and 515 and inserting in lieu thereof the following:

"505. Office of the Chief of Naval Operations	5031
"506. Headquarters, Marine Corps	5041
"507. Composition of the Department of the Navy	5061
"513. Bureaus; Office of the Judge Advocate General	5131".

(2) Subsection (c) of section 5024 (as redesignated by section 511(d) of this Act) is amended by striking out "claim proceeding" and inserting in lieu thereof "claim, proceeding,".

PART C—DEPARTMENT OF THE AIR FORCE

SEC. 521. THE AIR FORCE SECRETARIAT

(a) AMENDMENTS TO CHAPTER 803.—(1) Sections 8010, 8011, 8012, 8013, and 8014 are redesignated as sections 8011, 8012, 8013, 8014, and 8015, respectively.

(2) Section 8019 is transferred to the end of chapter 805 and is redesignated as section 8038.

(3) Chapter 803 is amended by striking out sections 8013, 8014, and 8015 (as redesignated by paragraph (1)) and inserting in lieu thereof the following:

"§ 8013. Secretary of the Air Force

"(a)(1) There is a Secretary of the Air Force, appointed from civilian life by the President, by and with the advice and consent of the Senate. The Secretary is the head of the Department of the Air Force.

"(2) A person may not be appointed as Secretary of the Air Force within 10 years after relief from active duty as a commissioned officer of a regular component of an armed force.

"(b) Subject to the authority, direction, and control of the Secretary of Defense and subject to the provisions of chapter 6 of this title, the Secretary of the Air Force is responsible for, and has the authority necessary to conduct, all affairs of the Department of the Air Force, including the following functions:

"(1) Recruiting.
"(2) Organizing.
"(3) Supplying.
"(4) Equipping (including research and development).
"(5) Training.
"(6) Servicing.
"(7) Mobilizing.
"(8) Demobilizing.
"(9) Administering (including the morale and welfare of personnel).
"(10) Maintaining.
"(11) The construction, outfitting, and repair of military equipment.
"(12) The construction, maintenance, and repair of buildings, structures, and utilities and the acquisition of real property and interests in real property necessary to carry out the responsibilities specified in this section.

"(c) Subject to the authority, direction, and control of the Secretary of Defense, the Secretary of the Air Force is also responsible to the Secretary of Defense for—

"(1) the functioning and efficiency of the Department of the Air Force;

"(2) the formulation of policies and programs by the Department of the Air Force that are fully consistent with national security objectives and policies established by the President or the Secretary of Defense;

"(3) the effective and timely implementation of policy, program, and budget decisions and instructions of the President or the Secretary of Defense relating to the functions of the Department of the Air Force;

"(4) carrying out the functions of the Department of the Air Force so as to fulfill (to the maximum extent practicable) the current and future operational requirements of the unified and specified combatant commands;

"(5) effective cooperation and coordination between the Department of the Air Force and the other military departments and agencies of the Department of Defense to provide for more effective, efficient, and economical administration and to eliminate duplication;

"(6) the presentation and justification of the positions of the Department of the Air Force on the plans, programs, and policies of the Department of Defense; and

"(7) the effective supervision and control of the intelligence activities of the Department of the Air Force.

"(d) The Secretary of the Air Force is also responsible for such other activities as may be prescribed by law or by the President or Secretary of Defense.

"(e) After first informing the Secretary of Defense, the Secretary of the Air Force may make such recommendations to Congress relating to the Department of Defense as he considers appropriate.

"(f) The Secretary of the Air Force may assign such of his functions, powers, and duties as he considers appropriate to the Under Secretary of the Air Force and to the Assistant Secretaries of the Air Force. Officers of the Air Force shall, as directed by the Secretary, report on any matter to the Secretary, the Under Secretary, or any Assistant Secretary.

"(g) The Secretary of the Air Force may—

"(1) assign, detail, and prescribe the duties of members of the Air Force and civilian personnel of the Department of the Air Force;

"(2) change the title of any officer or activity of the Department of the Air Force not prescribed by law; and

"(3) prescribe regulations to carry out his functions, powers, and duties under this title.

"§ 8014. Office of the Secretary of the Air Force

"(a) There is in the Department of the Air Force an Office of the Secretary of the Air Force. The function of the Office is to assist the Secretary of the Air Force in carrying out his responsibilities.

"(b) The Office of the Secretary of the Air Force is composed of the following:

"(1) The Under Secretary of the Air Force.
"(2) The Assistant Secretaries of the Air Force.
"(3) The General Counsel of the Department of the Air Force.
"(4) The Inspector General of the Air Force.
"(5) The Air Reserve Forces Policy Committee.
"(6) Such other offices and officials as may be established by law or as the Secretary of the Air Force may establish or designate.

"(c)(1) The Office of the Secretary of the Air Force shall have sole responsibility within the Office of the Secretary and the Air Staff for the following functions:

"(A) Acquisition.
"(B) Auditing.
"(C) Comptroller (including financial management).
"(D) Information management.
"(E) Inspector General.
"(F) Legislative affairs.
"(G) Public affairs.

"(2) The Secretary of the Air Force shall establish or designate a single office or other entity within the Office of the Secretary of the Air Force to conduct each function specified in paragraph (1). No office or other entity may be established or designated within the Air Staff to conduct any of the functions specified in paragraph (1).

"(3) The Secretary shall prescribe the relationship of each office or other entity established or designated under paragraph (2) to the Chief of Staff and to the Air Staff and shall ensure that each such office or entity provides the Chief of Staff such staff support as the Chief of Staff considers necessary to perform his duties and responsibilities.

"(4) The vesting in the Office of the Secretary of the Air Force of the responsibility for the conduct of a function specified in paragraph (1) does not preclude other elements of the executive part of the Department of the Air Force (including the Air Staff) from providing advice or assistance to the Chief of Staff or otherwise participating in that function within the executive part of the De-

partment under the direction of the office assigned responsibility for that function in the Office of the Secretary of the Air Force.

"(d)(1) Subject to paragraph (2), the Office of the Secretary of the Air Force shall have sole responsibility within the Office of the Secretary and the Air Staff for the function of research and development.

"(2) The Secretary of the Air Force may assign to the Air Staff responsibility for those aspects of the function of research and development that relate to military requirements and test and evaluation.

"(3) The Secretary shall establish or designate a single office or other entity within the Office of the Secretary of the Air Force to conduct the function specified in paragraph (1).

"(4) The Secretary shall prescribe the relationship of the office or other entity established or designated under paragraph (3) to the Chief of Staff of the Air Force and to the Air Staff and shall ensure that each such office or entity provides the Chief of Staff such staff support as the Chief of Staff considers necessary to perform his duties and responsibilities.

"(e) The Secretary of the Air Force shall ensure that the Office of the Secretary of the Air Force and the Air Staff do not duplicate specific functions for which the Secretary has assigned responsibility to the other.

"(f)(1) The total number of members of the armed forces and civilian employees of the Department of the Air Force assigned or detailed to permanent duty in the Office of the Secretary of the Air Force and on the Air Staff may not exceed 2,639.

"(2) Not more than 1,585 officers of the Air Force on the active-duty list may be assigned or detailed to permanent duty in the Office of the Secretary of the Air Force and on the Air Staff.

"(3) The total number of general officers assigned or detailed to permanent duty in the Office of the Secretary of the Air Force and on the Air Staff may not exceed the number equal to 85 percent of the number of general officers assigned or detailed to such duty on the date of the enactment of this subsection.

"(4) The limitations in paragraphs (1), (2), and (3) do not apply in time of war or during a national emergency declared by Congress. The limitation in paragraph (2) does not apply whenever the President determines that it is in the national interest to increase the number of officers assigned or detailed to permanent duty in the Office of the Secretary of the Air Force or on the Air Staff.

"(5) The limitations in paragraphs (1), (2), and (3) do not apply before October 1, 1988.

"§ 8015. Under Secretary of the Air Force

"(a) There is an Under Secretary of the Air Force, appointed from civilian life by the President, by and with the advice and consent of the Senate.

"(b) The Under Secretary shall perform such duties and exercise such powers as the Secretary of the Air Force may prescribe.

"§ 8016. Assistant Secretaries of the Air Force

"(a) There are three Assistant Secretaries of the Air Force. They shall be appointed from civilian life by the President, by and with the advice and consent of the Senate.

"(b)(1) The Assistant Secretaries shall perform such duties and exercise such powers as the Secretary of the Air Force may prescribe.

"(2) One of the Assistant Secretaries shall be the Assistant Secretary of the Air Force for Manpower and Reserve Affairs. He shall have as his principal duty the overall supervision of manpower and reserve component affairs of the Department of the Air Force.".

(4) Section 8017 is amended—

(A) by striking out "(a)" at the beginning of the text of such section;

(B) by striking out clause (2) and inserting in lieu thereof the following:

"(2) The Assistant Secretaries of the Air Force, in the order prescribed by the Secretary of the Air Force and approved by the Secretary of Defense."; and

(C) by striking out subsection (b).

(5) Chapter 803 is further amended by adding at the end the following new sections:

"§ 8018. Administrative Assistant

"The Secretary of the Air Force may appoint an Administrative Assistant in the Office of the Secretary of the Air Force. The Administrative Assistant shall perform such duties as the Secretary may prescribe.

"§ 8019. General Counsel

"(a) There is a General Counsel of the Department of the Air Force, appointed from civilian life by the President.

"(b) The General Counsel shall perform such functions as the Secretary of the Air Force may prescribe.

"§ 8020. Inspector General

"(a) There is an Inspector General of the Air Force who shall be detailed to such position by the Secretary of the Air Force from the general officers of the Air Force. An officer may not be detailed to such position for a tour of duty of more than four years, except that the Secretary may extend such a tour of duty if he makes a special finding that the extension is necessary in the public interest.

"(b) When directed by the Secretary or the Chief of Staff, the Inspector General shall—

"(1) inquire into and report upon the discipline, efficiency, and economy of the Air Force; and

"(2) perform any other duties prescribed by the Secretary or the Chief of Staff.

"(c) The Inspector General shall periodically propose programs of inspections to the Secretary of the Air Force and shall recommend additional inspections and investigations as may appear appropriate.

"(d) The Inspector General shall cooperate fully with the Inspector General of the Department of Defense in connection with the performance of any duty or function by the Inspector General of the Department of Defense under the Inspector General Act of 1978 (5 U.S.C. App. 3) regarding the Department of the Air Force.

"(e) The Inspector General shall have such deputies and assistants as the Secretary of the Air Force may prescribe. Each such deputy and assistant shall be an officer detailed by the Secretary to that position from the officers of the Air Force for a tour of duty of not more than four years, under a procedure prescribed by the Secretary.".

(6) Section 8033 is transferred to the end of chapter 803 (as amended by paragraph (5)), redesignated as section 8021, and amended—

(A) in subsection (a)—

(i) by striking out "Policy which" and inserting in lieu thereof "Policy. The Committee";

(ii) by inserting "and the mobilization preparedness" after "reserve components";

(iii) by striking out "Air Force and the" and inserting in lieu thereof "Air Force. The"; and

(iv) by striking out "Chief of Staff, and the Assistant Secretary responsible for reserve affairs" and inserting in lieu thereof "Secretary of the Air Force and the Chief of Staff";

(B) in subsection (b), by inserting "and" after the semicolon in clause (2); and

(C) by striking out the section heading and inserting in lieu thereof the following:

"§ 8021. Air Force Reserve Forces Policy Committee".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 803 is amended to read as follows:

"Sec.
"8011. Organization.
"8012. Department of the Air Force: seal.
"8013. Secretary of the Air Force.
"8014. Office of the Secretary of the Air Force.
"8015. Under Secretary of the Air Force.
"8016. Assistant Secretaries of the Air Force.
"8017. Secretary of the Air Force: successors to duties.
"8018. Administrative Assistant.
"8019. General Counsel.
"8020. Inspector General.
"8021. Air Force Reserve Forces Policy Committee.".

SEC. 522. THE AIR STAFF

(a) COMPOSITION OF THE AIR STAFF.—Section 8031 is amended to read as follows:

"§ 8031. The Air Staff: function; composition

"(a) There is in the executive part of the Department of the Air Force an Air Staff. The function of the Air Staff is to assist the Secretary of the Air Force in carrying out his responsibilities.

"(b) The Air Staff is composed of the following:

"(1) The Chief of Staff.
"(2) The Vice Chief of Staff.
"(3) The Deputy Chiefs of Staff.
"(4) The Assistant Chiefs of Staff.
"(5) The Surgeon General of the Air Force.
"(6) The Judge Advocate General of the Air Force.
"(7) The Chief of the Air Force Reserve.
"(8) Other members of the Air Force assigned or detailed to the Air Staff.
"(9) Civilian employees in the Department of the Air Force assigned or detailed to the Air Staff.

"(c) Except as otherwise specifically prescribed by law, the Air Staff shall be organized in such manner, and its members shall perform such duties and have such titles, as the Secretary may prescribe.".

(b) GENERAL DUTIES.—(1) Subsection (a) of section 8032 is amended by inserting "of the Air Force" after "Chief of Staff".

(2) Subsection (b) of such section is amended—

(A) by striking out "The Air Staff" in the matter preceding clause (1) and inserting in lieu thereof "Under the authority, direction, and control of the Secretary of the Air Force, the Air Staff";

(B) by inserting "subject to subsections (c) and (d) of section 8014 of this title," before "prepare" in clause (1);

(C) by striking out ", training, serving, mobilizing, and demobilizing" in clause (1) and inserting in lieu thereof "(including those aspects of research and development assigned by the Secretary of the Air Force), training, servicing, mobilizing, demobilizing, administering, and maintaining";

(D) by striking out "for military operations" in clause (2) and inserting in lieu thereof "to support military operations by combatant commands"; and

(E) by striking out clause (4) and inserting in lieu thereof the following:

"(4) as directed by the Secretary or the Chief of Staff, coordinate the action of organizations of the Air Force; and".

(3) The heading of such section is amended to read as follows:

"§ 8032. The Air Staff: general duties".

(c) CHIEF OF STAFF.—Section 8034 is redesignated as section 8033 and is amended to read as follows:

"§ 8033. Chief of Staff

"(a)(1) There is a Chief of Staff of the Air Force, appointed for a period of four years by the President, by and with the advice and consent of the Senate, from the general officers of the Air Force. He serves at the pleasure of the President. In time of war or during a national emergency declared by Congress, he may be reappointed for a term of not more than four years.

"(2) The President may appoint an officer as Chief of Staff only if—

"(A) the officer has had significant experience in joint duty assignments; and

"(B) such experience includes at least one joint duty assignment as a general officer.

"(3) The President may waive paragraph (2) in the case of an officer if the President determines such action is necessary in the national interest.

"(b) The Chief of Staff, while so serving, has the grade of general without vacating his permanent grade.

"(c) Except as otherwise prescribed by law and subject to section 8013(f) of this title, the Chief of Staff performs his duties under the authority, direction, and control of the Secretary of the Air Force and is directly responsible to the Secretary.

"(d) Subject to the authority, direction, and control of the Secretary of the Air Force, the Chief of Staff shall—

"(1) preside over the Air Staff;

"(2) transmit the plans and recommendations of the Air Staff to the Secretary and advise the Secretary with regard to such plans and recommendations;

"(3) after approval of the plans or recommendations of the Air Staff by the Secretary, act as the agent of the Secretary in carrying them into effect;

"(4) exercise supervision, consistent with the authority assigned to commanders of unified or specified combatant commands under chapter 6 of this title, over such of the members and organizations of the Air Force as the Secretary determines;

"(5) perform the duties prescribed for him by section 171 of this title and other provisions of law; and

"(6) perform such other military duties, not otherwise assigned by law, as are assigned to him by the President, the Secretary of Defense, or the Secretary of the Air Force.

"(e)(1) The Chief of Staff shall also perform the duties prescribed for him as a member of the Joint Chiefs of Staff under section 151 of this title.

"(2) To the extent that such action does not impair the independence of the Chief of Staff in the performance of his duties as a member of the Joint Chiefs of Staff, the Chief of Staff shall inform the Secretary regarding military advice rendered by members of the Joint Chiefs of Staff on matters affecting the Department of the Air Force.

"(3) Subject to the authority, direction, and control of the Secretary of Defense, the Chief of Staff shall keep the Secretary of the Air Force fully informed of significant military operations affecting the duties and responsibilities of the Secretary.".

(d) VICE CHIEF OF STAFF.—Section 8035 is redesignated as section 8034 and is amended—

(1) by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"(a) There is a Vice Chief of Staff of the Air Force, appointed by the President, by and with the advice and consent of the Senate, from the general officers of the Air Force.

"(b) The Vice Chief of Staff of the Air Force, while so serving, has the grade of general without vacating his permanent grade.";

(2) by striking out subsection (c);

(3) by redesignating subsection (d) as subsection (c);

(4) by adding at the end the following new subsection:

"(d) When there is a vacancy in the office of Chief of Staff or during the absence or disability of the Chief of Staff—

"(1) the Vice Chief of Staff shall perform the duties of the Chief of Staff until a successor is appointed or the absence or disability ceases; or

"(2) if there is a vacancy in the office of the Vice Chief of Staff or the Vice Chief of Staff is absent or disabled, unless the President directs otherwise, the most senior officer of the Air Force in the Air Staff who is not absent or disabled and who is not restricted in performance of duty shall perform the duties of the Chief of Staff until a successor to the Chief of Staff or the Vice Chief of Staff is appointed or until the absence or disability of the Chief of Staff or Vice Chief of Staff ceases, whichever occurs first."; and

(5) by striking out the section heading and inserting in lieu thereof the following:

"§ 8034. Vice Chief of Staff".

(e) DEPUTY CHIEFS OF STAFF.—Chapter 805 is further amended by inserting after section 8034 (as redesignated by subsection (d) of this section) the following new section:

"§ 8035. Deputy Chiefs of Staff and Assistant Chiefs of Staff

"(a) The Deputy Chiefs of Staff and the Assistant Chiefs of Staff shall be general officers detailed to those positions.

"(b) The number of Deputy Chiefs of Staff and Assistant Chiefs of Staff shall be prescribed by the Secretary, except that—

"(1) there may not be more than five Deputy Chiefs of Staff; and

"(2) there may not be more than three Assistant Chiefs of Staff.".

(f) JUDGE ADVOCATE GENERAL; DEPUTY JUDGE ADVOCATE GENERAL.—Section 8072 is transferred to chapter 805, inserted after section 8036, and redesignated as section 8037.

(g) CLERICAL AMENDMENTS.—(1) The table of sections at the beginning of chapter 805 is amended to read as follows:

"Sec.
"8031. The Air Staff: function; composition.
"8032. The Air Staff: general duties.
"8033. Chief of Staff.
"8034. Vice Chief of Staff.
"8035. Deputy Chiefs of Staff and Assistant Chiefs of Staff.
"8036. Surgeon General: appointment; grade.
"8037. Judge Advocate General, Deputy Judge Advocate General: appointment; duties.
"8038. Office of Air Force Reserve: appointment of Chief.".

(2) The heading of section 8036 is amended by striking out the comma and inserting in lieu thereof a semicolon.

(3) Section 8038 (as redesignated by section 521(a)(2)) is amended by striking out the comma in subsection (a) after "Chief of Staff".

(4) The table of sections at the beginning of chapter 807 is amended by striking out the item relating to section 8072.

SEC. 523. AUTHORITY TO ORGANIZE AIR FORCE INTO SEPARATE ORGANIZATIONS

Section 8074(a) is amended by striking out "The" and inserting in lieu thereof "Except as otherwise prescribed by law or by the Secretary of Defense, the".

PART D—GENERAL CONFORMING AMENDMENTS AND TRANSITION PROVISIONS

SEC. 531. CONFORMING AMENDMENTS

(a) AMENDMENTS TO TITLE 10.—(1) Sections 175(d) and 523(b)(1)(B) are amended by striking out "3033" and "8033" and inserting in lieu thereof "3021" and "8021", respectively.

(2) Section 641(1)(B) is amended by striking out "3015, 3019, 3033, 3496, 5251, 5252, 8019, 8033," and inserting in lieu thereof "3021, 3038, 3040, 3496, 5251, 5252, 8021, 8038,".

(b) AMENDMENTS TO TITLE 37.—Section 204((a)(2) of title 37, United States Code, is amended by striking out "3033" and "8033" and inserting in lieu thereof "3021" and "8021", respectively.

SEC. 532. TRANSITION

(a) EFFECTIVE DATE.—The provisions of subsections (c) and (d) of each of sections 3014, 5014, and 8014 of title 10, United States Code, as added by sections 501, 511, and 521, respectively, shall be implemented not later than 180 days after the date of the enactment of this Act.

(b) REPORT.—Not later than 210 days after the date of the enactment of this Act, the Secretary of each military department shall submit to Congress a report on the actions that have been taken to implement the provisions referred to in subsection (a) with respect to that military department.

(c) WAIVER OF QUALIFICATIONS FOR APPOINTMENT AS SERVICE CHIEF.—(1) The President may waive, as provided in paragraph (2), the requirements provided for in section 3033(a)(2), 5033(a)(2), 5043(a)(2), and 8033(a)(2) of title 10, United States Code (as added or amended by sections 502, 512, 513, and 522, respectively).

(2) In exercising such waiver authority, the President may, in the case of any officer—

(A) waive the requirement under section 664 of such title (as added by section 401 of this Act) for the length of a joint duty assignment if the officer has served in such an assignment for not less than two years; and

(B) consider as a joint duty assignment any tour of duty served by the officer as a general or flag officer before the date of the enactment of this Act (or being served on the date of the enactment of this Act) that was considered to be a joint duty assignment or a joint equivalent assignment under regulations in effect at the time the assignment began.

(3) A waiver under paragraph (2) may not be made in the case of any officer more than four years after the date of the enactment of this Act.

(4) A waiver under this subsection may be made only on a case-by-case basis.

TITLE VI—MISCELLANEOUS

SEC. 601. REDUCTION IN PERSONNEL ASSIGNED TO MANAGEMENT HEADQUARTERS ACTIVITIES AND CERTAIN OTHER ACTIVITIES

(a) MILITARY DEPARTMENTS AND COMBATANT COMMANDS.—(1) Effective on October 1, 1988, the total number of members of the Armed Forces and civilian employees assigned or detailed to duty described in paragraph (2)

may not exceed the number equal to 90 percent of the total number of such members and employees assigned or detailed to such duty on September 30, 1986.

(2) Duty referred to in paragraph (1) is permanent duty in the military departments and in the unified and specified combatant commands to perform management headquarters activities or management headquarters support activities.

(3) In computing and implementing the limitation in paragraph (1), the Secretary of Defense shall exclude members and employees who are assigned or detailed to permanent duty to perform management headquarters activities or management headquarters support activities in the following:

(A) The Office of the Secretary of the Army and the Army Staff.

(B) The Office of the Secretary of the Navy, the Office of the Chief of Naval Operations, and the Headquarters, Marine Corps.

(C) The Office of the Secretary of the Air Force and the Air Staff.

(D) The immediate headquarters staff of the commander of each unified or specified combatant command.

(4) If the Secretary of Defense applies any reduction in personnel required by the limitation in paragraph (1) to a unified or specified combatant command, the commander of that command, after consulting with his directly subordinate commanders, shall determine the manner in which the reduction shall be accomplished.

(b) DEFENSE AGENCIES AND DOD FIELD ACTIVITIES.—(1)(A) Not later than September 30, 1988, the Secretary of Defense shall reduce the total number of members of the Armed Forces and civilian employees assigned or detailed to permanent duty in the management headquarters activities and management headquarters support activities in the Defense Agencies and Department of Defense Field Activities by a number that is at least 5 percent of the total number of such members and employees assigned or detailed to such duty on September 30, 1986.

(B) Not later than September 30, 1989, the Secretary shall carry out an additional reduction in such members and employees of not less than 10 percent of the number of such members and employees assigned or detailed to such duty on September 30, 1988.

(C) If the number of members and employees reduced under subparagraph (A) or (B) is in excess of the reduction required to be made by that subparagraph, such excess number may be applied to the number required to be reduced under paragraph (2).

(2)(A) Not later than September 30, 1988, the Secretary of Defense shall reduce the total number of members of the Armed Forces and civilian employees assigned or detailed to permanent duty in the Defense Agencies and Department of Defense Field Activities, other than members and employees assigned or detailed to duty in management headquarters activities or management headquarters support activities, by a number that is at least 5 percent of the total number of such members and employees assigned or detailed to such duty on September 30, 1986.

(B) Not later than September 30, 1989, the Secretary shall carry out an additional reduction in such members and employees of not less than 5 percent of the number of such members and employees assigned or detailed to such duty on September 30, 1988.

(3) If after the date of the enactment of this Act and before October 1, 1988, the total number of members and employees described in paragraph (1)(A) or (2)(A) is reduced by a number that is in excess of the number required to be reduced under that paragraph, the Secretary may, in meeting the additional reduction required by paragraph (1)(B) or (2)(B), as the case may be, offset such additional reduction by that excess number.

(4) The National Security Agency shall be excluded in computing and making reductions under this subsection.

(c) PROHIBITION AGAINST CERTAIN ACTIONS TO ACHIEVE REDUCTIONS.—Compliance with the limitations and reductions required by subsections (a) and (b) may not be accomplished by recategorizing or redefining duties, functions, offices, or organizations.

(d) ALLOCATIONS TO BE MADE BY SECRETARY OF DEFENSE.—(1) The Secretary of Defense shall allocate the reductions required to comply with the limitations in subsections (a) and (b) in a manner consistent with the efficient operation of the Department of Defense. If the Secretary determines that national security requirements dictate that a reduction (or any portion of a reduction) required by subsection (b) not be made from the Defense Agencies and Department of Defense Field Activities, the Secretary may allocate such reduction (or any portion of such reduction) (A) to personnel assigned or detailed to permanent duty in management headquarters activities or management headquarters support activities, or (B) to personnel assigned or detailed to permanent duty in other than management headquarters activities or management headquarters support activities, as the case may be, of the Department of Defense other than the Defense Agencies and Department of Defense Field Activities.

(2) Among the actions that are taken to carry out the reductions required by subsections (a) and (b), the Secretary shall consolidate and eliminate unnecessary management headquarters activities and management headquarters support activities.

(e) TOTAL REDUCTIONS.—Reductions in personnel required to be made under this section are in addition to any reductions required to be made under other provisions of this Act or any amendment made by this Act.

(f) DEFINITIONS.—For purposes of this section, the terms "management headquarters activities" and "management headquarters support activities" have the meanings given those terms in Department of Defense Directive 5100.73, entitled "Department of Defense Management Headquarters and Headquarters Support Activities" and dated January 7, 1985.

SEC. 602. REDUCTION OF REPORTING REQUIREMENTS

(a) POLICY.—It is the policy of Congress to reduce the administrative burden placed on the Department of Defense by requirements for reports, studies, and notifications to be submitted to Congress through the elimination of outdated, redundant, or otherwise unnecessary reporting requirements.

(b) COMPILATION OF EXISTING REPORTING REQUIREMENTS.—(1) The Secretary of Defense shall compile a list of all provisions of law in effect on the date of the enactment of this Act or enacted after such date and before February 1, 1987, that require the President, with respect to national defense functions of the Government, or any official or employee of the Department of Defense to submit a report, notification, or study to Congress or any committee of Congress. The preceding sentence does not apply to a requirement for a report, notification, or study to be submitted one time.

(2) The Secretary shall submit to Congress the list compiled under paragraph (1) not later than six months after the date of the enactment of this Act. The Secretary shall include with such list (with respect to each report, notification, or study shown on the list) the following:

(A) The date the requirement for such report, notification, or study was first imposed by law and the current legal citation for such requirement.

(B) The Secretary's assessment of the continuing utility of such requirement to Congress and to the executive branch.

(C) The Secretary's assessment of the administrative burden of such requirement and how such burden relates to the utility of the report, notification, or study.

(D) The Secretary's recommendation as to whether such requirement should be retained, modified, or repealed.

(3) The matter submitted under paragraph (2) shall also include—

(A) any recommendation of the Secretary for consolidation of different requirements for reports, notifications, and studies; and

(B) a draft of legislation to implement any changes in law recommended by the Secretary and to conform statutory provisions to the elimination of reporting requirements under subsection (c).

(c) TERMINATION OF REPORTING REQUIREMENTS.—Except as provided in subsection (d), effective on January 1, 1987, each provision of law that is contained in title 10, 32, or 37, United States Code, or in any Act authorizing appropriations or making appropriations for military functions of the Department of Defense (including military construction and military family housing functions) shall not be effective to the extent such provision requires the submission of a report, notification, or study.

(d) EXCEPTIONS.—Subsection (c) does not apply—

(1) to a requirement for a report, notification, or study to be submitted one time;

(2) to a provision of law enacted on or after the date of the enactment of this Act (including any provision enacted by this Act); or

(3) to a provision of law that requires the submission of the reports, notifications, and studies described in subsections (e) through (u).

(e) PROVISIONS OF TITLE 10.—The exception provided in subsection (d)(3) applies to the following reports, notifications, and studies required by title 10, United States Code:

(1) The annual report required by section 113(c) of such title (as redesignated by section 101(a)), relating to the accomplishments of the Department of Defense.

(2) The annual report required by section 113(e) of such title (as redesignated by section 101(a) and amended by section 603), relating to major military missions and the military force structure of the United States.

(3) The annual reports required by section 115 of such title (as designated and amended by section 110(b))—

(A) under subsection (a)(2) of such section, relating to equipment of the National Guard and reserve components;

(B) under subsection (b)(3) of such section, relating to military and civilian personnel and strength levels, certain other manpower requirements, base structures, and certain requirements for and information on officers; and

(C) under subsection (c)(2) of such section, relating to average student training loads.

(4) The annual report required by section 116(a) of such title (as designated and amended by section 110(b)), relating to operations and maintenance.

(5) The annual report required by section 117 of such title (as redesignated by section 101(a)), relating to North Atlantic Treaty Organization readiness.

(6) The reports required by section 118 of such title (as redesignated by section 101(a)), relating to sales or transfers of certain defense articles.

(7) The report required by section 125(c) of such title, relating to the proposed reduction or elimination of a major weapon system.

(8) The reports required by subsection (b)(5) of section 138 of such title (as redesignated by section 101(a)) and the annual report required by subsection (g) of such section, relating to operational test and evaluation activities.

(9) Reports required by section 1092(a)(3) of such title, relating to studies and demonstration projects relating to delivery of health and medical care.

(10) The reports required by section 1464(c) of such title, relating to the status of the Department of Defense Military Retirement Fund.

(11) The report required by section 2137 of such title, relating to the educational assistance program for members of the Selected Reserve under chapter 106 of such title.

(12) The annual report required by section 2208(k) of such title, relating to the condition and operation of working-capital funds.

(13) The notifications required by section 2233a(a)(1) of such title, relating to expenditures and contributions for acquisition of facilities for reserve components.

(14) The notifications required by section 2304(c)(7) of such title, relating to the use of procurement procedures other than competitive procedures.

(15) The notifications required by section 2306(h)(3) of such title, relating to cancellation ceilings in certain multiyear contracts.

(16) The annual report required by section 2313(d)(4) of such title, relating to subpoenas issued by the Director of the Defense Contract Audit Agency to obtain contractor records.

(17) The annual report required by section 2349 of such title, relating to North Atlantic Treaty Organization acquisition and cross-servicing agreements.

(18) The semiannual report required by section 2357 of such title, relating to contracts in excess of $50,000 entered into by the military departments for research and development.

(19) The report required by section 2362(c) of such title, relating to the testing of wheeled or tracked armored vehicle programs.

(20) The reports required by section 2391(c) of such title, relating to miltiary base reuse studies and community planning assistance.

(21) The notifications required by section 2394(b)(2) of such title, relating to contracts for energy or fuel.

(22) The annual report required by section 2397(e) of such title, relating to the names of certain employees and former employees of defense contractors.

(23) The notifications required by clauses (B) and (C) of section 2401(b)(1) of such title, the cost analyses required by section 2401(e)(1) of such title, and the reports required by section 2401(e)(2) of such title, all relating to the long-term lease or charter of vessels and aircraft by the military departments.

(24) The notifications required by subsection (e)(1) of section 2403 of such title and the annual report required by subsection (e)(2) of such section, relating to waivers of certain requirements for contractor guarantees.

(25) The notifications required by paragraphs (1) and (2) of section 2407(d) of such title, relating to certain contracts awarded by the Department of Defense in connection with North Atlantic Treaty Organization cooperative agreements.

(26)(A) The annual and supplemental reports required by section 2431 of such title (as redesignated by section 101(a)), relating to weapons development and procurement schedules, including the matter required by section 53(b) of the Arms Export Control Act (22 U.S.C. 2795b(b)) to be included in such annual reports.

(B) The notifications in lieu of such supplemental reports under subsection (b) of such section.

(27) The Selected Acquisition Reports required by section 2432 of such title (as redesignated by section 101(a)).

(28) The notifications required by subsection (d)(3) of section 2433 of such title (as redesignated by section 101(a)) and reports required by subsection (e) of such section, relating to increases in program acquisition unit costs and procurement unit costs of certain major defense acquisition programs.

(29) The annual report required by section 2457(d) of such title, relating to the policy to standardize equipment, ammunition, and fuel procured for the use of United States military forces stationed in Europe under the North Atlantic Treaty.

(30) The reports required by subsection (a) or (e) of section 2662 of such title and the annual report required by subsection (b) of such section, relating to certain real property transactions.

(31) The notifications required by section 2667a(g)(3) of such title, relating to expenditures in excess of $300,000 from the DOD Facilities Replacement Management Account.

(32) The notifications required by section 2672(b) of such title, relating to acquisitions of interests in land for more than $100,000.

(33) The notifications required by section 2676(d) of such title, relating to reductions in scope and increases in cost of a land acquisition.

(34)(A) The notifications required by section 2687(b) of such title, relating to base closures and realignments.

(B) The certification provided for in section 2687(c) of such title, relating to a closure or realignment of a military installation for reasons of national security.

(35) The annual report required by section 2779(b)(4) of such title, relating to the use of funds appropriated for the elimination of certain losses caused by fluctuations in currency exchange rates of foreign countries.

(36) The reports required by section 2803(b) of such title, relating to emergency military construction projects carried out under section 2803 of such title.

(37) The reports required by section 2804(b) of such title, relating to military construction projects not authorized by law.

(38) The notifications required by paragraphs (2) and (3) of section 2805(b) of such title, relating to minor construction in connection with certain relocations of activities from one installation to another.

(39) The reports required by section 2806(c)(2) of such title, relating to contributions for North Atlantic Treaty Organization Infrastructure.

(40) The notifications required by subsection (b) of section 2807 of such title and the reports required by subsection (c) of such section, relating to architectural and engineering services and construction design in connection with military construction or military family housing projects.

(41) The notifications required by section 2808(b) of such title, relating to military construction projects in the event of a declaration of war or national emergency.

(42) The justifications and economic analyses required by section 2809(a)(4) of such title, relating to long-term contracts for the construction, management, and operation of certain facilities.

(43) The notifications and justifications required by section 2823(b) of such title, relating to disagreements on the availability of suitable alternative housing at locations in the United States where family housing is proposed to be constructed.

(44) The notifications required by section 2827(b) of such title, relating to relocation of military family housing units.

(45) The notifications and reports of economic analyses required by section 2828 of such title—

(A) under subsection (b)(3) of such section, relating to domestic family housing limitations;

(B) under subsection (f) of such section, relating to the proposed lease of miltiary family housing in excess of authorized amounts; and

(C) under subsection (g)(6)(A) of such section, relating to leasing of military family housing facilities.

(46) The notifications required by section 2834(b) of such title, relating to agreements with the Secretary of State for the use of Department of State housing and related services by Department of Defense personnel.

(47) The notifications required by subsections (d) and (e) of section 2853 of such title, relating to reductions in the scope of work or increases in the cost of military construction projects.

(48) The notifications required by section 2854(b) of such title, relating to repair, restoration, or replacement of damaged or destroyed military facilities.

(49) The notifications required by section 2856(b) of such title, relating to regulations establishing limitations on barracks space.

(50) The annual report required by section 2861(a) of such title, relating to military construction activities and military family housing activities.

(51) The notifications required by section 7307(b)(2) of such title, relating to the disposition of naval vessels to foreign nations.

(52) The quarterly report required by section 7434 of such title, relating to production from the naval petroleum reserves.

(f) PROVISIONS OF TITLE 37.—(1) The exception provided in subsection (d)(3) applies to the report required by section 406(i) of title 37, United States Code, relating to dependents accompanying members of the Armed Forces stationed outside the United States.

(2) Such section is amended—

(A) by striking out "quarter" in the matter preceding clause (1); and

(B) by striking out "quarter" in clauses (1) and (2) and inserting in lieu thereof "fiscal year".

(g) PUBLIC LAW 91-121.—Notifications required by subsections (b)(4) and (c)(1) of section 409 of Public Law 91-121 (50 U.S.C. 1512(4), 1513(1)), relating to chemical or biological warfare agents.

(h) PUBLIC LAW 91-441.—Reports required by section 203(c) of Public Law 91-441 (10 U.S.C. 2358 note), relating to independent research and development and bid and proposal programs.

(i) PUBLIC LAW 93-365.—The exception provided in subsection (d)(3) applies to the statements and quarterly report required by subsections (c) and (e) of section 709 of the Department of Defense Appropriation Authorization Act, 1975 (50 U.S.C. App. 2403-1(e)), relating to the export of certain goods, technology, and industrial techniques.

(j) PUBLIC LAW 96-342.—The exception provided in subsection (d)(3) applies to the notifications, summaries, certifications, and reports required by subsections (a), (b), and (c) of section 502 of the Department of Defense Authorization Act, 1981 (10 U.S.C. 2304 note), relating to conversion of performance of commercial and other type functions from Department of Defense personnel to private contractors.

(k) PUBLIC LAW 98-94.—The exception provided in subsection (d)(3) applies to the following:

(1) The notifications required by section 1201(c) of the Department of Defense Authorization Act, 1984 (97 Stat. 678), relating to transfers of amounts of authorizations.

(2) The reports and assessments required by section 1231 of such Act (97 Stat. 693), relating to certain intercontinental ballistic missile systems.

(3) The reports required by section 1252(d) of such Act (97 Stat. 698), relating to the cost effectiveness of and the quality of medical care provided by public health service hospitals.

(l) PUBLIC LAW 98-525.—The exception provided in subsection (d)(3) applies to the following:

(1) Reports required by section 105(b)(1) of the Department of Defense Authorization Act, 1985 (98 Stat. 2503), relating to government-to-government agreements for acquisition in connection with certain NATO cooperative programs.

(2) The reports required by section 307(b)(3) of the Department of Defense Authorization Act, 1985 (10 U.S.C. 2304 note), relating to waivers of a prohibition on contracting out certain logistics activities.

(3) The annual report required by section 1002(d)(1) of such Act (22 U.S.C. 1928 note), relating to the supply of munitions and certain aircraft facilities in support of the North Atlantic Treaty Organization.

(4) The annual report required by section 1002(d)(2) of such Act (22 U.S.C. 1928 note), relating to the status and cost of the United States commitment to the North Atlantic Treaty Organization and certain activities of other member nations of the North Atlantic Treaty Organization.

(5) The annual reports required by subsections (c) and (d) of section 1003 of such Act (22 U.S.C. 1928 note), relating to allied contributions to the common defense.

(6) The annual report required by section 1102 of such Act (10 U.S.C. 2872 note (formerly 10 U.S.C. 139 note)), relating to the Strategic Defense Initiative and any other antiballistic missile defense program.

(7) The notifications required by section 1501(c) of such Act (98 Stat. 2626), relating to transfers of amounts of authorizations.

(8) The notification required by section 1512 of the Department of Defense Authorization Act, 1985 (98 Stat. 2627), relating to the use of funds for the B-1B bomber aircraft program beyond 100 aircraft.

(9) The reports required by section 1536(g) of such Act (98 Stat. 2633; 46 U.S.C. 1120 note), relating to the Commission on Merchant Marine and Defense.

(m) PUBLIC LAW 99-145.—The exception provided in subsection (d)(3) applies to the following:

(1) Reports required by section 106(a)(2) of the Department of Defense Authorization Act, 1986 (99 Stat. 596), relating to government-to-government agreements for acquisition in connection with certain NATO cooperative programs.

(2) The certification required by section 125(a)(1) of the Department of Defense Authorization Act, 1986 (99 Stat. 601), relating to any new contract for the procurement of 5-ton trucks.

(3) The legislative environmental impact statement required by section 209(c) of such Act (99 Stat. 610), relating to full-scale development of a small intercontinental ballistic missile or the selection of basing areas for the deployment of such missile.

(4) The certification required by section 222 of such Act (99 Stat. 613), relating to termination of a prohibition of deployment of a strategic defense system.

(5) The reports required by section 223 of such Act (99 Stat. 613), relating to the Strategic Defense Initiative.

(6) The quarterly reports required by section 502(c) of such Act (99 Stat. 621), relating to the obligation of funds appropriated for civilian personnel.

(7) The report required by section 1002 of such Act (99 Stat. 705), relating to Soviet compliance with arms control commitments.

(8) The annual report required by section 1221(d)(2) of such Act (99 Stat. 727), relating to a research program to support the polygraph activities of the Department of Defense.

(9) The annual reports required by section 1407 of such Act (99 Stat. 745), relating to unobligated balances in appropriation accounts.

(10)(A) The certifications required by subsections (b) and (c)(2) of section 1411 of such Act (99 Stat. 745), relating to the procurement or assembly of binary chemical weapons.

(B) The report required by subsection (e) of such section, relating to consultations among member nations of the North Atlantic Treaty Organization concerning the chemical deterrent posture of the North Atlantic Treaty Organization.

(11) The annual report required by section 1412(g) of the Department of Defense Authorization Act, 1986 (99 Stat. 748), relating to the program for the destruction of the United States stockpile of lethal chemical agents and munitions.

(n) PUBLIC LAW 98-473.—The exception provided in subsection (d)(3) applies to the following:

(1) The notifications required by the proviso in section 8005(m) of the Department of Defense Appropriations Act, 1985 (as contained in section 101(h) of Public Law 98-473 (98 Stat. 1923)), relating to unusual cost overruns incident to overhaul, maintenance, and repair for certain ships.

(2) The annual report required by section 8104(b) of such Act (98 Stat. 1942), relating to consultations with members of common defense alliances concerning Strategic Defense Initiative research.

(o) PUBLIC LAW 99-190.—The exception provided in subsection (d)(3) applies to the following:

(1) The notifications required by section 8020 or 8021 of the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190 (99 Stat. 1206)), relating to transfers of working capital funds.

(2) The notifications required by section 8021 of such Act (99 Stat. 1206), relating to the obligation of working capital funds to procure war reserve material inventory.

(3) The notifications required by section 8042 of such Act (99 Stat. 1210), relating to the availability of appropriated funds for intelligence or special activities different from activities justified to the Congress.

(4) The notification required by section 8075 of such Act (99 Stat. 1214), relating to the acquisition of certain types of weapons, subsystems, and munitions of European North Atlantic Treaty Organization manufacture.

(5) The certification required by section 8097 of such Act (99 Stat. 1219), relating to the obligation or expenditure of funds to carry out a test of the Space Defense System (anti-satellite weapon) against an object in space.

(p) MILITARY CONSTRUCTION AUTHORIZATION ACTS.—(1) The exception provided in subsection (d)(3) applies to the annual reports required by section 704 of the Military Construction Authorization Act, 1982 (Public Law 97-99; 95 Stat. 1377), relating to contracts for construction in the United States and its possessions.

(2) The exception provided in subsection (d)(3) applies to the following:

(A) The economic analyses required by section 802(d)(1) of the Military Construction Authorization Act, 1984 (10 U.S.C. 2821 note), relating to proposed military housing rental guarantee agreements.

(B) The notifications required by section 803(b)(2) of such Act (10 U.S.C. 2821 note), relating to waivers of a requirement to use manufactured or factory-built housing fabricated in the United States by a United States contractor for military family housing construction in foreign countries.

(3) The exception provided in subsection (d)(3) applies to the report required by section 840(d) of the Military Construction Authorization Act, 1986 (Public Law 99-167; 99 Stat. 998), relating to the sale of land at Fort Jackson, South Carolina.

(q) MILITARY CONSTRUCTION APPROPRIATION ACTS.—The exception provided in subsection (d)(3) applies to the following:

(1) The annual report required by the third proviso in the undesignated paragraph under the heading "FOREIGN CURRENCY FLUCTUATION, CONSTRUCTION, DEFENSE" in the Military Construction Appropriation Act, 1980 (Public Law 96-130; 93 Stat. 1019), relating to transfers of appropriated funds to eliminate losses in military construction or expenses of family housing caused by fluctuations in foreign currency exchange rates of foreign countries.

(2) The reports required by section 125(a) of the Military Construction Appropriations Act, 1985 (as contained in section 101(e) of Public Law 98-473; 98 Stat. 1883), relating to terminations of a prohibition on the availability of appropriated military construction funds to foreign governments ineligible to receive such funds by reason of inadequate drug control measures.

(r) The report required by section 1436(a) of title 38, United States Code, relating to the New GI Bill Educational Assistance Program under chapter 30 of such title.

(s) INSPECTOR GENERAL ACT OF 1978.—The exception provided in subsection (d)(3) applies to the following:

(1) The semiannual report required by section 5(b) of the Inspector General Act of 1978 (5 U.S.C. App. 3), relating to activities of the Inspector General of the Department of Defense.

(2) The reports required by section 5(d) of such Act (5 U.S.C. App. 3), relating to par-

ticular cases of problems, abuses, or deficiencies which have come to the attention of the Inspector General of the Department of Defense.

(3) The statements required by paragraphs (3) and (4) of section 8(b) of such Act (5 U.S.C. App. 3), relating to the exercise of certain authority of the Secretary of Defense with respect to the activities of the Inspector General of the Department of Defense.

(t) INTELLIGENCE COMMUNITY PROVISIONS.—The exception provided in subsection (d)(3) applies to the following:

(1) The requirement to furnish information and to report to Congress concerning intelligence activities as provided in title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.).

(2) Reports and information required to be furnished under the following provisions of law:

(A) Section 1601(e) of title 10, United States Code, relating to the Defense Intelligence Senior Executive Service.

(B) Section 1604(e) of such title, relating to termination of certain Defense Intelligence Agency personnel.

(C) Section 1605 of such title, relating to benefits and allowances for certain Defense Intelligence Agency civilian personnel.

(3) Reports and information required to be furnished under section 431 of title 37, United States Code, relating to benefits and allowances for certain military personnel assigned to the Defense Intelligence Agency.

(u) ADDITIONAL MISCELLANEOUS EXCEPTIONS.—The exception provided in subsection (d)(3) applies to the following:

(1) The reports required by section 673(d) of title 10, United States Code, relating to the necessity for units of the Ready Reserve being ordered to active duty.

(2) The reports required v[by section 673b(f) of such title, relating to necessity of ordering units or members of the Selected Reserve to active duty.

(3) The reports required under section 836(b) (article 36(b)) of such title, relating to rules and regulations prescribed by the President under such section.

(4) The reports required by section 867(g)(1) (article 69(g)(1)) of such title, relating to the operation of the Uniform Code of Military Justice.

(5) The reports required by subsections (a) and (b) of section 1008 and subsections (e) and (f) of section 1009 of title 37, United States Code, relating to military compensation.

SEC. 603. ANNUAL REPORT ON NATIONAL SECURITY STRATEGY

(a) ANNUAL PRESIDENTIAL REPORT.—(1) Title I of the National Security Act of 1947 (50 U.S.C. 402 et seq.) is amended by adding at the end the following new section:

"ANNUAL NATIONAL SECURITY STRATEGY REPORT

"SEC. 104. (a)(1) The President shall transmit to Congress each year a comprehensive report on the national security strategy of the United States (hereinafter in this section referred to as a 'national security strategy report').

"(2) The national security strategy report for any year shall be transmitted on the date on which the President submits to Congress the budget for the next fiscal year under section 1105 of title 31, United States Code.

"(b) Each national security strategy report shall set forth the national security strategy of the United States and shall include a comprehensive description and discussion of the following:

"(1) The worldwide interests, goals, and objectives of the United States that are vital to the national security of the United States.

(2) The foreign policy, worldwide commitments, and national defense capabilities of the United States necessary to deter aggression and to implement the national security strategy of the United States.

(3) The proposed short-term and long-term uses of the political, economic, military, and other elements of the national power of the United States to protect or promote the interests and achieve the goals and objectives referred to in paragraph (1).

(4) The adequacy of the capabilities of the United States to carry out the national security strategy of the United States, including an evaluation of the balance among the capabilities of all elements of the national power of the United States to support the implementation of the national security strategy.

"(5) Such other information as may be necessary to help inform Congress on matters relating to the national security strategy of the United States.

"(c) Each national security strategy report shall be transmitted in both a classified and an unclassified form.".

(2) The table of contents in the first section of such Act is amended by inserting after the item relating to section 103 the following new item:

"Sec. 104. Annual national security strategy report.".

(b) REVISION OF ANNUAL SECRETARY OF DEFENSE REPORT.—Subsection (e) of section 113 (as redesignated by section 101(a) of this Act) is amended to read as follows:

"(e)(1) The Secretary shall include in his annual report to Congress under subsection (c)—

"(A) a description of the major military missions and of the military force structure of the United States for the next fiscal year;

"(B) an explanation of the relationship of those military missions to that force structure; and

"(C) the justification for those military missions and that force structure.

"(2) In preparing the matter referred to in paragraph (1), the Secretary shall take into consideration the content of the annual national security strategy report of the President under section 104 of the National Security Act of 1947 for the fiscal year concerned.".

SEC. 604. LEGISLATION TO MAKE REQUIRED CONFORMING CHANGES IN LAW

Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a draft of legislation to make any technical and conforming changes to title 10, United States Code, and other provisions of law that are required or should be made by reason of the amendments made by this Act.

SEC. 605. GENERAL TECHNICAL AMENDMENTS

(a) The tables of chapters at the beginning of subtitle A, and at the beginning of part I of such subtitle, are amended by striking out the items relating to chapters 3 through 8 and inserting in lieu thereof the following:

"2. Department of Defense. 111
"3. General Powers and Functions..... 121
"4. Office of the Secretary of Defense. 131
"5. Joint Chiefs of Staff. 151
"6. Combatant Commands..... 161
"7. Boards, Councils, and Committees. 171
"8. Defense Agencies and Department of Defense Field Activities..... 191".

(b) The tables of chapters at the beginning of subtitle A, and at the beginning of part IV of such subtitle, are amended by inserting after the item relating to chapter 143 the following new item:

"144. Oversight of Cost Growth in Major Programs..... 2431."

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the amendment of the Senate to the title of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the amendment of the House, insert the following: "An Act to reorganize the Department of Defense and strengthen civilian authority in the Department of Defense, to improve the military advice provided to the President, the National Security Council, and the Secretary of Defense, to place clear responsibility on the commanders of the unified and specified combatant commands for the accomplishment of missions assigned to those commands and ensure that the authority of those commanders is fully commensurate with that responsibility, to increase attention to the formulation of strategy and to contingency planning, to provide for more efficient use of defense resources, to improve joint officer management policies, otherwise to enhance the effectiveness of military operations and improve the management and administration of the Department of Defense, and for other purposes.".

And the House agree to the same.

LES ASPIN,
BILL NICHOLS,
IKE SKELTON,
NICK MAVROULES,
WM. L. DICKINSON,
LARRY J. HOPKINS,
JOHN R. KASICH,
Managers on the Part of the House.

BARRY GOLDWATER,
STROM THURMOND,
JOHN WARNER,
GORDON J. HUMPHREY,
BILL COHEN,
DAN QUAYLE,
PETE WILSON,
JEREMIAH DENTON,
PHIL GRAMM,
JAMES T. BROYHILL,
SAM NUNN,
JOHN C. STENNIS,
GARY HART,
J.J. EXON,
CARL LEVIN,
EDWARD M. KENNEDY,
JEFF BINGAMAN,
ALAN J. DIXON,
JOHN GLENN,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the amendments of the Senate to the bill (H.R. 3622) to amend title 10, United States Code, to strengthen the position of Chairman of the Joint Chiefs of Staff, to provide for more efficient and effective operation of the Armed Forces, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment to the text of the bill struck out all of the House bill after the enacting clause and inserted a substitute text.

The House amendment to the Senate amendment to the text of the bill struck out all of the Senate amendment and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate amendment and the House amendment thereto. The differences between the Senate amendment, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

BACKGROUND

On November 20, 1985, by a vote of 383-27, the House of Representatives passed H.R. 3622, the Joint Chiefs of Staff Reorganization Act of 1985. On April 14, 1986, the Senate Committee on Armed Services reported an original bill, S. 2295, the Department of Defense Reorganization Act of 1986. After Senate consideration, this bill was substituted for the text of H.R. 3622, and H.R. 3622 (as amended) passed the Senate by a vote of 95-0 on May 7, 1986. During consideration by the Senate, the short title of the bill was amended to become the Barry Goldwater Department of Defense Reorganization Act of 1986.

On July 21, 1986, the House Committee on Armed Services reported H.R. 4370, the Bill Nichols Department of Defense Reorganization Act of 1986. On August 5, 1986, H.R. 4370 was offered as an amendment to H.R. 4428, the Department of Defense Authorization Act, 1987 and was approved by the House of Representatives by a vote of 406-4.

On August 11, 1986, the House of Representatives amended the Bill Nichols Department of Defense Reorganization Act of 1986 to add the text of the original H.R. 3622 as title VI. The House of Representatives then substituted the text of this bill (as amended) for the text of the Senate amendment to H.R. 3622.

The conference committee convened on August 13, 1986 and completed action on September 11, 1986.

SUMMARY OF MAJOR PROVISIONS

The major provisions of the conference substitute amendment are summarized below.

TITLE I—DEPARTMENT OF DEFENSE GENERALLY

1. Requires the Secretary of Defense to provide annually to Department of Defense (DoD) components written policy guidance for the preparation of the components' program and budget proposals.

2. Requires the Secretary of Defense to provide annually to the Chairman of the Joint Chiefs of Staff (JCS) written policy guidance for the preparation and review of contingency plans.

3. Specifies that the Under Secretary of Defense for Policy is to assist the Secretary of Defense in preparing guidance for contingency plans and in reviewing those plans.

4. Retains the existing number (11) of Assistant Secretaries of Defense but eliminates their statutory titles, except for the Assistant Secretaries of Defense for Reserve Affairs and for Command, Control, Communications, and Intelligence.

5. Requires the Secretary of Defense to keep the Secretaries of the Military Departments informed of military operations and DoD activities that directly affect their responsibilities.

6. Requires the Secretary of Defense to advise the President on the qualifications needed by DoD political appointees.

7. Repeals the Secretary of Defense's authority to reorganize DoD positions and activities that have been established in law.

8. Requires the Secretary of Defense, the JCS Chairman, the Secretaries of the Military Departments (jointly), and an independent contractor to conduct separate studies on the functions and organization of the Office of the Secretary of Defense (OSD).

TITLE II—MILITARY ADVICE AND COMMAND FUNCTIONS

PART A—JOINT CHIEFS OF STAFF

Advisory Role of the Chairman and Other JCS Members

1. Designates the JCS Chairman as the principal military adviser to the President, the National Security Council (NSC), and the Secretary of Defense.

2. Specifies that the other JCS members are military advisers to the President, the NSC, and the Secretary of Defense, as provided in items #5 and #6 below.

3. Requires the JCS Chairman, as appropriate, to consult with and seek the advice of the other JCS members and the unified and specified combatant commanders.

4. Requires the JCS Chairman, in presenting advice, to inform, as appropriate, the President, the NSC, or the Secretary of Defense of the range of military advice on a matter.

5. Requires the JCS Chairman to submit to the President, the NSC, and the Secretary of Defense any JCS member's opinion in disagreement or in addition to the Chairman's advice.

6. Requires JCS members, individually or collectively, to provide advice on a particular matter whenever the President, the NSC, or the Secretary of Defense request it.

Appointment and Duties of the JCS Chairman

7. Allows the President to reappoint the JCS Chairman to a third two-year term; specifies that if a JCS Chairman does not complete his term, his successor shall serve for the remainder of the unexpired term and then may be reappointed to two two-year terms; specifies that the JCS Chairman's term begins on October 1st of odd-numbered years.

8. Requires, subject to the President's waiver, that an officer have served as the JCS Vice Chairman, a Service Chief of Staff, or a unified or specified combatant commander in order to be appointed as the JCS Chairman.

9. Transfers responsibility for the duties currently performed by the corporate JCS to the Chairman; updates and expands those duties to specify the following new statutory duties for the JCS Chairman:

preparing fiscally constrained strategic plans;

performing net assessments;

providing for the preparation and review of contingency plans which conform to policy guidance from the President and the Secretary of Defense;

advising the Secretary of Defense on the critical deficiencies and strengths in force capabilities that are identified during the preparation of contingency plans and their effect on meeting national security objectives;

establishing and maintaining a uniform system of evaluating the readiness of the unified and specified combatant commands;

advising the Secretary of Defense on the priorities of the unified and specified combatant commanders' requirements;

advising the Secretary of Defense on the extent to which the Services' budget proposals conform with the priorities established in strategic plans and for the requirements of the unified and specified combatant commanders;

submitting to the Secretary of Defense alternative budget proposals in order to achieve greater conformance with the priorities established in strategic plans and for the requirements of the unified and specified combatant commands;

recommending to the Secretary of Defense a budget proposal for activities of each unified and specified combatant command;

assessing military requirements for acquisition programs; and

developing joint doctrine.

10. Requires the JCS Chairman to submit a report every 3 years to the Secretary of Defense on the roles and missions of the Armed Forces.

11. Authorizes the JCS Chairman, subject to the direction of the President, to attend and participate in National Security Council meetings.

Appointment and Duties of the JCS Vice Chairman

12. Creates the new position of Vice Chairman of the JCS with the rank of a four-star officer.

13. Designates the Vice Chairman as the second-ranking military officer just below the Chairman.

14. Requires the JCS Chairman and Vice Chairman to be from different Services.

15. Specifies that the Vice Chairman may serve up to three two-year terms.

16. Requires, subject to the President's waiver, that an officer have the joint specialty (established in title IV of the conference substitute amendment) and have served in at least one joint duty assignment as a general or flag officer in order to be appointed as the Vice Chairman.

17. Specifies that the Vice Chairman is to perform whatever duties are prescribed or delegated to him by the Chairman with the Secretary of Defense's approval.

18. Designates the Vice Chairman as the acting JCS Chairman in the absence or disability of the Chairman.

19. Authorizes the Vice Chairman to participate in all JCS meetings and to vote only when acting as Chairman.

Joint Staff

20. Specifies that the Joint Staff is to assist the JCS Chairman and, subject to the authority, direction, and control of the Chairman, the other JCS members and the Vice Chairman in carrying out their responsibilities.

21. Specifies that the JCS Chairman manages the Joint Staff; the Chairman is to prescribe the duties and staffing procedures of the Joint Staff.

PART B—COMBATANT COMMANDS (UNIFIED AND SPECIFIED COMMANDS)

1. Specifies that the operational chain of command, unless otherwise directed by the President, runs from the President to the Secretary of Defense to the unified and specified combatant commanders.

2. Authorizes the President to direct that communications between the President or

the Secretary of Defense and the unified and specified combatant commanders run through the JCS Chairman.

3. Authorizes the President to assign duties to the JCS Chairman to assist the President and the Secretary of Defense in performing their command function.

4. Authorizes the Secretary of Defense to assign responsibility to the JCS Chairman for overseeing the activities of the unified and specified combatant commands.

5. Specifies that the JCS Chairman is to serve as the spokesman for the unified and specified combatant commanders, especially on their operational requirements.

6. Requires, subject to the President's waiver, that an officer have the joint specialty and have served in at least one joint duty assignment as a general or flag officer in order to be selected as a unified or specified combatant commander.

7. Specifies the command functions included in the authority, direction, and control of the unified or specified combatant commander over the commands and forces within his command.

8. Authorizes the Secretary of Defense to assign authority to the unified or specified combatant commander for those aspects of administration and support that the Secretary considers necessary to accomplish that commander's missions.

9. Specifies that commanders within a unified or specified combatant command are under the authority, direction, and control of the unified or specified combatant commander on all matters for which the unified or specified combatant commander has been assigned authority.

10. Requires subordinate elements of a unified or specified combatant command and other DoD elements to communicate with each other (on matters for which the unified or specified combatant commander has been assigned authority) in accordance with procedures established by the unified or specified combatant commander.

11. Authorizes the unified or specified combatant commander to direct subordinate elements within his command to advise him of all communications to and from other DoD elements (on matters for which he has not been assigned authority).

12. Requires that the selection of directly subordinate commanders and members of the unified or specified combatant command staff be made only with the unified or specified combatant commander's concurrence.

13. Requires the unified or specified combatant commander to evaluate the duty performance of directly subordinate commanders.

14. Authorizes the unified or specified combatant commander to suspend from duty and recommend the reassignment of any officer assigned to his command.

15. Requires the Secretary of Defense to include in the annual defense budget request a separate budget proposal for those activities of the unified and specified combatant commands that he determines to be appropriate.

TITLE III—DEFENSE AGENCIES AND DOD FIELD ACTIVITIES

1. Requires the Secretary of Defense to assign supervisory responsibility for each Defense Agency and Field Activity (except the Defense Intelligence Agency and the National Security Agency) to an OSD official or the JCS Chairman.

2. Directs the JCS Chairman to review and advise the Secretary of Defense on the readiness of certain Defense Agencies to carry out their wartime support missions.

3. Requires the JCS Chairman to provide for the participation of certain Defense Agencies in joint training exercises.

4. Requires the JCS Chairman to develop a readiness reporting system for certain Defense Agencies.

5. Directs the Secretary of Defense, the JCS Chairman, and the Secretaries of the Military Departments to conduct separate studies of the functions and organizational structure of the Defense Agencies and Field Activities.

6. Directs the Secretary of Defense to undertake, 2 years after the initial report required by item #5, a biennial review of the Defense Agencies and Field Activities.

7. Reduces the number of headquarters and non-headquarters personnel serving in the Defense Agencies and Field Activities; imposes a cap at the reduced levels of September 30, 1989.

TITLE IV—JOINT OFFICER PERSONNEL POLICY

1. Establishes an occupational category, referred to as the "joint specialty", for the management of officers who are trained in and oriented toward joint matters.

2. Provides that joint specialty officers shall be selected the Secretary of Defense from nominees submitted by the Secretaries of the Military Departments.

3. Requires that an officer may not be selected for the joint specialty until he completes a joint education program and a full joint duty tour.

4. Requires that 50 percent of joint duty positions in grades above captain/Navy lieutenant be filled by officers who have been nominated or selected for the joint specialty.

5. Directs the Secretary of Defense to designate at least 1,000 critical joint duty assignments that must always be filled by joint specialty officers.

6. Requires the Secretary of Defense to establish career guidelines for joint specialty officers.

7. Requires, subject to a waiver by the Secretary of Defense, that all officers promoted to general or flag rank must attend an education course (CAPSTONE) on working with the other armed forces.

8. Requires all joint specialty officers and a high proportion of other officers who graduate from a joint school to be assigned immediately to a joint duty position.

9. Prescribes, subject to a waiver by the Secretary of Defense, that joint duty tours shall be at least 3 years in length for general and flag officers and at least 3½ years in length for other officers.

10. Requires the Secretary of Defense to exclude joint training assignments and assignments within the Military Departments in the definition of "joint duty assignment".

11. Specifies that each promotion board, subject to a waiver for the Marine Corps, that will consider officers who have served in joint duty assignments shall include at least one joint duty officer designated by the JCS Chairman.

12. Establishes the following promotion review process for officers who are serving, or have served, in joint duty assignments:

requires the Secretary of Defense to furnish to the Military Departments guidelines to ensure that promotion boards give appropriate consideration to joint duty performance;

directs the JCS Chairman to review promotion board reports before they are submitted to the Secretary of Defense;

authorizes the Secretary of a Military Department, if the JCS Chairman determines that the promotion board acted contrary to the Secretary of Defense's guidelines, to return the report to the promotion board (or a subsequent promotion board) for further proceedings, convene a special promotion board, or take other appropriate action;

directs the Secretary of Defense to take appropriate action to resolve any remaining disagreement between the Secretary of a Military Department and the JCS Chairman.

13. Requires the Secretary of Defense to ensure that the qualifications of officers assigned to joint duty assignments are such that certain promotion rates will be achieved.

14 Requires, subject to a waiver by the Secretary of Defense, that an officer may not be promoted to general or flag rank unless he has served in a joint duty assignment.

15. Requires the JCS Chairman to evaluate the joint duty performance of officers recommended for three- and four-star rank.

16. Requires the Secretary of Defense to advise the President on the qualifications needed by officers to serve in three- and four-star positions.

TITLE V—MILITARY DEPARTMENTS

1. Specifies the responsibilities of the Secretaries of the Military Departments to the Secretary of Defense.

2. Specifies that the functions of the Military Departments are to be carried out so as to fulfill the operational requirements of the unified and specified combatant commands.

3. Makes consistent the appointment and statutory descriptions of the roles and authorities of the Secretaries of the Military Departments, Chiefs of Staff and other officials and officers.

4. Retains the civilian Secretariat and the military headquarters staff as separate staffs in each Military Department.

5. Consolidates sole responsibility for the following functions in each Service Secretariat: acquisition, auditing, comptroller, information management, inspector general, legislative affairs, and public affairs, prohibits the establishment or designation of any office within the military headquarters staffs to conduct any of these functions.

6. Consolidates sole responsibility for research and development in each Service Secretariat but specifies that the Secretaries of the Military Departments may assign to the military headquarters staffs responsibility for those aspects of research and development that relate to military requirements and test and evaluation.

7. Directs the Secretaries of the Military Departments to prescribe the relationship of offices within the Secretariats responsible for these functions to the Chiefs of Staff and the military headquarters staffs.

8. Retains the existing number and statutory titles (including Manpower and Reserve Affairs) of the Services' Assistant Secretaries.

9. Limits each military headquarters staff to five Deputy Chiefs of Staff and three Assistant Chiefs of Staff.

10. Reduces the number of general and flag officers on each military headquarters staff by 15 percent by September 30, 1988.

11. Reduces the number of personnel serving in the Secretariat and military headquarters staff of each Military Department; imposes a cap on such personnel at the reduced levels of September 30, 1988.

12. Requires the Chiefs of Staff to inform the Secretary of their Military Department of military advice rendered by JCS members on matters affecting their Military Departments, to the extent that such action does not impair the independence of the Chiefs of Staff in the performance of their JCS duties.

13. Requires the Chiefs of Staff, subject to the authority, direction, and control of the Secretary of Defense, to keep the Secretary of their Military Department fully informed of significant military operations affecting the duties of the Secretary of their Military Department.

14. Makes the functional assignments of the Navy consistent with those of the other Services by removing the statutory assignment of certain roles and missions (naval reconnaissance, antisubmarine warfare, and protection of shipping).

TITLE VI—MISCELLANEOUS

1. Reduces the number of defense reports required by the Congress from the President and the Defense Department by about two-thirds of the total.

2. Reduces the number of personnel serving on the lower-level headquarters staffs of the Military Departments and the unified and specified combatant commands; imposes a cap on such personnel at the reduced levels of September 30, 1988.

3. Requires the President to submit an annual report to the Congress on the national security strategy of the United States.

DEFENSE DEPARTMENT PERSONNEL REDUCTIONS

The conference substitute amendment reduces the number of military and civilian personnel serving on Defense Department staffs in order to streamline the administrative and operational chains of command.

DOD Element	Total personnel (fiscal year 1986) [1]	Conference reduction	
		Number	Percent/ years
Defense agencies/DOD field activities [2]	98,731	−9,788	−9.9/3
a. HQ element	(3,370)	(−489)	−14.5/3
b. Non-HQ element	(95,361)	(−9,299)	−9.75/3
2. Military departments	10,130	−1,520	−15.0/2
a. Secretariats	(1,544)	(−232)	−15.0/2
b. Military HQs	(8,586)	(−1,288)	(−15.0/2
3. Remaining DOD HQs [3]	52,050	−5,205	−10.0/2
Total	160,911	−16,513	−10.3

[1] All of these personnel figures include both military and civilian personnel.
[2] The conference substitute amendment authorizes the Secretary of Defense to allocate all or part of the reductions specified for the Defense Agencies and DoD Field Activities to other elements of the Defense Department.
[3] The conference substitute amendment exempts the immediate headquarters staffs of the Commanders-in-Chief of the unified and specified combatant commands.

TITLE I—DEPARTMENT OF DEFENSE GENERALLY

SEC. 101. ORGANIZATION OF THE DEPARTMENT OF DEFENSE

Reorganization of Code

The Senate amendment contained a provision (section 104) that would redesignate 16 existing sections of chapter 4 of title 10, United States Code. The Senate amendment contained a provision (section 110) that would reorganize chapter 4, transfer one existing section of chapter 4 to chapter 165, establish a new chapter 171, and transfer five existing sections of chapter 4 to chapter 171.

The House amendment contained no similar provisions.

The House recedes with amendments to:

(1) establish a new chapter 2 (Department of Defense) of title 10;

(2) transfer six existing sections of chapter 4 to chapter 2;

(3) transfer four existing sections of chapter 4 to chapter 3;

(4) establish a new chapter 144 (Oversight of Cost Growth in Major Programs);

(5) transfer four existing sections of chapter 4 to chapter 144;

(6) revise the heading of chapter 3 (General Powers and Functions);

(7) revise the heading of chapter 4 (Office of the Secretary of Defense);

(8) revise existing section 138; and

(9) reorganize chapter 4.

The resulting reorganization of chapters 2, 3, 4, and 144 (including the repeal of section 124 as provided in section 211 of the conference substitute amendment) are shown below with existing section numbers shown in brackets after the new section numbers.

CHAPTER 2—DEPARTMENT OF DEFENSE

Sec.
111. [131.] Executive department.
112. [132.] Department of Defense: seal.
113. [133.] Secretary of Defense.
114. [138.] Annual authorization of appropriations.
115. [138.] Annual authorization of personnel strengths; annual manpower requirements report.
116. [138.] Annual operations and maintenance report.
117. [133a.] Annual report on North Atlantic Treaty Organization readiness.
118. [133b.] Sale or transfer of defense articles: reports to Congress.

CHAPTER 3—GENERAL POWERS AND FUNCTIONS

Sec.
121. [121.] Regulations.
122. [122.] Official registers.
123. [123.] Suspension of certain provisions of law relating to reserve commissioned officers.
[124. [124.] Repealed.]
125. [125.] Functions, powers, and duties: transfer, reassignment, consolidation, or abolition.
126. [126.] Transfer of funds and employees.
127. [140.] Emergency and extraordinary expenses.
128. [140a.] Fund transfers for foreign cryptologic support.
129. [140b.] Prohibition of certain civilian personnel management constraints.
130. [140c.] Authority to withhold from public disclosure certain technical data.

CHAPTER 4—OFFICE OF THE SECRETARY OF DEFENSE

Sec.
131. [None] Office of the Secretary of Defense.
132. [134.] Deputy Secretary of Defense.
133. [134a.] Under Secretary of Defense for Acquisition.
134. [135.] Under Secretary of Defense for Policy.
135. [135.] Director of Defense Research and Engineering.
136. [136.] Assistant Secretaries of Defense.
137. [None] Comptroller.
138. [136a.] Director of Operational Test and Evaluation.
139. [137.] General Counsel.
140. [None] Inspector General.

CHAPTER 144—OVERSIGHT OF COST GROWTH IN MAJOR PROGRAMS

Sec.
2431. [139.] Weapons development and procurement schedules: reports.
2432. [139a.] Selected Acquisition Reports.
2433. [139b.] Unit cost reports.
2434. [139c.] Independent cost estimates.

Composition of the Department of Defense

The Senate amendment contained a provision (section 102) to prescribe the composition of the Department of Defense.

The House amendment contained no similar provision.

The House recedes with an amendment to require the President to notify the Congress within 60 days of establishing or designating an office, agency, activity, or command in the Department of Defense of a kind other than those described in section 111 of title 10 (as redesignated by section 101(a) and amended by section 101(b) of the conference substitute amendment). This requirement would not apply to any office, agency, activity, or command that would be, after establishment or designation, under the control or supervision of any element described in section 111 of title 10.

SEC. 102. POWERS AND DUTIES OF THE SECRETARY OF DEFENSE

The Senate amendment contained a provision (section 103) that would specify the following three additional duties for the Secretary of Defense:

(1) to inform the President, whenever a vacancy in a political position in the Department of Defense occurs, of the qualifications needed by an appointee to carry out effectively the duties and responsibilities of that position;

(2) to provide annually to the Chairman of the Joint Chiefs of Staff (JCS) written policy guidance for the preparation and review of contingency plans; and

(3) to keep the Secretaries of the Military Departments informed on military operations and activities of the Department of Defense that directly affect their responsibilities.

The House amendment contained no similar provision.

The House recedes with two amendments. First, the Secretary of Defense would be required to include in his guidance for the preparation and review of contingency plans the specific force levels and specific supporting resource levels projected to be available for the period of time for which the contingency plans are to be effective. The second amendment would require the Secretary of Defense, with the advice and assistance of the JCS Chairman, to provide annually to the heads of Department of Defense components written policy guidance for the preparation and review of the program recommendations and budget proposals of their respective components.

With respect to the additional duty assigned to the Secretary of Defense concerning the qualifications of political appointees, the conferees remain concerned about the lack of sufficient experience and expertise by persons appointed to political positions in the Department of Defense. In a field as complex as national defense, inexperienced political appointees are a fundamental weakness in achieving sound and effective management. Although the executive branch can most effectively solve this problem through its selection process, the Senate conferees agreed to establish and exercise more rigorous confirmation standards

for persons nominated for these political positions.

Section 113(b) of title 10 (as redesignated by section 101 of the conference substitute amendment) provides that:

The Secretary [of Defense] is the principal assistant to the President in all matters relating to the Department of Defense. Subject to the direction of the President and to this title and section 2 of the National Security Act of 1947 (50 U.S.C. 401), he has authority, direction, and control over the Department of Defense.

This current provision ensures that the Secretary has full power over every facet of the Department of Defense. The Secretary has sole and ultimate power within the Department of Defense on any matter on which the Secretary chooses to act. Provisions of the conference substitute amendment refer to various activities as being subject to the powers of the Secretary of Defense, using the phrase "subject to the authority, direction, and control of the Secretary of Defense". The conferees agreed that use of this phrase is solely for purposes of emphasis and that the absence of this phrase elsewhere in the conference substitute amendment is not to be construed as limiting the power of the Secretary under section 113(b) to exercise authority, direction, and control over an activity. Likewise, the conferees agreed that provisions of the conference substitute amendment concerning the decisionmaking process or requiring the Secretary to act with the advice or assistance of another officer or official do not limit the power or responsibility of the Secretary of Defense in the exercise of his authority, direction, and control.

SEC. 103. MODIFICATION OF AUTHORITY OF SECRETARY OF DEFENSE TO REORGANIZE THE DEPARTMENT OF DEFENSE

The Senate amendment contained a provision (section 101) that would repeal the authority of the Secretary of Defense to change functions, powers, and duties vested by law in the Department of Defense or in an officer, official, or agency of the Department of Defense.

The House amendment contained no similar provision.

The House recedes.

SEC. 104. OFFICE OF THE SECRETARY OF DEFENSE

Senate amendment contained a provision (section 105) that would establish in law the Office of the Secretary of Defense, specify its function and composition, and reenact section 718 and section 136(d) of title 10 as part of this provision.

House amendment contained no similar provision.

The House recedes with two amendments. First, the function of the Office of the Secretary of Defense would be broadened from "to assist the Secretary of Defense in carrying out his duties and responsibilities" to include "and to carry out such other duties as may be prescribed by law." The conferees determined that including the additional phrase reflects more accurately the function of the Office of the Secretary of Defense, especially in light of the broad responsibilities assigned to the Inspector General of the Department of Defense by the Inspector General Act of 1978 (5 U.S.C. App. 3).

The second amendment relates to existing section 718 of title 10 which reads: 13

Officers of the armed forces may be detailed for duty as assistants or personal aides to the Secretary of Defense. However, the Secretary may not establish a military staff other than that [the Joint Chiefs of Staff] established by section 141(a) of this title.

The conferees determined that both sentences of section 718 were ambiguous. To provide necessary clarification, the conferees agreed that section 131(c) of title 10 (as added by section 104 of the conference substitute amendment) should specify that military officers may be assigned or detailed to permanent duty in the Office of the Secretary of Defense and that the Secretary may not establish a military staff in the Office of the Secretary of Defense.

SEC. 105. UNDER SECRETARY FOR POLICY AND DIRECTOR OF DEFENSE RESEARCH AND ENGINEERING

The Senate amendment contained a provision (section 106) that would repeal the current prohibition against a person being appointed Under Secretary of Defense for Policy within 10 years after his relief from active duty as a commissioned officer of a regular component of an Armed Force.

The House amendment contained no similar provision.

The Senate recedes. The conferees determined that such a prohibition was an appropriate civilian control mechanism for this important policymaking position. In a related action, the conferees determined to specify a duty for the Under Secretary of Defense for Policy to assist the Secretary of Defense in preparing written policy guidance for the preparation and review of contingency plans and in reviewing such plans. This action by the conference committee reflected continuing concern over the absence of effective civilian oversight of the contingency planning process. The assignment of this duty to the Under Secretary of Defense for Policy is connected to the additional duty regarding guidance for contingency plans that would be assigned to the Secretary of Defense by subsection (g)(2) of section 113 of title 10 (as added by section 102 of the conference substitute amendment).

The Military Retirement Reform Act of 1986 (Public Law 99-348) created the position of Under Secretary of Defense for Acquisition and established the position of Director of Defense Research and Engineering in the same section (section 135) of title 10 in which the position of Under Secretary of Defense for Policy is established. The conferees agreed that the Director of Defense Research and Engineering and the Under Secretary of Defense for Policy should be established in separate sections of title 10. Section 105 of the conference substitute amendment would merely make appropriate technical changes to establish the Under Secretary of Defense for Policy and the Director of Defense Research and Engineering in section 134 and section 135 of title 10, respectively.

The conferees agreed that none of the actions of the conference committee prejudge consideration of the duties of the new Under Secretary of Defense for Acquisition as contained in the versions of the Department of Defense Authorization Act for fiscal year 1987 passed by the Senate on August 9, 1986 (S. 2638) and by the House of Representatives on August 15, 1986 (H.R. 4428).

SEC. 106. ASSISTANT SECRETARIES OF DEFENSE

The Senate amendment contained a provision (section 107) that would repeal the specification in law of the titles and duties of the Assistant Secretary of Defense for Health Affairs; the Assistant Secretary of Defense for Manpower and Logistics; the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence; and the Assistant Secretary of Defense (Comptroller).

The House amendment contained no similar provision.

The House recedes with an amendment to retain the statutory specification of the title and duties of the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence. The conferees agreed that this action by the conference committee does not prejudge the statutory specification of the title and duties of an Assistant Secretary of Defense for Special Operations and Low Intensity Conflict, as would be provided by the Department of Defense Authorization Bill for fiscal year 1987 passed by the Senate on August 9, 1986 (S. 2638).

SEC. 107. COMPTROLLER OF THE DEPARTMENT OF DEFENSE

The Senate amendment contained a provision (section 108) that would establish the position of Comptroller of the Department of Defense and would assign to that position the same duties now assigned to the Assistant Secretary of Defense (Comptroller).

The House amendment contained no similar provision.

The House recedes with an amendment to require that the Comptroller of the Department of Defense be appointed by the President, by and with the advice and consent of the Senate. The conferees agreed that the important duties of the Comptroller justify these appointment requirements. While agreeing to establish this position in law, the conferees intend that the President may, in his discretion, designate the Comptroller of the Department of Defense as an Assistant Secretary of Defense.

SEC. 108. INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE

The Senate amendment contained a provision (section 109) that would recognize in title 10, by a cross reference to the Inspector General Act of 1978 (5 U.S.C. App. 3), the appointment and duties of the Inspector General of the Department of Defense.

The House amendment contained no similar provision.

The House recedes.

SEC. 109. MANAGEMENT STUDIES OF OFFICE OF THE SECRETARY OF DEFENSE

The House amendment contained a provision (section 502) that would require studies of the functions and organization of the Office of the Secretary of Defense by the Secretary of Defense, the Secretary of each Military Department, the JCS Chairman, and an independent contractor.

The Senate amendment contained no similar provision.

The Senate recedes with amendments to require the Secretaries of the Military Departments to conduct a joint study and to revise the matters to be considered by each study. The conferees agreed that the Deputy Secretary of Defense should be responsible for supervising the study by an independent contractor of the Office of the Secretary of Defense.

SEC. 110. TECHNICAL AND CONFORMING AMENDMENTS

Section 110 of the conference substitute amendment would amend title 10 to make appropriate conforming and technical changes to implement the actions of the conference committee relating to title I of the conference substitute amendment.

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TITLE II—MILITARY ADVICE AND COMMAND FUNCTIONS

PART A—JOINT CHIEFS OF STAFF

SEC. 201. REVISED FUNCTIONS OF CHAIRMAN; ESTABLISHMENT OF VICE CHAIRMAN

The Senate amendment contained a provision (section 111) that would make several changes in chapter 5 (Joint Chiefs of Staff) of title 10, United States Code.

The House amendment contained several provisions (sections 102 and sections 601-610) that would make similar changes in chapter 5 of title 10.

Sec. 151. Joint Chiefs of Staff: composition; functions

Composition of the Joint Chiefs of Staff

The House amendment contained a provision (section 601) that would specify that the Joint Chiefs of Staff (JCS) are "headed" by the Chairman.

The Senate amendment contained no similar provision.

The Senate recedes.

The Senate amendment contained a provision (section 111) that would designate the Vice Chairman as a member of the JCS.

The House amendment contained a provision (section 606) that would designate the Deputy Chairman as the Director of the Joint Staff.

The Senate recedes with an amendment to delete the designation of the Vice Chairman as the Director of the Joint Staff. Although the Vice Chairman will not be a member of the JCS, the conferees expect him to make an extremely important contribution to the work of the Chairman and the other JCS members. Under section 154(g) of title 10 (as amended by section 201 of the conference substitute amendment), the Vice Chairman outranks all other officers of the Armed Forces except the Chairman. In addition, section 154(d) of title 10 (as amended by section 201 of the conference substitute amendment) assigns the Vice Chairman the duty to act as the Chairman in the absence or disability of the Chairman or in the case of a vacancy in the office of Chairman. The conferees expect that when the Vice Chairman is acting for the Chairman, he shall be considered a full member of the JCS with the duties, authority, responsibilities, and status of the Chairman.

JCS Members as Military Advisers

The Senate amendment contained a provision (section 111) that would designate the members of the JCS as military advisers to the President, the National Security Council, and the Secretary of Defense, "as specified in this section" (section 151 of title 10, as amended by section 111 of the Senate amendment).

The House amendment contained no similar provision.

The House recedes with an amendment to clarify that the phrase "as specified in this section" refers to subsections (d) and (e) of section 151 of title 10, as amended by section 201 of the conference substitute amendment.

JCS as Military Staff to Secretary of Defense

The Senate amendment contained a provision (section 111) that would designate the Joint Chiefs of Staff, assisted by the Joint Staff, as the immediate military staff of the Secretary of Defense.

The House amendment contained no similar provision.

The Senate recedes.

Consultative Duties of the Chairman

The Senate amendment contained a provision (section 111) that would require the JCS Chairman to take the following actions in the course of performing his duties: to convene regular JCS meetings; unless impracticable, to consult with and seek the advice of the other JCS members; and, when appropriate, to consult with and seek the advice of the unified and specified combatant commanders.

The House amendment contained a similar provision (section 601) that would require the JCS Chairman to perform his duties in consultation, as appropriate, with the other JCS members and with the unified and specified combatant commanders.

The Senate recedes with an amendment to require the Chairman to convene regular JCS meetings. The conferees intend that the Chairman shall consult, unless impracticable, with the other JCS members on issues which he judges to be of major importance. On matters that the Chairman considers to be of lesser significance, the conferees expect him to consult, when he considers appropriate, with the other members of the Joint Chiefs of Staff.

Chairman to Present Range of Advice

The House amendment contained a provision (section 606) that would amend existing section 142(b)(3) of title 10 to require the JCS Chairman to inform the Secretary of Defense, and, when the President or the Secretary of Defense considers it appropriate, the President, of the military advice of the JCS as a body on those matters for which advice is requested by the President or the Secretary of Defense (including advice on matters on which JCS members have not agreed).

The Senate amendment contained no similar provision.

The Senate recedes with two amendments. First, the Chairman is required, as he considers appropriate, to inform the President, the National Security Council, or the Secretary of Defense of the range of military advice and opinion on a matter for which advice has been requested. Second, the relationship of this provision to section 151(d) of title 10 (as amended by section 201 of the conference substitute amendment) is clarified. The conferees do not intend to alter the responsibility of the Chairman to submit other JCS members' dissenting views (under section 151(d) of title 10, as amended by section 201 of the conference substitute amendment) by giving the Chairman discretion in informing senior civilian officials of the range of military advice.

Dissenting Views of JCS Members

The Senate amendment contained a provision (section 111) that would authorize any JCS member to submit advice in disagreement or in addition to the advice provided by the Chairman to the President, the National Security Council (NSC), or the Secretary of Defense. If a member submits such advice, the Chairman would be required to present that advice at the same time he presented his own advice to the President, the NSC, or the Secretary of Defense.

The House amendment contained a similar provision (section 606).

The House recedes with an amendment to ensure that the dissenting views of other JCS members will not unduly delay the presentation of the Chairman's advice.

JCS Members' Advice Upon Request

The Senate amendment contained a provision (section 111) that would direct JCS members (other than the Chairman), in their capacity as military advisers, to provide advice on a particular matter in response to a request from the President, the National Security Council, or the Secretary of Defense.

The House amendment contained a similar provision (section 606) that would direct the JCS, as a body, to provide advice to the President and the Secretary of Defense on matters for which such advice was requested.

The House recedes with an amendment to require the members of the JCS, individually or collectively, in their capacity as military advisers, to provide advice to the President, the NSC, or the Secretary of Defense on a particular matter whenever it is requested.

Sec. 152. Chairman: appointment; rank

Term of the JCS Chairman

The Senate amendment contained a provision (section 111) that would authorize the President to appoint the JCS Chairman to three 2-year terms.

The House amendment contained a provision (section 605) that would authorize the President to appoint the JCS Chairman to two 4-year terms.

The House recedes.

The Senate amendment contained a provision (section 111) that would specify that the term of the JCS Chairman would expire not later than 6 months after the beginning of a new Presidency. The purpose of this requirement was to give a newly elected President an automatic opportunity to retain or release the military officer who would serve as his principal military adviser.

The House amendment contained a provision (section 605) that would specify that, if a JCS Chairman did not complete his term, his successor would serve only for the remainder of the unexpired term.

The Senate recedes with the following two amendments: to specify that the Chairman's term will begin on October 1st of odd-numbered years, and to clarify that a successor to a Chairman who failed to complete his term may be reappointed to two 2-year terms.

The House amendment contained a provision (section 605) that would specify that the first appointment of a JCS Chairman made on or after the date of enactment of the House amendment would be for a term ending on June 30, 1990.

The Senate amendment contained no similar provision.

The House recedes.

Combined Service as Chairman and Vice Chairman

The Senate amendment contained a provision (section 111) that would limit to 6 years the combined length of time that a military officer could serve as JCS Chairman and Vice Chairman. The President would be authorized to extend this limitation to 8 years if he determined such action was in the national interest.

The House amendment contained no similar provision.

The House recedes.

Qualifications for Appointment as JCS Chairman

The Senate amendment contained a provision (section 111) that would require, subject to a waiver by the President, that JCS members have served in at least one joint duty position for a substantial period of time before their assignment to the JCS.

The House amendment contained a provision (section 301) that would require that, whenever practicable, an officer recommended to the President for appointment as JCS Chairman have served as a Chief of

Service or as a unified or specified combatant commander.

The Senate recedes with an amendment to require, subject to a waiver by the President, that the Chairman have served as the Vice Chairman, a Service Chief, or a unified or specified combatant commander before his appointment.

Grade of the JCS Chairman

The Senate amendment contained a provision (section 111) that would specify that the JCS Chairman, while so serving, holds the grade of general or admiral.

The House amendment contained no similar provision.

The House recedes.

Sec. 153. Chairman: functions

Duties of the JCS Chairman

Both the Senate and House amendments would make several changes in the duties assigned to the Joint Chiefs of Staff and would transfer responsibility for those duties, as amended, to the JCS Chairman.

The Senate amendment contained a provision (section 111) that would amend existing section 141(c)(1) of title 10 to require the JCS Chairman to prepare strategic plans to provide for the strategic direction of the armed forces, including plans which conform with resource levels projected by the Secretary of Defense.

The House amendment contained no similar provision. Therefore, it would assign to the Chairman the duty prescribed by existing section 141(c)(1) of title 10 to prepare strategic plans and provide for the strategic direction of the armed forces.

The House recedes with an amendment to provide that the JCS Chairman shall assist the President and the Secretary of Defense in providing for the strategic direction of the armed forces.

The Senate amendment contained a provision (section 111) that would amend existing section 141(c)(2) of title 10 to clarify that the purpose of the joint logistic and mobility plans prepared by the JCS Chairman would be to support contingency plans.

The House amendment contained no similar provision.

The House recedes with an amendment to broaden the purpose to include strategic plans as well as contingency plans.

The House amendment contained a provision (section 102) that would require the JCS Chairman to perform net assessments.

The Senate amendment contained no similar provision.

The Senate recedes. The conferees agreed to direct that, in conducting net assessments, the JCS Chairman shall include the wartime capabilities of the U.S. Coast Guard.

The Senate amendment contained a provision (section 111) that would require the JCS Chairman to provide for the preparation and review of contingency plans which conform to policy guidance from the President and the Secretary of Defense.

The House amendment contained no similar provision.

The House recedes.

The Senate amendment contained a provision (section 111) that would require the JCS Chairman to advise the Secretary of Defense on critical deficiencies and strengths in force capabilities which are identified during the preparation and review of contingency plans. The Chairman would then be required to assess the effect of such deficiencies and strengths on meeting national security objectives and on strategic plans.

The House amendment contained no similar provision.

The House recedes.

The House amendment contained a provision (section 102) that would require the JCS Chairman to establish and maintain a uniform system of evaluating the preparedness of the unified and specified combatant commands.

The Senate amendment contained no similar provision.

The Senate recedes.

The Senate amendment contained a provision (section 111) that would require the JCS Chairman to advise the Secretary of Defense on the extent to which the annual program recommendations and budget proposals of components of the Defense Department conform with strategic priorities and the unified and specified combatant commanders' operational requirements.

The House amendment contained a provision (section 102) that would specify two duties for the JCS Chairman. First, the Chairman would submit to the Secretary of Defense an annual recommendation for the broad allocation of defense resources based upon the Secretary's guidance, the unified and specified combatant commanders' recommendations, and the recommendations of other Defense Department components.

Second, the Chairman would recommend to the Secretary of Defense the changes that would be necessary to make the program objectives and budget proposals of the Military Departments and the combat support agencies consistent with the Chairman's recommendation for the broad allocation of defense resources.

The House recedes with two amendments. First, the Chairman is required to advise the Secretary of Defense on the priorities of the requirements identified by the unified and specified combatant commanders.

Second, the Chairman is required to submit to the Secretary of Defense alternative program recommendations and budget proposals, within projected resource levels and guidance provided by the Secretary, in order to achieve greater conformance with the priorities established in strategic plans and with the priorities established for the unified and specified combatant commanders' requirements.

The House amendment contained a provision (section 102) that would require the JCS Chairman to recommend to the Secretary of Defense a budget for each unified and specified combatant command.

The Senate amendment contained no similar provision.

The Senate recedes.

The Senate amendment contained a provision (section 111) that would require the JCS Chairman to assess joint military requirements for defense acquisition programs.

The House amendment contained no similar provision.

The House recedes with an amendment to broaden the duty to encompass all military requirements. Despite the broad nature of this responsibility, the conferees strongly believe that the Chairman should not be required to spend too much time and energy on the acquisition of defense systems. The Chairman's unique role in planning and operational matters is far too important to allow him to be preoccupied with acquisition issues. The conferees' only purpose in broadening his duty to assess military requirements is to give the Chairman and the Secretary of Defense flexibility in delineating the Chairman's role in the acquisition process.

The House amendment contained a provision (section 102) that would require the JCS Chairman to monitor the extent to which each Military Department provided officers for joint duty assignments.

The Senate amendment contained no similar provision.

The Senate recedes with amendments to clarify the information required on each Military Department's share of joint duty assignments and to transfer this provision to section 667 of title 10, as added by section 401 of the conference substitute amendment.

Report on the Services' Roles and Missions

The Senate amendment contained a provision (section 111) that would require the JCS Chairman to submit a periodic report to the Secretary of Defense on the assignment of functions or roles and missions to the four military Services.

The House amendment contained no similar provision.

The House recedes.

Sec. 154. Vice Chairman

Title of the Vice Chairman

The Senate amendment contained a provision (section 111) that would establish the position of Vice Chairman of the Joint Chiefs of Staff.

The House amendment contained a provision (section 606) that would establish the position of Deputy Chairman of the Joint Chiefs of Staff.

The House recedes.

Term of the Vice Chairman

The Senate amendment contained a provision (section 111) that would authorize the President to appoint the Vice Chairman to three 2-year terms.

The House amendment contained a provision (section 606) that would authorize the President to appoint the Deputy Chairman to two 4-year terms.

The House recedes.

Duties of the Vice Chairman

The Senate and House amendments contained identical provisions (sections 111 and 606, respectively) that would require the Vice Chairman to perform the duties delegated by the Chairman with the approval of the Secretary of Defense.

Like the duties of other deputy officials and officers in the Defense Department, those of the Vice Chairman would not be specified by title 10. Subject to the approval of the Secretary of Defense, the Chairman would enjoy substantial flexibility in determining the duties of the Vice Chairman.

Despite this broad grant of authority, the conferees strongly believe that the Vice Chairman, like the Chairman, should not be required to participate too deeply in the defense acquisition process. Instead, the Vice Chairman should assist the Chairman in carrying out the significant responsibilities he already bears as well as the many new ones assigned by this conference substitute amendment. In particular, the Chairman performs unique planning and advisory duties (including representing the interests of the unified and specified combatant commanders) that would greatly benefit from the assistance of the Vice Chairman.

Qualifications for Appointment as Vice Chairman

The Senate amendment contained a provision (section 111) that would require, subject to a waiver by the President, that JCS members (including the Vice Chairman) have served in at least one joint duty posi-

tion for a substantial period of time before their assignment to the JCS.

The House amendment contained no similar provision for the Vice Chairman.

The House recedes with an amendment to require, subject to a waiver by the President, that the Vice Chairman have the joint specialty (established in title IV of the conference substitute amendment) and have served in at least one joint duty assignment as a general or flag officer before his appointment. In addition, the conferees provided, in section 204 of the conference substitute amendment, a transition provision for use by the President before full application of these new requirements.

Vice Chairman as the Acting Chairman

The Senate amendment contained a provision (section 111) that would provide that the Vice Chairman, unless otherwise directed by the President or Secretary of Defense, would act for the Chairman when there was a vacancy in the office of Chairman or in the absence or disability of the Chairman.

The House amendment contained an identical provision (section 606), except that it did not include authority for the President or Secretary of Defense to direct that the Vice Chairman would not act for the Chairman in his absence.

The Senate recedes with an amendment to direct the President to designate a JCS member to act for the Chairman if both the Chairman and Vice Chairman should be absent or disabled.

Sec. 155. Joint Staff

Assistance to the Chairman and Other JCS Members

The Senate amendment contained a provision (section 111) that would specify that, subject to the authority, direction, and control of the Chairman, the Joint Staff would assist the Chairman and the other JCS members in carrying out their responsibilities.

The House amendment contained no similar provision.

The House recedes with an amendment to specify that the Joint Staff is to assist the Vice Chairman, as well as the Chairman and the other JCS members, in carrying out his responsibilities.

Selection of the Director of the Joint Staff

The Senate amendment contained a provision (section 111) that would authorize the JCS Chairman to select the Director of the Joint Staff.

The House amendment contained no similar provision.

The House recedes.

Management of the Joint Staff

The Senate amendment contained a provision (section 111) that would specify that the JCS Chairman would manage the Joint Staff and its Director.

The House amendment contained no similar provision.

The House recedes.

Duties and Staffing Procedures of the Joint Staff

The Senate amendment contained a provision (section 111) that would require the Joint Staff to perform the duties prescribed by the JCS Chairman under such procedures as he directed.

The House amendment contained a provision that would require the Joint Staff to perform the duties prescribed by the Chairman.

The House recedes.

Operation of the Joint Staff

The House amendment contained a provision (section 607) that would require the Secretary of Defense to ensure that the Joint Staff was independently organized and operated so that it could support the JCS Chairman in meeting the congressional purpose set forth in the National Security Act of 1947.

The Senate amendment contained no similar provision.

The Senate recedes.

Organization of the Joint Staff Along Conventional Staff Lines

The Senate amendment contained a provision (section 111) that would amend existing section 143(d) of title 10 to authorize the Joint Staff to be organized and operated along conventional staff lines to support the JCS Chairman and the other JCS members in discharging their responsibilities.

The House amendment contained an identical provision (section 607), except that it referred only to the Chairman (and not to the other JCS members as well).

The Senate recedes with an amendment to delete the reference to the support that the Joint Staff is to provide the Chairman. The conferees determined that this provision need not specify that the Joint Staff is to support the Chairman or the other JCS members because that function is already specified in section 155(a) of title 10 (as amended by section 201 of the conference substitute amendment). Instead, the primary purpose of this provision is to prohibit the Joint Staff from exercising executive authority and from being organized and operated as a General Staff. These prohibitions are fully preserved in the conferees' action.

Authority to Suspend Joint Staff Officers

As part of the action of the conference committee on part B of title II of the conference substitute amendment, the conferees agreed to authorize the commander of a unified or specified combatant command to suspend from duty and recommend the reassignment of any officer within his command. The conferees believe that the JCS Chairman should be able to exercise similar authority over Joint Staff officers.

Therefore, the conferees agreed to clarify existing section 143(a)(3) of title 10 to authorize the Chairman to suspend from duty and recommend the reassignment of any officer assigned to the Joint Staff. However, the conferees agreed that procedures required by this provision pertain solely to the relationships between the Chairman and the Military Department concerned with respect to service by an officer on the Joint Staff. The conferees agreed that nothing in this provision confers on an officer assigned to the Joint Staff any procedural rights concerning suspension from duty or reassignment.

Organization of the Joint Staff to Perform Net Assessments

The House amendment contained a provision (section 102) that would require the JCS Chairman to ensure that the Joint Staff was organized and staffed so as to enable the Chairman to perform net assessments.

The Senate amendment contained no similar provision.

The House recedes. The conferees did not believe it was necessary to specify in statute that the JCS Chairman should ensure that the Joint Staff is capable of assisting him in performing net assessments. Section 201 of the conference substitute amendment includes the performance of net assessments among the duties of the Chairman. Therefore, the conferees fully expect the Chairman to organize and operate the Joint Staff so that it is able to assist him in carrying out this important responsibility.

Limitation on Size of Joint Staff

The Senate amendment contained a provision (section 111) that would impose, as of October 1, 1988, a limitation of 1,617 on the number of civilian and military personnel serving on the Joint Staff. The Joint Staff would be defined to include all civilian and military personnel assigned or detailed to permanent duty to assist the JCS Chairman and Vice Chairman in carrying out their responsibilities and to assist the other JCS members in carrying out their JCS responsibilities.

The House amendment contained no similar provision. Therefore, it would continue the limitation specified in existing section 143(a)(1) of title 10 of 400 officers on the size of the Joint Staff (without defining the Joint Staff).

The House recedes with the following two amendments: to set the limitation at 1,627 and to clarify the definition of the Joint Staff to include only those personnel assigned or detailed to permanent duty in the executive part of the Defense Department to perform the Joint Staff functions and duties prescribed under sections 155 (a) and (c) of title 10, as amended by section 201 of the conference substitute amendment.

Report on Further Changes

The House amendment contained a provision (section 610) that would require the Secretary of Defense to submit a report to the Congress on the manner in which several changes to the JCS system, the unified and specified combatant commands, and the management of joint duty officers could be implemented.

The Senate amendment contained no similar provision.

The House recedes. Most of the matters that would have been included in the Secretary's report are addressed elsewhere in the conference substitute amendment.

SEC. 203. PARTICIPATION IN NATIONAL SECURITY COUNCIL MEETINGS

The House amendment contained a provision (section 609) that would require the JCS Chairman, subject to the direction of the President, to attend meetings of the National Security Council (NSC) and would authorize the Chairman, as directed by the President, to participate in its deliberations.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment to authorize the Chairman, in his role as the principal military adviser to the NSC and subject to the direction of the President, to attend and participate in NSC meetings.

SEC. 204. TRANSITION

Preparedness Evaluation System

As part of the action of the conference committee on section 153(a)(3)(D) of title 10 (as added by section 201 of the conference substitute amendment), the conferees agreed to require that the uniform system of evaluating the preparedness of the unified and specified combatant commands be established not later than 1 year after the date of enactment.

Date for First Report on Services' Roles and Missions

The Senate amendment contained a provision (section 111) that would require the Chairman to submit his first report on the military Services' roles and missions not later than 1 year after the date of enactment.

The House amendment contained no similar provision.

The House recedes with an amendment to require the first report to be submitted 2 years after the date of enactment.

Waiver of Qualifications for Appointment as Vice Chairman

As part of the action of the conference committee on section 154(b) of title 10 (as added by section 201 of the conference substitute amendment), the conferees agreed to authorize the President to waive the qualifications for appointment as the JCS Vice Chairman during a transition period before full application of the requirements of section 154(b). Under section 204(c) of the conference substitute amendment, the President would be authorized to waive:

(1) for a 2-year period after enactment, the requirement that the Vice Chairman have the joint specialty;

(2) for a 4-year period after enactment, the requirement that the Vice Chairman have served in a joint duty assignment for 3 years if the Vice Chairman has served in such an assignment for not less than 2 years; and

(3) for a 4-year period after enactment, the requirement that the Vice Chairman have served in a joint duty assignment as a general or flag officer if the Vice Chairman served as a general or flag officer in an assignment that was considered a joint duty assignment or a joint equivalent assignment under regulations in effect at the time the assignment began.

Although section 154(b)(2) of title 10 (as added by section 201 of the conference substitute amendment) provides the President with authority to waive the requirements for appointment as the Vice Chairman, the conferees agreed to provide a specific waiver for a limited transition period so that the exercise of a Presidential waiver, as would be required in the immediate future, would not become standard practice. After the transition period, the conferees expect the President to exercise his permanent waiver authority only in an extremely limited number of cases and only for officers of exceptional talent who may fail to meet the specified criteria.

PART B—COMBATANT COMMANDS

SEC. 211. ESTABLISHMENT OF COMBATANT COMMANDS AND AUTHORITY OF COMMANDERS

Sec. 161. Combatant commands: establishment

Review of Combatant Command Structure

The Senate amendment contained a provision (section 112) that would require the President to review periodically, but not less often than every 2 years, the missions, tasks, responsibilities (including geographic boundaries), and force structure of each unified and specified combatant command and to make whatever revisions are necessary to respond to changing conditions.

The House amendment contained a provision (section 101) that would require the JCS Chairman periodically (not less often than every other year) to review the overall structure of the combatant commands and to recommend to the President, through the Secretary of Defense, any changes that the Chairman considers necessary or appropriate.

The Senate recedes.

The Senate amendment contained a provision (section 112) that would require the President to notify Congress, except during time of hostilities, at least 60 days before establishing a new combatant command or before significantly revising the missions, tasks, responsibilities, or force structure of an existing combatant command.

The House amendment contained a provision (section 101) that would require the President to inform Congress promptly of any action taken in response to recommendations made by the Chairman.

The House recedes with an amendment to require the Presidential notification at least 60 days after establishing a new combatant command or after significantly revising the missions, responsibilities, or force structure of an existing combatant command.

The Senate amendment contained a provision (section 112) that would define four terms for chapter 6 of title 10: unified combatant command, specified combatant command, combatant command, and combatant forces.

The House amendment contained no similar provision.

The House recedes with an amendment to delete the definition of the term "combatant force" which is not used in chapter 6 of title 10 (as provided by the conference substitute amendment).

Social Combatant Commands

The House amendment contained a provision (section 101) that would authorize the President to establish special combatant commands if the President determined that the situation warranted such a force to perform a specific military mission. This provision would also require the President to prescribe the shortest practicable chain of command for each force deployed consistent with proper supervision and support.

The Senate amendment contained no similar provision.

The House recedes. The conferees agreed that the President already has authority, as Commander in Chief, to establish such special combatant commands and to prescribe their chains of command. The conferees do believe that considerable study of how the President can more effectively use such authority in crises is needed. The role of the President and the Secretary of Defense in crises during the last 30 years has been inconsistent. In some instances, the President and the Secretary have failed to take prompt action to ensure the effective organization, employment, direction, and control of U.S. military forces committed to combat operations. As a consequence, streamlined command arrangements and other necessary adjustments tailored to the situation have not been established. In other instances, the President and the Secretary have been over-involved and have engaged in unnecessary micro-management of tactical operations.

The conferees agreed that there is a genuine requirement for effective Presidential control in efforts to manage certain crises, especially those with the potential for superpower confrontation. In today's international security environment, in which both the United States and the Soviet Union possess substantial nuclear arsenals and in which the two superpowers are locked in competition either directly or indirectly in numerous world areas, the need to manage and terminate confrontations before they escalate to war has become increasingly important.

To begin the necessary study of how the President can more effectively manage crises, the conferees agreed to direct that the initial review of the combatant commands (Unified Command Plan), as required by section 212 of the conference substitute amendment, should develop procedures by which the President could systematize his evaluation of command arrangements, including the chain of command. Such procedures should produce more effective responses to, and management of, any crisis, however unique, that may occur.

Sec. 162. Combatant commands: assigned forces; chain of command

Assignment of Forces

The Senate amendment contained a provision (section 112) that would require all combatant forces of the Military Departments to be assigned to combatant commands, unless otherwise directed by the Secretary of Defense. This provision would also require each Secretary of a Military Department, with the approval of the Secretary of Defense and consistent with the force structure prescribed by the President for each combatant command, to assign combatant forces of his Military Department to combatant commands.

The House amendment contained a provision (section 101) that would require the Secretaries of the Military Departments to assign all forces under their jurisdiction, except for forces assigned to the recruiting, organizing, training, or supplying of the armed forces, to combatant commands. This provision would also require such assignments to be made as directed by the Secretary of Defense, including direction as to the command to which forces are to be assigned. In addition, this provision would specify that a force not assigned to a combatant command remains in the Military Department concerned.

The Senate recedes with amendments to: (1) require the Secretary of Defense to ensure that assignments of forces to combatant commands are consistent with the force structure prescribed by the President; (2) provide that forces required to be assigned to combatant commands do not include forces assigned to carry out the functions of the Secretaries of the Military Departments; and (3) delete the specification that a force not assigned to a combatant command remains in the Military Department concerned. The conferees agreed to the third amendment because this specification was unnecessary.

The House amendment contained a provision (section 101) that would require the commanders of combatant commands (hereafter referred to as "combatant commanders") and the Secretaries of the Military Departments, as directed by the Secretary of Defense, to assign forces under their jurisdiction to special combatant commands.

The Senate amendment contained no similar provision.

The House recedes.

The House amendment contained a provision (section 101) that would provide, unless otherwise directed by the Secretary of Defense, that all forces operating within the geographic area of a unified combatant command would be assigned to and under the command of the commander of that command. This provision would also provide that this requirement would apply to forces of specified or special combatant commands

only as prescribed by the Secretary of Defense.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment to delete the portion of the House provision relating to special combatant commands.

Chain of Command

The Senate amendment contained a provision (section 112) that would specify that, unless otherwise directed by the President, the chain of command for the operational direction of the combatant commands runs from the President to the Secretary of Defense to the combatant commanders. This provision would also authorize, subject to the limitations that the JCS Chairman may not exercise military command over the Joint Chiefs of Staff or any of the armed forces, the President or the Secretary of Defense to direct communications from the Secretary of Defense to the combatant commanders to run through the JCS Chairman.

The House amendment contained a provision (section 603) that would authorize the President or Secretary of Defense to direct that the national military chain of command runs to the combatant commanders through the JCS Chairman.

The House recedes with three amendments. First, the phrase "for the operational direction" would be dropped from the description of the chain of command. The conferees agreed that this phrase may serve as an unintended limitation or may cause confusion. The second amendment would authorize only the President to direct that communications between the President or the Secretary of Defense and the combatant commanders be transmitted through the JCS Chairman. The third amendment would authorize the President to assign duties to the Chairman to assist the President and Secretary of Defense in performing their command function.

The conferees agreed that the JCS Chairman should not be, or appear to be, placed in the chain of command. Moreover, the conferees determined that the extremely important chain of command to the warfighting commands should be clearly prescribed. Without infringing upon the President's authority as Commander in Chief to direct otherwise, the conference substitute amendment would specify the normal chain of command that the Congress finds to be preferable in terms of meeting national security needs and preserving civilian control of the military.

At the same time, the conferees agreed that the President and the Secretary of Defense will need the assistance of the JCS Chairman in exercising their command function. The conference substitute amendment would authorize the President to direct communications to and from the combatant commanders to be transmitted through the JCS Chairman and to assign duties to the JCS Chairman to assist the President and Secretary of Defense. Should such communications run through the JCS Chairman, the orders that come from the Chairman must be initiated by, authorized by, and in the name of the President or the Secretary of Defense. Even if the President should exercise these authorities, the conferees intend that (1) the JCS Chairman would not be part of the chain of command, and (2) the chain of command would not run through the JCS Chairman. The conferees determined that the role of the JCS Chairman regarding operational matters must be carefully prescribed in order to ensure the absolute and unquestioned integrity of the fundamental principle of civilian control of the military.

Sec. 163. Role of Chairman of Joint Chiefs of Staff

The Senate amendment contained a provision (section 112) that would authorize the Secretary of Defense to assign responsibility to the JCS Chairman for overseeing the activities of the combatant commands. This provision would also specify that such an assignment to the JCS Chairman, however, would not (1) confer any command authority, or (2) alter the direct responsibility of the combatant commanders to the Secretary of Defense.

The House amendment contained a provision (section 101) that would specify that the JCS Chairman, subject to the authority, direction, and control of the Secretary of Defense, supervises the combatant commanders.

The House recedes. The conferees agreed that this authority would provide the Secretary of Defense with a means of providing for the more effective control and coordination of the combatant commands. Because the Secretary's span of control is great and the time that he can devote to supervisory activities is limited, the conferees believe that the JCS Chairman could usefully assist the Secretary in overseeing the combatant commands.

The conferees have purposely framed this provision to allow the Secretary of Defense complete latitude in defining the JCS Chairman's oversight role. The conferees believe that the Chairman's oversight of the combatant commanders should assume whatever character the Secretary of Defense considers appropriate. The conferees intend that the Chairman act only as the Secretary's agent in exercising oversight; that is, for and on behalf of the Secretary, and only by his authority. The conferees contemplate, however, that the Secretary would employ the Chairman in oversight capacities such as coordinating matters that involve two or more combatant commanders, directing the combatant commanders' submissions of requirements, overseeing the state of readiness of each combatant command, and verifying the execution of orders issued by the President and the Secretary of Defense.

The Senate amendment contained a provision (section 112) that would reenact with amendments subsection (c)(2) of the current section 124 of title 10 that designates the JCS Chairman, subject to the authority, direction, and control of the Secretary of Defense, as the spokesman for the combatant commanders on their operational requirements. This provision would specify activities of the JCS Chairman in performing his responsibility as spokesman for the combatant commanders.

The House amendment contained a provision (section 101) that would provide that the JCS Chairman, subject to the authority, direction, and control of the Secretary of Defense, is the spokesman of the commanders of the combatant commands at the seat of Government.

The House recedes with an amendment to provide that the JCS Chairman will serve as the spokesman for the combatant commanders on all requirements of their commands, but especially on operational requirements.

Sec. 164. Commanders of combatant commands: assignment; powers and duties

Assignment of Combatant Commanders

The Senate amendment contained a provision (section 112) that would provide that the President may assign to serve as commanders of unified combatant commands only officers who have served in one or more joint duty positions for a substantial period of time. This provision would also provide a Presidential waiver of this requirement in the case of any officer if the President determines that such action is necessary in the national interest.

The House amendment contained a provision (section 301) that would require the Secretary of Defense to establish policies to ensure, whenever practicable, the application of certain criteria to the selection of an officer for recommendation to the President for assignment as the commander of a unified or specified combatant command. The specified criteria would be that the officer have the joint specialty (as provided in section 301 of the House amendment) and have had at least one joint duty assignment as a general or flag officer.

The Senate recedes with amendments to require that the President may assign an officer to serve as a combatant commander only if he meets the criteria specified in the House provision, to provide a Presidential waiver of this requirement if the President determines that such action is necessary in the national interest, and to provide an appropriate transition provision for use by the President before full application of these new requirements. The transition provision is provided in section 214 of the conference substitute amendment.

Responsibilities of Combatant Commanders

The Senate amendment contained a provision (section 112) that would specify that each combatant commander performs his duties under the authority, direction, and control of the Secretary of Defense and is directly responsible to the Secretary for the performance of his command and its preparedness to execute assigned missions.

The House amendment contained no similar provision.

The House recedes with amendments to specify that, subject to the direction of the President, the combatant commander performs his duties and is responsible as provided in the Senate provision and to delete the portion of the Senate provision relating to "the performance of his [combatant commander's] command." The conferees agreed to the second amendment because a combatant commander is responsible to both the President and the Secretary of Defense for the performance of his command as provided in section 164(b)(1) of title 10 (as added by section 112 of the conference substitute amendment).

The Senate amendment contained a provision (section 112) that would prescribe the basic responsibilities of each combatant commander concerning maintaining security, carrying out missions, and assigning tasks to, and directing coordination among, his subordinate commanders.

The House amendment contained no similar provision.

The Senate recedes. The conferees determined that these basic responsibilities would be more appropriately prescribed by administrative regulation.

Command Authority of Combatant Commanders

The Senate amendment contained a provision (section 112) that would assign to each combatant commander the following authority over forces assigned to his command:

(1) exercising full operational command over assigned forces, including all aspects of military operations and joint training.,

(2) prescribing the chain of command to, and organizational relationship among, the commands and forces within the command; and

(3) coordinating and approving, as assigned by the Secretary of Defense after consultation with the Secretaries of the Military Departments and the combatant commander, those aspects of administration and support necessary for accomplishment of the missions assigned to the command.

The House amendment contained a provision (section 101) that would assign to each combatant commander the following authority over forces assigned to his command:

(1) exercising command over assigned forces, meaning the authority to give authoritative direction to subordinate forces necessary to accomplish assigned missions;

(2) training assigned forces; and

(3) employing assigned forces to accomplish assigned missions.

The conferees determined that neither the term "full operational command" nor the term "command", as currently used within the Department of Defense, accurately described the authority that combatant commanders need to carry out effectively their duties and responsibilities. Accordingly, the conferees agreed to avoid the use of either term in the conference substitute amendment, but instead to specify the authority that the conferees believe a combatant commander needs.

The conference substitute amendment would provide that, unless otherwise directed by the President or the Secretary of Defense, the authority, direction, and control of the combatant commander over assigned commands and forces would include the command functions of:

(1) giving authoritative direction to subordinate commands and forces necessary to carry out assigned missions, including authoritative direction over all aspects of military operations, joint training, and logistics;

(2) prescribing the chain of command to the commands and forces within the command;

(3) organizing commands and forces within the command as he considers necessary to carry out assigned missions;

(4) employing forces within the command as he considers necessary to carry out assigned missions;

(5) assigning command functions to subordinate commanders;

(6) coordinating and approving those aspects of administration and support (including control of resources and equipment, internal organization, and training) and discipline necessary to carry out assigned missions; and

(7) exercising the authority with respect to selecting subordinate commanders, selecting combatant command staff, suspending subordinates, and convening courts-martial, provided, respectively, in subsections (e), (f), and (g) of section 164 of title 10 (as added by section 211 of this conference substitute amendment) and in section 822(a) of title 10 (as amended by section 211 of the conference substitute amendment).

The House amendment contained a provision (section 101) that would require the Secretary of Defense to ensure that combatant commanders have sufficient authority over assigned forces to exercise effective command over those forces.

The Senate amendment contained no similar provision.

The Senate recedes with two amendments. First, the Secretary of Defense is to ensure, after consultation with the JCS Chairman, that the combatant commander has sufficient authority, direction, and control over both assigned commands and forces. The second amendment would require the Secretary of Defense to review periodically and, after consultation with the Secretaries of the Military Departments, the JCS Chairman, and the combatant commander, assign authority to the combatant commander for those aspects of administration and support that the Secretary considers necessary to carry out assigned missions.

The House amendment contained a provision (section 101) that would require a combatant commander to inform the Secretary of Defense promptly if at any time he considers his authority to be insufficient.

The Senate amendment contained no similar provision.

The Senate recedes.

Authority over Subordinate Commanders

The Senate amendment contained a provision (section 112) that would provide, unless directed otherwise by the President or the Secretary of Defense, that commanders of commands and forces assigned to a combatant command are under the authority, direction, and control of, and are responsible to, the combatant commander on all matters for which he has been assigned full operational command or other authority.

The House amendment contained no similar provision.

The House recedes with an amendment to delete "full operational command or other authority" and substitute "authority under subsection (c)" of section 164 of title 10 (as added by section 211 of the conference substitute amendment).

The Senate amendment contained a provision (section 112) that would authorize, unless directed otherwise by the President or the Secretary of Defense, a combatant commander (1) to establish procedures for the communications of his subordinate commanders with other elements of the Department of Defense on any matter for which he has been assigned full operational command or other authority, and (2) to direct that he be advised of all other communications by his subordinate commanders.

The House amendment contained no similar provision.

The House recedes with amendments to delete "full operational command or other authority" and substitute "authority under subsection (c)" of section 164 of title 10 (as added by section 211 of the conference substitute amendment) and to make these requirements apply to communications to and from the subordinate commanders.

Selection of Subordinate Commanders

The Senate amendment contained a provision (section 112) that would require that the selection of a directly subordinate commander be made only with the concurrence of a combatant commander. This provision would authorize the Secretary of Defense to waive this requirement if he determines such action is necessary in the national interest.

The House amendment contained a provision (section 101) that would require the selection or the selection for recommendation to the President of a principal subordinate officer to be made by the combatant commander. The selection would be made from a list of officers submitted by the Secretary of the Military Department concerned, with the number of officers on such list to be specified by the combatant commander.

The House recedes with an amendment to require the concurrence of the combatant commander in the assignment or recommendation for assignment of an officer as a directly subordinate commander. The distinction between "assignment" and "recommendation for assignment" is necessary because 3- and 4-star officers are nominated by the President (under section 601 of title 10) to positions of importance and responsibility and are subject to confirmation by the Senate for service in those positions. Only after confirmation by the Senate are these officers actually "assigned" to their positions. Thus, for those positions, the officer is not directly assigned, but instead, is recommended to the President for assignment.

In agreeing to this provision, the conferees intend that the subordinate commanders perceive the combatant commander, rather than officers in the Military Departments, as the superior whom they serve. The requirement for concurrence should be exercised by a combatant commander to demonstrate unequivocably that he is the "hiring" authority.

The Senate amendment contained a provision (section 112) that would require a combatant commander to evaluate the duty performance of each directly subordinate commander. The evaluation would be submitted to the Secretary of the Military Department concerned.

The House amendment contained no similar provision.

The House recedes with an amendment to require each evaluation to be submitted to the JCS Chairman as well as to the Secretary of the Military Department concerned. The conferees intend that each evaluation of a directly subordinate commander submitted by a combatant commander to the Secretary of a Military Department concerned shall be made a part of the personnel record of the subordinate commander.

Combatant Command Staff

The Senate amendment contained a provision (section 112) that would require each unified combatant command to have a joint staff with officers in key positions of responsibility from each Military Department having forces assigned to the command.

The House amendment contained no similar provision.

The House recedes with two amendments. The first House amendment requires the specified combatant commands to have such a staff as well. This provision of the conference substitute amendment does not use the term "joint staff" as was used in the Senate amendment. Because the House amendment broadened this provision to include specified combatant commands, the term "staff" is more appropriate. Under certain circumstances, a specified combatant command may not have a joint staff.

The second House amendment specifies that positions of responsibility on the staff of the combatant command shall be filled by officers from each of the Armed Forces having significant forces assigned to the command. If significant forces of the Army, Navy, Marine Corps, or Air Force are assigned to the combatant command, the unified or specified combatant commander

should be assisted by officers in positions of responsibility from that Armed Force.

The Senate amendment contained a provision (section 112) that would require that all officers on the staff of a unified combatant command in the grade of colonel or Navy captain and above may be selected only with the concurrence of the unified combatant commander and only in accordance with procedures established by the Secretary of Defense.

The House amendment contained a provision (section 101) that would require the selection or the selection for recommendation to the President of all officers on the staffs of a unified or specified combatant command to be made by the combatant commander. The selection would be made from a list of officers submitted by the Secretary of the Military Department concerned, with the number of officers on such list to be specified by the combatant commander.

The House recedes with amendments to apply the Senate provision to the staffs of specified combatant commands as well as to the staffs of unified combatant commands, to apply the Senate provision to officers of all grades, to require the concurrence of the combatant commander in the selection or recommendation for nomination of each officer, and to provide authority for the Secretary of Defense to waive this requirement.

Authority to Suspend Subordinates

The Senate amendment contained a provision (section 112) that would authorize combatant commanders to suspend from duty and recommend the reassignment of any officer assigned to their commands.

The House amendment contained a provision (section 101) that would make the tenure of an officer assigned to a combatant command subject to the approval of the combatant commander.

The House recedes. For clarification, the authority of a combatant commander provided by this provision of the conference substitute amendment would apply to each officer of his command at any level. The conferees agreed that procedures required by this provision pertain solely to the relationships between a combatant commander and the Military Department concerned with respect to service by an officer in a combatant command. The conferees agreed that nothing in this provision confers on an officer assigned to a combatant command any procedural rights concerning suspension from duty or reassignment.

Sec. 165. Combatant commands: administration and support

The Senate amendment contained a provision (section 112) that would assign to the Secretary of Defense, with the advice and assistance of the JCS Chairman, responsibility for providing for the administration and support of forces assigned to each combatant command.

The House amendment contained a provision (section 101) that would require that the functions of the Secretary of Defense regarding the administration and support of forces assigned to combatant commands be carried out with the advice and assistance of the JCS Chairman.

The House recedes.

The Senate amendment contained a provision (section 112) that would continue the current responsibility of the Secretaries of the Military Departments, subject to the authority, direction, and control of the Secretary of Defense, to provide administration and support for the forces that they have assigned to combatant commands. This provision would require this responsibility to be exercised consistent with the authority assigned to the combatant commanders for coordinating and approving certain aspects of administration and support.

The House amendment contained a similar provision (section 101) except that it would only cover the administration of forces assigned to combatant commands and that it would not make the exercise of the responsibility of the Secretaries of the Military Departments consistent with the authority assigned to combatant commanders.

The House recedes. The conferees agreed that, if there is a disagreement as to whether a particular disciplinary matter should be handled by a Military Department or a combatant command, the Secretary of Defense has ample authority to resolve the matter with respect to a particular case or class of cases.

The Senate amendment contained a provision (section 112) that would authorize the Secretary of Defense, after consultation with the Secretaries of the Military Departments, to assign responsibility (or any part of the responsibility) for the administration and support of forces assigned to combatant commands to other components of the Department of Defense. Such responsibility would be exercised under the authority, direction, and control of the Secretary of Defense and consistent with the authority assigned to combatant commanders.

The House amendment contained a provision (section 101) that would authorize the Secretary of Defense to assign responsibility (or any part of the responsibility) for the support of forces assigned to a combatant command to one or more of the Military Departments, other agencies of the Department of Defense, or the combatant commander concerned. Unless the Secretary of Defense directs otherwise, the Secretary of each Military Department would be responsible for the support of forces assigned by that department to combatant commands.

The House recedes with an amendment to clarify that other components of the Department of Defense include Defense Agencies and combatant commands.

The House amendment contained a provision (section 101) that would provide that a combatant commander may submit to the Secretary of Defense a proposal for his command to perform a support function.

The Senate amendment contained no similar provision.

The House recedes. The conferees agreed that combatant commanders should actively identify support functions that their commands should, in their judgment, perform and forward appropriate recommendations to the Secretary of Defense. However, the conferees believed that this provision of the House amendment need not be specified in law.

Sec. 166. Combatant commands: budget proposals

The House amendment contained a provision (section 101) that would require the Secretary of Defense, after consultation with the JCS Chairman, to submit to the Congress a separate budget proposal for activities of the combatant commands which may include joint exercises, force training, contingencies, and selected operations.

The Senate amendment contained no similar provision.

The Senate recedes.

The House amendment contained a provision (section 101) that would assign various responsibilities to the combatant commanders, the JCS Chairman, and the Secretary of Defense for submission and preparation of, and guidance for, the budget proposal for the activities of combatant commands.

The Senate amendment contained no similar provision.

The House recedes. The conferees believed that this provision of the House amendment was too detailed to include in statute. The conferees agreed, however, that the procedure specified in the House provision should be followed. In particular, the Chairman should review and analyze requests submitted by the combatant commanders, establish priorities in accordance with guidance provided by the Secretary, and recommend a budget for each command.

The House amendment contained a provision (section 101) that would specify that combatant commanders may have access to any net assessment conducted by an organization of the Department of Defense, may request assistance in preparing net assessments, and must include the results of net assessments performed by their commands in certain submissions.

The Senate amendment contained no similar provision.

The House recedes. The conferees believed that the House amendment was too detailed to include in statute. The conferees agreed, however, that:

(1) procedures should be established under which (a) a combatant commander could obtain the assistance of the Joint Staff and other Department of Defense organizations in performing net assessments required by the command; and (b) the findings, conclusions, and recommendations of net assessments conducted within the Department of Defense are made available to combatant commanders; and

(2) combatant commanders should (a) contribute, as appropriate, to net assessments performed by the Joint Staff; and (b) consider the findings and conclusions of net assessments relevant to their commands in evaluating the capabilities of their commands and in developing contingency plans.

Joint Commanders Council

The House amendment contained a provision (section 101) that would establish a Joint Commanders Council consisting of the JCS Chairman and the combatant commanders.

The Senate amendment contained no similar provision.

The House recedes. The conferees agreed that there is a need to improve communications among and between combatant commanders and urge the Secretary of Defense to take appropriate actions to achieve necessary improvements.

Court-Martial Jurisdiction

The House amendment contained a provision (section 101(b)) that would amend section 822(a) of title 10 to provide court-martial jurisdiction to the Secretary of Defense and to the commanding officer of a combatant command.

The Senate amendment contained no similar provision.

The Senate recedes.

SEC. 212. INITIAL REVIEW OF COMBATANT COMMANDS

The House amendment contained a provision (section 104) that would specify the matters to be considered in the initial review of the Unified Command Plan (as required by section 101 of the House amendment) and would require submission of the report of this initial review to the President

not later than one year after the date of enactment.

The Senate amendment contained no similar provision.

The Senate recedes with amendments to revise the matters to be considered in the initial review of the combatant commands (Unified Command Plan).

SEC. 213. REPEAL OF CERTAIN LIMITATIONS ON COMMAND STRUCTURE

The House amendment contained a provision (section 105(b)) that would repeal the prohibition in section 8106 of the Department of Defense Appropriations Act, 1986 (as contained in the Continuing Resolution for fiscal year 1986) against altering the command structure for military forces in Alaska.

The Senate amendment contained no similar provision.

The Senate recedes.

SEC. 214. TRANSITION

Assignment of Forces to Combatant Commands

The House amendment contained a provision (section 106(b)) that would require the assignment of forces to combatant commands, as provided in section 162 of title 10 (as added by section 101 of the House amendment), to take effect at the end of the 90-day period beginning on the date of enactment.

The Senate amendment contained no similar provision.

The Senate recedes.

Waiver of Qualifications for Assignment as Combatant Commander

As part of the action of the conference committee on section 164(a) of title 10 (as added by section 211 of the conference substitute amendment), the conferees agreed to authorize the President to waive the qualifications for assignment as a combatant commander during a transition period before full application of the requirements of section 164(a). Under section 214(b) of the conference substitute amendment, the President would be authorized to waive:

(1) for a 2-year period after enactment, the requirement that a combatant commander have the joint specialty;

(2) for a 4-year period after enactment, the requirement that a combatant commander have served in a joint duty assignment for 3 years if the commander has served in such an assignment for not less than 2 years; and

(3) for a 4-year period after enactment, the requirement that a combatant commander have served in a joint duty assignment as a general or flag officer if the commander served as a general or flag officer in an assignment that was considered a joint duty assignment or a joint equivalent assignment under regulations in effect at the time the assignment began.

Although section 164(a)(2) of title 10 (as added by section 211 of the conference substitute amendment) provides the President with authority to waive the requirements for assignment as a combatant commander, the conferees agreed to provide a specific waiver for a limited transition period so that the exercise of a Presidential waiver, as would be required in the immediate future, would not become standard practice. After the transition period, the conferees expect the President to exercise his permanent waiver authority only in a very limited number of cases and only for officers of exceptional talent who may fail to meet the specified criteria.

Selection and Suspension from Duty of Subordinate Officers

The House amendment contained a provision (section 106(d)) that would require the provisions of section 166 of title 10 (as added by section 101 of the House amendment) relating to the selection and tenure of officers subordinate to a combatant commander to take effect at the end of the 90-day period beginning on the date of enactment.

The Senate amendment contained no similar provision.

The Senate recedes with amendments to apply this transition provision to subsections (e), (f), and (g) of section 164 of title 10 (as added by section 211 of the conference substitute amendment) and to provide that the Secretary of Defense may prescribe any earlier date.

Budget Proposals

The House amendment contained a provision (section 106(c)) that would require the portion of section 165 of title 10 (as added by section 101 of the House amendment) concerning program and budget proposals for the combatant commands to take effect with respect to proposals for fiscal year 1989.

The Senate amendment contained no similar provision.

The Senate recedes.

TITLE III—DEFENSE AGENCIES AND DEPARTMENT OF DEFENSE FIELD ACTIVITIES

SEC. 301. ESTABLISHMENT AND MANAGEMENT OF DEFENSE AGENCIES AND DEPARTMENT OF DEFENSE FIELD ACTIVITIES

The Senate amendment contained a provision (section 116) that would:

(1) redesignate sections 191 and 192 of chapter 8 of title 10 as sections 195 and 196;

(2) establish two subchapters in chapter 8; and

(3) add a new section 191 to chapter 8 dealing with Defense Agencies and Department of Defense Field Activities.

The House amendment contained a similar provision that would reorganize chapter 8 of title 10. The House amendment, however, would only apply to Defense Agencies and would not address Department of Defense Field Activities.

The House recedes to including provisions relating to Department of Defense Field Activities as a part of chapter 8 of title 10 and with an amendment to specify the organization of the chapter. The House amendment would:

(1) redesignate section 191 as section 201 and transfer such section to a new subchapter II of chapter 8 of title 10, entitled "Miscellaneous Defense Agency Matters"; and

(2) create a new subchapter I of chapter 8, entitled "Common Supply and Service Activities", with new sections 191 through 194 to accommodate the provisions contained in title III of the conference substitute amendment.

Sec. 191. Secretary of Defense: authority to provide for common performance of supply or service activities

The Senate amendment contained a provision (section 116) that would provide authority for the Secretary of Defense to establish single agencies within the Department of Defense to perform common supply or service activities. The Senate provision would also require the Secretary of Defense to designate any such agency as a Defense Agency or a Department of Defense Field Activity.

The House amendment contained a similar provision (section 201).

The House recedes. Section 191 of title 10 (as added by section 301 of the conference substitute amendment) establishes a statutory framework for the Defense Agencies and Department of Defense Field Activities and governs the establishment of such specialized agencies and activities. Section 191 applies to all such agencies and activities including those in existence on the date of enactment. The conferees agreed that section 191 does not apply to the authority of the Secretary of Defense under section 113(d) of title 10 (as redesignated by section 101(a) of the conference substitute amendment) which permits the Secretary to designate a single Military Department as the executive agent for an activity that is common to more than one Military Department.

Sec. 192. Defense Agencies and Department of Defense Field Activities: oversight by the Secretary of Defense

The Senate amendment contained a provision (section 116) that would require the Secretary of Defense to assign the overall supervision of each supply or service agency, except for the Defense Intelligence Agency and the National Security Agency, to certain officers within the Office of the Secretary of Defense or to the Chairman of the Joint Chiefs of Staff. The provision would also require an official who was assigned such supervisory responsibility to advise the Secretary of Defense on the extent to which the program recommendations and budget proposals of the agency conform with the material requirements of the Military Departments and the operational requirements of the unified and specified combatant commands.

The House amendment contained no similar provision.

The House recedes.

The conferees intend that the civilian officers within the Office of the Secretary of Defense who could be assigned supervisory responsibility include those officers established by law or established or designated by the Secretary of Defense under section 131 of title 10 (as amended by section 104 of the conference substitute amendment).

By not requiring the assignment of a civilian officer or the JCS Chairman to supervise the Defense Intelligence Agency and the National Security Agency, the conferees do not intend to alter the authority of the Secretary of Defense to take such action himself.

The Senate amendment contained a provision (section 116) that would require the Secretary of Defense to establish procedures to ensure the full and effective review of the program recommendations and budget proposals of each supply or service agency.

The House amendment contained no similar provision.

The House recedes.

The Senate amendment contained a provision (section 116) that would require the Secretary of Defense periodically to assess the continuing need for each supply or service agency.

The House amendment contained a similar provision (section 201) that would require a review of Defense Agencies at least every other year to ensure that they, rather than the Military Departments, provide a more effective, economical, or efficient manner of providing common supplies and services. The House provision, in addition, would specify the Department of Defense officials whose views should be obtained as part of the review. Finally, the House provi-

sion would specify that the review requirement would apply to the National Security Agency only as determined appropriate by the Secretary of Defense.

The Senate recedes with two amendments. The first amendment requires the Secretary of Defense, in determining the extent of the National Security Agency review, to consult with the Director of Central Intelligence.

The second amendment deletes the specification of DoD officials whose views are to be obtained. The conferees agreed that, even though the requirement is not included in the conference substitute amendment, the Secretary of Defense should normally consult with the officials named in the House provision in conducting his review of the Defense Agencies. Those officials are the Directors of the Defense Agencies, the Secretaries of the Military Departments, the JCS Chairman, and the Chief of Staff of the Army, the Chief of Naval Operations, the Chief of Staff of the Air Force, the Commandant of the Marine Corps, and the commanders of the unified and specified combatant commands.

Sec. 193. Combat support agencies: oversight

The Senate amendment contained a provision (section 116) that would make the JCS Chairman responsible for advising the Secretary of Defense on the preparedness of each supply or service agency that has wartime support responsibilities. The Chairman would be required, as a part of his duties, to assess the adequacy of contingency plans, participation in joint exercises, and readiness reporting systems of each supply or service agency.

The House amendment contained a similar provision (section 201) that would require the Chairman to:

(1) submit a report to the Secretary of Defense at least every 2 years on the readiness of combat support agencies (as would be defined by section 201 of the House amendment);

(2) review war-related support plans of combat support agencies in preparing the report to the Secretary of Defense and take action, in accordance with guidance provided by the Secretary of Defense, to revise the plans as needed;

(3) provide for the participation of combat support agencies in joint training exercises and assess their performance; and

(4) develop a uniform readiness reporting system for the combat support agencies in consultation with the agency directors.

The House amendment provision would apply to the National Security Agency only with respect to combat support functions the agency performs for the Department of Defense. The Secretary of Defense, after consultation with the Director of Central Intelligence, would be required to determine the application of the provision to the National Security Agency and report to the Congress any revision of the policies and procedures pertaining to the National Security Agency.

The Senate recedes with an amendment to delete the requirement that the Secretary of Defense report to the Congress on changes in the policies and procedures pertaining to the National Security Agency. The conferees agreed that, in carrying out his responsibilities under subsections (a), (b), and (c) of section 193 of title 10 (as added by section 301 of the conference substitute amendment), the JCS Chairman should:

(1) review the directives and other administrative regulations governing combat support agencies; and

(2) make recommendations to the Secretary of Defense on appropriate revisions to the directives and regulations.

The Senate amendment contained a provision (section 116) that would require the Secretary of Defense, in consultation with the Director of Central Intelligence, to develop policies and programs to correct any deficiencies the JCS Chairman or other Department of Defense officials identified in the wartime support capabilities of the Defense Intelligence Agency and the National Security Agency.

The House amendment contained no similar provision.

The House recedes.

The House amendment contained a provision (section 201) that would define the term "combat support agency".

The Senate amendment contained no similar provision.

The Senate recedes.

The House amendment contained a provision (section 201) that would require the director of a combat support agency to assign a representative of that agency to the headquarters of a combatant command if requested to do so by the commander of a combatant command.

The Senate amendment contained no similar provision.

The House recedes. The conferees agreed that a request from a combatant commander for assignment to his command of a combat support agency representative should be seriously considered by the director of the agency.

Sec. 194. Limitations on personnel

The Senate amendment contained a provision (section 117(f)) that would prohibit future increases in the number of personnel assigned to Defense Agencies and Department of Defense Field Activities above the number assigned on September 30, 1988. The National Security Agency would be exempt from the requirements of the provision. The Senate amendment also contained a provision that would require reductions in personnel by September 30, 1988. That provision is now contained in title VI of the conference substitute amendment.

The House amendment contained no similar provision.

The House recedes with an amendment to change the effective date for the personnel cap to September 30, 1989.

SEC. 302. DEFINITIONS OF DEFENSE AGENCY AND DEPARTMENT OF DEFENSE FIELD ACTIVITY

The House amendment contained a provision (section 201(b)) that would define the term "defense agency."

The Senate amendment contained no similar provision.

The Senate recedes with two amendments. The first Senate amendment specifies that the term "Defense Agency" applies to an organizational entity as described in the House provision or to an organizational entity of the Defense Department that is designated by the Secretary of Defense as a "Defense Agency." The second Senate amendment adds the definition of the term "Department of Defense Field Activity."

SEC. 303. REASSESSMENT OF DEFENSE AGENCIES AND DOD FIELD ACTIVITIES

The House amendment contained a provision (section 202) that would require the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, and the Secretaries of the Military Departments to conduct separate studies of the functions and organizational structure of the Defense Agencies to determine the most appropriate means within the Department of Defense of providing the supplies and services now provided by the agencies.

The Senate amendment contained no similar provision.

The Senate recedes with three amendments. The first Senate amendment includes Department of Defense Field Activities in the studies. The second Senate amendment deletes a requirement contained in the House amendment that the Secretary consult with certain DoD officials in preparing his study. The conferees agreed that this requirement is not needed; the Secretary will find it necessary to consult with most, if not all, of the named officials in the course of conducting the required study. The third Senate amendment adds a requirement that the study by the Secretary of Defense include plans to achieve reductions of 5, 10, and 15 percent of the total number of personnel employed in the Defense Agencies and Department of Defense Field Activities on September 30, 1988, together with a discussion of the implications of each level of personnel reductions.

The House amendment contained a provision (section 203) that would require a report on the improved application of computer systems to Defense Agency functions and activities.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment to incorporate the computer report requirement into the report on the reassessment of Defense Agencies and Department of Defense Field Activities required by section 303 of the conference substitute amendment.

SEC. 304. TRANSITION

Periodic Review of Defense Agencies

The House amendment contained a provision (section 201(d)) that would require the first periodic review by the Secretary of Defense under section 192 of title 10 (as added by section 201 of the House amendment) to be completed within 3 years after enactment of the House amendment.

The Senate amendment contained no similar provision.

The Senate recedes.

Oversight of Combat Support Agencies

The House amendment contained a provision (section 201(d)) that would establish dates for implementation of the requirements imposed on the JCS Chairman and the Secretary of Defense in section 193 of title 10 (as added by section 201 of the House amendment). The provision would require an interim report on implementation by the Secretary of Defense.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment to delete the requirement for an interim report.

Combat Support Functions of the National Security Agency

The House amendment contained a provision (section 201(d)) that would require the Secretary of Defense to carry out within 120 days the requirements with respect to the National Security Agency contained in subsection (d)(2) of section 193 of title 10 (as added by section 201 of the House amendment).

The Senate amendment contained on similar provision.

The House recedes.

Title IV—Joint Officer Personnel Policy

The conferees determined that title IV of the conference substitute amendment provides the most effective policies for managing joint officers that can be developed with the information currently available to the Congress and the Department of Defense. Unfortunately, the Defense Department has given limited attention to the subject of joint officer management. Thus, only a limited base of information and only a few existing policies were available to guide the work of the conference committee. As a consequence, the conferees expect that unanticipated problems will be identified as the Defense Department implements the provisions of title IV of the conference substitute amendment and that adjustments will be necessary. It is for this reason that the conferees agreed to provide transition periods for use before many provisions become effective. In addition, the conferees expressed a willingness to consider promptly any adjustments to these provisions that the Secretary of Defense may recommend based upon insights that actual implementation may provide. This willingness should not, however, be interpreted as a lessening of the commitment of the Congress to an effective system for preparing and rewarding military officers for joint duty service or as permitting the Department to avoid or delay the required implementation.

SEC. 401. JOINT OFFICER MANAGEMENT

The House amendment contained a provision (section 301) that would add a new chapter 38 to title 10, United States Code, entitled Joint Officer Management.

The Senate amendment contained no similar provision.

The Senate recedes. The conferees agreed that the intent of the new chapter 38, and of the entire title IV of the conference substitute amendment, is to govern organizational relationships among elements of the Department of Defense (including the Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff, and the combatant commands) with respect to personnel policies related to joint duty assignments. Nothing in this title is intended to confer any rights on individual officers, and allegations of non-compliance with any provisions in this title do not provide a basis for invalidating any personnel action.

Sec. 661. Management policies for joint specialty officers

The House amendment contained a provision (section 301) that would establish an occupational category, referred to in the amendment as the "joint specialty", for officers trained in and oriented toward joint military matters. In addition, the provision would set out various requirements pertaining to the specialty: (1) how the total number of joint specialty officers would be determined and the number and type of joint duty assignments to which they would be assigned; (2) how joint specialty officers would be selected, including the nomination procedure and education and experience requirements; and (3) career guidelines for joint specialty officers.

The Senate amendment contained a provision (section 115) that would require the Secretary of Defense to ensure that officers are well prepared to assume joint duty positions as a result of previous experience, formal education, and training.

The Senate recedes with an amendment that would change the requirement for the Secretary of Defense to establish "an occupational category" for joint officers to a requirement to establish "policies, procedures, and practices for the effective management of officers . . . trained in, and oriented toward, joint matters. . . ." The conferees noted that the paragraph changed by the Senate amendment was intended to give the Secretary of Defense sufficient latitude in establishing the "joint specialty", including designating it with another term. The conferees believe that the Senate amendment provides the necessary latitude and unambiguously states the intent of the Congress that an effective system for the management of joint specialty officers be established.

Under section 661(c) of title 10 (as added by section 401 of the conference substitute amendment), an officer who is nominated for the joint specialty may not be selected for the specialty until he (1) successfully completes an appropriate program at a joint professional military education school, and (2) after completing such a program, successfully completes a full joint duty assignment. The purpose of this precise sequence is to ensure that qualified officers are assigned to joint duty assignments. The conferees agreed, however, that implementation of these particular requirements may demonstrate the need for flexibility in the sequence in which they must be fulfilled. Therefore, the conferees agreed that the Committees on Armed Services of the Senate and House of Representatives would more closely examine during the next year whether a limited number of officers should be exempted from the required sequence.

The conferees request that the Secretary of Defense consult with the Secretary of Transportation and advise the Congress whether any provision of chapter 38 of title 10, as added by title IV of the conference substitute amendment, should be applied to officers of the Coast Guard.

The second Senate amendment would transfer to section 402 of the conference substitute amendment the requirement that career guidelines for joint specialty officers established by the Secretary of Defense include guidelines to be furnished to officer selection boards, would elaborate the requirement in more detail, and would add appropriate instructions for selection boards to section 615 of title 10, United States Code. This amendment is considered in the discussion of section 402 below.

Sec. 662. Promotion policy objectives for joint officers

The House amendment contained a provision (section 302) that would require the Secretary of Defense to establish policies to ensure that Joint Staff officers, as a group, are promoted at a rate not less than the rate of officers assigned to Service headquarters staffs. The provision contained the same promotion rate requirement for joint specialty officers. A third requirement would specify promotion rate policies for officers serving in other joint duty assignments.

The Senate amendment contained a provision (section 115) that would require the Secretary of Defense to ensure that the promotion, retention, and assignment policies of the Services provide sufficient incentives for officers to seek joint duty assignments.

The Senate recedes with two amendments. The first Senate amendment would eliminate the mandatory promotion rates and, instead, require the Secretary of Defense to ensure that the qualifications of officers assigned to joint duty assignments are such that the promotion rates specified in the House amendment will be achieved. The conferees agreed that the underlying objective of the provision concerning promotion rates is to ensure that highly capable officers are selected for joint duty assignments—in the case of the Joint Staff or joint specialty, outstanding officers who are, or will be, qualified as a group to be promoted at the same high rates as officers assigned to Service headquarters staffs. The Senate amendment, in focusing on the qualifications of officers selected for joint duty assignments, more accurately expresses congressional intent with respect to this provision.

The second Senate amendment would require the Secretary of Defense to report to the Congress no less often than every 6 months on the promotion rates of joint duty officers. In addition, if the promotion rates should fail to meet the established objectives, the Secretary of Defense would be required to notify the Congress immediately and explain what actions are being taken to prevent further failures. The conferees discourage any interpretation that the first Senate amendment suggests that the Congress is less committed to the objective of manning joint duty assignments with outstanding officers than the House amendment indicates. The second Senate amendment is intended to require notice whenever the Department of Defense fails to achieve the objectives originally established by the House amendment.

Sec. 663. Education

Capstone Course for New General and Flag Officers

The House amendment contained a provision (section 301) that would require, subject to a case-by-case waiver, that officers selected for promotion to brigadier general or rear admiral (lower half) attend a Capstone course to prepare them to work with the other armed forces.

The Senate amendment contained no similar provision.

The Senate recedes.

Professional Military Education Schools

The Senate amendment contained a provision (section 115) that would require the Secretary of Defense to ensure that the curricula of joint military colleges and schools are oriented to preparing officers for joint duty assignments and that the curricula of the military colleges and schools of the Army, Navy, Air Force, and Marine Corps give appropriate emphasis to instruction in joint military matters.

The House amendment contained a provision (section 301) that would require the Secretary of Defense to review and revise the curricula of schools of the National Defense University and of other professional military education schools to strengthen the education of officers in joint matters.

The Senate recedes.

Duty Assignments After Attending Military Education Schools

The Senate amendment contained a provision (section 115) that would require that a substantial percentage of graduates of joint schools receive joint duty assignments.

The House amendment contained a provision (section 301) that would impose requirements for the subsequent assignment of officers who attend joint professional military education schools to joint duty assignments, including a requirement that a proportion significantly greater than 50 percent of non-joint specialty officers graduat-

ing from a joint professional military education school receive joint duty assignments.

The Senate recedes with an amendment to delete the word "significantly" in the House amendment.

Other Education Requirements

The House amendment contained a provision (section 301) that would require the Secretary of Defense to take all other practicable measures to improve the training and experience of officers serving in senior joint duty assignments.

The Senate amendment contained no similar provision.

The House recedes.

Sec. 664. Length of joint duty assignments

The Senate amendment contained a provision (section 115) that would require the Secretary of Defense to ensure continuity in joint organizations through appropriate joint tour lengths.

The House amendment contained a provision (section 301) that would establish 3 years as the length of a joint duty assignment for general and flag officers and 3½ years for all other officers. The tour length could be waived by the Secretary of Defense subject to certain limitations; also, the Secretary could establish shorter tour lengths for officers with critical combat operational skills, provided that their joint duty assignment was not less than two years.

The Senate recedes with an amendment to specify that the tour length requirements do not apply to officers who fail to complete a joint duty assignment as a result of retirement, separation from active duty, or suspension.

The conferees agreed that this provision is not intended to grant any individual tenure with respect to any assignment.

Sec. 665. Procedures for monitoring the careers of joint officers

The Senate amendment contained a provision (section 115) that would require the Secretary of Defense to ensure that the personnel practices, policies, and procedures of the military Services enhance the abilities of joint duty officers.

The House amendment contained a provision (section 301) that would require the Secretary of Defense, with the advice of the Chairman of the Joint Chiefs of Staff (JCS), to establish procedures for overseeing the careers of officers with the joint specialty and other officers who serve in joint duty assignments.

The Senate recedes.

The House amendment contained a provision (section 301) that would make the Chairman of the Joint Chiefs of Staff responsible for advising the Secretaries of the Military Departments with respect to the duty assignments of joint specialty officers and other officers serving in joint duty assignments.

The Senate amendment contained no similar provision.

The House recedes. The conferees agreed that the JCS Chairman should, on his own initiative, assume the responsibility contained in the House amendment, but that there is no reason to specify this responsibility as a matter of law.

The House amendment contained a provision (section 301) that would require enhancement of Joint Staff capabilities to monitor the promotions and assignments of joint specialty officers and other joint duty officers and to advise the JCS Chairman on joint personnel matters.

The Senate amendment contained no similar provision.

The Senate recedes.

Sec. 666. Reserve officers not on the active duty list

The House amendment contained a provision (section 301) that would require the Secretary of Defense to establish personnel policies emphasizing training and experience in joint matters for reserve officers.

The Senate amendment contained no similar provision.

The Senate recedes.

Sec. 667. Annual report to Congress

The House amendment contained a provision (section 301) that would require the Secretary of Defense to submit, as a part of his annual report to Congress, a report on Joint Staff, joint specialty, and other officers who are serving, or have served, in joint duty assignments. The report would require information on:

(1) the officers chosen for the joint specialty, including their education and experience;

(2) the promotion rates for joint specialty officers and other officers serving in joint duty assignments compared with the promotion rates of officers in the Services;

(3) assignments of joint specialty officers;

(4) the average length of tours of duty in joint duty assignments; and

(5) other matters.

The Senate amendment contained no similar provision.

The Senate recedes with three amendments. The first Senate amendment requires that the information in the report be shown separately for each Service as well as for the Department of Defense as a whole. The second Senate amendment requires the promotion rates to be shown for Joint Staff officers as well as joint specialty officers and other officers serving in joint duty assignments. The third Senate amendment requires an analysis of the extent to which each Military Department is providing its share of officers to fill joint duty assignments. (The House amendment contained a similar requirement in section 102.)

The conferees request that the information required by this provision be included in a portion of the annual report of the Secretary of Defense to Congress relating to management of the Department of Defense.

Sec. 668. Definitions

The House amendment contained a provision (section 301) that would define the term "joint matters" and would require the Secretary of Defense, subject to criteria set out in the provision, to define the term "joint duty assignment" and to publish a list of joint duty assignment positions.

The Senate amendment contained no similar provision.

The Senate recedes.

SEC. 402. PROMOTION PROCEDURES FOR JOINT OFFICERS

Composition of Selection Boards

The House amendment contained a provision (section 302) that would require that each selection (promotion) board that will consider officers who have served in joint duty assignments include at least one joint duty officer designated by the JCS Chairman. The House provision specified, however, that the 51 Secretary of Defense could waive the requirement in the case of Marine Corps selection boards.

The Senate amendment contained no similar provision.

The Senate recedes. The conferees agreed that the only reason for the waiver provision for the Marine Corps is to give the Secretary of Defense needed flexibility when there are insufficient numbers of Marine Corps officers of the requisite grade assigned to joint duty assignments to carry out crucial joint duty responsibilities and to meet this selection board membership requirement. The conferees expect the Secretary of Defense to exercise this waiver rarely, if at all.

Guidance to Selection Boards

The House amendment contained a provision (section 301) that would require the Secretary of Defense to establish career guidelines for officers with the joint specialty, including information and guidelines to be furnished to officer selection boards.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that transfers the requirement for promotion guidelines to this section of the conference substitute amendment, further elaborates the requirement, and adds appropriate instructions for selection boards to section 615 of title 10. With respect to the guidelines to be established by the Secretary of Defense, the Senate amendment requires that the Secretary be assisted by the JCS Chairman and that the guidelines be furnished to the Secretaries of the Military Departments. The amendment specifies that their purpose is to ensure that each selection board gives appropriate consideration to the performance in joint duty assignments of officers who are serving, or have served, in such assignments. With respect to guidelines to selection boards, the Senate amendment requires that they be based on the guidelines received by the Secretary of a Military Department from the Secretary of Defense.

Review of Promotion Lists by the JCS Chairman

The House amendment contained a provision (section 302) that would amend section 618 of title 10 to modify the procedures for the review and transmittal of the report of an officer selection board. The House amendment would:

(1) require the JCS Chairman to review the report, in accordance with guidelines prescribed by the Secretary of Defense, after the Secretary of the Military Department concerned has reviewed the report;

(2) authorize the JCS Chairman to recommend officers for promotion who were considered by the board and who had served, or were serving, in joint duty assignments;

(3) authorize the Secretary of the Military Department concerned, if he disagreed with the recommendations of the Chairman, to return the report to the promotion board for further proceedings, convene a special promotion board, or take other appropriate action; and

(4) require remaining disagreements between the Secretary of the Military Department and the Chairman, after the Secretary took such action as he considered necessary in response to the Chairman's submission, to be decided by the Secretary of Defense.

The Senate amendment contained no similar provision.

The Senate recedes with four amendments. The first Senate amendment specifies that the JCS Chairman shall review the report of a selection board for the purpose of determining whether the board acted consistent with the guidelines established by the Secretary of Defense and otherwise gave appropriate consideration to the performance in joint duty assignments of offi-

cers who are serving, or have served, in joint duty assignments.

The second Senate amendment replaces the authority for the Chairman to recommend officers for promotion with a requirement that the Chairman, after reviewing the report of a selection board, return it with his determinations and comments to the Secretary of the Military Department concerned. The conferees recognize that the House amendment would have breached a long standing practice, with roots in law and tradition, that promotions are based on the action of impartial boards of officers rather than the judgment of any one individual. The conferees agree, however, that the Senate amendment is not intended to circumscribe the content (including the specificity) or presentation of the "deliberations and comments" prepared by the Chairman for the Secretary of the Military Department and, with respect to the fourth amendment described below, for the Secretary of Defense.

The third Senate amendment specifies actions that may be taken by the Secretary of the Military Department concerned if the Chairman determines that a board acted contrary to the guidelines of the Secretary of Defense or otherwise failed to give appropriate consideration to the performance of joint duty officers. The actions specified are the same as those contained in the House amendment for a Secretary of the Military Department to take in case the Chairman recommended officers for promotion, except that a Secretary is also authorized to convene a new selection board (as opposed to reconvening the original board).

The fourth Senate amendment modifies the remainder of the procedures contained in the House amendment to make them consistent with the first three amendments. It requires that remaining disagreements between the Chairman and the Secretary of a Military Department be referred to the Secretary of Defense with comments from both parties and that the Secretary of Defense take appropriate action.

SEC. 403. CONSIDERATION OF JOINT DUTY IN SENIOR GENERAL AND FLAG OFFICER APPOINTMENTS AND ADVICE ON QUALIFICATIONS

The Senate amendment contained a provision (section 114) that would amend section 601 of title 10 to add a requirement that the JCS Chairman submit his evaluation of the joint service of officers recommended to the President for initial appointment to the grade of lieutenant general or vice admiral, or to the grade of general or admiral. The provision would further require that the Secretary of Defense submit the Chairman's evaluation to the President at the same time the recommendation for the appointment was submitted to the President.

The House amendment contained a similar provision.

The House recedes.

The Senate amendment contained a provision (section 114) that would require the Secretary of Defense, each time a vacancy occurs in a military office or position within the Department of Defense that the President has designated as a position of importance and responsibility to carry the grade of general or admiral or lieutenant general or vice admiral, to inform the President of the qualifications needed by an appointee to carry out effectively the duties and responsibilities of that office or position.

The House amendment contained no similar provision.

The House recedes with an amendment to apply the Senate requirement to offices for which the required grade is specified in law.

SEC. 404. JOINT DUTY ASSIGNMENT AS PREREQUISITE FOR PROMOTION TO GENERAL OR FLAG OFFICER GRADE

The House amendment contained a provision (section 303) that would require, subject to a case-by-case waiver by the Secretary of Defense, that an officer may not be promoted to brigadier general or rear admiral (lower half) unless he has served in a joint duty assignment.

The Senate amendment contained no similar provision.

The Senate recedes.

SEC. 405. ANNUAL REPORT ON IMPLEMENTATION

The House amendment contained a provision (section 304) that would require the Secretary of Defense to include in his annual report to the Congress a report on the implementation of the joint personnel policy title of the House amendment.

The Senate amendment contained no similar provision.

The Senate recedes. The conferees request that the information required by this provision be included in a portion of the annual report of the Secretary to the Congress relating to management of the Department of Defense.

SEC. 406. TRANSITION

Joint Duty Assignments

The House amendment contained a provision (section 305) that would require the Secretary of Defense to ensure that about one-half of the joint duty assignments in grades above captain or Navy lieutenant are always filled by officers who have (or have been nominated for) the joint specialty as rapidly as possible and not later than 2 years after the date of enactment.

The Senate amendment contained no similar provision.

The Senate recedes.

Joint Specialty

The House amendment contained a provision (section 305) that would provide special rules for the Secretary of Defense to apply in making the initial selection of officers for the joint specialty during a 2-year transition period.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that modifies the procedures for the initial selection of joint specialty officers in several ways.

The amendment deletes the requirement that the Secretary of Defense make the initial selection of officers from among officers in such grades as the Secretary determines. The conferees agreed that the conference substitute amendment makes this requirement unnecessary. The Senate amendment eliminates the distinction between general and flag officers and all other officers in the "special rules" for initial selections in the House amendment. The conferees agree that the revised transition provisions make this distinction unnecessary. The Senate amendment further specifies how the specific provisions of title IV of the conference substitute amendment may be waived during the initial transition period. Finally, the amendment modifies the waiver procedure for the initial selection of joint specialty officers to require that the waiver authority may be delegated only to the Deputy Secretary of Defense, may be applied only on a case-by-case basis, and shall be exercised in a manner that ensures that the highest standards of performance, education, and experience are established and maintained for officers selected for the joint specialty.

Career Guidelines

The House amendment contained a provision (section 305) that would require the establishment of career guidelines, procedures for monitoring the careers of joint duty officers, and reserve officer personnel policies not later than 6 months after the date of enactment. The provision would also require the enhancement of the Joint Staff's capability to monitor joint personnel matters not later than 6 months after the date of enactment.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment to extend the period of time for the establishment of these policies and capabilities to 8 months.

Education

The House amendment contained a provision (section 305) that would specify the transition periods for the requirements for the Capstone course and the review of the professional military education schools. The provision would require that the revised curricula at these schools take effect with respect to courses beginning after August 1987.

The Senate amendment contained no similar provision. The Senate recedes with two amendments. First, the revised curricula is to take effect with respect to courses beginning after July 1987. Second, the requirements for post-education duty assignments are to take effect with respect to classes graduating from joint professional military education schools after January 1987.

Length of Joint Duty Assignments

As part of the action of the conference committee on section 664 of title 10 (as added by section 401 of the conference substitute amendment), the conferees agreed to apply the new requirements for the length of joint duty assignments to officers assigned to such positions after the end of the 90-day period beginning on the date of enactment. Moreover, the conferees intend that the Secretary of Defense, in computing the average required by section 664, consider only joint duty assignments to which the section applies.

Promotion Policy

The House amendment contained a provision (section 305) that would specify the transition periods for changes to the composition and review process of selection boards considering joint duty officers. The provision would also specify the transition period for implementation of the mandatory promotion rates provided in section 302 of the House amendment.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment to delete the transition period for implementation of the mandatory promotion rates. This transition period is rendered unnecessary by a Senate amendment to section 302 of the House amendment.

Annual Report on Joint Duty Officers

As part of the action of the conference committee on section 667 of title 10 (as added by section 401 of the conference substitute amendment), the conferees agreed that the first annual report submitted by the Secretary of Defense after the date of

enactment shall contain as much of the information required by section 667 as is available to the Secretary at the time of the preparation of the report.

TITLE V—MILITARY DEPARTMENTS

SEC. 501. THE ARMY SECRETARIAT; SEC. 511. THE NAVY SECRETARIAT; AND SEC. 521. THE AIR FORCE SECRETARIAT

Administrative Assistant

The Senate amendment contained a provision (section 201(a)(2)) that would delete the statutory requirement, as provided in existing section 3016 of title 10, for an Administrative Assistant in the Department of the Army.

The House amendment contained a provision (section 401 (b)(7)) that would prohibit the abolishment of the position of Administrative Assistant in the Department of the Army and that would authorize the Departments of the Navy and Air Force to have a similar position.

The Senate recedes.

Composition of the Department of the Navy

The Senate amendment contained a provision (section 304) that would establish a new chapter 518 of title 10 (Composition of the Department of the Navy) and would reenact in such chapter the third and fourth sentences of existing section 5011 and all of existing sections 5012 and 5013 of title 10.

The House amendment contained a provision (section 101(c)) that would:

(1) amend section 5012 of title 10 to delete the portion specifying that the Navy "is generally responsible for naval reconnaissance, antisubmarine warfare, and protection of shipping"; and

(2) provide a free-standing provision of law that would clarify the authority of the President and the Secretary of Defense to assign missions, roles, and functions to the Military Departments, unified and specified combatant commands, and other elements of the Department of Defense.

The House recedes to the establishment of a new chapter 507 (Composition of the Department of the Navy) of title 10, the transfer of existing sections 5012 and 5013 to such chapter, and the addition of a new section 5061 on the composition of the Department of the Navy. The Senate recedes to section 101(c) of the House amendment with an amendment to delete the free-standing provision. The conferees agreed that the amendment to the responsibilities of the Navy, as provided by section 101(c) of the House amendment, does not affect the authority of the President or the Secretary of Defense to assign responsibilities to the Navy.

Seal for the Department of the Navy

The Senate amendment contained a provision (section 301) that would require the Secretary of the Navy to have a seal for the Department of the Navy, the President to approve the design of the seal, and judicial notice to be taken of the seal.

The House amendment contained no similar provision.

The House recedes.

Secretaries of the Army, Navy, and Air Force

The Senate amendment contained provisions (sections 201, 301, and 401) that would require the Secretary of a Military Department to be appointed from civilian life by the President, by and with the advice and consent of the Senate.

The House amendment contained no similar provisions.

The House recedes.

The Senate amendment contained provisions (sections 201, 301, and 401) that would prohibit a person being appointed Secretary of a Military Department within 5 years after his relief from active duty as a commissioned officer of a regular component of an Armed Force.

The House amendment contained no similar provisions.

The House recedes with an amendment to increase the required period of separation from active duty to 10 years. The conferees determined that the key civilian control role of the Secretary of a Military Department requires a longer period of separation from active duty than would be provided by the provisions of the Senate amendment. The requirement for the Secretary of a Military Department, as provided by the conference substitute amendment, would be the same as is now required for the Secretary of Defense, Deputy Secretary of Defense, and Under Secretary of Defense for Policy.

The Senate amendment contained provisions (sections 201, 301, and 401) that would provide that the performance of duties by the Secretary of a Military Department is subject to the authority, direction, and control of the Secretary of Defense and to the provisions of chapter 6 of title 10 (as added by section 112 of the Senate amendment) related to the combatant commands.

The House amendment contained no similar provisions.

The House recedes.

The Senate amendment contained provisions (sections 201, 301, and 401) that would specify that the Secretary of a Military Department is responsible for and has the authority necessary to conduct all affairs of his Department, including 12 specified functions.

The House amendment contained no similar provisions.

The House recedes with an amendment to clarify that the specified function of "administering" includes the morale and welfare of personnel. The conferees determined that the functions of supplying, servicing, and maintaining, in combination, include the major elements of what is referred to as "logistics."

The Senate amendment contained provisions (sections 201, 301, and 401) that would specify seven responsibilities of the Secretary of a Military Department to the Secretary of Defense.

The House amendment contained a provision (section 404) that would specify two responsibilities for the Secretary of a Military Department. One of these responsibilities is identical to one specified by the Senate amendment. The other responsibility would require the Secretary of a Military Department to ensure the operational readiness of forces under his jurisdiction.

The House recedes.

The Senate amendment contained provisions (sections 201, 301, and 401) that would specify other powers and duties of the Secretary of a Military Department.

The House amendment contained no similar provisions.

The House recedes.

Offices of the Secretaries of the Army, Navy, and Air Force

The Senate amendment contained provisions (sections 201, 301, and 401) that would:

(1) establish in law the Office of the Secretary of each Military Department;

(2) specify the function and composition of each Office;

(3) require the Secretary of each Military Department to ensure that his Office is not duplicating specific functions that he has assigned to the military headquarters staff or staffs of his Department; and

(4) require a 15-percent reduction by September 30, 1988 in the number of personnel assigned to each Office, use the number of personnel assigned to each Office on September 30, 1985 as the baseline for each reduction, and set this reduced personnel level as a permanent ceiling after such date.

The Senate amendment also contained provisions (sections 202, 302, 303, and 402) that would:

(1) require a 15-percent reduction by September 30, 1988 in the total number of personnel assigned to each of the Army Staff, the Office of the Chief of Naval Operations, the Headquarters, Marine Corps, and the Air Staff; use the number of personnel assigned to each staff on September 30, 1985 as the baseline for each reduction; and set this reduced personnel level as a permanent ceiling for each staff after such date; and

(2) limit the number of officers that may be assigned after September 30, 1988 as follows:

(A) the Office of the Secretary of the Army and the Army Staff—1,825 officers;

(B) the Office of the Chief of Naval Operations—1,300 officers;

(C) the Headquarters, Marine Corps—325 officers; and

(D) the Office of the Secretary of the Air Force and the Air Staff—1,575 officers.

The House amendment contained a provision (section 401) that would:

(1) require the Secretary of Defense to reorganize the executive part of each Military Department in accordance with policies specified in section 401 of the House amendment;

(2) require a single integrated staff for the executive part of each Military Department;

(3) prohibit the organization of officers as a separate component within the single integrated staff (other than the personal staff of a Service Chief of Staff);

(4) require that the functional assignments of the assistant secretaries of the Military Departments be as uniform as possible across the Military Departments;

(5) specify that civilian political appointees shall not be placed in positions subordinate to military officers;

(6) direct that the size of the Military Department staffs be substantially reduced and that functions be shifted to appropriate joint staffs or to subordinate commands of the Military Departments;

(7) prohibit the abolishment or consolidation of functions relating to the reserve components with other elements of the staff (other than the consolidation of existing military staff and civilian staff functions relating to the reserve components);

(8) prohibit any future administrative reorganization of the Military Departments that are inconsistent with items (1) through (7); and

(9) specify that the authority of the Service Chief of Staff to exercise supervisory control over members of the Armed Forces under his jurisdiction, especially with respect to personnel matters, remains unchanged.

The House amendment also contained a provision (section 402) that would:

(1) specify the composition of the single integrated staff of each Military Department;

(2) provide that each Secretary of a Military Department and each Service Chief of Staff may have a personal staff of not more

than 30 persons (not counting the Administrative Assistant and his staff);

(3) reduce the total number of personnel assigned to the single integrated staff in each Military Department by 15 percent from the combined number previously assigned to the Office of the Secretary of a Military Department and military headquarters staff or staffs; and

(4) require the Secretary of Defense to ensure that the personnel reduction required by item (3) results in a reduction in the number of persons assigned to duty in the Washington, D.C. area.

The House amendment also contained a provision (section 403) that would:

(1) require the Secretary of Defense to shift to the Joint Staff the operation and planning responsibilities in each Military Department that are duplicated by the Joint Staff; and

(2) require the Secretary of Defense and the Secretaries of the Military Departments to provide that functions that may be performed by subordinate commands outside the Washington, D.C. area are reassigned to those commands.

The House amendment also contained a provision (section 405) that would:

(1) require the implementation by September 30, 1987 of the integration of the top headquarters staffs of each Military Department and related personnel reductions;

(2) require the Secretary of Defense to submit a report on such implementation to Congress 30 days after implementation; and

(3) require such report to include a draft of legislation to make conforming changes to title 10 and other appropriate provisions of law.

The House amendment also contained a provision (section 406) that would define the term "Service Chief."

The House recedes with amendments to:

(1) require that each Office of the Secretary of a Military Department have sole responsibility for the following functions:

(A) acquisition;

(B) auditing;

(C) comptroller (including financial management);

(D) information management;

(E) inspector general;

(F) legislative affairs; and

(G) public affairs.

(2) require each Secretary of a Military Department to establish or designate a single office or other entity within his Office to conduct each function specified in item (1);

(3) provide that no office or other entity within the military headquarters staff or staffs may be established or designated to conduct any of the functions specified in item (1);

(4) require each Secretary of a Military Department to prescribe the relationship of each office or other entity established or designated under item (2) to the Chief of Staff and to the military headquarters staff or staffs;

(5) require each Secretary of a Military Department to ensure that each office or other entity established or designated under item (2) provides the Chief of Staff such staff support as the Chief of Staff considers necessary to perform his duties and responsibilities;

(6) specify that the vesting in each Office of the Secretary of a Military Department of the responsibility for the conduct of a function specified in item (1) does not preclude other elements of the executive part of the Military Department (including the military headquarters staff or staffs) from providing advice or assistance to the Chief of Staff or otherwise participating in that function within the executive part of the Department under the direction of the office assigned responsibility for that function in the Office of the Secretary of a Military Department;

(7) require that each Office of the Secretary of a Military Department have sole responsibility for the function of research and development, except that the Secretary may assign to the military headquarters staff or staffs those aspects of the function of research and development that relate to military requirements and test and evaluation;

(8) require each Secretary of a Military Department to establish a single office within his Office to conduct the function of research and development and to specify the relationship of such office to the Service Chief of Staff;

(9) require implementation of items (1) through (8) not later than 180 days after the date of enactment of the conference substitute amendment;

(10) require a report to the Congress from each Secretary of a Military Department on the implementation of items (1) through (8) not later than 210 days after the date of enactment of the conference substitute amendment;

(11) require each Secretary of a Military Department to ensure that his Office and the military headquarters staff or staffs of his Military Department do not duplicate specific functions for which he has assigned responsibility to the other;

(12) require a 15-percent reduction by September 30, 1988 in the combined number of personnel assigned to the Office of the Secretary of a Military Department and the military headquarters staff or staffs in each Military Department, use the number of personnel assigned to the Office and staff or staffs in each Military Department on September 30, 1986 (instead of 1985) as the baseline for each reduction, and set the reduced level as a permanent ceiling;

(13) limit the number of officers that may be assigned after September 30, 1988 as follows:

(A) the Office of the Secretary of the Army and the Army Staff—1,865 officers;

(B) the Office of the Secretary of the Navy, the Office of the Chief of Naval Operations, and the Headquarters, Marine Corps—1,720 officers; and

(C) the Office of the Secretary of the Air Force and the Air Staff-1,585 officers.

(14) require a 15-percent reduction by September 30, 1988 in the combined number of general and flag officers assigned to the Office of the Secretary of a Military Department and the military headquarters staff or staffs in each Military Department, use the number of general and flag officers assigned on the date of enactment as the baseline for each reduction, and set the reduced level as a permanent ceiling;

(15) establish in law the position of the General Counsel of each Military Department; and

(16) amend subsections (c) and (d) of existing section 3031 of title 10 to delete the authority for, and limitations on, the Army General Staff.

In designating functions for which each Office of the Secretary of a Military Department should have sole responsibility, the conferees selected functions that are either civilian in nature or key to effective civilian control. Although such offices would exist solely in the Secretariats of each Military Department, the conferees intend that such offices would provide necessary support to all organizations of the executive part of the Military Department concerned. In particular, the conferees fully expect that the Chief of Staff will have full access to these offices and that they will be completely responsive to his needs for support and assistance. Several of these functions are already consolidated in the Office of the Secretary of a Military Department. Under current practice, a deputy or another senior official in each office works closely with the Chief of Staff to ensure that his needs are met. The conferees expect that this practice will continue in existing consolidated offices and may be used in newly consolidated offices.

The conferees intend that the function of comptroller, for which each Office of the Secretary of a Military Department would have sole responsibility, need not include the functions of requirements and programs.

Sections 3014(c)(2), 5014(c)(2), and 8014(c)(2) of title 10 (as added by sections 501, 511, and 521 of the conference substitute amendment) provide that no office within the military headquarters staff or staffs may be established or designated to conduct any of the seven functions for which the Office of the Secretary of the Military Department is assigned sole responsibility. The conferees selected the language "no office" with care. The intent of the conferees is that no office within the military headquarters staff may be established, designated, or dedicated to performing any of these functions on a permanent basis. However, officers, officials, or members of the Armed Forces assigned to a military headquarters staff may provide advice or assistance to the Chief of Staff or otherwise participate in a function under the direction of the office assigned responsibility for that function in the Office of the Secretary of a Military Department.

In agreeing that no office shall be "established or designated" within the military headquarters staff to conduct functions which are the sole responsibility of the Office of the Secretary of a Military Department, the conferees intend "designated" to mean a formal designation of an existing office as responsible for such a function. The conferees do not intend that the mere direction to an office to provide advice or assistance or otherwise temporarily participate in a function is a designation within the meaning of this provision.

The conferees recognize that the consolidation of functions within the Office of each Secretary of a Military Department will pose unique problems for the Department of the Navy because of the existence of two separate Armed Forces within that Department—the Navy and the Marine Corps. The conferees want it clearly understood that nothing in the legislation is intended to impair the ability of the Commandant of the Marine Corps to carry out his responsibilities to the Secretary of the Navy to organize, train, and equip Fleet Marine Forces of combined arms, together with supporting air components, for service with the fleet, or any other of his responsibilities under section 5203 of title 10 (as added by section 513 of the conference substitute amendment).

With regard to the seven functions for which the Office of the Secretary of the Navy is to have sole responsibility, the conferees recognize that certain aspects of those functions are unique to the interests

of the Marine Corps. The conferees intend that the performance of these functions should fully recognize, as the Commandant considers to be appropriate, the particular interests of the Marine Corps and should fully enable the Commandant to represent those interests in the same manner as the other Chiefs of Staff are able to represent the particular interests of their Armed Force.

In this regard, the conferees appreciate that particular care must be taken by the Secretary of the Navy to ensure that the Marine Corps, which has fewer personnel to devote to staff duty than the Navy, receives evenhanded treatment in organizing, manning, establishing work priorities, and otherwise structuring and operating the consolidated offices. The conferees determined that consolidated offices should include appropriate numbers of Marine generals and other Marine officers to ensure that the interests of the Marine Corps will be represented and that the Commandant will receive appropriate support from these offices.

The conferees also intend that the Headquarters, Marine Corps, shall have an appropriate share of the total number of general officers, other members of the Armed Forces, and civilian employees of the Department of the Navy authorized in section 5014(f) of title 10 (as added by section 511 of the conference substitute amendment) for the Office of the Secretary of the Navy, the Office of the Chief of Naval Operations, and the Headquarters, Marine Corps.

With respect to the actions of the conference committee concerning the function of research and development, the conferees intend that each Office of the Secretary of a Military Department should have an augmented role in the research and development activities of the Military Department concerned. In particular, the conferees agreed that there is a need for more effective policy and resource oversight by each Office in the initial phases of research and development programs.

The conferees determined that consolidation of the function of acquisition in each Office of the Secretary of a Military Department was consistent with the recommendations of the President's Blue Ribbon Commission on Defense Management.

The conferees agreed that each Service should have a separate military headquarters staff within the executive part of its Military Department. This staff should continue to conduct the functions for which effective representation of the military point of view is invaluable to the work of the Military Department. Key among these functions are:

(1) manpower and personnel;
(2) logistics;
(3) installations;
(4) operations and plans;
(5) requirements and programs;
(6) intelligence; and
(7) command, control, and communications.

The conferees agreed that the continued existence of separate military headquarters staffs will ensure that defense decisionmaking is assisted by independent and well-developed military perspectives.

Although the conferees determined that the Office of the Secretary and the military headquarters staff or staffs of each Military Department should remain separately organized, the conferees remain concerned about the unnecessary duplication of effort between these Offices and staffs. Sections 3014(e), 5014(e), and 8014(e) of title 10 (as added by sections 501, 511, and 521 of the conference substitute amendment) would require each Secretary of a Military Department to eliminate such duplication. The conferees expect the Secretaries of the Military Departments to take this responsibility seriously. The 15-percent reductions in the total number of personnel assigned to the top management headquarters are designed, in part, to force a comprehensive management review of such duplication and the formulation of effective solutions.

The conferees also remain concerned about two other problems:

(1) the significant number of personnel assigned to duty in the Washington, D.C. area; and

(2) duplication by the military headquarters staffs of each Military Department of operations and plans functions that are performed by the Joint Staff.

In implementing subsections (c), (d), (e), and (f) of sections 3014, 5014, and 8014 of title 10 (as added by sections 501, 511, and 521 of the conference substitute amendment), the Secretaries of the Military Departments shall take appropriate action to solve these problems. In the implementation reports that would be required by section 532(b) of the conference substitute amendment, the conferees agreed to direct each Secretary of a Military Department to inform the Congress on:

(1) the number of personnel positions that have been transferred to duty positions outside the Washington, D.C. area;

(2) the functions that have been reassigned to subordinate commands and organizations outside the Washington, D.C. area;

(3) the aspects of the functions of operations and plans that are required to be performed by the military headquarters staff or staffs of the Military Department;

(4) the aspects of the functions of operations and plans that were previously performed by the military headquarters staff or staffs of the Military Department that duplicated aspects of the functions performed by the Joint Staff and that will no longer be performed by the military headquarters staff or staffs of the Military Department; and

(5) the number of personnel positions that have been eliminated in the military headquarters staff or staffs in the Military Department as a result of the determinations in item (4).

The conferees agreed to delete the authority for, and limitations on, the Army General Staff because the Army no longer uses this staff designation. Thus, statutory specification of the Army General Staff is no longer needed.

Under Secretaries of the Army, Navy, and Air Force

The Senate amendment contained provisions (sections 201, 301, and 401) that would:

(1) require the Under Secretary of a Military Department to be appointed from civilian life by the President, by and with the advice and consent of the Senate; and

(2) specify that the Under Secretary of a Military Department shall perform such duties and exercise such powers as the Secretary of the Military Department may prescribe.

The House amendment contained no similar provisions.

The House recedes.

Assistant Secretaries of the Army, Navy, and Air Force

The Senate amendment contained provisions (sections 201, 301, and 401) that would:

(1) require the Assistant Secretaries of a Military Department to be appointed from civilian life by the President, by and with the advice and consent of the Senate;

(2) authorize five Assistant Secretaries for the Army, four Assistant Secretaries for the Navy, and three Assistant Secretaries for the Air Force;

(3) specify that the Assistant Secretaries of a Military Department shall perform such duties and exercise such powers as the Secretary of the Military Department may prescribe;

(4) require each Military Department to have an Assistant Secretary for Manpower and Reserve Affairs; and

(5) require the Army to have an Assistant Secretary for Civil Works.

The House amendment contained a provision (section 402(b)) that would:

(1) specify seven areas of responsibility to be assigned to the Assistant Secretaries of each Military Department;

(2) specify that the civil works function is to be assigned to an Assistant Secretary of the Army; and

(3) authorize five Assistant Secretaries for the Army, four Assistant Secretaries for the Navy, and four Assistant Secretaries for the Air Force.

The House recedes.

Successors to Duties of Secretary of a Military Department

The Senate amendment contained provisions (sections 201, 301, and 401) that would specify the successors to the duties of the Secretary of a Military Department if he dies, resigns, is removed from office, is absent, or is disabled.

The House amendment contained no similar provisions.

The House recedes.

General Counsels

As part of the conference agreement on provisions relating to each Office of the Secretary of a Military Department, the conferees agreed to establish in law the position of General Counsel in each Military Department. Sections 3019, 5019, and 8019 of title 10 (as added by sections 501, 511, and 521 of the conference substitute amendment) would:

(1) establish the position of General Counsel in each Military Department;

(2) require each General Counsel of a Military Department to be appointed from civilian life by the President; and

(3) specify that the General Counsel of a Military Department shall perform such functions as the Secretary of the Military Department may prescribe.

The action of the conference committee merely recognizes in law a position that already exists in each Military Department and eliminates confusion caused by the absence of statutory specification.

Inspector Generals

The Senate amendment contained provisions that would:

(1) assign the Inspector Generals of the Army, Navy, and Air Force to the Office of the Secretary of their Military Department; and

(2) establish in law the position of Inspector General of the Air Force and specify his assignment and duties.

The House amendment contained no similar provisions.

The House recedes with an amendment to require the Inspector Generals of the Army, Navy, and Air Force to cooperate fully with the Inspector General of the Department of Defense in the performance of any of his duties or responsibilities under the Inspector General Act of 1978.

Army Reserve Forces Policy Committee and the Air Reserve Forces Policy Committee

The Senate amendment contained provisions (sections 201 and 401) that would amend sections 3021 and 8021 (as redesignated, respectively, by sections 501 and 521 of the conference substitute amendment) to assign responsibility to the Army Reserve Forces Policy Committee and the Air Reserve Forces Policy Committee for review and comment on policies for mobilization preparedness.

The House amendment contained no similar provisions.

The House recedes.

Repeal of Chapters

The Senate amendment contained a provision (section 301(c)(3)) that would repeal chapter 505 (Secretary, Under Secretary, and Assistant Secretaries of the Navy) and chapter 507 (Office of the Comptroller of the Navy) of title 10.

The House amendment contained no similar provision.

The House recedes.

SEC. 502. THE ARMY STAFF; SEC. 512. OFFICE OF THE CHIEF OF NAVAL OPERATIONS; SEC. 513. HEADQUARTERS, MARINE CORPS; AND SEC. 522. THE AIR STAFF

Top Military Headquarters Staffs of the Army, Navy, Marine Corps, and Air Force

The Senate amendment contained provisions (sections 202, 302, 303, and 402) that would establish in law the top military headquarters staff of each Armed Force and specify its function and composition. These provisions would also specify that each such staff, except as otherwise prescribed by law, shall be organized, and its members shall perform such duties and have such titles, as the Secretary of the Military Department may prescribe.

The House amendment contained no similar provisions.

The House recedes.

General Duties

The Senate amendment contained provisions (sections 202, 302, 303, and 402) that would specify the general duties of the top military headquarters staff of each Armed Force.

The House bill contained no similar provisions.

The House recedes with amendments to:

(1) make performance of the first of these general duties subject to subsections (c) and (d) of sections 3014, 5014, and 8014 of title 10 (as added, respectively, by sections 501, 511, and 521 of the conference substitute amendment); and

(2) clarify the authority of these staffs to coordinate the action of organizations of their Armed Force.

Chiefs of Staff

The Senate amendment contained provisions (sections 202, 302, 303, and 402) that would specify the appointment, term of office, and powers and duties of the Chief of Staff of the Army, Chief of Naval Operations, Commandant of the Marine Corps, and Chief of Staff of the Air Force.

The House amendment contained no similar provisions.

The House recedes with amendments to:

(1) ensure that keeping the Secretary of a Military Department informed on advice rendered by a JCS member, under section 151 of title 10 (as added by section 201 of the conference substitute amendment), on matters affecting his Department does not lessen the independence of the Chief of Staff in performing his JCS duties;

(2) make the requirement of keeping the Secretary of a Military Department fully informed of significant military operations subject to the authority, direction, and control of the Secretary of Defense; and

(3) specify that the obligation of the Chief of Staff to keep the Secretary of a Military Department informed on significant military operations is with respect to matters affecting the responsibilities of the Secretary.

Retirement of the Chief of Naval Operations and the Commandant of the Marine Corps

The Senate amendment contained provisions (sections 302 and 303) that would reenact the provisions of title 10 (sections 5083 and 5201(c)) related to the retirement of the Chief of Naval Operations and the Commandant of the Marine Corps that existed at the time the Senate amendment passed the Senate.

The House amendment contained no similar provisions.

The Senate recedes. Section 104 of the Military Retirement Reform Act of 1986 (Public Law 99-348) repealed the last sentence of both sections 5083 and 5201(c). The effect of the Senate receding would be to reenact sections 5083 and 5201(c) as amended by Public Law 99-348.

In examining sections 5083 and 5201(c), the conferees noted inconsistencies between these provisions and other provisions of title 10, especially sections 3962 and 8962, concerning the retirement of officers who are serving, or have served, in a position for which the grade is specified in law. The conferees agreed to direct the Secretary of Defense to submit a legislative proposal, as part of the submission required by section 604 of the conference substitute amendment, to make consistent or appropriately amend the retirement provisions for all officers serving or having served in positions for which the grade is specified in law.

Qualifications for Appointment as Chief of Staff

The Senate amendment contained a provision (section 111) that would provide that the President may assign to serve as members of the Joint Chiefs of Staff only officers who have served in one or more joint duty positions for a substantial period of time. The provision would also provide a waiver of this requirement in the case of any officer if the President determines that such action is necessary in the national interest.

The House amendment contained a provision (section 301) that would require the Secretary of Defense to establish policies to ensure, whenever practicable, the application of certain criteria to the selection of an officer for recommendation to the President for assignment as the Chief of Staff of an Armed Force. The specified criteria would be that the officer have had significant experience in joint duty assignments and that such experience include at least one joint duty assignment as a general or flag officer.

The Senate recedes with amendments to require that the President may assign an officer to serve as a Chief of Staff only if he meets the criteria specified in the House provision, to provide a waiver of this requirement if the President determines that such action is necessary in the national interest, and to provide appropriate transition provisions for use by the President before full application of these new requirements. The transition provision is provided in section 532(c) of the conference substitute amendment.

Principal Naval Adviser

The Senate amendment contained a provision (section 302) which would have the effect of repealing existing section 5081(d) that provides:

The Chief of Naval Operations is the principal naval adviser to the President and to the Secretary of the Navy on the conduct of war, and the principal naval adviser and naval executive to the Secretary on the conduct of the activities of the Department of the Navy.

The House amendment contained a provision (section 601(d)) that would strike out "to the President and" from section 5081(d) of title 10.

The House recedes.

Vice Chiefs of Staff

The Senate amendment contained provisions (sections 202, 302, 303, and 402) that would specify the appointment and powers and duties of each Vice Chief of Staff and the succession to the duties of the Chief of Staff.

The House amendment contained no similar provisions.

The House recedes.

Deputy and Assistant Chiefs of Staff

The Senate amendment contained provisions (sections 202, 302, 303, and 402) that would:

(1) authorize not more than four Deputy Chiefs of Staff for each Armed Force;

(2) authorize not more than three Assistant Chiefs of Staff for each Armed Force; and

(3) specify the assignment of the Deputy and Assistant Chiefs of Staff.

The House amendment contained no similar provisions.

The House recedes with amendments to authorize not more than five Deputy Chiefs of Staff for each Armed Forces and to establish in law the position of Chief of Staff of the Marine Corps.

SEC. 503. AUTHORITY TO ORGANIZE ARMY INTO COMMANDS, FORCES, AND ORGANIZATIONS; AND SEC. 523. AUTHORITY TO ORGANIZE AIR FORCE INTO SEPARATE ORGANIZATIONS

The Senate amendment contained provisions (sections 203 and 403) that would clarify the authority of the Secretaries of the Army and Air Force to organize the Army and Air Force.

The House amendment contained no similar provisions.

The House recedes.

SEC. 514. TECHNICAL AND CLERICAL AMENDMENTS

Section 514 of the conference substitute amendment amends title 10 to make appropriate conforming and technical changes to implement the actions of the conference committee relating to part B of title V of the conference substitute amendment.

SEC. 531. CONFORMING AMENDMENTS

Section 531 of the conference substitute amendment amends title 10 and title 37 to make appropriate conforming changes to implement the actions of the conference committee relating to parts A, B, and C of

title V of the conference substitute amendment.

SEC. 532. TRANSITION

The conferees agreed to two transition provisions that would:

(1) require implementation of subsections (c) and (d) of sections 3014, 5014, and 8014 of title 10 (as added by sections 501, 511, and 521 of the conference substitute amendment) not later than 180 days after the date of enactment of the conference substitute amendment; and

(2) require each Secretary of a Military Department to submit a report on such implementation 30 days after implementation.

The conferees also agreed to a transition provision for use by the President before the requirements for appointment as a Chief of Staff become fully effective. The provision authorizes the President to waive for 4 years:

(1) the requirement for a 3-year joint duty tour if the Chief of Staff has served in a joint duty assignment for not less than 2 years; and

(2) the requirement that a Chief of Staff have served in a joint duty assignment as a general or flag officer if the Chief of Staff served as a general or flag officer in an assignment that was considered a joint duty assignment or a joint equivalent assignment under regulations in effect at the time the assignment began.

TITLE VI—MISCELLANEOUS

SEC. 601. REDUCTION IN PERSONNEL ASSIGNED TO MANAGEMENT HEADQUARTERS ACTIVITIES AND CERTAIN OTHER ACTIVITIES

Military Departments and Combatant Commands

The Senate amendment contained a provision (section 501) that would require a 10-percent reduction by September 30, 1988 in the total number of military and civilian personnel assigned to headquarters staffs within the Military Departments and combatant commands. The provision would:

(1) exclude each Office of the Secretary of a Military Department, the Army and Air Staffs, the Office of the Chief of Naval Operations, and the Headquarters, Marine Corps, because other provisions of the Senate amendment would require personnel reductions in these organizations,.

(2) use the personnel strengths of these staffs on September 30, 1985 as the baseline for reductions;

(3) require the Secretary of Defense to allocate the reductions;

(4) prohibit accomplishment of the reductions by recategorizing or redefining duties, functions, offices, or organizations;

(5) authorize each combatant commander to determine how reductions allocated to his command would be accomplished;

(6) prohibit further increases beyond the reduced personnel levels; and

(7) define the terms applied to headquarters staff.

The House amendment contained no similar provision.

The House recedes with two amendments. The first amendment requires the 10-percent reduction to be applied to the total number of personnel assigned on September 30, 1986 instead of September 30, 1985. The second House amendment excludes the immediate headquarters staff of each unified and specified combatant commander from the required personnel reductions.

Defense Agencies and Department of Defense Field Activities

The Senate amendment contained a provision (section 117) that would require a 15-percent reduction by September 30, 1988 in the total number of civilian and military personnel assigned to the headquarters staffs of Defense Agencies and Department of Defense Field Activities and a 10-percent reduction in non-headquarters personnel. The provision would:

(1) use the personnel strengths of these elements on September 30, 1985 as the baseline for reductions;

(2) require the Secretary of Defense to allocate the reductions among the agencies and activities in a manner consistent with the efficient operation of the Department of Defense;

(3) prohibit the accomplishment of the reductions by recategorizing or redefining duties, functions, offices, or organizations;

(4) exempt the National Security Agency from the required personnel reductions; and

(5) define the terms applied to headquarters staffs.

The House amendment contained no similar provision.

The House recedes with seven amendments to:

(1) require that the reductions be applied to the total number of personnel assigned on September 30, 1986 instead of September 30, 1985.

(2) require only 5-percent reductions by September 30, 1988 for both headquarters personnel and non-headquarters personnel;

(3) require an additional 10-percent reduction in the total number of headquarters personnel assigned on September 30, 1988, to be completed by September 30, 1989, and a corresponding 5-percent reduction in the total number of non-headquarters personnel;

(4) allow any reductions in headquarters personnel and non-headquarters personnel in excess of those required by September 30, 1988 to be applied to the reductions of headquarters and non-headquarters personnel required by September 30, 1989;

(5) allow any reductions of headquarters personnel or non-headquarters personnel in excess of those required by September 30, 1988 or September 30, 1989 to be applied to the required reductions in personnel in the other category;

(6) authorize the Secretary of Defense, if he determines that national security requirements dictate such action, to allocate part or all of the reductions to headquarters or non-headquarters activities in the Department of Defense other than the Defense Agencies and Department of Defense Field Activities;

(7) specify that personnel reductions required by section 601 of the conference substitute amendment are in addition to any reductions required to be made by other provisions of the conference substitute amendment.

The conferees agreed that the principal effect of the second and third House amendments would be to delay the total reductions required by the Senate amendment for 1 year.

The conferees noted that the Senate provision would afford the Secretary latitude in applying the personnel reductions among the various agencies and activities. He would be authorized, for example, to exempt any Defense Agency or Department of Defense Field Activity from personnel reductions. The House amendments increase the discretion allowed the Secretary. He could allocate all or part of the personnel reductions required in the Defense Agencies and Department of Defense Field Activities to other elements of the Department of Defense.

The conferees expect the Secretary of Defense to take advantage of the latitude afforded him by the conference substitute amendment to make selective, rather than across-the-board, reductions. Organizations with expanding functions and limited personnel, such as the Defense Technology Security Administration, should be exempted; reductions should be concentrated in areas where duplication and overstaffing exist. In particular, the Secretary should consider demonstrable efficiency in, or improved performance by, a Defense Agency or Department of Defense Field Activity as an important factor in exempting agencies or activities from personnel reductions.

The conferees believe that streamlining the acquisition activities of the Military Departments should be a principal source of personnel reductions, if reductions are allocated to elements of the Department of Defense other than the Defense Agencies and Department of Defense Field Activities.

SEC. 602. REDUCTION OF REPORTING REQUIREMENTS

The Senate amendment contained a provision (section 503) that would waive, effective on January 1, 1987, the statutory requirement for the submission to Congress by the President or Department of Defense officials of several hundred defense-related reports, notifications, and studies. The provision would exempt from the waiver (1) any provision of law enacted on or after the date of enactment of the Senate amendment; and (2) 149 current reporting requirements listed in 84 entries in the Senate provision.

The House amendment contained a similar provision (section 503). The House recedes with three amendments. The first House amendment affirms that it is the policy of Congress to reduce the administrative burden placed on the Department of Defense by outdated, redundant, or otherwise unnecessary reporting requirements.

The second House amendment requires the Secretary of Defense:

(1) to compile a list of all periodic reports, notifications, and studies currently required to be submitted by the President or Department of Defense officials;

(2) to submit the list to Congress with certain information on each item on the list, including the Secretary's recommendation as to whether the requirement should be retained, modified, or repealed; and

(3) to include a draft of the legislation necessary for the elimination of the reporting requirements recommended by the Secretary.

The third House amendment waives the reporting requirements contained in title 32, United States Code, and exempts additional reports from the waiver.

SEC. 603. ANNUAL REPORT ON NATIONAL SECURITY STRATEGY

The Senate amendment contained a provision (section 502) that would require the President to submit an annual report to the Senate Committees on Armed Services and Foreign Relations and the House Committees on Armed Services and Foreign Affairs on the national security strategy of the United States.

The House amendment contained a similar provision (section 501) that would require that the report also be submitted to the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence.

The House recedes with an amendment to require that the report be submitted to Congress (rather than committees of Congress).

The Senate amendment contained a provision (section 103(a)(2)) that would amend section 133(e) of title 10 to require the annual report to the Congress from the Secretary of Defense (required by such subsection) to include a presentation of major military missions, of the relationship of those missions to the foreign policy and military force structure of the United States, and a justification for those missions.

The House amendment contained no similar provision.

The House recedes with amendments to:

(1) delete the requirement that the report from the Secretary of Defense include a presentation of United States foreign policy and related matters;

(2) delete the requirement that the Secretary of Defense consult with the Secretary of State before submitting the report; and

(3) require the Secretary of Defense, in preparing his report, to take into consideration the content of the annual national security strategy report of the President under section 104 of the National Security Act of 1947 (as added by section 603 of the conference substitute amendment).

The conferees determined that there was no longer a requirement for the Secretary of Defense to include in his report a presentation of United States foreign policy. The national security strategy report of the President will discuss foreign policy. Thus, the conferees agreed only to require the Secretary of Defense, in preparing his report, to take into consideration the content of the President's report. By these changes, the President's report will present the U.S. national security strategy, and the Secretary's report will discuss key elements of the military strategy component of the national security strategy.

SEC. 604. LEGISLATION TO MAKE REQUIRED CONFORMING CHANGES IN LAW

The Senate amendment contained a provision (section 504) that would provide that the provisions of the Senate amendment take effect no later than 180 days after enactment.

The House amendment contained no similar provision.

The Senate recedes with an amendment to require the Secretary of Defense to submit draft legislation to make any technical and conforming changes that are required or should be made by reason of the amendments made by the conference substitute amendment.

The conferees agreed that the provisions of the conference substitute amendment should be effective on the date of enactment except where otherwise specified.

SEC. 605. GENERAL TECHNICAL AMENDMENTS

Section 605 of the conference substitute amendment amends title 10 to make general technical changes to implement the actions of the conference committee relating to titles I, II, and III of the conference substitute amendment.

LES ASPIN,
BILL NICHOLS,
IKE SKELTON,
NICK MAVROULES,
WM. L. DICKINSON,
LARRY J. HOPKINS,
JOHN R. KASICH,
Managers on the Part of the House.

BARRY GOLDWATER,
STROM THURMOND,
JOHN WARNER,
GORDON J. HUMPHREY,
BILL COHEN,
DAN QUAYLE,
PETE WILSON,
JEREMIAH DENTON,
PHIL GRAMM,
JAMES T. BROYHILL,
SAM NUNN,
JOHN C. STENNIS,
GARY HART,
J.J. EXON,
CARL LEVIN,
EDWARD M. KENNEDY,
JEFF BINGAMAN,
ALAN J. DIXON,
JOHN GLENN,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. SCHUETTE (at the request of Mr. MICHEL), for 12:30 p.m. today, on account of official business because of extensive flooding in the district.

Mr. MARKEY (at the request of Mr. WRIGHT), for September 11 and 12, on account of a death in the family.

Mr. HUTTO (at the request of Mr. WRIGHT), for 1 p.m. today, on account of district business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. GONZALEZ, for 60 minutes, today.

(The following Members (at the request of Mrs. JOHNSON) to revise and extend their remarks and include extraneous material:)

Mr. FRENZEL, for 60 minutes, on September 17, 18, and 22.

Mr. ARCHER, for 60 minutes, on September 17, 18, and 22.

Mr. GILMAN, for 5 minutes, on September 12.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. YATRON, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. PANETTA, for 5 minutes, today.

Mr. WEAVER, for 5 minutes, today.

Mr. MAZZOLI, for 60 minutes on September 18.

Mr. GAYDOS, for 60 minutes, on September 17 and 18.

Mr. GONZALEZ, for 60 minutes, on September 16 and 18.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. DAUB, on H.R. 5313, in the Committee of the Whole, today.

Mr. ARMEY, prior to the vote on final passage of H.R. 5313, today.

(The following Members (at the request of Mrs. JOHNSON) and to include extraneous matter:)

Mr. DORNAN of California in three instances.

Mr. SMITH of New Jersey.

Mr. BEREUTER in two instances.

Mr. DANNEMEYER in two instances.

Mr. KEMP in two instances.

Mrs. HOLT.

Mr. BROOMFIELD.

Mr. GUNDERSON.

Mrs. ROUKEMA.

Mr. DAUB.

Mr. SENSENBRENNER.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. WAXMAN.

Mr. HOYER.

Mr. RODINO.

Mr. RANGEL.

Mr. TALLON.

Mr. WOLPE.

Mr. MRAZEK.

Mr. LELAND in two instances.

Mr. TORRICELLI.

Mr. SCHEUER.

Mr. STUDDS.

Mr. MANTON.

Mr. EDWARDS of California.

SENATE BILLS REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 2320. An act to amend an act to add certain lands on the Island of Hawaii to Hawaii Volcanoes National Park, and for other purposes; to the Committee on Interior and Insular Affairs.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 30 minutes p.m.), under its previous order, the House adjourned until Tuesday, September 16, 1986, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4201. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Department of the Navy's intent to issue letter(s) of offer to sell certain defense articles and services to the Netherlands (transmittal No. 86-58), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

4202. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Department of the Navy's intent to issue letter of offer to sell certain defense articles and services to Greece (transmittal No. 86-59), pursuant to 22

U.S.C. 2776(b); to the Committee on Foreign Affairs.

4203. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting the report on political contributions by James Wilson Rawlings, of Connecticut, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Zimbabwe and the report on political contributions by Elinor Constable, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Kenya, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HAWKINS: Committee of conference. Conference report on H.R. 4421 (Rept. 99-815).

Mr. GRAY of Pennsylvania: Temporary Joint Committee on Deficit Reduction. H.J. Res. 723. Resolution complying with the requirements of section 274(f)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 (Rept. 99-816). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 4794. A bill to amend the National Trails System Act to designate the Santa Fe Trail as a National Historic Trail, with an amendment (Rept. 99-817). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 4873. A bill to authorize certain transfers affecting the Pueblo of Santa Ana in New Mexico, and for other purposes, with amendments (Rept. 99-818). Referred to the Committee of the Whole House on the State of the Union.

UDALL: Committee on Interior and Insular Affairs. H.R. 5167. A bill to declare that the United States holds certain public domain lands in trust for the Pueblo of Zia, with amendments (Rept. 99-819). Referred to the Committee of the Whole House on the State of the Union.

Mr. CONYERS: Committee on the Judiciary. H.R. 4980. A bill to amend chapter 13 of title 18, United States Code, to impose criminal penalties for damage to religious property and for injury to persons in the free exercise of religious beliefs (Rept. 99-820). Referred to the Committee of the Whole House on the State of the Union.

Mr. HOWARD: Committee on Public Works and Transportation. H.R. 4492. A bill to permit the transfer of certain airport property in Algona, IA, with an amendment (Rept. 99-821). Referred to the Committee of the Whole House on the State of the Union.

Mr. HOWARD: Committee on Public Works and Transportation. H.R. 4838. A bill to amend section 408 of the Federal Aviation Act of 1958 to ensure fair treatment of airline employees in airline mergers and similar transactions, with an amendment (Rept. 99-822). Referred to the Committee of the Whole House on the State of the Union.

Mr. HOWARD: Committee on Public Works and Transportation. H. Con. Res. 339. Resolution expressing the sense of Congress that the essential air transportation program should be maintained for the ten-year period for which it is authorized, (Rept. 99-823). Referred to the House Calendar.

Mr. NICHOLS: Committee of Conference. Conference report on H.R. 3622 (Rept. 99-824). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ALEXANDER:

H.R. 5507. A bill to amend the Agricultural Act of 1949 to maintain the support price for the 1986 crop of soybeans at $5.02 per bushel, and for other purposes; to the Committee on Agriculture.

By Mr. FLIPPO:

H.R. 5508. A bill to designate the Sipsey River as a component of the National Wild and Scenic Rivers System, to designate certain areas as additions to the Sipsey Wilderness, and to preserve over 30,000 acres of pristine natural treasures in the Bankhead National Forest for the esthetic and recreational benefit of future generations of Alabamians, and for other purposes; jointly, to the Committees on Interior and Insular Affairs and Agriculture.

By Mr. GREEN:

H.R. 5509. A bill to amend title 18, United States Code, including the Child Protection Act, to create remedies for children and other victims of pornography, and for other purposes; to the Committee on the Judiciary.

By Mr. McCLOSKEY (for himself, Mr. HAMILTON, Mr. JACOBS, Mr. SHARP, Mr. VISCLOSKY, and Mr. BURTON of Indiana):

H.R. 5510. A bill to award a congressional gold medal to Red Skelton; to the Committee on Banking, Finance and Urban Affairs.

By Mr. MANTON:

H.R. 5511. A bill to require the Secretary of the Treasury to recall from circulation all existing Federal Reserve notes in the denomination of $100; to the Committee on Banking, Finance and Urban Affairs.

By Mr. MURTHA (for himself and Mr. RUDD):

H.R. 5512. A bill to provide for entry into the United States of sugar only from friendly developing countries, to restore the historical sugar quota for the Philippines, and for other purposes; to the Committee on Ways and Means.

By Mr. OLIN:

H.R. 5513. A bill to provide for the release to the Virginia Museum of Transportation certain objects owned by the U.S. Information Agency; to the Committee on Foreign Affairs.

By Mr. ROWLAND of Connecticut:

H.R. 5514. A bill to improve the international trade posture of the United States; jointly, to the Committees on Banking, Finance and Urban Affairs; Foreign Affairs; and Ways and Means.

By Mr. SWINDALL (for himself, Mr. BARNARD, and Mr. BROWN of California):

H.R. 5515. A bill to establish an Information Age Commission; jointly, to the Committees on Government Operations and Science and Technology.

By Mr. WAXMAN:

H.R. 5516. A bill to amend the Federal Food, Drug, and Cosmetic Act to make improvements in the regulation of medical devices; to the Committee on Energy and Commerce.

By Mr. WHITTEN:

H.J. Res. 724. Joint resolution making continuing appropriations for the fiscal year 1987, and for other purposes; to the Committee on Appropriations.

By Mr. KASTENMEIER:

H.J. Res. 725. Joint resolution to commemorate the 100th birthday of Aldo Leopold and to recognize his contribution to the protection and wise management of renewable natural resources; jointly, to the Committees on Post Office and Civil Service and Interior and Insular Affairs.

By Mr. GONZALEZ:

H.J. Res. 726. Joint resolution to provide for the temporary extension of certain programs relating to housing and community development, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. BARNES:

H. Con. Res. 390. Concurrent resolution condemning the state of siege imposed by the Government of Chile and expressing the support of the Congress for a peaceful transition to democracy in Chile; to the Committee on Foreign Affairs.

RESOLUTION AGREED TO PURSUANT TO H. RES. 548

H. Res. 549. Resolution expressing the intent of the House of Representatives with respect to the adoption of the Senate amendment to the bill H.R. 4868; pursuant to H. Res. 548, considered as having been adopted.

By Mr. IRELAND (for himself and Mr. LEWIS of Florida):

H. Res. 550. Resolution expressing the sense of the House of Representatives regarding the agreement between the United States and the European Community on citrus and pasta, and for other purposes; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. STANGELAND:

H.R. 5517. A bill to extend patent No. 3,741,577 for a period of 10 years; to the Committee on the Judiciary.

By Mr. WILLIAMS:

H.R. 5518. A bill for the relief of Jon Engen, to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 128: Mr. WHITTAKER.

H.R. 343: Mr. SMITH of Florida.

H.R. 749: Mr. SCHUMER.

H.R. 1902: Mr. LEHMAN of Florida, Mr. FAUNTROY, Mr. HORTON, Mr. EVANS of Illinois, Mr. MRAZEK, Mr. SAVAGE, Mr. SEIBERLING, Mr. SCHUMER, Mr. DE LA GARZA, Mr. SABO, and Mr. LIPINSKI.

H.R. 2440: Mr. ANNUNZIO.

H.R. 2850: Mr. SMITH of Iowa.

H.R. 4096: Mr. FRANKLIN, Mr. ASPIN, Mr. LEATH of Texas, Mr. BATES, Mr. MORRISON

of Washington, Mr. DELLUMS, Mr. FAUNTROY, and Mr. KLECZKA.

H.R. 4153: Mr. LATTA, Mr. BATEMAN, Mrs. BENTLEY, Mr. BEVILL, Mr. BOLAND, Mr. BORSKI, Mr. BROOKS, Mrs. BURTON of California, Mr. CARNEY, Mr. DE LA GARZA, Mr. DE LUGO, Mr. DONNELLY, Mr. DYMALLY, Mr. EARLY, Mr. ECKART of Ohio, Mr. FASCELL, Mr. FAUNTROY, Mr. FAZIO, Mr. FISH, Mr. HOYER, Mr. LUNDINE, Mr. MCKINNEY, Mr. MARTINEZ, Mr. MATSUI, Ms. MIKULSKI, Mr. MILLER of Washington, Mr. MORRISON of Connecticut, Mr. MURPHY, Mr. NATCHER, Ms. OAKAR, Mr. OBEY, Mr. OWENS, Mr. PICKLE, Mr. RANGEL, Mr. ROYBAL, Mr. SMITH of Florida, Mr. SOLARZ, Mr. STARK, Mr. SYNAR, Mr. TRAXLER, Mr. WEISS, Mr. WYDEN, Mr. YATES, Mr. WHEAT, Mr. ORTIZ, Mr. AKAKA, Mr. ROBERTS, Mr. BONKER, Mr. OBERSTAR, Mr. GORDON, Mr. CHAPPELL, Mr. NICHOLS, Mr. SISISKY, Mr. LIPINSKI, Mr. YATRON, Mr. LEHMAN of Florida, Mrs. BOXER, Mr. LEWIS of Florida, Mr. FUQUA, Mr. BATES, Mr. CHAPPIE, Mr. LOWRY of Washington, Mr. VENTO, Mr. BOUCHER, Mr. HAMMERSCHMIDT, Mr. BEDELL, Mr. CONTE, Mr. MOAKLEY, Mr. WALGREN, Mr. FUSTER, Mr. DWYER of New Jersey, Mr. FEIGHAN, Mr. SUNIA, Mr. DINGELL, Mr. STOKES, Mr. REID, Mr. ROEMER, Mr. LELAND, Mr. STRATTON, Mr. BILIRAKIS, Mr. CROCKETT, Mr. WALDON, Mr. KANJORSKI, Mr. KLECZKA, Mr. KOLTER, Mr. ALEXANDER, Mr. DOWDY of Mississippi, Mr. HARTNETT, Mr. HERTEL of Michigan, Mr. TORRICELLI, Mr. COURTER, Mr. DYSON, and Mr. MADIGAN.

H.R. 4638: Mr. TOWNS, Mr. MCKINNEY, and Mr. SAXTON.

H.R. 4741: Mr. PANETTA, Mr. LEVINE of California, Mr. YATES, and Mrs. BURTON of California.

H.R. 5003: Mr. COBEY.

H.R. 5054: Mr. ROE, Mr. TRAFICANT, Ms. OAKAR, Mr. CHAPPELL, and Mr. MACK.

H.R. 5061: Mr. EMERSON and Mr. COBEY.

H.R. 5068: Mr. DURBIN.

H.R. 5274: Mr. MRAZEK, Mr. BUSTAMANTE, Mr. NOWAK, Mr. LANTOS, Mr. RAHALL, Mr. ROGERS, and Mr. BADHAM.

H.R. 5291: Mr. MOODY, Mr. GREEN, Mr. MARTINEZ, and Mrs. BURTON of California.

H.R. 5326: Mr. NIELSON of Utah.

H.R. 5354: Mr. STALLINGS and Mr. FRANKLIN.

H.R. 5432: Mr. NIELSON of Utah, Mr. BERMAN, Mr. FRANK, Mr. MILLER of California, Mr. MRAZEK, Mr. MORRISON of Connecticut, Mr. KLECZKA, Mr. RIDGE, Mr. ARMEY, and Mr. BOEHLERT.

H.R. 5433: Mr. WHITEHURST, Mr. RINALDO, Mr. FRANKLIN, Mr. MILLER of Ohio, Mrs. BENTLEY, Mr. LAGOMARSINO, Mr. OXLEY, Mr. DANIEL, Mr. MCDADE, Mr. WORTLEY, and Ms. KAPTUR.

H.R. 5441: Mr. HUCKABY.

H.R. 5465: Mr. LIGHTFOOT, Mr. LEACH of Iowa, Mr. MORRISON of Washington, Mr. EVANS of Illinois, Mr. SEIBERLING, Mr. BILIRAKIS, Mr. FEIGHAN, Mr. REGULA, Mr. JEFFORDS, Mr. MARTIN of New York, Mr. GRAY of Pennsylvania, Mr. MITCHELL, Mr. YOUNG of Missouri, Mr. BERMAN, Mr. KINDNESS, Mr. RITTER, Mr. SKELTON, Mr. BLILEY, Mr. NIELSON of Utah, Mr. COOPER, Mr. DUNCAN, Mr. WALGREN, Mr. MYERS of Indiana, and Mr. WIRTH.

H.R. 5472: Mr. BONER of Tennessee, Mr. ACKERMAN, and Mrs. BOGGS.

H.R. 5485: Mr. LOEFFLER.

H.R. 5497: Mr. EMERSON, Mr. GUNDERSON, Mr. HORTON, Mr. LOTT, Mr. MCCURDY, Mr. MCEWEN, Mr. MCKINNEY, Mr. MOORE, Mr. SAXTON, Mr. SMITH of Iowa, Mr. SPENCE, Mr. TOWNS, and Mr. DE LA GARZA.

H.J. Res. 602: Mr. MRAZEK, Mr. KOSTMAYER, Mr. WILSON, Mr. FLIPPO, Mr. REID, Ms. MIKULSKI, Mr. EMERSON, Ms. OAKAR, Mr. RUSSO, Mr. LUNGREN, Mr. NEAL, Mr. BRYANT, Mr. OLIN, Mr. MATSUI, Mr. WALGREN, Mr. GUARINI, Mr. LOWERY of California, Mr. FROST, Mr. BIAGGI, Mr. WALDON, Mr. LIPINSKI, Mr. HARTNETT, Mr. FLORIO, Mr. MCCOLLUM, Mr. LOTT, Mr. HYDE, Mr. MAZZOLI, Mr. COELHO, Mr. WIRTH, Mrs. JOHNSON, Mr. FEIGHAN, Mr. GOODLING, Mr. YATES, Mr. WHITTEN, Mr. TORRICELLI, Mr. ACKERMAN, Mr. CRAIG, Mr. MOAKLEY, Mr. MAVROULES, Mr. PARRIS, Ms. KAPTUR, Mr. LUKEN, Mr. NATCHER, Mr. DE LUGO, Mr. HANSEN, and Mr. BEVILL.

H.J. Res. 643: Mr. PICKLE, Mr. MARTIN of New York, Mr. SHELBY, Mr. FLIPPO, Mr. NICHOLS, Mr. JONES of Tennessee, and Mr. COURTER.

H.J. Res. 656: Mr. STAGGERS.

H.J. Res. 662: Mr. ARMEY and Mr. BATEMAN.

H.J. Res. 679: Mr. KINDNESS.

H.J. Res. 704: Mr. GRAY of Illinois, Mr. YOUNG of Missouri, Mr. FUSTER, Mr. EVANS of Illinois, Mr. SUNIA, Mr. WILSON, Mr. FUQUA, Mr. AKAKA, Mr. DIXON, Mr. OBERSTAR, Mr. BUSTAMANTE, Mr. FASCELL, Mr. NIELSON of Utah, Mr. LUNGREN, Mr. HORTON, Mr. DELLUMS, Mr. LEHMAN of California, Mr. SMITH of Florida, Mr. HAYES, Mr. RANGEL, Mr. HOWARD, Mr. MINETA, Mr. HUGHES, Mr. STALLINGS, Mr. REID, Mr. MARTINEZ, Mr. BRYANT, Mr. VENTO, Mr. STRANG, Mr. FROST, Mr. SYNAR, Mr. LEVINE of California, Mr. KOSTMAYER, Mr. RICHARDSON, Mr. BONER of Tennessee, Mr. VOLKMER, Mr. SAVAGE, Mr. MRAZEK, and Mr. TOWNS.

H.J. Res. 709: Mr. BONER of Tennessee, Mr. DIXON, Mr. WORTLEY, Mr. MCEWEN, Mr. COYNE, Mr. WILSON, Mr. NEAL, Mr. HORTON, Mr. DIOGUARDI, and Mr. WEBER.

H. Con. Res. 308: Mr. CHAPMAN and Mr. COMBEST.

H. Con. Res. 381: Mr. LEHMAN of California.

H. Res. 392: Mr. COLEMAN of Missouri, Mr. STUDDS, and Mr. COBLE.

H. Res. 540: Mr. COURTER, Mr. HARTNETT, Mr. BATEMAN, Mr. CARNEY, Mr. DORNAN of California, Mr. COBLE, Mr. LEWIS of California, Mr. GALLO, Mr. LENT, and Mr. WILSON.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2482

By Mr. HATCHER:

—Section 105 (Reregistration of Registered Pesticides) of H.R. 2482 is amended as follows:

By deleting (j)(4)(C) on page 40 and adding a new subsection (j)(4)(C) as follows:

"(i) Notwithstanding any other provision of this subsection, in the case of a small business registrant of a pesticide, the registrant shall pay a fee for the reregistration of each active ingredient of the pesticide that does not exceed an amount determined in accordance with this subparagraph.

"(ii) If during the 3-year period prior to reregistration the average annual gross revenue of the registrant from pesticides containing such active indgredient is—

"(I) less than $5,000,000, the registrant shall pay 0.5 percent of such revenue;

"(II) $5,000,000 or more but less than $10,000,000, the registrant shall pay 1 percent of such revenues; or

"(III) $10,000,000 or more, the registrant shall pay 1.5 percent of such revenue, but not more than $150,000.

"(iii) For the purpose of the subparagraph, a small business registrant is a corporation, partnership, or unincorporated business that—

"(I) has 150 or fewer employees; and

"(II) during the 3-year period prior to reregistration, had an average annual gross revenue from pesticides that did not exceed $40,000,000.

—Section 807 (Expiration of State Primary Enforcement Responsibility) of H.R. 2482 is amended as follows:

By adding the term "appropriate" after the word "impose" in line 13 of page 129 of the Bill, and by substituting the phrase "which should be sufficient to act as a reasonable deterrent" for the phrase "at least equal to those provided in Section 14" in line 14 of page 129.

By Mr. HOYER:

—Page 137, redesignate section 816 as section 817 and insert before line 8 the following:

SEC. 816. NOTICES.

Section 26 (7 U.S.C. 136w-1) is amended by adding at the end the following:

"(d) NOTICES.—

"(1) This Act shall not be construed to prohibit any political subdivision of a State from adopting or enforcing a requirement for the public notification of pesticide use.

"(2) The protection of the authority of political subdivisions prescribed by paragraph (1) is not to be construed as affecting any other authority of political subdivisions under this Act or any other law.".

Page 158, after line 10, strike out the item relating to subsection (d) and insert in lieu thereof the following:

(d) NOTICES.

By Mr. MARLENEE:

(As amended by H.R. 5440.)

—Amendment to the text of H.R. 5440 (the Amendment in the Nature of a Substitute to H.R. 2482), page 43, line 7, insert after "section 16(b)." the following new sentence: "Notwithstanding any other provision of law, no attorneys fees or expenses shall be awarded for any civil action brought under this section for failure to meet deadlines."

—Page 143, insert after line 5 the following:

SEC. 829. STRYCHNINE.

The Administrator of the Environmental Protection Agency may not cancel the registration of strychnine under section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act or restrict its use in Montana or Wyoming if it is used for agricultural purposes to eradicate animals afflicted with rabies.

By Mr. SCHEUER:

(As amended by H.R. 5440.)

—Page 143, insert the following after line 5:

SEC. 829. PESTICIDE RESISTANCE MANAGEMENT PROGRAM.

(a) PROGRAM.—The Administrator of the Environmental Protection Agency shall establish a Pesticide Resistance Management Program—

(1) to conduct research on pesticide resistance and pesticide resistance management techniques to control or reduce the development of pesticide resistance,

(2) to develop and demonstrate such management techniques, and

(3) in cooperation with the Secretary of Agriculture, to disseminate information obtained from the Program to appropriate entities, including growers and their organizations, manufacturers, pesticide advisors, pes-

ticide applicators, State agriculture officials, and cooperative State extension services.

In establishing and conducting the Program the Administrator may, as appropriate, consult with the Science Advisory Panel established under section 25(d) of the Federal Insecticide, Fungicide, and Rodenticide Act.

(b) TRAINING REQUIREMENTS.—The Administrator may include training in pesticide resistance and pesticide resistance management techniques as part of the minimum standards established for commercial pesticide applicators by the Administrator under section 4(h) of the Federal Insecticide, Fungicide, and Rodenticide Act.

Page 3, in the table of contents, add after the item relating to section 828 the following:

SEC. 829. PESTICIDE RESISTANCE MANAGEMENT PROGRAM.

EXTENSIONS OF REMARKS

ALLEGATIONS AGAINST TWA

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 11, 1986

Mr. CLAY. Mr. Speaker, as I am sure many Members are aware, during the past year, Trans World Airlines [TWA] has been embroiled in an ongoing labor dispute with its flight attendants over their wages and terms and conditions of employment. TWA's chairman, Mr. Carl Icahn, has repeatedly been accused of demanding harsher concessions from TWA's predominantly female employees than from the airline's pilots and ground crew. Charges of age and sex discrimination are presently being considered by the Equal Employment Opportunity Commission. Now added to the continuing controversy over TWA's treatment of its employees, are charges of less than fair representation and opportunities for TWA's black employees. I submit for my colleagues attention, the following letter from the Kansas City, MO branch of the NAACP, which details their allegations against TWA.

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE,
Kansas City, MO, June 17, 1986.

Mr. CARL C. ICAHN,
Chairman of the Board, Trans World Airlines, New York, NY.

DEAR MR. ICAHN: I am sure that the majority of white employees were both relieved and heartened by your promise of an "open door policy" in your June 12, 1986 letter to all TWA employees. They understood that you were talking to them. Black employees understand also. They understand that you are continuing and expanding upon an "open door policy" which has always existed for them . . . an open door with an EXIT sign.

The purpose of this letter is to provide you with the perspective of TWA's black employees; a perspective gained through discussion and feedback—system wide. I am writing because I am a black man; because I have held and continue to hold a wide range of responsible positions in business and within the community, and because I am a long-term TWA employee with a long standing concern with the issues of justice, morality and "equality," especially within the environment of the work place.

Notwithstanding TWA's past, I believe that the black employees of TWA viewed you as a "new hope," a chance for a "fresh start." They have always recognized the difficulty of the game and have striven to play on the same team, despite varying degrees of rejection and resentment. But since your arrival, black employees have been faced with increasing disillusionment; they have come to the realization that they will not be accepted or treated on a par with their white peers. To date, your "open door" policy has brought about the following:

Blacks now comprise less than 10% of the total work force.

Blacks comprise less than 4% of TWA management.

Black Directors have been reduced by 40%.

Black Staff Officers have been reduced by 33%.

TWA has only five (5) remaining blacks above the manager level; less than twenty-five (25) managers, and less than two hundred (200) total manager personnel out of more than 5,000.

The figures can be found in the Department of Labor statistical records which also bring to light that TWA remains the only major public corporation to have never had a black corporate officer and the only major airline to have never had a black captain.

Based on more recent actions, it seems clear that Equal Opportunity within TWA is meaningless and your disposition toward minorities and females in general and blacks in specific is affirmatively negative. While blacks in direct line for promotion are being passed over, reduced or eliminated, whites, including those related to you or your adventures, advance. There continues to be no one within the Company hierarchy willing to stand up to these serious issues. Those who have in the past have been shown the "open door." Dick Pearson and I talked on numerous occasions and for whatever faults he had, he did understand the serious problem of race relations within this Company and attempted to generate the beginnings of a solution, beginnings which you, Mr. Corr and the rest of your team have been racing at breakneck speed to extinguish.

Of course we have been through this before, so what is the point? Well, you may be shocked to know that black people are also consumers. They also travel on airplanes to the tune of $45,000,000 plus annually on TWA. With growing awareness, blacks are becoming less tolerant of, and more reluctant to spend their dollars with someone whom they cannot work as "equals." If we cannot attain a proportional representation within TWA, then we can withhold our patronage. I already know that like-minded support groups will rally behind such action. The Kansas City, Missouri Branch, NAACP voted unanimously at its membership meeting on Tuesday, June 17, 1986 to support all black workers at TWA and those who have been terminated. The decision of the NAACP membership was based on the number of complaints filed at our local branch office, and the ongoing under-utilization and lack of upward mobility of blacks within the Company.

For blacks at TWA, there is not a "new spirit;" rather, there is an old and ugly spirit with "new emphasis." As I have stated in previous corespondence to TWA's Board: "RACISM, individual or institutional, is a sickness which if not overcome can be just as deadly to the life of an institution as financial illness." You are quite correct that we are still an airline in crisis—terrorism aside. There is an internal corruption which will eventually bring about consumer action and employee public declaration of grievances against this Company in an official and appropriate forum. It will happen because what you are doing is wrong, you know it is wrong and you continue to do it.

This letter is not intended as a threat. It is intended to officially advise you and your "selected" board members of my belief of TWA's illegal actions toward its black employees in violation of their civil rights. The Board has a legal obligation to all stockholders to attempt to end such activities or to face the same "personal" liability as the majority stockholder.

The contents of this letter will be circulated to every black employee and ex-employee that can be contacted. Should you wish to discuss this subject through your "open door" policy, the ball is in your court.

With best wishes, I remain

ZELEMA HARRIS,
President.
EDWARD D. LEWIS,
Vice President.

THE U.S. SPACE AGENCY AND THE NEED FOR AGGRESSIVE LEADERSHIP

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 11, 1986

Mr. BROWN of California. Mr. Speaker, I would like to bring to the attention of my colleagues a letter submitted to James C. Fletcher, the Administrator of the National Aeronautics and Space Administration [NASA] from Daniel J. Fink, the Chairman of the NASA Advisory Council. I was impressed by Mr. Fink's correspondence, in which he addressed the council's concerns on issues critical to the effective revitalization of the American space program.

In the letter, the NASA Advisory Council breaks from its traditional role as budget analyst for NASA programs and expressed its "great concern as to whether NASA can any longer meet the mandate for national preeminence established by the National Aeronautics and Space Act." This assertion is particularly sobering in that the council is probably the most influential, nongovernmental advisory body of NASA. The council also accurately labels the effort to get the Nation back into space as "neither adequate nor sufficiently rapid." I believe Mr. Fink's statement has helped to crystalize the issues in a format that hopefully will charge the agency and Congress to take corrective action.

In examining the reasons that the council gives for NASA's shortfall, it is clear that Congress and the White House are equally or more to blame for the problems confronting the agency. In the correspondence, Mr. Fink identified several key problems: The Nation lacks long-range goals in space; NASA's technology base has been allowed to erode; the environment of confusion and uncertainty sur-

rounding the space program was compounded by the delayed decision on a replacement shuttle orbiter; the budget demands of funding another orbiter could severely impede the rest of the NASA budget; and the lack of a rational plan to make available expendable launch vehicles [ELV's] to assure U.S. access to space.

The issues highlighted in the council recommendation to the administration are not new. In one form or another over the last few years, and especially over the past 8 months, these observations have been brought to light. The report of the National Commission on Space has provided the basis for aggressive long-range goals in space and suggested a threefold increase in funding for base technology. The Space Science Board of the National Academy of Sciences has voiced its strong concern that replacing the orbiter would have a negative effect on other parts of the NASA budget, particularly the space science programs. Congress has been concerned about the assured access to space issue for several years.

Some specific response to the NASA crisis is beginning to take form. The House space subcommittee has taken steps to fund a replacement orbiter and has recommended a comprehensive plan for assuring access to space by fostering a private ELV industry. The President's decision to replace the shuttle, but exclude commercial payloads from the future shuttle flights, is a beginning. The Senate space subcommittee has added $20 million in its NASA authorization bill for basic research into the next generation space vehicle. NASA, in anticipation of likely policy directives, has initiated programs designed to improve its space science and space technology base. While these and similar efforts should continue and be encouraged, they reflect a piecemeal approach to coping with a major national dilemma.

Mr. Chairman, in many respects, there is no program or effort more important to the future of this Nation and the world than the space program. The potential for utilizing space for science and application is, like outer space itself, without bound. The ultimate achievement, I believe, is to tap the resources of the solar system, both in terms of the economic prospects and the wealth of knowledge, for the benefit and enrichment of life on Earth.

NASA is a good agency with an unparalleled history of achievement. Unfortunately, for a number of years now they have been running full steam ahead with no road map or destination. The Congress and the White House have been negligent in their duty for not providing adequate long-term policy to guide the space agency. I think my colleagues generally concur with this observation. This deficiency has been recognized time and again for the last 10 years, by experts inside and outside the Government. Yet here we are, 8 months after the *Challenger* explosion, paralyzed, incapable or unable of providing the U.S. space agency with a national space policy or the long-term goals necessary for fulfilling that policy. If Congress and the President cannot provide the necessary leadership, NASA will continue to go its aimless way, until another major tragedy occurs. I don't wish to see this happen.

This policy paralysis, I fear, comes from the threatening cloud of the Gramm-Rudman budget crisis. The frustrating reality is that we are fully capable of approving a comprehensive space policy agenda, complete with a package of broad goals and detailed near-term objectives without appropriating a single dollar. When our Founding Fathers wrote the U.S. Constitution, it had nothing to do with the procurement of Trident submarines, or the issuing of food stamps. The actual writing and the signing of the Declaration of Independence was of little physical cost to the treasury. But the statements in those historic documents acted as guideposts for our early leaders, as they still do today.

It is a similar kind of policy statement that is needed for the space progam; one that will live through the centuries; one that will transcend the current wrangling over the deficit; and, most importantly, one that will instill the fire of motivation into a battered space agency to once again command the preeminent position in the global space adventure.

Therefore, I concur with Mr. Fink and the NASA Advisory Council that the delay in providing the Nation with a clear direction in space is unconscionable, especially when the dollar cost of formulating space policy is not at issue. The files of Congress and the executive branch are overrun with the building blocks of space policy. Now is the time to assemble the pieces into a policy statement that can take us into the 21st century and beyond. It is a deep regret that the Nation's leaders have not yet been able to do so.

Authoring space policy, however, will not be a simple or painless task. It will require contributions from Congress, the White House, NASA and other agencies, academia, educational organizations, and professional associations. There already exists a number of entities that could take part in the policymaking process, such as the National Security Council's Senior Interagency Group on Space, the National Academy of Sciences Space Science Board and Space Applications Board, the Space and Earth Science Advisory Council, and the NASA Advisory Council. Indeed, the expertise of these groups have proven their value consistently, year after year. Also, if Congress is successful, the National Aeronautics and Space Council, which was abolished in the Nixon administration, will be reestablished within the White House. Two documents serving as the likely basis for space policy formulation are the National Commission on Space and the report of the President's Commission on the shuttle *Challenger* accident.

If we are to achieve greatness as a spacefaring nation, a substantial monetary commitment is unavoidable. It will cost money for a replacement orbiter and to fund the necessary fixes before shuttle launches can resume. A reinvestment in our technology base will require funding increases. Space science, which has been choked in past years, will need sufficient funding in order to maintain a comprehensive program. Deploying the space station, America's permanent outpost in space, will not be an easy or inexpensive task. An aggressive space program and the pursuit of excellence is a national challenge that will not come cheaply.

Many of my colleagues are committed, as I am, to the revitalization of the space program. But, if we are to be leaders in structuring a far-reaching space effort, we must be aggressive risk takers. The space enterprise is too vital for us to allow it to fall into the mire of political morass. The kind of rejuvenated space program that is envisioned by most policymakers requires real funding increases over the next few years, followed by level steady funding. The words of President John F. Kennedy in his now famous 1961 "Moon" speech, still ring true today, "If we are to go only half way, or reduce our sights in the face of difficulty, in my judgment it would be better not to go at all . . . there is no sense in agreeing or desiring that the United States take an affirmative position in outer space, unless we are prepared to do the work and bear the burden to make it successful. If we are not, we should decide today and this year."

The NASA Advisory Council's correspondence with Dr. Fletcher is a cold splash, forcing us to look at the crisis in the American space program. I have provided below a copy of the NASA Advisory Council statement on the Nation's civil space program. I commend these insightful words to my colleagues for their consideration.

NASA Advisory Council Statement

The decade of the 1960s saw the Nation's civil space program flourish, with the Apollo program and its goal of placing a man on the moon by the end of the decade considered as a major element of national policy. National security (in the large sense) was well served, and public expectations were established and met as resources were provided to achieve the leadership in space science, technology, and exploration that were articulated in tne National Aeronautics and Space Act of 1958.

Over the past decade, however, the untempered public expectation for the Nation's preeminence in space has not been backed up with the requisite resources. We allowed the past investment in technology to be consumed without adequate renewal; a bow wave of exciting space science projects keeps being pushed forward into an uncertain future as projects are approved on a success-oriented project-by-project basis; the full orbiter fleet originally deemed necessary was not built; and the Nation's space program became increasingly vulnerable to just such a catastrophe as befell it. At the same time, the constancy of Soviet support for its space program has enabled that nation to fulfill an impressive longer-term vision, a harbinger of more achievements to come not widely reported to the American people.

It is time to reverse this erosion of leadership and realize our legislated mandate for national progress based on a far-reaching, well-planned space program. Funding adequate to meet these objectives must be provided. We urge that action be taken immediately to restore the national space launch capability, including funding of an orbiter to replace the *Challenger,* and the acquisition of a family of complementary expendable launch vehicles for use as appropriate. A set of long-range goals such as those articulated by the National Commission on Space should be adopted to guide renewed investments in space technology, as well as the ambitious space science program that are already envisioned by our scientific com-

munities. In this way, NASA must lead the Nation into a new century of space endeavors and exploration that will be an inspiration for a new generation of Americans.

THE AIR FORCE SHOULD TERMINATE ITS CONTRACT WITH SHORT BROTHERS OF NORTHERN IRELAND

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 11, 1986

Mr. BIAGGI. Mr. Speaker, as chairman of the 115 member bipartisan ad hoc Congressional Committee for Irish Affairs, I urge my colleagues to join me in cosigning a letter to Secretary of Defense Casper Weinberger urging that the Department of the Air Force terminate the remaining phases of a contract it currently has with Short Brothers Ltd. of Northern Ireland.

At the time that this contract was awarded in May 1984 a bipartisan delegation of House Members called on the Air Force to secure a commitment from Short Brothers that they would adhere to the provisions of their law—the Fair Employment Act—which seeks to provide equal employment opportunities for both communities in that troubled land. This request was refused and predictably the results are in.

Short Brothers is Northern Ireland's largest employer. In 1978 it had a work force of more than 5,000 workers. Less than 5 percent of the work force was Catholic. As of August 1986, the work force grew to 7,000 workers but the percentage of Catholic workers remained constant at 5 percent. Almost one-third of these new jobs were as a result of the Air Force contract yet, the inability to have them distributed to both communities means the United States is indirectly subsidizing continued discrimination in Northern Ireland.

I believe it is time we terminated this contract. It is inconsistent with new elements of our policy in Northern Ireland and is not contributing to a lasting political solution. If you wish to join as a cosigner of this letter please contact my office by close of business tomorrow.

The text of the draft letter follows:

HOUSE OF REPRESENTATIVES,
Washington, DC, September 10, 1986.

Hon. CASPAR W. WEINBERGER,
Secretary, Department of Defense, the Pentagon, Washington, DC.

DEAR SECRETARY WEINBERGER: We are writing to urge that the Department of the Air Force terminate its contract with Short Brothers, Ltd., of Northern Ireland. We seek this due to the company's continuing policies which have resulted in blatant discrimination against the minority Catholic community in Northern Ireland.

On March 2, 1984, the Air Force announced that Short Brothers had been awarded two contracts under the European Distribution System Aircraft (EDSA) program. The total amount of the contract was estimated to be $150 million over a ten year period. It is our understanding that about half of these funds have in fact been obligated. We should urge the Air Force not to exercise its option to purchase additional aircraft from Short Brothers and terminate the contract.

You may recall at the time that this contract was awarded, a bi-partisan group of House and Senate members wrote to you to urge that the initial contract be amended to include a formal commitment from Short Brothers that they would adhere strictly to the Fair Employment Act of Northern Ireland with respect to all hiring and recruiting for jobs which would emanate from these contracts. Regrettably, this request was refused by the Air Force.

The fact is, since the time that the contract was awarded to Short Brothers, they have failed to meet the basic test of the Fair Employment Act by providing equality of opportunity for both communities in Northern Ireland. In 1978, Short Brothers, which is Northern Ireland's largest employer, had a workforce of over 5,000 persons. A total of 5 percent were Catholic. As of August, 1986 Short's total employment had increased to 7,000 persons, yet the percentage of Catholics has remained at 5 percent, despite the fact they comprise 38 percent of the population in Northern Ireland. It should also be noted that almost one third of the new jobs created were as a result of the Air Force contract.

With respect to recruiting policies, Short Brothers has actually regressed since the contract was signed. According to the Fair Employment Trust, during the nine months after Short Brothers secured the Defense Department contract, the proportion of Catholics recruited actually decreased by 2.6 percent despite the fact that the proportion of Catholic applicants increased from 17 to 26.6 percent.

In addition, Short Brothers refused for a period of five years to sign the Fair Employment Agency's declaration of intent to provide equality of opportunity in employment. In recent months, published reports have indicated that Short Brothers has allowed their facilities to be used by Unionist extremists for purely sectarian activities aimed at intimidating the minority employees of Short Brothers.

In our judgment, Short Brothers' policies and refusal to work toward improvements in expansion of opportunity for both communities is most disturbing. The Air Force contract was one of the largest ever won by Short Brothers. It is, therefore, incumbent upon the Department of Defense to terminate this contract before we allow any more United States taxpayer funds to be used to subsidize continued discrimination in Northern Ireland. Earlier this year, on a bipartisan basis, Congress approved legislation to provide a first time economic aid package for Northern Ireland and the Republic of Ireland. Central to this legislation are certain conditions and understandings of the distribution of the $120 million in U.S. aid over the next three years. This includes two provisions which we quote directly from the legislation:

"Disbursements from the fund—

(a) will be distributed in accordance with the principle of equality of opportunity and non-discrimination in employment without regard to religious affiliation.

"The President shall report to the Congress on the degree to which—

(2) the United States contribution to the fund is meeting the objectives of encouraging new investment job creation and economic reconstruction on the basis of strict equality of opportunity."

The ongoing Air Force contract with Short Brothers represents a glaring departure from current U.S. policy with respect to Northern Ireland and should be terminated on this basis as well as the aforementioned reasons.

We appreciate your prompt response.

TRIBUTE TO ASBURY UNITED METHODIST CHURCH OF WASHINGTON, DC, ON THE OCCASION OF ITS 150TH ANNIVERSARY

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 11, 1986

Mr. DELLUMS. Mr. Speaker, I want today to recognize the 150th anniversary of Asbury United Methodist Church in Washington, DC. This church has had a long and distinguished history as a religious, educational, and social center in the black community of Washington, DC, since 1836.

The establishment of a Methodist church by a black congregation in 1836 is particularly significant when one considers that this was 27 years prior to the Emancipation Proclamation. The free people of color who founded this church, purchased the land at the current site of 11th and K Streets NW., and built a church in a time of racial adversity in this city, a time when slavery still existed here. The current distinctive gray stone church edifice was built in 1916, the place of worship of the 2,000-member congregation.

The far-sighted black leaders and members of Asbury valued freedom and education and used the church building to provide schooling at a time when there was no public education available for blacks in the city. The church housed schools for black children, later a high school, and adult night schools.

During the 20th century the church has continued to serve this community and the world by nurturing civic and religious leaders and providing financial assistance and sponsorship for mission efforts.

In 1936 on the occasion of Asbury Church's 100th anniversary, Mary Church Terrell, a Washington DC, civic leader, read the commendation of President Franklin Delano Roosevelt praising the congregation for contributions to black history.

In 1947 Asbury Church sponsored the first interracial housing in the city of Washington, an apartment building at 1619 R Street NW., the Raydon.

In 1948 the Asbury Federal Credit Union was the first in any church in the country.

In 1955 the then pastor Rev. Robert Morton Williams founded the Wesley Foundation at Howard University, the first of its kind on a black university campus.

In 1968 soon after the dedication of its educational building annex, Asbury began a free breakfast program for community schoolchildren.

In 1982 the Asbury-sponsored HUD section 202 housing for the elderly opened. This 147-unit housing development in a converted public school is a first for the Washington, DC, area.

In July 1982, Asbury sponsored and built a chaplain school in Monjama, Sierra Leone.

Asbury currently operates a weekly food pantry that distributes food to the hungry of Washington, DC.

Congratulations to the members of Asbury United Methodist Church for continuing the long, rich, legacy of service and contribution to this city and the world. Best wishes for another 150 years of dedicated service to Washington, DC, and the world.

TRIBUTE TO MONICA MORALES

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 11, 1986

Mr. ORTIZ. Mr. Speaker, I rise today to pay tribute to Monica Morales of Corpus Christi, TX. Monica is the national winner of the emerging Hispanic artists contest which is sponsored by McDonalds. A grand prize winner, Monica will visit Washington, DC next week to tour our Nation's capital and visit with Hispanic officials and diplomats.

It is a great honor for me to be the U.S. representative of this 7-year-old. Her winning picture depicted her upcoming eighth birthday party. It is drawn in magic markers and depicts herself, her mother, father, and grandmother at the party. A strawberry-shaped pinata hangs from the ceiling, and a birthday cake with candles is on the table. It is truly a great show of family unity.

Mr. Speaker, Monica won from a pool of over 1,200 entries. Her school, the Windsor Park Elementary School, is proud to claim this talented second grade student. I share that pride and am happy for her parents who will accompany her to Washington. Her picture will be displayed at the McDonald's emerging Hispanic artists exhibit at the Organization of American States Building here in Washington. I urge my colleagues to visit the exhibit and see this fine example of the contest's theme: "What My Hispanic Heritage Means to Me."

THE 40TH ANNIVERSARY OF THE FULBRIGHT PROGRAM

HON. DAN MICA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 11, 1986

Mr. MICA. Mr. Speaker, this month marks the 40th anniversary of a program which has consistently generated goodwill between the people of the United States and those of 120 nations of the world. It is a program developed at the initiative of a Member of Congress who had a distinct vision for peace. His vision was to increase mutual understanding and assist the development of peaceful relations among nations through international exchange.

This program, and the vision of its creator, Senator J. William Fulbright, remains strong. Since 1946, more than 155,000 scholars have participated in the well-known and respected Fulbright Program. Over 54,000 of these participants have come from the United States. It is one of the finest, and best respected programs administered by the U.S. Information Agency in cooperation with a variety of private organizations.

Mr. Speaker, over the past several years, the Foreign Affairs Committee has attempted to examine which programs financed by the Federal Government contribute most to our Nation's overall public diplomacy effort abroad. In other words, which of the radio, television, educational exchange, arts, and speakers programs, contribute most to the world's knowledge and understanding of the United States and its policies. Consistently, the answer has been the educational exchange programs sponsored by the U.S. Information Agency. The most important of these is the Fulbright Program.

One of the strengths of the Fulbright Program is the bond of friendship it creates in many levels of society. Whether they be exchanges of teachers, professionals, artists, or other scholars and academics, Fulbright Programs create goodwill that lasts throughout the lifetime of a participant. In turn these academics and professionals can pass along their understanding of the United States to their students and colleagues, thus redoubling the benefits of a single exchange.

Foreign alumni of the Fulbright Program often become high-ranking officials in their own countries. These alumni include 30 Cabinet-level officials, 40 members of national legislative bodies, 10 Supreme Court Justices, 67 university presidents, 32 ambassadors, and even several Prime Ministers. These statistics demonstrate both the quality of the Fulbright participants and are also a reflection of the respect the program holds abroad.

Mr. Speaker, I am pleased that the Congress, led by the Committee on Foreign Affairs, has been able to lead the fight to increase our Government's support for the Fulbright Program. It is perhaps the finest reflection of our national priorities and of our Government's own vision of a peaceful future. I congratulate Senator Fulbright and those who work to implement the Fulbright Program on their fine record of accomplishment.

NATIONAL COUNCIL OF JEWISH WOMEN ON MOTHERS IN THE WORK FORCE

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 11, 1986

Mr. CLAY. Mr. Speaker, I would like to call to my colleagues attention a recent letter by Barbara Newmark amd Marlene Hammerman, president and vice president, respectively, of the National Council of Jewish Women, St. Louis section, which was published in the St. Louis Post-Dispatch on June 14, 1986. The National Council of Jewish Women has been an active supporter of issues benefiting today's working women. Their work and support have proven of great value to all American men and women.

The letter follows:

MOTHERS IN THE WORK FORCE

It is a fact that 60 percent of all women who work are mothers; that 80 percent of the women in the work force are of childbearing age; that, of these, 93 percent are likely to become pregnant during their work careers. Thus, three out of four women will experience pregnancy in their working lives. And the majority of these women will be back at work within one year.

These women will be back at work because it takes both parents working to maintain the standard of living that their parents enjoyed on one income. Or, they will be back at work because they are one of the 10.3 million families headed solely by a woman.

In order for families to provide for the emotional and economic well-being of their children, working parents should be able to know three things:

(1) how much time they will be able to take off for the care of their new children;

(2) that taking parental leave will not jeopardize their jobs;

(3) that if their child should become seriously ill, they would not be forced to choose between the health of the child and their job security.

The proposed Parental and Medical Leave Act of 1986 would guarantee time off for a newborn or adopted baby, would ensure job protection and would continue insurance benefits during the unpaid leave, a necessity in the event of a sick child. This will promote the stability and the security of American families so that job security or economic security will no longer be traded against the needs of the family.

The National Council of Jewish Women, St. Louis section, is currently involved with a monumental nationwide study entitled, "Mothers In The Workplace," which will help us to better understand the specific needs of working mothers. Current available research and long-time interest and involvement in family issues particularly related to women and children lead the National Council of Jewish Woman, St. Louis section, to endorse the Parental and Medical Leave Act of 1986 as a means of bridging the gap between work and home.

BARBARA NEWMARK,
President.
MARLENE HAMMERMAN,
Vice President.

INCREASING THE BENEFITS OF INFORMATION TECHNOLOGIES TO OUR SOCIETY

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 11, 1986

Mr. BROWN of California. Mr. Speaker, we are now fully engulfed in the "information age." Almost every sector of our society has benefited by the explosion of information technologies; telecommunication technologies, data processing technologies, supercomputers and others. However, while these technologies have been developed at a rapid rate and assimilated into portions of our society at an equally rapid rate, the ability of these technologies has not been maximized, nor have our economic, educational or legal systems kept pace with the changes these technologies have brought to our society.

We are being confronted with a host of new legal and moral questions, which our current laws and policies simply haven't provided for.

Copyright issues resulting from the use of home video and tape recorders, computer crime, intellectual property rights, the use of computers in schools, the increasing demand for computer literate workers in the job market, proposals to restrict access to information—the list of issues which need to be addressed is growing every day. Yet, as policymakers, we haven't been able to broadly assess the impacts of information technologies upon our society, we have not been able to set our priorities, nor have we assured that we are focusing on the highest priority needs first.

While Congress has tried to respond to several issues individually, the result has been the development of a piecemeal and only partial set of Federal policies. Quite frankly, our Government and Federal policies have not kept up with the advancement of information technologies at all. According to the Library of Congress, from the 95th to the 98th Congress, we have passed some 283 laws which, broadly interpreted, fall into the area of information policy. This averages to some 60 to 70 laws per year and the numbers seem to be increasing. These laws have mandated Federal information systems, clearinghouses, or dissemination in some 99 different public law areas. These information management activities have ranged from radioactive materials, to biomass energy uses, to developing nations procurement opportunities, to elderly transport services, to runaways and homeless youth.

As our information services and communication abilities increased, so has our demand, and usually our dependency, on these services increased. And in may instances our society has greatly benefited. However, I would like to suggest today, that we have only just begun to use these new technologies and abilities to our benefit. The development of information services has often been conducted in a vacuum, for a specific use. Several needs are not being met. It is time we took a step back, assessed our current systems, services and abilities, and focus on how they could be expanded and used to meet the needs of a greater portion of our society.

Several studies have been conducted regarding the impact of information services upon our society, our changing needs, and areas where Federal policies have become obsolete or inadequate. Our own research organizations—the Office of Technology Assessment, and the Library of Congress—have put out some excellent reports. Yet, up until now, we have not taken the next step, that of developing a forum where industry, academia, and Government can focus on these issues and begin to develop a concensus on how to resolve some of these problems.

For years, I have called for the development of a body which could develop coherent, information policies. Since 1980, I have introduced legislation which would establish an Institute for Information Policy and Research. This institute would address national information policy issues, provide a forum for the interaction of Government, industry and commerce, and educational interests in the formulation of national information policy options. It would provide a focus and mechanism for planning and coordinating Federal research and development activities related to information science and technology, and create a new position of Special Assistant for Information Technology and Science Information.

However, I am willing to support a more moderate approach: The creation of a 2-year commission funded for the most part privately, which would:

First, create a forum for discussions and targeted research on the present and future impact of computer and communications systems on our Nation and its citizens; and

Second, present critical alternative views and choices to the President, Congress, and the public generally, so that such views and choices may serve as a catalyst for change, and maximize the benefits of the information age to our society.

This proposal, S. 786, to establish an Information Age Commission, was introduced by Senators NUNN and LAUTENBERG. The Information Age Commission would include representatives from industry, government at all levels, labor, and education to focus on the complexities and multifacited nature of our computer and communications society. Its report should serve as an invaluable resource to government, industry and educational policymakers, academics, business and labor leaders alike.

This proposal was considered and has been reported out of the Senate Committee on Governmental Affairs. Shortly, I will join two of my esteemed colleagues from Georiga [Mr. SWINDALL and Mr. BARNARD] in proposing a similar bill in the House.

I encourage all of my colleagues to review and support this first step toward coming to grips with the information age. We can only benefit from it.

THE MacBRIDE PRINCIPLES—A CRITICAL TOOL IN THE BATTLE FOR ECONOMIC EQUITY IN NORTHERN IRELAND

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 11, 1986

Mr. BIAGGI. Mr. Speaker, in my capacity as chairman of the 115-member bipartisan ad hoc Congressional Committee for Irish Affairs I have been long maintained that the solution to the problems in Northern Ireland must be a political one that promotes economic development for all.

In the past year, we have seen demonstrated progress on several fronts toward this goal. The British and Irish Governments gave their support to the so-called Anglo-Irish agreement which sets out a potential blueprint for a future political solution for Northern Ireland. However, most observers have cast great doubts on the ability of this agreement to work without some significant changes.

The United States has done its part without any question. Central to our involvement was the recent passage of two separate bills each earmarking first-time economic aid to Northern Ireland and Ireland. The first a $50 million fiscal year 1986 appropriation and the second was a 3-year $120 million authorization package. Each measure recognizes the importance of economic aid to the future of Northern Ireland. The authorization bill contains more critical language in the form of conditions and understandings on how the aid is to be distributed. This includes the fact that the aid is to benefit both communities in Northern Ireland and is to be distributed in a nondiscriminatory fashion.

The reason this language was needed in the legislation is because of the fact that blatent discrimination does exist in Northern Ireland. It is directed at the Catholic minority in the north, while Northern Ireland suffers from the highest unemployment rate in all of Western Europe at 22 percent, the situation is far more grave in certain cities where Catholics are in the majority. There in cities like Strabane and Derry unemployment rises to almost 60 percent.

For the past several years, a number of leading Irish political figures in Northern Ireland, the Republic of Ireland and here in the United States have been trying to address the problem of discrimination. Their particular attention has been focused on those American companies doing business in Northern Ireland. This effort has been led by the distinguished former Nobel Peace Price winner, Sean MacBride. Presently 24 American companies employ 11 percent of the manufacturing work force in Northern Ireland.

Under the leadership of Dr. MacBride, a series of principles have been developed and named the MacBride Principles. They are guidelines for fair employment in Northern Ireland. They are modeled after the Sullivan Principles developed in 1977 as an alternative to divestment in South Africa.

I strongly support the MacBride Principles and believe the United States has a special responsibility to combat the problem of discrimination in Northern Ireland. It is important to point out that support for these principles is not equivalent to supporting disinvestment in Northern Ireland. To the contrary its stated intent is to promote increased opportunities for employment within both communities. At the present time the prospects for additional job opportunities are there with the infusion of new aid including that provided by the United States. Adoption of the MacBride Principles by employers in Northern Ireland will go a long way toward ensuring that jobs are distributed in a nondiscriminatory fashion.

On Tuesday, September 4, the New York Times wrote an excellent article on the MacBride Principles which I wish to call to the attention of my colleagues. I believe the Congress should join with the several States who have adopted laws and or resolutions endorsing the MacBride Principles. As a long-time friend of Sean MacBride I commend him on his tireless efforts in this area. I also wish to pay tribute to the Irish National Caucus for their persistent campaign to raise the MacBride Principles as an important new element in American policy toward Ireland.

At this point in the RECORD I am including the article entitled "Push on Hiring Bias in Ulster."

The article follows:

[From The New York Times, Sept. 4, 1986]

PUSH ON HIRING BIAS IN ULSTER

(By Steve Lohr)

LONDON, September 3.—Encouraged by the success of the campaign to get American investors to pull out of South Africa, a coalition of Irish human rights advocates and politicians is mounting a drive to prod American companies doing business in Northern Ireland to combat discrimination against Roman Catholic workers.

The Northern Ireland campaign would place American investors and companies, once again, at the forefront of a sensitive social issue.

The effort is based on the "MacBride Principles," a nine-point set of guidelines for fair employment in the predominantly Protestant British province, also known as Ulster. Drafted by four Irish activists led by Sean MacBride, a Nobel Peace Prize winner, the guidelines are patterned after the Sullivan Principles, which were presented in 1977 as an alternative to divestment in South Africa for companies doing business there.

HEAVILY INVESTED

The year-old MacBride campaign is trying to convince American states and municipalities, whose pension funds are invested heavily in American companies that do business in Northern Ireland, to support the principles. In addition, the MacBride advocates are marshaling support for shareholder initiatives that criticize the employment practices of selected American companies in Northern Ireland and urge them to support the principles.

Each company signing the MacBride Principles, for instance, would agree to make "every reasonable lawful effort to increase the representation of underrepresented religious groups at all levels of its operations in Northern Ireland."

Although there are no official unemployment figures by religion, studies have concluded that the unemployment rate for Catholics in Northern Ireland is about twice that of Protestants. Twenty-four American companies—led by American Brands, Du Pont, General Motors and Ford—employ 11 percent of the manufacturing work force in Northern Ireland. The overall unemployment rate in the province is 22 percent, the highest in Western Europe.

SECTARIAN BOUNDARIES

To be sure, the religious makeup of a company's work force tends to be determined by its location because the sectarian boundaries in Northern Ireland are clearly defined. E. I. du Pont de Nemours & Company, for instance, has its facility in the predominantly Catholic city of Londonderry and its work force is about 60 percent Catholic.

Last November, President Reagan defended the behavior of United States corporations, saying he was "proud that Northern Ireland enterprises in which American money is involved are among the most progressive in promoting equal opportunity for all."

Nonetheless, the MacBride Principles go beyond the percentage of Catholic and Protestant workers to what opportunities they are offered once hired. And there apparently are enough questions about the employment makeup of many of the companies operating in Northern Ireland to give the MacBride compaign momentum.

Two states, New York and Massachusetts, have enacted bills endorsing the MacBride Principles, while the legislatures in New Jersey, Florida, Connecticut and Illinois are considering measures on investment in Northern Ireland.

Several cities have also joined the campaign. Last year, New York City became the first backer of the principles at the urging of the Office of the Comptroller. The city's public pension funds have an estimated $250 million invested in 12 American companies operating in Northern Ireland. In Congress, Representative Hamilton Fish Jr., Republican of upstate New York, is drafting legislation to support the MacBride Principles.

The threat of divestment is implicit in the MacBride campaign. The New York State law endorsing the MacBride Principles, signed by Governor Cuomo on May 31, for example, "encourages" the State Comptroller to invest only in companies that adhere to the principles. The state pension fund holds an estimated $740 million investment in 12 companies doing business in Northern Ireland.

The experience of the Sullivan Principles, named for the Rev. Leon Sullivan, a Baptist clergyman and outside director of the General Motors Corporation, suggests that well-publicized efforts to use foreign investment as a vehicle for social change can lead to public pressure for divestment.

The New York City pension funds and church groups this year sponsored shareholder proposals urging seven companies to sign the MacBride Principles. The companies are American Brands, Ford, Fruehauf, General Motors, Hughes Tool, TRW and the VF Corporation. The corporations chosen are typically ones with comparatively few Catholic workers.

NO SIGNERS

So far, no American companies have signed the MacBride Principles. A key reason is that the British Government has maintained that certain affirmative action provisions of the principles constitute "reverse discrimination," which would be unlawful under Britain's Fair Employment Act of 1976.

That stance, however, has been questioned by a recent court decision. On May 12, the United States District Court for the Southern District of New York ruled that American-owned companies operating in Northern Ireland would not be violating Britain's Fair Employment Act by signing the guidelines. The case came before a United States court after an American company dismissed a shareholder initiative urging it to sign the MacBride Principles, contending that the initiative violated the British law. Though the ruling has no standing in Northern Ireland, it does support the case of the MacBride advocates.

The MacBride Principles have stirred a heated debate in the United States, Britain and Northern Ireland. The backers contend that they give Americans a tool for direct action to combat injustice in Northern Ireland, drawing frequent parallels between their campaign and that directed toward American investments in South Africa.

"Just as the Sullivan Principles opposed racism in South Africa, the MacBride Principles give Americans a way to fight religious discrimination in Northern Ireland," said the Rev. Sean McManus, national director of the Irish National Caucus, a lobbying group in Washington. "Today, American dollars are subsidizing anti-Catholic discrimination in Northern Ireland."

SPECIOUS ANALOGY SEEN

Opponents of the MacBride Principles, including the Reagan Administration and the Government of Britain's Prime Minister Margaret Thatcher, argue that the analogy between South Africa and Northern Ireland is specious, and that the effect of the principles would be mainly to scare away badly needed American investment, worsening conditions for both Catholics and Protestants in the beleaguered province.

"Most observers will acknowledge that employment discrimination has existed in the past and that unacceptable vestiges of it still linger," Charles H. Price 2d, the United States Ambassador to Britain, said in Belfast, Northern Ireland, last April. "However, the MacBride Principles are wrong because they can do incalculable harm."

MacBride opponents say the British Government does not use discrimination as a means of repression, as in South Africa. Britain's Fair Employment Act was passed a decade ago, they note, and it outlaws discrimination on religious or other grounds. According to Catholic leaders in Northern Ireland, the Fair Employment Agency has done a good job of investigating discrimination, but it has too little enforcement powers.

MacBride supporters bridle at contentions that their campaign will undermine Northern Ireland's already troubled economy. "We're not asking anyone to divest," said Patrick Doherty, administrative associate in the New York City comptroller's office. "We're trying to get American companies to change their employment practices, not pull out."

POLITICAL AGENDA

Other experts on the situation point out that the MacBride campaign extends well beyond its immediate target of a collection of United States corporations. "The MacBride Principles are not solely directed at American companies," said Dr. Christopher McCrudden, a fellow at Oxford University's Lincoln College. "They are an effort to put affirmative action on the political agenda in Northern Ireland via American companies."

Some American companies have been accused of anti-Catholic discrimination. For example, the Fair Employment Agency found Ford guilty last year of discrimination at its Belfast plant, the first time the Government agency ruled against an American company for anti-Catholic bias. Ford is appealing the ruling.

"We have a policy of equal opportunity," a Ford spokesman in Britain said.

Another allegation, contained in the report by the New York City comptroller's office, was that American Brands' subsidiary has "virtually no Catholic males" in its work force. In Greenwich, Conn., an American Brands spokesman said the company was "committed to a policy of equal employment opportunity" and ignoring that policy was grounds for dismissal.

TACTICAL MISTAKE

Even some Catholic leaders who support the goals of the MacBride Principles said that they might be a tactical mistake. John Hume, leader of the Social Democratic and Labor Party, which represents the Catholic minority in Northern Ireland and advocates nonviolent change, has contended that however well-intentioned, the MacBride Principles would act as a disincentive to investment, which the province desperately needs.

"Taking jobs from Protestants and giving them to Catholics isn't going to solve the problem," Mr. Hume said. "That will just create other tensions. What we need is more jobs over all."

Yet, on the other hand, even within the Protestant community there is an admission that the MacBride Principles, if nothing else, have served as an effective pressure on the Government to bolster its efforts against religious discrimination.

In a commentary in July, The Belfast Telegraph wrote: "The MacBride Principles can be seen as a help or hindrance, but they have raised awareness of the problem and are getting a significant Government response."

THE MACBRIDE PRINCIPLES

Following is the text of the MacBride Principles:

In light of decreasing employment opportunities in Northen Ireland and on a global scale, and in order to guarantee equal access to regional employment, the undersigned propose the following equal opportunity affirmative action principles:

1. Increasing the representation of individuals from underrepresented religious groups in the work force, including managerial, supervisory, administrative, clerical and technical jobs.

2. Adequate security for the protection of minority employees both at the workplace and while traveling to and from work.

3. The banning of provocative religious or political emblems from the workplace.

4. All job openings should be publicly advertised and special recruitment efforts should be made to attract applicants from underrepresented religious groups.

5. Layoff, recall and termination procedures should not, in practice, favor particular religious groupings.

6. The abolition of job reservations, apprenticeship restrictions and differential employment criteria, which discriminate on the basis of religion or ethnic origin.

7. The development of training programs that will prepare substantial numbers of current minority employees for skilled jobs, including the expansion of existing programs and the creation of new programs to train, upgrade and improve the skills of minority employees.

8. The establishment of procedures to assess, identify and actively recruit minority employees with potential for further advancement.

9. The appointment of a senior management staff member to oversee the company's affirmative action efforts and the setting up of timetables to carry out affirmative action principles.

THE NEED FOR NEW YORK'S ENVIRONMENTAL BOND ISSUE

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 11, 1986

Mr. KEMP. Mr. Speaker, I would like to call the attention of my colleagues to an issue of great importance to my constituents and all the people of New York State. The New York State Senate and Assembly overwhelmingly approved an important environmental initiative to help clean up the most critical toxic waste sites in the State. This environmental bond issue will raise $1.2 billion for the cleanup of nearly 500 hazardous waste sites in New York State, many of which are located in western New York. Paul MacClennan, environmental reporter for the Buffalo News, outlines the strong reasons for supporting this environmental bond issue with great insight in a recent article. I commend this article to the attention of my colleagues and thank the News and Mr. MacClennan for their leadership on this important issue.

The article follows:

FRONTIER HAS PLENTY OF REASON TO SUPPORT BOND ISSUE

(By Paul MacClennan)

Gov. Cuomo kissing a toxic dump?

Well, not exactly. But the governor will kick off a drive to win voter approval of the state's $1.45 billion environmental bond act Sept. 11 in New York City.

Why New York and not Niagara Falls? Probably votes and media attention, just as the governor elected to have his Environment 2000 meeting in New York rather than on less expensive turf.

Love Canal might have been an appropriate spot for Cuomo to launch the fall environmental agenda, but then again it's not a time to quibble and it is significant that the governor will put his political moxie on the line, running both for re-election and backing a major bond act in the same campaign.

Looking at the hard political realities, it's probably important for Cuomo to wring every single vote he can out of New York City for a bond act.

The selling job in Western New York where it's hard to turn around and not bump into a toxic mess should be an easy one. Just offhand it's hard to think of a reason for voting against it.

Erie County, for example, leads the state in the total number of abandoned or inactive hazardous waste sites—121 out of the total 981 toxic dumps statewide. Niagara County is second in the state with 99, so in the two-county area there are 20 percent of the sites under scrutiny.

But numbers alone don't tell the whole story.

As State Environmental Commissioner Henry G. Williams points out, the Western New York area has some of the most seriously contaminated, most seriously complex sites—the sites that will take decades to set right.

The public, almost numb from disclosure after disclosure, learns of a new environmental indignity every day, whether it's dioxin contamination of the air or a new delay in an already delayed remedial project.

Williams was in town last week with some good news, progress on curbing industrial discharges to the Niagara River by a further round of tightening of toxic waste discharges. But with some 200 dumps still suspected of uncontrolled leaking of wastes into the Niagara, the bond act takes on heightened significance for voters in this region.

While Williams says he sees a general wage of approval for the bond act as he travels the state, there are some clouds on the horizon.

State legislators in the Catskills and Adirondacks regions are fermenting opposition to the act on the grounds that they don't like the $250 million that will go for new land acquisition in the Forest Preserves. While the bulk of the money, $1.2 billion, goes for toxic waste programs, the $250 million will go for acquisition of land, municipal parks and historic preservation. Assemblyman Richard I. Coombe, R-Grahamsville, for example, says the bond act "leaves too much in the hands of the bureaucrats and does not address the concerns of local governments." He wants the legislation to spell out exactly how much will be spent on each dump. Well, anyone who has watched the evolution of Love Canal knows that every time you sink a shovel in the ground the price tag changes.

This column had problems with an earlier version of the bond act—one that called for squirreling away industry dollars in an environmental trust fund for 10 years. That onerous provision is gone and now industry will pay half the costs. The 50-50 split is a giveaway to industry, but, once again, it's probably the best one can get in a democratic legislative process, given the heavy lobbying by the Business Council and the big political contributions.

The selling of the bond act will continue the week of Oct. 11 to 19 with a bit of hoopla drawn from the days of a former environmental commissioner, Henry A. Diamond, who biked from Buffalo to New York peddling a clean waters bond act all the way.

Commissioner Williams isn't proposing to follow suit, but said he will participate in a series of events. Bikers from cities and towns throughout Western New York will converge on the Buffalo area towards the start of the tour and then a core group of riders will move on to Rochester, where again bikers from surrounding communities will converge in an assembly focusing on the bond act. Thus it will go across the state until they reach New York.

A second caravan, this time in boats, will leave the upper reaches of New York near Plattsburg and sail down the chain of lakes and canals, finally assembling in Newburg, where the Hudson River sloop Clearwater will join in a pitch for the bond act.

"I plan to hop around, joining the bikers one day and the boaters another to highlight the concern about getting the money to clean up toxic wastes throughout the state," Williams said.

State officials must walk a narrow line, because under the Public Officer's Law, the commissioner said, the department can provide information, but can't shill for approval of the act. "We can tell voters that the bond act is on the ballot, but we can't suggest how they should vote," he said.

State officials have already met with representatives of 30 environmental groups, such as Environmental Planning Lobby, the Sierra Club, Great Lakes United and the Ecumenical Task Force, to review plans for the fall campaign and Williams said the program got unanimous approval. Much of the "selling" will rest with these groups that are free to campaign openly and actively for approval.

Area residents will have a firsthand opportunity to discuss and debate the bond act at a regional Environment 2000 meeting from 8:30 to 5 p.m. Sept. 30 in the Orchard Park Fire Hall, 30 School St. in Orchard Park.

Williams is scheduled to attend the conference, which, besides the bond issue, will deal with issues such as the Great Lakes Governor's Toxics Agreement, pesticide use, recycling and reuse of throwaway materials, toxic air contaminants such as dioxin, and Great Lakes fisheries programs.

A statewide view of the importance of the bond act will come at the Environmental Planning Lobby's statewide conference Sept. 19 and 20 in Albany. The theme of the conference is the need to restore New York's historic role in environmental leadership, utilizing the bond act as a rallying point around which a new coalition can be

built to halt the decline of the last decade in interest in environmental issues.

Toxic contamination takes many forms across the state. Hazardous wastes leaking out of Long Island dumps are poisoning the sole source of drinking water. Dumps containing PCBs and an array of other wastes are despoiling the Hudson River. Tannery wastes despoil the Mohawk lands of Gen. Herkimer, toxic wastes threaten Olean's drinking water, refinery wastes harm Wellsville residents.

One doesn't have to go far or look far for a reason to vote Nov. 4. The state and its citizens have a huge undertaking if they want to enter a new century with an environment worthy of New York's proud history and bountiful land.

DR. DONALD MACDONALD—AT THE FOREFRONT OF OUR NATION'S BATTLE AGAINST DRUG ABUSE

HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 11, 1986

Mr. YOUNG of Florida. Mr. Speaker, the American people have focused their attention on drug abuse as our Nation's No. 1 domestic problem.

At the forefront of our Nation's war against this epidemic is Dr. Donald Macdonald, the Administrator of the U.S. Alcohol, Drug Abuse, and Mental Health Administration. As a personal friend and consitutuent of mine from Clearwater, FL, I know of Dr. Macdonald's longstanding battle against drug abuse in our community, our State, and throughout the Nation.

Following my remarks, I would like to include a recent column by Dr. Macdonald written for the St. Petersburg Times in which he challenges the American people to pursue three important goals in our effort to prevent drug abuse.

First, he urges parents to do all within their power to raise a drug-free generation in a drug-free environment.

Second, he advocates efforts to bring about a complete and lasting change in social attitudes toward drug use. And third, he supports the mobilization of community treatment and prevention efforts to deal with drug users and potential users.

Dr. Macdonald and his family have personally been touched by the pain and fear of drug abuse. They have taken their experiences and shared them with the community in developing important programs to combat drug abuse. President Reagan recognized Dr. Macdonald's personal commitment to this effort and nominated him to serve in his current position in the Administration where he is a national leader in this difficult endeavor.

Dr. Macdonald has risen to the challenge by charting a course against drug abuse that will result in a successful effort to reshape the American views and attitudes toward drug use. I recommend Dr. Macdonald's column to each of my colleagues because I believe it captures the essence of our Nation's problem and the solution to the dilemma that is drug abuse.

[From the St. Petersburg Times, Sept. 3, 1986]

TIME IS RIGHT FOR THE WAR AGAINST DRUG USE

(By Donald Ian Macdonald)

When I lived in Clearwater, practicing medicine and raising my family, one of my children was touched by drugs. All at once a new reality entered my home and my life.

My wife and I, trying to help our son fight back, experienced first-hand the frustration and pain associated with drugs. There were all of the searching questions, the agonizing over the past, the strong desire to set things right.

Some of the readers of the *Times* personally know of the problems I am talking about. No one can tell my family that drug use is a victimless crime. We were victims, our son as a user and those of us who helped him through his ordeal.

During that time I learned that we weren't the only victims. The seller and the grower are dependent on a trade that must create victims to operate successfully. They fuel the pipeline and become hopelessly dependent on it for their livelihood.

There are other victims—workers who are at risk because of the users on the job; elderly citizens who are robbered so users can support a growing habit; those who die on the highway in drug-related accidents; and taxpayers who devote part of their earnings to law enforcement efforts against drugs. The list goes on and on.

But we don't have to be victims. Currently, we have a unique opportunity to stop drug use in America. Future historians may view this moment as a rare time in the chronicles of our country. Several disparate forces are converging in the war against drugs, and we can now make dramatic inroads toward reduction of use.

For example:

The clear, angry voice of public opinion has been raised to a level of urgency. In fact, polls indicate that Americans view drugs as our No. 1 domestic problem.

President Reagan is preparing to escalate his already considerable efforts. The President plans to marshal the vast moral persuasion of his office, and the legal power of the federal government to conduct an all-out war against drug use in schools, at the work-place, and on the highways and the streets.

In addition, the scientific community has conclusively demonstrated with clinical studies the harmful and addictive nature of drugs, dispelling the lies and mythology surrounding use of marijuana, cocaine and many other drugs.

Finally, the media has focused its attention on the problem, prompting countless cover stories and many offers of help.

After two decades of relative social and economic tolerance of drug use in America we are ready to mount an effort to put an end to the epidemic of foolishness and tragedy that has engulfed us. Of course, law enforcement officials and the federal government have labored endlessly, providing a fulcrum to eradicate drug use. But largely missing from the equation has been pressure on the lever—a sense of individual, personal urgency from the American public.

I'd like to see us return to the time not so many years ago when we didn't have to talk of drug-free schools and a drug-free workplace. We had them. We knew then that drugs don't mix well with school or work.

We must pursue three goals if we are to have a drug-free America.

First, parents must raise a drug-free generation in a drug-free environment. This creates a containment barrier against the firestorm of drug use, allowing it to smolder and burn out.

Obviously, this will require parents to take a more active and responsible role in educating their children about the dangers of use. We must be role models for them.

Recognizing our children's immaturity and the pressures they face, we must provide them with adequate support and protection. All of us should know the health risks involved with drugs.

Kids must know that marijuana is habit forming, and smoking marijuana may be associated with cancer, emphysema and heart disease. Marijuana produces long-term effects on intellectual functions, decreases sperm count with males, may interfere with fertility in females and can damage the body's immune system.

Cocaine is even worse. It is addictive, and snorting can cause nasal problems, sexual dysfunction, cardiac arrhythmia, convulsions, coma, respiratory collapse, paranoid behavior and death.

When used as crack, the effects are even more pronounced. It causes rapid highs, which threaten the heart. Then the crack leaves the user with an extreme low, which demands an instant "fix."

Other drugs, such as PCP, heroin and the whole class of designer drugs may be even more harmful.

Our second goal must be a complete and lasting change in social attitudes toward drug use. Drug use must become and remain completely and utterly unacceptable in American life.

This will require more than our disgust. The elimination of drug use requires our radical rejection of any form of acceptability. We must let our kids know with certainty that we do not approve of drug use and that we expect them to abstain.

Third, we must mobilize community treatment and prevention efforts to deal with the user and the potential user. Treatment and prevention will go a long way in removing the problem of drug use in America.

For example, hard-core addicts use over 90 percent of the heroin in this country. Addicted cocaine users account for over 50 percent of the cocaine use.

These people need expensive treatment which will take them off the streets, and thereby reduce a large amount of the demand for these two drugs. If we remove these users from the marketplace, then the market itself will be seriously undermined.

For a lower cost we can educate, and with minimal encouragement and counseling remove, users of drugs who are less heavily involved but greater in numbers. These users are particularly important because they are following the same path as the seriously addicted. New users are led to experiment by those around them in a normal setting—their school mates, fellow workers and social acquaintances—who show no ill effects from drug use, at least in the beginning.

We must reach these new users with the message that drug use is often a one-way street. So the onus is ultimately on us. The President has made it very clear that each of us must take a clear-cut, personal stand against drug use. I urge the readers of the Times to do just that, and help us reach the three goals I have outlined.

THE NONSERIOUS DRUG CONTROL OPTION

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 11, 1986

Mr. WOLPE. Mr. Speaker, today we are considering serious and far-reaching antidrug legislation designed to combat the insidious threats of drug use and drug addiction with drug education and rehabilitation programs, more aggressive enforcement of antidrug laws, and improved interdiction activities at our Nation's borders. There are, however, proposals in other branches of the Government to address drug abuse on the Nation's streets and among its youth by asking middle-aged Washington bureaucrats to take urinalysis tests. The following article from yesterday's Washington Post demonstrates that such an approach not only diverts attention from serious antidrug efforts, but is also based on extremely faulty scientific procedures.

In light of information such as this, I can only say that I am very relieved that Congress is taking a serious and comprehensive approach to the problem of drug abuse.

[From the Washington Post, Sept. 10, 1986]

DRUG TESTING OPEN TO MISUSE AND FALSE READINGS

(By Philip J. Hilts)

Drug testing is a tricky, technical business that under ideal circumstances can accurately identify more than half of those who have used drugs, while falsely accusing a tiny percentage.

But in practice, testing like that in use at many companies is subject to so many hazards and serious questions of misuse that it would be virtually impossible to set up a program free from significant human error and potential for fraud, according to experts.

Drug testing is being considered by the Reagan administration for a wide range of federal employes.

Experts say the greatest abuse of the technology comes in business, and that as the tests become more widespread, the toll in mistakes and false accusations may be large. "I just hope there isn't too high a body count" before testing is done properly, said Theodore Shults, corporate lawyer for CompuChem, a drug-testing firm in Research Triangle Park, N.C.

By consensus, the best testing programs—and the system used by the military—first employ a screening test using a rough method, followed by an expensive and far more accurate second test. The first test misses a substantial number of people, perhaps as many as half, who have signs of drug use in their systems. It also falsely finds drug indicators in urine 5 percent of the time at a minimum, possibly more frequently.

Because of the high inaccuracy rate of these initial tests, the second is used to check results showing drugs present. This second test, experts say, is critical to any testing system but frequently is not used by businesses.

The typical sort of testing expected in a large screening program, like that being considered for federal employes, involves taking a urine sample and testing it for two to eight drugs. Some drugs can be identified for a few days after they have been taken, such as cocaine, and others for months, such as marijuana.

Factors affecting the accuracy of the final result include whether the sample was taken correctly with a witness present; whether the person tested has eaten or drunk something that will confound the test; the type of test used to take a first look for drugs; the type of test used to confirm the first result, and sloppiness such as mislabeling or contamination of the sample at any stage of the process.

The hazards of testing begin before the urine sample is taken. Subjects may be taking prescription or nonprescription drugs that can falsely give positive readings on the initial test. In addition, the amount of liquid taken before a test can affect the result.

Drugs that can cause false positives in screening for marijuana use, for example, are anti-inflammatory drugs and such common painkillers as Advil and Nuprin. In testing for amphetamines drugs that can give false positives include diet pills, nasal decongestants and heart or asthma medication.

Accuracy also requires a clear "chain of custody" of the urine sample, witnessed at every step to prevent switching, adulterating or mislabeling.

Thus, in the strictest programs, test subjects must be closely observed while they urinate into sample bottles.

When samples are taken to the laboratory, two screening tests are most common; the radio immunoassay (RIA), and the enzyme-multiplied immunoassay technique (EMIT).

Both use methods in which special chemicals from the body's immune system, called antibodies, pick out drugs or drug-breakdown products if they are present in the urine.

Both methods are also relatively inaccurate. In a study by the federal Centers for Disease Control in Atlanta, 13 drug-testing firms were sent urine samples not knowing they were from the CDC. The study showed that results varied from zero correct to 100 percent correct in identifying drugs such as cocaine morphine and barbiturates. Most firms were correct less than half the time.

In contrast, Cmdr. Walter Vogl, a senior policy analyst in the office of the assistant defense secretary for health affairs, said that in military testing of about 3 million people annually, the first screening tests are correct about 90 percent of the time.

Experts agree that the most important drug test is the second, confirmatory test. This must be done with a gas chromatograph mass spectrometer test, according to D. Ian MacDonald, director of the federal Alcohol, Drug Abuse and Mental Health Administration.

While screening tests cost a few dollars a sample, this second test can cost as much as $100. Its accuracy, however, is counted by experts to be near 100 percent, not counting human errors such as mislabeling.

THE RIGHT BOOKS

HON. THOMAS N. KINDNESS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 11, 1986

Mr. KINDNESS. Mr. Speaker, I would like to commend to the attention of the Members of the House of Representatives the accompanying article, written by Chilton Williamson, Jr., that recently appeared in the National Review. This article addresses the issue of amnesty as contained in H.R. 3810, the Immigration Control and Legalization Amendments Act of 1986, and highlights the studies of Donald L. Huddle, professor of economics at Rice University, as they pertain to the effect of amnesty on the United States, economically, culturally, and demographically.

This article was brought to my attention by "Americans for Immigration Control" and I would like to recognize them for the significant contribution they have made to the entire debate on immigration policy.

I urge my colleagues to consider the implications of the amnesty provisions contained in H.R. 3810 and to reject them when the bill comes to the floor for consideration.

[From the National Review, Aug. 29, 1986]

THE RIGHT BOOKS

(By Chilton Williamson, Jr.)

Some time during the next couple of months, Congress is scheduled to consider a crucial set of reforms: those concerning the nation's immigration policies. Although the various bills that have been proposed over the last three Congresses differ in a number of significant ways, one thing they have in common is an amnesty provision. Simpson-Mazzoli offers amnesty to illegals who have been in the United States since before January 1, 1980; the Rodino and Roybal versions move up the cutoff date of January 1, 1982; while some legislators wish for the still more generous deadline of New Year's Day, 1984.

There are plenty of voices raised in both chambers denying the virtue and wisdom of amnesty altogether, but so far their successes have been of a negative variety: They have been able to kill legislation so pernicious in its likely effect as to be worse than no legislation at all. For the past three years this attitude toward the question of amnesty has been derided as mulish, quixotic, or troglodytic; but it is precisely the question upon which new studies by Donald L. Huddle, Professor of Economics at Rice University, direct a laser-like beam, suggesting that the amnesty concept represents an enormous threat to the United States, economically, culturally, and demographically.

The first of these "discussions"—"Amnesty Implications of the 1985 Houston Survey" (available upon request and at cost from the Department of Economics, Rice University, P.O. Box 1982, Houston, Tex. 77251)—concerns the findings of a field survey of undocumented workers in the Houston metropolitan area undertaken in 1985 by Professor Huddle. Taking for their study a sample of two hundred undocumented workers from five Latin American countries, Huddle and his Rice University research team approached with the question: How would you respond to an amnesty program such as that proposed by the current immigration-reform bills?

Although, before Huddle's, there were virtually no empirical studies seeking to assess the possible impact of any particular legalization measure, certain assumptions had been widely and uncritically accepted in quarters where people are paid to consider such matters. One such assumption (fervently propagated by the Mexican government) is that the majority of illegals reside only temporarily in the United States before slipping back to their homes south of

the Rio Grande. That may have been more or less true until the 1960s, but since then the pattern has altered considerably: 89 per cent of Huddle's interviewees claimed they hoped to enjoy permanent-resident status in the U.S., while 61 per cent wanted citizen status. Another assumption concerns the number of illegals who would accept legalization: One analyst, after a study of the ill-fated Canadian amnesty of a decade ago, suggested a likely figure of one in three, while pro-amnesty groups have argued that an even lower figure is probable. However, of Huddle's sample, 85 per cent said they would apply for legalization under amnesty. Huddle's figures show that, on average, these newly legalized residents would each expect to bring two immediate relatives into the country, for starters.

Now, the number of illegals currently in the United States is a matter of debate, with estimates running between four and 12 million (Huddle himself places the illegal population at around nine million). Depending upon which estimate you select and which amnesty cutoff date you choose, by using a multiplier of two, you come out with estimates ranging from 1.9 to 12.5 million bodies added to the U.S. population by a stroke of the pen; while, with a multiplier of four ("the Immigration Service figures conservatively that a legalized Third World adult alien, will, on average, seek four additional visas for immediate and extended family members, and more in the future as chain migration takes effect"), the numbers increase to between four and 25 million. Now, 25 million people is nearly a third the population of Mexico; which makes you wonder why, if we are going to offer legalization on that scale, the legislation that accomplishes it should bother itself with such futilities as employer sanctions and beefing up the Border Patrol.

Huddle has argued elsewhere the displacement effects of illegal aliens on the native labor market, as well as the falsity of the myth that illegals contribute to the economy more than they subtract from its cornucopia of welfare benefits. He recapitulates and extends those arguments in this and in another dicussion paper, "A Profile of Illegal Immigrants in the Houston Metroplex: Implications for Amnesty, Employer Sanctions, and U.S. Immigration Policy." His studies deserve to be taken seriously by every congressman, and his conclusion—that a broad amnesty program with a recent cutoff date will create a "Third World backlog population pressing to get into the United States by any means possible," the result being that "Congress would soon again face the same pressing questions of civil and amnesty rights for the undocumented masses"—needs to be deeply pondered.

THE SPACE STATION AND MICROMANAGEMENT

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 11, 1986

Mr. BROWN of California. Mr. Speaker, I would like to express my reservations about action that is expected tomorrow on the Housing and Urban Development-Independent Agencies Appropriations bill, H.R. 5313, pertaining to the National Aeronautics and Space Administration [NASA] budget within that bill. I am concerned that my colleague, Mr. EDWARD BOLAND, chairman of the HUD-IND Appropriations Subcommittee, whom I deeply respect, will be offering an amendment that will further tighten the restraining straps that the Appropriations Committee has already placed on NASA's Space Station Program.

According to the Democratic Study Group, the Boland amendment is designed "to limit funding under NASA's research and development account to $160 million for development of the space station and to specify that funds for such space station development shall not be available for obligation prior to enactment of a subsequent appropriations act authorizing the obligation of such funds." The way I understand this amendment, it would keep NASA from moving into the development phase, or phase C/D, of the Space Station Program without first getting a supplemental bill passed in the Appropriations Committee and signed into a law.

While the Boland amendment in itself is not overwhelming or dramatic, it does highlight the continuing trend of the Appropriations Committees usurping the responsibilities of the authorizing committees. I believe that the Boland amendment is uncalled for because there is already sufficient—indeed more than sufficient—restrictive language in the HUD-Independent Agencies bill to keep NASA from moving into the phase C/D of station development without requiring a supplemental appropriation. The bill clearly states.

"Release of the balance of $150,000,000 * * * will not be approved by the Committees on Appropriations until selected requirements are satisfied—and a plan * * * for the implementation of such requirements is approved by the committees."

To tighten the screws on NASA even further with the Boland amendment could be detrimental to the program.

I commend Chairman BOLAND and the HUD-IND Appropriations Subcommittee for its intense and thorough oversight of the NASA budget. But micromanaging the specific program elements to achieve the committee-perceived objectives could be considered an abuse of power.

The committee report places a set of four requirements on the space station planners in order to ensure that "approximately 80 percent of the benefits of the station shall be derived by the United States," and that the station "will produce useful results at the outset of station activity." First, I would challenge the committee to quantify the benefits that we can expect to gain from the station. How do you measure the infinite number of possible benefits that may emerge from the space station activities, which will essentially be a laboratory in space, and then attempt to divide the benefits up among the international participants? Indeed, if we embrace the committee's recommendations, our foreign partners will be given a cold reception in a project to which they have already committed themselves.

As for ensuring that the station produces useful results at an early date, I would argue that the useful results of the space station will be evident on the first deployment mission. No one has ever tried to build a structure the size of a football field in space before. I think my colleagues on the Appropriations Committee sometimes forget that the space station is not an end in itself, but rather it is a single element in a larger and greater infrastructure yet to be built in space. Frankly, I am concerned that in the rush to deploy, we may miss some valuable opportunities to experiment with different construction techniques. To place deployment requirements on a program that is still evolving could seriously impede the effective execution of the President's 1984 space station directive.

Unfortunately, momentum is on the side of the HUD–IND appropriations bill, and it will likely pass with the space station provisions still in place. I will, however, oppose any amendment to further construct or undermine the space station program or any other part of the NASA budget. I encourage my colleagues to join me in this opposition.

CHEYNEY UNIVERSITY

HON. WILLIAM H. GRAY III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 11, 1986

Mr. GRAY of Pennsylvania. Mr. Speaker, it is my honor to pay tribute today in the House of Representatives to one of the premier institutions of higher education in the United States.

Cheyney University, Mr. Speaker, will celebrate the 150th anniversary of its founding on Saturday, September 20, 1986.

Since its establishment on a 275-acre campus just outside Philadelphia in Delaware County, Cheyney has opened the doors of knowledge and opportunity to thousands of black young men and women. Its gifted and dedicated faculity members have prepared their students for careers in the sciences, arts, and professions, and have established a reputation for Cheyney as one of our Nation's most prestigious black institutions of higher education.

Steering Cheyney University through one of its most important periods, Mr. Speaker, was Dr. Wade Wilson, who served as president from 1968 through 1981. Now Cheyney's president emeritus, Dr. Wilson is one of America's foremost educators. He is a distinguished humanitarian who has represented our Nation in numerous international education conferences, and who has earned a deserved reputation as a person with unselfish commitment to community service and the well-being of students at his alma mater, Cheyney University.

On September 20, Mr. Speaker, the Cheyney University Historical Commission will honor Dr. Wilson at a reception celebrating Cheyney's 150th anniversary.

I know that my colleagues will join me, Mr. Speaker, in saluting this outstanding institution and the man who has played such a pivotal role in its growth.

SANDINISTA REGIME CHARGED WITH ARRESTS OF OPPOSITION LEADERS

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 11, 1986

Mr. LAGOMARSINO. Mr. Speaker, repression and persecution continue in Nicaragua. The Sandinista regime arbitrarily arrests and detains opposition leaders who differ in their views from the government. The latest incident occurred last week when Bayardo Guzman, one of the national vice presidents of the Independent Liberal Party (PLI), was arrested. According to PLI President Virgilio Godoy, approximately 100 PLI members and intermediate leaders are being held in Nicaragua. A report of the arrest of Guzman follows:

MANAGUA, 4 Sep (ACAN-EFE).—A leader of the opposition Independent Liberal Party [PLI] was arrested by the Sandinist police and taken to an undisclosed location, the PLI reported today.

The detainee is Bayardo Guzman Martinez, the third national vice president of the PLI, the second force in the parliamentary opposition. Top PLI leader Virgilio Godoy said that "seven state security agents violently kidnapped Guzman from his own home (in the eastern city of Masaya), and took him to an unknown location."

Guzman Martinez's detention took place yesterday morning, the source said.

The incident "constitutes a gross reprisal against the PLI because of the efforts it has been making along with other parties in favor of the national dialogue," Godoy said. The liberal leader pointed out that approximately 100 PLI members and intermediate leaders "are being held at various prisons" throughout the country.

Godoy insisted that these incidents demonstrate "the governing party's lack of political willingness to seek peaceful solutions for the acute crisis affecting Nicaragua."

Godoy demanded the "immediate release" of the PLI leader, and an "end to the persecution of PLI members, whose only crime is civil disagreement with the policies and conduct of the FSLN and its government.

"We do not know where Guzman Martinez is, or what he is accused of. The case is very mysterious," the PLI national president told ACAN-EFE.

TRIBUTE TO YUE-SAI KAN

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 11, 1986

Mr. SCHEUER. Mr. Speaker, since February an audience of 300 million in the People's Republic of China has had the opportunity to watch a remarkably weekly television series produced and hosted by Yue-Sai Kan, an American citizen who was born in China.

Twice a week, Ms. Kan hosts her program, "One World," for the single largest television audience in the world. The 52-week series provides the Chinese audience with a view of the world since the program schedule includes scenes from more than 20 countries in Europe, Africa, Australia, and North and South America.

Mr. Speaker, Ms. Kan has become a household word in China and as a de facto "citizen-ambassador" she has fostered a great deal of good will and understanding between our Nation and China. She also produces and hosts a program devoted to Asia, known as "Looking East," which airs on cable and UHF channels in 48 States.

Ms. Kan's "One World" is a historic endeavor because she is the first foreigner to ever produce and host a television program on Chinese television. Her program, which has received high praise for its sensitivity and superb quality, will help to develop media and television programming in China. Her program is more than entertainment, it also is used as an educational tool by teachers who tape the program for classroom use.

"One World" provides the Chinese viewers with scenes of a world they seldom see, while "Looking East" provides American viewers with a fresh perspective on Asia. All in all, the programming produced by Ms. Kan satisfies a curiosity that exists in both East and West about each others' cultures. Ms. Kan is providing East and West with a global perspective.

Ms. Kan, who was born in China and raised in Hong Kong before coming to the United States, where she attended Brigham Young University and the University of Hawaii before embarking on her television career.

Her efforts have won her the title of "a modern day Marcia Polo" from Money magazine, while the New York Times said her work augers well not only for China and America, but for the rest of the world, as well.

Ms. Kan, whose father, Kan Wing-Lin, is one of best known Chinese painters, provides the people of China with a unique window to the world. She has succeeded in spanning the divide between two different cultures. She is a credit to her heritage and her citizenship.

AMENDING INTERNATIONAL CLAIMS SETTLEMENT ACT

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 11, 1986

Mr. BONKER. Mr. Speaker, today I am introducing a bill to amend the International Claims Settlement Act of 1949. This bill provides that the value of claims determined by the Foreign Claims Settlement Commission be based on the fair market value of the property taken.

This bill was considered by the Subcommittee on International Economic Policy and Trade on Thursday, September 11, 1986, and H.R. 5365, where technical amendments were offered. Therefore, the bill now encompasses those amendments considered by the subcommittee, and is being reintroduced.

In the past, legislation concerning the Foreign Claims Settlement Commission has not contained an explicit reference to the compensation standard required by international law, with the exception of the Cuban Claims Act of 1964. Without the definition of a compensation standard, the potential for claims decisions inconsistent with international law exists, which could harm current and future U.S. investment abroad. This bill remedies that situation.

The purpose of this legislation, which is entirely prospective, is to specify that fair market value may include, but not be limited to, the market value of outstanding securities, replacement value, going-concern value, and book value. It establishes a presumption that in the case of service industries, the appropriate basis for determining fair market value is going-concern value. This presumption is not mandatory, nor does it limit the discretion of the Foreign Claims Settlement Commission in any way.

Growth in the service industries is vital to the economy of the United States, and this includes the ability of those industries to expand overseas. It is important to not only protect business interests abroad which are owned by U.S. nationals, but also to ensure that if their property is nationalized or otherwise taken by a foreign government, the value of their claims for such losses will be determined fairly.

THE 1986 CALL TO CONSCIENCE VIGIL FOR SOVIET JEWRY

HON. JIM ROSS LIGHTFOOT

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 11, 1986

Mr. LIGHTFOOT. Mr. Speaker, today I want to bring to your attention an issue about which we should all be concerned. That is, the plight of the Soviet Jews. The want and need to be with one's family and to be able to practice religious and moral convictions seems to be a reasonable exercise of one's basic human rights, unless you are a citizen of the Soviet Union—particularly a Jewish citizen of the Soviet Union.

Massive emigration from the Soviet Union began in 1975 after the signing of the Helsinki accords. In 1979, the number of people emigrating from the Soviet Union gradually rose to 50,000, which was to be its all time maximum. Since then the number has diminished to a trickle, even though the number of people requesting visas remains high. The Jews in the Soviet Union are persecuted, harassed, have their jobs terminated, and some are even tortured for requesting a visa. All Jews connected with the state in any manner are considered dangerous because they may known classified information and therefore are denied visas. In all actuality, classified information may be the simple knowledge of the way life really is in the Soviet Union.

The Soviet Jews' situation grows worse every day, but we can make a difference. I have cosigned numerous letters to the Soviet Union pleading for basic human rights that most of us take for granted. This type of effort has proven to be effective in helping an individual emigrate—sometimes it even saves lives—because the Soviet Government is reluctant to continue with cases of repression once they become the subject of widespread public attention. It is very important that we

continue with all efforts to help these struggling people.

Mr. Speaker, I want to urge all of my colleagues to join the Soviet Jews in their struggle for basic human rights. We need to make it known to the Soviet Union that we will not simply turn our heads on these atrocities.

HISTORICALLY BLACK COLLEGES HONORED

HON. CARROLL A. CAMPBELL, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 11, 1986

Mr. CAMPBELL. Mr. Speaker, once again I take great pleasure in rising in support of the passage of House Joint Resolution 653 which designates the week of September 15, as "National Historically Black Colleges Week." I feel that such a week of recognition is but a small tribute to the important and prominent contributions that these institutions have made to our society.

Presently, there are 99 historically black collages and universities in the United States. Those of you who are familiar with the rich heritage of these institutions kown that they grant more than 30,000 degress each year in every field of study. History attests to the fact that numerous prominent scholars, educators, businessmen, and professionals were graduates of one or another of these fine schools, and I am pleased that we are able to show our support and thanks for the goals and accomplishments of these institutions.

Through passage of this resolution, I am pleased that we are able for the fourth year to express our respect and gratitude for the prominent roles that historically black colleges and universities have played, and continue to play in our society.

ST. CAMILLUS ACADEMY—AN EXAMPLE FOR AMERICAN SCHOOLS EVERYWHERE

HON. HAROLD ROGERS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 11, 1986

Mr. ROGERS. Mr. Speaker, my congressional district has received national attention in recent years over its comparatively low academic standing and number of high school graduates. We are now actively working on a program to reverse that trend and improve our schools.

So it gives me great pleasure to report to you that in my district, there is a small high school which has the highest percentage of National Merit Scholarship semifinalists in Kentucky, and maybe the highest in the entire Nation.

St. Camillus Academy in Corbin, KY has a graduating class of only 19 students this year, yet the school has unbelievably had six of its current students and one former student achieve semifinalist status on this year's exams.

Led by Principal Sister Mary Amabilis Martineua, this school has created an outstanding academic atmosphere for its students. Its emphasis on academics, discipline, and hard work are clearly evident in the results of the merit scholarship exams this year.

Those six students who made National Merit Scholarship semifinalist are: Patrick Hayden, Michael Davis, Robert Jarrell, Amy Jackson, Robert Messer, and Sherry Shaffer. Another student, Denise Brantigan, attended St. Camillus until this year, when she transferred to Laurel County High School.

Mr. Speaker, I believe this accomplishment deserves our support and our commendations. At a time when schools throughout the Nation are putting new emphasis on quality in education, St. Camillus is showing that good, old-fashioned hard work, and parental support make a difference in our children's education.

I ask my colleagues to join me today in congratulating these young men and women, and the faculty and staff of St. Camillus, for this truly outstanding achievement. Their accomplishments offer all our schools an excellent example of the kind of quality education which we must strive for.

A TRIBUTE TO ARTHUR M. LAWRENCE

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 11, 1986

Mr. WALGREN. Mr. Speaker, I want to salute Arthur M. Lawrence, an outstanding leader in the health care community who this month retires after 33 years of service to the people of western Pennsylvania.

I have been privileged to know Art Lawrence for nearly 10 years. During this time, Art has been the link to government for Blue Cross of western Pennsylvania, serving as that organization's senior vice president for community and government affairs. He has been a strong, articulate, and sensitive advocate for Blue Cross and the millions of citizens it serves. We will miss him tremendously.

Art is a unique individual who combines a strong background and experience in media and public relations with a genuine sense of caring for people. His personal interest in the special needs of the unemployed, financially disadvantaged, and the elderly have led to innovative programs of health insurance coverage for these groups in western Pennsylvania. And his personal community service as a member of the board of directors of such groups as the Health Systems Agency, the Nursing Foundation, and the Western Pennsylvania Caring Foundation attests to his dedication to people.

Mr. Speaker, I am honored to salute Art Lawrence. Many know him as a good friend and a generous and unselfish leader in the health care field. With hopes that we in Pittsburgh will continue to have his counsel on issues important to the health of people in our region, we wish Art the very best in his retirement.

A GLOBAL SUMMIT ON TERRORISM IS NOW IMPERATIVE

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 11, 1986

Mr. GILMAN. Mr. Speaker, today, I am introducing a resolution (H. Res. 547), cosponsored by the leadership and members of the Committee on Foreign Affairs, calling on the President to convene a world summit to decide on effective, united means to combat international terrorism.

In the past weeks the world has been shocked by a tremendous upsurge in international terrorism, after a respite of some months following America's action against Libya. The hijacking of Pan Am Flight 73 in which 3 Americans and 17 others were killed, and the massacre at the Neve Shalom synagogue in Istanbul, in which 21 Jews were killed at prayer are just the most prominent examples. There have also been attacks in Western Europe, and another American, Frank Reed, was kidnaped in Beirut.

The administration has been reacting properly in respose to these outrages. We have sent a most persuasive emissary, Ambassador to the United Nations Vernon Walter, to Europe in an attempt to rally support for additional pressure against Libya, but the reaction to our request was disappointing. The Congress has recently called on the President to work for the establishment of an international coordinating committee on terrorism.

The continuing failure of our most strenuous efforts to establish a unified, effective international policy on terrorism is an indication that there are differences which need to be addressed at the highest level. Accordingly, we are calling on the President to convene a summit meeting on terrorism to achieve that kind of coordination and effective policy.

The agenda for such a meeting should include taking steps to end the misuse of diplomatic facilities, such as pouches and embassies, in support of terrorism; expelling diplomats representing states supporting terrorism; applying economic sanctions against countries harboring or training terrorists; establishing standards for better airport and seaport security; establishing terms for the exchange of information on terrorist activities; providing stricter visa and immigration requirements for nationals of states supporting terrorism; and, finally, agreeing upon mechanisms for coordination and cooperation in the use of force, when necessary and appropriate, against terrorist targets.

At the close of the Second World War, the democracies of the West united in a defensive alliance against threatened aggression. Responsible leaders of the world must now come together and decide to fight this new aggression—the menace of international terrorism which threatens to engulf us all.

Mr. Speaker, I ask that all my colleagues join us in cosponsoring this resolution, and I ask that a list of the original cosponsors and the text of the resolution be printed in the RECORD at this point:

H. RES. 547

Expressing the sense of the House of Representatives that the President should convene a summit meeting of world leaders to adopt a unified, effective program against international terrorism

Whereas international terrorism respects no borders, is a scourge on societies throughout the world, and has wreaked havoc on the lives of countless innocent persons;

Whereas since January 1, 1980, international terrorism has resulted in the deaths of over 3050 persons (including 345 Americans);

Whereas terrorism is never justified as a means to reach any political end;

Whereas the United Nations General Assembly has, by unanimous vote, condemned the use of terrorism for any purpose whatever;

Whereas world religious, government, and social leaders have condemned the senseless, barbaric loss of life caused by terrorists;

Whereas the Congress has passed and the President has signed into law Public Law 99-399, the Omnibus Diplomatic Security and Antiterrorism Act of 1986, which directs the President to continue to seek the establishment of an International Antiterrorism Committee; and

Whereas there is an urgent need for responsible world leaders to formulate a comprehensive international strategy to combat terrorism: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that the President should convene a summit meeting of world leaders to adopt a unified, effective program against international terrorism.

FULL LIST OF COSPONSORS

Representatives Gilman, Fascell, Broomfield, Hamilton, Yatron, Solarz, Mica, Barnes, Wolpe, Crockett, Gejdenson, Dymally, Lantos, Smith (FL), Reid, Levine, Weiss, Udall, Garcia, Lagomarsino, Leach, Roth, Snowe, Hyde, Solomon, Bereuter, Siljander, Zschau, Dornan, Smith (NJ), Mack, DeWine, and McCain.

NATIONAL SECURITY AND CONGRESSIONAL RESPONSIBILITY

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 12, 1986

Mr. DORNAN of California. Mr. Speaker, the late H.L. Mencken once observed:

There is no record in history of a nation that ever gained anything valuable by being unprepared to defend itself.

This basic tenent is embodied in our Constitution. However, the role Congress has forged for itself in crafting our Nation's defense over the past 25 years, and in particular since the end of the Vietnam war, has grown out of proportion to the intent of our Founding Fathers and to the detriment of all rules of efficient management.

There is something terribly wrong with the budget process when Congress determines that the only way that it can get a handle on runaway Federal spending is through the Gramm-Rudman-Hollings Deficit Reduction Act. The necessity of this measure rested on the fact that Congress has failed to approve a single Reagan administration budget, and has yet to meet the deadlines set for itself, in law, under the 1974 Budget Act. So rather than make the hard decisions themselves, or acqueisce to the President's program, we chose to take the coward's way out.

One disastrous result was U.S. defense spending declined 6.3 percent from the previous year. Since the end of the Vietnam war, there has only been two other years, fiscal year 1978 and 1979 that saw declines in defense budget authority—1.6 percent and 0.02 percent respectively. The major upheval in defense programs, forced cuts, reprogramming, and so forth, plays havoc with defense management.

I cannot accept the liberal bias that defense is the simple equal of any and all other Government programs. Nor, given the increases in domestic spending since 1970, can I accept that defense expenditures must bear the brunt of the cost of reducing the budget.

Instead of focusing on broad military policy and spending guidelines, Congress has become ever more involved in micromanagement. Liberal Members and staff seem anxious to control every detail of our national security programs. With the passage of this year's Defense authorization bill, this control has now broadened to directing the United States arms control policies.

But the micromanagement of defense, twice a year, has done nothing to improve defense management. In many respects this is detrimental to efficiency. The congressional budgeting process prompts the services to protect marginal programs that should be killed and discourages effective testing that would indicate where weakeness lies.

Furthermore, in the last 10 years we have had our defense appropriations signed into law only twice before the fiscal year began. In other years, DOD has operated under continuing resolutions at prior year spending levels. This is not sound management.

Outside of major changes in the congressional budget process, the detrimental micromanagement of the Defense Department will continue. However, there is a potential solution that would go a long way to mitigate a legislative process that by nature inspires micromanagement. Congress must be convinced that effective reforms must include change in the budget process. I am a strong advocate of a 2-year defense budget coupled with multiyear procurement.

The 2-year budget has a number of attractive arguments in its favor. It would begin to lengthen the current short-term focus in Congress that often crowds out meaningful program review and evaluation. It would provide better, more effective oversight of the Pentagon by reducing time spent on program-related details. It would help cut down on friction between the executive and legislative branches and potentially serve to facilitate better coordination and cooperation. It would provide more specific and timely authorization guidance to Congress. And, it would lower weapon unit costs by providing stability in the defense procurement process. Multiyear procurement with congressional oversight at principal milestones will provide stability, encourage efficiency and allow for proper development and testing. These management tools will go a long way to prevent the pennywise/pound foolish defense thinking that put us in the deficit acquisition quagmire we are in today.

Mr. Speaker, I would like to submit for the record an article that appeared in Defense News on September 8, 1986. The author, Andrew K. Ellis, elaborates on the point that there is something wrong with the process when the ranking member of the House Armed Services Committee, and the chairman and ranking Senator of the Senate Armed Services Committee cannot support the final Defense authorization bill as passed by the House of Representatives. I strongly urge my colleagues to read the following poignant analysis.

DEFENSE BILL PLAYS POLITICS IN HOUSE—NATIONAL SECURITY NEEDS OBJECTIVITY, NOT POLITICALLY MOTIVATED BLOCS

(By Andrew K. Ellis)

If Mikhail Gorbachev had been true to his word, the one-year Soviet moratorium on nuclear testing would have expired on Aug. 6—the 41st anniversary of the atomic bombing of Hiroshima. The general secretary hesitated, however, because a far more meaningful propaganda victory was pending, courtesy of the Democratic-controlled House of Representatives. Gorbachev's patience did not go unrewarded as unilateral arms controllers in the Hcuse stole the show during floor consideration of the 1987 defense bill. Perhaps rendered speechless by his good fortune, Gorbachev did not get around to extending his one-year, 12-day moratorium until recently.

While Gorbachev's test-ban posturing comes as no surprise, the swift and stunning imposition of the liberal Democratic agenda on the 1987 defense authorization bill does. Many Democrats will respond, however, that the arms control votes during consideration of the defense bill were bipartisan, as a number of House Republicans jumped on the bandwagon. While there is a grain of truth to this, if one watched the arms control votes unfold on the floor, a solid bloc of Democratic votes was evident every time.

Unable to implement and even unwilling to introduce their arms control legislation in the more appropriate forum of the Armed Services Committee, House arms controllers descended on the authorization bill when it reached the floor. In one short week, the House: reduced Strategic Defense Initiative (SDI) funding $600 million from the already low committee level of $3.4 billion; reversed the rational committee position on ASAT that would have allowed the U.S. test program to proceed as long as the Soviet ASAT system remained operational; imposed a moratorium on all nuclear testing below one kiloton (the worst of all worlds, as the kiloton limit explicitly recognizes the importance of testing while simultaneously being so low as to prove essentially meaningless from a scientific perspective); and forced the president to abide by the SALT II quantitative limits even though the treaty has never been ratified by the Senate and despite repeated Soviet violations of both its spirit and letter. As the crowning blow, and contrary to the recommendations of both the Joint Budget Resolution and the House Armed Services Committees, the full House cut an additional $5.5 billion from the overall defense budget—although a 3 percent military pay raise was retained for obvious political reasons.

Something has gone very wrong with the entire process when the final bill cannot be supported by the committee's ranking Republican, when the ranking Democrat on the Senate Armed Services Committee accuses the House of having gone "too far," and when the chairman of the Senate Armed Services Committee is allegedly considering not conferencing the two authorization bills. When the authorizers of our national security willingly abdicate their responsibilities to the appropriators, the system has broken down.

House Armed Services Chairman Les Aspin argues that the recent success of these arms control incentives in the House can be interpreted as a vote of no confidence in the president's arms control policies. Since his own Armed Services Committee would have rejected any of these initiatives out of hand (and did in the case of SDI and ASAT), perhaps the success of the arms controllers on the floor should be construed as reflecting Aspin's as well as the liberal Democrat's inability to develop and maintain a policy consensus within the committee. The point, however, is that the House committee tasked with defense authorization apparently believed, and right so, that the inclusion in its bill of sweeping arms control concessions to the Soviet Union was neither proper or prudent. Unfortunately, the full House was far less cautious.

Finally, it is a statement made just prior to the bill's final passage by Les AuCoin (D-Ore.), the quintessential liberal arms controller, that deserves scrutiny and clarification. In urging Republicans to support the amended defense bill, AuCoin stated, "I can understand how many members on the Republican side feel right now, because you have lost on a fair-play basis . . ." Surely AuCoin was temporarily overwhelmed by his arms control-induced euphoria and consequently misspoke. To consciously call "fair" the inflexible mechanism that emerged out of the Rules Committee to structure the floor debate on the defense bill is beyond comprehension.

If they were truly fair, the Democrats should at least be willing to call a spade a spade. They controlled the debate from the outset and rigged the rules in such a way as to predetermine the outcome. For evidence, one has only to read HR531, the "rule" for floor consideration of the defense bill. The Democrats structured the debate in such a way as to restrict consideration of a number of "special topic" issues, prohibit perfecting legislation (i.e. compromise), and render the Armed Services Committee's position on a number of issues unattainable. While the bill in its amended form may offend the sensibilities of many Americans, it certainly cannot be regarded as a surprise under the carefully manipulated circumstances.

AuCoin's interpretation of "fairness" raises a more important point. Arms control—and for that matter all issues of national security—should have nothing to do with fairness. Fairness is a subjective term and by definition an analysis of reality. National security policy is too important to be forged by the random whims of temporary, politically motivated alliances—it demands objectivity and consistency.

Gorbachev waited 12 days after his moratorium was to have expired to react because House action on the defense bill held great promise for the Kremlin, something they did not wish to jeopardize with a premature propaganda campaign. The House fulfilled the general secretary's wildest dreams and then some. These are objective facts that must not be lost in all the excited liberal rhetoric. Reality still confronts us each and every day and should therefore demand of our elected officials a coherent international posture. Hopefully such an approach to the world around us will not elude the House of Representatives for too much longer.

REPRESENTATIVE DIOGUARDI CALLS FOR REFORMS OF THE FEDERAL FINANCIAL SYSTEM

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 12, 1986

Mr. KEMP. Mr. Speaker, as one of a handful of certified public accountants in our Congress, our colleague Representative JOE DIOGUARDI of New York is preeminently qualified to discuss the reform of our budget and financial process. In the following article, he persuasively argues that the Federal Government's financial, management, budget, and accounting systems are a national disgrace.

Representitive DIOGUARDI is not alone. The General Accounting Office Director Frederick D. Wolf has also argued for a revamping of the budget process, strengthened Federal accounting, auditing, and reporting systems, and improved and strengthened internal controls. White House Chief of Staff Don Regan also recently called for major policy initiatives to reform the Federal financial system.

As a beginning remedy to our chaotic and haphazard accounting procedures, Representative DIOGUARDI has introduced H.R. 4495. The bill would establish a new Office of Chief Financial Officer [CFO] to direct and coordinate Federal financial management. The bill also would establish an assistant secretary for financial management in each executive department; and a comptroller in each executive agency. In general, the CFO would provide leadership and direction while monitoring executive agencies in their financial management and reporting activities. As a cosponsor of this bill, I can fully endorse those goals.

In the following article, Representative DIOGUARDI discusses some very important reforms to put the Federal Government on a more businesslike footing. For example, he raises the idea of a Federal capital budget. The Federal Government's capital expenditures—for items like roads and bridges—run over $100 billion yearly. Yet under current accounting procedures, these costs are written off in a lump sum at the beginning, rather than over a period of years. At least 37 States now have a separate capital budget. It's time the Federal Government improve its own financial accounting system by considering this idea.

Representative DIOGUARDI also raises the issue of removing trust funds from the unified budget. Social Security, highway, and some other programs are financed by their own earmarked taxes. Yet under current procedures, they are comingled with generally financed programs. Proper accounting procedures should be developed for trust funds as well as long-term costs and obligations of the Federal Government.

The line-item veto is another important budget reform that should be passed by Congress. The administration has asked repeatedly for the authority to veto individual appropriation line items in the budget, a power already enjoyed by many Governors. It could be an important new discipline for Federal spending.

In short, the current system is antiquated, unreliable, and indeed disgraceful. Our hodgepodge financial systems have resulted in wasteful spending, sloppy management, poor planning, and inaccurate reporting of the budget deficit.

I congratulate Representative DIOGUARDI for taking leadership on this priority issue, which I believe will be an important one in the year ahead. I commend the following article to my colleagues.

[From Management Accounting, August 1986]

CONGRESSMAN DIOGUARDI: "THE U.S. GOVERNMENT NEEDS A CHIEF FINANCIAL OFFICER"

(By Kathy Williams)

Will the United States government ever be run like a business—subject to proper accounting systems and procedures, a capital budget, audited financial statements, fiscal responsibility, adequate record keeping, good controls? Congressman Joseph J. DioGuardi (R-N.Y.), a former partner with Arthur Andersen & Co. and one of only four certified public accountants in Congress, is doing his best to make it happen.

Last March the freshman representative from New Rochelle in Westchester County introduced in the House of Representatives Bill H.R. 4495, the Federal Financial Management Improvement Act, calling for a chief financial officer for the federal government. Operating in much the same manner as a controller or CFO of a corporation, the federal CFO would coordinate all federal financial management activities by consolidating them within a single organization. At present, these activities are scattered across several areas: the Office of Management and Budget (OMB), Office of Personnel Management (OPM), and the Treasury in the executive branch; the various executive branch agencies; and the General Accounting Office (GAO) in the legislative branch.

"None of these entities has clearcut responsibility for oversight and direction of the federal government's financial management operations and activities," Mr. DioGuardi notes. "In addition, financial management responsibilities have frequently been shifted from one central agency to another, and in each central agency, financial management functions must compete with a number of other assigned responsibilities for their fair share of attention. There is a missing link in the federal government. The linchpin of financial discipline is nowhere to be found. The financial management leadership void must be filled."

Mr. DioGuardi became determined to try to change the government's accounting systems after hearing "horror story after horror story regarding the lack of established businesslike financial management practices" during his first year on the Government Operations Committee and attending hearings on the deficit and government waste. The businessman of 22 years was appalled by the reactive attitude and actions of Congress, "robbing Peter to pay Paul, putting out fires every day, staying one step

ahead of the sheriff—that's our budgetary process."

"I thought I was going to Congress to get on the Board of Directors of Government," he exclaims. "Accountability is key to a Board of Directors, but I found we didn't have reliable financial information upon which to make decisions and report back to the public, our shareholders." He also discovered that the U.S. government operates on "a Mickey Mouse, cash basis of accounting and has no strategic planning whatsoever. The government is trained to think only a year ahead. It asks what we spent instead of how we spent it. It builds the home from the fifth floor down instead of the ground floor up. We have conditioned people in government to spend, not save," he admonishes.

He felt the time was right to introduce his legislation because of the current emphasis on reducing the federal deficit and curbing waste. A CFO could pull together previous attempts at coordinating government financial management practices. For example, the GAO for years has been reporting that "Our departments and agencies are a veritable jungle of special-purpose, incompatible, antiquated accounting systems producing unreliable, incompatible, and often irrelevant financial information. One of the latest GAO studies, moreover, reports that the federal government now uses 427 separate accounting systems, of which 53% do not conform to GAO accounting principles, standards, and related requirements," the congressman says.

The now-famous Grace Commission declared its "War on Waste" after uncovering in the government an estimated $424 billion of mismanagement and projecting a $1.96 trillion national deficit by the year 2000. J. Peter Grace, head of the Commission and chairman of W.R. Grace & Co., is, in fact, spending his own money to bring this message before the public via television commercials and print ads. The Citizens Against Government Waste, co-chaired by Mr. Grace and columnist Jack Anderson, is a nonprofit, bipartisan foundation formed to educate the public and Congress about the Grace Commission recommendations. The Grace Caucus, of which Mr. DioGuardi is an avid member, is a group of about 150 senators and representatives proselytizing to "not let the Grace Commission recommendations sit on the shelf."

Other predecessors to Bill H.R. 4495 include the Inspector General Act of 1978; the Federal Managers' Financial Integrity Act of 1982; Debt Collection Act of 1982; President Reagan's Council on Integrity and Efficiency; the President's Council on Management Improvement; a proposal by the Association of Government Accountants to strengthen controllership in the federal government; and various attempts by executive branch departments and agencies to reform their systems. These efforts aren't new—over the past 30-35 years, various systems and controls experts have developed coordinated accounting systems for the military and for other governmental operations, only to have them squelched right before actual implementation or implemented only partially. Even William E. Simon, former secretary of the treasury, 1974-77, tried to institute similar procedures in the Treasury function before he left office, but to no avail, and after he left, the matter dropped. Now Congressman Joe DioGuardi has picked up the gauntlet.

SETTING UP THE ORGANIZATION

The management structure Mr. DioGuardi envisions encompasses the CFO, who would serve in the executive office of the President; an assistant secretary for financial management in each executive department; and a controller in each executive agency. All would be appointed by the President, with the advice and consent of the Senate. The CFO would serve a 10-year nonreappointable term, and the assistant secretaries and controllers would serve a four-year, reappointable term. A Federal Finance Council, consisting of the CFO and the assistant secretaries for financial management, also would be established to assist the CFO in formulating plans and objectives, comment on proposed major changes in financial management operations, and prepare recommendations on selected issues.

In general, the federal CFO would provide leadership and direction while monitoring executive agencies in their financial management and reporting activities. He would develop and maintain a five-year strategic plan that would cover "system enhancements, staffing needs, technology improvements, required legislative actions, financial management objectives, information requirements, and budget priorities," Mr. DioGuardi explains. The CFO also would create financial statements for the government, which would be subjected to audits, as well as maintain the government's central accounting and reporting records. He also would ensure that personnel were managing the financial operations properly—even down to the details of making sure cash and checks were deposited as soon as they came in, something that doesn't happen now. "He needs tentacles going into each governmental agency and operation if this thing is to work. Otherwise, he's going to be on Cloud Nine, talking about accounting principles and not knowing what's happening in the trenches," Mr. DioGuardi exclaims.

A natural candidate for the position, he muses, would be "someone from a major company—like ITT, Texaco, IBM—where you have to literally pull together all kinds of pieces of financial information from various divisions and industries and even holding companies. You need someone who has been in the trenches gathering information, managing the financial function—a CFO from the private sector, whether he or she is certified or not."

IS A CFO NECESSARY?

When criticized by other congressmen for concentrating too much on numbers and not enough on compassion, he instantly fires back that he is just as concerned as the next person about humanity, and cites other bills he has introduced—those on drug abuse, child abuse, suicide legislation, and homeless housing assistance. "I'm making qualitative judgments. I know there's a deficit problem, but I'm willing to increase some programs and decrease others based on how they are managed and what their needs are. Cutting right across the board to reduce the deficit is nonsense," he explodes. "We've got to exercise every bit of compassion to identify social needs, programs we need, and allocate resources. Once we allocate those resources, however, we must manage that program the way we'd manage any business. Let's make sure we hold people responsible. If they don't do their job, out! If they do their job, give them a bonus."

He reiterates his accounting background and speculates that if more members of Congress were attuned to business, they would better understand long-term ramifications of their decisions. "We've counted 245 attorneys and only four accountants in Congress—at a time when we are trying to balance the books in government, dealing with budget issues, tax issues, economic issues. More than half of what we do relates to analysis, either quantitative or qualitative, that almost requires an accounting or business background . . . budget systems don't tie in with accounting systems. We have a budgetary system, an appropriation system, and continuing resolutions and supplementary budgets. I'm a CPA, and you can't imagine how difficult it is for me to follow what's going on. How other legislators are making these multi-billion dollar decisions, don't ask me. Then waste—waste isn't one big thing. Waste is thousands of small things. It's structural, it's systemic, and it must be approached from the point of view of systems and planning—a CFO's point of view. That's why I have to make this issue my crusade."

Joe DioGuardi isn't alone in his efforts to install a CFO in the federal government. "The idea first began to be proposed seriously in the early part of 1980 by leaders in financial management in both the public and private sectors," he notes. "Roland W. Burris, the comptroller of the state of Illinois, and Joseph E. Connor, chairman of Price Waterhouse & Co., have both assumed a key role in promoting the need for a CFO." Various other individuals, nonprofit organizations, and private sector groups are continuing this effort.

The General Accounting Office, charged with setting uniform accounting standards and principles for all federal agencies, is the government's independent auditor and a strong proponent for financial management reform. Comptroller General Charles A Bowsher, head of the GAO, says, "We need better financial reporting at the federal level. It's the key to the whole issue. We have the auditor (the GAO) and we need a strong CFO function in the government—a scorekeeper for the executive branch. OMB is in charge of the budget, and the CFO would keep score of how the budgeted money is spent, so the two would work closely."

In a letter to a member of the Senate Governmental Affairs Committee, the counterpart to the House Government Operations Committee, Mr. Bowsher noted that "financial management in the federal government is a major problem facing us today. Poor systems, information inadequacies, and weak controls have frequently resulted in wasteful spending, inefficient management and losses totaling billions of dollars." He added, ". . . current financial reporting practices of the federal government do not disclose the actual cost of operations; do not disclose the financial condition of the federal government; do not disclose the current and probably future costs of investment or policy decisions; do not permit effective comparison of actual costs or accomplishments to budget plans; and do not provide the timely information required for efficient management of programs . . . there is no official with clearly defined authority and responsibility for assuring the effective and efficient operation of the federal government's accounting and other financial management systems. Clearly the original concept of tieing management improvement to the budget just hasn't worked; the time has come to find a more workable solution to these problems. I believe the establishment of an independent Chief Financial Of-

ficer is a major element of such an approach."

AN EDITORIAL VIEWPOINT

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 12, 1986

Mr. BEREUTER. Mr. Speaker, as Congress considers the troubling questions that have arisen since the tragic loss of the space shuttle, *Challenger,* the editor of the Omaha World Herald on September 2, 1986, produced a particularly insightful statement on the question of future spending for the Space Program. I commend the editorial to the attention of my colleagues.

BETTER OPTIONS ARE AVAILABLE THAN THROWING CASH AT NASA

Doubling the budget will not necessarily solve the problems the United States has with its space program. Spending twice as much is how the American Institute of Aeronautics and Astronautics proposes to solve the problem, but the solution isn't that simple.

For one thing, the government doesn't have the money to double the $7.5 billion-a-year budget of the National Aeronautics and Space Administration.

For another, the Challenger investigation has brought to light a number of questions about the agency's management procedures, as well as its mission and goals. These questions need to be answered before decisions are made about what level of financing will be necessary.

The country can't afford too much delay. Without the ability to replace its space satellites as they wear out, the country could eventually find itself at a severe disadvantage in the areas of communications, weather forecasting and military surveillance. The Soviet Union isn't the only competitor. Space programs also are emerging in Europe, Japan and China.

Last April, federal audits indicated that NASA and its contractors wasted billions of dollars on the shuttle and other space programs. The New York Times reported that the audits reflected "a far different picture from that widely held before the Challenger catastrophe of an essentially smoothly running, trouble-free agency."

A higher level of spending may become necessary to restore the nation's satellite-launching capability and pursue whatever other goals Congress and the White House set for NASA. The time to increase the spending, however, is when the goals have been set and NASA has demonstrated that it is able to pursue them efficiently.

ALABAMA WILDERNESS ACT OF 1986

HON. RONNIE G. FLIPPO

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 12, 1986

Mr. FLIPPO. Mr. Speaker, I am pleased to introduce today the Alabama Wilderness Act of 1986.

In 1974 Congress enacted the Eastern Wilderness Act which designated 12,000 acres within the William F. Bankhead National Forest in Alabama as the Sipsey Wilderness. The legislation I am introducing today would expand the Sipsey Wilderness by designating an additional 17,700 acres located adjacent to the Sipsey as wilderness. In addition this bill would designate the Sipsey River as a component of the National Wild and Scenic Rivers System. The Sipsey Wilderness and the proposed changes are located entirely in Lawrence County, AL which I am proud to represent in Congress.

This is not the first time I have introduced legislation to expand the Sipsey Wilderness. I first introduced a bill to expand the Sipsey Wilderness in the 97th Congress in 1982. This bill proposed adding approximately 29,000 to the Sipsey. The House passed this bill on August 4, 1982 by a vote of 354 to 49. I reintroduced similar legislation in the 98th Congress. Again the House passed this bill on June 6, 1983 by voice vote with no dissent heard.

The bills approved by the House in 1982 and 1983 enjoyed widespread support throughout my district and the State.

The bills enjoyed widespread support in Lawrence County where the proposed wilderness land is located. The bills were endorsed by the county tax assessor, the county tax collector, the Lawrence County Association of Elected Officials, the local members of the State judiciary, the local chamber of commerce and a wide spectrum of public and private citizens.

The wilderness expansion bills of 1982 and 1983 were widely supported throughout the State of Alabama. The bills were endorsed by every major newspaper in my district and throughout the State. The Governor, Lieutenant Governor, the State attorney general, the State treasurer, the State auditor, the director of the Alabama Bureau of Publicity and Information, the commissioner of the State Department of Conservation and Natural Resources and the State Director of the Division of Game and Fish also supported the bill. In addition, the mayors of Anniston, Birmingham, Montgomery, and Decatur, AL endorsed the bills as did the Birmingham City Council, the Jefferson County Commission, the Lauderdale County Commission, the Bass Anglers Sportsman Society, the Lewis Smith Lake Civil Association and the city of Vestavia Hills, AL.

Despite the widespread level of support throughout Alabama, the bills passed by the House in 1982 and 1983 were not enacted into law. A few within the State demanded further negotiations and concessions.

The bill I am introducing today is the product of lengthy and tortuous negotiations and compromise extending over 3 years. This bill satisfies an estimated 99 percent of the concerns of the interested parties on both sides of the issue. I must admit that there are parties on both sides of the issue who apparently will never endorse a proposal that does not satisfy their every wish and whim.

The time has come, however, to put the hay in the barn and fully protect these priceless acres of Alabama.

The Alabama Wilderness Act of 1986 is really consistent with the Land and Resource Management Plan prepared for the National Forests in Alabama by the Forest Service and published last March. This plan recommended increasing wilderness area in Alabama by 9,793 to 18,720 acres. The Management Plan determined "that any wilderness acreage selected by Congress within a range of 9,793 to 19,350 acres would not appreciably affect the production of other nonwilderness goods and services".

The commercial forest land base in Alabama is the third largest in the Nation. Only Georgia and Oregon have more commercial forest land than Alabama. Two-thirds of the land in Alabama or 21.3 million acres are covered by forest. Some of this forest land located in the southern half of the State is among the most productive in the country. The expanded Sipsey Wilderness proposed in the bill I am introducing today of a little more than 30,000 acreas would only amount to less than six-tenths of 1 percent of the total land area in Alabama and less than two-tenths of 1 percent of the total commerical forest land in Alabama.

Like most other Southern States, 75 percent of Alabama's commercial forest land is owned and controlled by thousands of nonindustrial private owners. Our forestry industry depends on free timber markets with many participants for most of its wood supply. Public forest lands account for only 1 million acres of the total commerical forest lands in Alabama. The expanded wilderness that I am proposing would amount to less than 5 percent of the total public forest lands in Alabama.

This legislation proposes to include in the National Wilderness Preservation System approximately 28,500 acres, encompassing a network of canyon-enclosed streams and tributaries flowing directly into the existing Sipsey Wilderness Area, and culminating there in the formation of the West Fort Sipsey River. The protection thus afforded to a virtual entire watershed benefits our State and Nation by preserving a complete eco-system harboring a nationally renowned refuge for unique plant and animal life; by assuring the permanent physical intergrity of the beautiful West Fork Sipsey River, which has been designated by this Congress for study as a potential unit of the National Wild and Scenic Rivers System; and by helping maintain the purity of Lewis Smith Reservoir downstream, a major source of water supply for Alabama's largest city.

The canyons of the Sipsey, formed by tributaries slicing through massive, flat-lying sandstone beds, have long been recognized as a refuge for a unique diversity of life forms; 78 species of fish, including two unnamed, endemic darters, inhabit the Bankhead Forest's remote streams. The gorges and uplands provide habitat for 80 species of woodland birds, many of which must have hardwood to survive. The Sipsey has a full range of mammals, including not only abundant game wildlife, but also otter, mink, beaver, raccoon, opossum, shrews, bats, and—a true relic of ancient times—elusive evidence of mountain lion. The geology of the area is particularly remarkable, with precipitous cliffs and massive boulders revealing plant and animal fossils from the dim past.

But the Sipsey's greatest renown lies in its unique botany, resulting in part from the remarkable coincidence of three geographic regions, the Coastal Plain, Appalachian Moun-

tains, and the Piedmont Plateau, and three frost zones in one area. In consequence, the deep, shadowy, and moist canyons harbor a plant fauna of unusual size, diversity, distribution, or rarity, some very damanding in habitat. Moreover, receding glaciers from the ice age have left within the narrow gorges a remnant of such northern trees as the Canada Hemlock and sweet birch, and 22 other plants which reach their southern limit in the Bankhead National Forest.

The watershed is also a refuge for the kind of old-growth hardwood forest which once covered the Eastern United States, but which survives now only in such remote areas as the Sipsey's canyons. According to U.S. Forest Service date, hardwood trees over 60 years of age constitute the single most predominant type in the acreage here proposed for inclusion in the wilderness. A few of the most inaccessible canyons contain coves harboring virgin stands of both hardwood and conifer, notably hemlock. A visitor to the proposed wilderness sees a forest that is overwhelmingly old growth, naturally regenerated, predominantly hardwood.

Honeycombed by canyons, the land involved in this legislation is not appropriate for intensive timber production. In 1971, the U.S. Forest Service performed a hydrological analysis of the entire watershed of the proposed wilderness and found that most of the acreage was inappropriate for intensive management due to a high erosion hazard and potential for intolerable solid damage on the steep slopes and floodplains. Indeed, according to current U.S. Forest Service data, less than one-fourth of the acreage included in their RARE II "further planning" areas here lends itself to intensive management, and this is restricted to the narrow divides between canyons. However, because the unique ecology of the canyons are dependent upon a water supply from slope wash and subsurface seepage from the divides, clearcutting, roadbuilding and other disruptive practices there can radically impact the canyons flooding them in wet seasons and desiccating them during drought. Therefore, the physical integrity of both the existing wilderness, and the expanded wilderness as here proposed, dictate that all of the land involved in this legislation be included in the National Wilderness Preservation System.

In the Sipsey, abundant water and sheltering walls enclose an island of the past. Sheer sandstone cliffs, crowned with mountain laurel and filled with rare ferns and wildflowers, rear above the steep valley slopes. Hundreds of waterfalls cascade down the rock walls or plunge to the valley floors. Numerous rock shelters occur throughout the miles of gorges, and monstrous boulders lie shattered at the base of the cliffs. Here indeed one finds outstanding opportunities for solitude and (the) primitive, unconfined form of recreation required by the Wilderness Act of 1964.

The Alabama Wilderness Act of 1986 differs in many respects from the 1982 and 1983 proposals to expand the Sipsey Wilderness. For the most part these changes reflect years of negotiations and compromise, the development of new information and data, the publication of the Final Management Plan for the National Forests in Alabama in March of this year, and the completion of the studies necessary to justify adding the Sipsey River to the National Wild and Scenic Rivers System.

In 1982 and again in 1983, the House passed legislation that proposed expanding the Sipsey Wilderness by 29,500 acres. The Alabama Wilderness Act of 1986 would add only about 17,700 acres. This represents a reduction of 11,800 acres or 40 percent from the original proposals.

The Alabama Wilderness Act of 1986 differs also because it includes language designating approximately 9,500 acres around the free flowing Sipsey River as part of the National Wild and Scenic Rivers System. This is a welcomed addition to this legislation.

The waters of the Sipsey River flow down through Alabama feeding the water supply for numerous towns and cities including the major metropolitan area of Birmingham, AL. The enactment of the Alabama Wilderness Act of 1986 would ensure the quality of this water supply by expanding the wilderness and protecting the river canyons that surround this watershed.

In addition the bill provides for added protection by including specific language directing the Secretary of Agriculture to monitor and maintain the quality of the water in the Sipsey River.

In earlier versions of this bill, I proposed keeping the socalled Northwest Road that runs from east to west along the top of the existing Sipsey Wilderness area open. After careful study and discussions with the Forest Service and others, I have decided to delete this provision from the Alabama Wilderness Act of 1986. This decision is based on a number of factors.

This road would bisect an expanded wilderness area and complicate the management of the entire area. In addition, maintaining the road in the middle of wilderness would be very expensive. The road cuts through a canyon, is very steep in parts and contains a number of switchbacks—all of which are expensive to maintain. The individuals who use this road have pointed out that the Ridge Road provides a convenient alternative route. The continued use of the road is not compatible with the wilderness concept.

There is also another reason for closing the road related to travel by horse. Horseback riding enthusiasts throughout the Southeast have long recognized that the Sipsey Wilderness is an ideal area for horseback riding. Unfortunately, the Forest Service currently bans travel by horse in the Sipsey Wilderness. I intend to press as I did successfully in 1982 and 1983 to include report language that would open an expanded wilderness to horseback riding. The closing of the Northwest Road would provide the Forest Service with the opportunity to develop an ideal horse trail.

Mr. Speaker, the infestation of the southern pine beetle in my State is creating havoc through the forest lands. This problem is of vital concern to everyone dependent upon the forest lands for their livelihood and recreation. The Federal, State and local authorities in Alabama are extending vast amounts of time, money and energy in the battle to stop this infestation. I am pleased to note that the Forest Service has published an environmental impact statement describing their plans and policies regarding this problem. I want to provide the Forest Service with the maximum amount of flexibility necessary to assist them in their work. This will be reflected in report language.

Mr. Speaker, the Alabama Wilderness Act of 1986 is the product of countless hours of intense study and negotiations on the part of many Alabamians. The widespread interest in this issue has enabled me to benefit from the advice and recommendations of large numbers of knowledgeable Alabamians with expertise in forestry, conservation, tourism, recreation, and education. I want to take this opportunity to thank each for their patience, participation, and contribution.

The Sipsey Wilderness has been the subject of extensive hearings in the House. The Subcommittee on Public Lands and the Committee on Agriculture both conducted hearings on this subject in 1982 and 1983.

I want to thank and commend Mr. SEIBERLING, chairman of the Subcommittee on Public Lands and Mr. DE LA GARZA, chairman of the Agriculture Committee for their patience, understanding and considerable contributions to this legislation. They along with their colleagues who serve on their respective committees and their staff have been a great source of encouragement and wise counsel throughout the many years we have worked on this legislation.

Mr. Speaker, I urge my colleagues to support the Alabama Wilderness Act of 1986.

A TRIBUTE TO DUANE NIGHTINGALE

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 12, 1986

Mr. LEVINE of California. Mr. Speaker, I rise today in recognition of Duane Nightingale, an exceptional American whom I have had the privilege of knowing for many years.

As the customer relations manager of General Telephone Co. in Santa Monica, Duane is a visible and respected figure in the greater Los Angeles community. In addition to his role at General Telephone, Duane donates his time and talents to a number of civic organizations where he has served as president of the Santa Monica Kiwanis, the Navy League, director of the Santa Monica Boys Club, director of the YMCA, first vice chairman of the Salvation Army advisory board, director of the Santa Monica College Associates.

It has always been a pleasure to work with Duane and a recent article in the Evening Outlook revealed that a number of people share similar feelings. I ask permissin to reprint this glowing profile which offers an accurate portrayal of a very special man.

A TRIBUTE TO DUANE NIGHTINGALE

(By Will Thorne)

Among the plaques and commendations that line the walls of Duane Nightingale's office—last one on the right, second row from the top, to be exact—is one naming him the Santa Monica Chamber of Commerce's "Ambassador of the Month."

The title given for the period of July to August 1984, has long expired, but it so

neatly describes Nightingale's job that it still seems apt and current.

"It's a pretty good descriptive term." agreed Nightingale, who is actually described in the General Telephone Co. table of organization as the firm's "customer relations manager."

"And it works both ways, too. I represent the company here in the community of Santa Monica—and sometimes I find myself representing the community to the company. I'm here to help out whoever needs to be helped.

Nightingale, who started with —— a pole-climbing lineman 31 years ago, is the first company ambassador, a post that was created in 1981 after years in which the company suffered the slings and darts of a public outraged at what it considered the poorest service.

"In those years, we had quite an image problem." said Nightingale. "It was felt that somebody active in the community and working with the community could help to improve that image.

"When I was asked to do the job, they said they would like me to get out and tell our story—but they were not sure how I was to go about it and they could not offer any guidelines.

Wiser still was a GTC decision to plow enough money into its Santa Monica and Westside facilities to make the system work as well as any U.S. system can said Nightingale.

"The company spent a lot of money in the community to improve the system," he said. "Without that happening nothing I could have done would have worked."

Has it been a success?

Yes. Nightingale said without hesitation, "I feel very strongly that this has been a success."

The community seems to agree with him—and the reason it names for success is most often Nightingale himself.

"He's one of my very favorite people in the whole world," said Bernice Bratter, executive director of the Senior Health and Peer Counseling Center. "He's such a kind, decent caring type of person. Duane really cares. He has given us a lot of help with our work."

Pete Barrett a community-oriented businessman and himself a volunteer worker for a number of Santa Monica organizations, finds Nightingale a "very hard worker."

"I've been with him at committee meetings at 7:30 in the morning and again as late as 9:30 or 10 o'clock at night," he said.

"He really is a good guy." Said City Manager John Jalili, "Whenever we have contacted Duane on any issue, whether it's dealing with senior center bond act monies or the need for telephones in the park, he's always been very prompt and most helpful."

Over the years, Nightingale has won a reputation both for being influential and in a city where clefts have been deep between political factions, something of a power broker.

"He's a very objective and he looks at other points of view," said Aubreyu Austin, board chairman of Santa Monica Bank. "He's a no-nonsense guy with a good common-sense approach. He doesn't get ruffled."

"He's been very helpful to this office," said Carol Kurtz, administrative aide to Assemblyman Tom Hayden, D-Santa Monica, Malibu. "It's almost like you don't know where he stands politically."

The winner of all these kudos was born 52 years ago in Norfolk, Neb., the middle of three children of a salesman who took whatever work he could to keep his family going, and moved it to Denver when Duane was only 5.

Throughout high school, Nightingale worked to support himself at such jobs as sweeper boy for the school district and theater usher, and dreamed of becoming an architect.

"I always thought that would be an exciting profession to design buildings," he add. "But I just couldn't afford to go on past high school."

In 1955, at the age of 21, he joined General Telephone in Redondo Beach and, within six months, was a cable splicer. But in October 1961, when GTC started looking for an ambassador. Nightingale had worked his way up to area service operations manager in Santa Monica—and was already a known quantity in the community.

He was a past president of Santa Monica Kiwanis and the Navy League, director of the Santa Monica Boys Club, director of the YMCA, first vice chairman of the Salvation Army advisory board, director of Santa Monica College Associates and member of the college's advisory board and a host of others.

Among his honors were commendations from the Los Angeles County Board of Supervisors and awards as Lion of the Year, Navy Leaguer of the Year and—of course—the chamber's nomination as Ambassador of the Month.

"That's why I was chosen because I was already active in the community," he said.

"And I still would be, even if it wasn't my job," he added. This isn't work. It's fun."

TRANSMISSION OF AIDS

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 12, 1986

Mr. WAXMAN. Mr. Speaker, as the AIDS epidemic continues to claim more Americans' lives, a great deal of confusion has arisen about the danger of transmission of this disease by means other than sexual contact, use of unclean needles, or from pregnant woman to fetus. I would like to call my colleagues' attention to two particular documents, demonstrating that, while AIDS is an extremely serious illness, it is not an easy one to transmit or catch.

The first is an article from the New England Journal of Medicine by Dr. Merle Sande. I find it to be a clear summary of the disease and the lack of any transmission through nonsexual, nonblood contact.

The second is a summary of a paper presented at the international conference on AIDS this summer, which lays out possibly the worst case imaginable—a violent, brain-damaged hemophiliac man with the HIV virus. Even in this worst case—involving biting and scratching—no transmission or even exposure occurred.

I commend these articles to my colleagues.

TRANSMISSION OF AIDS—THE CASE AGAINST CASUAL CONTAGION

(By Merle A. Sande, M.D.)

The epidemic of acquired immunodeficiency syndrome (AIDS) has become an epidemic of fear. Although our understanding of the disease has been progressing rapidly, the new knowledge has often produced more public concern than relief. The identification of the etiologic agent as a virus—although of critical scientific importance—did little to quell the fears of either the medical community or the general population. Instead, people reacted to the fact that AIDS is caused by a virus with a hysteria reminiscent of another viral infection—the polio epidemic of the early 1950s.

As each new obsevation was announced, concern intensified. Isolation of the virus from semen explained the rapid spread of the disease in the sexually active male homosexual population but aiso aroused the fear of potential spread in the heterosexual population. The recognition of an asymptomatic-carrier state amplified the fear of sexual contagion in our society, and that fear was further intensified by reports of widespread transmission of the AIDS virus by heterosexual activity in Africa. The recognition that contaminated blood and blood products were the vectors for transmission of the virus to transfusion recipients and patients with hemophilia and that intravenous drug users acquired the infection by sharing needles raised the possibility that health care workers could be at similar risk from occupational exposure. Probably the most sensational information, and perhaps the most misleading, was that the virus had been isolated from saliva and then from tears. This suggested to the public that the disease might be spread by food handlers, by kissing or shaking hands, or even by contact with fomites. The media did little to dispel these notions; on the contrary, the public was led to believe that AIDS was a highly contagious disease.

The belief that the AIDS virus can be transmitted by casual contact has produced numerous political, legal, and ethical dilemmas. Responses have been varied, including calls for quarantine, mass screening of all potentially infected persons, expulsion from military service of all antibody-positive personnel, and exclusion of infected children from schools. In some cases refusal to care for AIDS patients has been condoned.

Throughout the epidemic, the Centers for Disease Control (CDC) has had a critical role in countering such reactions. Rational guidelines (based on the best available data on the modes of transmission) for preventing the transmission of the AIDS virus were developed and widely publicized early in the course of the epidemic. However, the response of public officials has been erratic, and the public remains confused.

Where are we now, five years after the epidemic became evident? First of all, although the epidemic is still increasing at an alarming rate nationwide, there is some indication that the rate of increase is slowing in certain areas, such as New York City, and in San Francisco the number of new cases has actually been constant for the past year. This observation may reflect a slowing of the rate of viral acquisition. According to one recent epidemiologic survey in San Francisco, only 5 percent of seronegative homosexual men acquired evidence of infection between 1984 and 1985 (Moss AR: personal communication).

Secondly, and surprisingly, the disease has remained confined largely to the high-risk groups (homosexual men, intravenous drug users, patients with hemophilia and persons who received transfusions before blood screening was introduced, and the offspring and sexual partners of members of these groups), and the distribution of cases among these groups has been remarkably constant

throughout the epidemic. In only 5 percent of cases is the mode of transmission unknown. Thus, there is no evidence that the disease is spreading to other populations.

Thirdly, certain factors have been shown to potentiate the transmission of the AIDS virus in the highrisk groups. Very early in the epidemic, studies from the CDC demonstrated that the risk of spread in the homosexual male population correlated with the number of sexual partners. This behavior accounted for the rapid dissemination of the disease throughout the country. Rectal receptive intercourse and the exchange of blood through the sharing of needles are activities that promote viral transmission. These activities may allow fluids containing infected cells to enter the circulation of the uninfected recipient.

In addition, intrauterine spread or vertical transmission of the disease from mother to fetus is an established mode of transmission. The chance that an infected mother will transmit the virus to her unborn offspring may be as high as 50 percent. Unfortunately, clinical AIDS is much more likely to develop in an infected infant than in an infected adult. The virus has been isolated from breast milk, and breast feeding could represent another mode of transmission.

Furthermore, there seems to be no doubt that the disease can be spread by heterosexual sex. Although heterosexual transmission has been postulated as the predominant mode of transmission in equatorial Africa, studies conclusively documenting this remain to be published. That the virus can be transmitted from men to women during vaginal intercourse is supported by the fact that female prostitutes in Africa appear to be at extremely high risk of infection. According to the CDC (CDC AIDS program: personal communication), the total number of such cases in the United States in which heterosexual transmission has been implicated remains low—only 180 so far—and the disease in 152 of these cases was transmitted from a man to a woman. On the other hand, examples of sexual transmission from a woman to a man are more difficult to document; only 28 cases have been reported in the United States.

It is possible that the difference between the two sexes in the rate of transmission is due to the fact that there are more male intravenous drug users and bisexuals capable of transmitting the disease to women than there are infected women capable of transmitting the virus to men. Although it would appear that the potential for the future spread of this disease in the heterosexual community remains a serious problem, we still do not know the relative risk of spread of the virus through vaginal intercourse and are even less secure in our knowledge about transmission from women to men. To date there is no evidence that the disease is spread by oral intercourse or by kissing.

Finally, remarkably consistent current data indicate that occupational exposure to patients infected with the AIDS virus does not pose a serious risk to health care workers. Over 1750 health care workers with intense exposure to patients with AIDS have been studied for evidence of antibody to the AIDS virus. Of the workers not otherwise members of high-risk groups (e.g., homesexual men or intravenous drug abusers), less than 0.1 percent were found to be antibody positive. In our institution (San Francisco General Hospital), more than 300 health care workers with intense and sustained exposure to patients with AIDS for nearly four years have been studied; all are antibody negative, with the exception of 14 of 50 homosexual male hospital workers (Gerberding JL: personal communication).

Can the disease be contracted by an accidental needle stick with a needle contaminated by blood from a patient with AIDS? Probably yes, but with an extremely low frequency (less than 0.5 percent). Only one documented case, in a British nurse who acquired the virus after actually receiving a microinjection of blood after an arterial puncture, has been reported. Three additional cases of possible needle-stick transmission in the United States have been suggested but not proved. One worker was not available for followup, and the other two denied high-risk activity; it is possible that in each of these three cases, acquisition of the virus could have been through one of the more well-described routes. In addition, over 660 subjects (including one who acquired hepatitis B) with needle sticks from infected needles have been studied and found not to have seroconverted. The low frequency of transmission of the AIDS virus by accidental needle stick as compared with that of hepatitis B, in which 20 to 30 percent of those so exposed acquire the virus, may be due to the large differences in the concentrations of infectious particles in the blood (up to 10^{13} viral particles per milliliter for hepatitis B, as compared with 10^{4} for AIDS). One can therefore conclude that caring for AIDS patients, even when there is intensive exposure to contaminated secretions, is not a high-risk activity. Infection-control committees should therefore implement policies to minimize accidental needle sticks and develop infection-control procedures based on the current CDC recommendations.

The article by Friedland et al. in this issue offers strong supporting evidence that the AIDS virus is not transmitted by casual contact, even within a family unit in which there is intimate contact with infected persons. Of 101 subjects tested who were living in a household with a documented carrier of the AIDS virus, none acquired the virus, and it seems clear that the one antibody-positive subject was infected by vertical transmission in utero or at the time of birth. The implications of this study are strengthened by the fact that the infection-control procedures followed by many health care workers were obviously not employed in the families studied. The duration of exposure reported was certainly sufficient, and the interactions numerous enough, to provide every opportunity for the virus to be spread within the family if such transmission was likely. Other, smaller family studies have produced results consistent with those of Friedland et al. Only 1 of 35 household members associated with 14 seropositive Danish patients with hemophilia had serum antibody to the AIDS virus (human T-cell lymphotropic virus Type III [HTLV-III]). This person had engaged in vaginal, oral, and anal intercourse with one of the infected patients with hemophilia. The failure of the virus to spread in the secretion-rich environment of the family may in part be explained by the very low isolation rate recently reported in samples of saliva. Ho and his colleagues could isolate HTLV-III from only 1 of 83 saliva samples cultured from antibody-positive subjects, although the virus was detected in 28 of the 50 blood samples tested from the same population. Others have confirmed these studies.

The picture is therefore clear. The AIDS virus is spread sexually, by the injection of contaminated blood, and vertically from mother to fetus. Other modes of transmission are extremely rare. Persons at high risk of acquiring the virus are men who are homosexually and bisexually active, intravenous drug abusers, persons receiving infected blood product intravenously, and children born of infected mothers. At intermediate risk are persons, expecially woman, who engage in heterosexual sex with members of high-risk groups. Groups whose members are highly unlikely to acquire the virus (i.e., virtually no-risk groups) include health care workers caring for AIDS patients and anyone who has casual contact with persons infected with the AIDS virus, including food handlers, schoolchildren, coworkers, and family members. On the basis of these facts, the keys to preventing transmission of the virus are (1) the screening of all donated blood and (2) education and other attempts to modify risky sexual behavior and intravenous drug abuse.

It is now time for members of the medical profession, armed with this knowledge, to take a more active and influential role in quelling the hysteria over the casual transmission of AIDS. We need to support public and medical officials who oppose universal screening, quarantine, the exclusion of students from classrooms, and the removal of employees, including health care workers, from the work place.[7] The evidence presented by Friedland et al. is a powerful argument with which to counter the public's fear of casual contagion and should be used to thwart attempts to discriminate against persons in the so-called high-risk groups.

SUMMARY OF PAPER PRESENTED AT THE INTERNATIONAL CONFERENCE ON AIDS

Risk of Transmission of HTLV III/LAV from Human Bites. C. Tsoukas T. Hadjis, L. Theberge, P. Gold, M. O'Shaughnessy, P. Feorino. Montreal General Hospital, Hopital Notre Dame de la Merci, Montreal, LCDC, Ottawa Canada; CDC, Atlanta, USA.

HTLV III/LAV is known to be transmitted through intimate sexual contact, IV drug abuse or via blood transfusions. Casual contact in public schools should not constitute a risk of transmission of this virus. Arguments for keeping infected children out of school arise from concerns for potential exchange of blood or saliva via cuts, bites or bleeding. To examine the relative risk of transmission of this virus via bites and scratches, we studied 188 health care workers who were in contact with a brain damaged hemophiliac with AIDS-related complex (ARC). This 36-year old man suffered extensive neurologic impairment following a motor vehicle accident and now exhibits violent behaviour, including biting and scratching those around him. In a two-year period while he had typical manifestations of ARC, he inflicted bites and scratches on 30 health care workers causing skin puncture wounds with residual scars. His mouth was frequently full of saliva and blood, his fingernails soiled with semen, feces and urine.

Extensive immune evaluation was carried out on all personnel six months after skin trauma. All were normal and there were no significant differences between the bite and casual contact groups. All persons bitten or scratched were HTLV III/LAV antibody negative by Western blotting. The patient was antibody positive and his peripheral blood lymphocytes were virus positive on coculture with H9 cells. Lymphocytes of 25 exposed individuals tested were culture negative.

We conclude that this patient with ARC, proven viremic for HTLV III/LAV and producing copious amounts of body fluids, failed to infect those caring for him even through the extensive skin trauma produced by bits and scratches. Thus the risk of transmission of this virus from bites and scratches under similar conditions should be very low.

WHY THE DOG DIDN'T BARK IN ANGOLA

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, September 12, 1986

Mr. BROOMFIELD. Mr. Speaker, a recent Washington Times article by syndicated columnist Cord Meyer (August 29, 1986) provides an insightful analysis of the current situation in Angola. The article provides a useful update on recent events there and describes a military standoff that could spur negotiations which might lead to national reconciliation. This is the laudable goal of the Reagan administration and it should be supported by those of us in the Congress.

Mr. Meyer argues that the Marxist "MPLA leadership will not negotiate with UNITA as long as it has reason to hope that UNITA's access to U.S. arms will be terminated." It is clear that applying broad restrictions on the President's ability to conduct our Nation's foreign policy is not in the best interests of the United States, nor does it help the subjugated people of Angola. The article, which follows, is must reading prior to upcoming consideration of the Intelligence authorization bill.

[From the Washington Times, Aug. 29, 1986]

WHY THE DOG DIDN'T BARK IN ANGOLA

(By Cord Meyer)

Just as the dog that did not bark provided the crucial clue in the Sherlock Holmes story, so the failure to date of the Popular Movement for the Liberation of Angola (MPLA) to mount its long-threatened general offensive successfully is a critically important non-event.

It is the best evidence that military victory over Jonas Savimbi's UNITA guerrillas may be slipping beyond the reach of Moscow's Angolan satellite.

After last fall's powerful MPLA attack caught UNITA by surprise and almost overwhelmed Mr. Savimbi's main southern base, the Soviets appear to have decided to go for broke this year to knock UNITA out of the war before the newly authorized flow of covert American arms can improve Mr. Savimbi's chances.

After the tripartite Soviet-Angolan-Cuban consultations held in Moscow in January 1986, General Secretary Mikhail Gorbachev asserted that "no one should have any doubts about the Soviet Union's unswerving commitment" to Angola. To make good on that promise, the Soviets have not only replaced all the equipment lost by the Angolan army in last year's fighting but have poured in additional modern fighter bombers, helicopter gunships, tanks, and radar to re-equip the 60,000 MPLA army and the 35,000 Cuban troops in Angola.

Faced with this formidable attempt to destroy once and for all the 50,000 UNITA guerrillas, Mr. Savimbi has carried out a brilliantly conceived and well-executed preemptive strategy of keeping President Eduardo dos Santo's Angolan army continually off balance. By raids against the oil installations in Cabinda and against the diamond mines and coffee plantations in the northeast, UNITA commanders have forced the MPLA to defend on a wide front and so far have prevented the concentration necessary for a successful attack on UNITA's southern base.

Finally, this month as the MPLA built up at Cuito Cuanavale the armor and ammunition for a major offensive, Mr. Savimbi struck preemptively with the new American anti-aircraft and anti-tank weapons his men have quickly learned how to use. On one day, the MPLA forces lost six military helicopters. Although heavy fighting still continues, both Pentagon officials and UNITA representatives in Washington are optimistic that, with the rains due in five weeks, the MPLA has almost run out of time to conduct its planned offensive.

In a demonstration of his confidence that he has fought the MPLA to a stalemate, Mr. Savimbi has announced the holding of UNITA's national congress at his southern capital at Jamba in a few weeks, and more than 2,000 delegates are expected to attend from within the country and abroad.

According to those who have spoken with MPLA President Eduardo dos Santos and his Cabinet ministers, the MPLA leaders attribute their failure to destroy UNITA to three major factors.

First, the UNITA spoiling offensive in the north and central regions forced them to disperse their forces and to resupply some towns by air.

Second, the repeal of the Clark Amendment and the Reagan administration's decision to supply American weapons to Mr. Savimbi covertly made any attack on UNITA's southern base much more costly and dangerous.

Third, the plung in world oil prices has cut the MPLA's hard currency earnings from $1.7 billion last year to an estimated $900 million this year. President dos Santos is understandably reluctant to risk in an offensive gamble modern weapons that he may not have the money to replace.

If, as now seems likely, UNITA has fought the MPLA to a standstill, the heavy rains in October will severely restrict the fighting until next spring, and the question is whether the military standoff can become the motive for the genuine negotiation toward national reconciliation that has always been Mr. Savimbi's basic objective.

According to reliable sources, there have been contacts between MPLA and UNITA officials but no evidence yet that Mr. dos Santos is ready to talk. The hard-line faction in the MPLA will predictably press for another Soviet-backed effort next year to destroy UNITA, while the moderates in the MPLA are known to favor negotiations with Mr. Savimbi and a Cuban troop withdrawal.

The current movement in the U.S. House of Representatives to end all covert funding to UNITA and to require that future American support to Mr. Savimbi be debated openly and provided overtly will give the Soviets and their MPLA allies a potent argument against negotiations at this time.

The African states through which covert American assistance has to pass cannot participate in an openly conducted aid program because of their diplomatic relations with Luanda. In effect, Democratic Rep. Lee Hamilton of Indiana, as chairman of the House intelligence committee, will only succeed in cutting off all U.S. military assistance to Mr. Savimbi, if he succeeds, through his proposed amendment, in making aid overt.

Moreover, the MPLA leadership will not negotiate with UNITA as long as it has reason to hope that UNITA's access to U.S. arms will be terminated.

RESEARCHERS DISCOVER SECRET BLOODBATH IN COMMUNIST VIETNAM

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 12, 1986

Mr. DORNAN of California. Mr. Speaker, I rise today saddened by revelations of absolutely incredible human right atrocities which heretofore have gone unnoticed in Communist Vietnam. Very credible evidence has surfaced which details mass executions, torture, and total human degradation at the direction of Vietnam's Communist dictators. These inhumane Communist thugs have been able to accomplish such enormous brutalities because the Western World accepts their guise of reeducation of their non-Communist population. Mr. Speaker, let's wake up and recognize the true nature of Communism and totalitarian societies!

It has come to my attention that two University of California at Berkeley researchers have discovered that between 1975 and 1983 at least 65,000 politically motivated murders and executions have taken place behind that despicable curtain of silence which shrouds the Soviet-backed Government of Vietnam. A bloodbath of this dimension can only occur without the world's outrage in a totalitarian society which insulates itself from all Western scrutiny and wields absolute power at the expense of its own population.

Mr. Speaker, I submit to the RECORD the following Reader's Digest article which tells this sad tale. In reading this article, I urge my colleagues, particularly those who constantly make excuses for Communist nations, to remember that these atrocities take place with the blessing, and moral and economic support of that scourge of the civilized world—the Soviet Union. Gentlemen, please don't ever refer to a Communist society as America's moral equivalent!

ON THE TRAIL OF A HIDDEN MASSACRE

(By Ralph Kinney Bennett)

One evening in December 1981, in Berkeley, Calif., Professors Jacqueline Desbarats and Karl Jackson were studying the first batch of completed questionnaires for a survey they were conducting. Then, like some monster bursting unexpectedly from placid waters, the words leaped off the pages: "A whole group killed . . ." "Many prisoners executed . . ." "Two majors killed in concentration camp." Startled, Jackson spilled a cup of coffee over the papers. He quickly mopped up the mess—then read on.

The survey had started as two routine academic studies—Jackson's at the University of California in Berkeley and Desbarats's at Northwestern University in Evanston, Ill. Jackson, 39, wanted to determine the extent of political repression in Vietnam since the

end of the war in 1975. Desbarats, 38, a geography specialist, wanted to study the migration of Vietnamese who had settled in the United States after 1975. Overall, Jackson and Desbarats wondered, what had caused this massive migration by a people who had suffered much, but in their long history had seldom fled from the place of suffering?

Both surveys involved systematic interviews of representative samples of Vietnamese. So the two scholars decided to pool their resources, which included a modest grant of $25,000 from the National Science Foundation. Over the ensuing months, the two academics fashioned a detailed questionnaire with more than 100 questions, designed to elicit a reliable picture of the Vietnam exodus. One section dealt with motivation—what caused the refugees to leave their homeland in the first place. It probed their experiences with political repression, forced relocation and the government's so-called reeducation camps.

GENTLE PRYING

The concerns of Karl Jackson and Jacqueline Desbarats were shared by human-rights activist Ginetta Sagan.[1] Sagan had condemned human-rights abuses by the old South Vietnamese regime and was becoming increasingly concerned about what was happening in the wake of North Vietnam's takeover. With meager funds, she had begun her own painful harvest of cries and whispers from refugees in the United States and France. Now, partly at Sagan's urging, Desbarats and Jackson added questions about all forms of political repression, including executions.

The two researchers tested their questionnaire in the Vietnamese community in Chicago. Vietnamese university students were hired and trained to conduct the interviews, which often took several hours. Right off, one thing became evident, something that could not be quantified by statistics; fear. Many refugees were afraid to tell what they had seen. Some of the information had to be gently pried out of them.

And it was this information, stark and chilling, that surprised Desbarats and Jackson when they reviewed the first survey results. As the two scholars pored over each page, it became part of a crazy quilt of horror. One Vietnamese told of a village chief disemboweled by his captors after being dragged through a mob and beaten. Someone else described how a former South Vietnamese soldier was shot to death in front of his house because he had "shouted words against the communist government." Another told of two inmates "released" from a re-education camp, then shot to death just outside the gates. "Trials" lasted two minutes, if that long. Every third respondent knew of at least one person who had been executed—and sometimes many.

"When we began our research," Jackson recalls, "we expected high estimates on the population camps but virtually no positive responses on political executions. We had accepted the conventional wisdom that no large-scale killing had occurred. The execution questions were added almost as an afterthought."

Besides, Hanoi had promised a new government of "reconciliation and concord" that would "prohibit all acts of reprisal and discrimination" against its former enemies. Emphasis would be on "re-educating" the South Vietnamese. Despite news of ill treatment in the campus, despite the "boat people" pouring out of Vietnam in a hemorrhage of misery, the world took the communists at their word. Former Sen. George McGovern declared, after a visit, that the blood bath was "one of the great false alarms of all time." As late as 1983, a State Department analysis concluded: "Execution for purely political acts is not accepted policy."

CURTAIN OF SILENCE

At first, Jackson and Desbarats agreed on a "rational" explanation for their unexpected findings. These initial questionnaires were from a "snowball sample"—a survey technique in which successive interviewees recommended others from among friends and social contacts. This could bias the sample; they might have hit a pocket of right-wing former supporters of Nguyen Van Thieu's regime, people more likely to have met reprisals and to make up stories putting Hanoi in a bad light.

Perhaps more research, using larger, rigidly random samples, would eliminate this apparent anomaly. They agreed to try it. But Jackson wondered about all those reports of killings.

In the months and years following the fall of South Vietnam, Hanoi had clamped a near total blackout on developments within its borders, so it was hard to know what was happening. In 1978, French journalist Ronald-Pierre Paringaux, who had been a scathing critic of South Vietnam and U.S. support of its government, wrote ruefully that "a curtain of silence has fallen in Vietnam on the subject of human rights." Jackson thought of that curtain now. Was it possible that behind it, hidden from the world, an orgy of retribution had indeed been taking place?

To broaden their survey sample, the pair picked two additional areas with high concentrations of Vietnamese refugees—San Francisco and the Orange County suburbs of Los Angeles. French-born Desbarats confessed she was largely aloof from the political aspects of what the two were uncovering. She emphasized the use of the most conservative methodology in gathering and analyzing the interview information. She poured over the questions. Were they perfectly clear? Were they completely neutral? Did they avoid such pitfalls as one question suggesting the "right" answers to the next one?

In kitchens and living rooms of "Little Saigons" around Los Angeles and San Francisco, trained student helpers conducted more than 500 interviews from June to December 1982. As the questionnaires were translated, the percentages of the Chicago sample held up. One of every three Vietnamese interviewed had personal knowledge of executions, and they poured out an awful catalogue of killing:

"Witnessed execution of a leader of the Hoa Hao religion who was imprisoned in the same barracks as me. He was stabbed in the belly and his head was cut off in public."

"Twenty people were caught trying to escape. Nineteen were shot on the boat. The other was killed on shore."

"A lieutenant colonel tried to escape from the Lang Son re-education camp. He was buried alive."

The sheer horror of the stories made it all the more imperative that their authenticity be established, either as isolated occurrences or as part of a larger pattern. In analyzing their results, the two scholars used strict statistical methods. And they set clear ground rules about the data they would accept: the survey would not include deaths in the re-education camps caused by overwork, disease, malnutrition or suicide, or people "accidentally" killed when they were forced to clear old mine fields.

FINAL PROOF

Fully 35 percent of the respondents reported they either saw or had heard of political executions. And over a third of these gave eyewitness accounts, most of them providing names, dates, places, reasons. These details were vital. "Otherwise," says Jackson, "it was entirely possible they could all be reporting the same, relatively small number of executions." Through meticulous cross-indexing, the two scholars eliminated duplication, which accounted for only 34 percent of the original total.

Finally, Jackson and Desbarats consulted statisticians to come up with a sophisticated methodology that would allow them, as fairly as possible, to project their survey figures for Vietnam as a whole. This involved analyzing the nature of the two Vietnamese "populations"—the one inside the country and the more than one million refugees who had fled—and developing a system for deflating the number of executions to allow for duplication or exaggeration.

Their final, carefully extrapolated figure for the number of victims killed by political violence between 1975 and 1983: at least sixty-five thousand.

By now, Jackson and Desbarats had no doubts that the phenomenon they had detected was real: a blood bath had occurred. Still, they delayed release of their findings, deciding to go one step further. "Perhaps there was something unique about the refugees who found they way to America," Desbarats reasoned. "Maybe moderate and left-wing South Vietnamese who engendered less retribution from the new government settled elsewhere —most likely, France."

To extend their study, however, the two needed more funds. They found it tough going. Jackson still feels strongly that the emerging facts about executions had, in some quarters, turned social science into "politics." "It seemed fairly obvious that some funding sources didn't want to lay a finger on something that opened up a new and frightening dimension to Vietnam," Jackson says.

Undaunted, the two scholars scraped up enough money to conduct research in four of the largest cities of France: Paris, Nice, Lyon and Toulouse. After nine more months of surveying, the U.S. figures held up. In fact, the findings from France were slightly higher—with 37 percent of randomly selected respondents reporting executions.

SECRET BLOOD BATH

Three years of exhaustive research, conducted in seven cities and two countries, with more than 800 refugees interviewed, had finally provided persuasive evidence that a blood bath had occurred in Vietnam. "We shouldn't have been surprised, knowing what history tells us to regimes such as Hanoi's," says Jackson, now newly appointed Deputy Assistant Secretary of Defense for East Asia and Pacific Affairs. "A lot of reasonable people doubted the reports from escapees of Nazi concentration camps." And Desbarats and Jackson note: "Governments, the media and the public often treat the absence of reports from closed societies as proof that something—like widespread killing—has not happened. It is not prudent to apply to any totalitarian society the same standards of proof we would apply in a free

[1] See "Ginetta Sagan: Heroine of Human Rights," Reader's Digest, April '85.

society, with a searching press and groups dedicated to disclosing the truth."

In a perverse way, the torture, hunger and degrading conditions of Vietnam's infamous re-education camps had actually drawn attention away from its "secret blood bath." The fear and cultural reticence of the Vietnamese refugees had also helped keep this slaughter in the shadows. But now, the research of these two scholars has directed a shaft of light into the darker recesses of this repressive and vengeful regime.

LEWIS LEHRMAN ON THE REAL MEANING OF THE DECLARATION OF INDEPENDENCE AND THE RESTORATION OF THE AMERICAN REPUBLIC

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 12, 1986

Mr. KEMP. Mr. Speaker, the August 29, 1986 issue of National Review includes a brilliant essay by my good friend Lew Lehrman on the human rights issue of this century—the right to life. His essay argues that the issues of slavery and the rights to life are more than historically analogous—they are the same issue, and they represent the continuing challenge to the principles of our Constitution which guarantee to each individual the protection of their most fundamental God-given rights, the right to life, liberty, and the pursuit of happiness. I commend this essay to the attention of my colleagues.

THE RIGHT TO LIFE AND THE RESTORATION OF THE AMERICAN REPUBLIC

(Lewis E. Lehrman)

The Declaration of Independence and the Constitution of the United States inaugurated not only the American experiment, but also one of the great economic booms in history. Americans moved West and South, labored North and East to till the soil, build roads, finance banks, invest in new technologies, discover new methods of farming, mining, and manufacture. "We made the experiment," Lincoln wrote during the prosperity of 1854. In America "we proposed to give all a chance." Now "the fruit is before us. Look at it—think of it. Look at it in its aggregate grandeur, of extent of country and numbers of population—of ship and steamboat and rail."

In 1854, almost four score years had gone by since the Founding and nearly as many years divided the abject poverty of Thomas Lincoln from the prosperity of his son Abraham, the "lone Whig star" of Illinois. In twenty years of hard work before 1854, Lincoln had been preoccupied with personal advance in law and politics, during which time he had focused on the great issues of economic nationalism: the tariff, the National Bank, and internal improvements. It is true that he was only one among thousands of apostles of national development and economic growth; but he was utterly devoted to their cause.

In 1853, all America basked in the glow of a prosperity Americans took as their just deserts. The period stretching from the inauguration of James Monroe in 1817 through the early 1850s has gone down in American history as the Era of Good Feeling and of Manifest Destiny—an era during which, despite the great perils faced by the infant nation at the turn of the century, America had conquered a continent and established her independence of Europe. The new nation had finally settled down.

Then, out of the Great Plains, the Kansas-Nebraska Act of 1854 blew in upon American politics with the force of a tornado, sweeping aside the economic issues paramount in the immediate past. The old Whig Party disintegrated under the pressure of the new politics, and so, in all but name did the Old Democracy, the party of Jefferson and Jackson—both parties swept aside by the gale force of a single moral issue, or what our pundits today would call a social issue. That issue, the extension of slavery to the territories, led ineluctably to the great national debate over the "unalienable right to liberty" of the black slave. It was neither the first nor the last, but it was, up to that time, the greatest debate over the first principles of the American Republic.

At first, Americans—Democrats and Whigs alike—refused to believe that the work and wealth of recent decades, not to mention the pocketbook politics of the era, would be swallowed up in a moral struggle over a single issue. But, in opening all the Western lands to slaveholding, Kansas-Nebraska shattered the spirit of the Missouri Compromise of 1820, which had limited slavery to states south of 36°30'. If it were true, as Lincoln would later say, that eventually the nation must be all slave or all free, there could be little doubt in which direction the new act was taking us.

In the words of one distinguished historian of the period, Professor Gabor Borritt of Gettysburg College, Kansas-Nebraska shook national politics like Jefferson's "firebell in the night." So abrupt was the transition from preoccupation with economics and national security ("Manifest Destiny" and "Western Lands") that Abraham Lincoln, himself one of the most knowledgeable of Whig leaders on tax, tariff, and banking issues, abandoned further discussion of them. After 1854, he became almost mute on economic issues, claiming in the year he stood for President that "just now [tax, tariff, and financial affairs] cannot even obtain a hearing . . . for, whether we will or not, the question of slavery is *the* question, the all-absorbing topic of the day."

Today, six years after President Reagan's first victory, we are far along with economic expansion and just as far along with rebuilding our national defense. Financial markets have risen to new highs. Employment levels and new business formations have reached new peaks. In Libya and Grenada we have successfully, if ever so cautiously, tested our willingness once again to use force in defense of our national principles and interests. Politicians of both parties still speak as if they expect Americans, riding the wave of new prosperity at home and restored prestige abroad, to continue to focus on economic and defense issues as they have for a generation. As Vice President Bush declared in an interview in June, "Today, people vote their pocketbooks." We shall see.

For I believe that today the American people are prepared to put their pocketbooks back into their pockets. I believe that Americans once again are preparing to ask fundamental questions, about life and death, about our special purpose as a nation, and about the first principles and fundamental law by which, as a nation under God, we have dedicated ourselves to live. I believe that national politics during the late 1980s and the 1990s will be dominated by the great constitutional, moral, and social issues of our time.

Chief among these issues will be the right to life. Thirteen years ago, in *Roe* v. *Wade*, the Supreme Court overthrew the common law of centuries and the statute law of fifty states, authorized abortion on demand, and thereby severed the child-about-to-be-born from the Declaration of Independence. It was in the Declaration, the organic law of the American Founding, that the Fathers of our country proclaimed the self-evident truths of our fundamental moral and constitutional law: that all men are created equal, and that all men are created by God with the unalienable right to life, liberty, and the pursuit of happiness. It was this original charter of the nation that the Supreme Court violated in *Roe*, without even the mandate of an election or a vote in Congress.

Five thousand days and twenty million lives later, abortion on demand has buried a nation of children as big as the whole of Canada. But far from resolving the issue of the right to life, as the Justices intended, the Court has stirred up all America and ignited the moral tinder deep in the souls of our countrymen. The Court, by creating a great debate over our fundamental law and essential character as a people, has guaranteed that abortion will surely sweep away all more mundane political considerations.

I suggest not merely that the issues of slavery and abortion are historically analogous. Rather I say that they are, in a crucial sense, the same issue. Both are but particular cases of the recurring challenge to the first principles of the American Revolution, which forbid the violation of the God-given rights of any person, no matter how convenient such a violation might be for some powerful individual or faction, or even a majority.

In the normal course of our politics we do not experience this challenge in its starkest terms. Our fundamental law, our fundamental purpose as a nation is not fully articulated in the positive law by which we govern our daily affairs. The Declaration of Independence, in which our nation's fundamental principles are stated, is not phrased in such a way as to give perfect guidance to the resolution of everyday political disputes. In the normal course of events the American people are content to let the Declaration's unalienable rights be secured by the more intricate structure of the Constitution, which by the genius of the Founding Fathers transformed the play of political interests into a dynamic balance wheel of human and civil rights. Nevertheless, the Declaration gave birth to America as an independent nation and best expresses our ultimate reason for national being.

From time to time, our ordinary politics fails us in ways too dramatic to ignore. An impasse develops in the constitutional process. A weakness shows up in the architecture of liberty. Our positive law (including even the Constitution, or its interpreters) can fail in some critical way to uphold the first principles of our national Founding. It is at such times that it becomes necessary for Americans—who seem now, as they seemed in 1854, too concerned with progress and payrolls—to reconsider the organic law written in their hearts. It is then that American politics again becomes a struggle over the meaning of the Declaration of Independence.

In our time, most leading politicians and intellectuals argue that such philosophical struggles, turning ultimately on moral and

religious questions, should be excluded from American politics. With Senator Stephen Douglas, Lincoln's great opponent, who held that Kansas-Nebraska and the *Dred Scott* decision (1857) made the black man forever a slave in America, they hold that the Supreme Court can settle and has settled forever the abortion issue. They are content to accept, paraphrasing Judge Taney, that the child in the womb has no rights which Americans are bound to respect. They argue, with Supreme Court Justice John Paul Stevens, that only "secular interests" are fit subjects of national debate. Some even argue that the resurgence of religion and moral issues in American politics is but a passing fad, safely scorned by sophisticated pragmatists concerned with the weightier matters of wealth and weaponry.

These opinions are as unsurprising as they are unconvincing. What we hear rolling across the Potomac are the hollow, haunting echoes of the great slavery debates of the 1850s. For decades the battle over slavery had been stayed by the timely intervention of grave Whigs and eloquent Democrats who foresaw what passions would be loosed when men ceased to struggle for gain and ground and sought instead to live faithfully by the Divine standards Americans had set themselves in the Declaration. Webster and Clay, Calhoun and Douglas, prudently had sought to guide the energies of the people into economic growth and westward expansion, to mitigate, even to avoid the supervening moral and religius issues raised by the debate over slavery. The remarkable thing is how successful they were for so long in convincing Americans that slavery could be countenanced if its extent could be compromised.

But the insurgent noise would not be silenced. For the muffled murmur throughout the land was the sound of the slave, his tortured breathing rustling the pages of the Declaration of Independence, scaring up from the dry parchment the great truths placed there by Jefferson. For the needs of nation-building, for the sake of a union between slave and free states, slavery may have been legalized in the Constitution. But it was the Creator, as the Founders proclaimed in the Declaration, Who gave men the unalienable right to life and liberty. This contradiction, like a house divided, could not stand.

Just three years after the Kansas-Nebraska Act, the *Dred Scott* decision gave meaning to Lincoln's warnings; it declared the U.S., in effect, a slave nation. *Dred Scott* held that the black slave was not a person under the Constitution, and it made inviolate the property rights of slaveowners. In the very next election, the nation responded by choosing a President who had proclaimed *Dred Scott* unbinding as a "rule of political action" in virtue of the fundamental law of the Declaration and the power of Congress to prohibit slavery in the territories. Six hundred thousand men and boys, the flower of American youth, perished in a war over the meaning of a religious and moral principle—or, in the words of "The Battle Hymn of the Republic": "As He died to make men holy, we shall die to make men free."

There is then no need to be surprised that in the battle over *Roe* v. *Wade*—wherein we deal not only with life and liberty, as in *Dred Scott*, but with life and death—moderate men and women should wish to put the fundamental issues aside. There is no reason to be astonished that so many leading intellectuals wish to believe that the Supreme Court has settled the matter. Nothing should be easier to understand than that the political, business, and academic establishments are embarrassed by the issue and affect to scorn those who raise it. After all, if the modern followers of Lincoln are right, no material bounty America bestows on her people or the world can excuse her crime. If the party of Lincoln is right, there is only one road to national rededication: to fight the evil of abortion until it is extinguished, a fight that may make the divisions of the 1960s, from which we are barely recovered, look like a family reunion.

One way of scorning the issue—one popular tune to whistle past the graveyard—is to deride abortion as a "single issue" pursued by fanatics to the detriment of the common good. Those who take this tack understand neither the issue nor their countrymen. The unalienable right to life is not for America, a single issue, but a first principle, a self-evident truth established at its Founding. Nothing is more striking about American history than our willingness to take principles of truth and right seriously. Americans know that neither blood, nor culture, nor even locality is what binds us together. Uniquely among nations we are bound together and defined by our founding principles. It is the pragmatic politicians of the pocketbook who do not know their countrymen.

July 4, 1776, was an event of worldwide significance, not because a new nation was founded on the shores of the Atlantic, but because a new nation, the very first of its kind, was founded "under God," begotten, as Thomas Jefferson wrote, according to the "Laws of Nature and of Nature's God," a nation dedicated, in fact, to a religious proposition, a principle of natural theology. Consider again the phrasing: "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights," to life, liberty, and the pursuit of happiness. This proposition, the great Emancipator proclaimed, is "the Father of all moral principle" among Americans, the animating spirit of our laws. By reason of this founding principle, Lincoln called his countrymen "the almost chosen people"; and it was Jefferson himself who proposed that the national seal portray Moses leading the chosen people to the promised land.

The Founders' principles of equality and unalienable rights are characterized by their universality and claim to Divine sanction. The universality of the principles makes it clear that the Founders did not mean that all human beings are or ought to be equal in all respects—height, weight, beauty, wealth. They meant instead that no person has to another the relation God has to him: Thus the rights enumerated in the Declaration are God-given, and hence "unalienable." Neither the weight of tradition nor the exigencies of statecraft can rationalize the false claim that the unalienable rights of the Declaration are a gift of the state or of the people. As Professor Harry Jaffa would put it: No man has a natural right to rule over any other man, as God does over man; thus a man may rule over another, his equal, only with his consent. This is the essential meaning of our founding law. If there were ever any doubt that we are bound by it—and the Declaration is still put at the head of the statutes-at-large of the U.S. Code and described therein as organic law—Lincoln's testimony and the general assent given it by Americans then and later should have laid that doubt permanently to rest.

But while most Americans take the Declaration seriously, we do have a tendency to fix upon its assertions of equality and liberty, quickly passing over its guarantee of an unalienable right to life as if it were merely a glittering generality. The truth is that life, liberty, and the pursuit of happiness are a logically ordered sequence. The rights to liberty and to the pursuit of happiness derive from every man's right to his own life and are meaningless without it.

Life precedes liberty in the words of the Declaration because liberty was made for life, not life for liberty. If the right to life is omitted, then liberty is a right contingent upon force and without moral substance, and the Declaration is a nullity. Moreover, it is by reason of the unalienable right to life that all men hold the right to the fruits of their labor. A free society dissolves into an absurdity if the right to life is denied.

Abortion, like slavery, allows equals to rule over equals without their consent, depriving the child in the womb not only of the right to liberty, but of the right to life as well. But there is a disputed point: Do unborn children hold these rights? There can be no denial that they have life and have had it from the very first moment of conception: That is true in medicine as in law. But what is more important is that, as our fundamental law affirms, they hold life as a gift of the Creator—Who "created" them "equal" and "endowed them" at creation "with certain unalienable rights"—from the moment of conception. Creation does not occur at the second trimester, or at the third, or at viability, but at the very beginning of life. The usual arguments about viability. intelligence, pain, quickening, meaningful life, or unwanted children are as irrelevant as earlier arguments, that the poor, black slaves were better off under the rule of a benevolent master. Under the Declaration, under the Divine and natural law by which we have promised to live, the child about to be born, no less than the black slave, holds rights unconditional upon the convenience of others, rights that cannot be altered because other men place a lesser value on the life of a child in the womb.

It is no use, in extenuation, to invoke the pluralism of opinions, or the absence of consensus, as if, in the struggle over *Roe* v. *Wade*, all disagreements were merely part of a friendly historical debate; as if no lives were at stake and there were no ultimate judge to whom to make an appeal. The organic law of the American nation and the Divine law prevail over all positive law, and thus over the litigious subtleties of politicians and judges.

Our task is easier than Lincoln's, and its strain on the country will be less. In the Constitution, Lincoln faced an explicit, it time-bound, sanction for slavery, which is lacking in the case of abortion. Each in its own time, slavery and abortion have masqueraded as the law of the land; and the abortion masquerade is utterly transparent. There is an inescapable absurdity in the Supreme Court's argument that the same Fourteenth Amendment that made the black slave a person can be used to deny the personhood of the child about to be born. In 1868, when the Fourteenth Amendment was passed, 28 of the 37 states held abortion to be a criminal act, even prior to quickening. (Over the next 15 years seven more states made abortion a crime. By the time of *Roe* v. *Wade*, in 1973, nearly all the states had criminalized abortion. There *was* a national consensus on abortion: that it is wrong.) In view of the near universality of the laws

against abortion at the time the Fourteenth Amendment was passed, there can be no doubt about its intent or the meaning of the amendment today. The Court's decision in *Roe* v *Wade* had absolutely no basis, literal or implied, in the Fourteenth Amendment. If the Fourteenth Amendment calls for anything, it calls for reversal of *Roe* v. *Wade*.

Roe v. *Wade* may for now be a legal decision of the Supreme Court; but it is unlawful in the full sense of the word. It is without any identifiable source of authority in constitutional law. In the light of logic, the moral law, and American history, *Roe* v. *Wade* is absurd; it comes to just nothing—nothing but "raw judicial power." It requires no irreverence for the letter or the spirit of the Constitution to declare that the decision must be overturned, by a subsequent Supreme Court decision if possible, but if not, then by constitutional amendment or congressional act. There is in the *Federalist Papers*, the original handbook of constitutional interpretation, a clear warrant for such a rebuke of the Court. *Federalist* Number 81 declares that if judicial "misconstructions and contraventions of the will of the Legislature" do create constitutional defects, there is a constitutional remedy. Even if the legislature cannot "reverse a [judicial] determination once made, in a particular case," it can "prescribe a new rule for future cases." Above all, and despite recent judicial imperialism, the three branches of the Federal Government are coequal, and all subordinate to "the people" who "ordained" the Constitution to fulfill the promises of the Declaration.

Yet this argument does not end the debate. For the ultimate charge against those who would push the right to life to the top of our political agenda is that they are mixing religion and politics, trying to impose a single set of religious values on the nation. But the link between religion and American politics is indissoluble, for, at the very beginning, in the Declaration, the nation was founded upon the principles of natural religion; it would collapse without them. Jefferson himself, often falsely described as a completely secular man, acknowledged this link, writing that "The God Who gave us life, gave us liberty . . . Can the liberties of a nation be secure when we have removed a conviction that these liberties are the gift of God?"

Those who fear the intrusion of religion into politics are not all wrong. We have been well served by the consensus that excludes sectarian passions from ordinary political disputes. But when fellow Americans of good will ask us to grow quiet on the painful but fundamental issues of abortion, prayer, or pornography, for fear of starting a divisive debate over religious and moral principles, they make a rule of thumb into a rule of life. The truth is not that religion never belongs in American politics. The truth is instead, as Lincoln argued, that religion belongs in American politics only when our politics have been forced back upon first principles.

By nature Lincoln was as much politician as prophet. He was a moderate and judicious man, certainly not inclined to fanaticism. Neither was he a natural candidate for a martyr's crown. But when the crucial issue was joined, Lincoln exposed the counsels of moderation for the well-meaning sophistries they were. And he died a martyr.

Some of us, dreading the great moral conflict Lincoln faced, might have sided with Douglas. But now, more than a century later, who laments the reversal of *Dred Scott* or would rewrite history to keep the slave in chains? Who now holds up the memory of Chief Justice Taney for the honor of the ages? Who now wishes that Lincoln had used the Court's decision as an excuse to turn to other matters? Who can forget what Lincoln, against all polite opinion, and borne up by his faith in a just God, did for free men?

We know it intuitively. It is the Declaration's principles and Lincoln's example we must follow. Certainly not to violence. There will be no need, for, as I said at the outset, the law to which we appeal is inscribed on the hearts of all Americans, more deeply now than ever. The abyss of civil war does not lie before us. If we fail, we will have been overcome by nothing but false opinion and the petty demon of polite society—because we are afraid of the elite consensus and the inelegance of moral commitment, afraid to take on the establishment by naming the national sin, unwilling to bear witness to first principles while the party of prosperity is going so well. But to name these considerations is to know how shameful it is to hold back. We must be bold; so that for now and for all time to come, the unalienable rights to life and liberty, the promises of the Declaration of Independence, shall not perish from this earth.

AN EDITOR SPEAKS OUT

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 12, 1986

Mr. BEREUTER. Mr. Speaker, while there are a number of important issues that face the Congress in the next few weeks and most certainly next year, few compare to the need to bring the deficit under control. This point is driven home in an editorial that appeared recently in one of the daily newspapers in my congressional district.

I commend to the attention of my colleagues the editorial, "Presidential Priority," that appeared in the August 26, 1986, edition of the Norfolk Daily News:

PRESIDENTIAL PRIORITY

Donald T. Regan, White House chief of staff, hopes his boss can provide a major push for overhauling the federal budget system during his last two years in office. As he explained in an interview last week, many of the budget practices at the federal level "would be considered dishonest and illegal if done in the private sector." He was referring to trust funds that are mingled with ordinary receipts. He could have mentioned, too, the now time-honored practice of simply spending money that has not yet been printed.

Mr. Regan sees the answers in a variety of measures. Among them: Biennial instead of one-year budgets, a balanced budget amendment to the Constitution, line-item veto power for the president, creation of a separate capital budget for construction projects and the removal of trust funds (Social Security is one) from the general treasury.

The proposals stemmed from staff considerations of what should be President Reagan's No. 1 domestic concern for the remainder of his term. Mr. Regan said the fight against drug abuse would be given the sort of priority status in these next two years that tax revision received earlier.

Serious as the drug problem is, Mr. Reagan and his White House staffers ought to be reminded that, like all crime problems, states and local governments figure so largely in the solution that federal money and federal personnel will not supply the solution. Washington can only help effectively to a limited extent, and in protecting borders against traffickers. Presidential attention, yes, but a priority to the exclusion of budget control, no.

With a tax system revised—for the better, we believe—and inflation under control, the major remaining problem which demands urgent attention is the deficit. You can attack deficit problems only through budgetary control. That deserves the top priority. It is a problem that also demands constructive congressional attention—the sort provided in the intense effort to arrive at the new tax bill.

The time has come to put the deficit No. 1 on the Reagan hit list.

THE PERES-MUBARAK SUMMIT: NEGOTIATIONS WORK IN THE MIDDLE EAST

HON. CHARLES WILSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 12, 1986

Mr. WILSON. Mr. Speaker, I rise to congratulate Prime Minister Peres of Israel and President Mubarak of Egypt, who met today in Alexandria, Egypt, for the first time since Mubarak became President of Egypt. It is also the first summit between the heads of state of Egypt and Israel in 5 years.

I know that all of my colleagues agree with me that this is an historic meeting, and hope as I do that it will usher in a new era both in Egyptian-Israeli relations and in the search for a comprehensive peace in the Middle East. The meeting is the result of arduous negotiations between Egypt and Israel over a broad series of issues, and proves the difficulty of securing and maintaining peace in this region. I think that these negotiations prove once and for all to those of use naive enough to believe that the peace treaty signed at Camp David would be easy to implement, that peace in the Middle East is a process that we must continue to work on.

In taking note of this occasion, I believe that it is important that we note the strong and important support of the administration for the negotiating process between Egypt and Israel. The role of the executive branch, and in particular of the Assistant Secretary for Near East and South Asia, Richard Murphy, was critical to the negotiations leading up to this summit. Murphy has for the last several days traveled back and forth in the region to ensure that agreement was reached. The administration is to be applauded for its willingness to put out this kind of effort in support of peace.

I believe that these negotiations have shown again, to those of us who didn't already know it, that the United States is a necessary element in the Middle East equation, and that peace can only come with direct and forceful U.S. participation. The timeconsuming and sometimes disheartening work which Assistant Secretary Murphy undertook is precise-

ly the kind of effort which must be undertaken in order to promote peace in this troubled region, and especially the search for a comprehensive peace agreement.

In recent months, this kind of active support for the broader peace process simply has not been forthcoming. The Administration has urged the parties to move, but has generally sat back and waited rather than take an active stand in their search. I belive that this must change if we are to make any real progress in this region and in solving this crisis. The same commitment by the United States, except on a greater scale is needed if the broader peace process is truly to move forward. The issues between Egypt and Israel were relatively easy when compared to the broader regional issues: the future of the West Bank and Gaza, the security of Israel's borders, the rights of the Palestinians. Progress on these issues is only possible if the U.S. Government puts its strongest effort into the search for peace.

Mr. President, I want to again applaud the efforts of Prime Minister Peres and President Mubarak, and to extend to them the fullest possible support and encouragement of the United States.

I also urge the executive branch to search creatively for new ways in which it can move ahead to promote the broader peace process, so that some day we can take note of a summit between an Israeli Prime Minister and another Arab head of state who has signed a peace agreement with Israel.

EFFECT OF ANTIAPARTHEID LEGISLATION

HON. MICKEY LELAND

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 12, 1986

Mr. LELAND. Mr. Speaker, I would like to bring to the attention of my colleagues the following article published in today's Los Angeles Times. It was written by Mr. Gerald Warburg, an adviser to Senator ALAN CRANSTON on foreign policy, defense, and trade matters. In his article, Mr. Warburg reviews the issue of preemption and the intention of the Senate in that regard. He points out that the Senate version of antiapartheid legislation, which was approved by this body today, was drafted by more than a half-dozen Senators, many of whom utterly reject Senator LUGAR's interpretation of preemption.

In approving today's legislation, this body clearly stated its intention that the legislation will not preempt or supersede any local or State antiapartheid laws. I believe my colleagues would be interested to learn that many of our colleagues in the other body agree with us on this important matter.

Again, I commend this article to my colleagues.

[From the Los Angeles Times, Sept. 12, 1986]

DIVESTITURE WILL SURVIVE

(By Gerald Warburg)

Will the South Africa sanctions legislation pending in Congress undermine California's new anti-apartheid law? Can federal authority require local governments to profit from apartheid against their will?

The answer to both vexing questions is yes, according to proponents of a sweeping federal preemption doctrine recently advanced by Sen. Richard G. Lugar (R-Ind.).

The specter that enacting the pending congressional measure on anti-apartheid trade sanctions would strike down broader state divestiture legislation has alarmed grass-roots activists. At stake is the fate of as many as 20 state statutes and more than 80 city and county regulations that address the South Africa issue.

There is valid reason for concern when one hears the views of Lugar, the respected Foreign Relations Committee chairman: "When we get into anti-apartheid law, the federal government is speaking for the nation . . . we cannot have individual states and cities establishing their own foreign policies."

Lugar rests his case on the presumptive constitutional grant of federal supremacy in international affairs, and concludes that any federal legislation on South Africa—no matter how limited its scope—preempts all state legislation on the matter.

But before the activists' concern turns to panic, the full record needs to be scrutinized. There is no reason for California to back away from the strong measures adopted in Sacramento. Lugar's is a minority opinion—one unlikely to prevail if pressed in a legal challenge.

"When I use a word, it means just what I choose it to mean," says the Queen in "Alice In Wonderland." So it often is with lawmakers struggling to place their own interpretation on legislation during the drafting process. Lugar currently is advancing his own preemption thesis as a selling point to persuade the White House and corporate leaders to live with the Senate bill, which Lugar maintains would at least get local authorities off their backs on the emotionally charged South Africa issue.

Yet the "Lugar bill" actually is a cut-and-paste job of legislation drafted by a half-dozen senators. These co-authors utterly rejected Lugar's interpretation, as the following statements culled from the long and tortured legislative history of the South Africa debate illustrate.

William Proxmire of Wisconsin, senior Democrat on the Banking Committee: "We have no intention of preempting state divestment law."

Alan Cranston of California, Democratic floor manager of the measure: "Courts always recognize the distinction between the state as market participant and the state as a market regulator . . . we have no intention of compelling sovereign states to invest in companies that they do not wish to invest in."

Edward M. Kennedy of Massachusetts, senior Democrat on the Judiciary Committee: "The law is clear that this legislation will not preempt the kind of state and local action against apartheid that has occurred throughout this country."

Advocates of total preemption make much of a vote last month against an amendment by Sen. Alfonse M. D'Amato (R-N.Y.). But this amendment pertained only to a special contracting issue (whereby federal funds for New York City might be withheld if local authorities, acting against companies still in South Africa, ignored U.S. civil-rights and budget laws requiring acceptance of low-bid contracts). D'Amato said explicitly that this debate "had nothing to do with divestiture."

Those who wish that the federal legislation explicitly preempted local divestiture have failed to win their point in the congressional debate. The only effort to legislate a total ban on state laws pertaining to South Africa, an amendment introduced by Sen. William V. Roth Jr. (R-Del.), was withdrawn in the face of very strong opposition. The final legislative product has no substantive provisions whatsoever on preemption. And it is totally silent on the divestiture issue. Thus it is grasping at straws to maintain, as Lugar has, that the bill "occupies the field" on all South Africa-related matters.

While Lugar is correct that the Constitution yields supremacy to Washington in conducting foreign relations, the Supreme Court has defended repeatedly the right of states to manage their own funds—even if their trusteeship involves choices affecting international affairs.

As is often the case, Washington lawmakers have followed, not led, local governments, churches and university activists in addressing the South Africa issue. The federal courts are unlikely to sustain an illogical assertion that congressional action, which imposes trade sanctions but is silent on divestiture and preemption, could force states to keep their IBM stock. Yet, because of the stir created by Lugar's assertions, proponents of sanctions will move to enact new provisions that would make the case for total preemption legally untenable.

The bottom line is that local authorities already have a clear legal right (and moral obligation) to exercise discretion in how they invest their money. While a minority may *wish* that the emerging federal law would immobilize grass-roots action, wishing isn't going to make it so.

THE VILLAGE OF THE LIVING DEAD

HON. ROBERT K. DORNAN

OF CALIFORNIA.

IN THE HOUSE OF REPRESENTATIVES

Friday, September 12, 1986

Mr. DORNAN of California. Mr. Speaker, next week we are likely to revisit the debate on assistance to the freedom forces in Angola. Fourteen months after Congress repealed the Clark amendment, section 107 of the Intelligence Authorization Act of 1986 would have us again place the same "country specific restriction" on the conduct of U.S. foreign policy in Africa.

Once again, liberal Members of Congress seek to tie the hands of the President of the United States. Simply stated section 107 takes away the President's authority to assist anti-Communist forces in Angola through covert means. U.S. foreign policy objectives are not always best conducted under public scrutiny or with public debate. How successful would our attack against Libya have been if we had held public hearings over the correctness of that direct military action? How many lives would have been needlessly lost? Public debate is an important right of Americans, but it must be balanced with the President's constitutional duty to manage the foreign policy of the United States.

The most distressing point I must make is that this bill reinforces a naive assumption that the United States must conduct all aspects of its foreign policy in public. Why do we continually feel the need to question the mo-

tives of the President of the United States? Isn't it time to reaffirm our trust in our forefather's drafting of the Constitution and stop these attempts to cross over the dividing line between the constitutional power of the President to conduct an effective foreign policy?

With the repeal of the Clark amendment, on July 10, 1985, one of the last vestiges of the Vietnam syndrome was removed from the books. Although the drafters of the original Clark amendment hoped that the opposition forces to the Communist regime would falter without U.S. assistance, the pro-Western forces of Jonas Savimbi have struggled on for 10 years. Today President Savimbi's UNITA forces control a substantial portion of the Angolan countryside and enjoy broad popular support north to south of that huge country. The area under their control is well managed and free. But these areas come under regular attack by Soviet and Cuban manned aircraft and tanks.

The freedom forces of UNITA have been fortunate in that, even without United States help, they have held their own against superior, Soviet equipped, Cuban trained forces. This is underscored by the major Communist offensive, with direct Soviet and Cuban assistance, direction and participation that was launched against UNITA this past year. The UNITA forces not only held on, but managed to repel the Communist forces.

Moreover, the Communist forces do not confine there attacks on the freedom forces of Jonas Savimbi, or others fighting to bring an end of tyranny to their country. Rather, as in Afghanistan, Vietnam, Cambodia, and Nicaragua the Communist controlled Government terrorizes innocent citizens throughout the countryside. As a former Cuban member of Castro's expeditionary forces in Angola explained, "any village more than 10 kilometers outside the town we were attacking was automatically considered to favor UNITA and was therefore subject to punitive measures." Orders were, "Destroy everything, burn down the houses, kill the cattle, neutralize the population." Those unfortunate innocent Angolans, living at the capricious whim of the Luanda government, are indeed inhibiting villages of the living dead.

Mr. Speaker, I urge my colleagues to read the following article from the American Spectator that documents the atrocities committed by the Communist government in Angola against its own people in areas that the Communist government itself controls. After reading this nightmarish account how can any Member of Congress not repeal section 107 of the Intelligence Authorization Act of 1986.

[From the American Spectator, August 1986]

THE VILLAGE OF THE LIVING DEAD

(By Nicholas Rowe)

I was in Angola earlier this year with a Canadian news team. Outside Jamba, the provisional capital of rebel leader Jonas Savimbi's UNITA movement, is a small village housing refugee women from the regions under the control of the Luanda Communist regime. It is known as "the village of the living dead." Some of the women are mutilated, others have lost their mind, all are victims of Soviet-inspired barbarism. And yet they speak of themselves as the lucky ones; they have survived.

Through our interpreter we spoke to some of the women able and willing to recount their experiences. The first was Madalena Ngueve, who looked much older than her forty-five years:

"It was the second of November 1984 when the Cubans came to our village. I tried to stop them taking away my son. He was twelve, and from the age of ten and upwards they come and ship them off to Cuba. I tried to stop them but one of the Cubans cut off my arm with a bayonet. They were beating the children who didn't want to leave their parents, beating them with the butt ends of their rifles. So, while I was bleeding, they took away my son. He was my only child. I've had no contact with him since that day."

Severina Chilombo, arms crossed tight over her stomach, rocked compulsively back and forth as she told us her story:

"The Cubans arrived at my village just at daybreak. They locked some of the people into the huts and burned them alive. Others, their limbs—arms and legs—were cut off. My father burned to death in one of the huts, also my uncle. They poured gasoline on the huts and with torches they lit the fires. They ripped the baby I was carrying off my back. They swung and smashed her against a tree. She died, her little head cracked open. I was pushed into a lorry with some of the other younger women and boys. Later they stopped. I was raped the first time by ten men. We were raped in front of the boys deliberately. The Cubans said to them, 'Look how we rape your mothers and sisters so they can't have any more children.' During the journey we could choose whether we wanted sex voluntarily or not. Those who resisted were stabbed by bayonets. Then they were raped. Then they were killed. At the end of the journey the boys were taken away and the women put into prison. We weren't allowed to wash or anything for the first seven days. But every day the Cubans came and . . . and . . . violated us. I lost my father and my mother. Everybody. There are days when I don't have any more tears left to cry. Today is almost one of those days. It was my first baby. My only baby."

Veronica Kahali was concerned that we would not believe her. She kept repeating to our interpreter, "I am not inventing a story, I saw what I saw with my own eyes." She would point to her companions in distress. "They know I am telling the truth. . . . We have all seen so much, been through so much." Reassured that we did not doubt her and that our tape-recorder would capture every word, she began in a flat, emotionless voice, as if memory of her Calvary would be erased by its telling:

"When the Cubans arrived at my village, all the people were rounded up. The older people were killed, the younger ones taken away, the boys to the army. The young women were separated from the men and taken to prison." Almost as an afterthought, she added, "The pregnant women in prison were killed by having their bellies cut open. The Cubans cut open the pregnant women by bayoneting them from just below the breast downwards."

There was an involuntary gasp of horror from our interpreter, herself a mother. Veronica Kahali was again immediately on the defensive. "But I saw it! My sister was close to her time and her belly was ripped open. She died next to her unborn baby. I saw it!"

Once calmed, she resumed her monotone monologue:

"Our people were sorted out into groups: old men, young men, old women, young women, children. The old men were killed right there on the spot. The children who gave problems were beaten to death with rifle butts . . . anything . . . hacked with choppers, pangas. The group of girls I was in, the Cubans and Fapla [soldiers of the Angolan Communist army] came very day. . . . five of them sometimes. They chose a woman and took her out of the cells. I was raped continuously. They had no mercy. If you screamed or made any noise they just gagged your mouth and held you down. Of course some of the women cried. That made it worse for them. They were beaten up and then, afterwards, they were killed."

Angelina Missoji was much more emotional; anxious that we should hear her story but ashamed of her part in it:

"It was a very sad morning. The people were walking down to the fields, it was harvest time. We walked into an ambush laid by the Cubans and some Fapla soldiers. When we fell into this ambush, I tried to run away but I was shot in my foot. Later I was taken away by the Cubans. The bone in my foot was not shattered by the bullet, but in prison the bottom part of my leg was amputated anyway."

At first undecided whether to display her mutilation or to conceal it, she finally tucked her truncated leg under the wooden bench where she was hunched.

"The villagers were divided into groups. The very old people were killed immediately, other old women taken to prison to work there. The younger women were raped and the young men sent for military training. I saw with my own eyes two different ways of killing the old. Some were lined up and shot. Others who were very old were simply clubbed to death, or kicked to death with boots or bayoneted. Both my mother and father were killed by the Cubans. I was there, I saw it. Both were killed in more or less the same way. First they were clubbed and then shot. I was very sad and also angry with myself that I did nothing, said nothing. But I would have been killed as well. I was afraid. It is very difficult for me to remember these things. No, I can't talk any more about this. I'm sorry. Forgive me."

The question we all asked ourselves was why: why attack these villages deep inside the part of Angola nominally controlled by José Eduardo Dos Santos and his Cuban allies? The answer came from an unexpected source, a Cuban who deserted to join UNITA. Miguel Garcia Enamorado, from the Cuban province of Gran Ma, explained that any village more than ten kilometers outside a town was automatically considered to favor UNITA and was therefore subject to punitive measures, *"pour encourager les autres."* Orders were, "Destroy everything, burn down the houses, kill the cattle, neutralize the population."

The above testimony makes me think that if Jonas Savimbi and UNITA lose their war, the village of the living dead may become the country of the living dead.

H.R. 5484, THE OMNIBUS DRUG ACT OF 1986

HON. ARLAN STANGELAND

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 12, 1986

Mr. STANGELAND. Mr. Speaker, we have just considered H.R. 5484, the Omnibus Drug

Act of 1986. As an original cosponsor of the bill, I am pleased it passed overwhelmingly.

I have long been concerned over this issue. The easy access to illegal drugs and significant use by Americans demonstrate the validity of taking harsh steps to escalate the war against drugs.

It is my feeling that statistics on the availability and use of drugs in the past several years explain the problem. For instance, estimates indicate that 150 tons of cocaine—including large quantities of "crack," a relatively new, particularly potent free baser form that can be smoked—will enter the United States this year, compared to 85 tons in 1984. In addition to cocaine, 12 tons of heroin, between 30,000 and 60,000 tons of marijuana, and 200 tons of hashish will cross U.S. borders this year. Despite increased interdiction efforts, enforcement officials intercept only 10 percent to 15 percent of the drugs which enter this country each year.

Matching the escalating supply of drugs is an equally disturbing rise in demand. Americans spend an estimated $120 billion annually on illicit drugs. Figures for 1985 show that 5 million Americans use cocaine regularly, with 1.2 million addicted and requiring treatment. Approximately 7 million abuse psychotropic drugs and 550,000 suffer from heroin addiction. However, the most troubling statistics emerged from a 1985 high school senior survey which revealed that almost two-thirds of those questioned have used illicit drugs—54 percent reported using marijuana/hashish, 18 percent inhalants, 12 percent sedatives, and 12 percent tranquilizers.

Our legislation—H.R. 5484—generally takes steps in five areas to help attack the drug problem.

First, the bill establishes educational programs to teach Americans, especially our young, the effects and problems associated with drug use. Also, drug treatment and prevention centers will be built.

Second, H.R. 5484 increases penalties for drug offenders in the following fashions. It establishes a minimum mandatory 5- and 10-year prison terms for new categories of offenders in major drug trafficking and serious drug trafficking. It provides an automatic sentence of life imprisonment without parole for a second conviction of an adult who sells a dangerous drug to a child or near a schoolyard. H.R. 5484 makes possible a sentence of death for anyone who commits murder while involved in a continuing criminal narcotics enterprise. And, there are provisions creating new crimes of money laundering, designer-drug trafficking, and using children to manufacture or distribute drugs.

Third, the measure will allow for more enforcement of current statutes by providing over $100 million for more Drug Enforcement Agency [DEA] personnel, U.S. attorneys, and U.S. marshals. Because increased enforcement will mean more prisoners, authorizations are provided to build new prisons.

Fourth, the proposal expands the opportunity for interdiction—generally the seizure of smuggled drugs—as over $200 million will be authorized from the existing fiscal year 1987 Department of Defense appropriations for procurement of equipment, such as certain radar, designed to detect and combat drug trafficking on U.S. borders. Also, more Coast Guard personnel will be available for drug-interdiction efforts, and Coast Guard personnel will be assigned to Navy ships to make arrests.

Fifth, opportunities to eradicate—to destroy drug plants—will be increased as the President will be required to deny trade benefits to countries which do not cooperate in eradication efforts. Also, U.S. officials will be allowed greater involvement in overseas narcotics raids. In addition, our bill requires drug-producing countries to establish eradiction programs as a condition of U.S. support for multilateral development bank aid.

This is truly comprehensive legislation. However, Federal Government intervention is not the entire answer. The challenge is so enormous it will never be fully met without significant private and business assistance. Therefore, it is important that Americans obtain the resolve necessary to overcome this menace. For until we do, more lives will be lost, dreams shattered, and normally admirable citizens will turn to crime out of a despicable dependency.

A SPECIAL PRAYER BY JAMES D. LOY

HON. ROD CHANDLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, September 12, 1986

Mr. CHANDLER. Mr. Speaker, I would like to call your attention to a very special prayer that I received from one of my constituents. It was written by a gentleman from Federal Way, WA, Mr. James D. Loy, who on September 2, 1986, lost his long fought battle against a malignant brain tumor. Yet, through his trials and pain, his faith endured. And it is symbolized in this simple prayer, which he wrote. "With love, humbleness, and meager understanding we acknowledge our domain. Universal forces and laws prevail. With available talents and energy we seek knowledge of the universal phenomena to be used for positive creative utilization and extension of this domain." Mr. Loy's wife, Doris, sent me this prayer and I would like to share it with my colleagues, taking a moment from our day to pay tribute to one man's spiritual path and the universal message it holds for us all.

MESSRS. PEPPER AND FASCELL SUPPORT FREEDOM IN ANGOLA

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 12, 1986

Mr. STUMP. Mr. Speaker, Congressmen CLAUDE PEPPER and DANTE FASCELL show the way for a responsible, bipartisan policy to meet the Communist challenge in Angola by opposing section 107 of the intelligence authorization bill (H.R. 4759). Section 107 eliminates any possibility of covert support to the freedom fighters in Angola. I urge my colleagues to stand with these two leaders of the House in support of the motion to strike section 107 of the intelligence authorization bill when it is considered on the House floor.

I urge my colleagues to read the Pepper-Fascell "Dear Colleague" letter on Angola.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, September 8, 1986.

DEAR COLLEAGUE: We are writing to again ask your assistance in a matter of vital concern to United States foreign policy and security interests.

The House soon will consider H.R. 4759, the Intelligence Authorization Act of 1987. Section 107 of that bill reverses the House position on the "Clark Amendment" decided only last year, by a vote of 236 to 185. The repeal of the Clark Amendment eventually became law. We seek your continued support to sustain the important policy victory we achieved then by asking that you vote with me to delete section 107 from the bill.

Under section 107 of the Intelligence Authorization Act, Congress would reinstate the Clark Amendment. The 1976 Amendment, modified slightly in 1980, singled out Angola as the only foreign country in the world where no covert assistance of any kind could be provided. Instead, under section 107 and the Clark Amendment, the Congress must first pass a joint resolution, publicly specifying in detail all assistance given and identifying the recipients, before any aid may be given.

In 1976, the Clark Amendment had a plausible justification that it lacks now. Then, it was expected that Angola would sort out its own affairs, following its 1975 independence from Portugal, free from superpower entanglements—provided the U.S. demonstrated restraint. A permanent legislative prohibition against any covert assistance was intended to provide the Soviet Union with sufficient incentives to also show restraint.

Our calculations proved sadly wrong. Instead, the Soviet Union exploited this unique loophole by pouring in military assistance on behalf of a Marxist faction with little popular support. The Soviet intervention worked, and the MPLA quickly broke their promises to hold free elections. And in the process they snuffed out Angola's best chance for liberty.

With your support on July 10, 1985, we finally admitted our error by repealing the Clark Amendment. However, its supporters want it reinstated and have invented a new rationale for adoption. Because reports have surfaced that Angolan freedom fighters, led by UNITA's Jonas Savimbi, have received U.S. military assistance, they claim our support is no longer covert. Apparently, since some covert Angolan activities have been leaked and made public, any future activities should, in their view, also be made public.

Revealing in advance our intentions, as section 107 demands, will erode our prospects to bring freedom to Angola for several reasons.

First, it provides valuable information to the MPLA. They will learn in advance the nature and amount of any assistance provided, making it easier to develop countermeasures.

Second, it discourages other nations and groups who are discreetly giving to UNITA from continuing to do so by increasing the potential political cost if their role in backing the U.S. and UNITA is revealed.

Third, it encourages the Soviet Union to increase further its level of support out of fear of losing face in view of a publicly acknowledged military challenge to their communist allies.

A corollary argument used by Clark Amendment supporters claims that the South African government also wants UNITA to win. Therefore, we should not take steps to help UNITA because we will also somehow help the South African government in the process.

We believe this argument is wrong for two reasons. First, it says the Angolan people must be denied liberty because of the sins of an ally they cannot control. And secondly, it says that we must reflexively oppose every action the racist South African government makes. Under this logic, we should stop helping starvation victims in Ethiopia because South Africa is also donating aid. We believe that it would be a mistake to deny assistance to Angolan freedom fighters based solely on this guilt by association. In this instance, the South Africans are right; UNITA deserves our support. This same point was made by Winston Churchill years ago when he claimed, "I would accept help from the devil if he joined us in fighting Hitler."

We look forward to your continued support and ask that you join us in deleting section 107 from the Intelligence Authorization Act.

Kindest regards, and

Always Sincerely,

DANTE FASCELL,
Member of Congress.
CLAUDE PEPPER,
Member of Congress.

DISTRESS CALL HOAXES

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 12, 1986

Mr. STUDDS. Mr. Speaker, week in and week out, the personnel of the U.S. Coast Guard strive to make American waters as safe as humanly possible. From time to time, however, these valuable and often courageous search-and-rescue efforts are abused by persons who make false distress calls. These false alarms divert the Coast Guard's limited resources and unnecessarily put Coast Guardsmen and women at risk.

In this context, I would like to insert into today's CONGRESSIONAL RECORD the following editorial from the September 11, 1986, Quincy Patriot Ledger in Massachusetts:

DISTRESS CALL HOAXES

In the past 12 months, the men and women of the Coast Guard district headquartered in Boston have saved 232 lives. During the same period, 48 people have lost their lives in First District seas off Maine, New Hampshire, Massachusetts and Rhode Island. The Coast Guard's rescue mission is very serious business.

But a few times a year, someone decides that it would be amusing to interfere with that mission. A phony distress call gets made—and the Coast Guard responds in force.

That's what happened on March 20—a cold, windy, icy day. A call came in for a sinking yacht with 10 people aboard. Three Coast Guard patrol boats, a jet, a helicopter and a tug were dispatched to find and help the "Lady Blue."

There was no Lady Blue, the call was a hoax. Coast Guardsmen risked their lives needlessly. Rescue boats and aircraft were spread out over 9,100 miles of New England ocean on a bad-weather day when they well might have had a real emergency to respond to.

In dollars, the price of the intensive 20-hour search amounted to $77,900. That's what it cost the Coast Guard.

For Norman Miller, 18, of Chelsea, the cost is also high. He was sentenced last week in federal court to a year in prison after admitting he made the phony distress call.

If Miller had been tried by the Coastguardsmen he endangered, or by the fishermen whose safety net he jeopardized, the sentence might have been even tougher. The hoax call "is a terribly dangerous thing," Judge John J. McNaught said. "I hope other people understand that."

The one year in prison should help get the judge's message through.

INSIDE A MIND JAIL

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 12, 1986

Mr. DORNAN of California. Mr. Speaker, all citizens of the United States are justifiably outraged by the obvious frameup and subsequent jailing of U.S. News & World Report Correspondent Nicolas Daniloff. However, the truth is that thousands of Soviet citizens are regularly subjected to the horrors now visited upon Nick Daniloff as he languishes as a hostage in Lefortovo Prison. So when something like the Daniloff outrage occurs, the last thing Americans should be is surprised, and yet so many of us are.

I therefore believe that now it is an especially appropriate time to submit for the historical RECORD the following article that appeared in Newsweek magazine outlining the incarceration in a so-called psychiatric institution of Serafim Yevsykov, a man whose only crime is that he wants to leave the Soviet Union. It is a particularly tragic story, and one that screams out to be told.

Mr. Speaker, when Nick Daniloff is finally released, as I am sure he soon will be, it is critical that we in the free world remember that for every Nick Daniloff freed, there are thousands of Serafim Yevsykovs still prisoners of the brutal Soviet system of injustice.

The article follows:

[From Newsweek Magazine, Aug. 11, 1986]

INSIDE A MIND JAIL—A SOVIET DISSIDENT GETS THE TREATMENT AT A MENTAL HOSPITAL IN MOSCOW

(By Joyce Barnathan, Moscow Bureau of Chief)

The shabby white building is nearly hidden by an imposing wall on a quiet back street in Moscow. Only the horizontal bars on its windows set it apart. A sign marks the single public entrance in the wall: Central Moscow Provincial Clinical Psychiatric Hospital. A muddy path leads past a construction site, some ambulances and garages. In front of the building sit women of all ages. Many wear hospital gowns. Some stare into space listlessly. Others chat. Inside, among the mentally ill, is 53-year-old Serafim Yevsyukov, a little-known Soviet dissident. Like many others who have undergone psychiatric "treatment" in the Soviet Union, he is quite sane.

He sits in self-imposed silence in his room on the all-male third floor. Two beefy women guard the entrance to the floor. There are no doorknobs in the building; nurses carry them in their pockets so they can lock patients into their rooms more easily. Institutional green walls make a gloomy backdrop for the few patients permitted to sit in the corridor during visiting hours. When his daughter, Lyudmila, 25, arrived recently for one of her daily visits, Yevsyukov was hunched over on a ratty couch in the corner.

"How do you feel, Papa?" Lyudmila asked, full of respect.

"I feel tired," he said, speaking sluggishly. "The injections make you want to do nothing, to think about nothing. I am always tired."

While Mikhail Gorbachev courts the West over arms control and the superpowers mark the 11th anniversary of the Helsinki accords, the Yevsyukov case demonstrates the Soviet Union's continued callousness toward human rights. Yevsyukov is a former Aeroflot navigator who, during the Khrushchev era, had traveled abroad, occasionally even to the West. In 1978 he quit his job and filed a petition to emigrate. Two years later he lost his subsequent job as an airport engineer. His case is not one that would draw much attention. He is not Jewish. He is not a political activist. He has no relatives in the West. He and his family simply have decided they want no part of their country and would prefer to leave.

He was picked up on his way to a weekly family protest against the imprisonment of his 24-year-old son, also named Serafim. The young man had already served a 2½-year sentence in Siberia for draft evasion; he refused to serve in the military of a country he demanded to leave. After his release Serafim again refused to serve, and he was sentenced to another three years. Once a week his father, mother and sister would protest by standing in front of the Pushkin monument in downtown Moscow, wearing badges with young Serafim's name on them. The protest drew some modest attention when the family's plight was featured in a broadcast by Radio Liberty in May. Last month KGB agents arrested Yevsyukov at a railway station en route to the monument. First they took him to a militia station and used a razor blade to rip his son's prison name tag from Yevsyukov's shirt. Then they moved him to the hospital. It took his family two day to find out where he was being kept.

Word of honor: It was the third time that Yevsyukov had been taken before psychiatrists. He was picked up by the police in June as he awaited the return from the United States of Soviet dissident Yelena Bonner at Moscow's Sheremetyevo airport. According to Lyudmila, he was taken to a militia office where a psychiatrist pronounced him sane. Earlier, in April 1985, his request for an exit visa brought him three days at the Central Psychiatric Hospital. First a bureaucrat had assured him that a visa would be granted if he obtained an invitation from the Dutch Embassy. When Yevsyukov protested that access to the embassy was blocked by militia guards, the bureaucrat gave him his "honest party word" that his entry would be permitted. Then, when he showed up at the embassy, he was hauled away to the mental hospital.

This time around Yevsyukov was sharing a room with 13 others, all of them mentally ill, when his daughter made her visit. His wife did not go because she always wears

her son's name tag—and suspects that she, too, will be locked up or questioned if she pays a call. Half a dozen roommates sprawled out on narrow beds, never uttering a sound. The barred windows in the barren room were closed on a warm summer's day. The patients are shaved twice a week; Yevsyukov sported a day-old beard. According to Lyudmila, her father had not been permitted to shower or receive fresh bed linen or clothes for 10 day. Forbidden to wear civilian clothes, he had on white cotton pajamas and a stained dark brown robe. He was not wearing his glasses because glass is forbidden in the hospital . He had no appetite for the kasha and cabbage soup served to him—nor for the fresh apricots his daughter had brought.

Getting rough: A male sanitar (orderly) keeps close tabs on Yevsyukov's limited movements. Pale, blond and hulking, the sanitar sits on a chair facing the special-security room, where Yevsyukov resides. He always positions himself to be directly across from Yevsyukov's bed. "He will not let me exercise, even in bed," Yevsyukov whispers. The sanitar is sitting just five feet away, only barely out of earshot. "He will not let me sit on the couch in the corridor when there are no visitors. He allows only two of us in the toilet at once. And from the toilet he makes sure I return straight to the room. I can take no walks. Most of the day, I just lie in bed."

Sometimes his warders get rough with him. Two days earlier a nurse had insisted that Yevsyukov swallow pills, which he says are numbing. He refused, shutting his jaw tight. They first tried jamming the pills into his mouth. Then the orderly strapped him to the bed and employed two mentally ill inmates to help hold him down while they closed his nostrils and tried to force him to open his mouth. His nose bled. Finally they gave up and injected him instead—with a promise to repeat the process if he refused the pills the next time.

Seven days into his confinement, Yevsyukov said he was being shot up twice a day; later, after he grew weaker, his injections would be reduced to one a day. Lyudmila says she suspects that his warders plan to subject her father to a long hospitalization—and don't want him to become too ill. Yevsyukov always refuses to take pills. A nurse usually asks him to go into a special room where they administer the shots. He refuses. She then demands that he roll over. No reaction. The husky sanitar forcibly rolls him over—and the nurse sticks Yevsyukov in the buttocks with the needle. Back to the fog.

Yevsyukov seems undaunted. His captors' strategy, as he tells it, is to rob him of his physical and mental energy and at the same time extract from him as much information as possible, so the KGB can later use it against him. His only weapon is silence. "My goal is not to listen to them and not talk to them," he says. Neither he nor his family has ever heard an explanation of Yevsyukov's alleged mental illness. "We never tell relatives anything about the diagnosis," Lyudmila reported the doctor as saying. At least once and as many as three times a day the doctor tries to question Yevsyukov on his background, his problems, his fears. He responds with fierce silence. Lyudmila is likewise uncooperative. "The worst thing that you can do for yourself is not speak to me," she says she was told by the doctor. "You aren't going to answer my questions," Lyudmila told her. "Why should I answer yours?"

Yevsyukov's optimism shows even through the drug-induced fog. "I know everything will eventually turn out all right," he says. "I can wait." But since he does not fall into any neat category of dissident, his future is less than promising. "The Western embassies tell us, 'You have no invitation to leave. You are not Jewish. You are not a divided family. There is nothing we can do for you'," says Lyudmila. "They are killing us because we are a unique case. We just want to leave."

Out in the corridor, nurses chat with each other. Yevsyukov winked a gray-green eye in surreptitious appreciation of his daughter's visit. On the way off the floor, one of the plump guards stopped Lyudmila. "Did he talk to you?" she asked her. "Of course," Lyudmila told her. "Why doesn't he say anything to us? He doesn't say a single word. It's very bad." "Maybe he doesn't want to talk to you," Lyudmila replied. "Well, you ought to tell him to start talking to us." That was an order. It was met with the silence of a devoted and determined daughter.

Outside the building she looked back and saw a tall, sane man behind a barred window on the third floor. It was Yevsyukov waving goodbye with both arms, a drugged but unbroken man.

PARALYZED VETERANS ASSOCIATION'S EXPO

HON. DAN MICA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 12, 1986

Mr. MICA. Mr. Speaker, I would like to direct the attention of my colleagues to the Paralyzed Veterans Association's Expo for the Handicapped 1986, which is being held in Coral Springs, FL October 9–10.

This is a doubly gratifying moment, Mr. Speaker, because it permits me to recognize not only the Expo's organizers, but the far-ranging contributions of disabled persons to our community, our State and our Nation.

Today more than ever, the complex issues facing our society demand all our resources. Only by pooling our diverse talents will we meet these challenges, and that is why Expo 1986 is so vitally important. It signifies our resolve to work together, and to recognize that each of us has a unique gift that all should share.

This Expo, which is held each year in conjunction with National Employ the Handicapped Week, is an ideal opportunity for all Americans to rededicate themselves to ensuring that the handicapped enjoy the same opportunity for employment, education, social interaction, recreational facilities, quality medical care and other resources that are available to others.

I would ask my colleagues to join me in commending Committee Chairman George H. Snyder and his colleagues for their tireless work in this area. We salute them, and wish them every success in making Expo 1986 the most successful ever.

SANCTIONS, A CRUCIAL FIRST STEP

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 12, 1986

Mr. EDWARDS of California. Mr. Speaker, I am pleased that the Senate has now joined the House in declaring that the President's policy of constructive engagement is a total failure. Finally, a long awaited package of sanctions against South Africa is being sent to the President by Congress.

While this is certainly a very important step, there remains much more work to be done to establish meaningful dialog between blacks and whites in South Africa. We must continue to focus our attention on the situation there, and follow through with our commitment to bringing democracy to South Africa.

As we take this important first step, I would like to share with my colleagues two very well written pieces which support the decision we have made here today. The first was written by William Gould IV of the Stanford University Law School. Mr. Gould very forcefully, and correctly, states that Congress must take full responsibility for any and all United States sanctions against South Africa.

The second piece, written by Steven Phillips of the San Jose Mercury News, clearly explains the significance of the California State Legislature's decision to divest $11.4 billion of State funds from United States firms doing business with South Africa. In his piece, Mr. Phillips explains clearly the practical effects, and strengths, of economic sanctions.

S. AFRICAN SANCTIONS, CAREFULLY CALIBRATED

(By William B. Gould IV)

South Africa's apartheid is the object of near universal condemnation in the United States. Its political and moral unacceptability is a reflection of our civil rights revolution which, while failing to eliminate a good deal of this country's discrimination, has made racism disreputable.

Yet this summer's debate about sanctions reflects an undercurrent of traditional racial attitudes held by the Reagan administration and its allies (including Britain's Thatcher government) on one side—and a streak of self-righteousness on the other. Sometimes the debate focuses more on how Americans can or should feel about themselves than on the conditions of South African blacks.

One need look no further than President Reagan's 1981 interview with Walter Cronkite, when he praised South Africa as a World War II ally, and his July 22 speech bestowing more accolades upon the Botha government's "reforms." Besides its "constructive engagement" policy toward South Africa, the Reagan administration's tax enforcement of civil rights in the United States, its opposition to affirmative action and its sponsorship of tax exemptions for segregated schools all belie Assistant Secretary of State Chester Crocker's assertion that this country is united behind common objectives *vis vis* South Africa and that the debate is exclusively implementation.

At the same time, unfocused moral indignation is demonstrated by statements such as that made by Sen. Lowell Weicker, R-

Conn., during a recent Public Broadcasting Corp. interview to the effect that the impact of sanctions doesn't matter—what matters is that we remain "true to our traditions."

It is, of course, vital that we disentangle the web of complicity so assidously spun by the Reagan administration and some of its predecessors. The object, however, should not be catharsis for Americans, but rather the promotion of the interests of the black opposition and, to the limited extent possible, facilitation of a non-racial democracy.

Symbolism is always important in foreign policy. In this case it must be designed to distance us from the Botha government—which is hardly likely to rush into the open arms of the Soviet Union—and to establish a *modus vivendi* as well as friendship with its successors, regardless of ideology.

The United States must enact legislation containing sanctions against South Africa, in concert with our European allies if possible. Congress should pass a bill that is carefully calibrated to inflict both economic pressure and psychological isolation upon the South African regime—and that leaves us an opening to respond to a genuine dialogue between blacks and whites or the emergence of a representative government.

True, we should not "cut and run" as President Reagan has said. But we must do what little we can to promote a relatively peaceful transition.

The legislation should not call for the suspension of any sanction when the executive branch of government "certifies" that there has been "progress" in South Africa. Congress must take full responsibility. And Congress should opt for sanctions as the stick for any carrot, for three reasons:

The Reagan administration policy of constructive engagement is morally bankrupt, as it has given the Botha government respectability. This policy also has produced a complete dead end in South Africa, as the current state of emergency makes clear. It has not brought President P.W. Botha to the bargaining table with blacks. On the contrary, the government has grown more truculent than ever! As Bishop Desmond Tutu has said: "There is no guarantee that sanctions will topple apartheid, but it is the last nonviolent option left and it is a risk with a chance. President Reagan's policy of constructive engagement, and similar efforts to persuade white South Africans who support apartheid to change, have failed dismally."

All blacks, except Zulu chieftain Gatsha Buthelezi, overwhelmingly advocate sanctions. Indeed, the principal black trade union federation (Cosatu) has called for sanctions with full recognition that its members will be hurt first. Cosatu has judged that the suffering imposed by apartheid outweighs the relatively short-range economic harm done to blacks.

South Africa fears the discontent of both blacks and whites that will flow from sanctions. At some point, they could contribute to a turmoil that may, as foreign policy writer Connor Cruise O'Brien has suggested recently, lead to military intervention by the United Nations.

That is why South Africa fights sanctions so fiercely. That, along with the demographics of a swelling black majority, is why she has pushed so hard to institute modifications of apartheid through "reforms" deomonstrating its good faith to the West.

The fact is that South Africa understands and responds well to the language of sanctions. Consider the government's reaction to the sports boycott and its mild efforts to integrate, to avoid ostracism.

Nevertheless, the objections to sanctions are legion. Why single out South Africa?

As our actions against Nicaragua, Libya and the Soviet Union (in the wake of its invasion of Afghanistan) demonstrate, we frequently impose sanctions upon governments with morally repugnant policies. Moreover, our economic and military ties to South Africa make it a kind of creation of the West. We can influence it more effectively than most nations, and our conduct with it should therefore meet a higher standard.

Another reason why South Africa should be treated differently from the Soviet Union, for example, is that the racial injustice which permeates the former country is unique and abhorrent—an evil familiar in our own recent history.

A more formidable argument against sanctions is that they don't work. The experience with Rhodesia (now Zimbabwe) and the arms embargo against South Africa are not encouraging. Sen. Jesse Helms, R-N.C., says sanctions will topple the South African government and bring left-wing blacks to power, but this assertion is wildly simplistic.

The impact of sanctions is a long-range proposition. For starters, the United States would have to scrutinize the conduct of third parties, such as Israel, that are alleged to be transfering American assistance through channels with place arms, for instance, in the hands of South Africa.

The United States ought to enact legislation that will inflict economic pressure and psychological isolation upon the South African regime. The regime and many influential white citizens want and crave contact with the West. We should exploit this and exert pressure with our allies—Reagan's special relationship with Thatcher would be very useful here. Yet, some measure of contact should be preserved.

Contact could mean influence with a future government. Contrary to the urgings of some African National Congress representatives, diplomatic relations should not be broken with South Africa—or with any other country of which we disapprove. At a minimum, we need diplomatic relations to understand the injustice we should fight.

Nor should investment and trade be completely cut unless and until it is clear that measures such as those advocated here have had no effect. All of this is not intended to quarrel with the Dellums embargo on trade and investment passed by the House, which has moved the American dialogue forward—with a tremor sent through the business community.

But in 1986 our first genuine sanctions should be designed to offer a carrot. A primary reason for this approach is that a black-rule South Africa will need foreign multinationals and the export capacity that some of them possess. Part of newly independent Zimbabwe's economic success is attributable to such corporations' expertise and the fact that they, along with many white Zimbabwean farmers, did not up and leave.

But if, after 12 or 18 months, a Senate-House fact-finding team determines that the sanctions advocated below are not working and that the West is perceived by blacks to be on the wrong side, more drastic steps can then be taken. This could include divestiture, despite its harmful consequences.

Legislation enacted this year should contain the following elements:

A ban on all new investments in all forms of capital inflow. This is contained in a bill introduced by Sen. Nancy Kassebaum, R-Kan., and it is an important first step in convincing South Africa that we will use economic pressure. Resumption of investment should not be conditioned upon any certification by the Reagan administration that the South African government has made any progress.

A boycott of all imports of coal, steel, uranium, cement and aluminum from South Africa's publically owned or "Para-statal" enterprises. This measure is contained in Senate Foreign Relations Committee Chairman Richard Lugar's bill. It will deprive South Africa of badly needed foreign exchange and will have the additional benefit of placing our own nation in concert with boycotts that may be instituted at the European Economic Community's meeting in September. It might encourage EEC action along such lines.

A freeze on all South African bank accounts held in the United States. This will squeeze those whites who seek to depart from South Africa and thus pressure their government.

A cancellation of U.S. landing rights for South African Airways.

A ban on visas for South African parastatal officials. Such a ban should logically be extended to private citizens who propagate apartheid, just as South Africa excludes U.S. citizens whose views it finds uncongenial. But here again, the Reagan administration cannot be trusted.

An obligation for American companies still doing business in South Africa to bargain with black unions—the most important black opposition groups in South Africa—and to provide them with work place facilities. Theoretically, this has been done by the Sullivan Principles —to which numerous U.S. companies are signatory—but monitoring and enforcement of the principles have never materialized.

A sale of some or our reserve gold stocks, to depress gold prices. This step is advocated by the respected and conservative Economist of London.

Congress should explicity pledge itself to provide foreign aid to compensate countries such as Zimbabwe, Mozambique and Zambia, which may suffer severe economic harm as a result of our sanctions, and which may endure South African reprisals in the form of deportation of their workers now employed in that country.

As I visited South Africa and met with black South African leaders in this country, there has been a constant refrain: "You Americans must get on the right side for a change." Sanctions would be an effective first step in that direction.

Divestiture, a First Step—United States Firms Help Maintain the South Africa Status Quo

(By Steven C. Phillips)

Last week, the California State Legislature voted to divest $11.4 billion of the state's funds from U.S. firms doing business with South Africa. Many people, including a majority of our own editorial board, think the action may have been ill-advised and impractical. Others of us think it was the right thing to do.

When asking, "Why divestiture?" it is imperative to understand the rule foreign investment plays in perpetuating apartheid. U.S. companies profit from that system and their taxes contribute to the maintenance of the economic status quo. In 1978, the Senate Foreign Relations committee con-

cluded that "the net effect of American investment has been to strengthen the economic and military self-sufficiency of South Africa's apartheid regime."

It is from the desire to remove foreign investment as a pillar of the apartheid system that the call for divestment has sprung. The divestment movement seeks to pressure U.S. corporations into withdrawing their holdings from South Africa.

How can the divestment of a few million dollars each from major multinational corporations induce those companies to pull out of an extremely profitable country? Some may say that divestment will have little effect. Viewed in narrow economic terms, such as a loss in the value of stock, it probably won't Divestment, however, is more than an economic maneuver; it is a political action.

Where the California Legislature goes, other state legislatures and boards of trustees might well follow. And with enough investors of enough large blocks of stock pulling out their funds, that movement is sure to make waves at least in some corporate board rooms, if not on Wall Street.

The groundswell against apartheid already has risen beyond what organizers could have hoped a decade ago. With more groups demanding that their money not support companies dealing with South Africa, boards of directors will certainly review whether their policies are worth jeopardizing their public image, if not their profitability.

Public relations are important in the corporate world, and no company wants to be seen as supporting legalized racism. Highly publicized divestiture actions ensure that corporations continue to question their actions.

True, a consumer boycott of products may be more productive than simply divesting of stock that others may buy. But this is not an either-or choice. In expressing outrage at apartheid, divestiture is a simple, one-vote first step, compared with the efforts involved in organizing a long-term boycott.

A second practical result of divestiture is that it sends a strong message to the South African regime. Every act of divestment in the United States makes headlines in Pretoria and contributes to the international movement to isolate the apartheid regime.

With Ronald Reagan widely viewed as South Africa's last best friend, it is important to show that many official sectors of America are strongly opposed to the repression and denial of democracy in that country. State legislatures do not have the power to impose economic sanctions—perhaps the United States' most effective tool—against the Botha regime. Divestiture is, indeed, an indirect way to attack the evil of apartheid. But in a war in which our own federal government drags its feet, we choose the weapons, however small, at our disposal.

Divestiture also fuels the Free South Africa movement in this country. Historically, grass-roots pressure has produced changes in U.S. policy. In the past year, it has been the demonstrations on the campuses and in front of the South African embassies and consulates that have pushed this issue up on the national agenda.

Lastly, we must avoid arrogance as we seek to assist the struggle for freedom and democracy in South Africa. Ultimately, it will be the South Africans that free South Africa. Given that, we need to ask those working for change what kind of help we can offer. The answer, from Archbishop Desmond Tutu, the United Democratic Front, the African National Congress, and the black trade unions is loud and clear: Withdraw foreign investment.

Divestment is one means to speed that withdrawal. It is not the only way. Rather than criticize it, we should embrace it and then suggest other ways to effect change.

There is no single, clear and easy path to ending apartheid. Neither is there time for self-satisfying, morally cleansing actions. We need to confront the political realities of the hour pragmatically, and respond to the urgency of the moment. Divesture marks only the beginning.

TRIBUTE TO ANTHONY BIVONA

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 12, 1986

Mr. MRAZEK. Mr. Speaker, I rise today to pay tribute to my friend Anthony Bivona, a man dedicated to the service of his community.

Tony Bivona, a fellow resident of Centerport, Long Island, retired this year after 22 years of service to the Deer Park School District as a teacher and speech pathologist. The school district and, more importantly, the students of the district will miss his dedication and energy.

But there are other sides to the community spirit shown by Tony Bivona, Mr. Speaker. He has given freely of his time to provide service to local hospitals and nursing homes. He developed and continues to direct an acclaimed summer recreation program for the handicapped in Huntington, a program he initiated while serving as town administrator. He also has served the people as a member of the Suffolk County Legislature.

Mr. Speaker, I'm honored to be able to call Tony Bivona my friend. I wish him well as he enters the next phase of his life, and commend him to my colleagues as a worthy example of the exemplary citizens among us.

PERSONAL EXPLANATION

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 12, 1986

Mr. DANNEMEYER. Mr. Speaker, unfortunately, due to a longstanding commitment, I was unable to attend the session on Friday, August 15, 1986 and subsequently missed 12 rollcall votes. Had I been present, I would have voted:

"Present" on rollcall No. 353, a quorum call;

"Aye" on rollcall No. 354, the Dickinson substitute amendment to the Hawkins amendment to H.R. 4428, which would have raised the threshold for applicability of the Davis-Bacon Act to $250,000;

"Aye" on rollcall No. 355, the Hawkins amendment to H.R. 4428, to raise the threshold for applicability of the Davis-Bacon Act to $25,000;

"Aye" on rollcall No. 356, the Solomon amendment to H.R. 4428, to clarify that former members of the armed services who were honorably discharged, or permanently handicapped cannot be refused Federal benefits for having failed to register for the draft;

"Aye" on rollcall No. 357, the Dickinson motion to recommit H.R. 4428 to the Committee on Armed Services with instructions to report it back containing an amendment to permit use of Armed Forces for interdiction of narcotics and with the following amendments deleted: the Aspin amendment relating to nuclear testing, the Dicks amendment relating to SALT II, the Brown of California amendment relating to anti-satellite weapons, and the Porter amendment relating to chemical munitions;

"Nay" on rollcall No. 358, final passage of H.R. 4428, the Department of Defense Authorization;

"Nay" on rollcall No. 359, a separate vote on the Waxman amendment to H.R. 3129, to prohibit the Department of Transportation from contracting for construction of the Los Angeles metro rail;

"Aye" on rollcall No. 360, the McEwen motion to recommit H.R. 3129 to the Committee on Public Works and Transportation with instructions to report it back containing an amendment to take the Highway Trust Fund off budget;

"Nay" on rollcall No. 361, final passage of H.R. 3129, the Surface Transportation Authorization;

"No" on rollcall No. 362, to agree to Senate amendment No. 1 and disagree to Senate amendment No. 2 to H.R. 5395, to increase the statutory limit on the public debt;

"No" on rollcall No. 363, to table the motion to reconsider H.R. 5395; and

"Nay" on rollcall No. 364, motion to adjourn until noon on Monday, September 8, 1986.

EDUCATIONAL EXCELLENCE IN LOUISIANA

HON. JOHN B. BREAUX

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 12, 1986

Mr. BREAUX. Mr. Speaker, today, 272 public and private schools are being recognized by the Department of Education for educational excellence. This honor is being bestowed on these schools for their effective educational programs.

Of the 272 schools being honored today, 7 are from Louisiana. Four of these schools are public schools. Three of them are private schools. I salute them for their outstanding work in educating our young students.

Two of Louisiana's seven schools being recognized today are from the Seventh Congressional District. They are St. Michael's Catholic School, at Crowley, and Our Lady of Fatima, at Lafayette. As Representative of the Seventh District, I wish to bring this award to the attention of the House and to applaud them for achieving it.

As a former student of St. Michael's and a graduate of St. Michael's High School, I am proud to see it receive this recognition.

Particular attention should be given to all those who contribute to and work so hard on

behalf of educational excellence at these schools. For the students, the faculty and staff, the parents, and the others who participate in the school's program, this honor will always be valued and treasured. Let it serve, too, as a challenge for the future, to continue the effective education for which they have been recognized.

Let this be an occasion, too, to renew our commitment to outstanding achievement in education, at all levels, as it is so important and vital to this Nation, now and in the years ahead.

CATASTROPHIC OUT-OF-POCKET MEDICAL COSTS

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 12, 1986

Mr. SMITH of New Jersey. Mr. Speaker, nearly 16 million American families, or about one family in five, incur catastrophic out-of-pocket medical costs each year, according to a recent study funded by the National Center for Health Services Research. The study found that people suffering catastrophic costs—greater than 5 percent of the family's gross income—were of two types: Those who had good health insurance but had very large costs beyond their coverage, and families for whom relatively small out-of-pocket expenses represented a high percentage of their income due to a combination of low and inadequate or nonexistent health care coverage.

In many cases, Mr. Speaker, catastrophic medical costs stem from long-term care for an elderly patient. An estimated 6.6 million Americans 65 and older require long-term care. Of the elderly over 84 years of age, 22 percent are institutionalized. Moreover, the elderly population is increasing in record numbers. Life expectancy at birth has reached a new high of 74.6 years.

In general, America's families are shouldering the burdens of paying for long-term care with their personal financial resources. In fact, 40 percent of nursing home care is paid for from private sources. Insurance policies for long-term care are available, but only a small fraction of Americans have taken advantage of them.

This may be because many older Americans mistakenly believe that Medicare covers nursing home care. A 1983 survey by the American Association of Retired Persons, for example, showed that 79 percent of those who thought they might enter a nursing home erroneously believed Medicare would pay all or part of the bill.

The fact of the matter is, Mr. Speaker, that Medicare pays only for short-term stays—up to 100 days. It does not cover custodial long-term care. Medicaid, the joint Federal-State health plan for the poor, does pay for nursing home care.

But Medicaid was designed to help only the truly needy. Before it will pay, patients must be poor already or spend down their assets to meet strict eligibility standards. Sadly, once a person is in a nursing home, that process does not take very long.

Mr. Speaker, our Committee on Aging found that 63 percent of older Americans with no spouse impoverish themselves after only 13 weeks in a nursing home. According to that same study, 83 percent become impoverished within a year.

Having realized the magnitude of the problem of paying for long-term care, Congress, the White House, and the private sector are seeking appropriate means to pay for catastrophic health care. The U.S. Chamber of Commerce has formed a task force to study private sector alternatives. The President's Blue Ribbon Panel will issue a report by the end of the year. In addition, budget reconciliation legislation that became law in April called for an 18-month study by a new task force to recommend long-term care policies to Congress and State governments.

Current proposals in Congress range from expansion of Medicare coverage to include an optional part C; to medical IRA's; to tax deductions for the care at home of chronically ill, elderly family members. Most of these proposals are vehicles for discussion of possible ways the public and private sectors can meet the vast need for a long-term care policy.

Once the various task forces, commissions, and private sector groups have completed a comprehensive examination, including study by the Select Committee on Aging, I believe there will be a consensus here in Congress to take action on this vital issue.

GATT TALKS

HON. DAN MICA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 12, 1986

Mr. MICA. Mr. Speaker, beginning next Monday, trade ministers from 92 nations will open a new round of global trade talks in Punta Del Este, Uruguay. The great need for a renegotiation of the general agreement on tariffs and trade [GATT] is indisputable. I strongly support U.S. Trade Representative Clayton Yeutter's stance as we enter the talks.

Yeutter has clearly expressed U.S. priorities for the GATT talks. They include: an end to agricultural subsidies; stricter prohibitions against piracy of intellectual property; a halt to barriers to trade in service industries such as banking and insurance; free flow of investment funds; and revision of the GATT dispute settlement mechanism.

GATT has served the world well since its inception in January 1948. It has promoted large-scale trade liberalization and fostered economic growth and higher living standards. However, GATT must adapt to changing world conditions if it is to survive. Consideration and adoption of reforms proposed by the U.S. Trade Representative is imperative to this survival.

A WINDOW OF OPPORTUNITY TO SOLVE TIMBER PRICING PROBLEMS

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Friday, September 12, 1986

Mr. WYDEN. Mr. Speaker, the key to economic health in the Pacific Northwest is a healthy, vibrant timber industry. Over the last 5 years, Canada has cornered a growing portion of the timber market previously serviced by Americans. Why? The primary factor is a pricing imbalance that some have called a blatant Canadian subsidy.

I am not here to call names or make charges. But I think that we have a window of opportunity between now and October 9 of this year to pursue a strategy that could help both American and Canadian timber interests.

On October 9, 1986, the Commerce Department will arrive at a decision in a countervailing duty case as a whether Canada subsidizes its timber prices. If that decision finds that there is a subsidy, a heavy tariff—that some say may be 27 percent—will be applied to all timber coming into the U.S. from Canada, and the trade war begins.

The solution does not lie in an identical pricing system, but it might lie in one which ultimately connects the prices of our two countries: a common stumpage pricing system. Over the last 5 years, the effective exchange rate between the U.S. and Canada has been relatively stable. With attention paid to maintaining that balanced exchange rate, a common pricing system—leading to a freer and fairer timber market—should be within our grasp. Thus united, we might even be able to address our mutual concerns of Japanese tariffs and untapped markets.

Mr. Speaker, we should not be facing a choice between submitting to an unfair subsidy or unleasing a harsh tariff. And yet, that's the direction we seem to be headed. Secretary Malcolm Baldrige, together with U.S. Trade Representative Clayton Yeutter, are in the best position to create a third choice, but it hasn't been done.

I can think of no better time to move into high gear than the present. The ruling on October 9 provides a window of opportunity to solve this trade dilemma. What better reason can be given Canada to negotiage than to avoid this big "sanctions" stick?

It is high time that this administration recognized that its negotiating positions have been ineffective. We have the tools to put our trading partners' feet to the fire and negotiate some real solutions. But unless the administration acts quickly, in this window of opportunity, we will have lost the chance to achieve an innovative solution to our timber pricing problems.

LEGISLATION TO CALL IN THE $100 BILL

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 12, 1986

Mr. MANTON. Mr. Speaker, everyone agrees the Congress must take strong, decisive action to attack the drug epidemic which is destroying our youth and fueling the crime rate in our communities. The House recently took a major step toward arresting this plague when it passed overwhelmingly H.R. 5848, the Omnibus Drug Enforcement, Education, and Control Act which is now before the Senate. I believe the Congress must continue to search for other avenues to stop the drug trade and put drug traffickers behind bars.

Recently I had the opportunity to visit with my good friend, Jerry Finkelstein, the publisher of the New York Law Journal. Mr. Finkelstein had an excellent idea which I believe would go a long way toward identifying drug traffickers and drying up their illegal profits. His idea is very simple: Call in the $100 bill.

Currently, there are approximately four $100 bills in circulation for every man woman and child in this country. However, few Americans carry $100 bills in their wallet. Most large retail purchases are made by check or credit. In fact, more than 90 percent of consumer and business transactions are handled by checks. Only small retail purchases are routinely made with cash.

Where are all the $100 bills? The vast majority of $100 bills held domestically and internationally are in the hands of big-time drug traffickers, loan sharks, tax evaders, gangsters, and other law breakers.

The $100 bill is the currency of the drug trade. In most drug busts, it is not uncommon for police to find suitcases or brown paper sacks stuffed with $100 bills. A drug dealers need for large denominations of cash is obvious. Cash eliminates bank records which would lead law enforcement officials straight to the criminals. Under current law, banks are required to report large cash transactions. Also, large denominations make it easy for drug dealers to transport the billions of dollars in which they deal. Quite simply, $100 bills make the drug dealer's life that much easier.

Today, I am introducing legislation to direct the Secretary of the Treasury to promptly recall the $100 bill. This legislation will take from the drug dealer one of his most vital resources—a convenient medium of exchange.

My legislation would simply require the Treasury Secretary, within 30 days after enactment, to use his existing authority to recall the $100 bill. The legislation would also authorize the Secretary to issue regulations to facilitate such a recall and to provide for the minting of replacement $100 bills in a different form.

Calling in $100 bills would send fear through the hearts of big time drugpushers. They would be forced to come to the surface to turn in their old hundreds for new money, and our law enforcement officials will be waiting. If they failed to do so they would lose hundreds of millions of dollars made through this deadly trade.

Mr. Speaker, we must stop drug pushers from poisoning our children and threatening our society. Eliminating their primary medium of exchange would help to do just that. I urge my colleagues to join me in cosponsoring this important bill. By enacting this simple, straightforward proposal, we can drive a big spike into the heart of the drug trade in the United States.

KALAMAZOO, MICHIGAN'S CHURCH OF GOD'S CENTENNIAL

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, September 12, 1986

Mr. WOLPE. Mr. Speaker, I want to pay special tribute to Kalamazoo, Michigan's Church of God on the occasion of its centennial celebration.

In 1886, with the visit of a traveling evangelist, Sebastion Michels, to Kalamazoo, came the Church of God movement to Michigan. One of the attendees of Michel's tent worship meeting was William Ralph Hartman, who was so moved by the gatherings that he decided to become pastor of the Church of God, in which capacity he continued to serve for 51 years. The group of six converts grew steadily until 1908 when, with 60 members, the first church building was erected on Ransom Street.

There are many dates important to the history of the Westwood Church of God: 1920, when a new 200-seat, brick building was built, completely financed through freewill offerings; 1960, when a newer church was constructed at its current location on Gorham Lane; 1966, when the church "mothered" a new congregation on the south side of town serving 30 families from the established congregation; 1977, when the current senior pastor and his wife, Tom and Jean Tufts, began their service; and November 1981, when the rebuilding of the sanctuary, which had been demolished by a tornado on May 13, 1980, was completed.

Mr. Speaker, the members of the Westwood Church of God take understandable pride in their history and in the strength of their faith. The centennial celebration commemorates the church's founding and serves to demonstrate its sense of the history and its confidence in its future. I am privileged to represent the members of the Westwood Church of God and to work with constituents who use the celebration of their history as a means of recommitting and rededicating themselves to their religious heritage and to service to their community.

PESTICIDE RESISTANCE AMENDMENT TO FIFRA

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 12, 1986

Mr. SCHEUER. Mr. Speaker, today I am introducing an amendment which I plan to offer when the Federal Insecticide, Fungicide, and Rodenticide Act comes to the floor next week.

While H.R. 2482, as amended by H.R. 5440, provides important new provisions, it does not address one issue which will increasingly confront farmers and environmentalists in the years to come: the alarming increase in the number of insects and other pests which have grown resistant to pesticides and can no longer be controlled or killed.

Entire classes of once highly effective pesticide compounds have been rendered entirely useless. Indeed, seventeen species of insects are now resistant to all of the five classes of pesticide compounds in existence—including most recent products of sophisticated research. Already, we no longer have any effective pesticides against some major crop pests. In Long Island, for example, potato farmers have no effective pesticide against one of the crop's major insects.

The prestigious National Academy of Sciences has warned, in a 1986 report, that: "The bright future for crop protection and public health as a result of the introduction of synthetic organic pesticides is now open to serious question because of an alarming increase in * * * resistance."

Our traditional answer to pesticide resistance—switching to a new pesticide—is rapidly becoming impossible. The chemical industry has nearly exhausted the potential of traditional chemical pesticides. Finding new effective chemical pesticides is becoming more difficult—and more expensive. The number of new pesticides introduced has dropped sharply in the last several years.

Making this problem all the more difficult is the fact that many pests that develop resistance to one group of chemicals also turn out to be resistant to other groups of pesticides. Almost half of the anthropod species are resistant to more than one out of the existing five classes of chemical pesticides, sharply reducing the present possibilities of pest control.

The tragedy in human terms is brought home vividly by the World Health Organization's ill-fated attempt in the 1970's to eradicate malaria mosquitoes by widespread use of DDT. The mosquitoes are now widely resistant to DDT, and malaria is surging back to epidemic levels. Unfortunately, scientists fear that DDT-resistant genes will also protect mosquitoes against the last possible class of insecticide.

Fortunately, scientists all over the world are working on pesticide management techniques which can greatly retard the development of pesticide resistance. For example, the National Academy of Sciences' report suggests a number of alternative strategies for pesticide management, including alternating, rotating, or developing new sequences for pesticide applications.

The amendment I have proposed would give EPA, for the first time, explicit authority to address this urgent problem. The amendment will direct the EPA to establish a Pesticide Resistance Management Program to conduct research and testing on management methods to control pesticide resistance. The amendment also directs EPA, in consultation with the Secretary of Agriculture, to share the information developed by the program with all involved parties, including farmers, farmer orga-

nizations, manufacturers, and pesticide applicators.

While the coalition supporting H.R. 2482 is generally opposing floor amendments, I am encouraged to know that the coalition, including the National Agricultural Chemicals Association, has no objection to this amendment.

Pesticide resistance cannot be dismissed as a future problem. The problem is now. Unless we take action now to reduce the explosive growth of resistance to pesticides, we may find ourselves in the 21st century facing an exhausted chemical arsenal against pests, and the prospect of suffering the 19th century ravages of nature on our health, our crops, and our environment.

I urge my colleagues to support this very modest step to address this most serious problem.

ACTION AGAINST APARTHEID CANNOT BE DELAYED

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 12, 1986

Mr. MILLER of California. Mr. Speaker, the apartheid system of racial oppression in South Africa must be abolished. It is an immoral and unjust system. It is an affront to human dignity, and that is why the House must vote to impose strong sanctions against South Africa.

Although I support the stronger language contained in the original House-passed bill, I am voting for the sanctions contained in the bill before us today.

The President's policy of constructive engagement has proven to be an embarrassing failure. It has utterly failed to move the South African Government toward an end to apartheid. Instead, the Botha Government continues to write a tragic history of oppression, violence, and death.

Together with other nations, we need to send a strong signal—and this bill is that message.

We must help bring to a close this sorry chapter of the Pretoria Government's inhumanity to its people, and of our own Government's insensitivity to the horrible suffering being endured by the vast majority of South Africans.

Admittedly, this bill does not contain all that we wanted. But it does light a long-dimmed candle for the oppressed in South Africa.

And the strong, bipartisan support behind this bill will hopefuly persuade even the President—who has threatened to veto this legislation—that the time has come to say "No More" to apartheid.

This bill does not preempt any State or locality from enforcing even stronger divestiture and disinvestment legislation, such as the new law we have enacted in my own State of California. I support that action, and wish the Congress would have agreed to legislation more along its lines.

Apartheid must be confronted head-on. It is a morally repugnant symbol of repression, a disease that must be eradicated once and for all.

SHAVING THE NOTCH

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 12, 1986

Mr. VENTO. Mr. Speaker, this week, nearly 1,000 senior citizens rallied on the steps of the Capitol in support of legislation to correct the Social Security notch inequity. These 1,000 citizens represent 10 million Americans who are unfairly treated under the Social Security system because they were born during the "notch" years of 1917 through 1921.

As a result of changes in the Social Security law in 1977, beneficiaries born in 1917 and later receive significantly lower benefits than those born in 1916. The 1977 law was enacted to correct an error in the Social Security benefit formula enacted in 1972 that would have provided overly generous benefits to future retirees. Unfortunately, in correcting the formula, a "notch" was created in which individuals born months, weeks, and even days apart receive widely disparate benefits.

I am sure that our colleagues have all heard from many constituents who are receiving hundreds of dollars less in Social Security benefits than they should be just because they were born during the notch years. We are aware that an injustice exists for these Social Security retirees. This is not a question as to whether an inequity exists; it is a question of whether or not the cost of correcting this inequity will jeopardize Social Security.

The fact is that the Social Security funds can afford this modification and this legislation will in no way jeopardize the stability of Social Security. It is estimated that Social Security trust funds will have large surpluses in the future, totaling $186 billion by 1990. The estimated cost of correcting the notch inequity, including $22 billion in retroactive benefits, may be as high as $80 billion over the next 5 years. This is a significant cost, however, we can correct the notch and still expect Social Security trust fund reserves to exceed $100 billion in 1990—a more than twofold increase over today's Social Security reserve level.

Opponents of this legislation argue that correcting the notch will increase the budget deficit. The truth of the matter is that this legislation will reveal more of the true deficit but it would have no actual effect on the deficit. Social Security is independently funded from employee and employer payroll taxes on a "pay as you go" basis. The Social Security system is not responsible for any of our national debt, however, surpluses in Social Security trust funds are now being used as a shield to make the budget picture seem brighter. As my colleagues are aware, using the surplus to offset the deficit is deceptive and should not be permitted. In July, the House passed legislation which would prevent this deception and other injustices by reestablishing the Social Security Administration [SSA] as an independent agency. I congratulate all of you who supported H.R. 5050 to prevent injustices in the SSA. Now I urge your support for H.R. 1917 to correct an injustice in the Social Security payment system.

The 1,000 citizens who came to Washington to protest and the 5 million Americans who signed petitions to correct the notch inequity, brought a powerful message to Washington this week. Due in part to their efforts, H.R. 1917 now has more than 150 cosponsors, and the list of supporters is growing.

Soon, the notch protestors will leave the Capitol, but their message to Congress will remain: We must address this inequity by shaving the notch and restoring just treatment to 10 million of our Nation's senior citizens.

PROPOSALS ON CONTROLLING DRUGS PRESENTED BY MAYOR THEODORE MANN OF NEWTON, MA

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 12, 1986

Mr. FRANK. Mr. Speaker, Mayor Theodore Mann of the city of Newton, MA, recently presented to the task force on drug control of the United States Conference of Mayors, the report on drugs compiled by the executive department of the city of Newton. An ad hoc committee with membership representing the public schools, representatives of drug treatment facilities, and citizens of various sorts, presented a comprehensive program which the mayor has passed along to the Conference of Mayors.

I'm impressed by the thoughtful and dedicated work of this committee. I commend Mayor Mann for this latest example of his strong leadership on difficult and important issues, and I ask that the text of the mayor's transmission letter and the accompanying report be printed here.

CITY OF NEWTON, MA,
Newton Centre, MA, September 5, 1986.

The TASK FORCE ON DRUG CONTROL,
U.S. Conference of Mayors, Washington, DC.

LADIES AND GENTLEMEN: The enclosed report on the subject of drugs was compiled by the Executive Department of the City of Newton in preparation for the first meeting of the Task Force in Washington, DC, on September 8, 1986.

I share with you the results of Newton's ad hoc committee's work. The membership included representatives of the Newton Public Schools, principals of major drug treatment facilities in the northeast, and citizens interested in assisting all levels of government in advancing programs that will help deal with the spectrum of issues involved in drug control.

Further information from any of the sources mentioned herein would be made available to the USCM Task Force, as would representatives of the several organizations which made such significant contributions to the preparation of this report and its recommendations.

Sincerely,

THEODORE D. MANN,
Mayor.

MAYOR'S AD HOC ADVISORY COMMITTEE ON DRUG AND ALCOHOL ABUSE

PREAMBLE

Whereas, an estimated 20 million people in the United States have used cocaine, and

Whereas, approximately 5 million people are regular users and 2 million are cocaine-dependent; and

Whereas, it is estimated that Americans spend more money on drugs than they spend on food; and

Whereas, the only age group for which the death rate increases each year is 15-25 years old; and

Whereas, 71 percent of the three largest causes of death in this group (accidents, suicides, and homicides) are related to alcohol and drug abuse; and

Whereas, over thirty billion dollars are spent each year on cocaine alone; and

Whereas, one out of fourteen high school seniors uses marijuana daily: Now, therefore, be it

Resolved, That a comprehensive approach to the problem is necessary, and the following recommendations are to be submitted for consideration to the Task Force on Drug Control of the United States Conference of Mayors.

Sources include: The Surgeon General's Report to the Nation; National Institute of Drug Abuse Alcohol and Drug Problems Association of North America; and the Mediplex Group.

RECOMMENDED SEVEN POINT PROGRAM

1. Comprehensive plan to attack the supply of drugs, nationally and internationally.

Cooperation with other nations to defeat international drug trafficking, including economic sanctions on all countries which do not cooperate with United States rules and regulations concerning herbicides and drug growing.

Federal and state legislation to support the plan.

2. Strengthening of law enforcement efforts.

Coordination of federal, state, and local enforcement agencies—creation of a superagency (include military) at the federal level to implement plan.

Prompt and severe penalties for drug sellers, including mandatory sentencing beginning with first offense.

Federal funding for courts and facilities—additional judges, as well as other enforcement personnel, as needed to implement plan.

Confiscation of property of drug sellers and buyers (a possible funding source for financing the plan).

3. Public education and awareness campaigns.

Disseminate appropriate information warning of the dangers posed by drug abuse.

Expansion of drug abuse education as part of health curriculum; mandatory in grades K through 12. (Please note enclosed: "Newton Task Force on Alcohol & Drugs—Presentation to School Committee—March 5, 1986; draft of "A Parent's Guide to Teen Parties;" and Statement of Concern published in newsletter of Newton Council of PTAs.)

Involve media in public awareness programs.

Local programs to educate parents and members of the public. (For an example, see the enclosed description of the Newton Youth Drug/Alcohol Program.)

Teacher training in drug education—for public and private schools, colleges and universities, and in educational programs geared to public and private business enterprises. (Enclosed is job description for Health Education/Substance Abuse Specialist in the Newton Public Schools.)

4. Identification/Intervention campaigns.

School-based intervention programs to identify "at risk" students, evaluate abusers, and refer them for appropriate treatment.

Employee assistance programs in private and public sectors to identify and refer employees to appropriate resources. (A model plan has been developed by Abruzzi Enterprises of Newton, which includes employee awareness programs and a reward system.)

Criminal justice screening units in both juvenile and adult systems.

5. Treatment resources to be developed in both the private and public sector.

Expansion of insurance benefits for drug/alcohol treatment by mandated state and federal law.

Expansion of coverage for Health Maintenance Organizations by appropriate state and federal law.

Additional funding at federal and state levels for treatment programs for the uninsured.

Expansion of Titles 19, and 20 coverage to include alcohol and drug abuse free-standing rehabilitation facilities.

6. Drug testing programs for private and public enterprises which deal with public safety.

7. Co-sponsor a national conference on "Combating Drug Abuse in the 1980's: A Cooperative Effort." This effort could be a cooperative one among Robert M. Stutman, Special Agent in Charge, New York office of the Drug Enforcement Administration, United States Department of Justice; Matt Green and Joan Green, consultants with Sameem Associates, a private consulting agency for drug and alcohol issues, located in the greater Boston area; and The Mediplex Group, Inc., Alcohol and Substance Abuse Division, also in the greater Boston area.

THE FUTURE OF ARKANSAS FARMERS DISCUSSED IN URUGUAY

HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 12, 1986

Mr. ALEXANDER. Mr. Speaker, the future of Arkansas farmers will be discused in Uruguay next week when member nations of the General Agreement on Tariffs and Trade [GATT] will meet to set the schedule for the next round of multilateral trade negotiations. Agriculture must be put at the very top of the agenda. Our U.S. representatives in their insistence on this top priority for agriculture, must be as hard as a pawnbroker's smile.

And, our representatives must be as relentless as the passage of time in their demand that the negotiations on agriculture issues be put on a fast track toward final agreements.

American agriculture policy and, to an important degree, farmer production decisions are rooted in the assumption that U.S. agriculture products will be exported. The health of our farm sector, as it exists today, depends on being able to sell into the international market place approximately one-third of our production. But, during the past 6 years, exports of our farm products have dropped 37 percent. Current estimates for this year put us dangerously on the edge of, if not already into, the Death Valley days of importing more agriculture products than we export.

Since the beginning of this current Presidential administration we have received repeated pie crust promises that agriculture will be right at the head of the table in international trade negotiations. It is time that the pie crust gets a fresh, healthy filling of performance.

The GATT negotiations are not the end all-be all panacea for the problems U.S. farm exports are encountering. Of course, they are not. Unlike 1973 when we had a world food shortage crisis, today there is a maldistributed abundance of food supplies. And, the persistent over-valuation of the U.S. dollar against foreign currencies has been a problem; but, progress has been made in resolving that one. The 1973 and 1975 embargoes on farm exports and the 1974 restrictions on those exports shook world confidence in U.S. reliability as a supplier and encouraged a rise in new competitors in world markets. We have made progress in overcoming those problems.

But, the GATT mechanism can be of major importance in resolving such unfair trade practices as export subsidies and quantitative import restrictions. American farmers are efficient. Our farmers produce more high quality agriculture products than any other nation in the world. Our farmers can be competitive, under fair rules, with those of any other nation in the world.

But, if the deck is stacked against our agriculture exports—as in the case of variable levees where foreign governments continually jiggle the charges against our products—our farmers face unbearable odds in the marketplace.

In the arena of non-tariff barriers, where GATT negotiations could be helpful, some of our trading partners—such as the European Economic Community and Japan—have shown as much conscience as a hungry fox in a hen house.

TRIBUTE TO DR. GABRIEL S. SINISI

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 12, 1986

Mr. TORRICELLI. Mr. Speaker, I rise in honor of Dr. Gabriel S. Sinisi as he becomes the 120th president of the Bergen County Medical Society.

A graduate of Seton Hall University, New York University, and Fairleigh Dickinson University, Sinisi received his medical degree from the University of Guadalajara, in Mexico. A member of the American College of Physicians, he serves on the staff of Holy Name Hospital in Teaneck. He is a 32d degree Mason.

Dr. Sinisi serves his community with a deep sense of commitment. We wish him well during his tenure as president of the Bergen County Medical Society.

MEDICARE DEVICE IMPROVEMENT ACT OF 1986

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 12, 1986

Mr. WAXMAN. Mr. Speaker, I am today introducing H.R. 5516, the "Medical Device Improvement Act of 1986." When the medical device amendments were originally introduced 10 years ago, they established a comprehensive scheme for the regulation of medical devices that has provided substantial protection to the American public in absolutely essential ways.

We in the Congress have monitored the implementation and administration of these amendments during the past decade. Although the act remains essentially sound, certain problems have become evident that need to be addressed. In particular, the Food and Drug Administration has been forced to spend excessive amounts of time and effort working on matters that are relatively trivial while ignoring other, more important, projects because of some unnecessarily burdensome requirements in the act.

H.R. 5516 would modify these portions of the law to permit the agency greater discretion to redirect its energies into more productive and essential activities. The legislation would not make any changes that would lessen the public's protection from unsafe or ineffective devices.

Mr. Speaker, we are late in the session and I recognize that time pressures and pure logistics may prevent passage of the bill in the 99th Congress. On the other hand, I am concerned enough about the need for modifying the law that I am prepared to try to move the bill this year. The legislation was prepared in close consultation with representatives of the Food and Drug Administration, Contact Lens Manufacturers Association, the National Electrical Manufacturers Association, Health Industry Manufacturers Association, consumer representatives, and others.

In order to reach consensus on this legislation the subcommittee stands willing to consider any reasonable changes in this current bill. I invite Members to review H.R. 5516 and would appreciate any comments or suggestions. Should passage of the legislation not be possible before the Congress adjourns, the subcommittee will seek consideration of similar legislation in the next Congress.

CELEBRATING THE AMERICAN CAR

HON. MARJORIE HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, September 12, 1986

Mrs. HOLT. Mr. Speaker, each year, the Laurel, MD, Lions Club sponsors an automobile show to raise funds for its various charitable endeavors.

This year's event was the 22d annual Laurel Lions Auto Show, and 827 antique, classic, and special cars were displayed at Laurel Race Course. An estimated 7,000 to 8,000 visitors attended. Richard Jesneck, Lions chairman, and Ron Xifo, show chairman, deserve great credit.

Of special interest at the event was the large assembly of DeSoto automobiles brought to Laurel for the first annual convention of the National DeSoto Club. The occasion also marked the 10th anniversary of the Maryland DeSoto Club led by J. Francis Werneth. On display were the largest number of DeSotos assembled in one place since the manufacturer ceased production on November 30, 1960.

Mr. Speaker, 1986 marks the 100th anniversary of the gasoline-powered automobile. It is said that Americans have a love affair with their cars, and it is true that we love the mobility provided by the automobile.

To visit the Laurel Auto Show and behold the beautifully restored cars of the past is to visit an important part of American history. I congratulate the Lions Club, the DeSoto Club, and the other auto enthusiasts who made the Laurel event such a great success.

AWARD OF CARNEGIE HERO FUND COMMISSION MEDAL

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 12, 1986

Mr. HALL of Texas. Mr. Speaker, during a heavy rainfall and flood, an act of heroism on the part of Mr. Benny Gracy, chief of the volunteer fire department of the city of Rockwall, TX, resulted in the posthumous award of the prestigious Carnegie Hero Fund Commission medal to that gentleman. The award was made to Mrs. Edith Gracy, the mother of the deceased, who resides in McKinney, TX.

The following is a transcript of the circumstances surrounding the act of heroism for which the medal was awarded:

Carnegie Medal awarded to Benny Gracy, who died helping attempt to save Charles W. and Billy J. Christmas from drowning, Rockwall, Texas, April 27, 1985. Charles, 94, and his son Billy were passengers in a car that was stranded by the rising floodwaters of Buffalo Creek. Gracy, 32, sanitation company operations manager who was also chief of the volunteer fire department, responded to the scene, where he waded to the car to assist a deputy sheriff who had secured a hold on Charles. Before Gracy and the deputy could remove Charles from the car, the force of the water lifted the car and pulled it into the creek, where it lodged against the opening of a 300-foot-long culvert. Charles drowned. Gracy, Billy, and the deputy were pulled by the current through the culvert. Billy and the deputy were able to leave the creek, but Gracy drowned.

It is fitting and proper that this tribute to the heroism and courage of Mr. Benny Gracy should be recognized by the House of Representatives through inclusion in the House RECORD.

THE TURKISH SYNAGOGUE MASSACRE

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 12, 1986

Mr. RANGEL. Mr. Speaker, I rise to express my deepest sympathy for the victims of the recent massacre of Turkish Jews in Istanbul's central synagogue. This attack was an act of murderous terrorism, repugnant to all members of the world community.

We must remember, Mr. Speaker, that this was not an attack directed solely against Jews. It was an assault upon everything human and decent, an act of violence against innocent civilians. Terrorists claim that they are freedom fighters, yet they commit horrible acts in the furtherance of their cause. The truly freedom-loving people of the world are not the allies of these people, but their victims.

Just as all Americans were hurt by the assassination of Martin Luther King, Jr., so too are members of the world community hurt when innocent people are murdered. The world's spiritual leaders have an absolute duty to come together as one body to unite people of all faiths against senseless violence. They must speak out as one voice in affirming the morality of peaceful coexistence and peaceful change.

Mr. Speaker, let us understand that two of this century's greatest freedom fighters were men of peace. Martin Luther King and Mohatma Gandhi freed their people through peaceful and uncompromising revolution. They never resorted to acts of desperation despite the extreme acts of violence directed at their followers.

Catholics, Protestants, Jews, and Muslims must remember this legacy for the sake of all people. I urge my colleagues to help build this new consensus.

SENATE—*Monday, September 15, 1986*

The Senate met at 11 a.m., and was called to order by the Honorable JOHN C. DANFORTH, a Senator from the State of Missouri.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

God that made the world and all things therein, Lord of Heaven and Earth, dwelleth not in temples made with hands; neither is worshipped with men's hands, as though He needed anything, seeing He giveth to all life, and breath, and all things * * *.—Acts 17:24-25.

Lord of life, it is superfluous to invoke Your presence in this place for You are here as You are everywhere. We acknowledge Your presence and ask for Your wisdom and guidance for the Senate this week that the impossible may be done—the people served—truth and justice prevail.

As our city hosts 10,000 men and women from nearly 100 nations at the World Congress on Cardiology, we praise You, O God, for life. Thank You for the human heart—this awesome muscle without which life would be impossible. What makes it start? What keeps it going—like perpetual motion, pumping 70 times a minute, hour after hour, year after year, filling our bodies with energy?

Forgive us, Lord, when we presume upon this indispensable gift—when we neglect it—abuse it. Help us to appreciate it—treasure it—take its health seriously. Thank you, gracious Father, for men and women dedicated to the human heart—its care, its health, its preservation. Bless them this week in our city as they devote themselves to becoming increasingly proficient in the care of the human heart. Bless You, Lord, for this remarkable gift to us. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. THURMOND].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, September 15, 1986.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN C. DANFORTH, a Senator from the State of Missouri, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Mr. DANFORTH thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

Mr. DOLE. Mr. President, I thank the distinguished Presiding Officer, the distinguished Senator from Missouri [Mr. DANFORTH].

SCHEDULE

Mr. DOLE. At 12 noon today, the Senate will resume executive session to consider the nomination of Justice Rehnquist to become Chief Justice of the Supreme Court. It is also my hope that later this afternoon we can dispose of the Interior appropriations bill, though I recall, I indicated on Friday there would be no votes today, so if we cannot do it without a vote that may create a problem. But we could have the vote set over to tomorrow. It would be my hope that we could on tomorrow complete action on the Rehnquist nomination; also, on the Scalia nomination; and also, if we can work it out, the Interior appropriations bill. So there is no question about it, there will be votes tomorrow. I am not certain when they will begin, but I assume sometime after the policy luncheons which start at 12 and end at 2 o'clock.

On Wednesday, depending on discussions with the distinguished chairman of the Budget Committee, it is quite likely we will go to the reconciliation bill. That is under a statutory time agreement. There will be, as I have discussed with the distinguished minority leader, a time that evening made available. In other words, there will be a wide window there. I know there are many obligations on both sides in early evening.

There will be, of course, a session on Thursday. There will be a session on Friday. I do not anticipate at this point a Saturday session but probably on the next weekend there could be a Saturday session, depending on where we are in completing what we must do before we adjourn on October 3. I say adjourn. I would hope to imply by that we would not be coming back after the election. Even though we have a rather large amount of work to do, I still believe we can complete it.

PRESIDENT AND FIRST LADY CRUSADE AGAINST DRUGS

Mr. DOLE. Mr. President, I congratulate the President and the First Lady for their stirring "heart-to-heart talk" with America last night. Their personal, nonpartisan message underscored the seriousness of the drug problem and made clear the high priority the President has given the drug crisis. It was a fine opening salvo in the war against drugs.

I stand ready to work with the President, and leaders in both parties, to help turn the corner on the tragedy of drug abuse.

Already, some very good initiatives have been introduced in both Houses, from both parties. This week, I plan to introduce a comprehensive antidrug package. It will use the administration's proposal as its foundation, and as such it will support a substantial Senate Republican amendment that will include some of the initiatives of the bipartisan House package and some of the good initiatives in the package introduced, last Tuesday I believe, by my Democratic colleagues in the Senate led by the distinguished minority leader.

Mr. President, before we push ahead into our legislative attack on drugs, I especially want to commend the First Lady for her continued leadership on the drug front. Her dedication and concern will serve as a beacon for all of us, as we unite for a full-scale assault on the drug epidemic.

The Nation owes her a special debt of gratitude. The President and the First Lady have set the pace—it is now our responsibility to follow. There is no time to lose.

THE SENATE CAN FINISH ITS WORK

Mr. DOLE. Mr. President, let me also indicate we are getting to that stage which happens every time a Congress is about to wind up as to whether we can finish our work, and again I believe we can. I am an optimist at heart. I know there are a number of things that are must pieces of legislation. There are other matters that Senators would like to bring up. I know trade is a matter of great importance to Members on both sides; product liability is a matter of great urgency with the American people, and we intend to bring up product liability. I am not certain for how long we can bring it up. It depends on whether we can get a time agreement. The same with trade. If we have a trade bill,

hopefully bipartisan, then there may be some way to pass it. But if somebody offers a textile bill, for example, then I assume we are in for a long debate and we do not really have time for long debates.

But this week, as I have indicated, I hope we can dispose of the Supreme Court nominations and then move to budgetary matters; namely, the reconciliation savings package.

Now, there are some who would say, "Well, we have too much backed up in the waning days of the session." My view is and has always been that when you have a lot of work to do, the only response is to get right down to business. I think that will call upon all of us to probably put in some long hours between now and October 3, but in my discussions with the distinguished minority leader I think we agree we ought to be able to finish by then. We do not want to extend the session to the 10th of October. We do not want to come back after the election.

However, I do want to offer a few words of encouragement, because we have been down this road before. It is not without precedent that when you get to the end—in fact, there is a lot of precedent, whether it is a State legislative body or the Senate or the House—that there is always a rush to get things done. We have passed only three appropriations bills this year. We hope do another two or three before the week is out. As I have indicated, a number of remaining bills, should be acted upon during the last week of the session.

Some would say, "Well, the Senate is slowing down, it is out of control, TV has taken over." I do not share that view. In fact, I am going to place in the RECORD some information that indicates how many days and how many hours we have been in session over the past years, and I think it will reflect that we are doing quite well.

I ask unanimous consent to have printed in the RECORD a chart showing the party ratios, the number of days in session, the hours in session, in every Congress since the 94th Congress.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Congress	Dates	Majority leader	Party ratio	Days in session	Time in session
94th I	Jan. 14 to Dec. 19, 1975	Mansfield	60D [1]–38R–1 Ind [2]	178	1,177 hrs., 11'.
94th II	Jan. 19 to Oct. 1, 19765	do	61D [1]–38R–1 Ind	142	1,033 hrs., 01'.
95th I	Jan. 4 to Dec. 15, 1977	Byrd	61D [1]–38R–1 Ind	178	1,143 hrs., 42'.
95th II	Jan. 19 to Oct. 15, 1978	do	do	159	1,366 hrs., 22'.
96th I	Jan. 15 to Dec. 20, 1979	do	58D–41R–1 Ind	167	1,159 hrs., 01'.
96th II	Jan. 3 to Dec. 16, 1980	do	do	166	1,165 hrs., 10'.
97th I	Jan. 5 to Dec. 16, 1981	Baker	53$–46D–1 Ind	165	1,079 hrs., 54'.
97th II	Jan. 25 to Dec. 23, 1982	do	do	147	1,079 hrs., 55'.
98th I	Jan. 3 to Nov. 18, 1983	do	55R–45D	150	1,010 hrs., 47'.
98th II	Jan. 23 to Oct. 12, 1984	do	do	131	940 hrs., 25'.
99th I	Jan. 3 to Nov.30, 1985	Dole	53R–47D	155	1,128 hrs., 00'.
99th II	Jan. 21 to Aug. 16, 1986	do	do	112	937 hrs., 34'.

[1] Open seat, contested election in New Hampshire.
[2] Senator Harry Byrd, Virginia Independent.

Note: Figures taken from the Congressional Record Daily Digest "Resume of Congressional Activity."

Mr. DOLE. Mr. President, I think the chart is helpful. If there are those who would say that we are delaying the Nation's business because of television or whatever, or that we are out of control and we are putting in long hours, which we are, they will see, in perspective, that everything looks pretty good.

I am confident that we are going to have a lot of action the next 3 weeks. We are going to have a lot of bipartisan cooperation, and we are going to adjourn—unless by some unforeseen problem we cannot—on the 3d of October.

So what I am suggesting, as I have indicated, is that there probably will be no session this coming Saturday, but I would not foreclose a session on the following Saturday and on October 4, if necessary. There might be a session then. That is a holiday for some of our colleagues.

RECOGNITION OF THE DEMOCRATIC LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the Democratic leader is recognized.

Mr. BYRD. I thank the Chair.

THE WORK OF THE SENATE

Mr. BYRD. Mr. President, I join the distinguished majority leader in not only expressing the hope but also in urging that all of us work hard to complete the business of the Senate by the close of business on October 3.

The number of days or the number of hours are important only to the extent that the Senate is doing something on those days and in those hours. The Senate can be in session a great number of days and a great number of hours, but if it is doing nothing much in getting its work done, then the number of days, in itself, is not determinative of the quality of the work that is being done or the amount of work that is being done.

Incidentally, I have never heard that television coverage was slowing down the Senate. From what I have seen of television, as I perceive it, the debates have been more probative, more substantive. I think the debates have been better since we have had television and radio coverage of the Senate.

I must say that I am a little surprised to hear that anyone has complained of television coverage as having slowed down the Senate. It comes as somewhat of a disappointment and surprise to me. I have not heard this. If that is being said, I would certainly be the first to help debunk the idea that television coverage is slowing down the work of the Senate.

I stay on the floor of the Senate as much as does anybody. The distinguished majority leader and I are here as long, as early, and as late as anybody else in the Senate; and there is nothing to support the contention that television coverage is slowing down the work of the Senate.

Mr. President, I am willing and ready to stand with the distinguished majority leader if he feels that we should come in this Saturday as well as on either or both of the other two Saturdays. There is a lot of work to be done, and I hope we would not wait until the last week to take up the continuing resolution, for example. Our timing, to some extent, is affected by the work of the House in that regard. The continuing resolution is not over from the House yet, but as soon as it comes over from the House, it seems to me that the Senate ought to get busy on it. I am sure that the Appropriations Committee of the Senate will do that. But the earlier we get the continuing resolution before the Senate, the better.

One of the things that can keep us here the longest is the continuing resolution, because that is a lightning rod for so many amendments of all kinds, germane and otherwise.

The distinguished majority leader has a job to do. He has a responsibility to perform. I have a job and a responsibility. Those responsibilities that are incumbent upon us as leaders do not make it easy for us to be liked among our colleagues. We have to get this job done. We can elect to go out on the 3d and come back after the election, or we can elect to proceed after the 3d and go for the next week before we go

out for the election. But I join the majority leader in saying that I believe we can get the work done by the close of business on October 3. It is not going to be easy; I believe we can do it. It is going to require a great deal of effort and some long hours, and maybe we cannot do it. But I join the leader in saying that we ought to do it, and we are going to do it if it can be done. Part of that will depend upon the House. But let us try to get it done.

The majority leader is spending a good bit of time on the Rehnquist nomination, which he has to do, and perhaps that is pushing off some of the other work. However, as he has indicated, if there is a lapse during the debate on that matter today, he will try to bring up the Interior bill.

I hope the distinguished majority leader will not be criticized for his efforts in keeping the Senate in and working late, but I only offer the one caveat, that we not wait until either the next week or the last week to start doing that. The platter is full and maybe we should do it earlier rather than later. That is my only suggestion; and in making that suggestion, I carry part of the responsibility here for trying to inveigh on my colleagues to be ready, ready to manage bills, and ready to call up their amendments earlier rather than later.

Mr. President, with that, I ask the majority leader if he could proceed now with the two items that are on the Calendar of the Bills and Joint Resolutions Read the First Time, and dispose of that matter at this point, rather than at the close of morning business.

□ 1120

DRUG ABUSE COMBAT POLICY

The ACTING PRESIDENT pro tempore. The clerk will read S. 2798 for the second time.

The legislative clerk read as follows:

A bill (S. 2798) to establish and implement a comprehensive policy to combat drug abuse in the United States.

Mr. DOLE. Mr. President, I object to any further consideration.

The ACTING PRESIDENT pro tempore. Under rule XIV, the bill will be placed on the calendar.

SUPREME COURT POLICE

The ACTING PRESIDENT pro tempore. The clerk will read S. 2814 for the second time.

The legislative clerk read as follows:

A bill (S. 2814) to preserve the authority of the Supreme Court Police to provide protective services for Justices and Court personnel.

Mr. DOLE. Mr. President, I object to any further consideration of S. 2814.

The ACTING PRESIDENT pro tempore. Under rule XIV, the bill will be placed on the calendar.

Mr. BYRD. Mr. President, I thank the distinguished majority leader.

I yield the floor.

RECOGNITION OF SENATOR PROXMIRE

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Wisconsin is recognized for not to exceed 5 minutes.

TV IN THE SENATE

Mr. PROXMIRE. Mr. President, I hesitate to disagree with my good friend, the minority leader, Senator BYRD. I agree with him on almost everything. I disagree with him on TV in the Senate.

I disagree with him on TV in the Senate for several reasons. I think it may have prolonged the sessions of the Senate so far, but if it has done so, it has done so by mistake. It has done so on the assumption that people are watching what we are doing in the Senate on television.

I submit they are not. On TV in the Senate I receive no mail, literally not one letter. I receive 1,000 letters a day. I get none on anything I said on the floor or anyone else said on the floor. I receive none from people from what they have seen on television.

I think it is something that the membership realizes is not having any impact.

I think we go back to the old bad habits and continue as we have before. The bad habits will be better, however, than the worse habits we adopted since television is prolonging the debate, implying that somehow we are addressing the vast audience of millions of people.

I get letters from people who were in the gallery. They see me in Wisconsin when I go out to the State and shake hands.

People say, "I saw you on the floor of the Senate."

I ask: "Did you see me on television?" "No."

They are sitting in the gallery watching it.

So I think this is a myth that anyone is watching us on television. I would not be surprised if it were announced that the cameras have not yet been turned on for the last several weeks, that we have been under the illusion we have been operating on television, but we have not been.

TIME HAS COME TO ACT ON ARMS CONTROL

Mr. PROXMIRE. Mr. President, in this era of the collapse of arms control agreements such as the SALT II Treaty and the ABM Treaty, it is an astonishing irony that there are more widespread discussions between the super powers on arms control matters going on than ever. Consider the sweep of current peace negotiations. At Geneva, Switzerland nuclear and space arms talks have been continuing since March of 1985. A sixth round of these meetings will begin on September 18. Also at Geneva a conference on a total ban of chemical weapons concluded one session on August 29. It will resume later this year. Concurrently the super powers are meeting now and will continue to meet until September 19 in Stockholm to negotiate ways of reducing the risk of accidental war. The goal of this negotiation is the notification of each super power by the other of the movement or military exercise of NATO or Warsaw Pact troops in Europe. Meanwhile in Vienna, Soviet and United States negotiators are conferring on the reduction of NATO and Warsaw Pact troops stationed in central Europe. Concurrently, negotiators Paul Nitze representing the United States and Victor Karpov for the Soviets have been meeting in Moscow and Washington to seek a basis for progress in the Schultz-Shevadanaze meeting that will in turn try to set an agenda for the likely summit meeting between President Reagan and Secretary Gorbachev later this year.

But all this is only the beginning. The super powers have been meeting in Bern, Switzerland this month to negotiate a curb on the spread of chemical weapons. And back in Geneva technical experts have been meeting in an entirely different forum to try to reach some super power accommodation on nuclear testing. As we know, the United States is trying to reach agreement on the verification of underground nuclear weapons test explosions. The Soviets want an outright and total ban on such tests. Also in Geneva a separate task force of United States and Soviet negotiators has been meeting to set up nuclear risk reduction centers in Moscow and Washington. The centers would exchange information about strategic exercises and missile tests. Geneva is also the site for continuing current meetings of the Standing Consultative Commission. This Commission was established by the ABM Treaty of 1972 to provide a forum for reconciling differences over allegations of violation of strategic arms control treaties. The Commission met in July. It will meet again in October.

In addition to this series of super power arms control parleys there have also been super power conferences on nuclear energy issues, separate meetings on developing agreements to reduce the risk of superpower confrontations at sea, discussions in both Washington and Moscow over regional

problems such as in South Africa, Afghanistan, and Central America. Superpower conferences also continue in Washington and Moscow on cultural and scientific exchanges and trade and human rights.

Mr. President, all of this remarkable series of discussions is taking place at a time when Marshall Shulman, the director of the Institute for Advanced Study of the Soviet Union at Columbia University declares that in the more than 40 years he has intensively studied the Soviet Union, there has never been a time when the Soviets were more willing to negotiate peace-promoting agreements with the United States than they are now.

What an irony that at this time when the opportunities for advancing the cause of peace are better than they have been since the end of World War II arms control is in greater disarray than it has been at any time since the dawn of the nuclear age. Why should this be? Should we wait to negotiate until the United States and NATO have further built their military power? No. Here's why. Obviously the United States negotiates right now, today, from a position of overwhelming strength. The U.S. economy is literally twice as big and productive as the Soviet economy. The GNP of the NATO alliance is three times greater than the countries of the Warsaw Pact. The U.S. technology is superior in 14 of the most vital areas of military technology. The Soviet Union is ahead in none. Both superpowers have about the same number of strategic nuclear warheads which constitute the heart of the great deterrent to nuclear war. But three-quarters of the United States warheads are deployed in submarines and bombers while three-quarters of the Soviet deterrent is land based and stationary. What does this mean? It means the Soviet deterrent is far more vulnerable from the United States deterrent. As our most expert Sovietologist, Marshall C. Shulman, has told us, the Soviets are more ready to negotiate now than they have been for the past 40 years.

Can anyone doubt that the time to negotiate an end to the nuclear arms race is now? Mr. President, it's time the President gave his negotiators the signal to act on all fronts now. And, I mean now.

CORPS OF ENGINEERS WIN GOLDEN FLEECE

Mr. PROXMIRE. Mr. President, my Golden Fleece Award for September goes to the Army's Corps of Engineers for pigging out on foreign travel by increasing spending from $276,662 in fiscal year 1983 to at least $406,638 in fiscal year 1985, a fat 47-percent increase. Their total budget during this period actually got leaner, falling by 3 percent.

When the trough at home starts leaking, the corps casts its eyes overseas. But the taxpayer should not have to pay for the corps' sudden craving for stir-fried pork.

In fiscal year 1983, 275 corps eager beavers flew off to foreign lands. Of this number, 118—43 percent—stayed in this hemisphere; 91—33 percent—went to the Far East; and 54—20 percent—headed to Europe. Each trip by an individual lasted about 6 days and cost the taxpayer a little over $1,000 on the average.

By fiscal year 1985, the number of globe-hopping porkmeisters had increased to 413, a jump of 50 percent, even though their budget for work at home had fallen on hard times. Many traveled in this hemisphere, 196—47 percent—followed by trips to the exotic East, 142—34 percent—then by trips to Europe, 69—17 percent.

The corps is still digging around trying to find out how much it spent on foreign travel in fiscal year 1985. At first, it reported spending $513,437, but after catching some flak for the increase, it reduced its estimate to $406,638. Whatever the amount of the increase, it is too much.

That statement applies with extra force to the corps because economic development experts are thoroughly disenchanted with large-scale public works, the corps' forte. Far too many of these projects are conceived in hope but end in despair. The American taxpayer ends up paying for many of these flops in the form of foreign aid.

Talk about a double whammy. First, corps employees hop, skip, and jump around the world looking for new business. Then foreign countries hit on Uncle Sam to pay for their pork barrel projects. The taxpayers get it going and coming.

We should be hammering a tight lid on this pork barrel. The taxpayers have suffered more than enough from the corps' homegrown pork barrel. They should not have to pay for exporting it.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legisative clerk proceeded to call the roll.

□ 1140

Mr. STENNIS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, I ask for recognition.

The ACTING PRESIDENT pro tempore. The Senator from Mississippi.

DEFENSE AUTHORIZATION BILL FOR FISCAL YEAR 1987

Mr. STENNIS. Mr. President, I do not propose to present a long speech. But I have a few remarks to make concerning procedures on the question of completing and taking up the military authorization bill for the Department of Defense for the fiscal year which begins shortly.

Let me make clear, Mr. President, that I have no expressed or implied suggestions of holding back by those who are in charge of the bill on the House side or on this side, or any individual that is chairman of a committee or subcommittee. Nothing could be further from my mind than those subjects that I have mentioned.

But my concern is that the session now is almost down to its last days—and this is the largest single bill that we have had for the year, the largest sum of money that is carried in one bill. Even though the measure has passed the House of Representatives in one form and even though it has passed this body in another form, they have not been able to get the measure to a conference where those differences are always worked out, and a bill agreed on. And the final agreement is used, of course, as a basis for the appropriations that are made. Again this is the largest appropriation for the fiscal year for any purpose—the military Department of Defense appropriations bill.

As I emphasize, there is no fault or no blame to be attached here to any Member, or to the floor leaders. We have never had better ones in my time who are this good on utilizing the time that we have. But at the same time we cannot afford, as I see it, to fail to function on the large, important, and primary parts of the entire budget without giving every Member and even every person that might be interested a chance to find out just what is in the measure and the prime reasons by the different Members of either or both bodies as to why those provisions are thought to be necessary or why they are thought to be best.

I am concerned that the Department of Defense authorization bill for fiscal year 1987 is in serious danger of not being enacted into law as such.

That bill has been passed as I have said by both the House and the Senate, and is awaiting conference, but there are a great many controversial issues in the defense bill. And we are running out of time rapidly in this Congress. If the bill is not enacted, it will be a serious failure of the congressional system.

That is what we have to be more concerned about, Mr. President. We are not in an emergency now any more so than we have been in any preceding months and probably will be in succeeding months. We are gradually let-

ting our system suffer through misuse or nonuse, failing to carry out the highly important functions of our system in the way that we prescribed ourselves, that it shall be done in order to have the best chance to fully understand them by the Members, by the officials that are going to administer the law, and by the people that are going to pay the taxes to operate it.

The Defense authorization process began in 1959 with a simple amendment to require the annual authorization of the procurement of ships, aircraft, and missiles. Within a few years and during the 1960's and 1970's, the Defense authorization bill became the centerpiece of Congress' consideration of major defense problems. Major questions such as troops in Europe, the All-Volunteer Force, the Vietnam war, and strategic nuclear weapons were routinely debated and settled on this bill. But the coverage of this bill also has grown over the years adding research and development, manpower, and other items. Finally in 1982, Congress decided to require all appropriations for defense to be annually authorized. I am concerned that the DOD authorization bill has become overloaded and is carrying too much.

I am satisfied with this. I am in the position at least to make a judgment on that because of my continuous years of service here under the two systems. This measure has grown so much that it is absolutely necessary in my humble opinion that we follow these processes or something very near to them, and complete action on a separate defense authorization law standing on its own foundation.

The alternative, if we do not have this bill that has already been passed—to continue the further steps that are necessary to put it on the President's desk and get it made into law—is to put it on as a so-called floor amendment to a measure that is pending at that time which is strictly a temporary measure by its nature. We call it the continuing resolution. It may or may not have many other subject matters foreign to this purpose in the bill already.

It is unthinkable to me that we would let a measure as important as this bill just linger around, be pushed from pillar to post, and delayed and not acted on in the ordinary way, in a way that is not conducive to having a strong law with the sinews in it that will carry out the purposes as intended—a law in its own right, subject to the President's approval on its own merits rather than as a part of a bill with a great many other subjects, some of which were related and some not related, and without having the dignity, the power, and the strength that should go with a measure of this kind.

□ 1150

As I say, that procedure is just impossible, to me to imagine, that we could satisfy our own conscience, so to speak, by treating this type of legislation, this volume of legislation, in what I think is a careless and almost an indifferent way.

We must find a way, Mr. President, to settle the most important and urgent issues in connection with the DOD authorization bill and put off some of the other issues, if necessary, for other legislative vehicles. The committee system is the backbone of the work of Congress. The Defense authorization bill has provided a focus and forum, together with leverage on the military program and budget so that the committees and Congress can resolve some of the very difficult problems we face in this dangerous world. It provides a way to bring to bear the expertise of the Members, the staffs, the executive branch, and experts and professionals from around the country. It provides a benchmark that all Senators and Congressmen can rely upon to provide for expertise among our colleagues.

Certainly, our splendid staff members, and we have many of them, are not working under the most favorable circumstances when they have to become a part of a continuing resolution, that part being the contents of the authorization for a certain total fiscal year.

This year's bill, which is awaiting conference, represents a great deal of work by the Armed Services Committee. Both the House and Senate Armed Services Committee have devoted hundreds of hours of Members' time and thousands of hours of professional staff time to bring these two bills to where they are ready to go to conference. A way must be found, Mr. President, to salvage the best of that effort.

I do not speak lightly here, of course, about the importance of the work that has been done by the membership of these committees. I do not claim any credit for any that I have done. I have done very little. But Members have been in session day and night, day after day, weekends included, working on various aspects of this enormous bill.

Staff members have worked day and night all during the year, the 12-month period since we were at this stage last year. Work of this kind has gone on by these people who become experts, many of them, really worthwhile experts, in the field where they are engaged. They are the connecting link with the members of the committees and subcommittees who have many other duties. They are a connecting link with the Department, with the civilian employees of the Department of Defense, who are administering most of the contents of the bill.

I have said that there is nothing the matter with our system. We are proud of our system. We are celebrating the 200th anniversary of the continuous and unbroken administration of our Government under the terms and conditions of the Constitution of the United States.

We have reason to be proud of that fine record.

But we are being overcome now, and overtaken and overburdened by the bigness of this Government, the enormous size of these departments.

Of course, we all know there are great sums of money required to operate them. I am talking now about the operations from the standpoint of proficiency and efficiency and the standpoint of knowledge that goes into making of these laws, the final form of the laws, by the membership, what time they have left from the many other duties they have, and the continuous work of those who serve as members of our valuable staffs.

If we fail to produce a defense authorization bill this year, it would be a beginning of the pulling down of the committee system, which is Congress' principal means for dealing with the volume and complexities of problems we face today. That would be a tragedy. I believe the leadership, the membership, and the committees of both Houses of Congress should make every effort to bring forth a defense authorization bill and let it stand on its own strength and its own right.

I know it is necessary to reach that point that the Armed Services Committee should meet in conference as soon as possible. I am certainly not trying to tell them what they must do, but I am referring to the system that those of us who work in those departments respect, and, as a whole, we have carried out over the years. However, as this problem has grown and the size of this bill has grown, so has the contest for the division of time grown and the ability to keep up with it in a casual way can no longer be carried out. It has to be given a preference. It has to be given a time in order to reach its better attainments, its best form, and proceed then in the way I have already outlined where it would have a chance to become the best law possible.

They should attend to the major defense policies and weapons that are at issue and try to reach an agreement on the major military questions. If necessary, they should set aside some of the contentious issues that are important but tangential to the military questions. In the end, we all must work to preserve the process, and that means to bring out a conference report on the defense authorization bill for fiscal year 1987.

I do not want to mention blame. This is no attack on the people who

are involved in this enormous amount of work. That work has largely been done, and now we are talking about trying to finalize it and bring it to a conclusion in its best form, to give the President of the United States a chance to pass on it as he should have and must have, really, to be at his best, as to whether or not he will sign the bill rather than having to sign the substance of it in with a number of other matters in a continuing resolution.

□ 1200

It is unthinkable that we should let this happen, that we are not willing for it to be settled in any such way.

Mr. President, I know that sometimes a continuing resolution serves a good purpose. I remember when its use was started. I think I remember the first time it was ever used. It was just used then to take care of omissions of a relatively small kind and extent. It can be used in that way to profit. I am not trying to condemn it or make it illegal in any way; I am just saying that now, the times demand that these bills of such far-reaching consequences deserve and must have the very best time, the very best effort, the very best skills of all of us who are charged with any responsibility in connection with their enactment.

The people, by and large—the voters, the taxpayers—are entitled to have the very best judgment that we can give these troublesome questions here in searching for a solution and remedy. If we do not follow the general procedure that I have outlined here in what is the law, then we are not really doing our best.

I bring this to the attention of my colleagues in the rush of affairs here. I know what our leaders would like to do. I hope they try even harder and that every Member from both bodies cooperates fully and we find a way that all this major legislation will be given a reasonable time and therefore, our country and our people will have the best chance of getting the benefits of what is really the best we can do.

Mr. President, I yield the floor.

RECOGNITION OF SENATOR LEVIN

The PRESIDING OFFICER (Mr. DENTON). The Senator from Michigan is recognized.

TAX REFORM AND GRAMM-RUDMAN

Mr. LEVIN. Mr. President, I wish to continue my series of remarks on the tax reform conference report today by matching up two statements—one by President Reagan and one by Senator DOMENICI, the chairman of the Senate Budget Committee.

On December 12 of last year, when President Reagan signed the Gramm-Rudman Deficit Reduction Act, he said:

> With the passage of this landmark legislation * * * deficit reduction is no longer simply our hope and our goal—deficit reduction is now the law.

On September 11—just last Thursday—Senator DOMENICI said with respect to the possibility of meeting the Gramm-Rudman targets in 1988, "If we stay with the tax bill as it is * * * I don't think we can do it. It's an absolute impossibility."

Mr. President, the moment of truth will soon be here. Do we stand by our commitment of last year for deficit reduction, or do we pass the conference report on this tax reform bill this month at the risk of rocketing the deficit reduction goals of Gramm-Rudman into irrelevance?

We are forced to choose because the conference report—unlike the bill that passed the Senate—does not include the language of the Domenici-Gramm amendment. This amendment required that the tax reform bill's so-called revenue "windfall" in 1987 not be counted as reducing the deficit in that year, but rather be used as a partial offset to cushion the revenue shortfall which occurs in 1988 and 1989 as a result of this tax reform bill. The goal of the Domenici-Gramm amendment was to prevent Congress and the President from using the bill's temporary surplus in the first year in a way that would increase our deficit problems over the next 4 years. But once the Domenici-Gramm amendment was dropped in conference, it meant, in effect, that every year must stand on its own in the face of the erratic revenue flows which result from this tax reform bill. The consequence in 1988, for example, is that even without deviating $1 from the spending plans envisioned in the budget resolution the Congress adopted less than 3 months ago, we are $17 billion further away from meeting the Gramm-Rudman targets for that year.

The conflict between Gramm-Rudman and the tax reform conference report is unfortunate for two reasons. First, in principle, tax reform and Gramm-Rudman should be allies and not antagonists. Closing tax loopholes and a toughened minimum tax on profitable corporations and wealthy individuals who are not paying anything in taxes could provide the revenue component of a comprehensive and credible deficit reduction package. Instead, the pending tax reform bill soaks up this revenue to fund uneven tax cuts.

Partial reliance on revenues to meet the Gramm-Rudman targets would mean that those targets could be met without the unacceptable large program cuts which would result from relying exclusively on those cuts to achieve the required level of deficit reduction. Using the revenues from loophole closing and a toughened minimum tax would also allow us to avoid resorting to regressive tax increases, such as increases in telephone excise taxes and the like, for the revenue component of a deficit reduction package. And such a package of spending cuts and revenue increases would permit us, as the authors of Gramm-Rudman intended from the beginning, to meet those targets without the ax of across-the-board cuts falling.

The second reason why the conflict between the tax reform conference report and Gramm-Rudman is unfortunate is that it sets the stage for the triumph of a special interest against a public interest. But, it is becoming increasingly apparent that the primary support for this bill is in Washington, the home of the special interests, and not in the heartland.

By the way, I do not know of one interest group that has formally come out opposed to the conference report. As a matter of fact, when the Senate version was on the floor, the chairman of the Finance Committee made a point of how it was formally supported by over 700 organizations.

In a very real way, the many, many months of work put in by some Members of Congress and by the administration in developing this bill have given them an understandable, but, nevertheless, special interest in seeing it enacted into law. This determination is by no means a product of evil intentions but of human nature.

The public's primary interest, however, is not in seeking this particular tax reform bill enacted, even though it is clear that the public would like to see some kind of tax reform. Rather, the public's primary interest is in seeing us take substantial steps to reduce the deficit. We reflected the public's interest when the Senate voted in April by a margin of 72 to 24 in support of a resolution calling for an agreement on deficit reduction before considering tax reform. Over the ensuing few months, however, the order of priorities within the Senate has been reversed. We are now on the verge of passing a tax reform bill while we are still scrambling for ways to meet the Gramm-Rudman deficit targets in 1987 and while many are dreading the budgetary implications for 1988.

Several months ago, when the Secretary of the Treasury James Baker was asked whether the President's pursuit of tax reform legislation meant that deficit reduction was on the back burner, he denied it by saying that every stove has two front burners. But when we look at the conference report on the tax reform bill, it is clear that this stove only has one front burner. And it is not only warming up tax

reform—it is also cooking our budgetary goose as well.

□ 1210

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business, with statements therein limited to 5 minutes each.

HEMOPHILIA CENTERS

Mr. DECONCINI. Mr. President, I would like to bring to the attention of my colleagues the success of the Hemophilia Diagnostic and Treatment Centers Program, which provides comprehensive diagnosis and treatment for hemophiliacs in 22 federally funded regional centers throughout the United States. In the first 10 years of the program—1975-85—and as a direct result of its prevention orientation, average hospital admissions for hemophilia patients served by these centers were reduced 88 percent, overall costs of medical care were reduced 74 percent, and unemployment was reduced 74 percent. The National Hemophilia Foundation estimates that $1.9 billion in medical care costs have been saved because of this program.

The two treatment centers in Arizona—the Mountain States Regional Hemophilia Center at the University of Arizona Health Science Center and its affiliate at St. Joseph's Hospital/Medical Center—have treated 236 patients. The Arizona Hemophilia Association, through these two centers, has developed an impressive program of comprehensive care. Its array of services, in addition to physical care, includes psychological assessment, continuing education, and counseling to enhance family support. Taking an interdisciplinary approach, the association has brought the medical, financial, and psycho-social ramifications of this disease into full focus, while underscoring the long-term benefits of early intervention. The association has also served an important function in educating the public about the needs of hemophiliac patients. In short, the Arizona program provides high-quality and comprehensive care in a manner which has resulted in significant cost savings. This program can serve as a model for treatment of other chronic diseases. By focusing Federal funds on comprehensive early intervention with an emphasis on home care, the end result can be both significant cost savings and, more importantly, better care and an enhanced quality of life for patients.

I applaud the program and all the individuals who have worked so diligently to make it a success.

THE DEFICIT DILEMMA

Mr. CHILES. Mr. President, we have less than a month before Congress adjourns for the fall elections.

And in that time, we've got to resolve a huge economic problem. Right now the economy is a leaning tower straddling a fault line. Within 1 week's time the stock market dropped 127 points. It dropped over 86 points on September 11 alone.

The markets are worried about the economy. They're worried about the possibility of higher interest rates. They're worried about our ever-growing international trade deficit.

And they have doubts whether the administration and Congress are serious about reducing the deficit.

Well, Mr. President, I'm worried, too. I'm afraid we're in the same situation as the family on a Sunday morning who gets a call that unexpected guests are on their way. They don't have time to clean up the mess, so they sweep it under the rug, stuff it in the closet, put it behind the couch. The mess is still there, but it's been rearranged to make it look like your house is in order.

It seem to me there's a growing temptation in Washington to do the same things now, just before the elections. Hide the problems. Put them aside.

Mr. President, it just won't work. Less than 1 year ago, we enacted the Gramm-Rudman-Hollings law. It was a promise that this year, we'd get the deficit down to $144 billion. Next year, we'd get it down to $108 billion. And over the course of the 3 years that follow, we're supposed to get the deficit down to zero.

But last Thursday, Members from the House and Senate met as the Temporary Joint Committee on Deficit Reduction, authorized under the Gramm-Rudman-Hollings law. And the reason we met was to act on the sequester report put together for us by the Congressional Budget Office and the Office of Management and Budget.

The fact that we met at all—the fact that we had to activate this backup procedure—shows we have some serious problems.

We had to report a sequester because our efforts to reach this year's deficit target have already fallen short. We passed a budget resolution in the sping that was supposed to get us down to the target, and we've found out now it wasn't enough. What we're up against is the special provision in the law that says, if we miss the target and if we can't agree on measures to reach our goal, we'll have to vote on a package of legislative changes that will whack away sums of money according to a percentage formula.

Originally, that procedure was to have been automatic but the Supreme Court struck down the automatic procedure, so now we might have to vote on those cuts ourselves. And if we vote not to make those cuts, we go home to this year's election with a deficit of somewhere over $170 billion.

It seems to me what we have to do is take the advise of an old Florida farmer. That farmer used to tell visitors, "if you want anything and can't find it, just come to me and I'll tell you how to get along without it."

I wish that farmer was here right now, because that's a lesson we'll have to master in a hurry. We'll have to get along without a lot of things to avoid a sequester and meet the deficit target.

At our hearing last week, we heard from the Director of the Office of Management and Budget, Jim Miller. And we heard from Rudy Penner, the head of the Congressional Budget Office. The committee membership asked them about their deficit estimates.

Now, keeping in mind that our target for this year is $144 billion, the Office of Management and Budget projected a deficit of $156.2 billion. The Congressional Budget Office put the deficit at $170 billion. That averages out to $163.4 billion.

If OMB turns out to be correct, we'd have to cut a little over $12 billion more to reach the target. If the average projection is correct, we'd have to cut a little over $19 billion. And if CBO is right and the deficit is $170.6 billion, then we've got to cut roughly $27 billion.

Now I know some will ask if the problem's really as bad as that. Some will point to the $10 billion cushion under Gramm-Rudman-Hollings. It provides that if we come within $10 billion of the $144 billion deficit target, that's close enough, and we can avoid a sequester.

Well, for one thing, if we miss by $10 billion this year, and then miss by $10 billion in each of the next 4 years we end up $50 billion short of our goal. It's like spotting the opposition a touchdown and a field goal then multiplying it by a billion and still think you can win.

That's not much of a game plan, Mr. President. But let me remind this body of something else. Let me start with the tax bill.

A lot of people say, well, we're going to get somewhere between $9 and $11 billion in surplus revenues from the tax reform bill this year. That should just about wipe out the deficit excess this year. So let's take that money and we won't have to worry about the deficit target.

Alright. Fine. But if we do that, we exhaust the entire supply of gimmicks. And the reason is that while we get a windfall from the tax bill, this year, we end up with a shortfall next year or about $22 billion. That's a swing of $30 billion that has to be made up from other spending cuts or tax in-

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creases. So once you start robbing Peter to pay Paul you end up playing the tax bill against the deficit, and the deficit's going to win.

OK. Now are there any other problems? Yes, there are. The House has passed a drug bill, and that will add more than a billion dollars to the deficit.

We're also removing the Social Security trigger threshold this year, and that's going to add about another billion dollars to the deficit. We'll be spending more for a new space shuttle. And, when you add roughly $2 billion more because of Appropriations Committees actions, the deficit becomes $175 billion.

Could we solve the problem with additional revenues? Yes. In fact, on September 4, Congressman ROSTENKOWSKI spoke of an eventual need to raise the revenues to pay for these programs. But when Budget Director Miller appeared before the temporary Joint Committee on Deficit Reduction last week, Senator DOMENICI asked him if the administration could reach the Gramm-Rudman-Hollings deficit targets in fiscal year 1988, he answered yes. And when Mr. Miller asked whether it could be done without revenues, he said "yes, with difficulty."

Mr. President, I think Mr. Miller is in a distinct minority. But unless we come up with a king's ransom of additional budget cuts, we're going to have a sequester in 1988 because there's no way the administration will approve raising the revenues to pay for the spending it's endorsed.

What happens when you face a sequester? Congressman RUSSO made that point to Mr. Miller. He told Mr. Miller that a sequester would be evenly split between defense and domestic spending.

And what happens if we run into a sequester and Congress won't pass it or the President won't sign it? You get a deficit in excess of $170 billion this year.

So what I'm asking is this. Let's work together to cut the deficit as we promised to do under Gramm-Rudman-Hollings. Let's not use any tricks. Let's not rely on a revenue windfall that becomes a revenue shortfall next year. Let's not overlook the fact that we'll be spending money for the drug war and Social Security that will make the deficit higher.

What I'm asking for here is clear and honest estimates of the problem and tough and quick action on the deficit. The election may be on everyone's mind. But the deficit is on everybody's backs. And the monkey is on ours.

Mr. President, I ask unanimous consent to insert in the RECORD some excerpts from the hearing of the temporary Joint Committee on Deficit Reduction held September 11, 1986.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FISCAL YEAR 1987 DEFICITS FOR GRAMM-RUDMAN-HOLLINGS

	CBO	OMB/CBO average
Estimate	170.6	163.4
Adjustments:		
COLA's: Repeal trigger	.8	.4
Advanced farm deficiency payments	0	2.2
Pay-Military/civilian	0	1.4
Appropriated entitlements	0	.9
Appropriations Committee action	1.7	1.7
Shuttle	.2	.2
Reestimate	173.3	170.2
Reconciliation (current Senate)	−3.7	−3.4
Conrail sale	−2	−2
Revised estimate	167.6	164.8
Further savings to avoid a sequester (153.9)	13.7	10.9

Prepared by. Senate Budget Committee minority staff, Sept. 12, 1986.

EXCERPTS FROM A HEARING OF THE TEMPORARY JOINT COMMITTEE ON DEFICIT REDUCTION, SEPTEMBER 11, 1986

DR. RUDOLPH PENNER, DIRECTOR, CONGRESSIONAL BUDGET OFFICE

A large part of the budget is neither exempt from sequestration or is unaffected by it. As a consequence, the reductions are concentrated in about 40 percent of total outlays. To get 19.4 billion in outlay reductions, and even larger amount in new budget authority and other spending authority has to be sequestered. For example, defense spending authority would have to be reduced by 19.1 billion in order to get outlay savings of 9.5 billion. This calculation indicates that a sequestration would reduce spending for a number of years following 1987.

An '87 sequestration of 5.6 percent for defense and 7.6 percent for nondefense programs would be much more severe than these percentages imply. First, these reductions would be on top of the '86 sequestrations. Second, the reduction in real terms would be even greater because of the loss of any adjustment for inflation in 1987. The combined effect suggests reduction from the original '86 appropriation levels of close to 13 percent for defense spending—defense programs in real terms, and 14 percent for nondefense.

EXCHANGE BETWEEN SENATOR PETE DOMENICI, CHAIRMAN OF THE SENATE BUDGET COMMITTEE AND JAMES C. MILLER, III, DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET

Chairman DOMENICI. I will withhold on questions on my side—well, no, I will not.

Let me ask one. Somebody get five minutes up here.

Mr. Miller, with reference to the tax bill that is pending in conference, have you received some preliminary estimates as to the effect of the tax bill on the 1987 revenue base?

Dr. MILLER. Yes, I have.

Chairman DOMENICI. And with reference to the current estimates of that bill, are you aware of the '88 and '89 estimates on the impact revenue?

Dr. MILLER. Yes.

Chairman DOMENICI. Is it fair to say that the current estimate is that there will be an $11 billion revenue add-on or windfall, so to speak, in '87?

Dr. MILLER. Yes.

Chairman DOMENICI. To be followed by an '88 and '89 revenue shortfall that currently is estimated at about $22 billion per year, is that correct?

Dr. MILLER. Yes.

Chairman DOMENICI. Mr. Miller, I assume that at this late date—this early date, you are nonetheless busy at work on the 1988 budget which you will submit on behalf of the President to the Congress and the people of the United States early next year?

Dr. MILLER. Yes.

Chairman DOMENICI. Might I ask if you at any time in working on that budget assumed that you could meet the Gramm-Rudman-Hollings total for 1988 with $22 billion reduction in the tax base of this country off the current baselines?

Dr. MILLER. With difficulty. With difficulty. [Laughter.]

Chairman DOMENICI. I interpret that in preparing the budget to meet the Gramm-Rudman total of 106 billion for 1988, that you have not yet come up with even a preliminary approach which would reach that if we had $22 billion less in revenues than we presently contemplate? Is that a fair statement of your answer "with difficulty"?

Dr. MILLER. Yes.

Chairman DOMENICI. Might I ask one additional question?

Might I ask whether you expect us to reach the Gramm-Rudman-Hollings' targets of 1988 if that tax bill becomes law?

Dr. MILLER. Yes.

Chairman DOMENICI. Might I ask do you intend us to do that without any new revenues?

Dr. MILLER. Yes.

Chairman DOMENICI. Might I ask you how in the world you intend to do that? [Laughter.]

Dr. MILLER. With difficulty. [Laughter.]

BUDGET DIRECTOR JAMES C. MILLER III

I do not think at this time we should depend on an $11 billion bump from tax reform as saving us from a sequester. As I indicated earlier, well, we have got to have the $9.4 billion off the Gradison baseline to get within the $154 billion margin of error. And I think we can accomplish that. But we should not depend. We should do it through a reconcilation process, not depend on the bump.

EXCHANGE BETWEEN SENATOR CHILES AND DR. RUDOLPH PENNER, DIRECTOR OF THE CONGRESSIONAL BUDGET OFFICE

Senator CHILES. The Blue Chips consensus economic forecast for September has just been released. Based on predictions of 52 private forecasters, I think it is interesting to compare what these forecasters are saying with what CBO and OMB are telling us.

We have gotten used to OMB telling us that things are going to be good, just around the corner. Now they are telling us we can expect 3.7 percent growth in fiscal year 1987. CBO is not that optimistic at 3.2 percent, and GAO, in releasing its review, is telling us that CBO is too optimistic and should expect the economy to grow at only 2.8. Now, we see the Blue Chips consensus is telling us that GAO is too optimistic, that the private consensus sees a 2.7 percent growth. So the consensus is a full percentage point below OMB, and when you look at where the OMB forecast fits in with the private forecasters, we find out of the 52 forecasters only five believe the economy is going to grow as fast as OMB sas.

That means that 90 percent of the forecasters think that OMB is wrong, and even CBO is optimistic with 60 percent of the private forecasters.

So it is important that we understand, that the OMB/CBO average forecast is a far cry from the true average as reflected in the Blue Chip consensus.

The true average would reflect the views of both the optimistic and pessimistic forecasters.

Basically, Dr. Penner, if the consensus is correct and we grow .7 percent slower than CBO says, how much larger would the 1987 deficit be?

Dr. PENNER. Well, first let me make the point, Senator, that while our friends at GAO were quite kind to us in the January report with regard to our forecasting record, which stands up pretty well compared to private forecasters, nevertheless, it is such an uncertain business, that our average forecast error for the summer forecast for the following calendar year, for real growth, during the history of CBO, is slightly more than one percentage point. So neither the OMB nor the GAO forecast, nor the consensus forecast can be said to be really significantly different from ours. But taking you very literally, and assuming that all else, interest rates, and et cetera remain the same, a one percentage point reduction error on our part in the real growth estimate for 1987 would lead to an $8 billion error in the deficit estimate.

A drop of .7 percentage points; therefore it would be about 6 billion. Extrapolating that to 1988, a .7 percent carried through, it would be worth——

Chairman DOMENICI. Could I interrupt?

Dr. PENNER [continuing]. 16 billion.

Senator DANFORTH. I believe that the enactment of the Tax Bill necessarily renders Gramm-Rudman-Hollings as "dead duck" after the 1987 fiscal year.

The reason I believe that is that for 1987, we will not end up with sequestration. We will end up hitting a target not of $144 billion, but, $154 billion, and we will use to meet that enlarged target a projected first-year revenue windfall from the Tax Bill of $11 billion * * *.

So the comment that I would make is this: I believe that between the regular, what we have agreed to, reduction in the deficit between 1987 and 1988, and the fact that we are using, will be using a front-end load from the Tax Bill, whereas, there will be a shortfall in the following years; plus what we know is clear funny money in the Tax Bill; plus the economic consequences of repealing the Investment Tax Credit, taking more money out of depreciation, and other changes, the effect that that will have on economic projects—I think that it is a matter of certainty, that Gramm-Rudman-Hollings is a one-year phenomenon, and that it will be of no value at all.

CHARLES A. BOWSHER, COMPTROLLER GENERAL OF THE UNITED STATES

Mr. BOWSHER. I would like to comment just a little bit on the expenditure side, too, because I share Senator Danforth's concern, and one of the concerns we put in our GAO report was, that as you push these expenditures into the next fiscal year, that might help for it to make this target. But both in the defense area, and the agriculture area, and things like that, what you are doing is, you are building up a bigger and bigger problem for the succeeding years.

JAMES C. MILLER, III, DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET

Dr. MILLER. Let me say of course we have got to get ten—excuse me—$9.4 billion to get within the 154 margin of error. So that is the total that we have to have. Our position is yes, we cannot accept any further reductions in the defense and international affairs budget.

In other words, we have to have what is in the mid session review, is what has come in under the Congressional Budget Resolution, which is a substantial cut, as you know, in defense and international affairs.

The President cannot accept anything less than that, and so we have—and the President has been adamant against any increase in taxes.

SENATOR PETE DOMENICI, CHAIRMAN, SENATE BUDGET COMMITTEE

Yes, we will try to reduce the deficit with the reconciliation bill. I don't believe that there is any way to find what's necessary in the reconciliation bill. I have ten or twelve ideas. I've talked to the administration about theirs; I've searched around with everybody that has them. Let me suggest, I don't think they're there.

And in addition, there too, most of them are one shot events. Everybody is joyous that we're going to sell Conrail, maybe. We don't get any impact in 1988 and 1989 from those kind of events, and we're right back in the muddle.

My prediction is that with the passage of the tax bill as is, with deficit reduction as pushed on us by Gramm-Rudman-Hollings, and the way we will comply, that it will become common, ordinary knowledge by January, February, March of next year that we cannot reach the totals prescribed by Gramm-Rudman-Hollings.

But I think we're getting very close, very close to abandoning a notion of truly ever getting to a balanced budget, and I believe we're going to end up very close to abandoning the notion that we'll be on that path, as prescribed by that law.

Nonetheless, it's serving a good purpose. This year it will force us to do some things that we wouldn't otherwise do—frankly not an awful lot. It's just forced us not to spend some things. But in terms of reductions that are permanent in nature—I mean, what have we done? We have passed nothing. That's why the deficit is lower.

If we do the tax bill as is, if we intend to stay with Gramm-Rudman-Hollings, I just don't believe we can do it. Now, everybody can decide what that means, and you apparently have decided there's another policy that you think is very good, tax reform bill, that it's necessary. No criticism from my side. The time has come when you have to do something. Just don't have any doubt about it—it's not going to make Gramm-Rudman-Hollings miraculously get us down to 108 billion and a balanced budget three years thereafter. I mean, it just can't. It's an absolute impossibility.

SANCTIONS AGAINST SOUTH AFRICA—SENATE BILL DOES NOT PREEMPT STATE AND LOCAL ACTION

Mr. KENNEDY. Mr. President, in recent days, a question has arisen as to whether the Anti-Apartheid Act of 1986 adopted last month by the Senate might have the effect of preempting State and local action against apartheid.

In my view, it would have no such effect, and the lack of any such effect is strengthened by the overwhelming vote in the House of Representatives last Friday in passing the Senate bill while simultaneously adopting House Resolution 549 expressing the explicit intent of the House against preemption.

Indeed, it was with some surprise that the possibility of preemption is being pressed at all, because the case for preemption is so tenuous. True, Senator LUGAR, in opposing the D'Amato amendment, expressed his view that State and local antiapartheid laws would be preempted. But he cited no language in the statute to justify that view, and the view is contrary to the premise of the D'Amato amendment, which was designed to mitigate the effect of State and local antiapartheid laws on contracts involving Federal aid.

The D'Amato amendment was defeated, but a revised fall back amendment was immediately accepted deferring Federal penalties on such contracts for 90 days, so that State and local governments could modify their antiapartheid laws if they chose to do so.

Obviously, if Senator LUGAR's argument were correct that the Senate bill preempted State and local antiapartheid laws, there would have been no need for either the original or the revised D'Amato amendment, since the State and local laws would be invalid anyway.

Further, the preemption issue must, of course, also be analyzed in terms of the Senate debate last year on the Anti-Apartheid Act of 1985. The issue was clearly raised in an amendment—circulated by Senators ROTH but never called up for debate—that would have added specific language requiring preemption to the 1985 Senate bill. In the end, after extensive lobbying against the amendment, the proponents of preemption chose not to raise their amendment in the face of certain defeat; and the legislative history at the time of passage was clear that the bill as adopted by the Senate would not preempt State and local laws.

Four days after Senate passage, Senator LUGAR and McCONNELL engaged in a colloquy attempting to salvage their position by arguing that the bill, even without the Roth amendment, would still preempt State and local laws; but it is unlikely that any court would take this argument seriously in the face of the strong legislative history to the contrary and the decision of the advocates of preemption not to press the Roth amendment.

Curiously, in the 1986 South Africa debate, Senator LUGAR chose not to raise the preemption issue again until the last day of Senate floor debate, at a time when the unanimous-consent agreement governing debate on the bill prevented any further amendments from being raised.

In light of this sudden 11th hour claim of preemption, I asked Prof.

Laurence Tribe of Harvard Law School, one of the most distinguished and respected constitutional scholars in the Nation, to analyze the issue. I have received Professor Tribe's analysis today and his conclusion is clear:

The Anti-Apartheid Act would *not* preempt state and local measures to divest holdings in South Africa or to limit dealings with companies doing business there. (Emphasis in original)

Mr. President, I ask unanimous consent that a letter from Professor Tribe and his accompanying memorandum may be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SEPTEMBER 15, 1986.

Hon. EDWARD M. KENNEDY,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR KENNEDY: As you requested, I have studied the Comprehensive Anti-Apartheid Act of 1986, as first passed by the Senate this August and then by the House this September, to determine whether this federal legislation would preempt state and local efforts to sever economic links to the South Africa regime. Particularly in light of statements favoring preemption by Senator Lugar and a few others, I appreciate the importance of carefully assessing this issue so that the debate on whether to override the anticipated veto of the measure is as fully informed as possible. For the reasons set forth in the accompanying memorandum, I have concluded that the Anti-Apartheid Act would not preempt state and local measures to divest holdings in South Africa or to limit dealings with companies doing business there.

The provisions of the Anti-Apartheid Act bind states and localities every bit as much as they bind private companies; like private companies, state and local governments are forbidden by the 1986 Act to import South African uranium or krugerrands, for example, and are forbidden to make new direct investments in South Africa. But nothing in the Act purports to place a ceiling on the range of further steps private institutions might take to express their disapproval of apartheid or their lack of confidence in the political and economic future of the regime currently in power in South Africa. Thus, even though the Act does not require any private body to divest its portfolio of existing holdings in South Africa, it leaves private bodies—such as colleges and universities, for example—completely free to divest. Public universities and other public entities, whether linked to municipal governments or to state governments, are left equally free, in their proprietary role as market investors and market participants, to reduce their dependence upon, or their complicity with, the apartheid regime.

A decision by Congress to saddle states and localities, acting in such proprietary capacities, with unique limits on their freedom is, of course, conceivable. But such a decision would be most unusual and would pose a host of problems that no court would likely assume Congress was eager to create. Among other things, legislation leaving state and local bodies less free to divest than private bodies are would place courts in an extraordinarily difficult and delicate position, requiring them to discharge a number of tasks hard to square with a suitably limited conception of federal judicial authority.

As the accompanying memorandum explains, only the clearest evidence that Congress in fact intended such unusual results could persuade the courts, under existing preemption standards, that states and cities had lost, by virtue of the recently enacted legislation, a freedom of choice that they had previously enjoyed and that private actors continue to enjoy under the 1986 Act. The text, structure, and legislative history of the Act completely fail to provide such evidence. It follows that state and local laws and policies that complement the anti-apartheid thrust of the new federal law, far from being preempted by it, would be welcomed by courts, and should be welcomed by lawmakers, as helping to carry forward the purposes of this landmark statute.

Sincerely yours,

LAURENCE H. TRIBE,
Tyler Professor of Constitutional Law, Harvard Law School.

MEMORANDUM ON THE NONPREEMPTIVE EFFECT OF THE COMPREHENSIVE ANTI-APARTHEID ACT OF 1986 UPON STATE AND LOCAL MEASURES

From: Laurence H. Tribe.
To: Concerned Members of the House and the Senate.
Date: September 15, 1986.

On September 12, 1986, the House of Representatives passed a measure already approved by the Senate establishing a broad regime of sanctions against South Africa. The question addressed in this memorandum is whether this legislation might to some degree preempt state or local legislation. This memorandum concludes that the federal statute would have no such preemptive effect.

I. THE DIVERSITY OF STATE AND LOCAL ANTI-APARTHEID MEASURES

Spurred by events in South Africa, states and cities have taken a broad range of steps to limit their economic links to that country. These actions take a wide variety of forms; the most common practices are divestment of public ownership of shares in corporations directly operating in South Africa, and "selective purchase ordinances" restricting city contracts with companies operating there. See N.Y. Times, Sept. 9, 1986, at A1, col. 5.

Restrictions on investments may take the form used by Maryland, which imposed a moratorium on investment of state funds in companies that do not receive the highest ratings of the Sullivan Principles. See id. Or these restrictions may go further, and require the sale of state or local investments currently held by state or municipal entities in any such company. See, e.g., Conn. Gen. Stat. Ann. § 3-13(f) (West Supp. 1986).

These restrictions may go further still, and require divestment of all holdings by state or local public universities or other bodies in any company operating in South Africa. See, e.g., D.C. Code Ann. § 47-342 (Supp. 1986). Last month, for example, California passed a measure requiring the sale over the next four years of more than $11 billion in state securities in companies doing business in South Africa. See N.Y. Times, Sept. 9, 1986, at D5, col. 2. New Jersey's decision to sell its holdings of $3.5 billion was the largest previous divestment program undertaken by a state. See N.Y. Times, July 21, 1986, at A5, col. 2.

Restrictions on investments also vary in their generality; most are directed specifically at South Africa, but some bar public investments in any company that "condones through its actions discrimination on the basis of race." E.g., Wisc. Stat. Ann. § 36.29(1) (West Supp. 1985) (regulating investment of university funds).

At least thirty cities, mostly within the last year, have passed laws to curtail the awarding of public contracts to corporations operating in South Africa. These bidding preferences may allow such awards if other bids are at substantially higher prices—e.g., eight percent (as in Chicago), six percent (as in Washington), or five percent (as in New York City). Or they may ban the purchase by city agencies of goods and services from such companies altogether, except where accepting the lowest bid is required (as Los Angeles stipulates), or unless the company can demonstrate that it does not discriminate or that its products are essential or unavailable elsewhere (as Maryland stipulates). See N.Y. Times, Sept. 9, 1986, at D5, col. 5.

Finally, the motivations for such steps are as diverse as the various measures themselves. Some states have promulgated statutes in order to break ties with a regime they detest. Others have passed laws to conform with their overall investment or educational policies. See, e.g., Conn. Gen. Stat. Ann. § 3-13(d)(a) (West Supp. 1986). In some instances, general civil rights statutes have been interpreted to require divestment from South Africa. See Op. Atty. Gen. Wisconsin (Jan. 31, 1978). Of course, even cities and states that pass no formal divestment measures are likely to take account of the situation in South Africa in deciding upon routine issues, including what equipment to purchase or what funds are the most prudent in which to invest. Such decisions are made by a myriad of officials at all levels of government and bureaucracy. And all will share the difficulty of determining the degree to which they were based on a straightforward rationale of economic prudence. For whatever one's moral perspective on the South African regime, no prudent investor could fail to see the economic implications of investing in a country undergoing a profound political and social upheaval.

II. THE RELEVANT CONSTITUTIONAL FRAMEWORK

Although the setting of the foreign policy of the United States is an exclusively federal prerogative under the Constitution and cannot be usurped by state or local bodies with or without the consent of the U.S. Department of State, see *Zschernig* v. *Miller*, 389 U.S. 429, 436 (1968), it is equally fundamental that states and their public subdivisions are assigned the responsibility, under our Constitution, of deciding where and how to invest the public resources they collect through taxing and other sovereign measures. The Congress, in which the sovereign interests of states and localities are represented, see *Garcia* v. *San Antonio Metro. Transit Auth.*, 105 S. Ct. 1005, 1018 (1985), may choose to displace this historically localized responsibility by entrusting some suitable federal authority with control over the economic choices of state or local bodies. But absent such a congressional choice, there is nothing in federal constitutional law that could conceivably support taking from state legislatures and municipal authorities this basic control over their own economic destinies.

It is, of course, true that an Act of Congress dealing with the relations of the United States with a particular nation—in this instance, South Africa—might serve to limit the options open to states or localities.

To the extent that federal legislation has this effect, the Supremacy Clause of Article VI renders contrary state or local choices null and void. But no court could find the requisite preemptive effect in a Congressional measure that is ambiguous on this score. As the Supreme Court has repeatedly held, there must be compelling evidence of preemptive intent by Congress before courts may "infer that Congress has deprived the States of the power to act," see *San Diego Bldg. Trades Council* v. *Garmon*, 359 U.S. 236, 244 (1959), in any area that, like local taxing or spending, see *San Antonio School Dist.* v. *Rodriquez*, 411 U.S. 1, 40-55, (1973), is infused with "deeply rooted . . . local feeling and responsibility," Garmon, 359 U.S. at 244; see *Pacific Gas & Electric Co.* v. *State Energy Resources Conservation & Dev. Comm'n*, 461 U.S. 190, 204 (1983). There is, in other words, a strong presumption against finding federal preemption by mere implication—absent, of course, a direct conflict or contradiction between the federal statutory mandate and a particular state or local measure. See *Rice* v. *Santa Fe Elevator Corp.*, 331 U.S. 218, 230 (1947).

The presumption against preemption operates fully in the context of state and local divestment decisions, whether those give effect to a polity's sense of how to deploy its public funds most prudently or to its convictions as to the moral obligations that compel it to avoid association with a repugnant regime. Nothing in the legislation passed by the Senate on August 15, 1986, and approved by the House on September 12, 1986, conflicts with the sorts of state and local divestment measures sketched in the introductory portion of this memorandum, and nothing in the recently enacted federal legislation evinces a decision by Congress to oust states and localities altogether from this area.

III. THE TEXT AND HISTORY OF THE FEDERAL STATUTE

State and local divestment measures of the sort thus far enacted would neither interfere with the national conduct of our foreign policy nor conflict with the operation of the recently enacted statute. The federal statute includes an array of complex limitations, and any state or local law that conflicts directly with these limitations of course would be preempted, but nothing in the measures described above in Part I of this memorandum would create such a conflict.

Courts will find preemption premised on "actual conflict" only when it is difficult for a party to comply fully with both local and federal laws. See *Pacific Gas & Electric* v. *Energy Resources Conservation & Development Comm'n*, 461 U.S. 190, 204 (1983); *Jones* v. *Roth Packing Co.*, 430 U.S. 519, 532 (1977). Further, courts will not infer preemption based on speculative conflict; the conflict must be real and actual. See *Exxon Corp.* v. *Governor of Md.*, 437 U.S. 117, 131 (1978); *Huron Cement Co.* v. *Detroit*, 362 U.S. 440, 446 (1960).

The statute at issue here poses no such conflict. The Act lists measures by the United States to undermine apartheid, including numerous specific restrictions that would apply to the actions of private parties. These include prohibitions on the importation of krugerrands, see H.R. 4868, 99th Cong., 2d Sess. § 301 (1986), on the importation of uranium or coal from South Africa, see id § 309, and on new investment in South Africa, see id § 310. But the statute includes no explicit prohibitions that apply to states or local governments as such. If the alleged preemptive effect of the federal statute would reach all state and local actions taken in whole or in part to impose pressure upon, or express disapproval of, South Africa, this effect would have to encompass decisions to accelerate the rate at which they sell interests in assets related to South Africa under a preexisting divestment program, or decisions to purchase goods or services from one company rather than another based partly on each company's ties to South Africa.

Yet the new legislation regulates the states and cities in their capacities as "market participants" only in the same way that private parties are regulated. For example, a state could not invest directly in South Africa or import South African uranium or krugerrands without violating sections 310, 309, or 301, respectively. But as market participants, states and cities are left just as free to disassociate themselves still more from the South Africa regime as private parties are. Compare *Reeves, Inc.* v. *Stake*, 447 U.S. 429 (1980) (according greater freedom to states as "market participants" than as regulators of private actors); *Hughes* v. *Alexandria Scrap Corp.*, 426 U.S. 794 (1976) (same).

The only conceivable argument for preemption would follow if the statute were construed as setting a ceiling on the permissible means of divesting economic assets related to South Africa. But this the statute does not do, not for private parties, nor for state and local governments; the statute draws no distinction between state and local governments as market participants, on the one hand, and private parties on the other. In this regard, it would be highly unusual for Congress to impose greater restrictions on state and local public actors than it imposes on private actors. Particularly in light of the proprietary actions at issue, such a public-private distinction would pose difficult problems for the courts in identifying "state actors." Although courts deal with such questions in constitutional cases, it would be unusual for Congress throw such a question to the courts through statutory preemption.

The federal statute has no provision preempting local legislation. The preamble simply states that the Act's purpose is "to set forth a comprehensive and complete framework to guide the efforts of the United States in helping to bring an end to apartheid in South Africa;" this language merely indicates congressional intent to coordinate foreign policy among the branches and agencies of the federal government. See H.R. 4868, 99th Cong., 2d Sess. § 4 (1986). All of the provisions dealing with government procurement and investment decisions refer specifically to the "United States Government." See id. §§ 314, 316. This silence regarding the states and cities reveals an intent not to preempt state and local action.

The legislative history of anti-apartheid bills before Congress buttresses this inference. Senator Granston explained in 1985 discussing anti-apartheid legislation then pending, "[W]e have no such intention [to preempt local legislation] in this bill otherwise the Senate would have put a preemption provision in the bill." Cong. Rec. S9388 (July 11, 1985). As Senator Moynihan asserted regarding the legislation this year, "States and localities should have the right to make their own decisions regarding their own individual involvement with the South African regime." Cong. Rec. S9306 (July 17, 1986). The House vote of September 12, 1986, expressly endorsed this non-preemption view.

Senator Lugar, to be sure, expressed a different view of the matter. See Cong. Rec. S11,817 (Aug. 15, 1986) (comments of Sen. Lugar). But Senator Lugar, by himself or by citing isolated comments from the floor, should not be able to deter states from deciding how to invest or spend their own funds. If a few legislators could insert calculated snippets of legislative history and thereby instruct the courts to regulate the finances of states and cities, they could circumvent the need to articulate that scheme of regulation through the usual legislative process. Such a result would violate the spirit of Immigration and Naturalization Service v. Chadha, 462 U.S. 919 (1983), which struck down the legislative veto as a circumvention of the bicameralism and presentment requirements. Chadha noted that the Constitution had set forth "a single, finely wrought and exhaustively considered, procedure," id. at 951, to ensure "that legislation should not be enacted unless it has been carefully and fully considered by the Nation's elected officials," id. at 949. The legislative history of the bill at hand reveals nothing resembling full legislative consideration and adoption of a preemptive federal scheme.

The only section of the statute dealing with state and local anti-apartheid laws is section 606 added by Senator D'Amato. See Cong. Rec. S11,818 (Aug. 15, 1986). This section states: "(1) no reduction in the amount of funds for which a State or local government is eligible or entitled under any Federal law may be made, and (2) no other penalty may be imposed by the Federal Government, by reason of the application of any State or local law concerning apartheid to any contract entered into by a State or local government for 90 days after the date of enactment of this Act." H.R. 4868, 99th Cong., 2d Sess. § 606 (1986). This provision implies that after ninety days, states and localities could be prevented from following their anti-apartheid policies in procurements using federal funds if these policies were contrary to federal law. This leaves the negative implication that investment decisions are not preempted, nor are disbursements not using federal funds. Indeed, even if cities were to apply their anti-apartheid laws using federal funds, the laws themselves would not be preempted by the federal statute. For if Congress intended such preemption, this provison would have been entirely superfluous. There would be no need to penalize states and localities for following their own laws if these laws were invalidated by the federal legislation.

In all, the statutory language and legislative history fall far short of the compelling evidence of preemptive congressional intent required for a court to sustain a preemption attack upon state and local laws. See *New York Telephone Co.* v. *New York Dep't of Labor*, 440 U.S. 519, 540 (1979). If Congress intended to force states and municipalities to continue doing business with a regime they find morally repugnant or in a nation whose future they deem unstable, this intent has not been expressed in a manner sufficient to preempt local legislation. See Troyer, Slocombe & Boisture, Divestment of South Africa Investments, 74 Geo. L.J. 127, 160 n.135 (1985).

Moreover, a finding of no preemption is wholly consistent with the conceded primacy of the federal government in foreign affairs and international relations. The fact that the federal statute here deals with foreign policy does create a conflict with state and local actions where there would other-

wise not be one. Under the supremacy clause of the Constitution, local regulations must give way if they conflict with any federal statute, treaty, or executive agreement. The state and local measures at issue here, however, affect no pact with any foreign nation and are broadly consistent with the federal anti-apartheid act presently under consideration.

In virtually every instance in which the Supreme Court has invalidated an action by a state as unduly impeding the national government's foreign relations authority, it has done so because that action unambiguously clashed with a federal statute, treaty, or agreement. See, e.g., *United States* v. *Pink*, 315 U.S. 203 (1942) (invalidating a state policy of refusing to honor the Soviet Union's claim to assets because this policy conflicted with the Litvinov Agreement with that nation); *Hines* v. *Davidowitz*, 312 U.S. 52 (1941) (invalidating state alien registration system that conflicted with the federal statutory system). In the absence of such authority, courts have been reluctant to presume a conflict between a state's action and foreign policy. See Pink, 315 U.S. at 231 (observing "the power of a state to refuse enforcement of rights based on foreign law which runs counter to the public policy of the forum" when no federal statute or treaty specifies otherwise).

Thus, in the recent case of *Container Corp.* v. *Franchise Tax Board*, 463 U.S. 159 (1983), the Supreme Court upheld a state corporate tax that included foreign subsidiaries in the calculation of income in spite of the fact that this action had "foreign resonances." Id. at 194. The Court found that the tax ran afoul of no act of Congress nor any treaty, and thus did not "seriously threaten" federal foreign policy. Id. at 196. For other examples of state measures upheld in spite of their potential impact upon foreign affairs, see *Clark* v. *Allen*, 331 U.S. 503 (1947) (upholding state reciprocal legislation conditioning the right of an alien to inherit property on the grant by the alien's country of similar rights to United States citizens); *K.S.B. Technical Sales Corp.* v. *North Jersey Dist. Water Supply Comm'n*, 75 N.J. 272, 381 A.2d 774 (1977) (upholding buy-American statute against commerce clause challenge), cited with approval in *Reeves, Inc.* v. *Stake*, 447 U.S. 429, 445 (1980); *J. Zeevi & Sons, Ltd.* v. *Grindlay's Bank, Ltd.*, 37 N.Y. 2d 220, 371 N.Y.S.2d 892, 333 N.E.2d 168, cert. denied, 423 U.S. 866 (1975) (upholding state court's examination of fairness of judicial process of a foreign country to determine if it will enforce a judgment of that country's courts).

IV. THE UNRESOLVED PUZZLES A PREEMPTION HOLDING WOULD ENTAIL

Indeed, a decision to oust states and localities from this sphere would leave in place an ominous economic and political vacuum that no court could comfortably create. The Supreme Court has often stressed its reluctance to read federal legislation in such a way as to leave a sphere of activity entirely beyond deliberate public control in any suitable forum. See, e.g., *Pacific Gas & Electric Co.* v. *State Energy Resources Conservation & Dev. Comm'n*, 461 U.S. 190, 207-08 (1983); *Parker* v. *Brown*, 317 U.S. 341, 362-63 (1943). Yet that would be the inevitable result of inferring from the legislation at issue here an intent to occupy the field. For Congress has most assuredly put in place no mechanism of its own to replace, with some appropriate federal authority, the state and local officials and authorities who currently shape the investment decisions of public universities, pension managers, and other bodies.

Construing the federal statute in such a way as to subtract from state and local authorities the power to deflect investments from South Africa—perhaps power to divest prior holdings, or power to decline to expand such holdings, or some combination of these powers—without adding any new body to govern such matters would leave such power with no locus at all other than the federal courts themselves. To those courts would then fall such extraordinarily touchy and complex questions as whether a particular state or city acts improperly when it decides to slow down its rate of investing pension funds in a particular company doing business in South Africa. Is the state or city acting in a preempted manner if it is motivated wholly or partly by moral concerns about apartheid? What if its concerns are purely prudential but are infused, as even prudence must be these days, by recognition that the situation in South Africa is unstable in part because of apartheid and the world's reactions to it? If a decision to slow down the rate of future investments is not preempted, what of a decision to diversify existing investments?

For federal judges to review state and local investment portfolios from this perspective would be difficult at best and incompatible with the Article III judicial power at worst. As the Supreme Court has observed on numerous occasions, such judicial line-drawing is strongly disfavored in the foreign policy realm, an area of particular executive and legislative expertise. See, e.g., *Container Corp.* v. *Franchise Tax Bd.*, 463 U.S. 159, 194 ("[t]his Court has little competence in determining precisely when foreign nations will be offended by particular acts"). The decision as to what types of anti-apartheid measures should be preempted is a quintessentially legislative one, for as the Court has long noted, the conduct of foreign relations is largely immune from judicial control. See e.g., *Regan* v. *Wald*, 104 S. Ct. 3062, 3039 (1984) (noting "classic deference to the political branches in matters of foreign policy"); *Fiallo* v. *Bell*, 430 U.S. 787, 792-93 (1977); *Shaughnessy* v. *Mezei*, 345 U.S. 206, 210 (1953); Harisiades v. *Shaughnessy* 342 U.S. 580, 588-89 (1952), *Goldwater* v. *Carter*, 444 U.S. 996, 1002-04 (1979) (Rehnquist, J., concurring); *Banco Nacional de Cuba* v. *Sabbatino*, 376 U.S. 398, 423-28 (1964). Until or unless Congress explicitly demarcates which of the broad array of state and local measures affecting South Africa it intends to preempt, the judiciary should not be forced to pick and choose without more guidance.

To infer preemption in such circumstances would entail a delegation of extraordinary power to the courts. Such an interpretation would force courts to employ their own notions of state sovereignty in delineating the boundaries of the preemption by the federal government. This role would be at odds with the view of federalism espoused by the Supreme Court in *Garcia* v. *San Antonio Metropolitan Transit Authority*, 105 S. Ct. 1005 (1985), which envisioned a scheme that relies upon the political branches of the federal judiciary to protect state sovereignty. See id. at 1017-19.

Whether or not Congress could constitutionally entrust such a role to federal judges, it is plain that it has not done so. And no amount of language, either in a statute's preamble or in the Congressional Record, referring to the virtues of having the nation speak with a single voice on this complex subject could possibly substitute for a decision by Congress to supplant local authorities with federal authorities, judicial or otherwise, in carrying out these delicate decisions.

TRIBUTE TO THE MINORITY LEADER

Mr. GORE. Mr. President, one Senator in particular deserves credit for opening the Senate's doors to television—Minority Leader ROBERT BYRD.

No Member of this body has a better understanding of Senate rules or a deeper respect for the Senate institution than the distinguished minority leader. When Senator BYRD began the long, uphill battle to bring TV to the Senate, we all knew that he had carefully weighed the consequences, with the institution's best interests foremost in his mind. Perhaps no other Member could have coaxed the Senate forward with such success.

It was an honor and a pleasure to work with the minority leader in launching a new era in representative democracy. The experiment is already a success. As the Senate approaches its 200th birthday, it remains as fresh and vital as our forefathers imagined, and more responsive than they could ever dream.

Last month, the Radio and Television News Directors of America recognized the minority leader for his contribution to open government. He received the organization's Distinguished Service Award at the RTNDA International Conference in Salt Lake City on August 27, 1986.

I ask unanimous consent that the minority leader's address to that conference be inserted in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

AWARD INTERNATIONAL CONFERENCE OF THE RADIO AND TELEVISION NEWS DIRECTORS OF AMERICA

(By Senator Robert C. Byrd)

I am honored that you have singled me out to receive your Distinguished Service Award. In all sincerity, I thank you for this signal recognition.

In fact, however, I want to share the distinction of this award with you—the Radio and Television News Directors of America.

Bringing about regular live and recorded coverage of the day-to-day proceedings of the U.S. Senate was not an easy task. Over many long months, and in many hours of debate with our colleagues, I and other Senators had to labor long and hard to make the case for regular television and radio coverage of the Senate.

But in that effort, you were among our best allies. You, as individual broadcasters, and as an organization, also helped to bring about electronic media coverage of the Senate. Your persuasiveness, your earnestness, and your professional integrity as journalists and reporters helped to assuage the anxieties of many Senators, and to melt much of the opposition toward daily Senate broadcasts. For myself and for the American people, I thank you for helping to make

a major contribution to our democratic way of life.

I an confident that history will applaud our success in this effort. From its inception, the U.S. Senate was meant to be a reflective and unhurried assembly—as George Washington put it ". . . the place where legislation was sent to cool down.

But the Senate was never intended to be invisible. In this era, for many people, if something does not appear on a television screen, or come to them over their radio, it has no reality. In recent years, again and again, the American people have had opportunities to see and hear their Presidents. And the advent of broadcasts from the House of Representatives made the continued blackout and silence of the Senate even more puzzling.

Innumerable Americans have sat in the Senate gallery during Senate deliberations and have ever after counted that experience one of the highlights of their lives. Outside that on-site event, however, until now, the American people had to depend largely on secondhand reports to let them know what their Senators were doing.

Now, millions of Americans can sit at home, or in their offices, and witness for themselves by eye and by ear the proceedings of the U.S. Senate.

As of now, such Senate coverage is still somewhat of a novelty. But in time, we and you will mature in handling this new procedure. I predict that that maturing will add appreciably to our Nation's strength and to the endurance of our free democratic institutions. Our political system depends on an informed electorate. Woodrow Wilson said, ". . . the informing function of Congress should be preferred to its legislative function," In that regard, perhaps nothing that has been done in my many years as a Senator has a greater potential for helping the Senate to fulfill that function as will the electronic coverage of the Senate, and I am proud to have been, in some fashion, pivotal in bringing about such an important innovation.

Again, thank you for honoring me with your Distinguished Service Award, and thank you for helping to give the American people a clearer view of their elected representatives at work, as together we continue the paramount task of hammering out our destiny as a Nation.

Mr. THURMOND. Mr. President, I suggest the absence of a quorom.

The PRESIDING OFFICER. The clerk will call the roll.

□ 1240

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EXECUTIVE SESSION

Mr. THURMOND. Mr. President, I ask unanimous consent that the Senate now go into executive session to consider the Rehnquist nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF WILLIAM H. REHNQUIST TO BE CHIEF JUSTICE OF THE UNITED STATES

The PRESIDING OFFICER. The clerk will report the nomination.

The assistant legislative clerk read the nomination of William H. Rehnquist, of Virginia, to be Chief Justice of the United States.

The Senate resumed consideration of the nomination.

Mr. LEVIN. Mr. President, there is no more important duty for the Senate than the exercise of its advice and consent power for the appointment of Federal judges, and particularly the appointment of Supreme Court Justices. It is no exaggeration to say that the judicial candidates to whom we give our consent will make decisions that directly affect the lives of millions of Americans. A judge confirmed in the last two decades of the 20th century is likely to serve well into the 21st century and shape the destiny of our children and our children's children.

Two critical points must be stressed about the Senate's role in the appointment process. First, the framers of the Constitution intended the Senate to be an equal partner to the President in the process. Second, there is nothing in the language of the Constitution or in the subsequent history of Senate consideration of judicial nominees restricting the scope of the Senate's inquiry into the nominee's qualifications.

THE SENATE'S ROLE IN THE APPOINTMENT PROCESS

The language of the Constitution leaves open the question of the extent of the Senate's role in judicial appointments. Article II, section 2 provides that:

(The President) * * * shall nominate, and by and with the Advice and Consent of the Senate shall appoint * * * Judges of the Supreme Court, and all other Officers of the United States, whose appointment are not otherwise provided for, and which shall be established by law.

However, the process by which the authors of the Constitution arrived at this construction indicates that they meant the Senate to have at least an equal role to that of the President. Walter Dellinger, professor of law at Duke University, summarized the events leading to adoption of the final language as follows:

The original Virginia Plan, introduced at the Convention on May 29, 1787, provided that all judges would be appointed by the national legislature. By June 19, the Convention had decided that the whole legislature was too numerous for the appointment of judges, and lodged that power in the Senate acting alone. Attempts to confer the power on the President to the exclusion of the Senate were solidly defeated. George Mason stated that he "considered the appointment by the Executive as a dangerous prerogative. It might even give him an influence over the Judiciary Department itself." Only near the end of the Convention was it agreed to give the President any role in the selection of judges; even then the President's power to nominate was carefully balanced by requiring the concurrence of the Senate. That final language was not seen to dislodge the Senate from a critical role in the process. Gouverneur Morris paraphrased the final provision as one leaving to the Senate the power "to appoint judges nominated to them by the President."

Morris' words make clear that the proponents of appointment by Congress or the Senate alone did not feel they had lost. As Prof. Charles Black of Yale writes (79 Yale Law Journal, p. 661), they:

Were satisfied that a compromise had been reached, and did not think the legislative art in the process had been reduced to the minimum. The whole process suggests the very reverse of the idea that the Senate is to have a confined role.

In Federalist Paper No. 76, Alexander Hamilton, the main proponent of giving the President the power of appointment, argued against giving the President absolute power because it would:

Enable him much more effectually to establish a dangerous empire over that body (the Senate) than a mere power of nomination subject to their control.

He confirms that dividing the appointment responsibility between the President and the Senate was deliberate and would have a positive effect on the quality of appointments:

(E)very advantage to be expected from such an arrangement would, in substance, be derived from the power of nomination, which is proposed to be conferred on him; while several disadvantages which might attend the absolute power of appointment in the hands of that officer would be avoided.

Jefferson would have preferred to give the people the power to elect judges, and viewed "judicial independence from popular control" as incongruous with democracy. Although his viewpoint did not prevail in the end, he wrote, after the current construction was adopted, that the Senate's advice and consent power was intended "to prevent bias and favoritism in the President * * * and perhaps to keep very obnoxious people out of office of the first grade." (The Writings of Thomas Jefferson, vol. 8, p. 210.)

This brief look at what might be called the "legislative history" of the advice and consent clause makes clear that the Senate's role in judicial appointments is supposed to be an active one. The Senate is not a rubber stamp. The Senate ought not simply defer to the wishes of the President, even if the President is a popular one.

The popularity of a President does not diminish our duty under the constitution. It does not diminish the Senate's duty as a body, and it does not diminish the duty of individual Senators.

The delicate system of checks and balances upon which our democracy depends will only work if each branch of the Government is willing to assert its role by fulfilling its constitutional duties.

THE SCOPE OF THE SENATE'S INQUIRY

What factors can the Senate appropriately consider while it is carrying out its advice and consent duties?

The language of the Constitution itself provides no guidance in this area. We can get some guidance by examining the intent of the framers of the Constitution and by looking at Senate precedent. Ultimately, however, we have to determine what qualities we think a good judge should have, and what scope of inquiry is necessary to determine if the prospective judge has these qualities.

Professor Lively of the University of Toledo argued in a recent law review article that:

> Any reservations concerning the propriety of the Senate's focus upon a candidate's policy values should abate upon realization that many of the framers of the Constitution conducted precisely such as inquiry.

He we referring to the Senate's rejection, in 1795, of President Washington's nomination of John Rutledge to be Chief Justice. The rejection was based purely on Rutledge's opposition to the Jay Treaty, a treaty previously approved by the Senate. And, of course, a number of the Senators who voted to reject Rutledge had participated in writing the Constitution. (Southern California Law Review, v. 59, p. 551.)

An examination of the subsequent history of Senate advice and consent shows that the judicial nominee's policy values have consistently been considered. This has been particularly true of Supreme Court nominations. The Senate has rejected 25 out of 138 Supreme Court nominations. Out of these 25 rejections, 22 had policy reasons behind them.

To the extent that precedent is important them, there are sufficient examples in the Senate's history to justify looking beyond a nominee's general competence and integrity. But how far beyond should we go? What is it about the role of the judge—and particularly the Supreme Court Justice, and most particularly, the Chief Justice of the United States—that makes consideration of his or her policy values necessary?

A young Arizona lawyer explored these questions in an article he wrote for the Harvard Law Record in 1959. He lamented, with regard to the then recent confirmation of Charles Evans Whittaker to the Supreme Court, the "startling dearth of inquiry or even concern over the views of the new Justice on constitutional interpretation." Pointing out that individual Justices of the Supreme Court "are not accountable in any formal sense to even the strongest current of public opinion," the author argued that the Senate ought to restore "its practice of thoroughly informing itself on the judicial philosophy of a Supreme Court nominee before voting to confirm him."

By way of example, the author described in some detail the battle over the nomination of John J. Parker to the Supreme Court nearly 30 years before. He quoted approvingly from the CONGRESSIONAL RECORD several statements made by Senator William Borah of Idaho, leader of the forces opposing Parker's confirmation. "(The Supreme Court) passes upon what we do," Senator Borah said at one point. "Therefore, it is exceedingly important that we pass upon them before they decide upon these matters. I say this in great sincerity. We declare a national policy. They reject it. I feel I am well justified in inquiring of men on their way to the Supreme Court something of their views on these questions."

The author concluded by noting that Supreme Court justices have great latitude in interpreting vague Constitutional clauses like "due process of law" and "equal protection of the laws." Given this state of affairs, he asks rhetorically, "what could have been more important to the Senate than Mr. Justice Whittaker's views on equal protection and due process?"

The young attorney who wrote this article was none other than William H. Rehnquist. While it was a well-reasoned argument for a broader Senate role in the appointment process, I think it actually went too far, and I think Justice Rehnquist, 30 years after writing it, would agree with me.

The young Mr. Rehnquist listed a series of cases then recently decided or before the Supreme Court—having to do with segregation and the rights of witnesses who invoke the fifth amendment—and regretted that the Senate hadn't shown any interest in Justice Whittaker's views on these cases. The implication was that it was acceptable and indeed desirable to ask a nominee's views of a particular case or opinion.

I do not agree. Justice O'Connor accurately, I think, pointed out the problem with this approach during her confirmation hearing. She said:

> I do not believe that as a nominee I can tell you how I might vote on a particular issue which may come before the Court, or endorse or criticize specific Supreme Court decisions presenting issues which may well come before the Court again. To do so would mean that I have prejudged the matter, or have morally committed myself to a certain position.

Indeed, I would say that if a nominee did answer questions asking about their views on specific issues likely to be central in decisions before the Court, I would be inclined to vote against them on that basis alone. A response would indicate to me that he or she did not understand that decisions should be guided by specific facts and arguments before the Court. A response would also indicate that the nominee is so driven by ideology or ambition that he or she was willing to prejudge matters to be presented to them.

However, there are two instances where I believe a nominee's policy values are relevant to his or her qualifications. The first instance is when the nominee's policy values are inconsistent with a fundamental principle on principles of American law. The second instance is when the nominee is so controlled by ideology that the ideology distorts their judgment and brings into question their fairness and openmindedness.

I am sorry to say that the nominee being considered by the Senate today, Justice William H. Rehnquist, is disqualified by both these standards.

I watched most of Justice Rehnquist's confirmation hearings on television, and reread portions of the transcript afterwards. I have read the speeches and articles he has written over the years. I have read some of his judicial decisions. And I also submitted two sets of questions directly to Justice Rehnquist, one before and one after the Judiciary Committee hearings, and received responses to these questions from him. My conclusions about this nominee are based on a careful study of the nominee's answers, the nominee's statements, and the nominee's actions.

JUSTICE REHNQUIST'S VIEWS ON INDIVIDUAL RIGHTS

In looking at Justice Rehnquist's "policy values," I am deeply troubled by his view that constitutional rights are based on support by the majority.

The Constitution, interpreted and applied by the Supreme Court, is the individual's best guarantee against the untrammelled exercise of Government power, and the minority's best protection against unjust treatment by the majority. If the rights of the minority are in principle less important, less worthy of protection than the "will of the majority" as expressed through duly enacted laws, then the Bill of Rights becomes essentially meaningless.

I was first struck by Justice Rehnquist's tendency to put the rights of the individual in the hands of the majority when I read the line in the famous "segregation memo" he wrote for Justice Robert Jackson which reads:

To the argument * * * that a majority may not deprive a minority of its constitutional right, the answer must be made that while this is sound in theory, in the long run it is the majority who will determine what the constitutional rights of the minority are.

Mr. President, I will show later why it is clear that the views in this memo were not Justice Jackson's views, as the nominee claims, but his own.

Since Justice Rehnquist was a young law clerk when he wrote these words, I would not necessarily have assumed that he still held this view. But this is a thread that runs through Justice Rehnquist's thought.

In a speech given on May 1, 1969 as part of a celebration of "Law Day," then Assistant Attorney General Rehnquist spoke about protesters whom he called over and over again the new barbarians, and expounded at some length on civil disobedience and the legitimacy of resistance to law in a democratic society. In the course of this discussion, Mr. Rehnquist made an implied threat against the protesters:

* * * Just as the minority has it within its power to frustrate the governance of the majority, so a large majority by process of constitutional amendment has it within its power to deny the right of free speech and free discussion to the minority. ("Law Day" speech, reprinted in Cong. Rec., November 18, 1971, 42133.)

In other words: "if we the majority decide we don't like your protest, we can force you to shut up." This type of argument is directly contrary to the spirit of our Constitution.

Remember that this was not a young clerk fresh out of law school speaking—this was an Assistant Attorney General of the United States, the head of the Office of Legal Counsel, who less than 3 years later was sitting on the Supreme Court.

The American Civil Liberties Union concluded in a report on Justice Rehnquist's record on the Court:

In his Supreme Court opinions and his extra-judicial writings, Justice Rehnquist rejects the notion that the Supreme Court has a special responsibility to protect civil liberties, to protect the individual against the excesses of the majority. Rather, he maintains that the Court's obligation is to protect the primary political structures of the government, which include the independence of the States and majority rule. (ACLU report, reprinted in Cong. Rec., September 11, 1986, S 12399.)

David Shapiro concluded in a Harvard Law Review article summing up Justice Rehnquist's first 4 years on the Court that his votes on cases were guided by three basic propositions, one of which was:

Conflicts between an individual and the government should, whenever possible, be resolved against the individual. (Harvard Law Review, vol. 90:293, p. 294.)

Justice Rehnquist himself provided an explanation for his strong tendency to favor "will of the majority" as expressed in duly enacted laws over the rights of the individual as protected by our Constitution. In a dissenting opinion he wrote for a 1972 death penalty case:

An error in mistakenly sustaining the constitutionality of a particular enactment, while wrongfully depriving the individual of a right secured to him by the Constitution, nonetheless does so by simply letting stand a duly enacted law of a democratically chosen legislative body. The error resulting from a mistaken upholding of an individual's constitutional claim against the validity of a legislative enactment is a good deal more serious. For the result in such a case is not to leave standing a law duly enacted by a representative assembly, but to impose upon the Nation the judicial fiat of a majority of a court of judges whose connection with the popular will is remote at best. (*Furman* v. *Georgia*, 408 U.S. 238, 468, 1972.)

I find Justice Rehnquist's approach to individual rights in our Constitution distressing. I see practically no recognition of the importance of the Court's role in protecting individual rights, and far too much recognition of the right or the power of the majority to impose its will on the minority or the individual.

In fact, it is more than distressing—it is flat out wrong to say, as Justice Rehnquist said and quite clearly believes, that the majority will determine what the constitutional rights of the minority are.

Justice Rehnquist has it exactly backward.

In this country, individual constitutional rights are beyond the reach of the majority. The Constitution's protections of individual rights are historic and fundamental, and the Supreme Court is their guardian. Justice Rehnquist does not accept that guardianship—and he is, thereby, an unacceptable chief trustee of individual rights.

JUDGMENT DISTORTED BY IDEOLOGY

There is another situation in which a nominee's "policy values" are grounds for rejecting that nominee. That situation arises when a nominee's personal views control their public judgments.

I believe it is inherent in the fact that judges are human that their judicial decisions will reflect their personal philosophies. But there is, I would submit, a difference between decisions which are controlled by ideology and those which are merely influenced by it.

Some individuals display an ideological fervor which distorts judicial temperament. That kind of fervor can result in actions and judgments which either violate or ignore constitutional principles. It can result in a situation in which judges are so controlled by ideology that they are unable or unwilling to look at all the facts, listen fairly to all arguments, evaluate critically all the legal precedents, and finally, decide cases judicially.

The Senate should not give its consent to nominees who come before us more as captives of ideology than creatures of reason.

LAIRD VERSUS TATUM

A good illustration of how Justice Rehnquist seems to let ideology overcome judgment is the case of Laird versus Tatum.

Justice Rehnquist's refusal to disqualify himself in the case of Laird versus Tatum was a breach of judicial ethics. His subsequent explanations of why he participated in the judgment ring hollow, and obscure more than they illuminate.

Briefly, here are the facts of the case: The Army was conducting a surveillance program aimed at Vietnam war protesters. A group of protesters brought suit in the District of Columbia to enjoin the Government from continuing the surveillance program. The plaintiffs claimed that they had standing to bring this action on the grounds of interference with their constitutional right to free speech. The Court of Appeals in the D.C. Circuit held that their lawsuit was maintainable. However, by a vote of 5 to 4, with Justice Rehnquist casting the deciding vote, the Supreme Court reversed this decision, ruling that the plaintiffs lacked standing and therefore the suit should be dismissed without going into the merits of the case.

The plaintiffs filed a motion to disqualify Justice Rehnquist. They argued that he was disqualified from hearing the case on the basis that he had expressed opinions on issues in the case and that he had presented the Justice Department's position before a Senate subcommittee hearing. In a memorandum, Justice Rehnquist responded to this motion with an explanation of the reasons for his decision not to disqualify himself.

Less than a year after Laird versus Tatum was decided, an article in the Columbia Law Review—January 1973—argued forcefully that Justice Rehnquist had erred in his decision not to disqualify himself. More recently, we have had several detailed analyses of the recusal issue by some of the foremost authorities on legal ethics in the country. I would particularly commend to my colleagues the analysis requested by Senator MATHIAS that was done by Prof. Geoffrey C. Hazard of Yale Law School. Professor Hazard was instrumental in drafting the American Bar Association's Code of Judicial Conduct. He is perhaps the Nation's preeminent expert on judicial ethics. And he has concluded, in his letter to Senator MATHIAS, that Justice Rehnquist not only should have disqualified himself from Laird versus Tatum under the statute then in force, but that he misrepresented the facts to the parties involved and to his colleagues on the Supreme Court. He also suggests that Justice Rehnquist was less than candid to the Senate in

answering questions concerning Laird versus Tatum.

I believe Justice Rehnquist prejudged the facts at issue, and should not have participated. Rather than discussing the error of his initial decision not to recuse himself—since this has already been done by the experts—I would like to focus on Justice Rehnquist's subsequent explanations of his decision. For I think that Justice Rehnquist's responses and justifications are revealing—and, in my opinion, extremely troubling.

The entire controversy over Laird versus Tatum—not only Justice Rehnquist's initial refusal to disqualify himself but his subsequent commentary on that decision—gives disturbing evidence that the nominee's ideology is so deeply imbedded that it tends to overcome good judgment and objectivity.

Let me give three examples of what I am talking about.

First, Justice Rehnquist failed to discuss a significant fact in his memorandum responding to the motion to recuse him. Referring to his appearance before a Senate subcommittee in 1971 where he testified on behalf of the Justice Department regarding the Army's military surveillance program, he stated that:

> There is one reference to the case of Tatum v. Laird in my prepared statement to the Subcommittee, and one reference to it in my subsequent appearance during a colloquy with Senator Ervin.

He went on to quote the first reference, which was as follows:

> However, in connection with the case of Tatum v. Laird, now pending in the U.S. Court of Appeals for the D.C. Circuit, one print-out from the Army computer has been retained for the inspection of the court. It will thereafter be destroyed.

He then dismissed the second comment by simply stating that it was "a discussion of the applicable law with Senator Ervin, the chairman of the subcommittee, during my second appearance." He did not quote the second comment, and indeed there is no further reference to it in the rest of the memorandum.

His explanation of why the first comment did not constitute grounds for disqualification was that he was merely the keeper of the computer printout, that he had never "seen or been apprised of" its contents, and that the first time he learned of the existence of the case of Laird versus Tatum was while he was preparing to testify before the Ervin subcommittee. (93 SCR, 409 U.S. 827, p. 10.)

As for the second comment, the reader is left to wonder what it was. We have to look at the plaintiffs' motion or the subcommittee hearing record to find out.

In response to a question by Senator Ervin about the Government's right to put under surveillance people who are exercising their first amendment rights, Assistant Attorney General Rehnquist responded in part:

> My only point of disagreement with you is to say whether as in the case of Tatum v. Laird that has been pending in the Court of Appeals . . . that an action will lie by private citizens to enjoin the gathering of information by the executive branch where there has been no threat of compulsory process and no pending action against any of those individuals on the part of the Government. (Ervin hearings, vol. 1, pp. 864–865.)

Justice Rehnquist was expressing the view here that Laird versus Tatum was not justiciable. For those who find the meaning of his statement a bit unclear, I would point to the operative words "My only point of disagreement with you." He was disagreeing with Senator Ervin's contention that there was a first amendment issue here, that these protesters' rights were being violated when the Army put them under surveillance. And this was precisely the controversy in Laird versus Tatum when it came before the Supreme Court. The conclusion is inescapable: Assistant Attorney General Rehnquist expressed the view before a Senate subcommittee that the case was nonjusticiable; Supreme Court Justice Rehnquist failed to disqualify himself from deciding whether the case was justiciable.

In light of the content of this second statement and its specific reference to Laird versus Tatum, I find Justice Rehnquist's failure to quote or explain it highly disturbing. Maybe he could have found a way to explain that he was not really saying what he appeared to be saying in this statement, that it really was simply a "discussion of applicable law." The fact that he avoided quoting or explaining it leads me to conclude that he was aware that it would severely weaken his case for not disqualifying himself.

□ 1310

I also have serious questions about the nominee's description of the extent of his involvement in formulating the Nixon administration's policy on domestic surveillance by the Army. Evidence which has come to light since 1972 indicates that he was far more involved in developing this policy than he revealed when Laird versus Tatum was decided. In particular, a draft memorandum he prepared for submission to the White House discussed the legal implications of allowing the Army to participate in surveillance activities. This memo was first made public in a little noticed appendix to the Ervin subcommittee's hearings. It resurfaced as one of the documents that the Reagan administration initially refused to provide to the Judiciary Committee but later supplied.

In this memo, Assistant Attorney General Rehnquist wrote that the U.S. Army Intelligence Command "may assist" in the collecting of raw intelligence on civilian political activity, but that "in order to preserve the salutary tradition of avoiding military intelligence activities in predominantly civilian matters," the Army "should not ordinarily be used to collect" such data.

I assume that as the head of the Office of Legal Counsel, Assistant Attorney General Rehnquist did not write this memo off the top of his head. He must have done legal research himself, or at the very least, discussed the issue with his subordinates.

If my assumption is a fair one—which I think it is—then Justice Rehnquist's subsequent statements about his involvement in the surveillance policy have been less than candid.

The plaintiffs who filed the motion to recuse Justice Rehnquist from the case did not know about this memo. They based their objection to Rehnquist's participation in the case on his public statements made during the Ervin hearings. But as Professor Hazard points out in his analysis of the case:

> • • • it was Justice Rehnquist's responsibility to address and resolve all issues concerning his disqualification. It was not the parties' responsibility to raise such matters, although they had a right to do so if they had access to the necessary facts.

But they did not have access to these facts, and Justice Rehnquist did not volunteer them. Professor Hazard continues:

> Justice Rehnquist addressed only his publicly known involvements and omitted any reference to an involvement as counsel in the transaction, that was at least as significant but which was not publicly known. It was his duty to resolve both the publicly known possible bases of disqualification and those arising from an involvement that was confidential. Indeed, it is even more vital to fairness in adjudication that a judge resolve grounds of recusal which arise from confidential facts, for the parties ordinarily are helpless to raise such grounds.

Justice Rehnquist was not forthcoming in 1972—and in 1986, he claimed memory failure. He told Senator MATHIAS in response to a written question subsequent to the hearing:

> I have no recollection of any participation in the formulation of policy on use of the military to conduct surveillance or collect intelligence concerning domestic civilian activities.

Note that the nominee said he did not recall any participation. Considering the great significance and controversy surrounding this policy at the time and the continuing discussion in the years since, it is simply inconceivable to me that the nominee would have "no recollection." I can understand his not recalling a particular memorandum, but I again am sorry to say I have trouble accepting his statement that he draws a complete blank on his participation in formulation of the policy.

The final area of my inquiry into Justice Rehnquist's conduct in the Laird versus Tatum controversy concerned another aspect of his 1972 memorandum which denied the motion for recusal. From the outset, he limited the standards by which he would judge whether his nonrecusal had been the correct decision. He cited the statute then in effect, title 28, section 455 of the United States Code as the applicable standard:

Any justice or judge of the United States shall disqualify himself in any case in which he has a substantial interest, has been of counsel, is or has been a material witness, or is so related to or connected with any party or his attorney as to render it improper, in his opinion, for him to sit on the trial, appeal, or other proceeding therein.

He went on to note that the plaintiffs had also referred in their motion to provisions of the ABA's Code of Judicial Conduct. A revised version of the code had existed in draft form at the time Laird versus Tatum was decided by the Supreme Court, having been approved by a special committee on standards of judicial conduct but not by the full ABA. However, when Justice Rehnquist wrote this memorandum of explanation, the revised code had been adopted by the ABA's House of Delegates, and had therefore become the official standards of judicial conduct for members of the ABA.

The statute was binding on Justice Rehnquist while the ABA's Code was not. But he himself did not dispute that the ABA Code provisions were relevant to his decision. Here is his explanation of those provisions:

Since I do not read these particular provisions as being materially different from the standards enunciated in the congressional statute, there is no occasion for me to give them separate consideration.

His decision not to give the ABA Code separate consideration was based solely on his contention that they were not "materially different" from the statute.

What are these standards that, in Justice Rehnquist's view, did not "materially differ" from the statute quoted above?

The ABA Code reads in part as follows:

(1) A judge should disqualify himself in a proceeding in which his impartiality might reasonably be questioned, including but not limited to instances where:

(a) he has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding;

(b) he served as a lawyer in the matter in controversy, or a lawyer with whom he previously practiced law served during such association as a lawyer concerning the matter, or the judge or such lawyer has been a material witness concerning it.

The ABA also added a commentary at the end of this section dealing specifically with the standards of disqualification for former government officials. This commentary is intended as an explication of the meaning of the standards: "* * * a judge, formerly employed by a governmental agency * * * should disqualify himself in a proceeding if his impartiality might reasonably be questioned because of such association."

It is evident that the ABA Code imposes a more stringent standard of disqualification than the statute as it existed in 1972, and the drafters of the revised code certainly intended it to do so. According to the Columbia Law Review in 1973:

Their recent revision of the Canons was prompted by dissatisfaction with standards such as those prescribed by section 455 and the old Canons. (Columbia Law Review, v. 73:106, p. 119.

The most obvious way in which the revised ABA Code required a more rigorous standard of disqualification lay in the phrase "a proceeding in which his impartiality might reasonably be questioned," clearly a broader standard than anything in Section 455 of the statute.

Justice Rehnquist was asked about his failure to consider the ABA standards during the 1986 Judiciary Committee hearings. He responded to a question from Senator Leahy as follows:

Justice REHNQUIST. Justice Stewart, who was a good friend of mine, I remember, after I wrote this opinion—you know it may have been months afterwards—he had been on the drafting committee of the ABA standards, and he told me that in some respects he thought my comparison of the ABA standards and the statutory standards was incorrect and that the ABA standards had intended to be more stringent."

Senator LEAHY. Looking at the ABA standards, if that was what you had used as your guide, would you have recused yourself?

Justice REHNQUIST. I just can't put myself back in that position, Senator, not having the ABA standards in front of me. I really just can't answer. (transcript, July 30, 1986, p. 196.)

□ 1310

I was not satisfied with this unresponsive response. It was so clear to me that the ABA standards were "materially different" from the statute, that I submitted to Justice Rehnquist a followup to Senator LEAHY's question:

Having heard Justice Stewart's comments and having now had a chance to reread the ABA standards in effect in 1972, do you still believe that the 1972 ABA standards were not "materially different from the standards enunciated in the congressional statute" in effect at that time?

The nominee's answer provides another example of his tendency to make obfuscating distinctions when it suits his purpose. His response to my question was:

I think that the 1972 ABA standards were materially different from the provisions of 28 U.S.C. 455, as it stood in 1972, on the question of disqualification for financial interest. I believe it was this point to which Justice Stewart's comments to me were addressed. In so far as disqualification for bias is concerned, the language of the canons is phrased differently from the relevant language of section 455, and could require a result different from that required under section 455 in a particular case.

Here the nominee makes a distinction between the disqualification for financial interest and the disqualification for bias, a distinction he failed to make either in his 1972 memorandum or in his responses to Senator LEAHY. The financial interest section of the canons is, he admits "materially different" from the statute; the personal bias section, on the other hand, "is phrased differently from" the statute, "and could require a result different from" the statute "in a particular case." Presumably he is saying that the personal bias section of the ABA Code is not "materially different" from the statute. It's just "phrased differently" and "could require a different result in a particular case." Not, I assume, in the case of Laird versus Tatum.

Justice Rehnquist's supporters might point to this response as an example of his brilliant legal mind. I see it as an example of cleverness, of obfuscation, and disingenuousness. The nominee's ability to avoid the simple and straightforward, to obfuscate and play with words in order to evade their plain meanings—these are not admirable qualities. It may require a highly developed intellect to do these things as smoothly as Justice Rehnquist does them. But this is not the type of intellectual quality we should look for in a Chief Justice.

Madam President, Justice Rehnquist's use of words to distort and obfuscate and his lack of directness were analyzed in detail in an extraordinary and chilling Law Review article in the New York University Law Review, April 1982, which compared his craftiness in wordsmithing to that of Captain Vere in Melville's "Billy Budd," which was a classic American Novel. This article was written by Prof. Richard Weisberg. It is entitled "How Judges Speak: Some Lessons on Adjudication in Billy Budd, Sailor With an Application to Justice Rehnquist."

Billy Budd who was an innocent sailor admired by all for his simple directness. He was brought to trial and executed as a result of the masterful rhetorical wiles of Captain Vere.

The New York University Law Review article compares the openness of Billy Budd with the ingratiating indirectness and covertness of Captain Vere. Vere's clever use of language overcomes the fact that the trial was illegal and improper.

The article analyzes in detail his opinion in the case of Paul versus Davis.

The author shows, at great length, how Captain Vere and Justice Rehn-

quist by dint of being "verbally and hierarchically superior adjudicators can give the force of seeming legality to drastic decisions the law does not support" and how "an adjudicator can win over an audience by considerately providing it with the story it needs to hear, thereby assuaging its doubts and dampening its spirit for further rational inquiry."

DISTORTED MEMORY, LACK OF CREDIBILITY

During the Judiciary Committee hearings, I was interested to see how Justice Rehnquist responded to questions about his past actions. Several controversial issues which had come up during his initial confirmation in 1971, but had never been satisfactorily resolved, came up again. In each case there was some new information regarding these issues that had been unavailable in 1971. Regarding the charges of voter harassment in Arizona, there were a number of new witnesses coming forward to claim that they had seen Mr. Rehnquist personally challenging voters in the late 1950's and early 1960's. On the issue of memos written while Mr. Rehnquist was a law clerk for Justice Robert Jackson, there had been only one memo publicly available at the time of the 1971 hearings; now there were a number of others.

These controversies raised questions about the nominee's sensitivity to individual rights throughout his career. The hearing gave him an opportunity to clear up doubts about his sensitivity, by clearing up the unresolved questions about these controversies.

After watching the hearings, reviewing the transcript, and closely analyzing Justice Rehnquist's answers to my additional written questions, I do not believe that either of these controversies have been satisfactorily resolved.

I was troubled by Justice Rehnquist's lack of candor in the hearings. His answers to what were, in my view, legitimate and relevant questions, have convinced me that he tends to distort memory and bend facts. His explanations were simply not credible—they did not clear up anything.

THE JACKSON MEMO

Justice Rehnquist served as a law clerk for the late Associate Justice Robert H. Jackson in 1952 and 1953. In that capacity, he did research for the Justice's opinions and wrote what are called cert memos—summaries of cases for which certiorari or Supreme Court review was being sought.

After Justice Rehnquist's 1971 confirmation hearings were over, Newsweek magazine published the text of one of the memos he had written while a law clerk. This memo, entitled "A Random Thought on the Segregation Cases," caused quite a stir, and became one of the focal points of the floor debate on the Rehnquist nomination. Opponents of Mr. Rehnquist's nomination took the memo at face value and assumed it to be a statement of Mr. Rehnquist's own views—not an unreasonable conclusion to draw considering that it was written in the first person, bore his initials at the bottom, and had a very informal and personal sounding title. They presented it in 1971 as evidence of his unsuitability to serve on the Supreme Court because in it he apparently argued that the Court should uphold segregation laws. Specifically, the memo contained the statement that Plessy versus Ferguson—the 1896 case supporting the constitutionality of "separate but equal" education laws—"was right and should be reaffirmed."

In an effort to set the record straight and head off growing opposition to his nomination, Mr. Rehnquist wrote a letter to Senator Eastland, Chairman of the Judiciary Committee, in which he explained that, to the best of his recollection:

> The memorandum was prepared by me at Justice Jackson's request; it was intended as a rough draft of a statement of his views at the conference of the Justices rather than as a statement of my views.

The nominee, in a further effort to dispel the doubts some Senators might have about his views on segregated education, added at the end of his letter:

> In view of some of the recent Senate floor debate, I wish to state unequivocally that I fully support the legal reasoning and the rightness from the standpoint of fundamental fairness of the Brown decision.

This letter to Senator Eastland arrived in the middle of the Senate floor debate, on December 8, 1971. Mr. Rehnquist was confirmed by the Senate on December 10, 1971, by a vote of 68-26. But no one had an opportunity to ask Mr. Rehnquist questions about the memo while he was under oath, nor was anyone able to challenge this explanation of its contents in 1971.

Now, it has been said by Justice Rehnquist's supporters that we shouldn't harp on things written over 30 years ago, and that there is no reason to doubt the nominee's 1971 statement that he fully supported "the legal reasoning and rightness * * * of the Brown decision." I submit that the question is not what Justice Rehnquist believed 30 years ago and whether he still holds those beliefs today—it is how he represented to the Senate—in 1971 and in 1986—what he believed, what Justice Jackson believed, and for what this memo was intended.

We now have a better opportunity to examine the evidence relating to this memo than the Senate had in 1971. This evidence was brought together in a very comprehensive way by Richard Kluger in a section of his book "Simple Justice," an account of the school desegregation cases of the 1950's. After reading Mr. Kluger's account, it is very difficult to conclude anything other than that the memo does not contain Justice Jackson's views, and must therefore have been either an expression of law clerk Rehnquist's views or an attempt on the part of law clerk Rehnquist to provide Jackson with the pro-Plessy point of view. In either case, the evidence casts serious doubt on Justice Rehnquist's account of the nature of his memorandum.

□ 1330

Mr. LEVIN. Madam President, for now, let me add one or two of my own observations based on the evidence I have seen and some of the questions I asked Justice Rehnquist in my two letters to him.

In my first letter to Justice Rehnquist, I asked him on what basis he stated that the views expressed in the memo were those of Justice Jackson. I wondered whether he could recall anything specific Justice Jackson had told him to indicate his views on the "separate but equal" doctrine. I wondered this because I have always been a great admirer of Justice Jackson, I am familiar with his writings, and I find it difficult to believe that he would ever have expressed the view that "Plessy versus Ferguson was right and should be reaffirmed."

Justice Rehnquist reiterated what he had said in his 1971 letter to Senator Eastland: That he recalled considerable oral discussion with Justice Jackson before the Court conference on the school segregation cases; that although he did not recall the specific content of these discussions he did recall "Justice Jackson's concern that the conference have the benefit of all of the arguments in support of the constitutionality of the "separate but equal" doctrine, as well as those against its constitutionality"; and that he still adhered to the statement in his 1971 letter that the memo was intended to reflect views Justice Jackson had expressed in those discussions.

Frankly, I was not satisfied by this response. It still seemed to me, looking at the language of this memo, that it was a young law clerk talking in this memo, not a distinguished Supreme Court Justice. I centered in on one sentence in particular:

> I realize that it is an unpopular and unhumanitarian position, for which I have been excoriated by "liberal" colleagues, but I think Plessy versus Ferguson was right and should be reaffirmed.

What "liberal colleagues" had Justice Jackson been excoriated by and when? Why would he have been excoriated by his colleagues for views he was about to express at an upcoming Court conference?

In a followup letter, I asked Justice Rehnquist this precise question:

Did Justice Jackson tell you during these oral discussions that he had been excoriated by liberal colleagues for his views on Plessy? If he didn't tell you, then on what basis did you include this line in the momo?

Justice Rehnquist's answer was: "As I indicated in my answer to your quesiton of July 23, 1986, I have no recollection today of the specific content of my oral discussions with Justice Jackson relating to the points that he tentatively intended to make at the Court's Conference on the Brown case. I do not recall Justice Jackson telling me in those discussions that he had been excoriated by liberal colleagues for his views on the Brown case. It is my strong sense, however, that Justice Jackson acknowledged during our discussions that he fully expected to be criticized sharply by some of his colleagues if he took the position that Plessy versus Ferguson should be reaffirmed."

This last sentence is, to my knowledge, the first time that Justice Rehnquist has publicly attempted to provide an explanation for the phrase "excoriated by my 'liberal' colleagues." And if we look at it in light of what the memo actually says, we realize that it is no explanation at all. Justice Rehnquist has a "strong sense" that Justice Jackson "fully expected to be criticized sharply" by his fellow Justices "if he took the position that Plessy * * * should be reaffirmed." But the memo clearly says "I have been excoriated." It doesn't say "I will be excoriated" or even "I might be excoriated if I take this position." It says "I have been excoriated," and the question remains, "by whom?"

I should like to quote briefly from Richard Kluger's discussion of this sentence.

Is it possible that so confident and civilized a man as Robert Jackson would have told his brother Justices anything remotely approaching what Rehnquist writes at the end of his memo purportedly reflecting Jackson's views * * * The "I" in that passage, according to Rehnquist, was supposed to be Jackson, not his clerk, but when and where might Jackson have been excoriated by his "liberal" colleagues? And what colleagues might those be? Surely not his fellow Justices, who would hardly have spoken ill of him for expressing genuine convictions. A far more plausible explanation might be that the "I" of the memo is Rehnquist himself, referring to the obloquy to which he may have been subjected by his fellow clerks, who discussed the segregation question over lunch quite regularly, who were almost unanimous in their belief that Plessy ought to be reversed, and who were, for the most part, "liberal" * * * That Rehnquist was ideologically a pole apart from his fellow clerks that year is suggested by the comment of Harvard law professor Donald Trautman, who clerked for Justice Frankfurther that term. "As I knew him, he was a reactionary," Trautman told the Harvard Law Record of October 24, 1971 * * *." ("Simple Justice", p. 608.)

It should also be pointed out that the statements of the only two living people who might have some firsthand knowledge of the memo itself or Justice Jackson's expectations from his law clerks do not corroborate Justice Rehnquist's account of the memo's content and purpose.

Donald Cronson, Justice Jackson's other law clerk at the time the memo was written, cabled a message to Justice Rehnquist during the Senate debate in 1971. In this message, he recalled that after he had written one memo contending that Plessy had been wrongly decided but that the Court should leave it to Congress to change the practice of segregation, Justice Jackson requested a second memo "supporting the proposition that Plessy was correctly decided." He further told Justice Rehnquist that he remembered the second memo as a collaborative effort, in fact going so far as to say that this second memo was probably "more mine than yours."

Mr. Cronson's account raises more questions than it answers, and it certainly does not correspond to what Justice Rehnquist recalls. Justice Rehnquist has never mentioned the first memo, nor has he indicated that the memo he supposedly authored (and which bore his initials) was a collaboration between himself and Mr. Cronson. Finally, there is certainly nothing in Mr. Cronson's account to indicate that Justice Jackson wanted a second memo to "reflect his views," only that he wanted a second memo reaching the opposite conclusion about Plessy.

Another person who might have confirmed Justice Rehnquist's account is Mrs. Elsie Douglas, Justice Jackson's secretary and confidante for his last 9 years on the Court. But Mrs. Douglas, in interviews she gave in 1971 and in a recent letter to Senator KENNEDY, expressly denies that the views expressed in the memo were those of Justice Jackson rather than his clerk's. In her August 8, 1986 letter to Senator KENNEDY, she says: "Justice Jackson did not ask law clerks to express his views. He expressed his own and they expressed theirs."

So we are left with no credible support for Justice Rehnquist's explanation of the memo. And as I have already described, the internal evidence, the wording of the memo itself, strongly indicates that these could not have been Justice Jackson's views.

One other piece of evidence has been brought into the public realm since the 1971 debate. This is the collection of memos written by law clerk Rehnquist for Justice Jackson which are among Justice Jackson's papers at the Library of Congress. A reading of these memos should enable us to test the nominee's contention in his 1971 letter to Senator Eastland that "while (Justice Jackson) did expect his clerks to make recommendations based on their memoranda as to whether certiorari should be granted or denied, he very definitely did not either expect or welcome the incorporation by a clerk of his own philosophical view of how a case should be decided." In other words, the nominee was suggesting that the segregation memo could not have contained his own views because it was not normal practice to put his own views into memos since Jackson frowned on that sort of thing.

□ 1340

If one looks at the "cert" memos Rehnquist wrote for Justice Jackson, however, one finds numerous instances of personal opinion and informal observation being injected into a review of the facts of the case. Let me give just a few examples.

In a memo discussing the Rosenberg case, he wrote the following:

In my opinion, if they are going to have a death sentence for any crime, the acts of these ptrs (petitioners) in giving A-bomb secrets to Russia years before it would otherwise have had them are fitting candidates for that punishment. It is too bad that drawing and quartering has been abolished.

In a memo commenting on three lawsuits by baseball players against the major leagues for alleged violations of the Sherman Act, he wrote:

Before making any recommendation, I feel it is only fair to lay bare my strong personal animus in these cases * * * I feel instinctively that baseball, like other sports, is sui generis, and not suitably regulated either by a bunch of lawyers in the Justice Department or by a bunch of shyster lawyers stirring up triple damage suits.

And in a case involving Jehovah's Witnessess who were convicted for insisting on making speeches in city parks in violation of local ordinances, he wrote:

I personally don't see why a city can't set aside a park for ball games, picinics or other group activities without having some outlandish group like Jehovah's Witnesses commander the space and force their message on everyone.

Clearly, whether or not Justice Jackson welcomed the personal views of his law clerks in the memos they submitted to him, law clerk Rehnquist often included his views in the memos he submitted to Justice Jackson.

Regardless of what his views on segregated education were at the time of his clerkship, Justice Rehnquist's account of the memo on the segregation cases is contradicted by external accounts and by the wording of the memo iself. His explanations of these contradictions in 1971 and again within the past month do not stand up to careful scrutiny.

It will be argued that it was a long time ago, and we shouldn't necessarily expect Justice Rehnquist to remember the details of one memo out of the dozens he must have written. However, let me point out what Justice Rehnquist did not say. He did not say:

To the best of my recollection, this was intended to the Justice Jackson's views; however, I might be wrong—it was a long time ago, my memory is fuzzy—it may have actually been my own views—even though those are no longer my views. It may have even been just an effort to provide Justice Jackson with the arguments in favor of sustaining Plessy.

But this is not what Justice Rehnquist has said. He has said repeatedly—and has stood by his statement under repeated questioning—that these were intended to be Jackson's views, and he has gone to great lengths to prove this, even attempting an explanation for the "excoriated by liberal colleagues" line in his response to my question.

I am saddened to say I do not believe Justice Rehnquist's account of the Jackson memo.

VOTER CHALLENGING IN PHOENIX

Another controversial issue that did not arise until after the 1971 Judiciary Committee hearings had ended was the charge that Mr. Rehnquist participated in challenging of voters in Phoenix area elections during the late 1950's and early 1960's. Affidavits from six individuals were submitted to the committee alleging that Mr. Rehnquist had challenged minority voters as part of a "ballot security" program organized by the Arizona Republican Party and aimed at precincts with a large percentage of Black and Hispanic voters. The committee declined to reopen the hearings. However, Senators Bayh, Hart, and KENNEDY submitted additional written questions to the nominee, and one of the things they asked him to respond to were these charges of voter challenges.

In his response to the Senators, and also in an earlier affidavit submitted to the chairman of the committee, Mr. Rehnquist flatly denied all the specific allegations of those who had come forward to charge him with voter challenging activities. These charges all involved alleged incidents in the elections of 1958, 1960, 1962, 1964, 1966, and 1968.

The nominee in his letter to the Senators also made more general statements of denial. He quoted from his affidavit to Chairman Eastland, which read in part: "I have not, either in the general election of 1964 or in any other election, at Bethune precinct or in any other precinct, either myself harassed or intimidated voters, or encouraged or approved the harassment of voters by other persons." Then he added the following critical line: "In none of these years (1958-68) did I personally engage in challenging the qualifications of any voters." (CONG. RECORD, November 24, 1971, p. 43086)

In the course of the 1986 Judiciary Committee hearings, five new witnesses came forward to testify, under oath, that the nominee had engaged in voter challenging activities. After the hearings were over, three other individuals submitted affidavits swearing that the nominee had challenged voters.

Six other witnesses testified, under oath, that they had not seen Justice Rehnquist challenging voters in the years in which he was allenged to have done so. However, none of these witnesses was with Mr. Rehnquist during the entire time of any of the elections in question.

Finally, the nominee himself testified, under oath, that he had not committed any of the alleged acts. He repeatedly and specifically denied having done what the five witnesses claimed he had done.

So, we have a situation where it is one person's word against another's. Everyone cannot be telling the truth. Either the five witnesses (nd the nine who submitted affidavits after the hearings in 1971 and 1986 are wrong or the nominee is wrong.

What I focussed on relative to the issue of voter challenges, as I did with the segregation memo, was the way Justice Rehnquist responded to questions on the issue. And I have to say again that I was struck by his lack of candor. His painstakingly constructed, hedging responses to straightforward questions did nothing, in my opinion, to clear the air. He had the opportunity to dispel the doubts of many Senators about his credibility. He did not take this opportunity.

I would like to quote briefly from two exchanges between Justice Rehnquist and members of the Judiciary Committee on July 30, 1986, which I think are revealing:

Senator KENNEDY. I gather from your response to my questions that you deny categorically that you were engaged in any of these activities that are identified by any of these individuals in any of the polling places that were mentioned.

Justice REHNQUIST. When you refer to these activities, Senator, that may cover a lot.

KENNEDY. Just the ones I read about.

REHNQUIST. Would you read them to me again?

(Kennedy goes through each charge again, and Justice Rehnquist denies each one)

KENNEDY. Well, the activity described basically is personally challenging voters. That is the activity alleged, and you categorically deny ever having done that in any precincts in the Maricopa County in the Phoenix area in any election, is that correct?

REHNQUIST. I think that is correct.

KENNEDY. Well, what is "I think" * * * If you are talking about harassing or intimidating voters is not something you are going to forget very much about.

REHNQUIST. I thought your qestion was challenging. Now you say harassing or intimidating. As to harassing or intimidating, I certainly do categorically deny that, anytime, anyplace.

If you are talking about challenging, I have reviewed my testimony, and I think I said I did not challenge during particular years. I think it is conceivable that in 1954 I might have been a poll watcher at a westside precinct.

KENNEDY. Well, did you challenge individuals then?

REHNQUIST. I think I was simply watching the vote being counted.

* * * * *

KENNEDY. Well, you would remember whether you challenged them now, Mr. Justice, would you not? Did you at any time challenge any individual?

REHNQUIST. A challenger, Senator, was someone who was authorized by law to go to the to the polling place and frequently the function was not to challenge, but simply watch the poll, watch the vote being counted.

KENNEDY. Well, have you ever personally challenged any individual in any precinct?

REHNQUIST. I do not think so * * * I am not entirely sure * * * I have responded in each case that you said to say that I did not agree with it, but if you are asking me whether over a period from 1953 to 1969 I ever challenged a voter at any precinct in any election, I am just not sure my memory is that good.

(Transcript, July 30, pp. 110-112)

* * * * *

SENATOR METZENBAUM. Did you ever personally confront voters at Bethune precinct?

Justice REHNQUIST. Confront them in the sense of harassing or intimidating?

METZENBAUM. No, in the sense of questioning them, asking them about their right to vote, asking them about the Constitution, asking them to read something, asking them questions having to do with their voter eligibility?

REHNQUIST. And does this cover Bethune precinct for all years?

METZENBAUM. Yes, yes. Did you ever personally confront. * * *?

REHNQUIST. I do not believe that I did.

METZENBAUM. Would you categorically say you did not?

REHNQUIST. If it covers 1953 to 1969, I do not think I could really categorically say about anything.

METZENBAUM. Do you think at some time, some point, you did personally confront voters at bethune precinct?

REHNQUIST. No, no I do not.

METZENBAUM. Well, then, what do you mean when you qualify your answer?

REHNQUIST. Well, to the best of my recollection. You are talking about something in 1953; it would have been 33 years ago.

METZENBAUM. Mr. Justice, I am not talking about your being able to remember where you were on the 3rd day of June 1952. I am talking about whether you ever confronted people and said to them: 'Can you read this Constitution?' 'What educational background do you have?' Challenge them in their right to vote. And you are saying that you do not remember. And I am saying to you, is it possible that a man as brilliant as you could not remember if you had done that?

REHNQUIST. Senator, challenging was a perfectly legitimate thing.

METZENBAUM. But you told the Senate that you never challenged anybody.

REHNQUIST. I believe I told the Senate, Senator, in 1971, over a given period of years, I did not think I had challenged some, and I stand by that testimony. I think you are broadening it to go way back into the early 1950's.

METZENBAUM. You said in none of these years—that being 1958 to 1968—did I personally engage in challenging the qualifica-

tions of any voters. Did you do it before that? Did you challenge voters before that?

REHNQUIST. I do not believe I did, no. Again, I point out that that is thirty years ago. (Transcript, July 30, pp. 133-134)

□ 1350

Well, Madam President, what astonishes me about these exchanges is that they could have been considerably shortened or avoided altogether if Justice Rehniquist had shown a little bit of candor. He was not forthcoming—he adopted a policy of avoiding fuller explanations. He could have said: "Senator, I don't recall any of the alleged incidents taking place. I am certain I never harassed or intimidated anyone. I might have challenged some voters at some precinct in some election—that was part of my job as a pollwatcher—but I never did anything that was illegal." He could have done that.

But, rather than offering a candid statement, he offered only qualifications, split hairs, and fine distinctions—avoiding the basic questions being raised about his sensitivity to the rights of citizens. He could have convinced me that he sincerely believed in the importance of those rights by giving straightforward, candid answers. He did not. I am afraid I do not believe his denial of voter challenging.

INSENSITIVITY TO THE RIGHTS OF CITIZENS

Because I found Justice Rehnquist's explanations of the segregation memo and the charges of voter challenging unbelievable, my doubts about his sensitivity to individual rights grew. And when I examined some of the nominee's past writings and speeches, my doubts were further confirmed.

There has been a discernible pattern to Justice Rehnquist's words and actions. It is a pattern of insensitivity to the rights of U.S. citizens. I am talking about fundamental rights, such as the right to vote, the right to peaceful and nonviolent protest and the exercise of first amendment rights, the right to own property, and the right to an equal educational opportunity. And when it comes to matters as significant as the individual's exercise of these rights, Justice Rehnquist appears to me to display a basic insensitivity.

THE RESTRICTIVE CONVENANT IN THE VERMONT DEED

A new finding at the 1986 hearings was the existence of a restrictive convenant in the deed on some Vermont property Justice Rehnquist purchased in 1974. The convenant reads: "no feet of the herein conveyed property shall be leased or sold to any member of the Hebrew Race."

During the hearing, Senator LEAHY questioned the nominee about this provision of the deed:

Senator LEAHY. Are you aware of that covenant in your deed?

Justice REHNQUIST: Not at the time, Senator. I was advised of it a couple of days ago.

LEAHY. Did you read the deed that you got on your property?

REHNQUIST. I certainly thought I did, but I'm quite sure I didn't note that.

* * * * *

LEAHY. What was your reaction when you heard about it?

REHNQUIST. I was amazed.

LEAHY. As a lawyer, how do you feel about that language?

REHNQUIST. Well, I think it's unfortunate to have it there, but it is meaningless in today's world, I think.

(Transcript, July 30, pp. 186-187)

Several days later, Justice Rehnquist wrote to Chairman THURMOND, explaining that "review" of his file on the purchase of the Vermont property had turned up a letter from his attorney dated July 2, 1974. There is a clear reference to the restrictive convenant in the third sentence of this letter: "The property is also subject to restrictions relative to * * * ownership by members of the Hebrew Race."

Justice Rehnquist said in his letter to Senator THURMOND: "While I do not doubt that I read the letter when I received it, I did not recall the letter or its contents before I testified last week." He also said that he had asked his attorney to take the legal measures necessary to remove the restrictive covenant.

The nominee "thought" he had read the deed, but he is "quite sure" he "didn't note" the restrictive covenant. He "do(es) not doubt" that he read the letter from his attorney, but he "did not recall the letter or its contents" before his recent testimony.

I wouldn't expect anyone, even a brilliant man like Justice Rehnquist, to remember everything they read 12 years ago. But I would expect someone who is sensitive to the rights of citizens, someone who recognizes that covenants restricting property ownership on the basis of religion or race are not only "obnoxious" and "unenforceable," as the nominee has said, but completely contrary to the basic values of our society—I would expect someone sensitive to individual rights to recall seeing such an obnoxious provision in a deed on his own property, if, in fact, he saw it.

So I believe that Justice Rehnquist really might not recall the obnoxious covenant, even though he was informed about it. And that is exactly what troubles me.

Justice Rehnquist's failure to remember being informed about this covenant is part of a pattern. If this were an isolated incident, if the only negative thing anyone could say about Justice Rehnquist was that he had an unenforceable discriminatory provision in a deed on some property he owned, I would not give it a great deal of attention. I would accept the nominee's explanation that he did not remember seeing it and his offer to have it removed. But Justice Rehnquist has displayed such a consistent record of insensitivity to discriminatory practices against our citizens that I cannot ignore the fact that he totally forgot being informed about this obnoxious deed provision.

What troubles me is not that it was there. What troubles me is that he forgets being informed about it being there, although he now acknowledges that he was so informed.

How many of us in this Chamber, if we were informed of a provision in our deed similar to that one, would forget about it? We might not take any action to remove it because it is unenforceable. It may not be worth 200 bucks in a lawyer's fee to remove it because it is unenforceable.

But how many of us in this Chamber, if we were told that there was a provision in our deed as obnoxious as that one, would forget that we were told? We would be troubled. Again, we might not act to remove it, but we would be troubled.

JEHOVAH'S WITNESSES

Yes, it's all part of a pattern of insensitivity, I'm afraid.

As a clerk for Justice Jackson, he wrote a memo in which he referred to the Jehovah's Witnesses as an "outlandish group." The case involved groups of Jehovah's Witnesses in New Hampshire and Rhode Island who were convicted for making speeches in city parks in violation of local ordinances.

There were probably arguments to be made in this case on the side of the locality's right to limit certain activities in city parks, just as there were arguments in favor of the Jehovah's Witnesses' first amendment right to free speech.

I am sure, in other words, there were arguments on both sides of this case, but law clerk Rehnquist chose to characterize the appellants as an "outlandish group" whom the city had every right to prevent from "commandeer(ing) the space" and "forc(ing) their message on everyone."

Mr. Rehnquist failed to recogize that his or anyone else's opinion of whether or not the Jehovah's Witnesses are in the mainstream of American religions is irrelevant to the question of whether their right to express their views in public should be protected. As Senator SIMON said to the nominee during the recent committee hearings:

Now I recognize that neither Buddhists nor Jehovah's Witnesses are particularly popular groups in our country, but I think it is important that we defend the liberties of the most isolated, unpopular groups. (Transcript, p. 239.)

At the hearing, Justice Rehnquist said he agreed with this statement. I would find his agreement more credible if the Jehovah's Witnesses memo

were an isolated incident. But again, it is part of a pattern, a common current running through his statements and writings.

Justice Rehnquist himself recognizes this common current. In an interview with the New York Times magazine which appeared on March 3, 1985, he stated:

I can remember arguments we would get in as law clerks in the early '50's. And I don't know that my views have changed much from that time.

THE "NEW BARBARIANS" SPEECH

On May 1, 1969, Mr. Rehnquist delivered a speech in honor of "Law Day" entitled "The Law: Under Attack From the New Barbarians." The "new barbarians" referred to in the title—and described that way repeatedly throughout the speech—were members of various protest movements. Mr. Rehnquist did not identify which specific protest groups he meant. Although it appears from the content of the speech that he was thinking primarily of Vietnam war protesters, he refers generically to "protest movements," so we must assume that he includes the civil rights movement, the women's movement, and any other protest movements active in 1969.

Mr. Rehnquist said at the outset that those he referred to as the "new barbarians," "represent only a small minority of the numbers participating in these movements." But he proceeded to expound on the theory of civil disobedience in general, and made a number of sweeping statements applying to all protesters or practitioners of civil disobedience. His discussion of civil disobedience was at best tendentious and incomplete. At worst, it was a gross distortion, and yet another example of his tendency to subordinate individual rights to the "rule of the majority."

To get some perspective on what we mean when we talk about "civil disobedience," let me quote briefly from the "Dictionary of the History of Ideas."

The concept of civil disobedience * * * has a long and notable history, appearing already as the Antigone theme in Greek drama and in the anti-war motif of Lysistrata, where the women, in addition to deserting their men, seize the Acropolis and the Treasury of Athens. The conflict between civil law and conscience was sharply featured when the Jews passively resisted the introduction of icons into Jerusalem by Pilate, procurator of Judea, and by Jesus in his dramatic purification of the temple, when he overturned the tables of the money changers and the seats of those who legally sold pigeons. The conflict has been highlighted in the history of English-speaking countries many times, though rarely more forcefully than when Milton refused to obey the licensing and censorship laws of seventeenth-century England and when the Abolitionists attacked the institution of slavery in nineteenth-century America. The most widely known cases of the conflict in the twentieth century are Gandhi's campaigns against colonial rule in South Africa and India, passive resistance campaigns against Nazi occupation governments during World War II, and the civil rights campaign against segregation in the United States starting in 1954. Civil disobedience attitudes and techniques also spread into attacks against the Vietnam War, draft laws, poverty, and the authoritarian structure of colleges and universities in the 1960's. (*Dictionary of the History of Ideas*, vol. 1, pp. 434-435).

Justice Rehnquist's analysis of civil disobedience in his speech completely lacked this balanced historical perspective. After identifying the danger from the "barbarians of the New Left," who "have taken full advantage of their minority right" to advocate their views, he went on to the more general question of "what obligation is owed by the minority to obey a duly enacted law which it has opposed."

This is what he wrote:

From the point of view of the majority, and of the nation as a whole, the answer is a simple one: the minority, no matter how disaffected or disenchanted, owes an unqualified obligation to obey a duly enacted law.

This was only the beginning of Mr. Rehnquist's harsh attack on civil disobedience. A sampling of some of his other comments follow:

The deliberate law breaker does not fully atone for his disobedience when he serves his sentence, for he has by example undermined respect for the legal system itself.

* * * there is a certain amount of arrogance in insisting that one's own personal predilections will not permit him to obey a law which has been duly passed by the legislative authority having jurisdiction over him * * * it is, by implication, a privilege reserved to those with articulate and hyperactive consciences. The claim for conscientious disobedience is at war with the basic premise of majority rule.

* * * disobedience cannot be tolerated, whether it be violent or nonviolent disobedience.

There are many problems with Mr. Rehnquist's analysis. First, it failed to recognize any justification for even nonviolent civil disobedience. This is incredible in light of the success of the civil rights movement's nonviolent civil disobedience tactics only a few years prior to this speech. The only historical example of "disobedience to law" he gives is the Southern States' secession in 1861 which precipitated the Civil War. It is stretching the meaning of the phrase pretty far to describe the act of secession from the Union as "civil disobedience," and it is the height of irony—and inappropriateness—that Mr. Rehnquist put into the same category the civil rights protesters of the 1960's and the slaveholding States of the 1860's.

Second, he lumped together violent and nonviolent protesters as equally reprehensible. "To deplore only violence," he said, "obscures the fact that the law must be enforced against all those who disobey it, regardless of the means by which such disobedience is accomplished." A vastly different view of nonviolent protest can be found in the writings of Dr. Martin Luther King, Jr., who wrote:

The principle of nonviolent resistance seeks to reconcile the truths of two opposites—acquiescence and violence—while avoiding the extremes and immoralities of both. The nonviolent resister agrees with the person who acquiesces that one should not be physically aggressive toward his opponent; but he balances the equation by agreeing with the person of violence that evil must be resisted. He avoids the nonresistance of the former and violent resistance of the latter. With nonviolent resistance, no individual or group need submit to any wrong, nor need anyone resort to violence in order to right a wrong.

On the other hand, Mr. Rehnquist presented the view that disobedience, whatever its nature "cannot be tolerated." It cannot be tolerated, according to him, because it violates a law duly enacted by the majority of citizens. And remember that, according to him, "the minority * * * owes an unqualified obligation to obey a duly enacted law."

Third, he fails to make any distinction between violating the law as a form of protest against some other law or policy, and violating a law to test that law. In other words, he does not make a distinction between lying down in front of buses to protect the foreign military involvement of the U.S. Government, and refusing to sit in the back of a bus to protest the law that unjustly discriminates against black people by requiring them to sit in the back of the bus. I find his failure to make this distinction extremely troubling. Because it is precisely this second kind of civil disobedience that often results in Supreme Court or Federal appeals court cases.

A black family in Topeka, KS sends their daughter to an all-white, segregated school, insisting on her right to an equal educational opportunity. The case reaches the Supreme Court and results in the landmark Brown decision that "separate but equal" education is not constitutional. The Browns violated a law in order to test that law's constitutionality. That law had been duly enacted by representatives elected by the majority of citizens. Yet by Mr. Rehnquist's standards, the Browns had "an unqualified obligation to obey" the law, no matter how unjust they might have thought it to be.

Justice Abe Fortas saw it differently. In 1968, he wrote, referring to the civil rights movement:

This is civil disobedience in a great tradition. It is peaceful, nonviolent disobedience of laws which are themselves unjust and which the protecter challenges as invalid and unconstitutional * * * the experience of these past few years shows, more vividly than any other episode in our history, how effective these alternatives are. ("Concerning Dissent and Civil Disobedience," pp. 34 and 64.)

The "Law Day" speech is disturbing in both its spirit and its content. Barely 1 year after Martin Luther King was assassinated for his nonviolent resistance to obnoxious laws, Mr. Rehnquist described those who choose civil disobedience as "arrogant" and having "hyperactive consciences." I find it hard to conceive that he would not have understood the implications of his words.

And, as I have already shown, he failed to distinguish between violent and nonviolent resistance to law or between violating a particular law to test that law and violating the law as a more general form of protest.

The content of this speech is further evidence of a thread running through the nominee's thought: That the rights of the minority are ultimately dependent on what the majority decides. The spirit of this speech is further evidence of another pattern—the pattern of insensitivity.

CONCLUSION

In conclusion, Mr. President, in a celebration of "I Am an American Day" in Central Park on May 21, 1944, Judge Learned Hand expounded on the meaning of "the spirit of liberty":

I cannot define it, I can only tell you my own faith. The spirit of liberty is the spirit which is not too sure that it is right; the spirit of liberty is the spirit which seeks to understand the minds of other men and women; the spirit of liberty is the spirit which weighs their interests alongside its own without bias * * *.

The single judge in the United States with the most power over the lives of individuals is the Chief Justice of the U.S. Supreme Court. The protection of the constitutional rights and liberties of individual American citizens lies in his or her hands, more than any earthly judge.

I am sorry to say that I don't think his nominee "seeks to understand the minds of other men and women."

I have studied Justice Rehnquist's qualifications carefully. I have looked long and hard at his past statements and actions. I have found that at times his ideological fervor has distorted his judgment and objectivity.

Where I had hoped to find candor, I too often found evasion.

Where I had hoped to find wisdom, I too often found word games and hairsplitting.

Where I had hoped to find growth, I too often found unceasing rigidity.

And where I had hoped to find compassion, I too often found intolerance and insensitivity.

I will vote against his confirmation as Chief Justice, hoping, nevertheless, that if he is confirmed, history proves me wrong, and that the term of Chief Justice Rehnquist is one where the justice promised all our people in the Constitution comes ever closer to fruition.

(Mr. CHAFEE assumed the chair.)

□ 1410

Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HART. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. Mr. President, for just the 16th time in history, we will most likely confirm a nominee to serve as the Chief Justice of the United States. The leader of the Nation's highest court. The head of the third branch of Government. The symbol in principle and the guardian in practice of the American system of equal justice for all.

Our decision is much like weighing right and wrong on the scales of justice. We must ask how much deference is to be paid the President's choice, how much weight we accord Justice Rehnquist's legal acumen. But the answers must be counter-balanced against the nominee's record, his testimony, his candor and, yes, his philosophy.

By this measure, the scales of justice are tipped sharply out of balance.

The relevant record includes the Judiciary Committee record—his memoranda to Justice Jackson endorsing the Plessy decision, his writings against the public accomodations and desegregation ordinances in Phoenix; his polemic against equal rights for women, and his ceaseless search for precedent, however vague, to marshall the power of government against the rights of the individual.

This is the record, the record in its entirety, by which we must judge this nomination. We cannot, as some have suggested, cramp the position to fit the individual. We have to see whether the nominee fits the position.

And on this basis, what do we see?

We see a man who not only did not join the civil rights movement, but, further a man whose soul was immobilized when the walls of segregation were being shaken. We see a private citizen and public servant who actively and aggressively opposed progress toward civil rights and equal justice under the law.

It was not simply that he opposed the rights of black men and women to exercise their franchise, although that in itself is wrong. Associate Justice Rehnquist opposed the rights of blacks to eat a hamburger at an integrated lunch counter. He opposed the rights of black children to get a decent education in an integrated school. He opposed the rights of defendants to have their trials heard by integrated juries.

It is a continuing record that suggests an incapacity to oppose a single barrier to racial justice; to find it indecent, incompatible with our Constitution, or inconsistent with the rights of man.

It is a record that bespeaks a nostalgia for the times when defendants could be coerced into participating in their own prosecution. A nostalgia for the time women were left subservient in the home and left out at the workplace. Nostalgia for a time when black, Hispanic, and Asian Americans were expected not to assert their rights but to avert their eyes and humble themselves before the majority.

In sum, we see a picture of a man unable to accept the progressive tides in our society to break down the walls of injustice. Not only has his thinking stood still, but he seems caught up in bitter reflections—some call them brilliant—undiminished even as tolerance and justice have grown in our society.

I would like to focus on Justice Rehnquist's involvement as Mr. Rehnquist in forming the policy of military surveillance of Vietnam war protesters and civil rights activists. This was an episode that the Church committee, on which I served, examined in 1975 and 1976. I am sure that the other two remaining veterans of the committee, Senator MATHIAS and Senator GOLDWATER, remember this inquiry as well. I was saddened, I guess that is the proper word, that Justice Rehnquist stated during the recent hearings—and stated repeatedly—that he could not recall his role as a public servant at that time.

This is far too important an issue for any "I don't recall" defense. At issue is Justice Rehnquist's candor, his decision to evade in the face of real conflicts of interest, and his role in disposing of a serious constitutional question in a case where his involvement was a salient factual question. Let me detail the facts.

When the Nixon administration came to power, the Office of Legal Counsel structured a concordant between the Departments of Justice and Defense on domestic surveillance. Justice Rehnquist ran the office at the time. Representing the Army was then General Counsel Robert Jordan. His files contain strong evidence of Mr. Rehnquist's role in formulating this policy of spying on American dissenters.

There was a time when Mr. Rehnquist remembered all this as well. He testified before Senator Ervin, in 1971, that the Army had ceased its domestic intelligence program. He testified that the computerized listing of dissenters was defunct. He said that information gathered by the Army had not been transferred to the Justice Department. And he told Senator Ervin that the one printout from the Army's computers was soon to be destroyed.

But he was not only familiar with the facts. He had reached an opinion about whether this program conformed to the Constitution.

An exchange between Justice Rehnquist and Senator Ervin is particularly telling in this regard:

Senator ERVIN. Don't you think a serious constitutional question arises where any government agency undertakes to place people under surveillance for exercising their First Amendment rights?

Mr. REHNQUIST. I am inclined to think not, as I said last week. This practice is undesirable and should be condemned vigorously, but I do not believe it violated the particular constitutional rights of the individuals who are surveyed.

Senator ERVIN. Do you not concede that government could very effectively stifle the exercise of first amendment freedoms by placing people who exercise those freedoms under surveillance?

Mr. REHNQUIST. No, I don't think so, Senator * * *

Senator ERVIN. Well there is also evidence here of photographers having been present at many rallies. Army intelligence agents pretending to be photographers were present at many rallies, took pictures of people, and then made inquiries to identify these people and made dossiers of them. Do you think that is an interference with constitutional rights?

Mr. Rehnquist. I do not, Senator * * * I don't think the gathering but itself, so long as it is a public activity, is one of constitutional statute.

And Justice Rehnquist conclusion:

My point of disagreement with you is to say whether in the case of Tatum vs. Laird that has been pending in the Court of Appeals here in the District of Columbia that an action will lie by private citizens to enjoin the gathering of information by the executive branch where there has been no threat of compulsory process and no pending action against any of those individuals on the part of the government.

This episode might be ancient history but for a couple of relevant facts. The military surveillance program was being challenged in court. In a few short months, Mr. Rehnquist was to be nominated to the Supreme Court. He testified months before the Court of Appeals ruled the plaintiffs in the case and standing to sue. Yet, Justice Rehnquist did not recuse himself—he cast the tie-breaking vote.

One witness before the Judiciary Committee likened the Rehnquist role as follows. It was as if Billy Martin had managed the Yankees into the sixth game of the World Series and then got himself appointed umpire. In sports, that would be considered highly questionable, to say the least. In constitutional law, that's an outrage.

The Supreme Court held the claim of Tatum et al. of a subjective "chill" of their exercise of constitutionally protected rights could not "substitute for a claim of specific present objective harm or a threat of specific future harm." [408 U.S. at 13-14.]

Chief Justice Burger wrote the majority opinion. Justice Rehnquist and three other justices joined to form the majority. The case was thus decided 5 to 4. The plaintiffs asked that Rehnquist recuse himself from voting. He chose not to do so. Had Justice Rehnquist recused himself, the 2-1 decision of the U.S. Court of Appeals would have been affirmed by a 4-to-4 vote.

Justice Rehnquist wrote a memo defending his participation in the case which was subsequently published in the Supreme Court Reporter. He claimed that his Ervin testimony did not get to the merits of the particular case; that the existing canons did not require his recusal; and that he should have participated to avoid a 4-4 result.

In his book, Appearance of Justice, John MacKenzie states that Justice Rehnquist should have disqualified himself in Laird versus Tatum and commented on his characterization of his testimony before the Ervin committee as follows:

Justice Rehnquist called this exchange "a discussion of the applicable law." But this, as all lawyers will recognize and most lawyers will freely state, is not a mere discussion of the "applicable law." It is a statement of how the law should be applied to a particular case.

□ 1420

Had Laird been affirmed, the case would have proceeded to discovery. Rehnquist's involvement in the Army surveillance plan would have been revealed, as it was not at that time. Mr. Rehnquist would likely have been deposed by plaintiff's counsel. Depending upon what the facts were, Rehnquist could actually have been a defendant and been sued for damages.

As NYU Law Professor Stephen Gillers wrote in a letter to Senator METZENBAUM:

By assuring with his swing vote that the case would go no further, Justice Rehnquist also assured that his participation in the creation of the challenged would go undiscovered and that he would avoid exposure to civil liability. [Gillers at p. 4.]

The Senate Judiciary members who voted against the Rehnquist nomination, and other outside experts, concluded, in the words of Senator KENNEDY's dissenting views: "In Laird versus Tatum, Rehnquist was a committed advocate, not an impartial judge." As such, Mr. Rehnquist's—Mr. Justice Rehnquist's—participation in this decision violated this ethical responsibility to recuse himself from this case.

At the time the case was decided, the canons of the American Bar Association stated:

A judge should disqualify himself in a proceeding in which his impartiality might be reasonably questioned, including but not limited to instances where: (a) he has a personal bias or prejudice concerning a party or personal knowledge of disputed evidentiary facts concerning the proceeding . . .

A note in the Columbia Law Review [Volume 73:106, January 1973] concludes that Mr. Justice Rehnquist's participation in the case may have violated Canons 2 and 3 of the ABA Code. His participation was also contrary to a holding by the Supreme Court in *Commonwealth Coatings Corp.* (1968) which stated "any tribunal permitted by law to hear cases and controversies not only must be unbiased but also must avoid even the appearance of bias."

But Mr. Rehnquist—Mr. Justice Rehnquist—failed to meet that standard. And justice faltered at a time when justice was sorely needed.

CONCLUSION

Mr. President, perhaps some of my colleagues have grown weary of the succession of nomination battles. Perhaps the passage of time and a significant measure of racial progress make the civil rights battles seem like old battles long since won. And I know that the votes are already counted, and that a number of my colleagues would be just as happy to move on to issues where the odds of prevailing are better.

But this is not a debate about calculating odds, it is a debate about simple justice.

When I came to this city fresh from law school, it was my honor to be employed at the Department of Justice. Each day on the way to work, I walked beneath a portal on which the words were etched: "The place of justice is a hallowed place." I believed that then; I believed it even more today.

As I read the Constitution, I do not believe that when the Founders penned the words "Advice and Consent," Senators were meant to foreclose dissent. As de Tocqueville wrote, "The Supreme Court is placed higher than any known tribunal." And I do not believe the nominee, Mr. Justice Rehnquist, meets the standard for leading this preeminent institution that guards the liberty of our people.

Mr. Justice Rehnquist should not be confirmed as the Chief Justice of the Supreme Court of the United States, the symbol of justice in our Nation.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

□ 1430

Mr. THURMOND. Mr. President, I suggest further proceedings under the quorum be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from South Carolina.

Mr. THURMOND. Mr. President, there has been some question raised concerning the Cornell family trust, and I thought I might go into that a little bit.

It has been said that Justice Rehnquist acted unethically in setting up a trust account in 1961 for his brother-in-law Harold Dickerson Cornell, who had been diagnosed as having multiple sclerosis. The trust account was established by Harold Cornell's father, Dr. Harold Davis Cornell, for the express purpose of providing for Harold Cornell, when his disease made it impossible for him to provide for himself. A trust fund in the amount of $25,000 was established for Harold Cornell and was to be administered by his brother, George Cornell.

It should be noted that at no time does Harold Cornell assert that Justice Rehnquist or anyone else took any money from the trust fund. Although George Cornell never disclosed the existence of the trust to his brother, Harold Cornell, he did provide money from his own personal funds for Harold's use. The trust fund was never utilized for this purpose and remained totally intact.

The FBI was requested to thoroughly investigate this matter, and submit a report to the committee. This report was available to members of the committee for review prior to the committee vote on the nomination. The claim by Mr. Harold Cornell of unethical behavior on the part of Justice Rehnquist apparently involves nothing more than a longstanding family dispute by an alienated family member.

Dr. Cornell insisted that Justice Rehnquist prepare the trust in order to save money and maintain confidentiality by keeping the matter in the family. Justice Rehnquist finally acquiesced only as a favor to Dr. Cornell. It is important to note here that it was the express wish of Dr. Cornell that the trust be kept secret from his son, Harold Cornell, in an effort to keep him from invading the trust and spending all the funds therein.

The code of professional responsibility makes clear that, where the testator or settlor initiates the request and is aware of a potential interest by an attorney, there is no ethical problem with the attorney assisting in preparation of the trust or will. Indeed, Justice Rehnquist's conduct was consistent even with the nonbinding ethical considerations in the code. Harold Cornell complains that Justice Rehnquist did not tell him of the trust. But his siblings unanimously make it clear that this is exactly the way Dr. Cornell wanted it in order to protect his son, Harold Cornell. It was Dr. Cornell's well-founded fear that if Harold Cornell knew of the trust he would spend the money before it was needed for his final medical care. Finally, it was not the responsibility of Justice Rehnquist to administer the trust and provide for its beneficiaries. In this case, Dr. Cornell's son, George, was the trustee and therefore responsible. Justice Rehnquist had nothing to do with its administration.

So I hope this clears up the matter about the Cornell trust.

Mr. President, another allegation brought up was that Justice Rehnquist is a lone dissenter.

There has been a generalized allegation that Justice Rehnquist is out of the mainstream of constitutional thought. A qualitative and analytical review of his record on the Court will demonstrate that this indeed is not the case.

Justice Stevens remains by far the greatest lone dissenter on the current Court with 27 solo dissents over the last four terms of the Court.

To claim that Justice Rehnquist is too far out of the mainstream, is a striking misperception of the thinking of the present Court. Justice Rehnquist has proven himself a leader of majorities, one who believes in equal justice for all, and there is no reason to think he will not continue to do so as Chief Justice.

Another question has been raised about restrictive covenants.

Issue has been taken with the fact that properties, formerly and currently owned by Justice Rehnquist, had covenants which prohibited the sale or transfer of these properties to individuals of certain racial, ethnic or religious origin. The pertinence of raising this issue is negligible at best; however, Justice Rehnquist's opponents were attempting to demonstrate his lack of sensitivity to these individuals. This is not a valid issue, since such covenants in the early part of this century were a common occurrence. It is also important to note that under current law there is no requirement to have these covenants removed, since they are unenforceable and meaningless on their face. The covenants on Justice Rehnquist's former property in Arizona and his current summer residence in Vermont date back to the 1920's. The restrictive covenant which appeared on Justice Rehnquist's Arizona property deed was known by the Judiciary Committee prior to the hearing in 1971 on his nomination to be Associate Justice. At that time it appropriately was not made an issue.

Another matter has come up concerning Justice Jackson's memorandum.

There has also been an allegation that Justice Rehnquist was not candid with the Judiciary Committee in 1971 concerning a memorandum he wrote as a law clerk for Justice Robert H. Jackson in 1952. The memorandum was entitled: "A Random Thought on the Segregation Cases," and was written at the time the Supreme Court was considering Brown versus Board of Education.

Mr. KENNEDY. Will the Senator from South Carolina yield for a point of information?

Mr. THURMOND. I will when I finish my statement.

Mr. KENNEDY. It was just one specific comment.

Mr. THURMOND. I will be glad to as soon as I finish this point.

His critics contend that the memorandum was actually a statement of his views and not the views of Justice Jackson. However, in a December 8, 1971, letter to Senator Eastland, Justice Rehnquist stated in part:

As best I can reconstruct the circumstances after some nineteen years, the memorandum was prepared by me at Justice Jackson's request; it was intended as a rough draft of a statement of his views at the conference of the justices, rather than as a statement of my views.

At some time during the October term, 1952, when the school desegregation cases were pending before the supreme court, I recall Justice Jackson asking me to assist him in developing arguments which he might use in conference when the cases were discussed. He expressed concern that the conference should have the benefit of all of the arguments in support of the constitutionality of the "separate but equal" doctrine, as well as those against its constitutionality. In carrying out this assignment, I recall assembling historical material and submitting it to the justice, and I recall considerable oral discussion with him as to what type of presentation he would make when the cases came before the court conference . . .

Because of these facts, I am satisfied that the memorandum was not designed to be a statement of my views on these cases. Justice Jackson not only would not have welcomed such a submission in this form, but he would have quite emphatically rejected it and, I believe, admonished the clerk who had submitted it . . .

It is absolutely inconceivable to me that I would have prepared such a document without previous oral discussion with him and specific instructions to do so.

In closing, I would like to point out that during the hearings on my confirmation, I mentioned the supreme court's decision in Brown versus Board of Education in the context of an answer to a question concerning the binding effect of precedent. I was not asked my views on the substantive issues in the Brown case. In view of some of the recent Senate floor debate, I wish to state unequivocally that I fully support the legal reasoning and the rightness from the standpoint of fundamental fairness of the Brown decision.

Those were the words of Justice Rehnquist.

There is nothing in my opinion to indicate that the views on this memorandum were Justice Rehnquist's own views. On the contrary, all available evidence, including the recollection of his coclerk Donald Cronson, indicate that Justice Rehnquist was not writing his own views. To emphasize this, the Judiciary Committee on December 9, 1971, received a telegram from Donald Cronson. This telegram was put into the CONGRESSIONAL RECORD during Senate debate on the nomination of William Rehnquist to be an As-

sociate Justice. The telegram reads in part as follows:

* * * It is my recollection that the memorandum in question is my work at least as much as it is yours and that it was prepared in response to a request from Justice Jackson to prepare such a memorandum * * *

Justice Jackson requested that a memorandum be prepared supporting the proposition that Plessy was correctly decided. The memorandum supporting Plessy was typed by you, but a great deal of its content was the result of my suggestions. A number of phrases quoted in Newsweek I can recognize as having been composed by me, and it is probable that the memorandum is more mine than yours.

Memories of events that were 19 years old in 1971, and are now 34 years old today, cannot be held to be without some divergence. However, two substantive issues concerning the memorandum are acknowledged. First, that Justice Rehnquist thought that Plessy versus Ferguson was wrong in 1952, and still does, and second, that Cronson's explanation that Justice Rehnquist was assigned to write one side of the issue makes it convincingly clear that he was not expressing his own views in this 34-year-old memorandum.

At this time, the matter appears to be irrelevant and without merit. Justice Rehnquist has served on the Supreme Court for 15 years. He has reviewed countless segregation and civil rights cases. In none of those cases has he questioned Brown versus Board of Education or suggested a return to Plessy versus Ferguson. In light of his performance as a Justice, it is hard to ascribe significance to a 34-year-old memorandum written at the request of his superior.

□ 1440

Mr. President, I ask unanimous consent to have printed in the RECORD a list of 34 cases in which Justice Rehnquist cited Brown versus Board of Education.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CASES WHERE JUSTICE REHNQUIST HAS CITED BROWN V. BOARD OF EDUCATION IN SUPPORT OF A PROPOSITION

1. *Thornburgh Governor of Pennylvania, et al.* v. *American College of Obstetricians and Gynecologists, et al.*, No. 84-495, Supreme Court of the United States, 106 S. Ct. 2169, June 11, 1986.

2. *Wygant, et al.* v. *Jackson Board of Education, et al.*, No. 84-1340, Supreme Court of the United States, 90 L. Ed. 2nd 260; 106 S. Ct. 1842, May 19, 1986.

3. *Batson* v. *Kentucky*, No. 84-6263, Supreme Court of the United States, 90 L. Ed. 2d 69; 106 S. Ct. 1717, April 30, 1986.

4. *The Lorain Journal Co., et al.* v. *Michael Milkovich, Sr.*, No. 84-1731, Supreme Court of the United States, 88 L. Ed. 2d 305; 106 S. Ct. 322, November 4, 1985.

5. *Allen* v. *Wright Er Al.*, No. 84-757, Supreme Court of the United States, 468 U.S. 737; L. Ed. 2d 556; 52 U.S.L.W. 5110; 104 S. Ct. 3315; 84-2 U.S. Tax Cas. (CCH) P9611, July 3, 1984 * * Together with No. 81-970, *Regan, Secretary of the Treasury, et al.* v. *Wright, et al.*, also on certiorari to the same court.

6. *Heckler, Secretary of Health and Human Services* v. *Mathews, et al.*, No. 82-1050, Supreme Court of the United States, 465 U.S. 728; 79 L. Ed. 2d 646; 52 U.S.L.W. 4333; 104 S. Ct. 1387; 33 Empl. Prac. Dec. (CCH) P34, 190, March 5, 1984.

7. *Rogers, et al.* v. *Lodge, et al.*, No. 80-2100, Supreme Court of the United States, 458 U.S. 613; 102 S. Ct. 3272; 73 L. Ed. 2d 1012; 50 U.S.L.W. 5041, July 1, 1982.

8. *Toll, President, University of Maryland, et al.* v. *Moreno, et al.*, No. 80-2178, Supreme Court of the United States, 458 U.S. 1; 73 L. Ed. 2d 563; 50 U.S.L.W. 4880; 102 S. Ct. 2977, June 28, 1982.

9. *Board of Education, Island Trees Union Free School District No. 26, et al.* v. *Pico, by his next friend, Pico, et al.* No. 80-2043, Supreme Court of the United States, 457 U.S. 853; 73 L. Ed. 2d 435; 102 S. Ct. 2799, June 25, 1982.

10. *Lugar* v. *Edmondson Oil Co., Inc., et al.*, 80-1730, Supreme Court of the United States, 457 U.S. 922; 73 L. Ed. 2d 482; 102 S. Ct. 2744, June 25, 1982.

11. *Fullilove, et al.* v. *Klutznick, Secretary of Commerce, et. al.*, No. 78-1007, Supreme Court of the United States, 448 U.S. 23 Empl. Prac. Dec. (CCH) P31, 026, July 2, 1980.

12. *Harris, Secretary of Health and Human Services* v. *McRae, et. al.*, No. 79-1268, Supreme Court of the United States, 448 U.S. 297, June 30, 1980; Petition for Rehearing Denied September 17, 1981.

13. *Carlson, Director, Federal Bureau of Prisons, et al.* v. *Green*, Administratrix, No. 78-1261, Supreme Court of the United States, 446 U.S. 14, April 22, 1980.

14. *Estes, et al.* v. *Metropolitan Branches of the Dallas NAACP, et al.*, No. 78-253, Supreme Court of the United States, 444 U.S. 437, January 21, 1980 * * Together with No. 78-282, *Curry, et. al.* v. *Metropolitan Branches of the Dallas NAACP, et al.;* and No. 78-283, *Brinegar, et al.* v. *Metropolitan Branches of the Dallas NAACP, et al.*, also on certiorari to the same court.

15. *Gannett Co., Inc.* v. *Depasquale, County Court Judge of Senaca County, N.Y., et al.*, No. 77-1301, Supreme Court of the United States, 443 U.S. 368, July 2, 1979, Decided.

16. *Columbus Board of Education, et al.*, v. *Penick, et al.*, No. 78-610, Supreme Court of the United States, 443 U.S. 449, July 2, 1979, Decided; Petition for Rehearing Denied October 1, 1979.

17. *Dayton Board of Education, et al.* v. *Brinkman, et al.*, No. 78-627, Supreme Court of the United States, 443 U.S. 526; July 2, 1979, Decided; Petition for Rehearing Denied October 1, 1979.

18. *Personnel Administrator of Massachusetts, et al.*, v. *Feeney*, No. 78-233, Supreme Court of the United States, 442 U.S. 256; 19 Empl. Prac. Dec. (CCH) P9240; 19 Fair Empl. Prac. Cas. (BNA) 1377, June 5, 1979.

19. *Ambach, Commissioner of Education on the State of New York, et al.* v. *Norwick, et al.*, No. 76-808, Supreme Court of the United States, 441 U.S. 68; 19 Empl. Prac. Dec. (CCH) P9122; 19 Fair Empl. Prac. Cas (BNA) 467, April 17, 1979.

20. *Regents of the University of California* v. *Bakke*, Supreme Court of the United States, 438 U.S. 165; 17 Fair Empl. Prac. Cas. (BNA) 1000; 17 Empl. Prac. Dec. (CCH) P8402, June 28, 1978.

21. *Milliken, Governor of Michigan, et al.* v. *Bradley, et al.*, No. 76-447, Supreme Court of the United States, 433 U.S. 267, June 27, 1977; as amended.

22. *Maher, Commissioner of Social Services of Connecticut* v. *Roe, et al.*, No. 75-1440, Supreme Court of the United States, 432 U.S. 464, June 20, 1977; as amended.

23. *Ingraham, et al.* v. *Wright, et al.*, No. 75-6527, Supreme Court of the United States, 430 U.S. 561, April 19, 1977; as amended.

24. *Austin Independent School District* v. *United States*, No. 76-200, Supreme Court of the United States, 429 U.S. 990, December 6, 1976.

25. *Pasadena City Board of Education, et al.* v. *Spangler, et al.*, No. 75-164, Supreme Court of the United States, 427 U.S. 424, June 28, 1976.

26. *Rizzo, Mayor of Philadelphia, et al.* v. *Goode, et al.*, No. 74-942, Supreme Court of the United States, 423 U.S. 362, January 21, 1976.

26. *Buchanan, et al.* v. *Evans, et al.*, No. 74-1418, Supreme Court of the United States, 423 U.S. 963, November 17, 1975.

28. *Milliken, Governor of Michigan, et al.* v. *Bradley, et al.*, No. 73-434, Supreme Court of the United States, 418 U.S. 717, July 25, 1974, * Decided * Together with No. 73-435, *Allen Park Public Schools, et al.* v. *Bradley, et al.*, and No. 73-436, *Grose Pointe Public School System* v. *Bradley, et al.*, also on certiorari to the same court.

29. *Gilmore, et al.* v. *City of Montgomery, Alabama et al.*, No. 172-1517, Supreme Court of the United States, 417 U.S. 556, June 17, 1974, Decided.

30. *Norwood, et al.*, v. HARRISON, ET AL., No. 72-77, Supreme Court of the United States, 414 U.S. 455, June 25, 1973, Decided.

31. *Keyes et. al.* v. *School District No. 1, Denver, Colorado, et al.*, No. 71-507, Supreme Court of the United States, 413 U.S. 189, June 21, 1973, Decided.

32. *Lemon, et. al.* v. *Kurtzman, Superintendent of Public Instruction of Pennsylvania, et al.*, No. 71-1470, Supreme Court of the United States, 411 U.S. 192, April 2, 1973, Decided.

33. *San Antonio Independent School District, et al.* v. *Rodriguez, et al.*, No. 71-1332, Supreme Court of the United States, 411 U.S. 1, March 21, 1973, Decided.

34. *Wright, et al.* v. *Council of the City of Emporia, et al.*, No. 70-188, Supreme Court of the United States, 407 U.S. 451; 33 L. Ed. 2d 51; 92 S Ct. 2196, June 22, 1972, Decided.

Mr. THURMOND. Mr. President, this list shows not only that he favored Brown versus Board of Education but also that he cited it in 34 different decisions he wrote.

I also ask unanimous consent to have a list of cases printed in the RECORD. A question was asked: "Have you ever voted for the interests of minorities or women?" There were 27 different cases in which Justice Rehnquist voted for minorities or women.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Question: Have you ever voted for the interests of minorities or women?

McDonnell Douglas Corp. v. *Green*, 411 U.S. 792 (1973) (Employee had made out prima facie case of racially motivated discrimination of employer).

International Brotherhood of Teamsters v. *United States*, 437 U.S. 324 (1977) (Team-

sters had discriminated against minorities in line driver positions).

Alexander v. *Gardner-Denver*, 415 U.S. 36 (1974) (Racial discrimination suit is not bound by prior arbitral decision).

Roberts v. *United States Jaycees*, 104 S. Ct. (1984) (State can apply Human Rights Act to compel all male organization to accept women).

Ham v. *South Carolina*, 409 U.S. 524 (1973) (Questioning of juror's racial attitudes required when racial issues inextricably bound up in the case).

Lau v. *Nichols*, 414 U.S. 56 3 (1974) (Discriminatory impact suffices to establish liability under Title VI) (*Bakke* and *Guardians* modified *Lau*).

Bazemore v. *Friday*, Nos. 85-93 and 85-428 (1986) (Extension service had a duty to eradicate salary disparities between white and black workers caused by pre-Act violations).

Palmore v. *Sidoti*, 466 U.S. 429 (1984) (State cannot remove child from mother who is married to a black man).

Hishon v. *King & Spaulding*, 467 U.S. 69 (1984) (Discrimination against women employees in admission to law firm partnerships states a claim under Title VII).

Meritor Savings Bank v. *Vinson*, No. 84-1979 (1986) (Hostile work environment can constitute sex discrimination in violation of Title VII).

Burlington School Committee v. *Miss.*, 53 U.S.L.W. 4509 (1985) (Allowed parents to be reimbursed for private school expenses of their handicapped child).

Irving Independent School District v. *Tatro*, 468 U.S. 883 (1984) (Construed Education of Handicap Act to include certain forms of medical treatment as being covered under the Act).

White v. *Regester*, 412 U.S. 755 (1973) (Struck down Texas at-large voting plan as unconstitutional because it would have diluted minority strength).

Albermarle Paper Co. v. *Moody*, 422 U.S. 405 (1975) (Invalidating employment test having disproportionate impact on minorities) as insufficiently job-related).

Dothard v. *Rawlinson*, 433 U.S. 321 (1977) (Invalidating a weight and height requirement that adversely affected women) (concurrence).

Havens Realty Corp. v. *Coleman*, 455 U.S. 363 (1982) (Plaintiffs had standing to sue owner of apartment complex, alleging that racial steering practices violated the Fair Housing Act).

United Jewish Organizations of Williamsburg v. *Carey*, 430 U.S. 144 (1977) (Constitution permits the State to draw lines deliberately in such a way that the percentage of districts with a nonwhite majority roughly approximates the percentage of nonwhites in the county).

Hunter v. *Underwood*, 105 S. Ct. 1916 (1985) (Held that provision in Alabama Constitution disenfranchising persons convicted of crimes involving moral turpitude violated equal protection where, even though on its face it was racially neutral, original enactment was motiviated by desire to discriminate against blacks on account of race and provision had had racially discriminatory impact since its adoption).

Cannon v. *University of Chicago*, 441 U.S. 677 (1979) (concurrence) (Female plaintiff who was denied admission to University had private cause of action under Title IX). (J. Rehnquist concurs emphasizing that the question of the existence of a private right of action is basically one of statutory construction and Congress must make plain its intent to create such a right).

Chapman v. *Meier*, 420 U.S. 1 (1975) (Reapportionment plan for voting district was constitutionally impermissible because it diluted minority voting strength).

Gilmore v. *City of Montgomery*, 417 U.S. 556 (1974) (federal court may enjoin a municipality from permitting the use of formerly segregated public park recreational facilities by private segregated school groups and by other nonschool groups that allegedly discriminate in their membership on the basis of race).

Chandler v. *Roudebush*, 425 U.S. 840 (1976) (Federal employee had same right to a trial *de novo* on discrimination as private employee).

Sumitomo Shoji America v. *Avagliano*, 457 U.S. 176 (1982) (Female secretaries of New York corporation of Japanese subsidiary could sue under Title VII).

Hills v. *Gautreaux*, 425 U.S. 284 (1976) (The *Milliken* decision, which rejected a metropolitan area school desegregation order because there was no interdistrict violation or any significant interdistrict segregative effect, imposes no per se rule that federal courts lack authority to order corrective action beyond a district boundary where the violations occurred.

United States v. *Scotland Neck Board of Education*, 407 U.S. 484 (1972) (The district court in this litigation instituted by the United States enjoined implementation of a statute as creating a refuge for white students and promoting school segregation in the county). (Burger along with Blackmun, Powell and Rehnquist concur in order to distinguish *Wright* v. *Council City of Emporia* from *Scotland Neck*.

Tillman v. *Wheaton*, 410 U.S. 431 (1973) (Wheaton-Haven swimming pool operates as a community pool and thus could not deny membership for racial reasons).

The PRESIDING OFFICER. The distinguished majority leader.

Mr. DOLE. Mr. President, I thank the distinguished chairman of the Judiciary Committee for his untiring efforts on this nomination.

I still hope that we can vote on this nomination and the Scalia nomination and dispose of both before 4 o'clock tomorrow.

I know that this is a matter of controversy to some, but I do believe that we should bring it to a conclusion and get on with other business before the Senate, and I hope that tomorrow we can do that.

Mr. President, I support the nomination of William Hubbs Rehnquist to be Chief Justice of the United States.

This is the third occasion in which the Senate has been asked to confirm this nominee. The first occasion was in 1969, when he was nominated and confirmed to be an Assistant Attorney General of the United States. He was also confirmed to be an Associate Justice of the Supreme Court in 1971.

The nominee has emerged from more than 4 days of thorough hearings in the Committee on the Judiciary. This involved 40 hours of testimony from 40 witnesses. By now the Senate should be well acquainted with Justice Rehnquist and his background, qualifications, and experience.

Associate Justice Rehnquist brings to the position of Chief Justice a unique set of credentials. He has unequaled experience and he has the temperament and collegiality necessary to provide effective leadership on the Court.

His academic credentials are simply the best. He was first in his class at Stanford Law School. He has a masters degree in history from Harvard and an undergraduate degree from Stanford with highest honors.

He had a distinguished private practice in Phoenix for 16 years afer being a clerk to a Supreme Court justice upon graduation from law school. He served as the top lawyer in the Government for 3 years as an Assistant Attorney General and legal counsel to the Attorney General. Then he was elevated to the Supreme Court in 1971, where he has served with distinction. It is difficult to imagine anyone with a better set of credentials to be Chief Justice.

Mr. Justice Rehnquist has been one of the most productive and prolific members of the Supreme Court. He has been assigned to write more majority opinions—over 230—than any of his colleagues during his service on the High Court. He has also been one of the most frequent dissenters—oftentimes alone—having authored more than 80 dissents. Quite frequently, he spoke for others. Some have attempted to characterize these opinions as extremism. However, I cannot find fault with one who does not hesitate to express his views, even if they might be unpopular or in the minority at the time.

AMERICAN BAR ASSOCIATION ENDORSEMENT

As might be expected when a nominee has been identified for the highest judicial position in the Nation, the American Bar Association's standing committee on the Federal judiciary conducted an exhaustive examination of Justice Rehnquist.

The committee interviewed all members of the Supreme Court and found unanimous, enthusiastic support among his colleagues. The committee interviewed judges from across the Nation, almost 200 of them. Sixty-five respected leaders of the bar were also interviewed. In addition the faculty and students of Michigan Law School conducted an indepth review of Justice Rehnquist's contributions as a Justice of the High Court. The committee also interviewed more than 50 deans and faculty members from law schools across the country.

□ 1450

The committee concluded unanimously that, based on its findings, Justice Rehnquist was "well qualified" to be Chief Justice. This is the highest rating the committee can bestow on a candidate. It speaks for itself. William

Rehnquist has been found by his peers to be uniquely qualified to assume the role of the Chief Justice.

Despite this highest rating and despite a unique set of credentials, this nomination has been controversial.

VOTER INTIMIDATION

Mr. President, one of the charges against Justice Rehnquist that received much attention alleged that he engaged in voter intimidation tactics during local Phoenix elections in the early 1960's Testimony was taken from two panels of witnesses. One panel, consisting of partisan Democrats, alleged that Mr. Rehnquist engaged in various voter intimidation tactics at certain polls with heavy minority voter registration.

A second panel, consisting of former local Republican officials as well as certain Democrats heatedly denied that Mr. Rehnquist engaged in these tactics. Rather, they stated that he was chairman of a lawyer's group that was set up to train and advise Republican watchers and challengers. In that capacity he sometimes traveled to certain polls to act as a troubleshooter.

The hearing record in 1971 and again this year reveals that events occurred, probably in 1962, although one witness suggested that the most controversial event occurred in 1964 at a Hispanic precinct. Indeed, there was an incident at a predominately black precinct, Bethune School, in 1962. Police and FBI reports as well as newspaper accounts the next morning confirmed that a Republican challenger was arrested after engaging in harassing tactics against minority voters. This individual was not Mr. Rehnquist, but a person who resembled him in height and weight.

No criminal charges were brought. Yet this event was referred to by opponents of the nomination as evidence of behavior not worthy of a Supreme Court Justice. On the other hand, supporters, including former Democratic local chairmen, vigorously contended that Mr. Rehnquist did not engage in illegal or harassing tactics.

It is undeniable that the passage of years have blurred the memories and recall of those who were involved at the time. It seems to me that it is now not humanly or objectively possible to reconstruct the events as they occurred at that time.

We have Justice Rehnquist's flat denial of improper conduct. We also have the fact, as recounted by Congressman RUDD in his testimony, that Mr. Rehnquist was selected by the Democratic House of Representatives in Arizona to defend two Democrats in an impeachment proceeding in the legislature during this period. To me, this speaks eloquently for the general high regard for and reputation of Mr. Rehnquist. It is inconceivable that Mr. Rehnquist would have been chosen by the leadership of that body if he had engaged in the conduct which was alleged in this instance.

Motives that smack of partisanship and lack of objective evidence lead me to the conclusion that the nominee did not engage in unlawful or unethical conduct in the Phoenix precincts in the early sixties.

THE RESTRICTIVE CONVENANTS

Much of the controversy relating to this nomination centers around certain racially restrictive covenants found by the FBI in the deeds of two properties acquired by Justice Rehnquist many years ago. One of these properties, which was formerly the Rehnquist family home in Phoenix, was sold in 1969. The other is currently his vacation home in Vermont.

The Supreme Court in the case of *Shelley* v. *Kramer*, 334 U.S. 1 (1948), found that these totally repugnant and obnoxious provisions were unconstitutional and utterly unenforcable in any court of law in the United States. But the matter was still bandied about in the national media as somehow evidence that Justice Rehnquist was a racist or bigot and therefore unworthy to be elevated to be Chief Justice.

Mr. President, this charge is so far fetched and irresponsible that it is a great pity that we must waste the time of the Senate in response. The Supreme Court has spoken definitively—decades ago. Any real estate lawyer knows that these convenants are not worth the paper they are written on. Yet it is undoubtedly true that millions of these relics are still buried in land records in every county courthouse in the country.

When brought to his attention, Justice Rehnquist immediately expressed his shock and dismay at their existence and pledged to the Committee on the Judiciary that they would be removed promptly. However, opponents are still trying to read some kind of bias into the character of the nominee. I simply find these charges as repugnant as the racially restrictive covenants upon which they are based. I reject them out of hand and submit that the Senate and the American people will do the same.

THE JACKSON MEMORANDUM

Another charge against Mr. Justice Rehnquist relates to a memorandum he prepared while serving as a law ckerk to Justice Jackson on the Supreme Court in 1952, about 34 years ago. At the time the Court was beginning the review of the separate but equal doctrine in Plessy versus Ferguson. This review 2 years later became the unanimous opinion of the Court in the historic case of Brown versus the Board of Education.

If I correctly heard, I heard the distinguished chairman of the Judiciary Committee refer to the Brown case in fact cited by Justice Rehnquist in as many as 30-some cases.

It is clear to this Senator that clerk Rehnquist—this was back in 1952—was playing a "devil's advocate" role on that occasion. He has stated in 1971 that that memo did not then reflect his view on the matter. He has restated that same view this time around. First, some 20 years after the fact and now almost 35 years after the fact we are engaged in an exercise trying to reconstruct the mind set of those involved at the time 1952.

The issue involved is important. It seems to me that the best evidence of the nominee's view and record in segregation in the schools can be found in the 34 opinions the Court handed down since William Rehnquist has been a member of the Supreme Court. In all these cases the Brown case was upheld. In all the cases Justice Rehnquist either wrote the majority opinion or concurred in the majority opinion. These are not clerk's memos of 34 years ago. These are 34 opinions of the High Court with Justice Rehnquist leading or joining with others on the Court to reaffirm the Brown case. Is not this the best evidence of the state of mind of Mr. Justice Rehnquist as to his views on segregation in the schools? Mr. President, I submit that it is.

THE JUSTICE DEPARTMENT MEMOS

The Judiciary hearings on the Rehnquist nomination focused substantially on several memoranda written while he served as assistant attorney general. Two of these memoranda surfaced in the past few days, one on school busing and one on the ERA amendment.

Ten pages of the Judiciary Committee report are devoted to this matter and the related issue of Justice Rehnquist's participation in the subsequent case of Laird versus Tatum. The report sets forth the issues involved adequately. It also contains a memo written by Justice Rehnquist which sets forth his reasons for not recusing himself from participation in the Court's deliberations on the case.

The majority of the committee felt that this memo was the best reply to the charges on the recusal question. The committee also concluded that "in no way should Justice Rehnquist's actions be construed as being improper." A great deal of time was spent in the hearings pursuing this question. I respect the committee's conclusion; however, it must be recognized that there is merit to the opposing view. It was a close call, as Justice Rehnquist conceded.

□ 1500

With respect to the busing and ERA memos, it seems to me that these were internal memos in which the Chief Legal Advisor was asked by senior White House staff for candid opinions which presented alternative options

on two of the most highly controversial issues of the time—busing and ERA. I note that the Nixon administration did not offer a constitutional amendment on busing, but it did support the ERA amendment. Whatever views might have been contained in the memos, the fact of the matter is that Mr. Rehnquist did testify on behalf of the administration on the ERA amendment. Again, I note that his record on the Court must be the best evidence of his position on these matters.

Upon analysis of the busing memo, it is clear that it was simply a legal analysis of the proposed constitutional amendment. The White House had sole responsibility for all policy decisions on the amendment.

Any suggestion that this memo endorsed deliberate racial segregation is a gross and irresponsible misrepresentation. The legal analysis in the memo presents the view that the Constitution prohibits intentional racial discrimination, not racial imbalance resulting from the actions of private actors. Accordingly, local jurisdictions would be free to engage in race-neutral student assignment plans even if the schools are racially identifiable due to factors beyond the school board's control. This is what the Supreme Court held in three subsequent cases: Swann, Pasadena and, most recently, Bazemore (outside the public school context).

This memo was written at a time when both the executive branches were examining alternatives to forced busing to achieve racial balance in school desegregation.

The Committee on the Judiciary examined these issues quite carefully, although not specifically the memos themselves. The majority was satisfied that Justice Rehnquist has had a satisfactory record in his Court opinions on these matters. The Justice himself cited a case decided just last June when he wrote the majority opinion for the Court on women's rights.

Although not as expansive in his views over the years as some others on the Court have been on these issues, it can hardly be said that here is a bigot or a racist or a person who is insensitive and inconsiderate. The nomination should not fall on these issues.

THE CORNELL FAMILY TRUST

In recent days attempts have been made to discredit Justice Rehnquist through the criticism of his brother-in-law, Harold D. "Dick" Cornell. The charges were first aired in an article appearing in the Los Angeles Times on August 2, 1986. Chairman Thurmond asked the FBI to investigate the matter. This report was made available to members of the committee 2 days before the vote. Subsequently four Senators, including three who are members of the committee and who voted against the nomination asked Chairman Thurmond to investigate the matter further.

My staff and I have also reviewed the matter. We have reviewed the press accounts and the FBI report. It should be said that Mr. Cornell has been alienated from the rest of his brothers and sisters for sometime. The other members of the Cornell family have unanimously repudiated Mr. Cornell's allegations.

According to members of the Cornell family, they believe that his attacks on Justice Rehnquist are motivated by his intense professional jealousy of Justice Rehnquist, and not as a result of his current physical or mental illness. Mr. Cornell previously practiced law in California and described himself as a "liberal attorney."

Mr. President, the focus on this matter has simply given a public forum to a man who seems to be personally jealous and politically motivated. Whatever are the legitimate concerns with this nomination, this is not one of them. I deeply regret that members of this body have sought to legitimize them and to build opposition based on these spurious charges.

In conclusion, Mr. President, this Senator will support the nomination of William Hubbs Rehnquist to be Chief Justice of the United States. I am confident he will be a pillar of strength in his new role. I am confident he will have the capacity and compassion to lead the Court and the Federal Judiciary in the coming years. The hearing record disclosed nothing this time or previously to bar Justice Rehnquist from assuming this position of highest trust for which the President has nominated him. The Committee on the Judiciary has found that he does possess the qualities required of a Chief Justice: Unquestioned integrity, incorruptibility, fairness and courage. I agree. I shall vote for confirmation.

It seems to me that we are reaching a point that we need to make a decision. I understand the fall session of the Court is not long off, and he will be needed to guide the Court.

In my view, I think he has the sensitivity and the compassion and certainly the integrity and the intellect to be Chief Justice of the United States. I submit there is nothing in the hearing record, and there have been no bombshells over the weekend, do not anticipate any, do not know of any, and I would urge my colleagues to let us proceed with this nomination early tomorrow afternoon.

As I have indicated this morning, we have a mountain of work—a mountain of work—and we have this week and the two following weeks if we intend to leave here on October 3. We have spent about 5 days on this nomination. For the most part, we have used the time appropriately. There has been discussion, there has been a dialog, there has been a debate. But there also has been a lot of repetition.

I know some oppose the nomination; I know some will vote no. But I just suggest I hope that vote will come tomorrow, and I am willing to predict that it will be somewhere in the neighborhood of 75 to 25, 72 to 28, or somewhere in that neighborhood. And nothing has changed in the past 4 or 5 days.

So I thank the distinguished chairman of the Judiciary Committee again for his untiring efforts on behalf of the nominee and on behalf of the President. Again, I would say the President won a fairly clear mandate in 1980, which was reaffirmed in 1984. I believe the American people would expect the President, whoever he might be—Democrat of Republican, liberal or conservative—to appoint people who might reflect his philosophy, particularly in the case of an overwhelming mandate, carrying 49 States. I must believe that the President probably had that in mind. He was not elected in 49 States to pick out the most liberal member he could find to be Chief Justice. And there are a lot of very able liberal jurists in the country. There are also very many conservative jurists. Justice Rehnquist certainly is an outstanding one and I think the President made exactly the right choice.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER (Mr. GRAMM). The Senator from Ohio.

Mr. METZENBAUM. Mr. President, you can say something once and you can say it twice and you can say it five times and some people do not hear you.

But I want my distinguished colleague, the distinguished majority leader, to understand that we agree. The President won the election. He won the election and he has appointed 275 judges and we have only raised a question with respect to 5 of them—5 out of 275.

I want to further point out that there are other conservatives in this country besides Justice Rehnquist. When Sandra Day O'Connor came up for confirmation—a very, very conservative women, fine legal background, probably every bit as conservative as Justice Rehnquist—the Senate confirmed her 99 to 0. And when Judge Scalia was up for confirmation—and some say his conservative philosophy is even more conservative than Justice Rehnquist—I might say, parenthetically, if that is possible—but be that as it may, the Senate Judiciary Committee unanimously reported out and recommended for passage Judge Scalia to become a Justice of the Supreme Court.

I have no doubt in my mind that when Judge Scalia is brought to the

floor of the Senate after we dispose of the confirmation process concerning Justice Rehnquist, I have no doubt in my mind that Judge Scalia will become Justice Scalia with a near unanimous vote.

He is a conservative. Sandra Day O'Connor is a conservative. Most of those 275 judges are conservatives. We have made an issue with respect to five of the lower court judges and one Supreme Court Justice appointee.

Now, why? Because the issue here is an issue having to do with credibility, an issue having to do with integrity.

Mr. DOLE. Will the Senator from Ohio yield?

Mr. METZENBAUM. For a question, yes.

Mr. DOLE. I do not quarrel with the statistics, but I wanted to just make the record complete and indicate that in the 4 years President Carter was President, I think this body confirmed 264 Federal judges. It has taken Ronald Reagan 6 years to catch up with the 4-year term of President Carter. And I would guess in most of those cases those were more liberal jurists.

I did vote against one, Judge Abner Mikva.

Mr. METZENBAUM. You have made my point, and that is that the U.S. Senate, whether it is dealing with liberals or conservatives or moderates, or Democrats or Republicans, has not voted on the basis of whether the appointee was a liberal or conservative.

I do not know about President Carter's appointees, whether they were liberals. But let us accept the fact that in the main they were Democrats and let us also accept the fact that most of them were confirmed without controversy.

Let me also make the point that the distinguished chairman of the Judiciary Committee led the opposition to the confirmation of Abe Fortas on the basis of his political philosophy—led the opposition on that basis and spoke to the issue for hours on end to the point where the appointment had to be taken down. There were not enough votes in order to invoke cloture.

But none of us, there is not a single person that I know who stood on the floor of the U.S. Senate and said, "We oppose Justice Rehnquist to become Chief Justice of the Supreme Court because he is too conservative."

Judge Scalia is every bit as conservative. We had testimony saying he is far more conservative than Justice Rehnquist. That is not the issue.

□ 1510

And when you talk about five witnesses saying one thing and seven witnesses saying another thing, that is not the issue either. We are not dealing with numbers. We are dealing with what people were saying. The seven witnesses were testifying concerning the fact that they did not know whether or not Mr. Rehnquist was involved in voter challenges and intimidating of voters; they did not know. They said it was not possible for them to know with certainty; they were not with him all day. The five witnesses said they saw, they identified him.

Again, I want to report that which I said the other day: That is not the issue—whether he did or did not. The issue is what did he say to the U.S. Senate in his confirmation process. We know what he said. He denied harassing. He denied intimidating. The issue has to do with his candor, with his integrity, with his truthfulness in 1971 and again in 1986. If there had been only one question concerning his credibility or his integrity, I know I would not be on the floor speaking for the second time in connection with this appointment. But no. When you look at the facts with respect to the Justice Jackson memo, it is not what he said. He had a right to have his opinion. It is what he said to the U.S. Senate in his confirmation process.

The evidence indicates clearly that he wrote the memo. He can say anything he wants. But any single human being who understands the English language can read that memo. It is in the Record. If it is not here in the Record I will now check that fact and be certain to put it in the Record before we go to a vote.

There is no argument. It is his memo. It is signed W.H.R., William H. Rehnquist. Right above his name, right above his signature, his initials, is the indication with respect to his position concerning Plessy against Ferguson indicating that case made good law. He had a right to say that.

When he spoke to the U.S. Senate in 1971 by affidavit, he told them that was not his position. He did a 100 percent reversal. That is bad enough. But when one of the members of our Judiciary Committee asked him what his position was he said, "I did not have a position"—did not have a position. Come now, does anybody really believe that?

The distinguished floor leader spoke a few minutes ago about the restrictive covenant. The issue there again is not the matter of the restrictive convenant and whether or not he bought a piece of property with a restrictive convenant in it—as a matter of fact, two pieces of property with restrictive convenants. That is not the issue.

The issue is that he told the U.S. Senate he did not know about it. He said he just learned about it a few days earlier when he read the FBI report.

What are the facts? The facts are that he was advised by two lawyers to take a look at the restrictive convenant. He did not tell us about that at the hearing. The only time he told the Judiciary Committee about that was after the Washington Legal Times spoke with the two attorneys, and they said, "Yes, indeed, we did advise them about the restrictive convenant."

What an unbelievable coincidence. The very day that the Legal Times publishes that information as to the lawyers having advised him on the facts, what then happens? It is on that day—not a day before, not a week after—that very day that it is published here in Washington, Justice Rehnquist writes a letter to the chairman of the committee and says, "In rummaging through my papers, I found that I did have letters from my legal counsel on that subject."

Then if that were not enough, this whole question of integrity, we have the ethical question, where the chairman of the American Bar Association Committee on Legal Ethics concludes that the conduct of the Justice of the Supreme Court who is to become the Chief Justice was unethical.

Other professors, 90 of them to be exact, conclude that the conduct of his was not ethical in the Laird against Tatum case. There has been much talk about the Laird against Tatum case. That is the case you will recollect where during the Nixon administration the military was involved in surveillance of civilians in this country to find out what they were doing in connection with their protests, much of which evolved around the Vietnam war. Justice Rehnquist tells the committee, no, he did very little on that. He responds to Senator LEAHY and then on another occasion to Senator MATHIAS that he knew very little about that subject. He had written one little memo or something, he said in answer to Senator LEAHY. Then more information comes out about his actual involvement and what he really did. Senator MATHIAS asks him a series of questions. What does he say? "I can't recollect."

"I do not recollect."

We are not talking about a situation where somebody is asking what did you do on October 20, 1946, at 8 p.m. Of course that is not the kind of thing we are talking about. We are talking about one of the most important issues that has occurred in this century concerning our Government's conduct, use of the military in order to spy upon civilians conducting themselves in peaceful activities and indicating their protests. This Government was founded on the basis that people had a right to speak out, and people had a right to have different opinions, and people had a right to express those opinions. Yes, people had a right to do those things without being spied upon.

Judge William Rehnquist, as a lawyer in the Department of Justice was totally involved, tells Senator MA-

THIAS he cannot remember. "I do not recollect." "I do not recollect." "I do not recollect." "I do not recollect."

Any of us who have practiced law know that lawyers oftentimes speak with those who are about to be witnesses in cases, and make it very clear to them that when you are on the witness stand, if you are in a sticky wicket, and the problem is great, that nobody, nobody can say to you, or tell you what is in your own head, and what your memory is. And "I cannot recollect" is the standard and traditional out that is used by so many witnesses.

It is not an appropriate procedure for lawyers, and certainly not an appropriate procedure for a Supreme Court Justice about to become a Chief Justice of the United States.

What does it say to the American people if we are going to confirm a man solely on a partisan basis because the President of the United States wants it? I say to my colleagues on the other side, I am waiting for one of you who is staunch enough, strong enough, and courageous enough to say to your President, enough is enough, Mr. President. Enough is enough. We will vote for your Manions, your Fitzwaters, and your Sessions and some of the others that you have sent us. That is bad enough. And we will support you, Mr. President, when you send us decent conservatives who have impeccable records. But that does not mean, Mr. President, that we have to stand in line and salute every time you ask us to do so. We will not go along with the Rehnquist nomination.

What brave soul is going to stand up and speak out on that subject? Is it possible that the Democrats on this side of the aisle are split on the issue and some think Rehnquist should be confirmed and some think he should not? That is probably as it should be. At least it indicates an independent judgment.

It certainly does not indicate a political posture.

On that side of the aisle I have yet to hear one courageous soul say, Mr. President, I have had enough. I cannot stomach the Rehnquist nomination.

No. Instead, I am willing to appoint someone to be Chief Justice of the United States notwithstanding I know that he will only serve to polarize that Court. He will only serve to bring to it a contentiousness that has not existed under the previous Chief Justice.

We are talking about a man who has an open and understood opposition and hostility to a basic constitutional value.

I would like to talk about some of those constitutional values because to me what is this Constitution all about if we are not prepared to stand up, defend it, and defend it at times when it is not easy to do so?

I remember so well when the Kefauver committee was conducting its hearings having to do with the gangs of this country. I remember so many persons who appeared before that committee, and said "I like the fifth amendment." I remember so many in this country wanted to change the Constitution, eliminate the fifth amendment because too many were hiding behind that cloak.

□ 1520

But the strength of this Nation relates to that Constitution and the fact that it is a strong Constitution, a Constitution for all the people of this country no matter what the circumstances are, a Constitution behind which, on some occasions, people can hide, but those constitutional values are more important than invading the Constitution itself.

I am not at all certain that this new Chief Justice if and when he is confirmed will have that same approach to defending the Constitution. The fact is that of all the persons qualified for the Supreme Court, the President has chosen one of those most hostile to basic individual rights.

When Justice Rehnquist was an Assistant Attorney General in the Justice Department, he drafted a constitutional amendment which would have immunized all but the most blatant racial school segregation.

This constitutional amendment if adopted would have nullified the Supreme Court decision in Brown against Board of Education. The amendment would have overruled Supreme Court decisions which required full desegregation. These Supreme Court decisions rejected desegregation plans which were adopted to avoid desegregation, and plans which had the effect of thwarting desegregation.

But the Rehnquist amendment was written to give both the North and the South the opportunity to maintain segregated schools.

According to the Rehnquist memo, a school board could set up an attendance plan that would keep its schools segregated even if the plan had been adopted to maintain segregation. The memo states:

> If the zoning plan adopted bears a reasonable relationship to education needs—if fair-minded school board members could have selected it for nonracial reasons—it is valid regardless of the intent with which a particular school board may have chosen it.

Let me repeat that. This is from Justice Rehnquist when he was in the Department of Justice. His memo would provide:

> If fair-minded school board members could have selected it for nonracial reasons, it is valid regardless of the intent with which a particular school board may have chosen it.

The Rehnquist amendment would have permitted a school board to zone its schools with the intent to keep them segregated. As long as the court could imagine a nonracial reason for the zoning plan, there would be no constitutional violation under the Rehnquist amendment. And the amendment would have permitted school boards to let students choose their schools. Assistant Attorney General Rehnquist would have let them choose even when the freedom-of-choice plan was adopted to thwart desegregation efforts.

Assistant Attorney General Rehnquist would let them choose even when the evidence showed that blacks had no choices because of violence and threats of violence. In other words, such a plan would be great, according to Justice Rehnquist, even if it were a sham.

The 14th amendment has long been controversial, but at the time Assistant Attorney General Rehnquist wrote his memo some things were very clear. It was clear then that the 14th amendment outlawed new and more sophisticated forms of discrimination. It was clear then that school boards would not be able to evade the mandate of Brown through blatant or disingenuous subterfuge. It was clear that after a history of deliberate segregation, the mere adoption of a paper policy of equality would not satisfy the 14th amendment.

It was clear then that only meaningful desegregation would satisfy the Constitution.

Our Justice Rehnquist then was working in the Department of Justice. That William Rehnquist wanted to undo these principles. Is that the kind of man that the people of this country can have confidence in that he would be fair to all people regardless of their color, their ethnic or national origin?

William Rehnquist as a lawyer wanted to turn back the hands of time to the era of Jim Crow and he wanted to do that in 1970.

But in all candor, while I am outraged by this memorandum, I do not think anyone is surprised at all.

A few days ago a spokesperson for the Justice Department was asked about the memo. He said, "I do not see much that is new in this."

Well, I must say that I agree with the Justice Department this time. There really is not much that is new in this. After all, it was law clerk Rehnquist who supported Plessy versus Ferguson when he wrote the Brown versus Board memo for Justice Jackson. And, after all, it was Phoenix lawyer Rehnquist who opposed the desegregation of the Phoenix schools, and, after all, it is Justice Rehnquist who dissents from every major decision which would make the Brown desegregation requirement a meaningful one.

How can we possibly, I say to my colleagues who are prepared to vote for this nomination, confirm someone to this post who has so consistently opposed equality under the Constitution?

This proposed constitutional amendment is just one more reason why Justice Rehnquist should not be confirmed as Chief Justice.

Now we have also learned that Justice Rehnquist authored in 1970 a memorandum on the equal rights amendment when he was an Assistant Attorney General. He did it for the Office of Legal Counsel. He was asked to summarize the objections to the adoption of the ERA. He responded in memorandums which show he had a very firm view that women should not be accorded equality under the Constitution.

I am not talking about this memo because he opposed the ERA. The issue is not whether he favored or opposed the ERA.

The issue is his views about basic protection women should have under the Constitution.

This memo shows that the Assistant Attorney General did not think the Constitution should accord males and females equal treatment. That was his view in 1970. It has been his view on the Court ever since.

What did Mr. Rehnquist object to? I will tell you. He was concerned that the age to marry might be equalized. He was worried that the age when men and women can begin work might be equalized. He was concerned that the entitlement of male and female children to parental support might be equalized. He was concerned that husbands and wives might have equal power to decide where the family would live.

He felt certain that the 14th amendment would not require this kind of equality, but he said that ERA might be interpreted to require it.

What kind of approach is this for the Chief Justice of the Supreme Court to somehow think that women are second-class citizens, young and old?

Assistant Attorney General Rehnquist said the majority of women did not want these kinds of changes, that those supporting ERA were equality fanatics.

Let me quote Mr. Justice Rehnquist at that time:

> . . . But I cannot help thinking that there is also present somewhere within this movement a virtually fanatical desire to obscure not only legal differentiation between men and women, but insofar as possible, physical distinctions between the sexes. I think there are overtones of dislike and distaste for the traditional difference between men and women in the family unit, and in some cases very probably a complete rejection of the women's traditionally different role in this regard.

What bothers me, what concerns me about this man, Mr. President, for whom so many are going to vote to become Chief Justice, is his outlook that constitutional equality is fanatical, that seeking legal equality means eliminating physical distinctions. That is an absurd way to characterize women's search for equal protection under the law.

How can the women of this country feel comfortable in knowing that the Chief Justice of the Supreme Court thinks that their desire for full equality is fanatical, thinks that there is something improper, inappropriate, in their seeking that kind of full equality?

I do not care whether he is for the ERA or against the ERA. That is not the issue. The issue is his attitude toward women in this country. He looks upon them as second-class citizens.

I frankly thought we had passed that point in our history a long time ago. But putting Justice Rehnquist on the Supreme Court as Chief Justice will be a throwback, will be a turning back of the clock to a time when some in this country were more superior than others; when those of certain races were more superior than those of other races; when men were more superior than women. Justice Rehnquist was pretty sure the equal protection clause did not require changes in this traditional role for women and he did not want an equal rights amendment which would change this tradition.

I respect his right to be opposed to the equal rights amendment. Every person has that right. I do not respect his right to think that women are inferior to men and, on that basis, to become the Chief Justice of the Supreme Court of the United States.

Justice Rehnquist wanted to be sure that women kept their place. He did not believe in the equality of women under the Constitution then, and his overwhelming rejection of constitutional equality claims shows he does not believe in it now as a Justice of the Supreme Court.

The fact is, this view is totally reflected in his approach to the Constitution. Women do not get a fair shake under Justice Rehnquist.

Virtually every claim of discrimination is rejected.

Under Justice Rehnquist's view of our Constitution, women are second-class citizens and there is nothing they can do about it.

Then, when you look at Justice Rehnquist's attitude toward individual rights, you arrive at the same conclusion that leads you to say, "Why are we confirming him to become Chief Justice of the United States? Do those who intend to vote for him really understand all the facts? Have they studied the record? Have they studied his positions?"

Let us face it, Mr. President. In 1971, Justice Rehnquist was appointed. Many feared that he would be insensitive and actually hostile to individual rights claims. Those worst fears have been realized. More than insensitive, his record shows a consistent indifference to the rights of the disadvantaged minorities and women. He has just been insensitive to the problems and the cases that have been brought by the disadvantaged, by minorities, by women.

Time and time again, he is on that side and in many instances, he is on that side as the sole dissenter.

Ten years ago, a Harvard professor summed up Justice Rehnquist's individual rights record. He stated that in a case involving a claim by an individual against the Government, Justice Rehnquist almost always sided with the Government.

Is that not odd, when you stop to think about it? Is it not odd that this great conservative would always be for that big government against the individual? But that is his record on the Court.

You have to arrive at the same conclusion that that distinguished Harvard professor arrived at 10 years ago when you look at the record today. The record shows that he gives the Constitution very limited application when it comes to the individual's rights. He gives the individual very little constitutional protection. In Justice Rehnquist's view, the Constitution does not protect the individual from big government.

When you look at his record in race discrimination cases, he rejects almost all claims. I can understand somebody coming down with a conclusion that way maybe 60-40, 55-45, even 70-30. But in Justice Rehnquist's case, any member of the minority in this case who looks at that record and has a case before the Supreme Court has to be very concerned as to whether he or she is going to get equal justice, because in race discrimination cases, Justice Rehnquist rejects almost all claims.

He dissents from major school desegregation decisions. There are few decisions where he finds race discrimination and when he does, it is in cases where the Court is unanimous.

You never find him standing up for the rights of the minority, the rights of the individual, the rights of the disadvantaged in one of his well-known dissents. In the few cases where he is on the side of those against whom there has been racial discrimination, those are cases where the decision has been unanimous.

In sex discrimination cases, you find the same pattern. He rejects almost all constitutional sex discrimination

cases. As a matter of fact, talking about civil rights cases, race discrimination, the NAACP Legal Defense Fund and the American Civil Liberties Union did an analysis of his decisions. When you read that analysis, there is only one conclusion: Justice Rehnquist is not fair. His justice is unbalanced when it comes to sex and racial discrimination cases.

When it comes to sex discrimination cases, the Federation of Women Lawyers and the National Organization for Women detail that record. I believe both of those analyses of the NAACP Legal Defense Fund and the ACLU, as well as the statement of the Federation of Women Lawyers and the National Organization for Women, have already been submitted for the RECORD and I shall not do so at this time.

Justice Rehnquist rejects all constitutional claims of prisoners and parolees. Neither the context nor the claim seems to matter. The prisoner or the parolee is guilty without coming before the Court.

He rejects almost all claims that the Government has violated the separation of church and state provisions of the Constitution. He takes extreme positions, too, on issues of individual rights.

He is the only Justice to say that the Government does not have to be neutral on religious issues. That decision was decided on a 6-3 basis, but he had a separate dissent in which he pointed out his view that the Government does not have to be neutral on religious issues.

□ 1540

Let me read what he said:

The Framers intended the Establishment Clause to prohibit the designation of any church as a "national" one. The Clause was also designed to stop the Federal Government from asserting a preference for one religious denomination or sect over others. Given the "incorporation" of the Establishment Clause as against the States via the Fourteenth Amendment in *Everson*, States are prohibited as well from establishing a religion or discriminating between sects. As its history abundantly shows, however, nothing in the Establishment Clause requires government to be strictly neutral between religion and irreligion, nor does that Clause prohibit Congress or the States from pursuing legitimate secular ends through nondiscriminatory sectarian means. . . .

That is the case of *Wallace. Jaffree,* 105 S. Ct. at page 2520, decided rather recently in 1985, with Justice Rehnquist dissenting.

Justice Rehnquist is the only Justice to say that the church can be given governmental power. That had to do with the right of a church to veto the issuance of liquor licenses, the right of a church to veto the issuance of a liquor license, but Justice Rehnquist felt that the church can be given governmental power.

He is the only Justice to say States can deny nonresident indigents medical care, in the case of Maricopa Hospital versus Maricopa County.

He is the only Justice to say that the free exercise clause does not apply to prisoners, in the case of Cruz versus Beto.

He is the only Justice to say that legal aliens can be barred from all civil service positions, in the case of Sugarman versus Dougall.

He is the only Justice to say that legal aliens can be barred from the professional engineering and notary public positions, in the case of Examining Board versus Flores De Otero and Bernal versus Fainter.

He is the only Justice to say that criminal trials can be closed to the public, in the case of Carter versus Kentucky.

He is the only Justice to say that permanent civil service workers may be terminated without notice or a hearing in the case of Cleveland versus Loudermill.

He is the only Justice to say that an ACLU Lawyer could be disciplined for telling a poor person that the ACLU gives free legal services, in the case of In Re Primus.

He is the only Justice to say that the IRS could give tax-exempt status to racially discriminatory private schools, in the case of Bob Jones University versus the United States.

We are talking about the record of a man whom we are asked to confirm as Chief Justice of the United States. It is a record of indifference to important individual rights. It is a record of indifference to the role of courts in the protection of individual rights.

Confirmation power must be used to uphold and strengthen our basic constitutional values. That is our obligation. That is the reason we are given the right to confirm members of the judiciary.

We undermine the importance of the individual and our constitutional system if we now confirm Justice Rehnquist to become Chief Justice of the United States.

We must consider the effect the person who holds this office will have on fundamental values. The selection of a Chief Justice is far too important to permit us to rubberstamp the President's choice. We must make our own judgment.

Justice Rehnquist is simply not the appropriate person to lead the Court. If we care at all about the importance of individual rights in this country, it is our duty, it is our obligation, it is our responsibility to oppose this nomination.

Mr. President: I ask unanimous consent that the following materials be made part of the RECORD:

First. A memorandum from Assistant Attorney General Rehnquist regarding the equal rights amendment.

Second. A letter of September 13, 1986, from the Society of American Law Teachers opposing the nomination of Justice Rehnquist.

Third. An updated list of 165 law professors who have signed a letter dated September 5, 1986, raising concerns about the nomination of Justice Rehnquist.

Fourth. A letter dated September 11, 1963, signed by 63 law professors, raising concerns about the participation of Justice Rehnquist in Laird versus Tatum.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MAY 4, 1970.

MEMORANDUM FOR THE HONORABLE LEONARD GARMENT, SPECIAL CONSULTANT TO THE PRESIDENT

Re: Proposed Equal Rights Amendment to the Constitution: Brief in Opposition

Brad Patterson advises me that you have already reviewed the memorandum for the Citizens Advisory Council on the Status of Women, prepared by Miss Mary Eastwood of my office, dealing with the proposed equal rights amendment.* I consider this memorandum an excellent brief in support of the adoption of the amendment. He suggested that I summarize objections to the adoption of the amendment, in order that both sides might be available to you. This I now do.

Summary

Under existing constitutional restrictions contained in the Fourteenth Amendment, women are presently in a position to successfully challenge any distinction in treatment between themselves and men which has no rational basis. Recent decisions of lower federal courts have included exclusion of women from juries and exclusion of them from public institutions of higher learning as falling within this catgegory. The proposed "equal rights amendment" is intended to virtually abolish all legal distinctions between men and women, leaving intact only laws punishing rape, laws providing maternity benefits, and separate rest rooms in public facilities.

I believe the basic policy objection that may be urged against the amendment is that its designed effect will not be to confer any benefits or privileges upon women, but instead to invalidate existing laws enacted on the theory that in some areas women were entitled to privileged and favorable treatment. It is highly dubious, in my mind, whether a great majority of American women, to say nothing of American men, if they knew that this were the main thrust of the "equal rights amendment", would support it. The consequences of a doctrinaire insistence upon rigid equality between men and women cannot be determined with certainty, but the results appear almost certain to have an adverse effect on the family unit as we have known it.

A second argument which may be urged against the amendment is that its language is so vague as to make it impossible to predict how the courts will apply it. Since its supporters rely for its content not upon the language itself, but upon a Senate report filed at one of the times it earlier passed the

*I have relied on Miss Eastwood's memorandum as a source of decided cases on the subject.

Senate, the question arises as to whether it might not be wiser to employ greater detail in drafting the amendment itself.

Existing state of law

Women received the right to vote on the same terms as men do by virtue of the Nineteenth Amendment to the Constitution. The equal protection clause of the Fourteenth Amendment has also led some courts recently to invalidate, las violative of that provision of the Fourteenth Amendment, laws which either permitted or required women to be treated differently than men. For example, a three-judge federal court in Alabama held that that state's law excluding women for jury service violated the Fourteenth Amendment. *Whits* v. *Crook*, 251 F. Supp. 401 (M.D. Ala. 1966). A similar result, where a state trial court had excluded women jurors from the panel because testimony relating to cancer of male genital organs would be involved, was reached by the Court of Appeals for the Sixth Circuit in *Abbot* v. *Mines*. 411 F. 2d 353. Whereas only ten years ago the Supreme Court declined to hear a case in which a Texas state court had upheld the exclusion of women for Texas A & M, *Allred* v. *Heaton*, 364 U.S. 517 (1960), more recently lower federal courts in Connecticut and Virginia have indicated that female applicants to state institutions of higher learning must be treated on the same basis as male applicants are treated. A like result has been reached by the Supreme Court of Pennsylvania in *Commonwealth* v. *Daniel*, 430 Pennsylvania 642 (643 Atlantic 2d 400 (1968).

On the other hand, recent decisions of the federal courts indicate that *favorable* treatment for women, as opposed to men, in areas such as social security regulations relating to benefits, ineligibility for the draft, and restrictions on the hours of work for women, do not violate any constitutional provision. *Gruenwald* v. *Gardner*, 2d Cir., 591 (1968) (social security benefits); *United States* v. *St. Clair*, S.D. N.Y., 291 F. Supp. (1968) (draft eligibility; *Mengelkoch* v. *Industrial Welfare Commission*, C.D. Calif., 284 F. Supp. 950 (1968) (special restrictions on hours at work).

In other areas where differences of treatment accorded to women than to men are traditional, it seems doubtful whether under existing interpretation of the Constitution that these differences would be invalid. In many states, women may marry without parental consent at an earlier age than men; men may commence working at an earlier age than women without violation of the child labor statute; the parental obligation of support may be cut off with respect to daughters at an earlier age than it is to sons; the maximum age for juvenile court jurisdiction, as opposed to adult court jurisdiction, is frequently higher in the case of girls than of boys. The basis for sustaining such legal differentiation under the equal protection clause, of course, is that there is thought to be a rational basis in each case for treating women or girls differently than men or boys are treated.

The proposed equal rights amendment

The amendment contains the following language:

"Equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex.",

and would contain further language authorizing Congress and the states to enforce the amendment by appropriate legislation.

Substantive effect of proposed amendment

The intended effect of the amendment, as gleaned from Miss Eastwood's memorandum, would be to prohibit virtually all distinctions between men and women presently embodied in the law. It is undoubtedly intended to have a broader sweep than the provisions of the Nineteenth Amendment and the Fourteenth Amendment as presently interpreted, and is apparently intended to wipe out virtually all distinctions which have previously been thought to accord women a preferred status under the law. The only two distinctions recognized in the Senate report, to which the women's rights advocates turn to explain the meaning of the generalized language of the amendment itself, would be laws which by their terms could only apply to one sex (maternity benefits, prohibition of rape), and regulations based on the right of privacy "in our present culture" (separate rest room facilities in public buildings).

Assuming that the intent of the amendment were clear, and that it accomplished pretty much what the Senate report said it would accomplish, there is in my mind a rather serious policy question as to whether most people, or indeed most women, would desire to have these results accomplished. Do a majority of women wish to be deprived of special protection in hazardous occupations? Do a majority of women wish to see their preferential treatment under the Social Security Act taken away? Do a majority of women wish to be eligible for the military draft? Put in broader terms, do a majority of women really wish to have the only distinction between themselves and men be the preservation of separate rest rooms in public buildings?

Undoubtedly many of the supporters of the equal rights for women amendment have rationally and carefully considered these questions, and have answered them in the affirmative. But I cannot help thinking that there is also present somewhere within this movement a virtually fanatical desire to obscure not only legal differentiation between men and women, but insofar as possible, physical distinctions between the sexes. I think there are overtones of dislike and distaste for the traditional differences between men and women in the family unit, and in some cases very probably a complete rejection of the woman's traditionally different role in this regard.

One practical effect of the amendment deserves attention, as an example of the sort of unsettling effect that the rigid doctrine of equality might have in many fields. [Traditionally, the domicile of a married woman has been that of her husband, and if the husband decides to move from Boston to Chicago in order to take a different job, the wife is legally obligated to accompany him (as well as being obligated by virtue of traditionaly marriage vows and most religious teaching).] The law makes an exception in the case where at the time the husband moves, the wife has grounds for separation or divorce. [The reason for the rule which the courts have traditionally given is that someone in the family must be vested with the power of decision as to where the family will locate, and that by custom and tradition the husband is invested with this authority.] While it is quite true that any family reduced to putting things in terms of the legal rights of its members may be in bad shape, a change in the law will undoubtedly have an effect on custom and practice. If there is to be change, a rule which would at least be workable would be one which placed the power of decision in the wife, rather than the husband. [But the equal rights amendment apparently would leave both parties with the power to decide this question—with a result which could indeed, to paraphrase a famous English author, turn "holy wedlock" into "holy deadlock".]

While each individual is (or she) certainly free to choose whichever view of this subject he prefers, there is to me a rather serious question as to whether the administration ought to support a constitutional change which appears to be aimed primarily not at granting to women any tangible improvement in their situation—indeed, its result might be quite the opposite—but instead to the granting to women of a rigid, doctrinaire equality in all respects with men.

Legal effect of proposed amendment

Just what the amendment would accomplish is not at all clear. This is not necessarily a criticism of it, for the Constitution has previously been amended in language of broad generality, the precise meaning of which was probably known to few of those who drafted it or concurred in its adoption. Obvious examples are the various general clauses of the Fourteenth Amendment. However, conceding that a certain amount of vagueness may be required in enunciating broad constitutional principles, the language of the equal rights amendment, taken in the context in which it is presented, is cause for concern.

The language itself admits of any number of interpretations. A court would not be irrational, taking only the operative language, in saying that it was intended to do no more than restate the requirement of the equal protection clause of the Fourteenth Amendment in the special context of women's rights. This construction would mean that no distinction between men and women is lawful unless it has a rational basis in fact. While such language would result in invalidating some existing legal distinctions between men and women (primarily those referred to in the earlier part of this memorandum) as having already been struck down by lower federal courts, such a constuction would have the serious drawback of accomplishing nothing that the existing Fourteenth Amendment did not already accomplish. In addition, the Senate report suggests that a much broader sweep is intended. These two arguments make it reasonably certain that the courts would reject such a construction as being too narrow.

At the other extreme, it is possible that a court could conclude as a result of the enactment of this amendment that no legal distinction between men and women was permissible, regardless of circumstances. Such a construction would, of course, run squarely into the rather obvious fact that women *are* physically different from men; that women bear children, and men do not; and also into the language of the proposed Senate report which itself concedes that at least separate rest rooms would remain constitutionally valid. For these reasons, I think the courts would reject so sweeping a construction of the proposed amendment as this.

The virtue of both of the foregoing constructions of the amendment—the one narrow, requiring only a rational basis in fact to sustain a classification, and the other broad, permitting no classification whatsoever, is that either of them would be relatively easy to apply. Rejection of both of them for the reasons above stated leaves

one in a kind of murky middle ground, perhaps more sensible in many respects but nonetheless bringing with it great difficulties in knowing with any certainty what the amendment means.

One possible guide through the murk is the Senate report, containing the interpretation apparently desired by the proponents of the amendment. Summarizing the Senate report, difference in treatment between men's and women's property rights (dower, separate property in community property states, and the like), non-mandatory jury service, military service for women distinctions between the sexes as to domicile, alimony, child custody, and laws limiting employment of women in unusually strenuous or extra hazardous occupations would be unconstitutional. Absolute equality of access to educational facilities—presumably including West Point and Annapolis—would be required. Statutes punishing rape and prostitution would remain valid, and separate rest rooms in public facilities of course would be constitutionally permissible.

While it is not unusual to resort to legislative history in interpreting ambiguities of meaning in a statute, such resort is far less common in the case of constitutional amendments. The question that first arises is whether or not the courts would in fact do as the proponents seem to intend—treat the Senate report as a catalog of the changes which the amendment was designed to produce. The second question which arises is why, if this is the case, should not the amendment be revised to be made a good deal more specific, along the lines of the Senate report, in order to say that its supporters stated it is intended to say.

Federalism

Since the proposal is a constitutional amendment, there is no doubt that it may, consistent with the Constitution, accomplish the purpose for which it is designed, assuming that such purpose is clear from the language chosen. But I think that considerations of federalism to which the President and the Republican Party have been traditionally devoted may call for a somewhat less superficial inquiry than that. Since the states would play a part in the adoption of the proposed amendment, it would not be a case of the national government imposing its will on the state government. But the adoption of the amendment would nonetheless sharply restrict the power of the states, as well as of the national government, to engage in legislative adjustment and accommodation in what must surely be described as an area which does not lend itself to doctrinaire prescription. I believe one could feel that changes are desirable in the legal relationships between men and women and nonetheless feel that a rigid constitutional amendment such as this is not the way to seek those changes. If one were to feel that way, he would obviously also feel that the administration should not propose the amendment.

Conclusion

Justice Holmes once made the comment that it would take more than the Nineteenth Amendment to convince him that there was no difference between men and women. [I have the impression that a large number of the country's women, as well as almost all of the country's men, would like to see some of the laws based on physical differences constitutionally permissible, even though they share the desire of many women to do away with laws which irrationally differentiate in their treatment of men and women.] All of this can be accomplished under the existing language of the Fourteenth Amendment. The effort to go further and strike down all legal differentiation, rational or irrational, as a matter of constitutional law is one which should give serious pause. [The overall implication of the equal rights amendment is nothing less than the sharp reduction in importance of the family unit, which the eventual elimination of that unit by no means improbable.] It may be that the country is heading in this direction anyway, and that there is very little that the administration can do to stop it. But this surely does not mean that the administration ought to support a change which will in fact hasten the dissolution of the family.

WILLIAM H. REHNQUIST,
Assistant Attorney General,
Office of Legal Counsel.

SOCIETY OF AMERICAN LAW TEACHERS, UNIVERSITY OF CALIFORNIA SCHOOL OF LAW,
Davis, CA, September 13, 1986.

MEMBERS OF THE U.S. SENATE,
Washington, DC.

I write on behalf of the Society of American Law Teachers (SALT) to oppose the nomination of William H. Rehnquist to become Chief Justice of the United States. The Society of American Law Teachers is a membership organization of individual law professors. We are unique among organizations in legal education because we represent the views of individual teachers, rather than those of our affiliated institutions. Our opposition reflects the unanimous opinion of the members of the Board of Governors at the end of an extensive internal debate.

We fully recognize the President's power to select a Chief Justice who shares his own political views. Our objection to this nomination does not stem from political opposition. Our views rest instead on two grounds. First, we have concluded that the serious questions of ethical impropriety arising from Justice Rehnquist's participation in *Laird* v. *Tatum* simply cannot be resolved in his favor. Secondly, we have grave reservations about his record of demonstrated hostility to the constitutional ideals of equality and individual rights.

We turn first to the question of integrity and ethics. We have found it difficult, to overlook the serious questions of credibility arising from the nominee's disturbing memory lapses concerning controverted matters of the gravest national importance. Our concern here rests not on a single occurrence, but rather on a cumulation. We find it difficult to avoid the conclusion that Justice Rehnquist has failed to meet the test of Canon 2 of the Code of Judicial Conduct which requires that he conduct "himself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary." We have read the opinion letter of September 8, 1986 from Professor Geoffrey Hazard to Senator Charles Mathias, and the comprehensive analysis of Professor Floyd Feeney and Mr. Barry Mahoney. Professor Hazard notes that Justice Rehnquist "had a duty of order to the Senate in answering questions concerning *Laird* v. *Tatum* . . . (he) complied with (that) duty only if his statement is accepted that he had 'no recollection of any participation in the formulation of policy on the use of military to conduct surveillance.'" Professor Hazard observed that "whether that statement should be accepted is a matter of judgment." It is the judgment of the Society of American Law Teachers that this lapse cannot be accepted.

We are guided by our roles as teachers of the future lawyers who will serve the citizens of this country. We are concerned that the message we will send to the next generation of lawyers is one of cynicism for law. Our concern in this regard extends as well to members of the general public. Today the honesty and integrity of every lawyer is subject to doubt in the minds of many members of the public. We fear irreversible damage to public confidence in the integrity of the judicial branch if Justice Rehnquist is confirmed. The office of Chief Justice is unique in our constitutional government. Only 15 citizens have served this country in that capacity. The Chief Justice must embody the spirit of our highest aspirations for honest, impartial judicial conduct. Both our students and the general public will find much to confirm the cynicism about which we are concerned. We have come slowly, and painfully to the conclusion that the honesty and integrity of this high office will be seriously degraded if this nominee, is confirmed.

A second, and equally critical factor in our decision to recommend that you withhold your consent from this nomination, is our concern that the candidate has a consistent, demonstrated hostility to the constitutional values of equality. We base our view in this regard upon our assessment of his non-judicial conduct. The confirmation hearings revealed many things about the Justice's conduct before he joined the Court. We are disturbed by the contradictions of eyewitnesses concerning Justice Rehnquist's involvement in partisan challenges to minority voters. We are disturbed by the reports of memoranda prepared by the Justice while he was a law clerk and in a second instance, while he was an Assistant Attorney General in the Justice Department. In the first instance, he is reported to have stated the view that *Brown* v. *Board of Education* was wrongly decided. In the second instance, he is reported to have expressed views concerning the role of women in the family that are so extreme as to under cut our confidence in his fidelity to the constitutional ideal of equality.

For all of the reasons stated above, we urge you to withhold your consent, or in the alternative to return this nomination to the Judiciary Committee.

Sincerely,

ERMA COLEMAN JORDAN,
President.

TO THE SENATE OF THE UNITED STATES,
SEPTEMBER 5, 1986

We the undersigned members of the law teaching profession ask that the Senate of the United States weigh with especially solemn deliberation the nomination of Justice William Rehnquist as Chief Justice. We ask this for two reasons.

First, it will take a conscious effort to resist the tendency to accept as determinative the 13-5 vote of the Judiciary Committee. The unanimous vote of the same Committee in favor of Judge Scalia proves that the opposition to Justice Rehnquist was not, as has been asserted, based solely on politically or ideologically motivated grounds. Five votes against a sitting Justice is really reason for pause. The conscience-searching questions that Senator Leahy wrestled with are matters that every Senator must, in fidelity, decide upon alone in a quiet place

and time, away from the political arena. We ask therefore that each of you resist the political push and decide this most important appointment of all as a matter of individual conscience.

The second reason that we ask for this extraordinary personal effort from every single Senator, even those who voted favorably in Committee, is related to the first. As teachers we are troubled by a growing cynicism among our students, particularly with respect to ethics in government. Paradoxically, in the post-Watergate period, proof of statutory crime is becoming the standard by which we measure the highest officials of the land. This perception must be changed. If history and tradition are guides, the Senate and the Judiciary are the institutions that can best signal that change. In many respects then this very significant confirmation hearing has become a testing ground for the ethical standards of this nation.

The questions that have been raised about Chief Justice designate William Rehnquist are varied. Nevertheless there is a common and disturbing thread that runs through all of the matters that have been raised at the hearings. That common thread pertains to the integrity and ethical standards of the nominee. And taking the character measure of judicial candidates is the primary duty of the Senate under the Advice and Consent clause.

The doubts that have been expressed about Justice Rehnquist's fitness arise not only from the particular charges of improper behavior but also from the responses in each instance the nominee has made to the charges. These charges and the responses are summarized below.

(1) First there is the response to the charges of voter harassment in the Arizona elections. In his testimony at the recent hearings and after the first confirmation hearing Mr. Rehnquist claimed that he had not personally challenged a voter on literacy grounds and that in any event literacy challenges were then legal under Arizona law. But the testimony against him and his own admissions establish that he at least knew what was going on and participated in some manner in the strategy of challenging voters at the polling places. Such strategy was bound to and indeed did involve intimidation and delay, as witnesses testified. Nevertheless, to this day Justice Rehnquist sees little wrong with what took place there because no technical violation of the law had been proven. There is a question of moral obtuseness in this response that we ask our Senators to reflect upon as they consider the other charges that have been raised.

(2) With respect to the restrictive convenants it is not a matter of what he did or failed to do, but likewise a question of his response to the existence of such obnoxious clauses. One response he made was that the clauses were unenforcible, again revealing a lack of appreciation for the ethical and symbolic dimensions of law. But he also said that he did not know of the existence of these clauses, an explanation that was only plausible if he had left the reading of his deeds to his lawyers. After the hearings however, he turned over a letter from one of his lawyers in which the restrictive covenant language was explicitly drawn to Justice Rehnquist's attention. This seemed to refute the Justice's testimony that he had no prior knowledge of the offensive language, or worse, it suggested that he felt compelled to correct his testimony because one of his lawyers was unwilling to accept the implied blame for failing to address the question of the restrictive convenants. We ask our Senators to consider what this initial willingness to implicitly shift blame to his lawyers for failing to do anything about such covenants in the deeds says about the integrity of the nominee.

(3) This same willingness to shift blame for an embarassment or a misdeed is also possibly revealed in the manner in which Justice Rehnquist responded to the questions about the memorandum opinion he drafted while clerking for Justice Robert Jackson. Notwithstanding the fact that there is no historic evidence that Justice Jackson ever supported the separate but equal doctrine, Mr. Rehnquist intimated that Jackson was considering a dissent in the *Brown* case. Holding the views expressed in that memorandum opinion in the fifties is not nearly as bad as disowning them and implied assigning them to someone of whose reputation the nominee, as a former clerk, should be solicitous. We ask once more that our Senators consult their collective experience about human behavior and apply this to the pattern of responses the candidate has made to the various charges brought against him.

(4) There have been charges by Justice Rehnquist's brother-in-law of a breach of ethics in connection with a trust fund. Such charges would be the basis of a bar committee investigation if lodged against an ordinary attorney. So far there has been no response from Justice Rehnquist and to the best of our knowledge no investigation by an official body.

(5) Lastly, in the light of the foregoing, we ask our Senators to review in close detail the explicit charge of the failure of judicial ethics arising from the refusal of Justice Rehnquist to disqualify himself in the case of *Laird* v. *Tatum*. Perhaps this is the most significant matter because in this instance the response to an ethical demand is largely set forth in the words of Justice Rehnquist for all to read and fairly judge.

In a memorandum submitted to the Judiciary Committee Professor Askin of Rutgers Law School has emphasized one basis for questioning the judicial ethics of the nominee. That basis was that testimony before the Ervin Committee by then Assistant Attorney General Rehnquist revealed that he had knowledge of *or had formed an opinion about facts* that were in dispute in *Laird v. Tatum* and were depositive of one of the questions before the Court. This point is clearly made by Professor Askin and we simply ask every Senator to study Professor Askin's submission with care. But there are two other points that require less careful study and these points raise serious questions of intellectual honesty.

When the subject of the Army surveillance of civilians came up at Mr. Rehnquist's first confirmation hearings he said that it would be improper for him to comment on issues involving the surveillance investigation because of his "lawyer-client relationship" with the President and Attorney General. *Laird v. Tatum* dealt specifically with the subject of the Army surveillance of civilians yet Justice Rehnquist stated his relationship to the subject under review very differently in his recusal opinion. There he said "that my total lack of connection with . . . the case of *Laird v. Tatum* does not suggest discretionary disqualification here because of my previous relationship with the Justice Department." Although Mr. Rehnquist declined to testify before the Senate Committee, once on the Court he had no difficulty deciding a case that dealt with the very subject for which he had claimed an attorney-client privilege.

The same issue of intellectual honesty appeared even more plainly perhaps in another portion of his recusal opinion. Justice Rehnquist dismissed the applicablity of the Canons for "Standards of Judicial Conduct" by describing them as "not materially different from the standards enunciated in the [federal disqualification] statute." The statute, in pertinent part, required disqualification in any case where a justice "has a substantial interest, [or] has been of counsel or has been a material witness." The Canons, which were not set forth in the opinion, in pertinent part state:" A judge should disqualify himself in a proceeding in which *his impartiality might reasonably be questioned* including but not limited to instances where: (a) he has . . . personal knowledge of disputed evidentiary facts concerning the proceeding; (b) he served as a lawyer in the matter in controversy . . . ." We ask the Senators whether under any interpretation of language these two standards honestly can be described as "not materially different."

The matters that appear on the face of the *Laird v. Tatum* disqualification case as well as the responses to all the other matters previously summarized are not political attacks nor are they trivial. Each of them relate directly to the central issues of integrity, honesty and character. Whatever the outcome of the confirmation vote, Mr. Justice Rehnquist will sit on the Supreme Court. The ultimate question that each Senator must answer is whether Justice William Rehnquist, in the words of Canon 2 of the Code of Judicial Conduct of the American Bar Association, has conducted *"himself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary."* If a Senator entertains the slightest doubt on that question with respect to the nominee for the highest judicial post in the land we humbly ask that consent be withheld and the President be advised to submit the name of a candidate who unequivocally meets the demanding standards the people have the right to expect.

Arthur Berney, Boston College.

David Chambers, University of Michigan.

David Cobin, Marie Falinger, Howard Vogel, Mary Jane Morrison, Hamline University.

Michael Kindred, Ohio State University.

Grayford B. Gray, University of Tennessee.

Patrick Charles McGinley, West Virginia University.

William L. Andreen, Timothy Hoff, Jerome Hoffman, Wythe Holt, Gene Marsh, Norman Stein, Manning Warren, University of Alabama.

Mark Brodin, Kenneth Ernstoff, Zygmund Plater, Alexis Anderson, Paul Tremblay, Peter Donovan Mark Spiegel, Robert Cottrol, Robert Berry, Ruth Arlene Howe, Robert Smith, Boston College.

Rhonda Rivera, Ohio State University.

Mark Tushnet, Georgetown University.

Kurt Strasser, University of Connecticut.

Otis Cochran, University of Tennessee.

Peter Shane, University of Iowa.

Jerry Phillips, University of Tennessee.

Carrie Menkel-Meadow, Leon Letwin, University of California at Los Angeles.

Robert Steinfeld, Isabel Marcus, Errol Meidinger, State University of New York at Buffalo.

Debra Evenson, DePaul University.

Paul Chevigny, Chester L. Mirsky, Stephen Gillers, Sylvia Law, Peggy Davis, New York University.
Peter Bayer, University of Baltimore.
Elizabeth M. Schneider, Brooklyn Law School.
Paul Brietzke, Valparaiso University.
Charles E. Wilson, Ohio State University.
Richard Ottinger, Pace University.
Arthur Pinto, Mary Jo Exster, Neil Cohen, Brooklyn Law School.
Herman Schwartz, American University.
Peter Aron, George Washington University.
Alan Freeman, State University of New York at Buffalo.
Burt Wechsler, American University.
Nadine Taub, Barbara Stark, Robert Westreich, Edward Lloyd, Carlos Garcia, Jack Feinstein, Rutgers University.
William J. Quirk, University of South Carolina.
Stephen Dycus, Vermont Law School.
Bernadette Hartfield, Paul Milch, Nicholas Richter, Jodi English, Norman Townsend, Charles Marvin, Roy Sobelson, Kathryn Urbonya, Georgia State University.
Laura Macklin, Georgetown Law School.
Egon Guttman, American University.
Bailey Kuklin, Brooklyn Law School.
Ndiva Kofele-Kale, Tennessee.
Neil Gotanda, Western State University.
Liz Ryan Cole, Pamela Ryan, Ben Aliza, Vermont Law School.
David Hill, University of Chicago.
Harvey M. Johnson, Prakash Sinha, James J. Fishman, Gayle Westerman, Ralph Stein, Frank Bress, Stuart Madden, Merrill Sobie, Donald Dorenberg, Norman B. Lichtenstein, Pace Law School.
Susan Kovac, University of Tennessee.
Richard L. Abel, University of California at Los Angeles.
Phoebe Haddon, Temple Law School.
Vivian Wilson, Hastings Law School.
Stuart Filler, Bridgeport Law School.
Michael B. Mushlin, Seymour A. Casper, Pace Law School.
Erwin Chemerinsky, University of Southern California.
Dennis Lynch, Terrence J. Anderson, Kenneth M. Casebeer, Jeremy R. Paul, Joel Rogers, Irwin P. Stotzky, Mary I. Coombs, Richard Hyland, Richard M. Fischl, Robert E. Rosen, University of Miami.
Mark Lowenstein, University of Colorado.
Judith Kasper, Vermont Law School.
Eric Blumenson, Suffolk University.
Eva Nilsen, Boston University.
Arpiar G. Saunders, Jr., Franklin-Pierce Law Center.
Marc D. Greenbaum, Judith Keys, Gerard J. Clark, Robert P. Wasson, Jr., Stephen C. Hicks, Suffolk Law School.
Lawrence Schlam, Joel H. Swift, Northern Illinois University.
Jules Lobel, University of Pittsburgh.
Stefan Krieger, University of Chicago.
Nancy Rogan, Vermont Law School.
Barlow Burke, Edwin Hazen, Elliott Milstein, Ann Shattuck, American University.
Naira Soifer, University of Maine.
Ronald Collins, University of Puget Sound, in Tacoma, WA.
John Strait, University of Puget Sound.
Barbara Salken, Barbara Atwell, Carol Olson, Pace Law School.
Charles Carr, University of Buffalo.
Irene Scharf, Pierre Schlag, University of Puget Sound.
Ken Kreiling, Vermont Law School.
Leonard Sharon, University of Maine.
Jennifer Schramm, University of Puget Sound.
Charles Shaffer, Eric Schneider, University of Baltimore.
Alan Zarky, University of Puget Sound.
Judith Resnik, University of Southern California.
Bernard V. Keenan, Victoria J. Dodd, Dwight Golann, Nancy E. Dowd, Joseph W. Glannon, Bernard Ortwein, Suffolk Law School.
Elizabeth Mensch, New York University at Buffalo.
John Brittain, University of Connecticut.
Roy Mersky, New York University.
Gary Palm, Dean, Chicago Law School.
Jonathan Case, Dean, Vermont Law School.
Robert Cole, University of California, Berkeley.
Michael Altman, Arizona State University.
Linda Lacecy, Taunya Banks, University of Tulsa.
Susan N. Herman, Marsha Garrison, Brooklyn Law School.
Andrew Silverman, University of Arizona.
John P. Morris, David Kader, Jane Aken, Arizona State University.

SEPTEMBER 11, 1986.

Hon. STROM THURMOND,
Chairman, Judiciary Committee, U.S. Senate, Washington, DC.

DEAR SENATOR THURMOND: This letter concerns the memorandum entitled "An Analysis of the Public Records Concerning Justice Rehnquist's participation in *Laird v. Tatum,*" which was submitted to the Senate Judiciary Committee on September 5, 1986.

The memorandum is now being circulated among law teachers. The professors whose names appear on the attached sheets have indicated their belief that the issues raised by Justice Rehnquist's participation in *Laird v. Tatum* are of serious concern and should be investigated further by the Senate.

Yours respectfully,

FLOYD FEENEY,
Professor of Law, University of California, Davis.

BARRY MAHONEY,
Attorney, Denver, CO.

SEPTEMBER 11, 1986.

[List of law professors who have read the memorandum entitled "an analysis of the public records concerning Justice Rehnquist's participation in *Laird v. Tatum,*" and who believe it raises issues of very serious concern which should be fully investigated by the Senate.]

Edward J. Barrett, Jr., Florian Bartosic, University of California, Davis.
John Batt, University of Kentucky.
William C. Beaney, University of Denver.
Antonia Bernhard, University of California, Davis.
Donald Brodie, University of Oregon.
Carol Bruch, University of California, Davis.
Claudia Burton, Willamette Law School.
John Burkoff, University of Pittsburgh.
Joel Dobris, Harrison Dunning, Daniel Dykstra, University of California, Davis.
Howard Erlanger, University of Wisconsin.
Mary Louise Fellows, University of Iowa.
Ted Finman, University of Wisconsin.
John J. Flynn, Jefferson Fordham, University of Utah.
Daniel J. Freed, Yale Law School.
Marc Galanter, University of Wisconsin.
Alvin Goldman, University of Kentucky.
Joseph Goldstein, Yale University.
Gary Goodpaster, University of Wisconsin.
Kathy Graham, Willamette Law School.
Jack Greenberg, Columbia University.
Mary Jane Hamilton, University of California, Davis.
Frederick Hart, University of New Mexico.
Hendrik Hartog, University of Wisconsin.
William Hellerstein, Brooklyn Law School.
Stephen Herzberg, University of Wisconsin.
James Hogan, University of California, Davis.
James E. Jones, University of Wisconsin.
Emma Jordan, Friedrich Junger, University of California, Davis.
Leonard Kaplan, Peter Karten, University of Wisconsin.
Lewis Katz, Case-Western Reserve Law School.
Neil Komesar, University of Wisconsin.
Pierre Loiseaux, University of California, Davis.
Tracey MaClin, University of Kentucky.
Scott Matheson, Jr., University of Utah.
Robert B. McKay, New York University.
Marygold Melli, University of Wisconsin.
Howard Messing, Nova Law School.
John Morris, University of Utah.
Ray Mirsky, University of Texas.
Rex Perschbacher, University of California, Davis.
Jane M. Picker, Cleveland State University.
John Poulos, University of California, Davis.
Walter Raushenbush, University of Wisconsin.
Frank Remington, University of Wisconsin.
Pamela Samuelson, University of Pittsburgh.
Harry I. Subin, New York University.
Jeffrey Stempel, Brooklyn Law School.
Lee Teitelbaum, University of Utah.
Joan Vogel, Rhonda Wasserman, University of Pittsburgh.
Joseph Thome, June Weiseberger, University of Wisconsin.
Martha West, University of California, Davis.
Alan F. Westin, Columbia University-Political Science.
William Whitford, University of Wisconsin.
Donald Winslow, University of Kentucky.
Richard Wydick, University of California, Davis.

□ 1540

Mr. MITCHELL. Mr. President, today we debate, tomorrow we vote on a nominee to the position of Chief Justice of the United States. The words in the title fairly describe the position: Chief Justice of the United States.

With the single exception of the Presidency, no public office in our Nation possesses greater honor and responsibility.

The Chief Justice of the United States is the symbol of the central fact of our system of government: That every American is bound by the rule of law, that every American should stand equal before the law.

That is an ideal frequently expressed but rarely attained in the history of human societies.

It is a measure of the boundless confidence and optimism of Americans that we have set for ourselves so high

a standard and that we struggle so resolutely to attain it, rising from each failure to an even greater effort.

In that effort our Supreme Court is central. Again and again in our history, the Court has reaffirmed and preserved the rule of law. In 1974, within the memory of every sitting Senator, the Court compelled the most powerful person on Earth, the President of the United States, to act against his will and against his interest. To the amazement of the world and the delight of Americans, we were again reassured that it is not empty rhetoric to say that, in America, everyone, even the President, must obey the law.

The immense power of American courts is not based upon force. Our courts have no independent means of enforcing their judgments. Their power rests ultimately upon public respect for their rulings.

Nowhere is that moral authority greater or more important than in the Supreme Court of the United States.

The Supreme Court is the final arbiter because it is the final forum.

It is also the forum to which the lower courts, the State courts and our citizens look for the judgments that inform and define our society.

When the Court construes the law, it not only chooses among competing rights and values. It helps shape those rights and the society which lives by those values.

On average, 4,000 cases are appealed to the Supreme Court each year. Of those 4,000 cases, the Court will hear and issue written decisions in roughly 150. The decisions it chooses not to make are often as significant as those it makes.

The choice of the Chief Justice is, therefore, a decision of immense significance.

The President has chosen to nominate Associate Justice William Rehnquist to this position.

Justice Rehnquist has served on the Supreme Court for 15 years. His opinions have been praised by some and criticized by others. His fluency has served to clarify some issues and it has served to obfuscate others, as fluency can do.

It is primarily on the basis of those opinions that the Senate should consider his elevation to Chief Justice of the United States.

Unfortunately, because of controversies involving the nominee's personal behavior, the hearings before the Judiciary Committee did not adequately focus on the most important part of his record.

Some of the controversies aired at the hearings are troubling.

But how many of us who have been long active in government could stand to have our every activity investigated, researched, and picked over, in some instances decades after the fact?

I doubt that a hearing process designed to elicit perfection can ever do more than demonstrate what all of us already know: Perfection does not exist in the human condition.

Therefore, while I am concerned about, ever troubled by some aspects of Justice Rehnquist's personal behavior, I do not find them individually, or in the aggregate, a sufficient basis to vote against him.

I refer specifically to the questions raised about Justice Rehnquist's candor, or lack of it, at the hearings on his original appointment to the Court and on his recent nomination to be Chief Justice; his purchase of homes through deeds which contained restrictive convenants; his refusal to withdraw from deciding a case in which he had previously been involved; and his participation in a voter challenge program in Phoenix in the early 1960's.

I will comment briefly on each of these aspects of his record.

It is clear from the record of both hearings that Justice Rehnquist was often vague and nonresponsive in his answers to questions. He also revealed a disturbing pattern of an occasionally clear ability to remember some events alongside a frequent inability to recall others. But there is no substantial evidence of false testimony.

That may be a sadly low standard, but the modern hearing process on Presidential nominations virtually invites such a course of action by witnesses. When a single contradiction or conflict in testimony may be pounced upon as evidence of disqualification, nominees are understandably reluctant to test their memories.

They do and will increasingly seek refuge in the safety of "I don't recall." That neither confirms nor denies the fact in question, leaving the witness flexibility if later evidence is convincing one way or the other.

Given the open hostility of some of his questioners and their previously stated determination to prevent his confirmation, it is not surprising that Justice Rehnquist was as wary and noncommittal as he could be.

I regret that. But it is a fact. Each of us must therefore decide whether his answers to questions were false, or otherwise of a nature to disqualify him from serving as Chief Justice. I conclude they were not.

The second aspect of Justice Rehnquist's behavior to be questioned was his purchase of two homes through deeds with racially restrictive covenants. Such covenants are unfortunately an all-to-common relic of past racism in our society. Justice Rehnquist first said he was unaware of the covenants, then said he did know of one of them when it was disclosed that his attorney had written him a letter calling the covenant too his attention. In any event, the circumstances are too common and the matter to insubstantial to disqualify Justice Rehnquist from serving as Chief Justice.

The refusal of Justice Rehnquist to recuse himself in the case of Laird versus Tatum, by contrast, seems to me to carry with it an implication of insensitivity to what is an important concern for a judge—the appearance of prejudgment, bias or unfairness.

In Laird versus Tatum, Justice Rehnquist in 1972 made the decision that, despite his earlier advocacy of the Nixon administration's position, which the plaintiffs in the case challenged, he was not precluded from sitting in judgment on the outcome of the case.

His response to a request for his abstention took the form of a memorandum in which he set forth his view of the law, and the duty he said it imposed on him to participate in deciding the case.

That memorandum attempted to draw parallels between the case at hand and the experience of other Justices who had been involved in legislative work upon whose constitutionality they later ruled. But it markedly did not contrast the distinction between generalized advocacy of a policy position and his substantial role in the military surveillance issue, where he had actively participated in developing the policy and had previously testified before Senator Ervin's Subcommittee on Constitutional Rights that the judgment in Laird versus Tatum should lie against the plaintiffs.

The law at the time required recusal in conflicts of interest or instances where a judge had been "of counsel" or so closely connected to a party in the proceedings that his participation in the decision might be affected.

Laird versus Tatum raises the question of when a judge should recuse himself in the absence of a personal financial interest but where there is a personal belief so strongly held that it may tend to override the constraints of the law.

Our laws are written and intended to safeguard against "well meaning men of zeal" as well as against potential tyrants. They are intended to withstand passions, and to hold fast to certain central values against the tides of political, ideological, and circumstantial demand.

When a judge is particularly enamored of his point of view and persuaded that it must prevail, self-restraint is particularly important. When a man's career has involved the spirited defense of a policy, as in this case, it is particularly important that the risk of prejudgment be weighed and the appearance of bias fully evaluated.

Justice Rehnquist clearly gave considerable thought to the case, as his lengthy memorandum of explanation demonstrates. I am not persuaded,

however, that he gave as much thought to the risk of bias as to the justification of his decision.

The law at the time left the determination to a justice's own opinion of his rightness to sit, although the American Bar Association's Code of Judicial Ethics also indicated that even an appearance of bias ought to argue for recusal. The ABA Code was virtually enacted as statutory law in 1973, in part because of Justice Rehnquist's refusal to abstain in Laird versus Tatum, and in the hearings, he indicated that if the same situation were covered by the current language of the law, he might not reach the same conclusion.

I find this episode troubling, because a judge, above others, ought to be impressed with the importance of abiding by the spirit as well as the literal letter of the law.

I conclude that Justice Rehnquist made a mistake, a serious error in judgment, and that he would act differently if he had to do it over again. But I do not believe that this one mistake is sufficient in itself, nor does it fit into a pattern of such errors, to disqualify him from serving as Chief Justice.

□ 1600

(Mr. STAFFORD assumed the chair.)

Mr. MITCHELL. Mr. President, the fourth and final area of alleged questionable behavior is Justice Rehnquist's participation in a voter challenge program in Phoenix in the 1960's. Phoenix at the time was a racially divided and politically conscious city in which both parties competed zealously.

The voter challenge project was clearly an effort by Republicans to reduce voting by blacks and Hispanics because of their presumed inclination to vote Democratic. It rested upon intimidation and represented a conscious effort to deny some citizens the right to vote.

Although not illegal at the time, it was deplorable. But there were parallel activities by Democrats in the city, whose busing of black and Hispanic voters to the polls late on election day was intended to keep the polls open, probably encouraged some illegal voting, and no doubt fed the fears of Republicans about illegal voting.

Much testimony was presented on the question of whether or not Mr. Rehnquist actually challenged voters. Even assuming he did, I would not find this a sufficient basis to disqualify him from serving as Chief Justice, if it were an isolated instance, or even one of a few instances, of hostility toward minorities and their rights, or if there were any evidence that his views on this issue had moderated over time.

But this was not an isolated instance. And there is no evidence that Justice Rehnquist's views have moderated at all.

Indeed, his participation in the voter challenge program, while not sufficient by itself to deny him confirmation, is one link in an unbroken chain of deeds and words demonstrating insensitively, even hostility, to the rights of women and minorities, especially black Americans.

Race has been the most deeply divisive issue in American history. For nearly the first century of our national existence, slavery and questions over its extension into an expanding America divided our people and wracked our society with violence. The Supreme Court's decision in the Dred Scott case was one of the most significant in our history. It led directly to the supreme American tragedy of the Civil War.

The result of that war and the passage in its aftermath of the 13th, 14th, and 15th amendments did not, as most Americans hoped and believed, resolve the race issue. Not until 1965, 100 years later, did Congress finally secure the right of black Americans to exercise the most fundamental right in a free society—the right to vote. To this very day, over a century later, race remains a thorn deep in the American side.

But whatever else the American people believe, it is clear that the overwhelming majority of them are convinced that ours should never again be a segregated society. There can be no turning back.

If nothing else, the welling up of emotion in this country against the continuance of apartheid in South Africa is a measure of that attitude.

Unfortunately, tragically, on that most fundamental question, it is clear that Justice Rehnquist does not share the sentiments of most of his fellow citizens.

From 1952 to 1986, by his words and his deeds, Justice Rehnquist has displayed total and unremitting hostility toward the rights of women and minorities, especially black Americans, and a deeply troubling willingness to condone, if not support, a segregated society.

Let me touch on some of the facts which have led me to this sad conclusion.

In 1896, in the case of Plessy versus Ferguson, the Supreme Court upheld racial segregation in public services—in this instance, railroad carriages—by establishing the principle of "separate but equal."

That principle prevailed until 1954 when, in its historic decision in Brown versus Board of Education, the Court reversed Plessy and prohibited segregation in the public schools. Other than the Civil War itself, the Brown decision is perhaps the most significant event in America's long and painful march toward social justice.

Robert Jackson was an Associate Justice of the Supreme Court at the time and William Rehnquist was his law clerk. During the Court's consideration of the Brown case, Rehnquist wrote a memorandum urging Justice Jackson to reaffirm Plessy and sustain the principle of segregated schools.

Rehnquist's later explanation, made after Jackson's death, that he was reflecting Justice Jackson's views, not his own, is wholly unconvincing. For one thing, Jackson voted to reverse Plessy. For another, there is nothing in Jackson's record to suggest that he supported segregated schools, while there is a great deal in Rehnquist's record to suggest that he did. And finally, others with intimate knowledge of Jackson have sharply disputed Rehnquist's explanation.

In a 1976 book entitled "Simple Justice," the author, Richard Kluger, makes it clear that Mr. Rehnquist's explanation is highly improbable. And Justice Jackson's long-time secretary said that Mr. Rehnquist's explanation was "incredible on its face" and "smeared the reputation of a great Justice."

The weight of evidence strongly supports the conclusion that in 1952, William Rehnquist believed in segregation in American public schools. His later actions confirm that conclusion.

In 1954, after the second Brown decision, Mr. Rehnquist wrote another memorandum urging that Justice Jackson upheld a Texas law which permitted only whites to vote in primary elections. He wrote:

> It is about time the Court faced the fact that white people in the south don't like the colored people; the constitution did not appoint the Court as a social watchdog to rear up every time private discrimination raises its admittedly ugly head.

In 1957, the citizens of Phoenix debated a plan to end racial segregation in their public schools. Mr. Rehnquist publicly opposed the plan.

In 1964, the Phoenix City Council adopted an ordinance prohibiting segregation in public accommodations. Mr. Rehnquist testified against the ordinance before its adoption, and later criticized it as a mistake.

During his service in the Justice Department in 1970, Mr. Rehnquist recommended a constitutional amendment as a response to court challenges to segregated school systems.

He wrote in one memo, "the arguments in favor of doing it by a constitutional amendment heavily predominate" over the enactment of a statute, because "what is validated by statute may likewise be invalidated by repeal. * * *"

In a second memo written 2 days later, he elaborated that the language of such an amendment ought to substitute the "classical due process 'rational connection' test for a test of

actual intent," reasoning that "it is simply not feasible to try, as an issue of fact in a law suit, the intent of a multi-member school board."

Mr. Rehnquist's subsequent career on the bench has not deviated one iota from that 1970 reasoning. Despite the finding by the Court that a discriminatory outcome is a sufficient basis to alter public policies, Justice Rehnquist has pursued the reasoning of Deputy Attorney General Rehnquist in a series of dissents demanding proof of intent to discriminate.

In a 1973 dissent in the Keyes case, which challenged de facto segregation in Denver, CO, schools, he wrote that the Constitution does not "require school boards to affirmatively undertake to achieve racial mixing in the schools." He has continued to insist that specific intent to discriminate be proved in virtually any vindication of 14th amendment rights, no matter how much the result may discriminate. Adoption of his view would hinder a constitutional right meaningless. Because a right which cannot be enforced is a right which does not exist.

□ 1610

Many Americans, including high public officials, held views similar to Mr. Rehnquist's in the 1950's and 1960's. As our society has changed, most of them have also changed. But not William Rehnquist. What is most striking and disturbing about him is the rigid consistency of his views on minorities, especially racial minorities, long after times have passed him and his views by.

One searches in vain for some evolution, some moderation of his views, some balancing action to his earlier embrace of segregation. Sadly, as Mr. Rehnquist himself confirmed, one finds nothing. In response to a question during the hearings, he said he could not recall a single civil rights statute that he had publicly supported.

Since joining the Supreme Court in 1971, Justice Rehnquist's opinions and other writings have confirmed his hard, unyielding hostile attitude toward minorities.

According to the Leadership Conference on Civil Rights, a detailed analysis of his record on the Court reveals that:

In the 83 cases in which Justice Rehnquist has participated in which there has been disagreement within the Court as to the interpretation or application of a 20th Century Civil Rights statute (more than a dozen laws covering employment, housing, voting, and federal assistance programs, and prohibiting discrimination on a variety of grounds), Justice Rehnquist has joined on 80 occasions the interpretation or application least favorable to minorities, women, the elderly or the disabled; in two more, his interpretation was less favorable than that adopted by the majority and in only one did he vote for the interpretation advanced by the civil rights plaintiffs.

These statutory cases are . . . particularly important to an understanding of Justice Rehnquist's approach to civil rights cases, for a number of reasons:

(a) because these cases involve the interpretation of statutes, a justice's constitutional philosophy should have little impact on his/her decision.

(b) Justice Rehnquist's asserted concern, in constitutional cases, to avoid if possible overriding the will of the majority as expressed in the challenged legislation should have no bearing in these cases where the Court is asked to enforce the majority will as expressed by Congress.

(c) before he became a justice, Mr. Rehnquist on several occasions expressed opposition to adopting civil rights measures.

One of these cases, Bob Jones University versus United States is especially troubling, both because it is so recent and because Justice Rehnquist's lone dissent seems so wrong, so strained, so demonstrative of his inability to give expression to any civil right.

In that dissent, Justice Rehnquist not only chose to ignore the very clear choices the Congress had made not to overturn the IRS efforts—and even he was forced to admit that congressional action on this score did not comport with this preferred point of view—he reached out to suggest that if Congress wanted to do so, it could and perhaps even ought to enact legislative language enshrining racist schools as a common law charity.

Speaking for the Court in Bob Jones, Chief Justice Warren Burger wrote:

There can no longer be any doubt that racial discrimination in education violates deeply and widely accepted views of elementary justice. Prior to 1954, public education in many places still was conducted under the pall of *Plessy* v. *Ferguson;* racial segregation in primary and secondary education prevailed in many parts of the country . . . The Court's decision in *Brown* v. *Board of Education* signaled an end to that era. Over the past quarter of a century, every pronouncement of this Court and myriad Acts of Congress and Executive Orders attest a firm national policy to prohibit racial segregation and discrimination in public education.

An unbroken line of cases following *Brown* v. *Board of Education* establishes beyond doubt this Court's view that racial discrimination in education violates a most fundamental national public policy, as well as rights of individuals.

That is the end of the quotation by Chief Justice Burger who, when he wrote those words, wrote for every other Justice of the Supreme Court, except one, except for Justice Rehnquist.

And Chief Justice Burger wrote for more than just the Supreme Court. The overwhelming majority of the American people, the overwhelming majority of the Congress, including members of both parties, all agree that racial discrimination in education violates a most fundamental national policy.

Justice Rehnquist alone does not join this view, nor share the view of Justice Burger and the other members of the Court. Rather than moderating over time, his judgment has, if anything, hardened.

To those who say that Justice Rehnquist's support for segregation in the 1950's and the 1960's is a thing of the past, the Bob Jones case stands as an effective response. That decision came in the 1980's, a dozen years after he joined the Supreme Court.

The Judiciary Committee hearings focused heavily on Mr. Rehnquist's role in the voter challenge program in Phoenix in the 1960's, to which I have already referred. To me, the significance of these events lies primarily in their confirmation of his attitude toward black and other minority Americans.

Standing alone, his participation in this effort is insufficient to deny him the position of Chief Justice, even if one accepts the version of events most adverse to him. But as another link in an unbroken chain of hostility toward minorities, his participation is compelling evidence, especially when what was at stake was the fundamental right in a free society—the right to vote.

On September 8, 1986, the American Civil Liberties Union, which takes no position respecting the confirmation process, released a detailed report on the civil liberties record of Justice William Rehnquist.

I would like now to quote from the summary contained in that report:

Two propositions are central to Justice Rehnquist's civil liberties record and the degree to which his views differ from those of every Justice with whom he has served on the Court.

First, he believes that it is far worse to hold a statute unconstitutional than to deny an individual his/her civil rights. Second, he believes that the Bill of Rights as applied to the states prevents them from encroaching on the rights of individuals only when the state action is "irrational."

In Justice Rehnquist's opinion, the primary responsibility of the Supreme Court is to protect the freedom of action of the states against the action of the federal government and the claims of rights by individual citizens. In interpreting federal legislation or actions of the federal courts which affect the powers of the states, he interprets the constitution so as to preserve state autonomy. In dealing with individual liberty, on the other hand, he does not believe that the courts should go beyond the literal words of the Constitution or the original intentions of the Framers.

Thus, he rejects the view that the Supreme Court has a special obligation to defend individual liberty and rejects the position, often expressed in the opinions of the Court, that the Bill of the Rights as a whole, and the First Amendment in particular, have a favored place in the Constitutional scheme.

This approach to the Constitution—viewing it as the creation of the majority whose primary objective was to preserve the power of the States—also determines Justice Rehnquist's view of the Civil War Amendments. Every other sitting Justice has come to accept the position that the Fourteenth Amendment "incorporates" the major provisions of the Bill of Rights and therefore requires the states to observe these limits on governmental action to the same degree that the federal government is limited. Justice Rehnquist, in marked contrast, views the civil War Amendments as having only very limited Applicability. Writing on a clean slate, Justice Rehnquist would reject the doctrine of incorporation entirely and would permit the states to restrict the liberty of their citizens within limits prescribed by their state constitutions and those few rights in the federal constitution that apply explicitly to the states. Justice Rehnquist mentions this position only in passing in his opinions, and focuses instead on the very narrow reading that he would give to the applicability of the Bill of Rights to the states.

The civil liberties record of Justice Rehnquist is most succinctly summarized in his opinion of how a justice should weigh the relative harms of denying a person rights under the Constitution and striking down a legislative act in Furman versus Georgia:

An error in mistakenly sustaining the constitutionality of a particular enactment, while wrongfully depriving the individual of a right secured to him by the Constitution, nonetheless does so by simply letting stand a duly enacted law of a democratically chose legislative body. The error resulting from a mistaken upholding of an individual's constitutional claim against the validity of a legislative enactment is a good deal more serious. For the result in such a case is not to leave standing a law duly enacted by a representative assembly, but to impose upon the nation the judicial fiat of a majority of a court of judges whose connection with the popular will is remote at best.

That is the end of the quotation of Justice Rehnquist. I now return to the Civil Liberties Union summary.

To the extent that the Bill of Rights and the Civil War Amendments were designed precisely to limit the popular will when it impinges on individual rights, Justice Rehnquist's view is inconsistent with the functional purpose of the Bill of Rights and the generally accepted role of the federal courts in enforcing it.

Some in this debate have urged that Senators not weight ideology or philosophy when considering judicial nominations. But nowhere in the Constitution or in our laws or in our tradition are either the President or the Senate prohibited from considering philosophy or ideology. The President plainly and openly does so. Any Senator may, if he or she chooses, do so as well.

The question itself involves a kind of situational ethics which brings out the worst in both sides. When a liberal like Abe Fortas was nominated for Chief Justice, conservatives argued that ideology must be considered while liberals said it should not be. Now that the conservative Justice Rehnquist is nominated, their positions on the question have been reversed, thus undermining the credibility of both sides.

For me the decisive standards for us to consider was set by Justice Rehnquist himself, when in response to a question by Senator SIMON at the recent hearings he said:

• • • Have I fairly construed the constitution in my 15 years as Associate Justice?

To answer that question one must necessarily examine the Justice's view of the Constitution, the Court, and their roles in our society.

We must inquire into his philosophy, study his judicial decisions, and search the underlying premises he brings to the Court.

Nobody denies, least of all Justice Rehnquist himself, that he is a man of strongly held opinions about the proper role of Government and about the undesirability of nonelected judges arrogating to themselves powers which are properly within the province of the popularly elected branches of Government.

Such opinions represent no bar to confirmation. No sensible person would claim that a nominee to any court ought to be so free of opinions as to present a blank slate.

All the judges on the Court have ideas, opinions, philosophies and predispositions, just like everyone else. Nor is the document they are sworn to uphold a mathematically precise blueprint which need only be read for the meaning to become clear.

Constitutional phrases such as "due process of law" and "equal treatment under law" have no innate content. Content derives from existing circumstances, judicial precedent, traditional practice, and the philosophy of the individuals construing the words. Constitutional precision is reserved for relatively trivial matters—like the minimum age of the President.

Judges can no more avoid importing their beliefs and priorities into the Constitution's general commands than they can avoid thinking. So the argument that we cannot examine or take into account a nominee's philosphy seems to be a way of saying we cannot take anything at all into account.

As a former Federal judge, I am acutely conscious of the importance of preserving both the reality and the appearance of independence on the part of the judiciary. Judges ought not be required to advise in advance what judgments they may reach; nor should they be held to account for opinions they have delivered.

Under our system, the independence is secured by lifetime tenure and constitutional proscriptions against reducing judges' salaries. Judges are immunized against retribution for their actions on the bench.

But neither Justice Rehnquist's independence nor his future integrity are compromised by a debate over his work on the Court. Indeed, it is hard to see what could be more proper than to judge his fitness for the prospective post by the qualities he has exhibited in his current post.

On the Court, Justice Rehnquist has consistently pursued the primary goal he sees for the Constitution: The goal of preserving the political institutions which serve to define and establish majority rule.

In describing his view of the relative role of the judiciary and the legislatures, Justice Rehnquist has rejected the idea of a living Constitution—which is to say a constitutional interpretation that changes as times and circumstances change.

In contesting that notion as an "end run around popular government," Justice Rehnquist concludes that the Framers of the Constitution did not intend the Constitution itself to suggest answers to the problems their descendents would face. He contends that the limited view of the Founders was that the legislature and executive were intended to fulfill that role, not the language of the Constitution.

Last month, Justice Powell, a Republican, a conservative appointed by President Nixon, told the American Bar Association that the Supreme Court "has well discharged its responsibilities to safeguard the liberties of the people."

The view of the Court's role and responsibility is shared by all but one of the other Justices of the Court, and by most Americans. It is one of the bases of the extraordinary regard in which the Supreme Court is held by our people.

The only Justice who does not share that view is William Rehnquist.

He views the Court's role as being one of preserving the framework within which the articles of the Constitution can be used to sustain majority rule, but in which the amendments to the Constitution—most notably the first 10 which make up what we know as the Bill of Rights—do not figure prominently.

In other words, he seems to believe that it is the Court's role to see to it that the mechanical functions of the governmental branches perform as they are supposed to—hence the enormous deference to legislatures, especially State legislatures—but that the purpose for which this machinery has been erected is beyond the scope of the Court's authority.

To quote him directly:

The role of the judiciary is to police the structure of government set out in the Constitution to ensure that no branch or level of government exceeds its authority. The judiciary should not interfere with the majoritarian process of decision-making on substantive issues. • • • It is only success within the majoritarian process that can give substantive values legitimacy. ["The

Notion of a Living Constitution", 54 Texas Law Review (May, 1976)]

□ 1630

One problem with this formulation is that it presupposes that the structures through which the majority speaks give each individual an equal voice. But we know for a fact that this was not historically true for blacks and remains only formalistically true today for the poorly educated and economically disadvantaged. And, of course, Justice Rehnquist's view ignores the fact that the Bill of Rights specifically withdraws certain areas from the majoritarian process, and that it has been the historic role of the Federal courts, particularly the Supreme Court, to protect those minority rights, however strong or passionate the attitudes of the majority of the time.

There are some rights that every American holds that are not subject to majority will. There are some rights that every American holds that will be held inalienable, cannot be challenged, cannot be overridden, no matter how many votes are cast the opposite way. It is a truth that Justice Rehnquist's entire record overlooks and ignores.

Justice Rehnquist's formulation seems to set up a social ideal based on competition for influence and success in propounding a point of view. If no moral values can be ascertained except those that a legislature enacts, then the ultimate value must be numerical.

Fifty-one percent of anything is good and less than 50 percent of anything else is bad.

I do not regard this as an acceptable point of view for the Chief Justice of the United States, and in any event, it is not what the Constitution says.

Justice Rehnquist regards the Bill of Rights as a series of limitations placed on the branches of Government, but which—

Were not themselves designed to solve the problems of the future, but were instead designed to make certain that the constituent branches, when they attempted to solve those [future] problems, should not transgress those fundamental limitations. [Ibid. P. 26].

No more effective way to drain meaning from the Constitution has been devised. For if the Bill of Rights, the first 10 amendments, the heart of the liberty of Americans, must be read only as an eighteenth-century political compromise designed to allay fears that the new central Government would intervene in the States' existing rights, then virtually our entire judicial history must be disregarded as a mammoth misunderstanding.

Justice Rehnquist's record mirrors that belief. In Buckley versus Valeo (1976), Justice Rehnquist wrote:

The limits imposed by the First and Fourteenth amendments on governmental action may vary in their stringency depending on the capacity in which the government is acting. * * * I am of the opinion that not all of the strictures which the First Amendment imposes upon Congress are carried over against the states by the Fourteenth Amendment, but rather that it is only the "general principle" of free speech * * * that the latter incorporates.

In a 1980 speech, noting that according to an opinion poll, 70 percent of the public supported repealing the Bill of Rights, he contended that while that might be "unwise," he say nothing to "make this an illegal, an immoral, or an improper act."

I disagree. Repealing the Bill of Rights would not only be unwise. It would be immoral and improper for our society.

But even when the question of Justice Rehnquist's view of the Bill of Rights is set aside, his claimed deference to majority opinion as expressed in statutory law does not lead him to defer to that majority, acting through their elected representatives in Congress, when the subject is civil rights.

As I earlier stated, since 1971 the Supreme Court has disagreed, to some extent, on the application of Federal civil rights statutes in 83 specific cases. According to Justice Rehnquist's own frequently expressed standards, such statutes—the civil rights statutes—embody the majority will of the people through their legislature, and should only be set aside under constitutional compulsion.

Yet in spite of his repeated verbal deference to the judgments of the majority as expressed in statutory law, in 80 of those 83 civil rights cases, Justice Rehnquist joined in or wrote the dissenting opinion which most severely curtailed the exercise of the legislative majority's powers.

In other words, his view is that we must defer to the will of the majority as expressed by legislative action—except when civil rights are involved.

This unwillingness, indeed this virtual inability to ever support the existence of civil rights, even when it causes him to contradict his most cherished principle of the proper role of the Court, is the most distressing and least defensible aspect of Justice Rehnquist's record.

It is beyond dispute that Justice Rehnquist has a brilliant mind. It is equally beyond dispute that, as to civil rights, it is a closed mind.

A century after the enactment of the Twenty-fourth amendment, which reads: "* * * nor shall any state deprive any person of life, liberty or property, without due process of law; nor deny to any person * * * the equal protection of the laws.", Justice Rehnquist limits the reach of the amendment to instances of racial discrimination alone, and even then, only when such discrimination is the official policy of a State.

In all other instances, whether they involved women, the disabled, the elderly or any other group disadvantaged in our society, Justice Rehnquist believes, as he wrote in Weber versus Aetna Casualty & Surety Co. (1972), that—

The Equal Protection Clause of the Fourteenth Amendment requires neither that the state enactment be "logical" nor that they be "just" in the common meanings of those terms. It requires only that there be some conceivable set of facts that may justify the classification involved.

To support that conclusion, Justice Rehnquist has reached back to an 1872 opinion which said:

We doubt very much whether any action of a State not directed by way of discrimination against the negroes as a class, or on account of their race, will ever be held to come within the purview of this provision.

But while he acknowledged that this prediction had been disproved by over 100 years of judgments, he rejected that century of jurisprudence in favor of his own preference for the 1872 prediction.

Such a preference is not illegitimate in itself. But unless we turn the history of the country on its head, we cannot conclude that all prior decisions are equally relevant. Neither Dred Scott nor Plessy versus Ferguson today commands either adherence or defense.

The 1872 cases to which Justice Rehnquist referred were the first in which the Court considered the claim that the 14th amendment imposes any but the most minimal constraints on the States.

It is not surprising that that Court responded to those claims in a narrow way. The full extent of the First Amendment was not determined in its first test before the Court.

But that does not discredit the concept of a living Constitution, the concept of an evolving standard of judicial interpretation. Indeed, American history is to the contrary. The framers did not envisage the inclusion of women or slaves in the ranks of those with suffrage. The barons who forced Magna Carta upon King John seven centuries ago never thought it would or should protect ordinary peasants. Yet who today in 20th century America would suggest that peasants are without rights, who would defend slavery, who would exclude women from the vote?

The attempt to place the dead hand of the past on our efforts to cope with comtemporary problems finds little serious support now, or even in that same past.

□ 1640

Justice Marshall's claim that a constitution must be "designed to approach immortality as nearly as human institutions can approach it" seems to me a closer and more accurate reflection of the views of the Founders, with whom he was contemperaneous, than the narrow view of

Justice Rehnquist, that justice and liberty can only reach "constitutional status by virtue of the fact that they have been initially recognized and protected by state law . . ." [Paul versus Davis (1976)].

A persistent effort to import other values—numerical majorities, popular opinion, traditional preference—over those embodied in the Constitution remains a hallmark of Justice Rehnquist's jurisprudence.

Whether his conclusions spring from his historical understanding or his belief that no value exists except as it gains some kind of "generalized moral righteous or goodness . . . because [it has] been enacted into positive law" [ibid. p. 26], I believe his view does not represent either contemporary understanding or the original intent of the Founders of our Constitution.

The Constitution displays no overt preference for one form of economic arrangement over another. It does not explicitly say that the due process of law must require proof of guilt beyond a reasonable doubt. The Constitution contains no ban on child labor nor a preferred role for the single-earner family.

But to infer from its broad commandments that it is a value-free document void of any prescriptive intent is a leap of faith, not logic.

The Constitution is not limited to establishing procedures by which we may reach consensual agreements about economic arrangements, social policy, and labor law. It embodies profoundly value-laden preferences for certain kinds of human liberties and is silent about others.

The Constitution prefers democracy to autocracy and theocracy. It withdraws from the majority the power to alter the conditions under which the minority may preserve itself. It balances every grant of authority with a countervailing power lodged elsewhere. It exists against an explicitly acknowledged context, set forth in the Ninth Amendment, of inherent human rights held by every American.

And by its demanding terms for amendment, the Constitution at least implicitly lays a claim for its system of values on the future.

That set of values has been accepted by two centuries of American generations and continues as a living reality today.

When Justice Rehnquist asks:

> How can government by the elected representatives of the people co-exist with the power of the federal judiciary, whose members are constitutionally insulated from the popular will, to declare invalid laws duly enacted by the popular branches of government?" [*Furman* v. *Georgia* (1972)]

He is framing one of the enduring questions posed by our system.

But when he answers that "human error on the part of the judiciary * * * wrongfully depriving the individual of rights secured him by the Constitution" [ibid.] is worse than an error which mistakenly sustains the individual's claim, he parts company with me and with the historic and the contemporary understanding of the function and purpose of the constitutional system.

I conclude that Justice Rehnquist is so totally hostile to the rights of women and minorities, that his mind is so closed on the issues of race, that he does not sufficiently share the common recognition of the Supreme Court and the Constitution and their roles in our system to serve as Chief Justice of the United States. I will, accordingly, vote against his confirmation.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. MITCHELL. I yield the floor.

Mr. KENNEDY. I was wondering if the Senator would yield for a question?

Mr. MITCHELL. Yes, I will, Mr. President.

Mr. KENNEDY. Mr. President, during the excellent statement of the Senator from Maine, he referred to the issues raised in the Laird versus Tatum case, in which Justice Rehnquist, who was, in 1969 serving in the Office of Legal Counsel, drafted a memorandum dealing with the army surveillance of civilians. That memorandum has been examined by the members of the Committee on the Judiciary as a result of an agreement that was worked out with Senator LAXALT and the Justice Department. We later learned that it appeared in the public record in 1974. In 1974, Mr. Rehnquist appeared before Senator Ervin's subcommittee Senator Ervin asked then-Assistant Attorney General Rehnquist about his views about the Government surveillance policy for military surveillance of civilians. In the first round of questions, Mr. Rehnquist commented on his own basic view about first amendment rights and was quite circumspect about whether the activity was constitutional or not constitutional. He certainly gave the impression that he believed that the actions of the military and the FBI during the antiwar demonstrations did not violate the first amendment rights or chill first amendment rights by demonstrators.

Then, in the second round of questions, Senator Ervin asked him specifically about the Laird versus Tatum case and Mr. Rehnquist indicated that he did not believe that Mr. Tatum had a justiciable right to raise this matter in the courts. Tatum motion to dismiss prevailed in the lower Federal courts against the Government's and then the matter came before the Supreme Court.

Justice Rehnquist and the Laird versus Tatum case got to the Supreme Court together. Justice Rehnquist ruled in favor of Mr. Laird and cast a deciding vote which dismissed the case.

I know the Senator is familiar with the fact that it was after the decision was issued that the question of recusal was raised by the respondent.

In response to the motion for recusal Justice Rehnquist issued a memorandum in which he said he thought he was under a duty to sit.

I know the Senator from Maine is familiar with the letter from Professor Hazard commenting on the judicial ethics involved in that situation. He found it incomprehensible that Justice Rehnquist could possibly have found a rationale for his sitting on that case. I have in my hand a letter from the Society of American Law Teachers, a distinguished organization, that reached the same conclusion.

I ask unanimous consent that this letter to the Members of the U.S. Senate be printed in the appropriate place not to interfere with this discussion.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SOCIETY OF AMERICAN LAW TEACHERS,
Davis, CA, September 13, 1986.

Members of the U.S. Senate,
Washington, DC.

I write on behalf of the Society of American Law Teachers (SALT) to oppose the nomination of William H. Rehnquist to become Chief Justice of the United States. The Society of American Law Teachers is a membership organization of individual law professors. We are unique among organizations in legal education because we represent the views of individual teachers, rather than those of our affiliated institutions. Our opposition reflects the unanimous opinion of the members of the Board of Governors at the end of an extensive internal debate.

We fully recognize the President's power to select a Chief Justice who shares his own political views. Our objection to this nomination does not stem from political opposition. Our views rest instead on two grounds. First, we have concluded that the serious questions of ethical impropriety arising from Justice Rehnquist's participation in *Laird* v. *Tatum* simply cannot be resolved in his favor. Secondly, we have grave reservations about his record of demonstrated hostility to the constitutional ideals of equality and individual rights.

We turn first to the question of integrity and ethics. We have found it difficult, to overlook the serious questions of credibility arising from the nominee's disturbing memory lapses concerning controverted matters of the gravest national importance. Our concern here rests not on a single occurrence, but rather on a cumulation. We find it difficult to avoid the conclusion that Justice Rehnquist has failed to meet the test of Canon 2 of the Code of Judicial Conduct which requires that he conduct "himself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary." We have read the opinion letter of September 8, 1986 from Professor Geoffrey Hazard to Senator Charles Mathias, and the comprehensive analysis of Professor Floyd Feeney and Mr. Barry Mahoney. Professor Hazard notes that Justice Rehnquist "had a duty of

candor to the Senate in answering questions concerning *Laird* v. *Tatum* * * * (he) complied with (that) duty only if his statement is accepted that he had 'no recollection of any participation in the formulation of policy on the use of military to conduct surveillance.'" Professor Hazard observed that "whether that statement should be accepted is a matter of judgment." It is the judgment of the Society of American Law Teachers that this lapse *cannot be accepted.*

We are guided by our roles as teachers of the future lawyers who will serve the citizens of this country. We are concerned that the message we will send to the next generation of lawyers is one of cynicism for law. Our concern in this regard extends as well to members of the general public. Today the honesty and integrity of every lawyer is subject to doubt in the minds of many members of the public. We fear irreversible damage to public confidence in the integrity of the judicial branch if Justice Rehnquist is confirmed. The office of Chief Justice is unique in our constitutional government. Only 15 citizens have served this country in that capacity. The Chief Justice must embody the spirit of our highest aspirations for honest, impartial judicial conduct. Both our students and the general public will find much to confirm the cynicism about which we are concerned. We have come slowly, and painfully to the conclusion that the honesty and integrity of this high office will be seriously degraded if this nominee is confirmed.

A second, and equally critical factor in our decision to recommend that you withhold your consent from this nomination, is our concern that the candidate has a consistent, demonstrated hostility to the constitutional values of equality. We base our view in this regard upon our assessment of his non-judicial conduct. The confirmation hearings revealed many things about the Justice's conduct before he joined the Court. We are disturbed by the contradictions of eyewitnesses concerning Justice Rehnquist's involvement in partisan challenges to minority voters. We are disturbed by the reports of memoranda prepared by the Justice while he was a law clerk and in a second instance, while he was an Assistant Attorney General in the Justice Department. In the first instance, he is reported to have stated the view that *Brown* v. *Board of Education* was wrongly decided. In the second instance, he is reported to have expressed views concerning the role of women in the family that are so extreme as to undercut our confidence in his fidelity to the constitutional ideal of equality.

For all of the reasons stated above, we urge you to withhold your consent, or in the alternative to return this nomination to the Judiciary Committee.

Sincerely,

EMMA COLEMAN JORDAN,
President.

Mr. KENNEDY. The Senator from Maine is a former judge—and I think perhaps no one else in this body would bring to this particular issue the kind of background and experience that the Senator from Maine can bring. I am wondering whether he feels that the decision by Mr. Rehnquist to sit in this case, after he expressed an opinion that the case was without merit, was a proper decision. I wonder if the Senator from Maine were a plaintiff in that particular case and he was sitting in court and saw that one of the judges before him had made a statement at a congressional hearing saying he did not have a case, whether he would feel he was going to get fair and equal justice in that particular court.

Mr. MITCHELL. Mr. President, I think it goes without saying that the plaintiff in that case must have felt that he would not receive fair and equal justice. If I may, with the Senator's permission, read a couple of sentences which I read during my remarks and this will amplify them. After recounting at some length the Laird versus Tatum circumstances, I said:

I find this episode troubling, because a judge, above others, ought to be impressed with the importance of abiding by the spirit as well as the literal letter of the law.

I conclude that Justice Rehnquist made a mistake, a serious error in judgment, and that he would act differently if he had to do it over again. But I do not believe that this one mistake is sufficient in itself, nor does it fit into a pattern of such errors, to disqualify him from serving as Chief Justice.

□ 1650

All members of the Judiciary have a special responsibility to not only act impartially and dispassionately but to give the appearance of acting impartially and dispassionately. It is a primary obligation; when any human being is given the enormous power that Federal judges have in our society, to sustain public support for our judicial system we simply must insist that judges act fairly, appear to act fairly, act impartially and appear to act impartially, and that it is a serious mistake for any judge to sit on a case in which he or she has previously been involved and on which the judge has a strong view. I believe, as I said in my remarks, this was a serious error in judgment by Mr. Rehnquist.

Mr. KENNEDY. I thank the Senator. Just to continue on the Laird case, Professor Hazard mentions this in his excellent letter when he is talking about the matters which were being considered in the case. He says in his letter on page 3 in the bottom paragraph:

Justice Rehnquist's addressing the publicly known grounds of recusal, but omitting references to the confidential ones, would have been proper only if he had forgotten that his office in the Justice Department had handled the surveillance policy negotiations and that he himself was involved to a substantial extent. If when writing his opinion in *Laird* v. *Tatum*, Justice Rehnquist had not forgotten his involvement in the surveillance policy negotiations, then his opinion constituted a misrepresentation to the parties and to his colleagues on the Court. In such a matter, a lawyer or judge is expected to give the whole truth.

And then he continues:

Finally, Justice Rehnquist had a duty of candor to the Senate in answering the questions concerning *Laird* v. *Tatum.*

Mr. MITCHELL. I think Professor Hazard was making two points with which I agree. The first is that in this particular case Justice Rehnquist made two errors in judgment. The first was to fail to abstain from participating in deciding the case in which he had been involved prior to entering the court and on which he had already expressed an opinion as to what the outcome should be.

The second was in writing his memorandum explaining his decision, justifying his decision, he did not set forth all of the facts, particularly those which were peculiarly known to him and might not have been known to either of the parties. That is a special burden on a judge under these circumstances. By virtue of his or her unique position, a judge may be in possession of facts affecting his or her impartiality, either the fact of impartiality or the appearance of impartiality or both, of which the parties may not be aware. And a judge then has a special responsibility under such circumstances to disclose to the parties those facts as not only explaining his decision but providing the parties with full information as to the basis for a decision. I believe Professor Hazard is correct and I share that conclusion, that there was not only the initial error in the failure to abstain from the case but the second error of a memorandum of explanation which did not fully disclose facts known to the judge at the time and possibly not known by the parties.

Mr. KENNEDY. I thank the Senator for his elaboration on this point because I think his explanation and illumination on this issue is particularly helpful to our Senate colleagues. I am also reminded that Senator Ervin, who took great interest in this issue, at the time when Justice Rehnquist refused to recuse himself, including filing an amicus curiae brief in the Supreme Court, expressed his strongest disappointment in Justice Rehnquist's action. Senator Ervin noted that, if he had known in advance that Justice Rehnquist would participate in the Laird versus Tatum case, he would not have supported his nomination for Supreme Court Justice. This statement by Senator Ervin gives an indication of the importance and significance of this kind of activity by Justice Rehnquist.

I welcome the Senator's comments. I think in his memorandum of explanation for not recusing himself, Justice Rehnquist, in his references to his exchanges with Senator Ervin, did not include the specific language on the Laird versus Tatum case. As to the Canons of Ethics, which had just been issued, there was a complete misinterpretation of those, to permit him to reach his conclusion on the duty to sit. I welcome the comments of the Senator from Maine and also the letters from Professor Hazard and the Socie-

ty of American Law Teachers on this issue. They should be carefully reviewed by all Senators before making their judgment on this nomination. I thank the Senator for an excellent statement.

Mr. President, next year, America will commemorate the 200th anniversary of the Constitution. In that document and the bill of rights, the Founders established a society based on individual liberty, equality, and the rule of law. In the two centuries since then, the American people have worked hard to advance the noble values embodied in the Constitution and make them a reality for all Americans. We have weathered many storms, including a civil war that nearly destroyed the Nation, but in these 200 years, we can be proud of the strides we have made toward realizing the goals of the Constitution.

Nearly from the beginning, the Supreme Court established itself as the ultimate Guardian and interpreter of the Constitution. In the final analysis, it is the Justices of the Court who give meaning and life to our liberties. The Chief Justice, as the leader of the Court, sets the standard for defining the Constitution and interpreting laws. The office itself is a constant symbol of the fundamental values upon which America is built, and the protections which we rely on for our freedom and justice.

The Supreme Court building itself restates this important truth. At the entrance to the building, inscribed in the pediment above the majestic pillars, are four simple eloquent words—"Equal Justice Under Law."

Now, however, the Senate is being pressed to confirm a Chief Justice whose entire career has been an impediment to those noble words.

The nomination of William H. Rehnquist to be Chief Justice of the United States places us at a crossroads in our history. We must give the mantle of leadership only to someone who has embraced our historical commitment to religious liberty and freedom of expression and our historical progress toward the elimination of discrimination based on race, sex, nationality, and economic status. Justice Rehnquist falls far short of this critical standard. If we confirm Justice Rehnquist to be Chief Justice, we will elevate to the pinnacle of our American Judicial system a man who by word and deed throughout his career has shown disdain for the fundamental values embodied in our Constitution. If we consent to the nomination of Justice Rehnquist to be Chief Justice, we will be choosing as the symbol of American Justice someone who would roll back the hard won progress of women and minorities to achieve full equality and would strip away essential protection from Government interference in highly personal decisions about religion, marriage, and family.

The struggle of racial minorities to achieve their rightful place in our society has been long and often bitter. For racial minorities, particularly blacks, equal protection of the laws was, until very recently, a hollow slogan. As recently as 1959, a negro was hauled from a jail in Mississippi and lynched, one of 3,441 negroes to fall victim to this form of mob violence, unhindered by law enforcement officials. During the 1960's, peaceful civil rights demonstrations were subject to excessive force by police, and were often assaulted by private citizens as law enforcement officials looked on. In St. Augustine, FL, for example, a negro girl was stabbed with the end of a stick, and when she and another marcher fell on the ground, they were arrested immediately for disorderly conduct. It was common for the victims of violence, not the perpetrators, to be taken to jail.

Negroes accused of crimes could not expect a fair trial. For example, in 1965, it was common practice in Talladega County, AL, for the prosecution and defense in a case to get together and decide whether they wanted any negroes on the jury—if not, they would just agree to strike them. No negro had ever served on a jury in the county. The use of preemptory challenges to exclude blacks from juries is widespread. The Supreme Court at last put an end to this practice last term. Justice Rehnquist, dissenting in that case, would perpetuate race discrimination in our justice system by allowing prosecutors to strike blacks from a jury because of their race.

In education, minorities suffered the discrimination of government sanctioned segregated schools until the middle of this century. Inferior education is the essence of the iron ring of discrimination against minorities. By limiting their opportunities for self-improvement it makes and keeps them inferior. Inferior status provides the justification for laws and customs which penalize minorities.

In the wake of the Brown decision, desegregation of schools was met with massive resistance in the South. A key element of Southern resistance was the creation in the 1960's of private white schools to circumvent desegregation orders. In 1970, the IRS began to withhold tax exemptions from these private segregated schools. In 1983, in the Bob Jones University case, the Supreme Court upheld the Government's refusal to subsidize segregated schools. Justice Rehnquist alone dissented.

Women in America are fighting a difficult battle in eradicate sex discrimination in our society. Although sex discrimination is often more subtle than other forms of discrimination, it is no less destructive. Innumerable legal obstacles still exist to full equality of men and women in America. Justice Rehnquist is committed to perpetuating much of this discrimination. He is the only member of the Supreme Court who believes that the Government can discriminate against women in selecting juries, deny unemployment benefits to an unemployed woman who is seeking work if she is pregnant or has recently given birth, or give smaller housing allowances to married women in the Armed Forces than to married men.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. COCHRAN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

□ 1700

Mr. KENNEDY. Mr. President, the most important measure of good government is how well it protects the weakest and most powerless. Most important among these are our Nation's children. In recent years, the Court has endeavored to blunt the social stigma of illegitimate children by prohibiting laws which single out these innocent children to disadvantage them. These children truly are victims of their parent's behavior, and there is no justification for laws which further punish them. Justice Rehnquist has voted consistently to uphold statutes which deny illegitimate children the right to inherit from their fathers by intestate succession, the right to child support from their fathers, the right to receive disability or worker's compensation benefits, or the right to benefit from supplemental income programs for indigent families.

The poor are also in need of government protection. Justice Rehnquist's response is to vote, along, to uphold a State statute which Justice Stewart characterized as prohibiting the poor from marrying.

Justice Rehnquist also has voted consistently to uphold statutory schemes that discriminate against resident aliens. Beginning in the late 19th century, States and localities enacted various laws that disadvantaged newly arrived, and often unpopular, immigrants. Many of these laws struck at the core privilege of freedom—the right to seek and obtain employment. Because legal aliens generally are not qualified to vote, they are uniquely vulnerable to discrimination by the majority.

The Supreme Court has repeatedly held these discriminatory statutes unconstitutional. Justice Rehnquist has voted to prohibit aliens who are in this country legally and are eligible to

work from engaging in the profession of engineer or architect, from becoming a notary public, or from holding any State job whatsoever.

For the Founders, religious freedom was the crux of the struggle for freedom in general. James Madison authored the first legislative pronouncement that freedom of conscience and religion are inherent rights of the individual in Virginia's great Declaration of Rights in 1776. Madison opposed every form and degree of official relation between religion and civil authority. For him, religion was a wholly private matter beyond the scope of the civil government either to restrain or to support.

The Founders wisely recognized the historical divisiveness of government entanglement with religion, and the fundamental importance of freedom from such entanglement to the realization of individual liberty. The separation of church and state has been respected by the Court throughout our history.

Justice Rehnquist would tear down the wall of church/state separation. In his extreme dissent in Wallace versus Jaffree, with which no other member of the Court agreed, Justice Rehnquist stated:

> The Establishment Clause did not require government neutrality between religion and irreligion nor did it prohibit the federal government from providing nondiscriminatory aid to religion.

This startling statement flies in the face of our historical commitment to government noninterference in religion.

Due process is the cornerstone of the criminal justice system of a civilized society. It is the basis for preventing intolerable abuses in law enforcement. Justice Rehnquist has voted to strip away some of our most important due process protections. For example, he alone voted a defendant to be sentenced to death on the basis of a secret report which neither the defendant nor his attorney was permitted to see.

I urge every Member of the Senate to reflect on what would become of our precious freedoms if the positions that Justice Rehnquist has taken on these fundamental issues prevailed. He would create a society that none of us would recognize. Living in Justice Rehnquist's America would be a vastly different experience from living in America today. Civil rights and civil liberties would mean little in his society. Our Nation's commitment to bedrock principles of individual liberty and equality for all Americans is not shared by Justice Rehnquist. His vision of America is not shared by most Americans. He does not deserve the privilege and solemn responsibility of being the Chief Justice of the United States.

Mr. HATCH. Let us review the issue we are debating.

If it were a question of qualifications, the debate would be over. It would have been over as soon as the ABA reviewed 200 of Justice Rehnquist's opinions and found that he "meets the highest standards of professional competence." It would have been over when President Carter's Attorney General and President Johnson's Solicitor General endorsed Justice Rehnquist. The fact is Justice Rehnquist has been an outstanding Justice for 15 years. Questioning his qualifications now, is like asking 15 years into his career whether Babe Ruth could hit home runs. This debate has nothing to do with qualifications.

If this debate were about judicial temperament or integrity, it would already be over. It would have been over when the ABA interviewed 180 judges, 50 law deans and professors, and 65 attorneys before stating that his temperament and integrity make him "among the best available" for the office. It would have been over when the Judiciary Committee voted 13 to 5 in favor of appointment. It would have been over when his colleague, Justice Brennan, declared that he would be a "splendid Chief Justice."

This is not a debate about qualifications or integrity. This is not a debate about judicial temperament.

The debate continues only because some Senators and special interests disagree with Justice Rehnquist's legal views. These Senators say their case is not a question of mere disagreement, yet they proceed to call him insensitive on civil rights solely because he differs with their views. They say disagreement is not the issue, yet they say Justice Rehnquist considers women "second class citizens" only because he differs with their extreme and narrow view of equal rights.

CIVIL RIGHTS REBUTTAL

We continue to hear charges of insensitivity to civil rights. It is accurate to say that Justice Rehnquist disagrees with some of my colleagues about the outcome of many civil rights disputes. It is not accurate to describe his record as "insensitive." Let me briefly recount his record on civil rights:

First, over 34 times he has upheld and reaffirmed the landmark Brown versus Board case which held that racial classifications are stigmatizing and that "separate but equal" is unconstitutional.

Second, over 27 times he has voted to sustain minority and women's rights.

Third, he wrote the landmark womens rights case, Meritor Bank, which held that an employer may be held liable for sex harassment in the workplace.

Fourth, he has consistently defended the principle that the Constitution is colorblind. This defense for a race-neutral Constitution and society is what causes much of the concern amongst those who disagree with him. They would prefer to have the Constitution justify preferential treatment for some citizens through quotas, busing, and effects tests that invalidate legitimate State actions or require reverse discrimination. They want preferential treatment and quotas: Justice Rehnquist has carefully read the law to require color blindness—a total absence of race as relevant criterion for any government purpose.

Fifth, a study of the 1986 term showed Justice Rehnquist was clearly in the mainstream of the Supreme Court on civil rights issues. On the 20 civil rights cases studied, he voted with the majority 70 percent of the time.

BATSON

We began last week to discuss one civil rights case, Batson versus Kentucky, the 1986 jury selection case. Justice Rehnquist's position in this case has been characterized as "preventing blacks and minorities from serving on a jury." This is inaccurate. In fact, in a related 1986 case, Turner versus Murray, Justice Rehnquist prohibits attorneys from inquiring into racial attitudes when screening jurors. In this instance, Justice Rehnquist was simply defending the longstanding principle that an attorney may legitimately make peremptory challenges to jurors, even if the juror was eliminated on the basis of race or ethnicity. This was a policy first articulated by the supposedly liberal Warren Court. Moreover the dissenting opinion which he joined was actually authored by the Chief Justice. The Chief Justice, joined by Justice Rehnquist, recognized that race or ethnicity could affect a juror's decisionmaking in a particular case. Peremptory challenges are undoubtedly applied across the board to jurors of all races and nationalities and accordingly do not evince a deprivation of equal protection to any particular group. Justice Rehnquist is simply stating that the color of a juror's skin should be irrelevant. Jurors are fungible, meaning that they can be interchanged in any combination and the decisionmaking process should still produce the truth. Therefore, these two Justices oppose making race a factor in jury trials. This is the basis for their decision. This is a distant departure from the way this case has been characterized by some of the Justice's critics.

BATSON VERSUS KENTUCKY

One further thought on Batson versus Kentucky. It is both irrational and stereotypical to believe that the defendant has been denied a fair trial

or suffered other prejudice because of the underrepresentation of one group of potential jurors. People do not perceive truth differently because of race or sex or any other arbitrary and irrelevant classification. All persons of all races and both sexes are essentially fungible as jurors. They can be interchanged without any prejudice to the defendant.

If all persons are fungible as jurors, it follows that racial or gender composition of the jury cannot possibly affect the defendant's rights or the outcome of the trial.

Because race is irrelevant to the composition of the jury, it makes no difference legally whether a preemptory challenge is based on race or gender or any other "gut instinct" of the prosecutor. Thus, the ruling in Batson, according to the Chief Justice's opinion, does no harm to the defendant but it does damage the basic notion of preemptory challenges which have been part of the common law for centuries. Preemptory challenges are meant to be preemptory. If a court begins to inquire into the basis for the challenge, to question its racial or gender motives, it no longer is a preemptory challenge, but a challenge for cause.

This is also what concerned the Warren court in the Swain case. No one suggested that this 6-to-3 vote of the Warren court made those Justices "insensitive to civil rights." This is another instance of selective name calling. When the Warren court does it it is warranted; when Justice Rehnquist does it it is objectionable.

RECENT MEMORANDA

In the past few days, we have seen the emergence of a few additional memoranda from the time that Justice Rehnquist served in the Office of Legal Counsel. One of these memos dealt with the equal rights amendment. This memo was prepared in response to a request from the White House for a paper setting forth the arguments against the ERA. Attorney Rehnquist was simply complying with his client's request by setting forth only one side of the debate. Moreover, on another occasion, his office prepared a memorandum supporting the ERA. At one time or another, he took both sides.

The most recent ERA memo, however, took the reasonable position that the proposed amendment would invalidate many laws designed to provide special assistance or treatment to women and many other laws which simply recognize that men and women are not identically situated for all purposes. There are many examples in both areas. For example, draft laws, child custody laws, labor laws, and others fall into these categories. This memo further notes that the proposed amendment is ambiguous and could prohibit legal and social practices accepted by many who support the ERA because of its simple equality slogan. As we know, these are precisely the legal arguments against the ERA. The most we can conclude from this memo is that legal counsel Rehnquist did his job well years before these precise issues arose to defeat the ratification of the proposed amendment.

Another recent memo from Justice Rehnquist's days at the Office of Legal Counsel discusses the possibility of legislation or a constitutional amendment to make clear that a nondiscriminatory, race-neutral system of school assignment need not be subjected to forced school busing simply to achieve racial balance. The legal analysis of the memo is simply that the Constitution prohibits intentional racial discrimination, not racial imbalance that naturally results from the free choices of private citizens. This is the classic distinction between de jure and de facto discrimination. The Supreme Court has upheld the same distinction found in the Rehnquist memorandum in the subsequent cases of Swann, Pasadena, and most recently Bazemore. The Post article on this memo makes it apparent that the memo advises a race-conscious "freedom of choice" plan, as was rejected in the Goss versus Knoxville case, would remain unconstitutional. If anything this memo must be praised as a testament to Justice Rehnquist's legal foresight.

The amendment considered in the memo would not have foreclosed any alternative to forced busing, it instead added the alternatives of neighborhood school plans. Congress apparently went further in 1974 when the Equal Educational Opportunities Act, 20 U.S.C. 1701, et. seq., declared that "the neighborhood is the appropriate basis for determining public school assignments" and prohibited busing merely to achieve racial balance. Indeed the Senate has gone even further by passing the amendment of Senator JOHNSTON of Louisiana which would have removed busing from the Federal courts.

As might be expected, this memo, too, was prepared for legal counsel Rehnquist's client, the White House. He provided legal advice which discussed the murky caselaw of the time and suggested the sound and moderate alternative of preserving the emerging distinction between de facto and de jure discrimination. The memo apparently noted that a broader amendment could be fashioned "to go all the way with freedom of choice." But this broader course was discouraged by the memo. In short, this memo demonstrates once again Justice Rehnquist's ability to quickly grasp and sort out legal concepts. Moreover his advice was very moderate in the climate of the times and has been vindicated by subsequent policy clarifications.

LUDICROUS

Finally, we have heard about a few issues that are almost ludicrous. One issue of this nature dealt with the Vermont restrictive covenant.

First, unenforceable due to Shelly versus Kramer.

Second, Justice Renquist immediately agrees to correct deeds.

Third, JFK was not considered "insensitive" even though he had such covenants; it would be irresponsible to make this accusation.

CORNELL TRUST

Another issue in this category deals with the Cornell Family Trust. The facts are that Justice Rehnquist set up a trust account in 1961—10 years before he took a seat on the Supreme Court—for the benefit of his brother-in-law, Harold Cornell. The trust was established by H.D. Cornell, Harold's father, for the express purpose of paying medical expenses when Harold's multiple sclerosis made it impossible for him to care for himself. The trust was administered by George Cornell, Harold's brother. H.D. Cornell, the father, specifically instructed his attorney, Mr. Rehnquist, and the trust administrator, George, not to disclose the existence of the trust to his son because he feared that Harold might not preserve the money for its intended purpose. Attorney Rehnquist obeyed his client's instructions impeccably.

Nonetheless, this has formed the basis for allegations that Justice Rehnquist acted improperly in participating in establishment of a trust when he might have some interest (as son-in-law) in the estate. This overlooks that the code of professional responsibility does not bar family cooperation in legal matters, but only requires that the testator initiate the request for legal help and that the testator be aware of the attorney's potential interest as an inheritor. Attorney Rehnquist was in full compliance with these standards. Frankly, the family was grateful that Mr. Rehnquist handled the matter because of its sensitivity and the need for care and confidentiality.

We also hear that Mr. Rehnquist was somehow wrong for not disclosing the trust to Harold. In the first place, Mr. Rehnquist was not the administrator. George was. If anyone had the responsiblility to decide when the trust was to be disclosed, it was George. Moreover, Mr. Rehnquist was obeying his client's orders. It would have been more severe for him to have presumed to break his client's trust. It he had disclosed the trust over his client's objections, I have no doubt that Justice Rehnquist's critics would have been even more vociferous in their attacks on his violation of legal responsibilities. For those seeking some flaw in Justice Rehnquist, he would have been

wrong either way. The facts show that he performed admirably by remaining within his duties as a lawyer.

This is, in reality, a sensitive family dispute. The FBI did a thorough check of the facts and every member of the Cornell family agrees that the purpose for confidentiality was to prevent Harold from invading the trust and spending the assets before they were needed for his medical care. To suggest that Justice Rehnquist kept his client's trust because his wife might benefit from the estate is ludicrous. This issue simply demands no further explanation.

These arguments demonstrate that this debate is about ideology, not integrity. They should be laid to rest for once and for all.

Mr. BINGAMAN. Mr. President, this week we are being asked to confirm the President's nomination of William Rehnquist for Chief Justice of the Supreme Court and the President's nomination of Judge Scalia as an Associate Justice of the Supreme Court. My vote will be to deny the President's request for confirmation of Mr. Rehnquist and to grant the Prsident's request for confirmation of Mr. Scalia.

In Mr. Rehnquist's confirmation hearings some questioned the significance of the position of Chief Justice. They argued that the factual scope of the office, the duties of the Chief Justice compared to those of the Associate Justices, render the office only nominally different from the position Mr. Rehnquist currently holds.

In my view they are wrong. The Chief Justice's power and prestige extends beyond the responsibility of assigning opinion authorship and beyond his role of determining what cases the courts will hear. Rather, the power of the office is closely related to the fact that the Chief Justice presides over our entire judicial system and that he is the most honored figure in our legal system.

Mr. Rehnquist clearly has the intellectural capability to function as the Chief Justice; nobody questions that. Similarly, he has the ability to administer the Court as its Chief Justice. However, I do not believe that Mr. Rehnquist is qualified to carry out the role as the symbol of justice for all our Nation's people. The hearing record shows that his record on civil rights—on equal justice for all Americans—is questionable. Whether the question concerns his authorship and views in the now famous memorandum on Brown versus Board of Education, or his lone dissent in the Bob Jones University case, his positions indicate an unwillingness to apply the 14th amendment in race and gender cases. Moreover, his involvement in Laird versus Tatum raises serious and unanswered questions of judicial ethics—whether Mr. Rehnquist should have disqualified himself from this case. Further, the record remains unclear on charges of voter harrassment by Mr. Rehnquist in the "ballot security" programs in Phoenix in the fifties and sixties.

In short, Mr. Rehnquist's record alienates large numbers of Americans. And in my view the Chief Justice must meet a higher and more complete standard of excellence to maintain the high esteem that the position requires.

As my colleague, Senator EAGLETON, states:

> About a nominee for Chief Justice, we cannot harbor an array of disquieting doubts. About a nominee for Chief Justice, our minds and consciences must be clear and unhesitating.

I agree that this is the test we must apply to the nominee for Chief Justice, and in my view Mr. Rehnquist does not meet that test.

Mr. President, the Senate Judiciary Committee has unanimously recommended the nomination of Judge Scalia as Associate Justice. Nothing in the record before the committee raised questions about his fitness for that position. Based on that record, I will vote to confirm Mr. Scalia.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROCKEFELLER. Mr. President, our colleagues on the Judiciary Committee have presented the issues concerning the nomination of William Rehnquist in great depth. Some of our other colleagues—Senators LEVIN, EAGLETON, BRADLEY, and MITCHELL—have, and added to our understanding with notable statements.

I do not intend to repeat the arguments that have been made in detail by others. Instead, I would like to summarize the conclusions that I have reached based on the case that has been presented so forcefully—pro and con—by others.

Mr. President, I intend to vote against the nomination of William Rehnquist to be Chief Justice of the United States.

I base my opposition to Justice Rehnquist on his complete hostility to civil rights and individual rights—and his lack of sensitivity to the special role that the Supreme Court, and its Chief Justice, play in protecting those rights.

I base my opposition on an overall sense, obviously subjective, that Mr. Rehnquist, despite his brilliant intellect, lacks the breadth of vision and potential for growth that our country has a right to expect in the Chief Justice.

In our system, Mr. President the legislative branch makes the laws and represents majority opinion. The President gets his mandate from the electoral process, and the majority of the country. But the Constitution protects the rights of minorities and individuals, often against hostile majorities, and it is the special responsibility of the courts to protect those rights which the Constitution provides.

Of course, it is inevitable that reasonable people will disagree, and fairminded judges will disagree, about what the Constitution requires in particular cases. But Justice Rehnquist's record goes beyond the normal range of disagreement that fairminded people and Justices could have. He is uniformly, predictably and inevitably opposed to civil rights, whatever the claim, and always on the side of the state when Government authority collides with the constitutional rights of individuals.

Despite the special, historic role which the Federal courts have in protecting civil rights, it is of course possible to believe in civil rights and equal justice for all, while opposing on philosophical grounds the idea of an activist Federal judiciary.

But that is not Justice Rehnquist's approach. He has not confined his opposition to Federal court action on civil rights. He opposed the historic Civil Rights Act of 1964, and every other Federal civil rights statute; so he does not believe that Congress has a role to play in protecting civil rights. He opposed the efforts in Arizona when the city of Phoenix wanted to pass an ordinance protecting the right of minorities to go into restaurants and other public accommodations; so he does not believe that local government has a role to play in protecting civil rights. Thirteen years after the Supreme Court decided in Brown versus Board of Education that segregated schools were unconstitutional, Mr. Rehnquist offered the opinion that "we are no more dedicated to an integrated society than a segregated society"—an opinion that was legally incorrect and morally wrong.

There is no chink in the armor of his hostility toward civil rights. But the struggle for civil rights has been the central, moral issue of our time. As a country, we have worked so hard and we have worked for so long to translate our concept of equal justice into a reality for all Americans. Having a Chief Justice of Mr. Rehnquist's proven insensitivity would be a serious step backward and not one that I would support.

Mr. President, as I have studied this nomination, I have slowly become convinced that for all his intellectual ability, Mr. Rehnquist is not the kind of

person who should be the Chief Justice of the United States. His dismaying judicial record is troubling enough, but really it is only part of the picture. Mr. Rehnquist seems to be the kind of person who decided very early on exactly what he felt about the world and how he felt about all issues and has never wavered or grown. Most people change their views over time; sometimes they become more liberal; other times more conservative; hopefully, in most cases, more aware of nuance, and complexity. Frankly, I do not see that growth in Mr. Rehnquist; his strongly held, provocative views today are no different than they were in 1952 when he clerked on the Supreme Court: both unshaken and unrefined by anything that has happened in three tumultuous decades.

That lack of growth seems to me to be compounded by the coldness of his ideology and the lack of a generous spirit. He seems intolerant of the kind of diversity than makes this country unique; he seems incapable of trying to strike the genuinely difficult balance that our country relies on the Supreme Court to find between government authority and individual rights. And there is no doubt that my view of Mr. Rehnquist's character and rigidity of ideology is influenced by what I believe to be his lack of candor to the Judiciary Committee and his totally improper refusal to recuse himself in the Laird versus Tatum case.

Supporters of this nomination have argued that the Senate should give great deference to the President's choice, particularly because the American people have twice elected President Reagan with great majorities. This is the first time that I have had the privilege of voting on a Supreme Court nomination, and I have become firmly convinced that every Senator has a special responsibility to reach an individual decision on whether Mr. Rehnquist should be elevated to be Chief Justice. That decision should be based on each Senator's individual assessment of Mr. Rehnquist's qualifications to hold this position of extraordinary responsibility and not the popularity of the President who appointed him.

There have only been 15 Chief Justices in the nearly two centuries since the Constitution was written. Chief Justices stay on while Presidents change, their decisions touching the lives of Americans in very crucial ways, for 15 or 20 or 25 years. Throughout history, the Senate has recognized its special responsibility to consider this nomination; 5 of the 20 men nominated for the position have actually been rejected by the Senate.

The President has won from the American people the awesome right and privilege of selecting, from among 230 million Americans, his choice to nominate for Chief Justice of the United States. And that is all. The Senate has, and each individual Senator has, an absolute right and responsibility to decide whether to "advise and consent" to the President's nomination. That is what the Constitution envisions; That is what our separation of powers is all about.

The Senator from Illinois, Mr. SIMON, made in interesting observation on this nomination last week. Recognizing that Mr. Rehnquist was likely to be confirmed, Senator SIMON expressed the hope that Mr. Rehnquist would take some time on the beach, as he expressed it, to reflect seriously on the criticisms and concerns that have been raised—hopefully, to open his mind and change his views on certain matters.

I wish I believed that were possible. But it does not seem realistic to me any more than it probably did to Senator SIMON.

John Mitchell and Richard Kleindienst gave Mr. Rehnquist a key position in the Justice Department—because of his views.

Richard Nixon appointed Mr. Rehnquist to the Supreme Court—because of his views.

And now Ronald Reagan has nominated him to be Chief Justice of the United States—because of his views.

So there is little chance that, having attained the pinnacle of our system of justice, because of his views, Mr. Rehnquist will change his views now.

And yet despite his ascent, I don't believe that Mr. Rehnquist's view of constitutional rights is shared by most Americans. And frankly, I do not think that it is shared by most Senators.

Mr. Rehnquist is not a fair-minded conservative. He is a closed-minded ideologue. He bears no serious resemblance to the distinguished, conservative Justices appointed by conservative Presidents: John Harlan or Potter Stewart, appointed by President Eisenhower; Lewis Powell or Harry Blackmun, appointed by President Nixon; and, based on the record so far, Sandra O'Connor, appointed by President Reagan.

It appears that opponents of this nomination will total perhaps 25 or 30. but if we were voting on Mr. Rehnquist's view of the Constitution, I would say to my colleagues that Mr. Rehnquist would be lucky to get 25 or 30 votes.

And we should be voting on Mr. Rehnquist's view of the Constitution. That's what this process is all about; not the popularity of the President, and not Republican versus Democratic politics. There are times for Senators to defer to the President. This is not one of those times. Sometimes loyalty demands to much.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1730

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, it is now 5:30 on Monday, and I would like to hope we could reach some agreement on voting on the Rehnquist nomination tomorrow. Either that or we ought to stay here tonight and debate it because October 3d is not as far away as some might think. If we are going to be denied the right to vote tomorrow, then I think in fairness we should be told we are not voting tomorrow so we can decide what other efforts we might wish to pursue. I get rumors that the press has been told there will be no votes tomorrow. I am not certain that is true. We might have a vote on both Rehnquist and Scalia prior to 4 o'clock. We have now been about 5 days on the nomination of Rehnquist. We find some Senators making additional speeches on the same subject. We will have a full RECORD of that. I guess some made two or three.

I really believe we have reached the point now where we are holding up the entire Senate program. No one has complained about the debate. We have not filed cloture on this side. And we may have to yet this evening, but I hope we could have some indication that we will be permitted to vote tomorrow.

It was my understanding on Friday from a number of Members on the other side—Senator BIDEN, Senator METZENBAUM—that they saw no reason why there could not be a vote on Tuesday. I hope that is the case because we do have as I have indicated a mountain of work to do. We would hope tomorrow then, if we can, to have a vote on Rehnquist, and Scalia following. We will take up appropriations bills until well into the evening tomorrow night.

If there is not to be a vote on those nominees, then we I think are entitled to have that information so that we can plan on what we wish to do to try to expedite the business of the Senate.

I hope there would be more debate, that people are willing to speak on Rehnquist for or against nomination, and now would be an appropriate time to do that. It is only 25 until 6. We did not come in until 11 today, and were not on the nomination until about 12:30. We have had several quorum calls.

I understand we now have a speaker on the nomination. I thank the distinguished Senator from Rhode Island.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

THE REHNQUIST NOMINATION: A LEGAL EXTREMIST SHOULD NOT LEAD THE SUPREME COURT

Mr. PELL. Mr. President, I appreciate the opportunity to speak on the nomination of Justice Rehnquist.

I must say that after careful consideration I have decided to oppose the nomination of William Rehnquist to serve as Chief Justice of the United States.

I oppose the nomination of Mr. Rehnquist with some reluctance, because I have always believed that a Presidential nominee should be confirmed, barring serious flaws of character or integrity or evidence of gross incompetence which would prevent the nominee from performing the duties of the office for which he or she has been nominated. In the case of Mr. Rehnquist, clearly none of these impairments apply. He is a man of great intellect and good moral character and clearly his record over the past 15 years on the Supreme Court demonstrates his technical competence for the position of Chief Justice.

But when a nominee is being considered for a term that will extend many years after the life of the administration that appointed him, as is uniquely the case with Federal court nominees, then I believe the Senate has a greater burden to discharge in the confirmation process. The question becomes not merely one of whether the justice-designate is a man or woman of intelligence and integrity, but whether the nominee is a person who is appropriate to make legal and social policy for the society that will be inhabitated by our children and our children's children.

The Supreme Court occupies a very singular position in our society. Nine unelected men and women, with lifetime tenure, are vested with the power to act, in effect, as a "superlegislature" in making legal and social policy that touches virtually every aspect of our lives. One need only look at Supreme Court decisions over the past 40 years in the areas of civil rights, voting rights, labor relations, sex discriminaton, and a host of other questions along the cutting edge of social change to realize the virtually infinite power of the Supreme Court to alter the fabric of our society.

The leadership and judicial philosophy of the next Chief Justice will long outlast the viewpoint of the current administration, which of course will expire on January 20, 1989. Chief Justice John Marshall was nominated by the lame duck administration of John Adams in 1801 and, over the next 34 years, left a lasting judicial legacy even though President Adams' political party, the Federalists, has long since ceased to exist. His successor, Roger B. Taney was appointed in the last year of the Jackson administration and served for 28 years. The combined tenure of these two men spanned the period from the infacy of the Republic until the closing days of the Civil War, a reach of well over three generations. In more modern times, the legacy of Chief Justice Earl Warren outlived the Eisenhower administration. From 1789 until the present, a period of roughly 200 years, only 15 persons have served as Chief Justice.

When a nominee is being considered for a term that will extend many years the life of the administration that appointed him, the confirmation process is far more important than in the case of a routine appointment. And when that nominee is also of an extreme viewpoint, whether liberal or conservative, then I believe the Senate should hesitate in confirming that appointment.

The record of Justice Rehnquist, both in the period before he joined the Supreme Court and more importantly over the past 15 years, demonstrates conclusively that his extreme legal philosophy is incompatible with the mainstream of our society today.

□ 1740

I have reviewed his record, and particularly in the areas of civil rights, women's rights and the relationship of government and the individual in modern society, Justice Rehnquist has demonstrated that his extremely narrow judicial philosophy is at odds with the view of society held by the board spectrum of American citizens. His interpretation of the Constitution is a narrow one, perhaps better suited to the more uncomplicated world of 1886 than the turbulent sometimes chaotic American society of 1986.

I would emphasize here that the current confirmation process is not a referendum on whether William Rehnquist should continue as a member of the Supreme Court. I fully expect Mr. Rehnquist to serve as an able member of the Court for many years to come, indeed into the next century, long after most Senators here have left this body. Moreover, I would point out that 15 years ago, I supported Mr. Rehnquist's confirmation when he was nominated to serve as an Associate Justice of the Supreme Court. My concerns about Mr. Rehnquist's extreme legal and constitutional views were not as great when he was selected to serve as an Associate Justice.

The issue before us, today, however, is whether Mr. Rehnquist should be promoted to the high position of Chief Justice. Other than the presidency, no public office in the American system of government is entrusted with greater responsibility than the Chief Justice. He is both the symbolic head of our judicial system and the top policymaker and administrator for the Federal courts. The responsibilities of the Chief Justice make him more than merely "first among equals" in his relationships to his colleagues on the Nation's highest court. This is especially so as we stand at the eve of the bicentennial of our Constitution. The task of the next Chief Justice is to adapt that great document to the society that will usher us into the 21st century, and who does not go beyond the bounds of mainstream constitutional philosophy. That man or woman must have a vision of an evolving society, an evolving Constitution, and I do not believe Justice Rehnquist possesses that.

Here I am reminded of Thomas Jefferson's admonition that institutions of government must evolve with the times:

> I am not an advocate for frequent changes in laws and Constitutions, but laws and institutions must go hand in hand with the progress of the human mind. As that becomes more developed, more enlightened, as new discoveries are made, new truths discovered, and manners and opinions change, with the change of circumstances, institutions must advance also to keep pace with the times.

In conclusion, I would emphasize this point: when it comes to the Chief Justice, he, above all the Justices, must be within the limits of conventional political philosophy and not be on the extreme left or the extreme right. In this case, this would not be the case. If an individual Justice is outside the extremes, then it is no excuse for the Chief Justice.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that I might be allowed to proceed as in morning business for 10 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

NICHOLAS DANILOFF

Mr. MOYNIHAN. Mr. President, in the week since the Senate unanimously deplored the outrageous arrest of Nicholas Daniloff in Moscow, a correspondent for U.S. News & World Report, that situation has worsened and it would not, I think, be wrong to describe it as having escalated at the desire of the Soviet Union; escalated between our assertion of the fact and their denial; their acts of provocation that can only be seen as deliberate; and their decision to act in a manner without precedent in the history of the relations between the United States and the Soviet Union.

I think, Mr. President, that this is something to be emphasized.

In the past, when Soviet spies have been arrested in the United States, it

has been common for the Soviet Union to respond by arresting an American. But never before a journalist, and never before a journalist on the charge of espionage.

In the darkest hours of Stalin's murderous dictatorship, this never happened.

Precision requires me to state that, in 1949, the American journalist, Anna Louise Strong, was arrested by the KGB, though there has been a whole succession of names for that organization since it was established in 1918–19.

Anna Louise Strong was a fervent admirer of Mao Tse-tung and the Chinese program which developed into an internal division between the Marxist worlds. Stalin wanted her out of Moscow and arrested her.

That was an exception. That was an argument within the Marxist world.

The arrest of Nicholas Daniloff is a direct, unprecedented attack upon an American journalist. But something has been added. It has become an attack upon the integrity of the President of the United States.

Mr. President, I feel the Senate must take cognizance of this. The passing of the years is never altogether a pleasant thing, but it does mean a certain accumulation of memories.

I can remember very well when, in 1963—while I was a member of the Kennedy administration—American authorities arrested an Amtorg employee. Amtorg, of course, is the Soviet state trading organization.

In response, a very distinguished scholar at Yale University, Prof. Frederick Barghoorn, was arrested in Moscow.

The very idea that this person was engaged in any espionage or other illegal activity was offensive to President Kennedy, and offensive to the academic community in this country, just as the charge against Nicholas Daniloff is offensive.

President Kennedy wrote to General Secretary Khrushchev. This was in the approximate aftermath of the Cuban missile crisis and our relations were not the warmest by any means.

He wrote the General Secretary and said, "You have my assurance that Professor Barghoorn is in no way an agent of American intelligence and we would be much obliged if you would immediately allow him to leave."

Mr. Khrushchev felt he had no alternative. You cannot tell the President of the United States, "You are a liar." He did not. He must have had some thoughts, but in no time at all, Professor Barghoorn was out of prison and back in New Haven.

Mr. President, the exact sequence of events has occurred here with respect to Mr. Daniloff. Not many days after his arrest, as reported in the press of September 7, it was stated that Mr. Reagan had written Mr. Gorbachev on September 5 and given his personal assurance that Mr. Daniloff was not a spy. This term "personal assurance" was given to the press by an official of the administration who in no way wished it not to be known but, to the contrary, wanted it to be known. Obviously, there was a parallel with the earlier letter to Mr. Khruschev.

□ 1750

Then, Mr. President, I am sorry to say that the very day following receipt of the President's letter, which we may assume was immediately transmitted, the Soviets announced that Mr. Daniloff would be charged with espionage, a crime for which the penalty in the Soviet Union is death. That is a sufficient outrage in and of itself. But, Mr. President, it was accompanied by the decision in effect to reject the President's assurances. It is a statement by Mr. Gorbachev that he either believes the President of the United States to be lying, or else that Mr. Gorbachev does not care about the President's statement of the facts. Mr. Gorbachev means to proceed with the prosecution in any event.

May I draw attention, Mr. President, to one of the more glaring aspects of this event in Moscow? On Saturday, September 13, Mr. Gerasimov, a Foreign Ministry spokesman for the Soviet Union, escalated yet further the charges against Mr. Daniloff, stating that he had been in contact with the named Americans who are alleged to be involved with intelligence activities.

Mr. GOLDWATER assumed the Chair.

Mr. MOYNIHAN. Yesterday, on "This Week with David Brinkley," that seasoned and always agile journalist asked Mr. Gerasimov to appear. He did. He asked him to tell us what was going on in Moscow. He did.

He referred to the scene in the Lenin Hills where Mr. Daniloff was handed a package from a Soviet citizen, whereupon he was sized by police officials. The package was opened and found to contain secret documents of the Soviet State, for which reason it was necessary to indict Mr. Daniloff for espionage, held him in prison, interrogate him, and remand him to his own Embassy to await trial on a charge for which the penalty is death.

This went on for some moments, Mr. President. My distinguished and good friend in the chair very possibly witnessed this. Suddenly, in the most innocent possible way, Mr. Brinkley asked the Soviet spokesman, "And tell us, what has happened to the Soviet citizen who passed this secret information to Daniloff? Is he in prison?" Silence. Silence. "The matter is being investigated."

Now, Mr. President, could there be a more transparent assertion that this was a situation of entrapment? Are the Soviets much in the habit of arresting foreign agents who are involved with their own citizens who are, shall I say, legitimately involved in treason, and letting them just go off for their vacations or whatever? Obviously not. I am afraid that the poor man was used by the KGB may be in prison today as they could not very well have him walking about the streets. This is so clearly a case of entrapment.

But, Mr. President, beyond that, the solemn word of the President of the United States has been rejected. It raises for us in the Senate, and for the American people generally, the question of what can be our relationship with a Government which is so disdainful, is so contemptuous of our Government?

When the President of the United States sends a letter about a matter of this gravity, he speaks for the Nation. Consequently, I would hope that the President might make that letter public. There is a sense in which the only people who do not have it are the American people. The Soviets do—the letter was sent to Mr. Gorbachev. The fact of it being sent was made public, as it should have been. The essential contents were made public, as they should have been. But would it not be useful if the President or the Secretary of State were to send to the Congress a copy of that letter so we might see what it is Mr. Gorbachev has chosen to reject?

If he is prepared, in effect, to say the President of the United States has lied, are we prepared to send the man's nation subsidized wheat? Are we free to enter into agreements of any consequence? Can we trust their word if they are so disdainful and contemptuous of ours? I do not see that possibility.

It may be they did not at first understand the enormity of their act. But surely, they could not have failed to grasp it when the President personally intervened in a manner that had precedent.

When President Kennedy intervened, the American was released. Mr. Khrushchev said, "I take your word." And a President is in the position indeed to say, yes, he was one of our fellows, I wish you would let him go anyway. That is the game nations play; we do it all the time, as a matter of fact.

But with Mr. Daniloff, there was obviously no occasion to make such a statement. President Reagan did assert, through direct personal contact with the General Secretary of the Communist Party of the Soviet Union, that this man has been wrongfully imprisoned and charged. And I am sure he asked for his immediate release.

If that is not sufficient, if that does not matter to the Soviet Union, then

we have to contemplate what that means.

Let us ask, what now in these relations? If they cannot be based at some level on some elemental form of trust—not trust in terms of the large movements of nations, but trust adversaries have to have about some of the rules of engagement, as the distinguished Presiding Officer would use that term, we are heading for a very cold winter indeed, again to use a phrase of John F. Kennedy.

In that regard, Mr. President, the President will be in New York on Monday, September 22, addressing the General Assembly of the United Nations.

□ 1800

And whilst there, I hope he might take cognizance of a crisis in the finances of the institution: A crisis precipitated on this floor when we made the decision to reduce our payments to the United Nations, from the 25 percent which is our assessed amount to 20 percent, unless the General Assembly adopts a system of weighted voting based on budgetary contributions. Such a system would require a change in the U.N. Charter equivalent to a constitutional amendment. Such a change is not feasible given the voting system in the United Nations. The result is that we seem to be heading inexorably for a situation where we are in default.

I have said several times, Mr. President, that I would be happy to see the budget of the United Nations reduced. But I do not want to see our influence there reduced. They are two different things. The budget payment is meant to represent a nation's portion of the world gross product, and to say we are a less important country than we have been seems to me to serve no purpose of any kind. Still, we have done this. And either the State Department or the White House has informally let the press know that they will ask us to restore moneys or appropriate additional moneys to avoid this crisis, one which we were very severely concerned with when the Soviets refused to pay assessments for the operations in the Congo in the 1960's.

I would hope, Mr. President, that when Mr. Reagan does speak in New York on Monday, he might even say that if we have a problem with financing the United Nations, it is in no small measure derived from the fact that the Soviet Union is in gross violation of its responsibilities under the charter. The U.S.S.R. places intelligence agents in the Secretariat, directly violating section 2, article 100 of the charter. This is more than a violation. It is a grievance over which the United States and the American public might properly be outraged. The simple fact is that when the Soviet intelligence agents in the Secretariat get their U.N. checks, they quite literally turn them in to the Soviet mission and get instead their regular pay allowances from the U.S.S.R. as if they were working in the mission itself in an overseas post. It is insult enough that the Soviets violate the charter and that Mr. Zakharov is a U.N. employee, but it certainly adds injury to insult that we are required to pay part of his salary. It would do no harm for the President to make this point.

We are in our current situation with the Soviets because after the United States arrested Mr. Zakharov, who does not have diplomatic immunity, the Soviets arrested an American who did not have diplomatic immunity.

Well, why have we let them do this for 30 years? Why do we not say to them the charter means something to us; that we did not write it that way without a care as to whether it would be observed; that we will not have your spies in the Secretariat building?

It was during my tenure as Ambassador to the United Nations that Arkady Slevchenko, the Under Secretary General of Political Affairs and the highest ranking Soviet member of the Secretariat, decided he wished to defect to the United States. He came over. He stayed in place for some time. He described this Soviet spying and most explicitly gave us the names, ranks, and serial numbers of the KGB and GRU agents in the United Nations. When a responsible foreign civil servant knows that the man in the next office is a Soviet spy, just think of the burden placed on the elemental workings of that organization. It is an outrage. It is a violation of the charter. It should never have been allowed to begin with and it ought to be stopped.

Mr. President, I see the distinguished majority leader is on the floor. The Senator was very courteous to me in giving me time to make these remarks and I yield the floor.

Mr. President, I ask unanimous consent that two articles be entered into the RECORD, one from the New York Times of September 7, 1986, and one from the Washington Post of September 8, 1986.

The PRESIDING OFFICER. Without objection, the materials will be printed in the RECORD.

Mr. MOYNIHAN. Mr. President, I had asked unanimous consent to proceed as if in morning session, and I assume we return to executive session.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, Sept. 7, 1986]

REAGAN WRITES TO GORBACHEV ABOUT REPORTER

(By Bernard Gwertzman)

WASHINGTON, Sept. 6.—President Reagan has sent a message to Mikhail S. Gorbachev, urging the immediate release of an American reporter held in Moscow on suspicion of espionage, Administration officials said today.

Mr. Reagan, in his first direct involvement in the case of Nicholas S. Daniloff, correspondent of the magazine U.S. News & World Report said in the message that he will offer personal assurances Mr. Daniloff was not a spy, the officials said.

The President also told Mr. Gorbachev, according to the officials, that Soviet-American relations were too important to be affected by the Daniloff case.

MESSAGE DELIVERED ON FRIDAY

The message was reported to have been delivered Friday. It was part of a stepped-up American effort that included a public declaration by Secretary of State George P. Shultz on Friday to press for the release of Mr. Daniloff, who was arrested Aug. 30.

The K.G.B., the Soviet intelligence and internal security agency, has accused Mr. Daniloff of espionage and Moscow has rejected American demands for his release. White House and State Department officials said today that if Mr. Daniloff was not freed by Monday, they would begin taking decisions on retaliatory measures.

Mr. Reagan's unusual testimony to the effect that Mr. Daniloff was not a spy was similar to a statement by President John F. Kennedy in November 1963 to gain the release of a Yale professor, Frederick C. Barghoorn. Professor Barghoorn had been seized in Moscow in apparent retaliation for the arrest in New Jersey of a driver for the Soviet trade agency, Amtorg.

The existence of Mr. Reagan's letter in the Daniloff case was first disclosed by U.S. News and World Rerpot. The White House had no comment, but other officials confirmed the report.

A senior official said the K.G.B. seemed to hope that Mr. Daniloff could be traded for Gennadi F. Zakharov, a Soviet spy suspect held in New York.

Mr. Daniloff told his wife by telephone from prison today that interrogators had made "fuzzy" remarks about a possible exchange, but that in the meantime they were acting as if his case would go to trial and he would be convicted.

On Friday, Secretary of State Shultz said that the United States ruled out a trade and that Mr. Daniloff had concurred.

The United States contends the two cases are not equivalent. The Americans say that Mr. Daniloff was set up when an envelope handed him by a Soviet acquaintance turned out to contain secret materials, and Mr. Zakharov was caught as he was paying for secret documents.

The Americans have made a proposal to the Soviet Union for resolving the situation. Under the proposal, Mr. Daniloff would be freed and allowed to return to the United States, and the United States Attorney's office would then ask a judge to release Mr. Zakharov in the custody of the Soviet Ambasador, Yuri V. Dubinin, pending trial on espionage charges.

Mr. Dubinin's initial request that Mr. Zakharov be turned over to him was rejected during the arraignment hearing. Another hearing is set for Tuesday, by which time it may be clear whether the Daniloff case turns out to be "a tempest in a teapot or a big deal," a senior official said.

This message, he said, has been conveyed to the Russians in different ways in recent days. On Friday, for instance, during the opening of special arms control talks here, Paul H. Nitze, the American delegate, raised

the matter privately with Viktor P. Karpov, the Soviet delegate.

Mr. Shultz is scheduled to meet with Foreign Minister Edward A. Shevardnadze on Sept. 19 and 20 to discuss, in part, the setting of a date for a meeting between President Reagan and Mikhail S. Gorbachev, the Soviet leader.

"If Daniloff is still in prison by Sept. 19 it is going to be very hard for there to be a very constructive meeting, because Daniloff will have to head the agenda," a State Department official said. "And it blows my imagination to see the President sitting down with Gorbachev if the Daniloff case is still out there."

Officials said that a list of retaliatory moves was being discussed, but that it was difficult to identify steps that would be both damaging to the Soviet Union and not counterproductive to the United States.

CARTER'S SANCTIONS RECALLED

An official said that the Carter Administration, for instance, "shot itself in the foot" with some of the sanctions it imposed on the Soviet Union after its forces intervened in Afghanistan in December 1979.

One was the canceling of plans to open consulates in Kiev and New York. The Russians lost very little, the official said, because they already have a large presence in New York, but "we lost a city where there are hardly any Americans."

He said the possible withdrawal of an offer to sell the Russians four million tons of subsidized wheat would be of no significance because there was a glut on the world grain markets. Moreover, it would damage American farmers.

He said that the United States was looking at sanctions that would cause some "permanent disability" if the Daniloff case is not resolved.

"We have to be more resourceful than we have been in the past and come up with something genuinely punitive, and convince them that the seizing of Nick Daniloff was absolutely not the way to go in relations," the official said.

The Daniloff case has again aggravated differences within the Administration on how to deal with the Soviet Union.

Defense Secretary Caspar W. Weinberger considers the arrest of Mr. Daniloff so outrageous that he says the Soviet Union should be punished now, and not threatened with some future steps, an aide said.

Mr. Weinberger said on Friday that the Soviet action had endangered arms control talks, and the aide said Mr. Weinberger would not mind putting off future negotiations until the reporter was freed.

But Mr. Shultz was said by officials to believe that Soviet officials should be given time to extricate themselves from the situation in a way that allows them to save face. Thus, he argued that Moscow should be given at least until Monday.

Several officials acknowledged that the Administration's public position has been flawed. On two occasions, spokesmen at the California White House were the sources for articles suggesting that the United States was amenable to a deal, when the only arrangement was to consider turning over Mr. Zakharov to Soviet custody pending trial after Mr. Daniloff was safe in the United States.

[From the Washington Post, Sept. 8, 1986]

DANILOFF IS INDICTED AS SPY BY SOVIETS

(By Gary Lee)

Moscow, Sept. 7.—American journalist Nicholas Daniloff was indicted today on charges of espionage against the Soviet Union, in a move that both U.S. and Soviet officials said could pose a serious new obstacle to efforts to improve relations between the two superpowers.

Daniloff, the correspondent here for U.S. News & World Report, is the first American journalist to be formally charged by Soviet authorities with espionage.

There was no indication when Daniloff would be put on trial, and he told a colleague by telephone today that he understood the pretrial investigation could last six months or more. Without elaborating, however, he also said, "I received oblique hints that it will end before being brought to court."

The indictment was publicly announced tonight on the evening news on Soviet state television, after Daniloff had informed Jeff Trimble, the new U.S. News & World Report correspondent here, in a telephone call from Lefortovo Prison, where he has been held since being arrested.

Earlier, Soviet Foreign Ministry spokesman Gennady Gerasimov, appearing from Moscow on CBS-TV's "Face the Nation," had said that Daniloff was about to be charged and "there is going to be a trial."

Daniloff, who was about to end a 5½-year assignment here, was seized by KGB secret police agents Aug. 30 moments after he received an envelope from a longtime Soviet acquaintance. Daniloff said he had expected the envelope to contain newspaper clippings. But when the KGB opened it, Daniloff told Mortimer Zuckerman, chairman of U.S. News & World Report, who visited him in prison Tuesday, it turned out to hold photographs of military installations and negatives of maps.

Gerasimov, interviewed from here by CBS today, said, "If you think he is innocent, we can learn pretty soon because there is going to be a trial."

Gerasimov also charged that Daniloff "doesn't deny the things that he got in that unfortunate envelope were secret ones," and he said that "my understanding is that this particular envelope is not the only thing that they have against him." He would not give any details.

"Let us not make this case a hostage for Soviet-American relations," Gerasimov said, observing that "if you really want to ruin Soviet-American rapprochement, you can always find something happening here or there."

The formal announcement of the indictment and trial plans marked the beginning of a tougher official line here against Daniloff. The official Soviet Communist Party newspaper Pravda, breaking a weeklong silence on the case, attacked Daniloff and his American supporters, including Secretary of State George P. Shultz.

Western diplomats here interpret Moscow's threat of a trial and the hardened official line as a signal that the Kremlin is unlikely to accept any early resolution of the Daniloff case short of a direct swap of the American reporter for Gennadi Zakharov, the Soviet U.N. employee who was arrested on espionage charges in the United States and is being held for trial.

The Daniloff arrest came exactly one week after the FBI arrested Zakharov, moments after he paid a New York man for what U.S. officials said were classified documents.

"My case is moving into a more serious phase," Daniloff told Jeff Trimble's wife, Gretchen, who answered the telephone when he called his home from prison this afternoon. "The charge of espionage puts it on a par with another case we know," he said, in a clear reference to Zakharov, whose release the Soviets have demanded.

Daniloff had earlier rejected a swap, but his position appears to have softened after a week of KGB interrogation.

"The quickest solution would be if the two cases could be looked at on an equal basis," he said in today's call, according to Gretchen Trimble.

But he also told Jeff Trimble in the same call that he personally favored a solution in which the charges against him would be dropped and he would be cleared.

The Soviet Union has arrested a number of Americans on suspicion of spying in the past, but most have been diplomats who have been quickly expelled. Neither Daniloff nor Zakharov has diplomatic immunity.

Gretchen Trimble said Daniloff told her that authorities had informed him he now faces a possible six-month investigation period that could be extended by three months and would be followed by a trial before a Soviet military tribunal.

Hints of a possible swap have arisen, he said, "but I have the overwhelming sense that they are pursuing charges of espionage."

Today's announcements indicate that the original U.S. bid to gain Daniloff's freedom has been rejected in Moscow. Reagan administration officials proposed that Zakharov be released to the custody of the Soviet ambassador in Washington while awaiting trial. In exchange, Daniloff would go free, according to the proposal.

The formal charging also implies that President Reagan's appeal to Soviet leader Mikhail Gorbachev to free Daniloff, sent in a letter Friday and publicized yesterday, also was turned down.

Daniloff's arrest is widely presented in the West as a KGB setup related to the arrest of Zakharov. Reagan reportedly told Gorbachev in the letter that it could harm U.S.-Soviet relations.

An American Embassy spokesman called the Daniloff indictment "very bad news indeed," but declined to asess its immediate impact on U.S.-Soviet ties.

When asked whether Daniloff is the victim of a trumped-up charge, Gerasimov, in the U.S. televison interview, said, "He went to this particular meeting with somebody of his own will."

"He made this step and he must take the consequences," Gerasimov added.

In answer to a question, Gerasimov said he did not know whether Daniloff had paid for the material in the envelope.

In today's telephone call, Daniloff said he has reiterated to Soviet Officials that he is a journalist and not a spy. But he told Jeff Trimble, "what is looked at in the U.S. as normal journalistic activity is not seen that way here."

In a commentary on the Daniloff case, Pravda condemned the "ballyhoo" over it in the United States and in the western press, saying, "The incident has been turned into a forged pretext to stir up one more anti-Soviet campaign."

"On the Potomac," Pravda said, "they raise a frantic press hullabaloo." It said that State Department officials, including

Shultz, "do not shrink from including themselves in this farcical course."

"It is evident that the zealous supporters of the failed agent urgently need to distract the attention of the world public from the Soviet peace initiatives," Pravda said.

NOMINATION OF WILLIAM H. REHNQUIST, TO BE CHIEF JUSTICE OF THE UNITED STATES

The Senate continued with the consideration of the nomination.

The PRESIDING OFFICER. The distinguished majority leader.

Mr. DOLE. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the Rehnquist nomination.

CLOTURE MOTION

Mr. DOLE. Mr. President, it had been my fervent hope, based on conversations I had last Friday with a number of my colleagues on both sides, we would be able to vote on the Rehnquist nomination on Tuesday. I have now been advised by the distinguished Senator from Massachusetts [Mr. KENNEDY] that he does not want to vote on Tuesday. I think that is unfortunate. But it leaves, as far as I can tell, very little recourse than to file a cloture motion because the clock is ticking and another day means it will probably make it that much more difficult to meet the October 3 adjournment date. I have had a discussion with the Senator from Massachusetts. I have asked him if cloture were filed, if we could move on, if we had the consent of the distinguished minority leader and other Members on both sides, to other business and time would not be wasted, because I do not believe there is that much more debate on the Rehnquist nomination. He did indicate he would be willing to permit us to move into appropriation bills and do other things, but he did not want to vote tomorrow and that is his right. I do not agree with him but that is his right. I mean I do not agree that we should not vote tomorrow. It seems to me this would hopefully bring this matter to a conclusion on Wednesday, although I am sure there could be a great deal of debate on Wednesday. So I am going to send a cloture motion to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislation clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the nomination of William H. Rehnquist, of Virginia, to be Chief Justice of the United States.

Bob Dole, Strom Thurmond, Thad Cochran, Chic Hecht, Dan Quayle, James A. McClure, William L. Armstrong, Jesse Helms, Phil Gramm, Mack Mattingly, Jeramiah Denton, Orrin G. Hatch, James Abdnor, Paul Trible, Malcolm Wallop, and Al Simpson.

□ 1810

Mr. DOLE. Mr. President, a parliamentary inquiry: When would the vote occur on this cloture motion? When would the cloture motion mature?

The PRESIDING OFFICER. On Wednesday.

Mr. DOLE. One hour after we convene?

The PRESIDING OFFICER. One hour after we convene.

Mr. DOLE. I will consult with the distinguished minority leader and see if we can work out a time to accommodate all our colleagues. This is a very important vote, and I think they want to be here.

Again, if we can do additional work tomorrow on a couple of appropriation bills, that will be helpful. I regret that some of our colleagues have made plans on the fervent hope that we would vote tomorrow. They may have to modify those plans. But this is it. There is no way we can force a vote tomorrow. We had hoped that by accommodating our colleagues, we would be permitted to vote tomorrow. That is not going to happen. I hope we can invoke cloture and that shortly after cloture is invoked, we can proceed to vote on the Rehnquist nomination.

I am advised that on the Scalia nomination, there probably will be a little debate, and we could dispose of that nomination in a matter of hours or less.

So I alert my colleagues that on tomorrow we hope to fill in the blanks, the time we have, with the Interior appropriation and the D.C. appropriation. As I understand it, there is one other, Transportation.

So, with some luck, we might be able to conclude action on those three appropriation bills tomorrow and still permit Senators who wish to speak on the Rehniquist nomination to do so.

LEGISLATIVE SESSION

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

There being no objection, the Senate resumed the consideration of legislative business.

MESSAGES FROM THE PRESIDENT RECEIVED DURING ADJOURNMENT

Under the authority of the order of the Senate of January 3, 1985, the Secretary of the Senate on September 12, 1986, during the adjournment of the Senate, received messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received on September 12, 1986 are printed at the end of the Senate proceedings.)

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mrs. Emery, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

DRUG-FREE AMERICA ACT OF 1986—MESSAGE FROM THE PRESIDENT—PM 172

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying documents; which was referred to the Committee on the Judiciary:

To the Congress of the United States:

I am pleased to transmit today for your immediate consideration and enactment the "Drug-Free America Act of 1986." This proposal is one of the most important, and one of the most critically needed, pieces of legislation that my Administration has proposed. I strongly encourage the Congress to act upon this proposal before its adjournment.

Drugs are menacing our Nation. When Nancy and I spoke to the Nation last evening about what we Americans can do to win the fight against illegal drugs, we said that it is time to pull together. All Americans—in our schools, our jobs, our neighborhoods—must work together. No one level of government, no single institution, no lone group of citizens can eliminate the horror of drug abuse. In this national crusade, each of us is a critical soldier.

From the beginning of my Administration, I pledged to make the fight against drug abuse one of my highest priorities. We have taken strong steps to turn the tide against illegal drugs. To reduce the supply of drugs available in our country, we moved aggressively against the growers, producers, transporters, smugglers, and traffickers. Our spending for drug law enforcement has nearly tripled since 1981. To reduce demand, we plotted a course to encourage those who use drugs to stop and those who do not, never to begin. I am especially pleased

at the success that the military has experienced, reducing drug usage by over 67 percent among our Armed Forces. And as a direct result of Nancy's leadership and commitment, over 10,000 "Just Say No" clubs have been formed throughout the United States over the past few years to discourage drug use among our youth.

Today I am announcing a set of initiatives that will build upon what we have already accomplished. This set of initiatives, totaling almost $900 million in Fiscal Year 1987 in additional resources targeted to ridding our society of drugs, brings out total Federal contribution for fighting drugs to over $3 billion. Our initiatives are composed of several separate budget amendments; a six-title bill seeking stronger authority for our law enforcement personnel, both at home and abroad, increased penalties for taking part in the sale of illegal drugs, and establishing a new program to help our schools reach our youngsters before drugs reach them; and an Executive order setting the example for our Nation's workplaces by achieving a drug-free Federal work force.

Through separate budget amendments that I will soon transmit, I will request $100 million for State grants to enhance our capacity in this country to treat drug users. We must put a stop to the tragedy of a drug user who seeks help and cannot get urgently needed treatment. I will request $34 million for increased research into the most successful rehabilitation and treatment methods. Our expanded research will include a focus on better ways to intervene with high-risk children and adolescents. I will also request $69 million for grants to communities that show they can pull together to fight the scourge in their neighborhoods. Federal matching funds will be made available to help these communities to increase education, prevention, and rehabilitation efforts. Finally, I will submit a request for additional funds for other intervention, education, and prevention assistance from the Federal Government.

Our law enforcement and interdiction efforts must be increased as well. I will propose substantial increased funding—approximately $400 million in 1987—for a major new enforcement initiative along our southwest border. A similar initiative will be proposed for our southeast border, involving at least $100 million in added funds.

I will be proposing shortly appropriate budget amendments to ensure that these necessary funds are made available. At the same time, other activities will be scaled back in order not to add to the Federal deficit.

The legislation I transmit today, the "Drug-Free America Act of 1986," is the second component of the greatly increased anti-drug abuse effort to which I have pledged my Administration. This legislation is a six-titled measure that, when enacted, will be the cornerstone of our efforts.

Title I, the "Drug-Free Federal Workplace Act of 1986," enables the Federal government, as the Nation's largest employer, to set an example in ensuring a drug-free workplace. The enactment of this title will make clear that the use of illegal drugs by current or prospective Federal employees will not be tolerated.

Title II of the bill, the "Drug-Free Schools Act of 1986," authorizes a major new grant program—at $100 million in 1987—to assist State and local governments in establishing drug-free learning environments in elementary and secondary schools.

Title III, the "Substance Abuse Services Amendments of 1986," responds to the grave health threat that the use of illegal drugs presents. It extends, from Fiscal Year 1988 through Fiscal Year 1992, the block grant under which funds are made available to the States for alcohol and drug abuse and mental health programs, and eliminates several unnecessary restrictions contained in current law that limit the flexibility of the States in putting these funds to work where they are most needed.

Title IV, the "Drug Interdiction and International Cooperation Act of 1986," emphasizes the need for increased and better international cooperation in the fight against drugs. This important set of proposals improve the procedures used in seizing the proceeds of narcotics-related crimes committed in other countries, facilitates the participation of United States law enforcement personnel in drug enforcement operations abroad, and ensures that aliens in this country who are convicted of illegal drug offenses can be deported.

Title V, the "Anti-Drug Enforcement Act of 1986," contains several measures that make available the necessary tools to our law enforcement personnel and our courts to ensure that those convicted of illegal drug offenses are both suitably punished and deprived of the fruits of their unlawful labors. This title also substantially increases penalties for drug trafficking and establishes additional penalties for persons who take advantage of and employ juveniles in drug trafficking. This title provides the tools to go after the manufacturers of "designer drugs," and hits drug traffickers in their pocketbooks by cracking down hard on money laundering, a practice widely used to conceal the illegal origin of large amounts of cash.

Finally, title VI, the "Public Awareness and Private Sector Initiatives Act of 1986," encourages the increased cooperation between the private sector and the Government in educating the public about the hazards of drug abuse.

I applaud the Congress for grappling with the drug abuse problem on a timely basis, and I urge speedy consideration of these proposals. But I do not for a moment suggest that enactment of these legislative proposals will result, by itself, in the elimination of illegal drugs in America. This can only happen when all Americans join together in the fight against drugs. Prompt enactment by the Congress of this package of our legislative proposals is an essential step in our plan to eliminate drug abuse.

Today, I underscore my commitment to this effort by signing the third component of my administration's anti-drug initiative, an Executive order that supports the objectives contained in Title I of the proposed legislation. The Executive order puts in place the policy that the use of drugs by Federal employees, either on duty or off duty, will not be tolerated. I am directing the head of each Federal agency to develop a plan to achieve a drug-free workplace and authorizing drug testing for applicants for all Federal jobs and for employees in certain sensitive positions. I am directing that programs to counsel, treat, and rehabilitate employees found to be using illegal drugs be expanded.

Over the years, our country has never hesitated to defend itself against the attack of any enemy, however formidable and whatever the odds. In many ways, the enemy facing us now—illegal drugs—is as formidable as any we have ever encountered. As a result of the combined actions of all Americans we will achieve the goal we all seek—a drug-free America for ourselves and for our children.

RONALD REAGAN.

THE WHITE HOUSE, *September 15, 1986.*

MESSAGES FROM THE HOUSE

At 11:29 a.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the following bill:

H.R. 4868. An act to prohibit loans to, other investments in, and certain other activities with respect to, South Africa, and for other purposes.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 4021) to extend and improve the Rehabilitation Act of 1973; it asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. HAWKINS, Mr. BIAGGI, Mr. WILLIAMS, Mr. MARTINEZ, Mr. HAYES, Mr. ECKART of Ohio, Mr. WALDON, Mr. JEFFORDS, Mr. GOODLING, Mr. COLEMAN of Missouri, and Mr. BARTLETT as managers of the conference on the part of the House.

The message further announced that the House disagrees to the amendment of the Senate to the bill (H.R. 4116) to extend and improve the Domestic Volunteer Service Act of 1973; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

For consideration of all provisions of the House bill and of the Senate amendment and modifications committed to conference: Mr. HAWKINS, Mr. ECKART of Ohio, Mr. JEFFORDS, and Mr. COLEMAN of Missouri.

For consideration of all provisions of the House bill and of the Senate amendment (except sections 3, 4, 5, 7, and 8(a) of the House bill and sections 3, 6, and 9 of the Senate amendment) and modifications committed to conference: Mr. KILDEE, Mr. OWENS, Mr. PERKINS, Mr. BRUCE, Mr. PETRI, and Mr. TAUKE.

For consideration of all provisions of the House bill and of the Senate amendment (except sections 8(b), 8(c), 8(d), and 9 of the House bill, and sections 4, 5, and 10 of the Senate amendment) and modifications committed to conference: Mr. WILLIAMS, Mr. BIAGGI, Mr. MARTINEZ, Mr. HAYES, Mr. WALDON, Mr. GOODLING, and Mr. BARTLETT.

At 3:15 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5484. An act to strengthen Federal efforts to encourage foreign cooperation in eradicating illicit drug crops and in halting international drug traffic, to improve enforcement of Federal drug laws and enhance interdiction of illicit drug shipments, to provide strong Federal leadership in establishing effective drug abuse prevention and education programs, to expand Federal support for drug abuse treatment and rehabilitation efforts, and for other purposes.

At 3:44 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5313. An act making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1987, and for other purposes.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

H.R. 3247. An act to amend the Native American Programs Act of 1974 to authorize appropriations for fiscal years 1987 through 1990;

H.R. 3443. An act to designate the Closed Basin Conveyance Channel of the Closed Basin Division, San Luis Valley Project, Colorado, as the "Franklin Eddy Canal"; and

H.R. 4868. An act to prohibit loans to, other investments in, and certain other activities with respect to, South Africa, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore [Mr. THURMOND].

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 5313. An act making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1987, and for other purposes; to the Committee on Appropriations.

MEASURES PLACED ON THE CALENDAR

The following bills were read the second time and placed on the calendar:

S. 2798. A bill to establish and implement a comprehensive policy to combat drug abuse in the United States; and

S. 2814. A bill to preserve the authority of the Supreme Court Police to provide protective services for Justices and Court personnel.

The Committee on Environment and Public Works was discharged from the further consideration of the following bill, which was placed on the calendar:

S. 1903. An act to improve the safe operation of commercial motor vehicles, and for other purposes.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

H.R. 5484. An act to strengthen Federal efforts to encourage foreign cooperation in eradicating illicit drug crops and in halting international drug traffic, to improve enforcement of Federal drug laws and enhance interdiction of illicit drug shipments, to provide strong Federal leadership in establishing effective drug abuse prevention and education programs, to expand Federal support for drug abuse treatment and rehabilitation efforts, and for other purposes.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on September 12, 1986, she had presented to the President of the United States the following enrolled bill:

S. 2462. A bill to provide for the awarding of a special gold medal to Aaron Copland.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATFIELD, from the Committee on Appropriations, with amendments:

H.R. 5162. A bill making appropriations for energy and water development for the fiscal year ending September 30, 1987, and for other purposes (Rept. No. 99-441).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BAUCUS:

S. 2819. A bill for the relief of Jon Engen; to the Committee on the Judiciary.

By Mr. BIDEN (for himself and Mr. ROTH):

S. 2820. A bill to consolidate and improve Federal laws providing compensation and establishing liability for oil spills; to the Committee on Environment and Public Works.

By Mr. CHILES:

S. 2821. A bill to direct the Secretary of Agriculture to release a reversionary interest of the United States in certain land located in Putnam County, Florida, and to direct the Secretary of the Interior to convey certain mineral interests of the United States in such land to the State of Florida; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BUMPERS (for himself, Mr. MATHIAS, Mr. STENNIS, Mr. THURMOND, Mr. INOUYE, Mr. DOLE, Mr. CRANSTON, Mr. WEICKER, Mr. HOLLINGS, Mr. COCHRAN, Mr. ZORINSKY, Mr. DECONCINI, Mr. MOYNIHAN, Mr. LEVIN, Mr. NUNN, Mr. BRADLEY, Mr. PRYOR, Mr. SIMON, Mr. KERRY and Mr. GORE):

S.J. Res. 413. Joint resolution to designate the month of October 1986 as "Learning Disabilities Awareness Month"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BIDEN (for himself and Mr. ROTH):

S. 2820. A bill to consolidate and improve Federal laws providing compensation and establishing liability for oil spills; to the Committee on Environment and Public Works.

OIL POLLUTION CLEANUP ACT

Mr. BIDEN. Mr. President, today I am joined by my colleague from Delaware in introducing legislation to establish a unified Federal liability and compensation program for oil spills. This bill is nearly identical to that introduced by Senator MITCHELL and others on September 9.

For over a decade, Congress has debated the establishment of a comprehensive and unified Federal oil spill program. It is now time for the Senate to act on this legislation, and go on to settling our differences with the other body, differences which should be relatively easy to reconcile.

Over 10 years ago, I introduced a comprehensive oil spill compensation and liability package. Since that time, we have debated the issue time and

time again, and failed to put into law a program that is clearly needed.

While Congress has floundered on enacting appropriate legislation, proof of the need for a new program has mounted. At the time of my earlier bill, the wreck of the *Torrey Canyon* in 1967 provided the best evidence of the need for an effective oil pollution compensation system. The 1978 wreck of the *Amoco Cadiz*, which resulted in an infamous spill off the coast of France, showed how extensive the damage from an oil spill could be.

Closer to my State of Delaware, just about 1 year ago, the Panamanian-flagged *Grand Eagle* spilled over 435,000 gallons of oil into the Delaware River. The spill threatened several coastal areas of the State, including some fragile wetlands and wildlife refuges. Soon after the *Grand Eagle* spill, an additional 180,000 gallons of oil leaked into the river from a second oil tanker.

On Wednesday, September 10, another large oil spill occurred on the Delaware River. The *Viking Osprey* was hauling a load of 550,000 gallons of crude oil to a refinery outside of Philadelphia when it ran aground. The ship worked itself off the mud, but this was the apparent cause of a large release of oil. Early reports indicate that the crew did not even realize the ship had a problem. The Coast Guard estimates that over 300,000 gallons of oil were on the river.

The impact of a spill of this size can be quite serious and wide-ranging. Depending on its location, water supplies can be threatened and marshlands severely damaged. Even industry has to take special precautions to prevent oil-laden water from damaging its equipment and machinery.

Under existing law, the ship has roughly $6.3 million in liability coverage. This may be enough in this particular case because the cleanup operation has so far been able to contain most of the release. The fact that the ship is moored to a pier has helped the cleanup operation. However, if the proposals before the Senate, including the one I am introducing today, were law, coverage would range between $17 million and $20 million, and include payment for economic damages. Residents of my State and others should not have to continue to risk inadequate coverage for damages they may suffer from an oil spill, particularly when a solution is at hand.

We have been averaging about two major oil spills a year on the Delaware River. These are the major ones. Dozens of smaller ones take place every year. The point is that we can try to go to the root of the matter to prevent spills from occurring in the first place, but this is not going to completely eliminate them no matter how well-intentioned our efforts. Clearly, a simple and comprehensive program is needed to remedy the failures of shipping safety standards and practices and to mitigate the environmental and economic damages caused by an oil spill, no matter what its cause.

Time is the critical factor at this point of the session. The Senate Environment Committee is making progress toward reporting a bill. My goal in introducing this legislation, which does not vary greatly from the bill before the Environment Committee, is to make sure that oil spill legislation does not, once again, fall by the wayside as the end of the session approaches.

I believe the Environment Committee is well on its way to reporting a good bill. However, after 10 years of delay on this issue, I am aware that unforeseen obstacles could arise to slow its progress. My bill will provide the Senate with an alternative to achieve the goal of enactment of oil spill liability and compensation legislation this year. Should the committee bill become stalled, I am prepared to offer this bill as an amendment to other legislation.

Mr. President, we have no new issues to consider in the oil spill liability debate. It is time to put an end to the years of nonaction on this idea. We should not let this new opportunity to enact oil spill legislation pass us by.

By Mr. BUMPERS (for himself, Mr. MATHIAS, Mr. STENNIS, Mr. THURMOND, Mr. INOUYE, Mr. DOLE, Mr. CRANSTON, Mr. WEICKER, Mr. HOLLINGS, Mr. COCHRAN, Mr. ZORINSKY, Mr. DECONCINI, Mr. MOYNIHAN, Mr. LEVIN, Mr. NUNN, Mr. BRADLEY, Mr. PRYOR, Mr. SIMON, Mr. KERRY, and Mr. GORE):

S.J. Res. 413. Joint resolution to designate the month of October 1986 as "Learning Disabilities Awareness Month"; to the Committee on the Judiciary.

LEARNING DISABILITIES AWARENESS MONTH

Mr. BUMPERS. Mr. President, I rise today to introduce along with my distinguished colleague from Maryland, Senator MATHIAS and others, a joint resolution to designate October 1986 "Learning Disabilities Awareness Month." Last year, along with Representatives KEMP and BROWN in the House, Senator MATHIAS and I sponsored a similar joint resolution for October 1985, which was signed into law as Public Law 99-115. I strongly believe that the problem of learning disabilities needs the attention that such a commemorative month provides. In this light, Congress should once again work to focus attention on dealing with and understanding handicaps.

There are some 10 million children in the United States diagnosed as learning disabled. There are many more who may be suffering from these difficulties, without being so diagnosed. We simply want the families of the learning disabled to know that we care, and that we are willing to devote the attention of this country to their plight.

Great strides have been made in this country since the enactment of the Education for all Handicapped Children Act of 1975 (Public Law 94-142). The programs spawned by this legislation have brightened the lives of many children and engendered the hope that their difficulty can be overcome. These programs have enabled them to pursue their goals to the fullest potential. Under the auspices of Public Law 94-142, over 1.8 million learning disabled children have been served. Today, there are also hundreds of national and local support groups that help these children, their families, and the public to become more informed about the problems facing the learning disabled.

The term "learning disabled" did not emerge until the 1960's, but the problem had been studied extensively since the early 1800's. Because of the many misconceptions and controversies surrounding the study of the learning disabled, and in order to provide a framework for funding, legislation, and program development, Congress adopted legislation in 1968 that defined the term "learning disability." In sum, learning disabilities are neurological problems that can impair a child's ability to perform certain tasks that require accurate perceptive skills. These are physiological problems that in no way reflect a child's intellectual capacity or potential.

The learning disabled child may encounter difficulty in speech, reading, writing, math, concentration, and memory. Regulations that accompany Public Law 94-142 state that learning disabilities include "such conditions as perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia, and developmental asphasia."

The learning disabled child is often mistaken as being mentally retarded or emotionally disturbed. This is one of the many misconceptions that a concerted focus on the problem can dispel. The hyperactivity and antisocial behavior often associated with learning disabilities are simply a reflection of the frustration that these children feel. The frustrations often result in a sense of failure that breeds even further failure and low self-esteem.

These feelings can also lead to delinquency problems in some children. As much as 36 percent of the children in the juvenile justice system have been diagnosed as suffering from a form of learning disabilities. But there is hope. Evidence indicates that after 40 to 60 hours of remediation the rate of re-

cidivism by learning disabled delinquents drops drastically.

Learning disabilities are not just a problem for children. Studies by the Presidential Initiative on Adult Literacy show that 60 million men and women in this country cannot read the front page of their newspaper. A countless number of adults cannot complete a job application because of the inability to read it. The link between adult illiteracy and learning disabilities has been firmly established. Can we afford to allow the learning disabled child of today to become the illiterate adult of tomorrow?

Intelligent, gifted, and determined children can compensate for their handicaps. With early diagnosis and proper remediation, these children can develop strengths and reach goals that may never have been possible. If we can get a handle on what learning disabilities are, how to diagnose them, and we can start down the road to their treatment. The grassroots programs of awareness that will be highlighted by this resolution will be important steps toward solving the mystery of learning disabilities.

In conclusion, I wish to thank my colleagues who support and cosponsor this effort. Also, I wish to note my deep respect for the many caring organizations, such as the Arkansas Coalition for the Handicapped, the Arkansas Council of Learning Disabilities, and the Foundation for Children with Learning Disabilities, who labor selflessly on behalf of the many learning disabled children and adults in our country. With this resolution we want to supplement their efforts and their dedication, and to provide them the national recognition their work deserves.

Further, with the designation of October 1986 as "Learning Disabilities Awareness Month" we can heighten the awareness achieved during last year's commemorative month. We can further work to bring down the barriers that prevent the recognition and treatment of these problems. We can help these children lead happier and more fulfilled lives. Mr. President, I urge the Senate to adopt this joint resolution.

I ask unanimous consent to print the joint resolution in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 413

Whereas millions of Americans suffer from one or more learning disabilities;

Whereas it is estimated that ten million American children have been diagnosed as suffering from learning disabilities;

Whereas most learning-disabled persons are of normal or above normal intelligence but cannot learn to read and write in the conventional manner;

Whereas it is important for parents, educators, physicians, and learning-disabled persons to be aware of the nature of learning disabilities and the resources available to help learning disabled persons;

Whereas early disagnosis and treatment of learning-disabled children give such children a better chance for a happy and productive adult life;

Whereas the courage necessary for learning-disabled persons to meet their special challenges should be recognized;

Whereas hundreds of national and local support groups for learning-disabled persons, parents of learning-disabled children, and professionals who work with learning-disabled persons have made important contributions to the treatment of learning disabilities;

Whereas research and study have contributed to public knowledge about learning disabilities, but much remains to be learned; and

Whereas public awareness of and concern about learning disabilities may encourage the establishment of the programs necessary to promote early diagnosis and treatment of learning disabilities and to help learning-disabled persons and their families cope with their learning disabilities: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1986 hereby is designated "Learning Disabilities Awareness Month", and the President of the United States is authorized and requested to issue a proclamation calling upon all public officials and the people of the United States to observe such month with appropriate programs, ceremonies, and activities.

Mr. MATHIAS. Mr. President, today I join Senator BUMPERS to introduce a joint resolution to designate October 1986 as Learning Disabilities Awareness Month.

Millions of Americans have one or more learning disabilities, and an estimated 10 million American children have been diagnosed as learning-disabled. These statistics become all the more compelling when we look at the human side of learning disabilities.

Most learning-disabled people are normal or above normal in intelligence but have a neurological impairment which makes certain types of learning difficult. When a learning disability goes undiagnosed, individuals can experience years of frustration, confusion, and low self-esteem. Ignorant of the physiological basis for their difficulties in school, learning-disabled children risk a growing sense of isolation and failure.

Happily, researchers have been developing methods of diagnosing and treating learning disabilities. The most important factor is early identification of the disability. With early diagnosis and treatment, a learning-disabled child has a better chance of leading a productive and fulfilling adult life.

Yet even with the more sophisticated methods of detection available to us today, learning disabilities are still difficult to identify. That is why it is all the more important to increase the public's awareness of learning disabilities. The joint resolution that we introduce today will help set the stage for promoting awareness and educating the public about the nature of learning disabilities. Last year, organizations and individuals throughout the Nation participated in events held in honor of Learning Disabilities Awareness Month. It is our hope that this year's efforts will prove no less successful.

I am proud of the fact that Mrs. Mathias has demonstrated what an important difference one person can make. She has worked in schools and colleges and administrative offices to gain recognition and help for the learning-disabled. Most importantly, she has shared the story of her own struggle to surmount this problem and is an example which should give courage and inspiration to others who follow in her path. This joint resolution celebrates achievements such as hers and invites us all to share it.

ADDITIONAL COSPONSORS

S. 436

At the request of Mr. HATCH, the name of the Senator from Nevada [Mr. HECHT] was added as a cosponsor of S. 436, a bill to amend section 1979 of the Revised Statutes (42 U.S.C. 1983), relating to civil actions for the deprivation of rights, to limit the applicability of that statute to laws relating to equal rights, and to provide a special defense to the liability of political subdivisions of States.

S. 1793

At the request of Mr. KENNEDY, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 1793, a bill to amend the Public Health Service Act to establish a grant program to develop improved systems of caring for medical technology dependent children in the home, and for other purposes.

S. 2093

At the request of Mr. ARMSTRONG, the name of the Senator from South Dakota [Mr. ABDNOR] was added as a cosponsor of S. 2093, a bill to recognize the organization known as The National Mining Hall of Fame and Museum.

S. 2454

At the request of Mr. MURKOWSKI, the names of the Senator from Michigan [Mr. RIEGLE] and the Senator from Rhode Island [Mr. PELL] were added as cosponsors of S. 2454, a bill to repeal section 1631 of the Department of Defense Authorization Act, 1985, relating to the liability of Government contractors for injuries or losses of property arising out of certain atomic weapons testing programs, and for other purposes.

S. 2455

At the request of Mr. MITCHELL, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of

S. 2455, a bill entitled the National Organ and Tissue Donor Act.

S. 2699

At the request of Mr. SPECTER, the name of the Senator from Pennsylvania [Mr. HEINZ] was added as a cosponsor of S. 2699, a bill to amend the Controlled Substances Act to provide mandatory minimum sentences for distribution of controlled substances to minors, to add enhanced penalties, including mandatory minimum sentences, for employment of minors in the distribution of controlled substances, and to allow States receiving forfeited assets to use such assets for youth drug abuse prevention and rehabilitation.

S. 2731

At the request of Mr. BIDEN, the name of the Senator from Arkansas [Mr. PRYOR] was added as a cosponsor of S. 2731, a bill to provide the opportunity for farmers in areas affected by natural disasters to defer the payment of principal and interest due on Farmers Home Administration loans.

S. 2737

At the request of Mr. ABDNOR, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 2737, a bill to amend the Commodity Exchange Act to remove the application of such act to the trading of cattle.

S. 2744

At the request of Mr. HOLLINGS, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 2744, a bill to require the issuance of import licenses for certain imports.

S. 2781

At the request of Mr. EVANS, the names of the Senator from Ohio [Mr. GLENN], the Senator from Florida [Mrs. HAWKINS], and the Senator from North Dakota [Mr. BURDICK] were added as cosponsors of S. 2781, a bill to amend the Energy Policy and Conservation Act with respect to energy conservation standards for appliances.

S. 2799

At the request of Mr. MITCHELL, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 2799, a bill to consolidate and improve Federal laws providing compensation and establishing liability for oil spills.

S. 2802

At the request of Mr. TRIBLE, the names of the Senator from South Dakota [Mr. ABDNOR], and the Senator from Oklahoma [Mr. NICKLES] were added as cosponsors of S. 2802, a bill to prohibit foreign assistance to countries which fail to take steps to prevent and punish the laundering of drug-related profits in their territory, and for other purposes.

SENATE JOINT RESOLUTION 385

At the request of Mr. RIEGLE, the names of the Senator from Pennsylvania [Mr. HEINZ], the Senator from Maine [Mr. MITCHELL], the Senator from Indiana [Mr. LUGAR], the Senator from Illinois [Mr. SIMON], and the Senator from Minnesota [Mr. BOSCHWITZ] were added as cosponsors of Senate Joint Resolution 385, a joint resolution to designate October 23, 1986 as "National Hungarian Freedom Fighters Day."

SENATE JOINT RESOLUTION 401

At the request of Mr. GORE, the name of the Senator from Arkansas [Mr. PRYOR] was added as a cosponsor of Senate Joint Resolution 401, a joint resolution to designate the week of October 12, 1986, through October 18, 1986, as National Job Skills Week."

SENATE JOINT RESOLUTION 407

At the request of Mr. CHILES, the names of the Senator from Arkansas [Mr. PRYOR], the Senator from Tennessee [Mr. GORE], and the Senator from Nebraska [Mr. ZORINSKY] were added as cosponsors of Senate Joint Resolution 407, a joint resolution designating November 12, 1986, as "Salute to School Volunteers Day."

SENATE JOINT RESOLUTION 408

At the request of Mr. DOLE, the names of the Senator from Pennsylvania [Mr. SPECTER], and the Senator from Nebraska [Mr. ZORINSKY] were added as cosponsors of Senate Joint Resolution 408, a joint resolution designating "American Physiologists Week."

SENATE JOINT RESOLUTION 410

At the request of Mr. WILSON, the names of the Senator from New Jersey [Mr. BRADLEY], the Senator from Nevada [Mr. LAXALT], the Senator from Oklahoma [Mr. NICKLES], the Senator from Nebraska [Mr. ZORINSKY], the Senator from Georgia [Mr. NUNN], the Senator from Florida [Mrs. HAWKINS], the Senator from Idaho [Mr. MCCLURE], the Senator from South Carolina [Mr. THURMOND], the Senator from Kansas [Mr. DOLE], and the Senator from South Carolina [Mr. HOLLINGS] were added as cosponsors of Senate Joint Resolution 410, a joint resolution to designate the period commencing February 9, 1987, and ending February 15, 1987, as "National Burn Awareness Week."

AMENDMENTS SUBMITTED

DEPARTMENTS OF COMMERCE, JUSTICE, STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS, FISCAL YEAR 1987

HELMS AMENDMENTS NOS. 2804 THROUGH 2820

(Ordered to lie on the table.)

Mr. HELMS submitted 17 amendments intended to be proposed by him to the bill (H.R. 5161) making appropriations for the Departments of Commerce, Justice, State, the Judiciary, and related agencies for the fiscal year ending September 30, 1987, and for other purposes; as follows:

AMENDMENT No. 2804

On page 64, line 23, before the period insert the following: ": *Provided further*, That none of the funds appropriated for the Legal Service Corporation shall be used to support a recipient or grantee that does not—

"(1) submit an annual report to the Legal Services Corporation which complies with the accounting and reporting guidelines contained in Statement of Position (78-10), 'Accounting Principles and Reporting Practices for Certain Nonprofit Organizations', issued by the Accounting Standards Subcommittee on Nonprofit Organizations of the American Institute of Certified Public Accountants (AICPA) and dated December 31, 1978; and

"(2) institute a system of timekeeping consistent with the Legal Services Corporation's requirements as established by a majority of the Board of Directors of the Corporation. The annual report shall detail the number and types of cases handled, and the amount and types of legal training and legal technical assistance provided by the recipient. No information contained in the report shall identify or enable the identification of any person served by the recipient or in any way breach client confidentiality under applicable State law. With respect to a recipient's legislative activities, the report shall also document all direct and indirect expenses; the sources of all supporting funds, regardless of the sources of the funds employed; and all employee time. The system of timekeeping shall, at a minimum, provide, for any work done or service performed by a paralegal or an attorney the following information:

"(A) the date work is performed or service is provided;

"(B) the name of the attorney or paralegal performing the work or providing the service; and

"(C) a file number or other means of identifying the matter or case on which the work is performed or the client to whom service is provided. Recipients and grantees shall require all employees who are registered lobbyists or who devote any of their time to legislative activities, except for adjudicatory proceedings, to maintain time logs accounting for all working hours".

AMENDMENT No. 2805

On page 64, line 23, before the period insert the following: ": *Provided further*, That none of the funds appropriated for the Legal Services Corporation shall be used to initiate or support the formation of, act as an organizer of, or advocate that anyone join, any association, federation, labor union, coalition, network, alliance, or any similar entity".

AMENDMENT No. 2806

On page 64, line 23, before the period insert the following: ": *Provided further*, That none of the funds appropriated for the Legal Services Corporation shall be used to prepare, produce, or disseminate any com-

munication that provides directions on how to lobby".

AMENDMENT No. 2807

On page 64, line 23, before the period insert the following: ": *Provided further,* That none of the funds appropriated for the Legal Services Corporation shall be used to pay any dues to any organization, other than a bar association, a purpose or function of which is to engage in such political or legislative activities. For purposes of this proviso, the term—

" 'legislative activities' means lobbying and other activities designed to facilitate lobbying, including, but not limited to, attendance at legislative sessions or committee hearings, or the gathering of information or the analysis of pending legislation; and

" 'political activities' means those activities intended either to influence the electoral process or the making, as distinguished from the administration of, public policy, including favoring or opposing current or proposed public policy and also includes lobbying".

AMENDMENT No. 2808

On page 64, line 23, before the period insert the following: ": *Provided further,* That none of the funds appropriated for the Legal Services Corporation shall be used to maintain separate offices for the sole purpose of engaging in legislative or political activities. For purposes of this proviso, the term—

" 'legislative activities' means lobbying and other activities designed to facilitate lobbying, including, but not limited to, attendance at legislative sessions or committee hearings, or the gathering of information or the analysis of pending legislation; and

" 'political activities' means those activities intended either to influence the electoral process or the making, as distinguished form the administration of, public policy, including favoring or opposing current or proposed public policy and also includes lobbying".

AMENDMENT No. 2809

On page 64, line 23, before the period insert the following: ": *Provided further,* That none of the funds appropriated for the Legal Services Corporation shall be used knowingly to assist others to engage in political or legislative activities. For purposes of this proviso, the term—

" 'legislative activities' means lobbying and other activities designed to facilitate lobbying, including, but not limited to, attendance at legislative sessions or committee hearings, or the gathering of information or the analysis of pending legislation; and

" 'political activities' means those activities intended either to influence the electoral process or the making, as distinguished form the administration of, public policy, including favoring or opposing current or proposed public policy and also includes lobbying".

AMENDMENT No. 2810

On page 64, line 23, before the period insert the following: ": *Provided further,* That none of the funds appropriated for the Legal Services Corporation shall be used to attend meetings of coalitions, networks, alliances, or any other groups formed to engage in political or legislative activities. For purposes of this proviso, the term—

" 'legislative activities' means lobbying and other activities designed to facilitate lobbying, including, but not limited to, attendance at legislative sessions or committee hearings, or the gathering of information or the anaylsis of pending legislation; and

" 'political activities' means those activities intended either to influence the electoral process or the making, as distinguished from the administration of, public policy, including favoring or opposing current or proposed public policy and also includes lobbying".

AMENDMENT No. 2811

On page 64, line 23, before the period insert the following: ": *Provided further,* That none of the funds appropriated for the Legal Services Corporation shall be used by other groups to pay, in whole or in part, for the conduct of, or transportation to, an event if a primary purpose of the event is to facilitate political or legislative activites or any activity which would be prohibited if conducted with funds made available by the Legal Services Corporation".

AMENDMENT No. 2812

On page 64, line 23, before the period insert the following: ": *Provided further,* That none of the funds appropriated for the Legal Services Corporation shall be used to pay, arrange, or provide transportation to legislative or administrative proceedings persons other than employees of recipients, witnesses entering appearances in proceedings on behalf of clients, and clients".

AMENDMENT No. 2813

On page 64, line 23, before the period insert the following: ": *Provided further,* That none of the funds appropriated for the Legal Services Corporation shall be used to prepare, produce, or disseminate any article, newsletter, or other publication or written matter or other form of mass communication which contains any reference to proposed or pending legislation if—

"(1) the communication contains a direct suggestion, or, when taken as a whole, an indirect suggestion to the public at large or to persons outside of the recipient program (other than a client or group of clients currently represented by a recipient with regard to a matter directly related to the legislation, or their counsel or co-counsel) to contact public officials in support of or in opposition to legislation, or to contribute to or participate in any demonstration, march, rally, fundraising drive, lobbying campaign, letter writing, or telephone campaign for the purpose of influencing the course of such legislation; or

"(2) the publication contains directions on how to lobby generally or on particular legislation".

AMENDMENT No. 2814

On page 64, line 23, before the period insert the following: ": *Provided further,* That none of the funds appropriated for the Legal Services Corporation shall be used to solicit a client for the purpose of making legislative or administrative representation possible".

AMENDMENT No. 2815

On page 64, line 23, before the period insert the following: ": *Provided further,* That none of the funds appropriated for the Legal Services Corporation shall be used to support grassroots lobbying".

AMENDMENT No. 2816

On page 64, line 23, before the period insert the following: ": *Provided further,* That none of the funds appropriated for the Legal Services Corporation shall be used, directly or indirectly, to solicit or arrange a request from any official to testify or otherwise make representations in connection with legislation".

AMENDMENT No. 2817

On page 64, line 23, before the period insert the following: ": *Provided further,* That none of the funds appropriated for the Legal Services Corporation shall be used to support a recipient that expends non-Federal funds or funds received from a source other than the Corporation for purposes prohibited by the Legal Services Corporation Act or this Act".

AMENDMENT No. 2818

On page 64, line 23, before the period insert the following: ": *Provided further,* That none of the funds appropriated for the Legal Services Corporation shall be used to pay for administrative or related costs, including transportation costs, associated with any activity prohibited by the Legal Services Corporation Act or this Act".

AMENDMENT No. 2819

At an appropriate place in the bill, add the following:

"SEC. . None of the funds appropriated or otherwise made available by this Act shall be used by the Department of Justice to bring or maintain any sort of action to require directly or indirectly the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education as a result of being mentally or physically handicapped.".

AMENDMENT No. 2820

At an appropriate place in the bill, add the following:

"SEC. . Section 223(b) of the Communications Act of 1934 is amended—

(1) in paragraph (1)(A), by striking out 'under eighteen years of age or to any other person without that person's consent';

(2) by striking out paragraph (2);

(3) in paragraph (4), by striking out 'paragraphs (1) and (3)' and inserting in lieu thereof 'paragraphs (1) and (2)'; and

(4) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively.".

NATIONAL AIR AND SPACE MUSEUM

GARN (AND GLENN) AMENDMENT NO. 2821

Mr. DOLE (for Mr. GARN, for himself and Mr. GLENN) submitted an amendment to the bill (S. 1311) to authorize the Smithsonian Institution to plan, design, and construct facilities for the National Air and Space Museum; as follows:

At the end of the bill, add the following:

SEC. . (a) The Congress finds that—

(1) the crew of the space shuttle Challenger was dedicated to stimulating the interest

of American children in space flight and science generally;

(2) the members of the crew gave their lives trying to benefit the education of American children;

(3) a fitting tribute to that effort and to the sacrifice of the Challenger crew and their families is needed; and

(4) an appropriate form for such tribute would be to expand educational opportunities in science by the creation of a center that will offer children and teachers activities and information derived from American space research.

(b) It is the sense of the Congress that—

(1) a Children's Challenger Center for Space Science should be established in conjunction with the Smithsonian Institution as a living memorial to the seven Challenger astronauts who died serving their country and to other individuals who gave their lives in exploration of the space frontier; and

(2) the Federal Government should, along with the Smithsonian Institution, public and private organizations, and persons, cooperate in the establishing of such a Center.

NOTICES OF HEARINGS

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. ANDREWS. Mr. President, I would like to announce that the Select Committee on Indian Affairs has scheduled a business meeting for Wednesday, September 17, 1986, at 2 p.m., in room S205 of the Capitol, to mark up the following bills:

H.R. 1920, to establish Federal standards and regulations for the conduct of gaming activities on Indian reservations and lands;

S. 2676, to provide for the settlement of water rights claims of the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians in San Diego County, California, and for other purposes;

S. 1452, to settle Indian land claims in the town of Gay Head, Massachusetts, and for other purposes;

S. 2564, to provide for the proper administration of justice within the Salt River Pima-Maricopa Indian Reservation by granting jurisdiction to the Salt River Pima-Maricopa Indian Community Court over certain criminal misdemeanor offenses;

S. 2107, to provide for the settlement of certain claims of the Papago Tribe of Arizona arising from the construction of Tat Momolikot Dam, and for other purposes;

S. 2504, to authorize certain transfers affecting the Pueblo of Santa Ana in New Mexico, and for other purposes.

Mr. President, I would like to announce that the Select Committee on Indian Affairs has set an oversight hearing on the Indian Trust Fund, the transmittal and investment of the money in the fund and the proposed request for proposal issued by the Treasury Department pertaining to the Indian Trust Fund. The hearing will be held in room 385 in the Russell Building on the 23d of September, 1986, from 10 a.m. until 12 noon.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON MILITARY CONSTRUCTION

Mr. THURMOND. Mr. President, I ask unanimous consent that the Subcommittee on Military Construction, of the Committee on Armed Services, be authorized to meet during the session of the Senate on Monday, September 15, 1986, in order to mark up H.R. 1202, dealing with Fish and Wildlife on Military Reservations.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

COUNTERING SOVIET PROPAGANDA

● Mr. GRASSLEY. Mr. President, virtually since the day America embarked on a program to rebuild its defenses, which had been irresponsibly neglected during the 1970's, the Soviet Union has engaged in a major peace offensive in the hope of derailing America's defense modernization program. The main themes of the Soviet peace offensive are the peace-loving nature of the Soviet Union, the threat to peace posed by weapons of mass destruction, and America's intransigence and aggressive designs.

The most recent edition of the quarterly Newsletter Soviet Disinformation Forecast, contains an article written by Adam Ulam entitled "Countering Soviet Propaganda." Mr. Ulam's article deals with the Soviet peace offensive and how America should respond to Soviet propaganda.

Adam B. Ulam is a recognized expert on the Soviet Union and Soviet foreign policy. He is currently director of the Russian Research Center at Harvard University. He has written extensively on the Soviet Union. His books on Soviet foreign policy include "Expansion and Coexistence, Dangerous Relations," and "The Rivals: America and Russia since WWII."

I think the Daniloff case has given many Americans occasion to again ask some basic questions about the Soviet Union's commitment to peace and the rule of law. Ulam points out in his essay that arms control, though enormously important and desirable, is not in itself the key to peace. The real key to peace is in the policies pursued by the United States and the Soviet Union. Ulam points out that the U.S.S.R. is the main catalyst of troubles on the international scene.

Mr. President, I ask that Adam Ulam's article "Countering Soviet Propaganda" be inserted in the RECORD.

The article follows:

COUNTERING SOVIET PROPAGANDA

(By Adam B. Ulam)

"Friends in peace, enemies in war"—that was what the Founding Fathers believed should be America's attitude towards other nations. An eminently sensible formula, and it served the Republic well, until the world in which it could work reasonably well was irretrievably shattered in 1914. But the legacy of so many years, during which the average American could afford to and did give but scant attention to the world outside the Western hemisphere has lingered on in the national consciousness, and hence our dilemma and puzzlement in the wake of World War II as to how to deal with the Soviet Union.

Here we can concentrate on only one aspect of that neither peace or war situation that has existed between the two superpowers virtually since V-J day: the propaganda campaign waged by the Kremlin against the United States. And to anticipate an immediate rejoinder from the Soviet side, and for that matter from many in the West, let us say: yes, the United States, at least in more recent years, has not been laggard in what is described grandiloquently as the struggle for the hearts and minds of mankind, or to call it more prosaically, the propaganda contest.

But it would be masochistic self-deception to maintain that in this contest both sides observe the same rules. To put it simply, even if it wanted to, the U.S. government could not take the kind of liberties with the fact that the USSR does when it comes to justifying its policies and denouncing those of its rival; Washington cannot match the stridency and persistence of the Kremlin's threats, cajoleries or enticements. Under our system, the voice of the Executive is invariably scrutinized, often criticized, and occasionally denounced by its political opponents, the media, and others. Moscow is entirely free from such scruples and constraints. How then can a democracy remain true to its principles and rules and yet counter the flagrant distortions of its policies and aims that emanate to often from the USSR?

The question is especially acute in the present phase of Soviet-American relations. By the dint of a persistent and well-orchestrated propaganda campaign, Gorbachev and Co. have persuaded many in the West, including the US, that the Soviet Union is genuinely ready to engage in a veritable nuclear "striptease," and that it is the US which because of its goal of achieving nuclear superiority through the SDI, is keeping the world on the brink of a nuclear holocaust. It is clear that the US government's reactions to the Soviet enticements fail to be convincing to many in our own society. It would serve both the interests of truth and of better understanding of the American position if instead of bald asseverations that the Soviet proposals must be a ruse, American spokesmen would try patiently to set the problem in a perspective.

First, as to the proposals themselves: let us examine their detail before we accept them as genuine. Let us not forget that in the past Moscow's tactics on nuclear weapons were clearly intended to establish or enhance its nuclear superiority. It was the USSR which in 1961 broke abruptly the nuclear test moratorium. And soon after SALT I was sealed and signed, they began what might be called an end around play by building and deploying SS-20s. We must heed the lessons of the past—hence the need to scrutinize carefully not only what the Soviets are saying, but also what they are doing.

Then the United States should patiently try to educate world public opinion that nuclear arms control, though enormously important and desirable, is not in itself the key to peace. This key lies in the policies of the two superpowers—weapons themselves don't make wars. No American is losing sleep because of the knowledge that Britain and

France dispose of nuclear weapons that could bring death to tens of millions in this country. For all of American's sins of omission and commission, the fact remains that it is the USSR that is the main catalyst of troubles on the international scene, and it is local crises abetted by the Kremlin that at times threaten to escalate into a nuclear confrontation between the two superpowers. If Gorbachev wants to demonstrate that a new spirit prevails in the Soviets' councils, he should remove the Soviet military presence in Afghanistan and/or stop giving weapons and diplomatic support to regimes such as Qaddafi's. Then the Soviets' proposal about arms control would be much more credible and welcome.

The litmus test of the Soviets' intention to seek the lowering of tension in international affairs lies precisely in what they do about such "regional" issues. It is understandable that they concentrate their propaganda campaign on the question of weapons—fear of a nuclear holocaust is deeply ingrained in all of us. But the danger of war comes not *primarily* from the quantitative aspect of the weapons question, it comes from the expansionist thrust of Soviet foreign policy and from the aggressive and terrorist activities of some of the regimes which are clients and dependents of the USSR.

As the above demonstrates, the most effective antidote to the exaggerations and, to put it mildly, inaccuracies of Soviet official propaganda, does not lie in trying to complete with Moscow in vituperation and stridency. The cause of democracy gains and the Kremlin's hopes are confounded when the counter-arguments offered by the West are their own people. A literal translation of the page of *Pravda* devoted to foreign countries could not but make the reader reflect whether a regime licensing such streams of vituperation and misstatement of facts about the non-Communist countries is really seeking a stable world and a reduction in international tension.

In brief, it is a mistake to assume that the U.S. must be always the loser when it comes to the diplomatic and propaganda game with the USSR or, conversely, that in order to complete it should imitate the latter's tactics and rhetoric. The Soviets can recognize and respect when their opponents display tenacity of purpose, and when their tone is firm but not abusive. Absence of effective public criticism seemingly affords the Kremlin much more freedom of action than is possible for a democracy. At the same time the lack of criticism at times leads the Soviet leaders to serious errors of judgment from a public relations point of view. They did not realize that their pledges concerning human rights in the Helsinki Declarations would be taken seriously and would continue to embarrass them at home and abroad. They have displayed gross insensitivity to the national feelings of the Japanese by refusing even to negotiate about a few small islands. Instead of being content with a Finland-type relationship with Afghanistan, they embraced the Communist coup there in 1978 and have incurred a lot of trouble since.

Perhaps, even though dimly, some Soviet leaders may be beginning to perceive that in the search for expansion the USSR has overextended itself, and that its policies in Ethiopia, Libya, Angola, and elsewhere do not contribute to the security of the Soviet state and regime—if anything, the opposite. But such perceptions will not be transmuted into actual policies, unless the West for its part displays a tenacity of purpose and the ability to educate world public opinion about the real prerequisits for a real peace.●

ABORTION AND INFORMED CONSENT: ARKANSAS

● Mr. HUMPHREY. Mr. President, I am continuing my presentation of letters which I have received from women across the Nation who profoundly regret the decision to abort their unborn children. I am presenting them in alphabetical order by State.

Cindy in Arkansas describes another example of the myopic counseling women receive in abortion clinics. She expresses fear for other women who will be submitted to the same ideological indoctrination she received without ever knowing the facts about abortion. She poignantly related the pain she felt when she discovered that she had killed a child. Indeed, she attributes part of the soaring teenage suicide rate to abortion.

When this young woman became pregnant she was lonely and unable to share her burden. She needed compassion, candor and honesty. Instead, she received nonsensical euphemisms. No one gave her enough information to make an intelligent decision for herself. As a result, she was grossly unprepared to live with the consequences of this momentous decision. Many women have had this experience and so will many more, as long as these so-called counselors are allowed to demean women in this fashion.

Mr. President, I am appalled by the superficiality of the counseling which most women receive prior to an abortion. I am amazed by the lack of preparation most of them recount. And I am outraged by the stifling of truth which I see among abortionists, and their support staffs. This is why I believe a legal requirement for informed consent is necessary for the well-being of women in this Nation. I am convinced that fewer women would choose this alternative if they knew more about the true consequences.

I urge my colleagues to reflect carefully upon this young woman's complaint. If we are to avoid further abuses of this sort I hope they will join me in cosponsoring S. 2791.

The letter follows:

MAY 22, 1986.

DEAR SIR: I am Cindy Case, 31, of Little Rock, Arkansas. This letter is written in support of your action concerning "Informed Consent" in reference to the abortion issue.

I was raised in the generation when most parents never talked about sex and never let their children talk about it either. Therefore, I grew up sheltered from the reality of getting pregnant in the first place. When I was 25 years old, I got pregnant out of wedlock. I wasn't promiscuous. I was searching for love but got into trouble in the process. I did not want to tell my close friends because we were all sitting on the same church pew. I had made a mistake and I thought the church would ask me to leave if they found out.

I had to tell someone. Finally, I told an acquaintance. She told me I could have an abortion and no one would ever have to know. I didn't even know what an abortion was. All I knew was I wouldn't be pregnant anymore. I thought I could forget about it and continue my life and hopefully not make the same mistake again.

I called the number she gave me and the nurse said they have a simple procedure that only takes around five minutes of your time. "We remove the tissue that was formed at conception and you don't leave here with the same problem you had when you came in."

I felt a lot of guilt after that but it was mainly because I had done wrong in the eyes of God by getting pregnant out of wedlock, not because I had commited murder. I found that out three-and-a-half years later when I saw the babies in the trash can on TV. I didn't really know what I had done until then.

I want everyone to know the truth, the whole truth. I know we can make a difference if we can get into the schools and reach the girls before they get pregnant. I know drugs, peer pressure, unhappy home life and many other things cause teen-age suicides, but I feel it is one of the more serious aftermaths of abortion.

Someday, I hope to have the support of our two Senators from Arkansas.

Sincerely,

CINDY.

LITTLE ROCK, ARK.●

KELLYE CASH CHOSEN TO BE MISS AMERICA 1987

● Mr. SASSER. Mr. President, I would like to take this opportunity to join with the citizens of Tennessee in congratulating Miss Kellye Cash upon winning the title of Miss America 1987. Miss Cash was selected last Saturday night at the annual Miss America Pageant in Atlantic City, NJ, among contestants from all 50 States and the District of Columbia.

Kellye Cash exemplifies the ideal young American woman that the Miss America Pageant honors every year. She is exceptionally bright, hardworking, and talented. A senior at Memphis State University, Miss Cash is majoring in communications and public relations. She has helped pay for her education by working two part-time jobs. Her tremendous musical talent was clearly evident when she brought the audience at the Miss America Pageant to its feet after playing the piano and singing the pop-blues song, "I'll Be Home."

I am confident that Miss Cash will be an excellent representative of the Miss America Pageant during the course of her 1-year reign and in the years after. It is extremely refreshing to hear a young woman say today, as Miss Cash does, that she wants to maintain that "girl-next-door" image. At a time when we are becoming increasingly concerned about drug abuse among young people, I believe she will

serve as a positive role model for all young Americans.

Kellye Cash makes all Tennesseans proud but I am sure none are more proud than her parents, Billie and Roy Cash, Jr. Her mother and father also deserve special credit for raising such an outstanding young woman. The Cash family is already legendary in Tennessee, and Kellye now joins her granduncle, country music star Johnny Cash, and his daughter, singer Roseanne Cash, as entertainment celebrities.

I am pleased, Mr. President, that such an energetic and talented young woman has been chosen as Miss America. Her selection is richly deserved.●

BUDGET SCOREKEEPING REPORT

● Mr. DOMENICI. Mr. President, I hereby submit to the Senate the budget scorekeeping report for this week, prepared by the Congressional Budget Office in response to section 308(b) of the Congressional Budget Act of 1974, as amended. This report also serves as the scorekeeping report for the purposes of section 311 of the Budget Act.

The report follows:

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, DC, September 15, 1986.

Hon. PETE V. DOMENICI,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC

DEAR MR. CHAIRMAN: The attached report shows the effects of congressional action on the budget for fiscal years 1986 and 1987. The estimated totals of budget authority, outlays, and revenues for each fiscal year are compared to the appropriate or recommended levels contained in the most recent budget resolutions, Senate Concurrent Resolution 32 for fiscal year 1986, and Senate Concurrent Resolution 120 for fiscal year 1987. This report meets the requirements for Senate scorekeeping of section 5 of Senate Concurrent Resolution 32 and is current through September 12, 1986. The report is submitted under section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended.

No changes have occurred since my last report.

With best wishes,

Sincerely,

RUDOLPH G. PENNER.
Director.

CBO WEEKLY SCOREKEEPING REPORT FOR THE U.S. SENATE, 99TH CONGRESS, 2d SESSION, AS OF SEPTEMBER 12, 1986

[Fiscal year 1986—in billions of dollars]

	Current level [1]	Budget resolution S. Con. Res. 32	Current level +/− resolution
Budget authority	1,053.0	1,069.7	−16.7
Outlays	980.0	967.6	12.4
Revenues	778.5	795.7	−17.2
Debt subject to limit	2,092.8	[2] 2,078.7	14.1

[1] The current level represents the estimated revenue and direct spending effects (budget authority and outlays) of all legislation that Congress has enacted in this or previous sessions or sent to the President for his approval. In addition, estimates are included of the direct spending effects for all entitlement or other programs requiring annual appropriations under current law even though the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[2] The current statutory debt limit is $2,111.0 billion.

CBO WEEKLY SCOREKEEPING REPORT FOR THE U.S. SENATE, 99th CONGRESS, 2d SESSION, AS OF SEPTEMBER 12, 1986

[Fiscal year 1987—in billions of dollars]

	Current level [1]	Budget resolution S. Con. Res. 120	Current level +/− resolution
Budget authority	636.2	1,093.4	−457.1
Outlays	737.3	995.0	−257.7
Revenues	845.6	852.4	−6.8
Debt subject to limit	2,092.8	[2] 2,322.8	−230.0
Direct loan obligations	20.4	34.6	−14.1
Guaranteed loan commitments	33.1	100.8	−67.7

[1] The current level represents the estimated revenue and direct spending effects (budget authority and outlays) of all legislation that Congress has enacted in this or previous sessions or sent to the President for his approval. In addition, estimates are included of the direct spending effects for all entitlement or other programs requiring annual appropriations under current law even though the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[2] The current statutory debt limit is $2,111.0 billion.

FISCAL YEAR 1986 SUPPORTING DETAIL FOR CBO WEEKLY SCOREKEEPING REPORT, U.S. SENATE 99th CONGRESS, 2d SESSION AS OF SEPTEMBER 12, 1986

[IN MILLIONS OF DOLLARS]

	Budget authority	Outlays	Revenues
I. Enacted in previous sessions:			
Revenues			777,794
Permanent appropriations and trust funds	723,461	629,772	
Other appropriations	525,778	544,947	
Offsetting receipts	−188,561	−188,561	
Total enacted in previous sessions	1,060,679	986,159	777,794
II. Enacted this session:			
Commodity Credit Corporation Urgent Supplemental Appropriation, 1986 (Public Law 99–243)			
Federal Employees Benefits Improvement Act of 1986 (Public law 99–251)		4	
VA Home Loan Guarantee Amendments (Public Law 99–255)		51	
Omnibus Budget Reconciliation Act of 1985 (Public Law 99–272)	−4,259	−6,001	765
Department of Agriculture Urgent Supplemental, 1986 (Public Law 99–263)			
Advance to Hazardous Substance Response Trust Fund (Public Law 99–270)			
FHA and GNMA Credit Commitment Assistance Act (Public Law 99–289)		380	
Federal Employees Retirement Act of 1986 (Public Law 99–335)			−90
Temporary Extension of Certain Housing Programs (Public Law 99–345)		−304	
Military Retirement Reform Act (Public Law 99–348)	−25		
Urgent Supplemental Appropriations, 1986 (Public Law 99–349)	−3,508	475	
Panama Canal Commission Authorizing Act (Public Law 99–368)	18	16	
Total	−7,773	−6,240	675
III. Continuing resolution authority			
IV. Conference agreements ratified by both Houses			
V. Entitlement authority and other mandatory items requiring further appropriation action:			
Compact of free association	3	3	
Special benefits (federal employees)	14	14	
Family social services	100	75	
Payment to civil service retirement [1]	(37)	(37)	
Total entitlements	118	93	
Total current level as of September 12, 1986	1,053,024	980,012	778,469
1986 budget resolution (S. Con. Res. 32)	1,069,700	967,600	795,700
Amount remaining:			
Over budget resolution		12,412	
Under budget resolution	16,676		17,231

[1] Interfund transactions do not add to budget totals.

Note–Numbers may not add due to rounding.

FISCAL YEAR 1987 SUPPORTING DETAIL FOR CBO WEEKLY SCOREKEEPING REPORT, U.S. SENATE, 99th CONGRESS, 2d SESSION, AS OF SEPTEMBER 12, 1986

[In millions of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous sessions:			
Revenues			843,799
Permanent appropriations and trust funds	733,558	647,692	
Other appropriations		195,861	
Offsetting receipts	−163,823	−163,823	
Total enacted in previous sessions	569,735	679,730	843,799
II. Enacted this session:			
Federal Employees Benefits Improvement Act of 1986 (Public Law 99–251)		2	
Technical Corrections Amends to Food Security Act (Public Law 99–253)	50	50	
VA Home Loan Guarantee Amendments (Public Law 99–255)		49	
Food Security Improvements Act of 1986 (Public Law 99–260)	−115	−115	
White Earth Reservation Land Settlement Act of 1985 (Public Law 99–264)	10	10	
Consolidated Omnibus Budget Reconciliation Act of 1986 (Public Law 99–272)	155	−3,553	2,503
FHA and GNMA Credit Commitment Assistance Act (Public Law 99–289)		−178	
Federal Employees' Retirement System Act of 1986 (Public Law 99–335)	−150	−1,670	−666
Judicial Improvements Act (Public Law 99–336)	2		
Temporary Extension of Certain Housing Programs (Public Law 99–345)		−85	
Military Retirement Reform Act (Public Law 99–348)	−47	146	
Urgent Supplemental Appropriations, 1986 (Public Law 99–349)	−278	−914	
Panama Canal Commission Authorizing Act (Public Law 99–368)		2	
Omnibus Diplomatic Security and Anti-Terrorism Attack Act (Public Law 99–399)	1	1	
Children's Justice and Assistance Act (Public Law 99–401)	10		
Total enacted this session	−362	−6,254	1,837
III. Continuing resolution authority			
IV. Conference agreements ratified by both Houses			
V. Entitlement authority and other mandatory items requiring further appropriation action:			
Payment to the CIA retirement fund	126	126	
Claims, defense	156	150	
Payment to the foreign service retirement trust fund [2]	(173)	(173)	
Range improvements	10	7	

FISCAL YEAR 1987 SUPPORTING DETAIL FOR CBO WEEKLY SCOREKEEPING REPORT, U.S. SENATE, 99th CONGRESS, 2d SESSION, AS OF SEPTEMBER 12, 1986—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
BLM: Miscellaneous trust fund	(1)	(1)	
Compact of free association	42	42	
Administration of territories	35	30	
Payments to air carriers, DOT	32	30	
Retired pay—Coast Guard	370	341	
Maritime, operating-differential subsidies		297	
BIA: Miscellaneous trust funds	1	1	
Social services block grant	2,700	2,538	
Family social services	758	584	
Guaranteed student loans	3,219	2,580	
Higher education facilities loans and insurance	19		
Government payment for annuitants	1,459	1,301	
Retirement pay for PHS officers	83	81	
Medicaid	19,595	19,241	
Medical facilities guarantee and loan fund	20	19	
Payments to health care trust funds [2]	(20,826)	(20,826)	
Special milk program	16	11	
Child nutrition programs	4,212	3,791	
Federal unemployment benefits and allowances	103	102	
Advances to unemployment trust fund [2]	(9)	(9)	
Special benefits (general retirement and federal employee retirement)	257	257	
Black lung disability trust fund	549	549	
Supplemental security income	7,846	7,846	
Special benefits for disabled coal miners	698	638	
Assistance payments	7,350	7,350	
Child support enforcement	599	583	
Payments to social security trust funds [2]	(501)	(501)	
Veterans insurance and indemnities	5	4	
Veterans readjustment benefits	750	723	
Veterans compensation	10,300	9,360	
Veterans pensions	3,684	3,385	
Veterans burial benefits	138	138	
Salaries of judges	104	103	
Fees and expenses of witnesses	46	37	
Compensation of the President	(1)	(1)	
Payment to civil service retirement trust fund [2]	(4,557)	(4,557)	
National wildlife refuge fund	6	6	
Military pay raises and benefits	1,566	1,539	
Total entitlements	66,855	63,793	
Total current level as of Sept. 12, 1986	636,227	737,268	845,636
1987 budget resolution (S. Con. Res. 120)	1,093,350	995,000	852,400
Amount remaining:			
Over budget resolution			
Under budget resolution	457,123	257,732	6,764

[1] Less than $500 thousand.
[2] Interfund transactions do not add to budget totals.
Note.—Numbers may not add due to rounding.●

ARTHUR DORMAN

● Mr. SARBANES. Mr. President, I want to bring to our colleagues' attention the record of distinguished service of Maryland State senator for Prince Georges County, Arthur Dorman, O.D. On Saturday, September 20, Beth Torah Congregation is honoring Senator Dorman as "Man of the Decade" for his dedication to the community and for 26 years as a member of its congregation. It gives me great pleasure to join with members of his family and of Beth Torah in honoring Senator Dorman, for in addition to being a strong and effective leader in the Maryland General Assembly, the Beth Torah Congregation, and the Prince Georges community, he is a close friend.

One of the joys and rewards of politics and public service is the opportunity to make friends with those individuals who care deeply about the public interest. By anyone's definition, Arthur Dorman fits the roles of "public servant" and "citizen" as well as being a strong leader in the Beth Torah Congregation since joining in 1960.

I had the privilege of serving with Arthur Dorman during my 4 years in the Maryland General Assembly and since that time we have continued to work on issues of mutual concern. There is no question that his distinguished record of service to the State and community has been characterized by commitment to the highest standards of integrity and leadership and his receiving the "Man of the Year" award is testimony to this.

Since coming to Maryland when Dr. Dorman began his optometry practice in 1953, our fellow citizens have benefitted from over three decades of his active participation in the community as a member and leader in organizations too numerous to list. Throughout his 22 years as a legislator Senator Dorman has worked hard and effectively, particularly on health and education issues. He was primarily responsible for mental health coverage by private insurance companies and helped to start the National Vision Institute of America, one of the first prepaid vision insurance plans. He has demonstrated a particular interest in educating our youth, whether as executive board member of the Southern Regional Education Board—coordinating higher education activities among 14 Southern States—or as Senator Dorman teaching history class for a day in his local high school.

Arthur Dorman has not only been a skillful legislator, dedicated to fairness and opportunity, and a respected optometrist, having been voted both Maryland and National Optometrist of the Year, he has also given selflessly to his synagogue, where he has held various offices through the years and presently serves as a trustee and substitute rabbi. He has been instrumental in the growth and financial stability of Beth Torah Congregation and in promoting interdenominational learning experiences on both the youth and adult levels. He does not limit his generosity to Beth Torah but assists other synagogues in the community as well.

Arthur Dorman's contributions as a religious, community, and public leader are eloquent testimony to the dedication and ability he has brought to Prince Georges County and to the State. The "Man of the Decade" award justifiably pays tribute to his hard work and genuine commitment to his fellow man. Again, I am pleased to join in honoring him for his many years of devoted service both to the highest ideals of Beth Torah Congregation and, on a broader level, to the community.●

HAPPY 100TH BIRTHDAY TO THE TIMES-ADVOCATE

● Mr. WILSON. Mr. President, I am delighted to join with admirers of first-class journalism everywhere in congratulating the Times-Advocate of Escondido, CA, on its 100th birthday.

The world has turned over many times since a four-page sheet called the Escondido Times first circulated through a frontier settlement of 1,500 people. The gasoline-powered linotype on grand avenue has long since given way to state-of-the-art equipment. Escondido has grown to include over 60,00 residents, expecting—and receiving—the widest possible range of information, entertainment, and opinion.

Before city hall, before the railway, even before Escondido was incorporated as a city, there was the Escondido Times. And although the Times began as an organ of the Escondido Land & Town Co. to lure folks to the new town of Escondido, the Times-Advocate in its recent history has established a reputation for independent news coverage of high quality.

A good newspaper, it's been said, is a community talking with itself. The Times-Advocate has become as vital to Escondido's civic life as water is to the region's economy. And just as the city it serves is no longer "hidden" between the mountains and the sea, so the paper has won repeated and deserved recognization for the quality of its news coverage and photojournalism.

Escondido sits in the shadow of Mt. Palomar. The Escondido Times-Advocate is in no one's shadow.

I wish the Times-Advocate and its employees all the best, on the occasion of the publication of this centennial celebration issue, and for all the issues to come.●

REHABILITATION ACT AMENDMENTS

Mr. DOLE. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 4021.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House disagree to the amendment of the Senate to the bill (H.R. 4021) entitled "An Act to extend and improve the Rehabilitation Act of 1973", and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That Mr. Hawkins, Mr. Biaggi, Mr. Williams, Mr. Martinez, Mr. Hayes, Mr.

Eckart of Ohio, Mr. Waldon, Mr. Jeffords, Mr. Goodling, Mr. Coleman of Missouri, and Mr. Bartlett be the managers of the conference on the part of the House.

Mr. DOLE. Mr. President, I move that the Senate insist on its amendment and agree to the conference requested by the House and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The Chair appointed Mr. HATCH, Mr. WEICKER, Mr. STAFFORD, Mr. NICKLES, Mr. THURMOND, Mr. KERRY, Mr. SIMON, Mr. KENNEDY, and Mr. DODD conferees on the part of the Senate.

COLORADO RIVER FLOODWAY PROTECTION ACT

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 886, S. 1696, dealing with the Colorado River.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1696) to establish a federally declared floodway for the Colorado River below Davis Dam.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceed to consider the bill, which had been reported from the Committee on Environment and Public Works, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italics.)

S. 1696

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Colorado River Floodway Protection Act".

FINDINGS AND PURPOSES

SEC. 2. (a) FINDINGS.—The Congress finds that—

(1) there are multiple purposes established by law for the dams and other control structures administered by the Secretary of the Interior on the Colorado River;

(2) the maintenance of the Colorado River Floodway established in this Act is essential to accomplish these multiple purposes;

(3) developments within the Floodway are and will continue to be vulnerable to damaging flows such as the property damage which occurred in 1983 and may occur in the future;

(4) certain Federal programs which subsidize or permit development within the Floodway threaten human life, health, property, and natural resources; and

(5) there is a need for coordinated Federal, State, and local action to limit Floodway development.

(b) PURPOSE.—The Congress declares that the purposes of this Act are to—

(1) establish the Colorado River Floodway, as designated and described further in this Act, so as to provide benefits to river users and to minimize the loss of human life, protect health and safety, and minimize damage to property and natural resources by restricting future Federal expenditures and financial assistance, except public health funds, which have the effect of encouraging development within the Colorado River Floodway; and

(2) establish a task force to advise the Secretary of the Interior and the Congress on establishment of the Floodway and on managing existing and future development within the Floodway, including the appropriateness of compensation in specified cases of extraordinary hardship.

DEFINITIONS

SEC. 3. (a) The term "Committees" refers to the Committee on Interior and Insular Affairs of the U.S. House of Representatives and *the Committee on Environment and Public Works and* the Committee on Energy and Natural Resources of the U.S. Senate.

(b) The term "financial assistance" means any form of loan, grant, guaranty, insurance, payment, rebate, subsidy, or any other form of direct or indirect Federal assistance other than—

(1) general revenue-sharing grants made under section 102 of the State and Local Fiscal Assistance Amendments of 1972 (31 U.S.C. 1221);

(2) deposit or account insurance for customers of banks, savings and loan associations, credit unions, or similar institutions;

(3) the purchase of mortgages or loans by the Government National Mortgage Association, the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation;

(4) assistance for environmental studies, plans, and assessments that are required incident to the issuance of permits or other authorizations under Federal law; and

(5) assistance pursuant to programs entirely unrelated to development, such as any Federal or federally assisted public assistance program or any Federal old-age, survivors, or disability insurance program.

Such term also includes flood insurance described in sections 1322 (a) and (b) of the National Flood Insurance Act of 1968, [as amended (42 U.S.C. 4028)] *Public Law 90-448, title XIII (82 Stat. 572) as amended,* on and after the dates on which the provisions of those sections become effective.

(c) The term "Secretary" means the Secretary of the Interior.

(d) The term "water district" means any public agency providing water service, including water districts, county water districts, public utility districts, and irrigation districts.

(e) The term "Floodway" means the Colorado River Floodway established in section 5 of this Act.

COLORADO RIVER FLOODWAY TASK FORCE

SEC. 4. (a) To advise the Secretary and the Congress there shall be a Colorado River Floodway Task Force, which shall include [representatives] *one representative* of—

(1) each State (appointed by the Governor) and Indian reservation in which the Floodway is located;

(2) each county in which the Floodway is located;

(3) [one] *a* law enforcement [representative] *agency* from each county in which the Floodway is located; and

(4) each water district in which the Floodway is located;

(5) the cities of Needles, Parker, Blythe, Bullhead City, Yuma, Laughlin, *Lake Havasu City,* Nevada (if and when incorporated), and Mojave County, Arizona Supervisor District No. 2 (chosen by, but not a member of the Board of Supervisors);

(6) [one representative] of the Chamber of Commerce from each county in which the Floodway is located;

(7) the Colorado River Wildlife Council;

[(7)] *(8)* the Army Corps of Engineers;

[(8)] *(9)* the Federal Emergency Management Agency (FEMA);

[(9)] *(10)* the Department of Agriculture;

[(10)] *(11)* the Department of the Interior; and

[(11)] *(12)* the Department of State.

(b) The task force shall be chartered and operate under the provisions of the Federal Advisory Committee Act (Public Law 92-463; 5 U.S.C. App. I) and shall prepare recommendations concerning the Colorado River Floodway, which recommendations shall deal with:

(1) the means to restore and maintain the Floodway specified in section 5 of this Act, including, but not limited to, specific instances where land transfers or relocations, or other changes in land management, might best effect the purposes of this Act; and

(2) the necessity for additional Floodway management legislation at local, *tribal,* State, and Federal levels;

(3) the development of specific design criteria for the creation of the Floodway boundaries;

(4) the review of mapping procedures for Floodway boundaries; [and]

(5) whether compensation should be recommended in specific cases of [extraordinary] *economic* hardship resulting from impacts of the 1983 flood on property outside the Floodway which could not reasonably have been foreseen; *and*

(6) the potential application of the Floodway on Indian lands and recommended legislation or regulations that might be needed to achieve the purposes of the Floodway taking into consideration the special Federal status of Indian lands.

(c) The task force shall exist for at least one year after the date of enactment of this Act, or until such time as the Secretary has filed with the Committees the maps described in subsection 5(b)(2). The task force shall file its report with the Secretary and the Committees within nine months after the date of enactment of this Act.

COLORADO RIVER FLOODWAY

SEC. 5. (a) There is established the Colorado River Floodway as identified and generally depicted on maps that are to be submitted by the Secretary.

(b)(1) Within eighteen months after the date of enactment of this Act, the Secretary, in consultation with the seven Colorado River Basin States, represented by persons designated by the Governors of those States, [(including, in the Governor's discretion, members of the Colorado River Floodway Task Force),] *the Colorado River Floodway Task Force,* and any other interested parties shall:

(i) complete a study of the tributary floodflows downstream of Davis Dam;

(ii) define the specific boundaries of the Colorado River Floodway so that the Flood-

way can accommodate either a one-in-one hundred year river flow consisting of controlled releases and tributary inflow, or a flow of forty thousand cubic feet per second (cfs), whichever is greater, from below Davis Dam to the Southerly International Boundary between the United States of America and the Republic of Mexico.

(2) As soon as practicable after the determination of the Floodway boundary pursuant to this subsection, the Secretary shall prepare and file with the Committees maps depicting the Colorado River Floodway, and each such map shall be considered a standard map to be adhered to by all agencies and shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in each such map may be made. Each such map shall be on file and available for public inspection in the Office of the Commissioner of the Bureau of Reclamation, Department of the Interior, and in other appropriate offices of the Department.

(3) The Secretary shall provide copies of the Colorado River Floodway maps to (A) the chief executive officer of each State, county, municipality, water district, Indian tribe, or equivalent jurisdiction in which the Floodway is located, (B) each appropriate Federal agency, including agencies which regulate Federal financial institutions, and (C) each federally insured financial institution which serves the geographic area as one of its primary markets.

(c)(1) The Secretary shall conduct, at least once every five years, a review of the Colorado River Floodway and make, after notice to and in consultation with the appropriate officers referred to in paragraph (3) of subsection (b), and others, such minor and technical modifications to the boundaries of the Floodway as are necessary solely to reflect changes that have occurred in the size or location of any portion of the floodplain as a result of natural forces, and as necessary pursuant to subsection (c) of section (7) of this Act.

(2) If, in the case of any minor and technical modification to the boundaries of the Floodway made under the authority of this subsection, an appropriate chief executive officer of a State, county, municipality, water district, Indian tribe, or equivalent jurisdiction, to which notice was given in accordance with this subsection files comments disagreeing with all or part of the modification and the Secretary makes a modification which is in conflict with such comments, the Secretary shall submit to the chief executive officer a written justification for his failure to make modifications consistent with such comments or proposals.

LIMITATIONS ON FEDERAL EXPENDITURES AFFECTING THE FLOODWAY

SEC. 6. (a) Except as provided in section 7, no new expenditures or new financial assistance may be made available under authority of any Federal law for any purpose within the Floodway established under section 5 of this Act.

(b) An expenditure or financial assistance made available under authority of Federal law shall, for purposes of this Act, be a new expenditure or new financial assistance if—

(1) in any case with respect to which specific appropriations are required, no money for construction or purchase purposes was appropriated before the date of the enactment of this Act; or

(2) no legally binding commitment for the expenditure or financial assistance was made before such date of enactment.

EXCEPTIONS

SEC. 7. Notwithstanding section 6, the appropriate Federal officer, after consultation with the Secretary, may make Federal expenditures or financial assistance available within the Colorado River Floodway for—

(a) any dam, channel or levee construction, operation or maintenance for the purpose of flood control, water conservation, power or water quality;

(b) other remedial or corrective actions, including but not limited to drainage facilities essential to assist in controlling adjacent high ground water conditions caused by flood flows;

(c) the maintenance, replacement, reconstruction, repair, and expansion, of [federally assisted and publicly] *publicly or tribally* owned or [publicly] operated roads, structures (including bridges), or facilities; *Provided,* That, no such expansion shall be permitted unless—

(1) the expansion is designed and built in accordance with the procedures and standards established in section 650.101 of title 23, Code of Federal Regulations, and the following as they may be amended from time to time; and

(2) the boundaries of the Floodway are adjusted to account for changes in flows caused, directly or indirectly, by the expansion;

(d) military activities essential to national security;

(e) any of the following actions or projects, but only if the Secretary finds that the making available of expenditures or assistance therefor is consistent with the purposes of this Act:

(1) Projects for the study, management, protection and enhancement of fish and wildlife resources and habitats, including, but not limited to, acquisition of fish and wildlife habitats and related lands, stabilization projects for fish and wildlife habitats, and recreational projects.

(2) The establishment, operation, and maintenance of air and water navigation aids and devices, and for access thereto.

(3) Projects eligible for funding under the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-4 through 11).

(4) Scientific research, including but not limited to aeronautical, atmospheric, space, geologic, marine, fish and wildlife and other research, development, and applications.

(5) Assistance for emergency actions essential to the saving of lives and the protection of property and the public health and safety, if such actions are performed pursuant to sections 305 and 306 of the Disaster Relief Act of 1974 (42 U.S.C. 5145 and 5146) and are limited to actions that are necessary to alleviate the emergency. Disaster assistance under other provisions of the Disaster Relief Act of 1974 (Public Law 93-288, as amended) may also be provided with respect to persons residing within the Floodway, or structures or public infrastructure in existence or substantially under construction therein, on the date ninety days after the date of enactment of this Act: *Provided,* That, such persons, or with respect to public infrastructure the State or local political entity which owns or controls such infrastructure, had purchased flood insurance for structures or infrastructure under the National Flood Insurance Program, if eligible, and had taken prudent and reasonable steps, as determined by the [Secretary,] *Director of the Federal Emergency Management Agency,* to minimize damage from future floods or operations of the Floodway established in the Act.

(6) Other assistance for public health purposes, such as mosquito abatement programs.

(7) Nonstructural projects for riverbank stabilization that are designed to enhance or restore natural stabilization systems.

(8) Publicly *or tribally* financed, owned and operated compatible recreational developments such as regional parks, golf courses, docks, [and] boat [landing] *launching* ramps *(including steamboat and ferry landings), including compatible recreation uses and accompanying utility or interpretive improvements which are essential or closely related to the purpose of restoring the accuracy of a National Historical Landmark and which meet best engineering practices considering the nature of Floodway conditions.*

(9) Compatible agricultural uses that do not involve permanent crops and include only a minimal amount of permanent facilities in the Floodway.

CERTIFICATION OF COMPLIANCE

SEC. 8. The Secretary of the Interior shall, on behalf of each Federal agency concerned, make written certification that each agency has complied with the provisions of this Act during each fiscal year beginning after September 30, 1985. Such certification shall be submitted on an annual basis to the U.S. House of Representatives and the U.S. Senate on or before January 15 of each fiscal year.

PRIORITY OF LAWS

SEC. 9. Nothing contained in this Act shall be construed to alter, amend, repeal, modify, interpret, or be in conflict with the provisions of the Colorado River Compact (45 Stat. 1057), the Upper Colorado River Basin Compact (63 Stat. 31), the Water Treaty of 1944 with the United Mexican States (Treaty Series 944, 59 Stat. 1219), the Flood Control Act of 1944 (58 Stat. 887), the decree entered by the Supreme Court of the United States in Arizona v. California, and others (376. U.S. 340), the Boulder Canyon Project Act (45 Stat. 1057), the Boulder Canyon Project Adjustment Act (54 Stat. 774; 43 U.S.C. 618a), the Colorado River Storage Project Act (70 Stat. 105; 43 U.S.C. 620), the Colorado River Basin Project Act (82 Stat. 885; 43 U.S.C. 1501). Furthermore, nothing contained in this Act shall be construed as indicating an intent on the part of the Congress to change the existing relationship of other Federal laws to the law of a State, or a political subdivision of a State, or to relieve any person of any obligation imposed by any law of any State, *tribe,* or political subdivision of a State. No provision of this Act shall be construed to invalidate any provision of State, *tribal,* or local law unless there is a direct conflict between such provision and the law of the State, or political subdivision of the State *or tribe,* so that the two cannot be reconciled or consistently stand together. Inconsistencies shall be reviewed by the task force, and the task force shall make recommendations concerning such local laws. This Act shall in no way be interpreted to interfere with a State's or tribe's right to protect, rehabilitate, preserve, and restore lands within its established boundary.

SEPARABILITY

SEC. 10. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of such provision to other persons not similarily situated or to

other circumstances shall not be affected thereby.

REPORTS TO CONGRESS

SEC. 11. Within one year after the date of the enactment of this Act, the Secretary shall prepare and submit to the Committees a report regarding the Colorado River Floodway, the task force's report, and the Secretary's recommendations with respect to the objectives outlined in section 4(b) of this Act. *In making his report, the Secretary shall analyze the effects of this Act on the economic development of the Indian tribes whose lands are located within the Floodway.*

AMENDMENTS REGARDING FLOOD INSURANCE

SEC. 12. (a) The National Flood Insurance Act of 1968, [(42 U.S.C. 4028)] *Public Law 90-448, title XIII (82 Stat. 572), as amended,* is amended by adding the following section:

"Sec. 1322. (a) Owners of existing National Flood Insurance Act policies with respect to structures located within the Floodway established under section 5 of the Colorado River Floodway Protection Act shall have the right to renew and transfer such policies. Owners of existing structures located within said Floodway on the date of enactment of the Colorado River Floodway Protection Act who have not acquired National Flood Insurance Act policies shall have the right to acquire policies with respect to such structures for six months after the Secretary of the Interior files the Floodway maps required by section 5(b)(2) of the Colorado River Floodway Protection Act and to renew and transfer such policies.

"(b) No new flood insurance coverage may be provided under this title on or after a date six months after the enactment of the Colorado River Floodway Protection Act for any new construction or substantial improvements of structures located within the Colorado River Floodway established by section 5 of the Colorado River Floodway Protection Act. New construction includes all structures that are not insurable prior to that date.

"(c) The Secretary of the Interior may by rule after notice and comment pursuant to 5 U.S.C. 553 establish temporary Floodway boundaries to be in effect until the maps required by Section 5(b)(2) of the Colorado River Floodway Protection Act are filed, for the purpose of enforcing subsections (b) and [(c)] *(d)* of this section.

"(d) A federally supervised, approved, regulated or insured financial institution may make loans secured by structures which are not eligible for flood insurance by reason of this section; *Provided,* That prior to making such a loan, such institution determines that the loans or structures securing the loan are within the Floodway."

FEDERAL LEASES

SEC. 13. (a) No lease of lands owned in whole or in part by the United States and within the Colorado River Floodway shall be granted after the date of enactment of this Act unless the Secretary determines that such lease would be consistent with the operation and maintenance of the Colorado River Floodway.

(b) No existing lease of lands owned in whole or in part by the United States and within the Colorado River Floodway shall be extended beyond the date of enactment of this Act or the stated expiration date of its current term, whichever is later, unless the lessee agrees to take reasonable and prudent steps determined to be necessary by the Secretary to minimize the inconsistency of operation under such lease with the operation and maintenance of the Colorado River Floodway.

(c) No lease of lands owned in whole or part by the United States between Hoover Dam and Davis Dam below elevation 655.0 feet on Lake Mohave shall be granted unless the Secretary determines that such lease would be consistent with the operation of Lake Mohave.

(d) The provisions of subsections (a) and (b) of this section shall not apply to lease operations on Indian lands pursuant to a lease providing for activities which are exempted under section 7 of this Act.

(e) Subsections (a) and (b) of this section shall not apply to lands held in trust by the United States for the benefit of any Indian tribe or individual with respect to any lease where capital improvements, and operation and maintenance costs are not provided for by Federal financial assistance if the lessee, tribe, or individual has provided insurance or other security for the benefit of the Secretary sufficient to insure against all reasonably forseeable, direct, and consequential damages to the property of the tribe, private persons, and the United States, which may result from the proposed lease.

NOTICES AND EXISTING LAWS

SEC. 14. (A)(1) Nothing in this Act shall alter or affect in any way the provisions of section 702c of title 33, United States Code.

(2) The Secretary shall provide notice of the provisions of section 702c of title 33, United States Code, and this Act to all existing and prospective lessees of lands leased by the United States and within the Colorado River Floodway.

(b) Except as otherwise specifically provided in this Act, all provisions of the National Flood Insurance Act of 1968, as amended, and requirements of the National Flood Insurance Program ("NFIP") shall continue in full force and effect within areas wholly or partially within the Colorado River Floodway. Any maps or other information required to be prepared by this Act shall be used to the maximum extent practicable to support implementation of the NFIP.

(c) The Secretary shall publish notice on three successive occasions in newspapers of general circulation in affected communities of the provisions of section 12(a), (a) of this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 15. There is authorized to be appropriated to the Department of the Interior $600,000, through the end of fiscal year 1990, in addition to any other funds now available to the Department to discharge its duties to implement sections 4 through 14 of this Act[; Provided, however,]*: Provided, That by mutual agreement, such funds shall be made available to the Federal Emergency Management Agency to discharge its duties under section 12 of this Act: Provided further,* That the provisions of sections 6 and 7 of this Act shall not be affected by this section*: And Provided further, in addition, Indian tribes may be eligible under Public Law 93-638 to contract for studies of Indian lands required under the provisions of this Act.*

Mr. ABDNOR. Mr. President, I am very pleased to bring before the Senate today, S. 1696, the Colorado River Floodway Protection Act.

There are very few bills that almost everyone can agree are good government legislation. I believe that S. 1696 is one of those.

S. 1696 has two basic purposes: First, it is intended to save Federal dollars by getting the U.S. Government out of the business of subsidizing development in the floodplain below Davis Dam on the Colorado River; and second, it will help to diffuse a potential dispute between those who wish to retain present levels of water storage behind the federally operated dams on the Upper Colorado River and those who would prefer to see the dams provide a higher level of flood control.

Mr. President, the Colorado River is one of the most highly regulated river systems in the Nation. The numerous dams on the Colorado River system represent a multibillion dollar Federal and State investment. These dams yield enormous flood control, water supply, and hydroelectric benefits.

Following the construction of the Bureau's Glen Canyon Dam in 1963, a temporary, 17-year flow regime of highly controlled water supply releases was experienced along the Lower Colorado River as Lake Powell was filled. This condition seems to have provided a false sense of security which allowed local residents and businesses to ignore the repeated warnings of the Bureau of Reclamation and the Corps of Engineers not to build in the floodplain downstream of Hoover Dam.

However, when the filling of Lake Powell was completed in 1980, the river returned to its previous flow regime of frequent flood control releases. The serious flooding that occurred during 1983, 1984, and 1985 is ample demonstration of this fact.

Despite these flood control releases and despite the best efforts of the Bureau of Reclamation to discourage it, development within the flood plain continues. Testimony received by the Committee on Environment and Public Works indicated that this development presents a serious problem with respect to the Bureau's ability to operate the upstream reservoir system.

One of the reasons for this situation is the fact that numerous Federal grants, subsidies, and programs which encourage development are available within the floodway. These include such things as Federal flood insurance, sewer and highway grants, Federal property leases, and loans to small businesses.

Furthermore, in the event of flooding, many of the residences and businesses in the floodway are eligible for Federal disaster relief or flood insurance payments.

For example, in 1983, 1984, and 1985, flooding on the lower Colorado River caused millions of dollars of damage to homes, businesses, and public facilities. During 1983 alone, the Federal Government paid $3 million in flood insurance claims and $4.9 million in

other forms of disaster relief for flood-related damages in the floodway area. If the development of the floodplain continues, Federal expenditures due to flooding in the area can be expected to increase.

Perhaps more importantly, if the development of the floodplain continues, it can be expected that pressure to increase the flood storage capacity of the upstream dams will mount. Such an increase of flood storage capacity can only be obtained at the expense of the water supply storage behind the dams. The Bureau of Reclamation has calculated that to provide the flood control storage necessary to prevent the flood flows of 1983, water supply storage valued well in excess of $1 billion would have to be foregone. Since the resulting flood control benefits would in no way approach this level of magnitude, such a reallocation of resources is clearly unacceptable.

Mr. President, as I stated earlier, the main purpose of S. 1696 is to withdraw Federal assistance for new development within the Colorado River floodplain. The bill requires the establishment of a federally declared floodway after an extensive study and public participation process. Within the floodway, most forms of Fedral development-related assistance would be prohibited for new development.

The bill is more than fair to those who have already built within the floodplain. For them, Federal flood insurance—within certain limits—and many forms of Federal disaster relief would remain available.

Although Federal leasing would be required to be consistent with protection of the floodway, the bill contains no zoning or restrictions on the use of private land. That remains the responsibility of local governments. Residents of the affected areas will be allowed to build anywhere they could legally build under existing law, and to obtain traditional forms of bank financing for such construction, as well as any available private flood insurance.

Furthermore, the bill does not tell the Bureau of Reclamation or the Corps of Engineers how to manage the Colorado River. If management changes are necessary or desirable, they can be made in the same manner in which they would be made now. Section 9 of S. 1696 specifically preserves all necessary legal authority for both agencies, and generally protects the existence and operation of the law of the river.

S. 1696 has the unanimous support of all of the States in the Colorado River Basin and enactment of the bill will accomplish several important objectives: First, it will protect existing conservation storage along the Colorado River, thus reducing the need for new water project construction in a growing area of the country. Second, maintenance of the floodway as specified in this legislation will decrease future flood damages. Third, because a more natural flood flow regime can be assured, downstream riparian fish and wildlife habitat is likely to be enhanced.

Further, implementation of S. 1696 will require a very small Federal expenditure, and if the benefits which are expected from this legislation are realized, the Federal Government will actually save tens of millions of dollars over the next several decades.

Mr. President, the committee reported version of S. 1696 which is before the Senate today is a carefully crafted compromise bill. It is legislation that provides great benefits to the Federal Government and local water users while at the same time doing little if any harm to those who live downstream of Davis Dam and currently benefit from Federal development subsidies.

When it approved the Coastal Barriers Resources Act during the 97th Congress, Congress gave explicit recognition to the idea that in certain areas of high risk, Federal development assistance and incentives should be withdrawn. The Committee on Environment and Public Works again recommends this approach to the Senate as the best way to address the serious problems caused by the continued development of the Lower Colorado River floodplain.

Finally, Mr. President, I would like to express my appreciation for the farsightedness of Senator GOLDWATER who originally introduced this measure, I would also like to thank Senators SIMPSON and DECONCINI who, along with Senator GOLDWATER, went well beyond the call of duty to insure that the committee bill is an excellent one. In addition, I would also like to thank our colleagues on the Committee on Energy and Natural Resources who have worked with us at every stage in perfecting the bill which is now before the Senate.

Mr. President, as I stated at the beginning of my remarks, this is truly a piece of good Government legislation and I urge my colleagues to give it their full support.

I ask unanimous consent that the section-by-section analysis from the committee report on S. 1696 be produced at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS S. 1696

Section 1. The Short Title.

Section 2. *Congressional Findings and Purposes.* Congress finds that maintenance of the Colorado River Floodway is essential to accomplish the multiple purposes of the dams and other control structures on the Colorado River. Congress finds that certain federal programs which subsidize or permit development within the Floodway threaten human life, health, property, and natural resources. Congress finds further that coordinated Federal, State and local action is necessary to limit floodway development.

The purposes of the Act are to: "establish the Colorado River Floodway . . . to provide benefits to river users . . ." and to "estabish a Task Force to advice the Secretary of the Interior and the Congress on establishment of the Floodway and on managing existing and future development within the Floodway . . ."

Section 3. *Definitions.* The definition of the term "financial assistance" is virtually identical to the definition contained in the Coastal Barrier Resources Act, P.L. 97-348.

Section 4. *Colorado River Floodway Task Force.* This section establishes a Colorado River Floodway Task Force and specifies its membership and functions. The Task Force is to consider and make recommendations to the Secretary of the Interior and to the Congress concerning "the means to restore and maintain the Floodway . . ." including any necessary additional legislation; "the necessity for additional Floodway management legislation . . ."; "design criteria for the creation of the floodway boundaries . . ."; "the review of mapping procedures"; the possibility of "compensation . . . in specific cases of economic hardship resulting from impacts of the 1983 flood on property outside the Floodway which could not reasonably have been foreseen"; and, "The potential application of the Floodway on Indian lands and recommended legislation or regulations needed . . .". The Task Force membership will contain representatives of a wide variety of local, State and Federal interests. The Committee anticipates that federal agencies will actively participate in Task Force activities, so that local and State views will receive a full hearing.

Section 5. *Colorado River Floodway.* This section requires the Secretary of the Interior, in consultation with the seven Colorado River Basin States, the Colorado River Floodway Task Force, and other interested parties, to

(1) complete a study of the tributary floodflows downstream of Davis Dam; and

(2) define the specific boundaries of the Colorado River Floodway so that the Floodway can accommodate either a one-in-one hundred year river flow consisting of controlled releases and tributary inflow, or a flow of forty thousand cubic feet per second (cfs), whichever is greater, from below Davis Dam to the Southerly International Boundary between the United States of America and the Republic of Mexico.

The standard level of protection that has been adopted in the administration of the National Flood Insurance Act is the one-in-one hundred year frequency flood. The Corps of Engineers has determined that 40,000 cubic feet per second (cfs) is the maximum release rate that historically would have inflicted a minimum level of downstream damages and has incorporated this flow level in its Hoover Dam flood control regulations continually since 1935. Consequently, the boundaries of the Colorado River Floodway should be capable of accommodating a one-in-one hundred year river flow or a 40,000 cfs flow, whichever is greater, from Davis Dam to the Southerly International Boundary between the United States and Mexico.

It is the Committee's judgment that the Secretary's analysis of the one-in-one hundred-year river flow should represent a realistic one-in-one hundred-year probability of such flow occurring in any reach of the river at a given time, and should not arbi-

trarily assume that flood inflows from all tributaries occur simultaneously. It is the nature of weather events along the Lower Colorado River, a desert region, that most rain storms are intense, localized thunder showers that would produce floods from only a few tributaries at a time, and the Secretary's study should reflect this.

Section 6. *Limitations on Federal Expenditures Affecting the Floodway.* This section states that, except as provided in Section 7, no new expenditures or new financial assistance may be made available under authority of any Federal law for any purpose within the Floodway.

Section 7. *Exceptions.* There are several functions and uses of the floodway that serve the public interest, and are generally compatible with floodway operation. This section recognizes those functions and uses by providing limited exceptions, generally subject to Secretarial discretion, to the prohibition on federal expenditures. These exception are enumerated as public and tribal roads, military activities, fish and wildlife enhancement projects, navaigation aids, emergency action assistance, public health assistance, public and Tribal recreational developments, and compatible agricultural uses that do not involve permanent crops and include only a minimal amount of permanent facilities in the floodway.

In general, the term "permanent crops" is to mean those crops which have a normal life of five years or more or which would be an obstruction to river flood flows. In this regard, crops such as alfalfa, grains such as wheat, barley, oats, etc., asparagus, cotton, lettuce, cauliflower, melons, tomatoes, carrots, etc., should not be considered "permanent crops" for the purposes of this bill. However, date, citrus, pistachio, or pecan trees would be examples of "permanent crops".

Similarly, "permanent facilities" are those improvements that would obstruct river flood flows. Therefore, facilities such as canals, laterals, etc., should not be regarded as "permanent facilities" for the purposes of this Act.

In addition, river control structures and related works are also exempted under this section. Attention should be given to the control of tributary flows, and erosion problems. The Secretary has authority to review tributary inflow systems both on and off reservation lands. Additionally, the Secretary can review progress on the bank stabilization program on the reservations along the Lower Colorado and determine whether additional work is necessary in this regard.

This section also includes language which makes permissible federal funding of certain aspects of the proposed Yuma Crossing Park development. Specifically, the bill will permit federal funds to be used for restoration activities at National Historic Landmarks, and utility or interpretive improvements which are essential or closely related to the purpose of restoring these National Historic Landmarks. The utility improvements must be floodproofed in accordance with sound engineering practice wherever and whenever possible. The Committee has been informed that the cost of improvements which are permissible under this section will not exceed $225,000 (1986 dollars).

Section 8. *Certification of Compliance.* This section requires that the Secretary of the Interior certify to Congress on an annual basis that federal agencies are in compliance with this Act.

Section 9. *Priority of Laws.* Section 9 contains a series of provisions to make certain that current law and regulations governing the operation of the Colorado River, often referred to as the "Law of the River," are not affected by the Act. Since the River and reservoir management programs currently in effect are established under current laws and regulations, these programs will be unaffected as well.

Section 10. *Separability.*

Section 11. *Reports to Congress.* This provision requires the Secretary of the Interior to report to Congress within one year after the date of enactment of the Act with respect to: (1) the Colorado River Floodway, (2) the report of the Colorado River Floodway Task Force, and (3) his further recommendations concerning Floodway matters.

Section 12. *Amendments regarding Flood Insurance.* Section 12 conforms certain provisions of the National Flood Insurance Act to this Act. Specifically, it grandfathers flood insurance coverage for existing development, and limits its availability for future development. This provision is modeled on the comparable provisions of the Coastal Barrier Resources Act ("CBRA"), P.L. 97-348. The definition of "new construction" is based on Federal Emergency Management Administration ("FEMA") regulations defining the term "insurable building" promulgated in implementing the CBRA.

Section 13. *Federal leases.* This section sets forth provisions controlling federal leasing within the Floodway. Leases of lands owned in whole or part by the United States (including Indian and other trust lands of the United States) are required to be consistent with the operation and maintenance of the Floodway. It also contains a separate, and parallel, provision for Lake Mohave.

This section also clarifies that, with respect to Indian lands held in trust by the United States within the floodway, leasing may take place if one or both of the following conditions are met: (1) if the activities for which the lands are leased are exempted under section 7 of this act, or (2) if no federal money for construction or operation and maintenance is provided and if the lessee, tribe, or individual has provided sufficient insurance or security to insure against all reasonably foreseeable, direct, and consequential damages to the property of the tribe, private persons, and the United States, which may result from the proposed lease.

Section 14. *Notices and Existing Laws.* Section 14 requires notice of certain provisions of existing law and of this Act to be given to residents of areas in the Floodway and to federal lessees. It provides for the continuation in the floodway area of the National Flood Insurance Program (except as specifically altered by the Act) and its integration with the requirements, including the mapping provisions, of this Act. The Department of the Interior, in carrying out its responsibilities under this Act, should work closely and on a cooperative basis with representatives of the Federal Emergency Management Agency ("FEMA") to ensure that existing programs, such as the National Flood Insurance Program, can be supplemented as inexpensively and effectively as possible.

Section 15. *Authorization of Appropriations.* Section 15 authorizes a total of $600,000 over a five year period, in addition to any other funds now available to the Department, for implementation of the Department's and FEMA's responsibilities under the Act. It also provides that Sections 6 and 7 are not affected by the provisions of this section. In addition, this section clarifies that Indian tribes may be eligible under Public Law 93-638 to contract for studies of Indian lands required under the provisions of this Act.

Mr. STAFFORD. Mr. President, as chairman of the Committee on Environment and Public Works, I am proud to recommend S. 1696 to my colleagues in the Senate.

As the distinguished chairman of the Water Resources Subcommittee, Senator ABDNOR, has said, S. 1696 is truly a good government piece of legislation.

The essence of the Colorado River Floodway Protection Act is to remove Federal development subsidies from an area which by its very nature should not be being developed.

The floodplain below the Davis Dam is itself an important part of the upstream dams on the Colorado River; it serves as an escape valve for the flood control releases from these dams. It, therefore, makes no sense for the Federal Government to continue to provide development assistance for those who want to locate in this floodplain.

This bill does not forbid development on private land in the floodplain; it merely assures that those who do wish to build there will assume the risk themselves.

Mr. President, S. 1696 is a very fair piece of legislation. It insures that there will be ample local representation during the actual delineation of the floodway boundaries, and it contains extensive protections for those who already live and earn their living within those boundaries.

Mr. President, S. 1696 is strongly supported by all of the Colorado River Basin States and I urge its adoption.

Mr. GOLDWATER. Mr. President, the Colorado River Floodway Protection Act is very important legislation for my State of Arizona. The Colorado River is a major source of water for Arizona as it is to a greater or lesser extent for the six other Colorado River Basin States, New Mexcio, Wyoming, Colorado, Utah, California, and Nevada.

Over 18 million people from Denver to San Diego use the waters from this majestic river to literally make the desert bloom. Colorado River water is used to irrigate over 1 million acres for agriculture and to supply the water needs for thousands of people in their homes and in their work places from major cities, such as Phoenix and, in the future, Tucson, to small towns from Vernal, UT, to Parker, AZ.

The dams on the Colorado River are a major source of energy and the lakes formed behind them provide wonderful recreational opportunities. Fish and wildlife are enhanced by the river and the wildlife refuges along its banks. Important flood control benefits have resulted from the construc-

tion of Flaming Gorge, Glen Canyon, Hoover, Davis, and Parker Dams.

Because of the river's location in the arid Western part of our Nation and its flow through parts of seven Western States, there is already greater allocation of Colorado River water than can be supplied in a normal rainfall year. Therefore, it is of the utmost importance that the river be managed in a manner which will result in the greatest conservation of water.

In order to control development in the river's flood plain, I introduced this bill, which is a companion bill to H.R. 1246 introduced by Congressman CHENEY. H.R. 1246 has passed the House. The purpose of my bill is to establish a Federal floodway of at least 40,000 cubic feet per second from below Davis Dam to the United States-Mexican border, a distance of 250 miles, or a 1 in 100 year river flow, whichever is greater.

This legislation is modeled after the Coastal Barriers Resources Act, which eliminates Federal assistance programs within fragile coastal areas, and the same would be the case for land in the designated floodway. Certain activities, such as agriculture and recreation, would continue, but no permanent structures could be built which would have any type of Federal aid in the form of flood insurance loans or grants. All present structures within the designated floodway will be grandfathered.

All the Governors and water resources directors of the seven basin States support this bill, which will provide flood protection and maximum water storage and conservation.

I want to express my appreciation to Senator STAFFORD, chairman of the Environment and Public Works Committee, and Senator JAMES ABDNOR, chairman of the Subcommittee on Water Resources, for their outstanding efforts in bringing this bill before the Senate.

● Mr. SIMPSON. Mr. President, the Colorado River Floodway Protection Act is a very important piece of legislation that will affect all of the States along the lower Colorado River Basin. This includes my State of Wyoming. I extend my appreciation to Senators ABDNOR and MOYNIHAN for moving this legislation through the subcommittee hearing process. Furthermore, I appreciate the efforts of Senators GOLDWATER and DECONCINI in framing a workable compromise on some of the very difficult issues contained in the original legislation. My fine sidekick in the House, DICK CHENEY, is to be richly praised for his perseverance.

The headwaters of the Green River—a river which is a major tributary of the Colorado River—are found in the western portion of Wyoming. This legislation, however, focuses on the Colorado River and its unusually high river flows from Davis Dam, located on the Arizona-Nevada State line, south to the United States-Mexico border, some 250 miles downstream.

This legislation recognizes the natural fact that the Colorado River will periodically flood, despite the major river control provided by existing dams all along the stretch of the Colorado. This flooding potential was graphically illustrated during 1982 and 1983. As a result of these floods, local residences and businesses were wiped out. This destruction was followed by appeals for Federal assistance through Federal flood insurance, Federal emergency assistance, and the like. After these major floods, development continued anew. This development actually and blatantly occurred between the Bureau of Reclamation's flood control levees.

Because of the very real potential for future flooding and the attendant loss of life and property, it is now necessary to withdraw most forms of Federal assistance to new development within the area along the Colorado River. This legislation will achieve that goal and place the risk of development squarely upon those who choose to take that risk.

By enacting this legislation, the Senate will simply establish a course of conduct which says that if an individual wishes to place a business or residence within the floodway, that individual may do so at his or her own risk. He or she should not expect that risk to be insured by the Federal Government.

Mr. President, this legislation makes ultimate good sense and will make good law. I do earnestly urge my colleagues to favorably consider S. 1696.●

(By request of Mr. DOLE, the following statement was ordered to be printed in the RECORD:)

Mr. DECONCINI. Mr. President, I have worked with members of the Environment and Public Works Committee and sponsors of the Colorado River Floodway legislation in both bodies to insure that the actions of the Federal Government in establishing a permanent floodway for the Colorado River do not create unforeseen difficulties for communities and individuals along the river. I commend my colleagues for their efforts in addressing the concerns which have been raised by Indian tribes whose reservations are located in the floodway as well as the concerns of communities on both sides of the river. I think the modifications agreed to will ease some of the greatest fears and prevent Federal intrusions which really have no bearing on the intent of this legislation. I want to take this opportunity to express my appreciation to the chairman of the Water Resources Subcommittee, Mr. ABDNOR, the ranking minority, Mr. BENTSEN, and their staffs for their responsiveness and diligent efforts to improve his legislation.

The amendments we have drafted to S. 1696 make clear that the Secretary of the Interior will take into consideration the task force recommendations prior to drawing up the boundaries of the floodway. This is a very important modification, Mr. President. It gives the task force a valid role to play in the formulation of the floodway boundaries.

Other changes to the bill which are addressed by the amendments relate to the continued development of a historical park area known as the Yuma crossing and associated sites in the Yuma area. The provision included in the Senate reported bill insures that development consistent with floodway management can be undertaken in the future. On the subject of tributary inflows, language has been included in the committee report which recognizes the need for close attention to the tributary waters flowing into the Colorado. A great deal of concern was expressed by communities along the river that tributary inflows need to be monitored to insure that much greater than 1 in 100 year flows in the Colorado would not occur because of unknown or unexpected flows into the Colorado from its tributaries. It is my hope that the Secretary of the Interior will review the tributary inflow control system to insure that large releases are not occurring simultaneously with large releases from below Davis Dam on the Colorado River.

Mr. President, even with the modifications incorporated in the committee bill, I cannot support S. 1696. I continue to believe we should seek the input from all affected parties prior to taking final actions on a permanent floodway for the Colorado. I do not disagree with the need to establish a clear and decisive policy for the management of the criteria for the operation of Bureau of Reclamation structures on the Colorado River, which S. 1696 will do. However, I do have concerns about the way in which we are undertaking this management. I sponsored alternative legislation on this issue establishing a task force to determine what the proper management of the floodway should be. My legislation would create a task force, consisting of Federal, State, and local governmental officials, which would be charged with reviewing past operations of the dams which regulate the flow of water in the Colorado, examining damage from floods created by the 1983 releases, and making recommendations to the President and the Congress on the future size of the floodway, construction, Federal expenditures, and need for additional legislation. S. 1696, on the other hand, establishes a federally recognized floodway to accommodate either a 1 in 100 year flood or a flow of

40,000 cubic feet per second. A task force is created to make recommendations to the Secretary of the Interior and the Congress on management of the river.

This legislation has enormous ramifications for communities and individuals along the Colorado River. I would feel much more comfortable if we adopted legislation directing a task force to review all consequences first. However, I understand there is considerable support for this legislation both by the administration and among my colleagues. For this reason, I will let the legislation go with the modifications made and hope that potential future problems that may occur as a result of the legislation can be dealt with legislatively at that time.

Mr. President, again I thank my distinguished colleagues on the Environment and Public Works Committee. I commend Senator GOLDWATER, Congressman UDALL, and Congressman CHENEY for all of their efforts on this legislation.

Mr. JOHNSTON. Mr. President, this bill is made necessary by a curious set of circumstances. Following the construction of Glen Canyon Dam in 1963, releases into the lower Colorado River were limited for the following 17 years as Lake Powell began to fill. Despite warnings from the Bureau of Reclamation and the Corps of Engineers that greater flood control releases would eventually be necessary, local residents and businesses began building on the floodplain of the river. This development continues today and threatens the Bureau's ability to operate the upstream reservoir system. Part of the problem is that numerous Federal grants, subsidies, and programs that encourage development are available within the floodplain.

The principal purpose of S. 1696 is to withdraw Federal assistance for development within the floodway. At the same time, currently existing development would be grandfathered. The bill has other provisions, but this is the crux of it.

Because of the Bureau of Reclamation's involvement in managing the Colorado River and because of the responsibilities of the Committee on Energy and Natural Resources in overseeing the Bureau's programs, the committee was given sequential referral of S. 1696 following its consideration by the Committee on Environment and Public Works. The Committee on Energy and Natural Resources supports S. 1696, as reported by the Committee on Environment and Public Works, and for this reason elected not to mark up the bill separately.

Mr. President, I believe this bill represents a wise solution to a difficult problem, and I urge its immediate passage.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. DOLE. Mr. President, I ask unanimous consent that the Environment and Public Works Committee be discharged from further consideration of H.R. 1246, the House companion bill, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1246) to establish a federally declared Floodway for the Colorado River below Davis Dam.

There being no objection, the Senate proceeded to consider the bill.

Mr. DOLE. Mr. President, I move to strike all after the enacting clause and insert the text of S. 1696, as amended.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Kansas.

The motion was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The bill (H.R. 1246), as amended, was passed.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PLAN AND DESIGN OF THE NATIONAL AIR AND SPACE MUSEUM

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate turn to Calendar No. 863, S. 1311, dealing with the Smithsonian Institution.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1311) to authorize the Smithsonian Institution to plan, design, and construct facilities for the National Air and Space Museum.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Rules and Administration, with an amendment to strike out all after the enacting clause, and insert the following:

That the Smithsonian Institution is authorized to plan, design, and construct facilities for the National Air and Space Museum at Washington Dulles International Airport.

SEC. 2. (a) The Smithsonian Institution is authorized to develop a master plan for expansion of the National Air and Space Museum at Washington Dulles International Airport as will not interfere with the operations of such airport.

(b) There are hereby authorized to be appropriated for fiscal years 1987 and 1988 a total of $1,000,000 to the Smithsonian Institution for master planning activities as provided in subsection (a).

SEC. 3. No Federal funds are authorized for the construction of any facilities provided for by section 1 of this Act.

SEC. 4. (a) The Board of Regents of the Smithsonian Institution is authorized to construct the Charles McC. Mathias, Jr. Laboratory for Environmental Research.

(b) The Charles McC. Mathias, Jr. Laboratory for Environmental Research shall be located at the Smithsonian Environmental Research Center, a bureau of the Smithsonian Institution, located at Edgewater, Maryland.

(c) Effective October 1, 1986, there is authorized to be appropriated to the Board of Regents of the Smithsonian Institution $1,000,000 to carry out the purposes of this section.

(d) Any portion of the sums appropriated to carry out the purposes of this section may be transferred to the General Services Administration which, in consultation with the Smithsonian Institution, is authorized to enter into contracts and take such other action, to the extent of the sums so transferred to it, as may be necessary to carry out such purposes.

AMENDMENT NO. 2821

(Purpose: To express the sense of the Congress on recognition of the contributions of the seven Challenger astronauts by supporting establishment of a Children's Challenger Center for Space Science)

Mr. DOLE. Mr. President, I send an amendment to the desk on behalf of Senator GARN to the committee substitute.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] for Mr. GARN and Mr. GLENN proposes an amendment numbered 2821.

Mr. DOLE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:

SEC. . (a) The Congress finds that—

(1) the crew of the space shuttle Challenger was dedicated to stimulating the interest of American children in space flight and science generally;

(2) the members of the crew gave their lives trying to benefit the education of American children;

(3) a fitting tribute to that effort and to the sacrifice of the Challenger crew and their families is needed; and

(4) an appropriate form for such tribute would be to expand educational opportunities in science by the creation of a center that will offer children and teachers activities and information derived from American space research.

(b) It is the sense of the Congress that—

(1) a Children's Challenger Center for Space Science should be established in conjunction with the Smithsonian Institution as a living memorial to the seven Challenger astronauts who died serving their country and to other individuals who gave their lives in exploration of the space frontier; and

(2) the Federal Government should, along with the Smithsonian Institution public and private organizations and persons, cooperate in the establishing of such a Center.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2821) was agreed to.

Mr. GOLDWATER. Mr. President, S. 1311 authorizes the Smithsonian Institution to add a facility for the National Air and Space Museum at Washington Dulles International Airport. It also recognizes the significant achievement of our colleague, CHARLES MCC. MATHIAS, by authorizing the construction of a new research lab at the Smithsonian Environmental Research Center at Edgewater, MD, in his honor and by providing $1 million for this facility.

The legislation authorizes $1 million for master planning for the National Air and Space Museum expansion, but provides that all the funds for construction shall come from the private sector or other non-Federal sources. No appropriations are authorized to construct the buildings for any part of the project.

In 1983 the Regents of the Smithsonian Institution voted to expand the National Air and Space Museum at Dulles. This expansion at an active airport was necessary due to the difficulty of delivering and displaying large modern air and spacecraft at the Institution's facility on The Mall in Washington.

At its meeting of September 16, 1985, the Regents of the Smithsonian unanimously endorsed the purposes of S. 1311 specifically including the construction authority.

As you may know the space shuttle *Enterprise* is now sitting at Washington Dulles awaiting a permanent home. It and other large artifacts can only be displayed at a facility which has sufficient ramp space to allow movement of the craft and access to a runway.

At present, more than 10 million people a year visit the National Air and Space Museum on The Mall. Only 25 percent of the National Air and Space collection can be viewed by the public and the existing Mall facility is just not large enough to cope with either more exhibits or more visitors. Moreover, the new facility at Dulles will give visitors an opportunity to see outstanding craftmen and artisans at work restoring historically significant airplanes.

Mr. President, I am very confident that the Smithsonian can raise the full amount of construction funds through grassroots donations from all over the world, business contributions, and through some State and local support. In fact the cost of the first stage building can likely be repaid through concessions revenues and parking once the facility is in operation.

The National Air and Space Museum has a history of sucessfully raising funds for film productions, seminars, and research, and it has the greatest visitation of any museum in the world. I have the utmost confidence that this project can be completed successfully without Federal funds and I am urging your support for the authorization of this project and development of a master plan to assist in the fundraising effort.

The air and space sciences touch every part of our daily lives. They affect the way we communicate, travel, enjoy our leisure time, and do business. Air and space is at the cutting edge for new technology and technology has replaced territorial expansion as the essence of world power and economic health. Space is our new frontier. Transportation will be key to unlocking that new frontier in space as it is on Earth. America's standard of living and that of other Western nations will be dependent upon our ability to continue to lead in air and space technology.

It has been our great fortune to live in the early years of the age of flight and at the dawn of the space age. The dream of flying has stirred the soul of man for hundreds, perhaps thousands, of years, but only during this century have we developed the principles of man-made flight materials, technology, fuels, and resources to shrink our world and even our solar system. Flight has given us new perspectives on our daily lives. We have soared from man's first powered flight a few feet above the North Carolina sand to the Moon, to untethered walks in outer space and to automated exploration of the planets in the span of just eight decades.

The Smithsonian Institution, clearly recognizing the tremendous impact that air travel and space exploration has had on our lives, wisely developed the National Air and Space Museum here in Washington. On July 2 of this year we celebrated the museum's 10th anniversary, and in its first decade over 100,000,000 people have been helped to better understand aviation and our world at the new National Air and Space Museum on The Mall. That is an astounding statistic and a clear indication that the people of America appreciate the importance of air and space. I hope all of my colleagues in this body will join me in helping to stimulate the interest in air and space and to further the dissemination of knowledge about modern technology by approving S. 1311 and authorizing this new facility as an adjunct to the existing National Air and Space Museum.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (S. 1311) was passed, as follows:

S. 1311

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Smithsonian Institution is authorized to plan, design, and construct facilities for the National Air and Space Museum at Washington Dulles International Airport.

SEC. 2(a) The Smithsonian Institution is authorized to develop a master plan for expansion of the National Air and Space Museum at Washington Dulles International Airport as will not interfere with the operations of such airport.

(b) There are hereby authorized to be appropriated for fiscal years 1987 and 1988 a total of $1,000,000 to the Smithsonian Institution for master planning activities as provided in subsection (a).

SEC. 3. No Federal funds are authorized for the construction of any facilities provided for by section 1 of this Act.

SEC. 4. (a) The Board of Regents of the Smithsonian Institution is authorized to construct the Charles McC. Mathias, Jr. Laboratory for Environmental Research.

(b) The Charles McC. Mathias, Jr. Laboratory for Environmental Research shall be located at the Smithsonian Environmental Research Center, a bureau of the Smithsonian Institution, located at Edgewater, Maryland.

(c) Effective October 1, 1986, there is authorized to be appropriated to the Board of Regents of the Smithsonian Institution $1,000,000 to carry out the purposes of this section.

(d) Any portion of the sums appropriated to carry out the purposes of this section may be transferred to the General Services Administration which, in consultation with the Smithsonian Institution, is authorized to enter into contracts and take such other action, to the extent of the sums so transferred to it, as may be necessary to carry out such purposes.

SEC. 5. (a) The Congress finds that—

The crew of the space shuttle Challenger was dedicated to stimulating the interest of American children in space flight and science generally;

(2) the members of the crew gave their lives trying to benefit the education of American children;

(3) a fitting tribute to that effort and to the sacrifice of the Challenger crew and their families is needed; and

(4) an appropriate form for such tribute would be to expand educational opportunities in science by the creation of a center that will offer children and teachers activities and information derived from American space research.

(b) It is the sense of the Congress that—

(1) a Children's Challenger Center for Space Science should be established in conjunction with the Smithsonian Institution as a living memorial to the seven Challenger astronauts who died serving their country and to other individuals who gave their lives in exploration of the space frontier; and

(2) the Federal Government should, along with the Smithsonian Institution, public and private organizations and persons, cooperate in the establishing of such a Center.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

□ 1820

ORDERS FOR TUESDAY, SEPTEMBER 16, 1986

RECESS

Mr. DOLE. Mr. President, I ask unanimous consent that once the Senate completes its business today, it stand in recess until the hour of 9:30 a.m. on Tuesday, September 16, 1986.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF CERTAIN SENATORS

Mr. DOLE. Mr. President, following the recognition of the two leaders under the standing order, I ask unanimous consent that the following Senators be recognized for special orders not to exceed 5 minutes each: Senators HAWKINS, PROXMIRE, LEVIN, DURENBERGER, BUMPERS, KASSEBAUM, and GORE.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. DOLE. Mr. President, following the special orders just identified, I ask unanimous consent that there be a period for the transaction of routine morning business not to extend beyond the hour of 10:30 a.m., with Senators permitted to speak therein for not more than 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DOLE. Mr. President, at the conclusion of routine morning business, it would be the intention of the majority leader to turn to the conference report to accompany defense reorganization. As I understand it, that can be disposed of without a rollcall and would take about 20 minutes. It is a matter that the Presiding Officer, the distinguished Senator from Arizona, Senator GOLDWATER, has an interest in, along with the distinguished ranking member of that committee, Senator NUNN from Georgia, and they will be here at 10:30.

The PRESIDING OFFICER. Without objection, we will be here.

Mr. DOLE. And it will be the intention of the majority leader—and we will work this out with those who wish to speak on the Rehnquist nomination—to then try to take up some appropriation bills to fill in any gaps that we have.

As I understand it, there are two or three speakers and there is a very important memorial service that will take away many of our colleagues tomorrow morning. So we will probably go back and forth into legislative and executive sessions and hopefully wrap up the unfinished business on H.R. 5234, the Interior appropriations bill, and also the D.C. appropriations bill and perhaps the DOT appropriations bill.

I assume that may be all we can do, but I would also hope we might be able to turn to the highway bill sometime this week.

The vote on cloture will occur on Wednesday. Hopefully, shortly after that vote, if it is in the affirmative, we will be able to vote on the nomination, followed by the Scalia nomination.

ERADICATION OF ILLICIT DRUG CROPS

Mr. BYRD. Mr. President, I alerted the distinguished majority leader to my desire to clear rule XIV with respect to H.R. 5484.

Is there a House bill at the desk with that number, H.R. 5484?

The PRESIDING OFFICER. Yes, there is.

Mr. BYRD. Mr. President, I ask for its first reading.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 5484) to strengthen Federal efforts to encourage foreign cooperation in eradicating illicit drug crops, and in halting international drug traffic to improve enforcement of Federal drug laws, and enhance interdiction of illicit drug shipments to provide strong Federal leadership in establishing effective drug abuse prevention and education programs, to expand Federal support for drug abuse treatment and rehabilitation efforts, and for other purposes.

Mr. BYRD. Mr. President, I ask for second reading of the bill.

Mr. DOLE. Mr. President, I object to further consideration of the bill.

The PRESIDING OFFICER. Objection is heard.

The bill will be held at the desk.

RECESS UNTIL TOMORROW AT 9:30 A.M.

Mr. DOLE. Mr. President, there being no further business to come before the Senate, I move the Senate stand in recess until the hour of 9:30 a.m., Tuesday, September 16, 1986.

The motion was agreed to and the Senate, at 6:29 p.m., recessed until Tuesday, September 16, 1986, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Secretary of the Senate after the adjournment of the Senate on September 12, 1986, under authority of the order of the Senate of January 3, 1985:

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Dale D. Myers, of California, to be Deputy Administrator of the National Aeronautics and Space Administration, vice William Robert Graham.

IN THE AIR FORCE

The following-named officer for appointment to the grade of general on the retired list pursuant to the provisions of title 10, United States Code, section 1370:

To be general

Gen. Richard L. Lawson, xxx-xx-xxxx FR, U.S. Air Force.

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be general

Lt. Gen. Thomas C. Richards, xxx-xx-xxxx FR, U.S. Air Force.

The following-named officer, under provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. Casper T. Spangrud, xxx-xx-xxxx xxx-... FR, U.S. Air Force.

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Claudius E. Watts III, xxx-xx-xx... xxx-... FR, U.S. Air Force.

Executive nominations received by the Senate September 15, 1986:

BOARD FOR INTERNATIONAL BROADCASTING

Ben J. Wattenberg, of the District of Columbia, to be a Member of the Board for International Broadcasting for a term expiring April 28, 1989. (Reappointment.)

FARM CREDIT ADMINISTRATION

Jim R. Billington, of Oklahoma, to be a Member of the Farm Credit Administration Board, Farm Credit Administration, for a term of 2 years. (New position.)

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

Kenneth Y. Tomlinson, of New York, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 1991, vice Elinor M. Hashim, term expired.

U.S. POSTAL SERVICE

John N. Griesemer, of Missouri, to be a Governor of the U.S. Postal Service for the term expiring December 8, 1995. (Reappointment.)

IN THE ARMY

The Army National Guard of the United States officers named herein for appointment as Reserve commissioned officers of the Army, under the provisions of title 10, United States Code, sections 593(a), 3385, and 3392:

To be major general

Brig. Gen. Ronald Bowman, xxx-xx-xxxx.
Brig. Gen. Robert L. Blevins, xxx-xx-xxxx.

To be brigadier general

Col. William A. Hornsby, xxx-xx-xxxx.
Col. Louis C. Addison, xxx-xx-xxxx.
Col. Peter E. Genovese, xxx-xx-xxxx.
Col. Richard S. Schneider, xxx-xx-xxxx.
Col. Kenneth E. Wallace, xxx-xx-xxxx.
Col. Robert H. Wedinger, xxx-xx-xxxx.
Col. Thomas H. Alexander, xxx-xx-xxxx.
Col. George M. Borst, xxx-xx-xxxx.
Col. William S. Christy, xxx-xx-xxxx.
Col. Paul G. Durbin, xxx-xx-xxxx.
Col. George T. Glenn, xxx-xx-xxxx.
Col. Robert L. Gooderl, xxx-xx-xxxx.
Col. John M. Paden, xxx-xx-xxxx.
Col. Thomas R. Sprenger, xxx-xx-xxxx.
Col. Thomas T. Thompson, xxx-xx-xxxx.
Col. John W. Carlson, xxx-xx-xxxx.
Col. Wade R. Hedgecoke, xxx-xx-xxxx.
Col. Philip G. Randich, xxx-xx-xxxx.
Col. Thomas D. Schulte, xxx-xx-xxxx.
Col. Clinton V. Willis, Jr., xxx-xx-xxxx.
Col. Jacob J. Krull, xxx-xx-xxxx.

The following-named U.S. Army Reserve officer for appointment to the grade of brigadier general as a Reserve commissioned officer of the Army under the provisions of title 10, United States Code, sections 593(a) and 3384:

To be brigadier general

Col. Raymond C. Bonnabeau, Jr., xxx-xx-x...

EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, September 16, 1986, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

SEPTEMBER 17

9:00 a.m.
Impeachment Committee
To continue hearings on matters relating to the impeachment trial of the Honorable Harry E. Claiborne.
SR-325

9:30 a.m.
Governmental Affairs
Permanent Subcommittee on Investigations
To hold hearings on emerging foreign criminal groups in the United States.
SD-342

Judiciary
Criminal Law Subcommittee
Business meeting, to mark up S. 1203, to grant railroad police and private college or university police departments access to Federal criminal identification records.
SD-226

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Judiciary
Business meeting, to mark up pending calendar business.
SD-226

10:30 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings on the financial condition of the farm credit system.
SR-332

Banking, Housing, and Urban Affairs
Business meeting, to consider S. 430, to clarify the intent and modify certain provisions of the Foreign Corrupt Practices Act of 1977, and the nomination of Harold T. Duryee, of the District of Columbia, to be Federal Insurance Administrator, Federal Emergency Management Agency.
SD-538

Commerce, Science, and Transportation
To hold hearings on the nominations of Sonia Landau, of New York, and R. Kenneth Towery, of Texas, each to be a Member of the Board of Directors of the Corporation for Public Broadcasting.
SR-253

2:00 p.m.
Impeachment Committee
To continue hearings on matters relating to the impeachment trial of the Honorable Harry E. Claiborne.
SR-325

3:00 p.m.
Environment and Public Works
Environmental Pollution Subcommittee
To hold hearings on certain provisions of S. 1352 (pending on Senate calendar), and H.R. 1202, bills authorizing funds for fiscal years 1986, 1987, and 1988 for conservation programs on military reservations and public lands, and S. 2741, to establish the Bayou Sauvage Urban National Refuge in Louisiana.
SD-406

Foreign Relations
To hold hearings on the nominations of Elinor Greer Constable, of New York, to be Ambassador to the Republic of Kenya, David C. Fields, of California, to be Ambassador to the Central African Republic, David A. Korn, of the District of Columbia, to be Ambassador to the Republic of Togo, Ronald D. Palmer, of the District of Columbia, to be Ambassador to Mauritius, James D. Phillips, of Kansas, to be Ambassador to the Republic of Burundi, and James W. Rawlings, of Connecticut, to be Ambassador to Zimbabwe.
SD-419

SEPTEMBER 18

9:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings on the nominations of Simon C. Fireman, of Massachusetts, to be a Member of the Board of Directors of the Export-Import Bank of the United States, and Thomas T. Demery, of Michigan, to be an Assistant Secretary of Housing and Urban Development.
SD-538

Impeachment Committee
To continue hearings on matters relating to the impeachment trial of the Honorable Harry E. Claiborne.
SR-325

9:30 a.m.
Energy and Natural Resources
To resume oversight hearings on the domestic and international petroleum situation.
SD-366

10:00 a.m.
Environment and Public Works
Business meeting, to resume markup of S. 2340, to provide a system of liability and compensation for oil spill damage and removal costs.
SD-406

11:00 a.m.
Finance
To hold hearings on proposed legislation to provide for a 2-year extension of highway trust fund taxes; followed by a business meeting, to mark up the proposed legislation aforementioned, and S. 1860, Trade Enhancement Act.
SD-215

2:00 p.m.
Foreign Relations
To hold hearings on the nominations of Charles J. Pilliod, Jr., of Ohio, to be Ambassador to Mexico, Alexander F. Watson, of Maryland, to be Ambassador to the Republic of Peru, and Richard E. Bissell, of Virginia, and Thomas R. Blank, of Delaware, each to be an Assistant Administrator of the Agency for International Development.
SD-419

Impeachment Committee
To continue hearings on matters relating to the impeachment trial of the Honorable Harry E. Claiborne.
SR-325

Conferees
On S. 1128, Clean Water Act Amendments of 1985.
H-140, Capitol

4:00 p.m.
Veterans' Affairs
To resume closed hearings on the reported sightings of live military personnel missing in action in Southeast Asia.
SH-219

SEPTEMBER 19

9:00 a.m.
Energy and Natural Resources
Public Lands, Reserved Water and Resource Conservation Subcommittee
To hold hearings on S. 1971, to transfer certain lands to the city of Mesquite, Nevada; S. 2194, to convey certain lands to the Catholic Diocese of Reno/Las Vegas, Nevada; S. 2599, to declare that the United States holds certain public domain lands in trust for the Pueblo of Zia Indians in New Mexico; S. 2698, to transfer certain lands in Nevada to the Toiyabe, Humboldt, and Inyo National Forests; S. 2758, to authorize the exchange of certain lands in Nevada and Florida; S.J. Res. 372, to authorize the estabishment of a memorial in the District of Columbia to honor America's astronauts; S. 2812 and H.R. 4037, bills to revise the boundary of the Indiana Dunes Na-

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● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

tional Lakeshore; and H.R. 4645, to modify the boundaries of the Cuyahoga Valley National Recreation Area.
SD-366

Impeachment Committee
To continue hearings on matters relating to the impeachment trial of the Honorable Harry E. Claiborne.
SR-325

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings to examine air quality within airplanes.
SR-253

Finance
Health Subcommittee
To hold hearings to examine current Medicaid funding services provided for the long-term care of developmentally disabled persons.
SD-215

2:00 p.m.
Impeachment Committee
To continue hearings on matters relating to the impeachment trial of the Honorable Harry E. Claiborne.
SR-325

SEPTEMBER 22

2:30 p.m.
Commerce, Science, and Transportation
Business, Trade, and Tourism Subcommittee
To hold hearings to review travel and tourism statistics.
SR-253

SEPTEMBER 23

9:00 a.m.
Office of Technology Assessment
The Board, to meet to consider pending business.
EF-100, Capitol

9:30 a.m.
Commerce, Science, and Transportation
To hold oversight hearings on activities of the National Highway Traffic Safety Administration, and the implementation of the Motor Carrier Safety Act of 1984.
SR-253

Energy and Natural Resources
Public Lands, Reserved Water and Resource Conservation Subcommittee
To hold hearings on S. 2029 and H.R. 4090, bills to establish the Big Cypress National Preserve Addition in Florida, S. 2442 and H.R. 4811, bills to establish the San Pedro Reparian National Conservation Area in Arizona, H.R. 2921, to authorize the Secretary of Agriculture to issue permanent easements for certain water conveyance systems in order to resolve title claims arising under Acts repealed by the Federal Land Policy and Management Act of 1976, S. 2707 and H.R. 2826, bills to designate a segment of the Horsepasture River in North Carolina as a component of the National Wild and Scenic Rivers System.
SD-366

Rules and Administration
To hold hearings on S.J. Res. 268, to provide for the reappointment of Murray Gell-Mann as a citizen regent of the Board of Regents of the Smithsonian Institution, and to resume oversight hearings on the operations and functions of the Office of the Senate Sergeant at Arms.
SR-301

10:00 a.m.
Select on Indian Affairs
To hold oversight hearings on Indian Trust Funds.
SR-385

10:30 a.m.
Foreign Relations
Business meeting, to consider pending calendar business.
SD-419

11:00 a.m.
Veterans' Affairs
To hold hearings to review the legislative priorities of the American Legion.
SD-G50

SEPTEMBER 24

9:30 a.m.
Environment and Public Works
Nuclear Regulation Subcommittee
To hold hearings to review nuclear power safety measures in the aftermath of the Chernobyl nuclear powerplant accident.
SD-406

Select on Intelligence
To hold closed hearings on intelligence matters.
SH-219

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

SEPTEMBER 25

9:30 a.m.
Labor and Human Resources
Employment and Productivity Subcommittee
To hold hearings on the employment impact of United States/Japan autoparts trade relations.
SD-430

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Environment and Public Works
To hold hearings on S. 2203, to establish a program to reduce acid deposition and other forms of air pollution.
SD-406

SEPTEMBER 26

9:30 a.m.
Governmental Affairs
Intergovernmental Relations Subcommittee
To hold hearings on comprehensive federalism reform.
SD-342

10:00 a.m.
Environment and Public Works
To continue hearings on S. 2203, to establish a program to reduce acid deposition and other forms of air pollution.
SD-406

SEPTEMBER 29

9:30 a.m.
Finance
Taxation and Debt Management Subcommittee
To hold hearings on S. 1974 and S. 1113, bills to prohibit the imposition by States of the worldwide unitary method of taxation.
SD-215

SEPTEMBER 30

10:00 a.m.
Foreign Relations
East Asian and Pacific Affairs Subcommittee
To hold hearings on United States trade relations with Taiwan and Korea.
SD-419

OCTOBER 1

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

2:00 p.m.
Foreign Relations
East Asian and Pacific Affairs Subcommittee
To hold oversight hearings on the North Pacific drift net fisheries.
SD-419

OCTOBER 2

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

CANCELLATIONS

SEPTEMBER 17

9:30 a.m.
Judiciary
Criminal Law Subcommittee
Business meeting, to mark up S. 1203, to grant railroad police and private college or university police departments access to Federal criminal identification records.
SD-226

SEPTEMBER 26

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings on proposed legislation authorizing funds for the Airport and Airway Trust Fund.
SR-253

HOUSE OF REPRESENTATIVES—*Tuesday, September 16, 1986*

The House met at 12 noon and was called to order by the Speaker pro tempore [Mr. WRIGHT].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
September 12, 1986.

I hereby designate the Honorable JIM WRIGHT to act as Speaker pro tempore on Tuesday, September 16, 1986.

THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives.

PRAYER

The Reverend Edward Bucia, St. Joseph's Church, Camden, NJ, offered the following prayer:

O God, our Father, Creator and Ruler of all nations that come together to form our universe. You, who have placed Your fingerprint on the history of mankind; so that no one who examines it can question that it is of God. You who have always blessed us with an abundance. We beg You to bless and guide our destiny, especially today, as we begin this session of the House of Representatives.

Ruler of the universe, as our guided missiles and space shuttles soar high up almost to the very threshold of Your heavenly throne; we are ever mindful that we can only do so by Your grace and that it is our failures and successes that also give You praise.

May Your divine countenance shine upon us and grant to our Nation and to the world the peace, justice, and freedom which we long for in these moments when the world seems to stand on the brink of disaster.

Be mindful that You are the God of our fathers whose almighty hand has made and preserved our Nation and the world. We pray that You will provide for the healing of our land. That You will bring our Nation and every nation lying under Your rule back to the moral principles upon which they were founded and so that each may do their part and not be discouraged nor misled in his quest for peace, justice, and freedom which only You can give to the world through Your benevolence. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills and a joint resolution of the House of the following titles:

H.R. 3002. An act to provide for the establishment of an experimental program relating to the acceptance of voluntary services from participants in an executive exchange program of the Government;

H.R. 5073. An act to amend the Toxic Substances Control Act to require the Environmental Protection Agency to promulgate regulations requiring inspection for asbestos-containing material in the Nation's schools, development of asbestos management plans for such schools, response actions with respect to friable asbestos-containing material in such schools, and for other purposes;

H.R. 5233. An act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1987, and for other purposes; and

H.J. Res. 60. Joint resolution to designate the week beginning September 1, 1985, as "National School-Age Child Care Awareness Week."

The message also announced that the Senate insists upon its amendments to the bill (H.R. 5233) "An act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1987, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. WEICKER, Mr. HATFIELD, Mr. STEVENS, Mr. ANDREWS, Mr. RUDMAN, Mr. SPECTER, Mr. MCCLURE, Mr. DOMENICI, Mr. PROXMIRE, Mr. BYRD, Mr. HOLLINGS, Mr. CHILES, Mr. BURDICK, Mr. INOUYE, and Mr. HARKIN to be the conferees on the part of the Senate.

The message also announced that the Senate recedes from its amendment numbered 4 to the amendment of the House to the bill (S. 720) "An act to establish a permanent boundary for the Acadia National Park in the State of Maine, and for other purposes."

The message also announced that the Senate had passed bills and joint resolutions of the following titles, in which the concurrence of the House is requested:

S. 2250. An act to strengthen the prohibition of kickbacks relating to subcontracts under Federal Government contracts;

S. 2271. An act for the relief of Jens-Peter Berndt.

S. 2397. An act to authorize appropriations for the Public Buildings Service of the General Services Administration for fiscal year 1987;

S. 2417. An act to establish the Aviation Safety Commission, and for other purposes;

S.J. Res. 299. Joint resolution to designate the week of December 7, 1986, through December 13, 1986, as "National Alopecia Areata Awareness Week";

S.J. Res. 373. Joint resolution designating the week beginning May 10, 1987, as "National Fetal Alcohol Syndrome Awareness Week";

S.J. Res. 389. Joint Resolution to designate March 1987 as the "Month of Developmentally Disabled Persons";

S.J. Res. 390. Joint resolution to authorize and request the President to proclaim the week of November 23, 1986, to November 30, 1986, as "American Indian Week";

S.J. Res. 392. Joint resolution to designate the month of December 1986 as "Made in America Month";

S.J. Res. 394. Joint resolution to designate the week of October 12, 1986, through October 18, 1986, as "National Children's Television Awareness Week";

S.J. Res. 402. Joint resolution designating July 2 and 3, 1987, as the "United States-Canada Days of Peace and Friendship"; and

S.J. Res. 406. Joint resolution to designate October 4, 1986, as "National Outreach to the Rural Disabled Day."

WELCOMING FATHER EDWARD H. BUCIA

(Mr. FLORIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FLORIO. Mr. Speaker, I would like to take this opportunity to welcome to the House of Representatives Father Edward H. Bucia of Camden, NJ, who was designated to give the opening prayer today. Father Bucia was accompanied to Washington by a group of his parishioners and I hope my colleagues will join me in welcoming them today.

I also would like to highlight for my colleagues Father Bucia's many accomplishments and the valuable contributions he has made to his parish and to my district. Having served at St. Joseph's Church in Camden, NJ, for a number of years, Father Bucia has demonstrated concern for his fellow man as well as a deep sense of pride in his heritage as a Polish-American. He has the distinction of serving as pastor to the only Polish parish in the entire diocese.

Born in Philadelphia, Father Bucia has spent his career serving the New Jersey area having been ordained in Camden 24 years ago. He has since demonstrated a concern for the youth of his parish through his involvement with youth activities as diocesan Scout chaplain for both boys and girls. He has taught at St. Joseph's High School in Camden. His important efforts were recognized when he was granted an award from the Chapel of the Four Chaplains in Philadelphia. He is also a recipient of the Knight of St. George in Scouting.

He has a long history of involvement in civic affairs and a deep commitment to furthering an understanding of the Polish heritage. He was instrumental in organizing the Polish-American Association of South Jersey and is the chaplain to the Polish Army Veterans Association. He has worked with the mayor of Atlantic City in organizing the annual Polish Heritage Day celebration and has helped to promote the cultural interests of the community as well as to provide scholarships for the community's youth.

He has twice visited Poland and this has enhanced his commitment to his parish and to his heritage. For his efforts, he received the "Man of the Year" Award in 1982 from the Polish American Congress. He has worked tirelessly to help restore and revive the south Camden area and this remains his life's ambition.

Later today, Father Bucia and his parishioners will join me for a seminar on Poland and United States-Polish relations. The session, which will include speakers from the U.S. State Department, the Polish Embassy, the Congressional Research Service, the Senate Foreign Relations Committee and the AFL-CIO, promises to be a useful and informative event. I welcome Father Bucia and his parishioners to Washington and extend to them my best wishes for success in their endeavors.

PRIVATE CALENDAR

The SPEAKER pro tempore. This is Private Calendar day. The Clerk will call the first individual bill on the Private Calendar.

STEVEN McKENNA

The Clerk called the bill (H.R. 1598) for the relief of Steven McKenna.

There being no objection, the Clerk read the bill, as follows:

H.R. 1598

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) Notwithstanding the time limitations of section 2401 of title 28, United States Code, and the exception contained in section 2680(k) of such title, Steven M. McKenna of Wickliffe, Ohio, may, during the one-year period beginning on the date of enactment of this Act, present to the appropriate Federal agency for administrative adjustment in the manner provided in section 2672 of such title, a claim for money damages against the United States for the conditions described in subsection (b).

(b) The conditions referred to in subsection (a) are certain congenital malformations suffered by Steven McKenna alleged to have occurred as a result of ingestion of the drug thalidomide by his mother during her prenatal care at the United States Army Dispensary at the Giessen, Germany, military facility during 1960. Such drug is alleged to have been dispensed by such Army Dispensary pursuant to the prescription instructions of a physician performing services under contract with the Department of th Army.

SEC. 2. Notwithstanding section 1402(b) of title 28, United States Code, the United States District Court for the Northern District of Ohio shall have jurisdiction to hear, determine, and render judgment on the claim described in the first section if an action on such claim is instituted in such court within the six-month period beginning on the date that such claim is finally denied, or deemed to be finally denied, by such Federal agency.

SEC. 3. Proceedings for the determination of the claim described in the first section, determination of damages, and review and payment of any judgment on such claim, shall be had in the same manner as if—

(1) the act or omission complained of occurred in the State of Ohio; and

(2) the court referred to in section 2 had jurisdiction under section 1346(b) of title 28, United States Code.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. FEIGHAN

Mr. FEIGHAN. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. FEIGHAN: Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. (a) Notwithstanding the time limitations of section 2401 of title 28, United States Code, and the exception contained in section 2680(k) of such title, Steven M. McKenna of Wickliffe, Ohio, may, during the one-year period beginning on the date of enactment of this Act, present to the appropriate Federal agency for administrative adjustment in the manner provided in section 2672 of such title, a claim for money damages against the United States for the conditions described in subsection (b).

(b) The conditions referred to in subsection (a) are certain congenital malformations suffered by Steven McKenna alleged to have occurred as a result of ingestion of the drug thalidomide by his mother.

SEC. 2. Notwithstanding section 1402(b) of title 28, United States Code, the United States District Court for the Northern District of Ohio shall have jurisdiction to hear, determine, and render judgment on the claim described in the first section if an action on such claim is instituted in such court within the six-month period beginning on the date that such claim is finally denied, or deemed to be finally denied, by such Federal agency.

SEC. 3. Proceedings for the determination of the claim described in the first section, determination of damages, and review and payment of any judgment on such claim, shall be had in the same manner as if—

(1) the act or omission complained of occurred in the State of Ohio; and

(2) the court referred to in section 2 had jurisdiction under section 1346(b) of title 28, United States Code.

SEC. 4. Nothing in this Act shall be construed as an inference or admission of liability on the part of the United States.

Mr. FEIGHAN (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Ohio [Mr. FEIGHAN].

The amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

KUMARI RAJLAKSHMI BAIS

The Clerk called the bill (H.R. 2652) for the relief of Kumari Rajlakshmi Bais.

There being no objection, the Clerk read the bill, as follows:

H.R. 2652

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Kumari Rajlakshmi Bais may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in his behalf by Doctor and Mrs. Vijay C.S. Bais, citizens of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act

With the following committee amendments:

Page 1, line 6, delete "his" and insert in lieu thereof "her".

Page 2, line 4, after the word "Act", insert the following: "*Provided further,* That Doctor and Mrs. Vijay C.S. Bais file a petition within two years after the date of enactment of this Act.

□ 1210

Mr. BOUCHER (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. WRIGHT). Is there objection to the request of the gentleman from Virginia?

There was no objection.

The SPEAKER pro tempore. The question is on the committee amendments.

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

SUENG HO JANG AND SUENG IL JANG

The Clerk called the bill (H.R. 5016) for the relief of Sueng Ho Jang and Sueng Il Jang.

There being no objection, the Clerk read the bill as follows:

H.R. 5016

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, (a) for the purposes of the Immigration and Nationality Act, Sueng Ho Jang and Sueng Il Jang shall be considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act if, within two years after such date, Sueng Ho Jang and Sueng Il Jang apply to the Attorney General for adjustment to such status and pay the required visa fees.

(b) Upon the granting of permanent residence to Sueng Ho Jang and Sueng Il Jang pursuant to this Act, the Secretary of State shall instruct the proper officer to deduct two numbers from the total number of immigrant visas which are made available to natives of the country of the aliens' birth under section 203(a) of the Immigration and Nationality Act and, if applicable, from the total number of immigrant visas which are made available to such natives under section 202(e) of such Act.

The bill was ordered to be engrossed and read third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CATHERINE AND ROBERT FOSSEZ

The Clerk called the Senate bill (S. 290) for the relief of Catherine and Robert Fossez.

There being no objection, the Clerk read the Senate bill as follows:

S. 290

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Catherine and Robert Fossez shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees. Upon the granting of permanent residence to such aliens, as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the proper number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas which are made available to natives of the countries of the aliens' birth under section 203(a) of the Immigration and Nationality Act, or if applicable, the total number of immigrant visas which are made available to natives of the countries of the aliens' birth under section 202(e) of such Act.

SEC. 2. No financial or other consideration shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with the enactment of this Act, any contract to the contrary notwithstanding. Violation of the provisions of this section is a misdemeanor punishable by a fine of $1,000.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

HYONG CHA KIM KAY

The Clerk called the Senate bill (S. 343) for the relief of Hyong Cha Kim Kay.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. SENSENBRENNER. Mr. Speaker, I object.

Mr. DANNEMEYER. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

The bill is recommitted to the Committee on the Judiciary.

CIRILO RAAGAS COSTA AND WILMA RAAGAS COSTA

The Clerk called the Senate bill (S. 98) for the relief of Cirilo Raagas Costa and Wilma Raagas Costa.

There being no objection, the Clerk read the Senate bill as follows:

S. 98

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Cirilo Raagas Costa shall be held and considered to be a child, and Wilma Raagas Costa shall be held and considered to be a child, within the meaning of section 101(b)(1)(E) of such Act upon approval of petitions filed on their behalf by Richard G. Costa and Evangeline M. Costa, citizens of the United States, pursuant to section 204 of such Act. No natural parent, brother, or sister of Cirilo Raagas Costa or Wilma Raagas Costa shall, by virtue of such relationship, be accorded any right, privilege, or status under such Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

DAVID BUTLER, ALDO CIRONE, RICHARD DENISI, WARREN FALLON, CHARLES HOTTON, HAROLD JOHNSON, JEAN LAVOIE, VINCENT MALONEY, AUSTIN MORTENSEN, AND KURT OLOFSSON

The Clerk called the bill (H.R. 1755) for the relief of David Butler, Aldo Cirone, Richard Denisi, Warren Fallon, Charles Hotton, Harold Johnson, Jean Lavoie, Vincent Maloney, Austin Mortensen, and Kurt Olofsson.

There being no objection, the Clerk read the Senate bill as follows:

H.R. 1755

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of the Treasury shall pay the sum of $32,605.27 out of any funds in the Treasury not otherwise appropriated, to the United States Property and Fiscal Officer for the State of Massachusetts to distribute in accordance with subsection (b) in full settlement of all claims against the United States arising from the unauthorized placement of the persons listed in subsection (b) under the Federal Civil Service retirement system upon reemployment with the Massachusetts National Guard.

(b)(1) Except as provided in paragraph (2), the United States Property and Fiscal Officer for the State of Massachusetts shall, upon receipt of the funds appropriated by subsection (a), pay the following sums to the following persons:

David Butler: $2,988.35
Aldo Cirone: $4,457.28
Richard Denisi: $2,592.82
Warren Fallon: $6,987.10
Charles Hotton: $2,106.00
Harold Johnson: $4,080.09
Jean Lavoie: $2,127.72
Vincent Maloney: $3,151.72
Austin Mortensen: $1,911.34
Kurt Olofsson: $2,202.85

(2) In the case of any person listed in paragraph (1) who, as of the date of enactment of this Act, has not satisfied the interest obligation owed to the Massachusetts State Board of Retirement by reason of such person's unauthorized placement under the Federal Civil Service retirement system, the Property and Fiscal Officer for the State of Massachusetts shall satisfy such obligation out of the sum allocated to such person under paragraph (1) before making any payment to such individual.

SEC. 2. No person receiving funds under the first section shall pay in excess of 10 percent of the sum received by such person to any agent or attorney for services rendered in connection with such person's claim. Violation of this section is a misdemeanor, and any person convicted thereof shall be fined not more than $1,000.

With the following committee amendment in the nature of a substitute:

Committee amendment in the nature of a substitute: Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. PAYMENT BY THE SECRETARY.

The Secretary of the Treasury shall pay the sum of $33,433.25, out of any funds in the Treasury not otherwise appropriated, to the United States Property and Fiscal Officer for the State of Massachusetts to be distributed by such officer in accordance with section 2. Such payment shall be in full settlement of all claims against the United States arising from the unauthorized placement of the persons named in paragraphs (1) through (10) of section 2(a) under the Federal civil service retirement system upon the reemployment of such persons with the Massachusetts National Guard.

SEC. 2. PAYMENT BY UNITED STATES PROPERTY AND FISCAL OFFICER.

(a) PAYMENT.—Except as provided in subsection (b), the United States Property and Fiscal Officer for the State of Massachusetts, upon receiving the payment authorized by section 1, shall pay—

(1) $3,792.35 to David Butler;
(2) $4,457.47 to Aldo Cirone;
(3) $1,126.87 to Richard Denisi;
(4) $7,791.68 to Warren Fallon;

(5) $1,848.11 to the estate of Charles Hotton;
(6) $4,417.49 to Harold Johnson;
(7) $2,096.58 to Jean Lavoie;
(8) $3,212.69 to Vincent Malony;
(9) $1,911.38 to Austin Mortensen; and
(10) $2,778.63 to Kurt Olofsson.

(b) DEDUCTION OF INTEREST OBLIGATION.—If any person named in paragraphs (1) through (10) of subsection (a) has an interest obligation to the Massachusetts State Board of Retirement on the date of enactment of this Act because of the unauthorized placement of such person under the Federal civil service retirement system, the United States Property and Fiscal Officer for the State of Massachusetts shall pay such obligation from the amount authorized for payment under subsection (a) before making any payment to, or on behalf of, such person under subsection (a).

SEC. 3. LIMITATION ON ATTORNEY'S FEES.

No amount in excess of 10 percent of any payment authorized by section 2(a) shall be paid to, or received by, any agent or attorney in consideration for services rendered in connection with such payment. Any violation of this section shall be a misdemeanor and any person convicted thereof shall be fined not more than $1,000.

Mr. BOUCHER (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The SPEAKER pro tempore. The question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

SURVIVORS OF CHRISTOPHER ENEY

The Clerk called the bill (H.R. 2574) for the relief of the survivors of Christopher Eney.

There being no objection, the Clerk read the bill as follows:

H.R. 2574

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796-3796c) shall apply with respect to the survivors of Christopher Eney, of Hyattsville, Maryland, as if Christopher Eney had been a public safety officer who died as the direct and proximate result of a personal injury sustained in the line of duty on October 1, 1984.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MARLBORO COUNTY GENERAL HOSPITAL CHARITY, OF BENNETTSVILLE, SC

The Clerk called the bill (H.R. 3896) for the relief of Marlboro County General Hospital Charity, of Bennettsville, SC.

Mr. BOUCHER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The SPEAKER pro tempore. This concludes the call of the Private Calendar.

CONSENT CALENDAR

The SPEAKER pro tempore. Pursuant to the order of the House of Friday, September 12, 1986, this is Consent Calendar day. The Clerk will call the first bill on the Consent Calendar.

CONVEYANCE OF CERTAIN PUBLIC LANDS IN OCONTO AND MARINETTE COUNTIES, WI

The Clerk called the bill (H.R. 4062) to provide for the conveyance of certain public lands in Oconto and Marinette Counties, WI.

There being no objection, the Clerk will read the bill as follows:

H.R. 4062

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF CONVEYANCE.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") may convey any portion of the land described in subsection (b) to any citizen of the United States who claims and demonstrates possession of such portion of land.

(b) DESCRIPTION OF LAND.—The land referred to in subsection (a) consists of parcels of public lands constituting a survey hiatus in township 29 north, range 21 1/2 east, fourth principal meridian, Oconto and Marinette Counties, Wisconsin, which contain approximately 200 acres.

(c) PRELIMINARY DETERMINATIONS.—No conveyance may be made under authority of this Act until the Secretary determines that—

(1) such conveyance—

(A) is in the public interest, and

(B) will serve objectives which outweigh public objectives and values which would be served by retaining such lands in Federal ownership; and

(2) no other statutory authority exists whereby the Secretary may afford the appropriate relief.

SEC. 2. PROCEDURE FOR CONVEYANCE.

(a) DETERMINATION OF PRICE.—In determining the price for which land may be conveyed, the Secretary—

(1) shall appraise the land on the basis of its fair market value at the time of appraisal;

(2) shall deduct the value of improvements or development made by the person claiming possession or his predecessors in interest; and

(3) may further discount the price according to equitable considerations that exist with respect to each conveyance, including but not limited to—

(A) the amount originally paid for a parcel by the person claiming possession of such parcel, and

(B) any taxes that have been paid with respect to a parcel by the person claiming possession of such parcel.

(b) DESCRIPTION OF LAND CONVEYED AND CONVEYANCE THROUGH TRUSTEE.—(1) Land conveyed under this Act shall be described according to the rectangular system of survey, as reflected on the Federal plat of survey.

(2) In the event that an individual tract of land does not conform to such survey—

(A) the Secretary may convey such tract to a trustee acting on behalf of more than one claimant for purposes of conforming the legal description to such plat, and

(B) such trustee shall thereafter convey the appropriate interests to the respective claimants.

SEC. 3. TIME LIMIT FOR INITIATION OF IMPLEMENTATION.

The Secretary shall initiate action to implement this Act within 120 days of the date of the enactment of this Act.

Mr. ROTH. Mr. Speaker, first, I want to thank Chairman UDALL of the Interior Committee, and the chairman of the Public Lands Subcommittee, Mr. SEIBERLING, for bringing this measure to the floor.

I rise in support of H.R. 4062, a bill to provide for the conveyance of certain public lands in Oconto and Marinette Counties in Wisconsin.

I introduced H.R. 4062 on January 28 of this year to correct a longstanding problem. An inaccurate survey of public lands, discovered in 1870, "106 years," resulted in a hiatus of unpatented land in Oconto and Marinette Counties. For many years, the unpatented land has been occupied and used by adjoining landowners for agriculture and a variety of other pursuits.

In 1983, the adjacent landowners requested a resurvey of the land, and the study verified the existence of a hiatus. Many of the affected landowners asked the Bureau of Land Management to help resolve the problem. At a public meeting attended by the landowners and BLM officials last October, various options for resolving the hiatus problem were discussed. The only viable and fair solution, clearly, is special legislation of this type.

The hiatus in question is relatively small—about 6 miles long and 197 acres in total area. At its widest point, the hiatus is 500 feet wide. About 20 families own adjacent property and are using hiatus land, and many are paying taxes on it.

H.R. 4062 simply allows the Department of the Interior to sell the land at fair market value, minus the value of developments or improvements made by the applicants, or any other equitable considerations, such as the payment of taxes.

I would ensure my colleagues that the Secretary may approve a conveyance only if it is in the public interest and if it will serve objectives that outweigh public values which would

be served by keeping the land in Federal ownership.

Further, this legislation requires that all claimants must demonstrate clear possession of the land in question. The bill also establishes precise procedures for conveyance in a timely manner.

This is a fair, yet limited, approach to resolving a longstanding survey error. H.R. 4062 is consistent with similar legislation which has been enacted in the past and I urge its approval.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

DIRECTING THE SECRETARY OF THE INTERIOR TO CONVEY A CERTAIN PARCEL OF LAND LOCATED NEAR OCOTILLO, CA

The Clerk called the bill (H.R. 1891) to direct the Secretary of the Interior to convey a certain parcel of land located near Ocotillo, CA.

There being no objection, the Clerk read the bill as follows:

H.R. 1891

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of the Interior shall convey, without consideration, to Imperial Valley College Barker Museum of El Centro, California, all right, title, and interest of the United States in and to the parcel of real property located near Ocotillo, California, and described in subsection (b). It is intended that such parcel be used for the purpose of constructing and maintaining a public museum.

(b) The parcel described in this subsection is: Township 16 south, range 9 east, San Bernardino Basin Meridian, tract 70, parcels 1 and 2.

With the following committee amendment:

Page 2, strike lines 5 through 7 and insert the following:

(b) Lands to be conveyed pursuant to this Act are the lands generally depicted on the map entitled "Transfer to Imperial Valley College Barker Museum," dated August 1986 and available for inspection in the office of the California State Director, Bureau of Land Management.

(c) The lands conveyed under this Act shall continue to be reserved, maintained, and utilized for public park (including museum) and recreational purposes. If any of such lands is used for any other purpose, the title to such land, together with all improvements thereon, shall revert to the United States.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MODIFYING THE BOUNDARY OF THE UINTA NATIONAL FOREST, UT

The Clerk called the bill (H.R. 2499) to modify the boundary of the Uinta National Forest, UT, and for other purposes.

There being no objection, the Clerk read the bill as follows:

H.R. 2499

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PURPOSES.

The purposes of this Act are—

(1) to modify the boundary of the Uinta National Forest; and

(2) to provide for more efficient management of certain land which is part of the Bonneville Unit, Central Utah Water Reclamation Project, located in Wasatch County, Utah, and is administered by the Bureau of Reclamation, Department of the Interior.

SEC. 2. BOUNDARY MODIFICATION OF UINTA NATIONAL FOREST.

(a) MODIFICATION AND ADMINISTRATION OF ADDED LANDS.—The exterior boundary of the Uinta National Forest is hereby modified as generally depicted on a map entitled "Boundary Modification, Uinta National Forest", dated June 1984. Those lands encompassed by the modified boundary (as generally depicted by legend A of such map) and comprising approximately 32,400 acres, are hereby added to the Uinta National Forest and shall be administered as part of such National Forest.

(b) MAP AND LEGAL DESCRIPTION.—Such map and legal description of the boundary modification of the National Forest shall be on file and available for public inspection in the office of the Chief, Forest Service, Department of Agriculture, and the Director, Bureau of Reclamation, Department of the Interior.

(e) VALID EXISTING RIGHTS.—The boundary modification made by subsection (a) shall not affect valid existing Federal or non-Federal rights or interests in existing land use authorizations; including, but not limited to, those of the Strawberry Water Users Association.

SEC. 3. LAND ACQUISITION FOR PURPOSES OF LAND AND WATER CONSERVATION FUND.

For purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601 9), the boundary of the Uinta National Forest, as modified by section 2, shall be treated as if it were the boundary of such National Forest as of January 1, 1965.

SEC. 4. BUREAU OF RECLAMATION TO CONTINUE TO OPERATE PROJECT.

(a) GENERAL AUTHORITY TO CONTINUE OPERATION.—Nothing in this Act shall affect or interfere with the authority of Bureau of Reclamation to operate in accordance with the purposes of the Bonneville Unit, Central Utah Water Reclamation Project, within the Reclamation Zone as generally depicted on the map entitled "Boundary Modification, Uinta National Forest", dated June 1984. The administration of the lands described in section 2 by the Forest Service shall not prevent the Bureau of Reclamation from accomplishing the purposes of such project.

(b) ACCESS TO RECLAMATION ZONE.—The Bureau of Reclamation shall have access to the Reclamation Zone at such locations and times as are mutually agreed to with the Forest Service.

SEC. 5. TRANSFER OF FUNDS.

Nothing in this Act shall be construed to interfere with the Memorandum of Understanding (contract No. 2097 40 1 3016) between the Bureau of Reclamation and the Forest Service, dated February 2, 1982. Funds may continue to be appropriated or otherwise made available to the Bureau of Reclamation for recreational purposes in accordance with plans dated August 1, 1978. With respect to the lands described in section 2, the Bureau of Reclamation may spend appropriated funds in accordance with such Memorandum of Understanding.

With the following committee amendment in the nature of a substitute:

Strike all after the enacting clause and insert the following:

SECTION 1. BOUNDARY MODIFICATION OF UINTA NATIONAL FOREST.

(a) MODIFICATION.—The exterior boundary of the Uinta National Forest is hereby modified as generally depicted on a map entitled "Boundary Modification, Uinta National Forest" dated July 1986.

(b) MAP AND LEGAL DESCRIPTION.—Such map and the legal description of the boundary modification of the National Forest shall be on file and available for public inspection in the offices of the Chief of the Forest Service, Department of Agriculture, the Director of the Bureau of Reclamation, Department of the Interior, and appropriate field offices of each such Department.

SEC. 2. OPERATION OF LANDS WITHIN EXTENDED BOUNDARY.

Nothing in this Act shall be construed to interfere with the authority, or valid existing rights and privileges of any Federal, State, or private interests, including (but not limited to) those of the Strawberry Users Association.

SEC. 3. TRANSFER OF FUNDS.

Nothing in this Act shall be construed to interfere with the Memorandum of Understanding (contract No. 2097-40-1-3016) between the Bureau of Reclamation and the Forest Service, dated February 2, 1982. Funds may continue to be appropriated or otherwise made available to the Bureau of Reclamation for recreational purposes in accordance with plans dated August 1, 1978. With respect to the lands subject to that memorandum, the Bureau of Reclamation may spend appropriated funds in accordance with that memorandum.

SEC. 4. LAND EXCHANGE.

(a) AUTHORIZATION.—(1) The Secretary of Agriculture may exchange the National Forest System lands described in paragraph (2) (including any improvements thereon) located in or near Heber City, Wasatch County, Utah, for a building to be constructed on Federal lands at a location in Wasatch County, Utah, to be specified by the Secretary.

(2) The lands referred to in paragraph (1) are those lands which are depicted on a plat entitled "Heber City Administrative Site", dated July 1986. The plat shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture, and appropriate field offices.

(b) REQUIREMENT OF EQUAL VALUE.—The values, as determined by the Secretary, of the lands and building to be exchanged under this section shall be equal, or if not equal, shall be equalized by the payment of money to the grantor or the Secretary as the circumstances require so long as the payment does not exceed 25 percent of the total value of the land (including any improvements thereon) transferred out of Federal ownership. The Secretary shall try to

reduce the amount of payment to as small an amount as possible.

Mr. NIELSON of Utah (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

AMENDMENT OFFERED BY MR. NEILSON OF UTAH TO THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. NIELSON of Utah. Mr. Speaker, I offer an amendment to the committee amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. NIELSON of Utah to the committee amendment in the nature of a substitute: On page 4, line 21 delete "July" and insert in lieu thereof "September".

Mr. NIELSON of Utah. Mr. Speaker, this is a change of the map to conform with the agreement made with the Forest Service and the Fish and Wildlife Division and the State of Utah, and it is agreed to by all parties.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Utah [Mr. NIELSON] to the committee amendment in the nature of a substitute.

The amendment to the committee amendment in the nature of a substitute was agreed to.

The SPEAKER pro tempore. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. NIELSON of Utah. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

NATIONAL SPECIAL OPERATIONS AGENCY ACT

Mr. DANIEL. Mr. Speaker, I ask unanimous consent that the Committee on Armed Services be discharged from the further consideration of the bill (H.R. 5109) to establish a National Special Operations Agency within the Department of Defense to have unified responsibility for all special operations forces and activities within the Department, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

Mr. SPENCE. Mr. Speaker, reserving the right to object, I will not object, but I yield to the gentleman from Virginia [Mr. DANIEL] for the purpose of explaining this request.

Mr. DANIEL. Mr. Speaker, I thank the gentleman for yielding.

This bill was passed as a part of the Defense authorization bill on August 15. It simply reorganized the special operations forces, an extension of the proposal offered by the gentleman from Alabama [Mr. NICHOLS] on the Defense reorganization bill.

Mr. SPENCE. Mr. Speaker, I support my colleague, the gentleman from Virginia, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The Clerk read the bill, as follows:

H.R. 5109

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Special Operations Agency Act".

SEC. 2. ESTABLISHMENT OF NATIONAL SPECIAL OPERATIONS AGENCY.

(a) AGENCY CHARTER.—Chapter 8 of title 10, United States Code, is amended—

(1) by redesignating section 191 as section 192; and

(2) by inserting after the table of sections the following new section:

"§ 191. National Special Operations Agency

"(a) ESTABLISHMENT.—(1) There is hereby established in the Department of Defense the National Special Operations Agency (hereinafter in this section referred to as the 'Agency'). The head of the Agency shall be a Director, who shall be appointed by the President, by and with the advice and consent of the Senate. The Director may not be an officer of the armed forces on the active-duty list.

"(2) The Director reports directly to the Secretary of Defense and has rank in the Department of Defense equivalent to that of an Assistant Secretary of Defense. The Director is the principal adviser to the Secretary of Defense and the Chairman of the Joint Chiefs of Staff for all matters pertaining to special operations forces and activities.

"(b) AUTHORITY OF DIRECTOR.—Subject to the authority, direction, and control of the President and the Secretary of Defense, the Director—

"(1) shall exercise command and operational control of all special operations forces (including reserve component forces) of the Department of Defense (other than those forces assigned or allocated to a unified combatant command); and

"(2) shall be responsible for—

"(A) all training, exercises, plans, and doctrine of the Department of Defense relating to special operations, including professional military education and preparation for joint staff assignments; and

"(B) all special operations activities (including special operations missions) assigned to elements of the Department of Defense by the President or Secretary of Defense.

"(c) DEPUTY DIRECTORS.—(1) There shall be not less than three Deputy Directors of the Agency. The Deputy Directors shall include—

"(A) a Deputy Director for Policy, who shall be a civilian;

"(B) a Deputy Director for Programs, who may be a civilian or an officer on the active-duty list; and

"(C) a Deputy Director for Operations, who shall be an officer on the active-duty list and who shall serve in such position in a grade above major general or rear admiral, if appointed to such grade by the President for service in such position under section 601 of this title.

"(2) Deputy Directors shall be selected by the Director, except that officers on the active-duty list shall be selected by the Director in accordance with procedures approved by the Secretary of Defense.

"(d) ASSIGNED FORCES.—(1) Notwithstanding any other provision of law, the Secretary of Defense shall provide that all special operations forces shall be assigned to the Agency. The Secretary may assign or allocate such forces from the Agency to a combatant command.

"(2) Forces assigned to the Agency shall be organized as the Joint Special Operations Command. The Deputy Director for Operations of the Agency shall be the commander of the Joint Special Operations Command.

"(e) THEATER SPECIAL OPERATIONS FORCES.—(1) The director shall assign to each unified combatant command an officer to serve as the theater special operations commander. Such officer shall also be the liaison of the Agency to the commander of the command. The theater special operations commander assigned to a unified combatant command is under the command of the commander of that command, and the assignment of an officer to a position as theater special operations commander is subject to the approval of the commander of the command.

"(2) The commander of a unified combatant command exercises command and operation control of special operations forces assigned or allocated to that command. Except in the case of elements of the Navy assigned to fleet operations, such operational control shall be exercised through the theater special operations commander.

"(f) BUDGET MATTERS.—(1) The Secretary of Defense shall provide that the budget justification documents of the Department of Defense for any fiscal year shall be prepared so that the presentation of major force programs in those documents sets out funding for all activities and elements of the Agency as a separate major force program category.

"(2) The responsibility for preparation, justification, and execution of budgets for the Agency shall be vested solely in the Director. The Director shall carry out such functions in accordance with guidance furnished by the Secretary of Defense and, in carrying out such functions, shall consider the views and recommendations of the commanders of the combatant commands.

"(g) PERSONNEL.—(1) The Director shall have the authority to select, train, and assign military and civilian personnel of the Agency (including personnel of forces assigned to the Agency).

"(2) The Secretary of Defense may by regulation establish a personnel system for civilian personnel of the Agency. The Secretary may make applicable to such system any of the provisions of chapter 83 of this title (relating to Defense Intelligence Agency civilian personnel).

"(h) UNAUTHORIZED ACTIVITIES.—This section does not constitute authority to conduct any activity which, if carried out as an intelligence activity by the Department of Defense, would require—

"(1) a finding under section 662 of the Foreign Assistance Act of 1961 (22 U.S.C. 2422); or

"(2) a notice to the intelligence committees under section 501(a)(1) of the National Security Act of 1947 (50 U.S.C. 413).

"(i) REGULATIONS.—The Secretary of Defense shall prescribe regulations for the activities of the Agency. Those regulations shall include provisions authorizing the Director to provide for operational security of special operations forces and activities. The regulations may not authorize the Agency to engage in clandestine foreign intelligence collection or (except in time of war) in covert action activities.

"(j) SPECIAL OPERATIONS FORCES DEFINED.—(1) Except as provided in paragraph (2), the term 'special operations forces', for the purposes of this section, means those forces of the armed forces that—

"(A) are identified as core forces or as augmenting forces in the Joint Chiefs of Staff Joint Strategic Capabilities Plan, Annex E, dated December 17, 1985;

"(B) are described in the Terms of Reference and Conceptual Operations Plan for the Joint Special Operations Command, as in effect on April 1, 1986; or

"(C) are designated as special operations forces by the Secretary of Defense.

"(2) Subject to paragraph (3), the term 'special operations forces' does not include forces identified, described, or designated under paragraph (1) that the Director (in conjunction with the Chairman of the Joint Chiefs of Staff) determines—

"(A) are augmenting forces (rather than core forces); and

"(B) are not necessary to the performance of nonpriority special operations activities.

"(3) When required by the Director, forces described in paragraph (2)—

"(A) shall immediately be assigned or otherwise made available to the Director; and

"(B) shall be considered to be special operations forces for the purposes of this section. The Secretary of Defense shall ensure that this paragraph is implemented so as to give the Director clear and unambiguous authority under the preceding sentence.

"(k) SPECIAL OPERATIONS ACTIVITIES DEFINED.—In this section, the term 'special operations activities' includes each of the following insofar as it relates to special operations:

"(1) Direct action.
"(2) Strategic reconnaissance.
"(3) Unconventional warfare.
"(4) Foreign internal defense.
"(5) Civil affairs.
"(6) Psychological operations.
"(7) Counterterrorism.
"(8) Drug interdiction (including coordination with other Government agencies).
"(9) Humanitarian assistance.
"(10) Theater search and rescue.
"(11) Such other matters as may be specified by the President or Secretary of Defense.".

(b) CLERICAL AMENDMENTS.—The table of sections at the beginning of such chapter is amended—

(1) by redesignating the item relating to section 191 to conform to the redesignation made by paragraph (1)(A); and

(2) by inserting before such item the following new item:

"191. National Special Operations Agency.".

SEC. 3. IMPLEMENTATION.

(a) DIRECTOR.—The nomination of an individual for appointment as Director of the National Special Operations Agency shall be made by the President not later than 30 days after the date of the enactment of this Act.

(b) AGENCY.—The establishment of the National Special Operations Agency, including the assignment of forces to the Agency, shall be completed not later than six months after the date of the enactment of this Act.

(c) INITIAL FUNDING.—The Secretary of Defense may spend unobligated funds appropriated to the Department of Defense for fiscal years before fiscal year 1987 in such sums as necessary in order to carry out this section and section 191 of title 10, United States Code, as added by section 2.

(d) PERSONNEL.—The Secretary of Defense shall provide that the initial assignment of personnel to the Agency (including military and civilian personnel) shall, to the maximum extent practicable, be made from among personnel assigned to the headquarters staffs of the Department of Defense, military departments, and military services (including the Joint Staff) whose functions are rendered redundant by the establishment of the Agency.

AMENDMENT OFFERED BY MR. DANIEL

Mr. DANIEL. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DANIEL: Page 5, line 22, strike out "(1)".

Page 6, strike out lines 1 through 5.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Virginia [Mr. DANIEL].

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DANIEL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

PRESIDENT'S SPEECH ON DRUGS

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute.)

Mr. RICHARDSON. Mr. Speaker, the President's statement on drug abuse was eloquent and persuasive, but it lacked specifics and necessary commitment in resources to do the job. We cannot talk the drug problem away. Our law enforcement officials cannot shoot down low-flying aircraft carrying cocaine as it crosses our borders. They need electronic equipment, training, and more people to do the job.

Let us emphasize law enforcement to catch drug traffickers rather than spending needlessly on drug-testing programs for Federal employees, a threat to the civil liberties of many individuals. In addition, the process is scientifically flawed.

There is no question we must change attitudes about drugs in this country. But that attitudinal change must be accompanied by stiffer penalties for drug traffickers, better international cooperation, more education, and more resources for our law enforcement officials.

To that skeptical audience that always asks how much will it cost, I say, whatever it takes.

□ 1220

Mr. Speaker, the $1.5 billion House bill is a positive start. Anything less in terms of resources and commitment strikes me as just political rhetoric.

THE PARENTAL AND MEDICAL LEAVE ACT WOULD HAVE ADVERSE EFFECTS ON SMALL BUSINESS

(Mr. COMBEST asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COMBEST. Mr. Speaker, this House will soon be asked to consider a bill that would wreak havoc on our Nation's small businesses by imposing federally mandated employee benefits on any employer of 15 or more employees.

H.R. 4300, the Parental and Medical Leave Act of 1986, provides leave for a child's birth, adoption, or serious illness and also to employee's with a serious health condition. Although this leave is unpaid, the bill would set up a commission to study paid leave. Small businesses must still incur the cost of lost manhours and pay for any health benefits employees were eligible to receive.

During the White House conference on small business, small business leaders from my district and every other district represented in this body decided that federally mandated benefits were the No. 2 threat to small business, the insurance liability crisis being No. 1.

Most small businesses have neither the resources nor the flexibility to be able to afford the loss of employees for months at a time, and I ask Members to consider the adverse effects this legislation will have on small businesses in their districts.

I believe employers should be held responsible for recognizing the importance of their employee's family life,

and they should not penalize employees for taking time off for maternity leave or caring for a sick child. This responsibility, however, should not be convoluted into an inflexible congressionally mandated benefit for all employees that would be imposed regardless of circumstance.

I ask you to join me in opposing this bill.

AMERICAN FARMERS AND FARM WORKERS ARE PAYING THE PRICE FOR REVITALIZING LATIN AMERICA

(Mr. DURBIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DURBIN. Mr. Speaker, as Congress grapples with the challenge of the arm crisis and the loss of American jobs, the recent visit by Brazilian President Jose Sarney was especially timely.

Thanks to a decision by the United States in 1983 to protect major American banks from default by Brazil and other Latin American debtor nations, President Sarney last week rightfully claimed economic recovery in his country; but this administration's Latin American strategy had its losers as well.

As Brazil dramatically increased its exports, reduced its imports, and erected trade barriers against worldwide products including American goods, the United States economy in general, and the American farmers and workers in particular paid the price. Falling commodity prices, declining U.S. farm exports, agricultural overproduction and U.S. farm bank failures are the Farm Belt legacy of this administration's strategy to revitalize Latin America.

Brazil's trade barriers to United States products are stark evidence that many American workers have given their jobs so that Brazil can enjoy some prosperity.

As we recall President Sarney's praise of our friendship, we should not forget that the American people still bear the burden of solving the problems created by this administration's rescue of Brazil and its American creditor banks.

IS DRUG USE IN AMERICA REALLY A SURPRISE?

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, on Sunday night President and Mrs. Reagan delivered a very important message on the seriousness of drugs in our society. Last week Congress overwhelmingly passed a tough comprehensive law which hopefully will slow down the availability of drugs in our country.

The question we Americans should ask ourselves is should we really be surprised by the extensive use of drugs in America?

In the last generation in our public schools, our young people have received mixed signals on whether we have moral absolutes in our society. Our court system has driven prayer out of our schools and, incredible as it seems, the Ten Commandments which are the basis of our Judeo-Christian heritage.

Do we really expect kids to say no to drugs, or no to anything, harmful as it may be, when all we have furnished them in the way of a moral compass or standard to judge anything is a variable one?

Do we really expect the American people to live by a fixed standard of yes or no on drugs when the U.S. Government, since 1971, has itself adopted a variable standard for so basic a commodity as the U.S. dollar?

REVIEWING OFFICIAL CALLS BY INSTANT REPLAY

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, I clearly am not part of the "jockocracy," but I am one of the rabid sports fans in America, and I probably represent a city with more rabid sports fans than any other in America.

Last night I must say our patience was really tried. We heard that there was going to be this new football rule; a wonderful new rule so that if the officials made a mistake, by instant replay it could be changed if they found out the call was wrong.

All of us who watched that game said "Oops, what happened?" The call was clearly wrong; the replay showed it was wrong; the officials viewing the replay said it's wrong; and yet Denver did not get the score.

We Denverites do not understand the fairness of that kind of rule, and we certainly hope they straightened it out before the next game. Thank goodness the Broncos won anyway, and I also must say thank goodness, the game was not held in Denver, because our south stand fans would have gone up and changed the score in the scoreboard by themselves.

We understand justice out West; we do not understand those kinds of rules. They can stop the play for commercials but not for corrections.

TAKE THE "TAX REFORM PLEDGE"

(Mr. PETRI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PETRI. Mr. Speaker, Congress is getting ready to pass a major tax reform bill. But even before the bill has been voted into law, numerous protax, prospending interests have started working for tax increases—both through higher rates, and a scaling back in the number of remaining deductions and credits.

Tax reform must not be allowed to become a tax increase in disguise.

Accordingly, I am making a tax reform pledge as follows:

I, Thomas E. Petri, pledge to the taxpayers of the Sixth District of the State of Wisconsin and to the American people that I will—

One, oppose any effort to increase marginal tax rates from the 15 and 28 percent rates for individuals and the 34 percent top rate for businesses; and

Two, oppose any further reduction or elimination of deductions and credits, unless matched dollar for dollar by further reducing tax rates.

Mr. Speaker, I have taken the tax reform pledge, and I urge my colleagues to do likewise.

FRANCE'S NEW VISA RESTRICTIONS FOR AMERICAN TOURISTS IS THE WRONG WAY TO FIGHT TERRORISM

(Mr. LANTOS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LANTOS. Mr. Speaker, the focus of Arab terrorism has shifted from Karachi and Istanbul to Paris; and the hearts of all of us go out to the innocent men, women, and children in the City of Lights who have been killed and maimed by terrorism in the last few days.

At the same time, Mr. Speaker, we are appalled that the French Government is about to impose visa restrictions on American tourists and other travelers to France. That is the wrong way to fight terrorism.

It was bad enough when the French Government denied our aircraft the right of overflight when we moved on Libya. This adds insult to injury.

Today I am introducing a resolution calling on the Government of France to reconsider its decision and to allow Americans to visit France without visas. The previous invasions of Americans took place in World Wars I and II, when we liberated France.

It ill-behooves the Government of France to impose visa restrictions on American citizens in a misguided attempt to fight terrorism.

THE FAMILY LEAVE ACT—AN INSUFFICIENTLY CONSIDERED PIECE OF LEGISLATION

(Mr. TAUKE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TAUKE. Mr. Speaker, Members of the House, within the next few days there will be an attempt to bring to the floor a bill known as the Family Leave Act. This legislation is well-intentioned, but we are not prepared to consider this legislation yet in Congress.

Although there have been hearings held on this issue, the only people invited to the hearings were those who supported the legislation. There was no effort to gather any evidence from the other side.

As a result, we have legislation which is well-intentioned but is very poor. I think that it would be inappropriate for us, at this late hour, to take up this bill.

Let me just mention two points. First, this measure establishes a new precedent in labor-management relations. For the first time we will be mandating employee benefits.

Second, this legislation does not help those whom it alleges to assist. Instead, it provides assistance to what are commonly known as the Yuppies in our society, but not those who most need the kind of assistance that this bill purports to give.

I urge the leaders of the House to reject consideration of this bill in this session of Congress.

CONGRESS' FUNDING OF LAW ENFORCEMENT FOR DRUG ABATEMENT PURPOSES

(Mr. WRIGHT asked and was given permission to address the House for 1 minute.)

Mr. WRIGHT. Mr. Speaker, my purpose in taking this time is simply to set the record straight with respect to the amounts of money appropriated by Congress for the purpose of law enforcement funding and particularly funding of law enforcement relating to abatement of drug abuse.

□ 1230

Yesterday morning on the "CBS News," the Attorney General, Mr. Meese, made the statement that we would make a good beginning in our war on drugs if Congress would only give what the administration had asked in the way of money for law enforcement. The somewhat gratuitous implication was that Congress had failed to do so.

Now, the fact is that from the day the Reagan administration took office until today, 5½ years, the Congress has provided exactly $953 million more for Federal law enforcement than the Reagan administration has requested, and in every single year of this administration Congress has provided more money for Federal law enforcement activities than the administration has asked.

I present a table provided to me by the staff of the House Committee on the Budget.

FEDERAL LAW ENFORCEMENT

	1982	1983	1984	1985	1986	1982–86
Congress	2.658	3.061	3.433	3.709	3.738	.....
Reagan request	2.470	2.671	3.348	3.505	3.652	.....
Total	188	390	85	204	86	[1] 953

[1] In millions of dollars.

Increases over President's budget request by House action law enforcement activities in Treasury bill

	Millions
Federal Law Enforcement Training Center	+$8.6
Bureau of Alcohol, Tobacco and Firearms	+12.0
U.S. Customs Service	+115.5
Internal Revenue Service	+150.0
U.S. Secret Service	+9.7
Total	+295.8

In this next fiscal year, fiscal year 1987, for which appropriation are currently being acted upon, the House has passed the Treasury Department appropriation bill already. This has not passed the other body, but the House-passed bill provided funding for law enforcement activities in the Federal Law Enforcement Training Center, the Bureau of Alcohol, Tobacco and Firearms, U.S. Customs Service, Internal Revenue Service, and the U.S. Secret Service to a total of almost $296 million more than the President had requested in this year's budget.

So that should set the record straight, not that we want to quarrel about it but rather that the Congress not be made the butt of unfair invidious comparisons.

The House has acted in a bipartisan manner to attack this grave problem. The other body likely will do the same, and I urge all of my colleagues to continue in that same spirit. At the same time I urge those in the administration not to try to cast unfair aspersions upon the Congress.

A TRIBUTE TO SENATOR JAKE GARN

(Mr. NIELSON of Utah asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NIELSON of Utah. Mr. Speaker, I would like to take a moment today to wish my friend and colleague, Senator JAKE GARN, a speedy recovery.

Senator GARN and I are natives of the same town, Richfield, UT, perhaps the most over represented community in the world. JAKE served as a city councilman and mayor prior to his election in 1974. A former test pilot JAKE is a brigadier general in the Utah National Guard.

JAKE has been an inspiration to us all. He has experienced many personal trials and successes, including the death of his first wife in an automobile accident. As a nation we watched him triumph as he became the first Senator to fly aboard the space shuttle, and again as he suffered through the tragic loss of many dear friends aboard the space shuttle *Challenger* last winter.

This week he has once again demonstrated his courage and sterling character.

JAKE is now in the Georgetown University Hospital after an operation to donate his kidney to his daughter, Susan, who has been suffering complications of diabetes. Of all the many heroic things JAKE has done, to me, this outshines them all. His courage and unselfish love for his daughter are truly inspirational. Both father and daughter are doing very well, I'm happy to report.

I just spent some time with JAKE in Utah and as always was impressed with his abilities and willingness to work hard on his constituents' behalf. JAKE told me that originally, the operation was scheduled for November after the legislative session and elections were over. But when it became clear that the transplant operation was needed more urgently, JAKE set aside his many other commitments to come to his daughter's aid.

Susan must have inherited her father's courage and tenacity because she has suffered a great deal in combating her diabetes. She's a girl with a lot of gumption.

I wish both JAKE and Susan the best and pray for them God's blessings and a speedy recovery.

VETERANS FAST FOR LIFE

(Mr. DOWNEY of New York asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOWNEY of New York. Mr. Speaker, as I speak today, four men are fasting outside the Capitol. Who are these men?

They are veterans. Duncan Murphy, Brian Willson, Charlie Liteky, and George Mizo. One served in the Second World War, and the others served in Vietnam. One of these men, Charlie Liteky, received the Congressional Medal of Honor for his heroic effort in rescuing 20 men under fire.

Why are these men fasting?

They are fasting as an expression of their desire to bring an end to the war in Nicaragua. Three of these men have traveled there. They have seen with their own eyes the pain and the suffering of the people of Nicaragua.

They intend that their fast call attention to the effect of the $100 million in aid for the Contras. They believe that the administration does not act in the interests of the American people when it prosecutes a war against the people of Nicaragua. By conducting their fast here in Washington, they hope to lead us to think about the consequences of congressional action to fund the Contras.

Mr. Speaker, I have met these men and talked with them. I was deeply moved by their commitment to lay their own lives on the line in an open-ended fast to try to save lives of others in Central America. I urge my colleagues to meet these men, to listen to what they have to say and to reconsider what we are about to do in the name of the American people in Nicaragua. Their voice may be only a whisper now, but it will become a shout heard round the world as their fast continues.

ORPHANS AND FOSTER CARE YOUTH MONTH

(Mr. WORTLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WORTLEY. Mr. Speaker, today, I am introducing a joint resolution which calls upon the Congress to designate the coming month of October as "Orphans and Foster Care Youth Month," and for the President to issue a proclamation that calls upon the people of the United States to observe that month with appropriate activities.

It is most fitting that the coming month bear this designation for it marks the fifth anniversary of the founding of the national Orphan Foundation, headquartered here in our Nation's Capital.

The national, nonprofit Orphan Foundation epitomizes what is best about the tradition of volunteerism in America. The foundation pairs adult volunteers with orphans and foster care youth who confront the prospect of independent living without the support of natural parents. The orphans are given counsel on how to find a job, to manage their finances, and to avoid drug abuse.

The foundation maintains an emergency aid fund. Each year, it offers incentives and motivation to over 130,000 orphans to pursue college educations, and provides college scholarships to orphans in 6 regions of our country. These regions encompass all 50 States and the District of Columbia.

The founder and president of the Orphan Foundation is Mr. Joseph Rivers, who works full time at the Department of Agriculture. He grew up in Syracuse, NY, in a succession of orphanages and foster care homes. On his own, he managed to win a B.A. at LeMoyne College in New York State and a B.S. at Morgan State in Baltimore. In short, Joseph Rivers knows what it is to struggle as an orphan. He knows, firsthand, how volunteer assistance can change the lives of abandoned children and young men and women without parents.

Mr. Speaker, I urge my colleagues to support my resolution to recognize the laudable efforts of the Orphans Foundation and to bring public attention to worthy volunteer activities for orphans throughout America.

PRESIDENT SHOULD PROTECT AMERICANS FLYING OVERSEAS

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks).

Mr. GLICKMAN. Mr. Speaker, the hijacking in Karachi last week underscores the urgency of intensifying efforts to bolster security for American air travelers overseas. To prod action in this direction, I offered an amendment to the defense authorization bill which was accepted, which urges the President as Commander in Chief to utilize U.S. troops, with the cooperation of foreign governments, to protect U.S. citizens and air carriers at airports outside the United States. Specifically, this amendment would have, if utilized, allowed U.S. troops to guard the Pan American plane on the tarmac of the Karachi airport and probably would have prevented the attempted hijacking.

We need to find a better system to enhance security for our airlines as they travel around the world. They carry our constituents and U.S. passengers on them. My amendment offers a cost-effective tool to accomplish this goal. We have in place throughout western Europe and elsewhere over 300,000 of the world's finest security forces, the American military.

Why not use a few of our American forces to prevent a catastrophe rather than relying on our Delta Force to minimize a tragedy once occurred?

I say let us put these troops on the front line in airports around the world where our American carriers fly, in a battle against terrorism so that all of us can once again feel that we can travel without fear.

I would hope that our conferees in the defense authorization bill would keep this provision in this bill and that the President would follow the instruction of the Congress.

LET'S PUT THE BLAME WHERE IT BELONGS

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, the gentlewoman from Colorado referred to something which occurred on the national network TV last night, and that was where the instant replay was supposed to work. Everybody saw what happened. The problem was not that the people up in the booth made a mistake in reviewing the particular play, the problem was they did not get the information down in time. They ran out of time. That is why the play was not corrected.

Unfortunately, that is probably the best metaphor that I can come up with to describe what is happening on the immigration bill. There is a very controversial aspect of it called the Schumer amendment.

Now some of us are being told that even though we have some severe concerns about the Schumer amendment, there is no time to deal with it. We will have to accept it or we will be responsible for stopping immigration reform in this Congress.

Mr. Speaker, that is total nonsense. As you know, Mr. Speaker, and as you have told us on many occasions, the Speaker's right is the right to tell us when legislation will come to the floor.

We have had 2 long years to deal with this bill, and now to tell us that we do not have time to deal with a controversial aspect of it or we are responsible for not getting an immigration bill through is worse than what happened last night.

After all, what happened last night was only a game; immigration reforms deal with this country and its people.

TRIBUTE TO DR. FREEMAN CARY

(Mr. DANIEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANIEL. Mr. Speaker, yesterday Adm. Freeman Cary concluded his service as an active duty physician.

For 15 years he served the House and the other body well as the physician. Dr. Cary was not only a cardiologist well known throughout the world but also an excellent teacher. He was conscientious and caring in looking after the people of this House and this Congress. He was a personal friend and one who beat me on the golf course most of the time.

I wish he and his wife Sarah much happiness in their new endeavors.

PARENTAL LEAVE: THE REAL ISSUES AT HAND

(Mr. DELAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELAY. Mr. Speaker, once again we are hearing the rumblings of social engineering stirring within the walls of Congress. Some Members are not happy because they can't snap their fingers and produce changes that they feel have to happen—right now. Of course I'm talking about the so-called parental leave bill, which I would rather refer to as the yuppie bill.

Let's be honest here—will 18 weeks away from work magically make a child grow up to be a model citizen? Will 18 weeks away from work—and incidentally that's within the first 2 years of having a child—will 18 weeks bond a parent to a child—of course not. Will 18 weeks have no effect on American business? Of course it will effect business. Do we know how it will effect business—no, but some Members want to do it anyway to try to achieve their social agenda.

Let's open our eyes—let's realize that Congress cannot fix all the perceived social ills. Where we intrude we usually find a way to make the situation worse. Let's have faith in the people of our great Nation—they can spot when things are not right and they will take steps—as they have through our history—to right the wrongs. H.R. 4300 is the wrong bill at the wrong time. If we bring this to the floor, let's give it what it deserves—a resounding defeat.

CAPITOL HILL TENNIS CLUB, ONE OF THE BEST TEAMS IN WASHINGTON, DC

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, my colleague PAT SCHROEDER talked about a sports team in her 1-minute speech this morning.

I would like to talk about a sports team, the Capitol Hill Tennis Club, which operates here on the Hill.

Mr. Speaker, this team is made up of Members of the Congress and staff members who serve in the House and in the Senate.

This club does not interfere with work time. We play tennis early in the morning, and we play on Saturdays at Haines Point.

I am proud to announce, Mr. Speaker, that for the first time in a number of years the Capitol Hills Tennis Club has won a trophy as being one of the best teams in Washington, DC.

We congratulate our team, all of us are proud of their victory and the credit they have brought the Capitol Hill Tennis Club.

I am listing our team players who have brought this recognition to Capitol Hill:

Dennis Holland, Bill Schmidt, Andrew Vermilye, Jim Feeley, Tim McDulin, Bobby Okun, Peter Gold, Alex Wohl, Kerry Knott, Alan Kahan, Joe Reeder, and Peter Lu, coach.

MANDATORY DRUG TESTING: UNCONSTITUTIONAL AND INACCURATE

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, there is good reason to resist the headlong rush into mandatory nationwide drug testing. The tests are devastatingly inaccurate.

About 1 in 20 people tested who never use drugs at all will come out positive and will have an undeserved scarlet letter forever attached to their names. Then there is the Constitution. Are people innocent until proven guilty? And they have been in America for 200 years.

Or, when it comes to drugs, are they now guilty until proven innocent?

The President was at least aware of some of these problems when he yesterday announced his drug testing plan. He rejected his commission's call for mandatory testing of all Federal employees and limited testing to those in sensitive positions, perhaps only 1 out of 6 Federal employees. His guidelines at least would allow agency heads to require the far more accurate but more expensive gaseous diffusion test than the standard inaccurate $15 urinalysis test.

□ 1245

But, Mr. Speaker, there is no such restraint in the private sector. While we focus on testing for Federal employees, much larger drug testing programs are quietly but surely being created throughout the private sector. These plans are more intrusive, involve millions of Americans, and do far more damage to the Constitution and to people's reputations than anything the White House envisions for Federal workers.

Just recently, General Electric and Kodak unveiled plans to test every applicant.

Today I am introducing legislation to ensure that the proper cautions are in place. My bill will limit public and private sector drug testing to those whose work involves public health and safety and national security. It will require that public and private employers confirm every positive test with a second, more accurate confirmation test.

I urge my colleagues to support this legislation.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC, *September 15, 1986.*
Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5, Rule III of the Rules of the U.S. House of Representatives, the Clerk received at 10.08 a.m. on Monday, September 15, 1986, the following message from the Secretary of the Senate: That the Senate passed, without amendment, H.R. 3247, H.R. 4530, H.J. Res. 686, and H.J. Res. 692.

With kind regards, I am,
Sincerely,

BENJAMIN J. GUTHRIE,
Clerk, House of Representatives.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MONTGOMERY). The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker pro tempore signed the following enrolled bills on Monday, September 15, 1986:

H.R. 3247. An act to amend the Native American Programs Act of 1974 to authorize appropriations for fiscal years 1987 through 1980;

H.R. 3443. An act to designate the closed basin conveyance channel of the closed basin division, San Luis Valley project, Colorado, as the "Franklin Eddy Canal"; and

H.R. 4868. An act to prohibit loans to, other investments in, and certain other activities with respect to, South Africa, and for other purposes.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC, *September 15, 1986.*
Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5, Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House at 12:45 p.m., on Monday, September 15, 1986 and said to contain a message from the President wherein he transmits legislation entitled, "Drug-Free America Act of 1986".

With kind regards, I am,
Sincerely,

BENJAMIN J. GUTHRIE,
Clerk, House of Representatives.

DRUG FREE AMERICA ACT OF 1986—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 99-266)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee of the Whole House on the State

of the Union and ordered to be printed:

(For message, see proceedings of the Senate of yesterday, Monday, September 15, 1986, at page 23336.)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule 15.

Such rollcall votes, if postponed, will be taken after completion of the conference report on H.R 4421.

SENATE CONFIRMATION OF COMMISSIONER OF FOOD AND DRUGS

Mr. WAXMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4754) to amend the Federal Food, Drug, and Cosmetic Act to require the appointment of the Commissioner of Food and Drugs to be subject to Senate confirmation.

The Clerk read as follows:

H.R. 4754

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. APPOINTMENT OF COMMISSIONER.

Chapter IX of the Federal Food, Drug, and Cosmetic Act is amended by adding at the end the following:

"FOOD AND DRUG ADMINISTRATION

"SEC. 903. The Food and Drug Administration is an agency of the Department of Health and Human Services.

"APPOINTMENT OF COMMISSIONER

"SEC. 904. The Food and Drug Administration shall be headed by a Commissioner of Food and Drugs who shall be appointed by the President, by and with the advice and consent of the Senate.".

SEC. 2. EFFECTIVE DATE.

The amendment made by section 1 shall apply to appointments of Commissioners of Food and Drugs made after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from California [Mr. WAXMAN] will be recognized for 20 minutes and the gentleman from Illinois [Mr. MADIGAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of this legislation is simple and straight forward. It was reported by the Energy and Commerce Committee with broad bipartisan support.

The bill would subject the Commissioner of the Food and Drug Administration [FDA] to Presidential appointment and Senate confirmation.

The FDA is an agency of the Department of Health and Human Services. When it comes to protecting the public health, there is no more important position than Commissioner of the FDA.

The responsibilities of the office are great. The FDA represents the only line of defense between the public and unhealthy foods, unsafe drugs, ineffective medical devices or unfounded health claims.

Ironically the FDA Commissioner is alone among major regulatory agency heads not subject to Presidential appointment or Senate confirmation. The head of every major Federal health and safety agency is currently subject to Presidential appointment and Senate confirmation. The list of agencies include the: Federal Aviation Administration, Environmental Protection Agency, Occupational Safety and Health Administration, National Highway Traffic and Safety Administration, Consumer Product Safety Commisison, and the Nuclear Regulatory Commission.

Furthermore, within the Department of Health and Human Services, the appointment of a number of individual agency heads requires Senate confirmation. In addition to the Secretary, these offices include the: Director, National Institutes of Health; Administrator, Alcohol, Drug Abuse and Mental Health Administration; Director, National Cancer Institute, and the Surgeon General, Public Health Service.

Mr. Speaker, Senate confirmation is a constructive and worthwhile process. It is a procedure that should apply to persons appointed to serve as Commissioner of the FDA.

I urge support for the legislation.

Mr. MADIGAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5754, legislation that will require the Commissioner of Food and Drugs to be subject to Presidential appointment and Senate confirmation. The role of the Commissioner is as important or more important than that of other members of the executive branch responsible for protecting our health and safety who are currently required to be confirmed by the Senate. These include the Commissioners of the Consumer Product Safety Commission, the National Highway Traffic Safety Administration, and the Federal Mine Safety and Health Review Commission.

I want to emphasize that this legislation was not precipitated because of Congress' concern about the quality of recent FDA Commissioners. We are satisfied with the quality of the incumbent Commissioner and do not expect any problems with future appointees.

I know of no opposition to this legislation and urge its adoption.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WAXMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. WAXMAN] that the House suspend the rules and pass the bill, H.R. 4754.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

AUTHORIZATIONS FOR CHILDHOOD IMMUNIZATIONS

Mr. WAXMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5230) to amend the Public Health Service Act to extend the program of childhood vaccinations and to require the Secretary of Health and Human Services to maintain a 6-month stockpile of vaccines, as amended.

The Clerk read as follows:

H.R. 5230

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF PROGRAM.

Section 317(j)(1) of the Public Health Service Act (42 U.S.C. 247b(j)(1)) is amended by striking out all after "1986," and inserting in lieu thereof the following: "and $78,000,000 for the fiscal year ending September 30, 1987.".

SEC 2. STOCKPILE.

The Secretary of Health and Human Services, acting through the Centers for Disease Control, shall acquire and maintain an amount of vaccines sufficient to provide vaccinations over a 6-month period. There is authorized to be appropriated to carry out this section $6,000,000 for fiscal year 1987.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from California [Mr. WAXMAN] will be recognized for 20 minutes and the gentleman from Illinois [Mr. MADIGAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. WAXMAN].

□ 1255

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of this legislation, is to increase the amount of funds available to help States purchase vaccines that are used to prevent childhood diseases such as polio and measles. Such increases in authority are needed to respond to the rise in vaccine prices that continues to force States to cut back on immunization

programs and to reduce the number of children being served. In the last 2 years alone, we have seen the price that CDC pays for some vaccines soar from $2 per dose to $12 per dose. That is an increase of 500 percent. H.R. 5230 would help alleviate this problem by authorizing an additional $13 million in fiscal year 1987 for the CDC program.

H.R. 5230 also establishes a specific authority under which the Secretary of HHS is required to maintain a 6 month supply of vaccines. According to CDC, such a stockpile is necessary to ensure that in times of market shortages, there is always an adequate supply of vaccines available to protect our children against preventable diseases. H.R. 5230 would authorize $6 million in fiscal year 1987 to maintain such a stockpile.

It should be noted that this legislation is limited to an increase in authorization levels for only fiscal year 1987. Given the uncertainty of vaccine prices and the vaccine market, the Committee on Energy and Commerce thought it best to address this year's needs alone and to revisit the issue again next year.

H.R. 5230 is supported by the ranking Republican member of the Subcommittee on Health and the Environment, Mr. MADIGAN. It was reported out of the full Energy and Commerce Committee without debate and on a voice vote. The administration does not oppose the legislation. A similar bill has been reported out of the Senate Labor and Human Resources Committee and is scheduled to go to the Senate floor shortly.

Mr. Speaker, this legislation involves an issue of great importance and urgency for our children and for the States. I ask Members to suspend the rules and pass H.R. 5230.

Mr. MADIGAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5230, legislation that will increase the authorization for grants to States for the purchase of childhood vaccines.

H.R. 5230 increases the authorization for grants to purchase vaccines for fiscal year 1987 from $65 million, a figure adopted several years ago, to $78 million. This authorization increase is necessary because the costs of liability insurance have increased dramatically over the last several years. This has occurred because the incidence of suits filed and the size of awards and settlements involving vaccines have increased significantly.

While I am hopeful that the gentleman from California and I can reach agreement on a long-term solution to the vaccine injury problem, there is a need to address the short-term financing problem. H.R. 5230 does that.

H.R. 5230 also authorizes $6 million for the establishment of a stockpile of vaccines for emergencies. Such an emergency occurred in December 1984, when pediatricians were unable to obtain DPT vaccine through private sources and had to defer the administration of vaccines to older infants until the shortage abated.

I know of no opposition to this legislation and urge its adoption.

Mr. GILMAN. Mr. Speaker, I rise in support of H.R. 5230, legislation which increases authorization for grants to States for purchase of vaccines for children who cannot obtain them through private sources. This measure increases the authorization for fiscal year 1987, from $65 to $78 million and additionally authorizes $6 million in fiscal year 1987 for the Department of Health and Human Services to acquire and maintain a 6-month stockpile of vaccines.

I commend the gentleman from California, the distinguished chairman of the Subcommittee on Health and the Environment, Mr. WAXMAN, for his continued work on behalf of those who suffer from childhood diseases and for his effort in bringing this measure to the floor. I also thank the gentleman from Illinois, the ranking minority member of the Subcommittee on Health and the Environment Mr. MADIGAN, for his generous efforts with regard to this legislation.

As our children return to school, we are faced with the spectre of increasing difficulty in financing their vaccination. In an effort to guard against a range of dangerous childhood diseases, our children are mandatorily vaccinated before entering school. There has been a modest increase in the U.S. birth rate which has, in turn, precipitated a modest increase in the funding required under this program to purchase such vaccination.

However, our manufacturers have strewn a caveat across our paths, as vaccine liability claims and insurance have made such manufacture prohibitively expensive. The price of two major vaccines have increased precipitously. The polio vaccine price nearly doubled between 1984 and 1985, and the price of the diptheria-pertussis-tetanus [DPT] vaccine has quadrupled since 1984.

These increases, concomitant to expanding vaccine related liability, strongly indicate a required increase in authorization through H.R. 5230, lest we have our children exposed to the unnecessary and inhumane risks of childhood diseases which can be curbed only through adequate vaccination. These concerns strongly suggest that an increased Federal role be explored, which I am pleased to note are being addressed through the Energy and Commerce Committee.

Accordingly, I urge my colleagues to join me in supporting H.R. 5230 and demonstrating a firm commitment toward maintaining adequate safeguards against childhood diseases which, unless vaccinated against at acceptable manufacturing costs, threaten the very lives of our children.

Mr. MADIGAN. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. WAXMAN. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from California [Mr. WAXMAN] that the House suspend the rules and pass the bill, H.R. 5230, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH AMENDMENTS OF 1986

Mr. WAXMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5259) to amend the Public Health Service Act to revise the authorities of the Alcohol, Drug Abuse, and Mental Health Administration, as amended.

The Clerk read as follows:

H.R. 5259

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the "Alcohol, Drug Abuse, and Mental Health Amendments of 1986".

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

SEC. 2. TECHNICAL REVISION OF ADAMHA.

Section 501 (42 U.S.C. 290aa) is amended to read as follows:

"ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

"SEC. 501. (a) The Alcohol, Drug Abuse, and Mental Health Administration is an agency of the Service.

"(b) The following national research institutes are agencies of the Alcohol, Drug Abuse, and Mental Health Administration:

"(1) The National Institute on Alcohol Abuse and Alcoholism.

"(2) The National Institute on Drug Abuse.

"(3) The National Institute of Mental Health.

"(c)(1) The Alcohol, Drug Abuse, and Mental Health Administration shall be headed by an Administrator (hereinafter in this title referred to as the 'Administrator') who shall be appointed by the President by and with the advice and consent of the Senate.

"(2) The Administrator, with the approval of the Secretary, may appoint a Deputy Administrator and may employ and prescribe the functions of such officers and employees, including attorneys, as are necessary to administer the activities to be carried out through the Administration.

"(d) The Secretary, acting through the Administrator—

"(1) shall supervise the functions of the National Institute of Mental Health, the National Institute on Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse in order to assure that the programs carried out through each such Institute receive appropriate and equitable sup-

port and that there is cooperation among the Institutes in the implementation of such programs; and

"(2) shall assure that research at or supported by the Alcohol, Drug Abuse and Mental Health Administration and each of its national research institutes is subject to review in accordance with section 507 and is in compliance with section 509.

"(e)(1) There shall be in the Administration an Associate Administrator for Prevention to whom the Administrator shall delegate the function of promoting the prevention research programs of the National Institute of Mental Health, the National Institute on Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse and coordinating such programs between the Institutes and between the Institutes and other public and private entities.

"(2) The Administrator, acting through the Associate Administrator for Prevention, shall annually submit to the Congress a report describing the prevention activities (including preventive medicine and health promotion) undertaken by the Administration, the National Institute of Mental Health, the National Institute on Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse. The report shall include a detailed statement of the expenditures made for the activities reported on and the personnel used in connection with such activities.

"(f) The Administrator shall establish a process for the prompt and appropriate response to information provided the Administrator respecting (1) scientific fraud in connection with projects for which funds have been made available under this title, and (2) incidences of violations of the rights of human subjects of research for which funds have been made available under this title. The process shall include procedures for the receiving of reports of such information from recipients of funds under this title and taking appropriate action with respect to such fraud and violations.

"(g) The Secretary, acting through the Administrator, shall make grants to schools of the health professions and schools of social work to support the training of students in such schools in the identification and treatment of alcohol and drug abuse. Grants under this subsection shall be made from funds available under this title and section 303.

"(h) To educate the public with respect to the health hazards of alcoholism, alcohol abuse, and drug abuse, the Administrator shall take such actions as may be necessary to ensure the widespread dissemination of current publications of the National Institute on Alcohol Abuse and Alcoholism and the National Institute on Drug Abuse relating to the most recent research findings with respect to such health hazards.

"(i)(1) The Administrator may obtain (in accordance with section 3109 of title 5, United States Code, but without regard to the limitation in such section on the number of days or the period of service) the services of not more than 20 experts or consultants who have scientific or professional qualifications. Such experts and consultants shall be obtained for the Administration and for each of the research institutes under the Administration.

"(2)(A) Experts and consultants whose services are obtained under paragraph (1) shall be paid or reimbursed for their expenses associated with traveling to and from their assignment location in accordance with sections 5724, 5724a(a)(1), 5724a(a)(3), and 5726(c) of title 5, United States Code.

"(B) Expenses specified in subparagraph (A) may not be allowed in connection with the assignment of an expert or consultant whose services are obtained under paragraph (1), unless and until the expert or consultant agrees in writing to complete the entire period of assignment or one year, whichever is shorter, unless separated or reassigned for reasons beyond the control of the expert or consultant that are acceptable to the Secretary. If the expert or consultant violates the agreement, the money spent by the United States for the expenses specified in subparagraph (A) is recoverable from the expert or consultant as a debt of the United States. The Secretary may waive in whole or in part a right of recovery under this subparagraph.

"(j) The Administrator may, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates, establish such technical and scientific peer review groups as are needed to carry out the requirements of section 507 and appoint and pay members of such groups, except that officers and employees of the United States shall not receive additional compensation for service as members of such groups. The Federal Advisory Committee Act shall not apply to the duration of a peer review group appointed under this subsection.

"(k)(1) The Alcohol, Drug Abuse, and Mental Health Advisory Board (hereinafter in this subsection referred to as the 'Board') shall—

"(A) periodically assess the national needs for alcoholism, alcohol abuse, drug abuse, and mental health services and the extent to which those needs are being met by State, local, and private programs and programs receiving funds under this title and part B of title XIX, and

"(B) provide advice to the Secretary and the Administrator respecting activities carried out under this title and part B of title XIX.

"(2)(A) The Board shall consist of 15 members appointed by the Secretary and such ex officio members from the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse, and the National Institute of Mental Health as the Secretary may designate. Of the members appointed to the Board, at least 6 members shall represent State and private, nonprofit providers of prevention and treatment services for alcoholism, alcohol abuse, drug abuse, and mental illness, at least 6 members shall be individuals with expertise in public education and prevention services for alcoholism, alcohol abuse, drug abuse, and mental illness, and at least 3 members shall be appointed from members of the general public who are knowledgeable about alcoholism, alcohol abuse, drug abuse, and mental illness.

"(B) The term of office of a member appointed to the Board is 4 years, except that of the members first appointed to the Board—

"(i) 5 shall serve for terms of 1 year,

"(ii) 5 shall serve for terms of 2 years,

"(iii) 5 shall serve for terms of 3 years,

as designated by the Secretary at the time of appointment. Any member appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of such member was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of the member's term until the successor of the member has taken office.

"(3)(A) Except as provided in subparagraph (B), members of the Board shall (i) be paid not more than the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the Board, and (ii) while away from their homes or regular places of business and while serving in the business of the Board, be entitled to receive transportation expenses as prescribed by section 5703 of title 5, United States Code.

"(B) Members of the Board who are full-time officers or employees of the United States shall receive no additional pay, allowances, or benefits by reason of their service on the Board.

"(4) The Board may appoint such staff personnel as the Board considers appropriate.

"(5) The Secretary shall designate the chairman of the Board.

"(6) The Board shall meet at least 3 times each calendar year.

"(7) The Board shall report annually to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate on its activities during the prior year and shall include in such report such recommendations for legislation and administrative action as it deems appropriate.".

SEC. 3. NATIONAL INSTITUTE OF MENTAL HEALTH.

Section 504(c) (42 U.S.C. 290aa-3(c)) is amended by adding at the end the following: "Priority shall be given to programs for training and research on the mental health needs of the elderly."

SEC. 4. ADVISORY COUNCILS.

(a) AMENDMENT.—Part A of title V is amended by redesignating sections 505 and 506 as sections 506 and 507, respectively, and by adding after section 504 the following new section:

"ADVISORY COUNCILS

"SEC. 505. (a)(1) The Secretary shall appoint an advisory council for the National Institute on Alcohol Abuse and Alcoholism, for the the National Institute on Drug Abuse, and for the National Institute of Mental Health. Each such advisory council shall advise, consult with, and make recommendations to the Secretary and the Director of the Institute for which it was appointed on matters related to the activities carried out by and through the Institute and the policies respecting such activities.

"(2) Each advisory council for a national research institute may recommend to the Secretary acceptance, in accordance with section 2101, of conditional gifts for study, investigation, or research respecting the diseases, disorders, or other aspect of human health with respect to which the institute was established, for the acquisition of grounds, or for the construction, equipping, or maintenance of facilities for the institute.

"(3) Each advisory council for a national research institute—

"(A)(i) may on the basis of the materials provided under section 507(d)(2) respecting research conducted at the institute, make recommendations to the Director of the institute respecting such research,

"(ii) shall review applications for grants and cooperative agreements for research or training and recommend for approval applications for projects which show promise of

making valuable contributions to human knowledge, and

"(iii) may review any grant, contract, or cooperative agreement proposed to be made or entered into by the institute;

"(B) may collect, by correspondence or by personal investigation, information as to studies which are being carried on in the United States or any other country as to the diseases, disorders, or other aspect of human health with respect to which the institute was established and with the approval of the Director of the institute make available such information through appropriate publications for the benefit of public and private health entities and health professions personnel and scientists and for the information of the general public; and

"(C) may appoint subcommittees and convene workshops and conferences.

"(b)(1) Each advisory council shall consist of ex officio members and not more than twelve members appointed by the Secretary.

"(2) The ex officio members of an advisory council shall consist of—

"(A) the Secretary, the Administrator, the Director of the national research institute for which the council is established, the Chief Medical Director of the Veterans' Administration, and the Assistant Secretary of Defense for Health Affairs (or the designees of such officers), and

"(B) such additional officers or employees of the United States as the Secretary determines necessary for the advisory council to effectively carry out its functions.

"(3) The Members of an advisory council who are not ex officio members shall be appointed as follows:

"(A) Six of the members shall be appointed by the Secretary from among the leading representatives of the health and scientific disciplines (including public health and the behavioral or social sciences) relevant to the activities of the national research institute for which the advisory council is established.

"(B) Six of the members shall be appointed by the Secretary from the general public and shall include leaders in fields of public policy, law, health policy, economics, and management.

"(4) Members of an advisory council who are officers or employees of the United States shall not receive any compensation for service on the advisory council. The other members of an advisory council shall receive, for each day (including traveltime) they are engaged in the performance of the functions of the advisory council, compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS-18 of the General Schedule.

"(c) The term of office of an appointed member of an advisory council is 4 years, except that any member appointed to fill a vacancy for an unexpired term shall be appointed for the remainder of such term and the Secretary shall make appointments to an advisory council in such manner as to ensure that the terms of the members do not all expire in the same year. A member may serve after the expiration of the member's term until a successor has taken office. A member who has been appointed for a term of 4 years may not be reappointed to an advisory council before 2 years from the date of expiration of such term of office. If a vacancy occurs in the advisory council among the appointed members, the Secretary shall make an appointment to fill the vacancy within 90 days from the date the vacancy occurs.

"(d) The chairman of an advisory council shall be selected by the Secretary from among the appointed members, except that the Secretary may select the Director of the national research institute for which the advisory council is established to be the chairman of the advisory council. The term of office of chairman shall be two years.

"(e) The advisory council shall meet at the call of the chairman or upon the request of the Director of the national research institute for which it was established, but at least three times each fiscal year. The location of the meetings of each advisory council is subject to the approval of the Director of the national research institute for which the advisory council was established.

"(f) The Director of the national research institute for which an advisory council is established shall designate a member of the staff of the institute to serve as the executive secretary of the advisory council. The Director of such institute shall make available to the advisory council such staff, information, and other assistance as it may require to carry out its functions. The Director of such institute shall provide orientation and training for new members of the advisory council to provide them with such information and training as may be appropriate for their effective participation in the functions of the advisory council.".

(b) CURRENT ADVISORY COUNCILS.—Subsections (a) through (d) of section 217 (42 U.S.C. 218(a)-(d)) are repealed. Subsection (e) of such section is amended by striking out "(e)(1)" and inserting in lieu thereof "(a)" and by redesignating paragraphs (2) through (4) as subsections (b) through (d), respectively.

SEC. 5. PUBLIC HEALTH EMERGENCIES.

Part A of title V , as amended by section 3, is amended by adding at the end the following:

"RESEARCH ON PUBLIC HEALTH EMERGENCIES

"SEC. 508. (a) If the Secretary determines, after consultation with the Administrator, the Commissioner of the Food and Drug Administration, or the Director of the Centers for Disease Control, that a disease or disorder within the jurisdiction of a national research institute of the Administration constitutes a public health emergency, the Secretary, acting through the Administrator—

"(1) shall expedite the review by advisory councils and by peer review groups of applications for grants for research on such disease or disorder or proposals for contracts for such research;

"(2) shall exercise the authority in section 3709 of the Revised Statutes (41 U.S.C. 5) respecting public exigencies to waive the advertising requirements of such section in the case of proposals for contracts for such research;

"(3) may provide administrative supplemental increases in existing grants and contracts to support new research relevant to such disease or disorder; and

"(4) shall disseminate, to health professionals and the public, information on the cause, prevention, and treatment of such disease or disorder that has been developed in research assisted under this section.

The amount of an increase in a grant or contract provided under paragraph (3) may not exceed one-half the original amount of the grant or contract.

"(b) Not later than 90 days after the end of a fiscal year, the Secretary shall report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate on actions taken under subsection (a) in such fiscal year.".

SEC. 6. PEER REVIEW.

Section 507(b) (42 U.S.C. 290aa-5(b)) (as redesignated by section 3 of this Act) is amended by inserting "applications made for" after "review of".

SEC. 7. NATIONAL ALCOHOL RESEARCH CENTER.

Section 511(b) is amended—

(1) by striking "or rental" before "of any land"; and

(2) by striking "rental," before "purchase,".

SEC. 8. RESEARCH AUTHORIZATION.

(a) SECTION 513.—Section 513 (42 U.S.C. 290bb-2) is amended to read as follows:

"AUTHORIZATIONS OF APPROPRIATIONS

"SEC. 513. There are authorized to be appropriated to carry out this subpart such sums as may be necessary for fiscal years 1987, 1988, and 1989.".

(b) SECTION 517.—Section 517 (42 U.S.C. 290cc-2) is amended to read as follows:

"AUTHORIZATIONS OF APPROPRIATIONS

"SEC. 517. There are authorized to be appropriated to carry out this subpart such sums as may be necessary for fiscal years 1987, 1988, and 1989.".

SEC. 9. SUICIDE.

Section 504 (42 U.S.C. 290aa-3) is amended by adding at the end the following:

"(h)(1) The Director shall—

"(A) develop and publish information respecting the causes of suicide and the means of preventing suicide, and

"(B) make such information generally available to the public and health professionals.

Information developed, published, and distributed under this subsection shall especially relate to suicide among individuals under the age of 21.

"(2) The Director shall report annually to the Congress on the activities undertaken under paragraph (1) during the period reported on and shall include in each such report an assessment of the effectiveness of such activities.".

SEC. 10. ANIMALS IN RESEARCH.

Part A of title V, as amended by section 4, is amended by adding at the end the following:

"ANIMALS IN RESEARCH

"SEC. 509. (a) The Secretary, acting through the Administrator, shall establish guidelines for the following:

"(1) The proper care of animals to be used in research conducted by and through agencies of the Administration.

"(2) The proper treatment of animals while being used in such research. Guidelines under this paragraph shall require—

"(A) the appropriate use of tranquilizers, analgesics, anesthetics, paralytics, and euthanasia for animals in such research; and

"(B) appropriate pre-surgical and post-surgical veterinary medical and nursing care for animals in such research.

Such guidelines shall not be construed to prescribe methods of research.

"(3) The organization and operation of animal care committees in accordance with subsection (b).

"(b)(1) Guidelines of the Secretary under subsection (a)(3) shall require animal care committees at each entity which conducts research with funds provided under this title to assure compliance with the guidelines established under subsection (a).

"(2) Each animal care committee shall be appointed by the chief executive officer of the entity for which the committee is established, shall be composed of not fewer than

three members, and shall include at least one individual who has no association with such entity and at least one doctor of veterinary medicine.

"(c) Each animal care committee of a research entity shall—

"(1) review the care and treatment of animals in all animal study areas and facilities of the research entity at least semiannually to evaluate compliance with applicable guidelines established under subsection (a) for appropriate animal care and treatment;

"(2) keep appropriate records of reviews conducted under subparagraph (A); and

"(3) for each review conducted under subparagraph (A), file with the Administrator at least annually (i) a certification that the review has been conducted, and (ii) reports of any violations of guidelines established under subsection (a) or assurances required under paragraph (1) which were observed in such review and which have continued after notice by the committee to the research entity involved of the violations.

Reports filed under subparagraph (C) shall include any minority views filed by members of the committee.

"(d) The Administrator shall require each applicant for a grant, contract, or cooperative agreement involving research on animals which is administered by the Administrator or any agency of the Administration to include in its application or contract proposal, submitted after the expiration of the 12-month period beginning on the date of enactment of this section—

"(1) assurances satisfactory to the Administrator that—

"(A) the applicant meets the requirements of the guidelines established under paragraphs (1) and (2) of subsection (a) and has an animal care committee which meets the requirements of subsection (b); and

"(B) scientists, animal technicians, and other personnel involved with animal care, treatment, and use by the applicant have available to them instruction or training in the humane practice of animal maintenance and experimentation, and the concept, availability, and use of research or testing methods that limit the use of animals or limit animal distress; and

"(2) a statement of the reasons for the use of animals in the research to be conducted with funds provided under such grant or contract.

Notwithstanding subsection (a)(2) of section 553 of title 5, United States Code, regulations under this subsection shall be promulgated in accordance with the notice and comment requirements of such section.

"(e) If the Administrator determines that—

"(1) the conditions of animal care, treatment, or use in an entity which is receiving a grant, contract, or cooperative agreement involving research on animals under this title do not meet applicable guidelines established under subsection (a);

"(2) the entity has been notified by the Administrator of such determination and has been given a reasonable opportunity to take corrective action; and

"(3) no action has been taken by the entity to correct such conditions;

the Administrator shall suspend or revoke such grant or contract under such conditions as the Administrator determines appropriate.

"(f) No guideline or regulation promulgated under subsection (a) or (c) may require a research entity to disclose publicly trade secrets or commercial or financial information which is privileged or confidential.".

SEC. 11. BLOCK GRANTS.

Section 1913(a)(1)(B) (42 U.S.C. 300x–1a(a)(1)(B)) is amended by striking out "1984" and inserting in lieu thereof "1985".

SEC. 12. TECHNICAL AMENDMENTS.

(a) SECTION 504(e).—Subsection (e) of section 504 (42 U.S.C. 290aa–3) is amended by striking out the period at the end of paragraph (2)(A) and inserting in lieu thereof a semicolon.

(b) SECTION 504(g).—Subsection (g) of such section is amended by striking out "section 1915(e)" and inserting in lieu thereof "1916(e)".

(c) GENERAL AUTHORITY.—

(1) Such section is amended by adding at the end the following:

(i) The Secretary, acting through the Director, may make grants to and enter into cooperative agreements and contracts with public and nonprofit private entities for research on mental illness.".

(2) Section 301(a)(3) of such Act (42 U.S.C. 241(a)(3)) is amended by striking out "or, in the case of mental health" and all that follows in such section and inserting in lieu thereof a semicolon.

SEC. 13. STUDY.

(a) IN GENERAL.—The Secretary of Health and Human Services, acting through the Director of the National Institute on Alcohol Abuse and Alcoholism and in accordance with subsection (b), shall arrange for the conduct of a study to—

(1) critically review available research knowledge and experience in the United States and other countries regarding alternative approaches and mechanisms (including statutory and voluntary mechanisms) for the provision of alcoholism and alcohol abuse treatment and rehabilitative services,

(2) assess available evidence concerning comparative costs, quality, effectiveness, and appropriateness of alcoholism and alcohol abuse treatment and rehabilitative service alternatives,

(3) review the state of financing alternatives available to the public, including an analysis of policies and experiences of third party insurers and State and municipal governments, and

(4) consider and make recommendations for policies and programs of research, planning, administration, and reimbursement for the treatment and rehabilitation of individuals suffering from alcoholism and alcohol abuse.

(b) ARRANGEMENTS.—

(1) The Secretary shall request the National Academy of Sciences to conduct the study described in subsection (a) under an arrangement under which the actual expenses incurred by the Academy in conducting the study will be paid by the Secretary and with the consent of the Academy the Secretary shall enter into such arrangement.

(2) Under the arrangement entered into under paragraph (1) the National Academy of Sciences shall agree to—

(A) conduct the study in consultation with the Director of the National Institute on Alcohol Abuse and Alcoholism, and

(B) submit to the Secretary not later than 24 months after the date the arrangement is entered into a final report on the study.

The Secretary shall transmit the final report of the Academy to Congress not later than 30 days after the date the Secretary receives the report.

The SPEAKER pro tempore. Is a second demanded?

Mr. MADIGAN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. WAXMAN] will be recognized for 20 minutes and the gentleman from Illinois [Mr. MADIGAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of H.R. 5259 is to extend for 3 fiscal years the authorization of appropriations for Federal drug and alcohol abuse research programs. These important programs are supported by the National Institute on Drug Abuse and the National Institute on Alcohol Abuse and Alcoholism of the Department of Health and Human Services. With the National Institute of Mental Health [NIMH], these research institutes comprise the Department's Alcohol, Drug Abuse and Mental Health Administration [ADAMHA].

The legislation enjoys broad bipartisan support. It will assure continued progress in our efforts to better understand the causes of drug and alcohol abuse and improve the effectiveness of prevention and treatment programs. Funding for each activity is authorized at the level of "such funds as may be necessary" for fiscal years 1987, 1988, and 1989. The effect of this authorization is to lift what in recent years has become an arbitrary ceiling on appropriations for these vital activities.

In addition to extending expiring drug and alcohol research authorities, the legislation makes necessary technical and conforming amendments to update the statutory authority for ADAMHA and to extend research authorities recently granted to the Director of the National Institutes of Health to the ADAMHA Administrator. These new authorities include the establishment of technical and scientific peer review groups and the exemption of such groups from arbitrary renewal requirements of the Federal Advisory Committee Act.

Mr. Speaker, there are several other provisions of the legislation which should be noted. The legislation:

Encourages increased priority on Federal support of programs in training and research relating to the mental health needs of the elderly;

Provides authority for the Secretary of Health and Human Services to expedite research on public health emergencies;

Requires the Director of the National Institute of Mental Health to develop and publish information on the causes and prevention of suicide;

Requires establishment of guidelines for the proper care and treatment of laboratory animals used in research supported by the Alcohol, Drug Abuse and Mental Health Administration;

Provides for an equitable distribution among the States of future funding reductions in the Alcohol and Drug Abuse and Mental Health Services Block Grant;

Clarifies that recipients of grants under the National Alcohol Research Centers program may include the costs of rent as a reimbursable expense; and

Requests a study by the National Research Council's Commission on Behavioral and Social Sciences and Education into alternative approaches and mechanisms for the provision of alcoholism and alcohol abuse treatment services.

Mr. Speaker, as reported by the Committee on Energy and Commerce, H.R. 5259 contained provisions amending the Public Health Service Act to clarify the responsibilities of recipients of Federal drug and alcohol abuse treatment funds to report instances of suspected child abuse if required to do so under State law. Provisions similar to those contained in this legislation have already been enacted into law as part of Public Law 99-401, the Children's Justice Act, which was signed by the President on August 27, 1986. Accordingly, the redundant provisions of H.R. 5259 which were contained in section 9 as reported by the committee, have not been included in the legislation now under consideration.

Mr. Speaker, H.R. 5259 is a constructive bill that will promote continued research into better understanding the causes and impact of drug and alcohol abuse on the Nation.

I urge support for the legislation.

Mr. MADIGAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5259, legislation reauthorizing the research authorities of the National Institute on Alcohol Abuse and Alcoholism and the National Institute on Drug Abuse for 3 fiscal years. At the administration's request the bill's authorization levels are not specified but set at "such sums as may be necessary." The administration does not oppose House passage of H.R. 5259 under suspension of the rules.

Several of the provisions included in H.R. 5259 conform the statute of the Alcohol, Drug Abuse and Mental Health Administration with the authorizing statute of the National Institutes of Health. These include: First, the authority of the administrator to establish additional peer review groups; second, the authority of the secretary of HHS to expedite peer review and provide increases to existing grants in case of public health emergencies; and third, the establishment of guidelines for the care and treatment of animals used in research. In addition, the bill mandates two studies: one on the causes and means of preventing youth suicide and a second on the financing and effectiveness of alcoholism treatment. Finally, H.R. 5259 includes an amendment to the alcohol, drug abuse and mental health block grant, which rectifies an uneven application of Gramm-Rudman reductions in State allotments, by changing the hold harmless date to fiscal year 1985.

This bipartisan legislation was reported by the Committee on Energy and Commerce on July 29, 1986, by voice vote. I urge my colleagues to join me and the chairman of the Subcommittee on Health and the Environment, Mr. WAXMAN, in supporting this legislation.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. WAXMAN. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. WAXMAN] that the House suspend the rules and pass the bill, H.R. 5259, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

INDIAN YOUTH ALCOHOL AND SUBSTANCE ABUSE PREVENTION ACT

Mr. UDALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1156) to coordinate and expand services for the prevention, identification, treatment, and follow-up care of alcohol and drug abuse among Indian youth, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1156

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. SHORT TITLE

This Act may be cited as the "Indian Youth Alcohol and Substance Abuse Prevention Act".

SEC. 2. CONGRESSIONAL FINDINGS.

Congress finds and declares that—

(a) Alcohol and substance abuse is the most severe health and social problem facing young Indians today. Nothing is more costly to the Indian people than the consequences of alcohol and substance abuse measured in physical, mental, social, and economic terms for the individual, the family, and the tribe.

(b) The 1980 Census shows that the Indian population on Indian reservations is much younger than the general population. While 23 percent of the national population is under 15 years of age, 32 percent of the Indian population falls within that age bracket.

(c) Estimates have been made that one-third of all Indian children have used alcohol with some frequency by age 11, and the abuse of readily available inhalants such as cleaning fluids, paint thinner, and automobile antifreeze is beginning at earlier ages and now twice as prevalent among Indian children as it is among the general population.

(d) The Indian Health Service's [IHS] statistics reveal that Indians between the ages of 15 and 24 years of age are more than two times as likely to commit suicide as the general population, and approximately 80 percent of those suicides are alcohol related.

(e) Indians between the ages of 15 and 24 years of age are twice as likely as the general population to die in automobile accidents, 75 percent of which are alcohol related.

(f) Untreated alcohol and substance abusers are likely to suffer serious health problems that can be directly related to abuse of alcohol and drugs, such as chronic liver diseases, cirrhosis, alcoholic psychoses, and alcoholic dependence syndrome.

(g) The abuse of alcohol by pregnant women has created a drastic increase of Fetal Alcohol Syndrome [FAS] among newborn Indians. On some reservations, FAS may occur as frequently as 1 in 100 births, whereas its occurrence in non-Indians populations is approximately 1 in 700 births.

(h) The IHS, which is charged with treatment and rehabilitation efforts, has directed only 1 percent of its budget for alcohol and substance abuse treatment problems.

(i) The Bureau of Indian Affairs [BIA], which has responsbility for programs in the fields of education, social services, law enforcement, and other programs has assumed little responsibility for coordinating its various efforts to focus on the epidemic of alcohol and substance abuse among Indian youth.

(j) This lack of emphasis and priority continues despite the fact that BIA and IHS officials publicly acknowledge that alcohol and substance abuse among Indian youth is the most serious health and social problem facing the Indian people.

(k) The Indian tribes have the primary responsibility for protecting and ensuring the well-being of their communities and that the resources available through the actions taken under this Act will be provided in order to assist Indian tribes in meeting those responsibilities.

SEC. 3. DEFINITIONS.

For the purposes of this Act, the term—

(1) "agency" means the local administrative entity of the Bureau of Indian Affairs serving one or more Indian tribes within a defined geographic area;

(2) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village or regional or village corporation as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for special programs and services provided by the United States to Indians because of their status as Indians;

(3) "prevention and treatment" may mean and include, as appropriate—

(A) efforts to identify, and the identification of, youth who are at risk with respect to, or who are abusers of, alcohol or controlled substances;

(B) intervention into cases of ongoing abuse to halt a further progression of such abuse;

(C) prevention through education and the provision of alternative activities:

(D) emergent treatment for abusers to help abstain from, and alleviate the effects of, abuse;

(E) rehabilitation to provide ongoing, specific aid, either on an inpatient or outpatient basis, to assist affected youth to reform or abstain from alcohol or substance abuse:

(F) follow-up or after-care to provide the appropriate long-term counseling and assistance on an outpatient basis; and

(G) referral to other sources of assistance or resources.

(4) "service unit" means an administrative entity within the Indian Health Service or a tribe or tribal organization operating health care programs or facilities with funds from the Indian Health Service under the Indian Self-Determination and Education Assistance Act through which the services are provided, directly or by contract, to the eligible Indian population within a defined geographic area; and

(5) "Youth" shall have the meaning given it in any particular Tribal Action Plan adopted pursuant to section 102 of this Act, except that, for purposes of statistical reporting under this Act, it shall mean a person 18 years of age or younger, or who is in attendance at a secondary school.

TITLE I—COORDINATION OF RESOURCES AND PROGRAMS

SEC. 101. INTERDEPARTMENTAL MEMORANDUM OF AGREEMENT (MOA).

(a) Not later than 180 days after the date of enactment of this Act, the Secretary of the Interior and Secretary of the Health and Human Services (Secretaries) shall develop and enter into a memorandum of Agreement (MOA) which shall, among other things—

(1) determine and define the scope of the problem of alcohol and substance abuse among Indian youth and its financial and human costs;

(2) identify and assess—

(A) the resources and programs of the BIA and IHS; and

(B) other Federal, tribal, state and local, and private resources and programs

which would be relevant to a coordinated effort to combat alcohol and substance abuse among Indian youth;

(3) develop and establish appropriate minimum standards for each agency's program responsibilities under the MOA which may be—

(A) the existing Federal or State standards in effect; or

(B) in the absence of such standards, new standards which will be developed and established in consultation with Indian tribes;

(4) coordinate the Bureau of Indian Affairs and Indian Health Service alcohol and sustance abuse programs existing on the date of the enactment of this Act with programs or efforts established by this Act;

(5) delineate the responsibilities of the Bureau of Indian Affairs and the Indian Health Service to coordinate alcohol and substance abuse-related services at the central, area, agency, and service unit levels;

(6) direct the BIA agency and education superintendents and the IHS service unit directors to cooperate fully with tribal requests made pursuant to section 102 of this Act; and

(7) provide for annual review of such agreements by the Secretaries.

(b) To the extent that there are new activities undertaken pursuant to this Act, those activities shall supplement, not supplant, activites, programs, and local actions that are ongoing on the date of the enactment of this Act and shall be made in the manner least disruptive to tribal control, in accordance with the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) and local control, in accordance with section 1130 of the Education Amendments of 1978 (25 U.S.C. 2010).

(c) The Secretary of Interior and the Secretary of Health and Human Services shall, in developing the agreement under subsection (a), consult with and solicit the comments of—

(1) interested Indian tribes;

(2) Indian individuals;

(3) Indian organizations; and

(4) professionals in the treatment of alcohol and substance abuse.

(d) The agreement under subsection (a) shall be submitted to Congress and published in the Federal Register not later than 190 days after the date of the enactment of this Act. At the same time as publication in the Federal Register, the Secretary of the Interior shall provide a copy of this Act and the MOA to each tribe within his jurisdiction.

SEC. 102. TRIBAL ACTION PLAN (TAP).

(a) The governing body of any Indian tribe may, at its discretion, adopt a resolution providing for the establishment of a Tribal Action Plan [TAP] to coordinate available resources and programs in an effort to combat alcohol and substance abuse among its youth. Such resolution shall form the foundation for the implementation of the provision of this Act and the MOA.

(b) At the request of any Indian tribe pursuant to a resolution adopted under subsection (a) of this section, the BIA agency and education superintendents and the IHS service unit director providing services to such tribe shall cooperate with the tribe in the development of a TAP to coordinate resources and programs relevant to alcohol and substance abuse prevention and treatment. Upon the development of such plan, these officials, as directed by the MOA, shall enter into an agreement with the tribe for the implementation of the TAP.

(c) Any Tribal Action Plan entered into pursuant to subsection (b) shall provide for—

(1) the establishment of a Tribal Coordinating Committee which shall—

(A) at a minimum, have as members a tribal representative who shall serve as Chairman, the BIA agency and education superintendents, and the IHS service unit director or their representatives;

(B) have primary responsibility for the implementation of the TAP;

(C) have the responsibility for any ongoing review and evaluation of, and the making of recommendations to the tribe relating to, the TAP; and

(D) have the responsibility for designating the key personnel for training in the prevention and treatment of Indian youth affected by alcohol and substance abuse as provided under section 503(a); and

(2) the incorporation of the minimum standards for those programs and services which it encompasses which shall be—

(A) the Federal or State standards as provided in section 101(a)(3); or

(B) applicable tribal standards, if such standards are no less stringent than the Federal or State standards.

(d) Any TAP entered into pursuant to subsection (b) of this section may, among other things, provide for—

(1) an assessment of the scope of the problem of alcohol and substance abuse among the youth of the tribe;

(2) the identification and coordination of the range of available programs and resources relevant to a program of alcohol and substance abuse prevention and treatment for Indian youth;

(3) the establishment and prioritization of goals and efforts needed to meet those goals; and

(4) the identification of the community and family roles in any of the efforts undertaken as part of the TAP.

(e)(1) If any Indian tribe fails to adopt a resolution as provided in subsection (a) within 180 days after the publication of the MOA in the Federal Register as provided in section 101 of this Act, the Secretaries shall require the BIA agency and education superintendents and the IHS service unit director serving such tribe to enter into an agreement to identify and coordinate available programs and resources to carry out the purposes of this Act.

(2) Nothing in this section shall preclude such Indian tribe from adopting a resolution under subsection (a) at any time.

SEC. 103. DEPARTMENTAL RESPONSIBILITY.

(a)(1) The Secretary of the Interior, acting through the BIA, and the Secretary of Health and Human Services, acting through the IHS, shall bear equal responsibility for the implementation of the provisions of this Act in cooperation with Indian tribes.

(2) The Secretary of the Health and Human Services shall have the primary responsibility for the implementation of title V of this Act.

(b)(1) In order to better coordinate the various programs of the BIA in carrying out the provisions of this Act, there shall be established within the Office of the Assistant Secretary of the Interior for Indian Affairs a new position to be known as the Indian Youth Programs Officer.

(2) The position provided in paragraph (1) shall be established, on a permanent basis, at no less than a GS-14 as provided in section 5104 of title 5 of the United States Code.

(3) In addition to other responsibilities which may be assigned to the Indian Youth Programs Officer relating to Indian youth, such Officer shall be responsible for—

(A) monitoring the performance and compliance of programs of the BIA in meeting the goals and purposes of this Act and the MOA;

(B) serving as a point of contact within the BIA for Indian tribes and the Tribal Coordinating Committees regarding the implementation of this Act, the MOA, and the Tribal Action Plans; and

(C) providing advice and recommendations, including recommendations submitted by Indian tribes and Tribal Coordinating Committees, to the Assistant Secretary for Indian Affairs.

SEC. 104. CONGRESSIONAL INTENT.

It is the intent of Congress that—

(1) specific Federal laws, and administrative regulations promulgated thereunder, establishing the programs of the BIA, the IHS, and other Federal agencies; and

(2) general Federal laws, such as those limiting augmentation of Federal appropriations or encouraging joint or cooperative funding,

shall be liberally construed and administered to achieve the purposes of this Act.

SEC. 105. FEDERAL FACILITIES, PROPERTY, AND EQUIPMENT.

(a) In the furtherance of the purposes and goals of this Act, the Secretaries shall make available for community use, to the extent permitted by law and as may be provided in a TAP, local Federal facilities, property, and equipment. Such facility availability shall include school facilities under the Secretary of Interior's jurisdiction, provided that the use of any school facilities shall be conditioned upon approval of the local school board for said school.

(b) Any additional cost associated with the use of Federal facilities, property, or equipment under this section may be borne by the Secretaries out of available funds, by other Federal funds if not otherwise prohibited by law, or by tribal, state or local, or private funds. Nothing in this section shall require the Secretaries to expend additional funds to meet the additional costs which may be associated with the use of such property as provided in this section.

(c) Subject to the availability of specific appropriations for this purpose, the Secretary of the Interior shall—

(1) establish summer recreation, employment and counseling programs for Indian youth on reservations;

(2) keep open for those weeks not within the normal school year such BIA funded or contracted schools, subject to the approval of the school board involved, and as he determines to be necessary to provide facilities for the programs established pursuant to this subsection;

(3) take all steps necessary to preserve any school property made available for any programs established pursuant to this subsection and to defray all expenses associated with these programs, including facility expenses; and

(4) provide, as needed, salaried coordinators for such programs.

TITLE II—EDUCATION PROGRAMS

SEC. 201. REVIEW OF PROGRAMS.

(a) In the development of the MOA required by section 101 of this Act, the Secretaries, in cooperation with the Secretary of Education, shall review and consider—

(1) the various programs established by Federal law providing educational services or benefits to Indian children, and

(2) tribal, state and local, and private educational resources and programs, to determine their applicability and relevance in carrying out the purposes of this Act.

(b) The results of the review conducted pursuant to this section shall be provided to every Indian tribe as soon as possible for their consideration and use in the development or modification of a TAP.

SEC. 202. AMENDMENTS TO THE INDIAN ELEMENTARY AND SECONDARY SCHOOL ASSISTANCE ACT.

Section 304 of the Indian Elementary and Secondary School Assistance Act (20 U.S.C. 241cc) is amended by—

(1) striking out "and" at the end of paragraph (1);

(2) striking out the period at the end of paragraph (2) and inserting in lieu thereof a semi-colon and the word "and"; and

(3) adding at the end the following new paragraph:

"(3) the training of counselors at schools eligible for funding under this title in counseling techniques relevant to the treatment of alcohol and substance abuse.".

SEC. 203. AMENDMENTS TO THE INDIAN EDUCATION ACT.

Section 423 of the Indian Education Act (20 U.S.C. 338b) is amended by—

(a) by inserting in subsection (a) the phrase "clinical psychology" after the word "medicine"; and

(b) adding at the end of the section the following new subsection:

"(e) Not more than 10 percent of the fellowships awarded under subsection (a) shall be awarded, on a priority basis, to persons receiving training in guidance counseling with a specialty in the area of alcohol and substance abuse counseling and education.".

SEC. 204. AMENDMENTS TO THE EDUCATION AMENDMENTS OF 1978.

(a) Section 1121 of the Education Amendments of 1978 is amended by adding at the end the following new subsection:

"(i)(1) All schools funded by the Bureau of Indian Affairs shall include within their curriculum a program of instruction relating to alcohol and substance abuse prevention and treatment. The Assistant Secretary shall provide the technical assistance necessary to develop and implement such a program for students in kindergarten and grades 1 through 12, at the request of—

"(A) any Bureau of Indian Affairs school (subject to the approval of the school board of such school); or

"(B) any school board of a school operating under a contract entered into under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 *et seq.*).

"(2) In schools operated directly by the Bureau of Indian Affairs, the Secretary shall, not later than 120 days after the date of the enactment of this Act, provide for—

(A) accurate reporting of all incidents relating to alcohol and substance abuse; and

(B) individual student crisis intervention.

"(3) The programs requested under paragraph (1) shall be developed in consultation with the Indian tribe that is to be served by such program and health personnel in the local community of such tribe.

"(4) Schools requesting program assistance under this provision are encouraged to involve family units and, where appropriate, tribal elders and Native healers in such instructions."

(b) Section 1129 of the Education Amendments of 1978 is amended by adding at the end the following new subsection:

"(e)(1) A financial plan under subsection (b) for a school may include, at the discretion of the local administrator and the school board of such school, a provision for a summer program of academic and support services for students of the school. Any such program may include activities related to the prevention of alcohol and substance abuse. The Assistant Secretary of Indian Affairs shall provide for the utilization of any such school facility during any summer in which such utilization is requested.

"(2) Notwithstanding any other provision of law, funds authorized under the Act of April 16, 1934 (25 U.S.C. 452 *et seq.*) and the Indian Education Act may be used to augment the services provided in each summer program at the option, and under the control, of the tribe or Indian controlled school receiving such funds.

"(3) The Assistant Secretary of Indian Affairs, acting through the Director of the Office of Indian Education Programs, shall provide technical assistance and coordination for any program described in paragraph (1) and shall, to the extent possible, encourage the coordination of such programs with any other summer programs that might benefit Indian youth, regardless of the funding source or administrative entity of any such program.".

SEC. 205. PUBLIC AND PRIVATE SCHOOL PROGRAMS.

(a) Notwithstanding any other law, Federal grants or other financial assistance made available to public or private schools because of the enrollment of Indian children pursuant to—

(1) the Act of April 16, 1934, as amended by the Indian Education Assistance Act, (25 U.S.C. *et seq.*);

(2) the Indian Elementary and Secondary School Assistance Act (20 U.S.C. 241aa *et seq.*); and

(3) the Indian Education Act (20 U.S.C. 3385), may be used to support a program of instruction relating to alcohol and substance abuse prevention and treatment.

SEC. 206. NEWSLETTER.

The Secretary of the Interior shall, not later than 120 days after the date of the enactment of this Act, publish an alcohol and substance abuse newsletter in cooperation with the Department of Health and Human Services and the Department of Education to report on Indian alcohol and substance abuse projects and programs. The newsletter shall—

(1) be published once in each calendar quarter;

(2) include reviews of programs determined by the Secretary of the Interior to be exemplary that provide sufficient information to enable interested persons to obtain further information about such programs; and

(3) be circulated without charge to—

(A) schools;

(B) Tribal offices;

(C) Bureau of Indian Affairs' agency and area offices;

(D) Indian Health Service area and service unit offices;

(E) Indian Health Service alcohol programs; and

(F) Other entities providing alcohol and substance abuse-related services or resources to Indian people.

TITLE III—FAMILY AND SOCIAL SERVICES: YOUTH ACTIVITIES

SEC. 301. REVIEW OF PROGRAMS.

(a) In the development of the MOA required by section 101 of this Act, the Secretaries shall review and consider—

(1) the various programs established by Federal law providing family and social services and benefits for Indian families and children, and

(2) tribal, state and local, and private family or social resources and programs,

to determine their applicability and relevance in carrying out the purpose of this Act.

(b) The Secretaries shall conduct a similar review with respect to programs and resources relating to youth employment, recreation, cultural, and community activities which may be applicable and relevant in carrying out the purposes of this Act.

(c) The results of the reviews conducted pursuant to this section shall be provided to every Indian tribe as soon as possible for their consideration and use in the development or modification of a TAP.

SEC. 302. SOCIAL SERVICES REPORTS.

(a) The Secretary of the Interior, with respect to the administration of any family or social services program by the BIA directly or through contracts under the Indian Self-Determination Act, shall require the compi-

lation of data relating to the number and types of child abuse and neglect cases seen and the type of assistance provided. Additionally, such data should also be categorized to reflect those cases that involve, or appear to involve, alcohol and substance abuse, those cases which are recurring, and those cases which involve other minor siblings.

(b) The data compiled pursuant to subsection (a) shall be provided annually to the affected Indian tribe and Tribal Coordinating Committee to assist them in developing or modifying a TAP and shall also be submitted to the IHS service unit director who will have responsibility for compiling a tribal comprehensive report as provided in section 505 of this Act.

(c) In carrying out the requirements of this section, the Secretary shall insure that the data is compiled and reported in a manner which will preserve the confidentiality of the families and individuals.

SEC. 303. EMERGENCY SHELTERS.

(a) A TAP adopted pursuant to section 102 of this Act may make such provisions as may be necessary and practical for the establishment, funding, licensing, and operation of emergency shelters or half-way houses for Indian youth who are alcohol or substance abusers, including youth who have been arrested for offenses directly or indirectly related to alcohol or substance abuse.

(b) In any case where an Indian youth is arrested or detained by BIA or tribal law enforcement personnel for an offense relating to alcohol or substance abuse, other than for a status offense as defined by the Juvenile Justice and Delinquency Prevention Act of 1974, under circumstances where such youth may not be immediately restored to the custody of his parents or guardians and where there is space available in an appropriately licensed and supervised emergency shelter or half-way house, such youth shall be referred to such facility in lieu of incarceration in a secured facility, unless such youth is deemed a danger to himself or other persons.

(c) In the case of any State that exercises criminal jurisdiction over any part of Indian country under section 1162 of title 18 of the United States Code or section 401 of the Act of April 11, 1968 (25 U.S.C. 1321), such State is urged to require its law enforcement officers to—

(1) place any Indian youth arrested for any offense related to alcohol or substance abuse in a temporary emergency shelter described in subsection (d) or a community-based alcohol or substance abuse treatment facility in lieu of incarceration to the extent such facilities are available; and

(2) observe the guidelines promulgated under subsection (b).

(d) In any case where there is space available in an appropriately licensed and supervised emergency shelter or half-way house, BIA and tribal courts are encouraged to refer Indian youth convicted of offenses directly or indirectly related to alcohol and substance abuse to such facilities in lieu of sentencing to incarceration in a secured juvenile facility.

(e) The Assistant Secretary of Indian Affairs shall, as part of the development of the MOA set out in section 101(a)(3), promulgate standards by which the emergency shelters established under a program pursuant to subsection (a) of this section shall become licensed.

(f) Upon the request of any Indian tribe, the BIA shall include in its housing inventory for such tribe the lack of an emergency shelter or half-way house as an unmet housing need. The construction or renovation of such a facility shall be considered an eligible activity under the BIA's Housing Improvement Program.

TITLE IV—LAW ENFORCEMENT AND JUDICIAL SERVICES

SEC. 401. REVIEW OF PROGRAMS.

(a) In the development of the MOA required by section 101 of this Act, the Secretaries, in cooperation with the Attorney General of the United States, shall review and consider—

(1) the various programs established by Federal law providing law enforcement or judicial services for Indian tribes, and

(2) tribal and State and local law enforcement and judicial programs and systems.

(b) The results of the review conducted pursuant to this section shall be made available to every Indian tribe as soon as possible for their consideration and use in the development and modification of a TAP.

SEC. 402. BIA LAW ENFORCEMENT AND JUDICIAL TRAINING.

BIA programs for the training of BIA and tribal law enforcement and judicial personnel shall include training in the problems of youth alcohol and substance abuse, including instruction in prevention and treatment. Such training shall be coordinated with IHS in carrying out its responsibilities under section 503 of this Act.

SEC. 403. MEDICAL ASSESSMENT AND TREATMENT OF JUVENILE OFFENDERS.

(a) The MOA entered into pursuant to section 101 of this Act shall include a specific provision for the development and implementation at each BIA agency and IHS service unit of a procedure for the emergency medical assessment and treatment of every Indian youth arrested or detained by BIA or tribal law enforcement personnel for an offense relating to or involving alcohol or substance abuse.

(b) The medical assessment required by subsection (a) shall occur as soon as possible after the arrest or detention of an Indian youth and shall be provided by IHS, either through its direct or contract health service. The medical assessment required by this section shall be for the purpose of determining the mental or physical state of the individual so that appropriate steps can be taken to protect his health and well-being.

SEC. 404. MODEL INDIAN JUVENILE CODE.

The Secretary of the Interior, either directly or by contract, shall provide for the development of a Model Indian Juvenile Code which shall include provisions relating to the disposition of cases involving Indian youth arrested or detained by BIA or tribal law enforcement personnel for alcohol or drug related offenses. To the extent possible, the Model Code shall be consistent with Part B, Subpart I of the Juvenile Justice and Delinquent Prevention Act of 1974. The development of such Model Code shall be accomplished in cooperation with Indian organizations having an expertise or knowledge in the field of law enforcement and judicial procedure and in consultation with Indian tribes. Upon completion of the Model Code, the Secretary shall make copies available to each Indian tribe.

SEC. 405. LAW ENFORCEMENT AND JUDICIAL REPORT.

(a) The Secretary of the Interior, with respect to the administration of any law enforcement or judicial services program by the BIA, either directly or through contracts under the Indian Self-Determination Act, shall require the compilation of data relating to calls and encounters, arrests and detentions, and disposition of cases by BIA or tribal law enforcement or judicial personnel involving Indian youth where it is determined that alcohol or drug abuse is a contributing factor.

(b) The data compiled pursuant to subsection (a) shall be provided annually to the affected Indian tribe and Tribal Coordinating Committee to assist them in developing or modifying a TAP and shall also be submitted to the IHS service unit director who will have the responsibility for compiling a tribal comprehensive report as provided in section 505 of this Act.

(c) In carrying out the requirements of this section, the Secretary shall insure that the data is compiled and reported in a manner which will preserve the confidentiality of the families and individuals involved.

TITLE V—INDIAN YOUTH ALCOHOL AND SUBSTANCE ABUSE TREATMENT AND REHABILITATION

SEC. 501. REVIEW OF PROGRAMS.

(a) In the development of the Memorandum of Agreement required by section 101 of this Act, the Secretaries shall review and consider—

(1) the various progams established by Federal law providing health services and benefits to Indian tribes, including those relating to mental health and alcohol and substance abuse prevention and treatment, and

(2) tribal, state and local, and private health resources and programs,

(3) where facilities to provide such treatment are or should be located; and

(4) the effectiveness of public and private alcohol and substance abuse treatment programs in operation on the date of the enactment of this Act,

to determine their applicability and relevance in carrying out the purposes of this Act.

(b) The results of the review conducted pursuant to this section shall be provided to every Indian tribe as soon as possible for their consideration and use in the development or modification of a TAP.

SEC. 502. INDIAN HEALTH SERVICE TREATMENT PROGRAM.

Subject to the availability of specific appropriation of funds for the purposes of this section, the Director of the Indian Health Service shall provide a program of comprehensive alcohol and substance abuse treatment services, including detoxification and counseling services, and follow-up care in Indian Health Service facilities and in facilities operated under contract under the Indian Self-Determination and Education Assistance Act to Indian youth in need of such services.

SEC. 503. ALCOHOL AND SUBSTANCE ABUSE TRAINING PROGRAMS.

(a) Subject to the availability of specific appropriations, the Secretary of Health and Human Services, in cooperation with the Secretary of the Interior and the Secretary of Education, and acting through the IHS, shall have the responsibility for developing and making available training to the key tribal, Federal or other personnel identified in a TAP entered into pursuant to section 102. Such training will be for prevention and treatment methods relating to alcohol and substance abuse among Indian youth.

(b) Training made available under this section may be provided by IHS either directly or through contract. In entering into

contracts to develop training methods or materials, or to provide the training, the Secretary shall insure that the training is culturally relevant to, and be conducted in, the local community of the recipients of the training. For purposes of contracting for such training, he shall give preference to Indian organizations or institutions having expertise or knowledge in the field, including Tribally-Controlled Community Colleges.

(c) In addition to those designated under subsection (a), the Secretary of Health and Human Services, shall provide training under subsection (a) to school personnel designated by each BIA operated or funded school, supervisors of emergency shelters, and Community Health Representatives (CHRs).

(d) School personnel to be specifically designated for training shall, at the minimum, include the student counselors and one teacher for each school. School personnel who receive such training shall be responsible for the in-service training of other school professional personnel.

(e) Community Health Representatives whose training program is funded under the Act of November 2, 1921 (25 U.S.C. 13) shall receive no less than two weeks of instruction relating to the problems of alcohol and substance abuse. Such instruction shall specifically include training in crisis intervention, pharmacology, family relations, and the causes and effects of fetal alcohol syndrome.

(f) Any training provided to supervisors of emergency shelters pursuant to subsection (a) shall be consistent with licensing standards for such shelters established under section 303 of this Act.

(g) The Secretary of Health and Human Services shall, upon request, provide certification to any person who completes any training provided pursuant to this section. Such certification would be provided for the purpose of obtaining academic credit or certification at any post-secondary education institute.

SEC. 504. IHS RESPONSIBILITIES.

The MOA entered into pursuant to section 101 of this Act shall include specific provisions pursuant to which IHS shall assume responsibility for—

(1) the determination of the scope of the problem of alcohol and substance abuse among Indian youth, including the number of such youth within the jurisdiction of IHS who are directly or indirectly affected by alcohol and substance abuse, and the financial and human cost;

(2) an assessment of the existing and needed resources necessary for the prevention and treatment of Indian youth affected by alcohol and substance abuse, and

(3) an estimate of the funding necessary to adequately support a program of prevention and treatment of Indian youth affected by alcohol and substance abuse.

SEC. 505. IHS REPORTS.

(a) The Secretary of Health and Human Services, with respect to the administration of any health program by an IHS service unit, directly or through contract, including a contract under the Indian Self-Determination Act, shall require the compilation of data relating to the number of cases or incidents which any of the IHS personnel or services were involved and which were related, either directly or indirectly, to alcohol or substance abuse. Such report shall include the type of assistance provided and the disposition of these cases.

(b) The data compiled pursuant to subsection (a) shall be provided annually to the affected Indian tribe and Tribal Coordinating Committee to assist them in developing or modifying a TAP.

(c) In addition, the service unit director shall be responsible for assembling the data compiled under this subsections (B) of this section and sections 302 and 405 of this Act into an annual tribal comprehensive report which shall be provided to the affected tribe and to the Director of the Indian Health Service who shall develop and publish a biennial national report based upon such tribal comprehensive reports.

The SPEAKER pro tempore. Is a second demanded?

Mr. McCAIN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Arizona [Mr. UDALL] will be recognized for 20 minutes and the gentleman from Arizona [Mr. MCCAIN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Arizona [Mr. UDALL].

□ 1305

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill now under consideration.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. UDALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am happy to bring to the House for consideration H.R. 1156, the Indian Youth Alcohol and Substance Abuse Prevention Act.

It is the purpose of this legislation to attack the growing problem of alcohol and drug abuse among Indian youth on the reservations.

Alcoholism and alcohol abuse is the No. 1 killer of Indian people and is now recognized as the most serious social and health problem facing Indian tribes. The record made by the Interior Committee makes clear that this problem impacts most cruelly on the Indian youth.

Thirty-two percent of the Indian population is under 15 years of age as compared with 23 percent for the national population.

IHS statistics reveal that Indians between the ages of 15 and 24 are more than two times likely to commit suicide as the general population with approximately 80 percent of those suicides being alcohol or drugs related. Indians between those ages are twice as likely as the general population to die in automobile accidents, with 75 percent being alcohol or drug related.

Mr. Speaker, I do not suggest that enactment and implementation of H.R. 1156 will solve the alcohol and drug problem among Indian youth. To do that, we need to get serious about providing meaningful employment opportunities for Indian people and developing a sound economy for Indian reservations. But that is a long-term solution. We must act now to deal with the immediate problem of our young Indian people.

H.R. 1156 addresses that issue by providing for the development and implementation of a comprehensive, coordinated attack upon alcohol and drug abuse among Indian youth. It calls for the identification and coordination of a broad range of existing Federal and non-Federal programs and resources.

And it puts the authority and responsibility for doing so where it belongs—with the Indian people and tribal governments themselves.

Mr. Speaker, this comprehensive legislation falls within the jurisdiction of three committees: Interior, Education and Labor, and Energy and Commerce. I would like to thank Mr. KILDEE with the Education Committee and Mr. WAXMAN with the Energy Committee for their cooperation and understanding in the development of this bill and in bringing it to the House for consideration.

I urge adoption of the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. McCAIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1156 and ask to revise and extend my remarks. Alcohol and substance abuse is recognized as one of the leading health problems among our native Americans. It is a widespread all-encompassing problem costly to Indian people in physical, mental, social, and economic terms. It is most appropriate that we wrestle with this problem, and attempt to provide tribes with another set of tools to address the problem.

Last week, this body passed a far reaching omnibus drug enforcement, treatment, and prevention bill. I was honored to participate in title XI of H.R. 5484, which addresses Indian drug, alcohol, and substance abuse. H.R. 1156 compliments the act by placing additional emphasis on youth programs and is similar to legislation I introduced. I would like to commend our colleague from Nebraska, Mr. BEREUTER, for introducing H.R. 1156 and for his persistent advocacy for this legislation.

Additionally, Mr. Speaker, I would like to commend the secretary of Health and Human Services, Dr. Otis Bowen. Pursuant to several requests of members of the Interior Committee, including the Republican Task Force on Indian Affairs, Dr. Bowen has

begun an Indian alcoholism prevention initiative. I believe the initiative is consistent with what H.R. 1156 would do, and I would anticipate quick implementation after passage.

Two factors are important in H.R. 1156: First, any program for the treatment or prevention of substance abuse must be instituted by the tribe with the assistance of the Federal Government. Second, there exists on or near reservations resources that could be helpful in an abuse related program. These resources vary from reservation-to-reservation, and must be weighed within a tribe's own plans and desires. Included in these resources could be local schools, health clinics, social workers, law enforcement agencies, tribal resources, student organizations, and others.

At this point, I would like to have inserted in the RECORD a summary of H.R. 1156 for my colleagues.

H.R. 1156—THE INDIAN YOUTH ALCOHOL AND SUBSTANCE ABUSE PREVENTION ACT

TITLE I—COORDINATION OF RESOURCES AND PROGRAMS

This title provides the authorization for the Secretaries of the Interior and of Health and Human Resources to enter into a memorandum of agreement to:

Determine and define the scope of the problem of alcohol and substance abuse, identify resources and programs within the BIA and IHS, identify other resources, and establish a framework for coordination of these resources at the local level with a tribal action plan.

Provide for the Federal response and coordination with a tribally authorized tribal action plan; including minimum criteria for a coordinating committee, delineation of departmental responsibilities in accord with the TAP, and make Federal facilities property and equipment available to the TAP.

TITLE II—EDUCATION PROGRAMS

This title would require a review of various educational programs existing on or near Indian reservations. It also provides amendments to the Indian Elementary and Secondary School Assistance Act, the Indian Education Act, and the Adult Education Act, and the Education Amendments of 1978 to allow participation by these various educational entities in the tribal action plan. Additionally, it provides for substance above training for educational personnel.

TITLE III—FAMILY AND SOCIAL SERVICES: YOUTH ACTIVITIES

This title would provide for a review of programs and resources relating to youth employment, recreation, cultural and community activities; so that the review could be considered in the formulation of the tribal action plan.

Additionally, this title that should the TAP adopt provisions for the establishment and operation of emergency shelters, arresting law enforcement officers must comply with the TAP options to incarceration, unless the suspect is considered a danger to himself or others, and based on the gravity of the charge.

TITLE IV—LAW ENFORCEMENT AND JUDICIAL SERVICES

This title would require the Secretaries, in cooperation with the Attorney General to review the various programs—Federal, tribal, State and local—providing law enforcement or judicial services for indian tribes. Additionally, it provides for substance abuse training for BIA and tribal personnel in the law field. The title also provides for the development by local BIA and IHS units of a medical assessment procedure of Indian youth arrested or detained by the BIA or tribal law enforcement personnel for offenses related to alcohol or substance abuse. Finally, this title calls for the development of model Indian juvenile codes.

TITLE V—INDIAN YOUTH ALCOHOL AND SUBSTANCE ABUSE TREATMENT AND REHABILITATION

This title requires among other reports an assessment of existing medical resources and an estimate of any funding necessary to support a program for prevention and treatment. Additionally, this title provides for the authorization of appropriations in the amount of $10 million annually for three years for all training programs, including IHS personnel.

Finally, Mr. Speaker, we must view H.R. 1156 as the preservation of the future of Indian tribes. Nearly 50 percent of those living on Indian reservations are under 25 years of age, and Indians are among the fastest growing populations in this country. It is time for the governments, tribal and Federal, to work together to break the cycle of drug and substance abuse. I strongly urge my colleagues to support this important measure.

Mr. Speaker, I would like to especially thank the gentleman from Michigan [Mr. KILDEE]. I want to express my appreciation to the gentleman from New Mexico [Mr. RICHARDSON], who has had a continued and deep interest in efforts on this problem, along with the gentleman from Michigan [Mr. KILDEE] and, of course, the gentleman from Arizona, Chairman UDALL, who, for many, many years, has expressed his deep and abiding concern. Without him, I do not believe we would have reached the degree that we have today in attacking this terrible issue of Indian youth.

Mr. Speaker, on this side of the aisle, there are many of us who are very happy with this administration and the progress that we have made economically throughout this Nation. We are pleased that our inflation is low, that interest rates are down, and despite the problems of the deficit and others, we are pleased to see that the majority of Americans over the last 5 or 6 years have, indeed, prospered in a way that they had not in previous years.

The facts are also, Mr. Speaker, that there are large segments of Americans who have been left behind in this great movement forward, segments of our population who have not profited, but, in fact, have suffered for various reasons. Among those, of course, are black Americans, Hispanics and, of course, Appalachian whites and our Indians.

Mr. Speaker, I have felt for a long time that the problems on Indian reservations are largely relegated to three areas: education, economy, and health.

We have made great efforts to provide the Indian population of America with the proper educational facilities, but they still lag far behind. We have seen places like our own Phoenix Indian School turned into correctional schools, as opposed to schools for learning.

I have introducted an economic enterprise zone bill in hopes that we can attract businesses and enterprises to the Indian reservations so that they can employ Indians and take them off the unemployment roles which are staggering in numbers.

Many of our reservations in Arizona have as high as 75 or 80 percent unemployment, the rest being employed by the Tribal Government.

Finally, Mr. Speaker, we have to assure our Native Americans a certain minimum, level of health care. I am not proud of the efforts that have been made by the administration to reduce the level of Indian health care over the years. Such a shortsighted measure as trying to do away with the community health representative, in my opinion, is a classic example of penny wise and pound foolish.

I believe that the most serious problem is that we need to assist these young people to take their places, their rightful places in our society and help them eradicate the terrible problem of alcohol, substance, and drug abuse that is so prevalent throughout Indian country in America.

I do not claim, nor do I believe the chairman does, that this bill will eradicate alcoholism, substance, and drug abuse on reservations, but I think that this legislation is vitally needed if we are going to attack the problem which has been with us for many years and will be with us for many years to come, unless we as a nation recognize our obligation to all of its citizens and devote the efforts and resources that are necessary to eradicate this cancer which has attacked our Indian Native American population.

Mr. Speaker, I reserve the balance of my time.

Mr. UDALL. Mr. Speaker, I yield 4 minutes to the gentleman from Michigan [Mr. KILDEE], who has played a key role in this legislation.

Mr. KILDEE. Mr. Speaker, today I rise in support of H.R. 1156, on behalf of the Committee on Education and Labor, which has joint jurisdiction on this measure.

This bill will provide more comprehensive services and greater coordination of Federal efforts to combat the No. 1 health and social problem for American Indian youth—alcohol and substance abuse.

It will accomplish this by making the changes that are necessary within

existing programs to make them more efficient and effective.

Let me stress that this involves no new money.

It does, however, give these programs our highest priority. It will begin to address a critical need.

I wish to commend the chairmen of the three committees of jurisdiction, Mr. HAWKINS, of the Committee on Education and Labor; Mr. UDALL, of the Committee on Interior and Insular Affairs, and Mr. DINGELL, of the Committee on Energy and Commerce.

I also wish to recognize and thank Mr. WAXMAN, chairman of the Health and the Environment Subcommittee of the Energy and Commerce Committee, for expediting the consideration of this measure.

I also wish to recognize Mr. DASCHLE, of South Dakota, and Mr. BEREUTER, of Nebraska, who responded to their Indian constituents' pleas for help.

Their role was absolutely essential.

The consensus language which I am asking you to support today addresses these problems.

The language being considered is a carefully crafted compromise between these three committees of jurisdiction.

It is a truly cooperative effort, which is bipartisan and nonpartisan. It is acceptable to all parties.

I will not take the time here to detail the horrors of alcohol and substance abuse which afflict people on reservations.

I have visited reservations and special schools where the tragic consequences of such abuse can be seen in the shattered lives of Indian children and adults.

We must, I stress, must take action, now.

On behalf of the Committee on Education and Labor, which exercises jurisdiction over the Federal programs for education of Indians, I wish specifically to point out several provisions relating to education programs.

The consensus amendment rewrites the education provisions of the original bill to ensure that each Bureau-funded education program will have an alcohol and substance abuse education and prevention curriculum component.

The services would come from existing funds, while the control of the actual programs and their content would remain at the local level.

Also, the amendment includes provisions allowing local administrators and school boards to decide whether there are sufficient funds for summer programs and to institute them at local option.

These provisions recognize the need to involve the schools in this effort, while retaining the essential aspect of local control.

There are other fine provisions, relating to other Bureau of Indian Affairs and Indian Health Service Programs, which Mr. UDALL, my chairman of the Interior Committee, has noted in his remarks.

Will it totally solve the problem?

No, for the underlying causes of poverty, unemployment, and despair will still, unfortunately be present.

Is it perfect?

No, for no legislation is ever crafted on Mount Sinai.

However, history shows that it could be important. Congress called for such a prioritization in the area of infant death during the 1960's.

At that time, infant death on reservations was many times the national rate.

Through coordinated and prioritized efforts, it has been reduced substantially.

The language we are considering today is good language.

It will help improve the chances for survival for many Indian youngsters.

I ask for its adoption.

□ 1315

Mr. UDALL. Mr. Speaker, I yield 4 minutes to the gentleman from California [Mr. WAXMAN], and I join in the remarks of my colleagues on the important role that he has played in this legislation.

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4754, H.R. 5230, and H.R. 5259, the bills previously passed.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from California?

There was no objection.

Mr. Speaker, I rise in strong support of this legislation.

H.R. 1156 was referred to the Committee on Energy and Commerce for consideration of those provisions within the committee's jurisdiction. Due to the press of budget reconciliation legislation and other business, the committee was not able to take up the measure before the other committees of jurisdiction had acted. In order to expedite consideration of this bill by the House, the committee has agreed to allow the bill to proceed without formal action. I am satisfied that the compromise substitute before the House today reasonably reflects the concerns of the Energy and Commerce Committee.

H.R. 1156 addresses one of the most serious health problems among Indian youth: alcohol and substance abuse. Among other things, the bill directs the Indian Health Service to provide training and comprehensive treatment services, including detoxification and counseling and followup care. The IHS efforts must be consistent with plans developed by the affected Indian tribes for coordinating and targeting resources to address the problem.

Unlike the related provisions of the Omnibus Drug Act (H.R. 5484) which we adopted last week, this bill does not authorize new funds. Instead, it provides that the IHS implement the treatment program only if specific appropriations are made available for this purpose. The Interior appropriations bill recently passed by the House, H.R. 5234, allocates $1 million for training and for demonstration programs targeted at the prevention of alcohol and drug abuse among Indian youth.

In closing, I would to commend Mr. DASCHLE for his leadership in this area and his strong personal commitment to improving the health status of the Indian people. I also want to express my appreciation for the continuing cooperation that the distinguished chairmen of the Committees on Interior and Insular Affairs and Education and Labor have shown in the development of this and related legislation.

I urge the adoption of this legislation.

Mr. McCAIN. Mr. Speaker, I yield such time as he may consume to the gentleman from Nebraska [Mr. BEREUTER], without whom this legislation would not be on the floor today.

Mr. BEREUTER. Mr. Speaker, today we are considering an important measure, the Indian Youth Alcohol and Drug Abuse Prevention Act. This legislation, first introduced by the gentleman from South Dakota [Mr. DASCHLE], and myself in both the 98th and 99th Congresses, reflects 3 years of work and consultation with Indian tribes. While the bill certainly will not address all of the problems associated with alcohol and drug abuse among Indian young people, it is an important and much needed first step. This Member believes that it provides a firm foundation on which to build, with the help of the appropriations committee, in years to come.

Mr. Speaker, I am sure that some Members will wonder why we are considering this measure today, so shortly on the heels of this body's action on the omnibus drug bill, which in fact contains an expanded version of this legislation. Put simply, this Member feels there is a possibility that the very well-intentioned and much-needed omnibus bill may get bogged down in negotiations with the other body due to the high costs associated with it. And given the fact that the other body has already passed the companion piece to the Indian Youth Alcohol and Drug Abuse Prevention Act, it seems reasonable to expect that this measure finally could be on the President's desk before much more time has elapsed.

Mr. Speaker, this legislation could not have come so far without the

active support and assistance of many people. The distinguished chairman of the Interior Committee, the gentleman from Arizona [Mr. UDALL], has been a champion of the inherent concepts of this legislation since the beginning, and is an original cosponsor of the bill introduced in this Congress. His dedication to the improvement of the lives of Indian people, and in particular, Indian young people, is well recognized in this body and throughout Indian country.

This Member especially wishes to recognize the constant interest and hard work of the gentleman from Arizona [Mr. MCCAIN], the able designated leader for the minority on Indian Affairs on the Interior Committee. He has been a leader in proposing legislation on the very subjects which are a part of this legislation and is responsible for various concepts in this measure. His cooperation and assistance have been essential.

Additionally, the gentleman from Montana [Mr. WILLIAMS], another original cosponsor, has provided invaluable support and counsel as we worked these last few weeks to resolve the differences between the markups of the Education and Labor Committee and the Interior Committee. The gentleman from Alaska [Mr. YOUNG], another original cosponsor, was an early friend, recognizing the severity of the problem among Alaska tribes. This Member also wishes to thank the gentleman from Michigan [Mr. KILDEE], for taking the greatest interest in the legislation, and guiding it through the Education and Labor Committee, and the gentleman from California [Mr. WAXMAN] who helped expedite this legislation. Our colleague from Michigan, despite the fact that there are no tribes in his congressional district, is surely a terrific advocate for Indian education. These dedicated Members, along with the more than 50 additional cosponsors of the legislation, deserve special thanks and appreciation.

Mr. Speaker, this legislation has universal support among Indian people. Indian leaders repeatedly told us in testimony that alcohol and drug abuse is the No. 1 health and social problem on the reservation today. In fact, for decades, researchers have documented the use and consequences of alcohol and drug abuse among Native Americans. Inevitably, stereotypes developed about Indian drinking, since the problem emerged after the introduction of alcohol by early European explorers, who brought whiskey, guns, horses and tools for trading purposes. While the reasons leading to such high rates of alcohol and drug abuse are complex, most Indian and non-Indian alike point to joblessness, decline in traditional culture and spirituality, and stresses on the family unit as being among the major causes of alcohol and drug abuse. Clearly, something needed to be done, and this legislation is the product of that concern.

At the beginning of our effort, Mr. DASCHLE and this Member discovered that alcohol and drug related illnesses and deaths among Indian people are considerably higher than among non-Indian people. Our findings about the human and financial costs of alcohol and drug abuse among Indian people were staggering! On many reservations, alcohol plays a role in 95 percent of automobile fatalities. A young Indian constituent testified that at her high school 98 percent of the students surveyed admitted to the use of an illegal drug, 80 percent admitted to drinking, and 52 percent of the 80 percent who drank did so to pass out! Other Indian youth leaders testified about the disasterous impact of alcohol and drugs as well, with statistics as startling and disturbing.

On some reservations, fetal alcohol syndrome, or the milder fetal alcohol effect may occur as frequently as 1 in 100 births, whereas its occurrence in non-Indian populations is approximately 1 in 700 births. According to Mr. Jerry Flute, of the Association on American Indian Affairs, an Indian Health Service physician told one tribe that if the present trend continues, virtually all of the next generation of children on that reservation will suffer from FAS or FAE. Tragically, children born to alcoholic mothers are almost always retarded to some degree, and many suffer facial abnormalities and abnormalities to the extremities. Yet, of course, FAS and FAE are entirely preventable through the education of young girls and women on the effects of maternal drinking on the unborn child.

In fact, the tragedy of FAS and FAE is one of the motivating factors in this Member's commitment to see this legislation enacted. Many years ago, I visited a special school run by a tribe in my district. As many as 25 percent of the all too numerous handicapped or disabled children there were afflicted by FAS or FAE. The impact of that visit remains with me to this day. That firsthand observation continually inspires my work on this legislation. It reinforces my belief that the Federal Government must provide a framework and some assistance to Indian tribes in the fight to lessen the hold that alcohol and drugs have on their communities.

Finally, Mr. Speaker, I would point out that the vast majority of contract health care dollars—up to 70 percent—provided through Indian Health Service is spent for the treatment of alcohol and drug related problems. And according to the Indian Health Care Resource Center in Tulsa, at least 75 percent of family and social service cases are alcohol or drug related. Clearly, already limited health care dollars are spent disproportionately on alcohol and drug related problems in Indian families and communities.

The legislation we are considering today places the primary emphasis on prevention and education efforts through the elementary and secondary schools. Studies have shown that intervention with young children as they are forming their values assists them in developing the ability and motivation necessary to say "No" to the temptation of alcohol or drugs that inevitably comes during adolescence. Teachers and counselors will receive training in alcohol and drug abuse identification and intervention under provisions in this bill. In addition, Bureau of Indian Affairs schools will be required to implement a program of instruction from kindergarten through the 12th grades as a regular part of the academic program, interwoven where appropriate into health or physical education programs, or history programs or science or creative writing classes. The limits of teachers' imaginations are the only limits to the ways that prevention can be taught.

We recognize that many schools throughout Indian country have already taken steps to impart information about the dangers of alcohol and drug abuse to their students. More often than not, however, because of a lack of funds, those steps were not much more than an occasional lecture or placement of information on a bulletin board. For purposes of establishing legislative intent, this Member wants to make it perfectly clear that a 1 hour audiovisual presentation, for example, or an occasional evening lecture for families and young people, or information posted on the school bulletin board will not meet the definitions or intent this Member has in using the phrase "program of instruction." The legislation will require the Bureau of Indian Affairs to provide assistance to tribes who request it in the development of a curriculum that will meet the definition.

Mr. Speaker, we are concerned that critical drug and alcohol prevention programs are subject to the vagaries of yearly budget pressures or the shifting placement and priorities of administrators and teachers. Too many stories are heard of tribes with drug and alcohol prevention programs well underway who lose funding in subsequent years. Providing the critical kind of integrated educational offering in the classroom setting intended by this legislation is the best way to guard against the uneven funding patterns of competitive projects or emphases.

Finally, Mr. Speaker, it is important to point out that our legislation also specifically encourages the school boards of public schools on or near reservations, with significant numbers

of Indian students, to similarly tackle the problem of substance abuse.

Mr. Speaker, the Indian Youth Alcohol and Drug Abuse Prevention Act has another equally crucial focal point, in addition to its emphasis on prevention. Our legislation stresses the vital leadership role that tribes will take in the fight against alcohol and drug abuse. Through the triggering mechanism of a tribal action plan, a tribe will designate who will receive training in identification, intervention, and techniques for dealing with alcohol and drug abuse, in addition, to the teachers, counselors, community health representatives, and emergency shelter supervisors specified in the legislation. Through the tribal action plan, additional efforts in reservation communities will be determined. In all respects, Federal agencies are to cooperate and contribute as willing partners in the initiatives undertaken by tribes to combat the insidious problem of substance abuse in their communities.

This bill does not carry with it any new authorizations. It has had the attention of many Members from both sides of the aisle. It is my understanding that the administration, while expressing some reservations about the necessity for the bill, will not stand in the way of its enactment. In fact, this Member would like to point out that the administration, recognizing the severity of the problem of substance abuse in Indian communities, has responded with some internal initiatives themselves, and directed Indian Health Service to undertake a new prevention program that at the least complements the legislation we are bringing before the House today. I compliment them on that action.

Mr. Speaker and colleagues, this Member asks for your support and your continued attention to a problem that is epidemic nationwide and simply disastrous in the Indian culture. There is nothing more precious than the health and well-being of a community's youth. Young people who have their health, their pride, and an enhanced sense of self-worth will grow up to be productive members of their tribes and American society. Certainly the existence of strong, culturally viable, proud, and self-sufficient American Indian communities within our midst enriches the lives of all Americans. This legislation is necessary and certainly it is timely; it should be passed here today and enacted. I urge support of this legislation.

Mr. UDALL. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, there is an old saying that there is no limit to what can be done when it does not matter who gets the credit. I think that is certainly true of this legislation.

I wanted to underline what was said by the last speaker about the role that he played, the gentleman from Nebraska and the gentleman from North Dakota.

While there were many busy and active in this field, it was they who were aroused and angry and concerned about what they found out in visiting the Indian reservations. It was through the tenacity of the gentleman from South Dakota [Mr. DASCHLE] and the gentleman from Nebraska [Mr. BEREUTER] in large part that we were able to get these three committees together and to get moving. I said they were tenacious; in fact, they were nags on occasion, in pressing forward with the legislation and I am proud that we are here today with them. This is an important bill, as has been outlined by the previous speakers.

Mr. Speaker, I yield 3 minutes to the gentleman from South Dakota [Mr. DASCHLE].

Mr. DASCHLE. Mr. Speaker, I thank the gentleman for that backhanded compliment. I doubt that I have been called a nag on the floor before, but in this case it is a real compliment and I am grateful to the gentleman.

It has been a joy to work with the gentleman from Nebraska, as well as with the chairman of the Interior Committee, with the subcommittee chairman, the gentleman from Michigan [Mr. KILDEE] and with the gentleman from New Mexico [Mr. RICHARDSON], and so many others, without whom this bill could not have been brought to the floor this afternoon.

This bill really recognizes something that has not been recognized for some time, that we need a new departure when it comes to the treatment of alcoholism and drug abuse. This represents our very best effort at that start. It is only a start, as has been already said on numerous occasions during the last few remarks.

Alcohol and drug abuse on the reservation is on the rise. It is as much a problem as it is a symptom of the problems, a symptom of a problem far more comprehensive, far more significant, far more deep-seated than anything we can possibly address in this bill, problems related to economic concerns, problems related to sociological concerns, problems related to the cultural difficulties and challenges that our tribes and our Indian people are now experiencing. Those problems need a far more comprehensive approach and innovative ways in which to address those problems that what this bill can provide; but this is, as I said, a start in dealing with one of the most traumatic and symptomatic problems that we are facing in the comprehensive difficulties experienced on the reservation today.

□ 1330

The problem as we have outlined it in this bill may not be completely addressed even as we hope for its success. I have had numerous conversations with tribal chairmen, some of whom have been very honest with me, some of whom have come to me and said, "Look, it's too late to worry about us. All the money that you can allocate will not cure the problem for many people who for generations have now become chemical and drug dependent. So don't worry about us; worry about our children."

One does not have to go very far to understand the message expressed by so many of our people on the reservation today: "Worry about our children." The studies, as has already been outlined by the gentleman from Nebraska, are compelling, if you watch nothing other than the statistics themselves. On the Pine Ridge Reservation, in South Dakota, a recent survey of students between 7th and 12th grades revealed that students experienced alcohol 82 percent of the times; marijuana, 71 percent of the instances; inhalants of all kinds, 30 percent of the students had experienced some kind of an inhalant; paint, cleaning fluids, glue, battery acid, you name it, 23 percent.

As a matter of fact, students in one out of four times indicated that they had attempted to consume Lysol as one way in which to use chemical highs of all kinds.

So it is that kind of statistical evidence that brings about the four cornerstone, comprehensive approach that we are attempting to provide in this bill.

First, the bill focuses on prevention. This legislation is designed to break the cycle of substance abuse so often passed on from parents to children. H.R. 1156 proposes the training of community health representatives, tribal leaders, Indian Health Service officials, and school counselors in prevention techniques. In addition, it proposes summer youth programs to identify constructive ways for Indian children to direct their energies and spend their recreational time.

Education is the second crucial element. Indian children need to understand, at a very early age, the debilitating consequences of substance abuse. This bill will ensure that a comprehensive educational program will be incorporated into the school curriculum. I cannot emphasize enough the impact a successful educational program will have on the problem of substance abuse.

H.R. 1156 also addresses the treatment and enforcement needs of the Indian community. It authorizes regional and community-based juvenile substance abuse treatment centers, emergency shelters for children of

substance abusers, crisis intervention for juvenile substance abusers, and training for BIA law enforcement officials.

Finally, and most importantly, this bill emphasizes local control of substance abuse programs. Over and over in our hearings on this bill, Indian people indicated their willingness and ability to combat the situations as they exist in their communities. For that reason, we invested a great deal of control over these programs in local people. Each tribe will formulate an individualized tribal action plan [TAP] to focus available resources toward eliminating the unique causes and consequences of drug and alcohol abuse in their communities. Local Indian people know best what will prevent alcoholism and other substance abuse among young people on their reservations. It just won't work if some far removed Government official tries to force on a reservation a rigid program that does not meet their specialized needs.

Indian people have indicated a strong desire to combat the problems of substance abuse. They deserve a solid, comprehensive framework to work with. That is what this bill will do.

Again, Mr. Speaker, I thank Mr. BEREUTER, Chairman UDALL, Mr. KILDEE, Mr. WILLIAMS, and all the other Members who made vital contributions to the success of this effort, and I urge my colleagues to support passage of the bill.

Mr. UDALL. Mr. Speaker, I yield 2 minutes to the gentleman from New Mexico [Mr. RICHARDSON], who was one of those Members whose efforts were important in developing the bill.

Mr. RICHARDSON. Mr. Speaker, I rise today in support of H.R. 1156, the Indian Youth Alcohol Abuse Prevention Act. Indian youth alcoholism is one of the most serious health and social problems facing native Americans today. Its social and financial costs are extremely high—something dramatic must be done to address this tragedy. Few Indian communities have not been touched by alcohol related problems. The problem is particularly bad among Indian youth—they constitute the majority of the native American population. When alcohol and substance abuse affects the youngest part of the population, it has far-reaching consequences for the society as a whole. Too many Indian young people are experiencing problems with alcohol abuse—it is, in effect, destroying the future of many tribes by destroying its members in their prime.

This bill takes major steps toward eradicating Indian youth alcoholism problems—it requires the Bureau of Indian Affairs and the Indian Health Service to coordinate with tribes and tribal services to ensure that adequate and quality programs of alcohol and drug abuse prevention are readily available to Indian youth. This bill is long overdue. Frankly, the involved agencies have done a poor job of addressing Indian youth alcoholism—I feel that this bill will take up the slack by insisting that Indian youth alcoholism services are beefed up. I have seen the adverse consequences of Indian alcoholism—it is devastating to Indian individuals, families, tribes, and the surrounding communities. I am in strong support of H.R. 1156, and I urge all of my colleagues to support it.

Mr. WILLIAMS. Mr. Speaker, I rise in support of H.R. 1156, the Indian Youth Alcohol and Substance Abuse Prevention Act.

This legislation is a beginning, a starting initiative to deal with a national tragedy facing American Indian and Alaskan Native families.

For many years Indian People have been testifying before Congress and have identified alcoholism as the No. 1 problem affecting Indians and Alaskan Natives. And for years the Federal agencies who deal primarily with Indian programs have done little to address the need of education, prevention, and treatment in the area of alcohol and substance abuse among this Nation's native peoples. In response to this lack of attention on the part of current and past administrations, this legislation is before us today.

Of the minimal efforts that are currently ongoing in Indian country to deal with alcohol and substance abuse—the priority focus is on adults and in the area of detoxification and minimal treatment.

We need to direct energies into prevention and education and respond to the growing problems among Indian youth not only with alcoholism, but in the area of substance abuse.

H.R. 1156 will provide for education efforts in the area of alcohol and substance abuse within all Bureau of Indian Affairs schools, kindergarten through grade 12. This is a beginning. Congress still needs to address the fact that more than 80 percent of American Indian and Alaskan Native youth attend public schools and at a later time expand this legislation to reach these students.

This legislation sets up the mechanism for training and treatment. It will be incumbent on those in Congress to fight for the appropriations necessary.

I want to commend my colleagues, Mr. DASCHLE and Mr. BEREUTER for their leadership in the development of this legislation. Their persistent concern has resulted in this initiative before us today and their continued commitment will assure that these efforts continue.

I urge my colleagues to support this legislation.

Mr. GILMAN. Mr. Speaker, I rise in strong support of H.R. 1156, the Indian Youth Alcohol and Substance Abuse Prevention Act of 1986, and commend the gentleman from Nebraska, Mr. BEREUTER; the gentleman from South Dakota, Mr. DASCHLE; the gentleman from Montana, Mr. WILLIAMS; and the distinguished chairman of the Committee on Interior and Insular Affairs, Mr. UDALL, for their leadership in developing and bringing before the House this important legislation.

This legislation, which I have cosponsored, responds to the desperate need for increased Federal Government involvement in the growing problem of alcohol and substance abuse among American Indian youth. At the present time, the Indian Health Service [IHS] devotes only about 1 percent of its budget to alcohol and drug abuse programs with little of the portion directed toward Indian youth, and the Bureau of Indian Affairs has little involvement in dealing with this problem. The bill before us attempts to correct this situation by providing much needed direction, guidance, and coordination to Federal agencies involved to initiate comprehensive, coordinated actions to combat alcohol and substance abuse problems among Indian youth.

It is important to note that in this period of budget restraint, the legislation does not propose additional funding for new programs; rather it seeks to assure that existing programs are brought together in a coordinated matter to deal with the serious problem we face. Such an approach is essential in the overall war on drugs envisioned in House passage of the omnibus drug bill passed just last week. Accordingly, I urge my colleagues to support the bill.

Mr. BIAGGI. Mr. Speaker, as a cosponsor of H.R. 1156, I rise today in support of this important legislation.

This bill is a critical step in our effort to combat an alarming tragedy now plagueing our Nation's native Americans—alcohol and substance abuse. This problem has reached such devastating proportions that it is now the No. 1 health and social problem on American Indian reservations and in Alaskan villages. Recent statistics show that the alcoholism rate for native Americans is 451 percent higher than the national average. Clearly, this is a tragedy that cannot, and must not be allowed to continue.

This is not the first time Congress has undertaken efforts to address alcohol and substance abuse among native Americans. Yet, past efforts have not been successful. I believe H.R. 1156 will better address this problem.

The purpose and clear aim of this bill is to better coordinate services among all existing programs. Such coordination is essential if we are to provide a comprehensive approach to address this crisis. H.R. 1156 does not merely coordinate services among Federal agencies. It provides great assistance to Indian tribes to develop and implement their own programs to combat alcohol and substance abuse through the coordination of existing State, local, tribal, and private programs as well.

The focus of this measure is our native American youth. If we can effectively halt the spread of alcohol and substance abuse at this level, it will be a vital step in our effort to stop this tragedy from spreading deeper into the realm of native American society, and across our Nation as well.

H.R. 1156 is a modest but crucial step in our effort to address an overwhelming tragedy. I ask my colleagues to join me today in support of this legislation.

Mr. UDALL. Mr. Speaker, I yield back the balance of my time, and I ask for a favorable vote.

Mr. McCAIN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Arizona [Mr. UDALL] that the House suspend the rules and pass the bill (H.R. 1156) as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (S. 1298) to coordinate and expand services for the prevention, identification, and treatment of alcohol and drug abuse among Indian youth, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1298

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Indian Juvenile Alcohol and Drug Abuse Prevention Act".

TITLE I—INTERDEPARTMENTAL AGREEMENT

SEC. 101. (a) The Secretary of Health and Human Services shall take action to enter into a written agreement with the Secretary of the Interior to—

(1) coordinate the Bureau of Indian Affairs and Indian Health Service Indian youth alcohol and drug abuse programs existing on the date of enactment of this Act and programs established by this Act;

(2) identify Federal, State, local, and private resources to combat Indian youth alcohol and drug abuse;

(3) delineate the responsibilities of the Bureau of Indian Affairs and the Indian Health Service to coordinate Indian youth alcohol and drug abuse-related services at the central, area, agency, and service unit levels;

(4) determine the scope of the Indian youth alcohol and drug abuse problem and its estimated financial and human costs;

(5) authorize the Bureau of Indian Affairs agency superintendents and education superintendents and the Indian Health Service service unit directors to enter into agreements described in section 102; and

(6) provide for biennial review of such agreement of the Secretary of Health and Human Services and the Secretary of the Interior.

(b)(1) The Secretary of the Interior and the Secretary of Health and Human Services shall consult with, and solicit the comments of, interested Indian tribes, Indian individuals, and Indian organizations, in developing the agreement under subsection (a).

(2) The agreement under subsection (a) shall be submitted to Congress and published in the Federal Register within 180 days of the date of enactment of this Act.

SEC. 102. (a) After publication in the Federal Register of the agreement entered into under section 101, any Indian tribe may submit a written request to the Secretary of Health and Human Services to coordinate resources and services related to Indian youth alcohol and drug abuse prevention, identification, education, treatment, and followup care.

(b) Within 90 days of receipt of a written request of any Indian tribe submitted under subsection (a), the Secretary of Health and Human Services, in consultation with the Secretary of the Interior, shall—

(1) enter into an agreement with such tribe to identify and coordinate the responsibilities and referral resources of all agencies and programs providing youth alcohol and drug abuse-related resources or services within the service area of such tribe; and

(2) review and modify such agreement, as necessary, to reflect changes in the availability of resources and services related to youth alcohol and drug abuse prevention, identification, education, treatment, and followup care.

TITLE II—EDUCATION

SEC. 201. (a) The Secretary of the Interior shall require Bureau of Indian Affairs schools, and schools operated under any contract entered into with the Bureau of Indian Affairs, to provide a program of instruction regarding alcohol and drug abuse to students in kindergarten and grades 1 through 12.

(b) The program required under subsection (a) shall be developed in consultation with the Indian tribe or tribes that will be served by such program and with appropriate education and health personnel at the local level.

(c) Schools providing programs of instruction under subsection (a) shall include family participation in the instruction.

SEC. 202. The Secretary of Health and Human Services shall, within 9 months of the date of enactment of this Act, begin publishing an alcohol and drug abuse newsletter in cooperation with the Department of the Interior and the Department of Education which shall report on Indian alcohol and drug abuse projects and programs. The newsletter shall be published once in each calendar quarter and shall be circulated without charge to schools, tribal offices, Bureau of Indian Affairs agency and area offices, Indian Health Service area and service unit offices, Indian Health Service alcohol programs, and other entities providing alcohol and drug abuse-related services or resources to Indian people.

SEC. 203. Subsection (a) of section 423 of the Indian Education Act (20 U.S.C. 3385b(a)) is amended by inserting "clinical psychology," after "medicine,".

TITLE III—FAMILY AND SOCIAL SERVICES

SEC. 301. (a) Any initial training program for new community health representatives and community health aids funded under the authority of the Act of November 2, 1921 (25 U.S.C. 13) shall include not less than 80 hours of instruction in the area of alcohol and drug abuse and shall include training in crisis intervention and family relations in the context of alcohol and drug abuse, youth alcohol and drug abuse, and the causes and effects of fetal alcohol syndrome.

(b)(1) The Secretary of Health and Human Services shall, either directly or through contract, make available instructions in the area of alcohol and drug abuse, including instruction in crisis intervention and family relations in the context of alcohol and drug abuse, youth alcohol and drug abuse, and the causes and effects of fetal alcohol syndrome to—

(A) personnel at schools operated under any contract entered into the Bureau of Indian Affairs,

(B) personnel of programs operated under any contract entered into with the Indian Health Service,

(C) personnel of the Bureau of Indian Affairs,

(D) personnel of the Indian Health Service, and

(E) supervisors of emergency shelters described in section 401(b)(1),

who are responsible for, or work with Indian youth.

(2) Upon request, the Secretary of Health and Human Services shall offer the instruction described in paragraph (1) to—

(A) members of school boards or designated school personnel who—

(i) govern, or are associated with, any school at which at least 20 percent of the enrollment consists of Indian students, and

(ii) are responsible for, or work with, Indian youth;

(B) urban Indian center personnel who are responsible for, or work with, Indian youth;

(C) judges of tribal courts and courts of Indian offenses;

(D) personnel associated with any tribal, State, or Federal Court who are responsible for, or work with, Indian youth;

(E) Bureau of Indian Affairs law enforcement personnel; and

(F) members of local community and tribal organizations or educational or health institutions responsible for, or working with, Indian youth.

(3) The Secretary of Health and Human Services shall provide the instruction described in paragraph (1)—

(A) in local Indian communities, whenever practicable, and

(B) within an integrated program for all participants.

(4) The Secretary of Health and Human Services—

(A) may provide the instruction described in paragraph (1) at no expense to the participants or to the employers of the participants, or

(B) may charge a fee for the provision of such instruction to a participant.

If such a fee is charged, the amount of such fee shall not exceed the direct costs incurred by the Secretary of Health and Human Services in providing such instruction to the participant.

(5) The Secretary of Health and Human Services shall coordinate the planning of the instruction described in paragraph (1) with the Secretary of the Interior.

TITLE IV—LAW ENFORCEMENT

SEC. 401. (a) The Secretary of the Interior, in consultation with the Attorney General of the United States, shall—

(1) promulgate guidelines under which any tribal or Federal law enforcement officer shall, for the benefit of any Indian youth arrested for an offense in which the abuse of alcohol or drugs was a contributing factor, place such Indian youth in an emergency shelter licensed under subsection (b), a community-based alcohol or drug abuse treatment facility, or any other medical or detention facility, and

(2) make these guidelines available to any state which exercises criminal jurisdiction

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over any part of Indian country pursuant to Federal law.

(b)(1) By no later than the date that is 210 days after the date of enactment of this Act, the Secretary of Health and Human Services, with the concurrence of the Secretary of the Interior, shall establish standards for the licensing of temporary emergency shelters to house, whenever appropriate, Indian youth apprehended by any law enforcement officer for any offense in which the abuse of alcohol or drugs was a contributing factor.

(2)(A) Indian tribes may elect to adopt the standards prescribed by the Secretary of Health and Human Services under paragraph (1) and issue licenses to temporary emergency shelters that qualify under such standards. If an Indian tribe does not elect to perform the function of licensing temporary emergency shelters in accordance with such standards, such function shall be performed by the Secretary of Health and Human Services.

(B) Any license issued under subparagraph (A) shall be subject to renewal on an annual basis and, if an emergency shelter fails at any time to comply with the standards prescribed under paragraph (1), such license shall be revoked by the Indian tribe that issued such license or, if the Indian tribe fails to act, by the Secretary of Health and Human Services.

(3) An emergency shelter may be licensed under paragraph (2) only if the individual supervising such shelter has completed the training described in section 301(b)(1).

(4) The costs of constructing any emergency shelter are not authorized by this Act.

TITLE V—YOUTH ALCOHOL AND DRUG ABUSE TREATMENT AND REHABILITATION

SEC. 501. When the budget for the Indian Health Service for each fiscal year succeeding the fiscal year in which this Act is enacted is submitted to the Congress, the Secretary of Health and Human Services shall submit to the appropriate committees of the Congress, a detailed estimate of the cost of providing, under existing authority, comprehensive Indian youth alcohol and drug abuse treatment services, including detoxification and counseling services, and followup care in Indian Health Service facilities and in health facilities operated under any contract entered into with the Indian Health Service.

SEC. 502. The Secretary of Health and Human Services, in consultation with Indian tribes, shall, within 1 year of the date of enactment of this Act, complete a study to determine—

(1) the size of the Indian youth population in need of residential alcohol and drug abuse treatment;

(2) the location of residential facilities at which such treatment is available or could be made available; and

(3) the cost of providing such treatment.

SEC. 503. (a)(1) The Secretary of Health and Human Services shall, in consultation with Indian tribes, identify and utilize whenever possible existing—

(A) facilities owned by the Federal Government or by an Indian tribe, or

(B) local community or private hospitals or other appropriate facilities,

that would be suitable for use as residential alcohol and drug abuse treatment centers for Indian youth in order to meet the needs identified in the study conducted under section 502.

(2) Any facility described in paragraph (1) may be used under such terms and conditions as may be agreed upon by the Secretary of Health and Human Services and the agency, or the local government unit, having responsibility for the facility.

(3) The Secretary of Health and Human Services may, directly or by contract, renovate any facility described in paragraph (1). Any such renovation shall conform with such terms and conditions as have been agreed upon under paragraph (2).

(b) The Secretary of the Interior shall identify for the Secretary of Health and Human Services any existing Bureau of Indian Affairs facilities which may be suitable for residential alcohol and drug abuse treatment centers for Indian youth.

(c) If the facilities identified and utilized under subsection (a) or (b) do not adequately meet the treatment needs identified in the study conducted under section 502, the Secretary of Health and Human Services shall, within 2 years of the date of enactment of this Act, advise the appropriate committees of Congress as to the cost required to construct such facilities as the Secretary of Health and Human Services finds necessary to meet such treatment needs.

TITLE VI—DEFINITIONS, EFFECTIVE DATE, AND AUTHORIZATION OF APPROPRIATIONS

SEC. 601. For the purposes of this Act—

(1)(A) The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians, including any Alaskan Native village or regional or village corporation as defined in or established pursuant to the Alaska Claims Settlement Act (43 U.S.C. 1601, et seq.) which is recognized as eligible for special programs and services provided by the United States to Indians because of their status as Indians.

(B) For purposes of section 102, the term "Indian tribe" includes an urban center (within the meaning of section 4 of the Indian Health Care Improvement Act (25 U.S.C. 1603)).

(2) The term "youth" means any Indian under the age of 19.

(3) The term "drug abuse" includes, but is not limited to, abuse of inhalants and chemical substances.

(4) The term "service unit" means an administrative entity within the Indian Health Service serving one or more Indian tribes within a geographical area defined by regulation by the Indian Health Service.

(5) The term "service area" means the geographical area served by a service unit.

SEC. 602. The Secretary of the Interior and the Secretary of Health and Human Resources are authorized to prescribe such regulations as may be necessary to carry out the provisions of this Act.

SEC. 603. (a) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

(b) Notwithstanding any other provision of law, the receipts from any fees charged under section 301(b)(4)(B) for the provision of instruction shall, in lieu of being deposited in the general fund of the Treasury of the United States, be credited as a refund to the appropriation from which the expenses of such instruction were paid.

SEC. 604. The Secretaries shall allocate the monies appropriated under this Act on the basis of need.

MOTION OFFERED BY MR. UDALL

Mr. UDALL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. UDALL moves to strike out all after the enacting clause of the Senate bill, S. 1298, and to insert in lieu thereof the text contained in H.R. 1156, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "An act to coordinate and expand services for the prevention, identification, treatment, and follow-up care of alcohol and drug abuse among Indian youth, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 1156) was laid on the table.

DECLARING THAT THE UNITED STATES HOLDS CERTAIN PUBLIC DOMAIN LANDS IN TRUST FOR THE PUEBLO OF ZIA

Mr. RICHARDSON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5167) to declare that the United States holds certain public domain lands in trust for the Pueblo of Zia, as amended.

The Clerk read as follows:

H.R. 5167

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LANDS HELD IN TRUST FOR PUEBLO OF ZIA.

(a) LANDS HELD IN TRUST.—All right, title, and interest of the United States in and to the surface and mineral estates (including oil and gas) of the following lands described in subsection (b) are hereby declared to be held by the United States in trust for the benefit and use of the Pueblo of Zia.

(b) LAND DESCRIPTION.—The lands referred to in subsection (a) are approximately 1,840 acres of land situated within Sandoval County, New Mexico, which is under the jurisdiction of the Bureau of Land Management of the Department of the Interior, more particularly described as follows:

Southeast quarter of the northeast quarter and the southeast quarter of Section 24, Township 15 North, Range 1 East, New Mexico Principal Meridian;

All of Section 25, Township 15 North, Range 1 East, New Mexico Principal Meridian;

South half of the southwest quarter and the southeast quarter of Section 26, Township 15 North, Range 1 East, New Mexico Principal Meridian;

All of Section 35, Township 15 North, Range 1 East, New Mexico Principal Meridian; and

Lot 1, and the southeast quarter of the northeast quarter, and the northeast quarter of the southeast quarter of section 3, Township 14 North, Range 1 East, New Mexico Principal Meridian.

SEC. 2. ADMINISTRATION OF LANDS HELD IN TRUST FOR PUEBLO OF ZIA.

(a) IN GENERAL.—Upon enactment of this Act and subject to the other provisions of this Act, the lands described in section 1 shall be administered in accordance with the laws generally applicable to property held in trust by the United States for Indian tribes.

(b) GROSS RECEIPTS FROM LANDS HELD IN TRUST.—All gross receipts (including, but not limited to, bonuses, rents, and royalties) which—

(1) are derived by the United States from any contract, permit, or lease relating to the surface or mineral estate in the lands described in section 1, and

(2) are received by the United States after the date of enactment of this Act,

shall be administered in accordance with the laws generally applicable to receipts from property held in trust by the United States for Indian tribes.

SEC. 3. APPLICATIONS FOR MINERAL LEASES.

Notwithstanding any other provision of law, all applications for mineral leases involving the lands described in section 1, including oil and gas leases, pending on the date of enactment of this Act shall be rejected and the advance rental payments returned to the applicants.

SEC. 4. CERTAIN RIGHTS WITH RESPECT TO LANDS HELD IN TRUST FOR PUEBLO OF ZIA.

(a) VALID EXISTING RIGHTS.—Nothing in this Act shall deprive any person (other than the United States) of any lease, right-of-way, mining claim, grazing permit, water right, or other right or interest which such person may have in the surface or mineral estate of any lands described in section 1 on the day before the date of enactment of this Act.

(b) WATER RIGHTS.—The water rights appurtenant to the lands described in section 1 shall be those water rights that are appurtenant to such lands under State law on the day before the date of enactment of this Act. Nothing in this Act shall be construed to create or affect any water rights other than those that are appurtenant to such lands under State law on the day before the date of enactment of this Act.

(c) RIGHT-OF-WAY FOR 115-KV TRANSMISSION LINE.—(1) Nothing in this Act shall affect the right-of-way over any lands described in section 1 for a 115-KV transmission line by Plains Electric Generation and Transmission Cooperative, Inc., granted by the Bureau of Land Management of the Department of the Interior on April 18, 1961, and bearing identification number NM0149992.

(2) Plains Electric Generation and Transmission Cooperative, Inc., and its successors and assigns, shall be permitted to renew the right-of-way described in paragraph (1) under rules and regulations of the Secretary—

(A) to the same extent and in the same manner as would be permitted had this Act not been enacted, and

(B) for fees which are not greater than the fair value as determined by the Bureau of Land Management of the Department of the Interior.

(3) No charge, fee, or tax may be imposed by the Pueblo of Zia on any lands, facilities, activities, or revenues in connection with the right-of-way described in paragraph (1), except for fees charged with respect to any renewed right-of-way described in paragraph (2).

(d) OIL AND GAS LEASES.—(1) Nothing in this Act shall affect—

(A) the oil and gas lease issued on May 1, 1983, by the United States to Yates Petroleum Corporation, bearing Serial No. NM 55801,

(B) the oil and gas lease issued December 1, 1977, by the United States to Merle C. Chambers, Denver, Colorado, bearing Serial No. NM 31557,

(C) any other oil or gas leases that were valid and subsisting on the day before the date of enactment of this Act,

(D) any right, term, condition, and covenant (both expressed and implied) granted under any oil or gas lease referred to in subparagraph (A), (B), or (C), and

(E) reasonable access (including, but not limited to, rights of ingress and egress) across lands described in section 1 or which are otherwise owned by or under the control of the Pueblo of Zia insofar as it may be necessary to cross such lands in order to reach lands subject to any oil or gas lease referred to in subparagraph (A), (B), or (C).

(2) Notwithstanding section 2(a), the lands described in section 1 which are subject to the leases described in paragraph (1) shall continue to be administered by the Bureau of Land Management of the Department of the Interior in conformity with the laws and policies applicable to oil and gas operations on the public domain.

The SPEAKER pro tempore. Is a second demanded?

Mr. McCAIN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New Mexico [Mr. RICHARDSON] will be recognized for 20 minutes and the gentleman from Arizona [Mr. MCCAIN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in strong support of H.R. 5167, the Zia Indian Lands bill. This bill, introduced by myself, Mr. LUJAN, and Mr. SKEEN, is to convey a small parcel of land to the Pueblo of Zia. The New Mexico delegation, in conjunction with the involved parties, worked cooperatively to develop this bill. Similar legislation has been introduced in the other body by New Mexico's Senators.

This bill conveys 1,840 acres of land, which presently forms an "island" within the current Pueblo of Zia boundaries, from the jurisdiction of the Bureau of Land Management [BLM] to the Bureau of Indian Affairs [BIA]. The land is to be held in trust by the BIA for the use and benefit of the Zia people. This tract of 1,840 acres has existed as virtually a "no man's land" for too long. The BLM has implemented no range management plan for it, because it has not had legal access to the land. The BIA has also taken no responsibility for the land because jurisdiction for it falls under the BLM. The Federal Government has therefore not adequately supervised or managed this acreage. Our bill resolves this problem by vesting the responsibility for the land to the Pueblo of Zia—the people who stand most to benefit from its use.

Historical documentation indicates that the area has been occupied by the Pueblo of Zia since the 1300's. Current information proves that the pueblo continues to actually, exclusively and continuously, use the land. There are eight known religious sites on the 1,840 acres, which Zia religious leaders regularly visit. Zia potter also continue to collect white, black, and red paints from a site on this land. I am convinced of the Zia's longstanding historic and religious attachment to the land. In addition, the pueblo's plan to use the land for additional grazing demonstrates their intentions to use the land for future generations.

The Pueblo of Zia already owns the surface rights to this "island" of land. There are pre-existing rights to the land in the form of two oil and gas leases owned by Yates Petroleum and a Mr. Merle Chambers. Plains Electric Generation and Transmission Cooperative also has a right-of-way for a transmission line. All of these legal rights are carefully protected in this legislation, and the pueblo and the affected groups have reached a compromise which is reflected in the language in this bill. The bill also states specifically that water rights appurtenant to the land shall be those rights existing under State law at the date of enactment of the bill and no new water rights are created or conveyed. Sandoval County, were the land is located, is in support of the proposed transfer. The State Director of the BLM has also stated in a letter to the congressional delegation that "we are unaware of any negative consequences that would result to the United States or third parties as the result of such transfers."

Mr. Speaker, this piece of legislation will be of great benefit to the Zia people. The result of a joint effort by the New Mexico congressional delegation, it will assist this tribe in attaining their full cultural heritage, and in developing their full economic potential. I strongly urge my colleagues to support it.

Mr. McCAIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill, and the following bill, which is also sponsored by the gentleman from New Mexico [Mr. RICHARDSON], H.R. 4873, both understandably appear to our colleagues as very minor pieces of legislation.

I would like to point out that to the people who are involved in this, the Indians living there, it is a very important issue, and one that I am very appreciative that my colleague, the gen-

tleman from New Mexico, would be concerned about, so that these two bills, which are very important to the financial well-being of the tribes, can be considered by this body today.

Mr. Speaker, I rise in support of H.R. 5167, a bill to "declare that the United States holds certain public domain lands in trust for the pueblo of Zia."

The Pueblo of Zia is a small poor Indian pueblo in north central New Mexico. Its people have lived there since the 14th century. H.R. 5167 would declare that 1,840 acres of Federal lands in New Mexico, currently leased by Zia and adjacent to the pueblo, be held by the United States in trust for the pueblo. Though there are no known mineral resources, all valid existing mineral rights are preserved.

While the administration has no objection to the transfer of the lands, it believes the pueblo could and should purchase these lands. The Interior Committee has determined that the transfer without sale would be an economic benefit to this poor pueblo and we support passage of H.R. 5167. I urge my colleagues to support the bill.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. RICHARDSON. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Mexico [Mr. RICHARDSON] that the House suspend the rules and pass the bill, H.R. 5167, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. RICHARDSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

AUTHORIZING CERTAIN TRANSFERS AFFECTING THE PUEBLO OF SANTA ANA IN NEW MEXICO

Mr. RICHARDSON. Mr. Speaker, I move that the House suspend the rules and pass the bill (H.R. 4873) to authorize certain transfers affecting the Pueblo of Santa Ana in New Mexico, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4873

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

MINERAL RIGHTS HELD IN TRUST

SECTION 1. (a) All rights, title, and interests of the United States in the mineral estate of Section 19, Township 13 North, Range 4 East, New Mexico Principal Meridian, are hereby declared to be held by the United States in trust for the benefit of the Pueblo of Santa Ana.

(b) The United States hereby waives any claims or charges the United States may have or have assessed against the Pueblo of Santa Ana, including any claims for trespass, arising out of, or related to, the removal or exploitation by the Pueblo of Santa Ana of any minerals underlying Section 19, Township 13 North, Range 4 East, New Mexico Principal Meridian before the date of enactment of this Act.

(c) The Pueblo of Santa Ana and anyone acting on behalf of, or under the authority of, the Pueblo Santa Ana may enter upon any lands within Section 19, Township 13 North, Range 4 East, New Mexico Principal Meridian, for the purposes of mining or otherwise removing or exploiting any minerals in such lands only if—

(1) the Pueblo of Santa Ana holds legal title to the surface estate of such lands,

(2) legal title to the surface estate of such lands is held by any person for the benefit of the Pueblo of Santa Ana, or

(3) the person holding legal title to the surface estate of such lands provides written consent for such entry.

ADDITIONAL LANDS HELD IN TRUST; TECHNICAL AMENDMENTS

SEC. 2. (a) Public Law 95-498 is amended by striking out 'That all right" after the enacting clause and inserting in lieu thereof "That (a) all right".

(b) Subsection (a) of the first section of Public Law 95-498 is amended—

(1) by striking out the comma after "northwest quarter" in the nineteenth line of the paragraph relating to Section 23, Township 13 North, Range 3 East, New Mexico Principal Meridian (92 Stat. 1673),

(2) by striking out "Rec. PP CL 10/10/62 and" in the paragraph relating to such Section 23,

(3) by striking out "northeast quarter, northeast quarter" in the fourth line of the paragraph relating to Section 25, Township 13 North, Range 3 East, New Mexico Principal Meridian (92 Stat. 1673) and inserting in lieu thereof "northeast quarter, southeast quarter",

(4) by srtiking out "7, 8 and bed" in the paragraph relating to Section 9, Township 13 North, Range 4 East, New Mexico Principal Meridian (92 Stat. 1674) and inserting in lieu thereof "7 and bed",

(5) by inserting the following new paragraph after the paragraph relating to Section 6, Township 14 North, Range 3 East, New Mexico Principal Meridian (92 Stat. 1674): "Section 36:

Lots 1, 4, 8, 9,

Northeast quarter, northeast quarter,", and

(6) by inserting the following new paragraph after the paragraph relating to section 31 of Township 14 North, Range 4 East (92 Stat. 1675)": "Section 32:

Southwest quarter, southwest quarter southeast quarter,". (c) Section 4 of Public Law 95-498 is amended—

(1) by striking out "Nothing in this" in subsection (a) and inserting in lieu thereof "(1) Nothing in this", and

(2) by adding at the end of subsection (a) the following new paragraph:

"(2) The United States retains an easement of access for the purpose of operating and maintaining the Jemez Canyon Dam upon existing rights-of-way over the lands that are declared to be held in trust of the benefit of the Pueblo of Santa Ana under this Act. The Pueblo of Santa Ana shall enjoy full use of such rights-of-way to the extent such use does not interfere with the reasonable operation and maintenance of the Jemez Canyon Dam.".

(d) Subsection (a) of section 7 of Public Law 95-498 is amended by striking out "2004.05 acres" and inserting in lieu thereof "1678.05".

(e) Lots 7 and 8, section 5, Township 14 North, Range 3 East, N.M.P.M. containing 18.04 acres more or less, are hereby declared to be held in trust by the United States for the exclusive benefit of the Pueblo of Zia.

EXCHANGE OF LANDS

SEC. 3. (a)(1) Notwithstanding the provisions of the Act of August 19, 1935 (49 Stat. 659, chapter 559) or of the patent issued thereunder (Patent No. 1079219), the Regents of the University of New Mexico are hereby authorized to convey to the United States, and the United States shall accept in trust for the benefit of the Pueblo of Santa Ana, all or any part of the following tracts of land, which were patented to such Regents under authority of the Act of August 19, 1935 (49 Stat. 659, chapter 559): Lots 7, 8, and 9 and the Northwest quarter of Section 30, Township 13 North, Range 4 East, New Mexico Principal Meridian, New Mexico, containing 218.3 acres, more or less.

(2) Upon the conveyance of any portion of the lands described in paragraph (1) to the United States in trust for the benefit of the Pueblo of Santa Ana, the restriction that the lands described in paragraph (1) be used for archeological purposes only, which is contained in the patent conveying the lands described in paragraph (1) to the Regents of the University of New Mexico pursuant to the Act of August 19, 1935 (49 Stat. 659, chapter 559), shall cease to be applicable to the portion of the lands described in paragraph (1) that is conveyed to the United States in trust for the benefit of the Pueblo of Santa Ana.

(3) If the Pueblo of Santa Ana determines to develop those lands conveyed under paragraph (1) that are located within 100 yards of the boundary of the Coronado State Monument archeological site, the Pueblo of Santa Ana shall—

(A) meet, and confer in good faith, with representatives of the Museum of New Mexico with respect to the potential adverse impacts of such proposed development on the Coronado State Monument archeological site, in order to try to insure that any development of that portion of such lands is consistent with the existing use of such Monument;

(B) consider all mitigation measures proposed by the Museum of New Mexico that lessen the adverse impact of the proposed development and preserve the aesthetic and related values associated with such Monument's archeological resources; and

(C) to the maximum extent practicable and consistent with the development plan of the Pueblo of Santa Ana, take all reasonable measures that will mitigate any adverse

impacts of the proposed development on that portion of such lands.

(b) The Pueblo of Santa Ana is hereby authorized to convey to the Regents of the University of New Mexico, and the Regents of the University of New Mexico are hereby authorized to accept from the Pueblo of Santa Ana, a parcel of land within the El Ranchito Grant owned by the Pueblo of Santa Ana pursuant to Patent No. 84386, dated October 18, 1909, in exchange for the lands conveyed to the Pueblo of Santa Ana under subsection (a).

(c)(1) By no later than the date that is 60 days after the date of enactment of this Act, the Secretary of the Interior shall publish in the Federal Register the exact legal descriptions of the parcels to be conveyed under subsections (a) and (b), as such parcels are described by the terms of the Settlement Agreement agreed to by the Pueblo of Santa Ana, the Regents of the University of New Mexico, the United States of America, the State of New Mexico, the Museum of New Mexico, and the Park and Recreation Division of the New Mexico State Natural Resources Division on November 12, 1985.

(2) The conveyances authorized under subsections (a) and (b)—

(A) shall be made in accordance with the Settlement Agreement described in paragraph (1), and

(B) shall be made only after the legal descriptions of all lands to be conveyed under such subsections have been published in accordance with the requirements of paragraph (1).

(d) Upon the completion of the conveyances authorized herein, the south boundary of the Santa Ana Pueblo Reservation shall be extended to the south so as to include the land conveyed to the Pueblo of Santa Ana.

GENERAL PROVISIONS

SEC. 4. (a)(1) Nothing in this Act shall deprive any person (other than the United States) of—

(A) any existing right of use, possession, contract right, interest, or title which that person may have in any of the trust lands within the purview of this Act, or

(B) any existing right of access to public domain lands over and across such trust lands.

(2) All existing mineral leases involving lands declared to be held in trust by this Act, including oil and gas leases, which may have been issued or approved pursuant to any other Federal law prior to the date of enactment of this Act shall remain in force and effect in accordance with the provisions of such other law.

(3) Notwithstanding any other provisions of law, all applications for mineral leases involving lands declared to be held in trust by this Act, including oil and gas leases, pending on the date of enactment of this Act shall be rejected and the advance rental payments returned to the applicants.

(b) Subject to the provisions of subsection (a), any property held in trust by reason of this Act for the benefit of the Pueblo of Santa Ana shall be administered in accordance with the laws and regulations applicable to other property held in trust by the United States for the Indian tribe of the Pueblo of Santa Ana.

SEC. 5. The second sentence of subsection (a) of section 1 of the Act approved August 9, 1955 (69 Stat. 539) is amended by inserting the term "the Pueblo of Santa Ana (with the exception of the lands known as the 'Santa Ana Pueblo Spanish Grant')" after the words "the Dania Reservation,".

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The SPEAKER pro tempore (Mr. MONTGOMERY). Is a second demanded?

Mr. McCAIN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The gentleman from New Mexico [Mr. RICHARDSON] will be recognized for 20 minutes and the gentleman from Arizona [Mr. McCAIN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in strong support of H.R. 4873, the Santa Ana omnibus land bill. This bill, introduced by myself, Mr. LUJAN and Mr. SKEEN for the people of Santa Ana Pueblo in New Mexico, is the result of a collaborative effort by the entire New Mexico congressional delegation. A similar version of H.R. 4873 is under consideration in the other body.

This bill is one that the Santa Ana people and the New Mexico congressional delegation have been working together on for several years. The bill has provisions to:

First, convey to Santa Ana Pueblo mineral interests in a 494-acre tract of land which the pueblo purchased from private land owners. This 494-acre tract contains good quality gravel, which, when restored to Santa Ana, would enable them to resume their gravel enterprise, an important economic development endeavor for the tribe.

Second, clarify pueblo boundary descriptions discovered to be in error. These corrections were confirmed by the Southern Pueblo Agency of the Bureau of Indian Affairs, who assisted in preparing the technical amendments addressing them.

Third, authorized an exchange of lands between the Santa Ana Pueblo and the University of New Mexico in order to resolve a longstanding trespass problem. The settlement states that the pueblo would relinquish 26.57 acres along the east side of Coronado Park and Monument to the University of New Mexico, in exchange for the University giving to them 120 acres west of the park and monument and two 4-year tuition scholarships each year for a total of 5 years to qualified Santa Ana students.

This provision solves several problems at the same time—it clears up previous troubles with trespass, which caused a strain between the pueblo, Coronado Park and Monument and the university; it also ensures that 10 deserving qualified Santa Ana students would get much needed educational assistance. Congressional action is necessary to authorize this exchange agreement, which has already been signed by the Governor's office; the natural resources department of New Mexico; the U.S. attorney's office; the Bureau of Indian Affairs; the pueblo of Santa Ana; the University of New Mexico; and the Museum of New Mexico.

Mr. Speaker, the members of the New Mexico congressional delegation worked together on H.R. 4873, for the benefit of the people of Santa Ana Pueblo. This bill addresses a number of the problems experienced by Santa Ana, as they strive for economic self-sufficiency and self-determination. I urge all of my colleagues to support this bill. Thank you.

Mr. Speaker, I especially wish to thank the gentleman from Arizona [Mr. McCAIN] for his assistance on this bill and for listening to the people in the many hearings held on this subject.

Mr. McCAIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4873, a bill for the Santa Ana Pueblo of New Mexico. The bill would declare that mineral rights to 494 acres owned by the Federal Government but on lands in trust for the pueblo, be held in trust for the pueblo of Santa Ana, transfer 18 acres from Santa Ana to the pueblo of Zia, settle a longstanding dispute between the pueblo and the University of New Mexico concerning the Coronado State Monument, and grant long-term leasing authority to the pueblo.

I view this bill as a technical corrections bill. The transfer of mineral rights was necessitated by the decision in Watt versus Western Nuclear Corp., in which it was decided that sand and gravel are minerals for Federal law. At the time of the previous transfer of land to the pueblo, BLM did not consider sand and gravel a mineral, and the mineral rights were unnecessary. The bill also corrects other errors made in the past, and I urge my colleagues to support the bill.

Mr. Speaker, I yield back the balance of my time.

Mr. RICHARDSON. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Mexico [Mr. RICHARDSON] that the House suspend the rules and pass the bill, H.R. 4873, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. RICHARDSON. Mr. Speaker, I ask unanimous consent that all Mem-

bers may have 5 legislative days in which to extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

PROHIBITING CONSTRUCTION OF DAMS WITHIN NATIONAL PARKS AND MONUMENTS

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4089) to prohibit the construction of dams within national parks and monuments, as amended.

The Clerk read as follows:

H.R. 4089

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RESTRICTION OF DAMS IN PARKS AND MONUMENTS.

(a) No individual, corporation, partnership, Federal, or State agency, political subdivision or any other legal entity may commence construction of—

(1) any new dam or other new impoundment within the external boundaries of a national park or monument, except that any such project may be developed by the National Park Service if deemed necessary to meet the requirements for which the park or monument was established and if the project would not degrade the resources within such park or monument; or

(2) any new dam or other new impoundment which will, after the date of enactment of this Act, inundate land within the external boundaries of a national park or monument.

For purposes of this section: (i) the term "new dam or other new impoundment" means any facility for impoundment or obstruction of water, the construction of which commences after the enactment of this Act and; (ii) the term "inundate" shall mean the formation of a body of water upstream from a dam or impoundment caused by construction or operation of the dam or impoundment which permanently or intermittently covers lands within the boundary of any national park or national monument.

(b) The prohibition contained in this section shall be in addition to, and not in lieu of, any other prohibition or restriction on activities within the boundaries of national parks and monuments.

SEC. 2. YOSEMITE NATIONAL PARK.

Notwithstanding any other provision of law, no Federal lands may be used for the expansion of the capacity of any reservoir which is located within the boundaries of Yosemite National Park, unless Congress enacts specific statutory authorization after the date of the enactment of this Act for such expansion.

The SPEAKER pro tempore. Is a second demanded?

Mr. LAGOMARSINO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, a number of water resources projects exist within units of the National Park System. Eighteen of the forty-eight national parks have 108 dams. Twelve projects within national parks or monuments were built by the Bureau of Reclamation. Most of these projects were built many years ago and project age in addition to safety questions combined with the explosion of requests for adding or expanding hydropower has caused considerable concern that these projects may be expanded, or new projects may be permitted by the Federal Energy Regulatory Commission to the detriment of the natural and cultural resources of the national parks and monuments.

The Department of the Interior asserts that the 1921 amendment to the Federal Power Act (16 U.S.C. 797a) prohibits any water resources project within the boundary of a national park or monument and that the 1970 General Authorities Act provides for public trust of park unit resources which is interpreted to extend that prohibition to other units of the park system. Such general prohibition could, of course, be overridden by an act of Congress.

Although the Department of the Interior maintains such authorities exist based on the 1921 and 1970 laws, a number of water resources development projects are under study or permit that affect national parks or monuments.

For example, at Yosemite National Park, an application has been made for a permit to develop a hydropower project on the Merced River outside of the park where the pool formed by the dam would inundate portions of the river within the park. A third powerhouse for the Hetch-Hetchy system is currently under construction by the city of San Francisco. The operation of this powerhouse will divert flows from several miles of the Tuolumme River within the boundary of Yosemite National Park. In addition, the city of San Francisco has indicated it believes it has the authority to raise the Hetch-Hetchy Dam and further inundate lands within Yosemite. Even in my home State of Minnesota, Voyager National Park faced water project development that would adversely affect this great resource.

Mr. Speaker, H.R. 4089, which was introduced by my very good friend and colleague on the Interior Committee RICK LEHMAN, addresses the issue of protecting the resources of our great national parks and monuments from inundation by water projects. The bill simply would prohibit construction of a new dam within the boundary of any national park or monument and also prohibit construction of a dam that would back water into any park or monument. The amendment would also prohibit the use of any Federal lands in any way to expand any reservoir within the boundary of Yosemite National Park.

Mr. Speaker, I want to commend the gentleman from California, Congressman RICK LEHMAN, for his dedication to the ideals of protecting the great national treasures that we have in our national parks. RICK LEHMAN is an outstanding and courageous legislator who consistently has tackled tough problems that affect our public lands.

Mr. Speaker, I urge all of my colleagues to support this bill to protect national parks.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4089. As amended by the committee, this bill would prohibit the construction of new dams or other new water impoundments within, or which would inundate, national parks and national monuments. The bill would also prohibit the expansion of any existing reservoir within Yosemite National Park. However, it in no way affects any other existing water development projects within, or which inundate, national parks and monuments.

As the ranking member of the Subcommittee on National Parks and Recreation, I certainly support a general prohibition on the construction of new dams in national parks and monuments. Through their designation, Congress has determined that the national resources of these areas should be protected and preserved in the future. This legislation is intended to clearly establish congressional intent in this regard.

While the committee heard testimony by the Park Service asserting that it had the authority to restrict various types of water development within various units of the National Park System, the committee took no position regarding these assertions. Rather, it was the committee's intent to maintain existing law on this subject, except for the prohibition on new dams contained in this bill. I might also point out that this prohibition is intended to apply only to national parks and national monuments which are so designated by the Congress or, in certain cases, established by the President, and not to any other units of the National Park System. Whenever Congress makes such a designation, it may only be changed by an act of Congress.

I believe the committee amendments substantially improved this bill by limiting the restrictions in the bill to a prohibition on new dam development

in national parks and monuments. I want to commend the sponsor of the bill, the gentleman from California [Mr. LEHMAN] for working with the other interested members of the committee in an effort to alleviate their concerns with this legislation. I am pleased that the major differences were resolved and that the subcommittee chairman, Mr. VENTO, has moved this bill forward. I believe it will greatly assist in protecting the resources of our Nation's parks and monuments by providing a clear statutory ban on new water developments in these areas.

Mr. Speaker, I urge all of my colleagues to support and approve H.R. 4089.

□ 1350

Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield 6 minutes to the gentleman from California [Mr. LEHMAN].

Mr. LEHMAN of California. Mr. Speaker, 73 years ago the Congress of the United States debated whether or not the city of San Francisco ought to be granted the right to construct a massive hydroelectric system within Yosemite National Park. John E. Raker of Manteca, CA, introduced legislation to give the city land and rights of way within this most famous national park to dam the Tuolumne River to construct O'Shaughnessy Dam. After 12 years of discussion before Congress, Representative Raker prevailed and in 1913 the Raker Act became the law of the land.

Today, as Congress revisits the question of dams in national parks, I think it is very instructive to take a look back at what our predecessors and public officials had to say in 1913. That year was just 1 year before the San Francisco World's Fair. Proponents of the dam in Yosemite put forth the argument that this event clearly demonstrated the need for a dam in the park—never mind that the project would not be completed for another decade. Others harked back to the San Francisco earthquake and fire of 1906, saying that lack of water was one of the greatest causes of the fire.

Testimony before the House Public Lands Committee in 1913 was highly favorable to the proposal to dam Hetch Hetchy Valley in Yosemite. Secretary of the Interior Franklin Lane who had previously served as San Francisco's city attorney noted that:

If San Francisco does not get it (Hetch Hetchy Valley), someone else must; it is too precious a reservoir site to remain unused.

Mr. Fredrick H. Newell, Director of the Reclamation Service described his philosophy about a dam within Yosemite in these terms:

I have naturally come to the conclusion that there is nothing more beautiful than a well-built dam with a reservoir behind it.

San Francisco's city engineer, M.M. O'Shaughnessy wrote in his account of the Hetch Hetchy struggle that:

Construction of a dam would add to the scenic features of the country, that all objections of alleged nature lovers should be overruled.

As for Congressman Raker, he called the issue a question of—

turning of what is now a barren canyon into a beautiful and exquisite lake.

On the other side of the issue was renowned naturalist John Muir and conservationists throughout the United States, farmers from the San Joaquin Valley who feared for their own water rights, and competing water suppliers to the city of San Francisco. Muir's battle cry became scripture for future generations. "Dam Hetch Hetchy!" he roared, "As well dam for water tanks the people's cathedrals and churches, for no holier temple has ever been consecrated by the heart of man." In spite of Muir's leadership, dam proponents carried the day. O'Shaughnessy Dam was completed in 1923, flooding almost 4,000 acres of Yosemite National Park and taking 6 million board feet of timber from the park during construction.

Mr. Speaker, in January 1986 I introduced H.R. 4089 to prohibit new dams in all national parks. As the Congressman who represents Yosemite National Park, I readily acknowledge that my very strong feeling on this issue grows out of my experience with the Hetch Hetchy project. Since coming to Congress, I have engaged in an ongoing struggle with the city of San Francisco over the city's modern day plans to raise O'Shaughnessy Dam—without new congressional review, under the alleged authority of that old 1913 Raker Act.

Mr. Speaker, the damming of Yosemite National Park is just the most well-known instance of flooding a national treasure. As my distinguished subcommittee chairman pointed out, of 48 designated national parks, 18 of them contain 108 dams of various size and capacity. It is time to draw the line on new dam construction in our national parks. It is time to replace the policies of 1913 with the priorities of 1986.

H.R. 4089 as amended does only two things. First, it prohibits the construction of new dams in all national parks and monuments. Second, it requires new congresssional authorization to use any Federal lands within Yosemite National Park to expand existing reservoirs.

H.R. 4089 as amended applies only to national parks and monuments, and to no other units of the Yosemite National System. It does not affect water rights in any way whatsoever. It does not turn the clock back on hydroelectric facilities which already exist within our national parks.

We cannot and we will not undo almost 100 years of water and power development in our national parks, but we must build a new record in the future. We must set forth a national policy which says that our national parks represent the very best of our American landscape and as such should be off-limits to new dam construction.

The choice before the House today is simple and straightforward. If my colleagues agree that our national parks and monuments should not host new dams such as the Hetch Hetchy facility in Yosemite National Park, I know you will vote with me in support of H.R. 4089.

Mr. Speaker, I worked closely with the majority and the minority on the House Interior and Insular Affairs Committee to take this important step to protect our national parks, and I would note that the bill passed without any opposition from the members of the Interior Committee. I wish to particularly commend the leadership of Chairman VENTO who stands very tall in this Congress for his unswerving efforts to defend and protect all resources of our National Park System. In addition. I am grateful to Congressmen LAGOMARSINO, STRANG, CRAIG, HANSEN, and CHENEY for their efforts to develop workable amendments to the original H.R. 4089. I also want to thank Representatives DALE KILDEE, SALA BURTON, and BARBARA BOXER for their courageous cosponsorship of my original bill.

I urge my colleagues to join with us and vote yes on H.R. 4089.

Mr. Speaker, I am submitting the following newspaper articles for the RECORD:

[From the Tribune, Sept. 9, 1986]

PROTECT YOSEMITE PARK

If McDonald's demanded the right to build its arch over Yosemite Valley, the nation would hoot derisively and Congress would send the fast-food chain packing.

But no one laughs when the city of San Francisco demands the right to flood hundreds of acres of the treasured park for its own profit. The city might have just that right under existing law, and it might have just that intention before the century is out.

That's only one good reason to support speedy passage of H.R. 4089, a bill introduced by Rep. Richard Lehman, D-Sanger, to halt construction of new hydro dams within national parks and monuments without prior congressional approval.

The bill would close some remarkable loopholes. Current law, for example, would allow the flooding of Grand Canyon to generate hydroelectric power. When Secretary of Interior Stuart Udall actually proposed such a project in 1966, the Sierra Club mounted its famous national ad campaign asking: "Should we also flood the Sistine Chapel so tourists can get nearer to the ceiling?"

In the ensuing furor, Udall took a boat trip down the canyon, discovered its exquisite beauty and reversed his decision. But

only last year the Arizona Water Board determined that a new dam by the park on the Colorado River would be feasible, and a new secretary of Interior could authorize it.

Additions to existing dams also threaten the national heritage. A proposal to retrofit a dam in the Grand Tetons with power generators would require stringing power lines throughout the park, for example. H.R. 4089 leaves such decisions to the discretion of the Interior Department.

* * * The provision aims to prohibit San Francisco from raising the level of the O'Shaughnessy Dam on the Tuolumne River, which floods nearly 4,000 acres of Hetch Hetchy Valley in the park interior.

The original dam proposal in 1903 shocked Sierra Club founder John Muir. "Dam Hetch Hetchy?" the great outdoorsman asked. "As well dam for water tanks the people's cathedrals and churches; for no holier temple has ever been consecrated to the heart of man."

The city across the Bay eventually prevailed, winning statutory authority for the project in 1913 thanks to the influence of the new Interior secretary, a former San Francisco city attorney.

In the mid-1930s, violating a court order, the city expanded the existing 345-foot dam another 85 feet, raising its capacity by more than one-third to hold 117,000,000,000 gallons of water in order to generate more power for sale. By 1984 the city grossed $70 million a year from power sales to other public agencies.

Although city officials deny it, another expansion and additional flooding of pristine park lands may be coming down the road. A 1981 study of the Hetch Hetchy system recommended adding 50 feet to the dam's height, which would flood another 500 acres of wilderness lands and a half mile of river.

Mayor Dianne Feinstein vigorously opposes any congressional limits on the city's authority. To their credit, however, local members of Congress Sala Burton, D-San Francisco, and Barbara Boxer, D-Greenbrae, support H.R. 4089 in the national interest. These public spirited San Franciscans, like citizens elsewhere in the country, respect and would preserve the priceless lands * * *.

[From the Los Angeles Times, Sept. 2, 1986]

FOR SHAME, SAN FRANCISCO

The annals of Western water development teem with perfidy and connivance, but the Owens Valley will always enjoy a special aura of infamy. Mention the words water and theft in one breath, and someone will follow with Los Angeles and Owens Valley in the next. The legend sometimes is grander than the facts. Los Angeles at least paid for the water rights that it got from valley ranchers three-quarters of a century ago. Maybe not fair and square, but with real money.

The Owens Valley legacy shadows the Department of Water and Power everywhere. The city is constantly in the courts defending its eastern Sierra water rights. It has given up some water to environmental considerations, and faces the loss of more.

Rarely, however, is the City of San Francisco called on to defend, atone or repent for its own rapacious water venture of the early 20th Century into the heart of one of the nation's most hallowed natural areas: Yosemite National Park. San Francisco did not just take the water from an arid ranching area. With Congress' complicity in 1913, it dared to inundate Yosemite's remarkable Hetch Hetchy Valley on the Tuolumne River. Unflooded and accessible, Hetch Hetchy would be treasured as one of the world's great natural areas, a region of towering rock walls and dashing waterfalls. Now, behind a locked watergate, it is the forgotten Yosemite of America.

In his losing battle to save Hetch Hetchy, naturalist John Muir raged: "Dam Hetch Hetchy? As well dam for water tanks the people's cathedrals and churches, for no holier temple has ever been consecrated to the hearts of man." Indeed, there are those who dream of breaching O'Shaughnessy Dam and allowing Nature to one day restore Hetch Hetchy to its former magnificence.

But there is no such talk around city hall in San Francisco. In fact, there are mumblings about building O'Shaughnessy Dam even higher and flooding Hetch Hetchy even deeper to bring even more water to the Bay Area and generate more electric power. Not right now, perhaps. But sometime. Imagine even thinking such a thing, particularly in San Francisco—the home of the Sierra Club, the proud Athens of the conservation movement and the hotbed of opposition to any export of surplus water from Northern California to the south.

This is not just a pipe dream of engineers. The mayor herself, Dianne Feinstein, has written Congress to protest a bill that would require congressional approval for the expansion of any public-works projects in national parks. The measure, by Rep. Richard H. Lehman (D-Sanger), makes specific reference to the Hetch Hetchy project.

In her letter the mayor said, "The *only* (her emphasis) economically feasible source for water for their future needs is the Hetch Hetchy system, utilizing water rights previously granted for this purpose." The future needs are not San Francisco's, but those of neighboring counties that receive water service from the city.

Feinstein added, "The present arrangements have served the national interest in Yosemite National Park and the people of the Bay Area well for half a century, and there is no reason to drastically change them now."

Well, the system certainly has served San Francisco well. More than half its water is sold to San Mateo, Santa Clara and Alameda counties, and the city reaps considerable benefit from the electric power generated as the water courses from the Sierra. But there are alternatives to bringing more water directly to the Bay Area via the Hetch Hetchy aqueduct. For one, San Francisco could let the water flow naturally down the Tuolumne, now declared a wild and scenic river, and into the Sacramento-San Joaquin Delta. Then the city could take the water from the delta, as do most other major users in both Northern and Southern California.

But dam Hetch Hetchy even higher? For shame, San Francisco. Congress cannot atone for the infamy of 1913. But it can promptly pass the Lehman bill and therefore be certain that the infamy is not compounded.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just want to point out that I was, in going through the record of the 1913 debate on the Raker Act, that indeed there were some that were looking into the future, far away in terms of this issue.

One of them was another gentleman from Minnesota, then a Congressman in his body, Mr. Steenerson, who pointed out the folly of indeed doing the damming of Hetch Hetchy that did occur, and of course brings the gentleman from California [Mr. LEHMAN] to the floor today with such a passionate statement, and such an outstanding statement with regard to the damage that has occurred in the magnificent Sierra Nevada in California that he is trying to protect; and which of course has been protected by virtue of being made part of Yosemite National Park.

This gentleman from Minnesota Mr. Steenerson in the CONGRESSIONAL RECORD, points out that while our State is rather a young one—at that time in 1913—that we have great values in terms of conservation; and points out the significant damage that did occur as a result of the damming of Hetch Hetchy.

He points out the national interest in this matter, not just the local interest, that seems to prevail as a significant concern with regard to this.

Mr. Speaker, I pointed out in my earlier statement that there are many water projects that are being proposed. One such water project is actually being proposed in the Voyageurs National Park in northern Minnesota.

This legislation will prevent new projects, new dams that would innundate the conservation areas, the national parks and monuments specifically. This legislation would prevent that type of damage, and I urge my colleagues to work with us and to enact this measure so that we do not have the occurrence of further damage to these magnificent resources, which we have set aside for perpetuity.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 4089, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on H.R. 4089, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

DESIGNATING THE SANTA FE TRAIL AS A NATIONAL HISTORIC TRAIL

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4794) to amend the National Trails System Act to designate the Santa Fe Trail as a national historic trail, as amended.

The Clerk read as follows:

H.R. 4794

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

(a) DESIGNATION.—Section 5(a) of the National Trails System Act (16 U.S.C. 1244(a)) is amended by adding the following new paragraph at the end thereof:

"(14) The Santa Fe National Historic Trail, a trail of approximately 950 miles from a point near Old Franklin, Missouri, through Kansas, Oklahoma, and Colorado to Santa Fe, New Mexico, as generally depicted on a map entitled 'The Santa Fe Trail' contained in the Final Report of the Secetary of the Interior pursuant to subsection (b) of this section, dated July 1976. The map shall be on file and available for public inspection in the office of the Director of the National Park Service, Washington, District of Columbia. The trail shall be administered by the Secretary of the Interior. No lands or interests therein outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the Santa Fe Trail except with the consent of the owner thereof. Before acquiring any easement or entering into any cooperative agreement with a private landowner with respect to the trail, the Secretary shall notify the landowner of the potential liability, if any, for injury to the public resulting from physical conditions which may be on the landowner's land. The United States shall not be held liable by reason of such notice or failure to provide such notice to the landowner. So that significant route segments and sites recognized as associated with the Santa Fe Trail may be distinguished by suitable markers, the Secretary of the Interior is authorized to accept the donation of suitable markers for placement at appropriate locations.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 10(c)(2) of such Act (16 U.S.C. 1249(c)(2)) is amended by striking out "(13)" and inserting in lieu thereof "(14)".

SEC. 2. KOSCIUSZKO TRAIL STUDY.

Section 5(c) of the National Trails System Act (16 U.S.C. 1244(c)) is amended by adding at the end there of the following new paragraph:

"(31) Kosciuszko Trail, extending from Vermont to South Carolina in connection with the military sites fortified by General Thaddeus Kosciuszko during the War of Independence.".

The SPEAKER pro tempore. Is a second demanded?

Mr. LAGOMARSINO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

□ 1400

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to bring to the House H.R. 4794, introduced by our colleague BILL RICHARDSON and a bipartisan contingent of House Members. The legislation, as amended, would amend the National Trails System to designate the Santa Fe Trail as a national historic trail and includes several provisions relating to the administration of the trail. Further, as amended, the bill authorizes a study, under section 5(c) of the National Trails System of the proposed Kosciuszko Trail.

The designation of the Santa Fe Trail as a national historic trail is worthy of our support. From 1822 to 1880, the trail, extending some 950 miles from Missouri to Santa Fe, NM, was one of America's most important commercial routes, established to expedite trade with the Spanish of the Southwest. It also served as a major military and governmental link with the newly acquired territories of the Southwestern United States.

Many historic sites associated with the Old West are found along the Santa Fe Trail, with five of these sites now units of the National Park System. Today because of development and the weathering process, much of the actual trail is obliterated, with only small scattered segments remaining where the original trail ruts can be seen. Nevertheless, the Santa Fe Trail provides significant historical and interpretative value to present and future generations interested in this unique piece of Americana.

The legislation before the House today will further a cooperative effort at the Federal, State, and local levels to provide for the interpretation, use, and management of the Santa Fe Trail. In keeping with this cooperative spirit, H.R. 4794, as amended, directs that no land or interests in land outside of a federally administered area may be acquired without the consent of the landowner. This is likely to be a moot point since no acquisition program is contemplated by the Department of the Interior for the Santa Fe Trail. The bill further contains language authorizing the acceptance from public-spirited individuals and organizations of suitable markers for placement along the trail.

To address the concern with possible liability associated with public access to private land along the trail, language was incorporated into H.R. 4794 directing the Secretary, prior to entering into a cooperative agreement or acquiring interests in land, to provide the affected landowner with a one-time notice of the potential liability, if any, associated with public access to the land in question. The provision is not intended to imply a Federal indemnification and the legislation stipulates that the United States shall not be held liable by reason of such notice or the lack thereof.

Finally, H.R. 4794 includes language adopted in committee authorizing a study of the Kosciuszko Trail under section 5(c) of the National Trails System Act. The proposed trail would extend from Vermont to South Carolina in connecton with the military sites fortified by Gen. Thaddeus Kosciuszko during the War of Independence.

Mr. Speaker, I believe much of the American public would be surprised to learn that the Santa Fe Trail is not already a national historic trail. When the settling of the Old West is recalled, the Santa Fe Trail and the role it played in that history come prominently to mind. The Santa Fe Trail has already been immortalized in song, word, and films. Passage by the House today of this measure conferring national historic trail status will be a fitting act in preserving this significant piece of American history.

I urge adoption of H.R. 4794.

Mr. Speaker, I reserve the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4794. As the chairman of the subcommittee has explained, this bill would designate the 950-mile Santa Fe Trail as a national historic trail. The Santa Fe Trail, which originates in Missouri and crosses the States of Kansas, Oklahoma, and Colorado before terminating in Santa Fe, NM, was an important commercial route in our Nation's history. In addition, it provided a critical military and governmental link between the Eastern United States and the new territories in the Southwest.

Unfortunately, only a few small segments remain where the original trail ruts can be seen. However, the trail does pass through several national park units, including national historic sites and national monuments.

Mr. Speaker, there is no question that the Santa Fe Trail meets the criteria for national historic trails established under the National Trails System Act. In addition, H.R. 4794 was improved by several amendments in the committee process. These include a prohibition on condemnation of private lands or interests outside federally administered areas, and a requirement that, prior to entering into a cooperative agreement or acquiring an interest for the trail, the Secretary of the Interior must provide the affected landowner with a notice of the poten-

tial liability associated with public access of his land. This notice is not a Federal indemnity, but rather, a means to inform the landowner of potential liability problems so that he may, if he desires, seek appropriate legal counsel on the matter. I believe these are important amendments which improve this bill and make it acceptable to all involved parties.

In addition, an amendment was adopted in committee to authorize a study of the Kosciuszko Trail for possible designation as a national historic trail. I might point out that Gen. Thaddeus Kosciuszko, who is known for the military sites he fortified during the War of Independence, is already recognized in the National Park System through a national memorial located at Independence National Park in Philadelphia, PA. However, I do not oppose allowing this study to go forward since Congress will have the opportunity to review the study following its completion and determine if a trail designation is appropriate at that time.

I would like to commend three of the sponsors of this legislation, the gentleman from Colorado and New Mexico, Mr. STRANG, Mr. BROWN, and Mr. RICHARDSON, as well as the gentleman from New Mexico, Mr. LUJAN, for their interest in the Santa Fe Trail and their efforts to resolve the differences on this bill and move it forward. I would also like to commend the subcommittee chairman, Mr. VENTO, for acting promptly on this legislation.

Mr. Speaker, I believe this is an excellent bipartisan bill which is also supported by the administration. Therefore, I urge all of my colleagues to support H.R. 4794.

Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from New Mexico [Mr. RICHARDSON], the sponsor and architect of this measure.

Mr. RICHARDSON. Mr. Speaker, I want to take this opportunity to thank my distinguished colleague from the great State of Minnesota, the chairman of the Subcommittee on National Parks and Recreation, the Honorable BRUCE VENTO, for his interest and outstanding leadership role in the Development of the Santa Fe national historic trail bill. I would also like to thank the ranking minority member of the subcommittee, the Honorable BOB LAGOMARSINO, and my colleague from the great State of Colorado, the Honorable HANK BROWN, for their active role in this legislation.

The bipartisan effort behind H.R. 4794, signals a spirit of cooperation toward an effort that will give the Santa Fe Trail its proper place in history and promote tourism for the States that are involved. This legislation has a wide base of support from: 15 original cosponsors, the administration, States, local communities near the trail, historians, chambers of commerce, other national trail associations, and the ranching community has no objections. I understand that the gentlelady from the great State of Kansas plans to introduce a companion bill over on the Senate side this week.

Mr. Speaker, there is great public interest and involvement in this legislation. Just this past weekend more than 230 historians, librarians, and history buffs from communities along the trail gathered for a 3-day seminar at Trinadad State Junior College in Colorado. One of the interesting conclusions that surfaced at this weekend seminar is that historical accounts of the trail do not give enough importance to the role of Hispanic merchants who traveled East from Santa Fe to purchase goods from merchants in Missouri and the East. It is especially appropriate for me to share this with my colleagues today as we celebrate Hispanic Heritage Week.

The opening of the Santa Fe Trail in 1821 marked the first of America's Great Trans-Mississippi Pathways to the West. The trail starts at a point near Old Franklin, MO, runs through Kansas, Oklahoma, and Colorado and on into Santa Fe, NM—approximately 950 miles. The Santa Fe Trail is unique and differed from the Oregon and California Trails in that it was a trail of commerce. The Santa Fe Trail was used to transport goods across the southern prairies to eager customers in what was then the Republic of Mexico's Far North. Within a short time, the Santa Fe Trade ballooned into a million-dollar-a-year business, pouring money and raw products into the State of Missouri and creating a minor economic boom in what had been a depressed area of the American frontier.

Mr. Speaker, so far, 19 sites along the Santa Fe Trail have been selected for inclusion in the National Historic Landmark Program—8 of those sites are in New Mexico. Marc Simmons, a constituent of mine, and the author of a book entitled, "Following the Santa Fe Trail," describes the kind of vacation experience that one might enjoy along the trail best: "If you are open, receptive, and courteous you will have a splendid opportunity to become acquainted with America at its grassroots."

The designation of the trail as a national historic trail and the study that will be conducted by the National Parks Service will go a long way toward providing the public with transportation routes to be able to get to the already identified historic sites. Mr. Chairman, last year alone, over 13,000 people visited the isolated Fort Union National Monument in my home State of New Mexico. According to the New Mexico Tourism Department, these visitors generated over $500,000 in gross receipts for the New Mexico travel industry. The State projects that through a national historic designation, these Fort Union visitors would extend their travel—visiting one or more of the Santa Fe Trail locations. Those increased visitations—with better trail sign posting—would generate more in the way of tourist dollars spent, providing a boost for local communities in northeast New Mexico. I am sure that a similar scenario would occur in the four other States that are part of the trail.

Mr. Speaker, the bill recognizes and respects current land use along the trail. After discussions with ranchers in the States involved, the legislation as amended to ensure that no lands or interests can be added to the trail without the consent of the owner and that there will be a notification to the landowner of any potential liability concerns if easement rights or cooperative agreements are entered into with private landowners. We even changed the starting point of the trail to Old Franklin, MO, after I received a letter from a gentleman from Howard County, MO, who wanted to ensure that Old Franklin was not left out of the designation process.

Mr. Speaker, I believe H.R. 4794 will go a long way in developing the concept of tourism as economic development. I hope that those of us who have a spirit of adventure will support this effort to make the Santa Fe national historic trail bill part of the list of accomplishments of the 99th Congress for the enjoyment of all Americans.

The SPEAKER pro tempore. (Mr. MONTGOMERY). The gentleman from New Mexico [Mr. RICHARDSON] has consumed 5 minutes.

Mr. VENTO. Mr. Speaker, I want to acknowledge and thank the gentleman from New Mexico for his work, and all of those who cosponsored this legislation with the gentleman.

The gentleman from New Mexico has an impressive record in terms of legislation being enacted by this committee. The gentleman is very prolific, in this case especially recognizing an important designation which is meaningful to our Nation, and I commend the gentleman for his excellent effort and work on this measure.

Mr. BROWN of Colorado. Mr. Speaker, I appreciate the opportunity to speak in support of designating the historic Santa Fe Trail as a component of the National Trails System.

The Santa Fe Trail, which began in the early 1880's, was the route traveled by American traders transporting goods to Mexico, their neighbors to the south. Beginning in Independence, MO, the 950-mile trail continued through the States of Kansas, Colorado, and Oklahoma, to Santa Fe, NM.

The trail was first mentioned by Capt. Zebulon M. Pike in the year 1810. The captain envisioned commercial opportunities in trading with the Spanish settlers on the Rio Grande. It was Mexico's split with Spain in 1821 which opened these trade opportunities to American merchants.

In 1822, William Becknell, "The Father of the Trail," hitched his mule team to his wagon and transported the first merchandise from Old Franklin, MO, to Santa Fe, NM.

The Santa Fe Trail continued to prosper for the next 25-years. During that time, many other merchants followed Becknell's path across the southern prairies. The trail became a very lucrative trade route, spurring an economic boom to the depressed economy of Missouri. Many points of historic significance occurred during this period, including Indian, fights, military patrols, and negotiations with Mexico.

In 1846, the first year of the Mexican War, Capt. Stephen W. Kearny led his troops from Bent's Fort, over Raton Pass, to the town of Las Vegas, NM, where the captain expected to face the Mexican Army. However, no enemy materialized. Thus, the U.S. Army captured its first foreign capital and the Mexican Province became American territory. Fort Marcy was built in Santa Fe to symbolize this American conquest.

With the full trail now in American territory, the route became more frequently traveled and forts were added to protect the new lands. Military supplies became a new source of commerce along the trail.

During the late 1840's a cholera epidemic spread through the Indian tribes. In 1849, to protect the health of the military personnel stationed at Bent's Fort, the fort was set ablaze. A new fort was built on the Arkansas River at Big Timbers about 40 miles down from the old fort. An additional fort, Fort Wise, was added about 1 mile from new Bent's Fort. Fort Wise, later renamed Fort Lyon, served as an important supply depot and stage stop along the Santa Fe Trail.

The route continued as a main source of trade. By the year 1858, over 1,800 wagons followed the route annually. However, technology advanced. On February 9, 1880, the first steam engine rolled into Santa Fe. The following day, Santa Fe headlines read, "Santa Fe Trail Passes Into Oblivion."

It has been over 100 years since the steam engine brought the Santa Fe Trail to an end. However, many sites of historic significance remain today. The designation of the Santa Fe Trail as a historic trail would help to retain that history and would aid modern travelers in locating areas of historic significance.

While attempting to retain the historic value of the trail, it is equally important that we respect the rights of landowners currently living along the trail. The bill before us today is a fine example of legislation which takes into account the diverse interests affected by a historic trail designation.

Landowners along the trail had initially feared that the Federal Government would condemn their property for public use of the trail. To alleviate those concerns, H.R. 4794 was amended to protect current landowners. It now specifically states that lands outside of Federal boundaries will not be taken without the consent of the owner. Should a historic site or artifact remain on privately held property, the landowner does have the opportunity to enter into a voluntary agreement with the Government to preserve that important feature on his or her property.

Another concern expressed by landowners resolves around a problem all too common today—the issue of liability. Because there is a chance that a landowner may unknowingly expose himself to lawsuits by allowing sightseers onto his property, it is important that landowners are informed prior to entering into a voluntary agreement. H.R. 4794 directs the Government to notify landowners prior to entering into an agreement that there may be a potential liability issue. The landowner may then investigate what problems may arise and make an informed decision as to whether he or she will allow public access onto the property.

Mr. Speaker, the Santa Fe Trail is the story of America and her commerce. H.R. 4794 would enable us to preserve this important element of American history while protecting the rights of those people who continue to earn their living along the trail. It is a delicate balance, but one that is achieved through this legislation. I urge my colleagues to support its passage.

Mr. BORSKI. Mr. Speaker, I rise to support H.R. 4794, to designate the Santa Fe Trail as a national historic trail. The trail is an important part of our national heritage. The recognition of the Santa Fe Trail is long overdue, and I am pleased that the House is taking action to protect this historic route. I commend the gentleman from New Mexico [Mr. RICHARDSON] for his leadership.

The legislation also authorizes a study of the Kosciuszko Trail under section 5(c) of the National Trails Systems Act, and I want to bring this issue to the attention of the House. The proposed Kosciuszko Trail is a system of markers that would link the military sites fortified by the great Polish military engineer, Gen. Thaddeus Kosciuszko, during our War of Independence.

General Kosciuszko's genius as a military engineer contributed materially to the success of the American revolution. The fortifications that he planned stretch from Vermont to South Carolina, and played a key role in helping our Nation in its struggle for freedom.

Kosciuszko directed construction of a fort at West Point which protected the Hudson Valley. He later urged Congress to select the site for the U.S. Military Academy. He planned the fortifications which protected Philadelphia from British attack. He set the stage for the American victory at Saratoga, probably the decisive battle of the war. In the later periods of the war, he served with distinction in Virginia, North Carolina, and South Carolina.

Congress has already taken the lead in the effort to honor the contributions that General Kosciuszko made to our country. In 1977, it enacted Senate Concurrent Resolution 44 which recognized the Kosciuszko Military Engineering Sites. These are the sites that link the proposed Kosciuszko Trail.

However, I believe that something more significant should be done to mark and unify the Kosciuszko Trail, and the sites along the trail. That is why we are asking the National Park Service to study the feasibility of designating the Kosciuszko Trail as a national historic trail. I believe that the national historic trail designation would be most appropriate but anticipate that the Park Service would consider other designations as part of its feasibility study.

Mr. Speaker, I strongly support this legislation, I thank the gentleman from New Mexico, and I urge the House to pass the bill.

Mr. VENTO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 4794, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

PATENTS IN SPACE

Mr. KASTENMEIER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4316) to amend title 35, United States Code, and the National Aeronautics and Space Act of 1958, with respect to the use of inventions in outer space as amended.

The Clerk read as follows:

H.R. 4316

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SPACE INVENTIONS.

(a) AMENDMENTS TO TITLE 35, UNITED STATES CODE.—(1) Chapter 10 of title 35, United States Code, is amended by adding at the end the following:

"§ 105. Inventions in outer space

"Any invention made, used or sold in outer space on an aeronautical and space vehicle (as defined in section 103(2) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2452(2)) under the jurisdiction or control of the United States shall be considered to be made, used or sold within the United States for purposes of this title, except with respect to any space vehicle or component thereof that is specifically identified and otherwise provided for by an international agreement to which the United States is a party.".

(2) The table of sections of chapter 10 of title 35, United States Code, is amended by adding at the end the following:

"105. Inventions in outer space.".

(b) AMENDMENT TO NATIONAL AERONAUTICS AND SPACE ACT.—Section 305 of the National

Aeronautics and Space Act of 1958 (42 U.S.C. 2457) is amended by adding at the end the following new subsection:

"(m) Any invention made, used or sold in outer space on an aeronautical and space vehicle (as defined in section 103(2)) under the jurisdiction or control of the United States shall be considered to be made, used or sold within the United States for purposes of this Act, except with respect to any space vehicle or component thereof that is specifically identified and otherwise provided for by an international agreement to which the United States is a party.".

SEC. 2. EFFECTIVE DATE.

(a) IN GENERAL.—Subject to subsections (b), (c) and (d) of this section, the amendments made by section 1 shall apply to all United States patents granted before, on, or after the date of the enactment of this Act, and to all applications for United States patents pending on or filed on or after such date of enactment.

(b) AMENDMENTS NOT TO AFFECT PRIOR DECISIONS.—The amendments made by section 1 shall not affect any final decision made by a court or the Patent and Trademark Office before the date of the enactment of this Act with respect to a patent or an application for a patent, if no appeal from such decision is pending and the time for filing an appeal has expired.

(c) AMENDMENTS NOT TO AFFECT CERTAIN PENDING CASES.—The amendments made by section 1 shall not affect the right of any party in any case pending in a court on the date of the enactment of this Act to have the party's rights determined on the basis of the substantive law in effect before such date of enactment.

(d) AMENDMENTS TO BE PROSPECTIVE IN APPLICATION.—Subject to subsections (b) and (c) of this section, the amendments made by section 1 shall not apply to any process, machine, article of manufacture, or composition of matter, an embodiment of which was launched prior to the effective date of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. MOORHEAD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Wisconsin [Mr. KASTENMEIER] will be recognized for 20 minutes and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. KASTENMEIER].

Mr. KASTENMEIER. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, H.R. 4316 is a relatively simple noncontroversial bill. We have had hearings on this bill both in the Committee on the Judiciary and in the Committee on Science and Technology. This bill has the support of the administration, NASA, the Departments of State and Commerce, and as far as we can ascertain, all appropriate parties in the private sector.

I wish certainly to commend our sister committee, the Committee on Science and Technology, for its cooperation, its contributions, in fact, to this bill.

Mr. Speaker, I note that the distinguished chairman of the Committee on Science and Technology is here, the gentleman from Florida [Mr. FUQUA] and I, without making further explanation, yield such time as he may consume to the chairman of the Committee on Science and Technology for whatever remarks he would care to make.

Mr. FUQUA. Mr. Speaker, I rise in support of H.R. 4316, which clarifies the applicability of the U.S. patent laws to activities occurring in outer space. This bill had been jointly referred to the Committee on Science and Technology and the Judiciary Committee. Let me begin by commending my colleague, Mr. KASTENMEIER, for the outstanding cooperation which he and his staff exhibited as this bill moved through our respective committees. The exemplary coordinating of activities of our two committees makes possible our consideration of this bill today.

The Committee on Science and Technology, and particularly its Subcommittee on Space Science and Applications, has recognized for a long time the enormous benefits to our society which would be possible if the entrepreneurial spirit of the private sector could be brought to bear on the limitless opportunities available in outer space. For this reason, we have continually encouraged commercial activities in space, beginning with the sharing of NASA's research and development information with the private sector and continuing with the feasibility demonstrations which the unique capabilities of the space shuttle have made possible.

But as commercial enterprises became more and more involved in space activities, questions began to arise as to the applicability of certain U.S. laws to those activities. One early example was the concern that the protections afforded private industry by the U.S. patent laws would not extend to their activities in space. H.R. 4316 addresses this concern and provides the private sector with the clarity and certainty which are needed to continue private activities to develop outer space.

Quite simply, this bill extends the applicability of U.S. patent law to activities occurring on U.S. aeronautical and space vehicles. This bill extends the jurisdiction of the United States to those vehicles by amending title 35 of the United States Code, the patent laws, and the National Aeronautics and Space Act of 1958, which established NASA and the guidelines within which it operates. This jurisdictional change is accomplished without changing the substantive patent laws. That is to say, an inventor will receive the same protection under the patent laws whether his activities occur in space or here on Earth. That is how it should be.

This basic principle was further enhanced by the amendments to H.R. 4316 which the Committee on Science and Technology has adopted. First, the phrase "made or used" was changed to "made, used or sold." Even though sales in outer space may seem remote now, we felt it was important that they be included as acts of infringement, just as they are for inventions here on Earth. Second, a provision was added to clarify that this bill is intended to apply prospectively. That is, the provisions of this bill will not apply to space vehicles launched before it is enacted. This also ensures that the private sector has a clear understanding of what law applies to their activities.

Finally, another important aspect of this is that it will provide NASA with the flexibility it needs during negotiations on agreements with our foreign partners—Europe, Japan, and Canada—who will be cooperating with the United States in the development and use of the space station. The bill provides an exception to the strict applicability of U.S. patent law, for space vehicles or parts of space vehicles that are specifically identified and otherwise provided for by an international agreement to which the United States is a party.

This is an important piece of legislation which will encourage the private sector to invest in and develop outer space. It comes at a time in the U.S. space program when such encouragement is welcome. I urge my colleagues to support this bill and reaffirm this country's commitment to maintaining the preeminence of the U.S. space program.

□ 1415

Mr. Speaker, again let me express my appreciation to the distinguished gentleman from Wisconsin [Mr. KASTENMEIER] and to the Committee on the Judiciary for the expeditious manner in which they handled this matter, and also to the Subcommittee on Space Science and Applications very ably chaired by the distinguished gentleman from Florida [Mr. NELSON] and the ranking minority member on that subcommittee, the distinguished gentleman from Pennsylvania [Mr. WALKER].

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to indicate my support for H.R. 4316, Patents in Space, which would clarify the application of the U.S. patent law to activities aboard American vehicles in outer space. I would also like to commend the chairman of the Courts Subcommittee, the gentleman from Wisconsin

[Mr. KASTENMEIER] for his work on this legislation.

The bill, which is without opposition, would amend the patent laws by adding a new section 105 to title 35 United States Code to provide that an "invention made or used" on space vehicles under the jurisdiction of the United States shall be deemed to have been made or used within the United States.

During the Courts Subcommittee's hearing on the bill, NASA suggested that greater certainty in the application of patent law to activities in outer space would enhance the commercialization of space. NASA contended that absent clear statutory treatment of this issue investors in the space shuttle and future space stations or platforms will be discouraged from pursuing commercial utilization of space.

It is the opinion of various academic and industrial patent law experts that H.R. 4316 merely restates current law. Nonetheless, I agree with those who believe that it is important for us to resolve the issue in a timely fashion, as opposed to leaving its resolution to the judiciary.

In addition to several members of the Courts Subcommittee, H.R. 4316 hs been cosponsored by the chairman, Mr. NELSON of Florida, and the ranking minority member Mr. WALKER of Pennsylvania, of the Science and Technology Subcommittee on Space and Science and Applications as well as the chairman of the full committee, Mr. FUQUA of Florida. The members of the Science and Technology Committee have also considered this legislation and made positive contributions to it and I commend them for their efforts. The bill has strong bipatrisan support and is without additional costs to the Government. Accordingly, I urge my colleagues support for it.

Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I rise this afternoon to strongly support H.R. 4316. This legislation will clarify the application of U.S. patent law over inventions made, used, or sold in outer space on aeronautical or space vehicles within the jurisdiction or control of the United States.

The American space program is at an important junction. With the regular manned flight of the Space Transportation System, the shuttle, we are now entering a new era in which manned experimentation in outer space will become nearly routine. The Committee on Science and Technology has strongly supported the commercialization of space activities by the private sector. Despite the tragic loss of the *Challenger* and our present extended standdown, there are already a number of companies and individuals deeply involved in experimental programs which will lead to major breakthroughs in the fields of biomedical products, advanced materials, and electronic crystals. The potential in space commercialization is virtually limitless.

However, we have discovered that there is a major potential problem facing these inventors as they move forward. It is a well settled matter that the intellectual property laws found in title 35 of the United States Code are territorial by nature. In fact, the Supreme Court of the United States held in Deepsouth Packing Co. versus the Laitiam Corp. that the U.S. patent system "makes no claim to extraterritorial effect and was not intended to operate beyond the limits of the United States."

Some courts have held that our patent laws apply to any place under U.S. jurisdiction. That has been interpreted to extend national patent laws to all places over which the United States exercises soverign rights, including U.S.-flag ships on the high seas or U.S.-flag aircraft in airspace above the high seas. However, the extension of our intellectual property laws to space vehicles is far from clear, and the General Counsel of NASA has determined that any such applicability would have to be determined on a case-by-case basis.

Mr. Speaker, while the Congress is actively engaged in the promotion of commercial activities we need to adopt this legislation to give the private sector the confidence that will allow them to make the major expenditures in research and development activities in space.

Mr. Speaker, I particularly want to point out that this bill represents a major step forward toward space based economy of the 21st century. This legislation will extend patent rights to inventions made, used, or sold in outer space. While there are no sales in space today, the Committee on Science and Technology can readily forsee sales in space as common events in the future.

I should also point out, Mr. Speaker, that H.R. 4316 is prospective in application. This legislation would not affect any pending suits. The bill has the strong support of the Committee on Science and Technology, and I understand that it is also strongly supported by the Committee on the Judiciary. The bill, as amended in the Committee on Science and Technology, is also supported by the administration.

Mr. Speaker, I urge the House to suspend the rules and pass H.R. 4316.

Mr. KASTENMEIER. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. NELSON], my coworker on this project, whose encouragement, cooperation and contributions were appreciated and to whom which we are very much indebted, as well as to acknowledge the fact that the gentleman is the single Member of this body to heroically experience space itself. I am very proud to work with him.

Mr. NELSON of Florida. Mr. Speaker, I rise in support of this important piece of legislation. I would echo the sentiments of my colleague and Chairman DON FUQUA as to the support and cooperation displayed by the Judiciary Committee during the coordination of our efforts to report this bill to you. I would also like to add my thanks to the members of our Subcommittee on Space Science and Applications. This bill received bipartisan support in the subcommittee and I can speak for all of its members in urging favorable consideration of this legislation.

This bill sends the right message to the private sector about this country's commitment to its space program and the role that we want the private sector to play in developing the commercial potential of space. And it couldn't come at a better time. Many have argued for the need for firm direction for the U.S. space program. This bill provides a major first step for an important participant in our space efforts.

If this bill is enacted, commercial entities will know, with certainty, that their activities in space will receive the same patent protection that they would if conducted here on Earth. Removing that element of risk from the decision process of these companies will greatly increase the chances that they will proceed with their plans for activities in space. And that couldn't be better for America.

We must return America's space program to its rightful place of prominence. This bill represents a first step in that direction by encouraging the continued efforts of private industry in space. I urge you to support this effort at this critical juncture in our Nation's space program.

Mr. KASTENMEIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4316 is a relatively simple, noncontroversial bill. We have had hearings on it during this Congress, and it has the support of the administration, NASA, the Commerce, and State Departments, and as far as we can ascertain, all the appropriate parties in the private sector.

In general terms the bill states that inventive or other activities which occur in outer space on board U.S. space vehicles shall be treated for patent purposes as though these activities occurred within the United States. Specifically, the bill, amends the patent law by adding a new section 105 to title 35, United States Code, to provide that an invention made used or sold on space vehicles under the jurisdiction of the United States shall be

deemed to have been made or used within the United States.

During the hearing on the bill NASA suggested that greater certainty in the application of patent law to activities in outer space would enhance the commercialization of space. NASA contended that in the absence of clear statutory treatment of this issue, investors in the space shuttle and future space stations or platforms would be discouraged from commercially utilizing space.

The reason for clarifying legislation is that there is no clear judicial precedent in this area of patent law. We, therefore, are acting in anticipation of the commercial exploitation of space.

There are four purposes for the legislation. The first purpose is to provide that actions which occur in outer space jurisdiction can infringe a U.S. patent.

The second is to rationalize the system by which priorities are given to inventions. This is particularly important since U.S. law is based on a first-to-invent system rather than first-to-file system.

The third purpose of the bill is to regulate prior art, and in this regard, to provide needed conformity in law.

Finally, and this may be important only to some, it makes it clear that—as relates to domestic concerns about national or international security, these occurrences or inventions in outer space are controlled by the Invention Secrecy Act.

For these four reasons, passage of this bill is necessary, and certainly is supported by all members of the Committee on the Judiciary.

I should note that the bill contains two amendments suggested by the Committee on Science and Technology. First, the bill makes the sale of goods covered by a U.S. patent in outer space a potential act of infringement. Second, the bill may deem that the provisions of the bill not apply for pending cases—such as Hughes Aircraft versus United States. In addition, the bill does not apply to vehicles launched before the effective date of the bill. If, however, an existing patent covering a product launched after the effective date use of that product abroad a U.S. vehicle without consent could constitute an act of infringement.

I wish to thank members of the committee, especially the gentleman from California [Mr. MOORHEAD], for their support. Moreover, the cooperation of the Committee on Science and Technology has made this bill possible.

□ 1425

Mr. MOORHEAD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. KASTENMEIER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin [Mr. KASTENMEIER] that the House suspend the rules and pass the bill, H.R. 4316, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

PATENT EQUITY ACT

Mr. KASTENMEIER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4899) to amend title 35, United States Code, with respect to patented processes and the patent cooperation treaty, as amended.

The Clerk read as follows:

H.R. 4899

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Patent Equity Act".

SEC. 2. REFERENCE TO TITLE 35, UNITED STATES CODE.

Whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of title 35, United States Code.

TITLE I—PATENTED PROCESSES

SEC. 101. RIGHTS OF OWNERS OF PATENTED PROCESSES.

Section 154 is amended by inserting after "United States," the following: "and, if the invention is a process, of the right to exclude others from using or selling throughout the United States, or importing into the United States, products made by that process,".

SEC. 102. INFRINGEMENT FOR IMPORTATION OR SALE.

Section 271 is amended by adding at the end the following new subsection:

"(g) Whoever without authority imports into the United States or sells or uses within the United States a product which is made by a process patented in the United States shall be liable as an infringer, if the importation, sale, or use of the product occurs during the term of such process patent. In an action for infringement of a process patent, no remedy may be granted for infringement on account of the use of a product unless there is no adequate remedy under this title for infringement on account of the importation or sale of that product. A product which is made by a patented process will, for purposes of this title, not be considered to be so made after—

"(1) it is materially changed by subsequent processes; or

"(2) it becomes a minor or nonessential component of another product.".

SEC. 103. DAMAGES FOR INFRINGEMENT.

Section 287 is amended—

"(1) by inserting "(a)" before "Patentees"; and

"(2) by adding at the end the following:

"(b)(1) No damages may be recovered for an infringement under section 271(g) of this title with respect to a product unless the infringer knew or was on notice that the product was made by a process patented in the United States. Damages may be recovered only for such infringement occurring after such knowledge or notice and, with respect to—

"(A) a product obtained before such knowledge or notice, or

"(B) a product which—

"(i) is purchased pursuant to a contract that is entered into before such knowledge or notice and that provides for the delivery of a fixed quantity of the product in a specified period of time, and

"(ii) is in the inventory of or in transit to the purchaser, or is received by the purchaser within 6 months after such knowledge or notice,

shall be limited to reasonable royalties therefor.

"(2) For purposes of paragraph (1), 'notice' means the receipt of facts set forth in writing which are sufficient to establish that there is a substantial likelihood that the product was made by an infringing process.".

SEC. 104 EFFECTIVE DATE.

The amendments made by this title apply to United States patents granted before, on, or after the date of the enactment of this Act, except that these amendments do not apply to any product imported into or made in the United States before such date.

SEC. 105. REPORTS TO CONGRESS.

(a) CONTENTS.—The Secretary of Commerce shall, not later than the end of each one-year period described in subsection (b), report to the Congress on the effect of the amendments made by this title on the importation of ingredients to be used for manufacturing products in the United States in those domestic industries that submit complaints to the Department of Commerce, during that one-year period, alleging that their legitimate sources of supply have been adversely affected by the amendments made by this title.

(b) WHEN SUBMITTED.—A report described in subsection (a) shall be submitted with respect to each of the five one-year periods which occur successively beginning on the date of the enactment of this Act and ending five years after that date.

TITLE II—PATENT COOPERATION TREATY AUTHORIZATION

SEC. 201. DEFINITIONS.

(a) TREATY.—Section 351(a) is amended by striking ", excluding chapter II thereof".

(b) REGULATIONS.—Section 351(b) is amended by striking "excluding part C thereof".

(c) INTERNATIONAL SEARCHING AUTHORITY AND INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY.—Section 351(g) is amended by striking "term 'International Searching Authority' means" and inserting "terms 'International Searching Authority' and 'International Preliminary Examining Authority' mean".

SEC. 202. TIME FOR FILING FEES.

Section 361(d) is amended to read as follows:

"(d) The international fee, and the transmittal and search fees prescribed under section 376(a) of this part, shall be paid either on filing of an international application or within such later time as the Commissioner may prescribe.".

SEC. 203. PATENT OFFICE AS INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY.

(a) AUTHORITY OF PATENT OFFICE.—Section 362 is amended to read as follows:

"§ 362. International Searching Authority and International Preliminary Examining Authority

"(a) The Patent and Trademark Office may act as an International Searching Authority and an International Preliminary Examining Authority with respect to international applications in accordance with the terms and conditions of an agreement which may be concluded with the International Bureau, and may discharge all duties required of such Authorities, including the collection of handling fees and their transmittal to the International Bureau.

"(b) The handling fee, preliminary examination fee, and any additional fees due for international preliminary examination shall be paid within such time as the Commissioner may prescribe.".

(b) CONFORMING AMENDMENT.—The item relating to section 362 in the table of sections for chapter 36 is amended to read as follows:

"362. International Searching Authority and International Preliminary Examining Authority.".

SEC. 204. INTERNATIONAL STAGE: PROCEDURE.

Section 364(a) is amended by striking "or International Searching Authority, or both," and inserting ", an International Searching Authority, or an International Preliminary Examining Authority,".

SEC. 205. SECRECY OF INTERNATIONAL APPLICATIONS.

Section 368(c) is amended by striking "or International Searching Authority, or both," and inserting ", an International Searching Authority, or an International Preliminary Examining Authority".

SEC. 206. COMMENCEMENT OF NATIONAL STAGE.

(a) RECEIPT OF DOCUMENTS FROM THE INTERNATIONAL BUREAU.—Subsection (a) of section 371 is amended to read as follows:

"(a) Receipt from the International Bureau of copies of international applications with any amendments to the claims, international search reports, and international preliminary examination reports (including any annexes thereto) may be required in the case of international applications designating or electing the United States.".

(b) TIME LIMIT FOR COMMENCEMENT OF NATIONAL STAGE.—Subsection (b) of section 371 is amended to read as follows:

"(b) Subject to subsection (f) of this section, the national stage shall commence with the expiration of the applicable time limit under article 22 (1) or (2) or under article 39(1)(a) of the treaty.".

(c) FILING OF ENGLISH TRANSLATION.—Subsection (c) of section 371 is amended—

(1) in paragraph (4) by striking the period and inserting "; and"; and

(2) by adding at the end the following:

"(5) a translation into the English language of any annexes to the international preliminary examination report, if such annexes were made in another language.".

(d) TIME PERIOD FOR SUBMISSION OF ANNEXES.—Subsection (d) of section 371 is amended by adding at the end the following new sentence: "The requirement set forth in subsection (c)(5) of this section shall be complied with at such time as the Commission may prescribe, and failure to do so shall be regarded as cancellation of the amendments made under article 34(2)(b) of the treaty.".

(e) TIME PERIOD FOR PRESENTATION OF AMENDMENTS.—Subsection (e) of section 371 is amended by inserting "or article 41" after "28".

SEC. 207. FEES.

(a) HANDLING AND PRELIMINARY EXAMINATION FEES.—Subsection (a) of section 376 is amended—

(1) by striking "fee, which amount is" and inserting "fee and the handling fee, which amounts are";

(2) by redesignating paragraph (5) as paragraph (6); and

(3) by inserting after paragraph (4) the following new paragraph:

"(5) A preliminary examination fee and any additional fees (see section 362(b)); and".

(b) PRESCRIPTION AND REFUNDABILITY OF FEES.—Subsection (b) of section 376 is amended—

(1) in the first sentence by inserting "and the handling fee" after "international fee"; and

(2) in the third sentence by inserting "the preliminary examination fee, and any additional fees," after "fee,".

SEC. 208. EFFECTIVE DATE.

The amendments made by this title—

(1) shall take effect on the same day as the effective date of entry into force with respect to the United States of chapter II of the Patent Cooperation Treaty, on account of the withdrawal of the declaration under article 64(1)(a) of the Patent Cooperation Treaty; and

(2) shall apply to all international applications pending on or filed on or after the date on which the amendments made by this title take effect.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Wisconsin [Mr. KASTENMEIER] will be recognized for 20 minutes and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. KASTENMEIER].

Mr. KASTENMEIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this afternoon the House has before it the Patent Equity Act of 1986. This bill is a product of more than 4 years of work by the Committee on the Judiciary.

The bill contains two titles: Title I relates to process patents and title II implements the Patent Cooperation Treaty.

In general terms, title I of the bill provides that it is an act of patent infringement, for a person to import, use, or sell a product which has been made in violation of a U.S. process patent.[1]

Under current patent law, the manufacture and subsequent importation of the product of an item in violation of a process patent does not constitute an infringement of a U.S. patent. This bill remedies that omission.

Now, I want to particularly congratulate my colleague, Mr. MOORHEAD; it is his persistence and his interest in this legislation that has, I think, largely been responsible for getting this bill to the floor.

Two years ago, a similar bill was passed by the House but was not enacted because of last-minute opposition in the other body. Hopefully, H.R. 4899 will meet a better fate this Congress.

American patent law has long recognized the validity of securing for inventors the right to exclude others from practicing an invention that consists of a method of making a product. Process patent protection has been a part of U.S. law since at least the 19th century. Process patents extend intellectual property protection for new and useful processes, art or methods of creating an object. Since 1952, there has been an explicit statutory acknowledgment of the availability of process patent protection. Process patents, however, have been granted only partial protection against acts of infringement. This is so because, unlike product patents, the use of a patented process outside the United States and a subsequent importation of the foreign product is not an act of patent infringement. The failure to fully protect American process patents harms American businesses, results in a loss of domestic jobs, and is contrary to the public interest. Therefore, one of the positive factors about title I of H.R. 4899 is that it creates a level international playing field for American inventors contrary to the public interest. Many foreign countries adequately protect process patents, thus leaving American patent holders in a position to become the victims of unfair competition.

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[1] A product will be considered made by the patented process regardless of any subsequent changes if it would not be possible or commercially viable to make that product but for the use of patented process. In judging the commercial viability, the courts shall use a flexible standard which is appropriate to the competitive circumstances. For example, where the patented process is to produce chemical X, and chemical X is an intermediate or precursor in the manufacture of imported product chemical Y, and it would not be possible or commercially viable to make imported product chemical Y but for the use of the patented process for the intermediate or precursor chemical X, the connection between the patented process for chemical X and the imported product chemical Y is not broken and the imported product Y is not materially changed for purposes of this section.

In the biotechnology field, it is well known that naturally occurring organisms contain within them particular genetic sequences composed of unique structural characteristics. The patented process may be for the process of preparing a DNA molecule comprising a specific genetic sequence. A foreign manufacturer uses the patented process to prepare the DNA molecule which is the product of the patented process. The foreign manufacturer inserts the DNA molecule into a plasmid or other vector and the plasmid or other vector containing the DNA molecule is, in turn, inserted into a host organism; for example, a bacterium. The plasmid-containing host organism still containing the specific genetic sequence undergoes expression to produce the desired polypeptide. Even though a different organism was created by this biotech procedure, if it would not have been possible or commercially viable to make the different organism and product expressed therefrom but for the patented process, the product will be considered to have been made by the patented process.

Process patent protection today is of central importance in the pharmaceutical industry, to the development of solid state electronics, for the manufacture of certain amorphous metals and, perhaps most significantly, for the biotechnology industry. For most biotech companies, the best, and sometimes only, available protection of their intellectual property is a process patent. Such a patent is effective in securing for the inventor the right to prevent others from practicing that invention in the United States. Under current law, a process patent is limited to the territory of the United States; it therefore is possible, if not likely, for a process patent holder to face domestic competition from persons who have used the patented process to create a product overseas and then ship it into the United States. In this situation, the patent owner cannot sue for patent infringement; rather, the owner is relegated to the U.S. International Trade Commission [ITC] to seek limited nonmonetary relief.

There is no logical reason to exclude from the ambit of patent infringement acts associated with the abuse of a U.S. process patent as long as they occur within the reach of U.S. domestic law. Moreover, as the President's Commission on Industrial Competitiveness has found, the failure to extend such protection diminishes the economic value of U.S. process patents. Without domestic legal protection, competitors using the protected process may accept the limited risks of foreign production and importation, in exchange for lower foreign production costs. There is no policy justification for encouraging such overseas production and concurrent violation of U.S. intellectual property rights.

The compelling nature of this deficiency in U.S. patent laws has been evident both in the Congress and to the executive branch. Reform in this area is a centerpiece in trade law reform.

The bill before us contains provisions which attempt to meet some other objections to the bill which have been heard from a variety of quarters.

The committee deleted the statutory presumption, certainly a move favored by retailer community and generic drug companies.

The amendment also changed the notice that patent owners are required to give before liability is triggered in a way more favorable to those two interest groups.

In sum, these amendments go part of the way toward meeting the objections of the bill's opponents.

We have reviewed some amendments under consideration in the other body and have had to reject them. The view is based on concerns about the impact of such proposals on nonpharmaceutical industry process patent holders, workability and fairness to patent holders. It is my understanding that the administration, through the Secretary of Commerce, shares these views. It remains my hope, however, that our differences with the other body can be reconciled before adjournment.

Title I will help address the U.S. trade deficit and inability to protect American intellectual property overseas. It is supported by much of American industry and in principle by the administration.[2]

Title II of H.R. 4899 amends our patent laws to authorize the U.S. Patent and Trademark Office to undertake the responsibilities outlined in chapter II of the Patent Cooperation Treaty. Basically, the PTO is granted statutory authority to serve as an international examining officer with respect to international patent applications. This new responsibility is in addition to those under chaper I, which the PTO has already undertaken in accordance that it was enacted into law during the 94th Congress.

The Patent Cooperation Treaty is administered effectively and fairly by the World Intellectual Property Organization, located in Geneva, Switzerland. The significance of the treaty is underscored by an observation made by the WIPO Director General (Dr. Arpad Bogsch): "The PCT system has been revised over the years as is now an even more important instrument for filing patent application abroad."

Enactment of title II is supported by the administration and by numerous patent law associations and individuals, including most recently the American Bar Association.

By facilitating the obtaining of patent protection abroad, the legislation will promote exports from the United States. It further will simplify and render more economical the filing of patent applications on the same inventions in different countries and the receiving of patent coverage in those countries.

In conclusion, H.R. 4899 will improve patent protection not only in this country but also internationally. I urge your support for this important legislation.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this legislation has the strong support of American corporations, both large and small. It has the support of inventors, the American Council on Education and the Association of American Universities. It has the support of the AFL-CIO. This legislation passed the House on suspension in October 1984, without a dissenting vote. I want to thank our subcommittee chairman, Mr. KASTENMEIER, for his continued leadership on this issue. He has kept this bill on track and kept it from getting lost in an otherwise busy schedule. I also want to thank our ranking member, Mr. FISH, for all of his support and help from the very beginning.

H.R. 4899 neither creates any new property rights nor does it extend the life of any patent. It would merely prevent somebody from going abroad and violating a U.S.-held process patent by manufacturing through the use of that process, certain products and then shipping those products back into the United States to compete with the U.S.-made product.

It is basically unfair to permit persons to use somebody else's invention and allow that person to import those products back into this country and compete with the person who actually invented the process. This legislation will in no way affect the consumer or the elderly except maybe to assure that he or she is receiving the real product sought and not a product produced by the use of a U.S.-patented process in a foreign country under less stringent standards.

This sort of evasion of our patent law is costly, not only in actual revenue lost but also to the number of U.S. jobs that are actually lost to foreign manufacturers. For example, we have a letter in our file from the Glass Workers Union, which states that they believe this present practice has cost their industry alone upwards of 50,000 jobs.

All this legislation does is bring the law in line with existing law and practice in France, England, West Germany, Switzerland, and numerous other countries.

Title II of H.R. 4899 would authorize the Patent and Trademark Office to act as an International Preliminary Examining Authority and as an Elected Office under chapter II of the Patent Cooperation Treaty. When the United States ratified the treaty in November 1975, it did so with a declaration that it was not bound by the provisions of chapter II thereof. Experience gained with the operation of the treaty during the ensuing years, as well as major steps taken by other countries to harmonize international patent processing procedures, such as the coming into force of the European Patent Convention in 1978, have largely eliminated this reason. Accordingly, it would be in the interest of U.S. industry and independent inventors alike, if the United States withdrew its reservations regarding chapter II of the treaty. Because the treaty is not self-executing, adherence to chapter II requires implementing legislation, such as that proposed here.

[2] The administration has expressed two concerns: (1) The absence of a statutory presumption and (2) the presence of a limitation on damages for "innocent infringers." The House Report , 99-807, makes clear that we agree a presumption is appropriate in some cases. The "innocent infringement" provisions will no doubt be the subject of further negotiation and discussion.

The Senate Judiciary Committee has favorably reported a similar bill. I am not aware of any opposition to this legislation, and urge support for it.

Mr. FISH. Mr. Speaker, this is important legislation and I would like to commend the chairman of the subcommittee, Mr. KASTENMEIER and the ranking member of the subcommittee, Mr. MOORHEAD, for their continued support and leadership on this issue. Mr. MOORHEAD's diligence and willingness to compromise is the reason this bill has come as far as we have today.

This legislation makes a number of important changes in our patent law. They are changes that are important to U.S. corporations. They are changes that are important to U.S. patent owners and they are changes that are important to U.S. innovation. The idea of protecting a process patent has the support of the administration. We introduced legislation last Congress and again early this Congress. This body passed a similar bill 2 years ago. Legislation is presently being worked on in the other body and with a little luck it may well become law this year.

Under the patent law inventors can get two kinds of patents: product patents and process patents. The first protects the product itself; the second protects the process by which a product is made, usually a complex chemical or industrial process.

Presently, the infringement of a product patent occurs if the patented invention is made, used or sold in the United States by someone other than the patent owner. A person cannot avoid infringement of a product patent by manufacturing the product overseas and then importing it into this country because use or sale of the patent in the United States would infringe the patent.

A process patent, however, only protects the method of making an article or product. Today, the holder of a U.S. process patent cannot use the patent law to prevent someone from practicing the patented process in a foreign country and importing those goods into the United States. H.R. 4899 would correct this problem. The importance of process patent protection to the national economy especially in such vital technical fields as industrial chemicals and pharmaceutical manufacturing, microbiology, and solid state electronics, cannot be overstated.

Title II of this legislation would implement the Patent Cooperation Treaty and by its provision enable U.S. patent applicants to avail themselves of the advantages offered by the treaty which came into force, internationally in 1978. When the United States ratified the treaty it exercised its option not to be bound by chapter II of the treaty. This legislation would remove that reservation. In July 1984, President Reagan requested the Congress to withdraw its reservation against adherence to chapter II.

Mr. Speaker, I am not aware of any opposition to this legislation and urge a favorable vote on its passage.

Mr. BROOKS. Mr. Speaker, I support H.R 4899, the Patent Equity Act, and hope that my colleagues will, too. This bill aims at securing the rights of American inventors and companies which have patents on methods of manufacturing—commonly referred to as process patents. Process patents have been recognized in American case law since the 1800's and by Federal statute since 1951. Process patents are critical to the development of our pharmaceutical industry, and American advances in solid state electronics, biotechnology, and amorphous metals.

Process patent holders' rights have not been adequately protected though because infringements occurring overseas cannot be stopped. When a product itself is patented, use by someone in the United States will constitute patent infringement and the patent holder may sue to protect his interests. However, in the case of a process that is patented, it can be violated in a foreign country and the product manufactured by that process can then be imported and sold in the United States without technically violating the patent laws.

H.R. 4899 would provide protection to the process patent holder by making the importation, sale or use of a product manufactured by a patented process an infringement under the patent law. To protect the innocent who may unknowingly import or sell a product which was made by a patented process, the bill provides that liability for damages in a process patent infringement suit will not be awarded unless the defendant knew or was notified that the product was manufactured by the patented process.

It is important that this legislation be enacted to insure that the rights of American patent holders on processes are protected. I urge my colleagues to support H.R. 4899.

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Mr. KASTENMEIER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Wisconsin [Mr. KASTENMEIER] that the House suspend the rules and pass the bill, H.R. 4899, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

AMERICAN FOLKLIFE CENTER AUTHORIZATION

Ms. OAKAR. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4545) to authorize appropriations for the American Folklife Center for fiscal years 1987, 1988, and 1989, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4545

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8(a) of the American Folklife Preservation Act (20 U.S.C. 2107(a)) is amended—

(1) by striking out "(a)";

(2) by striking out "and" after "1985,"; and

(3) by inserting after "1986" the following: ", $867,900 for the fiscal year ending September 30, 1987, $919,974 for the fiscal year ending September 30, 1988, and $975,172 for the fiscal year ending September 30, 1989".

SEC. 2. Section 8(b) of the American Folklife Preservation Act (20 U.S.C. 2107(b)) is repealed.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentlewoman from Ohio [Ms. OAKAR] will be recognized for 20 minutes and the gentleman from Kansas [Mr. ROBERTS] will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the American Folklife Center was created in 1976 in the Library of Congress as a national coordinative center to help give focus, coordination, and leadership to local and regional efforts to document, preserve, and nurture America's ethnic and cultural traditions. The Center includes the Library's archive of folk culture, which since 1928 has worked to document and preserve original recordings and manuscripts depicting our country's ancestral roots. Songs, stories, and crafts are all products of ethnic diversity and have contributed to what is our unique American character. The American Folklife Center should be allowed to continue its excellent work and maintain its status as the coordinative center for American folk heritage. H.R. 4545 provides authorization for just this purpose.

Mr. Speaker, I reserve the balance of my time.

Mr. ROBERTS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on behalf of the minority members of the Committee on House Administration, I rise in support of H.R. 4545—the reauthorization for the American Folklife Center for 1987, 1988, and 1989. The American Folklife Center was created in 1976 at the Library of Congress to preserve and present American folklife through programs of research, documentation, archival preservation, live presentations, exhibits, and publications. The authorization for this program has gone from $133,500 in 1976 to $867,900 in 1986.

The minority members of House Administration have many reservations about the funding of these kinds of programs. However, H.R. 4545, as amended by the Committee on House Administration, will freeze the 1987 authorization at the 1986 level of $867,000 and will allow only a 6-percent increase in 1988 and 1989. I believe the committee has done a good job in holding this authorization down and will support the passage of H.R. 4545.

Ms. OAKAR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank the minority leader of the task force, the gentleman from Minnesota [Mr. FRENZEL], and my friend, the gentleman from Kansas [Mr. ROBERTS], for their cooperation.

I just want to close by saying that we believe that one of the great things about Americans is the mosiac of varieties of cultures. It is very, very important to have some area of preservation so that scholars and people who want to know more about our culture in the future will have a place to go.

That is why this is so important. It is a small allocation, but it will really reap many benefits.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ROBERTS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Ohio [Ms. OAKAR] that the House suspend the rules and pass the bill, H.R. 4545, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Ms. OAKAR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4545, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

ATLANTIC STRIPED BASS CONSERVATION ACT REAUTHORIZATION

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and take from the Speaker's table the bill (H.R. 3358) to reauthorize the Atlantic Striped Bass Conservation Act, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read as follows:

Senate amendment: Strike out all after the enacting clause and insert:

SECTION 1. DEFINITIONS.

Paragraphs (2), (3), and (4) of section 3 of the Atlantic Striped Bass Conservation Act (16 U.S.C. 1851 note) are amended to read as follows:

"(2) The term 'Atlantic striped bass' means members of stocks or populations of the species Morone saxatilis, which ordinarily migrate seaward of the waters described in paragraph (3)(A)(i).

"(3) The term 'coastal waters' means—

"(A) for each coastal State referred to in paragraph (4)(A)—

"(i) all waters, whether salt or fresh, of the coastal State shoreward of the baseline from which the territorial sea of the United States is measured; and

"(ii) the waters of the coastal State seaward from the baseline referred to in clause (i) to the inner boundary of the exclusive economic zone;

"(B) for the District of Columbia, those waters within its jurisdiction; and

"(c) for the Potomac River Fisheries Commission, those waters of the Potomac River within the boundaries established by the Potomac River Compact of 1958.

"(4) The term 'coastal State' means—

"(A) Pennsylvania and each State of the United States bordering on the Atlantic Ocean north of the State of South Carolina;

"(B) the District of Columbia; and

"(C) the Potomac River Fisheries Commission established by the Potomac River Compact of 1958.".

SEC. 2. COMMISSION FUNCTIONS.

Section 4 of the Atlantic Striped Bass Conservation Act (16 U.S.C. 1851 note) is amended by—

(a) striking subsections (a) and (c) redesignating subsections (b) and (d) as (a) and (b) respectively.

(b) amending subsection (a), as so redesignated, to read as follows:

"(a) MONITORING OF IMPLEMENTATION AND ENFORCEMENT.—

(1) During December of fiscal year 1987, and of each fiscal year thereafter, the Commission shall determine:

"(A) whether each coastal State has adopted all regulatory measures necessary to fully implement the Plan in its coastal waters; and

"(B) whether the enforcement of the Plan by each coastal State is satisfactory. Enforcement by a coastal State may not be considered satisfactory by the Commission if, in its view, the enforcement is being carried out in such a manner that the implementation of the Plan within its coastal waters is being, or will likely be, substantially and adversely affected.

"(2) The Commission shall immediately notify the Secretaries of negative determination made by it under this subsection.".

(c) amending subsection (b), as so redesignated, to read as follows:

"(b) SECRETARIAL ACTION AFTER NOTIFICATION.—Upon receiving notice from the Commission under subsection (a) that a coastal State has not taken the actions described in that subsection, the Secretaries shall determine jointly, within thirty days, whether that coastal State is in compliance with the Plan and, if the State is not in compliance, the Secretaries shall declare jointly a moratorium on fishing for Altantic striped bass within the coastal waters of the coastal State. In making such a determination, the Secretaries shall carefully consider and review the comments of the Commission, that coastal State in question.".

SEC. 3. MORATORIUM.

Section 5 of the Atlantic Striped Bass Conservation Act (16 U.S.C. 1851 note) is amended by—

(a) striking "(4)(d)" and inserting in lieu thereof "4(b)".

(b) striking "Secretary" and inserting in lieu thereof "Secretaries".

SEC. 4 AUTHORIZATION OF APPROPRIATIONS.

Section 7 of the Atlantic Striped Bass Conservation Act (16 U.S.C. 1851 note) is amended to read as follows:

"SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

"For each of fiscal years 1986, 1987, and 1988, there are authorized to be appropriated such sums as may be necessary or appropriate to carry out this Act.".

SEC. 5. EFFECTIVE PERIOD.

Section 9 of the Atlantic Striped Bass Conservation Act is amended by striking "18 months after the date of the enactment of this Act." and inserting in lieu thereof "at the close of September 30, 1988.".

SEC. 6. FUNDING OF STRIPED BASS STUDIES.

Section 7(d) of the Anadromous Fish Conservation Act (16 U.S.C. 767g(d) is amended by striking "and September 30, 1986" and inserting in lieu thereof "September 30, 1986, September 30, 1987, and September 30, 1988".

SEC. 7. TRANSFER OF MILES CITY NATIONAL FISH HATCHERY.

Notwithstanding any other law, the Secretary of the Interior shall convey to the State of Montana, without reimbursement to the United States and no later than thirty days following enactment of this legislation, all of the rights (including all water rights), title, and interest of the United States in and to the fish hatchery property located south of Miles City, Montana, and known as the Miles City National Fish Hatchery, consisting of 168.22 acres, more or less, of land, together with any improvements and related personal property thereon. The property conveyed shall be used by the Montana Department of Fish, Wildlife and Parks as part of the Montana fishery resources management program. If the property conveyed is ever used for other than these purposes, title to such property shall revert to the United States.

The SPEAKER pro tempore. Is a second demanded?

Mr. LEWIS of Florida. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes and the gentleman from Florida [Mr. LEWIS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of this bill is to extend, through the end of fiscal year 1988, the provisions of the Atlantic Striped Bass Conservation Act. In so doing, we will encourage continued action by the Atlantic Coast States to protect the striped bass, and to make

possible the restoration of that species to its historic status as one of the most important commercial and recreational fisheries in the United States.

The bill authorizes the Secretary of Commerce, in cooperation with the Secretary of the Interior, to declare a moratorium on fishing for striped bass in any State that fails to meet conservation standards established by the Atlantic State Marine Fisheries Commission [ASMFC]. The bill also extends for 2 years the striped bass emergency study being conducted by the National Marine Fisheries Service and the Fish and Wildlife Service. Continuation of the study is needed to determine whether fishing restrictions and other remedial actions are having a sufficiently positive effect on the health of the species, or whether more drastic action is required. Finally, the bill would correct a technical problem with the existing statute by specifically recognizing the regulatory authority of the Potomac River Fisheries Commission and the District of Columbia over waters within their jurisdiction.

The Atlantic Striped Bass Conservation Act, which was first enacted in 1984, has been a success. Its purpose was to encourage State governments to meet, in full, their obligation to comply with guidelines approved by the ASMFC to restrict fishing for stripers. It sought to achieve this goal by authorizing the Secretary of Commerce to impose a moratorium on fishing in any State that failed, in the judgment of the ASMFC, to comply with these regionally approved standards. The record of compliance has thus far been satisfactory. Accordingly, it has not been necessary for the Federal Government to declare a moratorium on fishing in the waters of any State.

Despite cooperation by the States, the juvenile production of bass remains dangerously low. It is clear that overfishing, habitat pollution, and acid rain have all contributed to the problem.

The ASMFC has responded by adopting a series of amendments to its earlier striped bass restoration plan that will further restrict fishing in the months ahead. A major goal of the new guidelines is to protect the female stripers of the relatively abundant 1982 year class, in order to guarantee their survival to spawn.

According to the emergency striped bass research study for 1985, which was released last week, current and planned conservation efforts make it "likely that within the next year or so, the abundance of the 1982 year class will rival or exceed that of the 1970 year class at a similar age. By 1988, the number of age 6 striped bass may greatly exceed the number of 1970 year class striped bass that survived to that age."

This is good news, but the study also warns that, "It is essential that conservation measures remain in effect until recruitment increases." That is precisely the goal of the legislation we are considering today.

The approach taken in current law represents a compromise between those favoring an immediate and total federally imposed ban on striped bass fishing and those who are opposed to any Federal role in managing a species found primarily in waters subject to State jurisdiction. The original law, as well as this new legislation, recognizes that the primary management role for striped bass rests with the coastal States and the ASMFC, not with the Federal Government. The ASMFC is made up of representatives from all Atlantic Coast States, and its recommendations are developed entirely at the State and regional level. The adoption of the Striped Bass Conservation Act was required to provide the enforcement authority necessary to guarantee compliance with those recommendations, but it does not call for Federal management of the species, nor does it undermine in any way the principle that State institutions are entitled to manage species under their jurisdiction.

It is obvious that no restrictions on fishing for striped bass can be adopted without resulting in some short-term economic loss to commercial fishermen. But the purpose of these restrictions, in the long run, is to restore the health of a species of immense commercial value. It must be recognized that any failure to protect the striped bass would be folly, and that no benefit—economic or otherwise—will be derived from the species if its decline is permitted to continue.

I regret to note that the Department of Justice has recently informed our committee that it intends to recommend a veto of this legislation on constitutional grounds. In a letter to our chairman, Mr. JONES of North Carolina, dated August 12, 1986, Assistant Attorney General John Bolton stated that providing "for the enforcement by the Secretaries of standards established by the (Atlantic States Marine Fisheries) Commission consisting of members who are either State officers or who are appointed by State officers would violate Article 1, Section 7, of the Constitution." The reason for this, according to Mr. Bolton, is that, "Officers of the United States * * * have the authority to enforce only the laws of the United States or the regulations issued under those laws."

I do not question the sincerity of the Justice Department position on this issue, but I hope very much that a veto is not recommended and that such a recommendation will be rejected by the President even if it is put forward. There is, after all, no substantive difference between the procedures authorized by this legislation and those signed by the President, without any complaint from the Justice Department, 2 years ago. These procedures have been accepted by the State governments involved, and they have worked well. There is, in addition, no reasonable alternative to these procedures. The Justice Department recommends that the Federal Government essentially assume management responsibility for the striped bass. Such an assertion of Federal power over a species found primarily in State waters would represent a departure from the traditional allocation of governmental responsibility far more drastic than the allegedly unconstitutional arrangement set forth in our bill and in current law. The Justice Department's proposal, however well-intentioned, is simply not consitent with the realities of fisheries management in the United States.

The Federal Government can continue to play an effective role in striped bass conservation under the procedures set forward in this bill. It is my hope that the Reagan administration will overcome its reservations and permit this role to continue.

I want to thank Chairman JONES and other members of the Committee on Merchant Marine and Fisheries for their help and cooperation in developing this bill.

The striped bass is a species of special importance to me, and to all those who identify with the history and traditions of the sea. Three and a half centuries ago, Capt. John Smith, founder of Jamestown colony, wrote in his journal that there were so many bass in certain stretches of water that "one might go over their backs drishod." The first fisheries conservation law, approved by the Massachusetts Bay Colony in 1639, prohibited the use of the striper as fertilizer. The first public school in North America, in the Plymouth Colony, was financed in large part by the sale of striped bass.

We have a responsibility—and I submit that responsibility is fully consistent with the Constitution—to protect the striped bass. That's the way John Adams and Thomas Jefferson would have wanted it, and that's the message I hope this House will send to the White House today.

□ 1445

The SPEAKER pro tempore (Mr. MONTGOMERY). The gentleman from Florida [Mr. LEWIS] has the time.

Mr. LEWIS of Florida. Mr. Speaker, I ask unanimous consent to yield my 20 minutes to the gentleman from Alaska [Mr. YOUNG].

The SPEAKER pro tempore. Without objection, the time of the gentleman from Florida [Mr. LEWIS] is yielded to the gentleman from Alaska [Mr. YOUNG].

There was no objection.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3358 and the Senate amendment that amends and extends the Atlantic Striped Bass Conservation Act.

The act, signed into law during the 98th Congress, was a direct result of the efforts of the Merchant Marine and Fisheries Committee to protect a vitally important species for both commercial and recreational fishermen along the east coast.

The act encourages States to implement and enforce their own fishery management plans to help turn around the rapid decline of Atlantic Coast striped bass stocks. Because populations of this species are declining, I think it is important that we make every effort to promote sound conservation measures as found in this legislation.

I would like to point out the fine work of Chairman JONES and Chairman BREAUX, as well as Congressman ROBERT DAVIS, ranking minority member of the Merchant Marine and Fisheries Committee. The involvement of my good colleague Congressman STUDDS, who introduced the legislation, has indeed been valuable.

I support passage of H.R. 3358 and urge its adoption by this body.

Mr. STUDDS. Mr. Speaker, once again I commend the gentleman from Alaska for his leadership consistently on matters dealing with fisheries.

Mr. GILMAN. Mr. Speaker, I rise in support of the motion to agree to the Senate amendments to H.R. 3358, reauthorizing and extending provisions of the Atlantic Striped Bass Conservation Act. I would like to thank the Committee on Merchant Marine and Fisheries for crafting this compromise with the other body and for recognizing how important it is that we complete work on this legislation prior to the impending fall adjournment.

Mr. Speaker, Congress adopted the Atlantic Striped Bass Conservation Act during the 98th Congress to provide for assistance in the development, implementation, and enforcement of interstate policy regarding the conservation and management of the Atlantic striped bass. That legislation was the result of a 1979 emergency striped bass study [ESBS] and of research conducted by the Atlantic States Marine Fisheries Commission [ASMFC], both of which demonstrated a severe decline in the Atlantic striped bass populations.

In 1981 the ASMFC adopted an interstate fisheries management plan for the conservation and management of striped bass along the Atlantic coast which set restrictions on the size and sex of the striped bass caught in ocean and fresh waters. States included under the auspices of the Atlantic Striped Bass Conservation Act are: Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, and North Carolina. However, because the interstate fisheries management plan is not binding, many States have been slow to implement the plan and there is concern that our striped bass populations are not being adequately protected.

As passed by the House this past April, H.R. 3358 requires the ASMFC to monitor implementation and enforcement of the ISFMP by the States on a biannual basis and reauthorized the program for 1 year. The Senate amendment we have before us today, reauthorizes the program through fiscal year 1988—for 2 years—and requires the ASMFC to monitor the State plans each year.

The conservation of our striped bass population is an important and meritorious undertaking. We cannot allow this species to disappear through our own negligence and selfishness. By instituting and enforcing the simple guidelines of the ISFMP, we can maintain the striped bass populations at healthy levels. This measure enjoys the support of our fishermen as well as our conservation lists. Accordingly I urge the support of my colleagues.

Mr. JONES of North Carolina. Mr. Speaker, the bill before us is nearly identical to the bill passed by the House under suspension of the Rules on April 29, 1986. H.R. 3358 reauthorizes and amends the Atlantic Striped Bass Conservation Act. Several technical amendments were adopted by the Senate and that body passed the measure now before us on June 26, 1986.

The Atlantic Striped Bass Conservation Act was enacted into law on January 23, 1984, and has had its intended effect—the rational conservation and management of Atlantic Coast populations of striped bass. Unfortunately, the most recent striped bass report issued just last week concluded that striped bass populations are still very low and that juvenile striped bass production is extremely low. The study also concludes that in some areas, acidification of our rivers has probably caused high mortality of the juvenile striped bass. Thus, there is still much work that needs to be done and a clear need to reauthorize this measure so that this cherished resource can be brought back to its former level.

The bill before us would: clarify that the act applies to waters under the jurisdiction of the Potomac River Fisheries Commission and the District of Columbia; extend the effective date of the act as well as the authorization of the emergency striped bass study through fiscal year 1988; require the joint approval of the Secretaries of Commerce and of Interior in order to put into effect or suspend striped bass fishing moratoria; and, lastly, substitute an annual State compliance assessment program for the current biannual assessment requirement. In addition, the Senate has added a provision to transfer the title of the Miles City National Fish Hatchery to the State of Montana. I believe these amendments should be adopted and I urge the Members to support the passage of this bill.

Unfortunately I was recently notified that the Department of Justice has threatened to recommend that the President veto this measure if it is passed in its present form. I believe the analysis of the Department of Justice is flawed and that the President should not veto this measure.

Incidentally, a veto by the President would be ironic. After all, it was President Reagan himself who signed into law the original Atlantic Striped Bass Conservation Act.

The Department of Justice maintains that this act would require the Secretaries to enforce Federal law developed by a non-Federal entity, the Atlantic States Marine Fisheries Commission—formed under an interstate compact recognized by the Congress. This is clearly not the case. The act recognizes that affected States may implement regulations more stringent than those recommended by the commission's interstate fishery management plan for striped bass. The Congress has simply recognized that the States, working through the commission, should take the lead in developing a conservation plan for striped bass given their expertise and resources committed to this effort. However, if the commission's plan is not implemented in good faith, then the act would require Federal management to take effect in that State—a moratorium on striped bass fishing.

The Department of Justice also implies that the Secretaries would have no discretion whether or not to apply a striped bass fishing moratorium in the event that they are notified by the Commission that a State has not complied with its fishery management plan. Section 4 of the act is clear on this matter—the Secretaries have discretion. Under current law, if a negative determination on compliance is made by the commission, the Secretary of Commerce must then "carefully consider and review the comments of the commission, the coastal State in question, and the Secretary of the Interior." If the Secretary concurs, then a moratorium is put into effect on all striped bass fishing in that State until such time as remedial actions are taken.

Moreover, the committee report on this law, House report 98-1029, is clear on this matter: "The committee intends that the Secretary shall take into full consideration the views and comments of both the commission and the affected State before making such a determination." The report also states that "section 4(d) provides that if in the judgement of the ASMFC any of the States have failed to comply with their implementation responsibilities under section 4(a) or their enforcement responsibilities under section 4(b), the Secretary of Commerce shall make a final determination as to the status of State compliance with the plan. If the Secretary determines that any such State has failed to adequately comply with the plan, then the Secretary is charged with the responsibility of imposing a moratorium on all striped bass fishing within each such States waters. The committee intends that the Secretary shall take into full consideration the views and comments of both the ASMFC and the affected state before making such a determination." These statements clearly recognize that there is secretarial discretion to be exercised.

The Department of Justice also asserts that the act violates the appointments clause of the Constitution. A nearly identical assertion was recently rejected by the U.S. Court of Appeals for the Ninth Circuit. In that case, the court ruled that the Pacific Northwest Electric Power, conservation, and Planning Council—which has far more authority than the Atlantic States Marine Fisheries Commission—was "a

compact agency and that its members are not Federal officers within the meaning of the appointments clause.

I want to remind Members that at the time this law was enacted the Chesapeake Bay stock of striped bass was petitioned to be listed as endangered or threatened under the Endangered Species Act. In addition, there was a groundswell of support for legislation that would have created a coastwide moratorium on all striped bass fishing or alternatively, legislation that would have limited the sale of striped bass in interstate commerce. I believe the measure before us is vastly superior to any of these alternatives.

The act recognizes that it has been difficult if not impossible for the States to implement the commission's plan without some encouragement. The act attempts to bring forth a coherent management strategy for striped bass which migrate thought the jurisdictions of several States and, in so doing, to minimize the role of the Federal Government.

The reauthorization of this act is needed. I believe that the Department of Justice analysis is flawed and I urge my colleagues to send this measure to the President for enactment into law.

Mr. STUDDS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and concur in the Senate amendment to H.R. 3358.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. STUDDS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

LABOR PROTECTIVE PROVISIONS FOR AIRLINE EMPLOYEES

Mr. MINETA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4838) to amend section 408 of the Federal Aviation Act of 1958 to ensure fair treatment of airline employees in airline mergers and similar transactions, as amended.

The Clerk read as follows:

H.R. 4838

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 408 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1378) is amended by adding at the end the following new subsection:

"FAIR TREATMENT OF EMPLOYEES

"(g) In any case in which the Secretary determines that the transaction which is the subject of the application would tend to cause reduction in employment, or to adversely affect the wages and working conditions including the seniority of any air carrier employees, labor protective provisions calculated to mitigate such adverse consequences, including procedures culminating in binding arbitration, if necessary, shall be imposed by the Secretary as a condition of approval, unless the Secretary finds that the projected costs of protection would exceed the anticipated financial benefits of the transaction. The proponents of the transaction shall bear the burden of proving there will be no adverse employment consequences or that projected costs of protection would be excessive.".

(b) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the side heading

"Sec. 408. Consolidation, merger, and acquisition of control."

is amended by adding at the end the following:

"(g) Fair treatment of employees.".

SEC. 2. (a)(1) The Secretary of Transportation shall conduct a study of the effect of consolidations, mergers, and acquisitions of control of air carriers with respect to the employment of minority group members (including women, blacks, persons of Hispanic origin, Asians, Pacific Islanders, American Indians, Hawaiian Natives, and Alaskan Natives) as air carrier employees.

(2) Not later than one year after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the study conducted under paragraph (1). Such report shall include—

(A) an assessment of the employment of minority group members as air carrier employees since the deregulation of the airline industry, and

(B) specific recommendations for enhancing the participation of minority group members as air carrier employees.

The SPEAKER pro tempore. Is a second demanded?

Mr. HAMMERSCHMIDT. Mr. Speaker, I demand a second.

The SPEAKER pro tempore (Mr. MONTGOMERY). Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. MINETA] will be recognized for 20 minutes and the gentleman from Arkansas [Mr. HAMMERSCHMIDT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill reported by the Committee on Public Works and Transportation, H.R. 4838, requires the Department of Transportation to impose labor protective conditions [LPP's] in airline merger cases to ensure that the merger is fair to employees. These LPP's were routinely imposed by the Civil Aeronautics Board for many years to ensure that the seniority lists of merging airlines would be integrated in a fair and equitable manner and that some financial benefits would be provided to relieve the burdens on employees who lost their jobs or suffered a reduction in wages as a result of the merger. When the Civil Aeronautics Board announced in the early 1980's that it intended to abandon its policy of imposing LPP's, Congress responded by directing in the legislativie history of the Civil Aeronautics Board Sunset Act of 1984 that LPP's should continue to be imposed. Regrettably, the Department of Transportation has failed to follow this directive and for this reason it has been necessary to go forward with legislation requiring that LPP's be imposed. The need for this legislation has increased greatly in recent months with a series of airline mergers involving a substantial portion of the industry's employees.

Adequate protection of airline employees is a critical part of airline deregulation. When the Congress passed the Airline Deregulation Act of 1978, we recognized that deregulation would impose penalties on companies which were inefficiently managed or misjudged what the public wanted. We wanted to be sure that airline employees would not be required to carry too great a portion of the burden of deregulation. For this reason, the 1978 Deregulation Act included labor protective provisions providing financial benefits to employees losing their jobs because of deregulation and further providing that dislocated employees would have the right of first hire on other airlines. Unfortunately, because of administrative inaction and litigation these protective provisions have been of almost no value to airline employees.

Besides providing for flexible market entry and fare setting, the Deregulation Act also facilitated the ability of airlines to merge. However, we made it clear that we did not intend that the liberal merger policies would be used to treat airline employees unfairly. In recent months it has become increasingly obvious that the Department of Transportation intends to ignore the congressional intent on this issue as well. In its merger decisions the Department of Transportation has been refusing to impose the LPP's historically imposed by the Civil Aeronautics Board. This refusal flies in the face of a directive in the House committee report on the Civil Aeronautics Board Sunset Act of 1984 that we intended DOT to continue to impose LPP's in merger cases.

Thus the administration has refused to follow existing statutes and explicit congressional directives designed to ensure that airline employees would not be required to bear an unfair share of the costs of deregulation. H.R. 4838 will help restore the balance which we thought we had already es-

tablished between management freedom and employee rights.

Some airlines have argued that if LPP's were required there would be astronomical costs to merging airlines. In our committee report on the bill we have included data demonstrating that these claims are exaggerated. I would also note that the benefits which employees are likely to receive from LPP's are insignificant compared to the "Golden Parachutes" which protect top airline management. Many of these contracts provided several years pay for executives whose annual salaries are well in excess of $100,000. In some cases these benefits are available even if an executive leaves the company voluntarily. Nonmangement employees are certainly entitled to benefits which are a mere fraction of those paid to top executives.

In sum, the reported bill requires the continuation of an LPP policy which was followed by the CAB for many years and which Congress directed the Department of Transportation to continue. Requiring merger LPP's is the least we can do to reverse the refusal of the administration to afford airline employees the protections which Congress intended them to have. These protections are particularly needed to mitigate the sometimes harsh effects on employees of the wave of mergers now sweeping the airline industry.

I would also note that contrary to some of the arguments which have been made in opposition to this legislation, the LPP's required by the bill would benefit all employees, not just employees belonging to unions. It is the nonunion employees who may need this protection the most since they do not have representatives to make their case for a fair integration of seniority lists and financial benefits. This feature of the bill will be of great importance in the proposed merger between Texas Air and People Express since People Express' employees are not unionized. Under H.R. 4838, People Express' employees will have the benefit of LPP's.

I urge my colleagues to join me in passing this needed legislation.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the bill.

When we passed the Airline Deregulation Act of 1978, we were concerned about the effect that the heightened competition would have on airline employees. Therefore, we included a provision—section 43—that provided certain financial benefits and other rights to airline employees who were hurt by deregulation.

The problem is that, for various reasons, the promises of this provision have never been fully realized. Funding for the financial benefits has never been provided. And the regulations to implement the other rights of section 43 did not take effect until very recently.

The result is that airline employees have generally not received what was promised them in the 1978 act.

Moreover, the one right they did seem to have, the right to labor protection provisions [LPP's] in airline merger cases, has gradually disappeared. Before 1978 the Civil Aeronautics Board [CAB] routinely imposed LPP's in airline merger cases. But since that time, the CAB and now the Department of Transportation [DOT] have changed that practice. Now LPP's are almost never imposed.

Mr. Speaker, the Government cannot and probably should not, intervene in every dispute between airline employees and their management. But we can, and should, make good on some of the commitments we made to these employees in 1978.

That's what this bill does. It directs the Secretary of Transportation to impose LPP's in airline merger cases.

But it is important to note that this bill is not inflexible. Where the costs of the LPP's exceed the benefits of the merger, DOT would not have to impose LPP's. Therefore, employees will be helped by this bill and not harmed as some have argued.

In view of the recent wave of mergers sweeping the airline industry, passage of this bill is the least we can do for airline employees. I urge my colleagues to support it.

□ 1500

Mr. MINETA. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey [Mr. HOWARD], the very distinguished chairman of our full Committee on Public Works and Transportation.

Mr. HOWARD. Mr. Speaker, I rise in strong support of H.R. 4838, a bill to ensure the fair treatment of airline employees in mergers. This is obviously a very timely piece of legislation given what is happening in the airline industry with respect to mergers. The distinguished chairman of the Subcommittee on Aviation has described the bill in detail, so I will not cover that ground again.

What I would like to emphasize is that the reason we are here today with legislation is that the executive branch, the Department of Transportation in particular, has been consistently ignoring congressional intent as to how airline rank and file employees should be treated when management decides to merge with or take over another company.

When the Congress overwhelmingly adopted the Civil Aeronautics Board Sunset Act of 1984, the legislative history was clear. When airlines merge, employee protective provisions were to be imposed so that there would be a smooth transition and integration of the two workforces, and compensation for employees who lost their jobs because of the merger.

Our committee has held numerous hearings and written numerous letters on this matter and the response from DOT has been to ignore the legislative intent of the Congress. It is regrettable that this issue has to be revisited in this fashion today, but given the administration's policies we have been left with no alternative.

Our committee brings this bill to the floor on a completely bipartisan basis because the issue is simply one of fair treatment of rank and file workers in mergers. I am proud that our committee has been able to bring this legislation to the floor with strong support from both sides of the aisle, and with the leadership of the ranking Republican on the committee, the gentleman from Kentucky.

Again, I rise in support of this legislation and urge an "aye" vote.

Mr. MINETA. Mr. Speaker, I yield 2½ minutes to my very distinguished colleague, the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I rise in strong support of H.R. 4838, which would provide labor protection provisions in airline merger cases. I recall working on this matter in 1978 with then subcommittee chairman HOWARD and Representative MINETA—fortunately the deregulation act recognized this right—but the administration or the law has disregarded this provision of law.

There is no doubt that revolutionary changes have occurred in the airline industry since Congress passed the landmark Airline Deregulation Act of 1978. Airline deregulation has led to a proliferation of new air carriers flying new routes and offering the traveling public unprecedented low air fares. These are the promises which have been fulfilled by airline deregulation.

But, Mr. Speaker, there is another promise of airline deregulation which has not been honored. It is the pledge made to the thousands of men and women who work for the Nation's airlines and who have created the safest and most reliable transportation system in history when the policy of deregulation was enacted in 1978.

When Congress deregulated the airline industry, it realized that airlines would be dramatically effected. Congress wanted to assure that airline employees would not carry the total burden for the transition from a regulated to a deregulated industry. Or during mergers that result. That is why the 1978 Deregulation Act provided labor protection provisions. If there was a finding by the now-defunct Civil Aeronautics Board [CAB] that an airline employee lost *his* or *her* job because of deregulation, the employee was to be entitled to financial benefits. A second labor protection provision granted dislocated airline employees the right of first hire on other airlines.

Despite a clear congressional mandate which was designed to protect airline employees, however, these labor protection provisions have never been fully implemented. Prior to the dismantlement of the Civil Aeronautics

Board [CAB], labor protection provisions were routinely included in pending airline merger cases. Unfortunately, however, since 1978, the Department of Labor has chosen to ignore the congressional directive to draft regulations providing airline employees with labor protection provisions [LPP's].

The Department of Transportation has taken the position that airline employees should use the collective bargaining process to secure LPP's. The irony of this stance, however, is that collective bargaining agreements have been among the first casualties in many airline mergers or bankruptcies; at the very time that LPP's are needed the most.

Recently, the Department of Transportation granted final approval to the acquisition of Republic Airlines by Northwest Orient Airlines. Both of these carriers are based in Minnesota with a combined Minnesota payroll of over 20,000 employees. I wrote to Secretary Dole urging her approval of this merger along with the inclusion of LPP's. It was also the opinion of the administrative law judge who reviewed the Northwest-Republic case, Judge Ronnie Yoder, that LPP's should be applied. However, Secretary Dole declined to follow this recommendation. The result of this decision is that hundreds of employees from both carriers now face an uncertain future with the newly merged Northwest Airlines.

Labor protection provisions are essential in maintaining the collective bargaining rights of the Nation's airline employees. The many complicated issues which arise in airline mergers should be settled in a fair and orderly manner and not at the sole discretion of airline management. I hope my colleagues will join me in supporting H.R. 4838 which will restore the balance in the workplace for our Nation's airline employees while maintaining the freedom of airline companies to manage the business affairs.

Mr. Speaker, I'm very concerned that the rights of working men and women, whether under a collective-bargaining agreement or not, be given consideration. Today they are shunted aside. The policy gives consideration to all other contracts and agreements but somehow labor rights and contracts are simply ignored in airline mergers and in other aspects of our economy.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. MACK].

Mr. MACK. Mr. Speaker, I rise in opposition to H.R. 4838, and to make three points.

This legislation nullifies the efficiencies that can be gained from airline mergers.

Second, this legislation runs counter to the trend of deregulation that has been a major thrust of air policy toward the airline industry for the past 8 years.

Third, the employee benefits rightfully fall into the purview of collective-bargaining agreements. We should not attempt to micromanage a very complicated business through ill-conceived legislation, especially legislation that is brought to the floor of the House under these procedures. For that reason I oppose the bill.

Mr. MINETA. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri [Mr. YOUNG], a very distinguished member of our subcommittee.

Mr. YOUNG of Missouri. Mr. Speaker, I rise in strong support of H.R. 4838, legislation to protect the rights of airline employees in airline mergers.

Mr. Speaker, the need for this legislation is absolutely clear. Again last Friday, September 12, another airline merger was approved by the Department of Transportation without the imposition of labor protective provisions. Again, the careers and economic futures of airline employees have been placed at risk without guidelines from the Department of Transportation. We cannot allow this unfair situation to continue.

The fates of thousands of Missouri employees of Ozark and Trans World Airlines are in limbo as we debate this bill today. Thousands of families must postpone decisions on the most basic issues of their lives while they wait for decisions to be made hundreds of miles away by people who may or may not place fairness, equity, and the public interest in equal balance with short-term economic gain. The people we seek to protect with this legislation have given many years of service to their companies and the public. Their talents, experience and training are invaluable resources to the industry and to the public they serve. Mr. Speaker, these people literally hold the safety of the flying public in their hands. Surely Members of Congress, who log many hours in the air as a fact of legislative life, should be the first to understand the need for this legislation and support H.R. 4838. Many of us already have a large number of constituents affected by airline mergers. If the predictions of experts are correct and the mergers continue, most employees in the industry will be affected. And even if you have no constituents who are airline employees, think for a minute. The next time you, or a member of your family, or a constituent step on to a plane, don't you want the assurance that the mechanic who checked that plane was trained, qualified, and experienced? Don't you want to know that the flight attendant is fully prepared to make your flight safe and comfortable? That the pilot has logged many hours of training, apprenticeship and experience? These questions are the other side, the public interest issues in the legislation before us today.

I ask you to support passage of H.R. 4838 not only because it is the fair and equitable thing to do for airline employees, but also because I believe we owe this assurance to the flying public.

Mr. MINETA. Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota [Mr. OBERSTAR], a very distinguished member of the Committee on Public Works and Transportation, who chairs the Investigations and Oversight Subcommittee and follows aviation matters very closely.

Mr. OBERSTAR. Mr. Speaker, I thank the chairman of the subcommittee for yielding time to me.

Mr. Speaker, I think that it is fair to say that economic deregulation of airlines, and parenthetically of trucks and buses which we have also deregulated in the last several years, would not have been enacted were it not coupled with protection for airline employees against the adverse consequences that would result from mergers, acquisitions, and other rapid changes taking place in that industry as a result of the deregulation.

Labor-protection provisions were recognized by the Congress and by the industry as necessary to protect workers, to retain a trained, experienced, effective work force during the transition from a protected economic environment of years, of decades of regulation, into a new economic environment of fierce competition.

□ 1510

We wanted both. We wanted to have transition into a period of unfettered, free competition with the benefits for consumers of greater choice of airline service, of lower rates and lower costs of travel, and we also wanted to retain safety in that workplace, and safety in that new deregulated environment, and the labor protection provisions were the key to achieving that objective.

At the dawn of deregulation the CAB imposed labor protective provisions, but by the time of CAB sunset, when the Department of Transportation took over the CAB's responsibility, the policy of imposing labor protection provisions was abandoned, piece by piece, until the basic policy, as announced by DOT, became that labor protection provisions will not be imposed "unless it is necessary to protect labor strife that could disrupt the national air transportation system."

What that means is that in a deregulated system it is unlikely that labor strife arising out of a merger would disrupt national air transportation systems, since other carriers are free to provide any service that would be disrupted by a strike. So the DOT has, in effect, abandoned a basic, fundamen-

tal commitment made to workers, and made to the traveling public in the labor protection provisions, a commitment that was included as a fundamental part of the compact we arrived at in passing economic deregulation.

In the ensuing years, nearly a quarter of a million airline industry employees have been affected by mergers or acquisitions involving some 20 air carriers, and yet despite all of the turmoil that has occurred, as well as the many benefits to consumers, the DOT has abandoned the cushioning that Congress intended in the form of LPP's against the adverse economic consequences of deregulation.

There once was a Bonanza Airlines, a Pacific Airlines, a West Coast Airlines. They all merged and became Hughes Air West. There once was a North Central Airlines, a Southern Airlines, and an Air West. They merged to become Republic. Now Republic has been swallowed up by Northwest Airlines.

We have fewer but bigger airlines.

What are the consequences for the traveling public in terms of safety, efficiency, effectiveness, responsibility, and what are the consequences for the workers who built those airlines to the point where they became attractive candidates for merger and acquisition? This legislation that we are considering today makes sure that in the age of economic deregulation in which airlines are operating there will be protection and respect for the rights and economic interests of workers.

I urge the House to adopt this legislation.

Mr. MINETA. Mr. Speaker, I yield 2 minutes to a very valuable member of our Aviation Subcommittee, the gentleman from the Virgin Islands [Mr. DE LUGO].

Mr. DE LUGO. Mr. Speaker, I rise in support of H.R. 4838, to amend section 408 of the Federal Aviation Act of 1958 to ensure fair treatment of airline employees in airline mergers and similar transactions.

This bill, which I, along with a bipartisan group of 34 other members of the Committee on Public Works, cosponsored, is an essential step in keeping with the commitment we made to airline employees when the industry was deregulated. I would like to commend Mr. MINETA, chairman of the Aviation subcommittee for his leadership in this important area, and his commitment to keep the promise that we, as a Congress, had made to the employees of the airline industry.

Back in 1978, when we deregulated the airline industry, it was clearly not our intention that airline employees should bear an unreasonable amount of the burden that was sure to follow that decision. That is why we included such labor protection provisions [LPP] as we deemed both necessary and fair to ensure that the burdens from deregulation would not unfairly fall on those who could least bear them. However, the administration has once again failed to follow congressional directives. We are therefore faced with no alternative but to pass legislation that would enforce these necessary protections for members of the airline industry.

The imposition of labor protection provisions is not a new proposal. The practice was followed by the Civil Aeronautics Board prior to its sunset in 1984. but since then, the Department of Transportation has refused to impose labor protection provisions except in limited cases. However, the fact remains that with each new announcement of a proposed takeover or merger, the fate of airline employees become more tenuous.

We are therefore being called upon to ensure that airline employees are granted the labor protection benefits they are rightly entitled to under the law. This bill is the only fair and equitable way to ensure that congressional intent will be followed by the Department of Transportation.

Mr. Speaker, I urge the House to support this important legislation.

Mr. MINETA. Mr. Speaker, I yield 2 minutes to another valuable member of our Aviation Subcommittee, my very distinguished colleague, the gentleman from California [Mr. Bosco].

Mr. BOSCO. Mr. Speaker, I thank my colleague from California for yielding me this time.

Mr. Speaker, I think it is important that we recognize that we are not setting new ground, but rather this legislation will reassert Congress' original intention when we deregulated the airlines.

Deregulation of the airlines was never meant to mean an abandonment of the working people who provide the services and the basic stability in our country in the entire air system all over the country. Today as airlines are merging and being taken over, employees are made many promises, and I can only speak from experience in California when some 6 years ago Continental Airlines was taken over by Texas Air. At that time the employees of Continental wanted to buy their own airline, to run it themselves. The Texas Air Corp. came to California, made a number of promises, one of which was that the Continental headquarters would not be moved out of California. The second was that no jobs would be lost by the merger, and the third was that Continental and Texas Air would be run as separate entities.

All three of those promises were broken within a year. Thousands of employees were left without jobs. The airline headquarters was removed from California and the airlines were run as one entity.

A very bitter strike ensued. Continental went into bankruptcy. Many people, including passengers, retirees and others lost money, and jobs, and retirement benefits and other benefits from this transaction.

Certainly the stability of our country's air system demands that Congress, when appropriate, put its will into this whole potpourri of takeovers and mergers. I think our will is definitely that working people be protected, and that the invisible hand not be left to do as it wants to with them.

Mr. MINETA. Mr. Speaker, may I inquire how much time this gentleman from California has remaining?

The SPEAKER pro tempore (Mr. MOAKLEY). The gentleman from California [Mr. MINETA] has 2½ minutes remaining.

Mr. MINETA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just like to close by thanking all of those who have cosponsored the bill, both originally when we drafted it and as well as subsequent to that time, and especially the gentleman from Kentucky [Mr. SNYDER] the ranking Republican on our full Committee on Public Works and Transportation, as well as the gentleman from Arkansas [Mr. HAMMERSCHMIDT] the ranking member of our Aviation Subcommittee. I also want to thank the gentleman from New Jersey [Mr. HOWARD] chairman of our full Committee on Public Works and Transportation. They were all in there in the beginning when we did pass the Airline Deregulation Act of 1978, and all of us feel a very strong commitment about making sure that employees are treated fairly as these mergers continue to take place.

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So I urge the Members to vote for H.R. 4838. It has very strong bipartisan support, and I am quite confident that we will be able to establish those kinds of fair ground rules for all employees.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HAMMERSCHMIDT. Mr. Speaker, I want to express my appreciation for the initiative of our distinguished chairman of the Subcommittee on Aviation, the gentleman from California [Mr. MINETA] on H.R. 4838.

Mr. CLAY. Mr. Speaker, I rise in support of H.R. 4838, of which I am a cosponsor. H.R. 4838 seeks only to achieve what the administration has failed to require—the fair treatment of airline employees in mergers.

Since the deregulation of the airline industry, a major restructuring has been occurring in the airline industry. Airline after airline has been bought out or merged in order to avert bankruptcy. It seems all but inevitable that deregulation will create an industry with a handful of air carriers. Whether this turbulence is

healthy or not remains to be seen. But, what is clear is that the job security of tens of thousands of dedicated and long serving airline employees is put at risk by these mergers.

When the airline industry was deregulated in 1978, Congress knew that those air carriers that were inefficient would fall to the wayside. Because of this and knowing that management would be able to protect itself, Congress wanted to prevent workers from unfairly bearing the brunt of such failures. The 1978 Deregulation Act sought to impose labor protective provisions to protect workers who were dislocated by ensuring their seniority and right to preferential rehire. Prior to its termination in 1984, the Civil Aeronautics Board always imposed LPP's. The CAB's successor, the Department of Transportation, has never imposed or implemented regulations to impose labor protective provisions.

My own district in St. Louis is about to be affected by the merger between TWA and Ozark Airlines. Secretary of Transportation Dole has just approved the merger and specifically rejected applying any labor protective provisions to ensure the fair treatment of each airline's employees. The Department claims that there is no threat of nationwide disruption to warrant worker protection. But, ask any airline worker today whether the industry is being disrupted and the answer would be different. Airline employees, passengers, and anyone who reads a newspaper knows what the Transportation Department does not—the airline industry and its work force are in the midst of a national crisis. As long as the Department of Transportation is not reqiuired to impose LPP's, the fate of airline workers will depend upon the political winds.

H.R. 4838 only reiterates what should have been clear a long time ago—the workers affected by deregulation are to be treated as fairly as the merging companies. Labor protective provisions are the only assurance that workers will be treated fairly under a merger. The Department of Transportation, which must approve all mergers of air carriers, has failed to use its statutory powers and it is about time that the Government respects that right. I urge my colleagues to support H.R. 4838.

Mr. FASCELL. Mr. Speaker, I have nearly 10,000 constituents who could be impacted by Texas Air Corp.'s acquisition of Eastern Air Lines. These people have many legitimate misgivings about being merged into Texas Air. They fear for their jobs and they fear for their welfare. Some of these concerns arise from the highly structured seniority system of many of the airline industry's employee groups.

To be more specific, employee seniority for airline flight attendants, flight engineers, and pilots is the sole criterion for determining pay and promotional opportunities. Furthermore, this employee seniority is corporate specific. By that I mean, an airline employee's seniority applies only to the company he or she currently works for. This compensation system has traditionally tied airline employees to one employer. To leave his or her current job and become employed in the same occupation at another airline, an employee must return to the entry level position with the corresponding level of pay—almost always a minimum 50 percent reduction.

For airline employees to do this voluntarily is one thing. But when such action is forced on employees and ultimately results in displacements—as in many airline mergers and acquisitions—clearly, there is a need for an orderly process to protect the interests of these workers. This protection is found in H.R. 4838, a bill requiring the Secretary of Transportation to provide fair and equitable treatment of airline employees in mergers and acquisitions.

This idea is not new. No, indeed. Labor protective provisions, as this process is commonly known, were used by the Civil Aeronautics Board for many years before its sunset in 1984. However, they have disappeared under airline deregulation—partly due to the unstable operating environment—partly due to a Government agency unwilling to implement such provisions.

It is now time to legally mandate the implementation of labor protective provisions for airline employees involved in mergers and acquisitions. That is exactly what this bill would do and I compliment the leaders of the committee on both sides of the aisle for bringing the bill to the floor in such an expeditious manner.

But more than that, this bill would ensure that the employees of Eastern—indeed, the thousands of workers throughout this chaotic industry—would receive fair and equitable treatment as they make the transition from one job to another. They want work force integration protection. And they deserve no less.

Mr. GILMAN. Mr. Speaker, I rise in strong support of H.R. 4838, Fair Treatment of Airline Mergers Act, and urge my colleagues' like support. I thank the gentleman from California [Mr. MINETA] for introducing this much needed legislation and for his leadership in shaping transportation policy through his work on the Committee on Public Works and Transportation.

Mr. Speaker, the deregulation of the airline industry, facilitated through the Airline Deregulation Act of 1978, brought the airline industry into an era of fierce competition. While fares have dropped dramatically, and service has expanded, a number of airlines and their employees have suffered. Lower fares have, in turn, lowered profits and weakened many unions, forcing employees to accept wage and benefit cuts. This, coupled with the bankruptcies of Braniff and Continental, and the mergers of TWA and Frontier airlines, have further jeopardized the rights of employees.

H.R. 4838 requires the Department of Transportation to: First, investigate airline merger applications to determine their effect upon employees; second, impose "labor protective provisions" in cases where the proposed merger will adversely affect wages or working conditions; and third, study the effect of mergers on minority employment.

The majority of us in this Chamber rely on the airlines and airline employees, to take us to and from our duties here in Washington and our home districts. Many of these individuals are especially trained; we trust them with our lives and the lives of our loved ones, and yet their future and their livelihoods are subject to capricious policies based on profit margins. I urge my colleagues to adopt this legislation, H.R. 4838, to ensure some order and fairness for employees in the merger and dissolution of airlines.

Mr. FEIGHAN. Mr. Speaker, I rise in enthusiastic support of H.R. 4838. The working people of America deserve to have their fundamental rights as workers protected. Laws establishing these rights came into being when the practices of some employers necessitated action from Government. Today new economic factors and corporate practices often present workers with different challenges to their job security.

The airline industry is relatively new. It is extraordinary for its accomplishments, its dependability and its role in keeping the country and the world moving. Change is a constant in this industry, where companies are continually responding to developing market forces, technologies and regulations. The special qualities of the airline industry also mean that its workers are faced with special challenges. To ensure adequate job security and equitable treatment airline workers require special protection.

Mergers between major companies do not happen in a vacuum. We require the Secretary of Transportation to approve airline mergers because it is clear that they effect the welfare of the industry and the economy as a whole. We must recognize that the welfare of thousands of employees is effected by these corporate activities as well. Basic labor protections from Government and carefully negotiated contract agreements do not help the worker whose employer has just been bought out. All those who work in this sometimes precarious industry know that their job is at risk whenever company executive decide it is time to make a deal. It is not fair that these workers be asked to do their jobs without protection that suits the nature of their industry. It is not right that Government consider the competitive propriety of major corporate decisions without considering those whose lives directly depend on those decisions.

I urge my colleagues to support H.R. 4838.

Mrs. SCHROEDER. Mr. Speaker, I rise in support of H.R. 4838. It is a continuation of the policy practiced by the Civil Aeronautics Board of imposing labor protective provisions in merger cases. The bill is a reasonable approach to labor questions that arise.

It is too bad that this policy has not been continued since the sunset of the Civil Aeronautics Board. The case of Frontier Airlines, which is based in my district, illustrates the tragedy of this situation. If the regulations for the labor protective provisions had not been withdrawn by the administration, the United pilots would not currently be seen as the culprits and the Frontier employees would not be the victims filing for unemployment benefits. Lacking LPP regulations, Frontier has had to file for backruptcy.

It doesn't stop there. Immediately after the filing of the bankruptcy petition, medical insurance was discontinued. In addition, mortgage payments cannot be made and realtors are already feeling the effects.

This legislation is a good way to prevent these problems in the future.

Mr. ACKERMAN. Mr. Speaker, I rise today in strong support of H.R. 4838, legislation that would require the Department of Transporta-

tion [DOT] to impose labor protection provision [LPP's] in any case where an airline merger or acquisition would reduce employment or otherwise adversely affect air carrier employees.

The need for this legislation is crucial because the air transport industry is experiencing a wave of mergers in the aftermath of deregulation. Before it was abolished in 1984, the Civil Aeronautics Board routinely insisted on LPP's in any airline merger. Since coming to office, however, the Reagan administration has repeatedly contended that unless there is a substantial national disruption of air service, LPP's are no longer needed. This bill is designed to reflect the congressional intent expressed in the Airline Deregulation Act of 1978, and the directive issued in 1984 by the Aviation Subcommittee that LPP's should continue to be imposed in all pending airline merger cases, despite DOT's refusal to do so.

The persistence of this administration in attempting to dismantle hard fought labor protections is reprehensible. I became a cosponsor of H.R. 4838 because the bill would ensure against discriminatory practices and provide critical assistance to thousands of employees in the air transport industry. LPP's would not be imposed if DOT finds that there will be no adverse employment consequences as a result of a merger, or that the costs of the LPP's would outweigh the financial benefits of the proposed transaction.

For all these reasons, I urge my colleagues to support passage of H.R. 4838, to once again make LPP's mandatory in any airline merger.

Mr. TOWNS. Mr. Speaker, I want to lend my support to H.R. 4838, a bill to require the Department of Transportation to impose labor protective provisions [LPP's] in airline merger cases to ensure that the merger is fair to adversely affected employees.

This legislation reflects the intent of Congress in the Airline Deregulation Act of 1978. Unfortunately, airline employees never received the protections intended under deregulation. In addition, the Department of Transportation has been unwilling to follow the congressional directive, in the Civil Aeronautics Board Sunset Act of 1984, that merger LPP's should continue to be imposed. H.R. 4838 also calls for a study of the impact of deregulation on the employment of women and minorities in the airline industry.

As testimony before the House Subcommittee on Aviation indicated, LPP's "provide adversely affected employees with reasonable stability of employment and promote the prompt and fair resolution of potential labor problems. The absence of LPP's often produces instability, discontent, lower productivity, and most significantly, a lower morale which can be most serious in a safety-oriented industry * * *."

Mr. Speaker, I would urge my colleagues to adopt this bill today, to provide the necessary labor protection measures for airline employees.

Mr. EDGAR. Mr. Speaker, today, I rise in support of H.R. 4838, a bill which would require the Secretary of Transportation to impose labor protection provisions [LPP's] in airline mergers and similar transactions to ensure that the merger is fair to employees. This bill would also require the Secretary of Transportation to conduct a study of the effect of mergers and similar transactions of air carriers with respect to the employment of minority group members as air carrier employees.

Regrettably, DOT has failed to follow the longstanding policy of the Civil Aeronautics Board and the 1984 congressional directive that merger LPP's should continue to be imposed. Current DOT policy has been not to impose LPP's "unless it is necessary to prevent labor strife that could disrupt the national air transportation system," but in a deregulated system, it is unlikely that labor strife arising out of a merger would disrupt the national air transportation system since other carriers are free to provide the services affected by a strike.

The provision establishes fair procedures for the integration of seniority lists and should not be burdensome to the airlines. LPP's would not be imposed if DOT found that the projected cause of LPP's would outweigh the benefits.

Requiring merger LPP's is the least we can do to reverse the refusal of the Departments of Labor and Transportation to afford airline employees the protections which Congress intended them to have. I urge my colleagues to support this important piece of legislation to ensure that airline employees are not required to carry an unfair share of the costs of deregulation.

Mr. HAMMERSCHMIDT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. MINETA] that the House suspend the rules and pass the bill, H.R. 4838, as amended.

The question was taken.

Mr. MACK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

SENSE OF CONGRESS ON ESSENTIAL AIR TRANSPORTATION

Mr. MINETA. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 339) expressing the sense of Congress that the essential air transportation program should be maintained for the 10-year period for which it is authorized.

The Clerk read as follows:

H. CON. RES. 339

Whereas at the time of the enactment of the Airline Deregulation Act of 1978 Congress was concerned about the loss of air service to small communities that might result from airlines deregulation;

Where as in enacting the Airline Deregulation Act of 1978 Congress established the essential air transportation program to guarantee service to small communities and made a ten-year commitment to support program;

Whereas communities and air carriers have come to rely on this ten-year commitment to essential air transportation; and

Whereas an early termination of the essential air transportation program would be disruptive and would undermine the long-term viability of small community air service: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of Congress that—

(1) the essential air trasnportation program established in section 419 of the Federal Aviation Act of 1958 should be maintained for the ten-year period for which it is authorized; and

(2) no action should be taken by any executive department or agency to undermine the essential air transportation program.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from California [Mr. MINETA] will be recognized for 20 minutes and the gentleman from Arkansas [Mr. HAMMERSCHMIDT] will be recognized for 20 minutes.

The Chair now recognizes the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this important resolution was introduced by the ranking minority member of the Subcommittee on Aviation, the gentleman from Arkansas [Mr. HAMMERSCHMIDT]. I am pleased to be a cosponsor of this important resolution.

The resolution deals with the Essential Air Service Program, an important program in the Airline Deregulation Act of 1978. When we passed the 1978 Deregulation Act we gave the airlines complete freedom of entry and exit. We were concerned that the airlines' freedom of exit would result in the loss of service to many small communities. To ensure that the small communities would not be required to bear an unfair share of the burdens of deregulation, we established the Essential Air Service Program, which provided that all communities receiving air service when the law was enacted would continue to receive at least a minimum level of service, supported by subsidy if necessary.

The administration has tried on several occasions to get the Congress to renege on its commitments to small communities by terminating the Essential Air Service Program prematurely. Congress has always decided to fund the program. It should be clear by now that we intend to live up to our 10-year commitment. This resolution emphasizes this commitment, and of equal importance, the resolution expresses the sense of the Congress that the administration should not try to undermine the program.

I would note in conclusion that not only would it be unfair to end the program prematurely, but in addition,

premature termination would not be of significant help to the Federal budget, since the program costs only $30 million a year.

I commend my colleague, Mr. HAMMERSCHMIDT, on introducing this resolution and I urge my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, when Congress passed the Airline Deregulation Act back in 1978, it included a special provision for small communities. We did this because we were concerned that airlines would use their new freedom under deregulation to reduce air service at small communities.

In many cases, this in fact occurred. Larger airlines did abandon small communities for more profitable markets. But because of the program we created, known as the Essential Air Service Program, commuter airlines came in to pick up the slack and provide new service.

Unfortunately, at some small communities, the quality of the service provided by commuters has not been that good. But the fact is that at most of these communities, that's the only air service they have. And with the development of newer planes that meet the short haul—less dense market need—service and equipment is getting better.

When we passed the Deregulation Act we promised that small communities would continue to have this essential air service for at least 10 years, that is until 1988. The program has only 2 more years to run.

For the last 2 years, however, the administration has proposed to eliminate the Essential Air Service Program ahead of schedule.

I believe we made a commitment to our Nation's small communities when we passed the Deregulation Act that we would maintain the Essential Air Service Program for 10 years. That is why I introduced this resolution along with 20 other members of the Public Works and Transportation Committee. It makes clear that we are standing by our commitment.

It is important that we do stand by this commitment not only because it is the right thing to do but for several practical reasons as well.

There are now about 50 small air carriers that rely on the essential air service subsidy payments to serve about 150 small communities in 40 States. If the subsidy payments were to end, these communities would almost certainly lose all air service and be cut off from the Nation's air transportation system.

Moreover, the very existence of proposals to eliminate the EAS Program ahead of schedule has created uncertainty among the small communities and commuter air carriers that rely on it and on the staff that administers it. This can only serve to undermine the long-term viability of small community air service. I believe it would be better to let the EAS Program continue for the 10-year period promised in the Deregulation Act before considering whether to modify or abolish it.

I should also note that the cost of the Essential Air Service Program has decreased dramatically. For next year, the House is appropriating only $19 million. This is down from the $100 million plus that was required just a few years ago.

A similar resolution has been introduced in the other body by Senators ABDNOR, KASSEBAUM, ANDREWS, PRESSLER, and EXON.

I want to thank Mr. HOWARD, chairman of the full Public Works and Transportation Committee, Mr. MINETA, chairman of the Aviation Subcommittee, and Mr. SNYDER, ranking member of the full committee for their cosponsorship and assistance with this resolution.

I urge my colleagues to support this resolution here today.

Mr. MINETA. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Speaker, I thank the chairman of the subcommittee for yielding me the time, and I offer my appreciation both to him and to the gentleman from Arkansas [Mr. HAMMERSCHMIDT] who has spearheaded the effort to bring this resolution to the House today, and to the subcommittee for acting so expeditiously on such a critical piece of legislation.

I think it is clear, given the history of airline deregulation, that just as in the case of the bill we have previously debated, the labor protection provisions, the essential air service provision is another critical partnership provision of the Airline Deregulation Act of 1978, without which economic deregulation might never have emerged from the legislative mill.

I think it is fair to say that the more than 400 communities that were receiving service prior to enactment of the 1978 law, and the Members of Congress who represent those communities would have dug their heels in and said, "No, we are not going to have deregulation that wipes out air service, an essential means of transportation and of economic communication with the world beyond our borders."

We simply would not have seen that legislation emerge without those two very key, as I call them, partnership provisions.

In the years immediately following deregulation, the funding that the Congress provided as a mechanism for a transition over a 10-year period from a regulated environment to a deregulated environment, as well as the assurance of airline service to those communities worked reasonably well.

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But in recent years the Office of Management and Budget, under the present administration, have consistently asked the Congress to eliminate those funds, submitting zero budgeting for the Essential Air Service Program.

I can witness from the perspective of congressional district and communities there that have had economic distress, unemployment of 15, 18, 20 percent, would have had much more severe economic conditions were it not for the continuation of the airline service.

We needed that service. We needed the quality of aircraft to provide transportation of cargo and the quality of service to provide transportation of people, businessmen, travelers, vacation travelers to make sure that the economic viability of those small towns was retained, not frittered away by some policy conceived in Washington, DC.

I do not want to see the demise of the Essential Air Service provisions due to Gramm-Rudman or because of some new bureaucrat arriving on the scene, some new head of an agency who says, "Why do we have that program? Let's do away with it, we can't afford it"; because a commitment was made in law, not just a passing word. This is not just a campaign promise. It is written in law that this Essential Air Service will be provided and will be continued and we will be doing more than breaking faith with the communities. We would be breaking the law if we do not continue to provide this service for that full 10-year transition period.

At the end of that time, when the honor roll is called of communities across America who lost air service, whose small business men cannot commute to conduct the affairs of their communities, whose community leaders cannot travel, whose citizens are deprived of adequate transportation, and today airline travel is not a luxury, it is an essential service, I do not want those communities, the Bemidjis, the Brainerds, the Hibbings, the International Falls, the Worthingtons, the Fairmonts, the Mankatos of Minnesota or the nearly 400 other communities elsewhere across the United States to be on the honor roll of those interred in their economic grave by the failure of the administration or of the Congress to provide and live up to the essential air service requirements of the Airline Deregulation Act of 1978.

Mr. Speaker, I urge enthusiastic and overwhelming support for this resolution.

The SPEAKER pro tempore (Mr. MOAKLEY). The gentleman has consumed 5 minutes.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Speaker, I rise in strong support of House Concurrent Resolution 339 which expresses the sense of Congress that the Essential Air Service [EAS] Program be maintained for the full 10 years for which it was authorized.

For the past 2 years, the Department of Transportation [DOT] has proposed to eliminate the EAP which was to remain in effect until 1988 under the Airline Deregulation Act. The threat of eliminating the EAS, has cast doubts on the future of the program's life and has caused some airlines to reconsider their participation in the program—all to the detriment of our Nation's small communities.

There are presently about 50 small air carriers that receive the subsidy payments to serve about 150 small communities around the Nation. In Nebraska, we have 14 communities served by four air carriers which receive subsidies from the Essential Air Service Program. The AAA airlines is very important to several communities in the northern portion of my congressional district. If the subsidy payments were to end, these small communities would lose all air service and be cut off from the Nation's air transportation system.

Small communities throughout Nebraska for example, rely heavily on the Essential Air Service subsidy. Since much of Nebraska is sparsely populated, many communities sole link to the Nation's air transportation system is provided by this subsidy program.

In addition, it is my hope that the authorization committees of Congress will properly address the EAS Program after its scheduled termination and takes the appropriate action to insure the survival of air service for our Nation's small communities.

Mr. Speaker, while the overall national experience with airline deregulation has produced benefits, recent bankruptcies and consolidations continue to cause great concern for sparsely populated areas. Certainly small communities have not shared in the benefits. That is why the EAS was made a part of the law.

Mr. Speaker, I want to complement the Committee for bringing to the House this excellent and timely resolution.

Mr. Speaker, it is important for this body to go on record saying that we are against elimination of the EAS.

Again I support this resolution and urge my colleagues to vote for it.

Mr. HOWARD. Mr. Speaker, I rise in strong support of this resolution to express the sense of Congress that the Essential Air Service Program should be continued through its authorized life, through October 1988.

When Congress enacted the Airline Deregulation Act of 1978, we guaranteed that no community then received service from a certificated carrier would lose its air service. This section of the Deregulation Act has been a cornerstone in the success of airline deregulation because it stemmed a tide, which had arisen prior to deregulation, of communities losing all of their service.

The cost of the Essential Air Service Program has gone down dramatically over the years, a testament to its management by the Civil Aeronautics Board and the Department of Transportation's Office of Essential Air Service. Why the administration has repeatedly proposed termination of this efficient, cost-effective, beneficial program is simply beyond me.

With this resolution, hopefully the administration will understand that Congress has no intention of terminating the Essential Air Service Program prematurely. Hopefully, the administration will cease its efforts to undermine this well-functioning program.

Mr. Speaker, I rise in support of the resolution and urge its passage.

Mr. HAMMERSCHMIDT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MINETA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. MINETA] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 339.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MINETA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the concurrent resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

TRANSFER OF AIRPORT PROPERTY IN ALGONA, IA

Mr. MINETA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4492) to permit the transfer of certain airport property in Algona, IA, as amended.

The Clerk read as follows:

H.R. 4492

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled "An Act to authorize the Secretary of Transportation to release restrictions on the use of certain property conveyed to the city of Algona, Iowa, for airport purposes" (Public Law 94-243; 90 Stat. 281), is amended—

(1) in the first section, by striking out ", subject to the provisions of section 4 of the Act of October 1, 1949 (50 App. U.S.C. 1622c), and the provisions of section 2 of this Act,";

(2) in section 2, by striking out "Any" and inserting in lieu thereof "Except as provided in section 3, any"; and

(3) by adding at the end the following new section:

"SEC. 3. The authority of the Secretary of Transportation under the first section of this Act shall be subject to the provisions of section 4 of the Act of October 1, 1949 (50 App. U.S.C. 1622c) and the provisions of section 2 of this Act, except with respect to the conveyance of any interest in real property to the Iowa Air National Guard for the construction of a National Guard armory.".

The SPEAKER pro tempore. Is a second demanded?

Mr. HAMMERSCHMIDT. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. MINETA] will be recognized for 20 minutes and the gentleman from Arkansas [Mr. HAMMERSCHMIDT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4492 is a bill to permit the transfer of certain airport property at the Algona, IA, airport. This bill was introduced by Congressman BERKELEY BEDELL of the Sixth District of Iowa.

The city of Algona received its airport land from the Federal Government in 1947. When the city received the land, the deed stipulated that all of the land must be used for airport purposes. In 1976, the Congress enacted a law that permitted a release of the airport land from the usage requirements if two conditions are met; namely, that fair market value must be obtained from the sale or transfer of the land and that the proceeds of the sale must be used for airport purposes. These conditions have been imposed in prior legislation allowing other airports to convey land for non-airport purposes.

The legislation before us would permit the city of Algona to transfer approximately 10 acres of land without complying with the two conditions. My general position on these types of releases is that the conditions of fair market value and devotion of

these proceeds to airport purposes should be met. Though this is my general position, I believe we need to examine the releases on a case-by-case basis to see if a particular local situation warrants a release without condition.

In the Algona situation, I believe such an unconditional release is warranted. The city wants to transfer approximately 10 acres of airport property to the Iowa Air National Guard so a new armory can be constructed. In return the city would receive an old armory located off the airport site. We have been assured that the new armory will not interfere with operation of the airport or future development needs. The transfer will meet local community economic needs and allow the land to be economically and efficiently used to the benefit of Algona's citizens. I believe these considerations override the Federal interest in limiting the use of all the airport land solely to airport purposes.

In the bill now before us, the unconditional release is limited to the land being transferred for the armory. This will preserve the release conditions for the rest of the airport.

I urge my colleagues to pass this legislation.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this bill that would release the Algona, IA, airport from certain deed restrictions.

It is my understanding that this action is needed to allow the city to trade 10 acres of airport land to the Iowa Air National Guard for the present guard armory that is located elsewhere in the city. The Air National Guard would then construct a new armory at the airport site.

Generally, our committee expects a city to receive fair market value when it sells airport land and to use the money received only for airport purposes. That won't be happening in this case. However, I believe that the use that the property will be put to—construction of an Air National Guard Armory—is sufficiently worthwhile to justify the action we are taking here today.

Furthermore, the bill was amended in subcommittee to limit the deed restriction removal to only those 10 acres that the Air National Guard intends to use. As limited, I believe this bill justifies our support.

Mr. Speaker, I reserve the balance of my time.

Mr. MINETA. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Iowa [Mr. BEDELL], the author of the bill.

Mr. BEDELL. I thank the gentleman for yielding time to me.

Mr. Speaker, this bill, H.R. 4492, would release the city of Algona, IA, from restrictions on the use of airport property. This is a straightforward, simple bill which would enable Algona to utilize 10 acres of airport property for the purposes of constructing an Air National Guard facility.

The National Guard facility is currently located on the county fairgrounds. This location is unsatisfactory. The city of Algona is interested in making 10 acres available at the airport for the construction of a new National Guard facility. The National Guard would then convey its existing facility to the city in exchange for this property.

There are several reasons why this exchange makes sense. The existing National Guard Armory is located in an already congested area. There is clearly inadequate training space and parking facilities, and the need for more land to expand the facility is great. If the facility were located at the airport, not only would the parking and training area problem be solved, but an expansion would allow for a significant increase in personnel. Such a move would benefit the entire community.

It is also important to recognize, however, that such a transfer is indeed in our national interest. Clearly, the National Guard Reserve units contribute significantly to our defense capability while reducing defense costs to the taxpayer. The expansion of this particular National Guard unit in Algona, IA, would, in effect, serve a much wider population than Algona; it would indeed serve the Nation's interest.

Algona, however, is effectively prevented from following through with these plans due to a 1976 restriction which stipulates that any transfer of property must allow for the fair market value of the land, and that such proceeds be used for airport improvement purposes. In this case, as the exchange of fairground land for airport land does not involve a calculation of fair market value, this proposed transaction cannot meet the guidelines stipulated in the 1976 law.

It is the purpose of H.R. 4492 to release the city of Algona, IA, from those restrictions which mandate that the airport must receive the fair market value for any land transactions. This bill simply allows for an exemption from such restrictions for the purposes of constructing a new National Guard facility on 10 acres of airport land. The proposed area is currently being used as farmland and would not interfere with airport operations. There would be no cost to the Federal Government resulting from such a transfer of property.

It is my hope, Mr. Speaker, that the need for this bill will be recognized so that the city of Algona will be allowed to proceed with its plans for the construction of the Air National Guard facility on this 10 acres of airport grounds.

Mr. HOWARD. Mr. Speaker, I rise in support of H.R. 4492, a bill to permit the transfer of airport property in Algona, IA. This legislation is sponsored by our distinguished colleague from Iowa, Mr. BEDELL. It would release the Algona airport from the conditions of a 1976 law regarding use restrictions imposed by the deed when the city of Algona received the land in 1947.

The city of Algona would like to transfer approximately 10 acres to the Iowa Air National Guard so that the guard can construct a new armory. The city will receive the guard's old armory. The reason for the legislation is that the old armory does not meet the condition in the 1976 law that fair market value must be received for any land transferred. Testimony presented in hearings on this bill indicated that in this case the needs of the local community override the general need for a requirement of fair market values.

Mr. Speaker, I urge our colleagues to join in support of this legislation offered by the gentleman from Iowa.

Mr. HAMMERSCHMIDT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MINETA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from California [Mr. MINETA] that the House suspend the rules and pass the bill, H.R. 4492, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MINETA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PIPELINE SAFETY AUTHORIZATIONS

Mr. HOWARD. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2092) to amend the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979 to authorize appropriations for fiscal years 1986 and 1987, and for other purposes as amended.

The Clerk read as follows:

H.R. 2092

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NATURAL GAS PIPELINE SAFETY AUTHORIZATION.

(a) IN GENERAL.—Section 17(a) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1684(a)) is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(5) $3,200,000 for the fiscal year ending September 30, 1987.".

(b) GRANTS.—Section 17(c) of such Act (49 U.S.C. App. 1684(c)) is amended by inserting ", and $5,200,000 for the fiscal year ending September 30, 1987" after "September 30, 1986".

SEC. 2. HAZARDOUS LIQUID PIPELINE SAFETY AUTHORIZATION.

Section 214(a) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2013(a)) is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(5) $800,000 for the fiscal year ending September 30, 1987.".

SEC. 3. REPORTING OF SAFETY-RELATED CONDITIONS.

(a) AMENDMENTS TO NATURAL GAS PIPELINE SAFETY ACT OF 1968.—

(1) REPORTING REQUIREMENT.—Section 3(a) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1672(a)) is amended by adding at the end the following new paragraph:

"(3) Not later than 12 months after the date of the enactment of this paragraph, the Secretary shall issue regulations requiring each person who operates pipeline facilities, not including master meters, to report to the Secretary.—

"(A) any condition that constitutes a hazard to life or property, and

"(B) any safety-related condition that causes or has caused a significant change or restriction in the operation of pipeline facilities.

Reports submitted under this paragraph shall be in writing and shall be received by the Secretary within 5 working days after any representative of a person subject to the reporting requirements of this paragraph first determines that such condition exists. Notice of any such condition shall concurrently be supplied to appropriate State authorities.".

(2) INSPECTION AND MAINTENANCE PLANS.—Section 13 of such Act (49 U.S.C. App. 1680) is amended by inserting after the fourth sentence the following: "Such plan shall include terms designed to enhance the ability to discover safety-related conditions described in section 3(a)(3)."

(b) AMENDMENTS TO HAZARDOUS LIQUID PIPELINE SAFETY ACT OF 1979.—

(1) REPORTING REQUIREMENT.—Section 203(a) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2002(a)) is amended—

(A) by inserting "(1)" after "(a)"; and

(B) by adding at the end the following new paragraph:

"(2) Not later than 12 months after the date of the enactment of this paragraph, the Secretary shall issue regulations requiring each person who operates pipeline facilities to report to the Secretary—

"(A) any condition that constitutes a hazard to life or property, and

"(B) any safety-related condition that causes or has caused a significant change or restriction in the operation of pipeline facilities.

Reports submitted under this paragraph shall be in writing and shall be received by the Secretary within 5 working days after any representative of a person subject to the reporting requirements of this paragraph first determines that such condition exists. Notice of any such condition shall concurrently be supplied to appropriate State authorities.".

(2) INSPECTION AND MAINTENANCE PLANS.—Section 210 of such Act (49 U.S.C. App. 2009) is amended by inserting after the last sentence the following: "Such plan shall include terms designed to enhance the ability to discover safety-related conditions described in section 203(a)(2)."

The SPEAKER pro tempore. Is a second demanded?

Mr. McEWEN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New Jersey [Mr. HOWARD] will be recognized for 20 minutes and the gentleman from Ohio [Mr. McEWEN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. HOWARD].

Mr. HOWARD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2092, as amended, which is a simple, noncontroversial bill providing authorizations for administration and grants-in-aid to the States for fiscal year 1987 for the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979. The funds for these authorizations which total $9,200,000, are provided for through user fees. The bill additionally requires the Secretary of Transportation to issue regulations requiring the operator of pipeline facilities to report to the Secretary and the appropriate State officials any condition that constitutes a hazard to life or property, or any safety-related condition that causes or has caused a significant change in or restriction in the operation of the pipeline facilities.

Mr. Speaker, I am aware that there are other pieces of legislation which have been introduced dealing with the safety of pipelines. I have discussed this with Mr. ANDERSON, chairman of the Surface Transportation Subcommittee, and he has assured me these matters will be reviewed in hearings next year.

I urge the House to adopt this legislation.

Mr. Speaker, the Committee on Energy and Commerce was also active in this legislation. Representing that committee, I am very happy to yield such time as he may consume to the distinguished gentleman from Texas [Mr. BRYANT].

Mr. BRYANT. I thank the chairman for yielding.

I thank the Speaker.

I would only like to say, Mr. Speaker, that this bill has the full support of the members of the Committee on Energy and Commerce, which passed the bill out without any objection. It is a step forward in the public interest. It is a safety bill that needs to be passed. It contains provisions similar to the present law plus significant advances with regard to reporting of accidents, potential accidents before they happen.

I will submit furthermore for the RECORD pursuant to requests to be made later by the chairman of the Committee on Public Works for unanimous consent to include this material, a statement of the chairman of the Subcommittee on Fossil Fuels, Mr. SHARP, as well as extraneous material related to the legislative history of this matter.

Mr. Speaker, I yield back the balance of my time.

□ 1545

Mr. McEWEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2092. This legislation authorizes appropriations for the National Gas Pipeline Safety Act and the Hazardous Liquid Pipeline Safety Act. These acts provide an overall scheme for the regulation of the pipeline transportation of natural gas and hazardous liquids. These safety programs demonstrate an excellent example of the Federal-State partnership whereby Federal grants-in-aid assist the States in promoting the safe operation of pipelines.

Also included in the bill is a reporting requirement that mandates operators of pipelines must report to the Secretary of Transportation conditions that are hazardous to life or property or can affect the safe operation of the pipelines.

This legislation represents a compromise and will allow the continuation of these programs until they can be addressed with more detailed legislation next year. I urge my colleagues to support this legislation.

Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Speaker, I thank the gentleman from Ohio for yielding this time to me.

Mr. Speaker, I rise in support of the legislation. This is a program which is essential to the health and safety of the people who live and work in the vicinity of pipelines.

This program constitutes a cooperative effort by Federal and State government. Indeed, the largest portion of Federal spending authorized by Congress is sent to States in aid of their efforts, and all Federal spending

on this program, $9.2 million, for fiscal year 1987 is recouped through user fees imposed on the pipelines, so there is no net Federal spending and no contribution to the budget deficit.

I would like to pay respect to my colleague from Kentucky, Mr. ROGERS, who deserves congratulations and thanks for bringing to the attention of the members of the Committee on Energy and Commerce the need to strengthen the regulations on reporting of unsafe conditions. That amendment is in this legislation.

Mr. McEWEN. Mr. Speaker, I yield 5 minutes to the gentleman from Kentucky [Mr. ROGERS].

Mr. ROGERS. Mr. Speaker, I thank the gentleman from Ohio for yielding this time to me.

Mr. Speaker, I rise in strong support of H.R. 2092, the Federal pipeline safety authorization. I also wish to commend both the Energy and Commerce Committee and the Public Works and Transportation Committee for their oversight on pipeline safety and their work toward bringing this measure to the floor.

The Pipeline Safety Program is a little noticed, yet highly important activity within the Federal Department of Transportation. Its significance lies in its charge to regulate the operation of gas and liquid pipelines, and its responsibility to ensure the safety of the millions of people living near and around the many miles of pipelines which grid the Nation.

Almost nowhere has the importance of our pipeline safety efforts been better realized than in Kentucky, where one operator recently suffered three major failures in an 11-month period. These accidents resulted in numerous injuries, destruction of property, and five deaths. As two of these failures occurred in my district, I have taken a deep interest in our pipeline safety requirements and the Office of Pipeline Safety.

Mr. Speaker, H.R. 2092 provides essentially three things. First, it authorizes funds to carry out the Natural Gas Pipeline Safety Act and the Hazardous Liquid Pipeline Safety Act for fiscal year 1987. Second, it provides and increases funding for grants to States which inspect and monitor pipeline operators on behalf of the Federal Government. Third, this bill adds important new reporting requirements to both of the aforementioned acts, providing better information on the conditions of pipelines to our regulators.

Mr. Speaker, earlier this year, I testified before the House Subcommittee on Fossil and Synthetic Fuels to document problems I had observed within our Pipeline Safety Program. It was my view that despite the funding and manpower shortages in the Office of Pipeline Safety, the program was not providing the level of monitoring and enforcement of which it was capable.

In addition, I had concerns that our State and Federal pipeline safety officials were not receiving adequate information about the serious problems occurring within some pipeline systems—information which might have prompted agency intervention in time to avoid a major accident.

I am pleased, therefore, that this bill includes language directing the Office of Pipeline Safety to issue regulations which require operators to report conditions that constitute a hazard to life or property, and safety related conditions which cause an operator to significantly change or restrict the operation of a pipeline. Operators would be required to make written reports regarding these conditions within 5 working days of their discovery, and would issue reports to both the Office of Pipeline Safety and the appropriate State agency. This language is the result of a proposal I brought to the attention of the Subcommittee on Fossil and Synthetic Fuels. I wish to thank both the gentleman from Indiana [Mr. SHARP] and the gentleman from California [Mr. DANNEMEYER] for their work toward seeing its inclusion in the bill before us today.

This new provision has significance for two reasons. First, for the first time, operators will be required to report not only pipeline incidents, but also any severe unsafe conditions which could potentially cause an incident. Pipeline inspection officials could review this information and the proposed company response in order to ensure the problem is handled properly. Second, the provision provides for reports to be provided to both the Office of Pipeline Safety and the appropriate State agency. Direct reporting to the States is, in my view, important if a safety hazard exists. Additionally, this will allow States with their own Pipeline Safety Program to respond quickly to problems within their jurisdictions.

It is not the intention of this reporting requirement to generate a flood of information on routine changes and repairs. There is no need to burden our agencies with paperwork. The purpose as I see it is to disclose glaring, hazardous conditions which might, if left to linger, constitute an imminent danger. Every year a number of serious incidents occur around the country. We hear about them after they have occurred. In my district, subsequent to some accidents, it became public that serious conditions had existed in a system for months, unbeknownst to State and Federal agencies.

This new provision will provide that information, permit prompt investigation, and allow our Federal officials, in concert with participating State agencies, to act in the safety interests of those living near these lines. It is an important concept, and a big improvement in our Pipeline Safety Program.

Mr. Speaker, H.R. 2092 also provides additional funds for the grants-in-aid program. A number of the States continue to oversee inspections of either intrastate, or interstate and intrastate systems. These State agencies monitor the safe operation of pipeline systems in accordance with Federal standards; for this reason I believe the funds are well warranted.

The chairmen and ranking minority members of the Energy and Commerce Committee, its Subcommittee on Fossil and Synthetic Fuels, the Public Works and Transportation Committee, and its Subcommittee on Surface Transportation, all are to be complimented for their work on their respective parts of this measure.

While this good work may not eliminate all pipeline accidents, it takes a positive and necessary step in that direction. I urge adoption of the bill.

Mr. McEWEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HOWARD. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I rise in support of H.R. 2092 providing for the reauthorization of the Federal pipeline safety program administered by the Department of Transportation for one year.

I want to commend the chairman of the Public Works and Transportation Committee, Mr. JAMES HOWARD, and the chairman of the Subcommittee on Surface Transportation, Mr. ANDERSON, and the chairman of the Energy and Commerce Subcommittee on Fossil and Synthetic Fuels, Mr. SHARP, for bringing this important legislation to the House floor today. I also want to commend my colleagues on the Judiciary Committee, chaired by Mr. RODINO, for also reporting this measure.

Mr. Speaker, the importance of Federal regulation of hazardous pipelines was underscored in my home State of Minnesota recently as a result of a terrible tragedy.

On July 8, an underground pipeline owned and operated by the Williams Pipeline Co. ruptured in Mounds View, MN, spilling a still undetermined amount of gasoline into the streets of a quiet suburban residential community. An explosion and fire killed a young mother and her daughter and seriously injured another woman. Many homes in Mounds View suffered extensive damage. This was only the latest and most tragic accident in a series of pipeline spills involving the Williams Pipeline Co. in Minnesota. Mr. Speaker, you can only imagine the fear and concern that faced these

Mounds View, MN, residents when in the middle of the night they faced 60-70 foot flames in a three block area, manhole covers flying into the air from the force of exploding gas fumes in the storm sewers, gas flowing into the surface waters and finally the tragic death of a mother and her daughter seeking safety.

There are over 1.7 million miles of hazardous liquid pipelines and natural gas pipelines in the United States. Unfortunately, too often, these extensive pipeline systems receive wholly inadequate Federal attention and inspection. The results of a pipeline accident can range from serious environmental damage, often involving soil and ground water contamination, to the loss of life such as occurred early one morning in Mounds View.

Mr. Speaker, I have had a long-standing interest in the issue of pipeline safety. In 1983, I introduced H.R. 3314 which sought to mandate stricter testing standards for hazardous liquid pipelines. In 1984, a report that I requested from the General Accounting Office [GAO] on pipeline safety revealed that there were only 17 field inspectors who were responsible for monitoring the safety of 1.7 million miles of pipeline nationwide.

Recently, working with my colleague and friend, MARTIN SABO, along with Appropriations Transportation Subcommittee Chairman BILL LEHMAN, we were successful in appropriating additional funding for the hiring of two additional field inspectors in the Midwest Office of Pipeline Safety. Additionally, the Transportation Department appropriation bill directs the Department to undertake annual comprehensive inspections of pipeline operators in the central region and to prepare a report assessing the need for mandatory quality assurance requirements for pipeline operators.

On August 12 of this year, I introduced H.R. 5401, the Safe Pipeline Act of 1986, a comprehensive bill which seeks to strengthen our Federal pipeline safety program and which gives local governments and communities access to information which they need to know in responding to pipeline accidents. H.R. 5401 also contains provisions which would mandate more reliable shutoff valves to be used in emergencies as well as a strict testing regimen along with new siting requirement for new pipelines.

I certainly regret that time didn't permit a full consideration of these changes and realize that today will not be the time or place to debate the features of H.R. 5401, but I would certainly hope that the passage today of a 1-year reauthorization for Federal Pipeline Safety Program will set the stage for full hearings early next year designed to strengthen our Pipeline Safety Program further. We cannot afford to be complacent about the dangers which face our communities. Surely we must provide the DOT/OPS the tools and the people to do the job of pipeline regulation.

Minnesota Governor Perpich has recently appointed a task force which is reviewing the issue of pipeline safety, and the National Transportation Safety Board has announced Minnesota hearings at my request. The findings of both these activities will permit a wealth of data and understanding to establish new public policies when the Congress addresses this issue in the near future.

I welcome the privilege and opportunity to work with subcommittee Chairman ANDERSON and subcommittee Chairman SHARP and Chairman HOWARD and other interested Members to develop comprehensive pipeline safety legislation which will fill in the gaps in our current regulatory efforts.

□ 1555

Mr. HOWARD. Mr. Speaker, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from New Jersey.

Mr. HOWARD. I thank the gentleman for yielding to me.

Mr. Speaker, I wish to thank the gentleman from Minnesota for his statement. We certainly are well aware of the legislation that he introduced last month. One of the reasons, I would like to say, that we have only a 1-year authorization in this bill is that early next year, as Chairman ANDERSON has indicated, we will be able to conduct further hearings and certainly incorporate a great deal of the gentleman's legislation.

Mr. VENTO. I thank the chairman and I thank the subcommittee chairman, the gentleman from California [Mr. ANDERSON] and I urge Members to act on this measure today.

Mr. ANDERSON. Mr. Speaker, I rise in support of H.R. 2092, a bill to amend the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979 so as to authorize appropriations for fiscal year 1987.

Hearings were held on this bill last year and the bill as now amended has been agreed upon by all of the House committees to which it was referred. This amended version provides for fiscal year 1987 authorizations for the Pipeline Safety Program administered by the Department of Transportation.

H.R. 2092 now provides for authorizations for $3,200,000 for carrying out the Natural Gas Pipeline Safety Act, $800,000 for carrying out the Hazardous Liquid Pipeline Safety Act, and $5,200,000 for carrying out the State Grant Program for both acts.

In addition, H.R. 2092 directs the Secretary of Transportation to issue regulations requiring pipeline operators to report any safety condition that constitutes a hazard to life or property, or any safety-related condition that causes or has caused a significant change or restriction in the operation of a pipeline.

Last year, Congress authorized a User Fee Program to cover the cost of implementing the Pipeline Safety Program by the Department of Transportation. The User Fee Program has been implemented and user fees will cover the costs for the program for fiscal year 1987.

The State Grant Program is very successful but still needs improvement. The States participating in the grant program have been requesting more Federal support for the program.

Currently, pipeline safety grants reimburse States for 31 percent of their inspection costs. This legislation will increase the Federal funding of this State program to 36 percent. This increase in funding is to be used by the States for activities that directly enhance pipeline safety, such as increasing inspections and training.

In order to assure that this will occur, the administrator of the research and special programs administration at the Department of Transportation is directed to develop and implement a program to ensure that the additional funds will be used to improve pipeline safety. Next year, I intend to review that program and the overall inspection program carried out by the Department of Transportation.

Finally, Congressman VENTO and Congressman SIKORSKI have both contacted me relative to amending the two pipeline safety acts. I have assured both Congressman VENTO and Congressman SIKORSKI that their respective proposals will be heard next year by my subcommittee.

Mr. Speaker, this legislation is not controversial and insofar as I know there is no opposition to it. I, therefore, urge my colleagues in the House to support passage of H.R. 2092.

Mr. SIKORSKI. Mr. Speaker, I'd like to thank the gentleman from California [Mr. ANDERSON] for his work in the area of pipeline safety. While my amendment on siting standards for hazardous liquid pipelines was not included in H.R. 2092, I appreciate the gentleman's commitment to hold hearings on this life and death issue. When the facts are brought out in these hearings, I believe we'll get the kind of tough pipeline safety laws contained in my amendment and in the Energy and Commerce version of this bill.

My amendment to H.R. 2092 simply proposed to implement the recommendation of the National Transportation Safety Board that hazardous liquid pipelines be subject to siting standards similar to those already in effect for natural gas. The fiery explosion of a gasoline pipeline last July in a residential area of suburban Minnesota—in which two people were killed and another was severely burned—underscores the need for such action.

Since the accident, the citizens of Minnesota have become increasingly frustrated with the Federal Government's law enforcement of pipeline safety. Representatives of the petroleum pipeline industry continue to express reservations to my staff about any siting standards for their pipelines. They fear for the bottom line. What these gentlemen don't realize, I respectfully submit, is that safety is part of the bottom line, too. If our citizens don't believe the Federal Government is protecting them, they won't allow these pipelines be built

at all in their communities. They'll do what the citizens of Mounds View, MN, have done. They'll sue to get the pipes pulled out of the ground.

I hope that in holding his hearings the gentleman from California will address a number of safety issues that have been raised by the accident in Mounds View. I also understand that Mr. SHARP, Chairman of the Subcommittee on Fossil Fuels, intends to hold further oversight hearings into the Department of Transportation's failure to enforce pipeline safety laws. I look forward to working with him, my colleague from Minnesota, Mr. VENTO, and the chairman of the full Energy and Commerce Committee, Mr. DINGELL, who also has expressed an interest in investigating this matter.

The DOT's lack of initiative and agressiveness in enforcing pipeline safety has placed a heavy burden on communities that are ill-equipped to deal with the complicated, technical issues involved. To protect their citizens, local officials have had no choice but to step into the void on an ad hoc basis. Americans expect, and have a right to expect, effective regulation of these dangerous, but necessary, pipelines. They have a right to expect basic safety in their neighborhoods. I look forward to working with all of you to improve our Nation's pipeline safety laws, the way they are implemented, and the way they are enforced.

My additional views on H.R. 4426, the Energy and Commerce Committee's pipeline safety bill, follow.

Mr. Speaker, significant tough new pipeline safety requirements are contained in section 3 of H.R. 4426. Since committee action on June 26, 1986, a major pipeline explosion in Minnesota has underscored the importance of such improvements in Federal regulation.

In the early morning hours of July 8,1986, a quiet neighborhood in Mounds View, MN, was ripped apart by explosions from a leaking gasoline pipeline. A woman and her 7-year-old daughter were killed in the resulting fire, and another woman was severely burned.

The pipeline that exploded passed through a number of towns that I represent, and several other pipelines operated by the same company traverse my district as well. In examining this issue, my staff and I have spoken with a number of key Federal, State and local officials involved in the accident investigation.

Several important issues, both general and specific, have emerged during the course of these discussions which I believe the Congress should take into account as it considers future pipeline safety legislation.

First, pipeline testing methods ordered by the Department of Transportation [DOT] are inadequate and may, in fact, contribute to accidents in the long term.

State and Federal pipeline regulators frequently recommend the use of hydrostatic testing before allowing a pipeline to be returned to service following an accident. In this procedure, the pipeline is filled with water and pressurized to determine if it is capable of withstanding certain pressures. Flaws which may not be so severe as to rupture at the time of testing will not be detected. Yet these same flaws can be aggravated under the high pressures of the test, much the same way that bending a paper clip weakens it without causing it to break. During the course of normal pressure cycles, the flaw may propogate and eventually fail. Recommendation No. 1 in the committee oversight findings is a start at addressing this problem. This recommendation requires the increased use of instrumented inspection devices known as "smart pigs" in certain situations, such as pipelines located in urban or suburban areas like Mounds View. Smart pigs will not detect all possible fail modes or flaws, but can decrease the likelihood of failure by providing greater information regarding the condition of the line.

Second, generally, pipeline testing is conducted in neither a rigorous scientific nor systematic fashion. This places public health and safety at risk.

The Mounds View case is particularly instructive on this point. In 1984, the same pipeline was hydrostatically tested under order by the Department of Transportation. An attempt was made to pressurize the pipeline to 2,400 pounds per square inch. This pressure level was never achieved, because the pipe ruptured in 16 different places during the test. A pressure level of 1,900 pounds was finally achieved, an apparently arbitrary maximum operating pressure of 1,500 pounds was finally ordered. This pipeline was operating at 1,480 pounds when it ruptured in the Mounds View accident.

According to representatives of the National Transportation Safety Board (NTSB), in 1984 test produced absolutely no useful information to assist investigators in determining the causes of the 16 ruptures that occurred during the test. In addition, it may have contributed to the accident at Mounds View. While we can only hypothesize that testing the pipe at such high pressures may have contributed to the accident last month, we can state with great certainty that this test did not provide officials with sufficient data to determine a safe operating level for permanent operation of the pipeline. Clearly, 1,500 pounds was too high. It is unconscionable that we are left to discover this fact only when a woman and her child are killed, and their neighborhood laid to waste.

What is most incredible, and of greatest concern to the citizens of Minnesota, is that DOT seems poised to repeat these same mistakes in its current handling of the Mounds View accident. According to the DOT order, the pipeline will be hydrostatically tested at 1,500 pounds. If there are no ruptures, the pipe will be allowed to operate at 900 pounds. Once again, the hydrostatic test may add to metal fatigue. Once again, it may not tell us anything about flaws in the pipe not severe enough to rupture at the time of the test. And once again, this lack of information could lead to another accident.

Laboratory testing of pipelines has revealed that identical pipe can rupture at widely varying pressures. According to NTSB staff, pipe has successfully sustained 4,000 pounds of pressure while other, superficially similar pipe failed at 900 pounds. Only more detailed metallurgical studies can provide the information needed to determine whether this pipeline can operate safely at 900 pounds—or at any other pressure, for that matter. Such tests are not now required by the DOT order for this case. According to NTSB representatives, the 900-pound operating level ordered by DOT is not based on any scientific or statistical analysis, but is predicated, rather, on what the owner needs to operate the pipeline profitably.

Third, dangerous liquid fuel pipelines can be built in the midst of populated areas due to the lack of Federal siting standards.

Throughout my investigation of this matter, I have continually been struck by the Department of Transportation's lack of initiative in enforcing pipeline safety. No single issue illustrates this fundamental problem more than the lack of siting standards for liquid fuel pipelines. Although the Office of Pipeline Safety at DOT enforces siting standards for natural gas pipelines, this same office has failed to carry out the explicit recommendation of the National Transportation Safety Board that DOT promulgate and apply such standards for equally dangerous liquid pipelines.

The Office of Pipeline Safety at DOT is the Federal regulator for pipeline safety. Human lives depend on how well it performs that job. I find it totally unacceptable that such experts, entrusted with great responsibility, lack the initiative to apply the strict safety standards needed to protect the public. While we may excuse the prior lack of Government concern that allowed a hazardous pipeline to be built in an already populated suburb in 1957 (aerial photographs show that the Mounds View accident area was already well settled at the time of pipeline construction), we cannot excuse a failure on the part of Government to promulgate such standards in the wake of horrific accidents that have occurred in the intervening years. If DOT continues to ignore its authority—and responsibility—to issue siting standards for hazardous liquid pipelines, then Congress will have to use its legislative powers to compel them into doing their job. I have therefore suggested an amendment to H.R. 4426 that would require Federal standards for the siting of hazardous liquid pipelines. This amendment could be added to H.R. 4426 during consideration of the bill by the Committee on Public Works and Transportation Committee, or during other action on Federal pipeline safety law. It is urgently needed.

In conjunction with tougher safety regulations for existing pipelines, Federal siting standards could significantly reduce the potential for fatal accidents along our Nation's pipeline system. Safety is too important to leave to individuals within the Department of Transportation who are conducting business as usual while an aging national pipeline network threatens the lives of our citizens.

Mr. SHARP. Mr. Speaker, I rise in support of the amendment in the nature of a substitute to H.R. 2092. This bill has the support of the Energy and Commerce Committee.

It is a 1-year authorization of $3.2 million for administration of the Natural Gas Pipeline Safety Program, $800 thousand for administration of the Hazardous Liquid Pipeline Safety Program, and $5.2 million for the States Grants-in-Aid Program.

This substitute also contains new reporting requirements for unsafe conditions. Historically, pipeline safety operators were only required to report major safety accidents called incidents. Near misses or even severe hazards were not required to be reported. In the

past, operators simply rectified the condition; regardless of the severity of a safety condition or problem, it was not included in the pipeline safety data system.

Now, for the first time, the Pipeline Safety Program will evaluate safety conditions prior to accidents, not only after the fact. The program can become predictive and preventive of accidents, not simply reactive to accidents.

Section 3 of H.R. 2092 was originally contained in H.R. 4426 as reported by the Energy and Commerce Committee. The report accompanying H.R. 4426 would now be part of the legislative history of H.R. 2092 if it is agreed to by the House. I therefore ask permission to include the relevant sections of the report on H.R. 4426 at this point in the RECORD, since it covers the legislative history of section 3 as well as numerous Energy and Commerce recommendations concerning the Federal Pipeline Safety Program.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 2(1)(3)(A) of Rule XI of the Rules of the House of Representatives, the Subcommittee included oversight review of the program with the authorization hearing on March 18, 1986. Oversight findings and recommendations were noted in that hearing and subsequently discussed during the subcommittee and full committee mark-ups of the bill.

The Committee notes that there has been some recent progress in improving DOT's pipeline safety program. However, the Committee firmly believes that there are significant additional strides that can be made. A review of the program conducted during the March 18, 1986, hearing left the Committee uneasy about the lack of aggressive leadership in the pursuit of a cost effective, higher level of pipeline safety. The Office of Pipeline Safety should lead, challenge, criticize, innovate, and generally force the pipeline industry to the highest feasible safety standards.

The Committee has six recommendations:

1. The Department should require increase use of internal instrumented inspection devices, commonly known as "smart pigs."

Smart pigs provide a unique, environmentally acceptable way to inspect many pipelines and improve their safety records. The Department should require the use of smart pigs in those circumstances which will yield the greatest benefit. Increased use of smart pigs will likely decrease the cost of each inspection and improve reliability.

The Committee recommends that the Department set standards specifying where smart pig inspections would be required. These standards might be based on:

a. population density adjacent the pipeline,

b. unusual environmental circumstances that warrant a higher level of leak prevention,

c. leak history,

d. line size or line pressure,

e. type of line coating or absence of line coating, and

f. effectiveness of cathodic protection.

The Department could waive the mandatory use of smart pigs based on alternative equivalent tests if line geometry would prohibit the use of pigs or if the cost of such inspections would be excessive compared to the knowledge gained.

The Committee does not believe that the use of smart pigs can be universally justified but does believe that their increased use in the circumstances listed above is essential. The Committee notes that many of the nation's pipelines were designed for rural areas. With the rapid expansion of suburban areas, many of these former rural areas now contain subdivisions and shopping malls. Use of smart pigs in these areas is a cost effective way to assure a high level of safety in recently developed areas that have older pipelines.

The Committee has thoroughly reviewed the Department's report on smart pigs and suggests that the exclusive reliance on cost-benefit analyses to determine the circumstances for the use of smart pigs is inappropriate.

The Committee also notes that other advanced technologies can improve pipeline safety. As an example, the Committee believes that DOT should aggressively assist the Gas Research Institute in their research to use new technology to verify line cover over pipelines.

2. The Department should require the certification or licensing of pipeline operators.

Certification of operators and inspectors is required for similar professions, such as boiler operators and inspectors. The Committee recommends that DOT immediately begin developing a certification program required for all pipeline operators. While the Department may be interested in the results of the Alabama program to license operators, that experience should be used as a basis of how to establish a licensing program, not as an excuse to delay consideration of whether it should be done.

At the March 18, 1986, hearing, the Department testified that when the issue of certification of operators was addressed several years ago, DOT concluded that such certification was "properly a state prerogative, not a federal prerogative." The Committee rejects this view. The Committee notes that pipelines are the only form of transportation that do not already require a licensed operator.

Concerning the licensing of pipeline inspectors, the Department stated in a March 6, 1986, letter that a certification or licensing program could assist in raising the professionalism of state inspectors. The Department stated that because of state inspector's diverse backgrounds in education and experience, the Department believes that the appropriate method to enhance their professionalism is "by increasing their knowledge and skills through training at RSPA's Transportation Safety Institute." This statement implies that certification and training at TSI are mutually exclusive. The Committee believes they are not. "Divergent backgrounds in education and experience" argue in favor of both TSI education *and* a certification procedure to ensure a *minimum* acceptable level of education and experience for inspectors.

3. The Department should clarify the term "unaccounted-for gas" and clearly identify the systems which represent imminent or potential safety problems.

Currently the concept of unaccounted-for-gas is only slightly correlated to a safety problem, since much unaccounted-for-gas is simply gas which is used without being metered.

A more useful concept might be "lost gas." "Lost gas" is gas which is not consumed and for which there is no explanation except leakage. High leakage is expected to have strong correlation to safety problems. The Department should require the estimation of all gas consumption by distribution systems and publish this information in a form that indicates the potential or lack of potential for a system to be a safety hazard. The Committee believes that the Department has the information already in hand to do this expeditiously. However, the Committee believes that the Department has not been clear in organizing this information and communicating the safety condition of distribution systems to the Committee or the public. The Committee expects DOT to develop and clearly identify those systems with severe safety problems and to clarify the terms and measurement of "unaccounted-for-gas" so that individuals outside DOT can reasonably understand the safety derived significance of the numbers.

4. The Committee directs DOT to submit to the Committee a report on the advisability of holding operators and owners individually responsible for operation of pipelines with conditions known to be unsafe.

There is precedent for this concept in environmental areas as well as the engineering, architecture and medical professions. The Department may already have authority to hold operators individually responsible. The Committee wishes clarification on when this authority would be or has been utilized.

The report should also consider the possibility of imposition of the penalties for pipeline transmission companies that knowingly sell gas to distribution companies that the transmission company knows to be unsafe. DOT has advised the Committee that it may already have the authority to do this. The Committee recommends that DOT develop and publicize a plan for using this authority and seek any additional legislative authorization needed.

5. The Committee directs the Department to make improvements in its communications which will ensure notification of reportable incidents to appropriate agencies in each State, and to report to the Committee on improvements made and results achieved.

The Committee is concerned about reports it has received regarding poor communication between the Office of Pipeline Safety (OPS) and State agents with respect to reportable incidents on interstate transmission facilities. The Committee recognizes that progress has been made by the OPS to ensure that it is notified once a telephone report has been made to the National Information Center. However, the Committee believes it also is vital for States, and in particular States which serve as agents for the Secretary with respect to interstate facilities, to receive notification at the earliest opportunity following discovery of a reportable incident.

This recommendation is a direct result of State concern voiced subsequent to the three accidents on the same pipeline system in Kentucky during 1985 and 1986.

6. The Committee directs the Department to include carbon dioxide (CO_2) pipelines in their regulation of hazardous liquids pipelines.

The Committee believes that due to both the high pressure and high volume of these lines, they constitute a possible severe hazard that is not yet fully recognized. the Committee also notes that CO_2 is regulated as a hazardous material for truck and rail transportation but is not regulated as a hazardous material in pipelines. The Committee sees no rational explanation for this inconsistency and directs DOT to include CO_2 pipelines within their safety regulation.

If the Department feels it does not have sufficient authority with existing law to do this, it should advise the Committee.

Section 3

Section 3 contains additional reporting requirements. Historically pipeline operators were only required to report pipeline "incidents." The specific requirements were detailed in 49 CFR 191.3 for natural gas. An incident is basically a major pipeline accident. Near accidents or severe conditions have not required reports. A company could simply correct the condition without advising anyone of the problem. Section 3 corrects this deficiency. DOT must now issue regulations requiring a pipeline to report all severe unsafe conditions to DOT and the appropriate state authority. The intent of this section is to provide safety regulating authorities with greater information on the condition of pipelines subject to the reporting requirements of the NGPSA and HLPSA.

The federal and state regulators will be expected to review proposed corrective action to assure that it is appropriate for the severity of the condition.

Two types of conditions are required to be reported. The first is conditions that constitute a hazard to life or property. In determining a condition that constitutes a hazard to life or property, it is not the intention of the Committee to require reporting of routine replacement, repair or other types of maintenance. It is the Committee's intent that reports be rendered to the Secretary and appropriate state authority when the circumstances or the physical characteristics of the pipeline facilities change to the extent that a severe and proximate hazard to life or property exists requiring expeditious corrective action.

The Committee expects both isolated conditions and aggregate conditions to be included. Any single severe condition must be reported as well as a severe safety hazard that exists because a number of less severe conditions in total may indicate a deteriorating or questionable system. For example, extensive corrosion along a pipeline might require notification even if each individual example of the corrosion would not require reporting.

Second, any safety-related condition that causes or has caused the operator to restrict operating conditions would require reporting. For example, if an operator found evidence of extensive corrosion or flaws in a pipeline, the operator might simply reduce the operating pressure and continue to operate the line. This reduction in pressure would eliminate the potentially unsafe condition. These reductions in pressure and other similar operating restrictions would require reporting.

The Committee has required that written reports be made within five working days of discovery of an unsafe condition. This method was selected over a telephone report to allow for accurate transmittal of complete information to DOT. The Committee emphasizes that DOT must receive the report within five days of discovery. To ensure that this occurs, operators should avail themselves of overnight delivery services or electronic mail. If necessary, DOT should establish an electronic mail box for this purpose.

The five working days starts from the time any individual or representative determines that a severe safety related condition exists. If a field inspector is the first individual to observe the problem, the five day period starts when he first determines there is a severe problem, not when higher management is advised of the problem.

The Committee notes that the reporting of conditions as opposed to incidents is a significant change in the pipeline safety program. Historically, the program has been a reactive one. If there was an accident, there was an enforcement action. Near accidents were not reported, and enforcement action typically was not taken. The reporting of conditions will allow DOT to take action prior to an accident. The Committee feels this is a significant improvement and expects the Department to use the additional information to aggressively correct potential hazards.

H.R. 2092 is a 1-year authorization. As the committee has reviewed the Pipeline Safety Program, we have noted that it is severely in need of continued congressional oversight. I can assure other Members that this will be a high priority during the next Congress.

I yield back the balance of my time.

Mr. HOWARD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. HOWARD] that the House suspend the rules and pass the bill, H.R. 2092, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "An act to amend the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979 to authorize appropriations for fiscal year 1987, and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HOWARD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

AUTHORIZING FUNDS TO PRESERVE OFFICIAL PAPERS OF JOSEPH W. MARTIN, JR.

Mr. HAWKINS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4244) to authorize funds to preserve the official papers of Joseph W. Martin, Jr., as amended.

The Clerk read as follows:

H.R. 4244

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ASSISTANCE AUTHORIZED.

In recognition of the public service of the former Speaker of the United States House of Representatives, Joseph W. Martin, Jr., and of the need for preserving the official papers of Speaker Martin, the Secretary of Education is authorized to provide funds in accordance with the provisions of this Act to assist in the construction of the Joseph W. Martin Institute for Law and Society at Stonehill College, North Easton, Massachusetts.

SEC. 2 CONDITIONS FOR ASSISTANCE.

No payment may be made under this Act except upon an application at such time, in such manner, and containing or accompanied by such information as the Secretary of Education may require in order to certify the amount of eligible funds. All such payments may be used in furtherance of the mission of the Joseph W. Martin Institute for Law and Society to establish a regional and national academic center for scholarship and applied research on the development of domestic and foreign policy during the career of Joseph W. Martin, Jr.

SEC. 3. DURATION OF ASSISTANCE.

Funds appropriated pursuant to this Act shall be made available to Stonehill College on or after October 1, 1986, and prior to the close of the fiscal year ending September 30, 1990.

SEC. 4. AUTHORIZATION OF APPROPRIATION.

There are authorized to be appropriated such sums as may be necessary to carry out this Act for the fiscal year ending September 30, 1986, and for each of the three succeeding fiscal years, except that the aggregate amount so appropriated shall not exceed $6,000,000. Funds appropriated pursuant to this section shall remain available until expended.

The SPEAKER pro tempore. Is a second demanded?

Mr. JEFFORDS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. HAWKINS] will be recognized for 20 minutes and the gentleman from Vermont [Mr. JEFFORDS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. HAWKINS].

Mr. HAWKINS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4244, a bill to authorize funds to preserve the official papers of Joseph W. Martin, Jr.

In the entire history of the United States, we have only had 55 Speakers of the U.S. House of Representatives. Joseph W. Martin was among that small handful of leaders of this House which has rightfully been called the people's House.

Speaker Martin served in this body for 42 years, first being elected in the 69th Congress and serving through the 89th Congress. He also served as the minority leader from 76th through the 85th Congress with the exception of 4 years when he served as Speaker.

When the Republicans were elected as the majority party in 1946, their representatives chose Joseph Martin as their leader, and Congressman

Martin became Speaker Martin. Those years, 1947 and 1948, were a time of great turmoil with the United States emerging for the first time as the leading power in the world. Speaker Martin left his imprint on all the legislation moving through the Congress during that period.

When the Republicans again became the majority party after the election of 1952, they again chose Joseph Martin to be their leader. He again served with distinction as the Speaker of this body in 1953 and 1954.

The bill we have before us today authorizes $6 million in funds to be granted for the construction of an institute for law and society at Stonehill College in Massachusetts. This institute will be named after Joseph Martin, and will serve as a regional and national academic center for scholarship on the development of domestic and foreign policy during the long and distinguished career of Speaker Martin.

I can think of no more appropriate tribute to the worthy service and distinguished career of the gentleman from Massachusetts. I also believe that it is a wise expenditure for the country to invest in a study of the policymaking which occurred during that long and crucial period of our Nation's history.

Therefore, I urge the adoption of this bill and commend Congressman CONTE for introducing it and encouraging its adoption.

Mr. JEFFORDS. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. CONTE] the author of the bill.

Mr. CONTE. I thank the gentleman for yielding time to me.

Mr. Speaker, as the author of this legislation, I rise in strong support of H.R. 4244, a bill to preserve the papers of former House Speaker Joe Martin of Massachusetts. And I want to thank my good friends GUS HAWKINS, JIM JEFFORDS, BILL FORD, and TOM COLEMAN for allowing this bill to be brought up today under suspension of the rules.

An amendment is needed to the bill to clarify that the funds authorized go to the Secretary of Education. I want to thank Chairman HAWKINS for making these changes when he moved to bring the bill up under suspension of the rules.

Mr. Speaker, H.R. 4244 authorizes up to $6 million to assist in the construction of the Joseph W. Martin Institute for Law and Society at Stonehill College in North Easton, MA. The legislation specifies that the library must serve as a regional and national academic center for scholarship and applied research on the development of domestic and foreign policy during the career of former Speaker Martin.

Joe Martin represented Massachusetts in the House of Representatives from 1925 to 1967, and for two terms as Speaker. His career spanned four decades of our Nation's life. He saw the Great Depression, World War II, the Korean conflict, the vision of John F. Kennedy, and the Vietnam conflict. His personal papers—housed now at Stonehill College in Massachusetts—reflect America's struggles to define itself during those four decades. It is fitting and appropriate that we honor former Speaker Martin in this way.

Mr. Speaker, when I introduced this bill, I went back and looked through the CONGRESSIONAL RECORD of October 20, 1966, at the special order I took out for the retiring Joe Martin. And as I looked through the remarks of Members of the House from both sides of the aisle, I became convinced of the rightness of my approach in introducing this bill.

Former Speaker McCormack said that his "respect and admiration for Joe Martin is limitless." Jerry Ford said that Joe's "step has been slowed a little in the past 42 years but his kindly smile is still the same, and it beams from a face that we have come to know and love in the time he has been with us. The Halls of Congress will be a little darker and colder after he has left." And TIP O'NEILL said that the class of Joe's character "shines through in such crystal clear fashion that it strips him of any partisan label and establishes him as a great American citizen."

This is the man we honor today, Mr. Speaker. To me, he was always "Uncle Joe," a beloved and respected adviser and counselor. He was a speaker at my very first testimonial dinner following my first election to this body. It was because of him that I was appointed to the Appropriations Committee when I came here in 1958.

Mr. Speaker, on the floor here in 1966, I said that one of the "most distinguished lights ever to shine in these Halls will shine for the last time when the Speaker's gavel signals an end to the current session." H.R. 4244 will insure that that light will shine on still. Support the legislation. Honor the legacy of former Speaker Martin.

□ 1605

Mr. JEFFORDS. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to my good friend, the gentleman from Vermont.

Mr. JEFFORDS. Mr. Speaker, I want to thank the gentleman for pursuing this.

I think it would be a crime if we did not honor Joe Martin as we have today. He was a distinguished Speaker.

I must also add that Massachusetts, over the past several decades, has made an incredible imprint upon this Congress, with three distinguished Speakers, and not to have included Joseph Martin among them would have really been a sad oversight.

I also want to say that if the New England Republicans should ever have the chance to annoint at this moment a Speaker, I am sure that you would be the one that we would choose, having such a glorious history here in the House and having come from the great State of Massachusetts.

Mr. Speaker, I rise today in support of this bill to honor Joseph W. Martin, a fine Republican and a fine man. It is fitting that we find time to pay tribute to a man who provided many years of service to this Nation and to his home State of Massachusetts. There is not much that I can add to the eloquence of the gentleman from Massachusetts, but I would like to make an additional comment or two.

It was clear from an early age that Joseph Martin would be a leader. At 7 he was a newsboy for the North Attleboro Chronicle; at 24 he was the paper's publisher. He entered politics at an early age as well. By the age of 30 he had been a State representative and had become a State senator. Joseph Martin was a political power in his home State and in national Republican affairs for most of his life.

As a Member of the U.S. House of Representatives for 42 years, Joseph Martin served almost continuously from 1939 to 1959 as the House GOP leader. More notably though, were the two periods during which he served as the Speaker, from 1946 to 1948, and from 1952 to 1954.

Republicans are fortunate to be able to claim Joseph Martin. He carried our banner well. This bill recognizes the public service that was provided by him, and acknowledges the need to preserve his official papers. Over the next 4 years, an aggregate amount not to exceed $6 million would be available through the Secretary of Education to Stonehill College for the purposes of assisting in the construction of the Joseph W. Martin Institute for Law and Society.

Such an institute appears to be a fitting commemoration to the former Speaker Martin. I urge my colleagues to support this worthy legislation.

Mr. HAWKINS. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. MOAKLEY].

Mr. MOAKLEY. Mr. Speaker, I rise in support of the motion to suspend the rules and pass the bill (H.R. 4244) to provide Federal assistance in connection with the establishment of the Joseph W. Martin Institute for Law and Society at Stonehill College.

The gentleman from Massachusetts [Mr. CONTE] and I have introduced this bill to provide an appropriate tribute to the late former Speaker, Joseph W. Martin, Jr.

Joe Martin was one of the ablest and most honorable men our State has ever produced. The Republican Party

was quick to recognize his character and wisdom. Most of his 42-year career in the House was spent as his party's leader, both as minority leader and as Speaker during the 80th and 83d Congresses.

He served as national chairman of the Republican Party in the early 1940's and was permanent presiding officer of the party's national conventions from 1940 to 1956.

The records of House committees are preserved by the National Archives. But the papers of our Speakers are customarily donated to colleges. Speaker Martin deposited his papers at Stonehill College in North Easton. The college is establishing an institute that will serve as an academic center for scholarship and research on the development of domestic and foreign policy during the important years that Joe Martin was a national leader.

Mr. Martin's official papers span more than a generation, and are an important historical resource, and Federal assistance to the college in carrying out its archival responsibilities with respect to these records is highly appropriate.

I commend my friend from Massachusetts for his leadership in that matter, and I thank the bipartisan leadership of the Committee on Education and Labor for presenting this matter to the House today.

Mr. JEFFORDS. Mr. Speaker, I yield myself such time as I may consume.

I only do so for the purposes of thanking the chairman of the committee for his cooperation and help in bringing this piece of legislation to the floor, which I know means an awful lot to those of us who come from that area of Massachusetts.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HAWKINS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from California [Mr. HAWKINS] that the House suspend the rules and pass the bill, H.R. 4244, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

A motion to reconsider as laid on the table.

GENERAL LEAVE

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4244, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

CONFERENCE REPORT ON H.R. 4421, COMMUNITY SERVICES PROGRAMS AMENDMENTS OF 1986

Mr. BONIOR of Michigan. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 543 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 543

Resolved, That all points of order for failure to comply with the provisions of clauses 3 and 4 of rule XXVIII are hereby waived against the conference report on the bill (H.R. 4421) to authorize appropriations for fiscal years 1987, 1988, 1989, and 1990 to carry out the Head Start, Follow Through, dependent care, community service block grant, and community food and nutrition programs, and for other purposes.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. BONIOR] is recognized for 1 hour.

Mr. BONIOR of Michigan. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 543 waives clauses 3 and 4 of rule XXVIII against the conference report on H.R. 4421, the Human Services Reauthorization Act of 1986.

Clause 3 of rule XXVIII prohibits House conferees from reporting a conference report that recommends provisions which are outside of the scope of the matters that were committed to conference. Clause 4 of that rule provides that House conferees may not agree to include in the conference recommendation any proposal contained in the Senate legislation if, during consideration of the measure in the House, the Senate provision in question would not be considered to be germane. If we fail to waive these points of order, the conference report could be defeated by a single Member's action and the conference agreement so carefully crafted would collapse.

In order for the conference report to receive due consideration, the scope violation must be waived because—in certain instances where either the House or Senate passed provisions that the other House did not address—language was added to the original provision in order to make it acceptable to conferees from each House. In nearly every case, these technical improvements serve to add clarity to the program involved.

The waiver against nongermane Senate amendments included in the conference report is necessary mainly because the other body choose to use the bill as a vehicle to authorize two programs relating to human services that were not addressed in the House bill: Namely, the Low-Income Home Energy Assistance Program and the Child Development Associate Scholarship Program. House conferees agreed to authorizations for both programs. In the case of the Low-Income Home Energy Assistance Program, the authorization levels included in the conference report are lower than the levels originally contained in the Senate amendment.

Mr. Speaker, H.R. 4421, as proposed to be passed by the conference committee, would reauthorize programs which are key to Federal efforts to mitigate poverty in our Nation. The bill would reauthorize Head Start, Follow Through, Dependent Care Block Grants, Community Services Block Grants, Community Food and Nutrition Programs, and the Low-Income-Home Energy Assistance Program. Each of those programs would be extended by 4 years.

By adopting the rule before the House, we will enable the compromise worked out in conference to be brought to a vote by the full membership. I urge adoption of the rule and swift passage of H.R. 4421.

□ 1615

Mr. QUILLEN. Mr. Speaker, I yield myself as much time as I may use.

Mr. Speaker, this is a good rule. It is necessary because the conference report exceeds the scope of the legislation submitted to the conference and because it contains nongermane amendments from the other body. It extends six important programs to fight poverty.

Incidentally, all these programs were created since I came to Congress. One of the better programs is the Head Start Program. This bill extends its funding. I think it is a very necessary program, starting young children out to learn to dream and to get ahead.

We are headed into the fall and the winter and the Low-Income-Energy Program is a very fine one and should be passed with this conference report.

The other four are equally important. We have embarked on these programs over the past several years. They continue to be operative and that is sometimes the tragedy of the Congress itself. Once programs are initiated, they continue to be operative. In this instance, these are good programs.

Mr. Speaker, I do not object to the rule. I urge passage of the rule.

Mr. BONIOR of Michigan. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. KILDEE. Mr. Speaker, I call up the conference report on the bill (H.R. 4421) to authorize appropriations for fiscal years 1987, 1988, 1989, and 1990

to carry out the Head Start, Follow Through, Dependent Care, Community Services Block Grant, and Community Food and Nutrition Programs, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of September 12, 1986.)

The SPEAKER pro tempore. The gentleman from Michigan [Mr. KILDEE] will be recognized for 30 minutes and the gentleman from Vermont [Mr. JEFFORDS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Michigan [Mr. KILDEE].

Mr. KILDEE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conference agreement on H.R. 4421 extends six vital human services programs under the jurisdiction of the Subcommittee on Human Resources. They include: Head Start, Follow Through, the Dependent Care Grants Program, the Community Services Block Grant [CSBG], the Community Food and Nutrition Program, and the Low-Income Home Energy Assistance Program [LIHEAP].

Although not included in the original House bill, provisions reauthorizing LIHEAP were part of the Senate bill. A modified version of the Senate provisions have been included in the conference agreement with the knowledge and cooperation of the Energy and Commerce Committee.

The conference agreement also contains provisions from the Senate bill creating two new programs. The Child Development Associate Scholarship Assistance Act and the CSBG demonstration partnership agreements. These provisions were included at the request of and with the strong support of the Senate.

The Child Development Associate Scholarship Program authorizes grants to States to assist eligible low-income candidates for the CDA credential, a performance-based certification for Head Start classroom staff and other child care providers. The CSBG demonstration partnership agreement authorizes 50 percent matching grants for the development of new, innovative approaches to addressing the critical needs of the poor. The total authorization for these new programs is $6.5 million, a reduction of $3.5 million from the amount proposed in the Senate bill.

All of the programs in the conference agreement would be authorized for 4 years from fiscal years 1987 through 1990, except for the CSBG demonstration projects, which would have a 3-year authorization.

A major difference between the House and Senate bills was the authorization levels. The House bill authorized such sums for all programs except CSBG which was authorized at $390 million for fiscal year 1987 and such sums thereafter. The conference agreement provides specific authorization for each program at levels which total $266 million less for fiscal year 1987 than the fiscal year 1986 authorization for these same programs—even when taking into account the new programs.

The total conference agreement authorization for fiscal year 1987, including the new programs but including LIHEAP, are $86 million less than the CBO estimate for the House-passed bill. Even when LIHEAP is included, the difference in authorization levels is less than 1 percent.

All of the programs in the conference agreement have the goal of increasing the ability of individuals and families to become economically and socially self-sufficient. They share a common orientation, working within the community to address the needs of low-income children and families. Most have a common legislative history as essential maneuvers in the war on poverty. They are important programs not only because of the populations they serve but also because they are cost-effective and can prevent the need for additional expenditures in the future. On the question of the Senate reading amendment including the conference agreement, I agree with the statement of Mr. GOODLING.

The arguments regarding the cost-effectiveness and successfulness of Head Start and the Community Services Block when President Reagan talks about public-private partnerships, local initiative, local control, local decisions, that is what community action is.

The original House bill, H.R. 4421, was approved by an overwhelming 377-to-33 vote. I urge my colleagues to join me again in supporting the reauthorization of these critical community services programs.

Mr. JEFFORDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on H.R. 4421 which reauthorizes, through fiscal year 1990, a number of community-based service programs which afford a wide range of education, nutrition, medical, and other social services as well as opportunities for self-sufficiency to low-income families. Included in this measure are the highly successful Head Start, Community Service Block Grant, and Low-Income Energy Assistance Programs. In addition, Follow Through, the State Dependent Care Development Grant Act, and the Community Food and Nutrition Program are extended for 4 years. Finally, two new initiatives, the Community Services Demonstration Partnership Discretionary Authority and the Child Development Associate Scholarship Assistance Program, both of which were included originally in the Senate-passed bill, have been retained and authorized for 4 years in the conference committee agreements.

A key provision of the conference report reauthorizes the expiring Head Start Program for fiscal years 1987 through 1990. Head Start is unique in that it has historically enjoyed virtually unanimous, bipartisan support in the House and in the other body as well. Why? The reason is simply this: In its 21-year history, the Head Start Program has provided a broad array of exemplary educational programs and vital health, nutrition, medical, and related social services to preschool children from low-income families. But Head Start does much more.

With a major emphasis on parental involvement, the Head Start Program can rightfully claim credit for establishing and strengthening important linkages between Head Start parents and local school systems.

Since Head Start utilizes parents as teachers, classroom aids, and volunteers, it provides education, training, and on-the-job work experience that improves their employability and increases their options for greater self-sufficiency.

The benefits of the Head Start Program, however, extend beyond those families participating in the program to the community at large. Clearly, Head Start programs have demonstrated their ability to effect institutional changes within the community and serve often as an invaluable information and referral resource for non-Head Start low-income families.

In short, there are no major policy changes called for in the Head Start provisions of the conference report; several technical and perfecting changes have been made. The current funding formula remains in place. Adequate resources are assured for Indian and migrant grantees. Sufficient funding for training and technical assistance is maintained in full recognition of the fact that the quality of the Head Start experience is dependent on the quality and commitment of its staff. And last, but certainly not least, is the reaffirmation of our commitment to serving handicapped preschoolers through Head Start.

Let me turn briefly to two provisions of the conference report which are directly related to dependent care, in general, and to our growing demand for quality child care services, in particular. The State dependent care development grant authority has been reauthorized through fiscal year 1990. This program was established just 2 years ago under the terms of the 1984 Human Services Reauthorization Act. Funds awarded to States were for

planning, development, establishment, expansion, and improvement of State and local resource and referral systems to provide information concerning the availability, types, costs, and location of dependent care services. Special emphasis was placed on child care services for school-age children before and after their regular school program. It should be noted that no funds were provided under this authority in fiscal year 1985. For fiscal year 1986, $4.8 million has been allocated to the States.

The conference report includes a new Child Development Associate Scholarship Assistance Program [CDA] that was included in the Senate-approved bill. The purpose of this authority is to provide access to competency based training in child development and early education skills to low-income child care providers working in Head Start programs, child care centers, and family day care homes. The CDA initiative is authorized for fiscal years 1987 through 1990 at $1.5 million annually.

In my judgment, the merits of both of these provisions must be viewed in the light of some very recent and very sobering statistics released last month by the Department of Labor.

Based on an analysis of data from the current population survey, almost 51 percent of women with children under 3 years of age were in the labor force in March 1986, compared with approximately 42 percent just 6 years ago. Over the same period, that is, from March 1980 to March 1986, the labor force participation rate of mothers with school-age children rose from 64 to 70 percent. Even though the number of children in the population has fallen by 1.2 million since 1980, the number of mothers in the labor force has grown by 2.5 million. Children under age 6 accounted for 90 percent of the rise. Reflecting this development, there was also an increase from 53 to 59 percent over this 6-year period in the proportion of the children living in households where either both parents or the sole parent was in the labor force.

Clearly, the demand for quality and affordable child care services continues to grow and the gap between the demand for and the availability of quality child care services continue to widen.

The conference report would continue the community services block grant for 4 years with a few minor changes designed to tighten its administration. These changes are technical, and should have a positive impact in providing services to people in need.

Among these changes are measures to complete the transfer to the Secretary of Agriculture of the rural development loan fund. This transfer was begun in the farm bill of last year, and is completed here. This issue was first brought to my attention by my colleague from Maine, JOHN MCKERNAN, and I want to express my deep appreciation for his early and active interest in this issue. My colleague, TOM COLEMAN, who is the ranking member of the Agriculture Credit Subcommittee as well as being a member of the Education and Labor Committee, was also very helpful in his report.

The conference agreement also makes several technical amendments relating to the Low Income Home Energy Assistance Program, or LIHEAP, several of which were suggested by the administration. Two major changes in the program were also made. First, the agreement reaffirms the longstanding policy of Congress that the receipt of energy assistance benefits should not serve to reduce food stamp benefits. And second, the bill establishes three basic performance standards for the energy crisis program. While we do not mean to reduce flexibility in this block grant, we must insist on minimal guidelines if the notion of a crisis program is to make any sense at all.

Mr. Speaker, I would be remiss if I did not address some of the reasons why the final terms of the conference committee report do not enjoy the full support of my colleagues on this side of the aisle who were House conferees. I fully respect their judgment on this matter. I would say, in all candor, that I, too, share some of their reservations on certain provisions included in the conference report under consideration this afternoon.

Originally designed as a research, development, and demonstration companion to the Head Start Program, Follow Through continues to receive mixed reviews. One of the major criticisms of Follow Through is the fact that funds are now allocated exclusively to current sponsoring organizations and participating local educational agencies. There was a consensus among the conferees that the Follow Through grant award process should be open and competitive. To this end, the conference report deleted certain statutory provisions which may have contributed to this limitation. This is a long overdue and important step in the right direction which I fully support.

Some of my colleagues firmly believe that the legislation reauthorizing programs which have demonstrated their effectiveness should not be a vehicle for creating new authorities or extending others which do not enjoy the strong support of Head Start, the Community Services Block Grant [CSBG], and the Low-Income Energy Assistance Programs. A strong argument can be made in support of considering each program on its individual merits.

Concern has also been expressed that some authorization levels are excessively high and that appropriations will, in all likelihood, fall short of the authorization levels. With specific reference to the State dependent care planning grant authority, funding for fiscal year 1986 is $4.8 million. I, too, have serious doubts that the appropriations will equal the $20 million annual authorization level provided for in the conference agreement.

When all is said and done, the bottom line is this: None of us is totally satisfied with each and every provision included in the conference agreement. In all likelihood, each of the conferees would have written it somewhat differently.

Mr. Speaker, on balance, I can support adoption of the conference report on H.R. 4421 for the following reasons:

First, I believe that 4-year reauthorizations of major service programs such as Head Start, CSBG, and the Low-Income Home Energy Assistance Program are essential for long range and sound planning, and prudent program management at the Federal, State, and local levels.

Second, authorizations of appropriations for Head Start, the community service block grant, and the low-income home energy assistance programs—all of which have demonstrated their effectiveness in meeting ongoing and critical social and community service needs—constitute more than 99 percent of the funding provided for in the conference committee agreement.

Therefore, I strongly urge my colleagues to join me in voting for passage of this important conference report.

Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Iowa [Mr. TAUKE].

Mr. TAUKE. Mr. Speaker, let me begin by thanking my colleague from Vermont [Mr. JEFFORDS] and my colleague from Michigan [Mr. KILDEE] for their cooperation in the development of this legislation. Although we have a differing viewpoint on the final product, I have very much enjoyed the opportunity to work with these fine gentlemen, and I want to commend them for their commitment to the programs contained in this bill and the people who are served by them.

Mr. Speaker, there's an old cliche that cautions us not to judge a book by its cover. I urge my colleagues not to judge this book—H.R. 4421, the Human Services Reauthorization Act of 1986—by its cover—the popular Head Start Program.

I support the reauthorization of Head Start—and of the community services block grant and the Low-Income Home Energy Assistance Program. These programs provide valuable benefits to many of the most needy people in our society, and they have proven track records of success.

Unfortunately, however, these popular and effective programs are being used. They are being used as cover for five smaller, but less proven programs. Programs that, because they are buried in a Head Start authorization bill, have not and will not receive the scrutiny that we should give them.

This conference report includes multiyear reauthorizations of Follow Through, community food and nutrition, and State dependent care planning grants, and it creates two new programs—child development associate scholarships, and the Community Services Block Grant Demonstrations Program. These programs may, in fact, be worthy of our support. But they should not escape critical review by Members of the House.

Authorizations for these five programs total $37 million in fiscal year 1987. While $37 million may seem like a drop in the bucket, it is essential that we consider carefully even this amount of funding authority given our existing budget problems. I am not convinced that part or all of this $37 million could not be better spent elsewhere in the budget or even elsewhere in the programs authorized by this bill. It seems to me that when we are asking Head Start to absorb cuts because of sequester orders, it is not the time to be creating duplicative new programs. This conference report fails to recognize budget realities and to set priorities accordingly.

Let me review briefly some of the programs authorized by this legislation. Follow Through, for instance, is once again extended for 4 additional years. This program originated 20 years ago for the purpose of developing model compensatory education programs. These model programs have been successfully developed and disseminated. Compensatory education plans are widely available, and Federal funds are provided to local schools through the chapter 1 and chapter 2 programs for this important compensatory education. Follow Through can and should be considered a success. Further funding of Follow Through simply provides repeat grants to a handful of schools so that they may reinvent the wheel. Authorizations for Follow Through should be ended.

This measure creates a Child Development Associate Scholarship Program. Certainly, providing financial assistance to low-income child care providers so that they may attain this training and credentialing is a worthy goal. But is a new, separate program necessary? Head Start training and technical assistance funds already provide this service to many low-income Head Start employees, and States already have authority to pay the costs of CDA training and credentialing under the social services block grant. I cannot justify creation of this new, duplicative program.

In addition, the bill creates another new, separate authorization for 5 million dollars' worth of discretionary grants to a few of the agencies that are already guaranteed 90 percent of a $390 million block grant. The purpose of this program—the Community Services Block Grant Demonstration Program—is reportedly to develop innovative approaches to combat poverty. Again, this is a laudable objective, but is the new program justified? I, for one, am already very proud of the innovative approaches and accomplishments of the community action agencies in my district and State. Certainly those agencies that happen to receive a piece of this discretionary grant program will enjoy a brief period of lucrativeness, but I am not convinced that the additional $5 million in discretionary grants will significantly improve the overall operation of the block grant or have any impact at all on the programs offered by a vast majority of community action agencies.

This legislation has an attractive cover. I urge you to look inside the cover and evaluate all of the chapters of this book.

Mr. KILDEE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this has been a long and pleasant journey on this bill. I have enjoyed working with the gentleman from Iowa [Mr. TAUKE] on the bill. We have not always agreed, but we have reached a high degree of agreement.

I know that he feels very strongly on the Follow Through Program, and he did offer an amendment when this bill was in the House. The House did speak its will on that amendment by voting 245 to 161 to retain the Follow Through Program.

I will enjoy working with him in the future on similar bills. It has been, I think, a very productive debate, a very productive journey, and he certainly is to be commended for his diligence and his contributions to this bill. As I say, we are not in full agreement, but it has been a very pleasant journey.

Mr. JEFFORDS. Mr. Speaker, will the gentleman yield?

Mr. KILDEE. I am happy to yield to the gentleman from Vermont.

Mr. JEFFORDS. Mr. Speaker, I just want to say that I want to warn my colleagues, I served with the gentleman on this conference committee, and he has a very disarming and wonderful personality and a great background, but I tell him, he is the toughest tiger in negotiations that I have run into, and what he got and gained from the Senate was something to watch with great admiration. So I would just like to express that to my colleagues here, and also congratulate the gentleman on his birthday.

Mr. KILDEE. Mr. Speaker, I thank the gentleman for both the comments. I appreciate them.

Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I agree wholeheartedly with the sentiments that have been expressed about the legislative abilities of the gentleman from Michigan [Mr. KILDEE]. They are considerable and unquestioned, at the conclusion of the negotiations on this bill, and I have considered it a great opportunity to be present at the birthing of this piece of legislation to be of whatever modest assistance that I could be to the gentleman in the crafting of the compromise that is before us here today.

Mr. Speaker, I rise in strong support of the conference report on H.R. 4421, which reauthorizes Head Start, Dependent Care, the Community Services Block Grant, Community Food and Nutrition Programs, and the Low-Income Home Energy Assistance Program [LIHEAP].

As chairman of the Energy Conservation and Power Subcommittee which shares jurisdiction over LIHEAP, I was pleased to serve as a conferee from the Energy and Commerce Committee for purposes of working out an acceptable compromise on that critical safety-net program. Mr. KILDEE, chairman of the Human Resources Subcommittee of the Education and Labor Committee, and Mr. HAWKINS, chairman of the full Education and Labor Committee, deserve special applause for their hard work on this conference. I am especially appreciative of their attention, and the attention of their staffs, to the concerns of members of the Energy and Commerce Committee.

The LIHEAP Program means real help for poor families. In my own Commonwealth of Massachusetts, this program assists over 140,000 households annually, and over one-half of those households have annual incomes less than $6,000. For these families, the choice between "heating or eating" is not a thought-provoking rhyme, but rather the essence of a daily struggle for existence itself.

This conference report preserves LIHEAP at adequate levels and makes certain other programmatic adjustments which will aid the efficient administration of this program.

The conferees have been responsive to budget concerns by cutting the President's original request of $2.1 billion in fiscal year 1987 by $50 million. At the same time, we have recognized that when it comes to helping alleviate energy bills in poor households, our vaunted "safety net" is tattered and thin. Even with the current downturn in oil prices, the fact is that two-thirds of the families eligible for this program never receive any help, and for

those lucky enough to get any assistance, it is only sufficient to cover approximately one-third of their home energy bills. Therefore, the conferees have agreed on a fiscal year 1987 authorization level which is sightly—2 percent—above fiscal year 1986.

H.R. 4421 includes several provisions intended to improve service delivery to the working poor by relying on community-based organizations to reach out to eligible families. It also gives the Secretary discretion to improve the sharing of information among service providers so that effective State or local techniques can be put to use nationwide. And it strengthens the provision of emergency services through the crisis assistance component of LIHEAP.

I urge my colleagues to support this conference report so that we do not delay delivering services as the winter heating season begins.

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In conclusion, I would like to say that this compromise reflects once again a continuation of that understanding that was implicit in the omnibus energy legislation of the 1970's. In return for the promises to the energy industries of this country, the energy producers of this country asked that the proper incentives would be given to them, that they would, in fact, have the needed impetus to go forward and develop new energy sources; in turn we would construct a program which would ensure that the very poorest in our Nation, those families that really do suffer from high energy prices, would in fact have billions of dollars put aside for their needs as well.

It was a compact. It was an understanding. This piece of legislation keeps intact that compact and helps to recognize that while, in fact, we might be enjoying the benefits of some of those energy deregulation oil and natural gas programs of the 1970's with lower energy prices; at the same time we still have millions of families in this country that have not been able to see increases in their family income sufficient to be able to cover the still incredibly onerous burden which is placed upon their very limited discretionary family income. This bill helps to ensure that those problems will continue to be dealt with.

I congratulate once again the gentleman from Michigan [Mr. KILDEE]. He has been the leader in ensuring that a solid program would be continued. I have enjoyed working with him and assisting him and the Committee on Energy and Commerce, which is the other committee of primary jurisdiction on this legislation, which comes here to compliment you today on your good work.

Mr. GOODLING. Mr. Speaker, I rise to address an issue of particular concern to myself and to educators. The conference report on H.R. 4421 requires the Department of Education to conduct a study in order to compile a complete list of beginning reading instruction programs and methods, including phonics.

The language of the conference report is substantially different from that of the Senate amendment. These changes were made to address concerns of mine and other conferees that we not put the Department of Education in the position of issuing a stamp of approval for a specific reading or other instruction program. Given the limits of the criteria set out, as well as the constant changes in reading programs, it would be extremely improper for the Department to endorse one publisher's product over another's.

Mr. RAHALL. Mr. Speaker, I rise today in support of the conference report on H.R. 4421, the Human Services reauthorization bill.

Of interest to my home State of West Virginia, the conference agreement authorizes the Head Start, Follow Through, Dependent Care, Community Food and Nutrition, Community Services Block Grant, and Low-Income Energy Assistance Programs through fiscal year 1990.

With regard to the Head Start Program, a pre-school program designed to give children of low-income families the skills and self-confidence they need to enter school on an even footing with other children, the agreement authorizes, $1.2 billion in fiscal year 1987, $1.26 billion in fiscal year 1988, $1.33 billion in fiscal year 1989, and $1.4 billion in fiscal year 1990. The agreement also includes the House provision that continues through fiscal year 1990, the current method of counting income for purposes of determining eligibility for Head Start. Under current law, 10 percent of the Head Start enrollment must be available for handicapped children, and individuals who meet the definition of handicapped children in the Education of the Handicapped Act would continue to be served by the Head Start Program. In the past, I have been contacted by many of my constituents with regard to the tremendous success of this program in West Virginia. The reauthorization of this program highlights our commitment to ensuring the benefit of education to all Americans by providing necessary educational assistance to our Nation's low-income youth.

The Follow Through Program, which is designed to help children who participated in Head Start or similar programs when they enter kindergarten and primary grades, is authorized at $7.5 million in fiscal year 1987, $7.8 million in fiscal year 1988, $8.1 million in fiscal year 1989, and $8.4 million in fiscal year 1990.

The Dependent Care Program, which provides 75 percent matching grants to States for before- and after-school child care programs and for local information and referral programs, is authorized at $20 million in each of fiscal years 1987 through 1990. These authorization levels are identical to the Senate authorization levels, rather than based on need as in the House bill.

For the Community Service Block Grant Program, which provides block grants to States to fund community action agencies, the agreement authorizes $390 million in fiscal year 1987, $409.5 million in fiscal year 1988, $430 million in fiscal year 1989, and $451 million in fiscal year 1990. The agreement includes provisions to expand eligibility to include organizations that came into existence in fiscal year 1982 as direct successors to community action agencies and meet all the board composition requirements, specify procedures to review proposed State termination of funding of community action agencies or migrant farmworker organizations, authorize the funding of national conferences, newsletters, and collection and dissemination of data about programs funded under the Community Services Block Grant Program as part of training activities. The Community Services Block Grant Program is crucial to the communities in southern West Virginia, and throughout the State, which have suffered greatly due to natural disasters and economic developments which have increased unemployment levels and left many businesses and industries floundering in the wake.

The conference agreement authorizes $3 million in each of fiscal years 1987 through 1990 for the Community Food and Nutrition Program. The agreement provides that 60 percent of the funds be allocated on the basis of the number of poor and unemployed in each State, and 40 percent on a competitive basis.

The agreement authorizes $2.05 billion in fiscal year 1987, $2.13 billion in fiscal year 1988, $2.22 billion in fiscal year 1989, and $2.31 billion in fiscal year 1990 for the Low-Income Home Energy Assistance Program. The measure also includes provisions designed to ensure that energy crisis intervention programs respond in a timely way to emergencies, provide the maximum assistance to those most in need, and clarify that low-income home energy assistance payments should not be considered income for the purpose of determining eligibility for food stamps.

The continuance of these programs are of paramount concern to communities and individuals throughout West Virginia who are trying to overcome the recent destruction wrought by floods as well as the economic conditions which have plagued our State in recent years. Unemployment and poverty are rampant in my district, but West Virginia is struggling to overcome these restraints. The programs reauthorized by this legislation are helping and are a part of the revitalization of West Virginia and other States suffering from similar predicaments. I applaud the efforts of the conference committee in bringing this legislation before us today, and rise in full support of the conference report on H.R. 4421.

Mr. HAWKINS. Mr. Speaker, I rise in strong support of the conference report on H.R. 4421, the Human Services Reauthorization Act of 1986. This bill includes reauthorization, without making major legislation changes, in the following bills under the committee's jurisdiction: The Head Start Program, the Follow-Through Program, the Community Services Block Grant Program, State Grants for Dependent Care, Community Food and Nutrition and the Low-Income Energy Assistance Program. Although the Low-Income Energy Assistance Program reauthorization was considered in a separate bill by the committee, it was part of the Senate's original package

which was subsequently modified and included in this conference agreement.

The conference agreement authorizes two new programs for 3 years which were included in the Senate bill. The Child Development Assistance Scholarship Program authorizes grants to States to assist eligible low-income candidates to obtain the CDA credential. The conference agreement also authorizes a Community Service Block Grant demonstration project to develop innovative approaches to deal with the critical needs of the poor.

The conference agreement under consideration today represents the culmination of the tireless efforts of the members and staff of this committee who worked for many weeks to fashion a compromise.

I particularly want to congratulate the subcommittee chairman, Mr. KILDEE, and his staff, for their leadership and dedication in fashioning this conference agreement which extends six of these human services programs for another 4 years. These reauthorizations provide the means to enable many low-income individuals and their families to become self-sufficient.

For more than two decades, the Head Start Program has been providing comprehensive services to meet the educational, health, nutritional, and social needs of preschool-aged children from low-income families. We, in the Congress, are well aware of the many studies which document not only the effectiveness of this program, but also the benefits which outweigh the cost of the program by more than 7 to 1. Since the Head Start Program serves only 17 percent of the eligible population, there continues to be a significant need for these services. The conference agreement authorizes the Head Start Program at a level of $1.198 billion for fiscal year 1987 with a 5½-percent increase in the outyears.

The conference agreement also reauthorizes the Follow Through Program which builds on the Head Start experience for disadvantaged children. Although the Senate-passed bill did not contain a reauthorization for the Follow Through Program, the conferees included a 4-year reauthorization of this program for children from kindergarten through the third grade.

Despite repeated attempts by the administration to eliminate the Community Service Block Grant Program, the House and Senate conferees provided for a 4-year reauthorization of this program which provides funds for the States to ameliorate the cause of poverty.

The conference agreement incorporates the reauthorization for the Low-Income Home Energy Assistance Program which provides assistance to the poor and the elderly to help defray their household energy costs. The Education and Labor Committee and the Energy and Commerce Committee, which share jurisdiction over this program, worked closely with the Senate to reauthorize this program for the next 4 years.

Both the House and the Senate bills provided for reauthorizing the Community Food and Nutrition Program and the Dependent Care Program. I am pleased, however, that the conferees agreed to the 4-year reauthorizations for these programs that were contained in the House-passed bill.

Finally, I want to state that I share the concern of Mr. Goodling and others regarding the reading study authorized by the conference report. This study is not intended to authorize the Department of Education to endorse or disapprove any specific reading program, or compare one program with another. In implementing the study, the Department is to be guided by the requirements and intent of section 432 of the General Education Provisions Act (GEPA), which provides——

No provision of any applicable program shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system, or over the selection of library resources, textbooks, or other printed or published instructional materials by any educational institution or school system. . . . (20 USC 1232a)

Although the conference agreement provides dollar figures in lieu of the "such sums" authorization contained in the House-passed bill, I have been assured by the chairman of the Budget Committee that the conference report accompanying H.R. 4421, does not violate any of the provisions of the Budget Act for fiscal year 1987.

Mr. Speaker, earlier this year, the House passed these reauthorizations by an overwhelming vote of 377 to 33. I urge my colleagues to once again demonstrate their commitment to extend programs designed to combat poverty and support the conference report on H.R. 4421.

Mr. GILMAN. Mr. Speaker, I join my colleagues in support of the conference report to accompany H.R. 4421, the Community Services Programs Amendments of 1986. I commend the members of the Committee on Education and Labor, for bringing this bill through conference and before us today. Through the leadership of the gentleman from California [Mr. HAWKINS], the gentleman from Vermont [Mr. JEFFORDS], the gentleman from Michigan [Mr. KILDEE], and the gentleman from Iowa [Mr. TAUKE], we will be able to offer our State and local community service program the helping hand that they so desperately need.

The conference report reauthorizes a number of community services programs for fiscal year 1987 through 1990 and includes authorizations for two new programs included in the Senate, the Child Development Associate Scholarship Assistance Program, and the Community Services Block Grant Demonstration Partnership Agreements. I can say, without exception, that each of the programs reauthorized under this conference report are currently thriving in my 22d Congressional District in New York State. Cities throughout the 22d Congressional District have benefited significantly from the Community Services Block Grant Program which directly addresses the causes of poverty and seeks to alleviate its impact within communities. The Head Start Program provides invaluable education, health, and social services to low-income preschoolers, starting them on the right education path in those vital early years. The Follow Through Program builds on those preschool gains to help disadvantaged youngsters in kindergarten and the primary grades, again stressing the important patterns that can be established in those early years.

Also authorized under this legislation in the Low-Income Energy Assistance Program [LIHEAP] which provides assistance to the poor and elderly to help defray their household energy costs; the dependent care development grants authorizing funds to help set up or expand school-age child care programs for latchkey children and child care information and referral systems; and the Community Food and Nutrition Program, which assists in the coordination of efforts to meet the nutritional needs of low-income people.

Mr. Speaker, in each of these programs, we need to expand, not cutback on the Federal funds allocated. Mindful of the fiscal restraints we are currently faced with, I am pleased to note the modest increases in these programs—all of which are cost-efficient. I hope my colleagues will join in strong support of this conference report and that they will join hands in future efforts to insure that our low-income population is afforded every opportunity to quality services.

Mr. BIAGGI. Mr. Speaker, today we have the opportunity to reaffirm our commitment to the poor and needy citizens of our Nation, a chance to reaffirm our desire to continue to wage war on poverty. I rise today to pledge my commitment and urge House passage of the conference report on H.R. 4421, the Human Services Programs reauthorization.

I want to recognize the gentleman from Michigan [Mr. KILDEE] for his work on behalf of this legislation. His untiring efforts are to be commended. He played an instrumental role in the development and formulation of this legislation, and the conference report.

This conference agreement authorizes the Head Start, Follow Through, Dependent Care, Community Food and Nutrition, Community Service Block Grant, and the Low-Income Home Energy Assistance Programs through fiscal year 1990. We know that in this Nation the rate of poverty is going up among all groups. We also know that there are few, if any, programs besides these that are specifically designed to alleviate the problems posed by poverty. For more than two decades, these programs have provided consistent and cost-efficient services to low-income persons throughout the Nation. The choice here is simple—these programs must be continued.

The picture of poverty in America can be viewed in both rural and urban areas throughout the country every day. In my home State of New York, approximately 13 percent of the total population is poor. These 2.3 million people rely on these programs to ensure that their needs are addressed on many different levels. Of these programs, the community services block grant program is of special significance.

During the last fiscal year, New York received over $30 million for the CSBG Program. These funds served over 2 million people in my State. These services include:

Efforts to secure and retain meaningful employment, including training, skill enhancement, and direct job placement activities. These efforts helped almost 100,000 across New York.

Activities to counteract the conditions of starvation and malnutrition. These nutrition activities served over 1.6 million people in New York.

Operations to improve the quality of housing, to renovate and rehabilitate existing housing, and to build new housing. These operations assisted over 110,000 needy citizens in my State.

Clearly, in our efforts to fight the war on poverty, the Community Services Block Grant is a focal point at the local level for the needs of the poor.

This conference agreement also extends the successful Head Start Program. Head Start was a pioneer in the concept of providing services for both young children and their families. During its 21 years of existence, this program has come to epitomize an example of a cost-effective investment in our society. This national education program of early intervention for disadvantaged children provides classroom instruction, in addition to essential social and human services. Yet, Head Start is suffering from the problem of limited funding. It is a problem that does not see any immediate recovery in the future. At this time, Head Start reaches only 18 percent of those who are eligible. I am pleased that this conference agreement provides an increase in funds during the next 4 years. While it may not completely address the fiscal problems facing Head Start, these authorizations will allow for reasonable growth while taking into account the economic realities facing this Nation today.

I also wish to note the continuance of the Follow Through Program and am pleased to see that the conference recognized its importance and included it in the final version of the agreement. This program has helped ensure that those educational gains made by children who participated in Head Start and similar programs are continued once they enter public schools.

This agreement also provides grants to States for both before and after school child care programs—programs instrumental in allowing mothers to enter and remain in the workplace. If we are to effectively utilize our strength as a nation with respect to the workplace, the dependent care program and similar programs are vital in these efforts.

And finally, this conference agreement address two problems plagueing many people throughout the country, but in particular, our elderly population. These problems include hunger, addressed by the Community Food and Nutrition Program, and the problem of sufficient and affordable home energy, as addressed by the Low-Income Home Energy Assistance Program. As an original member of the House Select Committee on Aging, I know first hand how particularly severe these problems are for senior citizens. In fact, they are reaching crisis proportions. I am pleased that the services and programs they so desperately need will help be provided under the Community Food and Nutrition Program and the Low-Income Home Energy Assistance Program.

In closing, I want to say that all of these human services programs will help to address many of the more pressing problems facing our society today. As an original cosponsor and strong advocate of these programs, I urge my colleagues to vote in support of this conference agreement. It will allow an estimated 40 million citizens move from a life of poverty into one of self-sufficiency.

There is no question that our Nation is struggling with the most severe economic crisis to face this country for quite some time. Yet that crisis does not give us a license to walk away from those in need. It does not give us a license to walk away from our commitment to help the poor. It does not give us a license to place the deficit burden on the backs of those most in need. However, this conference agreement does give us the opportunity to utilize our resources to assist those escape poverty's clutches, or prevent them from falling into it, while fully recognizing the economic realities of today.

Mr. PERKINS. Mr. Speaker, as a member of the Human Resources Subcommittee, it is a pleasure to be able to support this conference report. I want to take this opportunity to congratulate my subcommittee chairman, Congressman KILDEE, for his handling of this bill and the conference. We were able to bring to the House floor a piece of legislation that will serve those who truly deserve our assistance. The many programs that were reauthorized show the commitment that the Congress has to education and communities.

I am especially happy to see that we were able to see fit to reauthorize the Follow Through Program for another 4 years. This program has proven its worth to us many times over in the support and continued learning that it provides for our youth who get to take part in the program. We are able to reinforce the learning and study habits that we attempt to instill while they are in the Head Start Program. As Head Start was another program that we were able to continue in this reauthorization I felt that it was critical for us to continue the Follow Through as the tie we have with the children leaving Head Start and entering grade school.

We were able to get $7.5 million for the first year of the reauthorization and then the authorization for the program will increase at a 4 percent rate for each year of the reauthorization, when the authorization level will reach $8.4 million in 1990. This authorization for funding levels is very small compared to the amounts that we were putting into the legislation when Follow Through was at its peak and we were able to serve over 75,000 children with a funding level of $70 million. But maybe on another day we will be able to revive that kind of commitment to our children and we can see this reauthorization as the time we turned the corner.

Included in this reauthorization for the Follow Through Program we have deleted section 668(b) of the act. This section stated that programs that are in existence would not be denied on their application unless in emergency situations or the program is given opportunity to show why denial should not take place. We removed this section because some people felt that by this would be opened up the competition for other applicants. I felt that the competition was there all along and the best of the available applicants received what was left of the smaller funding level. I am in full agreement to the intent that this remains a competitive program. But those who are calling for open competition are not willing to join with me in calling for higher authorization levels so that more applicants can be awarded grants to serve their kids. We can't have it both ways, be awarded grants but provide no money to fund the program.

We in no way want to send a signal that those who have been successful in winning financial assistance for their programs will not be able to get funding in the future. They will continue to be looked at and considered equally with the other applicants. We must remember that in using our limited amount of funding those programs that can benefit the most students and spread the program in the most efficient manner will be funded so that the taxpayer will get the most for his money.

Again I want to compliment all those who worked to see this legislation become law. By supporting this conference report we will be continuing of programs that provide the needed infrastructure for many in our society. Programs such as Dependent Care, Community Food and Nutrition, Community Services Block Grant Demonstration Program, Low Income Home Energy Assistance Program, and the others that are included in this reauthorization are important and should be continued and expanded in the years to come.

Mr. JEFFORDS. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

Mr. KILDEE. Mr. Speaker, I have no further requests for time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. RUSSO. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 375, nays 27, not voting 29, as follows:

[Roll No. 384]

YEAS—375

Ackerman	Biaggi	Chapman
Akaka	Bilirakis	Chappell
Alexander	Boehlert	Chappie
Anderson	Boggs	Clay
Andrews	Boner (TN)	Clinger
Annunzio	Bonior (MI)	Coats
Anthony	Borski	Cobey
Applegate	Bosco	Coble
Aspin	Boucher	Coleman (MO)
AuCoin	Boulter	Coleman (TX)
Barnard	Boxer	Collins
Barnes	Brooks	Conte
Barton	Broomfield	Conyers
Bateman	Brown (CA)	Cooper
Bates	Bruce	Coughlin
Bedell	Bryant	Courter
Beilenson	Bustamante	Coyne
Bennett	Byron	Craig
Bentley	Callahan	Crockett
Bereuter	Carper	Daniel
Berman	Carr	Darden
Bevill	Chandler	Daschle

Daub	Kanjorski	Pickle
Davis	Kaptur	Porter
de la Garza	Kasich	Price
Dellums	Kastenmeier	Pursell
Derrick	Kennelly	Quillen
DeWine	Kildee	Rahall
Dickinson	Kolbe	Rangel
Dicks	Kolter	Ray
Dingell	Kostmayer	Regula
DioGuardi	Kramer	Reid
Dixon	LaFalce	Richardson
Donnelly	Lagomarsino	Ridge
Dorgan (ND)	Lantos	Rinaldo
Dornan (CA)	Latta	Ritter
Dowdy	Leach (IA)	Robinson
Downey	Leath (TX)	Rodino
Duncan	Lehman (CA)	Roe
Durbin	Lehman (FL)	Roemer
Dwyer	Leland	Rogers
Dymally	Lent	Rose
Dyson	Levin (MI)	Rostenkowski
Early	Levine (CA)	Roth
Eckart (OH)	Lewis (CA)	Roukema
Edgar	Lewis (FL)	Rowland (CT)
Edwards (CA)	Lightfoot	Rowland (GA)
Edwards (OK)	Lipinski	Roybal
Emerson	Livingston	Russo
English	Lloyd	Sabo
Erdreich	Loeffler	Savage
Evans (IA)	Long	Saxton
Evans (IL)	Lowery (CA)	Schaefer
Fascell	Lowry (WA)	Scheuer
Fawell	Lujan	Schneider
Fazio	Luken	Schroeder
Feighan	Lundine	Schuette
Fiedler	MacKay	Schulze
Fish	Madigan	Schumer
Florio	Manton	Seiberling
Foglietta	Markey	Sharp
Foley	Martin (IL)	Shaw
Ford (MI)	Martin (NY)	Shelby
Fowler	Martinez	Shuster
Frank	Matsui	Sikorski
Franklin	Mavroules	Siljander
Frost	Mazzoli	Skeen
Fuqua	McCain	Skelton
Gallo	McCloskey	Slattery
Garcia	McCollum	Slaughter
Gaydos	McCurdy	Smith (FL)
Gekas	McDade	Smith (IA)
Gephardt	McEwen	Smith (NE)
Gibbons	McHugh	Smith (NJ)
Gilman	McKinney	Smith, Denny (OR)
Gingrich	McMillan	
Glickman	Meyers	Smith, Robert (OR)
Gonzalez	Mica	
Goodling	Michel	Snowe
Gordon	Mikulski	Snyder
Gradison	Miller (CA)	Solarz
Gray (PA)	Miller (OH)	Solomon
Green	Miller (WA)	Spence
Guarini	Mineta	Spratt
Gunderson	Mitchell	St Germain
Hall (OH)	Moakley	Staggers
Hall, Ralph	Molinari	Stallings
Hamilton	Mollohan	Stangeland
Hammerschmidt	Montgomery	Stark
Hansen	Moody	Stenholm
Hatcher	Moorhead	Stokes
Hawkins	Morrison (CT)	Strang
Hayes	Morrison (WA)	Stratton
Hefner	Mrazek	Studds
Hendon	Murphy	Sundquist
Henry	Murtha	Sweeney
Hertel	Myers	Swift
Hiler	Natcher	Synar
Hillis	Neal	Tallon
Holt	Nelson	Tauzin
Hopkins	Nichols	Taylor
Horton	Nowak	Thomas (GA)
Howard	Oakar	Torres
Hoyer	Oberstar	Torricelli
Hubbard	Obey	Towns
Huckaby	Olin	Traficant
Hughes	Ortiz	Traxler
Hunter	Owens	Udall
Hutto	Oxley	Valentine
Hyde	Packard	Vander Jagt
Ireland	Panetta	Vento
Jacobs	Parris	Visclosky
Jeffords	Pashayan	Volkmer
Jenkins	Pease	Vucanovich
Johnson	Penny	Waldon
Jones (NC)	Pepper	Walgren
Jones (OK)	Perkins	Walker
Jones (TN)	Petri	Watkins
Waxman	Whitten	Wyden
Weaver	Williams	Wylie
Weber	Wilson	Yates
Weiss	Wise	Yatron
Wheat	Wolf	Young (AK)
Whitehurst	Wolpe	Young (FL)
Whitley	Wortley	Young (MO)
Whittaker	Wright	

NAYS—27

Archer	DeLay	Rudd
Armey	Dreier	Sensenbrenner
Badham	Eckert (NY)	Shumway
Bartlett	Gregg	Smith, Robert (NH)
Brown (CO)	Lott	
Burton (IN)	Mack	Stump
Cheney	Marlenee	Swindall
Combest	McCandless	Tauke
Crane	Nielson	
Dannemeyer	Roberts	

NOT VOTING—29

Atkins	Flippo	Lungren
Bliley	Ford (TN)	McGrath
Boland	Frenzel	McKernan
Bonker	Gejdenson	Monson
Breaux	Gray (IL)	Moore
Burton (CA)	Grotberg	Sisisky
Campbell	Hartnett	Thomas (CA)
Carney	Kemp	Wirth
Coelho	Kindness	Zschau
Fields	Kleczka	

□ 1700

The Clerk announced the following pair:

On this vote:

Mr. Gray of Illinois for, with Mr. Lungren against.

Messrs. STUMP, MARLENEE, ROBERTS, and LOTT changed their votes from "yea" to "nay."

Mr. HANSEN changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

(Mr. STRATTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STRATTON. Mr. Speaker, on rollcall No. 381, relative to sanctions for South Africa, H.R. 4868, which took place in the House on September 12, 1986, I was hospitalized at the Navy hospital in Bethesda and therefore was not in the Chamber or able to be present.

Had I been present in the House, I would have voted "aye."

Mr. Speaker, I ask unanimous consent that this statement appear in the permanent RECORD following the vote.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from New York?

There was no objection.

LABOR PROTECTIVE PROVISIONS FOR AIRLINE EMPLOYEES

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to the provisions of clause 5 of rule I, the pending business is the question of suspending the rules and passing the bill, H.R. 4838, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. MINETA] that the House suspend the rules and pass the bill, H.R. 4838, as amended, on which further proceedings were postponed earlier today and on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 329, nays 72, not voting 30, as follows:

[Roll No. 385]

YEAS—329

Ackerman	Dingell	Huckaby
Akaka	DioGuardi	Hughes
Alexander	Dixon	Hutto
Anderson	Donnelly	Hyde
Andrews	Dorgan (ND)	Jacobs
Annunzio	Dornan (CA)	Jeffords
Anthony	Dowdy	Jenkins
Applegate	Downey	Johnson
Aspin	Duncan	Jones (NC)
AuCoin	Durbin	Jones (OK)
Barnard	Dwyer	Jones (TN)
Barnes	Dymally	Kanjorski
Bateman	Dyson	Kaptur
Bates	Early	Kasich
Bedell	Eckart (OH)	Kastenmeier
Beilenson	Edgar	Kennelly
Bennett	Edwards (CA)	Kildee
Bentley	Emerson	Kolbe
Bereuter	English	Kolter
Berman	Erdreich	Kostmayer
Bevill	Evans (IL)	LaFalce
Biaggi	Fascell	Lantos
Bilirakis	Fazio	Latta
Boehlert	Feighan	Leach (IA)
Boggs	Fiedler	Leath (TX)
Boner (TN)	Fish	Lehman (CA)
Bonior (MI)	Florio	Lehman (FL)
Borski	Foglietta	Leland
Bosco	Foley	Lent
Boucher	Ford (MI)	Levin (MI)
Boxer	Fowler	Levine (CA)
Brooks	Frank	Lewis (CA)
Brown (CA)	Frost	Lewis (FL)
Bruce	Gallo	Lipinski
Bryant	Garcia	Livingston
Bustamante	Gaydos	Lloyd
Byron	Gekas	Long
Callahan	Gephardt	Lott
Carper	Gibbons	Lowery (CA)
Carr	Gilman	Lowry (WA)
Chandler	Gingrich	Lujan
Chapman	Glickman	Luken
Chappell	Gonzalez	Lundine
Chappie	Goodling	MacKay
Clay	Gordon	Madigan
Clinger	Gray (PA)	Manton
Coleman (MO)	Green	Markey
Coleman (TX)	Guarini	Martin (NY)
Collins	Gunderson	Martinez
Conte	Hall (OH)	Matsui
Conyers	Hall, Ralph	Mavroules
Cooper	Hamilton	Mazzoli
Coughlin	Hammerschmidt	McCain
Courter	Hawkins	McCloskey
Coyne	Hayes	McCollum
Crockett	Hefner	McCurdy
Darden	Hendon	McDade
Daschle	Hertel	McEwen
Davis	Hillis	McHugh
de la Garza	Holt	McKinney
Dellums	Horton	Meyers
Derrick	Howard	Mica
Dickinson	Hoyer	Michel
Dicks	Hubbard	Mikulski

Miller (CA)	Rodino	Sundquist
Miller (OH)	Roe	Swift
Miller (WA)	Roemer	Swindall
Mineta	Rogers	Synar
Mitchell	Rose	Tallon
Moakley	Rostenkowski	Tauzin
Molinari	Roth	Taylor
Mollohan	Roukema	Thomas (GA)
Montgomery	Rowland (CT)	Torres
Moody	Rowland (GA)	Torricelli
Morrison (CT)	Roybal	Towns
Mrazek	Russo	Traficant
Murphy	Sabo	Traxler
Murtha	Savage	Udall
Myers	Saxton	Valentine
Natcher	Scheuer	Vander Jagt
Neal	Schneider	Vento
Nelson	Schroeder	Visclosky
Nichols	Schuette	Volkmer
Nowak	Schulze	Vucanovich
Oakar	Schumer	Waldon
Oberstar	Seiberling	Walgren
Obey	Sharp	Walker
Olin	Shelby	Watkins
Ortiz	Sikorski	Waxman
Owens	Skeen	Weaver
Packard	Skelton	Weber
Panetta	Slattery	Weiss
Parris	Slaughter	Wheat
Pashayan	Smith (FL)	Whitehurst
Pease	Smith (IA)	Whitley
Penny	Smith (NJ)	Williams
Pepper	Snowe	Wilson
Perkins	Snyder	Wise
Pickle	Solarz	Wolf
Price	Solomon	Wolpe
Pursell	Spence	Wortley
Quillen	Spratt	Wright
Rahall	St Germain	Wyden
Rangel	Staggers	Wylie
Regula	Stallings	Yates
Reid	Stangeland	Yatron
Richardson	Stark	Young (AK)
Ridge	Stokes	Young (FL)
Rinaldo	Stratton	Young (MO)
Robinson	Studds	

NAYS—72

Archer	Fawell	Petri
Armey	Franklin	Porter
Badham	Gradison	Ray
Bartlett	Gregg	Ritter
Barton	Hansen	Roberts
Boulter	Hatcher	Rudd
Broomfield	Henry	Schaefer
Brown (CO)	Hiler	Sensenbrenner
Burton (IN)	Hopkins	Shaw
Cheney	Hunter	Shumway
Coats	Ireland	Shuster
Cobey	Kramer	Siljander
Coble	Lagomarsino	Smith (NE)
Combest	Lightfoot	Smith, Denny (OR)
Craig	Loeffler	Smith, Robert (NH)
Crane	Mack	Smith, Robert (OR)
Daniel	Marlenee	Stenholm
Dannemeyer	Martin (IL)	Strang
Daub	McCandless	Stump
DeLay	McMillan	Sweeney
DeWine	Monson	Tauke
Dreier	Moorhead	Whittaker
Eckert (NY)	Morrison (WA)	
Edwards (OK)	Nielson	
Evans (IA)	Oxley	

NOT VOTING—30

Atkins	Flippo	Kleczka
Bliley	Ford (TN)	Lungren
Boland	Frenzel	McGrath
Bonker	Fuqua	McKernan
Breaux	Gejdenson	Moore
Burton (CA)	Gray (IL)	Sisisky
Campbell	Grotberg	Thomas (CA)
Carney	Hartnett	Whitten
Coelho	Kemp	Wirth
Fields	Kindness	Zschau

□ 1715

The Clerk announced the following pair:

On this vote:

Mr. Wirth and Mr. Bonker for, with Mr. Lungren against.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1725

REQUEST FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 727, MAKING REPAYABLE ADVANCES TO THE HAZARDOUS SUBSTANCE RESPONSE TRUST FUND

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the joint resolution (H.J. Res. 727) making repayable advances to the Hazardous Substance Response Trust Fund, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

Mr. CONTE. Mr. Speaker, reserving the right to object, I yield to the gentleman from Mississippi to explain what is being attempted here.

Mr. WHITTEN. I thank the gentleman for yielding to me.

Mr. Speaker, the resolution will take care of what is essentially a technical problem in regard to the Superfund. It is my understanding that this has been cleared by the affected authorizing committees on both sides of the aisle. I am told that all parties in the issue are in agreement that this needs to be done.

At the end of this month there will be about $600 million remaining of the 1986 Superfund appropriation, which EPA has not obligated because the trust fund is out of money. The Appropriations Committee intended these funds to be carried over into 1987—and we specifically provided that the funds remain available until expended.

However, both OMB and GAO recognize that if there is no cash balance in a trust fund during the year of the appropriation—the appropriation expires. That is exactly the situation we face in Superfund—if new taxing authority and reauthorization is not enacted before September 30, $600 million will be lost on October 1.

This resolution will take care of the problem. It will permit the $600 milion to be advanced from the general fund to the Superfund trust fund—so that it can be carried over into 1987. This action provides no new budget authority and no additional outlays. Finally, language has been included to fence these funds so that EPA cannot make any obligations until after taxing authority has been enacted.

This $600 million is essential to provide for an expanding Superfund Program in 1987 and 1988. The 1987 HUD bill provides $861 million, assuming substantial funds would carry over. If this $600 million is lost, it cannot be replaced within our 302 allocation, so the Superfund Program will suffer in 1987 and beyond.

Without a doubt, the Superfund Program is now suffering from a severe shortage of funds. However, the solution must be a long-term reauthorization bill—not another Band-Aid. Most members of the authorizing committees and supporters of Superfund believe that making additional funds available at this point would backfire and actually work to undermine or delay passage of reauthorizing and tax legislation.

Finally, let me say that this will in no way breach the $8.5 billion authorization total. This concerns the other side of the ledger—the Appropriations Committee's problem in preserving the budget authority to provide the levels of funds anticipated in the legislation. We will not exceed the $8.5 billion total for Superfund during the 1987–91 period.

Mr. FLORIO from the legislative committee is in agreement and other Members are too.

To correct that situation, I hope that we can pass this this afternoon so we can save this $600 million from expiring at the end of this fiscal year.

Mr. CONTE. Mr. Speaker, further reserving the right to object, I yield to the gentleman from New Jersey [Mr. FLORIO].

Mr. FLORIO. I thank the gentleman for yielding to me.

Mr. Speaker, I would just say that I support the motion of the chairman of the Appropriations Committee. I hasten to point out that the action that is being taken is important to take so that we do not in any way lose the opportunity to use the $600 million that has already been appropriated that will lapse on the 30th of September.

It should in no way, however, detract from the urgency of our getting an authorization before the end of this year because this step is an important step to take, but we still at the end of this period of time will have no money in the authorization. This language is quite clear that this money will be available in fiscal 1987 subject to the establishment of an authorization bill which is yet to be done this year.

I thank the gentleman and rise in support of the gentleman's motion.

Mr. CONTE. Mr. Speaker, further reserving the right to object, I yield to the gentleman from New York [Mr. GREEN].

Mr. GREEN. I thank the gentleman for yielding to me.

Mr. Speaker, I want to join the gentleman from New Jersey in his expla-

nation of this situation. As I understand the technicalities of the matter, without this action the trust fund would expire on September 30 and this $600 million would be lost and given the budget situation in which we find ourselves it would, in all probability, be lost irretrievably. So that the effect of what we are doing is to preserve this $600 million for future use.

However, as the gentleman from New Jersey has said, that in no way reduces the need for proceeding with the resolution of the revenue issues relating to the Superfund and the resolution is so drawn as to make it clear that this money shall not be available for obligation until the new legislation with regard to the Superfund taxing authority is enacted.

So we must do this to preserve the $600 million. It should be understood that our doing this in no way reduces the urgency of resolving the revenue issues and enacting the new Superfund legislation.

Mr. CONTE. Mr. Speaker, I strongly support my chairman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

Mr. PICKLE. Mr. Speaker, I reserve the right to object.

Mr. Speaker, this motion catches me by surprise. I am sure it was unintentional and I do not question the motives. I am concerned that what you are doing here is either transferring money from one or two sources and putting it into some kind of mythical fund to use in case the authorization finally comes through.

Let me remind the chairman and the Members of the House: We have had quite a battle on the Superfund. You will recall that earlier in this Congress the Ways and Means Committee voted that the Superfund would be funded by a broad-based tax, which was passed after a very heated debate within the committee. When we got to the floor the funding was changed because the House labeled the broad-based tax as a value-added tax.

Many debates were had on it; it was not a very becoming debate. The Superfund excise tax was not a value-added tax at all; it was just an excise tax.

You have extended the Superfund, on either one or two occasions since that date. There is still considerable discussion and argument about how it is to be funded. Those people who represent States with oil and gas and chemical industries are very distressed that we cannot seem to get an equitable resolution on funding in spite of the fact that our committee voted that we would have a broad-based tax.

The onus on paying for the cleanup fund now and in the House bill is on the oil and gas industry and on the chemical industry. I see my friend from New Jersey standing here. There is more waste in sites in New Jersey then there is in any State in the United States, and yet those of us from about four or five States are paying anywhere from 60 to 90 percent of the cost. We are asking that that be spread on an equitable basis.

Now, if I understand this amendment offered today, it seems to me that what you are doing is transferring some money and then you are going to renew the Superfund again for another 30 to 60 or 90 days. If that is the case we will not have resolved this question about the Superfund again.

It is not right for us to be faced with another funding mechanism if in fact this is a back door way to avoid settling the tax issue. I am told that this does nothing but just take some money from one fund to be used just in case it is needed.

In conclusion, I fear you are just getting money from somebody else's pocket. Then you are going to renew this Superfund again just as we have before and we will never have given this House a chance to vote on it.

□ 1735

That is not right. I do not know that that is what the gentleman intends, but that is my concern. If you trot this out of chute 1 here today without us having any notice about it, we get concerned about it.

Mr. WHITTEN. Mr. Speaker, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from Mississippi.

Mr. WHITTEN. Mr. Speaker, others may want to discuss some of the specifics. The Appropriations Committee spent the afternoon on the continuing resolution before we found out that the Congress has fenced itself in a thousand ways here: The budget resolution; the fact that the other body is controlled by outlays, which is in reality controlled by the executive branch. We have been wrestling with that all afternoon, knowing what it does.

So what this joint resolution does from the viewpoint I have is that this $600 million dips into this year's budget resolution, dips into what we have already appropriated. Unless we do this, it will be out of place in the coming resolution.

I do not know whether the gentleman realizes how we have tied our hands with Gramm-Rudman and other things. So what is involved here is whether the Appropriations Committee loses it or not. It is not a case of taking it from one place to another.

My friend, the gentleman from New Jersey [Mr. FLORIO], can discuss the detailed questions that you bring up better than I can, but that is the situation so far as this $600 million is concerned.

Mr. PICKLE. Mr. Speaker, let me ask the gentleman, does the present extension for Superfund expire on September 30?

Mr. WHITTEN. On the first of October, this $600 million will expire.

Mr. PICKLE. Then if you were to get $600 million from some other source, then you could renew it again for another 30, 60 or 90 days.

That is what I suspect is going to happen.

Mr. FLORIO. Mr. Speaker, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from New Jersey.

Mr. FLORIO. Mr. Speaker, by way of clarification, if I in any way had any thought that this was a back-door way of funding Superfund, I would stand shoulder-to-shoulder with the gentleman in opposition to it. That is not what this is.

The legitimate policy consideration that the gentleman raises with regard to who is to pay the amount that this bill, this basic Superfund bill, would authorize are yet to be resolved.

What the gentleman is doing, and I think commendably so, is providing for the elimination of the problem that results from the expiration of the authority to use the $600 million, which has already been appropriated, after October 1, of September 30 of this year.

That money cannot be used, absent a specific authorization by this Congress, which has not yet been forthcoming.

All we are doing is preserving the right of the Congress to utilize that money when we determine how it is that it is going to be utilized. The difficulty that the gentleman is going to have if this does not take place is that $600 million less toward the $9 billion that the Congress has already approved is going to have to be made up somewhere else.

Mr. PICKLE. If the gentleman contends that this is not back-door support and it is only getting the money to use once the authorization is effected, my question to you, then, is why does the gentleman not go and get the authorization out? Why do we not know what the vote is, instead of carving out $600 million, or whatever this sum amounts to, so we can continue the program?

I think I have one of the most reliable records on environmental matters as anybody in this Congress. Of course I think we ought to continue the Superfund.

I am willing to go for the higher sum, but I will tell the gentleman what is going to happen. If the gentleman takes this $600 million, whatever it is, to be used if it is authorized, as you say, I will tell the gentleman what is going to happen. You are going to renew the program again by Septem-

ber 30, probably, on the same basis as before, and you are going to be funding Superfund at about $1 to $2 billion instead of the $8.5 billion that has been agreed on between the House and the other body.

You are going to buy about one-fourth of a good program if you fail to face the question of having an authorization.

For some reason or another, you do not do it. You want to have an authorization, but you cannot handle the funding question because there is such opposition among some people here; so much so that they are going to call this broad base funding plan a value-added tax. It is not a value-added tax, although everybody can make their own choice.

I am just saying to you that what you are doing is creating a little mechanism here so you have this fund to be used once the authorization comes through. If you cannot get an authorization, then you just extend it for another 30 or 60 or 90 days. That is what you have done twice this year.

I think this is a repetition again of the same thing.

It seems to me that this is not the appropriate time to do it, certainly without some kind of notice.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. PICKLE. I yield to my friend, the gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, I want the gentleman to listen carefully. We are not taking this money, $600 million, from some other place.

At the end of this month there will be about $600 million remaining of the 1986 Superfund appropriation, which EPA has not obligated because the trust fund is out of money. The Appropriations Committee intended these funds to be carried over into 1987—and we specifically provided that the funds "remain available until expended."

However, both OMB and GAO recognize that if there is no cash balance in a trust fund during the year of the appropriation—the appropriation expires. That is exactly the situation we face in Superfund—if new taxing authority and reauthorization is not enacted before September 30, $600 million will be lost on October 1.

This resolution will take care of the problem. It will permit the $600 million to be advanced from the general fund to the Superfund trust fund—so that it can be carried over into 1987. This action provides no new budget authority and no additional outlays. Finally, language has been included to fence these funds so that EPA cannot make any obligations until after taxing authority has been enacted.

Why is the $600 million so important? This $600 million is essential to provide for an expanding Superfund Program in 1987 and 1988. The 1987 HUD bill provides $861 million, assuming substantial funds would carry over. If this $600 million is lost, it cannot be replaced within our 302 allocation, so the Superfund Program will suffer in 1987 and beyond.

Why not let EPA use the funds immediately? Without a doubt, the Superfund Program is now suffering from a severe shortage of funds. However, the solution must be a long-term reauthorization bill—not another band-aid. Most members of the authorizing committees and supporters of Superfund believe that making additional funds available at this point would backfire and actually work to undermine or delay passage of reauthorizing and tax legislation.

Will this resolution bust the budget? This resolution provides no new budget authority and no additional outlays. The original $900 million 1986 appropriation has already been scored by CBO for BA and outlays. This resolution simply provides an advance from the general fund, which will be repaid from Superfund taxes as soon as they are enacted.

Will this resolution increase the $8.5 billion authorization level agreed to by the Superfund conferees? No. This will in no way breach the $8.5 billion total. This concerns the other side of the ledger—and the Appropriations Committee's problem in preserving the budget authority to provide the levels of funds anticipated in the legislation. We will not exceed the $8.5 billion total for Superfund 1987-91.

Mr. PICKLE. Mr. Speaker, let me respond to the gentleman [Mr. CONTE].

The problem here is that we do not have an authorization for a Superfund and that we do not have a decision on the taxing mechanism.

Mr. CONTE. If the gentleman will yield, we agree on that.

Mr. PICKLE. Mr. Speaker, that has been delayed all this year and is still hanging in the balance.

Mr. CONTE. We agree on that, Mr. Speaker.

Mr. PICKLE. Mr. Speaker, what is the gentleman going to do that at the last minute, the gentleman from Massachusetts [Mr. CONTE], representing the Committee on Appropriations, to try to have funds to keep the Superfund so it can continue? That is your purpose, is it not?

Mr. CONTE. Mr. Speaker, the gentleman is right.

Mr. PICKLE. Mr. Speaker, so the gentleman wants to sack up money from different agencies just to have in case.

Mr. CONTE. Mr. Speaker, if the gentleman will yield further, we are not taking this from any other agency. We have already appropriated this money for the Superfund.

Mr. PICKLE. It is being redirected. It is not a new appropriation. But it is money that you are going to use and I am saying to the gentleman, the more straightforward way to do it is to settle this authorization and have a vote on it and to settle this funding question, the taxing question.

Mr. CONTE. Mr. Speaker, I could not agree with the gentleman any more. I agree with the gentleman.

However, this is money that we appropriated, $600 million for the Superfund. Because of an interpretation by OMB and GAO, we cannot spend this money. So all we are saying is that we are going to comply with you; we are going to take this $600 million that we have appropriated for the Superfund, and we are going to put it in a trust fund.

Mr. GREEN. Mr. Speaker, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from New York.

Mr. GREEN. Mr. Speaker, let me try to explain, perhaps, in a little more detail as ranking minority member of the Subcommittee on HUD-Independent Agencies of the Committee on Appropriations, which appropriates for EPA, the difficulty in which we find ourselves and why we are asking for this accommodation.

I want to represent, first off, to the gentleman that we have not the slightest intention of trying to short-circuit the conference on the Superfund or the Committee on Ways and Means on this issue.

□ 1745

Mr. PICKLE. That is comforting.

Mr. GREEN. The problem we face is that we have $600 million which was appropriated for fiscal year 1986 which will lapse on September 30 unless this resolution is dealt with and passed.

We do not have enough budget authority left to our subcommittee under the 302(b) process to fund the Superfund operations for fiscal year 1987 at the $1½ billion level, unless we can take advantage of this $600 million. If this $600 million lapses on September 30, even if the gentleman's conference thereafter succeeds, as I hope and pray it will in resolving the fiscal issues involved in the Superfund, our subcommittee will be unable to respond and operate the Superfund at a $1½ billion level unless we can keep this $600 million for fiscal year 1986 alive. That is all we are trying to do.

We are not trying to short-circuit the gentleman's negotiations in the conference. We are not trying to run an end run around the authorizing process. We are simply, given the budget constraints under which we are operating, trying to keep ourselves able when the gentleman resolves his problems to fund the program next year at the $1½ billion level and we will not be able to do that if this resolution does not pass.

PARLIAMENTARY INQUIRY

Mr. PICKLE. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. MONTGOMERY). The gentleman will state it.

Mr. PICKLE. Mr. Speaker, is the motion by the gentleman from Mississippi a unanimous-consent request?

The SPEAKER pro tempore. That is correct.

Mr. WHITTEN. Mr. Speaker, will the gentleman yield to me?

Mr. PICKLE. I yield to the gentleman from Mississippi.

Mr. WHITTEN. May I say finally that language has been included to fence these funds so that the EPA cannot make any obligations until after Superfund taxing authority has been enacted. Those who handled it in the subcommittee under no circumstances would agree to the prior release of these funds.

Mr. PICKLE. Mr. Speaker, I would like to get more familiar with this. I would like to know the plans we have for a vote on the Superfund and the funding of it. I will try to cooperate with the leadership; but at this point I object, Mr. Speaker.

The SPEAKER pro tempore. Objection is heard.

REQUEST FOR COMMITTEE ON APPROPRIATIONS TO FILE A PRIVILEGED REPORT ON JOINT RESOLUTION MAKING CONTINUING APPROPRIATIONS, FISCAL YEAR 1987

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on a joint resolution making continuing appropriations for the fiscal year ending September 30, 1987, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

Mr. MICHEL. Mr. Speaker, reserving the right to object, I have reserved the right to object on the request of the gentleman to file the report on the conference report tonight, recognizing full well that while the committee was deliberating all afternoon, my feelings is that the conference report is ultimately going to be vetoed if it does not take a considerably different form from what I see currently. If that is the case, well, maybe some action should be taken, giving the President an opportunity to veto it and then reworking it. I do not want to be delaying our target date of October 3 by any stretch of the imagination.

It may be unfair to ask the gentleman from Mississippi, but what I would really like to do is ask some member of the Budget Committee or the Democratic leadership when they expect to bring up the reconciliation measure.

Now, there has been considerable thought on our side and I see that the gentlewoman from Illinios is on her feet and probably wants to make pretty much the same point that the gentleman from Illinois is making, that we are probably going to have to have a reconciliation bill.

May I say, if we are going to avoid sequestering, we had better get busy around here an get a reconciliation bill passed by the House and into conference and agreed upon.

Now, we are going to have to have at least $11 to $12 billion, and unfortunately in view of what the Appropriations Committee did this afternoon with the inclusion of general revenue sharing, you bumped it another $3.4 billion. Now you are up to $15 or $16 billion.

I just have to keep asking the question, when are we going to get around to making the difficult decisions here and cutting something, rather than adding something to what we already cannot add anything more to and still live within our limits?

Mr. WHITTEN. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Mississippi.

Mr. WHITTEN. May I say to my colleague and friend, the gentleman knows what we have been through all afternoon. The outlook is that we may be coming back here after the election because of this.

Now, we have got to get something to the President before he will have anything to veto.

Our problem is to get this bill through the Congress. While we can file it tomorrow if we cannot tonight, I do think time is of the essence in this matter.

I just work here, as I said earlier. If we have to wait until tomorrow, we will wait until tomorrow, but we are skating on thin ice timewise if we want to go home anytime around the first of October.

May I say again, with reference to the gentleman's statement, it is clear that all the cuts are in the midpart of the United States, while the two coastal areas are getting increases in carryover funds. That was very evident before our committee today; so whatever it is and however we think about it, we cannot handle it until we file it and the President cannot veto it or sign it until we send it to him.

Mr. MICHEL. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

Mrs. MARTIN of Illinois. Reserving the right to object, Mr. Speaker, I hope the chairman just made a teensyweensy mistake. Generally we prefer getting bills to the President that he can sign, rather than automatically wanting to give him bills he can veto; but with that in mind, the gentleman knows that I do this with a bit of fear, frankly, standing up to the chairman of the Appropriations Committee.

My concern is this, and this is why I am reserving the right to object. It seems like a simple matter to define the rest of our few weeks here. If we go to the conference report, which I know the gentleman has worked on, no one is questioning that, Thursday or even Friday, and if we do not have reconciliation agreed to before we do the conference report, you can kiss goodbye any idea of saving anything. Everything we have all said about helping the deficit and making it less is incredible smoke; so I am not trying to impose on either the genial chairman or his staff, but I am wondering if the chairman would agree that he would not call the conference report, and I trust the gentleman from Mississippi implicitly to keep his word until we have a conference report on reconciliation. If the gentleman will hold that, the gentleman's word is good enough for me.

Mr. WHITTEN. May I say, I have no idea of what will happen to the reconciliation bill, but with regard to this bill I have tried to cooperate with the President. I have had this issue raised before. The gentlewoman may not know it, but the first year of the Presidency we were asked to rescind $15 billion and we rescinded $14.7 billion. Out of 77 bills I have handled, he signed 72.

I believe we have to work together in this Congress and certainly the gentlewoman is in her right. I was just explaining the situation and the time element is such that where the Senate has outlays, they have limits on outlays which their Budget Committee accepted, and that is an entirely different rule. This should not have been adopted, in my opinion, since outlays are under the control of the Executive.

But we have got a bill here, a continuing resolution, and we need to bring it up as soon as we can. If we cannot bring it up now, we will bring it up when we can.

Mrs. MARTIN of Illinois. Excuse me. I really tried to understand. I really do not understand what the gentleman's answer was. I mean, will the gentleman agree to hold it until we get the reconciliation we have all promised to do?

Mr. WHITTEN. Well, the schedule for reconciliation is decided by the leadership. I am just told what to do around here. I am not part of the leadership to make those determinations; but we are ready and if the Congress is not ready on either side, we will just wait.

Mrs. MARTIN of Illinois. Further reserving the right to object, Mr. Speaker, if I tell the gentleman to say no, the gentleman will say no?

Mr. WHITTEN. I cannot tell the gentlewoman when the reconciliation will come up. The leadership will have to decide that. I understand there may be some controversy, but I cannot speak to that issue.

Mrs. MARTIN of Illinois. Mr. Speaker, I am going for the nonce, anyway, to object, with the hope we can work it out with the short features.

Mr. WHITTEN. The gentlewoman is certainly within her rights.

The SPEAKER pro tempore. Objection is heard.

GARN-ST GERMAIN DEPOSITORY INSTITUTIONS ACT OF 1982 EXTENSION

Mr. ST GERMAIN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5521) to extend until October 13, 1986, the emergency acquisition and net worth guarantee provision of the Garn-St Germain Depository Institutions Act of 1982, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Rhode Island?

Mr. WYLIE. Mr. Speaker, reserving the right to object, I reserve the right to object to afford the chairman an opportunity to explain what we are doing here.

Mr. ST GERMAIN. Mr. Speaker, will the gentlemn yield?

Mr. WYLIE. I yield to the gentleman from Rhode Island.

Mr. ST GERMAIN. Well, Mr. Speaker, absent this extension and pending the possible adoption of what is known as the regulators' bill, this is necessary in the event that we have some banks that have to be merged or acquired under the emergency acquisition powers contained in Garn-St Germain.

The emergency acquisition provisions are those that we have been operating under since the adoption of Garn-St Germain to allow the FDIC to work out acquisitions and mergers over State lines using the guidelines within those provisions.

In addition to that, there is also extensive provision of the net worth certificate provisions until we can get the FSLIC recapitalization as well.

Mr. WYLIE. Further reserving the right to object, Mr. Speaker, and I do not intend to object, the chairman has given a good explanation of what we are doing here in H.R. 5521.

The regulators ought to have the emergency powers which were granted to them under Garn-St Germain, which has now expired, and will provide for the method by which they can now act in the case of failed institutions.

So I am pleased to join with the chairman, the gentleman from Rhode Island [Mr. ST GERMAIN], in asking for passage of this bill.

The Garn-St Germain provisions, as I have suggested, have been useful to the bank regulators in the past and will continue to be needed.

It is my hope that we can act on more permanent legislation, hopefully next week when the full Banking Committee meets on this legislation, but today I think we need to pass this bill, and I support the chairman's motion.

Although there are a lot of different opinions about what can and should be accomplished in the closing weeks of the 99th Congress, I believe that action on the regulators' bill providing the FDIC with expanded emergency acquisition authorities, and the bill to recapitalize the FSLIC is of paramount importance. Delay on these bills will only add to the problems encountered by the Federal Deposit Insurance funds, which underpin public confidence in our depository institutions, and invites problems like those experienced in Ohio and Maryland last year.

We have 14 legislative days left in the 99th Congress. Faced with this deadline, priorities must be assigned. Action on the regulators' bill, H.R. 4701, and the FSLIC recapitalization bill, H.R. 4907, is urgently needed. So far this year, the FDIC has dealt with over 100 bank failures and is anticipating at least 140–160 for the year as a whole—versus a total of 120 in 1985. Moreover, absent the expanded authority contained in H.R. 4701 to sell an entire holding company interstate, the FDIC is likely to be faced with additional situations where open bank assistance must be provided at a very high cost.

The problems of FSLIC are well known. Some say that the unobligated reserves of FSLIC are now as low as $2 to $2½ billion. A September 9, 1986, GAO report entitled "Thrift Industry Cost to FSLIC of Delaying Action on Insolvent Institutions" concludes that failure to give FSLIC the needed resources will force the agency to continue propping up a number of sick institutions and will result in higher resolution costs of roughly $1.4 billion.

Mr. Speaker, these bills are designed to prevent a massive taxpayer bailout of our Federal Deposit Insurance funds. I hope that as we act on yet another short term extension of a more limited authority, we will not lose sight of the fact that Congress needs to pass the more permanent legislation before adjournment.

Mr. BARNARD. Mr. Speaker, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from Georgia.

Mr. BARNARD. Mr. Speaker, I asked the gentleman to yield for the purpose of discussing further the bill with the chairman and to indicate that certainly there is no controversy about this. This is a very, very important piece of legislation. It is one that was enacted several years ago. It has served a very, very worthwhile purpose in the assistance to troubled thrifts and troubled banks, but I would like to ask the chairman, if the gentleman will yield, why have we selected the date of October 13? It looks to me that this is important enough that we would go ahead at this time and select a date that is far enough away in the future, such as 5 or 6 months, in order that we would not have to be coming back to the House every 30 days to ask for this extension.

Mr. ST GERMAIN. Hopefully, Mr. Speaker, we will not be coming back to the House every 30 days. It is our hope, as the gentleman from Ohio [Mr. WYLIE] began to say a few moments ago, the Banking Committee will be meeting next week. We intend to consider at that time legislation that would supersede this. By having this type of an abbreviated extension, it gives added motivation to act on the other legislation that would supersede.

Mr. BARNARD. In other words, I am led to believe then by the chairman that we will definitely consider a bill that will extend this date on a permanent basis?

Mr. ST GERMAIN. That is our hope. We are working toward that end.

Mr. BARNARD. But that particular bill has not been considered by the full committee as of this point?

Mr. ST GERMAIN. It will be considered next week.

Mr. BARNARD. Or by the House?

Mr. ST GERMAIN. It will be considered next week by the full committee.

Mr. BARNARD. Mr. Speaker, I thank the gentleman.

Mr. WYLIE. Mr. Speaker, I withdraw my reservation of objection.

THE SPEAKER pro tempore. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

The Clerk read the bill, as follows:

H.R. 5521

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 141(a) of the Garn-St Germain Depository Institutions Act of 1982 is amended by striking out "September 15, 1986" and inserting in lieu thereof "October 13, 1986".

(b) Section 206(a) of such Act is amended by striking out "September 15, 1986" and inserting in lieu thereof "October 13, 1986".

(c) No amendment made by section 141(a) or section 206(a) of the Garn-St Germain Depository Institutions Act of 1982, as in effect on the day before the date of the enactment of this Act, to any other provision of law shall be deemed to have taken effect before such date of enactment and any such

provision of law shall be in effect as if no such amendment had taken effect before such date of enactment.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

□ 1800

EXECUTIVE EXCHANGE PROGRAM VOLUNTARY SERVICES ACT OF 1985

Mrs. SCHROEDER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3002) to provide for the establishment of an experimental program relating to the acceptance of voluntary services from participants in an executive exchange program of the Government, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Senate amendments: Page 4, line 9, strike out all after "1989," down to and including "function)" in line 11 and insert "the General Accounting Office".

Page 4, line 14, strike out "Commission (or successor entity)" and insert "General Accounting Office".

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentlewoman from Colorado?

Mr. HORTON. Mr. Speaker, reserving the right to object, I will not object, but I take this time to offer the gentlewoman from Colorado [Mrs. SCHROEDER], the chair of the Subcommittee on Civil Service of the Committee on Post Office and Civil Service, who handled this bill in this House, an opportunity to explain what the purpose of this action is.

Mrs. SCHROEDER. Mr. Speaker, will the gentleman yield?

Mr. HORTON. I am happy to yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Speaker, this action will clear for the President H.R. 3002, the legislation which the gentleman from New York [Mr. HORTON], the gentleman from New Jersey [Mr. DWYER], and I introduced last summer. The bill establishes an experimental program under which the Government can accept the voluntary services of up to 10 private sector participants per year in the Executive Exchange Program. These participants would be paid by their private sector employers and could be paid more than the Federal pay cap. The Senate amendment provides that the report on the advantages and disadvantages of the experimental program will be prepared by the General Accounting Office. The House passed bill provided that the report would be prepared by the President's Commission on Executive Exchange. I think the Senate amendment is a good one and we should accept it.

Mr. HORTON. Mr. Speaker, this is a good bill, I urge its adoption, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

A motion to reconsider was laid on the table.

TRIBALLY CONTROLLED COMMUNITY COLLEGE ASSISTANCE AMENDMENTS OF 1986

Mr. KILDEE. Mr. Speaker, I ask unanimous consent that the Committee on Education and Labor be discharged from further consideration of the Senate bill (S. 2095) to reauthorize the Tribally Controlled Community College Assistance Act of 1978 and the Navajo Community College Act, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

Mr. GOODLING. Reserving the right to object, Mr. Speaker, I shall not object; I merely reserve the time to give my friend, the gentleman from Michigan [Mr. KILDEE], an opportunity to explain the bill.

Mr. KILDEE. Mr. Speaker, will the gentleman yield?

Mr. GOODLING. I yield to the gentleman from Michigan.

Mr. KILDEE. Mr. Speaker, today I ask for the unanimous consideration of S. 2095, a bill to reauthorize the Tribally Controlled Community Colleges Act and the Navajo Community College Act. This bill, which is the product of substantial compromise by both chambers, was passed unanimously by the Senate. These programs, which totaled an appropriation of $11.3 million in fiscal year 1986, are two small, but very vital, programs which provide basic support to 20 colleges providing education to reservation based students.

The bill reauthorizes the colleges by extending the current authorizations for 4 additional years. It freezes the per capita amount used in the computation of payments at the fiscal year 1986 level for the life of the bill. Other substantive provisions simply clarify provisions in the reauthorization of 1983, provisions which the Bureau of Indian Affairs has never implemented.

This is a bill which contains no new authority. It is a noncontroversial bill, which will guarantee these institutions the financial stability they need to continue to grow. I ask my colleagues to support the measure.

Mr. GOODLING. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2095

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Tribally Controlled Community College Assistance Amendments of 1986".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

(a) GRANT PROGRAMS.—Subsection (a) of section 110 of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1810(a)) is amended—

(1) by striking out "1985, 1986, and 1987" in paragraph (1) and inserting in lieu thereof "1987, 1988, 1989", and

(2) by striking out "such fiscal years" in paragraphs (2) and (3) and inserting in lieu thereof "the fiscal years 1987, 1988, 1989, and 1990".

(b) ENDOWMENT PROGRAM.—Section 306 of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1836) is amended by striking out "1985, 1986, and 1987" and inserting in lieu thereof "1987, 1988, 1989, and 1990".

SEC. 3. DEFINITIONS.

(a) SATISFACTORY PROGRESS.—Subsection (a) of section 2 of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801(a)) is amended—

(1) by striking out "and" at the end of paragraph (6),

(2) by striking out the period at the end of paragraph (7) and inserting in lieu thereof "; and", and

(3) by adding at the end thereof the following new paragraph:

"(8) 'satisfactory progress toward a degree or certificate' has the meaning given to such term by the institution at which the student is enrolled.".

(b) INDIAN STUDENT COUNT.—Subsection (b) of section 2 of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801(b)) is amended—

(1) by striking out ", in accordance with the standards and practices of the appropriate accrediting agency or the institution at which the student is in attendance," in paragraph (5),

(2) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively, and

(3) by inserting after paragraph (2) the following new paragraph:

"(3) Credits earned by any student who has not obtained a high school degree or its equivalent shall be counted toward the computation of the Indian student count if the institution at which the student is in attendance has established criteria for the admission of such student on the basis of the student's ability to benefit from the education or training offered. The institution shall be presumed to have established such criteria if the admission procedures for such studies include counseling or testing that measures the student's aptitude to successfully complete the course in which the student has enrolled. No credits earned by such student for purposes of obtaining a high school degree or its equivalent shall be counted toward the computation of the Indian student count."

SEC. 4. OPERATION AND IMPROVEMENT GRANTS.

Paragraph (2) of section 108(a) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1808(a)(2)) is amended to read as follows: "(2) $5,820,".

SEC. 5. CONTRACTS UNDER INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT.

Subsection (b) of section 109 of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1809(b)) is amended by adding at the end thereof the following new paragraph:

"(3) No tribally controlled community college for which a tribe has designated a portion of the funds appropriated for the tribe from funds appropriated under the Act of November 2, 1921 (42 Stat. 208; 25 U.S.C. 13) may be denied a contract for such portion under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) (except as provided in that Act), or denied appropriate contract support to administer such portion of the appropriated funds.".

SEC. 6. REPORT ON FACILITIES.

(a) IN GENERAL.—Section 112 of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1812) is amended—

(1) by striking out "Administrator of General Services" each place it appears and inserting in lieu thereof "Secretary", and

(2) by striking out "enactment of this subsection" in subsection (a) and inserting in lieu thereof "enactment of the Tribally Controlled Community College Assistance Amendments of 1986".

(b) CONFORMING AMENDMENTS.—Section 113(a) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1813(a)) is amended by striking out "Administrator of General Services" and inserting in lieu thereof "Secretary".

SEC. 7. NAVAJO COMMUNITY COLLEGE.

Section 5 of the Navajo Community College Act (25 U.S.C. 640c-1) is amended—

(1) by striking out "the fiscal year beginning October 1, 1984, and for the three succeeding fiscal years" in subsection (a)(1) and inserting in lieu thereof "each of the fiscal years 1987, 1988, 1989, and 1990", and

(2) by striking out "for any fiscal year" in subsection (b)(1) and inserting in lieu thereof "for each fiscal year".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KILDEE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on S. 2095, the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

REAPPOINTMENT OF DAVID C. ACHESON AS CITIZEN REGENT OF BOARD OF REGENTS OF SMITHSONIAN INSTITUTION

Ms. OAKAR. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the joint resolution (H.J. Res. 517) to provide for the reappointment of David C. Acheson as a citizen regent of the Board of Regents of the Smithsonian Institution and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 517

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the vacancy in the Board of Regents of the Smithsonian Institution, of the class other than Members of Congress, which will occur by the expiration of the term of David C. Acheson of the District of Columbia on December 22, 1986, be filled by the reappointment of the present incumbent. The appointment is for a term of six years and shall take effect on the day after the current term expires.

Ms. OAKAR. Mr. Speaker, this resolution, which was ordered reported by unanimous consent, by the Committee on House Administration, on August 7, 1986, is to provide for the reappointment of David C. Acheson as a citizen regent of the Board of Regents of the Smithsonian Institution. Mr. Acheson, as a member of the executive committee, has shared the breadth of his intellect, interests, and experience to the great benefit of the Smithsonian. Mr. Acheson's familiarity with the Institution and the seriousness with which he approaches his work has proven to be a tremendous asset. The Smithsonian is indeed fortunate to have Mr. Acheson contribute his hard work and talent to the Board of Regents. The Committee on House Administration has reviewed and favorably recommends this reappointment.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

U.S. DISTRICT COURT FOR THE DISTRICT OF MARYLAND

(Mr. HOYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOYER. Mr. Speaker, I rise in support of H.R. 5525, a bill which I just introduced.

Mr. Speaker, Mr. BARNES, Mrs. BENTLEY, Mrs. BYRON, and I are introducing legislation to create two divisions within the U.S. District Court for the District of Maryland. The demographic realities of Maryland today and Maryland in the future dictate the creation of two divisions.

Within the fourth judicial circuit, Maryland is the only State with one district or without divisions. However, the population of Maryland now exceeds that of several multidistrict States in the fourth circuit at the time they became multidistricts. The 1980 population figures provided by the Bureau of Census for this circuit are:

North Carolina, 5,874,429.
Virginia, 5,346,818.
Maryland, 4,216,975.
South Carolina, 3,119,208.
West Virginia, 1,949,644.

North Carolina has three judicial districts—eastern, central, and western. Virginia has two judicial districts—eastern and western. South Carolina has a single district, but 10 divisions. In West Virginia, there are two judicial districts—northern and southern.

The U.S. District Court for the District of Maryland comprises the entire State, including 23 counties and 1 city. The court is based in the city of Baltimore.

The five-county region of Maryland that would comprise the southern division—Calvert, Charles, Montgomery, Prince George's, and St. Mary's—had a population of 1,411,408 in 1980. By 1990, it is projected that this area will have 1,576,500 people, or almost 35 percent of the total population of Maryland. These counties are the fastest growing in Maryland in terms of population, business activity and development, and legal activity, as measured by civil, criminal, and bankruptcy court filings. These trends are projected to continue.

In addition to total population, consideration must be given to the attorney population within the State and within the proposed new division. Approximately 33.4 percent of currently practicing Maryland attorneys reside in what would be the southern division.

Under the auspices of Senator CHARLES MCC. MATHIAS, JR., the Task Force on the Organization of the United States District Court for the District of Maryland submitted a report endorsing the establishment of a Southern Division. Quoting from the report:

"Federal Courts should be located where the people and the lawyers reside so as to maximize their participation and access to these courts. It appears clearly that one-third of the lawyers and approximately 40 percent of the people of Maryland [the Task Force has included Anne Arundel County in a six-county Southern Division] live in the area proposed for the new division."

Furthermore, the existing judicial and law enforcement organization already serving what would be the southern division—the Bankruptcy Court, the U.S. Magistrate and his clerk, 18 members of the Probation Office, approximately 5 members of the Clerk's Office, and a satellite office of the Federal Bureau of Investigation—lends credence to the proposal for two divisions. Cost, even at a time of Gramm-Rudman-Hollings fiscal constraints, would not be an issue. The additional costs would be approximately 2 percent more than the current operating budget.

The Montgomery County and Prince Georges County governments are regularly and frequently party-litigants in district court. This has entailed a substantial cost for travel and related expenses.

On another note, under the weighted caseload system for determining judicial manpower needs, there is more than sufficient work to justify the assignment of two judges to a newly created division. By a fortunate coinci-

dence, at present, there is one vacancy to be filled on the court. Thus, there is an opportunity to select at least one judge who does not have to relocate from Baltimore.

In their report, the task force members wrote, "* * * the arguments are just too compelling in support of the need and right of the public to have a southern division with an accessible courthouse and an available judge or judges to conduct the daily business of a Federal court which will be as busy as this proposed one will inevitably be." The report concludes, "Accordingly, we recommend that the process of implementing this concept be begun at once; and that Congress create a new division of the District of Maryland, to be known as the 'Southern Division,' and to comprise the counties of Montgomery, Prince Georges, Calvert, Charles, and St. Marys."

PROVIDING FOR CONSIDERATION OF H.R. 4759, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1987

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 545 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H.RES. 545

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4759) to authorize appropriations for fiscal year 1987 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency retirement and Disability System, and for other purposes, and the first reading of the bill shall be dispensed with. All points of order against the bill for failure to comply with the provisions of clause 5(a) of rule XXI are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Permanent Select Committee on Intelligence, the bill shall be considered for amendment under the five-minute rule by titles instead of by sections except for section 107, and each title shall be considered as having been read. The amendments recommended by the Permanent Select Committee on Intelligence and by the Committee on Post Office and Civil Service now printed in the bill shall be considered to have been adopted in the House and in the Committee of the Whole. Section 107 of the bill shall not be considered for amendment until the remainder of the bill has been considered for amendment in its entirety, and until section 107 is considered for amendment, no amendment to the bill, including an amendment in the nature of a substitute, shall be in order which affects the subject matter of section 107, funding for military and paramilitary operations in Angola. No amendment to section 107 shall be in order except one motion to strike and said section, if offered by Representative Stump of Arizona or his designee, and said motion to strike shall be debatable for not to exceed two hours, to be equally divided and controlled by the proponent of the amendment and a Member opposed thereto. After the disposition of said motion to strike, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentleman from California [Mr. BEILENSON] is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume.

Mr. Speaker, this rule provides for consideration of H.R. 4759, the Intelligence Authorization Act for Fiscal Year 1987. It is a modified open rule, providing 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Permanent Select Committee on Intelligence.

The rule waives all points of order against the bill for failure to comply with clause 5(a) of rule 21, which prohibits appropriations in a legislative measure and it provides that amendments recommended by the Select Intelligence Committee and the Post Office and Civil Service Committee and printed in the bill will be considered to have been adopted in the House and in the Committee of the Whole.

Under the rule the bill will be considered for amendment by titles rather than by sections, except for section 107. Section 107 requires that support for groups engaged in military and paramilitary operations in Angola must be the openly acknowledged policy of the United States before any military or paramilitary aid can be sent. Any germane amendment that does not violate the rules of the House may be offered to any part of the bill, again except for section 107, on the Angola matter, the rule provides for one motion to strike section 107, if offered by Representative STUMP, and no other amendment is in order to section 107. The motion to strike will be debatable for 2 hours, to be equally divided and controlled by the proponent and a Member who is opposed.

The rule provides that section 107 will not be considered for amendment, and no amendment affecting funding for military or paramilitary operations in Angola will be in order, until the remainder of the bill has been considered for amendment. After disposition of the motion to strike section 107, the rule provides one motion to recommit.

Mr. Speaker, H.R. 4759 authorizes appropriations for U.S. intelligence activities for fiscal year 1987. It is an important measure and one that deserves our support. As a member of the Intelligence Committee and the Rules Committee, I can say there appears to be only one item of significant controversy—the Angola issue. The bill now requires that the President request and Congress approve support for military or paramilitary operations in Angola before such assistance may commence in the current year or in fiscal year 1987. This is an important foreign policy question and the rule provides for a motion to strike the language. The rule also provides for full and orderly debate of the issue after consideration of the remainder of the bill.

Mr. Speaker, I urge adoption of the rule and adoption of this important legislation.

□ 1810

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, the rule has been ably explained by the gentleman from California [Mr. BEILENSON]. It would be redundant for me to go into the details again. There is no objection, so far as I know, to the rule itself, although there will be some controversy on the measure when it is debated on the floor.

Mr. Speaker, we all know that the intelligence operations of this Government are most important, and we must not ever tie the hands of those who are in control.

Mr. Speaker, I urge adoption of the rule.

Mr. Speaker, I yield 1 minute to the distinguished gentleman from Arizona [Mr. Stump].

Mr. STUMP. Mr. Speaker, the minority supports the proposed rule for consideration of H.R. 4759. The minority generally supports H.R. 4759. Although we strongly oppose section 107, which eliminates the covert action option for support of freedom fighters in Angola. The rule provides for us to offer an amendment to strike section 107, and I anticipate that the Angola amendment will be the only significant issue in the floor debate of the bill.

Other than a technical amendment, a budget amendment, a South Africa amendment, and the Angola amendment I will offer, I am not aware of any amendments to be offered to the bill as reported by the Intelligence, Armed Services, and Post Office and Civil Service Committees. The Angola amendment should be the only issue in contention.

Mr. Chairman, I would like to point out that it is no small achievement to bring forth an intelligence bill which, with the exception of the Angola provision, has solid bipartisan support. LEE HAMILTON has done an outstanding job during his tenure as chairman of the committee, and I believe the House owes him a debt of gratitude.

Mr. QUILLEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BEILENSON. Mr. Speaker, I have no requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. (Mr. MONTGOMERY). The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

VACATING ENGROSSMENT, THIRD READING, AND PASSAGE OF HOUSE JOINT RESOLUTION 517, REAPPOINTMENT OF DAVID C. ACHESON AS CITIZEN REGENT OF BOARD OF REGENTS OF SMITHSONIAN INSTITUTION

The SPEAKER pro tempore. Without objection, the action of engrossing, reading a third time and passing the joint resolution (H.J. Res. 517) to provide for the reappointment of David C. Acheson as a citizen regent of the Board of Regents of the Smithsonian Institution, will be vacated.

There was no objection.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MS. OAKAR

Ms. OAKAR. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Ms. OAKAR: Strike out all after the resolving clause and insert in lieu thereof the following:

That, in accordance with section 5581 of the Revised Statutes of the United States (20 U.S.C. 43), the vacancy on the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress, occurring by reason of the expiration of the term of David C. Acheson of the District of Columbia, is filled by reappointment of the incumbent for a term of six years, effective December 22, 1986.

Ms. OAKAR (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentlewoman from Ohio [Ms. OAKAR].

The amendment in the nature of a substitute was agreed to.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed.

TITLE AMENDMENT OFFERED BY MS. OAKAR

Ms. OAKAR. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Amendment to the title offered by Ms. OAKAR: Amend the title so as to read: "Joint resolution providing for reappointment of David C. Acheson as a citizen regent of the Board of Regents of the Smithsonian Institution.".

The title amendment was agreed to.

A motion to reconsider was laid on the table.

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1987

The SPEAKER pro tempore. Pursuant to House Resolution 545 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4759.

The Chair designates the gentleman from Pennsylvania [Mr. MURTHA] as chairman of the Committee of the Whole, and requests the gentleman from Oklahoma [Mr. ENGLISH] to assume the chair temporarily.

□ 1815

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4759) to authorize appropriations for fiscal year 1987 for intelligence and intelligence related activities of the U.S. Government, the intelligence community staff, and the Central Intelligence Agency retirement and disability system, and for other purposes, with Mr. ENGLISH [Chairman pro tempore] in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Indiana [Mr. HAMILTON] will be recognized for 30 minutes and the gentleman from Arizona [Mr. STUMP] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Indiana [Mr. HAMILTON].

Mr. HAMILTON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 4759, the Intelligence Authorization Act for Fiscal Year 1987.

I credit the hard work and long hours put in by the 16 members of the committee for the recommendations of this bill. They worked diligently, cooperatively, and constructively, and they have produced a good bill under difficult circumstances that advances the national security interests of the United States. I would especially commend the gentleman from Ohio, Mr. STOKES, and the gentleman from Arizona, Mr. STUMP, the chairman and ranking minority member, respectively, of the Budget Subcommittee.

This bill is the result of more than 30 hours of hearings by the Budget Subcommittee with witnesses from each major intelligence and intelligence-related program. Those hearings also resulted in written responses to many additional questions.

I am pleased to report that there is bipartisan support on the part of the Intelligence Committee for this bill and for the intelligence functions it authorizes. As far as I am aware, the bill, which deals with scores of complex intelligence issues, contains only one major controversy—and that is not strictly an intelligence matter: military or paramilitary operations in Angola.

H.R. 4759 authorizes appropriations for all U.S. intelligence programs supplying information to the President and other national decisionmakers—the National Foreign Intelligence Program—and those which supply intelligence to military commanders—the tactical intelligence and related activities. The levels of expenditure and the number of personnel recommended by the committee for fiscal year 1987 in these areas represents an adequate but by no means fully satisfactory level of effort for U.S. intelligence activities.

At the appropriate time. I will offer an amendment to the bill to bring it into congruence with H.R. 4428. The Defense Authorization Act, as it has passed the House. The bill, as reported by the Intelligence Committee, authorizes a level of intelligence expenditures pegged to the budget resolution's ceiling for budget authority for the 050 function of $292 billion. Members will recall that in considering the defense authorization bill. The House reduced that budget authority level to about $286 billion. This reduction necessitates a decrease in authorizations for a full range of intelligence programs. Both national and tactical.

This decrease was partially offset by the adoption of an amendment to H.R. 4428 providing some $90 million in national foreign intelligence programs for counterintelligence, counternarcotics and counterterrorism. The resulting level of intelligence expenditures in fiscal year 1987 remains only adequate. The cuts will impair, but not cripple, intelligence by eliminating or slowing many collection and processing programs and by denying personnel increases to handle new intelligence problems. These cuts represent a responsible, careful approach that accepts the fiscal constraints upon us with the least possible amount of impairment to our intelligence capabilities.

In addition to the authorization of appropriations and personnel ceilings, the bill has several legislative provisions to provide survivor annuities and health benefits for certain former spouses of CIA personnel; to improve U.S. counterintelligence and security programs; to provide new management authorities and new benefits for intelligence personnel; to provide for inter-

national mapping and data exchanges; to require prior notice to the intelligence committees of covert arms transfers; and last, to provide restrictions on support for military or paramilitary operations in Nicaragua and Angola.

In the case of Nicaragua. The committee recommends reenactment of a provision in the fiscal year 1986 Intelligence Authorization Act which essentially prohibits the use of contingency funds to supplement the $100 million already approved by the House. This provision would not affect in any way the expenditure of that $100 million but it would require that the Congress approve any additional assistance to the contras. This is consistent with the provision on Nicaragua contained in H.R. 5052. The defense military construction appropriations bill, which the House passed earlier this year.

In the case of Angola, the committee recommends that no covert assistance be permitted to UNITA unless and until the President publicly requests such assistance and the Congress approves it by law. This is the major controversy in this bill. Under the rule which we have adopted, we will debate the Angola provision after the consideration of all other matters pertaining to the bill. This issue of aid to UNITA is an important foreign policy question and members of the Intelligence Committee are closely divided on it. I support the committee's recommendation but I will reserve my remarks on that subject until we reach that section.

Members should be aware, however, that the issue on which they will be asked to vote deals only with the question of covert assistance to Angola. It is not a referendum or an attack on covert action as a means of achieving the foreign policy ends of the United States. The committee supports the use of covert action in many areas of the world. The fiscal year 1987 authorization bill, like its predecessors, funds the vast majority of ongoing covert action operations. The issue before the House on the question of covert aid in Angola will be whether, under the present circumstances, the Congress should play a role in approving aid to UNITA.

Several amendments to the bill will be offered. I will offer first a committee technical amendment to correct punctuation and printing errors.

I will then offer an amendment to replace the schedule of authorizations setting forth the amounts authorized for intelligence and intelligence-related programs with an amended schedule conforming to the actions taken by the House in amending H.R. 4428, the Defense Authorization Act for Fiscal Year 1987. It will have the effect of reducing intelligence programs to a level pegged to a $286 billion defense budget.

The amendments recommended to H.R. 4759 by the Committee on Post Office and Civil Service and the Permanent Select Committee on Intelligence were adopted with the approval of the rule for H.R. 4759. The first were technical corrections and a reporting requirement. The latter was a provision denying retirement benefits to Federal employees convicted of exposing undercover intelligence agents.

Mr. Chairman, the Intelligence Committee has had to recommend significant reductions in the intelligence budget request in light of fiscal constraints imposed on all Government programs. The Intelligence Committee believes strongly that the administration must reorder its funding priorities within the defense function to reallocate funds to the intelligence function in recognition of the important contributions intelligence makes to overall defense readiness, effectiveness of weapons systems, and the viability of military planning. The committee urges the Secretary of Defense and the Director of Central Intelligence to provide higher priorities for intelligence programs in the future, even in the regime of more restrained defense budget requests.

I appreciate the understanding and support of the members and staff of the Committee on Armed Services for adjustments in the intelligence budget. I also commend and appreciate the professional and skilled assistance of the staff of the House Select Committee on Intelligence.

Mr. Chairman, this bill meets the budget targets of the House and provides for a strong intelligence program. The committee will continue to work for improved intelligence capabilities, not only to deal with traditional high-priority targets such as the Soviet Union, but also to assist in our war on terrorism, the war on drugs, and counter Soviet block espionage activities in this country.

□ 1820

Mr. STUMP. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in general support of H.R. 4759. The Intelligence Authorization Act for fiscal year 1987, although I strongly oppose section 107 of the bill. Section 107 takes away from the United States the option for effective support to Angolan freedom fighters. I will offer an amendment later to strike section 107.

Aside from section 107, I support the bill. The funding authorizations contained in this bill for intelligence and intelligence-related programs ensure that U.S. policymakers will continue to have the capability to collect needed intelligence on foreign powers; detect and counter hostile activities by foreign powers; and to influence world events. The bill provides a balanced and effective allocation of scarce taxpayers dollars to U.S. intelligence programs and generally represents bipartisan agreement on such programs.

Because the effectiveness of intelligence programs depends upon secrecy, the details of intelligence programs and associated funding levels must, of course, remain secret. Those details are in the classified schedule of authorizations accompanying the bill and in the classified annex to the committee's report on the bill, both of which have been available to Members of the House.

There are several amendments to the bill of which we have been made aware.

One is a technical amendment to be offered by Chairman HAMILTON to correct three minor printing errors in the bill. Another is an adjustment to the intelligence budget figures necessitated by actions which have occurred since the Intelligence Committee markup. Another is an amendment relating to South Africa to be offered by Mr. STOKES. These amendments have been cleared with the committee minority and should not be controversial.

The last amendment is a motion to strike section 107 of the bill prohibiting covert support to Angolan freedom fighters, which I will offer.

I urge my colleagues to support the amendment to strike section 107, which I will address in greater detail later.

I would like to take this opportunity to thank the members of the committee from both sides of the aisle for their time, attention, and efforts to bring our bill to the floor in substantial agreement. I wish to express my appreciation to Chairman LEE HAMILTON for his leadership and his fair and even-handed approach in responding to the minority's concerns. I also wish to thank LOU STOKES, chairman of the Program and Budget Authorization Subcommittee, and the other members of the subcommittee for their dedication especially DICK CHENEY and BOB LIVINGSTON who were the two new members of the Budget Subcommittee on the minority side.

And of course a special thanks to the staff. If not for them, this would not be possible.

Mr. HAMILTON. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Ohio [Mr. STOKES], the chairman of the Budget Subcommittee of the House Intelligence Committee.

Mr. STOKES. Mr. Chairman, at the outset I want to thank the distinguished chairman, the gentleman from Indiana [Mr. HAMILTON] for yielding to me. The gentleman has been an outstanding chairman and it is an honor to serve with him on this committee.

Mr. Chairman, H.R. 4759, the Intelligence Authorization Act for Fiscal

Year 1987, is the ninth such bill reported out by the Permanent Select Committee on Intelligence. I am proud to say that, like its predecessors, the budget provisions in the bill were approved unanimously in committee, and were supported by the Committee on Armed Services.

This bill authorizes all the funds for the next fiscal year for the intelligence and intelligence-related activities of the U.S. Government.

The category of intelligence activities includes all the activities of the Central Intelligence Agency; the Defense Intelligence Agency; the National Security Agency: other intelligence components of the Department of Defense, and the Departments of the Army, Navy, and Air Force; the Bureau of Intelligence and Research of the Department of State; the intelligence divisions of the Federal Bureau of Investigation, intelligence elements of the Departments of Treasury and Energy, and the Drug Enforcement Administration; and the intelligence community staff on the Director of Central Intelligence. These activities provide intelligence for the use of the President, the Cabinet, the National Security Council, and the Joint Chiefs of Staff.

Further, this bill authorizes intelligence-related activities of the Department of Defense, which are programs that are integral to the defense force structure, but which are similar to national intelligence programs and are often used for national intelligence purposes, particularly in peacetime.

The similarity of programs and functions between the national intelligence programs and the intelligence-related activities of the Defense Department is the reason that both are considered by the Permanent Select Committee on Intelligence and authorized in this bill. We have worked to insure that the program areas are complementary and mutually supportive, but not duplicative. The referral of this bill to the Committee on Armed Services has assured that the judgments we have made from an intelligence viewpoint are equally sound from a military perspective. We worked closely with that committee on a continuous basis and achieved a position agreeable to both committees.

Mr. Chairman, I would like to summarize briefly the organization of the bill.

Title I provides for the bulk of our intelligence and intelligence-related activities. Most activities are necessarily classified and details are contained in the classified schedule of authorizations and annex to the report. The schedule and annex have been available to members in the committee office since July 31. They will continue to be available.

Title II provides necessary authorities for the intelligence community staff, whose function is to assist the Director of Central Intelligence with his responsibilities for overall coordination of intelligence and preparation of the budget. The staff is made up of representatives of all elements of the intelligence community. Administratively, it is treated as though it were part of the CIA. The bill provides $21.7 million for this purpose.

Title III provides authorization of $125.8 million for the Central Intelligence Agency retirement and disability system. This is a program established by Congress in 1964 to provide for those CIA personnel who perform hazardous duties or are in special situations, usually abroad, which may limit the length of their career. In addition, title III contains a provision regarding survivor and health benefits for certain former spouses of CIA personnel.

As Chairman Hamilton has stated, title IV contains four provisions regarding counterintelligence and security.

Title V provides several administrative authorities including authority for the National Security Agency and Central Intelligence Agency to establish educational programs to facilitate the recruitment of minority high school students with a demonstrated capability to develop skills critical to the intelligence agencies such as engineering, computer science, and foreign language.

Title VI contains several miscellaneous authorities, including a section to require notice of the transfer of military equipment.

Mr. Chairman, as in the last fiscal year, this bill authorizes less than the administration requested. Some specific proposals have been recommended for deferral, others for termination, while a few have been increased. I believe that the authorization provided is adequate to meet our Nation's needs.

Mr. Chairman, let me close by stating that, as in year's past, the committee has made, and continues to make, the classified annex to its report available to all Members of the House during business hours in the committee's rooms. I would invite Members who have not yet had an opportunity to do so to read this annex.

I also want to take this opportunity to express my appreciation to BOB STUMP, the ranking minority member, for his hard work on this bill along with all the members of our subcommittee on both sides of the aisle.

I also want to express my appreciation to the staff of the committee for the excellent work they do for our committee.

□ 1830

Mr. STUMP. Mr Chairman, I yield 7½ minutes to the gentleman from Michigan [Mr. SILJANDER].

Mr. SILJANDER. I appreciate the gentleman yielding this time to me.

Mr. Chairman, we have worked hard over the last year or so attempting to untie the hands of President Ronald Reagan, in a decade of effort to repeal the infamous Clark amendment which prohibited any ability for America to assist those fighting for freedom in Angola.

I stand in general support of this bill but in deep opposition to the section that prohibits any covert assistance to UNITA in Angola.

One of the arguments ushered forth as to why we should eliminate covert aid is because we should not be in the business of overthrowing legitimate governments.

Well, let me remind the membership that the Government of Angola has never been elected. We have never recognized the Government in Angola by diplomatic means. Ford did not, Carter did not, and obviously President Reagan has not.

In terms of territory there is about equal control with UNITA and the so-called dos Santos government. The dos Santos government is totally, unequivocally propped up by Cuban troops.

It is a puppet government regime that could not exist without the help of 35,000 Cuban troops.

The other issue, "well, we should debate whether or not we should help any freedom fighters in an open format." Well, may I remind those who use that argument, we sat and stood on this floor for hours and debated whether or not the Clark amendment should be repealed. And it was, thank goodness, finally repealed. In the subcommittee where I serve as ranking member of the Africa Subcommittee, we debated the Clark amendment. Should it be overt or covert aid to help Jonas Savimbi in Angola?

We had the same debate in the Committee on Foreign Affairs and the Intelligence Committee, the same debates were engaged there. We debated on the floor.

I also had a bill. The gentleman from Indiana full well knows I had a bill to aid UNITA overtly. One hundred ten bipartisan cosponsors.

Mr. HAMILTON's name is not one of those cosponsors.

I also had resolution, sense of Congress, expressing the importance of at least assisting UNITA in Angola without any legal ties or binds. Mr. HAMILTON is not a cosponsor of that resolution either.

So I must wonder what is the real intention behind this section? I think the intention is clear, to cut off any

hope of assisting Jonas Savimbi fighting for his freedom in Angola.

The other argument, if we help Savimbi the Cubans will stay and they will never leave. But the truth is when the Clark amendment a decade ago was implemented there were 12,000 Cuban troops. That was in 1975.

In 1985 there are 35,000 Cubans, nearly 3 times that number.

So did the Clark amendment stifle Castro's intentions? It did not.

Ten years ago Castro said he would leave when the MPLA stabilized the situation. And we believed him.

Seven years ago Castro said, "Well, we will leave when the Namibian independence has been finally secured." At the same time Andrew Young said that Cuban troops are a stabilizing factor in southern Africa.

And we believed him.

Now 1 week ago Castro has changed his tune for the third time in a decade and said he will not leave until the white apartheid regime in South Africa has been dismantled and there is majority rule. A good goal, but obviously Castro's intentions are to remain.

When one uses the argument that by supporting a black freedom fighter we somehow are in bed with the white racist regime in South Africa, is, minimally, absurd. He fought for 25 years, Jonas Savimbi, against white Portuguese rule and now white Cuban domination in his country. Do you think for a moment that a black freedom fighter in Angola after 25 years of fighting for independence of his nation would somehow welcome in the white apartheid regime and say "please set up a racist apartheid regime in Angola. We welcome you."? This is an absurd notion.

Obviously, yes, he is accepting aid from South Africa. Why not? Because for 10 years this country was unwilling to do so.

We fought, as CLAUDE PEPPER, Senator PEPPER has said, with the Soviets in World War II and that did not make us Communists. Iran is helping the Mujahdeen in Afghanistan and so are we. That does not make us part of the Iranian-Khomeini madness. Every country in southern Africa relies on South Africa either economically, militarily, or in some way or other. Are we going to cut off ties to every country in the southern region of that continent?

We think the Cubans are such a wonderful force in Africa, I would like to close by reading an excerpt from the essay entitled "The Village of the Living Dead." These by the way are testimonials from Angolans, black Angolans living in villages where the Cubans have plundered and raped and murdered the townspeople.

Let me read from this article:

[From the American Spectator, August 1986] Vol. 19. No. 8 / AUGUST 1986

THE VILLAGE OF THE LIVING DEAD

(By Nicholas Rowe)

I was in Angola earlier this year with a Canadian news team. Outside Jamba, the provisional capital of rebel leader Jonas Savimbi's UNITA movement, is a small village housing refugee women from the regions under the control of the Luanda Communist regime. It is known as "the village of the living dead." Some of the women are mutilated, others have lost their mind, all are victims of Soviet-inspired barbarism. And yet they speak of themselves as the lucky ones: they have survived.

Through our interpreter we spoke to some of the women able and willing to recount their experiences. The first was Madalena Ngueve, who looked much older than her forty-five years:

"It was the second of November 1984 when the Cubans came to our village. I tried to stop them taking away my son. He was twelve, and from the age of ten and upwards they come and ship them off to Cuba. I tried to stop them but one of the Cubans cut off my arm with a bayonet. They were beating the children who didn't want to leave their parents, beating them with the butt ends of their rifles. So, while I was bleeding, they took away my son. He was my only child. I've had no contact with him since that day.

Severina Chilombo arms crossed tight over her stomach, rocked compulsively back and forth as she told us her story:

"The Cubans arrived at my village just at daybreak. They locked some of the people into the huts and burned them alive. Others, their limbs—arms and legs—were cut off. My father burned to death in one of the huts, also my uncle. They poured gasoline on the huts and with torches they lit the fires. They ripped the baby I was carrying off my back. They swung and smashed her against a tree. She died, her little head cracked open. I was pushed into a lorry with some of the other younger women and boys. Later they stopped. I was raped the first time by ten men. We were raped in front of the boys deliberately. The Cubans said to them, 'Look how we rape your mothers and sisters so they can't have any more children.' During the journey we could choose whether we wanted sex voluntarily or not. Those who resisted were stabbed by bayonets. Then they were raped. Then they were killed. At the end of the journey the boys were taken away and the women put into prison. We weren't allowed to wash or anything for the first seven days. But every day the Cubans came . . . and . . . violated us. I lost my father and my mother. Everybody. There are days when I don't have any more tears left to cry. Today is almost one of those days. It was my first baby. My only baby.

Veronica Kahali was concerned that we would not believe her. She kept repeating to our interpreter. "I am not inventing a story, I saw what I saw with my own eyes." She would point to her companions in distress. "They know I am telling the truth. . . . We have all seen so much, been through so much." Reassured that we did not doubt her and that our tape-recorder would capture every word, she began in a flat, emotionless voice, as if memory of her Calvary would be erased by its telling:

"When the Cubans arrived at my village, all the people were rounded up. The older people were killed, the younger ones taken away, the boys to the army. The young women were separated from the men and taken to prison." Almost as an afterthought, she added, "The pregnant women in prison were killed by having their bellies cut open. The Cubans cut open the pregnant women by bayoneting them from just below the breast downwards."

There was an involuntary gasp of horror from our interpreter, herself a mother. Veronica Kahali was again immediately on the defensive. "But I saw it! My sister was close to her time and her belly was ripped open. She died next to her unborn baby. I saw it!"

Once calmed, she resumed her monotone monologue:

"Our people were sorted out into groups: old men, young men, old women, young women, children. The old men were killed right there on the spot. The children who gave problems were beaten to death with rifle butts . . . anything . . . hacked with choppers, pangas. The group of girls I was in, the Cubans and Fapla [soldiers of the Angolan Communist army] came every day. . . . five of them sometimes. They chose a woman and took her out of the cells. I was raped continuously. They had no mercy. If you screamed or made any noise they just gagged your mouth and held you down. Of course some of the women cried. That made it worse for them. They were beaten up and then, afterwards, they were killed."

Angelina Missoji was much more emotional; anxious that we should hear her story but ashamed of her part in it:

"It was a very sad morning. The people were walking down to the fields, it was harvest time. We walked into an ambush laid by the Cubans and some Fapla soldiers. When we fell into this ambush, I tried to run away but I was shot in my foot. Later I was taken away by the Cubans. The bone in my foot was not shattered by the bullet, but in prison the bottom part of my leg was amputated anyway."

At first undecided whether to display her mutilation or to conceal it, she finally tucked her truncated leg under the wooden bench where she was hunched.

"The villagers were divided into groups. The very old people were killed immediately, other old women taken to prison to work there. The younger women were raped and the young men sent for military training. I saw with my own eyes two different ways of killing the old. Some were lined up and shot. Others who were very old were simply clubbed to death, or kicked to death with boots or bayoneted. Both my mother and father were killed by the Cubans. I was there, I saw it. Both were killed in more or less the same way. First they were clubbed and then shot. I was very sad and also angry with myself that I did nothing, said nothing. But I would have been killed as well. I was afraid. It is very difficult for me to remember these things. No, I can't talk any more about this. I'm sorry. Forgive me."

The question we all asked ourselves was why: why attack these villages deep inside the part of Angola nominally controlled by José Eduardo Dos Santos and his Cuban allies? The answer came from an unexpected source, a Cuban who deserted to join UNITA. Miguel Garcia Enamorado, from the Cuban province of Gran Ma, explained that any village more than ten kilometers outside a town was automatically considered to favor UNITA and was therefore subject to punitive measures, "pour encourager les autres." Orders were, "Destroy everything, burn down the houses, kill the cattle, neutralize the population."

The above testimony makes me think that if Jonas Savimbi and UNITA lose their war, the village of the living dead may become the country of the living dead.

Now granted there are atrocities probably in any conflict. But, my colleagues, the issue is so abundantly clear; communism, Castro fanaticism versus fighting for freedom. The true intentions of this amendment are not just to have an open debate, because we are doing it now and we have done it before. It is time we faced what the truth is here. The truth is we need to help those fighting for freedom, and this amendment would tie our President's hands to do that.

Mr. HAMILTON. Mr. Chairman, before yielding to the gentlewoman from Ohio, I want to express to her my appreciation for the cooperation she has given us with regard to section 504.

Mr. Chairman, the gentlewoman from Ohio is chairman of the Subcommittee on Compensation and Employee Benefits of the Committee on Post Office and Civil Service, and we have appreciated very much her cooperation.

Mr. Chairman, I yield 2½ minutes to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. I thank the gentleman from Indiana for yielding, and I want to compliment him and the distinguished ranking Member from Ohio [Mr. STOKES] and his committee for the fine cooperation they have given to the Committee on Post Office and Civil Service. Today, the House will consider H.R. 4759. H.R. 4759 includes a section which would allow the Secretary of Defense more flexibility to manage civilian intelligence personnel by permitting establishment of personnel systems outside the constraints of title 5. It would permit the creation of a system similar to those used by the Central Intelligence Agency and the National Security Agency to appoint individuals and fix their pay.

The Committee on Post Office and Civil Service favorably reported H.R. 4759 on July 28 with amendments developed by my Subcommittee on Compensation and Employee Benefits. The first of these amendments were technical in nature, aimed at clarifying the intent of the bill. The amendment added a new section to require a joint report from the Secretary of Defense and the Director of Central Intelligence. The report would describe the systems that would be implemented by the various intelligence agencies within the Department of Defense; provide a comparison of these systems to the CIA and NSA; and address any recruitment or retention problems which may continue to exist within those systems.

Mr. Chairman, I am very interested in changing the current system of setting pay for Federal employees, to improve our ability to recruit and retain well qualified individuals to carry out our many critical Federal programs. On May 1, 1986, I introduced H.R. 4738, the Federal Pay Management Act of 1986. The legislation would require several demonstration projects using various alternative pay systems. These demonstration projects would enable us to take a closer look at several methods, and evaluate the pros and cons of each before making a decision on which is best for the entire Federal work force. It would also limit the President's ability to submit alternative pay plans to Congress, such as the one he recently submitted, which would grant only a 2-percent increase in pay for Federal workers.

Furthermore, my legislation would also require the establishment of an independent Commission on Federal Pay Management. This Commission would evaluate the alternative pay systems established under the bill and provide recommendations to the President and each House of Congress 5 years after enactment.

Section 507, of H.R. 4759, would require that a joint report from the Secretary of Defense and the Director of Central Intelligence on Personnel Systems for civilian intelligence personnel be submitted to the House Committees on Post Office and Civil Service, Permanent Select Committee on Intelligence, Governmental Affairs, and the Senate Select Committee on Intelligence. This would provide Congress the opportunity to review the effect of the new personnel system on recruitment and retention at these agencies. The report will assist the committees in fulfilling their oversight role and in reviewing the impact of the new system.

I would like to thank the members of the Permanent Select Committee on Intelligence for their cooperation and support.

Mr. Chairman, I urge my colleagues to give favorable consideration to H.R. 4759.

Mr. STUMP. Mr. Chairman, I yield 3½ minutes to the gentleman from New Jersey [Mr. COURTER].

□ 1845

Mr. COURTER. Mr. Chairman, I rise not because I oppose this bill, but because I have grave reservations about one particular part of it: Section 107, which would bar any further covert aid to Angola's legitimate resistance movement. The House will hear others speak on this matter tomorrow, but I will be unable to be present, and ask for a few minutes now.

Mr. Chairman, U.S. law permits the President to conduct covert aid programs, with proper oversight and review by specific congressional committees, committees whose members are elected by the American people. To my knowledge, the administration is in full compliance with all requirements in the Angolan case. If it were not, I cannot imagine that the Intelligence Committees would not be enforcing compliance. Compliance is not the issue here; further public exposure is the issue.

The supporters of section 107 are telling us that all they want is open debate of any further aid. But it is my view that section 107 in the Intelligence bill is intended not to make our aid to Angola more overt or more public, but to throw a road block against aid simply. None of those who have been pressing for section 107, I would venture to guess, is a cosponsor of the bills which would assure aid to the Angolan resistance. Those bills have never reached the floor for debate. Indeed, those bills were never even debated in the Full Foreign Affairs Committee. It isn't really debate on Angolan aid which concerns us here, but the aid itself.

It is worthy of note that those who have expressed approval of section 107 do tend to support aid to Afghanistan. Yet none of them is pressing for a section 107-style law in respect to Afghanistan. No one has made such a demand because we all know that getting aid into Afghanistan is a tricky business which requires silence all around routes and methods and local allies. Why should it be any different in Angola?

We don't need more debate on Angola, we need to assist the President in pressing forward with the policy we have now. The modern history of Angola has been a history of foreign occupation. It teaches that doing nothing to help Angolans remove foreign troops achieves nothing. We learned that over 10 long years of Angolan servitude, and now we have at last begun to try another way, a variety of argument that the Soviet bloc occupation force understands—military force. No troops, no advisors on the ground, no Vietnam. Just military aid, delivered with discretion, to a proven and legitimate and large resistance movement. The other method—absolute nonintervention—is an unmitigated failure, both for our national interests and for those of the average Angolan.

All the arguments with which the Clark amendment was first put in place have become self-evident failures too. In the other body, the gentleman from Iowa who put the Clark amendment in place promised that nationalism was far stronger than communism in Angola. "If the MPLA wins," he said, "the Soviets will be lucky if they can hang on a year or two." The prediction failed. There are more Soviets and more Cubans than ever. They arrived over many years and without any opposition from American sources.

They moved into the vacuum, and they will stay there.

In this Chamber the leading argument was the same: Nationalism will hold Communist internationalism at bay. One of my colleagues—who still opposes aid to Angola—declared on January 27, 1976, that Angola would never become a Soviet satellite. "The tides of nationalism run far stronger in Africa than the imperatives of ideology," he said. "Having just managed to extricate themselves from the clutches of the Portuguese, the Angolans are most unlikely to submit themselves to the domination of the Soviets," he said. But that argument proved illusory. Angola is now a Soviet and Cuban base, and a country under occupation which has little to no choice about its status.

Well now those in Congress who explain away the massive Cuban presence have changed the argument. Now we are told the Cubans are there because the South Africans are in Namibia. Look back at the transcript of the special order of the House on Angola on December 9, 1985. The problem, we were assured, isn't the enslavement of Angola; the problem is South African control of Namibia. Well, it's not. Even Fidel Castro no longer says the problem is Namibia. At the meeting of non-aligned nations which just ended in Zimbabwe, Castro declared that many of his troops would remain in Angola even if the South withdrew from Namibia. Similarly, this April Angola's President Dos Santos proclaimed that while the issue of Namibia was vital, the withdrawal of Cuban troops from Angola was "unrelated * * * irrelevant." But none of this diplomatic chatter is as important as the little-noted fact that in April new agreements were made which promise the intensification of relations between Angola and Cuba in a number of areas, including defense.

And the Soviets? What do they say? On March 14 the Soviet Ambassador to Lisbon emphasized at a news conference that the withdrawal of Cuban troops from Angola is a matter on which "only Angola and Cuba have a say." Buy why? Why is Cuba's say about Angolan independence equal to Angola's? The sorry fact is that Cuba's say is more important than Angola's. The Angolan MPLA couldn't get them to leave even if it wanted to. The fall of last year the Angolan Minister of Trade, Ismael Gaspar Martins, met with the scholars of the Heritage Foundation here in Washington. Asked if the MPLA could force the removal of all Soviet bloc personnel if it wished to do so, the Minister declined to answer. The question was put to him three times, and he would not answer.

I have little to add to that remarkable silence. I think we know what it means. The Cubans are there because the MPLA needs them as a praetorian guard to defend the regime against the dissatisfactions and arms of its people. Because the regime is one of the most economically incompetent and unpopular in the world, the Cubans should be expected to remain there for a long time. And I suggest that, while clever diplomacy, or unfailing patience, or saying "please" will not get them out, aid to Jonas Savimbi's large and disciplined army may well get them out. And is that not what everyone in the House claims to want?

Mr. STUMP. Mr. Chairman, I yield 4 minutes to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Chairman, I would like to take a few moments here during general debate to express my deep concern, and the concern of many Members of the House, about a section of this bill which has very dangerous implications for the conduct of U.S. foreign policy.

I am referring to section 107, which says, in effect, that the United States may not provide aid to the UNITA movement in Angola unless such assistance has been publicly acknowledged by the administration, openly debated in Congress, and approved in Congress by the passage of joint resolutions.

Let me just say at the outset that a return to the Angolan issue at this particular time strikes me as being an exercise in legislative schizophrenia. Just 1 year ago, the House voted, 236 to 185, to repeal the so-called Clark amendment, which was enacted in 1975 and virtually guaranteed that the Angolan people would be doomed—condemned—into living under a Communist puppet government whose only protection from the Angolan people is the presence in that country of more than 35,000 foreign troops—Cubans.

There is no more vivid example of the consequences of the Vietnam syndrome in American foreign policy than the establishment of a Communist government in Angola. And Congress, recognizing the grievous error that was made in 1975 by enacting the Clark amendment, voted last year to repeal that ill-conceived attempt to micromanage foreign policy.

Now this legislation comes along 1 year later, and section 107 proposes essentially to reverse our action of last year in repealing the Clark amendment. And make no mistake: section 107 does precisely that—it has the practical effect of restoring the Clark amendment. That alone is reason enough to oppose this section.

But going beyond the debate concerning United States policy toward Angola, the ultimate eventual implications of section 107 will be to eliminate covert action from the foreign policy options available to the President and the executive branch. Indeed, the whole concept of covert action is likely to become an oxymoron if section 107 becomes law.

First, section 107 is unnecessary. It intrudes itself into the carefully crafted and controlled procedures that are already in place providing for congressional oversight of intelligence activities. Congress already possesses the authority to oversee covert actions and to terminate such actions by cutting off the funding. If the Intelligence Committee wants to come before this House and recommend that we not be involved in Angola, then let us vote on that particular proposition. But section 107 is designed not so much as to terminate activities in Angola as it is to strike at the whole concept of covert action itself. It is one more attempt to encumber the foreign policy apparatus of the United States with country-specific restrictions.

Second, I would suggest that section 107 does not serve the interest of foreign policy consistency. It carries with it the subliminal message to our friends and allies around the world that any covert program once initiated can also be publicly exposed at any time. How can we possibly hope to enlist the support of other nations in pursuit of vital policy objectives, when the confidentiality that must protect such undertakings can be subject at any time to public exposure?

Third, section 107 seems to me to be part and parcel of a larger approach to foreign policy that seeks to tie the hands of the President when prompt and decisive moves are called for. The President must have options at his disposal that lie between the two extremes of doing nothing or sending in U.S. forces. And this is precisely the dilemma that President Reagan and any future President will have to face, if we continue to enact restrictive legislation.

Mr. Chairman, we will have the opportunity to strike section 107 from this legislation when our colleagues BOB STUMP and CLAUDE PEPPER offer an amendment to do so. I implore my colleagues in the House to consider the implications of section 107 and to support the Stump-Pepper amendment.

Mr. STUMP. Mr. Chairman, I yield 4 minutes to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Chairman, I want to discuss an amendment that will be offered by Mr. STUMP of Arizona regarding section 107.

Recently, many of my colleagues have stood here demanding that America take action to help bring about the political and societal changes necessary to institute true democracy, respect for human rights, and freedom in South Africa. Yet many of these same advocates of liberty in southern Africa operate with a

different standard when considering Angola. While they are willing and anxious to support freedom and liberty for the South African people, they are unwilling to assist neighboring Angolans. This attitude is, ironically, very discriminatory.

While the situation in Angola does not share the specific characteristics of the one in South Africa, the general principles are the same: Freedom, liberty, democracy and respect for human rights. In 1975 when the Portuguese withdrew from Angola they left behind three major independence movements all of whom agreed to hold free elections and abide by the outcome. Instead, the Soviets airlifted billions of dollars of military hardware, scores of "advisers" and over 35,000 Cuban mercenaries to ensure a military victory by the Communist MPLA, the least popular of these movements. In response, the U.S. Congress passed the infamous "Clark amendment" which banned any support for the other prodemocratic forces. The MPLA and their Communist allies were overjoyed—they believed that they had successfully subjugated another country.

But, the people of Angola continued their opposition to this brutal, unpopular regime kept in power by the Cuban Army even without American help. In fact, since 1975, over 60,000 Angolans have joined the opposition and now control one-third of Angola. The rest of the country is contested. The objectives of the two opposition forces, UNITA and the FNLA are clear. They seek to bring freedom, democracy and respect for human rights to Angola.

Success for the freedom fighters in Angola can greatly help alleviate the crises in Namibia and South Africa. Presently, the only obstacle to a peaceful transition in Namibia is the presence of the Cubans across the border in Angola and the MPLA's support for Namibian terrorists. A free Angola would eliminate this problem. Many of those opposing change in South Africa do so because they fear the rights of the minority and South Africa's free economy and pro-Western ties would be compromised. A free Angola would prove just the opposite—that there can be a black majority government that respects the rights of the minority and respects an individual's freedom and rights. A positive change in Angola is an important catalyst to positive change in South Africa.

Last year, the House wisely voted to repeal the Clark amendment by a margin of 236 to 185. Now, in desperation, those who would reduce the President's options in conducting our foreign policy are cynically trying to take advantage of sincere and justifiable United States opposition to apartheid in South Africa. According to them, support for the brave freedom fighters in Angola who are struggling to liberate their country from a wicked regime propped up by 35,000 Cuban combat troops and thousands of Soviet and East Bloc advisers would be immoral and wrong because some of these Angolan freedom fighters receive aid from South Africa. As my colleague, the ranking minority member of the Foreign Affairs Committee, Mr. BROOMFIELD, wisely noted, "consistent with this logic, the United States should not have fought Hitler in World War II because it placed our country on the same side as Joseph Stalin and the Soviet Union." Of course, if we keep the President's foreign policy options open, as we have done by repealing the Clark amendment, there would be even less need for the Angolans to turn to South Africa, a government they, too, find immoral and in need of change.

I strongly urge my colleagues to support the Stump amendment to H.R. 4759 which would strike the provision relating to Angola. I urge my colleagues to examine how hypocritical and discriminatory it is to call for positive change in South Africa and deny freedom and liberty to those across the border in Angola. There has not been a free election in Angola since the MPLA and Cubans harshly seized control. While it remains United States policy to encourage negotiations among all factions in Angola, United States support of UNITA and the FNLA could have the effect of forcing the Angolan regime to come to terms with its popular opponents. To remove the important policy tool needed to promote this goal will not end the Angolan conflict, it will only increase the suffering of its people. If we truly believe in the principles of freedom and democracy we espouse, we should support the Stump amendment which strikes section 107 from the intelligence authorization bill and help the Angolans defeat their brutal Communist conquerors.

Mr. Chairman, reinstituting the Clark amendment will not serve the interests of freedom or justice in southern Africa. When this body repealed the Clark amendment in July of last year, we did so in the belief that freedom deserves to be supported, whether in Asia, Africa, or Latin America. The Reagan doctrine to assist those fighting for freedom against Soviet repression and persecution deserves our strongest support.

Thirty-five thousand Cubans in Angola are not there to promote the cause of freedom. They are there, and have been there for longer than I care to remember, for the sole purpose of maintaining an unpopular Marxist government in power. Those who oppose the Marxists in Angola do not have the luxury of a political solution to the totalitarian regime of the MPLA. The Angolan people seeking an alternative to their Marxist-Leninist government have taken up arms in order to give expression to their political views. It is right and just that we support them.

Restricting once again United States assistance for the freedom fighters in Angola, particularly those under Jonas Savimbi and his UNITA forces, will do nothing to promote United States interests in southern Africa and certainly will not help deal with our problems in South Africa. Trying to tie those two issues together is a bogus attempt to deflect attention away from the real objective of United States policy, to end Cuban and Soviet involvement in Africa and to allow the Angolan people the opportunity to determine their own government.

If the Congress chooses to reinstitute the Clark amendment, we will not only adversely affect our interests in southern Africa but also our vital security interests in other parts of the world, as our allies witness our unwillingness to oppose Soviet and Cuban military force in areas away from our immediate borders. It is a signal we must not send.

I urge my colleagues to support strongly the Stump amendment.

□ 1855

Mr. STUMP. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. MACK].

Mr. MACK. I thank the gentleman for yielding me this time.

Mr. Chairman, I too want to take my few minutes to discuss section 107 of the bill that prohibits covert aid to those fighting for freedom in Angola.

I think the real question that we have to ask ourselves is: Why would this prohibition be only in Angola? The conclusion that I come to is that it is nothing more than a tactic to delay aid to those who are fighting for freedom in Angola.

You might then ask the question: Well, fighting for freedom from whom? I would say that it is not just the repressive Government of Angola. But it is fighting those who are interested in continuing Soviet expansionism around the world. Also from those who have supported international terrorism.

There are 35,000 Cuban troops, Soviet, North Korean, and East German troops in Angola today. One result is that Castro brings in a half a billion dollars in hard United States currency so that he can continue his Soviet-style expansionism in Central America.

I would ask the Members to support the amendment to delete section 107. American aid is holding back the tide of communism in Africa. Now is not time to cave into another repressive, uncivilized regime whose goal is to

squash the emerging spirit of freedom in the Third World.

I urge the Members to support the amendment striking section 107 of the bill.

At this point I include the following.

CASTRO IN ANGOLA

(A Paper Prepared for the Cuban-American National Foundation Jack Wheeler)

The Portuguese called southeastern Angola Terras do Fin do Mundo: The Land at the End of the World.[1] Today that region is controlled—and much more beyond it—by a pro-Western, anti-Marxist liberation movement called UNITA: Uniao Nacional para a Independencia Total de Angola, the National Union for the Total Independence of Angola. UNITA has over 60,000 well-armed guerrillas, and is led by a man many consider to be the single most dynamic and charismatic leader in all of Africa: Dr. Jonas Savimbi.

For five weeks in October-November of 1983, I traveled over 2500 kilometers through UNITA-held territory in Angola with Savimbi. At the village of Lunguebungo near the Benguela railway (which UNITA has completely severed), Savimbi, together with three of his lieutenants, and I had dinner in a communal thatch hut. The villagers had a huge bonfire going nearby, with some spirited drum-pounding, dancing, and singing of UNITA songs getting underway. Once the antelope stew was finished, Savimbi, seated in an oversized reed chair, his hands resting on his ebony swagger stick, leaned over to tell me the story of how he met Che Guevara, Castro's legendary revolutionary comrade.

"I first met Che in 1964 in Dar Es Salaam [capital of Tanzania]. Julius Nyerere [President of Tanzania] had called a meeting of all the African liberation movements—there were people from Mozambique, Angola, Southern Rhodesia [now Zimbabwe], Eritrea, South Africa, Portuguese Guinea [now Guinea-Bissau], and Brazzaville-Congo. The purpose was to discuss his friend Che's idea of forming a united front for the purpose of overthrowing Kasavubu, Tshombe, and Mobutu in Zaire.[2]

"The Soviets had never forgiven Mobutu for killing Lumumba," Savimbi confided to me. "They encouraged Che to help Lumumba's Marxist disciples, who had been given sanctuary by their new friends in Brazzaville, to get rid of Mobutu.[3] Che thought he could get all the other liberation movements in Africa to join in—and everyone at the meeting liked the idea but me. I objected, saying the idea was naive, for if we lost in Zaire, it would set back our own struggle possibly for years to come. Che admitted that was a good point. He asked me out to dinner that evening, and invited me to come with him to Algeria. I liked Ernesto [Che's real first name]—but he was, I must admit, not very bright. Mao was right in saying that a guerrilla force must build its political base first, and carefully secure the support and confidence of local people, before starting militarily. But Che was impatient, and thought by immediately beginning military actions the peasantry would rally to him spontaneously. So he was caught and killed in Bolivia three years later.

Savimbi's story, told by the light of that bonfire in the Angolan bush, personally illuminated for me Castro's early involvement in Africa.

The pampered son of a rich landowner who hated America,[4] Fidel Castro was described in his student days by a fellow law-student as "a power-hungry person, completely unprincipled, who would throw in his lot with any group he felt could help his political career."[5] In 1948 at age 21, he was reported to have helped organize riots at the Pan American conference in Bogota, in which 3,000 were killed.[6]

Castro's seizure of power from Fulgencio Batista on January 1, 1959, was assisted by the support of the New York Times, the CIA, and the State Dept.[7] But the ardor cooled as Castro proceeded quickly to construct a totalitarian regime, announcing: "Revolutionary justice is based not upon legal precepts but on moral conviction."[8] By mid-1959, Castro was receiving Soviet arms shipments, accompanied by Soviet advisers, and KGB operatives who set up his internal security/informer apparatus. The purge trials began in December.[9]

All Marxists claim the right to impose their ideology on others by force. For the Marxist, the world consists of contradictory forces opposing and struggling against each other, overcoming or being overcome. Militant aggression against non-Marxist or bourgeois societies is hard-wired into Marxism-Leninism. As an anti-American *caudillo* who embodied the will to dominate by force, Castro embraced missionary Marxism with a vengeance. This secular missionary zealotism is called, in the Marxist-Leninist lexicon, "internationalism." A recent observation notes that "internationalism—the assistance of fellow revolutionaries—is a key element of the faith to Marxist-Leninists; and telling them not to practice it is like telling a priest not to pray."[10]

As early as 1957, Castro had proclaimed he would attempt to overthrow "other Caribbean dictators."[11] But he saw Africa, containing dozens of countries just beginning the decolonizing process, as the most fertile place of all. Within a few months of his takeover, Castro dispatched Che to Cairo to meet with the terrorist FLN, the National Liberation Front of Algeria.[12] By 1960, Cuban military aid and medical personnel were being sent to the FLN guerrillas in Algeria; once the FLN assumed power, a training camp for guerrillas in other African liberation movements was set up in Algeria, staffed by Cuban instructors. During the Algeria-Morocco border conflict in 1963, at least 50 Cuban military technicians, 3-400 combat and tank troops, 40 Soviet T-34 tanks, plus field artillery, mortars, and other arms, were sent by Castro to Algeria. The Cuban combat forces were evidently deployed at the front and took casualties.[13]

At the first Conference of Non-Aligned States in Belgrade in September of 1961, Che met Kwame Nkrumah, the leader of Ghana,[14] who had his followers refer to him as Osagyefo (The Redeemer), and his soldiers chant endlessly: "Nkrumah can do no wrong!" Before the year was out, a guerrilla training camp, similar to but smaller than the other in Algeria, with Cuban instructors, was established in northern Ghana near the Upper Volta border.[15]

A constant stream of African delegations and nationalist leaders began arriving in Havana in the early, '60s, particularly after Kennedy gave Nikita Khrushchev a security guarantee of no U.S. invasion of Cuba after the October 1962 missile crisis.[16] Cultural, political, and sometimes military ties were forged with many. According to Juan Benemires, a senior Cuban government official who defected to the United States in 1980, "Fidel had a plan for power and influence in Africa from the beginning. His main objective was to harm the United States as much as possible and saw Africa as an easy target. In this, Fidel always had the support of [Mikhail A.] Suslov [ultra-Leninist chief theoretician of the Kremlin and full Politburo member until his death in 1982]."[16A]

1963 saw Che back in Algeria[17], while from December 1964 to March 1965, he made a tour of several African countries, including Algeria, Ghana, Guinea, Congo-Brazzaville, and Tanzania where he met Savimbi. In the spring of 1965, Che led a small band of Cuban guerrilla fighters across Lake Tanganyika from Tanzania into Zaire. By July, he had linked up with another 200 or so Cubans who had come from Brazzaville with a shipment of Soviet arms from Havana. Together, they formed an "expeditionary task force" to fight with the CNL Marxist-Lumumbist rebels, whom Mobutu proceeded to soundly thrash. Che and his men retreated to Brazzaville.[18]

Che remained in Brazzaville until March 1966,[19] where the headquarters of Castro's subversive activities in Africa had been moved from Algiers after a coup overthrew Ben Bella the previous June.[20] With a contingent of perhaps 1,000 men, Cuba military personnel formed the presidential bodyguard for Congolese President Massamba-Debat, and organized and trained his private militia, the Civil Defense Corps. They also set up a guerrilla training school—and among their students were guerrillas from the MPLA: the Popular Movement for the Liberation of Angola.[21]

While attending a student conference at Kampala, Uganda in 1961, Jonas Savimbi—then a premedical student at the University of Lausanne in Switzerland—met Jomo Kenyatta, former leader of the Mau Maus in Kenya and soon to become his country's first president.[22] Kenyatta persuaded young Jonas to forgo medicine and enter the struggle to free Angola from colonial rule. But Kenyatta sternly advised him against joining the MPLA. "They are communists," Kenyatta warned him, "and have been supported by the Soviets from the beginning."[23]

The anticommunism of Portugal's Antonio Salazar (in power since 1932) had long aroused Moscow's hostility. As the nationalist impulses began to surge through African colonies after World War II, the Kremlin saw particular opportunities for subversion in those of Portugal: Guinea-Bissau, Sao Tome & Principe, Mozambique, and, especially, Angola.

Local agents of the Soviet-aligned Portuguese Communist Party (PCP) had established a secret branch of their organization in Luanda as early as 1948.[24] By 1952, a Soviet agent named Feld Matvin was reported to be organizing a liberation movement in Angola with the help of Portuguese Marxist teachers and civil servants, recruiting mostly *mestizo* (mixed black-white Portuguese) Angolan students in Luanda and studying in Portugal.[25] Sympathy for Soviet Marxist ideology was almost exclusively limited to Angola's tiny urban elite of educated African and mestizo *assimilados*. In October, 1955, members of this elite, with assistance from the PCP, founded the Angolan Communist Party (PCA), the leaders of which founded, in December, 1956, the MPLA. As one MPLA representative described it, the leaders of the PCA "were to be found at the head of the MPLA, whether in its internal or external organization."[26] A Soviet text, *Africa Today*, published in

Footnotes appear at end of article.

Moscow in 1962, recounts that the MPLA was established in 1956 "on the initiative of the Communist Party and the allied Party of Joint Struggle of the Africans in Angola." [27]

One of the founders of the MPLA was Mario de Andrade, a mestizo educated at the University of Lisbon and the Sorbonne in Paris, and the head of the Angolan Communist Party in 1956. Andrade contributed a number of articles for Soviet publications such as *Pravda* and *Trud*, and attended, with Viriato da Cruz, the MPLA's first secretary-general, the Afro-Asian Writer's Conference in Tashkent, Soviet Uzbekistan, in October 1958.[28]

Andrade, da Cruz, and Lucio Lara, the son of a wealthy sugar plantation owner who was the movement's most doctrinaire adherent of Soviet Marxism-Leninism, began developing close relationships with French, Chinese, and Soviet communists in Europe.[29] Radio Lisbon reported in 1962 that over the past few years Andrade had made numerous trips to Moscow, Peking, and Prague, while the MPLA had been receiving "instructors, arms, and technicians of sabotage, propaganda, and subversive war" from the Soviet Union.[30] Savimbi personally witnessed 170 MPLA recruits transit through Dar Es Salaam enroute for training in the Soviet Union during the summer of 1965.[31]

As John Marcum notes, from the '50's on, "except for a pause in 1963-64 when the Organization of African Unity recognized the rival *Frente Nacional de Libertacao de Angola* (FNLA) and its government in exile,[32] the Soviets funneled a continuous stream of aid to the MPLA: arms; finance; university, technical, and military training; a communications nexus via Soviet embassies." [33] British and American intelligence sources estimate Soviet assistance to the MPLA from its inception to the April 1974 Communist coup in Portugal at approximately $63 million, the main conduit being the Portuguese Communist Party arranged by the PCP secretary general Alvaro Cunhal.[34]

It was evidently in Algeria that the first links between the MPLA and Castro were forged. In November 1962, Andrade announced to the press in Algiers the opening of an MPLA office there,[35] and one month later the *New York Times* reported that the MPLA had one thousand men at guerrilla training camps in Algeria,[36] which, as we saw earlier, were staffed by Cuban instructors.

Che Guevara met MPLA leader Agostinho Neto in Brazzaville in late 1964.[37] [Neto had moved the MPLA headquarters across the river from Leopoldville to Brazzaville, and it is perhaps more than merely ironic that shortly thereafter, in August 1963, a coup overthrew the Congo's pro-Western president and installed a radical Marxist in his place who immediately asked for support from Cuba and other Communist countries. See n. 3 below.] In May 1965, Neto met Cuban Army Major Florio Bravo in Brazzaville to arrange for military assistance to the MPLA.[38] Cuban ships began delivering arms for the MPLA in Congo-Brazzaville by mid-1965.[39] By 1966, Cuban-trained MPLA guerrilla units had assumed Cuban honorific names, such as the "Cienfuegos Column," after the Cuban revolutionary Camilo Cienfuegos.[40]

In January 1966, Fidel Castro hosted the first (and last) meeting of the Afro-Asian-Latin American People's Solidarity Organization in Havana, known as the Tricontinental Conference. Of the 79 delegations attending, 27 were from Africa, with only the MPLA permitted from Angola. Agostinho Neto led the MPLA delegation. In his address to the conference, Castro pledged "to help any revolutionary movement fighting imperialism and colonialism anywhere in the world" [41] *El Jefe Maximo* (as Fidel likes to be called) promised military and technical training for MPLA militants in Cuba to Neto. The first group of 90 MPLA recruits arrived in Havana in October 1966 for 7 months of military training.[42]

Savimbi formed UNITA at a conference at the village of Muangai in Angola's Moxico province during March of 1966, as an alternative to Neto's MPLA and Holden Roberto's FNLA. He had been the FNLA's secretary general and foreign minister, but split from Roberto in 1964.[43] The MPLA was "pro-Communist," guided by Moscow, and dominated by an urban elite of intellectuals in Luanda; while the FNLA was "supported by western forces," and dominated by emigres who had spent most of their lives out of Angola.[44] Further, the MPLA drew its support from the Mbundu people of Luanda and west-central Angola, while the FNLA drew its support from the Bakongo in the far north-west. There was no liberation movement, according to the founding UNITA rationale, that was purely nationalist and non-ideological; free of foreign influence; was directed towards the peasantry and not an intellectual/emigre elite; and represented all the people of Angola, including the Ovimbundu, Ganguela, and Chokwe peoples who comprised over 60% of the population.[45] Only UNITA, said Savimbi, had the patience and discipline to politically educate and mobilize the peasant villagers (and share their hard life in so doing) in order to generate massive civil disobedience to Portuguese authority—rather than have its ego massaged and conduct a public relations campaign in foreign capitals, as did the leaders of the MPLA and the FNLA.

As Savimbi explained to me:

"Our first task as a liberation movement was to get to know and gain the respect of the peasants, the local villagers, for you need the protection of the people above all. We spent months talking to people and their tribal chiefs, getting to understand them, their situation and difficulties. Holden [Roberto] had never shown any interest in this. The MPLA, on the other hand, could not understand the village mentality, and would kill any chief that did not cooperate with them—although they were very good at gaining the allegiance of workers and especially civil servants in the cities.

"I read Marx while studying at Lausanne. It cannot work, especially for Africa. Marx teaches people to hate others. We need cooperation, not class-hatred, which is not very different from race-hatred. Marx's materialism undermines the foundation of an African's basic world view, a belief in an ancestral force which transcends man, a higher Being whatever its name may be. We teach people to work for themselves, to be productive for themselves as individuals because that is how to make their village and their country prosper. Marx teaches that the individual is unimportant. We think the countryside must be developed before the cities and that Angola's first priority is to be self-sufficient in food. The MPLA wants an urban proletariat and heavy industries, which is wholly inappropriate for Africa. For the MPLA, the State must be the boss, and the people obedient servants. For us, the State must be a referee between free people."

From 1966 to 1974, except for an exile in Egypt from mid-'67 to mid-'68, Savimbi stayed inside organizing and proselytizing the villagers of eastern and southern Angola. While the MPLA claimed its headquarters were in Angola, Neto and other MPLA leaders only stepped briefly and infrequently inside, while operating out of Lusaka, Dar Es Salaam, and Brazzaville. Roberto and the FNLA leadership stayed safely in Kinshasa; they never went across the border at all.[46]

Neto began making frequent trips to the Soviet Union and other Soviet-bloc countries, often expressing gratitude in press interviews to "our most loyal friends, the people and government of the USSR." [47] The MPLA leaders were among the very few in the Third World—along with Fidel Castro—that staunchly defended the Soviet invasion of Czechoslovakia in 1968. In 1970, the Director of the African Institute of the USSR Academy of Sciences, V. Solodovnikov, publicly acknowledged that the Soviet Union was providing the MPLA with "military equipment, various armaments, ammunitions, means of transportation and communications equipment," and that MPLA "military personnel and political cadres" were being trained in the USSR.[48]

But by 1972, the MPLA was riven with internal dissention and rival factions. The Portuguese Army had forced its fighters into retreat across the Zambia border (as it had forced the FNLA to retreat to Zaire, and Savimbi deep into the Angolan bush). Soviet aid began to slow and by early 1974, had almost come to a halt.[49] Then came the coup of the Armed Forces Movement (AFM) in Lisbon on April 25, 1974, which toppled Salazar's successor (Salazar had died in 1970), Marcello Caetano. One of the leaders of the coup was Rear Admiral (in the Portuguese Navy) Rosa Coutinho, a member of the Portuguese Communist Party and a long-time friend of the MPLA. He was appointed head of a military council to govern Angola, which, it was announced, would be given independence the following year.[50]

Neto's patron, Alvaro Cunhal, still secretary-general of the PCP, personally asked the Kremlin to resume arms shipments to Neto's faction of the MPLA.[51] Six million dollars' worth of Soviet military supplies was shipped to the MPLA via Dar Es Salaam in August, 1974, and subsequent shipments starting in October via Brazzaville.[52] By December, 250 more MPLA guerrillas had arrived in the Soviet Union for military training. That same month, the Soviet "Committee on Afro-Asian Solidarity" in Moscow declared 1975 "The year of practical aid to the peoples of the former Portuguese colonies." [53] The MPLA was allowed to open an office in Luanda, and suddenly possessed a surfeit of cash with which to propagandize and organize. By January, 1975, Neto had enough arms to equip up to 7000 men (from 1500 the previous August), and was able to distribute indiscriminately several thousand Soviet AK-47 Kalashnikov assault rifles to MPLA supporters—including boys from 12 to 15 [54]—in Luanda.[55]

Pressured by the OAU and Jomo Kenyatta, Neto, Roberto, and Savimbi met in Mobassa, Kenya on January 3-5 signing a trilateral accord of peaceful cooperation. They then flew to Alvor, Portugal and signed "The Alvor Agreement" on January 15 between all three and the Portuguese government. The MPLA, FNLA, and UNITA were designated "the sole legitimate representatives of the people of Angola," specifying that a coalition government be set up

between them prior to the date of independence, November 11, 1975, and that legislative elections be held during the interim eleven months of transition government.[56]

With Washington preoccupied by the impending fall of Saigon to the North Vietnamese, Phnom Penh to the Khmer Rouge, and Vientiane to the Pathet Lao,[57] Soviet arms deliveries increased in March: by air to Brazzaville, by truck and rail to Pointe Noir on the coast, then by small boat down the Angolan coast. In April, one hundred tons of arms were flown by chartered aircraft to MPLA bases in southwestern Angola. Yugoslav, Greek, and Soviet ships arrived at Pointe Noire, and then Luanda harbor itself, with shiploads of heavy weapons, including large mortars and armor.[58] It should be clearly noted that, as one observer states. "The massive Soviet military supplies to the MPLA reached Angola in March and April [1975], several months before US shipments of military supplies began to reach the FNLA through Zaire." [59]

But now the MPLA had a problem. The Kremlin could supply it with an enormous amount of arms—but illiterate, untrained bush guerrillas couldn't use them, especially the armor and artillery. Neto sent MPLA defense minister Iko Carreira to Moscow to request Soviet combat troops to Angola. The Kremlin turned him down but gave him an alternate solution: We can't send in white-skinned Russian soliders to Africa—but we can send in black-skinned Cubans.[60]

MPLA leader Paulo Jorge was dispatched to Havana in early April. By May 7, 1975, the first Cuban military advisers arrived in Angola.[61]

Cubans had been training MPLA guerrillas at Dolisie on the Congo-Cabinda border for years now, and at the MPLA staging bases in Zambia since 1970.[62] Castro had been busy elsewhere in Africa and the Middle East. In 1966, Cuban advisers organized a popular militia for Sekou Toure in Guinea, staffed with Cuban officers. By October, 1966, Toure had his own Cuban presidential bodyguard. Castro himself dedicated the new militia training center in Conakry in May, 1972.[63]

By early 1967, Cuban advisers were reported among PAIGC guerrillas fighting inside Portuguesse Guinea, one of whom was captured in November.[64] By 1974, some 200 Cubans were with the guerrillas, operating their logistics and communications, and taking casualties.[65]

Cuban advisers trained a 500-man militia known as the Internal Security Unit Two (ISU-2) for President Siaka Stevens of Sierra Leone in 1972, with over 100 advisers remaining in the country through the mid-'70's.[66]

By December 1973, 200 Cuban advisers were in Equatorial Guinea, 400 by November 1974, 800 by 1977, training and staffing the militia and internal security apparatus of Francisco Macia Nyguema, a dictator more blood-stained than even Idi Amin.[67]

In April 1973, 300 Cuban advisers arrived in Aden in South Yemen (People's Democratic Republic of Yemen, PDRY) to provide guerrilla training for the PDRY army and the rebels in the Dhofar of neighboring Oman being sponsored by the PRDY. By June, they were training Yemeni pilots to fly Soviet MiGs, and setting up an internal security system for the government based on Cuba's Committees for the Defense of the Revolution.[68] By mid-1974 there were 6 to 700 Cubans in the PDRY; the number sharply decreased after South Yemen abandoned its support of the Dhofar rebellion in early 1976.[69]

Castro sent between 500 and 750 combat tank forces to Damascus, Syria, and then to the Golan Heights during the October (1973) War with Israel (he had broken relation with Israel the previous month), where they took part in the fighting. Cuban Air Force pilots worked with the Syrian Air Force. The contingent was withdrawn in February, 1975.[70]

The stage was set, then, for direct Cuban military intervention in Angola. By the end of May, 1975, 230 Cuban combat advisers had set up four military training camps in MPLA-held Angolan territory: at Henrique de Carvalho, Salazar, Benguela, and Cabinda,[71] and had operated tanks in combat with the MPLA against the FNLA at Caxito. By June, Cubans were manning missiles and armored cars for the MPLA in Cabinda.[72]

Under the Alvor Accord, the MPLA, FNLA, and UNITA all opened offices in Luanda. When Savimbi arrived in the capital in April, 1985, and began speaking to large crowds (to whom he was speaking for the first time), he had, according to Portuguese journalists on the scene, a "spectacular impact" upon the people of Luanda.[73] Savimbi's popularity began accelerating so quickly, in fact, that the MPLA soon realized it would not fare well against Savimbi and UNITA in a fair election scheduled for November 11. That left military force as the only means remaining for the MPLA to gain power.

With the Cubans assisting and instructing MPLA troops in the use of their vast array of Soviet weaponry, the MPLA was able to force both its rivals out of Luanda, taking control of the capital city on July 9. Full-scale civil war broke out throughout the country. Zaire and Zambia requested "assistance from the United States in preventing the USSR and Cuba from imposing a solution in Angola, becoming a dominant influence in south-central Africa, and threatening the stability of the area." [74] Peking authorized in mid-July the release of large quantities of Chinese military equipment held by the Zairois army [75], while on July 18 the US Congress voted $14 million in covert military aid, both primarily to FMLA with some going to UNITA as well.[76] The first US arms shipments reached the FMLA via Zaire in August.[77]

In Portugal, in Revolutionary Council of the Armed Forces Movement (MFA) controlled the government, with Vasco Goncalves, Commander of the MFA Security Forces, as Prime Minister and the Red Admiral, Rosa Coutinho, as Portuguese High Commissioner for Angola. Coutinho and many other radical MPLA sympathizers among the MFA placed in key positions in Angola were so helpful to the MPLA that in early August, Augustinho Neto had publicly lauded the MFA as the "fourth liberation front" in Angola and for giving "almost total support" to the MPLA.[78] But in late August, the Goncalves government fell to moderates less sympathetic to the MPLA. UNITA/FNLA launched a counteroffensive.

Castro reacted quickly. He began selecting soldiers from a unit under his personal control known as "The Prime Minister's Reserve Troops" in mid-August, and by early September three Cuban troopships were on their way to Angola. Disembarking at Pointe Noire (Congo) and Porto Amboin south of Luanda, at the end of the month, the Cuban soldiers joined MPLA units in Cabinda, Benguela, and those advancing from Lobito toward Nova Lisboa. On October 6, the latter fought a UNITA force with South African advisers at Norton de Matos, and were beaten.[79]

While the troopships were still enroute in mid-September, Castro and his Soviet advisers in Havana made an agreement with Congo President Ngouabi to use Brazzaville as a staging base for Cuban military personnel and Soviet arms shipments. Moscow and Havana's decision to go for broke in Angola had now been made.[80] By late September, Soviet and East German ships had left Cuba with more Cuban combat forces; by October 23, there were more than 1,500 Cuban troops and combat advisers fighting with the MPLA in Angola.[81]

On October 23, a mechanized force of some 2,000 men comprised of UNITA and FNLA guerrillas, white (Portuguese) Angolans, and regular South African Defense Forces crossed from Namibia (controlled by South Africa) into Angola and began to rapidly move north. Within days, four or five more Cuban troopships had left Cuba for Luanda, and by November 7, a troop airlift had begun from Holguin in eastern Cuba to Luanda—initially with Cuban Bristol Britannias refueling in Barbados and Bissau, and later with Soviet-supplied Aeroflot IL-62's, refueling in either Bissau or, more likely, Conakry.[82]

By November 5, the Cubans had fallen back from Benguela and Lobito, while the South African-assisted column had moved north of Nova Lisboa (Huambo)—over 500 miles in less than two weeks—and was on the outskirts of Nova Redondo (Ngunza). By November 11, MPLA-controlled territory had been reduced to a thin slice of the country, from the area around Luanda extending eastwards, sandwiched between FNLA-Bakongo territory of the north and the southern two-thirds of the country, now controlled by UNITA.

But November 11 had been declared at Alvor to be Angolan Independence Day, and the Portuguese government had determined that come what may, it would turn legitimate governmental authority over to whomever controlled the capital of Luanda on that day. The MPLA's declaration of legitimacy in Luanda received immediate diplomatic recognition from seven Moscow-aligned Africa states, Tanzania, Congo-Brazzaville, Mali, Guinea, Mozambique, Ethiopia, and Algeria; Cuba and the USSR: North Vietnam; the Soviet Bloc countries of Eastern Europe; and Brazil. The FNLA/UNITA coalition proclaimed a rival government in Nova Lisboa, but no one, not the US, nor any West European country, nor China, nor any African state extended formal recognition. A massive Soviet/Cuban invasion was put into full operation.

The South African intervention in late October was subsequently used by Moscow and Havana as a post facto rationalization for their invasion of Angola. The semi-official Cuban version of events was written by a Colombian author close to Castro, Gabriel Garcia Marquez, who dubbed the main invasion "Operation Carlota," and claimed it was not initiated until early November.[83] But reports from captured Cuban prisoners confirm that the plans to invade were decided upon well before October 23.[84]

Within less than a week after the MPLA declared "independence," at least 400 Soviet military advisers and weapons specialists had arrived in Luanda.[85] The Soviets had been supplying weapons and ammunition to SWAPO (Southwest Africa People's Organization) since 1980.[86] On November 23, the Washington Post reported that the Soviet ship Valery Mezhlauk offloaded 785 tons of arms at the Tanzanian port of Dar Es Salaam that were originally meant for

SWAPO, and were now being diverted to the MPLA.

Cuban/MPLA and South African/UNITA forces fought several engagements, the most sustained being "The Battle of Bridge 14" from December 9 to 14 south of Luanda in which "by all accounts the Cubans were severely mauled." [87] UNITA had by then captured Luso, the terminus of the Benguela railway at the Zaire border.[88] These defeats resulted in Soviet/Cuban airlifts of 40 Cuban combat forces per week in December, which were more than doubled to around 1000 a week in January.[89] By December, most all of the effective fighting for the MPLA was being done by Cuban combat troops.[90]

Soviet aircraft flew in via Algeria and Brazzaville, and Soviet, Cuban, Bulgarian, and Yugoslav ships brought in by sea, a vast array of armaments, including Katusha rocket launchers ("Stalin Organs), BRDM-2 armored vehicles, T-34 and T-54 tanks, PT-36 amphibious tanks, SAM-7 antiaircraft missiles, helicopter gunships, and Mig-21J fighter-bombers. East Germans and North Vietnamese were flown to Luanda for weapons training, and Algerian and Cuban pilots to man the gunships and Migs. In the last months of 1975, the Soviet Union spent close to $300 million on military aid to the MPLA, $400 million by February, 1976.[91] Historians have begun to note that the Soviet Union became a military superpower at the end of 1975. With the invasion of Angola, it had "demonstrated a capacity to employ a global network of influence to support a major military intervention in an obscure area of the globe far from its periphery—a historical first." [92]

On December 19, the world saw America flinch and back down: The Senate passed an amendment sponsored by Sen. Dick Clark (D–Iowa) prohibiting any further covert aid to UNITA and the FNLA. When the House did the same on January 27, 1976, South Africa was convinced it had been betrayed by the United States. It ordered its units to withdraw, and negotiated a deal with the MPLA to guarantee the safety of the Cunene hyrdoelectric projects. The South Africans now had some 2000 men at the front, while the Cubans had between 15,000 to 18,000 combat troops.[93]

All during this, the Kremlin conducted a massive diplomatic and propaganda campaign on behalf of the MPLA, directed especially towards black African states for whom any association with South African (as UNITA and FNLA had made) was the kiss of death. The racist duplicity and cynical hypocrisy of Moscow's motives and actions—white Russians using black Cubans to defeat black Africans using white Africans—was nonetheless not lost on many. The OAU (Organization of African Unity) remained deadlocked on whether to recognize the MPLA as the sole legitimate authority in Angola. But on February 11, the then-president of the OAU decided to cast his tie-breaking vote with the MPLA. It is tragicomic irony that this vote which sealed the fate of Angola was cast by Idi Dada Amin, the Dictator of Uganda.[94]

Abandoned by the Chinese, the US, South Africa, and the OAU, and faced with a Cuban onslaught of overwhelming firepower including MiG jet fighters, heavy armor and artillery, the shattered remnants of UNITA and FNLA fled into the bush. The Soviet propaganda apparatus proclaimed the glorious "liberation" of Angola. But what the world witnessed was instead, as two scholars put it, "not a 'liberation,' but a military conquest, in which Soviet-supported regular Cuban troops imposed the rule of a minority ethnic group [the Luanda Kimbundu/Mestizo urban elite] on the majority of the Angolan populace." [95] Angola, far from obtaining independence from the colonial rule for which so many Angolans had fought so long, had merely switched from being a colony of Portugal to a colony of the Soviet Union.

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By May, 1976, Cuban military advisers were organizing and training an Angolan state security corps and civilian militia for the MPLA.[96] 3000 Cuban "civilian technicians" had arrived in Angola by July.[97] And by the end of the year, Castro had to commit 4000 more combat troops: for while Roberto had retreated back to Zaire, leaving a few remaining bands of FNLA guerrillas in northern Angola to fend for themselves, Savimbi had regrouped in Terras do Fin do Mundo and had begun fighting all over again.[98] Castro, who had come to power as a guerrilla opposing a dictatorship, now had to use his conventional military forces to protect a foreign dictatorship against guerrillas fighting in their own territory. Castro's shoe was on his other foot.

Before 1976 came to a close, Castro's forces had taken over 1000 casualties, mostly at the hands of UNITA, as well as FNLA, and FLEC (Liberation Front for the Enclave of Cabinda) in Cabinda.[99] A cemetery for Cuban military graves was established at Quifangondo, near Luanda.[100] Castro visited this cemetery on his trip to Angola and six other African nations (Algeria, Libya, Ethiopia, Somalia, Tanzania, and Mozambique, plus South Yemen, and finally the Soviet Union) in March, 1977. On March 29, the MPLA chartered a Boeing 737 to fly Joshua Nkomo, leader of the ZAPU (Zimbabwe African People's Union) guerrillas in (then) Rhodesia, Sam Nujoma of SWAPO, and Oliver Tambo of the ANC (African National Congress terrorists in South Africa) to meet Fidel in Luanda.[101]

After Nkomo visited Havana in July, and again in August, 1977, Cuban military advisers began training ZAPU guerrillas in special camps in Angola.[102] SWAPO opened an office in Havana on November 1, 1977, and, as with ZAPU and Tambo's ANC, had training camps operated and staffed by Cuban military instructors inside Angola.[103]

That May, MPLA Interior Minister Nito Alves led a coup attempt against Agostinho Neto, which most observers consider would have succeeded had it not been for Cuban military and security forces.[104] (Neto remained in power until he mysteriously died in a Moscow hospital in 1979, succeeded by Jose Eduardo dos Santos, still President of Angola and leader of the MPLA at this writing.)

Castro had to come to the rescue of another Marxist African leader in 1977, Mengistu Haile Mariam of Ethiopia. Days after Mariam's Soviet-engineered seizure of power,[105] Cuban Western Army commander, General Arnaldo Ochoa arrived (on February 20) in Addis Ababa. When war broke out between Ethiopia and Somalia in the Ogaden Desert in mid-year, the Cuban troops began to arrive, airlifted by Soviet planes. Fidel's brother and Cuban Vice-Minister, Raul Castro, came to coordinate the military assistance in Addis. Four Soviet generals directed the Cuban Expeditionary Forces and Ethiopian Army against the Somalis. By March, 1978, 17,000 regular Cuban soldiers and pilots were fighting in Ethiopia, directly from Cuba and redeployed from Angola.[106]

By 1980, stories began to appear in the press such as Cuba's Angola Failure: An Exported Revolution Founders on Famine and Inefficiency, describing Luanda as a city that had "collapsed," the Angolan people as "impoverished" and worse off than before independence from Portugal, and every economic sector—save one—in a "steep decline." [107]

The one exception was oil.

In the late 1960's, Gulf Oil discovered substantial petroleum reserves in the coastal waters of Angola's Cabinda Enclave. Gulf's arrangement to extract them made with the Portuguese government was continued by the MPLA upon its seizure of power. In exchange Gulf became a loyal ally of the MPLA, stridently and powerfully lobbying Congress not to repeal the Clark Amendment and the Administration to extend diplomatic recognition to the MPLA regime.[108]

Today, the 193 offshore wells of the Cabinda Gulf Oil Company pump 90 percent of Angola's oil, making Angola the second-largest oil producer in sub-Saharan Africa after Nigeria, at 220,000 barrels a day. By 1987, production is expected to double to 367,000 barrels a day. Oil income, around $2 billion in 1985 accounts for over 90 percent of Angola's foreign exchange earnings. "Much of this hard currency," the New York Times reported in a story filed from Cabinda, "goes to pay for the estimated 35,000 Cuban troops who provide the backbone of Angola's defense." [109] An earlier article in the New York Times estimated that the MPLA must pay Castro for his troops (plus some 5,000 Cuban civilians), the Soviets for their 3,000 to 5,000 military advisers, and the 2,000 to 3,000 East German and Bulgarian advisers, upwards of $1.5 billion a year.[110]

This means that an American oil company is paying Fidel Castro a billion dollars or more a year for tens of thousands of Cuban mercenaries to protect its business interests and oil installations from a pro-Western, pro-free market democratic insurgency and keep in power a Soviet-backed Marxist-Leninist totalitarian dictatorship.[111]

The contempt that Lenin had towards capitalists, in his famous assertion that when it came time to hang them they would fight amongst each other to get the order for the rope, is today perhaps no where more justified than towards Gulf Oil, which has now been purchased by Chevron.

* * * * *

Rodolfo Estevez Lantegua was born in 1950 in Camaguey, Cuba. His father was an itinerant merchant before "the Revolution", afterwards a factory worker in Oriente province. Rodolfo received very little schooling, served in the Cuban Army from 1967 to 1970, then became a truck driver. In 1982, it was suggested to him that he "volunteer to fulfill his internationalist duty" in Angola.

When I met Rodolfo, he had been a prisoner of UNITA's for eight months. I interviewed him on October 12, 1983. Here is what he told me.

"Before leaving Cuba, we were not told anything about UNITA—just that there were a few small groups of counter-revolutionary bandits armed by South Africa. My unit, which was transport, not combat was based in a garrison 22 kilometers from Huambo. We had almost no contact with any Angolans, FAPLA or civilians, just staying in our garrison. My job was to drive a

water-truck bringing water from Huambo to our camp.

"One day the truck broke down, and suddenly I was surrounded by men with rifles. That night, I attempted to escape and the UNITA men shot me. I was wounded so severely [in the head] that I was sure they would leave me to die or give me a coup de grace. Instead, their medical officer treated my wounds very carefully. They took very good care of me, bringing me here [a UNITA village a day's drive from Jamba near the Zambia border] to heal. My wounds were very bad, and I will always be grateful to UNITA for saving my life. [When I asked Rodolfo to repeat this last statement for a tape recorder, he refused, fearing reprisals against his wife, Fidelina, should the tape be heard on VOA radio in Cuba. He had 18 stitches in his head, and a finger on his right hand had been sewed back on.]

"I understand now that UNITA is fighting for the freedom of the Angolan people, and I respect that as an ideal. But I will not join UNITA. I want to return to my country and my people. The food here is normal and regular, and I have never been mistreated in any way. Yet for eight months, there is no one to talk to in Spanish, no books, music, news, no letters from home. I miss my family. I miss my children. I miss my Fidelina. . ."

Rodolfo was crying now and I tried to console him. I said I would speak to Savimbi myself about his release. When I did later, Savimbi explained: "The Cubans are holding many of our people prisoners. We have offered many times to negotiate a prisoner exchange, but the Cubans refuse to talk with us. What can we do if they won't talk to us at all?"

On April 13, 1986, I saw Rodolfo again, in Jamba. He recognized me immediately. Despite many messages from UNITA and letters from Rodolfo given to the Red Cross for his wife, Fidelina, there has been no reply of any kind. According to Juan Benemelis, no Cuban soldier in Angola is allowed to communicate with his family. No Cuban wife knows, for example, if her husband has been killed in Angola, because he is buried in Quifangondo cemetery near Luanda and just disappears. Four years after Rodolfo went to Angola, Fiedlina has heard nothing from him and has no idea whether he is alive or dead.

There must be a way, I thought, to overcome the insouciant inhumanity of Castro's regime, its utter unconcern for the individual human beings it uses and chews up. I asked Rodolfo to write a letter to Fidelina. I promised him that it would be read, word-for-word, on Radio Marti. It was, on ————, 1986. In the meantime, Roldofo sits alone in that UNITA village lost in the Angola bush.

Paulo Saheque was born in 1952 in Huambo. Forcibly drafted into FAPLA (the MPLA Army) in 1976, he was a battle-hardened 2nd Lieutenant when he was captured by UNITA soldiers on August 23, 1983.

"(MPLA President) Dos Santos tells us," Paulo confided to me, "that 'the Cubans must stay with us; there must be a Cuban next to every FAPLA soldier to insure victory over the UNITA bandits.' But relations between the FAPLA soldiers and the Cubans are deteriorating—although they are better between the FAPLA and Cuban officers. The FAPLA soldiers get very poor medical treatment, while the Cubans are helicoptered out if they get sick or are wounded. The helicopters also bring food and supplies to the Cubans in their garrisons, but never to us.

"So the morale of the FAPLAs is getting worse, and they take it out on the civilians, often with Cuban participation. Last March (1983), I was serving in one of the three battalions making up the 39th FAPLA Brigade on a search and destroy mission in the Andulo area of Bie province. We found nothing but an empty UNITA camp. In frustration, the entire 39th Brigade was assembled, numbering 1,000 men plus 45 Cuban advisers. FAPLA Captain Pena and Cuban Army Lt. Col. Diego Hernandez jointly ordered action upon a village some 50 kilometers from the town of Andulo. Most of the villagers had fled into the bush by the time we got there, but every man, woman, and child found in the village was shot, 48 people in all, with the Cubans directing and taking part in the killing. We were ordered to kill every living thing in the village, all the livestock, chickens, pigs, dogs, everything, then burn every hut in the village to the ground."

This incident, known as The Andulo Massacre and to which Paulo was an eyewitness, is not isolated. While Paulo did not participate in any others himself, he often heard stories told by other FAPLA soldiers describing the same tactics inflicted upon villagers—for the Cubans, he said, "consider almost the entire civilian population to be aiding UNITA and all young men in Angola as potential guerrillas."

"In the late 1970's the Cubans in Africa seemed to be enjoying themselves. Since then it has been all downhill," reported the London Economist in March of 1984. "Mr. Savimbi's men have been making spectacular advances. There has been a steady trickle of Cuban coffins Havana-wards." [112]

By 1985, the press was asking: "Is Angola Castro's Vietnam?" reporting that Castro seemed to be bogged down in an "unwinnable war," the momentum of which may have "shifted irreversibly in (UNITA's) favor." The MPLA, the report continued, is plagued by desertions, while the Cubans suffer "increasing morale problems." [113] This latter problem has become so serious that the official Havana newspaper, Granma, recently complained about Cuban families hiding relatives who have deserted or draft-dodged rather than serve in Angola.[114]

On January 31, 1985 Cuban Army Lt. Col. Joaquin Mourino Perez, Coordinator of Cuban Operations in Angola, defected in Madrid. The Spanish press quoted his reason: "I was tired of burying Cuban soldiers in Africa." [115] An intelligence source debriefing Cuban defectors said they reported: "Nearly 4,000 Cubans have been killed in Angola from 1975 through 1984.[116] The casualty rate sharply escalated in early 1983, and the dying continues. Returning troops are bringing diseases back to Cuba, malaria, liver disease, many strange tropical diseases. They are also bringing back a great deal of venereal disease: every Cuban officer has one or more Angolan women for his use, and incidence of rape of Angolan women by Cuban soldiers is widespread." [117]

When Soviet, Cuban, and MPLA leaders met in Moscow in early January, 1984, they decided on an escalation of the war against UNITA. Over the next 18 months, an estimated two billion dollars' worth of Soviet arms shipments was sent to the MPLA, and an additional 7,000 Cubans were transferred from Ethiopia, bringing the number of Cuban combat troops in Angola to 35,000.[118] In early 1985, the Soviet press was reporting on Soviet "specialists" who "live in battlefield conditions" and "work under fire," and on Cuban officers who were present in all FAPLA Units to the battalion level.[119]

It was evidently during another Soviet-Cuban-MPLA meeting in Moscow in March, 1985, presided over by Soviet Defense Minister Sokolov, that the decision was made to launch a massive attack on Savimbi's stronghold.[120]

A force of over 10,000 FAPLA troops, with vast air support mostly flown by Soviet and Cuban pilots, 800 Soviet and East German officers participating in direct command of tactical operations, and commanded overall by Soviet generals, began a two-pronged assault into UNITA territory in late July. The fighting raged on for two months, coming to a climax on the banks on Lomba river, 13 kilometers north of the UNITA-held town (with a strategic airstrip) of Maivinga. The result was a total defeat of the Soviet and Cuban-led MPLA. On September 29, the Soviet commanders ordered retreat, leaving four entire brigades of FAPLA soldiers massacred, 2,300 dead in all. As the FAPLA soldiers retreated on foot (the Cubans and Soviets were helicoptered out) through the dry bush, they deserted by the hundreds, many reduced to eating grass and their boots, drinking water from truck radiators, and suffering horrible deaths. UNITA shot down at least 18 helicopters, 4 MiG 21's, 2 MiG 23's, 3 AN 26's, and 1 AN 12 with a Soviet crew.[121]

Yet in the face of this disastrous defeat, the Soviets are still insisting on a military solution to their problem in Angola. From October, 1985 through January, 1986, fully one-tenth of the Soviet Union's global strategic airlift capability was used to replace the aircraft, weaponry, and military supplies lost fighting UNITA: 800 tons of war materiel per week flown into the MPLA base at Cuito Cuanavale during that time. Rains in February and March halted the resupply, but they resumed in April and continue at the time of this writing (May, 1986).[122].

The Soviet and Cuban-led FAPLA troops of the MPLA are now better armed than before. The next offensive is expected momentarily. But . . . masses of troops, thousands upon thousands, are needed to protect and use the new materiel, and while morale in Luanda is high with the resupply, among the rank-and-file FAPLA soldiers morale has collapsed. According to South African Military Intelligence, "There is an extreme morale problem within the MPLA army. The desertion rate is becoming quite dramatic. FAPLA recruits today are mostly illiterate 12-15 year old boys, with three weeks' training, no formal schooling at all, and who are terrified at going up against UNITA: they know full well what happened to their predecessors in the bush of Cuando Cubango." [123].

The question now for the Soviets is, then: to commit large numbers (5-10,000) of Cuban ground troops to the next offensive against UNITA. The Cubans are presently used mostly for garrison duty defending military sites or to prevent large-scale uprisings in the major towns and cities. There seems to be no way a new offensive against UNITA can be successful without massively using the Cubans. But . . . there may be no way it can be successful with the Cubans: for overwhelming air support is another necessary condition to defeat UNITA, and the fifty Stinger portable anti-aircraft missiles supplied by President Reagan, via the CIA, to Savimbi at the end of April neutral-

ize the threat of the MiGs and MI-24 gunships as well.[124].

As of April, 1986, Cuban and other foreign military deployment in Angola is as follows:

On the National Security Council of the MPLA:

Gen. Van Status, East Germany.

Gen. Konstantin Tchaknovich, Soviet Union.

Col. Fernandes, Portugal.

Gen. Raul Mendez, Cuba.

Foreign Military Personnel:

2,500 East German (intelligence; internal security; communications).

1,500 Soviet (administration of all government ministries; political organization of FAPLA; military training/weapons handling; military advisors).

7,000 SWAPO (headquarters at Kabuita, southwest of Lunanda; indistinguishable from FAPLA troops, wear same unforms, eat in same barracks).

3,500 Portuguese (Portuguese Communist Party mercenaries under the direction of Rosa Coutinho: military logistics; special forces training).

1,200 ANC (mixed with FAPLA, based on Mulanje and Uige provinces).

2,500 North Korean (based in Uige and Cuanzo Norte provinces).

1,400 Katangans (based near Luso).

45,000 Cuban (35,000 troops, 10,000 technical workers with military training).

Cuban Deployment:

15 Regiments (A Cuban Army Regiment has 1,500 men).

Cabinda: one regiment.

Uige: one regiment (at Uige).

Malanje: one regiment (at Malanje).

Lunda: one regiment (at Saurimo).

Moxico: one regiment (at Luena).

Cuando Cubango: two regiments (at Menongue).

Huila: two regiments (at Lubando and Matala).

Mossamandes: one regiment (at Namibe).

Benguela: one regiment (at Benguela/Lobito).

Huambo: one regiment (at Huambo).

Bie: one regiment (at Kuito).

Cuanza Sul: one regiment (at Catafe).

Luanda: one regiment (at Luando).

In addition, most FAPLA infantry brigades (600 men) are commanded by a Cuban officer and have one or more Cuban companies (90–100 men), sometimes an entire battalion (200–300 men) attached to them. The FAPLA Army stands at some 60,000 men. All MPLA Navy ships are under Cuban command. Each MPLA Air Force (FAPA) unit has one Cuban squadron. Cubans fly all 24 Soviet MI-24 helicopter gunships (NATO codenamed HIND) and 18 MI-8 helicopters (codenamed HIP) in Angola.[125]

In addition to their role in FAPLA units, a recent article in Defense and Foreign Affairs reported that Cuban forces are used in Angola for artillery, logistics, mechanized infantry, maintenance of aircraft, armor, anti-aircraft and radar systems (which are manned almost exclusively by Cubans and Soviets), and various training roles. They also provide logistical support for SWAPO forces. Cuban combat units operate as "distinct and separate operational forces." The article noted that Soviet Ilyushin Il-76 military transport jets ferry Cuban and other Soviet Bloc troops and supplies in and out of Angola via the Cape Verde Islands airport at Ila da Sol. It reported "considerable friction between Cuban forces and local units, as well as between Soviet/East German (GOR) security forces and local units, including the MPLA." [126]

It has become commonplace to observe that Castro's forces stand between Savimbi and Luanda—that if the Cubans were withdrawn from Angola and the MPLA had to stand on its own feet and face UNITA by itself, Savimbi's forces would occupy Luanda and militarily defeat the MPLA within a few weeks. Indeed, Eduardo Dos Santos has publicly admitted, in a letter to the Secretary-General of the United Nations, that Cuban troops and armaments" were essential for the survival of his regime in "a war against UNITA gangs."[127]

Yet the State Department is far more preoccupied with the currently fashionable concern over Namibia than Angola. Giving the former a higher priority, State seems to think it must find a "solution" to Namibia—which the United Nations equates with turning governmental sovereignity and control in Nambia to Soviet-backed SWAPO—before tackling Angola. But, as Savimbi explained to me, State has got it exactly backwards:

"The situation in Angola must be solved before that of Namibia, not the other way around. Once freedom and democracy come to Angola, once the Cubans and Soviets are out, then SWAPO will no longer be able to operate in Angola, use Angola as a sanctuary, nor receive Soviet weapons and supplies through Angola. This will force SWAPO to submit to a democratic process and peacefully compete for governmental power, instead of trying to achieve it through terror and Soviet bullets. Why Chester Crocker [Assistant Secretary of State for African Affairs] does not understand this is a mystery.

"Mr. Crocker and the State Department continually call for 'peace and stability' in Angola. What they should be calling for instead, is liberty and democracy. Perhaps they think they can trick Castro into withdrawing through complicated timetables 'linked' to what South Africa does in Namibia. They don't seem to grasp that the only thing Castro respects is power and the determination to use it. Castro will only leave Angola when he is forced to."

The State Department continues to oppose aid to UNITA, and to pretend that its negotiations with the MPLA over Namibia will somehow bring peace to Angola. Unable to extricate itself from its now obviously failed policy of "constructive engagement," it is quite incapable of understanding the enormity of what is at stake now for all of Africa south of the equator.

Should the next Soviet offensive, with a massive commitment of Cuban ground forces, succeed in taking Jamba and effectively defeating UNITA, the Soviet colonialization of Angola would become secure and entrenched. Angolan oil revenues would then be freed to supply Cuban mercenaries to Mozambique to rescue the Marxist regime of Samora Machel, who is at present facing imminent defeat from the Mozambique National Resistance, or RENAMO. SWAPO would be vastly rearmed and revitalized, and Namibia would fall, the SADF pulling out to face full-scale guerrilla and race war launched by the ANC from secure sanctuaries. Zaire would be targeted, and Mobutu personally, for the Soviets have never forgiven him for killing Lumumba and taking Zaire away from them in 1961. Brazzaville-Congo would slide back into the Soviet orbit, Tanzania (a socialist basket case thanks to Julius Nyerere) and Zambia (whose Kenneth Kaunda always blows with the wind and who is playing host to the ANC and its East German tutors) would be obliged to, Zimbabwe's Mugabe would be pleased to, and outflanked Botswana forced to. Once the ANC (which is led by a Soviet KGB agent named Joseph Slovo) succeeds in genocidally converting South Africa into the People's Democracy of Azania, the Soviet colonialization of the entire African continent south of the equator will be complete.

But should the Soviets and Cubans be defeated again by a Stinger-equipped UNITA; should the State Department be forced by President Reagan to call for the democratization of Angola and the withdrawal of American oil companies from Angola as with Libya; should Savimbi be armed and enabled to go back on the offensive, carrying the war into Luanda (and Cobinda), then the consequences for Moscow and Havana would be disastrous.

They would be facing the clear possibility of the military overthrow of their client government—unless a faction within the regime, such as the so-called "Catete Group" of left-wing nationalists staged a palace coup and struck a deal with Savimbi first. In either case, Soviet influence would be terminated in central and southern Africa for the forseeable future.

Such an outcome, resulting in the humiliating ejection of the Cubans from Angola, would be Castro's Dien Ben Phu. The repercussions, both domestically and internationally, would be monumental. The return of 45,000 young soldiers and technicans, many of whom we can presume would be embittered and distressed, to the impoverished cynical tyranny of Castro's Cuba would have grave potential for internal unrest. Castro's prestige and influence would be seriously damaged, perhaps irreparably, throughout the Third World. The impact it would have upon his relations with the Sandinistas in Nicaragua would be shattering, while giving the anti-Sandinista "Contras" an enormous boost in morale. Such consequences may, in fact, usher in the final act of the tragedy (or black humor force) of Fidel Castro, the modern-day Mussolini.

Of all the imperialist gangsters of the 20th century, such as Lenin, Stalin, or Hitler, the one Castro resembles most is Mussolini. Like Mussolini, he is a fascist, a Marxist fascist for whom Cuba has always been too small. Like Mussolini, he has aligned himself with the world's premier evil power of his time, Mussolini to the Nazi, Castro to the Soviets. Like Mussolini, his greatest imperialist success came in Africa, Mussolini in Ethiopia, Castro also in Ethiopia and in Angola.

And like Mussolini, for all the posturing and strutting on the world's stage, for all the murderous ruthlessness and rapacious will to power, for all the mindless pomposity of the rhetoric, the bombast of childish ideology, and the facade of invulnerable self-confidence, he is, at bottom, a quite pathetic buffoon.

The verdict of history is often pitiless. The road from seemingly invincible hero to despised laughingstock can be very short. Mussolini traveled down that road, and quickly. His physical fate at the hands of the Italian people was an ugly one. Should Castro be humiliated in Angola, perhaps a chain of events will be set in motion so that justice will prevail for Castro as it did for Mussolini. Perhaps Fidel Castro will share his fate at the hands of the Cuban people whom he has ground under his boot for so long.

NOTES

[1] Portugal began colonizing among African kingdoms in the area of the Congo River estuary before the end of the 15th century. The slave trade was the basis for what became the colony of Angola, from where 3 million Africans were exported to Brazil from 1580 to 1836 [J. Duffy, *Portugal in Africa.* Cambridge: Harvard Univ. Press, 1962. p. 59.]. Colonial occupation was, however, limited to the coast and some adjoining plateau areas until the latter half of the 19th century. Effective control of the interior was not secured until the first decades of this century, the entire eastern third of Angola not until 1930. Angola is about twice the size of Texas, almost half a million square miles, with a present population of between 6 to 7 million.

[2] The Belgian Congo gained independence as the Democratic Republic of the Congo (or Congo-Leopoldville) in June, 1960, with Joseph Kasavubu as President and Patrice Lumumba as Prime Minister. Civil war broke out a week later with Kasavubu calling in Belgian and UN peacekeeping troops, and Lumumba asking and receiving direct Soviet aid. Army Col. Joseph Mobutu took over the government in September, expelled all Soviet and Soviet-bloc personnel from the country, arrested Lumumba, had him killed in February, 1961, and turned the government back to Kasavubu. Mobutu (now Gen.) again seized power in November of 1965 and has maintained it since. In 1966 he changed the capital's name from Leopoldville to Kinshasa; in 1971, the country's name to the Republic of Zaire, and his own name to Mobutu Sese Seko.

[3] The Middle Congo of French Equatorial Africa (whose capital of Brazzaville lies directly across the Congo-Zaire river from Kinshasa) gained independence as the Republic of the Congo (today People's Republic of the Congo) in April 1960 with Abbe Youlou as President. In August, 1963 Youlou was deposed by Alphonse Massamba-Debat, who quickly established extensive ties with Havana, Peking, and Moscow. Later that year, Zairean Marxists formed the *Comite National de Liberation* (CNL) in Brazzaville, dedicated to forcibly overthrowing the Zaire government. C.K. Ebinger, "External Intervention in Internal War: The Politics and Diplomacy of the Angolan Civil War." *Orbis,* Fall, 1976, p. 679, n. 12.

[4] The elder Mr. Castro owned 10,000 acres and employed a labor force of 500. P. Johnson, *Modern Times.* New York: Harper & Row, 1983. p. 620.

[5] Quoted in H. Thomas, *Cuba, or the Pursuit of Freedom.* London: Eyre & Spottiswode, 1971. p. 819.

[6] Ibid, pp. 814–816.

[7] Johnson, p. 621. Johnson comments: "[Castro's] guerrilla campaign was never very serious, though urban terrorism cost many lives . . . In all essentials, the battle for Cuba was a public relations campaign, fought in New York and Washington. Castro's principal advocate was Herbert Matthews of the New York Times, who presented him as the T.E. Lawrence of the Caribbean."

[8] Thomas, p. 1203.

[9] Ibid, pp. 1240–1257.

[10] S. Christian, *Atlantic,* August, 1983. p. 20.

[11] Thomas, pp. 969–970.

[12] Z. Cervenka, "Cuba in Africa," *Africa Contemporary Record: Annual Survey 1976–77.* p. 86. Algeria gained independence from France in July, 1962; the leader of the FDN, Ahmed Ben Bella, became President.

[13] W.J. Durch, "The Cuban Military in Africa and the Middle East: From Algeria to Angola," *Studies in Comparative Communism,* Spring/Summer 1978. pp. 43–44. Historian Johnson (op. cit., p. 504–505) recounts the slaughter of perhaps as many as 150,000 Muslim officials who had worked for the French administration and their families by the FLN once it gained power, and how the new Algeria "for many years remained the chief resort of international terrorists of all kinds."

[14] Ghana gained independence from Britain in 1957.

[15] Durch, p. 43. Upper Volta is now called Bourkina Fasso.

[16] Kennedy's amateurish failure to demand a neutral, Finlandized Cuba rather than acquiescing to the continuation of an open military alliance between Moscow and Havana (coming only 18 months after the incredibly inept spectacle at the Bay of Pigs) meant the loss of the missile crisis. Paul Johnson describes it as "an American defeat: the worst it had suffered so far in the Cold War." op. cit., pp. 627–628.

[16A] Interview with author. Benemires was with the original group of diplomats sent by Castro to Africa in 1960. He asserts that the 30 Zanzibaris who led the January, 1964 coup which overthrew the Sultan of Zanzibar and placed pro-Soviet Ahmed Karume in power were trained in Havana in 1962–63. Benemires was in Zanzibar at the time.

[17] Cervenka, p. 88.

[18] N. Lang, "Les cubains in Afrique noire," *Est et Ouest* (Paris), June 1–15, 1967. pp. 23–24.

[19] J. Mallin, "Che Guevara: Some Documentary Puzzles at the End of a Long Journey," *Journal of Interamerican Studies,* January 1968. pp. 77–78.

[20] "Brazzaville: Cuba's New Base," *African Review,* August, 1966. Also New York Times, October 23, 1966.

[21] Lang, p. 24, R. Gauze, *The Politics of Congo-Brazzaville.* Stanford: Hoover Institution Press, 1973. p. 161.

[22] Kenya gained independence from Britain in December, 1963.

[23] Personal interview with author, Jamba, Angola, October, 1983.

[24] Called the *Comite Federal Angolano do Partido Communista Portugues.* J. Marcum, *The Angolan Revolution,* Vol. I (1950–1062). Cambridge: MIT Press, 1969. p. 26.

[25] A. Cesar, *Angola 1961.* Libson: Verbo, 1962. p. 97.

[26] Antonio Alberto Neto, *"Contribution a l'Etude du Mouvement Ouvrier Angolais dans le Processus de la Liberation Nationale." Memoire de 2e Cycle,* Univ. of Grenoble, France, 1967. pp. 35–36. See also Mario de Andrade, *Liberte pour l'Angola.* Paris: Maspero, 1962. pp. 16–17.

[27] Translated in "Africa Today: The Soviet View," *The Mizan Newsletter,* London, April, 1962. p. 2. The connection is also explicitly acknowledged by V. Sidenko in the Soviet publication *New Times* (Moscow). "The Last African Colonies: Angola," December, 1960, p. 20.

[28] Marcum, pp. 40–42.

[29] J. Cooley, *East Wind Over Africa.* New York: Walker, 1965. p. 126.

[30] Lisbon Overseas Service in English (0200 GMT), March 9, 1962.

[31] Letter from Jonas Savimbi: "To the Missionaries of the United Church Board for World Ministeries, New York," Sept. 21, 1965.

[32] Originally the *Uniao das Populacoes de Angola* (UPA), founded by Holden Roberto in late 1958, and changed to the FNLA in March of 1962. Marcum, pp. 67 & 245.

[33] J. Marcum, "Communist States and Africa: The Case of Angola." Draft of paper dated July 28, 1979. p. 6.

[34] Ibid, p. 7.

[35] *Courrier d'Afrique,* November 9, 1962.

[36] New York Times, December 7, 1962.

[37] Foreign Report, London, May 6, 1965.

[38] Cervenka, p. A85.

[39] Durch, p. 46.

[40] J. Marcum, *The Angolan Revolution,* Vol. II (1962–1976). Cambridge: MIT Press, 1978. p. 176.

[41] Quoted in Cervenka, op. cit., p. A86.

[42] Marcum, Vol. II, p. 225.

[43] Savimbi first met Roberto in March of 1960 in Switzerland, having fled there to escape PIDE (Portuguese secret police) harassment for refusing to inform on his fellow Angolan students in Portugal. (In September, 1958, The United Church of Christ sent a group of Ovimbundu students to study in Lisbon; Savimbi was among them.) He had already been contacted by the MPLA, and wrote a letter of refusal to join either group in February, 1961. But by the end of that year, he sided with Roberto, accompanying him to New York where they submitted a joint memorandum on Angola to the United Nations. [Marcum, Vol. I, pp. 138, 112, & 221]

[44] Roberto, for example, left Angola at age two to grow up and work in the Belgian Congo. Save for one year at a Baptist school, he only briefly and occasionally visited Angola until he formed the UPA (see n. 32) at age 35 [ibid., pp. 64–67].

[45] Letter from Savimbi to United Church, op. cit. The Ovimbundu alone comprise well over 40% of the population of Angola.

[46] Marcum, Vol. II, pp. 182–183.

[47] *Le Monde,* August 12, 1965. Cf. *Pravda,* April 22, 1965.

[48] V. Solodovnikov, "Address to the International Conference of Support to the Nations of the Portuguese Colonies, Rome, June 27–29, 1970," *The Problems of Contemporary Africa.* Moscow: Nauka, 1973. p. 388. See also *Pravda,* July 5, 1970.

[49] Marcum, Vol. II, p. 229.

[50] Ibid., p. 252.

[51] Ebinger, p. 688.

[52] Marcum, Vol. II, p. 253.

[53] J. Valenta, "The Soviet-Cuban Intervention in Angola, 1975," *Studies in Comparative Communism,* Spring/Summer, 1978. p. 10.

[54] *Le Monde,* May 15, 1975.

[55] Marcum, Vol. II, p. 259. Valenta claims that some 20,000 men were given Soviet weapons by the MPLA in Luanda by April, 1975. p. 11.

[56] Ibid., p. 255.

[57] Marcum cites a New York times article (December 19, 1975) alleging that the National Security Council authorized a $300,000 covert grant to Roberto (but nothing to Savimbi) [Vol. II, p. 257]. He uses this same article to allege that Roberto had received a "modest supply of money and arms" from the CIA from 1962 to 1969, and a "retainer" of $10,000 a year for "'intelligence collection'" thereafter [p. 237]. But he also admits [p. 258] that an independent inquiry by the American Consulate in Luanda determined that Roberto's money in early 1975 came from Portuguese coffee growers (possibly extorted) in Bankongo northern Angola. True or not, to assert, as some have, that Soviet support of the MPLA, its child for twenty years, was a response to US backing of the FNLA to the tune of $300,000 is fatuous—particularly in light of the facts that while Moscow spent as much as $10 million in arms to the MPLA between March and July, 1975 (after $63 million prior to April, 1974, and $6 million in August, 1974 plus additional shipments from then to March, by April, 1975 Roberto was in Iran, Kuwait, and Abu Dhabi with his hat out asking for money [*Diario de Noticias,* May 1, 1975].

[58] New York Times, September 25, 1975.

[59] Valenta, pp. 10–11.

[60] S. Hosmer and T. Wolfe, *Soviet Policy and Practice Toward Third World Conflicts.* Toronto: Lexington, 1983. pp. 81 & 222n.7. While the Cuban people are multiracial, and range in complexion from Anglo white to African black, dark-complected Cuban soldiers were specifically selected for Angola.

[61] Interview with Jorge in *O'Seculo,* April 12, 1975; Luanda radio, May 7, 1975.

[62] Durch, p. 49.

[63] ibid, p. 50.

[64] Cuban Army Captain Pedro Rodriguez Peralta. *El Mundo* (Havana), January 16, 1968; cited in FBIS, Latin America, January 26, 1968.

[65] Africa, May 1976, p. 80.

[66] Africa Confidential, March 22, 1974; New York Times, November 17, 1977.

[67] New York Times, November 17, 1977.

[68] Foreign Report, June 26, 1974, p. 6.

[69] Washington Post, February 22, 1977.

[70] New York Times, December 14, 1975; Time, February 23, 1976, p. 18; New York Times, February 5, 1975.

[71] Christian Science Monitor, January 22, 1976. Cf. also New York Times interview with Cuban leader R. Rodriguez, January 12, 1976.

[72] Valenta, p. 11.

[73] *Expresso* (Lisbon), May 17, 1985.

[74] Testimony of Secretary of State Henry Kissinger before the Subcommittee on African Affairs of the Senate Committee on Foreign Relations, January 29, 1976.

[75] Ebinger, p. 689.

[76] W.E. Schaufele, Jr. (Assistant Secretary of State for African Affairs), "The African Dimension of the Angolan Conflict," Bureau of Public Affairs, Washington, D.C., February 6, 1976. p. 2.

[77] Valenta. p. 12.

[78] Radio Lisbon, August 7, 1975.

[79] Durch, pp. 65–66.

[80] ibid, p. 65; Valenta, p. 13.

[81] The Times (London), October 24, 1975; Agence France Presse, October 24, 1975; Daily Telegraph (London), December 24, 1975.

[82] Durch, pp. 68–69.

[83] G.G Morquez, "Cuba en Angola: Operation Carlota," *Proceso* (Mexico City), January 8, 1977, translated in JPRS Latin America, February 25, 1977.

[84] Schaufele, p. 3. It is true that, as MPLA troops were sweeping down the coast, South African troops moved across the Namibian-Angolan border on August 11 to protect the hydroelectric dam projects on the lower Cunene River (which is the border at that point), but did not move beyond the area. [*Agence France Presse,* August 29, 1975; Reuters, August 30, 1975] Subsequently, after consulting the governments of Zaire, Zambia, the Ivory Coast, and Senegal, Savimbi asked for and received a small number of South African military advisory personnel. [J. Valenta, "Soviet Decision-Making on

Angola," *Communism in Africa*, D. Albright, ed., Indiana University Press, 1980, p. 103. Hereinafter referred to as "Valenta #2] Nonetheless, it is quite clear that, as Valenta observes, "South Africa did not undertake an extensive intervention in Angola until October—i.e., *after* [emphasis Valenta's] the launching of the Soviet-Cuban operation." [ibid]

[85] P. Vanneman and M. James, "The Soviet Intervention in Angola: Intentions and Implications," *Strategic Review*, Summer, 1976, p. 94.

[86] New York Times, November 28, 1975.

[87] Durch, p. 68.

[88] New York Times, December 3, 1975.

[89] New York Times, December 18, 1975; Christian Science Monitor, January 22, 1976.

[90] Valenta, p. 28.

[91] Vanneman & James, p. 94; Valenta, p. 115.

[92] Vanneman & James, p. 95.

[93] Durch, p. 69.

[94] Valenta #2, pp. 115–116.

[95] Vanneman & James, p. 92.

[96] Washington Post, May 26, 1976; New York Times, June 27, 1976.

[97] Washington Post, August 21, 1976.

[98] New York Times, November 28, 1976; Washington Post, December 2, 1976; "Guerrillas Growing Threat" and "A Long March in Angola," Washington Post, August 7–13 (series), 1976.

[99] Valenta, p. 32.

[100] Z. Cervenka & C. Legum, "Cuba: The New Communist Power in Africa," *Africa Contemporary Record: Annual Survey 1976–1977*. p. A109.

[101] ibid., p. 113.

[102] ibid., p. 113–114; Durch, p. 55, n. 88.

[103] Cervenka & Legum, p. 114.

[104] Segal, "Cuba and Africa: Military and Technical Assistance," *The New Cuban Presence in the Caribbean*, B. Levine (ed). Westview Press, 1983, p. 139.

[105] Moscow signed a secret accord to supply arms to Mengistu in December, 1976. E. Gonzales, "Cuba, the Soviet Union, and Africa," in D. Albright, op. cit., p. 153.

[106] W. LeoGrande, "Cuban-Soviet Relations and Cuban Policy in Africa," *Cuba in Africa*, C. Mesa-Lago & J. Belkin (eds.). Pittsburgh: University of Pittsburgh Latin American Monograph Series, 1982. p. 18.

[107] Domingo del Pino, "Cuba's Anglo Failure," *World Press Review*, November, 1980, p. 27. Exerpted from *El Pais*, Madrid, August 19–21, 1980.

[108] A chief aide of Sen. Steve Symms (R-Idaho) confided to the author that representatives of Chevron and Gulf have personally lobbied the Senator in his office against repeal of the Clark Amendment. According to Rep. Thomas Wolpe (D-Michigan), chairman of the House subcommittee on Africa, Gulf has lobbied for diplomatic recognition of Angola. A Gulf representative had denied the charge. Detroit Free Press, January 29, 1984, p. 4A. On September 17, 1980, Melvin J. Hill, President of Gulf Oil Exploration and Production Co., testified before the Committee on Foreign Affairs (Subcommittee on Africa) of the House of Representatives that Gulf "would benefit by US recognition of Angola and the establishment of a US Embassy in Luanda. GPO #69–064 0 1980. p. 13.

[109] New York Times, January 6, 1985.

[110] New York Times, May 9, 1984.

[111] As *The Economist* puts it: "Gulf Oil. . . is thus effectively financing the MPLA to pay the Cubans to protect its installations against capitalist-backed guerrilas. There is no end to the ironies of modern Africa." March 30, 1985. The Economist's publication, *Foreign Report*, has revealed that "Gulf is said to pay Angola through a Swiss bank which remits most of the money to Cuba in payment for the Cuban soldiers and advisers sent to Angola by President Fidel Castro." June 13, 1985.

[112] The Economist, March 24, 1984.

[113] Washington Times, May 17, 1985.

[114] Granma Weekly Review in English, Havana, March 4, 1984.

[115] Washington Times, May 17, 1985.

[116] The International Herald Tribune Reported some 3,000 Cuban fatalities from the war in Angola for the same period. February 7, 1985.

[117] Personal source in the intelligence community. Cristina Kapapo, 23, the Political Secretary of the MPLA Women's Organization in Benguela province until she was captured in January, 1986 by UNITA, revealed that women in MPLA-controlled Angola have no freedom of speech, and are often "mistreated and violated" by Cuban soldiers. Interview with author, Jamba, Angola, April, 1986.

[118] A. Alexiev, "U.S. Policy in Angola: A Case of Nonconstructive Engagement," Rand Paper Series. Santa Monica: Rand Corp., January, 1986.

[119] *Izvestiya*, Moscow, March 23, 1985.

[120] Cf. the *TASS* communique issued upon the conclusion of the meeting. *TASS*, March 12, 1985.

[121] South Africa Military Intelligence briefing, Pretoria, April, 1986.

[122] ibid.

[123] ibid.

[124] Personal source in the intelligence community. Congress repealed the Clark Amendment in June of 1985, which allowed President Reagan to aid UNITA with discretionary Pentagon funds.

[125] Interview with Brig. Peregrino Chindondo, UNITA Chief of Intelligence. Jamba, Angola, April 13, 1986.

[126] Defense and Foreign Affairs, September, 1984. pp. 9–11.

[127] Text (date not given) broadcast by Radio Luanda, Nov. 22, 1984; translated in *FBIS-Southern Africa*, Nov. 23, 1984, p. U2.

[128] Foreign Report, June 13, 1985.

Mr. STUMP. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. I thank the gentleman for yielding me this time.

Mr. Chairman, I say in opening that there is no Member of either party on the Foreign Affairs Committee or any Member of this Chamber that I respect more than my distinguished colleague and friend from Indiana [Mr. HAMILTON]. It always hurts me to find myself on the opposite side of an issue. I understand, having served in this body during part of those agonizing Vietnam war years that all began with a certain resolution involving a certain gulf named Tonkin that some people are afraid to do anything covertly. So, rather than destroy an entire range of options for any President of either party to try and do something about the ugly murderous mischief of communism around the world, they will try and rifle-shot certain areas.

If our Contra tyrants, the Contras, the ones that I support in Central America, that we suggest die for freedom, both theirs and ours on this continent, were up against the types of equipment in Central America that we were up against in Angola, there would be cries from both sides of this Congress, on both sides of the aisle, to take this equipment out with precision air strikes just as we used thousands of miles away in against Qadhafi in Libya.

Here is a picture of a recent meeting with some of the heavyweights of the Politburo with Dos Santos, the Angolan Communist President. Here is General Secretary Gorbachev himself. Here is Shevardnadze. This is their interpreter. The Angolan Foreign Minister Von Dunen, and of course, Dos Santos himself.

Here is the kind of things they do off the coast with their Soviet-supplied naval equipment. High-ranking admirals and Angolan naval officers visiting on their patrol boats off the coast where they inspect these Atlantic sea lanes that carry about 60 to 70 percent of that oil that is coming to Europe and the United States from the Persian Gulf around the Cape of Good Hope.

Here is a Fitter Sukov 22. This is a more advanced model than the Sukov 15 that killed our friend Larry McDonald from this side of the aisle 3 years ago on the 1st of September. This is new equipment introduced into Angola.

Here is the Flogger Mig-23. Until Mig-25's began arriving in North Korea in recent times this is the No. 1 combat aircraft in North Korea and most of the other front line states. It was in Syria until recently when Syria started getting Mig-25's. We actually renamed this the Mig-27 if it has the sloped nose that is strictly a fighter/bomber version and not just an interceptor. But this is about the best equipment that the Soviets have had out in the field anywhere, including all their contiguous border, Soviet bloc countries.

Here is the dreaded HIND helicopter or flying tank. More formidable than our brand new H–64 Apache. We have nothing like it. This is the best piece of Communist equipment in Central America, now killing Contras by the hundreds right here in North America. They have been combat proven and tested in both Angola and in Afghanistan. Any helicopter pilot in this House, and I have soloed helicopters, can tell you that they work best in the hot, heavy air close to the ground, Nicaragua or Angola, than they work up in those high, mountainous areas of Afghanistan where sometimes they have to fly through the valleys and subject themselves to overhead shots from the Mujahdeen freedom fighters. In other words, the same equipment that is being used to kill people fighting for their dignity and freedom in Afghanistan and Central America have been doing it longer and just as hard with direct Soviet command responsibility in Angola.

If there was any area where we should give our President all the options possible to deal with Communist expansionism and a Communist threat, it is in this area of Angola. I have visited all of the surrounding countries, talked to people on and off the record and you find off the record there are a lot more forthcoming about what the future holds for us if the Soviets continue to use Luanda as a base for their big Tupelov-95 Bear bombers that they use to patrol all the sea lanes of the Central and South Atlantic areas and these previous surface patrol boats that I have shown you, and now the introduction of one more fighting, the Fitter to the Floggers that are already fighting there.

1905

If we do not help the freedom fighters in Angola led by this large, tough, charismatic black leader, Jonas Sa-

vimbi, who was stiffed by the Black Caucus in this House when he was here, and to some of the Members that I respect in the Black Caucus, I said, "How could you not meet with this natural, charismatic black leader?" and they came up with lame excuses like, "Oh, we voted not to meet with him, and although I was against the vote, I was busy, I wanted to meet with him."

Jonas Savimbi is one of these leaders that truly commands because he rides at the front of his troops.

I suggest we vote down section 107 tomorrow.

Tomorrow during general debate, which was kind of hard to get on because I did not speak up soon enough and it is packed with people who feel this issue is so important that although I am on the Subcommittee on Africa of the Committee on Foreign Affairs and serve under the gentlemen from Indiana [Mr. HAMILTON] on one of his subcommittees, the Subcommittee on Europe and the Middle East, which also includes, by the way, the Soviet Union and Afghanistan, I was unable to get time tomorrow.

I hope that those who are listening and who are going to follow the debate tomorrow and that any of my colleagues from either side of the aisle will please feel free to use these very graphic pictures tomorrow of what we are up against in Angola where, without American assistance for over a decade now, Jonas Savimbi and his men and women, truly entitled to the words "freedom fighters," have been holding back the hordes of communism in that part of middle South Africa without United States help. He does not need one American boy to shed his blood. He does not need CIA agents, like Gerheart, who was kidnaped and executed, who was over there as some kind of mercenary and then they made his young wife from a parish near us here in Maryland buy back his bullet-riddled body, Danny Gerheart. She had to pay $5,000 to these Communists whose pictures I have just shown you.

We are up against a deadly Communist threat here. Help these people out. Defeat section 107.

Mr. GEPHARDT. Mr. Chairman, Congress is often accused of giving in to the temptation to micromanage foreign policy rather than exercising legitimate oversight responsibilities. There is probably some truth to the complaint, although this friction between the President and Congress is embedded in our Constitution and ensures that all options are considered. Our obligation to review intelligence activities is obviously different, and we are well aware of the necessity for discreet and responsible evaluation of the administration's requests.

The supporters of this bill know that intelligence activities must be secret and we recognize that congressional oversight has to be confidential. We accept that covert operations are an integral, and even essential, part of our overall foreign policy. But we no longer accept the myth of covert military aid for the Savimbi forces in Angola. Section 107 is not designed to deny support to UNITA. Rather, it is included expressly to preserve our traditional support for a bipartisan intelligence policy.

Administration spokesmen from the Presient on down have frequently and publicly announced their intention to provide assistance to UNITA. Secrecy is not possible, especially since Mr. Reagan made support for Savimbi a cornerstone of his foreign policy. And if this support is so important, it deserves to be debated on its merits, not buried in the intelligence authorization bill.

Many of us have real reservations about the wisdom of funding UNITA, even though we all share the goal of a democratic and independent Angola. There are important questions about Savimbi's commitment to democracy, about South Africa's role, and about the best way to eliminate Cuban and Soviet influence. The correct way to resolve these doubts is through open debate and honest resolution of our differences.

I urge my colleagues to vote in favor of section 107.

Mr. HAMILTON. Mr. Chairman, I yield back the balance of my time.

Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. MOLLOHAN] having assumed the chair, Mr. ENGLISH, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4759) to authorize appropriations for fiscal year 1987 for intelligence and intelligence-related activities of the United States Government, the intelligence community staff, and the Central Intelligence Agency retirement and disability system, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. MINETA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4838.

The SPEAKER pro tempore. (Mr. MOLLOHAN). Is there objection to the request of the gentleman from California?

There was no objection.

GENERAL LEAVE

Mr. MINETA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 4759.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. PEPPER] is recognized for 5 minutes.

Mr. PEPPER. Mr. Speaker, I was unavoidably absent on Friday, September 12, 1986. Had I been present for rollcall 379, a vote approving the Journal of Thursday, September 11, 1986, I would have voted "aye." I would have voted "aye" as well for rollcall 380 agreeing to House Resolution 548, the rule providing for consideration of H.R. 4868, prohibiting loans to and investments in South Africa; "aye" to rollcall 381, agreeing to a motion to agree to the Senate amendment to H.R. 4868; "aye" to rollcall 382, waiving certain points of order against H.R. 5313, making appropriations for HUD, and agreeing to order the previous question on House Resolution 532 and "aye" for rollcall 383, the passage of H.R. 5313.

BANKING COMMITTEE PLANS TO MOVE "MUST" LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island [Mr. ST GERMAIN] is recognized for 5 minutes.

Mr. ST GERMAIN. Mr. Speaker, it is essential that we move important banking and consumer legislation before this 99th Congress adjourns. Today, I have issued a release announcing a plan for packaging "must" items and, hopefully, moving them to final enactment.

Mr. Speaker, a copy of the news release follows:

WASHINGTON, D.C. SEPTEMBER 16.—In an attempt to break the deadlock on banking and consumer measures, Chairman Fernand J. St Germain announced today he would ask his Committee to consider an omnibus package of "must" legislation in a markup session on Tuesday, September 23. He said he would attempt to move the legislation to the Senate in time for action before the end of the 99th Congress.

"If this effort to salvage essential legislation is to be successful it will require the cooperation—some give and take—on the part of everyone—the Members of the Banking Committee, the Rules Committee, the Reagan Administration and the House and Senate," Mr. St Germain warned. "It will be a true test of the Congress' ability to overcome the narrow interests of the various financial lobbyists."

Mr. St Germain said it would be his intention that the omnibus package include the regulators' bill and the FSLIC recapitalization bill as proposed by the Administration and amended by the Financial Institutions Subcommittee; the checkhold bill passed by the House in January; the Truth in Savings Act including credit card disclosure as reported by the Financial Institutions Subcommittee; legislation to upgrade financial examination staffs as reported by the Committee and a modified version of the nonbank bank legislation reported by the Committee in June of 1985. He said he also planned to confer with House Subcommittee Chairman Henry B. Gonzalez about the possibility of including H.R. 1, the omnibus housing bill passed by the House in July.

"I am fully aware that H.R. 20—the nonbank bank legislation—has generated controversy, and in the spirit of cooperation, I will recommend that the measure be sharply narrowed to cover only the non-bank loophole for commercial banks," the Banking Chairman said. "The Banking Committee contended the measure should be broader, but the Rules Committee has not agreed and has refused for the past 15 months to move the legislation to the floor. I will propose this compromise and hope that this action will generate an equal spirit of compromise on the part of the Rules Committee and the Reagan Administration."

Mr. St Germain said he "feels strongly" that the unregulated holding companies which own non-bank commercial banks pose a potentially "serious threat to bank safety and soundness and a further drain on the federal depository insurance system."

The Banking Committee Chairman said it is important that the Federal financial supervisors have the powers and the regulatory flexibility encompassed by the so-called "regulators' bill" and the FSLIC recapitalization legislation.

"As the original sponsor of the Garn-St Germain regulatory rescue package of 1982, I have long recognized the need for the agencies to have the power to take extraordinary steps to prevent failing institutions from dragging down the financial system and the insurance funds," he noted.

Mr. St Germain said, however, that it was "absolutely necessary" for the Congress to recognize the equally valid claims of consumers for basic rights in the financial marketplace."

"It is morally wrong and politically foolish to ask the American consumer to hold the safety net for financial institutions and refuse to require banks to perform properly in advertising the rates on savings accounts and credit cards and to give customers timely access to their own deposits," Mr. St Germain said. "So let it be clearly understood that my move is as much to save needed consumer legislation as it is to save financial institutions from disaster."

Mr. St Germain said he hoped that the Members of the Banking Committee would recognize the time constraints and limit amendments since all the legislation has previously been considered in the Committee, and in some cases by the House.

"If the Members truly want legislation and are willing to cooperate, we can move this package quickly and then seek the cooperation of the Rules Committee, the full House, and the Senate," Mr. St Germain said. "I have no illusions. It will be a tough go, but I am convinced we must make the effort to move this essential legislation."

Mr. St Germain said he was asking Secretary of the Treasury James Baker, and the Federal supervisory officials and others in the Administration "to lend their support and urge cooperation from the Republicans in both the House and Senate."

"This is a plea for help for a package of legislation that is critically needed and which balances the interests of financial institutions and consumers," Mr. St Germain said.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kentucky [Mr. MAZZOLI] is recognized for 5 minutes.

Mr. MAZZOLI. Mr. Speaker I was unavoidably absent for a vote on Friday, September 12. Had I been present, I would have voted "yea" on roll No. 383, final passage of H.R. 5313, making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1987.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. TORRES] is recognized for 5 minutes.

Mr. TORRES. Mr. Speaker, I was unavoidably absent on official business during rollcall votes 382 and 383 on Friday, September 12. Had I been present on the House floor, I would have cast a "yea" vote for the motion to order the previous question on House Resolution 532. I would have cast a "yea" vote on final passage of the HUD appropriations bill, H.R. 5313.

A TRIBUTE TO W. AVERELL HARRIMAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. STRATTON] is recognized for 60 minutes.

Mr. STRATTON. Mr. Speaker, I am honored to have the opportunity to pay a long delayed tribute to one of America's international statesmen—Averell Harriman, Secretary of Commerce, Administrator of the Marshall plan after World War II, Franklin Roosevelt's chief liaison with Stalin and Churchill, and last but not least Governor of New York State.

My acquaintance with Averell Harriman, however, was not in this connection. I was a member of the Democratic New York State Convention that nominated Averell Harriman as Governor of New York in 1954. as a city councilman in Schenectady, my colleagues in the city government and I found that Averell Harriman took to elective State politics the same way he did with international affairs.

As a younger man Mr. Harriman had developed the Sun Valley Ski Resort in Idaho, and he was an expert skier—and also a world class polo player with a 7-goal handicap. When the Governor was elected, he made a point of improving New York State ski facilities and even tried them. He tried out the facilities in one State ski resort and got stuck on the ski lift for 30 minutes in bitter cold weather. But he took it like a veteran.

As the son of a millionaire railroad executive, Averell Harriman was a Republican by birth. But when the New Deal came along, Mr. Harriman was put in charge of the recovery plan. And he then became a Democrat.

And he always said he found he was much happier as Democrat than as a Republican: The Democrat had more fun.

When Averell Harriman was elected Governor, he selected a very capable staff. His secretary was our late, former colleague, Jack Bingham; the main speechwriter was PAT MOYNIHAN, now the Senior Senator from New York. His press secretary was Charles Van Devender, a very capable newsman. In fact the whole Harriman staff felt that this was just a way station on the road to 1600 Pennsylvania Avenue.

The "Guv" was a tough task master. He would call up his staff around 7:00 a.m. and ask them to comment on what they had seen in the morning papers.

The Governor was not all business all the time. He and Mrs. Harriman entertained frequently in the Governor's Mansion. My wife and I were invited to one dinner where the guest of honor was the Jewish Mayor of Dublin, Robert Briscoe; and at the same dinner was Senator Hubert Humphrey just back from Moscow. The Governor chides the Senator, in fun, for trying to start his own Presidential campaign on the steps of the Kremlin!

Governor Harriman was elected Governor in 1954, by a slim margin—but a winning one. I am quite frank to acknowledge that Governor Harriman was very helpful to me.

In 1955 I decided to run for Mayor of Schenectady, and Governor Harriman was good enough to come over to Schenectady and promised to lend his support for urban redevelopment in downtown Schenectady.

The race was a tough one. I won by only 282 votes, but Averell Harriman helped to put me over the top.

Although the greatest governmental posts that Averell Harriman served in were involved with foreign policy, as a good politician Governor Harriman kept his eye on the political ball.

In fact on many occasions, when the Governor traveled around the State with the Democratic State chairman at the time, Carmine DeSapio, Governor Harriman's speech very often pointed out how the Democratic vote had picked up greatly in this or that ward. Since Chairman DeSapio couldn't duplicate what the Governor had said, he frequently would forsake the details of state politics and talk about the great threat to the future of the free world with godless communism all around.

One final irony:

Averell Harriman loved being Governor. At the same time, he recognized capabilities in many of the people whom he knew. One of them was a bright, young man who had served in Latin America during World War II, Nelson Rockefeller. Since the Governor admired Rockefeller, he decided to put Nelson on a commission to revise the New York State Constitution.

That turned out to be a serious mistake. Nelson Rockefeller took the ball

and ran with it with all his might. But Averell Harriman, despite this one slip, served with great skill under President Kennedy as a roving Ambassador.

Not only that, the Harriman home on N Street was a haven for Democrats to be inspired with the same enthusiasm that Governor Harriman had. Indeed, many a young aspiring politician found that Mrs. Pamela Harriman had made a very special effort to provide financial help—a very remarkable undertaking for which we Democrats salute her.

□ 1915

Mr. Speaker, at this point I yield to the majority leader, the gentleman from Texas [Mr. WRIGHT].

Mr. WRIGHT. Mr. Speaker, I thank my friend for yielding.

President John F. Kennedy once said of William Averell Harriman, "He lives in the history he helped to make."

Today the House pays tribute to this exemplary contributor to history, this quintessential 20th-century American. We mourn his passing, at the same time celebrating his long and fruitful life, his many and varied achievements, and above all, his abiding nobility of spirit.

This day we honor a man who, taken from our mortal ranks, still lives in our memory and in the tangible good deeds and enduring personal contributions he left to this world which we, his friends and colleagues, still inhabit and which our children shall inherit.

W. Averell Harriman, born in the last decade of the 19th century, was every inch a man of the modern age. Blessed with a restless mind and searching, indefatigable spirit, Averell seemed to gravitate to the vortex of world trouble spots and the watershed decisions of policy. Not content to be a dilettante citizen nor a political voyeur, Averell Harriman sought out the very toughest and most demanding roles in our Nation's public life.

Although the scion of the famous railroad magnate, E.H. Harriman, and an accomplished and successful businessman in his own right, W. Averell Harriman began in the 1930's a career of distinguished public service that is unrivaled in the annals of American history for its longevity at so high a level of achievement. For more than 50 years, Averell Harriman has been America's public citizen No. 1.

New Deal administrator, Ambassador to Moscow and the Court of St. James, cabinet member, national security adviser to the President, Ambassador-at-large, Governor of New York, negotiator of the Limited Test Ban treaty of 1963, diplomatic trouble shooter in countless crises, from Laos, Vietnam, and Iran in the 1960's to the Panama Canal in 1978, Averell Harriman was as tireless in pursuit of duty as he was creative in the development and implementation of workable policy.

A tough and dogged negotiator, Averell Harriman was both a realist and visionary. Hard-headed and clear-eyed in his assessment of the Soviet threat, he, nonetheless, counseled that the United States must persistently and imaginatively strive to reach agreements and accommodations with the Soviet Union to contain and abate the nuclear arms race and to reduce the unhealthy tensions between the superpowers, Arthur Schlesinger, Jr., said it well: "Averell Harriman," he said, "represents a bridge between the centuries, uniting perennial youthfulness of mind with the characteristics of an older time—not only the distinction of manner, but the brusque impatience with nonsense, the contempt of cant and wrath at complacency."

Living life to the fullest; making his own mark on history's pages; undeviating from the path of principled action; never shirking his duty to become personally involved, the life of Averell Harriman calls to our minds those lines from Longfellow:

In the world's broad field of battle
In the bivouac of Life,
Be not dumb, driven cattle;
Be a hero in the strife!

Trust no future, howe'er pleasant!
Let the dead Past bury its dead!
Act,—act in the living Present!
Heart within, and God o'erhead!

Lives of Great men all remind us
We can make our lives sublime,
And, departing, leave behind us
Footprints on the sands of time;

Averell left deep footprints in the clay and limestone of our own time and one or two embedded in enduring granite. They lead us in the sunlit upward direction of reason and peace. Navigating by these footprints, knowing the man who left them, we can take heart.

Averell would not want us to linger overly long in mourning his death, though most surely he would want us to remember what he stood for and to remind others of those things for which he lived and strove.

We can today but renew to our hearts the words of Tennyson:

He is gone who seem'd so great.—
Gone, but nothing can bereave him
Of the force he made his own
Being here, and we believe him
Something far advanced in State,
And that he wears a truer crown
Than any wreath that man can weave him.
Speak no more of his renown,
Lay your earthly fancies down,
And in the vast cathedral leave him,
God accept him! Christ received him!

Mr. STRATTON. Mr. Speaker, I yield to the gentleman from Alabama [Mr. BEVILL].

Mr. BEVILL. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise today to pay tribute to a truly great man, a noble man who was a legend in his own time, Gov. W. Averell Harriman. When Governor Harriman died in July, our Nation and the world lost an outstanding and distinguished statesman.

Governor Harriman served five U.S. Presidents from Franklin Delano Roosevelt to Jimmy Carter. That, in itself, is a unique record. Governor Harriman was as fine a public servant as America may ever see. He was able to effectively play many roles in service to his country.

Among his many posts, Governor Harriman was Ambassador to Moscow and London, Secretary of Commerce, Governor of New York, Under Secretary of State and negotiator on wars in Laos and Vietnam. No duty was too small or too big for him.

Governor Harriman was quick to perceive the dangers of Soviet imperialism and was among the first to urge United States and Soviet leaders to come to the negotiating table. He was single-minded in his efforts to ease tensions between the United States and the Soviets and even made a special trip at age 91 to meet with Soviet leader Yuriy Andropov about his concerns.

A great humanitarian, Governor Harriman dedicated himself to making the world a better place. That, as much as anything, is his legacy.

I always admired Governor Harriman and marvelled at his extraordinary career and his vision. He made a great mark on our country and his record will be long-remembered. America will miss a wise and honorable patriot.

Mr. STRATTON. Mr. Speaker, I thank the gentleman.

I yield to the gentleman from Oklahoma [Mr. JONES].

Mr. JONES of Oklahoma. Mr. Speaker, I thank the gentleman for yielding. I want to compliment the gentleman from New York for taking this special order to pay tribute to one of the really great men of history, Gov. Averell Harriman.

There are certain people who make a bold imprint on one's life and I must say in my own life Averell Harriman is one of those giants of history.

As a kid studying history and studying the Roosevelt administration, studying World War II, to me Averell Harriman was one of the people who stood out as part of that history. He was a person who had true leadership capabilities because he appealed to a broad cross section of our geography and of our philosophical differences in this country.

I remember in 1956 when he was running for the Presidency and nominated, one of those who made a seconding speech for his nomination to democratic nomination for President was the then Governor of Oklahoma, Raymond Gary, who was one of the

most conservative Governors our State has had. Oklahoma and New York did not have a whole lot in common then, and clearly Governor Gary and Governor Harriman would not on the surface seem to have a whole lot in common philosophically.

□ 1900

But Governor Gary told me recently that Governor Harriman was equipped to be President. He had all the leadership skills to be a great President, and that is why he nominated him.

The next experience for me as to having Governor Harriman as an influence on my life was again when I went to the White House on President Johnson's staff. In those dark days when the President was trying to conclude Vietnam and trying to bring a peaceful settlement there, so that history would record President Johnson's deeds on domestic policy and hopefully end that awful war, the man whom he turned to over and over again for advice and for action was Gov. Averell Harriman.

Most recently Governor Harriman and his lovely and gracious wife, Pamela Harriman, have made a great impression on my life in helping me and others, younger Democrats who have come along into elected service in the last decade or so, helping us and helping our party gain again the mainstream of support of America. The many events that they have hosted at their home, the many efforts—personal efforts—that they have made to help the party and to help young Democrats seeking election, are things that make our political process worthwhile, enduring, and keep democracy strong.

So it has been a very personal pleasure for me to have been able to know this man first as a figure of history, and then, second, on a personal basis, because he truly has made a deep imprint on my life, as has his wife, Pamela Harriman, and we shall all miss him, but history shall record him as one of our great leaders in our history.

Mr. O'NEILL. Mr. Speaker, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from Massachusetts [Mr. O'NEILL], the distinguished Speaker of the House of Representatives.

Mr. O'NEILL. Mr. Speaker, I thank the gentleman, the dean of the New York delegation, for yielding.

Mr. Speaker, this evening we pay tribute to a man who understood and valued this country's great democratic traditions.

Averell Harriman was not a man to speak grandly of the two-party system, but keep himself personally above the battle. He was willing to join the battle. He was willing to get involved in party affairs, get involved in the hard work of helping candidates, developing issues and winning elections.

Governor Harriman was not a man for the sidelines. He was a practicing Democrat, who built a progressive record as Governor of New York, and who championed his positions in victory and defeat.

Many people looked upon our party's defeat in 1980 as a major setback. They were ready to throw in the towel and wait for a better day. Yet at the age of 88 Averell Harriman rolled up his sleeves and began the work of rebuilding our party, of reclaiming our commitment to social justice at home and peace abroad. He saw that our party needed to pull together the best ideas in our party and he assembled those ideas not for use by professors but by candidates. As he has always done, he offered the kind of practical support that would not lie on the shelf but become part of the give-and-take of campaign debate. With his and Pamela's wonderful contribution of the Harriman Media Center, he has given Democratic candidates the chance to compete in the complex and expensive world of mass communications. Here was a man born in the 19th century helping our party move into the 21st century.

This evening, before his friends, I would like to pay especial tribute to the work that Averell Harriman performed in his last years with us. Some people make a contribution at some point, then return to their own lives, their own ambitions. Averell, joined by his beloved Pamela, saved some of his best work until the end.

There is an old question in politics, "What did you do for me lately?" Thanks to you Pamela, this great man did a lot for us lately and we will never forget it.

Mr. SOLARZ. Mr. Speaker, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from New York.

Mr. SOLARZ. I thank the gentleman for yielding.

Mr. Speaker, I do not have any prepared remarks, but I did want to come here this evening to share with you and with our colleagues some of my own reflections upon the meaning of the life of Averell Harriman.

We gather here this evening to pay tribute to one of the greatest figures of our time. Averell Harriman was an intimate of President Roosevelt, Prime Minister Churchill, and Premier Stalin. As much as any American, and more so than almost all, he made a decisive contribution to the successful conclusion of the Second World War. His role in the United Kingdom as an emissary of President Roosevelt in facilitating the Lend Lease Program, which helped keep Britain alive at a time when it was all that stood between Hitler and his complete control of Europe and his role in Moscow in shoring up the wartime alliance between the United States and the Soviet Union, played an extraordinarily significant role in making it possible for the forces of decency and righteousness to prevail in that primordial conflict.

But just as Averell Harriman played a very significant role in the successful conclusion of the Second World War, he also played an indispensable role in initially alerting the United States to the threat posed by the Soviet Union to our values and to our interests at the end of the Second World War. As much as Averell Harriman in his capacity as the American Ambassador to Moscow was interested in bringing the United States and the Soviet Union closer together during the war in order to facilitate our triumph over our mutual enemy, he was among the very first to recognize, as the Second World War came to an end, that Mr. Stalin was not prepared to respect the commitments that he had made to the United States and the United Kingdom at Yalta, and his cables from Moscow to Washington concerning the Polish situation and the need for the United States to stand firm against Soviet efforts to betray the hopes and aspirations of the Polish people by refusing to permit genuinely free elections in that country made a very significant contribution to the shaping of American policy toward the Soviet Union in the wake of the Second World War.

I think that in many respects Averell Harriman's career in public life insofar as foreign policy was concerned embodied the kind of wisdom that we need in dealing with the Soviet Union, because at the same time that Governor Harriman recognized the threat which the Soviet Union poses to our interests, and the need for a firm American resolve in countering that challenge, he also recognized the need in the nuclear age for us to find peaceful ways wherever possible to resolve our differences with the Soviet Union.

I think that it is truly significant that the very same man who called upon the United States to insist that the Soviet Union live up to its obligations which it entered into at Yalta was also the man who successfully negotiated with the Soviet Union the Nuclear Test Ban Treaty.

Governor Harriman, in addition to his great contributions to the foreign policy of our country, also served, as the gentleman knows perhaps better than most, the State of New York during the 4 years in which he served as the chief executive of the Empire State.

□ 1940

I was not, of course, privileged to know Governor Harriman during the years when he served as an emissary

of President Roosevelt or when he was Governor of New York. But I did have an opportunity to get to know him in his later years, and I consider the relationship that we developed to be one of the high honors of my life.

I recall, for example, going with him to Zimbabwe for the independence day ceremonies in that country when he served as the cochairman of the United States delegation to those events. I will never forget on the plane ride back from Harare to Washington his telling us about what it was like to negotiate with Leon Trotsky in the Soviet Union in the 1920's.

I think in a way what most impresses me about Averell Harriman personally as distinguished from the great contributions he made to the cause of world peace and to America's interests abroad, was his willingness at a time when most people are already retired or are looking forward to retirement to continue playing a role in the service of his Nation. Having already been a member of the Cabinet, having already served as Governor of New York, having been a one-time candidate for President of the United States, he was nevertheless willing to serve as an Assistant Secretary of State in the Kennedy administration. I cannot think of many other people who would have been willing to accept such a position in light of their previous service.

But what that indicated about Governor Harriman is that he was not interested in titles, he was not interested in prestige, he was interested solely in the opportunity to serve his Nation.

As the years went by, even when he was out of office, he continued to make those contributions in every way he could. Reference has already been made to his mission at the age of 91 to Moscow to meet with Mr. Andropov to see if ways could be found to facilitate a reduction in United States-Soviet tensions.

To the very end, this was a man who was a fount of wisdom and a source of support and encouragement to so many of us who shared his values and his vision. Our Nation will miss him greatly. There are few who have done as much as he to contribute to the cause of peace and to the protection and promotion of our interests.

I consider myself uniquely privileged to have been his friend in the last years of his life.

Mr. STRATTON. Mr. Speaker, I thank the gentleman for his comments.

I yield to the dean of the Republican delegation from New York State, the Honorable FRANK HORTON.

Mr. HORTON. Mr. Speaker, I thank the gentleman for yielding, and also want to thank the gentleman for taking the time for us to pay honor to Averell Harriman.

Mr. Speaker, I have had the honor of serving in the House of Representatives for nearly a quarter of a century as the dean of the New York Republican delegation. I am proud to join you in remembering the accomplishments of Averell Harriman. I have seen scores of diplomats and Ambassadors come and go during that time. Rarely has there been a man of more talent or greater dedication to this country than William Averell Harriman, who passed away in July after kidney failure complicated by pneumonia.

Averell was well known to all politicians and political scientists. He served our Government for more than five decades—as Governor of my State of New York, as Ambassador to the Soviet Union, as administrator of the Marshall plan, as Under Secretary of State for President Johnson, and as cochairman of the American delegation to the Vietnamese talks in 1968. He wore many hats; he wore them all with honor, dignity, and devotion.

We are all aware of the many accomplishments on the national level by Governor Harriman. His 57 years of dealings with the Soviet Union enabled him to meet leaders of that country from Leon Trotsky to Yuriy Andropov. He made his last trip to the Soviet Union in 1983—at the age of 92—when he held a spirited conversation with General Secretary Yuriy Andropov.

In 1954, Averell narrowly defeated Republican Irving M. Ives to become the Governor of our State of New York.

Mr. Speaker, I lived in the State of New York then, and I knew him, and I knew of his accomplishments and was proud that he was our Governor. Four years later, he was defeated by Nelson Rockefeller. His gubernatorial stint was followed by more than two decades of continued public service, as he was appointed U.S. Ambassador-at-Large in 1961 by President Kennedy and later in 1965 by President Johnson. He was, without question, a statesman of the highest magnitude.

As the bishop who presided over Ave's funeral noted, "A great and extraordinary person has departed this life. To read his life story even in summary is a staggering experience."

I do not think anybody could have stated it better than "Just to read his life story is a staggering experience." To know the man and to know what he accomplished, and to have been on the political scene and in government at the time that he served, he truly was one of the giants of our period.

As the bishop stated:

To see history through the eyes of one who was there, with sense and deep commitment to justice and peace, and freedom, who was there at almost every dangerous lurch of events in this strange century of ours.

Similar praises have been echoed by dignitaries from around the world about this great man. Few I doubt if any, would disagree.

The skill, the wisdom, and the decades of international political experience will be sorely missed by this country. He cannot be replaced. His story is one of the greatest of this century. New York, the United States, and the world have lost a great man with undying dedication to world peace and harmony. On a professional and personal level, I will miss him dearly.

My wife Nancy and I want to extend our heartfelt sympathies and best wishes to Ave's wife Pamela and to the rest of his family.

Mr. Speaker, I insert in the RECORD an article from the New York Times in 1958. Averell Harriman's reputation as an honest, dedicated public servant was as obvious 28 years ago as it is today.

This is dated Tuesday, August 26, 1958. It starts off by saying, "Harriman noted for persistence. Governor mostly pictured as reserved man, studious and tireless at work."

The article referred to follows:

[From the New York Times, Aug. 26, 1958]

HARRIMAN NOTED FOR PERSISTENCE—GOVERNOR MOSTLY PICTURED AS RESERVED MAN, STUDIOUS AND TIRELESS AT WORK

BUFFALO, August 25.—For twenty years political observers have been "explaining" Averell Harriman. Although his is not the dramatic personality common to many successful votegetters, he obviously has a wide appeal that makes him a fascinating study for political analysts.

Now that the Governor has been renominated, the self-appointed analysts undoubtedly will renew their explorations of his character and techniques.

All the published character portraits of Mr. Harriman have been roughly alike, although differing in local color.

They have shown a tall rangy man, slightly stooped as he approaches 67, with dark, gray-streaked hair, a jutting jaw and deep, meditative eyes. His personality is usually drawn as reserved, aloof, shy and serious to the point of humorlessness.

The consensus is that as a public servant, he has always been devoted, studious, tireless, utterly honest—an intelligent, hard-driving executive who is sometimes difficult to work for. Everyone agrees that he never gives up in the pursuit of an object. As he himself once said, "persistence is the key."

The amateur psychologists like to suggest that Mr. Harriman's liberalism is his atonement for an inherited personal fortune of at least $50,000,000. They contend that his having been born the son of E. H. Harriman, railroad builder and one of America's so-called "robber barons" of the Nineties, was a factor in making him a New Dealer.

DEVOTION TO SISTER CITED

Another factor often cited is his devotion to his late sister, Mary, an outstanding liberal.

His ambition is also explained as his revolt against inherited wealth and social position, as well as a famous, self-made father.

"I believe that any man with money has a special responsibility to do something constructive in the world," he has said. "It is a duty of every one, rich and poor, to work."

His ambition has been to become President of the United States. He tried for the Democratic nomination in 1952, lost to Adlai E. Stevenson. Doggedly he returned to try again in 1958, and was again beaten by Mr. Stevenson. It is not certain he will desist in 1960, even at the age of 69.

Mr. Harriman was educated at Groton and Yale, and still speaks with the accent of that inner court of the Ivy League.

AN ATHLETE AT YALE

At Yale he first attracted attention as an athlete by making the varsity crew.

Later he became one of the top polo players in the country, earning a rating of eight-goal player. This means that, theoretically, he was capable of scoring eight goals in championship play. The highest rating is ten goals.

Mr. Harriman also became a proficient skier.

In his early career he occupied himself with investment banking and industrial directorships, and called himself a Republican.

In the early years of the depression he fell under the influence of Alfred E. Smith, Herbert Bayard Swope, Harry Hopkins and Franklin D. Roosevelt. He was converted to the Democratic New Deal.

His first public office was as New York administrator of the National Recovery Administration in 1933. He has rarely been out of government service since then.

In the first years of World War II, Mr. Harriman was transportation chief, then raw materials chief, and Lend-Lease expediter in London and in Moscow. He participated in every top conference of the Western Allies from Yalta to San Francisco.

From 1943 to 1946, he was the United States Ambassador to Russia and was said to have told Stalin off more than once.

He succeeded Henry A. Wallace as President Harry Truman's Secretary of Commerce. Later, he became Marshall Plan supervisor in Europe. In 1951 he was Mutual Security Administrator.

OVERCOMES OPPOSITION

In 1954, he overcame powerful opponents within the Democratic party's leadership to win the nomination for Governor. Against Senator Irving M. Ives, Republican, Mr. Harriman won the election by only 11,125 votes out of 5,000,000.

It was his first bid for elective office. After four years on the job, he was improved as a public speaker, and, a little, as a politician. Now he can slap the backs of the farmers at the county fairs.

Mr. Harriman was born in New York on Nov. 15, 1891. He maintains residences in the city and at Harriman, N.Y.

He has been married twice. His first wife was the former Kitty Lanier Lawrence. Their children are Mrs. Shirley C. Fisk and Mrs. Stanley C. Mortimer. After his divorce from his first wife, he married the former Mrs. Marie Norton Whitney.

Again I want to express my sympathy to the family and say to this country that we have lost a great man in Averell Harriman.

Mr. STRATTON. Mr. Speaker, I thank the gentleman for his eloquent remarks.

I yield to the distinguished chairman of the Rules, the gentleman from Florida [Mr. PEPPER].

Mr. PEPPER. Mr. Speaker, I thank the distinguished gentleman from New York for yielding me this time and for taking this special order.

The Poet, Henry Wadsworth Longfellow, has said, you remember, "The lives of great men all remind us we can make our lives sublime, and departing leave behind us footprints in the sands of time."

A man who left one of the largest footprints on the sands of time, after his long life among us, has just gone to his reward in another world: Averell Harriman. So I am proud to raise my voice in tribute to that great and good man for what he has meant to our country and to mankind.

Averell Harriman was one of the remarkable men of our generation, indeed of our history. I know of no man who has served his country and mankind for so long a time, in so many important capacities as this great man, Averell Harriman.

He was a distinguished polo player in his youth, as well as a participant in other sports. He was a distinguished businessman in his earlier years, and then he turned his attention to a larger area of service, public service. He has filled many positions of unique distinction in that long career of service that he has rendered.

As an administrator, he was Governor of the great State of New York. He was Secretary of Commerce of our government. He was director of the Lend-Lease Program. But perhaps his greatest contribution lies in the service that he rendered to the leadership of our country in working out through negotiation a better way of our cooperation with the allies who were fighting the dastardly Hitler, who sought in his barbaric way to gain the domination of Europe, and soon after the world.

□ 1950

Averell Harriman immeasurably contributed to the ultimate victory of democracy and freedom by the aid that he gave to the leadership of our country, particularly President Roosevelt. In working with the British, and our allies, in cooperation with the Russians, in fighting back the mighty Nazi machine; conquering it, and reestablishing the dignity and the worth of human freedom and democracy in the world.

Then later he undertook one of the most difficult of his missions, his service to his country and to democracy in the world as our ambassador and later as our negotiator with the Soviet Union.

I shall never forget the kindness that Ambassador Harriman rendered to me and other Members of Congress when we were there in 1945, and he was Ambassador. He allowed me to be a guest in the Embassy; he gave me disposal of the Embassy car; he invited me to use the Embassy to give luncheons and dinners to ambassadors of countries in the parameter of Russia, to try to find out what they were thinking as to what the portents of Russia were to the mankind of the future.

He also was very gracious and kind to our total delegation. He arranged for us to see and have an interview with Stalin, and to learn something of what he was proposing to do; in particular the reduction of the armed forces of the Soviet Union, which we gained from that interview.

In the years that followed, Averell Harriman was never once deceived about the meaning, the hideous meaning of communism to the world: Its aggressive character, its designs of conquest. But on the other hand, he was well aware of the fact that it was a great nation, exercising much power, and we were upon the Earth together; and if we were not to risk being destroyed by nuclear war we would have to find some way, each to accommodate itself to living in the same world with the other.

He therefore encouraged our country to try to find as many ways as possible in respect to which we could work with the Soviet Union in building the avenues of peace and understanding and better cooperation between our two nations.

Averell Harriman, in many respects, followed the same example as President Franklin D. Roosevelt. He was born to good fortune, and yet he came to be one of the most compassionate leaders that we ever had in the public service.

Averell Harriman was truly a friend to man. Averell Harriman was a great Democrat, with a big D, as Roosevelt used to say, and a little d. He believed in the dignity of all men, and he sought to serve his fellow man in every way that he possibly could. He had that concern for the other man's welfare that distinguished him from many who had the good fortune at birth that he enjoyed.

With his great wife Pamela, he was a power in the Democratic Party, and for democracy in America. Averell Harriman has set an example that I hope can be followed by many who shall live after him in the years ahead.

I know of no better way to describe him than to say that Averell Harriman, in the finest sense of the word, was a nobleman; a good, a great, and a gallant man. I know of no man more deserving of the encomium that Shakespeare, as Antony paid to the fallen Brutus upon the Field of Philipi than the words—and I apply them to Averell Harriman:

His life was gentle and the elements So mixed in him, that nature might stand up And say to all the world, "This was a man!"

Mr. STRATTON. Mr. Speaker, I yield to the gentleman from California [Mr. COELHO], chairman of the Demo-

cratic Congressional Campaign Committee.

Mr. COELHO. Mr. Speaker, I am proud to join in paying tribute to one of America's greatest statesmen, Governor Averell Harriman of New York.

During his 94 years, Governor Harriman served his country with distinction and honor. Indeed, in my view, he was the last great world statesman of the 20th century.

I am honored to have known Averell Harriman for many years, and I am proud that the House is taking this time to recognize his passing and his tremendous contribution to our country.

Averell Harriman was an uncommon leader. Even though he succeeded in business and could easily have stayed in private life, he felt a responsibility far beyond the corporate boardroom.

His record is truly awesome:

Ambassador to the Soviet Union. Ambassador to Great Britain. Secretary of Commerce. Administrator of the Marshall Plan. Architect of the 1963 Nuclear Test Ban Treaty. Negotiator at the 1968 Paris peace talks.

Recipient of the Medal of Freedom, the Churchill Award and the Medal of Merit.

In all, Governor Harriman served five American Presidents of both parties with distinction.

Franklin Roosevelt, John Kennedy, Winston Churchill—these were the people who looked to him for advice, for counsel, and for friendship. And there were many others.

But unlike most diplomats, Governor Harriman never lost sight of domestic concerns. His proven success on the international front was complemented by his progressive record as Governor of New York and as a leading political figure on the national scene for decades.

I agree with President Kennedy: Averell Harriman did more for America in so many different ways than anyone else in our history since John Quincy Adams.

And he never quit.

He was always the first to volunteer for another difficult mission. At the age of 92 he journeyed to Moscow to discuss arms control and world affairs with General Secretary Andropov. That says plenty about his devotion to world peace and his fellow citizens.

To explain this devotion, let me quote the Governor himself:

"It is indefensible," he said, "For a man who has capital not to apply himself in a way that will benefit the country, just as it is indefensible for a laborer to refuse to work."

As a laborer in the public domain, Governor Harriman stood tall, and he has left a special mark on me as well.

I was often humbled by the mere presence of this great man. As Arthur Schlesinger wrote, Averell Harriman was "a natural mentor and teacher, always without presumption. His instinct for the young not only won the devotion of the young but also kept him young himself." I agree with that 100 percent.

Mr. Speaker, I would be remiss if I did not mention the special debt we in the Democratic Party owe to Governor Harriman and his wife Pamela. They have been tireless supporters and dedicated Democrats, both in the good times and the not-so-good times.

Thanks to their constant support, the Democratic Party as an institution is alive and well and looking forward to a great future.

Although a partisan man, Governor Harriman understood, as all great statesmen do, that once the political battles are over, we have to go on working and living together.

In closing, let me say that Governor Harriman would be the first to admit that he could not have done it alone. His remarkable record is shared by his living family, many of whom are with us today.

To my dear friend Pamela, you know that you will always have my support and my friendship whenever you need it.

And I feel stronger every day knowing that I can count on the same.

Mr. Speaker, Averell Harriman was a great American, and our Nation owes him a debt we can never repay.

□ 2000

Mr. STRATTON. I yield to the gentleman from New York [Mr. LUNDINE] who has gotten through a tough primary election and has the best opportunity to occupy at least a portion of that executive chamber in the great State of New York.

Mr. LUNDINE. Mr. Speaker, we will remember Averell Harriman in different ways. As a businessman, as a diplomat, as a Governor, and as a Democrat. Yet he was, above all, a public servant.

Averell Harriman abandoned a comfortable life to enter the world of public service. At every step in his career, he acted beyond the narrow dictates of his privileged background, and was instead guided by a sense of history, and a sense of duty to his State and country.

His career stands in sharp contrast to those people today, who view government only as a personal stepping stone, from which they can launch lucrative private careers.

Averell Harriman's dedication to public service is perhaps best exemplified by his tenure as Governor of New York. During his time in Albany, Averell Harriman was no longer an appointed official, but was serving the people in his own right.

As Governor, he crafted an agenda that overcame conventional barriers. He worked for progressive government that broke new ground in eliminating racial discrimination, in advancing education, in reforming mental health care, and in aiding small business.

When Averell Harriman came into office in 1955, insurance companies in New York still asked questions about an applicant's race; commercial airline flights were staffed exclusively by white people; and even housing built with government assistance could be denied to minorities on the basis of race.

Governor Harriman strengthened the State Commission Against Discrimination and broke down those racial barriers.

When Averell Harriman was Governor, schools were beginning to swell with the baby-boom generation and the Soviets became the first nation to launch a satellite into space. Others came to understand the significance of these challenges when it was almost too late; Governor Harriman anticipated them.

In his first address to the State legislature, he called upon the State to begin building a first-class public university system. And he advocated the use of television in public education—outpacing his contemporaries by more than a decade.

As Governor Harriman described them, the mental hospitals in New York "were characterized by a prison atmosphere of barred windows, locked doors, and rigid regimentation." Every year, the population in those institutions grew by another 2,500.

The Governor brought mental health care in New York into the modern age. He successfully advocated innovative and intensive treatment programs, including outpatient care. He refused to let severely mentally retarded children languish without hope; he fought to see that they, too, were brought into society and given a place in our schools.

Finally, Averell Harriman, an heir to one of the country's greatest fortunes and chairman of the Union Pacific Railroad, used his Governorship to help small businesses.

Governor Harriman knew that the key to free enterprise was competition. He opposed the concentration of economic power in the hands of a few. So he worked to keep competition alive by offering assistance to local banks and independent businesses. He overcame the traditional animosity between industry and government, and forged a partnership between the two, to the benefit and credit of both.

As he worked to improve our standard of living, Averell Harriman set a standard for public service. His sense of history showed him the traditional injustices that had to be corrected, and the new trends that could offer opportunity in the future. His sense of duty allowed him to act in a way that was not constrained by his own back

ground and not shaped to suit his own needs. In short, he consistently overcame the conventional in order to accomplish the remarkable.

New York profited by Averell Harriman's work in education, civil rights, commerce, and mental health. We can all benefit from his example of selfless public service, which should be a model for anyone who wants to enter—or remain—in politics,

Mr. STRATTON. I thank the gentleman for his contribution.

Mr. Speaker, I yield to the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Let me thank the dean of our delegation for affording us in the Congress an opportunity to say "thank you, thank you," to a great statesman who has enhanced the prestige of the great State of New York. Thank you to Averell Harriman, who made our Nation stronger by sharing his experience and providing leadership to us when it was needed. Thank you for sustaining at least a period of peace and tranquillity in the world as he allowed these experiences to be shared with Presidents who have served us.

I think, though, as Democrats we all owe a special "thank you" because Averell Harriman did not follow Democratic traditions, he indeed helped to set those traditions. For all of us who try too hard to emerge beyond the ceiling of politicians, legislators hoping that one day we could be considered statesmen, he has set some very high goals for us who have these aspirations. We thank him for all of those things.

Especially we thank Mrs. Harriman because those of us know we are restricted as to what we can do unless we have a partner with whom to share our successes and a partner with whom sometimes to share the sorrows when we do fail.

So we extend our sympathies to her knowing that Averell has given her the strength and has built a network of friends around both of them so that this would sustain her during those tragic moments when she thinks of the losses. We hope that God would give her the comfort in recognizing the great pleasures which have been shared and the great goals which have been reached and the successes that have been made, and all of this has been done in the name of our beloved late Averell Harriman.

I thank the dean.

Mr. STRATTON. I yield to the gentlewoman from Louisiana [Mrs. BOGGS].

Mrs. BOGGS. I thank the gentleman for yielding.

Mr. Speaker, I also thank the gentleman from New York for the opportunity of participating in a tribute to Averell Harriman, who has been a friend and a guiding light to my husband, Hale Boggs, and me throughout our political careers. Averell was a person with unlimited expertise in every field that engaged his interest whether in private enterprise or in the art of governance, as Governor of New York, Ambassador, cabinet member, bureaucrat, and active involvement in practical politics at the Democratic National Committee. Despite his many accomplishments and honors, he remained preferably a wise adviser, valued by Presidents and queens, by average men and women and by lively teenagers alike.

It is this quality of true wisdom that I hold most affectionately and admiringly in my memory of my distinguished friend. It is especially heartwarming then that one of the lessons selected as his memorial service at the Washington National Cathedral today was taken from Ecclesiastes, that reveals the difference between true and foolish wisdom. I quote: "And I saw that wisdom has advantage over folly as much as light has advantage over darkness."

Averell was wise indeed in his selection of his lovely, vivacious, brilliant wives.

Marie Harriman set a consistent standard of excellence to which all the women who had accompanied their husbands to Washington could repair. And Pamela Harriman is a powerful force in the political and social deliberations of our times.

My expressions of gratitude and condolence go out to this marvelous lady as they do to the other members of Averell's family who have unselfishly shared him with our Nation and its people to the betterment of our lives.

Two hundred years ago when Benjamin Franklin emerged from the Constitutional Convention, a woman asked him, "What kind of government have you given us, Dr. Franklin?" "A republic, Madam" he replied, "if we can keep it."

Averell Harriman has indeed kept our Republic intact, kept it thriving and set if firmly upon the course for a successful future.

We are all in his debt.

ORDER OF BUSINESS

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that I may be permitted to proceed with my special order at this time.

The SPEAKER pro tempore. (Mr. MOLLOHAN). Is there objection to the request of the gentleman from Washington?

There was no objection.

A TRIBUTE TO W. AVERELL HARRIMAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington [Mr. FOLEY] is recognized for 15 minutes.

Mr. FOLEY. Mr. Speaker, before I yield to the gentleman from Ohio, I would like to express my appreciation to the distinguished gentleman from New York [Mr. STRATTON] who has undertaken his special order for the purpose of honoring the distinguished memory of Averell Harriman. We had only a few minutes left under that special order, and a rather unique circumstance of having more speakers on the floor of the House than there is time under that special order.

So I will only take a few minutes to conclude this ceremony this evening, but I would like to begin by thanking the distinguished dean of the New York delegation for making his special order possible.

Mr. Speaker, I yield to the gentleman from Ohio [Mr. SEIBERLING].

Mr. SEIBERLING. Mr. Speaker, I am deeply gratified to join with my colleagues today in paying tribute to W. Averell Harriman.

Governor Harriman was a giant on the American diplomatic scene for much of this century. As a businessman, Governor of the State of New York, U.S. Ambassador, and negotiator of key international agreements, Governor Harriman's career spanned 70 years, during which he held more important government posts than just about anyone of his or any other generation.

A simple recounting of his accomplishments would take up the entire time allotted to this special order, so I will simply summarize some of the key ones: Governor of New York, Secretary of Commerce, Ambassador to Moscow, Ambassador to Great Britain, Ambassador at Large, Under Secretary of State for Political Affairs, U.S. Representative to NATO, administrator of the Marshall plan, and organizer of the Lend-Lease Program. Clearly, these are extraordinary accomplishments by a man whose love for, and dedication to, his country were indefatigable.

I am pleased and honored to have been associated with Governor Harriman through Members of Congress for Peace Through Law—now the Arms Control and Foreign Policy Caucus—of which I am a former president. And I had the honor of sitting next to Governor Harriman when he gave the commencement address at the University of Akron more than a decade ago.

As Lyndon Johnson once said, "What this Nation sorely needs is a new crop of Harrimans who put this country above self, duty above person, and who will anywhere at any time do any task that has promise of enlarging hope for peace in the world."

That is certainly true of Averell Harriman. Always a realist, 40 years ago he warned of the great difficulty in United States-Soviet relations, and cautioned that there should be no illusion of easy cooperation with Moscow. At the same time, he urged us to seize

every opening, every opportunity to advance arms control agreements with the Soviet Union.

I would like to think that perhaps his greatest contribution to the future of this country, and to the countries of the world came in 1963, when he negotiated successfully the Limited Test Ban Treaty with the Soviet Union, one of the landmark agreements of the nuclear age. The children the world over will forever be grateful because of that treaty's prohibition on atmospheric testing of nuclear weapons. Because of Averell Harriman's works, our children, and our children's children, will be spared from the poisoning of open air nuclear weapons tests.

Service to country, courage, realism, and a tireless insistence that our survival depends on the triumph of diplomacy. Mr. Speaker, that is the legacy that W. Averell Harriman leaves us. He will be fondly remembered and sorely missed.

Mr. Speaker, I want to thank the distinguished majority whip, and I join with him in commending our colleague from New York [Mr. STRATTON] for taking the time to say a few really insufficient words of gratitude and praise for one of the great Americans of this century.

It was my privilege to have met Governor Harriman on a number of occasions when he spoke as the commencement speaker at the University of Akron's graduation; I had the privilege of sitting next to him about 12 years ago. Of course, along with many of our colleagues, I had the privilege of meeting with him on matters of great national and international concern periodically in Washington, both in the Halls of Congress and in the tranquillity of his beautiful home with his wonderful wife Pamela and some of the brilliant minds that Averell and she managed to assemble very frequently to talk about problems of great concern.

How many Members, how many citizens of this country of independent wealth and great personal talent have used their talents to serve the people of the United States in the way that Averell Harriman did? I can think of Franklin Roosevelt. I can think of John F. Kennedy, and I can think of Averell Harriman in our time. There are a few others, but there are not very many of that stature.

Plato portrayed in his writings the ideal of the citizen philosopher statesman, and of course it is an ideal and we are only human beings, but it seems to me Averell Harriman came closer to that ideal than most citizens of the United States or, for that matter, any other country.

Averell Harriman, I think, in his greatest contribution showed that, while he understood from personal experience the difficulties in dealing with the other superpower, the Soviet Union, with its so entirely different historical origins and its radically different form of government, yet he never lost sight of the fact that we must take every opportunity, seize every opening to try to advance the cause of better relations, of disarmament and arms control whenever that was possible.

I think, of all the legacies of Averell Harriman, that is his most important legacy and one that I hope we will all remember and profit from.

I thank the gentleman for giving me this time.

Mr. FOLEY. Mr. Speaker, I yield to the distinguished gentleman from New York [Mr. SCHEUER].

Mr. SCHEUER. Mr. Speaker, much has been said this evening and much has been printed about the awesome remarkable accomplishments of Averell Harriman. This was a man for the ages, a man of history. Less has been said of Averell Harriman as a human being, as a warm human being capable of warm friendship, warm loyalties, warm caring about his friends and of course his family, a man capable of great friendship and great love.

He cared about young people, he cared about helping young people come into the political scene. We have just heard from our colleague, SAM STRATTON, who described how Averell Harriman helped him come into active politics, and an outstanding career in public life, in 1955. Averell Harriman was responsible for bringing at least three other Members of the Congress into active politics.

Our beloved colleague Jonathan Bingham, our marvelous colleague, Senator DANIEL PATRICK MOYNIHAN, and myself. We all worked with him in his 1952 campaign for the Presidency. I was his advance man in the Rocky Mountain States. It was a rocky job and a rocky campaign, and I will never forget it.

In 1954 I had the honor and the privilege of working in his gubernatorial campaign.

After his victory where I had worked and participated and assisted in his housing platform in his housing speeches, he appointed me as a highly unpaid, very young, inexperienced chairman of the housing advisory council to the State commission for human rights.

That was my first exposure to public service, and that gave me the virus, the zest for public service that has not left me to this day.

I had a wonderful 4 years working for Averell Harriman, observing his unquenchable drive to spread human equality, human decency, a better life through equal housing opportunity throughout the State, to all of its citizens.

Remember, Mr. Speaker, this was 1955, not 1985. This was long before the time of equal housing legislation.

Yet during that time I worked with Robert C. Weaver, Hortense Gable and others to pass four major housing bills, three at the State level and one at the city level, the Metcalf-Baker bills at the State level and one at the city level, which all taken together prohibited discrimination in housing enjoying direct assistance, housing enjoying indirect government assistance and then finally private housing enjoying no special government assistance whatsoever.

□ 2015

This was a quantum jump forward in government assurance of fairness, equity, and decency in citizens dealing with each other, elimination of the ugly undertones of race, color, and creed in the availability of housing.

Working with Averell Harriman was an inspiration to me, as it was for Sam, for Jack Bingham, and for PAT MOYNIHAN. He gave us our inspiration; he gave us our opportunity. He gave us warmth, loyalty, and friendship in great depth, and we reciprocated with great love and affection for him.

Mr. Speaker, much has been said of Averell Harriman the public man, but less of Averell Harriman the private man.

I am including at this point the four beautiful eulogies of Averell Harriman that were given this morning at the Washington Cathedral. These are the remarks by Senator KENNEDY, Cyrus Vance, Arthur Schlesinger, and Clark Clifford.

The eulogies follow:

REMARKS OF SENATOR EDWARD M. KENNEDY, TRIBUTE TO AVERELL HARRIMAN, NATIONAL CATHEDRAL, WASHINGTON, DC, SEPTEMBER 16, 1986

Today I speak not simply for myself, but on behalf of both my brothers who cared deeply for Averell Harriman. For them—for Jackie and Ethel and our families—this great man was also the greatest of friends. He was advisor and counselor; he gave his help and his heart in our happiest days and our hardest hours. For us, he was like another, older—and yes, wiser brother.

It was a bond strongly-forged, in a few glorious years, a generation ago, at the beginning of a new decade and a new Administration.

After the 1960 election, President Kennedy was not quite sure what assignment he should ask Governor Harriman to undertake. They new each other, but not well—and after all, the Governor was well past the normal retirement age. But is was not long before President Kennedy came to regard Averell as the only ambitious seventy-year-old he knew—and perhaps the single ablest diplomat in American history. By the end of those thousand days, there was not trust that President Kennedy would not have given to him. The young President and the elder statesmen became remarkable companions in a powerful quest to make the world safe for human survival.

They took a special delight in each other's presence. For example, President Kennedy was well aware of Averell's very selective hearing aid and its magical tendency to tune

out the boring, the foolish and the long winded.

But once, during a meeting at the White House, the hearing aid actually failed. As the President started to talk, so did Assistant Secretary of State Harriman—who just kept on talking.

Afterwards, someone asked the President if he was annoyed. Of course not, he said: "I enjoy watching Averell in a meeting more than anyone else. He sits there with his head down and you might think he's asleep. But then someone says something foolish and he bites off his head like a crocodile." So that became his nickname among the new Frontiersmen—and the Crocodile loved it.

As Averell work his way up, tireless in his 70s, to the summit of the President's confidence, he gave the most remarkable achievements to this country and the world. He had been among the first to warn of the Soviet danger after World War II; he now became the masterful negotiator of the first lasting break in the Cold War—the Nuclear Test Ban Treaty of 1963.

He was not a man of illusions, of stereotypes, of the right or the left. At the bargaining table, he was tough, but without false bravado. Among the wise men of the many eras he lived and led, he was pre-eminent in reason and common sense.

He was practical, but principled—and on the most important issues, he was often prophetic. He negotiated the neutrality of Laos—and warned against over-reliance on military force in Vietnam. He dismissed as "outdated" the experts, many of them younger than he was, who said we had to expect and accept military dictatorships in Latin America.

Averell Harriman proved the truth of Robert Kennedy's belief that "Youth is not a time of life, but a state of mind." To the end, he was young—always ready for another assignment, a new mission to Moscow, the challenge of a new election campaign.

At the age of 80, he was one of the happiest newly-weds I have ever seen. Pamela became the light of his life; there was always a lilt in his voice when she entered the room. "Pam," he would say—and his tone said it all, as he smiled and reached for her hand. With her at his side, he had a fourth—or was it a fifth—political career.

In a time when many foolish things were being said, the Crocodile still had his bite.

Averell Harriman never became the President he possibly might have been—or the Secretary of State he surely should have been. But he was the first citizen of this century—a greater man than all the titles he ever held.

His friends John and Robert Kennedy loved and often quoted some words which seem to me now to sum him up. In what he did and how he lived, Averell Harriman urged us on: "Come, my friends, 'Tis not too late to seek a newer world. Push off, and sitting well in order"—yes, sitting well in order was always very important to Averell—"smite the sounding furrows, for my purpose holds to sail beyond the sunset, and the baths of all the western stars, until I die."

For Averell Harriman, the sunset has come at last. But we will continue to live in the glow of his life. And each time we push off again, toward that newer world of peace he sought, we have a guiding star to follow—the example and the direction he set for us, and for all the Americans yet to come.

Eulogies at Memorial Service for W. Averell Harriman

(By the Honorable Cyrus Vance)

Averell was my friend. He was also at various times in my life, mentor, a God, a staunch ally, and a close and revered colleague. And always he was an inspiration.

Over the years we served together, in good times and bad, and formed a bond of love and respect which will always be with me and with all of our family. For almost three decades, on perhaps the two most important challenges to face our nation since World War II, I worked closely with Averell. The first, in which his clarity of vision provided a steady beacon was U.S.-Soviet relations; the second was Vietnam. No one tried harder than Averell to resolve that conflict, having already negotiated the Laos ceasefire in 1961, he approached the Vietnam crisis in a manner characteristic of his entire career.

As a patriot, loyal to the Presidents who appointed him, yet determined to do everything in his power to achieve a reasonable negotiated end to the war. Day after day in Paris in that difficult year of 1968, I watched Averell, then in his late seventies push himself and the rest of us against the unrelenting clock of history. If our efforts were not crowned with an end to the conflict, it was not because of a lack of trying on his part.

Vietnam was for him only an unhappy diversion from the main task that he had set for himself over the last forty years. I refer, of course, to the search for ways to deal with the Soviet Union.

At various times in his life, Averell was attacked by the left for being too hard on Russia and by the right for being too soft. History will record that both criticisms were equally misinformed.

Through the high winds and turbulence of American domestic politics, his course was remarkably steady. As he often said, Soviet system and values are vastly different from ours in a profound and deeply disquieting way. But we must live on the same planet and find ways of reducing the chance of war.

"I decry," he wrote a decade ago, "those who contend that any relaxation of tensions must inevitably benefit the Russians to our disadvantage." In a memorable phrase that has as much relevance today as it did when he coined it, he called for a policy of "competitive coexistence."

Characteristically, he said that he did not fear this competition. For in the end he believed that American determination, American ideals, and American strength would succeed. His was a down-to-earth, unideological and wholly American approach to dealing with the Soviet Union.

Averell approached all problems with the same, simple direct style. We are all aware, many of us from painful firsthand experience, why he was called "the crocodile." He penetrated straight to the heart of any issue, seized it, and never let go. Not for Averell a meandering debate. If there was a problem, he wanted to solve it—not tomorrow, but immediately. He seemed to say, "Let's get on with it."

Like his great friend, Winston Churchill, he felt that the problems would worry for themselves; what he wanted was solutions. This impatience with temporizing, this fierce determination to create, to build, to make a contribution, stemmed, I believe, from his conviction, like Jefferson, Madison, and other Founding Fathers, that he had a profound obligation to serve the country that had given him so much.

And he did not shrink from the political side of policy debate. This sometimes made him suspect in the eyes of others. But I believe that his willingness to mix politics with policy testified in the most eloquent way that he cared, not just about service, but about solutions.

Averell cared about something else, too, encouraging the careers and particularly independent thinking of young Foreign Service officers. Throughout his career, he sought out promising junior Foreign Service officers whom he promoted rapidly, often to the dismay of their superiors. Up to fifty years older than some of the people he worked closely with, he was more open to new ideas than many of them. To encourage that rarest of bureaucratic qualities which he possessed in such abundance he established an award given each year to a junior Foreign Service officer who had shown exceptional talent and creative dissent in his work.

Later Pam added his second award, in honor of Avis Bohlen, the widow of Averell's distinguished Foreign Service colleague, Charles Bohlen. This award is given annually of a member of a Foreign Service family. These two awards are part of a shining legacy of W. Averell Harriman.

Averell also gave us one of the most important institutions of Soviet studies in the country, which he established a few years ago at Columbia University. I am confident that from the new generation of young men and young women being trained there, there will come distinguished public servants of the future like Chip Bohlen, George Kennan, and Tommy Thompson.

Averell Harriman liked the consummate life of our century. He was vital and questing, a participant in history for more than five decades. He never said so directly, but I think I know how he would have summed up his aggressive, probing activism, the ceaseless energy which continued until the last two weeks of his life.

"We can do better," he would have said, "we can do better, and we must try."

The poet Stephen Spender once wrote these lines, which I feel capture the essence of our friend Averell:

I think continually of those who were truly great,
The names of those who in their lives fought for life,
Who wore at their hearts the fire's center,
Born of the sun, they traveled a short while towards the sun
And left the vivid air signed with their honor.

Remarks of Arthur Schlesinger, Jr.

Averell Harriman 1891–1986

During these weeks since Averell Harriman's death, in sorting out impressions and recollections across the long years, I found myself trying to understand the qualities of character that made him so impressive a figure in all our lives and in the history of our times.

I first met Averell forty years ago, directly after the war. I was in my twenties, a young fellow who had occupied obscure posts in the OWI and the OSS and later rose to the rank of corporal in the ETO. Averell was already world-famous, the trusted intermediary between Roosevelt, Churchill and Stalin, ambassador to the Soviet Union, then to Britain and at this point Secretary of Commerce in President Truman's cabinet.

We were brought together by Robert E. Sherwood, who was working on his wonderful book "Roosevelt and Hopkins." What struck me at once was that, despite the formidable gap in age, experience, status, knowledge and savoir-faire, Averell wasted no time on ceremony, treated me as a contemporary, instructed me to call him by his first name and placed our relations on a basis of ease and candor that endured till the end of his days.

In 1948 he took me to Paris as his special assistant when he ran the European side of the Marshall Plan. Working for Averell, let me say, was not always easy. He was a no-frills chief, single-minded in his concentration on the job, who rarely slept and expected his associates to be on call at any hour of day or night. Alfred Friendly, his director of public affairs, and I had special responsibility for his public appearances. Averell later became a rather effective speaker, but he was an inveterate mumbler in those days; and, after he had mumbled away a speech before an increasingly bemused audience at a luncheon of the American Chamber of Commerce in Paris, Al and I, unable to face him, sought fortification at a convenient cafe and did not reappear in the office till late afternoon. Averell glared at us and said, "All right, what did I do wrong?" We told him. He grunted, dismissed us brusquely and returned to work. Still later he came by and, without further word about the speech, invited us to dinner at Maxim's.

For all the occasional exasperation involved, I do not know anyone who worked for him, then or later, who failed to emerge not alone with overwhelming respect for his boldness of mind and intensity of concern and purpose but with overwhelming affection for his straightness, decency and astonishing charm.

What happened on a small scale with associates was, I suppose, what happened more consequentially with Roosevelt, Churchill, Stalin and later generations of world statesmen who dealt with him on global matters. Above all, they liked Averell and trusted him. He was frank and often blunt in stating differences but with an impersonality that preserved friendship across political lines. When he became personal, he felt a little guilty about it thereafter. Once at dinner at Francis Biddle's in the early 1950s, he got mad for some reason at Archie MacLeish. Twenty years later MacLeish's name came up, and Averell surprisingly said, "You know, I still feel very bad over the way I treated Archie—do you remember, back at that Biddle dinner?"

His secret lay partly in his manners, which were distinguished. To the end of his life he accompanied parting guests to the front door and struggled to his feet when a woman entered the room. But, as Emerson said, "Manners impress as they indicate real power." Averell's manners were an expression of character.

He was one of the last of 19th century Americans. His father instilled high standards in him; his sister Mary led him to extend those standards to less fortunate members of society. Then there was Groton. He never much liked the Reverend Endicott Peabody. George Biddle in his autobiography recalls Averell's remark to his father about the Rector: "You know he would be an awful bully if he weren't such a terrible Christian." I once asked Averell why so many New Dealers came out of Groton. He said grimly, "Because they were unhappy there." Yet Groton too gave an abiding sense of service and obligation.

The word has gone out of fashion, but Averell was in truth a great gentleman. Even the Soviet leaders recognized this, which is why they welcomed him in Moscow though he made no bones about his dislike of their ideology and policy. Like really great gentlemen, he was a true democrat, scornful of judgments made on extraneous consideration like class, sex, race, color or opinion. One still remembers his magnificent contempt for John Foster Dulles's habit of appeasing Joe McCarthy at the expense of the foreign service.

Of course he joined to his 19th century code traits that made him so vital a force in 20th century government and life. He had an instinct for power and a readiness to use it, high intelligence, imperturbable self-confidence and sure political intuitions that steered him through the intricacies of European and Asian affairs and lapsed only when he confronted the incomprehensible politics of the state of New York.

But character counts most in the end. In this age of hustle and opportunism and the mucker pose, we don't seem to breed men like Averell Harriman very often. Yet it was men of this noble stamp who invented the republic and men of this stamp who saw it through its fieryest trials. We loved him for himself, for his concern and passion and patriotism, and we loved him for the hope his life held out that our nation may yet rise to its highest ideals. The repulic was blessed by his years of service to the state. His friends were doubly blessed to have known him.

Eulogies at Memorial Service for W. Averell Harriman

(By Hon. Clark M. Clifford)

I wish to express my appreciation to the three speakers who preceded me for their eloquence and what each did to enrich the life of Averell Harriman.

We have heard of his public career, of his expertise as a foreign policy advisor, and we know much about it and the fifty years of service he rendered to the country.

I shall confine my remarks to an extraordinary one visit that I had with him some time ago. On May 7, 1983, I had the opportunity of visiting with him for four hours. Now, two men do not just sit down together and talk for four hours. We were taking a trip in the Governor's plane to Independence, Missouri, to attend a meeting of the Truman Library Board. So we had two hours going out and two hours coming back.

He was in a wonderfully nostalgic period. He spoke of his boyhood, he talked of his father, he talked of his young manhood, and he stated the impact that Franklin Roosevelt had had upon him and how the direction of his life had changed as a result of that friendship.

At one time he spoke of Walter Lippmann. He had the highest regard for him. He said he felt the country owed him a debt of gratitude because Lippmann had the facility to take the most complex foreign and domestic issues and reduce them to clarity so that the American people could understand it.

We both remembered that Walter Lippmann had a photograph hanging on the wall of his office. It was taken from a tombstone from a churchyard in Carolina of a man who had died in the Civil War. I tried to remember the words, and he did, but we did not do it well. I said I would get a copy of it and send it to him if I could because I thought that it contained words that perhaps very aptly could describe Averell Harriman. There are not many, but they are meaningful.

"Unawed by opinion, unseduced by flattery, undismayed by disaster, he confronted life with unique courage and death with Christian hope."

On the way back we had exhausted most of the usual subjects, and we turned to literature and then to poetry, and we attempted to lines of poems we loved. He would come up with one; I might remember one; sometimes we were successful in constructing an entire stanza. I found that we both had the deepest respect and the highest regard for Alfred Lord Tennyson, and we attempted, if we could, to put together a poem that we both loved. We didn't do it very successfully, but I shall read it now because of the significance that it has today:

Sunset and evening star,
And one clear call for me
And may there no moaning of the bar
When I put out to sea.
But such a tide as moving seems asleep
Too full for sound and foam
When that which drew from out the boundless deep
Turns again home.
Twilight and evening bell
And after that the dark
And may there be no sadness of farewell
When I embark
For though from out are born of time and place
The flood may bear me far
I hope to see my pilot face to face
When I have crossed the bar."

At one point, he told of a very troubled year he had. It was the year 1970 and he said it was a year of withdrawal. He found himself withdrawing from people, even from his friends. He said he found himself losing interest in subjects that he had long followed. But then he said that all changed in 1971 when he married Pamela. And he spoke so beautifully of that relationship. He spoke of the sense of fulfillment that it had brought to him, and it was a wonderful experience to sense the feeling with which he spoke. And after a bit, I suggested, "Well, certainly, one of the best decisions you ever made was when you married Pamela." He smiled, and said, "No. It was not 'one of the best decisions I ever made.' It was the best decision I ever made."

I feel his presence strongly here today, here with his family, here with so many of his close friends in this magnificent House of God. If he were here and if he could, I think he might conclude by reading a lovely poem by Ila Richardson. I will read it for him:

If I should ever leave you, whom I love
To go along the silent way
Grieve not, nor speak of me with tears
But laugh and talk of me as if I were beside you
For, who knows, but that I shall be oftentimes.
I'd come, I'd come, but could I find a way
But would not tears and grief be barriers
And when you hear a song I used to sing
Or see a bird I love
Let not the thought of me be sad
For I am loving you just as I always had.
You were so good to me
So many things I still wanted to do
So many, many things to say to you
Remember that I did not fear
It was just leaving you I could not bear to face.

We cannot see beyond, but this I know
I loved you so, 'twas heaven there with you.

Mr. Speaker, I would like to read a few works of Clark Clifford's. They touched me so much. I have been asked by those close to the family if this would be appropriate if I would not do that.

Clark Clifford spoke very movingly of the extraordinary relationship that Pamela Harriman enjoyed with Averell and the enormous ritual uplift which she gave to his life when they were married in 1971. He described the new zest, the new upbeat, the whole new warmth which she brought to his being.

Clark Clifford closed as follows:

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Mr. FOLEY. Mr. Speaker, the most remarkable thing about Averell Harriman was his almost infinite appetite for public service to America. More than any one mission, more than any one personal relationship with a great world leader, his extraordinary devotion to his country is measured by his constant service and desire to serve.

Five Presidents over five decades could and did call upon him for service which could be frustrating, tough, thankless, or delicate to a degree that no one but he could be trusted with it.

Ambassador to the Soviet Union during World War II.

Special representative of the President to Britain to coordinate lend-lease, the lifeblood of the Allies' resistance to Hitler in the war years before Pearl Harbor.

Chief negotiator for the Nuclear Test Ban Treaty.

Negotiator of the cessation of the bombing of North Vietnam as cochairman of our 1968 delegation to the Paris peace talks.

Coordinator of the Marshall Plan in Europe.

Ambassador to Great Britain in the crucial first year of the post-war era.

Tehran, Yalta, Potsdam. He was there at all three, but he had doubts about the Soviet Union with its Communist system as realistic post-war partner of the West. His advice was crucial in our decision to deny the Soviets a voice in the post-war administration of Japan.

These are but a few of his great accomplishments. He took on many other jobs and missions with little or no visibility, because they needed doing and he was a tireless and patriotic servant of his country.

He didn't have to do any of it. He was born to wealth and position. He spent his youth after he left school learning the family's railroad business. He could have been a captain of industry, and indeed he was for a time, as a successful chairman of the board of the family railroad and later a major innovator in his own right in the shipbuilding business.

But Averell Harriman heard a different drum. He heard it beat for progress, in our Nation and in the world. Progress sprung from the marriage of enterprise and fairness. He and others were coming to a belief that government could make such a match, but to do so it had to be, not just good government, but the best government we had to offer.

So he, and many others, came to Washington with FDR. He served as the Administrator of the National Recovery Agency and was later a key member of the Office of Production Management, which helped prepare our industry for the war years.

When the World War broke out, and after the fall of France, President Roosevelt entrusted to Averell Harriman the delicate and essential job of coordinating the lend-lease program. Roosevelt sent him to Britain, where he renewed his friendship with Winston Churchill. His effort was vital in that time when it appeared to many that the Axis might prevail.

He was with Churchill, by coincidence, when the news of the attack on Pearl Harbor arrived. Churchill boasted to him that Britain would declare war on Japan before we did, and the British Parliament made good the boast, although they made use of an unfair advantage in time zones to do it. But there could have been no more suited American to have in Britain at that fateful hour than Averell Harriman. His work had been essential to the British war effort, and therefore our own survival. Because as we all know, Britain and her Commonwealth carried the torch alone for the Western democracies in those days before December 7, 1941.

He went to Moscow with Churchill in 1942 and a year later became our own Ambassador to the Soviet Union. He saw Stalin more than any other foreigner and his view of the Soviets was always clear and fair. He knew they would not lose the Great Patriotic War, as they called it, and he knew their efforts would be vital to the ultimate defeat of Hitler, but he also knew we could not depend on them to have the same values and world view as we do when the war ended.

He warned against a complacent view of the post-war relationship and, of course, he was right. President Truman soon dispatched him as our Ambassador to Britain, a ticklish task because Britain had a new Labour government and misunderstandings between the Western nations had to be minimized if there was to be any hope of managing the relationship with the Soviets.

The President called him back to be Secretary of Commerce at a difficult time. At the end of the war no one knew what to expect at home. Many feared we would sink back into the depression. Many predicted it. Others suggested we would be swallowed by inflation as the wartime controls were lifted. His steady hand and endless appetite for work were needed here and they were rewarded. We left the dark years of depression and war behind and began an era of growth that continues today.

But by 1948 the rush of events had made him necessary elsewhere again. The President made him our representative in Europe, with the responsibility of administering the Marshall plan which in the view of many simply saved Western Europe. Later he was our Ambassador to the infant NATO, perhaps the most powerful military force for good in the world's history.

By that time, his talent for success in delicate situations had made him. The President sent him to talk to General MacArthur in 1950 and later with Mossadegh in Iran in the 1951 crisis.

His proudest title was Governor of New York and he was pleased to serve this State for 4 years. Under his guidance this great State was to set an example to the Nation with improvements in civil rights, consumer rights, health, aid to the poor, and a Governor's conference on aging and that presaged a similar effort in Washington, DC, only a few years later. Many of the benefits that our senior citizens enjoy today were begun then. He made major improvements in education at all levels and began a program of State assistance for middle class housing. These accomplishments and many others far outlived his tenure in that office.

His career would have been spectacular even had it ended there. But Averell Harriman knew no other path but service. He had a nearly unique ability to understand change and to remain relevant. Just as he had warned against Soviet designs for expansion in the 1940's, he warned against the foolhardiness of an arms

race which some people believed would militarily intimidate the Soviets.

President Kennedy called upon him to negotiate the Limited Nuclear Test Ban Treaty in 1963. That treaty stands today as one of the greatest positive accomplishments in our long difficult relationship with the Soviet Union since the war. It was more difficult and important then because the Cuban missile crisis had just shown how close to disaster the world could come.

He was one of President Johnson's negotiators at the Paris peace talks in 1968. He helped bring about an end to the bombing and we thereby took a major step toward ending the Vietnam war. Later President Carter called on him for advice and help in achieving and ratifying the Panama Canal Treaty, the cornerstone of our modern relations with Latin America.

Even as late as 1983 he was one of only a handful of Americans to meet with Yuri Andropov. He has received both the Presidential Medal of Freedom and the Soviet Union's Order of Patriotic War First Degree, a rare combination indeed.

He could not have done all this without a thirst for work, a passion for excellence, and a fierce determination to succeed. To him, the task was always more important than the title or the credit. As he said himself once, he worked himself up from a private under Roosevelt, did the same under Truman and did the same again under Kennedy.

He was born to wealth but he chose a path where money could not buy success. Only hard work, foresight, dedication, intelligence and an uncanny ability to be proved right and to bring home results could spell success over so many years in the career of public service he chose. Averell Harriman asked rhetorically once, at the age of 71, "Do you know what this department needs?" He was speaking of the State Department where he was Assistant Secretary. "Young blood!" he answered. And now that he has gone I can't help but think that that is what our Nation needs, more young blood like Avarell Harriman.

In the five decades of his unexcelled career of public service Averell Harriman had little interest in high office for its own sake. It was a means to solve problems, to meet challenges, in the truest sense to serve the public.

More than a century and a half earlier Thomas Jefferson wrote his own epitaph and showed it to a friend. It is the epitaph on a simple monument under which Jefferson is buried at Monticello and it states simply, "Here lies buried Thomas Jefferson, Author of the American Declaration of Independence, Author of the Statute granting religious freedom in Virginia, Father of the University of Virginia." The friend, to whom it was read, protested that it failed to enumerate Jefferson's great offices: First Ambassador to France after the Revolution, Secretary of State, Vice President and twice President. Jefferson's answer was, "Sir, I prefer to be remembered for what I have done for others rather than for what others have done for me."

Jefferson's statement exemplifies the spirit of Averell Harriman's service to his country. If we were to write that history solely with a catalog of his many offices we would miss its true character. Like Jefferson, Averell Harriman sought to use an office not for personal aggrandizement or honor. He did not seek public office for those reasons but sought it in order to be of service to others.

From the recovery from the Great Depression to the struggle against Hitler's tyranny, from winning the war to laying the foundations of the postwar world, from managing a wartime alliance to mediating a new and dangerous postwar relationship with the Soviet Union, Averell Harriman was at the center of the great events of his time. And his influence was always positive and often vital.

In more recent years, his marriage to Pamela Harriman enriched and invigorated his life and work. Together they formed a powerful partnership, encouraging new public and political leadership, and enlightening public policy and supporting scholarship. For example, their concern for our relationship with the Soviet Union led to the establishment by Averell and Pamela Harriman of the Harriman Center for Soviet Studies at Columbia University. This is only one of many ways in which the Harriman tradition will live on.

We, who were privileged to know him, even those who knew him best, could only know a part of such a long and active life. Every person who knew him has his own perspective on that life and its influence; but there are common threads of respect and admiration.

We own many debts to Averell Harriman. Each of us must decide how best to repay that debt in emulating the values of private character and public service which marked his life.

He was one of the most famous men of his time and his death evoked a tremendous outpouring of sympathy and respect, but apart from the millions who knew his work and honored his life there are countless others now and in the future who will receive the legacy of his life and work and who, without even knowing his name, will have reason to bless his memory.

Mr. HOYER. Mr. Speaker, I commend the gentlemen from New York for their sponsoring this special order in honor of one of the great international statesmen of this century, Gov. Averell Harriman of New York.

We are all familiar with the outline of Governor Harriman's career. But there are few who could recount each and every office he held or each and every one of his accomplishments. His experience was broad and that deep.

Born to vast wealth, Averell Harriman need not have worked a day in his life nor accomplished a thing. The greatest testament to him as a human being must be that instead he chose instead to be a person of such great accomplishment in his own right.

On the heels of his own successful business career as founder of the investment bank, Brown Brothers Harriman, Averell Harriman entered public service. Beginning in 1941 with President Franklin Roosevelt, he served five Democratic Presidents, as an adviser and foremost as a diplomat.

From Ambassador to the Soviet Union under President Roosevelt, to Secretary of Commerce in the Truman administration, to Ambassador at Large in the Kennedy and Johnson administrations, Averell Harriman served each President so well that each appointed him to a variety of positions, not just one. His was not just a résúme listing, but an unparalleled record of accomplishment.

In an interlude from appointive office, Averell Harriman was elected to be Governor in 1954 by the people of New York. It is one measure of the man that from that time on, he was referred to as Governor. Those of us who treasure the honor of elective office, can understand why he held that title above all others that had been and would be his.

Many of the Members of the House in more recent years, however, came to know Governor Harriman as a leader of the Democratic Party. Along with his wonderful wife, Pamela, Governor Harriman supported and nurtured the Democratic Party in our times of greatest discouragement. It has always been an inspiration to Democratic Members of this House that two such accomplished individuals as Pamela and Averell Harriman counted themselves as active Members of our party.

Averell Harriman's legacy of accomplishment will live on to inspire all of those who follow him in diplomacy and politics. We can honor him best by continuing to strive to realize his vision for our country at home and in our international relations.

Mr. ANNUNZIO. Mr. Speaker, I rise to join with my colleagues in the House of Representatives in paying tribute to the late Hon. W. Averell Harriman, who died on July 26 at age 94, after a long and distinguished career in service to our country.

Averell Harriman served under five U.S. Presidents—Presidents Roosevelt, Truman, Kennedy, Johnson, and Carter, and played a major role in the development and shaping of post-World War II Soviet-American relations. He served as U.S. Ambassador in Moscow from 1943 to 1946, and was with President Roosevelt at Teheran and Yalta, as well as with President Truman at Potsdam. As the coordinator of the Marshall plan he helped rebuild postwar Europe, and under President Kennedy, he participated in the negotiation of the 1963 Test Ban Treaty, banning aboveground nuclear tests.

In addition to his numerous diplomatic activities on behalf of the people of the United States, Averell Harriman served as Governor of the State of New York from 1955 to 1959, and was also a most successful businessman in the American shipping industry.

Averell Harriman was a great American of outstanding abilities, deep compassion, and courage, whose accomplishments and contributions to the security of the United States will long be remembered, and are most worthy of recognition. His death after almost 50 years of dedicated public service is a tremendous loss to the people of this Nation.

Mrs. Annunzio and I extend our deepest sympathy to the other members of his family who survive him.

Mr. RAHALL. Mr. Speaker, it is my honor to join the chorus of voices singing praise to the late departed statesman and great American, the Honorable Averell Harriman. He served his country in many capacities, always exemplifying the qualities which embodied the American spirit. His long tenure of public service was a source of pride to our Nation. He served his country admirably and honorably and we as a nation owe him a great deal of gratitude, a debt which we can never repay.

It is people such as Averell Harriman that have made public service such an honorable endeavor. When a statesman of the magnitude of Mr. Harriman appears on the scene, the people and the Nation are the beneficiaries. I know that the people of my home State of West Virginia share in my deep appreciation to Averell Harriman and his family for the tremendous sacrifices they have made for their country. On behalf of the people of the fourth district of West Virginia, I would like to take this opportunity to pay tribute to the memory of Averell Harriman, and express the gratitude of the people of my district. To the Harriman family, we thank you and extend our best wishes and deepest sympathy to you.

Mr. LAFALCE. Mr. Speaker, I join with millions of my fellow Americans in celebrating the life of a great statesman, businessman and diplomat William Averell Harriman. Over the past five decades, Mr. Harriman has served as the voice of wisdom, patience and restraint in many of the most important posts within our Government.

Beginning in Franklin Roosevelt's New Deal as one of the "dollar a year" businessmen, Mr. Harriman went on to hold important diplomatic and political positions such as Ambassador to the Soviet Union, Secretary of Commerce, Ambasador to Great Britain, European administrator of the Marshall plan, Governor of New York, and Under Secretary of State. American Presidents from Roosevelt to Carter learned to rely on Mr. Harriman's depth of knowledge and insight in serving as an ambassador plenipotentiary. Whenever and wherever a foreign crisis occurred, Mr. Harriman could be counted on to be there to represent the American viewpoint, negotiate delicate issues with unflagging perserverance, and develop greater understanding among the parties with regard to the issues in dispute. As a result, Mr. Harriman was respected around the world by generations of state leaders for his fairness and adherence to high standards of ethical principles.

At the end of World War II, Mr. Harriman was one of the first to warn about the Soviet threat to the United States. However, Mr. Harriman was not an ideolog who regarded the Soviets as evil, but rather felt that they should be treated with firmness and restraint. Thus, he was supporter of the policy of detente with the Soviet Union based on increased communication and dialog between the two countries.

As a leading figure in the Democratic Party since the 1930's, Mr. Harriman was also influential in guiding the direction of the party and its concerns for equality and fairness in its national agenda as well as in its own rulemaking procedures.

Given the richness of his life, the accomplishments which he attained, and the sacrifices which he so willingly made for his country, one can only feel respect and admiration for his profound dedication to public service. The tradition which he established should serve as a reminder to us all that we should strive to attain these high ideals of service to our country and fellow men.

Mr. FASCELL. Mr. Speaker, this weekend witnessed the passing of W. Averell Harriman, statemen, politician, and diplomat.

It is not too much to say that Averell Harriman was an integral part of the history and evolution of international relations and United States-Soviet relations in the 20th century. As Ambassador to the Soviet Union, Secretary of Commerce, Governor of New York, Presidential envoy, and leader of international negotiations, Harriman typified the very finest traditions of public service to our country.

Governor Harriman was the very personification of a sober, balanced approach to United States-Soviet relations: strength and dogged persistence combined with a willingness to reach agreement when it advanced United States national security interests. Thus, after helping to successfully negotiate wartime cooperation agreements with the Soviet Union, at the end of World War II he was one of the first to recognize the Soviet Union's decision to dominate Eastern Europe, shut its borders to Western influence and eliminate all vestiges of cooperation with the United States.

At the same time, Governor Harriman perceptively recognized changes after Stalin's death in Soviet leadership priorities and the effects of nuclear weapons on the foreign policies of both the Soviet Union and the United States. Thus, he successfully negotiated the partial test-ban treaty with the Soviet Union, skillfully utilizing the political will on both sides for concluding an agreement. He also sought to put commonsense in front of ideological blinders, meeting at age 91 with Soviet leader Yuri Andropov in an effort to shore up the deteriorating state of United States-Soviet relations in the early 1980's.

Throughout his distinguished career, Mr. Harriman pressed for a well-balanced substantively grounded understanding of Soviet foreign policy objectives and internal developments in both Government and academia. Thus, near the end of his life, he provided a gererous $10 million endowment to Columbia University to upgrade American studies of the Soviet Union.

Averell Harriman's diplomatic experience also extended to other critical areas of U.S. foreign policy. He helped administer Marshall plan assistance to help bring about West European economic recovery, after World War II sought to bring about a negotiated settlement to the Vietnam war, and served as Ambassador to the Soviet Union.

In addition to foreign policy successes, Averell Harriman was also an outstanding politician. As Governor of New York, "Honest Ave" introduced new programs to help the elderly, made major increases in aid for education, public housing, small business, and workmen's compensation. While he unsuccessfully sought the Democratic nomination for President, Governor Harriman emphasized the values and programs of New Deal liberalism which have made many of us lifelong Democrats.

In so many ways, Averell Harriman will be sorely missed. My condolences go to his wife Pamela, herself an active and vibrant public figure, and his two daughters, Mary and Kathleen. We will all miss this great American and great Democrat.

Mr. BEDELL. Mr. Speaker, we gather today to honor a great individual and representative of the United States, W. Averell Harriman. A Yale graduate and successful entrepreneur, Harriman's career spanned eight decades.

A willing statesman, Averell Harriman led an active public life while serving five Democratic administrations. Be it negotiating with Trotsky or helping to ban atmospheric nuclear testing, Harriman led while others of lesser means sat passively, or followed. A skilled arbitrator, Harriman earned his reputation for fairness and flexibility through forging a necessary wartime alliance between Churchill and Stalin.

As a politician, Harriman served one term as Governor of New York. Able if not spectacular, Harriman's keen eye for talent launched the political careers of many talented young men though his own aspirations for the Presidency remained unfulfilled. A dedicated and polished diplomat, he became the first American to hold ambassadorial posts to both London and the Soviet Union, thus representing the United States to both our greatest ally and our most formidable rival.

In the end, Harriman's schedule rarely kept him from the world stage. Even in his eighties, he could be found stumping for an end to the nuclear arms race and a more serious, yet rational, foreign policy. He will always be remembered for his great foresight in realizing that despite the competitive nature of United States-Soviet relations, the realities of the atomic age also dictate the overall need for superpower cooperation; especially in the arena of arms control. His life was an example of energy, commitment and devotion to the true values of America. His lesson was that of pragmatism and patriotism, and this lesson he taught for the benefit of us all.

Mr. TOWNS. Mr. Speaker, I want to join my colleagues in saluting a great American, W. Averell Harriman.

His service, as a Government official, is well known. From Secretary of Commerce to Governor of New York State to ambassadorial posts with the Department of State, Averell Harriman distinguished himself as a public servant who was always on the cutting edge of history.

Ambassador Harriman will long be remembered for his contributions as the administrator of the Marshall plan and our chief negotiator at the Paris peace talks to end the Vietnam war. He was also responsible for negotiating a cease-fire in Laos as Assistant Secretary for Far East Affairs and the Nuclear Test Ban Treaty as the Undersecretary for Political Affairs.

No one else has been able to duplicate his long years of distinguished service as a Government official. More important than his public career, however, was his commitment to the ideals of Democracy and world peace which he exemplified throughout his life. Averell Harriman was truly a man for all seasons who will sorely be missed by his country and its people.

Mr. BOLAND. Mr. Speaker, I would like to thank my colleagues for sponsoring this special order to honor the life and accomplishments of one of the greatest men to ever serve his Nation and the world, Averell Harriman.

As we well know, the United States is a country blessed with a multitude of riches. Those gifts include the unparalleled beauty of our forests, lakes, and mountains, the bountiful harvests of our farms, the economic prowess and ingenuity of our industries and the special strength and spirit of our people. This afternoon, at the National Cathedral in Washington, a memorial service was held for another of our national treasures—Averell Harriman, a man whose uncommon ability combined with a devotion to public service to produce a legacy of unparalleled achievement.

Averell Harriman's life is evidence of the impact that a person of intelligence, skill, and patriotism can have on the era in which he lives. While he never obtained the highest elective office of this Nation, the many Government positions Mr. Harriman occupied for the seven decades of his public life, and the immense responsibilities they often carried, were often of a more critical nature than the Presidency itself, particularly during the years surrounding World War II. His diplomatic achievements are legendary. He supervised the Marshall plan, negotiated a temporary end to a bloody Asian civil war, and was instrumental in formulating the first Nuclear Test Ban Treaty with the Soviet Union. He served five Presidents, and played a vital role in relations with the Soviet Union from 1926 to 1986.

You could, quite literally, go on for hours in detailing the contributions Averell Harriman made to the United States and to the world. I believe, however, that it will be the efforts that he made to facilitate the cause of world peace, by working to resolve the differences that lead to tensions and misunderstandings among nations, for which he will be remembered most. He was a man of vision but a man who knew that in the promotion of peace, vision alone would never be enough. Tireless labor and effective leadership were also required and those commodities Averell Harriman supplied in abundance.

Averell Harriman now walks with others of his stature, enjoying the peace he spent his life trying to guarantee for those who would follow him. There is a type of gratitude that is beyond the ability of mortal man to convey—Averell Harriman is now receiving that thanks from the Almighty, as only he is capable of giving it. And, to the Almighty, we offer our thanks for Averell Harriman's long life and the manner in which he chose to live it in service to his Nation and to his fellow man.

Mr. BIAGGI. Mr. Speaker, I am proud to join so many of my colleagues today in paying tribute to a truly distinguished American and fellow New Yorker, W. Averell Harriman.

Averell died on July 26. That is fact. But his 94 years of life is a treasure of American history. It's been said that Averell Harriman held "as many important jobs as any man in our history." His record of experience and accomplishment is truly awesome. Consider, for example, that he served every Democratic President in this century except Woodrow Wilson. He was Governor of New York, Ambassador to Moscow, chairman of the Union Pacific Railroad, Ambassador to Great Britain, cochairman of the American delegation to the Vietnam's peace talks, head of the Business Advisory Council during the Great Depression, and Secretary of Commerce under President Truman.

His accomplishments and interests were varied. He was responsible for exposing the illusion of easy postwar cooperation with the Soviet Union following World War II. He initiated the popularity of skiing in the United States and was largely responsible for the invention of the chairlift. He was one of the leading and most outspoken advocates of our time for nuclear arms control. He was a top polo player. He supervised the Marshall plan—the rebuilding of Western Europe following World War II. He was a notable collector of art, whose collection is now part of the National Gallery in Washington. He negotiated the cessation of the bombing of North Vietnam. He was largely responsible for founding the NATO alliance and he negotiated the Nuclear Test Ban Treaty with the Soviet Union.

Averell Harriman was unique among his generation and his life and work will not be repeated. Yet, he will serve as a brilliant part of our past and an inspiration to our future.

Mr. HAMMERSCHMIDT. Mr. Speaker, few men in the history of our Republic have devoted themselves more faithfully to the service of their country than W. Averell Harriman. His recent death at the age of 94 sadly brings to a close an extraordinary career of public service. It is for this reason that I especially appreciate the opportunity to join my colleagues in paying tribute to this distinguished American.

Governor Harriman was drawn to a lifetime of service through true commitments, an unerring sense of duty, and real devotion to his country. His career in public life spanned nearly seven decades, and his accomplishments are as numerous as his years of service. His role in some truly monumental global challenges of our time—the Marshall plan, the NATO alliance, and the Nuclear Test Ban Treaty—to name a few, offers a testament to the faith and trust American Presidents and other world leaders placed in him.

As a diplomat, Averell Harriman accomplished much, but his contributions to this Nation were not limited to foreign affairs. His business acumen was enlisted by President Franklin Roosevelt during the Depression when he served as head of the Business Advisory Council and later as Administrator of the National Recovery Administration. And in 1954, the confidence of the many Presidents which Averell Harriman served was confirmed by the people of New York when they elected him Governor.

But what distinguished Averell Harriman's service was not just its breadth, but its quality. He integrated his mastery of business, politics, and world history to become a genius of administration and a hero of diplomacy. His achievements are impressive and tangible, but most of all, lasting.

Much has been said and will be said about the life of this great statesman. Most importantly, the generations which were fortunate to witness the devoted work of this great man, and the future generations who will live in a better world because of him, shall remember Averell Harriman with gratitude. His ardent commitment to public service will continue to be an inspiration to all who knew him.

Mr. ASPIN. Mr. Speaker, today we honor the memory of a man who epitomized the qualities which should belong to all public servants. Averell Harriman was exemplary in his dedication to our country. Mr. Harriman constantly rose above the politics of the hour. He worked hard to ensure that the good of the Nation was kept in the forefront. His vision was always focused on what was right and good for America, and good for the community of nations.

As we go about the business of making decisions which affect our country and the world, we need to remember the spirit in which Averell Harriman made his decisions. He had difficult choices to make, but he made them as conscientiously as he could. Today, we look back and see just how rare a statesman he was.

Mr. MANTON. Mr. Speaker, it is with profound sadness that I rise to mark the passing of a great American, W. Averell Harriman. While I did not have the privilege of knowing him personally, I did have the pleasure of knowing of his many achievements as a businessman, diplomat, Ambassador, Governor, and Elder Statesman. Governor Harriman gave a half century of service to his country. In that time he served four Presidents in important Government posts.

Mr. Speaker, as an early new deal supporter, Governor Harriman was New York State chairman of the National Recovery Administration. Later on Governor Harriman served President Roosevelt as chief of materials branch, Office of Management Production management, and as a special representative in London for lend-lease and other wartime programs.

In 1941, President Roosevelt made Governor Harriman first special envoy and then Ambassador to the Soviet Union. During this time, Governor Harriman's previous experience with the Soviets, as a businessman, served him well. It was in his role as a diplomat, that Governor Harriman made his mark as an expert in Soviet-American relations. In 1948, he warned of the coming cold war with the Soviets. He also helped guide Europe away from Communism as U.S. Ambassador in Europe for the Marshall plan. Later he was

an adviser to Presidents Truman and Kennedy in crucial Soviet-American confrontations.

Mr. Speaker, of all his many accomplishments, Averell Harriman was most proud of being elected Governor of New York. However, America will probably remember him as elder statesman, always prepared to share his unique insight and wisdom whenever his country called. My deepest condolences to his wife Pamela, and his family. I join my colleagues, my State, our Nation, and the world in rejoicing in Averell Harriman's life, and in mourning his passing.

Mr. GILMAN. Mr. Speaker, it is a privilege to participate with our colleagues in this special order paying tribute to a reknown New Yorker, an outstanding American statesman and a great humanitarian—my former constituent, the late W. Averell Harriman.

President John F. Kennedy once stated that Averell Harriman "held as many important jobs as any man in our history with the exception of John Quincy Adams." For Averell Harriman, this feat is all the more impressive because his dedication to public service was based solely on humanitarian concerns. The son of the founder of the Union Pacific Railroad, Averell Harriman could have led a life of ease. Instead, he devoted his life to government service and to making our world a better one in which to live. President Harry S. Truman once said of Averell: "He'd do what you asked him to do, and you could depend on him to tell you the complete truth about what happened."

Averell Harriman served as a senior official for four Presidents, spanning a period of nearly 40 years. As our Ambassador to the Soviet Union, he applied an understanding of that nation that was rare in the West, for he had come to do business and personally known the leaders in the Kremlin as early as the mid-1920's—years before the United States extended diplomatic recognition to that nation. As the leading Kremlinologist of his day, he warned of the coming of the cold war at a time that few diplomats foresaw those developments.

Yet, though he warned of the enslavement of Eastern Europe and although he stressed the need for the containment of communism, he consistently argued that our problems with the Soviets could not be resolved through military means.

In the mid to late 1940's, Averell Harriman served as our Ambassador to the Court of St. James. In that capacity, he was instrumental in the founding the NATO alliance and the management of the Marshall plan, which saved Western Europe from starvation. He also served for a time as President Truman's Secretary of Commerce. Such was his renown that he received a major share of votes for the Presidential nomination at the 1952 Democratic National Convention—a rare feat for any diplomat.

In 1954, Averell Harriman was elected Governor of the State of New York. Governor Harriman's team in that office will be remembered as a period of great economic expansion in New York State. Under his administration, the New York State Thruway—begun under his predecessor—was completed, bringing industrial expansion to many upstate communities. We in the mid-Hudson valley particularly remember the groundbreaking of the long-needed bridge across the Hudson at Newburgh which Governor Harriman had brought about. Governor Harriman is also remembered for the great advances made during his term in the care of the mentally handicapped, one of his major concerns.

Some may not remember that Governor Harriman was a major contender for the Democratic Presidential nomination in 1956, finishing second in the balloting at the convention. It is indeed an irony of history that a man who had given of himself in so many different capacities was denied the paramount honor of his party.

During his term as Governor, Averell Harriman spent his weekends at the beautiful Harriman estate in my congressional district at Harriman, NY. We remember him as a good neighbor, and the lands donated as Harriman State Park is a perpetual memorial to one of Orange County's most distinguished residents.

After his retirement as Governor—the title he afterward perferred to all others—Averell distinguished himself as President Kennedy's Ambassador at Large. In this capacity, he negotiated a temporary settlement of the Laotian civil war, and negotiated the landmark Nuclear Test Ban Treaty of 1963. He was cochairman of the Paris peace talks to end the Vietnam war in the late 1960's and helped negotiate the Panama Canal Treaty in 1978.

W. Averell Harriman received the Presidential Medal of Freedom, the Winston Churchill Award, the Four Freedoms Foundation Award, the Order of Patriotic War First Degree, the Robert F. Kennedy Humanitarian Award, and the Presidential Medal of Merit. Governor Harriman's many accomplishments and awards would fill several volumes of the CONGRESSIONAL RECORD. However, no recounting of his myriad accomplishments or honors do justice to the statesmanship, the compassion, the patriotism, the humanitarianism and dedication of this fine gentleman.

To his widow, the former Pamela Digby Churchill, to his two daughters, and to his many loved ones, we extend our deepest condolences. Our sadness for his passing is tempered, however, by the knowledge that Averell Harriman was one of the giants of this century.

Mr. REID. Mr. Speaker, I rise today to honor and commemorate Gov. W. Averell Harriman, an unselfish public servant and one of the greatest Americans of the 20th century. Perhaps the last of his breed, W. Averell Harriman and the contributions he made to the United States are irreplaceable.

Born to a family of great wealth, Governor Harriman could have chosen a life of leisure and indulgence. Instead he devoted his life to public service on issues both domestic and international. Call it noblesse oblige, but no one can question the real contributions W. Averell Harriman made to his country.

In 1933, Franklin Delano Roosevelt summoned Harriman from the private sector to serve on the Business Advisory Council. As the Depression wore on, Harriman became chairman of the National Recovery Administration where he was better placed to use his great administrative abilities and business acumen to help pull our country out of the Great Depression.

Harriman was given international responsibilities in 1941 when he was chosen to organize the Lend-Lease Program. During World War II he served first as FDR's personal envoy to such legendary wartime leaders as Churchill and Stalin. Appointed Ambassador to the Soviet Union, he also served as Roosevelt's advisor at both the Teheran and Yalta conferences.

After the war Harriman again worked on domestic issues by serving as the Secretary of Commerce in 1946. A native—and proud—New Yorker, he served as Governor of New York where he was able to help the State he loved.

W. Averell Harriman served every Democratic administration from Franklin Delano Roosevelt to Jimmy Carter. Whether he was working to bring order to our economy in the 1930's, or an end to the Vietnam war in the 1960's W. Averell Harriman never shirked his responsibility to the country. His untiring devotion to public service should serve as an example to all of us in this decade where greed and self-fulfillment take precedent over service to others.

GENERAL LEAVE

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of this special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

A PROGRAM FOR THE FUTURE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. BENNETT] is recognized for 60 minutes.

Mr. BENNETT. Mr. Speaker, I speak today primarily of my candidacy for and plans for the chairmanship of the House Armed Services Committee in the upcoming Congress.

Incidentally, I will also speak briefly of the seniority system of choosing chairmen and of the merits of retaining that system as prefereable to all others so far suggested. Since I have the longest seniority by far among the candidates, I have a personal interest in seeing this seniority system sustained, in addition to my philosphical support for this system.

This giving of priority on the basis of longest service is not just a policy designated to reward the most senior members, nor just a conveninence for prompt elections. It is instead a system designed to select Congressmen whose ability and integrity have stood the test of time in observations by their peers; and who can as they wait for advancement have time to plan and organize for their period of upcoming leadership.

Seniority selection of chairmen is not the only system Congress has used. Years ago the Speaker appointed the chairmen and also made committee assignments. Congress observed that this gave too much power to the Speaker and then it established a system of choice by seniority while allowing leeway to

turn down the senior Member for reasons of severe illness or personal fault of the person voted down. Sheer personal popularity, charisma and cleverness in campaigning were not set up to be factors in this system and they shouldn't be! Perhaps this is not a perfect arrangement but no better plan has been suggested.

State legislatures seldom use seniority as the controlling or dominant element in the choice of chairmen. Often the Speaker in a State legislature appoints as chairmen those legislators who have pledged to vote for the Speaker's election and have received from the Speaker campaign funds for their own elections to the State legislature. We in Congress ought to be glad that years ago the tyranny of former Speakers in this Congress cut off that type of thing in Congress. This reform gave us instead the preferable seniority system which protects the country against financial and other pressures from special interests imposing themselves on the government through influencing the choice of chairmanships.

There is also the question of what campaigning for chairmanships of committees and subcommittees may do in sapping away the time of legislators from their responsibilities to legislate properly. In the House we spend a large portion of our 2-year terms doing constituent services and seeking reelection. It is becoming increasingly difficult for us even to do our legislative duties and to pass basic authorization and appropriation bills. Adding campaigns for chairmanships and subcommittee chairmanships is hardly something that would make us more efficient in our priority legislative duties.

Ask yourself these questions. How much more inefficient would this body become if the seniority system were abandoned and numerous Members were intensively campaigning for various committee chairmanships and subcommittee chairmanships? After all, there are 22 chairmen of committees in the House and 123 subcommittee chairmanships. More importantly perhaps, how long would it take the powerful interest groups in this country to get in on the act of selecting chairmen when it is done not by seniority—which they cannot control— but by campaigns that may require campaign pressures and campaign financial contributions?

I believe it is in the national interest of this country to fight the erosion of the seniority system at least until a better system is invented or discovered. It strikes me that the seniority system is not only fair to the Members but in the country's best interests.

All of this has a bearing on my candidacy. If my 35 years of seniority on this committee were to be followed by election next January this would soon reopen again the processes of the seniority system to allow others to have a chance at the chairmanship for I would not seek or accept the chair for more than 4 years at most. By way of contrast the incumbent chairman has announced that he wants to serve as such for at least 20 years. This would deprive the country of possible leadership from many other able persons on the committee, it seems to me.

I should not be considered for the chairmanship if I am not qualified so I should mention my qualifications. In addition to having served as subcommittee chairman on more subcommittees than my opposition and for more years, I have authored and passed more bills and more amendments to bills than my opposition, and spoken more often in committee and on the floor in support or opposition to legislation. This is not just because I have served longer but it is characteristic of my service in each year compared with the opposition. In the current Congress alone I have passed pieces of legislation now law that involved the military in the fight against drugs, strengthened the strategic stockpiles, limited the excessive expenditures for the MX missile, reformed procurement procedures and started a conventional defense initiative; and others. In the recently passed authorization bill, it is my amendments which increased funds for the conventional defense initiatives, made military charter flights safer, improved procurement revolving door procedures, limited excessive spending for SDI, provided for live fire testing to ensure able weapons procurement, and again increased the availability of military assets to fight the drug traffic. Neither of my opponents have done anything comparable in legislation.

The question of party loyalty has been raised. I believe in the two-party system. While I do not believe this should make any legislator violate his conscience, I look with a jaundiced eye at those who participate in divisive actions. Consequently, I have never been a hyphenated Democrat. When I came here, these were called Dixiecrats. I have spoken for every Democratic nominee for the Presidency since I have been old enough to vote and never voted for a Republican. Yet I am an independent thinker and do not cast votes on the basis of sheer partisanship but on the basis of what my conscience tells me is the proper vote for the country as I see it. Usually, this is in accord with the Democratic platform, for that is where my philosophy takes me.

I have thought a lot about what I think our country needs in the field of national defense. If I am elected to the chairmanship my first priority would not be the SDI, nor nuclear weaponry, as important as these matters may be—but my top priority would be to put this country in a position where it can win a conventional war. It is a tragedy and a disgrace that we have allowed our defenses to fall to such a point that the NATO Command has said that it is now questionable that we will have time to decide to mount a nuclear response in Europe if we were quickly defeated there in conventional weaponry. This is something we can remedy if we will just do it. But somebody will have to press for it with unrelenting dedication and zeal. If elected chairman, I will do that. At this point, I include in my remarks measures I have authored in this Congress along these lines:

H. RES. 539

Resolution expressing the sense of the Congress that the United States should place greater emphasis on the improvement of the capabilities of United States conventional forces, particularly in cooperation with other member nations of the North Atlantic Treaty Organization

Whereas in May 1985 a North Atlantic Treaty Organization Military Committee report warned that under present trends, the alliance's conventional forces would not be able to withstand a Warsaw Pact invasion long enough for the alliance to decide whether to escalate the war to the nuclear level;

Whereas four out of five Americans mistakenly believe that the United States has already adopted a policy of no-first-use of nuclear weapons; and

Whereas the United States and its European allies must now take extraordinary steps to redress the conventional force imbalance in order to eliminate the alliance dependence on the early use of nuclear weapons: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that—

(1) the United States should place greater emphasis on the improvement of the capabilities of United States conventional forces, particularly in cooperation with other member nations of the North Atlantic Treaty Organization;

(2) such improvement should concentrate on improved readiness and greater sustainability in conflict;

(3) such improvement should emphasize defensive measures, particularly the joint development and widespread deployment of infantry antitank weapons; and

(4) such improvement should be based upon the assumption that the United States would not be the first to use nuclear weapons.

H.R. 5487

A bill to establish a Conventional Defense Advisory Board within the Department of Defense

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

(a) ESTABLISHMENT.—There shall be established within the Department of Defense a Conventional Defense Advisory Board.

(b) PURPOSE AND RESPONSIBILITIES.—(1) The Board shall examine and survey, all aspects of conventional warfare relating to the fighting ability and sustainability of the armed forces of the United States, particularly with regard to the conventional defense of Europe.

(2) The Board shall specifically examine, survey, and make recommendations concerning the sufficiencies and deficiencies of—

(A) research and development programs;

(B) weapons procurement programs;

(C) ammunition procurement programs; and

(D) programs affecting the sustainability of forces in the field.

(c) MEMBERSHIP AND SUPPORT.—(1) The Board shall be appointed by the Secretary of Defense and shall include representatives of the Department of Defense, the defense industry, and the academic and research community.

(2) The Secretary of Defense shall make available to the Board such information as it may require in the performance of its duties.

(d) REPORTS.—(1) The Board shall report annually to the Secretary of Defense by March 1 concerning the relationship between the current programs of the Department of Defense and the requirements for more adequate conventional defenses. With respect to such relationship the report shall, at a minimum, specify—

(A) shortfalls;

(B) excesses; and

(C) recommendations for correcting these imbalances.

(2) The Secretary of Defense shall forward the report required in paragraph (1) to the Congress within thirty days of its receipt, together with such additional views as the Secretary may desire.

(3) The Secretary of Defense may require such additional reports from the Board as the Secretary deems necessary.

It is no accident that I feel this way about conventional warfare. I am a combat infantry veteran, Silver Star, Bronze Star, Combat Infantry Badge, Philippine Legion of Honor, Philippine Gold Cross, et cetera. I led guerrillas in the Philppines and fought as an infantry soldier on New Guinea in World War II.

Until an infantry soldier stands on the land with a rifle in hand and effectively directs the enemy, wars are not won. Everything else, however important, leads up to that.

Today, we cannot put the infantry in a position to do that in Europe. We are lacking in ammunition and other supplies. We have no good antitank weapons against the Warsaw Pact's 53,000 tanks. We do not even have efficient battlefield communications 3 in our own troops, to say nothing of our allies. What a shame—what a disgrace.

If elected, I will try to turn that around and while retaining our nuclear deterrence, put ourselves in a position where we can win a conventional war.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BOLAND (at the request of Mr. WRIGHT), for today, on account of a necessary absence.

Mr. FORD of Tennessee (at the request of Mr. WRIGHT), for this week, on account of a death in the family.

Mr. FRENZEL (at the request of Mr. MICHEL), for today, on account of attending the Ministerial Conference of GATT as a congressional delegate.

Mr. MCGRATH (at the request of Mr. MICHEL), for today, on account of medical reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. FOLEY, for 15 minutes, today.

(The following Members (at the request of Mr. DORNAN of California) to revise and extend their remarks and include extraneous material:)

Mr. BEREUTER, for 30 minutes, on September 16.

Mr. BEREUTER, for 30 minutes, on September 17.

Mr. BEREUTER, for 30 minutes, on September 18.

Mr. CRANE, for 60 minutes, on September 23.

Mr. COLEMAN of Missouri, for 60 minutes, on September 25.

(The following Members (at the request of Mr. MINETA) to revise and extend their remarks and include extraneous material:)

Mr. PEPPER, for 5 minutes, today.

Mr. ST GERMAIN, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. MAZZOLI, for 5 minutes, today.

Mr. STARK, for 5 minutes, today.

Mr. TORRES, for 5 minutes, today.

Mr. ALEXANDER, for 30 minutes, today.

Mr. BENNETT, for 60 minutes, today.

Mr. VALENTINE, for 60 minutes, on September 30.

Mr. PENNY, for 30 minutes, on September 30.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. GOODLING, prior to the vote on the conference report on H.R. 4421, today.

Mr. MACK, and to include extraneous material on H.R. 4759 in the Committee of the Whole, today.

(The following Members (at the request of Mr. DORNAN of California) and to include extraneous matter:)

Mr. CRANE.

Mr. GILMAN in three instances.

Mr. COURTER in two instances.

Mr. LEWIS of California in two instances.

Mr. DANNEMEYER in two instances.

Mr. MILLER of Ohio in three instances.

Ms. SNOWE.

Mr. COLEMAN of Missouri.

Mr. MCKERNAN.

(The following Members (at the request of Mr. MINETA) and to include extraneous matter:)

Mr. MAZZOLI.

Mr. SOLARZ.

Mr. VENTO.

Mr. ANDERSON in 10 instances.

Mr. GONZALEZ in 10 instances.

Mr. BROWN of California in 10 instances.

Mr. ANNUNZIO in six instances.

Mr. JONES of Tennessee in 10 instances.

Mr. BONER of Tennessee in five instances.

Mr. COLEMAN of Texas.

Mr. KANJORSKI in two instances.

Mr. SMITH of Florida.

Mr. FASCELL in four instances.

Mr. LIPINSKI.

Mr. ST GERMAIN.

Mr. STARK.

Mr. ROE in two instances.

Mr. EDWARDS of California.

Mr. LAFALCE.

Mr. MRAZEK.

Mr. BARNARD.

Mr. SYNAR.

Mr. MURTHA.

Mrs. BURTON of California.

Mr. BENNETT.

Mr. FEIGHAN in two instances.

Mr. DORGAN of North Dakota.

Mr. FRANK.

Mr. LANTOS in two instances.

Mr. DYMALLY.

Mr. SIKORSKI.

Mr. MANTON.

SENATE BILLS AND JOINT RESOLUTIONS REFERRED

Bills and joint resolutions of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 2250. An act to strengthen the prohibition of kickbacks relating to subcontracts under Federal Government contracts; to the Committees on Government Operations and the Judiciary.

S. 2271. An act for the relief of Jens-Peter Berndt; to the Committee on the Judicary.

S. 2397. An act to authorize appropriations for the Public Buildings Service of the General Services Administration for fiscal year 1987; to the Committee on Public Works and Transportation.

S. 2417. An act to establish the Aviation Safety Commission, and for other purposes; to the Committee on Public Works and Transportation.

S.J. Res. 299. Joint resolution to designate the week of December 7, 1986, through December 13, 1986, as "National Alopecia Areata Awareness Week"; to the Committee on Post Office and Civil Service.

S.J. Res. 373. Joint resolution designating the week beginning May 10, 1987, as "National Fetal Alcohol Syndrome Awareness Week"; to the Committee on Post Office and Civil Service.

S.J. Res. 389. Joint resolution to designate March 1987 as the "Month of Developmentally Disabled Persons"; to the Committee on Post Office and Civil Service.

S.J. Res. 390. Joint resolution to authorize and request the President to proclaim the week of November 23, 1986, to November 30, 1986, as "American Indian Week"; to the Committee on Post Office and Civil Service.

S.J. Res. 392. Joint resolution to designate the month of December 1986 as "Made in America Month"; to the Committee on Post Office and Civil Service.

S.J. Res. 394. Joint resolution to designate the week of October 12, 1986, through October 18, 1986, as "National Children's Television Awareness Week"; to the Committee on Post Office and Civil Service.

S.J. Res. 402. Joint resolution designating July 2 and 3, 1987, as the "United States-Canada Days of Peace and Friendship"; to the Committee on Post Office and Civil Service.

S.J. Res. 406. Joint resolution to designate October 4, 1986, as "National Outreach to the Rural Disabled Day"; to the Committee on Post Office and Civil Service.

ENROLLED BILLS SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 3247. An act to amend the Native American Programs Act of 1974 to authorize appropriations for fiscal years 1987 through 1980, and

H.R. 3443. An act to designate the Closed Basin Conveyance Channel of the Closed

Basin Division, San Luis Valley Project, Colorado, as the "Franklin Eddy Canal."

ENROLLED BILL AND JOINT RESOLUTION SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill and joint resolution of the House of the following titles, which were thereupon signed by the Speaker pro tempore:

H.R. 4868. An act to prohibit loans to, other investments in, and certain other activities with respect to, South Africa, and for other purposes, and

H.J. Res. 692. Joint resolution to designate the week of October 19, 1986, through October 26, 1986, "National Housing Week."

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 720. An act to establish a permanent boundary for the Acadia National Park in the State of Maine, and for other purposes.

BILLS AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on the following days present to the President, for his approval, bills and a joint resolution of the House of the following title:

On September 15, 1986:

H.R. 1783. An act for the relief of Mary E. Stokes;

H.R. 1529. An act for the relief of Gerald M. Hendley;

H.R. 2136. An act for the relief of Paulette Mendes-Silva;

H.R. 4868. An act to prohibit loans to, other investments in, and certain other activities with respect to, South Africa, and for other purposes; and

H.J. Res. 580. Joint resolution to designate the week beginning September 7, 1986, as "National Freedom of Information Act Awareness Week."

On September 16, 1986:

H.R. 3247. An act to amend the Native American Programs Act of 1974 to authorize appropriations for fiscal year 1987 through 1990; and

H.R. 3443. An act to designate the Closed Basin Conveyance Channel of the Closed Basin Division, San Luis Valley Project, Colorado, as the "Franklin Eddy Canal."

ADJOURNMENT

Mr. FOLEY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to: accordingly (at 8 o'clock and 28 minutes p.m.) under this previous order, the House adjourned until Wednesday, September 17, 1986, at 12 noon.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports and amended reports of various House committees concerning the foreign currencies and U.S. dollars utilized by them during the first and second quarters of calendar year 1986 in connection with foreign travel pursuant to Public Law 95-384 are as follows:

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 30, 1986

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon Bill Hefner	2/9	2/12	West Germany		390.00						390.00
	2/12	2/13	Belgium		166.62						166.62
Transportation (DOD)							8,391.25				8,391.25
					556.62		8,391.25				8,947.87

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JAMIE L. WHITTEN, Chairman, Aug. 11, 1986.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON AGRICULTURE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED APR. 1 AND JUNE 30, 1986

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. E de la Garza	4/1	4/2	France	798.09	111.00					798.09	111.00
(Codel)	4/2	4/3	Belgium	6,799	142.00					6,799	142.00
	4/3	4/6	Spain	63,158.40	432.00					63,158.40	432.00
Military transportation							7,509.46				7,509.46
Hon. Ron Marlenee	4/1	4/2	France	798.09	111.00					798.09	111.00
	4/2	4/3	Belgium	6,799	142.00					6,799	142.00
	4/3	4/6	Spain	63,158.40	432.00					63,158.40	432.00
Military transportation							7,509.46				7,509.46
Hon. Arlan Stangeland	4/1	4/2	France	798.09	111.00					798.09	111.00
	4/2	4/3	Beligium	6,799	142.00					6,799	142.00
	4/3	4/6	Spain	63,158.40	432.00					63,158.40	432.00
Military transportation							7,509.46				7,509.46
A.M. Castillo	4/1	4/2	France	798.09	111.00					798.09	111.00
	4/2	4/3	Belgium	6,799	142.00					6,799	142.00
	4/3	4/6	Spain	63,158.40	432.00					63,158.40	432.00
Military transportation							7,509.46				7,509.46
Fred Clark	4/1	4/2	France	798.09	111.00					798.09	111.00
	4/2	4/3	Belgium	6,799	142.00					6,799	142.00
	4/3	4/6	Spain	63,158.40	432.00					63,158.40	432.00
Military transportation							7,509.46				7,509.46
Phillip Fraas	4/1	4/2	France	798.09	111.00					798.09	111.00
	4/2	4/2	Belgium	6,799	142.00					6,799	142.00
Military transportation							7,509.46				7,509.46
Commerical transportation							1,487.35				1,487.35
Other expenditures:											
Codel de la Garza	4/1	4/2	Strasbourg, France								
Local transportation									350.27		350.27
Control room									83.45		83.45
Representation function									550.00		550.00
Support staff									350.00		350.00
	4/2	4/3	Brussels, Belgium								
Representation function									392.05		392.05

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON AGRICULTURE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED APR. 1 AND JUNE 30, 1986—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
	4/3	4/6	Madrid, Spain								
Local transpotation									1,084.13		1,084.13
Control room, support staff, and miscellaneous expenses.									2,328.53		2,328.53
Committee total					3,678.00		46,544.11		5,138.43		55,360.54

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

E de la GARZA, Chairman, July 31, 1986.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1986

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Ronald Coleman	6/1	6/2	Guatemala		80.00						80.00
	6/2	6/2	Nicaragua								
	6/2	6/3	Costa Rica		75.00						75.00
	6/3	6/4	Honduras								
	6/4	6/5	El Salvador								
Transportation (DOD)							2,815.79				2,815.79
Hon. Norman Dicks	5/22	5/26	Luxembourg		440.00						440.00
	5/26	5/28	West Germany		226.00						226.00
	5/28	5/31	Switzerland		441.00						441.00
Hon. William Lehman	3/22	3/24	Belgium		426.00		1,750.00				2,176.00
	3/24	3/26	Italy		306.00		481.00				787.00
	3/26	3/29	Yugoslavia		432.00		217.00				649.00
	3/29	4/1	West Germany		375.00		452.00				827.00
	4/1	4/2	Ireland		163.00		499.00				662.00
	4/2		United States				1,047.00				1,047.00
Hon. John Murtha	5/30	6/1	Italy		150.00		2,165.00				2,315.00
Hon. Martin Sabo	3/22	3/24	Belgium		426.00		1,750.00				2,176.00
	3/24	3/26	Italy		306.00		481.00				787.00
	3/26	3/29	Yugoslavia		432.00		217.00				649.00
	3/29	4/1	West Germany		375.00		452.00				827.00
	4/1	4/2	Ireland		163.00		499.00				662.00
	4/2		United States				1,047.00				1,047.00
Gregory Dahlberg	3/22	3/24	Belgium		426.00		1,750.00				2,176.00
	3/24	3/26	Italy		306.00		481.00				787.00
	3/26	3/29	Yugoslavia		432.00		217.00				649.00
	3/29	4/1	West Germany		375.00		452.00				827.00
	4/1	4/2	Ireland		163.00		499.00				662.00
	4/2		United States				1,047.00				1,047.00
Kathleen Johnson	4/1	4/5	Panama		388.00		798.00				1,186.00
John Plashal	5/30	6/1	Italy		150.00		2,165.00				2,315.00
Committee total					7,056.00		21,281.79				28,337.79
Surveys and investigations staff:											
Ranald T. Adams	4/5	4/12	Japan		1,019.75		2,821.38		66.33		3,907.46
	4/12	4/16	Thailand		308.00						308.00
	5/4	5/9	England		573.75		2.604.77		41.99		3,220.51
	5/9	5/14	Austria		645.00						645.00
	5/14	5/16	Italy		236.00						236.00
Richard H. Ash	4/5	4/12	Japan		1,019.75		2,821.38		54.95		3,896.08
	4/12	4/16	Thailand		308.00						308.00
	5/4	5/9	England		573.75		2.604.77		34.93		3,213.45
	5/9	5/14	Austria		645.00						645.00
	5/14	5/16	Italy		236.00						236.00
G. Carter Baird	6/16	6/18	Japan		341.25		2,110.22		82.08		2,533.55
Michael O. Glynn	6/16	6/18	Japan		341.25		2,110.22		46.33		2,497.80
Robert C. Goffus	4/5	4/10	Japan		887.25		2,165.41		71.05		3,123.71
	4/10	4/16	Korea		572.00						572.00
	5/3	5/5	England		303.75		2,642.00		13.12		2,958.87
	5/5	5/14	Germany		912.00						912.00
	5/14	5/16	Italy		265.50						265.50
Walter G. Harlow	6/8	6/16	Germany		695.00		2,065.00		35.72		2,795.72
	6/16	6/18	Belgium		261.00						261.00
	6/18	6/21	England		429.00						429.00
Frank T. Lyons	4/5	4/10	Japan		887.25		2,165.41		83.41		3,136.11
	4/10	4/16	Korea		572.00						572.00
	5/2	5/5	England		303.75		2,642.00				
	5/5	5/14	Germany		912.00						912.00
	5/14	5/16	Italy		265.50						265.50
Douglas D. Nosik	6/8	6/13	Germany		507.50		1,911.00		49.00		2,467.50
Clerio P. Pin	4/5	4/17	Italy		1,368.50		2,461.86		64.54		3,894.90
Donald E. Pless	4/5	4/17	Italy		1,368.50		2,586.21		124.58		4,079.29
Richard D. Robillard	4/26	5/6	Germany		920.50		1,931.00		38.96		2,890.46
John P. Swain	6/16	6/18	Japan		341.25		2,110.22		41.87		2,493.34
R.W. Vandergrift, Jr.	5/10	5/14	Austria		548.25		2,401.20		122.14		3,071.59
	5/14	5/15	Italy		118.00						118.00
Graham W. Van Note	4/7	4/14	Italy		775.75		1,962.00		39.09		2,776.84
	4/27	5/2	Germany		545.50		1,931.00		39.90		2.516.40
A. Robert Walsh	4/27	5/6	Germany		826.75		1,931.00		54.56		2,812.31
Ben Alan Weaver	6/8	6/16	Germany		695.00		2,065.00		81.54		2,841.54
	6/16	6/18	Belgium		261.00						261.00
	6/18	6/21	England		429.00						429.00
Committee total					22,219.00		48,043.05		1,381.20		71,643.25

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JAMIE L. WHITTEN, Chairman, Aug. 11, 1986.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON MERCHANT MARINE AND FISHERIES, U.S. HOUSE OF REPRESENTATIVES, EXTENDED BETWEEN APR. 1 AND JUNE 30, 1986

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Donald J. Barry	6/6	6/16	Sweden		[3] 1,500.00		1,648.00				3,148.00
Glenn Delaney	6/10	6/15	Sweden		[4] 850.00		1,977.00				2,827.00
John Dentler	4/22	6/28	Scotland	430.44	648.00	13.30	[5] 20.03				
							1,228.00				1,896.00
Mary Beth Sullivan	4/27	5/1	Denmark		439.00		1,139.00				1,578.00
Hon. Robin Tallon	6/1	6/2	Guatamala		80.00		[6] 2,815.79				
	6/2	6/2	Nicaragua		0.00						
	6/2	6/3	Costa Rica	4,132.50	750.00						
	6/3	6/4	Honduras		0.00						
	6/4	6/5	El Salvador		0.00						2,970.79
Edmund Welch	5/25	5/26	Panama		194.00		[5] [6] 83.84		[7] 81.22		
	5/23	5/25	Costa Rica	4,408	150.00						509.06
Committee total					3,936.00		8,911.66		81.22		12,928.88

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] USD travel advance issued 6/3/86 for Malmo/Copenhagen.
[4] USD travel advance issued 6/6/86 for Malmo/Copenhagen.
[5] Local transportation in Panama (shared portion).
[6] Military transportation.
[7] Miscellaneous costs in Panama (shared portion).

WALTER B. JONES, Chairman, Aug. 7, 1986.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4204. A letter from the Auditor, District of Columbia, transmitting a report entitled "Review of Allegations Related to Food Service Operations and Unauthorized Use of Facilities at Coolidge Senior High School," pursuant to D.C. Code section 47–117(d); to the Committee on the District of Columbia.

4205. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting notification of the addition of Senegal to the Anti-Terrorism Assistance Program, pursuant to FAA, section 574(a)(i) (97 Stat. 972): to the Committee on Foreign Affairs.

4206. A letter from the Secretary of State, transmitting notification that the President intends to exercise his authority under section 506(a) of the Foreign Assistance Act in order to authorize the furnishing of $10 million in emergency military medical assistance to the Philippines, pursuant to 22 U.S.C. 2411 and 22 U.S.C. 2318(b)(2); to the Committee on Foreign Affairs.

4207. A letter from the Secretary of the Interior, transmitting the seventh annual public lands program report, pursuant to 43 U.S.C. 1741(a); to the Committee on Interior and Insular Affairs.

4208. A letter from the Chairman, National Advisory Committee on Oceans and Atmosphere, transmitting a report entitled "The Need for a National Plan of Scientific Exploration for the Exclusive Economic Zone;" to the Committee on Merchant Marine and Fisheries.

4209. A letter from the Administrator, General Services Administration, transmitting a building project survey for Takoma, WA; to the Committee on Public Works and Transportation.

4210. A letter from the Administrator, General Services Administration, transmitting a prospectus proposing the leasing of space in Rockville, MD to complete the final phase for full consolidation of the Nuclear Regulatory Commission's administrative activities in metropolitan Washington, pursuant to Public Law 86–249, section 7(a) (86 Stat. 217); to the Committee on Public Works and Transportation.

4211. A letter from the General Counsel, Department of Energy, transmitting a draft of proposed legislation to amend the Department of Energy Organization Act to authorize protective force personnel who guard the strategic petroleum reserve or its storage or related facilities to carry firearms while discharging their official duties and in certain instances to make arrests without warrant; to establish the offense of trespass on property of the strategic petroleum reserve; and for other purposes; jointly, to the Committee on Energy and Commerce and the Judiciary.

4212. A letter from the Under Secretary of the Treasury, transmitting a report on four agreements entered into by the Synthetic Fuels Corporation prior to December 15, 1985; jointly, to the Committees on Appropriations, Banking, Finance and Urban Affairs, and Energy and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MOAKLEY: Committee on Rules. H.R. 822. A bill to provide for a General Accounting Office investigation and report on conditions of displaced Salvadorans, to provide certain rules of the House of Representatives and of the Senate with respect to review of the report, to provide for the temporary stay of detention and deportation of certain Salvadorans, and for other purposes. (Rept. 99–755, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. FUQUA: Committee on Science and Technology. H.R. 4316. A bill to amend title 35, United States Code, and the National Aeronautics and Space Act of 1958, with respect to the use of inventions in outer space; with amendments (Rept. 99–788, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 4089. A bill to prohibit the construction of dams within national parks and monuments; with an amendment (Rept. 99–825). Referred to the Committee of the Whole House on the State of the Union.

Mr. FUQUA: Committee on Science and Technology. H.R. 5229. A bill to amend the Land Remote-Sensing Commercialization Act of 1984; with amendments (Rept. 99–826). Referred to the Committee on the Whole House on the State of the Union.

Mr. FUQUA: Committee on Science and Technology. Report entitled, "Neurotoxins: At Home and the Workplace" (Rept. 99–827). Referred to the Committee on the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. H.R. 3077. A bill to amend the Inspector General Act of 1978 to establish offices of inspector general in certain departments, and for other purposes; with an amendment (Rept. 99–828). Referred to the Committee on the Whole House on the State of the Union.

Mr. FUQUA: Committee on Science and Technology. H.R. 5495. A bill to authorize appropriations to the National Aeronautics and Space Administration, and for other purposes; with amendments (Rept. 99–829). Referred to the Committee on the Whole House on the State of the Union.

Mr. WHITTEN: Committee on Appropriations. House Joint Resolution 727. Resolution making repayable advances to the hazardous substance response trust fund (Rept. 99–830). Referred to the Committee on the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of the rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CLAY:

H.R. 5519. A bill to make technical amendments to title I of the Employee Retirement Income Security Act of 1974 relating to continuation of employer-based health insur-

ance coverage; to the Committee on Education and Labor.

By Mr. WILLIAMS (for himself, Mr. BARTLETT, Mr. JEFFORDS, Mr. HAYES, Mrs. BURTON of California, Mr. COELHO, Mr. BIAGGI, Mr. HAWKINS, Mr. BARNES, Mr. DELLUMS, Mr. MURPHY, Mr. MARTINEZ, Mr. WALGREN, Mr. STAGGERS, Mr. BOUCHER, Mr. PENNY, Mr. TOWNS, Mr. KASTENMEIER, and Mr. CAMPBELL):

H.R. 5520. A bill to amend the Education of the Handicapped Act to reauthorize the discretionary programs under that act, to authorize an early intervention program under that act for handicapped infants and toddlers and their families, and for other purposes; to the Committee on Education and Labor.

By Mr. ST GERMAIN (for himself and Mr. WYLIE):

H.R. 5521. A bill to extend until October 13, 1986, the emergency acquisition and net worth guarantee provisions of the Garn-St Germain Depository Institutions Act of 1982; to the Committee on Banking, Finance and Urban Affairs.

By Mr. MICA (for himself and Mr. OLIN):

H.R. 5522. A bill to authorize the release to museums in the United States of certain objects owned by the U.S. Information Agency; to the Committee on Foreign Affairs.

By Mrs. BYRON:

H.R. 5523. A bill to authorize the Secretary of Defense to prepare a plaque honoring American servicemen who lost their lives during "Operation Tiger" in April 1944; to the Committee on Armed Services.

By Mr. DASCHLE:

H.R. 5524. A bill to provide emergency assistance to farmers and ranchers adversely affected by natural disasters in 1986; to the Committee on Agriculture.

By Mr. HOYER (for himself, Mr. BARNES, Mrs. BENTLEY, and Mrs. BYRON):

H.R. 5525. A bill to amend title 28, United States Code, to create two divisions in the Judicial District of Maryland; to the Committee on the Judiciary.

By Mr. GEJDENSON (for himself, Mr. MILLER of California, Mr. UDALL, Mr. CHENEY, Mr. MCCAIN, Mr. STRANG, Mr. LEHMAN of California, Mr. LUJAN, Mr. KILDEE, Mr. MOODY, Mr. KOSTMAYER, Mr. SEIBERLING, Mr. BARTON of Texas, Mr. MOAKLEY, Mrs. JOHNSON, Mrs. KENNELLY, Ms. KAPTUR, Mr. LUNDINE, Mr. TORRES, Mr. MCKINNEY, Mr. ST GERMAIN, Mr. SPRATT, Mr. MORRISON of Connecticut, Mr. MCKERNAN, Mr. STUDDS, Mr. WEISS, Mr. DONNELLY, Mr. FOGLIETTA, Mr. HAWKINS, Mr. GALLO, Mr. MRAZEK, and Mr. ATKINS):

H.R. 5526. A bill to authorize the water resources research activities of the U.S. Geological Survey and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. GUNDERSON (for himself, Mr. GLICKMAN, and Mr. ROBERT F. SMITH):

H.R. 5527. A bill to make technical amendments to section 1324 of the Food Security Act of 1985, and for other purposes; to the Committee on Agriculture.

By Mr. HUCKABY:

H.R. 5528. A bill to provide for the establishment of the Poverty Point National Monument, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. HYDE:

H.R. 5529. A bill to restrict travel by United States citizens to the Soviet Union until Nicholas Daniloff is freed; to the Committee on Foreign Affairs.

By Mr. SCHUMER:

H.R. 5530. A bill to prevent the denial of employment opportunities by restricting the use of drug tests by the U.S. Government and by other employers in or affecting interstate commerce; jointly, to the Committees on Education and Labor, and Post Office and Civil Service.

By Mr. ACKERMAN:

H.R. 5531. A bill to amend title 5, United States Code, to establish certain restrictions relating to drug testing by Federal agencies, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. MANTON (for himself, and Mr. BATEMAN):

H.R. 5532. A bill to prohibit the implementation of a rule of the Department of Defense that would establish procedures for determining whether rates charged by vessels of the United States or belonging to the United States are excessive under the Cargo Preference Act of 1904; to the Committee on Armed Services.

By Mr. WHITTEN:

H.J. Res. 727. Joint resolution making repayable advances to the Hazardous Substance Response Trust Fund; to the Committee on Appropriations.

By Mr. FLORIO (for himself, Ms. SNOWE, Mr. MCKERNAN, Mr. CONTE, Mr. SOLOMON, Mr. OBERSTAR, Mr. SWIFT, and Mr. TAUZIN):

H.J. Res. 728. Joint resolution to provide for a settlement to the Maine Central Railroad Co. and Portland Terminal Co., labor-management dispute; to the Committee on Energy and Commerce.

By Mr. WORTLEY:

H.J. Res. 729. Joint resolution to designate the month of October 1986, as "Orphans and Foster Care Youth Month"; to the Committee on Post Office and Civil Service.

By Mr. MICA (for himself and Ms. SNOWE):

H. Con. Res. 391. Concurrent resolution calling on the Governments of the Soviet Union, Poland, and Czechoslovakia to cease activities causing harmful interference to the broadcasts of Voice of America and RFE/RL, Incorporated; to the Committee on Foreign Affairs.

By Mr. Fascell (for himself and Mr. BROOMFIELD):

H. Res. 551. Resolution commemorating the 25th anniversary of the Arms Control and Disarmament Agency; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. DORNAN of California:

H.R. 5533. A bill for the relief of Joseph W. Newman; to the Committee on the Judiciary.

By Mr. THOMAS of Georgia:

H.R. 5534. A bill for the relief of Meliha Cooks and Gorkhan Cooks; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 442: Mr. YOUNG of Missouri and Mr. BRUCE.

H.R. 1902: Mr. EDWARDS of California, Mr. KILDEE, Mr. BARNES, Mr. BENNETT, and Mr. WOLF.

H.R. 1917: Mr. CALLAHAN, Mr. ORTIZ, Mr. WAXMAN, Mr. MCEWEN, Mr. BORSKI, Mr. WYLIE, Mr. COUGHLIN, Mr. DAVIS, Mr. SUNDQUIST, Mr. GALLO, Mr. COLEMAN of Texas, Mr. FROST, and Mrs. VUCANOVICH.

H.R. 3024: Mr. DENNY SMITH and Mr. TAUZIN.

H.R. 3040: Mr. WEBER.

H.R. 3643: Mr. KRAMER and Mr. COBEY.

H.R. 3799: Mr. HUCKABY and Mr. BOEHLERT.

H.R. 3894: Mr. GRAY of Illinois and Mr. RITTER.

H.R. 4033: Mr. GILMAN.

H.R. 4067: Mr. ATKINS.

H.R. 4183: Mr. PICKLE, Mr. LEHMAN of California, Mr. HATCHER, and Mr. DOWNEY of New York.

H.R. 4223: Mr. WALDON.

H.R. 4243: Mrs. BOXER.

H.R. 4268: Mr. DASCHLE.

H.R. 4316: Mr. BROWN of California, Mr. LUJAN, Mr. TORRICELLI, Mr. PACKARD, Mr. GORDON, Mr. SMITH of New Hampshire, and Mr. CHAPMAN.

H.R. 4493: Mr. CLAY and Mr. TRAFICANT.

H.R. 4723: Mr. LUNDINE, Mr. KILDEE, Mr. LEWIS of California, Mr. TOWNS, Mr. FAUNTROY, and Mr. BROWN of California.

H.R. 4820: Mr. CARPER.

H.R. 4894: Mr. WAXMAN, Mr. DAUB, Mr. BATEMAN, Mr. SWINDALL, Mr. HAMILTON, Mrs. BOXER, Mr. KASTENMEIER, Mr. MILLER of Washington, Mr. PORTER, Mr. MINETA, Mr. LEVINE of California, Mr. STOKES, Mr. BARNES, Mr. TOWNS, Mr. DASCHLE, Mr. DELLUMS, and Mr. SYNAR.

H.R. 4922: Mr. GINGRICH and Mr. TALLON.

H.R. 4934: Mr. EMERSON, Mr. BLAZ, Mr. BENNETT, Mr. HOPKINS, Mrs. BOXER, Mr. MCCOLLUM, Mr. COURTER, Mr. KEMP, and Mr. WATKINS.

H.R. 5053: Mr. MACK, Mr. CROCKETT, Mr. SKEEN, and Mr. MCCOLLUM.

H.R. 5116: Mr. MACK.

H.R. 5117: Mr. MACK.

H.R. 5132: Mr. ROBERTS.

H.R. 5156: Mr. FAZIO.

H.R. 5184: Mr. HYDE, Mrs. BOXER, and Mr. BOUCHER.

H.R. 5209: Mr. NIELSON of Utah and Mr. CROCKETT.

H.R. 5350: Mr. NICHOLS, Mr. GUNDERSON, and Mr. KASTENMEIER.

H.R. 5420: Mr. DELAY.

H.R. 5425: Ms. KAPTUR and Mr. BIAGGI.

H.R. 5457: Mr. WIRTH, Mrs. BURTON of California, Ms. MIKULSKI, Mr. WOLPE, Mr. ATKINS, Mr. BOSCO, Mr. ACKERMAN, Mr. LA FALCE, and Mr. BIAGGI.

H.R. 5465: Mr. COATS, Mr. RINALDO, Mr. QUILLEN, Mr. GORDON, Mr. TORRES, Mr. VANDER JAGT, and Mr. DEWINE.

H.R. 5477: Mr. RAY, Mr. EVANS of Illinois, Mr. MONTGOMERY, Mr. BRYANT, and Mr. PEASE.

H.R. 5497: Mrs. BENTLEY, Mr. BOULTER, Mr. DAUB, Mr. GEJDENSON, Mr. RIDGE, Mr. WHITTAKER, and Mr. WILLIAMS.

H.J. Res. 7: Mr. SCHUETTE.

H.J. Res. 167: Mr. COLEMAN of Missouri, Mr. DICKS, Mr. FLORIO, Mr. FOWLER, Mr. HEFNER, Mr. KOLTER, Mr. LEHMAN of Florida,

Mr. LUNGREN, Mr. MCCURDY, Mr. MOORHEAD, Mr. NELSON of Florida, Mr. REGULA, Mr. RITTER, Mr. ROBERTS, Mr. RUSSO, and Mr. SMITH of Florida.

H.J. Res. 244: Mr. BATEMAN, Mr. ECKART of Ohio, Mr. SPENCE, Mr. STOKES, Mr. CARPER, Mr. WHEAT, and Mr. SHELBY.

H.J. Res. 336: Mr. COURTER.

H.J. Res. 410: Mr. FEIGHAN, Mr. NEAL, Mr. APPLEGATE, Mr. WILSON, Mr. TRAXLER, Mr. EMERSON, Mr. HOYER, Mr. CHAPPIE, Mr. COLEMAN of Missouri, Mr. ORTIZ, Mr. GINGRICH, Mr. PASHAYAN, Mr. DE LA GARZA, Mr. LUNDINE, Mr. SWINDALL, Mrs. BOXER, Mr. BRYANT, Mr. DYMALLY, Mr. DREIER of California, Mr. KOLTER, Mr. DWYER of New Jersey, Mr. COURTER, Ms. MIKULSKI, Mr. LEVINE of California, Mr. LUNGREN, Mr. ROEMER, Mr. ATKINS, Mr. DANNEMEYER, Mr. BARTLETT, Mr. VANDER JAGT, Mr. FOLEY, Mr. SAVAGE, Mr. PEPPER, Mr. PRICE, Mr. DOWDY of Mississippi, Mrs. KENNELLY, Mr. MCCAIN, Mr. BUSTAMANTE, and Mr. CARNEY.

H.J. Res. 417: Mr. FRENZEL and Mr. DICKS.

H.J. Res. 586: Mr. ENGLISH, Mrs. BENTLEY, Mrs. LLOYD, Mr. HATCHER, Mr. LIVINGSTON, Mr. WHITLEY, Mr. GALLO, Mr. COURTER, Mr. WHEAT, Mr. KINDNESS, Mr. BREAUX, Ms. MIKULSKI, Mr. STAGGERS, Mr. YOUNG of Alaska, Mr. SOLOMON, Mr. BEILENSON, Mr. WYLIE, Mr. OWENS, Mr. CAMPBELL, Mr. GINGRICH, Mrs. MARTIN of Illinois, Mr. WATKINS, Mr. SYNAR, Mr. OLIN, Mr. MCKINNEY, Mr. WISE, Mr. SHELBY, Mr. MOAKLEY, Mr. OBERSTAR, Mr. LEWIS of California, Mr. COLEMAN of Missouri, Mr. HENDON, Ms. SNOWE, Mr. LEACH of Iowa, Mr. COELHO, Mr. WOLPE, Mr. SMITH of Iowa, Mr. MCKERNAN, Mr. FROST, Mr. ROBERTS, Mr. MCMILLAN, Mr. UDALL, Mr. HUBBARD, Mr. MACK, Mr. LOTT, Mr. ROGERS, Mr. HAMMERSCHMIDT, Mr. DIXON, Mr. PETRI, Mr. ROTH, Mr. JACOBS, Mr. MCCLOSKEY, Mr. SMITH of New Hampshire, Mr. KOLBE, Mr. ALEXANDER, Mr. BUSTAMANTE, Mr. MILLER of Ohio, Mr. HAMILTON, Mr. KOSTMAYER, Mr. ORTIZ, Mr. BONIOR of Michigan, Mr. GORDON, Mr. BARTLETT, Mr. MACKAY, Mr. CHAPPIE, Mr. BLILEY, Mr. HAWKINS, Mr. HUTTO, Mr. LOWERY of California, Mr. MORRISON of Connecticut, Mr. DEWINE, Mr. MOORE, Mr. WYDEN, Mr. ARCHER, Mr. FRENZEL, Mr. KILDEE, Mr. ANTHONY, Mr. PORTER, Mr. VANDER JAGT, Mr. TRAFICANT, Mr. SHAW, Mr. PERKINS, Mr. WEBER, Mr. MORRISON of Washington, and Mr. STALLINGS.

H.J. Res. 645: Mr. FAUNTROY, Mr. TOWNS, Mr. HAYES, Ms. OAKAR, Mr. KOLBE, Mr. COURTER, Mr. DE LUGO, Mr. HENRY, Mr. BUSTAMANTE, Mr. DIOGUARDI, Mr. CALLAHAN, Mr. GILMAN, Mr. HANSEN, Mr. HOWARD, Mr. KILDEE, Mr. KOLTER, Mr. LAGOMARSINO, Mr. LUNGREN, Mr. MARTIN of New York, Mr. MORRISON of Connecticut, Mr. NATCHER, Mr. DOWDY of Mississippi, Mr. ORTIZ, Mr. PEPPER, Mr. DYMALLY, Mr. SPENCE, Mr. SUNIA, Mr. TALLON, Mr. TAUZIN, Mr. TRAFICANT, Mr. SCHEUER, Mr. VANDER JAGT, and Mr. TRAXLER.

H.J. Res. 657: Mr. PORTER, Mr. SNYDER, Mr. SOLOMON, Mr. CALLAHAN, Mr. BURTON of Indiana, Mr. DORNAN of California, Mr. RODINO, Mr. PEPPER, Mr. WOLF, Mr. BROWN of Colorado, Mr. BATEMAN, Mrs. VUCANOVICH, Mr. LEWIS of California, Mr. HERTEL of Michigan, Mr. FROST, Mr. MCKINNEY, Mr. LEWIS of Florida, Mr. PANETTA, Mr. REGULA, Mr. DANNEMEYER, Mr. WILSON, Mr. GREEN, Mr. BADHAM, Mr. DINGELL, Mrs. BYRON, and Mr. BROOKS.

H.J. Res. 670: Mr. WYLIE.

H.J. Res. 681: Mr. GRADISON.

H.J. Res. 684: Mr. COOPER, Mr. GOODLING, Mr. AKAKA, Mr. ANDERSON, Mr. HUTTO, Ms. MIKULSKI, Mr. MILLER of California, Mr. LEWIS of Florida, Mr. JEFFORDS, Mr. PICKLE, Mr. MOODY, Mr. ROSTENKOWSKI, Mr. PANETTA, Mr. SIKORSKI, Mr. SYNAR, Mr. FAUNTROY, Mr. BENNETT, Mr. KRAMER, Mr. BREAUX, Mr. STRANG, and Mr. PACKARD.

H.J. Res. 698: Ms. MIKULSKI and Mr. LEVIN of Michigan.

H.J. Res. 706: Mr. NIELSON of Utah, Mrs. HOLT, Mr. PURSELL, Mr. HAMILTON, Mr. WORTLEY, Ms. OAKAR, and Mr. HORTON.

H. Con. Res. 129: Mr. RALPH M. HALL, Mr. LUJAN, Mr. PICKLE, Mr. BENNETT, and Mr. VANDER JAGT.

H. Con. Res. 332: Mr. FIELDS, Mr. ARMEY, Mr. MCGRATH, Mr. TORRICELLI, and Mr. ERDREICH.

H. Con. Res. 334: Mr. SOLARZ.

H. Con. Res. 388: Mr. BATEMAN, Mr. TAUZIN, Mr. LIGHTFOOT, Mr. WILSON, Mr. BRYANT, Mr. WIRTH, and Mr. LEVIN of Michigan.

H. Res. 469: Mr. LOWRY of Washington, Mr. NELSON of Florida, Mrs. SCHROEDER, Mr. SCHUMER, Mr. DIOGUARDI, Mr. BURTON of Indiana, and Mr. SUNIA.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

480. The SPEAKER presented a petition of the Brotherhood of Maintenance of Way Employees, Detroit, MI, relative to the dispute between the Brotherhood of Maintenance of Way Employees and Maine Central and Portland Terminal Railroad Companies; which was referred to the Committee on Energy and Commerce.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1309

By Mr. KINDNESS:

—Page 9, strike out line 21 and all that follows through line 19 on page 10 and insert in lieu thereof the following:

"(d) PROCEDURES.—Board proceedings to identify a population at risk shall be considered rulemaking proceedings within the meaning of section 551(5) of title 5, United States Code. Such proceedings shall be conducted by the Board in accordance with the procedures contained in section 553 of such title.

—Page 15, line 5, strike out "Court of Appeals" and insert in lieu thereof "District Court".

—Page 19, after line 10, insert the following new section (and redesignate the succeeding sections and references thereto accordingly):

SEC. 8. APPLICABILITY TO IMPORTERS.

An employer that is an importer of products for sale or use in the United States or any of its territories or possessions shall certify to the United States Customs Service that all employees engaged in the production of such products have been notified of any hazardous occupational exposure occurring in the course of producing such products, including—

(1) an identification of the hazardous occupational exposure, including the name, composition and properties of known chemical agents;

(2) the disease or diseases associated with the hazardous occupational exposure;

(3) any known latency periods from time of exposure to time of clinical manifestation of the disease; and

(4) counseling appropriate to the nature of the risk including—

(A) the advisability of initiating a personal medical monitoring program; and

(B) the most appropriate type of medical monitoring for the disease associated with the risk.

—Page 21, strike out line 24 and all that follows through line 2 on page 22.

H.R. 2482

By Mr. BEDELL:

(As amended by H.R. 5440.)

—Page 38, line 17: delete the words "$100,000" and insert in lieu thereof the words "$150,000".

—Page 134, strike out line 5 and all that follows through line 6 on page 135 and insert in lieu thereof the following:

SEC. 814. GROUNDWATER AUTHORITY.

(a) DEFINITIONS.—Section 2 (7 U.S.C. 136) (as amended by section 802) is amended by adding at the end the following:

"(ll) GROUNDWATER.—The term 'groundwater' means water below the land surface in a zone of saturation.

"(mm) RELIABLE ANALYTICAL DATA.—The term 'reliable analytical data' means scientific information that verifies the presence of a pesticide in a groundwater sample and that is of a reliable scientific quality according to generally recognized standards and good laboratory practices for sampling and analysis of pesticides in groundwater.

"(nn) POTENTIAL SOURCES OF DRINKING WATER.—The term 'potential sources of drinking water' means the portion of an aquifier or aquifer system that contains sufficient quantity and is of sufficient quality to supply potable water to a drinking water well, taking into account (1) geographic considerations and depth to drinking water, (2) any State criteria or guidelines for siting new wells established under section 1428 of the Public Health Service Act or other State authority, and (3) shallow groundwater that is not potential drinking water.

"(oo) DRINKING WATER WELL.—The term 'drinking water well' means a well or spring currently supplying water for human consumption.

"(pp) GROUNDWATER SAMPLING POINT.—The term 'groundwater sampling point' means a public or community water supply, a private water supply, a spring, or a monitoring well or other groundwater source if the well or source is reasonably designed and of adequate depth to permit the collection of representative groundwater samples.".

(b) AUTHORITY.—The Act (as amended by section 202) is amended by adding after section 31 the following:

"SEC. 32. PROTECTION OF GROUNDWATER.

"(a) NOTIFICATION.—

"(1) REQUIREMENT.—When a registrant of a pesticide obtains or learns of reliable analytical data that a pesticide has—

"(A) been detected at any groundwater sampling point and no groundwater residue guidance level has been issued for the pesticide under subsection (e),

"(B) has been detected at a groundwater sampling point at a concentration higher than known previously to have been reported to the Administrator at such groundwater sampling point, or

"(C) has been detected at any groundwater sampling point at a concentration at or greater than 20 percent of the groundwater

residue guidance level issued for the pesticide under subsection (e),

the registrant shall file a report containing such information within 15 working days with both the Administrator, the State in which the groundwater sampling point is located, and the owner of the property in which the groundwater sampling point is located, if known.

"(2) CONTENT OF REPORT.—A report required by paragraph (1) for detection of a pesticide shall contain information known to the registrant of the pesticide on the level of detection of the pesticide, the frequency of detection of the pesticide, location (including depth) where the pesticide was detected, date of the pesticide detection, well construction if the pesticide was detected in a well, soil type where the pesticide was detected, and analytical method used to make the pesticide detection, including information on the precision, accuracy, and limits of the method of detection and any quality assurance and control procedures used in the pesticide detection.

"(b) REVIEW FOR FURTHER ACTION.—Upon receiving information of a detection of a pesticide at any groundwater sampling point, the Administrator shall promptly review the information to determine the reliability of the detection and to determine where further action shall be taken to protect groundwater.

"(c) MONITORING.—

"(1) CONFIRMATION OF DETECTIONS.—If the Administrator receives reliable, analytical data indicating that—

"(A) a pesticide has been detected in a drinking water well,

"(B) the concentration of the pesticide equals or exceeds any groundwater residue guidance level issued under subsection (d) for the pesticide, and

"(C) the presence of the pesticide in the drinking water well may be the result of use of the pesticide in accordance with the labeling on the pesticide or widespread and commonly recognized practices involving the pesticide,

the Administrator may require the registrant of the pesticide detected to conduct such analysis of samples of groundwater from the drinking water well involved as is necessary to determine whether the pesticide is present at a concentration that equals or exceeds such groundwater residue guidance level. A monitoring requirement imposed under this paragraph shall be completed within 90 days of notice to the registrant. The procedures of section 3(c)(2)(B) shall govern any monitoring requirement imposed under this paragraph.

"(2) REQUIREMENT FOR MONITORING.—If the Administrator determines that additional data on the presence of a pesticide in groundwater are required to maintain in effect an existing registration of the pesticide, the Administrator may, under section 3(c)(2)(B), require the registrant of the pesticide to conduct groundwater monitoring. The Administrator shall consult with the Secretary of Agriculture, the heads of other appropriate Federal agencies, and the States concerning the design and scope of monitoring requirements imposed under this paragraph. The design and the scope of the monitoring requirement should take into account all relevant information, including the magnitude and frequency of the detection of the pesticide involved, pattern of pesticide use and soil types involved in the detection, physical and chemical properties of the pesticide, rainfall patterns, well construction if the pesticide was detected in a well, rates of degradation, reliability and analytical accuracy of the detection, and results of State or other sponsored monitoring. To the extent feasible, monitoring should be at representative geographical and hydrogeological areas associated with locations and conditions of concern as determined by the Administrator.

"(3) JUDICIAL REVIEW.—Monitoring requirements imposed under paragraph (2) shall be subject to judicial review under section 16.

"(d) GROUNDWATER RESIDUE GUIDANCE LEVELS.—

"(1) REQUIREMENT.—The Administrator, on the Administrator's own initiative, may issue a groundwater residue guidance level for a pesticide. The Administrator shall issue a groundwater residue guidance level for a pesticide whenever the Administrator registers or reregisters a pesticide if the Administrator determines that the pesticide has the potential to leach into groundwater. In addition, the Administrator shall issue a groundwater residue guidance level for a pesticide if—

"(A) based on reliable analytical data, the pesticide has been detected at groundwater sampling points in 3 different geographical areas,

"(B) based on reliable analytical data, the pesticide has been detected in a drinking water well or wellfield that serves a population of over 500 people, or

"(C) a Federal agency or a State petitions the Administrator to set a groundwater residue guidance level for the pesticide.

"(2) STANDARD FOR DETERMINING GROUNDWATER RESIDUE GUIDANCE LEVEL.—

"(A) If the Administrator has promulgated or promulgates a maximum contaminant level under section 1412(b)(3) of the Public Health Service Act that applies to a pesticide, the groundwater residue guidance level required under paragraph (1) for the pesticide shall be set at such level within 30 days of being required under such paragraph.

"(B) If a maximum contaminant level that would be applicable to a pesticide for which a groundwater residue guidance level is required by a paragraph (1) has not been established under such section 1412(b)(3), the Administrator, in the Administrator's discretion, may use a health advisory level established under the Public Health Service Act in establishing such groundwater residue guidance level. The groundwater residue guidance level established by the Administrator for such pesticide shall reflect the level of the pesticide in drinking water at which no known or anticipated adverse effects on the health of persons occur, the need for an adequate margin of safety, the nature of the toxic effects caused by the pesticide, and the validity, completeness, and adequacy of data about the pesticide. If all required chronic, oncogenicity, reproduction, or teratogenicity data are absent or invalid for the pesticide, the groundwater residue guidance level for the pesticide shall be at the limit of detection. If any required chronic, oncogenicity, reproduction, or teratogenicity data are absent or invalid for the pesticide, the groundwater residue guidance level for the pesticide shall include an additional margin of safety that takes into account the absence of such data.

"(3) PROCEDURES.—

"(A) Before issuing a final groundwater residue guidance level for a pesticide, the Administrator shall publish an interim groundwater residue guidance level for the pesticide in the Federal Register and allow public comment for at least 30 days. During the public comment period, the Administrator shall invite comment on the level involved from the Secretary of Agriculture, the Scientific Advisory Panel, States, and the congressional committees designated in section 25(a)(3).

"(B) If the Administrator is required under paragraph (1) to issue a groundwater residue guidance level for a pesticide and the groundwater residue guidance level is to be issued under paragraph (2)(B), the Administrator shall issue an interim groundwater residue guidance level for the pesticide within 30 days after the requirement to issue the groundwater residue guidance level takes effect.

"(C) The issuance or revision of interim groundwater residue guidance levels and proposals to revise groundwater residue guidance levels shall not be subject to the procedural requirements imposed by subparagraphs (A) and (B) of section 25(a)(2) or by section 25(a)(3), 25(a)(4), or 25(d).

"(D) Within 3 months after establishing an interim groundwater residue guidance level, the Administrator shall establish a final groundwater residue guidance level. Until a final groundwater residue guidance level is established under paragraph (1) for a pesticide, an interim groundwater residue guidance level established for the pesticide shall remain in effect.

"(4) REVISION OF GROUNDWATER RESIDUE GUIDANCE LEVELS.—The Administrator may revise a groundwater residue guidance level for a pesticide. The Administrator shall allow at least 30 days for public comment on any proposed revision.

"(5) JUDICIAL REVIEW.—An interim groundwater residue guidance level shall not be subject to judicial review before the expiration of 3 months after its issuance. Judicial review of any final groundwater residue guidance level or failure to establish an interim or final groundwater residue guidance level shall be governed by section 16. A groundwater residue guidance level established under paragraph (2)(A) shall not be subject to judicial review.

"(e) RESPONSE TO GROUNDWATER CONTAMINATION.—

"(1) REQUIREMENT.—If the Administrator determines that a pesticide is present in a drinking water well at a concentration that exceeds the final groundwater residue guidance level applicable to the pesticide and that the presence of the pesticide in the drinking water well may be the result of use of the pesticide in accordance with the labeling on the pesticide or as a result of widespread and commonly recognized practice involving the pesticide, the Administrator shall notify the State in which the drinking water well is located of the Administrator's determination and shall provide it with all information relevant to the determination. Such State shall take action within 90 days of such notification to prevent potential adverse effects on human health and the environment from such pesticide. To the extent required by State law or Federal law (other than this Act), such action shall bring and retain the concentration of the pesticide detected at such drinking water well at or below the final groundwater residue guidance level applicable to the pesticide or prevent consumption of drinking water that exceeds such level.

"(2) ACTION BY THE ADMINISTRATOR.—

"(A) After January 1, 1989, if a State does not have the authority to take the action required by paragraph (1) with respect to a pesticide detected in a drinking water well or fails to take such action within the time

period prescribed by such paragraph, the Administrator shall take action under this Act to bring and retain the concentration of the pesticide detected at such drinking water well at or below the final groundwater residue guidance level applicable to the pesticide or such other action as the Administrator deems necessary to prevent potential adverse effects on human health and the environment from such pesticide. If the Administrator takes such action, the Administrator shall publish notice of the action in the Federal Register and take appropriate steps to inform the registrant of the pesticide involved, potentially affected persons, and interested members of the public. Such notice shall specify the findings and conclusions upon which such action was based.

"(B) Any person adversely affected by action taken under subparagraph (A) or the failure of the Administrator to take such action may request an expedited hearing, under the procedures in section 6(c)(2), to determine whether the action was taken in accordance with subparagraph (A) or whether the Administrator was required to take action. Such a hearing shall be held and a determination made within 75 days from the date of the receipt of the request for the hearing.

"(C) The Administrator shall provide reasonable procedures for petitions to modify or terminate and action taken under subparagraph (A) when the drinking water well involved no longer has the pesticide in a concentration that exceeds the applicable groundwater residue guidance level and will likely remain below such level.

"(3) JUDICIAL REVIEW.—Judicial review of actions taken under this subsection shall be governed by section 16.

"(f) REGISTRATION AMENDMENTS.—

"(1) REQUIREMENT.—

"(A)(i) After reviewing reliable analytical data, the Administrator shall determine whether there is a reasonable likelihood that the groundwater residue guidance level for a pesticide will be exceeded in drinking water wells in different localities. If the Administrator determines that there is a reasonable likelihood that groundwater residue guidance level for a pesticide will be exceeded in drinking water wells in different localities, the Administrator shall promptly require amendments to the registration of the pesticide with respect to which the finding was made that are reasonably necessary to ensure that use of the pesticide in accordance with the amended registration will not cause the final groundwater residue guidance level involved in the finding to be exceeded in drinking water wells. The Administrator shall make any such determination public.

"(ii) If the Administrator proposes to require registration amendments under clause (i) for a pesticide, the Administrator shall notify the registrant of the pesticide of such amendments and shall publish notice of such proposal in the Federal Register. Such notice shall include the Administrator's determination whether the presence of the pesticide in drinking water wells appears to have been the result of the use of the pesticide in accordance with its labeling or the result of widespread and generally recognized practice.

"(B) After reviewing reliable analytical data, the Administrator shall determine whether there is a reasonable likelihood that the groundwater residue guidance level for a pesticide will be exceeded in potential drinking water in different localities. If the Administrator determines that there is a reasonable likelihood that the groundwater residue guidance level for a pesticide will be exceeded in potential drinking water in different localities, the Administrator shall promptly require amendments to the registration of the pesticide with respect to which the finding was made that are reasonably necessary to ensure that use of the pesticide in accordance with the amended registration will not cause the final groundwater residue guidance level involved in the finding to be exceeded in potential drinking water. If the Administrator proposes to require registration amendments under this subparagraph for a pesticide, the Administrator shall notify the registrant of the pesticide of such amendments. In establishing such amendments, the Administrator shall—

"(i) meet the procedural requirements of subparagraph (A)(ii),

"(ii) take into account information submitted by States on land or groundwater use classification or other governmental actions that could affect when groundwater may be used for drinking water, and

"(iii) consider the views of the Secretary of Agriculture, the heads of other appropriate Federal agencies, and States as required in paragraph (2).

"(2) CONSULTATION WITH STATES.—In taking action under paragraph (1), the Administrator shall consult with the Secretary of Agriculture and the State where the pesticide involved has been detected in any groundwater sampling point and each other State in which there is significant use of the pesticide. The Administrator shall notify such State of the Administrator's determination that there is a reasonable likelihood that a groundwater residue guidance level will be exceeded and shall, in accordance with section 10(h), provide the States with all information relevant to this determination. Each State that is notified under this paragraph shall promptly provide the Administrator with information that is relevant to taking action under paragraph (1) and shall make recommendations with respect to any proposed registration amendments.

"(3) SCOPE OF AMENDMENTS.—

"(A) Amendments to the registration of a pesticide under paragraph (1) may include—

"(i) limitations on the purposes for and locations at which the pesticide may be used, considering factors such as environmentally sensitive areas and conditions,

"(ii) limitations on the rate at which the pesticide is applied,

"(iii) limitations on the time or frequency of pesticide use,

"(iv) limitations on the method of pesticide application, storage, handling, or disposal,

"(v) reporting or other requirements, including label changes or changes in classification,

"(vi) requirements for the training or certification of pesticide applicators or other persons using the pesticide.

"(vii) required site specific responses, or

"(viii) any other requirement to ensure that the applicable groundwater residue guidance level will not be exceeded.

"(B) Amendments to the registration of a pesticide under paragraph (1) should, to the extent feasible, be directed to the same or similar use of the pesticide, same or similar geographical and hydrogeological areas, and other similar conditions that led to the determination under subparagraph (A) or (B) of paragraph (1).

"(C) In taking regulatory action under paragraph (1), the Administrator may use recommendations made by a State under paragraph (2).

"(D) In requiring amendments to the registration of a pesticide under paragraph (1), the Administrator shall consider the effect of any voluntary actions by registrants or other persons, including actions by a State, to prevent the groundwater residue guidance level involved from being exceeded and to comply with other environmental laws.

"(4) PROCEDURE.—Registration amendments under paragraph (1) shall be imposed in accordance with the procedural requirements of this Act.

"(g) INFORMATION ON PESTICIDES IN GROUNDWATER.—The Administrator may collect and make available through a public information file information concerning the detection of pesticides in any groundwater sampling point. The file may, among other things, summarize for each pesticide that has been detected in groundwater, based on reliable analytical data, whether the pesticide has been detected at a concentration that exceeds the applicable groundwater residue guidance level and whether the presence of the pesticide in groundwater appears to have been caused by the use of the pesticide in compliance with this Act.

"(h) TECHNICAL ASSISTANCE TO STATES.—The Administrator shall provide technical information to States to assist in implementing this section. Subject to section 10(h), the technical information provided respecting a pesticide shall include data on the toxicity, environmental fate, or physical or chemical characteristics of the pesticide, predictive modeling, exposure and other relevant subjects. In addition, the Administrator shall provide information, to the extent reasonably available, on alternative methods of pest control and on agricultural or other management practices that could minimize the presence of pesticides in groundwater.

"(j) SPECIAL REVIEW.—Upon receiving reliable analytical data that a pesticide has been detected above the applicable groundwater residue guidance level but not in a drinking water well or potential drinking water, the Administrator may initiate a public interim administrative review under section 3(c)(8) to determine whether the pesticide may cause unreasonable adverse effects on the environment from such use.

"(k) EFFECT ON OTHER PROVISIONS.—Nothing in this section shall limit the authority of the Administrator or of any State under other provisions of this Act or under any other law.".

Page 131, line 7, strike out "or", in line 10 strike out the period and insert in lieu thereof "; or", and after line 10 insert the following:

"(U) to violate any action required under section 32(e)(2).".

By Mr. COLEMAN of Missouri:

(As amended by H.R. 5440.)

—Page 56, insert after line 19 the following:

SEC. 203. NOTICE FOR STORED CANCELLED OR SUSPENDED PESTICIDES.

(a) NOTICE.—Section 6 (7 U.S.C. 136d) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following:

"(f) NOTICE.—Any producer or exporter of pesticides, registrant of a pesticide, applicant for registration of a pesticide, applicant for or holder of an experimental use permit, pesticide testing facility, commercial applicator, or any person who distributes or sells any pesticide which has in its possession any pesticide which has had its registration can-

celled or suspended under this section shall notify the Administrator and appropriate State and local officials of—

"(1) such possession,

"(2) the quantity of such pesticide in its possession, and

"(2) the place at which such pesticide is stored.

The Administrator shall transmit a copy of each notice submitted under this subsection to the regional office of the Environmental Protection Agency which has jurisdiction over the place of pesticide storage identified in the notice.".

(b) ENFORCEMENT.—Subparagraph (K) of section 12(a)(2) (7 U.S.C. 136j) is amended to read as follows:

"(K) except as provided in section 6(a)(1), to violate any cancellation of a registration of a pesticide under section 6 and to fail to submit a notice in accordance with section 6(f);".

Page 2, in the table of contents, insert at the end of title II the following:

Sec. 203. Notice for stored cancelled or suspended pesticides.

—Page 88, line 8, insert after the comma the following: "and to enter any place where a pesticide which has had its registration cancelled or suspended under section 6 is stored.".

By Mr. FLORIO:

(As amended by H.R. 5440.)

—On page 138, insert after the period in line 10 the following: Nothing in this Act shall affect, diminish or expand enforcement authorities, including abatement or other equitable authorities, provided under any other Federal law.

By Mr. GLICKMAN:

(As amended by H.R. 5440)

—Page 20, line 5, strike out "or", in line 8 strike out the period and insert in lieu thereof ", or ", and after line 8 insert the following:

"(E) appear in pesticides for which any public health claim is made.

—Page 51, insert after line 2 the following:

SEC. 110. APPROVAL OF PESTICIDES WHICH MAKE PUBLIC HEALTH CLAIMS.

Section 3(c)(5) (7 U.S.C. 136a(c)(5)) is amended—

(1) by striking out "efficacy," and insert in lieu thereof "efficacy unless the pesticide makes a public health claim,", and

(2) by adding at the end of the following: "If a pesticide makes a public health claim, the Administrator shall not register the pesticide unless the Administrator has approved the claim as being efficacious. The Administrator shall carry out a program to monitor (including testing) the efficacy of public health claims made by pesticides."

—Page 90, line 9, strike out "Section" and insert in lieu thereof "(a) IN GENERAL.—Section" and on page 91, insert after line 2 the following:

(b) PUBLIC HEALTH CLAIMS.—Section 2(q)(2) (7 U.S.C. 136(q)(2)) is amended by adding after and below subparagraph (d)(iii) the following: "A pesticide for which a public health claim is made is misbranded if its labeling bears any statement, design, or graphic representation which is false or misleading in any particular.".

—Page 120, line 3, strike out "DEFINITION" and insert in lieu thereof "DEFINITIONS", in line 14, strike out the close quotation marks and the period following, and add after line 14 the following:

"(11) PUBLIC HEALTH CLAIM.—The term 'public health claim' means any claim that—

"(1) is made for a pesticide on the labeling of the pesticide, in advertising material, or elsewhere,

"(2) is made by or on behalf of any registrant or pesticide producer or by any person who distributes or sells the pesticide, and

"(3) states, indicates, or implies that use of the pesticide will prevent, destroy, repel, mitigate, or control any microbial pest that is a human pathogen or that causes any human disease or illness.".

—Page 125, line 17, strike out "or" in line 19 strike out "Act.'." and insert in lieu thereof "Act, or", and insert after line 19 the following:

"(U) who is or who represents a registrant, producer, distributor, or seller of a pesticide to make or cause to be made any public health claim—

"(i) for an unregistered pesticide,

"(ii) for pesticide whose registration has been cancelled or is suspended, or

"(iii) for a registered pesticide if the claim was not approved by the Administrator in connection with the registration of the pesticide.".

—Page 146, line 5, strike out "that the term" and insert in lieu thereof "that, for any pesticide for which no public health claim is made, the term".

—Page 2, in the table of contents, insert after the item relating to section 109 the following:

Sec. 110. Approval of pesticides which make public health claims.

Page 153, after line 7, strike out the close quotation marks and the semicolon following and insert after the item relating to subsection (kk) the following:

"(11) Public health claim.";

—Page 137, redesignate section 816 as section 817 and insert before line 8 the following:

SECTION 816. ANTIMICROBIAL STANDARDS.

(a) GENERAL.—Section 3 (7 U.S.C. 136a) is amended by adding at the end thereof the following new subsection:

"(h) ANTIMICROBIAL STANDARDS.—

"(1) STANDARDS.—The Administrator shall—

"(A) establish efficacy standards for antimicrobial control agents (including disinfectants) used to control pest microorganisms that pose a threat to human health, including standards for disinfectants used in hospitals and other health care facilities,

"(B) conduct representative monitoring (including testing) of the compliance of the agents with the standards, and

"(C) implement an enforcement program under which the agents must comply with the standards or be prohibited from sale or distribution as an antimicrobial agent.

"(2) DEFINITION.—As used in paragraph (1), the term 'efficacy' means the capacity of an antimicrobial control agent (including a disinfectant) to produce the desired effect or the effectiveness of such an agent.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 60 days after the date of enactment of this Act.

Page 3, redesignate the item relating to section 816 as an item relating to section 817 and insert before such item the following:

816. Antimicrobial standards.

Page 154, line 3, strike out "after" and insert in lieu thereof "at the end of" and insert after line 4 the following:

"(h) Antimicrobial standards.

"(1) Definition.

"(2) Standards.".

By Mr. HOYER:

(As amended by H.R. 5440.)

—Page 137, redesignate section 816 as section 817 and insert before line 8 the following:

SEC. 816. NOTICES.

Section 26 (7 U.S.C. 136w-1) is amended by adding at the end the following:

"(d) NOTICES.—

"(1) This Act shall not be construed to prohibit any political subdivision of a State from adopting or enforcing a requirement for the public notification of pesticide use.

"(2) The protection of the authority of political subdivisions prescribed by paragraph (1) is not to be construed as affecting any other authority of political subdivisions under this Act or any other law.".

Page 158, after line 10, strike out the item relating to subsection (d) and insert in lieu thereof the following:

(d) Notices.

By Mr. BEDELL:

—Page 138, strike out lines 3 through 10 and insert in lieu thereof the following:

(a) PESTICIDE USE.—An agricultural producer shall not be liable in any action for monetary damages brought after the effective date of this Act under any Federal statute as a result of pesticide use unless the producer has acted negligently, recklessly, or with the intent to misuse such pesticide. Proof in such an action that the agricultural producer used a pesticide in a manner consistent with label instructions shall create a rebuttable presumption that the producer did not act negligently, recklessly, or with the intent to misuse such pesticide.

By Mr. BROWN of California:

(As amended by the text of H.R. 5440.)

—"After line 24, page 44 of the bill, add the following section and renumber subsequent sections accordingly:"

NEUROTOXICOLOGICAL AND BEHAVIORAL EFFECTS TESTING

SEC. 106. Section 3 (7 U.S.C. 136a) is amended by adding a new subsection (h) as follows:

"The Administrator shall develop methods for testing to accurately detect neurotoxic and behavioral effects of pesticides, and their ingredients, and shall, as such methods are developed, require to the extent appropriate and necessary, that data from such testing be submitted by persons seeking to obtain or maintain pesticide registrations."

By Mr. HUCKABY:

(As amended by the text of H.R. 5440.)

—page 44, line 9 by adding the following new section and renumbering accordingly:

SEC. 106. Section 3 (c) is amended by adding the following provision at the end thereof:

"(9) Notwithstanding any other provision of this act, no, compensation shall be required under this section for reliance upon data submitted to support any pesticide the patent for which has been extended after the data of enactment of the Federal Insecticide, Fungicide and Rodenticide Act Amendments of 1986 under an act of Congress that amends Title 35, U.S. Code, to authorize an extension of the term of patent for that pesticide.".

—Section 702 is amended by striking all after the section heading and inserting in lieu thereof the following:

Section 3(c)(1)(D) 7 U.S.C. 136a(c)(1)(D)), is amended by adding at the end thereof the following:

"(iv) The amount of compensation to be paid in any arbitration under clause (ii) for the use of data submitted to the Administrator for such pesticide shall not exceed a

fair share of the cost of producing the compensable data plus, in appropriate cases, a value premium that does not exceed that share, as determined in the arbitration process.".

—Page 116, strike out lines 14 through 25, and page 117, strike out lines 1 through 7 and insert in lieu thereof the following:

"(II) The compensation to be provided to the original data submitter for each year during the fifteen-year period described in subclause (I), beginning with the year in which an offer of compensation must be made, shall be an amount equal to (A) the market share of the applicant for the year (which shall be a minimum of five percent) multiplied by (B) one fifteenth of the product of 1.15 and the actual cost of the data to the original data submitter.".

—Page 116, strike out lines 14 through 25, page 117 strike out lines 1 thorugh 7 and on line 8 strike out "(III)" and insert in lieu thereof "(II)".

—Page 116, strike out lines 14 through 25 and insert in lieu thereof:

"(II) The amount of"."

—Page 116, strike out lines 14 through 25, page 117, strike out lines 1 through 7 and on line 8 strike out "(III)" and insert in lieu thereof "(II)". Page 118, immediately after line 11 insert the following:

Section 3(c)(1)(7 U.S.C. 136a(c)(1)) is amended by adding at the end thereof the following:

"(G)(i) Any person may file with the Administrator an abbreviated application for registration of a pesticide or an application for an amendment adding a new use to the registration as set forth in this paragraph. The provisions of paragraph (D), other than clause (i), shall not apply to such applications.

"(ii) An abbreviated application for registration of a pesticide or for an amendment adding a new use to the registration shall contain—

"(I) information to show that the pesticide is identical or substantially similar chemically to a pesticide which was previously registered by the Administrator and the term of the patent for which has expired (hereinafter referred to as "the previously registered pesticide").

"(II) information to show that the conditions of use recommended in the labeling proposed for the pesticide have been approved for the previously registered pesticide;

"(III) information to show that the labeling proposed for the pesticide is the same as the labeling approved for the previously registered pesticide, except for differences approved by the Administrator under other provisions of this Act;

"(IV) a certification that to the best of the knowledge of the applicant no data which has been previously submitted to the Administrator for the previously registered pesticide is entitled to exclusive use under paragraph (D)(i).".

—1. On page 116 Lines 21 to 25 of H.R. 5440, strike out "that had not expired before the date of enactment of such Act of Congress irrespective of the date the pesticide completed a regulatory review period as defined in such title".

2. On page 117 line 7 of H.R. 5540, immediately after the period, insert the following:

"For pesticides for which the term of a patent has not been so extended,

"(A) after the patent for the pesticide has expired, and

"(B) there has elapsed a period of time equal to the regulatory review period for the original registration of the pesticide that occurred after the patent for the pesticide was granted, but not more than five years,

the amount of compensation to be paid under arbitration under subclause (I) for use of data submitted to the Administrator for such pesticide shall be as provided in the preceding sentence. If the Administrator has inadequate records to determine the regulatory review period, the amount of compensation to be paid for such use of data shall be as provided in the first sentence of this subclause (II) beginning five years after the patent for the pesticide has expired. The provisions of this subclause (II) shall become effective with respect to applications by persons, other than the original data submitter, filed with the Administrator after the date of enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986.".

By Mr. LEVINE of California:

(As amended by H.R. 5440.)

—Page 143, insert after line 5 the following:

SEC. 429. STUDY.

The Administrator of the Environmental Protection Agency, in cooperation with the Commissioner of the Food and Drug Administration, shall conduct a thorough evaluation of the health effects of DDT and other contamination of fish in Santa Monica Bay, California and in surrounding waters. The evaluation shall include an assessment of—

(1) the level of contamination of edible fish caught in the Bay and surrounding waters,

(2) the rate of consumption of contaminated fish from the Bay and surrounding waters by residents of Santa Monica and Los Angeles, California, and surrounding communities, and

(3) the health risks associated with the consumption of such contaminated fish.

The Administrator shall complete the evaluation within 6 months of the date of the enactment of this Act and shall report the results of the evaluation to the Congress.

By Mr. ROSE:

(As amended by H.R. 5440.)

—Section 3(c)(1)(D)(ii) (7 U.S.C. 136a(c)(1)(D)(ii) is amended by inserting "(I)" after "(ii)" adding at the end the following:

"(II) In the case of a pesticide the term of the patent for which has expired, the terms and amount of compensation for data that was submitted for such pesticide to be paid by a person who intends to file an application for registration of a pesticide that cites such data may be fixed before the submission of such application by arbitration under subclause (I) initiated by such person. The arbitration shall be binding on the original data submitter and shall be binding on such person after the date such person's application is submitted. The findings and determination of the arbitration shall be subject to judicial review in the United States Court of Appeals upon the filing of an action by a party to the arbitration up to the date such person submits such application. The findings and determination of the arbitration shall be sustained if they are supported by substantial evidence when considered on the record of the arbitration as a whole. Each party to the first arbitration under this subclause to determine the terms and amount of compensation for the use of particular data shall share equally in the payment of the fees and expenses of the arbitrators and shall each pay its own attorneys' fees. In all subsequent arbitrations under this subclause to determine the terms and amount of compensation for the use of such data, the party to such subsequent arbitration who seeks to cite the data of the original data submitted shall pay the fees and expenses of the arbitrators and the attorney's fees of the original data submitter. The provisions of subclause (I) apply to arbitrations under this clause, except as otherwise provided in this subclause.".

By Mr. WAXMAN:

(Amendment to H.R. 5440.)

—Page 134, strike line 5 and all that follows down through line 6 on page 135 and insert the following:

SEC. 814. GROUNDWATER AUTHORITY.

The Safe Drinking Water Act is amended by adding the following new section after section 1428:

"SEC. 1429. PROTECTION OF GROUNDWATER FROM PESTICIDES.

"(a) DEFINITIONS.—As used in this section—

"(1) GROUNDWATER.—The term 'groundwater' means water below the land surface in a zone of saturation.

"(2) RELIABLE ANALYTICAL DATA.—The term 'reliable analytical data' means scientific information that verifies the presence of a pesticide in a groundwater sample and that is of a reliable scientific quality according to generally recognized standards and good laboratory practices for sampling and analysis of pesticides in groundwater.

"(3) POTENTIAL DRINKING WATER.—The term 'potential drinking water' includes current and potential sources of drinking water and means an aquifer or portion of an aquifer which—

"(A) supplies any public water system; or

"(B) contains a sufficient quantity of ground water to supply a drinking water well and either—

"(i) currently supplies drinking water for human consumption; or

"(ii) contain fewer than 10,000 mg/l total dissolved solids.

"(4) DRINKING WATER WELL.—The term 'drinking water well' means a well or spring currently or potentially supplying water.

"(5) GROUNDWATER SAMPLING POINT.—The term 'groundwater sampling point' means a public or community water supply, a private water supply, a spring, or a monitoring well or other groundwater source if the well or source is reasonably designed and of adequate depth to permit the collection of representative groundwater samples.

"(6) OTHER TERMS.—The other terms used in this section (including 'pesticide' and 'registrant' have the same meaning as when used in the Federal Insecticide, Fungicide, and Rodenticide Act.

"(b) NOTIFICATION.—

"(1) REQUIREMENT.—When a registrant of a pesticide obtains reliable analytical data that a pesticide has been detected at any groundwater sampling point, the registrant shall file a report containing such information within 15 working days with the Administrator, the Governor in each State where such pesticide has been detected, and the owner of the property at the groundwater sampling point if known.

"(2) CONTENT OF REPORT.—Reports required under paragraph (1) for detection of a pesticide shall contain information known to the registrant on the level of detection, frequency of detection, location (including depth, date, well construction, soil type, and analytical method used, including information on the precision, accuracy, and limit of detection of the method, and any quality assurance and control procedures.

"(c) REVIEW FOR FURTHER ACTION.—Upon receiving information of a detection of a pesticide at any groundwater sampling point, the Administrator shall promptly review the reported information to determine the reliability of the detection and to determine whether further action should be taken to protect groundwater.

"(d) MONITORING.—

"(1) REQUIREMENT FOR MONITORING.—If the Administrator determines that additional data on the presence of the pesticide in groundwater are required to maintain in effect an existing registration of the pesticide, the Administrator shall require registrants of the pesticide to conduct groundwater monitoring or to reimburse the Administrator for groundwater monitoring carried out by the Administrator. The Administrator shall consult with the Secretary of Agriculture, other appropriate Federal agencies, and Governors concerning the design and scope of monitoring requirements imposed under this paragraph. The design and the scope of the monitoring requirement should take into account information such as the magnitude and frequency of the detection, pattern of pesticide use and soil types involved in the detection, physical and chemical properties of the pesticide, rainfall patterns, well construction, rates of degradation, reliability and analytical accuracy of the detection, and results of State or other sponsored monitoring. To the extent feasible, monitoring should be at representative geographical and hydrogeological areas associated with locations and conditions of concern as determined by the Administrator.

"(2) JUDICIAL REVIEW.—Monitoring requirements imposed under this subsection shall be subject to judicial review under section 1448.

"(d) GROUNDWATER RESIDUE GUIDANCE LEVELS.—

"(1) REQUIREMENT.—The Administrator, on the Administrator's own initiative, may issue a groundwater residue guidance level for a pesticide. The Administrator shall issue a groundwater residue guidance level for a pesticide whenever the Administrator registers or reregisters a pesticide if the Administrator determines that the pesticide has the potential to leach into groundwater. In addition, the Administrator shall issue a groundwater residue guidance level for a pesticide if—

"(A) based on reliable analytical data, the pesticide has been detected at groundwater sampling points in 3 different geographical areas,

"(B) based on reliable analytical data, the pesticide has been detected in a drinking water well or wellfield that serves a population of over 10,000 people, or

"(C) a Federal agency or a Governor petitions the Administrator to set a groundwater residue guidance level for the pesticide.

"(2) STANDARD FOR DETERMINING GROUNDWATER RESIDUE GUIDANCE LEVEL.—

"(A) If the Administrator has promulgated a maximum contaminant level under section 1412(b)(3), any interim groundwater residue guidance level promulgated in accordance with paragraph (3)(A) shall be set at the maximum contaminant level.

"(B) The Administrator, in the Administrator's discretion, may use a health advisory level established under the Public Health Service Act in establishing a groundwater residue guidance level under this subsection. The Administrator shall establish each groundwater residue guidance level under this subsection for a pesticide at the level of such pesticide in drinking water at which no known or anticipated adverse effects on the health or persons occur, including an adequate margin of safety. In establishing such level, The Administrator shall take into account the nature of the toxic effects caused by the pesticide, and the validity, completeness, and adequacy of data about the pesticide. If all required chronic, oncogenicity, reproduction, or teratogenicity data are absent or invalid for the pesticide, the groundwater residue guidance level for the pesticide shall be at the limit of detection. If any required chronic, oncogenicity, reproduction, or teratogenicity data are absent or invalid for the pesticide, the goundwater residue guidance level for the pesticide shall include an additional margin of safety that takes into account the absence of such data.

"(3) PROCEDURES.—

"(A) If the Administrator is required under paragraph (1) to issue a groundwater residue guidance level for a pesticide, the Administrator shall issue an interim groundwater residue guidance level within 30 days after the requirement takes effect. Before issuing a final groundwater residue guidance level for a pesticide, the Administrator shall publish an interim groundwater residue guidance level for the pesticide in the Federal Register and allow public comment for at least 30 days.

"(B) During the public comment period the Administrator shall invite comment on the level from the Secretary of Agriculture, the Scientific Advisory Panel, and the congressional committees concerned.

"C) Within 3 months after issuing an interim groundwater residue level, the Administrator shall issue a final groundwater residue guidance level. Until a final groundwater residue guidance level is issued under paragraph (1) for a pesticide, an interm groundwater residue guidance level issued for the pesticide shall remain in effect.

"(4) REVISION OF GROUNDWATER RESIDUE GUIDANCE LEVELS.—The Administrator may revise a groundwater residue guidance level for a pesticide. The Administrator shall allow at least 30 days for public comment on any proposed revision.

"5) JUDICIAL REVIEW.—An interim groundwater residue guidance level shall not be subject to judicial review before the expiration of 3 months after its issuance. An interim groundwater residue guidance level established under paragraph (2)(A) shall not be subject to judicial review.

"(f) SITE-SPECIFIC RESPONSE.—

"(1) REQUIREMENT.—If the Administrator determines that a pesticide is present in a drinking water well at a concentration that exceeds an interim or final groundwater residue guidance level and that the presence of the pesticide in the drinking water well may be the result of use of the pesticide in accordance with the labeling on the pesticide or as a result of widespread and commonly recognized practice involving the pesticide, the Administrator shall notify the Governor of the Administrator's determination and shall provide him, subject to section 10(h) of the Federal Insecticide Fungicide, and Rodenticide Act, with all information relevant to the determination. The Governor of the State shall take appropriate action within 90 days of such notification to bring and retain the concentration of the pesticide at such drinking water well at or below the groundwater residue guidance level or to prevent consumption of drinking water exceeding such level.

"(2) If a State does not have the authority to insure that the requirements of paragraph (1) on the States are met or fails to exercise such authority within the 90-day period referred to in paragraph (1) and a pesticide is present in a drinking water well in the State at a concentration that exceeds the interim or final groundwater residue guidance level and the presence of the pesticide may be the result of use in accordance with the labeling or of widespread and commonly recognized practice, the Administrator shall issue an order prohibiting use of the pesticide in vicinity of the drinking water well or taking such other site specific actions under the Act, as the Administrator deems necessary, to meet the requirements of paragraph (1) with respect to such drinking water well. The Administrator shall publish notice of his proposed order in the Federal Register and take appropriate steps to inform all registrants, potentially affected persons, and interested members of the public. Such notice shall specify the factual findings and conclusions relied upon in support of the decision. Persons adversely affected by any order, action, or failure to act by the Administrator shall have an opportunity for an expedited hearing to determine whether the Administrator has met the requirements of this paragraph. Notwithstanding any other provision of this Act, a hearing shall be held and a determination made under this subsection within 75 days after receipt of a request for such a hearing. The Administrator shall provide reasonable procedures for petitions to modify or terminate the Administrator's action under this paragraph when the drinking water well no longer has the pesticide in a concentration that exceeds the applicable groundwater residue guidance level and will likely remain below such level.

"(g) INFORMATION ON PESTICIDES IN GROUNDWATER.—The Administrator may collect and make available through a public information file information concerning the detection of pesticides in any groundwater sampling point. The file may summarize for each pesticide that has been detected in groundwater, based on reliable analytical data, whether the pesticide has been detected at a concentration that exceeds the applicable groundwater residue guidance level and whether the presence of the pesticide in groundwater appears to have been caused by use of the pesticide in compliance with the Act.

"(h) EFFECT ON OTHER PROVISIONS.—Nothing in this section shall limit the authority of the Administrator or of any State under other provisions of this Act or under any other law.".

(b) UNLAWFUL ACTS.—Section 1414(g)(3)(A) of the Safe Drinking Water Act amended by inserting "or under section 1428 (relating to protection of groundwater from pesticide contamination)" after "under this subsection".

(c) REGISTRATION AMENDMENTS.—The Federal Insecticide, Fungicide and Rodenticide Act is amended by adding after section 31 the following:

"SEC. PROTECTION OF GROUNDWATER.

"(a) REGISTRATION AMENDMENTS.—

"(1) REQUIREMENT.—

"(A) After reviewing reliable analytical data, the Administrator shall determine whether there is a reasonable likelihood that any groundwater residue guidance level established for a pesticide under section 1429 of the Safe Drinking Water Act will be exceeded in drinking water wells in different localities. If the Administrator makes the determination that there is a reasonable

likelihood of exceeding such level in different localities, the Administrator shall promptly require amendments to the registration that are necessary to ensure that use of the pesticides in accordance with the amended registration will not cause the final groundwater residue guidance level to be exceeded in drinking water wells. The Administrator shall make such determination public. If the Administrator proposes to require registration amendments under this paragraph, the Administrator shall notify registrants of such amendments and shall publish notice of the decision in the Federal Register. Such notice shall include the Administrator's determination whether the presence of the pesticide in drinking water wells appears to have been the result of use of the pesticide in accordance with the labeling or widespread and generally recognized practice.

"(B) After reviewing reliable analytical data, the Administrator shall determine whether there is a reasonable likelihood that any groundwater residue guidance level established for a pesticide under section 1429 of the Safe Drinking Water Act will be exceeded in potential drinking water in different localities. If the Administrator makes the determination that there is a reasonable likelihood of exceeding such level in different localities, the Administrator shall promptly require amendments to the registration that are reasonably necessary to ensure that use of the pesticide involved in accordance with the amended registration will not cause the final groundwater residue guidance level to be exceeded in potential drinking water. If the Administrator proposes to require amendments under this paragraph the Administrator shall notify registrants of such amendments. In establishing such amendments, the Administrator shall—

"(i) meet the procedural requirements of subparagraph (A),

"(ii) take into account information submitted by States on land or groundwater use classification or other governmental actions which could affect when groundwater may be used for drinking water, and

"(iii) consider the views of the Secretary of Agriculture, other appropriate Federal agencies, and Governors as required in paragraph (2).

"(2) CONSULTATION WITH STATES.—In taking action under paragraph (1), the Administrator shall consult with the Secretary of Agriculture and the Governor in each State where the pesticide involved has been detected in any groundwater sampling point and each other State in which there is significant use of the pesticide. The Administrator shall notify the Governor of the Administrator's determination that there is a reasonable likelihood that a groundwater residue guidance level will be exceeded and shall provide the Governor with all information relevant to this determination subject to section 10(h). States shall promptly provide the Administrator with information relevant to taking action under this section and shall make recommendations regarding necessary registration amendments with respect to the State.

"(3) SCOPE OF AMENDMENTS.—

"(A) Amendments to the registration of a pesticide may include—

"(i) limitations on the purposes for and locations at which the pesticide may be used, considering factors such as environmentally sensitive areas and conditions,

"(ii) limitations on the rate at which the pesticide is applied,

"(iii) limitations on the time or frequency of pesticide use,

"(iv) limitations on the method of pesticide application, storage, handling, or disposal,

"(v) requirements for the training or certification of pesticide applicators or other persons using the pesticide,

"(vii) required site specific responses, or

"(vii) any other requirement under the Act to ensure that the applicable groundwater residue guidance level will not be exceeded.

"(B) The amendments to the registration of a pesticide shall, to the extent feasible, be directed to the same or similar use of the pesticide, geographical and hydrogeological areas and other conditions that led to the determination under paragraph (1)(A) or paragraph (1)(B).

"(C) In taking regulatory action under this subsection, the Administrator may utilize recommendations provided by States under paragraph (2).

"(D) In requiring such amendments, the Administrator shall consider the effect of any voluntary actions by registrants or other persons, including actions by the State to prevent the groundwater residue guidance level from being exceeded, and compliance with other environmental laws.

"(b) TECHNICAL ASSISTANCE TO STATES.—The Administrator shall provide technical information to the Governor to assist in implementing this section. Subject to section 10(h), the technical information shall include data on the toxicity, environmental fate, physical or chemical pesticide ingredient characteristics, predictive modeling, exposure and other relevant subjects. In addition, the Administrator shall provide information, to the extent reasonably available, on the alternative methods of pest control and on agricultural or other management practices that could minimize the presence of pesticides in groundwater.

"(c) SPECIAL REVIEW.—Upon receiving reliable analytical data that a pesticide has been detected above the groundwater residue guidance level not in a drinking water well or potential drinking water, the Administrator may initiate a public interim administrative review under section 3(c)(8) to determine whether the pesticide may cause unreasonable adverse effects on the environment from such use.

"(d) EFFECT ON OTHER PROVISIONS.—Nothing in this section shall limit the authority of the Administrator or of any State under other provisions of this Act or under any other law.".

SENATE—*Tuesday, September 16, 1986*

(Legislative day of Monday, September 15, 1986)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by Hon. MALCOLM WALLOP, a Senator from the State of Wyoming.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Patient God, it has been said that the only thing we learn from history is that we learn nothing from history * * * and we are condemned to making the same mistakes over and over again. If history teaches anything, it is the powerlessness of man to produce an ideal social order. Not even the Ten Commandments could do it. And age upon age, tens of thousands of laws are passed—yet human nature does not change. Your word teaches that law is for the lawless * * * that government is the servant of God for good and to restrain evil. Even our incredible technological progress threatens our environment with nuclear waste and human survival with nuclear war.

God of glory, be merciful to us. Send Your spirit upon Your church—upon out Nation in a mighty visitation of moral renewal. Cleanse us of pride and avarice and lust and greed and hypocrisy and violence by word and deed. Revive us spiritually that we will live what we profess about a holy God. Send a fresh, healing, purifying touch of grace upon all Your people and upon Your servants who labor in this place. Do for us, what we are unable to do for ourselves—for the sake of Your glory in the name of Your righteous Son. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. THURMOND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE
Washington, DC, September 16, 1986.

To the Senate:

Under the provisions of Rule I, Section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MALCOLM WALLOP, a Senator from the State of Wyoming, to perform the duties of the Chair.

STROM THURMOND
President pro tempore.

Mr. WALLOP thereupon assumed the chair as Acting President pro tempore.

IMPEACHMENT OF JUDGE HARRY E. CLAIBORNE

The ACTING PRESIDENT pro tempore. Pursuant to Senate Resolution 480, 99th Congress, the Chair submits to the Senate for printing in the Senate Journal and in the CONGRESSIONAL RECORD, the replication of the House of Representatives to the answer of Harry E. Claiborne to the Articles of Impeachment, as received by the Secretary of the Senate on September 15, 1986.

IN THE SENATE OF THE UNITED STATES SITTING AS A COURT OF IMPEACHMENT

Impeachment of Judge Harry E. Caliborne.

NOTICE OF FILING

To Ms. Jo-Anne Coe, Secretary of the Senate, U.S. Senate (S-221 Capitol).

Please take notice that on this 15th day of September, 1986, the United States House of Representatives has filed with the Secretary of the Senate, an original and thirty copies of the following:

Replication of the House of Representatives to the Answer of Harry E. Claiborne to the Articles of Impeachment.

Simultaneous with the filing of the above described documents, the same were served on opposing counsel, Oscar B. Goodman, Esquire, and on The Honorable Howard W. Cannon by messenger.

THE U.S. HOUSE OF REPRESENTATIVES,
BY NICHOLAS D. CHABRAJA,
Special Counsel.

Managers of the House of Representatives:

PETER W. RODINO, JR., ROBERT W. KASTENMEIER, ROMANO L. MAZZOLI, WILLIAM J. HUGHES, DAN GLICKMAN.

HAMILTON FISH, JR., HENRY J. HYDE, THOMAS N. KINDNESS, MICHAEL DEWINE.

Impeachment Trial Staff:

Nicholas D. Chabraja, Special Counsel.

David W. DeBruin, Associate Special Counsel.

House Judiciary Committee Staff Participating in Impeachment Trial Preparation:

M. Elaine Mielke, General Counsel.

Alan F. Coffey, Jr., Associate Counsel.

Judith Bailey, Counsel.

Daniel M. Freeman, Counsel.

Gary G. Goldberger, Counsel.

Warren S. Grimes, Counsel.

Joseph V. Wolfe, Counsel.

Jonathan R. Yarowsky, Counsel.

IN THE SENATE OF THE UNITED STATES SITTING AS A COURT OF IMPEACHMENT

In re Impeachment of Judge Harry E. Claiborne.

REPLICATION OF THE HOUSE OF REPRESENTATIVES TO THE ANSWER OF HARRY E. CLAIBORNE TO THE ARTICLES OF IMPEACHMENT

The House of Representatives, through its Managers and Counsel, replies to the Answer to Articles of Impeachment, as follows:

ARTICLE I

The House of Representatives denies the allegations of the Answer to Article I and each of them.

First affirmative defense

The House of Representatives denies the allegations of this purported defense and each of them. Further replying, the House of Representatives avers that the asserted defense is not relevant to the allegations of Article I and is insufficient as a matter of law. Article I alleges specific acts of misconduct which are not addressed by this purported defense.

Second affirmative defense

The House of Representatives denies the allegations of this purported defense and each of them. Further replying, the House of Representatives avers that the asserted defense is not relevant to the allegations of Article I and is insufficient as a matter of law. Article I alleges specific acts of misconduct which are not addressed by this purported defense.

ARTICLE II

The House of Representatives denies the allegations of the Answer to Article II and each of them.

First affirmative defense

The House of Representatives denies the allegations to this purported defense and each of them. Further replying, the House of Representatives avers that the asserted defense is not relevant to the allegations of Article II and is insufficient as a matter of law. Article II alleges specific acts of misconduct which are not addressed by this purported defense.

Second affirmative defense

The House of Representatives denies the allegations of this purported defense and each of them. Further replying, the House of Representatives avers that the asserted defense is not relevant to the allegations of Article II and is insufficient as a matter of law. Article II alleges specific acts of misconduct which are not addressed by this purported defense.

ARTICLE III

The Answer does not deny the allegations of Article III. Accordingly, the only reply required is to the affirmative defenses asserted.

First affirmative defense

The House of Representatives denies the allegations to the first affirmative defense and each of them. Further replying, the House of Representatives avers that the al-

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

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legation of this defense are irrelevant to the validity and finality of the conviction alleged. The conviction was obtained and can be vacated only in the judicial branch. The defense is insufficient as a matter of law.

Second affirmative defense

The House of Representatives admits that the convictions upon which Article III are based are presently the subject of a Motion To Vacate Judgment and Sentence. Except as expressly admitted herein, the allegations of the Second Affirmative Defense are denied. Further replying, the House of Representatives avers that this asserted defense is conjectural, speculative and insufficient as a matter of law.

ARTICLE IV

The House of Representatives denies the allegations of the Answer to Article IV and each of them.

First affirmative defense

The House of Representatives denies the allegations to this purported defense and each of them. Further replying, the House of Representatives avers that the asserted defense is not relevant to the allegations of Article IV and is insufficient as a matter of law.

Second affirmative defense

The House of Representatives denies the allegations of this purported defense and each of them. Further replying, the House of Representatives avers that the asserted defense is not relevant to the allegations of Article IV and is insufficient as a matter of law.

Respectfully submitted,

THE U.S. HOUSE OF REPRESENTATIVES,
NICHOLAS D. CHABRAJA,
Special Counsel.

Managers of the House of Representatives:

PETER W. RODINO, JR., ROBERT W. KASTENMEIER, ROMANO L. MAZZOLI, WILLIAM J. HUGHES, DAN GLICKMAN.

HAMILTON FISH, JR., HENRY J. HYDE, THOMAS N. KINDNESS, MICHAEL DEWINE.

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Warren S. Grimes, Counsel.
Joseph V. Wolfe, Counsel.
Jonathan R. Yarowsky, Counsel.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the acting majority leader is recognized.

SCHEDULE

Mrs. HAWKINS. Mr. President, after the two leaders are recognized under the standing order for 10 minutes each, there are special orders in favor of the following Senators for not to exceed 5 minutes each: Senators HAWKINS, PROXMIRE, LEVIN, DURENBERGER, BUMPERS, KASSEBAUM, and GORE.

Following the execution of the special orders, routine morning business will occur, not to extend beyond the hour of 10:30 a.m., with Senators permitted to speak therein for not more than 5 minutes each.

At the conclusion of morning business, it will be the majority leader's intention to resume the unfinished business, H.R. 5234, the Interior Appropriation bill. Last night, it had been the leadership's intention to turn to the conference report to accompany the Defense Reorganization bill. However, that will now be considered at a later point in today's session.

Also, the Senate will consider any of the other remaining appropriation bills following the conclusion of the Interior bill. Therefore, votes will occur during today's session, and a late session is anticipated.

The Senate will also resume the Rehnquist nomination, if there are speakers available that need some floor time.

I reserve the remainder of the majority leader's time.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the distinguished minority leader is recognized.

Mr. BYRD. Mr. President, I thank the Chair.

VISIT OF PRESIDENT CORAZON AQUINO OF THE PHILIPPINES

Mr. BYRD. Mr. President, this week, the U.S. Senate has the opportunity to pay tribute to the people of the Republic of the Philippines for their courageous role in one of the most inspiring moments in modern history—the peaceful transition of that nation's government to democracy earlier this year.

We also have the opportunity to remember the historical bonds between the United States and the Philippines, and between Americans and Filipinos, and to reaffirm that those bonds are strong.

Yesterday, the new President of the Philippines, Corazon Aquino, arrived in the United States for her first official visit. On Thursday, President Aquino will address a joint session of the Congress and participate in at least one Senate activity.

Mrs. Aquino is to attend a working lunch for the Foreign Relations Committee and other Senators, hosted by the committee's distinguished chairman and ranking minority member, Senators LUGAR and PELL.

Senator DOLE and I are introducing a Senate Resolution to welcome President Aquino, to honor her and the Philippine people, and to reemphasize the solidarity of American and Filipino democracy. We hope that our resolution will be endorsed unanimously by the full Senate.

Our resolution recognizes the brave struggles of the Filipino people during the past years to restore democracy to their nation. It recognizes President Aquino's personal courage in these efforts, as she became the very symbol of the liberty her fellow citizens sought, and for which her husband, Senator Benigno Aquino, and others died.

The resolution states that since her inauguration, President Aquino quickly has begun the process of restoring full democracy to the Philippines, and of addressing that nation's severe economic, political, and security problems. It reaffirms the Senate's support for these efforts.

Our allies, and the private sector—especially the international banking community—can, and should, play a major role in providing aid to the Philippines. Our resolution urges these nations and interests to demonstrate their faith in the viability and future of Philippine democracy and to help promote restoration of that nation's prosperity and political institutions.

Our resolution commends President Aquino for honoring the agreement which permits U.S. Armed Forces to maintain major military bases in that nation. Those bases serve the security interests of both nations.

Finally, our resolution marks the past contributions Congress has made to promote Philippine democracy. I met recently with the new Philippines Ambassador to the United States, His Excellency Emmanuel Palaez, and he made a particular point about the importance of these contributions. He said that American faith in Philippines democracy, as demonstrated through various Senate resolutions, "had a tremendous effect in the Philippines." Those resolutions, Ambassador Palaez indicated, gave Filipinos the courage to oppose the Marcos government at the critical moments before and after the flawed election last February.

Senators from both sides of the aisle led these congressional efforts—Senators KENNEDY, KERRY, COCHRAN, LUGAR, PELL, DURENBERGER, DOLE, SASSER, DODD, BOREN, PRYOR, LEVIN, NUNN, MURKOWSKI, HART, DECONCINI, and others.

Yet when all is said and done, Mr. President, it was the Philippine people themselves who did the most, and will do the most, to restore fully their democracy and prosperity.

The credit for a peaceful government transition, and for persevering and suffering daily for Philippines freedom, must go to Filipinos from all walks of life. They are the ones who

were victorious against a government which clearly had lost its popular mandate and had brought the nation perilously close to political, economic, and military bankruptcy.

Mr. President, the Republic of the Philippines is at a critical moment in its history. The tasks required to deal successfully with its economic and military problems, and to reinvigorate fully its democratic political institutions, truly are daunting.

Yet, the United States has too many interests in common with the Philippines to turn away from that nation in its hour of greatest need. In so doing, the United States will be true to its own democratic heritage, as well as protect its own and Filipino best interests.

Our citizens have fought and died together to defend freedom, as the memorials in the American Military Cemetery in Manila eloquently attest. The graves of Filipino and American service personnel are a moving reminder of the shared sacrifices which comprise our mutual heritage.

Our two nations are bound by cultural, economic, and political ties which extend almost across the entire 20th century, and we are united in our shared respect for democratic values, political freedoms, and human liberties.

The strength of these philosophical and nonmilitary ties, and the continued demonstration to the citizens of the Philippines that the United States values most highly these aspects of our overall relationship, will be the most effective guarantee that the military component of our alliance will endure well into the future.

President Aquino's visit, and the resolution Senator DOLE and I are introducing today, give the Senate the opportunity to reinforce these ties, and to make such a demonstration.

We look forward to welcoming President Aquino, and honoring her and the people of the Philippines, and I am confident this sentiment is shared by all Senators and the American people.

Mr. President, I will submit this resolution—entitled "Welcoming Philippines President Corazon Aquino to the United States," on behalf of myself and Senator DOLE.

RECOGNITION OF SENATOR HAWKINS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Florida [Mrs. HAWKINS] is recognized for not to exceed 5 minutes.

LET'S GET TO WORK ON A DRUG BILL

Mrs. HAWKINS. Mr. President, if you have not been hiking around in the wilderness or holed up in a cabin somewhere in the Everglades, for the last 2 months you and I and just about everyone has been hit by a flood of attention on the drug threat. In my view, this attention is welcome and needed.

Some of those who are soft on the drug culture are put off by this attention. They call this a "frenzy" of attention, or a rush to action, as if there was no urgency in our situation. But this is no crisis dreamed up by politicians. The media, local and national, from one end of the country to the other have been doing their job.

They have been educating the public to the scope and nature of the threat. Two of the major networks, CBS and NBC, have aired documentaries on cocaine. The news magazines—Time, Newsweek, and U.S. News & World Report—have run cover stories on cocaine, and its chemical cousin, crack.

In story after story, they have been telling the American public the truth, and the truth is that illegal drugs and the drug culture is a threat to our freedom, our health, and our way of life. As far as I am concerned these people who traffick in these deadly substances are mass murderers. I have made that statement many times. Wherever they go, death, violence, and corruption follow in their wake.

□ 0940

The grip of these poisons on our society is staggering. Between 2 and 3 million Americans are seriously addicted to cocaine. Six million persons use it at least once a month. More than 25 million Americans have tried cocaine and 5,000 Americans sample it for the first time every day.

Let me tell you about the escalating effect of drugs on one community in my home State of Florida. In Hillsborough County, on the gulf coast, 40 people have died of cocaine-related deaths so far this year, 1986. This is almost a sixfold increase over the number of cocaine-related deaths in the county prior to 1984—and there are 3 months to go in this year. What the final figure will be by the end of December is anybody's guess.

Do not think of these as statistics, as numbers on a page or on a television screen. Think of these as people, as people who are ruining their own lives and the lives of the people they love, people who, by their actions and because of their numbers, are undermining the very fabric of our society.

Look at the drug problem this way and you will understand the sense of urgency. You cannot tell me this problem is not serious. You cannot tell me this problem is not urgent.

On Friday, the House of Representatives passed its version of the drug bill. It contains many positive provisions: the death penalty for certain drug-related crimes, a relaxation of the exclusionary rule, mandatory involvement of the military in the war on drugs, and increased funding for the law enforcement agencies fighting the war on drugs.

By the same token, I have some problems with the House bill. As I outlined in one of my floor speeches last week, the education provisions in the House bill are a disaster, and the provisions dealing with the foreign aspects of the problem are an illusion—just smoke and mirrors.

The Senate faces a challenge when it takes up this important legislation. We need to act now, but it is not enough that we simply pass a bill. I believe that we have an obligation to our children and to ourselves to pass a bill that discourages drug use in this country, and stops the drug traffickers dead in their tracks. I look forward to working with my colleagues toward that goal.

RECOGNITION OF SENATOR PROXMIRE

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Wisconsin [Mr. PROXMIRE] is recognized for not to exceed 5 minutes.

Mr. PROXMIRE. I thank the Chair.

WHY THE TEST BAN TREATY WOULD ADVANCE PEACE AND NUKE STABILITY

Mr. PROXMIRE. Mr. President, on September 5, Charles Krauthammer, a Washington Post columnist, introduced a new argument against a superpower nuclear weapon test ban treaty. He argued that such a treaty would threaten to destroy the offensive nuclear deterrent of both of the superpowers. How does Krauthammer contend the test ban would have this effect? He writes that the prime purpose of nuclear weapons tests is to modernize offensive nuclear weapons. Krauthammer defines "modernization" as a constant improvement in the penetrating capability of offensive nuclear weapons to assure their ability to penetrate the defenses of the other superpower.

As an example, he writes that improvement in Soviet capability to find and destroy American submarines requires that we develop warheads that are smaller, lighter, and can traverse a greater distance. This will permit our submarines to hide in more remote areas of the oceans. It will make them hard for the Soviets to search out and destroy. But to develop the lighter nuclear warheads, says Krauthammer, will require testing. A ban on testing would stop this progress.

This example—writes Krauthammer—applies generally to the offensive nuclear weapons of both sides. Result:

Freeze the offensive nuclear weapons that constitute the deterrence of both superpowers through a nuclear weapons test ban and you threaten the deterrent force that has kept the peace since the dawn of the nuclear age: mutual deterrence.

Why has not the administration used this Krauthammer argument? The administration is desperate for alibis for not pursuing a test ban treaty. Such a treaty has been the objective of other administrations, since the dawn of the nuclear age. But the Reagan administration has attacked the test ban first because they argued that it was not verifiable. Lately, they have dropped that argument because the evidence now indicates that if the treaty's terms include the stationing of seismic monitors throughout both superpower countries and if it provides for unannounced on-the-spot inspection of any suspicious explosions, the treaty will be verifiable.

Lately, the administration has argued the nuclear weapons tests are required to periodically check the reliability of our nuclear arsenal. The answer to that one is that such tests constitute a small proportion of nuclear weapons testing. A test ban agreement could permit such tests under careful scrutiny by both sides to assure that the tests, in fact, did simply check the continued reliability of weapons already proven and in stock.

Since these alibis against U.S. agreement to stop testing are so weak, why does not the administration pick up the Krauthammer idea and run with it? Why does the administration not contend that a test ban treaty would undermine the nuclear deterrence of both superpowers and introduce serious instability into the military posture of both superpowers? The answer is that the Krauthammer argument would apply with even greater force against the administration's top military priority: the strategic defense initiative [SDI] or star wars.

What is the single purpose of star wars? It is to render the Soviets' offensive missiles—their ICBM's—obsolete and ineffective. The President and Secretary Weinberger have consistently defended star wars on these precise grounds. This Senator is convinced that star wars will cost a trillion dollars or more and will not work. In that conclusion, this Senator has lots of scientific and expert military company.

Now we have Mr. Krauthammer coming along with the argument that a test ban treaty would be a great mistake for this country because it would accomplish for this country, at virtually no cost at all, what star wars would almost certainly not be able to accomplish and, in the process of failing, would burden this country with a trillion dollar plus flop.

The fact is, Mr. President, that Charles Krauthammer has made a notable contribution to the exact reason why the test ban treaty makes eminent good sense. It will strengthen the defenses of both superpowers against offensive attack. Krauthammer is right about that. He is wrong in contending that the test ban will threaten the deterrent of either superpower. Sure, over a period of 40 or 50 years, if the superpowers relied exclusively and entirely on the test ban as the only arms control agreement between them, there might or might not be a diminution in the credibility of each deterrent. But the test ban will not be, it must not be, the only arms control game in town. Both sides over the years have proposed negotiating a limit on the defenses against nuclear attack as well as the offensive weapons themselves. After all, what is the ABM Treaty if not a limit on a defense that would threaten the credibility each superpower deterrent?

The test ban treaty does not end the arms race. But it strikes at the heart of the offensive nuclear arms race. The Krauthammer column admits as much. The test ban treaty will significantly slow the development of ever more deadly, smaller, cheaper offensive nuclear weapons, and the development of such an enormous potential threat as the antimatter bomb. Krauthammer is right that a test ban treaty will not do everything. He is right in implying that it is not the end-all and be-all of arms control. But such a treaty is a great beginning. His column proves it.

Mr. President, I ask unanimous consent that a copy of the column by Charles Krauthammer from the September 5, 1986, Washington Post be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ANOTHER NAME FOR NUCLEAR FREEZE

(By Charles Krauthammer)

A man is accused of taking a kettle and returning it undamaged. His defense first of all, I never took it. Second, it was broke when I took it. And third, it was fine when I returned it.

Lawyers call that "arguing in the alternative." Listen to the arguments being made for the latest idea-in-vogue, the comprehensive nuclear test ban, now stampeding through Congress.

The 1963 Limited Test Ban Treaty stopped nuclear tests in the atmosphere. That was a good idea because it keeps strontium 90 out of our milk. Last month the House of Representatives passed a one-year-ban (matching a Soviet moratorium) on U.S. underground tests. The idea? No one claims that current underground tests pollute. Banning them must have another reason: to prevent the development of new nuclear weapons. In essence, a test ban is a nuclear freeze by another name.

What's wrong with that? What's wrong is that not all new weapons are bad. Some are needed to stabilize deterrence. When you freeze nuclear systems, you halt only half of the arms race. Improvements continue on (non-verifiable) nonnuclear defensive systems. Ban nuclear tests and the other side can proceed to, say, harden targets and improve its ability to shoot down bombers and hunt down subs. Since you cannot improve your offensive weapons ("modernize," in the jargon) to make sure that they can still get through, your deterrent erodes. And the melancholy fact is that your safety and mine (Gorbachev's too) rests on deterrence.

Consider one example. Deterrence is strenghtened, and thus the world made safer, if nuclear subs can hide in more parts of the ocean. But for that to happen, submarine missiles must have longer range. For that to happen, their warheads must be smaller in weight and size. For that, you need to test.

Now, test-ban proponents know how important modernization is for maintaining nuclear stability. So they argue—in the alternative—that a nuclear test ban will not really prevent modernization. The MX, crusie missile, Pershing II, neutron bomb, Midgetman and Trident II systems can all proceed, the pro-moratorium Arms Control Association reassures us.

Columnist Tom Wicker, ardent for a test ban, is reassuring too. "Strong scientific evidence exists" he writes, "that American supercomputers can simulate explosive tests to a degree that renders explosive testing obsolete and unnecessary." But if nuclear testing is redundant and replaceable, then stopping it will cure none of the nuclear ills that so upset Wicker.

You can't have it both ways. If a test ban prevents modernization, it endangers deterence and thus U.S. security. And if a test ban does not prevent modernization—if it does not "halt the arms race"—then it has no point.

Unless, that is, it is meant not to prevent new nuclear weapons, but to destroy the effectiveness of existing ones. If you can't test a weapon, you can't be sure it works, so you won't use it. In 1985 Rep. Pat Schroeder introduced a mutual test-ban bill thus: "After several years of being in effect, [it] would cause both sides to question whether the weapons they still had left were working efficiently, and, therefore, they would be less and less apt to use them."

Now, this is an idea with some attraction. A test ban as a back door, not to a freeze, but to a kind of functional disarmament. Have your weapons and disarm too, because neither side can be sure they will work.

Why is this not a good idea? Because the West is disproportionately dependent on nuclear weapons for its defense. It might have been a ghastly mistake, but it is now a fact: the West has chosen for 40 years to rest its defense on a nuclear deterrent. It did so because nuclear weapons are cheaper and thus less of a strain on democratic, consumer societies than are standing armies. ("More bang for the buck," explained John Foster Dulles.) Today the American security guarantee to Western Europe, where the Soviets have a vast preponderance of conventional force, consists principally of a threat of American nuclear retaliation.

In the face of this melancholy fact, test-ban advocates argue—in the alternative—that nuclear tests are *not* required to ensure the reliability of our nuclear stockpile. Test-ban advocates are in a box. Every time they extol the blessings of a test ban—ending the arms race, decreasing our reliance on nuclear weapons—they are forced to argue that

they don't really mean it, that a test-ban will really change nothing of importance.

And they rarely address two truly important functions of nuclear tests: (1) to develop safer, less sensitive explosives that cannot be detonated by accident and by terrorists; (2) to make other, often nonnuclear systems (such as satellites) more survivable by testing their ability to withstand the effects of a bomb.

Why then a test ban? One suspects that the point is to have an agreement with the Russians for its own sake. But if the real point is atmospherics and confidence-building and good detentish feeling, then we might start with other agreements, simpler and less injurious to national security. An agreement, say, banning the framing and imprisonment of journalists.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. HAWKINS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mrs. HAWKINS. Mr. President, I yield myself such time as I may need for the majority leader's time.

DRAMATIC RESULTS IN A CAMPAIGN AGAINST MARIJUANA

Mrs. HAWKINS. Mr. President, you sometimes wonder whether all the effort put forth against drugs is worthwhile. It seems the harder we fight, the more drugs there are on the street. It may seem that way, given the heightened awareness of the danger of drugs and recent media attention given to drug abuse. But it is an illusion, and only an illusion. The fact is the drug smugglers and dealers are taking a beating. Their loss of inventory and the apparatus required to move drugs from one place to another—planes, boats, trucks, and vans—are at an all-time high, as well as other property confiscations.

Let's talk about the track record of one effort against drugs and what has been accomplished. In California, the campaign against marijuana planting [CAMP] is responsible for an epidemic of what they call reefer sadness. CAMP—a combined undertaking of Federal, State, and local agencies—is perhaps the most successful antidrug effort ever mounted. Last summer CAMP eradicated 817,000 pounds of marijuana, an astounding 92 percent of the known crop in California. A sweep of national forests in California 2 months ago turned up 6 plants in an area where 12,000 plants were found in 1984.

"There is nothing anywhere," mourned a steady user of California marijuana to Newsweek reporter Pamela Abramson. Abramson, writing in the August 4 issue, said the pot user told her, "It was like they threw a switch and turned it all off." CAMP Comdr. Jack Beecham speaks with great optimism.

We're not ready to say that we won, but we're making fast gains. In a few years you'll see the marijuana problem as a thing of the past.

What great news that is compared with the doleful outlook of those who cry that drugs are out of control and ask, "What are you going to do?" An attitude of hopelessness is self-defeating. You can never do anything unless you try.

CAMP's aggressive stance against drugs is supported by tough new laws, which levy heavy fines and strip convicted growers of their land. Many growers have retired from the marijuana trade rather than risk loss of their land. One northern California woman who dropped out of the business 2 years ago relates that three of the six marijuana growers she knows have been arrested. Others have switched to growing pot indoors to escape the search and destroy squads of law enforcement officers. The yields of indoor crops are lower and costs are higher, up to quadruple the normal outside growing pattern. All of these factors have driven the price of marijuana higher than at any time in recent years. A pound of high-grade sinsemilla in California sold for $2,000 last year and this year the going price is $5,000. Sinsemilla is the Rolls Royce of the marijuana family and the most potent. Of the 40 million pounds of marijuana eradicated in the United States last year, about 10 percent was sinsemilla.

The CAMP project has proved very successful in California. Using that model, I would like to see the concept adopted for all 50 States, especially other States that have a nagging marijuana problem.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

□ 950

Mr. LEVIN. Mr. President, I ask unanimous consent that further proceedings under the quorum be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection it is so ordered.

RECOGNITION OF SENATOR LEVIN

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Michigan [Mr. LEVIN] is recognized for not to exceed 5 minutes.

Mr. LEVIN. I thank the Chair.

WHY IS THIS TAX REFORM BILL INEVITABLE?

Mr. LEVIN. Mr. President, on each day since the Senate reconvened this month, I have come to the floor to raise some of the concerns about the conference report on the tax reform bill which will lead me to vote against it. I have discussed how it would increase taxes on more than 15 million middle- and low-income taxpayers; how it would make deficit reduction harder and less fair; how it would include hidden costs which could erode the small tax cuts which most taxpayers would receive; and how it would make some taxpayers victims of new unfair provisions. Given these flaws in the pending tax reform bill, the question which keeps coming back to me is, "Why are we doing this? Why are we treating the passage of tax reform as a given?"

Is it because the public enthusiastically supports the passage of this bill? I find that hard to believe in light of my own experience and in light of the comments which I have heard from other Members upon their return from their States and districts. Let us look at a sample:

"I'm still looking for the first constituent who wants tax reform in the way it's being done," said Congressman MIKE SYNAR.

"I frankly haven't seen so much negative feeling on an issue in a long time," according to Congressman ROBERT MATSUI.

Majority Leader ROBERT DOLE added that House and Senate Members looking for a reason to vote against the bill "could have found it at home."

No, there is no ground swell of support in the heartland for this pending tax reform bill.

Is the Congress said to be poised to overwhelmingly approve the tax reform conference report because it is the unquestionably good thing to do for the economy at this time? Some economists say yes but others dissent. For example:

Murray Weidenbaum, former Chairman of President Reagan's Council of Economic Advisers, has written:

Although we can debate the precise economic effects of these changes, the direction of their impact is clear: less investment, lower economic growth, fewer jobs.

Jerry Jasinowski, chief economist at the National Association of Manufacturers has stated:

It's a major gamble • • • over the long term it's got to be somewhat harmful to our international competitiveness because of the shift to consumption, which will decrease investment and suck in imports.

Harvard economist, Lawrence Summers adds:

The repeal of the investment tax credit is a big mistake. The effect is to lower taxes on old investment and increase them on new investment.

No, the economists are badly divided on the question of the economic benefits of this tax reform bill.

Is this tax reform bill inevitable because it is the only way the Tax Code can be reformed? Not at all. The essence of what the public sees as tax reform can be accomplished by a bill which would have as its cornerstone a toughened minimum tax on profitable corporations and wealthy individuals that are now paying nothing in taxes. The revenues from this minimum tax and from loophole closing could be used to reduce the deficit. Reforming the Tax Code to bring greater fairness through these changes would avoid the pitfalls of enacting uneven tax cuts, repealing deductions used by average Americans, and creating new inequities, for example, through substantial retroactivity.

If not for these reasons, then why is the passage of the tax reform bill treated as a foregone conclusion? I think the answer lies in the perceived momentum behind this bill. However, momentum should not be enough of a reason to pass legislation with implications far beyond the current moment. This is particularly true when the momentum is largely within the Congress itself and almost exclusively within the Washington Beltway. But in the heartland of this country, there is no cheering. There is only silence, skepticism, and the beginning of hostility.

I thank the Chair and I yield the floor.

Mr. President, I note the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that the call for the quorum be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF SENATOR DURENBERGER

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Minnesota [Mr. DURENBERGER] is recognized for not to exceed 5 minutes.

RECENT EVENTS IN POLAND

Mr. DURENBERGER. Mr. President, I rise today to recognize the action of the Government of the Polish People's Republic in releasing 225 political prisoners this past weekend.

As one who has closely followed the course of Polish governmental repression since the imposition of martial law on December 13, 1981, I am encouraged to observe that the Jaruzelski regime has finally allowed those brave Poles in the forefront of the struggle for greater freedom to leave the confines of their prison cells.

Although martial law was officially lifted on July 22, 1983, many of its more odious features were given the veneer of legality by incorporating them into what some observers have called a model version of a "legislation of terror." Since 1981, General Jaruzelski and his sponsors have consistently rejected opportunities to fashion a compromise between the aspirations of the Polish people and the designs of the Communist rulers.

The release of 225 political prisoners is a hopeful sign that the Polish Communist regime may be genuinely interested in restoring a semblance of political dialog.

However, it would be a mistake to read too much into the release of prisoners who were incarcerated only because they advocated a type of political liberty that we in the West have always associated with Poles.

The world must remember that Poland is still firmly in the grip of a Soviet repression that has unfortunately characterized the political system of that great nation since 1945.

The positive step by the Polish regime, releasing the 225 political prisoners, is unfortunately tempered by the news that Polish security police have explicitly warned over 3,000 Polish citizens known for their support of Solidarity.

These "exposing talks," as they were termed, did not lead to arrest and detention but they are an ominous sign that physical freedom for respected opposition leaders may not be followed by any meaningful change in the nature and scope of Polish internal repression.

It is clear that Jaruzelski's release of the political prisoners was not simply an effort to repair the social fabric of Polish society. Poland's worsening economic plight and the desire for increased Western aid, as well as the continuing need of the Communist regime for legitimation, led Jaruzelski to take the bold step of emptying the Polish prisons of political detainees.

We must remember that two previous amnesties since the 1981 declaration of martial law have been followed by more arrests. It is my firm hope that this amnesty endures and will not prove to be only a temporary measure.

Mr. President, it is unrealistic to expect an early restoration of genuine political liberty in Poland. But it is not too much to expect that Poland extend constitutional guarantees for basic political freedoms.

It is also not too much to expect that the Jaruzelski government open electoral representation to the Sejm—the unicameral parliament of Poland—to all the people of Poland rather than disqualifying those who disagree with the Government's prescription for legislative policy. Without such long-range steps, the crisis in Poland will endure.

I cannot state the issue more concisely than Nobel Peace Prize winner and leader of the outlawed Solidarity trade union, Lech Walesa:

> Only the road of social pluralism can lead to a situation in which prisons will not be refilled very soon again with political prisoners.

The United States has an obligation to let the Polish people know they will never be forgotten by the West.

Last year, I spent a week in Poland visiting thousands of Poles, their religious and social leaders, and the town of Poland which my maternal grandfather left in 1895. I went to Poland not as U.S. Senator but as a Polish-American returning home. Both as a Polish-American and as a Senator I will continue the effort to free the Polish spirit for the rewards of personhood which have marked the history of this country.

Continued humanitarian aid is especially important in this regard. Toward this end Mr. President, I am submitting for printing an amendment to H.R. 5161, the Commerce, Justice, State, and Judiciary Appropriations bill for fiscal year 1987. This amendment would authorize the expenditure of funds generated from the sale of surplus U.S. dairy products for construction and renovation projects within Poland designed to benefit handicapped and orphaned children.

I visited one such project in Krakow when I was there, but the need is desperate and cannot be filled by Polish resources at all.

I indicate to my colleagues that this amendment is identical to legislation I introduced with Senators LUGAR and PELL on December 13, 1985, S. 1945. Mr. President, I ask that the text of the amendment be printed in the RECORD.

(The text of the amendment appears in today's RECORD under "Amendments Submitted.")

□ 1000

RECOGNITION OF SENATOR KASSEBAUM

The PRESIDING OFFICER (Mr. BROYHILL). Under the previous order, the Senator from Kansas [Mrs. KASSEBAUM] is recognized for not to exceed 5 minutes.

GENERAL AVIATION LIABILITY STANDARDS ACT

Mrs. KASSEBAUM. Mr. President, product liability has been an important issue in Congress for many years since there are few businesses and consumers not touched by the problem. Numerous efforts have been undertaken over the past decade to achieve

comprehensive product liability tort reform.

Although I have supported these comprehensive measures in the past and will continue to do so, I have been discouraged by the lack of progress to date in dealing effectively with the problem. The failure to act has had particularly harsh consequences for the aviation industry, and I have come to the conclusion that the industry can no longer wait for consensus on broader reforms.

In the late 1970's, general aviation produced 17,000 aircraft annually—operating as the world's leader in the field. This year, production levels have dwindled to 1,200 aircraft. Needless to say, foreign competition threatens to preempt completely our leadership role. While liability problems are not solely responsible for this sorry state of affairs, product liability tort reform is one thing that can make a difference in determining whether the industry ever recovers.

The very survival of the general aviation industry is my primary concern, but it is not the only reason I believe the industry is a logical candidate to serve as a model for moderate tort reform. Not only has aviation always been of national concern, but it is also completely federally regulated. The unique regulatory situation of general aviation has never been completely addressed in comprehensive product liability measures.

To address these concerns, I introduced in May the General Aviation Liability Standards Act. Hearings were held in the Aviation Subcommittee, and the full Commerce Committee considered the legislation last month. The measure was modified to accommodate concerns raised by some of my colleagues and by consumer groups—after which it was reported out of committee unanimously as an original bill, S. 2794.

I think it is noteworthy that this bill has the support of the entire aviation industry, including every major aviation consumer group—National Business Aircraft Association, National Air Transportation Association, Aircraft Owners and Pilots Association, National Aeronautic Association, Experimental Aircraft Association, and Helicopter Association International. Such widespread support for product liability legislation is unprecedented, and it reflects the care and thought which went into the development of the final compromise bill.

The heart of the bill is the creation of Federal liability standards, including the retention of strict liability. The bill retains completely joint and several liability between the manufacturers of all subsystems and component parts, and enacts comparative responsibility among other parties. It also establishes a 20-year statute of repose for aircraft and replacement parts—which begins anew each time a part is replaced.

I also want to make it clear what this bill does not do. It does not cap damages in any way. It does not cap or limit attorneys' fees. It does not waive the responsibility to supply warnings against dangers regardless of the age of the product. Nor does it limit a person's right to sue.

I believe this is a good bill which is worthy of the broad support it has received from the aviation industry, aviation users, and my colleagues on the Commerce Committee. Because I feel so strongly about the need for this legislation and take pride in the care with which it was crafted, I find it disturbing to hear of recent reports that I have some type of hidden agenda. As I understand it, there are allegations that I have plans to slip caps—among other controversial items—into the measure while it is being considered by the Senate.

I want to make it clear that has never been my intention. It is not my intention now; and I would, in fact, oppose any such amendment to this bill.

The balance struck in this legislation is reasonable, and I will not abandon the compromise reached. I do intend to bring S. 2794 to the Senate floor, and I will bring it in its present form—the package that was worked out with so much thought and effort with my colleagues in the Commerce Committee. I would very much like your support of this very moderate, balanced bill at that time.

We cannot ignore this issue. Nor can we duck the consequences of our failure to act. Those opposing this legislation—the trial attorneys and nonaviation consumer groups—should not thwart those who are directly affected by the measure. Our duty to Federal aviation goals and constituents affected by the bill should prevail. Swift passage of S. 2794 is in the public interest.

Mr. President, I yield back any time I may have remaining, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

□ 1010

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF SENATOR BUMPERS

The PRESIDING OFFICER. Under the previous order, the Senator from Arkansas [Mr. BUMPERS] is recognized for not to exceed 5 minutes.

THE SATELLITE TELEVISION SECURITY AND FAIR MARKETING ACT

Mr. BUMPERS. Mr. President, I rise this morning with my colleagues, Senators FORD and GORE, to introduce the Satellite Television Security and Fair Marketing Act of 1986. I hope that this legislation will provide an assurance to rural Americans that they will be able to receive scrambled satellite delivered television broadcasts in an open, competitive market.

This is not the first time I have spoken on the Senate floor on the issue of scrambled television signals. When I spoke on this issue in May of this year, I said that if a fully competitive market for scrambled programs did not develop, I would be back. It has not developed, and I am back. A competitive market has not developed, and it is time for Congress to step in an ensure fairness for rural America.

When I drive through rural Arkansas these days, I notice that the satellite dish is fast becoming as much of a feature on the farm as the old tree swing—everybody seems to have one. Yet it disturbs me greatly to know that rural folks, who may live only 1 or 2 miles beyond the city limits or city cable, will pay substantially more to receive the very same television services that their city cousins get. This is especially disturbing when you know that the dish owner purchases and maintains his own equipment; in other words, he covers his own overhead.

The market for purchasing scrambled programs for this Nation's 1.8 million dish owners has not developed in a way that is fair to rural America. They are willing to pay, but they are not willing to purchase programming at prices that do not reflect full market competition. To get scrambled programs today, one must go through a cable company—which is franchised—or buy directly from the programmer. The combined costs of buying from these programmers a la carte can be up to twice as much—$50 per month—as the same programs offered in cable packages.

One short analogy helps to illuminate the problems in the present market for satellite television. We are all now familiar with the video cassette recorder, or VCR. If I want to watch a movie on my VCR, I have to pay a fee. But I also know that I do not have to purchase that movie from a theater or direct from Hollywood, but that I can go to any number of distributors. I can go to Erol's Video, 7-11, Stop'n Go, and a host of others. These alternative distributors offer competitive variety and packaged services, and, according to the beauty of our market system, lower prices.

□ 1020

But if I wanted to watch that same movie with my television linked to a satellite dish, the market system and the terms are much different. There is no multiplicity of distributors. There is no competition. I would have to go to a franchised cable system, which would be analagous to the movie theater, or direct to Hollywood. In any event, the incentive for competition is absent.

The bill we are introducing today would require programmers to allow third parties to market competitive packages to dish owners. The bill is an amalgamation of a bill that Senator FORD and I introduced together in July, and a bill that Senator GORE introduced shortly thereafter. We are offering this legislation as a prelude to an amendment containing its provisions that we will offer to appropriate legislation in the near future. We have opted for this common front because we share a common concern about the availability of television to rural America.

My colleagues and I are asking that a competitive price be made available to rural, satellite dish owners through independent, third party distributors, and be they cable operators, that is fine with us. The bill says that its perfectly OK to scramble, but if you do, you must not discriminate against a potential distributor seeking to market the programming as long as the distributor meets certain minimum financial and character criteria.

We are also asking that the FCC set uniform standards for decoding devices to give satellite dish owners the assurance that only one such device will be necessary to view all the scrambled programs. It is also a balanced bill. It protects the programmers by sharply stiffening penalties for the interruption or hijacking of a signal. The incident in which a Florida man interrupted HBO's broadcast with a message of dissent about scrambling shows the level of frustration by dish owners, but such reckless activities should not be tolerated.

The noncompetitive aspects of satellite television signal scrambling were well documented at a hearing, at which I testified, before the Senate Commerce Committee on July 28 of this year. I urge each and every one of my colleagues to review the hearing record on this issue. It shows very clearly that there are anticompetitive forces at work in this market. It shows that satellite dish owners are not getting treated in the same manner as their city cousins, and that is not fair.

There are some 30,000 satellite television antennas in my home State of Arkansas, more than 80 percent of which are found in rural areas never to be served by a cable system. As I have said numerous times, these folks are not asking for something for nothing. They will pay for scrambled programming. All they want is a fair deal, and our legislation will give it to them.

Mr. President, I urge the Senate to carefully review their proposal. It does not require the FCC to set prices. It does not do injury to broadcast or cable industries. All it does is open the market for satellite delivered programming to competition. In doing so, it also meets the test of fairness that the people of rural America are demanding and are entitled to receive. I hope that after looking at the merits of this proposal closely, the Senate will adopt this measure.

Mr. GORE. Mr. President, over the past year the justified outcry about satellite television signal scrambling has produced several proposals to protect the legitimate interests of home dish owners. Today, Senators FORD, BUMPERS, COCHRAN, and I are introducing legislation which is the result of many weeks of discussions, negotiations, and hearings on this issue.

We want to invite our colleagues to join us in sponsoring the Satellite Television Security and Fair Marketing Act of 1986. This is the measure that is enthusiastically endorsed by dish owners, retailers, manufacturers, and the Satellite TV Viewing Rights Coalition, as well as key organizations representing rural interests. We may also offer this measure as an amendment to an appropriate bill on the Senate floor before the end of this session.

I am sure that practically all of our colleagues have received hundreds, even thousands of complaints by beleaguered owners of home dishes who believe they have been unfairly treated. I want to state at this time, in the strongest possible terms that this measure is the issue for dish owners in your States. Support for this measure will be considered support for fair viewing rights for dish owners. Opposition will send the signal to dish owners in your State that we are not prepared to act on even as simple, as modest a proposal as the one we introduce today.

It is time for the Senate to act, to send the strongest possible signal that we will no longer tolerate the blatant discrimination against home dish owners. The vast majority of home dish owners live in rural areas that are not served by cable. Yet, these rural families are being forced to accept scrambling and pricing terms that are clearly anticompetitive.

Mr. President, there may be some who will oppose this bill. Our colleagues will hear cries of "rate regulation" or "moratorium on scrambling." In the past, some legislative initiatives have proposed these measures as the way to obtain fair terms for dish owners.

So, it is important that our colleagues should understand what this bill does not do.

First, this bill does not restrict scrambling of programming services or network signals.

Next, this bill in no way involves the Federal Government in the rates programmers charge dish owners. There is absolutely no Federal regulation of program rates in this bill.

In fact, this bill, and the amendment we may seek to pass later this session, is really a very modest proposal. It has two simple elements.

First, the bill states that if a programmer sells satellite television program services for public viewing, that programmer should establish reasonable business standards for distribution of those services, and not discriminate against companies who would serve home dish owners simply because they are not a cable company or for some other arbitrary reason.

This fair marketing provision, then, simply does what programmers, cable interests, dish owners, and everyone else has claimed to want from the beginning—a marketplace that is open and competitive.

Second, the bill would allow the FCC to estalish a single technical standard for signal decoders. This is little more than a commonsense provision to avoid a situation where home dish owners would be required to purchase different, expensive decoding equipment for separate program services.

I want to also point out another provision in this bill which does not directly relate to program marketing, but which makes a strong statement about another issue of concern to everyone who utilizes geostationary communications satellites.

Many of our colleagues remember the infamous Captain Midnight incident a few months ago, when an individual broke into a satellite carrying HBO to broadcast a hostile message about program scrambling. Mr. President, as advocates of home viewing rights, we want to condemn this criminal act in the strongest terms. Captain Midnight, despite all his notoriety, did no favors for home dish owners by breaking into a satellite transmission system. What he did was illegal. Our bill toughens the penalties for such acts and sends a clear message to anyone who would tamper with satellite communications that incidents of this kind will not be dismissed lightly.

So, Mr. President, these three simple provisons make up this modest initiative—fair program marketing established in the marketplace itself, a single signal decoder standard, and tough new penalties for breaking into satellite transmissions.

There are no radical Federal interventions here. It is in no way hostile to cable companies. It is the absolute least we can do for the millions of dish owners, most of whom live in rural

America, the vast majority of whom are not served by cable television.

Mr. President, there is also a clear hearing record supporting the legislative proposal we introduce today. On July 31, the Commerce Committee held a hearing on the problems facing home dish owners as programmers rush to scramble their signals. The evidence at that hearing was clear and persuasive: There are strong market distortions created by powerful interests who would discourage fair distribution terms for home dish owners, and the potential for self-correction is slim. NTIA Administrator Alfred Sikes stated that there are "perverse incentives" for anticompetitive behavior by programmers and cable interests. HBO executive Michael Fuchs admitted: "Cable controls the supermarket" for programming. Moreover, Mr. Fuchs and Showtime's Neil Austrian both showed that these two powerful program forces have no intention of making their services available in a truly competitive marketplace.

Several weeks ago I introduced S. 2702, dealing with the need for a competitive marketplace for signal distribution. Senators FORD and BUMBERS introduced a bill which mandates a single standard for signal decoders. These initiatives address the primary problems now facing dish owners in our States.

We have combined the best features of my bill and the Ford-Bumpers bills into a single legislative measure, in order that momentum can be built for the very best, and most responsible Senate initiative. We must ensure that the nearly 2 million families who rely on this important new technology be dealt with fairly by those companies who would monopolize the industry. The Gore-Ford-Bumpers bill will do just that.

Mr. President, we believe this new legislation is the best way to correct the serious distortion that now exists in the satellite television marketplace. It is our responsibility to act as soon as possible to ensure that the discrimination against home dish owners will cease, and that this exciting new technology will again be allowed to thrive. I urge my colleagues to cosponsor this bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2823

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Satellite Television Security and Fair Marketing Act".

INTERFERENCE WITH SATELLITE COMMUNICATIONS

SEC. 2. (a) The Communications Act of 1934 (47 U.S.C. 151 et seq.) is amended by inserting after section 510 the following new section:

"WILLFUL AND MALICIOUS INTERFERENCE WITH SATELLITE COMMUNICATIONS AND OPERATIONS

"SEC. 511. Whoever without authorization willfully or maliciously interferes with, or causes interference to, the transmission of any lawful communication conveyed by means of satellite, or the operation of any satellite, shall, upon conviction, be fined not more than $250,000 or imprisoned not more than ten years, or both.".

(b) Within thirty days after the date of enactment of this Act, the Federal Communications Commission shall commence an inquiry into equipment, methods, and systems for the detection and prevention of violations of section 511 of the Communications Act of 1934 and other potentially damaging signal interference with satellite communications. In conducting such inquiry, the Commission shall consult with the National Telecommunications and Information Administration and other interested Federal agencies.

(c) Section 1362 of title 18, United States Code, is amended by adding at the end thereof:

"This section shall not apply to conduct prohibited by section 511 of the Communications Act of 1934, relating to interference with satellite communications.".

FAIR MARKETING OF CERTAIN SATELLITE COMMUNICATIONS

SEC. 3. Section 705 of the Communications Act of 1934 (47 U.S.C. 605) is amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c)(1) Any person who is encrypting any satellite cable programming for private viewing on or after thirty days after the date of enactment of the Satellite Television Security and Fair Marketing Act shall—

"(A) make such programming available for private viewing by home satellite antenna users;

"(B) in the case such person utilizes cable systems to distribute the encrypted satellite programming to home satellite antenna users—

"(i) not restrict such systems from selling service outside of the franchised areas of such a system, and not discriminate in price, terms, or conditions based on whether sale of such programming is for a cable subscriber or home satellite antenna users; or

"(ii) establish reasonable financial and character criteria under which noncable distributors may qualify to distribute such programming to home satellite antenna users and not discriminate in price, terms, or conditions among different distributors offering similar distribution services to the consumer; and

"(C) conduct such encryption in accordance with uniform standards for encryption of such programming approved by the Commission.

"(2) Standards approved by the Commission pursuant to paragraph (1)(C) shall be designed as far as possible to provide—

"(A) the public interest benefits of a universal encryption system which permits decryption at the television receiver of a cable television subscriber and a home satellite antenna user;

"(B) a system which operates without being subject to electronic interference;

"(C) consumer acceptability including price and the ability to choose optional features and ease of installation;

"(D) multiple sources of manufacture resulting in consumer choice;

"(E) the ability to pass through unencrypted programming provided on an audio subcarrier;

"(F) the ability to include parental lockout capability within the decoder; and

"(G) an adequate balance between the interests of security and price.

"(3) Any person aggrieved by any violation of paragraph (1) of this subsection may bring a civil action in a United States district court or in any other court of competent jurisdiction. Such court may—

"(A) grant temporary and final injunctions on such terms as it may deem reasonable to prevent or restrain such violations; and

"(B) direct the recovery of full costs, to a prevailing plaintiff including awarding reasonable attorney fees, actual damages, and additional profits of the violator, or statutory damages for all violations in a sum of not more than $500,000 as the court considers just.".

DEFINITIONS

SEC. 4. Section 705(d) of the Communications Act of 1934 (as redesignated by section 2(1) of this Act) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) 'satellite cable programming' means programming transmitted via a domestic geostationary communications satellite intended for reception by cable television system subscribers;"

(2) in paragraph (4) by striking out "and" at the end thereof;

(3) in paragraph (5) by striking out the period at the end thereof and inserting in lieu thereof a semicolon; and

(4) by adding at the end thereof the following new paragraphs:

"(6) 'home satellite antenna user' means a person who utilizes a satellite reception antenna to view of listen to, in his home or residence, communications received directly from a communications satellite in Earth orbit; and

"(7) 'reasonable financial and character criteria' means commonly prudent business standards designed to facilitate payment to the programmer and maintenance of the business reputation of the programmer, which are calculated to facilitate the existence of multiple noncable distributors.".

Mr. FORD. Mr. President, I join with my colleagues, Senator BUMPERS and Senator GORE, in introducing the Satellite Television Security and Fair Marketing Act. I am pleased that we have been able to merge the best of both bills on this matter and we have joined together in a united effort to address the problems of the backyard satellite owner.

In July, the Senate Commerce Committee held hearings on the scrambling of cable programs. I found the hearings to be very informative in that it proved without a doubt that the marketplace is not working. As I have said many times, the question is not whether backyard satellite dish owners should or should not pay for the cable programming. They should pay. The question is how much the

backyard satellite dish owner should pay and if there will be any competition to the cable industry in providing program packaging.

I have heard from numerous cable operators in my State indicating that the backyard dish owner does not want to pay and that is the root of the problem. I have also heard from the 30,000 dish owners in my State. They are all willing to pay and just want to be treated fairly. Cable operators have raised the issue that they will be packaging programming so there really is no need for third-party groups to offer packaging. There are several cable operators in my State offering good packaging deals in their franchise areas. Unfortunately, the vast majority of the dish owners in Kentucky reside outside the cable franchise areas and will never have the opportunity to participate in the cable operators program packaging. There are many parts of my State which will never be wired for cable. Those citizens in the areas where it is not economicaly feasible to wire for cable only have one option to receive television program diversity and that is to purchase a backyard satellite dish.

Senator BUMPERS, Senator GORE, and I seek a solution to the rural backyard dish owners problems. Our bill is fair in that it does not regulate pricing, limit the ability of cable programmers to scramble, or address the issue of the transmission of network feeds. I believe that the bill will eliminate the immediate problems in the scrambling issue and guarantee a competitive price for programming to those areas which will never be served by cable.

I was very upset when I learned of the Captain Midnight episode. High-technology tricks do not aid the satellite dish owner or industry in their efforts to convince the Congress and media of their problems. Although the Federal Communications Commission is to be commended for their actions in locating and apprehending Captain Midnight, I was amazed at the light punishment for such an unfortunate act. I believe it is time to send the message that there are national security questions involved in such acts and the penalty should be as great as the offense. The penalty should be so great as to discourage future interruptions of communications.

I wish to thank my colleagues for working together on this legislation and it is hoped that all of the groups interested in the satellite dish industry will join with us in supporting this legislation.

SATELLITE VIEWING RIGHTS

Mr. COCHRAN. Mr. President, I join with my colleagues, Mr. GORE, Mr. BUMPERS, and Mr. FORD in introducing this legislation. The measure we are proposing today is consistent with previous legislative proposals we each have supported in the past designed to give some relief to the more than 1.7 million satellite dish owners.

This bill, the Satellite Television Security and Fair Marketing Act will provide satellite dish owners the opportunity to continue to receive satellite transmitted programming on fair and equitable terms. It will promote an open and competitive marketplace whereby programmers, cable distributors, satellite dish owners and dish retailers can work out the best way to provide a service to consumers who are willing to pay a fair price for what they receive.

We are not trying to prevent the programmers from scrambling their signals, nor are we dictating the rates that can be charged for receiving those signals. We are, however, trying to encourage the industry to maintain the spirit of competition in distributing their services.

I believe this measure addresses some very basic concerns of satellite dish owners, the retailers and the manufacturers—concerns which, up to this point, have not been resolved in a marketplace increasingly influenced by monopolistic forces. It is not likely that the current crisis will remedy itself without congressional intervention.

I urge my colleagues to support this bill.

Mr. SASSER. Mr. President, I am pleased to join with my colleagues today in introducing S. 2823, the Satellite Television Security and Fair Marketing Act.

As I talk to Tennesseans in communities across the State, a constant concern is the unavailability of unscrambled television programming at fair market prices. And this is a very legitimate concern, Mr. President. For a fully competitive market for scrambled programs has not developed. Many programmers are already scrambling their signal and others have announced plans to do so soon. However, they have not provided a fair and equitable mechanism for satellite dish owners to receive satellite signals.

Currently, satellite dish owners who wish to receive descrambled programming must pay a fee to either a cable company or to the programmer—a fee which is often double what a cable company subscriber pays for the same services. This cost is on top of the great expense incurred by the satellite dish owner in installing his own equipment. Now, the satellite dish owners that I have talked to do not object to paying a reasonable fee for programming. But they do object to paying more for programming than cable subscribers.

The inequities of the current system are apparent in my State of Tennessee. Almost 50 percent of Tennessee is rural. Cable services will never come to these areas because they simply do not have the population density to make cable profitable. In fact, in the mountains and hilly areas of my State even network reception is often unobtainable. Many of my constituents have had to purchase a satellite dish to obtain any television reception at all.

I do not believe that the current system—of making a satellite dish owner purchase an expensive descrambler and then pay monthly fees at double the cost available to other viewers—is a fair one.

The legislation we are proposing today provides a mechanism so that viewers may obtain television programming at fair and equitable rates. It requires programmers to allow third parties to market programming packages to dish owners. It also asks the FCC to set uniform standards for decoding devices to assure satellite dish owners that they need only purchase one such device to view all scrambled programs.

I believe this is a reasonable approach to the problem of signal scrambling and I look forward to working with my colleagues to ensure that our citizens in rural areas may obtain a full range of television programming.

Mr. MELCHER addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. MELCHER. Mr. President, the economy of the United States——

The PRESIDING OFFICER. I am advised it will take unanimous consent for the Senator to proceed.

Mr. MELCHER. Mr. President, I ask unanimous consent that I may speak as if in morning business.

The PRESIDING OFFICER. Without objection, the Senator is recognized.

ECONOMY SLIDING AS TRADE POLICY FAILS

Mr. MELCHER. Mr. President, the economy of this country is sliding downhill as a result of two deficits, two huge deficits—the huge Federal deficit that we have and the huge trade deficit.

These two deficits have forced some reality on the markets. After all, if it is a market for commodities and you cannot trade the stuff and it must go abroad or there is too many imports coming in of a particular commodity or whatever your production is, the reality is that you are losing out.

The Reagan administration has attempted to rationalize the sluggish economy, but you cannot rationalize it away. They must now face reality, as we all must face reality, and that is that, unless there is a change of this slipping economy, we may be setting the stage for economic disaster, like an avalanche rolling down upon us.

These imbalances—both trade and the Federal deficit—have been building for 5 years. And it is no longer pos-

sible to just simply explain it away with some sort of gobbledygook that only ends up to be voodoo economics, as one of our great Americans pointed out a few years ago. This economy is weakening quite fast and the slide must be reversed.

But let us look at some of the highlights of this and particularly in regard to the trade imbalance. In agriculture, our producers are very efficient. They are more efficient than the competition throughout the world. But yet we find that the exports of agriculture commodities is going downhill very rapidly and we find the imports of agriculture commodities coming in in a greater extent to this country—that is, less food going out as exports, more food coming in as imports—so that now the imported stuff, the imported food, is greater than our exports.

You know, we had the 1985 farm bill. The 1985 farm bill set as policy for this country a continued big farm production—big production. But the 1985 farm bill also balanced that with enhancement of exports, and in particular enhancement of export programs for developing countries. These are countries which really do not have the cash to pay in full, but if we extend them credit or if we donate part of the food to them we build trading partners for the future. That is how the bill balanced out as policy—the big production versus broadening exports, particularly in the developing countries. But those programs for developing countries have not even been taken off the shelf by the administration. They have not been used, although they are part of the bill.

The other part of it is: Who is in charge? Who is in charge of expediting exports? And the answer to that is no one, let alone the President. No one is in charge.

The farm bill mandated a special advisor to the President for agricultural exports and food assistance. That job still is not filled, even though the bill was signed last December. We have had congressional attempts to increase food assistance to help the African countries, for the Philippines and for India, but they have all been thwarted by blockheaded bureaucrats within the administration.

Well, Mr. President, if it is not too late, perhaps the long-expected retrenchment of the stock market drop to align the price of stocks with the profitability of their respective companies will jar the administration out of its lethargy.

The stockholder reaction to a gyrating Dow Jones average of what the stock market is doing each day, if you listen to the stockholders' explanation, you quite often find that they say the market is worried about whether interest rates are going to go higher—they really want them to go lower, which is likely—or whether inflation is going to increase, which is unlikely.

But the real drag on the U.S. economy is the fact that there have been negligible profits for the corporations, with most of them showing yields of less than 4 percent. And so the companies are not profitable, much of it because of a poor trade policy, too many imports or not enough exports; agriculture is suffering because of the loss of markets; and the flood of imports continues to dry up jobs around the country.

□ 1030

And rural America and the manufacturing in this country is stagnated. That is the best term we can give it. That is the most optimistic term—stagnation. Actually, it is worse than that. Too many are going broke. But when taken all together, all of those, that is really most of America.

Mr. President, chickens come home to roost. The mistakes of this administration will have to be accounted for. The President is out campaigning around the country. Whenever he can find time, he is campaigning for a Republican controlled Senate saying that he needs Republicans in control of this Senate so he can continue his programs. I think that is poor campaigning, very poor. The people obviously need someone to control Reagan. The last thing they want is somebody else sitting in this Senate who is a complacent follower to vote for some more of this terrible trade policy. I think the President is handing the Democrats the real issue. The real issue is: It is getting this country back on the right track. That means changing, correcting, modifying, straightening out this administration's domestic mistakes.

Mr. President, I yield the floor.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business, with statements therein limited to 5 minutes each.

TRIBUTE TO DETECTIVE SGT. LEO BLAIS

Mr. LEAHY. Mr. President, Vermont is extremely fortunate in having very high caliber law enforcement personnel. One who epitomizes the best of the dedicated men and women in law enforcement in Vermont is State Police Detective Sgt. Leo Blais.

I have watched Sergeant Blais' career for 20 years with great pride. I was fortunate enough to have Leo Blais as the first investigator in my office when I was State's attorney of Chittenden County, VT.

Recently the Burlington Free Press wrote an excellent article about Sergeant Blais, and I ask unanimous consent that it be included in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FOR POLICE DETECTIVE, MATCHING THE CLUES IS THE JOY OF HIS JOB

(By Ted Tedford)

For nearly five years Carolyn Desmarais had waited for some sign that her son, Craig "Cooley" Jackman was still alive.

She and her daughter Susan had last seen him Jan. 26, 1981, when he left the family's Lincoln Street home.

Despite an exhaustive investigation by Essex Junction police, claims by two psychics that Jackman was living in Florida, help from a national child location group and Desmarais' fervent prayers, no trace of him was found—until Nov. 18 last year.

It was an unusually warm day for deer hunting as a St. Albans man walked through the woods in Westford near the Milton town line. The temperature would reach a high of 51 degrees, hardly the kind of day Vermonters expect that time of the year.

The hunter, who has not been named, looked down as he trod the woods and spotted a human skull lying in the dry leaves. The discovery ended his hunting for that day and he drove to the state police barracks in St. Albans, turned the skull over to police and told them where he found it. A search later that day, a Monday, was fruitless, but things were different the next day.

State Police Detective Sgt. Leo Blais, 45, tall and rugged, with straight hair and a bushy mustache, joined a search team the next morning. He placed himself at the end of a long skirmish line that slowly made its way through the woods. It wasn't long before he spotted what he said last week looked like a coat. What he found were the skeletal remains of a body.

In the trouser pocket he found a wallet with identification still intact enough to reveal information that led Blais to determine that the body was that of Craig Jackman, 16 and a student at Essex Junction High School.

The identification was confirmed by dental records. An examination by Dr. Paul Morrow, the state's chief deputy medical examiner, confirmed Jackman had been killed by repeated blows with an ax.

Blais was assigned to the case and it was to occupy much of his energy and time for nearly four months. The investigative work involved is what the detective, a state-trooper for 20 years, likes the most about his job.

Blais said he is happiest when he is out on the road investigating crimes such as the Jackman murder or some of the other serious crimes he has solved.

It was Blais whose investigative work led to the conviction of George Ladabouche for killing Gary Bevins in Winooski in January 1983. Ladabouche was sentenced to 30 years to life.

Blais' last big case was unraveling the complicated financial dealings of Bakersfield Town Clerk and Treasurer Linda Hall. She faces 127 criminal charges arising out of the alleged theft of more than $500,000 in town and school funds.

He made history when he became the first state police trooper assigned to a state's attorney as an investigator. He fondly remembers working for then-Chittenden County State's Attorney Patrick J. Leahy before

Leahy was elected a Democratic U.S. senator in 1974.

Blais, who spent several years on road patrol and more in the state police Bureau of Criminal Investigation as a detective, says he has no hankering for police administration. "I like investigative work," he said, pointing at his desk with a pen in his hand, "right here."

Blais' investigation of the Jackman case led to the arrests of two of the teen's friends, Brian Wimble and Timothy Crews, both 25, of Burlington, on charges of first-degree murder.

Wimble was arraigned in Vermont District Court in Burlington Feb. 4. Crews, who had fled the state and was serving time in California for car theft, fought extradition for nearly six months, and was arraigned last Monday. Both pleaded innocent. Wimble is free on $50,000 bail. Crews is in jail for lack of $250,000 bail.

From an interview with Blais and from his affidavits on file with the court, his investigation unfolded this way:

As Blais began talking with Jackman's friends, he heard rumors of a stolen check and Wimble's name kept coming up. Blais said he learned that Jackman had cashed a $300 check for Wimble Jan. 3, 1981.

Blais said Wimble lied to him at first. "You could drive trucks through his story, the loopholes were so large," Blais said.

Wimble later admitted having taken the check from his employer, Foodsciences Inc. in South Burlington. Crews told Wimble he himself was being blamed for stealing the check and he wanted to get even with Jackman. Crews would later tell Blais that Wimble had asked him to help "do away" with Jackman because Wimble was afraid he would go to jail if Jackman talked to police, affidavits say.

The details of the killing eventually would come out after, Blais said, he accepted the fact that the theft and cashing of the $300 check was the motive.

"I put it aside for a time," Blais said last week, "because it didn't make sense." But as his investigation continued and he talked to more people, he began to believe it.

Jackman—described by his mother as a boy with lots of friends and by Blais as not a bad kid who was determined to finish high school—left his mother a note the night he was killed, saying he was going out but would be back early.

On that night, Wimble claims, he and Crews were driving to Essex Junction and they "just happened" to meet Jackman near a beverage store on Park Street. Crews later said Wimble had called Jackman and asked him to meet them there, affidavits said.

Jackman got into the car when Crews told him they were going to drive to Westford to get some marijuana they had stashed in the woods there. That's where Jackman was killed. Crews claims he hit Jackman once with the blunt end of the ax, but Wimble actually killed him. Wimble claims it was Crews who committed the murder, according to affidavits.

Blais and John Churchill, Chittenden County chief deputy state's attorney, ended up in Los Angeles early this year where Crews was being held at the county jail. Crews talked about the murder to the two Vermonters and Blais said another prisoner told them Crews had bragged to him about the killing.

Before taking the Jackman case, Blais spent a year with the Vermont Drug Task Force, in charge of the men in the field.

He confessed he misses working with the assistant U.S. attorneys at the Federal Building who prosecuted all the drug cases the task force investigated. "It was nice working in the federal system," Blais said.

ORDER FOR STAR PRINT—S. 2813

Mr. PROXMIRE. Mr. President, I ask unanimous consent that a star print of S. 2813 be produced correcting a vital omission made by the Government Printing Office.

The PRESIDING OFFICER. Without objection, it is so ordered.

S. 2781—NATIONAL APPLIANCE ENERGY CONSERVATION ACT OF 1986

Mr. CRANSTON. I am delighted to join with the distinguished Senator from Washington [Mr. EVANS] and other Senators in introducing legislation to amend the Energy Policy and Conservation Act to set national efficiency standards for major household appliances.

This bill is a substantial revision of S. 1360, a bill I introduced in June 1985.

Since then, extensive negotiations have occurred, and the bill we are introducing has the complete support of the trade associations representing the appliance industry, as well as the National Resources Defense Council and other groups primarily interested in conserving energy and other precious national resources.

It is several years since the term "energy crisis" echoed through our homes as we faced the last energy shortage. But we still have not insured that America will have sufficient, affordable, clean energy to meet our future needs.

The National Appliance Energy Conservation Act of 1986 is an important step toward insuring America's energy future. But this legislation also provides near-term benefits for the American people.

First, it will benefit consumers who operate new energy-efficient appliances, because they will save money on their electric bills. One-third of the energy we use in our homes operates electrical appliances, and this percentage is increasing.

Second, all utility rate payers and shareholders will benefit, because as consumers use more efficiently the electricity that utilities generate, the need to build expensive new powerplants to meet anticipated electric load growth will diminish, and the operation of inefficient, costly to run powerplants can be curtailed.

With the effective national appliance efficiency standards provided in this bill, we will save enough electricity to avoid the need to build the equivalent of 15 new nuclear powerplants, costing more than $45 billion, according to the Lawrence Berkeley Laboratory.

By replacing with high-efficiency models the 12 million refrigerators and freezers in use just in California in 1982, California consumers can reduce energy use in the State by an estimated 5 percent, about 1,700 megawatts, the capacity of two new nuclear powerplants.

Purchasing the new appliances would cost about $705 million—much of which people would spend routinely for appliance replacement—while building the two nuclear plants would cost more than $6 billion, more than six times as much, and produce radioactive waste and other problems.

Third, with national standards and the strong State-preemption language in this bill, manufacturers of major home appliances will benefit by avoiding having to face a rapidly multiplying patchwork of varying standards in each State in which they choose to do business, and will have their ability to compete in foreign markets enhanced.

Congress has supported a Federal program to improve consumer applicance efficiency since 1975.

Congress mandated national appliance efficiency standards for each of the 13 major household appliances when the Energy Conservation and Policy Act was enacted in November 1978 requiring regulations implementing national standards by December 1980.

By the time Congress acted, 10 States—including California—had already enacted appliance efficiency standards.

The contemplated national standards were less stringent than those California standards already in place, but the Nation as a whole would have gained from adopting national standards.

I fought to make sure that mere passage of the Federal law did not preempt prematurely the existing State standards before the Federal standards took effect.

It is a good thing I did, Mr. President.

Despite the clear congressional mandate, the Carter administration left office without adopting the standards, due at the end of their tenure, and, under the Reagan administration, the Department of Energy has claimed to meet the requirement for national efficiency standards by adopting regulations that say that no standards are necessary.

In terms of encouraging increased energy efficiency, these standards are meaningless, if not counterproductive.

Meanwhile—to aviod preemption by this nonstandard, States such as California, Florida, New York, and Kansas, among others with their own standards, successfully petitioned the administration for exemption, in effect restoring the situation that ex-

isted before national regulations were adopted.

Then several of the States, along with the National Resources Defense Council and Consumers Union, succeeded, in 1984, in over-turning the Reagan administration "no-standard standard" in the courts.

This created a regulatory vacuum: a congressional requirement for standards that the administration declined to meet.

In California, State standards worked so effectively that the State legislature decided to broaden them.

Manufacturers selling in California and other States with appliance standards are required to produce more efficient appliances.

But without effective national standards, manufacturers face the costly and increasing dilemma of meeting differing State standards in each State in which they chose of do business.

By adopting clear national standards that meet the needs of the States, this bill will resolve the dilemma.

At the same time, the bill will provide States with the ability to respond within the regulatory scheme to substantial or unusual local energy problems, such as high electricity, gas, or heating oil prices, high dependence on oil, or fuels whose price is tied to oil, unusual climatic conditions, or adverse environmental or health and safety conditions that can be alleviated by energy conservation in appliances.

Mr. President, before California adopted its appliance efficiency standards, refrigerators and refrigerator-freezers consumed 12 billion kilowatt hours of electricity each year, according to the California Energy Commission.

But in 1983, as a result of the appliance standards on refrigerators and refrigerator-freezers, residential users saved around 213 million kilowatt hours of electricity.

The energy operating cost savings on refrigerators alone was worth $18 million.

In 1983, an efficient central air conditioner retailed for about $225 more than a nonefficient one. Eighty percent or more of air-conditioner purchases are made by builders or apartment house owners—who often seek the lowest cost appliance available and do not necessarily benefit from lower utility bills. To them, the higher price of efficient appliances is a disincentive to purchase an energy-efficient air-conditioner, even when the cost can be passed along to the ultimate user of the appliance.

But, when efficiency standards eliminate the nonefficient, cheap appliances from the marketplace, the consumer soon recovers the extra cost of the appliance.

For example, a consumer using an energy-efficient air conditioner in 1983 saved about $47 on utility bills in California in that one year alone.

The average life of a central air conditioner is 13 years.

Over the expected life cycle of the central air conditioner, a consumer would save $611 on utility bills in 1983 dollars, benefiting by $386, despite the initial higher cost of his appliance.

Yet, information on so-called "life-cycle costing" is not readily available to those consumers who do purchase their own appliances, and not usually considered when purchases are made by others. This legislation addresses both of those problems.

The total savings on all home appliances covered by California's efficiency regulations—central and room air conditioners, gas and electric water heaters, gas space heaters, refrigerators, refrigerator-freezers—exceeded $173 million in 1983.

And, California's electric power utilities saved the energy equivalent of 2 million barrels of oil that year which would have been wasted were it not for the more efficient appliances in use in the State. That means cost savings to ratepayers of some $50 million, plus a substantial expansion of our available energy supply.

Over the next 20 years, the regulations will reduce the average monthly residential electricity bill by around 7 percent for all Californians—even those not using new energy-efficient appliances—because utilities shut off the most inefficient and costly plants first, as the demand for electricity drops, and all utility ratepayers benefit.

Of course, those who acquire energy efficient appliances will save the most.

The cumulative electricity cost savings on appliances covered by the California standards between now and the year 2002 could total $13 billion according to California Energy Commission estimates.

And that's just California, Mr. President. The national standards provided by this bill could save roughly 10 times as much.

Several manufacturers of fuel-efficient appliances have already demonstrated that the technology is available to make the improvements these standards would require.

Why not then just leave the energy savings to informed consumers and the free operation of the marketplace, as some have suggested?

First, because the State regulations have restructured the marketplace.

Second, because stimulus-response relationship between crude oil and other utility fuel prices and the purchase of electrical appliances by utility customers is too indirect.

Third, because as much as 80 percent of the major residential appliances are not purchased by those who will ultimately use them, but by builders, apartment house owners, and others who find lower appliance price a stronger incentive than lower electric bills over the life of the appliance.

Fourth, because the information for appliance users to calculate accurately the "life-cycle" cost benefits of efficient appliances are not readily available.

Fifth, because energy prices do not rise in constant trend lines. They fluctuate. But the national interest in using our energy resources efficiently is constant.

DOE now estimates that future needs for powerplants could cost utility ratepayers upwards of $1.8 trillion by the end of the century.

With efficient appliances, much of this needless use of capital and energy resources can be eliminated.

Mr. President, under California's new State standards, effective in 1987 and 1988, the need for new electric generation capacity will be reduced by almost 1,000 megawatts in 1996. Savings of an additional 7 million barrels of oil equivilant in 1988 will result just from the recently adopted improvements in the State's appliance efficiency standards. These savings will not be affected by our bill, which will phase in national standards of equivilant stringency from 1988 to 1993.

Manufacturers can meet the standards without undue hardship, and consumers, utilities, industry and the environment all benefit.

National use of efficient electric appliances will save consumers billions of dollars, ease utility load management problems—especially during peak periods, hold down future energy costs, free capital for other purposes, and permit the rapid and least costly reduction of emissions from coal-fired plants responsible for so much acid rain damage.

We have the technology available now to provide for our future energy needs without endangering our environment.

Mr. President, I understand that this bill is now on a very fast track in both Houses.

Nevertheless, it is long overdue.

Mr. GORE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCLURE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

□ 1050

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS, FISCAL YEAR 1987

The PRESIDING OFFICER. The clerk will state the pending business.

The assistant legislative clerk read as follows:

A bill (H.R. 5234) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1987, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Proxmire-Humphrey Amendment No. 2777, to reduce the funds for the Forest Service for road construction. (By 43 yeas to 51 nays (Vote No. 258), Senate failed to table the amendment.)

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President, if I recall correctly, the pending matter is the amendment offered by the Senator from Wisconsin [Mr. PROXMIRE].

The PRESIDING OFFICER. That is correct.

Mr. McCLURE. Mr. President, in a moment, I shall send two amendments to the desk and ask unanimous consent that they be considered en bloc and considered in order.

What these amendments do is amend the amendment of the Senator from Wisconsin in the following way: First, they reduce the committee's recommendations for Forest Service sales from 11.4 billion board feet to 11.2 billion board feet, which is the same as the House level. Second, it reduces the amount appropriated for timber harvest and sales administration by $7 million and the amount appropriated for roads by $8 million. This totals a $15 million reduction from the committee's recommendation and these figures are simply derivative of the reduction in the harvest level.

The reduction in the target level for lumber production from the National Forest lands will release, as I have indicated, $15 million of the committee's recommendations. Rather than just have the reduction, the amendment would restore that $15 million to various land acquisition programs, including wetland habitat, endangered species, hardships, inholdings, and recreation composites.

Five million dollars of the $15 million would go to the Fish and Wildlife Service, $5 million would go to the National Park Service, and $5 million would go the Forest Service for those purposes.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1100

Mr. GORTON. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

The PRESIDING OFFICER (Mr. ANDREWS). Without objection, it is so ordered.

Mr. GORTON. Mr. President, I ask unanimous consent that the pending amendment be temporarily laid aside.

The PRESIDING OFFICER. Is there objection? Hearing none, the request of the Senator is granted.

AMENDMENT NO. 2823

(Purpose: to extend the terms of leases that may be entered into by the Tulalip Tribes without the approval of the Secretary of the Interior)

Mr. GORTON. I have an amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will read the amendment.

The legislative clerk read as follows:

The Senator from Washington [Mr. GORTON] proposes an amendment numbered 2823.

Mr. GORTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. . Subsection (b) of the first section of the Act of August 9, 1955, as amended (25 U.S.C. 415(b)) is further amended—

(1) by striking "or" immediately before "(2)"; and

(2) by inserting immediately before the period at the end thereof the following: ", or (3) if the term does not exceed seventy-five years (including options to renew), and the lease is executed under tribal regulations approved by the Secretary under this clause (3)".

Mr. GORTON. Mr. President, this amendment to H.R. 5234, the Department of the Interior and related agencies fiscal year 1987 appropriations bill will enable the Tulalip Tribes of Washington to: First, lease its valuable residential, commercial and industrial lands for longer periods of time; and second, permit the tribal leadership to exercise a higher level of self-determination in the area of leasing. The amendment has been cleared by the Select Committee on Indian Affairs.

The Tulalip Reservation is located 30 miles north of Seattle and is adjacent to a major interstate highway. This is a high-growth area where prime sites for leasing purposes are at a premium. The tribe's 22,000-acre reservation includes the largest tract of undeveloped lands in the area. Over the years, the tribe has derived substantial income from residential and industrial leasing programs. Given the strategic location of the reservation, the best use of most of its lands lies in the area of residential, commercial, and industrial leasing.

Under existing law and policy, the Secretary of the Interior must approve a variety of leases entered into between Indian tribes and private individuals or entities. The Tulalip leadership has discovered that the existing authority is inadequate to accommodate major developmental leases that require a long period of time for debt retirement purposes. Although the tribe has been granted authority to lease its lands for terms not to exceed 99 years, such leases require Secretarial approval. Moreover, the regulations governing this authority are overly cumbersome and contrary to Indian self-determination and tribal self-governance.

I am pleased to support the progressive Tulalip tribal leadership by offering this amendment. Specifically, it amends Public Law 91-274 to permit the tribe to enter into leases not to exceed 75 years, with no option to renew. The tribe, however, would be required to develop a new regulatory scheme for the extended leasing authority. This legislation will permit the tribe to pursue its goal of economic self-sufficiency. The amendment will give the Tulalip tribes the flexibility to work out profitable leasing arrangements, flexibility that is needed to allow development of commercial, industrial and residential properties in Washington State.

Mr. President, I believe that this amendment has also been cleared by both the majority and minority managers of the bill.

The PRESIDING OFFICER. Who seeks recognition? The Senator from Idaho.

Mr. McCLURE. Mr. President, I understand this amendment has been cleared with the authorizing committee and that there is no objection from the Department of the Interior in extending the period for which leases may be executed on the Tulalip Reservation. I have no objection to the amendment.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, we have cleared the amendment on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2823) was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GORTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2824

(Purpose: To strike a provision amending the Indian Self-Determination Act relating to tort claims)

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I send an amendment to the desk and ask the clerk to report.

The PRESIDING OFFICER. The Chair would point out to the Senator it takes unanimous consent to set aside the pending amendment before another amendment is in order.

Mr. THURMOND. Mr. President, if another amendment is in order, I do not want to go ahead.

Mr. McCLURE. Mr. President, I ask unanimous consent that the amendment be temporarily laid aside in order to entertain the amendment of the Senator from South Carolina.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from South Carolina (Mr. THURMOND) proposes an amendment numbered 2824:

On page 74, beginning with the word "Provided" on line 5, strike out all through "'agreement.'" on line 3, page 75.

Mr. THURMOND. Mr. President, I rise today to offer an amendment to H.R. 5234, the 1987 Interior appropriations bill. Currently, Indian tribes may contract with private physicians to provide health services. This amendment deletes a provision which would shift the liability from such physicians to the U.S. Government under the Federal Torts Claims Act. Section 2671 of the Federal Torts Claims Act explicitly states that contractors are not instrumentalities of the United States and therefore are not covered by the act. The exception in this bill creates a dangerous precedent and will undoubtedly lead to others similarly situated Government contractors to insist upon the same protection.

Our Government contracts with tens of thousands of contractors each year without providing them with an indemnification clause in their contracts or guarantee that the United States will assume their liability. The Federal Government simply cannot expose itself to such massive liability. Allowing for such protection in this legislation unwisely opens the door to numerous demands for similar treatment—each arguing that their situation is as unique and compelling as that facing the Indian Health Services. Even similarly situated physician contractors who work in military or veteran's hospitals do not have such insulation from liability.

This provision constitutes substantive legislation of dynamic proportions. Any provision of such significant impact on our Federal tort system must be given careful review and consideration by the Judiciary Committee with the full opportunity for all interested parties to be heard. No such opportunity has been afforded.

Given the significant precedent that would be set by this provision and based on the rationale set forth above I am compelled to offer this amendment to strike the provision in question.

□ 1110

Mr. McCLURE. Mr. President, the distinguished senior Senator from South Carolina and chairman of the Judiciary Committee is correct that the committee amendment is legislation on an appropriations bill; in fact, the committee report clearly identifies it as such. That in itself is not surprising as the reauthorization for the Indian Health Care Improvement Act has been languishing in Congress for several years.

The contention that covering contracted Indian Health Service hospitals and clinics under Federal tort claims with respect to medical malpractice claims would open the floodgates for contractors who do work on behalf of the Federal Government seems far fetched to this Senator. We have a government-to-government relationship with Indian tribes which can be claimed by no other contractors.

Further, we are not shifting new costs to the taxpayers. The costs of medical malpractice insurance obtained by tribal contractors are funded entirely with appropriated moneys and those costs are projected to increase by 100 percent between fiscal years 1986 and 1987. It is the position of the committee that those funds would be better spent in the provision of health care than in paying premiums to insurance companies for malpractice insurance.

Mr. President, I will not belabor the point except to say that the committee action represents a prudent approach to this issue. Unfortunately, such action required legislation on an appropriations bill. Unless there are others who wish to be heard on this subject, we will not object to striking the language.

Mr. JOHNSTON. Mr. President, I concur with the statements of the distinguished chairman of the subcommittee, and we have no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2824) was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2825

Mr. MELCHER. Mr. President, I ask unanimous consent that the pending amendment be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MELCHER. Mr. President, I have an amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Montana [Mr. MELCHER] proposes an amendment numbered 2825.

Mr. MELCHER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, line 12 delete "$300,000" and insert in lieu thereof "$800,000".

Mr. MELCHER. Mr. President, this amendment will increase the appropriation for the Bureau of Land Management Land and Water Conservation Fund by $500,000. The funds will be used to purchase approximately 1,500 acres of land along the Upper Missouri River which will be used for public camping, waterway access, and preservation of cultural sites. The tracts involved represent the highest priority for acquisition within BLM.

I believe that the amendment is acceptable to the distinguished chairman of the committee and the ranking Democratic member of the committee, and I ask for its adoption.

Mr. JOHNSTON. Mr. President, the Senator is correct; we have no objection to this amendment.

Mr. McCLURE. Mr. President, we have no objection on this side of the aisle.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2825) was agreed to.

AMENDMENT NO. 2826

(Purpose: To prevent the Secretary of the Interior from entering into a contract for the operation of the Flathead Indian Irrigation Project Electric Power System)

Mr. MELCHER. Mr. President, I ask unanimous consent that the pending amendment be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MELCHER. Mr. President, I have an amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Montana [Mr. MELCHER] proposes an amendment numbered 2826.

Mr. MELCHER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following new section:

"SEC. ——. Notwithstanding any other provision of the law, the exception provided for in P.L. 87-279 shall apply with respect to the Flathead Indian Irrigation Project Electric Power System."

Mr. MELCHER. Mr. President, the purpose of this amendment is to prevent the Secretary of the Interior from entering into a contract transfering operation of the Flathead Indian Irrigation Project Electric Power System. Public Law 87-279 states as follows:

Except for electric utility systems constructed and operated as a part of an irrigation system, the Secretary of the Interior is authorized to contract under such terms and conditions as he considers to be in the best interest of the Federal Government for the sale, operation, maintenance, repairs, or relocation of Government-owned utilities and utility systems and appurtenances used in the administration of the Bureau of Indian Affairs. The Secretary shall not execute pursuant to this section until he has submitted to the Committees on Interior and Insular Affairs of the Senate and the House of Representatives a copy of the contract and a statement of his reasons for proposing the contract, and until such materials have lain before the committees for 60 days (excluding the time during which either House is in recess for more than 3 days) unless prior thereto, the Secretary is notified that neither committee has any objection to the proposed contract.

Prior to enactment of Public Law 87-279, the Secretary was required to obtain congressional approval over every transaction involving a contract for the sale, operation, maintenance, repairs, or relocation of Government-owned utilities and utility systems administered by the Bureau of Indian Affairs.

Public Law 87-279 gave the Secretary blanket authority to enter into these kinds of contractual arrangements except for those electric utilities which were constructed and operated as part of an irrigation system.

Senate Report 87-600 and House Report 87-0146, both accompanying S. 1501 which became Public Law 87-279, makes it clear that the primary emphasis of the statute was to provide a mechanism by which the Federal Government could divest itself of some or all responsibility with respect to some of the Bureau of Indian Affairs administered utility systems—except electric utility systems constructed and operated as part of an irrigation project—so as to continue to meet Bureau needs while facilitating improvement of services both to the Bureau and to any private communities affected. (H. Rept. 87-1046 at 2; S. Rept. 87-600, at 2-4.) The Senate report notes that without the authority granted in the provision, the Department of the Interior lacked authority to contract for the sale or operation of existing Bureau facilities unless they were surplus to the needs of the Government, even where such contract would have been in the Government's best interest and would have facilitated better service to all concerned. (S. Rept. 87-600, at 2.)

This observation by the Senate committee means that the Secretary had no other authority to enter into such contracts and that by excepting the specified form of electric utility from its reach, that the Secretary lacked authority to contract such utilities after the section's enactment.

The Flathead Indian Irrigation Project Electric Power System was constructed and has been operated as part of the Flathead Irrigation System and, as such, it is within the exception provided for in Public Law 87-279.

The legislative history pertaining to the FIIP Power System and district contracts, clearly indicates that the power system was constructed and operated as part of the irrigation system. It was contemplated in 1909 that power for pumping and resale would be developed along with irrigation. By the Act of March 3, 1909, 35 stat. 781, 796, Congress reserved for the development of the irrigation project, reservation lands valuable for reservoirs and power sites. One of the sites reserved for power development by the project was the present site of Kerr Dam. Furthermore, unexpended funds from appropriations to the irrigation project were used to begin construction of the power system (1928). In addition by the Act of May 10, 1926, 44 stat. 453, 464, and subsequent legislation, Congress conditioned availability of funds appropriated for construction of the project's power development on the formation of irrigation districts which could enter into contracts with the United States for reimbursement of the projects cost.

Under these circumstances, Public Law 87-279 prevents the Secretary from contracting for the operation of the power system.

The amendment I am offering today merely clarifies and reaffirms that Public Law 87-279 controls any questions of whether the Secretary of the Interior is authorized to contract the electric utility attached to the Flathead Indian irrigation project.

I understand that the amendment is acceptable to the distinguished chairman of the subcommittee and the ranking Democratic Member, and I hope it can be adopted.

Mr. McCLURE. Mr. President, I have discussed this amendment with the Senator from Montana and he is aware of the opposition to the amendment which has been expressed by the Department of the Interior. It may be difficult to hold the amendment in conference, but I will not object to its adoption.

Mr. JOHNSTON. Mr. President, we concur.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2826) was agreed to.

AMENDMENT NO. 2827

(Purpose: To increase the appropriation for the Creston Fisheries Center for Indian fisheries)

Mr. MELCHER. Mr. President, I ask unanimous consent that the pending amendment be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MELCHER. Mr. President, I have an amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Montana [Mr. MELCHER] proposes an amendment numbered 2827.

Mr. MELCHER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 26, line 21, strike out "$887,666,000" and insert in lieu thereof "$887,708,000".

On page 27, line 16, insert the following after the colon: "*Provided further*, That of the portion of such funds appropriated for Indian fisheries programs, $80,000 shall be available to the Creston Fisheries Center of the United States Fish and Wildlife Service:"

Mr. MELCHER. Mr. President, as the distinguished Senator from Idaho knows, for several years now the Bureau of Indian Affairs and the U.S. Fish and Wildlife Service have entered into memorandums of agreement. The purpose of these agreements is to establish a method whereby the Fish and Wildlife regions provide fish and wildlife technical assistance, hatchery produced fish, and biological data to BIA area offices, Indian tribes, and reservations. It is my understanding that the Appropriations Committee has provided $1,339,000 to fund this activity in fiscal 1987.

A September 2 memorandum from the BIA Billings Area Director to the Deputy Assistant Secretary for Indian Affairs states that $38,000 is budgeted for the Creston Fishery Center in Kalispell, Montana, but that $80,000 is required to provide adequate funding for the Fish and Wildlife Creston Fishery Center that serves a number of Indian tribes in Montana pursuant to the above mentioned memorandum of agreement.

The amendment I am offering today would assure that the Creston Fishery Center would be funded at $80,000 in

fiscal 1987. I hope that the managers will accept this amendment.

Mr. McCLURE. Mr. President, during fiscal year 1986 the Bureau of Indian Affairs found it necessary to transfer funds from the Lander, WY technical assistance office to Montana to meet fisheries needs in that area. The amendment offered by the Senator from Montana would provide the required funds for Montana so that resources would not be diverted from other programs during fiscal year 1987. The amendment is acceptable.

Mr. JOHNSTON. Mr. President, the amendment is acceptable on this side of the aisle.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2827) was agreed to.

Mr. MELCHER. Mr. President, I ask unanimous consent that the pending amendment be temporarily laid aside for the purpose of entering into a colloquy with the distinguished chairman of the subcommittee and the ranking Democratic member.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator is recognized.

Mr. MELCHER. Mr. President, we have had a couple of problems with the National Park Service in Montana over fencing which I would like to clear up.

If we are going to fence in the national parks, it is a questionable activity to begin with, because we tend to make large zoos out of Yellowstone and, for that matter, Glacier. We border Yellowstone, and in the State of Montana we surround Glacier on three sides. In both instances, for both parks, the question of fencing has come up. For Yellowstone, it is a question of controlling where the buffalo roam. There are about 2,500 of them in Yellowstone National Park, and sometimes the feed is short there. There is not enough grass for them, and they would like to get where the tall grass is.

□ 1120

That sometimes causes some problems, and one of the solutions that has been mentioned is why not fence the whole Yellowstone Park?

I would oppose that most vigorously for the reason I just mentioned. We do not want to make a zoo out of Yellowstone.

The basic problem is the overgrazing in Yellowstone National Park with a herd or herds of 2,500 or 3,000 buffalo and about 20,000 elk. That is a very serious problem in regard to whether or not we are going to control erosion in the granddaddy of all of our national parks, Yellowstone, and there is every indication now that the Park Service has ignored overgrazing and indeed we are creating the situation where there will be some erosion and sedimentation of the streams, starting a whole series of bad consequences.

So fencing cannot be the answer. I think the real answer is, are we going to have a study instigated, started by the National Park Service by professionals to find out where is the overgrazing, why is it there, what are we going to do to correct it to make sure we do not have too many buffalo or too many elk gobbling up all the grass in Yellowstone.

I know to the public maybe that sounds like anarchy or something bad to say we perhaps have too many buffalo or elk in Yellowstone.

The fact is we have to be realists. If there are too many, there is a bad series of chain of events starting with overgrazing, loss of vegetation, erosion, sedimentation, and creating sort of a bad example in Yellowstone or Glacier. In Glacier it is a different problem. In Glacier National Park there is some fencing started by the Park Service ill advisedly because the clear state of the law is the Indian treaty where the Blackfeet Tribe ceded land they have that became the bulk of Glacier Park. That treaty says it cannot be fenced in, that they have to have access to it. Now, the tribe is objecting.

So I ask in this colloquy with the distinguished subcommittee chairman whether or not he agrees with me in both instances: first of all start a study on Yellowstone to see whether there is evidence of overgrazing, what should be done to avoid that; and on Glacier, whether or not we have his support in making sure that no fencing is done without agreement with the Blackfeet Tribe between the border of Glacier National Park and the Blackfeet Reservation.

Mr. McCLURE. Mr. President, it seems to me the request of the Senator from Montana is reasonable.

I believe our discussion today will direct the Park Service to conduct such a study and forward the results both to the appropriate congressional committees, including the Appropriations and the Energy and Natural Resources Committee, and will also direct the Glacier Park to cease fencing activity until formal agreement has been reached with the Blackfeet Tribe. I believe that will accomplish those goals.

I think the statement the Senator has made is an entirely reasonable one.

Mr. JOHNSTON. Mr. President, if the Senator will yield, I concur in that statement as well.

Mr. MELCHER. I thank the distinguished chairman and the distinguished ranking Democrat on the subcommittee, and, Mr. President, I now suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCLURE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, I ask unanimous consent that the pending amendment be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

NAVAJO NATION AND HOPI TRIBE LAND OWNERSHIP DISPUTE

Mr. DOMENICI. Mr. President, since the late 1800's the Navajo Nation and the Hopi Tribe have been involved in a dispute over land ownership in the Southwest. In 1972 Congress attempted to settle this dispute by passing Public Law 93-531 which required the partition of what is known as the "1882 Reservation" and the relocation of thousands of Indians. However, only about one-third of the relocation has been completed in the 12 years the Federal Government has been conducting the program. During the last year there has been a growing debate over the harshness of the program and the need to continue it in its present form. Although this is not the time to get into a discussion about the merits of the overall program, we do need to address the way the program is being conducted in its present form.

One of the key areas of disagreement is the priority in which the families that qualify for benefits should be relocated. According to information from the Navajo-Hopi Indian Relocation Commission, 4,107 families have applied for relocation benefits. Of those whose applications have been approved, 551 families have relocated to off-reservation homesites, 433 families have relocated to the Navajo Reservation, and 1,250 families have moved from the Hopi partition land [HPL] without receiving any benefits. Although no one knows for certain at this time, there may be as many as 400 families remaining on the HPL who will have to be relocated with benefits. Completion of the relocation may take several more years if it is done in the humane and generous manner that Congress mandated. Exactly how long it will take is still unclear and will depend on many things including the development of a comprehensive plan and the outcome of a law suit that alleges the Federal Government is not complying with the relocation legislation.

Because the relocation process will take a long time to complete, it is absolutely necessary that some kind of priority be established for relocation. In setting this priority I believe that the basic rule of fairness should prevail and that we should not try to take any short-cuts in the process.

Over 1,250 families have voluntarily left the HPL and they have been certified by the Navajo-Hopi Indian Relocation Commission as qualifying for benefits. Many of these families have waited as long as 6 years for the benefits that Congress mandated for them and they are still waiting. Because of the limited number of families that can be relocated within a certain period of time, those families that have been waiting for years must now compete with those who are still on the land. The House Interior appropriations bill recommends that to the maximum extent practicable they are to be relocated in the chronological order in which they became certified to receive benefits.

In other words, the rule of first come, first served shall apply when possible. The Senate bill has struck this language and has inserted report language which says that the first priority in relocation is to clear the Hopi partition land and to provide homes for those certified relocatees remaining on the HPL. A strict interpretation of this language could result in punishing those who first sought to comply with the law by forcing them to stand in line for a few more years. I believe that this is not the fair and just way to proceed and I believe that some clarification is necessary. According to research done by my staff, the commission has signed 152 contracts for relocation in fiscal year 1986. Of the 152 contracts for relocation, 32 are with Navajos on the Hopi land and the remainder, almost 80 percent, are contracts with Navajos who are no longer living on Hopi land. I believe that a flexible priority system as reflected by the commission's actual relocation efforts in fiscal year 1986 is the kind of priority the committee intends.

Mr. DECONCINI. Will the distinguished Senator yield for a question? Does the Senator mean that a substantial part of the appropriated funds may be spent to relocate certified non-HPL residents and that in so doing the intent of the legislation would be complied with?

Mr. DOMENICI. That is correct. Congress mandated that the relocation program "take into account the adverse special, economic, cultural, and other impacts of relocation * * * and * * * avoid or minimize, to the extent possible, such impacts." Unless the priority system has some flexibility which permits actual need to be taken into consideration as the committee has done, there would be a direct repudiation of the requirement to minimize the impact of relocation.

Mr. DECONCINI. I believe that the House priority language is a much more reasonable approach to the problem. However, insofar as the Senate Appropriations Committee's language is concerned, I agree with my distinguished colleague from New Mexico in his clarification. We are not tying the hands of the commission or the BIA in carrying out the relocation program. Instead we are leaving them with reasonable flexibility to administer the program in a way that meets the needs of the people.

Before we close the discussion on this issue, I will make one brief comment about the broader aspects of the Navajo-Hopi land dispute. I have been deeply involved in this issue for many years and there is a good chance that changing circumstances will make it unnecessary to move many of the Navajos remaining on the HPL. There is a growing awareness that the Relocation Program is unnecessarily creating severe social, economic, and psychological problems for the traditional Navajo people.

News stories over the last year have highlighted the tragic consequences of the Relocation Program and people across the United States have begun to question the need for a Federal program that has been described by many as a massive violation of human rights. At the same time official investigations of the problem have come to one general conclusion—there must be a comprehensive settlement of the many disputes between the Navajos and Hopis and such a settlement must minimize relocation. Judge Clark, former Secretary of the Interior, recommended such an approach in his report to President Reagan last year. This report was followed by the introduction of a bipartisan bill by Congressmen UDALL and MCCAIN. After a hearing on the Udall-McCain bill I introduced a similar bill in the Senate. In essence these bills would bring about a comprehensive settlement of all disputes and cut relocation by about 90 percent through land exchanges and monetary payments.

The clarification which Senator DOMENICI has made today will minimize any harm that may be caused by relocation, pending future congressional action. I agree that the failure to assist those families who have qualified for benefits and who have been waiting for years is in direct contravention of the act. We must make it clear that those who need the help the most are provided assistance as soon as possible.

OSM INSPECTOR POSITIONS

Mr. METZENBAUM. Mr. President, in the continuing resolution for fiscal year 1986, we added 44 new inspector positions for OSM, in order to strengthen inspection and enforcement activities.

OSM did not fill all of those positions in fiscal year 1986. A number of troubleshooters were not brought on board. I discussed this with the chairman of the Interior Appropriations Subcommittee during consideration of the fiscal year 1986 supplemental appropriations bill in June.

At that time, he and I agreed that OSM should be instructed to fill all the positions promptly, and that Congress expected all of the positions to be filled in fiscal year 1987.

Is it the understanding of the chairman that the allocation for OSM's regulatory program operations in this bill contains enough funds to fill those 44 positions through fiscal year 1987?

Mr. McCLURE. Yes.

Mr. METZENBAUM. Will my colleague work with me to draft language which will instruct OSM that Congress expects all 44 positions be filled promptly and remain filled through fiscal year 1987?

Mr. McCLURE. Yes.

Mr. METZENBAUM. If, for some reason, OSM is mistaken and there is not enough money in OSM's budget to fill those positions without sacrificing other inspection and enforcement positions, can the Senator assure me that he will work with me to secure any additional funds which may be needed?

Mr. McCLURE. That would be a conferenceable item and I would work toward that in conference if necessary. However, as the Senator from Ohio knows, this bill has an allocation problem which also needs to be solved before adding new funds.

Mr. METZENBAUM. I thank my colleague for his assurances and assistance on this issue. I look forward to working with him on this subject.

INDIAN CLINIC

Mr. ABDNOR. Mr. President, in fiscal year 1984 Congress appropriated funds to construct a 1,600-square-foot clinic at Sisseton, SD. On a recent visit to the Sisseton-Wahpeton area, I was informed that the clinic size could be increased to 2,500 feet without requiring any additional Federal funding.

I would like to inquire of the distinguished subcommittee chairman of the subcommittee, if it would be possible to provide for this expanded clinic in order to better meet the health care needs of the Indian people in this area.

Mr. McCLURE. Mr. President, we are informed that the area office just forwarded this request to the central office of the Indian Health Service a week ago. The proposal is currently under review to determine if the projected workload is sufficient to justify the expansion. IHS has been requested to inform the committee of their findings as soon as they are available. If their recommendation is to proceed with the larger facility, at no additional cost, I would ask the House to agree to conference report language approving the larger facility.

Mr. ABDNOR. Mr. President, I thank the floor manager of the bill for his consideration in this matter.

CLARIFY INTENT OF COMMITTEE REPORT LANGUAGE REGARDING NIPER

Mr. NICKLES. Mr. President, I would like to ask my friend the distinguished chairman of the subcommittee if he would be willing to engage in a brief colloquy.

The committee has included report language which recommends that the Department of Energy plan to renew its agreement with IITRI/or the operator of the National Institute for Petroleum and Energy Research [NIPER]. IITRI is a not for profit organization which was competitively selected as the operator of this federally owned petroleum research facility at Bartlesville, OK. The senior Senator from Oklahoma and I requested that this recommendation be included in the report. We are, however, aware that two committees of the House have also addressed the issue, although their specific recommendations are somewhat different. I am concerned that misinterpretation of the apparently divergent views could lead to undesirable consequences either for NIPER or for the parts of the integrated Federal petroleum research program performed by organizations other than NIPER, for example, universities, national laboratories, and private contractors with unique capabilities. I would like to clarify the committee's intent in this matter. The Senator from Idaho has a long interest in these issues and I am very grateful to him for his help.

Mr. McCLURE. I am happy to clarify the matter for the Senator. The committee intends to reconcile this issue with the House to assure continued operation of the federally owned facility in Bartlesville as the current Department of Energy agreement with the National Institute for Petroleum Energy and Research reaches its conclusion in September 1988. It is not our intention to impede the ongoing work of the facility, or related efforts at universities, national laboratories and private contractors.

Mr. NICKLES. I want to thank the Senator for his clarification. His leadership in fossil energy research is much appreciated by this Senator. It is important to assure productive continuity of operations of the only Federal petroleum research installation. This, I believe, is also the essential objective of the two House committees. All three recommendations basically say "no" to the Department's proposal to sell the facility, at least at this time. With the domestic petroleum industry in its current depressed state, it is simply good business to retain an asset for which we could hope to receive only a small fraction of its fair market value. Beyond this, however, is the valuable role that a federally owned, active research facility can play in the larger Federal petroleum research program and under times of national emergency. For example, this lab was critically important in World War II in assuring the supply of aviation fuel and in developing synthetic rubber for the war effort. NIPER now both performs federally funded research as directed by the Department and helps transfer the resulting technology by performing research for other Federal agencies—for example, Defense and EPA—and for private sponsors.

The Appropriations Committee has recommended continuation of operations under a renewal agreement with terms similar to the present agreement. The House Science and Technology Committee has recommended continuation of operations of the Bartlesville facility as a Government-owned, contractor operated [GO-CO] facility similar to the Department's national laboratories. The House Appropriations Committee has recommended continuation of operations on a basis similar to the Western Research Institute [WRI] and the University of North Dakota Energy Research Center [UNDERC]. While each of these seeks continued operations and productivity, they are quite different in implementation and could have quite different implications in terms of costs, effectiveness of NIPER's research, continuity of NIPER's staff, and implications for the funding available for federally supported petroleum research at universities, national laboratories, and others with unique capabilities. These implications are far-reaching, profound, and, at present, highly uncertain.

Is my understanding correct that the committee directs the Department to plan to continue operations of the Bartlesville research facility, to terminate its current efforts to dispose of it and to plan for the renewal of the existing cooperative agreement?

Mr. McCLURE. The Senator is correct. The intent of the committee is to assure continued, productive operations of the Bartlesville facility. The committee has directed the Department to work toward this goal during fiscal year 1987 by planning for a 5-year renewal of the existing cooperative agreement. The committee intends for the facility's support to be made up from DOE programs, including DOE fossil energy activities, other Federal agencies, and private sponsors as may be appropriate to the facility's capabilities.

Mr. NICKLES. Once again, I thank the distinguished chairman for these clarifications.

FORT LARNED NATIONAL HISTORIC SITE

Mr. DOLE. Mr. President, last year, at my urging, Congress appropriated $262,000 for the reconstruction of the blockhouse at Fort Larned National Historic Site, KS. Since that time, work has progressed on this project in a timely manner. However, recently I was advised that an integral part of the blockhouse has not been scheduled for reconstruction—particularly, the passageway/tunnel between the cellar of the blockhouse and the underground well.

Mr. McCLURE. The Senator from Idaho stands behind the original intent of the legislation passed last year.

Mr. DOLE. I understand that the regional office of the National Park Service in Omaha, NE has outlined some problems with the reconstruction of the passageway/tunnel and thereby refuses to proceed with its reconstruction. The following are the problems outlined by the National Park Service.

First of all, the regional office claims that to build such a passageway would be a violation of their policy of not destroying any historically significant remains during reconstruction. In regard to this first concern I ask, what good does it do to leave untouched a historical structure that has since been filled with dirt? It is my belief, that the reason for the Federal Government's funding of such a National Park Service facility is for the taxpayer to be able to turn back time and see how our ancestors lived.

Mr. McCLURE. I agree with the Senator from Kansas that such a facility should be reconstructed and open to viewing by those visiting Fort Larned.

Mr. DOLE. Second, the Park Service claims that rebuilding the tunnel would violate their policy that states that reconstruction of the facility is essential to the interpretation of Fort Larned. I suppose, Mr. Chiarman, that the argument as to the importance of this facility could go either way. However, I am certain that most visitors to the fort would be intrigued by the chance of viewing a tunnel constructed years ago to allow soldiers a passageway to a water source when the fort was under siege.

Mr. McCLURE. I am certain many visitors would enjoy the opportunity to view the reconstructed tunnel. This tunnel, most likely, would become one of the more popular attractions at the fort because of its uniqueness.

Mr. DOLE. Third, the National Park Service claims that it would be dangerous for a visitor to enter the tunnel because of its dimensions and construction. However, I am certain that one could show numerous examples of safety problems existing at other National Park Service facilities around the country. Yet, in the interest of the public seeing the facilities, they are kept open and special accommodations are made for safety.

Mr. McCLURE. I can assure my colleague from Kansas that other National Park Service facilities have overcome such safety barriers and have

made their facilities as safe as possible while still maintaining the integrity of the structure.

Mr. DOLE. It is also my understanding, that the National Park Service claims that the project will cost more than the appropriated amount. It is my contention that regardless of the National Park Services' concerns, the reconstruction of the tunnel was directed by Congress and should take place. Any cost overruns associated with the reconstruction of the blockhouse should be funded with available National Park Service funds and from any other funds made available through other project savings.

Is that also the chairman's understanding?

Mr. McCLURE. I share the interpretation of the majority leader on this matter and can assure the majority leader that the Senate conferees will insist that the conference report be drafted to make clear that the passageway/tunnel between the cellar and the underground well in the blockhouse at Fort Larned National Historic Site, KS be reconstructed. Further, any cost overruns associated with this project should be funded from available sources, including other project savings.

Mr. DURENBERGER. Mr. President, I appreciate the opportunity that consideration of the fiscal year 1987 Interior appropriations bill provides to focus congressional attention on the serious problems facing the National Park Service.

The committee is to be commended for recognizing the tight budgetary environment in which the National Park Service must operate and the negative affect this has on visitor enjoyment as well as the protection of the resources for which the parks were established.

The proposal before us would raise approximately $50 million to be expended at the discretion of the Director of the National Park Service to defray costs of collection, second for maintenance, interpretation, research and resources management at the collecting unit, and third, for maintenance, interpretation, research and resources management at all units of the National Park System.

I would like to suggest to Members of this body, Mr. President, that when we consider permanent legislation, we go beyond using entrance fees for basic operation and maintenance and reinvest these revenues for the resources for which the parks were established.

I would like to draw my colleagues attention to legislation I sponsored, S. 2130, the National Park System Resources Preservation and Revitalization Act of 1986. This legislation is designed to institutionalize resource management and protection as a higher priority within the National Park System, I ask unanimous consent that a copy of this legislation be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2130

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "National Park System Resources Preservation and Revitalization Act of 1986."

FINDINGS

SEC. 2. The Congress finds that—

(1) the National Park System was established to protect and preserve unique natural and culture resources which constitute a major source of pride, inspiration, and enjoyment for the people of the United States and which have gained international recognition and acclaim;

(2) no comprehensive, long-term methodology now exists within the National Park Service—

(A) for detecting, measuring, and documenting resource problems;

(B) for setting priorities to address such problems; or

(C) for assessing the success or failure of the National Park Service in responding to problems identified;

(3) the National Park Service lacks sufficient staff with adequate technical capabilities to manage and interpret the resources of the National Park System effectively, as well as the strong research and analytical capability necessary to anticipate and address future resource problems;

(4) in a system whose perceived core responsibility has been its natural areas, the commitment of the National Park Service to the management and protection of cultural resources needs continued strengthening; and

(5) unless a comprehensive, multiyear program is undertaken to—

(A) preserve and revitalize park natural and cultural resources;

(B) provide improved stewardship for future generations;

(C) address a growing backlog of deferred restoration and protection needs;

(D) institutionalize scientifically based resource management and resource interpretation as higher priorities within the National Park Service; and

(E) ensure consistent funding levels for an adequate period,

resource degradation will continue, and future remedial measures will become prohibitively costly.

PURPOSE AND POLICY

SEC. 3. (a) In furtherance of the provisions of the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1-4), it is the purpose of this Act to protect and preserve natural and cultural resources within the National Park System for the benefit of present and future generations by establishing a comprehensive resources revitalization and protection program, to be funded by the National Park System Resources Trust Fund established by Section 10 of this Act;

(b) The policy of the comprehensive resources revitalization and protection program shall be to—

(1) preserve, maintain, and revitalize natural and cultural resources;

(2) monitor and study the effects of park resource management policies and practices and human activity from within and outside the boundaries of National Park System units on natural and cultural resources;

(3) prepare every five years resource management plans for each unit of the National Park System and a systemwide assessment on resource conditions and steps being taken to address problems identified; and

(4) provide sufficient technical and scientific staffing and continuing education for effective resources protection, maintenance, management, interpretation and research.

DEFINITIONS

SEC. 4. As used in this Act—

(1) the term "Secretary" means the Secretary of the Interior acting through the Director of the National Park Service;

(2) the term "resource" or "resources" includes both cultural and natural resources and means—

(A) in the case of natural resources, the scenic, atmospheric, hydrologic, geological paleontological remains, and flora and fauna components of the indigenous ecological systems; and

(B) in the case of cultural resources, the historic and prehistoric districts, sites, buildings, structures, objects and human traditions associated with or representative of human activities and events, including related artifacts, records and remains;

(3) the term "unit" means a unit of the National Park System;

(4) the term "park" means a unit of the National Park System; and

(5) the term "Fund" means the National Park System Resources Trust Fund.

PRESERVATION AND REVITALIZATION

SEC. 5. (a) The Secretary of the Interior shall establish a comprehensive program to preserve and revitalize resources in the National Park System. The program shall be implemented as provided in subsections (b), (c), and (d).

(b) The Secretary shall prepare resource management plans for each unit of the National Park System and shall update such plans at least every five years. The plans shall address both natural and cultural resources of the park units and shall contain information, including inventories, necessary to understand the extent, location, and condition of resources and current and potential resource-related problems, and shall set forth actions necessary to deal with such problems.

(c) The Secretary shall develop criteria to establish priorities for addressing the resource problems identified in the resource management plans prepared pursuant to subsection (b), taking into account similar resource problems in other units, the severity of such problems, and feasibility of solutions.

(d)(1) Based upon the following information contained in the resource management plans and on the criteria developed pursuant to paragraph (c), the Secretary shall prepare a priority list of those cultural and natural resources within the National Park System units needing preservation and revitalization, and expend such sums as are necessary to address the most critical natural and cultural resource problems each year, to a maximum of $12,000,000 per year.

(2) In making expenditures under paragraph (1), the Secretary may expend funds in affiliated areas of the National Park System where the expenditure of Federal funds is not prohibited by law.

MONITORING AND RESEARCH

SEC. 6. (a)(1) Based upon the information contained in resource management plans

and on criteria developed pursuant to section 5(c), the Secretary shall prepare a priority list of unit and systemwide monitoring and research needs and devote such sums as are necessary to address the most critical natural and cultural resource research and monitoring projects each year, to a maximum of $12,000,000.

(2) In making expenditures under paragraph (1), the Secretary may expend funds in affiliated areas of the National Park System where the expenditure of Federal funds is not prohibited by law.

(b) In addition to the other requirements of this section, the National Park Service shall take such steps as are necessary to improve its ability to monitor resource conditions and enhance its knowledge of these conditions, including—

(1) establishing within the agency an independent research capability for the purpose of investigating the resources of the national parks, including problems of management, protection, and interpretation of these resources;

(2) collecting and disseminating statistics, data, and other information on resource conditions, problems, and trends; and

(3) seeking additional scientific advisory assistance and advice on a contractual or noncontractual basis from Cooperative Park Service Study Units, Park Service research programs, the National Academy of Sciences, universities and colleges, non-profit organizations, and other Federal, State and local agencies.

STAFFING AND TRAINING

SEC. 7. To ensure that an adequate number of trained personnel are available to protect, maintain, manage and interpret National Park System resources, the Secretary shall—

(1) establish national natural and cultural resources training programs within the National Park Service or in conjunction with universities or other institutions;

(2) provide comprehensive training courses for prospective resource management specialists each year for a minimum of 5 years after the enactment of this Act, and following each training course, place these specialists in permanent resource management positions within such units and offices of the National Park System as needed. Such courses may also enroll persons already employed in resource management positions who are in need of specialized training; and

(3) institute programs of training and mandatory continuing education available annually for personnel involved in positions concerned with the condition of park resources, including superintendents, park managers, interpreters, rangers, maintenance employees, and research scientists, as appropriate.

RESOURCE CONDITION ASSESSMENT

SEC. 8. (a) In order to—

(1) more effectively establish systemwide resource management and protection priorities;

(2) better evaluate the responses by the National Park Service to the priorities established;

(3) facilitate congressional oversight; and

(4) better inform the public about the condition of park resources,

the Secretary shall prepare and transmit to Congress an assessment of resource conditions, problems, possible remedial actions, and future needs for the National Park System to be submitted to the Congress every five years as part of the appropriation process.

RESOURCE PROTECTION CHALLENGE GRANTS

SEC. 9. For the purpose of developing and fostering innovative partnerships between the National Park Service and not-for-profit organizations, universities and colleges, and State and local agencies to preserve, revitalize, monitor and study, and interpret park resources, the Secretary shall make available the sum of $5,000,000 annually for grants, to be matched on a one-to-one basis with other funds or in-kind services. Highest priority in awarding such grants shall be given to preservation and revitalization projects and to research and monitoring projects.

PARK RESOURCES TRUST FUND

SEC. 10. (a) There is hereby established in the Treasury of the United States a trust fund to be known as the National Park System Resources Trust Fund.

(b) Notwithstanding any other provisions of law, as of October 1, 1986, and for ten years thereafter, all receipts collected from fees or permits for admission or entrance to the National Park System, and all fees collected under subsections (b) and (c) of Section 4 of the Land and Water Conservation Fund Act of 1965 (78 Stat. 987; 16 U.S.C. 4601-6(a)) shall be deposited in the Fund.

(c) The sum of $50,000,000 shall be available annually from the Fund without further appropriations until September 30, 1996, to carry out the purposes of Section 3 of this Act for the benefit of all units, and to defray the costs of collection. Monies from the Fund shall only be used to augment National Park Service resource management, interpretation, and training programs using the FY'86 appropriated, level as the minimum.

(d) It shall be the duty of the Secretary of the Treasury to hold the Fund and to report to the Congress each year on the financial conditions and the results of the operation of the Fund during the preceding fiscal year and on its expected condition and operation during the next five fiscal years. Such report shall be printed as a House document of the session of the Congress to which the report is made.

(e) It shall be the duty of the Secretary of the Treasury to invest such portion of the Fund, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired—

(1) on original issue at the issue price, or

(2) by purchase of outstanding obligations at the market price. Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price. The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

AMENDMENTS TO THE LAND AND WATER CONSERVATION FUND ACT OF 1965

SEC. 11. (a) Section 4 of the Land and Water Conservation Fund Act of 1965 (78 Stat. 987; 16 U.S.C. 4601-6(a) is amended—

(1) in the first sentence of subsection (a) by striking out the period and inserting in lieu thereof the following: ", except that any unit which provides significant outdoor recreation opportunities in an urban environment and to which access is publicly available at multiple locations may not be so designated.";

(2) in the first sentence of paragraph (1) of subsection (a) by striking out "for a fee of not more than $10" and inserting in lieu thereof "for a fee of not more than $25";

(3) in paragraph (2) of subsection (a) by—

(A) striking out "(2) Reasonable" and inserting in lieu thereof the following: "(2)(A) Except as provided in subparagraph (B), reasonable"; and

(B) adding at the end thereof the following: "(B) No fee shall be charged on a day designated by the Secretary as a fee-free day. At least one fee-free day shall be designated each month of the year.";

(4) in the second sentence of paragraph (4) of subsection (a) by striking out "without charge" and inserting in lieu thereof "for a fee of $10";

(5) in the third sentence of paragraph (4) of subsection (a) by striking out "other";

(6) in subsection (a) by adding at the end thereof the following new paragraph:

"(6) The Secretary of the Interior shall establish procedures providing for the issuance of special permits for persons or groups undertaking educational or research activities in a unit if such persons or groups apply for such permit. Such procedures shall assure that each special permit shall be issued only to persons or groups to be determined by the Secretary to be involved in legitimate educational and research activities on a not-for-profit basis. Such permit shall be nontransferable, shall be issued without charge, and shall entitle the permittee or any person accompanying said permittee in a noncommercial vehicle or vehicles or other means, to entrance to any area designated pursuant to the subsection.";

(7) in subsection (e) by adding at the end thereof the following new sentence: "When authorized by the head of the collecting agency, volunteers may sell permits and collect fees authorized or established pursuant to this section, and funds appropriated or otherwise available to the collecting agency shall be available to cover the cost of any surety bond as may be required of any such volunteer in performing such authorized services under this subsection."; and

(8) in subsection (f)—

(A) by striking out "(f) Except" and inserting in lieu thereof "(f)(1) Except as provided in paragraph (2) and except"; and

(B) by adding at the end thereof the following new paragraph:

"(2) For the period ending ten years from the date of enactment of this paragraph, all receipts collected from fees or permits for admission or entrance to the National Park System, and all fees collected under subsections (b) and (c) of this section with respect to the National Park System, shall be deposited in the National Park System Resources Trust Fund established by section 10 of this Act.

(b) TECHNICAL AMENDMENT.—Section 402 of Public Law 96-87, relating to entrance fees to units to the National Park System, is amended by striking out "in excess of the amounts which were in effect as of January 1, 1979, or charge said fees at any unit of the National Park System where such fees were not in effect as of such date," and inserting in lieu thereof "in excess of $5,".

Mr. DURENBERGER. Do I have the chairman's assurance that a significant amount of the revenues raised will go to resource protection management.

Mr. McCLURE. I am aware of the commitment the distinguished senior Senator from Minnesota has protect-

ing the valuable resources of the National Park System. I assure him that additional funds will go toward resource protection under this provision.

Mr. DURENBERGER. I thank the chairman. I appreciate his assistance and look forward to working with you in developing a long-term resource protection program.

MHD

Mr. MELCHER. Mr. President, we need to focus on the Magnetohydrodynamics Program and agree upon a reasonable 1987 appropriation.

In 1984, the MHD Program approved by Congress required that proof of concept testing be completed before proceeding to an integrated facility. In the last 2 weeks the Department of Energy announced a solicitation for the "prototypic" hardware which is required for proof of concept testing. Obviously, the MHD 1987 budget must be adequate to allow for continued progress including the prototypic equipment cost.

The House-passed version of the bill contains $30 million for MHD, which is a reasonable and minimum level. The Senate bill, on the other hand, includes only $23.5 million, a whooping reduction of $4.2 million from 1986. I am not satisfied with the rationale, if indeed there is any, for this cut.

Because I have heard some criticism of the cost-sharing aspects of MHD, I have checked on it for this year. In 1986, the MHD cost-sharing requirements for fiscal year 1986 were 10 percent for a certain portion of the program. Government agencies, Government facilities, universities, and not-for-profit institutes were exempted. I am pleased to note that the cost-sharing requirements for the private sector may well have been exceeded. That is, the dollar amount of cost sharing required was approximately $420,000 and although the final reports will not be in until year's end, the estimate for the private sector cost sharing is $500,000.

I am astonished to be defending MHD today and to have to make the argument for a reasonable level of MHD funding, because it seems to me that we are on the brink of abrogating MHD's potential on key energy research issues such as acid rain and clean coal technology. Our growing dependence on oil mandates continuing the search for more efficient uses of U.S. coal resources. For example, the Secretary of the Interior predicts that oil imports will increase by about 20 percent in the next year. This is only one of many reminders of the critical need to have a strong domestic energy capability. MHD will eventually enable us to increase the efficiency of electrical power generation through coal by about 50 percent without acid rain and sulfide and nitrous effluents. To renege on this commitment is foolhardy.

The Senate has a clear and consistent record of supporting MHD. We have always recognized that a certain level of funding is necessary to conduct an efficient program; the facilities cost a certain amount to maintain; the testing which is a critical step in the research costs a certain amount; and a certain level of progress must be achieved each year. The decision we make on MHD for 1987 is very simple: Either we appropriate enough money to continue making progress toward a goal which is important for the Nation or we cut the program and create stagnation.

For these reasons, Senator McCLURE, I strongly urge you to accept the House level for MHD. To do otherwise will cause a serious setback for a valuable national program and will reflect poorly on our commitment to a sound national energy policy.

I want to know want you intend to do about this Senator McCLURE. Will you accept the House level of appropriation for MHD?

Mr. McCLURE. Mr. President, as the Senator from Montana is aware, this bill is right at its 302(b) allocation, which is $600 million below the fiscal year 1986 enacted level. Because this allocation is so low, some projects were reduced while others were eliminated.

It will be difficult to increase funds for the MHD Program without an increased allocation. I will continue to work for an increased allocation in which case prospects for MHD would be vastly improved, but I can assure the Senator from Montana that this will be a conferenceable item even without an increased allocation.

Mr. EVANS. Mr. President, I am concerned about the committee's action in energy conservation R&D. These programs have already been reduced substantially from fiscal years 1981 to 1986. The administration's 1987 budget request proposed another substantial reduction from the previous year in the following conservation R&D subcategories: Buildings and community systems, industrial, transportation, and multisector. For example, in buildings and community systems, the administration's request proposed a $14.1 million level from a $39.8 million fiscal year 1986 base level. The committee chose to raise this amount to only $19.4 million, while the House raised it to $32.9 million.

I believe our Nation should not be lulled into a sense of complacency by the current glut of oil and gas in world markets. Energy efficiency is and will continue to be one of our most cost-effective resources. But many of the energy efficiency R&D efforts still require a Federal involvement while they are in the basic R&D phase prior to commercialization. We should not abandon these efforts prematurely. In particular, I am encouraged by the progress that has been made in the single and multifamily energy retrofit research and in least-cost planning.

The House Appropriations Committee has chosen a higher level of funding for energy conservation R&D. I strongly urge my colleague from Idaho to recede to the House numbers in conference, so that energy conservation R&D can be funded at a minimum level in fiscal 1987.

Mr. McCLURE. I understand the concerns of the Senator from Washington. I think that he understands the severe budgetary constraints under which my subcommittee is bound. In order to increase any program, however, the subcommittee will need an increased allocation. I do understand the importance of the Federal Government's continued role in funding certain energy conservation R&D programs.

Mr. EVANS. I thank the Senator from Idaho. I fully recognize the budgetary constraints under which the chairman operates. I would just add that many of these programs offer a substantial payback to our energy consumers and our country. I would hope they will be considered in that perspective.

Mr. McCLURE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1130

Mr. McCLURE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, I ask unanimous consent that the pending amendment be termporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2828

Mr. McCLURE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. McCLURE] proposes an amendment numbered 2828.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

On page 51, line 4, insert the following before the colon:

: *Provided further*, That no more than $154,321,000, to remain available without fiscal year limitation, shall be obligated for the construction of forest roads by timber purchasers,

Mr. McCLURE. Mr. President, when the Senate considered amendment No. 2775 on September 9, as described on page 22409 of the RECORD, the wrong amendment was sent to the desk. Therefore, I ask unanimous consent that amendment No. 2775 be modified to reflect the amendment I have now sent to the desk and that the amendment be adopted.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The question is on agreeing to the amendment.

The amendment (No. 2828) was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCLURE. Mr. President, I have been in discussion with the Senator from Wisconsin with respect to the pending amendment or amendments and my understanding is that it is his desire that we have a brief period for debate following 2 o'clock and then we vote upon the matters which would then be pending before the Senate.

Mr. President, as I understand it, the regular order would have the Proxmire amendment as the pending business at this time.

The PRESIDING OFFICER. That is correct.

AMENDMENT NO. 2829 TO AMENDMENT NO. 2777

Mr. McCLURE. Mr. President, I earlier discussed the two amendments that I would submit and that it would be necessary, in order to submit those amendments, that they be considered en bloc; and that they be considered in order. I, therefore, send that amendment to the desk.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from Idaho? Without objection, it is so ordered.

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Idaho [Mr. McCLURE] proposes amendments en bloc numbered 2829 to amendment No. 2777.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 1, line 2 of amendment number 2777, strike the first six numerals and insert in lieu thereof "268,130", and on page 1, line 4 of amendment number 2777, strike the first six numerals and insert in lieu thereof "252,654"

On page 9, line 18 of the bill, delete "36,755,000" and insert in lieu thereof "41,775,000"

On page 15, line 4 of the bill, delete "65,900,000" and insert in lieu thereof "70,900,000"

On page 50, line 4 of the bill, delete "1,144,894,000" and insert in lieu thereof "1,137,894,000"

On page 53, line 7 of the bill, delete "31,906,000" and insert in lieu thereof "36,906,000"

Mr. McCLURE. Mr. President, I ask unanimous consent that the amendments be considered en bloc and be considered in order.

The PRESIDING OFFICER. The request of the Senator is granted.

Mr. McCLURE. Mr. President, my understanding with the Senator from Wisconsin, if I understand it correctly, would be that we have a period for general debate on the pending amendments following 2 o'clock. I do not know how long the Senator would like that period to continue. How much time would the Senator like to have to debate the pending amendments.

Mr. PROXMIRE. Well, I expect to take between a half an hour and an hour. I am not exactly sure. I have not had a chance to go over my material.

Mr. McCLURE. Would the Senator like to use part of that time now and the balance following 2 o'clock?

Mr. PROXMIRE. Yes. I hope we would not schedule the vote at exactly 2 o'clock. I think there are some Senators who might want to speak briefly after 2 o'clock when we come back. So I would prefer not to set any specific time. This Senator does not intend to delay the vote. I would like to have the vote as soon as we can, but I do not want to foreclose the opportunity for Senators who would be gone, and who are gone now, to take part in the debate.

Mr. McCLURE. Mr. President, it is not the intention of the Senator from Idaho to forestall the debate at all. I recognize the necessity for some discussion. I will yield the floor so that the Senator may undertake that discussion at this time, having previously discussed the amendment and the effect of the amendment, and be happy to entertain the discussion of the Senator from Wisconsin. I hope we would be able to get a vote soon after 2 o'clock. I do not have a fixed determination in my own mind as to when that ought to be. I appreciate the fact that the Senator from Wisconsin has been very accommodating in this entire matter.

Mr. PROXMIRE. Mr. President, may I say to my friend, the chairman and the manager of the bill, that, as the Senator knows, we have a 2 o'clock meeting of the Appropriations Committee on the defense appropriations. The Senator from Louisiana and I are both very, very anxious to be present for that. We have to be present for that. It is going to be hard for us to be in two places at one times, so we want to do everything we can to act on this measure so we can get to the Appropriations Committee meeting.

Mr. McCLURE. I have the same conflict, of course. If we can entertain as much of the debate as possible now, then we will certainly accommodate the desire of the Senator from Wisconsin for a reasonable period of time later, if necessary.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Last week, during the debate on the Proxmire-Humphrey amendment, Senator McCLURE stated that our $90 million spending cut would, in fact, produce a net loss to the Treasury. His reason for this statement was the assertion that the Forest Service Timber Program and its road building component actually made money for the taxpayers. To support this claim, Senator McCLURE inserted in the RECORD at 22428 two tables that purport to display the net receipts and expenditures from the timber program.

Now, Mr. President, using those two charts, which Senator McCLURE himself put in, I can demonstrate two important points: First, the Forest Service Timber Program loses money; second, the Forest service never met a number it could not twist.

There are a number of timber program costs that were excluded from table 1 (22428) of Senator McCLURE's statement. The most important of those exclusions, which are also the least controversial, are as follows:

First. Reforestation and stand improvement costs. Even though these costs are clearly the direct and proximate result of timber harvesting under the timber sales program, these costs have been completely excluded from Senator McCLURE's table 1. Ironically, however, Senator McCLURE's table 2 on the same page sets those costs for fiscal year 1985 at $299.4 million. That is right—about $300 million. Since both charts are supposed to display the costs and revenues of the same program, it is extremely difficult to reconcile the exclusion of reforestation in table 1. But, on a closer inspection the reader notices that in table 1, the Forest Service claims to show a net gain for timber programs by excluding some costs. And, in table 2 the Forest Service and Senator McCLURE apparently admit what the Office of Management and Budget. [OMB] and the leaders of the 10 largest environmental organizations have claimed all along: in 1985 the timber program lost money.

Second. General administration costs. There are no general administration costs included in either Senator McCLURE's table 1 or table 2. This is because Senator McCLURE and the Forest Service analysis both assert that general administration cannot be

attributed to any program. However, the most recent draft of the Forest Service's own timber sale program information reporting system includes general administration in its cash-flow report. This draft prepared at the behest of Congress and based on actual test results of the costs of operating Forest Service region 8, shows general administration to the timber program is in the range of 50 to 60 percent of total general administration costs.

Third. Road maintenance costs. Table 1 of Senator MCCLURE's statement excludes any road maintenance costs, yet the Department of Agriculture's budget explanatory notes for fiscal year 1985 lists those costs as $65.4 million; $65 million is quite an omission.

Mr. President, if only these three categories of costs are added to the costs listed in Senator MCCLURE's table 1 as clearly they should be, then the Senator's own exhibit would result in a net loss to the Treasury of $330.5 million for fiscal year 1985. This is summarized below in a chart labeled "Revised Timber Program Costs and Revenues." Mr. President, I might add that if you subtract the total timber related costs listed in table 2 of Senator MCCLURE's statement on page 22428 of the RECORD ($1.01 billion) from the receipts listed in table 1 ($793.5 million), you get a similar net loss—not gain, not profit, but net loss from the timber program—of $216.7 million for fiscal year 1985.

Mr. President, apparently, Senator MCCLURE missed these inconsistencies when he placed these tables in the RECORD during our debate. But, I am certain the Forest Service did not miss the point, for that agency "never met a number it couldn't twist." If nothing else in this debate demonstrates my assertion that the Forest Service timber program and its road program are net losers for the Treasury, then please accept Senator MCCLURE's and the Forest Service's own exhibits as the best evidence.

Mr. President, the Sierra Club in a letter after the debate had this to say:

Among the fallacious arguments used against the Proxmire-Humphrey amendment was the claim that additional money from the road returned substantial sums of money to the Treasury. This is false. Some national forests do return a profit to the Treasury but most do not. As a general rule, the most productive forests have completed road systems supply because the most cost-effective, low-elevation roads were built first. The least productive forests however receive the disproportionate share of current road-building efforts. These forests habitually cost far more for timber production than they return. Road building is the biggest expenditure in these deficit timber programs. Moreover, the most expensive individual roads are built in the most rugged, undeveloped, and least productive areas. Thus, not only are the roads environmentally destructive, they are economically wasteful. Spending more only increases the waste as well as the destruction.

Mr. President, let me read from a letter to the Honorable SIDNEY YATES, who is chairman of the Subcommittee on Interior, the opposite of Senator MCCLURE, in the House. This is on the effect of the House amendment which is an even greater cut than ours.

The letter is signed by leaders from the Sierra Club, National Audubon Society, and the Wilderness Society. This is what the letter states:

We have carefully examined a series of Forest Service "briefing papers" provided the Subcommittee concerning proposed reductions in the fiscal 1987 Forest Road Program. It is apparent that in several important respects these briefing papers greatly overstate the effects of any Forest Road Program funding reductions.

First, these briefing papers were not the result of an analysis of the fiscal year 1987 budget. Instead, the agency chose to rework an ill-conceived, "programmatic" analysis of a $50 million cut in the fiscal year 1986 budget. Therefore, the Forest Service's current predictions of dire results are the products of extrapolation rather than analysis of the effects of reductions on President Reagan's fiscal year 1987 budget request. This methodology cannot be considered a reliable reflection of probable results, but merely presents a worse case scenario.

It is apparent that the predictions of reductions in Forest Service timber offer volume are highly speculative. For example, rather than identify the road mileage foregone and reporting the quantity of timber actually accessed by each project, the Forest Service has derived its timber offer volume prediction from regional timber production numbers and a coefficient that purports to translate road miles into timber volume. Unfortunately, this analysis ignores the fact that between fiscal years 1983 to 1985 the agency constructed or reconstructed 1,875 miles more of roads than it said it needed in its annual budget requests. Moreover, in the "out years", the analysis fails to redirect timber sales into previously roaded areas, even though this obvious alternative could eliminate the need for reductions in timber harvest volumes. These omissions cause the "opportunity costs" of budget reductions to be greatly overstated.

We believe the basic premises of the Forest Service analysis are seriously flawed. For example, a much more reliable answer could be derived by identifying the 808 miles of roads the agency proposes to construct and analyzing the actual volume affected. We have asked the agency for this information, but to date its has not been provided. Instead the agency contends that such information is not available to the Chief Forester. Furthermore, the agency has simply ignored the possible contributions from its enormous road backlog in analyzing timber volume effects although that information must be available to it. Under such circumstances, claims of massive effects on timber sales volume and catastrophic lay-offs in the private sector appear to be dubious at best.

Another example of the misleading nature of these briefing papers is found in the so-called "value of timber not sold" included in each analysis. In fact, this figure does not represent the net return to Treasury at all. Instead, that number is produced by multiplying average gross stumpage values by volumes foregone. It excludes costs of growing or selling the trees, the costs of reforestation, and the costs of the roads themselves. This "hypothetical" receipts figure excludes timber sale costs avoided and savings attributable to economies of scale. Thus, this approach does more than just overstate the effects of any funding cut. It identifies costs to the Treasury when a full analysis would show actual savings. Clearly, the only meaningful numbers should be net timber receipts to the Treasury. Furthermore, we believe that because of the widespread nature of "below-cost" sales within the National Forest System, the net effect of Forest Road Program reductions should produce savings for the Treasury.

The reduction of private sector jobs attributed to reductions in the Forest Road Program fiscal year 1987 budget is purely arbitrary. Here the agency equates the reduction of $10,000 in the Forest Road Program to the loss of one job in the private sector without providing any basis for such factor. Assuming a program cut of $100 million, the Forest Service claims that more than 100,000 private sector jobs would be lost. This is equivalent to one out of every six workers in all wood products industries in the country losing their job. This number is implausibly high, not only because timber harvest reductions from the national forests are inflated, but because the Forest Service analysis fails to consider that the marketplace would substitute private timber supplies for most national forest harvests that are indeed foregone. There will be some displacement of Forest Service workforce, but the vast numbers of private sector jobs cited by the agency should not be taken seriously.

In closing, let us restate our firm belief that the Forest Road Program must be restrained by deep budget reductions. We have proposed a $67.6 million reduction for fiscal year 1987 that would eliminate all new construction for one year. We believe such a reduction is reasonable in light of the 2,500 miles backlog of forest roads accumulated over the past five years and considering that reconstruction, maintenance and purchaser credit would remain fully funded.

□ 1150

With regards to jobs, Mr. President, soft demand for timber is causing job losses, not supply of timber, which is adequate, from all sources, to meet demand. In fact, lower supplies of timber—14 percent less—were proposed by President Reagan's budget. If the amendment is adopted—and I am talking about the first-degree amendment, not the amendment as modified by Senator MCCLURE—if that first-degree amendment is adopted and the MCCLURE amendment is rejected, Forest Service personnel losses should come from 550 temporary employees in construction engineeing, and 950 permanent employees should be unaffected.

The Forest Service uses a formula for determining job losses in the private sector related to timber road building. This figure assumes one job in the private sector equals $10,000 in forest roads appropriations. I referred to that earlier. But if that were true, the fiscal year 1986 Gramm-Rudman sequester costs would be 7,200 jobs in

the private sector from forest roads, and we all know that did not happen.

Losses on the national forest in timber supply can be shifted to the private sector. Assuming otherwise assumes an overstated job impact from Federal appropriations. In fact, subsidies to the users of national forest timber do not create jobs but only shift jobs away from private landowners to the Forest Service and to some timber purchasers.

Whether jobs are created and maintained by appropriations to subsidize some timber purchasers cannot be denied, but net job production is very low and mostly in the Forest Service.

Finally, Mr. President, I want to counter Senator McCLURE's argument that the timber buyout is almost over. The timber buyout program allowed 9.7 billion board feet to be returned. These areas have roads built. While Senator McCLURE claims this timber has been used up, 3.1 billion board feet is the maximum—not 9.7 billion board feet but 3.1 billion board feet—that could be reoffered in 1986. Therefore, plenty, and, in fact, 6.6 billion board feet, remains for future years.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. MATTINGLY. Mr. President, I ask unanimous consent that the pending amendments of the Senator from Wisconsin and the Senator from Idaho be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2830

Mr. MATTINGLY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. MATTINGLY] proposes an amendment numbered 2830.

Mr. MATTINGLY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 22 of the bill, strike the period in line 6 and insert the following:

"; *Provided further*, That when in fiscal year 1987 and thereafter any permittee provides data and information to the Secretary pursuant to section 1352(a)(1)(A) of title 43, United States Code and such data and information is provided in the form and manner of processing which is utilized by such permittee in the normal conduct of his business, the Secretary shall pay such permittee the reasonable cost of reproducing such data and information for the Secretary and shall pay at the lowest rate available to any purchaser for processing such data and information the costs attributable to such processing."

On page 21, line 16, strike the figure "153,987,000" and insert in lieu thereof the figure "$155,187,000."

Mr. MATTINGLY. Mr. President, the amendment I am offering today is very simple. It merely allows the Department of the Interior to gather better information on potential oil and gas reservoirs on the Outer Continental Shelf. This makes good sense. It is the only way, I believe, that we can accurately assess the potential and, therefore, make certain that the Treasury benefits by ensuring that lease-sale bids are sufficiently high.

Mr. President, in fact, this amendment will make money in the long run and not cost money.

I am hopeful that the majority and minority sides will agree to the amendment.

Mr. McCLURE. Mr. President, we have no objection to the amendment.

Mr. JOHNSTON. Mr. President, we have no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2830) was agreed to.

Mr. MATTINGLY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

□ 1200

(Mr. DENTON assumed the Chair.)

AMENDMENT 2829 TO AMENDMENT 2777

Mr. McCLURE. Mr. President, I would not take the time to respond very directly to the Senator from Wisconsin except that I know that the response is not going to delay our consideration of the bill. I am anxious to get to a vote. My understanding is that the Senator from Wisconsin does not wish to delay the vote, either. In view of the circumstances with which we are confronted on the floor and the facts with which we are dealing, I shall take just a few minutes to respond directly and to make a further statement.

The Senator from Wisconsin, in his statement just concluded, makes reference to the tables the Senator from Idaho had printed in the RECORD as part of the debate on September 9. I call the attention of the Members of this body to the fact that the data that I submitted, which has now been thus criticized, has more than one table. His criticism of the facts contained in table No. 1 is in part referred to by the Senator from Idaho in making the statement because, if one looks on page 22428, following the table No. 1, the following statement appears:

This simplistic comparison, of course, incorporates some of the problems found in any cash flow analysis. For example, joint costs are not allocated between timber and other resources. In addition, some costs, most notably General Administration, are not included.

There are several other limitations expressed in the data which I submitted.

Immediately following that is table No. 2, which expresses not the Forest Service view, which appeared in subsection A of this inclusion which I have just referred to, but it is included in the Department of Agriculture view. While it is true that table 1 does not include within it a separate item on road maintenance, it is included in table No. 2, which is a different way of using numbers to arrive at conclusions, and road maintenance is included in table No. 2 and the cash net value of the timber program is positive. Both table 1 and table 2 are arrived at by different methodologies, including different elements, but both with the same conclusion, that indeed, there is a net to the U.S. Treasury whichever of those two ways you try to make the comparisons.

OMB's calculations follow, which is the third of three views I included in the RECORD at that time. I pointed out four critical errors in the OMB calculations and net returns: First, that some timber receipts were ignored; the seconds, all of the distribution of gross revenues mandated by law to be made to counties for county road maintenance and improvement and for local education have been subtracted for OMB purposes before determining whether there was profit or loss; third, that joint costs were allocated entirely to timber; and fourth, that general administration costs were allocated against the timber account.

I think I laid out three different views, with criticisms of each and with support for the validity within limits delineated.

I asked a quesiton at a series of hearings that we held in Idaho very recently. I asked the environmental representatives who appeared at those hearings whether or not they had ever seen the costs of a road allocated to hunting. No, they had not.

Had they ever seen any of the costs of a road allocated to fishing access and opportunity? No, they had not.

Had they ever seen the costs of a Forest Service road allocated to recreation? No, never.

Had they ever seen the costs of a Forest Service road allocated to camping? No, they had not.

Had they ever seen the costs of a Forest Service road allocated to berry picking? No, they had not.

Had they ever seen the costs of a Forest Service road allocated to general recreation? No, they had not.

The sum of that was simply that every cost of the road system is allocated singularly to timber harvest, in spite of the fact that there are multiple and a multiplicity of uses.

The Senator from Wisconsin, a few moments ago in his general remarks, made some reference to the fact that you certainly do not have timber harvest in a campground. As a matter of fact, almost without exception but with a few exceptions, you do not have a campground if you do not have a Forest Service road, because people get to campgrounds by Forest Service roads. The total cost of the road was allocated to timber harvest, although the people who used the campground got there by traveling that road.

The Senator from Wisconsin, a moment ago, said there is plenty of lumber available in the market today. Let me say, yes, indeed, that is true. The Canadian share of our lumber market has increased from less than 20 percent to about 34 percent in the last 4 years. There is a serious problem of balance of payments deficits for the trading of this country and we oftentimes point to the Japanese as the major problem, and indeed, on a country-by-country basis, they have the largest surplus in their account. What many of us forget is the second-largest surplus in account is with our friends to the north in Canada.

The International Trade Commission has just recently adopted rules in a court decision, the Carbon Black decision, which, applied to the timber program in Canada, will indeed show that there is a direct subsidy to the Canadian timber harvest which is greater than any actions by this Government. We are trying to recover those markets for people in this country and if, indeed, we did not have the great increase of volume flowing from Canada, we could not make the statement that there is an adequate supply of lumber. There would not be an adequate supply of dimension lumber in our markets in this country.

So, when you argue for a limitation, an artificial limitation, of production of lumber in this country, you are arguing for shifting the jobs from the United States economy to the Canadian economy. That is not a particularly constructive point of view, in the view of the Senator from Idaho.

I saw what happened in my State as increased shipments of lumber coming from Canada passing over the highway system in my State were going past unemployment lines of people who could not get jobs in our timber industry because of the great influx of Canadian timber.

□ 1210

Now, there is not any question that if you reduce timber management budgets you can reduce timber harvest. Now, it does not happen the first year. Indeed, you could keep timber harvest levels high in 1986 and appropriate little or nothing to timber sales preparation, to the kind of engineering that precedes the construction of roads that are necessary to timber harvest, to advertising costs for advertising sales, to personnel costs to conduct those sales that do not produce immediate timber harvest but produce harvest the second, third, fourth, or fifth year after those expenditures are made.

I think the figures that have been given by the Department of Agriculture and by the Forest Service are credible figures when they talk about the long-term effects of reduced budgets in the management of natural resources, and the fact that inevitably if we reduce the road building and supervisory accounts of the Forest Service you will not see an immediate reduction in timber harvest but you will see a long-term reduction in timber harvest, and if you plan for an even flow of material to the marketplace, if you plan for the RPA goals that are mandated by law and you start making the adjustments in the first year that are required for an even management flow based over several years, you would have an immediate reduction in the first year of the nature, if not the precise figure, that are included in the Forest Service and Department of Agriculture accounts given by me on Septemer 9 on the floor.

Mr. President, last week Mr. PROXMIRE and Mr. HUMPHREY offered the amendment which would cut $90 million from the proposed appropriation for Forest Service roads. After having reflected upon Mr. PROXMIRE's comments and having read the comments on the situation as dished out by the press, I feel that a few additional comments are necessary.

As I stated for the record last week, many of my colleague's arguments against funding the Road Program for the Forest Service are little more than a false front for concealing the real agenda of the environmental groups supporting the cuts. Perhaps my colleague was aware of the agenda when he offered his amendment. I like to think that he was not.

This is an easy issue for some of my colleagues because they have nothing to lose by supporting the proposed cuts. On the other hand, those of us who represent States with small populations and vast acreages of Federal land stand to lose much.

I would ask my colleagues to consider that in the upcoming vote on this issue. Sixty-five percent of my own State of Idaho is federally controlled. That means that only 35 percent of the land base remains on the tax rolls, and that is before you take out what is absorbed by Federal highways, by State ownership and management, and municipal government reduction of the tax base—very little more than 15 percent of the land area of my State is subject to taxation.

Without the flow of raw materials from Idaho's Federal lands, two of our basic industries—mining and timber—will be damaged and perhaps irreparably. The issue may be easy for some of you, but it is not easy for me and those who I represent. You have the tax base to support your school and county road programs. Without a dependable flow of commodity products from Federal lands, we do not. But why should you care about educating Idaho's children? Why worry whether or not roads in Clearwater County, ID, are full of potholes or why should you be concerned about the safety of our children in the winter when they must be bused to school over roads that the counties cannot afford to plow because the Forest Service is not able to sell any timber to support local communities and the tax base that they must have to survive?

And I really do not expect some of you to be concerned about whether or not some of our school districts must do away with vocational programs and that they must do with fewer teachers than many of your own States since we no longer have the flow of funds from Federal lands that are vital to many of our counties.

Environmental groups who support the massive cuts proposed in Mr. PROXMIRE's amendment do not like to discuss those issues. They know that most of you support adequate funding for education at the national, State and local level, just as I do.

Your vote on this issue, contrary to what you are being told, is not simply a vote for clean water, wildlife and forests. It is a vote against Idaho's working people, against our children's right to a quality education, and against people who have no choice but to depend upon the Federal lands for their living, their recreation, and their support for their families. The same is true of other Western States such as Montana, Washington, and Oregon.

We can remain good stewards of our national forests and still use the abundant commodities they provide. Contrary to what the public has been lead to believe, our elk herds flourish in Idaho where timber harvest has taken place. We are second only behind the great State of Colorado in hunter harvests and may well be first in the number of large bulls taken.

Roads provide the access for hunting those elk. Yet there are occasions where existing traveled roads do negatively influence elk production, but roads can and are being closed on a regular basis under current management practice.

Roads also provide access to otherwise remote fishing areas. Many of the environmentalists want to keep it that way, remote, hard to get to, and therefore available to only a relatively low percentage of national forest users.

I might note by way of personal observation and a footnote to that par-

ticular point I was making that Kelly Creek in central Idaho is one of the premier natural trout fisheries in the United States. Last year we had a hearing on wilderness areas in Idaho and the hearing was conducted in part by Congressman SEIBERLING, the chairman of the appropriate subcommittee of the Interior Committee in the other body. And we flew by helicopter to a landing strip alongside Kelly Creek which is also serviced by a forest road—I would say to my friend from Wisconsin, a forest road built by timber receipts—that goes up the banks of Kelly Creek for several miles, and the staffs that were there at that hearing had a marvelous wilderness experience walking up an old logging road for a quarter of a mile away from the stream. The access to Kelly Creek is critically dependent upon the construction of a road which is now being charged entirely and totally to timber harvest in the area.

Roads produce silt, environmentalists say. Roads do produce silt, especially those that are 30 or 40 years old. More recent construction methods now being used as the standard have minimized siltation.

We have more quality fishing and hunting in many places than we probably have ever had in recent history. We continue to improve habitat and opportunities despite the doomsday predictions of the so-called public interest groups supporting Senator PROXMIRE's amendment.

And I might note also that I know in the State of Vermont of one instance in which a timber harvest that is being criticized for being a deficit sale is being conducted to produce a mixed stand of trees for the benefit of wildlife, and that is supported by the environmental organizations, it is supported by the Forest Service. It is supported by critics as being essential to the enhancement of wildlife that that timber harvest take place.

I believe the same to be true in Virginia and West Virginia, in some place where the change of growing timber to produce a diversity is being done to improve wildlife habitat, not to destroy it.

□ 1230

My colleague argued last week that the proposed timber sale and Road Program is way over the President's budget. What he forgot to mention was that the President's budget would have been the lowest sale program in 25 years despite the recent record demand for softwood lumber and plywood. It has also been implied that the Forest Service does not see the need for a larger sale program and that their recommendation and the administration's program are one and the same. In fact, the Forest Service requested a larger program from the administration. We have never seen the Forest Service's request. What we in the Congress got was the OMB's program. I doubt few staffers at OMB even know where the Clearwater or Payette National Forests are located, much less how much timber they can produce on a sustainable yield for perpetuity. The program we were handed has little, if anything, to do with the wise management of our national forests.

As Senator DOMENICI so eloquently pointed out last week, rather than saving us $90 million, this amendment will actually cost the U.S. Treasury an estimated $35 million.

The further charges by Mr. PROXMIRE and his constituents that the subcommittee's bill is overly generous toward the Forest Road Program in view of soft timber markets is another sham argument. Markets are anything but soft. The demand for softwood lumber and plywood set new records in 1984 and 1985. Consumption at the midpoint of 1986 indicates that we are running almost 8 percent ahead of last year—a new 6-month record. I do not see the demand weakening in the near future for reasons that I have stated often before.

The old "roads around the world" trick is another smokescreen used by the opponents of commodity use of the national forests. The Forest Service manages about 191 million acres of land, an area approximately the size of Wisconsin, Minnesota, Michigan, North Dakota, and South Dakota combined. Total road density of the national forests is about 1.15 miles per square mile. However, a little closer examination reveals some interesting facts.

The mental picture that Mr. PROXMIRE paints for us at the behest of his environmental constituency is one of enough existing forest roads to circle the globe 14 times. And by making a comparison of these forest roads to our Interstate Highway System, my colleague manages to conjure up visions of six lane asphalt thoroughfares. Such comparisons are typical of the regard that the environmentalists have for the intelligence of this body.

Let me provide for you a look at the real world instead of the myth. Of the total 343,000 miles of so-called forest roads, almost half, about 165,000, are little more than jeep trails accessible only by high clearance, four-wheel drive vehicles. Many of those roads are closed to public access under current management policy. The remainder are the roads, many built with funds appropriated by this body, that provide important access for hunters, fishermen, hikers, berry pickers, and other public users of the national forests. Nationwide, about 95 percent of national forest use is directly related to accessibility provided by roads, most of them built with dollars associated with national forest timber sale programs. The remaining 5 percent of public use is on the 17 percent of the national forests already preserved as designated wilderness.

Another important point to remember is that virtually all forest roads are either dirt or gravel. For purposes of comparison, let me use Senator PROXMIRE's home State as an example. Wisconsin has 108,000 miles of public highways. That figure does not include many rural roads. With an area of 33-million acres, that is a highway density of 2.09 miles per square mile; almost two times the density on the already roaded portions of the national forests, enough miles of highway, incidently, to pave a highway around the world about 4½ times.

The blatantly misleading arguments that the Forest Service has been on a road building binge during the past few years was demolished last year by the House Interior Committee's own staff. It is inconceivable to me that my distingished colleague would allow himself to be caught carrying that argument into this debate.

Total road construction by the Forest Service has only been about 87 percent of the level funded by the Congress during the past 5 years. That certainly does not indicate any road building binge to me. Let me indicate at this point that the Forest Service has, indeed, exceeded construction targets for appropriated roads during the past 5 years. However, purchaser credit road construction has fallen short of targets. What is wrong with doing more than expected with appropriated dollars? Perhaps more agencies should take a close look at this program as a lesson in how to do more with less.

The Forest Service routinely exceeds funded targets in other areas, too. For example, in 1985, they accomplished 107 percent of their wildlife and fish habitat improvement targets; 103 percent of grazing targets; 102 percent of reforestation targets; 151 percent of its soil and water resource improvement targets; 109 percent of its trail construction/reconstruction targets; and 146 percent of its land acquisition targets. Many of my colleagues know that I do not always agree with the Forest Service and some of the things it does, but I do think, contrary to what the environmental groups would like you to believe, that they are capable of doing a good job.

Another half truth that you are being asked to swallow is that all the roads in the budget is new road construction. The Forest Service does not do a very good job of distinguishing between new and reconstruction in its budget request. Although figures are hard to derive, my own best estimate is that only about half of what you see in their request is for new construction. The remainder is for the recon-

struction of existing roads for any number of reasons.

I could go on dispelling all the other half truths that you have been told about what is in the bill before you. I will spare you further detail because I think that I have made my point. You each have to make a decision on how you are going to vote on this matter. I hope you do so based on the whole story and not just the half truths that you have been spoon fed during the past few days.

Sensible management of our national forests will insure that the timber, wildlife, and fish will continue to grow and to be harvested by loggers, and sportsmen long after all of us in this body are gone. Commodity programs are important to my State and many other public lands States. All I ask is that you vote with the knowledge that there is more to the story than you have been told by those who care little about the families that live in Idaho.

Mr. President, let me adjust a couple of other facts, facts not arguments, facts.

Chinook salmon run in the Salmon River system is at a critical stage. There are those who would have you believe that any forest harvest in that watershed is going to destroy the remaining fish run.

I am just as interested in that fish run as anyone could possibly be, white or Indian, East or West, forest worker or recreationist.

I am pleased to announce that the return of the run this year is the largest in recent history, larger than it has been in the recent past because we are taking affirmative action to correct some of the errors of the past and to enhance the fish resource in that area.

The second fact that I want to recite: A statement was made earlier that somehow the figures I had used last week on September 9 were inaccurate because they did not include costs for timber stand improvement. There are two categories. One is KB moneys; the other is appropriated moneys.

The Senator from Wisconsin did make reference to the fact that some of those dollars were not associated with timber harvest because they were done for the improvement of stands where fire had destroyed stands. You need to add to that I say to my friend from Wisconsin. There are a couple of other categories that are very obvious. One is insect destruction. Disease does invade forests. Forests die for reasons other than timber harvest. There again we could go into the sad but revealing story of the Targhee National Forest in southeastern Idaho where the Forest Service plans to harvest an overmature stand of lodge pole pine, an aged stand that does have mortality. The Forest Service plans to harvest that mature stand. There is objection to harvest of that stand in the very scenic area of my State just west of Yellowstone National Park. The Senator from Montana is very familiar with the area. Those sales plans were completely frustrated, disease and insects got into that mature stand, killed the entire forest, over 90 percent mortality, and now we are into harvesting dead lodge pole pine for firewood. They could have been converted into lumber for markets, pulpwood for markets, creating jobs in the local economy that are far more valuable than salvaging dead lodge pole for firewood.

So we do have some reasons for timber stand improvement and the expenditure of appropriated moneys for timber stand improvement that are not related directly to timber harvest and timber harvest alone.

As I said in my major remarks, I hope people will realize as they vote on the matters before us that we are talking about a critical need which is shared by environmental organizations and that is long-term resource management.

The easiest place to cut expenditures is on long-term resource management and it is one of the most devastating failures of Congress to maintain consistent targets for management over long periods of time when you have current budgetary problems.

But if the Federal Government wishes to own all of this land, the Federal Government, in my view, has a responsibility to be a good steward.

We spend millions of dollars on soil conservation districts, and I support it, to prevent soil erosion and to improve soil management techniques. And that certainly is a long-term goal. It is not a short-term goal, and I support it.

I think it is similarly important for us to maintain the funding that is necessary for long-term balanced management of the Forest Service lands.

Mr. President, I have a table that shows what the timber sales program provides to local units of government in support of schools and roads.

These payments represent 25 percent of the receipts on National Forest System lands. I ask unanimous consent that this table be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

	Payments actual—						
	1980 NFF	1981 NFF	1982 NFF	1983 NFF	1984 NFF	1985 NFF	1986 NFF
State name:							
Alabama	893,892.02	952,876.75	1,444,326.77	1,243,261.34	2,247,058.73	1,893,720.41	1,625,255.50
Alaska	3,573,699.04	6,528,080.25	3,775,194.45	5,430,372.10	1,375,068.41	1,052,095.86	89,462.44
Arizona	4,678,306.43	4,234,378.83	5,735,555.32	2,223,802.07	3,364,727.32	5,153,109.17	4,187,260.26
Arkansas	3,590,133.16	4,271,837.87	3,727,690.96	2,413,837.92	5,302,970.40	5,782,479.65	5,233,489.71
California	50,452,044.83	37,551,016.98	42,015,820.49	18,930,648.79	42,551,120.38	44,113,495.82	36,085,848.82
Colorado	1,896,532.08	1,957,927.03	1,805,801.58	1,725,117.96	2,025,107.30	2,277,288.92	2,586,204.91
Connecticut							
Delaware							
District of Columbia							
Florida	1,285,895.72	1,614,694.81	1,564,731.18	1,956,376.35	2,559,030.46	2,479,321.23	2,853,572.52
Georgia	796,645.05	826,233.95	997,224.68	707,412.64	1,081,424.18	883,355.81	877,752.10
Hawaii							
Idaho	13,804,903.73	10,314,553.65	9,066,232.03	4,933,488.89	6,874,295.54	8,647,388.85	7,805,487.12
Illinois	52,978.95	54,782.00	98,386.19	141,867.16	85,465.01	109,126.27	96,295.31
Indiana	105,870.95	67,039.36	115,223.27	155,718.80	163,522.23	146,038.41	204,478.81
Iowa							
Kansas							
Kentucky	210,543.32	183,669.53	203,837.41	271,504.78	294,946.43	321,315.15	430,697.58
Louisiana	3,185,321.19	2,328,512.05	1,998,504.74	2,211,351.56	3,873,570.39	4,671,447.15	2,406,392.93
Maine	17,245.55	16,333.51	18,470.26	20,155.43	18,515.61	22,297.03	32,541.44
Maryland							
Massachusetts							
Michigan	729,628.63	827,948.56	807,638.31	891,802.63	943,444.21	1,212,582.79	1,115,267.72
Minnesota	401,830.99	427,373.00	426,545.21	552,581.91	662,933.36	862,780.91	902,861.84
Mississippi	5,025,070.78	5,682,029.17	5,781,472.74	5,395,693.11	6,773,430.29	6,502,017.94	6,369,959.83
Missouri	3,101,562.48	3,852,317.38	2,817,660.72	1,842,517.74	1,552,729.54	1,436,140.02	1,341,933.59
Montana	9,460,389.75	7,584,826.83	8,079,709.34	4,566,283.28	4,505,490.31	7,844,446.99	5,856,618.49
Nebraska	58,889.97	59,623.07	56,357.56	50,993.43	36,168.11	37,330.60	35,196.14
Nevada	255,229.30	310,545.59	285,596.69	278,992.14	251,732.09	296,103.45	290,200.43
New Hampshire	253,183.84	241,861.69	275,461.10	300,797.76	276,335.60	332,770.97	485,749.58
New Jersey							
New Mexico	2,890,293.19	2,428,874.99	2,483,085.24	1,078,360.57	1,284,181.82	1,828,664.80	1,576,568.93
New York						5,523.09	4,416.70
North Carolina	331,606.28	506,045.85	775,424.73	771,117.38	960,236.67	845,739.33	918,510.71
North Dakota	63.23	83.17	64.22	68.09	73.53	95.52	24.05

	Payments actual—						
	1980 NFF	1981 NFF	1982 NFF	1983 NFF	1984 NFF	1985 NFF	1986 NFF
Ohio	80,938.75	60,343.73	96,364.57	89,549.38	75,385.15	155,511.11	192,524.24
Oklahoma	516,919.38	605,037.29	506,462.81	280,024.81	700,136.67	775,175.17	716,941.87
Oregon	121,081,427.06	98,888,365.36	95,112,708.07	46,851,494.99	69,212,544.63	86,543,842.41	94,566,445.19
Pennsylvania	548,881.68	664,163.48	874,177.43	1,091,564.60	1,394,098.08	1,957,684.83	1,885,471.29
Rhode Island							
South Carolina	2,147,040.97	1,811,656.41	3,398,529.21	3,278,843.52	3,349,507.30	2,665,462.33	2,697,687.36
South Dakota	675,140.85	713,073.24	508,571.80	270,204.33	620,742.01	945,792.05	686,475.66
Tennessee	232,310.47	273,776.95	202,810.80	381,010.70	403,482.09	531,877.02	475,741.57
Texas	1,382,349.19	1,485,640.99	2,719,485.39	1,519,025.22	4,194,179.89	3,868,015.45	2,638,854.18
Utah	917,949.11	1,107,936.45	975,903.18	676,114.09	755,549.23	767,407.19	723,354.27
Vermont	68,313.65	156,355.32	104,815.23	110,245.42	120,018.62	119,684.12	166,895.95
Virginia	181,439.72	251,469.14	388,050.52	449,339.85	583,280.83	490,977.67	585,522.37
Washington	40,288,844.32	32,708,540.02	29,396,778.66	18,108,430.15	20,640,168.04	25,442,984.63	21,372,218.33
West Virginia	160,914.16	199,509.57	314,694.42	214,996.88	274,222.54	326,136.44	491,263.62
Wisconsin	391,788.56	469,578.85	498,722.22	512,580.78	556,391.49	728,284.73	620,478.54
Wyoming	1,251,512.06	1,397,123.28	1,024,103.71	659,614.42	750,867.11	851,465.62	991,652.92
Puerto Rico	7,295.49	6,574.92	7,660.09	13,516.24	12,848.40	9,663.56	14,564.88
Virgin Islands							
Total	276,984,825.88	233,622,610.87	230,485,853.30	132,600,679.21	192,707,000.00	224,936,640.47	212,241,139.70

Mr. McCLURE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. [Mr. BOSCHWITZ]. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCLURE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FUNDING FOR "THE AFRICANS"

Mr. PRESSLER. Mr. President, I would like to take a few moments to ask the chairman to comment on a serious matter which has come to my attention. As I understand the facts, next month a 9-hour television series entitled "The Africans" is to air over PBS. This film has been produced with $1.1 million of U.S. taxpayers' money, funded through the National Endowment for the Humanities, the Corporation for Public Broadcasting, and the Public Broadcasting Service.

As reported in a number of press accounts, Mrs. Lynne Cheney, the new director of the National Endowment for the Humanities, demanded that all NEH credits be removed from the film after reviewing the series pursuant to an additional funding request for publicity for the series. She found the film to be a one-sided presentation that "frequently degenerates into anti-Western diatribe" and informed the coproducer of the film, who applied for the grant, that the series violated NEH's program guidelines of objectivity and balance. Thursday, September 11, 1986, the Washington Post reported that the Federal Communications Commission agreed to waive provisions of the Communications Act that require parties who give money to a broadcast to be clearly identified. The FCC found that listing the NEH as an underwriter "may incorrectly imply that the program meets NEH guidelines or that the NEH endorses the views expressed in the program."

The following is an excerpt of Cliff Kincaid's article regarding the film's contents, as published in the September 8, 1986 Washington Times, page 2D.

Ali A. Mazrui, who is described in promotional material as a noted African scholar, is the author and narrator of the series. In the segment on Libya in Program 9, he says that Col. Qadhafi has used his oil wealth not to finance terrorism and subversion, but "for the greater glory of Africa as well as Islam." Mr. Mazrui says that, "Because of his support for the Palestinian fighter, Col. Qadhafi was seen by the West as a terrorist." This African scholar portrays Palestine Liberation Organization terrorists as just "fighters." And Col. Qadhafi himself is not a terrorist, he is only seen that way by the West.

* * * As photographs of Libyan infants apparently injured or killed in the U.S. bombing raid on Libya are flashed on the screen, Mr. Mazrui says, "American bombs dropped from the air killed children as surely as terrorist bombs left at an airport." Mr. Mazrui doesn't mention that the murderous attacks on the Rome and Vienna airports last December were blamed on Col. Qadhafi. Mr. Mazrui also fails to mention that the U.S. raid on Libya was specifically provoked by a Libyan-ordered attack on the West German disco that killed an American Army sergeant and injured more than 60 U.S. military personnel.

Film footage of Col. Qadhafi visiting wounded victims of the U.S. raid at a hospital is followed by excerpts from a speech by President Reagan, in which he calls on all "civilized nations" to condemn Col. Qadhafi and the murder of innocent people. The point is supposed to be that President Reagan is a hypocrite, and that the United States is no better than Col. Qadhafi.

Mr. Chairman, my question is, How did this gross misuse of U.S. citizens' money occur and what are we, as guardians of the American tax dollar, going to do about it? I am angered that over $1 million in public financial support was given to produce a film that is a slap in the face to the families and friends who have suffered so much grief and sorrow at the hands of Qadhafi's terrorists.

I support Mrs. Cheney's actions in removing the NEH's name from the credits, as it is clear that the program was not produced as the original proposal and grantees had pledged. However, the solution lies in prevention of such waste, rather than lamenting the issue after the fact. There is an obvious need for a system of checks and balances, so to speak, to ensure that a program is worthy of funding and meets all the requirements of the sponsor organization.

Does the chairman feel the money expended on the film project "The Africans" has been wisely and judiciously spent, given its blatant glorification and misrepresenatation of Qadhafi? Would a viable safeguard be to ask a specially appointed congressional committee to spend time reviewing every project of this nature? I am certainly not suggesting that expensive approach—but we in Congress must be made confident that there is some method to assure reasonable balance.

Would the Senator from Idaho consider it necessary or appropriate to require a content analysis for programs of this type funded by the National Endowment for the Humanities, the Corporation for Public Broadcasting, and the Public Broadcasting Service?

Mr. McCLURE. Mr. President, I share the concern expressed by the Senator from South Dakota regarding the Federal funding which has been provided to produce "The Africans." The National Endowment for the Humanities employs the services of peer review panels to determine which grant applications will receive support.

The grantees are also required to notify the Endowment if there are any significant changes in the proposal which was submitted for review. That part of the system did not work in this instance. The final product differs from the proposal in several areas considered significant by the Chairman of the National Endowment for the Humanities and the Endowment was not informed of these changes.

Currently, there is no requirement for screening by the Endowment prior to airing programs for public viewing and there is no mechanism to recover grant funds which were spent for purposes other than those stated in the proposal.

I certainly agree with the Senator from South Dakota that the American taxpayer should not be forced to foot the bill for films that favorably por-

tray terrorists like Qadhafi. In light of the fact that the current operation of the system allowed this error to go undetected until it was too late, it may be useful to review this matter in greater detail. I would also suggest that this question be presented to the authorizing committee, the Subcommittee on Education, Arts and Humanities.

Mr. PRESSLER. Mr. President, I thank the chairman of the Interior Subcommittee and I will relay the concerns raised here today to the authorizing committee.

Mr. McCLURE. Mr. President, I ask unanimous consent that the pending amendment be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2831

(Purpose: To direct the Southeastern Fish Culture Laboratory to coordinate its research with the Alabama Cooperative Fishery Research Unit and Auburn University)

Mr. McCLURE. Mr. President, on behalf of Senator HEFLIN, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. McCLURE], for Mr. HEFLIN, proposes an amendment numbered 2831.

Mr. McCLURE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 8, between lines 22 and 23, insert the following:

"SOUTHEASTERN FISH CULTURE LABORATORY"

"The Southeastern Fish Culture Laboratory, in Marion, Alabama is hereby directed to coordinate some of its research in the conservation, management, investigations, protection, and utilization of sport fishery and warm water fish farming with the Alabama Cooperative Fishery Research Unit and the Department of Fisheries and Allied Aquaculture of Auburn University, toward a mission of improving the economics of farm aquaculture in the Southeast".

Mr. HEFLIN. Mr. President, the amendment I offer today directs the Southeastern Fish Culture Laboratory in Marion, AL, to coordinate some of its research in the conservation, management, investigations, protection and utilization of sport fishery, such as the striped bass, and warm water fish farming, such as tilapia, catfish, and freshwater shrimp, with the Alabama Cooperative Fishery Research Unit and the Department of Fisheries and Allied Aquaculture of Auburn University, toward a mission of improving the economics of farm aquaculture in the Southeast.

The Southeastern Fish Culture Laboratory and Auburn University both have extremely beneficial ongoing research in all areas of fisheries, including the testing and exchange of catfish germplasm. The Fish Culture Laboratory in Marion, AL, has an established history from many years of research and will continue this tradition in the years to come.

This amendment will ensure the cooperation of the Southeastern Fish Culture Laboratory with State agencies, and colleges and universities such as Auburn toward a mission of research management, protection, and utilization of sport fisheries, warm water fish farming, and germplasm testing to improve the economies of farm aquaculture in the Southeast.

Mr. McCLURE. Mr. President, I urge the adoption of the amendment. I think it has been cleared on both sides of the aisle.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2831) was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MELCHER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

□ 1240

Mr. McCLURE. Mr. President, it is my understanding that both Senator PROXMIRE and myself desire that no further proceedings be taken with respect to the pending amendments of the Senator from Idaho and the Senator from Wisconsin prior to the hour of 2 p.m. Without taking formal action in that regard, I state that as the understanding of the proponents of the amendments and an appropriate request will be made to accomplish that, if necessary, between now and the hour of 2 p.m.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1250

Mr. DANFORTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded, and that the pending amendment be laid aside temporarily.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2832

(Purpose: To credit the reimbursement costs of providing security, maintenance, and other services at the Jefferson National Expansiom Memorial National Historic Site)

Mr. DANFORTH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Missouri [Mr. DANFORTH] offers an amendment numbered 2832.

Mr. DANFORTH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, add the following:

SEC. . Notwithstanding any other provision of law, funds received by the National Park Service as reimbursement for the cost of providing security, law enforcement, interpretive, and other services with respect to the operation of facilities at the Jefferson National Expansion Memorial National Historic Site shall be credited to the appropriation bearing the cost of providing such services.

Mr. DANFORTH. Mr. President, this is a very simple amendment dealing with the Jefferson National Expansion Memorial, more familiarly known as the St. Louis Arch. The St. Louis Arch serves as the site of a variety of meetings, receptions, and events for groups in the St. Louis area. The National Park Service is required to provide security, maintenance services, cleaning services, utilities, and so on, for the operation of the arch during those receptions and meetings.

This amendment would simply allow the National Park Service to accept donations from event sponsors to cover the Park Service's costs.

It would allow the continuation of civic events despite budgetary cuts.

Mr. McCLURE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. We have no objection to the amendment.

Mr. MELCHER addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. MELCHER. We have no objection to the amendment on this side.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Missouri.

The amendment (No. 2832) was agreed to.

Mr. DANFORTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEVIN. Mr. President, I would like to engage in a colloquy with the Senator from Idaho and chairman of the Subcommittee on Interior and Related Agencies, Senator McCLURE, and the Senator from Louisiana and acting ranking minority member, Senator JOHNSTON, relative to the funding for the FDR Memorial Commission for fiscal year 1987. By providing this

funding, the subcommittee rejects the suggestion of the Office of Management and Budget [OMB] that the Commission operate in fiscal year 1987 only on its carryover funds from fiscal year 1986. I am pleased that the chairman, acting ranking minority member and the subcommittee have acted wisely on this subject, as I have a strong interest in the Commission and its goal.

Mr. President, the OMB has also suggested that the Commission terminate its activities at the end of fiscal year 1987 when its funds are exhausted. I would like to ask the chairman and the acting ranking minority member if the subcommittee's action implies any intent regarding the Commission after fiscal year 1987?

Mr. McCLURE. The fact that we reduced funding for the FDR Memorial Commission in fiscal year 1987 has no implications regarding our intent for fiscal year 1988 and beyond. I appreciate the Senator's bringing his matter to the attention of the Senate.

Mr. JOHNSTON. I agree with my colleague, the Senator from Idaho, Mr. McCLURE, in this indication that the subcommittee's action implies no intent regarding funding for the FDR Memorial Commission for fiscal years beyond 1987.

Mr. McCLURE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GOLDWATER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ILLEGAL DRUG TRAFFIC

Mr. GOLDWATER. Mr. President, I realize it is a little bit early and ahead of time to be discussing the recently passed narcotics bill, or dope bill, in the House. But we are going to have it over here shortly. I want to exercise this opportunity of not much business to put forth some ideas of mine on this.

Mr. President, my State of Arizona is not vaccinated from the subject of narcotics. We have a border with Mexico of approximately 400 miles. This 400 miles constitutes part of a 1,875-mile border with Mexico by the States of California, Arizona, New Mexico, and Texas.

Mr. President, 1,875 miles is a long distance.

□ 1300

It has been proposed in the House of Representatives that our military patrol the areas of the United States contiguous to other countries from which narcotics flow.

I propose, Mr. President, that this would require almost half of the entire division strength of our Army to properly do. That is one major problem in the approach taken.

Another major assumption is that we have an overabundance of aircraft such as the AWACS which could do this patrolling at night and even in the daytime.

This is not so. Every AWACS aircraft we have is not only badly needed but we need more of them. We are not going to be able to provide them this year because of a very low military budget.

But, Mr. President, the thing about the House action that disturbs me the most is allowing men in uniform to make arrests.

The Coast Guard is the only quasi-military organization we have whose members are allowed to make arrests, and I think that is very proper. But after the Civil War, we passed legislation to prohibit a man in uniform from making an arrest in this country. I think that is very, very wise, and I think it is very dangerous that either House in this Congress would suggest doing away with it.

I think all of us can remember the days of Hitler and Mussolini, and the days that we see now in dictator run countries to the south of us, in fact all over the world, where the military are used as the police. So it becomes a whim of the commanding officer or the commander in chief as to what these people will be used for, as to what crimes they may have perpetrated, if any crimes at all, and the man in uniform is allowed to go to the door and knock on the door and that person is under arrest.

I think this is extremely dangerous. I think it could mark the end, Mr. President, of our concept of a republic and a democracy. It is completely opposed to all ideas that we hold. I would be very hopeful that when the legislation reaches the Senate floor, the Senate will have the courage to withstand the pressures and knock out this particular part of the narcotics bill.

There is no question that narcotics pose one of the greatest dangers to our future of anything I can think of, particularly when we see teenage children in our grade schools using some form of narcotics; when we see adults using it almost as a way of life, and what used to be considered as something abhorrent in this country is now pretty well accepted.

I do not think the average American family can be accused of anything in that direction, but the growth in the use of narcotics has been large enough to require the attention of the President and his wife, the attention of the Congress, the attention of the 50 States of this Union, their Governors and their legislative bodies.

I have no answer for this problem, except the age-old answer to any breaking of law and that is to penalize and punish the people responsible—not necessarily the user but those people who constitute the so-called leaders of crime in this country. Make it a very extreme penalty for them.

I am not at all opposed to the death sentence for these types of people, but I do not want to see us pass legislation that will be a death sentence to the freedom of our people and the freedom of our country.

Mr. President, I appreciate the opportunity to say these few words because as time goes on, and we only have about 16 days left in this session, it is going to become increasingly difficult for anyone to stand up and have their say about something so important to the United States as narcotics.

We have dillied and dallied and spun our wheels and listened to more speeches in the last week or so than any time I can remember. It is time when this body should be getting to work and not shirk the jobs which are ahead of us. We still have a tax bill. We still have the military authorization and appropriations. I do not see how this body can finish its work in the 16 days.

I will have more to say on this, Mr. President, when this body becomes engaged in this subject matter, but I wanted to let go of a few of my feelings on the matter at this time.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ROTH). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1310

Mr. BOSCHWITZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 1:45 P.M.

Mr. BOSCHWITZ. Mr. President, I move that the Senate stand in recess until 1:45 p.m.

The motion was agreed to and, at 1:11 p.m., the Senate recessed until 1:45 p.m.; whereupon, the Senate reconvened when called to order by the Presiding Officer [Mr. STAFFORD].

Mr. HEFLIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1350

Mr. WEICKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. WEICKER. Mr. President, I ask unanimous consent that the Senate return to executive session.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

NOMINATION OF WILLIAM H. REHNQUIST TO BE CHIEF JUSTICE OF THE UNITED STATES

(Mr. GRASSLEY assumed the chair.)

□ 1400

Mr. WEICKER. Mr. President, in my opinion there is no more important word in America's governmental lexicon than the word "justice." It is the priority and reverence accorded justice that has taken a piece of geography and made it a great nation. America, the New World, call it what you will, did not come with justice—we have had to work at it. Justice was not native to New England with its religious persecution or the South with its slavery. It was not native to suburbia with its prejudices, nor to the retarded in the United States who are now our special olympians. Whether today's bag lady huddled on a grate in the big city, or yesterday's Japanese American interred in a California concentration camp. Whether today's victim of AIDS or yesterday's congressionally hounded writer or actor.

Whether Irishmen in 1900 or Hispanic in 1986. For all these and more, life in freedom with opportunity and dignity has come to pass by a nation striving to live up to the ideals of justice as expressed in the Declaration and the Constitution of the United States.

Mr. President, I ask that the Senate be in order.

The PRESIDING OFFICER. The Senator from Connecticut has made a request that the Senate come to order. The Chair would respond to that request and ask any Senators disrupting to halt.

The Senator from Connecticut.

Mr. WEICKER. Thank you very much, Mr. President.

Justice in America needs no prefix such as first or chief or paramount or ultimate to give it place. Its history and promise accord it preeminence.

Twenty-six years—I first was elected in 1962 to the State legislature in Connecticut—in elected office, executive and legislative, has made me proud of the creativity, integrity, and vision exhibited by colleagues of all philosophies at all levels of government. But the legacy of courage to achieving justice in the face of political neglect or persecution—that uniquely belongs to the American judiciary.

Surely all of us are more or less of some political bent—judges included. And most assuredly the President of the United States, in this instance, Ronald Reagan, has every right to nominate persons to the judiciary of his general philosophy. So on the matter of the numbers or philosophies of President Reagan's nominees to the Federal bench I have no quarrel. If America wants to change Reagan's appointees, that is more properly done in the voting booth than ex post facto with confirmation votes in the U.S. Senate.

In light of what admittedly is an idealistic view of the role of justice in our society, my worry as it related to the nomination of William H. Rehnquist to be Chief Justice of the United States is his unrelieved predisposition toward achieving a specific philosophical end while leaving reality unexplained or misspoken.

Even thought I am one, fortunately all the world is not a lawyer. When the Chief Justice speaks Americans should not have to rush to Shepard's Citator or acquire the United States Code Annotated to understand what has been said. The perception should be that justice has been done to the facts.

That is not the perception that we get in the various discrimination decision or memoranda of Justice Rehnquist. Whether in *Brown* v. *Board of Education*, 347 U.S. 483 (1954), *Bob Jones University* v. *United States*, 461 U.S. 574 (1983), or a myriad of other cases, the perception is neither one of justice or reality. It is a perception that separate is equal.

Again, with religious discrimination cases *Wallace* v. *Jaffree*, 86 L. ED 2d 29 (1985) or *Larkin* v. *Grendel's Den*, 459 U.S. 116 (1982). Chief Justice nominee Rehnquist leaves the reader with the clear-cut perception that getting government in the business of religion can be an OK thing. Such a perception has potentially explosive ramifications for religious freedom in this Nation.

Mr. Rehnquist's views relating to women as they translate into defining sexual discrimination defy constitutional promise and fact. The bottom line perception of *Frontiero* v. *Richardson*, 411 U.S. 677 (1973) or *Craig* v. *Boren*, 429 U.S.C. 190 (1976), and *Duren* v. *Missouri*, 439 U.S.C. 357, 370-78 (1979), is one of inferior individuals and inferior opportunity. That is not fact. It will never be justice.

Were Justice Rehnquist to be a candidate for Press Secretary to the President of the United States these words would be gratuitous and my vote of little consequence.

The job is Chief Justice of the United States. Not only is the operative word justice the end must be justice.

Despite the brilliance of Justice Rehnquist's mind, his abilities have been used to weave plausible logic suited to a philosophical end rather than a beginning of justice.

Such exercises in sophistry abound these days both in Congress and at the White House. They are not needed from a Chief Justice.

Therefore, my vote is no to this nomination.

NOMINATION OF JUSTICE WILLIAM REHNQUIST

Mr. ROTH. Mr. President, today, as we consider the nomination of Justice William Rehnquist, I believe it is most important to reconsider the proper role of the courts in our representative form of government. I believe it is important to keep in mind that our duty is not to select and advance those individuals who will carry our political ideologies to the hallowed chambers of the Supreme Court, but to approve those who are dedicated and faithful to the Constitutional plan. I firmly believe Justice Rehnquist has a proven record in this area, both as a brilliant scholar of our Constitution and as one who exercises judicial restraint.

His opinons in cases like Roberts versus Louisiana, National League of Cities versus Usery, Trimble versus Gordon, and Railroad Retirment Board versus Fritz are examples of such restraint.

What a tremendous responsibility we have—to approve our justices and see that they are of this caliber. As Members of this distinguished legislative body, it is important that we understand the genius behind our Constitution—that through distinct levels of government and the separation of powers the American people possess optimum control over their government. Whereas certain later amendments to the Constitution are well-known to embody substantive values, the original Constitution is basically a procedural document. This is how it was conceived; this is how it should be.

Within this framework, the substantive value judgements concerning the Government of America—or the making of laws—were assigned to those officials politically accountable to the people. These laws were to represent the will of the people, provided that they fit within the division, separation, and limitation of powers set forth in our Constitution. And it was the responsibility of the courts to apply the law to cases, to ensure its enforcement except where it conflicts with the higher law of the Constitution. It should be remembered that the Constitution is itself and expression of the will of the people. Its original articles and subsequent amendements were all proposed by representatives of the people and ratified by representatives of the people.

When proposed and ratified, the provisions of the Constitution had spe-

cific meaning. That meaning should be given effect. Therefore, there is no place in the constitutional plan for the courts to impose their own notions of what is right or just or popular. As elected officials, this is our responsibility, and if we fail to carry it out to the desire of our constituencies we can be voted out from office.

Chief Justice Marshall simplified what I am saying when he said that if the popular branches of government—State legislatures, the Congress, and the Presidency—are operating within the authority granted to them by the Constitution, their judgment and not that of the Court must prevail. Implicit in our form of government is the fact that the popular will embodied in the legislative acts be given effect except where it is clear that the people speaking throughout the Constitution have said otherwise.

Unfortunately, history holds examples where these principles have gone astray—where the theory of judicial restraint has given way to judicial activism. At times our Supreme Court has violated the constitutional plan by holding legislative acts as unconstitutional for reasons other than the popular will speaking through the Constitution. To find these instances, one need only look at the Supreme Court decisions that struck down legislative attempts to curb the spread of slavery before the Civil War, legislative decisions to protect our labor force from the excesses of the industrial revolution, and legislative efforts to overcome the devastation of the Great Depression. These, of course, are examples of judicial activism by conservatives who thought that social policy was being set too swiftly by the legislatures.

In contrast, judicial activism on the left is characterized by impatience with the evolution of social policy. This form of judicial activism does not have legislative acts before it to strike down, primarily because the liberals believe the legislatures often are not acting quickly enough to do what they perceive is in the peoples' best interest. In this vein the courts have usurped State responsibility over schools, in cases of busing; and over welfare, where courts are determining the responsibilities of States to illegal aliens.

Of course there are times when liberal judicial activists strike down legislative acts because, in their view, they are insufficiently progressive. An example here is capital punishment where these activists believe State and Federal laws, over time, have come to violate the eighth amendment. Changing attitudes toward the death penalty should not be taken as authorization by the judiciary to strike down capital punishment as cruel and usual. If these changing attitudes truly reflect the popular will, then Congress and the State legislatures are perfectly capable of declining to impose the death penalty. The decision for change in this area belongs to the legislatures since the framers of the eighth amendment never intended that the ban on cruel and unusual punishments apply to the death penalty.

One might note that in this regard flogging has passed from the American scene, not because the Supreme Court has declared it "cruel and unusual," but because legislatures, reflecting contemporary standards, have declined to impose it. This is how it should be.

It is because the Court has been used to advance political agendas that some liberals are very concerned about the political ideology of Justice Rehnquist—just as some conservatives might have been concerned with the appointments of Justices Frankfurter and Holmes. These two Justices were faithful adherents to the doctrine of judicial restraint. Such restraint is never appreciated by those with a political agenda, left or right.

In my opinion Justice William Rehnquist is of equal stature. He, too, is a champion of Judicial restraint—restraint that is not affiliated with party politics or ideology, but rather with the values of liberty, democracy, and stability. He is well-liked by his peers and highly recommended by the American Bar Association. His opinions since 1971 have been sound and steeped in constitutional theory. He is well recognized for his legal ability, leadership qualities, and integrity. And I believe there is little doubt that he will serve in the capacity as Chief Justice not as a moral or social reformer but as an objective expounder of the law, a strong defender of our constitutional form of government of distinct levels of government and the separation of powers.

LIBERAL MCCARTHYISM

● Mr. GOLDWATER. Mr. President, the debate on Justice Rehnquist has now stretched on for 4 days of hearing and 4 days in the Senate. I hope we are ready to vote.

My remarks will be brief. I merely want to look at the new criteria being raised by the critics of the nominee and show why they are so badly wrong.

The case against elevating Justice Rehnquist to the office of Chief Justice of the United States seems to boil down to an attack on his personal integrity. He is charged with holding opinions he disavows, and he is even condemned for groups he did not join.

Under the new standard raised by liberals, a man is guilty of insensitivity to individual liberties if he did not play an activist part in the civil rights movement of the 1960's and 1970's. This is guilt by "disassociation."

But even worse, Justice Rehnquist is accused of having beliefs which he has emphatically rejected. Time after time he has been falsely charged with opposing the Supreme Court ruling that desegregated public schools. This charge is made even though the record shows that Mr. Rehnquist testified eloquently on the fundamental correctness of this case, Brown versus Board of Education.

Speaking expressly of the ruling in Brown, Mr. Rehnquist said in 1971:

> I have, long before my nomination to the Supreme Court was made, felt strongly that the law of the land should be carried out in every part of the country and that resistance to it, whether in the name of interposition or something else in the South * * * couldn't be tolerated.

Yet he is charged with endorsing a school segregation memo he prepared alone or jointly with a fellow law clerk to Justice Robert Jackson back in 1952. Mr. Rehnquist explained that the position taken in this memo, which rejected judicial action to end classroom segregation, did not reflect his views. He was directed to take this line by Justice Jackson himself.

The opponents of Justice Rehnquist now make a serious accusation. They impugn the integrity of the nominee by proclaiming that his explanation "is not true."

Mr. President, it is not only the truthfulness of Justice Rehnquist they are doubting, it is that of Justice William O. Douglas, too.

Unlike the doubters, Justice Douglas was actually present in the conferences of the Supreme Court when the desegregation case was discussed. According to Bob Woodward and Scott Armstrong, authors of the Brethren, Justice Douglas:

> The only remaining member of the Court that had decided the Brown cases, examined a copy of Rehnquist's testimony. Rehnquist was correct, he told clerks. The views were, in fact, Jackson's.

Thus, not only do the accusers of Justice Rehnquist unfairly dishonor him, they also diminish the memory of the Justice who was widely recognized as the Court's "great libertarian."

Mr. President, in my statement on last Thursday, I called this frame of mind "liberal bigotry." Today, I have another name for it. More accurately, it might be termed "liberal McCarthyism."

If someone has not been an outspoken worker for liberal causes, he is un-American—unfit for high office. That is what the detractors of Justice Rehnquist seem to be saying.

His record is picked at selectively and distorted. The many cases in which Justice Rehnquist has decided for a civil rights plaintiff are ignored or dismissed out of hand. The cases in which he ruled against a civil liberties claim on the ground of statutory interpretation or federalism are portrayed as deliberate hostility to minorities or gender.

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Heads you win. Tails I lose. The opposition to Justice Rehnquist is that simplistic.

However much his critics may alter the facts, the truth is that Justice Rehnquist often joins with a liberal outcome when respect for the legislative branch or the tradition of federalism points toward such a result.

In Shopping Center versus Robins, 1980, Justice Rehnquist sustained the California Supreme Court in expanding the scope of free speech to a broader public forum.

In Moore versus Sims, 1979, Justice Rehnquist's opinion for the Court sided with a Texas statute granting greater protection to children, who it was feared, were the victims of child abuse.

In Ray versus Atlantic Richfield Co., 1978, Justice Rehnquist adopted a position, in dissent, that would have increased the environmental safety of the State of Washington's sounds and coasts.

In Kassel versus Consolidated Freightways, 1981, a Rehnquist dissent would have allowed Iowa to protect its motorists from the danger and annoyance the State government believed was posed by double trailer trucks.

And, in Meritor Savings Bank, decided June 19 of this year, Justice Rehnquist wrote the opinion of the Court upholding the right of a female employee to bring claims of sexual harassment against a bank vice president and the bank itself.

This case may be the leading women's rights case of the year. Justice Rehnquist's opinion hardly sounds like the grunts of a male chauvinist, as his critics have made out.

In fact, the minority views of the report on his nomination by the Judiciary Committee does not even mention this case. It does not fit their predetermined image.

Yet in this decision, only 3 months ago, Justice Rehnquist supported the individual rights of a midlevel female bank employee against the power and wealth of a big financial institution.

Contrary to his detractors, who argue that Justice Rehnquist stands for backsliding in civil rights, he broke new ground by deciding that title VII of the Civil Rights Act of 1964 is not limited to "economic" or "tangible" discrimination, but covers the entire spectrum of disparate treatment of men and women, including sexual harassment.

Not only did Justice Rehnquist uphold women's protections under title VII beyond the economic aspects, he held that the bank as well as its officers may be liable for sexual discrimination of this form.

Mr. President, his opponents are absolutely wrong when they bandy about charges of disdain for individual rights concerning Justice Rehnquist. They have not done their homework and are unfairly smearing a dedicated jurist who has a real human warmth and sensitivity to the interests of other individuals and their needs.

Justice Rehnquist possesses an abiding fidelity to the Constitution and his oath to uphold this sacred charter. He will make an excellent Chief Justice and I urge that we end the debate and confirm him posthaste.●

LEGISLATIVE SESSION

Mr. WEICKER. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEICKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1410

Mr. SYMMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS, FISCAL YEAR 1987

The Senate continued with consideration of the bill (H.R. 5234).

Mr. SYMMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Mr. President, I rise in strong opposition to the Proxmire amendment. It seeks to delete $90 million from the Forest Service budget for road construction. The roads in question are needed to provide access to national forest timber. The national forests supply about 23 percent of the softwood lumber products produced in the United States. Rough calculations indicate that the Forest Service timber sale program will be cut by about 25 percent if this amendment passes. To put it another way, according to Forest Service estimates, 24,000 people now working in the lumber industry will, in all probability, be out of work in the next few years. Mr. President, a few years ago we talked a lot about the misery index. I submit that this amendment will raise the misery index substantially, especially in the small Western communities where the sawmill that generates most of the towns payroll is heavily dependent on Forest Service timber.

If the Forest Service Timber Harvest Program was the scam and the pork barrel that proponents of this amendment seem to think it, is I would have to vote with them. Given the size of the deficit, it would be very hard to support a timber sale program that added to that deficit. However, I am convinced that the Forest Service Timber Program returns money to the Treasury. It is difficult to get a precise figure for several reasons. Probably the major problem is assigning values and costs to the nonmarket outputs that are associated with timber harvesting. A very significant share of the cost of the Forest Service Timber Sale Program is associated with providing for other resource and values. How much of this is charged, or should be charged, to the Timber Program?

Similarly, the cost of building Forest Service roads and harvesting Forest Service timber is often dramatically increased by provisions for protecting and enhancing other resources. How much of this should be charged directly to the timber sales? There are basic questions that involve subjective judgment. There will probably never be totally correct, precise answers. However, Forest Service calculations show net receipts of $107 million in 1985. I do not think that anyone else has a more accurate estimate. Remember, 1985 was a year of high demand but very low lumber prices because of the deluge of imported lumber from Canada.

Some of the rhetoric used in pushing this amendment is not very convincing. We are, for instance, told that the Forest Service just likes to build roads, and that they, therefore, build too many roads and build roads that are too big. I just do not believe this. The road builders—the engineers—do not dominate the wildlife managers, the landscape architects; the recreation specialists and the forest planners. By law and by practice the national forests are managed under the strategy of multiple use. No single use dominates although 95 percent of national forest receipts come from the sale of timber products. All major decisions are subject to public scrutiny and public input. The roads that are built are needed and they have to be justified. The Forest Service does practice multiple use.

We are also given the fascinating but irrelevant information that the mileage of roads on national forest land is equal to 14 times the diameter of the Earth. The additional calculation showing 1 mile of road per square mile of national forest land might be a little more meaningful. Incidently, this is much less than the road density usually required for efficient timber harvesting.

The real question is whether the road system is adequate to meet the objective of national forest management. On balance, I think it is. It bothers me that this debate has centered almost exclusively on the timber resource. It is true that most of the Forest Service roads are built—and fi-

nanced—as a function of the timber sale program. However, they serve a variety of other purpoes. For example, in fiscal year 1985 Idaho's national forests received 10 million visitor days of recreation use. Most of this use is tied directly to road access. Over the years, driving for pleasure has been identified as the most popular recreation use of the national forests. Again, most of the national forest roads were financed by the timber sale program. Without the timber sale roads many, many people would not be able to enjoy the national forests.

Out in Idaho and other Western States one of the worst fire seasons in many years is drawing to a close. Tens of thousands of acres of timber and grass land have been blackened to date in Idaho. It has been a real disaster. Much of the burned acreage was unroaded. An adequate road system, other things being equal, makes it much easier and much less expensive to control forest fires. Certainly, it is safe to say that without the miles of road that have been built to harvest timber the devastation would be even greater. Equally, an adequate road system facilitates other phases of forest management.

This issue is more than an abstract exercise in deficit cutting rhetoric to the people of Idaho. Extrapolating the national situation to Idaho indicates that, in the next few years, Idaho could lose about 10 percent of the jobs in its second most important industry if this amendment passes.

The lumber industry in the public land States is largely a captive of the Forest Service. The agency manages much of the available timber, dictates how it is to be harvested, fixes a minimum price for it and, by law, requires that other uses be accommodated equally in management decisions. At the other end of the chain, the Government, by controlling interest rates, controls the price the lumber will bring in the marketplace. It is totally unreasonable to expect every Forest Service timber sale to yield a profit. The laws directing the agency are not designed primarily to yield a profit. They are designed to provide the people of the United States with the most beneficial mix of goods and services over the long term from the national forests. This requires that an adequate investment be made in roads and other long-term improvements.

Mr. President, this amendment would damage the overall management of the national forests as well as the economy on many communities and the Western, public land States. It should be defeated.

Mr. President, I would like to praise the senior Senator from my State, the chairman of the committee, for the arguments he has presented. I would like to make a couple of additional very important points.

The national forests supply about 23 percent of the softwood lumber products produced in the United States. Rough calculations indicate that the Forest Service Timber Sale Program would be cut by about 25 percent if this amendment is adopted.

To put it another way, according to the Forest Service estimates, 24,000 people now working in the lumber industry in all probability would be out of work in the next few years, if the Proxmire amendment passed.

Mr. President, we have talked about the misery index a lot over these past years. I submit that this amendment will raise the misery index substantially, especially in the small western communities where the sawmill that generates most of the town payroll is heavily dependent on Forest Service timber.

Mr. President, we have counties in my State where 90 percent of the land is owned by the Federal Government, by the U.S. Forest Service. That makes these communities highly dependent on Federal land for their ability to obtain resources and provide jobs.

I think if this really were some kind of a scam or pork barrel, I would vote with my good friend from Wisconsin. But the proponents of this amendment really, I think, have missed the point.

It is necessary to have access to Government ownership lands in the Western States so that we can manage these lands in a proper fashion, with good watershed control, fire control, production control; so that we can harvest these trees as they grow old and stop growing, and replenish them with new trees. Then we will have forest growing for the next generation of Americans who will be coming on in the next 50 to 60 years.

This would be a very, very shortsighted amendment to not properly finance the building of roads in the national forest system.

Mr. President, I share the position of the senior Senator from Idaho.

Mr. PROXMIRE addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, Senator McCLURE's perfecting amendment is a token gesture. His tiny cuts of just $7 million in timber preparation costs and $8 million in roads offer little comfort to taxpayers while proving my point about economically inefficient sales.

In fact, the road cut would be less than 10 percent of the amendment that passed the Senate by a 50-to-43 vote would achieve.

He states that his amendment would bring the amount of timber cut down to the House level of 11.2 billion board feet. What does this mean? He proves that the extra roads he provides are indeed going into the least productive, most economically marginal areas. Here is why.

The President's budget provides $178 million for a 10 billion board feet cut for a cost of $17.8 million for each billion board feet.

By contrast Senator McCLURE reduces the timber cut by 200 million board feet but saves just $8 million in roads. This means that the President's timber offering is two and one-half times as efficient economically as the timber program added by Senator McCLURE.

Therefore, Senator McCLURE proves my point that his extra $59 million in roads over the President's budget goes to the most economically marginal areas for timber product and timber receipts to the Treasury.

No wonder we have so many below cost timber sales.

Mr. President, another point Senator McCLURE made this morning was that the Chinook salmon have returned to the Lower Salmon River, despite nearby logging. He is right, but why? It took 20 years for this great fishery resource to return to its normal level and restore the area to its condition prior to construction of a logging road. This proves my point that road building is the most environmentally damaging forest activity.

What is even worse, now the Forest Service is planning new road building activities in the very same area.

Mr. President, some forests make money and some do not. The most productive areas already have roads, like western Oregon. The best timber is also the most accessible and roaded first.

New funding for roads is going to the least productive, least accessible areas—rugged and at high elevation. That is the same area with the most below-cost sales.

In other words, the most expensive roads will go to least productive lands, lands which are underdeveloped for a good reason.

Most forests lose money and we throw good money after bad. To use the capital investment analogy is false. We never make up these deficits—Oregon and Washington make so much money in good years they cover losses in other areas, but a large proportion of the other areas are big losers.

Mr. President, the basic first-degree amendment cuts only $22 million below the President's level.

The Appropriations Committee added almost $70 million above the President's level. The committee's level provides more money than the administration thinks is needed to support its planned timber harvest.

The Forest Service has already built more roads than it needs to meet timber sales goals. The road system in

our national forests is 14 times the Earth's circumference. The system is cummulative, expanding each year, and absorbs almost one-third of the forest system expenditures.

There is plenty of timber which can be cut without resorting to increases in the forest roads budget such as use of purchaser credit roads.

The current timber market is soft and massive volumes of contracted for timber were returned to the Government under the timber buyout.

The Government loses money on timber sales in areas which will be accessed by new roads. The best, most productive timber areas like western Oregon are already roaded. New roads are being built into the more remote, least productive forest areas leading to even more loser sales. In other words, the most expensive new roads are going into the least cost effective areas.

Environmental damage is cummulative. Road building is the most environmentally damaging activity in the forest, even more than forest fires.

Roads eliminate wild land character. Lands with roads cannot be considered for wilderness designation.

This is the first Senate floor vote on public lands policy since the 1980 Alaska Lands Act. It is supported by 10 major environmental groups.

The Forest Service has enough money to habitually build more than the number of roads they have planned for—about 2,500 excess miles in the last 5 years alone. Every forest region enjoyed part of this surplus.

The OMB says that Forest Service costs for timber and mineral management exceeded the Federal share of forest receipts by $621 million in 1985.

Mr. President, I ask unanimous consent that a letter from the National Taxpayers Union dated today, September 16, 1986, supported the basic first-degree amendment and clearly opposing the amendment offered by Senator McCLURE be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL TAXPAYERS UNION,
Washington, DC, September 16, 1986.

DEAR SENATOR: The National Taxpayers Union urges you to support the Proxmire-Humphrey Amendment to H.R. 5234, the Interior Appropriations Bill. This Amendment would cut $90 million from the Forest Service road building program.

Since 1981, the Forest Service has built 2,500 more miles of road then originally planned by the Agency.

The network of logging roads is over 8 times longer than the entire Interstate Highway system.

The length of mileage of national forest roads is enough to circle the circumference of the earth 14 times.

The United States taxpayers shoulder the burden of the timber industry because the Forest Service spends more for this program than it gets back in receipts.

OMB estimates that the timber program lost about $600 million for the current fiscal year.

The biggest cost in the timber sales program is building logging roads.

Right now when it is imperative to cut spending, we believe it is contrary to the national interest to increase this area of the budget by $56.7 million which is in excess of the Administration request of $178.5 million and $110.7 million in excess of the House appropriations.

Sincerely,

JILL LANCELOT,
Director of Congressional Affairs.

Mr. PROXMIRE. I yield the floor.

Mr. SYMMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Mr. President, I just want to make a comment. I heard the comments of my good friend from Wisconsin. I think the record should be very clear on his reference to the South Fork of the Salmon River.

Mr. President, it is true that there were some roads put into the South Fork of the Salmon River and there was a siltation problem. What was not brought out was that the same siltation of the Salmon River took place in the winter of 1905 and silted the river up and it took a few years for the river to clean itself out again so that the Chinook salmon could come back up the river.

There were no roads in the area in 1905, but the weather and climatic conditions caused the siltation that went into the river.

These points need to be made clearly. We are captives of the Federal Government in those national forest communities. The Federal Government on one hand has programs and policies that have implications on interest rates, on home building, et cetera.

On the other hand, we have a Government monopoly that has control of the soft wood timber supplies in the Pacific Northwest and then they make it difficult, by the land laws we have passed, for the private enterprise wood processors to be able to bid for the timber. There are two sides on this.

Mr. President, this amendment would be clearly discriminatory and hostile to jobs and to people's ability to have homes and access to the national forests for all kinds of circumstances. I think it simply is in error to leave it here on this floor that somehow road building is bad for the environment in the national forest system.

It makes for better management, for better conservation, for better environments, for better recreation. I could go on and on.

I yield the floor.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, I fear that this vote has been designated by certain lobbyists as "the environmental vote" of this session.

Mr. President, that is far from true.

Mr. President, let me just indicate the largest timber production State in the Union happens to be my State of Oregon. For 8 to 10 years there was what we called the roadless area studies No. 1 and No. 2.

□ 1420

During that 8- to 10-year period, those lands became de facto wilderness. They were withdrawn from actual access for any timber sales. During that 8- to 10-year period, there was overcutting on that restricted Federal forest land base, severe overcutting in some instances.

Mr. President, this issue is not a question of road construction or roadbuilding alone. Let me remind Congress that in 1984, when the Oregon wilderness bill, which I offered, came to the floor and was acted upon, we had what we call release language in that bill, to release some 1 million acres of Federal forest land to be returned to multiple use and thereby broaden that base upon which the timber economy of Oregon depends and upon which the multiple-use forest management practices provide timber resources. In effect, that million acres of land have been restricted from any access for timber sales and we continue the overcutting policies on this restricted timber base.

I suggest that the way it could be applied in Oregon, this would be an environmental vote supporting environmental policies of a wise character to vote against the amendment by the Senator from Wisconsin and support the chairman and the subcommittee of appropriations headed by Senator McCLURE. For in effect, by providing the moneys for these roads, we can access some of that area that has been statutorily returned to multiple use and which has been, in effect, locked up, precluded from actually assessing and making judgments on a multiple-use basis.

In other words, we are going to continue to overcut Federal forest lands, which is not sound environmental practice, if the amendment of the Senator from Wisconsin is supported. It is an antienvironmental vote, that is what it is, because you are destroying Federal forest lands, in effect, slowly by overcutting. Give us an opportunity to fulfill the statutes that were passed in 1984 relating to release language and broaden that timber harvest base, at least in region 6 and particularly in the largest timber-producing State in the Union.

Mr. President, I appreciate the debate which has taken place over the matter of Forest Service roads and want to express my thanks to those of my colleagues who have given us an

opportunity to explain our position with regard to this matter.

Since we first brought this matter to the floor last week, and after talking with a number of my colleagues, I have come to realize that it has been almost 2 years since the full Senate has debated a major Forest Service matter and that there has been an unfortunate void of information about the status of Forest Service planning with regard to timber harvesting, road construction, and other recreational and wilderness uses.

I would like to take just a moment and depart from the Forest Service road issue, per se, and put into a broader perspective what we are dealing with here today.

Simply put, the issue is not funding for roads and how many miles of road will be built. The issue is whether millions of acres of land, which were being studied for potential wilderness designation but which were statutorily released by the Congress, can now be considered for potential access as timber lands.

I should point out that most of these lands were not available for timber harvesting during the nearly 8- to 10-year period in which the Forest Service was studying the wilderness issue and during which time Congress considered State wilderness bills. Because we give these lands temporary wilderness status until such time that Congress officially enacted wilderness bills, timber harvesting during this 8- to 10-year period took place on a small fraction of the total available land base causing severe overcutting on some national forests. It was our intent in passing these State willderness bills to finally decide which lands would be permanently protected as wilderness, and which lands would now become available for potential timber production and other multiple use purposes.

Without road money, those lands which were specifically released from wilderness designation by Congress will in fact continue to be managed as though they were wilderness. This defacto wilderness treatment is a serious breach of congressional intent which affects every Member of this body who has an enacted wilderness bill. It affects almost 1 million acres of released lands in the State of Oregon, and has the effect of nearly doubling the approximately million acres which we statutorily designated as permanent wilderness in 1984.

Mr. President, it is this question which is at the heart of the road debate and which should be very carefully considered by each of my colleagues. Are we going to allow congressional actions which were intensely debated for almost 8 years be undermined through the budget process? While I recognize that many of my colleagues were not a party to those original State wilderness bills, I for one, who authored the very first State wilderness bill with so-called release language, intend to uphold those original commitments to designate permanent wilderness lands in exchange for releasing other lands for multiple use purposes.

Mr. President, not only does a reduction of necessary road funding deny access to statutorily released lands but, as has been mentioned already in the debate, without these funds the Forest Service will be required to harvest timber off of already overharvested lands.

I thank my colleagues for the opportunity to explain this important piece of congressional history which is absolutely essential to understanding our position with regard to Forest Service road appropriations.

Mr. McCLURE. Mr. President, I suggest that anyone who wishes to participate in the debate should let us know, because I believe we are ready to vote. I shall not debate with my friend from Wisconsin any further. I do want to reiterate what the pending amendment that I have offered does.

First, it reduces the committee's recommendations for Forest Service sales from 11.4 billion board feet to 11.2 billion board feet, which is the same as the level established in the other body. By doing that, it reduces the amount which is necessary for timber harvest and sales administration by $7 million and the amount appropriated to roads by $8 million. This totals a $15 million reduction from the committee's previous recommendations.

Third, this amendment would redistribute that $15 million—$5 million to the Fish and Wildlife Service; $5 million to the National Park Service; and $5 million to the U.S. Forest Service—to various land acquisition programs including wetland habitat, endangered species habitat, hardships, inholdings, and recreation composites.

Mr. President, if there be no other Member seeking recognition for the debate, I suggest we have the vote with respect to the McClure amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment by the Senator from Idaho to the amendment of the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. WARNER (when his named was called). Mr. President, I have a live pair with the senior Senator from Utah [Mr. GARN], who is now in the hospital, as we know, recuperating. If he were present, he would vote "aye." If I were permitted to vote, I would vote "nay." I therefore withhold my vote.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. GARN] and the Senator from Pennsylvania [Mr. SPECTER] are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Missouri [Mr. EAGLETON] and the Senator from Louisiana [Mr. LONG] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 53, nays 42—as follows:

[Rollcall Vote No. 261 Leg.]

YEAS—53

Abdnor	Ford	Melcher
Andrews	Goldwater	Mitchell
Armstrong	Gorton	Moynihan
Baucus	Gramm	Murkowski
Boren	Grassley	Nickles
Boschwitz	Hatch	Packwood
Broyhill	Hatfield	Pressler
Burdick	Hecht	Quayle
Byrd	Heflin	Rockefeller
Chafee	Helms	Simpson
Cochran	Inouye	Stennis
Cohen	Johnston	Stevens
D'Amato	Kassebaum	Symms
Denton	Laxalt	Thurmond
Dole	Mathias	Wallop
Domenici	Matsunaga	Weicker
Durenberger	McClure	Wilson
Evans	McConnell	

NAYS—42

Bentsen	Harkin	Metzenbaum
Biden	Hart	Nunn
Bingaman	Hawkins	Pell
Bradley	Heinz	Proxmire
Bumpers	Hollings	Pryor
Chiles	Humphrey	Riegle
Cranston	Kasten	Roth
Danforth	Kennedy	Rudman
DeConcini	Kerry	Sarbanes
Dixon	Lautenberg	Sasser
Dodd	Leahy	Simon
Exon	Levin	Stafford
Glenn	Lugar	Trible
Gore	Mattingly	Zorinsky

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Warner, against.

NOT VOTING—4

Eagleton	Long
Garn	Specter

So the amendment (No. 2829) was agreed to.

□ 1450

AMENDMENT NO. 2777, AS AMENDED.

Mr. McCLURE. Mr. President, I ask unanimous consent that the order for the yeas and nays on the Proxmire amendment be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the Proxmire amendment, as amended by the McClure amendment.

The amendment (No. 2777) as amended, was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which

the Proxmire amendment, as amended, was agreed to.

Mr. MELCHER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Washington.

Mr. EVANS. Mr. President, I have an amendment that will take a very short period of time.

I understand the Senator from Illinois requested time first.

I yield to the Senator from Illinois.

Mr. McCLURE. Mr. President, I understand that the parliamentary situation is that the remaining committee amendment is the pending business.

I ask unanimous consent that it be temporarily set aside so that we may entertain the amendment of the Senator from Illinois.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Illinois is recognized.

AMENDMENT NO. 2833

Mr. DIXON. Mr. President, on behalf of Senator SIMON and myself, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. DIXON] for himself and Mr. SIMON, proposes an amendment numbered 2833.

Mr. DIXON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

"The Secretary of the Interior shall designate the visitor center to be associated with the headquarters of the Illinois and Michigan Canal National Heritage Corridor as the "George M. O'Brien Visitor Center" in recognition of the leadership and contributions of Representative George M. O'Brien with respect to the creation and establishment of this national heritage corridor."

Mr. DIXON. Mr. President, very briefly, this amendment sent to the desk on my behalf and on behalf of my distinguished colleague, Senator SIMON, reflects a vote of the Illinois congressional delegation, all 22 Members of the House and the two Senators, to name the visitor center at the I&M Canal Park in honor of George O'Brien, the distinguished representative and Congressman from that district who passed away a few weeks ago.

The chairman of the committee has graciously acceded to my request to accommodate me and the Illinois delegation in connection with this amendment.

I believe that there is no opposition to the amendment, it having been cleared by the manager of the bill and the ranking minority member.

Mr. McCLURE. Mr. President, we have no objection to the amendment.

Mr. MELCHER. Mr. President, this side agrees with the amendment also.

Mr. DIXON. Mr. President, I am very pleased that the distinguished floor manager of the Interior Department appropriations bill, Senator MCCLURE of Idaho, has agreed to accept my amendment naming the visitor center for the Illinois and Michigan Canal National Heritage Corridor after the late Illinois Congressman George O'Brien.

This is, indeed, a fitting honor to the memory of a man who, as much as any other, was responsible for the creation of the National Heritage Corridor.

George O'Brien passed away on July 17, but the contributions he made to his State and his country will live on for a very long time.

He was as dedicated a public servant as I have ever known, and by designating this visitor center with his name, we make him a permanent part of the project he worked so hard to bring into existence.

Mr. President, it was my honor to serve with George O'Brien in State government in Illinois and for almost 6 years in Congress.

He was, as I have said on this floor before, a charming man, a decent man, a fine man.

He was greatly beloved in his home district and in his hometown of Joliet—as well he should have been.

This National Heritage Corridor that he worked so hard on will, I think, ultimately, serve as his greatest legacy to the people of that district. It will bring tourism and other kinds of economic development to a part of our State that has faced difficult times in recent years.

It will bring jobs to the district, and new people to the district.

When they look around them and see the historic restoration projects that are a part of the corridor, and the recreation areas that are part of the corridor, and all the other things attributable to the corridor that will improve the quality of life in that part of Illinois, I hope they will think of George O'Brien.

Mr. President, naming the visitor center after George O'Brien will make it that much easier to think of him, and I am grateful to my colleagues in the Senate for accepting this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Illinois.

The amendment (No. 2833) was agreed to.

Mr. McCLURE. Mr. President, I ask unanimous consent that the pending amendment be temporarily laid aside so that the Senator from Washington may be recognized to offer an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair recognizes the Senator from Washington.

AMENDMENT NO. 2834

Mr. EVANS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Washington, [Mr. EVANS] for himself and Mr. GORTON proposes an amendment numbered 2834.

Mr. EVANS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 51, line 1, delete ":" and insert in lieu thereof the following: ", of which $165,000 is for completion of flood repairs at the Monongahela National Forest, of which $100,000 is for preliminary design and survey work on the Hat Point and Dug Bar Roads in the Hells Canyon National Recreation Area, of which $8,473,000 is for roads and parking at Mount St. Helens National Volcanic Monument, and of which $6,731,000 is for trail construction:".

Mr. EVANS. Mr. President, this amendment restates what is in the committee report with relationship to the amount of money to be set aside for the nonforest road portion of the large appropriation for forest roads.

It would specifically mention the amount of moneys for completion of flood repairs at the Monongahela National Forest, some money for preliminary design and survey work on the Hat Point and Dug Bar Roads in the Hells Canyon National Recreation Area, money for Mount St. Helens National Volcanic Monument roads and $6.7 million for trail construction.

My hope is by doing this we will ensure that those appropriations are clearly stated in the bill, that they will not be subject to the kinds of argument we might get into in conference as it relates to the remainder of the appropriation, that dealing with the forest roads themselves.

I believe it has been cleared on both sides of the aisle.

The PRESIDING OFFICER (Mr. ARMSTRONG). The Senator from Idaho.

Mr. McCLURE. Mr. President, we have no objection to the amendment.

Mr. MELCHER. Mr. President, this side agrees with the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Washington.

The amendment (No. 2834) was agreed to.

Mr. EVANS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MELCHER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

□ 1500

Mr. METZENBAUM. Mr. President, is it my understanding that the floor is open for amendment at this time?

The PRESIDING OFFICER. The pending business is the committee amendment.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the committee amendment be set aside so that I might be accorded the opportunity to offer an amendment having to do with the Mound City Group National Monument.

The PRESIDING OFFICER. Is there objection? Without objection, the committee amendment is set aside.

AMENDMENT NO. 2835

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM] proposes an amendment numbered 2835.

On page 15, line 4, strike "70,900,000" and insert in lieu thereof "71,900,000"

Mr. METZENBAUM. Mr. President, my amendment appropriates $1 million to add 150 remaining acres to the authorized boundaries of the Mound City Group National Monument in Chillicothe, OH.

These additional acres, called the Hopeton Earthworks, have been designated as a national historic landmark and have been authorized since 1980 for addition to the National Park System.

The Mound City Group National Monument was established in 1923 to commemorate the Hopewell Mound Builders, whose interesting culture flourished between 300 B.C. and A.D. 600. The addition of the Hopeton Earthworks will greatly enhance the archeological significance of the monument.

This site is thought to have been the religious center of the Hopewell civilization, and archeologists believe that it may be the most significant Hopewell Earthworks in North America. Further research at this site promises to reveal a great deal more about the Hopewell Mound Builders and about America's native societies in general.

We must act now to protect the valuable resources on this site from farming and other commercial activities, which unfortunately have already damaged the site. In fact, the Hopeton Earthworks has been placed on the list of damaged and threatened national historic landmarks.

The current owners can no longer afford to withdraw this land from commercial use, and continued farming activities on this land will forever destroy its historical value. Therefore, it is imperative that Congress appropriate the full $1 million for the urgently needed acquisition of the Hopeton Earthworks at Mound City Group National Monument.

Mr. McCLURE. Mr. President, my understanding is that the Congressman in whose district this is located, Congressman McEWEN, supports this amendment.

Mr. METZENBAUM. That is correct.

Mr. McCLURE. Mr. President, I have no objection to the amendment.

Mr. MELCHER. Mr. President, we have no objection to the amendment, either.

The PRESIDING OFFICER. Are you ready for the question on the amendment? The question is on agreeing to the amendment.

The amendment (No. 2835) was agreed to.

Mr. METZENBAUM. Mr. President, if I may have the floor for just a few moments in connection with a colloquy having to do with the Cuyahoga Valley National Park.

Mr. McCLURE. Mr. President, I ask unanimous consent that the pending amendment be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Ohio.

CUYAHOGA VALLEY NATIONAL RECREATION AREA

Mr. METZENBAUM. Mr. President, I thank the manager of the bill.

Mr. President, the House Interior appropriations bill contains $4.5 million for land acquisition for Cuyahoga Valley National Recreation area. The Senate version of the bill does not contain those funds. I believe it is important to continue to acquire acreage for this park which provides so many recreational opportunities for Ohio.

I understand the problems that the subcommittee chairman will face in conference in reaching an agreement within the budget resolution totals. I also understand that he has also agreed to provide funding for a number of Ohio land acquisition projects.

I merely ask the chairman whether or not I may have his assurance that he will give serious consideration to the needs for this additional funding for the Cuyahoga Valley National Park.

Mr. McCLURE. Mr. President, if the Senator will yield.

Mr. METZENBAUM. I certainly do yield.

Mr. McCLURE. Mr. President, the Senator correctly states our dilemma. The limitations of our 302(b) allocation gives us very, very tight authorization and outlay ceilings. Within that, we must necessarily establish priorities.

The Cuyahoga land acquisition did not meet that test in the current round of deliberations. It will be a new issue and it certainly will be—I should not say new, but it will be again raised in the conference and we certainly will give it very serious consideration at that time.

Mr. METZENBAUM. Mr. President, I appreciate the chairman's willingness to do that. Cuyahoga Valley National Park is one of the few urban parks located between the west coast and the east coast. It has been a real asset to people in that area and has given them an opportunity to enjoy some of the parklands that are quite limited in that particular part of the State.

I very much appreciate the chairman's willingness to give this matter serious consideration. I hope he will look favorably upon the allocation at the time the conference committee is in its deliberations.

EXCEPTED COMMITTEE AMENDMENT

Mr. McCLURE. Mr. President, I believe we are ready to adopt the remaining committee amendment and I would ask that it be presented and voted on.

The excepted committee amendment reads as follows:

EXCEPTED COMMITTEE AMENDMENT

Provided further, That for expenses necessary to carry out the mission of the National Park Service for a period of time not to extend beyond fiscal year 1987, the Secretary of the Interior is authorized to charge park entrance fees for all units of the National Park System of an amount not to exceed $3.00 for a single visit permit as defined in 36 CFR 71.7(b)(2) and of an amount not to exceed $7.50 for a single visit permit as defined in 36 CFR 71.7(b)(1); *Provided further,* That the cost of a Golden Eagle Passport as defined in 36 CFR 71.5 is increased to a reasonable fee but not to exceed $25.00 until September 30, 1987: *Provided further,* That for units of the National Park System where entrance fees are charged the Secretary shall establish an annual admission permit for each individual park unit for a reasonable fee but not to exceed $15.00, and that purchase of such annual admission permit for a unit of the National Park System shall relieve the requirement for payment of single visit permits as defined in 36 CFR 71.7(b): *Provided further,* That funds derived from increasing National Park Service entrance fees pursuant to this Act shall be credited to the Operation of the National Park System appropriation account and shall be available, without further appropriation, for expenditure as determined by the Director of the National Park Service, first, to defray the cost of collection; second for maintenance, interpretation, research, and resources management at the collecting unit; and third, for maintenance, interpretation, research, and resources management at all units of the National Park System during fiscal year 1987.

The PRESIDING OFFICER. Is there further discussion? If not, the question is on the committee amendment.

The committee amendment was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which

the committee amendment was agreed to.

Mr. MELCHER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TIMBER SALES

Mr. PRESSLER. Mr. President, I would like to engage in a brief colloquy with the chairman concerning the timber sales portion of the amendment. I am concerned that if a reduction in timber sales is agreed upon it will all be taken out of one or two regions of the Forest Service. This could cause an economic disaster for certain areas. For example, the timber industry in South Dakota has less than 2 years supply of timber under contract with the Forest Service. This is a dangerously low level. If the Black Hills received a sizable reduction in timber offered for sale in 1987, several small sawmills in the area could be forced to shut down. The loss of one or two sawmills in the Black Hills would be a severe blow to the region. Mr. Chairman, under your amendment would any of the Forest Service regions have their total timber sales reduced below 1986 levels?

Mr. McCLURE. No. None of the Forest Service regions timber sales would be reduced.

Mr. PRESSLER. Under the amendment, the Black Hills National Forest would offer at least the same amount of timber for sale in 1987 as was offered in 1986?

Mr. McCLURE. Yes. There would be no reduction in timber sales for the Black Hills National Forest.

Mr. PRESSLER. Could the Black Hills National Forest potentially receive an increase in timber sales?

Mr. McCLURE. Yes. An increase in timber sales could possibly occur.

Mr. President, I know of one more amendment to be offered. There may be one other, but I would urge that if any Members are listening or if their staffs are listening, that they be advised that I think we are about to complete action on this bill.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCLURE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2836

Mr. McCLURE. Mr. President, I send an amendment to the desk on behalf of myself, Senator BAUCUS, Senator GORTON, and Senator EVANS and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. MCCLURE], for himself, Mr. BAUCUS, Mr. GORTON, and Mr. EVANS, proposes an amendment numbered 2836.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

On page 50, strike lines 9 through 18, and insert the following:

The Forest Service is to continue to complete as expeditiously as possible development of land and resource management plans to meet the requirements of the National Forest Management Act of 1976 (NFMA). Notwithstanding the date in section 6(c) of the NFMA (16 USC 1600), the Forest Service may continue the management of units of the National Forest System under existing land and resource management plans pending the completion of plans developed in accordance with the Act. Nothing shall limit judical review of activities on management units of the National Forest system, provided, however, such challenges are not intended to invalidate in its entirety any existing land and resource management plan developed under authorities other than section 6(c) of the NFMA.

Mr. McCLURE. Mr. President, this amendment arises out of a provision in the bill which deals with the status of the management of Forest Service units that have existing plans that have not been restated in the adoption of the new plans required by current law. That language appears on page 50 of the bill.

There was some concern that the language used by the committee was less precise than we had believed it to be and there were those who suggested that a change should be made to eliminate any possibility that the language might inadvertantly, or some might have felt intentionally, impinge upon the enforcement of provisions of the Endangered Species Act and a variety of other independent statutes. It was never the intention of the committee to do so.

There has been ongoing discussion over the last several days and intensive discussion in the last several hours to try to arrive at an accommodation that more clearly expresses both what was intended and what was not intended with respect to that provision. This amendment which has now been offered encompasses that agreement. I hope that all the parties who are involved are satisfied with what is a genuine attempt to come to an agreement on what the language should say.

Senator BAUCUS has been particularly helpful. He and his staff have worked very difficult language through the discussion process. Senator EVANS and Senator GORTON have also been very directly involved in those discussions, as have their staffs. There are others also who have been involved.

I think this is a good agreement of a potentially contentious issue and I believe—and hopefully I state as a fact—that it has removed the contention. I urge the adoption of the amendment.

The PRESIDING OFFICER. Is there further discussion on the amendment?

Mr. BAUCUS. Mr. President, I commend the Senator from Idaho, the chairman of the appropriations subcommittee, for his very diligent work in this regard.

I understand the intent of the Senator from Idaho to try to move the forest plans along and also in a way which does not obstruct other laws that we have in our country, namely, environmental laws, as well as NEPA.

The language was not as clear, probably, as it could have been at first. We have worked very conscientiously on all sides to make it clear that, while the Forest Service continues to operate the forest plans, they be operated in a way that does not contravene or make obsolete—or nugatory, if I can use that word—frankly, the other environmental laws which would apply.

□ 1510

That is, the NEPA as well as the Endangered Species Act and other relevant environmental laws should apply here. They should not be overruled. They should not be exempt from the application of the forest lands by the Forest Service.

I commend the chairman for working out this language. I am glad we have a resolution of this rather than another attempt to frankly offer an amendment to strike the language which I think would cause more problems than it would solve. So I thank the Senator.

I commend the committee for including language in the Interior appropriations bill to encourage the Forest Service to complete as expeditiously as possible development of land and resource management plans to meet the requirements of the National Forest Management Act [NFMA] of 1976. Congress needs to do all it can to encourage the Forest Service to implement the plans required by section 6 of the NFMA.

When the National Forest Management Act was passed in 1976, a target date of September 30, 1985, was included in the bill as a goal for the Forest Service to shoot for as the date to have all plans required by the act in place.

To date, 69 national forests out of the 123 national forests in the systems do not have final plans in place.

While the number one goal is to complete the development of these final plans, in the interim, there is a need for forest management activities to continue. The National Forest Management Act envisons that during this

interim period, existing land and resource management plans may be available for the Forest Service to use.

The passage of the September 30, 1985, implementation goal dates leaves open the question of whether these existing plans are available to provide management direction for national forests during the interim.

We should not subject the timber industry, recreationists, conservationists or any user of our public lands to the uncertainty of not having a plan in place to guide management of a national forest.

While I comment the chairman for attempting to remove this uncertainty, I am concerned that by adding the phrase, "notwithstanding any other provision of law," in the language of the committee bill, the Forest Service would be broadly exempted from a variety of environmental laws, land management statutes and court decisions.

The National Environmental Policy Act, the Clean Water Act, the Endangered Species Act, the Wilderness Act, the Multiple-Use Sustained Yield Act, the California versus Block judicial decision as well as all of our other environmental and land use statutes would be voided.

This language would have provided a "carte blanche" authority to ignore provisions of these laws. The only requirement on the Forest Service would be to ensure that any timber management decision comply with an existing unit or other management plan.

This language would have just the opposite effect of getting national forest management plans in place. It would have created a huge incentive to continue using existing plans since they would be exempt from all environmental laws.

It is my understanding that it was not the intention of the chairman to have this broad of a reach.

I want to commend the chairman for his willingness to try to find a way to narrow the scope of his amendment.

The chairman has expressed a concern that, without some protection of existing plans while NFMA plans are being developed, a national forest unit could find itself in a situation where some group or individual successfully challenges an existing plan in court, resulting in a forest having no management plan in place.

A national forest would then find itself forced to go back and redo the existing plan when Congress has clearly stated that it is its intent that the plan required by the National Forest Management Act be completed as quickly as possible.

This concern is a valid concern that I share with the chairman. It is in no one's interest to have a situation where a national forest must make a choice between expending large sums of time and effort to correct an existing plan or to risk doing a haphazard job of completing the plan required by the National Forest Management Act.

Plans developed under the National Forest Management Act are meant to set the direction for the management of our national forests for the next 50 years. They need to be conceived carefully and implemented carefully.

It is my understanding that the chairman's concern goes most directly to National Environmental Policy Act challenges.

While we need to avoid judicial challenges which overturn entire plans, it is critically important that individual activities be fully challengeable.

When Congress passed the National Forest Management Act in 1976, it was implicitly recognized that pre-NFMA management activities were, and would continue to be, subject to compliance with NEPA. According to 16 U.S.C. 1604(g)(1), the Forest Service was directed to develop regulations which would "specify procedures to ensure that land management plans are prepared in accordance with the National Environment Policy Act." In explaining this language, the Senate report stated that the provision "is neither intended to enlarge or diminish the Forest Service's responsibilities under [NEPA]." (U.S. Code Cong. & Ad. News, 94th Cong., 2nd Sess. 27, p. 6693) Exempting the Forest Service's activities from NEPA compliance changes the Forest Service's obligations under NEPA in a manner not contemplated when the statute was passed.

As a practical matter, the proposal amends both the National Forest Management Act, by exempting pre-NFMA activities of the Forest Service from NEPA review, and the National Environmental Policy Act, by exempting a significant proportion of an agency's activities from its scope. This proposal is properly the province of the Senate Energy and Natural Resources Committee, and the Senate Environment and Public Works Committee. However, no proposal to amend NFMA in this manner has ever come before either committee. Nor has this proposal in any form been the subject of public hearings in either the authorizing committees or the appropriations committee.

Under current law and established practice, the Forest Service is obligated to assure that its activities comply with NEPA. Road construction and timber sale activities in particular have environmental consequences which are properly examined under auspices of NEPA, and Council on Environmental Quality and Forest Service regulations implementing that statute. Certain programmatic activities with long-term environmental implications also fall under NEPA. For example, long-term timber sale plans may govern timber management activities on national forests for decades. If the Forest Service is exempted from compliance with NEPA, there is: first, no assurance that proposed activities will be adequately scrutinized to assure that environmental laws are complied with and environmental values protected; second, the Forest Service may continue to propose or carry out timber management activities which will degrade environmental quality in national forests not governed by new forest plans; and third, the public will have no way of assessing the environmental compatibility of proposed forest management actions or of taking legal action to assure that the environment is protected.

While a distinction between NEPA challenges to individual activities and NEPA challenges to plan can be made in theory, these types of distinctions are almost impossible to make in fact. Plans provide the basis for individual activities. Although individual forest activities such as a timber sale often involve the development of new data and, therefore, an expanded NEPA review, they are generally based upon some plan. There is no clear fixed line between the two actions.

An artificial legislative distinction between plans and activities could be drawn, but its language would need to be so vague that it could actually lead to more litigation and delay rather than less. We would arrive at exactly the opposite effect that I desire to see.

I commend the chairman for his willingness to address this difficult policy issue. I offer a substitute amendment that first, encourages the Forest Service to expeditiously complete plans required by the National Forest Management Act; second, maintains existing plans until NFMA plans are in place; third, ensures that individual activities remain subject to all environmental laws; and fourth, clearly states that it is the intention of Congress that entire existing plans not be invalidated.

The amendment the chairman offers as a substitute is intended to address the concerns that have been raised without violating any of our environmental or land use laws. I appreciate the chairman's willingness to work with me to resolve this issue and rise in support of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Idaho.

The amendment (No. 2836) was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MELCHER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MATHIAS. Mr. President, in 1978 I sponsored legislation authorizing the purchase of a historic property in southern Maryland known as Habre de Venture. This was the home of Thomas Stone, who, as one of three Maryland delegates to the second Continental Congress, signed the Declaration of Independence on July 2, 1776. In 1771, Thomas Stone built his plantation near the thriving river town of Port Tobacco. He lived in the house throughout his most politically active years, and on his death in 1787, was buried next to his wife in the family graveyard near the house.

Shortly before the legislation authorizing the property's purchase by the National Park Service was passed, tragedy struck Habre de Venture in the form of a fire early on New Years Day 1977, severely damaging this historic house. Since then, the property, now officially known as the Thomas Stone National Historic Site, has been deteriorating and is now in danger of being lost.

I bring this to the attention of the Senate because I feel it would be a grave error if the National Park Service allowed this historic property to decay beyond the possibility of restoration. I hope the Senate will encourage the Park Service to undertake expeditious efforts to restore this property and to open it to the public for educational and cultural purposes.

Mr. McCLURE. Mr. President, I concur with the concerns expressed by the Senator from Maryland. It would indeed be unfortunate for such a significant treasure of American history to be lost forever while it is in our capability to act quickly to preserve Habre de Venture. As chairman of the Interior Subcommittee of the Appropriations Committee, I will look forward to receiving specific plans from the National Park Service for the restoration of this historic property in the immediate future.

Mr. MATHIAS. Mr. President, I thank the Senator from Idaho for his concern for the future of the Thomas Stone National Historic Site. With its location so convenient to the Nation's Capital, I hope we all shall soon be able to visit a restored Habre de Venture. More Americans will then be able to appreciate its architectural merit and its significance as the home of a distinguished Marylander and a founder of our country.

Mr. MURKOWSKI. Title I of H.R. 5234, the Department of the Interior appropriations bill, authorizes the National Park Service to charge park entrance fees for all units of the National Park System. Is it my understanding that this provision would not supersede section 203 of the Alaska National Interest Lands Conservation Act which states that "no fees shall be charged for entrance or admission to any unit of the National Park System located in Alaska." Is my understanding correct? Would an amendment to the legislation be necessary to clarify this interpretation?

Mr. McCLURE. The Senator's understanding is correct, and no amendment to this provision is necessary.

Mr. MURKOWSKI. Are there any parks in Alaska not established by ANILCA that would be authorized to charge recreational fees?

Mr. McCLURE. Currently, none of the 23 units of the National Park System in Alaska may charge entrance or admission fees. This legislation would not change that situation.

Mr. MURKOWSKI. I thank the Senator for that clarification.

AMENDMENT NO. 2837

(Purpose: To fund the acquisition of land in Lake Clark National Park and Preserve)

Mr. McCLURE. Mr. President, I send an amendment to the desk on behalf of Mr. STEVENS and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. McCLURE], for Mr. STEVENS, proposes an amendment numbered 2837.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 15, line 4, strike out "$71,900,000" and insert in lieu thereof "$73,400,000

Mr. STEVENS. Mr. President, my amendment would add $1.5 million to the Park Service's land acquisition account to fund the purchase of approximately 3,000 acres on the shores of Lower Tazimina Lake in the Lake Clark National Park and Preserve from the Native corporation for the village of Nondalton.

The purchase of this high-quality recreational land was originally funded in the fiscal year 1986 Interior Appropriations Act, but the Park Service, for reasons that I have not yet uncovered, chose to reprogram those funds. My amendment will allow the Lower Tazimina Lake purchase, arrangements for which are nearly complete, to go forward.

I believe that my amendment has been cleared by the managers of the bill on both sides.

Mr. McCLURE. Mr. President, we have no objection to the amendment.

Mr. MELCHER. Mr. President, we have no objection on this side to the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Alaska.

The amendment (No. 2837) was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MELCHER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCLURE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MELCHER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2838

Mr. MELCHER. Mr. President, I send an amendment, to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Montana [Mr. MELCHER] proposes an amendment numbered 2838.

Mr. MELCHER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

No more than $400,000 made available to the Forest Service for obligation in fiscal year 1987 shall be expended to support Washington office staff in the development of the RPA: *Provided*, That this shall not reduce funds available for the development of forest plans pursuant to the National Forest Management Act of 1976.

Mr. MELCHER. Mr. President, the bill contains a limitation of $500,000 to be made available for the Forest Service during fiscal year 1987 to be spent on sections 3 and 4 of the Forest and Rangeland Renewable Resource Planning Act.

Mr. President, I object to the language as it is in the bill in identifying sections 3 and 4 which are pretty basic in the whole RPA process. The accommodation or agreement that has been reached between myself and the manager of the bill, the distinguished Senator from Idaho, the chairman of the subcommittee, has been that we will limit it to $400,000, and that we do not mention sections 3 and 4 which are sort of preliminary and basic work for the whole RPA, but that we limit it to how much can be spent right here by the Forest Service in Washington, in headquarters.

This will get the attention of the Forest Service which we would like to see. Most of the RPA work is done out in the field anyway. That is where the trees, the grass, the wildlife and the rivers and the streams are. Let them do it out there. That is where they

should be doing the work for RPA, and also we hope they will be more prompt in bringing their RPA work up to an acceptable level and timeframe. We think this amendment might accomplish that purpose.

I am pleased that the distinguished Senator from Idaho is willing to accept this amendment.

Mr. President, for purposes of clarification, I ask unanimous consent that I may be permitted to modify my amendment in the form that I send to the desk.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

Mr. MELCHER. I thank the Chair.

The amendment (No. 2838), as modified, is as follows:

On page 59, strike lines 6-11, and insert the following:

No more than $400,000 made available to the Forest Service for obligation in fiscal year 1987 shall be expended to support Washington office staff in the development of the RPA: *Provided*, That this shall not reduce funds available for the development of forest plans pursuant to the National Forest Management Act of 1976.

Mr. McCLURE. Mr. President, there is no objection to the amendment on our side of the aisle.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Montana.

The amendment (No. 2838), as modified, was agreed to.

Mr. MELCHER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HART. Mr. President, will the distinguished Senator from Idaho yield?

Mr. McCLURE. I am happy to yield to the Senator from Colorado.

Mr. HART. Mr. President, for purposes of clarifying what procedure we are going to follow now, the Senator from Montana as well as the Senator from Colorado are interested in a proposed settlement by the Interior Department having to do with a rather large number of acres of oil shale lands.

If I could have the attention of the Senator from Montana, I would just ask how the distinguished minority floor manager would care to proceed on this issue. I have an amendment which would affect this issue. I know he has given some thought to the same matter. We can proceed as he wishes.

Mr. MELCHER. To respond to the distinguished Senator from Colorado, both he and I have about the same amendment. I would suggest we join together in offering the amendment regarding the shale settlement in Colorado.

Mr. HART. The Senator from Colorado is certainly agreeable to that. I can offer my amendment at this point with the Senator as cosponsor or vice versa, either way.

Mr. MELCHER. I would appreciate being a cosponsor.

AMENDMENT NO. 2839

(Purpose: To prohibit for a period of 180 days the use of funds appropriated in this Act for the patenting of any unpatented oil shale claims filed prior to passage of the Mineral Lands Leasing Act of 1920)

Mr. HART addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. HART. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Colorado [Mr. HART], for himself and Mr. MELCHER, proposes an amendment numbered 2839.

Mr. HART. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title I, add the following new Section,

SEC. 112. Notwithstanding any other provision of law, no funds appropriated by this Act shall be available for the implementation, by the Secretary of Interior or the Attorney General or any other officer acting on behalf of the United States, of the "Agreement to Settle Pending Litigation Between the United States and the Owners of Certain Oil Shale Mining Claims in Colorado," dated August 4, 1986, or for the patenting of any other oil shale placer claims located prior to passage of the 1920 Mineral Leasing Act, for a period of 180 days from the date of enactment of this provision, in order to provide a period for Congressional review of this agreement.

□ 1520

Mr. HART. Mr. President, this amendment would prohibit the use of Interior funds to implement a settlement reached this summer by Federal attorneys transferring 82,000 acres of public land in Colorado to private ownership.

The proposed transfer of these acres has disturbed a great many people in my State. And it ought to disturb a great many more people, wherever they live. I know that a number of other Senators and Members of Congress have read of this settlement with disbelief.

The amendment would postpone execution of this settlement for 180 days. This would allow Congress the opportunity it has thus far been denied—the opportunity to review this settlement and examine both its logic and its consequences, and its soundness as public policy in the interest of the stewardship of public domain and public resources.

The House of Representatives tried in August to obtain time for such review and was denied on a procedural technicality. Since then, the distinguished ranking minority member of the Senate Energy Committee, the Senator from Louisiana [Mr. JOHNSTON] has sought documents from the Department of the Interior so he could assess the settlement. He waited a month before receiving those documents last week.

The legal history behind this case is complicated. But the current situation is plain enough. The Federal Government has signed a voluntary agreement conveying title to more than 80,000 acres of public land in Colorado to private ownership. And the price is an absurd $2.50 an acre.

This settlement has disturbed ranchers who graze their livestock on these lands. It has disturbed wildlife enthusiasts, who know these lands as the habitat of the largest herd of migrating deer in the country. It has disturbed public officials at the local, State, and Federal level, many of whom discovered the existence of this settlement in the newspapers. And it has disturbed taxpayers, who have seen their land sacrificed at a microscopic fraction of its true value.

But when this deal was struck, Mr. President, there were no ranchers at the table. There were no spokesmen for the hunters, no conservationists, no State officials, no local officials, no elected representatives and no advocates for the taxpayer.

The deal was done on the quiet. It was revealed to the public only by the efforts, apparently, of a few public servants who were angered by the undermining of the public trust.

And so there is no misunderstanding on this score, we should note what the negotiators did when they found out Congress wanted to let a little sunshine in on their proceedings. They met into the night to finish before Congress could have a look at what they were up to. That ought to tell us something.

Mr. President, setting aside for a moment the agreement itself, the way in which this agreement was reached suggests we should have had a look at it, long ago. I hope it is not too late to look at it now. And that is what this amendment is about.

The Government's own attorneys have been quoted in the press saying that portions of this land could sell for $2,000 an acre. And when oil shale was last attracting attention, leases were sold in the area for as much as $40,000 an acre.

The Government attorneys who signed this settlement tell us they had to settle because of an unfortunate ruling by a Federal district judge. But

experienced attorneys in natural resources—attorneys who have worked on this issue, inside the Government and out, for a quarter century—tell me that district court decision was so extreme as to demand appeal.

Both the Colorado director of the Bureau of Land Management and the Department's regional solicitors urged the Washington office to appeal. But the decision in Washington was to throw in the towel instead.

The Interior's attorneys tell us their chances in appellate court were not worth the risking of what they call their precious litigation resources. But this Senator finds it remarkable that the Interior solicitor's office—and even the Department of Justice—fancy themselves free to weigh their internal budgets against their responsibility to the public and in the public interests. If this judge made a bad decision, Mr. President, it should be appealed on principle.

We are also told the district judge's decision would harm Federal rights with respect to other minerals—minerals that Interior must value more than oil shale. If that is so, then it is all the more reason to appeal this decision and root it out of the law.

We are told that a loss on appeal would be worse than a settlement, but let us consider what we are left with now. We have the district judge's decision, fully reported and published, and a promise that it will be vacated as moot under the agreement.

But decisions so vacated have been cited before. Moreover, other claimants wait in the wings, eager to patent claims on three times the acreage involved in this case—claimants who now know just where to turn for jurisprudence.

And we now have a clear signal from Interior for the oil companies: Your claims may have languished for generations—you may not have even proven the actual discovery of oil shale—but now you can own Federal lands for less than it costs you to park at the courthouse.

For the ranchers whose costs will rise, for the hunters whose grounds will be closed, and mostly for the taxpayers who have a right to expect far more in exchange for public resources, this Government ought to do better.

Mr. President, I believe we can do better. In the other body, the chairman of the Mining Subcommittee of the Interior Committee has introduced a sensible bill. It would clarify the intent of the 1972 Mining Act once and for all, which is the principal legal and policy issue here.

It would make clear that claimants were always expected to demonstrate a continuing interest in their claims through regular assessment or development work. It would make clear that mining claims were meant to be mined. If no resource is present that can be mined for profit, these claims serve no purpose other than land speculation. And no one has ever contended the 1872 act was intended to facilitate land speculation.

That bill is now before the House Interior Committee. This Senator intends to offer a companion version of this bill in the Senate, and this Senator hopes that full hearings on that bill will be held in due course.

In the meantime, Mr. President, we can make the first, simple step toward stopping this abdication of responsibility right here and now—by adopting this amendment.

Mr. MELCHER addressed the Chair.

The PRESIDING OFFICER (Mr. HELMS). The Senator from Montana.

Mr. MELCHER. Mr. President, as the Senator from Colorado has stated, this litigation extends back for more than a quarter of a century. It might be argued that if anything is in court that long, maybe it is a good thing to settle it, as the solicitor, off the top of his head, decided. I am speaking of the solicitor for the Department of the Interior, who decided to get out of court. He said "There is too much litigation."

Well, I cannot believe that we knew what we were doing when we confirmed that solicitor.

Do you know what is involved here? What is involved is the 1872 Mining Act and people who want to say, "Well, it is outdated."

It is not outdated so much that we cannot sort out the facts. The question is whether these applications, which were made beginning in the early days of this century, have remained valid claims. The judge in Colorado in the Federal district court found some rationale and he ruled they were valid.

You just do not get these claims for nothing. You have to have some annual work, some performance, on these claims or you lose your rights. Often it is hard to demonstrate whether the proper amount of work was done. To think that anybody did much work on these claims prior to 1920 or after 1920 to maintain the validity of the claim is really stretching the point.

It was fully intended by the attorneys out there in Colorado working for the BLM, for the Department of the Interior, that after the judge finally ruled it would be appealed to a higher court. All of a sudden the solicitor decided there would not be any appeal, and that he would just make a settlement.

What does a settlement mean in this case? It means that the clear title to these acres of Federal land will be transferred to the companies in the settlement once they have paid $2.50 per acre for the cleared title.

Well, land values have gone down, but not that much. Not that much at all. I do not know why a solicitor would decide on his own to settle. The policy of Congress has always been, for at least years, that we retain Federal land.

For example, it was enunciated in the Federal Land Policy Management Act of 1976 that we would retain Federal land and Federal ownership and use it for multiple-use purposes. So, it seems to me that some of these corporations would be particularly embarrassed by this settlement.

□ 1530

It might be argued by the solicitor, or by anybody on this floor, or anywhere else in this town, that all that claimants are allowed under the law to pay for this land is $2.50. I do not think that arguments gets very far on the Senate floor, in the other body, or in this town or anywhere else in the country.

The amendment is rather straightforward. It says that there will not be anything done further on the "Tosco Settlement" for 180 days in order to provide for some time for Congress to review it. I think Congress had better look at it.

I cannot imagine that corporations such as Exxon want to have this tag placed on them: that they are picking up land out of the graciousness and the generosity of the solicitor of the Department of the Interior for $2.50 an acre.

Exxon has not called me—I hope they do—to tell me whether they think it is good public relations to create that kind of public image. I do not think they do.

I do not know whether the Federal judge in Colorado thought that his ruling would not be appealed. I would speculate that he probably felt it would be appealed. But if there were going to be a settlement by the Department of the Interior to sell the land, I would think they would want to consult with Congress on whether it would be acceptable. And particularly would it be acceptable at the ridiculously low figure of $2.50?

We just talked about the current value of the land. Is there any likelihood that there will be oil shale development? Probably not. I know we have spent some Federal dollars in experimentation to see whehter it could be developed if oil were costing, say, $50 or $65 a barrel. Nothing has proved satisfactory yet. Whether oil would be developed, out of this shale, I do not know. If it were to be developed, it should not pass out of Federal ownership.

As far as we know now, if you can extract the oil from this shale, you will end up with a different type of material, which perhaps we should not call shale any more. You will end up with a material which is about three or four times larger than it was when

you started. And where is that supposed to go? What would be done with it? That is part of the experimentation that is necessary to see whether development will ever be feasible. So, if there were a lot of oil to be extracted out of this shale, we would still have the problem of what happens to the land afterwards. What do you do with a material which has a greater volume than you started out with, particular when it is three or four times greater, unless there is a better technology. Maybe at some time there will be a better technology but it is not here with us now.

What would be the effect on the land? I thought the Senator from Colorado was quite restrained in his remarks that ranchers really did not know much about this when it was done; the sportsmen out there did not really know much about it before the agreement was struck; and Congress certainly knows very little about it. In fact, it is a most unusual procedure to dispose of public land as a settlement in a court case, at the Federal district court level, when the people involved—those working with BLM, the Department of the Interior and the Department of Justice—felt it was going to be appealed. Particularly when the Department of Interior just jerked the rug out from under the appeal process and said, "Well, we are going to sign a settlement."

The House had a hearing on this, I understand. It is my understanding that none of the people who had been directly involved in the case from out in Colorado, those working for the BLM, were permitted to testify. I find that rather strange. I find that high-handed. I also find it ridiculous. What is there to hide? These tactics make the situation all the more interesting and intriguing.

On the surface, it looks stupid for the United States to be selling land at $2.50 an acre. If there is any merit to it, we had better examine it carefully. I at this moment do not see much merit in the settlement. But, if there is merit to it, I am willing to listen. I certainly would want to listen to people who had been working on the case in Colorado at the Bureau of Land Management and at the Department of the Interior, to get the true facts as they saw them. It is only fair to examine whatever rationale the solicitor had when he suggested this type of settlement. I want to do so.

The amendment simply provides that opportunity. It just says that for 180 days nothing more will be done on the so-called Tosco settlement, by restricting the spending any more funds, which in the past has proven effective. I hope that we either will accept this amendment as it is, without a vote, or, if we are not going to accept it—I of course would want to vote on the amendment. It would, then, at least be recorded that I want to look at it. I feel a responsibility that the people of the United States be given an opportunity to examine it, after we have had the chance to gain access to all of the facts involved.

The PRESIDING OFFICER. Who yields time?

Mr. BYRD. Mr. President, I believe $5 million is asked by the National Park Service land acquisition account this afternoon. I wonder if the two managers would consider lending their support in making legislative history here that $2 million of those funds, would be earmarked for land acquisition at the New River Gorge National River in West Virginia.

Mr. McCLURE. Would the Senator yield?

Mr. BYRD. Yes, I yield.

Mr. McCLURE. Mr. President, I would make a little broader statement than that, not only in an effort to be helpful to the Senator from West Virginia but also to make certain that we do not mislead anyone with respect to the presentation with respect to the $5 million that was added.

□ 1540

I think the $5 million that was added certainly makes it easier to make this statement. I have no objection to earmarking out of the land acquisition funds generally available in the bill an expectation that $2 million are specifically earmarked for the acquisition of lands in the New River Gorge. I would not want it to be understood that that was necessarily taken out of the $5 million that was added today.

Mr. BYRD. Very well. That would be very pleasing to me. I can appreciate the reasons why the distinguished manager of the bill has made this statement. That will be very satisfactory and I thank the distinguished manager.

Mr. MELCHER. Mr. President, we would on this side agree very wholeheartedly with the statement just given by the distinguished Senator from Idaho.

Mr. BYRD. Mr. President, I thank the distinguished ranking minority manager for his equally supportive statement. I am very grateful again to both managers, may I say.

AMENDMENT NO. 2840

(Purpose: To clarify the treatment of qualified registered professional land surveyors under the Surface Mining Control and Reclamation Act of 1977)

Mr. BYRD. I ask unanimous consent that the pending amendment by Mr. HART be laid aside temporarily for not more than, say, 2 minutes that I may call up an amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none and it is so ordered.

Mr. BYRD. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 2840.

Mr. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . Section 515(b)(10)(B)(ii) of the Surface Mining Control and Reclamation Act of 1977 is amended by inserting after "qualified registered engineer" the following: "or a qualified registered professional land surveyor in any State which authorizes land surveyors to prepare and certify such maps or plans".

Mr. BYRD. Mr. President, in 1983, in the fiscal year 1984 Interior appropriations bill, I had language which constituted an amendment to the Surface Mining Control and Reclamation Act of 1977 that would allow land surveyors to prepare and certify certain maps, plans, and cross sections for surface mining permit applications. The intent of that language, which I offered by way of amendment, was to resolve a conflict in the Surface Mining Control and Reclamation Act with State laws that authorized land surveyors to perform such work. However, the rule promulgated by the Office of Surface Mining as a result of that amendment does not provide for land surveyors to certify the completed work at certain impoundments to assure that they are structurally stable and have been constructed in accordance with the specifications and design. The amendment that I am offering at this time would correct the situation to fully allow land surveyors to certify such completed work. It will apply only to States, such as my own State of West Virginia, which authorize land surveyors to certify such work. Any State that does not authorize surveyors to perform such work would not be affected by the amendment. There are 700 land surveyors certified to conduct business in West Virginia. They are subject to rigorous certification requirements. The rule promulgated by the Office of Surface Mining on April 24, 1985, places a hardship on those professionals as well as on our mining industry. Efforts to correct conflicts between the Surface Mining Control and Reclamation Act of 1977 and State law faced by the registered land surveyors have been ongoing since 1980. This amendment addresses the remaining conflict and I urge its adoption.

Mr. McCLURE. Mr. President, it is my understanding that the administration has no problem with the amendment. Based on that under-

standing, I certainly have no objection and urge its adoption.

Mr. MELCHER. Mr. President, we on this side are in agreement with the amendment.

Mr. BYRD. Mr. President, I thank both managers and I hope the Senate will adopt the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2840) was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I thank all Senators.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Colorado [Mr. HART].

Mr. ARMSTRONG. Mr. President, as I understand it, the chairman is seeking the advice of the Department about the pending Hart amendment. And while he does so, I will take a moment to try to share with my colleagues the background of the situation as I understand it. I guess I have done about everything around here and so now I shall attempt to practice a little public lands law. And I want to at the outset make it clear that I am taken somewhat aback by the amendment because while I am not completely surprised it has been presented, I do not quite understand the theory under which it comes to us.

I listened with interest to the comments of my colleague from Colorado and also to the discussion of the issue by the Senator from Montana. I do not take lightly what they have said, nor do I take lightly the evident fact that they feel a sense of emotional commitment to the issue. It seems to me that the thing is pretty much pure vanilla, and so I am a little surprised at the way this thing has developed and perhaps will know more when we have the advice of the Department, which I understand will be forthcoming shortly.

But the validity and patentability of oil shale claims made prior to 1920 has been the subject of administrative proceedings and litigation for the past 66 years. The issue, as I am advised at least by legal counsel on my staff, is that the Federal Government has sought to block the claims of private citizens to these oil shale lands and the argument that they have made, if I can just nub it down to the essence, is that the Government, not the private citizens, is the proper custodian of this land.

Now, a number of individual citizens and some companies have contended that they have legally valid claims, not that they are seeking to buy the land, as the Senator from Montana indicated, but that they already own it; that as a matter of law and regulation they have a legal right to this land.

Well, this has been litigated up and down the courts and on a number of occasions, I am advised, various Federal courts, including the Supreme Court, have twice ruled on this issue and sided with the private citizens.

Finally, on August 4 of this year a settlement was reached between the Federal Government and the claimants on some 525 claims involving 82,000 acres in western Colorado. Now, I am told that the reason for the agreement comes down to this: That the Government had once again decisively lost a case in the court of the presiding Judge Finesilver in the U.S. District Court for Colorado, who ruled in May 1985 that the 82,000 acres in question were in fact private lands and required by his ruling to transfer all title of the land to the claimants.

Now, the Government after looking this over determined that they did not have a good chance to win on appeal and therefore they were interested in a settlement. The private parties involved agreed to the settlement, I am advised, not because they feared the appeal but because they feared the prospect of another 66 years of litigation.

This has been going on for a long, long time. In at least some cases we are talking about land which was initially claimed three generations ago and at least in some cases is claimed for ownership by persons who are in excess of 80 years of age, so the prospect of continued litigation stretching out over a long period of time is not appetizing either to the Government, which feels it has incurred a substantial litigation expense and has even now a continued exposure for the cost of litigation, or for the claimants who would like to get it out of their hair. So that is where the settlement came from according to what I have been advised.

□ 1550

In the settlement, the claimants retain the oil shale rights and title to the surface land, which is necessary for oil shale development. The Government retains the royalties to all oil, gas, and coal, including currently producing fields in Garfield and Rio Blanco Counties; the State of Colorado can maintain its 50-percent share of royalties on Federal mineral leases; valid existing right-of-ways and hunting access are preserved; ranchers can continue to graze their livestock on existing terms; development besides oil shale is prohibited for 20 years; State water rights are preserved, since BLM will give up its claims; and all parties agree to vacate the Finesilver decision so it will not set a precedent for other mineral cases.

The settlement preserves many mineral rights for the Government and surface uses of the land for local governments, ranchers, and hunters and avoids the difficult precedents in TOSCO. Resolving the issue without further litigation is a concept that has been endorsed by the Colorado State House of Representatives, the Rio Blanco County Commissioners and the Associated Governments of Northwest Colorado.

In fact, I think my colleagues would be impressed, as I was, that in 1983, the Colorado General Assembly passed a resolution urging the Department of the Interior to immediately resume a fair and orderly process to quickly resolve the status of pending unpatentable claims. The Rio Blanco County-Commissioners and the Associated Governments of Northwest Colorado, which comprises Rio Grande, Garfield, Moffat, and Mesa Counties, also has endorsed this proposed settlement.

The Grand Junction Daily Sentinel, which is a newspaper published in this general area, and which, probably of all the newspapers in the world, is the most knowledgeable about the specific issues of public land law as it relates to oil shale development—because the daily paper is in what has become to be known as oil shale country—characterizes the opposition to this settlement as "a lot of irony and no small part of hypocrisy."

There are a lot of reasons why we should go forward, particularly when we think of the cost already incurred by the Federal Government, which I am told is estimated to be about $100 million.

Mr. President, here is the background of it:

The Mining Law of 1872 sought to open public lands and encourage resource development. Under this law, a citizen could "claim" land with valuable minerals and apply for a patent—ownership—to the land for a fee. The Green River Formation in Colorado, Wyoming, and Utah was known for its oil shale deposits and much land was claimed for oil shale development. In the Mineral Leasing Act of 1920, the law was changed to say that future mineral claims had to be leased from the Government rather than allowing the claimant to obtain outright ownership as in the 1871 law. There was an exception—known as the "savings clause"—however, in the new law that allowed pre-1920 claims to continue to be patentable under the 1872 law. The claimants applications for patents on the pre-1920 claims have been the subject of this litigation.

What we are talking about are claims that were filed prior to 1920.

Mr. MELCHER. Mr. President, will the distinguished Senator yield at that point?

Mr. ARMSTRONG. If the Senator will forgive me, it is my preference to sort of try to lay out what my legal counsel has advised me, so that other Senators will at least be aware of the arguments in support of the settlement. Then I would be happy to yield.

I want to make it plain, however, that I have no desire to involve myself in a lengthy dispute about the details of it, because I think the Senator from Montana is more knowledgeable about public law than I shall ever be or desire to be.

I want to be sure the facts are on the record and let the Senate make its own decision.

I reserve my decision as to how to treat the Hart amendment until I hear more advice from the Department. I would like to complete my presentation of the background, and I will be happy to hear the Senator's comments, and I think we can come to some resolution when we have the opinion of the Department.

Applications for patents to pre-1920 oil shale claims were denied until 1935, when the Supreme Court ruled the basis of the Department of the Interior's [DOI] denial erroneous. In 1935, DOI began a 26-year period of approving patent applications for pre-1920 claims on about 350,000 acres. In 1961, however, DOI reversed its previous position and started contesting private oil shale claims. This policy reversal triggered 25 years of extensive litigation, ending with the Finesilver decision on May 1, 1985. The settlement reached between DOI and the claimants on August 4, 1986, entitles the claimants to the oil shale mineral rights and surface area and reserves other mineral rights and royalties for the Government and preserves current surface uses of the land.

Earlier in the decade, Judge Finesilver ordered DOI to proceed with contest hearings for the purpose of once and for all bringing all charges by the Government into a single proceeding.

It was the thought of the court, and surely Senators would agree, that this dragging matters out from one generation to the next served no good purpose for the Government, for the owners of the claims—if they are owners, as the court seems to think—or for anyone else.

That is pretty much where it stands.

Just to sum it up, let me share with my colleagues some questions I put to my staff when this matter came to my attention.

I asked: "Why has this come up so suddenly?"

It was pointed out to me that it did not come up suddenly. Judge Finesilver told the parties to enter into negotiations in May 1985, and these negotiations continued for 14 months, which seems to me plenty of time to carry it out. In granting an extension on June 27, the U.S. Court of Appeals for the Tenth Circuit said it would not grant a further extension, although 2 additional weeks were given. The parties were under pressure to wrap this up, and they did so.

I asked: "Who in Colorado supports the settlement?"

I have said that in 1983 the legislature got behind this idea. The local governments involved support the notion. It is generally, I think, a popular issue to get the matter behind us and get it settled.

My own disposition is to do so, and I hope we can find some formula by which we can resolve this to the satisfaction of everyone this afternoon.

One final note to this: The question of whether we should have a delay was raised in the other body recently, and it is my understanding that they thought it over a little and determined that they did not wish to delay further. I think there was a proposal for a shorter delay, and that was declined by the other body. Maybe that is what we should do.

I am going to defer to the recommendation of the chairman. If there are good reasons for us to adopt this amendment and put off the final decision for 180 days more, I guess we can live with it; but, at the moment, I am not persuaded that that is a good idea.

Mr. MELCHER. Mr. President, the distinguished Senator from Colorado [Mr. ARMSTRONG] has just told us that we should be reasonable and that we ought to wait to hear what the attitude of the Department of the Interior is on the amendment. That is the problem. That is really the problem, because it is a foregone conclusion that the Department wants this expedited; they want to get this behind them very quickly. They certainly do not want it sitting out under public view very long.

This happens to be the last chance for Congress to say, "Let us examine it before you rush headlong into this proposed settlement."

The Senator from Colorado [Mr. ARMSTRONG] said that the House looked at it and did not do anything. What we have before us is the House bill on the appropriations for Interior, which was received in the Senate in July. I do not have the date. It is not on the face of this bill, but it was in July.

The Solicitor of the Interior hatched out this settlement after that time—August 4 to be exact. I have to say that I feel somewhat outraged that we have a Solicitor acting on a matter like this without any consultation with Congress, because this sets a very far-reaching precedent.

□ 1600

Let me tell you what it does just for oil shale. There are 83,000 acres involved in the "Tosco" settlement. But there are another couple hundred thousand acres like those involved in this case, in question. I suppose if this settlement is allowed to stand that it will be a precedent for settling the rest of the acreage in question.

But, all the debatable points aside, the real question is what should we, the Congress, be looking at? What should the public be looking at?

First of all, you would want to look at the ruling that was given by this Federal district judge in Colorado and also to listen to the people who have worked with this over the last 25 or more years to seek their opinion on this ruling. Why should it not be appealed? We should have a review period of at least 6 months to find out whether we can clarify this.

I am the first to admit here in the Senate that we should be on top of this in an oversight function and that we should be reviewing the basic law which pertains to this settlement. In order to do this, the Interior appropriations bill is absolutely the last train out of the station.

We are told that the Department of the Interior is rushing the paperwork to get patents signed and sealed; that is, they are expediting the actual transfer of the land title.

These two aspects of the settlement agreement elements of Judge Finesilver's decision must be reviewed very seriously. First, he decided that an oil shale claimant who has expended $500 is held to have substantially complied with the statutory assessment work requirement of the law. I know of no one in the professional staff of the BLM in the Department of the Interior that agrees with that. That is No. 1.

A second point in the judges' ruling raises some very serious questions, I think. He ruled that the burden of proof on lack of assessment work rests with the Government instead of the mining claimant. What that would mean to the Federal Government—all the employees of Bureau of Mines, the Bureau of Land Management, the Solicitor's Office and the Justice Department is that they had to prove that the assessment work was not done. They, frankly, cannot agree with that.

The judge's ruling could go much further than just oil shale. It very possibly would have to do with all mineral claims. On the other hand, the agreement purports to say it is not to set a precedent.

I do not know how you can write that into an agreement with a few corporations and say that it does not set a precedent for all the rest of the mining claims that are pending here in the United States.

Although there are probably a lot more reasons to support a congressional review of the settlement, these are the two key ones which give me real concern. I want to know whether or not the Department of the Interior is acting wisely. I know Congress should do something, and I want to know why we do not do something. Six months is a fairly short period of time, but at least it would give us some amount of time to determine whether or not this was a good settlement.

On the surface, it looks very bad to say that the land is available for $2.50 an acre, and that is exactly what it does. It says just fork over the $2.50 per acre and the United States will give you the deed.

I think this is outrageous, but if it can be demonstrated as making sense I will try to approach it with an open mind. On the surface it seems outrageous. The least this Solicitor could do is come to Congress and say, "We want a settlement, but the $2.50 is ridiculous and not in the public interest and we want full land value." That would be the least he could do. There is one final point.

Mr. ARMSTRONG. Mr. President, will the Senator yield for a moment before he makes the final point?

Mr. MELCHER. After I make this final point I will be delighted to yield.

We have operated under the 1872 mining law and have tried to enforce it for well over 100 years. Under the law, if you are going to have a Federal claim to bring it to a patent and actually get title, the claimant must be able to demonstrate that a mineral of value will be extracted. The oil that can be extracted from shale certainly has value. The fact that it cannot be extracted under current market conditions means that the value involved is questionable. That may cause a great deal of concern beyond oil shale. What does that mean? Could it mean that if a trace of a valuable mineral is demonstrated, but the claimant is not ready to extract it, that a patent is issued for that land anyway?

I would hope not. This never has been done before. The law has always required a claimant to demonstrate a mineral could be extracted and put on the market. They have not demonstrated they can extract the oil and put it on the market. But yet they are getting the patent.

Yes, I am delighted to yield.

Mr. ARMSTRONG. Mr. President, I am grateful to my friend for yielding.

I want to pin down one point that I understand is certain. If the point he is making is correct it would be of concern to me as well.

As I understand it, the Senator's contention is that to sell or transfer the land for $2.50 an acre is far too little a price to pay for this land. The point I want to be sure I understand correctly is this: the court decision as I understand it says that the land already belongs to the claimant; the $2.50 per acre is simply a fee. It is not a consideration in the sale is my understanding. Is that the nub of the dispute that we have here?

Mr. MELCHER. No.

Mr. ARMSTRONG. In other words, If the Government is not selling the land, their position is that the court has ordered them to turn over this land, so they are just complying in effect to what the court has said.

(Mr. EVANS assumed the chair.)

Mr. MELCHER. The nub of the problem is that although this particular Federal judge ruled that they had completed everything to be eligible, the professional Department of the Interior people on the scene said, "No, that is not true."

Second, the last point I make is that the law requires a demonstration that you are going to extract a valuable mineral. None of these companies can demonstrate that. Indeed, they have failed in doing so.

Therefore, that is the real nub. How can they qualify? That is, you could even set aside the argument on whether or not they expended the $500 in work, and agree that they took care of all those 50-odd years or more, since these claims were filed were before 1920 and go back 70, 80 years.

So, Congress did not intend the right to pick up title to land unless those two bases were satisfied. First, that the assessment work, had been completed and the investment required is a great deal more than $500, it is $100 a year. Second, it is required to demonstrate that valuable mineral will be extracted which will do the public good by placing it on the market. Those two points are the real nub of the issue.

From everything I know, there is no demonstration that they are going to extract the oil and put it on the market or that they have done their proper assessment.

□ 1610

Mr. ARMSTRONG. If the Senator would yield just a moment further, as I see it, it does come down to the question of law. Were the Congress to agree to an 180-day delay, would it be the Senator's thought that the litigation would proceed during that period, that an appeal would be filed, and somehow brought to a conclusion, or would it be the thought of the Senator that new legislation might be passed to overturn the finding in the case that was decided in May of 1985?

Mr. MELCHER. Well, I answer the Senator, just on my feeling today. I want to review the circumstances on the claim itself. I want to know where the assessment work has been done, which can be established by facts. I want a review of others in the legal profession on the judge's declaration, which I find to be strange, which held that the burden of proof on the assessment work rested with the Government rather than with the claimant.

Unless these problems could be resolved to the satisfaction of the Congress, I would hope that the Department then would appeal for a clarification. There may be a great deal we are going to have to do with this law if this ruling holds.

In fact, the Department of the Interior and the Justice Department lawyers working on the case indicated they wanted to appeal and in fact took the proper steps to file the appeal. It was felt, that within Interior a clarification of this by the appellate court or by the Supreme Court, if that were necessary, would be for the forthcoming and then we would go from there.

As I said, there may be a lot of work we have to do with the law, but specifically, as I feel today, I think that the timeframe suggested in the pending amendment would allow a review of the facts. Then either the Department of the Interior becomes convinced that no appeal should be filed or they would change their minds and go for the appeal.

Mr. HART. Will the Senator from Montana yield?

Mr. MELCHER. Yes, I am delighted to yield.

Mr. HART. Mr. President, I would like to respond, if I may, to the question raised, legitimately raised, by my colleague from Colorado as to the options available. And I think there may be two, maybe more.

The Senator from Montana indicated one would be to have hearings in the appropriate committees of the House and the Senate in which the Department would appear and, in fact, lay out the agreement and the justification for it.

I, frankly, see no reason why that should not be done, since the Congress itself enacted the original laws and has constitutional responsibility ultimately for the public lands and the public trust.

The second option would be, as a result of those hearings, either the Department would change its mind on appeal and carry the case forward to the court of appeals and perhaps even eventually the Supreme Court, or, on the other hand, the Congress would see fit to clarify the original intent, its own original intent of the 1872 law as to what kind of assessment work had to be performed and whether or not, in this case, it actually was.

My colleague from Colorado does in fact raise a number of key questions and I think he raises them in the finest spirit of the Senate. If I may, I would like to briefly respond to each, if I could.

My colleague, I think, unnecessarily limited his own knowledge of this area, because he is very knowledgeable

about public resource policy and management. On the other hand, let me qualify myself. I not only, as my colleague has, have represented the State with the primary oil shale deposits, but in a previous public service area of my own life coordinated a task force in the Department of the Interior in the 1960's, some 20 years ago now, or more, the purpose of which was to try to resolve these claims. So this Senator from Colorado has some rather extended background in this area.

In that context, let me respond to the questions raised by my colleague. First, he asks, and I think with sincerity, why the amendment is being offered and indicates some confusion about that. The amendment is being offered, as I think the Senator from Montana indicated, because without Congress acting the agreement goes into effect and 82,000 acres of very valuable public land go into private ownership.

The amendment is offered on this bill because it seems that it is both the appropriate and the only vehicle available before the Congress adjourns sine die and/or the agreement rights under the agreement vest. So that, I think, is an effort to respond to the question of why this amendment and why now.

The Senator from Colorado, rightly and historically, cites the length of some of these claims. They do go back 60, 70, 80 years, some of them; a long time. But I think the point here is not the length of the claim, it is whether requirements under the law have been met during that period. Rights do not vest to public land in general because of the length of the claim. The law requires something to be done during the claim. It matters not how long it has been going on, it is whether or not the requirement has been met and that is the issue here—factually, have the requirements been met?

The Senator from Colorado suggests, on the advice of his own legal counsel, that the Supreme Court has rendered opinions and his suggestion was that those opinions are fairly consistently in favor of the claimants. It might be simpler if that were the case, but it is not the case. I will just cite what I think are the three principal Supreme Court decisions here.

The first one was the so-called Krushnic decision of 1930, in which the Supreme Court ruled the Department of the Interior could not invalidate an oil shale claim based on the failure to perform the annual assessment work in only 1 year. That was the issue at stake in that case. The Court further held that failure to perform the assessment work or the labor in any year is without effect where, in its terms, a total of $500 in annual assessment work has been performed.

What then happened was a case came back up trying to refine even further that ruling, and it was called Ickes versus Virginia-Colorado Development Corp. It appeared in the Supreme Court some 5 years later, in 1935. In that case, the Court ruled a claimant is entitled to preserve his claim by resuming annual assessment work after defaulting but before another party relocates a claim.

Then a very interesting thing happened. After the 1935 decision, the Department went forward for 2½ decades, 25 years—roughly 1935 to 1960—and patented close to a third of a million acres of oil shale claims. I think specifically, as I recall, 350,000 of oil shale claims were, in fact, patented by the Department under various political parties and administrations over a 25-year period. So it was not as if the Department has consistently every year resisted every oil shale claim. A lot of this land, an awful lot of this land, has gone into private ownership.

Then came yet a third Supreme Court decision resulting from those patents in 1970 and it was called Hickel versus Oil Shale Corp., 1970. There, the Supreme Court, to a degree, reversed itself, not reversed itself but qualified the 1930 so-called Krushnic decision on the issue of annual assessment work ruling that what it called token assessment work or assessment work that does not substantially satisfy the annual assessment requirement of the Mining Act is not sufficient to maintain a claim.

The only reason I go into all of this detail is to qualify the suggestion that this issue has been consistently before the courts up to and including the Supreme Court and year in and year out the Supreme Court has consistently ruled in a certain direction. The rulings are very, very narrow and very targeted to a specific question having to do with the validity of the claims and do not, I think, represent a clear pattern on the issue.

On the question of whether the House of Representatives has not disposed of it, let me just say the vote that occurred in the House a couple of weeks ago was a vote on a point of order. The point of order challenging the ability of certain House Members to raise the issue was upheld.

□ 1620

That is to say the House never voted, if you will, on the merits on the question of whether or not additional clarifying legislation should be passed.

Finally, Mr. President, let me say this: This is an issue of the public trust. No one is accusing the present administration of bad faith or of being casual about the public trust, although that has been suggested by some. I think the real issue is if you are going to dispose of 82,000 acres of extremely valuable land—not valuable today, potentially valuable, as I suggested, in the thousands and thousands and thousands of dollars per acre—then the Congress ought to be involved to some degree in at least knowing what the rationale behind the very dark-of-the-night kind of negotiations were, and whether in fact there is good public policy at this time, what its implications are for tens of thousands of acres of equally or even more valuable oil shale lands, and finally whether the Department's interpretation of the intent of Congress is in fact a valid one and whether the Congress in this 180-day period may want to clarify that interpretation.

I think Congress does have a role in this issue. I think we ought to have been consulted and advised, and it is for that purpose that this amendment is offered.

Mr. METZENBAUM. Mr. President, I rise in support of the amendment of my colleagues from Colorado and Montana. It is time for this body to take action and stop an absolutely outrageous act by the Department of the Interior.

I refer to the unwarranted giveaway of 82,000 acres—that is 130 square miles—of public land, along with valuable oil shale deposits and water rights to a group of speculators.

At issue is a large number of mining claims filed under the 1872 Mining Act. That allowed claimants to receive title to land for $2.50 per acre, as long as they had a legitimate discovery and performed at least 100 dollars' worth of work on the claim each year. In all of the claims involved here, the Department has found that the miners failed to perform the required annual work. In some cases, no work was done for periods of 20 and 30 years. Clearly, such claims were not good faith attempts at opening a working mine. Rather, they were obvious speculating actions.

The Government's attempts to withhold title to all such claims has been a long fought, sometimes erratic effort. Since the late 1920's, the Interior Department has attempted to withhold title and recover the claims which were not legitimately discovered or maintained. Two Supreme Court decisions in the 1930's, based on very narrow, unusual circumstances, led the Department to erroneously misinterpret its authority under the law for a number of years, and led to the give away of hundreds of thousands of acres of land, even though claims had not been maintained according to the law.

However, the Government corrected its position in the late 1950's and early 1960's, and put a halt to the unjustified give away of Federal lands. Its position was strongly and unequivocally upheld by the Supreme Court in 1971, which maintained that annual work must be done, and noted that the 1930 cases were narrow exceptions which should not serve as a precedent for the

majority of claims being reviewed by the Department.

Yet, many of the speculators persisted in their claims, and in 1985 the U.S. district court in Colorado ruled that the Government must hand over title to 82,000 acres.

The history of this issue certainly argued for the United States to appeal the decision. In fact both the Interior Department's regional solicitor and the BLM Director for the State of Colorado strongly recommended that the Federal Government appeal the decision.

The regional solicitor prepared a comprehensive 180-page draft appeal of the district court decision, in which she noted that it "errs in virtually every legal and factual conclusion."

The State director noted that the decision was incorrect for the 82,000 acres in question, that it set dangerous precedents which would jeopardize the Government's control of another 280,000 acres of land involved in similar disputes, and would result in undue constraints on the Government's enforcement of many other land and mining laws.

But, the Department, dead set on relinquishing the public's land and resources as fast as it can, ignored this informed advice and proposed a settlement which would turn over full title, water rights, and grazing and hunting rights to these speculators. Of course, once this happens, it will be very difficult for the Government to do much different with the other 280,000 acres which are also being contested.

Consider the facts here. Those who hold the claims did not fulfill their responsibilities under the 1872 law, and a 1971 Supreme Court decision strongly upheld the Government's position on this. Yet, the Government's proposed settlement would give up 82,000 acres for a pittance of $2.50 per acre, even though the lands are valued at $110 to $200 per acre—$9 million to $16 million in all, and also contain an estimated 1 billion dollars' worth of oil shale deposits. The Government also loses valuable water rights and hunting and grazing rights.

Moreover, this settlement sets a dangerous precedent for another 280,000 acres which are also in dispute.

Think of it—a total of 360,000 acres containing an estimated 10 billion barrels equivalent of oil shale—handed over to speculators who did not even fulfill their obligations under the law, for the sum of $2.50 an acre.

The Government's lack of concern for public rights and resources in this case is disgraceful. We cannot allow it to relinquish public property with such impunity.

Since the Government will not fulfill its responsibilities, it is up to Congress to protect the public rights to these lands. This amendment provides us with the vehicle to do so, and I urge my colleagues to adopt it.

Mr. McCLURE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE Mr. President, I really am puzzled to know what is the right course of action here. I can sympathize with those who say we do not know enough about what is in the settlement to determine whether or not it is a good or bad idea and that Congress ought to have time to review a decision that has been made and try to determine whether there is something Congress should, would desire to, or could do about the decision.

The other side of that is there is much to lose as well as much to gain in that process. Those who seek to gain the opportunity of the Congress to look at it also hazard the risk of that attempt in delaying the settlement, which might invalidate the settlement and therefore cost more.

So it is kind of a draconian choice in many respects. Before proceeding further, I might also notify others that we know of no other amendments other than this one before final passage of the bill. If this debate takes much longer, we may well request that the pending amendment be the only amendment in order prior to third reading of the bill. I make that announcement so that we may assist in a clearance process for such a unanimous-consent agreement when and if we offer it.

But this is not a new issue. The settlement is new. But the issue is not. The Senator from Montana indicated that these claims must predate 1920 and indeed they do. Because when the Mineral Leasing Act of 1920 was passed by the Congress, there was a specific provision that said that the unpatented claims that were then pending were not barred by the passage of the Mineral Leasing Act of 1920.

So for 66 years and more these patents and these issues, not this issue, it is more complex than that—these issues have been known. This is not the first time it has been subject to court decisions because it has been in the courts periodically in one form or another over the years, and it has been to the Supreme Court three different times in the last 66 years, and each time the Government has lost its position. Was the Court right? I do not know.

You know the old song, I know my friend from Colorado, Senator HART, has heard it before. The Supreme Court is not final because it is infallible. It is infallible because it is final. So the Court has the capacity under our Constitution to be wrong, and only by definition we have said they are right. The constitutional definition says they are right. We may disagree with the Supreme Court decision. I often times do. But whether I do that as a Senator, a member of the legislative branch, or whether I do it as an individual citizen who is offended by the position taken by the Court, I am equally a loser because the Court has the authority under our Constitution to make decisions. And three times the Supreme Court of the United States has ruled on specific issues dealing with this group of unpatented mining claims, has said the Government's position is wrong, and the people who hold the unpatended mining claims are entitled to go forward in spite of the particular issues that may be raised in those cases.

Mr. HART. Will the Senator yield?

Mr. McCLURE. Surely. I am happy to.

Mr. HART. The Senator from Colorado's recollection, and I think it is important for the record to be correct here, is that the 1978 Supreme Court case, the Hickel case, may have been a loss for the Government's efforts to invalidate mining claims, but it did reinstate as opposed to the earlier 1930 decision, the so-called Krushnic decision a necessity of performance of annual assessment work which is a very crucial issue in this matter. It is not a collateral issue. So the issue of whether the Government won or lost in its efforts to invalidate claims may be secondary to the point the Court reinstated or reasserted the necessity for performance of annual assessment work.

I merely wanted to make that clarification.

Mr. McCLURE. The court, if my summary is correct—I hope it is—was asked in a case started in 1966 in which Tosco versus Udall in the district court in Colorado, and the court reversed the Department's decision invalidating claims for failure to perform the assessment work. In 1969, the court of appeals in the same entitled case reversed the Department and affirmed the district court. Before that was heard in the Supreme Court, there had been a change of administration. So what had started out as Tosco versus Udall, by the time it reached the Supreme Court had become Hickel versus Tosco. It is the same case.

And the Supreme Court did reverse the court of appeals and held that the Department had jurisdiction to determine whether there had been substantial compliance with the assessment work requirement. It was not a specific reversal of the earlier cases decided in the 1930's as to what was sufficient to meet substantial compliance with assessment work requirements. So in part, the Senator from Colorado is correct. I hope to the extent that my remarks may have been slightly different in context, we are at least closing in on what the facts are.

But the fact is in that particular case the Court had determined initially that the Department was wrong in invalidating claims, that the district court had stated, because they did not have the jurisdiction to determine whether there was substantial compliance. The Supreme Court says, oh yes, they do have the right to determine whether or not there is substantial compliance.

Mr. HART. If the Senator will yield for a comment, the importance of the case also is that their were arguments made by claimants that after the Krushnic case in 1930, they did not have to perform assessment work and in the language of the 1970 Hickel decision the Court made it very clear that you did have to perform assessment work. In this case, it ruled against the Department as to whether or not it had been performed. But there were a lot of people arguing that after 1930 the whole assessment work requirement was for all practical purposes null and void.

Mr. McCLURE. I think the Senator may be correct in that statement. I am not an expert in this particular case and its convolutions over the 66 years. But I should point out that was followed again by a change of Secretaries in the case now known as Tosco versus Morton, in which following the Supreme Court decision in Hickel versus Tosco the Department sought to invalidate their claims for failure to substantially comply with the assessment work requirement. This is a follow-on of the same court proceedings that started in 1966.

□ 1630

In 1973, in that proceeding, the district court in Colorado reversed the Department's efforts to invalidate the claim, and that was appealed. The appellate court vacated the district court's decision and remanded for consideration of all issues. There were no substantive holdings. That court of appeals simply remanded for further proceedings. That was, again, with a different Secretary of the Interior, which was entitled at that time Tosco versus Kleppe.

In 1977, the following year, after the appeal in Tosco versus Kleppe, the U.S. district court in Colorado, in Eaton Shale Co., reversed the Department's efforts to cancel patents issued for oil shale claims.

In the next proceeding, again with a different Secretary, now entitled Shale Oil Co. versus Andrus, the district court reversed the Department's decision invalidating oil shale mining claims for lack of discovery, and in the court of appeals in 1979, the court of appeals reversed the Department and upheld the district court on the discovery issue.

In 1980, the Supreme Court reversed the Department and affirmed the court of appeals in upholding the Freeman versus Summers doctrine that oil shale deposits are valuable mineral deposits, the Department having by that time decided that patents should not issue because those claims were not valuable minerals.

In 1985, the district court in Colorado, with now another Secretary of the Department of the Interior, in a case entitled Tosco versus Hodel the court reversed the Department on assessment work issues and reversed the Department on discovery issues.

I did not cite the earlier cases, Freeman versus Summers, Wilbur versus the United States on the relation of Krushnic, those decisions, the first of which referred to potential legislative actions and the second being a district court case which affirmed the Department's invalidation of claims, were appealed and the court of appeals reversed the Department and the district court and reinstated the patent applications, and the Supreme Court in 1930 reversed the Department and affirmed the court of appeals.

Mr. MELCHER. Will the chairman yield?

Mr. McCLURE. In just a moment I will.

In Ickes versus Virginia-Colorado Development Corp., the district court again reversed the Department's invalidation of claims and the court of appeals reversed the Department and affirmed the district court, and the Supreme Court reversed the Department and affirmed the court of appeals.

In the Shale Oil Co., in 1935, the Department reversed all earlier decisions and regulatory contrary decisions of the Supreme Court.

That, I think fills out the list of court actions that deal with this issue. I take the time of the Senate to recite that only to indicate this is not a new issue, a new set of issues, but has been before the Department for a half-century or more. It has been in the courts for a half-century and has been subject to extensive debate within the administration, the several administrations, the court actions having almost universally run against the contention of the Department.

I am happy to yield to the Senator from Montana.

Mr. MELCHER. In one of the cases cited, the Supreme Court decision in 1970, the Court held that Department of the Interior had jurisdiction to determine whether respondents' claims were maintained; that is, whether or not the claim had the proper assessment work.

The assessment work under the 1972 act had to be $100 per year each year.

First of all, these claims do involve claims originating before 1920. I would not suppose that any of the claims originated with either Exxon or Tosco or Union Oil, but they were filed by entrepreneurs, just individuals who felt there was some possibility. They were willing to do the paperwork, make the proper filing, and then agree to the $100 assessment work each year, which would have been quite a little assessment work in the early part of this century.

The ruling of the judge in this district court in Colorado was that an oil shale claimant who had expended $500 had expended enough to comply with the statutory assessment work requirement. That is the part which drives the people who are working on this out in Colorado and also the ones representing the Land Division of the Justice Department up the wall. The notion proposed by the court, that you could clear everything by doing 500 dollars' worth of work when the statute is clear that it had to be $100 for each year was one of the main reasons why everyone anticipated that this would be appealed.

The language in the 1972 act may be outmoded in that $100 assessment work each year is not nearly enough. However, this judge is ruling that it does not make any difference; he is ruling that $500 is plenty when clearly it should have been $100 each year from when the claim was filed, which over 70 years, if that is the average would be $7,000. That is not a huge sum, but it does bring up the point of why we should give the land to the claimants for $2.50 an acre, a ridiculously low figure in this day and age. This is particularly true if you have not done the claim work and have not demonstrated that you are going to extract a valuable mineral, which is the only way of determining whether the patent can be issued.

Mr. McCLURE. I am going to make a proposal to the Senators who are offering the amendment and I have no idea whether it will be acceptable. I cannot assess what will happen or what the alternatives are whether we accept or reject the amendment at this time. I simply do not know. I recognize that the passage of time changes things. I am not trying to gain a standing nor attempting to gain some advantage by suggesting a delay.

□ 1640

We need to pass the current bill and we shall get to a vote on this amendment one way or another, dispose of the amendment one way or another. But both of the opponents of the amendment and the manager of the bill happen to be a little bit uncertain as to what the effects of this amendment will be. I say that because we have an ongoing dynamic situation in the courts. I am not here either to defend or condemn the judgment by Judge Finesilver. I am not here to indicate whether or not the appeal would be granted, whether the Gov-

ernment would be successful in the appeal if they make it, or whether they would fail. This is not a win-win situation or a lose-lose situation; it is one in which there is the opportunity for gain and the opportunity for loss, depending upon the point of view of the various parties, inherent in this situation.

What happens as a result of the settlement agreement? As I understand it, Judge Finesilver, in that court decision, said the parties that brought the appeal are entitled to the issuance of patent to all of the minerals in and under those lands—that includes all the oil and gas, conventional oil and gas, on those—and that in effect, the Government should issue the patent. The Department of the Interior, looking at that court decision, which they resisted but, nevertheless, it was made by the court, has been able to negotiate with the parties, who said, "Look, we are not after the oil and gas, we are after the oil shale in place. And if you will grant the patents, we will turn back the oil and gas."

That is the agreement between the parties which they now seek to carry forward.

If we adopt this amendment and the Department perfects the appeal, as I know the distinguished Senator from Colorado desires, and they lose the appeal, then Judge Finesilver's judgment stands and the parties are entitled to the patent. If the parties are entitled to the patent and the Department must then issue the patent, then the Government has lost to these claimants—lost, if that is the right term—to these claimants not only the oil shale in place but all oil and gas that lies under the lands, too.

I do not know whether Congress was right in 1920 when they decided to say that the Minerals Leasing Act would not apply to these minerals, the oil shale in place. I am not sure that the courts were right in the several decisions they have had up until this time, saying that the parties are entitled to the issuance of patents, and that the effect of the aggregate of all the court decisions to this date is that Tosco is entitled to patents with no restrictions.

That may well be carried out. And it may well be that by the adoption of this amendment at this time, we invalidate the agreement and perpetuate the thing which I think would be least acceptable to the people who are objecting to the settlement agreement. That is the issuance of unrestricted patents.

My suggestion is that maybe we not try to resolve the issue today until all the parties have had the opportunity to assess more fully the potential results of the adoption of the amendment. There is the continuing resolution coming down the line. There are other legislative vehicles in the next 2 or 3 weeks—hopefully no more than that—which are available if, at that time, it is clear to all the parties what their position ought to be.

It is certainly not clear to the manager of the bill on the floor as to whether this is the right thing to do at this time. I say that because I do not know, very frankly. I do not know. But I do know that both the Department of the Interior and the Department of Justice, looking at the court's records, knowing far better than I what is in those court records and in those decisions, has, in effect, determined to cut their losses by offering a settlement agreement which they are in the process of trying to finalize; and that if we upset that now, we may well have, from the perspective of the Senator from Colorado who has offered the amendment, lost more than we might otherwise lose.

Mr. HART. Will the Senator yield?

Mr. McCLURE. I am happy to yield.

Mr. HART. I can only respond in this way: The Senate may well adjourn sine die within 3½ weeks. This Senator is unclear as to what information will be provided to us or what data we are presently lacking that could turn up in the next 3½ weeks that would further clarify the situation so we will know how to act. My understanding is that some of the claimants may go to patent by the end of this month under the agreement. That complicates things considerably.

This is not an amendment, may I assure the floor manager and our colleagues who may be listening, that blocks the agreement, that nullifies the agreement. What it does is stay the agreement so we can in fact find out the facts and probably into the next Congress. I do not know if that is possible to do in the 3½ weeks available to us.

Mr. McCLURE. Will the Senator yield——

Mr. HART. Yes.

Mr. McCLURE. On that point, because that makes my point. As a mater of fact, it is my preliminary asessment of the settlement agreement—and very honestly, prior to last Friday when the Senator mentioned this matter to me, I had not looked at the settlement agreement at all. The terms I was aware of but I had not looked at it.

My understanding of the agreement is that it requires the parties to issue the patent within 30 days and to finalize all of their actions within 60 days of the date of the pending agreement, which is August 4. And if they do not complete those actions within that timetable, the settlement agreement is invalidated. The parties intend to complete the settlement agreement in those timeframes, then go to the court and say, now we have agreed, we have settled the matters between us, please vacate your judgment and take no further action.

But there is the potential of this amendment invalidating the settlement agreement and, as the Senator has noted, there is the potential for them to go ahead with the issuance of patents and moot the attempt of the Congress to deal with this particular court case. Both sides are presented.

Mr. HART. If the Senator will yield——

Mr. McCLURE. I shall be happy to yield.

Mr. HART. It seems to this Senator that very few Federal district judges, knowing of the interest of the Congress in this matter and knowing Congress had enacted a temporary delay in this matter for the purpose of clarification of a lot of legal and public policy issues, would not seek some continuation of that agreement until Congress can satisfy itself that it is a good agreement in the public interest. The judge could, in fact, thumb his nose at Congress. My inclination is to think he would not do so.

Mr. McCLURE. In this instance, it is not Judge Finesilver that would make that decision because the Department, in order to protect its position, had filed notice of appeal. They have been under extensions of time to file briefs on that appeal and the Circuit Court of Appeals has said on three separate occasions, "We grant this extension but no more." And at each of those subsequent times, the Department has come back before the Circuit Court of Appeals and said, "These things are happening, will you grant us a further stay or extension?" Each of those two subsequent times, the court has said, "Yes, we will grant this extension but no more."

Mr. HART. May I say to the Senator, none of those delays has been occasioned by actions of Congress. I think that is the new factor, if I may say so.

□ 1650

Finally, let me suggest one response to the lose-lose, win-win scenario. It seems to me if the Senator from Idaho is correct about the risks here, and I do not necessarily assume that he is, speaking only as one Senator and from a State that is mightly affected by this decision, the risk of the loss of incredibly valuable land to the public—this is land that is held in trust. It does not belong to Congress, it belongs to the public. The risk of the loss of land that belongs to the public, is held in trust for the public by the Government, as opposed to the risk of the loss of collateral minerals on that land, is no contest at all.

If we just use dollars and cents, the at-present market value, or certainly future market value of the oil shale, which it is principally valuable for, is so much vaster than any other possible minerals on that land that in

terms of protecting what is in the public interest it is not even a choice. I understand the agreement that was worked out and so on, but it is clear to the claimants that they are getting what is valuable about this land and that is the issue. If I were asked to gamble, to roll the dice right now, I would gamble in favor of appealing this decision and taking chances on that Federal District Court decision being upheld by the higher courts, because I think it would not be, and I think the value of what we are talking about here is so great, the public interest, that in my judgment at least we have no choice but to appeal all the way through the court system. I think if you were to weigh the risks, the risks are so much greater that the Federal District Court is wrong that we are disposing, at $2.50 an acre, of millions and perhaps hundred of millions of dollars of value to the public of this country that I would be willing to take that risk. But I have only one vote and I have just tossed that in, for whatever it is worth.

Mr. McCLURE. I thank the Senator for the contribution and obviously he is entitled to his own opinion as to what the odds are and which way he would roll the dice. There is a possible other compromise that might be offered that removes the risks on the down side, at least minimizes them, and that is if the amendment being offered were modified to provide that it is effective only if the court agrees to a stay for a 180-day period, provide that the Interior Department and Department of Justice make diligent and immediate efforts to obtain that stay, and the litigants agree to hold the settlement agreement open pending that 180-day period. Now, if the sponsors of the amendment could agree to that language, I would agree to accept the amendment as so modified, take it to conference and see how our colleagues in the other body would respond to such an amendment.

Mr. HART. Speaking only for myself as one of the two sponsors, if the proposal of the Senator from Idaho contains the language that the Department will with all due diligence seek that extension in good faith, I would be prepared to accept that modification, but I yield to the Senator from Montana for his thoughts.

Mr. MELCHER. Will the Senator yield to me?

Mr. McCLURE. Of course.

Mr. MELCHER. First of all, I do not know what the 60-day requirement is.

Mr. McCLURE. That is contained in the agreement, proposed settlement agreement which the parties are now attempting to execute.

Mr. MELCHER. I do not know where you find it but I would be glad to look at it. I have the agreement in front of me. The 60-day provision I am looking at refers to whether or not there would be provided time for paragraph 2.8, which is the requirement that Exxon, Tosco, and Union will have to provide some document to the Department of the Interior indicating that they are prepared to deliver the special warranty deed for the oil, gas, and coal as required by paragraph 2.4. That is where I see 60 days in this.

Mr. McCLURE. Well, again, the Senator from Montana may have had this agreement and analyzed it longer and much more exhaustively than I have, but it has been handed to me and I would point the Senator to page 8 of the proposed settlement agreement, provision 2.2.

Mr. MELCHER. That is what I was reading from.

Mr. McCLURE. Page 8, subsection 2.2 provides "Patents for such subject claims shall be issued within 60 days following entry of such a stay of proceedings." And earlier in that same section it provides that within 30 days after the entry of the stay of proceedings, and so on. Both the 30-day and 60-day provision are in that subsection.

Mr. MELCHER. Yes, but that is within 30 days of the entry of a stay of proceedings, and then 60 days following the entry of such a stay of the proceedings by the court, patents could be issued. It does not say they are going to revoke the agreement.

Mr. McCLURE. It does not say that they can issue the patents. It says the patents shall be issued. If that stay referred to were issued within the 180 days, and the Department could not issue the patents called for within the 60-day period, the agreement could be invalidated.

Mr. MELCHER. It does not automatically become invalidated. That is the only point I was going to make. But I might state in response that if I could get land at $2.50 an acre, I would not want it invalidated. I would want it to hang there so I would get that shot at land for $2.50 an acre. It is that simple. I do not believe Exxon or Tosco or——

Mr. McCLURE. Then I would assume, I say to the Senator from Montana, if his position is correct, the litigants would agree to hold the agreement valid for the 180-day period established in this amendment.

What I was suggesting is that if, indeed, the court agrees to the stay, as the Senator from Colorado has indicated he expects they would, and if the parties would agree to the 180-day extension, as the Senator from Montana has suggested, we write that into this amendment, I will recommend that the Senate accept it.

Mr. MELCHER. First, I would like to see the language. Second, I do not know why it is necessary but let me state that we have this opportunity to do something by congressional action. The Senator earlier said, "Well, what about doing it on the continuing resolution which would be before us in another 30 days or so?"

Mr. McCLURE. Less than.

Mr. MELCHER. Less than 30 days.

Mr. McCLURE. Less than that, I hope.

Mr. MELCHER. Yes. If people hear me say 30 days, which would be October 16, we will start a revolution around here if we are still in session. I do not know that anything is necessary, but if I could see the language and consult with learned staff, I would be glad to give a quick response to my friend from Idaho.

Mr. ARMSTRONG. Mr. President, will the Senator yield?

Mr. McCLURE. I will be happy to yield to the Senator.

Mr. ARMSTRONG. I want to congratulate the chairman and ranking member and my colleague from Colorado. I am greatly relieved at the direction this is going because, frankly, it is kind of a murky area and it does seem to me that the suggestion which the Senator from Idaho has propounded and that the others have at least tentatively endorsed is the course of wisdom and statesmanship. So if the Senators will put it together, I guess I will be the cheering section.

Mr. HART. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. QUAYLE). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1700

Mr. GOLDWATER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GOLDWATER. Mr. President, I ask my friend from Idaho if, during the consultation they are having, he might yield so that we can take up a conference report.

Mr. McCLURE. How long would the Senator expect that to take?

Mr. GOLDWATER. Well, it might take 20 minutes.

Mr. McCLURE. We can dispose of this bill in less time than that. If this discussion reaches agreement, we will be done in less than 20 minutes. If it does not, then I will be happy to do so.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1710

Mr. HART. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. Mr. President, I send a modification to my amendment to the desk.

The PRESIDING OFFICER. The amendment is so modified.

Mr. McCLURE. No President, the modification the Senator has sent to the desk accomplishes what we discussed earlier in the brief colloquy.

I have no objection to the amendment as modified and suggest its adoption.

Mr. ARMSTRONG. Mr. President, I think we are all in accord that it is our desire to expedite this. But could we ask the clerk to report? I think we understand it. It is only one or two sentences. I wish to be sure I understand it.

The PRESIDING OFFICER. The clerk will read the modification.

The legislative clerk read as follows:

At the end of Title I, add the following new Section,

SEC. 112. Notwithstanding any other provision of law, no funds appropriated by this Act shall be available for the implementation, by the Secretary of Interior or the Attorney General or any other officer acting on behalf of the United States, of the "Agreement to Settle Pending Litigation Between the United States and the Owners of Certain Oil Shale Mining Claims in Colorado," dated August 4, 1986, or for the patenting of any other oil shale placer claims located prior to passage of the 1920 Mineral Leasing Act, for a period of 180 days from the date of enactment of this provision, in order to provide a period for Congressional review of this agreement: *Provided*, That this provision of this amendment affecting the aforesaid Settlement Agreement shall be effective only if the United States Court of Appeals for the Tenth Circuit and the United States District Court for the District of Colorado approve a stay in the cases affected by such settlement agreement for 180 days and the parties to such agreement agree to continue to be bound by such agreement for the 180-day period: *And provided further*, That the Attorney General of the United States and the Secretary of the Interior are directed to immediately and in good faith seek concurrence of all parties to the agreement to continue such agreement for 180 days and to request such courts to issue stays for such period.

□ 1720

Mr. ARMSTRONG. Mr. President, I think that it is faithful to our earlier discussion. I thank the Chair. I thank the managers and the sponsor of the amendment, my colleague, the distinguished Senator from Colorado. I certainly support the amendment.

Mr. MELCHER. The addition to the amendment, the modification of the amendment, is acceptable here.

I might state that what we intend given the agreement that has been signed and sealed by the Solicitor for the Department of the Interior, that he at least back off slightly and give us a chance to review it more fully to see whether we can agree with it, "we," meaning the Congress. Because, so far, it just does not look like a meritorious agreement at all. It looks like something that is contrary to the public interest. We would like to review it.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 2839), as modified, was agreed to.

Mr. HART. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MHD RESEARCH FUNDING

Mr. BAUCUS. Mr. President, I want to express my appreciation to the chairman of the Interior Appropriations Subcommittee and to other members of the committee for including $23.5 million in this bill for MHD research. However, I also want to urge that in conference, the Senate adopt the House figure of $30 million so this vital program can continue at full strength.

Magnetohydrodynamic technology, or MHD, is an efficient, environmentally sound method of using coal to produce electric power. MHD could be the key to American energy independence in future decades, and it is vitally important that we continue to fund this basic research program. The $30 million provided in the House bill is needed to continue the proof-of-concept testing program that was approved by the Department of Energy in 1984.

As I said, Mr. President, I am grateful to the committee for including funds in next year's budget for continued MHD research. However, I am disturbed by some of the statutory and report language in the bill. The MHD program already requires appropriate and significant cost sharing by industry participants, pursuant to last year's agreement in the fiscal year 1986 Interior appropriations bill. The large increases in industry cost sharing proposed by the Senate bill this year would be a major change in the program, and could force key industry participants to pull out of the program.

I ask unanimous consent that the committee report language from this year's House Interior appropriations bill be included in the RECORD at this point.

There being no objection, the committee language was ordered to be printed in the RECORD, as follows:

Magnetohydrodynamics.—The Committee continues to support the proof-of-concept testing program developed in June, 1984, which now includes appropriate industrial cost-sharing as provided in the fiscal year 1986 appropriation. The Committee recommends an increase of $30,000,000 to continue this program, and urges the Administration to cease attempts to cancel the program. Such tactics only prolong the time for development and create inefficiencies and uncertainties in the program.

CLEAN COAL TECHNOLOGY PROGRAM

Mr. BAUCUS. Mr. President, I am not only concerned that this proposal for increased cost sharing makes unrealistic demands on key industry participants; in addition, I am concerned about the policy implications of requiring significant additional industry cost sharing for Government-sponsored basic research projects, and of changing the cost sharing requirements midstream. The private sector has a limited capacity to fund energy technology research and development, and by imposing these cost sharing requirements we may foreclose major future commercial technology development.

For instance, this bill also contains langauge addressing the new Clean Coal Technology Program, which I strongly support. Adoption of these cost sharing requirements for other emerging coal technologies would wipe out the carefully designed incentives in the new Clean Coal Technology Program. The Clean Coal Technology Program recognizes that private industry does not have the financial capacity to see advanced technology research and development on this scale through to its expected commercial potential.

Because we want to be sure of industry's commitment and confidence in new technology commercialization, the Clean Coal Technology Program requires 50 to 50 cost sharing in all stages of demonstration development. That is entirely appropriate. The cost sharing requirement at the demonstration stage spurs faster development of near-commercial technologies, and the multiyear funding mechanism in turn provides some assurance to the private sector that the Government will be a reliable partner in each project.

It has been demonstrated time and time again that U.S. utility companies and their suppliers and manufacturers can afford to invest only in those technologies that project a short-term payoff on their investment. MHD is still in the basic research and engineering phase, and does not offer investors any return in the near future. Despite the lack of a short-term return, industry has consistently contributed to the MHD Program and has agreed to a steady cost sharing plan.

In about 5 years, we hope to be ready to retrofit an existing coal-fired powerplant for a full-sized test of the technology. Industry has shown its confidence in MHD and its willingness to cooperate with the Government by submitting a 50 to 50 cost share proposal for that retrofit demonstration plant under the clean coal technology initiative.

INTERNATIONAL EFFORTS IN MHD RESEARCH

I should point out, Mr. President, that we are not the only nation interested in MHD techology. The Press Institute of India reported last year that a 5-megawatt MHD generator has been completed at Tiruchi, India. India thus became the eighth country in the world to begin major testing of MHD technology. They are planning to build a 200-megawatt powerplant by 1995 if their testing goes well, and they expect to retrofit existing coal-fired plants with MHD technology before then.

The bulk of this research is being financed by the Indian Government. Other countries with major MHD technology efforts include the Soviet Union, Japan, China, Poland, Italy, and the Netherlands. Last April, Senator HATCH noted with concern on the Senate floor that the Soviet Union has made significant advances in MHD technology, as part of their laser and other directed-energy weapons program.

CONCLUSION

Mr. President, I am grateful to the committee for agreeing to include significant funding in this bill for MHD research. I do not intend to offer any amendments to the bill. But I do ask the committee to give serious consideration to the need for full funding for MHD, and the problems of requiring increased cost sharing, during the conference with the House of Representatives.

Mr. SASSER. Mr. President, during consideration of this bill in full committee, I brought to the chairman's attention a problem regarding land acquisition on the Appalachian Trail. More specifically, a 200-acre tract in the Pisgah National Forest was the focus of my attention.

This property, known as the Peake Tract, on the Tennessee-North Carolina border, is perhaps the most outstanding property along the Appalachian Trail, but a heavily used spur trail ship. The Peake Tract contains not only a portion of the main Appalachian Trail, but a heavily- used spur trail that leads to Grassy Ridge Bald. This popular recreation area provides a breathtaking view across the spectacular Roan Mountain highlands. In addition to its scenic vistas, the property is home to two plant species nominated for listing as Federal threatened or endangered species, and provides excellent habitat for the northern flying squirrel, a listed Federal species.

The value of this property to the integrity of the Appalachian Trail has been recognized, not only by the Forest Service itself but by the States of Tennessee and North Carolina as well. The Tennessee Department of Conservation has encouraged the acquisition of this tract; the North Carolina Natural Heritage Program has recommended that the entire Peake Tract be the highest priority site for acquisition on the North Carolina side of the Roan Highlands, because of its great environmental importance. Yet, the Forest Service, after 14 years of negotiating with the Peake family for acquisition of the whole tract, apparently decided in 1984 that only a portion of this tract was needed for the Appalachian Trail corridor, and instituted condemnation proceedings on 54 acres of the Peake property.

The Forest Service's decision was very shortsighted. Foregoing action on the entire Peake tract exposed this national treasure to great harm. This fact was made clear this spring, when the Peake family bulldozed a long and ugly road up the side of Grassy Ridge Bald—visible to hikers along the Appalachian Trail for miles. This action suggested that the Peake family was contemplating development of the property. More important, this action made it clear that the scenic integrity of the Appalachian Trail would be jeopardized with anything short of acquisition of the entire 200-acre tract.

Despite this action, the Forest Service continues to refuse to acquire the property, even at the urging of myself and other Members of Congress. This reluctance poses a problem, not just for the protection of this property, but for the entire Appalachian Trail Program. Over 88 percent of the 2,100-mile Appalachian trail has already been permanently protected. With over 830 miles of the trail located within the boundaries of eight national forests, there are only 9.7 miles of rights-of-way that remain to be protected by the Forest Service through public ownership. These 9 miles include approximately 40 tracts of land, one of which is the Peake property. Now that the protection program is nearly finished, it is incredible to me that the Forest Service would stop short of completing this important project.

The Peake family made it known years ago that it was willing to sell the property, given the right price. Unfortunately, an agreement on price has never been reached between the family and the Forest Service. This reticence should not stop the Forest Service from fulfilling one of its fundamental obligations—to protect our natural resources.

Therefore, at my request, the Appropriations Committee included report language directing the Forest Service to protect the 200-acre Peake tract. The report language allows the Forest Service discretion in how it chooses to acquire the property. This assures the Peake family an opportunity for further negotiation with the Forest Service. Most importantly, it also assures the family an equitable price for their land.

Mr. President, I have made it a priority during my service in the Senate to ensure that adequate funds are appropriated for land acquisition along the Appalachian Trail. I am pleased with this bill's funding levels for Appalachian Trail-related land acquisition, and am happy to know that many of my colleagues concur with me on the need to finish protection of the Appalachian Trail corridor. I am dismayed to see the reluctance of the Forest Service in acquiring this outstanding tract needlessly jeopardize the integrity of the Appalachian Trail, for which many of us have fought so hard to protect. I hope that the report language included in this bill will add to the permanent protection of our preeminent national trail.

● Mr. McCLURE. Senators WALLOP, SIMPSON, and I have discussed the mine subsidence problem in Rock Springs, WY, and we have discussed several ways at arriving at a solution to the most pressing problem concerning the structural damage to 38 homes. My friends from Wyoming suggested that we might specifically earmark $211,500 out of the Abandoned Mine Land Fund to repair the structural damage to these properties. In reviewing this problem with the Office of Surface Mining, I have learned that the State of Wyoming had submitted a grant application on April 24, 1986, requesting these funds. The OSM determined that sufficient proof to meet the statutory requirements for granting these funds had not been presented by the State. In other words, the State was unable or unwilling to show that the damage to the property was due to subsidence abatement activities conducted between June 1985 and October 1985 and financed by previous OSM grants.

After a series of conversations with my friends from Wyoming, it is my opinion that the State should be given another opportunity to submit additional evidence to OSM that will establish a causal relationship between the property damage and subsidence abatement activities. And at this time I will direct OSM and the Department of the Interior to reconsider its decision and review any new or additional evidence submitted by the State of Wyoming. I strongly support the statutory requirements of having a full factual showing of causation. And clearly, as chairman of the Senate Appropriations Subcommittee on Interior I do not feel comfortable in trying to alleviate what is clearly the obligation of the State of Wyoming—and that is the burden of proof.

Mr. WALLOP. I thank my distinguished colleague from Idaho for his willingness to help on this issue. It is a most difficult one since we are talking about damages that affect human lives. I visited one of the affected homes when I was in Rock Springs this last July, and it is clearly heart

wrenching to see what problems this subsidence has caused. All three members of the Wyoming delegation have been active from the start on this issue, beginning with helping to write in Federal seed money of $3 million in AML funds for a subsidence insurance program several years ago. That is one avenue the State can continue to explore and develop in the meantime. Be that as it may, the Senator has already pointed out, that it is extremely difficult to earmark funds when the burden of proof has not been adequately met. I am also disturbed by the fact that the State of Wyoming certified in the March 5, 1984, Federal Register that it had addressed all known existing coal-related impacts in the State eligible for funding under the AMLR Program—a certification formally adopted in May of that year.

● Mr. SIMPSON. I too, appreciate the comments from my friend from Idaho and his support for the efforts of myself and my fine friend Senator WALLOP in having OSM reopen this issue. It cannot be disputed that the Abandoned Mine Land Program has been very, very important and helpful to the State of Wyoming. In the Rock Springs area alone over $10 million has been provided in fiscal year 1983 and fiscal year 1986 in order to provide for abandoned mine land subsidence abatement and related damages. Over the years the State of Wyoming has received more than $86 million from the AML Program to restore land and water resources affected by past unregulated mining practices. When all emergency funds are added in, the amount includes more than $15 million received by Rock Springs alone since the program began in 1977.

● Mr. McCLURE. I agree with both of the Senators from Wyoming, and would certainly suggest to the State of Wyoming that it consider requesting a rescission of the certification found in the 1984 Federal Register. I understand from preliminary figures supplied by OSM that the State would have received over $1 million in fiscal year 1987 for coal related projects if that certification had not been made. Some of that $1 million might have gone a long way to assisting Rock Springs' very real problems with subsidence. At this point, and in my opinion, the State of Wyoming has not been thorough enough in supplying proof of causation between the abatement project and the subsidence damage. I would strongly encourage the State to review the April 24, 1986 grant request material in order to make a stronger showing to OSM as quickly as possible. I thank my friends from Wyoming for bringing this important issue to my attention and I trust that this approach, with the necessary involvement of the State, will prove fruitful.●

Mr. McCLURE Mr. President, I know of no further amendments to be offered. I ask for third reading.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. McCLURE Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. GARN] and the Senator from Washington [Mr. GORTON] are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Missouri [Mr. EAGLETON] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chambers desiring to vote?

The result was announced—yeas 89, nays 8, as follows:

[Rollcall Vote No. 262 Leg.]

YEAS—89

Abdnor	Goldwater	Mitchell
Andrews	Gore	Moynihan
Armstrong	Grassley	Murkowski
Baucus	Harkin	Nickles
Bentsen	Hart	Nunn
Biden	Hatch	Packwood
Bingaman	Hatfield	Pell
Boren	Hawkins	Pressler
Boschwitz	Hecht	Pryor
Bradley	Heinz	Quayle
Broyhill	Hollings	Riegle
Bumpers	Inouye	Rockefeller
Burdick	Johnston	Rudman
Byrd	Kassebaum	Sarbanes
Chafee	Kasten	Sasser
Chiles	Kennedy	Simon
Cochran	Kerry	Simpson
Cohen	Lautenberg	Specter
Cranston	Laxalt	Stafford
D'Amato	Leahy	Stennis
Danforth	Levin	Stevens
DeConcini	Long	Symms
Dixon	Lugar	Thurmond
Dodd	Mathias	Trible
Dole	Matsunaga	Wallop
Domenici	Mattingly	Warner
Durenberger	McClure	Weicker
Evans	McConnell	Wilson
Ford	Melcher	Zorinsky
Glenn	Metzenbaum	

NAYS—8

Denton	Heflin	Proxmire
Exon	Helms	Roth
Gramm	Humphrey	

NOT VOTING—3

Eagleton	Garn	Gorton

So the bill (H.R. 5234), as amended, was passed.

□ 1740

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. JOHNSTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

(Later the following occurred:)

Mr. McCLURE. Mr. President, would the distinguished Senator from Arizona yield further?

Mr. GOLDWATER. Mr. President, I would be glad to yield, without losing my right to the floor.

Mr. McCLURE. Mr. President, I ask unanimous consent that it be in order that I now move for the appointment of conferees in order to complete action on the Interior bill.

The PRESIDING OFFICER. Is the Senator moving to insist on the Senate amendments?

Mr. McCLURE. Yes.

The PRESIDING OFFICER. And request a conference?

Mr. McCLURE. I ask unanimous consent that it be in order that I do so.

Mr. GOLDWATER. I yielded for that purpose.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, I move that the Senate insist on its amendments and request a conference with the House of Representatives on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to and the Presiding Officer appointed Mr. McCLURE, Mr. STEVENS, Mr. LAXALT, Mr. GARN, Mr. COCHRAN, Mr. ANDREWS, Mr. RUDMAN, Mr. WEICKER, Mr. BYRD, Mr. JOHNSTON, Mr. LEAHY, Mr. DECONCINI, Mr. BURDICK, Mr. BUMPERS, and Mr. HOLLINGS conferees on the part of the Senate.

(Conclusion of later proceedings.)

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, while a goodly number of Senators are on the floor, I would like to ask the distinguished majority leader what the program is for the rest of the day, whether or not we will have rollcall votes, in his estimation, and what bills may yet be called up.

Mr. DOLE. Mr. President, could we have order in the Chamber?

The PRESIDING OFFICER. The Senate is not in order. The Senate will be in order.

The majority leader.

Mr. DOLE. Mr. President, I understand that this conference report may take about 1 hour. I think the Senator from Ohio wants about 20 minutes and I think there will be 20 or 30 minutes for Senators NUNN and GOLDWATER.

Will there be a record vote on the conference report?

Mr. NUNN. I do not know of anyone who has asked for a record vote. We have no need for one.

Mr. DOLE. Then that will probably take us to about 6:30.

Then, as I understand, there are still one or two Senators who would like to speak today on the matter of the nomination of Justice Rehnquist. If we could do that at 6:30, with three speakers, I think—Senator HEFLIN, Senator SARBANES, and Senator DECONCINI—if they would be willing to start their speeches following the disposition of the conference report, that will probably take us to at least 7:30.

At 7:30 I would hope to call up the D.C. appropriations bill. I do not believe that will take any length of time.

I do not intend to stay in real late this evening.

□ 1750

Mr. BYRD. Mr. President, if the distinguished Senator would make his statement with respect to the District of Columbia appropriations bill again, I believe there is a Senator on the floor now who might have an amendment to that bill. I am addressing my thoughts to the distinguished Senator from Michigan [Mr. LEVIN].

Mr. LEVIN. Mr. President, I am not ready now. If I am going to offer an amendment, it could be ready by tomorrow. I am not positive that amendment will be offered. If it is, it will be ready tomorrow. I did not realize the leaders wanted to proceed tonight. If I had, I would have resolved this matter.

Mr. DOLE. If we are going to keep waiting until tomorrow—we want to leave here on October 3.

Mr. LEVIN. I am happy to cooperate with the leader.

Mr. DOLE. If we could do it this evening, tomorrow we have already——

Mr. LEVIN. How long does the leader expect that bill would take?

Mr. DOLE. I am not certain. It could take a couple of hours; it could take longer, but much will depend on what the distinguished Senator from Ohio [Mr. METZENBAUM] might have in mind with reference to an amendment.

Mr. METZENBAUM. Mr. President, if I may be heard, I have no special concern about the D.C. appropriations bill. It is my understanding that as it comes to the floor, it does not deal with the subject of abortion. Am I correct in that? Does the majority leader know or does the distinguished Senator from North Carolina know?

Mr. DOLE. Let me yield, if I may—the distinguished Senator from North Carolina is familiar with that.

Mr. HELMS. Mr. President, I thank the majority leader for yielding to me.

If the Senator from Ohio will read the bill, he will see that it does deal with abortion. I propose that we vote on the committee amendment striking and inserting. There will be a rollcall vote on that proposition whenever the bill is considered.

Mr. METZENBAUM. Is this the same amendment that was known as the Humphrey-Armstrong amendment, with which we dealt in the 99th Congress on November 7, 1985, at 5:45 p.m.? Is that the same amendment?

Mr. HELMS. What we are talking about, if the Senator will continue to yield——

Mr. DOLE. I am happy to, Mr. President.

Mr. HELMS [continuing]. Is that the committee struck the House provision, which was the Hyde amendment.

Mr. METZENBAUM. The Hyde amendment.

Mr. HELMS. That is correct.

Mr. METZENBAUM. And the Senator from North Carolina intends to offer the Hyde amendment?

Mr. HELMS. No, Mr. President, he does not. I say to the Senator my intent is only to get a vote on the committee amendment.

Mr. DOLE. There will be no amendment offered.

Mr. METZENBAUM. I see, Mr. President. I do not know that that will tie us up that long to give it further consideration. I would just like to be certain that there is no intention to offer an amendment we previously had which was to prohibit any use of funds in the bill, Federal or District, to pay for abortions except to save the life of the mother. That is not intended in this instance by the Senator from North Carolina?

Mr. HELMS. I say to the Senator again my only purpose is to have a vote on the committee action which struck the Hyde amendment from the House-passed bill.

Mr. METZENBAUM. Mr. President, is there not another Hyde amendment about which we speak quite often?

Mr. HELMS. No, sir, not that I am aware of.

Mr. METZENBAUM. So this amendment is not in the bill and the Senator does not intend to offer it, is that correct?

Mr. HELMS. I am going to offer nothing. I just want a vote on the committee amendment which deleted the Hyde language.

Mr. METZENBAUM. I thank the Senator.

Mr. President, what would be the majority leader's intent with respect to action on that amendment? Would it be sometime late this evening or would it be tomorrow?

Mr. DOLE. I would like to dispose of the D.C. appropriations bill this evening. We still have transportation appropriations, we have other appropriations, we have agriculture appropriations that are now available. We also have this week reconciliation, we have the automatic vote on Friday unless we devise some way to avoid it. We still have the Rehnquist and Scalia nominations to dispose of. We are trying to pass the appropriations bills so we will have some benchmark in this giant continuous resolution that the House is going to start working on next week. So depending on the outcome of the amendment, I would assume if the outcome is the same as it was in November, whatever it was, the Senator from Ohio would have no objection and there would be no reason to discuss it at length.

Mr. METZENBAUM. The majority leader reads me correctly. I guess I am questioning—who is the manager of the bill on both sides, if I may ask?

Mr. DOLE. The distinguished Senator from Pennsylvania [Mr. SPECTER] will manage on this side.

Mr. METZENBAUM. Would the minority leader be good enough to advise, who handles the D.C. appropriations bill on this side?

Mr. LAUTENBERG. The Senator from New Jersey.

Mr. DOLE. I might also indicate we passed this, it has been passed one time in wrapup in the evening. We had to retrieve it because of the abortion question. It is not controversial except for this one area, as I understand it.

Mr. METZENBAUM. I understand that. I understand the Senator from North Carolina is not going to offer an amendment. I just question whether that is the kind of amendment that ought to be voted on at 9:30 at night, as it looks like it might be.

Mr. DOLE. Better than October 5.

Mr. METZENBAUM. I say to the distinguished majority leader, you run the Senate. I back off.

Mr. HELMS. Mr. President, if the distinguished majority leader will yield, I do want to say that I am offering no abortion amendment. I simply want a rollcall vote on the committee amendment.

Mr. METZENBAUM. I full well understand the Senator from North Carolina. I am delighted to hear that he is offering no amendment.

Mr. HELMS. I do not need to. I am satisfied with the House version.

Mr. METZENBAUM. I understand.

Mr. HARKIN. Will the majority leader yield for a question on the schedule?

Mr. DOLE. Yes, I yield.

Mr. HARKIN. I understand that we are going to have on D.C. appropriations, maybe one vote on it. Why not go ahead with that now and have that vote? I understand there are not many votes on the conference report on the DOD reorganization. Then there are a couple of other speakers tonight on Rehnquist. Why not go ahead and have the votes now, have the D.C. appropriations, and maybe by 7 or 7:15, we can get out of here and we would not have any votes to go over, rather have it the other way around.

Mr. DOLE. I would be pleased to do that. I do think they want to finish the conference report. They have been

waiting since 10:30 this morning. I do want to do the conference report. I would be willing immediately after the conference report to move to the D.C. appropriations bill. Maybe we will be finished with the conference report by 6:30 or thereabouts.

I am not certain there is just one amendment. I do not know that. I hope there will only be one. If there is only one amendment, it could be disposed of, as the Senator indicates, and we could be out of here by 7:30.

(Mr. HECHT assumed the chair.)

Mr. HARKIN. It sounds like there is only going to be one vote on that. If that is the case, we could be out of here and do the conference report after that.

Mr. DOLE. Maybe we had better proceed with the conference report and take another look. I did indicate we would not be in real late tonight. I think if we get started, maybe we can do that.

Mr. BYRD. Mr. President, I thank the distinguished majority leader. I thank the distinguished Senator from Arizona for yielding.

GOLDWATER-NICHOLS DEPARTMENT OF DEFENSE REORGANIZATION ACT OF 1986—CONFERENCE REPORT

Mr. GOLDWATER. Mr. President, I submit a report of the committee of conference on H.R. 3622 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3622) to amend title 10, United States Code, to strengthen the position of Chairman of the Joint Chiefs of Staff, to provide for more efficient and effective operation of the Armed Forces, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 13, 1986.)

Mr. GOLDWATER. Mr. President, it is with great pride and deep satisfaction that I present the conference report and statement on the defense reorganizatoin bill, H.R. 3622, for consideration by the Senate. This landmark legislation is one of the most important actions, if not the most important action, that the Congress will take during this session.

Those of us in the Senate, Mr. President, who have devoted much of the last 3 years to formulating and promoting this legislation fully understand its significance and how it will greatly enhance the security of this Nation. The substantial controversy that once surrounded this measure has subsided in the past 6 months. As a result, enactment of this legislation will receive little media or public attention. This will not, however, diminish its importance. In the years ahead, I have no doubt that America will be strengthened as a result of this legislation.

The Constitution, Mr. President, empowers the Congress "To raise and support armies" and "To provide and maintain a navy." We have, indeed, devoted considerable attention to these two duties. But the Constitution also empowers the Congress "To make Rules for the Government and regulation of the land and naval forces." To this last duty, we have given insufficient attention. This legislation, in fulfillment of this constitutionally mandated responsibility, seeks to correct the organizational deficiencies that have accumulated from decades of neglect and resistance.

BACKGROUND

Mr. President, in 1852, Victor Hugo wrote these timeless words: "An invasion of armies can be resisted, but not an idea whose time has come." Such is the case with defense reorganization—an idea whose time has come.

For 85 years, America has been struggling to structure its Military Establishment to provide for a more effective common defense. Previous efforts were turned aside by powerful interest groups, both inside and outside of the Military Establishment. America has unfortunately payed a high price in terms of blood, treasure, and prestige for the failure to put genuine national security needs ahead of narrow interests.

Almost 1 year ago, Mr. President, Senator NUNN and I gave a series of speeches on the floor of the Senate that identified the serious problems in the organization of the U.S. Military Establishment. We cited problems that have existed, at least in part, since the Spanish-American War and that have caused serious operational failures or deficiencies during the Second World War, the Vietnam war, and more recent operations, including the tragic bombing of the Marine barracks in Beirut and the incursion into Grenada.

Those speeches, Mr. President, initiated the final phase of a comprehensive and deliberate 3-year study of defense organization by the Armed Services Committee. In June 1983, under the leadership of former Chairman John Tower and the ranking minority member Scoop Jackson, the Armed Services Committee began its work on this subject. Since that time, the committee held 22 hearings during which it received testimony from 58 witnesses. The committee staff produced a 645-page study that analyzed 34 problems in the Department of Defense and their causes. The committee held a weekend retreat with several former Secretaries of Defense, Chairmen of the Joint Chiefs of Staff, and other former senior military officers and civilian defense officials.

In addition, Mr. President, we consulted the Department of Defense and the staff of the National Security Council in the formulation of this legislation. We worked very closely with the President's Blue Ribbon Commission on Defense Management, chaired by David Packard, a former Deputy Secretary of Defense. The Packard Commission made a number of recommendations on broad organizational issues, and this legislation is consistent with those recommendations.

The Armed Services Committee marked up the proposed legislation over the course of 30 days during which over 100 amendments were considered. Believe me, the committee's review was very thorough. There were many contentious issues. Not every committee member agreed with each provision, but I was delighted that our committee reported a defense reorganization bill by a vote of 19 to 0. The Senate considered this bill on May 7, and approved it by a unanimous-consent vote of 95 to 0. The House of Representatives passed its version of this legislation by a vote of 406 to 4.

Mr. President, this is a remarkable achievement: Only four votes in the entire Congress were cast in opposition to this far-reaching measure. Just 1 year ago, there were only a handful of legislators and former defense officials who supported defense reorganization. Now, the Congress has overwhelmingly endorsed this legislation. Seldom has the Congress spoken so clearly.

CONFERENCE REPORT

Given the complexity of defense reorganization issues, Mr. President, the conference committee had to work hard to resolve the differences between the Senate and House bills. This task was made considerably easier by the fact that the 2 bills shared 13 fundamental objectives. The conferees were thus able to select the best ideas from two excellent bills. I am extremely pleased by the resulting conference report. In this instance, we have a conference report that is better than either the Senate bill or the House bill.

The major provisions of the Senate bill are preserved, Mr. President, in the conference report. From the Senate perspective, the most significant changes were the addition of three key ideas from the House bill.

First, and foremost, is a requirement for the Secretary of Defense to establish policies, practices, and procedures for the effective management of military officers trained in, and oriented

toward, joint matters. Since the beginning of the Second World War, we have understood the need for the unified direction and operation of our Armed Forces. Despite this understanding, we have absolutely failed to prepare and reward military officers for duty in joint organizations, such as the joint staff and in the war-fighting commands around the world. For the most part, military officers do not want to be assigned to joint duty; are pressured or monitored for loyalty by their services while serving in joint assignments; are not prepared by either education or experience to perform their joint duties; and serve for only a relatively short period once they have learned their jobs. This is an intolerable situation which the conference report devotes considerable attention to correcting.

The second major addition to the Senate bill, Mr. President, relates to the headquarters staffs of the military departments. The Army and Air Force Departments have two separate headquarters staffs: The Secretariat serving the service secretary and the military headquarters staff serving the service chief. Because of its duel-service structure, the Department of the Navy has three headquarters staffs, one civilian and two military. The House bill proposed that the headquarters staffs in each military department be integrated into a single staff.

The Senate conferees opposed this staff integration because we believed that it could preclude the effective development and presentation of the military point of view in defense decisionmaking. Although the House receded on this provision, the conferees agreed that seven functions should be consolidated in the service secretariats. Each of these functions is civilian in nature or key to effective civilian control. Although located in the secretariat, the consolidated office responsible for each function will serve both the service secretary and service chief.

The third major issue in conference, Mr. President, was the degree of command authority to assign to the unified and specified combatant commanders. The Senate bill would have assigned "full operational command" plus authority over key aspects of administration and support. The House bill would have assigned "command" which would have been a much broader grant of authority. The conferees determined that neither the term "full operational command" nor the term "command," as currently used in the Department of Defense, accurately describes the authority that combatant commanders need to carry out effectively their duties and responsibilities. Accordingly, the conferees agreed to avoid the use of either term, but instead to specify the authority that the conferees believe the combatant commanders need.

RECOGNITION OF CONTRIBUTIONS

As with all great measures, Mr. President, this historic legislation would not have been possible without the great skill, courage, and perseverance of a number of dedicated Americans. I cannot possibly recognize the contributions of each individual who played an important role in this undertaking, but I would be remiss if I did not publicly thank the most important contributors.

At the top of any list must be Gen. David C. Jones, U.S. Air Force (retired). In 1982, while serving as Chairman of the Joint Chiefs of Staff, General Jones spoke out forcefully on the need for organizational reform. His criticisms started this entire undertaking. Moreover, General Jones has offered his valuable expertise as this legislation has been formulated. I salute General Jones' courage and wisdom.

Gen. Shy Meyer, former Chief of Staff of the Army, also deserves our thanks. He joined General Jones in criticizing the current system, and, thereby, reinforced the call for reform.

A former and a current Member of the House of Representatives also played key roles. During 1982, Congressman Dick White of Texas began the congressional inquiry into defense reorganization. Upon his retirement, Congressman BILL NICHOLS of Alabama provided the leadership to complete this important work in the House of Representatives.

On the Senate side, my hat is off to former Senator John Tower and the late Senator Scoop Jackson. These two giants of this generation had the courage, wisdom, and foresight to start the Armed Services Committee on this long-term project.

This legislation would not have been possible, Mr. President, without the expertise and skill of my good friend, Senator SAM NUNN. He worked tirelessly in formulating this legislation. I cannot express my appreciation for his great contributions and for the bipartisan spirit that he brought to this effort.

Two other members of the Armed Services Committee also must be recognized. Senators BILL COHEN and CARL LEVIN were intellectual forces behind this legislation. They ensured that every provision was carefully researched and thoroughly considered.

Mr. President, I mentioned the President's Blue Ribbon Commission on Defense Management. We were truly fortunate that this commission was chaired by David Packard, who forcefully brought to bear his years of experience as a defense official and business leader. Under Dave's leadership, the Packard Commission played an important role in building the consensus for defense reorganization.

We are also indebted to a number of former defense officials and military officers for their advice and assistance. Key among this group are former Secretaries of Defense Mel Laird, Jim Schlesinger, and Harold Brown. In addition, Phil Odeen, Bill Brehm, John Kester, and Gen. Paul Gorman made major contributions to the defense reorganization effort.

Last, Mr. President, I would like to recognize the contributions of Senate staff members. I might say that there was no way humanly possible for any committee like the Armed Services Committee to ever prepare a paper as was prepared by this staff. The effort benefited from outstanding staff work. I want to express my appreciation particularly to Jim Locher, whose never-ending application to this work brought the results we are talking about. There were Rick Finn, Jeff Smith, and Barbara Brown of the Armed Services Committee staff for their hard work and dedication. Mr. President, I also want to recognize the work of Hugh Evans, the deputy legislative counsel of the Senate. The quality of this legislation is in large part due to Hugh's outstanding contributions and expertise.

CONCLUSION

In conclusion, Mr. President, I have devoted much of my life to the U.S. military. I have always had a deep and profound love for the American man and woman in uniform. This may be the last piece of legislation that I will have the honor to offer for consideration by the Senate. If it is, I will have no regrets. I will have had the privilege of serving in the Senate on this day—the day that our soldiers, sailors, airmen, and marines were given the organizational and command arrangements that will enable them to effectively accomplish their vital missions without unnecessary sacrifices or loss of life. We owe nothing less to these brave patriots. I am gratified to have played a small part in making this historic day possible.

Mr. President, this defense reorganization legislation is one of the achievements in my life of public service in which I take the greatest pride. Coming so close to the end of my career, this legislation has a special place in my heart and mind. After I have departed from the Senate, I will rest assured knowing that the course has been set for a more secure future for my beloved country.

□ 1810

Mr. NUNN. Mr. President, as Senator GOLDWATER has indicated so well, this is indeed a historic day in the U.S. Senate, and I think a very important day in our Nation's move toward stronger national security. Not since the 1947 National Security Act and the 1958 amendments of President Eisenhower—almost 30 years ago—has such far-reaching defense reorganiza-

tion legislation been on the verge of enactment. The conference report on the Goldwater-Nichols Department of Defense Reorganization Act of 1986 makes comprehensive, sweeping, and landmark changes in the organizational structures and relationships of the entire Department of Defense.

This conference report, when signed into law by President Reagan—and I hope that will be in the next few days, certainly by the end of this month—will make very significant improvements in the way the Pentagon operates. I believe it will make the Department of Defense more effective in wartime and more efficient in peacetime.

PROBLEM AREAS

These changes are designed to correct problems that have been evident in the Department of Defense for many years. These problems include lack of interservice cooperation, poor quality of collective military advice from the Joint Chiefs, cumbersome chains of command, inadequate authority of the war-fighting commanders in the field and excessive bureaucracy at every level.

I want to note that the Department of Defense itself has recognized some of the problem areas and taken some corrective action. Progress was made during General Vessey's tenure as Chairman of the Joint Chiefs of Staff to improve the functioning of the Joint Chiefs of Staff, and this has been continued and intensified by Admiral Crowe and the Joint Chiefs who are now sitting.

The Joint Chiefs have now revised JCS Publication Two, which establishes the relationship of the unified commanders—those people in the field who are in charge of our forces and who would fight the wars—to the rest of the Department. JCS Publication Two was unintelligible the way it was written. Yet, it was the key document establishing the relationship between the fighting men and women in the field and the Department of Defense.

This document had not been thoroughly reviewed since it was first agreed upon in 1948 and the previous version preserved the services' influence in the unified commands. I am pleased that the revision of that document follows the outlines of the Senate bill which is largely preserved in this conference report.

A number of other changes have been made in the Department of Defense to implement the Packard Commission recommendations. The President, the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, and the other members of the Joint Chiefs should be commended for these changes. But they do not go far enough. The fundamental structural changes in the defense organizations made by this bill are still necessary.

What, then Mr. President, is the significance of this conference report?

STRENGTHENS CIVILIAN LEADERSHIP

First, it strengthens civilian leadership of the military because it provides a new framework for centralized decisionmaking on key policy issues but decentralized execution of these policies in a more flexible manner.

Second, this bill will improve the quality of the professional military advice provided to the President, the National Security Council, and the Secretary of Defense. Under the old law, the Joint Chiefs of Staff was a committee and its advice reflected the weaknesses of a committee product—that is, it was watered down and muddled so that all of the Joint Chiefs could agree. Our bill makes the Chairman the principal military adviser; he can give advice in his own right. It puts him in charge of the Joint Staff. But it also ensures that individual service chiefs will have the right to provide their views or opinions, even if in dissent, to the President, the National Security Council, and the Secretary of Defense. This new procedure should enhance not only the quality and timeliness of military advice but in my judgment it will enhance the role of the military since their advice is more likley to be listened to and followed.

INCREASES AUTHORITY OF FIELD COMMANDERS

Third, the bill will increase the authority of the commanders in chief of the unified commands, those three- and four-star military officers who are in command of our forces in the field in peace and war. These are the individuals who look beyond the perspective of just one service and who must ensure that all elements of their command are ready to fight in a coordinated fashion. Under current circumstances, they are hampered by a web of bureaucratic constraints that require them to operate with essentially independent single service component commands that severely constrict their flexibility. Our bill gives these commanders in chief much greater authority and permits them to do such things as organize their commands as they see fit. This is decentralization as it should be—less authority in the Washington bureaucracies and more responsibility in the field where the action is. This should help avoid such episodes as the tragic bombing of our marines in Beirut where there were eight levels of command bureaucracy between the marines on the ground and the command authorities in Washington. When there are that many levels of command, responsibility is diffused. Because everyone is in charge, no one is in charge. Our bill will permit the commanders in chief in the field to organize their commands to best suit the tactical and operational needs of their area of responsibility.

For example, under this bill, there could have been only one layer of command between the marines in Beirut and the authority here in Washington.

□ 1820

Instead, we had eight layers of command between the marines in Beirut and the Commander in Chief here in Washington.

VICE CHAIRMAN

In a further effort to strengthen the joint military perspective, the act before us today creates the new position of Vice Chairman of the Joint Chiefs. The Vice Chairman will be the No. 2 military officer. This was a very controversial part of the bill but we thought it was a very important part of the bill. He will also serve as Acting Chairman when the Chairman is out of town or out of touch. As such, he will provide continuity for the Chairman's joint duties and serve as an additional focal point for the commanders in the field.

REDUCES BUREAUCRACY

Next, this bill will reduce additional layers of bureaucracy in the Pentagon and elsewhere. It provides for increased supervision and control of the defense agencies such as the Defense Logistics Agency and the Defense Contract Audit Agency. It also decreases the size of headquarter staffs in the defense agencies and military headquarters by almost 17,000 personnel in order to streamline the administrative and operational chains of command. It reduces the number of assistant chiefs of staff, deputy chiefs of staff and reduces the number of flag and general officers in the Washington headquarter by 15 percent. This will result in approximately 42 admirals and generals being moved out of the Washington bureaucracies. It is an attempt, simply put, to shift "writers" into "fighters."

SUPPORTS MEN AND WOMEN IN UNIFORM

Further, Mr. President, I would say that this bill is significant because first and foremost it will help the young men and women in uniform who are out there on the front line every day. It will mean that the Army, the Navy, the Marine Corps and the Air Force will begin—over a period of time—working together more as a team. This bill emphasizes those parts of the Pentagon that are charged with broad joint responsibility. It establishes a system to give the Secretary of Defense better military advice. It gives the Chairman of the Joint Chiefs a much stronger hand, both in terms as his role as the principal military adviser to the President and in his management of the joint staff. It strengthens the commanders in chief in the field who have to organize and command the young men and women in uniform to fight and win wars. And Mr. President, I would say that at the same time we are making these sweep-

ing changes, we are also preserving the hallowed tradition of the individual services. We have done nothing in this bill to diminish or alter the proud traditions of the Army, Navy, Marines, and Air Force which have produced the finest men and women in the world today.

All of these things have been done without diminishing the proud traditions of the Army, Navy, the Marine Corps, and the Air Force which have indeed produced the fine fighting men that have protected this Nation in the past and continue to do so today.

CONGRESSIONAL REFORMS

And finally, Mr. President, we have not overlooked the Congress. Very early on, Chairman GOLDWATER and I indicated the need to extensively revamp congressional procedures. While this bill alone does not contain all of the changes in Congress that I believe are necessary, it does make a modest beginning. We have reduced the burden of congressional micromanagement of the Pentagon by sunsetting about two-thirds of the more than 400 defense reports and studies now required by the Congress from the President and the Department of Defense. We have, in other legislation, provided for a 2-year budget for the Pentagon which is essential to break the gridlock of requiring annual review of every single line item in the defense budget by both the Pentagon and Congress. We have provided authority for milestone authorizations so that weapon systems can be approved for longer stretches at a time, thus providing greater stability and flexibility. We have begun to change the focus of our own committee process to look more at the output of the Department of Defense, particularly in the mission and joint arena, and to look less at budget inputs. But these things are only a start; much more needs to be done in terms of streamlining the cumbersome procedures and the bureaucracy in the Congress.

Mr. President, we also have tackled congressional reforms. We have not gone nearly as far as I would have liked, and not as far as we would have liked as a committee, but we cannot change the jurisdiction of other committees unilaterally. We did what we could. We dramatically reduced the number of reports that the President and the Pentagon have to submit to Congress and we all pledged to work for additional changes.

I personally believe we are going to have to tackle the redundancy of committees. We have three committees, Budget, Appropriations, and Armed Services that result in much duplication. We are all going to have to find an answer to that duplication in future months and years.

PROBLEMS MAY OCCUR

Mr. President, the changes incorporated in the Goldwater-Nichols Department of Defense reorganization bill are both sweeping and dramatic. They will, however, take time to implement and we certainly should not expect a 100-percent inprovement in all areas overnight. We are establishing a framework that will permit these changes to occur, that will shift the current power relationship in the Pentagon. However, Congress and the President will have to monitor this situation carefully to make sure that these changes have the intended results and that our defense capability is strengthened accordingly. We will also have to monitor the situation carefully to ensure that problem areas do not become serious. In this respect, I think we should be alerted early on that certain provisions may result in problems and may warrant changes.

JOINT OFFICER SPECIALTY

One potential problem area is the joint officers speciality. The conference report creates a "joint speciality" for military officers who are trained in and oriented toward joint matters. I generally support this concept because I believe it is essential to building more jointness into the system and to providing more rewards for such service. I am concerned, however, that some of the provisions may be overly rigid and unworkable. The joint officer speciality is phased in and there are a number of waivers which will mitigate some of this rigidity. I believe our committee will have to carefully monitor the implementation of this program and we may have to make some changes in the future as the problems become more apparent.

CONSOLIDATION OF MILITARY DEPARTMENTS

Another area that is of concern is in the consolidation of the military and civilian staffs in the military departments. The conference agreed to consolidate several functions, such as acquisition, comptroller, inspector general, and legislative liaison, under the Secretaries of the military departments and directed that the service chiefs not set up competing bureaucracies within their staffs. In the conference, I was concerned that we not create an impenetrable wall between the staffs of the service Secretary and the service chief. The goal of the consolidation is to reduce personnel and eliminate duplication. I believe we need to allow for what I would call dual-hatting. A number of changes were made to build some flexibility into the provision so this dual-hatting could occur. Although I would have preferred additional changes, the final version is certainly an improvement over the original provision but this is an area that may need revisiting.

In a related matter, I am concerned that the changes in this area not prejudice the Marine Corps because of its unique position as the smaller service in the Navy Department. A number of the other conferees shared that concern and we included specific language directing the Secretary of the Navy to ensure that the Marine Corps receives even-handed treatment. It is clearly the conferees' intent that the Commandant have access to the staff support he needs to carry out his responsibility.

I know Senator GLENN, my colleague from Ohio will have some concerns, particularly as to how this bill affects the Marine Corps.

We made some changes in the last stages of the conference, recognizing the uniqueness of the Marine Corps as a service that is under the Secretary of the Navy. We also recognized that the other services also may have some problems. We added language which we think has helped clarify and given more flexibility with respect to separation of the staffs of the service Secretary and the service chief.

But I would be the first to say, and I know the Senator from Ohio is going to address this in detail, that there will probably be some continuing problems. We are going to have to monitor these problems very carefully and we may very well have to make some changes next year.

Mr. President, we recognize that this conference report is an extremely complex piece of legislation and that we will have to review its implementation carefully and we will have to make corrections in the future when needed.

ACKNOWLEDGEMENTS

While it would take a book of acknowledgements to thank everyone who has helped with the legislation, I echo the sentiments of Chairman GOLDWATER in saluting the leadership of Gen. David Jones and Gen. Shy Meyer. Credit must also be given to the very major contribution of the Presidential Blue Ribbon Commission headed by former Deputy Secretary of Defense, David Packard. In addition, leading outside institutions, such as Georgetown University's Center for Strategic and International Studies and the Heritage Foundation assembled panels of distinguished Americans and conducted comprehensive studies of these issues. The House Armed Services Committee, with the able and distinguished leadership of BILL NICHOLS, also began a review, focusing particularly on the Joint Chiefs of Staff. Indeed, the House passed a bill reorganizing the Joint Chiefs in 1984 which was a key factor in moving this process forward. Former Congressman Dick White also took a major leadership role in the House on this issue. In the Senate, our former chairman and ranking member Senators Tower and Jackson were key initiators of this. Senators LEAHY and EAGLETON were early leaders as well. In particular, Senator EAGLETON introduced and ably supported his own bill to reorganize

the Joint Chiefs. He withdrew his bill as an amendment to the Defense Authorization Act in 1984 and 1985 on the assurance that our committee would take action. It is obvious that we have. Senator EAGLETON continued to monitor our efforts and was helpful as we considered this issue.

Mr. President, the members of our committee have all done an outstanding job. Senator COHEN has been involved in every facet of this legislation from the very beginning. He has been a stalwart. He served in every capacity. He has worked constructively on every area of this bill and has made a major contribution.

I would say the same of Senator LEVIN from Michigan. He has been diligent and has been bulldogged on the details that are required to put together this kind of legislation. He has been of great, great assistance to us.

Senator GLENN from Ohio has also played a very key role.

It has been helpful to us to have the views of people like Senator GLENN and Senator JOHN WARNER from Virginia who have had considerable experience in the Department of Defense. I know both of them had some reservations as we went along with respect to certain parts of the legislation, but their helpful and constructive assistance has been invaluable.

Mr. President, the process of producing this legislation was, as Chairman GOLDWATER mentioned, a long and arduous one. He has described the role that the committee played and I agree the cooperation and bipartisan work within the committee was excellent. He has also commended the staff.

I must add my words of praise to the staff. I have seen a lot of good staff work since I have been in the Senate. I would put this at the very top. We have to remember the origin of this legislation was the report, a very thorough staff report that was written by our capable staff headed by Jim Locher, Rick Finn, and Jeff Smith. They worked together as a team.

I have never seen a majority Republican staff and a minority Democratic staff work together as smoothly as they did in a total spirit of bipartisanship.

Particular thanks should also be given to Hugh Evans, the Deputy Legislative Counsel. Hugh put in enormous amounts of time and effort to produce this bill. This legislation benefited greatly from superb legal skills and comprehensive knowledge of national security legislation. Hugh has been providing such excellent help to our committee as far back as I can remember. He has played a key role in the drafting of much of our legislation, and I believe Hugh is on the floor today making sure we do not do anything wrong in the last stages of this important legislation.

I must also thank the House staff headed by Archie Barrett and House counsel Bob Cover, who deserve tremendous credit because they, too, worked long and hard on this measure.

Of particular note, Mr. President, is the work of the Senate Armed Services Committee's administrative staff—Barbara Brown and Pamela Powell—who not only had to support the drafting and publishing of the monumental staff study but also the conducting of all the hearings and transcripts that went with it, as well as the typing and retyping of many versions of the bill and report as it was being developed in the conference. No one is probably more happy to see this bill sent to the President than those two individuals since it is now too late for any more changes.

I must also add one final word of commendation, a very important one. There has been much coverage and discussion of defense reorganization in the news media. We certainly have had good, fair, and objective coverage by all elements of the news media, but today I want to salute particularly the Armed Forces Journal and editor Ben Schemmer for their early comprehensive excellent coverage which gave a much better understanding of these complicated issues to the thousands of readers they have, particularly in the military community, both active and retired. This was very important in this legislation and it was very constructive.

TRIBUTE TO SENATOR GOLDWATER

Finally, Mr. President, let me pay tribute again, as I have in the past, to Senator GOLDWATER, without whose leadership we would not be ready to pass this bill today. It is very appropriate that bill is named after BARRY GOLDWATER. He has devoted his life to this Nation and much of it has been focused on the defense of our Nation. He has the greatest respect on both sides of the aisle for his candor, his judgment, his hard work, his sense of humor and his determination to provide the very best defense possible for our country and to provide the very best conditions for people in uniform.

□ 1830

He is a master at utilizing his well-timed lack of patience in getting things moving when they get stuck. We have benefited from that many times.

So we are very proud of this product. The whole committee is proud of it. I am proud to serve on the Armed Services Committee under the direction of Chairman GOLDWATER and our distinguished colleagues on both sides of the aisle.

I urge my colleagues to adopt this historic piece of legislation this afternoon.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, I rise today, as I did 4 months ago, in support of the Senate version of the DOD reorganization bill, to join my colleagues in supporting the conference-approved Goldwater-Nichols Department of Defense Reorganization Act of 1986.

As I stated in May, I have believed for some time that DOD organizational and procedural changes are necessary if we are to improve our warfighting capability. This is not just peacetime semantics we are talking about. We are trying to set up an organization that can deal with combat in a most effective way.

At the time we discussed this bill earlier, I was particularly critical of our ability even to conduct joint warfare operations following the Grenada invasion. There were many aspects of that operation, especially tactical communications, that indicated that considerable improvement was needed in joint operating capabilities.

Another area I have been concerned about is the relationship between our foreign policy and our defense requirements. I served for 10 years on the Foreign Relations Committee and have been on the Armed Services Committee for almost 2 years now. I am convinced that our defense requirements must better reflect our foreign policy.

I would prefer to see us clearly spell out the strategic interests of the United States with our allies around this world, then determine what our military requirements are to meet that kind of commitment strategywise around the world. We should build our combat units from the ground up, whether conventional forces or nuclear forces, either one, and then see what is needed on top, not go the other way and build from the top down.

I have even advocated that we combine the Senate Foreign Relations Committee and the Senate Armed Services Committee. I think that would make a lot of sense. I think it is something we have to very seriously consider in perhaps the next session of Congress, because we cannot set policy and then just have a military that somehow grows up on its own without any consideration of what policy is to be carried out. I plan to bring that up in the near future; I think our defense requirements must better reflect our foreign policy.

The DOD reorganization bill, which we are now considering, requires that the JCS Chairman assess whether individual service programs and budgets conform to strategic priorities and operational requirements; this should help substantially in bringing our for-

eign policy and defense requirements into synchronization.

In my opinion, however, the only compelling reason for changing the DOD organization is to improve the warfighting capability of our combatant commands. Although I believe this bill will go a long way in making such an improvement by strengthening the command authority of the unified and specified commanders, there is a specific provision in the bill before us that could in fact greatly reduce the military effectiveness of all our Armed Forces, especially the Marine Corps.

Mr. President, I refer to the provision in the bill that would integrate and combine many of the functions of the service secretaries and the military headquarters staffs within the departments of the Army, the Navy, and the Air Force. These functions include acquisition, auditing, comptroller, information managements, inspector general, legislative affairs, and public affairs.

According to Secretary of Defense Weinberger, the net effect of such integration would "weaken the effective management of our defense effort by blurring the distinct, unique, and vital roles of the service secretary and service chief."

At the same time, I think it is clear that it would also diminish the ability of the service chief to provide independent advice, which would be particularly significant with respect to the service chief's function as a member of the Joint Chiefs of Staff.

Although the consolidation of key functions will create a serious problem for all the services—and it will be one they will have to work through—it will be a critical problem for the Marine Corps. This is because of the existence of two separate armed services within the Department of the Navy—namely the Navy and the Marine Corps.

By consolidating such key functions as acquisition, comptroller, and Inspector General in the Office of the Secretary of Navy, we in effect will transfer the leadership of the corps from a professional marine officer to a civilian political appointee. That could be the effect.

We will also remove the corps as a separate service by de facto placing the Marine headquarters staff at the disposition of the U.S. Navy, which will always be dominant within the Navy Department.

Consolidation will also relegate amphibious warfare to the status of other historically underresourced naval warfare areas, as well as deny the Commandant of the Marine Corps the staff support necessary as a member of the JCS to provide the independent advice so critical to our system of checks and balances within the U.S. military structure.

Transfer of these key functions from the Commandant of the Marine Corps to the Secretary of the Navy will be tantamount to requiring that the Marine Corps perform its management functions the way the Navy does theirs; indeed, under direct Navy Supervision.

The Commandant would have no separate prerogative as to how the corps would function in many critical areas. This could have a negative impact on every aspect of how the Corps is run, from how we pay our Marines, to the type of rifle they carry, to how they maintain their combat essential equipment.

So I think, without question, it could have within it the possibility of seriously diminishing combat readiness and we would lose the unique qualities of the corps. And those are unique qualities.

The Marine Corps' purpose in being is readiness. It is not large. It is under 200,000 people; it is only about 198,000 at the present time. But it is America's ready force. We have units of the Marine Corps that have parts of equipment, major components of equipment, boxed and ready to go at any given time on any given day, so they are mobile, so they are ready to go, so that elements of the corps can move within 24 hours easily in a readiness function.

And they have within the corps the required supporting arms. We have artillery, we have air support, and we have all the other functions within one unit, small, ready to go. The corps is trained for amphibious operations, they are trained for land operations, they are trained for fast action or reaction, and they are kept on a ready basis. That is the unique quality of the corps.

I do not think that it was the goal of this House-sponsored provision—the original Senate bill, I repeat, did not have this provision in it—but I do not believe it was the goal of the House-sponsored provision to intentionally reduce the effectiveness of the Marine Corps. But the practical result is the same and I feel it is really unacceptable.

If, as I suspect, the purpose of the proposed consolidation of Headquarters Marine Corps staff functions with those of the Chief of Naval Operations and the Secretary of the Navy was included in the House legislation simply because of a desire to include all services for purposes of symmetry under this legislation, then, without consideration of their specific circumstances, we, in accepting it in the conference bill, will have done this Nation a disservice. Symmetry should not be the objective of this bill. The objective of this bill is combat effectiveness, and that includes the Marine Corps.

It is tantamount to the Senate and the House of Representatives consolidating our congressional staffs so that we nominally could achieve greater economy and effectiveness.

There may be those in the Senate who will say that I am unnecessarily alarmist—after all, according to the language of the bill, the Marine Corps has the Secretary of the Navy to look after its interests. To that I would reply that it was a Secretary of the Navy—or two—who presided over a major reduction of the Marine Corps at one time to the point where the Marine Corps was in danger of going out of existence.

□ 1840

Those were in the years between World War II and the Korean war, and I was in the Marine Corps at that time. So I know about that. The facts were that in 1950 when Korea started, only one Marine provisional brigade could be mustered when U.N. forces and the Marine Corps were called upon to hold the line in the Pusan perimeter. The long knives were out at that time. I can tell you. Time to time it has been repeated. So the Marine Corps has not always had the great support from the Secretary of the Navy that it now enjoys.

We should recall the situation which then confronted the 82d Congress in 1951. Into this area of jealousies, rivalries, interservice bickering, we found there was a long history of attempts by other armed services to abolish or emasculate the Marine Corps. These effects became particularly egregious in the period between the Second World War and the Korean war. A Marine Corps reduced from wartime strength of 486,000 men and women in 1945 to but 62,500 on June 27, 1950, the date of the outbreak of the Korean war. It was an attempt to have the Marine Corps reduced to barely 8 battalions and 16 squadrons of supporting aircraft at a time when according to the Congress, "The need for a force in readiness was at its greatest." But the Marine Corps at that time had been cut back to a bare, bare minimum.

In opposition to legislating the organization and mission of the Marine Corps by the Department of Defense and the Departments of the Army, the Navy, including the Secretary of the Navy and the Chief of Naval Operations, and the Air Force based on their representations, the statutory protection was not necessary.

It was clear then—as it should be today—that the Congress cannot forfeit or delegate its historic responsibility to the American public for the protection and maintenance of the Marine Corps. For, as Senator Walter George wrote in a letter to the Senate Armed Services Committee in 1952:

• • •[t]he Congress has repeatedly tried to make it clear to the Executive Department that it wants a combatant U.S. Marine Corps available to carry out its traditional

role in the defense of our country. I am well aware of the fact that there are those who have piously stated that there is no intention of doing away with the Marine Corps, and in that statement I think they were factually correct. They never intended to do away with the Marine Corps as such, they simply intended to see that it could not carry out combatant missions. It could carry out ceremonial and guard duties.

I feel that it is clear both to us in the Senate and to our colleagues in the House that the American public wants in 1986—just as it did in 1952—to ensure an effective Marine Corps available to carry out its traditional combatant role in the defense of our country and to be the readiness force for our Nation.

Legislative history to protect the corps was written in 1947 and again in 1952 during Senate debate. In each instance, however, a further attempt to diminish the Marine Corps later resulted, but fortunately with no lasting detrimental effect, this in large measure because the U.S. Senate and the Congress as a whole took active steps to prevent it.

Today we must continue to preserve what we in the Congress have statutorily created—a Marine Corps responsive to America in time of crisis. Although there presently is report language in the DOD reorganization bill which recognizes the unique position of the Marine Corps within the Department of the Navy, I am absolutely convinced that to preserve the integrity of the corps, additional statutory language will be required.

Mr. President, I am under no illusions that this bill tonight will not pass. And I am certainly not trying to stop it. I would not try that. But I am very concerned about these matters I brought up.

If we thought we had the votes tonight to get the same thing over in the House side, I would far prefer to insist now that we send this back to conference. It could be done immediately. But I know we do not have the votes to do that tonight. I would prefer that to leaving the statutory language as it is written now and only depending on the report language to make certain that the Marine Corps is treated fairly and equally under this bill.

But I am a realist. I know we cannot hope to get the statutory language changed now. So we are going to have to resort to future change.

So to this end, I will urgently recommend to the chairman of the Senate Armed Services Committee that early next year we hold hearings and solicit testimony by the Commandant of the Marine Corps as well as testimony by the other service chiefs and the service secretaries on this very important issue of staffing integration and the particular nature in which it affects the Marine Corps.

Following that testimony, I would fully expect to introduce an amendment that will once again very clearly define the unique function of the Marine Corps within both the Department of the Navy and the Department of Defense—that statement and a legislative solution that will ensure that adequate staff authority is available to the Commandant of the Marine Corps to execute his statutory responsibilities.

I do not want to see any future Commandant hamstrung in his ability to keep our readiness force truly ready.

Mr. President, with the exception of this major caveat, I fully endorse the Goldwater-Nickles DOD Reorganization Act, and I intend to vote for it. I urge my colleagues to do the same.

But I would like to conclude, Mr. President, by joining my colleagues and Senator NUNN who has spoken eloquently here this evening as well as previously on the floor in praise of the leadership and the dedication of Chairman GOLDWATER, and I would add Senator NUNN there too in shepherding for well over 2 years the efforts on the Senate side leading to this historic bill.

Well, done, BARRY, and well done, SAM, and thank you, Mr. President.

We look forward to getting this bill passed. We look forward also to the modifications that I think will make the protections we need for the Marine Corps in the next session of Congress.

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. Mr. President, I want to say a few words in response to the Senator from Ohio. He has been an invaluable member of the Armed Services Committee and, as we all know, he has a wealth of experience from his distinguished service as a Marine Corps officer. His concerns are not to be taken lightly or in any way dismissed or diminished.

I would simply point out that in achieving this compromise with the House the Senate prevailed on 90–95 percent of its provisions. In the area of consolidation of functions there is a statement contained on page 151 of the report worth noting:

> The conferees agreed that each service should have a separate military headquarters staff in the executive part of its military department. The staff should continue to conduct the function for which effective representation of the military point of view is invaluable to the work of the military department. Key among these functions are manpower and personnel, logistics—

It talks about the points the Senator was raising—

> installations, operations and plans, requirements and programs, and command, control, communications, and intelligence.

So I think we are certainly sensitive to the unique capabilities and needs of the Marine Corps. This particular type of provision is directed precisely to that point. So whatever deficiencies there are I think the Senator from Ohio has called our attention to it. I think he is correct in asking for hearings as promptly as we can have them in the next session.

But I do want to at least allay some of his concerns that we gave away the entire package to the House or through an insistence on symmetry may have carved out key items that will affect the military capability and readiness of the Marine Corps.

Mr. GLENN. Will the Senator yield for a minute?

Mr. COHEN. I yield.

Mr. GLENN. My concern is on the specific language of the bill. The report language is satisfactory. It indicates our intent. But a future Secretary of the Navy interpreting the very specific language of the bill could well interpret that in a way where he really does go ahead and say that the Marine Corps cannot do their own acquisition, auditing, comptroller, information management, inspector general, legislative affairs, and public affairs. Those seven items are spelled out specifically that cannot be done.

It does not say "may" at the Secretary of Navy level. It says specifically he shall not let anybody else perform those functions. That is what concerns me.

Mr. COHEN. I think the point is well taken. We should address that.

Mr. President, I would like to add a couple of comments concerning the title of this bill, the Goldwater-Nickles bill. I think in all fairness we ought to have, since we have a Gramm-Rudman-Hollings tripartite, a Goldwater, Nickles, and Nunn bill, because I do not know of anyone who has put more time into this particular effort than the Senator from Georgia. He worked not only on the committee but prior to that for at least a year on the Georgetown study group, the CSIS study, and the whole reorganization of the Department of Defense. So he is to be commended. If I had my choice he would be on the bill as well as the Senator from Arizona.

I would like to read a statement that I think the Members might find somewhat relevant or at least interesting:

> These various steps toward more effective coordination of our Armed Forces under one civilian head have been necessary, sound, and in the direction pointed by the lessons of modern warfare. Each such step however has prompted opponents to predict dire results. There have been allegations that our free institutions will be threatened by the new military leader, serving as the principal military adviser to the Defense Secretary and the Commander in Chief. There have been forecasts that one or more of the services will be abolished. As a result, the Secretary of Defense has never been free of excessive statutory restraints. As a result of well-meaning attempts to protect traditional concepts and prerogatives, we have impaired civilian authority and denied ourselves a

fully effective defense. We must cling no longer to statutory barriers that weaken Executive action civilian authority. We must free ourselves of emotional attachments to service systems of an era that is no more.

□ 1850

Mr. President, that might have been a statement uttered by the Senator from Arizona. It might even have been a statement uttered by the Senator from Georgia, Senator NUNN, or Congressman NICHOLS. It might have been uttered yesterday or here today on the Senate floor.

In fact, it was spoken by President Eisenhower in his message to Congress on defense reorganization back in 1958.

What makes this particular achievement so extraordinarily remarkable is that President Eisenhower for all of his popularity was unable to push through Congress changes virtually identical, or at least very, very similar, to what has been achieved by Senator GOLDWATER, working with Senator NUNN.

So it is a remarkable achievement and we have to place it in the proper historical context—this has been coming for 30 years. It is only by the effort, the reputation, the persistence, and indeed the courage of the Senator from Arizona that we are able to be here today to present this to our colleagues.

The tendency has been to denigrate the effort by calling it unpatriotic—implying that we are undermining the effective fighting forces of our country by even undertaking a study suggesting that we are inefficiently organized or ineffectively structured.

I recall some of that testimony indicating that we are engaged in unpatriotic acts.

So on the one side we have an attack on the motivation or indeed the intended goal of the legislation, while others simply denigrate it by saying it really is not all that significant; it is only a shuffling of boxes and what good does a shuffling of boxes do in terms of providing for a more effective military force?

I think everyone in this Chamber would agree that you can have good people but if there is not an equally good organization, you probably have a mess on your hands.

But the converse is also true: you can have a good organization but without having good people, you probably have a menace on your hands.

What Senator GOLDWATER and Senator NUNN attempted to do, and I believe achieved, was to try and put together a good organizational scheme to strengthen the chairman, to establish a vice chairman, to strengthen the theater commanders, and to make service on the Joint Staff something that is desirable and not the kiss of death in terms of promotions in the future.

So we have an effort made to put together a good organizational structure and combine that with the extraordinary people we have serving in our military forces today. That, to me, is the remarkable achievement that we are here commending to our colleagues.

I would just conclude with a quote regarding my friend from Arizona.

The last time we considered this measure, he was not on the floor and I was thankful for that. I did not want him to hear my words about him. But I must put them in the context that he has spoken of recently about Justice Rehnquist. I think his words were designed to show that he has always functioned in a nonpartisan fashion when the interests of the country were at stake.

One of my favorite Justices was Justice Oliver Wendell Holmes, Jr. He was speculating one time and said, Napoleon must have dreamed of conquering hundreds of countries and I bet that Shakespeare would have loved to have strung even more pearls of wisdom onto his wonderful words.

But Holmes said, "Alas, we cannot live our dreams. It is enough that we can give but a sample of our best and know in our hearts it has been nobly done."

Mr. President, I want to say that BARRY GOLDWATER's contribution to the defenses of this country is an effort that has been certainly a sample of his best—more than a sample of his best. But if it is only a sample, everyone in this Chamber knows in his heart that it has been nobly done.

I want to extend my congratulations to him for one of the finest contributions he could have made in his long service to his country.

Mr. GOLDWATER. Thank you.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, as a member of the Armed Services Committee, I certainly support the Goldwater-Nunn Department of Defense Reorganization bill. I think it is a significant step in the right direction.

I wish to associate myself with the previous remarks of our distinguished colleague from Arizona, Senator GOLDWATER, about whom I will have a little bit more to say in just a few moments. And also the remarks by Senator NUNN and the remarks by my other two colleagues on the Armed Services Committee who have spoken today, who have had a key role to play in this bill, the Senator from Ohio and the Senator from Maine, who just concluded some very important remarks, especially about the bill and especially about our friend and colleague from Arizona.

This is not the time, or the place, to heap praise upon Senator GOLDWATER because I am sure we will have ample time to do that at a later time. I just want to tell him now that it has been my high honor to serve under him as chairman of the Armed Services Committee. He is a man for whom I have had so much respect for a long, long time. He knows that.

We also smile and laugh from time to time as he knows that I was the State Democratic campaign manager when he ran for President of the United States and did everything I could to defeat BARRY GOLDWATER when he ran for President of the United States.

I do not apologize for that because, had he been elected, I would not have had the opportunity to serve with him in the U.S. Senate. Very honestly, I can tell you now that was the real reason I supported the Democratic ticket at that time.

I have had a great association with you and I think this is a fitting tribute that this bill carries your name. You have done a great job.

Now I want to say to you, to lighten it just a little bit, that now that we have finished reorganization of the Department of Defense and cleaned up the outmoded practices that I think have hampered our national defense effort to some extent for a long, long time, there is one more job that I would like to have you do before you leave this body.

Since this is out of the way, since I know the only thing you have left to do is to get out a defense authorization bill which is in conference with the House which we started on today, and I know that is going to a day-and-night operation for the next 3 weeks or 3½ weeks we are going to be here, somehow I would like to have you do some reorganization I think you are also an expert in. If there is one great disappointment I have, it is that you have completed this reorganization of the Defense Department, making it more streamlined and more effective, but you have not reorganized the U.S. Senate as I think it should be reorganized.

I would say the only sad part about this is maybe we can put the cart before the horse. Maybe we should reorganize the U.S. Senate simultaneously with the reorganization of the Defense Department.

I say that, and I see my friend from Arizona smiling as he knows what I am talking about, because he and I and several other members of the Armed Services Committee were here about 4 hours ago when we were supposed to start on this conference report but we did not. We were supposed to finish it up in a half hour. I have been waiting ever since to make these few remarks, but it is worth it, very seriously, Mr. President, when I can look across this Chamber and see

my great colleague and great American, BARRY GOLDWATER.

I am very pleased, Mr. President, with the product that we are going to pass here tonight.

After many years of hard work and as a result of the conference on this bill, I believe that the Congress now has a reasonable and workable approach that will do much to improve the Nation's security. That is what this bill is all about.

Most of our attention here in the Senate is focused on major programs such as the MX or the strategic defense initiative. More and more we also seem to be distracted sometimes by parochial interests on programs such as pistols, training planes, and home ports.

What we tend to forget is that organizational factors and, perhaps more importantly, attitudes largely shape our defense policy.

This bill gets at the heart of the organizational factors and attitudes. It streamlines the massive bureaucracy that our Defense Department has unavoidably become. It strengthens our theater commanders who would actually execute our war plans. It establishes a much needed vice chairman of the Joint Chiefs of Staff and assigns the body a more meaningful role in guiding our military strength and our military programs.

Perhaps most importantly, its organizational changes and career emphasis on joint duties will encourage our services to cooperate one with another, better understanding each of the capabilities and limitations of the other.

Each of these changes will have a far more important and lasting postive impact on our Nation's security than any single weapons program.

□ 1900

In conclusion, Mr. President, let me say I was pleased to participate in the consideration of this bill as a member of the committee. I can think of no better lasting tribute to Senator GOLDWATER, my chairman on the Senate Armed Services Committee, ably assisted by the Senator from Georgia [Mr. NUNN]—and I am pleased to have been part of this overall effort—than if the Senate speedily passed this bill into law. It is needed.

Mr. President, I yield the floor.

Mr. GOLDWATER. Mr. President, because the Senator from Nebraska is still on the floor and everybody who said so many kind things about me has gone home, I just want to comment to my friend from Nebraska that if I took his suggestion and tried to reorganize the U.S. Senate, I remind by friend that it has taken over 200 years to screw this place up. I do not think I am going to live long enough to get it turned the other way. But It would be a lot of fun trying.

I assure my friend from Ohio [Mr. GLENN] that there will be many things in this legislation that we will have to go over from year to year. A reorganization program like this is not one on which we can say with any great finality that it is passed and we do not have to worry. I think one of the great efforts of this Congress is going to have to be its constitutional charge that we not only raise the armies and the navies, but we watch over them, we see that they do the things that we have told them to do. Under that observation, I am sure that if anything comes up that would bother the Marine Corps, coming Congresses will correct it.

You know, the Marine Corps is something like Notre Dame. Everybody has been to Notre Dame or they have been a marine. Although they are quite small, there is great affection in saying, "I was a member" of either one. So I would not worry about the Marine Corps at all.

I thank all of my colleagues for the action on this conference report. I again thank my committee. I have served in the Senate for over 30 years, and I have never served on a committee that is as dedicated or as loyal or competent as the Armed Services Committee.

Mr. THURMOND. Mr. President, the measure that the Senate is considering today is the most far-reaching reorganization of the U.S. defense establishment undertaken in almost three decades.

Mr. President, it is also important to note that many of the provisions contained in this legislation are consistent with the recommendations of President Reagan's Blue Ribbon Commission on Defense Management, which was chaired by David Packard. It has taken nearly 4 years of dedicated work by both Houses of Congress to bring about these changes.

Our main goal throughout the consideration of this legislation was to bring about a more effective integration of the capabilities of the Army, Navy, Air Force, and Marine Corps. This bill will do just that.

Mr. President, one of the major provisions of this legislation strengthens the position of Chairman of the Joint Chiefs of Staff by making him the principal military adviser to the President, the National Security Council, and the Secretary of Defense, and by giving him a strong Vice Chairman to assist him. Another of the more important provisions in the bill strengthens the joint war-fighting capabilities of the United States by improving the command and personnel authority granted to the unified and specified commanders.

Given the outstanding leadership of Senator BARRY GOLDWATER and Congressman BILL NICHOLS, the conferees agreed to name this bill the Goldwater-Nichols Department of Defense Reorganization Act of 1986. Both of these gentlemen have been strong advocates of change within the Department of Defense and have worked tirelessly to achieve agreement between the two Houses of Congress. Also, Senator SAM NUNN of Georgia should be recognized for his strong leadership and expertise in bringing this legislation to final passage.

Mr. President, I think it is also fitting that we mention the staff members that have worked so hard in recent years to support this effort. On the Senate Armed Services Committee staff, I would like to recognize Jim Locher, Jeff Smith, Rick Finn, and Barbara Brown for the outstanding job that they have done. On the House Armed Services Committee staff, Dr. Archie Barrett deserves recognition for his fine contribution to this legislation.

Mr. President, we may not see the positive effects of this legislation for a number of years, but the changes contained in this bill will certainly strengthen our ability to defend our great Nation. I urge all of my colleagues to support passage of the conference report.

Mr. LEVIN. Mr. President, one of the most important changes that the Goldwater-Nichols Department of Defense Reorganization Act of 1986 will make in our defense establishment is to enhance the influence of the Chairman of the Joint Chiefs of Staff. Although I have supported this change, we have, at the same time, worked to ensure clear and strong civilian control of our military forces. To that end, the Armed Services Committee acted to ensure that the JCS Chairman cannot be placed in the chain of command, nor have the authority to issue orders in his own name, nor have the authority to command military forces. That was the Senate position.

For instance, the Defense reorganization bill passed by the Senate would have specified that, unless otherwise directed by the President, the chain of command for the operational direction of the unified and specified combatant commands runs from the President to the Secretary of Defense to the combatant commanders. The Senate bill would have also authorized the President or the Secretary of Defense to direct that communications from the Secretary of Defense to the combatant commanders run through the JCS Chairman. The Chairman's role in transmitting communications would have been subject to the existing statute that prohibits the Chairman from exercising military command over the JCS or any of the Armed Forces.

On the other hand, the House bill on defense reorganization would have authorized the President or the Secretary of Defense to direct that the na-

tional military chain of command runs to the unified and specified combatant commanders through the JCS Chairman.

I would like to ask Senator GOLDWATER to explain how the conference committee resolved the differences in these two provisions.

Mr. GOLDWATER. I would be happy to respond to my distinguished colleague. The Senate conferees were able to convince their House counterparts to recede to the Senate position on the chain of command and the role of the chairman in transmitting communications. Other than two technical changes, the only change to the Senate provision was to authorize the President to assign duties to the chairman to assist the President and the Secretary of Defense in performing their command function.

Mr. LEVIN. I appreciate that explanation. In light of my longstanding concern over the role of the chairman in the chain of command, I am pleased that the Senate position on this issue prevailed in conference.

To further clarify this conference action, could Senator GOLDWATER explain the expectations of the conferees for the manner in which these new statutory authorities should be exercised?

Mr. GOLDWATER. The conference report authorizes the President to take two actions. First, he may direct that communications to and from the unified and specified combatant commanders be transmitted through the JCS Chairman. Second, he may assign duties to the chairman to assist the President and the Secretary of Defense in performing their command function.

Should communications run through the JCS Chairman, the orders that come from the chairman must be initiated by, authorized by, and in the name of the President or the Secretary of Defense. Even if the President should exercise these authorities, the conferees intend that the JCS Chairman would not be part of the chain of command, and the chain of command would not run through the JCS Chairman. The conferees determined that the role of the JCS Chairman regarding operational matters must be carefully prescribed in order to ensure the absolute and unquestioned integrity of the fundamental principle of civilian control of the military.

Mr. LEVIN. Again, Mr. President, I would like to thank the chairman of the Armed Services Committee for his helpful remarks.

On a related matter, the Senate bill on defense reorganization also would have ended the term of the JCS Chairman not later than 6 months after a new President takes office. Like the other provisions that Senator GOLDWATER and I have already discussed, this provision was intended to guarantee strong civilian control of a more influential Chairman of the Joint Chiefs of Staff. It would have given a newly elected President an automatic opportunity to release or retain the military officer who will serve as his principal military adviser.

This Senate provision was dropped in conference in favor of a House provision that specifies that, if a chairman did not complete his term, his successor would serve for the remainder of the unexpired term before being reappointed or replaced. Combined with beginning the chairman's term on October 1 of odd-numbered years, this conference agreement, in effect, reaches the same goal as the original Senate provision. A President will always be able to appoint a new chairman or reappoint the incumbent no later than October 1 of his first year in office.

Could Senator GOLDWATER confirm my understanding of this conference decision?

Mr. GOLDWATER. The Senator's understanding of this provision of the conference report is correct.

Mr. LEVIN. Mr. President, I am grateful to Senator GOLDWATER for his cooperation and patience in explaining these important provisions of the conference report pending before the Senate today.

Mr. GOLDWATER. Mr. President, there being no other amendments, I ask that the question be put on the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. GOLDWATER. I move to reconsider the vote by which the conference report was agreed to.

Mr. EXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GOLDWATER. Mr. President, I thank the Chair. I yield the floor.

Mr. EXON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1910

Mr. SARBANES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. TRIBLE). Without objection, it is so ordered.

Mr. SARBANES. Mr. President, I ask unanimous consent to address the Senate as if in executive session, so that I might speak on the nomination of William Rehnquist to be Chief Justice of the United States.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

NOMINATION OF WILLIAM H. REHNQUIST TO BE CHIEF JUSTICE OF THE UNITED STATES

Mr. SARBANES. Mr. President, I rise to speak to the nomination by the President of the United States of William Rehnquist, an Associate Justice of the Supreme Court, to be the Chief Justice of the United States.

Mr. President, as many of our colleagues have stated in the course of the debate on this nomination, this is perhaps as important a responsibility as any that the Senate is called upon to discharge, certainly as important a responsibility as we are called upon to discharge with respect to nominations to high Federal office.

I say this because of the special and unique place which the Supreme Court occupies in our constitutional system of Government. In fact as a democracy we have carved out a role for the Supreme Court which in many respects runs directly counter to democratic theory.

Upon mature reflection, however, I think the vast majority in the country recognize that a written constitution, including especially within it the Bill of Rights, the protection of individual rights from unbridled Government power, is fundamental to a system of free self-government, and that the complex system of checks and balances established under our Constitution has served our country well. It has provided flexibility to develop and evolve under changing circumstances, hence the 14th amendment adopted after the Civil War provided the means whereby we extended to minorities and women over time their citizenship rights and made them an integral part of our system of Government, central participants in the American experience, an essential part of American democracy.

So the Court has a unique place in our tripartite system of Government, and it is therefore exceedingly important that the Senate review carefully, very carefully, nominees to the Court and in particular the nomination of a person to be the Chief Justice. A nomination to be not the Chief Justice of the Supreme Court but as the Constitution says the Chief Justice of the United States, a position as important and powerful and as exalted as any under our constitutional system with the possible exception of the Presidency itself.

Now, in considering nominations to the Court, I do not accept the argument that a nominee is entitled to confirmation simply because he is the President's choice. I am prepared to recognize a presumption in favor of a Presidential nomination with respect to nominees to the executive branch of the Government, where the responsibility of the nominee will be to assist the President in the performance of

his executive duties and in the formulation of his administration's program.

But the situation is very different when we are talking about the third independent branch of Government, the judiciary, appointed for life with responsibilities to function as a separate, independent branch of our constitutional system of Government. In such instance it seems to me that the Senate is called upon to make much more of an original judgment with respect to the nominee—to regard the President's nomination as representing the judgment of the President as to who should go on the Court and to accord it respect as representing the decision of a coequal branch of Government, but then to press beyond that to make to a significant degree an independent Senate judgment representing the legislative branch of our national Government.

In fact, the constitutional fathers at the convention in Philadelphia in 1787 even considered whether judges should be selected by the Senate, a proposal which James Madison favored, and in the Virginia plan it was proposed to give sole authority to the Congress with respect to the judiciary.

I have engaged in this discussion on how we should think about nominations because I am becoming increasingly concerned about what I perceive to be the acceptance in this body of a nonindictable, noncertifiable standard for approving nominations by the President, including even nominations to the judiciary. What I mean by a nonindictable, noncertifiable standard is that people come along and say, "He hasn't been indicted for a crime and he hasn't been certified in terms of his mental stability, or instability, and therefore in the absence of finding that kind of disqualification, the nominee ought to be confirmed."

It seems to me that the question ought not to be why a nominee should not hold high public office. The question ought to be why a nominee should hold public office. In other words, what is it about their character and intellect, their ability and integrity, their record which would lead one to conclude that, indeed, they ought to hold high public office.

Now, in fact, I would extend that sort of questioning to nominees to the executive branch although, as I said, with a greater willingness to defer to the President's judgment since there it is people who are going to help him to execute the responsibilities of the executive branch of our Government. When it comes to the judiciary, we are talking about a wholly separate independent branch of Government, the third branch of Government. It seems to me the responsibility of the Senate is to take the President's nomination as the initiative by which the nominee comes to us to recognize that it represents the President's judgment, and then to proceed from there in order to make our own judgment with respect to whether we think the national interest will be served by having this person confirmed for high office.

□ 1920

I have indicated that in this process of examination, the Chief Justice holds a unique place. As the Society of American Law Teachers has stated in a letter to Members of the Senate:

> The office of Chief Justice is unique in our constitutional government. Only 15 citizens have served this country in that capacity. A Chief Justice must embody the spirit of our highest aspirations for honest, impartial judicial conduct.

Only 15 persons in our Nation's history have served in the office of Chief Justice of the United States. There is no other political office of consequence that has had so few occupants in the course of our Nation's history.

Now let me turn to some aspects of the Rehnquist record.

First of all, it is interesting in considering Mr. Rehnquist that in the 1971 hearing, to note that matters were raised which were never in a sense fully resolved, and to some extent the same thing is happening again.

I intend to vote against the cloture motion. In my view, there are still additional aspects of the Rehnquist record that need to be developed and examined, just as I believe there were in 1971.

First of all, Mr. President, we have the very disturbing question of the Justice Jackson memorandum. This came up in the previous confirmation hearings for Mr. Rehnquist. That memorandum came to light in 1971, at the beginning of the final week of the Senate debate on the Rehnquist nomination to be an Associate Justice of the Supreme Court.

Newsweek had printed a memorandum written by Mr. Rehnquist in the fall of 1952, when he was a law clerk for Justice Robert Jackson, a memorandum entitled "A Random Thought on the Segregation Cases." In that memorandum, it was argued that the Court should not intervene to end school segregation by overturning the decision of Plessy versus Ferguson, the 1896 decision of the Supreme Court that upheld racial segregation. That memorandum concluded:

> I realize that it is an unpopular and unhumanitarian position for which I have been excoriated by liberal colleagues, but I think Plessy v. Ferguson was right and should be reaffirmed.

I want to repeat the concluding sentence of that memo:

> I realize that it is an unpopular and unhumanitarian position for which I have been excoriated by liberal colleagues, but I think Plessy v. Ferguson was right and should be reaffirmed.

At that time, the hearing was not reopened and the memo was not carefully probed. But on December 8, Mr. Rehnquist wrote a letter to Senator Eastland, the chairman of the Judiciary Committee, in which Mr. Rehnquist said that the views expressed in the memo were not his own but, rather, were prepared as a "statement of Justice Jackson's tentative views, for his own use at conference," prepared at Justice Jackson's request.

In other words, he argued that the memo did not represent his views but was written to represent Justice Jackson's tentative views, at his request.

Mr. President, simply reading the memo makes that interpretation of it extremely difficult to come by. In fact, in my view, it is a disingenuous explanation of the memorandum.

Justice Jackson's long-time secretary, Mrs. Elsie Douglas, was obviously quite exercised about this. She wrote a letter to one of our colleagues on this matter in August of this year, in which she said, "I have been following the proceedings on the confirmation of Justice William Rehnquist for Chief Justice." I am now quoting from the letter of Mrs. Douglas, Justice Jackson's long-time secretary. She wrote:

> I have been following the proceedings on the confirmation of Justice William Rehnquist for Chief Justice. It surprises me every time Justice Rehnquist repeats what he said in 1971, that the views expressed in his 1952 memorandum concerning the segregation case then before the Court were those of Justice Jackson, rather than his own views.
>
> As I said in 1971, when this question first came up, that is a smear of a great man, for whom I served as secretary for many years. Justice Jackson did not ask law clerks to express his views. He expressed his own and they expressed theirs. That is what happened in this instance.

Mr. President, if Mr. Rehnquist was writing it for Justice Jackson, the memo would hardly end with the sentence, "I realize that it is an unpopular and unhumanitarian position for which I have been excoriated by liberal colleagues, but I think Plessy versus Ferguson was right and should be reaffirmed." The person who had been excoriated by liberal colleagues was law clerk Rehnquist, in conversation with other clerks.

In fact, one of the clerks, Donald Cronson, recently said in an interview in the Washington Post, "Unquestionably, in our luncheon meetings with the clerks, he, Rehnquist, did defend the view that Plessy was right."

Mr. President, I have two problems here: One is with the position which law clerk Rehnquist took at the time on Plessy versus Ferguson. Of course that was not a totally isolated position at that time.

□ 1930

Nevertheless, it says something about Mr. Rehnquist's constitutional vision then, and I am very frank to say that I think the constitutional vision reflected then on Plessy versus Fergu-

son has continued to be reflected in his approach to the very basic question of civil rights in this country and of equal justice under law.

But further is the question with respect to attributing the memo—shifting the memo away from law clerk Rehnquist, as representing his views, and associating it directly with Justice Jackson, who, of course, was deceased by that time and could not offer his own explanation. I simply quote again from Mrs. Douglas when she says:

> It surprises me every time Justice Rehnquist repeats what he said in 1971, that the views expressed in his 1952 memorandum concerning the segregation case then before the Court were those of Justice Jackson rather than his own views. As I said in 1971 when this question first came up, that is a smear of a great man for whom I served as secretary for many years. Justice Jackson did not ask law clerks to express his views. He expressed his own and they expressed theirs. That is what happened in this instance.

Mr. President, let me now turn to the ballot security program in which, by his own admission, Justice Rehnquist was involved in Arizona in 1960, 1962, and 1964.

It was brought out in the 1971 hearings, at the very end of the hearing process, that Mr. Rehnquist had participated in his home State of Arizona in a so-called ballot security program which, to be very blunt about it, involved activities designed to intimidate minority voters.

Mr. Rehniquist denied those allegations when they were first made in 1971 and continues to do so, but there was not time in 1971 to investigate them fully.

This is a second instance in the prior confirmation of Mr. Rehnquist in which serious questions are raised but not fully addressed.

I have already made reference to the Justice Jackson memorandum, which came up actually after the nomination was on the floor of the Senate, and I now make reference to the ballot security program in Arizona which came up too late, simply because they would not reopen the hearing to look into it fully in 1971.

Now in the recent hearings Mr. Rehnquist again denied it but there was extensive testimony from a number of witnesses about his activity in this ballot box security program.

Even if one were to accept the Rehnquist assertion that he did not personally engage in challenging voters, and as I said there is extensive testimony to the contrary, he did not deny that he helped to formulate, implement, and orchestrate the Arizona Ballot Security Program, a program, as I have said, whose end result was really to intimidate voters at the polling place and particularly minority voters.

Now similar programs of intimidation continue to take place. They occurred in New Jersey in 1981. They occurred in my own State of Maryland. They occurred in Texas and that came up before when we considered another nominee to the Federal bench.

I raise this to underscore again Justice Rehnquist's approach to the most fundamental right in our democratic system, and that is the right to vote.

It also reflects, of course, since we are talking essentially about minority voters, a continuing insensitivity to the inclusion of minorities in the operation of our democratic system, an insensitivity reflected as I have already indicated by Mr. Rehnquist when he was law clerk to Justice Jackson beginning back in 1952. The same attitude which marked that memo in 1952 with respect to Plessy versus Ferguson, was reflected in the early 1960's in this so-called ballot security program in Arizona.

There were witnesses who testified that they actually saw Mr. Rehnquist at the polling place challenging voters. Rehnquist denied that but admitted that he had been part of developing, formulating, and implementing the program. In fact, he was designated in 1960 as cochairman of the ballot security program. In fact, he was designated in 1960 as cochairman of the ballot security program. He was involved in teaching challengers the procedures they were to use and in 1964 he was chairman of the ballot security program.

So there is this whole program of voter intimidation and we have seen it continue to take place unfortunately in various parts of the country. The remedy obviously to ensure fair elections is to proceed through the mechanism established in each State and locality to guarantee fair elections, usually an election board that is charged with the responsibilities, and not to undertake to engage in a separate so-called ballot security program which results in the intimidation of voters.

Now, third, Mr. President, in the current hearings, another matter has come up, and this is somewhat reminiscent of what occurred in the two previous cases in 1971, and that is a matter which has not been fully answered before we are called upon to act on the nomination. It involves claims of a Mr. Harold Cornell concerning allegedly inappropriate conduct of Justice Rehnquist in his capacity as a private attorney—specifically, a trust drawn up for Mr. Cornell, who was Mr. Rehnquist's brother-in-law. It raises the question about whether Mr. Rehnquist was under some obligation to disclose the existence of the trust to his brother-in-law given the financial circumstance which Mr. Cornell encountered.

Mr. President, I am not arguing that Mr. Cornell's allegations upon investigation would be substantiated or would be found to have merit. I simply do not know the answer to that question. But four of my colleagues at the end of August wrote to the chairman of the Judiciary Committee asking him to have the FBI look into a number of issues involving Mr. Cornell.

It is my understanding that was never done, that the requests made in their letter were not complied with and therefore the questions raised remain outstanding.

I ask unanimous consent to print that letter at the conclusion of my remarks. It is a letter from Senators METZENBAUM, CRANSTON, KENNEDY, and SIMON to Chairman THURMOND of the Senate Committee on the Judiciary.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

□ 1940

Mr. SARBANES. I thank the Chair.

There are lawyers concerned with the question of legal ethics who have expressed the view that Mr. Rehnquist did not meet his obligation in this situation. I am very frank to tell you that I think the Senate ought to know the answer to this issue before it approves Justice Rehnquist to be the Chief Justice of the United States.

This is a matter which, if you were a practicing attorney in any town or village or city in America today, and this question were brought up, would be considered serious. It would be a matter that would have to be looked into and investigated because it would go to the very question of your responsibilities and obligation as an attorney and to the question of professional legal ethics.

It seems to me, very frankly, remiss on the part of the committee that they did not thoroughly examine this matter and, if there is nothing there, put it to rest. It should not have been brushed aside, just as the Jackson memo should not have been brushed aside in 1971 and just as the allegations with respect to the ballot security program should not have been brushed aside in 1971.

Mr. President, I want to turn to a matter that I regard as even more serious than the ones I have made reference to thus far and that involves the decision of Justice Rehnquist in 1972 not to recuse himself in the case of Laird versus Tatum.

Laird versus Tatum was a case that came up soon after Justice Rehnquist became a member of the Court. In that case, the plaintiffs had alleged that the Army and the Department of Defense had established a wide-ranging program of surveillance and infiltration of law-abiding domestic organizations, and that they maintained the information in computerized data banks and widely disseminated their intelligence reports to Federal, State, and local civilian agencies as well as

military offices. The plaintiffs claim that they were targets of the military surveillance program and that the surveillance program violated the first amendment.

The question was whether they had the right to litigate this matter, whether it was justiciable. And that case was working its way up through our court system because, if they had the right to litigate it, if it were justiciable, then they could undertake discovery, they could undertake in effect to find out what it was in every dimension that the Government was doing.

The appeals court held that it was justiciable, that they did have the right to bring suit and the case went up to the Supreme Court. The plaintiffs asked that Justice Rehnquist recuse himself because of some testimony he had given before Senator Ervin. Justice Rehnquist refused to do that, sat on the case, and the case was decided on a 5-to-4 vote against the plaintiffs—a 5-to-4 vote. In other words, had Justice Rehnquist recused himself, the Court would have divided 4 to 4 and the appellate decision would have stood and that decision was that the plaintiffs could go ahead with the case and they would have gone back to the district court level and proceeded with the case.

Prof. Geoffrey Hazard of the Yale Law School, perhaps our Nation's preeminent authority on legal ethics, has written a letter to my colleague from Maryland which has been made generally available to Members of the Senate and included in the RECORD. Professor Hazard, from 1969 to 1972, served as consultant to the ABA Special Committee on Standards of Judicial Conduct, during which the committee examined the canons of judicial ethics and produced the new code of judicial conduct adopted in 1972.

Later Professor Hazard served as reporter for the ABA committee that revised the standards of legal ethics. He has taught legal ethics for several years and has published books and articles on legal and judicial ethics.

Let me simply quote from the Hazard letter, because I think it sets out this problem very clearly. He acknowledges being asked for his opinion about the propriety of the conduct of Justice William Rehnquist in regard to Laird versus Tatum.

The essential facts as I have been given them are as follows: *Laird* v. *Tatum* was a suit to enjoin a certain Government information gathering and surveillance program that was adopted in 1969. The case was brought to the Supreme Court by the Government's appeal from a decision of the Court of Appeals, which had held that the lawsuit was maintainable. The effect of the Court of Appeals' decision was that the plaintiffs could have proceeded to the discovery stage and perhaps then on to the merits. The Supreme Court reversed, holding that the plaintiffs lacked standing and hence that the suit should be dismissed without going into the merits. Justice Rehnquist participated in that decision and, since the decision was 5-4, cast a vote necessary to the result.

When *Laird* v. *Tatum* came before the Supreme Court, a motion to recuse Justice Rehnquist was filed by the plaintiffs. They argued that Justice Rehnquist was disqualified by reason of his prior relationship to the case, in that he had expressed opinions on issues in the case and that he had presented the Justice Department's position before a Senate Committee hearing. Responding to the motion, Justice Rehnquist rejected these contentions . . .

In recent testimony before the Senate concerning his participation in the transaction out of which *Laird* v. *Tatum* arose, Justice Rehnquist stated, "I have no recollection of any participation in the formulation of policy on use of the military to conduct surveillance or collect intelligence concerning domestic civilian activities."

□ 1950

In fact, in answers put to him by Senator MATHIAS, written questions after the close of these hearings—after the close of these hearings—we have the following responses: "Question: What was your personal role in the preparation of this document?" This is a draft directive concerning the involvement of the government in such activities. "Answer: I have no recollection of my personal role in the preparation of this document."

Question: With particular regard to the portion of the document concerning civil disturbance planning and intelligence operations prior to outbreak, what was your personal role in its preparation?

Answer: I have no recollection of my personal role in the preparation of this document."

Senator MATHIAS then asked Justice Rehnquist about Robert Jordan's testimony (Robert Jordan was the general counsel of the Army at the time the surveillance policy was formulated because in testimony he made it appear that Mr. Rehnquist had a relationship to the surveillance program beyond that disclosed in his opinion in Laird versus Tatum. According to that evidence, the surveillance policy was formulated in the early months of 1969. At that time, Mr. Rehnquist was assistant attorney general in charge of the Office of Legal Counsel. On behalf of the Justice Department that office, the office which Mr. Rehnquist headed, negotiated with the Army in formulating the surveillance policy. The negotiations were extensive, and obviously the circumstances stronly suggest that Mr. Rehnquist was personally and substantially involved in them. This was, after all, a very important subject. The Office of the Legal Counsel is small in size, and actually Mr. Rehnquist himself sent a key transmittal memorandum.

The negotiations between the Office of Legal Counsel and the Department of Justice and the Army resulted in a policy statement that was adopted by President Nixon, and which in turn was the basis of the Government action complained of in the litigation in Laird versus Tatum.

In light of the above development of the facts, the question Senator MATHIAS also asked Justice Rehnquist about Robert Jordan's 1974 testimony on the role of the Army in domestic surveillance becomes particularly relevant. He asked whether language authorizing a domestic role for military intelligence first "* * * appeared in the March 25 draft prepared by your office and transmitted over your signature." Justice Rehnquist answered: "I have no recollection how the language referred to first appeared in the draft."

Senator MATHIAS also asked whether Justice Rehnquist "* * * knew of or participated in the formulation of policy on the use of military to conduct domestic civilian surveillance." Justice Rehnquist answered: "I have no recollection of any participation in the formulation of policy on use of the military to conduct surveillance or collect intelligence concerning domestic civilian activities."

"I have no recollection." "I have no recollection." I have no recollection." "I have no recollection." repeatedly marks Mr. Rehnquist's response on this important issue.

Mr. President, let me just quote what Professor Hazard says when he comments on the facts that have been set out above, and the whole question, whether Justice Rehnquist should have recused himself in the litigation of Laird versus Tatum. I am now quoting from Professor Hazard's letter.

I ask unanimous consent that the entire letter be included at the end of my testimony.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit No. 2.)

Mr. SARBANES [reading].

First, in my opinion Justice Rehnquist's position as head of the Office of Legal Counsel constituted grounds of disqualification from participating in *Lard* v. *Tatum*, unless the significance of that relationship were overcome by additional evidence showing that he in fact was not involved in the matter it was in the office. In a matter of such substance and complexity as the surveillance policy, it is implausible that the head of the government law office responsible for development of its legal aspects would not be personally involved in considereable detail concerning the facts and issues going into the policy and its formulation. On that basis, Mr. Rehnquist was the responsible counsel in the matter in question, and as well a potential witness concerning any factual issues regarding the policy. Each of these two relationships is independently a ground for disqualification.

A lawyer directly involved in a transaction cannot properly later sit as a judge in a case in which that transaction is in dispute. As stated in the article by Mr. Frank, which Mr. Justice Rehnquist cited—

And this was at the time of his opinion on this matter in 1972:

Justices disqualify in Government cases when they have been indirectly involved in some fashion in the particular matter, and not otherwise.

Professor Hazard goes on to say:

Mr. Rehnquist's relationship to the transaction was essentially the same as if he had been involved as legal counsel for the Internal Revenue Service in working up a tax investigation program and then sat as judge in a case challenging the program, or while in the Justice Department passed upon corporate merger or electoral districting policy and then sat in a case involving the policy.

In his opinion in *Laird* v. *Tatum*, Justice Rehnquist stated that "I never participated, either of record or in any advisory capacity . . . in the government's conduct of the case of *Laird* v. *Tatum*."

Listen very carefully to that. What Justice Rehnquist said when he refused to recuse himself was that he "* * * never participated, either of record or in any advisory capacity * * * in the Government's conduct of the case." But as Professor Hazard goes on to point out, "* * * that statement is irrelevant if he was counsel in the transaction out of which the case arose, a basis of disqualification that was well recognized then as now."

In other words, it does not matter that Mr. Rehnquist was not of counsel in the case of Laird versus Tatum or did not serve in an advisory capacity in the Government's conduct of that case. That case was challenging a Government policy which Mr. Rehnquist had been involved in formulating. That was the challenge. The fact that Mr. Rehnquist was not involved in the specific case itself is not enough.

□ 2000

Having developed the policy within the Government as an attorney, he should have recused himself when the policy was being challenged.

As Professor Hazard stated:

Mr. Rehnquist's relationship to the transaction was essentially the same as if he had been involved as legal counsel for the Internal Revenue Service in working up a tax investigation program and then sat as judge in a case challenging the program, or while in the Justice Department, passed upon corporate merger or an electoral districting policy and then sat in a case involving the policy.

He then goes on to say:

Justice Rehnquist appears also disqualified because he was a potential witness, at least at the discovery stage in *Laird* v. *Tatum*.

In his testimony before the Senate, he denied having knowledge of "evidentiary facts." The standard relevant to the question is not evidentiary facts but facts relating to the subject matter of the litigation.

Second, when the case of *Laird* v. *Tatum* was before the Supreme Court, it was Justice Rehnquist's responsibility on his own initiative to address and resolve all issues concerning his disqualification. It was not the parties' responsibility to raise such matters, although they had a right to do so if they had access to the necessary facts. In his opinion in *Laird* v. *Tatum*, Justice Rehnquist referred, first, to the fact that he had not been counsel in the "case," i.e., the litigation that ensued after his involvement in the transaction—

The transaction being the formulation of the policy—

and second to his statements in public and as spokesman for the Justice Department before the Senate. Thus, Justice Rehnquist addressed only his publicly known involvements and omitted any reference to an involvement, as counsel in the transaction, that was at least as significant but which was not publicly known.

Professor Hazard goes on to say:

It was his duty to resolve both the publicly known possible bases of disqualification and those arising from an involvement that was confidential. Indeed, it is even more vital to fairness in adjudication that a judge resolve grounds of recusal which arise from confidential facts, for the parties ordinarly are helpless to raise such grounds.

Justice Rehnquist's addressing the publicly known grounds of recusal, but omitting reference to the confidential ones, would have been proper only if he had forgotten that his office in the Justice Department handled the surveillance policy negotiations, and that he himself was involved to a substantial extent. If when writing his opinion in *Laird* v. *Tatum*, Justice Rehnquist had not forgotten his involvement in the surveillance policy negotiations, than his opinion consituted a misrepresentation to the parties and to his colleagues on the Supreme Court. In such a matter, a lawyer or judge is expected to give the whole truth.

Finally, Justice Rehnquist has a duty of candor to the Senate in answering questions concerning *Laird* v. *Tatum*. The Senate hearing was an evidentiary inquiry into his qualifications for the office of Chief Justice. In making statements before such a tribunal, whether sworn or not, a lawyer or judge has an obligation to be fully truthful. Justice Rehnquist complied with duty only if his statement is accepted that he had "no recollection of any participation in the formulation of policy on the use of the military to conduct surveillance." Whether that statement should be accepted is a matter of judgment. It was made by a lawyer of the highest intelligence concerning sensitive state policy over which his office had direct responsibility early in his service in Government, and about which he had been asked to search his recollection on three official occasions.

Mr. President, Mr. Rehnquist was an Assistant Attorney General and head of the Office of Legal Counsel. The question of surveillance was not a small matter. It was a major matter involving negotiations between the Department of Justice and the Department of the Army. It was a matter important enough to be carried to the President for his approval. There is in existence a memorandum dealing with this matter by Justice Rehnquist, over his signature.

Mr. President, in my judgment Justice Rehnquist's involvement should have been revealed to plaintiffs in the Laird versus Tatum matter and Justice Rehnquist should have recused himself. This is no small matter, particularly when one is talking about the nominee to be Chief Justice of the United States.

I am very frank to say to you that I think in light of Justice Rehnquist's answers he really should come back before the committee so that the matter could be addressed further; so should the other matters to which I have alluded. Two of them were moved quickly in 1971—the Jackson memo, and the ballot box security program, both of which the committee had as a consequence to go back and examine carefully this time, and in which they found upon more thorough examination, very sharp differences in Mr. Rehnquist's conduct. The same deficiency now exists, I think, with respect to the Cornell matter and the matter of Laird versus Tatum.

Finally, Mr. President, I want to turn to a broader question. That is the breadth and depth, or lack thereof, of Justice Rehnquist's constitutional vision.

He himself in the Harvard Law Review in 1959 wrote:

Until the Senate restores its practice of thoroughly informing itself on the judicial philosophy of a Supreme Court nominee before voting to confirm him, it will have a hard time convincing doubters that it could make effective use of any additional part in the selection process.

In looking at judicial philosophy, I think it is important to approach it in a broad and not a specific sense. I am not really concerned with specific cases except to the extent that they establish a pattern which, in turn, reveals a broad and consistent philosophy, a philosophy which raises important questions about the future direction and development of our society.

□ 2010

An editorial in the Baltimore Sun on the 11th of September said:

But the record Justice Rehnquist has compiled on the Supreme Court strongly suggests that this is a case of a great intellect in the service of a closed and narrow mind, one not functioning within the very broad boundaries of the conservative consensus. He has been the leading dissenter, often alone, from even this moderately conservative Court. The inappropriateness of his elevation to the highly symbolic office of Chief Justice is best seen in his votes in the civil rights area.

It goes on to say in closing:

After careful consideration of the record that unfolded in the Senate Judiciary Committee hearing this summer, we believe that Senators concerned about the direction of the Court in the Nation now and into the 21st century should vote against the confirmation of Justice Rehnquist as Chief Justice.

Mr. President, this nomination is a very important matter and it does not rest, as I said, on any one particular decision; in fact, I do not believe that one ought to undertake, as it were, a litmus test list of decisions: Here are 10 important decisions, how did you

rule on them? I differed with you on them, therefore, I am going to vote against you.

What one has to do is look at the decisions in their totality to see what they reflect about a judicial philosophy, to form some idea of where this nominee stands with respect to his colleagues on the Court and what it reflects about his basic attitudes and about his constitutional vision.

As my very able colleague from Maine [Mr. MITCHELL] pointed out yesterday in speaking on this matter:

"He views the Court's role as being one of preserving the framework within which the articles of the Constitution can be used to sustain majority rule"—in other words, an approach to the machinery of Government—"but in which the amendments to the Constitution—most notably the first 10 which make up what we know as the Bill of Rights—do not figure prominently."

In fact, as my colleague from Maine points out, Mr. Rehnquist argues that the Court should give great deference to legislatures, especially State legislatures.

Of course, this theory if not developed to recognize the role of the Supreme Court in protecting individual rights would render the Bill of Rights, the first 10 amendments, subsequently expanded through the 14th amendment, secondary.

The Constitution would never have been ratified but for the assurance that a bill of rights was going to be adopted. It was an essential issue at a number of the ratification conventions in the States subsequent to the Constitutional Convention in Philadelphia in the summer of 1787. The assurance of the Bill of Rights, now embodied as the first 10 amendments to our Constitution, was essential to the ratification of the Constitution.

As Senator MITCHELL went on to point out:

But even when the question of Justice Rehnquist's view of the Bill of Rights is set aside, his claimed deference to majority opinion that is expressed in statutory law—

a deference which he has consistently repeated as an operating principle of his constitutional interpretation—

does not lead him to defer to that majority, acting through their elected representatives in Congress, when the subject is civil rights.

This is very important to understand. Justice Rehnquist takes the general proposition in interpreting the Constitution, he is going to attach special weight, to defer to majority opinion as expressed in statute. If it is asserted therefore, that the statute is in conflict with the Constitution—an assertion frequently made by individuals asserting a right guaranteed to them by the Bill of Rights or the 14th amendment—Justice Rehnquist is going to be predisposed to the approach that affirms the statute against the claim that it is invalid because of conflict with the Constitution.

Many see this as a limited, pinched view of the Constitution when it comes to the protection of individual rights. But when you move beyond that question to the question of deferring to statutory laws expressed by the majority to protect individual rights, then Justice Rehnquist no longer defers to statute.

Careful analysis has shown that since 1971, the Supreme Court has disagreed, to some extent, on the application of Federal civil rights statutes in 83 specific cases. According to Justice Rehnquist's own carefully articulated standards, such statutes—the civil rights statutes—embody the majority will of the people duly expressed through their legislature. Yet he does not attach to them the same weight he attaches to noncivil rights statutes, in spite of his repeated avowals of the necessity of deferring to the judgments of the majority as expressed in statutory law—an assertion he makes repeatedly statutory law is asserted to be in conflict with a constitutional provision. Ordinarily when an individual comes before him and says, this statute is unconstitutional, I am being denied an individual right, Justice Rehnquist says, "No, I am strongly for upholding statutes, they represent the opinion of the majority; therefore, I am not going to accept your challenge to this statute under the Constitution; that is one of my major operating principles."

□ 2020

But then, despite this verbal deference to the judgment of the majority expressed in statutory law, in 80 of the 83 civil rights cases in which statutory law was on the side of the individual, in terms of asserting his or her rights, Justice Rehnquist joined in or wrote the dissenting opinion which most severely curtailed the exercise of the legislagive majority's powers. In about half of those cases the Court actually ruled with the individual asserting his civil rights. Justice Rehnquist—I want to underscore this point—in 80 of the 83 cases joined in or wrote the dissenting opinion which most severely curtailed the exercise of the legislative majority's powers. "In other words, his view," as my colleague, Senator MITCHELL, said, "is that we must defer to the will of the majority as expressed by legislative action—except when civil rights are involved."

Mr. President, engraved in stone over the entrance to the Supreme Court directly across from the Senate are four words: "Equal Justice Under Law." Any of us, if we stop for a moment to reflect, recognize that this principle lies at the very heart of our constitutional system. In my view, Justice Rehnquist's career, both before he went on the Court and in his opinions since going on the Court, reflect an insensitivity—more than insensitivity, a resistance—to this essential concept to such a degree that he ought not to be confirmed as Chief Justice of the United States.

This is not a minor question of judicial philosophy. This is central to one's constitutional vision for the Nation. This is not a matter of disagreement with a particular decision. After all, the Court has to make hard judgments. Justices differ amongst themselves. But this is a question of the consistent pattern which has existed from Mr. Rehnquist's very early, very early career.

What we have here is judicial implacability. We have, as was stated, an intellect in the service of a closed and narrow mind, not functioning even within the very broad boundaries of a conservative consensus.

I do not believe that this record—a record both of insensitivity to important questions of candor and integrity, and a lack of commitment at the very heart of one's judicial philosophy to the principle "equal justice under law" emblazoned above the Supreme Court, justifies confirmation as Chief Justice. On the contrary this record argues persuasively against confirmation. Therefore, I will vote against the cloture motion in order that some of these matters may be further explored, and intend to vote against Justice Rehnquist's confirmation as Chief Justice if we reach that point.

Mr. President, I ask unanimous consent that some newspaper editorials on this nomination be included in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 12, 1986]

THE REHNQUIST NOMINATION

Fourteen years ago, when William Rehnquist was nominated to be an associate justice of the Supreme Court, this newspaper opposed his confirmation because of the restrictive, almost cold-blooded view of the role of government that suffused his writings and public statements in the fundamental fields of civil rights and civil liberties. The intervening years and the opinions Justice Rehnquist has written on the Supreme Court have only reinforced these misgivings. For many of the same reasons we set forth in 1972, we urge the Senate to reject his nomination to be chief justice.

We accept that in most cases there is a strong presumption in favor of a presidential nominee, especially when, as in this case, the chief executive has won an overwhelming electoral victory. But judicial appointments, which are for life and to an independent branch of government, should be held to a higher standard than executive positions. The standard must be highest of all for Supreme Court justices, whose views are not subject to appeal and who can stray from the precedents that they themselves help form. So, while it is clear that Justice Rehnquist is well qualified by intellect, edu-

cation and professional experience to assume this high office, and while he is a man of sufficient integrity and moral character—the hearings, in our judgment, did not prove otherwise—we believe that the doctrinaire quality of his understanding and application of the law renders him unacceptable for the office of chief justice.

It is not simple conservatism that gives us pause but something much more—an inflexible position on the role of the federal courts in American life and an unvarying refusal to look beyond the consequences of that philosophy to its impact on individual Americans. Justice Rehnquist is a forthright proponent of legislative over judicial decision-making and the prerogatives of states over the demands of the federal government. His opinions consistently adhere to this framework even when the result is both avoidable and devastating to individual liberties and social justice. It is not necessary to believe that Justice Rehnquist favors the results to which his decisions lead—tax-exempt status for segregated private schools, for example. It is enough that he will not bestir himself—not take advantage of the considerable discretion that the Constitution affords Supreme Court justices for precisely such occasions—to avoid the result. Where the statute does not expressly vindicate the rights of individuals neither will he. Nor would he have judges second-guess the decisions of democratically elected state legislatures on constitutional grounds, even if these mean a continuation of second-class citizenship for some groups or an encroachment on the privacy of individuals. Justice Rehnquist is not always alone in these opinions, but he is unvarying.

What seems to be missing from his work is an acceptance of the court's responsibility to protect individuals from the majority, and sometimes the majority from itself. Some of the finest moments in the high court's history have occurred when justices have taken a stand, on constitutional grounds, against the prevalent views in legislatures. School desegregation, one-man one-vote, miscegenation laws and compulsory prayer in the public schools are only a few examples. It is unlikely that Justice Rehnquist would have been in the majority in these cases—decided before his time on the court—even to vindicate the constitutional rights of those who suffered because of discriminatory laws.

But the pattern goes beyond this. The Leadership Conference on Civil Rights made a study of Justice Rehnquist's opinions over the years. It found 83 cases involving civil rights that (1) were statutory, not constitutional, involving interpretation not of the intent of the Founders but the will of Congress, and (2) were not unanimously decided; they were close calls. Mr. Rehnquist, the conference reported, voted against the civil rights complainant in 80 of these 83 cases. In two of the remaining three, he voted for a narrower result than the majority. That is a record, not of conservative philosophy, but judicial implacability.

The other nominee before the Senate, Judge Antonin Scalia, of the Court of Appeals for the D.C. Circuit, lacks such a record at this point in his career. That is what distinguishes these nominations. Judge Scalia is a conservative jurist whose opinions, especially in cases involving the First Amendment, also cause us considerable concern. But he does not have a history of inflexibility that would lead us to the same conclusions that we have reached on Justice Rehnquist. After a review of his work, all 18 members of the Senate Judiciary Committee voted to recommend him for confirmation, and we cannot disagree.

If he is not confirmed as chief justice, Mr. Rehnquist will remain on the bench as an associate justice for as long as he chooses. He will undoubtedly continue to decide cases in the same manner, and he will have a vote equal to that of the chief justice, whoever that might be. And for the time being Judge Scalia will stay where he is. We are aware that the chances of the Senate's refusing to confirm Justice Rehnquist are small. Nevertheless, a vote to confirm him in the higher office seems to us to be a vote of confidence in his approach to the law and the Constitution. Our deep disagreement with this approach and its results leads us to urge a vote against him.

[From the New York Times, Sept. 11, 1986]

VALID DOUBTS ABOUT JUSTICE REHNQUIST

President Reagan has earned the right to try to shift the philosophy of the Supreme Court. But the Senate has an equal right to insist on high-quality appointments—particularly for Chief Justice, the noblest position in American law. The debate that begins today on the nomination of Justice William Rehnquist will properly turn on concerns beyond the mundanely partisan. The Senate's own investigation has raised valid questions about the nominee's credibility and convictions.

Justice Rehnquist has served on the high court for 15 years and there is no doubt about his legal ability or agreeable personality. But brilliance and courtesy are not enough. The Supreme Court's center seat demands a symbol of impartiality, fairness and integrity that resoundingly affirms America's commitment to equal justice. At critical junctures in his confirmation hearings, when senators sought to explore Justice Rehnquist's beliefs and past actions, he stonewalled with failures to remember and unpersuasive explanations of embarrassing facts.

As Assistant Attorney General in 1971, Mr. Rehnquist defended the Nixon Administration in Senate hearings into the military's surveillance of civilian protesters of the war in Vietnam. He testified then that plaintiffs suing the Defense Department had no case, yet still voted as a Supreme Court Justice in 1972 to throw out their lawsuit. When Senator Charles Mathias recently asked what role the nominee played in formulating the surveillance policy, he said that he couldn't remember. Does the Senate believe that?

Justice Rehnquist also testified this summer that he favored from the start the Supreme Court's 1954 school desegregation decision. A memorandum to the contrary that he wrote as a law clerk in 1952, he said, was not really his opinion but that of the late Justice Robert Jackson. Does the Senate believe that? And how does that testimony square with a memorandum that surfaced only last week in which Assistant Attorney General Rehnquist urged a constitutional amendment that would have permitted widespread evasion of this decision?

Confronted with restrictive covenants on two of his homes, the nominee first said he had been unaware of them. Then he wrote to the Senate Judiciary Committee that he had found a letter in his file cautioning that his Vermont home could not be sold to "anyone of the Hebrew race." He said he "undoubtedly" read that letter when buying the property in 1974 but did not recall doing so. If the Senate believes that, what does this say of the sensitivity of a Supreme Court Justice?

Accused of harassing black and Hispanic voters in Phoenix during turbulent elections in the 1960's Justice Rehnquist has categorically denied over the years lodging even a legal challenge to any voter's qualifications. Yet a former Federal prosecutor has testified that he encountered Mr. Rehnquist in 1962 at a polling place where voters were registering complaints and that while denying impropriety, Mr. Rehnquist never denied having challenged persons attempting to vote. Can the Senate rest easy with this unresolved conflict?

Justice Rehnquist's unhappy record on matters of civil rights, civil liberties and judicial ethics is a legitimate concern. He has frustrated the Senate's inquiry with evasive and unconvincing replies. The Senate's pride and the serious task of passing a candidate for Chief Justice ought to make it demand more. This venerated post should not be conferred midst so much nagging doubt.

[From the Evening Sun, Sept. 15, 1986]

REJECT REHNQUIST

The word prejudice means to judge on the basis of instinct, emotion, and personal attitudes without regard to reason or evidence. We are all subject to this human frailty to some degree, but it is a pernicious and wholly unacceptable trait when it infects the men and women we appoint as society's neutral arbiters of disputes. For a judge to harbor prejudice toward a party before him is the equivalent of a doctor deliberately to worsen his patient's condition, or a lawyer secretly to represent the interest of his client's adversary, or a journalist to print a story he knows to be a lie. So in a sense a prejudiced judge is a contradiction in terms; he is not a judge at all, but rather a advocate with a hidden agenda who gives absolution to injustice in the name of justice.

Is William H. Rehnquist a prejudiced man? Unhappily, the totality of his record in public as well as private life suggests that he holds indifference and outright hostility to the great American tradition of equal justice for all. As a young Supreme Court law clerk 35 years ago he wrote a memorandum urging that segregated schools were perfectly legal, and everything he has written since then suggests that he still holds such notions—not only for blacks but also for women and others who have suffered legal disabilities.

We would like to believe that Rehnquist has been chastened by having his past laid out for public view, but we fear this is a vain hope. His is a deep-seated prejudice which is as fundamental as his gender or the color of his skin.

The edifice which houses the United States Supreme Court is emblazoned with four words which capture the spirit of the Constitution with a simplicity that approaches ultimate truth: "Equal Justice Under Law." The confirmation of Rehnquist as chief justice would make a mockery of those words; he should be rejected.

[From the Baltimore Sun, Sept. 11, 1986]

A JUSTICE'S PREDILECTIONS

In his pre-Supreme Court career, as a law clerk, as a Republican leader in Arizona, and as a legal adviser to the Nixon administration, William Rehnquist supported segregation, before and after the Brown vs. Board of Education decision of 1954 and the Civil Rights Act of 1964, and he almost certainly

approved of and perhaps engaged in polling place intimidation of minority group voters.

His defenders say this is irrelevant. The test of his fitness to be chief justice is how well he has done as an associate justice since 1972. But as Chief Justice Charles Evans Hughes once said to Associate Justice William Douglas, "You must remember • • • [that] at the Constitutional level at which we work 90 percent of any decision is emotional. The rational part of us supplies the reasons for supporting our predilections." So it is not enough for Mr. Rehnquist's supporters to praise his brilliant legal skills and mind, as revealed in his opinions since 1972. His predilections are important, too.

If it were just his predilections, we would give him the benefit of the doubt. Lawyerly advice from a clerk, counselor or partisan is not necessarily a good indication of one's true views. But the record Justice Rehnquist has compiled on the Supreme Court strongly suggests that this is a case of a great intellect in the service of a closed and narrow mind, one not functioning within even the very broad boundaries of the conservative consensus. He has been the leading dissenter, often alone, from even this moderately conservative court.

The inappropriateness of his elevation to the highly symbolic office of chief justice is best seen in his votes in the civil rights area. Mr. Rehnquist's defenders often say his anti-civil rights votes are a reflection of his pro-majoritarian constitutional philosophy. But the NAACP Legal Defense Fund has identified 83 cases since 1972 in which the Supreme Court has disagreed over the meaning of modern civil rights laws—acts of congressional majorities. In approximately half the cases, this conservative Supreme Court sided with the minorities, but in all but one of the 83 cases Justice Rehnquist interpreted the law unfavorably to the minorities.

Is that rationality at work, or predilection? We believe it is the latter. To honor such a mind-set and record with the highest judicial office in the land, as the head of the branch of government that best protects the constitutional and statutory rights of the nation's minorities, is an insult to those minorities and a repudiation of at least the last 32 years of Supreme Court history. This is a reactionary, not a conservative, nomination.

After careful consideration of the record that unfolded in the Senate Judiciary Committee hearings this summer, we believe that senators concerned about the direction of the court and the nation now and into the Twenty-First Century should vote against the confirmation of Justice Rehnquist as chief justice.

EXHIBIT 1

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, August 26, 1986.

Hon. STROM THURMOND,
Chairman, Committee on the Judiciary, Washington, DC.

DEAR STROM: As you know the committee has been made aware of claims by Harold Dickerson Cornell. Mr. Cornell asserts and has documentary evidence of instances of allegedly inappropriate conduct of Justice Rehnquist in his capacity as a private attorney prior to his confirmation as an Associate Justice of the Supreme Court.

A recent article in the New York Times, August 15, 1986, (attached), reports Justice Rehnquist as having drawn up a trust in 1961 to provide monetary benefits to Mr. Harold Dickerson Cornell during a prolonged illness. According to the report, the trust was drawn up at the request of Justice Rehnquist's father-in-law, Dr. Harold Davis Cornell. Mr. Cornell has alleged that Justice Rehnquist and other members of the family concealed the existence of the trust from him. As a result, Mr. Cornell alleges that he became poverty stricken during a period when he was suffering from the debilitating illness of multiple sclerosis. Further, Mr. Cornell claims that Justice Rehnquist knew about his dire financial condition, yet never disclosed the existence of the trust to him.

A number of legal scholars have stated that an attorney is obligated to disclose the existence of a trust under these circumstances. Consequently, if these allegations are true, they raise serious questions about Justice Rehnquist's ethical conduct as the attorney who drew up this trust.

We understand that the FBI conducted a limited investigation of this issue, but that a number of fundamental questions remain unanswered. We would appreciate your forwarding to the FBI our request that the following additional issues be resolved.

1. Was Mr. Cornell ever paid any benefits from the trust during the period before he became aware of it in 1982? What were the amounts and dates of any benefit payments?

2. Did Mr. Cornell's standard of living drop below the level specified in the trust for benefits to be paid during the period 1961–1982?

3. Did Justice Rehnquist become aware, either through conversations with Mr. Cornell or anyone else, or in any other way, of Mr. Cornell's financial condition during this period?

4. Did Justice Rehnquist take any steps to inform Mr. Cornell of his rights under the trust or to encourage the trustee to provide benefits to him from the trust?

5. Did Justice Rehnquist or members of his immediate family stand to gain financially if any of the trust benefits were not paid to Mr. Cornell?

6. Were any withdrawals made from the trust other than payments to Mr. Cornell? What were the amounts, dates and purposes of these withdrawals? Was Justice Rehnquist aware of any of these other withdrawals?

In view of the importance of this information to the Senate in viewing the nomination of Justice Rehnquist to be Chief Justice, we request that the FBI inform us of the results of this additional investigation within one week of its receipt of this letter.

Thank you for your assistance.

Sincerely,

PAT LEAHY.
HOWARD M. METZENBAUM.
PAUL SIMON.
ALAN CRANSTON.

EXHIBIT 2

YALE LAW SCHOOL,
401A YALE STATION,
New Haven, CT, September 8, 1986.

Senator CHARLES MATHIAS,
United States Senate, 387 Senate Russell Office Bldg., Washington, DC.

DEAR SENATOR MATHIAS: You have asked my opinion about the propriety of the conduct of Justice William Rehnquist in regard to *Laird* v. *Tatum*.

The essential facts as I have been given them are as follows: *Laird* v. *Tatum* was a suit to enjoin a certain Government information gathering and surveillance program that was adopted in 1969. The case was brought to the Supreme Court by the Government's appeal from a decision of the Court of Appeals, which had held that the lawsuit was maintainable. The effect of the Court of Appeals' decision was that the plaintiffs could have proceeded to the discovery stage and perhaps then on to the merits. The Supreme Court reversed, holding that the plaintiffs lacked standing and hence that the suit should be dismissed without going into the merits. Justice Rehnquist participated in that decision and, since the decision was 5–4, cast a vote necessary to the result.

When *Laird* v. *Tatum* came before the Supreme Court, a motion to rescue Justice Rehnquist was filed by the plaintiffs. They argued that Justice Rehnquist was disqualified by reason of his prior relationship to the case, in that he had expressed opinions on issues in the case and that he had presented the Justice Department's position before a Senate Committee hearing. Responding to the motion, Justice Rehnquist rejected these contentions as insufficient to require his disqualification. In doing so he relied extensively on the analysis in Frank, "Disqualification of Judges: In Support of the Bayh Bill," 35 Law & Contemp. Prob. 43 (1970), which in my opinion correctly summarized the law of disqualification as it then stood.

In recent testimony before the Senate concerning his participation in the transaction out of which *Laird* v. *Tatum* arose, Justice Rehnquist stated, "I have no recollection of any participation in the formulation of policy on use of the military to conduct surveillance or collect intelligence concerning domestic civilian activities." From other evidence, chiefly the testimony of Mr. Robert Jordan, General Counsel of the Army at the time that the surveillance policy was formulated, it appears that Mr. Rehnquist, as he then was, then a relationship to the surveillance program beyond that disclosed in his opinion in *Laird* v. *Tatum* or revealed in his testimony before the Senate last month. According to this evidence, the surveillance policy was formulated in the early months of 1969. At that time Mr. Rehnquist was Assistant Attorney General in charge of the Office of Legal Counsel. On behalf of the Justice Department that office negotiated with the Army in formulating the surveillance policy. The negotiations were extensive. The circumstances strongly suggest that Mr. Rehnquist was personally and substantially involved in them. These circumstances are that the subject was highly important, the office is small in size, and Mr. Rehnquist himself sent a key transmittal memorandum. The negotiations resulted in a policy statement that was then adopted by President Nixon, and which in turn was the basis of the government action complained of in the litigation in *Laird* v. *Tatum*.

First, in my opinion Justice Rehnquist's position as head of the Office of Legal Counsel constituted grounds of disqualification from participating in *Laird* v. *Tatum*, unless the significance of that relationship were overcome by additional evidence showing that he, in fact, was not involved in the matter while it was in the office. In a matter of such substance and complexity as the surveillance policy, it is implausible that the head of the government law office responsible for development of its legal aspects would not be personally involved in considerable detail concerning the facts and issues going into the policy and its formula-

tion. On that basis, Mr. Rehnquist was the responsible counsel in the matter in question, and as well a potential witness concerning any factual issues regarding the policy. Each of these two relationships is independently a ground for disqualification.

A lawyer directly involved in a transaction cannot properly later sit as a judge in a case in which that transaction is in dispute. As stated in the article by Mr. Frank which Justice Rehnquist cited: "Justices disqualify in Government cases when they have been directly involved in some fashion in the particular matter, and not otherwise." Mr. Rehnquist's relationship to the transaction was essentially the same as if he had been involved as legal counsel for the Internal Revenue Service in working up a tax investigation program and then sat as judge in a case challenging the program, or while in the Justice Department passed upon corporate merger or electoral districting policy and then sat in a case involving the policy.

In his opinion in *Laird* v. *Tatum*, Justice Rehnquist stated that "I never participated, either of record or in any advisory capacity . . . in the Government's conduct of the case of *Laird* v. *Tatum.*" But that statement is irrelevant if he was counsel in the transaction out of which the case arose, a basis of disqualification that was well recognized then as now.

Justice Rehnquist appears also disqualified because he was a potential witness, at least at the discovery stage in *Laird* v. *Tatum*. In his testimony before the Senate, he denied having knowledge of "evidentiary facts." The standard relevent to the question is not "evidentiary facts" but facts relating to the "subject matter" of the litigation.

Second, when the case of *Laird* v. *Tatum* was before the Supreme Court it was Justice Rehnquist's responsibility on his own initiative to address and resolve all issue concerning his disqualification. It was not the parties' responsibility to raise such matters, although they had a right to do so if they had access to the necessary facts. In his opinion in *Laird* v. *Tatum*, Justice Rehnquist referred, first, to the fact that he had not been counsel in the "case," i.e., the litigation that ensued after his involvement in the transaction, and, second, to his statements in public and as spokesman for the Justice Department before the Senate. Thus, Justice Rehnquist addressed only his publicly known involvements and omitted any reference to an involvement, as counsel in the transaction, that was at least as significant but which was not publicly known. It was his duty to resolve both the publicly known possible bases of disqualification and those arising from an involvement that was confidential. Indeed, it is even more vital to fairness in adjudication that a judge resolve grounds of recusal which arise from confidential facts, for the parties ordinarily are helpless to raise such grounds.

Justice Rehnquist's addressing the publicly known grounds of recusal, but omitting reference to the confidential ones, would have been proper only if he had forgotten that his office in the Justice Department had handled the surveillance policy negotiations and that he himself was involved to a substantial extent. If when writing his opinion in *Laird* v. *Tatum*, Justice Rehnquist had not forgotten his involvement in the surveillance policy negotiations, then his opinion constituted a misrepresentation to the parties and to his colleagues on the Supreme Court. In such a matter, a lawyer or judge is expected to give the whole truth.

Finally, Justice Rehnquist had a duty of candor to the Senate in answering questions concerning *Laird* v. *Tatum*. The Senate hearing was an evidentiary inquiry into his qualifications for the office of Chief Justice. In making statements before such a tribunal, whether sworn or not, a lawyer or judge has an obligation to be fully truthful. Justice Rehnquist complied with duty only if his statement is accepted that he had "no recollection of any participation in the formulation of policy on the use of the military to conduct surveillance." Whether that statement should be accepted is a matter of judgment. It was made by a lawyer of the highest intelligence concerning sensitive state policy over which his office had direct responsibility early in his service in government, and about which he had been asked to search his recollection on three official occasions.

Sincerely,

GEOFFREY C. HAZARD, Jr.

Mr. DOLE. Mr. President, I thank the distinguished Senator from Maryland.

The PRESIDING OFFICER. The distinguished majority leader.

DISTRICT OF COLUMBIA APPROPRIATIONS—1987

Mr. DOLE. Mr. President, let me indicate that the managers are now here and prepared to do battle on the District of Columbia appropriations bill. As I indicated earlier, we already passed it one time. It was retrieved, I guess is the appropriate term. We now have it before us. The distinguished minority leader is here.

I ask unanimous consent the Senate now turn to the consideration of H.R. 5175, District of Columbia appropriations.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The clerk will now report.

The bill clerk read as follows:

A bill, H.R. 5175, making appropriations for the Government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1987, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Appropriations, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italic.)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the District of Columbia for the fiscal year ending September 30, 1987, and for other purposes, namely:

TITLE I

FISCAL YEAR 1987 APPROPRIATIONS

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA

For payment to the District of Columbia for the fiscal year ending September 30, 1987, **[**$414,147,000**]** *$444,500,000*, as authorized by the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, as amended (D.C. Code, sec. 47-3406): *Provided*, That none of these funds shall be made available to the District of Columbia until the number of full-time uniformed officers in permanent positions in the Metropolitan Police Department is at least 3,880, excluding any such officer appointed after August 19, 1982, under qualification standards other than those in effect on such date.

FEDERAL PAYMENT FOR WATER AND SEWER SERVICES

For payment to the District of Columbia for the fiscal year ending September 30, 1987, in lieu of reimbursement for charges for water and water services and sanitary sewer services furnished to facilities of the United States Government, $28,810,000, as authorized by the Act of May 18, 1954, as amended (D.C. Code, secs. 43-1552 and 43-1612).

FEDERAL CONTRIBUTION TO RETIREMENT FUNDS

For the Federal contribution to the Police Officers and Fire Fighters', Teachers', and Judges' Retirement Funds as authorized by the District of Columbia Retirement Reform Act, approved November 17, 1979 (93 Stat. 866; Public Law 96-122), $52,070,000.

TRANSITIONAL PAYMENT FOR SAINT ELIZABETHS HOSPITAL

For a Federal contribution to the District of Columbia, as authorized by the Saint Elizabeths Hospital and District of Columbia Mental Health Services Act, approved November 8, 1984 (98 Stat. 3369; Public Law 98-621), $35,000,000.

CRIMINAL JUSTICE INITIATIVE

For the design and construction of a prison within the District of Columbia $20,000,000 to become available October 1, 1987 together with funds previously appropriated under this head for fiscal year ending September 30, 1987: Provided, That the District of Columbia shall award a design and construction contract on or before October 15, 1986: Provided further, That, the District of Columbia is directed to proceed with the design and construction of a prison facility within the District of Columbia without respect to the availability of Federal funds: Provided further, That a plan that includes the construction of not less than a 700 bed, medium security facility on the South part of Square E-1112 as recorded in Subdivision Book 140, Page 199 in the office of the Surveyor of the District of Columbia is hereby approved: Provided further, That this approval shall satisfy the provisions as enumerated in Public Law 99-190.

DIVISION OF EXPENSES

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia, except as otherwise specifically provided.

GOVERNMENTAL DIRECTION AND SUPPORT

Governmental direction and support, **[**$108,407,000**]** *$108,353,000*: *Provided*, That not to exceed $2,500 for the Mayor, $2,500 for the Chairman of the Council of the District of Columbia, and $2,500 for the City Administrator shall be available from this appropriation for expenditures for official purposes: *Provided further*, That any program fees collected from the issuance of

debt shall be available for the payment of expenses of the debt management program of the District of Columbia: *Provided further,* That not less than $320,000 shall be used by the Office of Personnel exclusively for the administration of programs for the training of District of Columbia government employees: *Provided further,* That notwithstanding any other provision of law, there is hereby appropriated $3,772,000 to pay legal, management, investment, and other fees and administrative expenses of the District of Columbia Retirement Board, of which [$754,000] *$700,000* shall be derived from the general fund and not to exceed [$3,018,000] *$3,072,000* shall be derived from the earnings of the applicable retirement funds: *Provided further,* That the District of Columbia Retirement Board shall provide to the Congress and the Council of the District of Columbia a quarterly report of the allocations of charges by fund and of expenditures of all funds: *Provided further,* That the District of Columbia Retirement Board shall provide the Mayor for transmittal to the Council of the District of Columbia an item accounting of the planned use of appropriated funds in time for each annual budget submission and the actual use of such funds in time for each annual audited financial report: *Provided further,* That of the $100,000 appropriated for fiscal year 1987 for Admission to Statehood, $50,000 shall be for the Statehood Commission and $50,000 shall be for the Statehood Compact Commission: *Provided further,* That the District of Columbia shall identify the sources of funding for Admission to Statehood from its own locally-generated revenues: *Provided further,* That no revenues from Federal sources shall be used to support the operations or activities of the Statehood Commission and Statehood Compact Commission.

ECONOMIC DEVELOPMENT AND REGULATION

Economic development and regulation, $129,460,000, of which $2,000,000 shall be for non-recurring pay-as-you-go capital projects of the Department of Housing and Community Development: *Provided,* That the District of Columbia Housing Finance Agency, established by section 201 of the District of Columbia Housing Finance Agency Act, effective March 3, 1979 (D.C. Law 2-135; D.C. Code, sec. 45-2111), based upon its capability of repayments as determined each year by the Council of the District of Columbia from the Agency's annual audited financial statements to the Council of the District of Columbia, shall repay to the general fund an amount equal to the appropriated administrative costs plus interest at a rate of four percent per annum for a term of 15 years, with a deferral of payments for the first three years: *Provided further,* That notwithstanding the foregoing provision, the obligation to repay all or part of the amounts due shall be subject to the rights of the holders of any bonds or notes issued by the Agency and shall be repaid to the District of Columbia only from available operating revenues of the Agency that are in excess of the amounts required for debt service, reserve funds, and operating expenses: *Provided further,* That upon commencement of the debt service payments, such payments shall be deposited into the general fund of the District of Columbia.

PUBLIC SAFETY AND JUSTICE

Public safety and justice, including purchase of not to exceed 135 passenger-carrying vehicles for replacement only (including 130 for police-type use and five for fire-type use) and 14 replacement passenger-carrying vehicles for fire-type use without regard to the general purchase price limitation for the current fiscal year, [$580,765,000] *$600,165,000*: *Provided,* That the Metropolitan Police Department is authorized to replace not to exceed 25 passenger-carrying vehicles and the Fire Department is authorized to replace not to exceed five passenger-carrying vehicles annually whenever the cost of repair to any damaged vehicle exceeds three-fourths of the cost of the replacement: *Provided further,* That not to exceed $500,000 shall be available from this appropriation for the Chief of Police for the prevention and detection of crime: *Provided further,* That, notwithstanding any other provision of law, in the case of the 23 employees who retired from the Fire Department of the District of Columbia between November 24, 1984, and March 28, 1985 (both dates inclusive), and who on the date of the enactment of this Act are receiving annuities based on service in the Fire Department, the District of Columbia Retirement Board shall cause to be paid not later than October 15, 1986, to each such employee a lump-sum payment equal to three percent of his or her annuity: *Provided further,* That funds appropriated for expenses under the District of Columbia Criminal Justice Act, approved September 3, 1974 (88 Stat. 1090; Public Law 93-412; D.C. Code, sec. 11-2601 et seq.), for the fiscal year ending September 30, 1987, shall be available for obligations incurred under that Act in each fiscal year since inception in fiscal year 1975: *Provided further,* That funds appropriated for expenses under the District of Columbia Neglect Representation Equity Act of 1984, effective March 13, 1985 (D.C. Law 5-129; D.C. Code, sec. 16-2304), for the fiscal year ending September 30, 1987, shall be available for obligations incurred under that Act in each fiscal year since inception in fiscal year 1985: *Provided further,* That $50,000 of any appropriation available to the District of Columbia may be used to match financial contributions from the Department of Defense to the District of Columbia Office of Emergency Preparedness for the purchase of civil defense equipment and supplies approved by the Department of Defense, when authorized by the Mayor: *Provided further,* That not to exceed $1,500 for the Chief Judge of the District of Columbia Court of Appeals, $1,500 for the Chief Judge of the Superior Court of the District of Columbia, and $1,500 for the Executive Officer of the District of Columbia Courts shall be available from this appropriation for official purposes: *Provided further,* That not to exceed [$50,000] *$100,000* of this appropriation shall be used to reimburse Fairfax County *and Prince William County,* Virginia, for expenses incurred by the [County] *Counties* during fiscal year 1987 in relation to the Lorton prison complex. Such reimbursement shall be paid in all instances in which the District requests that the [County] *Counties* provide police, fire, rescue, and related services to help deal with escapes, riots, and similar disturbances involving the prison. The District shall make a quarterly report to the House and Senate Subcommittees on District of Columbia Appropriations regarding the amount and purpose of reimbursements made to the [County] *Counties,* and the amount of the authorization remaining for such reimbursements: *Provided further, That within 30 days after the date of enactment of this Act, the District of Columbia shall establish a free, 24-hour telephone information service, whereby residents of the area surrounding Lorton prison in Fairfax County, Virginia, can promptly obtain information from District officials on all disturbances at the prison, including escapes, fires, riots, and similar incidents: Provided further, That the District of Columbia shall also take steps to publicize the availability of that service among the residents of the area surrounding the Lorton prison: Provided further, That none of the funds appropriated by this Act may be used to implement any plan that includes the closing of Engine Company 3, located at 439 New Jersey Avenue, Northwest: Provided further, That none of the funds provided by this Act may be used to implement District of Columbia Board of Parole notice of emergency and proposed rulemaking as filed with the District of Columbia Register July 25, 1986.*

PUBLIC EDUCATION SYSTEM

Public education system, including the development of national defense education programs, [$540,718,000] *$540,872,000,* to be allocated as follows: $393,806,000 for the public schools of the District of Columbia, of which $8,000,000 shall be for non-recurring pay-as-you-go capital projects of the public schools of the District of Columbia; $58,800,000 for the District of Columbia Teachers' Retirement Fund; [$68,861,000] *$69,015,000* for the University of the District of Columbia; $16,646,000 for the Public Library; $2,368,000 for the Commission on the Arts and Humanities; and $237,000 for the Educational Institution Licensure Commission: *Provided,* That the public schools of the District of Columbia are authorized to accept not to exceed 31 motor vehicles for exclusive use in the driver education program: *Provided further,* That not to exceed $2,500 for the Superintendent of Schools, $2,500 for the President of the University of the District of Columbia, and $2,000 for the Public Librarian shall be available from this appropriation for expenditures for official purposes: *Provided further,* That this appropriation shall not be available to subsidize the education of nonresidents of the District of Columbia at the University of the District of Columbia, unless the Board of Trustees of the University of the District of Columbia adopts, for the fiscal year ending September 30, 1987, a tuition rate schedule which will establish the tuition rate for nonresident students at a level no lower than the nonresident tuition rate charged at comparable public institutions of higher education in the metropolitan area: *Provided further,* That of the amount made available to the University of the District of Columbia, [$1,146,000] *$1,300,000* shall be used solely for the operation of the Antioch School of Law: *Provided further,* That acquisition or merger of the Antioch School of Law shall have been previously approved by both the Board of Trustees of the University of the District of Columbia and the Council of the District of Columbia, and that the Council shall have issued its approval by resolution: *Provided further,* That if the Council of the District of Columbia or the Board of Trustees of the University of the District of Columbia fails to approve the acquisition or merger of the Antioch School of Law, the [$1,146,000] *$1,300,000* shall be used solely for the repayment of the general fund deficit.

HUMAN SUPPORT SERVICES

Human support services, $654,315,000, of which $298,000 shall be for non-recurring pay-as-you-go capital projects of the Department of Human Services: *Provided,*

That the inpatient rate (excluding the proportionate share for repairs and construction) for services rendered by Saint Elizabeths Hospital for patient care shall be at the per diem rate established pursuant to section 2 of an Act to authorize certain expenditures from the appropriation of Saint Elizabeths Hospital, and for other purposes, approved August 4, 1947 (61 Stat. 751; Public Law 80-353; 24 U.S.C. 168(a)): *Provided further,* That total funds paid by the District of Columbia as reimbursements for operating costs of Saint Elizabeths Hospital, including any District of Columbia payments (but excluding the Federal matching share of payments) associated with title XIX of the Social Security Act, approved July 30, 1965 (79 Stat. 343; Public Law 89-97; 42 U.S.C. 1396 et seq.), shall not exceed $71,200,000: *Provided further,* That $13,800,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation.

PUBLIC WORKS

Public works, including rental of one passenger-carrying vehicle for use by the Mayor and three passenger-carrying vehicles for use by the Council of the District of Columbia and purchase of passenger-carrying vehicles for replacement only, $204,748,000, of which not to exceed $4,150,000 shall be available for the School Transit Subsidy: *Provided,* That this appropriation shall not be available for collecting ashes or miscellaneous refuse from hotels and places of business or from apartment houses with four or more apartments, or from any building or connected group of buildings operating as a rooming or boarding house as defined in the housing regulations of the District of Columbia.

WASHINGTON CONVENTION CENTER FUND

For the Washington Convention Center Fund, $6,261,000: *Provided,* That the Convention Center Board of Directors, established by section 3 of the Washington Convention Center Management Act of 1979, effective November 3, 1979 (D.C. Law 3-36; D.C. Code, sec. 9-602), shall reimburse the Auditor of the District of Columbia for all reasonable costs for performance of the annual convention center audit.

REPAYMENT OF LOANS AND INTEREST

For reimbursement to the United States of funds loaned in compliance with an Act to provide for the establishment of a modern, adequate, and efficient hospital center in the District of Columbia, approved August 7, 1946 (60 Stat. 896; Public Law 79-648); the Departments of Labor, and Health, Education and Welfare Appropriation Act of 1955, approved July 2, 1954 (68 Stat. 443; Public Law 83-472); section 1 of an Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85-451; D.C. Code, sec. 9-219); section 4 of an Act to authorize the Commissioners of the District of Columbia to plan, construct, operate, and maintain a sanitary sewer to connect the Dulles International Airport with the District of Columbia system, approved June 12, 1960 (74 Stat. 211; Public Law 86-515); and section 723 of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 821; Public Law 93-198; D.C. Code, sec. 47-321, note); and section 743(f) of the District of Columbia Self-Government and Governmental Reorganization Act, approved October 13, 1977 (91 Stat. 1156; Public Law 95-131; D.C. Code, sec. 9-219, note), including interest as required thereby, $204,514,000.

REPAYMENT OF GENERAL FUND DEFICIT

For the purpose of reducing the $244,934,000 general fund accumulated deficit as of September 30, 1985, [$20,000,000, of which not less than $11,325,000 shall be funded and apportioned by the Mayor from amounts otherwise available to the District of Columbia government (including amounts appropriated by this Act or revenues otherwise available, or both)] *$8,675,000*: *Provided,* That if the Federal payment to the District of Columbia for fiscal year 1987 is reduced pursuant to an order issued by the President under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177, approved December 12, 1985), the percentage (if any) by which the [$20,000,000] set aside for repayment of the general fund accumulated deficit under this appropriation title is reduced as a consequence shall not exceed the percentage by which the Federal payment is reduced pursuant to such order.

SHORT-TERM BORROWINGS

For the purpose of funding interest related to borrowing funds for short-term cash needs, $3,750,000.

CAPITAL OUTLAY

For construction projects, $310,551,000, as authorized by an Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; Public Law 58-140; D.C. Code, secs. 43-1512 to 43-1519); the District of Columbia Public Works Act of 1954, approved May 18, 1954 (68 Stat. 101; Public Law 83-364); an Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85-451; D.C. Code, secs. 9-219 and 47-3402); section 3(g) of the District of Columbia Motor Vehicle Parking Facility Act of 1942, approved August 20, 1958 (72 Stat. 686; Public Law 85-692; D.C. Code, sec. 40-805(7)); and the National Capital Transportation Act of 1969, approved December 9, 1969 (83 Stat. 320; Public Law 91-143; D.C. Code, secs. 1-2451, 1-2452, 1-2454, 1-2456, and 1-2457); including acquisition of sites, preparation of plans and specifications, conducting preliminary surveys, erection of structures, including building improvement and alteration and treatment of grounds, to remain available until expended: *Provided,* That $17,425,000 shall be available for project management and $24,139,000 for design by the Director of the Department of Public Works or by contract for architectural engineering services, as may be determined by the Mayor, and that the funds for use of each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System: *Provided further,* That $10,298,000 of the $310,551,000, shall be financed from general fund operating revenues to be allocated as follows: $8,000,000 for pay-as-you-go capital projects for public schools of the District of Columbia; $2,000,000 for pay-as-you-go capital projects for the Department of Housing and Community Development; and $298,000 for pay-as-you-go capital projects for the Department of Human Services: *Provided further,* That $19,218,000 of the $310,551,000, shall be available to the Board of Education of the District of Columbia for pay-as-you-go capital projects (maintenance improvements), for the construction of new roofs for various school buildings, and for school safety and building improvements projects, with $15,999,000 of these funds available for construction, $1,881,000 available for architectural design, and $1,338,000 available for project management: *Provided further,* That notwithstanding the last sentence of section 405(b) of the District of Columbia Public Postsecondary Education Reorganization Act, approved October 26, 1974 (88 Stat. 1423; D.C. Code, sec. 31-1535(b)), the Board of Education of the District of Columbia may procure contracts for its pay-as-you-go capital projects, for the construction of new roofs for various school buildings, and for school safety and building improvements projects: *Provided further,* That all such funds shall be available only for the specific projects and purposes intended: *Provided further,* That notwithstanding the foregoing, all authorizations for capital outlay projects, except those projects covered by the first sentence of section 23(a) of the Federal-Aid Highway Act of 1968, approved August 23, 1968 (82 Stat. 827; Public Law 90-495; D.C. Code, sec. 7-134, note), for which funds are provided by this appropriation title, shall expire on September 30, 1988, except authorizations for projects as to which funds have been obligated in whole or in part prior to September 30, 1988: *Provided further,* That upon expiration of any such project authorization the funds provided herein for the project shall lapse.

WATER AND SEWER ENTERPRISE FUND

For the Water and Sewer Enterprise Fund, $176,876,000, of which $32,834,000 shall be apportioned and payable to the debt service fund for repayment of loans and interest incurred for capital improvement projects.

For construction projects, $54,850,000, as authorized by an Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; D.C. Code, sec. 43-1512 et seq.): *Provided,* That the requirements and restrictions which are applicable to general fund capital improvement projects and which are set forth in this Act under the Capital Outlay appropriation title shall apply to projects approved under this appropriation title.

LOTTERY AND CHARITABLE GAMES ENTERPRISE FUND

For the Lottery and Charitable Games Enterprise Fund established by the District of Columbia Appropriation Act for fiscal year 1982, approved December 4, 1981 (95 Stat. 1174, 1175; Public Law 97-91, as amended), for the purpose of implementing the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia, effective March 10, 1981 (D.C. Law 3-172; D.C. Code, secs. 2-2501 et seq. and 22-1516 et seq.), $5,458,000, to be derived from non-Federal District of Columbia revenues: *Provided,* That the District of Columbia shall identify the sources of funding for this appropriation title from its own locally-generated revenues: *Provided further,* That no

revenues from Federal sources shall be used to support the operations or activities of the Lottery and Charitable Games Control Board.

CABLE TELEVISION ENTERPRISE FUND

For the Cable Television Enterprise Fund established by the Cable Television Communications Act of 1981, effective October 22, 1983 (D.C. Law 5-36; D.C. Code, sec. 43-1801 et seq.), $250,000.

GENERAL PROVISIONS

SEC. 101. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 102. Except as otherwise provided in this Act, all vouchers covering expenditures of appropriations contained in this Act shall be audited before payment by the designated certifying official and the vouchers as approved shall be paid by checks issued by the designated disbursing official.

SEC. 103. Whenever in this Act an amount is specified within an appropriation for particular purposes or objects of expenditure, such amount, unless otherwise specified, shall be considered as the maximum amount which may be expended for said purpose or object rather than an amount set apart exclusively therefor, except for those funds and programs for the Metropolitan Police Department under the heading "Public Safety and Justice" which shall be considered as the amounts set apart exclusively for and shall be expended solely by that Department; and the appropriation under the heading "Repayment of General Fund Deficit" which shall be considered as the amount set apart exclusively for and shall be expended solely for that purpose.

SEC. 104. Appropriations in this Act shall be available, when authorized by the Mayor, for allowances for privately owned automobiles and motorcyles used for the performance of official duties at rates established by the Mayor: *Provided*, That such rates shall not exceed the maximum prevailing rates for such vehicles as prescribed in the Federal Property Management Regulations 101-7 (Federal Travel Regulations).

SEC. 105. Appropriations in this Act shall be available for expenses of travel and for the payment of dues of organizations concerned with the work of the District of Columbia government, when authorized by the Mayor: *Provided*, That the Council of the District of Columbia and the District of Columbia Courts may expend such funds without authorization by the Mayor.

SEC. 106. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making refunds and for the payment of judgments that have been entered against the District of Columbia government: *Provided*, That nothing contained in this section shall be construed as modifying or affecting the provisions of section 11(c)(3) of title XII of the District of Columbia Income and Franchise Tax Act of 1947, approved March 31, 1956 (70 Stat. 78; Public Law 84-460; D.C. Code, sec. 47-1812.11(c)(3)).

SEC. 107. Appropriations in this Act shall be available for the payment of public assistance without reference to the requirement of section 544 of the District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4-101; D.C. Code, sec. 3-205.44), and for the non-Federal share of funds necessary to qualify for Federal assistance under the Juvenile Delinquency Prevention and Control Act of 1968, approved July 31, 1968 (82 Stat. 462; Public Law 90-445; 42 U.S.C. 3801 et seq.).

SEC. 108. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 109. Not to exceed 4½ per centum of the total of all funds appropriated by this Act for personal compensation may be used to pay the cost of overtime or temporary positions.

SEC. 110. Appropriations in this Act shall not be available, during the fiscal year ending September 30, 1987, for the compensation of any person appointed to a permanent position in the District of Columbia government during any month in which the number of employees exceeds [33,355] *33,549*, the number of positions authorized by this Act.

SEC. 111. No funds appropriated in this Act for the District of Columbia government for the operation of educational institutions, the compensation of personnel, or for other educational purposes may be used to permit, encourage, facilitate, or further partisan political activities. Nothing herein is intended to prohibit the availability of school buildings for the use of any community or partisan political group during non-school hours.

SEC. 112. The annual budget for the District of Columbia government for the fiscal year ending September 30, 1988, shall be transmitted to the Congress by no later than April 15, 1987.

SEC. 113. None of the funds appropriated in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name, title, grade, salary, past work experience, and salary history are not available for inspection by the House and Senate Committees on Appropriations, the House Committee on the District of Columbia, the Subcommittee on Governmental Efficiency and the District of Columbia of the Senate Committee on Governmental Affairs, and the Council of the District of Columbia, or their duly authorized representative.

SEC. 114. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making payments authorized by the District of Columbia Revenue Recovery Act of 1977, effective September 23, 1977 (D.C. Law 2-20; D.C. Code, sec. 47-421 et seq.).

SEC. 115. None of the funds contained in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name and salary are not available for public inspection.

SEC. 116. No part of this appropriation shall be used for publicity or propaganda purposes or implementation of any policy including boycott designed to support or defeat legislation pending before Congress or any State legislature.

[SEC. 117. None of the funds provided in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.]

SEC. 117. None of the Federal funds provided in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service. Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

SEC. 118. At the start of the fiscal year, the Mayor shall develop an annual plan, by quarter and by project, for capital outlay borrowings: *Provided*, That within a reasonable time after the close of each quarter, the Mayor shall report to the Council of the District of Columbia and the Congress the actual borrowing and spending progress compared with projections.

SEC. 119. The Mayor shall not borrow any funds for capital projects unless he has obtained prior approval from the Council of the District of Columbia by resolution, identifying the projects and amounts to be financed with such borrowings.

SEC. 120. The Mayor shall not expend any moneys borrowed for capital projects for the operating expenses of the District of Columbia government.

SEC. 121. None of the funds appropriated in this Act may be used for the implementation of a personnel lottery with respect to the hiring of fire fighters or police officers.

SEC. 122. None of the funds appropriated by this Act may be obligated or expended by reprogramming except pursuant to advance approval of the reprogramming granted according to the procedure set forth in the Joint Explanatory Statement of the Committee of Conference (House Report No. 96-443) which accompanied the District of Columbia Appropriation Act, 1980, approved October 30, 1979 (93 Stat. 713; Public Law 96-93), as modified in House Report No. 98-265, and in accordance with the Reprogramming Policy Act of 1980, effective September 16, 1980 (D.C. Law 3-100; D.C. Code, sec. 47-361 et seq.)

SEC. 123. None of the Federal funds provided in this Act shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of the District of Columbia.

SEC. 124. None of the Federal funds provided in this Act shall be obligated or expended to procure passenger automobiles as defined in the Automobile Fuel Efficiency Act of 1980, approved October 10, 1980 (94 Stat. 1824; Public Law 96-425; 15 U.S.C. 2001(2)), with an Environmental Protection Agency estimated miles per gallon average of less than 22 miles per gallon: *Provided*, That this section shall not apply to security, emergency rescue, or armored vehicles.

SEC. 125. (a) Notwithstanding section 422(7) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 790; Public Law 93-198; D.C. Code, sec. 1-242(7)), the City Administrator shall be paid, during any fiscal year, a salary at a rate established by the Mayor, not to exceed the rate established for level IV of the Executive Schedule under 5 U.S.C. 5315.

(b) For purposes of applying any provision of law limiting the availability of funds for payment of salary or pay in any fiscal year, the highest rate of pay established by the Mayor under subsection (a) for any position for any period during the last quarter of calendar year 1986 shall be deemed to be the rate of pay payable for that position for September 30, 1986.

(c) Notwithstanding section 4(a) of the District of Columbia Redevelopment Act of 1945, approved August 2, 1946 (60 Stat. 793; Public Law 79-592; D.C. Code, sec. 5-803(a)),

the Board of Directors of the District of Columbia Redevelopment Land Agency shall be paid, during any fiscal year, a per diem compensation at a rate established by the Mayor.

SEC. 126. Notwithstanding any other provision of law, the provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Code, sec. 1-601.1 et seq.), enacted pursuant to section 422(3) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 790; Public Law 93-198; D.C. Code, sec. 1-242(3)), shall apply with respect to the compensation of District of Columbia employees: *Provided,* That for pay purposes, employees of the District of Columbia government shall not be subject to the provisions of title 5 of the United States Code.

SEC. 127. None of the funds appropriated by this Act may be used to transport any output of the municipal waste system of the District of Columbia for disposal at any public or private landfill located in any State, excepting currently utilized landfills in Maryland and Virginia, until the appropriate State agency has issued the required permits.

SEC. 128. The Director of the Department of Administrative Services may pay rentals and repair, alter, and improve rented premises, without regard to the provisions of section 322 of the Economy Act of 1932 (Public Law 72-212; 40 U.S.C. 278a), upon a determination by the Director, that by reason of circumstances set forth in such determination, the payment of these rents and the execution of this work, without reference to the limitations of section 322, is advantageous to the District in terms of economy, efficiency and the District's best interest.

SEC. 129. (a) Section 131 of the District of Columbia Appropriation Act, 1986 (H.R. 3067 as enacted by reference in section 101(c) of Public Law 99-190), is amended—

(1) by inserting "or leased" after "owned" in subsection (a); and

(2) by inserting before the period at the end of subsection (b)(3) the following: ", and includes any tax imposed with respect to the use or rental of a motor vehicle and levied on, with respect to, or measured by the sales price or market value of the vehicle or the gross proceeds from the rental".

(b) The amendments made by subsection (a) shall apply to all taxable periods described in section 131(c) of such Act.

SEC. 130. No later than 30 days after the end of the first quarter of fiscal year 1987, the Mayor of the District of Columbia shall submit to the Council of the District of Columbia the new fiscal year 1987 revenue estimate as of the end of the first quarter of fiscal year 1987: *Provided,* That these estimates shall be used in the fiscal year 1988 annual budget request: *Provided further,* That the officially revised estimates at midyear shall be used for the midyear report.

SEC. 131. Section 466(b) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 806; Public Law 93-198; D.C. Code, sec. 47-326), is amended by striking out "sold before October 1, 1986" and inserting in lieu thereof "sold before October 1, 1987".

SEC. 132. The District of Columbia shall construct three signs which contain the words, "Sakharov Plaza". These signs shall be placed immediately above existing signs on the corners of 16th and L and 16th and M Streets, Northwest. These should be similar to signs used by the city to designate the location of Metro stations. In addition, a sign shall be placed on city property directly adjacent to, or directly in front of, 1125 16th Street designating the actual location of Sakharov Plaza. Hereafter all official correspondence with the Soviet Embassy in Washington shall be properly addressed to No. 1 Andrei Sakharov Plaza in accordance with United States law.

TITLE II

FISCAL YEAR 1986 SUPPLEMENTAL

DISTRICT OF COLUMBIA FUNDS

GOVERNMENTAL DIRECTION AND SUPPORT

For an additional amount for "Governmental Direction and Support", $1,738,000.

ECONOMIC DEVELOPMENT AND REGULATION

For an additional amount for "Economic Development and Regulation", $5,658,000.

PUBLIC SAFETY AND JUSTICE

For an additional amount for "Public Safety and Justice", $34,358,000: Provided, That the use of overtime funds in the Second Police District shall be discretionary.

PUBLIC EDUCATION SYSTEM

For an additional amount for "Public Education System" for the fiscal year ending September 30, 1986. $92,000 for the Commission on the Arts and Humanities: Provided, That of the amount available for the District of Columbia Teachers' Retirement Fund ("Fund") for the fiscal year ending September 30, 1986, $3,423,000 shall be transferred to the fund for the purpose of reducing the fund's unfunded liabilities.

HUMAN SUPPORT SERVICES

(INCLUDING RESCISSION)

For an additional amount for "Human Support Services", $1,563,000: Provided, That of the amount available from the revenue sharing trust fund for the fiscal year ending September 30, 1986, $2,463,000 are rescinded.

PUBLIC WORKS

For an additional amount for "Public Works", $4,216,000.

WASHINGTON CONVENTION CENTER FUND

For an additional amount for "Washington Convention Center Fund", $150,000.

REPAYMENT OF LOANS AND INTEREST

(RESCISSION)

Of the funds appropriated for "Repayment of Loans and Interest" for fiscal year ending September 30, 1986, $16,316,000 are rescinded.

PERSONAL SERVICES

(INCLUDING RESCISSION)

Of the funds appropriated for "Personal Services", within the various appropriation titles in section 101(c) of the Joint Resolution making continuing appropriations for the fiscal year 1986, and for other purposes, effective December 19, 1985 (Public Law 99-190; 99 Stat. 1224), $2,423,000 are rescinded with increases and reductions to be allocated as follows: For an additional amount for optical and dental costs for nonunion employees to be apportioned by the Mayor of the District of Columbia from within the various appropriation titles, $1,000,000; and for a reduction to personal services to be apportioned by the Mayor of the District of Columbia from within the various appropriation titles, $3,423,000.

ADJUSTMENTS

(RESCISSION)

The Mayor shall reduce authorized appropriations and expenditures within Object Class 30A (energy) in the amount of $1,000,000 within the various appropriation titles in section 101(c) of the Joint Resolution making continuing appropriations for the fiscal year 1986, and for other purposes, effective December 19, 1985 (Public Law 99-190; 99 Stat. 1224).

REPAYMENT OF GENERAL FUND DEFICIT

For the purpose of eliminating the general fund accumulated deficit, $5,000,000.

CAPITAL OUTLAY

For an additional amount for "Capital Outlay", $126,791,000.

WATER AND SEWER ENTERPRISE FUND

For an additional amount for "Water and Sewer Enterprise Fund", $300,000.

GENERAL PROVISIONS

SEC. 201. None of the funds appropriated for the fiscal year ending September 30, 1986, by section 101(c) of the Joint Resolution making continuing appropriations for the fiscal year 1986, and for other purposes, effective December 19, 1985 (Public Law 99-190; 99 Stat. 1224), shall be used by the Mayor of the District of Columbia ("Mayor") to pay the expenses of the U.S. Marshals Service for extraordinary evictions from housing units owned by the District of Columbia for evictions based solely on excessive numbers of persons occupying the unit unless and until the Mayor submits to the Council of the District of Columbia a reprogramming request and transmits with that reprogramming request the proposed criteria by which these units are to be selected, a proposed plan for the implementation of the proposed criteria, an estimate of the number of units that meet the proposed criteria, and if the proposed criteria involve the displacement of persons who will be unable to afford housing on the private market, an alternative plan for housing those displaced persons.

SEC. 202. Notwithstanding any other provision of this Act, appropriations under this title shall be available upon enactment.

This Act may be cited as the "District of Columbia Appropriation Act, 1987".

The PRESIDING OFFICER. The Senator from Pennsylvania [Mr. SPECTER].

Mr. SPECTER. I thank the Chair.

Mr. President, the District of Columbia appropriations bill for fiscal year 1987 presented here today is a balanced budget. The bill includes $500 million in Federal funds, which is within the subcommittee allocations made under the budget resolution. This amount includes $444 million for the Federal payment to the District, $80 million for reimbursements to the city for services provided to the Federal Government, and a $35 million payment to the District required by the St. Elizabeth's Hospital transfer legislation. The District will take charge of the hospital beginning October 1, 1987.

The District's budget also includes $2.6 billion in locally generated revenue in addition to the already mentioned Federal funds.

The bill also includes advance appropriations of $20 million to complete the funding of the new prison to be constructed in the District of Columbia. This appropriation will bring to $50 million the amount provided to design and construct this facility.

It was back in January of 1985 that Mayor Barry first committed to building the prison in the District. The subcommittee has held numerous hearings on the prison problem, four in this year alone, and it is a well-known fact that the city's correction system is in a crisis.

We have been frustrated by the lack of progress by the District government on the new prison, and it is for that reason that the subcommittee has recommended language adopted by the full committee which requires that if the District does not have a design and construction contract in place by November 15, 1986, the city will lose the funds already appropriated for 1987 and the recommended advance for 1988, a total of $40 million. This is the most effective statement we can make to underscore our view of the urgency of the need to push ahead on this project.

Candidly stated, if the city does not move now the matter may well be dead in the foreseeable future. The subcommittee has put in a tremendous amount of work on the issue of public danger in the District of Columbia and now is the time to move ahead. We think this draws the line.

The bill also includes $5.5 million to renovate and operate space to provide minimum security bed space. Also included in the bill is $7 million for vocational and educational programs for the Department of Corrections. We have, Mr. President, made real strides as a model program for rehabilitation on the basic proposition that it is unrealistic to expect a functional illiterate without a trade or a skill to leave prison to do anything but return to a life of crime. The program has had certain problems. There has been an intense review by a committee chaired by David Ben-Veniste serving on a pro bono basis and we believe that this program will be a model to the Nation and can succeed but much more effort is needed to make it a success.

During the last 3 years the Congress has provided $41 million in special appropriations for these programs.

On June 6, 1986, I requested the General Accounting Office to audit these funds to ensure that these funds have been used efficiently. I think they have made significant progress in these programs to try to change the pattern where functional illiterates are released without a trade or a skill and return to a life of crime.

The committee is also recommending language in the bill which prohibits the D.C. Parole Board from implementing its proposed rule changes concerning use of PCP. Parolees who test positive for this drug are currently returned to prison. We feel strongly that if a parolee is using PCP and tests positive in that respect, that is a red flag that ought to require taking that parolee into custody for a further determination as to what ultimate action would be appropriate with a presumption being that if the parolee is on PCP, he does not deserve to be on parole. That is a factor which indicates a serious risk to the community.

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Before closing, Mr. President, I want to thank the members of the subcommittee and particularly our ranking minority member, the Senator from New Jersey, for his time, interest, and knowledge in developing this bill. He has taken a leadership role in the matter of raising the drinking age in the District. He conducted a hearing on this matter on July 29, 1986, and has suggested report language which is included in the committee report strongly urging the District council to take prompt action on this matter. The committee and the Senate are indebted to him for his leadership on this issue. I also want to express my appreciation to the chairman of the Appropriations Committee, the Senator from Oregon [Mr. HATFIELD], for his support in bringing this bill to the floor.

GOVERNMENTAL DIRECTION AND SUPPORT

For the departments and agencies under this appropriations account, the committee recommends $108,353,000 the same as the budget request and House allowance.

Included in this amount is $700,000 and 10 positions for the retirement board that is to be funded from the general fund appropriation.

The retirement board controls and manages the retirement funds for police officers, firefighters, judges, and teachers. It also certifies the contributions required of the District and Federal Governments and of employees covered by the Retirement Reform Act, Public Law 96-122.

ECONOMIC DEVELOPMENT AND REGULATION

The committee recommends $129,460,000 for the activities under this appropriation account, this is $29,425,000 above the 1986 budget request.

These increases represent $17,026,000 and 37 positions above the appropriation and, the same as the House allowance.

The Department of Housing and Community Development goals are to provide decent and affordable housing; increase homeownership opportunities for low- and moderate-income persons; develop declining neighborhoods and preserve neighborhood diversity; and maintain all public housing in sound, standard condition.

PUBLIC SAFETY AND JUSTICE

For the public safety and justice appropriations account the committee is recommending $600,165,000.

A total of $70,784,000 and 1,871 positions are recommended for the fire department. This amount is $2,500,000 over the House allowance. The department currently operates 32 engine companies, 17 aerial ladder companies, 4 rescue squads, 22 ambulance companies and the fireboat.

The committee recommends $2,500,000 to keep Engine Co. No. 3 open, located at 439 New Jersey Avenue NW., by providing the required funding and positions for the new fire station to open at First and Atlantic Street SE. Engine No. 3 service area includes the U.S. Capitol, Supreme Court Building, Library of Congress, Union Station as well as the North Capitol Street corridor.

The committee also recommends $44,506,000 and 1,057 positions for the operation of the Superior Court of the District of Columbia. Included in this amount is $153,000 for communications; $113,000 and eight positions in the civil division; and $70,000 and two positions in the clerk of the superior court. The committee intends that these positions be used to speed processing and reduce delays.

PUBLIC EDUCATION SYSTEM

A total of $540,872,000 is recommended for fiscal year 1987 for the operation of the pubic education system of the District of Columbia. This is an increase of $25,656,000 and 140 positions above the fiscal year 1986 budget.

The D.C. public schools provide preschool, kindergarten, elementary, secondary, and continuing education programs for more than 88,000 District students. The committee recommends resources for the expansion of current services to support the projected increases in elementary school enrollment, the second phase of an extended full-day prekindergarten program, resources for needed improvements in special education services, and support for secondary math, English, and counseling services, among other areas.

HUMAN SUPPORT SERVICES

The committee recommends a total of $654,315,000 for fiscal year 1987 for the agencies and departments under the human support services appropriation title.

A total of $541,241,000 and 3,524 positions are recommended for the programs and activities operated by the Department of Human Services.

PUBLIC WORKS

For the public works appropriations account the committee recommends $204,748,000 for the activities relating to maintaining the infrastructure of the Nation's Capital.

WASHINGTON CONVENTION CENTER FUND

A total of $6,261,000 for the Washington Convention Center in fiscal year 1987. This amount will finance the difference between the convention center's estimated fiscal year 1987 op-

erating revenue of $4,346,000 and its total spending needs of $10,607,000.

REPAYMENT OF LOANS AND INTEREST

The committee recommends approval of the budget request of $204,514,000 for fiscal year 1987. This allowance is $6,105,000 above the 1986 appropriation.

REPAYMENT OF GENERAL FUND DEFICIT

The committee recommends $8,675,000 be applied toward reducing the District's accumulated general fund deficit which total $269,860,000. This amount is the same as the budget request and House allowance. The House required that the mayor identify an additional $11,325,000 for this account during the fiscal year.

DISTRICT OF COLUMBIA ENTERPRISE FUNDS

The committee recommends a total of $182,584,000 for the activities funded through this appropriation. This allowance is $22,252,000 above the 1986 appropriation, the same as the budget estimate and House allowance.

I thank Mr. Tim Leeth and the majority staff as well as the minority staff for their excellent work on the bill.

Mr. LAUTENBERG. Mr. President, I thank my able friend for his kind words and want to commend him for his hard work on this legislation. Senator SPECTER takes his responsibilities as chairman of the District of Columbia Subcommittee very seriously, and he devotes a great deal of his time and effort to the problems of the District and its citizens. His reputation as a reliable friend and protector of the Nation's Capital is well deserved.

BILL SUMMARY

The bill the committee is recommending to the Senate reflects this commitment to the District's welfare. I share this commitment, and I support the bill. In all candor, I must say that I have misgivings about the increases that are provided in the Federal funds account. But on balance, this is a good bill and it deserves the approval of the Senate. It is within the subcommittee's 302b allocation and provides, as is required under the Home Rule Act, for a balanced District budget. Would that we could do the same for the Federal budget.

FEDERAL FUNDS

The bill includes a total of $560,380,000 in Federal funds. This is an increase of $30,353,000 over the fiscal year 1986 postsequester level and the House allowance. This amount, together with the advance appropriation of $20 million for a new prison approved in last year's bill, would bring total Federal funds available to the District in fiscal year 1987 to $580,380,000, an increase of $50,353,000 above current level.

DISTRICT FUNDS

This bill also enacts the District's appropriated budget. Total district funds come to $3,009,098,000. This is an increase of $305,411,000 over the postsequester fiscal year 1986 level. It is $19.5 million more than the estimates and the House allocation. The additional $19.5 million over the request is allocated to the Department of Corrections for Vocational Education Programs, prerelease detention facilities, and payments to the Bureau of Prisons for the costs of incarcerating District prisoners. Otherwise, the bill provides the amounts requested by the Mayor and Council.

FISCAL YEAR 1986 SUPPLEMENTAL

Title II of the bill enacts District fiscal year 1986 supplementals and budget amendments, which net to a total increase of $31,567,000. The supplemental request approved by the Mayor and Council includes $67,023,000 in increases and $35,456,000 in rescissions. The net increase of $31.6 million is financed by additional local revenues owing primarily to tax receipts in excess of projections.

DISTRICT DRINKING AGE

Now Mr. President, last year when we had the District appropriation bill on the floor, I spoke at some length about the District's drinking age policy. Unfortunately, that issue is still unresolved. The District is still a mecca for teenage drinkers in the metropolitan region. The resulting carnage on regional streets and highways continues.

There should be no misunderstanding on this matter, Mr. President. The Congress and the administration are committed to achieving full compliance with the Uniform Minimum Drinking Age Act of 1984. The District is now the only jurisdiction on the entire eastern seaboard not in compliance with the act. Unless action is taken within the next few weeks, the District will lose $2.5 million in fiscal year 1987 Federal highway funds. In fiscal year 1988, $5 million in Federal highway funds will be withheld.

The city administration, I am glad to say, has decided that the best interests of the District will be served by complying with national policy. The Mayor has stated his support for raising the minimum legal drinking age to 21 and is submitting the necessary legislation to the Council. I want to commend the Mayor for choosing the responsible course of action on this issue.

Both the House and the Senate reports accompanying this bill reemphasize the depth of congressional concerns about the District's refusal so far to change its bloody border policy. These concerns should not be taken lightly. The bill before us contains a $19.5 million increase in the Federal payment. I do not believe the Council would be well advised to count on this increase to offset the loss of highway funds if it fails to enact the needed changes. I do not mean this as a threat. But, it is a realistic assessment, in my judgment, of the important role this issue could play in the conference on this bill. The increase in the Federal payment is, after all, unauthorized and the administration has threatened to veto the bill if the additional $19.5 million is included. So, I urge the Council to act on the Mayor's recommendations without delay.

Once again, Mr. President, I want to say what a pleasure it is to serve with the distinguished junior Senator from Pennsylvania on this subcommittee. He is always considerate and cooperative and he has done an exemplary job in moving this bill through the committee process We were, in fact, the first Senate subcommittee to mark up. He deserves the Senate's commendation.

Finally, Mr. President, we would be remiss if we did not take a moment to recognize the contributions of the staff. B. Timothy Leeth, the majority clerk, has done his usual solid, professional job. His assistance and cooperation are valued by Members on both sides of the aisle. I would also like to thank Jerry L. Bonham, our minority clerk, for his help and hard work on the bill. All of us, of course, rely on Lula Joyce and Dorothy Douglas. Without their skills and patience, none of us would get very far with our legislative duties.

Mr. President, I know of no other statements on this side.

We are prepared to proceed in what the majority leader describes as doing battle. We are ready to proceed in the usual fashion.

Mr. SPECTER. Mr. President, I thank the distinguished Senator from New Jersey for his very kind remarks, and I acknowledge the contribution of Jerry Bonham and the minority staff—Lula Joyce and Dorothy Douglas. Their work has been exemplary.

Mr. TRIBLE. Mr. President, I rise today to discuss several proposals of mine relating to the District-run Lorton Prison in Fairfax County, VA.

For many years now, the Lorton facility has been a thorn in the side of northern Virginia. It is bad enough that the bulk of the District's prison population must be housed in a neighboring jurisdiction, my own State of Virginia. But over the years, frequent escapes, riots, and similar disturbances at the prison have imposed tremendous financial and emotional costs on my constituents who live in the area that surrounds the Lorton Prison.

For that reason, I have worked closely with the distinguished chairman of the D.C. Appropriations Subcommittee, Senator SPECTER, to help alleviate the burdens imposed on northern Virginia by the Lorton facility. I am pleased that the Appropriations Committee has already adopted two of my

amendments directed toward that goal. I would like to discuss those amendments briefly, and then proceed to offer two additional amendments relating to Lorton.

The first of the committee-approved amendments is designed to ensure that northern Virginia citizens do not bear the costs of responding to disturbances at Lorton. Frequently, escapes, riots, and fires occur at the prison. Indeed, a major fire took place at Lorton just over 2 weeks ago. The emergency Public Safety Services of northern Virginia jurisdictions must respond to such incidents, and in so doing, they often incur substantial costs.

My amendment ensures that the District of Columbia government will repay those costs to the affected jurisdictions in northern Virginia. It continues a proposal of mine approved by Congress last year, under which up to $50,000 in D.C. funds was made available to Fairfax County, VA. The amendment approved by the Appropriations Committee this year increases the reimbursement earmark to $100,000 for fiscal year 1987, and makes those funds available to both Fairfax and Prince William Counties.

The second of my amendments that the committee has approved is designed to help ease the uncertainty and fear that often beset residents of the Lorton area. While a siren is sounded in the event of an escape from Lorton, many of my constituents have complained that they simply are not informed of other disturbances at the prison, and are tired of reading in the morning papers that a major riot or fire occured the night before. To address that concern, the committee has adopted my amendment requiring the city to provide a 24-hour telephone information service to Lorton-area residents so that they can quickly obtain accurate information on disturbances at the prison.

Mr. SPECTER. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc, with the exception of the amendment on page 24 beginning on line 1, down through line 14—because there is going to be a challenge to that one committee amendment dealing with the abortion issue—and that the bill as thus amended be regarded for purposes of amendment as original text, provided that no point of order under rule 16 shall have been considered to have been waived if the request is agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXCEPTED COMMITTEE AMENDMENT

(The parts of the excepted committee amendment intended to be stricken are shown in boldface brackets, and the parts of the bill amendment intended to be inserted are shown in italic.)

[SEC. 117. None of the funds provided in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.]

SEC. 117. None of the Federal funds provided in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service. Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

Mr. HELMS. Mr. President, will the distinguished Senator yield?

Mr. SPECTER. I yield.

Mr. HELMS. Mr. President, I ask that it be in order for me to ask for the yeas and nays on the excepted amendment on page 24.

The PRESIDING OFFICER. The Senator does have the right to ask for the nays and nays.

Mr. HELMS. I do ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. I thank the able chairman, and I thank the Chair.

Mr. SPECTER. Mr. President, there are two amendments which have been suggested by the distinguished Senator from Virginia [Mr. TRIBLE], who is now presiding. So, for the purpose of proceeding, I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS NOS. 2841 AND 2842

Mr. SPECTER. Mr. President, I send to the desk two amendments on behalf of the distinguished Senator from Virginia [Mr. TRIBLE], and I ask for their immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER], for Mr. TRIBLE, proposes amendments numbered 2841 and 2842.

Mr. SPECTER. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT NO. 2841

On page 9, line 24, before the period insert the following: *Provided further, That the District of Columbia shall not renovate or construct prison bed space at the Occoquan facilities of Lorton prison beyond the number of prison bed spaces which were damaged or destroyed there during the fire that occurred on July 25, 1986.*

AMENDMENT NO. 2842

On page 29, after line 20, insert the following:

Sec. (A) The Congress finds that, more than 2,500 District of Columbia prisoners are now incarcerated in Federal prisons or at prison facilities belonging to Virginia, Maryland, and Delaware;

The continuing shortage of prison space within the District of Columbia has contributed to overcrowding and related problems at the Lorton prison in Fairfax County, Virginia;

The continuing shortage of prison space within the District of Columbia has helped to create a public safety crisis that could endanger the residents of the D.C. metropolitan area;

This public safety crisis is best resolved by the construction of additional prison space within the District of Columbia;

(B) It is the sense of the Congress that, in order to help alleviate the public safety problem facing the District and residents of the surrounding jurisdictions, construction should begin and be completed as soon as possible on the new permanent prison proposed to be built within the District of Columbia.

Mr. TRIBLE. Mr. President, the floor amendments I am offering to the D.C. appropriations bill relate to the prison construction situation facing the D.C. Department of Corrections.

The first of these two amendments stems from a severe fire that struck the District-run Lorton Prison in late July. In that fire, a number of prison bed spaces were damaged or destroyed at Lorton's Occoquan facilities. I understand that some of that bed space has already been renovated and is again in use by the District. But roughly 145 bed spaces have yet to be renovated and brought back on line.

This amendment stems from my concern that the District not use the planned renovation of those 147 bed spaces to expand the facilities at Occoquan. District officials have at times sought to expand their prison facilities in Lorton, VA, in order to help deal with the overcrowding problem. Neither I nor my constituents want to see the Occoquan facilities expanded, and this amendment simply ensures that any repairs or renovations at the Occoquan facility not exceed the roughly 147 bed spaces that were destroyed in the fire of July 25.

My second floor amendment deals with the urgent need for the District to proceed with the construction of new prison space within the city itself. The District's overcrowding problems are longstanding ones, and they are likely to worsen as more and more people are convicted under tough drug sentencing laws. But the answer to the prison crowding problem is not to continue to seek bailouts from the Federal Prison System, which already houses over 2,500 D.C. inmates. The answer is not to continue to dump prisoners into the Lorton facility in northern Virginia. And the answer cer-

tainly is not to grant early release to convicted persons.

Rather, the best solution is for city officials to get on with the business of building a new permanent prison within the District. I note that the Appropriations Committee has set a deadline of October 15 for the mayor to award a contract for the design and construction of a new prison, and I applaud this action. But I also believe the Senate should keep the mayor's feet to the fire beyond October 15 on the question of prison construction, especially given the city's repeated delays on this matter. To that end, my second amendment simply expresses the sense of the Senate that actual construction on the new D.C. prison should begin and be completed as soon as possible.

I believe these amendments are a responsible approach to the myriad problems facing the D.C. prison system. Their passage will do much to alleviate the concerns of my constituents in northern Virginia, and I believe they will help to resolve the public safety crisis that afflicts the D.C. corrections system.

Mr. SPECTER. Mr. President, I ask unanimous consent that the amendments be considered and agreed to en bloc.

The PRESIDING OFFICER. Without objection, the amendments are considered en bloc.

Mr. HUMPHREY. Mr. President, was that a request that they be adopted?

Mr. SPECTER. Yes. The request was that they be considered and agreed to en bloc.

Mr. HUMPHREY. Reserving the right to object, I would like to ask a question of the floor manager before we proceed to adoption of the amendments.

The one relating to the building of a prison—I confess that I did not hear all that was said.

Mr. SPECTER. There are two. One does relate to the construction of prison facilities.

Mr. HUMPHREY. What does that amendment provide?

Mr. SPECTER. It is a sense-of-Congress resolution that there is a need for the prison and we should build the prison. It is part of the bill as a whole. It is a simple statement that Congress really means business in what it said before, that we really need a prison.

Mr. HUMPHREY. What is the other amendment?

Mr. SPECTER. The other amendment says that during the repairs from the July fire, the city will not use this occasion to expand the existing prison in Virginia.

Mr. HUMPHREY. So this language restricts the District of Columbia with regard to expansion of the existing prison. Is that correct?

Mr. SPECTER. That is correct.

There is an issue as to whether there ought to be additional facilities at Lorton, in Virginia, and there is a consensus that there ought not be an expansion there, that there ought to be a prison built in the District of Columbia. That is the point the Senator from Virginia seeks to accomplish.

Mr. HUMPHREY. Does the Senator from Pennsylvania not think that the District of Columbia ought to be free to make that decision on its own?

Mr. SPECTER. I think that there are good reasons to limit expansion of Lorton and that is the reason as manager of the bill I agreed to the amendment.

Mr. HUMPHREY. The question I am getting at is, does the Congress, in view of the chairman of the D.C. Subcommittee on Appropriations, have the authority to restrict, as this amendment would, or any other restrictive amendment might, actions of the government of the District of Columbia? Does the Congress have that right?

Mr. SPECTER. I think Congress has the power. There is a question here, and I understand what the distinguished Senator from New Hampshire is moving toward. It is not this amendment. It is the one which is going to follow. There are very material differences.

The District of Columbia has chosen the site in the District of Columbia. That is their prerogative. That seems to make sense and that is where we are heading. Therefore, as the manager of the bill, I thought that when the Senator from Virginia asked there not be an expansion elsewhere, since the District has already said that, we are really saying we agree with what the District has done. There is no conflict between what the District of Columbia wants to do in building a prison in the District of Columbia and what the Senator from Virginia wants to accomplish in not having it expanded in Virginia.

Mr. HUMPHREY. I wanted to clarify the point. Is the Senate within its rights under the law and the Constitution to place restrictions upon the expenditures of the District of Columbia?

Mr. SPECTER. I would think that giving you a legal opinion that Congress would have such plenary powers if it chose to exercise them, it might not be good as a matter on home rule, but I would think as a constitutional matter, Congress could exercise those powers there.

Mr. HUMPHREY. There is actually no question I say, Mr. President. I think the Senator from Pennsylvania is really being too modest understating the case. There simply is no question the law which granted the District of Columbia home rule, so-called, Public Law 93-198, clearly gives to Congress reserves, not gives, reserves to Congress the power to pass judgment on the appropriations, to withhold appropriations or to extend them and to direct the District of Columbia Government in various ways.

So clearly the Senator from Virginia in offering this amendment is well within the law and the precedent, and I just wanted to stress that point now because, as the Senator from Pennsylvania correctly observed, there is going to be another amendment coming shortly with respect to abortion, not an amendment, but a vote on adopting or rejecting the committee amendment, that to some degree restricts expenditures for abortions in the District of Columbia.

So I just wanted to take this occasion, while hopefully Senators are listening either in person or over intercoms in the office, to point out that when we get to that point in the debate it will really be quite invalid to raise the argument to place restrictions on the funding of abortions in the District of Columbia somehow is an attack upon the rights of the District which Congress has no business making and no jurisdiction under the law. To do that, that just is not so.

We have the jurisdiction clearly under the law to do what the Senator from Virginia wants to do and to do in other matters notwithstanding home rule.

Congress reserved explicitly and clearly, no doubt with great deliberation, the right to restrict the appropriations of the District of Columbia wherever that revenue may be raised.

I thank the Senator from Pennsylvania.

The PRESIDING OFFICER. Is there objection to the unanimous consent request of the Senator from Pennsylvania [Mr. SPECTER]?

If not, the amendments of the Senator from Virginia [Mr. TRIBLE] (Nos. 2841 and 2842) are considered en bloc and agreed to en bloc.

Mr. SPECTER. I suspect when the question was raised the distinguished Senator from New Hampshire knew the answer to the question and, as he said, there was no question and that may have led to the understatement by this Senator but we have moved forward in the debate on the ensuing matter, perhaps as far as we ought to.

So for the purpose of moving ahead, I now move to reconsider the vote by which the amendments were agreed to, Mr. President.

Mr. LAUTENBERG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, I rise in support of H.R. 5175, the District of Columbia appropriations bill for fiscal year 1987, as reported by the Senate Appropriations Committee.

The bill now before us provides $0.6 billion in both budget authority and outlays for the Federal payment to the District of Columbia and other programs associated with the Federal presence.

When outlays from prior-year budget authority and other completed actions are taken into account, the Senate subcommittee is less than $50 million in both budget authority and outlays under its 302(b) allocation under the fiscal year 1987 budget resolution.

I urge my colleagues to support the reported bill and to hold the line on Federal spending in this bill.

Mr. President, I ask that a table showing the relationship on the reported bill to the subcommittee's 302(b) allocation, the President's budget request, and the House-passed bill be printed in the RECORD at the conclusion of my remarks.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

DISTRICT OF COLUMBIA SPENDING TOTALS—SENATE-REPORTED BILL

[In billions of dollars]

	FY 1987	
	BA	O
Outlays from prior-year budget authority and other actions completed	[1]	[1]
H.R. 5175, as reported to the Senate	.6	.6
Subcommittee total	.6	.6
Senate subcommittee 302(b) allocation	6	6
President's request	.6	.6
House-passed bill	.5	.5
Subcommittee total compared to:		
Senate subcommittee 302(b) allocation	−[1]	−[1]
President's request		
House-passed bill	+[1]	+[1]

[1] Less than $50 million

Note: Details may not add to totals due to rounding.

EXCEPTED COMMITTEE AMENDMENT

Mr. SPECTER. Mr. President, we are now to the point in the proceedings where we have before the Senate the substitute amendment which would delete section 117 which provides that:

None of the funds provided in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

And the committee substitute provides in section 117 that:

None of the Federal funds provided in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service. Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

Mr. President, the thrust of the committee amendment is to make a couple of changes in the bill as amended on the floor of the House of Representatives. One is to allow the District of Columbia to use funds which it has raised itself, contrasted to the funds provided by Congress in this act, to allow the District of Columbia to use the funds which it has raised on its own as it chooses.

Last year on an amendment this issue was condidered, and the Senate, by a vote of 54 to 41 voted to have such language inserted in the District of Columbia bill, and it is the sense that this matter ought to be accommodated as the committee has recommended.

I know there are arguments to be advanced by other Senators.

At this time I yield the floor to listen to their arguments and will have something to say at a further point in this proceeding.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. I thank the Chair for recognizing me.

For the benefit of Senators who may be listening in their offices, the excepted question is on page 24, lines 1 through 14, and the distinguished chairman of the subcommittee, Mr. SPECTER, has stated the case in terms of the committee proposing to strike the House language which has been the law since 1981 on the Labor-HHS appropriations bill.

We are talking about the Hyde amendment. We are also talking about something vastly more important.

Mr. President, Senators should understand precisely what is at stake with this pending committee amendment on the deliberate termination of innocent human life.

The House-passed version of the D.C. appropriations bill, H.R. 5175, contains what has become the standard Hyde amendment restriction on abortion funding. The original House-passed language is as follows:

None of the funds provided in this act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

That is it. That is the Hyde language. That has been the law on Labor-HHS appropriations since 1981.

This straightforward restriction on funding the deliberate termination of innocent human life was apparently not acceptable to the Senate Appropriations Committee. The committee proposed an amendment to strike the House language that I just quoted and replace it with language which was read into the RECORD by the distinguished Senator from Pennsylvania [Mr. SPECTER].

The language proposed by the committee is complicated and frankly it is convoluted, but its effect, Mr. President, is clear and unmistakable:

Wide-open taxpayer financed abortion in the Nation's Capital. Let me explain a bit further as to what has been going on with abortion funding in the District of Columbia.

□ 2050

Mr. President, since 1979 Congress has been playing a smoke and mirrors game with the abortion restrictions on funds appropriated for the District of Columbia. The game goes like this: Congress puts abortion restrictions on so-called Federal funds in the D.C. Appropriation Act, but leaves the so-called District funds totally unencumbered. The District then funds abortion on demand out of the so-called District moneys. The restrictions on the Federal funds thus become nothing more than a figleaf to cover wide open funding of abortion on demand.

And I am so grateful to the distinguished Senator from New Hampshire for driving home the point that needs to be understood. We are talking about taxpayers' money in this matter.

The flaw with this scheme is that all moneys available to the District of Columbia are in fact and in law appropriated by Congress. While there may be funds denominated Federal and District, and while there may be certain bookkeeping and other advantages in this distinction, it is Congress that appropriates all moneys for the District of Columbia.

Now what result has the current scheme produced, Mr. President? I think we ought to look with shame at what we have done in this body.

This little scheme has helped make the District of Columbia the "abortion capital" of the world—not just the United States; look anywhere and see if there is a worse record.

According to a recent Census Bureau report, the District of Columbia has the highest abortion rate in the country—1,517 abortions for every 1,000 live births. In addition, according to the National Right to Life Committee, the District has the most permissive policy on tax funding of abortion in the Nation, not only paying for abortion on demand for Medicaid-eligible women but also paying for abortion for women who do not qualify for Medicaid but have no private health insurance.

Thus, the District has achieved for itself the grisly distinction of leading the Nation in the deliberate termination of innocent human life. And I, for one, think it is time for us in Congress to eliminate this blight on the reputation of the Capital City of the United States of America.

Mr. President, as much as many in Congress would prefer to ignore, or minimize, or cover up the abortion issue, the fact is that it will not go away. And I am not going to let it go away. We are going to vote on it over and over again, because those innocent

unborn babies being deliberately destroyed here in the District of Columbia, using tax money, and throughout the country, keep making a silent but unmistakable claim on our conscience. They deserve the right to survive their mothers' womb and to live the life that God Himself has given them.

"We hold these truths to be self-evident," said Thomas Jefferson in the Declaration of Independence, "that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness."

Mr. President, the abortion issue presents squarely the question of whether we will secure the right to life for all human beings in this country, including those in the womb. Will we give these small but precious creatures their due, will we secure them justice, will we protect them through law from the mortal violence of abortion?

Mr. President, I wish we were today voting directly on this question. I wish we were voting on whether Roe versus Wade will stand, or whether, on the other hand, the right to life for unborn human beings will once again be recognized in our law. The reason I wish we were voting on this issue, Mr. President, is because some 30,000 innocent unborn babies are being killed every week in the United States by surgical abortion. This is an intolerable injustice, and words simply fail in describing so horrendous a crime.

But, Mr. President, we are voting today on a piece of this mammoth injustice—the question of whether the taxpayers of the United States, through an appropriation by their Congress, will fund the deliberate termination of innocent human life in the Nation's capital.

Fortunately, Mr. President, the House of Representatives took the just and forthright approach in this matter. It put an end to the charade of congressional abortion restrictions only on so-called Federal moneys but not on so-called District moneys. The House simply prohibited abortion funding, with moneys appropriated by Congress, Federal or District, in the District of Columbia. That is straightforward, that is honest, that recognizes the humanity of the unborn, and that is an approach worthy of the Congress of the United States.

The Senate Appropriations Committee, however, decided otherwise. It went in the direction of the figleaf, of the dual standard, of the charade. It put back in place the familiar language restricting funding of abortion in the District with Federal moneys but leaving wide open the funding of abortion with District moneys. Thus, the Senate Appropriations Committee—once you get through all the technicalities and doubletalk—opted in favor of funding abortion on demand in the District of Columbia with taxpayers' money.

Mr. President, some have argued the issue here as a matter of home rule for the local government in the District. They say Congress does not dictate to the States about local funding of abortion, and therefore, it should not dictate to the District of Columbia.

Well, Mr. President, there are at least two answers to this point. First, the District is not a state, and the constitutional amendment necessary to make it one was recently rejected by the States of the Union. The fact is that while Congress has permitted a degree of home rule, the District ultimately remains under the control of Congress by virtue of article I, section 8, clause 17, of the Constitution. Unless this provision is changed, complete home rule will be no more than wishful thinking on the part of home rule advocates.

Second, and more importantly, D.C. Home Rule, such as it is, cannot properly be used to cover the crime of abortion. Given a choice between saving the lives of unborn babies or acquiescing in extravagant claims of home rule, I will choose saving the babies every time, and I hope my colleagues will as well.

Mr. President, tonight we are having a vote up or down on the committee amendment. And a lot of people will be watching across this country to see how each Senator votes. I shall vote no on the committee amendment and I hope that the majority of other Senators will as well.

The PRESIDING OFFICER. The Senator from New Hampshire, [Mr. HUMPHREY] is recognized.

Mr. HUMPHREY. Mr. President, the issue once again is abortion. I hope that even though the hour is late and the Senate has considered this issue many times over the past several years, Senators could examine this issue, not as an abstract matter but instead to examine it and to consider it as the very real and commonplace occurrence that it is. What is abortion? Such a clinical sort of a name, so sterile and really abstract in itself. What is abortion?

Well, it is a medical procedure to terminate the life of a fetus. What is so bad about that? Well, the fetus is the offspring of a human being. An abortion kills the offspring of a human. That is what is wrong with abortion. If abortion did not kill a human being, then who would care? It would have no more consequence than the amputation of one's little finger. If abortion did not kill a human being, it would not be a controversial issue and it would not be an issue really that had much consequence at all.

But that is not the case. It is a matter of consequence because the offspring of human beings are human beings and abortion kills human beings. It kills them. That is the whole object of an abortion—to kill that living creature within its mother.

In fact, the complication that abortionists most fear and dread and detest, the complication they most fear is when an abortion fails and the child is born alive. Then they do not know what to do. And, as we all know, too often they leave it in a pan somewhere to starve or dehydrate to death; or we have heard in other cases they cover it with a damp cloth and smother it out of life, which the agents intended to kill the baby failed to do. That is really what abortion is all about.

You can put aside, please, I urge Senators to put aside during this moment of responsibility, these euphemisms about abortion, these slogans about abortion, and to examine the ugly and terrible heartbreaking reality of abortion. Abortion kills human beings.

That is not to say or dismiss the reality that unintended pregnancies engender great hardship in many cases. I am not dismissing that consideration at all.

But the greater consideration is the fact, the uncontestable scientific, biological fact that abortion kills human beings. That is what is wrong with abortion.

Now if you ask Senators and Congressmen and other public officials: "What is your position on abortion?" In about half the cases, you will get the response: "Well, I am personally opposed to abortion, but * * *."

What reason would any individual, whether a public official or not, have to personally oppose abortion? If abortion did not kill a human being, who could care less? Let us face it, those who say they personally oppose abortion do so because they know in their heart of hearts that abortion kills human beings and that it is wrong and it violates all of the values upon which our society, and upon which this country, in particular, rests. For abortion is not some abstract matter, it is something very real, something very terrible and unfortunate about which Senators ought to make a judgment, and particularly in this case.

□ 2100

I want to focus just briefly, and I shall not go on too long, on the argument about home rule. I hope that I have already dealt with that in the questions I raised to the Senator from Pennsylvania. Last year when we had this debate, some Senators who opposed the point of view espoused by the Senator from New Hampshire got up and said, this is terrible. We ought to let the District of Columbia administer its own affairs. After all, the District of Columbia has home rule and has had home rule for a decade or

more. But the fact of the matter is that it is limited home rule, and was explicitly and deliberately limited by the public law which granted that limited home rule.

Let me just cite a couple of the relevant passages from Public Law 93-198, Mr. President. Section 446, entitled "Enactment of appropriations by Congress" reads in part, "No amount may be obligated or expended by any officer or employee of the District of Columbia government unless such amount has been appropriated by an act of Congress." In other words, the District cannot spend any money, whether it raises it locally or gets it from the Federal Government, unless that money is appropriated by Congress, unless each Senator in this Chamber or a majority at least and a majority in the House agree to appropriate that money.

The responsibility is right here, my friends. You cannot shirk it. You cannot let us just pass this appropriations bill and let the District of Columbia officials take responsibility for how it is spent. You cannot do that. You can say you are doing that. But it is intellectually dishonest because, as Senators know, we have not only the authority but the responsibility that goes with that authority to exercise our judgment.

That is what we are about to do on this vote, whether to adopt the committee amendment or not. We will be exercising our judgment about an activity that will take place in the District of Columbia. There is nothing new about it. We do it all the time every year. We just did it with respect to the amendment of the Senator from Virginia, and this agrument about home rule is nothing but a lot of hoopla. We have a responsibility, the obligation, and the authority to pass judgment on these kinds of things. And there can be no shirking it by simply shrugging, adopting this committee amendment, and then blaming the District of Columbia officials as to what they might or might not do with the money.

Mr. President, to the credit of the Senate and the Congress for a number of years we have adopted the so-called Hyde amendment to the various bills which says in essence that the taxpayers will not be obligated to pay for abortions except where the life of the mother is at stake.

That is the language in the House bill which the Senate Appropriations Committee seeks to strike and replace with something far more liberal, far more permissive. Permissive in what way?

First of all, it will expand the authority of the District of Columbia to spend Federal funds in certain cases of abortion. Presently the District can only spend Federal funds where the life of the mother is endangered by carrying the child to term. Under the committee amendment, which we have been asked to adopt and to which I urge Senators to defeat, it would change the language of the House bill so that in addition to life of the mother abortions will be funded by the Federal taxpayers in cases of rape and incest. What is wrong with that, some might say. Let me go back to the fundamental argument about abortion. If you believe that the offspring of human beings are human beings, that abortion kills human beings, then the circumstances of conception does not change the humanity of that human being as unfortunate, terrible, and tragic as the circumstances might be in cases of rape and incest.

If you are against abortion because abortion kills human beings, then the circumstance of conception is not or should not in the opinion of this Senator change one's judgment on that.

So the committee amendment before us would strike Hyde in effect, would permit Federal funding of abortion not only where the mother's life is threatened but also in the case of rape and incest and going beyond that, we make it explicitly clear that with respect to the money raised by the District of Columbia, the District can do anything it wants with regard to abortion. It can fund them all under any circumstance and in all circumstances.

Let me just point out in closing that in this appropriations bill we appropriate every penny to be spent by the District of Columbia, not just money allocated by the Federal Government. But the money raised locally by the District we appropriate. We pass judgment on how the District can spend the money it raises locally. That is our responsibility under the Constitution and under the law. We cannot shirk that.

So I want to close by saying, Mr. President, that the principal differences between the House language which I urge Senators to uphold and the proposed committee amendment are these: The House language contains the standard Hyde boilerplate language that we adopted year after year. It would restrict funding of abortions to those cases only where the life of the mother is threatened by continuing the pregnancy to term.

This is the House language. What the Senate Appropriations Committee would have us adopt is to expand that to include cases of rape and incest, and to tell the District of Columbia that with respect to the money that it raises locally it can do anything it darned well pleases and there will be no restrictions whatever.

This is a very strong antilife amendment in the view of this Senator. I urge my colleagues to oppose it.

Mr. ARMSTRONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ARMSTRONG. Mr. President, I rise to express my profound admiration for the Senator from North Carolina and for the Senator from New Hampshire and to associate myself with the position which they have so articulately and thoughtfully laid before the Senate. I cannot let the moment pass without recalling that over the last decade our friend from North Carolina, JESSE HELMS, has raised this issue over and over again, and in large part as a result of his appeals to the conscience of this body and to the Nation.

There is a growing consensus that it is simply wrong as a matter of fundamental moral principle for the Federal Government or other governments to fund abortions.

But when he began that cause, that crusade, it was not a popular issue. It was not something that there were large crowds of supporters behind as is now the case. When he took it on it was a lonely, difficult task, and here tonight he is back again defending a cause which he deeply believes in and which many of us around the country have come to believe in as a result of his leadership.

I also want to compliment my friend and colleague from New Hampshire, who in the last 2 or 3 years has emerged as one of the most knowledgeable, best informed, and most thoughtful legislators in dealing with this complex and difficult part of the law.

I particularly want to compliment both of my colleagues, first, for their faithfulness for being here.

The hour is late. It would be easy to let this slide by and say it is late in the session and, gosh, we have fought this battle many times. They are not doing that. In fact, I sense JESSE, GORDON, and others who care about this matter are in fact drawing renewed strength from fighting the battle over and over again because there is a belief, a belief which I deeply share, that we are right; that justice is on our side, that this is our course, and that out in the country as well as in this Chamber there is an emerging majority of people who are eager to put an end to the tragedy of abortion.

I feel just as our colleague from North Carolina has said. I wish we were voting tonight on Roe versus Wade. That is somehow not in our capacity to do. The parliamentary situation does not permit it. The times are not quite yet right for that issue to be resolved, and that horrible decision, that travesty of miscarriage of justice to be reversed. That day is coming. It is not distant in my opinion.

But tonight we have a fundamental question of whether or not we are going to take a step backward by going

back to the pre-1981 more permissive abortion law. So I compliment my colleagues for their faithfulness.

Second, I compliment them for the dispassionate manner in which they have laid out the case. They have not come here waving their arms. They have not come here making floor appeals to emotion. They have set forth again tonight as they have on many occasions in the past, in a manner which will stand the most careful, logical inspection in a way which any thoughtful person can understand, and relate to, a carefully, tightly reasoned case of why it would be wrong, wrong in principle, wrong as a matter of legislative practice for us to adopt the committee amendment in the form it is presented.

I also want to compliment my colleagues for not arguing about the right of those who wanted to bring this amendment to the floor. One of the things we have been treated to recently, every time the question of abortion comes up, from the other side of the aisle—that is, when some of us are trying to find ways to shut down this horrible practice and bring up an amendment—somebody stands up and says, "Oh, they are bringing up that issue again. My gosh, we voted on that 900 times, and they go off like it was the worst possible thing."

□ 2110

Well, I congratulate my colleagues for not saying that. Any Senator has a right to raise this issue and much as I disagree with members of the Appropriations Committee who have sought to change the law back to the bad old days, I do not deny them or criticize them their right of offer such an amendment. It would be a tragedy if the Senate were to accept it, but I am glad we are not arguing about the right of Senators to offer it.

It is an important issue and I just hope later in this session when the shoe is on the other foot, when there are those of us who will offer an amendment on whether or not we ought to continue to provide taxpayers subsidy for abortion through the tax bill, that we will not be treated to some lengthy discussion of why we should not be raising this issue after we have voted on it over and over again.

Finally and most important, perhaps, Mr. President, I want to congratulate my colleagues for making the case in a manner which is absolutely, unmistakably clear. The issue is not home rule, not money, but the issue is life. If Senators believe that what we are talking about is the innocent life of unborn children, then the correct vote on the committee amendment is no.

That is not a question of how you feel about home rule because we are in the legislative body supposed to be the municipality here for the District of Columbia. It is a question of home rule.

Mr. President, the issue is not whether or not we spend some amount of money which though significant is modest in the overall scheme of things. The question is life and how we feel about it.

I recall, Mr. President, Edmund Burke said that all that is necessary for evil to prevail in the world is for the good men to do nothing. Here is a chance for some of us to do something and the issue is very clear. I hope the Senate tonight will take a stand for life and vote down the committee amendment.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio [Mr. METZENBAUM] is recognized.

Mr. METZENBAUM. Mr. President, deja vu, deja vu.

To repeat, every time we get a bill, we have to go through it again on an abortion amendment. We had this same issue before us on November 7, 1985, an issue which was defeated by a vote of 54 to 41. This is the latest attempt to inject the abortion issue into every bill that comes along.

We are not satisfied to let the Members state their position on this issue once. It has to be stated over and over and over again.

The Senate Appropriations Committee's position was to retain the current law. But that is not good enough for those who insist on making abortion an issue at every turn.

Let us not kid ourselves. Current law is an antiabortion position. It is an antiabortion position. But those who would propose this, who would object to the committee amendment, say, "It does not go far enough. We have to go a little bit further. If we do not go a little further or a lot further, we think it is wrong. We have to prove ourselves day in and day out."

Every time we have an appropriations bill or a tax bill or a foreign aid bill or any other kind of bill, someone tries to cut back on the opportunity for women to exercise their constitutional right to an abortion. Someone wants to impress their constituents and inject this emotional issue into the Senate's business.

I recognize that they have an absolute right to do that. But those of us who disagree have an absolute right to indicate our opposition.

The D.C. appropriations bill is just another example, another effort, to try to stop women from exercising their rights as spelled out by the Supreme Court of the United States, recognized as a constitutional right.

But it is also an effort to overturn home rule in the District of Columbia.

There is some kind of absurdity to this position. What this amendment would do is go further than the Appropriations Committee has gone. The Appropriations Committee has provided restrictions with respect to the right to use Federal funds for abortions. This amendment would say much more than that. This amendment would say no matter how many dollars have been raised by the District of Columbia itself, those dollars could not be used in connection with an abortion.

How outlandish can we be? How far would we go? This amendment would not only limit the use of Federal funds for a limited category of abortions; it would stop the District of Columbia from using its own revenue to fund abortions if it chooses this option.

Are there those in this body who would say that we should pass a law telling Ohio or New Hampshire or North Carolina or Utah or any other State what to do with the money they raise from their own citizens? Where are those who cry out for States' rights? The District of Columbia is not a State, but the fact is it is a question of home rule. It is a question of their having a right to use their funds for whatsoever purpose they deem appropriate. And the Federal Government has no right to stick their nose in to tell the District of Columbia, "you cannot spend money for this and you cannot spend money for that," whether the issue is abortion or any other issue.

Do we not have any respect for these people who live in the District of Columbia? We deny them the right to participate in elections fully. They do not have any representatives in the U.S. Senate. They do not have a Representative in the House with voting privileges. And yet we would say to them, "You may not spend your money in connection with certain abortions."

This amendment, which would tell the District how to spend money the District has raised, takes away hardwon autonomy from the District. We should vote against this amendment because it would cut back on meaningful home rule in the District of Columbia.

But there is another reason why this amendment should be opposed. That is, I say to my colleagues in the Senate, I believe we have had enough antiabortion legislation. Nobody is trying to turn the clock back. Nobody is trying to change the present law.

The bill, as it comes out of the Appropriations Committee, does not change it, liberalize it. It just keeps the law as it is.

But since 1977, I want my colleagues to understand, we have had over 452 bills and amendments that have been introduced on this subject. There have been over 126 votes on abortion-related legislation. That is more legislation

on abortion than on youth unemployment. That is more legislation on abortion than on child abuse. That is more legislation on abortion than on teenage pregnancy. That is more legislation on abortion than on prenatal care.

Enough is enough is enough.

About 10 months ago another abortion amendment was offered on a totally unrelated bill. I said then and I repeat for my colleagues what I said at that time. At that time I said I have had it. No more amendments that go beyond the present law with respect to abortion. Mr. President, I want to say that the line in the sand has been drawn. We have gone far enough.

□ 2120

I say again tonight, we have gone far enough. We have had enough of people trying to cut back on the right to abortion every time we have a vote in Congress. I will fight this amendment. I hope that many of you will join me.

The last time, this same amendment was defeated. We need to make it clear that abortion is not going to be an issue every time the Senate takes a vote. I hope this amendment is defeated because if it is not, I plan to explain and spell out for the Members of the U.S. Senate in detail, I expect to educate the Senate on the past bills and amendments that have been brought before this body for consideration. I strongly feel that this amendment, this proposal to delete the Appropriations Committee amendment should, itself, be defeated. Therefore, I hope that my colleagues will see fit to vote "yea" and not "nay" in connection with the pending Appropriations Subcommittee amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. LAUTENBERG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I think it might be useful to spend just a moment or two before the vote by way of a very brief summary.

There have been a number of representations made that the committee amendment is a change from preexisting law. That is not so. This has been the law since 1980. There is a significant factor here as to home rule. That is a judgment for Congress to make. We can abridge home rule or we can allow it to stand. It is simply one of the factors. But if the House action stands, the District of Columbia would be told how to use its own revenue, something which Congress cannot do for any other city or State, because of the Federal provisions.

This amendment is somewhat complicated in that it allows Federal funding to be used only in the event that there is rape, incest, or the life of the mother is endangered.

As to the balance of the funds raised by the District of Columbia, then there would be broader rights for use of those funds for abortions in accordance with the decision of the Supreme Court of the United States.

Mr. President, I think the essential factors have been debated at length. The matter was considered last November 7 and the vote was 60 to 35 in favor of this amendment. There had been a reference to a 54-to-41 vote but that was on a different matter.

It seems to me that we have the issues before us and it is appropriate to bring the matter to a vote at this time.

The PRESIDING OFFICER. Is there further debate?

Mr. ARMSTRONG. Yes, Mr. President, there is and I shall take just a moment. It is definitely not my desire to engage the Senator from Pennsylvania in a lengthy discussion, certainly not about the legal implications, because he is undoubtedly one of the foremost lawyers of the body and I do not wish to quibble. But I do not think it is fair to the RECORD, if nothing else, to leave unchallenged the question of whether or not we are improperly meddling in the expenditure of local revenues.

It has already been pointed out that for the District of Columbia, this body and our brothers in the other body stand in the same general relationship to the District of Columbia that we would if we were the legislators of the general assembly of a State. We are the legislative body in that sense. We have that power and, having the power, we have the responsibility.

Even if that were not the case, I remind my colleagues that this is the same body that undertakes to heavily penalize every State, all 50 of them, including the District of Columbia, I guess, if they do not choose to adhere to our version of a national speed limit.

I just urge my colleagues to think seriously about that. If we think it is important enough that we actually penalize States, coerce States, in the rawest, most direct, most obvious manner if they fail to conform to our idea of a speed limit and if we do not think that is too much of an interference with States' rights, then it would seem to me this is not too much of an interference when life itself is at stake. So I shall vote no.

Mr. SPECTER. Mr. President, there are enormous differences. In a nutshell, when Congress sets requirements for speed limits, it does so in terms of specific moneys which Congress is providing to the States for highways. Here we have the appropriating process clearly in Congress. But there are two sets of funds—one which the District of Columbia raises on its own and the second which the Federal Government makes as a contribution in lieu of taxes. It is the funds which the District of Columbia raises on its own which this Senator submits it has broader powers on under the principle of home rule.

I do not disagree with my distinguished colleague from Colorado that it is a matter of judgment as to how far Congress seeks to exercise its authority. We have great, virtually unlimited authority if we seek to exercise it. I submit that we should not in this sense and this committee substitute ought to be adopted.

Mr. LAUTENBERG. Mr. President, I think it is important to understand what this debate is about. It is not about abortion, it is really about home rule. The examples that are used by the opponents of the committee amendment do not prove the case that the Federal Government has an overriding interest in this. We just heard from the distinguished Senator from Colorado an example that relates, as the Senator from Pennsylvania said, only to Federal funds. We do not try to restrict the State's use of its own funds for highway activities if the State's speed limit exceeds the limit established as a national policy objective. The restriction applies to Federal, not State funds.

□ 2130

So I think we ought to get on with this vote, get on with a conclusion to this matter once and for all. This is another attempt to impose restrictions on the District of Columbia that go well beyond the kind of prudent, sensible oversight that we have the right to do under the Home Rule Act. What we have tried to do in the Home Rule Act is strike a balance between local independence and the Federal Government's appropriate interests in the District as the National Capital. The fact that the Congress appropriates the city's own funds is not a warrant for indiscriminate interference in the District's local affairs. Let's be clear about this issue here. A vote against the committee amendment is a vote for Congress to return to the bad old days when this body treated the city of Washington like its private fiefdom. I do not think this is consistent with the consensus supporting Home Rule principles that exists in this body. The arguments have been lucid; they have been clear. Mr. President, I hope that we will proceed with this vote, keeping in mind the unfair and discriminatory implications of restricting the District's use of its own revenues while we

permit the other cities across the country to act as they would please in their own jurisdictions. I hope that we will support the committee amendment. There has been a lot of work and debate on it and I think it reflects a sensible compromise. It is time to end the discussion and proceed with the vote.

Mr. HUMPHREY addressed the Chair.

The PRESIDING OFFICER. Is there further debate? The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, I shall occupy only a moment. Before we vote I do want to correct what I perceive to be a clear error in the statement of the Senator from New Jersey. He says—and I forget his precise language—we are imposing a restriction on the District of Columbia which we have no right to do. Clearly, that opinion is mistaken. That opinion contradicts the public law which granted the District of Columbia home rule, which says with respect to appropriations this, which is very succinct and very clear, and on this note I will end this part of the debate. The Senator should not be under any misapprehension about this. Under the law and the Constitution we have a right to respond and to pass judgment on all appropriations of the District of Columbia. That is what this bill will do when we dispose of it in a moment. In the public law which I cite it says this:

> No amount will be obligated or expended by any officer or employee of the District of Columbia government unless such amount has been appropriated by an act of Congress.

That is what we are about to do. We have the right under the law and the responsibility to do that. Any statement to the contrary is simply invalid on its face.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the committee. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. GARN], the Senator from Arizona [Mr. GOLDWATER], the Senator from Washington [Mr. GORTON], and the Senator from Utah [Mr. STAFFORD] are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Texas [Mr. BENTSEN], the Senator from Missouri [Mr. EAGLETON], the Senator from Hawaii [Mr. INOUYE], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Arkansas [Mr. PRYOR], and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 48, nays 42, as follows:

[Rollcall Vote No. 263 Leg.]

YEAS—48

Baucus	Gore	Nunn
Biden	Harkin	Packwood
Bingaman	Hart	Pell
Bradley	Heflin	Riegle
Bumpers	Heinz	Rockefeller
Burdick	Hollings	Roth
Byrd	Kassebaum	Rudman
Chafee	Kerry	Sarbanes
Chiles	Lautenberg	Sasser
Cochran	Leahy	Simon
Cohen	Levin	Simpson
Cranston	Mathias	Specter
Dixon	Matsunaga	Stevens
Dodd	Metzenbaum	Warner
Evans	Mitchell	Weicker
Glenn	Moynihan	Wilson

NAYS—42

Abdnor	Ford	Mattingly
Andrews	Gramm	McClure
Armstrong	Grassley	McConnell
Boren	Hatch	Melcher
Boschwitz	Hatfield	Murkowski
Broyhill	Hawkins	Nickles
D'Amato	Hecht	Pressler
Danforth	Helms	Proxmire
DeConcini	Humphrey	Quayle
Denton	Johnston	Symms
Dole	Kasten	Thurmond
Domenici	Laxalt	Trible
Durenberger	Long	Wallop
Exon	Lugar	Zorinsky

NOT VOTING—10

Bentsen	Gorton	Stafford
Eagleton	Inouye	Stennis
Garn	Kennedy	
Goldwater	Pryor	

So the excepted committee amendment was agreed to.

□ 2200

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SPECTER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. ABDNOR). The Senate will be in order.

The Senate will please be in order.

The Senator from Pennsylvania.

Mr. LEVIN. I would like to ask my good friend, the distinguished chairman of the Subcommittee on the District of Columbia, about one of the more important provisions of the bill which begins on page 3. This is the section which provides an additional $20 million for the construction of a prison facility in the District of Columbia. I am concerned that this provision, as written, puts more of a straitjacket on the D.C. government in this matter than is necessary or wise.

Let me explain my concerns and ask the chairman to comment on them.

First, the committee bill requires the District government to award a design and construction contract for the new facility no later than October 15, 1986. By the time this bill is enacted, that deadline is likely to be only a week or two away. I certainly understand the need to keep the District government's feet to the fire on this matter and I do not disagree with the imposition of reasonable deadlines for getting on with the building of a new prison facility. But I seriously doubt that this deadline is a reasonable one, given the current state of the city's plans for a new prison. I understand that the consultant's report laying out the scope of this project—the only detailed proposal now available—was first submitted on September 2, 1986, and even that report leaves many basic questions such as the number of beds in the facility still to be decided. When this bill goes to conference, will the chairman be willing to consider extending this deadline for awarding a contract for a month or two so that all parties, including the chairman's subcommittee, have an adequate opportunity to be reasonably assured that this treatment facility is a sensible approach?

Mr. SPECTER. I am determined to hold the District government to a deadline for getting on with this vital project. I also recognize the need for adequate time for careful planning and contracting procedures. I am willing to consider any reasonable extension of the deadline contained in the bill for awarding a design and construction contract that is made in good faith and not just to further delay this project in the hope that the Congress will relent in its insistence that the District government build a new prison.

Mr. LEVIN. I thank my colleague for that willingness to be flexible on the question of timing so long as good faith efforts to move the process along are underway. I further understand that it is not the intention of the subcommittee to involve itself in the site selection process for this new prison facility. The bill's provision merely seeks to approve the site selected by the Mayor. However, it is also my understanding that the City Council has not yet involved itself in the site selection process, and that the subcommittee in last year's appropriation act directed the Mayor and the City Council to submit a plan for a new prison to the Congress. Is it the subcommittee's intention to prevent the Mayor and the City Council, if they could reach agreement in a timely way on a different site within the boundaries of the District of Columbia, from proceeding to locate the prison on that alternative site?

Mr. SPECTER. It is not my intention or the intention of the subcommittee to make the site selection for this facility. Again, if the elected officials of the District of Columbia can reach some rapid agreement on a different site for this facility, I would be willing to take some action to accommodate that decision.

Mr. LEVIN. I hope the chairman is aware of some of the criticisms which have been made of the site the Mayor has selected for this prison facility. I

am particularly concerned about the appropriateness of locating such a facility in a residential area, next to a national historic site—the Congressional Cemetery—and within a few blocks of the National Historic District of Capitol Hill. It certainly seems more appropriate to this Senator to put such a facility in a commercial or industrial area, and I understand there are such sites available in the District, but again it is not up to us here in Congress to make this decision for the District government and its citizens. But even more importantly, I understand that the site selected does not comply with some of the important guidelines established by the American Correctional Association and the National Institute of Corrections in conjunction with the Federal Bureau of Prisons for the construction of adult correctional institutions.

Those guidelines recommend that such facilities be designed to house no more than 500 inmates, be located on sites of at least 150 acres, and not be clustered with other correctional facilities on a common site if possible. The justification for these guidelines includes not just the obvious security considerations, but also the experience of corrections professionals that as facilities get larger, "it becomes increasingly difficult to maintain a healthy atmosphere, promote open communications, provide programs tailored to indvidual needs, control tensions, and ensure the safety of both staff and inmates."

As you know, the Mayor's proposed facility would be for either 544 or 800 inmates, would be located on only 10.5 acres, and would be located directly adjacent to the D.C. Detention Center which houses 1,594 inmates. Furthermore, the guidelines call for the security of the facility to be assured by a minimum of 300 feet of buffer zone between the outer perimeter fence and the institution's property lines. Up to 600 feet is preferred, if possible. The site the Mayor is proposing would have a buffer zone of as little as 25 feet. Does my colleague not agree that these are important considerations in selecting the best site for this new correctional facility, and that the D.C. government should make every effort to comply with ACA standards and guidelines?

Mr. SPECTER. I understand what the Senator from Michigan is saying. It is my goal to get a good and secure prison built.

Mr. LEVIN. I hope my colleague will understand that I intend to work with the members of the conference committee from both this body and the House of Representatives to have the final bill's provision in relation to this matter include some reference to these important standards and guidelines. It certainly is important to have the District of Columbia government move forward with the construction of additional correctional facilities. But it is just as important that any such facilities be constructed consistent with the highest standards for modern penal systems so that the Congress has assurance that the funds we are providing are being well spent.

Mr. SPECTER. Mr. President, I ask for third reading of the bill.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed for a third reading and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 5175), as amended, was passed.

Mr. SPECTER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. LAUTENBERG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, there will be no more votes this evening.

Mr. HELMS. Mr. President, I ask unanimous consent that the RECORD indicate that if there had been a rollcall vote, I would have voted "nay" on final passage.

The PRESIDING OFFICER. Without objection, it is so ordered.

Just a moment, please. The Senate will be in order, please. Those who wish to converse will retire to the Cloakroom. The Senate will be in order. The Senate will be in order so we can proceed and finish up our business here.

The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I move that the Senate insist on its amendments and request a conference with the House of Representatives thereon and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer [Mr. ABDNOR] appointed Mr. SPECTER, Mr. HATFIELD, Mr. MATTINGLY, Mr. DOMENICI, Mr. LAUTENBERG, Mr. HARKIN, and Mr. STENNIS conferees on the part of the Senate.

Mr. SPECTER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate will be in order. The Senate will please be in order.

The Senator from South Carolina.

PROVIDING THE MEDICAL UNIVERSITY OF SOUTH CAROLINA A WAIVER OF CERTAIN REQUIREMENTS OF TITLE XIX OF THE SOCIAL SECURITY ACT

Mr. THURMOND. Mr. President, on behalf of myself and Senator HOLLINGS, I send a bill to the desk and ask for its immediate consideration.

Mr. BYRD. Mr. President, reserving the right to object, I do not believe that is what the distinguished Senator wishes to do. I would have to object to that request.

Mr. THURMOND. I thought I would ask that and if you objected——

Mr. BYRD. No, the Senator is asking for immediate consideration.

Mr. THURMOND. I understand. That is what I would like to get, if you do not object. If you object, then I will ask for something else.

Mr. BYRD. Then I object.

The PRESIDING OFFICER. Objection is heard.

Mr. THURMOND. Mr. President, I now send a bill to the desk and ask for first reading.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 2825) to provide for a waiver of certain requirements of title XIX of the Social Security Act with respect to care and services provided by the Medical University of South Carolina.

Mr. THURMOND. Mr. President, I now ask for second reading of the bill.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, reserving the right to object, I intend to help the distinguished Senators from South Carolina to facilitate the placement of this bill on the calendar. I will object in order to do just that under rule XIV.

My earlier suggestion that the distinguished Senator was not proceeding in the right manner was in accordance with what I thought he was going to do, and that was to trigger rule XIV. But he had in mind that he would try to get the bill up for immediate consideration, and I understand that and I applaud him for that.

I do object, therefore, Mr. President, to the second reading.

The PRESIDING OFFICER. Objection is heard.

Mr. THURMOND. Mr. President, in October 1984, South Carolina implemented a Medically Needy Program to provide for the cost of health care to pregnant women and children under the age of 18. Federal participation and cost sharing in this program was authorized under Medicaid.

At the time of program implementation, the South Carolina Health and Human Services Finance Commission

and the South Carolina Department of Social Services made a concerted effort to insure that health care providers and potential recipients were aware of the existence of the program by conducting health care provider workshops and public service announcements.

Based on the expanded eligibility criteria of this program, the Medical University of South Carolina provided services to 1,345 inpatients between October 1, 1984, through June 30, 1985.

Because many rules under this new program were new and different from other health care programs for the indigent, and a large number of recipients were involved, the application process was very slow and ineffective during the first 6 to 9 months of program implementation. Individuals who may have been eligible were not covered because of these delays.

Due to these delays, the Medical University was unable to obtain reimbursement from the Federal Health Care Financing Administration [HCFA]. HCFA is prohibited by the Social Security Act from providing reimbursement beyond a 3-month period before the date an application is filed by a potential program beneficiary.

In sum, health care service for the indigent have been provided to those who would have been eligible under the new program. However, delays in determining eligibility prevented certain health care providers from receiving equitable reimbursement for those services. The State authorities merely seek another opportunity to establish eligibility under the program for those who were provided these necessary services between October 1, 1984, and June 30, 1985. In order to obtain Federal reimbursement the State would have to establish eligibility within 6 months after the date of enactment of this legislation.

Mr. President, I strongly urge my colleagues to support expedited passage of this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text was ordered to be printed in the RECORD, a follows:

S. 2825

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. WAIVER OF CERTAIN MEDICAID REQUIREMENTS.

Notwithstanding the three-month limitation set forth in sections 1902(a)(34) and 1905(a) of the Social Security Act, payment may be made under title XIX of such Act with respect to care and services provided by the Medical University of South Carolina, after September 30, 1984, and before July 1, 1985, to individuals—

(1) who are not described in section 1902(a)(10)(A) of such Act,

(2) who, upon application, would have been eligible as individuals under the age of 18 or pregnant women, for medical assistance under the State plan approved under such title at the time such care and services were provided, and

(3) who are determined by the State agency administering or supervising the administration of such plan to have been so eligible not later than six months after the date of the enactment of this Act.

□ 2210

Mr. McCLURE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

WELCOMING PHILIPPINES PRESIDENT CORAZON AQUINO TO THE UNITED STATES

Mr. BYRD. Mr. President, on behalf of myself, Mr. DOLE, Mr. PELL, Mr. LUGAR, Mr. CRANSTON, and Mr. LEVIN, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 490) to Welcome Philippines President Corazon Aquino to the United States, and to Demonstrate Continued Support by the United States Senate for the Restoration of Philippines Democracy and for the Effective Stabilization and Enhancement of that Nation's Economic, Political, and Security Conditions

Whereas, on February 26, 1986, in S. Res. 351, the Senate praised the progress toward the restoration of democracy in the Philippines occasioned by the transfer of power to President Corazon Aquino and commended President Aquino for the peaceful methods employed to bring about this transition;

Whereas, in S. Res. 351, the Senate also praised the courageous commitment of the Filipino people to democracy and fully supported the U.S. Government's recognition of the legitimacy of the Aquino government;

Whereas, since the inauguration of President Aquino, her government has begun the process of restoring full democracy to the Philippines, and of addressing that nation's severe economic, political, and security problems;

Whereas the historical bonds of friendship and alliance between the United States and the Philippines, and between Americans and Filipinos, remain strong;

Whereas President Aquino arrived on September 15, 1986, for her first official visit to the United States, and will address a Joint Meeting of the Congress on September 18, 1986: Now, therefore, be it

Resolved,

SEC. 1. The United States Senate:

(A) on behalf of the American people, warmly welcomes President Aquino to the United States and expresses best wishes for a productive visit which will further strengthen the bonds between our two nations and peoples;

(B) reaffirms its strong support for the Government of the Philippines under the leadership of President Aquino, who clearly enjoys the support of a majority of the Philippine people;

(C) supports efforts to restore full democracy to the Philippines and to effectively address that nation's economic, political, and security problems;

(D) within the constraints of the United States' own budgetary limitations, will seek to help the Philippines to address its economic, political, and security conditions;

(E) urges the allies and friends of the United States to assist the Philippines in the restoration of its prosperity and the rebuilding of its democratic institutions;

(F) commends the Aquino government for its efforts to revitalize the private sector, including the active encouragement of increased foreign trade and receptivity to foreign investment; and

(G) commends President Aquino for her expressed intention to abide by the U.S.-Philippines military bases agreements, as amended, which serve the security interests of both nations.

SEC. 2. These findings and sentiments of the United States Senate should be conveyed personally to President Aquino during her official visit to the United States.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 490) was agreed to.

The preamble was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DOLE. Mr. President, I thank the distinguished minority leader. I think it is an excellent resolution. I am pleased to join as a cosponsor along with other Senators.

Mr. PELL. Mr. President, I am pleased to join my colleagues in approving this resolution of welcome to President Corazon Aquino of the Philippines.

In February of this year, the American people were captivated by the spectacle of the Philippine nation rising to affirm the spirit and cause of democracy. Reposing their trust in Corozon Aquino, the Filipino people have now set out on the path to restore a plundered economy and to overcome deep national divisions resulting from years of misrule. Success in this challenge is by no means assured. It is therefore with a combination of admiration and solemn concern for her formidable task that we welcome President Aquino.

We look forward to constructive discussions and to further steps toward reestablishing the solid relationship that can only exist between two democratic states. American strategic interests, and our compelling moral and humanitarian interests in the Philippine future, come together to make Mrs. Aquino's cause our own.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mrs. Emery, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 2:56 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bills, without amendment:

S. 98. A bill for the relief of Cirilo Raagas Costa and Wilma Raagas Costa; and

S. 290. An act for the relief of Catherine and Robert Fossez.

ENROLLED BILL AND JOINT RESOLUTION SIGNED

At 6:21 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bill and joint resolution:

S. 720. An act to establish a permanent boundary for the Acadia National Park in the State of Maine, and for other purposes; and

H.J. Res. 692. Joint resolution to designate the week of October 19, 1986, through October 26, 1986, "National Housing Week".

The enrolled bill and joint resolution were subsequently signed by the President pro tempore [Mr. THURMOND].

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STAFFORD, from the Committee on Environment and Public Works:

Special Report on Budget allocations of the Committee on Environment and Public Works (Rept. No. 99-442).

By Mr. KASTEN, from the Committee on Appropriations, without amendment:

S. 2824. An original bill making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1987, and for other purposes (Rept. No. 99-443).

By Mr. MURKOWSKI, from the Committee on Veterans' Affairs, with an amendment in the nature of a substitute:

S. 2422: A bill to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans and the rates of dependency and indemnity compensation for surviving spouses and children of veterans; to improve the Veterans' Administration home loan guaranty program; to authorize certain debt collections; to authorize the Administrator of Veterans' Affairs to require additional information from certain fiduciary agents of veterans; to revise the authority of the Administrator of Veterans' Affairs to construct, alter, acquire, operate, and maintain parking facilities at Veterans' Administration medical facilities; and to authorize an administrative reorganization in the Veterans' Administration (Rept. No. 99-444).

By Mr. CHAFEE, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute and an amendment to the title:

S. 740: A bill to extend until October 1, 1995, the authority for appropriations to promote the conservation of migratory waterfowl and to offset or prevent the serious loss of wetlands and other essential habitat, and for othe purposes (Rept. No. 99-445); pursuant to the order of May 20, 1986, referred to the Committee on Energy and Natural Resources for not to exceed 60 days.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. GOLDWATER, from the Committee on Armed Services:

Richard P. Godwin, of California, to be Under Secretary of Defense for Acquisition.

(The above nomination was reported from the Committee on Armed Services with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. GOLDWATER. Mr. President, From the Committee on Armed Services, I report favorably the attached list of nominations.

Those identified with a single asterisk (*) are to be placed on the Executive Calendar. Those identified with a double asterisk (**) are to lie on the Secretary's desk for the information of any Senator since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations to lie on the Secretary's desk were printed in the RECORD of August 14 and September 9, 1986, at the end of the Senate proceedings.)

*1. Vice Adm. Paul F. McCarthy, Jr., U.S. Navy, to be reassigned (Ref. 1289).

*2. Rear Adm. (lower half) Paul D. Miller, U.S. Navy, to be vice admiral (Ref. 1291).

*3. In the Navy there are 20 promotions to the grade of rear admiral (list begins with Roger Francis Bacon) (Ref. 1304).

*4. In the Navy there are 2 promotions to the grade of rear admiral (list begins with Arthur William Fort) (Ref. 1305).

*5. In the Navy Reserve there are 10 promotions to the grade of rear admiral (list begins with John Edward Love) (Ref. 1306).

*6. Brig. Gen. Billie B. Lefler, U.S. Army, to be Assistant Surgeon General/Chief, Dental Corps, U.S. Army (Ref. 1312).

**7. In the Marine Corps Reserve there are 194 appointments to the grade of lieutenant colonel (list begins with Robert J. Agro). (Ref. 1323).

*8. Maj. Gen. Edward J. Heinz, U.S. Air Force, to be lieutenant general (Ref. 1335).

*9. Maj. Gen. Bradley C. Hosmer, U.S. Air Force, to be lieutenant general (Ref. 1336).

*10. Lt. Gen. Forrest S. McCartney, U.S. Air Force, to be reassigned (Ref. 1337).

*11. Maj. Gen. William Francis Ward, U.S. Army Reserve, to be Chief, Army Reserve (Ref. 1338).

*12. In the Army National Guard there are three promotions to the grade of major general (list begins with James A. Ryan) (Ref. 1339).

*13. Col. Thomas R. Tempel, U.S. Army, to be brigadier general (Ref. 1340).

**14. In the Air Force there are 1,944 appointments to the grade of captain (list begins with Richard O. Abderhalden) (Ref. 1341).

**15. In the Marine Corps there are 8 appointments to the grade of second lieutenant (list begins with Steven Barnett) (Ref. 1342).

**16. In the Navy there are 47 appointments to the grade of ensign (list begins with Susan D. Harvey) (Ref. 1343).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mrs. HAWKINS:

S. 2822. A bill authorizing the Secretary of the Interior to preserve the Marshlands of the Nassau Valley in the State of Florida, to enhance the protection and interpretation of important historic and prehistoric sites in the vicinity of the Nassau, Saint Mary's, and Saint Johns River Valleys, Florida, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. GORE (for himself, Mr. FORD, Mr. BUMPERS, Mr. COCHRAN, and Mr. SASSER):

S. 2823. A bill to amend the Communications Act of 1934 to provide for security and fair marketing practices for certain encrypted satellite communications; to the Committee on Commerce, Science, and Transportation.

By Mr. KASTEN, from the Committee on Appropriations:

S. 2824. An original bill making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1987, and for other purposes; placed on the calendar.

By Mr. THURMOND (for himself and Mr. HOLLINGS):

S. 2825. A bill to provide for a waiver of certain requirements of title XIX of the Social Security Act with respect to care and services provided by the Medical University of South Carolina; read the first time.

By Mr. PACKWOOD (for himself, Mr. PROXMIRE, Mr. ABDNOR, Mr. BOREN,

Mr. BUMPERS, Mr. BURDICK, Mr. CRANSTON, Mr. DECONCINI, Mr. DURENBERGER, Mr. EVANS, Mr. HOLLINGS, Mr. KERRY, Mr. LEVIN, Mr. MOYNIHAN, Mr. PRESSLER, Mr. RIEGLE, Mr. SIMON, Mr. SPECTER, Mr. THURMOND, Mr. WARNER, Mr. BOSCHWITZ, Mr. NUNN and Mr. HEFLIN):

S.J. Res. 414. Joint resolution to designate March 16, 1987, as "Freedom of Information Day"; to the Committee on the Judiciary.

By Mr. BYRD (for Mr. MITCHELL (for himself, Mr. COHEN, Mr. DODD, Mr. METZENBAUM, Mr. KERRY, Mr. SIMON, Mr. SPECTER, Mr. HEINZ and Mr. D'AMATO)):

S.J. Res. 415. Joint resolution to provide for a settlement to the Maine Central Railroad Company and Portland Terminal Company labor-management dispute; ordered held at the desk.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BYRD (for himself, Mr. DOLE, Mr. PELL, Mr. LUGAR, Mr. CRANSTON and Mr. LEVIN):

S. Res. 490. Resolution to welcome Philippines President Corazon Aquino to the United States, and to demonstrate continued support by the United States Senate for the restoration of Philippines democracy and for the effective stabilization and enhancement of that nation's economic, political and security conditions; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GORE (for himself, Mr. FORD, Mr. BUMPERS, Mr. COCHRAN, and Mr. SASSER):

S. 2823. A bill to amend the Communications Act of 1934 to provide for security and fair marketing practices for certain encrypted satellite communications; to the Committee on Commerce, Science, and Transportation.

(Statements on the bill and the text of the legislation appear earlier in today's RECORD.)

By Mr. PACKWOOD (for himself, Mr. PROXMIRE, Mr. ABDNOR, Mr. BOREN, Mr. BUMPERS, Mr. BURDICK, Mr. CRANSTON, Mr. DECONCINI, Mr. DURENBERGER, Mr. EVANS, Mr. HOLLINGS, Mr. KERRY, Mr. LEVIN, Mr. MOYNIHAN, Mr. PRESSLER, Mr. RIEGLE, Mr. SIMON, Mr. SPECTER, Mr. THURMOND, Mr. WARNER, Mr. BOSCHWITZ, Mr. NUNN, and Mr. HEFLIN):

S.J. Res. 414. Joint resolution to designate March 16, 1987, as "Freedom of Information Day;" to the Committee on the Judiciary.

FREEDOM OF INFORMATION DAY

Mr. PACKWOOD. Mr. President, I rise to introduce a joint resolution which authorizes the President to proclaim March 16, 1987 as "National Freedom of Information Day."

March 16 marks the 236th anniversary of James Madison's birthday. Mr. Madison, our fourth President and father of the Bill of Rights, is the American most responsible for many of the constitutional freedoms we enjoy today, in particular, freedom of speech and the press.

James Madison is considered the architect of our Bill of Rights, yet his contribution to our democratic society is all too often overlooked. Mr. Madison understood the importance of free speech and a free press to a democratic Government. He knew intuitively that if the American people had access to information about their Government, that Government would be more responsive to their desires. His vision of a society where everyone could openly express their thoughts has helped preserve the other freedoms guaranteed by the Constitution.

Thanks to the efforts of Mr. Madison and others like him, Americans can speak their convictions without fear of censure. A "National Freedom of Information Day" will remind the American people and the rest of the world that our freedom of expression plays a vital role in both shaping our country and preserving our liberties.

By proclaiming Madison's birthday as "National Freedom of Information Day" we will reaffirm the significance we attach to our most precious liberties. I urge my colleagues to join me in honoring Madison and the principles for which he stood.

ADDITIONAL COSPONSORS

S. 519

At the request of Mr. EVANS, the name of the Senator from Montana [Mr. BAUCUS] was added as a cosponsor of S. 519, a bill to require a study of the compensation and related systems in executive agencies, and for other purposes.

S. 1322

At the request of Mr. HECHT, the names of the Senator from Hawaii [Mr. INOUYE], the Senator from Oregon [Mr. PACKWOOD], and the Senator from Washington [Mr. GORTON] were added as cosponsors of S. 1322, a bill to amend the Geothermal Steam Act of 1970.

S. 1640

At the request of Mr. GRASSLEY, the names of the Senator from Pennsylvania [Mr. HEINZ] and the Senator from Georgia [Mr. NUNN] were added as cosponsors of S. 1640, a bill to amend title XVIII of the Social Security Act to provide for coverage under the Medicare Program of services performed by a physician assistant.

S. 1817

At the request of Mr. TRIBLE, the name of the Senator from New Hampshire [Mr. HUMPHREY] was added as a cosponsor of S. 1817, a bill to suspend temporarily most-favored-nation treatment to Romania.

S. 2135

At the request of Mr. STEVENS, his name was added as a cosponsor of S. 2135, a bill to establish a commission for the purpose of encouraging and providing for the commemoration of the centennial of the birth of President Dwight David Eisenhower.

S. 2160

At the request of Mr. THURMOND, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 2160, a bill to clarify and improve the analysis of mergers under the antitrust laws.

S. 2421

At the request of Mr. GORTON, the name of the Senator from Pennsylvania [Mr. HEINZ] was added as a cosponsor of S. 2421, a bill to amend the Truth in Lending Act.

S. 2479

At the request of Mr. STEVENS, his name was added as a cosponsor of S. 2479, a bill to amend chapter 39 of title 31, United States Code, to require the Federal Government to pay interest on overdue payments, and for other purposes.

S. 2675

At the request of Mr. BOSCHWITZ, the name of the Senator from Idaho [Mr. SYMMS] was added as a cosponsor of S. 2675, a bill to amend the Federal Meat Inspection Act to authorize the Secretary of Agriculture to determine the manner and frequency of inspection of meat food products under such act and to improve enforcement of such act, and for other purposes.

S. 2699

At the request of Mr. SPECTER, the name of the Senator from Nebraska [Mr. ZORINSKY] was added as a cosponsor of S. 2699, a bill to amend the Controlled Substances Act to provide mandatory minimum sentences for distribution of controlled substances to minors, to add enhanced penalties, including mandatory minimum sentences, for employment of minors in the distribution of controlled substances, and to allow States receiving forfeited assets to use such assets for youth drug abuse prevention and rehabilitation.

S. 2763

At the request of Mr. MURKOWSKI, the names of the Senator from Virginia [Mr. TRIBLE] and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of S. 2763, a bill to amend the International Claims Settlement Act of 1949 to provide that the value of claims be based on the fair market value of the property taken.

S. 2770

At the request of Mr. COCHRAN, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 2770, a bill to amend the Farm Credit Act of 1971 to provide the opportunity for competitive interest rates for the farmer, rancher, and cooperative borrowers of the farm credit system, and for other purposes.

S. 2791

At the request of Mr. HUMPHREY, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 2791, a bill to require certain individuals who perform abortions to obtain informed consent.

S. 2794

At the request of Mrs. KASSEBAUM, the name of the Senator from Nebraska [Mr. ZORINSKY] was added as a cosponsor of S. 2794, an original bill to regulate interstate commerce by providing for uniform standards of liability for harm arising out of general aviation accidents.

S. 2795

At the request of Mr. BUMPERS, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of S. 2795, a bill to improve agricultural price support for the 1987 through 1990 crops, and for other purposes.

S. 2799

At the request of Mr. MITCHELL, the name of the Senator from Delaware [Mr. BIDEN] was added as a cosponsor of S. 2799, a bill to consolidate and improve Federal laws providing compensation and establishing liability for oil spills.

S. 2810

At the request of Mr. BINGAMAN, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of S. 2810, a bill to promote economic competitiveness in the United States, and for other purposes.

SENATE JOINT RESOLUTION 20

At the request of Mr. SYMMS, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of Senate Joint Resolution 20, a joint resolution proposing an amendment to the Constitution of the United States with respect to the English language.

SENATE JOINT RESOLUTION 359

At the request of Mr. NICKLES, the name of the Senator from Minnesota [Mr. BOSCHWITZ] was added as a cosponsor of Senate Joint Resolution 359, a joint resolution to designate March 17, 1987, as "National China-Burma-India Veterans Association Day."

SENATE JOINT RESOLUTION 385

At the request of Mr. RIEGLE, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of Senate Joint Resolution 385, a joint resolution to designate October 23, 1986 as "National Hungarian Freedom Fighters Day."

SENATE JOINT RESOLUTION 401

At the request of Mr. GORE, the names of the Senator from Idaho [Mr. MCCLURE], the Senator from Michigan [Mr. LEVIN], the Senator from Florida [Mrs. HAWKINS], the Senator from South Carolina [Mr. THURMOND], the Senator from Ohio [Mr. METZENBAUM], the Senator from Arkansas [Mr. BUMPERS], the Senator from Vermont [Mr. STAFFORD], the Senator from Alabama [Mr. HEFLIN], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Massachusetts [Mr. KERRY], the Senator from Minnesota [Mr. DURENBERGER], and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of Senate Joint Resolution 401, a joint resolution to designate the week of October 12, 1986, through October 18, 1986, as National Job Skills Week."

SENATE JOINT RESOLUTION 404

At the request of Mr. SIMON, the names of the Senator from Minnesota [Mr. DURENBERGER], the Senator from Maryland [Mr. SARBANES], the Senator from Hawaii [Mr. INOUYE], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from South Carolina [Mr. THURMOND], the Senator from Maryland [Mr. MATHIAS], and the Senator from Rhode Island [Mr. CHAFEE] were added as cosponsors of Senate Joint Resolution 404, a joint resolution to designate October 1986 as "Polish American Heritage Month."

SENATE JOINT RESOLUTION 413

At the request of Mr. BUMPERS, the names of the Senator from Rhode Island [Mr. CHAFEE], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Florida [Mrs. HAWKINS], the Senator from Vermont [Mr. STAFFORD], and the Senator from Minnesota [Mr. BOSCHWITZ] were added as cosponsors of Senate Joint Resolution 413, a joint resolution to designate the month of October 1986 as "Learning Disabilities Awareness Month."

SENATE CONCURRENT RESOLUTION 145

At the request of Mr. STEVENS, the names of the Senator from Nebraska [Mr. EXON] and the Senator from New Hampshire [Mr. RUDMAN] were added as cosponsors of Senate Concurrent Resolution 145, a concurrent resolution to encourage State and local governments and local educational agencies to require quality daily physical education programs for all children from kindergarten through grade 12.

SENATE CONCURRENT RESOLUTION 154

At the request of Mr. D'AMATO, the names of the Senator from Virginia [Mr. TRIBLE] and the Senator from Maine [Mr. MITCHELL] were added as cosponsors of Senate Concurrent Resolution 154, a concurrent resolution concerning the Soviet Union's persecution of members of the Ukrainian and other public Helsinki monitoring groups.

SENATE CONCURRENT RESOLUTION 155

At the request of Mr. SIMON, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of Senate Concurrent Resolution 155, a concurrent resolution expressing the support of the Congress for a transition to democracy in Paraguay.

SENATE CONCURRENT RESOLUTION 160

At the request of Mr. SIMON, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of Senate Concurrent Resolution 160, a concurrent resolution expressing the sense of the Congress that the jamming of radio broadcasting is contrary to the best interests of the people of the world and should be terminated.

SENATE RESOLUTION 435

At the request of Mr. MOYNIHAN, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of Senate Resolution 435, a resolution to recognize Mr. Eugene Lang for his contributions to the education and the lives of disadvantaged young people.

SENATE RESOLUTION 490—WELCOMING PRESIDENT CORAZON AQUINO TO THE UNITED STATES AND EXPRESSING CONTINUING SUPPORT FOR THE RESTORATION OF PHILIPPINES DEMOCRACY

Mr. BYRD (for himself, Mr. DOLE, Mr. PELL, Mr. LUGAR, Mr. CRANSTON, and Mr. LEVIN) submitted the following resolution; which was considered and agreed to:

S. RES. 490

Whereas, on February 26, 1986, in S. Res. 351, the Senate praised the progress toward the restoration of democracy in the Philippines occasioned by the transfer of power to President Corazon Aquino and commended President Aquino for the peaceful methods employed to bring about this transition;

Whereas, in S. Res. 351, the Senate also praised the courageous commitment of the Filipino people to democracy and fully supported the U.S. Government's recognition of the legitimacy of the Aquino government;

Whereas, since the inauguration of President Aquino, her government has begun the process of restoring full democracy to the Philippines, and of addressing the nation's severe economic, political, and security problems;

Whereas the historical bonds of friendship and alliance between the United States and the Philippines, and between Americans and Filipinos, remain strong;

Whereas President Aquino arrived on September 15, 1986, for her first official visit to the United States, and will address a Joint Meeting of the Congress on September 18, 1986: Now, therefore, be it

Resolved,

SEC. 1. The United States Senate:

(A) on behalf of the American people, warmly welcomes President Aquino to the United States and expresses best wishes for a productive visit which will further

strengthen the bonds between our two nations and peoples;

(B) reaffirms its strong support for the Government of the Philippines under the leadership of President Aquino, who clearly enjoys the support of a majority of the Philippine people;

(C) supports efforts to restore full democracy to the Philippines and to effectively address that nation's economic, political, and security problems;

(D) within the constraints of the United States' own budgetary limitations, will seek to help the Philippines to address its economic, political, and security conditions;

(E) urges the allies and friends of the United States to assist the Philippines in the restoration of its prosperity and the rebuilding of its democratic institutions;

(F) commends the Aquino government for its efforts to revitalize the private sector, including the active encouragement of increased foreign trade and receptivity to foreign investment; and

(G) commend President Aquino for her expressed intention to abide by the United States-Philippine military bases agreements, as amended, which serve the security interests of both nations.

SEC. 2. These findings and sentiments of the United States Senate should be conveyed personally to President Aquino during her official visit to the United States.

AMENDMENTS SUBMITTED

COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS, 1987

DURENBERGER AMENDMENT NO. 2822

(Ordered to lie on the table.)

Mr. DURENBERGER submitted an amendment intended to be proposed by him to the bill (H.R. 5161) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1987, and for other purposes; as follows:

At the appropriate place in the bill, add the following section:

Sec. . Such amounts as may be necessary of the Polish currencies held by the United States which have been generated by the sale to Poland of surplus United States dairy products shall be available for construction and renovation projects to be undertaken in Poland under the auspices of the Charity Commission of the Polish Catholic Episcopate for the benefit of handicapped and orphaned children. Such currencies may be utilized without regard to the requirements of section 1306 of title 31, United States Code, or any other provision of law.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS, 1987

GORTON AMENDMENT NO. 2823

Mr. GORTON proposed an amendment to the bill (H.R. 5234) making appropriations for the Department of the Interior, and related agencies, for the fiscal year ending September 30, 1987, and for other purposes; as follows:

At the appropriate place in the bill, insert the following:

Sec. . Subsection (b) of the first section of the Act of August 9, 1955, as amended (25 U.S.C. 415(b)) is further amended—

(1) by striking "or" immediately before "(2)"; and

(2) by striking immediately before the period at the end thereof the following: ", or (3) if the term does not exceed seventy-five years (including options to renew), and the lease is executed under tribal regulations approved by the Secretary under this clause (3)".

THURMOND AMENDMENT NO. 2824

Mr. THURMOND proposed an amendment to the bill (H.R. 5234), supra as follows:

On page 74, beginning with the word "Provided" on line 5, strike out all through " 'agreement.' " on line 3, page 75.

MELCHER AMENDMENT NOS. 2825 THROUGH 2827

Mr. MELCHER proposed three amendments to the bill (H.R. 5234), supra as follows:

AMENDMENT No. 2825

On page 3, line 12 delete "$300,000" and insert in lieu thereof "$800,000".

AMENDMENT No. 2826

At the end of the bill add the following new section:

"Sec. . Not withstanding any other provision of the law, the exception provided for in P.L. 87-279 shall apply with respect to the Flathead Indian Irrigation Project Electric Power System."

AMENDMENT No. 2827

On page 26, line 21, strike out "$887,666,000" and insert in lieu thereof "$887,708,000".

On page 27, line 16, insert the following after the colon: "*Provided further*, That of the portion of such funds appropriated for Indian fisheries programs, $80,000 shall be available to the Creston Fisheries Center of the United States Fish and Wildlife Service:"

McCLURE AMENDMENT NO. 2828

Mr. McCLURE proposed an amendment to the bill (H.R. 5234), supra as follows:

On page 51, line 4, insert the following before the colon:

: Provided further, That no more than $154,321,000, to remain available without fiscal year limitation, shall be obligated for the construction of forest roads by timber purchasers.

McCLURE AMENDMENT NO. 2829

Mr. McCLURE. proposed an amendment to amendment No. 2777 proposed by Mr. PROXMIRE to the bill (H.R. 5234), supra, as follows:

On page 1, line 2 of amendment number 2777, strike the first six numerals and insert in lieu thereof "268,130", and on page 1, line 4 of amendment number 2777, strike the first six numerals and insert in lieu thereof "252,654"

On page 9, line 18 of the bill, delete "36,775,000" and insert in lieu thereof "41,775,000"

On page 15, line 4 of the bill "65,900,000" and insert in lieu thereof "79,900,000"

On page 50, line 4 of the bill, delete "1,144,894,000" and insert in lieu thereof "1,137,894,000"

On page 53, line 7 of the bill, delete "31,906,000" and insert in lieu thereof "36,906,000"

MATTINGLY AMENDMENT NO. 2830

Mr. MATTINGLY proposed an amendment to the bill (H.R. 5234), supra, as follows:

On page 22 of the bill, strike the period in line 6 and insert the following:

"; *Provided further*, That when in fiscal year 1987 and thereafter any permittee provides data and information to the Secretary pursuant to section 1352(a)(1)(A) of title 43, United States Code and such data information is provided in the form and manner of processing which is utilized by such permittee in the normal conduct of his business, the Secretary shall pay such permittee the reasonable cost of reproducing such data and information for the Secretary and shall pay at the lowest rate available to any purchaser for processing such data and information the costs attributable to such processing."

On page 21, line 16, strike the figure "153,987,000" and insert in lieu thereof the figure "$155,187,000."

HEFLIN AMENDMENT NO. 2831

Mr. McCLURE (for Mr. HEFLIN) proposed an amendment to the bill (H.R. 5234), supra, as follows:

On page 8, between lines 22 and 23, insert the following:

"SOUTHEASTERN FISH CULTURE LABORATORY"

"The Southeastern Fish Culture Laboratory in Marion, Alabama is hereby directed to coordinate some of its research in the conservation, management, investigations, protections and utilization of sport fishery and warm water fish farming with the Alabama Cooperative Fishery Research Unit and the Department of Fisheries and Allied Aquaculture of Auburn University, toward a mission of improving the economics of farm aquaculture in the Southeast".

DANFORTH AMENDMENT NO. 2832

Mr. DANFORTH proposed an amendment to the bill (H.R. 5234), supra, as follows:

At the appropriate place in the bill, add the following:

SEC. —. Notwithstanding any other provision of law, funds received by the National Park Service as reimbursement for the cost of providing security, law enforcement, interpretive, and other services with respect to the operation of facilities at the Jefferson National Expansion Memorial National Historic Site shall be credited to the appropriation bearing the cost of providing such services.

DIXON (AND SIMON) AMENDMENT NO. 2833

Mr. DIXON (for himself and Mr. SIMON) proposed an amendment to the bill (H.R. 5234), supra, as follows:

At the end of title I, insert the following new section:

"The Secretary of the Interior shall designate the visitor center to be associated with the headquarters of the Illinois and Michigan Canal National Heritage Corridor as the "George M. O'Brien Visitor Center" in recognition of the leadership and contributions of Representative George M. O'Brien with respect to the creation and establishment of this national heritage corridor."

EVANS (AND GORTON) AMENDMENT NO. 2834

Mr. EVANS for (himself and Mr. GORTON) proposed an amendment to the bill (H.R. 5234), supra, as follows:

On page 51, line 1, delete ":" and insert in lieu thereof the following:

", of which of which $165,000 is for completion of flood repairs at the Monongahela National Forest, of which $100,000 is for preliminary design and survey work on the Hat Point and Dug Bar Roads in the Hells Canyon National Recreation Area, of which $8,473,000 for roads and parking at Mount St. Helens National Volcanic Monument, and of which $6,731,000 is for trail construction:".

METZENBAUM AMENDMENT NO. 2835

Mr. METZENBAUM proposed an amendment to the bill (H.R. 5234), supra, as follows:

On page 15, line 4, strike "70,900,000" and insert in lieu thereof "71,900,000"

McCLURE (AND OTHERS) AMENDMENT NO. 2836

Mr. McCLURE (for himself, Mr. BAUCUS, Mr. EVANS, and Mr. STAFFORD) proposed an amendment to the bill (H.R. 5234), supra, as follows:

On page 50, strike lines 9 through 18, and insert the following:

The Forest Service is to continue to complete as expeditiously as possible development of land and resource management plans to meet the requirements of the National Forest Management Act of 1976 (NFMA). Notwithstanding the date in section 6(c) of the NFMA (16 U.S.C. 1600), the Forest Service may continue the management of units of the National Forest System under existing land and resource management plans pending the completion of plans developed in accordance with the Act. Nothing shall limit judicial review of activities on management units of the National Forest system, provided, however, such challenges are not intended to invalidate in its entirety any existing land and resource management plan developed under authorities other than section 6(c) of the NFMA.

STEVENS AMENDMENT NO. 2837

Mr. McCLURE (for Mr. STEVENS) proposed an amendment to the bill (H.R. 5234), supra, as follows:

On page 15, line 4, strike out "$71,900,000" and insert in lieu thereof "$73,400,000".

MELCHER AMENDMENT NO. 2838

Mr. MELCHER proposed an amendment, which was subsequently modified, to the bill (H.R. 5234), supra, as follows:

On page 59, strike lines 6 to 11, and insert the following:

No more than $400,000 made available to the Forest Service for obligation in fiscal year 1987 shall be expended to support Washington office staff in the development of the RPA: *Provided*, That this shall not reduce funds available for the development of forest plans pursuant to the National Forest Management Act of 1976.

HART (AND MELCHER) AMENDMENT NO. 2839

Mr. HART (for himself and Mr. MELCHER) proposed an amendment, which was subsequently modified, to the bill (H.R. 5234), supra, as follows:

At the end of Title I, add the following new section,

SEC. 112. Notwithstanding any other provision of law, no funds appropriated by this Act shall be available for the implementation, by the Secretary of Interior or the Attorney General or any other officer acting on behalf of the United States, of the "Agreement to Settle Pending Litigation Between the United States and the Owners of Certain Oil Shale Mining Claims in Colorado," dated August 4, 1986, or for the patenting of any other oil shale placer claims located prior to passage of the 1920 Mineral Leasing Act, for a period of 180 days from the date of enactment of this provision, in order to provide a period for congressional review of this agreement: *Provided*, That the provisions of this amendment affecting the aforesaid settlement agreement shall be effective only of the United States Court of Appeals for the Tenth Circuit and the United States District Court for the District of Colorado approve a stay in the cases affected by such settlement agreement for 180 days and the parties to such agreement agree to continue to be bound by such agreement for the 180-day period: and *Provides further* that the Attorney General of the United States and the Secretary of the Interior are directed to immediately and in good faith seek concurance of all parties to the agreement to continue such agreement for 180 days and to request such courts to issue stays for such period.

BYRD AMENDMENT NO. 2840

Mr. BYRD proposed an amendment to the bill (H.R. 5234), supra, as follows:

At the appropriate place in the bill, insert the following new section:

SEC. —. Section 515(b)(10)(B)(ii) of the Surface Mining Control and Reclamation Act of 1977 is amended by inserting after "qualified registered engineer" the following: "or a qualified registered professional land surveyor in any State which authorizes land surveyors to prepare and certify such maps or plans".

DISTRICT OF COLUMBIA APPROPRIATION ACT, 1987

TRIBLE AMENDMENT NOS. 2841 AND 2842

Mr. SPECTER (for Mr. TRIBLE) proposed two amendments to the bill (H.R. 5175) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1987, and for other purposes; as follows:

On page 9, line 24, before the period insert the following;

: *Provided further*, That the District of Columbia shall not renovate or construct prison bed space at the Occoquan facilities of Lorton prison beyond the number of prison bed spaces which were damaged or destroyed there during the fire that occurred on July 25, 1986.

On page 29, after line 20, insert the following:

SEC. —. (A) The Congress finds that, more than 2,500 District of Columbia prisoners are now incarcerated in Federal prisons or at prison facilities belonging to Virginia, Maryland, and Delaware;

The continuing shortage of prison space within the District of Columbia has contributed to overcrowding and related problems at the Lorton prison in Fairfax County, Virginia;

The continuing shortage of prison space within the District of Columbia has helped to create a public safety crisis that could endanger the residents of the D.C. metropolitan area;

This public safety crisis is best resolved by the construction of additional prison space within the District of Columbia;

(B) It is the sense of the Congress that, in order to help alleviate the public safety problem facing the District and residents of the surrounding jurisdictions, construction should begin and be completed as soon as possible on the new permanent prison proposed to be built within the District of Columbia.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. McCLURE. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on Tuesday, September 16, to conduct a hearing on S. 2565, the Federal Telecommunications Policy Act of 1986.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. McCLURE. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on Tuesday, September 16, to mark up S. 2799, Oil Pollution Liability and Compensation Act of 1986; and other pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INVESTIGATIONS

Mr. McCLURE. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Tuesday, September 16, to hold a hearing on Emerging Criminal Groups—Nigerian.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

Mr. McCLURE. Mr. President, I ask unanimous consent that the Subcommittee on Oversight of Government Management of the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Tuesday, September 16, to hold a hearing on S. 2756, Computer Matching and Privacy Protection Act of 1986.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENERGY REGULATION AND CONSERVATION

Mr. McCLURE. Mr. President, I ask unanimous consent that the Subcommittee on Energy Regulation and Conservation of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, September 16, to hold a hearing on S. 2781, the National Appliance Energy Conservation Act of 1986.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

LIFE WITH AN ILLITERATE

● Mr. SIMON. Mr. President, I continue to be very much concerned about the problems of illiteracy.

I am pleased that my colleagues have accepted an amendment that I offered to put $5 million into the Library Services and Construction Act for work on illiteracy.

Our colleague, Senator PAULA HAWKINS, accepted a suggestion of mine for $2 million in the VISTA Program to work on illiteracy.

The whole problem came home to me again the other day when I picked up the Wall Street Journal and read the story about the mother of Jean Y. Leung, a member of the Wall Street Journal editorial page staff.

Her mother is illiterate.

Fortunately, her mother and the sons and daughters of others who are illiterate have been able to break out of the pattern and achieve remarkable success.

I remember when Thomas Todd, a distinguished lawyer in the Chicago area, told me that his father could not read and write.

There are the Jean Leungs and Thomas Todds, but there are not many of them.

If we want the sons and daughters to contribute meaningfully in our society, we should make sure their parents have the basic literary skills needed. The networks have made us more aware of the problem of illiteracy, and I hope we act upon it and that we do not view this as simply some kind of passing fad.

My colleagues who did not read Jean Leung's story should read it, and I ask that it be printed in the RECORD.

LIFE WITH AN ILLITERATE

(By Jean Y. Leung)

Whenever I read or hear about illiteracy, I think about my mother. I wonder whether middle-class Americans realize the consequences of illiteracy both for the individual involved and society in general. Illiteracy is not just a handicap in this high-speed, high-tech world—it is a prison. I know this because my mother is illiterate. Totally illiterate, not just functionally illiterate. She cannot read or write in any language.

When was the last time you wrote out a list of things to do or jotted down a reminder note? Now try to imagine being unable to use a written record to cue yourself. In the grocery store my mother does not zero in on certain items. Instead she wanders through the aisles, relying on the displays to prompt her into remembering what she needs to buy.

Picture organizing your life strictly on memory. My mother has had to break her life into routines. Sunrises are not just beautiful sights to my mother—they are her measurement of time. Every seventh sunrise means her granddaughter will be at church. The next brings another cycle. Since so much of an illiterate's memory is used up by daily living, very little of it is free for conceptual thinking. Creativity becomes impaired. Every change in life takes up more of that precious memory. Illiterates are conservative, wary of any change that will have to be remembered. Moving the bus stop two blocks away may make it accessible to more people, but it is an irritant to my mother. The same with stores opening or closing.

Because ours is a highly literate society, illiterates are dependent upon others for translation. This is a tricky business—translation often becomes interpretation. Is the glass half full or half empty? The illiterate is very vulnerable to the views of a translator. My mother's neighbors believe that the local government is worthless. My mother believes that the local government is worthless. What other evidence does she have? The literate person can broaden his views through varied reading. The illiterate is not likely to find new translators.

In a society where primary education is free and widely available, illiteracy takes on a stigma. The illiterate is viewed as someone who is retarded (and therefore can't learn) or lazy (doesn't want to learn). But many U.S. illiterates are immigrants from cultures where education wasn't available (primarily due to poverty) or was denied (as it was for so many women). So it was for my mother, coming from China. The move to America doesn't necessarily create literacy opportunities. Many illiterates are caught up in the daily grind of survival, lacking either the money or the time to learn how to read. It is enough of a challenge to learn to speak a new language.

Like most immigrants however, illiterates make sure that their children avail themselves of the opportunities America offers, especially schooling. Knowing their own imprisonment, they are the strongest advocates of education as a tool for improvement. Of my mother's four children, three are college graduates.

What effect has my mother's illiteracy had on me? Every night before I go to sleep I read. Newspapers, magazines, books, pamphlets—you name it. I bless the fact that my ability to read has brought so many new worlds to me—worlds that I won't reach in person—and opened up my mind.

Encouraged by my parents, I picked up my older brother's books and began reading before I entered kindergarten. In the third grade a teacher took me aside and told me that I had the highest reading score of anybody in my whole elementary school. In honor of mother, I have tutored immigrant children in New York's Chinatown, hoping to ease the transition into the English language for them.

Is illiteracy a problem? Yes, and it will be as long as we are a nation of immigrants. Do we deal with it only through prevention and ignore adult illiterates? No.

We should remove the stigma of illiteracy. Publicizing the problem in an understanding way through the media with a follow-up in the schools and community organizations would encourage people to step forward. The problem should not be overstated or understated.

Perhaps it should be mandatory for high school or college students to participate in community self-help projects as part of their learning process. Literacy tutoring could be one of these projects. Libraries could encourage home study with borrowed book/audio tape combinations. Perhaps an adult version of "Sesame Street" could be created. Responses to illiteracy need not require massive amounts of government aid or intervention. The private sector, particularly the publishing industry, would benefit tremendously from a more literate public.

Freedom of speech has an ironic meaning to people who have a hard enough time gathering, composing, organizing and communicating their thoughts. And freedom of the press has no meaning to illiterates. Can we depend on people to whom such freedoms have little or no meaning to defend them?●

GATT NEGOTIATIONS IN URUGUAY

● Mr. McCONNELL. Mr. President, with all the rhetoric surrounding the current farm legislation, I believe that a far more important long-term component of farm policy is only now receiving the attention it deserves. Today, negotiations begin in Punta del Este, Uruguay, to overhaul the current General Agreement on Tariffs and Trade and the implications for the prosperity of American agriculture are enormous. The current GATT rules have some of the same problems as U.S. farm legislation: the basic tenets of the treaty are the same today as they were 40 years ago, much like the basis of all farm programs, and we all know how effective farm legislation has been lately.

American farmers have a tremendous stake in these negotiations. If our new thrust in farm policy is to be successful, our farmers must be permitted to compete in a world marketplace without having to compete against foreign governments. I believe that Ambassador Yeutter is right on target to declare that we will walk away from the GATT Conference if the effort to begin meaningful agricultural trade negotiations fails. We'll have no credibility in trade negotiations until our competition is convinced that we mean business. This round of talks is our best opportunity to prove our resolve.

Mr. President, the patience of the American agricultural community is growing thin, and, as Lane Palmer, editor-in-chief of the Farm Journal puts it, "Farmers are tired of paying the costs of world leadership." Mr. Palmer suggests that unless significant progress is made at Punta del Este, farmers may become totally disillusioned with the idea of competing in the world market. Mr. President, I ask that the article written by Mr. Palmer, which appears in the September edition of the Farm Journal, be printed in the RECORD.

COSTS OF WORLD LEADERSHIP

No U.S. Secretary of State has ever been popular with farmers. That's understandable, of course, because it's the Secretary's job to represent the foreign viewpoint in domestic councils, and that puts him on the other side of the table from farmers.

We can't recall a Secretary who has drawn more farmer criticism than George Shultz is receiving right now. At a recent Senate ag subcommittee hearing, Sen. Edward Zorinsky (D., Neb.) was so infuriated by some of Shultz's recent statements he demanded that Shultz come before the committee to explain himself. No chance of that, of course; Shultz does his reporting to the Senate Foreign Relations Committee.

Zorinsky's outburst is just one symptom of farmer frustration over growing imports, lagging exports and low farm prices. For instance:

President Reagan's offer to temporarily slash wheat prices under the Soviet grain agreement didn't satisfy most farm interests. Some, like Sen. Bob Dole (R., Kans.) and Rep. Tom Daschle (D., S.D.), are still pressing for export subsidies on all crops to all U.S. customers. The National Association of Wheat Growers not only wants to beef up export PIK, but is asking USDA to expand PL 480.

The American Farm Bureau has blasted recent World Bank loans to help develop Latin American agriculture. Farm Bureau wonders why U.S. foreign aid should be used to promote Argentina and Brazil's farm exports at the expense of U.S. farmers.

At their recent convention, the National Association of Corn Growers backed the Multi-Fiber Agreement, partly to discourage the State Department from trading off any more ag trade interests.

And finally, a growing number of farmers backing a mandatory farm program appear ready to forget about exports and concentrate on higher loan rates and prices at home.

Shultz has his reasons, of course: He wants to use farm trade policy to exert international leadership. For instance, the U.S. has repeatedly promised the emerging countries that we will help them develop their economies by buying more of their products.

The Administration has promised the nations with big debts that we'll help them earn the income to pay off their debts. So if the Administration seems less than aggressive in selling soybeans against those from Brazil or our corn against Argentine corn, the reason may seem readily apparent.

Another thing that can affect farmers even more than trade is monetary policy. For instance, our money managers in the 1970s must have known that the U.S. could not go on inflating our currency indefinitely. It was one thing for Brazil to countenance 300 percent annual inflation and then index their currency in the pretext they were compensating for it. But the U.S., as clearly the world's dominant economy, could not do likewise. We allowed inflation to approach 13 percent annually before clamping down on the money supply. Farmers suffered.

U.S. farmers have not shirked their role in international leadership. During World War II, they "enlisted" enthusiastically to produce "food to win the war," then stayed aboard to keep the peace with their generous donations through CARE, the Heifer Project and other food programs.

We've left our markets relatively open to Japan's cars, TV sets and office copiers while allowing the Japanese to leave their markets closed to our beef and citrus. We have allowed the European Community (EC) to fence out our farm products one by one. First it was broilers, then came wheat.

"We just said 'Enough is enough,' " Varel Bailey, an Anita, Iowa, farmer and chairman of the Corn Growers, told us when we asked why his organization appeared to be abandoning its free-trade principles.

"We still believe in free trade and the idea of comparative advantage," he said. "But we want our government to be tougher in trade negotiations—when other nations sign trade agreements, they must live up to them."

Emotions are so high that this could prove to be a turning point for U.S. farmers. I sense that most are still very internationally minded. The upcoming GATT negotiations could restore their confidence in free and fair trade or it could complete their disillusionment.

Says Earl Sears, president of the National Cotton Council: "The Administration gives a lot of rhetoric to these negotiations but no action." Adds Varel Bailey, who has seen our opening statement for negotiations at GATT: "It needs a lot of work."●

PROMPT PAYMENT ACT AMENDMENTS OF 1986

● Mr. STEVENS. Mr. President, I ask unanimous consent that I be added as a cosponsor of S. 2479, the Prompt Payment Act Amendments of 1986. As an original cosponsor of the Prompt Payment Act of 1982, I have followed its effect on our partners in the business community. After reviewing its performance, I am convinced that amendments to that act are necessary to maintain the law's intent. The purpose of these amendments is to clarify the ambiguties and loopholes which have impeded the full execution of the Prompt Payment Act. The bottom line on all these measures is to ensure prompt payments to businesses.

The amendments to the Prompt Payment Act contained in S. 2479 will increase the efficiency of Federal Government bill payment practices. Some Government agencies have not followed the payment procedures which were set up under the Prompt Payment Act. Certain Government agencies have avoided interest penalties on late payments, at the expense of the businesses under contract.

The grace period which was granted to the Federal agencies to soften the blow of interest penalties has been abused, and bills are still frequently settled on the last possible day. Interest penalties on late payments are often not paid, or are paid only when requested by the business concerned.

The original Prompt Payment Act did improve Federal Government bill payment practices, but loopholes and omissions have precluded its satisfactory implementation. These amendments will remedy those problems.

Private business contractors should not be made to suffer by Government inefficiency. The Prompt Payment Act will render the law more explicit, more efficient, and more equitable, and will complete our initial effort. I am happy to join Senator TRIBLE and the other consponsors of S. 2479.●

CENTENNIAL ANNIVERSARY OF BIRTH OF DWIGHT DAVID EISENHOWER

● Mr. STEVENS. Mr. President, I ask unanimous consent that I be added as a cosponsor of S. 2135, which will establish a commission to honor the centennial anniversary of the birth of Dwight David Eisenhower. Having served in the Eisenhower administration for 8 years as U.S. attorney for Alaska and as Solicitor of the Interior, it is a distinct honor for me to join in this effort. This legislation would encourage and provide for the commemoration of this anniversary to honor a great American who played such a key role in this country's history.

Dwight David Eisenhower began his military career upon graduating from the U.S. Military Academy at West Point in 1915. He achieved the rank of five-star general and was the principal planner of the successful Allied invasion of Europe during World War II and the subsequent defeat of Nazi Germany.

Although Eisenhower was well remembered for his brilliant military career, we all best remember him for his achievements during his two terms in office as the 34th President of the United States. Few Presidents have enjoyed greater popularity or left office as solidly entrenched in positive public opinion as when they entered

it. I think it would be safe to say that—we all liked Ike.

In addition to a period of national mourning, Ike's death on March 26, 1969, was an occasion for worldwide recognition of his role in the events of his time, So, too, should be this centennial anniversary.

Eisenhower's Presidency is best remembered as a period of relative calm in the United States largely due to the fact that peace was one of his major concerns, despite the fact that he was a military leader. While in office, he negotiated an armistice with the North Koreans to terminate the Korean war, which began in 1950. As well as being a strong supporter of NATO, during the cold war Eisenhower tried to advance American-Soviet understanding by meeting with Soviet premier Khrushchev.

A little known major interest of President Eisenhower was initiation of a better National Highway System. The United States is often referred to as a nation on wheels. President Eisenhower early recognized that fact and the importance of meeting our citizens' need to move with ease and dispatch throughout this Nation. Ours is a nation on the move and that requires a road system that is up to date and well maintained. It was President Eisenhower who sent to Congress the message urging action to improve the U.S. highway system. The Senate in 1955 passed a bill to establish that Interstate Highway System. Although the final legislation did not pass during the Eisenhower administration, it was clear who led the way for the modern highway system we all seem to take for granted.

The Commission this legislation would establish would begin 60 days after the passage of this bill, and continue until the celebration in 1990. Its duties would be to encourage, plan, develop, coordinate, and celebrate the observances and activities commemorating Eisenhower's birthday. Activities would be coordinated with efforts from the National Archives and the Eisenhower Presidential Library in Abilene, KS. Annual reports will be made to the Congress and the President describing the activities planned for the commemoration celebration.

The Commission will be composed of 21 Members, representing both Houses of Congress, including the Speaker of the House and the President pro tempore of the Senate. In addition, six Members will be appointed from each House by the majority and minority, joined by six members appointed by the President and the Archivist of the United States. The term of appointment shall continue until the celebration has concluded, or the member leaves their Federal office. Members of the Commission would not be paid, but may receive per diem allowances dependent on the availability of funds.

Private contributions to the Commission of money, property, or personal services would be welcomed. Property donations made to the Commission will become part of the permanent collection in President Eisenhower's library in Kansas.

President Eisenhower was a man whose life's work was serving his country. He was an honorable man and a patriot, most worthy of our admiration. Let us establish a commission to provide for the commemoration of his 100th birthday and seize the opportunity to honor a great American. I am very happy to join my colleagues, Senator BOB DOLE and Senator NANCY KASSEBAUM of Kansas, in cosponsoring S. 2135.●

SUPERFUND

● Mr. BROYHILL. Mr. President, next Friday, September 26, will be an unfortunate anniversary. That day will mark a full year since the Senate passed S. 51, the much-needed extension and expansion of the Comprehensive Environmental Response, Compensation and Liability Act of 1980—more popularly known as Superfund. More unfortunate still, the next Tuesday, September 30, will be the first anniversary of the expiration of the 5-year program authorized under the original act.

The Senate Superfund bill, passed as an amendment to H.R. 2005, would authorize $7.5 billion for cleaning up abandoned hazardous waste sites and extend and expand this vital program for 5 more years. The Senate passed this bill by the overwhelming margin of 86 to 13.

The House of Representatives passed its version of the Superfund amendments, H.R. 2817, on December 10, 1985. The House also passed this measure by an overwhelming margin of 391 to 33.

I was an original cosponsor of that bill, which greatly expands and strengthens the Superfund Program while reauthorizing it for 5 years at a level of $10 billion, including $850 million for a leaking underground storage tank trust fund.

The conference committee on the Superfund bills, which formally began on February 26, 1986, is still laboring over this important legislation. It is my understanding that tentative agreement has been reached on virtually all of the programmatic differences in the two bills, but that the differences in funding approaches have yet to be reconciled.

As my distinguished colleagues are aware, the original Superfund taxing mechanism expired last September 30. This original Superfund was authorized at roughly $230 million per year. EPA is currently being funded under a $48 million fund that is being borrowed against anticipated future revenues. This emergency fund is expected to be exhausted by the end of this month. The Congress has the opportunity and the responsibility to end the uncertainty facing EPA in its efforts to clean up our Nation's abandoned hazardous waste sites. We therefore have an obligation to the people of this country to pass an improved and expanded Superfund Program before this Congress adjourns. If we are unable to pass the conference report soon, the much needed second stage of hazardous waste site cleanup will again be postponed, for perhaps another year, or even longer.

Prior to my appointment to the Senate this summer, I served on the Superfund Conference Committee as the senior Republican on the Committee on Energy and Commerce of the House of Representatives. I know from my association with the members of the Superfund Conference Committee that there is a consensus for the need for prompt action to strengthen our Nation's program to clean up hazardous waste dump sites. I urge the conference committee to move expeditiously to present their report to the Congress in time to ensure that action can be taken before the Congress adjourns this October.●

PROPOSED ARMS SALES

● Mr. LUGAR. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive formal notification of proposed arms sales under that act in excess of $50 million, or in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be reviewed. The provision stipulates that, in the Senate, the notification of proposed sales be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is available to the full Senate, I ask to have printed in the RECORD the notifications I have received. The classified annexes referred to in two of the covering letters are available to Senators in the office of the Foreign Relations Committee, SD-423.

The notifications follow:

DEFENSE SECURITY
ASSISTANCE AGENCY,
Washington, DC, September 12, 1986.

In reply refer to: I-13920/86ct.

Hon. RICHARD C. LUGAR,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, DC 20510

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 86-59 and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Navy's proposed Letter(s) of Offer to Greece for defense arti-

cles and services estimated to cost $43 million. Soon after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

You will also find attached a certification as required by Section 620C(d) of the Foreign Assistance Act of 1961, as amended, that this action is consistent with Section 620C(b) of that statute.

Sincerely,

PHILIP C. GAST,
Director.

[TRANSMITTAL NO. 86-59]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b)(1) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Greece

(ii) Total Estimated Value:

	Millions
Major defense equipment [1]	$34
Other	$9
Total	$43

[1] As defined in section 47(6) of the Arms Export Control Act.

(iii) Description of Articles or Services Offered: Thirty-two HARPOON missiles with containers and spare parts.

(iv) Military Department: Navy (ALD).

(v) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None.

(vi) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: See Annex under separate cover.

(vii) Section 28 Report: Case not included in Section 28 report.

(viii) Date Report Delivered to Congress: September 12, 1986.

POLICY JUSTIFICATION

GREECE—HARPOON MISSILES

The Government of Greece has requested the purchase of thirty-two HARPOON missiles with containers and spare parts. The estimated cost is $43 million.

This sale will contribute to the foreign policy and national security objectives of the United States by improving the military capabilities of Greece in fulfillment of its NATO obigations; furthering NATO rationalization, standardization, and interoperability; and enhancing the defense of the Western Alliance.

The Hellenic Navy will install these HARPOON missiles on its ships for additional defense against surface targets. These defense articles will be provided in accordance with, and subject to the limitation on use and transfer provided for under the Arms Export Control Act, as embodied in the terms of sale. This sale will not adversely affect either the military balance in the region or U.S. efforts to encourage a negotiated settlement of the Cyprus question. Greece will have no difficulty absorbing these missiles into its armed forces.

The prime contractor will be the McDonnell Douglas Astronautics Company of St. Louis, Missiouri.

Implementation of this sale will not require that assignment of any additional U.S. Government or contractor personnel to Greece.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

U.S. DEPARTMENT OF STATE, UNDER SECRETARY OF STATE FOR SECURITY ASSISTANCE, SCIENCE AND TECHNOLOGY,
Washington, DC, September 11, 1986.

Pursuant to Section 620C(d) of the Foreign Assistance Act of 1961, as amended (the Act), and the authority vested in me by Deparmtent of State Delegation of Authority No. 145, I hereby certify that the provision to Greece of 32 Harpoon missiles and spares at an estimated cost of $43 million, is consistent with principles contained in Section 620C(b) of the Act.

This certification will be made part of the certification to the Congress under Section 36(b) of the Arms Export Control Act regarding the proposed sale of the abovenamed articles and is based on the justification accompanying said certification, and of which such justification constitutes a full explanation.

WILLIAM SCHNEIDER, Jr.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, DC, September 12, 1986.

In reply refer to: I-13919/86ct.

Hon. RICHARD C. LUGAR,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, DC

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 86-58 and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Navy's proposed Letter(s) of Offer to the Netherlands for defense articles and services estimated to cost $37 million. Soon after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

PHILIP C. GAST,
Director.

[TRANSMITTAL NO. 86-58]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b)(1) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: The Netherlands

(ii) Total Estimated Value:

	Millions
Major defense equipment [1]	$29
Other	8
Total	37

[1] As defined in Section 47(6) of the Arms Export Control Act.

(iii) Description of Articles or Services Offered: Twenty-five HARPOON missiles with containers, one HARPOON exercise section and spare parts.

(iv) Military Department: Navy (AES).

(v) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None.

(vi) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: See Annex under separate cover.

(vii) Section 28 Report: Case not included in Section 28 report.

(viii) Date Report Delivered to Congress: September 12, 1986.

POLICY JUSTIFICATION

NETHERLANDS—HARPOON MISSILES

The Government of the Netherlands has requested the purchase of twenty-five HARPOON Missiles with containers, one HARPOON exercise section and spare parts. The estimated cost is $37 million.

This sale will contribute to the foreign policy and national security objectives of the United States by improving the military capabilities of the Netherlands; furthering NATO rationalization, standardization, and interoperability; and enhancing the defense of the Western Alliance.

The Government of the Netherlands plans to install the HARPOON missile system on eight new M Class frigates, which will improve the firepower of the Netherlands Navy and enhance its role in NATO. The HARPOON missile is presently in the Netherlands inventory; therefore, it will have no difficulty absorbing these additional missiles.

The sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be the McDonnell Douglas Astronautics Company of St. Louis, Missouri.

Implementation of this sale will not require the assignment of any additional U.S. Government or contractor personnel to the Netherlands.

There will be no adverse impact on U.S. defense readiness as a result of this sale.●

THE IMPORTANCE OF SECOND HOMES TO IDAHO

● Mr. SYMMS. Mr. President, I would like to include in the RECORD a copy of an article from the South Florida Business Journal sent to me by the American Resort and Residential Development Association. The article points out the importance of American vacations as a growth industry for second home markets in areas like Idaho.

Recreation has become a very important part of the American lifestyle. Second homes are no longer for the extremely wealthy. Second homes provide jobs for States like Idaho with vast natural beauty. Individuals seeking relief from city fatigue find Idaho's forests, streams, lakes, and mountains a refuge.

In the north Idaho Panhandle city of Coeur D'Alene, with its picturesque lake and beautiful mountains, a significant number of persons who were previously visitors or second home owners have taken up permanent residence. In an area such as Coeur D'Alene, 1,000 homes mean about 300 new jobs.

A study by Economic Research Associates shows that the income brought into the local economy by these seasonal visitors has a multiplier effect that expands the local economy.

Because they tend to be located in premium locations, second homes account for a significant portion of assessed values in a community. The taxes on these homes make them supporters of schools and other public services. At the same time, because these are vacation homes, recreation opportunities expand for the community.

In Idaho, out of a total of 44 counties, second homes number more than 20 percent of the total homes in 10 counties, between 10 and 20 percent in

7 counties and between 5 and 10 percent in 15 counties.

For example, in Kootenai County, ID—where Coeur D'Alene is located—15 percent of all units are nonprimary houses. For those wondering about whether second homes provide any benefit other than a retreat for the rich, I suggest they read this article.

The article follows:

[From the South Florida Business Journal, June 23-29, 1986]

VACATION OWNERSHIP GROWING IN POPULARITY

(By Kenneth V. Knight)

In the decades since World War II ended, leisure has become a big business. Family vacations are more frequent and people take for granted that they will use vacation time to travel to resort destinations.

And they travel more frequently. Our average member family takes several vacations each year. Some may be a few weeks, others a few days—but all of them involve travel and a choice of destination.

This is a startling contrast to a time not so long ago when vacation was the two weeks of summer when the family rented a bungalow not far from home, took along the electric fan and tried to cool off without air conditioning.

Florida in winter was only for the super rich and ski vacations hadn't been invented.

Two-car families were so rare that few Americans actually knew one and more families had no car at all than the number of families that owned one.

Part of the leisure explosion has been a new form of vacationing: Vacation ownership.

Today, more than 1 million American families own their vacations. They don't have to rent them because they bought them. And they didn't just buy a resort that took their fancy and then found they had to go back to it forever.

They bought into a system that allows them to exchange the vacation they own for vacations in hundreds of other resorts located not only in the U.S.A. but around the world in more resort destinations than anyone will ever visit in a lifetime.

It's called time sharing or interval ownership. It's vacations that are owned outright, vacations that take the form of long-term, right-to-use privileges, vacations offered in the form of club membership.

The forms vary but the results are similar: Vacation cost is locked in by purchase and the exchange privilege is the icing on the cake.

Vacation ownership sales already exceed a cumulative total of $10 billion and are growing every year. In 1986, the sales volume will come close to $2 billion.

Begun as a small endeavor by small resorts, vacation ownership has come of age as corporate giants such as Marriott, Disney, and ITT enter the arena. Its future appears to be unlimited in a nation where the use of leisure time is a subject of consuming interest.

An exchange company such as Interval International has a special vantage point from which to see the vacation ownership industry. With specific interests in no single resort but acute interest in all resorts, we are keenly concerned with two aspects of the industry.

The first, of course, is the strength of the industry itself. Its general health, the picture it presents to the public with which it deals—consumers, financial industry, regulators, exchange companies such as ours. How it appears poised for future growth and expansion. The willingness of experienced developers to take on new projects—and the interest of developers who up to now have not been part of the industry, to take an active role in its growth.

The second is the strength of the product. And by the product I mean more than the four walls and the furnishings and decor the customer is buying.

I mean the total product. That includes the real estate both inside and outside and, equally important, it includes the sales and marketing, the management and the promises held out to every buyer.

How does the industry rate for strength? We think it is very healthy. Healthier, in fact, than was the case one or two years ago.

Why?

Because we see it as a growth industry that is coming to terms with its own growth; an industry that is maturing in its outlook and its approach on the business it is in; an industry which has demonstrated a real willingness to face up to its problems and attempt to solve them; an industry which is attracting a steadily higher and more capable level of professionalism in all its dealings; an industry which sees the needs of long-term planning and achievement as opposed to the short-term, get in and get out philosophy which prevailed not too long ago.

When it comes to product, we see what is literally a quality explosion in design, in facilities and in amenities.

The new product coming on line is highly visible evidence of an industry that sees the need to make product quality a keystone of its future success.

Obviously, this is highly meaningful not only to the vacation owners who will buy that new product, but also to the previous generation of owners who will have these new resorts available to them as exchange destinations.

Beyond the intrinsic quality in the physical product, we see a major upgrading of all the elements that go into the sale of vacation ownership. The entire marketing approach and strategy is reflective of this new level of quality in the industry.

Perhaps most significant of all is the degree of attention being paid to ongoing project management and the increased professionalism of the approach being made to it.

This is the litmus test of owner satisfaction—providing the kind of management that will make the sales promise come true, year after year, vacation after vacation.

It's what makes for owner referrals of new customers, the goal of every vacation ownership marketing operation. And it is what burnishes the public image of what is still a new and evolving industry.

At Interval International, we have a tool we call Consumer Satisfaction Index or CSI. We use it to produce a detailed profile of what our members who exchange resorts see when they get to their destinations, the kinds of vacation experiences they have and what their opinion of their own and the exchange resort is.

These thousands of responses from the people most basically involved in vacation ownership give us both a macro and a micro perspective on the opinions that carry the most weight and we rely on them heavily day in and day out in our own operations.

I think it is accurate to say that we are pleased with the health of the industry.

We recognize it takes more dollars to get into the industry and more effort to make it profitable for the developer—but we see clearly that this is resulting in a better product in all its varied aspects and that is good both for the industry and for the consumers who buy its products.

We believe vacation ownership is only on the threshold of its real growth. Futurists tell us that the years 1990 to 1995 will be the greatest single five-year period in the history of this country for the purchase of homes, based on the existing demographics.

It seems reasonable to conclude that these families will be in the vacation market to the same extent.

Based on the dynamics of that kind of marketplace, vacation ownership should share in this growth and become more widespread and popular than ever before.●

A SALUTE TO THE JOHN W. LITTLE CO.

● Mr. CHAFEE. Mr. President, on September 21, 1886, 25-year-old John W. Little of Pawtucket, RI, founded a company bearing his name to "carry on the printing and publishing business of every description."

If time is any indication, the John W. Little Co. carried on well because this Sunday, September 21, marks the 100th anniversary of its founding. It gives me great pleasure today to recognize and congratulate current company president Stevan Little and his employees, and the entire Little family, on this notable milestone.

It was only appropriate that John W. Little established his company—the first all-electric printing company in the United States—in the city of Pawtucket. After all, the American Industrial Revolution was born in Pawtucket, when Englishman Samuel Slater built our country's first cotton textile mill on the Blackstone River.

By assembling a large assortment of new type and modern, fast power presses in 1886, Little was thus carrying on Pawtucket's and Rhode Island's fine tradition of industrial innovation. This tradition was continued upon incorporation of the company in 1923, when company secretary John W. Little, Jr., received national recognition of his invention of the process of printing on cellophane.

With a steady payroll of 60 employees, Mr. President, the John W. Little Co. obviously provides a boost to Pawtucket's economy. The company, however, was not John Little's only contribution to the city. He was active in civic and community affairs throughout his life, receiving an appointment as Postmaster of the city of Pawtucket from President William Howard Taft and serving for many years as chairman of the Pawtucket School Committee until his sudden death in 1922.

For its many contributions to Pawtucket and Rhode Island, and for its many innovations in the printing industry, I ask my Senate colleagues to

join me in congratulating the John W. Little Co. on its 100th anniversary.●

UNITED STATES MUST STAND BY ITS NONRECOGNITION POLICY

● Mr. REIGLE. Mr. President, today's Washington Post carries a front-page article entitled "U.S.-Soviet Officials Clash Over Daniloff Case at Talks." Reporting on the opening day of a major conference on United States-Soviet relations taking place in Soviet-occupied Latvia, the article quotes senior White House adviser Jack Matlock as telling the 2,200 delegates attending the conference:

The use of force and the absence of freely given consent are the reasons the United States has never recognized and will never recognize the legality of the forcible incorporation of Latvia, Lithuania and Estonia into the Soviet Union.

Last week, I was joined by Senators HATCH, KERRY, GORE, PRYOR, and SIMON in sending a letter to Secretary Shultz, urging that an official statement be issued at the conference, underscoring official United States policy of not recognizing the illegal Soviet occupation of Latvia, Lithuania, and Estonia.

For those of us who are concerned that the United States not abandon its nonrecognition policy with respect to the Baltic States, it is reassuring that the administration, on the first day of the conference, made a point of restating its support for that long-standing United States policy.

Mr. President, I ask that the text of the letter which was sent to Secretary Shultz on September 12 be printed at this point in the record.

The text of the letter follows:

U.S. SENATE,
Washington, DC, September 12, 1986.

Hon. GEORGE P. SHULTZ,
Secretary of State, Washington DC.

DEAR SECRETARY SHULTZ: We are concerned about the possible participation of U.S. government officials in the Chautauqua sponsored conference, which is scheduled to take place from September 15 to September 19 in the capital city of Riga in Soviet-occupied Latvia.

We appreciate that American citizens are interested in promoting the type of dialogue and debate with Soviet citizens which will occur at the conference in Latvia. However, we are concerned that the participation of U.S. government officials in such a conference could compromise the non-recognition policy which our government has maintained since the illegal Soviet occupation of the Baltic states began more than forty-five years ago.

It is our understanding that our current non-recognition policy prohibits most U.S. government officials from going to any of the Baltic states. So that we may be assured of continued U.S. adherence to his policy, we respectfully request that you provide us with an explanation of how the Administration has reconciled the non-recognition policy with the participation of U.S. officials in this conference.

We understand that in light of the Soviet Union's arrest and imprisonment of Nicholas Daniloff, the conference may be postponed. However, we believe that if the conference does take place, an official statement from the Administration underscoring this nation's continued refusal to recognize the illegal Soviet occupation of Estonia, Latvia and Lithuania would be in order.

While we do not wish to stand in the way of exchanges between the U.S. and the Soviet Union, we believe it is critically important that our government continue to abide by our non-recognition policy.

Sincerely,

DONALD W. RIEGLE, Jr.
ORRIN G. HATCH.
ALBERT GORE.
PAUL SIMON.
JOHN F. KERRY.
DAVID PRYOR.●

TELEVISION VIOLENCE

● Mr. SIMON. Mr. President, one of the decisions that we have yet to make in this Congress is how we can deal with the problem of violence on our television sets and still do it within a free system.

At hearings on the question of television violence, Dr. William Dietz, who was both an M.D. and a Ph.D. spoke on behalf of the American Academy of Pediatrics on the problem.

His testimony was so outstanding that I ask that it be printed in the RECORD.

I have introduced a bill cosponsored by Senators THURMOND, METZENBAUM, HEFLIN, DECONCINI, DENTON and SIMPSON. That bill would permit the television networks, the independent stations, the cable industry, and the programmers to get together to establish standards without violating the antitrust laws.

It does not mandate anything.

That step seems to me to be a sensible one.

I have to believe that when the evidence is so overwhelming—from the National Institute of Mental Health, the Surgeon General of the United States, the American Academy of Pediatrics, the American Psychological Association—warning us that we have a problem, a free system of government ought to be able to figure out a sensible way of solving this without censorship.

We cannot remain helpless in addressing a situation about which studies overwhelmingly show there is a significant problem.

I urge my colleagues to read the testimony of Dr. Dietz.

The testimony follows:

TESTIMONY BEFORE THE JUDICIARY COMMITTEE OF THE U.S. SENATE, JUNE 20, 1986

(By William H. Dietz, Jr., M.D., Ph.D.)

My name is William H. Dietz. I am a pediatrician. I currently serve as Chairman of the American Academy of Pediatrics Task Force on Children and Television. It is a great pleasure for me, and an honor to the Academy, to be invited to address you on the subject of television violence.

Two observations indicate that children learn readily from television. First, thousands of school-age American children have learned to spell relief R-O-L-A-I-D-S. Second, next to Santa Claus, Ronald McDonald is the man most widely recognized by children in the United States.

Children also learn about violence from television. Violence is defined as "the overt expression of physical force against others or self, or the compelling of action against one's will on pain of being hurt or killed". Televised episodes that meet this criterion have doubled since 1980, and now occur approximately 13 times per hour during prime time television. Televised violence averages over 20 episodes an hour during cartoons, and in some cases, occurs over 50 times per hour. Because the average child in the United States watches 20-25 hours of television a week, even a conservative estimate suggests that an average American child sees over 12,000 violent acts/year on television. If children can learn about Rolaids and Ronald McDonald from commercials that they see 3 or 4 times a day, they surely can learn from violence that they see 200 times a day. Therefore, it is hardly surprising that three thousand published articles, several Senate hearings, the 1972 Surgeon General's Report, and the 1982 Report of the National Institute of Mental Health have indicated a causal linkage between televised violence and aggressive or violent behavior in children and adolescents.

The effects of such repeated exposure to violence affects the behavior of children in several important ways. First, children and adolescents imitate violence on television. Following a televised version of the New Bedford pool hall rape, a twelve year old boy sexually assaulted a ten year old girl on a pool table. Likewise 16 suicides by Russian roulette occurred after a similar scene in the "Deerhunter" was televised. Second, children identify with televised characters. Because the "good guys" are responsible for at least as much violence as the "bad guys", the use of violence to attain socially approved goals is implicitly endorsed. Third, the violence on television is clean. The protracted hospitalization, suffering, rehabilitation and long term physical and emotional consequences are rarely considered. Televised violence therefore appears to offer an acceptable and rapid means of conflict resolution without negative consequences. Fourth, repeated exposure to violence creates an indifference to its practice.

The Academy of Pediatrics has met with television writers, producers, directors, and executives, many of whom are also parents. Almost without exception, they are concerned about the effects of television on children and adolescents.

However, television is a business. Children and adults are attracted by action and suspense. That which attracts viewers also attracts sponsors. Since the National Radio Act of 1927, the airwaves have been considered a public resource, to be used to serve the public interest. The American Academy of Pediatrics contends that violent television serves sponsors, not the children of this country. Violent television is not in the public interest.

An equal responsibility for what children see on television rests with parents. We believe that parents must monitor the programs their children see, that parents should watch television with their children, and help them interpret what they observe. We believe further that visions of life on television are a poor substitute for direct ex-

perience and that television time should be reduced. Nonetheless, the epidemic of toy based programs, otherwise known as program length commercials, and the widespread violence that occurs in both cartoons and prime time programming offers even the most responsible parent almost no alternative.

The Academy of Pediatrics strongly supports Senator Simon's proposals (S. 2322, S. 2323). We believe that an exclusive focus on self-regulation by the television industry will not resolve the problem of televised violence. For example, the extensive attention to violence in the code of National Association of Broadcasters sanitized violence and used it to show that crime does not pay. Paradoxically, because clean violence is now practiced by television heroes, children learn that violence is effective, acceptable, and without disadvantage. Therefore, the NAB code may have increased rather than reduced the likelihood of violence that the code was designed to prevent.

In conclusion, the American Academy of Pediatrics believes that it is essential to reduce the exposure of American children to televised violence. The solution requires two elements. First, parents must monitor the television programs their children view. Second, broadcasters must offer choices that include nonviolent programming that is of educational and instructional benefit to children and adolescents. Senator Simon's proposed legislation represents the first important step in this direction.●

CONGRATULATING FOUR NORTH CAROLINA PRIMARY SCHOOLS FOR OUTSTANDING ACHIEVEMENT

● Mr. BROYHILL. Mr. President, this past Friday, on September 12, four schools from my State of North Carolina had the destinction of being recognized for outstanding achievement. These schools were recognized by Secretary Bennett as four of 270 of the best grammar schools in the country and invited to participate in the Department of Education's Primary School Recognition Program. The principals representing these schools attended a special address given by President Reagan in the Rose Garden of the White House. The Secretary of Education also addressed the school representatives in an all day conference.

These four schools, Brevard Elementary in Brevard, Ira B. Jones Elementary in Asheville, Park View Elementary in Mooresville, and W.G. Pearson Elementary in Durham—including their staffs, faculty, students, and the communities should be extremely proud. Schools like theirs are outstanding examples of the solid education that the young people in this country are receiving.

The awards were based primarily on how well the schools used resources at their disposal and how well they met the needs of particular students. There was special emphasis on student achievement in reading and mathematics, and on the school's record of overcoming obstacles and sustaining progress. Schools were considered on the basis of the overall school quality in respect to programs, practices, and policies.

These schools being honored by the Department of Education have helped their students develop the fundamentals of learning early on. First rate elementary schools are one of America's most precious resources. They are also the largest component of American education. We must continue striving to provide our grammar students with the best foundation possible so that they will continue to learn and contribute toward this country's future. America's youth are her future.●

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS

● Mr. RUDMAN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in a programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee has received a request for a determination under rule 35, for Mrs. Mary McGuire, a member of the staff of Senator FRANK H. MURKOWSKI, to participate in a program in the Republic of Turkey, sponsored by the Turkish Foreign Policy Institute, from August 30 to September 7, 1986.

The committee has determined that participation by Mrs. McGuire in the program in Turkey, at the expense of the Turkish Foreign Policy Institute, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Ms. Margaret M. Hunt, a member of the staff of Senator JEREMIAH DENTON, to participate in a program in South Korea, sponsored by the Ilhae Institute in Seoul, Korea, from August 24 to September 1, 1986.

The committee has determined that participation by Ms. Hunt in the program in South Korea, at the expense of the Ilhae Institute in Seoul, Korea, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Ms. Carrie McMillan, a member of the staff of Senator MARK O. HATFIELD, to participate in a program in the Republic of Turkey, sponsored by the Turkish Foreign Policy Institute, from August 30 to September 7, 1986.

The committee has determined that participation by Ms. McMillan in the program in Turkey, at the expense of the Turkish Foreign Policy Institute, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. Ed Long, a member of the staff of Senator TOM HARKIN, to participate in a program in South Korea, sponsored by the Ilhae Institute in Seoul, Korea, from August 24 to September 1, 1986.

The committee has determined that participation by Mr. Long in the program in South Korea, at the expense of the Ilhae Institute in Seoul, Korea, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Ms. Heather Wicke, a member of the staff of Committee on Environment and Public Works, to participate in a program in Taipei, Taiwan, sponsored by Soochow University, from August 16 to August 25, 1986.

The committee has determined that participation by Ms. Wicke in the program in Taipei, Taiwan, at the expense of the Soochow University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. Robert F. Hurley, a member of the staff of Senator JOHN H. CHAFEE, to participate in a program in Taipei, Taiwan, sponsored by Soochow University, from August 16 to August 25, 1986.

The committee has determined that participation by Mr. Hurley in the program in Taipei, Taiwan, at the expense of Soochow University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. Tim Roemer, a member of the staff of Senator DENNIS DECONCINI, to participate in a program in South Korea, sponsored by the Ilhae Institute in Seoul, Korea, from August 24 to September 2, 1986.

The committee has determined that participation by Mr. Roemer in the program in South Korea, at the expense of the Ilhae Institute in Seoul, Korea, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. Gregg Willhauck, a member of the staff of Senator JAMES A. MCCLURE, to participate in a program in South Africa, sponsored by the South Africa Foundation, from August 22 to September 2, 1986.

The committee has determined that participation by Mr. Willhauck in the program in South Africa, at the expense of the South Africa Foundation, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. Claude Allen, a member of the staff of the Foreign Relations

Committee, to participate in a program in South Africa, sponsored by the South Africa Foundation, from August 22 to September 2, 1986.

The committee has determined that participation by Mr. Allen in the program in South Africa, at the expense of the South Africa Foundation, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. Kent Talbert, a member of the staff of Senator STROM THURMOND, to participate in a program in South Africa, sponsored by the South Africa Foundation, from August 22 to September 2, 1986.

The committee has determined that participation by Mr. Talbert in the program in South Africa, at the expense of the South Africa Foundation, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. Stephen Smith, a member of the staff of Senator PAUL SIMON, to participate in a program in South Korea, sponsored by the Ilhae Institute in Seoul, Korea, from August 24 to September 1, 1986.

The committee has determined that participation by Mr. Smith in the program in South Korea, at the expense of the Ilhae Institute in Seoul, Korea, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. Michael Tongour, a member of the staff of Senator STROM THURMOND, and Ms. Jean Carroll, a member of the staff of Senator FRANK H. MURKOWSKI, to participate in a program in South Korea, sponsored by the Ilhae Institute in Seoul, Korea, from August 24 to September 1, 1986.

The committee has determined that participation by Mr. Tongour and Ms. Carroll in the program in South Korea, at the expense of the Ilhae Institute in Seoul, Korea, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. John Walsh, a member of the staff of the International Finance and Monetary Policy Subcommittee, to participate in a program in South Africa, sponsored by the South Africa Foundation, from August 22 to September 2, 1986.

The committee has determined that participation by Mr. Walsh in the program in South Africa, at the expense of the South Africa Foundation, was in the interest of the Senate and the United States.●

NAUM AND INNA MEIMAN: LIVE AND LET LIVE

● Mr. SIMON. Mr. President, this past week, I received word that two Soviets who are married to Americans will be allowed to join their spouses in the West. I welcome this development and extend my congratulations to Roman Kuperman and Fran Pergericht of Chicago, IL and Tamara Tretyakova and Simon Levin of Deerfield, IL.

Not quite as fortunate is a couple, Naum and Inna Meiman, of Moscow. They have been waiting more than a decade for permission to emigrate to the West.

Inna has been stricken with cancer of the spine. Unfortunately, the Soviets tell her that there is nothing more that they can do. Still, experimental treatment exists in the West, if only the Soviets will allow Inna the chance to obtain it. The Soviets continue to hold the Meimans, offering no effective medical assistance.

I strongly urge the Soviets to allow the Meimans to emigrate to Israel.●

ABORTION AND INFORMED CONSENT: CALIFORNIA

● Mr. HUMPHREY. Mr. President, in a letter from Lauren in California, we observe once again what happens when women are not given sufficient information when faced with an unplanned pregnancy. The letters I receive repeatedly illustrate too many examples of women who are given a view of abortion which underestimates and misrepresents both the abortion procedure and its consequences. It is time that we properly inform women about the nature and risks of abortion.

Like many women who have had an abortion, Lauren has taken years to heal from the trauma. Like millions of American women who have sought abortions, she was inadequately prepared for the abortion because she had not been given enough information to make an intelligent decision. She was not told of the physical risks, much less the emotional ones. No one told her that many women feel an overwhelming sense of loss after an abortion.

Therefore, she justly feels that she was betrayed by her counselors. And she was. She points out that she was subtly directed to opt for abortion in a vulnerable time in her life. She should have been given the full scope of information regarding adoption and parenting, rather than being manipulated into opting for abortion. One wonders why this conspiracy or silence continues amidst pleas for informed consent.

I hope my colleagues will join me in cosponsoring S. 2791. The reason I have proposed this legislation is that it is needed to protect women from unscrupulous counselors who do not keep their best interests in mind.

The letter follows:

DEAR SENATOR: I am writing this letter as an encouragement to you in your fight to give women a real CHOICE by giving them "informed consent" prior to abortion.

I am a woman who experienced firsthand the turmoil of an unplanned pregnancy followed by the emotional and psychological trauma which accompanies abortion. I am able to say to you that after years of working through my abortion experience, I believe that had I been told the "choice" I was making would result in the painful death of my child as well as subsequent emotional and psychological problems that would require attention as a result of my "choice," I never would have had the abortion.

In my so-called counselling session, I was manipulated by carefully worded questions made to imply that I was not capable of mothering a child at that time; that there would be virtually no help from my family or friends; that my husband couldn't get a job and we'd never be able to pay the rising OB-GYN costs, let alone feed and care for an infant . . . etc., etc. NO INFORMATION was given about fetal development, possible physical complications or even the actual abortion procedure. NOTHING.

I am convinced after counselling with many other women in post-abortion trauma that abortion itself is completely alien to the thinking process of the female, and that we can not participate in any way in the death of our own children without suffering psychological problems.

Before a woman can be truly "free" to make her own "choice," she MUST make a decision based on factual information about ALL the aspects of abortion, adoption and parenting as well.

Again, thank you, Senator Humphrey, for standing up for womanhood and our RIGHT to INFORMED CONSENT, which will truly give us the freedom of choice.

For the Children's sake and for mine,

Thank you,

LAUREN PLATZ,
Pinole, CA.●

PROGRAM

Mr. DOLE. Mr. President, it is my hope that in the morning—we are going to come in at 9:30—at 10:30 maybe get on the DOT appropriations bill. If we can do that, then it would be my intention to postpone the cloture vote on the Rehnquist nomination until 3 p.m. We would have 1 hour of debate starting at 2, have the cloture vote at 3, and then as previously discussed with the distinguished minority leader, if cloture is invoked, I would assume there could be an hour or two more of debate but hopefully finish.

We will have final disposition of both the Rehnquist nomination and the Scalia nomination before this window we are going to have tomorrow evening because we indicated to a number of our colleagues that from about 6 to 8 there would be a window because they have other obligations.

Mr. BYRD. Mr. President, I do not think the distinguished majority leader will have any problem in calling up the transportation appropriations bill by unanimous consent tomorrow morning. There is one Senator with whom I would like to clear that. He is

not here this evening. I am confident that he will have no objection. But I think the distinguished majority leader has announced his intention to try to call up that bill. If it is agreed to by unanimous consent that the bill be called up, then we will proceed to delay the cloture vote under rule XXII, which would otherwise occur at around 10:30 to 11 o'clock if the majority leader brings us in around 9:30. That would seem to be a satisfactory resolution of the matter at this time.

I feel that the prospects are reasonably good for a final vote on the Rehnquist nomination tomorrow by 5 p.m., if not before, in the event cloture is invoked, and that a vote in all likelihood would occur then within an hour on the Scalia nomination.

Mr. DOLE. Mr. President, I would indicate that I have cleared this with the distinguished chairman of the Judiciary Committee and the distinguished ranking member, Senator BIDEN, that there would be no waste of time there because we would be on an appropriations bill and perhaps we could conclude action on that by 2 o'clock. If not, we would take it up after the disposition of the Scalia nomination.

We would hope we could complete that measure tomorrow evening.

GOVERNMENT SECURITIES DEALERS ACT

Mr. SIMPSON. Mr. President, after conferring with the Democratic leader, I ask unanimous consent that the Senate now turn to calendar item 876, S. 1416, the Government Securities Dealers Act.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1416) entitled the Government Securities Dealers Act of 1985.

The Senate proceeded to consider the bill which had been reported from the Committee on Banking, Housing, and Urban Affairs, with an amendment to strike out all after the enacting clause and insert the following:

SECTION 1. This Act may be cited as the "Government Securities Act of 1986".

SEC. 2. The Congress finds that—

(1) certain government securities brokers and dealers, which have previously been exempt from Federal regulation, have been engaging in activities inconsistent with the maintenance of fair and orderly markets; and

(2) in order to protect the public interest in the government securities markets, it is necessary to assure that government securities brokers and dealers are subject to adequate registration, financial responsibility, reporting, recordkeeping, and related regulatory requirements.

TITLE I—GOVERNMENT SECURITIES BROKERS AND DEALERS

SEC. 101. The Securities Exchange Act of 1934 is hereby amended by inserting after section 15B (15 U.S.C. 78o-4) the following new section:

"GOVERNMENT SECURITIES BROKERS AND DEALERS

"SEC. 15C. (a)(1)(A) It shall be unlawful for any government securities broker or government securities dealer (other than a registered broker or dealer, a financial institution, or a primary dealer) to make use of the mails or any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any government security unless such government securities broker or government securities dealer is registered in accordance with paragraph (2) of this subsection.

"(B) It shall be unlawful for any government securities broker or government securities dealer that is a registered broker or dealer, a financial institution, or a primary dealer to make use of the mails or any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any government security unless such government securities broker or government securities dealer has given the appropriate regulatory agency written notice that it is a government securities broker or government securities dealer. When a government securities broker or government securities dealer ceases to act as such it shall file with the appropriate regulatory agency a written notice that it is no longer acting as a government securities broker or government securities dealer. Such notices shall be in such form and contain such information concerning such government securities broker or government securities dealer and any persons associated with such government securities broker or government securities dealer as the appropriate regulatory agency for such government securities broker or government securities dealer may, by rule, prescribe as necessary or appropriate in the public interest or for the protection of investors. Each appropriate regulatory agency (other than the Commission) shall make available to the Commission notices which have been filed with it under this subparagraph, and the Commission shall maintain and make available to the public such notices and notices it receives under this subparagraph.

"(2) A government securities broker or a government securities dealer subject to the registration requirement of paragraph (1)(A) of this subsection may be registered by filing with the Commission an application for registration in such form and containing such information and documents concerning such government securities broker or government securities dealer and any persons associated with such government securities broker or government securities dealer as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of investors. Within forty-five days of the date of filing of such application (or within such longer period as to which the applicant consents), the Commission shall—

"(i) by order grant registration, or

"(ii) institute proceedings to determine whether registration should be denied. Such proceedings shall include notice of the grounds for denial under consideration and opportunity for hearing and shall be concluded within one hundred and twenty days of the date of the filing of the application for registration. At the conclusion of such proceedings, the Commission, by order, shall grant or deny such registration. The Commission may extend the time for the conclusion of such proceedings for up to ninety days if it finds good cause for such extension and publishes its reasons for so finding or for such longer period as to which the applicant consents.

The Commission shall grant the registration of a government securities broker or a government securities dealer if the Commission finds that the requirements of this section are satisfied. The Commission shall deny such registration if it does not make such a finding or if it finds that if the applicant were so registered, its registration would be subject to suspension or revocation under subsection (c) of this section.

"(3) Any provision of this title (other than section 5 or paragraph (1) of this subsection) which prohibits any act, practice, or course of business if the mails or any means or instrumentality of interstate commerce is used in connection therewith shall also prohibit any such act, practice, or course of business by any government securities broker or government securities dealer registered or having filed notice under paragraph (1) of this subsection or any person acting on behalf of such government securities broker or government securities dealer, irrespective of any use of the mails or any means or instrumentality of interstate commerce in connection therewith.

"(4) The Secretary of the Treasury (hereinafter referred to as the 'Secretary'), by rule or order, upon the Secretary's own motion or upon application, may conditionally or unconditionally exempt any government securities broker or government securities dealer, or class of government securities brokers or government securities dealers from any provision of subsections (a), (b), and (d) of this section or the rules thereunder, if the Secretary finds that such exemption is consistent with the public interest, the protection of investors, and the purpose of this title.

"(b)(1) The Secretary shall propose and adopt rules to effect the purposes of this title, including, in particular, prevention of fraud with respect to transactions in government securities effected by government securities brokers and government securities dealers. Such rules shall—

"(A) provide safeguards with respect to the financial responsibility and related practices of government securities brokers and government securities dealers including, but not limited to, capital adequacy standards, the acceptance of custody and use of customers' securities, the carrying and use of customers' deposits or credit balances, and the transfer and control of government securities in repurchase agreements and similar transactions;

"(B) require every government securities broker and government securities dealer to make and transmit reports to and furnish copies of records to the appropriate regulatory agency, and to file annually or more frequently a balance sheet and income statement certified by an independent public accountant, prepared on a calendar or fiscal year basis, and such other financial statements (which shall, as the Secretary specifies, be certified) and information concerning its financial condition with the appropriate regulatory agency; and

"(C) prescribe records to be made and kept by government securities brokers and gov-

ernment securities dealers and the periods for which such records shall be preserved.

"(2) In adopting rules under this section, the Secretary—

"(A) may appropriately classify government securities brokers and government securities dealers (taking into account relevant matters, including types of business done, nature of securities other than government securities purchased or sold, and character of business organization) and persons associated with government securities brokers and government securities dealers; and

"(B) may specify that all or any portion of such rules shall not be applicable to any such class.

"(3) The Secretary shall, prior to adopting rules under this section—

"(A) determine, with respect to government securities brokers and government securities dealers not registered or required to register under subsection (a)(1)(A) of this section, whether any or all of the rules or standards of the appropriate regulatory agency for such government securities broker or government securities dealer adequately meet the purposes of rules promulgated under this subsection and, if the Secretary so determines, the Secretary shall exempt any government securities broker or government securities dealer subject to such rules or standards from any or all of the rules promulgated under this subsection; and

"(B) consult with and consider the views of the Commission and the Board of Governors of the Federal Reserve System, except where the Secretary determines that an emergency exists requiring expeditious or summary action and publishes its reasons for such determination. If the Commission or the Board of Governors of the Federal Reserve System comments in writing on a proposed rule of the Secretary that has been published for comment, the Secretary shall respond in writing to such written comment before approving the proposed rule or proposed rule change.

"(4) No government securities broker or government securities dealer shall make use of the mails or any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any government security in contravention of any rule under this section.

"(c)(1) With respect to any government securities broker or government securities dealer registered or required to register under subsection (a)(1)(A) of this section—

"(A) The Commission, by order, shall censure, place limitations on the activities, functions, or operations, suspend for a period not exceeding twelve months, or revoke the registration of such government securities broker or government securities dealer, if it finds, on the record after notice and opportunity for hearing, that such censure, placing of limitations, suspension, or revocation is in the public interest and that such government securities broker or government securities dealer, or any person associated with such government securities broker or government securities dealer (whether prior or subsequent to becoming so associated), has committed or omitted any act or omission enumerated in subparagraph (A), (D), or (E) of paragraph (4) of section 15(b) of this title, has been convicted of any offense specified in subparagraph (B) of such paragraph (4) within ten years of the commencement of the proceedings under this paragraph, or is enjoined from any action, conduct, or practice specified in subparagraph (C) of such paragraph (4).

"(B) Pending final determination whether registration of any government securities broker or government securities dealer shall be revoked, the Commission, by order, may suspend such registration, if such suspension appears to the Commission, after notice and opportunity for hearing, to be necessary or appropriate in the public interest. Any registered government securities broker or registered government securities dealer may, upon such terms and conditions as the Commission may deem necessary in the public interest, withdraw from registration by filing a written notice of withdrawal with the Commission. If the Commission finds that any registered government securities broker or registered government securities dealer is no longer in existence or has ceased to do business as a government securities broker or government securities dealer, the Commission, by order, shall cancel the registration of such government securities broker or government securities dealer.

"(C) The Commission, by order, shall censure or place limitations on the activities or functions of any person associated, or seeking to become associated, with a government securities broker or government securities dealer registered or required to register under subsection (a)(1)(A) of this section or suspend for a period not exceeding twelve months or bar any such person from being associated with such a government securities broker or government securities dealer, if the Commission finds, on the record after notice and opportunity for hearing, that such censure, placing of limitations, suspension, or bar is in the public interest and that such person has committed or omitted any act or omission enumerated in subparagraph (A), (D), or (E) of paragraph (4) of section 15(b) of this title, has been convicted of any offense specified in subparagraph (B) of such paragraph (4) within ten years of the commencement of the proceedings under this paragraph, or is enjoined from any action, conduct, or practice specified in subparagraph (C) of such paragraph (4).

"(2) With respect to any government securities broker or government securities dealer which is not registered or required to register under subsection (a)(1)(A) of this section, the appropriate regulatory agency for such government securities broker or government securities dealer may, in the manner and for the reasons specified in section 15(b)(4) of this title, censure, place limitations on the activities, functions, or operations of, suspend for a period not exceeding twelve months, or bar from acting as a government securities broker or government securities dealer any such government securities broker or government securities dealer, and may sanction any person associated with such government securities broker or government securities dealer in the manner and for the reasons specified in section 15(b)(6) of this title. In addition, where applicable, such appropriate regulatory agency may, in accordance with section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), section 5 of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464), or section 407 of the National Housing Act (12 U.S.C. 1730), enforce compliance by such government securities broker or government securities dealer or any person associated with such government securities broker or government securities dealer with the provisions of this section and the rules thereunder. For purposes of the preceding sentence, any violation of any such provision shall constitute adequate basis for the issuance of any order under section 8(b) or 8(c) of the Federal Deposit Insurance Act, section 5(d)(2) or 5(d)(3) of the Home Owners' Loan Act of 1933, or section 407(e) or 407(f) of the National Housing Act, and the customers of any such government securities broker or government securities dealer shall be deemed, respectively, 'depositors' as that term is used in section 8(c) of the Federal Deposit Insurance Act, 'savings account holders' as that term is used in section 5(d)(3) of the Home Owners' Loan Act of 1933, or 'insured members' as that term is used in section 407(f) of the National Housing Act. Nothing in this paragraph shall be construed to affect in any way the powers of such appropriate regulatory agency to proceed against such government securities broker or government securities dealer under any other provision of law. Each appropriate regulatory agency (other than the Commission) shall promptly notify the Commission after it has imposed any sanction under this paragraph on a government securities broker or government securities dealer, or a person associated with a government securities broker or government securities dealer, and the Commission shall maintain, and make available to the public, a record of such sanctions and any sanctions imposed by it under this subsection.

"(3) It shall be unlawful for any person as to whom an order entered pursuant to paragraph (1) or (2) of this subsection suspending or barring him from being associated with a government securities broker or government securities dealer is in effect willfully to become, or to be, associated with a government securities broker or government securities dealer without the consent of the appropriate regulatory agency, and it shall be unlawful for any government securities broker or government securities dealer to permit such a person to become, or remain, a person associated with it without the consent of the appropriate regulatory agency, if such government securities broker or government securities dealer knew, or, in the exercise of reasonable care should have known, of such order.

"(d)(1) All records of government securities brokers and government securities dealers are subject at any time, or from time to time, to such reasonable periodic, special, or other examinations by representatives of the appropriate regulatory agency for such government securities broker or government securities dealer as such appropriate regulatory agency deems necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this title.

"(2) Information received by any appropriate regulatory agency or the Secretary from or with respect to any government securities broker or government securities dealer or with respect to any person associated therewith may be made available by the Secretary or the recipient agency to the Commission, the Secretary, any appropriate regulatory agency, and any self-regulatory organization.

"(e)(1) It shall be unlawful for any government securities broker or government securities dealer registered or required to register with the Commission under subsection (a)(1)(A) to effect any transaction in, or induce or attempt to induce the purchase or sale of, any government security, unless such government securities broker or government securities dealer is a member of a national securities exchange registered under section 6 of this title or a securities

association registered under section 15A of this title.

"(2) The Commission, after consultation with the Secretary, by rule or order, as it deems consistent with the public interest and the protection of investors, may conditionally or unconditionally exempt from paragraph (1) of this subsection any government securities broker or government securities dealer or class of government securities brokers or government securities dealers specified in such rule or order.

"(f)(1) Nothing in this section except paragraph (2) shall be construed to impair or limit the authority under any other provision of law of the Commission, the Secretary of the Treasury, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, the Federal Savings and Loan Insurance Corporation, the Secretary of Housing and Urban Development, and the Government National Mortgage Association.

"(2) Notwithstanding any other provision of this title, the Commission shall not have any authority to make investigations of, require the filing of a statement by, or take any other action under this title against a government securities broker or government securities dealer, or any person associated with a government securities broker or government securities dealer, for any violation or threatened violation of the provisions of this section or the rules or regulations thereunder, unless the Commission is the appropriate regulatory agency for such government securities broker or government securities dealer. Nothing in the preceding sentence shall be construed to limit the authority of the Commission with respect to violations or threatened violations of any provision of this title other than this section, or the rules or regulations under any such other provision.".

TITLE II—CONFORMING AMENDMENTS

PART A—CONFORMING DEFINITIONS

SEC. 201. (a) DEFINITION OF APPROPRIATE REGULATORY AGENCY.—Section 3(a)(34) of the Act is amended—

(1) by inserting after paragraph (F) thereof the following new paragraph:

"(G) When used with respect to a government securities broker or government securities dealer, or person associated with a government securities broker or government securities dealer:

"(i) the Comptroller of the Currency, in the case of a national bank, a bank in the District of Columbia examined by the Comptroller of the Currency, or a Federal branch or Federal agency of a foreign bank (as such terms are defined in the International Banking Act of 1978);

"(ii) the Board of Governors of the Federal Reserve System, in the case of a State member bank of the Federal Reserve System, a primary dealer (regardless of whether such primary dealer is a person of a type specified in any other clause of this subparagraph), a foreign bank, a State branch or a State agency of a foreign bank, or a commercial lending company owned or controlled by a foreign bank (as such terms are defined in the International Banking Act of 1978);

"(iii) The Federal Deposit Insurance Corporation, in the case of a bank insured by the Federal Deposit Insurance Corporation (other than a member of the Federal Reserve System or a Federal savings bank);

"(iv) the Federal Home Loan Bank Board, in the case of a Federal savings and loan association, Federal savings bank, or District of Columbia savings and loan association;

"(v) the Federal Savings and Loan Insurance Corporation, in the case of an institution insured by the Federal Savings and Loan Insurance Corporation (other than a Federal savings and loan association, Federal savings bank, or District of Columbia savings and loan association);

"(vi) the Commission, in the case of all other Government securities brokers and Government securities dealers."; and

(2) by inserting ", and the term 'District of Columbia savings and loan association' means any association subject to examination and supervision by the Federal Home Loan Bank Board under section 8 of the Home Owners' Loan Act of 1933" before the period ending the last sentence thereof.

(b) DEFINITION OF STATUTORY DISQUALIFICATION.—Section 3(a)(39) of such Act (15 U.S.C. 78c(a)(39)) is amended—

(1) in subparagraph (B)—

(A) by inserting "or other appropriate regulatory agency" after "Commission"; and

(B) by striking out "or municipal securities dealer" and inserting in lieu thereof "municipal securities dealer, government securities broker, or government securities dealer"; and

(2) in subparagraph (C)—

(A) by striking out "or municipal securities dealer" and inserting in lieu thereof "municipal securities dealer, government securities broker, or government securities dealer"; and

(B) by inserting ", an appropriate regulatory agency," after "Commission".

(c) ADDITIONAL DEFINITIONS.—Section 3(a) of such Act (15 U.S.C. 78c(a)) is further amended by adding at the end thereof the following new paragraphs:

"(42) The term 'government securities' means—

"(A) securities which are direct obligations of, or obligations guaranteed as to principal or interest by, the United States;

"(B) securities which are issued or guaranteed by corporations in which the United States has a direct or indirect interest and which are designated by the Secretary of the Treasury for exemption as necessary or appropriate in the public interest or for the protection of investors;

"(C) securities issued or guaranteed as to principal or interest by any corporation the securities of which are designated, by statute specifically naming such corporation, to constitute exempt securities within the meaning of the laws administered by the Commission; or

"(D) for purposes of section 15C, any put, call, straddle, option, or privilege on a security described in subparagraph (A), (B), or (C) other than a put, call, straddle, option, or privilege—

"(i) that is traded on one or more national securities exchanges; or

"(ii) for which quotations are disseminated through an automated quotation system operated by a registered securities association.

"(43) The term 'government securities broker' means any person regularly engaged in the business of effecting transactions in government securities for the account of others, but does not include—

"(A) any corporation the securities of which are government securities under subparagraph (B) or (C) of paragraph (42) of this subsection; or

"(B) any person registered with the Commodity Futures Trading Commission, any contract market designated by the Commodity Futures Trading Commission, such contract market's affiliated clearing organization, or any floor trader on such contract market, solely because such person effects transactions in government securities that the Commission, after consultation with the Commodity Futures Trading Commission, has determined by rule or order to be incidental to such person's futures-related business.

"(44) The term 'government securities dealer' means any person engaged in the business of buying and selling government securities for his own account, through a broker or otherwise, but does not include—

"(A) any person insofar as he buys or sells such securities for his own account, either individually or in some fiduciary capacity, but not as a part of a regular business;

"(B) any corporation the securities of which are government securities under subparagraph (B) or (C) of paragraph (42) of this subsection; or

"(C) any person registered with the Commodity Futures Trading Commission, any contract market designated by the Commodity Futures Trading Commission, such contract market's affiliated clearing organization, or any floor trader on such contract market, solely because such person effects transactions in government securities that the Commission, after consultation with the Commodity Futures Trading Commission, has determined by rule or order to be incidental to such person's futures-related business.

"(45) The term 'primary dealer' means a government securities dealer that is monitored by, reports to, and is recognized as a primary dealer by the Federal Reserve Bank of New York.

"(46) The term 'person associated with a government securities broker or government securities dealer' means any partner, officer, director, or branch manager of such government securities broker or government securities dealer (or any person occupying a similar status or performing similar functions), and any other employee of such government securities broker or government securities dealer who is engaged in the management, direction, supervision, or performance of any activities relating to government securities, and any person directly or indirectly controlling, controlled by, or under common control with such government securities broker or government securities dealer.

"(47) The term 'financial institution' means (A) a bank (as such term is defined in paragraph (6) of this subsection), (B) a foreign bank, and (C) an insured institution (as such term is defined in section 401 of the National Housing Act).

"(48) The term 'registered broker or dealer' means a broker or dealer registered or required to register pursuant to section 15 or 15B of this title, except that in paragraph (3) of this subsection and sections 6 and 15A the term means such a broker or dealer and a government securities broker or government securities dealer registered or required to register pursuant to section 15C(a)(1)(A) of this title.".

PART B—ADDITIONAL CONFORMING AMENDMENTS

SEC. 202. (a) Section 15(b)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b)(4)) is amended—

(1) in subparagraph (A), by inserting "or with any other appropriate regulatory agency" after "Commission" the first time it appears therein;

(2) in subparagraph (B), by inserting in clause (ii) thereof "government securities broker, government securities dealer," after "municipal securities dealer,"; and

(3) in subparagraph (C), by striking out "or municipal securities dealer," and inserting in lieu thereof "municipal securities dealer, government securities broker, or government securities dealer,".

(b) Section 15(c)(3) of such Act (15 U.S.C. 78o(c)(3)) is amended—

(1) by inserting "(other than a government securities broker or government securities dealer, except a registered broker or dealer)" after "dealer"; and

(2) by inserting "(except a government security)" after "exempted security".

SEC. 203. (a) Section 15A(f) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-3(f)) is amended to read as follows:

"(f)(1) Except as provided in paragraph (2) of this subsection, nothing in this section shall be construed to apply with respect to any transaction by a registered broker or dealer in any exempted security.

"(2) A registered securities association may adopt and implement rules applicable to members of such association (A) to enforce compliance by registered brokers and dealers with applicable provisions of this title and the rules and regulations thereunder, (B) to provide that its members and persons associated with its members shall be appropriately disciplined, in accordance with subsections (b)(7), (b)(8), and (h) of this section, for violation of applicable provisions of this title and the rules and regulations thereunder, (C) to provide for reasonable inspection and examination of the books and records of government securities brokers and government securities dealers, (D) to provide for the matters described in paragraphs (b)(3), (b)(4), and (b)(5) of this section, (E) to implement the provisions of subsection (g) of this section, and (F) to prohibit fraudulent, misleading, deceptive, and false advertising.".

(b) Section 15A(g) of such Act (15 U.S.C. 78o-3(g)) is amended—

(1) by inserting after paragraph (3)(C) the following:

"(D) Nothing in subsection (g)(3) shall be construed to permit a registered securities association to deny membership to or condition the membership of, or bar any person from becoming associated with or condition the association of any person with, a broker or dealer that engages exclusively in transactions in exempted securities.";

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3) the following new paragraph:

"(4)(A) A registered securities association may deny membership to, or condition the membership of, a government securities broker or government securities dealer if such government securities broker or government securities dealer (i) does not meet standards of financial responsibility under rules adopted pursuant to section 15C(b)(1)(A) of this title, or (ii) has engaged and there is a reasonable likelihood that it will again engage in any conduct or practice which would subject such government securities broker or government securities dealer to sanctions under section 15C(c) of this title. A registered securities association may establish procedures including examination of the books and records of government securities brokers and government securities dealers to verify compliance with the provisions of this title and the rules thereunder.

"(B) A registered securities association may bar any person from becoming associated with a member or condition the association of a person with a member (i) if such person has engaged in any conduct or practice and there is a reasonable likelihood that such person will again engage in any conduct or practice which would subject such person to sanctions under section 15C(c) of this title, or (ii) if such person does not agree to supply such association with such information with respect to its relationship and dealings with the member as may be specified in the rules of the association and to permit examination of its books and records to verify the accuracy thereof.".

SEC. 204. Section 17(f) of the Securities Exchange Act of 1934 (15 U.S.C. 78q(f)) is amended—

(1) in paragraph (1) by inserting "government securities broker, government securities dealer," after "municipal securities dealer,";

(2) in paragraph (1)(A), by inserting "and, in the case of government securities, to the Secretary of the Treasury" after "Commission" the second time it appears;

(3) in paragraph (3)—

(A) by inserting "(A)" after "(3)"; and

(B) by adding the following new subparagraph:

"(B) In order to carry out the authority under paragraph (1) above, the Commission or its designee and the Secretary of the Treasury shall enter into agreement whereby the Commission or its designee will receive, store, and disseminate information in the possession, and which comes into the possession, of the Department of the Treasury in regard to missing, lost, counterfeit, or stolen securities."; and

(4) in paragraph (4)—

(A) by inserting "or primary dealer" after "Federal Reserve System" the first place it appears; and

(B) by inserting in subparagraph (B) "any primary dealer or" after "in regard to".

SEC. 205. Section 23(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78w(a)) is amended—

(1) by inserting "and the Secretary" after "Commission" each place it appears in paragraph (2);

(2) by inserting "or the Secretary's" after "Commission's" in paragraph (2);

(3) by inserting "and the Secretary" after "Commission" the first, second, and fourth places it appears in paragraph (3); and

(4) by inserting "or the Secretary" after "Commission" the third place it appears in paragraph (3).

SEC. 206. Section 9 of the Investment Company Act of 1940 (15 U.S.C. 80a-9) is amended—

(1) by striking out paragraphs (1) and (2) of subsection (a) and inserting in lieu thereof the following:

"(1) any person who within ten years has been convicted of any felony or misdemeanor involving the purchase or sale of any security or arising out of such person's conduct as an underwriter, broker, dealer, investment adviser, municipal securities dealer, government securities broker, government securities dealer, or entity or person required to be registered under the Commodity Exchange Act, or as an affiliated person, salesman, or employee of any investment company, bank, insurance company, or entity or person required to be registered under the Commodity Exchange Act;

"(2) any person who, by reason of any misconduct, is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from acting as an underwriter, broker, dealer, investment adviser, municipal securities dealer, government securities broker, government securities dealer, or entity or person required to be registered under the Commodity Exchange Act, or as an affiliated person, salesman, or employee of any investment company, bank, insurance company, or entity or person required to be registered under the Commodity Exchange Act, or from engaging in or continuing any conduct or practice in connection with any such activity or in connection with the purchase or sale of any security; or";

(2) by inserting "or of the Commodity Exchange Act," after "this title," in subsection (b)(2); and

(3) by inserting "or of the Commodity Exchange Act," after "this title," in subsection (b)(3).

SEC. 207. Section 203 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3) is amended—

(1) by striking out "or fiduciary" in subsection (e)(2)(B) and inserting in lieu thereof "government securities broker, government securities dealer, fiduciary, or entity or person required to be registered under the Commodity Exchange Act";

(2) by striking out paragraph (3) of subsection (e) and inserting in lieu thereof the following:

"(3) is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from acting as an investment adviser, underwriter, broker, dealer, municipal securities dealer, government securities broker, government securities dealer, or entity or person required to be registered under the Commodity Exchange Act, or as an affiliated person or employee of any investment company, bank, insurance company, or entity or person required to be registered under the Commodity Exchange Act, or from engaging in or continuing any conduct or practice in connection with any such activity, or in connection with the purchase or sale of any security."; and

(3) by inserting "the Commodity Exchange Act," after "this title," in paragraph (4) of subsection (e).

SEC. 208. Section 3(a)(8) of the Securities Act of 1933 (15 U.S.C. 77c(a)(8)) is amended by inserting after "any insurance or endowment policy" the following: "or any security guaranteed by a policy rated triple A by at least one nationally recognized rating agency".

TITLE III—DEPOSITORY INSTITUTIONS

SEC. 301. (a) Section 3121 of title 31, United States Code, is amended by adding at the end thereof the following:

"(h)(1) The Secretary shall prescribe by regulation standards for the safeguarding and use of obligations issued under this chapter, and obligations otherwise issued or guaranteed as to principal or interest by the United States. Such regulations shall apply to any depository institution that is not a government securities broker or a government securities dealer, which holds such obligations as fiduciary, custodian, or otherwise for the account of a customer and not for its own account, and shall provide for the adequate segregation of obligations so held, including obligations which are purchased or sold subject to resale or repurchase.

"(2) Violation of a regulation prescribed under paragraph (1) shall constitute adequate basis for the issuance of an order

under section 5239(a) or (b) of the Revised Statutes (12 U.S.C. 93(a) or (b)), section 8(b) or 8(c) of the Federal Deposit Insurance Act, section 5(d)(2) or 5(d)(3) of the Home Owners' Loan Act of 1933, section 407(e) or 407(f) of the National Housing Act, or section 206(e) or 206(f) of the Federal Credit Union Act. Such an order may be issued with respect to a depository institution by its appropriate regulatory agency and with respect to a federally insured credit union by the National Credit Union Administration Board.

"(3) Nothing in this subsection shall be construed to affect in any way the powers of such agencies under any other provision of law.

"(4) The Secretary shall, prior to adopting regulations under this subsection, determine with respect to each appropriate regulatory agency, as defined in section 3(a)(34)(G) of the Securities Exchange Act of 1934, and the National Credit Union Administration Board, whether its rules and standards adequately meet the purposes of regulations to be promulgated under this subsection, and if the Secretary so determines, shall exempt any depository institution subject to such rules or standards from the regulations promulgated under this subsection.

"(5) As used in this subsection—

"(A) 'depository institution' has the meaning stated in clauses (i) through (vi) of section 19(b)(1)(A) of the Federal Reserve Act and also includes a foreign bank, an agency or branch of a foreign bank, and a commercial lending company owned or controlled by a foreign bank (as such terms are defined in the International Banking Act of 1978).

"(B) 'government securities broker' has the meaning prescribed in section 3(a)(43) of the Securities Exchange Act of 1934.

"(C) 'government securities dealer' has the meaning prescribed in section 3(a)(44) of the Securities Exchange Act of 1934.

"(D) 'appropriate regulatory agency' has the meaning prescribed in section 3(a)(34)(G) of the Securities Exchange Act of 1934.".

(b) Chapter 91 of title 31, United States Code, is amended by—

(1) adding at the end thereof the following:

"§ 9110. Standards for depository institutions holding for customers securities of a Government-sponsored corporation

"(a) The Secretary shall prescribe by regulation standards for the safeguarding and use of obligations that are issued or guaranteed by any corporation in which the United States has a direct or indirect interest, and that are designated by the Secretary for exemption under section 3(a)(12) of the Securities Exchange Act of 1934, and obligations issued or guaranteed by any corporation the obligations of which are designated, by statute specifically naming such corporation, as exempt securities within the meaning of the laws administered by the Securities and Exchange Commission. Such regulations shall apply to any depository institution that is not a government securities broker or a government securities dealer, which holds such obligations as fiduciary, custodian, or otherwise for the account of a customer and not for its own account, and shall provide for the adequate segregation of obligations so held, including obligations which are purchased or sold subject to resale or repurchase.

"(b) Violation of a regulation prescribed under subsection (a) shall constitute adequate basis for the issuance of an order under section 5239(a) or (b) of the Revised Statutes (12 U.S.C. 93(a) or (b)), section 8(b) or 8(c) of the Federal Deposit Insurance Act, section 5(d)(2) or 5(d)(3) of the Home Owners' Loan Act of 1933, section 407(e) or 407(f) of the National Housing Act, or section 206(e) or 206(f) of the Federal Credit Union Act. Such an order may be issued with respect to a depository institution by its appropriate regulatory agency and with respect to a federally insured credit union by the National Credit Union Administration.

"(c) Nothing in this section shall be construed to affect in any way the powers of such agencies under any other provision of law.

"(d) The Secretary shall, prior to adopting regulations under this section, determine with respect to each appropriate regulatory agency, as defined in section 3(a)(34)(G) of the Securities Exchange Act of 1934, and the National Credit Union Administration Board, whether its rules and standards adequately meet the purposes of regulations to be promulgated under this section, and if the Secretary so determines, shall exempt any depository institution subject to such rules or standards from the regulations promulgated under this section.

"(e) As used in this subsection—

"(1) 'depository institution' has the meaning stated in clauses (i) through (vi) of subparagraph 19(b)(1)(A) of the Federal Reserve Act and also includes a foreign bank, an agency or branch of a foreign bank, and a commercial lending company owned or controlled by a foreign bank (as such terms are defined in the International Banking Act of 1978).

"(2) 'government securities broker' has the meaning prescribed in section 3(a)(43) of the Securities Exchange Act of 1934.

"(3) 'government securities dealer' has the meaning prescribed in section 3(a)(44) of the Securities Exchange Act of 1934.

"(4) 'appropriate regulatory agency' has the meaning prescribed in section 3(a)(34)(G) of the Securities Exchange Act of 1934."; and

(2) by adding at the end of the chapter analysis the following:

"9110. Standards for depository institutions holding for customers securities of a Government-sponsored corporation.".

TITLE IV—TRANSITIONAL AND SAVINGS PROVISIONS

SEC. 401. (a) EFFECT ON PENDING ADMINISTRATIVE PROCEEDINGS.—The provisions of this Act shall not affect any proceedings pending on the effective date of this Act.

(b) EFFECT ON PENDING JUDICIAL PROCEEDINGS.—The provisions of this Act shall not affect suits commenced prior to the effective date of this Act, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.

(c) DISCRETION OF THE FEDERAL RESERVE BANK OF NEW YORK.—Nothing in this Act shall be construed to limit or impair the discretion or authority of the Federal Reserve Bank of New York to require reports or establish terms and conditions in connection with the Bank's relationship with any government securities broker or government securities dealer, including a primary dealer.

(d) JURISDICTION OF THE COMMODITY FUTURES TRADING COMMISSION.—Nothing in this Act affects the jurisdiction of the Commodity Futures Trading Commission as set forth in the Commodity Exchange Act over trading of commodity futures contracts and options on such contracts involving government securities.

TITLE V—REPORT ON TRANSFERS OF GOVERNMENT SECURITIES

SEC. 501. (a) The Securities and Exchange Commission, in consultation with the Secretary of Housing and Urban Development, the Board of Governors of the Federal Reserve System, the Secretary of the Treasury, and such other agencies as the Commission may find appropriate, shall prepare and transmit to Congress a report regarding existing capabilities and potential future improvements for the clearance and settlement of transactions in the securities of government sponsored enterprises and of government agencies other than the Department of the Treasury. Such study shall evaluate existing capabilities and potential future improvements in the securities ownership transfer process and the mechanisms for creating and perfecting security interest in such securities and shall in particular consider alternative means (including elimination of definitive securities) to reduce current costs and failure rates in the clearance, settlement, and transfer process for definitive securities of such entities.

(b) The report required by subsection (a) shall be transmitted to Congress not later than one year after the date of enactment of this Act.

TITLE VI—EFFECTIVE DATES

SEC. 601. Except as provided in section 501 and section 602, this Act and the amendments made by this Act shall take effect 270 days after the date of enactment of this Act.

SEC. 602. Notwithstanding section 601, the Secretary of the Treasury and each appropriate regulatory agency shall, within 120 days after the date of enactment of this Act, publish for notice and public comment such regulations as are initially required to implement this Act, which regulations shall become effective as temporary regulations 180 days after the date of enactment of this Act and as final regulations not later than 270 days after the date of enactment of this Act.

SEC. 603. No person may continue to act as a government securities broker or government securities dealer after 270 days after the date of enactment of this Act unless such person has been registered or has provided notice to the Commission or the appropriate regulatory agency as required by the amendment made by section 101 of this Act.

Amend the title so as to read: "A bill entitled the Government Securities Act of 1986.".

Mr. D'AMATO. Mr. President, I urge my colleagues to support passage of S. 1416, the "Government Securities Act of 1986." I am glad to say that the Treasury Department and the other Federal regulators strongly support the bill.

The maintenance of the integrity in the market for U.S. securities has been my paramount concern in drafting this legislation. The market for U.S. Treasury securities enables the U.S. Treasury to finance the national debt and to meet seasonal shortfalls between its receipts and expenditures. This market also enables the Federal Reserve Board, through the Federal Open Market Committee and the open market desk, to execute domestic monetary policy. Moreover, banks, other financial institutions, insurance companies, pension funds, State and local

governments, corporations and approximately 150 foreign banks and other foreign banking institutions are significant investors in U.S. Treasury securities.

However, the geometric increase in the volume of activity in the Government securities markets since 1982 and recent broker-dealer failures in the Government securities markets have demonstrated a critical need to regulate the practices of Government securities dealers. During the past 7 years, the failures of several Government securities dealers have had tremendous repercussions throughout the financial markets. These failures include: Winters Government securities, 1977; Drysdale Government securities, 1982; Lombard-Wall, 1982; Lion Capital, 1984; and most recently, the highly publicized failure of ESM Securities Inc. and Bevill, Bresler and Shulman Asset Management Corp., 1985.

While each of these incidents had its own distinct traits, these failures exhibit several common features. In a number of failures, the firm in question issued false and misleading financial statements. In several instances, problems in one company were masked by relationships, and at times complex transactions, with affiliated companies. In some instances, the investor did not have a full understanding of which entity was the counterparty to transactions. In others, the dealers in question used working capital generated by matched book operations to engage in trading for their own account and in the process incurred huge losses. Customers of problem dealers also incurred losses because the customers failed both to know their counterparty and to secure control of the securities that collateralized a repurchase transaction with the problem dealer. The failure to know the financial status and management of the counterparty, and the failure to secure control of collateral resulted in the loss to the customer, while providing funds to the problem dealer which thereby permitted the dealer to continue operations in a way that disguised its true financial condition.

S. 1416 is specifically designed to remedy these problems and thereby protect the public interest in the Government securities markets. The legislation indentifies certain weaknesses in the Government securities markets and addresses them in an evenhanded and reasonable manner—not by way of excessive regulation that would impair the efficient operation of the markets or compromise the execution of domestic monetary policy.

S. 1416 adopts a bifurcated system of regulation that divides responsibilities among the Treasury as rulemaker and the Securities and Exchange Commission and banking regulators as enforcement agencies. The Secretary of the Treasury is invested with the limited authority to promulgate rules that are designed to regulate the activities of Government securities brokers and dealers in general and, in particular, to prevent fraud. This includes safeguards relating to capital adequacy standards, the acceptance of custody and use of customers' securities, the carrying and use of customers' deposits or credit balances, and the submission of financial statements by every Government securities broker and Government securities dealer. The Secretary is also empowered to issue and if needed to safeguard the custody of Government securities held by nonbroker/dealer banking institutions holding these securities on behalf of their customers.

In accomplishing these goals, S. 1416 takes great pains to avoid the duplicative regulation of those Government securities dealers already subject to some degree of regulation by a Federal regulator—such as the SEC, the Fed or the banking regulators. Moreover, the legislation assiduously avoids those dealing in the commodities markets who engage in Government securities only incidentally by exempting them from the requirement imposed on Government securities brokers and dealers as provided in the act.

During the consideration of this legislation questions regarding the scope of the Commodity Futures Trading Commission's jurisdiction were raised. I would like to clarify the intent of the committee in drafting section 401(d) of the bill and in preparing the portion of the committee report addressing the jurisdiction of the CFTC. The committee's intent in drafting section 401(d) of the bill was to clarify that the bill has no effect whatsoever on the scope of the CFTC's jurisdiction over off-exchange transactions in futures contracts on Government securities as set forth in the Commodity Exchange Act; and that the committee specifically resisted consideration of that issue during its consideration of S. 1416. Therefore, S. 1416 is intended neither to expand nor contract the CFTC's jurisdiction over such transactions.

The committee report discussing section 401(d) contains the statement that the "committee does not intend to affect the CFTC's exclusive regulation of futures and options on futures in Government securities and did not intend to create any regulatory overlap with activities that are subject to CFTC jurisdiction." This statement was not intended to express any view as to how the provision of the Commodity Exchange Act commonly known as the "Treasury amendment" affects the CFTC's jurisdiction over the regulation of such futures contracts; and that the committee intended to be absolutely neutral as to how the CFTC's jurisdiction over such transactions should be construed under the Treasury amendment.

S. 1416 is needed because as Chairman Volcker stated:

> Contrary to our earlier expectations, market and regulatory responses after previous problems materialized do not prove fully adequate.

Dick Kelly, chairman of the Public Securities Association's primary dealer committee echoed Chairman Volcker's concerns stating:

> These dealer failures and other recent related events have revealed significant gaps in the current regulatory framework. We believe that new legislation is necessary to deal with identifiable weaknesses in the Government securities market.

To preserve the integrity, efficiency, and liquidity of the ever-growing market in Federal securities, I believe some form of minimal Federal regulation is mandated so that the Federal Government has some idea of and control over those dealing in the instruments that the U.S. Government employs to finance the national debt. Therefore, I urge my colleagues to support passage of S. 1416.

Mr. METZENBAUM. Mr. President, I am pleased that the Senate is finally acting to regulate the Government securities market.

As my colleagues know, the savings and loan crisis in Ohio is largely responsible for the 2 year congressional effort to enact this type of legislation. That crisis was precipitated by the failure of ESM Government Securities, which had engaged in free-wheeling fraudulent practices for years before its collapse.

But unlike other securities dealers, ESM and other firms that only deal in Government securities are not regulated by Federal agencies. Accordingly, they have been able to operate in the shadows of our financial markets, beyond the reach of Federal supervision and out of the light of public scrutiny.

This is a serious gap in our financial regulatory regime, especially since the Government securities market is the largest securities market in the world. This bill is a start toward long overdue Government regulation and supervision of this industry.

Frankly, I am not sure the bill is tough enough. I have considered offering amendments to tighten certain sections. But I will not do so. It is indisputable that this bill is far better than the situation we have today. And it is clear that time is short and swift action is urgently needed if we are to enact legislation bringing Government securities dealers into a regulatory framework. No amendments I would offer are more important than the goal of moving the process forward.

But the record should reflect my concern over the bill's designation of the Treasury Department as the

agency responsible for adopting rules regulating Government securities traders. First, notwithstanding the assurances contained in the committee report, I am concerned over the potential conflict of Treasury's role as issuer of the debt and as regulatory of the dealers.

More fundamentally, though, I do not believe Treasury is the agency that should have the lead in policing this market. Quite frankly, despite the department's apparent support for S. 1416, I am skeptical whether the administration has a genuine commitment to the fundamental policy underlying this bill: that is, to bring this market under closer and better Government regulation. The record is clear that the administration is not an enthusiastic partner in this legislative enterprise. In sum, I question Treasury's interest in promulgating tough rules and its commitment to their aggressive enforcement. On balance, I believe the House approach, which creates a new self-regulatory board composed of industry, investors and public members and operating under the oversight of the Federal Reserve Board, is likely to lead to better protection of investors and dealers in Government securities.

Mr. SIMPSON. Mr. President, I move adoption of the committee substitute.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute was agreed to.

The committee amendment in the nature of a substitute was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Banking Committee be discharged from further consideration of H.R. 2032, the House companion bill, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2032) to amend the Securities and Exchange Act of 1934 to provide improved protection for investors in the Government securities market, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed immediately to the consideration of the bill.

Mr. SIMPSON. Mr. President, I move to strike all after the enacting clause of H.R. 2032 and to substitute the text of S. 1416 as reported and as amended.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Wyoming.

The motion was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 2032), as amended, was passed.

The title was amended so as to read "A bill entitled the Government Securities Act of 1986."

Mr. SIMPSON. Mr. President, I move to reconsider the vote.

Mr. BYRD. Mr. President, I move to lay the motion to reconsider on the table.

The motion to lay on the table was agreed to.

BILL INDEFINITELY POSTPONED—S. 1416

Mr. SIMPSON. Mr. President, I ask unanimous consent that S. 1416 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

STAR PRINT OF REPORT NO. 99-426

Mr. SIMPSON. I ask unanimous consent that report No. 99-426 be star printed to reflect the changes which I send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

MAINE CENTRAL RAILROAD DISPUTE SETTLEMENT

Mr. BYRD. Mr. President, on behalf of Mr. MITCHELL, Mr. COHEN, Mr. DODD, Mr. METZENBAUM, Mr. KERRY, Mr. SIMON, Mr. SPECTER, Mr. HEINZ, and Mr. D'AMATO, I introduce a joint resolution, Senate Joint Resolution 415. I ask that it be read twice and held at the desk pending further disposition.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The joint resolution to provide for a settlement to the Maine Central Railroad Co. and Portland Terminal Co. labor-management dispute will be considered as having been read the first time by title and the second time at length and will be held at the desk pending further consideration.

MAINE CENTRAL RAILROAD DISPUTE

● Mr. MITCHELL. Mr. President, I am today introducing legislation to bring about a settlement of the Maine Central Railroad labor dispute. Joining me in this action are Senators COHEN, DODD, METZENBAUM, KERRY, SIMON, SPECTER, HEINZ, and D'AMATO. The legislation also will be introduced in the House of Representatives by House Commerce and Transportation Subcommittee Chairman JAMES FLORIO of New Jersey, and Representatives MCKERNAN and SNOWE of Maine. Significantly, the Maine congressional delegation is unanimous in proposing this action as the best alternative for putting to rest a labor dispute which has stricken Maine for over 6 months, and at various times has threatened to spread into a national railroad strike.

The Maine Central Railroad strike began on March 3, 1986 and quickly encompassed the Boston & Maine and Delaware & Hudson Railroads, which also are owned by Guilford Transportation Industries [GTI]. On May 16, as soon as the strike spread to the Conrail system, President Reagan imposed a 60-day cooling-off period, and empaneled an emergency board to investigate the sources of the dispute.

On June 20, the Presidential Emergency Board [EB 209] issued recommendations for settlement of the dispute. The recommendations reflected Guilford's last pre-strike offer to the union. The terms of the settlement would include severance pay of $26,000 for currently-employed maintenance of way workers who might be laid-off in the future; negotiation of work rule changes; negotiation of a comprehensive system production maintenance crew agreement; and agreement to be bound by the outcome of national negotiations involving rates of pay and health and welfare programs.

The union has repeatedly offered to accept the emergency board recommendations. Guilford has refused to do so, on the grounds that its financial position has changed since the strike began, and that it no longer can afford them.

On July 21, the President's cooling-off period expired. With no settlement yet in sight, the Maine congressional delegation at that time introduced legislation to extend the cooling-off period by another 60 days, so as to preserve the collective bargaining process and allow negotiations to continue. It also mandated a second independent panel, a three-person congressional advisory board appointed by the National Mediation Board, to investigate the dispute, especially regarding Guilford's financial circumstances since March 3. On August 21, President Reagan signed this legislation, House Joint Resolution 683, into law.

On September 8, the congressional advisory board issued its report to Congress. The board found Guilford's continued rejection of the emergency board recommendations for financial reasons to be unconvincing, and declared that "Indeed the entire record warrants the conclusion that Guilford's refusal to accept the EB 209 report rests largely on nonfinancial considerations." The board states that "It is clear that the [Maine Central] is a profitable railroad" and that the emergency board recommendations are "reasonable and well-balanced."

The congressional advisory board also stated that "In the absence of agreement between the parties disposing of this dispute no later than September 13, 1986, the Congress should enact legislation directing the parties to accept and apply the recommendations of EB 209. Should the parties be unable to agree as to all necessary details in applying the recommendations * * * any unsettled issues should be submitted to final and binding arbitration before an arbitrator designated by the NMB."

The second cooling-off period expires on September 18. Negotiations between the parties have broken down and are at an impasse. They are no closer to a resolution of this dispute than they were 6 months ago.

Once the cooling-off period expires on September 18, both parties will become entitled to resort to self-help. Guilford has made clear its intention to unilaterally impose a 20 percent wage cut and work rule changes. The union has made clear its determination to resist implementation of such terms by striking. The inevitable result would be a national railroad strike, with a disastrous impact on the economy of not just Maine, but all of New England and other regions of the country.

I introduce this legislation with some reluctance. In any labor dispute, it is preferable to allow the parties to work out their differences themselves through the collective bargaining process. In this case, however, congressional inaction means a national railroad strike, and under these circumstances, the public interest in averting a tragic disruption of interstate commerce overides the narrow interests of either party.

Congressional intervention thus far in the Maine Central Railroad dispute has been cautious, marginal, and incremental. In extending the cooling-off period last month, we took great pains to allow the parties additional room to reach agreement on their own. The result has been nil.

The congressional advisory board reviewed the Presidential Emergency Board's recommendations and found them to be reasonable and well-balanced. The board also found that they are within the Maine Central Railroad's financial capacity. The emergency board recommendations have been twice endorsed as providing a reasonable settlement to the dispute. They have been accepted by the union, and they indeed reflect the railroad's own last pre-strike offer.

Congress has no choice. We have an obligation to protect the flow of interstate commerce, and cannot allow a national railroad strike to occur. This legislation enacts the emergency board recommendations, and provides a reasonable resolution to a tragic dispute that has lingered too long.●

PIPELINE SAFETY

Mr. SIMPSON. Mr. President, I ask unanimous consent that when the Senate receives from the House H.R. 2092, the pipeline safety bill, it be held at the desk pending further disposition.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

ORDERS FOR WEDNESDAY

RECESS UNTIL 9:30 A.M.

Mr. SIMPSON. Mr. President, after conferring with the Democratic leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9:30 a.m. on Wednesday, September 17, 1986.

RECOGNITION OF CERTAIN SENATORS

Following the recognition of the two leaders under the standing order, I ask unanimous consent that the following Senators be recognized for special orders for not to exceed 5 minutes each: Senators HAWKINS, PROXMIRE, MURKOWSKI, SASSER, TRIBLE, BROYHILL, CHAFEE, and LEVIN.

ROUTINE MORNING BUSINESS

Mr. SIMPSON. Following the special orders just identified, I ask unanimous consent that there be a period for the transaction of routine morning business not to extend beyond 10:30 a.m., with Senators permitted to speak therein for not more than 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. SIMPSON, Mr. President, at 10:30 a.m., it is the majority leader's intention to turn to H.R. 5205, the Department of Transportation Appropriations bill; with the hope that the cloture vote on the Rehnquist nomination be postponed until later in the day of Wednesday.

It is the majority leader's intention to complete action on the Rehnquist nomination tomorrow. Following disposition of the Rehnquist nomination, it will then be the intention of the majority leader to consider the nomination of Antonin Scalia to be an Associate Justice of the U.S. Supreme Court.

Therefore, votes can be expected throughout the day on Wednesday, and a late night session is anticipated.

Mr. President, I ask the distinguished minority leader if he has any further business to transact.

Mr. BYRD. Mr. President, I thank the distinguished assistant Republican leader. I do not have any further business.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. SIMPSON. Mr. President, therefore, in accordance with the order previously entered, I move that the Senate stand in recess until 9:30 a.m., on Wednesday, September 17, 1986.

The motion was agreed to; and at 10:28 p.m., the Senate recessed, to reconvene on Wednesday, September 17, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate September 16, 1986:

DEPARTMENT OF STATE

Everett E. Bierman, of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Papua New Guinea, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to Solomon Islands.

ENVIRONMENTAL PROTECTION AGENCY

Vaun A. Newill, of New Jersey, to be an Assistant Administrator of the Environmental Protection Agency, vice Bernard D. Goldstein, resigned.

SELECTIVE SERVICE SYSTEM

William A. Clinkscales, of Virginia, to be Director of Selective Service, vice Thomas K. Turnage.

IN THE AIR FORCE

The following-named officer, under provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. James R. Brown, [redacted] FR, U.S. Air Force.

The following-named officer, under provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Robert C. Oaks, [redacted] FR, U.S. Air Force.

IN THE NAVY

The following-named rear admirals (lower half) of the U.S. Navy for promotion to the permanent grade of rear admiral, pursuant to title 10, United States Code, section 624, subject to qualifications therefor as provided by law:

MEDICAL CORPS

To be rear admiral

Robert Paul Caudill, Jr.
Henry James Tipp Sears.
James K. Summitt.

IN THE AIR FORCE

The following officer for appointment in the Regular Air Force under the provisions of section 531, title 10, United States Code, with grade and date of rank to be determined by the Secretary of the Air Force provided that in no case shall the officer be appointed in a grade higher than that indicated.

LINE OF THE AIR FORCE

To be lieutenant colonel

Lawrence L. Vandiford, [redacted]

IN THE AIR FORCE

The following-named officers for permanent promotion in the U.S. Air Force, under the provisions of section 628, title 10, United States Code, as amended, with dates of rank to be determined by the Secretary of the Air Force.

LINE OF THE AIR FORCE

To be lieutenant colonel

Barry W. Christen, [redacted]
Arthur D. Eiff, [redacted]
Norman E. James, [redacted]
John R. Logan, [redacted]
Jerry M. Raper, [redacted]
Dennis F. Reagan, [redacted]
David M. Sneary, [redacted]
Norman L. Tree, [redacted]
Lawrence L. Vandiford, [redacted]

To be major

Stephan D. Hatfield, [redacted]
John E. Schutt, [redacted]
Ray B. Shepherd, [redacted]
Benjamin B. Treadwell III, [redacted]
Richard G. Viray, [redacted]
Erwin R. Zundel, [redacted]

IN THE AIR FORCE

The following Air National Guard of the United States officers for promotion in the Reserve of the Air Force under the provisions of sections 593 and 8379, title 10 of the United States Code. Promotions made under section 8379 and confirmed by the Senate under section 593 shall bear an effective date established in accordance with section 8374, title 10 of the United States Code (effective dates in parentheses).

LINE OF THE AIR FORCE

To be lieutenant colonel

Maj. Russell V. Gatlin, [redacted] (7/12/86).
Maj. James F. Graczyk, [redacted] (7/13/86).
Maj. Stephen A. Gural, [redacted] (5/28/86).
Maj. Gary D. Hitzemann, [redacted] (6/21/86).
Maj. Kenneth H. Isaak, [redacted] (5/22/86).
Maj. Robert B. Miller III, [redacted] (6/13/86).
Maj. Girard F. Nardone II, [redacted] (6/7/86).
Maj. Dennis D. Nielsen, [redacted] (6/25/86).
Maj. Gary J. Parker, [redacted] (7/8/86).
Maj. Donald J. Quenneville, [redacted] (7/3/86).
Maj. Ben F. Robinson, Jr., [redacted] (6/7/86).
Maj. Kenneth Stengel, [redacted] (6/6/86).
Maj. Ray W. Wiblin, Jr., [redacted] (6/7/86).
Maj. Larry A. Wilde, [redacted] (5/28/86).

LEGAL

To be lieutenant colonel

Maj. David A. Faber, [redacted] (7/12/86).
Maj. Gary L. Jewel, [redacted] (6/20/86).

MEDICAL CORPS

To be lieutenant colonel

Maj. Suryakant Z. Patel, [redacted] (6/8/86).

DENTAL CORPS

To be lieutenant colonel

Maj. Gene T. Bushey, [redacted] (7/12/86).

IN THE ARMY

The following-named officers for permanent promotion in the U.S. Army in accordance with the appropriate provisions of title 10, United States Code, sections 624 and 628:

ARMY

To be major

Arthur J. Bland, [redacted]
Marilyn R. Friedrich, [redacted]
Douglas A. Gendron, [redacted]
Roger D. Wiedeman, [redacted]

MEDICAL CORPS

To be major

James E. Chapman, [redacted]
Bernard M. Feldman, [redacted]
Swarnalatha Prasanna, [redacted]

EXTENSIONS OF REMARKS

ORGANIZED LABOR AND THE FEDERAL GOVERNMENT: POLICIES AND RESPONSIBILITIES

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 16, 1986

Mr. DYMALLY. Mr. Speaker, during the recent home district work period, I had the privilege of participating in the annual education seminar of the United Auto Workers Local 887. That setting offered me an opportunity to focus my thoughts on the relationship that should exist among organized labor, industry, and the Government. We all want this country to prosper, but we, perhaps, have different ideas about how to go about accomplishing that end. In the hope that my reflections might be helpful to my colleagues in provoking further discussion and further reflection on ways to forge the strongest relations among these sectors, I insert my comments in the RECORD at this point.

AEROSPACE, AEROSPACE WORKERS AND AEROSPACE POLICY

Three years ago, as a member of the House Committee on Science and Technology, I was briefed on Japanese progress in aerospace. I learned that Japan would be capable of entering the expendable launch vehicle arena within just a few years. Time has shown that their estimate was about right. They recently launched their H-1 vehicle carrying three small payloads. That vehicle can carry no more than 500 kilograms of payload. One might scoff and say that is an insignificant lift capacity. But there are companies that need no greater capacity than that. Our expendables and the shuttles can carry well over 2,000 kilograms. But the Japanese plan to develop their second generation of vehicles, the H-2's and to launch the first one about the time we hope to be launching the Challenger replacement. If the H-2 is capable of launching 2,500 kilograms, then in the H-1 and the H-2 Japan will have the potential to compete across the weight range required by commercial customers.

At about the same time that I was briefed on Japanese progress in aerospace, I also received information that some components of missiles made for U.S. military use had no adequate suppliers in the United States. The most reliable suppliers for these parts were in Japan. As I recall, the parts in question were specialized, extremely sophisticated microchips.

The particular part that was in short supply domestically is immaterial. The matter of more importance is the implication of overseas development in aerospace for the U.S. aerospace industry and for aerospace workers in the United States. Could Japan be competing for many of your jobs in the next two decades?

Observers of Japan might make the point that there has been no hint from Japan that it plans to commercialize its launch vehicles. So far, the payloads have been exclusively for the government. But one has to look beyond what has not been said to what has been done. Japan has been officially, even passionately, involved in space research and development since 1970. Japan now supports to the tune of about 800 million dollars per year a vast space launch infrastructure that makes only perhaps three launches per year. Japan's space launch needs would be much more adequately served by purchasing space on other vehicles. The cost of the infrastructure is unjustified if its sole use will be to launch government payloads. Commercial competition will be a necessity if the infrastructure is ever to become cost effective. It is significant that Japanese policy in aerospace has been clear, strong, and single-minded.

It is also worth noting that Japan has had a balanced program of development over the 26 years it has been active in the field. That is, it has developed ground facilities including and tracking facilities. It has developed launch vehicles, and it has developed technological expertise to ensure continued, steady development—even to the point that it makes some missile parts as good or better than we do. Down the road that means not just that Japan could be a competitor in aerospace but that it is developing the capability to be a strong competitor.

I do not mean to dwell on the case of Japan. I want to use it only to make some observations about the nature of aerospace development and about the jobs that are supported by aerospace industry. The first observation is that aerospace development is heavily dependent on government policy and, initially at least, on strong government support through purchase of aerospace products or through subsidies in support of commercial sales. This has been true of the Japanese space program, the Chinese program, Ariane the European program, and it has certainly been true of the United States and Russian programs.

When both policy and support are clear and strong, development is steady and successful. We see that happening now in Japan. And we saw it in the case of the United States at least through the Apollo phase of the space program. The second obseravtion I want to suggest is that when government policy about aerospace is not clear and strong, development, and with it, jobs, can be significantly and adversely affected. When that risk is immanent, those whose jobs are at stake have a responsbility to play a meaningful role in the policy debate.

As I said, the United States policy through the end of Apollo was clear. It was to develop and launch the technology to put a man on the moon. At the conclusion of the Apollo program, I believe the United States began to be a victim of its own success. The most critical observers say that our space program had no clear purpose or goals after Apollo. One apparent indication of the flagging sense of purpose was that the money started to dry up. I cannot pretend to be an expert on aerospace policy, but I did participate in the debate during the four years I spent on the House Subcommittee on Space Science and Applications and on the Transportation, Aviation, and Materials Subcommittee. These two Subcommittees are responsible for the policy making role of the House in the area of non-military space activities. From my experience on those Subcommittees, I would depart a bit from the harshest critics and say that after Apollo the United States did not so much lose direction, as gain many directions.

Often, to develop is to become more complex. But in the case of aerospace policy, the various United States policies after Apollo were and still are at odds with each other. That is a problem. In fact, it may be the problem in aerospace today. Ultimately, that set of conflicting policies has implications for you, the aerospace workers, because each policy orients your work in a different direction. And if one policy direction does finally win out, that policy will determine the amount and kind of work that will be available to you.

Since Apollo, there have been at least four competing policies with respect to aerospace. And in addition to those competing policies, there has been a somewhat extraneous consideration that has nothing to do with aerospace particularly and yet effects it profoundly. That is the government-wide drive to cut spending in order to bring the deficit under control without raising taxes. The four competing aerospace policies may be identified as military, commercial, aeronautical, and scientific. The forces at play in the formation of each of these policies are far too complex to describe in any detail here. I will have to describe even the major conflicts only broadly. It is important to see, however, that while these competing positions battle each other here, there is an opportunity for more single-minded foreign competitors to take firmer hold of a business that was once our exclusive domain in the non-Communist world.

As I said, overshadowing the battle and making it more intense is the push to curb spending and to not raise taxes. That push has placed limits on the money available to carry out programmatic policies across all of government. The hard nose businessman would react to such a constraint by killing some programs to let other thrive. Congress is not a hard nosed businessman. It has been reluctant to end some government endeavors in order to more adequately support others. The result is that a host of programs survive in an inadequate state. And aerospace as a singular goal directed activity is one of these inadequately funded areas. Congress is letting four policies live in conflict but cannot afford to let any of them flourish.

One measure in the move to economize was the decision not to maintain an expendable launch vehicle capability, and, instead, to place all hope in the shuttle. Once the shuttle was operative, the military began to see that the shuttle was going to be pressed

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

to meet military demand for launches given that the shuttle was also to become self-supporting through the sale of space to commerical interests. But launching satellites is not the only interest of the military in aerospace. A side consideration was and is that the military would like more money to produce and deploy, sea, and air launched nuclear missiles and to steeply increase research and development of the hardware and software involved in the Strategic Defense Initiative. All three types of endeavor draw from the pot of money for space development. To the extent that other related agencies of government such as NASA take money from the same finite source, the military has that much less to devote to its projects.

One reaction on the part of the military to the recognition of insufficient shuttle space was their decision to redevelop an expendable launch capability. I am just speculating here, but a second reaction may be the recent discussion within the executive branch about the desirability of turning all government controlled launch capability over to exclusively government use. Doing this would solve the military problem by removing the government from the business of providing civilian, commercial launch services and by effectively turning NASA, which now represents civilian space development, over to military purposes. Just as an aside, it might also have the secondary adverse effect of turning all commercial launch business over to Europe, China and Japan if the embryonic U.S. commercial launch businesses are left to compete with government subsidized overseas competitors.

I have tried to give a very broad sketch of military considerations in the aerospace policy debate. NASA, on the other hand, in negotiating funding for the shuttle had made the argument that the shuttle would eventually begin to pay for itself through the sale of commerical space on the shuttle. So, NASA has been trying to make sales while the military has been both demanding a substantial share of the available shuttle space (while reserving the right to back out if it chooses) and preparing its own backup over and above the Vandenberg military shuttle launch site. In order to insure that the shuttle can be commerically successful, NASA needs some place for the companies that would agree to manufacture in space to work. NASA needs the space station. Military officials have said repeatedly that they have no pressing use for a space station. Scientists say they could do their work better without the space station. The space station is a perfect example of the kind of policy competition that has gone on among the aerospace rivals. Each competitor is protecting its own priorities.

The aeronautical portion of aerospace, like the space portion, is also divided between the military and NASA. While civilian aeronautics has received a small amount of money compared to civilian space, the money has been fairly steady and has allowed research on improvments in engine design and even on improved methods of surface transportation. The military aeronautics budget has been until recently fairly distinct from civilian aeronautics. The two have not been in the kind of direct competition that has been the case in space. Rather, the competition up to now has been between aeronautics and space. Space has won the lion's share of civilian aerospace dollars and aeronautics has fared better on the military side with the development of the B1 and the Stealth technology.

Again, I am just speculating, but the rivalry between aeronautics and space may be changing. The most recent development in aeronautics has been the space plane. It may change the nature of the relationship between military and civilian aeronautics because funding for the project is to be divided between the military and NASA and the two are to work together in its development. The cost estimate for the project is hard to get, and speculation has gone as high as 180 billion dollars. The effect of this new development in the aerospace policy competition is unpredictable right now. But it should be watched closely since it may led to a turning point in the aeronautics versus space dichotomy. In a sense, the United States started up this path once, with the supersonic transport, and then turned back. What will happen this time is anyone's guess.

Of the four policy competitors, Space science has been the recent underdog. Hardware considerations for both the shuttle and for practical application of communications and surveillance technology in space by the military have repeatedly taken precedence over scientific applications. And in the past few years, science related to near rather than deep space has been favored. The deep space probes that have recently given us information about the outlying planets were launched many years ago and were adapted to their most recent missions after having long since completed their intended purposes.

So, in brief, these are the issues and the players in the four way rivalry for dominance in U.S. aerospace policy in a time of fiscal restraint.

Now, I suspect that if you ask aerospace workers whether they want to work on space telescopes and deep space probes for scientists, or shuttles and satellites and space stations for commercial applications, or space planes and advanced jet engines for aeronautical interests, or expendible launch vehicles and missiles and the Strategic Defense Initiative for the military, they would say "all of the above". The purpose of my forcing you to march quickly through competing aerospace policies and the demands of fiscal restraint with a sidelong glance at the inroads foreign competitors are poised to make is to say that unfortunate as it may be, "all of the above" is likely not to be one of the options. As individual citizens you have told your lawmakers that you do not want to pay more taxes. You want the government to quit giving money to everything and, instead, to exercise restraint. That is the message that brought us to Gramm-Rudman-Hollings. It is the message that brought us to a tax reform that will not raise new revenue but that will shift some of the tax burden to businesses in order to lighten the load on individuals. It is the message that has become a loaded gun pointed at the heads of politicians.

We want to say yes to everyone because that is what keeps us in our jobs. But the voters are giving us incompatible messages. Our solution has been basically to give out just as many pieces of the spending pie, but to make the pieces smaller. Unfortunately, some sectors cannot function on the monetary diet we have to offer. They survive but have difficulty producing.

Aerospace now runs the risk of surviving but not flourishing. And you may be assured that competitors wait in the wings for the weakening of the U.S. industry. A new shuttle, restarting expendible launch vehicle production lines, building military satellites, building a space station, developing space planes, building telescopes, building missiles, developing the Strategic Defense Initiative—there are not enough resources to fund them all adequately. How do we choose?

It is your jobs we are trying to make policy decisions about. Unfortunately we are less influenced by the damands of sound policy than by the need to make everyone at least a little bit happy. I think it is time that the UAM and the other unions representing aerospace workers begin to take a substantive part in the aerospace policy debate. Supporting jobs in aerospace must become much more than negotiating wage and work agreements with the aerospace companies. You and they are both being pushed and pulled in the policy debate. To represent labor must now take on a broader meaning than it did in the past. If aerospace jobs are to be maintained within a sound aerospace industry and not turned over to the foreign competitors that dearly want a shot at those jobs, then, together, labor, industry, and government must arrive at sound decisions about overall aerospace policy.

Is it a good idea to turn all government space efforts over to military and government applications? How great a return can be expected from stimulating the commercial development of space? How likely is it that domestic commercial space businesses will develop without government help in a competitive atmosphere where all overseas rivals have at least some government subsidy? Does the knowledge gained from scientific endeavor in space justify its cost? Is it better for long-range development of space to build a shuttle or to build a space plane? In short, how and to what end should we use space?

These are the policy questions. It is the answers to these questions that will determine not only what the aerospace jobs of the future will be but whether there will be aerospace jobs in the United States at all. While your effort to support compatible candidates for Congressional office can go some distance toward making your views known, it is time to do more. You must go beyond the question of jobs to the question of nature of those jobs. In the end, my message to you can be simply stated: nothing will go so far toward supporting aerospace jobs than the serious participation of the UAW and other unions representing aerospace workers in the substantive debate over what U.S. aerospace policy should be. The policy will either create the jobs, change them, or destroy them.

While I realize that those asked to speak here at this educational seminar are meant to deliver the educational addresses, I hope to come away from here having learned a great deal from all of you. I am honored to have the opportunity to address you. But I will be even more honored if you will take time here today to talk back to me. I have done nothing more than to describe a debate and pose some of the questions and considerations in that debate. You have the hard part. I'm asking you to give the answers.

CONGRESSIONAL SALUTE TO THE DAUGHTERS OF MIRIAM CENTER FOR THE AGED UPON THE 65TH ANNIVERSARY OF ITS FOUNDING

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 16, 1986

Mr. ROE. Mr. Speaker, this year the Daughters of Miriam Center for the Aged, which is located in the city of Clifton, my congressional district and State of New Jersey, celebrated its 65th anniversary of outstanding services dedicated to the pursuit of happiness and security for people, and particularly our senior citizens. I know that you and our colleagues here in the Congress will want to join with me in extending our heartiest congratulations and best wishes to the distinguished officers, trustees, staff and community leaders who have actively participated in the organization and administration of one of the most prestigious care and activities centers for senior citizens in our Nation, the Daughters of Miriam Center for the Aged.

Mr. Speaker, the exemplary leadership and outstanding efforts of our citizens so important to our quality of life are in the vanguard of the American dream. As we commemorate this 65th anniversary celebration, we express our appreciation to the officers and trustees of the Daughters of Miriam Center for the Aged, composed of business and professional men and women, who through their fidelity, devotion and personal commitment over the years have provided intelligent direction and dedication toward achieving the goals and purposes of the center—to help our elderly attain the best possible quality of life in their golden years.

The current officers and members of the board of trustees are as follows:

OFFICER AND EXECUTIVE COMMITTEE

The Honorable Melvin Opper, president; Samuel S. Schwartz, honorary president; Milton Werksman, honorary president; Arthur Bodner, past president; Helen G. Deich, past president; Arnold H. Goodman, past president; Leonard Kohl, past president; Saul Rosen, past president; Alexander E. Rosenthal, past president; Joel J. Steiger, past president; Milton Kleinman, senior vice president; Philip E. Sarna, vice president; H. Louis Chodosh, MD, vice president; Monroe Potash, vice president; Jack Birnberg, vice president; Peter Rosenthal, treasurer; George Kramer, assistant treasurer; Morris Yamner, secretary; Norman Koch, assistant secretary; Harvey Adelsberg, M.P.A., F.A.C.H.A., executive vice president; Richard Abramson, William Adler, Jerry Atkins, Warren G. Bauer, Stanley Berenzweig, Gerrard Berman, Irving Blank, Claire Blazer, Samuel Bograd, Marge Bornstein, Samson Bosin, Louis Brawer, William Brawer, Benson J. Chapman, Irving B. Cohen, Sylvia Cohen, Steven Cohen, MD, Stuart Coven, Hy Derfler, Murray Deutsch, Saul Dobrow, Herman D. Edelson, Eva Feld, Benjamin Friedman, Sandor Garfinkle, Dr. Solomon Geld, Benjamin Geller, Mel Gerstein, Merrill Gitkin, Lawrence Goldman, Henriette Goldstein, Lawrence Gurtman, Howard Honigfeld, Lewis L. Immerman, M.D., Rabbi Dr. Leon Katz, Martin Kenwood, Arnold Klein, O.D. (ex officio), Herbert C. Klein, David Kluger, Peter Kolben, Sanford Komito, Arthur Kramer, Richard Lane, Ronald S. Mack, Leonard Marcus, Mollie Nalanbogen, Harold Peimer, Howard Phillips, Alan S. Prell, Sylvia Richman (ex-officio), Martin Rosen, Jerry Rosenblum, Eugene Rosensweet, Richard Rosenthal, Irving K. Ruttenburg, Helen Sanders, Walter Sanders, Ruth Schlam (ex-officio), Louis E. Schotz, Ruth Schwartz (ex-officio), Sidney Shelov, Rose Shulman, Minerva Stark (ex-officio), Julius M. Sucoff, DDS, Martin Sukenick, Robert J. Topchik, David Waldman, Ruth Weisenfeld, Steven Wener, Ben Weiner, Naomi Wilzig, Siggi Wilzig, Samuel Wolff, Norman Zelnick.

I particularly commend to you the administrator and executive vice president of the Daughters of Miriam Center for the Aged, Harvey Adelsberg, a fellow of the American College of Hospital Administrators, who has responded with the highest standards of excellence in helping to improve the lives and services of the people entrusted to his care.

Mr. Speaker, the Daughters of Miriam Center for the Aged is a nonprofit organization, governed by a philanthropic board of trustees, supported through the generosity of the Jewish communities of Paterson, Passaic, Clifton, Fair Lawn, and environs.

The center was established in 1921 through a gift from the Honorable Nathan Barnert, two-term mayor of Paterson and well-known philanthropist, in memory of his wife Miriam. It has progressed over the years from a shelter for aged persons and orphaned children, Home for the Aged and Orphans, through its gradual transition to Home and Infirmary for the Aged, and its ultimate expansion and transformation to one of the leading facilities of excellence in the field of care for the elderly—The Daughters of Miriam Center for the Aged. It is licensed by the New Jersey State Department of Health, accredited by the Joint Commission on Accreditation of Hospitals and the Commission on Accreditation of Rehabilitation Facilities, and approved by the American Dental Association. The facility and its programs comply with the Civil Rights Act of 1964 in admission and personnel policies. Daughters of Miriam is college and university-affiliated as a teaching and in-service training center.

The facilities and services included in this complex are a 340-bed medical and nursing care center, the Brawer Building and the Esther and Sam Schwartz Building, apartment residences comprising 270 units, which provide congregate services to older persons capable of independent living, a medical day care center for the elderly for seniors who are in need of social and medical services, and the Fred Ables Memorial Sheltered Workshop. In total they serve 650 aged persons in a given day.

Mr. Speaker, the original purpose of the center was to give sheltered care to both the aged and to orphaned children. The first location was in a converted house in Paterson, and after the intitial 5 years, in a 50-bed capacity building on an estate in Clifton. This dual program for the underprivileged at both extremes of the age specturm remained unchanged for over 20 years. In the following 45 years, the program for dependent children was relinquished to a professional casework agency which placed them in foster or adoptive homes. The Daughters of Miriam merged with the B'nai Israel Home for the Aged in Passaic, and a growing partnership of government and philanthropy in the funding of care through the introduction of Medicare and Medicaid and Federal loans for major structures evolved. The high standards of care at Daughters of Miriam have a direct connection with the philosophy of its professional and lay leaders. They believe that a geriatric facility must approximate as closely as possible a client's former home environment. It must provide skilled nursing and medical services but, even more urgently, it most offer a congenial atmosphere in which the residents can carry on the activities of daily living which are so important to the senior citizens.

A unique establishment within the Daughters of Miriam community is the Fred Ables Memorial Workshop. In effect, this sheltered work activities program is a self-contained industry, the purpose of which is to provide occupational therapy for many of the aged residents on assembly jobs for contracting commercial companies. The workshop also employs certain handicapped community members. It is licensed by the U.S. Department of Labor and workers are paid at rates approved by the Department, but more important, the participants are given the self-assurance that comes with still being able to do useful work and to make an independent contribution toward their own maintenance.

According to their capabilities and interests, residents take part in a broad variety of daily living and social activities—arts and crafts in special rooms or in rooms on the infirmary floors; cooking and baking programs; bingo games; music programs; religious observance; watching television; relaxing in the solarium overlooking the busy Garden State Parkway; and walking or visiting with friends in the gardens. Local groups such as the Passaic/Clifton, Paterson, and Fair Lawn women's auxiliaries come in to visit patients, and volunteer in a number of departments. Parties are held in the auditorium for residents on their special anniversaries. Cookouts and picnics in the center grounds are regular features of the summer months. Frequent tours to the larger community are arranged for the more active apartment tenants.

Considerable time is given, of course, to therapy sessions and medical checkups. A qualified staff of over 400 people, including resident and attending physicians are available 24 hours per day, 365 days a year. Also on the staff are a psychiatrist, physiotherapist, pharmacist, medical technicians, registered graduate and licensed practical nurses, nurses' aides, and orderlies. Over half of the members of the staff are specialists in medical and nursing care. The full program of intensive care for residents is rounded out by specialists in podiatry, optometry, dentistry, physical therapy, speech therapy and audiology.

Mr. Speaker, it is a great pleasure to call this 65th anniversary celebration to your attention and seek this national recognition of the outstanding services provided by the officers, trustees, staff and professional men and women of the Daughters of Miriam over the

past decades. Their dedication and devotion in helping our seniors to maintain their dignity and help find happiness and independence in their golden years have truly enriched our community, State, and Nation. We do indeed salute the Daughters of Miriam on their 65th anniversary and extend our best wishes for their continued good works and success in all of their future endeavors.

SOVIET ALLIES IN THE ANTI-SDI EFFORT

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 16, 1986

Mr. COURTER. Mr. Speaker, columnist William F. Buckley wonders why the Soviet Union's fight against President Reagan's Strategic Defense Initiative has been joined not only by the usual crowd of unilateralists but by such hard-headed "realists" as Mel Laird and Brent Scowcroft. In the following column that question is not answered, but the writer has performed an important service by describing the new coalition of radical liberals and "realist" conservatives who want to shelve the most idealistic proposal for defensive weapons in years in order to continue the folly of one-sided adherence to the strategy of mutual assured destruction.

From Buckley's column we should recognize that deploying a strategic defense of our people and cities from accidental or deliberate attack is not a political issue of right versus left, it is a moral issue of right versus wrong.

I recommend this column to my colleagues.

[August 21, 1986]

SOVIETS GAIN SURPRISING ALLIES ON SPACE SHIELD

(By William Buckley)

Once again, we have those big-name advisers counseling the President in effect to abandon his Strategic Defense Initiative. But this time around there are two names not usually associated with the soft school on Soviet diplomacy; Melvin Laird's and, most conspicuously, Brent Scowcroft's. They in effect signed a 3,500-word paper address to the President by Harold Brown, who served President Carter as secretary of defense.

What is going on?

The ABM treaty concluded in 1972 is variously interpreted. There are those who read in it a prohibition against testing the technology appropriate to the development of a space shield (SDI)—the "restrictive" interpretation. There are those who read it otherwise, the "permissive" reading. The question which of the two readings is correct would be moot if Mr. Reagan were to exercise his prerogative to call an end to the treaty.

For reasons of his own, Mr. Reagan has not exercised this prerogative. Instead, he has said he would go along with the restrictive reading for the simple reason that SDI has not reached the point where it becomes relevant to ask finally which of the two meanings of the ABM treaty is binding.

Along comes the Soviet Union, in the course of those endless disarmament talks, with one of those modest proposals it specializes in. Why not, say the Russians, a) accept the restrictive interpretation, and b) extend the treaty for 20 years?

Mr. Reagan said no, no. But he did say that he would be willing to guarantee not to deploy any SDI weapon in less than seven-and-a-half years, but that he would wish to be free to test and develop during that period. The Soviet Union has, of course, taken the position that Mr. Reagan's alternative is outrageous. In a way, the Soviet Union is correct; Mr. Reagan should not give the Soviet Union what it is hotly engaged in transforming into a veto power over plans devised by America for the protection of America.

The Brown-Scowcroft memorandum advocates a ban on testing SDI for up to 10 years. Why? The reasons given are presumably that any precipitate success with our anti-missile technology would destabilize the current balance of terror. But this is one of those orthodox projections we have been following for over a generation, during which we traveled the road from massive strategic superiority to strategic inferiority.

Two aspects of the space shield program stand out. The first is its emancipating vision: The idea of liberating America from threats of massive destruction by creating a space shield as an alternative preferable to blowing up 100 million Russians. That is the visionary approach, and the principal engine behind the idealistic ascendancy of the SDI.

The second aspect of the space shield program is its awful vulnerability. It isn't vulnerable directly to Soviet pressures. But Soviet pressure hasn't in recent memory been as isolated as that. It equals a combination of Soviet plus American pressure. Now, one expects the fellow travelers and the softheaded set to rustle when a Soviet wind blows, but one doesn't expect it of such as Gen. Scowcroft, who three years ago headed the commission that told us we needed 100 MX missiles for the national security. Of these we have got none. And nothing in political life is more predictable than that what is happening to the MX will happen to the space shield if we put off financing it vigorously (the President asked for a 75 percent increase this year, got 30 percent; Brown-Scowcroft want 10 percent), testing it at full-speed-ahead, and moving fast toward deployment.

Are there conditions under which we might abandon SDI? Sure. If we reached an arms agreement the effect of which was to make it impossible for the Soviet Union to destroy the United States, then there would be no need for SDI. Henry Kissinger has more than once pointed out that the survival of SDI absolutely depends on its immunity from workaday negotiations with the Soviet Union, except as a component of a general agreement. SDI is the kind of thing one is willing to trade in return for, oh, Lenin's Tomb; or, more concretely, unmistakable evidence that the Soviet Union is done preparing for aggressive nuclear war. Those who argue to give it up before that time are doing the work of the Soviet Union.

"PEACE EDUCATION": THE NEED FOR BALANCE

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 16, 1986

Mr. DANNEMEYER. Mr. Speaker, I would like to commend to my colleagues a copy of the letter that I sent, along with a bipartisan group of 21 other Members, to Education Secretary William Bennett on peace education. The letter was prompted by Andre Ryerson's article in the June 1986 issue of Commentary magazine which claimed that the teacher's guides used to prepare lessons for this new subject appear to be skewed to one end of the political spectrum. As you can see from Secretary Bennett's response, he also shares our concern.

I urge my colleagues to obtain a copy of the June 1986 issue of Commentary and read Andre Ryerson's article. If you agree that our educational system should be apolitical or, at least, present a balanced view, then I urge you to communicate your thoughts to your constituents and local education leaders.

The letters follow:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, August 5, 1986.

Hon. WILLIAM BENNETT,
Secretary of Education,
Washington, DC.

DEAR SECRETARY BENNETT: We are concerned about a new educational curriculum that is being implemented in several school districts across the nation.

The new curriculum is variably entitled "peace education," "peace studies," or " nuclear war education." Our concern is not that this subject is being taught to our nation's youth but that the presentation of this politically-charged subject matter appears to be skewed toward one end of the political spectrum. A recent article by Andre Ryerson published in Commentary magazine entitled, "The Scandal of 'Peace Education'" (see enclosed), examines several of the teachers' guides that are used to prepare lesson plans for this new subject. Mr. Ryerson's analysis indicates that all of the fifty or so teachers' guides in circulation represent "a very thin slice of the political spectrum." Since school curriculum should be politically neutral or balanced, this allegation is very serious and deserving of further inquiry.

We have examined two of the three guides cited in Mr. Ryerson's article. In our opinion, his article accurately describes the teachers' guides' political bias and the efforts by groups such as the Union of Concerned Scientists, the National Education Association, and the Educators for Social Responsibility to promote pacifism in our nation's schools. The aim of the teachers' guides is to overwhelm students with feelings of fear, horror, national shame, and righteous indignation so that the only emotional alternative is to give in to fear and threats and reject any notion of a military defense. Since the concept of deterrence depends on a balance of fear (of retaliation against aggression) and determination (to defend against aggression) to prevent war, any major imbalance in the equation will weaken the very system that has guaranteed the peace for over 40 years. The peace

educators try to enhance fear while weakening the determination of our youth to prevent aggression. The result is to replace "peace through strength" with "peace through capitulation."

Democracies have always been vulnerable to pacifist movements. While the Soviet Union only tolerates opposition movements that it sanctions, the United States allows freedom of speech for all. Although the Soviets have no independent peace movement of their own, they have not failed to exploit our freedom of speech by promoting peace activism in the West. Defectors from the Soviet Union have detailed that country's efforts to weaken the West's will to defend itself through these peace groups. In addition, during Congressional testimony in 1982 the Federal Bureau of Investigation listed several organizations operating in the United States as Soviet fronts dedicated to "peace." Pacifism, then, becomes a tool of war that is used by the Soviets to attain their political goals. The taxpayers should not be forced to provide a forum for the advancement of a particular political view in our nation's public schools.

The new "peace" curriculum, represents a return to the "blame America first" mentality of the 1970's. The study guides that we reviewed were more than willing to excuse Soviet atrocities when they were mentioned, while blaming America for conflict and terror in the world. For instance, the *Perspectives* study guide equates the government-ordered downing of the Korean Airliner in 1984 by Soviet fighters with the unauthorized My Lai massacre during the Vietnam conflict. Both study guides propound an obscene view of U.S.-U.S.S.R. relations by denouncing Western culture and religion as intrinsically aggressive and competitive while excusing Soviet aggressive behavior as a product of their history. We believe that any description of U.S.-U.S.S.R. relations must detail the merits of the democratic system versus the intrinsic flaws of totalitarian government.

We do not question the intent of teachers and administrators who implement the new "peace" curriculum. In most cases the teachers will not be duped by biased teachers' guides. They will not degrade their profession by imposing their personal political views on innocent students. Since we cannot ensure, however, that all teachers and administrators will be sensitive to this issue, we have a duty to take some action to ensure that a balanced view is propounded in our nation's schools.

While we want to ensure that our children will not be indoctrinated with this one-sided pacifist ideology, we respect the decentralized nature of our educational system. Our educational system performs best when parents and teachers are united in their commitment to educating our youth. While the federal government must not regulate school curricula, we have a responsibility to inform parents, teachers, and administrators of the overt political biases influencing this particular subject matter.

In an effort to fully inform parents and local leaders about the sensitive and political nature of this subject matter, we request that you use your position as Secretary of Education to monitor the implementation of the "peace" curriculum, inform local school boards of the biases of certain teachers' guides, remind teachers of the need to preserve politically neutral curricula by presenting a balanced approach, and encourage parents to become involved in the affairs of their local school board to ensure a neutral curriculum. For our part, we will work with our state and local leaders to ensure a balanced presentation of this material and with parents to inform them of the distorted and possibly destructive influences of "peace education" in our schools.

We appreciate your prompt attention to this matter of utmost importance.

Sincerely,

William E. Dannemeyer, Fred J. Eckert, Norman D. Shumway, Howard C. Nielson, Hal Daub, Robert E. Badham, George C. Wortley, Tom Bliley, Ron Marlenee, Mark Siljander, Bob Lagomarsino, Earl Hutto, Beverly Byron, Larry E. Craig, Stan Parris, Henry J. Hyde, Marjorie S. Holt, Bob Stump, Robert K. Dornan, Bill Cobey, John Paul Hammerschmidt, Helen Delich Bentley,

Members of Congress.

DEPARTMENT OF EDUCATION,
THE SECRETARY,
Washington, DC, September 9, 1986.

Hon. WILLIAM E. DANNEMEYER,
House of Representatives,
Washington, DC.

DEAR MR. DANNEMEYER: Thank you for sharing with me your concerns about "peace education" in your letter of August 5, 1986. I am sending a similar response to the other signers of your letter

I fully share your concerns about this sort of "peace education," both because I think the "blame America first" mentality is pernicious, and because I strongly disapprove of the attempt to politicize the classroom.

I have long subscribed to the view that schools are charged with conserving and transmitting our society's intellectual and moral traditions. Not so long ago, this view shared wide acceptance. Today, however, a minority within the education community seems to have set itself a new goal: to politicize the education curriculum. On numerous occasions since becoming Secretary of Education, I have denounced this new and deeply disturbing trend, and I shall continue doing so.

With regard to the "peace education," "peace studies," or "nuclear war education" curriculum, it is important to remember that there are many groups with varying ideologies that support such a curriculum, and that sweeping generalizations may be misleading. It is nonetheless true, I think, that much of the material that goes under the heading of "peace education" is seriously distorted in precisely the ways described in your letter. You have every reason, then, to bring your concerns to the attention of the American people, as well as to educators and public officials around the country.

For my part, I intend to continue speaking out against these destructive attempts to politicize American education. Although the actual business of choosing an education curriculum is a local rather than a Federal responsibility, Federal officials can and should contribute to the national debate about such choices.

Edmund Burke once observed, "The only thing necessary for the triumph of evil is for good men to do nothing." Similarly, the only thing necessary for the corruption of our schools for their transformation into tools for political manipulation, is for those of us who have a different view of the school's role to sit back and let it happen. Let me once again assure you that you and I share a common dedication to providing our children with a broad and balanced education that will enable them to bring informed and critical judgment to bear on the complex issues before us today.

Thank you for sharing your concerns. I hope you will keep me informed of your efforts and let me know how I may be of assistance.

Sincerely,

WILLIAM J. BENNETT.

THE DOOR OF HOPE: AN OUTLET FOR TROUBLED HASIDIC AND ORTHODOX JEWS

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 16, 1986

Mr. SOLARZ. Mr. Speaker, I would like to bring to the attention of my colleagues the outstanding strides in the area of mental health that Pesach Tikvah Mental Health Center in the Williamsburg section of Brooklyn is making.

Translated from the Hebrew, pesah tikvah means "door of hope." It is precisely this hope that Rabbi Chaim Stauber, the founder of the center, is offering the Williamsburg community.

As a community that has a large Orthodox and Hasidic Jewish population, Williamsburg faces a unique problem in the area of mental health. Because of the gap which often exists between traditional Orthodox Jewish religious beliefs and modern psychiatric practices, the needs of many mentally ill Orthodox Jews have not been adequately met. Now, in such a manner to permit sensitivity to the clients' sensibilities, the Pesah Tikvah Center has been able to begin to address these needs.

Today, the center provides services for those with serious physical or emotional handicaps as well as operating an outpatient counseling service that deals with a wide range of lesser problems and anxieties like marriage counseling.

The center has also had success treating Holocaust survivors and their families. As the Congressman representing the largest Orthodox Jewish community not only in the Nation, but the world—a community which has arisen from the ashes of the Holocaust—I appreciate deeply the value of such a service in my community and congratulate Rabbi Stauber on this success.

Recently, a profile of the Pesah Tikvah Center and Rabbi Stauber appeared in the New York Daily News. I would like to commend this article to the attention of my colleagues.

THE "DOOR OF HOPE"

(By Tracey Harden)

It's a beat up metal door outside a former printing plant in the shadow of the Brooklyn-Queens Expressway. But to Rabbi Chaim Stauber, founder of Pesach Tikvah mental health center in the Williamsburg section of Brooklyn, it is a gateway to hope. Hence the name which, translated from the Hebrew, means "Door of Hope."

And, for the members of the Hasidic and Orthodox Jewish communities who make use of Pesach Tikvah's psychiatric and rehabilitation services, it is the only door open to them. Until now, because of the stigma

their culture attached to emotional illness, those suffering from psychological problems had no one to turn to, except their families or, maybe, the Rabbi. And, says Stauber, who has done a good deal of counseling in his 25 years as a leader in the Jewish community here, "Sometimes the Rabbi is hardpressed for solutions."

The gap that exists between orthodox religious beliefs and modern psychiatric practices compounds the problem. "In our community, faith is deeply rooted in the consciousness and the psyche," says Stauber. "Psychiatry and psychology are seen as a means of altering that faith."

Also, he says, "The focus of psychiatry is to shed your complexes and feel good about yourself. In our religion, there are lots of things you are not supposed to do. We are supposed to repent and feel remorseful; according to modern psychiatry, that's a no-no."

There is a second door at Pesach Tikvah—behind the building, off a secluded tree-shaded street—where the more self-conscious clients and their relatives can enter. The psychiatrist, psychologist, social worker and other professionals on Pesach Tikvah's staff are sensitive to their clients' religious sensibilities. Indeed, most of the staff are themselves observant Jews.

In addition to the out-patient counseling service, a sheltered workshop helps those with serious physical or emotional handicaps. In keeping with religious teachings, a partition separates the men and women in the work area, where they perform a range of tasks, from packaging jars of honey for Rosh Hashanah to, on this day, assembling hinges for a metal stamping company. Kosher meals are served in separate men's and women's dining rooms.

Isaac, an articulate client in his early 30s who has a physical handicap and problems with interpersonal relationships, explains, "I used to go to another vocational shop but, because of cultural differences, it didn't work out. It's better here. I'm busy all day, instead of just staying home fighting with my parents."

The families stand to benefit nearly as much as the clients from Pesach Tikvah's services, says staff psychologist Eliot Kirschenbaum. "Previously, many of these people would have been at home until their families could no longer cope. Then they'd have to take them to the hospital. It was a whole cycle of events."

Though acute cases currently form the bulk of Pesach Tikvah's workload, the center is starting to see more people with everyday problems. Of the 453 patients who came to the center during a six-month period last year, the most common complaint was depression, followed by anxiety and sleep difficulties.

Kirschenbaum, an expert in adolescent psychology, says he would like to do more work with teenagers and their families. However, he recognizes the need to move cautiously in this area, given the special significance the Orthodox community places on family life.

The same goes for marriage counseling. Currently, the center does some couples' therapy, and hopes to do more. However, says Stauger, "There we're getting into the tricky areas. The institution of marriage in the Jewish faith is a very private domain."

Stauber is especially proud of the success the center has had with Holocaust survivors and their families. "People say the Holocaust was 40 years ago, it's over," he says. "But for some of our clients, the spiritual and emotional holocaust is just beginning."

Stauber describes one client who had lost his wife and children during the Holocaust. After emigrating to the United States, the man remarried and had a second family. It was only when he reached retirement, says Stauber, that the full brunt of his experience hit him. "He thought of his first family constantly," says the rabbi. "He could hear his children crying." The man found his way to Pesach Tikvah, where the mental health experts are helping him come to terms with his loss.

Pesach Tikvah also operates a community residence in Williamsburg for mentally retarded and autistic women. The organization plans to open similar community residences for emotionally and physically handicapped men and women. Applications are being accepted now.

Yet, says Stauber, "There is so much more we want to do." He adds that their organization—the mental health center in particular—is desperately in need of funding.

Although Pesach Tikvah is a non-sectarian agency, Stauger says they plan to continue focusing on the Orthodox and Hasidic communities, including the Satmar and Lubavitch sects in Brooklyn.

"As far as these people are concerned," he says, "There is no one else to do the job."

FOR THE CHILDREN'S SAKE

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 16, 1986

Mr. SYNAR. Mr. Speaker, we have few greater responsibilities than saving children's lives. One area in which we can make a dramatic difference is by earmarking foreign aid money for childhood immunizations. Vaccine-preventable diseases kill an estimated 3.5 million children each year.

The foreign aid appropriations bill which has passed the Appropriations Committee contains $50 million for the Child Survival Fund. This money will be used for childhood immunization and other basic health measures. The comparable Senate bill provides $75 million for these programs. I urge my House colleagues to recede to the Senate figure when they meet to resolve differences between the two bills.

I would also like to commend to my colleagues' attention a recent editorial in the Tulsa World which endorses this amendment. This editorial very clearly demonstrates the serious need for additional funds for childhood immunization.

The editorial follows:

FOR THE CHILDREN'S SAKE

When Congress returns from the Labor Day recess it will have the opportunity to vote on a bill that will save millions of lives yearly.

Rep. Tony Hall, D-Ohio, plans to introduce an amendment to transfer $25 million from the Export-Import Bank to the Child Survival Fund. The proposal, already cosigned by 58 members of the Senate and 247 House members, would give the fund a total of $75 million.

Of that amount, $50 million would be used for universal child immunization and $25 million would further oral rehydration therapy and other basic health measures worldwide.

The World Health Organization estimates that 3.5 million children die each year from six vaccine-preventable diseases. Those diseases (measles, tetanus, whooping cough, polio, diptheria and tuberculosis) have been under control in the U.S. for years and many times we take the vaccines for granted. In less fortunate countries, however, they still are killers.

Measles alone takes some 2 million lives a year. Yet, a dose of measles vaccine is 6 cents on the world market. A full course of immunizations, from manufacture to injection, is about $5 per child.

The Gramm-Rudman Act targets $13 billion to be cut out of the upcoming foreign aid budget. The funds for child immunization and other health concerns are too important to be dismissed. Saving the lives of children could be the best investment in foreign aid the U.S. could make.

When budgets get tight, it's easy to cut back on charitable contributions. But, saving the lives and guaranteeing the health of millions of children a year is a wise and compassionate investment.

REVERSAL OF THE ARMS RACE

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 16, 1986

Mr. EDWARDS of California. Mr. Speaker, it is a pleasure to share with my colleagues a recent resolution passed by the city of Fremont, CA, supporting a nuclear weapons test ban. The resolution is a strong and hardhitting document calling for the President and Congress to immediately suspend all nuclear arms testing as a first step toward the reversal of the arms race.

The city of Fremont, which is in my district, is the most recent of 128 municipalities to make this plea for a halt to the arms race. This is an important and timely statement, which exemplifies the widespread support for legislation such as the five key arms control amendments recently adopted in our 1987 defense authorization bill. The fact that State and local governments increasingly feel it is their duty to address this issue should serve as a stark reminder that hope for a complete nuclear test ban is still in the hearts of many Americans.

The text of the resolution follows:

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FREMONT SUPPORTING A NUCLEAR WEAPONS TEST BAN

Whereas a nuclear war would result in death, injury and disease on a scale unprecedented in human history; including the probability of a nuclear winter threatening the entire global environment; and

Whereas spending for the arms race is contributing to record budget deficits that threaten our nation's economic security while programs providing essential assistance to communities and meeting human and environmental needs throughout the country are being cutback; and

Whereas a ban on nuclear testing would promote the security of the United States by constraining new developments in the United States-Soviet nuclear arms competition, by strengthening efforts to prevent the spread of nuclear weapons to non-nuclear

countries, and by reducing the environmental hazards of nuclear tests and nuclear waste production; and

Whereas a ban on nuclear testing would be a concrete and easily achievable first step towards a complete halt and deep reductions of ever expanding nuclear arsenals; and

Whereas a ban on nuclear testing can be verified with high confidence by a worldwide network of seismic monitors, satellites, and other verification technology operated by the United States and other nations.

Be it therefore resolved the City Council of the City of Fremont calls upon the President to immediately respond to the Soviet's unilateral halt of testing by joining them in a mutual and verifiable suspension of testing as a first step towards freezing and reversing the arms race.

Be it further resolved this Body also calls upon the members of our Congressional delegation to support legislation that would enact a moratorium on nuclear testing, to be continued as long as the Soviets do not test.

Be it further resolved copies of this Resolution shall be forwarded to the President and to the Senators and Representatives comprising our congressional delegation.

Adopted August 12, 1986, by the City Council of the City of Fremont by the following vote, to wit:

Ayes: Mayor Morrison, Councilmembers Baker, Dutra, and Mello.
Noes: Councilmember Ball.
Absent: None.
Abstained: None.

GUS MORRISON,
Mayor.

Attest:

SHARON WHITTEN,
Deputy City Clerk.

Approved as to form:

ALLEN E. SPRAGUE,
City Attorney.